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Report of the International Court of Justice

1 August 2017–31 July 2018

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Note

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

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Chapter I
Summary

Brief overview of the judicial work of the Court

1. During the period under review, the International Court of Justice experienced a particularly high level of activity. Among other things, it delivered judgments in the following cases:

(a) *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*, Judgment on the question of the compensation owed by Nicaragua to Costa Rica (see para. 89);

(b) *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica* v. *Nicaragua)* (see para. 141);

(c) *Land Boundary in the Northern Part of Isla Portillos (Costa Rica* v. *Nicaragua)* (see para. 191);

(d) *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)*, Judgment on the preliminary objections raised by the Respondent (see para. 174).

2. The Court, or its President, also handed down 13 orders (presented here in chronological order):

(a) The first was in response to the counter-claims made by Colombia in the case concerning *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua* v. *Colombia)* (see para. 128); by the same Order, the Court directed Nicaragua to submit a Reply and Colombia to submit a Rejoinder relating to the claims of both parties in the proceedings and fixed the time-limits for the filing of those pleadings (see para. 129).

(b) The purpose of eight further orders was to authorize the submission of written pleadings or to fix or extend the time-limits for their submission. They were made in the following cases:

(i) *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua* v. *Colombia)* (see para. 116);

(ii) *Jadhav Case (India* v. *Pakistan)* (see para. 219);

(iii) *Maritime Delimitation in the Indian Ocean (Somalia* v. *Kenya)* (see para. 153);

(iv) *Dispute over the Status and Use of the Waters of the Silala (Chile* v. *Bolivia)* (see para. 160);

(v) *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)* (see para. 175);

(vi) *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar* v. *United Arab Emirates)* (see para. 244);

(vii) *Appeal Relating to the Jurisdiction of the ICAO Council under Article 84 of the Convention on International Civil Aviation (Bahrain, Egypt, Saudi Arabia and United Arab Emirates* v. *Qatar)* (see para. 252);

(viii) *Appeal Relating to the Jurisdiction of the ICAO Council under Article II, Section 2, of the 1944 International Air Services Transit Agreement (Bahrain, Egypt and United Arab Emirates* v. *Qatar)* (see para. 262).

(c) Furthermore, by an Order made in the proceedings on the request for an advisory opinion in respect of the *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965*, the Court decided that "the African Union which [was] likely to be able to furnish information on the question submitted to the Court for advisory opinion could do so within the time-limits fixed by the Court"; by the same Order, the Court extended the time-limits for the submission of written statements and for the submission of written comments on those statements in the advisory proceedings (see para. 276).

(d) In addition, by two orders, the Court placed on record the discontinuance by Malaysia of the following proceedings:

(i) *Application for Revision of the Judgment of 23 May 2008 in the Case concerning* Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (*Malaysia* v. *Singapore*) (see para. 204);

(ii) *Request for Interpretation of the Judgment of 23 May 2008 in the Case concerning* Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (*Malaysia* v. *Singapore*) (see para. 224).

(e) Finally, the Court made an Order by which it decided that the written pleadings in the case concerning the *Arbitral Award of 3 October 1899 (Guyana* v. *Venezuela)* would first address the question of the jurisdiction of the Court and fixed the time-limits for the filing of a Memorial by Guyana and a Counter-Memorial by the Bolivarian Republic of Venezuela (see para. 231).

3. During the same period, the Court held public hearings in the following cases (in chronological order):

(a) in the case concerning *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)*, it held hearings on the preliminary objections raised by France (see paras. 161 to 175);

(b) in the case concerning *Obligation to Negotiate Access to the Pacific Ocean (Bolivia* v. *Chile)*, it held hearings on the merits (see paras. 91 to 105);

(c) in the case concerning *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar* v. *United Arab Emirates)*, it held hearings on the request for the indication of provisional measures submitted by Qatar (see paras. 233 to 244).

4. Since 1 August 2017, the Court has also been seised of five new contentious cases (in chronological order):

(a) *Arbitral Award of 3 October 1899 (Guyana* v. *Venezuela)* (see paras. 225 to 232);

(b) *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar* v. *United Arab Emirates)* (see paras. 233 to 244);

(c) *Appeal Relating to the Jurisdiction of the ICAO Council under Article 84 of the Convention on International Civil Aviation (Bahrain, Egypt, Saudi Arabia and United Arab Emirates* v. *Qatar)* (see paras. 245 to 253);

(d) *Appeal Relating to the Jurisdiction of the ICAO Council under Article II, Section 2, of the 1944 International Air Services Transit Agreement (Bahrain, Egypt and United Arab Emirates* v. *Qatar)* (see paras. 254 to 262);

(e) *Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran* v. *United States of America)* (see paras. 263 to 271).

5. At 31 July 2018, the number of cases entered in the Court's List stood at 17:

(a) *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*;

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

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

(d) *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua* v. *Colombia)*;

(e) *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua* v. *Colombia)*;

(f) *Maritime Delimitation in the Indian Ocean (Somalia* v. *Kenya)*;

(g) *Dispute over the Status and Use of the Waters of the Silala (Chile* v. *Bolivia)*;

(h) *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)*;

(i) *Certain Iranian Assets (Islamic Republic of Iran* v. *United States of America)*;

(j) *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation)*;

(k) *Jadhav Case (India* v. *Pakistan)*;

(l) *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (request for an advisory opinion)*;

(m) *Arbitral Award of 3 October 1899 (Guyana* v. *Venezuela)*;

(n) *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar* v. *United Arab Emirates)*;

(o) *Appeal Relating to the Jurisdiction of the ICAO Council under Article 84 of the Convention on International Civil Aviation (Bahrain, Egypt, Saudi Arabia and United Arab Emirates* v. *Qatar)*;

(p) *Appeal Relating to the Jurisdiction of the ICAO Council under Article II, Section 2, of the 1944 International Air Services Transit Agreement (Bahrain, Egypt and United Arab Emirates* v. *Qatar)*;

(q) *Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran* v. *United States of America)*.

6. The contentious cases pending involve States from four continents, including six from Africa, seven from the Americas, six from Asia and five from Europe. The diverse geographical spread of cases is illustrative of the universal character of the jurisdiction of the United Nations' principal judicial organ.

7. Cases submitted to the Court involve a wide variety of subject-matters, such as territorial and maritime disputes; consular rights; human rights; environmental damage and conservation of living resources; international responsibility and compensation for harm; the immunities of States, their representatives and assets; and interpretation and application of international treaties and conventions. This diversity of subject-matter illustrates the general character of the Court's jurisdiction.

8. The cases that States entrust to the Court for settlement frequently involve a number of phases, as a result of the introduction of incidental proceedings, such as the filing of preliminary objections to jurisdiction or admissibility, or the submission of requests for the indication of provisional measures, which have to be dealt with as a matter of urgency.

Continuation of the Court's sustained level of activity

9. Over the last 20 years, the Court's workload has grown considerably, in particular due to the increase in the number of incidental proceedings. In this regard, in his speech to the General Assembly on 26 October 2017, the then President of the Court, Judge Ronny Abraham, observed that the increase in the number of requests for the indication of provisional measures shows that States do not hesitate to turn to the Court in times of crisis, when their rights are at risk of irreparable harm, and emphasized that the Court then mobilizes all its resources to offer a timely and appropriate response to urgent situations.

10. In order to ensure the sound administration of justice, the Court sets itself a very demanding schedule of hearings and deliberations, enabling it to consider several cases simultaneously and deal with the numerous associated incidental proceedings as promptly as possible. Over the past year, the Registry has sought to maintain the high level of efficiency and quality in its work of support to the functioning of the Court.

11. The key role played by the Court in the system of peaceful settlement of inter-State disputes established by the United Nations Charter is universally recognized.

12. The Court welcomes the reaffirmed confidence placed in it and the respect that States show for the Court by referring their disputes to it. The Court will give the same meticulous and impartial attention to all the cases coming before it in the forthcoming year as it did during the 2017–2018 judicial period and will continue to settle the disputes submitted to it with the utmost integrity and as expeditiously as possible.

13. In this respect, it is worth recalling that having recourse to the principal judicial organ of the United Nations is a uniquely cost-effective solution. While certain written proceedings may be relatively lengthy in view of the needs expressed by the participating States, it should be pointed out that, on average, despite the complexity of the cases involved, the period between the closure of the oral proceedings and the reading of a judgment or an advisory opinion by the Court does not exceed six months.

Promoting the rule of law

14. The Court once again takes this opportunity offered by the presentation of its Annual Report to report to the General Assembly on its role in promoting the rule of law, as the latter regularly invites it to do, most recently in its resolution 72/119 of 7 December 2017. The Court notes with appreciation that, in that resolution, the Assembly called upon States that have not yet done so to consider accepting the jurisdiction of the International Court of Justice in accordance with its Statute.

15. The Court plays a crucial role in maintaining and promoting the rule of law throughout the world. In this regard, it notes with satisfaction that, in its resolution 72/118, also dated 7 December 2017, the General Assembly emphasized the important role of the International Court of Justice, the principal judicial organ of the United Nations, and the value of its work.

16. Everything the Court does is aimed at promoting and reinforcing the rule of law; through its judgments and advisory opinions, it contributes to developing and

clarifying international law. The Court likewise endeavours to ensure that its decisions are well understood and publicized as widely as possible throughout the world, through its publications, the development of multimedia platforms and its own internet site, which was recently completely redesigned and updated to make it more user-friendly. The website contains the entire jurisprudence of the Court and that of its predecessor, the Permanent Court of International Justice, and provides useful information for States and international organizations wishing to make use of the procedures open to them at the Court.

17. The President and other Members of the Court, the Registrar and various members of the Registry staff regularly give presentations and take part in forums — both in The Hague, Netherlands and abroad — on the functioning, procedure and jurisprudence of the Court. Their presentations enable the public to gain a better understanding of what the Court does in both contentious cases and advisory proceedings.

18. The Court welcomes a very large number of visitors to its seat. In particular, it receives heads of State and government and other distinguished guests.

19. During the period under review, the Court was also visited by a number of groups consisting, among others, of diplomats, academics, judges and representatives of judicial authorities, lawyers and members of the legal profession — approximately 6,000 visitors in total. In addition, an open day is held every year which enables the Court to become better known to the general public.

20. Finally, the Court has a particular interest in young people: it participates in events organized by universities and offers internship programmes enabling students from various backgrounds to familiarize themselves with the institution and further their knowledge of international law.

Budgetary requests

21. At the start of 2017, the Court submitted its budgetary requests for the biennium 2018–2019 to the General Assembly. The large majority of the Court's expenditure is fixed and statutory in nature, and most of its budgetary requests are to be used to fund this expenditure. The Court did not request the creation of any new posts for 2018–2019 but asked for two legal officer posts in its Department of Legal Matters to be reclassified from grade P-3 to grade P-4. In total, the proposed budget for the biennium 2018–2019 showed a slight increase compared to the budget for 2016–2017. This rise is largely to be used to enable the Court to provide training for members of the Registry staff, to act on consultancy recommendations in respect of its IT services, in particular the introduction of an enterprise resource planning system, to implement measures to guarantee operational continuity in the event of a disaster, and to finance the reclassification of the two above-mentioned posts.

22. On 22 June 2017, the General Assembly adopted resolution 71/292, whereby, referring to Article 65 of the Statute of the Court, it requested the Court for an advisory opinion on the Chagos Archipelago (see para. 272). Before adopting the text of this resolution, the Secretariat had informed the Assembly orally that the implementation of the recommendations contained in the draft resolution would give rise to additional resource requirements under the regular budget. Since it was not possible to determine, at that stage, the full extent of the programme budget implications arising from that draft, the Secretariat gave the Assembly an estimate of the cost of advisory proceedings, which could range from US$450,000 to US$600,000. That estimate, drawn up by the Secretariat in consultation with the Registry of the Court, was based on the cost of previous advisory proceedings before the Court. The Secretariat also stated that, should the draft resolution be adopted,

detailed revised estimates for the programme budget for the biennium 2018–2019 would be submitted to the Assembly during its 72nd session.

23. At the end of 2017, at the time the budget for the biennium 2018–2019 was being discussed, the Court informed the Secretariat that it would not be requesting additional resources to cover the estimated cost of the advisory proceedings at that time but would aim to finance those proceedings from its regular budget. Should that budget prove insufficient, it would request additional resources at a later date, during the first or second review of the implementation of the 2018–2019 budget.

24. The Court is pleased to note that, when adopting the budget of the Court for 2018–2019, the General Assembly decided to approve the reclassification of one legal officer post in the Department of Legal Matters from grade P-3 to grade P-4. Although the Assembly did not approve the funds requested for the implementation of Umoja, it did, however, authorize the Secretary-General to enter into commitments not exceeding US$1 million for the biennium 2018–2019 for the deployment of such a system at the Court. The Assembly further decided to reduce the overall resources requested for programme support by US$200,000. The Court, as always, will endeavour to fulfil its mission to the best of its ability with the means placed at its disposal by the Assembly.

Judges' pension scheme

25. In 2012, the President of the Court sent a letter to the General Assembly, accompanied by an explanatory memorandum (A/66/726), expressing the Court's deep concern regarding certain proposals relating to the judges' pension scheme put forward by the Secretary-General (see A/67/4). The Court emphasized the serious problems raised by those proposals in terms of the integrity of its Statute, and in particular of the equality of its Members and their right to carry out their duties in full independence.

26. The Court is grateful to the General Assembly for the particular attention that it has given to the issue, and for its decision to allow itself sufficient time to reflect on the matter, and to postpone discussing it, first to its sixty-eighth, sixty-ninth and seventy-first, and then to its seventy-fourth session. It has no doubt that, in accordance with resolution 71/272 A, the Assembly's discussions will take due account of the need to maintain the integrity of the Statute of the International Court of Justice and other relevant statutory provisions, the universal character of the Court, principles of independence and equality and the unique character of membership of the Court.

Asbestos

27. As indicated in previous annual reports, the presence of asbestos was discovered in 2014 in the 1977 wing of the Peace Palace, which houses the Court's Deliberation Room and the judges' offices, and in archiving areas used by the Court in the Palace's old building.

28. Work to renovate the judges' building began in the autumn of 2015 and was completed at the start of 2016.

29. With regard to the old building, in 2016, the Carnegie Foundation requested the Ministry of Foreign Affairs of the Netherlands to provide the funding needed to enable it to carry out two types of work: (a) inspection of the entire Peace Palace to pinpoint the exact location of any asbestos present, and (b) decontamination of parts of the building where asbestos had already been detected, in particular the basement, reception area and roof space. The Ministry provided the resources required to decontaminate part of the basement, and this work has now been completed.

30. Regular inspections are carried out by specialists hired by the Carnegie Foundation to check the condition of materials containing asbestos in the old building of the Peace Palace. The Dutch authorities have decided to undertake major works to decontaminate and completely renovate the building. To that end, it is anticipated that the Peace Palace will have to close, and the institutions seated there, including the Court, will have to be temporarily moved elsewhere. The preparatory survey phase should be completed in 2020, after which the institutions will be relocated. It is thought that the work will take several years. The Court has only limited and very general information at this stage and has asked the Ministry of Foreign Affairs of the Netherlands to notify it of all the relevant plans and details — in particular as regards arrangements for alternative premises — by the end of September 2018, so that it can begin the necessary negotiations with the host country as soon as possible. It goes without saying that whatever solutions are agreed upon, the Court must be able to continue fulfilling its important mission uninterrupted and unhindered in any way.

Chapter II
Role and jurisdiction of the Court

31. The International Court of Justice, which has its seat in The Hague, is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946.

32. The basic documents governing the Court are the United Nations Charter and the Statute of the Court, which is annexed to the Charter. These are supplemented by the Rules of Court and Practice Directions, and by the Resolution concerning the Internal Judicial Practice of the Court. These texts can be found on the Court's website under the heading "Basic Documents" and are also published in *Acts and Documents No. 6* (2007).

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

Jurisdiction in contentious cases

34. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty.

35. In this respect, it should be noted that, as at 31 July 2018, 193 States were parties to the Statute of the Court, and thus had access to it. On 4 July 2018, the State of Palestine, for its part, filed a declaration with the Registry of the Court which reads as follows:

> "The State of Palestine hereby declares that it accepts with immediate effect the competence of the International Court of Justice for the settlement of all disputes that may arise or that have already arisen covered by Article I of the Optional Protocol to the Vienna Convention on Diplomatic Relations Concerning the Compulsory Settlement of Disputes (1961), to which the State of Palestine acceded on 22 March 2018."

36. Of the States parties to the Statute, 73 have now made a declaration (some with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5, of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Costa Rica, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Egypt, Equatorial Guinea, Estonia, Eswatini, Finland, Gambia, Georgia, Germany, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Ireland, Italy, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malta, Marshall Islands, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Senegal, Slovakia, Somalia, Spain, Sudan, Suriname, Sweden, Switzerland, Timor-Leste, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay. The texts of the declarations filed with the Secretary-General by the above States are available, for information purposes, on the Court's website (under the heading "Jurisdiction").

37. In addition, more than 300 bilateral or multilateral treaties or conventions provide for the Court to have jurisdiction *ratione materiae* in the resolution of various types of disputes between States. A representative list of those treaties and conventions may also be found on the Court's website (under the heading "Jurisdiction"). The Court's jurisdiction can also be founded, in the case of a specific dispute, on a special agreement concluded between the States concerned. Finally,

when submitting a dispute to the Court, a State may propose to found the Court's jurisdiction upon a consent yet to be given or manifested by the State against which the application is made, in reliance on Article 38, paragraph 5, of the Rules of Court. If the latter State gives its consent, the Court's jurisdiction is established, and the new case is entered in the General List on the date that this consent is given (this situation is known as *forum prorogatum*).

Jurisdiction in advisory proceedings

38. The Court may also give advisory opinions. In addition to the General Assembly and Security Council, which are authorized to request advisory opinions of the Court "on any legal questions" (Art. 96, para. 1, of the Charter), three other United Nations organs (Economic and Social Council, Trusteeship Council, Interim Committee of the Assembly), as well as the following organizations, are also authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities (Art. 96, para. 2, of the Charter):

– International Labour Organization

– Food and Agriculture Organization of the United Nations

– United Nations Educational, Scientific and Cultural Organization

– International Civil Aviation Organization

– World Health Organization

– World Bank

– International Finance Corporation

– International Development Association

– International Monetary Fund

– International Telecommunication Union

– World Meteorological Organization

– International Maritime Organization

– World Intellectual Property Organization

– International Fund for Agricultural Development

– United Nations Industrial Development Organization

– International Atomic Energy Agency

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

Chapter III
Organization of the Court

A. *Composition*

40. The International Court of Justice consists of 15 judges elected for a term of nine years by the General Assembly and the Security Council. Every three years one third of the Court's seats falls vacant. On 9 November 2017, three of its Members, Judges Ronny Abraham (France), Abdulqawi Ahmed Yusuf (Somalia) and Antônio Augusto Cançado Trindade (Brazil) were re-elected, and Judge Nawaf Salam (Lebanon) was elected as a new Member of the Court, with effect from 6 February 2018. The election of a fifth judge could not be concluded on 9 November, since no candidate obtained a majority in both the Assembly and the Council, and the election therefore had to be postponed. On 20 November 2017, the two organs re-elected Judge Dalveer Bhandari (India) as a Member of the Court. On 6 February 2018, the Court in its new composition elected Judge Abdulqawi Ahmed Yusuf as its President and Judge Xue Hanqin (China) as its Vice-President, each for a term of three years.

41. Judge Hisashi Owada resigned as a Member of the Court with effect from 7 June 2018. To fill the seat left vacant, on 22 June 2018, the General Assembly and the Security Council elected Judge Yuji Iwasawa (Japan) as a Member of the Court, with immediate effect. Pursuant to Article 15 of the Statute of the Court, Judge Iwasawa will hold office for the remainder of Judge Owada's term, which will expire on 5 February 2021.

42. At 31 July 2018, the composition of the Court was thus as follows: President: Abdulqawi Ahmed Yusuf (Somalia); Vice-President: Xue Hanqin (China); Judges: Peter Tomka (Slovakia), Ronny Abraham (France), Mohamed Bennouna (Morocco), Antônio Augusto Cançado Trindade (Brazil), Joan E. Donoghue (United States of America), Giorgio Gaja (Italy), Julia Sebutinde (Uganda), Dalveer Bhandari (India), Patrick Lipton Robinson (Jamaica), James Richard Crawford (Australia), Kirill Gevorgian (Russian Federation), Nawaf Salam (Lebanon) and Yuji Iwasawa (Japan).

President and Vice-President

43. The President and the Vice-President of the Court (Statute, Art. 21) are elected by the Members of the Court every three years by secret ballot. The Vice-President replaces the President in his or her absence, in the event of his or her inability to exercise his or her duties, or in the event of a vacancy in the presidency. Among other things, the President: (*a*) presides at all meetings of the Court, directs its work and supervises its administration; (*b*) in every case submitted to the Court, ascertains the views of the parties with regard to questions of procedure. For this purpose, he summons the Agents of the parties to meet him as soon as possible after their appointment, and whenever necessary thereafter; (*c*) may call upon the parties to act in such a way as will enable any order the Court may make on a request for provisional measures to have its appropriate effects; (*d*) may authorize the correction of a slip or error in any document filed by a party during the written proceedings; (*e*) when the Court decides, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it without the right to vote, takes steps to obtain all the information relevant to the choice of assessors; (*f*) directs the Court's judicial deliberations; (*g*) has a casting vote in the event of votes being equally divided during judicial deliberations; (*h*) is *ex officio* a member of the drafting committees unless he does not share the majority opinion of the Court, in which case his place is taken by the Vice-President or, failing that, by a third judge elected by the Court; (*i*) is *ex officio* a member of the Chamber of Summary Procedure formed annually by the Court; (*j*) signs all judgments, advisory opinions and orders of the Court, and the minutes;

(*k*) delivers the judicial decisions of the Court at public sitting; (*l*) chairs the Budgetary and Administrative Committee of the Court; (*m*) addresses the representatives of the United Nations Member States every autumn in New York during the plenary meetings of the session of the General Assembly in order to present the *Report of the International Court of Justice*; (*n*) receives, at the seat of the Court, heads of State and government and other dignitaries during official visits. When the Court is not sitting, the President may, among other things, be called upon to make procedural orders.

Registrar and Deputy-Registrar

44. The Registrar of the Court is Mr. Philippe Couvreur (Belgium). On 3 February 2014, he was re-elected to the post by the Members of the Court for a third seven-year term of office as from 10 February 2014. Mr. Couvreur was first elected Registrar of the Court on 10 February 2000 and re-elected on 8 February 2007 (the duties of the Registrar are described in paragraphs 63 to 67 below).

45. The Deputy-Registrar of the Court is Mr. Jean-Pelé Fomété (Cameroon) nationality. He was elected to the post on 11 February 2013 for a term of seven years as from 16 March 2013.

Chamber of Summary Procedure, Budgetary and Administrative Committee and other committees

46. In accordance with Article 29 of its Statute, the Court annually forms a Chamber of Summary Procedure, which, at 31 July 2018, was constituted as follows:

(a) *Members*

President Yusuf

Vice-President Xue

Judges Cançado Trindade, Sebutinde and Gevorgian

(b) *Substitute Members*

Judges Donoghue and Crawford.

47. The Court also formed committees to facilitate the performance of its administrative tasks. At 31 July 2018, they were composed as follows:

(*a*) Budgetary and Administrative Committee:

– President Yusuf (Chair);

– Vice-President Xue;

– Judges Tomka, Abraham, Gaja, Sebutinde and Bhandari;

(*b*) Rules Committee:

– Judge Tomka (Chair);

– Judges Donoghue, Gaja, Bhandari, Robinson, Crawford and Gevorgian;

(*c*) Library Committee:

– Judge Cançado Trindade (Chair);

– Judges Gaja, Bhandari and Salam.

Judges ad hoc

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

49. There were 27 instances where States parties chose judges *ad hoc* during the period under review, with these functions being carried out by 15 individuals (the same person may sit as judge *ad hoc* in more than one case).

50. The following sat as judges *ad hoc* in cases in which a final decision was made during the period covered by this report or in cases entered in the Court's List on 31 July 2018:

(a) In the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*, Mr. Joe Verhoeven, chosen by the Democratic Republic of the Congo;

(b) In the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*, Mr. John Dugard, chosen by Costa Rica, and Mr. Gilbert Guillaume, chosen by Nicaragua;

(c) In the case concerning *Obligation to Negotiate Access to the Pacific Ocean (Bolivia* v. *Chile)*, Mr. Yves Daudet, chosen by the Plurinational State of Bolivia, and Mr. Donald M. McRae, chosen by Chile;

(d) In the case concerning the *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua* v. *Colombia)*, Mr. Leonid Skotnikov, chosen by Nicaragua, and Mr. Charles Brower, chosen by Colombia;

(e) In the case concerning *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua* v. *Colombia)*, Mr. Yves Daudet, chosen by Nicaragua, and Mr. David Caron (who passed away on 20 February 2018), chosen by Colombia;

(f) In the joined cases concerning *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica* v. *Nicaragua)* and *Land Boundary in the Northern Part of Isla Portillos (Costa Rica* v. *Nicaragua)*, Mr. Bruno Simma, chosen by Costa Rica, and Mr. Awn Shawkat al-Khasawneh, chosen by Nicaragua;

(g) In the case concerning the *Maritime Delimitation in the Indian Ocean (Somalia* v. *Kenya)*, Mr. Gilbert Guillaume, chosen by Kenya;

(h) In the case concerning the *Dispute over the Status and Use of the Waters of the Silala (Chile* v. *Bolivia)*, Mr. Bruno Simma, chosen by Chile, and Mr. Yves Daudet, chosen by the Plurinational State of Bolivia;

(i) In the case concerning *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)*, Mr. James Kateka, chosen by Equatorial Guinea;

(j) In the case concerning *Certain Iranian Assets (Islamic Republic of Iran* v. *United States of America)*, Mr. Djamchid Momtaz, chosen by the Islamic Republic of Iran, and Mr. David Caron (who passed away on 20 February 2018), chosen by the United States;

(k) In the case concerning the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian*

Federation), Mr. Fausto Pocar, chosen by Ukraine, and Mr. Leonid Skotnikov, chosen by the Russian Federation;

(l) In the case concerning the *Application for revision of the Judgment of 23 May 2008 in the Case concerning* Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (*Malaysia* v. *Singapore*), Mr. John Dugard, chosen by Malaysia, and Mr. Gilbert Guillaume, chosen by Singapore;

(m) In the *Jadhav Case (India* v. *Pakistan)*, Mr. Tassaduq Hussain Jillani, chosen by Pakistan;

(n) In the case concerning the *Request for Interpretation of the Judgment of 23 May 2008 in the Case concerning* Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (*Malaysia* v. *Singapore*), Mr. John Dugard, chosen by Malaysia, and Mr. Gilbert Guillaume, chosen by Singapore;

(o) In the case concerning the *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar* v. *United Arab Emirates)*, Mr. Yves Daudet, chosen by Qatar, and Mr. Jean-Pierre Cot, chosen by the United Arab Emirates.

(p) In the case concerning *Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran* v. *United States of America)*, Mr. Djamchid Momtaz, chosen by the Islamic Republic of Iran.

B. *Privileges and immunities*

51. Under Article 19 of the Statute of the Court, the Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

52. In the Netherlands, pursuant to an exchange of letters dated 26 June 1946 between the President of the Court and the Minister for Foreign Affairs, the Members of the Court enjoy, generally, the same privileges, immunities, facilities and prerogatives as heads of diplomatic missions accredited to the King of the Netherlands.[1]

53. By resolution 90 (I) of 11 December 1946, the General Assembly approved the agreements concluded with the Government of the Netherlands in June 1946 and recommended the following: if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence; 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 have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys.

54. In the same resolution, the General Assembly recommended that the authorities of Member States recognize and accept the laissez-passer issued by the Court to members of the Court, the Registrar and officers of the Court. Such laissez-passer had been produced by the Court since 1950; unique to the Court, they were similar in form to those issued by the United Nations. Since February 2014, the Court has delegated the task of producing laissez-passer to the United Nations Office in Geneva. The new

[1] *I.C.J. Acts and Documents No. 6*, pp. 204–211 and pp. 214–217.

laissez-passer are modelled on electronic passports and meet the most recent International Civil Aviation Organization standards.

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

C. Seat

56. The seat of the Court is established at The Hague; this, however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55). The Court has so far never held sittings outside The Hague.

57. The Court occupies premises in the Peace Palace in The Hague. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises and provides for the Organization to pay an annual contribution to the Foundation in consideration of the Court's use of the premises. That contribution was increased pursuant to supplementary agreements approved by the General Assembly in 1951, 1958, 1997 and 2006 as well as subsequent amendments. The annual contribution by the United Nations to the Foundation rose to €1,375,080 for 2017 and to €1,395,414 for 2018.

Chapter IV
Registry

58. 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 international secretariat of the Court. Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as a permanent administrative organ. The Registry's activities are thus administrative, as well as judicial and diplomatic.

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

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

61. The organizational structure of the Registry is fixed by the Court on proposals by the Registrar. The Registry consists of three departments and eight technical divisions (see annex). The President of the Court and the Registrar are each aided by a special assistant (grade P-3). The Members of the Court are each assisted by a law clerk (grade P-2). These 15 associate legal officers, although seconded to the judges, are members of the Registry staff, administratively attached to the Department of Legal Matters. The law clerks carry out research for the Members of the Court and the judges *ad hoc*, and work under their responsibility. A total of 15 secretaries, who are also members of the Registry staff, assist the Members of the Court and the judges *ad hoc*.

62. The total number of posts at the Registry is at present 116, namely 60 posts in the Professional category and above (all permanent posts) and 56 in the General Service category.

The Registrar

63. The Registrar is responsible for all departments and divisions of the Registry, the staff are under his authority, and he alone is authorized to direct the work of the Registry, of which he is the Head (Instructions for the Registry, art. 1). In the discharge of his functions the Registrar reports to the Court. His role is threefold: judicial, diplomatic and administrative.

64. The Registrar's judicial duties notably include those relating to the cases submitted to the Court. In this respect, the Registrar performs, among others, the following tasks:

(a) He prepares and keeps up to date the General List of all cases and is responsible for recording documents in the case files;

(b) He manages the proceedings in the cases;

(c) He is present in person, or represented by the Deputy-Registrar, at meetings of the Court and of Chambers; he provides any assistance required and is responsible for the preparation of reports or minutes of such meetings;

(d) He signs all judgments, advisory opinions and orders of the Court, as well as minutes;

(e) he maintains relations with the parties to a case and has specific responsibility for the receipt and transmission of various documents, most importantly those instituting proceedings (applications and special agreements) and all written pleadings;

(f) He is responsible for the translation, printing and publication of the Court's judgments, advisory opinions and orders, the pleadings, written statements and minutes of the public sittings in every case, and of such other documents as the Court may decide to publish; and (g) 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 Permanent Court of International Justice and of the Nuremberg International Military Tribunal).

65. The Registrar's diplomatic duties include the following tasks:

(a) He attends to the Court's external relations and acts as the channel of communication to and from the Court;

(b) He manages external correspondence, including that relating to cases, and provides any consultations required;

(c) He manages relations of a diplomatic nature, in particular with the organs and States Members of the United Nations, with other international organizations and with the Government of the country in which the Court has its seat;

(d) He maintains relations with the local authorities and with the press; and

(e) He is responsible for information concerning the Court's activities and for the Court's publications, including press releases.

66. The Registrar's administrative duties include:

(a) The Registry's internal administration;

(b) Financial management, in accordance with the financial procedures of the United Nations, and in particular preparing and implementing the budget;

(c) The supervision of all administrative tasks and of printing; and

(d) Making arrangements for such provision or verification of translations and interpretations into the Court's two official languages (English and French) as the Court may require.

67. Pursuant to the exchange of letters and General Assembly resolution 90 (I) as referred to in paragraphs 52 and 53 above, the Registrar is accorded the same privileges and immunities as heads of diplomatic missions in The Hague and, on journeys to third States, all the privileges, immunities and facilities granted to diplomatic envoys.

68. The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence (Rules, Art. 27).

Chapter V
Judicial activity of the Court

A. Pending contentious proceedings during the period under review

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

69. On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed on 7 April 1993, for the submission to the Court of certain issues arising out of differences regarding the implementation and the termination of the Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system (see A/48/4). In its Judgment of 25 September 1997, the Court, having ruled on the issues submitted by the parties, called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989. On 3 September 1998, Slovakia filed in the Registry of the Court a request for an additional judgment in the case. Such an additional judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997 (see press release No. 98/28 of 3 September 1998). 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 (see press release No. 98/31 of 7 October 1998). The parties subsequently resumed negotiations and regularly informed the Court of the progress made.

70. By a letter from the Agent of Slovakia dated 30 June 2017, the Slovak Government requested that the Court place on record its discontinuance of the proceedings instituted by means of the request for an additional judgment in the case. In a letter dated 12 July 2017, the Agent of Hungary stated that his Government d[id] not oppose the discontinuance.

71. By a letter to both Agents dated 18 July 2017, the Court communicated its decision to place on record the discontinuance of the procedure begun by means of Slovakia's request for an additional judgment and informed them that it had taken note of the fact that both parties had reserved their right under Article 5, paragraph 3, of the Special Agreement signed between Hungary and Slovakia on 7 April 1993 to request the Court to render an additional judgment to determine the procedure for executing its Judgment of 25 September 1997.

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

72. On 23 June 1999, the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the Organization of African Unity" (see A/54/4).

73. In its Counter-Memorial, filed in the Registry on 21 April 2001, Uganda presented three counter-claims (see A/56/4).

74. In the Judgment which it rendered on 19 December 2005 (see A/61/4), the Court found in particular that Uganda, by engaging in military activities against the Democratic Republic of the Congo on the latter's territory, by occupying Ituri and by actively extending support to irregular forces having operated on the territory of the Democratic Republic of the Congo, had violated the principle of non-use of force in international relations and the principle of non-intervention; that it had violated, in

the course of hostilities between Ugandan and Rwandan military forces in Kisangani, its obligations under international human rights law and international humanitarian law; that it had violated, by the conduct of its armed forces towards the civilian population of the Democratic Republic of the Congo, and in particular as an occupying Power in Ituri district, other obligations incumbent on it under international human rights law and international humanitarian law; and that it had violated its obligations under international law by acts of looting, plundering and exploitation of Congolese natural resources committed through members of its armed forces in the territory of the Democratic Republic of the Congo by its failure to prevent such acts as an occupying Power in Ituri district.

75. The Court also found that the Democratic Republic of the Congo had for its part violated obligations owed to Uganda under the 1961 Vienna Convention on Diplomatic Relations, through maltreatment of or failure to protect the persons and property protected by the said Convention.

76. The Court therefore found that the parties were under obligation to one another to make reparation for the injury caused. It decided that, failing agreement between the parties, the question of reparation would be settled by the Court and reserved for this purpose the subsequent procedure in the case. Thereafter, the parties transmitted to the Court certain information concerning the negotiations between them to settle the question of reparation, as referred to in points (6) and (14) of the operative clause of the Judgment and in paragraphs 260, 261 and 344 of the Judgment's reasoning.

77. On 13 May 2015, the Registry of the Court received from the Democratic Republic of the Congo a document entitled "New Application to the International Court of Justice", requesting the Court to decide the question of the reparation due to the Democratic Republic of the Congo in the case (see A/70/4).

78. By an Order dated 1 July 2015, the Court decided to resume the proceedings in the case with regard to the question of reparations, and fixed 6 January 2016 as the time limit for the filing, by the Democratic Republic of the Congo, of a Memorial on the reparations which it considers to be owed to it by Uganda, and for the filing, by Uganda, of a Memorial on the reparations which it considers to be owed to it by the Democratic Republic of the Congo.

79. In its Order, the Court further pointed out that the fixing of such time limits left unaffected the right of the respective Heads of State to provide the further guidance referred to in the joint communiqué of 19 March 2015. Finally, it concluded that each party should set out in a Memorial the entirety of its claim for damages which it considered to be owed to it by the other party and attach to that pleading all the evidence on which it wished to rely.

80. By an Order dated 10 December 2015, the President of the Court extended to 28 April 2016 the time-limit for the filing, by the parties, of their Memorials on the question of reparations.

81. By an Order dated 11 April 2016, the Court extended to 28 September 2016 the time-limit for the filing, by the parties, of the said Memorials. Those pleadings were filed within the time-limit thus extended.

82. By an Order dated 6 December 2016, the Court fixed 6 February 2018 as the time-limit for the filing, by each party, of a Counter-Memorial responding to the claims presented by the other party in its Memorial. The Counter-Memorials were filed within the time-limit thus fixed.

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

83. On 18 November 2010, Costa Rica filed an Application instituting proceedings against Nicaragua in respect of an alleged "incursion into, occupation of and use by Nicaragua's Army of Costa Rican territory as well as [alleged] breaches of Nicaragua's obligations towards Costa Rica" under a number of international treaties and conventions (see A/66/4).

84. By two separate Orders dated 17 April 2013, the Court joined these proceedings with those in the case concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua* v. *Costa Rica)*, instituted by Nicaragua on 22 December 2011 (see A/74/4).

85. In the Judgment it rendered on 16 December 2015 in the joined cases (see A/71/4), the Court found, *inter alia*, that Nicaragua had the obligation to compensate Costa Rica for material damages caused by Nicaragua's unlawful activities on Costa Rican territory. It also decided that, failing agreement between the parties on this matter within 12 months from the date of the Judgment, the question of compensation due to Costa Rica would, at the request of one of the parties, be settled by the Court, the amount of compensation being determined on the basis of additional written pleadings confined to that question. The Court consequently reserved for further decision the subsequent procedure in the case concerning *Certain Activities carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*.

86. In a letter dated 16 January 2017, the Government of Costa Rica requested the Court "to settle the question of the compensation due to Costa Rica for damages caused by Nicaragua's unlawful activities".

87. By an Order dated 2 February 2017, the Court fixed 3 April and 2 June 2017 as the respective time-limits for the filing of a Memorial by Costa Rica and a Counter-Memorial by Nicaragua on the sole question of compensation owed in the case. Those pleadings were filed within the time-limits thus fixed.

88. By an Order dated 18 July 2017, the President of the Court authorized the submission of a Reply by Costa Rica and a Rejoinder by Nicaragua on the sole question of the methodology adopted in the expert reports presented by the parties in the Memorial and Counter-Memorial and fixed 8 and 29 August 2017 as the respective time-limits for the filing of those written pleadings. The pleadings were filed within the time-limits thus fixed.

89. On 2 February 2018, the Court rendered its Judgment on the question of compensation owed to Costa Rica in the case, the operative clause of which reads as follows:

"For these reasons,

The Court,

(1) *Fixes* the following amounts for the compensation due from the Republic of Nicaragua to the Republic of Costa Rica for environmental damage caused by the Republic of Nicaragua's unlawful activities on Costa Rican territory:

(a) By fifteen votes to one,

US$120,000 for the impairment or loss of environmental goods and services;

In favour: President Abraham; Vice-President Yusuf; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Gevorgian; Judge *ad hoc* Guillaume;

Against: Judge *ad hoc* Dugard;

(b) By fifteen votes to one,

US$2,708.39 for the restoration costs claimed by the Republic of Costa Rica in respect of the internationally protected wetland;

In favour: President Abraham; Vice-President Yusuf; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Gaja, Sebutinde, Bhandari, Robinson, Gevorgian; Judges *ad hoc* Guillaume, Dugard;

Against: Judge Donoghue;

(2) Unanimously,

Fixes the amount of compensation due from the Republic of Nicaragua to the Republic of Costa Rica for costs and expenses incurred by Costa Rica as a direct consequence of the Republic of Nicaragua's unlawful activities on Costa Rican territory at US$236,032.16;

(3) Unanimously,

Decides that, for the period from 16 December 2015 to 2 February 2018, the Republic of Nicaragua shall pay interest at an annual rate of 4 per cent on the amount of compensation due to the Republic of Costa Rica under point 2 above, in the sum of US$20,150.04;

(4) Unanimously,

Decides that the total amount due under points 1, 2 and 3 above shall be paid by 2 April 2018 and that, in case it has not been paid by that date, interest on the total amount due from the Republic of Nicaragua to the Republic of Costa Rica will accrue as from 3 April 2018 at an annual rate of 6 per cent."

90. By a letter dated 22 March 2018, Nicaragua informed the Court that, on 8 March 2018, it had transferred to Costa Rica the total amount of compensation owed to the latter in the case.

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

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

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

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

94. The Plurinational State of Bolivia requested the Court to adjudge and declare that:

"(a) Chile [had] the obligation to negotiate with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean;

(b) Chile [had] breached the said obligation;

(c) Chile [had to] perform the said obligation in good faith, promptly, formally, within a reasonable time and effectively, to grant Bolivia a fully sovereign access to the Pacific Ocean".

95. As basis for the jurisdiction of the Court, the Applicant invoked Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) of 30 April 1948, to which both States are parties.

96. By an Order dated 18 June 2013, the Court fixed 17 April 2014 and 18 February 2015 as the respective time-limits for the filing of a Memorial by the Plurinational State of Bolivia and a Counter-Memorial by Chile. The Memorial was filed within the time-limit thus fixed.

97. On 15 July 2014, Chile, referring to Article 79, paragraph 1, of the Rules, filed a preliminary objection to the jurisdiction of the Court in the case. In accordance with paragraph 5 of the same Article, the proceedings on the merits were then suspended.

98. By an Order dated 15 July 2014, the President of the Court fixed 14 November 2014 as the time-limit for the filing by the Plurinational State of Bolivia of a written statement of its observations and submissions on the preliminary objection raised by Chile. The written statement was filed within the time-limit thus fixed.

99. Public hearings on the preliminary objection to the jurisdiction of the Court were held from 4 to 8 May 2015 (see A/70/4).

100. In the Judgment which it rendered on 24 September 2015, the Court rejected the preliminary objection raised by Chile. It then found that it had jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to entertain the Application filed by the Plurinational State of Bolivia.

101. By an Order dated 24 September 2015, the Court fixed 25 July 2016 as the new time-limit for the filing of a Counter-Memorial by Chile. That pleading was filed within the time-limit thus fixed.

102. By an Order dated 21 September 2016, the Court authorized the submission of a Reply by the Plurinational State of Bolivia and a Rejoinder by Chile and fixed 21 March and 21 September 2017 as the respective time-limits for the filing of those written pleadings. The Reply and the Rejoinder were filed within the time-limit thus fixed.

103. Public hearings on the merits of the case were held from 19 March to 28 March 2018.

104. At the end of the hearings, the Agents of the parties presented the following submissions to the Court:

For Bolivia:

"In accordance with Article 60 of the Rules of the Court and the reasons set out during the written and oral phase of the pleadings in the case *Obligation to Negotiate Access to the Pacific Ocean (Bolivia* v. *Chile)*, the Plurinational State of Bolivia respectfully requests the Court to adjudge and declare that:

(a) Chile has the obligation to negotiate with Bolivia in order to reach an agreement granting Bolivia a fully sovereign access to the Pacific Ocean;

(b) Chile has breached the said obligation; and

(c) Chile must perform the said obligation in good faith, promptly, formally, within a reasonable time and effectively, to grant Bolivia a fully sovereign access to the Pacific Ocean."

For Chile:

"The Republic of Chile respectfully requests the Court to:

Dismiss all of the claims of the Plurinational State of Bolivia."

105. The Court has begun its deliberations. It will deliver its decision at a public sitting, the date of which will be announced in due course.

5. *Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 nautical miles from the Nicaraguan Coast (Nicaragua* v. *Colombia)*

106. On 16 September 2013, Nicaragua filed an Application instituting proceedings against Colombia relating to a "dispute concern[ing] the delimitation of the boundaries between, on the one hand, the continental shelf of Nicaragua beyond the 200-nautical-mile limit from the baselines from which the breadth of the territorial sea of Nicaragua is measured, and on the other hand, the continental shelf of Colombia".

107. In its Application, Nicaragua requested the Court to adjudge and declare, first, "[t]he precise course of the maritime boundary between Nicaragua and Colombia in the areas of the continental shelf which appertain to each of them beyond the boundaries determined by the Court in its Judgment of 19 November 2012 [in the case concerning the *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*]"; and second, "[t]he principles and rules of international law that determine the rights and duties of the two States in relation to the area of overlapping continental shelf claims and the use of its resources, pending the delimitation of the maritime boundary between them beyond 200 nautical miles from Nicaragua's coast" (see A/69/4).

108. Nicaragua based the jurisdiction of the Court on Article XXXI of the Pact of Bogotá.

109. By an Order dated 9 December 2013, the Court fixed 9 December 2014 and 9 December 2015 as the respective time limits for the filing of a Memorial by Nicaragua and a Counter Memorial by Colombia.

110. On 14 August 2014, Colombia, referring to Article 79 of the Rules of Court, raised certain preliminary objections to the jurisdiction of the Court and to the admissibility of the Application (see A/71/4).

111. In accordance with Article 79, paragraph 5, of the Rules of Court, the proceedings on the merits were then suspended.

112. By an Order dated 19 September 2014, the Court fixed 19 January 2015 as the time-limit within which Nicaragua might present a written statement of its observations and submissions on the preliminary objections raised by Colombia. The written statement was filed within the time-limit thus fixed.

113. Public hearings on the preliminary objections raised by Colombia were held from 5 to 9 October 2015.

114. In the Judgment it delivered on those preliminary objections on 17 March 2016, the Court found that it had jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to entertain the first request put forward by Nicaragua in its Application, and that that request was admissible. However, it found the second request made by Nicaragua in its Application to be inadmissible (see para. 107).

115. By an Order dated 28 April 2016, the President of the Court fixed 28 September 2016 and 28 September 2017 as the new respective time-limits for the filing of a

Memorial by Nicaragua and a Counter-Memorial by Colombia. The Memorial and Counter-Memorial were filed within the time-limits thus fixed.

116. By an Order dated 8 December 2017, the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Colombia and fixed 9 July 2018 and 11 February 2019 as the respective time-limits for the filing of those written pleadings. The Reply of Nicaragua was filed within the time-limit thus fixed.

6. *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua* v. *Colombia)*

117. On 26 November 2013, Nicaragua filed an Application instituting proceedings against Colombia relating to a "dispute concern[ing] the violations of Nicaragua's sovereign rights and maritime zones declared by the Court's Judgment of 19 November 2012 [in the case concerning the *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*] and the threat of the use of force by Colombia in order to implement these violations".

118. In its Application, Nicaragua requested the Court to adjudge and declare that Colombia:

– "[Was] in breach of its obligation not to use or threaten to use force under Article 2 (4) of the Charter of the United Nations and international customary law;

– [Was] in breach of its obligation not to violate Nicaragua's maritime zones as delimited in paragraph 251 of the Court's Judgment of 19 November 2012 as well as Nicaragua's sovereign rights and jurisdiction in these zones;

– [Was] in breach of its obligation not to violate Nicaragua's rights under customary international law as reflected in Parts V and VI of [the United Nations Convention on the Law of the Sea];

– [Was], consequently, bound to comply with the Judgment of 19 November 2012, wipe out the legal and material consequences of its internationally wrongful acts, and make full reparation for the harm caused by those acts" (see A/69/4).

119. Nicaragua based the jurisdiction of the Court on Article XXXI of the Pact of Bogotá. Nicaragua further contended that "[m]oreover and alternatively, the jurisdiction of the Court [lay] in its inherent power to pronounce on the actions required by its Judgments".

120. By an Order of 3 February 2014, the Court fixed 3 October 2014 and 3 June 2015 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

121. On 19 December 2014, Colombia, referring to Article 79 of the Rules of Court, raised certain preliminary objections to the jurisdiction of the Court (see A/71/4). In accordance with paragraph 5 of the same Article, the proceedings on the merits were then suspended.

122. By an Order of 19 December 2014, the President of the Court fixed 20 April 2015 as the time-limit within which Nicaragua might present a written statement of its observations and submissions on the preliminary objections raised by Colombia. The written statement was filed within the time-limit thus fixed.

123. Public hearings on the preliminary objections raised by Colombia were held from 28 September to 2 October 2015.

124. In the Judgment it rendered on those preliminary objections on 17 March 2016, the Court found that it had jurisdiction, on the basis of Article XXXI of the Pact of Bogotá, to adjudicate upon the dispute regarding the alleged violations by Colombia of Nicaragua's rights in the maritime zones which, according to Nicaragua, the Court declared in its 2012 Judgment appertained to Nicaragua (see A/71/4).

125. By an Order dated 17 March 2016, the Court fixed 17 November 2016 as the new time-limit for the filing of a Counter-Memorial by Colombia.

126. That written pleading, which was filed within the time-limit thus fixed, contained four counter-claims. The first was based on Nicaragua's alleged breach of a duty of due diligence to protect and preserve the marine environment of the south-western Caribbean Sea. The second related to Nicaragua's alleged breach of its duty of due diligence to protect the right of the inhabitants of the San Andrés Archipelago to benefit from a healthy, sound and sustainable environment. The third concerned Nicaragua's alleged infringement of the customary artisanal fishing rights of the local inhabitants of the San Andrés Archipelago to access and exploit their traditional fishing grounds. The fourth related to Nicaragua's adoption of Decree No. 33-2013 of 19 August 2013, which, according to Colombia, established straight baselines and had the effect of extending Nicaragua's internal waters and maritime zones beyond what is permitted by international law.

127. Both parties then filed, within the time-limits fixed by the Court, their written observations on the admissibility of those claims.

128. In its Order dated 15 November 2017, the Court found that the first and second counter-claims submitted by Colombia were inadmissible as such and did not form part of the current proceedings, and that the third and fourth counter-claims submitted by Colombia were admissible as such and did form part of the current proceedings.

129. By the same Order, the Court directed Nicaragua to submit a Reply and Colombia to submit a Rejoinder relating to the claims of both parties in the current proceedings and fixed the following dates as time-limits for the filing of those pleadings: 15 May 2018 for Nicaragua's Reply and 15 November 2018 for Colombia's Rejoinder. Nicaragua's Reply was filed within the time-limit thus fixed.

130. It is to be recalled that, pursuant to Article 80, paragraph 2, of the Rules of Court, the right of Nicaragua to submit an additional pleading, after the filing of Colombia's Rejoinder, in order to express its views on the counter-claim is preserved.

7. *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica* v. *Nicaragua)*

131. On 25 February 2014, Costa Rica filed an Application instituting proceedings against Nicaragua with regard to a "[d]ispute concerning maritime delimitation in the Caribbean Sea and the Pacific Ocean".

132. In its Application, Costa Rica requested the Court "to determine the complete course of a single maritime boundary between all the maritime areas appertaining, respectively, to Costa Rica and to Nicaragua in the Caribbean Sea and in the Pacific Ocean, on the basis of international law". It further requested the Court "to determine the precise geographical co-ordinates of the single maritime boundaries in the Caribbean Sea and in the Pacific Ocean" (see A/69/4).

133. As basis for the jurisdiction of the Court, Costa Rica invoked the declaration of acceptance of the compulsory jurisdiction of the Court made by Costa Rica on 20 February 1973 under Article 36, paragraph 2, of the Statute, and that made by Nicaragua on 24 September 1929 (and amended on 23 October 2001), under Article 36 of the Statute of the Permanent Court of International Justice, which is deemed,

pursuant to Article 36, paragraph 5, of the Statute of the present Court, to be acceptance of the latter's compulsory jurisdiction.

134. In addition, Costa Rica submitted that the Court had jurisdiction "in accordance with the provisions of Article 36, paragraph 1, of its Statute, by virtue of the operation of Article XXXI of the […] Pact of Bogotá".

135. By an Order of 1 April 2014, the Court fixed 3 February and 8 December 2015 as the respective time-limits for the filing of a Memorial by Costa Rica and a Counter-Memorial by Nicaragua. Those pleadings were filed within the time-limits thus fixed.

136. By an Order dated 31 May 2016, the Court decided to obtain an expert opinion regarding the state of a portion of the Caribbean coast near the border between Costa Rica and Nicaragua. In its Order, the Court explained that there were certain factual matters relating to the state of the coast that might be relevant for the purpose of settling the dispute submitted to it, and that, with regard to such matters, it would benefit from an expert opinion.

137. By an Order of 16 June 2016, in accordance with the Order of 31 May 2016, the President of the Court appointed the two individuals tasked with preparing the expert opinion.

138. Those experts conducted two site visits, the first from 4 to 9 December 2016 and the second from 12 to 17 March 2017.

139. By an Order dated 2 February 2017, the Court joined the proceedings in the cases concerning *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica* v. *Nicaragua)* and *Land Boundary in the Northern Part of Isla Portillos (Costa Rica* v. *Nicaragua)* (see para. 189).

140. Public hearings were held on the merits in the two joined cases from 3 to 13 July 2017 (see A/72/4).

141. On 2 February 2018, the Court rendered its Judgment in the two joined cases, the operative clause of which reads as follows:

"For these reasons,

The Court,

(1) By fifteen votes to one,

Finds that the Republic of Nicaragua's claim concerning sovereignty over the northern coast of Isla Portillos is admissible;

In favour: President Abraham; Vice-President Yusuf; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Gevorgian; Judges *ad hoc* Simma, Al-Khasawneh;

Against: Judge Robinson;

(2) By fourteen votes to two,

Finds that the Republic of Costa Rica has sovereignty over the whole northern part of Isla Portillos, including its coast up to the point at which the right bank of the San Juan River reaches the low-water mark of the coast of the Caribbean Sea, with the exception of Harbor Head Lagoon and the sandbar separating it from the Caribbean Sea, sovereignty over which appertains to Nicaragua within the boundary defined in paragraph 73 of the present Judgment;

In favour: President Abraham; Vice-President Yusuf; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Robinson; Judge *ad hoc* Simma;

Against: Judge Gevorgian; Judge *ad hoc* Al-Khasawneh;

(3) (a) By fourteen votes to two,

Finds that, by establishing and maintaining a military camp on Costa Rican territory, the Republic of Nicaragua has violated the sovereignty of the Republic of Costa Rica;

In favour: President Abraham; Vice-President Yusuf; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Robinson; Judge *ad hoc* Simma;

Against: Judge Gevorgian; Judge *ad hoc* Al-Khasawneh;

(b) Unanimously,

Finds that the Republic of Nicaragua must remove its military camp from Costa Rican territory;

(4) Unanimously,

Decides that the maritime boundary between the Republic of Costa Rica and the Republic of Nicaragua in the Caribbean Sea shall follow the course set out in paragraphs 106 and 158 of the present Judgment;

(5) Unanimously,

Decides that the maritime boundary between the Republic of Costa Rica and the Republic of Nicaragua in the Pacific Ocean shall follow the course set out in paragraphs 175 and 201 of the present Judgment.”

8. *Maritime Delimitation in the Indian Ocean (Somalia* v. *Kenya)*

142. On 28 August 2014, Somalia filed an Application instituting proceedings against Kenya with regard to a dispute concerning the delimitation of maritime spaces claimed by both States in the Indian Ocean.

143. In its Application, Somalia contended that both States disagreed “about the location of the maritime boundary in the area where their maritime entitlements overlapped”, and that “[d]iplomatic negotiations, in which their respective views [had] been fully exchanged, [had] failed to resolve their disagreement”.

144. Somalia requested the Court “to determine, on the basis of international law, the complete course of the single maritime boundary dividing all the maritime areas appertaining to Somalia and to Kenya in the Indian Ocean, including the continental shelf beyond 200 nautical miles”. It further asked the Court “to determine the precise geographical co-ordinates of the single maritime boundary in the Indian Ocean” (see A/70/4).

145. As basis for the Court’s jurisdiction, the Applicant invoked the provisions of Article 36, paragraph 2, of the Court’s Statute, and referred to the declarations recognizing the Court’s jurisdiction as compulsory made under those provisions by Somalia on 11 April 1963 and by Kenya on 19 April 1965.

146. In addition, Somalia submitted that “the jurisdiction of the Court under Article 36, paragraph 2, of its Statute [was] underscored by Article 282 of the [United Nations Convention on the Law of the Sea]”, which Somalia and Kenya both ratified in 1989.

147. By an Order of 16 October 2014, the President of the Court fixed 13 July 2015 and 27 May 2016 as the respective time-limits for the filing of a Memorial by Somalia and a Counter-Memorial by Kenya. The Memorial of Somalia was filed within the time-limit thus fixed.

148. On 7 October 2015, Kenya raised certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application. In accordance with Article 79, paragraph 5, of the Rules of Court, the proceedings on the merits were suspended.

149. By an Order of 9 October 2015, the Court fixed 5 February 2016 as the time-limit within which Somalia might present a written statement of its observations and submissions on the preliminary objections raised by Kenya. The written statement of Somalia was filed within the time-limit thus fixed.

150. Public hearings on the preliminary objections raised by Kenya were held from 19 to 23 September 2016.

151. On 2 February 2017, the Court rendered its Judgment on the preliminary objections. Rejecting the preliminary objections raised by Kenya, the Court found that "it ha[d] jurisdiction to entertain the Application filed by the Federal Republic of Somalia on 28 August 2014 and that the Application [was] admissible".

152. By an Order dated 2 February 2017, the Court fixed 18 December 2017 as the new time-limit for the filing of the Counter-Memorial of Kenya. The Counter-Memorial was filed within the time-limit thus fixed.

153. By an Order dated 2 February 2018, the Court authorized the submission of a Reply by Somalia and a Rejoinder by Kenya and fixed 18 June and 18 December 2018 as the respective time-limits for the filing of those written pleadings. The Reply of Somalia was filed within the time-limit thus fixed.

9. *Dispute over the Status and Use of the Waters of the Silala (Chile* v. *Bolivia)*

154. On 6 June 2016, Chile filed an Application instituting proceedings against the Plurinational State of Bolivia with regard to a dispute concerning the status and use of the waters of the Silala.

155. In its Application, Chile argued that the Silala River originated from groundwater springs in Bolivian territory "a few kilometres north-east of the Chile-Bolivia international boundary". It contended that the Silala then flows across the border into Chilean territory, where it receives "additional waters from various springs located in Chilean territory [...] before it reaches the Inacaliri River". According to Chile, the total length of the Silala is about 8.5 km, of which approximately 3.8 km is on Bolivian territory, and 4.7 km on Chilean territory. Chile also stated that, for more than a century, the waters of the Silala were used in Chile for different purposes, including the provision of water to the city of Antofagasta and to the towns of Sierra Gorda and Baquedano.

156. Chile explained that "[t]he nature of the Silala River as an international watercourse was never disputed until Bolivia, for the first time in 1999, claimed its waters as exclusively Bolivian". Chile contended that it had " always been willing to engage in discussions with Bolivia concerning a regime of utilization of the waters of the Silala", but that those discussions were unsuccessful "due to Bolivia's insistence on denying that the Silala River is an international watercourse and Bolivia's contention that it has rights to the 100 per cent use of its waters". According to Chile, the dispute between the two States therefore concerns the nature of the Silala as an international watercourse and the resulting rights and obligations of the parties under international law.

157. Chile thus requested the Court to adjudge and declare that:

"(a) The Silala River system, together with the subterranean portions of its system, [was] an international watercourse, the use of which [was] governed by customary international law;

(b) Chile [was] entitled to the equitable and reasonable use of the waters of the Silala River system in accordance with customary international law;

(c) Under the standard of equitable and reasonable utilization, Chile [was] entitled to its current use of the waters of the Silala River;

(d) Bolivia [had] an obligation to take all appropriate measures to prevent and control pollution and other forms of harm to Chile resulting from its activities in the vicinity of the Silala River;

(e) Bolivia had] an obligation to cooperate and to provide Chile with timely notification of planned measures which [may] have an adverse effect on shared water resources, to exchange data and information and to conduct where appropriate an environmental impact assessment, in order to enable Chile to evaluate the possible effects of such planned measures, obligations that Bolivia [had] breached."

158. As basis for the Court's jurisdiction, the Applicant invoked Article XXXI of the Pact of Bogotá, to which both States are parties.

159. By an Order of 1 July 2016, the Court fixed 3 July 2017 and 3 July 2018 as the respective time-limits for the filing of a Memorial by Chile and a Counter-Memorial by the Plurinational State of Bolivia. The Memorial of Chile was filed within the time-limit thus fixed.

160. By a letter dated 14 May 2018, the Agent of the Plurinational State of Bolivia requested the Court, for the reasons set out in that letter, to extend by two months the time-limit for the filing of the Counter-Memorial. In the absence of any objection by Chile to that request, the Court, by an Order dated 23 May 2018, extended to 3 September 2018 the time-limit for the filing of the Plurinational State of Bolivia's Counter-Memorial.

10. *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)*

161. On 13 June 2016, Equatorial Guinea filed an Application instituting proceedings against France with regard to a dispute concerning "the immunity from criminal jurisdiction of the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security [Mr. Teodoro Nguema Obiang Mangue], and the legal status of the building which houses the Embassy of Equatorial Guinea in France" (see A/72/4).

162. Equatorial Guinea requested the Court:

"(a) With regard to the French Republic's failure to respect the sovereignty of the Republic of Equatorial Guinea,

(i) To adjudge and declare that the French Republic [had] breached its obligations to respect the principles of the sovereign equality of States and non-interference in the internal affairs of another State, owed to the Republic of Equatorial Guinea in accordance with international law, by permitting its courts to initiate criminal legal proceedings against the Second Vice-President of Equatorial Guinea for alleged offences which, even if they were established, quod non, would fall solely within the jurisdiction of the courts of Equatorial Guinea, and by allowing its courts to order the attachment of a building belonging to the Republic of Equatorial Guinea and used for the purposes of that country's diplomatic mission in France;

(b) With regard to the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security,

(i) To adjudge and declare that, by initiating criminal proceedings against the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security, His Excellency Mr. Teodoro Nguema Obiang Mangue, the French Republic [had] acted and [was] continuing to act in violation of its obligations under international law, notably the United Nations Convention against Transnational Organized Crime and general international law;

(ii) To order the French Republic to take all necessary measures to put an end to any ongoing proceedings against the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security;

(iii) To order the French Republic to take all necessary measures to prevent further violations of the immunity of the Second Vice-President of the Republic of Equatorial Guinea in charge of Defence and State Security and to ensure, in particular, that its courts do not initiate any criminal proceedings against the Second Vice-President of the Republic of Equatorial Guinea in the future;

(c) With regard to the building located at 42 avenue Foch in Paris,

(i) To adjudge and declare that, by attaching the building located at 42 avenue Foch in Paris, the property of the Republic of Equatorial Guinea and used for the purposes of that country's diplomatic mission in France, the French Republic [was] in breach of its obligations under international law, notably the Vienna Convention on Diplomatic Relations and the United Nations Convention, as well as general international law;

(ii) To order the French Republic to recognize the status of the building located at 42 avenue Foch in Paris as the property of the Republic of Equatorial Guinea, and as the premises of its diplomatic mission in Paris, and, accordingly, to ensure its protection as required by international law;

(d) In view of all the violations by the French Republic of international obligations owed to the Republic of Equatorial Guinea,

(i) To adjudge and declare that the responsibility of the French Republic [was] engaged on account of the harm that the violations of its international obligations [had] caused and [were] continuing to cause to the Republic of Equatorial Guinea;

(ii) To order the French Republic to make full reparation to the Republic of Equatorial Guinea for the harm suffered, the amount of which [would] be determined at a later stage."

163. As basis for the Court's jurisdiction, the Applicant invoked two instruments to which both States are parties: first, the Optional Protocol to the Vienna Convention on Diplomatic Relations, concerning the Compulsory Settlement of Disputes, of 18 April 1961; and, second, the United Nations Convention against Transnational Organized Crime of 15 November 2000.

164. By an Order of 1 July 2016, the Court fixed 3 January and 3 July 2017 as the respective time-limits for the filing of a Memorial by Equatorial Guinea and a Counter-Memorial by France. The Memorial of Equatorial Guinea was filed within the time-limit thus fixed.

165. On 29 September 2016, Equatorial Guinea submitted a request for the indication of provisional measures, in which it asked the Court, "pending its judgment on the merits, to indicate the following provisional measures:

(a) That France suspend all the criminal proceedings brought against the Vice-President of the Republic of Equatorial Guinea, and refrain from launching new proceedings against him, which might aggravate or extend the dispute submitted to the Court;

(b) That France ensure that the building located at 42 avenue Foch in Paris is treated as premises of Equatorial Guinea's diplomatic mission in France and, in particular, assure its inviolability, and that those premises, together with their furnishings and other property thereon, or previously thereon, are protected from any intrusion or damage, any search, requisition, attachment or any other measure of constraint;

(c) That France refrain from taking any other measure that might cause prejudice to the rights claimed by Equatorial Guinea and/or aggravate or extend the dispute submitted to the Court or compromise the implementation of any decision which the Court might render."

166. The Court held hearings on the request for the indication of provisional measures from 17 to 19 October 2016.

167. At the end of the second round of oral observations, Equatorial Guinea confirmed the provisional measures it had asked the Court to indicate. The Agent of France, for his part, requested the Court: "(i) to remove the case from its List; (ii) or, failing that, to reject all the requests for provisional measures made by Equatorial Guinea".

168. On 7 December 2016, the Court rendered an Order, the operative clause of which reads as follows:

"For these reasons,

The Court,

I. Unanimously,

Indicates the following provisional measures:

France shall, pending a final decision in the case, take all measures at its disposal to ensure that the premises presented as housing the diplomatic mission of Equatorial Guinea at 42 avenue Foch in Paris enjoy treatment equivalent to that required by Article 22 of the Vienna Convention on Diplomatic Relations, in order to ensure their inviolability;

II. Unanimously,

Rejects the request of France to remove the case from the General List."

169. The Court was composed as follows: Vice-President Yusuf, Acting President, President Abraham; Judges Owada, Tomka, Bennouna, Cançado Trindade, Greenwood, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Crawford, Gevorgian; Judge ad hoc Kateka; Registrar Couvreur.

170. On 31 March 2017, France raised certain preliminary objections to the Court's jurisdiction. In accordance with Article 79, paragraph 5, of the Rules of Court, the proceedings on the merits were then suspended.

171. By an Order of 5 April 2017, the Court fixed 31 July 2017 as the time-limit within which Equatorial Guinea might present a written statement of its observations and submissions on the preliminary objections raised by France. The written statement was filed within the time-limit thus fixed.

172. Public hearings on the preliminary objections raised by France were held from 19 to 23 February 2018.

173. At the end of the hearings, the Agents of the parties presented the following submissions to the Court:

For France:

"For the reasons developed in its preliminary objections and set out by its representatives at the hearings on the preliminary objections in the case concerning *Immunities and Criminal Proceedings (Equatorial Guinea* v. *France)*, the French Republic respectfully requests the Court to decide:

(i) That it lacks jurisdiction to rule on the Application filed by the Republic of Equatorial Guinea on 13 June 2016; and

(ii) That the Application is inadmissible."

For Equatorial Guinea:

"On the basis of the facts and law set out in our observations of the preliminary objections raised by the French Republic, and in the course of the present hearing, Equatorial Guinea respectfully requests the Court:

(i) To reject the preliminary objections of France; and

(ii) To declare that it has jurisdiction to rule on the Application of the Republic of Equatorial Guinea."

174. On 6 June 2018, the Court delivered its Judgment on the preliminary objections, the operative part of which is as follows:

"For these reasons,

The Court,

(1) By eleven votes to four,

Upholds the first preliminary objection raised by the French Republic that the Court lacks jurisdiction on the basis of Article 35 of the United Nations Convention against Transnational Organized Crime;

In favour: President Yusuf; Judges Owada, Abraham, Bennouna, Cançado Trindade, Donoghue, Gaja, Bhandari, Crawford, Gevorgian, Salam;

Against: Vice-President Xue; Judges Sebutinde, Robinson; Judge *ad hoc* Kateka;

(2) Unanimously,

Rejects the second preliminary objection raised by the French Republic that the Court lacks jurisdiction on the basis of the Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes;

(3) By fourteen votes to one,

Rejects the third preliminary objection raised by the French Republic that the Application is inadmissible for abuse of process or abuse of rights;

In favour: President Yusuf; Vice-President Xue; Judges Owada, Abraham, Bennouna, Cançado Trindade, Gaja, Sebutinde, Bhandari, Robinson, Crawford, Gevorgian, Salam; Judge *ad hoc* Kateka;

Against: Judge Donoghue;

(4) By fourteen votes to one,

Declares that it has jurisdiction, on the basis of the Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement

of Disputes, to entertain the Application filed by the Republic of Equatorial Guinea on 13 June 2016, in so far as it concerns the status of the building located at 42 Avenue Foch in Paris as premises of the mission, and that this part of the Application is admissible.

In favour: President Yusuf; Vice-President Xue; Judges Owada, Abraham, Bennouna, Cançado Trindade, Gaja, Sebutinde, Bhandari, Robinson, Crawford, Gevorgian, Salam; Judge *ad hoc* Kateka;

Against: Judge Donoghue."

175. By an Order of the same day, the Court fixed 6 December 2018 as the new time-limit for the filing of the Counter-Memorial by France.

11. *Certain Iranian Assets (Islamic Republic of Iran* v. *United States of America)*

176. On 14 June 2016, the Islamic Republic of Iran filed an Application instituting proceedings against the United States of America with regard to a dispute concerning "the adoption by the United States of a series of measures that, in violation of the Treaty of Amity, Economic Relations, and Consular Rights signed at Tehran on 15 August 1955 […] [had] had and/or [were] having a serious adverse impact on the ability of Iran and of Iranian companies (including Iranian State-owned companies) to exercise their rights to control and enjoy their property, including property located outside the territory of Iran/within the territory of the United States" (see A/71/4).

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

"(a) That the Court [had] jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by Iran;

(b) That by its acts, including the acts referred to above and in particular its: (a) failure to recognise the separate juridical status (including the separate legal personality) of all Iranian companies including Bank Markazi; (b) unfair and discriminatory treatment of such entities, and their property, which impair [ed] the legally acquired rights and interests of such entities including enforcement of their contractual rights; (c) failure to accord to such entities and their property the most constant protection and security which [should] in no case be less than that required by international law; (d) expropriation of the property of such entities; (e) failure to accord to such entities freedom of access to the United States courts, including the abrogation of the immunities to which Iran and Iranian State-owned companies, including Bank Markazi, and their property, are entitled under customary international law and as required by the Treaty of Amity; (f) failure to respect the right of such entities to acquire and dispose of property; (g) application of restrictions to such entities on the making of payments and other transfers of funds to or from the United States; (h) interference with the freedom of commerce; the United States [had] breached its obligations to Iran, *inter alia*, under articles III (1), III (2), IV (1), IV (2), V (1), VII (1) and X (1) of the Treaty of Amity;

(c) That the United States [should] ensure that no steps shall be taken based on the executive, legislative and judicial acts (as referred to [in the application]) at issue in this case which [were], to the extent determined by the Court, inconsistent with the obligations of the United States to Iran under the Treaty of Amity;

(d) That Iran and Iranian State-owned companies [were] entitled to immunity from the jurisdiction of the United States courts and in respect of enforcement proceedings in the United States, and that such immunity must be respected by

the United States (including its courts), to the extent established as a matter of customary international law and required by the Treaty of Amity;

(e) That the United States (including its courts) [was] obliged to respect the juridical status (including the separate legal personality), and to ensure freedom of access to the United States courts, of all Iranian companies, including State-owned companies such as Bank Markazi, and that no steps based on the executive, legislative and judicial acts (as referred to [in the application]), which involve[d] or impl[ied] the recognition or enforcement of such acts [would] be taken against the assets or interests of Iran or any Iranian entity or national;

(f) That the United States [was] under an obligation to make full reparations to Iran for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. Iran reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and

(g) Any other remedy the Court may deem appropriate."

178. As basis for the jurisdiction of the Court, the Applicant invoked Article XXI, paragraph 2, of the 1955 Treaty, to which both the United States and the Islamic Republic of Iran are Parties.

179. By an Order of 1 July 2016, the Court fixed 1 February and 1 September 2017 as the respective time-limits for the filing of a Memorial by the Islamic Republic of Iran and a Counter-Memorial by the United States. The Memorial by the Islamic Republic of Iran was filed within the time-limit thus fixed.

180. On 1 May 2017, the United States filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application. In accordance with Article 79, paragraph 5, of the Rules of Court, the proceedings on the merits were then suspended.

181. By an Order of 2 May 2017, the President of the Court fixed 1 September 2017 as the time-limit within which the Islamic Republic of Iran may present a written statement of its observations and submissions on the preliminary objections raised by the United States. The written statement was filed within the time-limit thus fixed.

182. The Court will hold public hearings on the preliminary objections of the United States from 8 to 12 October 2018.

12. *Land Boundary in the Northern Part of Isla Portillos (Costa Rica* v. *Nicaragua)*

183. On 16 January 2017, Costa Rica filed an Application instituting proceedings against Nicaragua relating to a "dispute concerning the precise definition of the boundary in the area of Los Portillos/Harbor Head Lagoon and the establishment of a new military camp by Nicaragua [on the beach of Isla Portillos]".

184. In its Application, Costa Rica asked the Court "[t]o determine the precise location of the land boundary separating both ends of the Los Portillos/Harbor Head Lagoon sandbar from Isla Portillos".

185. The Applicant also asked the Court "to adjudge and declare that, by establishing and maintaining a new military camp on the beach of Isla Portillos, Nicaragua ha[d] violated the sovereignty and territorial integrity of Costa Rica, and [was] in breach of the Judgment of the Court of 16 December 2015 in the *Certain Activities* [*carried out by Nicaragua in the Border Area (Costa Rica* v. *Nicaragua)*] case". Consequently, Costa Rica requested the Court "to declare that Nicaragua must withdraw its military camp situated in Costa Rican territory and fully comply with the Court's 2015 Judgment".

186. As basis for the jurisdiction of the International Court of Justice, Costa Rica invoked the declaration it had made on 20 February 1973 under Article 36, paragraph 2, of the Statute, and on the declaration made by Nicaragua on 24 September 1929 under Article 36 of the Statute of the Permanent Court of International Justice, which is deemed, pursuant to Article 36, paragraph 5, of the Statute of the present Court, to be acceptance of the compulsory jurisdiction for the period which it still had to run.

187. In addition, Costa Rica submitted that the Court had jurisdiction "in accordance with the provisions of Article 36, paragraph 1, of its Statute, by virtue of the operation of Article XXXI" of the […] Pact of Bogotá.

188. By an Order of 2 February 2017, the Court fixed 2 March and 18 April 2017 as the respective time-limits for the filing of a Memorial by Costa Rica and a Counter-Memorial by Nicaragua. Those pleadings were filed within the time-limits thus fixed.

189. By the same Order, the Court joined the proceedings in the cases concerning *Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica* v. *Nicaragua)* (see paras. 131 to 141) and the *Land Boundary in the Northern Part of Isla Portillos (Costa Rica* v. *Nicaragua)*.

190. Public hearings on the merits in the joined cases were held from 3 to 13 July 2017 (see A/72/4).

191. On 2 February 2018, the Court delivered its Judgment in the two joined cases (see para. 141).

13. *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine* v. *Russian Federation)*

192. On 16 January 2017, Ukraine filed an Application instituting proceedings against the Russian Federation concerning alleged violations of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999 and of the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965.

193. Ukraine asserted in particular that, since 2014, the Russian Federation had "interven[ed] militarily in Ukraine, financ[ed] acts of terrorism, and violat[ed] the human rights of millions of Ukraine's citizens, including, for all too many, their right to life". Ukraine claimed that in eastern Ukraine, the Russian Federation had instigated and sustained an armed insurrection against the authority of the Ukrainian State. It considered that, by its actions, the Russian Federation had flouted fundamental principles of international law, including those enshrined in the International Convention for the Suppression of the Financing of Terrorism.

194. In its Application, Ukraine further claimed that, in the Autonomous Republic of Crimea and City of Sevastopol, the Russian Federation had "brazenly defied the Charter of the United Nations, seizing a part of Ukraine's sovereign territory by military force". It claimed that, "[i]n an attempt to legitimize its act of aggression, the Russian Federation [had] engineered an illegal 'referendum', which it [had] rushed to implement amid a climate of violence and intimidation against non-Russian ethnic groups". According to Ukraine, that "deliberate campaign of cultural erasure, beginning with the invasion and referendum and continuing to this day, [had] violated the International Convention on the Elimination of All Forms of Racial Discrimination".

195. As regards the International Convention for the Suppression of the Financing of Terrorism, Ukraine requested the Court "to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities

exercising governmental authority, and through other agents acting on its instructions or under its direction and control, [had] violated its obligations under the Convention […] by:

(a) Supplying funds, including in-kind contributions of weapons and means of training, to illegal armed groups that engage in acts of terrorism in Ukraine, including the [Donetsk People's Republic], the [Luhansk People's Republic], the Kharkiv Partisans, and associated groups and individuals, in violation of Article 18;

(b) Failing to take appropriate measures to detect, freeze, and seize funds used to assist illegal armed groups that engage in acts of terrorism in Ukraine, including the [Donetsk People's Republic], the [Luhansk People's Republic], the Kharkiv Partisans, and associated groups and individuals, in violation of Articles 8 and 18;

(c) Failing to investigate, prosecute, or extradite perpetrators of the financing of terrorism found within its territory, in violation of Articles 9, 10, 11, and 18;

(d) Failing to provide Ukraine with the greatest measure of assistance in connection with criminal investigations of the financing of terrorism, in violation of Articles 12 and 18; and

(e) Failing to take all practicable measures to prevent and counter acts of financing of terrorism committed by Russian public and private actors, in violation of Article 18."

Ukraine also requested the Court "to adjudge and declare that the Russian Federation bears international responsibility, by virtue of its sponsorship of terrorism and failure to prevent the financing of terrorism under the Convention, for the acts of terrorism committed by its proxies in Ukraine, including:

(a) The shoot-down of Malaysian Airlines Flight MH17;

(b) The shelling of civilians, including in Volnovakha, Mariupol, and Kramatorsk; and

(c) The bombing of civilians, including in Kharkiv."

Ukraine requested the Court "to order the Russian Federation to comply with its obligations under the International Convention for the Suppression of the Financing of Terrorism, including that the Russian Federation:

(a) Immediately and unconditionally cease and desist from all support, including the provision of money, weapons, and training, to illegal armed groups that engage[d] in acts of terrorism in Ukraine, including the [Donetsk People's Republic], the [Luhansk People's Republic], the Kharkiv Partisans, and associated groups and individuals;

(b) Immediately make all efforts to ensure that all weaponry provided to such armed groups [was] withdrawn from Ukraine;

(c) Immediately exercise appropriate control over its border to prevent further acts of financing of terrorism, including the supply of weapons, from the territory of the Russian Federation to the territory of Ukraine;

(d) Immediately stop the movement of money, weapons, and all other assets from the territory of the Russian Federation and occupied Crimea to illegal armed groups that engage[d] in acts of terrorism in Ukraine, including the DPR, the [Luhansk People's Republic], the Kharkiv Partisans, and associated groups and individuals, including by freezing all bank accounts used to support such groups;

(e) Immediately prevent all Russian officials from financing terrorism in Ukraine, including Sergei Shoigu, Minister of Defence of the Russian Federation; Vladimir Zhirinovsky, Vice-Chairman of the State Duma; Sergei Mironov, member of the State Duma; and Gennadiy Zyuganov, member of the State Duma, and initiate prosecution against these and other actors responsible for financing terrorism;

(f) Immediately provide full cooperation to Ukraine in all pending and future requests for assistance in the investigation and interdiction of the financing of terrorism relating to illegal armed groups that engage in acts of terrorism in Ukraine, including the [Donetsk People's Republic], the [Luhansk People's Republic], the Kharkiv Partisans, and associated groups and individuals;

(g) Make full reparation for the shoot-down of Malaysian Airlines Flight MH17;

(h) Make full reparation for the shelling of civilians in Volnovakha;

(i) Make full reparation for the shelling of civilians in Mariupol;

(j) Make full reparation for the shelling of civilians in Kramatorsk;

(k) Make full reparation for the bombing of civilians in Kharkiv; and

(l) Make full reparation for all other acts of terrorism the Russian Federation ha[d] caused, facilitated, or supported through its financing of terrorism, and failure to prevent and investigate the financing of terrorism."

196. As regards the International Convention on the Elimination of All Forms of Racial Discrimination, Ukraine requested the Court "to adjudge and declare that the Russian Federation, through its State organs, State agents, and other persons and entities exercising governmental authority, including the *de facto* authorities administering the illegal Russian occupation of Crimea, and through other agents acting on its instructions or under its direction and control, [had] violated its obligations under the [Convention] by:

(a) Systematically discriminating against and mistreating the Crimean Tatar and ethnic Ukrainian communities in Crimea, in furtherance of a state policy of cultural erasure of disfavoured groups perceived to be opponents of the occupation regime;

(b) Holding an illegal referendum in an atmosphere of violence and intimidation against non-Russian ethnic groups, without any effort to seek a consensual and inclusive solution protecting those groups, and as an initial step toward depriving these communities of the protection of Ukrainian law and subjecting them to a regime of Russian dominance;

(c) Suppressing the political and cultural expression of Crimean Tatar identity, including through the persecution of Crimean Tatar leaders and the ban on the Mejlis of the Crimean Tatar People;

(d) Preventing Crimean Tatars from gathering to celebrate and commemorate important cultural events;

(e) Perpetrating and tolerating a campaign of disappearances and murders of Crimean Tatars;

(f) Harassing the Crimean Tatar community with an arbitrary regime of searches and detention;

(g) Silencing Crimean Tatar media;

(h) Suppressing Crimean Tatar language education and the community's educational institutions;

(i) Suppressing Ukrainian language education relied on by ethnic Ukrainians;

(j) Preventing ethnic Ukrainians from gathering to celebrate and commemorate important cultural events; and

(k) Silencing ethnic Ukrainian media."

Ukraine also requested the Court "to order the Russian Federation to comply with its obligations under the [International Convention on the Elimination of All Forms of Racial Discrimination], including:

(a) Immediately cease and desist from the policy of cultural erasure and take all necessary and appropriate measures to guarantee the full and equal protection of the law to all groups in Russian-occupied Crimea, including Crimean Tatars and ethnic Ukrainians;

(b) Immediately restore the rights of the *Mejlis* of the Crimean Tatar People and of Crimean Tatar leaders in Russian-occupied Crimea;

(c) Immediately restore the rights of the Crimean Tatar people in Russian-occupied Crimea to engage in cultural gatherings, including the annual commemoration of the *Sürgün*;

(d) Immediately take all necessary and appropriate measures to end the disappearance and murder of Crimean Tatars in Russian-occupied Crimea, and to fully and adequately investigate the disappearances of Reshat Ametov, Timur Shaimardanov, Ervin Ibragimov, and all other victims;

(e) Immediately take all necessary and appropriate measures to end unjustified and disproportionate searches and detentions of Crimean Tatars in Russian-occupied Crimea;

(f) Immediately restore licenses and take all other necessary and appropriate measures to permit Crimean Tatar media outlets to resume operations in Russian-occupied Crimea;

(g) Immediately cease interference with Crimean Tatar education and take all necessary and appropriate measures to restore education in the Crimean Tatar language in Russian-occupied Crimea;

(h) Immediately cease interference with ethnic Ukrainian education and take all necessary and appropriate measures to restore education in the Ukrainian language in Russian-occupied Crimea;

(i) Immediately restore the rights of ethnic Ukrainians to engage in cultural gatherings in Russian-occupied Crimea;

(j) Immediately take all necessary and appropriate measures to permit the free operation of ethnic Ukrainian media in Russian-occupied Crimea; and

(k) Make full reparation for all victims of the Russian Federation's policy and pattern of cultural erasure through discrimination in Russian-occupied Crimea."

197. On 16 January 2017, Ukraine also filed a request for the indication of provisional measures, stating that the purpose was to protect its rights pending the Court's determination of the case on the merits. Public hearings on the request for the indication of provisional measures submitted by Ukraine were held from 6 to 9 March 2017 (see A/72/4).

198. On 19 April 2017, the Court delivered its Order on the request for the indication of provisional measures, the operative clause of which reads as follows:

"For these reasons:

The Court,

Indicates the following provisional measures,

(1) With regard to the situation in Crimea, the Russian Federation must, in accordance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination,

(a) By thirteen votes to three,

Refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis;

In favour: President Abraham; Vice-President Yusuf; Judges Owada, Bennouna, Cançado Trindade, Greenwood, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Crawford; Judge *ad hoc* Pocar;

Against: Judges Tomka, Xue; Judge *ad hoc* Skotnikov;

(b) Unanimously,

Ensure the availability of education in the Ukrainian language;

(2) Unanimously,

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

199. By an Order dated 12 May 2017, the President of the Court fixed 12 June 2018 and 12 July 2019 as the respective time-limits for the filing of a Memorial by Ukraine and a Counter-Memorial by the Russian Federation. The Memorial of Ukraine was filed within the time-limit thus fixed.

14. *Application for revision of the Judgment of 23 May 2008 in the case concerning* Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) *(Malaysia* v. *Singapore)*

200. On 2 February 2017, Malaysia filed an Application for revision of the Judgment rendered by the Court on 23 May 2008 in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*. In that Judgment, the Court had found that (a) sovereignty over Pedra Branca/Pulau Batu Puteh belonged to Singapore; (b) sovereignty over Middle Rocks belonged to Malaysia; and (c) sovereignty over South Ledge belonged to the State in the territorial waters of which it was located.

201. Malaysia sought revision of the Court's finding concerning sovereignty over Pedra Branca/Pulau Batu Puteh.

202. Malaysia based its Application for revision on Article 61 of the Statute of the Court, paragraph 1 of which provides that:

> "An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence".

203. In its Application, Malaysia contended that "there exist[ed] a new fact of such a nature as to be a decisive factor within the meaning of Article 61". In particular, it referred to three documents discovered in the National Archives of the United Kingdom during the period 4 August 2016 to 30 January 2017, namely internal

correspondence of the Singapore colonial authorities in 1958, an incident report filed in 1958 by a British naval officer and an annotated map of naval operations from the 1960s.

204. By letter dated 28 May 2018, Malaysia notified the Court that the parties had agreed to discontinue the proceedings in the case. A copy of that letter was communicated to the Agent of Singapore, who, by a letter dated 29 May 2018, confirmed his Government's agreement to the discontinuance of the proceedings. Accordingly, on 29 May 2018, the Court made an Order recording the discontinuance and directing the removal of the case from the List.

15. *Jadhav Case (India* v. *Pakistan)*

205. On 8 May 2017, India filed an Application instituting proceedings against Pakistan "for egregious violations of the Vienna Convention on Consular Relations, 1963" in the matter of the detention and trial of an Indian national, Mr. Kulbhushan Sudhir Jadhav, sentenced to death by a military court in Pakistan.

206. India contended that it had not been informed of Mr. Jadhav's detention until long after his arrest and that Pakistan had failed to inform the accused of his rights. It further alleged that, in violation of the Vienna Convention, the authorities of Pakistan had denied India its right of consular access to Mr. Jadhav, despite its repeated requests. The Applicant also pointed out that it had learned about the death sentence against Mr. Jadhav from a press release (see A/72/4).

207. In its Application, India sought the following reliefs:

(1) [A] relief by way of immediate suspension of the sentence of death awarded to the accused [;]

(2) [A] relief by way of restitution in interregnum by declaring that the sentence of the military court arrived at, in brazen defiance of the Vienna Convention rights under Article 36, particularly Article 36[,] paragraph 1 (b), and in defiance of elementary human rights of an accused which were also to be given effect as mandated under Article 14 of the 1966 International Covenant on Civil and Political Rights, [was] violative of international law and the provisions of the Vienna Convention[;] and

(3) [R]estraining Pakistan from giving effect to the sentence awarded by the military court, and directing it to take steps to annul the decision of the military court as may be available to it under the law in Pakistan[;]

(4) [I]f Pakistan was unable to annul the decision, then this Court to declare the decision illegal being violative of international law and treaty rights and restrain Pakistan from acting in violation of the Vienna Convention and international law by giving effect to the sentence or the conviction in any manner and directing it to release the convicted Indian national forthwith."

208. As basis for the Court's jurisdiction, the Applicant invoked Article 36, paragraph 1, of the Statute of the Court, by virtue of the operation of article I of the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes of 24 April 1963.

209. On 8 May 2017, India also filed a request for the indication of provisional measures, pursuant to Article 41 of the Statute of the Court. It was explained in that Request that the alleged violation of the Vienna Convention by Pakistan had "prevented India from exercising its rights under the Convention and has deprived the Indian national of the protection accorded under the Convention".

210. The Applicant maintained that "Mr. Jadhav w[ould] be subjected to execution unless the Court indicates provisional measures directing the Government of Pakistan to take all measures necessary to ensure that he is not executed until th[e] Court's decision on the merits" of the case. India pointed out that Mr. Jadhav's execution "would cause irreparable prejudice to the rights claimed by India".

211. India therefore requested that, "pending final judgment in this case, the Court indicate:

(a) That the Government of the Islamic Republic of Pakistan take all measures necessary to ensure that Mr. Kulbhushan Sudhir Jadhav is not executed;

(b) That the Government of the Islamic Republic of Pakistan report to the Court the action it has taken in pursuance of sub-paragraph (a); and

(c) That the Government of the Islamic Republic of Pakistan ensure that no action is taken that might prejudice the rights of the Republic of India or Mr. Kulbhushan Sudhir Jadhav with respect of any decision th[e] Court may render on the merits of the case".

212. India, which referred to "the extreme gravity and immediacy of the threat that authorities in Pakistan w[ould] execute an Indian citizen in violation of obligations Pakistan owe[d] to [it]", further requested that the President of the Court, "exercising his power under Article 74, paragraph 4[,] of the [R]ules of the Court, pending the meeting of the Court … direct 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".

213. On 9 May 2017, the President of the Court, acting in accordance with the powers conferred upon him by Article 74, paragraph 4, of the Rules of Court, addressed an urgent communication to both parties, calling upon Pakistan, pending the Court's decision on the request for the indication of provisional measures, "to act in such a way as will enable any order the Court may make on this Request to have its appropriate effects".

214. The public hearings on the request for the indication of provisional measures presented by India were held on 15 May 2017.

215. At the close of those hearings, India confirmed the terms of the provisional measures it had requested the Court to indicate, while the Agent of Pakistan, for his part, asked the Court to reject the request for the indication of provisional measures presented by India.

216. On 18 May 2017, the Court delivered its Order, the operative part of which reads as follows:

"For these reasons,

The Court,

I. Unanimously,

Indicates the following provisional measures:

Pakistan shall take all measures at its disposal to ensure that Mr. Jadhav is not executed pending the final decision in these proceedings and shall inform the Court of all the measures taken in implementation of the present Order.

II. Unanimously,

Decides that, until the Court has given its final decision, it shall remain seised of the matters which form the subject-matter of this Order."

217. The Court was composed as follows: President Abraham; Judges Owada, Cançado Trindade, Xue, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Crawford, Gevorgian; Registrar Couvreur.

218. By an Order dated 13 June 2017, the President of the Court fixed 13 September 2017 and 13 December 2017 as the respective time-limits for the filing of a Memorial by India and a Counter-Memorial by Pakistan. These pleadings were filed within the time-limit thus fixed.

219. By an Order dated 17 January 2018, the Court authorized the submission of a Reply by India and a Rejoinder by Pakistan. It fixed 17 April 2018 and 17 July 2018 as the respective time-limits for the filing of these written pleadings. The pleadings were filed within the time-limits thus fixed.

16. *Request for Interpretation of the Judgment of 23 May 2008 in the case concerning* Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) *(Malaysia* v. *Singapore)*

220. On 30 June 2017, Malaysia filed an Application requesting interpretation of the Judgment delivered by the Court on 23 May 2008 in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/ Singapore)*. In that Judgment, the Court had found that (a) sovereignty over Pedra Branca/Pulau Batu Puteh belonged to Singapore; (b) sovereignty over Middle Rocks belonged to Malaysia; and (c) sovereignty over South Ledge belonged to the State in the territorial waters of which it was located.

221. Malaysia based its request for interpretation on Article 60 of the Statute of the Court, which provides that "[i]n the event of a dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party". It also invoked Article 98 of the Rules of the Court.

222. More particularly, Malaysia stated in its Application that:

"[t]he parties [had] been unable to agree on the meaning and/or scope of the following two points of the 2008 Judgment:

(1) the Court's finding that 'sovereignty over Pedra Branda/Pulau Batu Puteh belong[ed] to Singapore'[;] and

(2) the Court's finding that 'sovereignty over South Ledge belong[ed] to the State in the territorial waters of which it is located'".

223. Malaysia requested the Court to adjudge and declare that:

"(a) 'The waters surrounding Pedra Branca/Pulau Batu Puteh remain[ed] within the territorial waters of Malaysia'; and

(b) South Ledge [was] located in the territorial waters of Malaysia, and consequently sovereignty over South Ledge belong[ed] to Malaysia."

224. By letter dated 28 May 2018, Malaysia notified the Court that the parties had agreed to discontinue the proceedings in the case. A copy of that letter was communicated to the Agent of Singapore, who, by a letter dated 29 May 2018, confirmed his Government's agreement to the discontinuance of the proceedings. Accordingly, on 29 May 2018, the Court made an Order recording the discontinuance and directing the removal of the case from the List.

17. *Arbitral Award of 3 October 1899 (Guyana* v. *Venezuela)*

225. On 29 March 2018, Guyana filed an Application instituting proceedings against the Bolivarian Republic of Venezuela.

226. In its Application, Guyana requests the Court "to confirm the validity and binding effect of the Award Regarding the Boundary between the Colony of British Guiana and the United States of Venezuela, of 3 October 1899". The Applicant claimed that the 1899 Award was "a full, perfect, and final settlement of all questions relating to determining the boundary line between the colony of British Guiana and Venezuela".

227. Guyana asserted that between November 1900 and June 1904, a joint Anglo-Venezuelan Boundary Commission had "identified, demarcated and permanently fixed the boundary established by the … Award" before the signing of a Joint Declaration by the Commissioners on 10 January 1905 (the "1905 Agreement").

228. Guyana contended that, in 1962, for the first time, Venezuela had contested the Award as "arbitrary" and "null and void". This, according to the Applicant, had led to the signing of the Agreement to resolve the controversy between Venezuela and the United Kingdom of Great Britain and Northern Ireland over the frontier between Venezuela and British Guiana at Geneva on 17 February 1966, which "provided for recourse to a series of dispute settlement mechanisms to finally resolve the controversy".

229. Guyana further submitted that the Geneva Agreement had authorized the United Nations Secretary-General to decide which appropriate dispute resolution mechanism to adopt for the peaceful settlement of the dispute, in accordance with Article 33 of the United Nations Charter. According to the Applicant:

> "On 30 January 2018, … Secretary-General [H.E.] António Guterres determined that the Good Offices Process had failed to achieve a peaceful settlement of the controversy. He then took a formal and binding decision, under article IV, paragraph 2, of the Agreement, to choose a different means of settlement under Article 33 of the Charter. In identical letters to both parties, he communicated the terms of his decision that, pursuant to the authority vested in him by the Geneva Agreement, the controversy shall be settled by recourse to the International Court of Justice."

230. In its Application, filed "pursuant to the Secretary-General's decision", Guyana requested the Court to adjudge and declare that:

"(a) The 1899 Award [was] valid and binding upon Guyana and Venezuela, and the boundary established by that Award and the 1905 Agreement [was] valid and binding upon Guyana and Venezuela;

(b) Guyana enjoy[ed] full sovereignty over the territory between the Essequibo River and the boundary established by the 1899 Award and the 1905 Agreement, and Venezuela enjoy[ed] full sovereignty over the territory west of that boundary; Guyana and Venezuela [were] under an obligation to fully respect each other's sovereignty and territorial integrity in accordance with the boundary established by the 1899 Award and the 1905 Agreement;

(c) Venezuela [had to] immediately withdraw from and cease its occupation of the eastern half of the Island of Ankoko, and each and every other territory which [was] recognized as Guyana's sovereign territory in accordance with the 1899 Award and 1905 Agreement;

(d) Venezuela [had to] refrain from threatening or using force against any person and/or company licensed by Guyana or engage in economic or commercial activity in Guyanese territory as determined by the 1899 Award and 1905 Agreement, or in any maritime areas appurtenant to such territory over which Guyana [had] sovereignty or exercise[d] sovereign rights, and shall not interfere with any Guyanese or Guyanese-authorised activities in those areas;

(e) Venezuela [was] internationally responsible for violations of Guyana's sovereignty and sovereign rights, and for all injuries suffered by Guyana as a consequence."

231. By an Order dated 19 June 2018, the Court decided that the written pleadings in the case must first address the question of the jurisdiction of the Court and fixed 19 November 2018 and 18 April 2019 as the respective time-limits for the filing of a Memorial by Guyana and a Counter-Memorial by the Bolivarian Republic of Venezuela.

232. The Court took this decision following a meeting held on 18 June 2018 with representatives of the parties.

18. *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Qatar* v. *United Arab Emirates)*

233. On 11 June 2018, Qatar instituted proceedings against the United Arab Emirates with regard to alleged violations of the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, to which both States are parties.

234. In its Application, Qatar asserted that the United Arab Emirates had enacted and implemented a series of discriminatory measures directed at Qataris based expressly on their national origin that remain in effect to this day, resulting in alleged human rights violations.

235. According to the Applicant, on and following 5 June 2017, the United Arab Emirates had expelled all Qataris within its borders; prohibited them from entering or passing through the Emirates; closed United Arab Emirates airspace and seaports to Qatar and Qataris; interfered with the rights of Qataris who own property in the United Arab Emirates; limited the rights of Qataris to any speech deemed to be in support of or opposed to the actions against Qatar; and shut down the local offices of Al Jazeera Media Network, and blocked the transmission of Al Jazeera and other Qatari media outlets.

236. As basis for the Court's jurisdiction, the Applicant invoked Article 36, paragraph 1, of the Statute of the Court and Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination.

237. The Applicant requests the Court "to adjudge and declare that the United Arab Emirates, through its State organs, State agents, and other persons and entities exercising governmental authority, and through other agents acting on its instructions or under its direction and control, had violated its obligations under Articles 2, 4, 5, 6, and 7 of the International Convention on the Elimination of All Forms of Racial Discrimination by taking, *inter alia*, the following unlawful actions:

(a) Expelling, on a collective basis, all Qataris from, and prohibiting the entry of all Qataris into, the United Arab Emirates on the basis of their national origin;

(b) Violating other fundamental rights, including the rights to marriage and choice of spouse, freedom of opinion and expression, public health and medical care, education and training, property, work, participation in cultural activities, and equal treatment before tribunals;

(c) Failing to condemn and instead encouraging racial hatred against Qatar and Qataris and failing to take measures that aim to combat prejudices, including by inter alia: criminalizing the expression of sympathy toward Qatar and Qataris; allowing, promoting, and financing an international anti-Qatar public and social media campaign; silencing Qatari media; and calling for physical attacks on Qatari entities; and

(d) Failing to provide effective protection and remedies to Qataris to seek redress against acts of racial discrimination through courts and institutions of the United Arab Emirates

238. Accordingly, Qatar requested the Court "to order the United Arab Emirates to take all steps necessary to comply with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and, *inter alia*:

(a) Immediately cease and revoke the Discriminatory Measures, including but not limited to the directives against 'sympathizing' with Qataris, and any other national laws that discriminate *de jure* or *de facto* against Qataris on the basis of their national origin;

(b) Immediately cease all other measures that incite discrimination (including media campaigns and supporting others to propagate discriminatory messages) and criminalize such measures;

(c) Comply with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination to condemn publicly racial discrimination against Qataris, pursue a policy of eliminating racial discrimination, and adopt measures to combat such prejudice;

(d) Refrain from taking any further measures that would discriminate against Qataris within its jurisdiction or control;

(e) Restore rights of Qataris to, *inter alia*, marriage and choice of spouse, freedom of opinion and expression, public health and medical care, education and training, property, work, participation in cultural activities, and equal treatment before tribunals, and put in place measures to ensure those rights are respected;

(f) Provide assurances and guarantees of non-repetition of the illegal conduct of the United Arab Emirates; and

(g) Make full reparation, including compensation, for the harm suffered as a result of the actions of the United Arab Emirates in violation of the International Convention on the Elimination of All Forms of Racial Discrimination.

239. On 11 June 2018, Qatar also filed a request for the indication of provisional measures to protect against further, irreparable harm … the rights of Qataris and their families under the International Convention on the Elimination of All Forms of Racial Discrimination … and to prevent aggravation or extension of the dispute, pending final judgment in the case.

240. Qatar requested the Court to indicate the following provisional measures:

(a) The United Arab Emirates shall cease and desist from any and all conduct that could result, directly or indirectly, in any form of racial discrimination against Qatari individuals and entities by any organs, agents, persons, and entities exercising Emirates governmental authority in its territory, or under its direction or control. In particular, the Emirates shall immediately cease and desist from violations of the human rights of Qataris under the International Convention on the Elimination of All Forms of Racial Discrimination, including by:

(i) Suspending operation of the collective expulsion of all Qataris from, and ban on entry into, the Emirates on the basis of national origin;

(ii) Taking all necessary steps to ensure that Qataris (or persons with links to Qatar) are not subjected to racial hatred or discrimination, including by condemning hate speech targeting Qataris, ceasing publication of anti-Qatar statements and caricatures, and refraining from any other incitement to racial discrimination against Qataris;

(iii) Suspending the application of its Federal Decree-Law no. (5) of 2012, On Combatting Cybercrimes, to any person who 'shows sympathy … towards Qatar' and any other domestic laws that (*de jure* or *de facto*) discriminate against Qataris;

(iv) Taking the measures necessary to protect freedom of expression of Qataris in the Emirates, including by suspending the United Arab Emirates closure and blocking of transmissions by Qatari media outlets;

(v) Ceasing and desisting from measures that, directly or indirectly, result in the separation of families that include a Qatari, and taking all necessary steps to ensure that families separated by the Discriminatory Measures are reunited (in the Emirates, if that is the family's preference);

(vi) Ceasing and desisting from measures that, directly or indirectly, result in Qataris being unable to seek medical care in the Emirates on the grounds of their national origin and taking all necessary steps to ensure that such care is provided;

(vii) Ceasing and desisting from measures that, directly or indirectly, prevent Qatari students from receiving education or training from Emirates institutions, and taking all necessary steps to ensure that students have access to their educational records;

(viii) Ceasing and desisting from measures that, directly or indirectly, prevent Qataris from accessing, enjoying, utilizing, or managing their property in the Emirates, and taking all necessary steps to ensure that Qataris may authorize valid powers of attorney in the Emirates, renew necessary business and worker licenses, and renew their leases; and

(ix) Taking all necessary steps to ensure that Qataris are granted equal treatment before tribunals and other judicial organs in the Emirates, including a mechanism to challenge any discriminatory measures;

(b) The United Arab Emirates shall abstain from any measure that might aggravate, extend, or make more difficult resolution of this dispute; and

(c) The United Arab Emirates shall abstain from any other measure that might prejudice the rights of Qatar in the dispute before the Court."

241. The public hearings on the request for the indication of provisional measures were held from 27 to 29 June 2018.

242. At the end of the second round of oral observations, Qatar confirmed its request for the indication of provisional measures; the Agent of the United Arab Emirates, for his part, concluded on behalf of his Government that, for the reasons explained during these hearings, the United Arab Emirates requested the Court to reject the request for the indication of provisional measures submitted by Qatar.

243. On 23 July 2018, the Court delivered its Order on the request for the indication of provisional measures, the operative clause of which reads as follows:

"For these reasons,

The Court,

Indicates the following provisional measures:

(1) By eight votes to seven,

The United Arab Emirates must ensure that

(i) Families that include a Qatari, separated by the measures adopted by the United Arab Emirates on 5 June 2017, are reunited;

(ii) Qatari students affected by the measures adopted by the United Arab Emirates on 5 June 2017 are given the opportunity to complete their education in the United Arab Emirates or to obtain their educational records if they wish to continue their studies elsewhere; and

(iii) Qataris affected by the measures adopted by the United Arab Emirates on 5 June 2017 are allowed access to tribunals and other judicial organs of the Emirates;

In favour: *President* Yusuf; *Vice-President* Xue; *Judges* Abraham, Bennouna, Cançado Trindade, Sebutinde, Robinson; *Judge ad hoc* Daudet;

Against: *Judges* Tomka, Gaja, Bhandari, Crawford, Gevorgian, Salam; *Judge ad hoc* Cot;

(2) By eleven votes to four,

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

In favour: *President* Yusuf; *Vice-President* Xue; *Judges* Tomka, Abraham, Bennouna, Cançado Trindade, Gaja, Sebutinde, Bhandari, Robinson; *Judge ad hoc* Daudet;

Against: *Judges* Crawford, Gevorgian, Salam; *Judge ad hoc* Cot."

244. By an Order dated 25 July 2018, the President of the Court, having taken into account the views of the parties, fixed 25 April 2019 and 27 January 2020 as the respective time-limits for the filing of a Memorial by Qatar and a Counter-Memorial by the United Arab Emirates.

19. *Appeal Relating to the Jurisdiction of the ICAO Council under Article 84 of the Convention on International Civil Aviation (Bahrain, Egypt, Saudi Arabia and United Arab Emirates* v. *Qatar)*

245. On 4 July 2018, Bahrain, Egypt, Saudi Arabia and the United Arab Emirates filed a joint Application constituting an appeal against the decision rendered by the Council of the International Civil Aviation Organization (ICAO) on 29 June 2018 in proceedings initiated by Qatar against these four States on 30 October 2017, pursuant to Article 84 of the Convention on International Civil Aviation (the Chicago Convention).

246. It is stated in the joint Application that in 2013 and 2014, following years of diplomatic activities, the Member States of the Gulf Cooperation Council adopted a series of instruments and undertakings referred to collectively as the Riyadh Agreements, under which Qatar committed to cease supporting, financing or harbouring persons or groups presenting a danger to national security, in particular terrorist groups. The Applicants further stated that, on 5 June 2017, after Qatar had allegedly failed to abide by its commitments, they had adopted a range of counter-measures with the aim of inducing compliance by Qatar. They noted that those measures included the airspace restrictions that formed the subject of the application against them submitted by Qatar to the ICAO Council, pursuant to Article 84 of the Chicago Convention (Application (A)).

247. Bahrain, Egypt, Saudi Arabia and the United Arab Emirates further pointed out that, on 19 March 2018, they had raised two preliminary objections to Qatar's Application (A), contending that the ICAO Council lacked jurisdiction to adjudicate the claims submitted by Qatar, or, in the alternative, that the claims were inadmissible. In their first preliminary objection, they argued that the dispute would require the ICAO Council to determine issues that fell outside its jurisdiction, since to rule on

the lawfulness of the countermeasures adopted by the Applicants, including certain airspace restrictions, the Council would be required to rule on Qatar's compliance with critical obligations under international law entirely unrelated to, and outwith, the Chicago Convention". In their second preliminary objection, they contended, *inter alia*, that "Qatar had not complied with the necessary precondition to the existence of the jurisdiction of the Council, contained in Article 84 of the Chicago Convention, of first attempting to resolve the disagreement … through negotiations prior to submitting its claims to the Council.

248. The ICAO Council rendered its decision on 29 June 2018, rejecting these preliminary objections.

249. The Applicants contended that the decision had been issued immediately following the close of oral submissions, and without asking any questions or undertaking any deliberations. In their view, despite their oral intervention to clarify that there were in fact two separate preliminary objections, the ICAO Council decision "referred to a singular preliminary objection only and did not state any reasons for the rejection of the preliminary objections.

250. The Applicants advanced three grounds of appeal. Under the first ground of appeal, they contested the decision of the ICAO Council as "manifestly flawed and in violation of fundamental principles of due process and the right to be heard". Under the second and third grounds of appeal, they claimed that the ICAO Council had erred in fact and in law in rejecting, respectively, the first and second preliminary objections to its jurisdiction over Qatar's application.

251. Consequently, Bahrain, Egypt, Saudi Arabia and the United Arab Emirates requested the Court to adjudge and declare:

(a) That the Decision of the ICAO Council dated 29 June 2018 reflected a manifest failure to act judicially on the part of the ICAO Council, and a manifest lack of due process in the procedure adopted by the ICAO Council; and

(b) That the ICAO Council was not competent to adjudicate upon the disagreement between the State of Qatar and the Applicants submitted by Qatar to the ICAO Council by Qatar's Application (A) dated 30 October 2017;

(c) That the Decision of the ICAO Council dated 29 June 2018 in respect of Application (A) was null and void and without effect.

252. As basis for the Court's jurisdiction, the Applicants invoked Article 84 of the Chicago Convention, in conjunction with Articles 36 (1) and 37 of the Statute of the Court.

253. By an Order dated 25 July 2018, the President of the Court, having taken into account the views of the parties, fixed 27 December 2018 and 27 May 2019 as the respective time-limits for the filing of a Memorial by Bahrain, Egypt, Saudi Arabia and the United Arab Emirates and a Counter-Memorial by Qatar.

20. *Appeal Relating to the Jurisdiction of the ICAO Council under Article II, Section 2, of the 1944 International Air Services Transit Agreement (Bahrain, Egypt and United Arab Emirates* v. *Qatar)*

254. On 4 July 2018, Bahrain, Egypt and the United Arab Emirates submitted a joint Application constituting an appeal against the decision rendered by the ICAO Council on 29 June 2018, in proceedings initiated by Qatar against these three States on 30 October 2017, pursuant to Article II, Section 2, of the International Air Services Transit Agreement.

255. It is stated in the joint Application that in 2013 and 2014, following years of diplomatic activities, the member States of the Gulf Cooperation Council adopted a series of instruments and undertakings referred to collectively as the Riyadh Agreements, under which Qatar committed to cease supporting, financing or harbouring persons or groups presenting a danger to national security, in particular terrorist groups. The Applicants further stated that, on 5 June 2017, after Qatar allegedly failed to abide by its commitments, they adopted a range of counter-measures with the aim of inducing compliance by Qatar. They noted that those measures had included the airspace restrictions that formed the subject of the application against them submitted by Qatar to the ICAO Council, pursuant to Article II, Section 2, of the International Air Services Transit Agreement (Application (B)).

256. Bahrain, Egypt and the United Arab Emirates further pointed out that, on 19 March 2018, they had raised two preliminary objections to Qatar's Application (B), contending that the ICAO Council lacked jurisdiction to adjudicate the claims submitted by Qatar, or, in the alternative, that the claims were inadmissible. In their first preliminary objection, they had argued that the dispute would require the ICAO Council to determine issues that fell outside its jurisdiction, since to rule on the lawfulness of the countermeasures adopted by the Applicants, including certain airspace restrictions, the Council would be required to rule on Qatar's compliance with critical obligations under international law entirely unrelated to, and outwith, the International Air Services Transit Agreement". In their second preliminary objection, they contended *inter alia* that "Qatar had not complied with the necessary precondition to the existence of jurisdiction of the Council, contained in article II, section 2, of the International Air Services Transit Agreement, and by reference Article 84 of the Chicago Convention, of first attempting to resolve the disagreement through negotiations prior to submitting its claims to the Council.

257. The ICAO Council rendered its decision on 29 June 2018, rejecting these preliminary objections.

258. The Applicants contended that the decision had been issued immediately following the close of oral submissions, and without asking any questions or undertaking any deliberations. In their view, despite their oral intervention to clarify that there were in fact two separate preliminary objections, the ICAO Council decision referred to a singular preliminary objection only and did not state any reasons for the rejection of the preliminary objections.

259. The Applicants advanced three grounds of appeal. Under the first ground of appeal, they contested the decision of the ICAO Council as "manifestly flawed and in violation of fundamental principles of due process and the right to be heard". Under the second and third grounds of appeal, they claimed that "the ICAO Council had erred in fact and in law" in rejecting, respectively, the first and the second preliminary objections to its jurisdiction over Qatar's application.

260. Consequently, Bahrain, Egypt and the United Arab Emirates requested the Court to adjudge and declare:

"(a) That the Decision of the ICAO Council dated 29 June 2018 reflected a manifest failure to act judicially on the part of the ICAO Council, and a manifest lack of due process in the procedure adopted by the ICAO Council; and

(b) That the ICAO Council was not competent to adjudicate upon the disagreement between Qatar and the Applicants submitted by Qatar to the ICAO Council by Qatar's Application (B) dated 30 October 2017;

(c) That the Decision of the ICAO Council dated 29 June 2018 in respect of Application (B) was null and void and without effect."

261. As basis for the Court's jurisdiction, the Applicants invoked Article II, Section 2, of the Agreement, and, by reference, Article 84 of the Chicago Convention, read in conjunction with Articles 36 (1) and 37 of the Statute of the Court.

262. By an Order dated 25 July 2018, the President of the Court, having taken account of the views of the parties, fixed 27 December 2018 and 27 May 2019 as the respective time-limits for the filing of a Memorial by Bahrain, Egypt and the United Arab Emirates and a Counter-Memorial by Qatar.

21. *Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran* v. *United States of America)*

263. On 17 July 2018, the Islamic Republic of Iran filed an Application instituting proceedings against the United States of America with regard to a dispute concerning alleged violations of the Treaty of Amity, Economic Relations, and Consular Rights between Iran and the United States, which was signed in Teheran on 15 August 1955 and entered into force on 16 June 1957.

264. The Islamic Republic of Iran stated that its Application related to the decision of the United States of 8 May 2018 to re-impose in full effect and enforce sanctions and restrictive measures targeting, directly or indirectly, Iran and Iranian companies and/or nationals, which the United States had previously decided to lift in connection with the Joint Comprehensive Plan of Action (an agreement on the nuclear programme of the Islamic Republic of Iran reached on 14 July 2015 by the Islamic Republic of Iran, the five permanent members of the Security Council, plus Germany and the European Union).

265. The Applicant claimed that, through the "8 May sanctions" and further sanctions that had been announced, the United States "[had] violated and continued to violate multiple provisions of the 1955 Treaty".

266. The Islamic Republic of Iran therefore requested the Court to adjudge, order and declare that:

"(a). The United States, through the 8 May and announced further sanctions referred to in the […] Application, with respect to the Islamic Republic of Iran, Iranian nationals and companies, [had] breached its obligations to Iran under Articles IV (1), VII (1), VIII (1), VIII (2), IX (2) and X (1) of the [1955 Treaty];

b. The United States [had to], by means of its own choosing, terminate the 8 May sanctions without delay;

c. The United States [had to] immediately terminate its threats with respect to the announced further sanctions referred to in the present Application;

d. The United States [had to] ensure that no steps [were] taken to circumvent the decision to be given by the Court in the present case and will give a guarantee of non-repetition of its violations of the [1955 Treaty];

e. The United States [had to] fully compensate the Islamic Republic of Iran for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic of Iran reserve[d] the right to submit and present to the Court in due course a precise evaluation of the compensation owed by the United States."

267. As basis for the jurisdiction of the Court, the Applicant invoked Article XXI, paragraph 2, of the 1955 Treaty.

268. On 17 July 2018, the Islamic Republic of Iran also filed a request for the indication of provisional measures, in order to preserve its rights under the 1955 Treaty pending the judgment of the Court on the merits of the case.

269. According to the Islamic Republic of Iran, the United States has already started to enforce some elements of the "8 May sanctions", while it announced that others would be implemented between 90 and 180 days from 8 May 2018. The Applicant maintained that, in view of the above, there was "a real and imminent risk that irreparable prejudice" will be caused to its rights which form the subject of the dispute before the Court gives its final decision.

270. Consequently, the Islamic Republic of Iran requested that the Court indicate:

> (a). That the United States shall immediately take all measures at its disposal to ensure the suspension of the implementation and enforcement of all of the 8 May sanctions, including the extraterritorial sanctions, and refrain from imposing or threatening announced further sanctions and measures which might aggravate or extend the dispute submitted to the Court;
>
> (b). That the United States shall immediately allow the full implementation of transactions already licensed, generally or specifically, particularly for the sale or leasing of passenger aircraft, aircraft spare parts and equipment;
>
> (c). That the United States shall, within 3 months, report to the Court the action it has taken in pursuance of sub-paragraphs (a) and (b);
>
> (d). That the United States shall assure Iranian, US and non-US nationals and companies that it will comply with the Order of the Court, and shall cease any and all statements or actions that would dissuade US and non-US persons and entities from engaging or continuing to engage economically with Iran and Iranian nationals or companies;
>
> (e). That the United States shall refrain from taking any other measure that might prejudice the rights of Iran and Iranian nationals and companies under the [1955 Treaty] with respect to any decision this Court might render on the merits."

271. The Court will hold public hearings on the request for the indication of provisional measures submitted by the Islamic Republic of Iran from 27 to 30 August 2018.

B. Pending advisory proceedings during the period under review

Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965

272. On 22 June 2017, the General Assembly adopted resolution 71/292, in which, referring to Article 65 of the Statute of the Court, it requested the Court to render an advisory opinion on the following questions:

(a) "Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected in General Assembly resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967?";

(b) "What are the consequences under international law, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin?"

273. By a letter dated 23 June 2017, the Secretary-General transmitted the request for an advisory opinion to the Court.

274. By letters dated 28 June 2017, the Registrar of the Court then gave notice of the request for an advisory opinion to all States entitled to appear before the Court, pursuant to Article 66, paragraph 1, of the Statute.

275. By an Order dated 14 July 2017, the Court decided "that the United Nations and its Member States, which are likely to be able to furnish information on the question submitted to the Court for an advisory opinion, may do so within the time-limits fixed in [the] Order". It fixed 30 January 2018 as the time-limit within which written statements on the question could be presented to the Court, in accordance with Article 66, paragraph 2, of the Statute, and 16 April 2018 as the time-limit within which States and organizations having presented written statements could submit written comments on the other written statements, in accordance with Article 66, paragraph 4, of the Statute.

276. By an Order dated 17 January 2018, the Court decided that "the African Union, which [was] likely to be able to furnish information on the question submitted for an advisory opinion, may do so within the time-limits fixed by the Court". It also extended to 1 March 2018 the time-limit within which all written statements on the question could be submitted to it and to 15 May 2018 the time-limit within which States and organizations having presented written statements could submit written comments on the other written statements. This Order followed a letter dated 10 January 2018, by which the Legal Counsel of the African Union requested that this organization be permitted to furnish information, in writing and orally, on the question submitted to the Court for its advisory opinion and be granted an extension of one month for the filing of its written statement".

277. Within the time-limit extended by the Court, written statements were filed, in order of their receipt, by: Belize, Germany, Cyprus, Liechtenstein, Netherlands, United Kingdom, Serbia, France, Israel, Russian Federation, United States, Seychelles, Australia, India, Chile, Brazil, Republic of Korea, Madagascar, China, Djibouti, Mauritius, Nicaragua, African Union, Guatemala, Argentina, Lesotho, Cuba, Viet Nam, South Africa, Marshall Islands and Namibia.

278. On 14 March 2018, the Court decided to accept the written statement filed by Niger, submitted on 6 March 2018, after expiry of the relevant time-limit.

279. Within the time-limit extended by the Court, written comments were filed, in order of their receipt, by: African Union, Serbia, Nicaragua, United Kingdom, Mauritius, Seychelles, Guatemala, Cyprus, Marshall Islands, United States and Argentina.

280. By communications dated 26 March 2018, the Court requested the United Nations and its Member States, as well as the African Union, to inform it, by 15 June 2018 at the latest, if they intended to take part in the oral proceedings.

281. The Court will hold public hearings on the question of the *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965 (request for an advisory opinion)* from 3 to 6 September 2018. Within the time-limit fixed by the Court for that purpose, 22 States and the African Union announced their participation in the oral proceedings. In alphabetical order, these State are: Argentina, Australia, Belize, Botswana, Brazil, Cyprus, Germany, Guatemala, India, Israel, Kenya, Marshall Islands, Mauritius, Nicaragua, Nigeria, Serbia, South Africa, Thailand, United Kingdom, United States, Vanuatu and Zambia.

Chapter VI
Visits to the Court and other activities

Visits

282. During the period under review, the Court welcomed a large number of dignitaries to its seat.

283. On 22 December 2017, the Secretary-General paid a visit to the Court. He was accompanied by the Under-Secretary-General for Legal Affairs and Legal Counsel. The two men held talks with the President, the Vice-President and the Registrar of the Court on a number of subjects, including the importance of international justice, the role and activity of the Court, its current caseload and other matters of mutual interest. At the end of the meeting, the Secretary-General signed the Court's visitors' book.

284. The following dignitaries were also received at the Court: on 15 September 2017, the Director of the Political Department of the Supreme People's Court of the People's Republic of China, Mr. Xu Jiaxin; on 5 October 2017, the Minister of Justice of the State of Kuwait, Mr. Faleh Abdullah Ali al-Azeb; on 14 November 2017, the President of the Court of the Eurasian Economic Union, Mr. Alexander Fedortsov; on 19 April 2018, the Prosecutor General of the Slovak Republic, Mr. Jaromír Čižnár, and the Prosecutor General of Czechia, Mr. Pavel Zeman; on 9 May 2018, the President of the Economic Community of West African States Court of Justice, Mr. Jérôme Traoré; on 30 May 2018, the President of the African Court on Human and Peoples' Rights, Mr. Sylvain Oré; and, on 26 June 2018, the Minister for Foreign Affairs of Poland, Mr. Jacek Czaputowicz.

Other activities

285. The President and other Members of the Court, as well as the Registrar and certain Registry officials, also welcomed a large number of academics, researchers, lawyers and journalists. Presentations on the role and functioning of the Court were made during these visits. In addition, the President, Members of the Court and the Registrar gave a number of talks while visiting various countries, at the invitation of their Governments, and legal, academic and other institutions.

286. On Sunday 24 September 2017, the Court welcomed numerous visitors as part of "The Hague International Day". This was the tenth time that it had taken part in this event, which is organized in conjunction with the Municipality of The Hague and is aimed at introducing the general public to the international organizations based in the city and surrounding area. The Information Department screened a film about the Court, gave presentations and answered visitors' questions.

287. On 1 February 2018, the Court held an event to show its appreciation to the United States Holocaust Memorial Museum (USHMM) and to the Mémorial de la Shoah (France) for their contribution to the project to digitize the audio-visual material in the Nuremberg Trial Archives. President Abraham and other speakers at the event emphasized the importance of the digitization project for the long-term preservation and enhancement of the Nuremberg Archives, and welcomed the two institutions' invaluable contribution, which would enable the Court to fulfil its responsibility to conserve these archives and ensure greater public access to them.

288. In May–June 2018, the Court participated in the eighth Ibero-American Week of International Justice, held in conjunction with the International Criminal Court, the Ibero-American Institute of The Hague and other institutions. Among other things, the Court hosted the opening ceremony in the Great Hall of Justice of the Peace Palace on 30 May, at which the Registrar delivered a welcome address in Spanish.

Chapter VII
Publications and presentation of the Court to the public

Publications

289. The publications of the Court are distributed to the Governments of all States entitled to appear before it, to international organizations and to the world's major law libraries. The catalogue of those publications, which is produced in English and French, is distributed free of charge. A revised and updated version of the catalogue has been published and is available on the Court's website under the heading "Publications".

290. The publications of the Court consist of several series. The following two series are published annually: *Reports of Judgments, Advisory Opinions and Orders* (published in separate fascicles and as a bound volume) and *Yearbook*.

291. The bound volume of *Reports 2017* was published while the present report was in preparation. The *Yearbook* was given a completely new layout in 2013–2014 and produced for the first time in a bilingual version. The *Yearbook 2016–2017* came out while the present report was in preparation, and the *Yearbook 2017–2018* is due to come out during the second half of 2018.

292. The Court also publishes bilingual printed versions of the instruments instituting proceedings in contentious cases that are brought before it (applications instituting proceedings and special agreements), and of applications for permission to intervene, declarations of intervention, requests for provisional measures and requests for advisory opinions that it receives. In the period under review, five new contentious cases were submitted to the Court (see para. 4); and the corresponding applications instituting proceedings have been published.

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

294. In the series *Acts and Documents*, the Court publishes the instruments governing its organization, functioning and judicial practice. The most recent edition, No. 6, which includes the Practice Directions adopted by the Court, came out in 2007. An offprint of the Rules of Court, as amended on 5 December 2000, is available in English and French. These documents can also be found online on the Court's website, under the heading "Basic Documents". Unofficial translations of the Rules of Court in the other official languages of the United Nations can be found on the Court's website.

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

296. A special, lavishly illustrated book entitled *The Permanent Court of International Justice* was published in 2012. This book — available in English, French and Spanish — was produced by the Registry of the Court to mark the ninetieth anniversary of the inauguration of its predecessor. It joins *The Illustrated Book of the International Court of Justice*, published in 2006, an updated version of which was published on the occasion of the Court's seventieth anniversary.

297. The Court also produces a handbook intended to facilitate a better understanding of its history, organization, jurisdiction, procedures and jurisprudence. The sixth edition of the handbook was published in 2014, in the Court's two official languages.

298. In addition, the Court produces a general information booklet in the form of questions and answers. During the period under review, a fully updated version of the booklet was printed in the two official languages of the Court by the Registry. Printing in-house means that the content can be updated as needed and produced at a low cost in the quantities required.

299. A photographic booklet entitled “70 years of the Court in pictures” was also published to mark the Court’s seventieth anniversary.

300. During the period under review, the flyer about the Court became available in the six official languages of the United Nations, as well as in Dutch. The reporting period also saw the introduction of information sheets for journalists on the cases brought before the Court.

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

Film about the Court

302. With a view to the Court’s seventieth anniversary celebrations, the Registry updated its film about the ICJ. This film, which is free for non-commercial use, is readily available online, in the six official United Nations languages, on the Court’s new website and on UN Web TV. It is also available in a large number of other languages on the Court’s YouTube channel.

Online resources and services

303. The Court’s new website, which was launched in June 2017 (see A/72/4), is regularly updated to reflect changes in the composition of the Court, judicial developments in the cases before it, the schedule of public sittings and publicly available resources, such as publications. The site has an average of 16,000 visitors per day (compared with 4,000 for the old site).

304. As in the past, the Court continues to provide full live and on-demand coverage of its public sittings on its website, as well as on UN Web TV.

305. The Court also continues to use its Twitter account to raise awareness of its work. Its account currently has over 18,500 followers (a number which has increased almost fourfold in less than two years).

306. In December 2017, the Court launched its YouTube channel, where the film about the Court can now be found. Further audio-visual content will be added soon. At the end of July 2018, the channel had 441 subscribers.

307. Finally, in May 2018, the Court created a company page on LinkedIn, the largest online professional networking site. Vacancy announcements, press releases and other information are now posted on that page which, as at 31 July 2018 already had more than 4,800 followers.

Museum

308. The Museum of the International Court of Justice was officially inaugurated in 1999 by the then Secretary-General, Mr. Kofi Annan. Following its refurbishment and the installation of a multimedia exhibit, the museum was reopened on 20 April 2016

by his successor, Mr. Ban Ki-moon, on the occasion of the Court's seventieth anniversary.

309. Through a combination of archive material, art works and audio-visual presentations, the exhibition traces the major stages in the development of the international organizations — including the International Court of Justice — seated in the Peace Palace and whose mission it is to ensure the peaceful settlement of international disputes.

310. Taking the two international peace conferences held in The Hague in 1899 and 1907 as its starting-point, the exhibition first covers the activities, history and role of the Permanent Court of Arbitration, before moving on to the League of Nations and the Permanent Court of International Justice. It finishes with a detailed description of the role and activities of the United Nations and the International Court of Justice, which continues the work of its predecessor, the Permanent Court of International Justice.

311. The Museum is increasingly being used by Members of the Court and certain Registry staff members to welcome groups of visitors and to describe to them the Court's role and work.

Chapter VIII
Finances of the Court

Method of covering expenditure

312. In accordance with Article 33 of the Statute of the Court, "[t]he expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly". As the budget of the Court has been incorporated in the budget of the United Nations, Member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments decided by the Assembly.

313. Following the established practice, sums derived from staff assessment, sales of publications, interest income and other credits are recorded as United Nations income.

Drafting of the budget

314. In accordance with Articles 24 to 28 of the revised Instructions for the Registry, a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court, and then to the full Court for approval.

315. Once approved, the draft budget is forwarded to the Secretariat for incorporation in the draft budget of the United Nations. It is then examined by the Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the Assembly in plenary meeting, within the framework of decisions concerning the budget of the United Nations.

Budget implementation

316. The Registrar is responsible for implementing the budget, with the assistance 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, the Registrar regularly communicates a statement of accounts to the Court's Budgetary and Administrative Committee.

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

Budget of the Court for the biennium 2018–2019, as adopted by the General Assembly

(United States dollars)

Programme		
Members of the Court		
0393902	Emoluments	7 192 300
0311025	Allowances for various expenses	1 047 400
0311023	Pensions	4 756 800
0393909	Duty allowance: judges *ad hoc*	1 165 600
2042302	Travel on official business	52 000
1410000	Experts for cases/consultants	286 600
Subtotal		**14 500 700**
Registry		
0110000	Permanent posts	16 534 300
0200000	Common staff costs	6 517 100
1540000	After-service medical and associated costs	578 800
0211014	Representation allowance	7 200
1210000	Temporary assistance for meetings	1 319 600
1310000	General temporary assistance	355 800
1410000	Consultants	249 400
1510000	Overtime	94 400
2042302	Official travel	43 000
0454501	Hospitality	23 400
3010000	Training and retraining	267 300
Subtotal		**25 990 300**
Programme Support		
3030000	External translation	463 900
3050000	Printing	568 900
3070000	Data-processing services	1 063 700
4010000	Rental and maintenance of premises	3 128 900
4030000	Rental of furniture and equipment	301 300
4040000	Communications	158 500
4060000	Maintenance of furniture and equipment	168 200
4090000	Miscellaneous services	82 600
5000000	Supplies and materials	408 000
5030000	Library books and supplies	287 400
6000000	Furniture and equipment	501 700
6025041	Acquisition of office automation equipment	30 800
6025042	Replacement of office automation equipment	65 400
6040000	Transportation equipment	72 200
Subtotal		**7 301 500**
Total		**47 792 500**

318. More comprehensive information on the work of the Court during the period under review is available on its website, as well as in the *Yearbook 2017–2018*, to be published in due course.

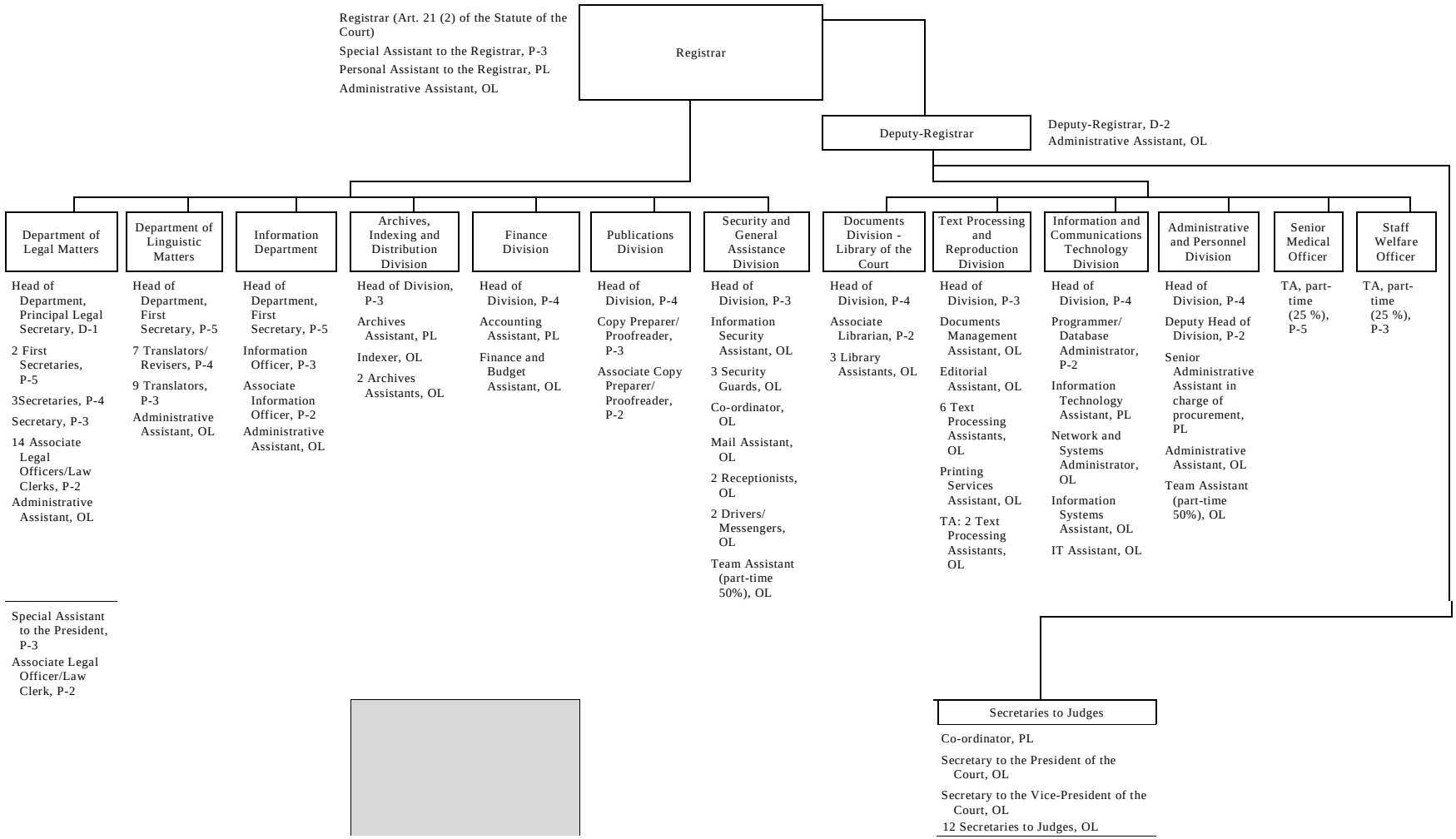
(*Signed*) Abdulqawi Ahmed **Yusuf**
President of the International Court of Justice

The Hague, 1 August 2018

18-12846* (E) 280918

Annex

International Court of Justice: organizational structure and post distribution of the Registry as at 31 July 2018



Abbreviations: PL: Principal Level; OL: Other Level; TA: Temporary Assistance.

A/73/4