

**INTERNATIONAL COURT OF JUSTICE**

# **Yearbook 1985-1986**

**No. 40**



**I.C.J. - THE HAGUE - 1986**

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## INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

### I. BASIC TEXTS

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. A third basic text is the Rules of Court.

#### *1. Charter of the United Nations*

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

#### *2. Statute of the International Court of Justice*

##### *(a) Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 4*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

##### *(b) States Parties to the Statute*

Article 93 of the Charter provides:

“1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on

conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.”

The States parties to the Statute are listed in Chapter III, pages 41-46, of this *Yearbook*.

### (c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter “shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council”.

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 45-46, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

### 3. *Rules of Court*

Article 30 of the Statute provides that “the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.”

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were published in *I.C.J. Acts and Documents No. 4* (pp. 92-161) concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court.

## II. CHRONOLOGICAL SURVEY

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court (*Corfu Channel*) was submitted on 22 May 1947.

Between then and 31 July 1986 the Court has had to deal with a total of 73 cases, i.e., 55 contentious cases and 18 advisory cases, as listed below<sup>1</sup>. In those cases it gave 48 judgments and 18 advisory opinions. Of the 213 orders made therein, 165 related solely to the fixing or extending of time-limits, while 186 orders related to contentious cases and 27 to advisory cases.

<i>Title</i>	<i>Dates</i>
(a) Contentious <sup>2</sup>	
<i>Corfu Channel (United Kingdom v. Albania)</i>	1947-1949
<i>Fisheries (United Kingdom v. Norway)</i>	1949-1951
<i>Protection of French Nationals and Protected Persons in Egypt</i> ( <i>France v. Egypt</i> )	1949-1950
<i>Asylum (Colombia/Peru)</i>	1949-1950
<i>Rights of Nationals of the United States of America in Morocco</i> ( <i>France v. United States</i> )	1950-1952
<i>Request for Interpretation of the Judgment of 20 November</i> <i>1950 in the Asylum case (Colombia v. Peru)</i>	1950

<sup>1</sup> Factual information (dates, etc.) regarding the course of the proceedings in each case is given in *Background Notes II and II bis: Synopsis of cases referred to the International Court of Justice* (see p. 116, below).

<sup>2</sup> In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

<i>Title</i>	<i>Dates</i>
<i>Haya de la Torre (Colombia v. Peru)</i>	1950-1951
<i>Ambatielos (Greece v. United Kingdom)</i>	1951-1953
<i>Anglo-Iranian Oil Co. (United Kingdom v. Iran)</i>	1951-1952
<i>Minquiers and Ecrehos (France/United Kingdom)</i>	1951-1953
<i>Nottebohm (Liechtenstein v. Guatemala)</i>	1951-1955
<i>Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States)</i>	1953-1954
<i>Electricité de Beyrouth Company (France v. Lebanon)</i>	1953-1954
<i>Treatment in Hungary of Aircraft and Crew of United States of America (United States v. Hungary)</i>	1954
<i>Treatment in Hungary of Aircraft and Crew of United States of America (United States v. USSR)</i>	1954
<i>Aerial Incident of 10 March 1953 (United States v. Czechoslovakia)</i>	1955-1956
<i>Antarctica (United Kingdom v. Argentina)</i>	1955-1956
<i>Antarctica (United Kingdom v. Chile)</i>	1955-1956
<i>Aerial Incident of 7 October 1952 (United States v. USSR)</i>	1955-1956
<i>Certain Norwegian Loans (France v. Norway)</i>	1955-1957
<i>Right of Passage over Indian Territory (Portugal v. India)</i>	1955-1960
<i>Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden)</i>	1957-1958
<i>Interhandel (Switzerland v. United States)</i>	1957-1959
<i>Aerial Incident of 27 July 1955 (Israel v. Bulgaria)</i>	1957-1959
<i>Aerial Incident of 27 July 1955 (United States v. Bulgaria)</i>	1957-1960
<i>Aerial Incident of 27 July 1955 (United Kingdom v. Bulgaria)</i>	1957-1959
<i>Sovereignty over Certain Frontier Land (Belgium/Netherlands)</i>	1957-1959
<i>Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)</i>	1958-1960
<i>Aerial Incident of 4 September 1954 (United States v. USSR)</i>	1958
<i>Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)</i>	1958-1961
<i>Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)</i>	1959-1960
<i>Aerial Incident of 7 November 1954 (United States v. USSR)</i>	1959
<i>Temple of Preah Vihear (Cambodia v. Thailand)</i>	1959-1962
<i>South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)</i>	1960-1966

<i>Title</i>	<i>Dates</i>
<i>Northern Cameroons (Cameroon v. United Kingdom)</i>	1961-1963
<i>Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)</i>	1962-1970
<i>North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)</i>	1967-1969
<i>Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)</i>	1971-1972
<i>Fisheries Jurisdiction (United Kingdom v. Iceland)</i>	1972-1974
<i>Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)</i>	1972-1974
<i>Nuclear Tests (Australia v. France)</i>	1973-1974
<i>Nuclear Tests (New Zealand v. France)</i>	1973-1974
<i>Trial of Pakistani Prisoners of War (Pakistan v. India)</i>	1973
<i>Aegean Sea Continental Shelf (Greece v. Turkey)</i>	1976-1978
<i>Continental Shelf (Tunisia/Libyan Arab Jamahiriya)</i>	1978-1982
<i>United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)</i>	1979-1981
<i>Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]</i>	1981-1984
<i>Continental Shelf (Libyan Arab Jamahiriya/Malta)</i>	1982-1985
<i>Frontier Dispute (Burkina Faso/Mali) [case referred to a Chamber]</i>	1983-
<i>Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)</i>	1984-
<i>Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (Tunisia v. Libyan Arab Jamahiriya)</i>	1984-1985
<i>Border and Transborder Armed Actions (Nicaragua v. Costa Rica)</i>	1986-
<i>Border and Transborder Armed Actions (Nicaragua v. Honduras)</i>	1986-
 (b) Advisory	
<i>Conditions of Admission of a State to Membership in the United Nations (Article 4 of Charter)</i>	1947-1948
<i>Reparation for Injuries Suffered in the Service of the United Nations</i>	1948-1949

Title	Dates
<i>Interpretation of Peace Treaties with Bulgaria, Hungary and Romania</i>	1949-1950
<i>Competence of the General Assembly for the Admission of a State to the United Nations</i>	1949-1950
<i>International Status of South West Africa</i>	1949-1950
<i>Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide</i>	1950-1951
<i>Effect of Awards of Compensation Made by the United Nations Administrative Tribunal</i>	1953-1954
<i>Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa</i>	1954-1955
<i>Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco</i>	1955-1956
<i>Admissibility of Hearings of Petitioners by the Committee on South West Africa</i>	1955-1956
<i>Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization</i>	1959-1960
<i>Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)</i>	1961-1962
<i>Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)</i>	1970-1971
<i>Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal</i>	1972-1973
<i>Western Sahara</i>	1974-1975
<i>Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt</i>	1980
<i>Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal</i>	1981-1982
<i>Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal</i>	1984-

## CHAPTER I

# ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

### I. MEMBERS OF THE COURT

#### *1. Composition of the Court*<sup>1</sup>

The Court consists of 15 members (Statute, Art. 3, para. 1).

On 31 July 1986 the composition of the Court was as follows:

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
<i>President</i> Nagendra Singh	India	5 February 1991 <sup>2</sup>
<i>Vice-President</i>		
G. Ladreit de Lacharrière	France	5 February 1991 <sup>2</sup>
<i>Judges</i> M. Lachs	Poland	5 February 1994
J. M. Ruda	Argentina	5 February 1991
T. O. Elias	Nigeria	5 February 1994
S. Oda	Japan	5 February 1994
R. Ago	Italy	5 February 1988
J. Sette-Camara	Brazil	5 February 1988
S. M. Schwebel	United States	5 February 1988
Sir Robert Jennings	United Kingdom	5 February 1991
K. Mbaye	Senegal	5 February 1991
M. Bedjaoui	Algeria	5 February 1988
Ni Zhengyu	China	5 February 1994
J. Evensen	Norway	5 February 1994
N. K. Tarassov	USSR	5 February 1988

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and

<sup>1</sup> For the composition of chambers, see pp. 13-14 below.

<sup>2</sup> The terms of office of Judges Nagendra Singh and Ladreit de Lacharrière as President and Vice-President respectively expire in 1988.

the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, p. 46, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

## *2. Change in the Composition of the Court in 1985-1986*

Judge P. D. Morozov resigned for health reasons on 23 August 1985.

On 9 December 1985, elections were held to fill the resulting vacancy. Mr. N. K. Tarassov was elected and is to replace Judge Morozov for the remaining period of the latter's term of office.

## *3. Former Presidents and Vice-Presidents and Former Members of the Court*

The following judges served as President or Vice-President before the present holders of those offices:

- 1946-1949, J. G. Guerrero and J. Basdevant;
- 1949-1952, J. Basdevant and J. G. Guerrero<sup>1</sup>;
- 1952-1955, Sir Arnold McNair and J. G. Guerrero<sup>1</sup>;
- 1955-1958, G. H. Hackworth and A. H. Badawi<sup>2</sup>;
- 1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;

<sup>1</sup> While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel*; *Protection of French Nationals and Protected Persons in Egypt*; *Rights of Nationals of the United States of America in Morocco*; *Ambatielos*; *Anglo-Iranian Oil Co.*; *Minquiers and Ecrehos*; *Monetary Gold Removed from Rome in 1943*.

<sup>2</sup> While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel*, *Interim Protection*, and *Aerial Incident of 27 July 1955 (United States v. Bulgaria)*.

1961-1964, B. Winiarski and R. J. Alfaro;  
 1964-1967, Sir Percy Spender and V. K. Wellington Koo;  
 1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;  
 1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun<sup>1</sup>;  
 1973-1976, M. Lachs and F. Ammoun<sup>1</sup>;  
 1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;  
 1979-1982, Sir Humphrey Waldock<sup>2</sup> and T. O. Elias<sup>3</sup>;  
 1982-1985, T. O. Elias<sup>4</sup> and J. Sette-Camara.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	Period of Office
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
C. Bengzon	Philippines	1967-1976
J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* I. Fabela	Mexico	1946-1952
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973

<sup>1</sup> While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal relating to the Jurisdiction of the ICAO Council, Nuclear Tests (Australia v. France)*, *Interim Protection*, and *Nuclear Tests (New Zealand v. France)*, *Interim Protection*.

<sup>2</sup> Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

<sup>3</sup> Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area*.

<sup>4</sup> Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.