

I. International Law in General

United Nations Decade of International Law – Role of international law – Peaceful settlement of disputes – Role of International Court of Justice – Call for universal acceptance of compulsory jurisdiction of International Court of Justice – Need for better implementation of international law – Developments in various areas of international law – Proposed United Nations Congress on Public International Law – Dissemination of international law – Joint statement to United Nations Sixth Committee by Canada, Australia and New Zealand

The following is extracted from the "Decade of International Law" section of the 1992 Report of the Australian Delegation to the Sixth Committee of the United Nations:

This item was inserted on the agenda of the General Assembly in 1989 at the request of the NAM [Non-Aligned Movement]. The idea had its origins at a meeting of NAM Foreign Ministers at the Hague in June of that year, which had international law as its theme. The Resolution adopted by consensus at UNGA 44 (44/23) declares that that period of the Decade will be 1990–1999 and sets out four main purposes:

- (a) to promote acceptance of and respect for the principles of international law;
- (b) to promote means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice;
- (c) to encourage the progressive development of international law and its codification;
- (d) to encourage the teaching, study, dissemination and wider appreciation of international law.

It was also resolved at UNGA 44 to consider the Decade in the framework of a Working Group of the Sixth Committee. At UNGA 45 it was agreed that the Working Group would continue to exist for the duration of the Decade.

The joint statement of the Canadian, Australian and New Zealand delegations (CANZ statement) concerning the United Nations Decade of International Law was delivered before the UN Sixth Committee on 17 November 1992 by the Canadian representative, Mr Howard Strauss. The following is extracted from that statement:

Our Governments are fully committed to the realisation of the four objectives of the Decade¹ and have implemented comprehensive national and regional programmes. ...

The current period of transition ushered in by the breakdown of the bi-polar system provides opportunities, unavailable to us over the past half century, to strengthen the role of international law as the animating force in relations between states. Ensuring compliance with international legal principles is for most states the primary means of safeguarding independence and sovereignty and, thus, there is a commonality of interest in seeing the goals of the Decade realized.

The promotion of the peaceful settlement of disputes in accordance with the rule of law, called for in Part II of the Programme, is an appropriate focus for the Decade.

Increased recourse to the International Court of Justice and the strengthening of its role is one concrete way to enhance compliance with the rule of law in relations between states and improve opportunities for the peaceful resolution of disputes. The United Nations Secretary-General's Agenda for Peace provides a useful check-list for possible future action.

We wholeheartedly support the call of the Secretary-General for the universal acceptance of the compulsory jurisdiction of the International Court of Justice under Article 36 of the Statute of the Court. Our delegations are greatly encouraged by the increasing number of states which have made Article 36 declarations. We join with the Secretary-General in encouraging any state which has not yet made such a declaration to reconsider, in the course of the Decade, its position on the matter. We would like to think that our hope for near universal acceptance of the Court's compulsory jurisdiction by the close of the Decade is not unrealistic.

The role played by the ICJ in rendering advisory opinions is a most valuable one, both in connection with the peaceful settlement of disputes and the progressive development of international law. Pursuant to Article 96 of the United Nations Charter, the General Assembly and the Security Council may request such an opinion from the Court. In addition, the same Article provides that other organs of the UN and specialized agencies may be authorised by the General Assembly to request advisory opinions on legal questions arising within the scope of their activities. We support consideration of the call made in the Agenda for Peace for the authorisation of the Secretary-General to take advantage of the advisory competence of the Court.

We welcome the comments made by the President of the Court, Sir Robert Jennings (in his introduction to the ICJ Report) with regard to the review of the Court's work practices. In the light of calls currently being made on states to make increasing use of the Court, such a review is particularly timely. It is important that the Court be able to deal with the cases which come before it in an efficient manner. We urge the Court to pursue the review of its work practices to encourage use of the court as a forum for the settlement of a broader range of cases.

1 The objectives of the Decade are set out on p 389 above.

Mr Chairman

We remain convinced that a priority for the United Nations Decade of International Law should be the improved implementation of current international legal norms and more frequent recourse to existing international organs and mechanisms (as provided for in Part I of the Programme), rather than the development of new law. Too frequently existing international law stands unimplemented.

Improved compliance with existing human rights obligations must be a priority for the ongoing work of the Decade. An impressive range of instruments designed to protect individual and collective rights has been adopted. Yet often, in the face of wide scale breaches of fundamental human rights, there is a failure to use the mechanisms provided pursuant to such instruments. In this regard, we welcome the recent special session of the Commission on Human Rights to consider the situation in the former Yugoslavia and the appointment of a Special Rapporteur to investigate allegations of human rights abuses.

While we emphasise the general need for enhanced implementation, rather than the adoption of new instruments, there remain areas of exception. We welcome ongoing development of international legal rules relating to environmental protection, international humanitarian law and human rights law.

In fact, the opening years of the Decade have been notable for the great deal of productive international activity in connection with the protection of the environment.

We welcome the landmark achievements of the United Nations Conference on the Environment and Development [UNCED]. This year has seen the opening for signature in Rio of the Biodiversity and Climate Change Conventions. Our three countries have signed the conventions and intend to ratify them at an early date.

UNCED related work is ongoing. We look forward to the convening of the fisheries conference in New York in 1993. This conference should provide for the development of an effective regime (consistent with the provisions of the United Nations Law of the Sea Convention) to deal with problems related to the conservation and management of fisheries resources in the high seas.

We look forward to further progress within the International Law Commission on measures relating to the non-navigational uses of international watercourses and state liability for injurious consequences arising out of acts not prohibited at international law.

At the intersection between two of the branches of law already marked for further consideration (environmental and humanitarian law) is the issue of the protection of the environment in times of armed conflict. Our governments welcome and are actively participating in the ongoing debate on this issue and we look forward to it forming a vibrant element of the continuing work of the Decade as it will, in future, be considered in the Sixth Committee under this item.

Mr Chairman,

A proposal was made to start preparatory work for a Congress on public international law during the next term of the Decade, which could be linked both to the Decade and to the fiftieth anniversary of the United Nations. We share the wish expressed by other delegations that preparations be undertaken to ensure a successful Congress. In this regard we look forward to receiving the preliminary operational plan for a possible United Nations Congress on Public International Law.

Turning to part IV of the Programme of the Decade (the encouragement of the teaching, study and dissemination of international law), Australia, New Zealand and Canada have been actively involved in a variety of regional and national activities.

On the regional level, the Australian Government has undertaken a number of dissemination activities. It has, for example, set up a scholarship scheme to assist in the training in international law of government lawyers from Pacific Island countries. It also provided considerable support to a conference under UNCITRAL [United Nations Commission on International Trade Law] auspices held in Fiji in late 1991, and attended by South Pacific countries, at which UNCITRAL Trade Law Conventions were promoted and implementation encouraged. At this year's annual International Law Seminar in Canberra, organised by the Government in conjunction with the Australian National University, the revival of the Australia-New Zealand Society of International Law was announced.

On the national level Australia has undertaken a wide range of activities. These activities are set out in the comments submitted to the Secretary-General pursuant to resolution 46/53 and are reflected in the Secretary-General's report ...

We should not overlook the constructive work of non-governmental organisations in implementing national programmes, for example in the disseminating of information. The academic community in particular has played a key role in this regard in each of our countries. ...

We note that Foreign Ministry Legal Advisors have the opportunity to play a unique role in advancing the goals of the Decade. The informal consultations which have taken place in recent years among those responsible for international legal services to Ministries of Foreign Affairs of UN member states, provide a valuable opportunity to share information and experience. Such contacts are very much in line with the objectives of the Decade and we look forward to the continuation of informal contacts amongst Legal Advisors.

Mr Chairman,

In conclusion, our three countries reemphasize our commitment to the goals of the Decade and our intention of continuing work at national, regional and international levels to see them realized.