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Editorial

United Nationas Conference on Trade and Development (UNCTAD's) XIII Ministerial Conference held in Doha on 26 April 2012 renewed its mandate for next four years and affirmed the Accra Accord of 2008 and maintained continuity of broad mandate. It was also agreed not to place new conditions on UNCTAD's future work, and allow it to continue to work on the financial crisis as well. In fact, UNCTAD XIII adopts two outcome documents namely *Doha Mandate* and *Doha Manar*.

Redefining UNCTAD's mandate was a matter of an intense debate between developing and developed countries that went on for several months, first in Geneva and then in Doha. Some developed countries proposed the text to curb the mandate of UNCTAD to continue work on the financial crisis, macro-economic policy, external debt and other issues. On the other side, many developing states believed that the UNCTAD, an organ of UN General Assembly, the UN's premier development think tank has proved its utility value. More so when secretariat of UNCTAD has continued to do outstanding works on the global economy, providing incisive analysis of the cause of the financial crisis, and offering proposals for solutions that are more workable.

The *Doha Mandate* sets out agreed conclusions on policy analysis and the role of UNCTAD on the overall theme of the Meeting - "Development-centred globalization: towards inclusive and sustainable growth and development", covering key priorities considered in the meeting. They included enhancing and enabling the economic environment to support inclusive development; strengthening all forms of cooperation and partnership for trade and development; addressing persistent and emerging development challenges and their implications for trade and development; and promoting trade, investment, entrepreneurship and related investment policies to foster economic growth and sustainable development.

Accompanying the Mandate was a political declaration to be known as the "*Doha Manar*", referring to the Arabic term for beacon, which lent strong support to the efforts of UNCTAD in promoting inclusive development through commerce and structural change for over the next four years. The *Manar* states, "We recognize the need to make our common economic life more conducive to progressive structural change, more productive of inclusive and sustainable growth and development and more effective in fostering broad-based inclusion in a new and more robust social contract".

Thus, both documents reiterated the role of UNCTAD as the UN focal point for the integrated treatment of trade and development, and interrelated issues in the areas of finance, technology, investment and sustainable development. The principal challenges to UNCTAD would be to strengthen its three pillars viz., research and analysis, consensus building and technical cooperation. It is expected that research and analysis should feed into the consensus building pillar which in turn should guide the technical assistance. It is also expected that technical assistance should not become the organization's flagship project. Developing countries strongly believe that UNCTAD's proven competence and utility should be harnessed to develop soft law to, *inter alia*, promote rule making in WTO and other bodies.

Dr. E. M. Sudarsana Natchiappan

RECENT ACTIVITIES

41ST ANNUAL CONFERENCE OF THE INDIAN SOCIETY OF INTERNATIONAL LAW

Indian Society of International Law (ISIL) organized its 41st Annual Conference on 13-14 April 2012 at its premises. More than 200 delegates comprising law faculty members, researchers, students and lawyers from different parts of the country and representatives from several embassies and ministries participated in the Conference. Prof. Rahmatullah Khan, President and Secretary General, ISIL, while welcoming the distinguished guests and the delegates, mentioned the significance of the Annual Conference of ISIL and the need for participating in such a conference. He strongly emphasized on the need to train scholars in international law to counter the hegemony of western scholars' writing. He highlighted achievements of ISIL in bringing scholars from all over the world to one platform in the last 50 years. Hon'ble Justice Mukundakam Sharma, Former Judge, Supreme Court of India inaugurated the Conference. He strongly argued for increased emphasis on international law in the law schools and colleges and the need to appoint a proper faculty to teach this subject as the subject has wider ramifications and implications on many aspects of day-to-day activities as well. He highlighted importance of identified themes of the Conference. He wished the Conference a great success." Prof. S. K. Verma, Director, ISIL briefly outlined the scheme of the Conference and proposed a formal vote of thanks.

Three sessions were organized to discuss three themes. The first session (morning) was on the "*Piracy under International Law: New Challenges*" which was chaired by Prof. Rahmatullah Khan, Secretary General, ISIL and co-chaired by Prof. B. C. Nirmal, Professor, School of Law, BHU, Varanasi. Dr. M. Gandhi, Joint Secretary, L&T Division, MEA, gave keynote address in the session. Eminent panelists namely Dr. Srinivas Burra, Assistant Professor, SAU, New Delhi; Mr. Goyal, and Capt. J. S. Gill presented papers on "*Combating Piracy: Legal Challenges*", "*Piracy under UNCLOS*", and "*Maritime Security and Piracy: Legality of Unilateral and Multilateral Actions*" respectively.

The second session (afternoon) was on the "*WTO Round: An Appraisal*" chaired by Prof. S. K. Verma, Director, ISIL and co-chaired by Prof. B. S. Chimni, Professor, JNU, New Delhi. Prof. Chimni gave keynote address. Eminent panelists namely Prof. A. Jayagovind, Professor, NLSIU, Bangalore, Prof. J. L. Kaul, Professor-in-Charge, CLC, University of Delhi, Dr. V. G. Hegde, Associate Professor, JNU, New Delhi, Dr. Selvi G., Legal Advisor, German Embassy, Shri Amit Kumar, Assistant Professor, National Law School, Jodhpur and Shri Naresh Kumar, Advocate presented papers on "*WTO Round: A Critique*", "*Future of Multilaterlism after Doha Round*", "*WTO Doha Round: TRIPS*" "*Trade in Services after Doha Round*", "*WTO Agreement on Agriculture and India Issues & Concerns*", and "*GATS and Export of Professional Services by India*" respectively.

The third session was held on the theme "*Impact of Globalization on Private International Law*" and chaired by Prof. Narinder Singh, Additional Secretary, L&T Division, MEA, Government of India. Prof. Lakshmi Jambholkar, Former Professor, Faculty of Law, Delhi University, Delhi gave key note address. Eminent panelists namely, Shri G. G. Hegde, Associate Professor, NLS, Bangalore; Ms. Sujata Subramaniyam, Advocate; Shri Anil Malhotra, Advocate, Shri Ranjit Malhotra, Advocate presented paper titled "*Recognition and Enforcement of Foreign Arbitral Awards*", "*Private International Law in IPR*", "*Child Abduction: To Return or Not To Return*", and "*Surrogacy: Imported from India – Need for a Regulatory Law*" respectively. Finally, Dr. P. S. Rao, former Member, ILC gave valedictory address and Prof. S. K. Verma, Director, ISIL proposed a formal vote of thanks. The Annual Conference concluded with General Body Meeting held at 2.15 pm on 14 April 2012.

ELECTION TO THE EXECUTIVE COUNCIL OF THE INDIAN SOCIETY OF INTERNATIONAL LAW

Election to the Executive Council (EC) of the Indian Society of International Law held on 14 April 2012 at ISIL premises. Following are the members of the newly elected EC: President – Dr. E. M. S. Natchiappan; Executive President - Prof. Lakshmi Jambholkar; Vice Presidents – Shri A. K. Ganguly, Dr. M. Gandhi and Prof. B. C. Nirmal; Treasurer - Dr. V. G. Hegde; other 12 members of EC are – Prof. (Mrs.) S. K. Verma, Dr. Luther Rangreji, Shri P. H. Parekh, Prof. J. L. Kaul, Shri Sanjay Parikh, Prof. Stapal Nalwa, Dr. Vivek Dhokalia, Shri G. G. Hegde, Dr. Srinivas Burra, Dr. R. K. Dixit, Justice Manju Goel, and Ms. Sowmya K. C. Shri Narinder Singh, is chosen as Secretary-General by the newly elected EC.

REPORT OF THE COMMITTEE OF EXPERTS ON PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS 1949

The Indian Society of International Law (ISIL) on 26th June 2012 at 4.30 pm at its premises organized a function to release the report of the Committee of Experts on International Humanitarian Law (IHL).

This Committee of Experts was set up with a view to study the relevance of the Protocols Additional to the Geneva Conventions and

the question of India becoming a party thereto. The Committee of Experts is composed of: Justice J. S. Verma (Former Chief Justice of India and former Chairman, National Human Rights Commission of India), Lt. General Satish Nambiar (Director, United Service Institution of India) Dr. E. M. Sudarsana Natchiappan, Member of Parliament, Rajya Sabha (President of the Indian Society of International Law), Prof. V.S. Mani (Director, School of Law and Governance, Jaipur National University, Jaipur), Prof. Anuradha Chenoy, (Jawaharlal Nehru University, New Delhi), Mr. Siddharth Varadarajan (Editor, The Hindu Daily), Mr. C. Jayaraj (Principal Legal Counsel, Department of Legal Affairs, Republic of Seychelles and Former Secretary General, ISIL) and Dr. R. K. Dixit (Former Legal Adviser to the Government of India).

The members of the Committee of Experts presented an outline of the report and its main recommendations, followed by a discussion. The report is prepared as a collective exercise by the Members of the Experts Committee. and is broadly divided into three parts. The first part provides a background to the constitution of the present Committee of Experts; the second part gives a brief introduction to international humanitarian law and its relevance in general; and third part deals with the adoption of the two Additional Protocols and its contribution to IHL.

International humanitarian law (also known as the law of war or law of armed conflict), is part of international law, the body of rules governing relations between States. IHL is a set of rules, which seeks, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or who are no longer participating in hostilities, and restricts the means and methods of warfare. The development of international humanitarian law in modern treaty form started with the adoption of the First Geneva Convention of 1864, and developed and expanded over a period. The present corpus of international humanitarian law contains two sets of rules: one set protects the 'victims' (wounded and sick, prisoners of war and civilians) of the armed conflict, and the other regulates the means and methods of armed conflict. The core of IHL is contained in the four Geneva Conventions that were adopted in 1949 which primarily provide protection for the victims of armed conflict. These four Conventions were supplemented by three Additional Protocols: two adopted in 1977 and one in 2005.

The Committee of Experts recalled India's IHL traditions and found that there exists no tenable argument against India's accession to the Protocols. And the Committee suggested nine compelling reasons why India should ratify the 1977 Additional Protocols to the Geneva Conventions.

MODIFIED WEBSITE OF INDIAN SOCIETY OF INTERNATIONAL LAW

Indian Society of International Law (ISIL) has come up with modified website which added many new components. A special section of photos and videos of recent programme will be uploaded. Front pages of Indian Journal of International Law, ISIL Yearbook on International Humanitarian and Refugee Law and Newsletters are unique features to new website. You can visit to find ISIL website: www.isil-aca.org

RECENT DEVELOPMENTS

DR. JIM YONG KIM- NEW PRESIDENT OF THE WORLD BANK GROUP

The Executive Directors met, on April 16, 2012, to select a new President of the World Bank Group. The Executive Directors selected Dr. Jim Yong Kim as President for a five-year term beginning on July 1, 2012. The President is Chair of the Boards of Directors of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). The President is also ex officio Chair of the Boards of Directors of the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA), and the Administrative Council of the International Centre for Settlement of Investment Disputes (ICSID).

The Executive Directors followed the new selection process agreed in 2011 which, for the first time in the Bank's history, yielded multiple nominees. This process included an open nomination where any national of the Bank's membership could be proposed by any Executive Director or Governor, publication of the names of the candidates, interviews of the candidates by the Executive Directors, and final selection of the President.

GUILTY VERDICT AGAINST FORMER LIBERIAN PRESIDENT CHARLES TAYLOR

On 26 April 2012, the SCSL handed down a guilty verdict against Mr. Taylor for planning, aiding and abetting war crimes and crimes against humanity. He was on trial on 11 charges of war crimes and crimes against humanity, including pillage, slavery for forced marriage purposes, collective punishment and the recruitment and use of child soldiers. Mr. Taylor, who was indicted while he was still President of Liberia, is the first former Head of State to be convicted by an international criminal tribunal since the Nuremberg trials in 1946. The charges relate to his alleged support for two rebel groups – the Armed Forces Revolutionary Council and the Revolutionary United Front – during Sierra Leone's decade-long civil war. He had pleaded not guilty to all charges.

According to the SCSL, following this judgment both parties will make submissions on sentencing, which is expected to be pronounced in the near future. The final stage in the case will be the appeals phase. The Prosecution will closely review this judgment to identify any potential appellate issues.

The Taylor trial opened on 4 June 2007 in The Hague. It was adjourned immediately after the prosecution's opening statement when Mr. Taylor dismissed his defence team and requested new representation. Witness testimony commenced on 7 January 2008, and ended on 12 November 2010. Closing arguments took place in February and March 2011.

The Court heard live testimony from 94 prosecution witnesses, and received written statements from four additional witnesses. The defence presented 21 witnesses, with Mr. Taylor testifying in his defence.

UN HUMAN RIGHTS PROBE PANEL REPORTS CONTINUING 'GROSS' VIOLATIONS IN SYRIA

Gross human rights violations continue unabated in Syria, amid increasing militarization of the strife there, despite an earlier agreement by parties to the conflict to halt hostilities, the United Nations independent panel probing abuses in the country said in an update released on 24 May 2012. Most of the serious violations were committed by the Syrian army and security services as part of military or search operations in locations thought to host defectors or armed people, and those seen as supporters of anti-government armed groups, the Independent International Commission of Inquiry on Syria said in an update on gross violations of humans rights and casualty figures resulting from the conflict to the Geneva-based UN Human Rights Council.

"The army employed the wide range of military means, including heavy shelling of civilian areas," the panel said in the report, which focuses on incidents that occurred since March, and is based on 214 interviews conducted during two investigative missions in March and April, as well as other interviews conducted recently in Geneva.

The Commission said it had also received several reports stating that anti-government armed groups were committing human rights abuses. It noted that the Syrian Government has so far not provided access for the Commission to carry out its investigations inside the Middle Eastern country. A series of explosions have taken a heavy toll on human life in the capital, Damascus, and the cities of Idlib and Aleppo and other places, the Commission reported, condemning the indiscriminate nature of the attacks. From its 214 interviews, the Commission said it was able to confirm 207 deaths resulting from the violence since March, adding that it had also received from the Government lists of victims from the ranks of police, military and security forces. "According to these lists, a total of 478 police officers and 2,091 individuals from the military and security forces were killed between 29 March 2011 and 20 March 2012. Without access to the Syrian Arab Republic, the Commission is not in a position to confirm these figures," it said in the report.

Children were frequently among those killed and injured during attacks on protests and the bombardment of towns and villages by Government forces, the Commission said, noting that it had recorded an incident in which several people were allegedly executed in Taftanaz in April when the village was raided by Government forces. There were also first-hand reports of arbitrary arrest and torture, with Government forces reportedly arresting those identified previously by local informers as supporters or family members of anti-government armed groups, organisers of anti-government protests or simply protestors. The UN estimates that more than 9,000 people, mostly civilians, have been killed in Syria and tens of thousands displaced since the uprising against the administration led by President Bashar al-Assad some 14 months ago. The violence prompted the Security Council to authorize the establishment of UN Supervision Mission in Syria (UNSMIS) with up to 300 unarmed military observers, for an initial period of 90 days. Spread out in various locations, the observers are tasked with monitoring the cessation of violence and supporting the full implementation of the six-point plan put forward by the Joint Special Envoy of the UN and the League of Arab States, Kofi Annan.

Mr. Annan's six-point plan calls for an end to violence, access for humanitarian agencies to provide relief to those in need, the release of detainees, the start of inclusive political dialogue that takes into account the aspirations of the Syrian people, and unrestricted access to the country for the international media.

Further, the United Nations Human Rights Council, on 1 June 2012, called for "a special inquiry" into the massacre in the Syrian village of Houla, which resulted in the killings of 108 people, including 49 children. After a Special Session in Geneva focussed on the deteriorating human rights situation in Syria and the killings in Houla, the Council adopted a resolution – with 41 votes in favour, three against and two abstentions – condemning in the strongest terms the use of force against civilians.

The meeting is the Council's fourth special session on Syria since the crisis in the Middle Eastern country began some 15 months ago. In the resolution, Council members deplored the "outrageous killings" in Houla and emphasized the continued failure of the Syrian authorities to protect and promote the rights of all Syrians.

The Council called for International Commission of Inquiry on Syria – a UN independent panel probing abuses in the Middle Eastern country – to conduct a "transparent, independent and prompt investigation into violations of international law with a view to hold to account those responsible for widespread, systematic and gross human rights violations, including violations that may amount to crimes against humanity."

In addition, the Council asked the Commission of Inquiry to publicly identify, if possible, those responsible for the atrocities and to submit a report on the results of its investigation at its next session, which will be held from 18 June to 6 July.

The Commission of Inquiry was established at the Council's second Special Session and it presented its first report on 28 November 2011, concluding that the substantial body of evidence it had gathered indicated that gross violations of human rights had been committed by Syrian military and security forces since the beginning of the protests in March 2011.

NEW UN REPORT SHOWS RECORD 800,000 PEOPLE BECAME REFUGEES IN 2011

Ahead of World Refugee Day, the United Nations refugee agency reported, on 18 June 2012, that a record 800,000 people were forced to flee across borders last year, more than at any time since 2000. The new refugees are part of a total of 4.3 million people who were newly displaced last year, owing to a string of major humanitarian crises that began in late 2010 in Côte d'Ivoire, and

followed by others in Libya, Somalia, Sudan and elsewhere, according to Global Trends 2011, issued by the Office of the UN High Commissioner for Refugees (UNHCR).

Some 42.5 million people ended 2011 either as refugees (15.2 million), internally displaced (26.4 million) or in the process of seeking asylum (895,000), according to the report, which is UNHCR's main publication on the state of forced displacement. At the same time, 2011 saw some 3.2 million internally displaced persons (IDPs) return home – the highest rate of returns of IDPs in more than a decade.

Overall, Afghanistan remains the biggest producer of refugees (2.7 million), followed by Iraq (1.4 million), Somalia (1.1 million), Sudan (500,000) and the Democratic Republic of the Congo (491,000).

Among industrialized countries, Germany ranks as the largest hosting country with 571,700 refugees. South Africa, meanwhile, was the largest recipient of individual asylum applications (107,000), a status it has held for the past four years.

The report notes that only 64 governments provided data on stateless people, meaning that UNHCR was able to capture numbers for only around a quarter of the estimated 12 million stateless people worldwide.

RIO+20 CONCLUDES WITH BIG PACKAGE OF COMMITMENTS FOR ACTION AND AGREEMENT

World leaders met at Rio de Janeiro on 22 June 2012 and finalized an agreement that will advance action on sustainable development, as businesses, governments, civil society and multilateral development banks announced hundreds of voluntary commitments to shape a more sustainable future for the benefit of the planet and its people. The full package of agreements, actions, commitments, challenges, initiatives and announcements made at Rio+20, the UN Conference on Sustainable Development, addresses a range of global issues that includes access to clean energy, food security, water and sustainable transportation.

World leaders approved the outcome document for Rio+20, entitled “The Future We Want,” this evening. In the months leading up to Rio+20, negotiations on the outcome document included several week long sessions and many long nights, but under the leadership of the Brazilian Government, a compromise was reached and agreement made

by the 193 Member States of the United Nations.

The document calls for a wide range of actions, among many other points, including:

- launching a process to establish sustainable development goals;
- detailing how the green economy can be used as a tool to achieve sustainable development;
- strengthening the UN Environment Programme and establishing a new forum for sustainable development;
- promoting corporate sustainability reporting measures;
- taking steps to go beyond GDP to assess the well-being of a country;
- developing a strategy for sustainable development financing;
- adopting a framework for tackling sustainable consumption and production;
- focusing on improving gender equality;
- stressing the need to engage civil society and incorporate science into policy; and
- recognizing the importance of voluntary commitments on sustainable development.

Beyond the negotiated document, voluntary commitments played a key role in the outcome of Rio+20, with an estimated $513 billion mobilized from the 13 largest commitments alone. Over 700 voluntary commitments by civil society groups, businesses, governments, universities and others were listed on the main Rio+20 website.

The total included more than one hundred commitments and actions in support of the UN's Sustainable Energy for All initiative towards achieving three objectives – ensuring energy access, doubling energy efficiency and doubling the share of renewable energy – all by 2030. More than 50 Governments from Africa, Asia, Latin America and Small Island Developing States have engaged with the initiative and are developing energy plans and programmes. Businesses and investors have committed more than $50 billion to achieve the initiative's three objectives. It is expected that more than one billion people will benefit from Sustainable Energy for All's public and private sector commitments.

Earlier, eight multilateral development banks announced financing of more than $175 billion through 2020 to support sustainable transport in developing countries. And the World Bank announced that more than 80 countries, civil society groups, private companies and international organizations have declared their support for the new Global Partnership for Oceans. More than 200 commitments to sustainable development by businesses were announced at the conclusion of the UN Global Compact's Corporate Sustainability Forum.

A 'Zero Hunger Challenge', has been issued calling on all nations to be boldly ambitious as they work for a future where everyone enjoys the right to food and all food systems are resilient. The Challenge aims to provide 100 per cent access to adequate food year round, while increasing small farm productivity and zero loss or waste of food. Several countries have already taken up the challenge. For example, the United Kingdom pledged £150 million (approx. $234 million) to help smallholder farmers feed millions. The Brazilian Government announced the creation of the Rio+ Centre, the World Centre for Sustainable Development. The Rio+ Centre will facilitate research, knowledge exchange and international debate about sustainable development. Its partners include the State Government of Rio de Janeiro, the Rio Municipality and several UN agencies, as well as academic institutions, businesses and civil society groups.

AHMADOU SADIO DIALLO (REPUBLIC OF GUINEA V. DEMOCRATIC REPUBLIC OF THE CONGO)

The International Court of Justice delivered its judgment in the case concerning Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo) on 19 June 2012 that the amount of compensation due from the Democratic Republic of the Congo to the Republic of Guinea for the injury suffered by Mr. Diallo is US$95,000.

The ICJ (1) fixed, by fifteen votes to one, the amount of compensation due from the Democratic Republic of the Congo to the Republic of Guinea for the non-material injury suffered by Mr. Diallo at US$85,000; (2) fixed, by fifteen votes to one, the amount of compensation due from the Democratic Republic of the Congo to the Republic of Guinea for the material injury suffered by Mr. Diallo in relation to his personal property at US$10,000; (3) found, by fourteen votes to two, that no compensation is due from the

Democratic Republic of the Congo to the Republic of Guinea with regard to the claim concerning material injury allegedly suffered by Mr. Diallo as a result of a loss of professional remuneration during his unlawful detentions and following his unlawful expulsion; (4) founds, unanimously, that no compensation is due from the Democratic Republic of the Congo to the Republic of Guinea with regard to the claim concerning material injury allegedly suffered by Mr. Diallo as a result of a deprivation of potential earnings; (5) decided, unanimously, that the total amount of compensation due under points 1 and 2 above shall be paid by 31 August 2012 and that, in case it has not been paid by this date, interest on the principal sum due from the Democratic Republic of the Congo to the Republic of Guinea will accrue as from 1 September 2012 at an annual rate of 6 per cent; (6) rejected, by fifteen votes to one, the claim of the Republic of Guinea concerning the costs incurred in the proceedings.

On issue of Heads of damage in respect of which compensation is requested, the ICJ noted that Guinea seeks compensation under four heads of damage: non-material injury and three heads of material damage.

On issue of compensation for the non-material injury suffered by Mr. Diallo, the ICJ took into account various factors in order to assess the non-material injury suffered by Mr. Diallo, including the arbitrary nature of Mr. Diallo's arrests and detentions, the unjustifiably long period during which he was detained, the unsupported accusations against him, his wrongful expulsion from a country where he had resided for 32 years and where he had engaged in significant business activities, and the link between Mr. Diallo's expulsion and the fact that he had attempted to recover debts which he believed were owed to his companies by the Zairean State or companies in which the State held a substantial portion of the capital. The Court also takes into account the fact that it has not been demonstrated that Mr. Diallo was mistreated.

The Court considerd that, on the basis of equitable considerations, the amount of US$85,000 would provide appropriate compensation for the non-material injury suffered by Mr. Diallo (paras. 21-25).

On issue of alleged loss of Mr. Diallo's personal property (including assets in bank accounts), the ICJ considerd that Guinea has failed to prove the extent of the alleged loss of Mr. Diallo's personal property, namely the furnishings that appear on the inventory of personal property in Mr. Diallo's apartment, certain high-value items alleged to have been in the apartment, which are not specified on that inventory, and assets in bank accounts, and the extent to which any such loss was caused by the DRC's unlawful conduct. The Court recalled, however, that Mr. Diallo lived and worked in the territory of the DRC for over 30 years, during which time he surely accumulated personal property. It considered that Mr. Diallo would have had to transport his personal property to Guinea or to arrange for its disposition in the DRC. Thus, the ICJ is satisfied that the DRC's unlawful conduct caused some material injury to Mr. Diallo with respect to the personal property that was in his apartment.

In such a situation, the Court considerd that, on the basis of equitable considerations, the amount of US$10,000 would provide appropriate compensation for the material injury suffered by Mr. Diallo (paras. 30-36).

On issue of alleged loss of remuneration during Mr. Diallo's unlawful detentions and following his unlawful expulsion, the ICJ considered that Guinea has failed to establish that Mr. Diallo was receiving remuneration from his two companies in the period immediately prior to his detentions. The ICJ noted that Guinea also has not explained how Mr. Diallo's detentions caused an interruption in any remuneration that Mr. Diallo might have been receiving in his capacity as gérant of those companies. Under these circumstances, the ICJ considered that Guinea has not proven that Mr. Diallo suffered a loss of professional remuneration as a result of his unlawful detentions (paras. 37-46).

The ICJ considered that the reasons for rejecting the claim for loss of professional remuneration during the period of Mr. Diallo's detentions also apply to the claim relating to the period following Mr. Diallo's expulsion. The ICJ added that the claim is moreover highly speculative and assumes that Mr. Diallo would have continued to receive a monthly amount had he not been unlawfully expelled. Thus, the Court concluded that no compensation can be awarded for Guinea's claim relating to unpaid remuneration following Mr. Diallo's expulsion (paras. 47-49).

The ICJ therefore awarded no compensation for remuneration that Mr. Diallo allegedly lost during his detentions and following his expulsion (para. 50).

On issue of alleged deprivation of potential earnings, the ICJ noted that Guinea makes an additional claim that it describes as relating to Mr. Diallo's "potential earnings". The ICJ considered that this claim amounts to a claim for a loss in the value of the companies allegedly resulting from Mr. Diallo's detentions and expulsion. Such a claim is beyond the scope of the proceedings, given the Court's prior decision that Guinea's claims relating to the injuries alleged to have been caused to the companies are inadmissible.

For these reasons, the ICJ awarded no compensation to Guinea in respect of its claim relating to the "potential earnings" of Mr. Diallo (paras. 51-54).

On issue of total sum awarded and post-judgment interest, the ICJ concluded that the total sum awarded to Guinea is US$95,000 to be paid by 31 August 2012. The ICJ decided that, should payment be delayed, post-judgment interest on the principal sum due will accrue as from 1 September 2012 at an annual rate of 6 per cent (para. 56).

On issue of procedural costs, the Court decides that each Party shall bear its own costs (para. 60).

The ICJ was composed as follows: President Tomka; Vice-President Sepúlveda-Amor; Judges Owada, Abraham, Keith, Bennouna, Skotnikov, Cançado Trindade, Yusuf, Greenwood, Xue, Donoghue, Gaja, Sebutinde; Judges ad hoc Mahiou, Mampuya; Registrar Couvreur. Judge Cançado Trindade appends a separate opinion to the Judgment of the Court; Judges Yusuf and Greenwood append declarations to the Judgment of the Court; Judges ad hoc Mahiou and Mampuya append separate opinions to the Judgment of the Court.

SWEDEN BECOMES A PARTY TO PART II (FORMATION OF THE CONTRACT) OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG)

On 25 May 2012, Sweden took action needed to become a party to Part II of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Therefore, Sweden will now apply both CISG Part II, which covers the formation of contracts, and CISG Part III, which covers the

obligations of buyers and sellers. Contracts concluded by parties having their place of business in any of the five Nordic States (Denmark, Iceland, Finland, Norway and Sweden) will continue to be excluded from the scope of application of the CISG.

Sweden accepts the provisions on contract formation by withdrawing a declaration, made upon signing the CISG in 1981, that it would not be bound by Part II. Sweden's action will take effect on 1 December 2012 and is part of a current trend for States to reconsider declarations made upon signing or acceding to the CISG. Withdrawal of these declarations increases the level of legal uniformity in the scope of application of the convention. Finland has recently lodged treaty actions similar to those of Sweden. (See press release UNIS/L/162 of 22 May 2012.)

The United Nations Convention on Contracts for the International Sale of Goods provides an equitable and modern uniform framework for the contract of sale, which is the backbone of international trade in all countries, irrespective of their legal tradition or level of economic development. The CISG is therefore considered to be one of the core conventions in international trade law. The CISG, which has been adopted by a large number of major trading countries, establishes a comprehensive code of legal rules governing the formation of contracts for the international sale of goods, the obligations of the buyer and seller, remedies for breach of contract and other aspects of the contract. The CISG has currently 78 State Parties.

WTO ADOPTED CLOVE CIGARETTE RULINGS: IN GAMBLING CASE

At its meeting on 24 April 2012, the Dispute Settlement Body (DSB) adopted the panel and Appellate Body reports on US measures affecting the sale of clove cigarettes (DS406). Antigua and Barbuda informed the DSB of its desire to seek recourse to the “good offices” of the Director-General to find a mediated solution in the gambling case (DS285).

The United States appeals certain issues of law and legal interpretations developed in the Panel Report, United States – Measures Affecting the Production and Sale of Clove Cigarettes (the "Panel Report"). The Panel was established on 20 July 2010 to consider a complaint by Indonesia with respect to a measure adopted by the United States that prohibits cigarettes with characterizing flavours, other than tobacco or menthol. Before the Panel, Indonesia claimed that the United States acted inconsistently with its substantive and procedural obligations under the Agreement on Technical Barriers to Trade (the "TBT Agreement") and the General Agreement on Tariffs and Trade 1994 (the "GATT 1994"). In particular, Indonesia claimed that Section 907(a)(1)(A) of the United States Federal Food, Drug and Cosmetic Act (the "FFDCA")—as amended by the Family Smoking Prevention and Tobacco Control Act (the "FSPTCA")—was inconsistent with Articles 2.1, 2.2, 2.5, 2.8, 2.9, 2.10, 2.12, and 12.3 of the TBT Agreement. Alternatively, Indonesia claimed that Section 907(a)(1)(A) was inconsistent with Article III:4 of the GATT 1994 , and could not be justified under Article XX(b) thereof.

The Panel Report was circulated to Members of the World Trade Organization (the "WTO") on 2 September 2011. The Panel found that Section 907(a)(1)(A) was inconsistent with Article 2.1 of the TBT Agreement because it accorded to imported clove cigarettes less favourable treatment than that accorded to like menthol cigarettes of national origin. Having found that Section 907(a)(1)(A) was inconsistent with Article 2.1 of the TBT Agreement, the Panel declined to rule on Indonesia's alternative claim under Article III:4 of the GATT 1994 and on the United States' related defence under Article XX(b) of the GATT 1994.

The Panel further found that the United States acted inconsistently with Article 2.9.2 of the TBT Agreement by failing to notify to WTO Members, through the Secretariat, the products to be covered by the proposed Section 907(a)(1)(A), together with a brief indication of its objective and rationale, at an appropriate early stage when amendments and comments were still possible. The Panel also found that the United States acted inconsistently with Article 2.12 of the TBT Agreement by not allowing an interval of no less than six months between the publication and the entry into force of Section 907(a)(1)(A).

For the reasons set out in this Report, the Appellate Body:

(a) With respect to Article 2.1 of the TBT Agreement:

(I) upholds, albeit for different reasons, the Panel's finding, in paragraph 7.248 of the Panel Report, that clove cigarettes and menthol cigarettes are "like products" within the meaning of Article 2.1 of the TBT Agreement; (ii) finds that the Panel did not act inconsistently with Article 11 of the DSU in its analysis of consumer tastes and habits; (iii) upholds, albeit for different reasons, the Panel's finding, in paragraph 7.292 of the Panel Report, that, by banning clove cigarettes while exempting menthol cigarettes from the ban, Section 907(a)(1)(A) of the FFDCA accords imported clove cigarettes less favourable treatment than that accorded to domestic menthol cigarettes, within the meaning of Article 2.1 of the TBT Agreement; (iv) finds that the Panel did not act inconsistently with Article 11 of the DSU in its less favourable treatment analysis; and, therefore, (v) upholds, albeit for different reasons, the Panel's finding, in paragraphs 7.293 and 8.1(b) of the Panel Report, that Section 907(a)(1)(A) of the FFDCA is inconsistent with Article 2.1 of the TBT Agreement because it accords to imported clove cigarettes less favourable treatment than that accorded to like menthol cigarettes of national origin; and

(b) With respect to Article 2.12 of the TBT Agreement: (I) upholds the Panel's finding, in paragraph 7.576 of the Panel Report, that paragraph 5.2 of the Doha Ministerial Decision constitutes a subsequent agreement between the parties, within the meaning of Article 31(3)(a) of the Vienna Convention, on the interpretation of the term "reasonable interval" in Article 2.12 of the TBT Agreement; and (ii) upholds, albeit for different reasons, the Panel's finding, in paragraphs 7.595 and 8.1(h) of the Panel Report, that, by failing to allow an interval of not less than six months between the publication and the entry into force of Section 907(a)(1)(A) of the FFDCA, the United States acted inconsistently with Article 2.12 of the TBT Agreement.

The Appellate Body recommends that the DSB request the United States to bring its measure, found in this Report, and in the Panel Report as modified by this Report, to be inconsistent with the TBT Agreement, into conformity with its obligations under that Agreement.

India Files Dispute against US

On 12 April 2012, India requested consultations with the US under the dispute settlement system concerning the latter's countervailing duties on certain steel products from India.

RECENT DEVELOPMENTS/NEW ACQUISITION IN ISIL LIBRARY

WTO Sets up Panel to Examine US Complaint against India's Agricultural Import Measures

At its meeting on 25 June 2012, the Dispute Settlement Body (DSB) established a panel to examine the US complaint against India's agricultural import measures (DS430).

DS430: India — Measures Concerning the Importation of Agricultural Products

The US introduced its request for a panel (WT/DS430/3). The US said that, as it had explained at the May 2012 DSB meeting, the US and other members had concerns about India's measures prohibiting the importation of various agricultural products into India from members reporting outbreaks of Low Pathogenic Notifiable Avian Influenza (LPAI). The US was of the view that such measures had no scientific basis; were inconsistent with the guidelines of the World Organization for Animal Health; and appeared to be inconsistent with a number of India's WTO obligations. Thus, the US requested, for the second time, the establishment of a panel to examine the matter.

India said that during the consultations, it had provided explanations and scientific rationale and was disappointed that the US had chosen to litigate rather than negotiate the matter. India considered that its measures were consistent with its WTO obligations and stood ready to defend them.

The DSB established a panel with standard terms of reference. China, Colombia, Ecuador, EU, Guatemala, Japan and Viet Nam reserved their third party rights to participate in the panel's proceedings.

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FORTHCOMING EVENTS

Convocations and Inauguration of the P G Diploma Courses of the ISIL, 3 September 2012

12th Henry Dunant Memorial Moot Court Competition 2012, 20th -23rd September 2012

ISIL and University of Washington School of Law Jointly Organising "Intellectual Property Policy Seminar", 14 December 2012

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