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Agenda item 93

AMENDMENT TO ARTICLE 22 OF THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE  
(SEAT OF THE COURT) AND CONSEQUENTIAL AMENDMENTS TO ARTICLES 23 AND 28

Report of the Sixth Committee

Rapporteur: Mr. Piet-Hein HOUBEN (Netherlands)

I. INCLUSION OF THE ITEM IN THE AGENDA

1. By a note, dated 20 June 1969,<sup>1/</sup> the Secretary-General informed the General Assembly that, pursuant rule 13 (d) of the rules of procedure of the General Assembly, the International Court of Justice had proposed the inclusion in the agenda of the twenty-fourth regular session of the General Assembly of an item entitled:

"Amendment to Article 22 of the Statute of the International Court of Justice (Seat of the Court) and consequential amendments to Articles 23 and 28."

The Secretary-General's note was accompanied by an explanatory memorandum submitted by the International Court of Justice, together with its proposals for the amendment to the Statute and the written communication from the Court to the Secretary-General made under Article 70 of the Statute of the Court. On 10 July 1969, a draft resolution, submitted by the Court, was circulated as an addendum to the Secretary-General's note.<sup>2/</sup> This draft resolution embodied the amendments to Articles 22, 23 and 28 of the Statute proposed by the Court. Finally, on 14 November 1969, a further addendum to the Secretary-General's note was circulated, which contained a letter of 7 November 1969 from the President of

<sup>1/</sup> A/7591.

<sup>2/</sup> A/7591/Add.1.

the Court, addressed to the Secretary-General, to which was annexed an exchange of correspondence between the President and the Minister for Foreign Affairs of the Netherlands and a further memorandum by the Court.<sup>3/</sup>

2. At its 1758th plenary meeting, on 20 September 1969, the General Assembly accepted the recommendations of the General Committee<sup>4/</sup> that the foregoing item should be included in the agenda of its twenty-fourth session (item 93) and allocated to the Sixth Committee.

II. PARTICIPATION OF STATES PARTIES TO THE STATUTE OF THE  
INTERNATIONAL COURT OF JUSTICE, BUT NOT MEMBERS OF THE  
UNITED NATIONS, IN THE PROCEDURE FOR AMENDING THE STATUTE

3. By letter dated 23 September 1969,<sup>5/</sup> the President of the General Assembly informed the President of the Security Council of the inclusion of agenda item 93 in the agenda, and drew attention to article 69 of the Statute of the International Court of Justice, under which the Security Council may recommend to the General Assembly provisions concerning the participation of States which are parties to the Statute but are not Members of the United Nations in the procedure for effecting amendments to the Statute.

4. By letter dated 23 October 1969<sup>6/</sup> the President of the Security Council transmitted to the President of the General Assembly, Security Council resolution 272 (1969) of 23 October 1969, containing the Council's recommendations concerning the foregoing provisions.

5. By a note of 25 November 1969,<sup>7/</sup> the Secretary-General drew the attention of the General Assembly to the exchange of correspondence between the Presidents of the General Assembly and of the Security Council, and proposed that the recommendations of the Security Council regarding the participation of States parties to the Statute, but not Members of the United Nations, in the procedure

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<sup>3/</sup> A/7591/Add.2 and Corr.1 (English only).

<sup>4/</sup> A/7700, paras. 12 and 15.

<sup>5/</sup> A/7793, annex I.

<sup>6/</sup> Ibid., annex II.

<sup>7/</sup> A/7793.

for amending the Statute be considered directly in plenary meeting of the General Assembly. In this respect, the Secretary-General proposed for the consideration of the General Assembly a draft resolution embodying the recommendations of the Security Council.<sup>8/</sup> The General Committee endorsed the Secretary-General's proposal that this procedural aspect of agenda item 93 be taken up directly in plenary<sup>9/</sup> and the General Assembly so decided, at its 1819th meeting, on 1 December 1969.

6. At its 1820th plenary meeting, on 4 December 1969, the General Assembly unanimously adopted the draft resolution proposed by the Secretary-General, and embodying the Security Council's recommendations, as its resolution 2520 (XXIV). Pursuant to this resolution, at the 1173rd meeting of the Sixth Committee, on 8 December 1969, when agenda item 93 was taken up, the Chairman invited the representatives of States parties to the Statute, but not Members of the United Nations (that is, Liechtenstein, San Marino and Switzerland) to participate in the consideration of the item.

### III. PROCEEDINGS OF THE SIXTH COMMITTEE

7. At the 1173rd meeting of the Sixth Committee, on 8 December 1969, the Chairman made a statement referring to the exchanges of view which had taken place among delegations concerning agenda item 93. He said that, from this exchange of views, it would appear that there was a general feeling that, at this very late stage of the current session, there was insufficient time to give the item the serious consideration and discussion which it required and that the item should therefore be postponed until the next session of the General Assembly. The Chairman suggested that the Sixth Committee recommend to the General Assembly that it decide to postpone consideration of agenda item 93 and that it request the Secretary-General to include the item in the provisional agenda of the twenty-fifth regular session. The Sixth Committee adopted this suggestion without objection.

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<sup>8/</sup> Ibid., annex III.

<sup>9/</sup> A/7700/Add.5, para. 3.

IV. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee therefore recommends to the General Assembly the adoption of the **following decision**:

"The General Assembly decides to postpone consideration of agenda item 93 and requests the Secretary-General to include the item in the provisional agenda of the twenty-fifth regular session."

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