



# The Indian Society of International Law NEWSLETTER

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For members only

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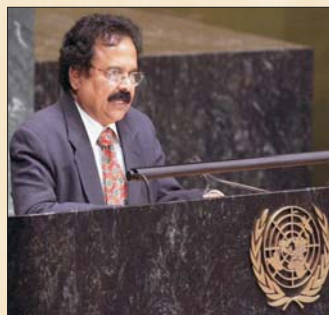
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## Editorial



The 19th Conference of the Party meeting on Climate Change took place in Warsaw (Poland), from 11-23 November 2013. The Conference focused on the issues relating to the following: (a) mitigation of greenhouse gases; (b) financing greenhouse gas mitigation efforts in developing countries; (c) adaptation and (d) the tools relating to monitoring of implementation. The Conference took up for discussion the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) on the four components.

The main expectation for the ADP at COP 19 was to intensify work on the content of the 2015 Agreement and on pre-2020 ambition of reducing greenhouse gases. The content of the negotiations

focused on how to bridge the "Emissions Gap", the current level of ambition and what is necessary to achieve the target of keeping the global average temperature rise below 2 degrees Celsius (the climate system is supposed to stabilize at this point). What would be the legal means to achieve the target of 2 degrees Celsius that is expected to enter into force by 2020 was fiercely debated by the climate change negotiators.

The Warsaw Climate Change Conference took a different approach to curb the greenhouse gases. Instead of relying on traditional approach of top-down model, it switches over to bottom-up approach. The latter envisages that states themselves would decide the extent and nature of contributions to meet the target. In other words, the contributions would be nationally determined rather than to be decided by the COP or the COP/MOP. It fundamentally leaves the legal nature of the 2015 agreement wide-open.

Finance was specifically discussed at the Conference since the slow progress towards meeting the target of 100 billion USD by the developed country Parties by 2020. The developing countries demanded a clear roadmap to scale up climate finance to the 100 billion USD promised for 2020, with a milestone of 70 billion USD to be achieved in 2016. Pledges made in Warsaw, including US \$ 40 million by the Republic of Korea to the Green Climate Fund (GCF) and US \$ 72.5 million by seven European governments to the Adaptation Fund, were insufficient to build confidence among developing countries that the promised target would be realized by 2020.

In a significant development, the Conference decided to set up an institutional mechanism to address loss and damage in countries that are particularly vulnerable to the adverse effects of climate change, and elaborate its functions and modalities in accordance with the role of the Convention. The purpose of the mechanism is: enhancement of knowledge and understanding of risk management approaches to address loss and damage; strengthening interaction among relevant stakeholders and the enhancement of action and support.

On the adaptation front, the continuation and future design of the Nairobi Work Programme (NWP), which supports developing countries in the analysis and assessment of adaptation-related issues and is to lead to improved decision-making and implementation measures was considered.

In Warsaw, main outcome relevant to Measurable Reportable and Verifiable (MRV) (tools to monitor the quality of implementation) of Annex I countries were:

- The Revision of the UNFCCC reporting guidelines on annual inventories for Parties included in Annex I to the Convention", and
- The "work programme on the revision of the guidelines for the review of biennial reports and national communications, including national inventory reviews, for developed country Parties".

The Warsaw Climate Change conference was not expected to produce any legally binding agreement but it was expected to contribute towards the building-up of the agreement significantly by the end of 2015.

**Dr. E. M. Sudarsana Natchiappan**

# RECENT ACTIVITIES

## RECENT ACTIVITIES

### SPECIAL LECTURE ON “THE ARCTIC AND THE MODERN LAW OF THE SEA” BY JUDGE HELMUT TUERK, ITLOS

A Special Lecture on “The Arctic and the Modern Law of the Sea” was organized on 8 April 2013. The lecture was delivered by Judge Helmut Tuerk, ITLOS. Dr. E. M. S. Natchiappan, President, ISIL welcomed the speaker and Narinder Singh, Secretary General, ISIL gave vote of thanks. The role of India on the subject has been the focus of interaction. The lecture witnessed lively interactions and discussion by the participants.

### 42<sup>nd</sup> ANNUAL CONFERENCE OF THE INDIAN SOCIETY OF INTERNATIONAL LAW

Indian Society of International Law (ISIL) organized its 42<sup>nd</sup> Annual Conference on 20-21 April 2013 at its premises. More than 150 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. Dr. E. M. S. Natchiappan, President, ISIL welcomed the chief guest Hon'ble Justice Vikramajit Sen, Judge, Supreme Court of India. Justice Sen inaugurated the Conference.

The 42<sup>nd</sup> Annual Conference begins with the Preliminary Remarks by Dr. Neeru Chadha, Joint Secretary, L&T Division, MEA, Government of India on “Role of L&T Division, MEA, Government of India in the Development of International Law”. Four sessions were organized to discuss three themes. First Session was organized on “Cyber Laws – Internet Treaties” which was chaired by Dr. Gulshan Rai, Director-General, CERTIN. Dr. Kamlesh Bajaj, CEO, DSCI, Shri Pavan Duggal, Senior Advocate, Supreme Court of India, Maj Anil Kumar Bakshi, Lawyer presented their papers on the theme. Second Session focusing the theme “Investment Treaties- Investment Disputes” was chaired by Narinder Singh, SG, ISIL. Eminent panelists Shri T. C. James, RIS, Prof. A. Jayagovinda, Former Vice Chancellor,

NLSIU, Bangalore presented their papers in this session. Third Session focusing “Climate Change” was chaired by Shri Sanjay Parikh, Advocate, Supreme Court of India. Dr. Archana Negi, Assistant Professor, JNU, New Delhi, Dr. Anwar Sadat, Assistant Professor, ISIL, Mr. Shiju M. V., Assistant Professor, TERI, New Delhi and Ms. Lovleen Bhullar, Independent Researcher presented their papers on the theme. Fourth Session was on “Private International Law” chaired by Hon'ble Justice Manju Goel, Retired Judge, Delhi High Court.

### 12<sup>th</sup> SUMMER COURSE ON INTERNATIONAL LAW

The ISIL organized its 12<sup>th</sup> Summer Course on International Law at its premises from 27 May – 7 June 2013 and the Course received a huge response of 200 participants from many parts of the country. The Summer Course was intended to introduce all branches of international law and highlight contemporary issues to the participants. The Course was inaugurated by Prof.



# RECENT ACTIVITIES

Philippe Cullet, ICERL on 27<sup>th</sup> May 2013. Prof. Cullet spoke on “Water and Sustainable Development: International Law”. The lecture comprehensively examines water law regulations and reform in the present decade, going beyond a simple analysis of existing water law and regulations to encompass environmental, social, economic, and human rights aspects of water as a natural resource. Prof. Cullet said, “I am happy to see so many of you have chosen to participate in the Twelfth Summer Course on International Law organized by the Indian Society of International Law. I am convinced that it is the only specialized course of this nature which is filled with international law experts that could come out with some practical and workable ideas in this regard. I wish the participants a great success.”

The substantive lectures of the Course were spread over two weeks. Lectures were delivered on vital and contemporary areas of international law, viz., General Principles of Public International Law, Introduction to Private International Law, International Institutions, International Human Rights Law, International Humanitarian and Refugee Law, International Criminal Law, Maritime Law, Public International Trade Law, National and International Arbitration, International Environmental Law and Sustainable Development. The faculties for the Summer Course comprised of eminent international law experts. The Course witnessed lively interactions and discussion by the participants.

## **13<sup>th</sup> HENRY DUNANT MEMORIAL MOOT COURT COMPETITION 2013 (NATIONAL ROUND)**

ISIL and the International Committee of

the Red Cross (ICRC), New Delhi jointly organized the 13<sup>th</sup> Henry Dunant Memorial Moot Court Competition (National Round) at its premises from 19<sup>th</sup> to 22<sup>nd</sup> September 2013. Dr. E. M. S. Natchiappan, President, ISIL, gave welcome address. On this occasion Hon'ble Justice Justi Chelameshwar, Judge, Supreme Court of India gave inaugural address. He appreciated team members participating in the Competition and underlined the importance of the event in the present day which equips the students to develop skills and create asset for the bar of the country. Ms. Mary Wertz, Head of the Regional Delegation, ICRC, New Delhi also addressed the gathering and spoke on the importance of the moot court competition and highlighted the contribution of the ICRC in the development of international humanitarian law. Participants from 54 law universities and/ colleges came to participate in the Competition. Narinder Singh, Secretary General, ISIL gave a formal vote of thanks.

The Competition was conducted in four stages, preliminary, quarter-final, semi-final and final rounds. The participants were judged on the basis of written memorials, appreciation of facts and law, advocacy skills, use of authorities and citations, general impression and court manners. Eminent professors, legal officers and international law scholars judged the teams in preliminary, quarter-final and semi-final rounds. Hon'ble Justice S. Ravindra Bhat, Judge, Delhi High Court, His Excellency, Prof. (Dr.) Gudmundur Eiriksson, Ambassador of Iceland to India and Dr. Nerru Chadha, Joint Secretary, L&T Division, MEA, Government of India were the final round judges. *National Law University, Jodhpur* and *Jindal Global Law School, Sonapat* were the winner and runner up of the Competition respectively. *Kautav Shah, NLSIU, Bangalore* was adjudged the Best Advocate, *Mohammad*

*Kamran, NUALS, Kochi* and *Kratika Chaturvedi, GLC, Mumbai* shared the Best Researcher award, and *National Law University, Delhi* won Best Memorial award in this Competition. Hon'ble Justice Bhat gave valedictory address on the occasion.

## **SPECIAL LECTURE ON “INTERNATIONAL LAW AND THE USE OF FORCE: WHAT HAPPENS IN PRACTICE?”**

A Special lecture was organized on “International Law and the Use of Force: What Happens in Practice?” on 13 September 2013. The lecture was delivered by Sir Michael Wood, Member, International Law Commission, Geneva. The lecture witnessed lively discussion.

## **TWO DAY TRAINING WORKSHOP ON INTELLECTUAL PROPERTY RIGHTS AND WTO ACCOUNTABILITY –SCOPE OF PATENTING FOR INDIAN FOREST SERVICE OFFICERS**

Two-day Training Workshop on Intellectual Property Rights and WTO Accountability – Scope of Patenting for Indian Forest Service Officers held on 22 and 23 August 2013. ISIL undertook following themes for discussion in the Programme: 1. International and National Patent Laws; 2. India-Scope of Patent; 3. Forest, TRIPS, Convention on Biological Diversity and Traditional Knowledge; and 4. Procedure of Patent. There were lectures and presentations on the above mentioned themes. The faculty of the training course consisted of eminent international law scholars. 30 IFS

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Officers participated in the Training Workshop.

### CONVOCATION AND INAUGURATION OF P. G. DIPLOMA AND CERTIFICATE COURSES OF THE INDIAN ACADEMY OF INTERNATIONAL LAW, ISIL, NEW DELHI

ISIL organized the Convocation for awarding of Post Graduate Diploma Certificates on 2 September 2013. The ceremony was also marked to inaugurate the Post Graduate Diploma Courses 2013 conducted by the Indian Academy of International Law and Diplomacy, a teaching wing of the Indian Society of International Law. Dr. E. M. S. Natchiappan, President, ISIL welcomed and introduced the chief guest Hon'ble Justice Vikramjit Sen, Judge, Supreme Court of India to deliver the inaugural address. Ms. Garima Sahdev received V.

K. Krishna Menon Memorial Prize for securing the highest marks in the Post Graduate Diploma Course in International Law and Diplomacy; *Mr. Jitendra Kumar Mishra* received K. Krishna Rao Memorial Prize for securing the highest marks in the Post Graduate Diploma Course in International Trade and Business Law; *Mr. Amit Upadhyay* received Judge Nagendra Singh Memorial Prize for securing the highest marks in the Post Graduate Diploma Course in Human Rights, International Humanitarian and Refugee Law; *Ms. Sowmyashree Kulkarni* received M. K. Nawaz Memorial Prize in the Post Graduate Diploma Course on Intellectual Property Rights Law; and *Mr. Rohit Kumar*, topped in the P G Diploma Course on International Environmental Law.

### MONTHLY DISCUSSION FORUM

Monthly discussions were organized on the following topics:

"India and Pakistan Water Relations: A Look at the Kishanganga" on 3 May 2013. Dr. Uttam Kumar Sinha, Institute of Defence Studies and Analysis (IDSA), New Delhi initiated the discussion.

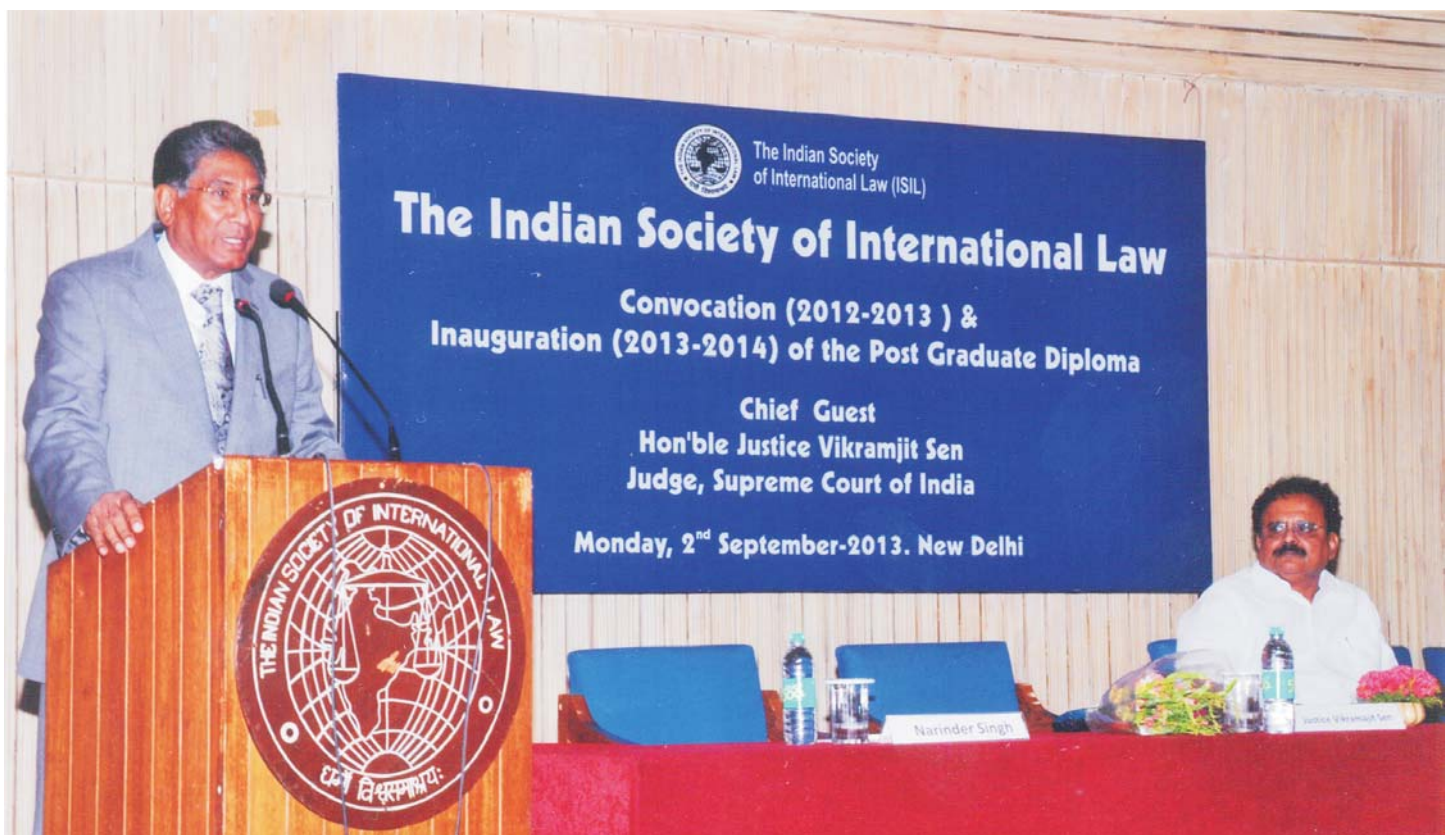
"New Challenges of IPR for India" on 5 July 2013. Prof. S. K. Verma, EC Member, ISIL initiated the discussion.

"US Surveillance, India and Snowden" on 2 August 2013. Dr. Srinivas Burra, EC Member, ISIL initiated the discussion.

### RECENT DEVELOPMENT

#### CANADA WITHDRAWS FROM UN CONVENTION COMBATING AFRICAN DROUGHT

The Canadian government announced, on 29 March 2013 that it is withdrawing from a UN Convention to Combat Desertification (UNCCD) intended to fight droughts in Africa. Canadian Prime



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Minister Stephen Harper claimed the move was necessary as the convention was "too bureaucratic" and that only one fifth of the CAN \$350,000 contributed to the convention actually was used for programming. Canada is now the only one state out of the 193 Member States not party to the Convention. Canada had signed the convention in 1994 and ratified it in 1995.

The decision to drop out of the UNCCD has cast additional attention on Canada's environmental record. In 2011 Canada was the first nation to withdraw from the Kyoto Protocol on climate change. The decision to drop out of Kyoto was five years after they were subject to a series of lawsuits for their failure to comply with the standards imposed by Kyoto.

### UN GENERAL ASSEMBLY APPROVES GLOBAL ARMS TRADE TREATY

The United Nations General Assembly has approved a global arms trade treaty that failed to achieve unanimous support last week but garnered the support of a majority of Member States when put to a vote on 2 April 2013. The resolution containing the text of the treaty, which regulates the international trade in conventional arms, received 154 votes in favour. Three Member States – Democratic People's Republic of Korea (DPRK), Iran and Syria – voted against the decision, while 23 countries abstained.

However, the treaty is not perfect, since numerous ambiguities remain in the text which could end up favouring the arms industry," the expert added, stressing that nothing in the treaty prohibits selling weapons to non-State entities.

### PEACEFUL USE OF OUTER SPACE AT HEART RENEWED UN EFFORTS

On 8 April 2013, the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space (COPUOS) began a 12-day meeting in Vienna to the UN Office of Outer Space Affairs (UNOOSA), focussing on the status and application of UN treaties on outer space, definition and delimitation of outer space, legal mechanisms relating to space debris mitigation measures and capacity-building in space law. The meeting, which follows a five-day session in Geneva of the UN-backed Group of Governmental Experts on Transparency and Confidence-Building Measures in Outer Space Activities, will review national legislation relevant to the peaceful exploration and use of outer space. It will open a new agenda item

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under a five year work-plan on the review of international mechanisms for cooperation in the peaceful exploration and use of outer space which will aim this year at identifying a range of bilateral and multilateral legal mechanisms for space cooperation.

There are five UN treaties dealing with outer space. These govern the exploration and use of outer space, the rescue of astronauts and the return of objects launched into space, liability for damage caused by space objects, registration of objects launched into space, and the activities of States on the moon and other celestial bodies. During the meeting working groups will report on the status and application of these treaties and on the definition and delimitation of outer space.

## FORESTS: NEW UN-BACKED MONITORING TOOL AIMS TO HELP COMBAT DEFORESTATION

A new initiative unveiled, on 9 April 2013 at the United Nations Forum on Forests will provide clear and timely information that makes it easier for governments, companies and communities to fight deforestation. Global Forest Watch 2.0 is a an independent, interactive, real-time, forest monitoring system that unites satellite technology, data sharing and human networks around the world to provide information critical to better managing forests. It was developed by the World Resources Institute and a number of partners – including Google, the University of Maryland and the UN Environment Programme (UNEP) – and was previewed for participants at the Forum's current session in Istanbul, Turkey. Introducing the new tool, Nigel Sizer, Director, Global Forests Initiative, World Resources Institute, pointed out that many countries have made

tremendous progress in improving the quality of information gathered about forests and making it accessible. One example is Brazil, with its near real-time forests monitoring systems that have greatly enhanced its enforcement efforts.

Another example is Gabon, which is investing millions of dollars in improving access across the region to satellite imagery and remote sensing for a new infrastructure programme that is being developed on the ground. According to the World Resources Institute, the new initiative has been made possible thanks to a convergence of technologies and human networks, including advances in satellite and remote sensing technology.

Also, cloud computing and open source software can now be used to rapidly process and interpret large volumes of satellite data at low cost by utilizing clusters of servers scattered around the world. Google Earth Engine's team is partnered with Global Forest Watch 2.0 to optimize easy access to cloud computing-based forest cover information.

Meanwhile, high-speed internet connectivity enables sending data and forest maps processed in North America, Europe or Singapore to laptops and mobile phones in Jakarta, Kinshasa, Lima, Vladivostok, and other corners of the globe. Also, smartphones, which are more and more common, can be used by anyone in the field to download maps and satellite images, as well as upload GPS coordinates and photographs from the ground.

In addition, crowd sourcing using simple web interfaces can empower large numbers of people to gather and share information, participate in forest monitoring, and hold decision-makers accountable. Added to this are social media outlets which can spread information quickly, help communities organize, and mobilize people to act.

## INTERNATIONAL INVESTMENT DISPUTES HIT RECORD IN 2012 – UN REPORT

Foreign investors are increasingly resorting to investor-State arbitration to settle investment disputes, with a record number of cases filed last year, according to a new report released, on 10 April 2013 by the United Nations Conference on Trade and Development (UNCTAD). The report, "Recent Developments in Investor-State Dispute Settlement (ISDS)", showed that 62 new cases were filed in 2012, of which 68 per cent of respondents were from developing or transition economies. "Recent developments have amplified a number of cross-cutting challenges that are facing the ISDS mechanism, which gives credence to calls for reform of the investment arbitration system," said James Zhan, Director of UNCTAD's Division on Investment and Enterprise, which published the report.

Foreign investors challenged a broad range of government measures, UNCTAD reported, including revocations of licences, breaches of investment contracts, irregularities in public tenders, changes to domestic regulatory frameworks, withdrawal of previously granted subsidies, direct expropriations of investments and imposition of taxes. Nine decisions in 2012 awarded damages, including the World Bank's International Centre for the Settlement of Investment Disputes (ICSID), which ordered Ecuador to pay \$1.77 billion to Occidental Petroleum Corp as compensation for taking over its assets in 2006. The monetary award was the highest in the history of Investor-State Dispute Settlement (ISDS).

In addition, for the first time in treaty-based ISDS proceedings, an arbitral tribunal affirmed its jurisdiction over a

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counterclaim lodged by a respondent State against the investor. By the end of 2012, the total number of known cases reached 518, and the total number of countries that have responded to one or more ISDS claims increased to 95, according to UNCTAD. The overall number of concluded cases reached 244, out of which approximately 42 per cent were decided in favour of the State and 31 per cent in favour of the investor. Approximately 27 per cent of the cases were settled.

## **TURKISH LAW ON PROTECTION OF FOREIGNERS**

Turkey's newly adopted law on "Foreigners and International Protection" unveiled by the interior minister, on 11 April 2013 marked significant changes in the sense of human rights of immigrants and foreigners. The law has three parts, "foreigners," "international protection" and "migration management." The law will find a balance between public safety and the rights of foreigners. Foreigners who come to Turkish ports for less than 72 hours will not be obliged to have visas under the new law. The previous practice used to oblige foreigners to get 24-hour or 48-hour visas. To combat floating migration, Turkey will make carrier airlines firms return passengers whose entrance to third countries is rejected.

The law also incorporates key elements of international humanitarian and human rights law. The Law on Foreigners and International Protection, recently adopted by the Government, provides for the establishment under the Ministry of the Interior of a specialized institution to manage international protection. This institution will also prepare the implementing regulations over the next year.

During this transition period and beyond,

UNHCR will continue to extend its support and expertise to the Turkish authorities in advancing this legal framework and its full implementation. Presently, Turkey is hosting 34,576 asylum-seekers and refugees originating from Afghanistan, Iraq, Iran and Somalia, in addition to 293,000 Syrian refugees who have fled from the conflict in their homeland.

Half the Syrians are residing in 17 camps in nine provinces while the others are in urban settings. Three more refugee camps are under construction. Turkey was one of the first countries to adopt a temporary protection status for Syrian refugees.

## **UN COURT REOPEN CASE ON ANCIENT TEMPLE AT CORE OF THAI-CAMBODIAN BORDER DISPUTE**

The United Nations International Court of Justice (ICJ), on 15 April 2013 began new hearings on a spectacularly situated 900-year-old Hindu temple that has long been a bone of contention between Cambodia and Thailand and has in recent years led to deadly clashes between the two South-East Asian neighbours. Nearly two years ago, the International Court of Justice (ICJ) ordered the two countries to withdraw their military personnel from around the Preah Vihear temple complex located in Cambodia, after renewed fatal skirmishes forced thousands of people to flee.

The site is inscribed on the World Heritage List which is drawn up by the UN Educational, Scientific and Cultural Organization (UNESCO).

The hearings stem from Cambodia's request for the ICJ to interpret the judgment it rendered in 1962, which found that the temple was "situated in territory under the sovereignty of Cambodia" and that Thailand was under an obligation to "withdraw any military or police forces ...

stationed by her at the temple, or in its vicinity on Cambodian territory."

In its request filed in April 2011, Cambodia argues that while Thailand recognizes Cambodia's sovereignty over the Temple itself, it does not appear to recognize the sovereignty of Cambodia over the vicinity of the temple. In July 2011, the Court ordered both sides to withdraw their military personnel as part of provisional measures.

## **FORESTS: AMAZON TREATY AS MODEL FOR REGIONAL CONSERVATION EFFORTS**

An eight-member grouping of countries working to ensure sustainable development and improve the lives of local communities in South America's Amazon – home to the world's largest tropical rainforest – has been hailed as a model for regional cooperation at the tenth session of the United Nations Forum on Forests (UNFF10).

The Amazon Cooperation Treaty Organization (ACTO) is an intergovernmental body aimed at promoting the sustainable development of an area spanning over 7.5 million square kilometers – approximately 40 per cent of the South American continent. It comprises Bolivia, Brazil, Colombia, Ecuador, Guyana, Peru, Suriname and Venezuela. ACTO was created in 1995 to strengthen the implementation of the Treaty, which was signed in July 1978. The Treaty covers a range of areas, including forests, water resources, monitoring and management of endangered wild fauna and flora species, indigenous affairs, and tourism.

The body's Permanent Secretariat was later established in Brasilia, Brazil, in 2002. Its agenda focuses on two main areas: conservation and sustainable use

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of renewable natural resources; and sustainable development (improving the quality of life for the inhabitants of the Amazon region).

Between 2011 and 2012, member countries have implemented activities to monitor forest cover, strengthen community management of forests, identify additional resources for forest preservation, promote awareness among the population of the Amazon, and promoted international cooperation to combat illegal logging.

The UN Food and Agriculture Organization (FAO) is currently in the final stages of preparing a memorandum of understanding with ACTO to strengthen collaboration between the two bodies in a number of areas of mutual interest.

The agreement is expected to be finalized and signed in 2013.

## NEW TREATY PROTECTING ECONOMIC, SOCIAL, CULTURAL RIGHTS

Optional Protocol to International Covenant on Economic, Social and Cultural Rights entered into force on 5 May 2013. The Protocol has 45 signatories and 11 State Parties. The Optional Protocol establishing complaint and inquiry mechanisms for the International Covenant on Economic, Social and Cultural Rights. It was adopted by the UN General Assembly on 10 December 2008, and opened for signature on 24 September 2009.

The new measure, which came into force on 5 May 2013 will allow individuals or groups to file a complaint with the UN if their rights are infringed by a Member State that is party to the Protocol.

## AT UN CONFERENCE, COUNTRIES BOOST PROTECTION AGAINST HAZARDOUS CHEMICALS AND WASTE

Representatives from 170 countries have adopted a series of measures to strengthen protections against hazardous chemicals and waste during a United Nations conference in Geneva on 13 May 2013. The conference, organized by the UN Environment Programme (UNEP) and the Food and Agriculture Organization (FAO), brought together three UN conventions – the Basel, Rotterdam and Stockholm instruments – that together regulate chemicals and hazardous waste, and sought to promote synergies among them. The three autonomous Conventions convened the joint meeting to strengthen cooperation and collaboration between the Parties to the treaties, with a view to enhancing the effectiveness of their activities on the ground. Each Convention then continued individually over the two-week period to deal with its own specific topics of the global chemicals and waste agenda before returning in a joint session at the end of the week to finalize their outcomes. Around 70 per cent of the chemicals addressed by the Basel, Rotterdam and Stockholm Conventions are pesticides, and many are used in agriculture. It has been argued in the Conference that it is in the best interest of all countries to ensure that the Basel, Rotterdam and Stockholm Conventions can work together, effectively and efficiently, to address various aspects of the chemical life-cycle.

## NEW HEAD OF WTO & UNCTAD

At a special meeting on 14 May 2013, the General Council of the WTO approved the appointment of Ambassador Roberto Carvalho de Azevêdo (Brazil) as the next

Director-General of the WTO. He begins his term of office on 1 September 2013. Nine candidates were nominated by their governments in December 2012 to succeed the current Director-General Pascal Lamy.

The General Assembly, on 10 June 2013 confirmed the appointment of Mukhisa Kituyi of Kenya as Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) for a four-year term, beginning on 1 September 2013. Mr. Kituyi will succeed Supachai Panitchpakdi of Thailand, who has served as head of the Geneva-based agency since September 2005. A former Member of Parliament and a former Minister of Commerce and Industry of Kenya, Mr. Kituyi was nominated for the post last month by Secretary-General Ban Ki moon. UNCTAD's membership comprises the 193 Member States of the UN, as well as the Holy See.

## GENERAL ASSEMBLY ADDS FRENCH POLYNESIA TO UN DECOLONIZATION LIST

The United Nations General Assembly voted on 18 May 2013 to place French Polynesia back on the UN list of territories that should be decolonized and requested the French Government to “facilitate rapid progress [...] towards a self-determination process.” The Assembly's action places French Polynesia back on the UN list of Non-Self-Governing Territories, bringing the number of inscriptions to 17.

Adopting a consensus resolution tabled by Nauru, Tuvalu and Solomon Islands, the Assembly affirmed “the inalienable right of the people of French Polynesia to self determination and independence” under the UN Charter, and declared that “an obligation exists [under the Charter] on the part of the Government of France,



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as the administering power of the Territory, to transmit information on French Polynesia.” Although France had undertaken to furnish information on French Polynesia in 1946, along with New Caledonia, this transmittal of information stopped the following year, as stated by the delegate of the Solomon Islands.

In June 2011, the Council of Ministers of French Polynesia adopted a resolution seeking self-determination within UN processes.

In that light, the resolution adopted by the 193-member UN General Assembly requests the UN Special Committee on Decolonization to consider the question of French Polynesia at its next session and to report to the General Assembly at its sixty-eighth session. It further requests the French Government, “as the Administering Power concerned, to intensify its dialogue with French Polynesia in order to facilitate rapid progress towards a fair and effective self-determination process, under which the terms and timelines for an act of self-determination will be agreed.”

Through their statements in the Assembly, the United Kingdom, the United States, Germany and the Netherlands all disassociated themselves from the consensus vote. According to news reports, the French delegation to the UN sent a letter to Member States on Thursday announcing that it would not be taking part in the Assembly meeting.

## **SURVEILLANCE TECHNOLOGIES MUST NOT UNDERMINE FREEDOM OF EXPRESSION – UN EXPERT**

Surveillance technologies used by Governments must not violate their citizens' privacy, a United Nations

independent expert Mr. La Rue stressed, on 4 June 2013, calling on States to ensure that free expression is not compromised. “Freedom of expression cannot be ensured without respect to privacy in communications,”.

“Concerns about national security and criminal activity may justify the exceptional use of communications surveillance,” Mr. La Rue said. “Nevertheless, national laws regulating what constitutes the necessary, legitimate and proportional State involvement in communications surveillance are often inadequate or simply do not exist.”

According to the report, States possess multiple instruments to breach communication privacy today. Access to the content of an individual's email and message can be obtained through Internet companies and service providers, movement of people can be tracked via their mobile phones, and calls and text messages can be intercepted.

“By placing taps on the fibre-optic cables, through which the majority of digital communication information flows, and applying word, voice and speech recognition, States can achieve almost complete control of tele- and online communications,” Mr. La Rue said, underlining that technological advances enable massive surveillance and censorship of web activities.

“Just recently, these technologies were utilized by Governments confronted with the Arab Spring, for example,” he said, referring to a series of uprisings in the Middle East and North Africa over the past two years, some of which have toppled long-standing regimes.

Noting that surveillance of human rights defenders and journalists in many countries has been well documented, he urged States to review national laws

regulating surveillance and raise public awareness of the increasing threats to privacy posed by new communication technologies.

“Private actors also have a responsibility,” he added. “Measures must be taken to prevent the commercialization of surveillance technologies across the globe and the protection of communication data.”

Without the protection of privacy, security and anonymity of communications, it will not be possible to make sure that private communications are not under scrutiny of the State, Mr. La Rue said.

## **INTERNATIONAL LAW COMMISSION ADDED TWO MORE TOPICS IN THE LIST**

At its sixty-fifth session, in 2013, the International Law Commission (ILC) decided to include the topic "Protection of the environment in relation to armed conflicts" and "Protection of the atmosphere" in its programme of work, on the basis of the recommendation of the Working Group on the long-term programme of work. The Commission decided to appoint Ms. Marie G. Jacobsson and Mr. Shinya Murase as Special Rapporteur for the above-mentioned topics respectively.

## **MYANMAR ACCEDES TO THE CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS (NEW YORK CONVENTION)**

Myanmar has deposited its instrument of accession to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, commonly known as the New York Convention on 26 April 2013. With its accession, Myanmar becomes

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the 149th State party to the Convention. The Convention will enter into force for Myanmar on 15 July 2013. The New York Convention is widely recognized as a foundation instrument of international arbitration. It requires courts of contracting States to give effect to arbitration agreements and to recognize and enforce awards made in other States, subject to specific limited exceptions.

## THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA RECEIVES A REQUEST FOR AN ADVISORY OPINION FROM THE SUB-REGIONAL FISHERIES COMMISSION

On 28 March 2013, the International Tribunal for the Law of the Sea received a request from the Sub-Regional Fisheries Commission (SRFC) to render an Advisory Opinion. The SRFC is located in Dakar, Senegal and comprises seven member states: Cape Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone. In a resolution adopted during its fourteenth extraordinary session (25-29 March 2013), the Conference of Ministers of the SRFC authorized the Permanent Secretary of the SRFC “to seize the International Tribunal for the Law of the Sea [...] in order to obtain its advisory opinion on the following matters:

1. What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the Exclusive Economic Zone of third party States?
2. To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?

3. Where a fishing license is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?

4. What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?”

The resolution was adopted pursuant to article 33 of the 2012 Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under Jurisdiction of the Member States of the Sub-Regional Fisheries Commission (CMAC), according to which the Conference of Ministers may authorize the Permanent Secretary of the SRFC to seize the Tribunal ITLOS on a specific legal matter for its advisory opinion. By letter dated 27 March 2013 the Permanent Secretary of the SRFC, Mr Kane Ciré Amadou, transmitted the request for an advisory opinion to the President of the Tribunal.

The Advisory Opinion has been entered in the List of cases of the International Tribunal for the Law of the Sea as Case No. 21.

In its Order on 29 May 2013, the Tribunal decides that the SRFC and several other intergovernmental organizations are likely to be able to furnish information on the questions submitted to the Tribunal and invites them as well as the States Parties to the United Nations Convention on the Law of the Sea to present written statements. In brief, Tribunal invites States Parties to the Convention, the Sub-Regional Fisheries Commission and other intergovernmental organizations to present

written statements on IUU fishing activities by 29 November 2013.

## GENERAL ASSEMBLY ESTABLISHED NEW UN FORUM TO BOOST SUSTAINABLE DEVELOPMENT EFFORTS

The General Assembly, on 9 July 2013, established a new High-level Political Forum, which will replace the United Nations Commission on Sustainable Development, to boost efforts to tackle global economic, social and environmental challenges. In a resolution adopted by consensus, the 193-member Assembly emphasized the need for an improved and more effective institutional framework for sustainable development, and decided that the Forum should provide “a dynamic platform for regular dialogue and for stocktaking and agenda-setting to advance that process.” The decision follows up on a key recommendation of 'The Future We Want,' the outcome document of last year's UN Conference on Sustainable Development, known as Rio+20. The Forum will convene annually at the ministerial level under the auspices of the UN Economic and Social Council (ECOSOC) and it will, every four years, bring together heads of State to provide added momentum for sustainable development. Its first meeting will be held in September 2013, during the Assembly's forthcoming 68th session. The new body is tasked with providing political leadership, guidance and recommendations for sustainable development; reviewing progress in the implementation of related commitments; and enhancing integration of the three dimensions of sustainable development – economic, social and environmental. The Forum will replace the Commission on Sustainable Development, which was formed after the 1992 Earth Summit and

# RECENT DEVELOPMENTS

helped to generate action on a range of issues that led to international agreements or treaties. The Assembly recommended that ECOSOC abolish the Commission upon the conclusion of its 20th session – whose timing, agenda and duration was postponed from May 2013, pending progress on the format and organizational modalities of the Forum.

## ARANCHA GONZALEZ OF SPAIN APPOINTED TO HEAD INTERNATIONAL TRADE CENTRE

On 15 August 2013, Secretary-General Ban Ki-moon has appointed Arancha Gonzalez of Spain as Executive Director of the International Trade Centre (ITC), the joint agency of the United Nations Conference on Trade and Development (UNCTAD) and World Trade Organization (WTO) for trade and international business development. Ms. Gonzalez, who will replace Patricia Francis of Jamaica. Ms. Gonzalez has served as Chief of Staff at the WTO for the last eight years, and has been intimately involved in setting up its Aid for Trade initiative. She has also served in various capacities in the European Commission, where she held several positions in the area of international trade. Ms. Gonzalez began her career in the private sector advising companies on trade, competition and state aid matters.

## UN TRUSTEESHIP COUNCIL ELECTS PRESIDENT AND VICE PRESIDENT

The United Nations Trusteeship Council, on 16 August 2013, elected Alexis Lamek of France as its President and Peter Wilson of the United Kingdom as its Vice President. Both candidates were elected by acclamation during a brief

organizational meeting held at UN Headquarters in New York, during which the Council also adopted its provisional agenda. The Trusteeship Council is a principal organ of the UN, created to administer 11 Trust Territories placed under the Organization's care at its founding in 1945. The Council suspended operations when the last UN Trust Territory, Palau, attained independence in 1994. Membership of the Council now comprises the five permanent members of the Security Council – China, France, Russia, United Kingdom and the United States. The Council's future role is under consideration as part of the broader reform of the UN and the Security Council.

## MARITIME LABOUR CONVENTION ENTERED INTO FORCE

A new United Nations maritime labour convention – hailed as a “bill of rights” for the more than 1.5 million people employed by the shipping industry – comes into force, on 20 August 2013, aiming to ensure decent work conditions for seafarers while helping provide a level playing field for shipowners. The UN International Labour Organization's (ILO) Maritime Labour Convention (MLC 2006) ratified by 48 countries, sets minimum requirements for seafarers to work on a ship and contains provisions on conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health and medical care and welfare and social security protection.

This Convention is a milestone in maritime history as it enables decent working and living conditions for seafarers to be advanced, along with fair competition for shipowners in this, the most globalized of industries. The MLC 2006 needed ratification by 30 ILO member States, representing more than 33 per cent of the world's gross shipping tonnage, to enter

into force. The Convention has the full support of the International Transport Workers' Federation (ITF), which represents seafarers, and the International Shipowners Federation (ISF). The Convention is also supported by the International Maritime Organization (IMO), which oversees the global shipping sector and responsible for the prevention of marine pollution by ships.

The MLC is considered the 'fourth pillar' of the most important maritime regulations covering international shipping, along with the International Convention for the Safety of Life at Sea (SOLAS); the International Convention for the Prevention of Pollution from Ships (MARPOL); and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). These three IMO treaties were first adopted in the 1970s and have each been ratified by more than 150 countries, representing more than 99 per cent of world merchant shipping.

## NEW UN GUIDE FOR MODEL UN

The United Nations is educating students on how things are actually done inside its chambers by launching a new UN guide for Model UN, the first time the Organization has tried to change the direction in which the role-playing diplomatic simulations have evolved. In an effort to educate organizers of Model UN (MUN) about the differences, the Organization created the “UN Guide for MUN” and has been introducing it in UN workshops, like the one held this week for 80 participants from 36 countries at the New York headquarters. In a Model UN, students take on the roles of ambassadors in simulated sessions of the General Assembly or Security Council, and research and debate a wide

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range of topics drawn from the UN's agenda. In that respect, MUN and the United Nations not so far apart; the differences really start to emerge in the details of how the discussions take place.

Since the 1940s, Model UN conferences have been held around the world. Some schools use Model UN as part of their curricula, others support their students in planning conferences as leadership opportunities.

In Azerbaijan, preparations are now underway for an October 21-25, 2013 session of Model UN Security Council organized in cooperation with the Ministry of Youth and Sport. The timing coincides with the rotating presidency of Azerbaijan at the real Security Council in New York, and will include young representatives from the same 15 countries that currently make up the Council.

## THE DOMESTIC WORKERS CONVENTION ENTERED INTO FORCE

The Domestic Workers Convention entered into force, on 5 September 2013 extends the labour and social rights of

some 53 million domestic workers around the world. Now, the Domestic Workers Convention will be legally binding for signatory countries. The treaty was adopted in 2011 by the International Labour Organization (ILO) and is the first of its kind.

The treaty gives employees the right to claim basic rights, including days off each week, set hours and a minimum wage. To date, eight ILO member States – Bolivia, Italy, Mauritius, Nicaragua, Paraguay, Philippines, South Africa and Uruguay – have ratified the Convention.

Since the Convention's adoption, several countries have passed new laws or regulations improving domestic workers' labour and social rights, including Venezuela, Bahrain, the Philippines, Thailand, Spain and Singapore. Legislative reforms have also begun in Finland, Namibia, Chile and the United States, among others. Several others have initiated the process of ratification, including Costa Rica and Germany.

## FORTHCOMING EVENTS

*Special Lecture by Prof. Mark Perry, Professor, University of New England, Australia, 3 February 2014*

*43rd Annual Conference, 4-5 April 2014*

*Training Programme for the Officer Trainees of the Indian Economic Service, May 2014*

*Summer Course on International Law, 26 May to 6 June 2014*

*V. K. Krishna Menon Lecture, June 2014*

*Convocation and Inauguration of the P. G. Diploma Courses, 1 September 2014*

*Two-day Training Workshop for Indian Forest Services Officer, 20-21 November 2014*

*International Conference, 16-18 January 2015*

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#### SELECT BIBLIOGRAPHY AND NEW

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