

The Hague, 27 July 1994

Advisory Committee on Problems of International Law

Fourth Report on the UN International Law Decade

The Hague .. July 1994

Part I: General

1. Introduction

In his request for advice of 2 May 1991, the Minister for Foreign Affairs asked the Advisory Committee on Problems of International Law Issues (CAVV) to provide feedback on the basis of the information available regarding developments within the framework of the UN International Law Decade and to do so every year preceding the General Assembly of the United Nations. The Committee was also asked to inventory initiatives or proposals the Netherlands might submit or support in this context.

A national coordinating body was set up for this purpose in the Netherlands in 1991, comprising representatives of the CAVV, the Advisory Committee on Human Rights and Foreign Policy (ACM), the TMC Asser Institute, members of the editorial boards of the Netherlands Yearbook of International Law (NYIL), the Netherlands International Law Review (NILR) and the Leiden Journal of International Law (LJIL), the Netherlands Association for International Law (NVIR) and the Netherlands United Nations Association. The coordinating body provides a forum for the exchange of information and, where necessary, coordination of activities held in the Netherlands as part of the UN Decade.

The three previous reports were published on 2 October 1991, 21 July 1992 and 27 September 1993. They focused on the Decade from four different

angles: legal science, publications in the field of international law, associations active in this area and the government. Partly in view of the inclusion of activities in the Netherlands in the forthcoming UN Secretary-General's report on the Decade, it has been decided to follow the layout of his last report, i.e.:

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

This structure is followed in Part II of this report in which the developments and current status of activities undertaken in the Netherlands are described.

2. Settlement of disputes

As announced in the Third Report, the Committee has begun drafting further recommendations on the subject of the settlement of disputes, with particular reference to the position of the International Court of Justice. These recommendations are expected to be ready in the autumn. Prior to this, the Committee wishes to draw attention to one particular aspect of the recommendations which might be raised in the forthcoming session of the General Assembly (Sixth Commission). It concerns part B of the UN Secretary-General's report, namely the promotion of acceptance of the compulsory jurisdiction of the International Court of Justice.

As is known, only a minority of UN states has accepted the compulsory jurisdiction of the International Court of Justice pursuant to article 36, paragraph 2 of the Statute of the Court. Furthermore, various countries which

have accepted compulsory jurisdiction have done so with reservations, some of them very far-reaching. As evidenced by its recommendations of 8 July 1992 on the strengthening of the role of the International Court of Justice, the Advisory Committee is in favour of a wider acceptance of the jurisdiction of the Court among UN members. The Advisory Committee is aware of the fact that the Netherlands Government also shares these views, as reflected for example in the attention which the Netherlands devoted to this subject in the Sixth Commission of the General Assembly in 1992. However, the Commission pointed out that wider acceptance of the Court's jurisdiction is only one way of promoting the role of the peaceful settlement of disputes in international relations.

In this connection, the Advisory Committee advocates that the Netherlands should once again draw attention to compulsory jurisdiction in the Sixth Commission when the UN International Law Decade comes up on the agenda. One course of action which could be urged is for the Secretary-General to be empowered to set up a committee of five international law experts who could consult on behalf of the Secretary-General on the issue of compulsory jurisdiction with UN member states. The objective should be to persuade countries which have not yet done so to accept the Court's jurisdiction, and countries which have entered far-reaching reservations to withdraw or limit them. Annual reports to the Sixth Commission might encourage progress. The committee should consist of prominent international law experts who have considerable experience with the administration of justice at international level, for example members or ex-members of the International Law Commission or ex-members of the International Court of Justice.

Part II: Current projects

A. Promotion of the acceptance of and respect for the principles of international law

B. Promotion of means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice

In 1995 and onwards a number of international law colloquia will be held focusing on the issue of the settlement of disputes within a number of branches of international law. The first colloquium places the settlement of disputes at the centre of space law; following meetings will deal with the international law of the sea, economic law, humanitarian law (the law relating to warfare), environmental law and human rights.

Partly on the initiative of the Netherlands Government, the Permanent Court of Arbitration has been given observer status at the UN General Assembly. This initiative is part of Dutch policy to encourage the reactivation of the Court and the International Bureau and to update both institutions. As part of this effort, a seminar on the settlement of disputes was organised in 1993 by the Permanent Court of Arbitration which focused on the question of whether, partly in view of a possible conference in 1999, a basis could be found in the conventions of 1899 and 1907 which would justify the expansion and development of the settlement dispute mechanism, including a role for the Permanent Court of Arbitration. This issue is now being studied by a working party led by the Secretary-General of the Permanent Court of Arbitration.

In connection with the above, the Ministry of Foreign Affairs has had a study carried out into the application of rules of procedure in recent interstate arbitration proceedings.

C. Encouragement of the progressive development of international law and its codification

Within the framework of the Council of Europe, the Netherlands Government has drawn attention to the practice followed by member states in the field of the succession of states and recognition thereof. The aim is to codify practice in a publication.

Within the framework of UNESCO, the Netherlands has taken the initiative on the reform of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict. A draft resolution introduced by the Netherlands and Italy has been approved by the Executive Board of UNESCO, and two meetings of experts have taken place in this country.

D. Encouragement of the teaching, study, dissemination and wider appreciation of international law

The *Nieuwsbrief Volkenrecht* (International Law Newsletter) published by the Asser Institute contains an annual overview of the range of courses on international law which can be followed at Dutch universities.

As part of a project with a five-year lifespan, thirty university institutions have been given a subscription to the Netherlands International Law Review, the Netherlands Yearbook of International Law and the Leiden Journal of International Law. The project is funded by the Directorate General for International Cooperation at the Ministry of Foreign Affairs.

To mark the UN Decade, the Leiden Journal of International Law is publishing a series of books which focus on the settlement of disputes. The first two of the series, 'Reflections on International Dispute Settlement', and 'The Flame Rekindled: New Hopes for International Arbitration', have already been published. The third, entitled 'The World Court: It's Future Role in a Changing

International Society', is in preparation and is expected to appear in 1995.

The Leiden Journal of International Law regularly publishes an agenda of moots organised in the Netherlands and abroad in which Dutch students may take part.

The *Nederlands Juristenblad*, which gives weekly overviews of case law relevant to the Netherlands, now devotes attention to the case law of the International Court of Justice in addition to its regular reporting of judgements of the European Court of Human Rights.

In recent years an Asian Yearbook of International Law has twice been published, a project also funded by the Directorate General for International Cooperation at the Ministry of Foreign Affairs.

In 1995, the NVIR will for the third time organise a conference in The Hague in cooperation with the American Society of International Law.

Various university working parties on international law maintain regular contact with universities in Third World countries, which includes student and teacher exchanges. The Department of International Law at the University of Groningen, for example, maintains links with the University of Dar es Salaam in Tanzania, the same department at Leiden University with Ghana, the University of Limburg with the African Centre on Human Rights and Development Studies in Banjul (Gambia), Leiden University with the University of the Western Cape in South Africa and Amsterdam University with Ethiopia.

In addition, there are various opportunities for students from developing countries to participate in courses on international law in the Netherlands. Institutions offering such courses include the Institute of Social Studies and the Hague Academy of International Law. Funding is available to cover the costs of accommodation here.