

JOINT INSPECTION UNIT

Publications of the International Court of Justice

*Prepared by
Enrique Ferrer-Vieyra*



UNITED NATIONS

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I. INTRODUCTION

1. The Joint Inspection Unit included in its programme of work for 1986 a subject entitled "Publications of the International Court of Justice."

2. The Court is the main judicial organ of the United Nations. Its Judgments, Advisory Opinions and Orders have, inter alia, fundamental significance for the development of international law. Accordingly, the work of the Court should reach the widest audience, including students and specialists in this field. In addition, publishing this kind of material is an essential element in developing the climate of respect for the legal order that can be helpful to the conduct of international relations in our time.

3. It is unfortunate, therefore, that the publications of the Court are published only in the two official languages of the Court - English and French - when informed opinion today appears virtually unanimous in recognizing the necessity for a wider and more accessible distribution of the Court's Judgments and the possibilities for satisfying the needs of the intellectual world are quite different from those in 1919 when it was first considered to restrict issuance of the publications of the Permanent Court of International Justice to two languages. Thus, this study will focus on the most rational and cost-effective use of existing funds, studying ways and means by which it would be possible to issue some of its publications in more than two official languages with the same financial resources.

4. The League of Nations and the Permanent Court of Justice had two official languages (English and French). The United Nations first adopted five official languages and added later the sixth language through a General Assembly resolution as stipulated by the Charter. The two official languages of the International Court of Justice have remained unchanged. In the light of the development of the Organization toward universal membership, represented by the increase in the number of Member States,

the Inspector considers it necessary to progressively adapt the publication of the Court to the present needs in the international community and to the general linguistic practice of the United Nations. Such an adaptation would be in the best interest of the valuable work of the Court whose Statute itself was drawn up in 1945 in five authentic language versions.

5. For the preparation of the report, a visit was made to the International Court of Justice in The Hague. Discussions were held with the President of the Court and two Judges who are members of the Budgetary and Administrative Committee, as well as the Registrar, his Deputy and the Registry staff. The Inspector wishes to thank all those whom he met for their assistance and co-operation during the course of this study. Finally, the Inspector is also grateful to the assistance given by Inspectors Hennes and Kojić in the preparation of this report.

II. PUBLICATIONS

6. The Court's publications include:

- a) Reports of Judgments, Advisory Opinions and Orders;
- b) Pleadings, Oral Arguments and Documents;
- c) Acts and Documents concerning the Organization of the Court;
- d) Yearbook of the International Court of Justice;
- e) Bibliography of the International Court of Justice.

7. All of these publications are very important and deserve wider dissemination. Nevertheless, due to present financial restraints, the scope of this report is limited to the analysis of the possibility of publishing the Judgments and Advisory Opinions in other official languages of the United Nations.

8. The Inspector has taken note with interest of the statements made in the Sixth Committee at the fortieth session of the General Assembly in 1985.^{1/} Some delegates expressed their concern about the limitation of the publication of the Court's Judgments and Advisory Opinions, which are a highly important source of international case-law, only to English and French. One delegate stated that his country, too, had requested the Court and the Secretary-General to carry out a feasibility study on the publication in all the Organization's official languages of the texts of the International Court of Justice.^{2/}

9. The Court has given 33 Judgments from 1947 to 1985 inclusive, totalling 1,421 pages in each language (see Annex I). Separate and dissenting Opinions of those Judgments contain over 4,600 pages.

10. The Court has also given, during the same period, 17 Advisory Opinions which come to 427 pages (see Annex II). Separate and dissenting Opinions cover approximately 1,340 pages. The Advisory Opinions were requested by the General Assembly, the Security Council or the specialized agencies according to Article 96 of the Charter and Chapter IV of the Statute of the Court. Consequently, they are already translated and published in

^{1/} A/C.6/40/SR.26, paras. 50-51; 53.

^{2/} Op.cit., para. 53.

the official languages of the Organization, with only a few exceptions. The practice of the Court of publishing its Advisory Opinions in traditional double text French-English is without doubt a very expensive undertaking.

11. The Inspector agrees that dissenting and separate Opinions of Judgments and Advisory Opinions are very important and sometimes fundamental for an in-depth study of the case by international lawyers and specialists in international law and relations. Nevertheless, the Inspector is concerned about the fact that the main purpose of the publication of the Court's Judgments and Advisory Opinions, which is to reach the widest possible audience among students, professors and the intellectual world in general, could be jeopardized by the cost of publishing dissenting and separate Opinions, taking into account the present financial and economic constraints. For those reasons, the Inspector makes no recommendation in this respect.

III. DISTRIBUTION OF THE JUDGMENTS AND ADVISORY OPINIONS

12. It is true that the Statute of the Court established French and English as the official languages. If the parties agree that the case shall be conducted in French, the Judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the Judgment shall be delivered in English (Article 39.1). In the absence of an agreement as to which language shall be employed, each party may in the pleadings use the language which it prefers; the decision of the Court shall be given in French and English, and the Court shall, at the same time, determine which of the two texts shall be considered as authoritative (Article 39.2).

13. The distribution and cost of the Reports of the Court prompt the Inspector to question the cost/benefit relation regarding the practice of printing its Judgments, Advisory Opinions and Orders in a double version. The publication of separate versions could permit a wider distribution.

14. Neither the Statute nor the Rules of Procedure of the Court provides for the double version of its Judgments in English and French. A limited number of copies of the present Reports in the double version format could be published for the use of the Court and international lawyers, leaving the bulk of the publications in the less expensive single language version. This should result in savings which could then be used for the translation and publication of the Judgments in other official languages of the Organization.

15. With respect to Advisory Opinions, given that translations and publications in other languages already exist (see paragraph 10), a reduction of the number of copies and their publication in separate languages would result in considerable savings.

16. The Court publishes about 3,000 bilingual copies of Judgments and Advisory Opinions and about 1,300 copies of bound volumes of Reports per year. The Court has a free distribution list for Judgments and Advisory

Opinions (1,597 copies) and for bound volumes of Reports (143 copies). Other copies are sent for sale to the New York and Geneva Sales Section (475 Judgments and 700 Reports).

17. It may be interesting to note the practice of other international organizations which have similar judicial activities. For example, at the Court of Justice of the European Communities, the Judgments are published in separate volumes, French and English, and in the other official languages of the Court if so requested. The Reports of International Arbitral Awards (U.N. publications) are published only in one version, either French or English. The Yearbook of the European Convention on Human Rights is the only publication, besides the Court's Reports, published in a double version, English and French.

IV. COSTS, TRANSLATION AND PUBLICATION ARRANGEMENTS

18. The biennial publication's budget^{3/} of the Court for 1986-1987 is approximately US\$264,000, all of which is allocated to external printing and binding.

19. The Court has a special agreement with a publishing firm located in the Netherlands. This agreement grants exclusive printing rights to this particular firm, which has been providing services to the Court since 1954. However, the Inspector has been informed that these arrangements were concluded without competitive bidding, which is not in conformity with United Nations Financial Rule 110.18. It also became known that the printing costs of this firm are higher than other foreign firms. Nevertheless, it was explained that, given its proximity to the Court and some special services (overtime and night work, etc.), the firm meets with the Court's needs.

20. The Court should consider publishing at least some of the publications at a lower cost, including a compilation of Judgments and Advisory Opinions in paper-back edition in each of the official languages of the United Nations. The Inspector believes that such a paper-back edition would enlarge the market and audience for the Court's Judgments and Advisory Opinions. The printing costs in European and non-European countries should be studied. The use of the services of the Vienna International Centre should also be considered. Moreover, in the Inspector's opinion, the use of new technology in the publishing process is indispensable and would certainly lead to considerable savings in printing, publication and staff costs both in the short and long term. The Inspector strongly recommends that measures be taken in this respect.

21. With reference to the publications for sales, the Inspector was told that the Court is not informed of the income derived from the sales of its publications. These sales could be significant; therefore, it would be useful to take them into account when preparing the Court's budget. The Inspector considers it mandatory to provide information on the Court's budget on the sale of publications.

^{3/} Proposed Programme Budget for the Biennium 1986-1987, Supplement No. 6 (A/40/6).

22. Part V (International Justice and Law) of the regular budget 1986-1987 of the United Nations estimates external printing and binding costs at US\$3,230,000. For example, roughly US\$2,000,000 is allocated for the registration and publication of treaties. The International Law Commission (ILC) has a budget of about US\$370,000 for publications. The United Nations Commission on International Trade Law (UNCITRAL) has about US\$200,000. The Codification Division, together with the ILC, has the primary responsibility in the progressive development and codification of international law, and has a budget of nearly US\$140,000. It is difficult to understand why the publication of the Judgments of the Court in the other official languages of the United Nations has been neglected for such a long time. This is all the more incomprehensible when all of these bodies are seriously concerned with the international legal order.

23. A Joint Inspection Unit report on publications policy and practice in the United Nations system (JIU/REP/84/5) refers to the co-operative activities among United Nations organizations on the cost of financing publications (FAO/WHO, UNESCO/FAO, UNEP/UNESCO, ILO/FAO/UNESCO, FAO/IAEA).^{4/} The cost of financing the publications of the International Court of Justice could be shared with the ILC and other United Nations bodies whose main objective is the development of international law.

24. The Inspector of course realizes that the main problem is not publishing but rather that of translating the Judgments. The possibility of using the United Nations translation services in slow periods should be considered. The Secretary-General should provide necessary measures, if so desired by the Court.

25. The translation problem could be solved in part by using either in-house translation facilities or outside help. In almost every country, there are both high-level official and private academic institutions devoted to language training. It should not be difficult to use the services of those institutions. The need for translating the Court's Judgments has already been met by some private institutions. For example,

^{4/} JIU/REP/84/5, para. 58, p. 12.

the Inter-American Institute of International Legal Studies published a Spanish version of the *Ambatielos* and *Fisheries* cases (Buenos Aires, Depalma, 1968). Excerpts are also translated into other languages.

26. The same JIU report mentioned that 60 percent of translations into the official languages are done in-house.^{5/} Moreover, other language editions are published under contract by outside publishers, by agreement with governments or by national commissions or similar bodies. Some organizations have special arrangements for translation with various countries (USSR, China, Cuba and Switzerland).

27. The in-house publication of the *Judgments* could be supplemented by agreements on co-publications with outside publishers (see JIU report mentioned above). There are many academically-oriented publishing houses that are interested in international law. Paragraph 60 of the JIU report reads as follows:^{6/}

This type of co-publication can take one of three forms. In the first case, the outside publisher undertakes the production and shares the distribution with the author-organization. Usually, the countries of exclusive distribution are the subject of negotiation. The second type amounts to a distribution arrangement: the outside publisher makes a substantial advance purchase and may acquire exclusive distribution rights in certain territories in return for the addition of his name to the cover of the book. A third means of co-operation with outside publishers results in a "commercial publication": the manuscript is sold to a publisher for publication and exclusive distribution. In this case, the name of the United Nations agency may not appear except as the author of the manuscript. This technique is sometimes employed when the organization cannot or will not undertake a translation, which is then done at the expense of the outside publisher.

28. There are many successful examples of collaboration with commercial publishers. The Court has valuable material to sell, commercially speaking. It should not be very difficult to find Spanish-speaking, Arabic-speaking or other official language-speaking countries willing to start a "joint venture."

29. Private institutions and foundations could also be reached. Of course, it is a lengthy and time-consuming undertaking. However, it is a potential

^{5/} Op.cit., para. 28, p. 6.

^{6/} Op.cit., para. 60, p. 13.

way by which the main task of increasing knowledge and distributing the Court's work could be achieved.

30. The Inspector also considered whether the United Nations Secretariat might be requested to translate and publish the Court's Judgments in the other official languages of the Organization (see paragraph 24). This could be done by a Resolution of the General Assembly, by a direct request from individual delegates or by a decision of the Secretary-General. Article 95, paragraph 3, of the Rules of the International Court of Justice states that the Registrar should send a copy of the Judgment to: (a) the Secretary-General of the United Nations; (b) Members of the United Nations; (c) other States entitled to appear before the Court. Liberal interpretation of (a) could lead to the solution of the problem. Nevertheless, the Inspector thinks this is a matter of concern for which the Court itself should take the responsibility.

V. CONCLUSIONS AND RECOMMENDATIONS

31. It is evident that the International Court of Justice, which is the principal judicial organ of the United Nations, plays an important role in the maintenance of the international legal order as well as in the development of international law. The very existence of the Court is extremely important as one of the main factors for the promotion of justice among nations. The academic institutions, professors and students of international law, international lawyers and diplomats need increasingly the materials of the Court. Taking all of these into account, the texts of the Court's Judgments and Advisory Opinions merit the widest possible dissemination.

32. Unfortunately, these documents are published only in English and French. The Inspector has examined whether it is possible to publish them in other languages with the same financial resources. This may not be an easy task; however, the Inspector proposes that measures be taken to publish, at no extra cost, these documents in the other official languages of the United Nations, including in paper-back editions, which would permit their wider dissemination. The better use of funds could be achieved in some of the publications of the Court mainly the Reports of Judgments, Advisory Opinions and Orders.

33. In summary, the report has emphasized that substantial savings could be generated by:

a) publishing the Judgments and Advisory Opinions in separate languages;

b) reducing the number of copies of Judgments and Advisory Opinions;
and

c) replacing the present method of production of the publications by a more modern one. (For instance, it should be explored whether a combination of word processing and phototype setting equipment can be utilized to avoid re-keyboarding of texts.)

According to the information provided to the Inspector, the implementation of these measures would lead to savings of at least 50 percent of the actual publication costs.

34. The Inspector makes the following recommendations:

Judgments

Recommendation 1. The International Court of Justice should consider limiting the number of copies of its Judgments published in French/English. The Court should also consider publishing separate copies in each of these languages, according to need (paragraph 14);

Recommendation 2. The Court should consider publishing a compilation of all of its Judgments in paper-back edition and in each of the official languages of the United Nations (paragraph 20);

Advisory Opinions

Recommendation 3. The Court should consider publishing its Advisory Opinions in separate languages (English and French) and limiting their number of copies (paragraph 15);

Recommendation 4. The Court should consider publishing a compilation of all of its Advisory Opinions in a single paper-back edition and in the other official languages of the United Nations (paragraph 20);

Costs

Recommendation 5. Efforts should be made to lower the Court's printing costs through competitive bidding procedures and by the use of new technology in the printing process (paragraphs 19, 20 and 33);

Recommendation 6. The Court should utilize the savings generated by the implementation of Recommendations 1, 3 and 5 to defray the costs of Recommendations 2 and 4 (paragraphs 14, 15 and 20);

Distribution

Recommendation 7. As the principal judicial organ of the world, the Court should also study how to reach the largest possible audience for its work (paragraphs 2 and 11);

Other arrangements

Recommendation 8. The Secretary-General should provide necessary measures to facilitate the translation and printing of the Court's Judgments and Advisory Opinions in the other official languages, if so desired by the Court (paragraphs 23, 24 and 30).

ANNEX I. JUDGMENTS OF THE INTERNATIONAL COURT OF JUSTICE

	Cases	Parties	Ref. ICJ Reports	No. of pages ^{*/}
1.	Corfú Channel	U. K. v. Albania	1947-48 p. 15 1949 p. 4, 244	57
2.	Asylum Haya de la Torre	Colombia / Peru	1950, p. 266, 395 1951, p. 71	48
3.	Fisheries	U. K. v. Norway	1951, p. 116	28
4.	Ambatielos	Greece v. U. K.	1952, p. 28 1953, p. 10	33
5.	Anglo-Iranian Oil Co.	U. K. v. Iran	1952, p. 93	23
6.	Rights of Nationals of the USA in Morocco	France v. USA	1952, p. 176	38
7.	Minquiers and Ecrehos	France v. U. K.	1953, p. 47	26
8.	Nottebohm	Lichtenstein v. Guatemala	1953, p. 111 1955, p. 4	39
9.	Monetary Gold Removed from Rome in 1943	Italy v. France, U.K., USA	1954, p. 19	17
10.	Certain Norwegian Loans	France v. Norway	1957, p. 9	20
11.	Right of Passage Over Indian Territory	Portugal v. India	1957, p. 125 1960, p. 6	70
12.	Application of the Convention of 1902 Governing the Guardian- ship of Infants	Netherlands v. Sweden	1958, p. 55	18
13.	Interhandel	Switzerland v. USA	1959, p. 6	25

ANNEX I. JUDGMENTS OF THE INTERNATIONAL COURT OF JUSTICE
(continued)

	Cases	Parties	Ref. ICJ Reports	No. of pages*/
14.	Aerial Incident of 27 July 1955	Israel v. Bulgaria	1959, p. 127	20
15.	Sovereignty over certain Frontier Land	Belgium v. Netherlands	1959, p. 209	22
16.	Arbitral Award Made by the King of Spain on 23 December 1906	Honduras v. Nicaragua	1960, p. 192	26
17.	Temple of Preah Vihear	Cambodia v. Thailand	1961, p. 17 1962, p. 6	51
18.	South West Africa	Ethiopia v. S. Africa Liberia v. S. Africa	1962, p. 319 1966, p. 6	75
19.	Northern Cameroon	Cameroon v. U. K.	1963, p. 15	25
20.	Barcelona Traction, Light and Power Co. Ltd.	Belgium v. Spain	1964, p. 6 1970, p. 3	91
21.	North Sea Continental Shelf	Denmark v. W. Germany W. Germany v. Netherlands	1969, p. 3	52
22.	Appeal Relating to the Jurisdiction of the ICAO Council	India v. Pakistan	1972, p. 46	25
23.	Fisheries Jurisdiction	U.K. v. Iceland	1973, p. 3 1974, p. 3	53
24.	Fisheries Jurisdiction	W. Germany v. Iceland	1973, p. 49 1974, p. 175	50

ANNEX I. JUDGMENTS OF THE INTERNATIONAL COURT OF JUSTICE
(continued)

	Cases	Parties	Ref.ICJ Reports	No. of pages*
25.	Nuclear Tests Case	Australia v. France	1974, p. 253	20
26.	Nuclear Tests Case	N. Zealand v. France	1974, p. 457	22
27.	Aegean Sea Continental Shelf	Greece v. Turkey	1978, p. 3	43
28.	U.S. Diplomatic and Consular Staff in Tehran	U.S.A. v. Iran	1980, p. 3	43
29.	Continental Shelf	Tunisia / Libyan A.J.	1981, p. 3 1982, p. 18	96
30.	Continental Shelf	Libyan A. J. v. Malta	1984, p. 3 1985, p. 13	73
31.	Delimitation of the Maritime Boundary in the Gulf of Maine Area	Canada v. U.S.A.	1984, p. 246	100
32.	Military and Paramilitary Activities in and against Nicaragua, Jurisdiction and Admissibility	Nicaragua v. U.S.A.	1984, p. 392	52
33.	Application for Revision and Interpretation of the Judgment of 24 February 1982 in the case Concerning the Continental Shelf (Tunisia/Libyan A.J.)	Tunisia v. Libyan A.J.	1985, p. 192	40

Total: (Judgments 1947-1985) 1,421 pages.

*/ This excludes separate and dissenting Opinions (see para. 9).

ANNEX II. ADVISORY OPINIONS

	Cases	Requested	Ref. ICJ Reports	No. of pages* /
1.	Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter).	Requested by G. A.	1947-48 p. 57	10
2.	Reparation for Injuries Suffered in the Service of the United Nations.	Requested by G. A.	1949 p. 174	15
3.	Competence of the General Assembly for the Admission of a State to the United Nations.	Requested by G. A.	1950, p. 4	8
4.	Interpretation of Peace Treaties with Bulgaria, Hungary and Romania.	Requested by G. A.	1950, p. 65, 221	24
5.	International Status of South West Africa.	Requested by G. A.	1950, p. 128	18
5.	Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide.	Requested by G. A.	1951, p. 15	16
7.	Effect of Awards of Compensation Made by the United Nations Administrative Tribunal.	Requested by G. A.	1954, p. 47	17
8.	Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South-West Africa.	Requested by G. A.	1955, p. 67	12
9.	Admissibility of Hearings of Petitioners by the Committee of South-West Africa.	Requested by G. A.	1956, p. 23	10
10.	Judgments of the Administrative Tribunal of the ILO upon Complaints Made against UNESCO.	Requested by UNESCO	1956, p. 77	26

ANNEX II. ADVISORY OPINIONS (continued)

	Cases	Requested	Ref. ICJ Reports	No of pages*
11.	Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization.	Requested by IMCO	1960, p. 150	23
12.	Certain Expenses of the United Nations (Article 17, paragraph 2 of the Charter).	Requested by G. A.	1962, p. 151	30
13.	Legal Consequences for State of the continued presence of South Africa in Namibia (South-West Africa) notwithstanding Security Council Resolution 276(1970).	Requested by the Security Council	1971, p. 16	43
14.	Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal.	Requested by G. A.	1973, p. 166	48
15.	Western Sahara	Requested by G. A.	1975, p. 12	58
16.	Interpretation of the Agreement of 25 March 1951 between WHO and Egypt.	Requested by WHO	1980, p. 73	26
17.	Application for Review of Judgment No. 273 of the United Nations Administrative Tribunal.	Requested by G. A.	1982, p. 325	43

Total:(Advisory Opinions, 1947-1985) 427 pages.

* / This excludes separate and dissenting Opinions (see para. 10).



