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PROGRAMME BUDGET FOR THE BIENNIUM 1986-1987

JOINT INSPECTION UNIT

Publications of the International Court of Justice

Note by the Secretary-General

Addendum

The Secretary-General has the honour to submit to the General Assembly his comments on the report of the Joint Inspection Unit entitled "Publications of the International Court of Justice" (A/41/591) (annex I below), as well as the comments of the International Court of Justice (annex II).

ANNEX I

Comments of the Secretary-General

The Secretary-General has no disagreement with the observations of the inspectors and would only wish to clarify two aspects of the issues under consideration:

(a) Translation (Recommendation 8, paras. 24 and 30)

The Secretariat agrees entirely with the statement in paragraph 29 of the observations that "solely expense - much expense - stands in the way of publishing the totality of the Court's decisions in languages other than English and French". However, it appears that that statement does not make explicit certain misconceptions apparent from formulations in the report, whose paragraph 24 reads in part:

"The possibility of using the United Nations translation services in slow periods should be considered. The Secretary-General should provide the necessary measures, if so desired by the Court."

It should be noted that the full capacity of the translation services of the United Nations is utilized for the translation of priority meeting documents and of publications, supplemented, where necessary, by temporary assistance and contractual translation. Thus there are no "slow periods" in which the translation services could turn their attention to the publications of the International Court of Justice and, if the proposal in paragraph 30 and Recommendation 8 were to be adopted, and the United Nations Secretariat were to be asked to publish the Court's Judgments and Opinions in Arabic, Chinese, Russian and Spanish, there would have to be a decision to that effect by the General Assembly, accompanied by the appropriation of the resources necessary to make that possible. (Incidentally, "sharing" the cost of financing the publications of the International Court of Justice with the International Law Commission, as suggested in paragraph 23 of the report, would simply mean redeploying the resources appropriated under section 26, for legal activities, to section 25, for the International Court of Justice: both are funded under the regular budget of the Organization.)

(b) External publication (paras. 26-29)

In paragraph 32 the Court found it premature to comment on the suggestions in paragraphs 25-29, many of which concern some form of co-publication by external publishers. This kind of arrangement is called external publication in the United Nations and is regulated by the United Nations Publications Board. It is employed for the publication of texts or translations that the Organization itself does not intend to publish, or to achieve greater dissemination of information or an economy of resources, for instance. Used selectively, it has been found to be a

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valuable supplement to the publications programme of the Organization. If the international community should wish to encourage the enhanced dissemination of the Court's publications, by making them available in additional language versions, some such mechanism, formulated in full consultation with the Court and in full awareness of its concern to protect the authenticity and authority of its pronouncements, could quite likely prove to be an economic alternative to in-house processing and publication.

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ANNEX II

Observations of the International Court of Justice

Introduction

1. The report of an Inspector of the Joint Inspection Unit on the Publications of the International Court of Justice was furnished to the Court on its completion and could thus be considered at a plenary administrative meeting of the Court held on 23 October 1986. The Court appreciates the opportunity thereby afforded it of presenting its observations for consideration by the General Assembly concurrently with the report itself.

2. Following the visit described by the Inspector in paragraph 5 of his report, he was good enough to furnish an initial draft of it and to invite the Court's comments upon it. These comments, necessarily of a preliminary character, were conveyed to him by the Registrar in a letter of 2 July 1986, of which the following extracts, among others, remain pertinent:

"the reaction of the Members of the Court to the proposal to begin publication of its decisions in languages other than its own official languages was markedly positive. They are indeed most appreciative of any move to increase the accessibility of the full texts of judgments and opinions to circles unfamiliar with English and French and are fully aware that translation into other official languages of the United Nations may furnish the key for opening up its jurisprudence to larger areas of the world legal community and to the public in general. If proper and effective means can be devised by the United Nations and resources made available to that end, the Members of the Court can only be in favour of this development.

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Independently of the scientific work of publication which forms for the Court the inevitable aftermath of each decision, the Court would be only too pleased to know that its case-law was becoming steadily available to scholars and students everywhere, no matter what their mother-tongue or working language."

3. At the same time, the Court is obliged to make clear that it opposes the adoption of the particular recommendations contained in the JIU report. In the Court's considered view, those recommendations, well-intentioned as they are, are unsound and could not be implemented as they stand without the expenditure of large sums additional to the Court's current budget. If they were nevertheless to be accepted, this could seriously prejudice the judicial processes and product of the Court.

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#### Methods of disseminating the decisions of the Court

4. The International Court of Justice believes that its judgments, opinions and orders, as legal instruments of particular significance for the international community, should be made as widely accessible as possible, and recognizes that the range of languages in which they are available constitutes a major factor of accessibility. The Members of the Court accordingly would welcome the appearance of faithful editions of its decisions in all United Nations official languages and are fully ready to consider practical measures to achieve that end. They consequently have observed with keen interest and sympathy the steps taken over the past few years, notably in the Sixth Committee (cf. A/C.6/40/SR.26, paras. 50-53) and in the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law (cf. A/40/893, para. 97), with a view to stimulating concerted action for the translation of its case-law into those official languages of the United Nations which are not also official languages of the Court itself. In the Court's view, the Inspector who is the author of the JIU's report, Ambassador Enrique Ferrer-Vieyra, has ideally indicated the ultimate goal by pointing out, in paragraph 2 of his report, that:

"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".

5. At the same time, the Court is compelled to express strong concern that the integrity of its decisions be protected. This, in its considered view, can best be achieved along the broad lines of the two different methods which are already employed by the Court in its own publications employing English or French or both languages. In the first place, the Court's decisions - its judgments, advisory opinions and orders, including their separate and dissenting opinions - are published, as legal instruments, in their entirety in the I.C.J. Reports series. In the second place, the Court publishes, in immediate press communiqués, and later in its Yearbook and Annuaire, careful and detailed, yet unofficial, summaries of the Court's reasoning, accompanied by the full text of the operative provisions. These summaries are explicitly presented as documents of public information and not as texts engaging the responsibility of the Court. The full decisions and the summaries serve some overlapping purposes, but they are addressed to different audiences or are for use in different circumstances.

#### The inclusion of separate and dissenting opinions

6. The report of the Inspector, for understandable reasons of economy, proposes a third method of disseminating the Court's decisions, namely the publication of texts which are abridged, not by condensation, as in the case of the above-mentioned unofficial summaries, but by the removal of any separate or dissenting opinions (see para. 11 of the report).

7. Such an abridgement would give currency to texts which, while presenting the outward appearance of authenticity, would in fact be deficient. This is not a development which the Court could itself promote, or to which it could lend its

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authority. Admittedly, it has no copyright upon its decisions and cannot prevent such abridged publication, nor does it in any way fail to appreciate the good intentions, practical sense and valuable service of those who unofficially have taken in the past or would now take that course. But it would be alien to the judicial integrity of the Court for it to accept association with any enterprise on those lines. In the view of the Court, it would be equally inappropriate for the United Nations, of which the Court is the principal judicial organ, to engage in or sponsor the publication of such truncated versions of the Court's judgments, opinions and orders.

8. In this regard, it may be helpful to indicate certain characteristics essential to the texts of its judicial decisions, whether judgments, advisory opinions, or orders disposing of substantive issues. In so doing, the Court must stress that an indissoluble relationship exists between such decisions and any separate opinions, whether concurring or dissenting, appended to them by individual judges. The statutory institution of the separate opinion has been found essential as affording an opportunity for judges to explain their votes. In cases as complex as those generally dealt with by the Court, with operative paragraphs sometimes divided into several interlinked issues upon each of which a vote is taken, the bare affirmative or negative vote of a judge may prompt erroneous conjectures which his statutory right of appending an opinion can enable him to forestall or dispel. To disseminate the Court's decisions without the appended opinions would therefore give rise to misconceptions affecting individual judges. It should in any case be apparent that the reasoning of a decision simply represents a highest common denominator. Therefore, given the multiplicity of judges dealing with a case, it is likely that some individual judges will feel that one or more of the considerations that determined their votes require more specific treatment; or there may remain points of great legal interest that a judge feels impelled to raise or explain, and such is the interplay of views during the Court's deliberations that these points will shed light on, or themselves be illuminated by, corresponding passages in the Court's decision. Thus not only do the appended opinions elaborate or challenge the decision, but the reasoning of the decision itself, reviewed as it finally is with knowledge of the opinions, cannot be fully appreciated in isolation from them. In short, the individual opinions are or may be essential to the full understanding of the Court's decision.

9. The foregoing explanations are founded upon Articles 56 and 57 of the Statute of the Court. These are worded as follows:

"Article 56

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion."

It must be added that the sense of the English text of Article 57 is illuminated by the French text, which provides:

"Si l'arrêt n'exprime pas en tout ou en partie l'opinion unanime des juges, tout juge aura le droit d'y joindre l'exposé de son opinion individuelle."

It is clear that the use of the word "joindre" confirms that the opinions are integrated with the judgment. Any official publication of the judgment without the opinions must represent an abridgement of the judgment - a truncation - to which the judges constituting the membership of the Court at any given time cannot lend authority without compromising the Court in its future decision-making processes.

10. In sum, no text omitting any statement delivered for final inclusion by one or more of the participant judges listed at the head of the decision is the complete and authentic decision of the Court. 1/

11. Even independently of the foregoing conclusions flowing from the Statute and the judicial character and tradition of the institution, the Court feels bound to stress the importance of the element of balance to the impact of its collegiate work. By this element is meant the full and fair presentation in a decision of all the legal options on which the Court has exercised its powers of distinction. This presentation will be thrown out of balance if separate and dissenting opinions are removed, especially where decisions taken by a narrow majority are concerned. To take an extreme case, it would not be proper to present a judicial decision adopted by a casting vote of the President without the opinions that could be expected to accompany it. What would the international community have thought if the United Nations had translated and disseminated the Judgment of the Court rejecting the claims of Ethiopia and Liberia in the South West Africa cases while omitting the

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1/ To complete this exposé of the legal position, it must be pointed out that the Court, by longstanding practice, accords analogous treatment, with respect to the appending of judges' opinions, to all orders disposing of substantive issues, such as provisional measures, the constitution of a chamber or the removal of a case from the list. This practice is endorsed by Article 95, paragraph 2, of the Rules of Court.

Furthermore, the Court, by virtue of Article 68 of its Statute, recognizes the thorough applicability of Articles 56 and 57 to advisory opinions, and makes no distinction between them and judgments as regards the relationship between the decision and the individual opinions appended to it (compare Art. 107, para. 3, of the Rules of Court with the above-mentioned Art. 95, para. 2).

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separate and dissenting opinions which had been joined to it? And, in the Court's view, no line can reasonably and regularly be drawn between cases where little harm supposedly would be done by excluding the opinions, and cases where, on the contrary, the harm would be great.

12. The Court wishes the extended treatment just given to the question of the status of separate and dissenting opinions to be seen as commensurate with the sympathy that its Members feel with the Inspector in the dilemma which has led him, at the end of his paragraph 11, to refrain from making any recommendation. Had the academic importance of appended opinions been the sole criterion, the Court might have been able to contemplate a publication of its decisions which excises their separate and dissenting opinions. However, as it hopes to have demonstrated, the Court is confronted with a legal imperative that obliges it to appraise the JIU report's recommendations on the assumption of the continued publication of complete texts of its decisions, including appended separate or dissenting opinions, whatever the language in which they appear. It is required to do so, though the result is that the translations which the JIU had wished to facilitate thereby prove far more costly than the Inspector hoped, thus vitiating a major premise of his calculations. The Court is confident that the world community of international lawyers shares its view on the necessity of the conjoined publication of separate and dissenting opinions.

#### Parity of treatment for all decisions of the Court

13. The Court is equally convinced that its Judgments and Advisory Opinions should not, from the publications point of view, be treated as separate categories, in the manner suggested by JIU Recommendations 2 and 4. <sup>2/</sup> The differences between the Court's contentious and advisory jurisdictions need not be rehearsed here, but the similarities of the judicial process applicable to both ought to be stressed, as well as the equal standing the Court attributes to them from the jurisprudential standpoint. It is well recognized that advisory opinions may fully be equal to judgments in scope and impact, and it is a fact that some advisory opinions have established a case-law relied upon in subsequent contentious proceedings. To segregate them may, the Court fears, tend to their being regarded as of secondary

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<sup>2/</sup> "Recommendation 2. The Court should consider publishing a compilation of all its Judgments in paper-back edition and in each of the official languages of the United Nations."

"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."



status, which would represent a most regrettable development. 3/ The Court is therefore unable to endorse the separation of the two kinds of decision made in the first four Recommendations of the report (para. 34). It is in particular unable to understand why the Inspector concedes the necessity for a combined English/French edition of judgments (Recommendation 1) but not of advisory opinions (Recommendation 3).

Limitation of the number of copies

14. Adopting the perspective just explained, the Court will now turn to paragraph 34 of the JIU report and, taking Recommendations 1 and 3 together, 4/ will consider in the first place the effect of limiting the number of copies of its decisions published in French/English.

15. It is obvious that for the Court to order fewer copies of each fascicle or volume in its existing series would initially cost less. It must, however, be stressed that such savings would be only temporary - in fact, illusory - unless it is assumed that the Court's publications are of merely ephemeral interest and can be allowed rapidly to go out of print. But the present exercise is surely based on the opposite assumption. Admittedly, certain small publications (for example, orders fixing time-limits) are of enduring interest only to a small group of specialists, but these particular publications are of negligible compass. As for the more substantial texts, the demand for them bears witness to the same growing interest in the Court as is evidenced by the JIU report itself. Of the 64 judgments and advisory opinions 5/ hitherto delivered by the International Court of Justice, 40 have had to be reprinted - some several times - while the stock position of more recent judgments amounts merely to a few hundred copies apiece. What is more, all the bound annual volumes of the I.C.J. Reports series from 1947-1948 to 1969 have had to be reprinted. Already, with its limited printing budget the Court has reduced its initial print orders to a minimum below which the

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3/ The Court would welcome further information regarding the translations of Advisory Opinions whose existence is referred to in paragraphs 10 and 15 of the JIU report, not least because they qualify for inclusion in the I.C.J. Bibliography. So far as Opinions requested by organs of the United Nations are concerned, the Court has knowledge only of one translation, namely a Spanish version of the Advisory Opinion on the Effects of Awards of Compensation by the United Nations Administrative Tribunal (1954).

4/ "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 of the United Nations.

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

5/ Not 50, as indicated in paragraphs 9 and 10 of the report.

cost-effectiveness of the operation would become doubtful even in the short term; the cumulative effect of the more frequent reprinting consequent upon lower initial print-runs cannot, moreover, be ignored when the reprints compete for funding with the texts of new decisions that must have priority, so that parts of the case-law may have to remain out of print for an unreasonably long time.

Cost-reduction through technical efficiency and competitive tendering

16. Setting aside the question of reprinting needs, it will be appropriate at this point to consider the Inspector's suggestions that a more competitive approach and the use of new technology in the printing process could reduce costs (Recommendation 5). 6/ If this actually were so, it might after all be feasible to act upon his first Recommendation 7/ and still produce savings.

17. On such technical questions, the Registrar has submitted to the Court a highly detailed report. It was prepared by the Registry's printing department, in whose efficiency the Court has confidence, and has received the scrutiny of the Court's Budgetary and Administrative Committee, who are satisfied that the department pursues a policy of steady modernization and takes judicious advantage of cost-saving technical developments compatible with the exigencies of its work. This report will be made available if the Assembly so desires.

18. In that connection, the Court must emphasize three points where the printing of a judicial decision is concerned - a process which has to begin well before the decision is rendered public: first, the confidentiality of the work, requiring a tight-knit, secure, daily collaboration with the printer; second, the standing guarantee of priority required; third, the necessity of reliance upon the accuracy and speed of the printer's employees - characteristics in which familiarity with the work plays no small part. It is believed that, from these standpoints, the present arrangement with an accomplished, technically progressive local printing house has stood the test of time. However, it must be made clear that, contrary to what is stated in paragraph 19 of the Inspector's report, this firm is not granted exclusive printing rights, nor is the Registry debarred from negotiating competitive prices. On the contrary, except for the initial composition of texts under embargo pending delivery of a decision, the Registry has no hesitation in placing contracts, both for composition and for printing, wherever an adequate job

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6/ "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."

7/ "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 of the United Nations."

can be performed the most cheaply. 8/ The precise observations that are appropriate in respect of competitive tendering have been made in the report of the printing department, which also demonstrates the modernity of the composition process now applied in combination with the word-processing equipment employed by the Registry. The Court's decisions are typed by the Court's staff on word-processors, and the resultant disks are used by the printer to set type automatically - a process which results in substantial savings of time and money and produces publications of particular accuracy. Negotiations are furthermore in progress with the printers to facilitate the introduction of further cost-saving techniques. Needless to say, all the relevant agreements and procedures in force have regularly been presented to the Court's auditors.

19. The Inspector apparently has arrived at very different calculations, but he has not provided the basis for them. The Court would welcome communication of the detailed costings supporting the information provided to the Inspector according to which the implementation of the measures summarized in paragraph 33 of his report would lead to savings of at least 50 per cent of the actual publication costs. The Court feels bound to say that, at this juncture, on the basis of the information available to it, the Inspector's calculations appear unfounded in fact, and, far from resulting in cost savings of 50 per cent, could result in an increase of costs (see appendix II).

20. It may be useful to add a comment upon paragraph 21 of the JIU report, which deals with sales income. The income accruing from the sale of Court publications by the Registry is regularly reported in the Court's monthly financial statements. This income, however, is not credited to the Court's publication budget but is absorbed into the general budget of the United Nations. The Court agrees with the Inspector that it should be informed of the income derived from the sale of its publications at other centres. However, the Registry is broadly aware of the relevant sales and distribution figures and, on the basis of that knowledge, is able to conclude that in course of time the sales income from the bound annual volumes in the I.C.J. Reports series exceeds their own production costs by a figure sufficient to recoup much of the costs of the separate fascicles, a greater proportion of which are distributed free of charge to Governments and law libraries. This indication of the profitability of the bound bilingual edition should be borne in mind in considering proposals to effect savings by drastic modification of the Court's publications policy.

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8/ Appendix I to these observations details the comparative costs of three publications of similar length prepared under differing conditions.

The practice of publishing bilingual editions

21. A chief aspect of the Court's publication policy which the report has challenged in paragraph 14 and Recommendations 1 9/ and 3 10/ is the production of combined English/French texts. Yet it must be emphasized that the interplay of the Court's two official languages, which mirrors that evident in its bilingual Statute, is among those essential characteristics of the Court's decisions which were referred to above (in para. 8). The drafting of each decision proceeds in parallel in both official languages, this being a reflection of the equality of the judges in respect of their chosen working-language. While each passage of the text will of course originally have been drafted in one language, not all may have been drafted in the same one, and the process of amendment which ensues results normally in an English and a French text of which neither can justly be designated as the sole original or as a translation. The two texts are therefore mutually supportive, a fact which retains its importance for all those concerned to understand the decision, irrespective of the clearly necessary statement which the Court always makes, in accordance with Article 39, paragraph 2, of its Statute, for the purpose of distinguishing the legally authoritative text.

22. The Court is fully aware that the foregoing explanation is of practical interest chiefly to readers with a grasp of both English and French. It should not, however, be overlooked in considering the proposed alternative of the bilingual edition and the creation of two separate monolingual editions.

23. The bilingual edition offers the advantage of grouping together in one publication all authoritative and original texts, i.e., the authoritative texts of decisions and the original texts of individual opinions, whereas these would frequently be separated from one another in monolingual publications. Such monolingual publications would indeed be of a hybrid nature, frequently presenting an alternation of authoritative and non-authoritative, original and translated material, so that the different parts of a volume would vary in authenticity; it is also of course conceivable that in a given year, or for a given decision, all the authoritative or original texts may be in the same language, but in this case the whole of the corresponding publication in the other language would be of inferior authenticity. Either way, the typical user of the Reports series would not, it is believed, be at ease with this situation. What is more, with the production of translations into other languages, an anomaly would arise, since these translations would undoubtedly all be based on the authoritative texts of decisions and the

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9/ "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."

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

originals of opinions, so that they would present a virtue of consistency lacking in the Court's own monolingual productions.

24. The conclusion to be drawn, however, is not that the introduction of monolingual English and French editions would necessarily be wrong, but that, if pursued, it should not be allowed to jeopardize the continuance of the existing system.

The "en regard" format of the Court's bilingual publications

25. In several passages of his report the Inspector comments upon the en regard format of the I.C.J. Reports series, in which the English and French texts face each other, page by page. In the case of any bilingual edition, the advantages of en regard presentation over the printing of successive different-language texts leap literally to the eye of any person to whom reference to both texts is at all useful. But these advantages have normally to be renounced by bodies with more than two official languages, and this undoubtedly provides the chief explanation for the comparatively uncommon nature of the practice. Even so, the Court is able to point out that in addition to the Council of Europe, which publishes en regard the European Yearbook as well as the Yearbook on Human Rights alluded to in paragraph 17 of the report, the Hague Conference on Private International Law has been using en regard production for its Collection of Conventions and its Acts and Documents series ever since 1960, while the same format is used in the Uniform Law Review of the International Institute for the Unification of Private Law. What is more, many legislative or official texts in bilingual countries are printed en regard - a technique used also where appropriate in the United Nations Treaty Series. But the closest analogy with the Court's decisions are the judgments of the European Court of Human Rights - which are likewise printed en regard. Against this background, and, more, in view of the fact that the Court's decisions are drafted and debated in parallel in both English and French (see para. 21 above) and that on occasion an enhanced understanding of passages of a decision of the Court can be secured only by considering both the English and French texts, the Court remains convinced that its en regard presentation must be maintained. Furthermore, modern techniques of composition have lessened any technical difficulties associated with the production of this format.

The estimated cost of implementing the report's first Recommendation

26. The Inspector acknowledges that some copies of the bilingual English/French versions of the Court's judgments should continue to be produced for use by the Court itself and international lawyers. The Court considers, as a matter of empirical fact, that he underestimates the extent of the circle interested. Nevertheless, the Registry of the Court has calculated the expenditure that might result from publishing a limited number of a particular judgment in the double-version format for the use of the Court and international lawyers, leaving the bulk of the printed copies to be issued in a less expensive single-language

version, as suggested in Recommendation 1. 11/ This calculation, which leaves out of account certain imponderable factors, such as additional staff requirements and delayed production schedules arising out of the substitution of two processes for one at nearly every stage, is appended as an annex to these observations, and will be seen to imply a distinct rise in expenditure as compared with existing practice rather than an economy.

The Court's own resources

27. Enough has now been said to indicate that, in the Court's view, the main recommendations of the Inspector concerning matters over which the Court has any power of disposal, namely its own publications policy and the apportionment of its publications budget, cannot feasibly be implemented in the ways he suggests. Even if savings could result from the modification of some existing practices, and this is problematical, the Court finds it difficult to conceive that they could amount to so high a figure as to permit the funding of even one edition in a third language. Moreover, if the Court had any part in the project, it would not be only the publications item in its budget that would be affected. Even supposing that the requisite translations were provided ready-made to the Court, extra proof-reading and clerical staff would be needed. Furthermore, the Court lacks the staff to ensure that translations of its decisions into one or more third languages are accurate. In short, the Court is unable to view Recommendation 6 as a soundly-based economic proposition. 12/

28. It may be appropriate at this point to indicate the extent of the current linguistic resources of the Registry. The Court has no languages department, simply four language officers whose posts have yet to be confirmed by the General Assembly, and, at a supervisory level, three First Secretaries whose linguistic functions compete for their time with manifold other duties. The printing department consists solely of two professional officers who combine the daily administration of the publications programme with proof-reading in all its stages. These nine staff members have no secretaries or copy-holders but share with all other Registry officials below the rank of D-1 the services of a typing pool consisting of five persons including the head. The working-languages of the Registry are the same as the official languages: English and French. It would therefore be impossible to undertake work in other languages without a considerable - and costly - expansion of personnel, equipment, supplies and accommodation.

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11/ "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."

12/ "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."

29. Despite the foregoing, the Court wishes to emphasize that its reactions are in no way directed at the underlying aims of the Joint Inspection Unit, but exclusively at the actual assumptions upon which the Inspector's report is based and the recommendations which it contains. The Court's wishes are that progress should be made in the direction of enlarging the availability of the Court's decisions in as many languages as possible. No doctrinal objection, but solely expense - much expense - stands in the way of publishing the totality of the Court's decisions in languages other than English and French. Provided that appropriate resources are made available, the Court is in complete sympathy with the broad aims of the Inspector. But to suggest that, within the confines of the current publications budget of the Court, publication of its decisions in third languages is possible, is to advance a suggestion which is unfounded in fact.

The Court's own public information work

30. In respect of Recommendation 7, 13/ it must be stressed that the Court has not waited for this suggestion but, within financial constraints that require no further comment, has for many years actively tackled the problem of enlarging the audience for its work. On the initiative of the Court itself or of individual judges, and in co-operation with the United Nations Departments of Public Information and Conference Services, and occasionally also with the assistance of national organizations devoted to the cause of international law, substantial handbooks and brochures on the Court have been produced in Arabic, 14/ Dutch, German and Spanish, as well as in English and French, while the Rules of Court have been translated into Spanish, Arabic, Chinese, German, Japanese, and Russian. These activities may be seen, along with the collaboration of the Court's Members and staff with the United Nations Institute for Training and Research, the Hague Academy of International Law, and university- or government-sponsored trainee groups, as a significant supplement to the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. The Registry of the Court also has endeavoured to promote fuller coverage of the Court's decisions in the world's press, with substantial, if not complete, success. Nor should one overlook the scholarly work of judges past and present, much of which makes known or chronicles the Court's work to a wide audience outside the English- or French-speaking worlds.

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13/ "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."

14/ Publication under preparation.

### The involvement of the Secretariat

31. The final recommendation in the Report (Recommendation 8) 15/ is addressed to the Secretary-General but would leave it to the Court to request his facilitation of the translation and printing of the Court's decisions in official languages other than English and French. It would be inappropriate for the Court to address the main thrust of this recommendation, which needs to be read with paragraph 30 of the report, but it may be suggested that, where interested States are at liberty to request the same facilities of the Secretary-General, there is the less reason to leave the initiative to the Court. In the current financial circumstances of the Organization, the Court does not feel justified in calling for the Secretariat to provide such substantial means. The Inspector has, however, drawn welcome attention to the fact that, in the case of a particular decision of the Court, any Member State may initiate the call for a translation.

### Consultative status and positive attitude of the Court

32. The Court considers that it would be premature for it to comment specifically on any of the suggestions made in paragraphs 23 and 25-29 of the report with regard to the execution and funding of the work of translation. However, it must take this opportunity of stating, as the custodian of its own decisions and a principal organ of the United Nations, that any public edition of its decisions produced, in whatever language, under the aegis of the Organization should as a matter of course be prepared in full consultation with the Court.

33. The critical aspects of the foregoing observations are, the Court believes, less the product of judicial caution than of the realism essential to all progress. The Court, several of whose Members have as their own mother tongue a United Nations official language other than English or French, finds no satisfaction whatsoever in being forced to recognize that, for the foreseeable future, it will apparently remain very difficult to provide resources for the pursuance of an admirable objective that could prove of great benefit to the enhancement of respect for international law. Should the relevant Committees of the General Assembly prove able to point the way even to the beginnings of a solution, the General Assembly could count on the assumption by the Court of its consultative role, in appropriate collaboration with the Office of Legal Affairs and the Departments of Public Information and Conference Services.

### Acknowledgment

34. The International Court of Justice wishes finally to reiterate its gratitude to the Joint Inspection Unit, and most especially to Ambassador Ferrer-Vieyra, for his efforts on behalf of the wider dissemination of the Court's jurisprudence. It is particularly appreciative of the manner in which the Inspector has kept the Registry informed at each stage of his enquiry.

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15/ "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."



APPENDIX I

Comparison of production costs for publications, taking account  
of time-limits and available processes

<u>Publications</u>	<u>Numbers of pages</u>	<u>Costs of production</u>
<u>I.C.J. Pleadings,</u> <u>Continental Shelf</u> <u>(Tunisia/Libyan Arab</u> <u>Jamahiriya),</u> Vol. II (Sales No. 490)	564 145 pages composed in the Netherlands, the rest camera-ready copy. Printed in the Netherlands.	\$17 764 (August 1985) + 3 per cent (to compare with 1986 prices)  <u>\$18 297.-</u>
<u>I.C.J. Pleadings, ibid.,</u> Vol. V (Sales No. 493)	536 Composed in France. No camera-ready copy. Printed in the Netherlands.	   <u>\$26 987.-</u> (June 1986)
<u>Judgment Nicaragua v.</u> <u>United States,</u> <u>Jurisdiction</u> (Sales No. 506)	496 Composed in the Netherlands. Printed in the Netherlands.	\$37 457.- + 3 per cent (to compare with 1986 prices)  <u>\$38 581.-</u>

Result: For a publication of a given length, the Registry already achieves more than a 50 per cent reduction of cost in favourable conditions (e.g., when the work does not have to be produced in conditions of secrecy and urgency, and photographic techniques can be substituted for composition). The introduction of advanced cost-saving techniques is under discussion with the printing firm which normally composes the confidential texts of the Court's decisions.

APPENDIX II

Comparison of production costs\*

Example: Continental Shelf (Libyan Arab Jamahiriya/Malta), Judgment

Current method: (bilingual)

2,900 fascicles + 1,300 copies for bound  
volumes (cf. Appendix I)

\$22 793.31

Alternative method: Limited distribution of  
bilingual fascicles and no bilingual  
bound volumes

100 bilingual copies (cf. Appendix II)	\$14 692.89
1,500 monolingual fascicles (+ 1,000 copies of monolingual bound volumes) (Appendix III)	4 960.91
1,000 monolingual fascicles (+ 500 copies of monolingual bound volumes (Appendix IV))	<u>3 979.11</u>
	<u>\$23 632.91</u>

+ \$839.60

Result:

The suggested alternative method produces half the number of texts (2,600 English and 1,600 French, totalling 4,200) for \$839.60 more than the current method, which results in 4,200 texts in both languages. There is thus at least a theoretical doubling of overall cost per text. Admittedly, the total number of copies that can be distributed or sold is almost the same in either case (4,200 by the current method, 4,100 by the alternative), but there is certainly no saving. In the case of the bilingual edition, the cost of 100 copies of the example fascicle is nearly 65 per cent of the cost of 4,200 copies. The cost-effectiveness of such a limitation on the print-run is therefore open to doubt. Attention may also be drawn to the necessity of consulting each existing customer on his language preference or his desire always to receive the authoritative text. This would be a costly exercise that might offset any postal economies resulting from the dispatch of lighter volumes.

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\* Prices based on actual expenses in guilders converted to dollars at the United Nations dollar rate of November 1986 (\$US 1.00 = 2.30 guilders).

ENCLOSURE I

Method currently employed

Title: Continental Shelf (Libyan Arab Jamahiriya/Malta), Judgment

Sales No. 496

Run 2,900 + 1,300 copies = 4,200 - 320 pages

Price according to quotation No. 51154, date 18.12.1985

<u>Composition</u>	<u>\$US</u>
Starting costs per job	93.50
10 x 3.25/3.50 309 x 3.75/3.75	
(37.80 + 34.57 = 378.00 + 10,682.00 = 11,060 - 20%	8 848.00
1 blank page at \$3.72	3.72
22 pages with footnotes at \$0.76	16.72
316 pages "en regard" at \$2.52	796.32
2 pages with sidenotes at \$0.37	0.74
"accelerated production" 319 pages at \$7.85	2 504.15

Printing

Starting costs per job	32.33
20 sheets of 16 pages	2 895.48
White cover 2,900 copies	489.51

Paperbinding

160 pages in cover 2,900 copies	868.50
5 sheets of 32 pages more at \$109.40	579.17
Folded for I.C.J. Reports 1,300 copies	
Paper (20 sheets - 4,200 copies)	<u>5 666.35</u>
	22 794.49

ENCLOSURE II

Cost of producing 100 bilingual copies  
(no bound volumes)

320 pages

Composition

\$US

Starting costs per job	93.50
319 pages 3.25/3.50 309 pages 3.75/3.75 (price of diskettes)	8 846.96
1 blank page	3.72
22 pages with footnotes	16.74
316 pages "en regard"	796.87
2 pages with sidenotes	0.74
Accelerated production, 319 pages	2 503.46

Printing

Starting costs per job	32.33
20 sheets of 16 pages	1 936.43
White cover	130.07

Paperbinding

160 pages in cover	161.87
5 sheets of 32 pages more	35.30
Paper	<u>134.91</u>

14 692.90

ENCLOSURE III

1,500 monolingual fascicles (+ 1,000 for bound volumes)

Title: Continental Shelf (Libyan Arab Jamahiriya/Malta)

Sales No. 496

Run 1,500 + 1,000 copies - 160 pages

Price according to quotation No. 51154, date 18.12.1985

Composition

\$US

Starting costs per job

93.50

Montage, including folios

1 074.78

Printing

Starting costs per job

32.33

10 sheets of 16 pages

at \$124.89 (2,500 copies)

1 248.90

White cover

(1,500 copies)

309.80

Paperbinding

160 pages in cover

515.18

Folded for I.C.J. Reports 1,000 copies

Paper (2,500 ex - 10 sheets)

1 686.41

4 960.90

ENCLOSURE IV

1,000 monolingual fascicles (+ 500 for bound volumes)

Title: Continental Shelf (Libyan Arab Jamahiriya/Malta)

Sales No. 496

Run 1,000 + 500 copies - 160 pages

Price according to quotation No. 51154, date 18.12.1985

Composition

\$US

Starting costs per job

93.50

Montage, including folios

1 074.78

Printing

Starting costs per job

32.33

10 sheets of 16 pages

at \$113.20 (1,500 copies)

1 132.00

White cover

(1,000 copies)

245.61

Paperbinding

160 pages in cover

389.09

Folded for I.C.J. Reports 500 copies

Paper (1,500 ex - 10 sheets)

1 011.85

3 979.16

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