

INTERNATIONAL COURT OF JUSTICE — JURISDICTION — RESOLUTIONS TO EXPAND THE JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE AND TO IMPROVE THE COURT'S IMAGE AS A VIABLE ALTERNATIVE TO ACHIEVE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

In the past the policy of the United States toward the International Court of Justice has been characterized by verbal support¹ and actual neglect.² This attitude has been identical to that found within the world as a whole.³ Through the years, however, there have been attempts by various individuals and groups to change the United States policy.⁴ These efforts have produced five Senate resolutions⁵ which are broad in scope and varying in direction.⁶ Collectively, they were specially designed to increase the use of⁷ and confidence in⁸ the Court

¹ Administrations throughout the years since the development of an international court have supported the idea of world peace through law. President Kennedy at The American University graduation in 1963 delivered a speech in which he declared "peace is a process, a way of solving problems."

² Only seven claims have been brought by the United States since the 1946 establishment of the I.C.J. *Hearings on S. Res. 74, 75, 76, 77, 78 Before the Comm. on Foreign Relations*, 93d Cong., 1st Sess., at 159 (1973) [hereinafter cited as *Hearings*].

The report of the Lodge Commission in 1971 stated:

[S]ince 1946 the United States has committed itself, without reservations, to the jurisdiction of the Court in over 20 multilateral treaties and 20 bilateral agreements with respect to disputes arising from those agreements. This is a commendable way for widening the Court's jurisdiction, but these agreements are only a small portion of the more than 200 bilateral and multilateral treaties subscribed to by the United States since 1946.

REPORT OF THE PRESIDENT'S COMMISSION FOR THE OBSERVANCE OF THE TWENTY-FIFTH ANNIVERSARY OF THE UNITED NATIONS, at 12 (1971) [hereinafter cited as *Lodge Commission*].

See *Hearings* at 160 for a list of treaties and agreements of the U.S. which contain a provision for submitting disputes to the Court.

³ At the time the hearings for these resolutions were being conducted, the Court's docket contained only three cases; two were contentious, and the third was a request for an advisory opinion. See *Hearings*, *supra* note 2, at 17. These cases have since been disposed of by the Court. They were the Fisheries Jurisdiction Case (United Kingdom v. Iceland), [1974] I.C.J. 3 (deciding the merits of the dispute over Iceland's unilateral extension of exclusive fishing rights); the Fisheries Jurisdiction Case (Federal Republic of Germany v. Iceland), [1974] I.C.J. 175 (deciding the merits of the dispute over Iceland's unilateral extension of exclusive fishing rights); and the Advisory Opinion on Application for Review of Judgment No. 158 of the United Nations Administrative Tribunal [1973] I.C.J. 166 (grievance of a U.N. employee).

⁴ E.g., the Senate Committee on Foreign Relations in 1960, debated a resolution which, if it had passed the Senate, would have led to the repeal of the Connally Amendment. *Hearings on S. Res. 94 Before the Comm. on Foreign Relations*, 79th Cong., 2d Sess. (1960).

⁵ These resolutions were introduced on 1 March 1973, were reported to the Senate floor as amended on 9 May 1974, and passed by voice vote on 20 May 1974.

⁶ The House has also introduced a resolution of its own with respect to access to the I.C.J. H.R. 556 was introduced 20 September 1973 and assigned to the Committee on Foreign Affairs, which has not reported the measure at the present time.

⁷ In introducing the resolutions, Sen. Cranston stated that the resolutions were designed to "[e]xpand the jurisdiction of the Court by gradual degrees; [and] [i]ncrease the number of cases submitted to it. . . ." 119 CONG. REC. 3760 (daily ed. March 1, 1973).

⁸ One of the primary aims of the sponsors is to have issues submitted to the Court which are

in order to assist the development of a better defined body of international law. The resolutions were aimed specifically at United States behavior in foreign affairs; they attempted to set a course in which this country will become an example for the remainder of the world to emulate in achieving settlement of international disputes through law rather than violence.⁹ *S. Res. 74, 75, 76, 77, 78, 93d Cong., 2d Sess., 120 CONG. REC. 8430 (daily ed. May 20, 1974).*

Several characteristics of the international system, buttressed by the belief that there should be an international forum for discussions of international problems¹⁰ open to a wider field of participants than presently admitted, prompted the sponsors to introduce the resolutions. The Connally Amendment¹¹ has always prohibited the United States from making an unqualified acceptance of compulsory jurisdiction of the I.C.J.¹² Other nations have likewise filed declarations¹³ of compulsory jurisdiction containing reservations with the U.N. Secretary-General.¹⁴ This course of action, tending to limit the number of claims that are filed or adjudicated¹⁵ and the number of requests for advisory opinions made to the Court, leads to the charges that the I.C.J. is an almost useless instrument for welding international peace.¹⁶ There is a prevail-

not a threat to national security or the sovereign's image. By encouraging the use of the court machinery, it is hoped that a body of international law can be clarified yielding a structure on which parties can base their expectancies.

Note, also, that Sec. Rogers in his 1970 address to the American Society of International Law stated "[i]n our zest to take giant steps we have failed to take the confidence-building smaller steps which are necessary to move from routine and less significant international cases to more important and major ones." Address by Secretary Rogers, 1970 annual meeting of the American Society of International Law, April 25, 1970, in 62 DEP'T STATE BULL. 623 (1970) [hereinafter cited as *1970 Address*].

⁹ A co-sponsor of the resolutions, Senator Taft, cited further purposes when he spoke on the floor after passage arguing that "[p]assage of these five resolutions will help to promote interest in the court and reaffirm the Senate's interest in long-range peaceful alternatives to international confrontation and violence." 120 CONG. REC. 8432 (daily ed. May 20, 1974) [hereinafter cited as *Resolutions*].

¹⁰ Problems most often cited during the hearings were terrorism, hijacking, and pollution. See generally *Hearings, supra* note 2.

¹¹ 61 Stat. 1218, para. 2, clause b (1946), T.I.A.S. No. 1598.

¹² The six word reservation, "as determined by the United States," often has been a troublesome matter in U.S. foreign affairs since the Senate resolution containing the phrase was passed in 1946. See 92 CONG. REC. 10694 (1946) for a record of the debate on the Senate floor prior to the vote.

¹³ According to the facts found by the Lodge Commission (Senator Taft was a member) forty-eight states have accepted compulsory jurisdiction either with or without reservation under the "optional clause." The rest of the U.N. membership has not bound themselves in any way. *Lodge Commission, supra* note 2, at 12.

¹⁴ I.C.J. STAT. art. 36, para. 4.

¹⁵ Declarations of compulsory jurisdiction with reservations have contributed to or caused the dismissal of several cases. Among the best known are the *Interhandel Case*, [1959] I.C.J. 6 (U.S. invoked the Connally Amendment against Switzerland although the Court did not base its dismissal on that theory); *Case Concerning the Aerial Incident of 27 July 1955*, [1960] I.C.J. 146 (Bulgaria, through reciprocity, invoked the amendment against the U.S.); and *Case of Certain Norwegian Loans, (France v. Norway)*, [1957] I.C.J. Rep. 9 (Norway invoked France's self-judging reservation against that country).

¹⁶ This situation has led at least one Secretary of State to describe the Court as "moribund."

ing fear among governments of submitting a legal issue to the Court if the issue is of any importance to the security or the image of that country. This fear rests on the fact that the government does not or can not know what standards or criteria will be used in adjudication.¹⁷ Even if the issue is argued before the panel of justices, the vagueness of the Statute¹⁸ and the Charter¹⁹ as to enforcement will make the decision virtually meaningless and relief unattainable if there is no voluntary compliance.

Positive action in the area of expanding the Court's jurisdiction has not been a characteristic of many U.S. administrations.²⁰ However, in former Secretary of State Rogers' address to the American Society of International Law in 1970,²¹ the Secretary summed up the Department's commitment to strengthening the international judicial system and made suggestions for the future.²² The State Department in the past has found that a major obstacle in the United States' initiatives to encourage the use of the Court has been the Connally Amendment,²³ since the U.S. cannot encourage compulsory jurisdiction without appearing hypocritical. These fears, the inaction on the part of the United States in expanding jurisdiction, and the desire for world peace through law culminated in the adopted resolutions.

Each resolution²⁴ attempts to attain the goals outlined by means of the small

1970 Address, supra note 8, at 263. However, by the time the Senate hearings for these resolutions were held, the State Department had revised its estimate of the Court's usefulness based on the fact that the judicial body had improved its process of adjudication evidenced by the timely disposition of the issues in the Namibia Mandate Question. Letter from Marshall Wright to Senator Fulbright, May 10, 1973, in *Hearings, supra* note 2, at 261 [hereinafter cited as *Letter to Fulbright*].

¹⁷ This feeling was expressed by Senator McClure in the debate before the vote on these resolutions. *Resolutions, supra* note 9, at 8429.

¹⁸ The Statute states that judgment is final and without appeal. I.C.J. STAT. art. 60. But the Statute does not make provision for enforcement.

¹⁹ The role of the U.N. as to instances of noncompliance likewise remains unclear in the Charter. U.N. CHARTER art. 14; *id.* art. 24.

²⁰ See notes 1 & 2, *supra*.

²¹ See *1970 Address, supra* note 8.

²² For example, Sec. Rogers suggested that additional international organizations, as well as disputing states, be authorized to request advisory opinions. He also suggested that greater use be made of the Court chambers and that these abbreviated panels meet outside The Hague to make the Court more visible to the world.

An additional comment was made as to the Department's policy to submit to the Court's jurisdiction over disputes arising out of the interpretation or application of multilateral treaties to which the U.S. is a signatory. The Secretary stated that the Department would continue to follow this policy and would attempt to expand it wherever appropriate. See *1970 Address, supra* note 8.

²³ "One of the major stumbling blocks we have encountered in pressing this initiative is the attitude of many States that if the United States is really interested in strengthening the Court, it must first repeal the Connally Amendment and urge other States to repeal their similar reservations, since their continued existence would serve to undercut severely any other attempts to strengthen the Court." *Letter to Fulbright, supra* note 16, at 261.

²⁴ The *Senate Resolutions* are included in Appendix to this Recent Development.

steps suggested by Secretary Rogers.²⁵ Section One of Res. 78²⁶ suggests the most radical change of all the five resolutions as it departs from the traditional notion that only states have standing in the international judicial system.²⁷ The usefulness of the study proposed by Section One, that is, to analyze the various ways to grant access to the Court, is enhanced by the request that a study be made of the feasibility of establishing a special committee of the General Assembly which would have authority to request advisory opinions from the I.C.J. on behalf of the persons mentioned in the first section of the Resolution.²⁸ The wording of this last Resolution was amended²⁹ before the committee approved it, due to the testimony of several witnesses that the proposal as originally written was unrealistic.³⁰

Res. 77³¹ was also amended³² before it was recommended to the full Senate. As passed, the resolution both reaffirms and restates in part the acceptance by the United States of Chapter VI of the Charter.

Several housekeeping matters are dealt with in Res. 76³³ in an attempt to encourage the greater use of the Court. The first section was amended³⁴ to utilize the chambers of the Court³⁵ in order to make the Court more accessible for the solution of regional disputes where negotiation fails. The revision was made because of the improbability of the Statute being amended.³⁶ The second section, also revised,³⁷ suggests that the President take all "appropriate measures" to allow regional organizations and any two or more disputing states to request advisory opinions of the I.C.J.³⁸ Sections Three and Four respectively

²⁵ See note 8, *supra*.

²⁶ See Appendix, *infra*.

²⁷ I.C.J. STAT. art. 34, para. 1.

²⁸ The parties which would be beneficiaries under § 1 are individuals, corporations, nongovernmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons. Their proposed access to the I.C.J. or other international tribunals is limited to questions of international law stemming from activities directly pursued by those parties.

²⁹ The original version of Res. 78 provided for amendment to the Statute in order that the Court might grant jurisdiction to the class of persons listed in the final version. See note 28, *supra*.

³⁰ Among others, former Justice Jessup expressed doubts that a change was realistic given the political atmosphere of the Security Council. See generally *Hearings, supra* note 2.

³¹ See Appendix, *infra*.

³² Res. 77 as first proposed called for states to submit to the Secretary-General a declaration of its recognition of compulsory jurisdiction, without reservation of that jurisdiction, when the Security Council, by an affirmative vote of nine members, including eighty per cent of the permanent members, requested the parties to submit the dispute to the Court. See *Hearings, supra* note 2, at 10.

³³ See Appendix, *infra*.

³⁴ Formally the Resolution called for the establishment of regional courts with original jurisdiction, whose decisions would be appealable to the I.C.J.

³⁵ I.C.J. STAT. art. 26; *id.* art. 29. I.C.J.R.P. 31 (3).

³⁶ See note 30, *supra*.

³⁷ The former wording suggested that the President propose amendments to Art. 96 of the Charter so as to allow regional organizations and disputing states to request advisory opinions.

³⁸ There is no guide in the section as to what "appropriate measures" would or could entail.

advise that the President undertake appropriate steps to improve the methods by which judges are nominated and elected,³⁹ and that the President encourage the I.C.J. to sit and exercise its functions outside The Hague when feasible.⁴⁰

The other two resolutions are of lesser note. Res. 75⁴¹ calls for the United States to include in all future treaties, and other international agreements adopted subsequently to this resolution, a clause providing that any dispute arising from the interpretation or application of the agreement, if not settled by negotiation, be submitted to the I.C.J. or other appropriate body for a binding decision. Res. 74⁴² added to the original version⁴³ the provision that the United States was to submit as many as possible of the outstanding territorial disputes that can not be solved through diplomatic channels.

As a series, the resolutions strive toward high goals, but they do so only in an unspecified manner. The wording of several of the amended passages are much weaker than the original phrasing.⁴⁴ Part of the dilution is attributable to the impracticality of some of the proposals.⁴⁵ As diluted however they only serve to hint at substantive action and do not constructively forge ahead in the stated aims of the resolutions. The revision of Section One of Res. 76⁴⁶ makes the resolution more practical in that establishing another layer of courts would

The section was changed for the same reasons as were those in the other previously mentioned resolutions.

³⁹ I.C.J. STAT. ch. 1. Chapter 1 of the Statute describes how the justices are presently selected.

⁴⁰ I.C.J. STAT. art. 22.

⁴¹ See Appendix, *infra*. This resolution was the only one of the five not substantially amended. It enjoyed the support of the State Department and most of the witnesses at the hearings although suggestions were made as to possible improvements.

⁴² See Appendix, *infra*.

⁴³ The original version had suggested that the Secretary of State be requested to submit twenty-eight particular U.S. territorial disputes to the I.C.J. for binding decisions. *Letter to Fulbright*, *supra* note 16, at 266 *et seq.*

⁴⁴ *E.g.*, the final version of § 1 of Res. 76 states that “. . . the President should instruct the Secretary of State to give favorable consideration to making use of the various chambers. . . .” whereas the original wording says that “. . . the President should undertake all appropriate steps to have amendments. . . adopted. . . .” [emphasis added].

Compare Res. 77 as found in *Hearings*, *supra* note 2, at 10, with Res. 77 as printed in Appendix, *infra*.

⁴⁵ It should be noted that the original versions of the resolutions which call for the amendment of the Charter or the Statute were supported by witnesses at the hearings only for their ultimate purposes of expanding jurisdiction and increasing the work load and not for the suggestion of how to fulfill those purposes. For example, § 2 of Res. 76 in the original version suggested that the President propose amendments to Article 96 of the Charter which would expand the range of bodies that would have standing to request advisory opinions of the I.C.J. The final version of the Section only called for the President to attempt to expand the range of entities which could request the advisory opinions. The reason for the change was primarily due to the negotiation problems which would have developed in the U.N. if the amendments had been proposed. This political obstacle was pointed out in testimony by witnesses at the hearings. The problem has been mentioned previously in notes 29, 30 and 36 and the accompanying text.

⁴⁶ See note 34, *supra*. The revision calls for the President to instruct the Secretary of State to give favorable consideration to making use of the various chambers of the I.C.J.

only make the process needlessly expensive and time consuming, a current characteristic of the Court which does not encourage the submission of legal problems. The use of the chambers should provide a more widespread interest in the Court if the chambers exercise judicial functions outside The Hague.⁴⁷ Making use of the chambers is a more realistic suggestion since the institution of an appellate process would only serve to provide one more "final" opportunity to argue the position advocated. Such an extension would not serve to realize swift justice. Of course, an additional layer of courts would have one advantage in that a government might be more willing to take a case to the courts if there were two opportunities to win instead of one. However, the encouragement of just decisions within a reasonable time frame would be a better inducement to submit legal problems to the Court than an appellate system, particularly if submission to the Court remains largely a decision made within a political environment.

The clientele of the Court and its use by those entities which presently have standing could be expanded by effective administration of Res. 74, 75, and 78;⁴⁸ but still unanswered is the question of whether or not the parties involved other than nation-states would appear before the Court.⁴⁹ Res. 74 requests that the President have territorial disputes submitted to the Court in the event that such disputes cannot be settled through negotiation. Given that qualification, a case would probably be filed by the United States only in the situation in which the United States found itself having the stronger argument. Otherwise, it might prove to be more advantageous to negotiate rather than to wage a legal battle of doubtful success. Res. 75 involves the same qualification and thus it is a questionable guarantee of submission of legal questions to the Court. It is also noticeable that Res. 75 does not suggest that treaties and agreements, made previously to this resolution and which do not already include an operative clause requiring the qualified submission, be amended to include such a clause. The additional class of parties⁵⁰ to be given standing by Res. 78 would submit cases that primarily involve questions of private, not public international law. This could serve to increase the activity of the Court but would not insure the construction of an accepted body of public international law.⁵¹ Section Two of Res. 78 could encourage discussion of problems and aid in negotiations between the disputants.⁵²

Res. 77 appears to be the weakest of the five since it, in the final version,

⁴⁷ I.C.J. STAT. art. 28.

⁴⁸ See Appendix, *infra*.

⁴⁹ See generally 11 VA. J. INT'L L. 344 (1971).

⁵⁰ See 2 GA. J. INT'L & COMP. L. 59, at 62 *et seq.* (supp. 2, 1970) for one assessment of this topic [hereinafter cited as GA. J.].

⁵¹ Advantages of the build-up of a body of public international law would be that the Court could gain experience in deciding issues between parties from different legal backgrounds and that a sovereign's confidence in the Court might grow if it saw the panel acting in consensus and in an impartial manner.

⁵² See GA. J., *supra* note 50, at 62.

ignores the question of what specifically to do about the Connally Reservation.⁵³ But the group of resolutions itself is not very specific in stating means of achieving the desired effects stated in the individual preambles. Instead, the five were proposed in the hope that discussion would be stimulated about the Connally Amendment and support could be drawn for the amendment's repeal.⁵⁴ If discussion and definite action by the United States does result, the resolutions will be a welcome step in the direction of solving the problem of providing a balance between protecting domestic jurisdiction and approaching international security through law.

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⁵³ Compare Appendix, *infra* with *Hearings*, *supra* note 2, at 10.

⁵⁴ See generally *Hearings*, *supra* note 2.

APPENDIX*

The text of the individual resolutions are as follows:

Res. 74 — Resolution expressing the sense of the Senate with respect to the submission of United States territorial disputes to the International Court of Justice.

Whereas the adjudication of disputes which affect neither the national security nor the vital interests of the parties concerned is one of the most practical and immediate ways to develop and strengthen an international judicial system;

Whereas the International Court of Justice must be used by parties to the statute of the Court if it is to fulfill its purpose;

Whereas the submission of cases to the International Court of Justice for the binding settlement of disputes between states is not a provocative gesture but rather a step toward international peace through law; and

Whereas the United States has contributed greatly to development of international law and seeks an ordered world under law: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President is requested to direct the Secretary of State forthwith to seek to submit to the International Court of Justice for binding decisions as many as possible of those outstanding territorial disputes involving the United States, where such disputes cannot be resolved by negotiation.

SEC. 2. It is further the sense of the Senate that the President should direct the Secretary of State to consider submitting to the International Court of Justice as many as possible of the approximately 28 territorial disputes involving our country and a number of close allies over desolate and largely uninhabited islands in the Caribbean Sea [sic] and the Pacific Ocean.

SEC. 3. It is further the sense of the Senate that the President should direct the Secretary of State to make a full written report to the Senate and to its Committee on Foreign Relations within one year after the adoption of this resolution, and a report for each of the five years thereafter, of actions taken and progress achieved in submitting such disputes to the Court.

SEC. 4. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what actions he has taken pursuant to this expression of advice.

Res. 75 — Resolution expressing the sense of the Senate with respect to the adjudication of disputes arising out of the interpretation or application of international agreements.

Whereas the United States is committed to the universal rule of law; and

Whereas the effective rule of law requires that provision be made

for an agreed third party to settle disputes as to the interpretation of treaties and other international agreements; and

Whereas the absence of such provisions has often resulted in prolonged and acrimonious disputes as to the meaning of these treaties or other international agreements or the existence of a violation of the obligations incurred under them: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States endeavor to include, in all future treaties and other international agreements to which the United States shall be a party or which shall be negotiated subsequent to the adoption of this resolution, operative clauses providing that any dispute arising from the interpretation or application of these treaties and international agreements which is not settled by agreement between or among the States concerned shall be subject to the jurisdiction of the International Court of Justice or other appropriate body.

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

Res. 76 — Resolution expressing the sense of the Senate with respect to establishing regional courts within the International Court of Justice, increasing the categories of parties which may request advisory opinions from the International Court of Justice, selecting judges of the International Court of Justice, and having the International Court of Justice consider cases outside The Hague.

Whereas it is desirable for the International Court of Justice to be increasingly accessible and responsive to the need of the world community;

Whereas the International Court of Justice has been inadequately utilized in the settlement of international disputes;

Whereas states and regional agencies are now precluded from seeking advisory opinions of the International Court of Justice and the availability of such advisory opinions would facilitate the peaceful settlement of international disputes;

Whereas the effective role of law requires the election of impartial judges of high moral character and recognized competence in international law;

Whereas the Charter of the United Nations recognizes the importance of the contribution of Members of [*sic*] the maintenance of international peace and security and to the other purposes of the organization; and

Whereas paragraph 1 of article 22 of the Statute of the International Court of Justice provides that the establishment of the Court at The Hague shall not prevent the Court from sitting elsewhere: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should instruct the Secretary of State to give favorable consideration to making use of the various chambers of the International Court of Justice, including chambers convened to resolve regional disputes, where such disputes cannot be resolved by negotiation.

SEC. 2. It is further the sense of the Senate that the President should take all appropriate measures to attempt to expand the range of international bodies eligible to request advisory opinions of the Court, giving special attention to attempting to extend eligibility to regional organizations as well as any two or more states jointly seeking an advisory opinion on any legal questions relating to a dispute between them.

SEC. 3. It is further the sense of the Senate that the President should undertake appropriate steps to improve, within the existing provisions of the statute, the process whereby persons are nominated and elected to serve as judges of the International Court of Justice.

SEC. 4. It is further the sense of the Senate that the President should undertake all appropriate steps to encourage the International Court of Justice, from time to time, to sit and exercise its functions outside The Hague at places more convenient to the various parties to the Statute of the International Court of Justice.

SEC. 5. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advise.

Res. 77 — Resolution expressing the sense of the Senate with respect to referring international disputes to the International Court of Justice.

Whereas peace between nations will be placed on a sounder foundation when they agree to follow scrupulously the terms and spirit of chapter VI of the Charter of the United Nations referring to the pacific settlement of international disputes;

Whereas paragraph 1 of article 33 of chapter VI of the Charter of the United Nations provides that "the parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice";

Whereas paragraph 3 of article 36 of chapter VI of the Charter of the United Nations provides that "legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court"; and

Whereas the United States is a party to the Statute of the International Court of Justice and is dedicated to the principles by which it was founded and is guided: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should

direct the Secretary of State to encourage the maximum possible use of the procedures outlined in chapter VI of the Charter of the United Nations, relating to the pacific settlement of international disputes, whose continuance is likely to endanger the maintenance of international peace and security, particularly those procedures provides [*sic*] for the reference of legal disputes to the International Court of Justice.

SEC. 2. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.

Res. 78 — Resolution expressing the sense of the Senate with respect to access to the International Court of Justice.

Whereas in an increasingly interdependent world a growing number of international entities other than nation-states influence the course of world events;

Whereas the peaceful adjudication of international disputes to which they are a party should be available to such international entities, including individuals, corporations, nongovernmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons;

Whereas article 11 of the Statute of the United Nations Administrative Tribunal establishes a procedure whereby upon written application by an individual in respect of whom a judgment has been rendered by the tribunal, a special committee may request an advisory opinion from the International Court of Justice concerning that judgment;

Whereas article XII of the Statute of the Administrative Tribunal of the International Labor Organization provides for certain appellate procedures whereby a judgment affecting an individual rendered by the tribunal can be annulled or reversed by the International Court of Justice; and

Whereas there are still other precedents for according entities other than states and public international organizations access to international tribunals: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should direct the Secretary of State to undertake a study examining and appraising the various ways of granting direct and indirect access to the International Court of Justice and other international tribunals to individuals, corporations, non-governmental organizations, intergovernmental organizations, regional organizations, and other natural or legal persons, in cases concerning questions of international law arising within the scope of activities directly pursued by such natural and legal persons.

SEC. 2. It is further the sense of the Senate that such a study should include an examination of the feasibility of establishing a special committee of the General Assembly of the United Nations, similar

to the committee used for review of decisions of the Administrative Tribunal of the United Nations, with authority to request from the International Court of Justice advisory opinions on behalf of those natural and legal persons referred to in the first section, concerning questions of international law arising within the scope of activities directly pursued by such persons.

SEC. 3. It is further the sense of the Senate that such a study should be submitted to the Senate and to its Committee on Foreign Relations within one year after this resolution is agreed to.

SEC. 4. The Secretary of the Senate is instructed to transmit a copy of this resolution to the President of the United States with the request that the President report to the Senate in due course what action he has taken pursuant to this expression of advice.