

Highlights from the Office of the Chief State Law Adviser (international law)

1 Introduction

The Office of the Chief State Law Adviser (International Law) at the Department of International Relations and Cooperation experienced another busy year during 2013, and by this contribution wishes to share this with the wider international law community.

The work undertaken during 2013 again emphasised how international developments affect the contours of international law, and the necessity for Law Advisers to remain informed and updated about these developments, a task made easier by the excellent research resources available. The Arab Spring gained momentum, unfortunately not always with commendable results, as was evidenced by the deteriorating domestic situations in a number of states in North Africa and the Middle East. Opinions were given in both written format and by means of inputs during meetings to analyse the nature of these conflicts and their possible impact on South Africa, and on also on multilateral efforts to address these conflicts.

The practical side of the Office's work to oil the wheels of diplomacy and facilitate the smooth conduct of South Africa's international relations, was illustrated, *inter alia*, by the negotiations for the conclusion of agreements to host international organisations in South Africa. A host agreement with the Food and Agriculture Organisation was finalised, and negotiations continued on host agreements with three African international organisations, the NEPAD Planning and Co-ordinating Agency, the Secretariat of the African Peer Review Mechanism and the African Commission on Nuclear Energy.

Much time was also spent on advising on practical treaty matters, such as entry into force (including the agreement on Phase II of the Lesotho Highlands Water Project), the amendment and termination of agreements, and the ratification of and accession to multilateral agreements. In this respect, it is recalled that all international agreements that South Africa enters into must be scrutinised and certified by the Office before approval can be obtained for signature, ratification or accession by means of a President's Minute or parliamentary approval respectively, in terms of section 231(3) and 231(2) of the Constitution of the Republic of South Africa, 1996.

With a total of 136 bilateral diplomatic missions and numerous international organisations hosted in South Africa, advice is often sought on the diplomatic immunities and privileges enjoyed by diplomatic agents and other matters relating to the functioning of missions: the respective Vienna Conventions on Diplomatic Relations and Consular Relations and works relating to their interpretation are consequently consulted on a regular basis.

The Office also coordinates inputs on the election of candidates to international judicial bodies to the Departmental Committee on Candidatures in the International System, which is chaired by the Chief State Law Adviser (international law). Furthermore, principals in the Department are informed on a regular basis regarding developments in international judicial fora.

2 Consolidation of the Africa Agenda

At the request of the Director-General, the Office analysed the legislative framework within which African Renaissance Fund (ARF) projects are undertaken, in order to identify possible risks and propose remedies. The ARF was established in terms of the African Renaissance and International Cooperation Fund Act (Act 51 of 2000) to provide funding for projects in other states, especially African states, with a view to implementing South Africa's foreign policy objectives of promoting democracy and good governance, the prevention and resolution of conflict, socio-economic development and humanitarian assistance, and human resource development. The report made a number of recommendations to ensure the proper management of and oversight over the Fund, while templates for standardised international agreements and service level agreements were also developed.

A Law Adviser attended a meeting of the SADC Senior Legal Officials, followed by a meeting of Ministers of Justice/Attorneys-General in Maputo, Mozambique. It will be recalled that negotiations took place during 2012 on a new draft Protocol on the SADC Tribunal, but that it was not approved by the Council of Ministers and Summit, and was referred back to the Committee of Ministers of Justice/Attorneys-General with a renewed and more limited mandate only to provide for jurisdiction over inter-state disputes. Work to align the text with this mandate was undertaken, while a draft charter to establish an organisation to enhance the safety of air services, and an annex to the Finance and Investment Protocol and the status of the Tribunal's staff were also considered.

3 Global system of governance

3.1 UNIDROIT

South Africa has been a member of UNIDROIT – the International Institute for the Unification of Private Law – for over 40 years. It is an independent intergovernmental organisation with its seat in Rome with the statutory aim of studying the needs and methods for modernising, harmonising and coordinating private and commercial law as between states and groups of states and formulating uniform law instruments, principles and rules.

A State Law Adviser from the Office attended the annual UNIDROIT Governing Council meeting as an observer. This Council supervises all policy aspects by which the Institute's statutory objectives are to be attained and in particular how the Secretariat carries out the Work Programme drawn up by the Council. The Governing Council is made up of one *ex officio* member, the President of the Institute, and 25 elected members, mostly eminent judges, practitioners, academics and civil servants from its 63 member states.

The UNIDROIT General Assembly is the main annual UNIDROIT meeting for discussion of, *inter alia*, the work programme for the next triennium and the 2014 budget. The main event of the 72nd General Assembly of UNIDROIT was the election of Governing Council members for the period 2014-2018. On 5 December 2013 Professor Jan Neels from the University of Johannesburg was elected to the UNIDROIT Governing Council for the period 2014-2018. Professor Neels was nominated by the Minister of Justice and Constitutional Development and his candidature was managed by DIRCO's Committee on Candidatures in the International System via the South African Embassy in Rome and the Office.

A member of this Office was requested to serve on the Working Group to Develop Draft Regulations for the International Registry for Space Assets of the Preparatory Committee of the UNIDROIT Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Space Asset; and as such participated in the first meeting of this Working Group and the Preparatory Committee in Rome.

3.2 WIPO

The World Intellectual Property Organisation (WIPO) was established in 1970 with a mandate from its member states to promote the protection of intellectual property (IP) throughout the world, through cooperation among states and in collaboration with other international organisations. WIPO organises its work via specialised Committees: the Committee on Development and Intellectual Property (CDIP); the Standing Committee on the Law of Copyright and Related Rights (SCCR); the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC); the Standing Committee on the Law of Patents (SCP); the Standing Committee on Trademarks, Industrial Designs and Geographical Indications (SCT); the Committee on WIPO Standards (CWS); and the Advisory Committee on Enforcement (ACE). WIPO also provides certain IP related services which are intended to simplify application for IP titles in all signatory countries in which protection is sought: the Patent Cooperation Treaty (PCT) System; the Madrid System for Trademarks; the Hague System for the International Registration of Industrial Designs; and the Lisbon System for the International Registration of Appellations of Origin. The World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which came into force in 1995, brought with it a new era in the multilateral protection and enforcement of IP rights. Assistance continues to be provided to many developing countries, with a special focus on the Least Developed Countries (LDCs).

A Law Adviser from the Office assisted South African delegations to the SCCR and IGC meetings to prepare with international law advice and Office attended WIPO's 51st General Assembly in Geneva and assisted the South African delegation with the deliberations and interventions. In addition, the Office provided international law advice to the Department of Trade and Industry during negotiations in Pretoria with the European Union (EU) on the cheese and wine (Geographic Indicators) section of the Economic Partnership Agreement.

A Law Adviser also attended the Inter-sessional Meeting on the Protection of Broadcasting Organisations that was held at the headquarters of the WIPO in Geneva, as a member of the South African delegation. The meeting's mandate was to initiate a negotiation process to develop a treaty on the protection of broadcasting organisations and which emanates from the meeting of the WIPO General Assembly of 2007. The objective of the treaty will be to provide a legal framework and global coordination mechanism to fight signal piracy and the misappropriation of broadcast signals by illegal operatives. While a working document to serve as a basis for negotiations has been developed, it was clear that basic policy issues around the beneficiaries of protection and the scope of application and protection have not yet been resolved, and that states are not yet ready to start negotiations on the text.

3.3 *International Criminal Court*

Two Law Advisers from the Office and the Legal Counsellors at the South African Permanent Mission to the United Nations in New York and the South African Embassy in The Hague formed part of the South African delegation led by the Deputy Minister of Justice and Constitutional Development that attended the twelfth meeting of the Assembly of States Parties (ASP) to the Rome Statute of the International Criminal Court (ICC) in The Hague, the Netherlands. The ASP was held against the background of the Extraordinary African Union Summit on Africa's relations with the ICC, which determined, *inter alia*, that no charges shall be commenced or continued before any international court or tribunal against any serving African Head of State or Government, that Kenyan President Kenyatta – indicted by the ICC with respect to the situation in Kenya – will not appear before the court until concerns raised by the African Union and its member states regarding the ICC and non-deferral of the Kenya situation by the Security Council in terms of article 16 of the Rome Statute, have been addressed, and that amendments are made to the Rome Statute. The ASP reacted by including a special agenda item on the 'Indictment of sitting Heads of State and Government and its consequences for peace, stability and reconciliation' on its agenda. Kenya also proposed a number of amendments to the Rome Statute, most notably to article 27, providing for irrelevance of official capacity with a view to extending immunity from the jurisdiction of the ICC for sitting Heads of State and Government, and article 63 ('Trial in the presence of the accused').

The Special Segment took the form of a panel discussion, after which states were given the opportunity to comment by means of statements from the floor. Academics, also from Africa, the Kenyan Attorney-General, and the Deputy Legal Counsel of the

AU participated in the discussion. While widely divergent views were expressed by the participants and from the floor, a general view emerged that article 27 should not be amended, but rather that much of the AU's concerns could be addressed by the flexibility provided for in the present Rome Statute – for example, the complementarity principle and the discretion of the Prosecutor to have account of the conditions in a state, such as complex and multi-faceted peace negotiations and unstable post-conflict situations when deciding on whether to institute prosecutions.

With respect to the proposals to amend the Rome Statute and the Rules of Procedure and Evidence of the court, the meeting decided to adopt a two-track approach: the first would aim to adopt amendments to the Rules at the session; while the proposals for amendments to the Statute would be considered inter-sessionally by the Working Group on Amendments in New York. For the amendments to the Rules, a technical group of ten experts was tasked to negotiate a compromise text. One of the South African Law Advisers represented the Africa Group. The technical group negotiated a text to amend rule 134 to provide that video conferencing may constitute 'presence' of the accused during trial for the purposes of article 63 of the Statute, and that the court may also rule that an accused may be excused from trial under certain circumstances. These were adopted by the plenary.

With respect to the ICC, an opinion was given on the ratification process of the Kampala amendments to the Rome Statute to provide for a definition of the crime of aggression, the conditions for the exercise of jurisdiction over this crime, and possible incorporation of the crime in South African domestic law through an amendment to the Implementation of the Rome Statute of the International Criminal Court Act 27 of 2002.

A number of background documents on developments in the ICC and the AU were prepared for principals in preparation of AU and UN as well as bilateral meetings.

3.4 *Hague Conference on Private International Law*

In the field of private international law, the Hague Conference on Private International remained a priority for the Office.

The decision-making body of the Hague Conference on Private International Law convened in April 2013. During this session, the Council elected a Law Adviser from the Office as Vice-Chair of the Council. This was the first election of a Vice-Chair.

The Council considered a number of areas where future work should be done, including the judgments project, foreign civil protection orders, and the private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements. The Council also considered a soft law instrument, the 'Draft Hague Principles on Choice of Law in International Contracts' and mandated the working group in which a South African expert participated, to prepare a draft commentary on the principles.

Over and above normative work, specific attention was given to the post-convention

work done by the Hague Conference and the role of the organisation in the provision of technical assistance.

South Africa played an instrumental role in reforming the selection process of the Secretary-General of the Hague Conference, and a new process which allowed the member states to participate in selecting the organisation's head was adopted. The Law Adviser was appointed by the Council on General Affairs to participate in the selection panel for the Secretary-General. The outcome of the process was that a well-qualified and experienced candidate was selected as the new Secretary-General.

South Africa also participated in the Working Group on Judgments project, which studied how best to enhance or create uniform rules on jurisdiction and on recognition and enforcement of foreign judgments in commercial matters. This is an important area of work which could potentially lead to a new normative instrument.

3.5 International Humanitarian Law

In 2011 the ICRC hosted its 31st International Conference of the Red Cross and Red Crescent, where states adopted Resolution 1 'to pursue further research, consultation and discussion in cooperation with States and, if appropriate, other relevant actors, including international and regional organizations, to identify and propose a range of options to enhance and ensure effectiveness of mechanisms of compliance with IHL', by consensus. From 2012 to 2013 three informal consultative meetings were held with a select group of countries in preparation for the Second Meeting of States held in Geneva in 2013.

The Office took part in the meeting, together with delegates from the Mission in Geneva. The meeting discussed the various options that could be available in order to establish a mechanism to monitor compliance with IHL. This process will continue and further meetings will follow to narrow down the available options in order to design a mechanism that could be adopted by consensus by states.

A Law Adviser formed part of a delegation that attended the Fourth Commonwealth Red Cross and Red Crescent International Humanitarian Law Conference in Port-of-Spain, Trinidad and Tobago. The meeting was aimed at sharing experiences between Commonwealth states on the work of National Committees on International Humanitarian Law and so increase the capacity of the National Committees. The Law Adviser made a presentation on the South African legislation incorporating international humanitarian law into domestic law and criminalising breaches of IHL.

3.6 Arms Trade Treaty

The Final United Nations Conference on the Arms Trade Treaty (ATT) was held in New York in March 2013. The South African delegation to the Conference was led by the South African Permanent Representative to the United Nations in New York. A Law Adviser formed part of the delegation to the Final Conference, and also took part in preparatory meetings for the Final Conference.

Despite the best endeavours of the President of the Conference, no consensus could be reached on the adoption of the ATT text and the Final ATT Negotiating Conference ended in failure. The draft treaty text was thereafter submitted to the UN General Assembly (UNGA) by means of a resolution for adoption by a vote. On 2 April 2013 the General Assembly adopted a resolution on the ATT with 154 votes in favour, 3 votes against, and 23 abstentions.

The ATT represents a compromise. Nevertheless, as an international instrument regulating the trade in conventional arms, the ATT fills a glaring gap that has long existed in the global arms control system. The ATT was opened for signature in New York on 3 June 2013 and will enter into force ninety days following the date of the deposit of the fiftieth instrument of ratification, acceptance or approval.

South Africa has been actively involved in the ATT negotiating process and should not have legal difficulties in signing and ratifying the ATT, as it already has robust national legislation regulating the export and import of conventional weapons covered by the ATT.

4 Environment, science and technology

4.1 Antarctica

A highlight of the year was the participation of a Law Adviser in a joint German-South African Inspection Team which inspected four Antarctic bases during the Antarctic summer in January 2013. The Antarctic Treaty, as well as the Protocol on Environment Protection, make provision, in articles VII and 14 respectively, for the inspection of all stations, installations, and equipment in Antarctica, as well as of all ships and aircraft discharging or embarking cargoes of personnel in Antarctica, in order to promote the objectives of the Treaty and the Protocol and to ensure the observance of the obligations contained therein. All contracting parties to these instruments have the right to participate in such inspections. South Africa, one of the original contracting parties to the Antarctica Treaty of 1959, has never before participated in an inspection, and was invited by Germany in the context of the German-South African Year of Science to join an inspection of four bases over a three week period, namely Troll (Norway), Halley VI (United Kingdom), Princess Elizabeth (Belgium) and Maitri (India).

The delegation travelled from Cape Town to Antarctica and back by air, and also covered the considerable distances between bases on smaller aircraft and helicopters. These logistical arrangements were coordinated by the Dronning Maud Land Air Network, this cooperation having been set up in the spirit of the Antarctica Treaty between the states which have Antarctic programmes in the Dronning Maud Land area of Antarctica. The inspection team was stationed mainly at the German Neumayer and the South African SANAE bases. Inspections were conducted by means of questionnaires filled in by the base commanders, interviews with members of the bases, and physical inspections of all facilities. Reporting was done with

respect to logistics and operations, environmental protection measures, scientific activities, the use of Antarctica for peaceful purposes, the level to which training to promote awareness of the objectives of the Antarctica Treaty and Madrid Protocol is taking place, compliance with the reporting obligations contained in the Treaty, and the level of tourism that may take place.

The inspection team found no direct violations of the Treaty or the Protocol, although the standards thereof were implemented by the four stations to varying degrees – to a large extent the result of the variance in the levels of technology being employed for power generation and waste management. It should also be noted that South Africa's Antarctica programme, its SANAE IV base, its new polar vessel *Agulhas II*, and the level of scientific research conducted, was at a level comparable to that of developed countries.

The report was submitted to the Antarctica Treaty Consultative Meeting held in Brussels, Belgium.

4.2 CITES

The Office played an important role in a number negotiations involving multilateral environmental agreements. A Law Adviser formed part of the South African delegation to the Sixteenth Conference of the Parties (COP16) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), that took place in Bangkok, Thailand, from 3 to 14 March 2013. The South African delegation, one of the organisation's founding members, adopted positions that were underpinned by the government's policy of sustainable utilisation of natural resources as a biodiversity conservation tool.

The South African delegation played an instrumental role during the conference and led the negotiations in some areas. In particular, the Law Adviser played a significant role in resolving the impasse on the Rules of Procedure (ROP). The EU had proposed an amendment to the ROP which would have resulted in increasing the threshold of states supporting a secret ballot before it could pass. South Africa was successful in ensuring that amendments of the Rules of Procedure be considered as a substantive amendment, thereby requiring a two-thirds majority for the adoption of the EU proposal. South Africa was nominated by the Chairman of the Conference to chair the Friends of the Chair Working Group, established to find consensus on amending the Rules of Procedure. The EU proposal was not adopted.

During the Conference, South Africa announced its intention to host the 17th Conference of the Parties in 2016. The proposal was accepted by consensus.

4.3 Climate change

In 2011, the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) established the Durban Platform for Enhanced Action and launched a process to develop a 'protocol, another legal instrument or an agreed

outcome with legal force' under the Convention and applicable to all parties. It was decided that the new instrument should be adopted at the 21st Conference of the Parties to the UNFCCC in 2015 and implemented from 2020.

The negotiations since the adoption of the Durban Platform have been difficult and slow. The underlying reasons for this can be found in the abovementioned mandate, which neatly packages the compromise between parties with very divergent positions in the climate change negotiations. The post-2020 regime which will be 'applicable to all' will depart fundamentally from the current system where only developed countries have binding and quantified commitments under the Kyoto Protocol. In return for this concession, developing countries insisted that the new agreement be 'under the Convention' to ensure that the principles of equity and common but differentiated responsibility and respective capabilities (CBDR&RC) will remain relevant in the future.

The legal form of the outcome of the process under the Durban Platform remains uncertain since parties have kept at least three options open: a protocol, another legal instrument, widely believed to include amendments to the Convention and/or its Kyoto Protocol; or 'an agreed outcome with legal force'.

Regarding the first option, article 17 sets out the procedure for the adoption of protocols or other related instruments to the Convention. Although it is not clear what legal outcome parties are aiming to achieve in December 2015, certain procedural requirements need to be kept in mind, including the six-months rule, which requires that the text of a new protocol must be circulated to parties six months in advance of the session at which it is to be adopted. For some, the fact that the adoption of the new instrument should precede its implementation by five years implies that it was the intention of parties to require ratification and formal entry into force of the new instrument before implementation.

The second option will bring to bear article 15 of the Convention which sets out the procedure for the adoption of amendments, which can be passed with a three-fourths majority of parties.

The third option was a compromise in Durban between some developed state parties who were adamant that the post-2020 climate change regime should be a legally robust system, and other parties who wished the outcome of the Durban process to have the status of mere decisions by the Conference of the Parties.

While it is useful to keep in mind that a treaty is defined in the Vienna Convention on the Law of Treaties as 'an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation', the precise meaning of 'an agreed outcome with legal force', however, remains unclear. Although there has been little formal discussion in the negotiations

process on the question of legal form, many legal experts seem to agree – particularly in light of the negotiating history that led to its formulation – that it implies more than a COP decision.

A distinction should also be made between the legal form of the outcome of COP21 and the legal nature of the various provisions it will contain. Many parties have suggested that the new instrument should contain some legally binding provisions, while others should be voluntary. Parties have also proposed that the COP21 outcome may be a package consisting of a core agreement, Parties' intended nationally-determined contributions (INDCs) and various COP decisions dealing with issues relevant to the new instrument, but not suitable for inclusion in the instrument itself. In this regard, past practice has shown that there will be a need to include mandatory provisions in the new instrument, eg on the establishment and/or further elaboration of a compliance mechanism by the instrument's governing body, which could be, as in the case of the Kyoto Protocol, the Conference of the Parties serving as the Meeting of the Parties to the new instrument.

It has also been suggested that not all commitments by parties need to be legally binding on the international level. Some have argued that commitments to enact legally binding legislation or regulations domestically, could satisfy the threshold required by 'legal force'. In the context of the ideal of full participation by all countries in the new agreement, it has been pointed out that while a COP decision is adopted by consensus, only those parties which accept an amendment or ratify a protocol will participate in the future regime.

4.4 Law

Over the last two years, the Office has participated in the negotiations for the modernisation of the Convention on Offences and Certain Acts Committed on Board Aircraft (Tokyo 1963, known as the 'Tokyo Convention'), under the leadership of the International Civil Aviation Authority (ICAO).

The Legal Committee of ICAO created a sub-committee to study the legal aspects of dealing with unruly passengers in order to consider the possibility of modernising the existing rules. South Africa formed part of this sub-committee, which met twice in 2012, and its work culminated in a draft document which was considered at the meeting. It was decided that the text under discussion should be considered as a Protocol to the Tokyo Convention, and not an amendment thereto or a separate Convention.

During the 35th Session of the Legal Committee of ICAO in May 2013, the Legal Committee adopted a draft Protocol to the Tokyo Convention after extensive negotiations. This text will be presented to a Diplomatic Conference for further negotiation and adoption.

4.5 *Space Law*

The United Nations Committee on the Peaceful Uses of Outer Space (COPUOS) is a subsidiary body of the UNGA and the focal point for international cooperation in civilian space activities. The task of COPUOS is: to review the scope of international cooperation in peaceful uses of outer space; to devise programmes in this field which would be undertaken under the auspices of the United Nations; to encourage research, disseminate information on research; and to study legal problems arising from the exploration of outer space. South Africa is a party to the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Bodies; the 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space; the 1972 Convention on International Liability for Damages Caused by Space Objects; and the 1975 Convention on Registration of Objects Launched into Outer Space. South Africa is not yet party to the 1979 Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.

A Law Adviser from the Office participated in the 52nd Session of the Legal Sub-Committee of COPUOS in Vienna as part of the South African delegation. The Legal Sub-Committee discussed and debated international space law issues such as the delimitation of airspace and outer space, the status of the five UN treaties on outer space, geostationary orbits for satellites, capacity building in space law, the Space Assets Protocol to the Cape Town Convention on International Interests in Mobile Equipment, the use of nuclear power sources, national legislation dealing with outer space issues, the mitigation of space debris, and agendas and working methods for 2013. A new item on the agenda was the review of international cooperation mechanism in the peaceful exploration and use of outer space. The first day is traditionally devoted to a symposium on international space law, and in 2013 the subject was the 'Space Assets Protocol to the Cape Town Convention on International Interests in Mobile Equipment'.

The Office assisted the South African delegation to prepare for the 56th Session of the COPUOS meeting.

The Office also continued to participate in the deliberations of Expert Group D (Regulatory Regimes and Guidance for Actors in the Space Arena) of the Working-Group on the Long-Term Sustainability of Outer Space Activities, of the Scientific and Technical Subcommittee of COPUOS.

4.6 *Law of the Sea*

A Law Adviser participated in the *ad hoc* open-ended informal working group to study issues related to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, the 23rd Meeting of States Parties to the United Nations Convention on the Law of the Sea, and the 14th Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at the United Nations Headquarters in New York.

The mandate of the informal working group is to address issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, and to report back to the General Assembly. The working group recommended to the General Assembly that it be authorised to make recommendations to the UNGA on the scope, parameters and feasibility of an international instrument under the United Nations Convention on the Law of the Sea (UNCLOS), and that states be invited to submit their views on the scope in this regard.

The 23rd Meeting of States Parties to the 1982 United Nations Convention on the Law of the Sea considered the report of the International Tribunal for the Law of the Sea (ITLOS) for 2013, the report of the International Seabed Authority, the report of the Commission on the Limits of the Continental Shelf, the budget of the ITLOS, and the report of the United Nations Secretary-General for the information of States Parties on issues of a general nature.

The 14th Meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea had the theme 'The impacts of ocean acidification of marine environment'. South Africa warned states against 'quick fix' solutions when it comes to addressing ocean acidification. Most importantly, South Africa also pointed out there extreme caution must be exercised in discussions on ocean fertilisation and ocean geo-engineering.

5 Public diplomacy

The Office was again tasked with drafting replies to a number of parliamentary questions. Inputs were drafted for a speech by Deputy Minister Ebrahim delivered at a conference hosted jointly by the University of Pretoria and the Embassy of the Kingdom of the Netherlands on the topic 'Peace and Justice: Commemorating 100 Years of the Peace Palace'. A number of contributions by Law Advisers were published in international law journals. The Office also coordinated the course on international law presented to the Department's Diplomatic Training Programme and presented a number of the lectures.

6 Concluding remarks

In the present international system, new spheres of influence are developing and a global re-ordering of power relations and a fragmentation of states under pressure of especially new types of non-state actor and democratic forces are taking place, combined with a process of accelerating economic integration. These apparently contradictory pressures on the international system have the result that international law today is more dynamic and in flux than any time since the momentous events following the 1989 fall of the Berlin Wall.

These developments present unforeseen challenges to international lawyers, academics, and practitioners. For the practitioners at DIRCO, who must navigate

these rapids in negotiations in multilateral fora and in their interactions with other role players in the international system, the work by academics that analyse these developments, is indispensable. Consequently, the Office will continue to promote interaction with the academic community, amongst others through its lecture series on international law.

Adv JGS de Wet
Chief State Law Adviser (International Law)