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ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL
COURT OF JUSTICE

Memorandum by the Secretary-General

I. INTRODUCTORY NOTE

1. The names and nationalities of the present members of the International Court of Justice, and the years in which their present terms expire, are as follows:

<u>Name</u>	<u>Nationality</u>	<u>Expiration of present term (on 5 February)</u>
Green H. Hackworth, President	United States of America	1961
Abdel Hamid Badawi, Vice-President	Egypt	1958
J.G. Guerrero	El Salvador	1964
J. Basdevant	France	1964
B. Winiarski	Poland	1958
M. Zoričić	Yugoslavia	1958
H. Klaestad	Norway	1961
J.E. Read	Canada	1958
E.C. Armand-Ugon	Uruguay	1961
F.I. Kojevnikov	Union of Soviet Socialist Republics	1961
Sir Muhammad Zafrulla Khan	Pakistan	1961
Sir Hersch Lauterpacht	United Kingdom of Great Britain and Northern Ireland	1964

<u>Name</u>	<u>Nationality</u>	<u>Expiration of present term (on 5 February)</u>
L.M. Moreno Quintana	Argentina	1964
R. Córdova	Mexico	1964
V.K. Wellington Koo	China	1958

2. In view of the fact that terms of office of five judges are due to expire on 5 February 1958, it is necessary for the General Assembly and the Security Council, during the twelfth session of the Assembly, to elect five judges for a term of office of nine years beginning on 6 February 1958.

3. The Secretary-General has requested nominations from the national groups of States parties to the Statute of the Court. The nominations which he has received have been transmitted in documents A/3653 - S/3879 and Add. 1 and 2. The list of candidates will be printed in the Journal of the United Nations, and the names of the candidates will also appear on the ballot papers which will be distributed at the time of the elections.

II. PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL

4. The elections will take place in accordance with the following:

- (a) The Statute of the Court, in particular Articles 2 to 4 and 8 to 12;
- (b) Rules 151 and 152 of the rules of procedure of the General Assembly;
- (c) Rules 40 and 61 of the provisional rules of procedure of the Security

Council.

5. In accordance with General Assembly resolution 264 (III) of 8 October 1948, Liechtenstein, San Marino and Switzerland, which are parties to the Statute of the Court but not Members of the United Nations, will participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.

6. On the day of the elections the General Assembly and the Security Council will proceed, independently of one another, to elect five members of the Court (Article 8 of the Statute).

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7. According to Article 2 of the Statute, the judges are to be elected, regardless of their nationality, from among persons of high moral character who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. Article 9 requires electors to bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.
8. Those candidates who obtain an absolute majority of votes both in the General Assembly and in the Security Council will be considered as elected (Article 10, paragraph 1, of the Statute).
9. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all the qualified electors, whether or not they vote. The qualified electors in the General Assembly are all the Members, together with the three non-member States mentioned in paragraph 5 above which are parties to the Statute of the Court. With the present number of Members of the United Nations and non-members parties to the Statute, forty-three votes constitute an absolute majority in the General Assembly.
10. In the Security Council, six votes constitute an absolute majority and no distinction is to be made between permanent and non-permanent members of the Council (Article 10, paragraph 2, of the Statute).
11. Not more than one national of the same State may be elected; if more than one national of the same State obtains an absolute majority of votes in the two bodies, the eldest of them only will be considered as elected (Article 10, paragraph 3, of the Statute).
12. The electors in the General Assembly and in the Security Council will indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each elector may vote for not more than five candidates on the first ballot, and on later ballots for five less the number who have already received absolute majorities. Under Article 7 of the Statute, only those candidates whose names appear in the list prepared by the Secretary-General are eligible for election, unless the procedure outlined in Article 12, paragraph 2, is used.

13. If in the first ballot in either the General Assembly or the Security Council less than five candidates receive an absolute majority, a second ballot will be taken for the remaining seats, and balloting will continue in the same meeting until five of the candidates have received the required majority. When this occurs in either organ (and not until that time), the President of that organ will notify the President of the other organ of the names of these five candidates; such lists are not communicated by the President to the members of an organ until that organ has completed its own list of five candidates. After receipt of the corresponding list of candidates from the Security Council, the President of the General Assembly will announce the election of those candidates who have received an absolute majority of votes in both the Assembly and the Council.
14. Cases have arisen in which more than the required number of candidates have received an absolute majority on the same ballot. In the election of five judges at the 567th meeting of the Security Council on 6 December 1951, on the first ballot six candidates received an absolute majority. After a discussion, the Council voted to hold a new vote on all the candidates, and a second ballot produced an absolute majority for only five. In the election of five judges at the 681st meeting of the Security Council on 7 October 1954, three ballots produced absolute majorities for six candidates; the fourth ballot produced an absolute majority for only four. In both cases the President of the Security Council made no notification to the President of the General Assembly until only five candidates, and no more, had received an absolute majority in the Council.
15. If, upon comparison of the lists of the General Assembly and the Security Council, less than five candidates have been thus elected, the Assembly and the Council will proceed, again independently of one another, in a second meeting, and if necessary a third meeting, to elect by further ballots the candidates for the remaining vacancies (Article 11 of the Statute).
16. The above procedure will be continued until the two bodies have elected five candidates. If, however, after the third of these meetings one or more seats are still unfilled, the General Assembly and the Security Council may at any time, at the request of either body, form a joint conference consisting of six members, three appointed by each body. This joint conference may, by an absolute majority, agree upon one candidate for each seat still vacant and submit his

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name for the approval of the Assembly and of the Council. If unanimously agreed, the joint conference may submit the name of a candidate not included in the list of nominations provided that candidate fulfils the required conditions (Article 12 of the Statute).

17. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected will, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council. In the event of an equality of votes among the judges, the eldest judge will have a casting vote (Article 12 of the Statute).
