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REGIONAL AND INTERNATIONAL ACTIVITIES

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ORGANIZATION OF AMERICAN STATES

GENERAL ASSEMBLY

The fourth regular session of the General Assembly of the OAS was held in Atlanta, Georgia, April 19 to May 1, 1974. The Governments of all OAS Member States participated in this session, and were represented by their Ministers of Foreign Affairs as heads of delegations. Observers from two American States nonmembers of the OAS, Canada and Guyana, and from eight non-American States, Belgium, France, Germany, Israel, Italy, Japan, Netherlands and Spain, were present. Also present were observers from other four nonmember States: Australia, Austria, Grenada and Sweden. Furthermore, among those present were observers from the United Nations and six of its agencies or entities, five OAS specialized agencies, six inter-American organizations, and four other international agencies.

According to its Rules of Procedure, the work of the Assembly was distributed among the following Committees: First Committee (Juridical-Political Matters); Second Committee (Economic and Social Matters); Third Committee (Educational, Scientific and Cultural Matters); Fourth Committee (Administrative and Budgetary Matters); General Committee, Committee on Credentials, and Style Committee. Some of the Committees established working groups to cooperate in the consideration of the topics assigned.

During this session the Assembly approved thirty-six resolutions, that is AG/RES. 137 (IV-0/74) to AG/RES. 172 (IV-0/74). All resolutions

The opinions expressed in this report are those of the author in his personal capacity.

are preceded by the symbol AG in all four official languages, and after the number of the resolution there is in parenthesis an indication of the fourth regular session held in 1974, that is (IV-0/74). These symbols are not repeated here.

The above resolutions have been published by the OAS General Secretariat under the title: "Organization of American States. General Assembly, Fourth Regular Session, Atlanta, Georgia, April 19 through May 1, 1974. Proceedings. Volume I. Certified English texts of the resolutions." (OEA/Ser. P/IV. 0.2, 7 May 1974. 63 pages). The resolutions were also published in Spanish, Portuguese and French.

A report on some of the resolutions adopted by the General Assembly during its fourth regular session follows:

Implementation of the Decisions of the American Foreign Ministers

In Resolution 141 the General Assembly declared that at the Meeting of Foreign Ministers of the Americas held in Mexico City on February 21-24, 1974, the bases were established for a new relationship among the American countries, as set forth in the Declaration of Tlatelolco. It further stated that the Foreign Ministers held a subsequent meeting in Washington on April 17 and 18, 1974, and continued the dialogue on the basis of the principles adopted in Mexico City and the Agenda of Bogotá. It further recognized that the General Assembly has the duty to highlight the importance of the agreements reached by the Foreign Ministers at these meetings insofar as the activities of the Organization of the American States are concerned.

On the basis of these considerations, the General Assembly agreed to entrust the Permanent Executive Committees of the Inter-American Economic and Social Council (CIES) and the Inter-American Council on Education, Science and Culture (CIECC) with the task of analyzing the concepts contained in the Declaration of Tlatelolco and the Washington Communiqué in order to determine, in accordance with the decisions of the Foreign Ministers, which of the matters included therein might be the object of consideration and specific measures in the spheres of competence of those Councils.

It requested further that, on the basis of this analysis, CIES and CIECC submit the necessary recommendations to the General Assembly to put such specific measures into practice.

Policy of Cooperation with Countries not Members of the Organization

By Resolution 166, the General Assembly charged the Permanent Council with the task of setting policy standards on cooperation with non-member States of the Organization, taking the following procedures into consideration: a) Prior authorization by the Permanent Council shall be required for the General Secretariat to conduct preliminary negotiations on cooperation by non-member States, and that Secretariat shall submit to that Council any proposals received thereon; b) If the Permanent Council so authorizes, the General Secretariat shall enter into formal negotiations with the country involved. Such negotiations shall deal with programs, projects, and other activities; c) No formal basic agreement shall be entered into unless the Permanent Council has given prior approval thereto; d) The General Secretariat shall submit to the Assembly an annual report on the results of on-going negotiations and programs, and other relevant information.

Agreement for Cooperation between the Inter-Governmental Maritime Consultative Organization (IMCO) and the OAS

By Resolution 165, the General Assembly approved the agreement for cooperation between IMCO and the OAS. This agreement is divided into several chapters, the most relevant of which are the following: Cooperation and consultation; reciprocal representation; exchange of information and documents; administrative and technical cooperation between the Secretariats; financing of special services. The Agreement was to enter into force when signed by the Secretary General of IMCO and the Secretary General of the OAS.

Transnational enterprises

Under this topic, the General Assembly approved Resolution 167, in which it requested the Permanent Council to obtain from the General Secretariat an orderly compilation of the studies that the OAS and other international organizations and institutions are making on the nature and legal structure of transnational enterprises — principally those operating in Latin America — their economic and operational characteristics, and the impact of their activities on the development of the developing countries of the region. The Assembly requested the Permanent Council to ask the competent organs of the OAS to make the studies that the Council deems necessary on this subject. It also instructed the Council to coordinate the work, receive the documents and

studies, and bring them to the attention of the governments of the States represented at the recent meetings of Foreign Ministers held in Tlatelolco and Washington, D.C., with the observations and comments that they deem pertinent, as soon as possible, and in any event, before October 31, 1974.

Restructuring of the Inter-American System

In Resolution 169 the General Assembly expressed its appreciation to the Special Committee to Study the Inter-American System and to Propose Measures for its Restructure (CEESI) for the work performed, and instructed the Committee to continue exercising the functions conferred upon it by Resolution AG/RES. 127 adopted in 1973. The Assembly indicated that the Committee should continue to consider the Charter of the OAS, the Inter-American Treaty of Reciprocal Assistance, and the American Treaty on Pacific Settlement, giving priority to inter-American cooperation for integral development and to collective economic security for development. At the same time, the Committee should make recommendations with regard to the measures, methods, and procedures that might be adopted in the light of the System now in force, for the purpose of fulfilling the objectives set forth in Resolution 127 as soon as possible. The Committee should submit its final report to the governments of the Member States no later than February 15, 1975.

Permanent Executive Committees of CIES and CIECC

By Resolution 170 the General Assembly agreed to form the Permanent Executive Committees of the Inter-American Economic and Social Council (CIES) and of the Inter-American Council for Education, Science and Culture (CIECC) with one member from each OAS State and instructed the CIES and CIECC to immediately amend their statutes in accordance with that Resolution. The amendments were to enter into force provisionally until the General Assembly takes a decision at its next regular session. In compliance with the General Assembly's Resolution, the CIES and CIECC have already met in special sessions and approved changes in their statutes.

Celebration of the Bicentennial of the United States of America

In Resolution 143 the General Assembly agreed to have the OAS participate in the celebration of the Bicentennial of the United States of America. It entrusted the OAS General Secretariat with preparing a draft program for the celebration of the event.

Food Shortage

In Resolution 138 the General Assembly requested the General Secretariat of the OAS that, in collaboration with the Inter-American Institute of Agricultural Sciences, the Pan American Sanitary Bureau, and the Inter-American Development Bank, and in consultation with the pertinent organizations and programs of the United Nations, it carry out a study of the regional problems posed by the shortage of food, keeping in mind the need to eliminate malnutrition and to increase the exports of basic food products from the Latin American countries. This study should be completed in time for each of the member States to participate more effectively in the World Food Conference to be held in November, 1974.

Other Resolutions of the General Assembly

Other resolutions taken by the General Assembly at its fourth regular session dealt with procedural, administrative and budgetary matters, and in some others the Assembly took note of annual reports submitted by the principal organs of the OAS.

Place and Date of the Fifth Regular Session of the General Assembly

In Resolution 164 the General Assembly set April 16, 1975 as the opening date of the fifth regular session, which shall be held at the headquarters of the General Secretariat, and authorized the Permanent Council to change the date if circumstances should so warrant it.

INTER-AMERICAN SPECIALIZED CONFERENCE ON
PRIVATE INTERNATIONAL LAW (CIDIP)

The Inter-American Specialized Conference on Private International Law (CIDIP) was convoked by the OAS General Assembly in April 1971, and in December 1972 the Permanent Council of the OAS approved the agenda for the Conference. In March 1974 the Council agreed to accept the offer made by the Government of Panama to host the Conference in Panama City, and scheduled the opening date for January 14, 1975.

The agenda for the Conference contains eleven topics. The Inter-American Juridical Committee, at its ordinary meeting held in July-August 1973, prepared, for the use of the Conference eight draft conven-

tions with accompanying statements of reasons (*exposiciones de motivos*), as well as three other documents. These documents were published by the OAS General Secretariat in a single document in September 1973 (OEA/Ser. K/XXI. 1, CIDIP/3), and will be submitted to CIDIP as a working document.

The eight draft conventions deal with the following topics of the CIDIP: Commercial companies; bills of exchange, checks and promissory notes of international circulation; international commercial arbitration; contracts of carriage by sea and by land with special reference to bills of lading; execution of letters requisitorial and letters rogatory; recognition and execution of foreign judgments and awards; taking of evidence abroad in civil and commercial matters; legal regime of the powers of attorney to be used abroad.

It should be pointed out that all eight draft conventions deal with conflicts of laws of different countries; in other words, they deal with problems of private international law, and not with uniformity of legislation.

The Department of Legal Affairs of the OAS General Secretariat has prepared and published several studies and reference documents for the use of the Conference.

INTER-AMERICAN JURIDICAL COMMITTEE

The Inter-American Juridical Committee held a regular meeting at its headquarters in Rio de Janeiro from January 14 to February 20, 1974. All the members of the Committee participated in the meeting. The Committee is composed of eleven jurists from eleven different Member States of the OAS. The present membership is the following:

Dr. Reynaldo Galindo Pohl (El Salvador), Chairman of the Committee

Dr. Jorge A. Aja Esil (Argentina), Vice-Chairman

Dr. José Joaquín Caicedo Castilla (Colombia)

Dr. Antonio Gómez Robledo (Mexico)

Dr. José Eduardo do Prado Kelly (Brazil)

Dr. Kenneth Osborne Rattray (Jamaica)

Dr. Américo Pablo Ricaldoni (Uruguay)

Dr. Seymour J. Rubin (United States)

Dr. Alberto Ruiz Eldredge (Peru)

Dr. Edmundo Vargas Carreño (Chile)

Dr. Adolfo Molina Orantes, a jurist from Guatemala and former Chairman of the Committee, resigned early in July 1974, following his appointment as Minister of Foreign Affairs of his country.

The Committee has a local Secretariat in Rio de Janeiro, which provides services to it during the sessions and in the intervals. Dr. Mauro Marcondes, now retired, was the Secretary of the Committee for many years, and Dr. Renato Ribeiro has been the Assistant Secretary also for several years. Both are Brazilian lawyers. An Uruguayan lawyer, Dr. Renzo Minut, has been hired to provide services during the meetings.

The Division of Codification and Legal Integration of the Department of Legal Affairs of the OAS General Secretariat collaborates with the Committee in the preparation of preliminary technical studies, reference or background documents and other technical information that may be necessary for use by the Committee and the Rapporteurs; it also prepares, for publication by the General Secretariat, the reports, opinion and other documents approved by the Committee. Dr. Isidoro Zanotti, Chief of the Division, has participated in the meetings of the Committee and has cooperated with it during the meetings and in the intervals between them. Other staff members of the Division and the Director of the Department of Legal Affairs, Dr. F. García Amador, have from time to time participated in the meetings.

That Division also provides technical services to Committees of the General Assembly, of the Permanent Council and to other Committees, specialized conferences and entities of the OAS. According to its Statute, approved by the OAS General Assembly, the Committee holds two ordinary meetings a year, each of approximately five or six weeks duration.

*Report on the Procedure for Considering the Draft Conventions
Prepared by the Inter-American Juridical Committee*

At its regular meeting held from January 14 to February 20, 1974 the Inter-American Juridical Committee approved, among other documents, a report on the procedure for considering the draft conventions and other

studies prepared by the Committee. This report was submitted to the fourth regular session of the General Assembly.

In the report the Committee indicated that it had viewed with concern the inadequacy of the procedure currently followed by the OAS for considering the draft conventions and other documents prepared by the Committee. It pointed out that the General Assembly has adopted the policy of referring a large part of the documents of the Committee to the Permanent Council for observations, in accordance with Art. 91.f of the Charter. In this connection, the Committee stressed that the Permanent Council, because of its many functions, has not always had time to present observations within the period indicated by the Assembly. Moreover, the Committee remarked that the experiences of the three regular sessions of the Assembly held in 1971, 1972 and 1973, indicate that as a rule, neither does the supreme organ of the OAS have sufficient time to consider the draft conventions prepared by the Committee, owing to its full agenda and to the brief duration of the Assembly sessions.

For these reasons, the Committee suggested that the OAS might follow the procedure that has been adopted by the United Nations, which periodically convokes specialized legal conferences to consider draft conventions prepared by the International Law Commission or by other entities of the United Nations. It noted that some of the draft conventions are studied by the U.N. General Assembly itself, and when they are finally approved, are open for signature of the Member States. The Committee also expressed that the sessions of the U.N. General Assembly last almost three months, whereas the OAS General Assembly meets for ten or twelve days only at each session.

The report states that the Inter-American Juridical Committee is the principal organ of the OAS charged with the preliminary phase of preparing draft legislation in the inter-American sphere, since the preparation of draft conventions or treaties is a part of the legislative process in the international field — a process that is completed when the states ratify these instruments.

The Committee also expresses that the proliferation of conferences to consider economic, social and cultural matters, promoted by some OAS organs, has recently given rise to a trend against the convocation of specialized conferences, a trend which became more intensive with the work of the Special Committee to study the inter-American system (CEESI). A Subcommittee of this Special Committee, in a meeting held in September-October 1973, recommended that the specialized conferences be held

occasionally. This idea was included in a draft definition of specialized conferences.

The Inter-American Juridical Committee indicated that the application of this recommendation for legal activities within the inter-American system would represent real retrogression in the development of international legal institutions, whose progress requires periodic and constant revision.

Furthermore, the Committee indicated that the evolution of international legislation in the inter-American context has been very slow, especially in the last eighteen years, during which time only seven inter-American instruments were adopted.

The Committee mentioned the experience in another regional organization, the Council of Europe, where the situation is quite the opposite. In a little more than twenty-four years of existence, the Council of Europe has adopted about eighty multilateral instruments (treaties, conventions and protocols). The Committee pointed out that this is an extraordinary amount of work which constitutes a great contribution to the progress of law, and that a considerable number of treaties and conventions of the Council of Europe have been ratified and adhered to by States not members of the Council.

The Committee stressed that in the twenty-six years that have elapsed since 1948, the year in which the OAS Charter was adopted, the Organization has convoked only three specialized conferences on legal matters, of which only one has been held: the Inter-American Conference on Human Rights, which took place in San José, Costa Rica in 1969. The other two are: the Inter-American Specialized Conference on Private International Law, convoked by the OAS General Assembly in 1971, which is to take place in Panamá starting January 14, 1975, and the Inter-American Specialized Conference on Industrial Property, also convoked by the OAS General Assembly in 1971. No date has been established for this last one. Art. 128 of the OAS Charter provides for the convocation of inter-American Specialized Conferences to deal with technical matters or to develop specific aspects of inter-American cooperation.

In the last part of its report, the Inter-American Juridical Committee indicated that it is necessary to establish a more efficient method for considering draft inter-American conventions prepared by the Committee than the one now in force, and that the method most highly recommended is that of specialized legal conferences.

The Committee approved several conclusions and recommendations, among which the following are mentioned:

The present method of consideration by the General Assembly of the opinions and draft conventions prepared by the Inter-American Juridical Committee has not produced satisfactory results. The Permanent Council has not had time to give due attention to the documents of the Committee sent by the General Assembly for observations.

For the purpose of stimulating the evolution of positive law in the inter-American system, the Committee requested the General Assembly to state its decision to permit the convocation of specialized, official legal conferences, more frequently than has been the case in the last twenty-six years — provided that they represent the final stages of preparation of texts of inter-American conventions or treaties that will contribute to the overall development of the American countries. The Committee was of the opinion that the system of “meetings held occasionally” is not adequate to deal with the many complex legal problems of today’s world. This method would serve only to stagnate legal progress within the inter-American System.

By Resolution 162, paragraph 3, the General Assembly referred the report of the Committee to the Permanent Council and requested that it present its observations or special comments to the fifth session of the Assembly.

International Zone of the Seabed and the Ocean-floor

During the same regular meeting of January-February 1974, the inter-American Juridical Committee approved an opinion on the legal system of the international zone of the seabed and the ocean-floor. In the opinion, the Committee urged the governments of OAS Member States — taking into account the importance of the Third United Nations Conference on the Law of the Sea (Caracas, June-August 1974) — to endeavor to be represented by delegations that will be able to attend all the committees and working groups and take an active part in the formal and informal negotiations through which the future legal system on the sea will be established, including the system for the international zone of the seabed and the ocean floor. The Committee emphasized the importance of the consultations between the American governments before the Third U.N. Conference on the Law of the Sea and during the Conference.

The Committee recommended that the essential characteristics of the common heritage of mankind be preserved, in all their projections and

possibilities, for the seabed and the ocean floor outside of national jurisdiction and for their resources, particularly with respect to the rule that no State shall claim or exercise sovereignty or sovereign rights over part of these; and that all States, with or without a seacoast, shall participate in the administration of their resources and shall derive benefits from their exploration and exploitation, particularly with respect to those States that are in the process of development.

Among the essential features of the legal system on the international zone of the seabed and the ocean floor the Committee also emphasized the following: a) The inclusion of minerals in suspension in the waters of the high seas as part of the international zone of the seabed and the ocean floor, and consequently, as part of the common heritage of mankind; or b) the possibility that the world organization that regulates, administers, and supervises the international zone of the seabed and the ocean floor may carry out technical, industrial, and commercial activities related to the exploration of the zone and the exploitation of its resources, in the capacity of an international public service, through a system of concessions or placement of services, with public, mixed, or private enterprises, or through one or several enterprises; c) that the exploitation of the seabed shall be reconciled with the establishment of measures for the conservation of the living resources in the high seas and be governed by precise and effective rules for the protection of ecology and the marine environment; d) the creation of a suitable system for the peaceful settlement of disputes.

Furthermore, the Committee stressed the need for adopting a definite position for the purpose of maintaining the principle of the juridical equality of States, based on an equal vote and equal opportunity to be a member of the organs established in connection with the new legal system on the sea, and that an equitable geographical distribution be maintained in the organs with restricted membership.

The Committee reaffirmed the thesis that the limits of the international zone of the seabed and the ocean floor should coincide with the limits of national jurisdictions, set at two hundred nautical miles, as a maximum, measured from the base lines of the territorial waters, and coincide with the outer border of the continental rise, when this is beyond the limits of two hundred nautical miles.

It recommended the inclusion within the world system, of the concept of regional cooperation and regional decentralization of competence of the world organization. In the distribution of the benefits derived from the

exploitation of the international zone of the seabed and the ocean floor, to give special consideration to the interregional projects and projects for economic integration of the developing countries.

The Rapporteur of this topic in the Inter-American Juridical Committee was Dr. Reynaldo Galindo Pohl, who also prepared a statement of reasons (*exposición de motivos*) concerning the opinion approved by the Committee.

Next meeting of the Inter-American Juridical Committee

The next regular meeting of the Inter-American Juridical Committee will be held at its headquarters in Rio de Janeiro starting September 23, 1974 for a duration of five to six weeks. The agenda for the meeting contains, among other topics, the following: cases of violations of the principle of nonintervention; multinational commercial companies; relations between the organs of the United Nations and those of the inter-American system in regard to the application of coercive measures and the solution of international disputes; jurisdictional immunity of States; foreign investments; nationalization and expropriation of foreign property under international law; shared natural resources.

NUCLEAR ENERGY LAW

The Special Legal Committee of the Inter-American Nuclear Energy Commission, an organ of the OAS, held its VIII Meeting in Washington, D.C., from May 14 to 17, 1974. The Committee is composed of the following Member States of the OAS: Argentina, Brazil, Chile, Colombia, Mexico, United States, and Uruguay, which, with the exception of Mexico, sent representatives to the meeting. Venezuela and the Inter-American Bar Association were represented by observers.

The Committee considered several topics and studied the revised editions of the following three studies prepared by the Division of Codification and Legal Integration of the Department of Legal Affairs of the OAS General Secretariat:

- 1) "Study of Legal Measures Governing Radiation Safety in the Peaceful Uses of Nuclear Energy";
- 2) "Legal Aspects of the Transportation of Nuclear Materials and other Radioactive Substances";

3) "Advisability and Methods of Establishing a System of Financial Coverage for Nuclear Damages".

The first two studies were published in English and Spanish by the OAS General Secretariat in April 1972, and the third one in May 1973 in the same languages.

After a careful consideration of these three studies, and of other topics on the agenda for the meeting, the Committee approved five resolutions and recommendations. In the first three resolutions the Committee expressed its appreciation to the abovementioned offices of the General Secretariat for the preparation of the studies, which the Committee considered to be very important and valuable.

Furthermore, in Resolution 1 the Committee requested the preparation of a new edition of the document on the legal measures governing radiation safety; the document will be distributed to the governments of the Member States for their observations. It also recommended to the Inter-American Nuclear Energy Commission (IANEC) that: a) It suggest to the governments of the Member States that they consider applying the recommendations contained in that study; b) to inform these governments that the Committee supports the unification in Latin American countries of the basic legal standards dealing with the peaceful uses of the atomic energy.

In Resolutions 2 and 3 the Committee requested the OAS General Secretariat to distribute to the governments of the Members States for their consideration, the revised editions of the above-mentioned studies on legal aspects of transportation of nuclear materials, and on the advisability and methods of establishing a system of financial coverage for nuclear damage.

In Resolution 4 the Committee asked IANEC to recommend to the OAS Member States that they consider the advisability of ratifying or adhering to the Vienna Convention on Civil Liability for Nuclear Damages of 1963. In Resolution 5 the Committee, considering the usefulness of a publication on nuclear energy legislation prepared by the Division of Codification of the OAS General Secretariat in 1969, requested that the information on nuclear energy legislation be maintained up-to-date. It recommended to the General Secretariat that it publish supplements to the said publication or that it prepare new editions thereof, and insofar as possible to further the study of comparative law by publishing information or texts of laws on nuclear energy in other parts of the world.

In other actions, the Committee recommended to IANEC that membership be increased to eight, and that Venezuela be elected as a new

member. On the basis of an invitation by the Colombian Delegate, the Committee decided to hold its IX meeting in that country at a date and definite place to be determined in due time. The Committee also received with satisfaction the oral presentation and information by the Delegate of Argentina about the operation of the Atucha Nuclear Power Plant, the first of its kind to be inaugurated in Latin America.

Dr. Carlos Alberto Dunshee de Abranches is the Chairman of the Committee, and Dr. Isidoro Zanotti, Chief of the Division of Codification and Legal Integration of the OAS, has acted as the Technical Secretary of the Committee. Both are Brazilian jurists.

UNITED NATIONS

Convention on the Limitation Period in the International Sale of Goods

On June 13, 1974 the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, held at the U.N. Headquarters in New York, adopted the Convention on the limitation period in the international sale of goods. The Conference had been recommended by the United Nations Commission on International Trade Law (UNCITRAL), which prepared the documents for the Conference.

Part I, Art. 1 to 30, contains the substantive provisions; Part II, Art. 31 to 33 deals with implementation, Part III, Art. 34 to 40, contains provisions on declarations and reservations, and the final clauses are in Part IV, Art. 41 to 46.

Art. 1 provides that this Convention shall determine when claims of a buyer and a seller against each other arising from a contract of international sale of goods or relating to its breach, termination or invalidity can no longer be exercised by reason of the expiration of a period of time. Such period of time is hereinafter referred to as "the limitation period." The Convention shall not affect a particular time-limit within which one party is required, as a condition for the acquisition or exercise of his claim, to give notice to the other party or perform any act other than the institution of legal proceedings. Paragraph 3 of Art. 1 sets forth definitions.

According to Art. 2, for the purpose of the Convention: a) a contract of sale of goods shall be considered international if, at the time of the conclusion of the contract, the buyer and the seller have their places

of business in different States; b) the fact that the parties have their places of business in different States shall be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract; c) where a party to a contract of sale of goods has places of business in more than one State, the place of business shall be that which has the closest relationship to the contract and its performance; d) where a party does not have a place of business, reference shall be made to his habitual residence; e) neither the nationality of the parties nor the civil or commercial character of the parties or of the contract shall be taken into consideration.

Under Art. 3, this Convention shall apply only if, at the time of the conclusion of the contract, the places of business of the parties to a contract of international sale of goods are in contracting states. Unless the Convention provides otherwise, it shall apply irrespective of the law which would otherwise be applicable by virtue of the rules of private international law. The Convention shall not apply when the parties have expressly excluded its application.

Art. 4 provides that the Convention shall not apply to sales: a) of goods bought for personal, family or household use; b) by auction; c) on execution or otherwise by authority of law; d) of stocks, shares, investment securities, negotiable instruments or money; e) of ships, vessels or aircraft; f) of electricity.

As provided in Art. 6, the Convention shall not apply to contracts in which the preponderant part of obligations of the seller consists in the supply of labour or other services. Art. 7 states that in the interpretation and application of the provisions of the Convention, its international character and to the need to promote uniformity, shall be taken into account.

Under Art. 8, the limitation period shall be four years, but in certain cases the period ceases to run as indicated below. Art. 10 provides that a claim arising from a breach of contract shall accrue on the date on which such breach occurs. A claim arising from a defect or other lack of conformity shall accrue on the date on which the goods are actually handed over to, or their tender is refused by the buyer. A claim based on fraud committed before or at the time of the conclusion of the contract or during its performance shall accrue on the date on which the fraud was or reasonably could have been discovered.

According to Art. 13, the limitation period shall cease to run when the creditor performs any act which, under the law of the court where the proceedings are instituted, is recognized as commencing judicial proceedings against the debtor or as asserting his claim in such proceedings already instituted against the debtor, for the purpose of obtaining satisfaction or recognition of his claim. Art. 23 provides that notwithstanding the provisions of the Convention, a limitation period shall in any event expire not later than 10 years from the date on which it commenced to run according to the pertinent provisions of the Convention.

Art. 34 stipulates that two or more Contracting States may at any time declare that contracts of sale between a seller having a place of business in one of these States and a buyer having a place of business in another of these States, shall not be governed by this Convention. According to Art. 35, a Contracting State may declare, at the time of the deposit of its instrument of ratification or accession, that it will not apply the provisions of this convention to actions for annulment of the contract.

In the final clauses it is provided that this Convention shall be open until December 31, 1975 for signature by all States at the Headquarters of the United Nations. The Convention is subject to ratification, and the instruments of ratification shall be deposited with the Secretary General of the United Nations. The Convention shall remain open for accession by any State, and shall enter into force on the first day of the month following the expiration of six months after the date of the deposit of the tenth instrument of ratification or accession.

DRAFT DEFINITION OF AGGRESSION

On April 12, 1974 the United Nations Special Committee on the Question of Defining Aggression adopted a draft definition of aggression consisting of eight articles. This draft definition will be submitted to the U.N. General Assembly at its twenty-ninth session to be held in 1974. For many years that Committee has dealt with this topic, and finally adopted a Draft Definition.

Art. 1 of the draft provides that aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set forth in this definition.

It is stated in Art. 2 that the first use of armed force by a State in contravention of the Charter shall constitute *prima facie* evidence of

an act of aggression although the Security Council may in conformity with the Charter conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.

An enumeration of different acts is included in Art. 3, which provides that any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of Art. 2, qualify as an act of aggression: a) the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof; b) bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State; c) the blockade of the ports or coasts of a State by the armed forces of another State; d) an attack by the armed forces of a State on the land, sea or air forces, marine and air fleets of another State; e) the use of armed forces of one State, which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement; f) the action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State; g) the sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed forces against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

These acts are not exhaustive according to Art. 4, and the Security Council may determine that other acts constitute aggression under the provisions of the Charter.

Art. 5 expresses that no consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression. It further expresses that: A war of aggression is a crime against international peace. Aggression gives rise to international responsibility. No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful.

Under Art. 6, nothing in this definition shall be construed as in any way enlarging or diminishing the scope of the Charter including its

provisions concerning cases in which the use of force is lawful. Art. 7 also provides that nothing in this definition, and in particular Art. 3, could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination.

Art. 8 declares that in their interpretation and application the above provisions are interrelated and each provision should be construed in the context of the other provisions.

DECLARATION ON THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER

The sixth special session of the United Nations General Assembly was held in New York, April-May 1974.

On May 1, 1974, the General Assembly adopted, by Resolution 3201 (S-VI), the Declaration on the Establishment of a New International Economic Order. A resumé of some of the statements contained in the Declaration follows.

The greatest and most significant achievement during the last decade has been the independence from colonial and alien domination of a large number of peoples and nations which has enabled them to become members of the community of free peoples. Technological progress has also been made in all spheres of economic activities in the last three decades, thus providing a solid potential for improving the well-being of all peoples.

The present international economic order is in direct conflict with current development in international political and economic relations. Since 1970, the world economy has experienced a series of grave crises which have had severe repercussions, especially on the developing countries because of their generally greater vulnerability to external economic pressures. The developing world has become a powerful factor that makes its influence felt in all fields of international activity.

The Declaration also expresses that all these changes have thrust into prominence the reality of interdependence of all the members of the world community. Current events have brought into sharp focus the realization that the interests of the developed countries and those of the developing

countries can no longer be isolated from each other, that there is close interrelationship between the prosperity of the developed countries and the growth and development of the developing countries, and that the prosperity of the international community as a whole depends upon the prosperity of its constituent parts.

The Declaration spells out certain principles upon which the new international economic order should be founded. Some of these principles are: Sovereign equality of States, self-determination of all peoples, inadmissibility of the acquisition of territories by force, territorial integrity and non-interference in the internal affairs of other States; the broadest cooperation of all the States members of the international community; full and effective participation on the basis of equality of all countries in the solving of world economic problems in the common interest of all countries; the right of every country to adopt the economic and social system that it deems to be most appropriate for its own development and not to be subject to discrimination of any kind; full permanent sovereignty of every State over its natural resources and all economic activities; the right of all States, territories and peoples under foreign occupation, alien and colonial domination to restitution and full compensation for the exploitation, depletion of and damages to their natural resources; regulation, and supervision of the activities of transnational corporations by taking measures in the interest of the national economies of the countries where such transnational corporations operate on the basis of the full sovereignty of those countries; just and equitable relationship between the prices of raw materials, primary products, manufactured and semi-manufactured goods exported by developing countries and the price of raw materials, primary commodities, manufactures, capital goods and equipment imported by them with the aim of bringing about sustained improvement in their unsatisfactory terms of trade and the expansion of the world economy; extension of active assistance to developing countries by the whole international community; the need for all States to put an end to the waste of natural resources, including food products; the strengthening, through individual and collective actions, of mutual economic, trade, financial and technical cooperation among the developing countries, mainly on a preferential basis.

It is also expressed in the Declaration that the United Nations, as a universal organization, should be capable of dealing with problems of international economic cooperation in a comprehensive manner and ensuring equally the interests of all countries. It must have an even greater role in the establishment of a new international economic order.

PROGRAM OF ACTION ON THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER

At its sixth special session, the United Nations General Assembly adopted Resolution 3202 (S-VI) on May 1, 1974, which contains the program of action for the establishment of the new international economic order. The lengthy Resolution is divided into the following chapters: Introduction. I. Fundamental problems of raw materials and primary commodities as related to trade and development: 1. Raw materials; 2. Food; 3. General trade; 4. Transportation and insurance; II. International monetary system and financing of the development of developing countries: 1. Objectives; 2. Measures. III. Industrialization. IV. Transfer of technology. V. Regulation and control over the activities of transnational corporations. VI. Charter of Economic Rights and Duties of States. VII. Promotion of cooperation among developing countries. VIII. Assistance in the exercise of permanent sovereignty of States over natural resources. IX. Strengthening the role of the United Nations system in the field of international economic cooperation. X. Special program.

In Part I of the Program of action it is stated, among other things, that all efforts should be made to take measures for the recovery, exploitation, development, marketing and distribution of natural resources, particularly of developing countries, to serve their national interests, to promote collective self-reliance among them and to strengthen mutually beneficial international economic cooperation with a view to bringing about the accelerated development of developing countries.

A recommendation is made to the international community to undertake concrete and speedy measures with a view to arresting desertification, salination and damage by locusts or any other similar phenomena involving several developing countries, particularly in Africa, and gravely affecting the agricultural production capacity of these countries. Efforts should be made to refrain from damaging or deteriorating natural resources and food resources, especially those derived from the sea, by preventing pollution and taking appropriate steps to protect and reconstitute those resources.

In Part II some objectives are spelled out to fight inflation and other financial problems. Measures should be taken to check inflation already experienced by the developed countries, to prevent it from being transferred to developing countries and to study and devise possible arrangements within the International Monetary Fund to mitigate the effects of inflation. Other objectives are: the maintenance of the real value of the

currency reserves of the developing countries by preventing their erosion from inflation and exchange rate depreciation of reserve currencies; full and effective participation of developing countries in all phases of decision-making for the formulation of an equitable and durable monetary system and adequate participation of these countries in all bodies entrusted with this reform; early establishment of a link between special drawing rights and additional development financing in the interest of the said countries.

In Chapter IV, on the transfer of technology, the Program of action mentions efforts to formulate an international code of conduct for the transfer of technology corresponding to needs and conditions prevalent in developing countries; to give access on improved terms to modern technology and to adapt that technology, as appropriate, to specific economic, social and ecological conditions and varying stages of development; to adapt commercial practices governing transfer of technology to the requirements of the developing countries; to promote international co-operation in research and development in exploration and exploitation, conservation and the legitimate utilization of natural resources and all sources of energy.

In Chapter V, which deals with transnational corporations, the Assembly stresses that all efforts should be made to formulate, adopt and implement an international code of conduct for transnational corporations: a) to prevent interference in the internal affairs of the countries where they operate and their collaboration with racist regimes and colonial administration; b) to regulate their activities in host countries, to eliminate restrictive business practices and to conform to the national development plans and objectives of developing countries, and in this context facilitate, as necessary, the revision of previously concluded arrangements; c) to bring about assistance, transfer of technology and management skills to developing countries on equitable and favourable terms; d) to regulate the repatriation of the profits accruing from their operations taking into account the legitimate interest of all parties concerned; e) to promote re-investment of their profits in developing countries.

In Chapter X the General Assembly agreed to launch a Special Program to provide emergency relief and development assistance to the developing countries most seriously affected, as a matter of urgency, and for the period of time necessary, at least until the end of the Second United Nations Development Decade, to help them overcome their present difficulties and to attain self-sustaining economic development.

As a first step in the Special Program, the Assembly resolved to request the Secretary General of the United Nations to launch an emergency operation to provide timely relief to the most seriously affected developing countries, with the aim of maintaining unimpaired essential imports for the next twelve months and to invite the industrialized countries and other potential contributors to announce their contributions for emergency assistance, or indicate their intention to do so by June 15, 1974; the assistance to be provided through bilateral or multilateral channels.

The Assembly appealed to the developed countries to consider favorably the cancellation, moratorium or rescheduling of the debts of the most seriously affected countries, on their request, as an important contribution to mitigating the grave and urgent financial difficulties of these countries. It established a Special Fund under the auspices of the United Nations, through voluntary contributions from industrialized countries and other potential contributors, as a part of the Special Program to provide emergency relief and development assistance.

INTERNATIONAL COURT OF JUSTICE

*Fisheries Jurisdiction (United Kingdom v. Iceland)**

On July 25, 1974 the International Court of Justice delivered its judgment on the merits in the case concerning Fisheries Jurisdiction (United Kingdom v. Iceland).

By ten votes to four the Court:

1. Found that the Icelandic Regulations of 1972 constituting a unilateral extension of the exclusive rights of Iceland to fifty nautical miles from the baseline are not opposable to the United Kingdom;

2. found that Iceland is not entitled unilaterally to exclude United Kingdom fishing vessels from areas between the 12-mile and 50-mile limits, or unilaterally to impose restrictions on their activities in such areas;

3. held that Iceland and the United Kingdom are under mutual obligations to undertake negotiations in good faith for an equitable solution of their differences;

*Information taken from International Court of Justice, Communiqué N° 79/9, dated July 25, 1974.

4. indicated certain factors which are to be taken into account in these negotiations (preferential rights of Iceland, established rights of the United Kingdom, interests of other States, conservation of fishery resources, joint examination of measures required).

Among the ten members of the Court who voted in favor of the Judgment, the President and Judge Nagendra Singh appended declarations; Judges Forster, Bengzon, Jiménez de Aréchaga, Nagendra Singh and Ruda appended a joint separate opinion, and Judges Dillard, de Castro and Sir Humphrey Waldock appended separate opinions. Of the four Judges who voted against the Judgment, Judge Ignacio-Pinto appended a declaration and Judges Gross, Petrán and Onyeama appended dissenting opinions.

In its Judgment, the Court recalled that proceedings were instituted by the United Kingdom against Iceland on April 14, 1972. At the request of the United Kingdom, the Court indicated interim measures of protection by an Order dated August 17, 1972. By a Judgment of February 2, 1973 the Court found that it had jurisdiction to deal with the merits of the dispute.

In its final submissions, the United Kingdom asked the Court to adjudge and declare:

a. That the claim by Iceland to be entitled to a zone of exclusive fisheries jurisdiction extending fifty nautical miles from the baselines is without foundation in international law and is invalid;

b. that, as against the United Kingdom, Iceland is not entitled unilaterally to assert an exclusive fisheries jurisdiction beyond the limit of 12 miles agreed to in an Exchange of Notes in 1961;

c. that Iceland is not entitled unilaterally to exclude British fishing vessels from the area of the high seas beyond the 12-mile limit or unilaterally to impose restriction on their activities in that area;

d. that Iceland and the United Kingdom are under a duty to examine together, either bilaterally or with other interested States, the need on conservation grounds for the introduction of restrictions on fishing activities in the said area of the high seas and to negotiate for the establishment of such a régime in that area as will *inter alia* ensure for Iceland a preferential position consistent with its position as a State specially dependent on its fisheries.

Iceland did not take part in any of the proceedings. By a letter of May 29, 1972 Iceland informed the Court that it regarded the Exchange of Notes of 1961 as terminated; that in its view there was no basis under the Statute of the Court to exercise jurisdiction; and that as it considered that its vital interest were involved, and therefore it was not willing to confer jurisdiction on the Court in any case involving the extent of its fishery limits. In a note dated January 11, 1974, Iceland stated that it did not accept any of the statements of fact or any of the allegations or contentions of law submitted on behalf of the United Kingdom.

The Court made reference to the 1958 United Nations Conference on the Law of the Sea, and to the Convention on the High Seas adopted by that Conference. It also referred to certain concepts arising from the 1960 U.N. Conference on the Law of the Sea.

The Court further expressed that in order to reach an equitable solution of the present dispute it was necessary that the preferential fishing rights of Iceland should be reconciled with the traditional fishing rights of the United Kingdom through the appraisal at any given moment of the relative dependence of either State on the fisheries in question, while taking into account the rights of other States and the needs of conservation. It is also stated that Iceland was not in law entitled unilaterally to exclude United Kingdom fishing vessels from areas to seaward of the limit of 12 miles agreed to in 1961 or unilaterally to impose restrictions on their activities. But that did not mean that the United Kingdom was under no obligation to Iceland with respect to fishing in the disputed waters in the 12-mile to 50-mile zone. Both Parties had the obligation to keep under review the fishery resources in those waters and to examine together, in the light of the information available, the measures required for the conservation and development, and equitable exploitation of those resources, taking into account any international agreement that might at present be in force or might be reached after negotiation.

In addition, the Court stated that the most appropriate method for the solution of the dispute was that of negotiation with a view to delimiting the rights and interests of the Parties and regulating equitably such questions as those of catch-limitation, share allocations and related restrictions. The obligation to negotiate flowed from the nature of the respective rights of the Parties and correspond to the provisions of the United Nations Charter concerning peaceful settlement of disputes. The Court could not accept the view that the common intention of the Parties was to be released

from negotiating throughout the whole period covered by the 1973 interim agreement.

Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)

Also on July 25, 1974 the International Court of Justice delivered its Judgment on the merits in the case concerning Fisheries Jurisdiction (Federal Republic of Germany v. Iceland). (I.C.J. Communiqué No. 74/10 of July 25, 1974).

By ten votes to four, the Court, *inter alia*, found: "5. That it is unable to accede to the submission of the Federal Republic of Germany concerning a claim to be entitled to compensation." With this exception, the two cases are similar. Iceland did not take part in any of the proceedings. By a letter of June 27, 1972 Iceland informed the Court that it regarded the Exchange of Notes of 1961 as terminated; that in its view there was no basis under its Statute for the Court to exercise jurisdiction, and that, considering its vital interests involved, it was not willing to confer jurisdiction on the Court in any case involving the extent of its fishery limits. In a letter dated January 11, 1974 Iceland stated that it did not accept any of the statements of fact, allegations or contentions of law submitted on behalf of the Federal Republic of Germany.

The two cases reviewed present some interesting questions. Among them: Article 53 of the Statute of the International Court of Justice provides: "1. Whenever one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim. 2. The Court must, before doing so, satisfy itself not only that it has jurisdiction in accordance with articles 36 and 37, but also that the claim is well founded in fact and law." In these two cases, Iceland stated that in its view there was no basis under the Statute of the Court to exercise jurisdiction, and that its vital interests were involved, and therefore was not willing to confer jurisdiction on the Court in any case involving the extent of its fishery rights. It also declared that it regarded the 1961 Exchange of Notes with the United Kingdom and the Federal Republic of Germany as terminated.

We might wonder how this decision of the Court will be received by the governments and jurists of Latin America, and of other developing countries.