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REGIONAL AND INTERNATIONAL ACTIVITIES

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ORGANIZATION OF AMERICAN STATES

GENERAL ASSEMBLY

The fourth regular session of the OAS General Assembly will be held at Atlanta, Georgia, beginning April 19, 1974.

On November 12, 1973 the Preparatory Committee of the General Assembly studied the report on the preliminary draft agenda for the forthcoming session of the General Assembly, submitted by the Subcommittee on the Agenda, and approved a preliminary draft agenda.

The annotated draft agenda is divided into two chapters: a) Matters emanating from the provisions of the Charter of the OAS or Art. 31 of the Rules of Procedure of the General Assembly; b) Matters emanating from decisions adopted by the General Assembly at previous sessions.

The preliminary draft agenda contains twenty-five topics, among which are the following: Consideration of the annual reports of the Permanent Council (CP), the Inter-American Economic and Social Council (CIES), the Inter-American Juridical Committee (CJI) and the Inter-American Commission on Human Rights (CIDH). Also, consideration of the annual report of the Secretary General on the activities and financial condition of the OAS; annual reports of the Inter-American Specialized

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

Organizations; annual reports presented to the Assembly by other entities of the inter-American system; election of three members of the Inter-American Juridical Committee; restructuring of the inter-American system; report on the status of the non-autonomous territories in the American Hemisphere and other territories in the Americas having ties with countries outside the Hemisphere; draft agreement for cooperation between the Inter-Governmental Maritime Organization (IMCO) and the OAS; additional functions of the Preparatory Committee of the General Assembly; strengthening of the inter-American system for the maintenance of peace—observations of the Permanent Council; draft convention on extradition; approval of the Program-Budget of the OAS for the biennium 1974/76; determination of Member State quotas for fiscal 1974/76, and other administrative and budgetary matters.

The preliminary draft agenda was transmitted to the governments of the Member States, together with the report on the agenda, so that they may have an opportunity to make pertinent observations or to propose inclusion of additional topics by December 31, 1973, at the latest. The draft agenda was also transmitted to the organs of the OAS, for their recommendations regarding additional topics to be included by the same date. The Preparatory Committee agreed to hold a meeting on January 15, 1974 to take cognizance of the observations made and to take them into account when preparing the draft agenda to be submitted to the General Assembly.

INTER-AMERICAN JURIDICAL COMMITTEE

The committee held a regular meeting from July 26 to August 27, 1973 at its permanent headquarters in Rio de Janeiro, during which it prepared, on a priority basis, the work for the Inter-American Specialized Conference on Private International Law.

In resolution AG/RES. 48 (I-O/71) adopted on April 23, 1971, the General Assembly recommended to the Inter-American Juridical Committee that it prepare the studies, reports, and draft conventions necessary for the use of the aforementioned specialized conference. The Permanent Council approved the draft agenda for this conference at a meeting held on December 20, 1972.

On the basis of the draft agenda, the Juridical Committee, during its meeting of July—August 1973, approved eight draft conventions on the following topics: Commercial companies; bills of exchange, checks

and promissory notes of international circulation; international commercial arbitration; international maritime transportation with special reference to bills of lading; letters rogatory; recognition and enforcement of foreign judgments; taking of evidence abroad in civil and commercial matters; legal system for powers of attorney to be used abroad. These draft conventions deal with matters in the area of conflict of laws.

The Committee also approved two resolutions, one on the multinational commercial companies and the other on the action that should be taken for the development of other topics of Private International Law; it further approved a draft resolution on the international sale of goods.

The rapporteurs of these eleven different topics prepared an exposé des motifs for each draft convention or resolution.

In the next report, more details will be given on the eight draft conventions prepared by the Inter-American Juridical Committee on the matters referred to above.

As of November, 1973 no date or place for the Inter-American Specialized Conference on Private International Law had been fixed.

SPECIAL COMMITTEE TO STUDY THE INTER-AMERICAN SYSTEM

The Special Committee to Study the Inter-American System and to propose measures for restructuring it was established by the General Assembly in its resolution AG/RES. 127 (III-O/73) adopted in April 1973.

The Committee held its first meeting in Lima in June-July 1973, and its second at the Headquarters of the OAS General Secretariat in Washington, D.C., from September 4 to November 1, 1973. Its third meeting is to take place in Lima beginning November 19, 1973.

Following is a summary of the deliberations of the Special Committee during its meeting held in Washington, D.C.

The Committee is carrying out its work through three Subcommittees: Subcommittee I, Juridical and Political Matters; Subcommittee II, Matters Related to Cooperation; Subcommittee III, Structural and Administrative Matters.

The three Subcommittees held several sessions from September 4 to November 1, 1973, and the different rapporteurs presented their reports concerning the work accomplished.

The Special Committee did not have the time to consider the conclusions or recommendations of the three subcommittees and did not prepare its own report concerning the second meeting. It is expected that at its third meeting to be held in Lima beginning November 19, 1973 the Special Committee will present its report to the Governments of the Member States and to the General Assembly.

Subcommittee I

The report of the Rapporteur of Subcommittee I was published under the classification CEESI/Subcom. I/doc. 38/73 rev. 1 of November 1, 1973. According to the first paragraph of the report, the Subcommittee agreed to organize its work by considering "three major topics separately, namely: the Inter-American Treaty of Reciprocal Assistance, the principles and purposes of the inter-American system, and the peaceful settlement of disputes, without prejudice to dealing with other topics when appropriate."

As a general method for studying the amendments that were proposed to the Charter of the OAS, it was decided to follow the order of the articles in the present Charter. In view of the complexity of the matters involved and taking into account the amendments proposed, the Subcommittee agreed to consider the discussion of the amendments as "a first reading" designed to clarify concepts, objectives and drafting procedures; such a preliminary reading and exchange of opinions would not imply the adoption of definite commitments.

The Subcommittee discussed at length Art. 1, 2, and 3 of the OAS Charter. It should be pointed out that Art. 1 deals with the nature of the Organization; the five clauses of Art. 2 contain the essential purposes of the OAS; and the twelve clauses of Art. 3 deal with the principles of the Organization.

Several Member State delegations presented amendments to one or more of these provisions. The discussions on these proposals and provisions appear in the verbatim records of the forty-three sessions of Subcommittee I.

Subcommittee I approved on "first reading" the draft of Art. 1 and 2 and of the clauses of Art. 3 of the OAS Charter which appear in the Rapporteur's report as Appendix 2. Several delegations added reservations, statements or comments on the text approved.

The Subcommittee also heard general opinions and proposed amendments to the Inter-American Treaty of Reciprocal Assistance, the so-called Rio Treaty, signed in Rio de Janeiro in 1947. This treaty established a collective security system for the Western Hemisphere. The Subcommittee did not have the time to consider the specific amendments to the treaty.

The Subcommittee also received proposals and observations on the peaceful settlement of controversies. However, there was no time to consider the specific proposals presented.

Subcommittee II

Likewise, during the Washington meeting, Subcommittee II, received several proposals and observations from various Member State delegations. The Rapporteur's report presents a seven-page resumé of the discussions held (CEESI/Subcom. II/doc. 48/73 rev. 1 of November 1, 1973.)

The texts of the proposals and observations made by several delegations are appended to the report, as well as the texts of statements by the Executive Secretaries of CIES and of CIECC, and by the Assistant Secretary for Technical Cooperation. As examples of proposals and observations contained in the report, mention is made of the proposal of Peru concerning collective economic security, and another document on the cooperation for development submitted by the same delegation; a memorandum presented by Mexico; detailed statements by the delegates of Brazil, Uruguay, Peru and the United States, among others. More detailed information about the deliberations of Subcommittee II are contained in the minutes of its sessions.

Another Appendix to the Rapporteur's report is the text of a memorandum submitted by the Delegation of Brazil (page 93), which states: "The Delegation of Brazil has attempted to show that one of the principal problems involved in the discussions regarding the inter-American system of cooperation for development is the disparity between the system's ambitious objectives and the modest resources made available to it, between its intention to cover the entire spectrum of economic, social, educational, scientific, and cultural affairs, and its regional limitation. Above all, the system should be a forum in which workable schemes of cooperation can be prepared, information can be exchanged, coordination can be exercised, and agreements on specific matters can be negotiated."

According to the memorandum of the Brazilian Delegation, the purpose of integral development is the creation of a fairer and more rational

economic and social order that will make possible the full realization of the individual's potential. Fundamentally, development is the national responsibility of each country. Further, development is the common and shared responsibility of the American States, protected by a system of collective security. The Brazilian memorandum also states that inter-American cooperation should be: directed toward supporting the attainment of national objectives, continuing in nature, dependable as to volume and quality, and without restrictions. In the final part of its memorandum, the Brazilian Delegation made proposals for institutional changes in the pertinent chapters of the OAS Charter.

Subcommittee II agreed to establish a Working Group that would endeavor to identify areas of agreement in a less formal atmosphere and with the participation of all the delegations. The Working Group presented a report to the Subcommittee (CEESI/Subcom. II/doc. 47/73 rev. 1 of November 2, 1973) which appears as Appendix 12 of Subcommittee II's Rapporteur's report (page 247.) The report of the standards of the inter-American system; collective economic security; reform of the system of cooperation for development, establishment of a working subgroup; statements made by delegations; report of the working subgroup.

Subcommittee III

During its meeting in Washington, D.C., the Subcommittee studied the provisions of the OAS Charter dealing with Inter-American Specialized Organizations, Specialized Conferences and the General Assembly. It considered several proposals submitted by Delegations of the Member States.

As a result of its deliberations, Subcommittee III reached a consensus on various recommendations pertaining to these matters.

Following is a resumé of the recommendations as contained in Appendix I of the Subcommittee's Rapporteur's report (CEESI/Subcom. III/doc. 54/73 rev. 1 of October 31, 1973.)

STANDARD CONCERNING INTER-AMERICAN SPECIALIZED ORGANIZATIONS

For the purposes of the Charter, Inter-American Specialized Organizations are the intergovernmental organizations established by multilateral agreements, having specific functions with respect to technical matters relating to cooperation for the integral development of the American States and concluding agreements on relations with the OAS, subject to approval by the General Assembly.

The Specialized Organizations shall enjoy the fullest technical autonomy, but they shall take into account the recommendations of the General Assembly and of the Councils, specially as regards the action, general policy and policy of the Organization for the integral development of the Member States. The Councils of the OAS shall adopt measures for the coordination of the activities of the Specialized Organizations. These organizations shall transmit to the General Assembly annual reports on the progress of their work and on their annual budgets and expenses. They shall establish close cooperative relations with world agencies of the same character in order to coordinate their activities.

SPECIALIZED CONFERENCES

According to the recommendations of Subcommittee III, the Specialized Conferences are inter-governmental meetings, held as required, to deal with special technical matters or to develop specific aspects of inter-American cooperation for the integral development of the Member States that cannot be adequately considered by the main organs of the OAS. The General Assembly and the Meeting of Consultation of Ministers of Foreign Affairs are empowered to convoke the Specialized Conferences. The Councils of the OAS may propose the convocation of Specialized Conferences to the General Assembly. The present text of Art. 72 of the Charter should be replaced by a new text reading as follows: **The General Assembly shall determine the procedure for convoking Specialized Conferences in urgent cases. This procedure shall be restricted in order to avoid its indiscriminate application.**

After examining the matter of the proliferation of conferences and meetings, Subcommittee III recommended to the General Assembly: 1) that it strengthen the measures for applying its policy of preventing the proliferation of conferences, meetings, seminars, symposia and the like by issuing such budgetary and other measures as it deems advisable; 2) that it instruct the Councils of the OAS to undertake a general review of conferences, meetings, seminars, symposia, and the like with a view to determining precisely whether they are necessary and eliminating those that are not essential.

THE GENERAL ASSEMBLY

The Subcommittee considered proposals submitted on several articles of Chapter XI of the Charter, which deal with the General Assembly, considering only those articles about which specific proposals were made.

There was an understanding in the Subcommittee that the other articles of the chapter dealing with the General Assembly would remain unchanged, unless otherwise agreed to at future meetings of the Special Committee.

As expressed in Recommendation No. 1 of Subcommittee III, the General Assembly is the supreme organ of the system institutionalized by the Charter of the OAS. It is different from Art. 52, first part, of the present Charter. The present text reads . . . "supreme organ of the Organization of American States." In approving this Recommendation, Subcommittee III took into account the preliminary agreement of Subcommittee I in this connection. The provisional text of the amendment to Art. 1 of the Charter, as proposed by Subcommittee I reads: "The signatory states agree by this Charter of the Organization of American States to institutionalize the inter-American system as the expression of their will . . ."

Recommendation No. 2 states that the General Assembly, exclusively, is competent to decide the action and general policy of the Organization in political, juridical, economic, social, cultural, and other fields. The present text (Art. 52(a)) reads: "To decide the general action and policy of the Organization . . ." The enumeration of specific fields of activity was added by the Subcommittee.

Under recommendation No. 3, which would be a new provision, the General Assembly is competent to establish criteria for and assign priorities to inter-American cooperation in order to attain effective integral development.

Recommendation No. 4, also a new provision, deals with the procedure to be followed by the General Assembly in exercising its competence to consider the annual reports of the different organs and agencies. The procedure shall be established by provisions to be included in the Charter and by those included by the Assembly in its rules of procedure.

Recommendation No. 5 is concerned with the first part of Art. 55 of the Charter. According to the present text, the General Assembly "shall convene annually." According to Recommendation No. 5, the General Assembly shall hold regular sessions during the period determined by its rules of procedure. Some delegations expressed the opinion that the General Assembly should not meet every year and proposed that it hold regular sessions every two years. Other delegations indicated that the Assembly should meet every year, and pointed out that the present provi-

sion should be maintained. Others expressed that the rules of procedure of the Assembly should make provision for this matter. In order to reconcile the different criteria, the Chairman of Subcommittee III made a proposal, which was accepted, that the rules of procedure of the General Assembly make provision for the periodicity of its regular sessions. The delegations of Guatemala and the United States maintained that the General Assembly should hold annual sessions and that the pertinent provision should be included in the Charter and in the rules of procedure. These two delegations requested that their position be recorded in the report of the Rapporteur.

Recommendation No. 6 deals with the Preparatory Committee of the General Assembly. Art. 58 of the present Charter provides for this Committee. Based on a proposal by the Brazilian Delegation, the Subcommittee recommended that the functions of the Preparatory Committee under Art. 58 of the Charter should be transferred to the Permanent Council. The Delegation of Peru reserved its position on the matter stating that the recommendation would expand the present administrative and budgetary functions of the Permanent Council, something which is not consistent with the structure of the new Permanent Political and Judicial Council proposed by Peru.

UNITED NATIONS

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

The United Nations Conference on the Human Environment held in Stockholm in June 1972 recommended, among other things, that "a plenipotentiary conference be convened as soon as possible, under appropriate governmental or inter-governmental auspices, to prepare and adopt a convention on export, import and transit of certain species of wild animals and plants."

The Conference, convened by the Government of the United States of America, was held in Washington, D.C. from February 12 to March 2, 1973, with the Governments of more than eighty States participating. The Governments of the following Member States of the OAS were represented—Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominican

Republic, El Salvador, Guatemala, Honduras, Mexico, Paraguay, Panamá, Peru, United States of America, and Venezuela—with observers from Chile, Ecuador and Jamaica.

The Conference adopted the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which was opened for signature on April 30, 1973, by the States participating in the Washington Conference, and thereafter, at Berne, until December 31, 1974.

The Convention contains twenty-five articles divided into several paragraphs. There are four appendices to the Convention. (See Convention Appendices in "International Legal Materials," Vol. XII, No. 5, September 1973, pp. 1088-1104.)

For the purposes of the Convention, Article I defines certain words and expressions as follows: "Species" means any species, subspecies, or geographically separate population thereof; "Specimen" means any animal or plant, whether alive or dead; "Trade" means export, re-export, import and introduction from the sea. "Scientific Authority" means a national scientific authority designated in accordance with Article IX of the Convention.

According to Article II, Appendix I to the Convention shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances. Appendix II shall include: a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such is subject to strict regulation in order to avoid utilization incompatible with their survival; and b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in paragraph a) may be brought under effective control. Appendix III shall include all species which any Party to the Convention identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade. The Parties to the Convention shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the Convention.

According to Articles III, IV and V, the export of any specimen of species included in Appendices I, II and III shall require the prior grant and presentation of an export permit. An export permit shall be granted when certain conditions are met.

For example, in the case of species included in Appendix I, an export permit is granted when the following conditions have been met: (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species; (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and (d) a Management Authority of the State of export is satisfied that an import has been granted for the specimen.

On the other hand, the import of any specimen of species included in Appendix I shall require prior grant and presentation of an import permit. An import permit shall be granted under certain conditions.

As stated in Article VII, the provisions of Articles III, IV and V shall not apply to the transit or transshipment of specimens through or in the territory of a Party to the Convention while the specimens remain in Customs control.

Article VIII provides that the Parties to the Convention shall take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof. These measures are: to penalize trade in, or possession of, such specimens, or both, and to provide for the confiscation or return to the State of export of such specimens. In addition to these measures a Party to the Convention may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the Convention.

Under Article IX, each Party to the Convention shall designate, for the purpose of the Convention, one or more Management Authorities competent to grant permits or certificates on behalf of the Party, and one or more Scientific Authorities.

A Secretariat is provided for in Article XII of the Convention. When the Convention enters into force, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. The Convention specifies several functions of the Secretariat, as for instance to call a meeting of the Conference of the Parties to the Convention not later than two years after the entry into force of the Convention; to

arrange for and service meetings of the Parties; to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties; to invite the attention of the Parties to any matter pertaining to the aims of the Convention; prepare annual reports to the Parties; to make recommendations for the implementation of the aims and provisions of the Convention.

The effect on domestic legislation and international conventions is dealt with in Article XIV, which states that the provisions of the present Convention shall in no way affect the right of the Parties to the Convention to adopt stricter domestic measures regarding the conditions for trade, taking possession or transport of specimens of species included in Appendices I, II and III, or the domestic measures restricting or prohibiting trade, taking possession or transport of species not included in those Appendices. It is provided also that the provisions of the present Convention shall in no way affect the provisions of or the obligations deriving from any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external customs control and removing customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.

Articles XV and XVI provide for amendments of Appendices I, II and III.

The Convention shall enter into force ninety days after the deposit of the tenth instrument of ratification, acceptance, approval or accession with the Depositary Government. The Government of the Swiss Confederation is the Depositary Government.

MULTINATIONAL CORPORATIONS

In its Resolution 1721 (LIII) adopted on July 28, 1972, the Economic and Social Council of the United Nations requested the Secretary General to appoint a group of experts to study the role of multinational corporations and their impact on the process of development, especially that of developing countries, as well as on international relations.

To facilitate the work of the group, the Department of Economic and Social Affairs of the U.N. Secretariat prepared a 195-page report (ST/ECA/190.) The lengthy report is divided into four main chapters

and several appendices. Chapter IV, for example, which deals with an action program, contains a review of the following subjects: recent trends in policies, programs of multinational corporations, programs of organized labor, home country and host country programs, regional and international programs, technical cooperation, harmonization of national policies, a general agreement on multinational corporations, a supranational corporation, and an international machinery for the settlement of disputes.

The report concludes with a summary. Excerpts from certain paragraphs contained therein, follow:

At the present stage of public debate on the multinational corporations most of the issues are too complex and too far-reaching for ready solution and the appropriate strategy for action would appear to be to concentrate on the setting up of sufficiently flexible machinery capable of implementation. Appropriate programs of action need, moreover, to be initiated by the private sector, as well as at the national, regional and international levels. . . .

Home country programs. The behaviour of multinational corporations can be greatly influenced by the attitudes and actions of their home countries. It is significant that multinational corporations can no longer count on unquestioning support by the home country in any dispute. A more judicious avoidance of interference and a formal renunciation of extra-territorial applications, through the adoption of the Calvo doctrine, for example, would improve the atmosphere and allay host countries' fears of foreign domination. Some screening and even auditing of the operations of multinational corporations and requirements for greater disclosure could promote the accountability of these corporations.

Host country programs. While such measures can be taken unilaterally by a home country or group of home countries, host country programs are often crucial. The question arises, with respect to the Calvo doctrine, whether certain minimum rights of subsidiaries can also be protected. Although many host countries would probably regard such a guarantee as circumscribing their sovereign rights it would facilitate the acceptance of the Calvo doctrine by home countries. Many multinational corporations are not necessarily deterred by attempts to guide or even limit their activities. This is demonstrated by the keen interest expressed by the activities of multinational corporations in countries in which machinery for the screening or review of foreign investment has been established, precisely because an important source of uncertainty has been

removed. . . . The presence of multinational corporations in a number of socialist countries demonstrates the possibility of mutually beneficial arrangements, even in centrally planned economies.

The precise relationship between the multinational corporation and the host country must therefore be defined by the host country itself. While each country should formulate its own policy, there is a general need for a national coordinating and reviewing body. These functions are often widely scattered among various ministries. Few ministries are equipped to deal with the whole range of problems that may arise, or are in a position to play a central role in developing a consistent set of policies. . . .

Regional programs. In order to avoid unwarranted competition, the harmonization of national policy measures, such as investment incentives and review procedures, has been attempted at the regional level. Such efforts will also strengthen the national machinery for dealing with multinational corporations by pooling resources and increasing bargaining power for the group as a whole, as has been demonstrated by the Andean Group of countries.

International programs. No matter how wisely the host and home countries deal with the multinational corporations, and how socially responsible the behaviour of these corporations may be, tensions and conflicts will inevitably arise and international machinery and procedures must be devised for dealing with them.

As a minimum, there should be a proper international forum in which views can be aired and problems discussed. The Economic and Social Council, aided by a committee under its jurisdiction, could assume the main function, drawing on the findings of other more specialized bodies on particular aspects. The objective of the forum would not be to adjudicate but to gather and publicize facts and, through public opinion, to serve as a deterrent to abuses. It could also be instrumental in developing policies and programs for further action. . . .

Technical cooperation with countries and regional organizations need not be limited to the supply of information. It can cover all areas of activity pertaining to multinational corporations. As a minimum, the review and appraisal of the operations of multinational corporations and of policies affecting them can be part of the broader exercise connected with the International Development Strategy for the Second Development Decade. . . .

International efforts can also be launched for the harmonization of national policies. A particularly urgent area is that of the taxation of profits of affiliates, which is also related to tax evasion and double taxation. Another urgent area is the harmonization of incentive measures for foreign investment. . . . A further area for harmonization is anti-monopoly legislation. Here again, current efforts by regional organizations should serve as a forerunner of broader international efforts. Lastly, the harmonization of environmental regulations would guard against the abuse of such regulations as an instrument for restricting trade.

The various rules of conduct can, in due course, be gathered together and codified. This is implicit in proposals such as that for the establishment of the International Trade Organization (ITO) or of a GATT for international investment. Although such far-reaching proposals may not be ripe for immediate action, the possibilities for similar, perhaps more limited, types of arrangement can be explored.

Less ambitiously, a broad international code of conduct relating to multinational corporations could be negotiated. Although such a code is unlikely to be enforceable without the ITO or GATT type of organization, the discussions leading to it could serve as an educational process. Such a code could also serve as a guide to the review and appraisal of the activities of host and home countries as well as the multinational corporations.

On a more limited but still international scale, multinational corporations could be registered with an international organization under the auspices of the United Nations. . . .

A more far-reaching proposal is that for the negotiation of a treaty or a law for the establishment of "International Corporations." The Agreement establishing Interim Arrangements for a Global Commercial Communications Satellite System is an example of such an instrument. The proposed European Company Law, which is independent of national legislation, is an indication of possibilities at the regional level. The proposed international sea-bed authority points to the necessity of supra-national organizations in some areas. The proposal for the establishment of a legal framework for International Corporations, in various forms, thus deserves further study. . . .

In conclusion, the adoption of Economic and Social Council Resolution 1721 (LIII) on multinational corporations needs to be followed by the charting of a program of action for the United Nations. Although

opinions may differ concerning some far-reaching proposals, there is hardly any doubt that consensus is possible on many points. Some proposals, indeed, can be implemented immediately, while others will require further study to prepare the ground for more difficult negotiation in the future. (Ed. Note—See Economic Developments Report for additional coverage on this subject.)

PREVENTION OF INTERNATIONAL TERRORISM

In Resolution 2926 (XXVII) adopted on November 28, 1972, the United Nations' General Assembly agreed to invite States, specialized agencies, and interested intergovernmental organizations to submit their written comments and observations on the draft articles prepared by the International Law Commission (ILC) concerning the prevention and punishment of crimes against diplomatic agents and other internationally protected persons.

On August 28, 1973, the U.N. Secretariat published document A/9127 as a part of the documentation for the XXVIII session of the U.N. General Assembly. The document contains comments and observations submitted by twenty-two countries to the draft articles prepared by the ILC. The following Member States of the OAS submitted observations: Brazil and the United States of America.

In its observations, the Brazilian Government reiterated its opinion that the draft articles prepared by the International Law Commission are insufficient, since they deal only with the protection of persons already covered by conventions and time-honored, precise legal provisions concerning the inviolability of diplomatic representatives. It also expressed that Brazil is firmly convinced that the solution to the problem of protecting diplomatic representatives should be sought within the broader framework of international cooperation against terrorism—a multilateral cooperation based on prevention, application of sanctions and repression of this type of crime. Brazil had previously voiced this conviction.

On the question of extradition, Brazil observed that the provisions of Art. 6 and 7 concerning the obligations of States in extradition matters constitute two fundamental points that represent a valuable contribution to the draft in establishing an international judicial mechanism, with a view to the punishment of terrorist acts, and that Art. 6 embodies the rule to "extradite or prosecute." It is pointed out that Art. 7 contains innovative stipulations of the greatest importance, since it enunciates the principle

of automatically including in extradition treaties the crimes listed in Art. 2 as subject to extradition, as well as the rule of priority for extradition requests.

In its observations, the Government of the United States of America indicated that both the overall approach and content of the draft articles are sound and workable, and that it considers that the draft should, in accordance with the time-table established in General Assembly Resolution 2926 (XXVII), be finalized by the Assembly at its XVIII session. It further stated that the United States is ready to consider suggestions for the technical improvement of the draft articles.

In his observations, the Secretary General of the United Nations noted that according to Art. 1 of the draft the term "internationally protected persons" covers any official of an international organization who is entitled, pursuant to general international law or an international agreement, to special protection for or because of the performance of functions on behalf of his international organization, as well as members of his family who are likewise entitled to special protection.

The subject of international terrorism was also dealt with in Resolution 3034 (XXVII) of the General Assembly, adopted on December 18, 1972. According to the Resolution, the Assembly shall, among other things, invite the States to consider the matter urgently, and submit observations to the Secretary General by April 10, 1973, including concrete proposals for finding an effective solution to the problem of international terrorism. It further established an ad hoc Committee on International Terrorism, consisting of thirty-five members to be appointed by the President of the General Assembly. The following OAS Member States were appointed to the Committee: Barbados, Haiti, Nicaragua, Panama, United States of America, Uruguay and Venezuela.

The Committee held several meetings in July–August 1973, during the course of which it established three subcommittees: one, to define international terrorism; another, to study its underlying causes, and another to study measures for its prevention.

In September 1973 the U.N. Secretariat published the Report of the ad hoc Committee on International Terrorism, as a document of the XXVIII session of the General Assembly [Official records of the General Assembly: Twenty-eighth session, Supplement No. 28 (A/9028)]. The report summarizes the general debate into the following chapters: general observations, general approach to the work of the Committee, elements

to be taken into consideration in examining the problem, the underlying causes of international terrorism, measures to be taken for the prevention of international terrorism.

Several proposals were submitted to the three Subcommittees, among them, those presented by Haiti, Venezuela, the United States and Uruguay. The United States submitted a draft convention containing sixteen articles.

INTERNATIONAL COURT OF JUSTICE

Nuclear Tests

The following information is taken from the 1972-1973 Yearbook of the International Court of Justice, published at The Hague, pages 130 to 133.

On May 9, 1973, the Government of Australia filed an Application instituting proceedings against France in respect to the holding of atmospheric tests of nuclear weapons by the French Government in the South Pacific region. The Government of Australia asked the Court to adjudge and declare that the carrying out of further atmospheric nuclear weapon tests in the South Pacific Ocean is not consistent with applicable rules of international law and to order that the French Government should not carry out any further such tests.

On the same date the Government of Australia filed with the Registry of the Court, a request for interim measures of protection, namely, that the French Government desist from any further atmospheric nuclear tests pending the judgment of the Court in the case.

Through its Minister for Foreign Affairs, the French Government was immediately apprised of the Application and request by the Australian Government. In a communication delivered to the Registrar of the Court on May 16, 1973, the French Government remarked that in its opinion the Court had no competency in the case, that it could not accept the Court's jurisdiction, that it did not intend to appoint an agent, and that it requested the Court to remove the case from its calendar.

As it had been previously communicated to the two governments, public hearings were held to afford them the opportunity of presenting their observations on the request for provisional measures. The hearings, at which the Government of Australia was represented but the French Government was not, were held on May 21 to 23 and 25, 1973.

On June 22, 1973, the Court issued an Order stating that the non-appearance of one of the States concerned could not by itself constitute an obstacle to the promulgation of interim measures; that the material submitted to the Court led it to the conclusion that the provisions invoked by the Applicant appeared, *prima facie*, to afford a basis on which the jurisdiction of the Court might be founded; that the Court would accordingly proceed to examine the request for interim measures of protection; that for the purpose of the proceedings, it was sufficient to observe that the information submitted to the Court did not exclude the possibility that damage to Australia might be shown to be caused by the deposit on Australian territory of radioactive fallout resulting from the tests, and to be irreparable; that the Court did not accede, at that stage of the proceedings, to the request by the French Government that the case be removed from the calendar; that nonetheless the decision in no way prejudged the question of the jurisdiction of the Court to deal with the merits of the case, or any questions relating to the admissibility of the Application, or relating to the merits themselves, and left unaffected the right of the French Government to submit arguments in respect to those questions.

By eight votes to six, the Court promulgated, pending a final decision, the following provisional measures:

The Governments of Australia and France, respectively, should make certain that no action be taken which might aggravate or extend the dispute submitted to the Court or prejudice the rights of the other Party in respect to carrying out the decision rendered by the Court; and, in particular, that the French Government should avoid nuclear tests causing the deposit of radioactive fallout on Australian territory.

The Court also ruled that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute, and of the admissibility of the Application. The Court fixed September 21 and December 21, 1973, respectively, as time-limits for the filing of a Memorial by the Government of Australia and a Counter-Memorial by the French Government. The subsequent procedure was reserved for further decision.

On May 16, 1973, the Government of Fiji filed an Application for permission to intervene under Art. 62 of the Statute of the Court. Within the time-limits fixed by the Court, the Government of Australia informed the Court that it had no objection. On July 12, 1973, the Court ruled by

eight votes to five to defer consideration of the Application until it had pronounced upon the questions to which the pleadings mentioned in its Order of June 22, 1973, were to be addressed.

As already mentioned, on May 9, 1973, the Government of New Zealand filed an Application instituting proceedings against the French Government in respect to a dispute arising from similar grounds as those of the case between the Government of Australia and the French Government. The proceedings followed the same course, though the dates have sometimes differed, as the proceedings instituted by the Government of Australia.

On June 22, 1973, the Court adopted an Order indicating the same interim measures as for Australia (the territory referred to being that of New Zealand, the Cook Islands and other islands) and fixing the same time-limits for the Memorial and Counter-Memorial on the jurisdiction of the Court and the admissibility of the Application.

Composition of the Court

The International Court of Justice consists of fifteen members. On July 31, 1973, the composition of the Court was as follows:

President: M. Lachs (Poland); Vice President: F. Ammoun (Lebanon); Judges: I. Forster (Senegal); A. Gross (France); C. Bengzon (Philippines); S. Petrén (Sweden); C. D. Onyeama (Nigeria); H. C. Dillard (United States); L. Ignacio-Pinto (Dahomey); F. de Castro (Spain); P. D. Morozov (USSR); E. Jiménez de Aréchaga (Uruguay); Humphrey Waldock (United Kingdom); Nagendra Singh (India); J. M. Ruda (Argentina).

The terms of office of the members expire as follows: five on February 5, 1976; five on February 5, 1979, and five on February 5, 1982.

The members of the Court are elected for nine years. One-third of the total number of judges is elected every three years, and may be re-elected (Art. 13 of the Statute). In case of a vacancy, a supplementary election is held and the new judge holds office for the remainder of his predecessor's term (Art. 14 and 15 of the Statute). The members of the Court are elected by the General Assembly and by the Security Council of the United Nations (Art. 4.1 of the Statute). The General Assembly and the Security Council proceed, independently, to elect the members of the Court (Art. 8 of the Statute).

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Trademark Registration

Under the auspices of the World Intellectual Property Organization (WIPO), a Trademark Registration Treaty was adopted at Vienna on June 12, 1973. About forty-six countries were represented at the Diplomatic Conference on Industrial Property, which adopted the Treaty.

In Art. 1 it is established that the States party to the Treaty constitute a Union for the international registration of marks. Art. 2 adopts several abbreviated expressions.

The substantive provisions are contained in Art. 3 to 31. Art. 3 provides that the International Bureau shall register marks in the International Register of Marks according to the provisions of the Treaty and the Regulations. Under Art. 4, any resident or national of a Contracting State may file international applications and may own international registrations. If there are several applicants, they shall have the right to file an international application only if they are all residents or nationals of Contracting States. The same rule applies in the case of several owners of an international registration.

Art. 5 establishes the contents of an international application. Under Art. 11, the international registration of a mark and the recording of any later designation, published and notified as provided in the Treaty, shall have the same effect in each designated State as if an application for the registration of the mark in the national register of marks had been filed with the national office of that State on the international registration date or on the recording date of the later designation, as the case may be.

According to Art. 17, the initial term of any international registration shall be ten years from the international registration date. Any international registration may be renewed in respect to any designated State, by its owner, for terms of ten years.

Art. 18 stipulates that the International Bureau shall be entitled to fees in connection with the filing of each international application, request for recording of later designation, demand for renewal and such other operations and services as are subject, according to the Treaty or the Regulations, to the payment of fees. The Regulations fix the amounts of the fees.

According to Art. 21, if, at the international registration date or the recording date of the later designation, as the case may be, the owner of the international registration of a mark owns, in any designated State, a registration of the same mark in the national register of marks, his rights under the Treaty shall be deemed to include in respect of that State all rights, particularly any priority right, existing under the national registration.

Art. 25 provides that, where the residents or nationals of all Contracting States are given the right under a treaty providing for the registration of regional marks to file applications and obtain registration under such regional treaty by way of the present Treaty, any Contracting Party to such regional treaty may declare that its designation under the present Treaty shall have the same effect as if the mark had been applied for as a regional mark effective in that State.

The administrative provisions are contained in Art. 32 to 36 of the Treaty.

The final clauses provide, among other things, that any State member of the International Union for the Protection of Industrial Property may become party to the present Treaty (Art. 39), and that the Treaty shall enter into force six months after five States have deposited their instruments of ratification or accession (Art. 41).

The Diplomatic Conference also adopted the Regulations governing the Trademark Registration Treaty. The document contains forty-six rules.