Regional and International Activities

Isidoro Zanotti
I. General Assembly

The thirteenth regular session of the OAS General Assembly was held in Washington, D.C., from November 14 through 18, 1983, during which the Assembly adopted several resolutions on political, legal, economic, social, educational and administrative matters. A summary of some of these resolutions follows.

Inter-American Juridical Committee

The General Assembly specifically recognized the annual report presented by the Inter-American Juridical Committee, expressed its satisfaction with the outstanding work performed by the Committee in 1983 and thanked the Committee for its successful organization of the Course on International Law.

Inter-American Court of Human Rights

The General Assembly expressed its appreciation for the work accomplished by the Inter-American Court of Human Rights and stated that the full utilization of the Court, in both its adjudicatory and advisory capacities, promotes the effective protection of human rights in the Americas. The Assembly urged all OAS member states to ratify or accede to the American Convention on Human Rights and to recognize the binding jurisdiction of the Court.

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In a lengthy resolution, the General Assembly took note of the annual report, special reports and recommendations of the Inter-American Commission on Human Rights. It thanked the Commission for the important work it is doing in protecting and promoting human rights and urged the member governments mentioned in the reports to implement the Commission’s recommendations.

The Assembly declared that the practice of forced disappearances of people in the Americas is an affront to the conscience of the hemisphere and constitutes a crime against humanity. It urged those states in which such disappearances have occurred to inform the families of the victims of their relative’s fate. The Assembly reiterated the need to prevent and put an immediate end to violations of human rights; especially the rights of life, personal security, liberty, fair trial and due process. It reaffirmed that extrajudicial executions, torture and detention without due process constitute violations of human rights.

The Assembly recommended that the states affected reestablish and improve their systems of representative democracy. It reminded OAS member states of the need to guarantee the full exercise of freedoms of conscience, religion and worship, opinion, expression and dissemination of thought.

The Assembly reaffirmed that a crucial aspect of the effective protection of human rights is the recognition of social, economic and cultural rights and emphasized the responsibility of the member states to promote hemispheric development in those areas. It requested the Commission to continue monitoring the human rights situations in the member states and to report thereon to the General Assembly at its fourteenth regular session.

_Preliminary Draft Additional Protocol to the American Convention on Human Rights_

The General Assembly requested the OAS Secretary General to submit the Preliminary Draft Protocol to the American Convention on Human Rights to the governments of the member states, to the Inter-American Commission on Human Rights and to the Inter-American Court of Human Rights so that those institutions would have an opportunity to present their observations and recommendations to the States Parties to the Convention. The As-
Assembly authorized the Secretary General to invite the States Parties to said Convention to hold a meeting to review the comments and observations as well as the preliminary Draft Protocol.

The preliminary Draft Protocol, presented to the General Assembly through a report by the Preparatory Committee of the General Assembly, contains 20 articles of a substantive nature which deal with social, economic and cultural rights. It provides, inter alia, that each of the States Parties to the Protocol pledges itself to both recognize and guarantee these rights to all of the people residing in their territories by adopting legislative enactments, decrees, resolutions or other means in accordance with their constitutional procedures and the provisions of the American Convention on Human Rights, "Pact of San Jose, Costa Rica."

The preliminary Draft Protocol also provides that work is both a right and a social duty. National laws should guarantee stability in employment; labor rights; social security for all workers; freedom to form trade unions; essential medical care for the prevention and treatment of epidemic, endemic, occupational and other diseases; and adequate food, housing and clothing for all. The Protocol argued that there should be a united effort by the States Parties to insure a dynamic and balanced economic development which will result in peace and security for the hemisphere. It stated that the states parties should recognize the right of all people to receive an education founded on the principles of morality, freedom, quality, democracy, tolerance, human solidarity and respect for human rights. Primary education should be compulsory, available and free to all; secondary education should be within the reach of all, and higher education should be made available. State Parties should honor academic freedom and protect the rights of authors. It concluded in requesting that regular reports be transmitted to the Inter-American Commission on Human Rights detailing measures adopted and progress made in achieving the rights recognized by the Draft Protocol.

Procedure For Peaceful Settlement of International Disputes

The General Assembly reminded the member states that the Charter of the OAS provides procedures for the peaceful settle-
ment of international disputes. It urged member states to use these procedures as a means of settling regional disputes. The Assembly instructed the General Secretariat, with advice from the Inter-American Juridical Committee, to study these procedures and recommend additional measures for their promotion, modernization, or expansion. The Assembly requested the General Secretariat to submit this study, through the Permanent Council, to the member states for their comments and to present a report to the General Assembly at its fourteenth regular session.

Peace Efforts in Central America

The General Assembly reaffirmed the principles and rules of American comity which are contained in the OAS Charter, and stressed that Member States are obligated to settle their disputes by those peaceful procedures. It noted that Member States must abstain from the use of force and must not interfere, either directly or indirectly, in the internal or external affairs of any other state. The Assembly expressed its firmest support for the efforts of the Contadora Group and urged it to continue in its efforts. It welcomed the Declaration of Cancun on Central America issued by the Presidents of Colombia, Mexico, Panama and Venezuela, and expressed their approval of the adoption of the Document of Objectives by the Central American countries. The Document contains a set of basic principles and commitments regarding the settlement of conflicts in the region to maintain peace, international security, democracy and economic and social development. The Assembly urged Central American countries to negotiate agreements that will formalize the objectives of the Document and to devise monitoring and verification mechanisms to ensure their fulfillment.

Advisability of Establishing a Mechanism For Inspection of Weapons and Military Personnel

The General Assembly requested the Permanent Council to prepare a study on the advisability of establishing a mechanism for the inspection of weapons and military personnel in the Americas. It asked that the study be prepared with a view towards developing a draft convention on the subject. The Assembly also requested the Permanent Council to consult with the governments of the Member States and the Inter-American Juridical Committee to ob-
tain their respective views on this subject, and to submit the study to the fourteenth regular session of the General Assembly.

In approving this resolution, the Assembly recalled that the Permanent Mission of Colombia to the OAS had addressed a note to the General Secretariat on the advisability of establishing such a mechanism for the inspection of weapons and military personnel in the Americas. The Assembly considered that such a mechanism would be consistent with the purpose of the Inter-American System which is essentially peaceful, as illustrated by its conventions and resolutions which promote peace and security in the Hemisphere.

The Sovereignty Dispute Over the Malvinas Islands

The General Assembly reaffirmed its support for United Nations General Assembly resolutions 37/9 and 38/12 that call upon the governments of Argentina and the United Kingdom to resume negotiations aimed at finding a peaceful solution to the sovereignty dispute. It expressed its concern over the lack of progress to date and said that it will continue to discuss and examine this question at subsequent sessions until the matter is definitively settled.

Inter-American Program for Cooperation in Legal Development

The General Assembly welcomed the proposal presented by the General Secretariat to establish an inter-American program for legal development. It instructed the Permanent Council to study the feasibility and possible execution of this program with unprogrammed funds. The General Assembly instructed the Permanent Council, in consultation with the General Secretariat, to find a way of fulfilling said program within the budgetary possibilities.

International Commercial Arbitration

In a resolution dealing with commercial arbitration, the General Assembly stated that the growth of international commerce is essential to the prosperity and economic well-being of the Hemisphere. It noted that the continued use of an established and uniform dispute-settlement mechanism will serve to encourage international commerce since it is a speedy, efficient and impartial means of settling disputes. The Inter-American Convention on International Commerce Arbitration which was signed at Panama in
1975 and entered into force on June 16, 1976, provides for the recognition and enforcement of arbitration agreements and arbitral awards in all States Parties to the Convention. Article 3 establishes that "in the absence of an express agreement between the parties, the arbitration shall be conducted in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission."

The Assembly urged the member states that have not yet ratified the Convention to adhere to it as soon as possible and recommended that they disseminate information on the possibilities offered for the arbitration of international commercial disputes. The Assembly also instructed the Inter-American Economic and Social Council to consider the role of international commercial arbitration in the facilitation of inter-American commerce, through its Permanent Committee, and to explore the possibilities for cooperation between the OAS and the Inter-American Commercial Arbitration Commission.

Inter-American Declaration on Family Rights

In the preamble of this Declaration, the General Assembly stressed the importance of the family as an indispensable framework for an individual's physical, emotional and social development and as a basis for social order. It stated that changes in the economic, social, technological and cultural aspects of society affect the family, since it is sensitive to such changes in social dynamics. The General Assembly of the OAS, at its eleventh regular session (1981) declared that 1983 would be the Inter-American Year of the Family.

The General Assembly decided to proclaim this Declaration of Family Rights so that families might enjoy the rights set forth in the Declaration. It urged the governments of the member states to recognize and observe such rights.

The Declaration contains ten articles. One provides that all persons, especially children, have the right to the stability of the family as an institution and the right to privacy. The Declaration also states that a family has the right to choose and structure the education of its children and in so doing to transmit to them its cultural, social, moral, religious and other values. It also provides that a family has the right to choose its own religious creed. Furthermore, the family has, inter alia, the following rights: to enjoy
social, economic and cultural conditions that favor its strengthening and comprehensive development; to obtain from the state the support and aid it needs in times of risk including access to a system of protection and social security; and to join any kind of civic and cultural associations it desires.

The Family in the Present Process of Change

The General Assembly urged the governments of the member states to formulate and unify overall national policies that will incorporate elements linked to the realities of the family situation; to financially broaden and expand research and planning on educational issues focused on the family and the role of women; to coordinate the human and financial resources for specific activities related to health and nutrition; and to adjust the laws governing the family as an entity accordingly.

Integration of Women Through Education

The General Assembly recommended that the governments of the member states and the General Secretariat of the OAS redouble their efforts to develop study plans and programs designed to eliminate existing sex-role stereotyping for men and women so as to change discriminatory attitudes that still persist.

Support of the Five-Year Plan for Inter-American Indian Action

The governments of OAS member states were urged to make contributions to the multilateral fund to finance and support the five-year plan for inter-American indian action in order to ensure that the Inter-American Indian Institute would be endowed with enough funds to accomplish its purposes. The Assembly suggested that they make their voluntary contributions in local currencies which will be added to those to be contributed by the Inter-American Indian Institute for projects and programs which will be determined in the future.

1984 Quotas for the OAS Regular Budget

The General Assembly established the 1984 quotas for the OAS's regular budget. The quotas were similar to those of previous
years. The United States is to contribute 66 percent; Brazil, 9.36 percent; Argentina, 7.47 percent; Mexico, 7.02 percent; and Venezuela, 3.59 percent. There are 23 OAS member states whose total combined contributions will be less than three percent. Therefore, the five major contributors will pay 93.44 percent of the total and the other twenty-five OAS member states will contribute the balance.

Special Session of the General Assembly to Elect a New Secretary General of the OAS

The General Assembly regretfully accepted the resignation of Ambassador Alejandro Orfila from the post of Secretary General which was effective March 31, 1984. The Assembly expressed its appreciation for his valuable contribution to inter-American ideals. It decided to convene a special session of the General Assembly on March 12, 1984 at the headquarters of the OAS General Secretariat in Washington, D.C. to elect a new Secretary General.

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

The General Assembly accepted the generous offer of the Government of Brazil to hold the fourteenth regular session of the General Assembly in Brasilia, beginning on the second Monday in November of 1984.

II. WORK OF THE INTER-AMERICAN JURIDICAL COMMITTEE IN 1983

During its January and August 1983 meetings, the Inter-American Juridical Committee studied several topics on its agenda, adopted some resolutions, and accomplished other important work, such as the preparation of a Draft Inter-American Convention on Jurisdictional Immunity of States. A summary of this draft Convention is contained in the Lawyer of the Americas.3 The Juridical Committee also approved an opinion on the revision of the Statute of the OAS Administrative Tribunal and prepared its annual report to the OAS General Assembly which was published as a document of the Assembly (AG/doc. 1636/83, of September 20, 1983). A draft Inter-American Convention on Personality and Ca-

3. 15 LAW. AM. 151 (1983).
Capacity in Private International Law approved by the Committee will be submitted to the Third Inter-American Specialized Conference on Private International Law (CIDIP-III) to be held in 1984.

In eight articles of a substantive nature, this draft Convention provides that the personality and capacity of private juridical persons shall be governed by the law of the State in which they are organized. In each State, international juridical persons organized as a result of international agreements between States Parties shall be accorded legal personality and capacity in line with the provisions of such international agreements, including private law acts. The capacity of juridical persons mentioned in the draft Convention shall be subject to the laws of each State Party to the Convention. In determining entitlement to certain rights, the capacity of juridical persons may be limited by the applicable substantive law. A statement of reasons in support of this draft Convention was also prepared by the Juridical Committee.

Tenth Course on International Law

This Course, which was organized by the Inter-American Juridical Committee, was first held in 1974. The Course has since become a continuing activity of the Committee and is sanctioned by an OAS General Assembly resolution.4 It has always been held in Rio de Janeiro.

The Course consists of intensive, high-level lectures and group discussions and it always features a broad exchange of views between professors and participants. There are also a variety of seminars and round table discussions. Working groups are organized among the participants to discuss and study specific topics and group reports are prepared with conclusions and recommendations. The Course is designed to develop and update in-depth knowledge of contemporary international law. It is extremely useful in fostering friendly relations and cooperation among the participants. This activity has been very successful as evidenced by commendations from government, university and professional circles.

The Course has had the continuous support of the Inter-American Juridical Committee, the OAS General Assembly, General Secretariat, and the Getulio Vargas Foundation of Rio de Janeiro. The OAS awards about 30 fellowships every year to se-

4. AG/RES. 185 (V-O/75).
lected candidates from the OAS member states. These candidates are law professors, diplomats and other government officials, and lawyers.

The Tenth Course was held in Rio de Janeiro in August 1983 and the Inter-American Juridical Committee invited four Ministers of Foreign Affairs to attend the opening session to deliver lectures. They were the following Foreign Ministers: Ambassador Ramiro Saraiva Guerreiro of Brazil, Dr. Jose Zambrano Velasco of Venezuela, Dr. Bernard Sepulevda of Mexico, and Dr. Luis Valencia Rodriguez of Ecuador.

The opening session was held on August 1 under the chairmanship of Jorge A. Aja Espil, a jurist from Argentina, and President of the Inter-American Juridical Committee. The Foreign Ministers of Venezuela, Mexico, and Ecuador delivered special addresses on, respectively: Bolivar and American international law; peace and international law; and the solution of disputes pursuant to the new Convention on the Law of the Sea. During the course, several lectures were delivered on a variety of topics, including: Contemporary Public International Law; procedures at the International Court of Justice; The Statute of refugees; international environmental law; peaceful uses of nuclear energy and nuclear non-proliferation; law applicable to armed conflicts; international communication law; current developments in the law of outer space; role, framework, interpretation and codification of Private International Law in America; the UN Convention on Maritime transportation of goods; UNCITRAL and some of its recent activities; the Inter-American system; the future role of regionalism in a heterogeneous international society; principles, objectives and major guidelines of the Organization of American States; non-jurisdictional means to peaceful solution of disputes in the Inter-American system; and the Canadian Access to Information and Privacy Act.

At the conclusion of the Tenth Course in August 1983, the participants presented Dr. Isidoro Zanotti with a special certificate stating “their recognition and thanks for the work accomplished throughout ten years in the holding of the Course on International Law, and their testimony of his dedication to, and interest in, inter-American integration and unity.”
III. ECONOMIC AND FINANCIAL PROBLEMS OF THE LATIN AMERICAN AND CARIBBEAN COUNTRIES

The economic and financial problems of Latin American and Caribbean countries have been of serious concern to the member states of the Organization of American States. The OAS member states held a Specialized Conference on External Financing during September 5-9, 1983 in Caracas, Venezuela, and prepared a significant document entitled “Bases of Understanding.” This document was presented to the Inter-American Economic and Social Council (CIES) at its XVIII meeting at the ministerial level which was held in Asuncion, Paraguay, from October 17 to 20, 1983. CIES is an agency of the OAS in which the governments of the OAS member states are represented.

During this meeting, CIES approved the Bases of Understanding, several other resolutions and recommendations and a Declaration. The Declaration stated that:

We, the Governments of the member countries of the Organization of American States meeting . . . within the framework of the XVIII Annual Meeting at the ministerial level of the Inter-American Economic and Social Council, have made fruitful efforts to reactivate a dialogue at the hemisphere level. In this way, a historic landmark in hemispheric relations has been established. With profound satisfaction we place on record that the Bases of Understanding that is to generate concrete responses in the form of specific recommendations concerning the most pressing economic problems at this moment besetting the countries of Latin American and the Caribbean, have been established by CIES. Outstanding among them are: the consolidation of the agreements arising from the Specialized Conference on External Financing; the establishment of Special Committee for Finance and Trade; the possibility of special high-level conferences in the near future from which similar achievements to those obtained in Asuncion for hemispheric cooperation, development and coexistence are to be expected.

Some excerpts from the Bases of Understanding, approved by CIES at its XVIII meeting held in Asuncion, in October 1983, are reproduced below:

1. The Bases start by declaring that the present crisis is the worst in 50 years. The economic effects of the crisis on the industrialized countries is different from those experienced by the developing countries because of the latter’s level of income, capital ac-
cumulation, and high population growth.

2. The external debt was over US$300 billion at the end of 1982. That is more than triple the entire combined value of Latin American and Caribbean exports. The unfavorable shift in the world economy has made it necessary to reassess the overall payment capacity of the Latin American economies. Faced with this crisis, the Latin American and Caribbean countries are making extraordinary readjustment efforts within their economies. They are attempting to comply with their international commitments despite the high social, political and economic costs involved. At the same time, the anti-inflationary policies of the industrialized countries have aggravated the problems confronting the Latin American and Caribbean countries considerably.

3. The Latin American and Caribbean countries require a gradual internal adjustment process geared to the social and political conditions of each country. Thus, additional economic cooperation is needed to enable the region to both raise its level of internal adjustment (so as to prevent the destruction of its productive capacity) and to maintain an adequate level of domestic economic activity which is compatible with social and political stability.

4. The recovery of the region's industrialized economies, especially that of the United States, is necessary to solve the problems of Latin America and the Caribbean. The region has found some hope for improvement in the positive signs emanating from those economies. However, the region also needs to reduce fiscal deficits, lower interest rates, increase capital flow, improve trade and to develop greater access to foreign markets (especially in the United States). Once again, the Latin American and Caribbean countries express their willingness to strengthen a constructive dialogue with the United States.

5. The last paragraph of the document declares that the Latin American and Caribbean countries feel that the present crisis should be faced realistically, rationally, and prudently. They reaffirm their historic acceptance of their international commitments and they reject all pressures that might affect their independence and sovereignty.

IV. COOPERATION AMONG THE COUNTRIES OF THE AMAZONIAN REGION

The Ministers of Foreign Affairs of the States Parties to the
Amazonian Cooperation Treaty held a meeting in Cali, Colombia, on December 8 and 9, 1983. The States Parties to this Treaty are: Bolivia, Brazil, Colombia, Ecuador, Guayana, Peru, Suriname and Venezuela.

At the conclusion of the meeting, a Declaration recommending the adoption of an Action Plan involving the use of Science and Technology to develop adequate solutions for the problems of the Amazonian region was approved by the Ministers of Foreign Affairs. They recommended that studies and surveys of certain diseases which are typical of the region, such as yellow fever, be made and requested more financial and technical support from the Pan American and World Health Organizations. The Declaration stated the parties' agreement that the financial aspects of cooperation for the development of the region should be considered in the context of the present economic crises affecting the countries of the region. The signatories also agreed that seminars for the study of improving transportation and communications will be held in 1984 and that the next meeting of the Ministers of Foreign Affairs of the Amazonian Cooperation Treaty will be held in Quito, Ecuador in 1985.

In accordance with article XX of the Treaty, the Ministers of Foreign Affairs of the Contracting Parties will hold meetings to adopt guidelines for common policies, assess and evaluate the general development of the Amazonian cooperation, and make decisions designed to carry out the aims set forth in the Treaty. The Treaty also provides for the creation of an Amazonian Cooperation Council, which shall be composed of high level diplomatic representatives, and which will meet once a year to ensure that there is a certain degree of compliance with the aims and objectives of the Treaty which are; inter alia: to carry out the decisions made at the meetings of the Foreign Ministers; to make recommendations to the Parties regarding such meetings; to consider the proposals and plans presented by the Parties; and to evaluate the implementation of the plans set out in bilateral or multilateral expressions of interest.

V.  SUPPLEMENTARY EXTRADITION CONVENTION BETWEEN THE UNITED STATES AND SWEDEN 1983

The Supplementary Extradition Convention between the United States and Sweden was signed in Stockholm on March 4,
1983 by the plenipotentiaries of the signatories. The new Convention contains amendments and additions to the Convention which was signed in Washington, D.C. on October 24, 1961 and the new document will replace the Supplementary Convention signed with Sweden on May 27, 1981.

Article I of the 1983 Supplementary Convention provides that each Contracting State will surrender to the other, subject to the provisions and conditions contained in the Convention, those persons found in its territory who are either sought for prosecution or who have been found guilty of committing an offense or who are wanted for the enforcement of a sentence relative to any offense which is extraditable under article II of the Convention which was committed within the territorial jurisdiction of the other. Under article II, an offense shall be an extraditable offense only if it is punishable under the laws of the Contracting States by the deprivation of liberty for a period of at least two years. When the request for extradition, however, relates to a person who has been convicted and sentenced, extradition shall be granted only if the duration of the penalty, or the aggregate of the penalties still to be served, amounts to at least six months. According to article IV, extradition shall be granted for an extraditable offense committed outside the territorial jurisdiction of the requesting State if the courts of the requesting State would be competent to exercise jurisdiction in similar circumstances or if the person sought is a national of the requesting State. Extradition may be refused for an offense which has been committed within the territorial jurisdiction of the requested State when that State takes all possible measures, in accordance with its own laws, to prosecute the person claimed.

In accordance with article VII, there is no obligation upon the requested State to grant extradition of a person who is a national of the requested State. However, the Executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it has deemed that it would be proper to do so. If the request for extradition is denied solely on this basis, that State shall, if requested to do so, take all possible measures to prosecute the person claimed.
VI. INTERNATIONAL ENERGY AGENCY (IEA)

The Governing Board of the International Energy Agency, meeting at the ministerial level, issued a Communique in Paris on May 8, 1983 concerning energy requirements and security. The Communique emphasized that "energy remains a decisive element for progress in the world economy and is particularly important for developing countries."

The first annex to the Communique contains the following conclusions: the Ministers assessed world energy requirements and security for the next two decades in relation to sustained economic growth. They noted the progress that had been achieved since 1973 in reducing the dependence on imported oil by increasing energy efficiency. They concluded that this progress contributed to the lowering of oil prices. The Ministers agreed, however, that "such relief was likely to be temporary and that there is a risk of a renewed energy constraint on growth later in this decade unless industrialized countries strengthen their policies to restructure their energy economies." They stated that the dependence on imported oil, although reduced, remains high in many of their countries and that this remains the major risk to energy security in those nations. Further, they expressed concern that the "contributions of coal and nuclear energy are running significantly below earlier expectations."

The conclusion deals with a variety of topics such as energy efficiency, pricing and fiscal regimes, coal and other solid fuels, nuclear power, gas, and other energy resources. The Ministers noted that in order to ensure long-term energy security, nuclear power will have to play a major and increasing role in many countries. The Ministers stressed the importance of encouraging stable trade in nuclear equipment, fuel cycle services and nuclear fuel. They concluded that both export and import regulations must be standardized, predictable and based on strict respect of current non-proliferation policies. In addition, the Ministers agreed that member countries of IEA "would maintain reliable standards of nuclear reactor safety, spent fuel storage, and waste disposal."

5. The text is reproduced in 22 I.L.M. 918-29 (1983).
VII. United Nations International Law Commission

During its thirty-fifth session, held in Geneva from May 3 to July 22, 1983, the International Law Commission adopted draft articles on jurisdictional immunity of States and their property.

Draft Articles on Jurisdictional Immunity of States and Their Property

The articles concern the immunity of one State and its property from the jurisdiction of the courts of another State. For the purpose of the articles, "court" means any organ of a State, however named, entitled to exercise judicial functions; "commercial contract" means (1) any commercial contractor transaction for the sale or purchase of goods or the supply of services; (2) any contract for a loan or other transaction of a financial nature, including any obligation of guarantee in respect to such loan or of indemnity in respect to such transaction; or (3) any other contract or transaction, whether of a commercial, industrial, trading or professional nature, but not including a contract of employment.

Another provision stipulates that a State shall give effect to State immunity by refraining from exercising jurisdiction in a proceeding before its own courts directed against another State. A proceeding before a court of a State shall be considered to have been instituted against another State, whether or not that State is named as party to that proceeding, as long as the proceeding seeks to compel the other State either to submit to the jurisdiction of the court or to bear the consequences of a determination by the court which may affect the rights, interests, properties or activities of that other State. The draft articles also provide that a State cannot invoke immunity from jurisdiction in a proceeding before a court of another State if it has expressly consented to submit to the jurisdiction of that court by either an international agreement, a written contract or a prior declaration before the court in a specific situation.

The draft article on commercial contracts provides that if a State enters into a commercial contract with a foreign natural or juridical person, and differences relating to that commercial contract fall within the jurisdiction of a court of another State, the State is considered to have consented to the exercise of that court's jurisdiction and accordingly cannot invoke immunity from jurisdic-
tion in that proceeding. This provision, however, shall not apply to commercial contracts between States, or agreements made on a government-to-government basis, or if the parties to the commercial contract have expressly agreed otherwise. The ownership, possession and use of property is the subject of another article which provides that a state cannot invoke immunity to prevent a court of another State, which is otherwise competent, from exercising its jurisdiction in a proceeding which relates to the determination of:

a) any right or interest of the State in, or its possession or use of, or any obligation of the State arising out of its interest in, or its possession or use of, immovable property situated in the State of the forum; b) any right or interest of the State in movable or immovable property arising by way of succession, gift or _bona vacantia_; c) any right or interest of the State in the administration of property forming part of the estate of a deceased person or of a person of unsound mind or of a bankrupt, or any right or interest of the State in the administration of property of a company in the event of its dissolution or winding-up; or d) any right or interest of the State in the administration of trust property or property otherwise held on a fiduciary basis.