Regional and International Activities

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I. GENERAL ASSEMBLY

The Twelfth Regular Session of the OAS General Assembly took place in Washington, D.C., from November 15 through 20, 1982, during which the Assembly approved several resolutions on political, legal, economic, educational, social, administrative, and budgetary matters. A summary of some of these resolutions follows.

Inter-American Juridical Committee

The General Assembly took note, with particular interest, of the annual report of the Inter-American Juridical Committee to the General Assembly, and expressed its satisfaction of the outstanding work the Committee has done during the period covered by the report. The Assembly also thanked the Committee for the important work it has been doing in the codification and progressive development of international law, including the successful organization of the Course on International Law.

Inter-American Court of Human Rights

In taking note of the annual report of this court, the Assembly expressed its appreciation for the work accomplished by the court, and urged all member states that are also parties to the American Convention on Human Rights to recognize the binding jurisdiction of the court.

Human Rights

The General Assembly took note with interest of the annual

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report of the Inter-American Commission on Human Rights and expressed its appreciation for the important work the Commission carries out for the protection and promotion of human rights. The Assembly also expressed regrets for the serious violations of human rights that have occurred in the Hemisphere. It took note of the observations and comments made by the governments of member states and of information regarding measures taken to ensure the protection of human rights in their respective countries.

In addition, the Assembly urged the governments of the member states that have not yet done so, to adopt and implement whatever measures are necessary to preserve and ensure full effectiveness of human rights. It reiterated the need to avoid and, where applicable, to put an end to the violations of fundamental human rights, particularly the right to life and personal freedom.

The Assembly recommended that the governments of the member states, within the context of a democratic system of government, ensure that the exercise of power is predicated on the free and legitimate manifestation of the will of the people in accordance with specific circumstances and characteristics of each country. It also reaffirmed that effective protection of human rights should be extended to social, economic, and cultural rights, and emphasized the responsibility of the governments of the member states to promote cooperation for development in the hemisphere. The Assembly urged the governments to provide the Inter-American Commission on Human Rights with the necessary cooperation to carry out its work, particularly through timely response to the Commission's requests for information regarding individual cases of human rights violations.

The Malvinas Islands

The Assembly expressed its support of Resolution 37/9 of November 4, 1982, from the thirty-seventh session of the UN General Assembly, in which the governments of Argentina and the United Kingdom were requested to resume negotiations aimed at seeking a peaceful solution to the sovereignty dispute as soon as possible, and the UN Secretary General was requested to use his good offices to assist the parties.
Special Session of the OAS General Assembly on Inter-American Cooperation for Development

The General Assembly, referring to several previous resolutions on this matter, reiterated that there will be a convocation of meetings of the Inter-American Economic and Social Council (CIES) and of the Inter-American Council for Education, Science, and Culture (CIECC). The meetings will be held simultaneously, no later than September 1983, for the purpose of considering the draft agendas, Plans of Action and other recommendations on inter-American cooperation for development by their respective Permanent Executive Committees. In addition, the Assembly confirmed the mandate given to the Permanent Council to set the date for the special session of the General Assembly on Inter-American Cooperation for Development.

Panama Canal Tolls and Transit

The Assembly reiterated its concern over the adverse effect on the foreign trade of Latin American and Caribbean countries of the proposed Panama Canal toll increase which will become effective in the first quarter of 1983, and requested the United States Government to rescind that increase.

Financial Cooperation through the Resources of the Inter-American Development Bank

The General Assembly, expressed that the Inter-American Development Bank (IDB) is an essential part of the Inter-American System, and that it is necessary to carry out the sixth replenishment of resources of that Bank. As a result, it decided to urge member states of the OAS to support the sixth replenishment of resources for the IDB so that it might reach levels corresponding to the needs of the developing countries of Latin America and the Caribbean. It also expressed the need to assure all Latin American and Caribbean members of the IDB, without exception, of full unlimited access to the funds and resources of that institution.

Legal Editions of the Americas

The Assembly decided to establish in the OAS General Secretariat, (without any additional expenditures from the OAS budget) a collection, to be called Legal Editions of the Americas, which will
publish essays and studies on public and private international law written by legal experts in the region. The Assembly indicated that this task should be carried out in consultation with the Inter-American Juridical Committee. The Assembly instructed the General Secretariat to make arrangements with companies of recognized prestige in the region, so that they may assume responsibility for the distribution of said editions. It also authorized the General Secretariat to establish a specific account for the receipt of any proceeds, which shall be used for the management, operation and maintenance of such editions.

Fifth Centennial of the Discovery of America

The General Assembly decided to invite the OAS member states, and the states that have permanent observers to the OAS, to attend the First Inter-American Preparatory Conference for the Fifth Centennial of the discovery of America (historical feat of Christopher Columbus). This Conference is to take place in 1984, in the Dominican Republic. The Assembly expressed its appreciation to the governments of Jamaica and the Dominican Republic for their offer of hosting the first meetings for the preparations of the fifth centennial of the discovery of America.

Simón Bolívar

The Assembly proclaimed the period from July 24, 1982 to July 24, 1983 to be the Bicentennial Year of the Birth of the Liberator Simón Bolívar.

Inter-American Year of Peace

The Assembly declared 1986 as the Inter-American Year of Peace.

Strengthening the Activities of Inter-American Cooperation in the Cultural Sector

The Assembly ratified the decision of the Inter-American Council for Education, Science, and Culture (CIECC) to consider culture as the specific topic of the Plan of Action of CIECC. The Assembly also took note of the decision made by CIECC with respect to strengthening the Regional Scientific and Technological Development Program.
Day of Women of the Americas

The Assembly declared February 18 as the Day of Women of the Americas. It recommended that the governments of the OAS member states establish women's bureaus or similar agencies where they do not exist, and that agencies already in existence be strengthened and placed at the highest decision-making levels.

Administrative and Budgetary Matters

The General Assembly approved the principles which are to govern the career service of the Organization of American States. It also approved several other resolutions dealing with administrative and budgetary matters. One of the resolutions approved dealt with the regular budget of the OAS. The Assembly maintained the budget (Regular Fund) for the second year of the 1982-83 biennium at the same level as that approved for 1982. It also established the levels for 1983 for the Voluntary Funds. An appendix to this resolution contains the 1983 quotas for the Regular Fund of the OAS. These quotas are identical to the 1982 quotas.

Some of the figures mentioned in the appendix are noteworthy. The quota contribution of the United States to the Regular Fund of the OAS is sixty-six percent. The U.S. has contributed a similar percentage for many years. Of the other member countries, the larger contributors according to the 1982 and 1983 regular funds are: Brazil (9.36%), Argentina (7.47%), Mexico (7.02%), and Venezuela (3.59%). According to the 1983 Regular Fund, there are twenty-one OAS member countries whose total quota contribution to the fund is less than three percent. Several reports, recommendations, and resolutions by organs of the OAS have dealt with the need to achieve a better distribution of the contributions made by the member states, but no final decision regarding this matter has been adopted as of December 1982.

II. Third Inter-American Specialized Conference on Private International Law (CIDIP-III)

The OAS Permanent Council, through resolution CP/RES.376 (510/82 of November 10, 1982), approved the draft agenda of the Third Inter-American Specialized Conference on Private International Law (CIDIP-III), which had been convoked by the General Assembly through resolution AG/RES.505 (X-0-80).
In the preamble of CP/RES.376 it was recalled that through resolution AG/RES.505 the General Assembly recommended to the Permanent Council that it prepare the draft rules of procedure and the definitive draft agenda for the conference which are to be submitted to the governments of the member states.

With respect to the draft agenda of CIDIP-III, it was also indicated that the Second Inter-American Specialized Conference on Private International Law (CIDIP-II), held in Montevideo in 1979, adopted, among others, resolutions IV, V and VI, which requested that the General Assembly order studies on the following topics: international maritime and land transportation of goods and persons; personality and capacity of natural and juridical persons; and an additional protocol to the Inter-American Convention on the Taking of Evidence Abroad, which had been adopted by CIDIP-I in Panama, in 1975.

It was also recalled that the topic on international maritime transportation had been considered by a United Nations Conference held in March 1978, at which fourteen OAS member states were represented. The United Nations Convention on the Carriage of Goods by Sea was approved at that conference.

The Inter-American Juridical Committee was instructed by resolution AG/RES.505 to continue with the preparation of reports and draft conventions on the topics recommended by CIDIP-II, and also to prepare a report, draft convention, and statement of reasons on the subject of jurisdiction in the international sphere for the extraterritorial validity of foreign judgments. The Juridical Committee, during its regular session in January 1982, prepared a draft inter-American convention and a report on this last item.

It was also recalled that, through resolution AG/RES.505, the General Assembly requested that the OAS General Secretariat prepare technical and informative documents on the subjects to be considered by CIDIP-III, as it did for CIDIP-I and CIDIP-II.

With this background and documentation, the OAS Permanent Council approved, in principle, by the above mentioned resolution CP/RES.376, the inclusion of the following topic in the draft agenda for CIDIP-III: 1. International maritime transportation; 2. International land transportation of goods and persons; 3. Personality and capacity of natural and juridical persons; 4. Adoption of minors; 5. Drafting additional protocol to the Inter-American Convention on the Taking of Evidence Abroad approved by CIDIP-I in
Panama in 1975; and 6. Drafting an inter-American convention on Jurisdiction in the International Sphere for the Extraterritorial Validity of Foreign Judgments.

Furthermore, the Permanent Council asked the governments of the member states to send the General Secretariat their observations, if they so desire, before December 31, 1982.

III. INTER-AMERICAN NUCLEAR ENERGY COMMISSION

On November 3, 1982, the OAS Permanent Council approved new statutes of the Inter-American Nuclear Energy Commission (IANEC) through resolution CP/RES. 371 (509/82). Following is a summary of some of the provisions of the statutes.

IANEC is technical in nature. Its purpose is to foster and facilitate inter-American cooperation in developing peaceful uses of nuclear energy. IANEC has technical autonomy and can make technical recommendations directly to the governments of the member states through their representatives on the Commission and, when it so deems advisable, to the various organs of the OAS.

Some of the functions of IANEC are: to examine and identify the region's most important problems in the development of peaceful uses of nuclear energy; to assist member states in developing and coordinating plans for research and training programs in matters related to nuclear energy; to foster the exchange of scientific and technical information, as well as the organization of conferences and meetings in the field of peaceful uses of nuclear energy; to recommend measures to foster the training of researchers, professionals, and technicians to maintain and repair instruments and equipment; to examine and evaluate the projects and activities which the member states may propose, and to make recommendations thereon; to advise any member state, that so requests, on the preparation of proposed legislation or administrative provisions, and any other measures which will assist inter-American cooperation in the development of peaceful uses of nuclear energy; and to recommend measures for the safety and protection of public health and of persons and property in connection with peaceful uses of nuclear energy.

IANEC shall consist of a principal representative, appointed especially by the government of each member state of the OAS, who is familiar with the nuclear energy program and activities in his own country. The governments may also appoint alternate rep-
ianec shall perform its functions by means of: the General Meeting, the Advisory Committee and the Secretariat. IANEC shall have a regular general meeting every two years. It may also hold special general meetings on its own initiative or when the governments of the member states so decide, through the OAS Permanent Council. All member states shall have the right to representation at the regular meetings and at special meetings.

For a decision to be effective, a majority of the member states must be represented at the general meeting. Each delegation shall have the right to one vote, and the IANEC's decisions shall be made by the vote of a majority of the members represented at the general meetings. On matters affecting IANEC's institutional interests, such as amendments to its statutes on rules of procedure, the vote of a majority of the member states shall be required.

At each regular meeting of IANEC a Chairman and a Vice-Chairman shall be elected and shall hold their positions until the next regular meeting. The Secretary General of the OAS shall appoint the head of the Secretariat of IANEC and whatever technical and administrative staff which may be required.

In carrying out its activities and in achieving the greatest possible coordination, IANEC shall cooperate with the intergovernmental technical organizations that are engaged in similar activities, and with other organizations whose cooperation is judged useful for the purpose provided in the statutes.

IANEC will adopt its own rules of procedure in keeping with the provisions of the statutes. The statutes may be amended by the Permanent Council; IANEC may also ask the Permanent Council to make amendments.

IV. INTER-AMERICAN CHILDREN INSTITUTE

The Inter-American Children Institute is an inter-American Specialized Organization. The OAS Permanent Council approved amendments to the statutes of this Institute (CP/RES.364 (503/82) adopted on August 12, 1982). Through this resolution the Permanent Council issued a new complete text of the statutes, as amended.

According to the statutes, the Institute is in charge of promoting the study of problems regarding motherhood, childhood, adolescence, and the family in the Americas, and adopting measures
conducive to the solution of such problems. Primary aims of the Institute are to promote, and to cooperate with the governments of the OAS member states in the establishment and carrying out of, activities contributing to the adequate over-all development of minors, as well as constant improvement of standards of living, particularly that of families.

The statutes specify the different functions of the Institute. The headquarters of the Institute is the City of Montevideo, Uruguay. The Institute shall carry out its aims through the following organs: the Directing Council, the Pan American Child Congress, and the Office of the Institute under the direction of a Director General.

UNITED NATIONS

I. REPORT OF THE SECRETARY GENERAL

Every year the UN Secretary General presents to the General Assembly a report on the work of the Organization. This year, the report that the new Secretary General of the United Nations, Dr. Javier Perez de Cuellar, submitted to the General Assembly at its thirty-seventh session held in 1982, was an outstanding document which has been commented on and praised by high government officials, writers, jurists, and the media. In the report, the Secretary General had the courage and vision to call the attention of the Assembly, in a concise way, to several aspects of utmost importance in international relations:

We live today in the presence of a chilling and unprecedented phenomenon. At the peak of world power there exist enough nuclear weapons to destroy life on our planet. It seems evident that nothing worthwhile would survive such holocaust, and this fact, above all else, contains the nuclear confrontation - for the time being at least.

In the middle level of world power there exist vast quantities of sophisticated, so-called conventional weapons. Indeed we have seen some of them in devastating action this very year. These weapons are, by comparison with those of former times, immensely destructive, and they are actually being used. They are also the objects of a highly profitable international trade.

At yet another level we have the poverty of a vast proportion of the world's population - a deprivation inexplicable in terms either of available resources or of the money and ingenuity spent on armaments and war. We have unsolved but solvable
problems of economic relations, trade, distribution of resources and technology. We have many ideas and plans as to how to meet the growing needs of the large mass of humanity, but somehow such human considerations seem to take second place to the technology and funding of violence and war in the name of national security.¹

The Secretary General expressed that a most urgent goal is to reconstruct the UN Charter concept of collective action for peace and security, which would render the United Nations more capable of carrying out its primary function. He also stated that it was the lack of an effective system of collective security through the League of Nations which, among other factors, led to the Second World War. Without a system of collective security, he commented, governments will feel it necessary to arm themselves beyond their means for their own security, and the world community will remain powerless to deal with military adventurers which threaten the very fabric of international peace. There will be no reliable defense or shelter for the small and weak without this system, and the efforts on the economic and social side may well falter.

Furthermore, the Secretary General expressed that even though there is a tendency in the United Nations for governments to act as though the passage of a resolution absolves them from further responsibility for the subject in question, nothing could be further from the intention of the UN Charter. He also said that the resolutions unanimously adopted by the Security Council should serve as a springboard for governmental support and determination and should motivate their policies outside the United Nations; and that this indeed is the essence of the treaty obligation which the Charter imposes on member states.

A direct and timely appeal to the governments is made by the Secretary General in his report:

Finally let me appeal to all governments to make a serious effort to reinforce the protective and preemptive ring of collective security which should be our common shelter and the most important task of the United Nations. The will to use the machinery of the Charter needs to be consciously strengthened, and all governments must try to look beyond short-term national interests to the great possibilities of a more stable system of col-

lective international security, as well as to the very great perils of failing to develop such a system. For these reasons I would suggest that consideration be given to the usefulness of holding a meeting of the Security Council at the highest possible level, one object of which might be to discuss in depth some of the problems I have mentioned.

... We take the United Nations seriously when we desperately need it. I would urge that we also seriously consider the practical ways in which it should develop its capacity and be used as an essential institution in a stormy and uncertain world.

II. INTERNATIONAL LAW COMMISSION

Draft Articles on the Law of Treaties Between States and International Organizations or Between International Organizations

The International Law Commission held its thirty-fourth session at its permanent seat in the United Nations Office in Geneva from May 3 to July 23, 1982. The Commission considered several items of its agenda. The Commission finally approved the Draft Articles on the Law of Treaties Between States and International Organizations or Between International Organizations, as well as other documents.

The Draft Articles on this subject contain eighty articles and one Annex. These Articles are divided into the following parts: I - Introduction, Articles 1 to 5; II - Conclusion and entry into force of treaties, including reservations, Articles 6 to 25; III - Observance, application and interpretation of treaties, Articles 26 to 38; IV - Amendment and modification of treaties, Articles 39 to 41; V - Invalidity, termination and suspension of the operation of treaties, Articles 42 to 72; VI - Miscellaneous provisions, Articles 73 to 75; and VII - Depositaries, notifications, corrections and registration, Articles 76 to 80. The Annex contains rules on arbitration and conciliation procedures established in application of Article 66: I - Establishment of the Arbitral Tribunal or Conciliation Commission; II - Functioning of the Arbitral Tribunal; and III - Functioning of the Conciliation Commission.

According to Article 1, the present articles apply to: a) treaties between one or more States and one or more international organi-

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zations, and b) treaties between international organizations. Article 2 establishes several definitions. Under Article 6, the capacity of an international organization to conclude treaties is governed by the relevant rules of that organization. Article 7 provides, in paragraphs 1 and 2, the cases in which a person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty, or for the purpose of expressing the consent of the State to be bound by such a treaty. According to paragraphs 3 and 4 of Article 7, a person is considered as representing an international organization for the purpose of adopting or authenticating the text of a treaty if: he produces appropriate powers, or if it appears from practice or from other circumstances that the person is considered as representing the organization for such purpose without having to produce powers.

According to Article 12, the consent of a State and of an international organization to be bound by a treaty is expressed by the signature of the representative of the State and the representative of that organization when: the treaty provides that the signature shall have that effect; it is otherwise established that the negotiating States and organizations were agreed that the signature should have that effect; or the intention of the State and of the international organization to give that effect to the signature appears from the powers of their representatives or was expressed during the negotiation.

Articles 13, 14, and 15 provide rules concerning the consent to be bound by a treaty expressed by: an exchange of instruments constituting a treaty; ratification, formal confirmation, acceptance or approval; and accession. Article 16 provides for the exchange, or deposit of, instruments of ratification, formal confirmation, acceptance, approval, or accession.

Rules on reservations are provided for in Articles 19 to 23. Provisional application is established in Article 25, according to which a treaty, or part of a treaty, is applied provisionally pending its entry into force, if: the treaty itself so provides, or the negotiating States and negotiating organizations have in some other manner so agreed.

Every treaty in force, in accordance with Article 27, is binding upon the parties to it and must be performed by them in good faith. In addition, Article 27 declares that a State party to a treaty may not invoke the provisions of its internal law as justification for its failure to perform a treaty; and an international organization
party to a treaty may not invoke the rules of the organization as justification for its failure to perform the treaty.

Articles 46 to 53 contain rules on the invalidity of treaties, establishing the following causes, among others, for the invalidity: error, fraud, corruption or coercion of a representative of a State or of an international organization, and coercion by the threat or use of force. A norm of *jus cogens* is established in Article 53, which provides that a treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purpose of the present articles, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole, as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character. In Article 64, it is stated that if a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates. This is another norm of *jus cogens*.

As provided in Article 71, in the case of a treaty which is void under Article 53, the parties shall: a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and b) bring their mutual relations into conformity with the peremptory norm of general international law. In the case of a treaty which becomes void and terminates under Article 64, the termination of the treaty: releases the parties from any further obligation to perform the treaty; and does not affect any right, obligation, or legal situation of the parties created through the execution of the treaty prior to its termination—provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

III. **United Nations Commission on International Trade Law (UNCITRAL)**

*International Bills of Exchange and International Checks*

The Working Group on International Negotiable Instruments, at its eleventh session held in New York from August 3 through 14, 1981, approved a Draft Convention on International Bills of Exchange and International Promissory Notes, as well as a Draft
Convention on International Checks. These two drafts represent the culmination of intensive work performed by the Working Group on these matters during several sessions.

The two draft conventions were revised by a Drafting Group and published in February 1982. They were then submitted to and considered by UNCITRAL at its fifteenth session which was held in New York, from July 26 to August 6, 1982. The Commission decided to transmit these draft conventions to the governments and interested international organizations, informing them that they may present observations on said documents until September 30, 1983.

The Draft Convention on Bills of Exchange and International Promissory Notes contains eighty articles divided into eight chapters under the following titles: sphere of application and form of the instrument; interpretation; transfer; rights and liabilities; presentment, dishonor by non-acceptance or non-payment, and recourse; discharge; lost instruments; and limitation (prescription).

The Draft Convention on International Checks contains seventy-nine articles in nine chapters under the following titles: sphere of application and form of the check; interpretation; transfer; rights and liabilities; presentment, dishonor by non-payment and recourse; discharge; crossed checks and checks payable in account; lost checks; and limitation (prescription).

More detailed information on these two important documents will be included in the next issue of the Lawyer of the Americas, under the report on Regional and International Activities.

IV. EXPLORATION AND PEACEFUL USES OF OUTER SPACE

The Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE 82) was held in Vienna, from August 1 to 21, 1982. Ninety-four states were represented at the Conference. Among them were the following member states of the OAS: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Panama, Peru, United States, Uruguay and Venezuela.

5. The report on this conference has been published by the United Nations (A/Conf. 101/10, ix, 167 pages).
The Conference was opened by the Secretary General of the United Nations, Dr. Javier Perez de Cuellar, who made several remarks concerning the aims of the Conference. Eight specialized agencies of the United Nations participated in the work of the conference, and fifteen intergovernmental organizations were represented by observers. The Conference elected, by acclamation, Dr. Willibald Pahr, Federal Minister for Foreign Affairs of Austria, as President of the Conference, and Dr. Carlos Antonio Bettancourt Bueno, of Brazil, as General Rapporteur.

The Conference also elected seventeen Vice-Presidents, three of whom were from Colombia, Ecuador and Peru. The Conference received special messages from the heads of states of eight countries, including two American countries: Brazil and the United States.

The Report analyzes several aspects of the principal uses of space. One chapter deals with applications of space science and technology, and mentions the following current applications: telecommunications; mobile communications; land-mobile communications; maritime communications; aeronautical communications; satellite-to-satellite links; future communications applications; satellite broadcasting; remote sensing; meteorology; navigation; global positioning and geodesy; and future applications.

The Report also makes a survey of international cooperation and the role of the United Nations. Under multilateral cooperation, the work of the following organizations is described: International Telecommunications Satellite Organization (INTELSAT); Program on International Cooperation in the Study and Peaceful Utilization of Outer Space (INTERCOSMOS); International System and Organization of Space Communication; European Space Agency; International Maritime Satellite Telecommunications Organization (INMARSAT); Arab Satellite Communications Organization; African Remote Sensing Council; and European Telecommunications Satellite Organization (EUTELSAT). The Report also contains additional information on several aspects of exploration and peaceful uses of outer space, as well as on the above mentioned Conference.