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REGIONAL AND INTERNATIONAL ACTIVITIES

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ORGANIZATION OF AMERICAN STATES
INTER-AMERICAN JURIDICAL COMMITTEE

Membership

The October 1970 issue of the Lawyer of the Americas contains the names of the eleven members of the Inter-American Juridical Committee elected by the OAS General Assembly on July 7, 1970. One of these members, doctor Elbano Provenzali Heredia, of Venezuela, resigned on August 17, 1970. The General Assembly held its second special session during August 23 and 24, 1970, to consider the resignation of doctor Provenzali Heredia and to elect his replacement. General Assembly Resolution 22, adopted on August 24, 1970 expressed sincere appreciation to doctor Provenzali Heredia for his distinguished services to the OAS as a member of the Inter-American Juridical Committee and for the generous spirit of Americanism that prompted his resignation. The General Assembly accepted his resignation, and elected doctor Vicente Rão, of Brazil to succeed him as a member of the Juridical Committee; his term expires on June 30, 1974.

Terrorism and Kidnapping of Persons for Purposes of Extortion

Pursuant to Resolution 4 adopted by the General Assembly on June 30, 1970, the Inter-American Juridical Committee held a special session from August 31 to October 6, 1970. On October 20, 1970 the Chairman of the Committee forwarded to the Secretary General of the OAS the documents prepared by the Committee during the special session. These were transmitted to the Chairman of the Permanent Council of the OAS for the purposes indicated in paragraph 8 of Resolution 4, that is, to con-
voke a special session of the General Assembly or an inter-American specialized conference to consider the documents approved by the Judicial Committee.

The documents prepared by the Juridical Committee are as follows: 1) an Opinion; 2) a draft resolution that the Committee submits to the consideration of the General Assembly; 3) a Draft Convention on Terrorism and Kidnapping of Persons for Purposes of Extortion; 4) an *Exposé des Motifs* for that draft, and 5) a Final Act. One member of the Committee presented an explanation of his concurring vote on the Opinion, and six other members presented explanations of their votes on the Draft Convention.

As indicated in its Opinion, the Committee also considered the special case of aircraft hijacking which it viewed as an act of terrorism with international significance. The Committee, however, did not favor drafting an international instrument on the matter, since there is already the Convention on Offenses and Certain Other Acts Committed on Board Aircraft signed in Tokyo on September 14, 1963 (Tokyo Convention). The Committee recommended that the American States ratify or adhere, as may be appropriate, to the Tokyo Convention and that they cooperate with the International Civil Aviation Organization (ICAO) in such measures as it may decide upon to prevent and punish aircraft hijacking.

Moreover, the Committee was of the view, already expressed by the General Assembly in the preamble of its Resolution 4, that “the political and ideological pretexts utilized as justification for these crimes in no way mitigate their cruelty and irrationality or the ignoble nature of the means employed, and in no way remove their character as acts in violation of essential human rights.” The Committee, however, felt that the action of the OAS, to be consistent with a deep-rooted tradition of the inter-American system in this field, should also aim at the elimination of those pretexts by taking positive and dynamic action to accelerate the development of the American peoples, which would work toward the very same purposes for which the Organization was created. Therefore, the Committee considered it necessary that competent organs of the OAS undertake, as soon as possible, a study of the social, economic, educational and cultural causes that may have some bearing on the creation of climates of violence which may trigger outbursts of terrorism.

The Juridical Committee was also very much concerned with the protection of human rights, and recommended that the member states of OAS that have not yet done so sign and ratify the American Convention on Human Rights adopted at San Jose, Costa Rica, on November 22, 1969.
Also, that the competent organs of the OAS step up their efforts to secure the fullest and promptest application of the new economic and social standards and of those relating to education, science and culture in the charter of the OAS.

In the draft resolution submitted to the consideration of the General Assembly, it is recommended, among other things, that the appropriate organs study and formulate proposals aimed at making the fundamental principles of international law obligatory, and that adequate measures be proposed for applying, as soon as possible, the economic and social standards set forth in the OAS charter.

The Draft Convention

The Draft Convention on Terrorism and Kidnapping of Persons for Purposes of Extortion contains nine articles on substantive matters, and five others dealing with the final clauses. This document was approved with 7 votes in favor, 2 against, 2 abstentions.

In Article 1 it is provided that the contracting states undertake to mutually cooperate, by taking all the measures that they consider effective, within their domestic legal systems, and particularly those that are set forth in the Convention, to prevent and punish acts of terrorism, especially the kidnapping of persons and extortion in connection with said crime, carried out within their respective territories, when such acts have international significance.

Article 2 is presented in two alternatives. The first alternative states that the kidnapping or any other offense against the life, the person or the freedom of a foreign diplomatic or consular agent who enjoys inviolability under international law, or a member of the family of such person constitutes a common crime of international significance, whatever its motive. The second alternative is broader in scope and establishes that kidnapping or any other offense against the life, the person, or the freedom of any person to whom the state has a duty to extend special protection in accordance with international law, constitutes a common crime of international significance, whatever its motive.

According to Article 3, the acts of terrorism to which the Convention refers, including the kidnapping of persons for purposes of extortion, do not constitute political offenses or common crimes connected with political offenses.

In Article 4 it is provided that for the purposes of the Convention, an act shall be considered an act of terrorism when it is defined or
expressly classified as such by the law of the State in whose territory
the act was committed and by the law of the State in whose territory
the person who has been indicted or sentenced for that act is located.
If the legislation of any of the contracting states does not contain the
definition or classification referred to in the preceding paragraph, for
the purposes of the Convention, and regardless of the legal terminology
the national laws may use to describe them, the following shall be con-
sidered to be acts of terrorism: those that produce terror or intimidation
among the inhabitants of a state or a sector thereof, and create a common
threat to the life, health, physical integrity, or freedom of persons by
the employment of a method or device that by its nature can cause, or
does cause, great damage, a serious disturbance of public order, or a
public calamity, or by the taking over, the violent seizure or the wreck-
ing of a ship, aircraft, or other means of collective transport.

Article 5 stipulates that persons who take part in the planning,
preparation, or execution of the criminal acts mentioned in the Con-
vention shall not be protected by territorial or diplomatic asylum and
shall be subject to extradition. Article 6 establishes the obligation for
the contracting states to deliver to each other reciprocally the persons
who are in their territory and whose extradition is requested because of
their being tried for or their having been convicted of any of the criminal
acts to which the Convention refers.

Article 10, the first of the final clauses, provides that the Convention
shall remain open for signature by the Member States of the OAS, as
well as by any other state that is a member of the United Nations, or
any state that may be invited to sign it by the General Assembly of the
OAS.

Exposé des Motifs

In a long exposé des motifs, the Juridical Committee gave explana-
tions concerning the Draft Convention. The exposé was approved with 7
votes in favor, 4 abstentions. The Committee indicated that the central
aim of the Draft Convention is to prevent and to punish acts of terrorism
when they represent an offense against the international community and
against human rights.

It expressed that the obligation to protect representatives of a foreign
state against violations of their safety and dignity — which is a corollary
of their inviolability — is established as an age-old customary rule under
international law, and even as positive law in numerous conventions, not-
withstanding the fact that this material was codified in the Vienna Con-
ventions of 1961, covering diplomats, and 1963, covering consular agents, already ratified by 92 and 42 countries, respectively.

The Committee added that acts of terrorism that included offenses against Chiefs of State and foreign diplomatic representatives created a trend toward internationalization of the crime. And since the kidnapping of diplomats, committed for the purpose of obtaining the release of persons who had been indicted or sentenced created an unprecedented situation, it became necessary not only to take a new approach, but to take adequate measures as well. Besides causing injury to the kidnapped diplomatic or consular agents and to the members of their families, who are subjected to extreme mental torture, it is evident that such a crime violates fundamental principles of international law.

The Committee recalled that Article 29 of the Vienna Convention of 1961 on Diplomatic Relations establishes the principle of the inviolability of the person of a diplomatic agent, providing as follows: "The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving state shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity." The same principle is set forth in Article 29 of the Convention on Special Mission, adopted by the United Nations General Assembly on December 8, 1969. Articles 40 and 41 of the Vienna Convention on Consular Relations of 1963 also provide for the protection of the life, freedom, and dignity of consular agents. It is important to point out — the Committee said — that the basis on which this principle is founded goes beyond the terms of courtesy or reciprocity; rather, it confers true legal status upon the diplomatic or consular agent. This is corroborated in Article 40 of the 1961 Vienna Convention, which stipulates that a diplomatic agent traversing the territory of a third state also enjoys inviolability and other immunities to facilitate his travel.

Furthermore, the Committee indicated that the scope that should be given to Article 2 of the Draft Convention was discussed fully by the members of the Committee. Although some members believed that application of this article should be confined to diplomatic and consular agents, others thought that the provision should cover all persons to whom the state has the duty to extend special protection, in accordance with international law. This applies to officials of international organizations, and it was recalled that in this respect Article 140 of the Charter of the Organization of American States provides: "The representatives of the Member States on the organs of the Organization, the personnel of their delegations, as well as the Secretary General and the Assistant Secretary General shall enjoy the privileges and immunities
corresponding to their positions and necessary for the independent performance of their duties." In view of this difference of opinion, the Committee chose to present the draft with an alternative with respect to Article 2, in order to provide for the two situations. It will be up to the General Assembly or the inter-American specialized conference to choose between the two alternatives.

According to the *Exposé des Motifs*, Article 4 of the Draft Convention has taken into consideration both the laws that define the crime of terrorism and those that merely mention acts of terrorism. In this way, when a state must classify the act as illegal for the purposes of asylum or extradition, it will use as a yardstick its own legislation and that of the state requesting extradition. It is also provided, in the second part of the same Article 4, for the contingency that one contracting state may not have defined the crime of terrorism or classified terrorist acts. In view of the difference in the terminology used in some domestic laws when defining acts of terrorism as crimes—destruction, public intimidation, crimes against public safety, crimes against the peace, or crimes that involve common danger and the like—the Committee explained that it was necessary to find a common denominator that would indicate the existence of those acts of terrorism within the specific categories designated by national laws. The second part of Article 4, therefore, furnishes a common denominator to identify an act of terrorism included under a criminal category, regardless of its designation. It was stressed that Article 4 calls for two requirements to be met: 1) that the act produces terror or intimidation; 2) that it creates a common threat to life, health, physical integrity, or freedom of persons.

With regard to the broad principle adopted by Article 10 of the Draft Convention, the Committee expressed that in view of the importance of the matter and the desirability of obtaining the cooperation of the greatest possible number of countries in the prevention of acts of terrorism, it is desirable that non-member States of the OAS should have an opportunity to adhere to the Convention. A very important precedent within the inter-American system was mentioned, the Anti-War Treaty of Non-Aggression and Conciliation (Saavedra Lamas Pact) of 1933, adhered to by eleven European countries.

**SPECIAL COMMITTEE FOR CONSULTATION AND NEGOTIATION (CECON)**

This Committee was established by the Inter-American Economic and Social Council (CIES) at its Eighth Special Meeting held in Caracas in February 1970.
The Committee, known as CECON, from the initials of its Spanish title (Comité Especial de Consulta y Negociación), held its first meeting at the headquarters of the OAS General Secretariat in Washington, D.C. from April 28 to May 5, 1970. During the meeting, CECON approved its Rules of Procedure and established, as one of its subsidiary mechanisms, the Ad Hoc Group on Trade to deal with tariff and non-tariff barriers. The Group was charged with the following main functions: a) as the first stage of the process of consultation and negotiation, to identify the tariff and non-tariff barriers that hinder or limit the expansion of trade in the basic, manufactured and semi-manufactured products indicated in the consolidated list prepared by the Secretariat, on the basis presented by the Latin American countries; b) consider, for submission to the Special Committee, specific recommendations for the progressive elimination of the tariff and non-tariff barriers and other factors that hinder or prevent access of the primary, manufactured, and semi-manufactured products originating in the developing member countries of the system to the market of the United States and their marketing therein. The Ad Hoc Group on Trade was to be integrated by all the member countries of CECON.

Ad Hoc Group on Trade

This Group held its first meeting in May 4 to 6, 1970, at which time, a work system to deal with tariff and non-tariff barriers was adopted. The group requested the Secretariat to prepare a consolidated and revised list of products of interest to Latin American countries, those that had been included in the proposal of the United States for the establishment of a General Preference Scheme. The second part of the list should include products of interest to Latin America, not included by the United States in the preference proposal it submitted to UNCTAD. The Group also asked the Secretariat to submit certain information on: the products which appear on the consolidated list; the value and volume of United States imports from Latin America during the last three years as a percentage of total United States imports, and the main countries supplying such products to the United States. Also, statistics of United States consumption of products of interest to Latin America, showing local production and imports in absolute and percentage values.

The Group held its second meeting from June 15 to July 3, 1970, at the headquarters of the General Secretariat of the OAS in Washington, D.C., and had at its disposal the following documents prepared by the Secretariat: a consolidated list of the products of special interest to Latin American countries which have encountered difficulties in their access
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The Group proceeded to an item-by-item review of the consolidated list. As each item came up for discussion, the countries that had submitted it were invited to comment on the reasons why they believed that reduction or elimination of the identified barriers might benefit their production or trade. Thereupon, the Delegation of the United States presented its observations.

The Ad Hoc Group on Trade held its third meeting from September 15 to 18, 1970 at the headquarters of the OAS General Secretariat.

Meeting of Government Experts on Transport

This meeting, held under the auspices of CECON, was held at the headquarters of the OAS General Secretariat from October 19 to 28, 1970.

The meeting recommended the establishment of an Ad Hoc Group on Maritime Transport, as a subsidiary body of the Special Committee for Consultation and Negotiation, for the purpose of seeking and proposing to the Special Committee effective solutions to specific problems existing or arising in connection with ocean transport in the Hemisphere. This Group could initially formulate a work program including several items. For example, the Group could analyze the available data on the improvement of port facilities and port operations, and make recommendations looking to the reduction in freight rates from those parts where improvements have resulted in substantial reductions in vessel operating costs. It could also make a pilot study of rates applicable from countries outside the Hemisphere to the United States in connection with export products of special interest to Latin America, as well as the rates applicable to Latin America for export products of special interest to the United States, for the purpose of establishing, insofar as possible, their effect on the competitive status of the respective products in the corresponding markets.

First Special Meeting of CECON

The First Special Meeting of CECON was held at the headquarters of the OAS General Secretariat in Washington, on November 2 and 3, 1970.

According to the Rapporteur, the representatives of several Latin American countries voiced Latin America’s concern that a number of legislative bills now under discussion by the U. S. Congress reflect the
position of certain economic sectors in the United States which promote protectionist measures. These bills, if enacted, would limit trade and would be a serious obstacle to the development of Latin America, which depends greatly upon its external sector. The delegates also emphasized that these protectionist tendencies are in open contradiction to the position maintained by the United States for more than 35 years, the declaration of President Nixon, and the commitments that the United States has undertaken at different international meetings and within the inter-American system. Furthermore, they recognized that advances such as those made in the General System of Preferences show that the Nixon administration is trying to improve trade conditions to help the developing countries, and they emphasized that the achievements and the purposes proclaimed by the United Nations for the Second Development Decade would be nullified by the protectionist measures being discussed.

According to the same report, the representative of the United States expressed his understanding of the concern reflected in the Latin American position, which, he understood, recognized that the United States supports the liberalization of trade. He indicated, moreover, that it was the intention of President Nixon's administration to gain legislative approval as promptly as possible to put the General System of Preferences into effect. The representative added that for many years the United States has participated in all efforts to eliminate unnecessary obstacles to trade, and he referred to the negotiations in the GATT and to other actions.

The First Special Meeting of CECON approved a resolution "reflecting the position of the Latin American countries" and decided to transmit to the Government of the United States for special consideration by its appropriate agencies the deep-seated concern of the Latin American countries over the possible adoption of protectionist measures that would constitute new tariff and non-tariff barriers whose effect and magnitude with respect to the trade of the Latin American countries would be incalculable. It also requested the Government of the United States to take the necessary steps "to prevent such protectionist measures from harming the trade relations between Latin America and the United States which would nullify the joint efforts carried on within the framework of the new forms of hemispheric cooperation that have arisen from the Latin American consensus of Viña del Mar and the addresses delivered by President Nixon in April and October 1969."
ADDRESS OF THE OAS SECRETARY GENERAL IN PARIS

On November 16, 1970 the Secretary General of the OAS, the Honorable Galo Plaza delivered an address to the Atlantic Institute, in Paris. His speech dealt with Latin America in transition and the northern industrialized world.

The purpose of the Atlantic Institute is to cooperate in the search for solutions to problems which are common to developing countries. Its membership includes all countries of Western Europe, Canada, the United States and Japan. A study now being made by the Institute, the OAS and the Inter-American Development Bank (IDB) is investigating the multiple aspects of European-Latin American relations, in fields such as trade, public and private investment, aid, integration, development plans and prospects.

The address of the Secretary General covered several aspects of present-day Latin America and its relations with Europe.

On the subject of new political maturity, Mr. Plaza stated that during the course of the past five years or so the countries of Latin America, regardless of their individual forms of government, have gradually developed a new unity of purpose and posture vis-à-vis the outside world. After citing important documents of the inter-American system, he referred to a recent event of special significance, i.e., the creation in February 1970, within the OAS, of the Special Committee for Consultation and Negotiation (CECON), dedicated to the consideration of trade matters and to a concrete, product-by-product approach to widen market access for Latin America exports.

Furthermore, he stressed that “We are confronted in Latin America with nations of boundless energy, a new political maturity, but with an increasingly disaffected and alienated youth. The challenge is to confront realistically this enormous problem of social psychology and to avoid therapies that could prove disastrous . . . . Latin America is calling upon Europe to assist it during the process of all-pervasive change, . . . as a common problem the solution of which is vital to both parts. Action is called for on several fronts: trade, private foreign investment, the external debt, financial cooperation, and scientific and technological exchange.”

On the subject of dialogue with Europe, Mr. Plaza indicated, among other things, that “when European sources wish to take the initiative of proposing a dialogue with Latin America, which we would welcome, their choice of official forums is essentially limited to the inter-American
system. The OAS, the world's oldest regional agency, provides the most appropriate ground for such a dialogue. In addition to providing a multilateral forum for discussion, the inter-American system can play a useful role as a channel for European interest, goodwill and pragmatic action in Latin America."

In the concluding remarks, he stated that "The northern industrialized world can ill-afford to be a passive bystander to the dynamic process of development taking place in Latin America today. Latin America wants and needs the developed world's cooperation, on terms that respect the region's freedom of action and enable it to improve the quality of life of its people. I therefore urge you to join us in forging a grand new design within the Atlantic space, with Europe as an active partner, that we may win the battle of underdevelopment and rejuvenate and enrich our Western civilization in the dynamic continent of Latin America."

**OAS INVESTMENTS IN LATIN AMERICAN SCIENTIFIC PROGRAMS**

In 1970 and 1971, the OAS will invest over $5 million in programs to advance science and technology in Latin America. The money will be channeled through the OAS Scientific and Technological Development Program and will be used to finance twenty-four international projects and other activities. The Declarations of the Presidents of America, signed at Punta del Este in 1967, is the basis for this effort.

Latin American participation in this program began in March 1969, following a resolution adopted at the Inter-American Cultural Council meeting at Maracay, Venezuela, in 1968. The program is geared to assist the Member States in improving their scientific and technological capability. Its purpose is to complement national efforts by means of multinational technical assistance.

**1972 TOURISM YEAR OF THE AMERICAS**

Early in November 1970, a meeting on the 1972 Tourism Year of the Americas was held at the headquarters of the OAS in Washington with the participation of the Secretary General of the International Union of Official Travel Organization (IUOTO), members of the IUOTO Regional Commission for Travel in the Americas, officials of the US Agency for International Development (AID) and OAS representatives. The meeting was called to discuss and initiate a joint program
to insure the success of the Tourism Year and to establish the guidelines for future cooperation between the OAS and the IUOTO.

Under the terms of cooperation between the two organizations, the OAS Division of Tourism Development will concentrate on basic planning, investment and infrastructure, while the IUOTO will direct travel promotion.

CIECC

The Inter-American Council for Education, Science and Culture (CIECC) held its first regular meeting in Viña del Mar, Chile, September 10-17, 1970, to consider, among others, the following topics: Resources of the Special Fund of CIECC, programming of the activities of the Regional Programs, aspects of the Latin American Consensus of Viña del Mar in the area of competence of CIECC, coordination of activities with those of other councils.

THIRD INTER-AMERICAN CONFERENCE ON COMMERCIAL ARBITRATION

This Conference took place in Panama City, November 15-18, 1970, under the auspices of the Inter-American Commercial Arbitration Commission and organized by the Panamanian National Section of the Commission, in cooperation with the Chambers of Commerce of the Americas.

LATIN AMERICAN COMMUNITY DEVELOPMENT

Under the auspices of the OAS, a meeting on community development was held in Santiago, Chile, in July 1970 to evaluate the progress achieved in Latin American community development and to prepare plans for the next decade. On July 26 the "Declaration of Santiago" was approved, which recommended the adoption of measures on behalf of community development in order to assist individual countries — where applicable — to move out of the undeveloped stage.

INTERNATIONAL COTTON INSTITUTE

Brazil, a large cotton exporter, has joined the International Institute of Cotton (IIC). Other members of IIC are the United States, Mexico, India, Spain, Tanzania, Uganda, and Greece.
INTERNATIONAL COFFEE ORGANIZATION

The International Coffee Organization (ICO), in its meeting in London in August, 1970 agreed to a 1970-1971 export quota. The Executive Council of ICO set the quota at 54 million bags, a compromise between the 58 million sought by consumer countries and the 50 million that the producers wanted. The Council also agreed to a special reserve of 4 million bags, to be released in two lots if prices rose. In return the quota could be cut by three million bags, in two lots, if prices fell.

TREATY OF TLATELOLCO

The United States Government has requested the advice and consent of the Senate to adhere to Protocol II of the Treaty for the prohibition of nuclear weapons in Latin America (Treaty of Tlatelolco).

PATENTS

The Junta of the Andean Common Market (Andean Group), has prepared a draft agreement establishing rules on foreign investment, mixed companies, credit, patents and other matters. The Andean Group comprises Bolivia, Chile, Colombia, Ecuador and Peru.

On the subject of patents, the proposal of the Junta provides that contracts covering licenses for the use of foreign patents and trade-marks in the Andean Group must not contain restrictive clauses; the owner of a patent cannot exercise undue control over the user. The Junta is given the power to recommend to the Commission those fields in which no patent privileges will be allowed. The Junta is to present to the Commission of the Andean Group plans for the setting-up of a Subregional Industrial Property Office, to examine and register trade-marks and patents of whatever origin. By December 31, 1971, the Junta is to present a project covering the application of rules governing industrial property in all the member countries.

UNITED NATIONS

INTERNATIONAL TRADE LAW

The Report of the United Nations Commission on International Trade Law (UNCITRAL) on the work of its third session was published in August 1970. During the third session held from 6 to 30 April 1970 at
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the U. N. headquarters in New York, UNCITRAL considered, among others, the following topics: international sale of goods; international payments (negotiable instruments, banker's commercial credits, guarantees and securities); international commercial arbitration; international legislation on shipping; training and assistance in the field of international trade law. The Commission decided to establish two committees of the whole (Committee I and Committee II).

International Sale of Goods

This topic was studied by Committee I, which in particular covered the following aspects: uniform rules governing the international sale of goods; principles on choice of law in international legislation on sales; the relationship between uniform rules for international sales of goods and the proposed convention on time-limits and limitations (prescription); the binding effect of usages; cancellation of sales contract without notice to the other party; time and place for inspection, time for notification of defects in delivered goods; the definition of international sale of goods for the purpose of prescribing the scope of a uniform law; use of general principles in interpretation; the concept of “delivery” and the definition of the seller's obligations; mandatory or regulatory rules of national law with respect to consumer protection; the relationship between the uniform law and national rules that contracts must be in writing.

On the recommendation of the Working Group on Sales the Commission decided to adopt, among others, the following working methods with respect to uniform rules of the international sale of goods: The Working Group established at the second session of the Commission, should continue its work; should, instead of considering selected items, consider the uniform law on the international sale of goods (ULIS) systematically, chapter by chapter, giving priority to Articles 1 to 17; and, should, before the next text of a uniform law or the revised text of ULIS is completed, submit only questions of principle to the Commission for consideration.

International Payments and Negotiable Instruments

During the third session of UNCITRAL, this matter was studied by Committee II of that Commission. According to the report on its third session (pages 26-28), the Commission had before it for consideration a report of the UN Secretary General entitled “Analysis of the replies from Governments and banking and trade institutions to the questionnaire on negotiable instruments used for making international payments.”
The Commission expressed the opinion that “the questionnaire and the analysis of the replies thereto, prepared by the Secretariat in consultation with interested international organizations, constituted an important contribution to the first stage of its work in respect of negotiable instruments.” Regarding the chapter of the report on the current practices followed in making and receiving international payments, “several representatives referred to the significant changes which had taken place in banking practice in the last two decades as a result of the increased use of telegraphic and cable transfers and the development of computer techniques.” However, the representatives felt that “such new practices and techniques would not replace the use of commercial paper; bills of exchange would continue to play a vital role, particularly in credit transactions.” It was expressed that “the method of payment by telegraphic and cable transfers and by payment orders had, in the context of international transactions, become sufficiently important to justify a separate inquiry and study by the Secretariat.”

With respect to the chapter concerning problems encountered in making and receiving international payments by means of negotiable instruments, “several representatives noted that the analysis contained evidence to suggest that the task of traders and bankers would be simplified if uniformity were to be achieved in respect of the rules relating to the formal requisites of negotiable instruments, forgery, protest and notice of dishonour . . . and the manner of proof of non-acceptance or non-payment.”

Regarding the alternative approaches to the harmonization and unification of the law of negotiable instruments in the context of international payments, “several representatives reiterated the opinion, already expressed at the second session of the Commission, that it would be impracticable, at the present stage, to attempt to revise the Geneva uniform laws on cheques and bills of exchange in a way that would be acceptable to both civil law and common law countries. Some representatives stressed that it was important for the Commission to establish a clear distinction between negotiable instruments law governing international payment transactions and rules applicable to instruments used in international transactions. Therefore, the Commission’s current study should relate to the possibility of establishing unified rules used for international payments only, and it should be left to States, individually or on a regional basis, to determine whether modifications were called for in their national legislation.”

Finally the Commission “was unanimous in considering that the only viable approach at the current stage was for it to focus its work on a
convention setting forth rules that would be applicable to a special negotiable instrument for use in international transactions. The uniform rules set forth in such a convention would only be applicable to an instrument bearing a heading indicating that it was subject to the rules of the convention. The use of the instrument would be optional... In the opinion of several of the representatives, the approach advocated by the Commission would have the added advantage of enabling developing and newly independent countries that had not taken part in the shaping of negotiable instruments law to participate in the development of new rules."

On April 28, 1970, the Commission considered the recommendations of Committee II and adopted by unanimous vote, requested the Secretary-General: a) to complete the analysis of the comments made by Governments and banking and trade institutions regarding problems encountered in settling international transactions by means of negotiable instruments; b) to prepare a detailed analysis of the comments made by the Governments and banking and trade institutions regarding the possible content of new rules applicable to a special negotiable instrument for optional use in international transactions, and to address, if deemed necessary, supplementary questions to Governments and banking and trade institutions; c) to submit these analyses to the fourth session of the Commission; d) to hold further consultations with interested international organizations in carrying out the work.

**Banker's Commercial Credits**

With regard to this topic, the Commission requested the Secretary-General: a) to inform Governments and interested banking and trade institutions that the International Chamber of Commerce (ICC) intends to revise the 1962 version of the Uniform Customs and Practice for Documentary Credits (Uniform Customs 1962); b) to invite Governments and institutions to communicate to the Secretary General for transmission to the ICC their observations on the operation of Uniform Customs (1962), so that these observations be taken into account by the ICC in its work of revision; c) to invite the ICC to submit for consideration at a future session of the Commission, the proposed revised text of Uniform Customs.

**Guarantees and Securities**

On the subject of guarantees, UNCITRAL requested the Secretary-General: a) With respect to performance guarantees, tender guarantees repayment guarantees, to address the questionnaire of the International
Chamber of Commerce to Governments, and also to banking and trade institutions in countries not represented in the ICC, and to transmit to it the observations received; b) With respect to guarantees of payment: i) to invite the ICC to prepare a questionnaire on the subject; ii) to address such a questionnaire to Governments and to banking and trade institutions, and to transmit the observations received to the ICC; iii) to compile the observations received in response to the questionnaire and to submit them to the fourth session of the Commission; c) in the future, to invite the ICC to submit to the Commission, for consideration, reports on its progress and on its proposed action in the matter of bank guarantees.

On the problem of securities, the Commission decided to request the Secretary General: a) to invite Governments to submit information on security interests in goods, under their national laws and practice, that are relevant to international transactions, such information to relate to the main characteristics of each security device and the legal effects it entails; b) to make the information received available to the Commission at its fourth session; c) to make a study of the rules of the principal legal systems concerning the conditional sales contract and the trust receipt, having regard to existing studies on the subjects.

**International Commercial Arbitration**

UNICITRAL reaffirmed the opinion expressed at its second session that the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 should be adhered to by the largest possible number of States.

**Training and Assistance in the Field of International Trade Law**

With respect to this matter, the Commission decided to request the Secretary General to continue and intensify the activities on training and assistance in the field of international trade law undertaken pursuant to the Commission's decision at its second session, and to consult with appropriate institutions on the feasibility of developing teaching materials in this field and to give more importance to the teaching of the law of international trade in the educational programs of those institutions.

**Fourth Session of UNCITRAL**

The Fourth session of UNCITRAL will be held at the United Nations Office in Geneva from March 29 to April 23, 1971.
A special committee of the United Nations Conference of Trade and Development (UNCTAD) meeting in Geneva in October, 1970 agreed on an arrangement for the granting of preferential treatment by the developed countries to the exports of developing nations. Sought by the less advanced countries since UNCTAD was established in 1964 to promote their trade, the accord on a generalized system of preferences aims at making it easier for these countries to earn the funds needed to promote their economic development.

Two rules on which world trade has long been built are in effect being suspended by the industrialized countries in favor of the less developed ones. One rule is the most-favored-nation principle that has been formulated by GATT. This rule states that trade concessions made by one trade partner to another must be extended to all. The developed countries are side-stepping this rule by agreeing that they will make no claim to the concessions that any of them extend to the less developed countries under the agreement prepared at UNCTAD. Also, the industrialized nations are suspending another traditional trade rule in favor of the developing countries by not asking for concessions in return for those they are making.

Under the UNCTAD accord, the governments of the advanced countries will seek parliamentary approval, if necessary, for their trade-liberalization measures, so that they will be effective early in 1971. The special preferential trade accord is to remain in force for ten years. Among the “donor” countries in this arrangement are the eighteen member states of the Organization for Economic Cooperation and Development (OECD), that is, the Western industrialized nations and Japan. These countries have submitted lists of manufactured and semi-manufactured goods on which they will undertake to lower or remove their tariffs when they are imported from the developing countries.

**UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH (UNITAR)**

As part of its studies concerning the development of natural resources, this Institute organized a meeting of experts on the financial and legal aspects of the improvement and maintenance of waterways for international navigation, which was held in Buenos Aires, Argentina, November 30-December 4, 1970.
RECENT PUBLICATIONS OF THE OAS

Following is a list of some of the recent publications prepared by the Division of Codification and Legal Integration of the Department of Legal Affairs, and published by the OAS General Secretariat:

1. *Legislación sobre Energía Nuclear en los Estados Americanos*, July 1969, p. 404. This study contains the principal legislation on nuclear energy of the American countries, including the Spanish text of the U.S. law. The first part of the publication gives information on conventions and treaties on nuclear energy and on the activities of the Special Legal Committee of the Inter-American Nuclear Energy Commission (IANEC), an entity of the OAS.

2. Work Accomplished by the Inter-American Juridical Committee during its 1969 Regular Meeting (June-September). Also in Spanish and Portuguese.

3. *Textos de los Documentos de la Organización de los Estados Americanos sobre la Posibilidad de Revisión del Código de Derecho Internacional Privado o Código Bustamante*, June 1970, p. 548. This is a compilation of all documents of the OAS relating to the possibility of revising the 1928 Code on Private International Law.

4. *Antecedentes Relacionados con el Terrorismo, el Secuestro de Personas y la Extorsión Conexa*. August 1970, p. 365. This is a compilation of documents relating to terrorism and kidnapping of persons. It was prepared for the use of the Inter-American Juridical Committee.

Studies prepared for the Use of the Special Legal Committee of IANEC


Documents published by the Secretariat of the Permanent Council of the OAS