

INTER-AMERICAN JURIDICAL COMMITTEE

**RECOMMENDATIONS
AND REPORTS**

**Vol. XIII
1981**



ORGANIZATION OF AMERICAN STATES

RECOMMENDATIONS AND REPORTS

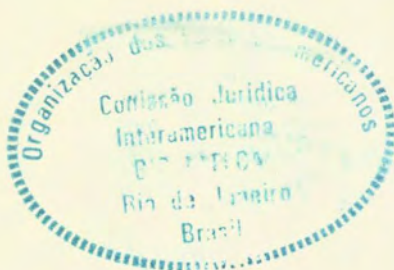
of the
Inter-American Juridical Committee
Rio de Janeiro

OFFICIAL DOCUMENTS
VOLUME XIII
1981

BIBLIOTECA
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General Secretariat
Organization of American States 1982

REG. 2089 195

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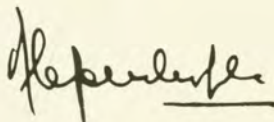
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EXPLANATORY NOTE

To date, the work and activities of the Inter-American Juridical Committee werew recorded in two series of publications of the Organization of American States, namely, the Work accomplished by the Inter-American Juridical Committee during its [corresponding] regular meeting, which followed immediately upon closure of the Committee's meetings, and the IJC's Recommendations and Reports series, including this volume, which in the past accounted for several cumulative periods.

Beginning in 1981, Recommendations and Reports will be the only publication on the work of the Committee. It will not be cumulative, however, as the cumulative method ends with Volume XII which covers up to 1980. Instead, each publication will cover the sessions held each year by the Committee.

Having made this brief announcement, the General Secretariat takes pleasure in presenting Volume XIII of this important publication.



Alejandro Orfila
Secretary General

Inter-American Juridical Committee

January-February 1981

Chairmen:

Dr. Haroldo T. Valladao (until January 29th)

Dr. William R. Douglas (from January 29th)

Vice Chairmen:

Dr. Alberto Herrarte González (until January 29th)

Dr. Elbano Provenzali Heredia (from January 29th)

Members of the Committee

Dr. Jorge A. Aja Espil (Argentina)

Dr. Policarpo Callejas Bonilla (Honduras)

Dr. Sergio González Gálvez (Mexico)

Dr. Galo Leoro Franco (Ecuador)

Dr. Juan Materno Vásquez (Panama)

Dr. Gonzalo Ortiz Martín (Costa Rica)

Dr. Seymour J. Rubin (United States of America)

Secretaries of the Committee

Dr. Renato Ribeiro

Dr. Renzo Minut

Inter-American Juridical Committee

August 1981

Chairman Dr. William R. Douglas

Vice Chairman: Dr. Elbano Provenzali Heredia

Members of the Committee

Dr. Jorge A. Aja Espil (Argentina)
Dr. Policarpo Callejas Bonilla (Honduras)
Dr. Sergio González Gálvez (Mexico)
Dr. Galo Leoro Franco (Ecuador)
Dr. Juan Materno Vásquez (Panama)
Dr. Gonzalo Ortiz Martín (Costa Rica)
Dr. Seymour J. Rubin (United States of America)
Dr. Haroldo T. Valladao (Brazil)

Secretaries of the Committee

Dr. Renato Ribeiro
Dr. Renzo Minut

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F I N A L A C T

Regular Meeting of January-February 1981

FINAL ACT

January 1981 regular meeting

I

Members of the Committee

The following members attended: Dr. Haroldo Valladão (Brazilian); Dr. Alberto Herrarte González (Guatemalan); Dr. Jorge A. Aja Espil (Argentine); Dr. Policarpo Callejas Bonilla (Honduran); Sir William R. Douglas (Barbadian); Dr. Sergio González Gálvez (Mexican); Dr. Galo Leoro Franco (Equadorian); Dr. Gonzalo Ortiz Martín (Costa Rican); Dr. Elbano Provenzáli Heredia (Venezuelan); Dr. Seymour J. Rubin (American) and Dr. Juan Materno Vásquez (Panamanian).

Chairman and Vice Chairman of the Committee

The posts of Chairman and Vice Chairman of the Committee were held until January 29 by Drs. Haroldo T. Valladão and Alberto Herrarte González, respectively.

On the afore-mentioned date, elections were held for Chairman and Vice Chairman of the Committee for a new period of two years, and Sir William R. Douglas was elected Chairman and Dr. Elbano Provenzáli Heredia, Vice Chairman.

Representation of the General Secretariat of the Organization of American States

The sessions were attended by Dr. Tatiana B. de Maekelt, Assistant Secretary for Legal Affairs of the General Secretariat, and, during the entire course of the meeting, by Dr. Alberto Tolosa, Advisor in the Office of Development and Codification of International Law of the afore-said Secretariat.

Secretariat of the Committee

Dr. Renato Ribeiro and Dr. Renzo Minut acted as Secretaries of the Committee.

Order of Precedence

The order of precedence established for voting, namely, alphabetical order of names of Committee members, was maintained.

Report by the Chairman of the Committee

Dr. Haroldo Valladão, as Chairman, and in accordance with the provisions of Article 12 of the rules of Procedure, presented a Report on the activities that had taken place during the recess.

The document contains the following chapters:

- I. Tenth Regular Sessions of the Organization of American States General Assembly

Address

Resolutions approved by the Assembly
- II. Election of Members of the Inter-American Juridical Committee
- III. Inter-American Specialized Conference on Extradition
- IV. Secretariat for Legal Affairs of the General Secretariat, OAS
- V. Twenty-Second Conference of the Inter-American Bar Association
- VI. Inter-American Legal Services Association
- VII. 75th Anniversary of the American Society of International Law
- VIII. Representation of the General Secretariat of the Organization during the present regular meetings of the Inter-American Juridical Committee

The Report was unanimously approved in the January 15, 1981 session.

II

STUDIES PRESENTED

Bases of international jurisdiction for extraterritorial validity of foreign judgments

Rapporteur: Gonzalo Ortiz Martín

On this topic, which was extensively discussed, the following resolution was approved:

The Inter-American Juridical Committee,

Considering that in the present meeting an initial study was made of the draft for "Bases of International Jurisdiction for Extraterritorial Validity of Foreign Judgments, in compliance with item three of the resolution approved by the Tenth General Assembly of the OAS in the plenary session held November 27, 1980;

Noting substantial discrepancies between the texts in Spanish and English, which have hampered proper consideration of the topic at this meeting;

Resolves:

1. To thank the Secretary General for sending this documentation;
2. To request the General Secretariat to send the Committee members, before July 1st, a complementary Report on the results of the First Meeting of Experts held in Washington in April 1980, which work would respond to the comments formulated by the Committee which appear in the minutes of the present meeting;
3. To continue at the next regular meeting with the discussions on the bases of international jurisdiction for extra-territorial validity of foreign judgments; and
4. To request Drs. Gonzalo Ortiz Martín and Juan Materno Vásquez to prepare a working document on this subject on the broadest possible basis.

Right to Information

Rapporteur: Juan Materno Vásquez

The Committee approved the following resolution:

The Inter-American Juridical Committee,

Having listened to the preliminary report by the rapporteur of the topic "Right to Information", Dr. Juan Materno Vásquez;

Considering that the said report embodies a number of different ideological positions expressed by various sectors of international opinion;

Deeming that the importance and timeliness of the topic call for the attention of the Inter-American Juridical Committee's preparing bases in this respect,

Resolves:

1. To take note of the rapporteur's report on the topic of "Right to Information";
2. To retain the topic on its agenda and continue study thereof with Dr. Juan Materno Vásquez as rapporteur.

Latin America and the armaments race

Rapporteur: Sergio González Gálvez

Inasmuch as this topic could be considered as background information with respect to the topic on the Committee's agenda entitled "Law applicable in case of armed conflict", or because it could be viewed

as an independent topic within item VIII on the agenda, entitled "Suggestions on topics of regional juridical interest", Dr. Sergio González Gálvez presented a 63 page document in which the problem is analyzed and suggestions are made.

The Committee did not take any decision regarding the study presented.

Settlement of disputes connected with the Law of the Sea

Rapporteur: Elbano Provenzali Heredia

Dr. Elbano Provenzali Heredia, rapporteur of the topic, presented a 28 page proposal. This proposal could not be considered.

III

OTHER ACTIVITIES OF THE COMMITTEE

1. Eighth International Law Course

The Committee approved the following program and list of instructors for the Eighth Course, to begin August 4, 1981, in the city of Rio de Janeiro:

I. Public International Law

A. Contemporary International Law. New topics and approaches.
A balance sheet; future prospects
(2 one-hour classes)
Eduardo Jiménez de Aréchaga

B. Thematic units

1. International Humanitarian Law

- a. Human Rights. Their treatment in the conventions in force on the subject. Inter-American Court of Human Rights
(2 one-hour classes)
Julio Prado Vallejos or
Rodolfo Piza Escalante
- b. International Humanitarian Law: Nature. Historical evolution. Situation in relation to international law. Modern aspects: protection of the civilian population and limitations on the use of conventional weapons
(2 one-hour classes)
Sergio González Gálvez
- c. Protection of victims of armed conflicts: prisoners of war, the wounded and the sick, civilian population and refugees. The function of the International Red Cross in the application of the conventions on International Humanitarian Law

(2 one-hour classes)
Sergio González Gálvez and
Jiri Toman

- d. Juridical aspects of treatment of migrants and refugees in the Americas
(1 one-hour class)
Policarpo Callejas Bonilla

2. International Economic Law

- a. Principal juridical aspects of the new international economic order
(2 one-hour classes)
F. García-Amador or Gonzalo Parra
- b. Transfer of technology and revision of the international conventions on industrial property
(2 one-hour classes)
Alfredo Morles Hernández
- c. Examination of principal international agreements on basic products
(2 one-hour classes)
Alfredo Morles Hernández and
Enrique Lagos

3. International measures for international protection of the environment
(2 one-hour classes)
Sir William R. Douglas and
two Canadian professors

4. Analysis of international instruments and mechanisms on the peaceful application of nuclear energy
(2 one-hour classes)
Jorge A. Aja Espil

5. Juridical aspects of communications via satellite
(2 one-hour classes)
Renato Ribeiro

6. Possible development of the means for peaceful settlement of disputes
(2 one-hour classes)
Hugo Camino or
Felipe Paolillo

7. Right to information
(1 one-hour class)
Juan Materno Vásquez

II. Inter-American System

1. Evolution of the inter-American system. Principles, objectives and mechanisms contained in the Charter, the Rio

Treaty (TIAR) and the Pact of Bogotá
(2 one-hour classes)
Galo Leoro Franco

2. Principal current juridical problems of the inter-American system and their possible solutions. Prospects of new juridical problems and solutions in the coming decades
(1 one-hour class)
Rafael de la Colina
3. Results of the Inter-American Specialized Conference on Extradition
(1 one-hour class)
Juan Materno Vásquez and
Isidoro Zanotti
4. International relations in Latin America in light of the conventions and mechanisms of the past few decades. Evaluation of their operation and the impact on such relations. Propects
(2 one-hour classes)
(Cançado Trindade)
5. Multilateral financing. The legal framework of reference. Activities of the Inter-American Development Bank in Latin America
(2 one-hour classes)
Rodolfo Silva
6. Evolution of the Rio Treaty (TIAR) (This topic will be covered if class hours are available)

III. Private International Law

A. General Course

Contemporary private international law. Subjects. Purposes and operation. Practical application
(2 one-hour classes)

B. Thematic units

1. Evolution of private international law within the inter-American system, from CIDIP-I onwards. Prospects (CIDIP-III)
(2 one-hour classes)
2. Contracts in international commercial law. International legislation
(2 one-hour classes)
3. Bases of international jurisdiction. Its treatment within the inter-American system
(1 one-hour class)

The lectures on private international law will be distributed among Haroldo Valladão, Gonzalo Ortiz Martín, Roberto McLean, Tatiana B. de Maekelt and Didier Opertti.

IV. Other Topics

1. Jurists of the Americas: Adolfo Molina Orantes
Alberto Herrarte González
2. The Work of the Inter-American Juridical Committee
Elbano Provenzali Heredia

2. Symposium on don Andrés Bello

In dealing with this subject, the Committee took into consideration, in addition to its own resolution dated August 25, 1978, the following factors:

- a. The working program adopted by the Committee at its January-February 1979 meetings for the 1980-81 two-year period:
 - e. Promoting and conducting in 1981, jointly with the Inter-American Council for Education, Science and Culture (CIECC), and other institutions, an international Symposium on the juridical and pedagogical work of the illustrious and learned Americanist Andrés Bello, on the occasion of the two-hundredth anniversary of his birth.
- b. The plans for the Inter-American Juridical Committee as embodied in the Program Budget of the Organization, for 1980/81 (pages 12 and 72) approved by the OAS General Assembly;
- c. The reiteration of the offer made of a site and corresponding facilities, as contained in Dispatch N° R/616, dated 11-10-1980, by the Dean of the well-known Andrés Bello Catholic University of Caracas, to the Secretary General of the Organization, a copy of which was delivered in the name of the latter to the Committee by the Assistant Secretary for Legal Affairs, together with an explanatory "aide memoire";
- d. The offer of the broadest possible collaboration on the part of the Commission for Organizing the Bello Bicentennial, transmitted to the Committee in the name of Dr. Rafael Caldera, Chairman of the said Commission, by Dr. Tatiana B. de Maekelt, at the January 28 session.

Based on the afore-mentioned factors, the Committee agreed in principle to hold the symposium on Bello in Caracas, in November this year, after compliance with the provisions of Article 111 of the OAS Charter and consultation with the other institutions that will be participating in the celebration, with regard to selection of topics and the respective participants. The results will be considered by the Committee at its forthcoming meeting in August, with a view to the definitive formulation of the complete program for the symposium.

IV

B U D G E T

Draft Program Budget of the Committee for the 1982-83 period

The Committee approved the following resolution:

The Inter-American Juridical Committee,

Having seen the draft program budget for the Inter-American Juridical Committee, prepared by the General Secretariat on the basis of the program presented by this Juridical Committee in compliance with the provisions of Article 118 sub-paragraph c) of the OAS Charter;

Having seen the Resolution approved at the November 27, 1980 session by the General Assembly, in its tenth regular meeting, according to which it was decided to consider the possibility of approving additional funding to provide the Inter-American Juridical Committee with the means it needs to continue to perform properly its duties as the highest advisory body of the Organization in the juridical field;

Bearing in mind that the draft program budget presented by the General Secretariat does not wholly reflect the intentions of the General Assembly to endow the Juridical Committee with those means essential for its proper operation, such as: office space sufficient for accommodating its members; updating the Library with essential juridical works and collections; funds permitting the Committee to carry out activities of a special kind such as organization and participation in seminars, establishment of a contest for former participants in the International Law Course, transportation facilities at the service of the Juridical Committee, installation of telex facilities, etc.;

Considering that in certain items of the draft program budget such as BTOFSUP6.01, BTCLEAN7.01, BETELEF9.01, BTPOSTA 9.01, BTDESPA9.01 and BT112818.01, provision has not been made for the minimum funds required to cover those services referred to nor the increases called for as a result of the inflationary effects;

Considering that the said draft document earmarks for the Inter-American Juridical Committee the sum of US\$ 396.596 for 1982 and US\$ 429.451 for 1983, including in the aforesaid amounts the sums corresponding to the International Law Courses for the aforesaid years;

Resolves:

To take note of the draft program budget presented by the General Secretariat and request the incorporation of those modifications necessary to cover the aspects indicated in the

preamble, taking into account the minimum sums suggested to the General Secretariat through the Secretariat for Legal Affairs in those sessions in which the Committee considered the aforesaid draft document.

V

COOPERATIVE RELATIONSHIPS

1. Observer from the United Nations International Law Commission

During this meeting the Committee received a visit from Ambassador Christopher W. Pinto, Chairman of the United Nations International Law Commission, who at that time gave an address on the progress of the work being done by that Commission.

2. The Committee's Observer to the next meeting of the United Nations International Law Commission

Dr. Jorge A. Aja Espil was appointed to serve as the Committee's observer to the next meeting of the United Nations International Law Commission.

3. The Committee's Observer to the Inter-American Conference on Extradition

Dr. Elbano Provenzali Heredia was appointed to serve as the Committee's Observer to the aforementioned conference, scheduled to take place in the city of Caracas as of February 16, 1981.

4. Anniversary of the American Society of International Law

The following Resolution was approved:

The Inter-American Juridical Committee,

Recalling the important contribution made by the American Society of International Law of the United States of America in the study of the various aspects of development and codification of international law;

Bearing in mind that the Association celebrates its seventy-fifth anniversary next April;

Has decided:

To call upon its Chairman, to transmit to the President of the American Society of International Law its congratulations on that event.

VI

DATE, AGENDA AND RAPPORTEURS FOR THE NEXT REGULAR MEETING

The Committee agreed that the second regular meeting for 1981 should begin on August 3.

The agenda for the meeting will be as follows:

1. Review of inter-American conventions on industrial property, with special reference to "patents of invention, industrial models and designs" and "Trademarks, business marks and trade-names". (AG/RES. 234 (VI/0/76)) (AG/RES.308 (VII/0/77))
Rapporteur: Policarpo Callejas Bonilla
2. Reform of the Statute and Rules of Procedure of the Inter-American Juridical Committee
Rapporteurs: Seymour J. Rubin and Elbano Provenzali Heredia
3. The principle of self-determination and its field of application
Rapporteur: Sergio González Gálvez
4. Measures for promoting access by non-autonomous territories to independence within the inter-American System
Rapporteur: Sir William R. Douglas
5. Immunity of States from jurisdiction
Rapporteur: Alberto Herrarte González
6. Law regarding international peace and security:
 - a. Definition and development of principles that should govern relations between States, in addition to those already included in the OAS Charter and other inter-American instruments;
 - b. Contribution by the American continent to preparation of a universal declaration on peaceful settlement of disputes, as a preliminary step towards approval of a treaty on the subject;
 - c. Law applicable in cases of armed conflicts;
 - d. Scope of the definition of aggression within the context of Article 9 of the Rio Treaty.
Rapporteur: Sergio González Gálvez
7. Suggestions on juridical topics of regional interest that might be examined by the Committee in the light of the importance of continuing with the work of progressive development and codification of international law: Latin America and the armament race
Rapporteur: Sergio González Gálvez

8. Freedom of expression and information
Rapporteur: Juan Materno Vásquez
9. Means of developing environmental law
Rapporteur: Sir William R. Douglas
10. Bases of international jurisdiction for extraterritorial validity of foreign judgments
Rapporteurs: Gonzalo Ortiz Martín and Juan Materno Vásquez
11. International maritime transportation and international over-land transportation
Rapporteur: Juan Materno Vásquez
12. Personal status and capacity in Private International Law
Rapporteur: Sir William Douglas

VII

MISCELLANEOUS DECISIONS

1. Establishment of a Working Group

There was agreement on approving the following resolution:

The Inter-American Juridical Committee,

Considering that from January 31 onwards the Committee will not have the required quorum of six members, and that it is desirable for a working group of the Committee to continue studying the items pending on the Agenda for this meeting,

Resolves:

1. To set up a working group composed of those members remaining at Committee headquarters to go on studying the pending agenda items and furthermore to act as a style committee for drafting the final act approved in this regular meeting;

2. That the working group will present a report to the Committee on the results of its activities, to be considered in due course;

3. That the sessions of the working group will not extend beyond February 4, and the financial availabilities for this period of sessions will be taken into account;

4. To transmit the text of this resolution to the Secretary General of the Organization of American States.

2. Vote of recognition to the Chairman and Vice Chairman now leaving their posts

The Committee approved by acclamation a vote of recognition to Dr. Haroldo Valladao and Dr. Alberto Herrarte González for the brilliant

way in which they performed their functions during the two-year period in which they were called upon to act as Chairman and Vice-Chairman respectively.

3. Vote of recognition to the Committee Secretariat

Approval was given to a vote of recognition to the Committee Secretariat, Dr. Renato Ribeiro and Dr. Renzo Minut, as well as to the entire Secretariat for the dedication and ability with which they performed their tasks.

Rio de Janeiro, February 4, 1981

(s) Elbano Provenzali Heredia
Vice Chairman, Acting Chairman of the
Inter-American Juridical Committee

REPORT BY THE CHAIRMAN OF THE
INTER-AMERICAN JURIDICAL COMMITTEE

In compliance with Article 12 of the Rules of Procedure, I hereby present to the Committee a report on the activities of the Chairman during recess.

I

TENTH REGULAR SESSION OF THE GENERAL ASSEMBLY OF THE
ORGANIZATION OF AMERICAN STATES

The General Assembly of the Organization of American States held its tenth regular session in Washington, D.C., USA, between November 19th and 27th.

As Chairman and hence representative of the Inter-American Juridical Committee I attended the aforesaid formal conference, at which I presented the following speech:

In 1980, a year whose end we are now approaching, the Organization of American States celebrated its ninetieth anniversary, having been established under the resolution of March 19, 1890, approved by the First International Conference of American States, and called the Commercial Office of the American Republics. Later, at the Second Conference, held in Mexico in 1901, its name was changed to the International Office of the American Republics. Shortly afterwards, at the 4th Conference, held in Buenos Aires, it came to be called the Pan-American Union; and finally, pursuant to the provisions of the Charter of Bogotá in 1948, and up to the present time, it has been known as the Organization of American States.

We approach the date of its Centennial--1990--with the understanding that our organization is entitled to the honorable

calling of a veteran and ever-active institution within the ranks of the political and international agencies of the world. And we are full of confidence that--God willing--we shall be present at the commemoration, a great event for so many reasons, of the first century of existence of our organization.

That Organization's first-born, the Inter-American Juridical Committee, that I have the honor to preside over, has to its credit at the present time a record of seventy-five years of services rendered, for it was established by the 1906 Rio de Janeiro International Conference.

The constant, on-going activity of the Committee within the basic purview of the OAS has been intensive and productive, because the Organization itself exists, acts and continues to operate on the basis of juridical documents.

Let us for a moment consider the dozens and dozens of treaties, conventions and other international acts subscribed and/or ratified by the American States during this lengthy historical period. The vast majority of those instruments were the results of work done by the Committee.

Juridical connotations, moreover, are a basic factor in the existence of any institution, particularly for those of an international nature. It is our own OAS, furthermore, that so states and proclaims formally and solemnly, in these official words embodied in the Preamble to the Charter: "... juridical organization is a necessary condition for security and peace founded on moral order and on justice."

At the end of last year, the Inter-American Juridical Committee suffered an irreparable loss with the decease in Bogotá of its eminent senior member don José Joaquín Caicedo Castilla, a distinguished Colombian citizen, outstanding jurist of the Americas, and model of assiduous and competent activity during the thirty-three years that spanned since his joining the Committee to the time of his passing in December 15, 1979. Dr. Caicedo Castilla was Chairman of our Committee from 1975 to 1977.

During the present year, once again the Committee underwent the pangs of another irreparable deprivation, with the death --in tragic circumstances in his homeland, Guatemala, of the eminent jurist and statesman don Adolfo Molina Orantes, who had also been our Chairman.

We call to mind these mournful occurrences in the certainty that the Assembly will share with the Committee the tribute we pay to the memory of these distinguished departed figures, Drs. José Joaquín Caicedo Castilla and Adolfo Molina Orantes, noteworthy examples of international jurists.

Pressing ahead on the course that has been laid out for it in view of its eminent traditions, the Inter-American Juridical Committee worked effectively and productively during the course of the present year.

Continuing its traditional relationship with the United Nations International Law Commission, which is its youthful replica on the universal scale, the Committee had the honor of the attendance, on February 4, 1980, of the worthy Chairman Dr. Milan Sahovic, of the said Commission, who was then visiting us as Observer. Dr. Sahovic gave an important address at the Committee's plenary session.

We should like to emphasize the following remarks from his statement, in relation to the connections between the two institutions, now lasting over thirty years: "Up to now, the International Law Commission recognized several times without reservations the great contribution your Committee is giving not only to the Organization of American States but also in the universal framework to the development of principles and rules of International Law." (OAS/Ser.Q/IV, 21 CJI 42, page 114).

We would forthwith emphasize the fact that during the first regular meeting in January-February 1980, the Committee gave its definitive approval to its resolution on "Torture - Definition as an International Crime", which it conveyed to the Permanent Council of the OAS.

The study in question comprises a text of twenty-five articles and an extensive statement of reasons, accompanied by explanatory votes by six members of the Committee. This body thus fully accomplished the task that had been assigned to it by the General Assembly.

Also during the first regular meeting, a start was made on examination of an important preliminary study prepared by the distinguished Committee member Sir William R. Douglas, on "means of Development of Environmental Law".

During its second meeting in 1980, the Committee approved a report presented by its distinguished members Drs. Jorge A. Aja Espil and Seymour J. Rubin, which has been transmitted to the OAS Assembly and contains the bases for inter-American action in relation to transfer of technology in harmony with just and equitable principles. All existing work on the subject done in other international forums was taken into account by the Committee, such as, for instance, the Draft International Code of Conduct on Transfer of Technology, produced by the 1980 United Nations conference on the subject.

Careful study and extensive discussion took place on a Draft Additional Protocol to the Convention on the Taking of Evidence Abroad, the subject stipulated in sub-paragraph 2 of resolution VI of the Second Inter-American Specialized Conference on Private International Law (CIDIP-II), prepared by the committee of experts that met at OAS headquarters in April 1980; the document was approved together with the statement of reasons, and both instruments were transmitted to the General Secretariat of the OAS.

One subject of outstanding significance, that had not so far received the attention it deserved, was the problem of jurisdictional immunity of States. That important topic had already been covered in a well-documented report by former Committee member Dr. Alberto Ruiz-Eldredge. The subject has been studied anew by the present Committee member Dr. Alberto Herrarte González, who prepared a report due to be taken up in the next meeting in 1981. This is a matter of utmost interest, as may be seen, for instance, in the case of the dispute between the United States and Iran, in which proceedings are under way in the courts of the United States regarding the freezing of Iranian assets.

Another subject of great current importance--that of Freedom of Expression and Information--was examined and developed in a well-prepared study by distinguished Committee member Dr. Juan Materno Vásquez, under the title "The Right to Information", presented in preliminary form by the author and also scheduled to be considered during the first meeting in 1981. The topic has acquired much relevance since the discussion held on it within UNESCO, at the recent Belgrade meeting.

The Committee also considered with a great deal of attention the draft text produced by the committee of experts on the Bases of International Jurisdiction, the necessary complement of the Inter-American Convention on Extraterritorial Validity of Foreign Judgments (CIDIP-II), a subject of considerable urgency for the full application of the aforesaid Convention. Study is still pending on certain articles, but consideration of the topic should be concluded during the January-February 1981 meeting, the Rapporteur being distinguished Committee member Dr. Gonzalo Ortiz Martín (OAS/Ser.K/XXI I Re/Doc.15/80 Re I, June 15, 1980). At the said meeting, the new Chairman and Vice-Chairman of the Committee are also to be elected.

Still under study by the Committee is the basic and excellent work by the distinguished Committee member Dr. Sergio González Gálvez, on "Law in relation to International Peace and Security", to which reference is made on page 40 of the annual report.

That, therefore, honorable delegates of the American States is a summary of the main activities of the Inter-American Juridical Committee in 1980 and of some of the more urgent topics scheduled for discussion for the next meeting in 1981.

I do not wish to conclude these brief remarks without making special reference to the increasing success of the Inter-American Juridical Committee's International Law Course, which takes place each year in August, at the same time the Committee holds its second annual meeting; the 1980 course was the seventh in the series.

Thanks to its absolute regularity, the strict selection of participants, the high cultural level that has been achieved

in both topics and classes, as in the lectures, discussion periods and study groups, the collaboration and participation of outstanding specialists from the various countries in the Americas and the prompt publication of the important work done, our International Law Course is today recognized by all as a magnificent cultural forum of the Americas. At the course, basic problems of public and private international law and international relations are dealt with and discussed. Our course is, indeed, on a similar footing with the traditional Course given at the Hague Academy of International Law and other newer activities, such as the one given at the United Nations International Law Commission in Geneva, and that sponsored by the Institute of International Relations at the University of Salonika, in Greece.

The Eighth Course will take place in August 1981 and we hope it will attain the same success as the previous ones.

- - -

Before concluding my remarks, I should like to take the liberty of quoting some of those made by His Excellency the President of Mexico, Dr. José López Portillo, when referring to the Inter-American Juridical Committee during his recent official visit to Brazil, in his address at the University of Brasilia when receiving a degree "Honoris Causa" from that institute of higher learning.

The eminent Mexican statesman had this to say:

Finally, and without making reference to any particular name but to that of Brazil as a whole, I would refer to the clear-cut and unquestionable fact that from 1906 up to the present time, Brazil has been host, by the unanimous will of all the States in the Americas, to the main bodies responsible for codification and progressive development of international law in the Americas, and the harvest has often been vast and magnificent.

He concluded his remarks by stating:

The years went by, and with the outbreak of World War II, Rio de Janeiro also became the seat of the Committee on Neutrality. When it became impossible to maintain neutrality in the light of aggression by the Nazi-Fascist powers, the name changed and the body has been known up to the present time as the Inter-American Juridical Committee.

And when the Charter of Bogotá was signed in 1948, it added to the prior name, specific reference to the location, by stating: "The Inter-American Juridical Committee in Rio de Janeiro", as is also

reiterated (in Article 111) by the revised charter in which the organism is raised to the category of a main organ of the OAS. Hence so long as the Charter is not modified in this respect, codification and progressive development of international law, insofar as the New World is concerned, will continue to be vested in the body whose geographic setting is splendid Guanabara Bay.

Those words deeply moved all of us members of the Committee.

The Inter-American Juridical Committee, in attendance at this august Assembly, presents its cordial greetings and pays tribute to this body with all due respect and support.

At the conclusion of this address, the distinguished representative of Mexico, Ambassador Rafael de la Colina and a number of delegates from other countries, asked for the floor to applaud it, and the General Assembly, on a motion by the worthy Representative of Peru, Ambassador Luis Marchand Stens, decided to approve it by acclamation.

Amongst the Resolutions of direct interest to this Committee that were approved by the Assembly, the following are noteworthy:

ANNUAL REPORT OF THE INTER-AMERICAN JURIDICAL COMMITTEE

Resolution adopted at the sixth plenary session,
held on November 27, 1980

The General Assembly,

Having seen the annual report of the Inter-American Juridical Committee presented to the General Assembly at its tenth regular session (AG/doc.1247/80),

Resolves:

1. To note with particular interest the annual report of the Inter-American Juridical Committee to the General Assembly at its tenth regular session and to thank the Committee for the valuable and important work it has carried out.

2. To consider during its next session the possibility of approving the additional funding required for the Inter-American Juridical Committee to continue to perform properly its duties as the highest advisory organ of the OAS in the juridical field.

DRAFT CONVENTION DEFINING TORTURE AS AN INTERNATIONAL CRIME

Resolution adopted at the sixth plenary session,
held on November 27, 1980

Having seen resolution AG/RES. 368 (VIII-0/78) whereby the Inter-American Juridical Committee was requested to draw

up, in conjunction with the Inter-American Commission on Human Rights, a draft convention defining torture as an international crime; and

Considering:

That the Inter-American Juridical Committee has prepared, in conjunction with the Inter-American Commission on Human Rights, a draft convention defining torture as an international crime;

That, accordingly, the provisions of resolution AG/RES. 368 (VIII-0/78) have been carried out; and

That the governments of the member states must have an opportunity to make their observations and comments on the draft prepared by the Inter-American Juridical Committee,

Resolves:

1. To express its appreciation to the Inter-American Juridical Committee and the Inter-American Commission on Human Rights for the work they have done in drawing up the "Draft Convention Defining Torture as an International Crime."

2. To forward that draft with its statement of reasons and the explanations of votes given by the members of the Committee, to the governments of the member states for their consideration, so that they may formulate their observations and comments and send them to the Permanent Council before April 30, 1981, so that the Council may introduce the appropriate amendments in the draft Convention and submit it to the next regular session of the General Assembly.

JURIDICAL ISSUES IN THE FIELD OF TRANSFER OF TECHNOLOGY

Resolution adopted at the sixth plenary session,
held on November 27, 1980

The General Assembly,

Having seen the annual report presented by the Inter-American Juridical Committee to the General Assembly at the tenth regular session, which contains the text of the resolution approved by the Committee in August 1980 entitled "Legal Aspects of Cooperation in the Field of Transfer of Technology"; and

Considering:

That the Inter-American Juridical Committee, in compliance with resolution AG/RES. 308 (VII-0/77), has laid down guide-

lines for systematizing the legal problems involved in the transfer of technology from the standpoint of inter-American cooperation, as referred to in resolution AG/RES. 233 (VI-0/76); and

That, using this systematized information as the foundation, it is necessary to develop extensive cooperation among the various organs of the Organization of American States, consistent with the efforts being made within the United Nations, with respect to the various questions posed by transfer of technology,

Resolves:

1. To congratulate the Inter-American Juridical Committee on its efforts in the field of legal issues in the transfer of technology.

2. To request the General Secretariat to consider transfer of technology as one of the priority areas for the use of available resources and establish, in furtherance of resolution AG/RES. 233 (VI-0/76), interdisciplinary cooperation among the various areas of the General Secretariat as a means of keeping the Organization of American States abreast of the development of this topic worldwide, in order to provide more extensive technical support to the member states and to the Organization of American States as a whole, basically with a view to developing more technological exchange under fairer and more equitable conditions than those prevalent in the present world market.

3. To request the General Secretariat also to keep the Permanent Council duly informed of progress made in this work.

COURSE ON INTERNATIONAL LAW

Resolution adopted at the sixth plenary session,
held on November 27, 1980

The General Assembly,

Having seen the annual report presented by the Inter-American Juridical Committee to the tenth regular session of the General Assembly; and

Considering:

That in resolution AG/RES. 185 (V-0/75), operative paragraphs 4 and 6, the General Assembly stipulated that the course on international law "shall be conducted on a permanent basis through the holding of one such course every year" and that the necessary funds should be provided in the program-budget of the Organization "to enable at least one fellow from

each member state to participate each year, and funds for the administration of the course and publication of the texts of lectures given therein";

That, in resolutions AG/RES. 235 (VI-O/76) and AG/RES. 309 (VII-O/77), the General Assembly recognized the value and usefulness of this prestigious inter-American activity;

That in its annual report to this regular session of the General Assembly, the Inter-American Juridical Committee includes the curriculum of the seventh course held in August 1980 and expresses its "most sincere satisfaction with the success achieved by this initiative of the Committee"; and

That the course is organized and held with the assistance of the General Secretariat in cooperation with the Getúlio Vargas Foundation,

Resolves:

1. To thank the Inter-American Juridical Committee for organizing and holding the annual course on international law, which is conducted in accordance with the provisions of resolution AG/RES. 185 (V-O/75).

2. To thank the General Secretariat for the assistance it has provided in organizing and holding the course, and the Getúlio Vargas Foundation for its cooperation.

CONVOCATION OF THE THIRD INTER-AMERICAN SPECIALIZED CONFERENCE ON PRIVATE INTERNATIONAL LAW (CIDIP-III)

Resolution adopted at the sixth plenary session,
held on November 27, 1980

The General Assembly,

Having seen the annual report presented by the Inter-American Juridical Committee to the tenth regular session of the General Assembly (AG/doc. 1247/80), which contains an opinion of the Committee on the draft Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad adopted in Panama City in 1975, prepared by the First Meeting of Experts on Private International Law, in accordance with the recommendation made in resolution CIDIP-II/RES. VI (79), adopted by the Second Inter-American Specialized Conference on Private International Law (CIDIP-II), held in Montevideo, Uruguay, 1978; and

Considering:

That CIDIP-II approved eight important instruments, namely: seven conventions on the following topics: conflict of laws concerning checks, conflicts of laws concerning commercial companies, extraterritorial validity of foreign judgments

and arbitral awards, execution of preventive measures, proof of and information on foreign law, general rules of private international law, and domicile of natural persons; and an additional protocol on letters rogatory;

That CIDIP-II, through the aforementioned resolution CIDIP-II/RES. VII (79), recognized the value of the development and codification of private international law in the hemisphere and requested the General Assembly to convoke the Third Inter-American Specialized Conference on Private International Law (CIDIP-III) and to adopt other provisions on the subject;

That in resolutions CIDIP-II/RES. IV, V, VI, (79), the General Assembly was requested to order studies on the following subjects with a view to their inclusion on the agenda of a forthcoming Inter-American Specialized Conference on Private International Law: international maritime transportation 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, signed in Panama City, on January 30, 1975; and

That the Inter-American Juridical Committee, which prepared various reports and draft conventions for CIDIP-I and CIDIP-II, has continued to study the above-mentioned subjects with a view to the convocation of CIDIP-III,

Resolves:

1. To convoke the Third Inter-American Specialized Conference on Private International Law (CIDIP-III), which shall be held at the place and time to be determined, in due course, by the Permanent Council.

2. To instruct the Inter-American Juridical Committee to continue with the preparation of reports, draft conventions, and the respective statements of reasons, on the topics recommended by CIDIP-II and mentioned in the preamble of this resolution, and to consider the conclusions and opinions submitted to it by meetings of experts convoked by the Organization.

3. To entrust the Committee with preparing reports, draft conventions, and statements of reasons on the subject of the bases of international jurisdiction for the extraterritorial validity of foreign judgments, a subject that was studied by the First Meeting of Experts on Private International Law, held in April 1980, and on the other subjects included in the definitive draft agenda for CIDIP-III.

4. To recommend 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.

5. To request the General Secretariat to prepare technical and information documents on the subjects to be considered by the Specialized Conference, as it did for CIDIP-I and CIDIP-II.

6. To request the General Secretariat to take any other necessary steps for the preparatory phase of CIDIP-III, including consultation with experts and exchange of information and documents.

DATE AND PLACE OF THE ELEVENTH REGULAR SESSION
OF THE GENERAL ASSEMBLY

Resolution adopted at the sixth plenary session,
held on November 27, 1980

Whereas:

Pursuant to Article 55 of the Charter of the Organization, the General Assembly shall meet annually during the period determined by the Rules of Procedure;

Article 44 of the Rules of Procedure stipulates that there shall be a regular session each year, preferably during the fourth quarter, and that at each of these sessions, following a report by its General Committee, the General Assembly shall determine the opening date of its next session;

Article 45 of the Rules of Procedure provides that at each regular session, following a report by the General Committee and taking into account the offers made by the member states, the General Assembly shall determine the place of the next regular session, in accordance with the principle of rotation; and

During the tenth regular session, the Delegation of Saint Lucia offered to host the eleventh regular session, and also offered to help defray the costs in the amount established by the Permanent Council for sessions of the General Assembly away from the Organization's headquarters,

The General Assembly

Resolves:

1. To thank the Government of Saint Lucia and to accept its generous offer to host the eleventh regular session of the General Assembly.

2. To authorize the Permanent Council to set the definitive date for that regular session.

INCLUSION OF THE TOPIC "ADOPTION OF MINORS" IN THE
FORTHCOMING INTER-AMERICAN SPECIALIZED CONFERENCE ON PRIVATE
INTERNATIONAL LAW

Resolution adopted at the sixth plenary session,
held on November 27, 1980

Whereas:

The legal institution of adoption of minors in all its forms constitutes par excellence a means of child protection, particularly of abandoned children;

In recent years an increasing number of child adoptions at the international level and inter-American level has been observed in the American countries: this frequently results in difficult problems of nationality, civil status, jurisdiction and conflicts of law, thereby necessitating enactment and up-to-date unification of standards of private international law at the inter-American level, consistent with exigencies now posed by this issue;

The Second Inter-American Specialized Conference on Private International Law (CIDIP-II) approved the Inter-American Convention on Execution of Preventive Measures, Article II of which calls for the implementation of "measures necessary to guarantee the security of persons, such as the protective custody of minor children or provisional maintenance";

Through resolution CIDIP-II/VII (79), CIDIP-II recommended that the General Assembly convoke another Inter-American Specialized Conference on Private International Law; and

The Inter-American Children's Institute and the Inter-American Commission of Women have been working with concern on the legal-social protection of children and on the study of possible ways to standardize the rules of private international law, and advantage can be taken of their experience in this regard,

The General Assembly

Resolves:

To recommend to the Permanent Council that the draft agenda of the forthcoming Inter-American Specialized Conference on Private International Law include a topic on the Adoption of Minors.

II

ELECTION OF MEMBERS OF THE INTER-AMERICAN JURIDICAL COMMITTEE

I received a telegram from Ambassador Alejandro Orfila, Secretary General of the OAS, on December 2, 1980, in the following terms:

Misc. 2015 have honor inform you General Assembly at tenth regular session reelected for new term of office member Dr. Jorge Aja Espil; also elected as new members Drs. Galo Leoro, of Ecuador, and Policarpo Callejas Bonilla, of Honduras. Please accept the renewed assurances of my highest consideration. Alejandro Orfila, Secretary General, OAS.

I sent congratulatory telegrams to both Dr. Jorge A. Aja Espil, reelected for his fourth consecutive term of office as member of this Committee, and to the two new members just elected, Drs. Galo Leoro Franco and Policarpo Callejas Bonilla.

III

INTER-AMERICAN SPECIALIZED CONFERENCE ON EXTRADITION

With respect to the forthcoming holding of this important conference I received from the General Secretariat of the Organization the following note:

The General Secretariat of the Organization of American States presents its compliments and has the honor to report that the Inter-American Specialized Conference on Extradition convoked by the General Assembly at its seventh regular session held in 1977 will take place in the city of Caracas, Venezuela, from the 16th to the 27th of February 1981.

Pursuant to Article 2 of the respective draft Rules of Procedure (document CP/RES.300 (415/80), "The Conference is convoked to consider the draft convention on extradition and other documents prepared by the Inter-American Juridical Committee, together with studies, proposals and draft international instruments presented that the governments of the member states may present on the subject".

The General Secretariat is pleased to extend a cordial invitation to the Committee to be represented by observers at the said meeting and would appreciate your indicating in due course the names of the persons appointed for that purpose.

I should add that the Rules of Procedure approved for the said Conference stipulate specifically:

Art. 6. A representative of the Inter-American Juridical Committee may participate in the Conference, with voice but without vote.

The representative of the Inter-American Juridical Committee may also express his opinion on an advisory basis on technical and juridical aspects of proposed draft, if he is invited to do so by the President of the Conference or the Chairman of a Committee or of a Working Group.

IV

SECRETARIAT FOR LEGAL AFFAIRS OF THE GENERAL SECRETARIAT OF THE OAS

On November 3, I received the following letter dated October 7, 1980 from Alejandro Orfila, Secretary General of the Organization:

I have the honor to address you, Mr. Chairman, and, through you, the other members of the Inter-American Juridical Committee, regarding the establishment of the Secretariat for Legal Affairs, recently approved by the Permanent Council, and to transmit to you, attached hereto, the text of Executive Order 80-4, which I have issued for the purpose of placing in operation this new Secretariat of the General Secretariat of the Organization.

I should like to avail of this opportunity to inform you, Mr. Chairman, that this measure is the culmination of a process that commenced at the ninth regular session of the General Assembly, held in La Paz in 1979, and was carried forward by the Permanent Council during the course of the present year. In this respect, I feel it is of importance to stress the high level of the exhaustive analysis this subject underwent in the Permanent Council, with all attending Delegations going into great depth regarding the motives and reasons underlying this proposal. The subject was analyzed not only from the administrative point of view but also in terms of the role the law is called upon to play in the life of the international community and especially on the Inter-American scene. That in-depth examination, which was effected from all the various perspectives involved in the measure adopted, led to almost complete unanimity to the effect that within the General Secretariat, the legal area should enjoy a status commensurate with the significance of this sector in the life of the Organization as a whole, and therefore ought to be assigned a level equivalent to that of the other sectors of the Secretariat.

I have issued the Executive Order raising the level of the former Bureau of Legal Affairs to that of a Secretariat for Legal Affairs, with full cognizance that in so doing I am responding to a proven requirement of the General Secretariat, while at the same time being clearly aware that I am complying with an important resolution on the part of the OAS Permanent Council, which has reaffirmed the idea of enhancing the services that were being rendered by the former Bureau of Legal Affairs within the General Secretariat as well as those it performed for the purpose of close collaboration with the other inter-American organs.

This leads me to affirm once again to you, Mr. Chairman, and to the other members of the Inter-American Juridical Committee, my full recognition of the important tasks performed

by the Committee in compliance with the provisions of the Organization's Charter, once more confirming my unshakable willingness to serve and cooperate with the organ you so worthily preside over.

Accept Excellency, the renewed assurances of my highest consideration.

The text of the aforementioned executive order is as follows:

General Secretariat

Executive Order N° 80-4

Subject: Establishment of the Secretariat for Legal Affairs.

The Secretary General:

In the exercise of his authority pursuant to Article 119 of the Charter of the Organization, and Article 4 of the General Standards to Govern the Operations of the General Secretariat, and

Considering:

That, by Resolution AG/RES. 415 (IX-0/79) the General Assembly instructed the Permanent Council to study, in consultation with the Secretary General, the desirability of establishing a Secretariat for Legal Affairs to replace and succeed the present Bureau of Legal Affairs and, if desirable, to authorize the establishment of that Secretariat, and

That, by Resolution CP/RES. 309 (435/80) of September 25, 1980, the Permanent Council authorized the Secretary General to raise the level of the Bureau of Legal Affairs to that of Secretariat for Legal Affairs,

Resolves:

First: To establish the Secretariat for Legal Affairs of the General Secretariat of the Organization, as the replacement of and successor to the present Bureau of Legal Affairs which is to be governed, where applicable, by Executive Order N° 79-2 of January 31, 1979; and

Second: That this executive order shall take effect on the date it is signed.

V

TWENTY-SECOND CONFERENCE OF THE INTER-AMERICAN BAR ASSOCIATION

Last December, the General Secretariat of the above-mentioned Association sent me the following letter:

In the name of the Inter-American Bar Association, I have the pleasure to invite the OAS Inter-American Juridical Committee to be represented by an observer at the Twenty-second Conference of our Association, to be held in Quito, Ecuador, from March 14 to 20, 1981.

The main agenda of the Conference is as follows:

Inter-American Judicial Cooperation

Sub-topics: 1) Transmission of letters rogatory; 2) Processing of letters rogatory; 3) Application of Inter-American and foreign laws; 4) Extradition; 5) Extraterritorial validity of penal sentences; 6) Greater judicial coordination; 7) Judicial assistance with regard to arbitration.

Other topics of special interest to the lawyers of the American continent will also be taken up at the working sessions of the committee of the Association.

The preliminary program of the working sessions appears in the Information Bulletin attached hereto. We shall be sending you in due course our January 1981 Bulletin, which will include the Conference program. The enrollment fee to the Conference has been dispensed with for observers from organizations especially invited to be represented at the Conference. This event will be attended by distinguished jurists from every country on the American continent, including justices, presidents of lawyers Associations, professors of law and deans of law schools.

We should much appreciate it if you could personally attend this important event. If you cannot do so, you may appoint another representative. Please let me know in this respect as soon as possible so that I may send you, or your appointed representative, our next publication together with the Conference program. Sincerely yours.

VI

INTER-AMERICAN LEGAL SERVICES ASSOCIATION

The Secretary of the Committee, Dr. Renato Ribeiro, received from Professor Seymour J. Rubin, member of the Committee, the following letter:

You may wish to circulate to the members of the Inter-American Juridical Committee the enclosed Resolution of the Federal Bar Association of the USA. It is of interest not only in showing the importance attributed by this Association to the work of the Inter-American Juridical Committee and the organization sponsored by it, the Inter-American Legal Services Association, but also because it illustrates the utility

of close associations between the Committee, the Consultoria Juridica, and the various bar associations and other juridical entities of the Americas. It is my belief that much can and should be done under the authority and mandate of Article 109 of the Charter of the OAS, which states that the "Inter-American Juridical Committee shall (emphasis added) establish cooperative relationships with universities, institutes and other teaching centers, as well as with national and international committees and entities devoted to study, research, teaching, or dissemination of information on juridical matters of international interest.

The resolution in question is as follows:

RESOLUTION IN SUPPORT OF
INTER-AMERICAN LEGAL SERVICES ASSOCIATION

Whereas, in December 1978 there was incorporated in Washington D.C., a non-profit hemispheric organization known as the Inter-American Legal Services Association (hereinafter referred to as "ILSA") dedicated to the promotion of the delivery of legal services to the underrepresented persons and groups in the nations of the Western Hemisphere; and

Whereas, in pursuit of these purposes, ILSA has attempted to bring together all of the various individuals and organizations in Latin America and the Caribbean involved in this important work, improve communication among them, and foster the growth of the programs in which they are involved; and

Whereas, this kind of legal assistance and public interest legal activity can make an important impact on the ability of poor people to participate effectively in their own societies and to improve their own lives;

Now therefore the Federal Bar Association resolves:

1. To endorse strongly the work of the Inter-American Legal Services Association in promoting the cooperation between lawyers, juridical and educational institutions and other organizations for the purpose of reinforcing inter-American cooperation in the area of law and social change;

2. To take note of the resolutions of the Inter-American Juridical Committee of August 22, 1978 and February 9, 1979, endorsing ILSA's purposes and activities;

3. To urge that members of the Federal Bar Association and their colleagues in international bar activities become familiar with ILSA and lend their full and enthusiastic support; and

4. To forward a copy of this resolution to the Secretary General of the Organization of American States and to the President of the Inter-American Legal Services Association.

VII

75TH ANNIVERSARY OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW

Also from Professor Seymour J. Rubin, who is Executive Director of the American Society of International Law, the Secretary of the Committee received the following letter:

The American Society of International Law celebrates this year its 75th anniversary. Its annual meeting, to be held April 23 through 25, 1981, will be a special convocation in which distinguished scholars will participate, discussing the past, present and future role of international law, its development, and the like. The Society will be delighted to invite the Chairman of the Inter-American Juridical Committee to attend these meetings, which will be held in Washington. We are unfortunately not able to finance travel or hotel expenses, but would be pleased to pay the normal registration fees and fees for the joint luncheon with the Section of International Law of the American Bar Association (on April 23) and the annual dinner of the Society (on April 24).

VIII

REPRESENTATION OF THE GENERAL SECRETARIAT OF THE ORGANIZATION DURING THE PRESENT REGULAR MEETING OF THE INTER-AMERICAN JURIDICAL COMMITTEE

I have just received the following note signed by Alejandro Orfila, Secretary General of the Organization:

I have the honor to address you so as to inform the organ over which you preside that the General Secretariat will be represented by the Assistant Secretary for Legal Affairs, Dr. Tatiana B. de Maekelt, and by Dr. Alberto Tolosa, Chief Legal Officer of the Office for Development and Codification of International Law, at the January 1981 meeting of the Inter-American Juridical Committee.

Rio de Janeiro, January 12, 1981

(s) Haroldo T. Valladao
Chairman, Inter-American Juridical Committee

STATEMENT OF AMBASSADOR M.C.W. PINTO, CHAIRMAN OF THE INTERNATIONAL
LAW COMMISSION, TO THE INTER-AMERICAN JURIDICAL COMMITTEE

Mr. Chairman:

On behalf of the International Law Commission, I would like to greet you, and through you, extend greetings to the other distinguished members of the Inter-American Juridical Committee whom I have the honour to address this morning. I would also like to express the Commission's deep appreciation of the solidarity and opportunities for collaboration between our two institutions, maintained over many years through an exchange of visits. During its thirty-second session in 1980 the Commission was delighted to receive, and to hear a valuable address on the work of this Committee from one of its distinguished members, Mr. Seymour Rubin. It is my privilege to represent the Commission at your current series of meetings.

May I say also how pleased I am to visit Brazil, a country that has contributed so much to legal science, and whose distinguished lawyers have so often added brilliance to our Commission. On a more personal note, may I remark that this great country and mine share a common association with imperial Portugal, which ruled parts of Sri Lanka for more than a century and a half. It is ironic that the bonds of imperialism should have the effect of drawing together countries so far removed from one another as are ours.

Mr. Chairman, within the time you have so graciously allotted me, I would like first to review briefly the work of the Commission at its thirty-second session; and second, to make some general comments concerning the work of the Commission.

As you may know, the Commission at its thirty-second session was able to deal with some seven topics of its agenda. In regard to three of them: Succession to State archives, State responsibility for internationally wrongful acts, and treaties between States and international organizations or between international organizations, the Commission, at the request of the General Assembly of the United Nations, completed major phases of its work. Substantial progress was made on several other topics viz: part 2 of the study on State responsibility i.e. of the content, forms and degrees of State responsibility; international liability for injurious consequences arising out of acts not prohibited by international law; the law of the non-navigational uses of international watercourses; jurisdictional immunities of States and their property; the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier. Consideration of one study was postponed for the next session viz: the second part of the topic relations between States and international organizations, in which it is proposed to examine the privileges and immunities of international organizations and their staffs.

State succession

Having completed in 1979 a major study of Succession of States in respect of matters other than treaties, comprising a series of some 23

draft articles dealing mainly with succession to State property and State debts and 2 additional articles on succession to State archives, the Commission in 1980 dealt in greater detail with the latter subject which had aroused considerable interest among member States. With the brilliant leadership of its Special Rapporteur on the topic, Ambassador Mohammed Bedjaoui, Permanent Representative of Algeria to the United Nations, the Commission has adopted four additional articles on States archives, thus making a total of six draft articles on this important subject. These draft articles define State archives, and then prescribe rules relating to succession to them in the case of newly independent States; the transfer of part of the territory of a State; the uniting of States; the separation of part or parts of the territory of a State; and the dissolution of a State. As was the case in preparing the main body of articles on State succession in matters other than treaties, the Commission was unwilling to rely solely on State practice in developing the applicable principles, noting that such practice was often the result of situations that reflected wide disparity in the relative degrees of power as between the parties, as for example, between victor and vanquished at the end of hostilities. Consequently, while State practice was given due weight, the draft articles seek to incorporate more appropriate solutions where this was thought to be necessary. Essentially, the new draft articles treat State archives as a form of movable State property; establish, as a primary obligation upon the parties, that they try to reach agreement as to succession to archives; and prescribe rules designed to achieve an equitable distribution of rights in the archives as between the parties concerned. Adoption of these draft articles completes the Commission's "first reading", or preliminary draft phase, with regard to the entire set of articles on Succession of States in respect of matters other than treaties.

State responsibility: Part 1

Another subject on which the Commission completed its first reading on an entire set of draft articles was that of responsibility of States for internationally wrongful acts, or part 1 of the Commission's study of the topic of State responsibility. Although the subject of State responsibility was among the topics first selected by the International Law Commission for codification in 1949, a Special Rapporteur for the topic was appointed only in 1955 --the great Latin American jurist Mr. F. V. García Amador of Cuba. The results of his pioneering research is contained in six brilliant reports that he placed before the Commission. Mr. García Amador was succeeded as Special Rapporteur by Professor Roberto Ago, now a Judge of the International Court of Justice, who established a basic design for the work of the Commission in this field. The Commission would, in its consideration of the topic of international responsibility, concentrate on State responsibility, and not take up a study of the responsibility of other international persons. Within this framework, it would focus on the responsibility of States for international wrongful acts. The study would not seek to define the rules of international law which impose specific obligations on States--so-called "primary" rule--but rather to elaborate what were termed "secondary" rules, or rules that determine the legal consequences of failure to fulfil obligations under "primary" rules. The work on "secondary" rules was conceived as divided tentatively into three main phases; first, a study of the origin or source of international responsibility in a State; second, a study of the content, forms

and degrees of that responsibility; and third, a study of the settlement of disputes, and the "implementation" stage of international responsibility.

Embarking on the first phase of the work, the Commission took as a point of departure, "the internationally wrongful act, source of international responsibility". The first draft articles were adopted by the Commission in 1973; the last three articles comprised in this first phase of the study were adopted in 1980. In what must surely rank as an outstanding contribution to legal science, the Commission deals in some 34 articles, with what conduct, if attributed to a State, would be of an internationally wrongful character; when such conduct would be attributable to a State; under what circumstances the conduct attributed to a State will be considered wrongful. The articles cover the implication of a State in the internationally wrongful act of another State; and they lay down the circumstances, the existence of which precludes wrongfulness.

There are many areas in which the draft breaks new ground: the possibility of attributing to a State conduct of entities that are not its organs, and even the conduct of insurrectional movements; introduction of the concept of the international crime, the distinction made among the obligation to adopt a particular course of conduct, the obligation to achieve a specified result, and the obligation to prevent a given event; provisions on the tempus commissi delicti; and the definition of the various circumstances precluding wrongfulness, are among the many features that represent innovative contributions to the progressive development of international law.

The Commission and the General Assembly itself, have paid eloquent tribute to Judge Roberto Ago under whose outstanding leadership this first phase of the work was brought to a successful conclusion.

State responsibility: Part 2

With the election of Judge Ago to the International Court of Justice, the office of Special Rapporteur has passed to another no less distinguished colleague, Professor Wilhelm Riphagen of the Netherlands who, at our last session presented a preliminary report on the second of the planned phases of this study; part 2 will consist of the content, forms and degrees of State responsibility. The new Special Rapporteur has invited us to examine the consequences of an internationally wrongful act in terms of the new legal relationships that might arise as a result of it, and isolates three parameters, or essential features, with reference to which the consequences of the act could be considered. These are (1) the new obligations arising for the State committing the wrongful act; (2) the new rights of the injured party; and (3) the position of third States in respect of the situation created by the internationally wrongful act. Taking into account the views expressed by members of the Commission, and in the Sixth Committee of the General Assembly, the Special Rapporteur will present a further elaboration of his ideas in 1981.

International liability

When the Commission discussed, in connexion with its study of State responsibility, the draft articles on circumstances precluding wrongfulness, the Commission recognized that while the wrongfulness of an

act might, under specified conditions, be eliminated, these provisions should not necessarily be interpreted as ipso facto extinguishing certain obligations that might flow from that act, such as the obligation, in a given case, to make reparation for any damage caused by the act in question. As its session in 1980 the Commission decided to give expression to this view, and included among the draft articles on part 1 of the topic, article 35, which states that the preclusion of the wrongfulness of an act as provided in the draft is not to prejudice any question that might arise in regard to compensation for damage caused by that act. While this article in its current location in the draft is essentially a saving clause, it does, however, form a bridge to another topic on which the Commission made a promising start at its session in 1980: the topic international liability for the injurious consequences arising out of acts not prohibited by international law. Through a brilliant and thought provoking preliminary report, the Special Rapporteur Professor Robert Quentin-Baxter of New Zealand has led the Commission in its study of the relatively uncharted realm of new legal relationships arising as a consequence of injury caused by an act that was not internationally wrongful as not being prohibited by international law. (p. 35).

The Commission accepts the broad principle that States even when undertaking acts that international law does not prohibit, owe a duty to consider the interests of other States which may be affected. This topic is thus concerned with situations in which liability does not depend upon proof of wrongfulness, but rather with liability arising directly from a primary rule of obligation generally expressed in the maxim "sic utere tuo ut alienum non laedas". It deals essentially with dangers that arise within the jurisdiction of one State and cause harmful effects beyond the borders of that State. The object and purpose of elaborating rules should be to minimize the possibility of injurious consequences, and to provide adequate redress in any case in which injurious consequences do occur, but also to accomplish this with the least possible recourse to measures that prohibit or hamper such activities. While the scope of the topic has not been finally determined, and the trend within the Commission may be to restrict the study to matters concerning the utilization of the physical environment, it is clear that we have here a topic that touches themes that are of potentially far-reaching legal and even political significance in a world increasingly aware of the inter-dependence of States, and the dire consequences of the reckless pursuit of economic and other policies that could damage the interests of other States or the community as a whole. A further development of the principles applicable in such situations is promised for the Commission's next session later this year.

Treaties between States and international organizations

Another topic on which the Commission completed its first reading of an entire set of draft articles, was "Treaties concluded between States and international organizations, or between two or more international organizations". Recommended by the Vienna Conference on the Law of Treaties for study by the Commission, the latter commenced work on it in 1970 and appointed Professor Paul Reuter of France to be Special Rapporteur in charge of it. As conceived by the Commission this was to be essentially an exercise in adapting the provisions of the Vienna

Convention on the Law of Treaties to treaties between one or more States on the one hand and one or more international organizations on the other, or between two or more international organizations. Throughout a series of some nine brilliant reports on the topic, Professor Reuter faithfully observed this fundamental guideline. Moreover, every effort has been made to arrive at a balance between views which would more readily establish an equivalence between the treaty capacities of States and international organizations, and enter a new dimension of international legal theory, and those more cautious, and apprehensive of abandoning traditional distinctions which place States in a pre-eminent position.

Many of the provisions of the 80 draft articles and annex on dispute settlement are of outstanding significance from the point of view of the progressive development of international law. Article 6, for example, which declares the capacity of international organizations to conclude treaties, and the rest of part II of the draft articles which deals with the specific steps taken by international organizations in concluding treaties and bringing them into force, matching the steps taken by States up to the act of ratification or, in the case of international organizations, the "act of formal confirmation"; the formulation of reservations by or among international organizations, the procedures applicable in respect of such reservations and their legal effects; article 27, with its general principle that an international organization may not invoke its rule--assimilated to the rules of domestic law of a State--as justification for failure to perform obligations under a treaty; and article 46 (3) on the invalidity of treaties, with its general rule that an organization may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of the rules of the organization regarding competence; the provisions of section 4 of part II on "Treaties and third States or third international organizations", and finally, there are the provisions of part V on the invalidity, termination and suspension of the operation of treaties, together with an annex on dispute settlement relating to those provisions.

The progress in this field achieved thus far by the Commission is likely to evoke wide interest at the present time, when treaties like the Agreement establishing the Common Fund for Commodities, and the forthcoming Convention on the Law of the Sea foresee a variety of legal arrangements between States and international organizations or between two or more organizations. The Commission will soon begin the "second reading", or advanced drafting stage, of these articles in the light of observations received from governments, and, very importantly, the comments made by the major international organizations.

International watercourses

At its thirty-second session in 1980, the Commission also made substantial progress on the topic: the law of the non-navigational uses of international watercourses under the able guidance of its Special Rapporteur, Professor Stephen Schwebel of the United States of America. Building upon the pioneering work done for the Commission by his countryman, Ambassador Richard D. Kearney, Professor Schwebel has placed two excellent reports before the Commission and commenced the preparation of draft articles on the topic.

The scope of the draft articles which the Commission has begun to consider, derives from the general agreement reached earlier, that rather than try to formulate at this stage a precise interpretation of the term "international watercourse", the Commission should prepare a working hypothesis for the meaning of the central concept, which would be subject to refinement, and, if necessary, change as the study developed. The working hypothesis currently used by the Commission is that of an "international watercourse system" and is designed to comprehend the scientific and technical considerations involved in the topic. Thus, a "watercourse system" is conceived as being formed of hydrographic components such as rivers, lakes, canals, glaciers and ground-water, constituting, by virtue of their physical relationship, a unitary whole. Any use affecting waters in one part of the system thus affects waters in another part. It becomes an "international watercourse system" if any of these components are situated in two or more States (paragraph 90).

While a large majority of the Commission favoured the adoption of this working hypothesis, one member opposed it. In his view, certain terms such as "hydrographic components" of which only illustrations were given lacked specificity and engaged the Commission in pseudo-scientific speculation, rendering the hypothesis devoid of meaning. He felt that work on the topic should use the term "international watercourse" defining it as a river which forms or traverses an international boundary, it being understood that this definition could be expected in particular articles of the draft to address particular uses which required a broader definition. (paragraph 94).

As to the character and scheme of the draft articles, the Commission currently proposes to proceed with the formulation of a framework consisting of general, residual rules in terms sufficiently broad to be applied to all "international watercourse systems". Provision would be made for these rules to be complemented by other agreements or "system agreements" that, when the States concerned chose to conclude them, would enable States of a particular watercourse system (or "System States") to establish more detailed arrangements and obligations governing its use (paragraph 95).

I would like to invite your attention to a central concept introduced by the Special Rapporteur at the thirty-second session of the Commission: the concept of the waters of an international watercourse system as a "shared natural resource". The Commission as a whole found convincing the extensive material placed before it by the Special Rapporteur in support of this concept. I would invite those interested to read further in the reports of the Special Rapporteur, and in the Report of the Commission both for views of the limits of the concept, and for individual expressions of reluctance to take up a position on it at this time.

I would like to say here, among his American colleagues, how much the Commission appreciates the brilliant work on this topic done by the Special Rapporteur, Professor Schwebel. Since the presentation of his Second Report to the Commission the world community as a whole has honoured him by electing him a Judge of the International Court of Justice. The Court's gain is in this case a sad loss indeed for the Commission. I understand that at the time of his election Professor

Schwebel had reached an advanced stage in the preparation of a Third Report which will come before the Commission at its next session in 1981.

Jurisdictional immunities of States and their property

The Commission's work on the jurisdictional immunities of States and their property may be of particular interest to the distinguished members of this Committee who are carrying out a parallel study of the subject. Under the guidance of its erudite Special Rapporteur, Ambassador Sompong Sucharitkul of Thailand, the Commission at its thirty-second session considered a series of draft articles on the topic. Of these, draft article 1 on the scope of the draft articles, and draft article 6, the first article in part II of the draft which is to set out the general principles of State immunity, were taken up for detailed consideration by the Commission. Draft articles 2 to 5 were broadly interpretative provisions of a type with which the Commission usually deals at the end of its study of a topic and are not often included in texts formulated at an early stage. In this case, the Special Rapporteur included them in the draft in order to focus the Commission's attention on certain aspects of the study as he conceived it, and they foreshadow the direction which he proposed that the study should take. Thus, draft article 2 on use of terms suggests meanings for such key terms as "immunity", "State property", "foreign State" and "jurisdiction" while draft article 3 adds further depth to the definitions of the two last mentioned terms. Draft article 4 lists those types of immunity that will not fall within the scope of the study, while article 5 declares that the new articles are not to be retroactive, and are only to apply to grant or refusal of immunity after the articles have entered into effect, and only in regard to those States bound to act in accordance with them.

Discussion of these draft articles in the Commission elicited views on a very wide range of issues connected with the topic and amply justified their presentation at that early stage. On the other hand, the Commission did not think it appropriate to attempt full consideration of these articles, including their adoption, and therefore, laid them aside for more detailed treatment at a later stage. I invite your attention to certain other issues connected with this study that are listed in paragraph 118 of the Report of the Commission, which the Special Rapporteur intends to take up subsequently.

Before briefly reviewing draft articles 1 to 6 which were adopted by the Commission, I would like to invite your attention to one central matter of controversy: paragraph 121 of the report records that, while some members believed that the concept of "jurisdiction" from which immunity was being considered, ought to comprehend not merely judicial and administrative jurisdiction, but also the power of the executive and legislative authorities, other members thought there was little or no evidence in the practice of States, of the immunity of a foreign State from the executive and legislative jurisdiction of a State.

As to draft article 1 on the scope of the draft articles to be formulated, it will be noted that the Commission conceives the study in broad terms. Thus, the study will cover "the immunity of one State and its property from the jurisdiction of another State", but will not be confined to what we might loosely term "jurisdictional immunities".

Rather, article 1 foresees that the articles will cover a whole range of "questions relating to" that subject. In this connexion I invite your attention to paragraph 2 of the commentary to this article, as well as to paragraph 3 of the commentary, which records the reservations of some members with regard to this approach.

Paragraph 1 of draft article 6 postulates the immunity of one State from the jurisdiction of another as a general rule and foresees that the future draft articles will present it in greater detail. Paragraph 2 foresees provisions that will regulate the application of the general rule of State immunity to be elaborated. Presentation of this basic postulate is the occasion for the Commission to examine State immunity in both its historical and theoretical perspectives. The commentary traces the history of the concept from its nineteenth century beginnings in common law (paragraphs 9-18) and civil law (paragraphs 19-24) jurisdictions in Europe and North America, as well as in the legal systems of Asia, Africa and Latin America (paragraphs 25-32); examines the role of the executive and political branches of government in the application of the concept (paragraphs 33-39); and discusses incorporation of the concept in legislation (paragraphs 40-48), and treaties (paragraphs 50-54). As to the Commission's view of the theoretical basis of the concept, I would like to invite your attention to paragraph 17 of the commentary which contains the classic statement of the doctrine by Chief Justice Marshall in the case of The Schooner Exchange v. McFaddon (1812) as well as to paragraphs 1 and 2, and 55-60 of the commentary.

The diplomatic courier

Finally, the Commission made substantial progress on another topic: the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier. At its thirty-second session the Commission had before it an excellent preliminary report by its Special Rapporteur, Ambassador Alexander Yankov of Bulgaria, as well as a compendium of comments by member States and a comprehensive survey of practice prepared by the Secretariat. The subject is regarded as being one of considerable practical importance to member States, and the draft provisions which the Commission will eventually produce must seek a delicate balance between the secrecy requirements of a sending State on the one hand, and the security and other legitimate considerations of the receiving and transit States on the other; between safe and rapid delivery of the bag on the one hand, and respect for the sovereignty and national laws of the receiving State on the other; and between immunity of the bag from examination on the one hand, and the application of security requirements on the other, particularly where the safety of civil aircraft is concerned.

Recent observations on the functioning of the Commission

Before I conclude my statement, Mr. Chairman, I would like to make a few brief observations about the functioning of our institutions. As you know, the International Law Commission was set up by resolution 174 (II) of the General Assembly of the United Nations in 1947, and has as its object the promotion of the progressive development of international law and its codification. In practice, the task of the Commission has been the preparation of draft articles on topics referred to

it by the General Assembly. These drafts frequently become "basic proposals" before plenipotentiary conferences convened for the purpose of transforming those articles, or those articles as modified, into international agreements intended to create binding obligations for States.

Despite its public and institutional character, the members of the Commission serve in their personal expert capacity. They do not represent their Governments, although the policies of those Governments must clearly be taken into account, and influence the members if their work is eventually to receive wide acceptance. In this way a certain measure of independence and objectivity is sought to be achieved.

In this respect, I think it would be true to say that the International Law Commission has a greater affinity with the Inter-American Juridical Committee than with any other institution working in the field of the progressive development of international law and its codification. While the character and scope of our operations may be different, the conceptual affinity between the two institutions seems very clear. Writing in 1964, the distinguished jurist and former President of this Committee, of whose death the Commission learned with deep regret, Dr. José Joaquín Caicedo Castilla, referred to:

... one of the characteristics of international organization in the Americas and, it might be said, of the mentality of the peoples of which it is composed: that is to say, their respect for law and adherence to legality. That is why juridical technical agencies have been created independent of governments, for the purpose of carrying out vast theoretical as well as practical tasks.

Later in the same essay ("The work of the Inter-American Juridical Committee", published by the General Secretariat of the OAS, Washington D.C., 1964) he says:

The jurists ... named to the Committee do not represent their respective countries, but the twenty-one American republics as a whole. They may not, therefore, receive instructions from their governments to vote or hand down an opinion in one or another sense; to the contrary, they work with complete independence. They may, therefore, express opinions, if such opinions represent their convictions, that are contrary to the opinions officially held by their respective Foreign Ministries.

The members of the Committee have been particularly jealous of this prerogative ...

It may well be that the Commission and the Committee are the only bodies so conceived. Indeed, a distinguished member of the Sixth Committee observed during the last session of the General Assembly, that to create a body like the International Law Commission--an independent expert body with comparable competence in the legal field--within the framework of the United Nations today, would simply be impossible. The purpose of my mentioning this to you, the distinguished members of our

sister institution, is to invite you to reflect on the question: is independence and objectivity in the preparation of international legal texts which are destined for the approval and acceptance of States, an obsolete concept?. Are bodies which were conceived in this spirit merely anachronisms?. I am convinced that no one in this audience would answer in the affirmative. And yet it must be recognized that there is a formidable body of opinion to the effect that the International Law Commission, for example, is slow and inefficient, and that its working methods are inadequate to meet the needs of the modern international legislative process; that new and more efficient legislative techniques need to be devised; and that a radical overhaul of existing systems may be called for, involving the direct impact of State views and negotiating opportunities.

Mr. Rubins' valuable statement to the Commission last summer did contain a reflection, in some degree, of dissatisfaction expressed with the pace of work within the Inter-American Juridical Committee. True, what he said was more in terms of a healthy impatience with the lack of time to deal adequately with an agenda overflowing with complex legal problems, rather than a response to criticism from outside. And in any event, such critical comments that might have been made regarding the pace of work within the Committee might not have as their objective any radical change in the composition or procedures of the Committee.

But, as Mr. Rubin pointed out, there is a similarity of problems as between the Commission and the Committee, which calls for closer liaison and co-operation between our two institutions. I completely agree with him that we should establish a more regular system of liaison by which documentation and information on programmes of work might be exchanged, if possible well in advance of annual sessions. The subject of jurisdictional immunities, common to both our programmes, might well be a useful one to start with, and I feel sure that his suggestion will be given full consideration in the course of the next session of the Commission. But beyond substantive issues, our two institutions might do well to share their ideas for meeting any challenges to their efficacy in the modern political and social context. It is part of our responsibility to examine with care the criticisms made of our working methods and our output, and try to devise ways and means of improving them; and ultimately to determine for ourselves to what extent methods and output are connected with the concept of an independent and objective part-time expert group. The Sixth Committee's work on multilateral treaty-making procedures and UNITAR's study on the working of the International Law Commission, could be of considerable value in such an endeavour.

Mr. Chairman, it only remains for me to thank you and the distinguished members of this Committee for the privilege you have given me of addressing you today, and for your patience in listening to what I have had to say. I am convinced that the relationship between our two institutions will grow ever closer in the future. I would like to assure you that I, personally, will do everything I can toward that end.

I congratulate the Committee on its continuing achievements in the international legal field and the way in which it upholds and enhances the splendid legal traditions of this great American continent.

Mr. Chairman, to address an eminent group such as this in Latin America and not to use anywhere the Language of God, would be unthinkable. Even though I have no Spanish, I ask your leave, and your indulgence, to repeat the last sentence in that language:

Felicito al Comité por sus continuos éxitos en el campo jurídico internacional y por la manera en que mantiene y realiza las espléndidas tradiciones jurídicas de este gran continente americano.

Thank you, Mr. Chairman. Gracias, señor Presidente.

Rio de Janeiro, January 26, 1981

(s) Christopher W. Pinto

FINAL ACT

Regular Meeting of August 1981

FINAL ACT

Regular Meeting of August 1981

I

Members of the Committee

The following members were present: Dr. William R. Douglas (Barbadian), Dr. Elbano Provenzali Heredia (Venezuelan), Dr. Jorge A. Aja Espil (Argentine), Dr. Policarpo Callejas Bonilla (Honduran), Dr. Sergio González Gálvez (Mexican), Dr. Galo Leoro Franco (Ecuadorian), Dr. Gonzalo Ortiz Martín (Costa Rican), Dr. Seymour J. Rubin (American), Dr. Haroldo T. Valladão (Brazilian) and Dr. Juan Materno Vásquez (Panamanian).

Chairman and Vice Chairman of the Committee

The positions of Chairman and Vice Chairman were held by Drs. William R. Douglas and Elbano Provenzali Heredia respectively.

Representation of the General Secretariat of the Organization of American States

Present at the session were Dr. Tatiana B. de Maekelt, Assistant Secretary for Legal Affairs of the General Secretariat, Dr. Didier Opertti, Director of the Office of Development and Codification of International Law, and throughout the course of the meeting, Dr. Enrique Lagos, advisor of the same Office.

Committee Secretariat

Dr. Renato Ribeiro and Renzo Minut served as secretaries of the Committee.

Order of Precedence

In voting, the order of precedence established by the alphabetical order of the surnames of the Committee members was used.

Report of the Chairman of the Committee

Dr. William R. Douglas, as chairman, and in accordance with the provisions of Article 12 of the Rules of Procedure, presented a report on the activities which took place during the period of recess.

The document contains the following sections:

1. Work carried out during the last period of sessions
2. Observer of the Committee to the meeting of the United Nations International Law Commission
3. Representative to the Inter-American Conference on Extradition

4. 75th Anniversary of the American Society of International Law
5. Draft Program-Budget of the Committee for the 1982-1983 period
6. Resolutions approved by the General Assembly at its tenth regular session
7. Inter-American Convention on Extradition
8. Jurisdictional Immunity of States
9. Sea and Land Transportation, with particular reference to bills of lading
10. Bases of International Jurisdiction for Extraterritorial validity of Foreign Judgments
11. Special session of the Committee in Caracas, Venezuela to honor the bicentennial of the birth of don Andrés Bello

II

WORKS PRESENTED

A. Jurisdictional Immunity of States

Rapporteur: Alberto Herrarte González

While Dr. Herrarte González was prevented by an accident in his country from attending this session, he did send in his Third Report on the topic. The 24-page document contains a draft organized in 25 articles.

Dr. Aja Espil had the Secretariat prepare a document comparing the rules on this matter contained in a variety of international conventions and the laws of some countries and those proposed in the draft articles presented by the Rapporteur of the Committee.

The topic was extensively discussed by a working group of the Committee consisting of Drs. Aja Espil, Galo Leoro and Juan Materno Vásquez, and by the Committee in plenary session, on the basis of the Rapporteur's report and the aforementioned document.

The discussions focused primarily on the problem of definitions, especially as to the concept of jurisdiction, the questions raised by the consent of States, the distinction between jure imperii and jure gestionis acts, and the characteristics of the rule embodying the concept that immunity may not be waived.

The Committee will continue its study of this topic at its next session.

B. Law Applicable to Cases of Armed Conflict

Rapporteur: Sergio González Gálvez

The Rapporteur presented a 22-page report on this subject which contained the following subtopics:

- I. Background
- II. Difficulties in the development and codification of the law applicable to cases of armed conflict
- III. Evaluation of the basic principles of the law applicable to cases of armed conflict
- IV. Connection with negotiations on disarmament
- V. Emphasis on the limitation and prohibition of certain types of conventional weapons within the negotiations on different aspects of humanitarian law
- VI. Debate over the legality of the use of certain conventional weapons:
 - a. Weapons which cause excessive damage
 - b. Weapons with indiscriminate effects
- VII. Results of the United Nations Conference on prohibitions or restrictions on the use of certain conventional weapons that may be considered excessively cruel or having indiscriminate effects (1979-1980).

Convention on prohibitions or restriction of the use of certain conventional weapons

- VIII. Protocol on Nondetectable fragments
- IX. Protocol on prohibitions or restrictions on the use of mines, booby traps and other devices
- X. Protocol on prohibitions or restrictions on the use of incendiary weapons
- XI. Bases for future work in this area
- XII. Recommendation to the Inter-American Juridical Committee

The Committee will examine this topic at the next meeting.

C. Industrial Property

Rapporteur: Policarpo Callejas Bonilla

On the topic of the Review of Inter-American Conventions on Industrial Property, with particular reference to "invention patents,

industrial designs and models, trademarks, retail brands and commercial names", the Rapporteur presented a document in which he suggested to the Committee that it consider and study the draft Convention presented to the plenary by the previous Rapporteur.

D. International transport by sea and international
transport by land

Rapporteur: Juan Materno Vásquez

The rapporteur presented a report which covered the background of the topic in the Committee including a 1973 opinion on international transport by sea, which was ratified in 1977. Having analyzed the discussion of the topic at CIDIP-II, the rapporteur outlined the issues that the topic generates today and concluded by recommending that a small-scale conference of experts be convoked prior to the Committee's consideration of the topic.

III

A. Special meeting of the Inter-American Juridical Committee
in the city of Caracas

Two resolutions were approved on this matter.

First:

The Inter-American Juridical Committee,

Mindful of its resolution of 25 August 1978 on the Second Centennial of Andrés Bello, in which it decided to draw up a program for the Bicentennial of the birth of Andrés Bello, designed to bring up to date the scholarship on the juridical oeuvre of the Caracan sage and assess its influence on the various fields of culture, and for the conduct of activities to stimulate the investigative spirit of jurists and intellectuals in the Americas with a view to the refinement of solutions to the major problems of our countries, which interested and were actively promoted by the great Venezuelan teacher;

Having received through the Chairman a formal invitation from the Government of Venezuela to visit, as a plenary body, the city of Caracas next November in order to attend the celebrations to be held for the bicentennial of the birth of the illustrious Venezuelan Andrés Bello, and to hold a special meeting there;

Viewing this invitation as a high honor and a distinction conferred on this organ of the Inter-American System; and

Taking into account that Article 111 of the Charter of the Organization of American States and Article 14 of its own Statutes authorize the Committee in special cases to meet at any place other than its statutory seat after consultation with the Member State concerned,

Resolves:

1. To accept with pleasure the invitation of the Government of Venezuela to attend the celebrations to be held in the city of Caracas from 23 to 29 November 1981 in commemoration of the bicentennial of the birth of Andrés Bello.

2. To hold on that occasion a special session of the Committee in tribute to the illustrious American jurist that was Andrés Bello.

Rio de Janeiro, August 7, 1981

Second:

The Inter-American Juridical Committee,

Having decided to hold a special session in the city of Caracas as set forth in the Resolution of August 7, and

Considering that the provisions on the subject in Article III of the Charter of the Organization of American States are complied with,

Resolves:

1. That the special session shall open on 24 November 1981 with a ceremonial inaugural session in which the Chairman of the Committee will give an address. A special invitation to speak will also be made to Dr. Rafael Caldera, President of the Organizing Committee of the Events for the Andrés Bello Bicentennial.

2. That the International Forum in honor of Andrés Bello, decided upon in the session of January 1979, shall be held with the following agenda:

- a. Address by the Chairman of the Committee
- b. Andrés Bello's International Law
- c. The Evolution of Andrés Bello's Doctrines Down to our Day
- d. The Doctrine of Andrés Bello and the Law of the Sea
- e. Andrés Bello and the Unity of the Latin American Countries
- f. Andrés Bello and the Idea and Evolution of the Right to Asylum
- g. Andrés Bello and Influence of his Ideas in Private International Law on the Civil Codes of Latin America

h. Andrés Bello and the Principle of Nonintervention. Its Development and Prospects in the Americas

i. Andrés Bello and the Concept of Sovereignty. Influence on Contemporary International Law

3. That Drs. William R. Douglas, Elbano Provenzali Heredia, Haroldo Valladão and Galo Leoro, Members of the Committee, are designated to prepare presentations on topics a), g), h) and i) of the foregoing agenda.

4. To invite Drs. Fernando Murillo, Héctor Gros Espiell, Andrés Aguilar, Pedro Daza and Tatiana B. de Maekelt to give the lectures for items b), c), d), e), and f), respectively, of the foregoing agenda.

5. That the Chairman of the Committee is authorized to determine how the special session is to be conducted following such consultations as he may consider necessary or useful with, among other parties, the Organizing Committee of the Events for the Andrés Bello Bicentennial; to set the order, date, hour and place of the presentations, preferably on the basis of the guidelines provided in the minutes of the Committee's session of 14 august 1981; to send invitations to the high authorities of the Venezuelan Government, the Organizing Committee, and the other institutions and personages associated with the work of the Committee, and to take all administrative measures consistent with his statutory functions.

6. That the Chairman is authorized to sign, either in person or through a delegate, agreements for cooperation with academies, universities having schools of law and political science, the Federation and College of Lawyers and other Venezuelan institutions covered by Article 109 of the Charter that are interested, as they state in the cordial invitations, in contributing to the Committee their initiatives, works and publications on subjects of public and private international law and related disciplines and activities.

7. To convey the text of this Resolution to the General Secretariat, and through it to the Permanent Council of the Organization, for the purposes stated in the Statute of the Committee.

Rio de Janeiro, August 21, 1981

B. International Association of Associations of
International Law

The Committee approved a draft resolution presented by Dr. Seymour J. Rubin, the text of which follows:

The Inter-American Juridical Committee,

Considering the responsibilities it has been charged with as the principal juridical organ of the Organization of American States;

Taken into account the fact that, as provided in Article 105 of the Charter of the Organization of American States, it "shall establish cooperative relations with universities, institutes, and other teaching centers, as well as with national and international committees and entities devoted to study, research, teaching, or dissemination of information on juridical matters of international interest";

Believing that the influence of public and private international law on the development of rules for just and equitable relations between nations depends in no small part on the dissemination of information and on cooperation among institutions that promote the role played by international law, and

Recalling that certain institutions of international law have cited a need to refine this cooperation and that there be better channels for exchanges of information and views,

Resolves:

A. To promote the establishment of an International Association of Associations of International Law, whose members would be entities actively engaging, in OAS member countries, in research and instruction in, and the dissemination of information on, international law;

B. That it would be the purpose of this Association to facilitate cooperative relations among those institutions with a view to promoting the study of international law and its application in international relations;

C. To initiate this effort in the setting of the Organization of American States, though with the ultimate aim of establishing a worldwide association;

D. That the establishment of this Association shall serve as a basis for the formulation of an arrangement or agreement for cooperation with the Inter-American Juridical Committee in the gradual development and codification of international law;

E. To request the Secretary General of the OAS to give the Inter-American Juridical Committee all possible assistance in the attainment of the proposed objectives and that, as a first step, a draft statute for the proposed new entity be submitted to it at its next session;

F. To send the present Resolution to the Secretary General of the OAS with the request that it be transmitted to the Member States of the OAS.

Rio de Janeiro, August 20, 1981

IV

OTHER ACTIVITIES OF THE COMMITTEE

A. Course in International Law

Since 1974 the Inter-American Juridical Committee has conducted an annual course in international law. The purpose of this course has been to update knowledge and information and to conduct studies and discussions on matters of interest in international relations with a current bearing on the Committee's work in its institutional function of promoting the gradual development and codification of international law in the American Hemisphere.

The course the coordination of which is the responsibility of Dr. Tatiana B. de Maekelt, Assistant Secretary for Legal Affairs of the General Secretariat is intensive, with a duration of approximately 30 days, coinciding with the regular August session. It consists of lectures by university professors, jurists and high-ranking diplomats, as well as by the members and secretary of the Committee.

It is attended by professors, officials, diplomats and other government, academic and professional people concerned with the disciplines of interest, who participate under fellowships.

General Assembly Resolution AG/RES. 185 (V-0/75) made the course a permanent activity of the Organization.

During the period covered by this report the Eighth Course was conducted from 4 to 28 August 1981.

Eighth Course in International Law

a. Place

As was the case of earlier courses the Eighth Course was conducted in collaboration with the Institute of Public Law and Political Science of the Getulio Vargas Foundation, at its premises at Praia de Botafogo 190, Rio de Janeiro.

b. Program of the Eighth Course. Lectures and Lecturers

Following is an outline of the lectures given, by subject and topic, together with the names of the lecturers.

The technical level and informational content of the lectures were enriched by the extensive debates that followed. The effectiveness of the course was greatly enhanced by seminars, round tables, dialogue classes and working groups in which some of the specific topics on the program were dealt with in greater detail.

I. PUBLIC INTERNATIONAL LAW

- A. Contemporary International Law. New subjects and approaches. Balance and prospects.
(Eduardo Jiménez de Aréchaga)

Round Table on Contemporary Public International Law
(Jiménez de Aréchaga, Maekelt, Zanotti and Arbuet)

B. Thematic Units

1. International Humanitarian Law
 - a. Law Applicable in Cases of Armed Conflict
(Sergio González Gálvez)
 - b. Legal Aspects of the Treatment of Migrants and Refugees in the Americas
(Policarpo Callejas Bonilla)
2. International Economic Law
 - a. Principal Legal Aspects of the New International Economic Order
(Francisco García Amador)
 - b. Review of the Principal Commodity Agreements
(Enrique Lagos)
 - c. Interpretation and Application of International Economic Agreements
(Seymour Rubin)
 - d. Multilateral Financing. Its Legal Framework. The Work of the Inter-American Development Bank (IDB)
(Gonzalo Biggs)
3. Contribution of Canada to the Legal Aspects of the International Protection of the Environment
(Lorne S. Clark)
4. International Environmental Protection Measures
(William Douglas)
5. Analysis of International Instruments and Mechanisms for the Peaceful Use of Nuclear Energy
(Jorge Aja Espil)
6. Legal Aspects of Satellite Communication
(Renato Ribeiro)
7. The Right to Information
(Juan Materno Vásquez)

II. INTER-AMERICAN SYSTEM

1. Evolution of the Inter-American System. Principles, Objectives, Mechanisms Provided in the OAS Charter, the Protocol of Amendment to the Rio Treaty, and the Pact of Bogotá
(Galo Leoro Franco)

2. Principal Current Juridical Problems of the Inter-American System and Possible Solutions. Prospects for New Juridical Problems and Solutions over the Coming Decades
(Rafael de la Colina)
3. Results of the Inter-American Specialized Conference on Extradition
(Juan Materno Vásquez and Isidoro Zanotti)
4. Inter-American Relations in Latin America in the Light of the Agreements and Mechanisms of the Last Decades. Evaluation of their Operation and Impact on those Relations. Prospects
(Caçado Trindade)

III. PRIVATE INTERNATIONAL LAW

A. General Course

Contemporary Private International Law. Themes. Purpose and Operation. Practical Application
(Didier Opertti)

B. Thematic Units

1. Evolution of Private International Law in the Inter-American System since CIDIP-I.
Prospects (CIDIP-III)
(Tatiana B. de Maekelt)
2. Contracts in International Commercial Law. International Legislation
(Roberto MacLean)
3. Bases of International Jurisdiction. Its Treatment in the Inter-American System
(Didier Opertti)
4. Current Development in Private International Law on the so-called "Personal Law"
(Haroldo Valladão)
5. The Work of the IJC and CIDIP-III
(Gonzalo Ortiz Martín)
6. Round Table on Private International Law
(McLean and Opertti)

IV. DIPLOMATIC LAW

Some Fundamental Points in the Consideration of Diplomatic Status. Basic Principles. Jurisdictional Immunity
(Heber Arbuet Vignali)

V. OTHER TOPICS

1. American Jurists: Adolfo Molina Orantes
(Alberto Herrarte González)
2. The Accomplishments of the Inter-American Juridical Committee
(Elbano Provenzali Heredia)

V

COMMITTEE BUDGET

The Committee was advised by the Assistant Secretary for Legal Affairs as to the adjustments being made in its Program-Budget for the 1982-1983 biennium by the Committee on Program and Budget.

It was informed that the latter Committee had recommended very substantial cuts in its proposed budget which, if ratified by the General Assembly, would very severely impair its normal work and programs, and particularly its annual course in international law, which would have to be discontinued.

The Committee pronounced itself opposed to these readjustments and decided to request the General Assembly to approve the appropriations as requested, which are the minimum amounts that will enable it to perform its functions. The Chairman was authorized to send the following telegram to the Ministries of Foreign Affairs of the Organization's Member States:

Excellency:

Inter-American Juridical Committee requested me, in reference to funding for OAS organs for biennium 1982-1983, to advise you of following:

1. In Resolution 503 (X-0/80) General Assembly decided to consider possibility approving additional funds to enable Committee to fully perform functions as principal juridical organ of OAS.
2. Committee now surprised to learn proposed budget 1982-1983 makes reductions in personnel and equipment and in duration of sessions, which in Committee's opinion will prevent it from performing its functions in accordance with OAS Charter.
3. Proposed reduction in funding for Committee's international law course obliges Committee to recommend its cancellation or suspension pending availability funds.
4. In view foregoing we entreat support of Your Excellency and your Representative on OAS Permanent Council in keeping budget at level consistent with Committee's assigned tasks under OAS Charter.
5. I renew, Excellency, assurances my highest consideration.

A copy of this telegram was forwarded to the General Secretariat of the OAS.

VI

COOPERATIVE RELATIONS

1. Committee Observer to the 33rd Meeting of the United Nations International Law Commission, held in 1981

Dr. Jorge A. Aja Espil, designated as the Committee's observer, attended the Commission's meeting in the city of Geneva, and presented his report thereon, in which he included the text of his presentation to that Commission.

The Committee learned with gratification of the reception given to Dr. Aja Espil's presentation to the United Nations Commission.

2. The Committee's Representative to the Inter-American Conference on Extradition.

Dr. Elbano Provenzali Heredia presented his report on this meeting which he had attended as the Committee's representative. His report highlighted the Convention approved by the Conference, which also adopted the following two resolutions on the Committee:

Recognition for the work of the Inter-American Juridical Committee

The Inter-American Specialized Conference on Extradition,

Considering:

That the General Assembly of the OAS decided on the holding of the Inter-American Specialized Conference on Extradition and to that end entrusted to the Inter-American Juridical Committee the preparation of a draft convention on extradition;

That the said Committee did indeed commendably perform its assigned task by preparing a finished draft on the subject;

That this draft has in fact served as the basic working document for the discussions in this Conference,

Resolves:

1. To request that the General Assembly of the OAS take cognizance of the valuable services rendered by the Inter-American Juridical Committee for the preparation and conduct of this Conference.

2. To commend in particular the work of the two jurists who participated in the preparation of the draft convention.

3. To thank the distinguished jurist Elbano Provenzali Heredia for his valuable contribution to the deliberations of this Conference.

International Judicial Cooperation in Penal Matters

The Inter-American Specialized Conference on Extradition,
Considering:

That several Delegations to this Conference have suggested the advisability of adopting rules for international judicial cooperation in the inter-American setting;

That international judicial cooperation is an aspiration shared by the Organization's Member States as a means to mutual assistance among them in penal matters and to the simplification of the formalities to which such cooperation is now subject on the international level;

That it is therefore necessary to move ahead with studies in the field of judicial cooperation aimed at complementing the effectiveness of the Inter-American Convention on Extradition signed in this Conference, and to have proper means for the more effective application of the various bilateral treaties now in effect among the Member States of the Organization.

Resolves:

1. To recommend to the General Assembly of the Organization of American States that it entrust the performance of the aforementioned studies to the Inter-American Juridical Committee and that, in particular, that it direct the said Committee to proceed to consider the need for the preparation of a draft inter-American convention on international judicial cooperation in penal matters.
2. To further request the General Assembly to entrust to the General Secretariat the preparation, through its Secretariat for Legal Affairs, of the technical and information documents that the Committee may require for its performance of the tasks to be entrusted to it in this regard.
3. To recommend to the General Assembly the inclusion in the next program-budget of the Organization the item and funds needed for performance of the required studies.

VII

VISITORS TO THE COMMITTEE

1. Visit by Dr. Luis Herrera Campins, President of Venezuela

On August 12, 1981 the Committee, in ceremonial session, had the honor of receiving a visit by Dr. Luis Herrera Campins.

Dr. William R. Douglas, Chairman of the Inter-American Juridical Committee, welcomed the President of Venezuela, who arrived at the

premises of the Committee accompanied by his Minister of Foreign Affairs, Dr. José Alberto Zambrano Velasco, and by Dr. José Román Duque Sánchez, member of the Supreme Court of Justice in his country, and other members of his retinue.

Having invited the President to enter the meeting room, Dr. William R. Douglas said the following words:

It is a signal honor and a great pleasure to welcome Your Excellency to the premises of the Inter-American Juridical Committee.

It is indeed an event of high import, for not only does Your Excellency honor us with your presence, but you will also address us in the voice of your authority. With that kind gesture Your Excellency gives proof once again of Venezuela's firm adherence to the principles contained in the Charter of the Organization of American States and of the high regard in which you hold the principal juridical organ established in that Charter.

Your Excellency's Government has posted a magnificent record in its unflagging efforts to attain the ideals of peace, liberty and justice in the sphere of international relations. And in the area of regional relations your Government takes for its guide the Great Liberator Simón Bolívar's precept in his famous Proclamation of Pamplona: "For us America is the Fatherland".

Venezuela has already made a most notable contribution to economic development in the region, and has also shown admirable prescience in the preservation of the region's cultural legacy.

Deserving of commendation in the vaster field of world relations is the current effort of Your Excellency's Government to find just and equitable solutions to the grave political and economic problems that beset us.

As the members of the Inter-American Juridical Committee it is our sacred duty to encourage and broaden cooperation among the American States. We are inspired in the pursuit of this task by the remarkable work done by that other eminent Venezuelan - the illustrious jurist Andrés Bello.

The distinguished Vice Chairman of the Committee, our esteemed colleague Dr. Elbano Provenzali Heredia, has made every effort to complete the preparations so that the Inter-American Juridical Committee may hold a special session in Caracas before the end of the year in celebration of the bi-centennial of Andrés Bello's birth.

It is thus a most happy coincidence that this visit with which Your Excellency honors us is made in the year in which the whole world is paying tribute to one of the great exponents of American international law - Andrés Bello.

Allow me, Your Excellency, to bid you once again welcome in the name of the Inter-American Juridical Committee, and to ask that you honor us with a few words.

Thereupon Dr. Luis Herrera Campins made the following speech:

I greet with pleasure the members of the Inter-American Juridical Committee, which over the years has done itself credit with the excellence of its analyses, the originality of its drafts and opinions, and its progressive and revitalizing tradition of international law.

International affairs are an essential component of our task. They are like an atmosphere that envelopes everything and whose influences and effects none can elude. You represent, by the will of all members of the Organization of American States, the international juridical thought of the Hemisphere, and you see better than others the importance of international law, whose development is so well fostered in this illustrious body.

Our countries were created by resolute, heroic men who faced up to great difficulties in challenging the most powerful empires of their time. And now we have the vicissitudes of our own time to overcome for the full realization of the aspirations of our peoples.

At the beginning of the 19th century it was thought that the governance of the destinies of the world rested with the European powers alone, and all that was needed for peace and order to prevail was to maintain the balance of power among them. It followed from this that the outlying regions were doomed to subjection and would change hands with the breaking out of every new European conflagration.

The right of peoples to self-determination emerged in America in defiance of the established rules. It was not long before the jurists of the newly stirring intellectual life in our countries found lucid expression for this new viewpoint that sprang with such realism from the course on which our peoples had embarked.

There is no more fitting source for a quote to illustrate this assertion than Andrés Bello himself for the depth of his thinking and the originality of his contributions to international law, as well as for the happy circumstance that this year marks the bicentennial of his birth. On this occasion I want to express the appreciation of the people and Government of Venezuela for the Committee's having recognized the importance of this illustrious Venezuelan and having sponsored, in coordination with the Inter-American Council for Education, Science and Culture, an International Forum on the judicial and pedagogical work of this illustrious Americanist scholar, to be in Caracas this coming November.

Andrés Bello published his book in Santiago, Chile, in 1982 under the title of Principios de Derecho de Gentes (principles of Jus Gentium), though in its last editions he changed this to Principios de Derecho Internacional (Principles of International Law). With the humility and modesty that were of a piece with his genuine sagacity, he at first did not want to be known as the author, and simply signed himself "A.B." The work is a formidable contribution to the scientific understanding of the new juridical concepts then emerging from Latin American emancipation. Its luminous pages explain with wonderful succinctness how the existence of the State as a person in international law follow from the fact of its independence alone.

Andrés Bello also spoke out against intervention at a time when it was held admissible in international law, and was the precursor of the doctrine of the juridical equality of nationals and foreigners and of the subjection of the latter to the laws and courts of their places of residence. In outright opposition to the doctrine and foreign policy of the European countries he asserted: "The jurisdictional acts of a nation upon foreigners must be respected by other nations because, in setting foot on the territory of a foreign state, we contract the obligation to submit to its laws and, by extension, to its established rules for the administration of justice".

Here, again, is the doctrinal and scientific root of what later became the established Latin American position on this point and paved the way for the emergence of doctrines of such resounding influence in Latin America and all over the world as those of Carlos Calvo and Luis María Drago concerning restriction on diplomatic protection and the international illegality of the compulsive collection of public debts.

In a world that was coming under the sway of positivism, which acknowledged the will of the sovereign as the source of right par excellence and hence held any ordinance from him, however cruel and inhuman, to be valid law, the clear, humane voice of the great Bello was raised to trace untransgressable limits to the power of the prince. Time has attested to the depth of his wisdom, and perhaps to how imperative it was that we had cleaved to his teaching. Juridical positivism gained the upper hand in the 19th century, but the tragic realities of unbridled power in the 20th argued for a return to natural law, a view that emerged vigourously after the First World War.

Starting from these basic precepts, which were fairly original in their day, American internationalists made constructive contributions to the building of a science of international law that was more just and equitable.

This tradition has fortunately endured in our universities and foreign offices, both in the cloistered halls of teaching and research, with their measured pace and meditative atmosphere, and in the feverishly dynamic world of the international policies of our countries, which imposes a need for reasoned reflection on our attitudes and positions.

Allow me to recall the Commission of Jurists established by the early Pan American Conference held in 1927 in this city. Those were important sessions in which the basic principles of American international law began to take shape which are now enshrined in Chapter I, II and IV of the Charter of the Organization of American States.

Particularly illuminating were the discussions on non-intervention, which paved the way for the unanimous adoption of the principle of the Convention on the Rights and Duties of States, approved in the Seventh Pan American Conference at Montevideo in 1933.

The Inter-American Juridical Committee is one of the principal organs of our system. It contributes to the codification and gradual development of international law in the Americas, especially in regard to the peaceful settlement of controversies, the right of asylum, the law of the sea, nonintervention, the international responsibility of the state, the status of refugees, terrorism, abduction, the codification of private international law, extradition and, last, but anything but least, the advances made by our American law in the protection of the individual and his fundamental liberties and the constitution of the Inter-American Court of Human Rights.

The Inter-American Juridical Committee will persevere in its searching, realistic and objective treatment of the crucial questions of international law in America, and in the tradition of creativity inspired by the justice that characterizes Latin American thought in the field of international law.

The international community, in endorsing the best American tradition, has fully recognized the right of each human being, solely by virtue of his humanity and without regard for creed, race or political beliefs, to realize his individuality in a climate of tolerance and liberty. The despot cannot escape from the increasingly stringent rein that the international community itself is striving to impose on his caprices and cruelties. It is not without reason that international pressures, claims and protests make de facto governments uneasy.

Change struggles to break through, but the old structures of international law persist, and there is thus generated an ever deeper contradiction between international rules and a social situation in the throes of accelerated transformation.

That the theoretical postulates are true is not enough to ensure that they will be applied in practice. International law proclaims nonintervention and the self-determination of peoples as cornerstone principles of the contemporary community and regulates them through treaties, conventions and the resolutions of regional and world organizations, but the great powers, either directly or indirectly, ignore them and, bringing to bear their military, economic or technological predominance, engage in intervention to the detriment of the regional

or worldwide collective security systems they themselves helped to establish. Thus, many peoples find themselves in a state of subjection with no prospect of being able to choose their own destiny freely. They can but endure or tolerate the hegemony that is exercised over them.

There is talk of an obligation to build closer relations of friendship and cooperation between states at a time when structural inequalities prevent real cooperation and only perpetuate themselves and grow to gigantic proportions. The right to development is proclaimed, but the industrial powers persist in restrictive and protectionistic policies that hinder, when they do not actually block, the economic expansion of the developing countries. There is a contradiction between words and facts, between theory and practice, between what is preached and what is done.

We would cite other examples of these distortions, but it is fortunately a fact that constructive developments are also afoot at the prompting of many countries aware of the power that flows from their own resources and their joint efforts. These countries have come to the rescue and defense of those lofty principles of international law through organizations which will guarantee that they are enforced and respected. Notable among them are the organizations of producers such as OPEC, the Group of 77, regional integration and cooperation arrangements, and the Movement of Unaligned Nations. The judicial repercussions of this new tendency have not been long in making themselves felt.

The international jurist cannot stand aloof in this struggle and turn a blind eye to deviations from international justice. Justice has become the most powerful engine of change in the world today. To gradually develop international law in this last fifth of the 20th century is to adapt it to the new realities demanded by recognition of the dignity of man in the framework of the national and international community.

The jurist must act with imagination and daring, and make himself receptive to the expectation of a world "that finds itself in a process of dramatic transition toward higher ways of life and community", as is said in the Final Declaration of the Second Seminar on the Teaching of International Law, held at Bogota in 1979 under the sponsorship of the Organization of American States. This means that he must serve as the harbinger of a world of greater justice, greater equity, greater dignity, and greater peace, because peace, in the proper sense of the word, is not just the absence of war, but the peace of the Gospel, which means order in justice, and, ultimately, love, whether it be called harmony, integration or solidarity.

My country is advancing down the historic roads of renewal and participation. It has favored the institutionalization of liberty, the entrenchment of democracy, respect for human rights, the establishment of a New International Order, and a deepening of relations among developing countries, so as to clear a way for participation in all areas of action.

The world must hurry if it is to remedy established injustice. To delay in this can bring us to the brink of violence without end much more probably than to the negative passivity and fatalism of resignation. World history teems with encroachments on the liberty of peoples. In the dramatic accents of a statesman the Liberator Simón Bolívar reminded the legislators at Angostura on February 15, 1819: "Call to your minds the nations that have shone on this earth, and you will grieve to observe that almost all the world has been and is the victim of its governments. You will see many systems for the management of men, but they are all for the purpose of oppressing them. And if the habit of seeing humankind led by the shepherds of nations did not diminish the horror of such a repellent spectacle, we would stand agog at the sight of our docile species grazing across the surface of the globe like abject herds fit only for the tables of their cruel keepers. Nature in truth endows us at birth with a drive to liberty; but whether it be from sloth or from some inherent propensity, the fact is that mankind lies quiet, though bound by the shackles that are clapped on it. As we contemplate mankind in this state of prostitution, it seems right to persuade ourselves that most men take as true the abasing dictum that it is more difficult to keep the balance of liberty than to endure the weight of tyranny."

With unerring clarity H.H. Pope Paul VI stated the great aspiration of man and peoples in his encyclical Populorum progressio: "To see themselves free from want, to be more sure of their subsistence, health, and a secure occupation; to assume yet greater responsibilities free of any oppression and safe from situations that offend their dignity as men, to be better educated, in brief, to do more, know more and have more in order to be more, such is the aspiration of the men of today, at a time when many of them are condemned to life in conditions that render this legitimate desire illusory. Moreover, peoples that have recently attained national independence feel the need to add to this political liberty a dignified growth on their own, socially no less than economically, in order to enable their citizens to realize their human potential to the full, and themselves to take their rightful places in the concert of nations." He also warned of future difficulties in his apostolic letter Octogesima adveniens: "We will have to face up to the social problems posed by the modern economy - humane working conditions, equity in commerce and in the distribution of wealth, the significance and importance of rising consumption requirements, and a sharing of responsibilities in the broader context of a new civilization. In these time of such rapid and far-reaching change, man discovers himself anew every day and questions the sense of his own being and his collective survival. Hesitant about accepting the lessons of a past that he now views as superseded and too different, he still must throw light on his own future--which he regards as both uncertain and unstable--by means of enduring, eternal truths, which are beyond him, of course, but whose trail he is capable of finding, if he really wants to, on his own."

The New International Order advocated by our country is not only a New "Economic Order" but also a political, a social and above all a moral one. Hence the responsibility of the jurists, and particularly of those who are members of international bodies for juridical consultation, before present and future generations. For they must keep their eyes on the future and contribute to the building of a more just world by means of the law, one of the most noble tools for social reform ever conceived by man, which defies reactionary government, scorns the tinsel glitter of conformism, and withstands the incantations of vested interest!

There must be a return to the original idea of international law, in which it was subordinated to natural law, as Andrés Bello maintained and was stated and applied for the first time by Francisco de Vitoria in the early 16th century.

Francisco de Vitoria and Andrés Bello are two of the Spanish and American internationalists who have shaped our juridical institutions, and they stand as models of wisdom and moral integrity that will be auspiciously reflected in the arduous labors of this Committee as a faithful expression of the renewing and progressive tendencies that have informed American international law since the earliest beginnings of our political independence.

On the conclusion of this speech there was an exchange of impressions and ideas between the President of Venezuela and the Chairman and other members of the Committee.

The members of the Committee were appreciative of the speech, which was received as a great source of encouragement to the work of this organ of the Inter-American System.

2. Visit by Ambassador Rafael de la Colina

The Committee had the satisfaction of being visited on August 19 by Ambassador Rafael de la Colina, the Representative of Mexico to the Permanent Council of the OAS, who was in Rio de Janeiro in his capacity as guest professor in the Committee's Course in International Law.

The reception accorded to Ambassador de la Colina in the plenary session gave expression to the high prestige he enjoys in the Americas.

3. Visit by Dr. Eduardo Jiménez de Aréchaga

In its session of August 6, the Committee received a visit by the prominent Uruguayan internationalist and former President of the International Court of Justice, Dr. Eduardo Jiménez de Aréchaga, who served as guest professor in the Committee's Eighth Course in International Law.

VIII

DATE, AGENDA AND RAPORTEURS FOR THE NEXT SESSION

The Committee agreed that the first regular session of 1982 would open on January 11.

There was agreement of approving the following agenda for the next session, in the understanding that the items would be dealt with in the order in which they are presented here.

1. Jurisdictional immunity of states
2. Basis of international jurisdiction for extraterritorial validity of foreign judgments
Rapporteurs: Gonzalo Ortiz Martín and Juan Materno Vásquez
3. Law applicable in cases of armed conflict
Rapporteurs: Sergio González Gálvez
4. Suggestions for legal topics of regional interest that could be examined by the Committee in the light of the importance of continuing the gradual development and codification of international law: Latin America and the Arms Race
Rapporteur: Sergio González Gálvez
5. Review of the inter-American conventions on industrial property with particular reference to invention patents, industrial designs and models, trademarks, brand names, and commercial names (AG/RES. 234 (VI-0/76) and AG/RES. 308 (VII-0/77))
Rapporteur: Policarpo Callejas Bonilla
6. Reform of the Statute and Rules of Procedure of the Inter-American Juridical Committee
Rapporteur: Seymour Rubin and Elbano Provenzali Heredia
7. The principle of self-determination and its field of application
Rapporteur: Sergio González Gálvez
8. Measures to promote the accession of nonautonomous territories to independence in the Inter-American System
Rapporteur: William R. Douglas
9. Law as it relates to international peace and security
 - a. Definition and development of the principles that should govern relations between states in addition to those already contained in the OAS Charter and other inter-American instruments;
 - b. Contribution of the American Hemisphere to the drafting of a universal declaration on the peaceful settlement of disputes as a step precedent to the approval of a treaty on the subject;
 - c. Scope of the definition of aggression in the context of Article 9 of the Protocol of Amendment to the Rio Treaty
Rapporteur: Sergio González Gálvez
10. Freedom of expression and information
Rapporteur: Juan Materno Vásquez

11. Procedures for the development of environmental law
Rapporteur: William R. Douglas
12. International maritime and land transport
Rapporteur: Juan Materno Vásquez
13. Personality and capacity in private international law
Rapporteur: William R. Douglas

IX

OTHER DECISIONS

1. Communication from Mr. Richard V. Allen, National Security Advisor to the President of the United States

The Chairman reported that a communication had been received from Mr. Richard V. Allen, who, on behalf of the President of the United States of America, informed the Committee of the proclamation made by the President on the Day of the Americas, affirming his faith in the future of the Organization of American States.

2. Representative of the Committee to the next OAS General Assembly

Dr. William R. Douglas was designated representative of the Committee to the General Assembly that is to take place during the month of December in Saint Lucia.

3. Tribute of the Committee to Dr. Haroldo T. Valladao upon completing 80 years of age

At the proposal of Dr. Provenzali Heredia, the Committee offered a tribute and approved a vote of applause to Dr. Haroldo T. Valladao on the occasion of his eightieth birthday.

All of the members supported the proposal highlighting among other outstanding accomplishments, his active fifty-five years devoted to the teaching of international law.

Rio de Janeiro, August 21, 1981

(s) William R. Douglas
 (s) Elbano Provenzali Heredia
 (s) Jorge A. Aja Espil
 (s) Policarpo Callejas Bonilla
 (s) Sergio González Gálvez
 (s) Galo Leoro Franco
 (s) Gonzalo Ortiz Martín
 (s) Haroldo T. Valladao
 (s) Juan Materno Vásquez

REPORT OF THE CHAIRMAN OF THE INTER-AMERICAN JURIDICAL COMMITTEE

In compliance with the terms of Article 12 of the Regulations, I hereby submit to the Committee a report on the activities carried out by the Chairman during the period of recess.

I

Activities during the period of recess (February-July, 1981)

1. Work carried out during the last period of sessions

The Secretary General of the Organization of American States has acknowledged receipt of the work carried out by the Inter-American Juridical Committee and approved at its last period of sessions (January 1981). These documents have been forwarded to the Permanent Council of the Organization.

2. Observer of the Committee to the meeting of the United Nations International Law Commission

The observer appointed by the Committee, Dr. Jorge A. Aja Espil, attended the Commission's session in Geneva, having previously communicated with the Secretary for the purpose of arranging, with the General Secretariat in Washington, the appropriate administrative action required to enable the Observer to discharge his mission.

3. Observer to the Inter-American Conference on Extradition

This important Conference was held in Caracas, in February 1981, and the Committee was represented at the Conference by Dr. Elbano Provenzali Heredia, who was appointed for that purpose by the Committee.

4. 75th Anniversary of the American Society of International Law

A message of congratulation addressed by the Committee to the American Society of International Law on the occasion of its 75th anniversary was delivered to the President of the Society.

5. Draft Program-Budget of the Committee for the 1982-1983 period

Dr. Tatiana B. de Maekelt, Assistant Secretary for Legal Affairs of the General Secretariat, OAS, forwarded to the Secretary of the Committee a copy of the draft budget for the 1982-1983 biennial period, the text of said draft having been submitted to the Advisory Committee on Administrative and Budgetary Affairs ("CAAB") of the General Secretariat in Washington.

The Chairman received a detailed letter from the Secretary, containing a number of considerations on the impact which the proposed budget would have on the carrying out of the Committee's activities during the 1982-1983 period. In view of these considerations, the

Chairman of the Committee communicated his serious concern to the Assistant Secretary General, Mr. Valerie McComie, as well as that of the Juridical Committee, and urged the General Secretariat to revise some of the items contained in the aforesaid draft budget.

6. Resolutions approved by the General Assembly
at its tenth regular session

The Secretary General of the OAS, by communication dated the 16th of March 1981, forwarded to the Chairman a document containing the resolutions that were approved by the General Assembly at its tenth regular session, and calling attention to the fact that some of these resolutions (numbers 475, 485, 492, 502, 503, 504, 505, 509 and 500) refer to matters affecting the Inter-American Juridical Committee.

7. Inter-American Convention on Extradition

Eleven Member States of the Organization of American States signed, in Caracas, Venezuela, on 25 February 1981, the Inter-American Convention on Extradition. This Convention is the result of efforts developed by the twenty-two States represented at the Inter-American Specialized Conference on Extradition. These States accomplished their task chiefly by taking as a basis for negotiation the draft Convention prepared by the Inter-American Juridical Committee.

The Secretary distributed copies of the aforementioned Convention to each Member. The action taken by the signatory Members represents an important step in the realm of international cooperation.

8. Jurisdictional Immunity of States

The Rapporteur of this topic of the agenda, Dr. Alberto Herrarte González, received a background document (OEA/Ser.Q/II-17), prepared by the Office of Development and Codification of International Law, Secretariat for Legal Affairs.

The Rapporteur completed his study on the subject, and forwarded to the Secretary a Third Report. Copies of this report will be distributed to the Members of the Committee.

9. Sea and Land Transportation, with particular
reference to Bills of Lading

In a letter dated 26 June 1981, the Rapporteur of this topic, Dr. Juan Materno Vásquez, communicated the following:

First of all, Mr. Chairman, we are faced with an issue which has been reformulated, in broad terms, by CIDIP-II, which provided in paragraph 3 of Resolution IV (79) the following:

That it is necessary to incorporate into the inter-American system the work being carried out in the world towards the unification of norms, and that, at this time, with respect to liability in the area of carriage of goods by sea, there are two different legal systems, Brussels of 1957 and 1967.

In organizing my ideas on the focus that must be given to this topic, as reformulated, I have been in contact by letter with the Bureau of Legal Affairs (specially with Dr. Didier Opertti) in order to adopt the appropriate methodology to comply with the mandate of CIDIP-II. In this connection, we have arrived at a preliminary conclusion in that the scope and complexity of the topic require a delimitation for its inclusion in the agenda of CIDIP-III.

This presents a real problem of focus for the IAJC. This is because its draft convention on "Contracts of Carriage by Sea and by Land with Special Reference to Bills of Lading" of 1973, and resubmitted in 1977, was not considered in its totality by CIDIP-II, which mandated another examination in the terms of paragraph 3 of Resolution IV (79), so that it may be understood that a new convention is foreseen distinct from that previously drafted. If this is a correct interpretation of the posture of CIDIP-II it will be necessary for us to examine the topic in each of its specific aspects, and therefore I suggest, for the consideration of the IAJC in its August sessions, the following basis for treatment of the issue:

- First. Should the IAJC maintain its 1973 draft, resubmitted in 1977?
- Second. Does the IAJC feel that there should be a unification of norms on a universal scale?
- Third. Is the work being carried out by UNCITRAL, in the study of the matters related to this topic, satisfactory?
- Fourth. Is the Brussels Convention of 1924 and the Protocol which modified it of 1968 satisfactory, emphasizing its ratification by seven member States of the OAS?
- Fifth. May the norms contained in the Convention of International Transport by Land signed by Argentina, Bolivia, Brazil, Chile, Paraguay, Uruguay and Peru of 1974 be recommended for adoption on the inter-American scale?
- Sixth. If the above-mentioned Convention has achieved favorable practical results would it be more appropriate that the member States of LAFTA (ALALC) accede to it, in accordance with its Article 21, and those States which are not members, adopt the same standards?

Allowing for a broadening of these bases for discussion, I ask the Chairman to authorize the Secretary of the IAJC to distribute this document to the members of the IAJC prior to the August meeting.

At a later date, Dr. Juan Materno Vásquez forwarded to the Chairman a document, in the form of a working paper, in which the Rapporteur suggests that in view of the considerable extent of the matter covered under this topic, the study thereof should be carried out by the Inter-American Juridical Committee in cooperation with the Secretariat for Legal Affairs of the General Secretariat.

10. Bases of International Jurisdiction for Extraterritorial
Validity of Foreign Judgments

The Chairman of the Committee received from the Office of Development and Codification of International Law, Secretariat for Legal Affairs, a supplementary report on the topic "Bases of International jurisdiction", and referring to the First Meeting of Experts on Private International Law, held in Washington, in April 1980.

This additional report has been duly delivered to Dr. Gonzalo Ortiz Martín, Rapporteur of said topic.

11. Special Session of the Committee in Caracas, Venezuela
to honor the bicentenary of the birth of don Andrés Bello

The Chairman received from the Ambassador of Venezuela in Barbados a formal invitation from His Excellency the Minister of External Relations of the Republic of Venezuela to the Inter-American Juridical Committee to participate in the arrangements being made in Venezuela to honor the great American jurist Andrés Bello. The Chairman replied accepting with much pleasure the kind invitation of the Government of Venezuela.

II

VISIT OF HIS EXCELLENCY THE PRESIDENT OF VENEZUELA

His Excellency Luis Herrera Campins, President of Venezuela, has announced his desire of visiting the Inter-American Juridical Committee during his State Visit to Brazil. The Committee looks forward to the privilege and honor of receiving the President and some of the distinguished members of his retinue on Wednesday, the 12th of August at 4 p.m.

III

SECRETARIAT FOR LEGAL AFFAIRS, OAS GENERAL SECRETARIAT

The Assistant Secretary for Legal Affairs, Dr. Tatiana B. de Mae-kelt, and the Director of the Office of Codification, Dr. Didier Oper-tti, maintained regular communication with the Chairman as well as with the Secretary of the Committee during the period of recess, on the various agenda items for the present period of sessions, and on action required for the holding of the Eighth International Law Course.

IV

RELATIONS WITH THE PUBLIC LAW AND POLITICAL SCIENCE INSTITUTE GETULIO VARGAS FOUNDATION

Cooperation with the Public Law and Political Science Institute of the Getúlio Vargas Foundation has continued since the inception of the International Law Course in 1974. All arrangements for the Eighth International Law Course were successfully completed with the help of the Director of the Institute, Dr. Afonso Arinos de Melo Franco, who has always shown much interest in the work of the Committee and in the development of the International Law Course.

Approximately 45 scholarships have been granted to lawyers from American States, who will participate in the Eighth Course to be held from the 4th of August at the Getúlio Vargas Foundation.

V

OFFICIAL PUBLICATIONS OF THE INTER-AMERICAN JURIDICAL COMMITTEE

I am happy to inform the Committee that the Secretariat for Legal Affairs has just published Volume XI of Recommendations and Reports --1974-1977--of the Inter-American Juridical Committee. Copies of this important volume will be distributed in due course.

In addition, the English and Spanish editions of Work Accomplished by the Committee during its Regular Session, August 4-29, 1980, have been published.

VI

SECRETARIAT OF THE COMMITTEE

The Secretariat of the Committee in Rio de Janeiro, continued to perform its regular duties during the period of recess. Dr. Renato Ribeiro, Secretary of the Committee, was constantly in touch, by mail and telegram, with the Chairman, who was kept fully informed on all matters concerning the Committee and particularly on the discussions held in Washington on the draft program-budget for the 1982-1983 period. I should like to record my appreciation of the prompt and efficient manner in which the Secretary has maintained this flow of information.

Rio de Janeiro, July 6, 1981

(s) William R. Douglas
Chairman
Inter-American Juridical Committee

STATEMENT OF THE OBSERVER OF THE INTER-AMERICAN JURIDICAL
COMMITTEE, JORGE A. AJA ESPIL, TO THE UNITED NATIONS
INTERNATIONAL LAW COMMISSION IN JULY OF 1981

Mr. Chairman,

Distinguished members,

1. A decade after my first visit to this Commission as observer of the Inter-American Juridical Committee, it seems appropriate to begin this statement by highlighting the fruitful cooperative relations which have taken place on an annual basis through the reciprocal exchange of observers, which has kept both legal bodies up-to-date on the work being carried out in the other, and has served to facilitate the change of documentation and work plans.

2. In this connection, I would like to extend the lines of cooperation so that the observer of the International Law Commission who travels to Rio de Janeiro during the July-August meeting of the Committee might deliver a lecture in the course on international law which the Committee sponsors at that time of year. The prestige and enlightenment of the Commission would thus be made known to the students fellowship recipients from all the OAS member States, advancing in the study of international law.

The presence of the former Chairman of the Commission, Mr. Christopher Pinto, was very fruitful, in that through his important and systematic report the Committee was given an excellent appreciation of the work of the Commission and its most recent undertakings.

We would hope that in the next session the Chairman honors us with his presence, or if he is unable to attend, that he be represented by another distinguished colleague.

3. It would also seem to be useful to review briefly from a chronological perspective the transformations which have occurred in the Inter-American Juridical Committee over the course of the past decade.

The work of the Juridical Committee has not been solely directed toward becoming an ideal model as a legal body, but rather toward reinforcing the effectiveness of the Organization of American States as an expression of the reality and immediate aspirations of the American community. It is basically for this reason that the opinions and drafts of the Juridical Committee, which at times may appear to have limited or temporary purposes, attempt to prepare the way for more flexible mechanisms of international cooperation.

Although it is true that in the course of the last decade, international law has been enriched by the impulse given to progressive development and codification, to the concluding of important multilateral conventions and to the decisions of international tribunals, the problems faced by the inter-American community continue to be the same, although with different trappings.

4. Going over the acts of the Commission of the 23rd period of sessions of 1971, I notice that my statement then dealt with the work of the Juridical Committee on the preparation of a draft convention on international terrorism, as well as with the review of the Convention on protection of industrial property.

In the course of recent meetings the Juridical Committee has considered similar topics: a draft convention on torture and a report on legal aspects of the transfer of technology. As may be appreciated, matters of constant concern for the Committee, as legal organ of the regional system, are the preservation of fundamental human rights and the international problems which affect the development of the states.

5. The Juridical Committee prepared a study assigned by the OAS General Assembly through a 1978 resolution for the purpose of preparing a draft convention defining torture as an international offense. As may be seen, the task of the Committee was not so much expressing a judgment on such affirmation but rather to formulate it normatively.

Nevertheless, some preliminary questions were examined. In the first place, a discussion was again held on the distinction between a crime and an international offense, a topic which was debated years ago in the Commission in connection with Professor Ago's report. Should the Juridical Committee fully accept the affirmation of the OAS General Assembly that torture is an international offense and limit itself to translating this to legal terms, or on the other hand, could the Juridical Committee, being an organ eminently technical and legal in nature, whose competence arises from the Charter itself, disagree with that affirmation and arrive at a contrary conclusion? The majority of the members of the Juridical Committee understood that there had been an imperative mandate from the General Assembly that it declare, without more, torture to be an international offense and so it did in Article 1 of the draft convention approved. Others felt that the techno-judicial nature of the mandate, which obliged the Juridical Committee to give at all times its informed opinion on subjects within its concern, was overlooked.

Another point that generated debate with respect to the topic of torture was whether it is possible to impute to a state an act committed by an official in excess of the authority attributed by domestic law or against instructions given to him. Opposing those who felt that when an employee goes beyond his functions his acts therefore cannot be attributed to the State, were those who held the contrary view, arguing that in this way state responsibility would be illusory, in that it is unusual for an official to receive instructions to commit an illicit act.

The major strength of the draft convention rests on a new element: international control of state obligations, by virtue of which the individual becomes protected even in relation to the state of which he is a national.

The issue of whether individuals may be subjects of international law, generated debate during the discussion of the draft. The true touchstone of international legal status of the individual consists not only in attributing rights but in the methods of ensuring their exercise.

From the moment an individual has access to the procedures established by the Rules of Procedure of the Inter-American Court of Human Rights and the International Court of Human Rights, it may be said that he acquires the status of subject of international law. Articles 9 and 14 of the draft convention on torture establish the mechanisms for execution.

6. It seems to be redundant to state that a legal organ is concerned only with problems relating to law, but on the other hand, today it is not surprising to say that the social-economic focus frequently is superimposed on the exclusively legal focus in the treatment of questions relating to the international area. The position of law in the international community is such that we cannot withdraw it without destroying it.

This occurs with respect to a variety of topics which have been included in the agenda of the Juridical Committee, and it should be noted in this regard that this concept coincides with the statement of the observer of the Afro-Asian Advisory Legal Committee last year at the headquarters of this Committee who said "although the Committee was principally occupied with questions of international law, in the past ten years it had to broaden its activities to attend to the practical necessities of its members and carry out the task of promoting Afro-Asian cooperation, a task that had been entrusted to it by the Bandung Conference."

Such is the case of the work requested of the Juridical Committee by the General Assembly of the OAS in 1977 on "Legal Aspects in the area of transfer of technology". For those interested in supporting a new international economic order, one of the most important problems in the legal system of international economic relations is related to transfer of technology, from the developed countries to those which are least developed.

The Juridical Committee has turned its attention to this matter through study of two broad topics: a) the system of international protection of industrial property and the works of review in the World Industrial Property Organization (WIPO) and b) the draft international code of conduct for the transfer of technology, currently under negotiation within the framework of the United Nations.

The methodology and the substance of the works carried out by the Juridical Committee in the area of transfer of technology are more properly contained in the area of comparative law than in public international law. Consultations for harmonization of laws, even by way of different economic conceptions, have frequently produced less than promising results. Experience shows that cooperation is not achieved by a simple juxtaposition of different points of view, but rather by way of the selection of areas of common interest.

The works of the Juridical Committee were contained in its report to the General Assembly of last year, which includes certain recommendations concerning impeding restrictive practices in the area of transfer of technology which have been common in Latin America.

The majority of these provisions are not directed towards the immediate future, and are, therefore, precepts of "lege ferenda", since

they aim at making innovations in the existing economic order. The reciprocal penetration of two disciplines always demands substantial efforts at harmonization. For this reason, on the topic of transfer of technology the Committee has sought to establish a legal system which submits the international economic relations to rules responding to principles of a greater distributive justice.

7. The happenstance that four of the members of the Juridical Committee are distinguished experts in the area of private international law has allowed the Committee to become involved in various problems of interest to the two major systems of law existing in this area in the American Continent.

Although the rules of private international law are mainly contained in the internal legislation of each state, it has always been a goal of the regional system to unify them through conventions aimed at resolving conflicts of law.

During the past year a First Meeting of Experts in Private International Law took place in Washington in April 1980, and was attended by some members of the Juridical Committee and distinguished professors such as W. Reese, Arthur von Mehren, H. Droz, Werner Goldschmidt, and Beverly May Carl. The results were two documents: 1) Bases of International Jurisdiction for Extraterritorial Validity of Foreign Judgments and 2) Draft Additional Protocol to the Inter-American Convention on Taking Evidence Abroad of 1975.

These drafts have been considered by the full Juridical Committee, during the last session of last year, when modifications were introduced to strengthen and facilitate international cooperation in judicial procedures.

8. I should indicate to the distinguished members that here also the Juridical Committee searched for solutions to harmonize the common law and roman law systems. The Inter-American Convention on Taking Evidence Abroad of 1975 embodies the traditional civil law principle that only jurisdictional organs of the requested state are competent to execute letters rogatory in the area of evidence. Given that the Anglo-saxon System of taking testimony is completely different, solutions were sought through an additional protocol authorizing a commission duly appointed by the judicial authority of a state to take evidence, although without the power to exert coercive measures.

As may be seen, the Juridical Committee also confronts the problems generated by the confrontation between the Anglo-saxon system and the roman system. In addition, as Sir Francis Vallat advised a few days ago in the search for solution the Juridical Committee harked back into history, the institutions of common law, consulting with the ancient wisdom of Sir Edward Coke and Sir William Blackstone to encounter this response "The principal problem of the jurist is not the difference between right and wrong, but between right and right".

9. Mr. Chairman, I would like to express my appreciation for the welcome and the courtesies which you and the distinguished members of the International Law Commission as well as the members of the Secretariat have shown me during my stay here. The academic statements and

the analyses that the rapporteurs have made on the topic under study, will allow me to take to the next meeting of the Committee in Rio de Janeiro new doctrinal contributions and antecedents which will be of invaluable use in future work.

Thank you.

(s) Jorge A. Aja Espil

RESOLUTION ON THE
CLOSING SESSION OF THE EIGHTH COURSE ON INTERNATIONAL LAW

The Inter-American Juridical Committee,

Considering that the present regular meeting will close on August 21, 1981;

Considering that the Eighth Course on International Law, organized by the Committee will continue with its activities until August 28 of this year, for which is necessary the presence of a member of the Committee until the end of the course, and at the closing session of this important academic activity carried out by this organ,

Resolves:

1. To designate the Vice Chairman, Dr. Elbano Provenzali Heredia, so that, representing the Committee, he supervise the course until the closing session of the Eighth Course on International Law, which will take place on August 28 of this year.

2. To wire the Secretary General of the Organization requesting that he take the necessary administrative measures so that the above-mentioned member of the Committee may remain at the headquarters during the period of August 21-28.

Rio de Janeiro, August 20, 1981

ANNUAL REPORT OF THE INTER-AMERICAN JURIDICAL COMMITTEE
TO THE GENERAL ASSEMBLY OF THE ORGANIZATION
OF AMERICAN STATES

Regular sessions of January and August 1981

INTRODUCTION

The Inter-American Juridical Committee has the honor to present its Annual Report to the General Assembly of the Organization of American States in accordance with the provisions of Article 52.f of the Charter and in compliance with Article 13 of its own Statute.

The report covers the activities of two regular sessions, those from January 12 to 30, 1981 and from August 3 to 21, 1981.

In both the discussion and treatment of the matters covered in the report it has been endeavored to give full attention to the guidelines that the General Assembly recommended to the organs of the System in its Resolution AG/RES. 331 (VIII-0/78) to facilitate consideration of the annual reports.

I

ORIGIN AND COMPETENCE OF THE CJI

The Committee had its origin in the Inter-American Committee on Neutrality, created at the First Meeting of Ministers of Foreign Affairs of the American Republics, which met in Panama from September 23 to October 3, 1939. The CIN was in existence for more than two years. In 1942 the Third Meeting of Consultation of Ministers of Foreign Affairs, meeting in Rio de Janeiro, converted the CIN, through its Resolution XXVI, into the Inter-American Juridical Committee and decided to establish the Committee's headquarters in that city.

In 1948 the Ninth International Conference of American States, meeting in Bogotá, adopted the Charter of the Organization of American States. That Charter created the Inter-American Council of Jurists, with one representative from each State. This Council combined the functions of consultation on OAS legal affairs with the gradual development and codification of American international law. The Charter also established that the Council's permanent committee would be the Inter-American Juridical Committee, composed of nine jurists from the member states and responsible, with broad technical powers, for undertaking studies and preparatory tasks entrusted to it by certain organs of the OAS.

Later on, in 1967, the Third Special Inter-American Conference, held in Buenos Aires, adopted the Protocol of Amendment to the Charter of the Organization of American States, also called the Protocol of Buenos Aires, which eliminated the Inter-American Council of Jurists as one of the Charter amendments. This amendment transferred the functions of the former Council to the Inter-American Juridical Committee, thereby making it a principal organ of the Organization of American States.

Pursuant to Article 105 of the Charter, this organ has the basic functions of serving the Organization as an advisory body on juridical matters, promoting the progressive development and the codification of international law, and studying juridical problems related to the integration of the developing countries of the Hemisphere and the possibility of making the legislations of the American states uniform to the extent that this may appear desirable.

In addition, Article 106 states that the Committee shall undertake the studies and preparatory work assigned to it by the General Assembly, the Meeting of Consultation of Ministers of Foreign Affairs, and the Councils of the Organization. On its own initiative it may undertake such studies and preparatory work as it considers advisable and suggest the holding of specialized conferences on legal matters.

The Committee is composed of eleven jurists from members states of the Organization which represent the entire group of states, and has broad technical independence. It has its headquarters in Rio de Janeiro, but in special cases may hold meetings in any other place it so designates, with the prior approval of the corresponding member state.

II

MEMBERS OF THE COMMITTEE

Members

The current members of the Committee are as follows: Dr. William R. Douglas, Dr. Haroldo T. Valladao, Dr. Alberto Herrarte González, Dr. Jorge A. Aja Espil, Dr. Sergio González Gálvez, Dr. Elbano Provenzali Heredia, Dr. Seymour J. Rubin, Dr. Juan Materno Vásquez, Dr. Gonzalo Ortiz Martín, Dr. Galo Leoro Franco, and Dr. Policarpo Callejas Bonilla.

Attendance at Meetings

The regular session held in January 1981 was attended by the following members: Dr. Haroldo T. Valladao, Dr. Alberto Herrarte González, Dr. Jorge A. Aja Espil, Dr. William R. Douglas, Dr. Sergio González Gálvez, Dr. Elbano Provenzali Heredia, Dr. Seymour J. Rubin, Dr. Juan Materno Vásquez, Dr. Gonzalo Ortiz Martín, Dr. Galo Leoro Franco, and Dr. Policarpo Callejas Bonilla.

Present at the session held in August 1981 were: Dr. Haroldo T. Valladao, Dr. Jorge A. Aja Espil, Dr. William R. Douglas, Dr. Seymour J. Rubin, Dr. Juan Materno Vásquez, Dr. Sergio González Gálvez, Dr. Elbano Provenzali Heredia, Dr. Gonzalo Ortiz Martín, Dr. Galo Leoro Franco and Dr. Policarpo Callejas Bonilla.

Chairman and Vice Chairman of the Committee

During the period covered by this report the positions of Chairman and Vice Chairman were held by Drs. Haroldo T. Valladao and Alberto Herrarte González in the session of January 1981, and by Drs. William R. Douglas and Elbano Provenzali Heredia in that of August 1981.

Representation of the General Secretariat of the OAS

During the first session covered by this report the Secretary General was represented by Dr. Tatiana B. de Maekelt. Dr. Alberto Tolosa, advisor of the Secretariat for Legal Affairs of the General Secretariat of the OAS, also attended.

The representatives of the Secretary General in the second session were Dr. Tatiana B. de Maekelt and Dr. Didier Opertti. Dr. Enrique Lagos, advisor of the Secretariat for Legal Affairs of the General Secretariat of the OAS, was also present.

Committee Secretariat

The Secretaries of the Committee in the two sessions referred to above were Drs. Renato Ribeiro and Renzo Minut.

Semiannual Reports by the Chairman

These reports, which in accordance with Article 12 of the Rules of Procedure of the Committee are to be given to it at the inaugural session of each meeting, were presented in January and in August of 1981.

III

STUDIES PRESENTED

I. Session of January 1981

A. Bases of international jurisdiction for the extraterritorial validity of foreign judgments

Rapporteur: Gonzalo Ortiz Martín

On this topic, which was extensively discussed, the resolution which appears on p. 4 of this volume was approved.

B. Right to Information

Rapporteur: Juan Materno Vásquez

The Committee approved the Resolution which appears on p. 5 of this volume.

C. Suggestions for legal topics of regional interest

Rapporteur: Sergio González Gálvez

Under item VIII of the agenda Dr. Sergio González Gálvez presented a 63-page document on the subject of "Latin America and the Arms Race", which examines the problem and, from page 55, makes suggestions.

The Committee came to no decision on the paper presented, but decided to give it priority at its next session.

D. Settlement of disputes relating to the Law of the Sea

Rapporteur: Elbano Provenzali Heredia

Dr. Elbano Provenzali Heredia, rapporteur for the topic, presented a 28-page paper on the matter.

This paper could not be considered both because of the time pressure and excessive work load of the last meetings and because it was felt that it would be difficult to examine its recommendations in the period immediately following the Conference, in which it was taken for granted that the draft Convention that had been arrived at after eight years of work would be made official and approved.

II. Session of August 1981

A. Jurisdictional Immunity of States

Rapporteur: Alberto Herrarte González

While Dr. Herrarte González was prevented by an accident in his country from attending this session, he did send in his Third Report on the topic. The 24-page document contains a draft organized in 25 articles.

Dr. Aja Espil had the Secretariat prepare a document comparing the rules on this matter contained in a variety of international conventions and the laws of some countries and those proposed in the draft articles presented by the Rapporteur of the Committee.

The topic was extensively discussed by a working group of the Committee consisting of Drs. Aja Espil, Galo Leoro and Juan Materno Vásquez, and by the Committee in plenary session, on the basis of the Rapporteur's report and the aforementioned document.

The discussions focused primarily on the problem of definitions, especially as to the concept of jurisdiction, the questions raised by the consent of States, the distinction between jure imperii and jure gestionis acts, and the characteristics of the rule embodying the concept that immunity may not be waived.

The Committee will continue its study of this topic at its next session.

B. Law Applicable to Cases of Armed Conflict

Rapporteur: Sergio González Gálvez

The rapporteur presented a 25-page document on this subject in which he proposed the preparation of a preliminary draft convention of regional scope to complement, though it would be independent of, the universally applicable instruments approved in the United Nations framework. This draft would limit or prohibit the use of certain conventional weapons that are unusually cruel or indiscriminate in their effects, and should focus particularly on rules that would ensure better protection of civilian populations in armed conflicts.

This topic was not considered by the Committee, though it was given priority for consideration in the session of January 1982.

C. Industrial Property

Rapporteur: Policarpo Callejas Bonilla

On the topic of the Review of Inter-American Conventions on Industrial Property, with particular reference to "invention patents, industrial designs and models, trademarks, retail brands and commercial names", the rapporteur presented a document in which he suggested to the Committee that it consider and study the draft Convention presented to the plenary by the previous rapporteur.

D. Resolutions approved

1. Resolution on a special session of the Inter-American Juridical Committee in the city of Caracas

(See item on Andrés Bello in chapter on "Other Activities")

2. Resolution promoting the establishment of an International Association of Associations of International Law

Dr. Seymour Rubin presented, and the Committee approved, a draft resolution the text of which appears on p. 50 of this volume.

IV

OTHER ACTIVITIES

A. Course in International Law

Since 1974 the Inter-American Juridical Committee has conducted an annual course in international law. The purpose of this course has been to update knowledge and information and to conduct studies and discussions on matters of interest in international relations with a current bearing on the Committee's work in its institutional function of promoting the gradual development and codification of international law in the American Hemisphere.

The course is intensive, with a duration of approximately 30 days, coinciding with the regular August session. It consists of lectures by university professors, jurists and high-ranking diplomats, as well as by the members and secretary of the Committee.

It is attended by professors, officials, diplomats and other government, academic and professional people concerned with the disciplines of interest, who participate under fellowships.

General Assembly Resolution AG/RES. 185 (V-0/75) made the course a permanent activity of the Organization.

The Eighth Course was conducted from 4 to 28 August 1981.

Place, Program and Lectures of the Eighth Course in International Law. This information is contained in the final act of the meeting of August 1981, which begins at p. 52 of this volume.

B. Special Session of the Committee in the City of Caracas and Forum on Andrés Bello

In August 1981 the Committee approved the resolutions which appear on p. 48 of this volume.

V

COMMITTEE BUDGET

The Committee was advised by the Assistant Secretary for Legal Affairs about the adjustments being made in its Program-Budget for the 1982-1983 biennium by the Committee on Program and Budget.

It was informed that the latter Committee had recommended very substantial cuts in its proposed budget which, if ratified by the General Assembly, would very severely impair its normal work and programs, and particularly its annual course in international law, which would have to be discontinued.

The Committee pronounced itself opposed to these readjustments and decided to request the General Assembly to approve the appropriations as requested, which are the minimum amounts that will enable it to perform its functions. The Chairman was authorized to send to the Ministries of Foreign Affairs of the Organization's Member States the telegram which appears in the Final Act of the August 1981 session p. 55 of this volume.

VI

COOPERATIVE RELATIONS

1. Committee observer to the 33rd Meeting of the United Nations International Law Commission, held in 1981

Dr. Jorge A. Aja Espil, designated as the Committee's observer, attended the Commission's meeting in the city of Geneva, and presented his report thereon, in which he included the text of his presentation to that Commission.

The Committee learned with gratification of the reception given to Dr. Aja Espil's presentation to the United Nations Commission.

2. The Committee's Representative to the Inter-American Conference on Extradition

Dr. Elbano Provenzali Heredia presented his report on this meeting which he had attended as the Committee's representative. His report highlighted the Convention approved by the Conference, which also adopted two resolutions on the Committee which appear in the Final Act of the August 1981 session beginning on p. 56 of this volume.

3. Anniversary of the American Society of International Law

The Committee approved the resolution which appears in the final act of the January 1981 session on p. 11 of this volume.

VII

RELATIONS WITH OTHER ORGANS OF THE SYSTEM

The General Assembly has called upon the Committee for the performance of tasks and studies.

In response to a request of the General Assembly, the Committee now has on its agenda an item for "Review of Inter-American Conventions on Industrial Property, with Particular Reference to Invention Patents, Industrial Designs and Models, Trademarks, Retail Brands and Commercial Names" (AG/RES. 234 (VI-0/76) and AG/RES. 308 (VII-0/77)).

The Secretariat for Legal Affairs of the General Secretariat, under the direction of Dr. Tatiana B. de Maekelt, is collaborating in the work of the Committee by preparing background and reference documents on the various topics of its program of work, and also contributing to the organization and holding of the Course in International Law sponsored by the Committee.

VIII

VISITORS TO THE COMMITTEE

1. Visit by Dr. Luis Echeverría, Former President of Mexico

Dr. Luis Echeverría was received at the Committee's headquarters in January 1981.

The Chairman of the Committee welcomed Dr. Echeverría and said it was a high pleasure for the Committee to receive as its guest one of the great men of the Americas. He recalled Dr. Echeverría's successful campaign to secure the approval by the United Nations of the Charter of Economic Rights and Duties of States, and noted that the Committee, too, was linked to his country, for it had been the Second Inter-American Conference, held in Mexico City in 1901 and 1902, that had set in motion the codification of both public and private international law.

The Chairman designated Dr. González Gálvez to greet the illustrious visitor in the name of the Committee. Dr. González Gálvez said he was honored to greet Dr. Echeverría on behalf of an organ whose ultimate purpose was to guarantee peace through law. Dr. Echeverría, he observed, had given new life to the Mexican revolution and, in the international sphere, had achieved the approval in the United Nations of the Charter of the Economic Rights and Duties of States, an important document which, while it did not solve every problem, charted the course for the future. Thereupon, Dr. Echeverría replied that it was a great honor for him to have had such a kindly reception from the Inter-American Juridical Committee, and that this was a most significant point in his current travels through Brazil. He went on to say that ours was a Hemisphere in which colonial ideas still held sway, in which underdevelopment was a fact of life, and in which jurists could contribute to the attainment, through law, of a fairer world in which conflicts could be resolved with justice. This, he said, was a task that involved all of us who belonged to these young christian countries, so that a new world, in which justice prevailed in every sense, could be built in the Americas. He averred that he could not have presented his proposals on the international stage without the contribution of Mexican jurists. He concluded his remarks by reiterating his thanks for his reception by the Committee, urging its members to continue striving in the field of law for the Americas and offering the collaboration of the Center for Third World Economic Studies, which he headed at the time.

2. Visit by Dr. Christopher W. Pinto, Observer from the United Nations International Law Commission

During the first session of 1981 the Committee received a visit by Ambassador Christopher W. Pinto, Chairman of the United Nations International Law Commission, who gave a wide-ranging presentation on the progress of the work of his Commission.

3. Visit by Dr. Luis Herrera Campins, Constitutional President of Venezuela

On August 12, 1981 the Committee met in ceremonial session on the occasion of a visit by Dr. Luis Herrera Campins.

Dr. William R. Douglas, Chairman of the Inter-American Juridical Committee, welcomed the President of Venezuela, who arrived at the premises of the Committee accompanied by his Minister of Foreign Affairs, Dr. José Alberto Zambrano Velasco, and by Dr. José Román Duque Sánchez, member of the Supreme Court of Justice in his country, and other members of his retinue.

Having invited the President to enter the meeting room, Dr. William R. Douglas delivered the speech which appears in the final act of the August 1981 Session beginning on p. 58 of this volume.

Thereafter, Dr. Luis Herrera Campins, made the speech which appears in the final act of the August 1981 session beginning on p. 59 of this volume.

On the conclusion of his speech there was an exchange of ideas and impressions between the President of Venezuela and the Chairman and other members of the Committee.

The members of the Committee were appreciative of the speech, which was received as a great source of encouragement to the work of this organ in the Inter-American System.

4. Visit by Dr. Eduardo Jiménez de Aréchaga

In its session of August 6, the Committee received a visit by the prominent Uruguayan internationalist and former President of the International Court of Justice, Dr. Eduardo Jiménez de Aréchaga, who served as guest professor in the Committee's Eighth Course in International Law.

5. Visity by Ambassador Rafael de la Colina

The Committee had the satisfaction of being visited on August 19 by Ambassador Rafael de la Colina, the Representative of Mexico to the Permanent Council of the OAS, who was in Rio de Janeiro in his capacity as guest professor in the Committee's Course in International Law.

The reception accorded to Ambassador de la Colina in the plenary session gave expression to the high prestige he enjoys in the Americas.

IX

DATE, AGENDA AND RAPORTEURS FOR THE NEXT SESSION

The Committee agreed that the first regular session of 1982 would open on January 11.

There was agreement on approving the agenda for the next session, in the understanding that the items would be dealt with in the order

in which they are listed. The agenda and rapporteurs appear in the final act of the August 1981 session beginning on p.64 of this volume.

Rio de Janeiro, August 20, 1981

EIGHTH COURSE ON INTERNATIONAL LAW

Report Prepared by the Coordinator of the Course

A. BACKGROUND

1. Organization

The Course on International Law has been organized by the Inter-American Juridical Committee. It has had the approval and continuing support of the General Assembly of the Organization of American States. The General Secretariat through its Secretariat for Legal Affairs and Secretariat for Development Cooperation has given continuous assistance in programming and conducting the course. The Getúlio Vargas Foundation, which has its headquarters in Rio de Janeiro, has cooperated in that undertaking by providing facilities and Services.

The first course was held in 1974. Since then, it has continued uninterrupted with notable success.

The courses which are at the post-graduate level, are intensive and include regular lectures and active or group discussion classes where a broad exchange of views takes place between professors and participants. There are also seminars and round table discussions. In addition, working groups are organized to discuss and study specific topics of the program during the courses. Mention should be made, at the teaching level, of the course work accomplished by distinguished professors, magistrates, diplomats, specialists, as well as by the members and the Secretary of the Inter-American Juridical Committee.

The courses are essentially designed to update and give in-depth knowledge and information and to study and discuss topics of special interest in contemporary international law, to promote its development, and recommend the study, formulation or reformulation of legal norms in the inter-American context. Moreover, they are extremely useful in consolidating friendly relations and fostering exchange and cooperation among the participants.

All of the courses, including the Eighth Course, ran for a full four weeks, and were held respectively in September-October of 1974, July-August of 1975, 1976 and 1977, August-September of 1978, July-August of 1979, and August of 1980 and 1981. All of the courses, with the exception of the Fourth Course, held in the auditorium of the Ministry of Finance, took place at the Getúlio Vargas Foundation. The directors of the course prepared the corresponding report on each course. These reports have been included as an appendix to the corresponding volume.

As has been indicated in previous reports, all of the courses have been eminently successful and have been commended most highly in government, university and professional circles.

An important feature of the course which should be pointed out is the active participation of the fellowship students, both during the teaching activities and in the final evaluation thereof, which is in keeping with its post-graduate level.

Generally, a certificate of attendance has been granted to participants who have attended not less than 80 percent of the course activities. A certificate of successful completion has been granted to persons who have demonstrated that they have taken full advantage of the course by answering, on completion of the course, a questionnaire prepared by the professors and course on the topics covered. A certificate of successful completion is also granted to participants who submit a paper on one of the subjects dealt with in the course within 120 days of its completion. This paper must be approved by the director and the professors of the respective subjects.

2. General Assembly resolutions concerning the Course

At its fifth regular session, held in Washington, D.C. in May 1975, the OAS General Assembly adopted, among other resolutions, resolution AG/RES. 185 (V-0/75). That resolution states in paragraph 4: "To accept with satisfaction the initiative of the Inter-American Juridical Committee of organizing the course on international law, and to provide that this activity shall be conducted on a permanent basis through the holding of one such course every year".

At its sixth regular session, held in Santiago, Chile, in June 1976, the General Assembly decided through resolution AG/RES. 235 (VI-0/76): "To congratulate the Committee for organizing and holding the Course on International Law, an activity that has been very useful and important to the member states."

Moreover, at the seventh regular session, held in Grenada in June 1977, the General Assembly, through resolution AG/RES. 309 (VII-0/77), stated that the course "has yielded excellent results and aroused great interest among the member states". Also worth noting is that at its ninth regular session, held in La Paz, Bolivia, the General Assembly, through resolution AG/RES. 450 (IX-0/79), reaffirmed its support for the course on international law "as a significant contribution to the development of law in the inter-American system and to strengthening cooperation among the countries of the system."

B. EIGHTH COURSE, 1981

1. Selection of fellowship students for the eighth course

90 fellowship applications were submitted for the eighth course, held in August 1981. There were candidates from 20 OAS member states. No applications were received from the following countries: Barbados, Dominica, Grenada, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago.

In accordance with the standards governing the Organization's Fellowship Program, the OAS General Secretariat, through a Selection Committee, carefully studied those applications. After calculating the cost of the fellowships, it was decided that 27 fellowships could be awarded. The Selection Committee recommended giving fellowship awards to the best qualified candidates. One fellowship would be awarded for each country. I was also recommended that fellowships be awarded to the seven most qualified candidates from among those remaining.

2. Program

In keeping with established practice, the course director prepared a draft program for the course, which was presented to the Inter-American Juridical Committee at its 1981 January-February meeting for consideration. The Committee studied the draft, introduced certain changes or additions, and finally approved the program for the eighth course at its session of January 30, 1981.

In the program for the eighth Course, the guiding criteria of the sixth course, which is to include topics concerning an introductory or general course in both public and private international law, continued to be applied. Also included for the first time were topics on diplomatic law, to which were dedicated a number of lectures and round table discussions.

At the proper time, copies of the program for the eighth course were forwarded to the fellowship students and other participants along with other information, such as the starting date, location, schedule, and requirements for obtaining certificates. It was also indicated that the practice of organizing working groups would be continued and the topics for those working groups were given. In this connection, the candidates were asked, when filling out their fellowship applications, to indicate specifically the working group in which they wished to participate. This documentation was sent via air mail to all the selected fellowship students.

3. Inaugural session of the Eighth Course

On the morning of August 4, 1981, the inaugural session of the Eighth Course on International Law was held in the auditorium of the Getúlio Vargas Foundation in Rio de Janeiro.

Chairing the session was Sir William R. Douglas, Chairman of the Inter-American Juridical Committee. Attending, in addition to the professors, fellowship students, and other participants, were Dr. Luiz Simões Lopes, President of the Getúlio Vargas Foundation; Dr. Tatiana B. de Maekelt, Assistant Secretary for Legal Affairs of the OAS General Secretariat, representing the Secretary General; Dr. Afonso Arinos de Melo Franco, Director of the Instituto de Direito Público e Ciência Política (Institute of Public Law and Political Science - INDIPO) of that Foundation; Drs. Haroldo T. Valladão, Gonzalo Ortiz Martín and Galo Leoro Franco, members of the Inter-American Juridical Committee; Dr. Ilmar Penna Marinho, Ambassador of the Federal Republic of Brazil and Dr. Francisco Costa Neto, representative of the Lawyers Association of Brazil. Also attending as special guests were: Mr. Robert Everett, consul general of Great Britain; Dr. Roberto Kaathan, consul general of

Honduras; Dr. Juan Carlos Jordán, consul of Guatemala; Dr. Alexander Cuevas, consul of Panama, Dr. Gil Darío Colman, consul general of Paraguay; Sr. Cecil Carlyle Alleyne, consul of Trinidad and Tobago; Mayor de Souza Ferreira, representative of the governor of the State of Rio de Janeiro; Mr. Marado Davmec, representative of the Inter-American Development Bank, and Professor Raymundo Cândido. Also present were Miss Myriam Goulart of the Getúlio Vargas Foundation; Dr. Renato Ribeiro, secretary of the CJI; Dr. Heber Arbuét Vignali, Course Assistant, and Dr. Isidoro Zanotti, one of the professors of the course, who was Director of the first five CJI courses on international law held from 1974 to 1978, and now Course Coordination Assistant.

As Chairman of the CJI, Sir William R. Douglas inaugurated the eighth course and extended a welcome to the participants. Immediately following were addresses by Dr. Afonso Arinos de Melo Franco, Director of the INDIPO, and Dr. Tatiana B. de Maekelt, on behalf of the OAS Secretary General, Ambassador Alejandro Orfila.

Next, Dr. Renato Ribeiro, Secretary of the CJI, gave a lecture prepared by the distinguished member of the CJI, Dr. Alberto Herrarte González on the topic "American jurists: Adolfo Molina Orantes", as the author was unable to attend due to circumstances beyond his control.

The working meetings were also started on the morning of August 4. Dr. Maekelt and Drs. Zanotti and Arbuét explained to the fellowship students and other participants of the course the requirements for obtaining the certificates of attendance or successful completion and reported to them on the conditions, systems, and methods under which the various activities, lectures, seminars, round table discussions, working groups, and other activities related to the Eighth Course would be conducted.

4. Headquarters

The Eighth Course was held at the headquarters of the Getúlio Vargas Foundation, Praia de Botafogo, 190, Rio de Janeiro. The opening sessions and morning lecture sessions and round table discussions took place in the auditorium on the 14th floor. The afternoon lectures, the meetings of working groups, seminar sessions, and round table discussions were held in the auditorium and classrooms on the third floor of the Foundation.

The Eighth Course ran for a period of four full weeks, from August 3 through 28, 1981, and sessions were held from Monday to Friday from 9:00 a.m. to 12:30 p.m. and from 1:30 p.m. to 2:30 p.m.

5. Professors

Lectures for this Eighth Course were given by members and the Secretary of the Inter-American Juridical Committee and specialists in the respective subjects discussed; university professors; magistrates, diplomats, and specialized professionals of the Secretariat for Legal Affairs. Their contribution has made it possible to maintain the excellent level achieved by the Course over the years.

The list of lecturers follows:

Professors

Sir William R. Douglas (Barbados)
Chairman of the Inter-American Juridical Committee (CJI)
President of the Supreme Court of Justice

Prof. Haroldo Valladao (Brazil)
Member of the CJI
Professor of private international law

Ambassador Alberto Herrarte González (Guatemala)
Member of the CJI

Ambassador Jorge A. Aja Espil (Argentina)
Member of the CJI
Professor at the Law School of Buenos Aires

Professor Seymour J. Rubin (U.S.A.)
Member of the CJI
Executive Director of the American Society of International
Law

Dr. Juan Materno Vásquez (Panama)
Member of the CJI

Dr. Sergio González Gálvez (Mexico)
Member of the CJI

Dr. Elbano Provençal Heredia (Venezuela)
Vice-Chairman of the CJI

Dr. Gonzalo Ortiz Martín (Costa Rica)
Member of the CJI

Dr. Tatiana B. de Maekelt (Venezuela)
Assistant Secretary for Legal Affairs of the General
Secretariat of the OAS

Dr. Didier Opertti Badán (Uruguay)
Director of the Office of Development and Codification of
International Law, Secretariat for Legal Affairs of the OAS

Dr. Eduardo Jiménez de Aréchaga (Uruguay)
Former President of the International Court of Justice
Professor of public international law at the University of the
Republic

Dr. Policarpo Callejas Bonilla (Honduras)
Member of the CJI

Ambassador Galo Leoro Franco (Ecuador)
Member of the CJI

Ambassador Rafael de la Colina (Mexico)
Permanent Representative of Mexico to the OAS

Dr. Francisco García-Amador
Professor of the University of Miami Law School

Dr. Lorne Clark (Canada)
Director of the Legal Division of the Ministry of Foreign
Affairs of Canada

Dr. Gonzalo Biggs (Chile)
Attorney in the Legal Department of the Inter-American
Development Bank

Dr. Roberto McLean Ugarteche (Peru)
Professor of private international law at the University of
San Marcos

Dr. Antonio Cançado Trindade (Brazil)
Professor of international law at the University of Brasilia
and at the Rio Branco Institute of the Ministry of Foreign
Affairs

Dr. Renato Ribeiro (Brazil)
Secretary of the Inter-American Juridical Committee

Dr. Isidoro Zanotti (Brazil)
Former Assistant Director of the Department of Legal Affairs
of the OAS General Secretariat
General Rapporteur and member of the Council of the Inter-
American Bar Association

Dr. Enrique Lagos (Chile)
Attorney in the Office of Development and Codification of
International Law of the OAS General Secretariat

Dr. Herber Arbuét Vignali (Uruguay)
Professor of public international law of the University of the
Republic

In addition, Drs. Piza Escalante, Prado Vallejos and Morales Hernández were invited to participate as professors, but due to circumstances beyond their control they were unable to travel to Rio de Janeiro, to give their lectures.

6. Coordination and administration of the Eighth Course

Coordination and administration for the Eighth Course were the responsibility of Dr. Tatiana B. de Maekelt, Coordinator of the Course, and Drs. Didier Opertti, Isidoro Zanotti, and Heber Arbuét, to whom reference has been made in the list of course professors.

7. Fellowship students and other participants

Twenty-seven fellowship students from the Organization of American States, selected on the basis of strict criteria from among nearly 90 candidates who submitted their fellowship applications, participated

in the eighth course on international law. Three fellowship students from Nicaragua, Venezuela and the United States of America were unable to travel to Rio de Janeiro to participate in the course. In addition to the fellowship students, a limited number of participants sent by government institutions in their respective countries or attending at their own expense, were admitted. Among these latter participants, four were admitted by the Institute of Public Law and Political Science (INDIPO) of the Getúlio Vargas Foundation and eight, two of which had been selected as alternate fellowship students but participated at their own expense were admitted by the Coordinator of the Course on International Law.

Below is a list of the OAS fellowship students and other participants in the Eighth Course.

Participants

A - OAS fellowship students

Mónica Pinto Kobelinski
Buenos Aires, Argentina

Jorge Omar Ireba
La Plata, Argentina

Eulalio Medina Eguez
La Paz, Bolivia

Clotildes Maria Amarin Borges
Fortaleza, Ceará, Brazil

Efthimia A. Zazopulos Salas
Santiago, Chile

María Isabel Volochinsky Weinstein
Santiago, Chile

Fernando Solarte Z
Popayán, Colombia

Juan Ignacio Mata Centeno
San José, Costa Rica

María de Lourdes Rodríguez de Alvear
Quito, Ecuador

Ossman Morán Cárdenas
Guayaquil, Ecuador

Martha Yolanda Salazar
San Salvador, El Salvador

Robert S. Barker
Pittsburg, Pennsylvania, U.S.A.

Francisco Rolando Velázquez González
Guatemala, Guatemala

Marie Chantale Laurent Milord
Port-au-Prince, Haiti

H. Humberto Mayorga
Tegucigalpa, D.C., Honduras

Antonio Maldonado y Huerta
Polanco, México, D.F.

Roberto Leyton
Washington, D.C. U.S.A.

Pedro Emilio Zulin Rojas
Asunción, Paraguay

Dora María de los Angeles Salazar
Lima, Perú

Guilma Luisa Romero Mendoza
Lima, Perú

Rafael Darío Coronado Cartacio
Santo Domingo, República Dominicana

Felix Pittier
Montevideo, Uruguay

Stella Otamendi
Montevideo, Uruguay

Héctor Rivero García
Caracas, Venezuela

B - Participants admitted by the Institute of Public Law and
Political Science of the Getúlio Vargas Foundation

Sergio de Aquino Vidal Gomes
Rio de Janeiro, Brazil

Henock Guimaraes García
Rio de Janeiro, Brazil

Carlos Humberto Castello Branco Diniz
Rio de Janeiro, Brazil

Gildo Wichers Lopes
Rio de Janeiro, Brazil

C - Participants admitted by the Coordinator of the Course
on International Law

Edgardo R. Redruello
Buenos Aires, Argentina

Ayda Vega de Coll
Sucre, Bolivia

Marco Vinicio Vargas
Brasília, Brazil

Nélida Susana Rivero González
Montevideo, Uruguay

Yeda Monteiro
Rio de Janeiro, Brazil

Sergio Perrini Bodart
Rio de Janeiro, Brazil

Fernando Trigueiro Vieira Ribeiro
Rio de Janeiro, Brazil

Margaret Mary Cahill
Washington, D.C. U.S.A.

8. Lectures and professors

The information concerning the lectures given and the professors who participated appears at p. 6 et seq. of this volume.

9. Working groups

To gain further knowledge and information and also to provide a means whereby professors and fellowship students may together study specific topics, working groups have been organized, as of the Third Course, to study and discuss specific legal problems that have special relevance in the inter-American sphere and to formulate conclusions, recommendations, or proposals in the interest of promoting legal progress and development.

During the Eighth Course, this method was also adopted. By way of preparation, the Coordinator of the Course informed the applicants, when reporting to them on the fellowships for that course, of the working groups to be established and the respective topic of each. They were also told when filling out their applications that they should indicate the working group in which they wished to participate.

The working groups have been fully supported by the Coordinators of the Course and the professors who gave guidance and instructions to the various groups. In addition, the Getúlio Vargas Foundation provided material support to the groups. Four working groups were organized at the Eighth Course. Each of these designated its coordinator and its rapporteur. During the four-week course, the groups met in the afternoon, studied the respective topics in detail, did research, and drafted their reports, which contain conclusions, recommendations, and proposals.

Working groups were organized for the following topics under the program. All are directly related to matters of interest in contemporary inter-American relations.

- Group A: Fundamental principles and norms of International Humanitarian Law.
- Group B: Current problems in the world related to energy and their political and legal implications, especially within the Inter-American System.
- Group C: Principal legal problems of inter-American relations, possible solutions in the final decades of the Twentieth Century.
- Group D: Bases of international jurisdiction in private international law.

The activities of all the working groups which culminated in the presentation of reports, proved to be very satisfactory.

10. Distribution of documents

To complement the teaching activities conducted at lectures, the round table discussions and seminars, written versions of a number of lectures given, outlines prepared by the professors, and other documents and technical information related to the agenda for the course were distributed among the participants during the course. The working groups received the library materials and any available documentation on their topics.

11. Publication of the texts of lectures

A major contribution to legal thought and specialized bibliography is being made through the publication of texts of lectures given at the courses and the reports and recommendations on the various topics.

The texts of the lectures and of the reports have been published in the series OEA/Ser.Q/V with the additional symbol CJI:

First course	1974	CJI-26	334 pages
Second course	1975	CJI-28	448 pages
Third course	1976	CJI-30	595 pages
Fourth course	1977	CJI-34	579 pages
Fifth course	1978	CJI-38	630 pages
Sixth course	1979	CJI-40	630 pages
Seventh course	1980	CJI-44	623 pages

Lectures given at the Eighth Course will be published by the General Secretariat in a new volume of this series.

12. Topics and other suggestions for the ninth course

On August 26 a special session was held to evaluate the course and make suggestions for future courses.

With regard to the method used by the professors and the technique of the work in groups, more frequent use of the method of participation in its various active forms was recommended as in prior years. This would generate greater attention and interest from the students. With regard to the working groups, it was recommended that they should have a permanent Director who would give the necessary guidance in the preparation of their studies and reports. The benefits obtained by the participants from their experience in the working groups were also stressed.

There was general agreement that the Coordinators of the Course should distribute the largest possible number of texts of documents and bibliography on the program for each course. It was observed that since one of the objectives of the course is to update knowledge and information on subjects of contemporary international law, the OAS would be well advised to provide its participants with OAS documents and publications related to or concerning the topics under the program, and, if necessary, to publish any new documents that might be necessary for that purpose. It was also stated that by providing those publications and documents the OAS will be offering a direct informational service to the member states.

It was stressed moreover, that the practice of devoting a part of the course to the study of public international law, part to private international law and part to the study of international relations and the Inter-American System, as a basic frame of reference should be continued. Furthermore, it was suggested that the specific study of topics of major practical importance in the area of diplomatic law be increased. The observation was made that the inclusion of topics on international relations would not alter the basic orientation of the course, which would continue to be basically legal and would be generally addressed to specialists in international law.

The participants indicated their satisfaction with the tendency demonstrated in the recent courses to develop concrete thematic units, which allows for the in-depth study of certain areas and facilitates preparation and completion of the exam for the certificate of approval. It was also suggested that the participants be informed in a more detailed and precise manner of the nature of the evaluation, which would most likely increase the number of fellowship students who take the exam.

Other participants underlined the advantage of maintaining the external means of achieving the certificate of approval by submitting a monograph.

13. Association of Graduates of the Course on International Law

The Association of Graduates, founded in 1976 during the third course, has provided valuable assistance to the participants and its work has been highly appreciated. The Association also effectively collaborated in the Eighth Course in 1981 by assisting the participants in social activities and sustaining the importance of the continuity of the course as a contribution to better inter-American knowledge and understanding.

14. Written exam

In accordance with the criteria established at the Seventh Course, 1980, also adopted in the Eighth Course, the participants who wished to obtain the certificate of approval in the course were to elect one of the following options: 1) satisfactory performance on a questionnaire drawn up by the coordinators with the collaboration of the professors of the course which covers 10 questions on topics treated in the lectures. This exam is taken in the final phase of the course; 2) Presentation of a written work to the coordinators of the course within four months following its conclusion. The work must be a study especially prepared for the course on a topic of the corresponding program and should indicate that the student has taken full advantage of the course. If the work is judged to be satisfactory a certificate of approval is awarded.

Seven participants in the Eighth Course took the written exam which was given on August 27, 1981. A questionnaire on public international law and one on private international law, each containing ten questions, were distributed. Each participant was given the option to answer seven questions from one questionnaire and three from the other, depending upon his or her preference for one branch of the law or the other.

The students were informed that the results of the exam would be made available upon an evaluation to be carried out by the professors and the coordinators of the course.

15. Closing session and award of certificates of attendance

On the morning of August 28, 1981, the closing session for the Eighth Course on international law was held, chaired by Dr. Elbano Provenzali Heredia, Vice Chairman of the Inter-American Juridical Committee. The following persons spoke: Professor Didier Opertti, representing the General Secretariat of the OAS; Professor Afonso Arinos de Melo Franco, director of the Institute of Public Law and Political Science of the Getúlio Vargas Foundation; Dr. Fernando Solarte, fellowship student from Colombia, on behalf of the participants in the Eighth Course; and Dr. Elbano Provenzali Heredia, on behalf of the Inter-American Juridical Committee. The secretariat of the CJI was represented at the closing session by Mrs. Maria Helena Lopes, staff member of the secretariat.

At the end of the session certificates of attendance were distributed to the participants, who are listed in another section of this report.

16. Final observations

Like its predecessors, the Eighth Course enjoyed great success. The professors, fellowship students and other participants all agreed that the course has acquired significance and prestige and that it is necessary to maintain and strengthen it as it is particularly useful to the member states of the OAS. It was also stressed that the excellent results achieved represent a direct service to the States through the

fellowship students, given the importance of the subjects discussed, the quality of the studies prepared, the methodology employed and the effectiveness with which the course has been organized and conducted. Furthermore, there was agreement among the professors and other participants that the course is a very effective means of fostering cooperative relations among law professors, diplomatic and other high-level government officials, practicing lawyers and members of the judiciary, noting the progressive improvement as one of the qualities of the course.

It has also been stated that persons from those groups coming from the member states to participate in the course are the ones who have made and can continue to make a major contribution in promoting the development and strengthening of inter-American relations in the legal sphere towards maintenance of the peace and cooperation for economic and social progress in the Americas.

The Coordinador of the Course wishes to take this opportunity to recommend that the Course on International Law be continued and strengthened and that necessary resources be provided toward this end, in that the course is an activity that is undeniably, particularly useful and valuable for the member states of the Organization of American States.

September 1981

Tatiana B. de Maekelt
Coordinator of the Course

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THE ORGANIZATION OF AMERICAN STATES

The purposes of the Organization of American States (OAS) are to strengthen the peace and security of the Hemisphere; to prevent possible causes of difficulties and to ensure the pacific settlement of disputes that may arise among the member states; to provide for common action on the part of those states in the event of aggression; to seek the solution of political, juridical, and economic problems that may arise among them; and to promote, by cooperative action, their economic, social, and cultural development.

To achieve these objectives, the OAS acts through the General Assembly; the Meeting of Consultation of Ministers of Foreign Affairs; the three Councils (the Permanent Council, the Inter-American Economic and Social Council, and the Inter-American Council for Education, Science, and Culture); the Inter-American Juridical Committee; the Inter-American Commission on Human Rights; the General Secretariat; the Specialized Conferences; and the Specialized Organizations.

The General Assembly holds regular sessions once a year and special sessions when circumstances warrant. The Meeting of Consultation is convened to consider urgent matters of common interest and to serve as Organ of Consultation in the application of the Inter-American Treaty of Reciprocal Assistance (known as the Rio Treaty), which is the main instrument for joint action in the event of aggression. The Permanent Council takes cognizance of matters referred to it by the General Assembly or the Meeting of Consultation and carries out the decisions of both when their implementation has not been assigned to any other body; monitors the maintenance of friendly relations among the members states and the observance of the standards governing General Secretariat operations; and, in certain instances specified in the Charter of the Organization, acts provisionally as Organ of Consultation under the Rio Treaty. The other two Councils, each of which has a Permanent Executive Committee, organize inter-American action in their areas and hold regular meetings once a year. The General Secretariat is the central, permanent organ of the OAS. The headquarters of both the Permanent Council and the General Secretariat is in Washington, D.C.

The Organization of American States is the oldest regional society of nations in the world, dating back to the First International Conference of American States, held in Washington, D.C., which on April 14, 1890, established the International Union of American Republics. When the United Nations was established, the OAS joined it as a regional organization. The Charter governing the OAS was signed in Bogotá in 1948 and amended by the Protocol of Buenos Aires, which entered into force in February 1970. Today the OAS is made up of thirty-one member states.

MEMBER STATES: Antigua and Barbuda, Argentina, The Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay, Venezuela.

