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Isidoro I. Zanotti

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## REGIONAL & INTERNATIONAL ACTIVITIES\*\*

ISIDORO ZANOTTI\*

### ORGANIZATION OF AMERICAN STATES

#### *General Assembly*

The fifth extraordinary session of the General Assembly of the Organization of American States (OAS) which was held in Washington, D.C. from December 12 through 15, 1977 approved the Program-Budget of the Organization for the 1978-79 biennial. The Assembly indicated that the 1979 budget might be revised at a future date should adoptions or changes become necessary.

#### *Inter-American Juridical Committee*

The Inter-American Juridical Committee opened a regular session in early January which was scheduled to last four or five weeks. The Committee had five priority topics on its agenda for the session: Revision and updating of inter-American conventions on industrial property; legal aspects concerning cooperation in the field of transfer of technology; general standards on private international law; and the principle of self-determination and its field of application.

#### *Fifth Course on International Law*

The Course on International Law, a permanent activity of the Inter-American Juridical Committee,<sup>1</sup> is organized and held with the collaboration of the Department of Legal Affairs of the OAS General Secretariat, the OAS Fellowship Program, and the Getúlio Vargas Foundation of Rio de Janeiro.

The objectives of the Course are the advanced training, updating and discussion of specific topics of international law for those persons whose work, at the governmental, academic, or professional level, is related to international law.

The Fifth Course, which will continue for four weeks, begins on August 7, 1978. The main topics will be: The Inter-American System; inter-oceanic canals including the new treaties on the Panama Canal; procedures for the peaceful settlement of international disputes; principles, standards and institutional aspects of inter-American cooperation for development; nuclear law; the new international economic order and its impact on the inter-

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\*Dr. Zanotti is Deputy Director, Department of Legal Affairs of the General Secretariat of the Organization of American States in Washington, D.C. He is the regular contributing editor to the *Lawyer* for this report.

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

1. Pursuant to resolution AG/RES. 185 (V-0/75) adopted by the OAS General Assembly in May 1975, the Course on International Law is a permanent activity of the Inter-American Juridical Committee.

American relations; topics for the Second Inter-American Specialized Conference on Private International Law (CIDIP-II), such as recognition and enforcement of foreign judicial judgments and arbitral awards; proof of foreign law; conflicts of law concerning corporations.

### THE NEW TREATIES ON THE PANAMA CANAL

On September 7, 1977, the new treaties and other documents relating to the Panama Canal were signed by O. Torrijos, President of the Republic of Panama, and Jimmy Carter, President of the United States of America. The ceremony, held at the House of the Americas, the Headquarters of the General Secretariat of the Organization of American States in Washington, D.C., was attended by representatives of all of the American countries, most of whom were Heads of State or Government. Countries from outside the Americas were also represented. The signing of the treaties opens new horizons for the relations between the Republic of Panama and the United States and, contributes to the strengthening of the Inter-American System.

The following documents relating to the Panama Canal were signed at Washington, D.C. on September 7, 1977:<sup>2</sup>

- (1) Panama Canal Treaty;
- (2) Treaty concerning the Permanent Neutrality and Operation of the Panama Canal;
- (3) Protocol to the Treaty concerning the Permanent Neutrality and Operation of the Panama Canal;
- (4) Documents implementing the Panama Canal Treaty;
  - (a) Agreement, with Annexes, in implementation of Article III of the Treaty
  - (b) Agreement, with Annexes, in implementation of Article IV of the Treaty.
- (5) Declaration of Washington;
- (6) other agreements, maps and exchanges of notes on different matters.

A synopsis of some of the provisions of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal follows.

#### *The Panama Canal Treaty*

The new Treaty contains fourteen articles, dealing with the following major topics: Abrogation of prior treaties and establishment of a new relationship; ratification, entry into force and termination; Canal operations and management; protection and defense; principle of non-intervention; protection of the environment; flags; privileges and immunities; applicable

<sup>2</sup> The complete texts of all documents relating to the Panama Canal signed at Washington, D.C. on September 7, 1977, appear in *International Legal Materials*, Volume XVI, Number 5, September 5, 1977.

laws and law enforcement; employment with the Panama Canal Commission; provisions for the transition period; a sea-level canal or a third lane of locks; property transfer and economic participation by the Republic of Panama; settlement of disputes.

Paragraph one of Article I provides that, upon its entry into force, the Treaty terminates and supersedes: (a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903; (b) the Treaty of Friendship and Cooperation, signed at Washington, March 2, 1936, and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955, between the two countries; (c) all other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of the new Treaty; (d) provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between these two countries which were in force prior to the entry into force of the new Treaty.

In paragraph 2, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of the Treaty, the rights necessary to regulate the transit of ships through the Panama Canal and to manage, operate, maintain, improve, protect, and defend the Canal. The Republic of Panama guarantees to the United States the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to the Treaty and related agreements. Paragraph 3 states that Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in the Treaty. Both countries, according to paragraph 4, shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

Article II establishes that the Treaty is subject to ratification, and provides that the instruments of ratification shall be exchanged at Panama at the same time as the instruments ratifying the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed the same date as the Treaty, are exchanged. The Panama Canal Treaty and the Treaty on Permanent Neutrality and Operation of the Panama Canal will enter into force six calendar months from the date of the exchange of the instruments of ratification. The Treaty shall terminate at noon, Panama time, December 31, 1999.

General standards for the Canal operation and management are contained in Article III. In paragraph 1, Panama, as territorial sovereign, grants to the United States the right to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States accepts the grant of such rights and undertakes to exercise them in accordance with the Treaty and related agreements. Paragraph 3 provides that the United States, pursuant to the grant of rights set forth in paragraph 1, shall carry out its responsibilities by means of a United States

Government agency called the Panama Canal Commission, which shall be constituted by, and in conformity with, the laws of the United States. The Panama Canal Commission is to be supervised by a Board composed of nine members, five of whom are to be United States nationals, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States in a timely manner. A national of the United States shall be the Administrator of the Panama Canal Commission and a Panamanian national shall be the Deputy Administrator through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the United States shall occupy the position of Deputy Administrator; such Panamanian nationals shall be proposed to the United States by the Republic of Panama for appointment to such positions by the United States.

Under paragraph 7 of Article III, the United States and Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of both countries. This Committee shall advise both countries on matters of policy affecting the Canal's operation.

The protection and defense of the Canal is provided for in Article IV, which contains five paragraphs. Both the United States and Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it. For the duration of the Treaty, the United States shall have the primary responsibility to protect and defend the Canal. The rights of the United States to station, train, and move military forces within the Republic of Panama are described in the, "Agreement in Implementation of Article IV." In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States and Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party.

The principle of non-intervention is spelled out in Article V, which stipulates that those employees of the Panama Canal Commission, their dependents and designated contractors who are nationals of the United States, shall respect the laws of Panama and shall abstain from any activity incompatible with the spirit of the Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama.

In Article VI, both countries commit themselves to implement the Treaty in a manner consistent with the protection of the natural environment of Panama. A Joint Commission on the Environment is to be established with equal representation from both countries.

The display of flags is provided for in Article VII. The entire territory of the Republic of Panama, including the areas which Panama makes

available to the United States pursuant to the Treaty and related agreements, are to be under the flag of the Republic of Panama. Consequently, such flag shall occupy the position of honor. The flag of the United States may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, and at the site of the Combined Board. The flag of the United States also may be displayed at other places and on some occasions, as agreed by both Parties.

Article IX, in its eleven paragraphs, contains general standards relating to the applicable laws and law enforcement.

Article XIV provides for the settlement of disputes. In the event that any question should arise between the two Parties concerning the interpretation of the Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to the Treaty and related documents, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

*Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal*

This Treaty contains seven articles and an Annex. It is provided that the Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in the Treaty. The same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of Panama. The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. Certain requirements not included here, are established for this purpose.

In Article IV the United States and Panama agree to maintain the regime of neutrality established in the Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Parties. After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites, and military installations within its national territory.

It is also stated in the Neutrality Treaty that in recognition of the important contributions of the United States and of Panama to the construction, operation, maintenance, and protection and defense of the Canal,

vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of the Treaty, be entitled to transit the Canal irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal expeditiously.

The United States and Panama shall sponsor a joint resolution in the Organization of American States opening to accession, by all nations of the world, the Protocol to the Neutrality Treaty. The Treaty is subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of the Neutrality Treaty shall be exchanged at Panama at the same time the instruments of ratification of the Panama Canal Treaty are exchanged. The Neutrality Treaty and the Panama Canal Treaty enter into force six calendar months from the date of the exchange of the instruments of ratification.

#### *Declaration of Washington*

This declaration was signed by various representatives of the American Republics and of other states on September 7, 1977 at the ceremony for the signature of the Panama Canal Treaty, and the Treaty concerning Permanent Neutrality and Operation of the Panama Canal. The purpose of the Declaration was to record the profound satisfaction of these representatives with the signing of the Treaties.

On March 16, 1978 the United States Senate gave its advice and consent to the Neutrality Treaty by a 68 to 32 margin. The Panama Canal Treaty received the advice and consent of the Senate by the same margin on April 18, 1978.

## NUCLEAR LAW

#### *Special Legal Committee of CIEN*

The Special Legal Committee of the Inter-American Nuclear Energy Commission (CIEN), an agency of the OAS, held a significant meeting in Caracas, Venezuela, from November 28 to December 2, 1977. This was its ninth meeting.

The member states of the Committee are: Argentina, Brazil, Chile, Colombia, Mexico, United States, Uruguay and Venezuela. With the exception of Mexico, all of the member states were represented at the meeting.

The Chairman of the Committee is Dr. Carlos Alberto Dunshee de Abranches, and the Technical Secretary is Dr. Isidoro Zanotti, both are Brazilian jurists. The Committee's Program of Work contains several topics, some of which were recommended by CIEN at its tenth meeting held in Lima, Perú, in July 1977.

#### *Comparative Study of Nuclear Legislation*

The Committee first took up the comparative study of legislation on the peaceful uses of nuclear energy in the American states and other selected

countries. It used as a working document a study prepared by the Department of Legal Affairs of the OAS General Secretariat, with the collaboration of the Committee's Technical Secretary. The main topics of the study are: Competent official agency, prospecting, exploration, and use of nuclear ores and minerals; possession, ownership, use and transport of nuclear materials and facilities; civil liability and financial protection for nuclear damage; patents and inventions; summary and conclusions.

The Chairman of the Committee stressed the importance of the comparative study to the member states of the OAS, especially for their agencies or institutes conducting energy programs, and other national institutions, law schools, and international organizations. He added that the study was highly useful for comparing nuclear legislation of different countries and for studies aimed at coordinating or harmonizing basic legal standards on the peaceful uses of nuclear energy.

The Committee discussed the comparative study at length and recommended that the OAS Department of Legal Affairs, in collaboration with the Technical Secretary of the Committee, organize and maintain up-to-date information concerning the texts of the legislation on nuclear energy in the American states; program, organize and prepare updated editions of the comparative study; organize and prepare an updated edition of the publication entitled, "Legislation on Nuclear Energy in the American States;" prepare and keep up-to-date a document containing information on the status of the ratification of multilateral conventions on peaceful uses of nuclear energy.

*Study of Legal Measures Governing Radiation Safety in the Peaceful Uses of Nuclear Energy*

The Committee had before it the second revised edition of the "Study of Legal Measures Governing Radiation Safety in the Peaceful Uses of Nuclear Energy," prepared by the Department of Legal Affairs of the OAS. This study contains the following main parts: (1) The need for measures governing radiation, protection and safety; (2) standards for radiation of the International Commission for Radiation Protection; (3) standards of other organizations; (4) national standards; (5) national radiation protection systems; (6) Latin American countries; (7) the United States:

- (a) The Energy Research and Development Administration;
  - (b) The Nuclear Regulatory Commission: source materials, fissionable materials, byproduct materials, nuclear installations, individual operators, general provisions on licenses, revocation of licenses, penalties, cooperation with the States;
- (8) laws of selected other countries:
- (a) Canada;
  - (b) France;
  - (c) West Germany;
  - (d) Spain;
  - (e) Italy;



- (f) Japan;
- (g) United Kingdom.

It was recalled that the study's conclusions point out that the topic of radiation safety and protection calls for a special legal system in order to ensure, among other things, adequate health protection for workers and the public in general. It is also stated in these conclusions that, for the sake of harmonization, the standards to establish permissible levels of radiation should take into account the recommendations made by various international organizations specializing in this subject, such as the International Commission for Radiation Protection, the International Atomic Energy Agency and similar institutions. It stressed the advisability of creating or organizing a system of government-granted authorizations or licenses, as a means of providing an adequate guarantee of protection against radiation.

The study concluded that the special risks involved in the transportation of nuclear combustibles and other radioactive materials make it necessary to impose certain requirements on consignors for crating, packing and labels, and on carriers for handling procedures and measures to be taken in case of accident.

After considering this topic on radiation safety and protection, the Committee decided to request that the Executive Secretariat of CIEN ask the national nuclear energy commissions or institutes of the member states of the OAS send to the Secretariat their observations and additions, if needed, to the above mentioned study. The Committee requested that the OAS Department of Legal Affairs, in collaboration with the Committee's Technical Secretary, prepare the third edition of the study and circulate it among the governments of the member states of the OAS, and among the various national nuclear energy commissions. The Committee also recommended that CIEN suggest to the governments of the member states that they consider the feasibility of applying the recommendations which are contained in the study. The Committee also decided to include in its Program of Work a topic on the harmonization of the basic safety standards in Latin America with respect to the peaceful uses of nuclear energy.

It should be noted that an expert on nuclear law, Dr. William Mitchell, former General Counsel of the U.S. Atomic Energy Commission, has cooperated with the OAS Department of Legal Affairs in the preparation of the above mentioned studies.

#### *Legal Measures Governing Physical Protection of Nuclear Installations and Materials*

This topic was included on the Committee's Work Program at the recommendation of CIEN adopted at its meeting in Lima, July 1977.

This is a very important and timely problem that should be carefully studied and measures should be adopted to protect nuclear installations and materials. The more advanced countries in this field have already taken care of this problem and have adopted pertinent laws and regulations. The representatives of the United States provided extensive information on this matter.

It was recalled that the International Atomic Energy Agency is preparing studies and a draft international convention on this topic. It was suggested that the Committee examine the possibility of preparing a draft inter-American convention on the subject.

A suggestion was made that the representatives of the Committee's member countries in which laws or regulations on physical protection of nuclear installations and materials had been enacted provide the Executive Secretariat of CIEN with the relevant texts, for referral to the other members of the Committee.

The Committee decided that a detailed study of this topic would be conducted at the Committee's next meeting, so as to enable them to make appropriate recommendations to CIEN.

#### *Unpatented commercial or financial information*

This matter had not been taken up at the Committee's previous meetings, and it aroused special interest. The representatives of the United States presented various items of information regarding the regulations, agencies and criteria adopted in their country.

After a lengthy discussion, the Committee decided that model standards should be prepared, which could be included in the agreements concluded between member states for exchange of technical information on the peaceful uses of nuclear energy. These standards could make provision for adequate protection of any financial or commercial information of a privileged or confidential nature which is not subject to patent law. The members of the Committee were asked to provide the Technical Secretariat with any documents, information or other material they felt could be useful in preparing model standards on the subject.

#### *Civil liability for nuclear damages*

This topic had been extensively studied in previous meetings of the Committee, especially during the years from 1962 to 1967. During those years the Committee prepared alternative texts of an inter-American Convention on Civil Liability for Peaceful Uses of Nuclear Energy, which was based to a certain extent on the 1963 Vienna Convention on Civil Liability for Nuclear Damages.

The Chairman of the Committee was appointed Rapporteur for this topic. The Committee also created a Working Group composed of the Rapporteur and the representatives of four member countries of the Committee, in order to review the studies and drafts already made and carry out further studies on the subject.

#### *Other matters taken up by the Committee*

Acting on a recommendation by CIEN, the Committee considered it highly important to maintain close cooperative relations with the legal offices of the International Atomic Energy Agency (IAEA), the Nuclear Energy Agency of the Organization for Economic Cooperation and

Development (OECD), the Agency for the Prohibition of Nuclear Weapons in Latin America (OPANAL), the Cartagena Agreement, the Latin American Free Trade Association (LAFTA), the Central American Common Market, the Latin American Energy Agency (OLADE) and the Institute for Latin American Integration (INTAL).

The Committee decided to request the Executive Secretariat of CIEN to send to these agencies the Report of the ninth meeting and also copies of documents dealing with topics of its Work Program once these are updated, in order to obtain from the respective legal offices any comments and information they consider appropriate.

On another matter, the Committee took note with satisfaction of the work done by Committee XX of the Inter-American Bar Association in the preparation of model draft laws on the peaceful uses of nuclear energy and on civil liability and financial protection for nuclear damage. The Chairman of Committee XX is Dr. William Mitchell, an expert on nuclear law.

Finally, the Committee recommended to CIEN that it admit Peru as a new member of the Committee, and requested the Technical Secretariat to prepare a draft of new Rules of Procedure for the Committee. The next meeting of the Committee will be held toward the end of 1978. The definitive date will be established by the Executive Secretary of CIEN in consultation with the Chairman and the other members of the Committee.

## UNITED NATIONS

### *International Law Commission*

The United Nations International Law Commission (ILC) held its twenty-ninth session from May 9 to July 29, 1977. Its Report on this session was published as part the UN General Assembly official records: thirty-second session, Supplement No. 10 (A/32/10) United Nations, New York, 1977.

At its twenty-ninth session the ILC continued its work on the following major topics: State responsibility; succession of states in respect of matters other than treaties; question of treaties concluded between states and international organizations or between two or more international organizations.

The draft articles on these three topics, adopted by the Commission both in this and previous sessions, as well as some commentaries about them are contained in the ILC Report.

#### (a) *State responsibility*

The Commission has adopted, so far, twenty-two draft articles on state responsibility. These articles are divided into three major chapters: General principles; the act of the state under international law; and the breach of an international obligation.

According to the general principles, articles 1 through 4, every international wrongful act by a state entails the international responsibility of that state. Every state is subject to the possibility of being held to have com-

mitted an internationally wrongful act of a state when: (a) Conduct consisting of an action or omission is attributable to the state under international law, and (b) that conduct constitutes a breach of an international obligation of the state. An act of a state may only be characterized as internationally wrongful by international law. Such characterization cannot be affected by the characterization of the same act as lawful by municipal law.

Chapter II, draft articles 5 through 15, deals, among other things, with the attribution to the state of the conduct of its organs; attribution to the state of the conduct of other entities empowered to exercise elements of the governmental authority; attribution to the state of the conduct of persons acting in fact on behalf of the state; conduct of persons not acting on behalf of the state; conduct of organs of another state; conduct of organs of an international organization.

Chapter III, draft articles 16 through 22, deals, in part, with the following subjects: Existence of a breach of an international obligation; requirement that the international obligation be in force for the state; international crimes and international delicts; breach of an obligation requiring the adoption of a particular course of conduct; exhaustion of local remedies.

According to article 19, paragraph 1, an act of a state which constitutes a breach of an international obligation is an internationally wrongful act, regardless of the subject-matter of the obligation breached. Paragraph 2 establishes that an internationally wrongful act which results from the breach by a state of an international obligation so essential for the protection of fundamental interests of the international community that its breach is recognized as crime by that community as a whole, constitutes an international crime. Paragraph 3 declares that, subject to paragraph 2, and on the basis of the rules of international law in force, an international crime may result, *inter alia*, from: (a) A serious breach of an international obligation of essential importance for maintenance of international peace and security, such as that prohibiting aggression; (b) a serious breach of an international obligation of essential importance for safeguarding the right of self-determination of peoples, such as that prohibiting the establishment or maintenance by force of colonial domination; (c) a serious breach on a widespread scale of an international obligation of essential importance for safeguarding the human being, such as those prohibiting slavery, genocide, apartheid; (d) a serious breach of an international obligation of essential importance for the safeguarding and preservation of the human environment, such as those prohibiting massive pollution of the atmosphere or of the seas. Paragraph 4 states that any internationally wrongful act which is not an international crime in accordance with paragraph 2, constitutes an international delict.

(b) *Succession of states: matters other than treaties*

The International Law Commission has adopted, so far, twenty-two draft articles on this topic. These articles are grouped into an Introduction, Articles 1 through 3; Part I, Succession to state property, Articles 4 through 16; Part II, Succession to state debts, Articles 17 through 22.

Draft article 2 provides that the present articles apply only to the effects of a succession of states occurring in conformity with international law and, in particular, the principles of international law embodied in the Charter of the United Nations.

Part I of the draft articles is concerned with state property, rights of the successor state to state property passing to it; date of the passing of state property; passing of state property without compensation; general principles of the passing of state property; passing of debts owed to the state; transfer of part of the territory of a state; newly independent states; uniting of states; separation of part or parts of the territory of a state; dissolution of a state.

In Part II, Succession of state debts, it is established that the succession of states does not, as such, affect the rights and obligations of creditors (Article 20). When a part of the territory of a state is transferred by that state to another state, the passing of the state debt of the predecessor state to the successor state is to be settled by agreement between the predecessor and the successor states (Article 21). In the absence of an agreement, an equitable proportion of the state debt of the predecessor state shall pass to the successor state, taking into account, *inter alia*, the property, rights and interests which pass to the successor state in relation to that state debt.

(c) *Treaties concluded between states and international organizations or between two or more international organizations*

On this topic the International Law Commission has approved draft articles 1 through 4, 6 through 19, 19 bis, 19 ter, 20, 20 bis, 21 through 23, 23 bis, 24, 24 bis, 25, 25 bis, 26 through 34.

These articles are grouped into Part I, Introduction, Articles 1 through 4; Part II, conclusion and entry into force of treaties, Articles 6 through 25 bis; Part III, observance, application and interpretation of treaties, Articles 26 through 34.

It should be observed that in several hundreds of agreements concluded between the United Nations and its Specialized Agencies and with other organizations, and in agreements between specialized agencies, the word "agreement" is very much used. In the Inter-American System also, the word "agreement" is used for this kind of instrument; the word "Treaty" is never used.

It seems that it would be more appropriate for the International Law Commission to use the word "agreement" for the instruments concluded between states and international organizations or between two or more international organizations.

The scope of the draft articles on this subject is contained in article 1, stating that the present articles apply to: (a) Treaties concluded between one or more states and one or more international organizations, and (b) treaties concluded between international organizations. Article 2 provides that for the purpose of the present articles, "treaty" means an international agree-

ment governed by international law and concluded in written form: (a) Between one or more states and one or more international organizations, or (b) between international organizations. In this provision there is one more argument for the idea of calling this type of instrument an "agreement" rather than a "treaty."

Part II, on the conclusion and entry into force of treaties, deals with the following matters, among others: Full powers and powers; subsequent confirmation of an act performed without authorization; adoption of the text of the treaty; authentication of the text; means of establishing consent to be bound by a treaty; signature, exchange of instruments constituting a treaty, ratification, act of formal confirmation, acceptance or approval, accession; reservations, formulation of reservations in the case of treaties between several international organizations, reservations by states and international organizations in the case of treaties between states and one or more international organizations, or between international organizations and states, objection to reservations, acceptance of reservations, legal effects of reservations and of objections to reservations, withdrawal of reservations; entry into force and provisional application of treaties.

Part III deals with "pacta sunt servanda;" internal law of states; rules of international organizations; non-retroactivity of treaties; territorial scope of treaties; application of successive treaties relating to the same subject-matter; interpretation of treaties; general rule and supplementary means of interpretation; treaties and third states or third international organizations.