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VII JOINT MEETING OF THE INTER-AMERICAN JURIDICAL COMMITTEE WITH LEGAL ADVISERS OF OAS MEMBER STATES

SUMMARY MINUTES
(Wednesday 15 August 2018)

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VII Joint Meeting of the Inter-American Juridical Committee with legal advisers of OAS member states

Introduction

The meeting of the Inter-American Juridical Committee with the legal advisers of the Organization of American States (OAS) member states took place on Wednesday 15 August at the Inter-American Juridical Committee (CJI) headquarters at the Itamaraty Palace in Rio de Janeiro, Brazil.

The meeting was attended by Dra. Ruth Stella Correa Palacio (President of the Committee), Drs. Miguel Angel Espeche Gil, Joao Baena Soares, Iñigo Salvador Crespo, Alix Richard, Jose Moreno, Duncan Hollis and Carlos Mata Prates. Drs. Hernan Salinas, Joel Antonio Hernández and Luis Garcia-Corrochano Moyano did not attend this session.

The legal advisers (or their representatives) from the Ministries of Foreign Affairs of OAS member states who attended the meeting were as follows: Mario Oyarzábal, Argentina; Silvia Rivera Aguilar, Bolivia (a representation that included the Ambassador of Bolivia to Brazil, Mr. José Kimm); George Bandeira Galindo, Brazil; Natalia Córdoba, Costa Rica; Ma. Auxiliadora Mosquera, Ecuador; Mario Chouloute, Haiti; Alejandro Alday, Mexico; Juan Jose Ruda Santolaria, Peru; Jeffrey Kovar, United States; and Carlos Mata Prates, Uruguay. It should be noted that Dr. Mata was present in his capacity both as member of the CJI and Legal Advisor for Uruguay.

The meeting was also attended by three representatives of the African Union Commission on International Law (AUCIL) Juliet Semambo Kalema, Mohamed Barakat and, Betelhem Arega Asmamaw.

Also present were Drs. Jean-Michel Arrighi, Secretary for Legal Affairs, Dante Negro, Director of the Department of International Law, and two Senior Legal Officers at that Department, Luis Toro Utillano and Jeannette Tramhel.

The President of the Committee, Dr. Ruth Correa, thanked and welcomed the legal advisers and the representatives of the African Union Commission (AUCIL). She noted that although the CJI had organized such meetings in the past, after a period of suspension the initiative had been re-launched two years ago and that this was the seventh of such meetings to be held. She noted that these meetings are a good means by which to show the work of the CJI to those who face real issues of international law on a daily basis. She expressed the hope that these meetings would become institutionalized and held every two years but also stressed that the Committee is always willing and open to hear from the legal advisers at any time. She explained that the session would begin with brief presentations by five members on topics on the work agenda of the CJI that may be of interest to legal advisers which would be followed by an opportunity for them to raise issues of concern to their government and possible topics of future work of the CJI.

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I. Subjects under consideration by the Inter-American Juridical Committee

i) Binding and non-binding agreements

The Rapporteur for the topic of binding and non-binding agreements, Dr. Duncan Hollis, expressed his thanks for the opportunity and said it was an honor to address the legal advisers. He noted that the decision to study this topic was a result of the joint meeting held in 2016, during which concerns had been raised over the legal status of Memoranda of Understanding (MOUs) and various inter-institutional agreements. He explained that his study was organized into the following 4 parts: 1. Differentiation – discussion of different types of international agreements treaties, contracts, political commitments (non-legally binding); 2. Capacity – consideration of who can enter into these agreements at the national and subnational levels; 3. Legal effect – consideration of when and who is bound and the effects of non-legally binding instruments; and 4. Procedures – whether these are different for states or state institutions.

Dr. Duncan Hollis reported that a questionnaire had been circulated to member states to which the CJI had received 12 responses, many of which were from those states represented around the table today. All had agreed on the concept of a treaty and on non-legal or political agreements but responses showed a bit more division on issues relating to contracts, in particular as to whether or not an agreement was binding, and whether this was on the basis of intent or objective criteria. Three aspects help to clarify issues on capacity: 1) the entity had to have competence on the subject; 2) it had to have been authorized; and 3) it must have had a willing partner. As to effects, some felt such agreements bind the state as a whole while others felt it was binding only on the institution. Dr. Duncan Hollis reported that the CJI had decided upon the development of a practical guide containing a compilation of best practices to assist member states. It would not be an attempt to codify or develop international law, but rather a tool to improve transparency, avoid confusion and misunderstandings in state practices.

Dr. Mata, in his capacity as CJI member, thanked the African Union Commission (AUCIL) for their attendance and emphasized the Chair's thanks to the legal advisers and through whom the topic had come to the CJI. He congratulated the Rapporteur on his work on this important topic.

Dr. Mario Oyarzábal of Argentina expressed his thanks for this work and noted that his government had already submitted its comments. He said it is an extensive and important topic, one that is dealt with every day. He noted a recent example from 2016 when an agreement that had been signed with the UK was discussed by the Congress in his country to determine whether or not it was legally binding. In this case, the matter of "intention" was key. He also referred to agreements signed by provinces and said it was not clear whether these could be considered as treaties, despite such acknowledgement in the national constitution and stated that the Argentinian jurisprudence has not been decisive.

Dr. Jeffrey Kovar of the United States conveyed regrets of the Legal Advisor of his country who had not been able to attend but was pleased with the initiative for this joint session, considering that the previous session two years ago had been so constructive. If this were to become a practice of the CJI, it would be very helpful. On the particular topic, Dr. Kovar reiterated the comment by Argentina that this was a useful study on a

topic dealt with every day. He said that agencies of the US federal government and individual states will enter into various types of instruments with their foreign counterparts and that often the office of the legal advisor does not see these documents until after they have been signed. When the question is asked as to whether the document was intended to be binding, usually the answer is negative, but upon review, the document looks very much like a treaty that contains the language of a binding document. Given its importance, Dr. Kovar recommended that the CJI focus on terminology. He found it confusing that the report refers to binding and non-binding *agreements* and suggested instead non-binding *instruments*. He said that drafting directions should be very clear. Words and phrases such as "agree", "shall", "obligation", "will", "enter into force", "this text is authoritative" should be reserved for legally binding agreements. By contrast, in non-binding instruments, terms typically used include "expectation" "intended to commit to" and "expect to." The term "party" is generally reserved for binding agreements and "participant" is used elsewhere. In its next report, he invited the CJI to focus on best practices to help governments find language that encapsulates their intention. Rather than focus on general principles, he felt that the focus on best practices would also help improve internal practices. If a local agency is authorized to enter into a binding instrument, it remains unclear "who" is thereby bound and whether it is limited to its own competence or the entire state.

Dr. Alejandro Alday of Mexico extended his congratulations to Dr. Ruth Correa on her election as President of the Committee and expressed his thanks for the invitation to exchange points of view. He also agreed that this was a very useful topic dealt with on a daily basis. He explained that Mexico has an ad hoc law for treaties, in its classic definition. But it also uses inter-institutional agreements that can bind the executive branch. His office is called on a daily basis to determine the nature of them – whether at the federal, state or even municipal level – which requires an analysis on the content and consistency with their sphere of competence for all parties involved. It is very complex and often not contained within the text. Thus, often the recommendation is for a non-binding agreement. Although not a treaty, the question arises as to whether the responsibility falls to the state or only to the agency. In this context, it becomes necessary to include various clauses to avoid granting it the character of an international agreement. He therefore concurred with the Argentinian and US advisers. Mexico had answered the questionnaire and would like to see the development of a guide on best practices, an examination of the reach of these instruments and perhaps a type of model that could be modified as needed by each state.

Dr. Juan José Ruda of Peru expressed his congratulations to the President and Vice President on their election. He also thanked the CJI for the initiative to arrange this joint session and to draw on the experiences and good practices in order to answer the needs of states. He congratulated the Rapporteur on an issue that had been taken up by the CJI as a result of the joint meeting held in 2016. He agreed with the US representative and would prefer use of the term *instruments* and development of a practical set of guidelines with the incorporation of models for Member States. Similarly, he admitted that intention was crucial, but also the format and use of specific language. He explained that his office also preferred use of the term "participants" and to include the name of the institution taking on the commitment, rather than the state. He noted that Peru is a unitary structure with regions and municipalities that might enter into inter-institutional agreements, which

requires reviewing the proposals to determine that competencies of these entities are not exceeded.

Dr. George Galindo of Brazil expressed his thanks and satisfaction with this joint session. As shown by this first topic, the initiative could produce very good results based on exchanges among those working on these issues daily and with experts on various topics. He thanked the Rapporteur for his presentation and made the following points. 1) As had been raised two years ago, the topic is also related to the internal matters of a state. He explained that under Brazilian domestic law, a binding agreement must be referred to parliament, but that there were also other instruments that were binding that would not need to be referred. Thus, the question of whether or not a document was to be considered binding was also dependent upon whether or not it has to go through the parliamentary process. 2) Another question is if intention can demonstrate whether or not the document is binding. He queried whether this is supported by custom and if it constitutes a legal rule or only a method. He noted a certain paradox regarding the determination of intention of the instrument itself in light of the name given to it, as the choice of a name may be indicative of intention although it is not considered itself determinative. 3) Regarding inter-institutional instruments, he queried to what extent they can be considered as an act of the state. He queried whether one can say that an agency acted *ultra vires* and what the repercussions thereof might be. In conclusion, he agreed with the suggestion that it would be valuable and very practical for legal advisers to be able to refer to specific models.

Dra. Julliet Kalema of the African Union Commission (AUCIL) expressed her thanks to the CJI and her agreement with the Rapporteur on the views reflected in his report. She said that within the African Union the matter was dependent upon the constitutions and different positions of states. In her capacity as Legal Advisor, she had come across different ministries concluding agreements without following proper procedures, calling the validity of the agreement into question. Concerning treaties, the big challenge arises with ratification and part of this relates to their binding nature and delays in their coming into force. She referred to a study carried out by the African Union Commission (AUCIL) on the harmonization of ratification procedures and came up with recommendations in the form of a Guide.

The Rapporteur Dr. Duncan Hollis thanked everyone for the helpful comments and said he agreed with the importance of terminology. As to the possible substitution by the term "instrument," he would reflect on this suggestion and noted the challenge in differentiation between the concept of an agreement and the practice. Secondly, he acknowledged the interplay with internal law; given that when "treaty" is used internally, it may not have the same meaning as when used in the international context and that it was important to be clear in what context the terms were being used. Thirdly, he noted the request for clarification on the legal effects of inter-institutional agreements and in particular in relation to the objective approach used by the International Court of Justice, he said the mandate on this issue was more modest, with a focus on best practices to be used by government officials in day to day practice. In response to a request for clarification from Dr. Mario Oyarzábal he explained that the definition of "treaty" under international law can differ from definitions used in the domestic law of some States, e.g., under US law, a treaty is considered to include an instrument approved by the senate, but also other instruments such as executive agreements met the international definition of a treaty.

ii) Recognition of foreign judgments

Being the rapporteur of this topic, the President of the Committee, Dr. Ruth Correa, noted the interest of the CJI about the legal effect of foreign decisions in light of the general adherence throughout the region to the Convention on the Recognition and Enforcement of Arbitral Awards (New York Convention) as well as the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards (Montevideo Convention). In this context the intended objective of her work is to foster recognition of foreign awards taking into account that practice shows that internal (domestic) recognition procedures present a challenge. She explained that the aim of her work is to establish a model law or other instrument that would help to standardize these internal procedures in the region. Similarly, she felt it necessary to clarify that although the work of the Hague Conference on Private International Law on recognition of judgements is important, it would nevertheless leave it for the internal procedures of states to determine the validity of a foreign judgment, without providing much guidance. For this reason, the CJI has decided to address good practices of states in order to aim at an efficient implementation of access to justice.

Dr. Jeffrey Kovar of the United States expressed his thanks for the concise report and said that the proposal addresses exactly the gap that exists between the international and domestic levels. While most of the global efforts have strived to emulate, for foreign civil judgements, the success of the New York Convention, he felt that the CJI should not try to duplicate this, but rather, to identify where, at the regional level, its work could help fill these gaps.

Dr. Juan José Ruda of Peru also expressed his congratulations and stressed the importance of the issue as well as the practical application of the work, which should yield a model law for practical use, a contribution that will allow the Committee to address some important issues regarding procedures.

Dr. Mario Oyarzábal of Argentina agreed with the representatives of the US and Peru on the importance of the work by the CJI on this issue. However, he said that while it is important to prevent parties from using exceptions to circumvent enforcement, certain domestic procedures such as *exequátur* are valuable tools to guarantee fundamental rights and public policy (*ordre public).* Hence, the guide should aim to make the process more efficient and avoid unnecessary litigation while keeping in mind those exceptional procedures that are legitimate.

The representative of the African Union Commission (AUCIL), Dr. Mohamed Barakat, also congratulated the CJI on the work. He pointed out that there is no convention in the African Union dealing with the enforcement of foreign judgments, but there is one for the Arab League.

Dr. Alejandro Alday thanked the President for the efforts of the CJI in this subject, in which Mexico has active particular interest. He did not have an opinion on whether this work should evolve as a model law or an instrument of another nature. Regardless, he thought it could provide assistance in the interpretation of the Montevideo Convention as others mentioned, in particular aiming at justice officials. He noted that at times his office has had to intervene in enforcement procedures, including circumstances where foreign

judges had given opinions on the decisions of Mexican judges when examining recognition, rather looking at the execution of the sentence.

In concluding the discussion, the President pointed out that the CJI did not aim to create or change any conventions, but rather to provide a model law or a guide that would help to address internal procedures that could create obstacles. She also pointed out that parties seeking recognition are not always seeking enforcement but instead recognition for evidentiary purposes, and that distinction will be made by the CJI in its work.

iii) Immunity of international organizations

Dr. Joel Hernández, who made his presentation by video-conference, began by expressing thanks to the President and all those present and explained the development of his report since the last meeting with legal advisers. He was grateful for the comments received and which he had incorporated into the final document, as it was approved by the CJI a few days earlier. He emphasized that the CJI had aimed to elaborate a practical guide – with examples from other jurisdictions - and that it was not the intention to focus on an effort to codify progressive developments on this issue. Dr. Hernández then proceeded to present his report and to explain the main characteristics of each guideline.

Dr. Espeche pointed out that within the last session he had requested that the topic be expanded to include a reference to the World Bank and the International Monetary Fund, due to issues concerning some malpraxis from these organizations in their role as advisers.

Dr. Jeffrey Kovar of the United States thanked Dr. Joel Hernández for his impressive report and appreciated its completion in the form of best practices, rather than a codification effort. He noted the lack of uniformity in the law on this topic among member states. He then mentioned a case before the US Supreme Court in which the immunities of the International Financial Corporation (IFC), an entity created by the World Bank, are under consideration. The question is whether the immunity provided by the International Organizations Immunities Act (IOIA) is absolute or limited in the absence of a specific agreement. He reflected on the possible outcomes of the case; if the IFC would be found to have limited immunity, this would be inconsistent with guideline 3 of the Committee. He also noted that, within the US, the UN has absolute immunity, which would also be inconsistent with guideline 4. In conclusion, Dr. Kovar suggested that the report might provide more detail on the different practices within his country, particularly after the case before the US Supreme Court is resolved.

Dr. George Galindo of Brazil thanked Dr. Joel Hernández for his work and noted the difficulty of compiling international practices on the immunity of international organizations, given their general reluctance to disclose information of such nature. He confirmed that the Brazilian Ministry of Foreign Affairs had submitted comments.

Dr. Alejandro Alday of Mexico thanked the Rapporteur for his work and its practical approach. He said it has the potential to resolve a series of issues concerning international organizations that arise on a daily basis in domestic courts. While international organizations often invoke absolute immunity on the basis of UN and headquarter agreements, it is important nowadays to take into account other criteria, such as those

relating to human rights issues. For example, cases regarding access to justice for those persons employed by an international organization who are not staff members can present some difficulties for the host state. He indicated that in Mexico, although many international organizations have mechanisms for dispute settlement, it is difficult to verify whether or not these mechanisms have been used. This is an issue that has been taken to the UN due to its complexities. Therefore, he felt the guide would be of practical application.

Dr. Carlos Mata, in his capacity as a member of the CJI, reflected on some of the comments. He began by addressing the elements of the immunities of international organizations, beginning with headquarter agreements. In cases where there is no such agreement, within the framework of international law, he pointed out that guideline 4 highlights the limitation of the immunity of international organizations. He explained that this guideline had been the subject of considerable debate within the CJI and that it should be read in conjunction with guidelines 5 and 6. Thus, guideline 4 only enters into play in cases where the HQ agreement is silent and there is no internal dispute resolution mechanism.

The representative of Argentina, Dr. Mario Oyarzábal, thanked the Rapporteur for his work and recognized the difficulties of finding commonalities in the practices of international organizations. He addressed some of the opinions made by Dr. Carlas Mata and said that Argentina had submitted comments on guidelines 5, 6, and 7, in which it had been stated that either there is, or there is not, immunity for the international organization and that the headquarters agreement had to provide for that. If it does not, then the dispute settlement mechanism of the state would apply.

The representative of the African Union Commission (AUCIL), Dr. Mohamed Barakat, mentioned an appeal made by the Kingdom of Jordan to the International Criminal Court when the state was found guilty of not surrendering Omar Al Bashir to the court. He mentioned in particular certain opinions on customary international law relating to the subject of immunities of head of states visiting other countries on official business and immunities of international organizations.

Dr. Joel Hernández thanked all those present for their insightful comments. In response to Dr. Kovar, he said that although he recognized the importance of the policy with respect to the UN, he also thought it important to acknowledge ad hoc policies adopted by many states. As had been noted by Dr. Carlos Mata and the Argentinian legal advisor, it is through the headquarters agreement that immunity is adapted to a particular situation. He felt it important to clarify that the guide was not an effort to codify the relevant law but to mirror best practices and to mention exceptions. He had seen a recurrent theme in the comments, i.e., to improve upon a guide for best practices. As to the comments of the legal adviser from Mexico, he agreed with the need for jurisdictional immunity that is functional in nature, allows access to justice but takes into account that there is a need for a mechanism so that rights are protected. In conclusion, Dr. Joel Hernández said that he had wanted to provide a tool that would be used by states; not a report to be filed away. In that regard, he invited those present to encourage their permanent representatives to participate in the forthcoming meetings of the Committee on Political and Juridical Affairs during which member states will be called upon to consider the guide so as to provide the OAS General Assembly with a useful document.

iv) Cyber-security

The rapporteur on this issue, Dr. Duncan Hollis, began his presentation by addressing the difficulty and relevance of cyber-security, referencing examples of the impact of cyber-attack. He outlined three main issues to be addressed. One, *application*, concerns which rules apply to the problem, e.g., does the principle of sovereignty, which applies in the case of invasion of airspace, similarly apply to a case of cyber-attack? Secondly, *interpretation*, concerns what type of attack, e.g., is mere data breach sufficient or must physical damage occur? Thirdly, *accountability*, concerns whether or not and which acts can be attributed to the state. He reported that efforts by other bodies to address these issues have failed to produce results due to difficulties in achieving consensus within the UN and the European Union and noted that, by comparison, progress might be possible within this hemisphere. He expressed concern over the possible consequences when there is lack of clarity over what is the international law on the matter of state behavior in cyberspace, both offensively and defensively. Thus, as a starting point, he proposes that the CJI solicit, compile and publish the views of OAS member states on this issue.

Dr. Jeffrey Kovar said the view of the United States is that international law does apply to the behavior of states in cyber-space, without question. But he agreed there is need for transparency and discussion on how it applies. He mentioned several examples wherein the US had addressed the issue. Dr. Jeffrey Kovar suggested the rapporteur of the Committee that it might be more fruitful to request any public statements that have already been made on matters where states have not yet taken a position.

Dr. George Galindo of Brazil reiterated the importance of cyber-security and gave a specific example from Brazil regarding a breach of personal data that had led to the development of legislation on that subject. He thought that it was essential to consider the progress of domestic laws, which could prove in practice to corroborate customary international law. He thought it would also be helpful for the CJI to study this theme in relation to the Vienna Convention on Diplomatic Relations.

Dr. Duncan Hollis expressed his thanks for all comments and in regard to Dr. Jeffrey Kovar's suggestion, noted that states would have the prerogative to answer the questionnaire as a whole or in part or not at all. He also echoed the comments by the representative of Brazil and said the CJI would strive to ensure collaboration with its work on the topic of personal data protection.

v) Foreign interference in democratic elections

Dr. Alix Richard, Rapporteur for this topic, referred to the fundamental principles established in the OAS Charter – non-intervention, State sovereignty, and a commitment to democracy, of which free elections are a key aspect. In this context, any interference from a foreign entity would jeopardize these principles. He noted that although this has been a long-standing problem, albeit primarily for smaller states, recent events have highlighted its importance for every state, something that now is becoming more complicated with advanced technology. The question the Rapporteur is seeking to resolve is whether the current state of international law sufficiently addresses this issue, by

protecting the affected parties and holding foreign states at the origin of such actions accountable. He concluded by welcoming comments from legal advisers.

Dr. Mario Oyarzábal of Argentina thanked the CJI and the Rapporteur for the proposal of this topic, which he finds fascinating from a political perspective. However, he considered it difficult to address from a legal perspective because of its political nature. Moreover, he wondered whether the normative framework of non-intervention would suffice. He also wondered if this would be of specific use to the region.

Dr. Alejandro Alday of Mexico congratulated Dr. Richard for his presentation and expressed interest in further details and the scope of the study, since the topic is far reaching and encompasses international and national laws. Dr. Alday also thought it pertinent to examine the tools that states have already to deal with this issue and to set a benchmark for possible solutions.

The Haitian representative, Dr. Mario Choulotte, thought that Haiti's request for international assistance in its democratic elections may open the door for foreign entities to interfere in internal affairs.

Dr. Jeffrey Kovar of the United States thanked Dr. Richard for his approach to the issue and reminded the CJI that while cyber intrusions are a big threat, interventions are not a new phenomenon. The US position on this topic is that international law already addresses this issue. Dr. Kovar agreed with the legal advisor from Argentina who had queried the ripeness of the topic for the CJI. Furthermore, it was not clear to what extent interference in elections should be treated separately from cybersecurity.

Dr. Richards thanked the legal advisers for their contributions and clarified that this proposal was at the beginning stages. As such, he addressed the comments of Argentina and Mexico regarding the scope and said he would be working on this for his next report. Dr. Alix Richard acknowledged that this topic is difficult and politically sensitive, but in his view it was an important one that should be addressed by the CJI and separately from cyber-security.

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II. Topics proposed by the legal advisers

Dr. Jean-Michel Arrighi, OAS Secretary for Legal Affairs, recalled for those present the important role of the Secretariat in the development and promotion of international law within the hemisphere, which includes follow-up on inter-American conventions, technical support to the CJI and legal advice to the political entities. He pointed out that, through the Department of International Law, the Secretariat is tasked to disseminate international law, which is carried out through its relationships with universities, jurists, members of the judiciary and experts on international law by different means (seminars, workshops, and so forth), information about which can be consulted on the website. He noted that increasingly, international law affects everyone at all levels of the nation state, but few are aware of this. He expressed his wish, particularly in this regard, to strengthen linkages with the legal advisers as a nexus to the national legal sphere of member states.

The representative from the African Union Commission (AUCIL), Dr. Juliet Semambo Kalema, having noted the work of the CJI on immunities, wished to inform of a related issue relevant to their own organization, namely, head of state immunity. The focus of concern is the existing conflict between article 27 of the Rome Statute and the immunity of heads of state and she queried whether there was any follow-up by the Committee to this topic.

Dr. Mario Oyarzábal of Argentina mentioned two topics that he considered important. The first concerns reservations to international treaties and the lack of clarity as to the determination of their validity, apart from application of the Vienna Convention. He suggested that the CJI could look at the European Council, which has an arrangement for cooperative efforts among legal advisers. The second issue concerns recovery of assets that result from an illegal act. He noted that this topic spans both public and private international law, is of current importance, and that while there are treaties that, in some aspects, deal with this issue, it has not been developed in detail. It is an issue that may be useful for legal operators.

Dr. Juan José Ruda of Peru invited the CJI to avoid duplication of efforts on issues dealt with elsewhere. For example, concerning reservations, he noted that the UN International Law Commission had already elaborated an extensive work besides having adopted a "Guide to Practice on Reservations to Treaties"; rather than more analysis, a practical mechanism of coordination would be preferable. One topic he thought important to discuss would be mediation as an alternative dispute resolution method, given that international investment disputes traditionally had been resolved through arbitration.

The Ambassador of Bolivia in Brazil, Mr. José Kimm, responded to comments by the representative of the African Union Commission (AUCIL) and agreed that there appears to be lack of clarity concerning head of state immunity. As evidence, he cited the example of Bolivian President Evo Morales who, on his return flight from Russia, was denied by four European states the right to land his plane to refuel.

Dr. Jeffrey Kovar said the various reports and comments indicate the serious problems that are being addressed by the CJI. He agreed on the importance of its role in the development of international law and encouraged these efforts, particularly in its collaboration with other bodies such as the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for Unification of Private Law (UNIDROIT) and The Hague Conference on Private International Law. In that regard, he

was pleased that the representatives of The Hague Conference would be meeting with the CJI the following day and suggested that perhaps in two years' time a similar joint session could be held with UNCITRAL to consider e-commerce issues. He added that the US had no specific topics to propose at this occasion.

The Brazilian legal advisor, Dr. Galindo, commented that proposal of new topics required first, a reflection on the identity of the Committee and as such a starting point would be a reflection about American international law (*direito internacional americano*). This would entail consideration first, of the identity of the Inter-American community and then, within that framework, a more meaningful consideration on the future work of the Committee in a variety of topics as it has been mentioned at the meeting, relating to non-intervention, sovereignty, immunity, jurisdiction, etc.

Two comments were made by Dr. Alejandro Alday of Mexico. First, in response to Dr. Arrighi, he highlighted the value of the visit by the CJI to Mexico during its recent session, which had created a great deal of interest, generated dialogue among speakers from various areas of international law and discussions with academics, and others. Secondly, he proposed that the CJI consider developing a guide of best practices in regards to discrimination and hate speech against migrants. Dr. Alejandro Alday thought it important to highlight the juridical tools that are available to member states and that may affect the rights of migrants.

The President thanked everyone for their contributions and said that the CJI would take all of these ideas into consideration. She expressed appreciation to the legal advisers and the representatives of the African Union Commission (AUCIL) for their participation which enriched this collaborative relationship.

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III.- Appendixes

Appendix I

VII Joint Meeting of the Inter-American Juridical Committee with Legal Advisers of OAS member states

AGENDA

Date: Wednesday, August 15, 2018

I. Morning session

Place: Headquarters of the Inter-American Juridical Committee

9:00-11:00 am. Subjects under consideration by the Inter-American Juridical Committee.

1. Immunity of international organizations.
2. Binding and non-binding agreements.
3. Effectiveness of foreign judicial decisions in the light of the Inter-American Convention on extraterritorial effectiveness of foreign judgments and arbitral awards.
4. Cyber-security.
5. Foreign interference in a state's electoral process: a threat to democracy and sovereignty of states, response under international law.

11:00 – 11:15am. Break.

11:15 –12:15pm Topics proposed by the legal advisers.

II. AFTERNOON SESSION

Place: Headquarters of the XLV Course of International Law
Hotel Pestana Rio, Rio de Janeiro, Brazil

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4.00- 5:15 pm Round table of legal advisers of OAS member states at the XLV Course of International Law in the presence of students and members of members of the CJI.

Appendix II

List of participants

Argentina:	Mario Oyarzábal General Director of the Directorate General of the Ministry of Foreign Affairs of Argentina.
Bolivia :	Silvia Rivera Aguilar Director General for Legal Affairs of the Ministry of Foreign Affairs of Bolivia.
	José Kimm Ambassador of Bolivia in Brazil.
Brazil:	George Bandeira Galindo Legal Adviser of the Ministry of Foreign Affairs of Brazil.
Costa Rica	Natalia Córdoba Director; Legal Counsel of the Ministry of External Relations and Culture, Costa Rica.
Haiti:	Mario Chouloute Charge d'Affaires of Haiti in Brazil.
United States:	Jeffrey Kovar Assistant Legal Advisor for the Western Hemisphere.
Ecuador:	Ma. Auxiliadora Mosquera R. General Coordinator for Legal Advisory at the Ministry of the Ministry of Foreign Affairs and Human Mobility of Ecuador.
Mexico:	Alejandro Alday Legal Adviser of the Secretary for Foreign Affairs of Mexico.
Peru:	Juán José Ruda Santolaria Legal Adviser of the Specialized Consulting Office of the Ministry of Foreign Affairs in Peru.

Uruguay: Carlos Mata Prates
Legal Adviser of the Ministry of Foreign Affairs of Uruguay.

African Union: Commissioner Juliet Semambo Kalema
Commissioner Mohamed Barakat
Legal officer Betelhem Arega Asmamaw.

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