

PARLAMENTO LATINOAMERICANO
(LATIN AMERICAN PARLIAMENT)
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EXTERNAL DEBT BEFORE INTERNATIONAL PUBLIC LAW

This report intends to review an initiative, sustained by International Public Law - proposed by the Parlamento Latinoamericano (Latin American Parliament), by several international political forums and in academic environments -, tending to have the General Assembly of the United Nations request an advisory opinion from the International Court of Justice of The Hague on the legal aspects of

EXTERNAL DEBT

1. SITUATION

Should one take into account the scant space which the media dedicated to the external debt as well as the optimistic and unconcerned tone of the news reports, it could be concluded that the problem was about to disappear and that it no longer constituted a socio-economic drama. The different agreements of deferments and fixing of payments which were subscribed by several countries with the creditor banks at the beginning of the 90s (such as the Brady Plan), reinforced this generalised feeling of relief.

Nevertheless, this optimistic point of view was not shared by everybody. It is sufficient to read the text of the speech held by the Pope on January 1st, 1993, on the Día Mundial de la Paz (World Peace Day), His Holiness, John Paul II expressed:

“I would briefly like to remember some particularly worrying problems affecting the poor and, as a consequence, threatening peace.”

“In the first place the problem of the external debt which, for some countries and, within them, for the less affluent social sectors, continues to be an unbearable burden, in spite of the efforts of the international community, governments and economic institutions to reduce said problem. Who but perhaps the poorer sectors of said countries are the ones who often sustain the heavier load of repayment? Said situation of injustice may open the way to increasing animosity, to feelings of frustration and even desperation. In many cases the government themselves share the generalised uneasiness of their people and this has repercussions on the relations with other States. Perhaps the time has come to examine again the problem of the external debt, giving due priority to this matter. A revision of the total or partial repayment conditions should be made, in the search for definitive solutions which may allow fully confronting the serious social consequences of the adjustment programs. Furthermore, it is necessary to act on the causes of indebtedness making the concessions of the assistance dependent on the governments accepting the specific commitment of reducing excessive or useless expenditures – particularly the expenses incurred in the purchase of weapons – and to guarantee that the subsidies actually reach the needy populations.”

2. AMOUNT

According to the report of the “World Bank Global Development Finance 1998”, in the middle of the decade of the 70s, the external debt of Latin America was of approximately 60 thousand million dollars. In 1980 the Federal Reserve Bank decided successive increases of the interest rates, which jumped from 6 to 22%. The creditors, unilaterally, applied these rates to the credit contracts and sparked the situation off: the debt raised to 204 thousand millions at the end of the same year; it increased to 443 thousand million dollars in 1990 and it was calculated that it would reach 706 thousand million dollars in 1999.

At present the total of the external debt of the countries of the Third World as a whole is estimated to be of more than a trillion dollars.

“The result of the external debt is a net transfer of resources from the South to the North: in 1998 the 41 poorer and most indebted countries (PPME) transferred to the North 1680 million dollars more than they had received and, in the same year, the countries of the Third World as a whole made a net transfer of resources to the North of 114.600 million dollars” ()*

Only for the concept of service of its external debt, between 1982 and 1996, the Latin American region paid 739 thousand million dollars, that is to say, an amount higher than the total accumulated debt.

As an illustrative fact, **in 1986, Latin America had a favourable balance of 37.600 million dollars in its commercial exchange. As attributable to interests, that same year it paid 37.200 million dollars to the creditor banking.** Therefore, in that year all Latin America had only 400 million dollars available for its development.

By middle 1995, more than half of the value from exports of Latin America was being destined to the payment of external debt. The British paper “Financial Times” pointed out that in 1998 the deficit in the current account of Latin America would be of 71.800 million dollars and, in 1999, of 75.600 million dollars.

In real terms, as attributable to interests and services, a good part of the debt – if not the total – had been effectively cancelled, as can be seen from the facts appearing in the following statistical table. The source of information is CEPAL [Anuario Estadístico de América Latina y el Caribe, Ediciones de 1992 (pages 430 and 431) and of 1994 (pages 438, 439, 504 and 505)]:

(*) TOUSSAINT, Eric, June 2001, pages 211-212, quoted by TEITELBAUM, Alejandro, “La Deuda Externa” (External Debt), October 2001.

LATIN AMERICA: transfers of capital and paid interests,
in the official sector and in commercial banks, 1980 through 1990
(total accumulated in millions of dollars)

(Including Argentina, Bolivia, Brazil, Colombia, Costa Rica, Chile, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela)

<u>I. Received loans</u>		
<i>Official sector</i>		
Received loans	309.177,4	
Amortisation		- 174.991,9
Net loans of amortisation	134.185,5	
 <i>Commercial banks</i>		
Received loans	74.687,2	
Amortisation's		- 58.755,3
Net loans of amortisation	15.931,9	
Total of net loans of amortisation	150.117,4	

<u>II. Paid interests</u>	
- 418.622.0	
(This refers to the total paid interests and does not differentiate between the Official and the commercial sector. It also includes interests on loans prior to 1980.)	

<u>III. Amount of the claimed global external debt :</u>	
1980	228.236
1990	441.486
1994	553.765

Subsequently, the amounts are the following:	
1996	646.048
1998	746.020
1999	749.310

LATIN AMERICA AND THE CARIBBEAN: DISBURSED EXTERNAL DEBT ^a
(In millions of dollars)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000 ^{b/}
Latin America and the Caribbean	458 777	478 798	528 683	565 145	620 329	646 048	668 150	746 020	759 085	750 855
Argentina	61 334	62 766	72 509	85 656	98 547	109 756	124 315	139 738	144 657	147 000
Bolivia ^c	3 628	3 785	3 763	4 216	4 523	4 366	4 482	4 656	4 574	4 400
Brazil ^d	123 910	135 946	145 726	148 295	159 256	179 934	199 998	241 644	241 468	235 000
Chile	17 319	18 965	19 665	21 968	21 736	22 979	26 701	31 691	34 167	36 000
Colombia	17 335	17 278	18 888	21 840	24 912	29 512	32 018	33 896	35 972	36 000
Costa Rica	3 992	4 055	4 011	3 818	3 889	3 376	3 290	3 537	3 700	4 000
Cuba	---	---	8 785	9 083	10 504	10 465	10 146	11 200	11 040	11 100
Ecuador	12 802	12 795	13 631	14 589	13 934	14 586	15 099	16 400	16 282	14 255
El Salvador ^c	2 200	2 343	1 976	2 056	2 168	2 517	2 679	2 640	2 810	2 750
Guatemala	2 614	2 520	2 323	2 644	2 936	3 033	3 210	3 488	3 945	3 900
Guyana	1 873	2 054	2 062	2 004	2 058	1 537	1 514	1 550	1 196	1 250
Haiti ^c	809	873	866	875	898	914	1 025	1 104	1 165	1 200
Honduras	3 441	3 538	3 850	4 040	4 243	4 121	4 073	4 408	4 728	4 000
Jamaica	3 874	3 678	3 687	3 652	3 452	3 232	3 278	3 300	3 050	3 200
Mexico ^d	116 552	117 534	131 717	142 199	169 699	163 499	152 976	161 213	167 500	163 200
Nicaragua ^c	10 313	10 792	11 987	11 695	10 248	6 094	6 001	6 287	6 499	6 650
Panama ^c	3 699	3 548	3 494	3 663	3 715	5 018	5 051	5 350	5 412	5 550
Paraguay	1 637	1 249	1 218	1 240	1 405	1 398	1 444	1 507	2 108	2 200
Peru	25 444	26 612	27 447	30 191	33 378	33 805	28 635	30 014	27 966	27 600
Dominican Rep.	4 614	4 413	4 562	3 946	3 999	3 807	3 509	3 509	3 536	3 700
Trinidad and Tobago	2 438	2 215	2 102	2 064	1 905	1 876	1 527	1 407	1 511	1 550
Uruguay ^c	2 949	3 392	3 578	4 426	4 426	4 682	4 753	5 275	5 180	5 550
Venezuela	36 000	38 447	40 836	41 160	38 498	35 541	32 426	30 689	30 619	30 800

Source: CEPAL, on the basis of official figures. The data does not coincide with the one provided by the I.M.F. and the W.B. due to different coverage and methodology.

a - Includes the debt with the I.M.F. **b** - Preliminary figures. **c** - Public external debt.

d - Public debt excludes the investment in government securities on the part of non-residents.

Latin America and the Caribbean: External debt flows
(in thousands of millions of dollars)

	1970	1980	1990	1998	1999	2000 ^a
Total of debt flows						
Disbursements	6,5	44,8	34,1	145,1	130,1	114,2
Long-term debt	6,4	44,4	29,3	140,1	122,3	110,7
Public and with public guarantee	3,6	31,4	24,6	61,1	53,7	55,9
Private non-guaranteed	2,8	13,0	4,7	79,0	68,6	54,8
Purchases of the I.M.F.	0,1	0,4	4,8	5,0	7,7	3,5
Repayments of capital	3,7	21,7	22,8	77,1	111,7	111,7
Long-term debt	3,4	21,2	19,1	74,5	103,0	97,4
Public and with public guarantee	1,7	14,2	16,9	37,8	43,8	50,3
Private non-guaranteed	1,8	7,0	2,2	36,7	59,2	47,2
Repurchases of the I.M.F.	0,3	0,5	3,7	2,5	8,7	14,2
Net flows of debt	7,6	46,1	20,5	52,9	11,4	8,6
Out of which short-term debt	...	23,0	9,1	-15,2	- 7,0	6,1
Payment of interests	...	24,6	22,8	44,5	50,6	55,5
Long-term debt	1,4	17,6	18,8	36,6	42,8	46,8
Net transfers on debt	...	21,5	- 2,3	8,4	-39,3	-46,9
Total of services of debt	...	46,3	45,6	121,6	162,3	167,3

Source: The World Bank, Global Development Finance 2001, Washington D.C., 2001

The figures do not coincide with those of the previous table due to the differences in methodology and coverage.

a/ total net flows of the debt may not coincide with the difference between reimbursements and repayments, due to changes in the rate of exchange of the currencies in which the debts have been denominated.

3. CONSEQUENCES

There is a vast bibliography on the tragic consequences of external debt, accurately summed up by Professors Bonilla and Ortiz Ahlf (12):

“As widely recognised, External Debt is destroying everything: the possibility for the development of underdeveloped countries, internal production, living standard of populations, jobs; national budgets become more and more restricted and, in some cases these budgets are limited to the expenses caused by the debt. Education and health organisations are destroyed, cities deteriorate and misery hits and even nature itself enters into a progressive system of destruction. Payment of the debt does not allow for the care of anything, neither human life nor the life conditions of nature”.

In the Budget of one of the large countries of South America which assigns some 25 million dollars daily to the payment of the external debt, subsidies to paraplegic children have been suppressed, in application of “adjustments” which are always declared as being the last ones to be enforced and which become more and more antisocial and regressive.

4. PROPOSAL OF APPLYING TO INTERNATIONAL PUBLIC LAW FOR THE PRESENTATION OF THE MATTER OF EXTERNAL DEBT BEFORE THE INTERNATIONAL COURT OF JUSTICE THROUGH ADVISORY PROCEEDINGS

It became necessary to study the legal vision of the problem in depth in order to search, in the Law, for contributions to a just and fair solution which would allow to take up again the road to progress and welfare of people of the debtor countries, within a more rational international economic context.

In keeping with this vision and since the situation is worsening, on the basis of a project presented by Professor André Franco Montoro, at the XII Conferencia Interparlamentaria Unión Europea-América Latina (XII Inter-Parliamentary Conference of the European Union-Latin American) held in Brussels between the 19th and 21st of June of 1995, the Latin American and European Parliaments adopted the following resolution:

“...
27. To reaffirm the resolution of the XI Conferencia Interparlamentaria CE/América Latina (XI Inter-Parliamentary EC/Latin American Conference) (Final Minutes, paragraph 26), regarding the problems generated by the external Latin American debt. Likewise, and on the basis of the origin of the latter, already introduced by the judgement approved by the Economic and Social Committee of the European Community in 1985 (Doc. CES 931/85 CAL/DM, paragraph 7), in the approach of the Latin American Parliament (11) and the legal analysis of several academic and scientific entities, the member States of the two Parliaments are asked to take the appropriate initiatives, searching for the support of other countries of the world, in order to have the General Assembly of the United Nations request the International Court of Justice of The Hague for an advisory opinion, which may allow to face the problem of the external debt in accordance with the general principles of contemporary international law (Court statute, Art. 38 c.)”.

The transcribed declaration shows and reaffirms the thesis presented in 1984 by Dr. Miguel Angel Espeche Gil which was adopted at the XV Congress of the Instituto Hispano-Luso-Americano de Derecho Internacional (Spanish-Portuguese-American Institute of International Law) (IHLADI), which was held in Santo Domingo, in March of 1989 [(4) pages 403 through 413 and pages 459 and 460]. The opinion sustained in this report is that **the International Public Law should direct the treatment of the problem of the external debt by means of the advisory procedure before the International Court of Justice.**

The appropriateness of the treatment of the problem of the external debt within the frame of International Public Law has been the subject of several papers, forums and conferences and has inspired declarations, such as the previously transcribed one, and legislative projects in various countries recommending the respective governments to present the proposal at the General Assembly of United Nations.

In his catechism on the spirit of the Jubilee of the year 2000, His Holiness the Pope, again demanded greater justice between creditors and debtors. In November of 1999, he said:

“The problem is complex and solutions are not easy to find. Nevertheless, it should remain clear that it is not only a problem of economic nature, but one affecting fundamental ethical principles and its space in international law should be found in order to be adequately faced and resolved through perspectives of medium and long range. Thus, the application of survival ethics which should regulate the relations between creditors and debtors becomes necessary in order to avoid that the debtor, who is facing difficulties, is not crushed by an unbearable pressure. The aim is to avoid abusive speculations, reach agreements through which those who lend receive guarantees and the ones receiving feel committed in concrete global reforms in the political, bureaucratic, financial and social aspects of their countries...

At present, within the context of global economy, the problem of international debt becomes even more complex, but globalisation itself demands that we approach the road to solidarity if do not want to face a general catastrophe”.

5. CORE OF THE THESIS

Which is the basis of the statement that the increases in the rates of interest decided by the Federal Reserve Bank in 1980, raising them from 6 to 22% within a period of a few months, and which were unilaterally applied by the creditors, are illicit actions for International Public Law? The basis is that said measures **infringe conventional and customary law regulations** as well as **general principles of internal, law, positive and in force.**

In an article published in Chasqui (1988), Alfredo Eric Calcagno states :
“That the collected interests were exorbitant. For instance, in the case of Argentina, where the interests paid were similar to the ones of other Latin American countries, had the historical interest rate been applied (estimating as such the inflation in the United States plus 1%), and if this had been considered as amortisation of capital to be collected, with a reasonable rate of interest, at the beginning of 1989 the total of the external debt would have been of 3.400 million dollars, instead of 56.800 millions”. (*)

Article 38.1, paragraph c of the Statute of the C.I.J., constitutive part of the Charter of the United Nations recognises that said general principles of Law are also valid within the scope of the *ius gentium*. These are the principles which **repress usury and the abuse of the law** as well as those constituting **the excessive onerousness derived from the payments, the theory of risk, the necessary equivalence of the payments, the illicit enrichment, the objective good faith, the objective finality of the contract, the serious damage, the equity, the theory of unforeseeable events, the co-responsibility of the creditors, the *favor debitoris*, the inviolability of human rights**, especially the right to life, etc. [(5),(8),(10)].

The arbitrary increases on the rates of interest – unilaterally applied by the creditors to the credit contracts – **also infringe customary law regulations of international general law, such as the *rebus sic stantibus* (fundamental changes of the circumstances)** to which article 62 of the Convención de Viena sobre el Derecho de los Tratados (Vienna Convention on the Law of Treaties), of 1969, refers.

The mentioned article 38, paragraph c., which is the one recognising the value that general principles of law have as source of international law, expresses as follows:

- “1. *The Court, whose function is to decide on the submitted matters in accordance with the international law, would have to apply:*
- a. *the international conventions...*
 - b. *the international custom...*
 - c. *the general principles of law, recognised by civilised nations;”*.

6. APPLICABLE RULES OF PROCESS

Article 96 of the Charter of the UN:

“1. *The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.”*

Article 65 of the Statute of the International Court of Justice:

1. *The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.*
2. *Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.*

(*) Quoted by Felipe Fossati in “Deuda Externa de Latinoamérica” (Latin American External Debt), page 6.

Article 68 of the Statute of the International Court of Justice:

“In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.”

It should also be remembered that not only the General Assembly of the United Nations has the power to request advisory opinions from the Court of The Hague; but the Organización Internacional del Trabajo (International Work Organisation) (OIT) is also empowered to do so and this is what the CLAT (Central Latinoamericana de Trabajadores) (Latin American Central of Workers) has been trying to direct through the resolution reiterated in the meeting of May, 2000 at San Antonio de los Altos, Venezuela.

7. QUESTIONS REGARDING THE ADVISORY REQUEST

A Committee was formed at the Seminar of Rome – City of the Vatican of March 1992 (10) which met in July of the same year. Taking into account the already mentioned studies and papers of IHLADI and CEISAL, said Committee drew up a project of “matters” to be presented by the General Assembly to the International Court of Justice in the case of an advisory opinion. Professors of international law, experts in civil law, procedure law and economists from Italian, Spanish and Latin American universities participated in the preparation of said document.

As a basis the Committee took the original thesis [(4), page 412], containing a five questions project (“matters”, Art. 65, 2. of the Statute of the C.I.J.) and the preliminary report of the reporter.

Among other recommendations, the expressions taken into account were the ones of two ex presidents of the Court of The Hague: Doctors Eduardo Jiménez de Aréchaga and José María Ruda [(10) pages 159 through 164]. The latter advised that the request for an advisory opinion be made as being of “urgent and priority” nature.

The Committee resolved the analysis of the external debt summarising all the juridical theme of the problem in two questions (matters), to be presented to the Court of The Hague; said juridical theme is already known as **“the formula of Rome”** and it is as follows:

“The General Assembly of the UN requests the International Court of The Hague for an advisory opinion on:

1. *Within what legal frame of international law can the obligations, resulting from external debt and its fulfilment, be placed?*
2. *In particular, what consequences does the unforeseen increase in real terms of the capitals and of interests have on said obligations?”.*

These questions or “matters” may or may not be adopted by the General Assembly or by another body of the United Nations authorised to begin the advisory

process. The mentioned questions might be reformulated or widened, but taking into account the advisory jurisprudence of the Court, while trying to cover all the juridical theme of the debt and, at the same time, facilitate the regulatory frame of the eventual reply of the Court attending the fair demand of the debtors.

8. BINDING VALUE OF THE ADVISORY OPINIONS OF THE C.I.J.

Although for the international organisations of the system of the United Nations the advisory opinions of the C.I.J. are not judgements, in principle, they have a binding value. The I.M.F. and the World Bank are among the above-mentioned international organisations. Thus, it is possible to understand the importance of an advisory opinion on the management of the problem by the world financing organisations, which should take into account the legal guidelines that the world court might eventually determine in said judgement.

9. THE FOUR SOURCES OF THE ILLEGITIMACY OF EXTERNAL DEBT

The reasons for the illegitimacy of the external debt are:

- The first one is the origin of the debts since, in many cases, said debts were contracted through fraud and documentary falseness of the agreements. The respective national civil and penal legislation should be applied in these cases in order that, once the contracting legal flaws are proved, the contracts can be invalidated.

In this source, consideration should be given to the point raised in various countries regarding the arbitrary nationalisation of private debts, which became public; said measures have been labelled as illegal and even criminal.

- The second is the one already presented from the point of view of Public International Law: the usurious unilateral and unlimited increase in the interest rates which the “Federal Reserve Bank” initiated in 1980. This increase sparked off a chain reaction since it was applied on all foreign debts, were they legitimate or not.
- The third one is the one arising from the Brady Plan agreements. The governments of the creditor countries were compelled to re-negotiate the debts with the forced implicit recognition of the illegitimate debts, with the levels of anatocism reached by its amount at the moment of the signature of said agreements. This infringes the rules of common law that rule the recognition of obligations, which have been established with precision to avoid covered usury.
- The fourth is given in the cases of the countries in which their government negotiators – who, in the name of their respective governments, agreed on the terms

of the Brady Plan – resigned from their official positions shortly after and, immediately became managers of, precisely, the financial entities who benefited from these agreements. The respective penal code which represses the violation the duties of public officers and bribery should also be applied in these cases.

10. RESPONSIBILITY OF THE STATES IN THE UNLAWFULNESS OF EXTERNAL DEBT

The works of Professors Moyano Bonilla and Ortiz Ahlf: “La Deuda Externa y la Responsabilidad Internacional del Estado” (“External Debt and International Responsibility of the State”) (12), Mexico, 1994, should be pointed out as regards the responsibility of the States in the genesis of the increase in the rates of interest and its consequences.

Referring to other international regulations of conventional character and pertinent application it should be pointed out that in several instruments and official declarations, the creditor countries committed themselves to favour and promote the development of Latin American countries. The following documents can be mentioned: Alianza para el Progreso (Alliance for Progress), Carta de los Derechos y Deberes Económicos de los Estados (Charter of Economic Rights and Duties of the States) Carta de Alta Gracia (Charter of Alta Gracia) and other instruments of economic organisations of the United Nations which enumerate the obligations along these lines. The legal responsibility carried by the States of the crediting countries, in the sense that the possibilities of progress of the countries of Latin America should not be prevented, also arises from the mentioned documents.

In the same manner, the aspects related to the **non observance of the duty of international collaboration**, established in articles 1, 3, 55 and 56 of the Charter of the United Nations, are present in the origin of this serious world problem.

The collection of arbitrary interests conspires against the development and progress of the debtor countries. The exorbitant increase of the rates, decided by the central banks, which are state organisations of the developed countries, has sparked off the regression process of Latin America in the last five years.

11. UNLAWFULNESS OF EXTERNAL DEBT IN ANGLO-SAXON LAW

Although a **breach of the principles of “common law”** was also claimed in some studies of CEISAL, no specific work based on this legal system, which is the predominant one in the Anglo-Saxon countries was available; said countries being the main creditors. It was necessary to complete the allegation of unlawfulness with the parameters of the legal systems of the “common law” in order to establish the note defining the general character of the infringed principles. An important contribution in that sense is “*La autonomía de la voluntad en la contratación internacional*”, (“*Autonomy of will in the international contracts*”) by Dr. Cecilia Fresnedo de Aguirre, Montevideo, 1991 (7) which contains valuable elements to describe – following the criteria of the Anglo-Saxon law – the questioned increases in the rates of interest.

It turns out that to apply this type of abusive increases is a prohibited behaviour in one or the other form (civil and criminal) in the different legal systems of the debtor as well as the crediting countries (not to mention in the Canonical Law [(5) pages 261 through 289] and in the Islamic Law).

12. FOREIGN DEBT AND HUMAN RIGHTS

It should also be pointed out that at international forums on Human Rights there have been proposals for the undertaking of proceedings on the basis of the incidence of Foreign Debt in the violation of said rights.

More than 30 countries who are members of the Human Rights Committee of the United Nations presented a project of resolution which was adopted on April 17, 1998, referring to the:

“Consequences of the policies of economic adjustment originated by the foreign debt in the effective benefits of human rights and, especially, in the application of the Declaration on the right to development. Resolution of the Human Rights Committee of the United Nations, 1999/22”.

The eighth item of this resolution

“Requests the Special Relator to present a yearly analytical report to the Committee on the application of the present Regulation, as regards the consequences of foreign debt for the effective benefit of economic, social and cultural rights, giving special attention to:

- a) *The negative consequences of foreign debt on the effective benefit of the economic, social and cultural rights in developing countries and on the policies which have been adopted to face said consequences;*
- b) *The measures adopted by governments, private sector and international financing institutions to diminish these consequences in developing countries, especially in the poorer ones and in those which are more heavily indebted”.*

Works on the existing causality relation between Foreign Debt and unemployment in Latin America have been recently published.

13. CEISAL EXTENDS THE FUNDAMENTATION OF A REQUEST FOR ADVISORY OPINION

The struggle for the presentation of the matter of foreign debt at the Court of The Hague through a request for advisory opinion, to be presented by the General Assembly or by another organism of the United Nations qualified to do so, has been taken over as an essential task by the Grupo de Trabajo de Jurisprudencia del Consejo Europeo de Investigaciones Sociales sobre América Latina (GTJ-CEISAL) (Work Group of Jurisprudence of the European Council of Social Investigations on Latin America). This academic institution has made summons for successive work meetings to extend and go deeply into the arguments regarding the unlawfulness attributed to the unilateral and unlimited increase of the rates of interest of foreign debt, as from the Seminar which took place in Brasilia in August 1990 (5), in which the proposal was adopted. CEISAL is a non-government organisation, recognised by UNESCO, which has its seat in Vienna, and brings together professors of European universities dedicated to the problematic of Latin America.

- 1991 - October – Vienna International Scientific Forum
- 1992 - March: Seminar of Rome, Lateranese University.
Rome, July 16: Meeting of the Draft Team.

- 1995 - Rome-Sant'Agata dei Goti, May 25-27: Seminar "Foreign Debt – General Principles of Law – International Court of Justice".
- 1996 - VI Latin America-Europe discussion on External Debt. Legal and Political Problems, Madrid, June 24 and 25.
 - August 1 – 2. Seminar "Right to Life and External Debt" as a tribute to San Alfonso María de Ligorio, Sant'Agata dei Goti.
- 1999 - VII Study Conference "Augusto Teixeira de Freitas", "External Debt and Human Rights", Rome, December 20-21.
- 2000 - Brazil, Sao Paulo, May 24 and 25. VII Latin-America Europe Discussion on External Debt and International Court of Justice. The "São Paulo Charter" was approved at this meeting.
 - Moscow, June 25-29. Symposium on external debt and defence of the debtor.
 - Moscow Minutes
 - Rome, November 26 to 30. Course on External Debt.

At these meetings it was sought to complete the fundamentals of the original paper, based on the Right of Persons with the contribution of different disciplines of law: civil, commercial, procedure, international private, economic-financial, monetary, etc. GTJ-CEISAL and, in particular, its Italian branch the ASSLA (Associazione di Studi Sociali Latino Americani) is updating a description, in form and content, of the moral, political, economical and social aspects involved in the consequences of the increase in the interest rates and other elements which constitute the general picture of external debt.

In this way a doctrinaire, substantial and procedure basis, having solid probatory quality, has been formed in order to efficiently materialise the proposal of presenting the juridical aspects of external debt to the International Court of Justice.

GTJ-CEISAL has planned three lines of action:

1. Parliamentary and inter-parliamentary work. The aim is: to obtain from national parliaments resolutions which are similar to the one of article 7 of Italian law No. 209 of July 25, 2000.
2. To have trade union work performed at trade unions, be they worker's businessmen's ones, in order that OIT requests the advisory opinion of the International Court of The Hague. This line of work has also been proposed by the Consejo Nacional de la Economía y del Trabajo (CNEL) ("Consiglio Nazionale dell'Economia e del Lavoro" – "National Council of Economy and Work" - constitutional body of the Italian Republic).
3. To work in the defence of human rights. In accordance with the guideline of the discussions of the Human Rights Committee of the United Nations in Geneva. "Following this guideline it seems necessary to also request the intervention of the judicial powers (national and supranational) and of the "Ombudsmen" (or "Commissioners for human rights")."

14. LEGISLATIVE INITIATIVES

- 1995 Declaration of the Committee of Foreign Affairs of Chamber of Congressmen of the Parliament of Brazil, project of Congressman André Franco Montoro.
- 1996 The Chamber of Members of the Italian Republic approved, with only two negative votes, the motion of Congressman Cherchi and other legislators, through which the government is exhorted to take the necessary steps to incorporate to the agenda of the General Assembly of the United Nations, the proposal to request an advisory opinion from the C.I.J. in order to establish the legal profile of foreign debt.
Declaration of the Parliament of Venezuela in favour of the advisory proceeding before C.I.J. for the legal treatment of foreign debt.
- 1999 In the Argentine Republic, Congressman Alfredo Allende, on the basis of a resolution of 1996, at that moment unanimously approved by the Chamber of Congressmen of the Parliament, presented the following project of law:
“Art. 1st – At the General Assembly of the United Nations the Permanent Mission of the Republic before the United Nations shall promote – whether in its own name or supporting initiatives which coincide with those of other member States – a project of resolution through which a request will be made to the International Court of Justice of The Hague for an advisory opinion on the legal-institutional aspects of Foreign Debt (Art. 96 of the Charter of the UN, and Articles 38, 65 and 68 of the Statute of the International Court of Justice), in accordance with the exhortation of the XII Inter-parliamentary Conference of the European-Latin American Union of Brussels, June of 1995 (Resolution No. 27)”
- 2000 *In Italy and on July 25 law No. 209 on “Measures for the reduction of external debt in the countries of lower income and in those more heavily indebted”* was sanctioned. Article 7, “INTERNATIONAL RULES OF EXTERNAL DEBT, establishes
1. Within the scope of competent international institutions, the government shall propose the performance of the necessary proceedings for the request of approval of the International Court of Justice regarding the coherence between international regulations which fix the foreign debt of developing Nations and the frame of the general principles of right and the rights of men and people.”
- This is the political legislative event having more potential transcendence for the progress of the initiative. It is important that this law be sanctioned in the Parliament of one of the world’s economic potencies and not in one of the indebted countries.
- 2001 Buenos Aires, July 27 – Project for the international investigation of Argentine External Debt of Senator Daniel Baum.

As from 1989 hundreds of provincial legislative chambers and municipal deliberating councils of Latin America have been voting declarations of support to the proposal.

15. ACTION OF C.L.A.T. – C.T.M.

The Central Latinoamericana de Trabajadores (Latin American Central of Workers) and the Central Mundial de Trabajadores (World Central of Workers) are carrying out a commendable task before all the forums in which they participate, standing for the concretion of the advisory initiative before the Court of The Hague. They have been insistently doing so since 1989. Since their appearance said groups have been advising that the problem of the external debt would seriously affect the situation of the workers and these organisations have been consequent in their fight for the obtainment of the legal treatment of the matter.

C.L.A.T. and the Universidad de los Trabajadores de América Latina (UTAL) (University of the Workers of Latin America) summoned the Conferencia Internacional de la Deuda Externa (International Conference of External Debt), which took place in San Antonio de los Altos, Venezuela, from May 10 to 12, 2000. The meeting was supported by CELAM, the Parlatino, Coalición Jubileo 2000 (Jubilee 2000 Coalition), Solidaridad Mundial (WSM) (World Solidarity Movement) and the Comunidad Autónoma de Madrid (Autonomous Community of Madrid) and it issued the “Declaración de Venezuela” (“Declaration of Venezuela”) which, among other measures, constituted itself in the “Frente Social Latinoamericano para la Deuda Externa” (Social Latin American Front for External Debt), destined to give the most ample information on this matter to the workers, making them aware of it, and to develop a dynamic plan of action against the present system of payment of the debt.

In September 2001 the C.L.A.T. delegate at the meeting of the social democratic parties in Paris, obtained the acceptance of this international association for the proposal of the advisory opinion.

16. TREATMENT OF THE SUBJECT IN OTHER FORUMS

- 1996 - Caracas, July 10-12. International meeting for a common strategy, “La Deuda Externa y el Fin del Milenio” “External Debt and the End of the Millennium”, with the sponsorship of the Congreso de la República de Venezuela (Congress of the Republic of Venezuela) and the Parlamento Latinoamericano (Latin American Parliament).
- Caracas, August 16-17. Seminar “El Fin del Milenio y la Deuda Externa” (“End of Millennium and External Debt”), organised by the Venezuelan group of the Latin American Parliament.
 - September 29, “Declaración de Sant’Agata dei Goti sobre la Usura y la Deuda Externa” (Declaration at Sant’Agata dei Goti on Usury and External Debt), formulated by a interdisciplinary group summoned by Monsignor Mario Pasciello, Bishop of that medieval city, is a reminder of the moral rules and general principles of right violated by external debt, further to the one condemning usury. Said declaration retakes the papal pronouncements and the documents of the teachings of the Church which are related to the teachings of San Alfonso María de Liguorio on usury, which have been incorporated to the Catechism of the Catholic Church.
 - Creation of the Centre for the documentation of the legal aspects of external debt, Faculty of Law, Universidad Católica Argentina (Argentine Catholic University) .

- 1999 - “Court of External Debt”, which met in March in Rio de Janeiro.
- Lima, Peru, May 25-27: 2000 Coalición Latinoamericana y Caribeña Jubileo 2000, Seminario-Taller sobre “Deuda Externa, Desendeudamiento y Solidaridad Global” (Jubilee of the Latin American and Caribbean Coalition, Seminar-Workshop on “External Debt, Cancellation of Debt and Global Solidarity”).
 - Köln, Germany, June: World Forum around the Jubilee.
 - Annaba, Argelia, December 4-6, 1999: VII International Seminar “La dette des Pays Sud et de l’Est de la Méditerranée, obstacle au partenariat Euro-méditerranéen”. “Annaba Declaration” (“Declaración de Annaba”).
 - The Synod of Catholic bishops of all America which took place in Rome, made a strong appeal on the injustice prevailing in the economic relations between the North and the South: *“Although external debt is not the exclusive cause of poverty in many developing countries, it cannot be denied that it has contributed to create conditions of extreme deprivation, which constitute an urgent challenge to the conscience of humanity”*.
 - Ecuador, Quito: Latin American Meeting “Human Rights facing External Debt” (Encuentro Latinoamericano “Los Derechos Humanos frente a la Deuda Externa”).
 - Resolutions addressed to the Unión Interparlamentaria Mundial (Interparliamentary World Union) y a la Conferencia Internacional del Trabajo (International World Conference).
- 2000 - May 21 - The President of Brazil, Fernando Henrique Cardoso, anticipated his intention to promote a regional blockade for a better negotiation with the creditors of the external debt (Diario “Clarín”, Suplemento Zona, Buenos Aires) (“Clarín” Newspaper, Supplement Zone, Buenos Aires) on the trip of the new director of the I.M.F.), Horst Köhler.
- Rome. June 15-16: Forum “SDEBITARSI UN MILLENNIO SENZA DEBITI”, for the cancellation of the untenable debt which, in real terms, has already been paid up.
 - The Conferencia Nacional de Obispos del Brasil (CNBB) (National Conference of Brazilian Bishops) requests the Federal Congress to summon an official plebiscite on external and internal debts.
 - The Convención Parlamentaria Americana del Jubileo 2000 (Jubilee 2000 American Parliamentary Convention) which met in Valparaíso, Chile and in Buenos Aires, Argentina on October 5, 6 and 7, issued a declaration supporting the initiative.
 - The Asamblea de los Parlamentarios del Mundo (World Meeting of the Members of the Parliament), on the occasion of the Jubilee of the leaders and of the members of the Parliament, met in Rome on November 4-5 and committed itself to have its members advocate, at their respective Parliaments, the presentation of projects in favour of the proposal.
- 2001 - July: Encuentro sobre Deuda Social (Meeting on Social Debt), Caracas, Venezuela.
- August: Seminar summoned by the communal administration of the city of Sant’Agata dei Goti on: “El camino de la “Carta de Sant’Agata dei Goti sobre

usura y deuda externa” (The road of the “Charter of Sant’Agata dei Goti on usury and external debt”).

17. IRRELEVANCE OF THE DIMINUTION OF INTEREST RATES FOR DEBTORS AS WELL AS OMINOUS PERSPECTIVES OF NEW INCREASES

The tragic socio-economic and political consequences suffered by the increases of the rates at the beginning of the 80s became noticeable with the 1994 rises.

In February of 1994, and in spite of the apparent lack of importance of this increase (0,25%), a new leap of thousands of millions was brought about on the total amount of the debt. An increase of 0,50% has been applied in the year 2000, with renewed catastrophic results for the debtor countries.

The effect of the rate increases is that, once and again, the debtor countries have to face an unrestrained anatocism (an escalation of interests upon interests which are added to the capital) as well as the destruction of the mentioned precarious order and the staggered payments of the services of the debt, which had been maintained until February 1994 thanks to the low level and relative stability of the rates of the previous years. These increases uncovered the fallacy of the Brady Plan.

The relief obtained by the rebates in the interest rates on the services of foreign debt is apparent since, through the previous anatocisms, the artificial growth of debts, capital and interests is therefore a deceptive improvement of the actual situation of the debtors.

18. ACTION OF THE LATIN AMERICAN PARLIAMENT

Consistent with his constant preaching and as a tribute to the Brazilian statesman André Franco Montoro who, to the last day of his life, tenaciously worked from his position in the Advisory Council towards the presentation of the matter in world courts, the XV Reunión de Asuntos Económicos y Deuda Externa del Parlamento Latinoamericano (XV Meeting of Economical Affairs and External Debt of the Latin American Parliament) (Montevideo, November 8-10, 2000), issued the following document:

“WHEREAS

I) Law No. 209, of July 25, 2000, which was unanimously approved by the Parliament of the Italian Republic, represents an historic milestone of international solidarity which can be taken as an example, in particular its article No. 7 INTERNATIONAL RULES OF EXTERNAL DEBT”...

“II) that said article 7 of the law materialises an aspiration of the Parlatino expressed in the final minutes under number 27 of the XII Reunión Interparlamentaria de la Unión Europea-América Latina (XII Inter-parliamentary Meeting of the European-Latin America Union”): “in the focus of the Latin American Parliament and in the legal analysis of several academic and scientific entities, it

requests the State members of the two Parliaments to take the convenient initiatives, in the search for the support of other countries of the world, in order that the General Assembly of the United Nations applies to the International Court of Justice of The Hague for an advisory judgement which may allow facing the problem of external debt in accordance with the general principles of contemporary international law (statute of the Court, art. 38, letter c)”.

“III) that said law and initiative can be a model for other achievements.

THEREFORE AGREES TO:

- I) express its appreciation and gratitude to the Parliament of the Italian Republic for the adopted legislative initiative;
- II) divulge the recognition mentioned in the previous point at the national and international forums which may correspond;
- III) request a pronouncement on article 7 of said law from the national parliament members, before holding the next Conferencia Interparlamentaria Mundial (World Inter-parliamentary Conference);
- IV) propose to the Conferencia Interparlamentaria Mundial (World Inter-parliamentary Conference) a resolution with a similar content to what has been expressed in article 7 of the law, to obtain the deliberation of the General Assembly of the United Nations”...

19. EXHORTATION OF THE PARLATINO TO CELAM

The President of the Latin American Parliament, Member of Parliament Juan Adolfo Singer addressed a communication to the Consejo Episcopal para América Latina (CELAM) (Episcopal Council for Latin America) requesting its good offices for:

...”be kind enough to propose all National Episcopal Conferences to request urgent collective interviews and present themselves before the respective Presidents of the Republic to exhort them to have the permanent missions credited before the United Nations obtain the support for a project of Resolution of the General Assembly in order to request the International Court of Justice to issue an advisory opinion regarding the juridical aspects of external debt”.

...”You may rest assured, your Excellency, that this proposal is absolutely not incompatible with the Jubilee’s ecclesiastical call for the pardon or condoning of the debt. This call is addressed to the conscience of the creditors, while our initiative, formulated in a juridical field, is a claim for Justice from the countries which are convinced of already having more than paid what they owe”.

20. ATTEMPTS TO PUT THE PROPOSAL INTO PRACTICE

At the end of 1989, the permanent representation of the Dominican Republic in the United Nations, presented to the General Secretary IHLADI's proposal which was destined to the General Assembly. Said proposal was sent to the Committee II (Economical) for its study, and then included in the heading "La deuda externa y el desarrollo" ("External debt and development"). It was never put to consideration. Neither was it sent to its natural forum, which would have been Committee VI (Juridical).

In 1995, in the circles of the General Assembly of the United Nations, several governments, within the "Group of the 77", began proceedings proposing a project of resolution to present a request of advisory opinion on the international juridical aspects of External Debt.

In the course of the October sessions of the "Group of the 77", prior to the meeting of Committee II (Economical) of the General Meeting in which the agenda included the point "La crisis de la Deuda Externa y el Desarrollo" ("The crisis of External Debt and Development"), several permanent missions circulated the basis of a project of resolution on the mentioned request of advisory opinion to the International Court of Justice. Unfortunately, said initiative did not succeed. A delegation of the Consejo Consultivo del Parlamento Latinoamericano (Advisory Council of the Latin American Parliament) had an unofficial participation in the discussions held during the mentioned sessions, where it explained the fundamentals and proposals of the initiative.

In spite of the enormous difficulties this initiative is facing at present and will be maintained in the future, it deserves to continue being defended since it is based on the firm conviction that it is not possible to tolerate to keep our countries immersed in the poverty provoked by the wild anatocism which, with no retribution whatsoever for their people, takes away more than half of the value of the total Latin American exports. The situation is even worse for a great part of the African countries and is already becoming a serious problem in Oriental Europe.

21. FALLACY OF THE "HIPC" PROJECT

(Debt cancellation projects for highly indebted poor countries)

The cancellation of the debts from highly indebted poor countries, known under the initials HIPC has been projected in the international financial circles. It is a false manner of dealing with the expectations, created by the ecclesiastical exhortation to the Jubilee, with a "pardon" of part of external debt of some African and Central American countries (comparatively irrelevant and non-collectable amounts due to the absolute exhaustion of the debtors). The intention is to continue dominating the medium and larger debtor countries transformed into exporters of capital to the financial system.

In his inauguration speech at the meeting of the Episcopal Conferences, which took place in Quito on May 11, 1999, the President of the Consejo Episcopal Latinoamericano (Latin American Episcopal Council) Monsignor Oscar Andrés Rodríguez Maradiaga expressed the following:

“... Strangely enough, the international financing organisations and the world of economy in general had plotted a sort of “conspiracy of silence” on the subject of External Debt, which was considered a matter of the past and already overcome with I.M.F.’s structural adjustments of the economy. Even the important document of Justice and Peace on the ethical aspects of the debt slept in shelves which were unknown by many Catholics”...”under the euphemism of “service to the debt” there are hidden shameful pages of “social sins” of cruel colonialism of money which no longer, as in past times, demands tributes for the empire, but interests which bleed national budgets from year to year, excluding with another euphemism, many countries of the world which have the right to live with dignity: SILICS (Severe Indebted Low Income Countries).”

22. TENDENCIOUS OBJECTIONS

The legal proposal of resorting to the advisory proceeding before the C.I.J. has been attacked with misleading and opportunity reasoning: it has been ridiculed in an attempt to demerit its fundamentals. **It is sustained** – and this is the most showy reasoning – **that the formal recognition on the part of the debtor States of their previous obligations (Brady Plan and other agreements) constitutes the policing of the presumed original illegality of the unilateral increase in the rates of interest.** The diffusion of these new titles or bonds of the debt in the stock market, sold among innumerable holders (“the Belgian dentist”) – supposedly in good faith – would strengthen this crafty reasoning.

This fallacy is a new challenge to the wisdom of Romanists and experts on civil law. In this respect it should be mentioned that the rules of common law applicable to similar situations, such as that of article 723 of the Argentine Civil Code, which expresses the following:

“If the act of recognition increases the original obligation, or modifies it in detriment of the debtor, only the original document should be taken into account, only if there had not been a new and licit cause of debt”.

It becomes evident that this rule has been designed to prevent concealed usury in the acknowledgement of the obligations, when said obligations are more onerous for the debtor, a situation similar to the presented on a global scale with External Debt.

23. POSSIBLE CONSEQUENCES OF AN ADVISORY OPINION

What can be expected from an advisory opinion of the International Court of Justice on the legal aspects of external debt?

That the International Court of Justice, when answering to the request for an advisory opinion presented by the General Assembly of the UN (AGNU), **expresses that external debt is a juridical matter ruled by Public International Law and, therefore, declares the illegal character of the unilateral and unlimited increases in the rates of interest**, establishing the criteria for the stipulation of what the debtors have already paid up of the capital and of the interests and the amounts which were eventually payable on demand by law.

The drafting of the *questions* – the transcribed “*formula of Rome*” – meets this objective, the attainment of which is now becoming more urgent.

On the contrary, if the judgement of the Court is adverse to the debtor part and should it consolidate the claim of the creditors recognising the *statu quo* of the debt, the debtor countries would remain in the same bad situation as until now, i.e. that there would be nothing more to lose with the advisory process. This is why we believe it is worth making the attempt.

An advisory opinion which contemplates the point of view of the debtors would open valuable possibilities of trial defence in incidental lawsuits of the States in the status of default of payments. This would be valid in front of courts ruled by the system of Anglo Saxon law, which directly apply International Public Law as the law of the country.

Another argument of economic character makes the proposed election of the juridical course advisable. Should a judgement of the Court favour debtor countries – which, in order to fulfil the services of the debt draw important amounts which are incorporated into the financial circuit – causing a diminution of the debt and, consequently, of what is being paid under concept of interest rates, these debtor countries would have money to stimulate their paralysed development and could start paying off the huge pending “social debt” they maintain with their people; and, to a large extent, make investments in the purchase of capital assets and technology, of which the United States is the main exporter.

It is easy to foresee the beneficial effect this measure would have on the economies of the United States and Europe and, to overcome recession, that said money could directly enter their productive circuits. It can be concluded that there would be a real coincidence, as regards the benefits, between debtor countries, anxious to promote their development, and the genuinely productive sectors of the first world.

On the other hand, **the initiative to consult the world court is coincident with the need to discipline the anarchic behaviour of the volatile capitals** which act without any legal restraint whatsoever and keep the stability of a great number of countries and the health of the world economic system in a state of anxiety.

The weakness of a system in which the amounts of the handled financial papers are up to one hundred times higher than the real values of the properties and services these papers represent is also evident. The sad experience of these past years is alarming as regards the capacity shown by the speculators who, through financial games, can drive whole countries into poverty.

24. PURPOSE OF THE PROPOSAL

The aim of the proposal is that the World Court recognises the reality reflected by the amounts of foreign debt (Point 2) and that the juridical frame of its consequences be enunciated.

Even though an opinion favourable to the debtors could be obtained from the world court this would not, *per se*, mean that the debt is automatically reduced or suppressed.

The character of the advisory opinion of the Court is declaratory, it is not a verdict, except for the financial organisations of the system of the UN.

An impartial advisory opinion regarding the position of the debtor countries would have a great political repercussion and, in view of the moral and scientific prestige of the World Court, would weaken the demands of the creditors, revealing their arbitrariness and lack of legal support. This would allow a larger margin of action of the debtor States in their negotiations with the international banking and give renewed strength to the Latin American leaders to resume the road of development.

In spite of the support obtained in academic, scientific circles and in international and national political forums, the proposal has not been presented by any government at the General Assembly of the United Nations, except the already mentioned steps taken by the Dominican mission in 1989, which did not have continuity. The use of this procedure of rationality and settlement, which the Law provides, cannot be postponed to reach a solution to this serious problem.

The treatment of the proposal by the General Assembly should not disturb the negotiations between the debtor States and the creditor banking.

At the Encuentro sobre Deuda Social (Meeting on Social Debt) on July 2001 (39) the winner of the Peace Nobel Prize. Adolfo Pérez Esquivel, declared:

“This is one of the roads, TODAY, within our reach.

Only decision and political unity are needed to launch it: some Latin American government to be the driving force to present this proposal before the General Assembly of the United Nations and that, together, all of us give the support of all the region, of all the South, from all the corners of the planet.”

It is necessary and urgent that the governments of Latin America, and those of the developed countries too, realise the constructive character of this initiative in order that the empire of Law prevails in international economic life and that they present the project, for the request of an advisory opinion to the General Assembly of the United Nations (AGNU), explaining its legitimate purpose. The foreseeable adverse reaction of the creditor banking would only confirm the reasonability of said proposal.

CHRONOLOGY OF THE PROPOSAL FOR AN ADVISORY OPINION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS TO THE INTERNATIONAL COURT OF JUSTICE (AGNU)

1988 - Article: “DEUDA EXTERNA” (“EXTERNAL DEBT”) – “Ilicitud del alza unilateral de los intereses” (“Unlawfulness of the unilateral increase of the interests”), Miguel Ángel Espeche Gil, “CRITERIO” magazine, Buenos Aires, issue of September 24.

- 1989 - Project of Resolution presented at the Argentine Chamber of Congressmen by Congressman Congressman Dr. Jorge R. Vanossi. March.
- Report of Miguel Angel Espeche Gil: "ILICITUD DEL ALZA UNILATERAL DE LOS INTERESES DE LA DEUDA EXTERNA" ("UNLAWFULNESS OF THE UNILATERAL INCREASE OF THE INTERESTS OF EXTERNAL DEBT"), XV Congress of IHLADI, Santo Domingo. Original in Spanish and English version, translation by the World Bank. April 28.
- Recommendation of the XV IHLADI Congress, Santo Domingo: "EL ALZA UNILATERAL ILIMITADA DE LAS TASAS DE INTERES DE LA DEUDA EXTERNA A LA LUZ DEL DERECHO INTERNACIONAL CONTEMPORANEO" ("UNILATERAL AND ILIMITED INCREASE OF THE INTEREST RATES OF EXTERNAL DEBT IN THE LIGHT OF CONTEMPORARY INTERNATIONAL LAW"). April 28.
- Resolution of the XV IHLADI Congress committing the President of the Institute the diffusion of the report and recommendation on foreign debt as well as the analysis in depth of different legal aspects of external debt. April 28.
- Project of declaration on external debt, presented to the Argentine Senate by Senator Dr. Fernando de la Rúa. November 7.
- 1990 - Article, "La deuda externa a la luz jurídica del derecho positivo". ("External debt in the juridical light of positive law"). Francisco Trusso, "La Nación", Buenos Aires, April 14.
- CONCLUSIONS of the "VII Seminario Internacional ROMA-BRASILIA sobre aspectos jurídicos de la deuda externa de los países latinoamericanos" (VII Seminar on Juridical Aspects of External Debt in Latin American countries). Brasilia, August.
- The Council of the Latin American Central of Workers (CLAT), which met in San José de Costa Rica, supported the initiative of taking the legal aspects of external debt to the International Court of The Hague.
- 1991 - Resolution of the "XVI Congreso de IHLADI sobre aspectos jurídicos de la deuda externa" (XVI IHLADI Congress on Juridical Aspects of External Debt), Mérida, Venezuela, March.
- Letter from Senator Fernando Henrique Cardoso to the Brazilian Federal Senate. July 16.
- Foro Científico "La deuda externa de los países latinoamericanos", (Scientific Forum "External debt in Latin American countries), "Perfiles jurídicos, económicos y sociales" ("Social, economic and legal profiles"), Viena, October 17-18.
- 1992 - Seminario Jurídico Internacional "PROFILI GIURIDICI DEI DEBITO INTERNAZIONALE" (International Legal Seminar "LEGAL PROFILES OF FOREIGN DEBT) documents, Lateran Pontifical University Rome, March 5-7.
- Resolution of the Argentine Senate. March.
- Support to the initiative by the CMT ("Confederación Mundial de Trabajadores") (World Workers Confederation) and of the CLAT ("Central Latinoamericana de Trabajadores") (Latin American Central of Workers).
- Written proceedings of the matters which the "Comisión de Trabajo de Jurisprudencia" (Legal Work Commission) of CEISAL elaborated in its Rome meeting celebrated in the Lateran Pontifical University, July 16.
- Drafting of the "*formula of Rome*" with the matters to be submitted to the International Court of Justice.
- Presentation of the President of IHLADI on external debt and Resolution of the XVII Congress, Cáceres, España, September.
- 1993 - "Proposta sobre a Divida Externa" of Professor André Franco Montoro to the "XI Conferencia Interparlamentaria CEE – América Latina" (XI Inter-parliamentary Conference of CEE – Latin America). February.
- 1993 - The CMT (Confederación Mundial del Trabajo) (World Work Confederation) and the CLAT (Latin American Central of Workers) reiterate the proposal of the Latin American Parliament.
- "Acuerdo de la XI Conferencia Interparlamentaria CEE-América Latina", (Agreement of the XI Inter-parliamentary Conference CEE-Latin America), São Paulo, May.

- Resolution of the Comité Jurídico Interamericano (Inter-American Juridical Commission) on legal aspects of external debt, Rio de Janeiro, August 20.
 Brasilia Seminar on juridical aspects of external debt as opposed to the menace of new of interest. (Spanish-Portuguese) Brasilia, Federal Congress, September 1st
- 1994 - First report of the “Consejo Consultivo del Parlamento Latinoamericano”: “La Deuda Externa y el Derecho Internacional Público” (“External Debt and Public International Law”), São Paulo, April 21st.
- 1995 - “Seminario sobre Aspectos Jurídicos de la Deuda Externa, Parlatino” (Seminar on Juridical Aspects of External Debt, Parlatino), São Paulo, March.
 - Seminario Jurídico Internacional “Deuda Externa – Principios Generales del Derecho – Corte Internacional de Justicia” – II Seminario Jurídico Internacional (Juridical International Seminar “External Debt – General Principles of Law – International Court of Justice” – II International Juridical Seminar). Rome, May 25-26 and Sant’Agata dei Goti, May 27.
 - Resolution of the XII “Conferencia Interparlamentaria Unión Europea–América Latina” (Inter-parliamentary Conference European Union – Latin America), Brussels, June.
 - Resolution of the Chamber of Congressmen of Brazil, August.
 - Proposal of Congressman Salvatore Cherchi in the Italian Parliament, echoing the mentioned agreement of the “XII Conferencia Interparlamentaria de Bruselas” (XII Inter-parliamentary Conference of Brussels), August. (See 1998)
 - Motion at the Congress of the Peruvian Republic presented by Senator Delgado Barreto.
 - The Advisory Council of the Latin American Parliament (“Parlamento Latinoamericano”) prepares a project Explanatory Report as contribution to the eventual presentation of a project of resolution before the General Assembly of ONU.
 - The President of the Latin American Parliament, Senator Humberto Celli, presents a note to the General Secretary of United Nations calling for the inclusion of a subject called, “Deuda Externa y Derecho Internacional – Pedido de una Opinión Consultiva” (“External Debt and International Law – Request for an Advisory Opinion”), in the agenda of the LI period of sessions of the General Assembly. October 26.
- 1996 - ‘Coloquio América Latina – Europa sobre “La Deuda Externa, problemas jurídicos y políticos”’ (Latin America – Europe Colloquium on “External Debt, legal and political problems”) Madrid, June 24-25.
 - Seminario de Estudios Internacionales sobre “Derecho a la Vida y Deuda Externa” (International Studies Seminar on “Right to Life and Foreign Debt”. Sant’Agata dei Goti, August 1 and 2.
 - Seminar on “El Fin del Milenio y la Deuda Externa” (End of Millennium and External Debt organised by the Venezuelan section of the Latin American Parliament. Caracas, August 16-17.
 - Note of the President of the Latin America Parliament, Congressman Juan Adolfo Singer to CELAM. August 28.
 - Note of the President of the Advisory Council of the Parlatino to the Chief Secretaries of the Rio Group, which met in Cochabamba. August 28.
 - In the Argentine Congress: (1) Project of Senator Luis León and (2) Project of declaration of Congressman Alfredo Allende, unanimously approved by the Chamber of Representatives of the Argentine Republic, on October 23.
- 1997 - International meeting for a common strategy “La Deuda Externa y el Fin del Milenio” (“External Debt and the end of Millennium”). July 10-12
 - “Sant’Agata dei Goti declaration on Usury and External Debt”, September 29.
- 1998 - Resolution of the Human Rights Committee of the United Nations, Geneve, April.
 - Chamber of Congressmen of the Italian Parliament, voting of “Cherchi Motion”, May 27.
- 1999 - III International Forum on External Debt “Il 2000, anno del Giubileo: per un nuovo inizio libero dal debito”, Sala della Promoteca, Campidoglio, Rome, September 21-22.
- 2000 - IV International Forum on Foreign Debt “Un milenio senza Debiti”, Sala della Promoteca, Rome, June 15-16.
 - Chamber of Congressmen of the Italian Parliament: unanimous voting (excepting two

- abstentions) of the project of law “Misure per la riduzione del debito estero dei Paesi a più basso reddito e maggiormente indebitati”. June 28.
- The Senate sanctioned the project of law approved in the Chamber of Congressmen through which the Italian government should start the proceedings to request an advisory opinion to the Court of The Hague on the rules of right which discipline foreign debt in the developing countries, in the frame of the general principles of right, the rights of man and of people. July 13.
 - FINAL DECLARATION OF THE MEETING OF THE WORLD PARLIAMENTARIES ON THE OCCASSION OF THE GOVERNORS AND PARLIAMENTARIES JUBILEE, ROME, NOVEMBER 4 AND 5.
First Motion: FOREIGN DEBT OF POOR COUNTRIES AND DEVELOPING COUNTRIES.
 - Meeting of the Committee of Economic Affairs and External Debt of the Latin American Parliament to discuss article 7 of Italian law No. 209 of July 25, 2000. Montevideo, November 9-10.
- 2001 - International Meeting for a Common Strategy:
External Debt and End of Millennium. Supported by the Latin American Parliament and the Congress of the Venezuelan Republic. San Antonio de los Altos, November 7.

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<http://derecho.org/comunidad/deudaexterna>

Correo Electrónico: deudaexterna@hotmail.com

www.ucalp.edu.ar/institutos/centro

www.uca.edu.ar/cid

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