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PANEL ON

"STATE SUCCESSION AND RELATIONS WITH FEDERAL STATES"

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TREATY SUCCESSION AND RELATED ISSUES
IN THE WAKE OF THE BREAKUP OF THE USSR

THE BREAKUP OF THE SOVIET UNION HAS PRESENTED OUR OFFICE WITH A HOST OF FASCINATING ISSUES. NONE ARE MORE COMPELLING, AT LEAST AS A THEORETICAL LEGAL MATTER, THAN THE QUESTION OF SUCCESSION TO TREATY RIGHTS AND OBLIGATIONS BY THE NOW-INDEPENDENT FORMER REPUBLICS. INDEED, GIVEN THE UNSETTLED NATURE OF INTERNATIONAL LAW AS TO TREATY SUCCESSION — INDEED, ONE MIGHT SAY THE LACK OF IT — IT MAY WELL BE THAT INTERNATIONAL PRACTICE IN CONNECTION WITH THE DISSOLUTION OF THE SOVIET UNION WILL PROVE TO BE CRITICAL TO THE FUTURE SHAPE OF THE LAW. TODAY, I WOULD FIRST LIKE TO GIVE YOU A SENSE OF SOME OF THE CONSIDERATIONS THAT HAVE GONE INTO THE FORMULATION OF OUR LEGAL POSITION ON TREATY SUCCESSION AND ON SEVERAL RELATED ISSUES, AND THEN BRIEFLY REVIEW SOME OF THE POLICY CONSEQUENCES OF THIS LEGAL POSITION.

SOME INTERNATIONAL LEGAL SOURCES HAVE ADOPTED BRIGHT-LINE TESTS TO DETERMINE WHETHER OR NOT STATES SUCCEED TO THE RIGHTS AND OBLIGATIONS OF PRE-EXISTING TREATIES. THE 1978 VIENNA CONVENTION ON SUCCESSION OF STATES IN RESPECT OF TREATIES (WHICH THE UNITED STATES HAS NOT SIGNED AND WHICH HAS NOT ENTERED INTO FORCE) PROVIDES THAT FORMER COLONIES (AND OTHER TERRITORIES DEPENDENT UPON A DOMINANT STATE FOR THE CONDUCT OF FOREIGN POLICY) ARE ENTITLED TO A "CLEAN SLATE" UPON ATTAINING THEIR INDEPENDENCE, BUT THAT ALL OTHER STATES ARE BOUND TO THE TREATIES OF THEIR PREDECESSOR. THE THIRD RESTATEMENT OF THE LAW ON FOREIGN RELATIONS SPECIFICALLY REJECTS THIS APPROACH, FAVORING INSTEAD A "CLEAN SLATE" FOR ALL NEW STATES, REGARDLESS OF WHETHER OR NOT THEY WERE DEPENDENT COLONIES.

STATE PRACTICE

WE CONSIDERED THESE SOURCES IN THE COURSE OF OUR ANALYSIS BUT, GIVEN THE ABSENCE OF A GOVERNING MULTILATERAL TREATY ON STATE SUCCESSION, WE HAVE LOOKED PRINCIPALLY TO STATE PRACTICE TO INFORM OUR VIEWS ON THIS SUBJECT. AS YOU ARE ALL AWARE, THERE ARE DIVERGENT APPROACHES THAT HAVE BEEN EMPLOYED WITH RESPECT TO TREATY SUCCESSION IN THIS CENTURY. AS A GENERAL MATTER, STATE PRACTICE MAY BE VIEWED AS FALLING ALONG A CONTINUUM. AT ONE END OF THIS CONTINUUM, WHERE A PORTION OF THE STATE BREAKS AWAY FROM

THE PRIMARY, PREDECESSOR STATE, THE PRACTICE TENDS TO SUPPORT A "CLEAN SLATE" APPROACH. AT THE OTHER EXTREME, WHERE A STATE DIVIDES INTO ITS CONSTITUENT PARTS, THE PRACTICE SUPPORTS THE CONTINUITY OF EXISTING TREATY RIGHTS AND OBLIGATIONS.

EXAMPLES OF THE BREAKUP OF STATES IN WHICH CONTINUITY OF TREATY OBLIGATIONS FOLLOWED INCLUDE THE FOLLOWING:

-- THE GREATER COLOMBIAN UNION, FORMED BETWEEN 1820 AND 1830, WHICH LATER DISSOLVED INTO COLOMBIA, ECUADOR AND VENEZUELA.

-- THE UNION OF NORWAY AND SWEDEN, DISSOLVED IN 1905.

-- THE SEPARATION OF AUSTRIA AND HUNGARY IN CONNECTION WITH THE DISSOLUTION OF THE AUSTRO-HUNGARIAN EMPIRE AFTER WORLD WAR I.

-- THE SEPARATION OF SYRIA FROM EGYPT IN CONNECTION WITH THE DISSOLUTION OF THE UNITED ARAB REPUBLIC.

IN EACH SUCH CASE, ALTHOUGH THERE WERE EXCEPTIONS, THE GENERAL PRACTICE WAS TO TREAT THE NEWLY EMERGING STATES AS BOUND BY THE TERMS OF THE EXISTING TREATIES ENTERED INTO BY THEIR PREDECESSOR UNIONS.

IN CONTRAST, IN THE WAKE OF THE FOLLOWING SEPARATIONS, THE PRACTICE OF THE MAJORITY OF STATES HAS BEEN TO GRANT THE NEWLY EMERGING STATE AS HAVING A "CLEAN SLATE" TO ESTABLISH ANEW THE TERMS OF THEIR TREATY RELATIONSHIPS:

- THE SECESSION OF PANAMA FROM COLOMBIA IN 1903 (THOUGH FRANCE DID NOT ACCEPT THE VIEW OF THE U.S. AND THE U.K. THAT PANAMA WAS NOT BOUND BY COLOMBIA'S TREATIES).
- THE SECESSION OF FINLAND FROM THE SOVIET UNION AFTER WORLD WAR I.
- THE SEPARATION OF POLAND AND CZECHOSLOVAKIA FROM THE AUSTRO-HUNGARIAN EMPIRE AFTER WORLD WAR I (THOUGH, AS NOTED ABOVE, THE "CORE" STATES OF AUSTRIA AND HUNGARY WERE DEEMED TO SUCCEED TO THE EXISTING TREATY RIGHTS AND OBLIGATIONS).
- THE SECESSION OF PAKISTAN FROM INDIA IN 1947 (THOUGH IT WAS HELD TO CERTAIN TREATY TERMS UNDER A DEVOLUTION AGREEMENT).

RATIONALE FOR AND IMPACT OF RULES

WE BELIEVE THAT U.S. INTERESTS IN MAINTAINING THE STABILITY OF LEGAL RIGHTS AND OBLIGATIONS ARE, ON BALANCE, BETTER SERVED BY ADOPTING A PRESUMPTION THAT TREATY RELATIONS REMAIN IN FORCE. THIS IS CONSISTENT WITH OUR EFFORTS TO FOSTER RESPECT FOR THE RULE OF LAW AROUND THE WORLD. IN THE BROADEST SENSE, THEREFORE, WE WOULD FAVOR THE DEVELOPMENT OF INTERNATIONAL LEGAL PRINCIPLES THAT FOSTER STABILITY OF LEGAL RIGHTS AND OBLIGATIONS. WHEN THIS PRINCIPLE IS APPLIED TO SPECIFIC CIRCUMSTANCES THAT ARISE FROM THE ESTABLISHMENT OF NEW STATES IN THE LATE TWENTIETH CENTURY, THE DESIRABILITY OF MAINTAINING EXISTING TREATY ARRANGEMENTS BECOMES READILY APPARENT. INDEED, NOTWITHSTANDING THE CLEAR APPLICABILITY

OF THE "CLEAN SLATE" RULE, THE COMPLEX WEB OF TREATY RELATIONSHIPS NOW EXTANT HAS LED MANY FORMER COLONIES TO ADHERE TO THE TREATIES OF THEIR PREDECESSORS UNDER THE TERMS OF DEVOLUTION AGREEMENTS. MOREOVER, SUCH ADHERENCE IS ESPECIALLY VITAL TO OUR OWN NATIONAL SECURITY WHEN THE TREATY OBLIGATIONS AT ISSUE CONCERN ARMS CONTROL AND NUCLEAR WEAPONS ISSUES, AS IS TRUE WITH RESPECT TO THE FORMER REPUBLICS.

IN SUM, WHILE WE RECOGNIZE THAT THE LAW IN THIS AREA IS SOMEWHAT UNSETTLED, WE HAVE DECIDED THAT THE BETTER LEGAL POSITION IS TO PRESUME CONTINUITY IN TREATY RELATIONS BETWEEN THE UNITED STATES AND THE FORMER REPUBLICS. IN OTHER WORDS, AS A GENERAL PRINCIPLE, AGREEMENTS BETWEEN THE UNITED STATES AND THE USSR THAT WERE IN FORCE AT THE TIME OF THE DISSOLUTION OF THE UNION WILL BE PRESUMED TO CONTINUE IN FORCE AS TO THE FORMER REPUBLICS.

WHAT IS THE LEGAL BASIS FOR ADOPTING THIS POSITION? EXCEPT FOR THE BALTIC STATES, WHICH WE NEVER RECOGNIZED AS PART OF THE SOVIET UNION, WE REGARD THE CONCURRENT EMERGENCE OF RUSSIA AND THE OTHER FORMER REPUBLICS TO HAVE STEMMED FROM WHAT WAS ESSENTIALLY THE COMPLETE BREAKUP OF THE UNION. THUS, CONTINUITY OF TREATY RELATIONS IS SUPPORTED BY OUR READING OF STATE PRACTICE, AND BY THE POLICY CONSIDERATIONS UNDERLYING THIS RULE. PERHAPS MOST IMPORTANTLY, CONTINUITY HAS BEEN SUPPORTED BY THE REPUBLICS THEMSELVES, WHO AFFIRMED THIS APPROACH IN THE ALMA ATA DECLARATION WHEN THEY GUARANTEED THE "FULFILLMENT OF INTERNATIONAL OBLIGATIONS STEMMING FROM THE TREATIES AND AGREEMENTS OF THE FORMER U.S.S.R."

THIS APPROACH WILL NOT LEAD TO THE CONTINUATION IN FORCE OF ALL AGREEMENTS WITH ALL REPUBLICS. THERE WOULD BE EXCEPTIONS EVEN UNDER A STRICT RULE OF CONTINUITY, SUCH AS WHERE THE AGREEMENT IS RELEVANT ONLY TO THE TERRITORY OF ONE REPUBLIC, OR IF IT IS SIMPLY NOT FEASIBLE TO CONTINUE A PARTICULAR AGREEMENT ON ITS TERMS. THE PARTIES MAY, IN ANY EVENT, TERMINATE A TREATY BY CONSENSUAL AGREEMENT, OR BY UNILATERAL ACTION IN ACCORDANCE WITH ITS TERMS. NEVERTHELESS, A PRESUMPTION OF CONTINUITY HELPS TO PRESERVE WHAT IS, BY AND LARGE, A USEFUL LEGAL FRAMEWORK FOR THE CONDUCT OF RELATIONS, AND NEITHER THE UNITED STATES NOR THE REPUBLICS HAVE THE TIME AND RESOURCES TO RENEGOTIATE SUCH A FRAMEWORK.

APPLICATION TO SPECIFIC TREATIES

IT IS GENERALLY ADVANTAGEOUS, FOR EXAMPLE, FOR ALL REPUBLICS TO CONTINUE AS PARTIES TO MULTILATERAL AGREEMENTS OF GENERAL APPLICATION TO ALL STATES. THIS WOULD INCLUDE AGREEMENTS ON LAW ENFORCEMENT MATTERS, INCLUDING THE MAJOR ANTI-TERRORISM AND NARCOTICS TREATIES; THE MAJOR CONVENTIONS ON ARMED CONFLICT, SUCH AS THE 1949 GENEVA CONVENTIONS; THE MAJOR ENVIRONMENTAL TREATIES, SUCH AS THOSE ON ENDANGERED SPECIES AND MARINE POLLUTION; NUCLEAR AGREEMENTS NOT GIVING SPECIAL STATUS TO THE USSR, INCLUDING THE IAEA STATUTE AND THE PHYSICAL PROTECTION CONVENTION; AND ARMS CONTROL AGREEMENTS NOT GIVING SPECIAL STATUS TO THE USSR,

INCLUDING THE BIOLOGICAL WEAPONS CONVENTION, THE GENEVA GAS PROTOCOL, THE LIMITED TEST BAN TREATY, AND THE SEABED TREATY, AS WELL AS TO AGREEMENTS CREATING INTERNATIONAL ORGANIZATIONS WHERE THE USSR IS NOT GIVEN SPECIAL STATUS, SUCH AS THOSE FOR WHO, IMO, ILO, UNIDO AND WMO.

IT IS ALSO ADVANTAGEOUS TO CONTINUE BILATERAL AGREEMENTS ESTABLISHING GENERAL RULES FOR RELATIONS OF GENERAL APPLICATION, SUCH AS AGREEMENTS GOVERNING DIPLOMATIC AND CONSULAR RELATIONS, INCLUDING THOSE RELATING TO DIPLOMATIC PROPERTIES AND PRIVILEGES AND IMMUNITIES AND THE ISSUANCE OF VISAS; AGREEMENTS ON NARCOTICS TRAFFICKING AND NAZI WAR CRIMINALS; AND AGREEMENTS ON ATOMIC ENERGY AND VARIOUS FORMS OF COOPERATION.

EXCEPTIONS TO CONTINUITY

AS I NOTED EARLIER (AND AS THE VIENNA CONVENTION RECOGNIZES), HOWEVER, EVEN UNDER A RULE OF CONTINUITY THERE ARE AGREEMENTS AS TO WHICH CONTINUATION IN FORCE WITH A NEW STATE, EITHER ON THE SAME TERMS AS THE ORIGINAL PARTY OR AT ALL, WOULD BE INAPPROPRIATE. THE MOST OBVIOUS CASE WOULD BE WHERE CONTINUITY WOULD BE INCONSISTENT WITH THE NATURE OF THE TREATY REGIME OR OBJECT AND PURPOSE OF THE TREATY. OTHER EXCEPTIONS TO CONTINUITY EXIST FOR (1) AGREEMENTS RELATING SPECIFICALLY TO TERRITORY IN OR

UNDER THE CONTROL OF ONE OR ANOTHER REPUBLIC (E.G., AVIATION AGREEMENTS ESTABLISHING ROUTES, CERTAIN FISHERIES AGREEMENTS); (2) AGREEMENTS WHICH ALLOCATE QUOTAS OR RIGHTS ON THE PREMISE THAT THE FORMER USSR IS A SINGLE TERRITORY (E.G., THE BILATERAL TEXTILE AGREEMENT AND CFE); AND (3) AGREEMENTS WHICH ARE RELEVANT ONLY TO THOSE REPUBLICS WITH CERTAIN NUCLEAR OR MILITARY CAPACITY.

APPROACH WITH THE REPUBLICS

AS A PRACTICAL MATTER, GIVEN THE UNSETTLED NATURE OF THE GOVERNING LEGAL RULES AND THE DIVERSITY OF AGREEMENTS IN QUESTION, WE BELIEVE THAT THE ONLY WAY TO ESTABLISH CLEARLY WITH THE REPUBLICS WHAT AGREEMENTS REMAIN IN FORCE IS ON AN EXPLICIT, CASE-BY-CASE BASIS. DURING THE COMING MONTHS, WE EXPECT TO ENGAGE EACH REPUBLIC IN BILATERAL DISCUSSIONS TO CONFIRM WHICH OF THE BILATERAL AGREEMENTS WILL CONTINUE IN FORCE, AND TO DETERMINE WHICH SHOULD BE MODIFIED OR TERMINATED. IN THE INTERIM, WE CONTINUE TO REGARD THE VARIOUS AGREEMENTS AS GENERALLY CONTINUING IN FORCE WITH ALL OF THE REPUBLICS UNTIL WE HAVE MADE A CLEAR DETERMINATION TO THE CONTRARY.

I NOW WOULD LIKE TO BRIEFLY ADDRESS SEVERAL OTHER ISSUES THAT OUR OFFICE CONSIDERED IN CONNECTION WITH THE BREAKUP OF THE SOVIET UNION -- THOSE RELATING TO MEMBERSHIP IN INTERNATIONAL ORGANIZATIONS, AND THOSE RELATING TO THE DISTRIBUTION OF ASSETS AND LIABILITIES OF THE FORMER SOVIET UNION.

INTERNATIONAL ORGANIZATIONS

IT HAS LONG BEEN RECOGNIZED THAT SUCCESSION TO INTERNATIONAL ORGANIZATION MEMBERSHIP IS A DIFFERENT QUESTION THAN IS SUCCESSION TO TREATY RIGHTS AND OBLIGATIONS, EVEN THOUGH SUCH MEMBERSHIP IS OFTEN DERIVED FROM THE TERMS OF A MULTILATERAL AGREEMENT. THIS IS BECAUSE MEMBERSHIP IN AN INTERNATIONAL ORGANIZATION CREATES MULTIPLE RIGHTS AND OBLIGATIONS THAT EXTEND BEYOND THE COMPARATIVELY LIMITED AND EXPLICIT OBLIGATIONS FOUND IN MOST TREATIES. AS SUCH, THE RULES ON TREATY SUCCESSION DO NOT GOVERN THE OUTCOME.

INSTEAD, INTERNATIONAL ORGANIZATION MEMBERSHIP ISSUES ARE CONSIDERED ON A CASE-BY-CASE BASIS IN LIGHT OF THE SPECIFIED CONDITIONS OF MEMBERSHIP, AND SUCCESSION TO THAT MEMBERSHIP, IN THE PARTICULAR ORGANIZATION IN QUESTION. THE LOSS OF TERRITORY OR A CHANGE IN THE NATURE OF THE GOVERNMENT WILL NOT NECESSARILY PRECLUDE SUCCESSION TO MEMBERSHIP IN AN INTERNATIONAL

ORGANIZATION. MEMBERSHIP MAY STILL PASS TO STATES THAT ARE MARKEDLY DIFFERENT IN TERRITORY OR GOVERNMENT (SUCH AS SPAIN IN THE EIGHTEENTH CENTURY, TURKEY IN THE NINETEENTH AND TWENTIETH CENTURIES, AND RUSSIA AND GERMANY AT THE END OF WORLD WAR I), SO LONG AS THEY ARE CONSIDERED TO HAVE INHERITED THE ESSENTIAL "LEGAL IDENTITY" OF THE FORMER MEMBER. THIS LEGAL IDENTITY MAY BE INHERITED BASED UPON RETENTION OF ONE OR MORE OF THE FOLLOWING: SUBSTANTIAL AMOUNTS OF TERRITORY (INCLUDING THE HISTORICAL TERRITORIAL HUB), THE MAJORITY OF THE STATE'S POPULATION, RESOURCES, AND ARMED FORCES, THE SEAT OF GOVERNMENT OR THE NAME OF THE FORMER MEMBER.

THE MOST SIGNIFICANT ORGANIZATION FOR THIS PURPOSE, OF COURSE, IS THE UNITED NATIONS. THE PRACTICE AT THE U.N. GENERALLY HAS BEEN TO REQUIRE "NEW STATES" FORMED FROM THE TERRITORY OF MEMBER STATES TO JOIN ANEW (THOUGH IN THE ONE CASE IN WHICH A MEMBER STATE WAS DISSOLVED -- THE UNITED ARAB REPUBLIC OF EGYPT AND SYRIA -- BOTH OF THE NEW STATES WERE ALLOWED TO CONTINUE AS MEMBERS). THIS PRACTICE WAS FOLLOWED IN RESPONSE TO THE SEPARATION OF PAKISTAN FROM INDIA, AND WAS SUBSEQUENTLY CONFIRMED IN PRINCIPLES RELATING TO THIS SUBJECT ADOPTED BY THE GENERAL ASSEMBLY. ALTHOUGH THE SPLIT RESULTED FROM A DIVISION OF A MEMBER STATE INTO TWO SIZABLE AREAS, INDIA, AS THE DOMINANT PORTION, WAS CONSIDERED AS CONTINUING IN THE ORIGINAL U.N. SEAT WHILE PAKISTAN

WAS REQUIRED TO APPLY FOR MEMBERSHIP. (THIS WAS ALSO IN ACCORDANCE WITH A DEVOLUTION AGREEMENT BETWEEN THE UNITED KINGDOM AND THE TWO DOMINIONS, WHICH AGREEMENT STATED THAT MEMBERSHIP IN ALL INTERNATIONAL ORGANIZATIONS WOULD DEVOLVE SOLELY UPON THE DOMINION OF INDIA.)

WITH RESPECT TO THE SOVIET UNION'S MEMBERSHIP IN THE UNITED NATIONS AND ITS PERMANENT MEMBERSHIP IN THE U.N. SECURITY COUNCIL, WE CONCLUDED THAT RUSSIA SHOULD NOT BE DEEMED A "NEW STATE", BUT SHOULD CONTINUE TO OCCUPY THE SOVIET SEATS. THE OTHER REPUBLICS, WITH THE EXCEPTION OF UKRAINE AND BELARUS WHICH ALREADY HELD SEATS IN THE U.N., WOULD APPLY FOR MEMBERSHIP AS NEW STATES. THERE WERE A NUMBER OF FACTORS THAT ARGUED FOR THIS APPROACH.

— RUSSIA IS CLEARLY THE DOMINANT PART OF THE FORMER SOVIET UNION IN ALL RESPECTS — LAND AREA, POPULATION, RESOURCES, MILITARY STRENGTH — ESPECIALLY WHEN YOU CARVE OUT OF THE FORMER UNION UKRAINE AND BYELORUSSIA, WHICH HAVE ALWAYS BEEN SEPARATE MEMBERS OF THE U.N. AND NOT PART OF THE "USSR" FOR THIS PURPOSE. AS SUCH, RUSSIA COULD FAIRLY CLAIM TO BE THE CONTINUATION OF THE USSR FOR U.N. MEMBERSHIP PURPOSES,

— AS TO THE PERMANENT SECURITY COUNCIL SEAT, CERTAIN OF THESE RUSSIAN ATTRIBUTES ARE PRECISELY THOSE THAT WARRANTED "PERM FIVE" DESIGNATION IN THE FIRST PLACE — ITS CONTINUED STATUS AS A NUCLEAR POWER AND A PREEMINENT MILITARY FORCE IN THE WORLD.

-- IT WAS CONSISTENT WITH THE INDIA-PAKISTAN U.N. PRECEDENT.

-- IT WAS CONSISTENT WITH THE EXPRESSED WISHES OF ELEVEN OF THE FORMER REPUBLICS, WHICH PROCLAIMED COLLECTIVELY IN THE ALMA ATA AGREEMENT THAT THEY PREFERRED RUSSIA BE GIVEN THE USSR SECURITY COUNCIL SEAT.

[I UNDERSTAND THAT JOHN RHINELANDER WILL BE ADDRESSING TREATY SUCCESSION ISSUES IN THE ARMS CONTROL AREA, AND SO I DO NOT WISH TO GET INTO THIS ISSUE IN ANY DETAIL, BUT I WOULD DRAW A PARALLEL BETWEEN RUSSIA'S OCCUPATION OF THE SECURITY COUNCIL SEAT, AND ITS DESIGNATION AS A NUCLEAR POWER UNDER THE TERMS OF THE NPT. IN BOTH OF THESE CASES, THE INCLUSION OF THE SOVIET UNION AS A MEMBER WAS BASED UPON ITS STATUS AS A NUCLEAR WEAPON STATE, AND THIS SAME RATIONALE IS SUPPORTED BY THE CONTINUING INCLUSION OF RUSSIA IN ITS PLACE.]

ASSETS AND LIABILITIES

AS TO THE ISSUE OF OWNERSHIP AND CONTROL OF ASSETS, THE GUIDING PRINCIPLE HAS BEEN THAT IN THE CASE OF A COMPLETE DIVISION OF A STATE, EACH CONSTITUENT PART OF THAT STATE HAS A VALID CLAIM TO AT LEAST SOME SHARE OF ASSETS, AND A RESPONSIBILITY FOR AT LEAST SOME SHARE OF LIABILITIES. EXACTLY HOW THIS IS PARCELLED OUT DEPENDS UPON WHAT IS EQUITABLE UNDER THE CIRCUMSTANCES IN

LIGHT OF A VARIETY OF FACTORS, INCLUDING THE SOURCE AND LOCATION OF ASSETS AND LIABILITIES. SINCE THIS PRINCIPLE DOES NOT LEAD CLEARLY TO THE ADOPTION OF A SPECIFIC ALLOCATION SCHEME, WE HAVE TAKEN STEPS TO ENCOURAGE THE FORMER REPUBLICS TO REACH AGREEMENTS AMONG THEMSELVES SO THAT WE CAN AVOID BECOMING ENTANGLED IN INTER-REPUBLIC DISPUTES.

IN THE ABSENCE OF SUCH AGREEMENTS, THE EASIEST POSITION TO DEFEND IS THAT THAT MOVABLE PROPERTY (INCLUDING, FOR EXAMPLE, BANK ACCOUNTS) PASSES IN SOME EQUITABLE PROPORTION TO THE VARIOUS REPUBLICS. SIMILARLY, IMMOVABLE PROPERTY THAT IS NOT GOVERNED BY ANY SUCH AGREEMENT SHOULD PASS EQUITABLY TO ALL THE REPUBLICS, EITHER DIRECTLY, OR PURSUANT TO COMPENSATION ARRANGEMENTS WITH RUSSIA.

AS TO OFFICIAL DEBT, OUR POLICY HAS BEEN TO INSIST THAT THE REPUBLICS AGREE TO JOINT AND SEVERAL LIABILITY. TO THE EXTENT THAT ANY OFFICIAL SOVIET DEBT IS NOT COVERED BY SUCH AGREEMENTS, AN EQUITABLE PORTION OF SOVIET DEBT WOULD PASS TO EACH OF THE REPUBLICS.

FINALLY, WE ALSO HAVE SEVERAL POST-1933 CLAIMS OUTSTANDING, INCLUDING THE KAL-007 SHOOTDOWN CLAIM AND THE EMBASSY MOSCOW CLAIM. RUSSIA HAS INDICATED THAT IT MAY BE WILLING TO ACCEPT RESPONSIBILITY FOR OUTSTANDING CLAIMS AGAINST THE USSR, AND AS A PRACTICAL MATTER, PURSUING THESE CLAIMS WITH RUSSIA OFFERS THE BEST CHANCE FOR A SUCCESSFUL RESOLUTION.