1. The Intention of the Parties

The Treaty concerning the Río de la Plata and its Maritime Front has been in force for more than three decades, a period that provides a variety of pertinent practice by the Parties and by the established Commissions, useful to evaluate the interpretation and application of its provisions. The principles for the interpretation of treaties previously described will thus be used to systematize those acts of legal relevance jointly carried out as a result of subsequent agreements and the operation of the bi-national Commissions.

Good faith, bona fide, is the substantive principle that the intention of the parties contributes to the observance of the treaty, pacta sunt servanda, which refers to the interpretation of the text. The compliance with duties and the exercise of rights set forth in the treaty is, objectively, the demonstration of good faith on the part of the States manifested in the joint intention to meet its purpose and goal. Each contracting party, however, may have different points of view regarding the means to do so as well as the scope of each provision. Good faith is compatible with the discrepancies between the parties, since the starting point is not absolute harmony but the effort to reach an understanding on controversial issues. The willingness to comply with what was agreed upon despite the different interests of the parties and resistance in the domestic sphere is evidence of good faith in the interpretation of the agreement. Interpretation develops through discussion about the scope of the treaty provisions, as has been noted, on specific topics.

The Treaty has different objectives as regards the Río de la Plata and comprises two aspects: the first directed towards the relation of the riparian States of the
La Plata River with third-party States and the other geared towards the bilateral relation. Regarding the relation between the riparian States and the international community, the Treaty focuses on two basic precepts which are the tracing of the outer limit and the navigation regime—Articles 1 and 11, respectively. Concerning bilateral relations, the Treaty has distinct and specific purposes: resolving the ‘Plata issue’, i.e. the jurisdiction in the Río de la Plata, which was a priority, dispute settlement and all other matters dealt with in the Treaty. The most significant topics for interpretation and application of the Treaty with respect to the Río de la Plata refer to the outer limit, jurisdiction, fishing, navigation, works, pilotage, channels and functions of the Administrative Commission.

The demarcation of the outer limit for the Río de la Plata River has a double legal effect since it simultaneously defines the imaginary line across the mouth as well as determines the baseline from which both riparian States’ maritime spaces are determined. The outer limit of the Río de la Plata has been recognized by the international community and the Parties have applied the Treaty provisions consistently. When the conflict over Malvinas/Falkland Islands between Argentina and the United Kingdom took place in 1982, the founded and firm attitude of Uruguay consolidated that limit (supra, p. 35). The same year, Uruguay registered the Treaty with the Secretariat of the United Nations, a few days after the signature of the United Nations Conference on the Law of the Sea at Montego Bay, Jamaica. Argentina, on its part, deposited with the Secretariat of the United Nations the legislation with its annexed charts establishing the baselines to measure the breadth of the territorial sea and other maritime spaces, which begin in the midpoint of the outer limit line and reiterate the limit set forth by the Treaty. This subsequent practice is evidence of good faith between both Parties regarding the interpretation and application of the Treaty.

The Treaty sets forth a division of jurisdictions into zones of exclusive jurisdiction and a common zone, which the Treaty identifies as ‘waters of common use’. The zones have been applied since the Treaty’s entry into force with clear acceptance for the different activities carried out in the River, whether in the works for ports access and navigation channels or the sub-fluvial gas pipeline, as well as in navigation. The application of specific regimes in the case of exclusive jurisdiction or common use jurisdiction is corroborated in all cases. For example, regarding the sub-fluvial gas pipeline, the riparian States have the duty to control environmental conditions in the zones of exclusive jurisdiction, whereas it is a specific function of the Administrative Commission (CARP) to monitor the environmental condition regarding the zone of common use (supra, p. 177).

The Parties recognize each other freedom of navigation in all the River, including the coastal belt, but freedom of fishing is only recognized in waters of common use. When infringements to this provision were recorded, the Parties committed themselves to a greater surveillance to avoid repetition of such incidents, an attitude

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