

AMERICAN BRANCH
OF THE
INTERNATIONAL LAW ASSOCIATION

(FOUNDED 1873)

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ILA NEWSLETTER

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September 1989

INTERNATIONAL LAW WEEKEND 1988

International Law Weekend will be held as usual in New York City and will take place this year on Friday, November 3rd, and Saturday, November 4th. The American Foreign Law Association, The American Society of International Law and the Committee on International Law of The Association of the Bar of the City of New York join the American Branch in sponsoring the Weekend. The program (printed on the last several pages) includes panel discussions in the morning and afternoon of both Friday and Saturday. An "Open Forum", featuring talks on diverse subjects of interest, is to be held on Saturday afternoon. Anyone interested in presenting a paper as part of the Open Forum should contact Claudio Grossman, telephone 202-885-2647. The last page of the newsletter is the registration and reservation form for International Law Weekend and the annual dinner.

LETTER FROM THE PRESIDENT OF THE AMERICAN BRANCH

To Our Membership:

Later in this Newsletter, Professor Edward Gordon, the Chair of the Committee on Committees (in effect, our Director of Studies) reports on the chief medium for the work of the American Branch: our committees. You will also find elsewhere in this issue the program and registration form for the 1989 International Law Weekend. As you know, the American Branch was the founding organization and is the chief organizer of the Weekend, except for the panel that one of our co-sponsoring organizations, the American Foreign Law Organization, presents. The Program Committee this year has consisted of Professor Mark Janis, Chairman, and Peter Schliesser and Professor John Noyes as members. The Association of the Bar of the City of New York, in addition to its annual enormous contribution of its building as our situs, is contributing to us the new chairman of its International Law Committee, Selvyn Seidel of Latham and Watkins, as our Luncheon Speaker. In alternative years

the tradition is that the sitting President of the American Society of International Law, our fourth sponsoring organization, is the Luncheon speaker.

This year we have an innovation: the Connecticut Bar Association's Section of International Law and World Peace, Chairman, Houston Putnam Lowry and the New York State Bar Association's Section on International Law and Practice, Chairman, Michael Maney, are listed as Co-Sponsoring Organizations and will be sending the Weekend program to their members. As a result, we expect strong attendance for an excellent program.

One other change you will notice in the Program is that this year we have provided for a voluntary contribution of \$10.00 for registrants. While the American Branch has always viewed the sponsorship and organization of International Law Weekend as a service to the profession, in recent years we have run a slight deficit and are trying, therefore, to ensure that we break even so as not to interfere with the funding through your dues of our other activities. Those other activities include the publication of International Practitioners' Notebook and the biennial Proceedings and Committee Reports. We are hoping that the generosity of those who take advantage of International Law Weekend will continue to allow us to operate it without registration fees.

You should by now have received your copy of the second edition of IPN put out by the present editors, Robert E. Bostrom and Mark L. Jones, containing a splendid report on the topic of the moment, 1992, among other good things. While members of the Executive Committee of the American Branch have been enjoined that they are under a duty to submit pieces, all of our members are urged to send in articles or notes of particular interest to international practitioners to our editors.

On the international front, that is, the participation of the American Branch in the work of Headquarters, the International Law Association itself, I am most pleased to report that our former President and former Chairman of the International Law Association, Cecil Olmstead, has been elected Patron of the ILA to serve in that capacity along with Lord Wilberforce, of the United Kingdom Branch. At the ILA Executive Council Meeting in early May, Sir Gordon Slynn, the present Chairman, announced that he intends to propose Robert von Mehren, Esq., former President and now Chairman of the Executive Committee of our branch, as Co-Vice Chairman of the Association, along with Ernesto Syquia of the Philippines. Thus American Branch members continue to be well represented in the officership of the Association itself.

As for the next bi-annual Conference, to be held in Brisbane, Australia, the preliminary flyer for the Conference is enclosed herewith. Once again our intrepid Vice President, Theodore R. Giuttari, has volunteered to see what joint travel arrangements can be made for American Branch members planning to attend since, for the moment, it would not seem that Qantas is offering any special reduction on fares. (However, that may change if there is a sufficient indication of interest in attendance at the Conference, so I urge you to send in the enclosed card for expression of interest.)

The last Executive Council meeting in London also saw the formation of four new committees on the international level. The International Commercial Arbitration Committee has been reconstituted with Professor Emmanuel Gaillard of France as Chairman and Dr. Horacio A. Grigera Naon (Argentina) and Mr. P. Bowden (U.K.) as co-Rapporteurs. The other new committees presently in formation are Regional Economic Development Organizations, Water Resources Law Committee and Maritime Neutrality with Prof. Ingrid Detter de Lupis (Sweden) as Chairman and Prof. Michael Bothe (Federal Republic of Germany) as Rapporteur. As for American Branch member participation, I am pleased to announce that Judge Stephen Schwebel will be a member of the recently approved new Committee on International Law in Municipal Courts

with Professor Edward Gordon as his alternate, and that Professor James A. R. Nafziger has been named Rapporteur of the Cultural Heritage Law Committee with Professor P. O'Keefe (Australia) as Chairman. Professor Alfred Rubin has been elected to the Committee on Legal Aspects of Air Traffic Control, Nicholas Matte (Canada), Chairman. Professor Gordon is overseeing the work of corresponding American Branch committees to ensure that our committees not only pursue matters of specific interest to the American Branch, but also contribute their particular vantage point to the International committees working in the same area.

Unfortunately, I must now turn to an ILA matter that is not so happy as the work of its Committees. The present financial situation of the ILA (Headquarters) is grave. At the present time, the ILA in effect has no endowment. The financial difficulties of Headquarters would seem to spring from a number of sources, but a large proportion is the result of increasing rents in London and the fact that all of its expenses are denominated in pounds while its contributions from Branches are collected in dollars. (This is to say nothing of the difficulties of those Branches in soft-currency countries obtaining the hard currency to remit their contributions.)

The Association has pared expenditures on staff and Headquarters to the bone and is at the absolute minimum for continuing the responsibility for organization of the bi-annual conferences, the responsibility for editing and printing of the conference books, etc. Headquarters has now proposed to mount an appeal for contributions to a permanent Fund, the interest on which would provide it with sums to support its activities without complete reliance, as today, on contributions from national Branches. The Executive Committee of the American Branch is currently considering how and under what structure an appeal for funds to support the work of Headquarters could be mounted in the United States. Our members should expect to hear more on this topic at our Annual Meeting in connection with International Law Weekend.

I look forward to seeing in person all of you who are able to attend our Annual Dinner.

64TH CONFERENCE OF THE ILA

As previously announced, the 64th Conference of the ILA will be held in 1990 in Australia. Enclosed is an informational brochure and an expression of interest card. If these materials are for any reason not enclosed and you have an interest in attending the 64th Conference, please call Carol Murray, secretary to Prof. David Leebron, at 212-854-5633.

ANNUAL MEETING OF THE AMERICAN BRANCH

The Annual Meeting of the American Branch will be held on at 4:45 p.m. on November 3rd at the Association of the Bar of the City of New York. All members are invited to attend. The tentative agenda is as follows:

1. Report on International Practitioners' Notebook
2. Report on the American Branch Committees
3. Report on the finances and membership of the American Branch
4. Report on the financial situation of the ILA (headquarters) and the appeal for a Permanent Fund
5. Report on 1989 International Law Weekend and Annual Dinner
6. Report on the Administration of the American Branch
7. Consideration of any other matter which may be brought before the Annual Meeting

CASSETTES OF INTERNATIONAL LAW WEEKEND

Condyne/The Oceana Group, 75 Main Street, Dobbs Ferry, New York 10522 has reproduced in cassette from certain of the panel discussions of International Law Weekend from 1975 through 1988 and will again do so this year. Members who are interested in obtaining cassettes and finding out which panels are available should contact Ms. Yvonne Heenan, Vice President at Condyne/The Oceana Group, for further information.

AMERICAN BRANCH COMMITTEES

Listed below are the present committees of the American Branch, the name and address of the Chairperson, and a brief description of the present status of their work. If any members of the Branch have a particular interest in a Committee and feel they could make a contribution to the work of the Committee, please write the appropriate Chairperson. General questions should be addressed to Professor Edward Gordon, the Chairperson of the Committee on Committees.

At its May 6, 1989, meeting, the ILA's Executive Council established four new committees: on International Commercial Arbitration, Regional Economic Development Organizations, Water Resources Law, and the Law of Maritime Neutrality, respectively. (Technically, the Committee on International Commercial Arbitration is being revitalized rather than newly established.) A question arises whether the Branch should establish (or revitalize) corresponding committees.

Committee on Air and Space Law

Chair: Professor Alfred P. Rubin, The Fletcher School of Law & Diplomacy, Tufts University, Medford, MA 02155. Professor Rubin has now taken the reins from the Committee's long-time chair, Professor Stephen Gorove. The Committee expects to coordinate its new agenda with the work of the corresponding ILA committee (called "Committee on Legal Aspects of Air Traffic Control"). Professor Rubin was elected to membership on the ILA Committee by the ILA Executive Council at its May 6, 1989 meeting.

Committee on Antarctica

Chair: Professor Christopher C. Joyner, George Washington University, Department of Political Science, Washington, D.C. 20052. The Committee has been without an agenda since its February 1988 report on the Antarctica mineral regime. It expects to choose a new (but related) topic this summer, probably concerning environmental aspects of the new minerals regime. There is no ILA counterpart to this Committee.

Committee on the Exclusive Economic Zone

Chair: Professor L.F.E. Goldie, Syracuse University College of Law, Ernest I. White Hall, Syracuse, NY 13210. The Committee's rapporteur, Sam Menefee, who is with the Center for Oceans Law and Policy at the University of Virginia, is drafting a report on the so-called "Doughnut Hole" in the Bering Sea.

Committee on Foreign Investment

Chair: David G. Gill, Exxon Corporation, 1251 Avenue of the Americas, New York, NY 10020. The members of the Committee are considering a draft report on the draft UN Code of Conduct for Transnational Corporations. The Committee has furnished a copy of its draft report to the Branch Committee on a New International Economic Order (see below).

Committee on the Formation of Customary International Law

Chair: Professor Jonathan I. Charney, Vanderbilt University School of Law, Nashville, TN 37240. This Committee was established in November 1986 with the rather specific objective of preparing a report on the formation of customary law. Its report, completed in January 1988, is included in the 1987-88 Branch Proceedings. The Committee, having completed its assigned task, has no further plans at the present time.

Committee on Human Rights

Chair: Professor Claudio Grossman, American University, Washington College of Law, 4400 Massachusetts Avenue, Washington, D.C. 20016. The Committee has created two sub-committees. One, chaired by Charles Siegal, is dealing with the Right to Food; the other, chaired by Christina Cerna, is considering the status of the Universal Declaration of Human Rights. The Committee expects to have a report late this fall.

Committee on International Banking Law

Chair: Robert E. Bostrom, Windels, Marx, Davies & Ives, 156 West 56th Street, New York, NY 10019. Mr. Bostrom reports that his new Committee now numbers 32 members, including many from the New York banking law community. It has held a number of luncheons in New York City, at which persons prominent in international banking law circles are invited to speak.

Committee on International Commercial Arbitration

Chair: Philip D. O'Neill, Edwards & Angell, 265 Franklin St., Boston, MA 02110. This Committee has not been active since plans for the Wadham (London) meeting fell through last June. In light of the recent (re-)establishment of the ILA's International Commercial Arbitration Committee (see Part 2, below), the time appears ripe for the Branch Committee to tie its own work to that of the ILA committee.

Committee on International Law, Children, Spouses and Families

Chair: Professor Sanford J. Fox, Boston College Law School, 885 Centre Street, Newton Center, MA 02116.

Committee on International Terrorism

Chair: Dean Edward M. Wise, Wayne State University Law School, Detroit, Michigan 48202. The Committee's new Chair, who is Professor and Associate Dean at Wayne State university Law School in Detroit, is planning to turn the committee's attention to the problem of jurisdiction over extraterritorial crime (particularly terrorist offenses). It should be noted that the ILA Executive Council has discharged the ILA's Committee on Legal Problems of Extradition in Relation to Terrorist Offences, leaving the Branch Committee free to choose its own topic.

Committee on Legal Aspects of a New International Economic Order

Chair: Nicholas R. Doman, 420 Lexington Avenue, New York, NY 10017. Mr. Doman has revitalized this Committee, which now has ten members, several of them new to the Branch and most new to Branch activities. The Committee is currently drafting comments on draft reports that have been circulated by the ILA's NIEO Committee in advance of discussion at its next meeting, this September 21-22, in Bergamo, Italy. The Bergamo Conference, which is being co-sponsored by the Instituto Universitario di Bergamo, will deal with "The Uruguay Round of GATT and the Global Liberalization of Trade in services." Among the items on its agenda is the draft Code of Conduct for Transnational Corporations. The Committee will meet at 9:00 a.m. on Friday, November 3rd (during International Law Weekend) to discuss a tentative draft report on the draft Code of Conduct.

Committee on Legal Aspects of the Internationalization of the Capital Markets

Chair: Russell B. Stevenson, Hale & Dorr, 1201 Pennsylvania Ave., N.W., Washington, D.C. 20004. This Committee was established with a view to providing support to the U.S. members of the corresponding ILA committee, and has just begun its work.

Committee on Resolution of Trade Disputes

Chair: Associate Dean Virginia Leary, Faculty-of-Law, State University of New York at Buffalo, Buffalo, NY 14260.

Joint American Branch-ASIL Committee on the Role of the Legal Adviser to the State Department

Chair: Professor Oscar Schachter, Columbia University School of Law, 435 W. 116th Street, New York, NY 10027. The Committee's first meeting last year attracted about 20-25 Committee members and consultants. Not unexpectedly, a wide range of views was heard with respect to the subjects the Committee should place on its agenda and the positions, if any, it should take with respect to them. Minutes of the meeting, together with a questionnaire based on it (prepared by Professor Richard Bilder, the Committee's rapporteur), were circulated to members and consultants last December. A summary of the comments received (also prepared by Professor Bilder) was distributed to members and consultants in May of this year.

Committee on the Use of Force in Relations Among States

Chair: William D. Rogers, Arnold & Porter, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036. Though currently inactive, this Committee remains poised for action should a suitable occasion arise.

CHANGES OF ADDRESSES

Members are reminded that all changes of address and other corrections should be sent directly to the Honorary Treasurer, Mr. Jonathan Blackman.

PROGRAM FOR
INTERNATIONAL LAW WEEKEND
NOVEMBER 3-4, 1989*

*UNC Commission
drafts Draft Report
of the Commission
UNCITRAL Draft
Code of Conduct on
Transnational Corporations*

Sponsored By

American Branch of the
International Law Association

American Society of
International Law

American Foreign Law
Association

International Law Committee of the
Ass'n of the Bar of the City of New York

Co-sponsored By

International Law and Practice Section,
New York State Bar Association

Section on International Law and World Peace,
Connecticut Bar Association

Friday, November 3, 1989

10:00 a.m. - 12:00 noon

Panel 1

Extraterritorial Jurisdiction - Export Controls

Chair: Prof. Michael Reisman
Yale Law School

Panelists: David Gill, Esq.
Of Counsel
Decker, Hubbard & Welden
New York, NY

Prof. Pieter Jan Kuyper
University of Louvain and Legal Division,
European Communities

Prof. Karl M. Meessen
University of Augsburg and Graduate Institute
of International Studies, Geneva

Panel 2

Comparative Approaches to International Commercial
Arbitration

Chair: Houston Putnam Lowry, Esq.
Tarlow, Levy, Harding & Droney
Farmington, Connecticut

[Panel continued on following page]

*Unless otherwise indicated, all events will be held at The House of the
Association of the Bar of the City of New York, 42 West 44th Street, New York, N.Y.

1989 International Law Weekend, Friday, November 3

10:00 a.m.- 2:00 noon
(cont.)

Panelists: Michael F. Hoellering, Esq.
General Counsel
American Arbitration Association

Philip D. O'Neill, Jr., Esq.
Edwards & Angell
Boston, MA

Prof. Hans Smit
Columbia University School of Law

Charles Norberg, Esq.
Director General
Inter-American Commercial Arbitration Comm'n

12:30 - 2:00 p.m.

Mid-Year Business Meeting/Fall Congress Session of
the International Law Students Association (ILSA)

2:30 - 4:30 p.m.

Panel 1

Third World Debt Crisis

Chair: Robert von Mehren
Debevoise & Plimpton
New York, NY

Panelists: William Hinman, Esq.
Shearman & Sterling
New York, NY

Roger Thomas, Esq.
Cleary, Gottlieb, Steen & Hamilton
New York, NY

[Economist to be announced]

Panel 2

The International Court of Justice

Chair: Prof. Lori F. Damrosch
Columbia University School of Law

Panelists: Keith Hight, Esq.
Curtis, Mallet, Prevost, Colt & Mosle
New York, NY

Abraham Sofaer
Legal Adviser, Department of State

4:45 - 5:45 p.m.

Annual Business Meeting of the American Branch of
the International Law Association

INTERNATIONAL LAW WEEKEND 1989
REGISTRATION AND RESERVATION FORM

To: Carol Murray
Columbia University School of Law
435 W. 116th Street - Room 5W3
New York, New York 10027
Telephone: (212) 854-5633

1. Please register the following participants:

Name: _____

Address: _____

Telephone No.: _____

(Registration is for statistical and planning purposes only; there is no registration fee, although there is a completely voluntary contribution of \$10 [see below].)

2. Please make the following reservations for the dinner on Friday, November 3rd and the luncheon on Saturday, November 4th:

(a) Dinner, Friday, November 3, at The Princeton Club of New York
(Black Tie optional) -- \$43 per person*

Number of reservations ____ and names for designated seating:

(b) Luncheon, Saturday, November 4, at The Association of the Bar
\$25 per person*

Number of reservations (no designated seating): _____

*Reservations for dinner and/or lunch not accompanied by payment will not be honored.

3. _____ I include an optional contribution in the amount of \$10 to help defray the costs of International Law Weekend

4. Enclosed is my check in the amount of \$_____, to cover above dinner and lunch reservations, and optional contribution, if any. (Please make check payable to the American Branch of the International Law Association.)

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COMPLETE FORM AND MAIL TO ABOVE ADDRESS PRIOR TO OCTOBER 24, 1989

SPONSORS

American Branch of the International Law Association
American Foreign Law Association
American Society of International Law
International Law Committee of the Association of the Bar of the City of New York

CO-SPONSORS

International Law and Practice Section of the New York State Bar Association
Section on International Law and World Peace of the Connecticut Bar Association

1989 International Law Weekend, Friday, November 3

4:45 - 6:15 p.m. Student Workshops: Conference of Student International Law Journals and Workshop on Running an International Law Society

6:45 - 7:30 p.m. Reception, The Princeton Club of New York

7:30 p.m. Dinner, The Princeton Club of New York
15 West 43rd Street, New York, N.Y.
(Black Tie optional - Advance Reservations required at \$43 per person)

Speaker: To Be Announced

Saturday, November 4, 1989

9:00 - 10:00 a.m. International Law Students Association: Regional Jessup Competition Workshop

10:00 a.m. - 12:00 noon

Panel 1

Provisional Relief in International Litigation
(sponsored by the American Foreign Law Association)

Chair: Prof. George Bermann
Columbia University School of Law

Panelists: Peter Chrocziel, Esq.
Westrick & Eckholdt
Frankfurt, West Germany

David Westin, Esq.
Wilmer Cutler & Pickering
Washington, D.C.

Panel 2

Current Perspectives on the 1982 U.N. Convention on the Law of the Sea

Chair: Prof. Thomas Clingan
University of Miami School of Law

Speakers: Ambassador Satya Nandan
Office for Ocean Affairs and the Law of the Sea, United Nations

Rear Admiral William L. Schachte, Jr.
Office of Judge Advocate General, U.S. Navy

Prof. Tulio Treves
Milano, Italy

1989 International Law Weekend, Saturday, November 4

12:15 - 1:45 p.m.

Luncheon, The Association of the Bar of the City of New York (Advance Reservations required at \$25 per person)
42 West 44th Street, New York, N.Y.

Speaker: Selvyn Seidel, Esq.
Latham & Watkins
New York, NY

2:00 - 5:00 p.m.

Open Forum

Chair: Prof. Claudio Grossman
American University School of Law

[Contact Prof. Grossman at 202-885-2647 if you have a proposal for a paper to be presented]