

ILA Newsletter

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ILA's 66th Biennial Conference to Convene in Buenos Aires, August 14-20

The ILA's biennial conferences provide the central meeting place for its far-flung members: an occasion for professional and social interaction, for being exposed to new perspectives, for catching up on the news (and gossip) of the international law world, for expanding one's professional horizons, associations and friendships. More than any other event on international law's calendar, the ILA's biennial conference brings it all together. Branch members who have never been to one ought to try to get to the 66th, next month in Buenos Aires (or to start planning now for the 67th in Helsinki in 1996 or the 68th in Taipei in 1998!)

Registration of American Branch members for the Buenos Aires conference is running well ahead of regis-

tration for the 65th conference, two years ago in Cairo. One reason is that Aerolineas Argentinas is offering some very attractive air fares to Buenos Aires, from New York, Miami and Los Angeles.

If you are still deciding whether to go, a call to José Araujo, Aerolineas Argentinas's Special Events Coordinator USA, could help tip the scales in favor of going. He can be reached by telephone in Washington at (202) 296-3863, or by fax at (202) 785-1347. He has several attractive plans to choose from, including one that offers a return flight through Santiago, Chile, for only a small additional fare. Be sure to mention that you are a member of the ILA to get the favorable rates.



International Law Weekend Scheduled for October 27-29

Mark your calendars now for International Law Weekend 1994, October 27th-29th. 1994-95 being the occasion of the 50th and other anniversaries of the organizations created or refashioned after World War II, the theme of this year's WEEKEND (the title still being provisional) is "A Celebration of the Building Blocks of the Modern International Law Community." By any reckoning, it will be the biggest, most ambitious, most widely co-sponsored, all-star WEEKEND the American Branch has ever run.

Beginning on the next page we review the panels and topics that will be featured in this year's International Law Weekend.

CONTENTS OF THIS ISSUE OF THE AB-ILA NEWSLETTER

	<i>Page</i>
Buenos Aires Conference	1
Plans for ILA Weekend	1-2
Publications Report	3-4
Report on Advisory Committees	5-6
Search for New Secretary	6
Treasurer's Report	7-8

Weekend Program Preview

This year's Chair, STEPHEN J. SHAPIRO, along with Vice-Chair Professor ELIZABETH DEFEIS and the members of the Program Committee, have organized a parade of non-stop events that begin Thursday evening, October 27th, with a panel, chaired by Professor THOMAS FRANCK, celebrating the UN at fifty, entitled "Present at the Creation: A Look Backward and Forward."

Friday, October 28th, there will be panel discussions and other events from early morning until late afternoon, dealing among other things with

- unilateral action in international crises,
- the environmental legacy of Communism,
- non-proliferation,
- the World Bank,
- Hong Kong's reversion to China,
- space law,
- election monitoring, and
- NAFTA.

More panels are still under discussion, and a listing of the panels with more information about each may be found on the facing page.

As usual, the venue for most presentations and events will be the Association of the Bar of the City of New York, on West 44th Street in New York City.

Annual Dinner, October 28th

The Annual Dinner, on Friday night, will once more be at the Delegates' Dining Room of the United Nations and promises to be a truly dazzling occasion—the star event of international law's fall season.

Saturday Afternoon Events & Luncheon

Weekend is being expanded this year, with a number of Saturday afternoon events added to complement the Annual Luncheon. We are happy to report that Professor EDITH BROWN WEISS, President of the American Society of International Law, has agreed to be this year's featured luncheon speaker.

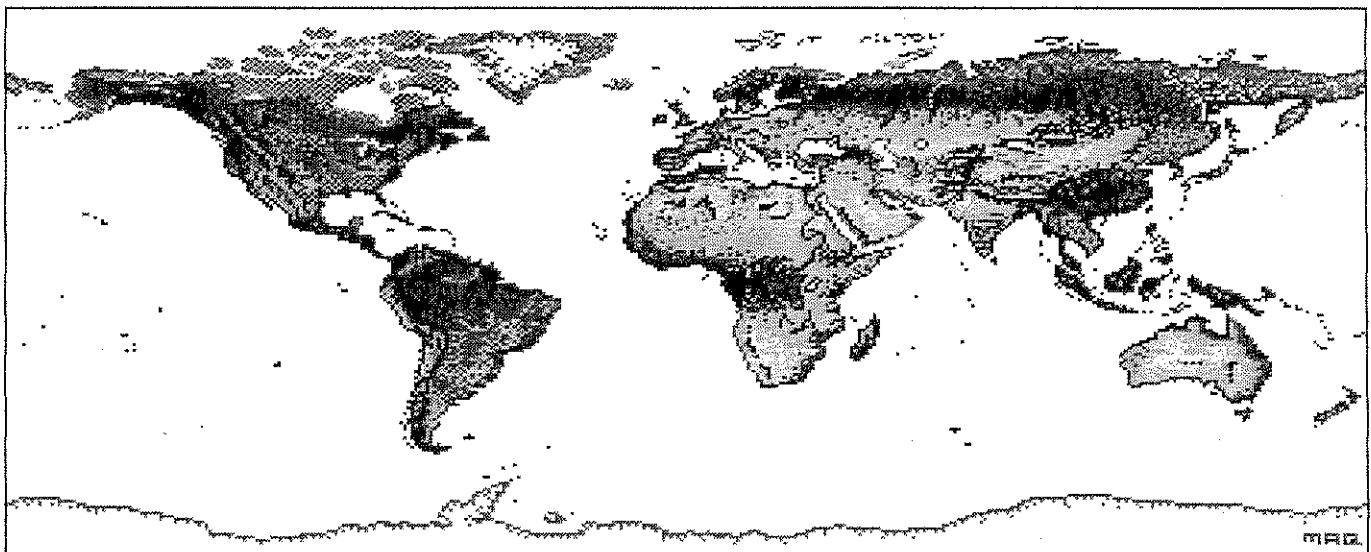
Participation Still Free of Charge

Its expanded scope notwithstanding, WEEKEND will again be open to all, with no registration fee. We believe it is the only remaining international law conference of this dimension for which no registration fee is charged. Please help us tell everyone about it.

Volunteers Urgently Needed

If you would like to volunteer to attend to administrative matters before and during WEEKEND, please write or fax:

Steve Shapiro
101 West 57th Street, Suite 2D
New York, NY 10019-2206
Phone (212) 246-2025
Fax (212) 262-0698



A Sampler: Pre-Weekend Program Highlights

Thursday, 7:00 - 9:25—"The United Nations at 50, Present at the Creation: A Look Backward and Forward" Chair: Prof. Tom Franck; Proposed Panelists: Louis Sohn; Oscar Schachter; Brian Urquhart; Harold Stassen.

FRIDAY MORNING—PANEL DISCUSSIONS

- "NAFTA in Fact" (AFLA Panel) Chair: Robert Heelander
- "Preserving the Right to Unilateral Action in International Crises" Chair: Ruth Wedgwood
- "International Legal Responses to the Disastrous Environmental Legacy of Communism" Chair: Nick Robinson
- "The Atomic Bomb at 50: Has the Non-Proliferation Regime Been a Success? The NPT, CTB and IAEA" Chair: John Rhinelander
- "The World Bank at 50: Charting the Course of the 21st Century's Global Development" Chair: Peter Trooboff
- U.S. Foreign Relations Law Chair: Anthony D'Amato

FRIDAY AFTERNOON—PANEL DISCUSSIONS

- "The International Law Association On the Forefront of Issues: Report from Buenos Aires" Chair: Al Rubin
- "The Eagle Landed 25 Years Ago: Space Law Today" Chair: Stephen Gorove
- "Collective Rights at the End of the 20th Century" Chair: Lou Henkin
- "Election Monitoring In Practice" Chair: Carolyn Willson
- "Fast Vanishing World Wildlife: Is the Convention on Trade in Endangered Species Effective?" Chair: David Favre
- "The Future of the Nation State: Smaller States or Grander Unions?" Chair: David Wippman
- "Sustainable Development: Confronting the Piety of the North" Chair: Alan Swann
- "Universal Electoral Democracy: An International Legal Right or the Pipe Dream of the West?" Chair: Stephen Marks
- "75 Years After the Treaty of Versailles: A Critical Look At the State of Collective Security" Chair: Jack McNeill
- "The Latin American Capital Markets: Globalization or Americanization?" Chair: Beatriz Boza
- "65 Million Refugees, The World's Unspoken Crisis" Chair: Sidney Rosdeitcher

Publications Review

ILA Newsletter

Enclosed with this Newsletter is the second issue of the ILA's own *Newsletter*, edited by Judge PETER NYGH of the Australian Branch. Among other features, it lists current ILA Committees and their chairs, and provides summaries of the work of several of the committees.

The full text of committee reports is included in the *Proceedings* of the ILA's biennial conferences, which is sent to conference registrants. Drafts of committee reports are distributed to members of committees and usually are available at the conferences as well.

The *ILA Newsletter* is a recent innovation that is still looking to define its contours. Judge Nygh welcomes contributions from individual ILA members. If there is something you would like to bring to the attention of the ILA's worldwide membership, write directly to him in care of ILA headquarters in London, at the address listed in the *Newsletter*. If you are wondering whether the *ILA Newsletter* is an appropriate place for the information you would like to disseminate, you might try it out for size on Professors ALFRED P. RUBIN or JAMES A.R. NAFZIGER, the American Branch's Co-Directors of Studies; CYNTHIA LICHTENSTEIN, Chair of the Branch's Executive Committee; or EDWARD GORDON, the President of the Branch, at the following addresses:

Prof. Alfred P. Rubin
The Fletcher School of Law & Diplomacy
Tufts University
Medford, MA 02155
Phone (617) 628-7010 ext. 2241
Fax (617) 628-5508

Prof. James A.R. Nafziger
Willamette University College of Law
Salem, OR 97301
Phone (503) 370-6380
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Prof. Cynthia Lichtenstein
Boston College Law School
885 Centre Street
Newton Centre, MA 02159
Phone (617) 552-4384
Fax (212) 530-5719

Cynthia will be teaching in Australia this summer, but returns to Boston following the Buenos Aires conference

Prof. Edward Gordon
2907 29th Street, N.W.
Washington, DC 20008
Phone (202) 462-4959
Fax (202) 328-7635

Ed will be teaching at American University's Washington College of Law during the 1994-95 academic year, but can best be reached at his home address above.

Publications of the American Branch

Publication of 'International Practitioner's Notebook' Suspended

Back in 1979, JOHN HAZARD, then the president of the Branch, organized a new publication, called *International Practitioner's Notebook* and known simply as "IPN." IPN was a new kind of publication for international law in the United States, filling the gap that then existed between scholarly journals and organizational newsletters.

It flourished for almost fifteen years—a good editorial run, if we do say so ourselves. Its success, however, bred imitation and in due course, what with the advent of desk-top publishing and Internet, the uniqueness that had been its hallmark began to elude IPN. The cost of publishing was considerable, even when we found law firms willing to underwrite its production, and especially when we could not. Finding new editors with the motivation to keep IPN informative and sassy proved difficult, too. So last year the Branch's Executive Committee recommended that production of IPN be suspended, at least until someone identifies a role for it to serve that is not already being met by another publication.

The matter was discussed at the Branch's Annual Business Meeting, where the same sentiment was expressed, virtually without opposition. Reluctantly—he had been its founding Editor—Ed Gordon agreed to preside over

IPN's suspension.

Its suspension, mind you, not its demise! If someone out there has the energy and some jim- or jane-dandy ideas for reviving IPN, adapting it to the modernized world of E-mail and billboarding, keeping it fresh and lively, and most of all identifying and filling a unique role for the international law community, Ed Gordon is waiting for your call or fax (but not yet your E-mail).

Proceedings

The Branch's *Proceedings*, too, are prime targets for a change in format, frequency and function. A far-reaching report prepared by a committee chaired by TED GIUTTARI was discussed at length at the Executive Committee's April meeting. Among the ideas being considered are whether to convert the *Proceedings* into an annual yearbook of international law, expanding its current contents to include more year-in-review articles and other perspectives. No clear consensus emerged at the meeting, and the Executive Committee will be considering the subject again both before and at its next meeting, in October during International Law Week-end.

AB-ILA Newsletter

In light of the suspension of IPN, we are making a special effort to upgrade the substance and image of our own newsletter, which is relaunched with this issue as the *AB-ILA Newsletter*, a descriptive if uninspired name. Support in this regard has been furnished by our treasurer, SCOTT HORTON, and the publications group at his firm, PATTERSON, BELKNAP, WEBB & TYLER in New York, to whom we are most thankful.

Any ideas on this subject, and any suggestions for names of our several publications should be sent to Ed, or to:

Professor John Noyes
California Western School of Law
350 Cedar Street
San Diego, CA 92101
Phone (619) 239-0391
Fax (619) 696-9999

Report on the Recently Reactivated DOS Advisory Committees on International Law

The Department of State now has Advisory Committees on Private and Public International Law. The existence of the committees seems designed to serve two purposes: one is to act as a sounding board on matters currently before the State Department's Office of Legal Adviser; the other, not officially acknowledged, is to replenish the store of good will that once characterized the relationship between that Office and the international law community. Professor PETER WINSHIP is the Branch's representative to the Advisory Committee on Private International Law; ED GORDON is its representative to the recently re-established Advisory Committee on Public International Law. In future, their reports will be a regular feature of this *Newsletter*.

Professor Gordon Reports on the Public Law Committee

"The persistence of the Legal Adviser, CONRAD K. HARPER, succeeded first in getting the Advisory Committee re-established, after an absence of several years, and then in keeping it alive, after budgetary considerations affecting all governmental advisory groups (but in this case wholly symbolic) threatened to put an end to the Committee after just one meeting. The second meeting was held on May 20th, at the State Department, and lasted, as had the first, for over four hours. The agenda was long and varied, the topics were discussed extensively but efficiently, the discussion was frank—perhaps more than was anticipated by the Legal Adviser and the deputy legal advisers present during the course of the afternoon.

"First on the table was an update on the revisions in Part XI of the Law of the Sea Treaty—the deep-sea mining provisions that sank the U.S. Government's participation in the LOS negotiations twelve years ago. Part XI has been recast, with most of the known objections to it attended to. Neither renegotiating the 1982 LOS Treaty, which is set to enter into force November 16th, nor attempting to amend it is politically feasible, so the revisions will take the form of a separate agreement. As matters now stand, the UN General Assembly, sometime this summer, will adopt the agreement as an in-

strument for the implementation of Part XI of the 1982 LOS Treaty, opening it immediately for signature by interested states.

"Though it takes the form of a separate legal instrument, the implementing agreement is expected to operate as part and parcel of the 1982 LOS Treaty, at least as between those states that are party to it (presumably all or nearly all states). The arrangement is awkward from a lawyer's perspective, but is widely regarded as workable politically.

"Though characterized in terms of 'implementations,' the new agreement is altogether different from the original version of Part XI, substituting a market economy orientation for what was seen in some quarters as too statist a regime for the exploration of deep sea-bed mining resources. Especially noteworthy for practitioners is that Part XI's technology-transfer provisions appear to have been effectively diluted. Decision-making procedures have been revised to reflect not only the demise of the Communist bloc, as such, but also perceived inadequacies in the formal influence of the U.S. Even with the changes, the 1982 LOS Treaty is likely to face opposition when the Administration brings it to the Senate for advice and consent.

Several committee members were unusually blunt in expressing their disappointment in the defensive posture the Department seems prepared to assume on the human rights treaties.

"Next to be discussed was the current state of negotiations and drafts of the International Law Commission concerning the establishment of an international criminal court. Two key interests of the U.S. are, first, assuring a central role for the UN Security Council in decisions to prosecute war crimes and genocide cases, and, second, assuring a regime of cost control for the proposed international criminal justice process. Justice

ministries are concerned, *inter alia*, with questions relating to state consent to yield jurisdiction over individual defendants. The scope of the proposed court's jurisdiction is still far from settled in any event, not only over terrorist and drug-related crimes, but also in the far more politically charged areas of war crimes and crimes of genocide. The inability of the ILC to develop a generally acceptable universal code of criminal offenses against mankind has sounded a note of caution.

The WHO's request for an advisory opinion on the legality of the possession and use of nuclear weapons... proved more controversial than expected.

"Probably more controversial than anticipated were the positions currently being taken or considered by the State Department, first, in response to the World Health Organizations's request for an advisory opinion on the legality of the possession and use of nuclear weapons and, second, as to whether, or with what reservations, to send several human rights treaties to the Senate for advice and consent. The text of the U.S. Government's submission to the ICJ in the WHO case will remain confidential, under ICJ procedural rules, until all governments have had an opportunity to file submissions—the deadline for these has been extended until September. Suffice at this time to say that the summary of the U.S. position presented to the Advisory Committee aroused strong opposition, not least from me, for its striking resemblance to the line of reasoning advocated by the U.S. Government with so little success in the preliminary objections phase of the *Nicaragua* case.

"The Department's thinking with respect to the inclusion of reservations to several of the human rights treaties found even less support among members of the Advisory Committee, several of whom were unusually blunt in expressing their disappointment in the defensive posture the Department seems prepared to assume, if indeed the President decides to submit these treaties to the Senate at all.

"Members of the Advisory Committee were briefed on the status of the ad hoc Tribunal on Yugoslav War Crimes, North Korea's position with respect to the Non-

Proliferation Treaty, the suit brought against the U.S. by Iran that is pending before the ICJ, and the situation in Haiti. The content of these briefings has already been overtaken by events, however, so there is little point in reporting on them in this Newsletter.

"The Committee is expected to meet again early in the fall."



Help Wanted!

Having no paid staff, the Branch is constantly in need of volunteers to help on a wide range of matters, some of which are interesting opportunities that languish for lack of anyone to follow up on them. From time to time other organizations with kindred interests approach us with request for volunteers, too. If you would like to help out, please give Ed Gordon a call or fax him, in either case providing him with a very brief summary of your areas of interest, how much time you are prepared to devote, and where you can be reached.

Search Launched for a New Honorary Secretary

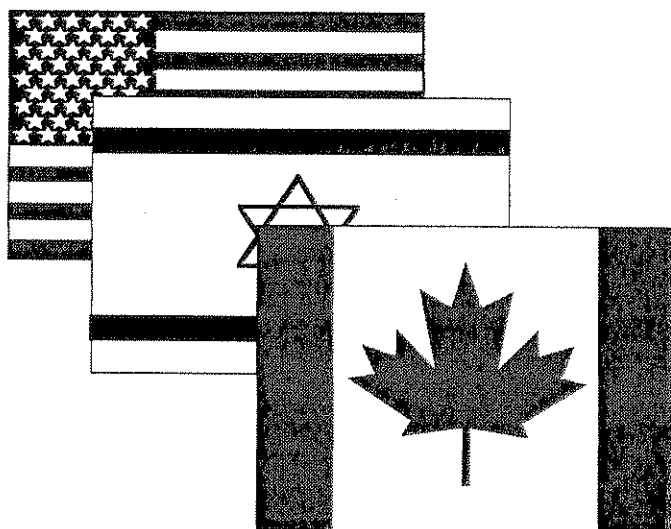
One position the Branch needs to fill is that of Honorary Secretary, a role that has been ably filled for the past few years by NICOLAI SARAD. Nick submitted his resignation as Secretary at the beginning of this month. Many of the Branch's most active and illustrious members began their involvement in the Branch as its Honorary Secretary: TOM FRANCK, NICK KOURIDES and DAVID LEEBRON to name but a few. The position is open to all, but we hope it will be especially attractive to younger members looking to convert their passive membership in the Branch into a more active one.

Other Openings

We will also be looking for people to help organize and work on our new joint projects (such as the one with the Israeli branch, mentioned below), and on one or another of the Branch's publications.

U.S. & Israeli Branches Join in Project

Professor JOHN F. MURPHY, a member of the Branch's Executive Committee and Chair of its Committee on Economic Sanctions, has been named to head up a new joint project, the first of its kind, with the newly reinvigorated Israeli branch of the ILA. SHABTAI ROSENNE, the distinguished jurist who is the Israeli branch's new president, is taking a personal interest in the project, which envisions a study of dispute settlement in trade matters. Details will be available in the fall, after Professor Murphy and Dr. Rosenne meet at the Buenos Aires conference to refine the study's terms of reference.



NAFTA Study

The previously reported possibility of a joint study with the Argentine and Chilean branches of the ILA, dealing with legal aspects of extending NAFTA to all the Americas, appears to have been overtaken by developments even before it could be launched. When we first had it under consideration, Congress had just barely approved NAFTA, and the prospect for its early extension seemed remote. It no longer is, with the result that many groups are studying the matter intently, some of them having close connections to interested governments. We see no reason to duplicate their efforts. We will use the Buenos Aires conference to explore other possibilities, not solely with the Argentine and Chilean branches. Your ideas are most welcome, as is your help in converting ideas into ongoing projects.

Treasurer's Report

SCOTT HORTON, who succeeded JONATHAN BLACKMAN last year as our branch treasurer, submits the following report.

Membership

The American Branch closed its books for 1993 with 341 paying members. Nearly 40% of all membership renewals came in the final ten weeks of the year. This represented a modest increase over membership from 1992. Our membership renewal effort this year commences with the mailing of this newsletter. Please be conscientious in filling out and returning your renewal form with your check as promptly as possible.

I am now working with our new Membership Secretary, JIM BEGGANS, to take control over our membership database, which previously was handled by an outside contractor. Once we have cracked the contractor's codes and retrieved our own membership lists, Jim and I expect to launch a new database which we hope will eliminate some of the more vexatious problems we have had over the past two years.

In any event, however, the cooperation of all members in promptly filling out and returning their renewal forms, with a current check, is earnestly solicited. This year we also aim to conduct a membership drive in the context of International Law Weekend aimed at bringing in practitioners, law students and academics who attend or participate in the events we are hosting or co-hosting.

Report on Assets

The American Branch continues to be in sound financial condition, and in 1993 receipts and interest income narrowly exceeded expenditures. As of June 1, 1994, the American Branch's financial picture can be summarized as follows:

Cash on hand	\$45,461.92
INVESTMENT PORTFOLIO:	
Putnam Diversified Inc. Trust - B	\$30,000.00
George Putnam Fund - B	\$30,000.00
Putnam Fund for Growth Inc. - B	<u>\$20,000.00</u>
TOTAL	<u>\$125,461.92</u>

*American Branch of the
International Law Association**Chair, Executive Committee*

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President

Edward Gordon

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Theodore R. Giuttari
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Directors of Study

James A.R. Nafziger
Alfred P. Rubin

The June 1st "snapshot" is convenient since as of this date the Branch does not have substantial payables, either to the ILA in London or other creditors. In the balance of this year substantial payments can be anticipated for our *Proceedings*, to finance WEEK-END and to pay our dues to London.

Decision to Reinvest Corpus

For the past several years, the corpus of the American Branch's endowment has been held in certificates of deposit with the Bank of New York while operating funds were held in a BoNY checking account. As interest rates of CD's plummeted through 1993, reaching less than 2½% at the time our CD was set for reinvestment, the Finance Committee (embodied in Nick Kourides, David Gill and myself) caucused to reconsider our investment strategy. At length it was decided to leave a reasonably large sum in a checking account to cover current expenses (including a generous allowance for publishing projects) and to place the balance of the funds in longer-term high yield investments.

The long-term investments in turn were placed in relatively conservative investment funds, with three different strategies. A brief description of the investment funds follows:

Putnam Diversified Trust Inc. (ILA share holdings: 2,512⅝)—a high current income trust which holds U.S. Government high yield obligations and international fixed income securities conservatively invested. The Trust pays a monthly dividend, which we will reinvest until needed. For the past calendar year the fund has borne interest at slightly over 10%; over the life of the fund, it has borne 4.42% average and 5.5% cumulative interest.

George Putnam Fund (ILA share holdings: 2,245½)—a very conservative balanced growth and income fund which has been favored by academic institutions, this fund offers capital growth and current income through a diversified stock and bond income portfolio. Its dividends are paid quarterly and will be reinvested automatically until other investment decisions are made. In 1993 the fund bore interest at 10.07% and over its life it has had 7% average and 15.9% cumulative interest.

The Putnam Fund for Growth (ILA share holdings: 1,501⅞)—is comparable in its objectives and composition to the George Putnam Fund except that it is somewhat more aggressive in investment strategy. It also pays quarterly dividends. In 1993 the Fund for Growth had a 13.52% return and over its life it has had a 9.31% average and 20.45% cumulative return rate.