

# ILA NEWSLETTER

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### Contents

#### FROM THE EDITOR - Professor Craig Baker

Welcome to this latest issue of the ILA Newsletter. Over the last few years, this newsletter has gone from strength to strength under the editorship of Professor Chris Greenwood. I am delighted to have been given the opportunity to continue this work and to further develop the newsletter.

At a time when international law is discussed more than ever before, the International Law Association is in a unique position to influence the development of the law and to encourage states and other international actors to act within the limits of international law. As an attendee at the ILA Conference held in Berlin from 16—21 August, I was struck by the incredible amount of work being done by the organisation in many different areas of international law. Indeed, it is not until one attends an event such as this that one is able fully to understand the importance of the ILA and the potential impact it has. The Committee system of the ILA works extremely well and provides an opportunity for focussed and continued examination of specific areas of international law. Nevertheless, the system does not always encourage the broad range of members of the ILA to attend and contribute to the activities of the organisation, in particular, younger members of the Association. However, as a (relatively!) young member of the Association I found the Conference to be a challenging and enjoyable event. Members who do not serve on committees should certainly not be put off attending future Conferences and the work of the Branch Committees is intended to ensure the widest participation in the Association as is possible.

This issue of the newsletter contains a summary of the work undertaken at the Berlin Conference together with the text of the opening address to the Conference of Professor Karl-Heinz Böckstiegel, President of the German Branch of the ILA. There is also a section of news from the Executive Committee and from the Branches. Finally, there are tributes to Professor Maarten Bos, Sir Robbie Jennings, Maitre Jean Lisbonne, Professor Oscar Schachter and Professor Jerzy Sztucki all of whom recently passed away.

Production of this Newsletter depends upon receipt of contributed articles and on information being sent from the various branches. Please send us any information which you feel would be of interest to fellow readers. All contributions can be sent to ILA HQ [info@ila-hq.org](mailto:info@ila-hq.org). We would be particularly interested in receiving material relating to current developments in international law.

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## BERLIN CONFERENCE

The 71<sup>st</sup> Conference of the International Law Association took place in Berlin between 16 – 21 August, 2004. Over 500 delegates attended the Conference. On any view it was a tremendous success. The work undertaken during the Conference was scholarly and imaginative. Contemporary and cutting edge issues were tackled. The social side of the Conference was generous, interesting and much appreciated.

Prof. Dr. Karl-Heinz Böckstiegel, President of the ILA German Branch, welcomed delegates to the Berlin Conference with these words:

*"I am delighted to invite you to participate in the ILA's 71st Biennial Conference.*

*The German Branch is honoured to have been chosen by ILA's Executive Council to be the host of this Conference for the second time after the Conference in Hamburg in 1960. The German Branch invites you to Berlin, the capital of re-united Germany - to a city which for over four decades has been symbolic of the division of the world into two hostile blocks. Today, its formerly separated parts have grown together; and Berlin is, again, a fascinating place.*

*We have chosen as the Conference Venue the "HOTEL BERLIN", whose location will allow you to visit the former West as well as the former East at almost equal distance.*

*The 71st Conference of the ILA will take place at a time when the respect for and the development of international law, public as well as private, have gained additional importance and momentum. This Conference and the various Committees and Study Groups will provide a unique opportunity for*

*academics, practising international lawyers and government representatives to analyse the current state of international law, and to discuss and propose the necessary changes."*

The Rt Hon The Lord Slynn of Hadley, Chairman of the Executive Council, paid tribute to the German Branch: *"The arrangements for our 2004 Conference in Berlin are splendid and I am grateful to the German Board and particularly to Professor Karl-Heinz Bockstiegel and Professor Torsten Stein for all they have done. The hotels they have chosen are excellent and the prices for a large capital city are reasonable. There will be the opportunity not only to go to Potsdam on the day tour but also to see many of the famous sites of Berlin and to enjoy both the museums and the night life.*

*As always we are no less indebted to our Director of Studies, Professor Alfred Soons, for arranging the committee reports. There is a lot of important material to consider and he has done well in trying to fit everything in. This will be his last conference as Director of Studies but at this meeting he will have the assistance of Professor Christine Chinkin, his appointed successor."*

Staatssekretärin Brigitte Zypries, the German Federal Minister of Justice, gave the following warm welcome to delegates and their guests:

*"It is my pleasure to accept the invitation extended by the International Law Association (ILA) to be patron of their 71st Conference from 16 to 21 August 2004 in Berlin and to address to you my words of welcome. This is the second ILA Conference to take place in Germany, following the first in 1960*

*in Hamburg.*

*The programme to be covered by the Committees and the Study Groups is demanding and substantial. The Preliminary Programme enumerates 25 subjects, of which a number fall directly within the competence of the German Federal Ministry of Justice – International Human Rights and Practice, the International Criminal Court and International Trade Law, for example. The contribution made by the ILA not only relates to progress in the various fields of law – which extend from international law to public law, to commercial and company law and to private law – but also relates to comparative law and the unification of law. The promotion of international understanding and good will is something I consider to be especially important. At the same time, however, the ILA has never been afraid to speak out clearly when it has seen a threat to basic values.*

*I am particularly pleased that you have chosen Berlin as the location for your Conference. During the second half of the 20th century, Berlin was the focal point of legal and political developments of great international significance, a role not shared by any other German city. The most important event in the course of this development was, from the point of view of international law, the conclusion of the Two plus Four Treaty, which restored complete internal and foreign sovereignty to Germany as a united whole. At the same time, this development initiated the process to create a common legal order for Germans both in the east and in the west. The Federal Ministry of Justice was instrumental in the preparation of the Unification Treaty. As a result of our experiences, Germany will be*

able to make an important contribution to the process of creating a unified European Area of Justice in the course of EU enlargement.

*I wish you much success for the 71st ILA Conference in Berlin."*

The Conference began on the Sunday evening with an informal reception at the Sommergarten, Hotel Berlin. Then, on the Monday morning, there was a magnificent Opening Ceremony in the great hall of the Ministry of Foreign Affairs. Speakers included the Chairman, the Rt Hon Lord Slynn of Hadley; the outgoing President, the Hon Mr

Justice S.P. Bharucha, Chief Justice of India; and Prof. Dr. Karl-Heinz Böckstiegel, to whom the chain of office of President was duly presented. These speakers were followed by Dr. Klaus Scharioth, State Secretary of the Federal Foreign Office. There was a delightful musical accompaniment by the brass quartet called the "Spandower Thurmbleserey." The Foreign Office then gave a reception – after which delegates returned to the Hotel Berlin for the start of the working programme.

During the week there were the following Working Sessions: (see below).

There was a Plenary Session on Corporate Social Responsibility and International Law, co-chaired by the Hon Mr Justice R C Lahoti and the Rt Hon Lord Slynn of Hadley – accompanied by Dr Kamal Hossain as Commentator. Professor Peter Eigen spoke on "Building Coalitions for Corporate Social Responsibility." Professor Menno Kamminga addressed the topic of "Transnational Corporations and Human Rights." Mr Jeremy Carver spoke on "Remedies for wrongful acts of transnational corporations: alien torts, BITS or international compensation."

## Session

International Monetary Law  
 Accountability of International Organisations  
 Feminism and International Law  
 International Criminal Court  
 Water Resources Law  
 International Securities Regulation  
 Arms Control and Disarmament Law  
 International Trade Law  
 International Law of Sustainable Development  
 International Human Rights Law and Practice  
 Aspects of the Law on State Succession  
 Space Law  
 Legal Issues of the Continental Shelf  
 Cultural Heritage Law  
 Transnational Enforcement of International Law

There were also Workshops on the following subjects:

## Session

Compensation for Victims of War  
 International Law of Foreign Investment  
 International Law on Biotechnology  
 Independence of the International Judiciary  
 Islamic Law and International Law  
 Teaching of International Law

## Chair

Professor Friedl Weiss  
 Dr Kamal Hossain  
 Dr Charlotte Ku  
 Professor Christine Chinkin  
 Mr Bruce Mauleverer  
 Prof. Catherine Kessedjian  
 Professor Shinya Murase  
 Rt Hon Lord Slynn of Hadley  
 Judge Georg Ress  
 Professor Paul de Waart  
 Professor V Gowlland-Debbas  
 Professor Ove Bring  
 Dr Christopher Pinto  
 Professor Susana Vieira  
 Robert von Mehren

## Chair

Dr Luke Lee  
 Dr Christoph Schreuer  
 Professor Thomas Cottier  
 Professor Philippe Sands  
 Judge Al-Khasawneh  
 Professor John Gamble

There was also an “Arbitration Day” arranged by the Commercial Arbitration Committee and the German Institution of Arbitration. This was a new feature of the Conference and was an important addition to the week. The first session was on “Res Judicata and Arbitration.” The session was chaired by Professor Janet Walker. Speakers included Mr Fernando Mantilla-Serrano (Res Judicata in Civil Law Jurisdictions); Mr Audley Sheppard (Res Judicata in English Common Law Jurisdictions); and Mr Charles Brower (Res Judicata in the United States). There was a panel discussion on Res Judicata in International Commercial Arbitration Law and Practice, with contributions from Professor Filip De Ly; Mr Yves Derains; and Mr Pierre Karrer. The second session was on “The Relevance of Public International Law in International Commercial Arbitration.” That session was chaired by Prof. Dr. Karl-Heinz Böckstiegel. The discussion ranged from General Considerations to Specific Applications. There were presentations from Judge Stephen Schwebel; Dr Robert Briner; Judge Gilbert Guillaume; Professor Filip De Ly; Professor Christoph Schreuer; Rechtsanwalt am BGH Hilmar Raeschke-Kessler; and Professor Hans van Houtte.

The Conference spawned four Resolutions. Each was important in its own way. The Committee on Accountability of International Organisations formally adopted the Committee’s Report, which stressed the importance of the accountability of international organisations in all its aspects. The Committee on Water Resources adopted a wide-ranging set of Rules governing Water Resources. The Rules are to be called the Berlin Rules on Water Resources. The Committee on Arms Control and

Disarmament Law adopted a Resolution drawing attention to the need for effective agreements on arms control and disarmament, and the importance of meeting the challenge of non-proliferation. The Committee on International Human Rights Law adopted a Resolution calling for further domestic implementation of the findings of human rights treaty bodies and approving a series of recommendations contained in the Committee’s final report. The full text of these Resolutions is published on the ILA website at <http://www.ila-hq.org/>.

On the Monday evening there was a grand reception at the Red City Hall.

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*... the most delightful thing in life is to greet old friends who come from afar ...*

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On the Wednesday evening there were the customary Embassy Receptions.

On Thursday, 19 August, there was a full day excursion to Potsdam and a boat tour of the Berlin Lakes. The buses crossed the Glienicke Bridge, famous for the exchange of spies during the cold war. There was a visit to the Sanssouci Palace Gardens and a buffet lunch at Krongut Bornstedt, where the Minister of the Interior of the State of Brandenburg, Mr Jörg Schönbohm, gave an address.

On the Friday evening there was a reception followed by a Gala Banquet in the Hotel Berlin.

During the week there were City Tours around Berlin and a Tour of the German Bundestag, the notable building designed by Sir Norman Foster. There was also a tour of “KPM – Royal Porcelain-Manufacturer Berlin” (porcelain famed for its distinguished trademark, the royal blue scepter) and named in 1763 after King Frederick the Great. Visitors to the city could walk around “Mitte”, the eastern centre and the well-known boulevard Unter den Linden; admire historic buildings such as the Zeughaus, the National Opera, the Gendarmenmarkt with its two cathedrals, and, of course, the Brandenburg Gate; stroll down Friedrichstrasse; or visit one of the many museums, such as the Checkpoint Charlie Museum, the Humboldt Museum or the Pergamon Museum.

The Conference was generously sponsored by The Federal Ministry of Justice, the German Institute of Arbitration (DIS), Fritz Thyssen Stiftung and Stiftung “Geld und Währung.” It was also co-sponsored by the law firms Baker & McKenzie, Freshfields Bruckhaus Deringer, Hengeler Müller, Heusinger Kühn Lüer Wojtek, Hölters & Elsing and Lovells.

Following the Conference there was a Post-Conference tour to the porcelain factory in Meissen (with lunch at the Meissen Burgkeller) and a sightseeing visit to Dresden, where delegates could admire the marvellous restoration work of many of the war-damaged buildings.

This vignette of the Conference would not be complete without reference to the special luncheon hosted by Dr Thok-Kyu Limb,

Honorary President of the Korean Branch and Vice-President of the International Law Association. Dr Limb gave the luncheon to over one hundred delegates. Its purpose was to pay tribute to the memory of Lord Richard Wilberforce. Dr Limb spoke as follows, in words that will resonate for all of us who knew and admired Lord Wilberforce:

*“The Rt Hon Lord Slynn, distinguished members, Ladies and Gentlemen:*

*Confucius once said “the most delightful thing in life is to greet old friends who come from afar”. In that spirit, I am feeling really very happy to meet all of you again in Berlin.*

*We are assembled here today with a singular purpose. That is to pay tribute to Lord Wilberforce, a great leader in the field of International Law, who has done so much in the development and codification of this important legal system, which affects all of us today.*

*True to the dynamic nature of International Law, he was a man of great vision who foresaw what International Law ought to be generations ahead of our times. Our past and present accomplishments prove this point. For example, I may refer to ILA work in space law, cultural heritage law, international legal aspects of feminism, transnational enforcement of environmental law to name a few. As a Korean, I am particularly reminded of ILA’s innovative work in the human rights area, such as the rights of “refugees” or “escapees” in the third country as well as the status of such persons in a divided-state situation such as Korea.*

*May I also add that the ILA Korea*

*Branch remembers and is particularly grateful for the guidance and assistance extended to us by Lord Wilberforce which enabled Korea Branch to host the 62<sup>nd</sup> ILA Conference in Seoul, Korea in 1986.*

*Lord Wilberforce was not satisfied with de lege lata of International Law but he looked forward to creating de lege ferenda of the international legal system which in time became a reality. In this sense, we owe a great debt to him for what we are today. He was always a source of inspiration and impact to us. Now the noble legacy and honourable tradition Lord Wilberforce left behind is so ably being carried out by his eminent successor, Lord Slynn of Hadley. It has been indeed our pleasure and privilege to follow and be part of the ongoing crusade in the continuing development of International Law under his inspiring leadership.*

*Ladies and Gentlemen: Today is indeed an occasion of rejuvenation – an occasion to renew our determination to carry forward the great teachings and ideals which Lord Wilberforce left behind in our midst which have enriched so much the world we live in, and perhaps, this may be the only way we can repay at least a part of the debt we owe to Lord Wilberforce.*

*Thank you Sir.”*

**Please send your impressions on Lord Wilberforce in 800 words on Email: [diplolimb@yahoo.com](mailto:diplolimb@yahoo.com) (Dr Thok Kyu Limb, Life vice president, ILA and chairman, Diplomacy magazine in Seoul, Korea).**

For those who would like to know more about the life and work of Lord

Wilberforce, do visit the family website at [www.wilberforce.info](http://www.wilberforce.info) .

The Berlin Conference was noted for its smooth-running and seamless efficiency. There was a feeling of tranquillity and harmony throughout the week. Many delegates remarked upon the apparent ease with which the Conference unfolded. In fact there was a lot of hard work behind the scenes, undertaken by the German branch, to whom tribute is paid in the next paragraph, and by the Headquarters Secretariat, championed by Juliet Fussell with the able assistance of Nathalie Pryer. They in turn were well supported by a team of dedicated young German scholars and secretary-assistants under the leadership of Christopher Ward, the editor of the conference report.

The Berlin conference will be remembered as a week of scholarship, friendship, inspiration, and warm hospitality. At the closing session Professor Jim Nafziger and Professor Maureen Williams proposed and seconded a vote of thanks to the German branch, the organising committee, and to Professor Karl-Heinz Bockstiegel and Professor Torsten Stein for all that they had done to make the conference such a success. Our German hosts were indeed gracious and warm in their welcome. We thank them.

Bruce Mauleverer

*Welcome Address and some Thoughts on International Law Today by Karl-Heinz Böckstiegel to the 71<sup>st</sup> Conference of the Inter-national Law Association from 15 to 21 August 2004 at the Opening Ceremony in the Weltsaal of the the German Ministry of Foreign Affairs in Berlin on 16 August 2004*

Ladies and Gentlemen, dear colleagues, dear friends, on behalf of the German Association of International Law, which is also the German Branch of the ILA, let me **welcome** you at this 71<sup>st</sup> Conference of the International Law Association. We are most grateful that so many distinguished academics and practitioners of international law have come to this meeting.

It is a pleasure and honour to host the ILA Conference in Germany again more than 40 years after the Hamburg Conference of 1960. Since then, major and fundamental changes have taken place regarding the international community of states, its economic and social environment, and also regarding its legal environment and framework.

As well, **Germany's role** in the world community has changed dramatically from the outlaw after World War II to a re-unified Germany as a respected and active major player today. Nowhere does this become more obvious than here in Berlin, which used to be the symbol of a divided world during the Cold War, and which, with the fall of the Berlin Wall, has now become a symbol of peaceful change in the middle of a European Union recently grown into incorporating most states of Western as well as Eastern Europe.

Though many of these changes have brought about advantages for the states and their citizens, many old **problems** have remained and new problems have arisen. In Germany, we are still struggling with the consequences of re-unification.

In Europe, old and new members of the Union will have to work hard to realize the potential great advantages available. The United Nations have not always and everywhere been a success story. Human rights violations are still found in many states. Both industrial and developing countries face old and new challenges in their social and economic structures. Conflicts, including military conflicts, between states and with certain groups in society are still found in many regions of the world. International terrorism has grown in recent years into a fundamental challenge to international peace and development.

It can be no surprise that **international law** reflects this picture of the world community. Over the last decades, both by the United Nations and otherwise, the procedural and substantive legal framework of the international community has been developed into an impressive body of law.

Since there is no time here to go into detail, let me mention, two examples from fields with which I am personally familiar.

**International dispute settlement**, known to me from my practical work as an international arbitrator, provides more options and is used in practice more than ever before in history for the peaceful solution of disputes. The role of the International Court of Justice today is of much more significance than earlier. Even in relation to the most politically sensitive disputes it has been possible to form and use specific judicial bodies as I have experi-

enced in my function at the Iran – United States Claims Tribunal at The Hague. Not every such judicial body finds a general acceptance by all major states as the example of the International Criminal Court shows. The role of the ICC will be discussed during this conference. But in many important fields of international law, there is wide acceptance by all relevant states. The World Trade Organisation's dispute settlement machinery is widely used, and in the field of international investment, the by now more than 2000 Bilateral Investment Treaties (BITs) provide for arbitration between the host state and foreign investors which is used in a growing number of cases administered either by ICSID of the World Bank or other mechanisms.

At the non-governmental level, international commercial arbitration, such as those of the ICC and the LCIA, has become the generally accepted method of dispute settlement between private enterprises and for international government contracts including a world wide enforcement of arbitral awards by the New York Convention of 1958.

At the regional level, the European Union has a fully available court system for the by now vast body of European Law through the European Court of Justice in Luxemburg. The European Human Rights Convention offers legal protection to Europeans against their own and foreign states by its separate Court in Strassburg. And in North America, NAFTA provides a widely used arbitration system for the protection of investors.

As a second example, let me at least shortly point out the entirely different field of **space law**. The exploration and commercial use of Outer Space has become a regular feature both for governments and for private

enterprises from which we all already benefit through world wide communication, weather forecasts, disaster warning, navigational systems and the like via satellites. For this area, a major body of international law has been created in the form of widely accepted conventions and other instruments adopted by the United Nations, the European Space Agency and similar bodies.

Compared to these and many other success stories of recent progressive development of international law, one must not overlook that, in other areas, international law has not been able to keep pace with **new changes and challenges**.

**International terrorism** provides an unfortunate but obvious example in this context. The traditional rules on military action by states, within the United Nations and outside, in conventions and customary international law, did not and could not foresee this challenge in all its aspects, and it is no surprise that strong differences of opinion and conflicts arise regarding their applicability and application and their need to be reviewed and re-written in the common interest both for protection against the new threats and for legally satisfying rules applicable to all states.

**Human rights violations** are a continuing concern. In spite of the various international and regional instruments for the protection of human rights, a number of states not only violate human rights of their own citizens or certain groups thereof, but also insist on their national sovereignty against what they call interference with their internal affairs.

Another challenge – but also an opportunity – for international law comes from the much discussed

**economic globalisation** of the world. The fundamental approach of traditional international law as seeing the world as a mosaic of separate national jurisdictions, each under the sovereignty of a state is not sufficient to cope with the global activities of multi-national enterprises which, for understandable reasons, try to use the relative advantages of each state's jurisdiction and economic environment for their own benefit. The growing harmonisation of national laws provides a more level playing field both for the private enterprises and the states involved.

This harmonisation needs support and continuing follow-up by a steadily increasing body of international law. For this, the Law of the Sea Convention, the new Montreal Convention for Air Transport Liability, the International Convention on the Sale of Goods, and the various conventions on intellectual property, are stimulating examples. Equally relevant is the framework for cooperation provided by governmental organisations such as the WTO whose Doha Round made significant progress recently, the IMF and the World Bank, ICAO, WIPO and similar bodies.

At the regional level, we already see a further step: supra-national organisations such as the European Union to which the member states actually transfer important parts of their sovereignty.

Also, non-governmental organisations play a major role in promoting the internationalisation of rules for the conduct of the global economy. An outstanding example is the International Chamber of Commerce which, with the input from the international business community, over many decades has elaborated rules of its own such as the INCOTERMS and its Arbitration Rules, and has also initiated

the elaboration, and finally ratification, of international conventions for important fields of international trade and investment. IATA has played a similar role in initiating conventions on international aviation.

The **International Law Association**, also a non-governmental organisation, of course, goes much further in its scope as a result of its interest in all fields of international law, public and private. Regarding many fields of international law, the ILA has played and is playing an important role in the progressive clarification and interpretation of the law, its development, and also in the discussions regarding its unsolved challenges. This is illustrated by the long list of its Committees and Study Groups that have presented reports and resolutions in the past. If you look at the Committees and Study Groups at this Berlin Conference, you find a selection of fields and issues of the highest relevance for modern day international relations and law. And if you look at the most eminent members of these groups, and the quality of the reports presented to this Conference, you also realize that the work done between and at the Conferences is at the highest level. In addition to the regular sessions of Committees and Study Groups, this Berlin Conference presents two ad-hoc features in view of their particular relevance: the Plenary discussion on “Corporate Social Responsibility and International Law” on Tuesday, and on Friday the “Arbitration Day” organized in cooperation with the German Institution of Arbitration (DIS) where prominent speakers from inside and outside the ILA will discuss “Res Judicata” and the “Relevance of Public International Law for International Commercial Arbitration”. We all look forward to all these meetings which, no doubt, in addition to the importance of their

topics will be most informative and intellectually stimulating.

As during its more than 130 years, the ILA must be continuously subject to examination, review and critical commentary in order to fulfil its purpose best in view of the permanently changing international environment. A long tradition and experience is of great value, but sometimes also a burden, in identifying changes and challenges, their respective relevance, and possible options for the application of international law and for its further development in order to provide legal answers for states, their citizens and the international community at large.

Aware of this, at regular intervals, internal studies have considered where the ILA has difficulties or might improve and become more effective. Most recent very valuable documents in this context are the Report of the "Ad-Hoc Working Group on Future and Direction of the ILA" chaired by Prof. Petersmann, and the "Vision on the Future of the ILA with Suggestions for Concrete Decisions" presented by our outgoing Director of Studies, Prof. Soons.

If I recall it correctly, on the basis of the proposal of the Ad-Hoc Group, the Executive Council of the ILA recently agreed on a re-wording of Art.3.1 of the ILA-Constitution to the effect that

"The objectives of the Association are the study, clarification and development of international law, both public and private, and the furtherance of international understanding and respect for international law."

This seems to me to be a good starting point for a review and new iden-

tification of the ILA's concrete activities now and in the future. As we all know, international law is often closely linked to international politics. But seldom before has it been so important for world peace and world development to promote international law as today. The ILA, as a non-governmental organisation, has the advantage that it is not bound by all sorts of political and diplomatic restrictions and implications in approaching disputed issues. But, on the other hand, this does not justify an unrealistic approach neglecting what can be considered feasible. And it may not always be helpful or wise to finalise conclusions or even pass resolutions regarding every politically sensitive legal debate.

Though I personally, as a member of the ILA Executive Council for quite a few years, am aware of many of the considerations exchanged in recent discussions on the role of the ILA, I have not had or taken the time to get closely involved. Therefore, I feel it would not be fair for me to express premature comments or evaluations on what the ILA might do, keep doing, and do differently in the future. But in my new function as President of the Association, I intend to inform myself better and, in due time, take my role in shaping the future of the ILA. At this stage, let me only invite those of you who have comments or suggestions, to share with me their considerations.

Finally, coming back to more practical aspects of our meeting, permit me to use this occasion already at the beginning of this Conference to express our **gratitude** of course, to you all for coming, to the German Foreign Office for hosting this Opening Ceremony and the following reception, to the Sponsoring Institutions which you find in your programme as well as the Law Firms as Co-Sponsors. Their financial sup-

port was much needed and very helpful.

Thanks are certainly also due to the team of ILA Headquarters, the Berliner Wissenschafts-Verlag, Prof. Stein's team at Saarbrücken University, and the Conference Assistants.

At this stage, may I only ask for your understanding and indulgence regarding anything that you find not at your satisfaction. **Nobody is perfect**, not even Germans in organizing a conference, particularly if the financial resources are scarce as they were in view of our goal to offer, in a city as expensive as Berlin, all social activities as covered by one registration fee and to offer a very reasonable price for hotel accommodation. Praise the staff for what you like, and blame the president of the Association for what went wrong.

In addition to your hard work at the conference, I encourage you to make use of the opportunity to get acquainted with **Berlin**. Not only in the roaring Twenties, but again today it is a fascinating place with its museums, cultural events, shopping facilities, pubs and night life. The Hotel Berlin, where most meetings take place and most of you stay, is situated in the centre of town allowing you to easily visit what used to be West- and East-Berlin. Just try to be back in time for the morning sessions. May I wish you a successful conference and a pleasant stay in Berlin.



## BOOK PRESENTATIONS AT THE BERLIN CONFERENCE

**Release of the book *Reflections on Emerging International Law. Essays in memory of the Late Subrata Roy Chowdhury* by the Honorable Mr Justice R.C. Lahoti, Chief Justice of India**

“As the President of ILA, Indian Branch, I have the honour of releasing the book *Reflections on Emerging International Law* published jointly by ILA Calcutta Centre, Law Research Institute Calcutta and National Law School of India University, Bangalore. This book contains Essays in Memory of late Subrata Roy Chowdhury’s friends, ILA friends, admirers, mostly jurists and members of the legal community, brought together by R.N. Jhunjhunwala from Calcutta, Khaitan & Co. For over two decades Subrata Roy Chowdhury made valuable contributions on various aspects of economic and social justice and in formulating a normative framework for a new international economic order, popularly formed as “NIEO”. As rightly observed by Professor Paul de Waart in this book, he is still ‘a living legend’ and as stated by Dr Kamal Hossain ‘he will continue to be remembered as a source of inspiration to all who continue to

work for the development of international law, in the course of peace, justice and human rights, at a time when international law, peace, justice and human rights are facing new threats and challenges’. One decade after his sudden and sad demise, this is a befitting tribute we all can pay to his Memory.

On behalf of the Indian Branch of ILA, I am pleased to announce that we take pleasure in making available over 400 complimentary copies of the book for each ILA registered participant.”

**Presentation by Nico Schrijver of the book *International Law and Sustainable Development: From Principles to Practice*, Martinus Nijhoff, Leiden, 2004, edited by Nico Schrijver and Friedl Weiss, to Dr Kamal Hossain, vice-chair ILA**

Two years ago the ILA adopted the New Delhi Declaration of Principles of International Law Relating to Sustainable Development. This was on the eve of the Johannesburg World Summit on Sustainable Development, 2002. The ILA had an opportunity to present the Declaration to the Johannesburg conference. Subsequently, at the

joint initiative of the governments of Bangladesh and the Netherlands the New Delhi Declaration has been circulated as a General Assembly document (A/57/329). The Declaration resulted in part from a research seminar held at the Artis conference centre at the beautiful Amsterdam Zoo. The seminar also resulted in a more extensive book project, concerned with an assessment of the extent to which sustainable development had progressed from principle to practice. We are happy to be able to present today the very first copy of this book to the one who graced the Zoo conference with his presence and usual vigour, really fittingly likened to a Bengali tiger. Indeed, we are most grateful to Dr Kamal Hossain from Bangladesh for having served for so many years as our Chairperson and moving spirit. We have very much appreciated his leadership and friendship. Unfortunately, we do not possess the courage to make a similarly generous distribution of free copies of our book as our colleagues from India did a moment ago. However, we trust that the subject matter of this book might interest some of you and that its message might stimulate your interest in future ILA work in this field.

## NEWS FROM THE EXECUTIVE COUNCIL

A meeting of the Executive Council was held on Saturday 8 May in London.

Tributes were paid to Maitre Jean Lisbonne, (see notice from the French Branch page 16) a longstanding member of the ILA and Vice President for many years who had been an alternate member of the Cultural Heritage Law Committee. And also to Mr Nicholas Doman a long-term member of the American Branch who had served on the Executive Committee of that branch.

It also reported that Mr Sebastian Horsten of the German Branch had been murdered while travelling in South Africa. He had assisted at the New Delhi Conference in 2002 as a very able and effective working session reporter, and where he had met a number of ILA members who would remember him with affection.

The Hon Treasurer, Mr Willem Hamel presented the Annual Accounts for 2003 which showed a credit balance at the end of 2003. This was a satisfactory result and

due in part to the expenditure being kept below budget.

The Treasurer then announced that he had established a fundraising committee which would endeavour to raise the funds needed to recruit an Executive Director for a two year period. The five members of the Committee will be: Judge Al-Khasawneh (Headquarters Branch), Bill Blair (British Branch), Kamal Hossain (Bangladesh Branch), Judge Owada (Japan Branch) and Robert von Mehren (American Branch).

The Director of Studies presented his report (see some details under **Committee News**).

A meeting of the Advisory Committee on Research had met the previous day and he requested suggestions for topics in the field of private international law which might be considered for future committees.

The Director of Studies' Report included a list of the Working Sessions programmed at the Berlin Conference. He invited members of the Executive Council to approve the Chairs he proposed for each of the Working Sessions, as required under Section 4 of the Standing Orders.

Two Committee Reports for the conference in Berlin had been received at Headquarters at the time of the meeting. The rest were expected by 1 June. All reports were posted to the ILA website and a link made from the Conference website directly to the relevant pre-conference committee report.

The Director of Studies informed Executive Council members that he had promised to raise again the issue of the fees charged at ILA Biennial Conferences. Headquarters

receives many requests for fee waivers and other assistance from Committee Officers and others. While it was noted that host branches should endeavour to keep fees as low as possible, it was agreed that those who contribute to the work of an ILA Committee should not expect to be given fee waivers or other assistance in attending ILA Conferences.

Professor Nico Schrijver (Netherlands Branch) reported that the European Society of International Law (ESIL) had recently been established and would be holding its inaugural conference in Florence in May 2004. He reported that the goals of the organisation were similar to those of the ILA but that it will operate in a spirit of co-operation with the ILA. The Chairman said he hoped there would not be strong competition for members and that he hoped ESIL would arrange to hold their biennial conferences on alternate years to those arranged by the ILA.

The Secretary General reported that he had received an amended constitution from the South African Branch. He recommended the minor

changes indicated and the Executive Council members approved them accordingly.

The Chairman announced that as no response had been received from any correspondence sent to the Paraguay Branch for many years, the Branch should be removed from the list of current branches.

The Chairman also announced that he had held discussions in Taipei with the President of the Chinese (Taiwan) Branch regarding the establishment of a branch in mainland China. It had been agreed that the Chairman would write to the Chinese Society of International Law which he had done in March 2004. It is hoped that agreement will be reached between the Chinese (Taiwan) Branch and the CSIL which will allow such a branch to be established in the near future.

The next Executive Council meeting will be held in London on Saturday 20 November 2004.

The following one will be held on 7 May 2005 in London.

## COMMITTEE NEWS

The Chair of the **International Family Law** committee, Professor Yokoyama had resigned due to other commitments. No successor was proposed.

Three existing committees will complete their work in Berlin: **Accountability of International Organisations, Arms Control and Disarmament Law, and Water Resources Law.**

### New Committees

Professor Soons reported that proposals for new committees will be made after the Berlin conference.

### Study Groups

The **Practice and Procedure of International Tribunals** Study Group held a fourth meeting in April, and produced a draft set of principles on the independence of

the international judiciary which are available on the ILA website. The Study Group held a meeting during the Berlin Conference at which the principles were discussed. (As the work of a Study Group, these were not officially adopted by the Conference). The Study Group does not wish to continue this work as an International Committee.

New study groups will be considered after the Berlin Conference.

# NOMINATIONS TO ILA INTERNATIONAL COMMITTEES

(Agreed at the EC 8 May 2004)

## Compensation for Victims of War

Professor Photini Pazartzis

Hellenic

Member

## Diplomatic Protection Of Persons And Property

Stephan Wittich

Austrian

Member

## Feminism and International Law

Professor Rikki Holtmaat

Netherlands

Member

## International Commercial Arbitration

Denis Bensaude

Barry Leon

Christophe Seraglini

Professor Yasuhei Taniguchi

French

Canadian

French

Japan

Member

Member

Member

Member

## International Criminal Court

Dr Christiane Bourloyannis-Vrailas

Professor Sharon A Williams

Hellenic

Canadian

Member

Member

## International Human Rights Law And Practice

Professor Emmanuel Decaux

French

Member

## International Law on Foreign Investment

Professor Jeffrey Atik

Professor Andrea Bjorklund

Professor Juliane Kokott

Mr Daniel Magraw

Professor Engela Schlemmer

Professor Friedl Weiss

American

American

German

American

South African

Netherlands

Member

Member

Member

Member

Member

Member

## International Law on Sustainable Development

Marie-Claire Cordonier-Segger

Professor D Tladi

Canadian

South African

Member

Member

## International Securities Regulation

Dr Emilio Avgouleas

Edward Waitzer

Hellenic

Canadian

Member

Member

## Outer Continental Shelf

Professor Patrick H G Vrancken

South African

Member

## Space Law

Ricky Lee

Australian

Member

## Teaching of International Law

Aziz Tuffi Saliba

Brazilian

Member

## Transnational Enforcement Of Environmental Law

Dr Ernst Basson

Dr Jutta Brunnee

South African

Canadian

Member

Member

## Water Resources Law

Professor Paulo Canelas de Castro

Headquarters

Member

### American Branch

The American Branch hosted its annual International Law Weekend from 14 – 16 October at the Association of the Bar of the City of New York on the theme of “Worlds in Collision? International Law and National Realities”.

The International Law Weekend – West will be held at Whittier Law School on 4 & 5 February 2005. Panels will discuss a wide range of topics, emphasizing the impact of globalization on the practice of law. Further details of this event can be found on the American Branch website [www.ambranch.org](http://www.ambranch.org).

### Argentine Branch

A round table on Extrajudicial Private Agreements regarding Internal and International debts took place in Buenos Aires organized by the Argentinean Branch, with the participation of our Chairman, Dr. Ricardo R. BALESTRA, Judge Marma Elsa UZAL and Drs. Pedro GARCMA ARANGO and Federico POLAK.

Dr. Balestra, himself, took over on 1 September 2004 as the new Dean of the School of Law and Political Sciences of the University “Universidad del Museo Social Argentino”. He was also awarded the “Vocacisn Prize” for Academic Excellence.

### French Branch

La Branche française de l'Association de Droit International a entendu :

- **Le 14 février 2003**, une communication de Madame Christine Chanet, Conseiller à la Cour de cassation, sur “ La Commission de réexamen d'une décision pénale consécutif au prononcé d'un arrêt de la Cour européenne des droits de l'homme ”. Cette Commission est une nouvelle juridiction française qui prend des

décisions ne faisant pas l'objet de voies de recours et dont le fonctionnement peut donc entraîner des conséquences importantes au regard, notamment, de l'application de l'article 6 de la Convention européenne des droits de l'homme.

- **Le 30 juin 2003**, une communication de Madame Marie Cornu, Directeur de recherches CNRS (CECOJI), sur “ La protection du patrimoine culturel immatériel ”.
- **Le 1<sup>er</sup> décembre 2003**, une communication de Monsieur Claude Jorda, Juge à la Cour pénale internationale sur “ Du Tribunal Pénal International pour l'ex-Yougoslavie, juridiction ad hoc, à la Cour Pénale Internationale, juridiction permanente – De quelques enseignements”.
- **Le 26 avril 2004**, une communication de Madame Françoise Monéger, Professeur des Facultés de droit, Université de Paris 8, sur “Mariage homosexuel et droit international privé”.
- **Le 28 juin 2004**, une communication de Monsieur Jean-Michel Jacquet, professeur à l'Institut Universitaire des Hautes Etudes Internationales, sur “Les contrats de reconstruction de l'Iraq”.

### German Branch

The German Branch held its well attended Annual Meeting on June 18, 2004 at the Max-Planck-Institute of Comparative Public and Public International Law in Heidelberg. The Meeting was dedicated to and held in honour of Prof. Guenther Jaenicke, Patron of the German Branch, commemorating his 90th birthday earlier this year. Prof. Jaenicke was present.

Members were informed about the program and the preparations for the Berlin Conference, and about the actual state of registrations.

Members re-elected Prof.

Boeckstiegel as President, Prof. von Hoffmann and Mr. Raeschke-Kessler as Vice-Presidents and Prof. Stein as Secretary. They elected Prof. Stephan Hobe as Treasurer and expressed their deep gratitude for Mr. Kuester's 16 years of service as Treasurer.

Members elected Prof. Boeckstiegel and Prof. Stein as Members of the Executive Council and Mr. Raeschke-Kessler and Prof. Hobe as Alternates.

Members re-elected as Auditors Mr. Muench and Prof. Calliess.

During the academic part of the Meeting, Members heard and discussed presentations by Prof. Ruediger Wolfrum, Director of the Max-Planck-Institute and Judge of the Law of the Sea Tribunal on “Dispute Settlement under the Law of the Sea” and by Hans-Peter Kaul, German Judge of the International Criminal Court on “The International

## FUTURE CONFERENCES

### Toronto 2006 4 - 8 June 2006

Progress is well under way with the arrangements for the Conference in Toronto in 2006 due to the hard work of Professor Walker and Barry Leon. There will be a conference on International Commercial Arbitration in Canada immediately before the Toronto Conference which should encourage attendance.

### Brazil 2008

Preparation for the ILA 2008 Conference has started. Strong support had been promised by the Bar Association for the event which is very important for Brazil. The exact location is yet to be decided.

Criminal Court - Present Status and Perspectives”.

### Indian Branch

The Indian Branch held a very successful Annual Seminar on Saturday the 1<sup>st</sup> May, 2004 on Transnational Enforcement of Environmental Law as well as on International Law on Foreign Investment. The Seminar was inaugurated by Hon'ble Mr. Justice R.C. Lahoti, the most senior judge of Supreme Court of India. The Presidential address was delivered by Hon'ble Mr. Justice Y.K. Sabharwal, Judge, Supreme Court of India. Hon'ble Mr. Justice Vijender Jain, Judge, High Court of Delhi and Hony. Secretary, ILA Indian Branch delivered the welcome address. Mr. P.H. Parekh, President, Supreme Court Bar Association of India and Hony. Organising Secretary, ILA, Indian Branch organized the Seminar.

The first working session on Transnational Enforcement of Environmental Law was chaired by Hon'ble Ms. Justice Ruma Pal, Judge, Supreme Court of India. Mr. Dipankar Gupta, Senior Advocate was the Keynote Speaker. The other speakers were Mr. Raj Kumar Gupta, Advocate, Mr. P.D. Sachdeva, Advocate, Mr. V.K. Rambhadran, Advocate, Captt. J.S. Gill, Advocate. The Second working session on International Law on Foreign Investment was chaired by Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India. Mr. G.L. Sanghi, Senior Advocate was the keynote speakers. Two other speakers were Mr. Anoop Bose, Advocate and Mr. Ranbir Chandra, Advocate.

The topics selected for the two working sessions in this seminar were also discussed at the 71<sup>st</sup> ILA Conference held in Berlin, Germany from 16<sup>th</sup> to 21<sup>st</sup> August, 2004. Mr. P.H. Parekh, Hony. Organising Secretary, ILA, Indian Branch had requested all the members of the Indian Branch of ILA

as well as Judges, members of the Bar, Academics and Law Students to participate in the 71<sup>st</sup> Biennial Conference

On 25th of September, the Chief Justice of India, the Honorable Mr Justice R.C. Lahoti, as the President of the ILA Indian Branch, inaugurated the Allahabad Centre of ILA.

## TRIBUTES

There has, unfortunately, been a number of deaths among the international legal fraternity in recent months. We welcome the opportunity to publish tributes and other comments about individuals in this newsletter. The length and content of these contributions will not, as a matter of course, be edited. However, we hope that contributors will keep contributions within a reasonable length. On occasion we will specifically commission tributes as we have done in the case of Sir Robert Jennings. The following tributes have been received from contributors in the last few months:

### Professor Maarten Bos

On 7 June 2004, at the age of 87, Maarten Bos died in Heerde, the Netherlands after a short illness. Professor Bos became President of the Association at the 1970 Conference in The Hague and from 1972 was a vice-president.

He was a member of the ILA for almost sixty years, having joined the Netherlands branch after the Second World War as a young attorney who was also writing his doctoral dissertation on the prerequisites of judicial proceedings in public international law (later published in French as *Les conditions du procès en droit international public*, 1957). After obtaining his doctorate in 1951 he worked for the United Nations in New York, in the Legal

Division (attending many ILC sessions in Geneva as a member of the ILC secretariat) until he was elected to the chair of public international law at Utrecht University in 1958, succeeding his research supervisor Professor Verzijl.

He soon became Hon. Secretary of the Netherlands branch and subsequently its president until 1971. His many services to the branch and to the ILA were later recognised by his election as an honorary member of the Netherlands branch.

Maarten Bos was a man of great erudition. He was an active member of the *Institut de droit international*. In the year he retired from Utrecht University (1984) he published his *Methodology of international law*, a collection of writings published previously explaining his theoretical approach to international law.

Many members will remember him from the conferences he attended; it was always good to be in his company and he showed a special interest in the younger members. Although his health during the last decade prevented him from attending conferences, he remained very interested in the activities of the ILA and cherished the friendships he had forged over the years with many through the Association.

We will all miss him.

Fred Soons

### Sir Robert Yewdall Jennings, KCMG, QC

Sir Robert Jennings was one of a group of talented international lawyers who studied at Cambridge in the 1930's under Lord McNair, whom he later followed to become Whewell Professor of International Law and Judge and President of the International Court of Justice. His death leaves his friend and colleague, Professor Kurt Lipstein QC,

as the only survivor of that remarkable group.

Robbie Jennings was born in Yorkshire in 1913. Educated at the village school and Belle Vue Secondary School, he became the first person from his school to go to Cambridge, where he read Law at Downing College, graduating with starred first class honours in both parts of the Tripos. Another starred first in the post-graduate LL.B won him a Fellowship at Harvard in 1937, where he wrote a study of the famous “Caroline case”, which had taken Britain and America to the brink of war a century earlier. His lucid examination of the legal case for military action in self-defence against what we would now call terrorism has stood the test of time and was widely revisited after the events of September 11<sup>th</sup>, 2001.

After Harvard, he was appointed to an assistant lectureship at the LSE in 1938 but returned to Cambridge the following year, as a Fellow of Jesus College. Jennings was unfailingly loyal to all of the institutions with which he was associated. He once said that “one of the most precious things in life is that of belonging to societies of people who have important interests in common ... such membership is a powerful aid to civilised living and is especially to be recommended at a time like the present which seems to be so good at cultivating loneliness”. Jesus College, though, was special and his association with the College was to last 65 years.

His enjoyment of that association, however, had to be deferred, for war broke out soon after his election and he joined the Intelligence Corps. It is a characteristic of the man, as much as of the job, that little is known of his wartime service but there were occasional insights. When he presided over an arbitration in his eighties, a much younger colleague commented that one meeting had lasted a long time with-

out any break for food. Jennings replied that the Army had trained him to manage for long periods without eating. The subject was not raised again.

After the War, he returned to Cambridge and became Senior Tutor of Jesus College, a demanding position which he described as “the best job in the world” but in 1955 he had to relinquish it on his election to the prestigious Whewell Chair. 1955 marked another turning point in Jennings’ life. In August that year, he married Christine Bennett. Their wonderfully happy marriage, which lasted until his death 49 years later, was the firm foundation of his life around which all else was built.

Jennings was Whewell Professor for 26 years. During that time he established himself as a leading scholar of international law, editing the British Year Book of International Law, becoming a member of the Institut de droit international, whose president he became in 1983, and playing a full part in the life of the university and his college. His book on *The Acquisition of Territory in International Law*, his 1967 “General Course” of Lectures at the Hague Academy (which remains one of the best introductions to international law) and his many articles were all characterised by a lucid style which made them a pleasure to read in an age in which legal writing was becoming increasingly technical and footnotes were beginning to swallow up more of the page than the text itself.

But it is as a teacher that he will principally be remembered during this part of his career. Like McNair, Jennings believed that the purpose of teaching was to enrich the minds of the students rather than to demonstrate the cleverness of the teacher. His lectures were a model of clear, measured exposition of the principles of international law delivered in a style devoid of pomposity or showiness.

Robbie had been called to the Bar in 1943 but it was not until the mid-1960’s, when he became counsel for Argentina in a boundary dispute with Chile, that he had the opportunity to demonstrate his considerable skills as an advocate. He went on to appear in numerous other cases, including another Argentine-Chile dispute (which took the two countries close to war in the mid-1970’s), the Channel continental shelf dispute between the United Kingdom and France and the Tunisia/Libya case in the International Court, which did much to restore the standing of the Court after a period when it had been little used by States. He became a Queen’s Counsel in 1969 and a Bencher of Lincoln’s Inn in 1970.

While the focus of his practice was in international courts, he also appeared as counsel in two significant cases in the House of Lords – the *Congreso* and *Buttes* cases – the judgements in which continue to have important effects on the treatment of international law by English courts. In the latter case, Robbie – whose only previous experience in the English courts had been a six shilling and eight pence brief in a county court at the end of the War – was asked by Lord Wilberforce to guide their Lordships through the international law issues and did so in the same lucid and concise style he had employed in lecturing generations of students.

In 1982 Sir Robert Jennings (as he became, although he was still universally known as Robbie) was elected as a judge of the International Court of Justice in the Hague. The workload of the Court and the political sensitivity of many of the cases was increasing. To this demanding work Robbie brought the combination of a powerful intellect and absolute integrity. Unlike English courts, the International Court delivers in each case a judgment which reflects the views of the majority of

its members but whose authorship is not disclosed, although individual judges can append separate or dissenting opinions to the judgment. One consequence is that those judges who have been most involved in building a majority are frequently the least visible in the Court's *Reports*. That was to be Sir Robert's fate (though he would have regarded it as a privilege). He was in the majority in most of the cases in which he sat as a judge and his fine drafting skills and clear thinking can be detected in several of the judgments of this period. But when he disagreed, he said so – his dissenting opinion in the highly controversial case brought by Nicaragua against the USA effectively dissected the unsatisfactory judgment of the majority with a critique which was as trenchant as it was courteous.

The respect which Jennings commanded amongst his fellow judges was demonstrated when they elected him to be President of the Court in 1991-94. He was an excellent President, efficient, courteous and fair. Remarkably, it was at this point, when his judicial career was at its peak, that he published, with Sir Arthur Watts, his edition of *Oppenheim's International Law*, a massive treatise which ranged masterfully over almost the whole field of international law.

Jennings retired from the Court in 1995 but, although he was then 82, his vigour and intellect were undiminished. He presided over the Eritrea/Yemen arbitration, achieving a peaceful conclusion to a dispute which had led to violence between the two States, and returned to the Court as an *ad hoc* judge for the *Lockerbie* case between Libya and the United Kingdom. Only three years before his death, he wrote a series of brilliant expert opinions in two enormous investment disputes between Canadian companies and the USA.

He seemed never to grow old. On his seventieth birthday he (again) climbed Scafell and Scafell Pike. On his ninetieth birthday, he spoke without notes, at a diner in his honour, in the style he had made his own – witty, modest and, above all, clear. Photographs of him in his eighties revealed few changes from the man pictured nearly thirty years earlier, standing in the bows of an Argentine destroyer in a South Atlantic gale on the way to the Beagle Channel. Men half his age wondered what his secret was.

The "secret" may have lain in the depth and variety of his life. International law was a love but it was only one of several. He was devoted to the music of Bach, Schubert and, above all, Mozart. A proud Yorkshireman all his life, he adored cricket and the fells. Born into a staunchly Methodist family, he was unswerving in his dedication to the Authorized Version of the Bible and the Book of Common Prayer. One of the reasons he was so good at international law is that he brought to it an enjoyment of life honed to perfection at Glyndebourne, walking in the Lake District or watching Yorkshire play cricket.

Above all, there was his family: Christine, their children, Richard, Pippa and Joey, and grandchildren. Although Robbie received every accolade his world had to give – honorary doctorates from Cambridge, Oxford and a host of other universities; honorary fellowships of Jesus College, Downing College and the LSE; silk, a knighthood – one always felt that he derived more pleasure from his daughter Pippa's success as a children's author than from the distinctions showered upon him.

*Sir Robert Jennings, former Whewell Professor of International Law and President of the International Court of Justice died on August 4<sup>th</sup>, aged*

*ninety. He is survived by his wife and three children.*

Professor Chris Greenwood. This is a more detailed version of an obituary which appeared in *The Telegraph* on 13<sup>th</sup> August 2004.

### **Professor Oscar Schachter**

I deeply cherish the close friendship with Oscar Schachter which grew through working together on ILA Committees for over twenty years. I remember first meeting Oscar in New York in 1978 to consult him on the work then being done within the United Nations on the shaping of a new international economic order. He had received me warmly and provided encouragement for involving international lawyers in this work.

Oscar had been involved with the United Nations since its inception and in some sense continued to be counsel to that organization throughout his life. Not only did he provide advice and guidance when called upon to do so in formal meetings but did do in his capacity as the mentor of successive generations of students at Yale and Columbia who went on to hold leadership positions in major international organizations and in the capitals of their members. Building an international order which would secure for all humanity peace with justice and respect for human rights – the ideal projected by the United Nations Charter - was a quest which, I believe, was the overriding concern of his intellectual endeavours. His wide range of experience and the depth of his understanding of global political and economic processes uniquely equipped him for this challenging task.

I was able to persuade him to be designated by the American branch to work with our ILA Committee on Legal Aspects of a New International Economic Order, and then on the Committee on Legal

Aspects of Sustainable Development. The latter Committee concluded its work in 2002 with the adoption of a Declaration on Principles of International Law relating to Sustainable Development which was circulated as a United Nations Document at the Johannesburg Summit on Sustainable Development in that year.

Oscar had over the years painstakingly reviewed successive drafts of the declaration. I was able to meet him in New York at least once or twice a year often at short notice. He always made himself available, generous with his time and advice on matters which arose for discussion. He continued, as Professor Emeritus, to conduct seminars in Columbia, even after his 80th birthday. I was privileged to be invited by him to speak on legal aspects of sustainable development at one of his seminars. Lively discussion had followed with him in the role of a wise moderator.

I attribute his wisdom not only to the depth of his knowledge of international law, but the varied experience gathered by him as an academic international lawyer and a practitioner. I recall with admiration his professional skills, when as a colleague in a team of counsel appearing for one of the Gulf states in an international arbitration, I saw how he had conducted the cross-examination of an expert witness (a senior American academic) with such skill and precision that the true legal position which we had wanted to establish was confirmed by the witness, despite the witness' desire and attempt to support the opposing position.

His passing away leaves an irreplaceable void not only in the community of international lawyers but among his many friends and admirers all over the world.

Dr Kamal Hossain (Vice Chairman, ILA)

### Professor Jerzy Sztucki

It was my privilege to be associated with Professor Jerzy Sztucki of Uppsala and Lund in three successive ILA committees (Legal Status of Refugees, Internally Displaced Persons and Compensation for Victims of War). As a conscientious and dedicated member, he always made himself available for questions and advice—mixing judiciousness with humor and compassion. Commenting on oft-delayed justice for victims of human rights abuses, for example, Jerzy stressed that such delay does not vitiate the principle of compensation since State responsibility remains unaffected. There is no statute of limitation for such compensation!

Just before the Berlin Conference, I called Jerzy for last minute advice (as I was wont to do) in regard to our Committee's work. He was not in, but called back later to say that he had just returned from the seaside, where he went for fresh air and nice scenery. Though he was unable to attend the Berlin Conference, he gave his view on the possible role of the United Nations Compensation Commission as model for compensating victims of war. Before closing, he asked to be specially remembered to some of his friends who would be in Berlin, and wished our Committee's meeting success.

It was with great sadness that I learned of his passing away during the Conference. Jerzy will be sorely missed.

Dr Luke Lee (American Branch and Chair, Compensation for Victims of War committee)

After writing and submitting this tribute, Dr Lee sent the following message "I have just received a letter from Prof. Sztucki's son, written at the "specific request" of his father. He asked me "to convey to all the Berlin ILA meeting delegates my gratitude"

for having observed a silent minute in honor of his father."

### Maître Jean Lisbonne

Né à Paris en 1912, Maître Jean Lisbonne est décédé le 14 février 2004. Il avait pendant de longues années présidé la Branche française de l'Association de droit international (ILA) avant de présider l'ILA elle-même de 1984 à 1986. Spécialiste du droit d'auteur et du droit cinématographique, il fut l'avocat attitré du Festival de Cannes. Avocat conseil de nombre d'ambassades et consulats latino-américains à Paris, il présida la section du droit ibérico-américain de la Société de Législation comparée. Il a été l'un des exécuteurs testamentaires en charge de la succession du duc et de la duchesse de Windsor.

Officier de la Légion d'Honneur, Croix de Guerre 1939-1949, Jean Lisbonne fut en outre Maire de son village, Sonchamp et vice-président de Care-France.

La Branche française et le Conseil exécutif lui ont récemment rendu hommage.



## Second meeting between the UN International Law Commission and a delegation from the ILA

At the invitation of the International Law Commission (ILC), a delegation from the ILA again met with the Commission in Geneva on 28 July 2004 for a full afternoon session. The first such meeting took place last year. Since its establishment by the UN General Assembly in 1947, the ILC has been working on the codification and progressive development of international law in a number of areas in which also the ILA has been active. Although no formal relations between the two institutions exist, informally there have been many contacts over the years. ILC member Ambassador Yamada, a prominent member of the Japan Branch of the ILA, was very instrumental in arranging the two meetings.

The Commission has recently decided to intensify and widen up its co-operation with other bodies working in fields covered by it. The ILA very much welcomed this initiative and the opportunity to exchange views on topics of mutual interest. At the suggestion of the ILC, the meeting concentrated on three topics: the long-term work programme of the ILC, and the current ILC's work on two issues presently under consideration by ILA committees, viz. water resources and responsibility of international organisations.

The delegation from the ILA consisted of the co-rapporteur of the Committee on Accountability of International Organisations, Professor Karel Wellens, the chairman and rapporteur of the Committee on Water Resources Law, Professor Gerhard Loibl and Professor Joe Delapenna, and the Director of Studies, Professor Alfred Soons. The informal meeting was chaired by the current chairman of the ILC, Ambassador Theodor Melescanu. Approximately fifteen members of the ILC participated in the debate on the three topics covered at the meeting.

The ILC chairman observed that the meeting had been very useful to the Commission and that he looked forward to further exchanges of this kind in the

future. Preparations for another such meeting next year will be started in time.

Alfred H.A. Soons  
Director of Studies

## International Conventions on Transit Transport

By invitation, I attended the Seminar on International Conventions on Transit Transport, jointly organized by the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (OHRLLS); the UN Office of Legal Affairs and the UN Economic Commission for Europe, held at UN Headquarters on 8 July 2004. The purposes of the one-day seminar were to familiarize delegates with existing multilateral instruments, mostly originating in Europe, designed to facilitate transport and to encourage non-Party States to adhere to them whenever possible, as long as they are Member States of the United Nations.

The two principal presentations were by Mr. Bradford Smith of the Treaty Section of the UN Office of Legal Affairs and Mr. Capel Ferrer, Director of the Transport Department of the UNECE. Mr. Smith, in accordance with the depositary function of the United Nations, explained in some detail features of the treaty-making process, the rules concerning participation in treaties in the field of transport, and treaty registration with the United Nations. He also gave more specific information about the 17 conventions and agreements selected for discussion in this seminar. The list of these instruments is appended to this report. A Compilation of Electronic Texts of them in English, French and Russian was circulated at the seminar.

Mr. Ferrer discussed in considerable detail the objectives, key provisions and benefits of each of the 17 conventions and agreements, based on the Issues Note about them, which also contains information on their entry into force and the lists of Contracting Parties as at 30 June 2004. The Issues Note was also circulated at the seminar.

During the question period, again by invitation, I delivered a brief statement of my relevant conclusions and recommendations for resolution of some of the problems of land-lockedness, after assuring the participants that I was speaking in my own behalf and not as a representative of the ILA.

The annual UN Treaty Event, which this year took place in New York from 21-24 September, focused on international transport treaties and agreements. The two items were issued by Kofi Annan, UN Secretary-General, and Anwarul K. Chowdhury, Under-Secretary-General and High Representative. Additional information on the seminar and the Treaty Event may be obtained from Mr. Erdenebileg Sandagdorj, OHRLLS, Uganda House, 8th floor, 336 East 45th Street, New York, 10017, USA; telephone 212-963-7703; e-mail [erdenebileg@un.org](mailto:erdenebileg@un.org). The OHRLLS website is [www.un.org/ohrls](http://www.un.org/ohrls).

Martin Glassner

## INTERNATIONAL LAW FORUM

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