

ILA NEWSLETTER

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INTERNATIONAL
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Contents

THE RT HON LORD WILBERFORCE PC CMG OBE

With great regret we announce the death of Lord Wilberforce, Patron of the International Law Association.

From the Chairman of the Executive Council:

At the beginning of last week, as ILA members learned around the world of Richard Wilberforce's death, there was great sadness. We have received at Headquarters many messages to say so. He had been for so many years universally admired and respected – in particular during his years as Chairman of the Executive Council and as our Patron. Everyone recalled the contribution he had made to the ILA. His passing, it was realised, would leave and has left, a great gap.

And yet as was said at his funeral, his life had been long, his life had been rich and his life had been very productive. And so with our sadness there must be coupled gratitude, more, joy, that we had had the privilege of knowing him, of working with him, of benefiting from his thoughts and of sharing moments of pleasure and fun, not only with him, but with Lady Wilberforce, Anne Catherine and Lindsay. And there was undoubtedly fun and pleasure. Joined by Yvette, camera ever present, Anne Catherine and Lindsay, he shared in all the enjoyment of ILA conferences and parties. From my first ILA conference I saw how much he and Lady Wilberforce mattered around the globe, how much they together were appreciated. And so in the ILA we remember him first as a person.

But like everybody else in the legal world we remember him as an outstanding lawyer, a rare intellect, a man of vision in international law who saw its importance as a factor in world peace and global integration, who saw that the ILA should move into new areas of concern and of study. He strongly supported proposals for ILA's contribution to the law of regional economic development, not just in Europe but around the world; he thought it essential that we should have a strong committee on Islamic law. At our meetings during my fourteen years as chairman he was always abreast of new trends, new ideas, even if he wanted them put in the context of existing legal principles which had to be examined.

His brilliant academic record at Winchester and Oxford, his success at the Bar, his unrivalled contribution to the decisions of the House of Lords (he was the greatest judge that court saw over the second half of the twentieth century). By his lectures and writings on international law, by his elegance and clarity of expression, by the breadth of his interest in and out of the law he towered above all of us.

Having worked closely with him in the ILA, I am very conscious of his willingness to deal with even small matters of detail of a mundane administrative nature which needed sorting out and of his concern that he should attend the quarterly meetings of the Executive Council of the ILA and its dinners. His gentleness and modesty were qualities of which one was very conscious.

Much will be said about his work and his distinction but what we wanted in this ILA newsletter which is about to be published was to include an immediate expression of our indebtedness to him and to Yvette and of our affection for them both.

Gordon Slynn
24 February 2003

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Lord Wilberforce	1
Editorial	2
From the Committees	3
<i>ILA Space Law</i>	
<i>Internal Displacement</i>	
<i>Sustainable</i>	
<i>development</i>	
<i>Arms Control</i>	
Executive Council	7
<i>Tributes to Peter Nygh</i>	
<i>and Francesco Capotorti</i>	
<i>Honorary Treasurer's</i>	
<i>Report</i>	
<i>Director of Studies'</i>	
<i>Report</i>	
<i>Future of the ILA</i>	10
<i>Substantive Work</i>	
<i>of the ILA</i>	
<i>Nominations to</i>	
<i>International</i>	
<i>Committees</i>	
<i>Other Business</i>	
<i>Obituary of</i>	
<i>Lord Wilberforce</i>	12
<i>from The Times</i>	
Urgent Message	16

EDITORIAL

Professor Christopher Greenwood

The role and future of the ILA has been the subject of much discussion over the years. A Future Planning Committee reported in 1974 and its work played a major role in shaping the activities and structure of the ILA during the last 25 years. It is a truism, however, that much has changed in international law and international society during that period. In 2001, therefore, the Executive Council appointed a new Working Group under the Chairmanship

of Professor Ernst-Ulrich Petersmann, to re-examine the future and direction of the ILA and make recommendations to the Council. A summary of the preliminary discussion of the Report by the Executive Council is contained in the report (at page 9) of the November 2002 Executive Council Meeting. The full report is also available on the members-only page of the ILA website: www.ila-hq.org

Despite the obvious importance of the issues considered by the Working Group, few members of the ILA have so far offered any comments or suggestions regarding its work. The Executive Council has set aside the whole day on 17 May 2003 for a discussion of the Report. **Members are encouraged to write to Headquarters with any observations or proposals they would like the Executive Council to consider.**

Hon Dr Peter Nygh, AM (1932-2002)

The following is the text of the tribute to Dr Nygh delivered by Professor Ivan Shearer at the meeting of the Executive Council on 9 November 1992.

The Hon Dr Peter Nygh died on 19 June 2002, aged 69. As members who had seen him so recently at the New Delhi Conference would recall, he seemed to be in very good health. Yet he was suffering then from an unsuspected and fast acting form of cancer.

Peter was a great friend and supporter of the ILA for more than 35 years. In the Australian Branch he held, at various times, the offices of Secretary, Vice-President and President. His work for the success of the Queensland Conference of the Association in 1990 will be remembered especially. At the international level of the ILA he served on a number of committees, and most recently was appointed rapporteur of the Committee on Transnational Enforcement of Environmental Law. At the meeting of the Executive Council held during the New Delhi Conference Peter was appointed to the specially created Advisory Committee on Research. He will also be remembered for his work in producing the *ILA Newsletter/ADI Actualites*. He was a co-opted member of the Executive Council.

Peter Nygh had a remarkable career. Born

in the Netherlands, he migrated to Australia as a teenager with his family. He studied law at the University of Sydney and continued his postgraduate studies at the University of Michigan. Although admitted to legal practice as a barrister he chose an academic career, first at the University of Tasmania, then at the University of Sydney, and finally as Professor and Foundation Dean of the School of Law at Macquarie University. In 1979 he accepted appointment as a Judge of the Family Court of Australia, being promoted soon to the Appeal Division of that Court. Appointment of academics to the superior courts in Australia is very unusual. Upon retirement from the Court in 1993 Peter combined a part-time appointment to the Refugee Review Tribunal with adjunct professorial appointments at Bond University and the University of New South Wales. From 1987 he was General Editor of the Family Law Journal of Australia.

Peter Nygh was primarily interested in private international law. This is a reminder that the ILA is dedicated in its work to the advancement of both branches of international law. He served in an honorary

capacity as a Member of the Hague Conference on Private International Law and was especially influential in the development of the draft International Convention on Recognition of Foreign Judgments. His book *Conflict of Laws in Australia* is now in its 7th edition and has become a standard work of reference for Australian students and practitioners. At the time of his death Peter was working on his invited lectures for The Hague Academy of International Law. He was awarded the rare distinction of the Degree of Doctor of Laws of the University of Sydney for his contributions to legal scholarship and teaching.

In recognition of his wide-ranging work for the common good Peter Nygh was appointed a Member of the Order of Australia (AM) in 2001.

He will be remembered not only by the Australian Branch but also by the entire world-wide family of the ILA with gratitude and affection.

FROM THE COMMITTEES: ILA Space Law Committee

The following report of the Space Law Committee on its meeting at the New Delhi Conference was inadvertently omitted from the last issue of the Newsletter. The Editor apologises to the Chair and Members of the Committee.

The Committee submitted its Final Report on the Review of Space Treaties in View of Commercial Space Activities – Concrete Proposals, prepared by Professor Maureen Williams (HQ) -who succeeds Professor Karl H Boeckstiegel (German Branch) as Chairman of the Committee- in consultation with Committee members and Scientific Consultants. In turn, Professor Stephan Hobe (German Branch) will be succeeding Professor Williams as the Committee's General Rapporteur.

The Delhi Working Session was chaired by Professor Ove Bring (Swedish Branch) who then presented the results of the Committee's work and concrete proposals -elaborated in pursuance of the London mandate- to the Plenary Session of the New Delhi Conference. The session focused on the four major Space Treaties in force, i.e. the 1967 Outer Space Treaty, the 1972 Liability Convention, the 1975 Registration Convention and the 1979 Moon Agreement. The analysis of these Treaties, with a view to establishing their consistency with the present international context, was entrusted, respectively, to Prof. Stephan Hobe, Prof. Maureen Williams, Prof. Vladimir Kopal (Czech/Slovakian Branch) and Dr Frans von der Dunk (Netherlands Branch). The striking feature of all four reports was to make realistic and viable recommendations.

The 1967 Space Treaty was considered flexible enough to meet the legal requirements underlying the activities of private entities in outer space and that only minor changes were called for in connection with Articles VI and VIII. To this end the Special Rapporteur proposed a brief, separate instrument to this Treaty.

As to the 1972 Liability Convention the

to meet the legal requirements underlying the activities of private entities in outer space

Special Rapporteur on the topic concluded that the political time was not propitious for introducing substantial changes, such as a sharp move towards compulsory jurisdiction. The space-faring countries, she noted, were not seeing with favour any such course of action. The recommendation was to keep the Convention in its present reading and encourage States to make a declaration accepting the compulsory nature of decisions and awards stemming from the Claims Commission in accordance with Article XIX of the present text of this Convention.

The 1975 Registration Convention, in the view of the Special Rapporteur, needed some technical clarifications in order to ease the identification of the space object causing a damage. This should be done by means a separate instrument -such as a UNGA Resolution- without introducing amendments to the original Convention.

Conversely, the Moon Agreement was found in need of substantial changes having in mind the low number of ratifications to date. The Special Rapporteur suggested a number of amendments, particularly concerning the establishment of an international regime -envisaged in the 1979 text- for the management of moon resources once their exploitation became feasible. The expression "common heritage of mankind" embodied in this Agreement was open to question and, after a lively discussion enriched with the contributions from the floor, it was decided to keep it as it read albeit on the basis of a compromise text drafted by Professor Hobe and agreed to by the working session. The Report and Draft Resolution were adopted without dissent by the working session and subsequently by the Plenary Meeting of the 2002 Conference. They both reflect the major points involved in the Committee's work during the past four years and contain concrete proposals regarding the consistency of the Space Treaties in force with the present world scenario and the state of the art. In this way the Space Law Committee closes the treatment of this topic and will possibly move on to the study of the legal and related aspects of Earth Observation Satellites (EOS) in today's world.

FROM THE COMMITTEES: Roundtable on Internal Displacement Chicago, March 2002 Luke T Lee*

With the adoption of the London Declaration of International Law Principles on Internally Displaced Persons in July 2000**, the work of the ILA International Committee on Internally Displaced Persons was formally completed. However, if these Principles were to be codified into a multilateral convention and effectively implemented, their contents must be given the widest possible dissemination. Hence the continued involvement of some of the Committee's former officers and members in the dissemination effort, which has partaken of two tasks: publication of the texts and salient features of the Principles in various journals, and promotion of these Principles in conferences and symposiums, not necessarily confined to those of international law.

On the publication front, the texts of the Principles or their commentaries have been published during the past two years in such journals as the *American Journal of International Law* (vol 95, No 2 (April 2001 at 454)), the *International Journal of Refugee Law* (vol 13, 2001 at 363), and the *Journal of Refugee Studies* (vol 14 No 1 2001 at 70). As for conferences or symposiums, a number of them have been held to highlight not only the general legal aspects of internally displaced persons (IDPs), but also specific problems in such countries as Sudan and Colombia. Of particular interest was the Roundtable on Internal Displacement held at Chicago-Kent College of Law on March 6, 2002.

Space allows but a summary of Dean Henry H Perritt's opening address which set the tone and parameters for the first meeting of lawyers in the US devoted to the subject of IDPs.

Dean Perritt began by providing an overview of the IDP situation in the world. He

contrasted an estimated 14 million refugees and asylum-seekers to more than 21 million IDPs, and emphasized the growing recognition that refugees and IDPs represent an important threat to international peace and security in 21st century. He drew attention to the evolving concepts of sovereignty from a purely State-based international law into a richer system balancing the rights of individuals and those of States. Benefiting from his first-hand experience in Bosnia and Kosovo, Dean Perritt distinguished refugees, who are caused legally by persecution, from IDPs, whose cases are broader. He raised the question of the differences between soft law, to which Dr Francis Deng's Guiding Principles of Internal Displacement belongs, and hard law, such as a proposed international convention on IDPs. However, he was quick to point out that from one perspective, all international law is somewhat soft because of the difficulty of enforcement. He posed the question of the necessity and desirability of turning the norms reflected in the Guiding Principles into a treaty or convention addressing the rights of IDPs and the duties of their home States and other States.

*building the
institutions of civil
society*

Although he did not answer this question himself, subsequently two speakers (Professor Doug Cassell and this author) expressed views diametrically opposite to each other.

Dean Perritt ended with the plea for developing a complete strategy that would include building the institutions of civil society in such places as Afghanistan, Kosovo, Palestine and Saudi Arabia. Only then, he said, will the likelihood of ethnic cleansing that produces IDPs and failed societies that breed terrorism be reduced.

Other papers presented at the Roundtable include those by Dr Marc Sommers of Boston University's African Studies Center ("Overview and Magnitude of the Problem of Displaced People"), Professor Doug Cassell of Northwestern School of Law (Enhancing Human Rights and Legal Protection"), Professor Bertram Brown of Kent School of Law ("Reconciling State Sovereignty and Protections for the Internally Displaced"), and this author ("The Case for an International Convention on Displaced People").

The full texts of the Roundtable presentation, along with short summaries of discussion and panel interactions, will be published by Pax International in early 2003 under the title, *Invisible "Refugees": Internally-Displaced People and the New Understandings of Protection and Sovereignty*.

*Luke T Lee is an Honorary Vice-President, ABILA and formerly Chairman, ILA International Committee on Internally Displaced Persons.

** See *ABILA Newsletter No 60 (February 2001) at 2*.

Key note speech by Professor Nico Schrijver, on behalf of the International Law Association, at Roundtable World Summit on Sustainable Development, Johannesburg, South Africa, 29 August 2002

Introduction

On behalf of the International Law Association, a world-wide body of academic and professional international lawyers founded in 1873, I would like to express our gratitude and admiration for the Sustainable Justice 2002 initiative. It gives us pleasure to present to you under this flag the ILA's 2002 New Delhi Declaration of Principles of International Law relating to Sustainable Development (see also *UN Doc. A/CONF.199/8*). The Declaration results from the ILA's Committee on Sustainable Development, which consists of both academics and practitioners from all over the world.

Inception of sustainable development in international law

Sustainable development has become an established objective of the international community. During the last decade it has received an impressive inception in international law, especially in treaty law and in judicial decisions, including those of the International Court of Justice. As regards treaty law, reference may be made to many environmental treaties of the last decade, but also to treaties with a more economic orientation, such as the WTO Agreement and the European Community treaties.

Meaning of sustainable development

This is not to say that the contents of sustainable development are clear. Occasionally, the concept tends to be used as a catch-all phrase for everything desirable that we wish for ourselves, for our future generations, as well as for our Mother Earth. Hence, the

ILA Committee took it upon itself to first of all identify and clarify the concept of sustainable development from an international law perspective. Key components of sustainable development are poverty eradication, environmental conservation and respect for human rights.

Key components of international law for sustainable development

If there is to be any international sustainable development law, it has to be built upon a blending and integration of three components of international law:

1. International law and co-operation for development, including differential regimes for industrialised and developing countries in international trade and finance, sovereignty over natural resources, transfer of technology, financial assistance to developing countries and special attention for the least-developed countries.
2. International environmental law, including principles such as sustainable use of natural resources, the precautionary approach, State responsibility for environmental damage and common but differentiated responsibilities.
3. Human rights law, including implementation of peoples' rights, right to development, principle of public participation and access to information and justice.

The main challenge is how to integrate these branches in a meaningful way so as to arrive at a genuine international law of sustainable development. In my view such an integrated approach, in

short the principle of integration, serves as the backbone of the very concept of sustainable development.

Unbalanced development and the main mission of ILA

Building on the excellent work of IUCN resulting in its Draft Covenant on Environment and Development (1995) as well as on the Earth Charter (2000), the ILA's main mission, and perhaps main comparative advantage, was to give due weight to both environmental and developmental concerns from an international law point of view. Hence, the work of the ILA Committee aimed to serve as a response to the call in Rio Principle 27 for 'the further development of international law in the field of sustainable development' and in particular to the call in Agenda 21 to contribute to the achievement of a balanced and comprehensive development of such law. The 1992 Rio Conference has received an impressive legal follow-up. However, we also noted an unbalanced development. Major but still insufficient progress has been achieved in international environmental law, in terms of both standard-setting and improved implementation mechanisms. However, only little progress can be noted in the field of international law relating to development. Principles such as the common heritage of humankind, preferential treatment of developing countries, the legal entitlement of developing countries to development assistance, special rights of least-developed countries and transfer of technology are being eroded or supplemented: e.g. the principle of preferential treatment in favour of developing countries had to give way to

the principle of graduation and integration. It would be no exaggeration to say that there has been a neglect of 'development' in the evolution of international law for sustainable development. The work of the ILA is to be understood as an effort to seek redressing this imbalance and contributing to the development of a more balanced state of international law in the field of sustainable development.

The Seven Principles of the ILA New Delhi Declaration

The ILA New Delhi Declaration of Principles of International Law Relating to Sustainable Development, as adopted by consensus at the ILA Conference in New Delhi, India, 6 April 2002 emphasizes that sustainable development is a matter of concern both to developing and industrialized countries. The association expresses its concern about growing inequalities between and within States as well as about the ability of many developing countries to participate in the global economy. The ILA also takes the view that the realization of the international bill of rights comprising economic, social and cultural rights, civil and political rights and peoples' rights, is central to the pursuance of sustainable development.

The body of the ILA Declaration consists of Seven Principles. We do not claim to be exhaustive, but have included those which, in our view, best reflect our work and concern. They include:

1. The duty of States to ensure sustainable use of natural resources
2. The principle of equity and the eradication of poverty
3. The principle of common but differentiated responsibilities

4. The principle of the precautionary approach to human health, natural resources and ecosystems
5. The principle of public participation and access to information and justice
6. The principle of good governance
7. The principle of integration and interrelationship, in particular in relation to human rights and social, economic and environmental objectives.

Naturally, these principles differ in various ways. Some are of a purely substantive nature, others of a more procedural nature. Some are firmly established principles, others are emerging principles. Yet, in combination they could form a solid framework on which the further development of international law relating to sustainable development can build.

Final Remarks

The international community has made, through the Millennium Declaration of the United Nations, its Seven Pledges to ban poverty and provide an adequate living standard to all by 2015 as well as to leave behind a planet where also future generations can enjoy a fair level of the common patrimony. The ILA is deeply convinced that international law has a role to play in this respect, both as a value system and as a concrete regulatory framework for co-operation between all relevant actors. We sincerely hope that the ILA Seven Principles-Declaration can make a contribution towards this end and attract some attention of policy makers in Johannesburg and beyond.

Nico Schrijver,
Rapporteur Sustainable Development
International Law Association
Professor of International Law, Free
University, Amsterdam.

FROM THE COMMITTEES:

Arms Control and Disarmament Law

The United Nations has recently published a book edited by Erwin Dahinden, Julie Dahlitz and Nadia Fischer: *Small Arms and Light Weapons Legal Aspects of National and International Regulations*

The beginning of the twenty-first century - as did the 1990s - is witnessing several internal and deadly conflicts where the United Nations is trying to contribute to peace by conflict prevention and resolution as well as by peace-building. A majority of these conflicts are fought with small arms and light weapons. The international community has taken note of the new aspect of these conflicts by the elaboration, in July 2001, of a United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

This fourth volume in the Arms Control and Disarmament Law series addresses the issue of small arms and light weapons from the legal point of view. It assembles analysis, initiatives and proposals that were presented by academic lawyers and government practitioners at the Seminar on Small Arms and Light Weapons: Legal Aspects of National and International Regulations. By those means, it proposes theoretical and practical elements for a legal approach to this crucial and profoundly difficult subject.

The publication is available from: United Nations Publications, Palais des Nations, E-4, CH 1211 Geneva 10. Tel: +41 22 917 2606 or 917 2613; fax: +41 22 917 0027; email: unpubli@unog.ch

EXECUTIVE COUNCIL

The following is a summary of the Minutes of the Executive Council meeting of 9 November 2002.

The Chairman informed members of the Executive Council that Judge Dolliver Nelson (British Branch, chairman of the Committee on Legal Issues of the Outer Continental Shelf) had recently become President of the International Tribunal of the Law of the Sea in Hamburg. He also announced that Mr Willem Hamel, Honorary Treasurer had been appointed Chevalier de la Légion d'Honneur of France. The Executive Council offered warm congratulations to both on these achievements.

Tributes to Peter Nygh and Francesco Capotorti

The Chairman noted with deep regret the deaths of the Hon Dr Peter Nygh AM (Australian Branch) and Professor Francesco Capotorti (President, Italian Branch).

Professor Ivan Shearer (Australian Branch) delivered a tribute to Dr Nygh (see page 2).

Professor Guerreri (Secretary, Italian Branch) paid tribute to Professor Capotorti who had been President of the Italian Branch for the last fourteen years. Professor Capotorti held the Chair of International Public Law at

Rome University. He had served as Advocate General of the European Court of Justice in Luxembourg and will be remembered as an active supporter of the ILA and a prominent President of the Italian Branch.

Members of the Executive Council stood in silence in their memory.

Honorary Treasurer's Report

The Hon Treasurer, Mr Willem Hamel presented the Financial Statement to 31 October 2002, Income and Expenditure Account as at 31 October 2001, the Statement of Branch Contributions and the Proposed Budget 2003.

The level of branch contributions made in the first ten months of 2002 were lower than at the same period in the previous year, but it was expected that the budgeted income would be achieved if the usually reliable branches made their contributions before the end of December. Concern was raised about the number of branches who have not paid or which have only partially paid for several years.

Although the expenditure figures listed were still below budget, the amounts

projected for Conference report distribution and for computer consultancy were likely to be used by the end of the year. This would probably mean that there would be a deficit at the year end. This should not be viewed as an insurmountable problem as positive balances had been achieved in the past two years.

Director of Studies' Report

Professor Soons reported that 18 of the current 23 committees presented a report at the New Delhi Conference. Three of them - International Civil and Commercial Litigation, Refugee Procedures and Legal Aspects of Sustainable Development - completed their work at Delhi.

The ILA New Delhi Declaration of Principles of International Law Relating to Sustainable Development had been circulated as a UN document at the World Summit on Sustainable Development at Johannesburg, August/September 2002 (UN Doc. A/CONF.199/8, 9 August 2002).

The Regional Development Law Committee which had been unable to report at the two most recent Conferences and whose Chair had recently resigned was also wound up but it was hoped that it could soon be revived in view of the importance of the topic.

It was agreed that the mandates of the remaining 19 committees be extended until after the Berlin Conference to November 2004.

Professor Soons announced that three committees should have completed their work by the Berlin conference: Water Resources Law, Arms Control and Disarmament Law and Accountability of International Organisations.

Professor Filip de Ly (Netherlands Branch) was approved as Chair of the International Commercial Arbitration Committee. In place of the late Dr Peter Nygh, Dr Christophe Bernasconi (Swiss Branch) and Dr Gerrit Betlem (Netherlands Branch) were approved as co-rapporteurs of the Committee on Transnational Enforcement of Environmental Law. Professor Richard Bilder (American Branch) had resigned as Chair of the Diplomatic Protection of Persons and Property committee Professor Francisco Orrego-Vicuna (Chilean Branch and former Rapporteur of the Committee) was appointed as his successor.

HE Judge Al-Kasawneh (Headquarters/Jordan) was approved as the new Chair of the Committee on Islamic law and International law.

The International Trade Law Committee had requested an additional Co-Rapporteur to assist in its work and Professor Friedl Weiss (Netherlands and British Branch) was appointed.

Professor Soons invited members of the Executive Council to suggest suitable persons to him, who might be willing to be appointed officers for several of the new committees: International Law on Foreign Investment; International

insolvency; Intellectual property law relating to biotechnology; and Transboundary data transfer and protection of privacy.

It was suggested that certain committees and study groups might merge where their mandates and work overlap. This might prevent duplication of effort and also allow the number of working sessions at conferences to be reduced. It was agreed that this idea should be examined in the context of future discussions on the mandates of new committees and Study Groups although concern was raised that the resulting committees might be too large to work effectively, alternatively this would reduce the number of members able to attain their ambition of being on an international committee.

It was noted that the Resolution of the Legal Aspects of Sustainable Development Committee adopted at the New Delhi Conference had been circulated by the UN in Johannesburg. The Executive Council was asked to consider seriously the establishment of a new committee in this area to harness the interest generated by the Committee and its work in recent years.

Professor Janet Walker (Canadian Branch) was appointed as successor to the late Dr Nygh to the Advisory Committee on Research. Professor Soons informed the Council that the Committee would prepare a paper making recommendations for new committees and committee officers to be presented to the Executive Council in May 2003.

New Delhi Conference Report

The Director of Studies thanked the sub-editor, Dr Chris Ward (Australian Branch) for his outstanding efforts

towards this report which had been published by the time of the meeting. He pointed out that the Resolutions had been published in French as well as in English. This was a welcome development and Professor Soons thanked Judge Guillaume (President, French Branch) for contributing the translations included.

International Law Forum du droit international

Professor Soons reported that Forum was now on Vol 4 under the inspirational and active editorship of Professor Catherine Kessedjian. The response of ILA membership to this publication had been disappointing and consideration needed to be given to its support.

ILA 70th Conference at New Delhi

Lord Mustill (President, British Branch) as President of the ILA at the time of the Opening Ceremony, wished the outstanding success of the New Delhi conference to be recorded again. He said that the political circumstances at the time of the event had led to apprehension and concern that the conference might not succeed but on the contrary, it had proved to be both a social and intellectual success. In particular, he referred to the superb organisation by Mr Parekh and his staff as well as to the excellent facilities provided at the conference centre. He asked Mr Justice Jain (Indian Branch) to convey his thanks to the Indian Branch. The Chairman repeated his strong agreement with these sentiments.

Regional Conference in 2003

Professor Al Rubin (American Branch) reported on the progress being made for the Regional Conference to be held in Barbados from 26 – 29 March 2003. Expressions of interest from participants across the globe (from South and Central American, New Zealand, North America and Europe) had already been received.

The intention is to establish a Caribbean Branch of the ILA during the conference.

Biennial Conferences

Berlin 2004

Professor Torsten Stein of the German Branch reported that the dates for the Berlin Conference in 2004 were 16 – 21 August 2004. A programme following the usual ILA format is planned.

Toronto 2006

The Executive Council agreed that the Conference would be held from 5 – 10 June 2006.

Future of the ILA

The final report of the ad hoc working group on the Future of the ILA (see website) was received. A full and thorough review of the Report and definition of its role will take place at the next Executive Council meeting on 17 May 2003.

Branches and Headquarters

David Wyld (Secretary General) told the Executive Council that each branch should be required to submit a report of its activities, changes in branch officers and full membership list to HQ each

year. He revisited the perennial problem of “moribund” branches. Recognising the reluctance of the Association to remove the name of such branches from the number listed, he said it was necessary to ensure that individuals who were apparently members of such branches or who wished to join the Association but were unable to get satisfactory a response from the appropriate officers concerned, should be allowed to join Headquarters until such time as the branch was reactivated.

After much discussion on this matter, during which concern that Headquarters should not undermine branches was expressed, it was agreed that where a branch was two years in arrears and when no response from a branch had been forthcoming after a period of 60 days, persons could be invited to join Headquarters.

One matter of concern was that people should not be able to join the ILA by joining Headquarters directly and thereby by-pass branch membership, consequently diminishing potential branch income.

Substantive Work of the ILA

Professor Soons drew attention to the references in the Report to the improvement of the substantive work of the Association. In order for more support to be provided to committees, Study Groups and branches, additional staffing at Headquarters would be required.

Lord Mustill (President, British Branch) suggested that the EC should consider the role and relevance of the ILA in 2002 before focussing on the structure and manpower required. He

complimented the ad hoc working group on the lucidity and helpfulness of the Report, and said that it offered a useful guide towards the definition of the role that the ILA needs to identify for itself at this point.

The Director of Studies voiced his disappointment with the poor response and feed back to the ad hoc working group, and the reluctance to accept the suggestions contained in it. If the ILA had any ambitions to expand and improve its work, the time to act had come and the necessary steps should be taken to make that possible. It would be naive to expect that all this could be done without additional support. Obviously, fund raising for this project would be an absolute requirement.

The issue of additional support at Headquarters was raised again, in principle the EC accepted that some support should be provided. The current Secretary should continue with the administrative support currently provided, but it was recognised that there was a role for an additional person (initially on a part-time basis) who is legally qualified. The Chairman suggested that the Director of Studies should present a summary of the possible tasks such a person might be required to perform.

Fundraising

The difficulties with raising funds in the current economic climate were raised. The Report had recommended that a fundraising committee should be established under the Treasurer and at the previous EC meeting this had been agreed. Mr Hamel stressed that any fundraising had to be carried out for specific projects with clear guidelines and budgetary targets in place.

Nominations to International Committees

The list of the Committee Nominations below was approved:

Cultural Heritage Law

Professor M Beukes	South African	Member
Mr David Johnson	Canadian	Member (previously Alternate)
Marizia Tonelli	Brazilian	Member

International Commercial Arbitration

Professor Nikolay Natov	Bulgarian	Member
Mr Hilmar Raeschke-Kessler	German	Alternate to Prof von Hofmann
Dr J J barones van Haersolte-van Hof	Netherlands	Member

International Criminal Court

Dr Roberto de Campos Andrade	Brazilian	Member
Maria Del Lujan Flores	Brazilian	Alternate to Roberto Andrade
Mr Max Du Plessis	South African	Member
Dr Margarit Ganev	Bulgarian	Member
Professor Jorge Gouveia	Portuguese	Member
Professor Arpad Prandler	Hungarian	Member
Leila Sadat	American	Member
Professor Michael Scharf	American	Member
Dr Pavel Sturma	Czech	Member
Dr K D Suter	Australian	Member
Mrs Christine Van den Wyngaert	Belgo-Luxembourg	Member
Mr Christopher Ward	Australian	Member

International Human Rights Law And Practice

Mr I Boerefijn	Netherlands	Member
Ms Christina M Cerna	American	Member (replacing Prof Hannum)
Dr Mahulena Hofmann	German	Member
Professor Momir Milojevic	Yugoslav	Member
Professor Irina Moulechkova	Bulgarian	Member

International Trade Law

Professor Dencho Georgiev	Bulgarian	Member
Professor M O Hinz	Headquarters	Member

Outer Continental Shelf

Dr Nuno Antunes	Portuguese	Member
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Space Law

Dr Kaare Bangert	Danish	Member
Professor Elisabeth Back Impallomeni	Austrian	Member
Dr O M Ribbelink	Netherlands	Member

Teaching of International Law

Professor E Somers	Belgo-Luxembourg	Alternate to Professor Franx
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Transnational Enforcement Of Environmental Law

Andrew MacSkimming	Canadian	Member
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Water Resources Law

Professor Frank Maes	Belgo-Luxembourg	Member
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Other Business

Professor Al Rubin (American Branch) suggested that Libraries should be offered a 50% discount on the corporate membership rate to encourage their continued membership. It was agreed that further consideration to this issue should be given.

Attention was drawn to the announcement on the ILA Website (www.ila-hq.org) that the Hague Prize for International law would be awarded by The Hague Prize Foundation. It may be awarded to anyone who – through publications or achievements in the practice of law - have made a special contribution to the development of

public international law and/or private international law or to the advancement of the rule of law in the world.

Professor Montufar (Guatemalan Branch) proposed that a committee should be established to study law in Latin American countries. He pointed out that Latin America is not well represented in ILA currently. It was agreed that he should discuss this further with the Director of Studies.

It was agreed that Professor Janet Walker should be co-opted to the Executive Council as she is concerned with arrangements for the 2006 Conference in Canada and as a

member of the Advisory Committee on Research.

Professor Guerreri (Italian Branch) informed the Council that he had attended the UNIDROIT Congress on worldwide harmonisation of private law and regional economic integration in September he was asked to send a report on the congress to the Director of Studies.

The next Executive Council meeting will be held in London on Saturday 17 May 2003, this will largely focus on the ILA Future Report. The following one will be in London on Saturday 15 November 2003.

THE HAGUE PRIZE

Stichting Haagse prijs voor International Recht (The Hague Prize Foundation)

The Hague Prize *for International law* is awarded by The Hague Prize Foundation. It can be awarded to anyone who - through publications or achievements in the practice of law - have made a special contribution to the development of public international law and/or private international law or to the advancement of the rule of law in the world.

The award ceremony will take place in the Peace Palace in The Hague.

The prize of euro 50,000 will be awarded *at least* every four years. The first award will be presented in the spring of 2004. The award will be presented by the Chairman of The Hague Prize Foundation on behalf of the Board of the Foundation.

A Nominating Committee will make a recommendation for the award to the Board of the Foundation. The Chairman of the Nominating Committee is Professor PH Kooijmans, Judge at the International Court of Justice. He will be assisted by Professor F Nelissen of the TMC Asser Institute as Secretary. Members of the committee are: Professor Geneviève Bastid-Burdeau, Judge Charles N Brower, Professor CJR Dugard, Judge Fausto Pocar, Professor AHA Soons, Professor AVM Struycken and Professor Christien van den Wyngaert.

18 months before the award is to be made, notices will be placed in a number of leading international law periodicals requesting suggestions to the Nominating Committee. A number of leading institutes in the field of international law will be requested to invite their members to nominate suitable candidates.

Supported nominations for candidates should be addressed to the Secretary of the Committee and will be placed on the list of candidates subject to the Committee's opinion of the strength of the nomination. The committee may add candidates to the list on its own initiative. Three months before the month of the Award Ceremony, the Nominating Committee shall make its recommendation to the Board of the Foundation for one, or if the Committee feels that more candidates qualify equally, for more than one candidates for the prize.

A Committee of Patrons supports The Hague Prize Foundation and its activities. Current Members are: HE Gilbert Guillaume, President of the International Court of Justice; the Prime Minister and Minister of Justice of the Kingdom of the Netherlands; Mr H van den Broek, Chairman of the Supreme Court of the Netherlands; HE Professor Krzysztof Skubiszewski, President of the Iran-US Claims Tribunal; Professor Ronald Macdonald, Dalhousie Law School, Halifax, Canada; Mr HD Tjeenk Willink, Vice President States Council of the Netherlands.

The Board of The Hague Prize Foundation consists of the following: Professor PJG Kapteyn - Chairman; Mr RL van Marion Rac - Treasurer; Mr B Lagerwaard - Secretary; Members: Professor CPM Cleiren, Mr P van Dijk, Mr WA Hamel, Mr Th B ten Kate, Mr JH Schraven and Professor BTM Steins Bisschop.

Address: P.O. Box 29761, 2502 The Hague Phone: + 31 70 338 2334, fax: + 31 70 338 2133 email: thehagueprize@kpmg.nl

LORD WILBERFORCE

Liberal law lord renowned for sound judgments, but who felt that his work in de-Nazifying Germany was his most important

The great-great-grandson of William Wilberforce, the anti-slavery campaigner, Richard Wilberforce was a law lord of liberal convictions who himself added lustre to the family name. Among his most memorable judgments were that British Rail owed a duty of care to trespassers (1972); that Granada Television must reveal the identity of a "mole" who passed on confidential documents about British Steel (1980); and that Ken Livingstone's "Fares Fair" subsidy for the London Underground was illegal (1981). From 1971, Wilberforce was also president of the international Anti-Slavery Society.

During the late 1960s and early 1970s, he and Lord Reid, the senior law lord, bestrode the world of the highest judiciary, an unrivalled duet, stimulating to any advocate appearing before them. As well as the rare combination of exceptional intellectual power and unerringly shrewd judgment of human and public affairs, both also exhibited extreme modesty and humility. The survival of the Court of Final Appeal as a third tier of the court hierarchy is due in no small measure to the confidence in the legal profession and in political circles that they inspired.

When Lord Reid retired at the beginning of 1975, Lord Wilberforce took on the mantle of shaping the law until his enforced retirement at the age of 75 in 1982.

While always keen to give the law a new direction, by the application of principle and reason, Wilberforce belonged to the tradition of judicial

restraint rather than indulgent activism.

Much earlier, while serving as Assistant Advocate-General on the Army legal staff, Wilberforce had been instrumental in developing a programme for the eradication of Nazism from German law and judicial procedure. He was principally responsible for the form and content of laws and edicts enacted by the Allied Supreme Commander, dissolving the Nazi Party and suspending the application of discriminatory Nazi laws. His work contributed materially to the successful occupation of Germany by Allied forces and earned him appointment as OBE and the American Bronze Star. At the end of a long and distinguished legal career, Wilberforce was to say that this had been the most constructive and rewarding period of his life.

Richard Orme Wilberforce came from a family remarkable for its intellectual quality, in which he probably had the most distinguished mind. He was the son of Samuel Wilberforce of Petworth, Sussex. The family name derives from a Yorkshire village, Wilberfoss (Wild-Boar-Foss). He was educated at Winchester and New College, Oxford, of which he later became an honorary Fellow. His academic career as a classicist and legal scholar could hardly have been more distinguished. In addition to a double first and a fellowship of All Souls in 1932, he won the Hertford and Ireland Scholarships at Oxford, and

became Eldon Law Scholar on being called to the Bar by the Middle Temple. In the seven years that followed he acquired a respectable practice at the Chancery Bar at a time when competition for young men starting at the Bar was fierce.

On the outbreak of war he was commissioned into the Royal Artillery, and saw active service in Norway before being transferred to the Army legal staff, where he became Assistant Advocate-General and later served with Supreme Headquarters Allied Expeditionary Forces. He spent some time in the Control Office for Germany and Austria, after their surrender, where he became under-secretary.

There he met and married Yvette Lenoan, daughter of a judge of the Cour de Cassation in Paris. He returned to the Chancery Bar in 1947.

There was no rush to entrust briefs to a man who had been away from practice for seven years, and for some time Wilberforce had so little work that he contemplated leaving the Chancery Bar. But he persevered, and after a further seven years he had rebuilt his practice sufficiently to justify taking silk in 1954 at the age of 47. He was not an especially busy QC until perhaps his last year or two of practice. He was never a spectacular advocate, but his intellectual powers made him a formidable persuader. He appeared in several celebrated cases, such as the one that established the right of the Prince of Hanover to be a British

subject, pursuant to an Act passed in the reign of Queen Anne; and in *J. Bollinger v Costa Brava Wine Co*, which stopped Spanish vintners using the description "Spanish Champagne".

Wilberforce was also the senior author of the leading book on restrictive practices and was briefed in one of the earliest cases before the Restrictive Practices Court. During this period he was the unsuccessful Tory candidate in Hull, the ancestral constituency of William Wilberforce. His political stance would today have put him on the left of the party. He was never enamoured with Thatcherism and was profoundly pro-European.

He took an active interest in the legal side of postwar aviation, in particular the setting-up of the International Air Transport Association. He was a member of the British government team that negotiated the Warsaw Convention on International Carriage by Air, and in 1956 he was appointed CMG for services in connection with this work.

Throughout his life Wilberforce retained his interest in public international law and his links with those in this field abroad. For many years he was chairman of the executive council of the International Law Association, a member of the Permanent Court of Arbitration at the Hague and president of the Federation Internationale du Droit Europeen. Had Britain's entry into the European Economic Community occurred a decade earlier, Wilberforce would have been the natural candidate for the first UK judge at the European Court of Justice. He also collected many decorations abroad and academic distinctions at home, including the

chancellorship of Hull University and the visitorship of Wolfson College, Oxford.

In 1961, the year he was knighted, a number of vacancies occurred on the Chancery Bench and Wilberforce was appointed to one of them. But fact-finding was never his forte. He was quintessentially an appellate judge. The outgoing Lord Chancellor in the Conservative administration in October 1964 sensibly appointed him to the House of Lords, leap-frogging the Court of Appeal.

In that year he was sworn of the Privy Council. His invariably objective approach was much more of an asset on the Bench than it had been as an advocate.

While a member of the House of Lords he was asked to preside over two tribunals to recommend fair terms for the settlement of industrial disputes, first in the electricity industry (1971) and then in the coal industry (1972). His awards brought the disputes to a close, but on each occasion he was criticised for being more liberal than the country could afford, and for setting inflationary precedents.

Wilberforce was no judicial recluse. He was comfortable discussing the works of Freud or the relationship of law and economics, but he also maintained an earthy contact with human predicaments. He played football and golf, and skied with some skill. He was a keen follower of the turf, with a considerable knowledge of the Stud Book. Unusually for a judge, he could be seen, after a day's sitting in the High Court, in the local tea-shop off the

Strand studying the form in *Sporting Life*. He was musical and took a great interest in opera. He was a fluent linguist and enjoyed travel. He was highly knowledgeable about the stock market and a successful manager both of his own investments and of those of All Souls.

Unassuming and a little shy, he was charming, personally warm and unusually unstuffy. But his pre-eminent quality was the refinement of his intellect, and his abiding contribution to the law was made in the House of Lords. Unlike many of his judicial brethren he welcomed the establishment of the Law Commission, which was the topic of his maiden speech in the Lords. He was to become the most active law lord of his time in legislative debates in the Upper House.

Detached but not unsympathetic, precise but not narrow, knowledgeable about the law but never afraid of innovation, quick in apprehension, and, above all, supremely clear-headed in the analysis of relevant issues, he rendered an invaluable service to English law.

He is survived by his wife, a son and daughter.

Lord Wilberforce, PC, CMG, OBE, a Lord of Appeal in Ordinary, 1964-82, was born on March 11, 1907. He died on February 15, 2003, aged 95.

The above obituary appeared in the The Times on Wednesday February 19 2003 and is reproduced with the permission of News International.

International Law FORUM du droit international

The Journal of the International Law Association/
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Editor: Catherine Kessedjian

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Who should attend?

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