

# ILA NEWSLETTER

## ADI - ACTUALITES

INTERNATIONAL LAW ASSOCIATION/ASSOCIATION DE DROIT INTERNATIONAL

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### EDITORIAL

Welcome to the 12th edition of the ILA Newsletter. The most important event this year was the First Latin American Regional Conference which was held in Sao Paulo on 25-28 July 1999. This was the first time that a regional conference has been held in that important region and we must congratulate the Brazilian Branch on taking this important initiative. I was privileged to attend and this Newsletter was delayed so I could report on what happened at this very successful meeting. There have been informal discussions about future Regional Conferences. A suggestion has been made that a regional conference be held in 2001 in the Caribbean with the assistance of the American, British, French and Netherlands Branches marking their countries' traditional ties to that Region. Another suggestion is that Hispanic countries hold a special conference at which Spanish, rather than French or English, would be the leading language.

Next year, of course, there will be the 69th Conference of the Association, which will be held in London from 25 to 29 July 2000. Further details are set out in this Newsletter.

As usual, this Newsletter also contains news from the Executive Council and about the activities of Committees and Branches. I hereby thank the American and New Zealand Branches for sending me copies of their local newsletters. It has been very useful to glean information from them, which is duly reported herein. I continue to urge Branches and Committees to send news about their activities to me. It need not be lengthy and should not take a great deal of time. If sent by e-mail it can easily be incorporated into the Newsletter. I am sure many Committees and Branches would wish their activities to be more widely known. I am sure that their silence does not mean that they are inactive!

I have now carried out the task of editing this Newsletter for a number of years. I more or less stumbled in to it, at a time when I thought I would have more time available than turned out to be the case. It has been a satisfying, though at times very frustrating, task. regular support from Kluwer, it has been possible to maintain a fixed publication schedule twice a year. However, the supply of information and copy has not always matched this. I now feel that the time has come for someone else to take over the editorship. Perhaps a younger person will be able to carry it on in to the New Millennium. Since I started this assignment the Association has acquired a web site on which news items can be displayed and the International Law Forum has commenced publication.

Peter Nygh  
Editor/Rédacteur

### NEWS FROM THE EXECUTIVE COUNCIL

The Executive Council met on 22 May last under the Chairmanship of Lord Slynn. The Chairman issued a special welcome to Mr Stephen Wong of the Hong Kong Branch marking the first occasion at which that Branch was represented. The members of the Executive Council joined the Chairman in asking Lord Wilberforce to pass their best wishes for a speedy recovery to Lady Wilberforce following her recent injury.

The 1998 audited accounts showed a negative balance of £12 523 compared to a positive balance of £12 500 for 1997. This was due to the low level of Branch contributions paid in 1998. Payments for 1998 to a total of £14 391 were received in the first 4 months of 1999. If these amounts had been paid on time, there would have been a positive balance. The Chairman emphasized that the Association does depend on Branches paying their contributions as early as possible and in the appropriate year. While some Branches are to be applauded for having paid in full and on time, many others are falling into arrears.

Thanks were expressed to Mrs Barbara Osorio for her meticulous keeping of the Accounts and her assistance to the Treasurer in preparing them. The new Secretary of the Association, Juliet Fussell, will now be responsible for keeping the accounts and assisting the Treasurer.

The Director of Studies presented his report, the contents of which are published under the next heading.

The Executive Council will meet next on 13 November 1999 and on 20 May 2000.

# REPORT FROM DIRECTOR OF STUDIES

## 1. International Committees

### (a) Feminism and International Law

One of the two co-rapporteurs, Ms A. Ketokoski (Finnish Branch) has resigned. At present there is no need to appoint another co-rapporteur.

### (b) International Commercial Arbitration

To replace co-rapporteur Horacio Grigera Naon, who has resigned, the Director of Studies nominated Dr Nagla Nassar (Egyptian Branch). Dr Nassar is an experienced practitioner and lecturer, and recognized expert in the field. The appointment was approved.

### (c) Nominating procedure for Committee members

Often nominations by Branches for membership of international committees are made shortly before meetings of the Executive Council and without submitting a CV of the candidate. This makes it difficult for Headquarters to handle them in time. The Director of Studies therefore proposed that henceforth nominations should be made eight weeks before the meeting of the Executive Council. They should always be accompanied by a CV, which will be forwarded by Headquarters to the Chair of the relevant Committee as soon as possible. If no objection is received from the Chair within four weeks, the nomination will be submitted to the next Executive Council meeting. This procedure was approved by the Council.

In discussing this proposal, members of the Executive Council suggested that the curriculum vitae should include some indication of why the proposed candidate would be appropriate for appointment to the relevant Committee. It was agreed that in the case of a very well known candidate for appointment to an International Committee, the CV need not be as detailed as in the case of someone less well known.

### (d) Committee Reports for London Conference

The reports of International Committees to be discussed at the Working Sessions of the London Conference should reach Headquarters by 30 March 2000 (ideally by e-mail, if not, on floppy disk and as a hard copy). Instructions from the printers will be circulated later to Committee officers. A copy should also be sent to the Director of Studies. They will be made available on the ILA Internet web site (<http://www.ila.org>) as soon as possible thereafter. All reports should be submitted together with a draft resolution for adoption at the Conference.

It is important that all Committee members should have sufficient time to comment on draft texts of the reports to be submitted. The Committee reports should represent the collective work of the members. It is also essential that all Committee officers attend the Working Session of their Committee at the Conference. On the first day of the London Conference a meeting of Committee officers with the Director of Studies is scheduled. It is hoped that all can attend.

All Committees, 24 at present, intend to report at the London Conference; consequently all Committees have been given a slot in the provisional schedule of the Conference. All Committee Chairs are requested to send the Director of Studies a short description of the nature of the report their Committee intends to present at the London Conference.

### (d) New Committees

Proposals for the establishment of new committees will be submitted to the November meeting of the Executive Council. There is still some uncertainty as to which committees will wind up their work at the London Conference. Originally, the following committees had indicated they would terminate:

- Internally Displaced Persons
- Formation of Rules of (General) Customary Law
- Water Resources Law
- Coastal State Jurisdiction over Marine Pollution
- International Civil and Commercial Litigation

In the meantime the Director of Studies has received indications that the last three committees are considering a request to extend their mandate. Obviously this would have an impact on the number of and topics for new committees that could be established. In the discussion that followed, members of the Council agreed that a strong line should be taken with Committees which sought to extend their mandates. The question would become very acute in 2001, when under the policies previously established by the Council, 16 or 17 Committees would be requiring a renewal of their mandates. It was essential to establish that there should not be anything in the nature of permanent committees. The Chairman said that while it was important to ensure that a Committee achieve finality, it would not be necessarily desirable that a Committee be wound up which still had useful work to do. The mechanism for the winding up of a Committee would be by resolution of the Executive Council on the recommendation of the Director of Studies. The Director of Studies said that he was encouraged by the strong support for his proposal for taking a strong line with Committees.

The Executive Council has determined that extensions of mandates will be considered in competition with proposals for the establishment of new Committees. The next discussion will take place at the meeting of the Executive Council on 13 November 1999. Committees now scheduled to complete their work in July 2000 but wishing to extend their mandate should submit a short statement to that effect to the Director of Studies by 12 September 1999.

## 2. Study Groups

The purpose and operation of Study Groups is different from that of the Committees. They will consist of smaller groups of recognized experts commenting on particular proposals and drafts, or surveying a particular subject to see if it was suitable for study. It was likely that the limited membership of a Study Group would not extend to more than a maximum of ten to twelve members, to make its functioning effective. There will be a three-year maximum membership for its work and nominations will be made by the Director of Studies. Study Groups will be set up in circumstances where the ILA could make a valuable contribution in addition to work that was being done elsewhere.

### 2.1 Study Group on the Law of State Responsibility

After consultation with the Chair of the Study Group, the Director of Studies proposed to appoint Professor Shinya Murase (Japanese Branch), Mr Koroosh Ameli (Iran Branch) and Professor Guido Soares (Brazilian Branch) as members of the Study Group. Two further nominations will be made at the next meeting of the Executive Council.

Professor Bruno Simma, who was listed as a proposed member in my previous report, was instead invited by the Chairman to be a special adviser to the Study Group (together with Gaetano Arangio-Ruiz and Shabtai Rosenne). The Study Group has started its work and has planned a first meeting for 22 May 1999.

### 2.2 Study Group on the International Criminal Court

It is important that the ILA is involved in work in the field of international humanitarian law and international criminal law, and it would also be very appropriate to contribute to the ongoing discussions on the preparations for the establishment of the International Criminal Court. The Director of Studies therefore proposed that the Executive Council establish a Study Group on the ICC, to be charged particularly with the task of contributing to the discussions in the Preparatory Commission for the ICC on "elements of crime" and the rules of procedure. Professor John Dugard (South Africa) was appointed to Chair this Study Group. Other members include: Mr William Schabas (Canadian Branch), Ms Christine Vanden Wyngaert (Belgian Branch), Mr Raul Vinuesa (Argentine Branch), Professor Theo van Boven (Netherlands Branch), Mme Delmas Marty (French Branch) and Mrs Leila Sadat Wexler (American Branch). The Council approved the establishment of the Study Group.

The proposed mandate of the Study Group is as follows:

The Study Group's task will be to contribute to the work of the Preparatory Commission for the Permanent International Criminal Court, in particular relating to the drafting of:

1. the "elements of crime"; and
2. the rules of procedure,

by commenting on drafts being discussed at the meetings of the Preparatory Commission and by preparing its own proposals.

The Chairman of the Study Group will send copies of the reports of the Working Group to the Chairman of the Preparatory Commission and to the Director of Studies. If the ILA can have observer status at the meetings of the Preparatory Commission, the Chairman or a member of the Study Group can represent the ILA.

If possible, the Study Group will make other contributions to the debate on the preparatory work for the International Criminal Court through, inter alia, publications, seminars and conferences.

The Study Group will appoint its own rapporteurs. The work will be conducted through correspondence and, if possible, meetings.

## 3. International Law Forum du droit international

The 2 first regular issues of the **Forum** were recently published. They will be available free of charge to all ILA members at the ILA Internet web site (<http://www.ila.org>). (Future editions will only be available to members whose subscriptions to Headquarters have been paid). It was agreed that copies of Issue No 1 of the Forum would be sent to all Branches of the ILA.

Members of the Council were unanimous in agreeing with the Chairman to congratulate Catherine Kessedjian and her team for the excellent work on the Forum.

## 4. Consultation on the peaceful resolution of major international disputes

The Consultation, co-sponsored by CIDIR and ILA, was held in London on 11-15 December 1998 at Chatham House. It was a very successful meeting, which resulted in a number of highly interesting proposals. A book containing the papers, **Peaceful Resolutions of Major International Disputes** in both hardbound and softbound editions has already been published by the United Nations in a volume edited by Dr Julie Dahlitz. This is a major achievement in the time available. Copies may be acquired by completing the form enclosed or via <http://www.ila.org>.

## 5. ILA 68th Conference Report

This Report, which was edited by Professor Soons and Dr Michael Byers with the assistance of Mrs Barbara Osorio, was distributed in late June. It contains the reports made to, and resolutions adopted at, the Taipei Conference in May 1998, as well as summaries of interventions made in the discussion of those reports. It also contains the text of the Constitution of the Association as adopted at the Conference in its French and English versions.

The Report will be sent free of charge to those members of the Association whose Headquarters' contribution has been received, as well as to those who attended the Conference. It is being translated into Chinese as a separate publication.

## CONFERENCES

### The Latin American Regional Conference 1999

The Regional Latin American Conference of the International Law Association was convened by the Brazilian Branch in Sao Paulo, Brazil, on 25 - 27 July 1999. It was held with the co-operation of the Faculties of Law of the Universities of Sao Paulo and of Sao Francisco. The former is a State University founded by Dom. Pedro I in 1827. The latter is a university owned and run by the brothers of St Francis on a number of campuses in and around Sao Paulo. The Conference was very well attended. There were over 250 participants of whom approximately 50 came from outside Brazil. Understandably most Branches in the Americas were represented, but there were also representatives of the British, Netherlands and Austrian Branches. From the other side of the world, there were representatives from India, Bangladesh, Korea, Japan, Taiwan and Australia. The President of the Association, Professor Hungdah Chiu, attended. Unfortunately, Lord Slynn was prevented from attending by reason of his duties in the Judicial Committee of the House of Lords. However, the Secretary General, David Wyld, and the Director of Studies, Professor Soons, were present. It was a particular pleasure to see Mrs Barbara Osorio attend. And finally, of course, there was the Editor of the Newsletter.

The Conference opened on the evening of Sunday 25 July with a welcoming cocktail at the historic Casa da Fazenda, Morumbi, which was once the mansion of a plantation near Sao Paulo, but has now overtaken by the suburbs. However, the atmosphere was still very authentic with the slave quarters still existing underneath the building. The guests were entertained by traditional songs from the various regions of Brazil performed by students from the University of Sao Francisco. The reception was hosted by CESA, the federation of Brazilian bar associations.

The formal proceedings commenced the next day in the aula of the Law Faculty of Sao Paulo. The President of the Brazilian Branch, Professor de Magelhaes, welcomed the delegates. He was followed by the President of the Association, Professor Hungdah Chiu, who reflected on the progress made in the development of international law and standards of human rights in the past 50 years. Professor Soons representing the Chairman of the Executive Council, paid tribute to the great Brazilian scholars of international law. Finally, the Rector Magnificus of the University of Sao Paulo welcomed the guests and remarked that the topic chosen for the Conference: Sustainable Development, could not be more opportune.

The gathering paid homage to the memory of Congressman André Franco Montoro who had given his support to the Conference and would have chaired its first session, but for his death on 16 July 1999 at the age of 83. Mr Montoro was a distinguished author on questions of law and politics who had served the State of Sao Paulo as governor and Brazil as a Federal Deputy and Minister of State. The Conference honoured his memory with a minute of silence. His son was present to take over his father's task and his grandson was very active in organising the conference.

The first theme of the Conference was Mercosur. At the first session Ambassador Rubens Antonio Barbosa of Brazil and Ambassador Marcos Martinez-Mendieta of Paraguay discussed the possibilities for intra-regional cooperation. They pointed out that Mercosur was still a long way from the position reached by the European Union. There was no common court of justice and no common currency. Crises that arose were best solved through presidential diplomacy. However, it was agreed that Mercosur should not strive to follow the European model. Instead, it should aim for a full common market, but this was only achievable if member states set common goals. If implemented, Mercosur would be the world's fourth economic block. It should not merely look at the relationship with the North American Free Trade Association (NAFTA). Mercosur had a deep interest in diversifying its relationship with the outside world, especially Europe.

The second session devoted to the Mercosur theme addressed dispute settlement mechanisms and judicial cooperation in integration processes. This session was chaired by Judge Francisco Rezek of the International Court of Justice. Mr Jeremy Carver of the British Branch spoke in lieu of Lord Slynn. He warned against the subjection of international organizations and issues to domestic courts and domestic law. Where the interests of other States are involved, as in the International Tin and Pinochet cases, the national courts tend to concentrate on relatively trivial issues and forget the supremacy of international law and relations. Professor Lichtenstein gave a somewhat similar message. She pointed out that the NAFTA Treaty, unlike the WTO, gave private parties access to its arbitral dispute resolution procedure. This, in effect, opened the door to private litigation in which private parties sought to protect their interests as an alternative to litigation in the national courts, when the participating States were not in dispute on that issue. Both speakers gave the impression of believing that disputes between States (if they arise) should be settled between States in procedures appropriate for international disputes and not by domestic courts or tribunals. The third speaker, Mr Vito Fraça,

pointed out that under the Mercosur Treaty a private party has access to the dispute settlement mechanism only through a government.

The second theme of the Conference was International Law and the Environment. The first session on Implementation Status of the Main International Environmental Treaties was presided over by Ambassador do Nascimento e Silva, a longstanding and distinguished member of the ILA. Dr Villagran-Kramer from Guatemala could unfortunately not attend, but his paper was read out by Dr Susana Vieira. It addressed issues of both planetary and national environment, and in particular the question of standing to bring a complaint about possible despoliation of the environment. Dr Maria Luján Flores from Uruguay pointed out that there were now more than 1000 international instruments dealing with the environment. But most of these were bilateral and regional treaties which do not approach the problem globally. She pleaded for an integrated approach of economic and social issues with environmental concerns. The Chair pointed out that the present position was far from satisfactory. He pointed to the experience with the Ozone layer. European States only become active on that issue once the size of the gaps become apparent. Contrary to popular myth, the deforestation of the Amazon basin was not the culprit.

The second session devoted to this theme referred to the law of the sea and international co-operation. It was chaired by Judge Choo-Ho Park of the Law of the Sea Tribunal. The first speaker, Professor Soons, referred to the rules of reference in regard to marine pollution which appear in the Law of the Sea Convention. Although that Convention does not contain technical rules defining standards, several of its articles require States to adopt standards comparable to those laid down in other conventions. Registrar Valencia-Ospina of the International Court of Justice referred to the contribution made by that Court in defining the law in relation to international watercourses. Although it has not so far been directly involved in ecological issues, it is ideally situated to deal with them. The principle established in the Corfu case not to use national territory to cause harm was a good starting point. In addition to its contentious jurisdiction, the Court has jurisdiction to give advisory opinions. Some of these, such as the recent nuclear case, raised environmental issues. Finally, Dr Sabine Schlemmer-Schultze of the World Bank described the role of the World Bank in environmental issues. Loan agreements often make reference to environmental treaties giving States an incentive to join. Although the Bank does not take a direct part itself in environmental protection, the issue will often arise at the point of investigation and of implementation of the project. In the former case the Bank may make recommendations. In the latter it may have a supervisory role, but implementation itself is not its responsibility. The World Bank has no "lender liability".

On Tuesday 27 July the Conference moved to its third theme: Human Rights and Sustainable Development Law. The first session was devoted to a discussion of the Inter-American System for the Protection of Human Rights. Judge CanÁado Trindade of the Inter-American Court for Human Rights described the evolution of the Inter-American system which culminated in the establishment of the Court as an autonomous organ. Of the 35 States who are eligible to join 21 are currently members. The most notable omissions are the United States and Canada. Trinidad has denounced the treaty and Peru has purported to withdraw its acceptance of the court's jurisdiction. The court has so far delivered 15 advisory opinions and 53 judgments.

Judge Trindade mentioned as essential goals:

- the ratification by all regional States of the relevant agreements and protocols;
- the acceptance of the contested jurisdiction of the Court by all States;
- improvement in material resources which are grossly insufficient; and
- better co-ordination between the Inter-American Commission for Human Rights and the Court.

The next speaker was Dr Christina Cema of the Inter-American Commission for Human Rights, who explained the workings of that system. Individuals do have the right to petition the Commission but do not as yet have direct access to the Court. Both the United States and Peru have made reservations to preserve the supremacy of their respective constitutions. In her view, States have an obligation to change laws which are in conflict with international obligations, including constitutions.

The next session devoted to this theme was on the topic of The Central American Experience. The speakers were Dr Montufar from Guatemala and Dr Ventura Robles of the Inter-American Court of Human Rights. Both speakers pointed to the violent history of Central America (with the notable exception of Costa Rica). In Guatemala the large majority of the population were Indians and there was still tension between the elite descended from the conquerors and the conquered. During the Cold War insurrections broke out in which the US and Cuba were involved, only with the end of the Cold War has peace been restored. The last was the Contadora Process which led to peace in Guatemala in 1996. But the underlying social causes of the conflict have not disappeared.

Dr Robles explained that the Pinochet issue was also before the Inter-American Commission in a challenge to the validity of the amnesty which the General granted himself in 1978. This was not an amnesty granted in democratic conditions.

In the afternoon there was the third session devoted to the theme of sustainable development on the issue of: The Right to Development, Environmental Protection and Natural Sovereignty over Natural Resources. The speakers were Dr Kamal Hossain from Bangladesh, the Chair of the Committee on Sustainable Development, and Professor Nico Schrijver from the Netherlands, the Rapporteur of the Committee. Dr Hossain stressed the link between the right to development and the protection of the environment. Both aspects are recognised as vital. Attempts have been made to

give meaning to the notion of sustainable development. It should not mean what everyone wants it to mean. He was confident that it could be given a meaning by reference to certain defined objectives reached by consensus.

Professor Schrijver stressed the increasing link between the right of development and human rights. One important aspect is the question of access to justice. The link between them has been recognised by the European Court of Human Rights on issues such as traffic noise. There is also an accepted obligation to exercise sovereignty on behalf of the whole population, including indigenous people.

The final session within the theme was on the topic of The Impact of Regional Integration Processes upon Companies. This was chaired by Dr Jeremy Carver of the British Branch with Dr Bernardes Neto from Brazil and Professor de Magalhaes, President of the Brazilian Branch, as speakers. This was a wide-ranging discussion about the need for harmonisation of national laws. Thus Brazil still defines as a "Brazilian company" one in which Brazilian citizens hold a majority of shares. Brazil is strong in consumer protection; Argentina less so while Paraguay has no laws protecting the environment.

With this session two days of lively discussion and debate came to an end. On behalf of the guests, Dr Hossain delivered a vote of thanks to the hosting Law Faculties, the Brazilian Branch and to the organisers, particularly Susana Vieira with her indefatigable enthusiasm and her eternal optimism and cheerfulness. Even the shooting and tooting lorry drivers of Brazil could not defeat her! Thanks are also due to the organisations that sponsored the Conference and the enthusiastic band of students who assisted. All this made for a wonderful conference. Those who attended are now the proud possessors of a certificate (in the Portuguese language) on which his or her name is inscribed and which testifies that they have attended a course of 20 hours on the three themes of the Conference.

Mention must also be made of the social programme. There was a partners' programme of local tours and visits in which (rumour has it) even non-partners took part. There was a glorious piano concert given by Brazil's leading pianist, Cristina Ortiz, in the Concert Hall of the magnificently remodelled Railway Station which itself is a work of art. The Concert itself, a programme partly of international and partly Brazilian origin, was extremely well received. Ms Ortiz rewarded our enthusiasm with three encores after a concert which must have left her totally exhausted.

There was also a final banquet in a typical Brazilian restaurant where meat of all kinds just kept coming and some of us almost joined the Brazilian Army after drinking the local sugar cane brandy. As Susana said: once you have been to Brazil you catch the dreaded incurable disease of wanting to return. This is fortified by the visits some of us have made to the Iguazu Falls, Rio de Janeiro and the old colonial cities of the North East, even to the Amazon without being devoured by piranhas. Apparently they are nice to eat provided one gets in first, of course!

## The 69th Conference 2000

The British Branch has confirmed its invitation to the Association to meet for its 69th Conference in London from 25 to 29 July 2000. The Conference will be held at the Barbican Centre. The planning of the Conference is progressing and the Branch hopes to circulate to all members shortly outline details together with a preliminary registration form. The Conference Organising Committee hopes to attract to **ILA 2000** a significantly larger number of participants than other biennial conferences.

Without detracting from the usual work of the Committees, of whom all 24 are likely to deliver reports, the Conference Organising Committee is developing a programme with a slightly different format. This will take place around three main themes, involving different constituencies within the membership. Within each theme, the committees concerned will meet and workshops will take place. In addition, a more structured programme will be organised in order to explore how the ILA can contribute to the development of each theme in the coming years. Committee meetings, workshops and the more structured programme for each theme will take place on different days. Those who wish to concentrate on a single theme will be able to participate in all its aspects, although there will be no bar to participating in the parallel proceedings of the other two themes.

Although the programme has not yet been finalised, the three themes contemplated are:

1. International Finance and Sustainable Development. This will be the theme for Wednesday 26 July. It is planned to contain sessions on:

- Reform of the International Monetary System
- Foreign Investment, Human Rights and Development: Integration or Fragmentation?
- Two concurrent Workshops on: Problems and Prospects for Regulating Biotechnology, and Mass Migration and Humanitarian Intervention.

2. World Trade and Economic Law. This will be the theme for Thursday 27 July. It is planned to contain sessions on:

- WTO: Prospects for the Millennium Round
- Trade and Investment Disputes
- Two concurrent Workshops on: Developments in International Law Relating to Corruption, and Regionalism and International Law

International Civil Justice. This will be the theme for Friday 28 July. It is planned to contain sessions on:

- Globalisation of Civil Disputes
- The Hague Judgements Convention
- Two concurrent Workshops on: Corporations in International Litigation, and Use of National Courts in Human Rights and International Environmental Disputes.

The Conference Organising Committee proposes to hold the traditional all day excursion to Greenwich and the Millennium Exhibition as an optional event on Monday 24 July, with the usual Council and business meetings held on Tuesday 25 July. The Conference itself will commence at an Opening Ceremony at noon on Tuesday in Westminster Hall with an address by the Prime Minister, The Right Honourable Tony Blair MP, and a reception by the Foreign and Commonwealth Office in the evening. This will be followed by three full working days. The evening of Wednesday 26 July is set aside for diplomatic receptions. The banquet would, as at past Conferences, be held on Friday 28 July with a Closing Session on Saturday morning 29 July.

**For further information on the Conference, please contact The Conference Organiser - c/o PO Box 3054, Harold Hill, RM3 8LN. Fax: +44(0)20 7504 8391; e-mail: [londonila@cs.com](mailto:londonila@cs.com) or visit the ILA website at: [www.ila-hq.org](http://www.ila-hq.org). Full Programme and Registration Forms available January 2000.**

## The 70th Conference 2002

The 70th Conference of the International Law Association will be held in New Delhi, India, in April 2002.

## NEWS FROM COMMITTEES

### Committee on International Litigation in Civil and Commercial Matters

This Committee met on 28 and 29 April 1999 in Washington DC. The Committee completed the formulation of a set of draft principles on the referral of proceedings between jurisdictions which will be presented to the London 2000 meeting for adoption. They have tentatively been given the title: the Leuven-London Principles on the Referral of Proceedings between Jurisdictions.

The Committee discussed an issues paper on the investigation of the question of national jurisdiction in civil matters over foreign corporations and other legal entities. It has asked members to report on national laws in time for the next meeting of the Committee in Milan on 15 and 16 October 1999. A further meeting has been scheduled in Kyoto on 31 March and 1 April 2000. The Committee aims to present its findings on that subject to the 70th Conference in New Delhi in April 2002.

### Committee on Transnational Enforcement of Environmental Law

#### WORKSHOP ON DEFINITION AND VALUATION OF ENVIRONMENTAL DAMAGE

From September 23 to 25 a group of ILA experts will gather at Old College, Edinburgh University, where the Scottish Centre for International Law is hosting a workshop on the problems of defining and valuing "environmental damage" in international law. The number of topics presently on the international law-making agenda to which it is relevant illustrates the need for a broad and systematic evaluation of this issue, integrating international practice with developments in national law. The workshop is part of the International Law Association's efforts to assist in the development of 'law in the field of sustainable development' (Rio Declaration Principle 27). Other ILA committees are working on related topics, including the Committee on Sustainable Development and the Committee on Transnational Enforcement of Environmental Law, whose first meeting will also be in Edinburgh on Sunday 26 September following the workshop.

Co-Chaired by Professor Alan Boyle of the British Branch and Professor Tom Schoenbaum of the University of Georgia, workshop participants include comparative lawyers and economists, as well as public international lawyers. Developing countries are strongly represented. The ILA is grateful to UNESCO and the British Academy for helping to fund the workshop, which is additionally supported by the British Branch Environmental Law Committee.

### Committee on International Legal Aspects of Sustainable Development

This Committee held a Seminar on Sustainable Development on the occasion of the Latin American Regional Conference in Sao Paulo following the conclusion of that Conference on 28 July 1999. Originally, it had been planned to meet at the Braganza campus of the Sao Francisco University, but industrial action by lorry drivers prevented that. At very short notice the session was diverted to the Sao Paulo campus of the University where members received a very kind welcome from the authorities. It was a pity that those who had planned to meet with us outside the city could not join us.

The Committee is working towards a proposed declaration on the Law of Sustainable Development that of necessity will involve a definition of the concept of sustainable development. To that purpose it has prepared a questionnaire consisting of 12 questions, which has been distributed to Branches and individuals. To date only the Japanese and Netherlands Branches have replied extensively, as well as five individual members of the Committee. The Committee

is very anxious to receive further responses. Those interested should contact the Rapporteur, Professor Nicolaas Schrijver, Faculty of Law, Vrije Universiteit, de Boelelaan 1105, NL-1081 HV, Amsterdam, The Netherlands; E-mail: Schrijver@rechten.vu.nl

The Committee at its meeting in Sao Paulo discussed the Japanese and Dutch responses and received papers on related topics from non-members who attended the Seminar. The Committee hopes to have its next regular meeting in December 1999.

## **NEWS FROM BRANCHES**

### American Branch

The American Branch has a new Hon. Treasurer and Hon. Secretary. They are: Michael Gruson of Shearman and Sterling, New York, is the new Hon. Treasurer. Mr Saurabh Singh of Davis Polk & Wardwell is the new Hon. Secretary.

### International Law Weekend 1998

The International Law Weekend 1998 took place on 12-14 November at the House of the Association of the Bar of the City of New York. The gala dinner on Friday evening 13 November at the Harvard Club was addressed by the Honourable Antonia Chayes, former Under-secretary of the Air Force and a Professor at Harvard University and Director and Senior Adviser, Conflict Management Group, Cambridge, MA. The luncheon on Saturday 14 November was honoured with an address by Professor Thomas M. Franck, President of the American Society of International Law. Tapes of the recorded panels are available from: Stephen J. Shapiro, 101 West 57th Street, Suite 2D, New York 10019-2215. The Programme Committee for ILW 1999 Chair is: Professor Kelly Askin, University of NÙtre Dame, Centre for Civil and Human Rights, Notre Dame IN 46556.

### ABILA Executive Committee Meeting

The Executive Committee of ABILA met during the International Law Weekend. Three new members were elected to the Executive Committee: Professor Joel Trachtmen, Professor Leila Sadat Wexler and Mark Zaid.

### ABILA Web-page

A web-page was established containing the basic documents of the Branch and reports of its most recent activities. It can be visited at <http://www.ila.ambranch.org> .

### Other meetings of interest

The ABILA co-sponsored a Conference on "Competing Competition Laws: Do we Need a Global Standard?" at the New England School of Law in Boston on 19 March 1999. It also co-sponsored a meeting of the ABA Section on International Law and Practice in Hamilton, Bermuda, on 29 April - 2 May 1999.

### Branch committees

The ABILA has a large number of internal committees. Most, but not all, mirror the international Committees of the Association. They are on the following topics: Arms Control and Disarmament; Commercial Arbitration; Commercial Law; Economic Sanctions; Environment; Extradition and Human Rights; Extraterritorial Jurisdiction; Formation of Rules of Customary International Law; Human Rights; Intellectual Property; International Civil and Commercial Litigation; International Criminal Court; International Trade Law; Islamic Law; Law of the Sea; International Monetary Law/Legal Aspects of Securities Regulation; Legal Aspects of Inter-Country Adoption and Protection of the Family; Refugee Law; Space Law and Teaching International Law.

### Australian Branch

The Australian Branch started off in 1999 with a seminar in Sydney on 25 March 1999 on the topic of "Policing Australia's Offshore Zones: The Role of the Australian Defence Force and the Interface of Domestic and International Law". The seminar was organised by the International Military Law Committee. The speakers were Commander Robin Warner RAN and Professor Antony Bergin of the Australian Defence Forces Academy. The Committee is planning a further seminar on the work of the Preparatory Commission of the International Criminal Court. Other seminars planned for later in the year are on Cambodia, East Timor and the implications for Australia of the third decision of the House of Lords in the Pinochet case.

The Branch has established chapters in Brisbane, Melbourne and Canberra. The Brisbane chapter has been particularly active organising four events per year. The Branch also maintains a number of committees on the following topics: Human Rights, International Trade and Business, Indigenous Rights and Issues, Space Law, Law of the Sea, Committee on Cultural Heritage Law and on Law and Feminism. Most of these Committees have organised seminars, mainly in Sydney but with several in Brisbane, Melbourne and Canberra. Information about the activities of the Branch can be obtained from its web site: [www.ila.org.au](http://www.ila.org.au)

The Branch publishes the Australian International Law Journal. This publication was started in 1983 as a newsletter, but has since 1995 achieved full stature as a journal of international standing under the editorship of Associate Professor Alexis Goh of the Faculty of Law of the University of Western Sydney, Macarthur. Recent major articles have dealt with such topics as Antarctica, the Launch of the Euro in Europe, the Court of Arbitration for Sport, the GATT anti-dumping rules, the relationship between international and Australian law, the WTO dispute resolution process and proposals for a global judgements convention. In addition to major articles, there appear regularly shorter comments and notes on recent developments, surveys of recent decisions of the International Court of Justice, book reviews and the annual report of the Australian Branch of the ILA. Further details can be obtained from Professor Goh, Faculty of Law, University of Western Sydney - MacArthur Campus, PO Box 555, Campbelltown NSW 2560, Australia. Fax: +61 2 4628 1336.

#### British Branch

On 16<sup>th</sup> and 17<sup>th</sup> April the British Branch held a very successful Spring Conference on the subject of WTO Dispute Settlement. Hosted by the Lauterpacht Research Centre for International Law in Cambridge, opening speaker Professor Don McRae presented a challenging analysis of the place of the WTO within the international legal order. Subsequent speakers addressed a range of important issues facing the WTO dispute settlement system, and there was much discussion of the Beef Hormones case. Some 150 ILA members attended, including GATT specialists and general international lawyers, for many of whom the conference was an opportunity to explore the increasingly important relationship between GATT and international law. Some of the issues raised by the conference are likely to be pursued during the ILA 2000 conference in London next year, when a number of WTO related sessions are planned. The British Branch holds regular meetings during the academic year in London, Edinburgh, Oxford, Nottingham, and Cardiff. For more information contact Dr Campbell McLachlan c/o Herbert Smith, Exchange House, Primrose Street, London EC2A 2HS, or Professor Alan Boyle, Department of Public International Law, University of Edinburgh, Old College, South Bridge, Edinburgh EH8 9YL.

#### Canadian Branch

Mario Choueri, Secretary-Treasurer of the newly re-established Canadian Branch, reports that the first lecture of the year was given by Dr Weber, Head of the Legal Bureau at ICAO, on the topic of "current legal issues in aviation safety, including unruly passengers". Almost fifty persons came to hear him speak.

At a recent judges evening held on the 12<sup>th</sup> July the Canadian chapter of the ILA was pleased to have the Honorable William H Rehnquist, Chief Justice of the Supreme Court of the United States of America, as their guest of honour. The event was greatly assisted by both the efforts of the American Consulate in Montreal and of Anne-Marie Trahan. The dinner was held at the prestigious Mount Royal Club where a cocktail was held before. At dinner, a toast was offered on behalf of the ILA to our American guests, briefly explaining the objectives of the ILA and celebrating the friendship between Canada and the USA. Throughout the evening, several legal topics were discussed comparatively including (in no particular order) taxation, capital punishment, international trade laws and the international rule of law. Furthermore, a few recent cases were discussed (American and Canadian) and their possible future impact on legal interpretation. This was also quite interesting because the majority of the Canadian judges are rendering decisions in a civil law jurisdiction while the two American judges are working in a common law jurisdiction.

The Branch, which is centred in Montreal, has been putting together a group in Toronto and is looking into the same possibility in Vancouver and Ottawa. The Branch can be contacted through its e-mail address at: [ila@fieldbloom.com](mailto:ila@fieldbloom.com)

#### Branche française

Lors de la réunion de la Branche française de l'Association de Droit International du 25 juin 1998, Madame Gabrielle Marceau, juriste à la Division des Affaires juridiques à l'Organisation Mondiale du Commerce, a présenté une communication sur "Les Premiers enseignements des décisions rendues depuis l'entrée en vigueur des accord de l'OMC". Puis la Branche française a repris ses travaux le 3 février 1999 avec une présentation de "L'arbitrage dans le traité de l'Organisation pour l'harmonisation en Afrique du droit des affaires (OHADA)" par Monsieur René Bourdin, Avocat général honoraire et ancien Président de chambre à la Cour d'appel de Paris; ancien directeur des services juridiques et fiscaux de la Compagnie Générale d'Electricité. La prochaine réunion de la Branche française aura lieu le mercredi 14 avril 1999 à la Cour d'appel de Paris, au cours de laquelle Madame Hélène Ruiz-Fabri, Professeur à l'Université de Paris I, présentera une communication sur "L'oeuvre contentieuse de l'organe d'appel de l'Organisation Mondiale de Commerce". Enfin, l'Assemblée générale a, le 3 février dernier, élu Monsieur Dominique Hascher, Conseiller à la Cour d'appel de Paris, Secrétaire général de la Branche française, en remplacement de Madame Catherine Kessedjian, démissionnaire.

#### Indian Branch

On 9 May 1999 a one-day Seminar was held by the Indian Branch at which members of the ILA from all over India attended. The Seminar was held in the main auditorium of the India International Centre at New Delhi. In the morning the inaugural session took place. The seminar was inaugurated by the Honourable Dr Justice A S Anand, the Chief Justice of India and the President of the Indian Branch. The opening address was delivered by the Honourable Mr Justice Y K Sabharwal, the Chief Justice of the Bombay High Court. Mr Soli J Sorabjee, Attorney General for India, delivered the keynote address and Mr P H Parekh, Organising Secretary, gave the closing remarks.

Thereafter there were two working sessions. The first session was on International Commercial Arbitration, which was chaired by the Honourable Mr Justice B N Kirpal, a Judge of the Supreme Court of India. Mr Justice Kirpal is one of the longest serving members of the ILA. Two keynote addresses were delivered: one by Mr S K Dholakia, Sr Advocate and another by Mr Sameer Parekh, Advocate. Thereafter, there was inter-action with the audience and Mr Justice Kirpal summed up the discussion.

After the lunch break the second working session was on Legal Aspects of Sustainable Development which was chaired by the Honourable Mr Justice D P Wadhwa, a Judge of the Supreme Court of India who is also a member of the ILA. The two speakers were Mr K K Venugopal and Mr Dipanker Gupta. Mr Venugopal is the President of the Supreme Court Bar Association and Mr Dipanker Gupta is the former Solicitor General of India. There was again a discussion from the floor and it ended with a summing up by the Chair, the Honourable Mr Justice D P Wadhwa.

In the evening there was the Annual General Meeting in which members of the ILA from all over India participated. The members gave reports of their activities in their respective centres, particularly those from Calcutta, Chandigarh, Indore, Mumbai, Delhi and Patna. The election took place for the office bearers of the Indian Branch and the following persons were elected as the office bearers for the period of 3 years:

The Honourable Dr Justice A S Anand, Chief Justice of India, as the President  
Mr Soli J Sorabjee, Attorney General for India, as the Vice-President  
The Honourable Mr Justice Anil Dev Singh as the Hon. Secretary  
Mr P H Parekh, Advocate, as the Hon. Organising Secretary  
Mr B Sen, Senior Advocate, as the Treasurer.

#### Korean Branch

The Korean Branch held its annual meeting on 1 May 1999 in Seoul. Professor M K Kim stepped down as President and as a consequence members elected Professor Myong-Joon Roe as new President. The other officers are:

Hon President: Dr Thok-Kyo Kim  
Vice-President: Professor Young-Kil Park (Honorary Treasurer)  
Professor Byung-Sun Oh  
Professor Dae-Soon Kim  
Secretary-General: Professor Jae-Ho Park

Director of General Affairs: Professor Ki-Gab Park  
Director of Research: Professor Seung-Hwan Choi  
Director of Publication: Professor Jae-Ho Sung

During the meeting, Professor Ki-Gab Park spoke to members on "The Effects of Self-Executing Treaties" and discussion followed.

The Korean Branch's principal annual activities will be focused on two events: a seminar to be held in the autumn and the publication of the Korean Yearbook of International Law, No 3, at the end of the year.

#### New Zealand Branch

The Branch co-hosted a Seminar in Wellington on 9 December 1998 to mark the 50th Anniversary of the Universal Declaration of Human Rights. A paper was delivered by Dr Colin Aikman, a member of the 1948 New Zealand delegation. The New Zealand Branch also organised a Seminar in Wellington on 23 February 1999 at which the principal speaker was Dr Hans Blix, the Director-General of the International Atomic Energy Agency. Dr Blix spoke on "Nuclear Proliferation: Problems and Possibilities". The New Zealand Branch and the Australia and New Zealand Society of International Law are convening a joint conference at the Victoria University of Wellington from 8 to 10 July 1999. The conference, which is titled "Wealth, Security and Survival", will include sessions on: Order in a Changing World; International Economic Regulation; International Humanitarian Law; the Law of the Sea in the South Pacific and International Environmental Protection, in addition to review sessions.

The papers for "Recognising the Rights of Indigenous Peoples" Seminar held by the ILA in Wellington in August 1997 have now been edited by Alison Quentin-Baxter. They form a very interesting record of the New Zealand Branch's first major conference. Copies can be obtained from The Institute of Policy Studies, Victoria University of Wellington, PO Box 600, Wellington, NZ. The price is NZ \$ 29.00 (including GST).

Membership and other inquiries can be made to the Secretary of the New Zealand Branch at PO Box 2160, Wellington NZ, or by fax at +62 4 499 8992 or e-mail at [ilanewzealand@yahoo.com](mailto:ilanewzealand@yahoo.com).

#### Auckland Sub-Branch

The inauguration of the Auckland sub-Branch took place on 30 April 1998 with a brief drinks function followed by a very interesting talk by the president of the New Zealand Branch, Sir Geoffrey Palmer, on "Human Rights and the New

Zealand Government's Obligations". Nearly 70 persons attended the Seminar. The second evening seminar was held on 9 September 1998 when Rodger Haines spoke on the topic of International Law and Refugees in New Zealand. The third evening seminar was held on 28 October 1998 when Lyn Stevens QC gave a talk on "Towards a Permanent International Criminal Court". In addition, the Auckland sub-branch, together with the Faculty of Law of the Auckland University, hosted Professor James Crawford, the former Director of Studies of the Association, at a morning meeting on 7 November 1998.

The Auckland sub-branch plans to hold four evening seminars on assorted topics of international law in 1999. The first seminar was presented on 24 March 1999 by Terasa Dunworth, Lecturer at Auckland Law School, on "Arms Control: The Changing Face of International Law". The second seminar will be on the topic of "International Commercial Arbitration" and the third seminar will be presented by Paul Hunt on "Economic and Social Rights". The members of the sub-branch have also worked on issues raised by the Cultural Heritage Committee of the ILA. A draft paper has been prepared on "Returns to Indigenous Peoples" as part of a blueprint project to define the issues of Cultural Heritage Law for the 21st Century.

#### Pakistan Branch

Mr Naiyyar Peshimam is the new President of the Pakistan Branch. He has taken over from Mr Musheer due to ill health.

The Pakistan Branch is organising a series of Seminars in Karachi on important issues of concern to international law and its development. Mr Naiyyar Peshimam and Mr Walid Ansari recently attended a workshop on Refugees and Internally Displaced Persons organised jointly by the Department of International Relations, University of Karachi and the Hans Seidel Foundation of Germany.

Other joint workshops are planned.

#### Polish Branch

The Polish Branch of the ILA organised on May 28 1999 a discussion on the subject of "The Kosovo Situation - International Law Aspects". The discussion was preceded by a panel discussion in which Prof. Renata Sonnenfeld, Prof. Jerzy Menkes and Dr. Elzbieta Mikos-Skuza participated. The participants presented their points of view on the "Kosovo Case" based on their legal analysis of the situation. The opinions so presented encouraged others to participate in the discussion. This indicated a profound interest of international law specialists in the new phenomenon/process and a lack of clear legal evaluation of the events.

A further report will be published in the next issue.

## **REPRESENTATION AT CONFERENCES**

#### The Hague Conference on Private International Law

The ILA was represented at the Special Commission held on 7 to 18 June 1999 to consider a Convention on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters by Mr Sam Baumgartner of the Swiss Branch and a member of the Committee on International Civil and Commercial Litigation. This continues the practice of members of the Committee on International Litigation in Civil and Commercial Matters attending as observers on behalf of the Association at the meetings of the Special Commission. The Commission has commenced the drafting of individual articles of the Convention on such important aspects as: substantive scope of the Convention, general jurisdiction, specific jurisdictions in relation to claims in contract, tort and in respect of branch activities, express and tacit prorogation, prohibited (exorbitant) jurisdictions, recognition of judgements (including the problems of non-compensatory and excessive damages), *lis alibi pendens* and whether a court may decline the jurisdiction conferred upon it by the Convention. It hopes to complete its task of drafting the Convention at its next meeting in October 1999. It is expected that the ILA will continue to be represented at that important meeting as well as the Diplomatic Conference planned for October 2000.

#### THE UNISPACE III CONFERENCE (Vienna , July 1999)

Professor Maureen Williams (Rapporteur of the ILA Space Law Committee) writes:

For the third time since the dawn of the space age Vienna was the venue of a United Nations Conference on the exploration and peaceful uses of Outer Space. UNISPACE III was held from 19 - 30 July 1999. Its mandate was to deal with a number of topics of first priority, *inter alia*, the protection of the space environment, communications, dispute settlement, peace and security. Particular emphasis was given to the commercial implications of space activities, a growing reality in today's world. The stage of mere exploration is over and we are now in a phase of true exploitation.

Whereas the two previous UNISPACE Conferences (1968 and 1982) strongly emphasised international co-operation, leading to initiatives such as the United Nations Programme on Space Applications, UNISPACE III, in a new international context, showed fundamental differences. One of its outstanding features was the role given to space industry.

Frequent reference was made to the 1992 UN Rio Summit and to the UNISPACE III PREP CONFERENCE for Latin America and the Caribbean, held in Concepcion (Chile) in October 1998. At the latter a clear trend to encourage private activities in space and the need for effective mechanisms on dispute settlement were made evident (see ILA Newsletter No. 11).

The present writer had the privilege of acting as rapporteur and co-ordinator for the legal session "Maintaining the Space Environment", within the framework of the workshop on SPACE LAW IN THE XXI CENTURY. This session was Chaired by Ambassador Quizhi He. The Chairman of the ILA Space Law Committee, Professor Karl-Heinz Boeckstiegel, was a commentator on the discussion paper submitted by one of the scientific consultants to the above-mentioned ILA Committee, Professor Lubos Perek. This paper focused on the environmental aspects of space exploration and use. At this session, the ILA work was widely quoted and special accent was put on the International Instrument on Damage Caused by Space Debris, adopted at the 66<sup>th</sup> Conference of our Association (Buenos Aires, 1994). Of particular interest was, similarly, the question of dispute settlement related to space activities, a topic which the ILA has dealt with in recent years (1996 Helsinki Report of the Space Law Committee and the Revised Text of a Draft Convention on Dispute Settlement related to Space Activities adopted at the ILA 68<sup>th</sup> Conference). This was an issue common to the different sessions of the Space Law Workshop, especially having in mind the growing commercialisation of activities in space.

Professor Boeckstiegel chaired the session on "Possible International Regulatory Frameworks, including Legal Conflict Resolution in Expanding Space Commercialisation". The author of the discussion paper for the session, which originated a stimulating exchange of views, was Professor Peter Malanczuk.

Professor Vladimir Kopal took an active part in the Plenary Sessions of the Conference and in the Space Law Workshop in his present capacity as Chairman of the UN Legal Subcommittee on the Peaceful Uses of Outer Space (COPUOS) and Professor Frans von der Dunk acted as rapporteur of the session "Expanding Global Launch Services".

We take pride in the fact that the above-mentioned international lawyers, active participants in UNISPACE III, are members of the ILA, most of them belonging to its Space Law Committee as well.

The workshop on Space Law submitted its Final Report to UNISPACE III, where various outstanding points in the legal field were recommended, including

- questions concerning responsibility, liability and jurisdiction
- the relationship between privatisation of space activities and public services
- the question of intellectual property in these new fields and transfer of technology
- the protection of investors' rights in space
- nationality of spacecraft (which would go a long way in solving problems of jurisdiction) and, as described previously
- the protection of the earth and space environment from damage caused by space activities

The Director of the United Nations Office for Outer Space Affairs, Dr. Nandasiri Jasentuliyana, also a distinguished member of the ILA Space Law Committee, was the Executive Director of UNISPACE III. This expert played a major role in the achievement of the main objectives of the Conference which were to identify areas and actions through which the use of Outer Space could help to solve problems of regional and global significance.

#### **WORKSHOP ON COMPENSATION ISSUES AS PART OF A COMPREHENSIVE SOLUTION TO THE PALESTINIAN REFUGEE PROBLEM**

Luke T. Lee, Chairman, Committee on Internally Displaced Persons, writes:

A workshop on the Issue of Compensation for Palestinian Refugees was held in Ottawa on July 14 and 15, 1999, under the joint sponsorship of the International Development Research Centre of Canada and the Palestinian Refugee Research Network. It was a follow-up to the December 1997 Stocktaking Conference on Palestinian Refugee Research, which noted the need to look at the compensation issue from a broader context by examining relevant comparative models. The first day of the workshop was devoted to compensation principles, models and resource availability; the second day, options for implementation. The participants were divided equally among Israeli, Palestinian and third-country nationals, with observers from Canada, Norway, the United Kingdom, the U.S., the European Commission and UNRWA.. Such diversity no doubt contributed to a comprehensive, balanced approach, which characterised the entire proceedings.

Specific topics examined included: the case for compensation under international and domestic law; counting Palestinian claims (definition of claims, methods of valuation and documentation); funding the resources (previous experiences, sources, relationship between refugee compensation and other "peace process" sources); adjudicating claims and distributing compensation (national legislation, binational commissions, international commissions), and political constraints and solutions.

In considering the question of who should be entitled to claim compensation, many participants agreed with the view that internally displaced persons (IDPs), in addition to refugees (under the UNHCR definition), should be so entitled. It was pointed out that 25 percent of Palestinians in Israel, who are Israeli citizens, are in fact IDPs. The importance of the gender dimension was also brought up: How to prevent the traditional Islamic discrimination against women from interfering in the equitable distribution of compensation based on the equality of the sexes? Also discussed was the role

of UNRWA and its possible successor. Given its more than 50 years of administrative experience, with its dedicated staff and proven expertise, should not UNRWA play a key role in administering the compensation issue? In opposition, however, was the view that this would be objected to by Israel and certain donors. The possibility of the UN High Commissioner for Human Rights replacing UNRWA, supported by functional UN agencies in such fields as education and training (UNESCO), health (WHO), food and nutrition (WFP and FAO) and development (UNDP), was also explored.

Looking into the future, the workshop considered the undertaking of case studies relating to the UN administration of compensation funds, as possible precedents for the compensation of Palestinian displaced persons. One such study would examine the operation of the First UNHCR Indemnification Fund, established on 5 October 1960 for the benefit of refugees who had suffered under the National Socialist regime by reason of their nationality. As of 31 March 1975, over 16,000 persons had benefited from such funds, totalling some \$16.5 million. The second study would pertain to the UNHCR's administration of compensation to some 55,000 British citizens of South Asian origin who were resident in Uganda, but were expelled by Idi Amin.

Of particular interest to the workshop were the models of compensation given to Japanese-Americans and Japanese-Canadians for their expulsion during World War II from the west coasts of the U.S. and Canada. The compensation was limited to around \$20,000 per capita for each survivor. Such lump-sum payment to only survivors has the advantages of simplicity of administration and economy by removing such factors as physical and mental pain, lost education and job opportunities, etc., whose valuations are, in any event, difficult to determine. The participants were particularly attracted to a feature in the Japanese-Canadian scheme: the establishment of funds to promote community development and improvement of race relations.

As for resources needed for the compensation issue, optimism was expressed by some participants that savings resulting from the reduction of military expenditures after the peace process could now be devoted to compensation purposes. Others, however, pointed out that notwithstanding the peace agreement and diplomatic recognition between Egypt and Israel, for example, no such reduction had taken place. There is general agreement, however, that in setting the resolution of Arab-Palestinian-Israeli conflict as a goal, money is bound to be found available for making this goal possible. Realism dictates also that compensation could be possible only if it forms part of a package deal. A suggestion was made in one of the participants' papers that compensation for Palestinians displaced by Israel be offset by compensation for Jews expelled from Arab countries to the extent possible, with the difference to be paid from a UN trust fund, which would receive voluntary contributions and administer the compensation issue. This was opposed by some who viewed that the two expulsions were different and should be treated separately. It was pointed out, for example, that no claim was submitted to Egypt for Jews expelled by it even after peace and diplomatic relations have been established.

As a final observation, by far the most important accomplishment of the Workshop lies in the fact that Palestinian and Israeli scholars and officials (including a high PLO official and a (retired) Israeli general) were able to spend two days together discussing in a frankest possible way problems of mutual concern. This augurs well for the future of Palestinian-Israeli relationship. The Canadian Government is to be commended for its initiative and financial and administrative support that made the Workshop possible.

### **The 43<sup>rd</sup> meeting of the Marine Environment Protection Committee (MEPC)**

The ILA was represented as an observer with consultative status at the 43rd meeting of the Marine Environment Protection Committee (MEPC) of the International Maritime Organisation (IMO) held in London at IMO headquarters from 28 June - 2 July 1999 by Philomene A. Verlaan, Adj. Professor of Ocean Policy, University of Hawaii (US & UK Branches; p.verlaan@ic.ac.uk) and Tania Wasserstein (Brazil Branch (twassers@aol.com)). MEPC 43 was attended by delegations from 74 countries, representatives from 2 associate members, the UN (Law of the Sea Office), 6 UN specialised agencies, and observers from 9 intergovernmental and 37 non-governmental organisations. IMO is one of the few organisations in the UN system allowing for a broader NGO participation (excluding voting rights) in all its meetings including working and drafting groups. NGOs are allowed to have seats in the plenary with nameplates, to make oral interventions and written submissions. The participation of two ILA representatives was very useful as both could attend different working groups that met simultaneously. It is usually in working and drafting groups that ILA is able to be most helpful to MEPC's work.

In his welcoming address, IMO's Secretary-General noted that IMO will apply the precautionary principle widely and the focus of its work must shift from developing new regulations to implementing those already extant. Even so, IMO continues to promulgate new international law, as follows:

1. A diplomatic conference to adopt the proposed Protocol on Preparedness, Response and Cooperation to (sic) Pollution Incidents by Hazardous and Noxious Substances will be held 13-15 March 2000, at IMO headquarters, London. A draft text is available.

2. A diplomatic conference to adopt a global, legally binding instrument on anti-fouling systems will be requested for 2001. The form of the instrument, i.e., free-standing or as an annex to MARPOL 73/78, remains undecided. If the conference is successful, the application will be prohibited of organotin compounds which act as biocides in anti-fouling systems on ships by 1 January 2003 and the presence will be prohibited of organotin compounds which act as biocides in anti-fouling systems on ships by 1 January 2008. A Working Group met throughout the week to develop the draft instrument and will continue at MEPC 44; P. Verlaan represented ILA.

3. Another Working Group continued drafting a global, legally binding instrument to control harmful aquatic organisms and pathogens in ballast water and sediments discharged from ships into the marine environment; its form, i.e., free-standing or as an annex to MARPOL 73/78, remains undecided, as do other key issues, e.g., the establishment of Ballast Water Management Areas. Some delegations and the shipping industry expressed concern that the delay in adopting a convention would allow countries to adopt unilateral measures. Work will continue at MEPC 44; the instrument is hoped to be ready for a diplomatic conference in the 2002-2004 biennium. T. Wasserstein represented ILA.

4. A draft text of the revision of Annex IV (sewage) of MARPOL 73/78 to promote its entry into force will be considered by MEPC 44. The text is being reviewed to take into account responses received from an IMO questionnaire sent to member governments.

5. A proposed clarification of Annex V (garbage) of MARPOL 73/78 regarding categories of operational wastes will be further discussed at MEPC 44 after further information has been received from member governments.

6. New procedures for the identification of Particularly Sensitive Sea Areas (PSSAs) and amendments to the Guidelines were approved with a view to their adoption by the 21st IMO Assembly.

7. After lengthy debate in plenary as to whether IMO should deal with the issue of ship scrapping/recycling, and if so, what aspect(s), MPC 43 agreed to revisit this topic at MEPC 44; further information to inform the discussion was requested from delegations and observers.

MEPC 44 will be held in London at IMO headquarters, March 6-10, 2000.

## **PERSONALIA**

### **IN MEMORIAM**

The Council noted with deep sorrow the passing of:

- Mr Dies Clavero, Secretary of the Spanish Branch of the Association, who died on 16 October 1998.
- Judge E J Manner of the Finnish Branch, an expert on Water Law.

Mr A.K.H. Morshed of the Bangladesh Branch of the ILA and a Member of the Water Resources Committee has written:

I was deeply saddened by the unexpected news of the death of Al Utton in the January 1999 number of the Newsletter. I was privileged to serve with him on the Water Resources Committee. He was very generous in sharing his vast knowledge and expertise in international water law. For the last few years I was on the mailing list of the Bulletin of the International Transboundary Resources Center (ITRC) a very useful source material. In addition he shared with me some of his remarkable papers on water law based on the extensive practice in the Western States of the US as well as international practice. He familiarised us with concepts such as "instream appropriation" and the integrity of watercourses. Al Utton was at ease in both the traditional water law and in the newer environmental law. It was a privilege to have known him and worked with him. We shall miss him greatly and his place can never be filled.

## **NOTE TO CONTRIBUTORS**

Contributions from individual members and Branches are greatly welcomed. They may be submitted in either of the two official languages of the Association: French and English. The next issue is planned for January 2000 and the deadline for contributions to that issue is 1 December 1999. Any contributions and letters should be addressed to the Editor and sent where possible by email to Juliet Fussell at Headquarters, email: info@ila-hq.org.

The Newsletter will gladly accept advertising and we urge all members to assist us in finding suitable advertisers. Rates can be obtained from Juliet Fussell. We will also be glad to publish announcements by Branches about forthcoming events and seminars. However, the onus lies clearly on Branches to supply us with the necessary material.

## CONTACT INFORMATION

The Newsletter is distributed to all members whose names and current addresses are held by Headquarters. Regrettably, many are returned to Headquarters as the address details are incorrect. Please may we take this opportunity to ask you to complete the form below and return it to HQ to ensure the information we have is correct. In particular, please notify us of your email addresses and fax numbers wherever possible.

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# The 1899 Hague Peace Conference: *'The Parliament of Man, the Federation of the World'*

by **Arthur Eyffinger**; Foreword by, **Pieter H. Kooijmans**, photography by **Bert and Lilian Mellink**

'The Dawn of a New Era', as some rejoiced, 'a printer's error in the history of mankind', as others loathed. From the day Czar Nicholas' Peace Rescript surprised a divided world, the First Hague Peace Conference has evoked irreconcilable responses. A predictable failure in the disarmament debate, a distinct leap ahead in curbing the Moloch of War, its lasting repute is linked to its brainchild, the Permanent Court of Arbitration, the cradle of The Hague's present claim as self-imposed Juridical Capital of the World. By all accounts, this 'First Parliament of Man' opened the door to the International Era and man's ultimate dream, 'The Federation of the World'.

*The 1899 Hague Peace Conference* pays tribute to this historical assembly. It deals comprehensively with the genesis, proceedings, and outcome of this first diplomatic encounter of its kind, in the political heart and royal residence of a small, yet ambitious nation. It details the substance matter of the Conference, to put a check on the armaments spiral, to restrain the evils and control the customs of war, and to provide for the peaceful settlement of disputes. Enlarging on the intense debate in committees large and small, the publication likewise echoes the splendour of the ceremonial sittings of the Plenary, that 'New Areopagus' gathered in the House in the Wood, itself the glorification of the Peace of Westphalia, its exotic drawing rooms and celebrated canvasses the pinnacle of arts and crafts of the Dutch Golden Age.

On top of this, the work colourfully portrays to a man the full hundred delegates, politicians, diplomats, jurists, and military men, luminaries of the day most of them, and highlights some of their astounding addresses. It introduces the world of pacifists, led by Bloch, Stead, and Von Suttner, who gravitated in great numbers to the hotels of repute at the luxury seashore resort. In a wealth of anecdotes distilled from diaries, memoirs and magazines, this jubilee book pictures in gorgeous detail the splendid social entourage of royal receptions, public dinners and cultural excursions. Lavishly illustrated with scores of ravishing pictures it sketches The Hague of the Belle Epoque, the world of Mesdag and Couperus. Based on primary sources and in-depth research, this commemorative publication is an essentially multi-disciplined approach to a pivotal diplomatic venue, a sweeping legal debate, and a breath-taking social event.

Preface. I. Social Backgrounds. II. The Genesis of the Idea. III. Invitation Policy. IV. Organization of the Conference. V. The Work Within the Commissions. VI. Social Entourage. VII. Conclusions. VIII. Contemporary Appraisal. IX. Effects of the Conference. X. Evaluation of the Conference. Indexes.

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735