

ILA NEWSLETTER ADI - ACTUALITES

International Law Association

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EDITORIAL

In this Editorial I want to welcome the new ILA Journal. It will appear under the title of **International Law Forum du droit international**, to be published quarterly starting September 1998. It will be published in conjunction with Kluwer Law International who have also supported the publication of the Newsletter. Professor Catherine Kessedjian, Secretary of the French Branch, has been appointed Chair of the Editorial Committee whose other members are: Ms C. Cissé, Ms E. Heij, Ms F. Meadows, Mr P. Nygh and Ms B. Shifman. They will serve for a term of four years. More detailed information about the **Forum** appears later in this Newsletter.

It was originally intended that the material now appearing in the Newsletter would be published as a News and Information Section of the new journal. However, the Executive Council in approving the initiative for the new journal also expressed the wish that the Newsletter should continue to be available free of charge to members. Obviously, this raises some logistical and financial issues which need to be resolved. I hope to be able to clarify in the next Newsletter what those members who wish to continue to receive the Newsletter as a separate publication should do to ensure that they receive it. I should also be able to announce the subscription rates for the new Journal and where it and the Newsletter can be found on the Internet.

One of the problems of the Editor has always been to collect sufficient copy. I am pleased that in this issue I have reports from a number of Committees and Branches about their activities in the past year. I would also like to place on record my appreciation of the hard work done by the Secretary of the ILA, Mrs Barbara Osorio. Not only does she singlehandedly look after the logistics of printing and distribution of the Newsletter, but without her assistance in collecting copy for this publication it would not have appeared.

Peter Nygh
Editor/Redacteur

ILA and the INTERNET

The Headquarters' Secretariat is pleased to announce the establishment of the new ILA Website located at:

<http://www.ila-hq.org>

Over the next few months, the Executive Council will be considering ways in which to promote the Association and its work on the Internet. Branch Representatives and Committee Officers are especially encouraged to offer their suggestions for further development of the Website.

Contacting the ILA by Email

The Headquarters' Secretariat can now be reached by email at:

secretariat@ila-hq.org

International Law Forum du droit international

The Journal will be called International Law Forum / Forum du droit international. Its title will be written as presented above. The initial Editorial Board as appointed by the Executive Council consists of (in alphabetical order): Catherine Cissé (Tribunal for ex-Yugoslavia and Rwanda), Ellen Heij (Erasmus University), Catherine Kessedjian (Hague Conference on Private International Law), Frances Meadows (International Court of Justice), Peter Nygh (President of the Australian Branch of the ILA) and Bette Shifman (Permanent Court of Arbitration). Catherine Kessedjian will serve as the editor-in-chief. Members of the Board are appointed by the Executive Council of the ILA for a period of four years. There will be a part-time editorial secretary, in charge of the practical aspects of the journal, to be provided by the publishers.

The Forum will be bilingual in English and French. Authors can choose between those two languages. Apart from the main titles and of the different headings there will be no translation. The Forum will be truly international. It will cover subjects dealing with all aspects of international law (public and private, but also international relations). The Editorial Board will favour subjects which invite a multidisciplinary approach. The Board will have independence in selecting topics and contributors. It will be made clear

that the views expressed in the Forum are those of the individual authors and are not to be taken as representing the views of the Editorial Board or of the ILA. The journal will be published four times a year: March - June - September - December. Because of the lead time required, the first issue in print cannot be published before September 1998. However, the members of the Editorial Board who will be present in Taipei in May 1998 will introduce the concept of the Forum there to the members of the ILA.

Tentatively, the Forum will have the following divisions:

(a) Editorial. This will be signed by the Editorial Board at first. From time to time an invited Editor, responsible for a particular issue, will sign that issue's editorial.

(b) Current Events (or similar title). This division will try to stay as close as possible to current events at the time of preparation, such as a court decision or new legislation or an action taken by a State or other entity which has an impact on international relations and poses questions in the law. A factual presentation (in objective terms) will begin the division. It will be followed by several short articles taking different positions. A follow-up could appear in another issue of the journal either in the same division or a different one depending on the Editorial Board decision. For each issue a different person, either a member of the Editorial Board or a person chosen by the Board, will be in charge of preparing the material for this division.

(c) Recurrent Issues. This division will allow discussion in greater depth of topics which have been presented under the Current Events heading in a previous issue. The same principles will apply in this division as regards balancing different opinions. Sometimes this division could be used as a forum for the discussion of topics under preparation by one of the ILA International Committees.

(d) Work in Progress. This division will present dissertations, books, group studies and the like, in progress. For example, authors will be able to discuss their future book or article and, perhaps, call for assistance in gathering information. It could be used by Committees to present their on-going research. We will favour subjects which are "transversal". The idea is also that the column should trigger cross fertilization of work throughout the world. Persons or groups working at the same time on the same or similar topics could find a way here to connect and enhance each other's thinking.

(e) Profile. We will interview prominent persons and persons we think deserve to be better known. The interview could deal with the profile of someone else than the person interviewed (specifically about persons who have recently died).

(f) Conference Scene. This column will contain ideas gained, insights received and lessons learned from recent conferences. It will not be a mere announcement column. A person, either a member of our Board or someone else who attended, will be asked to write a short "thought-oriented" piece. There will not be a systematic "review" of all conferences. The conferences chosen could be sponsored by the ILA or organised by ILA Branches, but they will not automatically be chosen.

(g) The Bookshelves of Instead of the traditional book review we will ask persons to explain which book had the most impact on their thinking in the past or which are the two or three books which they have used most frequently since the beginning of their career.

(g) Newsletter. This will be the continuation of the existing ILA Newsletter.

In general, the principles which will guide the Editorial Board are as follows:

- Maintain complete independence from any institution, current, school, orientation and the like;
- Constantly favour discussion and present all possible positions on the same subject;
- Be thought provocative;
- Provide a platform to persons who are not usually heard (young scholars or practitioners, persons living and working in developing countries, for example);
- Favour topics which can be approached "transversally", i. e. from the point of view of public and private international law, but also economic law, philosophy of law, legal sociology and history etc.

Finally, while the Forum aims to publish seriously documented and reasoned pieces, its aim is not to publish traditional law review articles which tend to include long and sophisticated footnotes as well as comprehensive background information. References to further reading providing such footnotes and background may be included with the pieces published in the Forum.

ILA CONFERENCES

68th Conference of the ILA, May 1998

This Conference will be held on May 24 - 30, 1998 in Taipei, Taiwan. Planning is already much advanced. The registration fee, if paid before 31 March 1998, will be USD 400 for members and USD 200 for accompanying persons. After that date the fee for members will rise to USD 500 and accompanying persons USD 250. Non-members will have to pay USD 600 and accompanying persons USD 300. Persons wishing to attend should contact Professor Hungdah Chiu or Dr. Chun-i Chen at the addresses given in the last notice.

As regards the working programme, it is proposed to have two time slots in the morning with only two parallel sessions of Committees in each. This will allow participants to attend more sessions of their choice. There will also be three Workshops on the following topics:

1. A plenary session on Current International Law Issues in East Asia
2. The Teaching of International Law
3. Trade-related Aspects of Intellectual Property Protection (in conjunction with the Asia - Pacific Legal Institute.

European Regional Conference 1997

The Chairman, Vice-Chairman Mauleverer, the Secretary-General, the Director of Studies and the Secretary attended the Regional Conference held in Moscow on 17 to 20 September 1997.

The meeting was very well organized by the Russian Branch headed by Professor Anatoly Kolodkin and was well attended. Some 260 participants came from Russia and other CIS countries and approximately 50 came from outside the area (from the United Kingdom, Germany, Belgium, Sweden, Israel, Argentina, Taiwan, Japan and the United States.).

Apart from the Opening and Closing Ceremonies and several memorable social events, papers were presented on a number of international law issues of particular interest in Russia. In addition there were sessions on arms control and disarmament law and on environmental law. At the Opening Ceremony the Chairman of the Executive Council, Lord Slynn of Hadley delivered the following address:

I should like to express to Professor Kolodkin and his colleagues of the Russian Branch the appreciation of the ILA and its Executive Council for their having planned and organised this conference in Moscow. We are very pleased to be here. All their effort and concern that the conference should go well will prove to have been worthwhile.

The conference says two things about the ILA - the growth in its activities, its vigour and its flexibility.

As to the growth of its activities, it is well to recall that since the ILA was founded in 1873 it has held conferences broadly every two years, 67 in all and they have been held in cities across the world, the last four in Finland, in Argentina, in Egypt and in Australia, the next in Taiwan, in London and I hope in India. Those conferences have brought together speakers of great distinction in the international world but they have focused largely on the works of its committees, often leading to important publications and draft conventions or sets of rules.

We have more recently, at their initiative, but in discussion with the Director of Studies and me, held three conferences in the years between these biennial conferences - one in Budapest, one in Taipei and now this important conference in Moscow which have already helped to stimulate the proposal for a conference in 1999 in Brazil. In addition, there have been conferences in Chile, the joint conferences in the Netherlands with the American Society of International Law and, as a crucial part of our work, an increase in the activities of many of the branches for their own members.

The vigour of the ILA is shown not just by the total number of participants (some 250) but by the number who have come from overseas to this first international conference of the ILA in Russia. There are some 50 people here from some 15 different countries in addition to those from former states in the Soviet Union and representatives of the Red Cross Committee in Moscow whom we are delighted to see here. This in turn mirrors the growth of the Association as a whole. We now have 50 branches in different states or regions with the admission of Estonia, Guatemala, Slovenia and the Pacific Islands Branch, with the New Zealand Branch becoming independent and Hong Kong having revived its activities by the establishment of a new branch. In addition we have a new branch in Yugoslavia. There will be more to come - new branches stimulated by the success of conferences like this one. And there will be more members, our membership now being up to 4300. I hope that because of this conference in Russia the membership of the Russian Branch will substantially increase. The number of names and addresses in our list of members, I hope, will reflect it.

Our flexibility is shown in two ways, by the range of professional interests of those who come and the topics we discuss. The Professors of International Law are the essential core of our membership and I have no doubt that they know more of the subject in depth than do the rest of us. But it is a salient feature and a strength of the ILA that our membership includes many lawyers in private practice who may only come up against public international law questions from time to time but who have a fundamental interest in the subject, many lawyers in Government Legal Services or officials in the Foreign Service and a not insignificant number of judges. That variety is reflected here today. In addition, it is the law students who I would like to see in the ILA in greater numbers.

But our flexibility shows above all in the subjects we discuss. Over the years, we have moved on from the York-Antwerp Rules on General Average first drafted in 1877 through the Hague Rules of 1921 to questions of importance current from time to time. I need only mention our drafts of Rules of International Law Applicable to International Terrorism, of an International Criminal Court, or Respect for Human Rights during States of Emergency to the Use of Waters of International Rivers. A glance through the titles of our Committees shows the emphasis on live topics - international monetary law, securities regulation, regional economic development and trade law. As to the environment, we have studied water resources, sustainable development, heritage law and coastal jurisdiction over maritime pollution. On the political level, there have been discussions of refugee procedures, international human rights law, arms control and disarmament, the extradition of displaced persons and state succession. The participation of Professor Kolodkin as President of the Maritime Law Association and of Professor Pokrovski, Director of the Maritime Law Institute of the distinguished Academy in St Petersburg indicate our interest in maritime law matters. In addition, I am very glad that Professor Julie Dahlitz has arranged an open meeting of her Committee during this conference.

The topics today reflect this variety and flexibility and many of the sessions raise questions of relevance to Russian people - the death penalty and human rights, terrorism and its control, pollution of the sea, the protection of coastlines by force of arms.

Yet we must remember our rule that we are here to consider principles and rules of law and not to comment on individual factual situations, however passionately people may feel about these at the time. It is not our role to defend or attack the position taken by governments in actual cases but to consider principles - to elucidate and advance international law, both public and private, to study comparative law (an increasing need) and to make proposals for the development and unification of the law. No one in any of the categories of lawyers I have mentioned can afford not to be a member of the ILA.

Russia in particular has had many eminent lawyers in the field of international law both at the International Court, at its International Law Institute which I have had the privilege of visiting, with a delegation from the European Court of Justice some 10 years ago, and more recently, and in its universities. We all greatly valued the presence for so many years at

our meetings of Professor Tunkin. Professor Kolodkin, on whom his mantle has fallen, has shown great energy as your new Presidency in attending meetings of the Executive Council and in proposing and organising this conference. We are glad to have Russia there at our meetings through his presence. We are grateful for all he and his colleagues have done particularly in regard to this conference which it is now my privilege to declare open.

Indian Seminar January 1998

The Indian Branch organised a very successful Seminar on International Trade Law held on 3 and 4 January 1998 in New Delhi and on 5 January in Bombay. More than 200 persons registered. The Seminar was opened on Saturday 3 January by His Excellency Mr K R Narayanan, the President of India. The Chairman of the Executive Council, Lord Slynn, also addressed the gathering which marks a very important contribution by the Indian Branch to the work of the ILA. Several of the judges of the Supreme Court of India and the High Courts attended. Leading members of the Indian Bar also participated. The Seminar followed the meeting of the Committee on International Civil and Commercial Litigation in New Delhi on 2 and 3 January and several distinguished members of that Committee participated in the Seminar as speakers.

The South American Regional Conference 1999

The Brazilian Branch is preparing the programme for this Conference which will be held in Sao Paulo, Brazil on 25 - 27 July 1999. It will cover three principal themes:

1. Mercosur
2. International Law and the Environment
3. Human Rights and Sustainable Development Law

The 69th Conference 2000

The 69th Conference will take place from either 24 July or 30 July 2000 in London. The British Branch has made reservations at the Barbican Centre.

NEWS FROM COMMITTEES

Diplomatic Protection of Persons and Property

The Chairman of this Committee, Professor Richard Bilder of the University of Wisconsin, would welcome nominations from Branches of additional members. At the last meeting of the Executive Council Professor Francisco Orrego Vicuna of the Chilean Branch was appointed as Co-rapporteur.

The establishment of the Committee was proposed by the Director of Studies and approved by the Executive Council in 1996. The importance of the topic is now even greater with the decision of the ILC in 1995 to resume work in the field. The following possible areas of work were suggested at the time:

- the extent of the specific obligation of States under modern international law with respect to the protection of foreign persons and property;
- the relation between these rules and the general law of human rights;
- the impact of bilateral and multilateral treaties for the protection of persons and property;
- the extent of changes in the procedural law applicable to the bringing of claims relating to the protection of persons and property.

Arms Control and Disarmament Law

This Committee sponsored a Workshop on The Early Identification of Arms Control Problems Concerning the CIS and the Adjoining Region which was open to all participants on 18 September 1997 as part of the Moscow Regional Conference.

Islamic law and International Law

This Committee was formally established at the Cairo Conference in 1992 but never became functional. Following efforts to activate the Committee, H. E. Judge Mohammed Bedjaoui of the ICJ has accepted appointment as Chairman with Professor Khadija Elmamad of Casablanca University and Dr Ameer Zemmal of Geneva as co-rapporteurs.

Committee on International Litigation in Civil and Commercial Matters

This Committee held a meeting in New Delhi on 2 and 3 January 1998 to discuss its latest project on Declining Jurisdiction. Since the project has not been completed, the Committee will not be reporting at the Taiwan Conference. It is expected that a Report on Principles to be followed in relation to Parallel Litigation will be completed at the meeting of the Committee in Leuven, Belgium in November 1998.

Committee on Cultural Heritage Law

THE BUENOS AIRES DRAFT CONVENTION ON PROTECTION OF THE UNDERWATER CULTURAL HERITAGE: RECENT DEVELOPEMNTS

Patrick J. O'KEEFE
Committee Chairman

The 66th Conference of the International Law Association adopted the Buenos Aires Draft Convention on the Protection of the Underwater Cultural Heritage. The Conference further resolved that the draft convention be forwarded to UNESCO for consideration and, in reliance on the ILA's observer status with the organization, this was done late in 1994.

In 1995 the Director-General of UNESCO Secretariat presented to the organization's Executive Board a feasibility study for the drafting of a new instrument for the protection of the underwater cultural heritage. The ILA Draft was referred to extensively and the document stated that the Secretariat believed the Draft "is a useful basis for the development of a UNESCO instrument on the subject". Having considered the study, the Executive Board decided that States needed to further examine the implications of the jurisdictional aspects. The views of States were sought and put before the General Conference in late 1995. The Conference reacted favourably to the proposal for a convention but decided that more discussion was needed. In accordance with its wishes, a meeting of experts representing expertise in archaeology, salvage and jurisdictional regimes was held in Paris, 22-24 May 1996. The Buenos Aires Draft Convention was a focal point for discussions at this meeting and it was clear that those present considered the Draft should be used as a basis for the UNESCO instrument. The views of the May meeting were sent to all Member States of UNESCO and to those with observer status – the United Kingdom and the United States of America.

The UNESCO Executive Board, having examined the feasibility study, the report of the May meeting of experts and the comments of States on that report, recommended at its session in May 1997 that the General Conference request the Director-General of UNESCO to prepare a draft convention. The General Conference on 12 November 1997 adopted Resolution 29C/6.3 to the effect that "the protection of the underwater cultural heritage should be regulated at the international level and that the method adopted should be an international convention". The Director-General was invited to prepare a first draft convention; circulate this to States for comments and observations and then convene a group of governmental experts "representing all regions together with representatives of the competent international organizations in order to consider this draft convention for submission to the General Conference at its thirtieth session" in 1999. This process will begin in 1998.

While the above activities were taking place in UNESCO, the Buenos Aires Draft was considered in other venues. Most notable of these were two meetings – in February 1995 and January 1996 – organized by the National Maritime Museum, Greenwich, England. The first was held at the museum and the second at the headquarters of the International Maritime Organization, London. The meetings came at a time when the Museum was engaged in controversy over its exhibition of material from RMS Titanic. Provisions of the Buenos Aires Draft were discussed at length during both meetings. A number of papers from these meetings – including one on the Buenos Aires Draft – were published in (1996) 20 *Marine Policy: The International Journal of Ocean Affairs* – in a special issue devoted to protection of the underwater cultural heritage. The Draft has been reproduced and discussed in Anastasia Strati *The Protection of the Underwater Cultural Heritage: An Emerging Objective of the Contemporary Law of the Sea* (Martinus Nijhoff Publishers, The Hague, 1995). An article has appeared in the *International Journal of Nautical Archaeology* and there will be a chapter discussing the Draft in a book edited by Dr. Dromgoole to be produced by Kluwer International in 1998. The Draft has attracted considerable discussion on the INTERNET – some hostile and not all of it well informed.

From the comments of States and discussions at the various meetings and in publications, it is clear that there is a need for an international convention on protection of the underwater cultural heritage. Moreover, the basis for jurisdiction in the Buenos Aires Draft over activities affecting the heritage on the deep seabed or continental shelf where there is no special zone of protection – namely: port State; nationality, this applying to both persons and ships; and coastal State – has enjoyed wide acceptance. The operational basis of the Draft - prohibition of activities on an important site which do not accord with agreed archaeological standards and seizure of material which has been excavated contrary to those standards - has also been endorsed.

In negotiations for the UNESCO Convention, the two most controversial features of the Buenos Aires Draft are, firstly, the option allowed each State party to declare a cultural heritage zone up to the outer limit of its continental shelf and, secondly, the exclusion of salvage law from application to underwater cultural heritage. Officials of both the United Kingdom and the United States of America in particular appear to be adamantly opposed to the first and do not seem happy with the last.

Cultural heritage zone

The concept of the cultural heritage zone is based on the notion that the coastal State is probably the best placed to control activities detrimental to the cultural heritage on its adjacent continental shelf. This will obviously not always be the case but the coastal State is certainly the one with the most immediate possibility of exerting control. There was some debate on this at the negotiations for the United Nations Convention on the Law of the Sea 1992. Under Article 303, States can presume that the removal of certain heritage material from their contiguous zones would result in infringements within their territorial sea. No State has implemented this provision in the form envisaged. Moreover, Article 303 is without prejudice to other international agreements.

Australia passed legislation protecting wrecks on its continental shelf in 1976 and a number of other States have done the same – for example, Ireland and Spain. There is implied recognition of the power to do so in the European Convention on Protection of the Archaeological Heritage (Revised) 1992. It may be possible to consider new powers for coastal States in existing zones rather than creating a new one. The United States of America has legislation enabling the creation of marine sanctuaries on its continental shelf and this has been used to protect the remains of the USS Monitor lying 16 miles off the coast of North Carolina. It is impossible to predict how this issue will be resolved in the coming negotiations. If the concept of the cultural heritage zone as envisaged in the Buenos Aires Draft is not supported, a compromise may be to allow States to create sanctuaries similar to those under the United States legislation.

Salvage

Salvage is a commercial operation to rescue vessels in danger. One question is whether wrecks on the seabed are "in danger". Although circumstances may differ, a court in Ontario has recently cast doubts on this as a general proposition (*Her Majesty v. Mar-Dive 1997 American Maritime Cases 1000*). Moreover, much archaeological excavation involves material of no commercial value e.g. ships timbers. Excavating to archaeological standards in most cases will mean that there is no profit even if all the material remains were to be sold. Consequently, there is a temptation for profit seekers to extract commercially valuable material as fast as possible to the detriment of everything else. For these reasons, the Buenos Aires Draft specifically excludes salvage law from applying to underwater cultural heritage. Australia and the United States of America are two countries that currently have the same provision in their heritage laws.

Article 303 of the United Nations Convention on the Law of the Sea states that nothing in the article affects "the law of salvage". It does not prevent later conventions from modifying or excluding the law of salvage. It refers specifically to the operation of that Article and would appear to have been inserted as a safeguard in case of any derogation in that Article. This interpretation of Article 303(3) is consistent with the reservation allowed States in the International Convention on Salvage 1989; namely, that the Convention does not apply to maritime cultural property of prehistoric, archaeological or historic interest situated on the seabed.

By allowing such a reservation, the Salvage Convention specifically recognizes that the United Nations Convention on the Law of the Sea does not prevent exclusion of salvage law.

The system devised in the ILA Draft does not affect ownership – apart from defining the concept of abandonment. It is entirely directed at interference with cultural heritage and the quality of the work done in relation to activities affecting that heritage. If an excavator can prove that this work meets the standard appropriate to the site in question, then he or she will be allowed to proceed. If it does not, then, and only then, will the excavated material be seized and treated in accordance with the later provisions of the Convention.

Conclusion

The international community will devote considerable resources over the next couple of years to the drafting of an international convention on protection of the underwater cultural heritage. This is a unique heritage as each site is a “time capsule” representative of the moment of its deposit beneath the sea. As the work on RMS Titanic illustrates, it is now open to exploration at virtually any depth by those with the money and expertise. It is essential that it be correctly treated so that the maximum contribution to the history of humankind be extracted.

International Family Law

A new Committee has been established with a broad mandate covering a number of topics within this area. The first topic suggested is “international aspects of access by and to children in international situations”. Professor Jun Yokoyama of Hitotsubashi University, Tokyo has been appointed Chairman and Professor William Duncan of Dublin and the Hague Conference on Private International Law has been appointed Rapporteur.

Transnational Enforcement of Environmental Law

This Committee will consider all aspects of the transnational enforcement of environmental law (both national and international) through national legal systems. In particular the Committee’s mandate will include: jurisdiction of national courts with respect to transboundary environmental damage or risk; choice of law and forum shopping in environmental litigation; transboundary access to justice and public interest litigation in environmental cases; the use of national courts by foreign plaintiffs seeking redress against multinational companies.

Professor Alan Boyle has been appointed chairman of the Committee. One or two Rapporteurs remain to be nominated. Hopefully this can be done at the Taipei meeting of the Executive Council.

Suggestions for future Committees

The Director of Studies has received a number of suggestions for future committees:

1. International humanitarian law
2. Neutrality issues
3. International contracts
4. Law of the sea topic
5. International insolvency
6. Transboundary data transfer
7. Corruption in international transactions
8. Terrorism
9. Democratization
10. Religion and belief in international law
11. Genetic manipulation

This list and any other possible additions could be discussed at a meeting the Director of Studies hopes to convene during the Taiwan Conference of all Committee Chairs and Rapporteurs present which will discuss the general aspects of the functioning of ILA Committees and exchange ideas about the future work of the ILA, especially new Committees and Study Groups.

NEWS FROM BRANCHES

German Branch

The German Branch held its annual meeting on 6 June 1997. The meeting was well attended and was informed by the officers of the Branch about the results of the Helsinki Conference and about the technical details regarding the forthcoming Conference in Taipei. Members discussed and to a great extent approved Professor Soon’s Issues Paper. They also discussed the current committee structure and urged delegates to the Executive Council to propose a new committee on “Legal Aspects of New Technological Developments in the Fields of Communication” as well as on “International Fight against Crime”.

The scientific part of the annual meeting centered around two lectures delivered by branch members. Professor Schlosser (Munich) spoke about “Cornerstones of the New German Law on Arbitration” and Dr. Hobe (Kiel/Cologne) on “The International Legal Personality of Non-Governmental Organizations”. Both lectures set off a lively discussion.

Australian Branch

The Australian Branch has held a number of meetings in the second part of this year. On 8 May the newly formed Indigenous Peoples’ Committee held an inaugural meeting at which Professor Garth Nettheim spoke on “Native Title and International Law” and Dr Sarah Pritchard on “The Draft Declaration on the Rights of Indigenous People”. On 7 July the Branch co-hosted a lecture by H.E. Carlos Perez de Castillo, Vice-Minister of Foreign Affairs of Uruguay on the topic of “From GATT to WTO - Potential

Benefits to Australia and Other Agricultural Countries". On 31 July the International Trade Law Committee presented a Seminar on Aspects of International Trade Law at which the speakers were Professor Gillian White, formerly of the University of Manchester, and Professor David Flint. Topics of discussion were Dispute Resolution in the WTO and the EMU. On 11 September the Human Rights Committee sponsored a Seminar on Outlawing the "Dogs of War" to mark the decision by Australia to ratify the UN Mercenary Convention in the aftermath of the "Sandline Affair" in Papua New Guinea. The year ended with the Annual General Meeting on 17 December at which Dame Rosalyn Higgins of the ICJ was the guest speaker.

New Zealand Branch

The New Zealand Branch continues to be very active. It publishes a Newsletter and conducts monthly seminars in Wellington on topics of interest to international lawyers with both local and overseas speakers.. In August 1997 it sponsored a Seminar on the Draft Declaration on the Rights of Indigenous Peoples which was highly successful. It is hoped that the papers presented will be published in the Victoria University Law Review in both a regular version of the Review and as a separate publication. Another very successful Seminar on International Trade Law was held on 28 November 1997. In February 1998 the Branch will launch a sub-committee in Auckland in the last week of February 1998 which will focus on the issue of New Zealand's general compliance with human rights law. The Branch has resolved to admit student members.

Netherlands Branch

The oldest ILA Branch (established in 1910) held its Annual General Meeting on 7 November 1997 in The Hague at the Institute of Social Studies. Professor A.H.A. Soons stepped down as President, as a consequence of his appointment as Director of Studies of the ILA. Until a successor has been elected, Branch Treasurer Professor M.V. Polak will be Acting President of the Netherlands Branch.

During the meeting two reports were discussed on State liability for breaches of international law towards individuals. The reports were prepared by Dr T. Kamminga and Mr L.A.D. Keus. The reports were published in the series Mededelingen of the Netherlands Branch (Issue 115); a report of the discussions will be included in Issue 116 of the Mededelingen.

British Branch

On 24 and 25 April 1998 the British Branch will hold its Annual Spring Conference at Rhodes House Oxford with the theme: "The Role of Law in International Politics". The 1998 Spring Conference is an important part of the British Branch build-up to ILA 2000 in London. For this reason it includes more speakers than ever before, drawn from more countries and covering a greater number of areas of international law.

All of this is being done within the framework of the general aim of exploring the role of law in international politics. The conference thus seeks to capitalise on Oxford University's strength in the field of international relations and, in particular, on its strength at the interface between international relations and international law. Seven sessions and 18 speakers from a variety of backgrounds have been organised to explore various facets of this central theme.

The conference will begin with an introductory session on "The Importance of International Law". Chaired by Sir Franklin Berman, the Legal Adviser to the Foreign and Commonwealth Office, it features papers from Sir Arthur Watts, former Legal Adviser to that Office, Co-Editor of the 9th edition of Oppenheim's International Law and an active practitioner before the International Court of Justice and Professor Adam Roberts, Montague Burton Professor of International Relations, Oxford University, who is, among other things, a renowned expert on the laws of war.

The second session examines the question of "Normative Constraints and International Politics: What is Law and What is Not?" Professor Martti Koskeniemi of Helsinki University, Professor Friedrich Kratochwil of the Geschwister-Scholl-Institut for Political Science in Munich and Dr Philip Alott of Cambridge University will address this fundamental question, thus laying the theoretical base for a series of more substantive sessions. Professor Denis Galligan of the Centre for Socio-Legal Studies at Oxford University will chair this cross-cutting panel.

Under the chairmanship of Professor Alan Boyle of Edinburgh University, the third session explores "The Law and Politics of Transboundary Environmental Protection". Professor Eyal Benvenisti of the Hebrew University of Jerusalem and Professor Stephen Toope, Dean of the Law Faculty at McGill University, will present papers on this increasingly topical issue.

International economics are very much a meeting point of law and politics, as the fourth session recognises. Entitled "Regulating the International Economy: What Role for the State?", it features Professor Anne-Marie Slaughter of Harvard Law School, Professor Brigitte Stern of the University of Paris (I) and Dr Edward Kwakwa of the World Intellectual Property Organisation - all under the chairmanship of a leading practitioner of international law: Jeremy Carver of Clifford Chance, London.

The first day will end with a reception sponsored by the Centre for Socio-Legal Studies and a five-course dinner in the Hall of Keble College. Robin Cook, the British Secretary of State for Foreign and Commonwealth Affairs, has been invited to deliver the after dinner speech.

The second day begins with a session on "The United Nations Security Council: What are its Functions in the International Legal System?" This session includes papers from Professor Vera Gowlland-Debbas of the Graduate Studies of International Relations in Geneva, Dr Georg Nolte of the Max Planck Institute of International Law in Heidelberg and Marc Perrin de Brichambaut, Legal Adviser to the French Foreign Ministry. The session will be chaired by Professor Neil MacFarlane, who is the Lester B Pearson Professor of International Relations at Oxford University and an expert on the Security Council and humanitarian intervention.

Professor James Crawford, Whewell Professor of International Law at Cambridge University, will chair the next session on "Human Rights and the Politics of Representation: Is there a Role for International Law?" This session features Professor Christine Chinkin of the London School of Economics, Professor Benedict Kingsbury of New York University Law School and Professor Makua wa Mutua of the State University of New York, Buffalo. The speakers will explore the role of non-governmental organisations, indigenous peoples, and the developing world in international law and politics.

Lunch on the second day is sponsored by Oxford University Press. His Excellency, Dr L M Singhvi, the High Commissioner for India in London, has been invited to address the conference at this time.

The Conference's final session concerns "The Politics of Law Making: Are the Method and Character of Norm Creation Changing?". Under the chairmanship of Professor Bruno Simma of Munich University, Dr Andrew Hurrell of Oxford University and Dr Vaughan Lowe of Cambridge University will seek to draw the conference proceedings together and make certain predictions as to the future relationship between law and politics in international relations. A lengthy discussion period will follow this and other sessions.

Although the deadline for registration is 14 April 1998, it may be advisable to register early as attendance is limited to 150 persons. Conference programmes and booking forms are available from:

Dr Michael Byers
Jesus College, Oxford OX1 3DW
United Kingdom

Fax: +44 (0)1865 279 687
E-mail: michael.byers@Jesus.ox.ac.uk

The conference is organised in co-operation with the Centre for International Studies and the Centre for Socio-Legal Studies, Oxford University, with the support of the Foreign and Commonwealth Office and Oxford University Press. The British Branch is welcoming you to Oxford in April, as well as to London two years later!

Branche française

Durant l'année académique 1996 - 1997, la branche française s'est réunie trois fois sous la présidence de M. Gilbert Guillaume, Juge à la Cour internationale de Justice.

Au cours de la première réunion, en novembre 1996, M. le Professeur Emmanuel Gaillard a présenté sa démission du poste de Secrétaire général. Mme le Professeur Catherine Kessedjian a été élu pour assumer ces fonctions. M. Patrick Kinsch, Avocat au Luxembourg a présenté la résolution d'Helsinki, proposée par le Comité sur la procédure civile et commerciale, sur les mesures provisoires et conservatoires. Voici le résumé de cette communication:

La 67^e Conférence de l'ILA a adopté, le 17 août 1996, une série de Principes ayant trait aux mesures provisoires et conservatoires dans le contentieux privé international, élaborés par le Comité sur la procédure civile et commerciale internationale de l'ILA.

I. Pour ce qui est de la nature et des caractéristiques des mesures provisoires et conservatoires visées par les Principes, le texte adopte une définition, d'origine doctrinale, assez large. Les Principes visent toutefois, à titre principal, des "mesures de blocage des biens du défendeur sous la forme de fonds déposés sur un compte bancaire." Par ailleurs, la définition adoptée par les Principes est plus restrictive que la notion de "mesure provisoire" parfois proposée en droit français par référence aux larges pouvoirs reconnus, en procédure civile française, au juge des référés: les Principes excluent expressément le référé-provision (no 22) et, implicitement, le référé probatoire (dont il a été estimé qu'il relevait, plutôt que des mesures provisoires et conservatoires proprement dites, de l'administration des preuves).

En revanche, la définition adoptée par les Principes est indifférente à la nature technique de la mesure provisoire et conservatoire; pour ce qui est du blocage de fonds détenue en banque par le défendeur, il peut s'agir soit d'une mesure du type saisi-arrêt, dont le destinataire est le banquier tiers-saisi, soit d'une mesure du type Mareva injunction, dont le destinataire direct est le défendeur personnellement, la mesure n'affectant les banques, dépositaires de fonds appartenant au défendeur, qu'indirectement. L'idée de base retenue par les Principes est qu'il est possible de combiner l'existence des deux types de mesures provisoires, une interdiction de disposer de ses fonds pouvant être adressée au débiteur personnellement par le juge saisi du fond du litige (dans la mesure où sa loi procédurale lui donne ce pouvoir), et des saisies de biens spécifiques étant par ailleurs autorisées par les juridictions sur le territoire sur lequel ces biens sont localisés.

Certaines des caractéristiques que devrait avoir la mesure à adopter sont définies par les Principes; tout en relevant, d'un point de vue systématique, de la procédure civile plutôt que du droit international privé, il s'agit de règles de droit matériel prenant un relief particulier dans un contexte international caractérisé, par exemple, par l'utilisation abusive du "voile" de la personnalité morale d'entités juridiques séparées.

II. En ce qui concerne le régime des mesures provisoires et conservatoires que les Principes proposent de retenir, il repose sur la distinction fondamentale de la compétence centralisée du tribunal saisi du fond (habilité à adresser, au défendeur, des injonctions à portée extraterritoriale et visant à bloquer ses biens où qu'ils se trouvent) et la compétence décentralisée des autres tribunaux, habilités à ordonner des mesures de saisie sur les biens localisés sur le territoire de leur pays. D'ailleurs, compte tenu de la complexité des structures bancaires (succursales implantées dans différents pays), il n'est pas nécessairement aisé de distinguer, s'agissant d'une saisie-arrêt, territorialité et extraterritorialité de la mesure.

Enfin, les Principes esquissent un modèle de coordination des procédures (au fond ou tendant à l'octroi de mesures provisoires) pendantes devant différentes juridictions. Ce modèle se caractérise par le fait que l'initiative de sa mise en oeuvre appartient essentiellement aux parties. Des propositions allant plus loin, et faisant intervenir le dialogue direct entre les juridictions et l'assistance judiciaire internationale, ne sont pas exclues.

Lors de sa seconde réunion, la branche française a eu le privilège d'entendre un exposé incisif de Mme Brigitte Stern, Professeur à l'Université Paris I Panthéon-Sorbonne sur "Les lois Helms-Burton et d'Amato au regard du Droit international". Il est reproduit également ci-après le résumé de cette communication:

Dans un exposé vivant et provocateur, Mme le Professeur Brigitte Stern a passé au crible les lois Helms-Burton (Cuban Liberty and Democratic Solidarity (Libertad) Act) du 12 mars 1996 et d'Amato /Kennedy (Iran Libyan Sanctions Act) du 5 août 1996.

Pour l'oratrice, ces deux lois sont contestables tant par le fait qu'elles méconnaissent les règles internationales de répartition des compétences entre les Etats que parce qu'elles méconnaissent les règles matérielles coutumières du droit international. Avant d'étudier ces deux points, le contenu des deux lois discutées a été exposé.

I. Contenu, des lois Helms-Burton et d'Amato.

Ces deux lois ont en commun de prévoir des sanctions unilatérales par un Etat pour infléchir la politique d'une autre Etat. Elles sont donc votées dans un but politique, c'est-à-dire, en ce qui concerne Cuba, pour renverser le régime de Fidel Castro et établir un régime démocratique; en ce qui concerne l'Iran et la Libye, afin de priver ces Etats de l'argent du pétrole pour les empêcher de financer le terrorisme international et développer des armes de destruction massive. Pour la Libye, un but supplémentaire peut être trouvé dans la tentative de forcer ce pays à extraditer ses deux ressortissants accusés d'avoir participé à l'attentat de Lockerbie; tentative justifiée, aux yeux des Etats-Unis par les Résolutions du Conseil de sécurité des Nations Unies (No 731 du 21 janvier 1992, 748 du mars 1992 et 883 du 11 novembre 1993).

Pour atteindre leurs objectifs, les Etats-Unis posent des interdictions susceptibles de s'appliquer à n'importe qui dans le monde et assorties de sanctions. La loi Helms-Burton interdit de "trafiquer" avec des biens confisqués par le régime de Castro à Cuba (section 4-13). La loi d'Amato/Kennedy ne revient pas, quant à elle, sur les nationalisations passées mais interdit tout investissement futur de plus de 40 millions de dollars par an pour le développement du secteur pétrolier et gazier en Iran et en Libye à n'importe quelle entreprise dans le monde. Cette loi n'est donc pas rétroactive et elle ne concerne pas, par d'ailleurs, les importations de pétrole venant de ces deux pays. Quant à la Libye, une interdiction supplémentaire d'importer des biens, services ou technologie en provenant de ce pays est incluse dans la loi et correspond aux interdictions posées par la Résolution des Nations Unies, à condition que ces importations puissent avoir un effet sur le développement du secteur pétrolier et gazier sur les industries d'armement ou les capacités aéronautiques.

Les sanctions vont de l'interdiction de tout financement d'origine américaine à une personne qui "trafique", à la possibilité accordée au ressortissant américain, y compris les immigrés cubains naturalisés dont les biens ont été nationalisés durant les années 59/60, de poursuivre devant les tribunaux américains toute personne dans le monde se livrant à un trafic sur ces biens et la possibilité de refuser l'entrée aux Etats-Unis à toute personne se livrant à un tel trafic, y compris les directeurs et actionnaires de sociétés ainsi que leur femme et enfants mineurs. En ce qui concerne la loi d'Amato/Kennedy, elle présente six sanctions différentes: 1) interdiction de toute aide financière de l'Export-Import Bank; 2) interdiction de toute licence d'exportation de technologie au profit de la personne sanctionnée; 3) interdiction de l'octroi par une institution bancaire américaine d'un crédit de plus de 10 millions de dollars à la personne sanctionnée; 4) interdiction pour les sociétés financières sanctionnées de participer au système bancaire américain ou de recevoir des fonds gouvernementaux; 5) interdiction de l'achat de tous biens ou services par le gouvernement fédéral à la personne sanctionnée; 6) interdiction totale d'importer des biens produits par la personne sanctionnée.

Ces deux lois ont soulevé de nombreuses protestations et ont entraîné des réactions notamment de l'Union européenne, culminant dans le Règlement No CE 2271/96 du 22 novembre 1996 et l'action conjointe en vertu des articles J3 et K3 du Traité sur l'Union européenne de même date.

II. Méconnaissance des règles de répartition des compétences du droit international

Mme le Professeur Stern a conclu que les lois Helms-Burton et d'Amato violent les règles de compétence territoriales, personnelles et celles fondées sur la souveraineté qui sont autorisées par le droit international. En effet, en ce qui concerne la compétence territoriale, la pratique des Etats-Unis en a toujours été une application trop extensive permettant de légiférer lorsque le comportement de quelque nature qu'il soit et où qu'il se produise a des effets substantiels sur le territoire américain ou a pour objectif d'entraîner de tels effets (paragraphe 402 du Restatement of the Law, Third, Foreign Relations Law). Mais l'effet en cause est souvent, comme en l'espèce, lointain et peu significatif. En ce qui concerne les compétences personnelles, les Etats-Unis entendent ici régler tout agissement quelle que soit la nationalité de ceux qui agissent et non pas légiférer à l'égard de leurs nationaux ce qui est seul autorisé par le droit international. Quant à la compétence fondée sur la souveraineté, elle doit être justifiée par une menace ressentie par l'Etat quant à son existence ou à sa sécurité ou comme portant atteinte à ses intérêts les plus fondamentaux. Or, en l'occurrence, il ne semble pas que de tels intérêts fondamentaux soient en cause. Quant à une éventuelle compétence universelle qui serait déduite de ce que tout Etat peut devenir le champion des intérêts fondamentaux de la communauté internationale dont il fait partie, elle demeure soumise à la preuve que l'Iran et la Libye soutiennent le terrorisme. Toutefois, resterait l'adéquation de la sanction par rapport à cette compétence. Or, nous dit Mme Stern, il est difficile d'admettre que des entreprises investissant dans ces pays puissent être sanctionnées pour des faits de terrorisme.

Par ailleurs, en ce qui concerne cette nouvelle compétence dite d'agent de mise en oeuvre du droit international, l'orateur nous dit qu'elle est contraire à la structure du droit international. En effet, on sait que l'Etat qui détient le monopole de la force armée organisée peut imposer de ce fait des sanctions pour faire respecter le droit international sur son territoire. Toutefois, le fait que chaque Etat détient ce monopole de la force armée organisée sur son territoire ne peut pas lui permettre d'imposer le respect du droit international en dehors de son territoire. Si cela était, il n'y aurait plus de souveraineté donc plus de droit international.

III. Violation de nombreuses règles de fond du droit international

Mme Stern a passé en revue les règles coutumières, conventionnelles générales, conventionnelles régionales et conventionnelles bilatérales pour démontrer, à chaque fois, que les lois Helms-Burton et d'Amato/Kennedy sont en violation de ces différentes dispositions. En effet, ces lois méconnaissent les règles d'imputabilité les plus élémentaires de la responsabilité internationale. S'il s'agit de contre-mesures, elles sont disproportionnées. Cependant, on doit noter que dans l'affaire du Nicaragua, la Cour a déclaré qu'elle ne peut considérer les mesures économiques (suppression de l'aide économique américaine, imposition d'un embargo total sur le commerce avec le Nicaragua, fermeture des ports

américains aux navires nicaraguayens et des aéroports américains aux avions de ce pays) comme des violations du principe coutumier de la non intervention (arrêt du 27 juin 1986).

En ce qui concerne les règles multilatérales telles que celles contenues dans le Traité de l'OMC, de très nombreuses dispositions générales telles que le principe de liberté des échanges, de non discrimination et de réciprocité ainsi que la condamnation de toutes les restrictions quantitatives à la liberté de ces échanges interdisent de prendre de telles mesures sauf dans le cadre de l'Article XXI du GATT qui prévoit que: "aucune disposition du présent accord ne sera interprétée b) comme empêchant une partie contractante de prendre toutes mesures qu'elle estimera nécessaires à la protection des intérêts essentiels de sa sécurité". Le panel qui a été mis en place à la demande de l'Union européenne dans le cadre du Règlement des différends au sein de l'OMC, se voit confronté à l'application de cet article XXI qui est, bien évidemment, invoqué par les Etats-Unis. Toutefois, Mme Stern a indiqué que la justification tirée de ces textes lui paraît peu crédible.

Enfin, Mme Stern a démontré que les lois Helms-Burton et d'Amato violent les chartres de certaines organisations internationales (FMI, BIRD, AID, SFI, MIGA) et, de la même façon les règles de l'OCDE.

Quant à la dernière réunion, elle a permis d'entendre une communication de M. Hans van Loon, Secrétaire Général de la Conférence de La Haye de Droit international privé, sur le thème: "L'Europe et la Conférence de La Haye". Le résumé de cette communication sera reproduit dans la prochaine lettre d'information.

Guatemalan Branch

A new board was elected at the general meeting of the Branch on 30 September 1997. It consists of: Dr Rodrigo Montufar (President), Dr Alfonso Novales Aguirre (Vice President) and Dr Rodolfo Rohrmoser Valdeavellano (Treasurer). The general meeting also appointed Dr Francisco Villagran Kramer as Honorary President. He is internationally well known and respected.

Many members of the Branch write on matters of international law. Dr Rodrigo Montufar has recently published an article on "The New International Law (Modern Tendencies of International Law)" in which he comments on the relativism of the traditional principles. Dr Francisco Villagran Kramer has written an interesting article on "Retaliation and Reprisals for Human Rights Violations". Dr Luis Albero Padilla published an article entitled "Peace Making and Conflict Transformation in Guatemala". Dr Rodolfo Rohrmoser Valdeavellano wrote "The Peace Agreements of 29 December 1996 are International Agreements".

The Branch is preparing several activities for 1998: conferences, seminars and support to academic and official centers involved in international affairs. In this respect the Branch will provide scientific support to the committee for the private international law conference regarding the inter-American private law code revision.

Members of other Branches wishing to have further information on the above are invited to contact Dr Rodrigo Montufar, 5th Avenue, 12-31 Zone 9, 5, El Cortez PO Box 725-A, Guatemala City, Guatemala. Fax: +502 331 37 95 or E-mail: montlaff@pronet.net.gt

ILA REPRESENTATION AT MEETINGS OF OTHER ORGANIZATIONS

Over the past years there has been some improvement in the appointment of ILA Observers to meetings of the United Nations and other organizations, but there are times when the consultative status is at risk because of lack of ILA participation. Quite recently this was the case with the International Maritime Organization. The Association is, therefore, much indebted to H.E. Ambassador G. Nascimento e Silva, for his recommendation of Ms Tania Wasserstein as ILA Observer to a number of IMO meetings held in 1997.

UN Colloquium on Progressive Development and Codification of International Law

The Director of Studies, Professor Soons, represented the ILA at this Colloquium commemorating the 50th anniversary of the International Law Commission, held in New York on 28 - 29 October 1997. He presented a paper on the contribution of the ILA to the work of the ILC, which will be published in the proceedings of the Colloquium.

The International Federation of Commercial Arbitration Institutions (IFCAI)

Dr Mojtaba Kazazi, Chief, Governing Council Secretariat of the UN Compensation Commission and member of ILA Headquarters, attended the Biennial Conference of the IFCAI. He reports:

The Biennial Conference of the IFCAI was held on 24 October 1997 in Geneva. The Conference theme was "The Institutional Response to Changing Needs of Users". The programme included discussions on the approaches adopted in and underlying reasons for the recent revisions of arbitration rules of six arbitration institutions around the world, the perspective of users of arbitration and their needs, the relationship between the courts and the arbitral process and the proper limits of judicial intervention in the arbitral process, and the growth and use of mediation and conciliation throughout the world. Each of these issues were briefly addressed by a number of speakers from different legal systems and followed by questions and comments from the audience.

Around 150 participants attended the Conference. Many ILA members were present both in the audience and among the speakers. The key note speaker, Robert Badinter, was magnificent.

The Conference was hosted by the World Intellectual Property Organization (WIPO) with the collaboration of the Swiss Arbitration Association (ASA). Congratulations are due to Michael Hollering, the President of IFCAI, and to Dr Francis Gurry and his efficient team in the WIPO Arbitration and Mediation Centre for their excellent organisation of the Conference.

The International Maritime Organization

Ms Tania Wasserstein attended the 39th and 40th Sessions of the Marine Environment Protection Committee of the IMO on 10 to 14 March and 15 to 26 September 1997 respectively, as the ILA Observer. The Committee is concerned with prevention control of pollution from ships, in particular, with the adoption and amendment of conventions and other measures to ensure their enforcement. The Committee not only deals specifically with the protection of the marine environment but also takes account of the work of the Maritime Safety Committee (MSC) pursuant to the motto "safer ships, cleaner seas". She also attended, on behalf of the ILA, the 76th meeting of the IMO Legal Committee on 13 - 17 October 1997. This Committee consists of all IMO member States and meets twice a year, its mandate being the final drafting of treaty instruments.

Ms Wasserstein, together with the Honourable Justice Margaret White and Dr Michael White QC, both members of the Australian Branch, attended the 20th Assembly of the IMO held in London on 17 - 29 November 1997 as ILA Observers. Some 155 countries are parties to the IMO Convention. It was clarified at the Assembly that Hong Kong will continue as an Associated Member of the IMO and that the status of the IMO Conventions to which it is a party has not been affected by the re-unification with China. Matters discussed include: the fact that the Hazardous and Noxious Waste Convention is now open for adoption by member States; the consideration of the terms of a convention for compensation of oil spills from ships; the possibility of a convention on Wreck Removal; the addition to the International Convention for the Prevention of Pollution from Ships 1973 - 1978 (MARPOL) of a new Annex VI on the prevention of air pollution from ships; and the steadily ageing of the world's merchant fleets, low profitability, insufficient maintenance, incompetent crews and the risks associated therewith which call for greater port control.

The IMO 20th Assembly was a vigorous and informative diplomatic conference. Much information was imparted, general progress was made and the 5 specialist committees were given a great deal of work to shape and bring forward conventions, protocols to existing conventions, recommendations and motions to the 21st Assembly which will be held in London in 1999.

The Hague Conference on Private International Law

The ILA was represented at the Special Commission held on 17 to 27 June 1997 to consider a Convention on the Recognition and Enforcement of Judgments in Civil and Commercial Matters by Dr Campbell McLachlan (British Branch), Dr Patrick Kinsch (HQ - Luxembourg) and Dr Ines Weinberg (Argentinian Branch). The observers made several very useful interventions which will assist in the shaping of the Convention.

THE 1997 ILA MEMBERSHIP ADDRESS LIST

The 132-page booklet containing the names and addresses of all ILA members, listed by Branches, became available in the Summer of 1997. The List was distributed directly to members at the addresses shown in the list. To Headquarters' astonishment the distribution was followed by an avalanche of "change of address" notices. In addition a good number of envelopes were returned stating "address unknown" or "moved away without leaving forwarding address". Since a printed revision of the 1997 booklet is most unlikely in the foreseeable future, the ILA Secretary has prepared a corrigenda or up-date sheet which is to be found enclosed with this issue of the Newsletter.

With regard to the funding of the 1997 Membership Address List (printing and distributing), regrettably only 16 out of 50 Branches have made contributions. At the meeting of the Executive Council on 22 November 1997 the Chairman expressed gratitude to the donating Branches and asked the other Branches to contribute so as to offset the current shortfall.

THE 1996 ILA HELSINKI CONFERENCE REPORT

The Report was printed in the United Kingdom and became available for distribution to members in August 1997. All Branches, except those in Argentina, Bangladesh, Bulgaria, Canada, India, Nepal, Pakistan, Paraguay, Portugal, Romania, Russia, Sri Lanka and the Federal Republic of Yugoslavia, have been issued their copies. Members in Branches not yet circulated are asked to contact their Branch Officers and seek clarification on what is causing the delay. Headquarters would welcome earliest despatch of the remainder of the 1996 reports, particularly as delivery of thousands of copies of the 1998 Proceedings is not far away.

Regrettably a few misprints have come to light. Headquarters wishes to advise all members to check their copies for missing or blank pages, or up-side-down binding. Replacement copies are available upon request.

Mailing Survey

Aiming to establish the length of time it takes to mail (by surface) a Report from London, the addresses of two members in each Branch were chosen at random and sent a note with tear-off slip to be returned to Headquarters. The same exercise had been carried out with the Address List. While members in some countries responded very promptly, there are a number who have not done so until now. The earliest return of the completed tear-off slips would be much appreciated.

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