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Winter 1990

# Summer at The Hague

Barbara Stark

*Maurice A. Deane School of Law at Hofstra University*

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## Recommended Citation

Barbara Stark, *Summer at The Hague*, 19 INT'L L. NEWS, SEC. OF INT'L L. & PRAC., A.B.A., 18 (1990)

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## 1989 FALL MEETING IN LOS ANGELES Japan, Arms Reductions, and Taking Evidence Abroad

**O**n November 2-3, 1989 the Section sponsored an ambitious combination of traditional business meetings and social events with the presentation of an ABA National Institute entitled "Japan-United States Trade and Investment: Strategies for the 1990's." The planning committee for this innovative offering included Gerold W. Libby; Whitman & Ransom, Los Angeles; Mayre J. Rasmussen, Coudert Brothers, San Francisco; and Roger W. Rosendahl, Donovan, Leisure, Newton & Irvine, Los Angeles.

This National Institute, which was also offered in New York City November 30-December 1, brought into focus for the participants challenges and strategies in conducting trade and investment with Japanese businesses. The first day presented a thorough discussion of the legal and practical aspects for trade and invest-

ment in Japan, covering such topics as tax planning, joint ventures, technology transfer, dispute resolution, banking, mergers and acquisitions, and legal representation.

The second day focused on the other side of the issue, including topics such as Japanese investment in U.S. manufacturing, tax and financial planning, problems of representing Japanese clients in real estate and financial transactions, U.S. trade laws relating to Japanese businesses, labor laws and immigration, and court issues. Copies of the program materials from this National Institute may be obtained by calling the ABA Order Fulfillment Department, telephone 312-988-5555, and asking for product code #576-0182.

The Fall Meeting portion of the program included substantive committee

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## Chicago Hosts 1990 Annual Meeting

**M**ark your calendars now for the ABA Annual Meeting in Chicago on August 3-8, 1990. The Section will be headquartered at the cosmopolitan Swiss Grand Hotel in the Illinois Center which overlooks Lake Michigan and fronting on Chicago's famous skyline.

The Section's four major programs will be:

- Legal Aspects of Investment and Trade in the new Eastern Europe
- Internationalization of Securities and Futures Markets
- Globalization of the Practice of Law

- International Law and U.S. Actions in Panama

In addition, a wide variety of Committee programs are scheduled, including the 15th Anniversary of the Rule of Law Resolution; International Commercial Arbitration in the Europe of the 1990's; Immigration Law Aspects of Foreign Investment in the U.S.; Intellectual Property and Patent Issues; and Middle East Commercial and Political Issues.

The Section's social events will include the International Reception at the Chicago Yacht Club and the Annual Dinner Dance at the Saddle and Cycle Club. For further information or suggestions, please contact the Annual Meeting Chairman, Bill Hannay of Schiff Hardin & Waite in Chicago, telephone 312-876-1000. See the January 1990 issue of the ABA Journal for your reservation form.

## New York Spring Meeting to Feature 31 Programs

**T**he Section Spring Meeting will be held for the first time in New York City from April 25 to 28, 1990. The program will be at the Grant Hyatt hotel in mid-town Manhattan, and will feature 31 different programs on virtually every area of international law.

James H. Carter, Chairman of the 1990 Spring Meeting, has announced an exciting program on developments in the business and financial areas that will include showcase presentations and concurrent committee programs on topics of vital interest to practitioners, as well as receptions and special events.

The showcase presentations are: "International Law Firms in the 1990's: Branching, Joint Ventures and Transnational Mergers"; "Annual Review of Significant Judicial and Arbitral Decisions Affecting International Business and Trade Law"; "Issues in International Securities Law Enforcement and Cooperation"; and "U.S. National Security and Perestroika: Striking the Proper Balance."

Among the prominent speakers who will participate are Joseph Perella, a partner of Wasserstein, Perella & Co. investment banking firm, Soviet Ambassador Dubinin, New York Yankees owner George Steinbrenner and U.S. Ambassador to the United Nations Thomas R. Pickering.

In addition to these showcase programs, participants will be able to select from among 27 committee programs in the areas of their expertise.

See pages 9-13 for a complete agenda and registration information. We look forward to seeing you in New York.

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# Chairman's Column

## Fair and Equal Representation within the ABA

by James R. Silkenat



Only rarely does the American Bar Association itself become a topic for these pages. The reason for that is simple: it is hard to imagine many things more tedious than the structure of governance within the ABA. Usually the focus in this column is on questions of professionalism or questions of substance in the international law area (human rights, trade law, banking, international communications, etc.). The ABA itself, however, is largely ignored, since it often seems impervious to change.

The ABA *has* clearly undergone some profound changes in recent years. Under the leadership of recent ABA Presidents like Bob Raven and Bob MacCrate, and numerous others, the ABA has taken a pro-active role on a number of important issues within U.S. society and within the profession. The unalterable and uncaring stodginess that characterized the ABA during certain periods earlier in its history has been supplanted by a necessary vigilance on issues as diverse as minorities and women within the profession, gun control, and professional

competence. This progress on external issues, however, has not been matched by internal reforms.

Starting to surface now is one structural issue that might awaken the dormant interest of lawyers active within the ABA: that is, the representation of the Sections in the ABA House of Delegates, the legislative body responsible for setting the policy of the Association on all major legal issues. Currently, the Sections have 44 seats out of approximately 460 within the House. The other seats are elected largely by state bar associations (191 seats), local bar associations (52 seats), state delegates (52 seats) and affiliated organizations (22 seats).

These voting ratios will likely come as a surprise to most ABA Section members. The reaction of most lawyers is that the Sections are the "heart and soul" of the ABA and any system of governance that is weighted against the Sections, rather than in their favor, clearly must be changed. For a number of people this initial, visceral reaction, fueled in part by emotion, deepens and hardens when the issue is given some time to be digested.

Numbers are always a little misleading, but here even generalities are fairly educational. The ABA has approximately 365,000 members, of which 225,000 are members of at least one Section. Only 140,000 members of the ABA are not a member of any Section or Division. On

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## Nominations for Section Positions Invited

The following persons have been appointed members of the Nominating Committee in accordance with the By-laws of the Section:

Steven C. Nelson, Chairman  
Dorsey & Whitney  
2200 First Bank Place East  
Minneapolis, MN 55402

John I. Huhs  
LeBoeuf, Lamb, Leiby & MacRae  
520 Madison Avenue  
New York, NY 10122

Linda E. Powers  
Deputy Assistant Secretary  
U.S. Department of Commerce  
14th & Constitution Avenues, N.W.  
Room 1128  
Washington, DC 20230

The offices for which nominations are to be made are the following:

- A Chairman-Elect (one-year term)
- Four Divisional Vice Chairmen (one-terms)
- Secretary (two-year term)
- Development Officer (two-year term)
- Goal VIII Projects Officer (two-year term)
- Section Delegate (three-year term)
- Editor-in-Chief of the *International Law News* (two-year term)
- Editor-in-Chief of the *International Lawyer* (two-year term)
- Chairman of the Publications Committee (one-year term)
- Chairman of the Continuing Legal Education Committee (one-year term)
- Four Council Members-at-large (three-year terms)
- Officers, Editors or Council Members to fill vacancies, if any, in any office or position.

All Section members are invited to submit names for consideration by the Nominating Committee. It is recommended that suggestions be submitted for consideration by mailing the original to the Chairman and copies to the other members of the Nominating Committee. All such names must be received by the Committee on or before March 1, 1990.

*International Law News* (ISSN 047-0813) is published quarterly by the American Bar Association's Section of International Law and Practice, 1800 M Street, N.W., Washington, DC 20036-5886. Address corrections should be sent to Central Records, American Bar Association, 750 North Lake Shore Drive, Chicago, IL 60611.

*International Law News* endeavors to provide current, important developments pertaining to international law and practice, Section news and other information that it believes to be of professional interest to its members and other readers. Articles and reports reflect the views of the individuals or committees that prepared them and do not necessarily represent the position of the American Bar Association, the Section of International Law and Practice, or the editors of the *International Law News*.

*Deadlines for submission of materials for the International Law News are:*

Spring .....	March 1, 1990	Summer .....	June 1, 1990
Fall .....	September 1, 1990	Winter .....	December 1, 1990

Manuscripts should be typed double-spaced and sent to Susan G. Esserman, Steptoe & Johnson, 1330 Connecticut Avenue, N.W., Suite 700, Washington, DC 20036.

**Editor-in-Chief**  
**Assistant Editor**  
**Associate Editor**  
**Legislative Editors**

**Case Notes Editor**  
**Editorial Assistant**  
**Section Administrator**

Susan G. Esserman, Steptoe & Johnson, Washington, DC  
Beth Van Hanswyk, Department of Commerce, Washington, DC  
Gerold W. Libby, Whitman & Ransom, Los Angeles  
Beth Van Hanswyk  
Nancy D. Israel, Arthur Young & Co., Boston  
Mary Ellen O'Connell, Indiana University School of Law  
Sarah J. Applegate, Washington, DC  
Cynthia R. Price, Washington, DC

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## 101st Congress Review

The First Session of the 101st Congress drew to a close on November 22. Before heading home for Thanksgiving, the Congress passed various bills of interest to the Section of International Law and Practice.

### **U.S.-Japanese GIFA and Canadian Lobster Import Restrictions Contained in NOAA Authorization Act:**

The "National Oceanic and Atmospheric Administration's Ocean and Coastal Programs Authorization Act of 1989" (Pub. L. 101-224), signed by the President on December 13, 1989, contains various provisions with important implications for United States relations with Japan and with Canada. The Act extends the governing international fisheries agreement (GIFA) between the United States and Japan. The existence of a GIFA is a prerequisite to the conduct of joint venture fishing operations between U.S. fishing boats and Japanese processing vessels in the U.S. exclusive economic zone under the Magnuson Fishery Conservation and Management Act. Approval of the GIFA may set a cooperative atmosphere for the driftnet agreement negotiations scheduled to begin in early 1990.

The Act also contains a provision, restricting importation into the United States of certain lobsters, that could cause problems in U.S.-Canada trade relations. The provision, cited as a conservation measure by Congress, prohibits the shipment or sale of whole live lobsters that do not meet U.S. minimum-size standards. Currently 75 percent of the total Canadian lobster production is exported to the U.S., approximately 50 percent of which would be undersized and thus prohibited by this legislation from export to the United States. There are indications that Canada will challenge the restriction under the General Agreement on Tariffs and Trade (GATT) or through the dispute resolution mechanism under the U.S.-Canada Free Trade Agreement. If challenged at the GATT, the United States would need to prove that the size restrictions on lobsters are necessary to ensure U.S. conservation efforts.

**President Vetoes Immigration Bill:** On November 30, the President vetoed legislation that would have al-

lowed Chinese nationals now in the United States on student visas to remain and work here. H.R. 2712, the "Emergency Chinese Immigration Relief Act of 1989," also would have waived, until January 1, 1994, the requirement that Chinese nationals currently here under a "J" visa (scholars and researchers), return to China for at least two years before being eligible to apply for permanent U.S. residency. The bill contained additional language requiring the Attorney General to consider applicants for refugee status claims that they fear persecution with regard to abortion or sterilization under China's strict "one country, one child" policy.

Congressional and public outcry over the veto was muted slightly by the concurrent announcement of an order administratively granting the student waiver under the same terms as the vetoed bill. Lawmakers, who vowed to reconsider the legislation when they return at the end of January, argued that the administrative order was inadequate. The President was accused of "kowtowing" to Chinese government threats to prohibit all Fulbright and other educational exchanges if the legislation was enacted.

### **Eximbank War Chest Funded:**

On December 19, 1989, the President signed the "International Development and Finance Act of 1989" (Pub. L. 101-240) which reauthorized the Export-Import Bank tied aid fund and program, known as the "War Chest," at \$300 million through fiscal year 1991. Congress directed that the funds be used to enforce compliance with the existing Organization for Economic Cooperation and Development arrangement restricting the use of tied aid and to provide leverage for United States attempts to negotiate further restrictions on tied aid use. Tied aid (also known as mixed credits) is foreign aid financing that contains highly favorable terms and is tied to the purchase of exports from the donor country.

The Congress also authorized U.S. contributions to the recapitalization of the Inter-American Development Bank. In addition, the legislation requires U.S. directors of the multilateral development banks to vote against a bank project

unless environmental impact assessments were completed by the borrowing country and made publicly available.

The Act also imposes further sanctions against the People's Republic of China (PRC) in reaction to the recent political repression in that country. The Act prohibits the Export-Import Bank from financing U.S. exports to the PRC, unless the President waives the prohibition and reports to Congress either on progress in the PRC on a political reform program or a determination that the termination is in the national interest. Other legislation, codifying the sanctions already imposed by the Bush Administration, was included in the State Department authorization bill which was vetoed by the President.

**Aid to Poland and Hungary:** The closing days of the First Session saw great debate in Congress as Congressional leaders sought to illustrate in the strongest possible way their support for the historical changes taking place in Eastern Europe. Although the funding greatly exceeded the amounts he originally requested from Congress, President Bush signed legislation authorizing a three year total of \$938 million in various forms of aid and programs for Poland and Hungary (Pub. L. 101-179) and a separate foreign aid appropriations bill granting \$532.8 million in aid for those two countries for fiscal year 1990 (Pub. L. 101-167). (An authorization bill establishes federal programs and may also establish a limit on budget authority to be spent on the authorized program. A appropriations bill usually provides the actual funding for an authorized program, but not necessarily in the full amount permitted by the authorization bill. Generally, both an authorization and an appropriation bill are required before money can be spent.)

The three year authorization act includes a \$300 million program to establish Polish and Hungary Enterprise funds to be used to help finance private sector development. Congress appropriated \$45 million for the Polish fund and \$5 million for the Hungarian fund for fiscal 1990. Both acts also set up and fund various environmental, medical, agricultural, labor, and educational programs.

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# Committee Activities

## MIDDLE EAST LAW COMMITTEE

### Publication of Lawyers Handbook Planned

The Middle East Law Committee is finalizing its list of contributors and editors for the "Lawyers Handbook" for certain Middle East countries, initially including Iraq, Iran, Saudi Arabia, Kuwait, the U.A.E. and Egypt. Anyone wishing to participate in preparing the publication is encouraged to contact John V. Lonsberg, Bryan, Cave, McPheeters & McRoberts, 500 North Broadway, St. Louis, Missouri 63102, telephone 314-231-8600, fax 314-231-5817, or Dick Mitchell, Hendrickson Higbie & Cole, Four Embarcadero Center, Suite 350, San Francisco, California 94111, telephone 415-434-1474, fax 415-434-1050. We hope to have the publication team finalized by mid-January, so please contact John or Dick at your earliest convenience.

Michael Marks Cohen has suggested that the Committee sponsor small group meetings with U.S. government officials involved in Middle East affairs. We will attempt to set up the first conference in early 1990 in Washington, D.C. We would be happy to receive suggestions from Committee members as to officials whom they would like us to approach. Please advise John Lonsberg or Dick Mitchell if you wish to be included in the initial conference.

## INTERNATIONAL COMMERCIAL TRANSACTIONS COMMITTEE

### Committee Announces Spring Meeting Program

The Committee is sponsoring a program at the Spring Meeting entitled "A Lawyer's Responsibility for Foreign Law and Foreign Lawyers." In this program, a recognized panel of experts, including Professor Mark W. Janis, University of Connecticut School of Law, and Professor Roger J. Goebel, Fordham University School of Law, will address the special legal and ethical responsibilities of U.S. lawyers, in a non-litigation setting, for foreign laws and the work of foreign lawyers. The panel will address various issues including selection of and working with foreign counsel, the challenges for the transnational lawyer in bridging

cultural gaps, the role of education in preparation for the requirements in transnational practice of dealing with multiple legal systems, the lawyer's freedom to provide services, the applicable rules of professional conduct in transnational practice and the many other challenges and pitfalls in a transnational practice. The program compliments the Spring Meeting's showcase program on international law firms in the 1990s and is a must for every lawyer with a transnational practice.

## IMMIGRATION AND NATIONALITY COMMITTEE

### Need for Volunteers

As reported before, the Immigration Committee is strongly supporting the ABA's South Texas Pro Bono Asylum Representation Project, which needs attorneys who are able to volunteer a week or longer of their time in South Texas. There is a critical need due to the large number of Central Americans who are being detained without legal representation. Many of these individuals have valid claims for political asylum in the United States, but are unable to adequately present their claims due to the lack of competent legal representation. If you are interested in volunteering for a unique experience, please contact Carol Wolchok, Coordinating Committee on Immigration Law, American Bar Association, 1800 M Street, N.W., Washington, D.C. 20036, telephone 202-331-2268 or Robert Lang, Coordinator, South Texas ProBar Project, 306 East Jackson Street, 3rd Floor, Harlingen, Texas 78550, telephone 512-425-9231. Please note that you do not have to be an experienced attorney or an immigration lawyer as training materials and training sessions are available prior to your departure for South Texas.

### Fall Meeting

The Committee wishes to thank Angelo A. Paparelli, partner in Lillick & McHose, Los Angeles, and Mas Yonemura, partner in Yonemura, Yasaki & Baizer, Oakland, California, for putting together an outstanding program on the representation of Japanese investors under U.S. Immigration Law for the Fall Meeting in Los Angeles.

### Committee Co-Sponsors March 1990 Immigration Law Program with ALI-ABA

The Immigration Committee will co-sponsor the ALI-ABA Conference on Immigration scheduled for March 7-9, 1990, in Los Angeles. For information contact Alex Hart, Director, Office of Course Study, American Law Institute-ABA Committee on Continuing Professional Education, 4025 Chestnut Street, Philadelphia, PA 19104, telephone 215-243-1630.

### Legislation a Focus of Spring and Annual Meetings

Tentatively, the Committee is planning a meeting to discuss legislation pending in Congress that would impact the legal basis upon which individuals presently immigrate to the United States and which would for the first time create a preference for substantial investors in the United States for obtaining lawful permanent residency. For further information contact Larry Carp, Carp & Morris, 225 S. Meramec Avenue, Suite 1100, St. Louis, Missouri 63105, telephone 314-727-7200.

During the ABA's August Annual Meeting in Chicago, the Committee will co-sponsor a seminar which will cover the new immigration legislation that is likely to be enacted during the Spring by Congress. Such legislation will, in all likelihood, increase quotas for employer-sponsored immigrants, create preferences for the first time for major investors and may change and restrict the basis upon which foreign nationals may obtain temporary working visas in the United States. For further information, contact Charles C. Foster, 2800 Texas Commerce Tower, Houston, Texas 77002, telephone 713-229-8733.

## INTERNATIONAL TAX LAW COMMITTEE

### Program Held on Tax Law in the Single European Market

On November 13, Howard M. Liebman, Oppenheimer, Wolff & Donnelly, Brussels, Belgium and Chair, Subcommittee on European Taxation, Committee on International Tax Law, discussed tax developments for doing business in a

*Continued on next page*

Single European Market. The D.C. law firm of Steptoe & Johnson hosted the lunch meeting. Liebman predicted further integration of direct taxes in the European Community; noted opportunities for lobbying the EC in its international tax policy; and warned of the potential coming of unitary tax in the EC. After summarizing selected non-tax developments referred to in his paper, "Options and Considerations for U.S. Companies Trading with and Investing in the European Market," Mr. Liebman outlined the role of taxes in the Single European Act. *The International Lawyer* will publish an analysis of developments on European Tax Law currently being prepared by the Committee. For more information on the Subcommittee, contact Howard Liebman, Oppenheimer, Wolff & Donnelly, 250 Avenue Louise, Box 31, 1050 Brussels, Belgium, telephone 32 2 647 40 60, telex 62236, fax 32 2 648 65 54.

On November 7, the *Washington Post* published an op-ed piece by Bruce Zagaris, Committee Chair, entitled "International Tax Law." The article warns that, unless Congress defers some of the proposed provisions in the Budget Reconciliation Act that adversely affects foreigners, violations of international law will occur.

Jonathan H. Warner, Chair, Subcommittee on Activities of Foreigners in the United States, submitted comments to the IRS on pending regulations on untimely filing of income tax returns by nonresident alien individuals and foreign corporations. For more information, contact Mr. Warner, Fifth Floor, City National Bank Building, 25 West Flagler Street, Miami, Florida 33130-1712, telephone 305-358-6550, telex 6811696 FOWHITE US (MCI).

The Council of the Section adopted in principle a proposal to establish a tax amortization system for intangible assets proposed by the Subcommittee on International Tax and Trade Law. Len Mitchell, Time, Inc., New York City, presented and prepared much of the proposal. The proposal recommends that broad classifications of assets be defined and amortizable lives be assigned to each class. For more information, please contact Jonathan H. Glazier, Dorsey & Whitney, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036, telephone 202-857-0700, telex 440455, fax 202-857-0569.

The Subcommittee on International Sports Activities has a project on the taxation of certain sports organizations with

international activities. Interested persons should contact David Williams, II, Assistant Professor of Law, The Ohio State University, 1659 North High Street, Columbus, Ohio 43210-1391, telephone 614-292-2631.

## MEXICAN LAW COMMITTEE

### Roundtable on Investment in Mexico Held

At the Fall Meeting of the Section in Los Angeles, the Mexican Law Committee held an interesting round table discussion on a case study that considered a hypothetical investment in Mexico by a U.S. industrial company. The participants listened to presentations made by Dionisio Kaye and Bill Kryzda of Mexico City on the recent Mexican tax law changes and regulations regarding foreign investment, and Julian Nihill of Dallas on U.S. taxation of investment in Mexico, and then participated in a lively discussion of the case study moderated by the Chair, John Stephenson.

### Spring Committee Meeting Planned

The Committee will have a meeting during the Spring Meeting of the Section in New York, and will try to have another round table discussion of current developments during the meeting.

### Materials on Trade with Mexico Available

The Chair has the following material available for the cost of reproduction:

1. Letter dated 30 October 1989 from Lic. Mariano Soni of Bufete Soni, Mexico City, to the United States Trademark Association regarding recent developments on trademarks in Mexico.
2. Summer 1989 Memoranda prepared by Angulo, Calvo, Enriquez y Gonzalez, S.C., Ciudad Juarez, Mexico, regarding Environmental Laws & Regulations for Maquiladora Companies, Contracting and Shelter Concepts, and Maquiladora Real Estate Financing.
3. Memorandum dated May 26, 1989 prepared by Laffan, Mues y Kaye, Mexico City, regarding the Regulation of the Mexican Foreign Investment Law.
4. An article prepared by Edward M. Ranger, Jr., an attorney with Laffan, Mues y Kaye, Mexico City, entitled "Environmental Law and the Maquiladora Industry."

5. Two Memoranda prepared by Dionisio Kaye of Laffan, Mues y Kaye, Mexico City regarding Mexican Tax for Foreigners, prepared for the Fall Meeting of the Committee in Los Angeles, and general guidelines for corporate taxation in Mexico.

6. Memorandum prepared by Jorge G. Santisteven of Laffan, Mues y Kaye regarding Developing Mexican Subsidiaries to Supply Maquiladora Needs of Goods and Services.

7. May 30, 1989 Memorandum prepared by Bryan, Gonzalez Vargas y Gonzalez Baz regarding New Mexican Foreign Investment Regulations.

To obtain these materials, contact the Chair, John Stephenson, at Johnson & Gibbs, P.C., 900 Jackson Street, Dallas, Texas 75202.

### Mexico City Briefing Trip Planned

The Mexican Law Committee is co-sponsoring with the International Legal Exchange Committee a briefing trip to Mexico City and Monterrey during the week of March 24-31, 1990. A large number of Committee members from Mexico City and Monterrey are providing the primary assistance in Mexico for arranging meetings with Mexican governmental officials, businesspeople, bankers, justices and Mexican attorneys. Please contact Edison Dick of the ILEX Committee at 1700 Pennsylvania Avenue, N.W., Suite 620, Washington, D.C. 20006 for information regarding participation.

## CUSTOMS LAW COMMITTEE

### Program Planned on U.S. Customs Role Before CIT

The Customs Law Committee plans an active 1990. At the spring meeting in New York in April, the Committee will present a program entitled, "The Role of the U.S. Customs Service in Customs Cases Before the Court of International Trade". The program will discuss the relationship between the Office of International Trade Litigation of the U.S. Customs Service in New York and the Department of Justice as well as its relationship with Customs Headquarters. We are pleased to have as one of the speakers Dan Pinkus, Assistant Chief Counsel of International Trade Litigation of the U.S. Customs Service.

Continued on next page

### **Custom's Reform Legislation Topic of Winter Program**

In early winter the Committee plans to have programs in Washington at which Customs officials will speak. Also, if Customs reform legislation is introduced in Congress, this will be a subject of Committee involvement and an issue on which we will have a program. The Committee also plans to hold half-day programs in Baltimore and perhaps Chicago, Houston and other areas.

Further information on these programs will be sent to Committee members as soon as available. Member of the section desiring to become members of the Committee or Committee members with suggestions for activities should contact Kenneth G. Weigel, Webster & Sheffield, 2000 Pennsylvania Avenue, N.W., Washington, D.C. 20006, fax 202-293-1381.

## **INTERNATIONAL INTELLECTUAL PROPERTY RIGHTS COMMITTEE**

### **Name Change Announced**

In order to more accurately depict the broader scope of subjects — including such disciplines as trade secrets and mask work rights — with which its members are concerned, the "International Patent, Copyright and Trademark Committee" has changed its name to the "International Intellectual Property Rights Committee (IIPRC).

### **Fall Meeting In Los Angeles**

Robert P. Taylor of Pillsbury, Madison & Sutro in San Francisco was the guest speaker at our committee meeting November 3, 1989, in Los Angeles. He provided an overview of significant intellectual property developments on the international scene.

### **Counterfeit Products To Be Discussed At Spring Meeting**

The Committee will sponsor a program April 27, 1989, considering enforcement procedures against counterfeit products in the U.S., Canada and the E.C. Representatives from the Royal Canadian Mounted Police, U.S. Customs Service and the E.C. have been invited. The discussion will focus on practical methods of working with law enforcement authorities to protect trademarks

and copyrights as a "border control" measure.

### **Subcommittee Chairs Announced**

So far this year the IIPRC has four active, specialized subcommittees.

The Subcommittee on Developments in WIPO is chaired by Heinz Dawid, Weiss Dawid Fross Zelnick & Lehrman, P.C., 633 Third Avenue, New York, NY 10027, telephone 212-953-9090.

The Subcommittee on I.P. Developments in Pacific Rim Countries is headed by Peter Y. Lee, Schlumberger-Doll Research, Old Quarry Road, Ridgefield, CT 06877, telephone 203-431-5507.

Frank L. Politano is chair of the Subcommittee on International Trademarks. He can be contacted at AT&T, One Oak Way, #WA132, Berkeley Heights, NJ 07922, telephone 201-771-2205.

The fourth subcommittee, the Subcommittee on I.P. Developments in the E.C., is chaired by Thomas Trumpy, 23 Avenue Ernest Cambier, B - 1030 Brussels, Belgium, telephone (011) 32 2 216 3655.

Each Subcommittee provides a timely update of important legal developments for distribution to the full Committee and is preparing an agenda of future projects. Please contact the appropriate Subcommittee Chair if your area of interest coincides with a Subcommittee's purview.

## **INTERNATIONAL PROCUREMENT COMMITTEE**

### **1990 Spring Program Preview**

The International Procurement Committee ("IPC") will present a program entitled "Foreign Acquisition of U.S. Defense Contractors" at the Section's Spring Meeting. The program will cover regulatory, corporate, and financial issues involved in acquiring a U.S. defense contractor, including Exon-Florio, industrial security, and due diligence issues unique to the acquisition of defense contractors. Our speakers will include Steve Canner the Director of the Office of International Investment at the Treasury Department, other top level government officials and private practitioners with experience in this area.

### **Committee Working Groups**

The IPC is actively seeking interested individuals to plan and participate in Committee activities relating to interna-

tional procurement. The Committee is establishing working groups in the following areas: EC '92 procurement; GATT government procurement code; foreign government procurement of services; Exon-Florio and industrial security; foreign military sales; legislation (Buy American Act amendments, industrial base preservation); UNCITRAL model procurement code; country or region specific procurement systems; international construction contracting and others. Your committee chairpersons will assist you in developing programs, facilitate Section approval of comments on draft statutes and regulations, and mobilize the Section and ABA administration to facilitate working groups goals.

If you are interested in contributing an article for publication or in working on other committee projects, please contact either Kathleen E. Troy, IPC Committee Co-Chairperson, ITT Defense, Inc., 1000 Wilson Boulevard, Arlington, VA 22209, telephone 703-247-2949, fax 703-276-9704 or Steven S. Diamond, IPC Committee Co-Chairperson, Arnold & Porter, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036, telephone 202-872-8775, fax 202-331-9832.

## **LAW OF THE SEA COMMITTEE**

### **Resolution Concerning 1982 U.N. Convention on the Law of the Sea**

Members of the Law of the Sea Committee contributed to the drafting of a Recommendation and Report urging the United States to become a party to the 1982 United Nations Convention on the Law of the Sea, provided that appropriate changes and clarifications are made affecting deep seabed mining provisions of Part XI of the Convention. The Council unanimously approved the measure on November 4, 1989. The ABA House of Delegates is scheduled to consider the Resolution at its February 1990 midyear meeting. For more information, contact John E. Noyes, California Western School of Law, 350 Cedar Street, San Diego, CA 92101, telephone 619-239-0391.

### **Spring Meeting Piracy Program**

The Law of the Sea Committee is sponsoring a panel on Thursday, April 26, 1990, at 4:45 p.m. at the Section's Spring meeting in New York. The title of the panel is "Piracy in Contemporary Na-

*Continued on next page*



tional and International Law." The topics and tentative list of speakers includes: the practical problem of contemporary piracy reviewed by a speaker familiar with the issue (Eric Ellen, Director ICC — International Maritime Bureau); this will be followed by a discussion of the crime's place in international law (Prof. Alfred P. Rubin, Fletcher School of Law and Diplomacy — tentative acceptance); and the problem of piracy in a domestic statutory law context (Samuel P. Menefee, Maury Fellow, Center for Oceans Law and Policy, University of Virginia School of Law). For more information, contact Samuel Menefee, Chair of the Law of the Sea Committee's Subcommittee on Maritime Terrorism, Piracy and Naval Warfare, University of Virginia School of Law, Charlottesville, VA 22901, telephone 804-924-7343.

#### **Newsletter News**

The Law of the Sea Committee published Vol. 4, No. 1 of its Newsletter, its largest issue yet, in December 1989. For information about the Newsletter or to submit material, contact the Editor, Ronnie Wainwright, 2129 Florida Avenue, N.W., Washington, D.C. 20008, telephone 202-387-1961.

### **COMMITTEE ON INTERNATIONAL EMPLOYMENT LAW**

#### **Forum Held on Foreign Policy, Trade and Employment**

On October 24, 1989, the International Employment Law Committee co-sponsored with the International Human Rights Committee (in conjunction with the Federal Bar Association's International Law and Labor Law, D.C. Bar's Labor Relations Section and the Plaintiff's Employment Lawyer's Association) a program on "Foreign Relations, Trade and Employment: The Application of United States Fair Employment Laws To Transnational Corporations In the United States and Abroad." The International Employment Law Committee forum was held in Washington, D.C. at the Capital Hilton Hotel before an overflow audience.

Under the direction of Lairold M. Street, the program coordinator, the panel discussion featured international law and labor law experts who shared their observations on applying U.S. fair em-

ployment laws to transnational corporations in the United States and abroad. They discussed the evolving nature of legal theories in transnational law, and examined some of the tensions, national interests and conflicting assertions of concurrent jurisdiction at the state level.

The program offered a wide array of perspectives on the emerging issues affecting U.S. fair employment laws, foreign affairs, international commercial and employment practices, Friendship, Commerce and Navigation (FCN) treaties, the International Labor Organization, and trade in services. This panel discussion was one of the first of its kind, linking U.S. trade relations and trade in services with the exchange of human resources and employment discrimination. Mr. Street noted that the increasing migration of workers, professionals and transnational entities from one country to another makes this "particular forum significant to the United States and its trading partners because over 2,000 U.S. firms operate more than 21,000 foreign subsidiaries in at least 121 foreign nations. In the United States, over 1,700 foreign-owned firms employ more than 2.5 million Americans, and foreign investment [in the United States] is on the rise."

The Panel examined transnational employment concerns involving Saudi Arabia, the European Economic Community, Latin America and the United States. Serving on the Panel were Charles A. Shanor, General Counsel, Equal Employment Opportunity Commission; Edward E. Potter, Partner, McGuiness & Williams; Jane Picker, Professor, Cleveland State University; John Marshall School of Law; and Ted A. Borek, Assistant Legal Advisor, United States Department of State, Office of Economic, Business and Commercial Affairs. Lairold M. Street served as moderator of the panel.

#### **Committee Solicits New Members**

The International Employment Law Committee was formed to deal with legal issues arising out of the transnational employment practices associated with the activities of transnational corporations, labor unions and government agencies. The committee was created to meet the need for an appropriate forum for American and foreign lawyers to meet and discuss issues affecting international employment practices.

Those interested in joining the Committee and working with the Committee's Subcommittees on the extraterritorial application of U.S. employment laws; Friendship, Commerce and Naviga-

tion treaty issues concerning U.S. fair employment laws or issues concerning bilateral and multilateral international agreements concerning employment should write to Committee Chair Joy Cherian, EEOC, 1801 L Street, N.W., 10th Floor, Washington, D.C. 20507.

### **ASIA PACIFIC LAW COMMITTEE**

#### **Seminar on Practical Legal Aspects of Doing Business in Korea**

A one-day seminar on "Practical Legal Aspects of Doing Business in Korea" will be held on May 3, 1990 in Los Angeles. The seminar, which will address issues arising out of U.S. investment in Korea and overseas investment by Korean businesses, is being conducted in response to the recent increase in business transactions between United States and Korean entities and the increased international focus on Korean import practices. The seminar will provide a forum for an exchange of ideas concerning these and other significant legal and business issues in Korea-United States trade and investment and will feature legal and business specialists from Korea and from the United States. Section members who are interested in the seminar should contact Robert Brown, telephone 415-772-6000.

#### **Efforts to Launch Asia-Pacific Newsletter/Law Reporter**

The Committee is continuing in its efforts to launch a new Asia-Pacific Newsletter or Law Reporter. This quarterly publication would provide a forum for the discussion and explanation of current legal issues which arise in Asia-Pacific trade, investment and litigation. The publication would be designed for use by both Section members and other members of the Bar interested in the Asia-Pacific region. We hope to coordinate our work on the Reporter with other legal groups in the Asia-Pacific region, such as the Asia-Pacific Lawyers Association and, possibly, to work with an Asia-Pacific Institute connected with a major west coast university. Those persons interested in assisting on this subcommittee should contact Mayre Rasmussen, telephone 415-986-1300.

#### **Other Activities**

The next meeting of the Committee will be held in New York City in conjunction with the Section's Spring Meeting, scheduled for April 25-28, 1990, at the Grand Hyatt Hotel.



**ADVANCE MEETING REGISTRATION  
&  
TICKETED FUNCTIONS FORM  
ANNUAL SPRING MEETING**

April 25-26-27-28, 1990  
Grand Hyatt Hotel  
Park Avenue at Grand Central  
New York, NY 10017

Advance meeting registrations must be postmarked no later than MONDAY, APRIL 16, 1990. Cancellations must be made in writing and postmarked no later than April 16. No refunds will be issued after April 16. There will be a \$15 administrative fee deducted from all meeting cancellations. Substitutions may be made if the Section is notified five working days in advance of the meeting.

Name: \_\_\_\_\_  
*(as you wish it to appear on badge)*

Spouse or Guest's Name: \_\_\_\_\_  
*(if attending functions)*

Firm/Company/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

ABA I.D. Number (if applicable): \_\_\_\_\_

The program fee includes admission to all CLE programs and one set of program materials.

**Program Fees:**

# _____ Section Member at \$290	\$ _____
# _____ Non-Member at \$325	\$ _____
# _____ Full-time Government/Academic/Law Student at \$45	\$ _____
# _____ I cannot attend but wish to purchase the materials at \$70 (includes postage and handling)	\$ _____

**Ticketed Functions:**

# _____ Wednesday Reception at the New York Yacht Club at \$45	\$ _____
# _____ Wednesday Broadway Show "Aspects of Love" at \$55 — Tickets will be available on a first come, first served basis and are limited to 2 tickets per fully prepaid program registrant	\$ _____
# _____ Thursday Perella Luncheon at \$45	\$ _____
# _____ Thursday United Nations Dinner at \$85 — Reservations (each individual's name) are <i>required</i> for security - advance purchase <i>only</i>	\$ _____
# _____ Friday Steinbrenner Breakfast at \$35	\$ _____
# _____ Friday Luncheon at \$45	\$ _____
# _____ Friday Beijing Duck House Council Dinner at \$35	\$ _____
# _____ Saturday Council Luncheon at \$35	\$ _____

TOTAL ENCLOSED \$ \_\_\_\_\_

☐ Yes, I am interested in being admitted to the U.S. Court of Appeals for the Federal Circuit and/or the U.S. Court of International Trade.

Information and requirements regarding admission to the Courts will be sent directly to registrants upon receipt of this form.

Please complete this form and return with your check or money order payable in U.S. funds to:

American Bar Association  
Section of International Law and Practice  
1990 Spring Meeting  
1800 M Street, N.W.  
Washington, DC 20036

# Annual Spring Meeting

April 25-28, 1990 • Grand Hyatt Hotel • New York, NY

Program Chairman: James H. Carter, Sullivan & Cromwell, New York, NY

## WEDNESDAY, APRIL 25

9:30 - 11:00 a.m.

ILEX Committee Meeting

Edison W. Dick, Law Offices of Edison W. Dick, Washington, D.C., Chair

11:30 - 1:30 p.m.

Long Range Planning Committee Luncheon Meeting

*Presiding:* Homer E. Moyer, Jr., Miller & Chevalier, Washington, D.C., Chairman-Elect of the Section of International Law and Practice

## 12:00 NOON

### REGISTRATION OPENS

Mezzanine Level at Park Avenue entrance

2:00 - 5:00 p.m.

Administration Committee Meeting

*Presiding:* James R. Silkenat, Morrison & Foerster, New York City, Chairman of the Section of International Law and Practice

4:00 - 5:30 p.m.

Meeting for Editors of Student International Law Journals

*Presiding:* Professor Joseph J. Norton, Editor-in-Chief, *The International Lawyer*, Southern Methodist University School of Law, Dallas, TX

4:00 - 5:30 p.m.

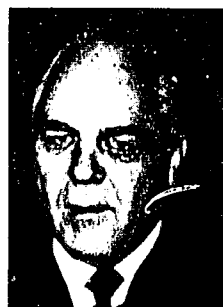
**SPECIAL SWEARING-IN CEREMONY:** U.S. Court of International Trade (CIT) and the U.S. Court of Appeals for the Federal Circuit (CAFC)



Chief Judge  
Edward D. Re

*U.S. Court of International Trade,  
One Federal Plaza, Ceremonial  
Courtroom, Second Floor*

Spring Meeting registrants will have the opportunity to be admitted to practice before the CAFC and CIT. Chief Judge Edward D. Re of the U.S. Court of International Trade and Chief Judge Howard T. Markey of the U.S. Court of Appeals for the Federal Circuit will preside over the admission ceremony to be held in the Ceremonial Courtroom of the U.S. Court of International Trade and will conduct a "practitioners' workshop." If you are interested in being admitted to these Courts, please check the appropriate box on



the registration form on page 8 so that we can forward to you the necessary materials prior to the meeting. You will be responsible for your own transportation to the Swearing-in Ceremony.

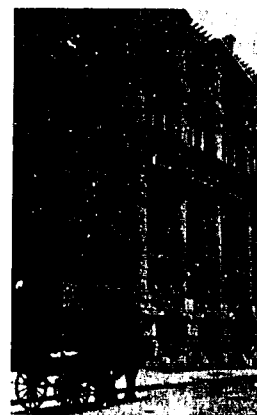
Chief Judge  
Howard T. Markey

6:30 - 8:00 p.m.

### OPENING RECEPTION AT THE HISTORIC NEW YORK YACHT CLUB, 37 West 44th Street

The reception will be held in the Model Room, containing over 1,500 full and half-models of members' boats, as well as models of all America's Cup defenders and challengers.

(Ticketed Event)



8:00 p.m.

### BROADWAY THEATER SHOW: "ASPECTS OF LOVE"

Andrew Lloyd Webber's newest musical, directed by Trevor Nunn.

Broadhurst Theater, 235 West 44th Street (between Broadway and 8th Avenue)

(Tickets will be available on a first come, first served basis and are limited to 2 tickets per fully prepaid program registrant)

## THURSDAY, APRIL 26

7:00 a.m.

### REGISTRATION

7:30 - 9:00 a.m.

Publications Committee Business Meeting

*Presiding:* Charlene Barshefsky, Steptoe & Johnson, Washington, D.C., Chair

7:30 - 9:00 a.m.

Breakfast Meeting for International Committee and Section Chairs of State and Local Bar Associations

*Presiding:* Dando B. Cellini, McGlinchey, Stafford, Mintz, Cellini & Lang, New Orleans, LA, Section Liaison to State and Local Bar Associations

*Continued on next page*

# Agenda

*Continued from previous page*

**7:30 - 9:00 a.m.**

Breakfast Roundtable for Editors of All Section Committee Newsletters and Editors of Newsletters published by International Law Sections of State & Local Bars  
*Presiding:* Beth Van Hanswyk, U.S. Department of Commerce, Washington, D.C., Assistant Editor, *The International Law News*

**9:00 - 9:05 a.m.**

**WELCOME AND OVERVIEW OF DAY'S ACTIVITIES**

James R. Silkenat, Morrison & Foerster, New York City, Chairman of the Section of International Law and Practice

**9:05 - 11:00 a.m.**

**SHOWCASE I: INTERNATIONAL LAW FIRMS IN THE 1990's: BRANCHING, JOINT VENTURES, AND TRANSNATIONAL MERGERS**

American and foreign law firms are issuing announcements almost weekly concerning new cooperative structures for international practice. If your firm does not find a partner, will it be left behind? This program will focus on what the private international legal community in the next decade will look like.

Moderator: Sydney M. Cone, III, Cleary, Gottlieb, Steen & Hamilton, New York City

- P.J.A.M. Nijjens, De Brauw Blackstone Westbroek, New York City
- Ko-Yung Tung, O'Melveny & Myers, New York City
- Heinz Weil, Heuking, Kuhn, Celestine, Weil & Associés, Paris, France
- James A.D. Wyness, Linklaters & Paines, London, England

**11:15 - 12:45 p.m.**

**CONCURRENT COMMITTEE PROGRAMS**

**"The Trade Related Intellectual Property ("TRIPS") Negotiations,"** International Trade Committee, Judith H. Bello, Sidley & Austin, Washington, D.C., and Robert C. Cassidy, Wilmer, Cutler & Pickering, Washington, D.C., Co-Chairs

**"China: Are the Economic Reforms Continuing, and How Will Recent Changes Affect U.S. Trade and Business?"**, Peoples' Republic of China Law Committee, Gilbert B. Kaplan, Morrison & Foerster, Wash-

ington, D.C., and Preston M. Torbert, Baker & McKenzie, Chicago, IL, Co-Chairs

**"Emerging Capital Markets in Developing Countries — Economic and Legal Perspectives,"** International Investment & Development Committee, Jennifer Sullivan, International Finance Corporation, Washington, D.C. Chair; and International Securities Transactions Committee, David Reid, Allen & Overy, New York City and Ralph L. Pellechio, Morgan Stanley & Co., New York City, Co-Chairs

**"The Role of the U.S. Customs Service in Customs Cases Before the Court of International Trade,"** Customs Law Committee, Kenneth G. Weigel, Webster & Sheffield, Washington, D.C., Chair

**"The New European Merger Regulations,"** European Law Committee, Edwin R. Alley, Carpenter, Bennett & Morrissey, Newark, NJ and Timothy L. Dickinson, Gibson, Dunn & Crutcher, Washington, D.C., Co-Chairs

**"International Joint Ventures: Setting Them Up, Taking Them Apart,"** Peter D. Ehrenhaft, Bryan, Cave, McPheeters and McRoberts, Washington, D.C., Chair



*Joseph R. Perella*

**1:00 - 2:15 p.m.**

**LUNCHEON AND SPEECH BY JOSEPH R. PERELLA, CHAIRMAN, WASSERSTEIN, PERELLA & CO., NEW YORK CITY**

**"INTERNATIONAL MERGERS & ACQUISITIONS: THE CHANGING STRUCTURE OF THE BUSINESS"**  
(Ticketed Event)

**2:30 - 4:30 p.m.**

**SHOWCASE II: ANNUAL REVIEW OF SIGNIFICANT JUDICIAL AND ARBITRAL DECISIONS AFFECTING INTERNATIONAL BUSINESS AND TRADE LAW**

The program will provide an in-depth analysis of the most significant international law decisions of the U.S. Supreme Court, the Court of Appeals, the U.S. Court of International Trade, the Federal Circuit, the International Court of Justice, and international arbitral tribunals.

Moderator: Kenneth B. Reisenfeld, Reisenfeld & Associates, Washington, D.C.

- Charlene Barshefsky, Steptoe & Johnson, Washington, D.C.

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- Joseph P. Griffin, Morgan, Lewis & Bockius, Washington, D.C. and Brussels, Belgium
- Harold H. Koh, Associate Professor of Law, Yale Law School, New Haven, CT
- Peter P. Trooboff, Covington & Burling, Washington, D.C.

**2:30 - 4:30 p.m.**

## **SHOWCASE III: ISSUES IN INTERNATIONAL SECURITIES LAW ENFORCEMENT AND COOPERATION**

The program will cover current international issues facing regulators including those concerning enforcement of securities laws, such as information sharing, jurisdiction and enforcement of judgments, and those concerning market regulation and supervision, such as capital adequacy and settlement procedures. It will include discussion of international cooperation among regulators.

Moderators: David Reid, Allen & Overy, New York City, and Ralph L. Pellecchio, Morgan Stanley & Co., Inc., New York City

- Alan L. Beller, Cleary, Gottlieb, Steen & Hamilton, New York City
- Michael C. Blair, General Counsel, The Securities & Investments Board, Ltd., London, England
- Gary G. Lynch, Davis Polk & Wardwell, New York City and former Director of Enforcement, Securities and Exchange Commission, Washington, DC
- Michael D. Mann, Director of International Affairs, Securities and Exchange Commission, Washington, D.C.
- Jean-Pierre Michau, Director of Enforcement, Commission des Operations de Bourse, Paris, France
- Ernest T. Patrikis, General Counsel and Executive Vice President, Federal Reserve Bank of New York, New York City

**4:45 - 6:45 p.m.**

**"Recent Developments in the Progress Toward 1992",** Special Task Force on 1992, Linda F. Powers, Deputy Assistant Secretary, U.S. Department of Commerce, Washington, D.C., Chair

**4:45 - 6:15 p.m.**

## **CONCURRENT COMMITTEE PROGRAMS**

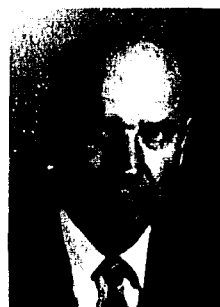
**"Piracy in Contemporary National and International Law,"** Law of the Sea Committee, John E. Noyes, California Western School of Law, San Diego, CA, Chair and Subcommittee on Naval Warfare, Samuel P. Menefee, Center for Oceans Law and Policy, University of Virginia School of Law, Charlottesville, VA, Chair

**"The Commoditization of Oil and Energy Risk Management,"** International Energy Law Committee, Hurst K. Groves, Mobil Oil Corporation, New York City, Chair

**"Southern Africa: Commercial Implications of the Political Changes — A New Climate for Investment?,"** African Law Committee, Carol M. Mates, International Finance Corporation, Washington, D.C., Chair

**"The Promise of Glasnot & Perestroika: What Can the U.S. and the Soviet Union Do To Enhance the Effectiveness of the U.N.?",** International Institutions Committee, John E. Murphy, Villanova University School of Law, Villanova, PA, Chair

**"A Lawyer's Responsibility for Foreign Laws and Foreign Lawyers,"** International Commercial Transactions Committee, Timothy E. Powers, Haynes and Boone, Dallas, TX and John I. Huhs, LeBoeuf, Lamb, Leiby & MacRae, New York City, Co-Chairs



*Thomas R. Pickering*

**7:00 - 10:00 p.m.**

**RECEPTION AND DINNER AT THE UNITED NATIONS, THOMAS R. PICKERING, PERMANENT REPRESENTATIVE OF THE UNITED STATES TO THE UNITED NATIONS**

For security reasons, *reservations are required for this event*. Tickets are available through advance purchase only and must be presented at the door.

United Nations, Delegates' Entrance, 45th Street and First Avenue

Delegates' Dining Room, 4th Floor  
(Ticketed Event)

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*George M.  
Steinbrenner, III*

## **FRIDAY, APRIL 27**

**8:00 - 9:00 a.m.**

**INSIDERS' BREAKFAST: AN HOUR WITH GEORGE M. STEINBRENNER, III,** Chairman, President and Chief Executive Officer, The American Ship Building Company and Principal Owner, The New York Yankees and Chairman of the U.S. Olympic Overview Committee (Ticketed Event)

**9:00 - 9:15 a.m.**

**SECTION BUSINESS MEETING** to consider revisions to Section Bylaws

*Presiding:* James R. Silkenat, Morrison & Foerster, New York City, Chairman of the Section of International Law and Practice

**9:15 - 9:20 a.m.**

**OVERVIEW OF DAY'S ACTIVITIES,** Homer E. Moyer, Jr., Miller & Chevalier, Washington, D.C., Chairman-Elect of the Section of International Law and Practice

**9:20 - 11:15 a.m.**

**SHOWCASE IV: U.S. NATIONAL SECURITY AND PERESTROIKA: STRIKING THE PROPER BALANCE**

Senior business leaders and policy makers will engage in a candid discussion of the recent political and economic developments in the Soviet Union and Eastern Bloc in the context of U.S. national security interests.

*Moderator:* Robert H. Brumley, III, Hunton & Williams, Washington, D.C. and former General Counsel, U.S. Department of Commerce

- His Excellency Yuriy V. Dubinin, Ambassador from the Union of Soviet Socialist Republics to the United States
- Hon. C. William Verity, former U.S. Secretary of Commerce
- William D. Forrester, President, U.S.-U.S.S.R. Trade and Economic Council, New York City

**11:30 - 12:45 p.m.**

## **CONCURRENT COMMITTEE PROGRAMS**

**"International Mergers and Acquisitions — A Case Study,"** International Antitrust Law Committee, W. David Braun, Gardner, Carton & Douglas, Chicago, IL, and Professor Diane P. Wood, University of Chicago Law School, Chicago, IL, Co-Chairs and Richard E. Durr, Jr., Shering Plough, Inc., Memphis, TN

**"State International Arbitration Statutes: Should Your State Have One?,"** International Commercial Arbitration Committee, James H. Carter, Sullivan & Cromwell, New York City and Christopher J. Connolly, Reid & Priest, New York City, Co-Chairs, in cooperation with the Connecticut State Bar Association, Section of International Law and World Peace

**"Enforcement Procedures Against Counterfeit Products in the U.S., Canada and the E.C.,"** International Intellectual Property Rights Committee, Donald E. deKieffer, Pillsbury, Madison & Sutro, Washington, D.C., and Louis A. Schapiro, AT&T Technologies, Berkeley Heights, NJ, Co-Chairs

**"Latin America in the 1990's: Another Lost Decade or a New Age?,"** Inter-American Law Committee, David L. Teichmann, Tandem Computers, Inc., Santa Clara, CA, Chair

**"Debt for Nature Swaps: Legal and Policy Issues,"** International Environmental Law Committee, Daniel Magraw, Visiting Scientist, National Center for Atmospheric Research, Environmental and Societal Impacts Group, Boulder, CO, Chair, with co-sponsorship of African Law, Asia-Pacific Law, International Banking and Finance and Inter-American Law Committees

**"Regulation of Cross-Border Banking and Financial Services: Impact of the Canada-United States Free Trade Agreement,"** Canadian Law Committee, Susan E. Klein, Andrews & Kurth, Washington, D.C. and M. Jean Anderson, Weil, Gotshal & Manges, Washington, D.C., Co-Chairs; International Service Industries Committee, Aaron Schildhaus, The International Business Law Firm, Inc., Washington, D.C., Chair; and International Banking and Finance Committee, Barry Beller, Beller & Keller, New York City, Chair

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**1:00 - 2:15 p.m.**

**LUNCHEON AND SPEECH BY SENIOR GOVERNMENT OFFICIAL**

(Ticketed Event)

**2:30 - 4:30 p.m.**

**JOINT CONCURRENT COMMITTEE PROGRAMS WITH THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK**

**"Doing Business in the U.S.S.R. and Eastern Europe,"** Soviet and Eastern European Law Committee, Thomas L. Shillinglaw, Corning Inc., Corning, NY and Eugene Theroux, Baker & McKenzie, Washington, D.C., Co-Chairs

Association of the Bar of the City of New York  
42 W. 44th Street

**"Foreign Acquisition of Defense Contractors,"** International Procurement Committee, Steven S. Diamond, Arnold & Porter, Washington, D.C., and Kathleen E. Troy, ITT Defense Technology Corporation, Arlington, VA, Co-Chairs

Association of the Bar of the City of New York  
42 W. 44th Street

**"Extraterritorial Enforcement of Employment Laws Against U.S. and Foreign Companies,"** International Employment Law Committee, Joy Cherian, Equal Employment Opportunity Commission, Washington, D.C., Chair, in cooperation with N.Y. State Bar Association, International Employment Law Committee

Association of the Bar of the City of New York  
42 W. 44th Street

**"Freezing of Assets Worldwide,"** International Litigation Committee, David L. Westin, Wilmer, Cutler & Pickering, Washington, D.C., Chair, in cooperation with International Bar Association, International Litigation Committee

Association of the Bar of the City of New York  
42 W. 44th Street

**"Getting New Space Ventures Off the Ground,"** Aerospace Law Committee, F. Kenneth Schwetje, Compliance, Testing & Space Division, Joint Chiefs of Staff,

Washington, D.C. and Milton L. Smith, Chief, Space Law, International Law Division, Office of the Judge Advocate General, Washington, D.C., Co-Chairs

Association of the Bar of the City of New York  
42 W. 44th Street

**"Human Rights and Free Elections — What is the Relationship?"**, International Human Rights Law Committee, Stephen H. Klitzman, Office of Legislative Affairs, Federal Communications Commission, Washington, D.C., Chair

Association of the Bar of the City of New York  
42 W. 44th Street

**"Abduction vs. Extradition — Catching the Criminal Abroad,"** International Criminal Law Committee, William M. Hannay, Schiff, Hardin & Waite, Chicago, IL, Chair

Association of the Bar of the City of New York  
42 W. 44th Street

**Meeting of the Mexican Law Committee,** John M. Stephenson, Jr., Johnson & Gibbs, Dallas, TX, Chair

Association of the Bar of the City of New York,  
42 W. 44th Street

**"Problems in Managing the Function of International House Counsel,"** Corporate Counsel Committee, Allin C. Seward III, Acustar, Incorporated, Troy, MI, and David H. Chaifetz, Union Carbide Corporation, Danbury, CT, Co-Chairs

Association of the Bar of the City of New York  
42 W. 44th Street

**Goal IX Committee Meeting,** Nancy D. Israel, Arthur Anderson & Co., Boston, MA, Chair

Association of the Bar of the City of New York,  
42 W. 44th Street

**7:00 p.m.**

COUNCIL DINNER

Beijing Duck House

144 E. 52nd Street

(Ticketed Event, Council Members and Guests only)

**SATURDAY, APRIL 28**

9:00 - 4:00 p.m.

COUNCIL MEETING

(Ticketed Luncheon, open to all persons attending the Council Meeting)

# Agenda

## DISCOUNTED AIRFARES

The official airlines of the American Bar Association, Delta and United, offer special discounted airfares without advance reservation requirements or other penalties to all Spring Meeting participants. Delta and United will also give full mileage credits for air travel using these discounted rates. To make reservations, or for more information, call Delta at 800-241-6760 and refer to ABA file #E0001, or United at 800-521-4041 and refer to ABA file #0078J.

## Business Meeting to Consider New Section Bylaws

The Section will hold a business meeting on Friday, April 27, 1990, to consider revisions to the Section Bylaws, pursuant to Article 7 of the current Bylaws. The meeting will convene in Ballroom A, Level B of the Grand Hyatt Hotel in New York City at 9:00 a.m. Persons interested in receiving a copy of the proposed Bylaws should contact the Section staff offices at telephone 202-331-2239.

### HOTEL RESERVATION FORM

## ANNUAL SPRING MEETING

Grand Hyatt Hotel  
Park Avenue at Grand Central  
New York, NY 10017  
(212) 883-1234  
April 25-26-27-28, 1990

Name: \_\_\_\_\_

Firm/Company/Agency: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Accommodations: ☐ Single: \$180 ☐ Double: \$200  
(Does not include any taxes)

\_\_\_\_\_  
*Arrival Date/Time*

\_\_\_\_\_  
*Departure Date/Time*

FIRST NIGHT'S DEPOSIT MUST BE ENCLOSED TO CONFIRM RESERVATION

Card # \_\_\_\_\_ Exp. Date: \_\_\_\_\_  
V AE DE CB MC

Signature: \_\_\_\_\_

RESERVATIONS MUST BE MADE BY APRIL 4, 1990. Reservations received after that date are subject to space and rates available. Complete this form and mail directly to:

Grand Hyatt Hotel  
ABA ROOM BLOCK  
Park Avenue at Grand Central  
New York, NY 10017  
(212) 883-1234





*In the Matter of the Petition of Mahmoud El Abed Ahmad, No. 89-CV-715, Lexis 11454, (E.D.N.Y. September 26, 1989).*

In a comprehensive decision on extradition, Judge Weinstein held that courts must play a larger role in examining requests for extradition, because the United States no longer provides an automatic exemption from extradition for political offenses. Courts must now assure themselves that a foreign government is not using false allegations to eliminate its political opponents. They must also assure themselves that the requesting country will protect the human rights of the accused by inquiring into the fairness of the foreign system of criminal justice.

This case involved an Israeli request for the extradition of Mahmoud El-Abed Ahmad in 1987 in connection with an attack on a bus carrying Israeli settlers in the occupied West Bank. The bus driver and one passenger were killed. Mr. Ahmad is a naturalized United States citizen who was in Venezuela sometime after the attack. The Israeli government initially asked Venezuela to extradite him, but Israel and Venezuela do not have an extradition treaty. Instead of extraditing him to Israel, the Venezuelans deported him to the United States, informing U.S. officials of the plane that would take him back to the U.S. On board the aircraft, FBI agents arrested Ahmad and placed him in detention upon arriving in New York.

Ahmad first went before a magistrate who found that he could not be extradited under the U.S.-Israel Treaty because it has an exception for political offenses and because Ahmad's arrest on the plane was illegal. There is no appeal from a magistrate's refusal to extradite, but the U.S. attorney may request a hearing *de novo* and did so in this case.

At the second hearing, Ahmad appeared before a district court judge sitting as magistrate. The judge found that the extradition was not barred by the political exception clause because it involved the killing of civilians. And the arrest on the plane, even if unlawful,

could not deny the court jurisdiction to hear the extradition request.

Following the second hearing, Ahmad petitioned for a writ of habeas corpus. He argued in the first instance that the second hearing violated his protection against double jeopardy and the principle of *res judicata*. He argued further that even if the second hearing were proper, he faced treatment in Israel which must be considered "antipathetic" to the court which should prevent his extradition.

Judge Weinstein in a third hearing found clear precedent for permitting multiple *de novo* hearings when extradition is denied since the government has no right of appeal. He also found precedent holding that an unlawful arrest could not remove the court's jurisdiction unless the arrest involved torture or other shocking behavior not found in this case. On the other hand, he held that a hearing in a habeas petition in an extradition case could include a more comprehensive review than in other habeas proceedings, including admission of further evidence. The court must accept the findings of fact from the prior hearing unless clearly unreasonable, but could receive mixed questions of law and fact and questions of law.

Judge Weinstein considered at length the current status of the political exception doctrine. He noted that in the past the United States refused to extradite persons who committed crimes, even violent acts, if the acts were incident to a political cause. In recent years, however, the State Department and some courts, including the 7th Circuit, have moved away from this position. If the violent act is directed at civilians, the political exception doctrine will not apply. The 9th Circuit, however, still looks to see if the overriding purpose of the act was political and the violence only incidental.

The United States must, according to Judge Weinstein, look to international standards to resolve this issue. The Geneva Conventions, designed to govern the conduct of persons involved in violent struggle, forbid the targeting of civilians. Judge Weinstein would still apply the political exception to extradition, even for violent acts, but only if the ac-

cused can meet a three-part test: 1) he committed the act during disturbances, 2) it was incidental to the disturbances and 3) the act does not violate the law of war.

The court then considered whether Israel's possible treatment of the petitioner might be antipathetic to the court. The government argued that the court is not permitted to inquire into the fairness of another government's criminal justice system. Judge Weinstein acknowledged that the executive branch plays a large role in ensuring that the persons extradited from the United States will not be treated unfairly in the requesting state. The executive will not enter into extradition treaties with certain states and the Secretary of State may forbid the extradition of any person. The courts also play a role in ensuring fairness. Weinstein noted that the European Court of Human Rights in the *Soering* Case (reviewed in the last issue of ILN) made a thorough study of how *Soering* would be treated if extradited to the United States. The European Court decided not to permit *Soering's* extradition because of the inhumane conditions on Virginia's death row.

Judge Weinstein suggested that the decision might not have been entirely correct, but he agreed that courts must inquire into whether a person's human rights might be violated if he is extradited. Judge Weinstein held that international law is part of United States law, including international human rights norms.

The petitioner presented evidence from Amnesty International and the Lawyer's Committee for Human Rights Under Law that the Israeli police have committed torture when trying to get confessions from Arab prisoners and in other settings. He also presented evidence that Israeli courts will permit coerced confessions in some cases while United States courts will not. Nevertheless, Judge Weinstein found that because the attack occurred three years ago he doubted that the Israeli police had reason to torture Ahmad. Israel gave assurances that it would protect Mr.

*Continued on next page*

Ahmad's due process rights, and the State Department promised to send an observer to the trial since Mr. Ahmad is a United States citizen.

Based on these assurances, the court felt Mr. Ahmad's due process rights and human rights would be sufficiently protected. The court held that the attack on the bus involved a premeditated attack on a civilian target and so Mr. Ahmad did not qualify for the political exception. Judge Weinstein ordered his extradition to Israel.

*Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc. 717 F. Supp. 1374 (S.D. Ind. 1989).*

In this case that captured the attention of the international art world, District Judge Noland ordered an Indianapolis art dealer to return four 6th century mosaics to the Greek-Orthodox Church of Cyprus even though the dealer claimed to be a good faith purchaser.

Judge Noland ordered the art returned to Cyprus, after holding that the statute of limitations to replevy missing artwork would only begin to run from the time the party seeking the art learns of its whereabouts and not from the time it is found to be missing. He also held that art dealers cannot claim to be good faith purchasers unless they have undertaken careful investigations to discover how the art ended up for sale. Apparently the practice to date has been to ask few questions. The case may, therefore, change the behavior of art buyers and provide assistance to governments trying to retrieve national art treasures.

In 1977, the Republic of Cyprus learned that the Kanakaria mosaics were missing. According to an authoritative study, the mosaics were created around 530 A.D. and are 1 of only 6 or 7 examples remaining of an important period of Byzantine art. The Republic began a systematic program of searching for the missing art. It notified UNESCO, the primary international body charged with protecting cultural heritage, and numerous other private and commercial organizations concerned with stolen art. In addition, every year Cyprus circulates information on its missing cultural heritage to hundreds of addresses on a mailing list. As a result of these efforts, when an art dealer in Indianapolis called

the Getty Museum in California and offered the mosaics for sale in the fall of 1988, a Getty curator knew Cyprus was seeking the mosaics and contacted its embassy in Washington. The embassy brought action in the southern district of Indiana to seek the replevy of the mosaics.

The dealer, Peg Goldberg of Goldberg & Feldman Fine Art, argued that she had made a good faith purchase from another dealer in Switzerland in July 1988 and, therefore had good title and did not have to return the mosaics. Moreover, she argued that under Indiana law the statute of limitations for an action to recover personal property is six years from the time the cause of action occurs. She argued that by 1988, Cyprus' suit was time-barred.

The Indiana District Court, sitting in diversity, applied Indiana substantive procedural law to the statute of limitations question. In disease cases, Indiana recognizes the discovery date as the date from which a statute of limitations will run. It also has a rule that the limitations period will not run in cases of fraudulent concealment. The court decided that both of these rules could properly be applied to Cyprus' cause of action. Cyprus could not reasonably bring suit until the mosaics were discovered in the fall of 1988, but even if that view of the case did not apply, because the mosaics had been fraudulently concealed, Cyprus was not time-barred. The court noted Cyprus' diligent efforts to find the mosaics and held that under doctrines of fairness and equity, the court could not properly dismiss the suit.

Before deciding the issue of title, the court had to decide the applicable substantive law. It held that Indiana law applied under the most significant contacts test and that under Indiana law, a thief cannot pass good title. The court assumed that because the church had not given permission for the mosaics to be removed, someone must have stolen them in the first place and, therefore, Ms. Goldberg could not have gotten good title regardless of where or from whom she bought them.

While confident that Indiana law applied, the court analyzed the good faith issue under Swiss law, because the contract for the mosaics was made in Switzerland. Under Swiss law a purchaser in good faith may take good title even from a thief. But a bad faith pur-

chaser never takes title to stolen goods. The court found that in this case, Ms. Goldberg acted in bad faith judging by the circumstances surrounding her purchase of the mosaics.

Before buying the mosaics, Ms. Goldberg generally dealt in 18th and 19th century paintings. In the summer of 1988 she traveled to Amsterdam where she met another Indiana art dealer, Robert Fitzgerald, to look at a Modigliani. Goldberg testified that she was only an acquaintance of Fitzgerald's and that she knew he used a variety of aliases and had been sued in the past regarding a work of art. Nevertheless while in Amsterdam, Fitzgerald showed Goldberg pictures of the mosaics, and she immediately expressed interest in them. She entered into discussions with Fitzgerald, a Dutch art dealer named van Rijn, who had convictions for forgery, and an American lawyer named Faulk. They told her that the owner of the mosaics had to sell them quickly because he needed cash.

Within a few days they flew to Geneva and met a Turk, named Dikman, at the Geneva free port, who purportedly owned the mosaics. Dikman introduced himself and left without further discussion. After seeing the mosaics, Goldberg, agreed to buy them and by relying on personal ties at an Indianapolis bank, she quickly arranged to pay for them with a cash loan of \$1.2 million dollars. Within a few months Ms. Goldberg offered to sell the mosaics to the Getty for \$20 million.

Goldberg testified that she did call UNESCO while in Geneva and IFAR as well as customs in the US, FRG and Switzerland to see whether the mosaics were stolen, but she did this after agreeing to buy the art, and Judge Noland could find no evidence of the alleged inquiries. He held that she should have made an extensive search into Dikman's ownership of the mosaics and found her behavior was not that of an honest and prudent person.

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The case provides authority that governments seeking to retrieve art treasures should not be time-barred from bringing a replevy action if they have made diligent efforts to locate the art. It also puts art dealers on notice that there is a risk in making quick, speculative deals.

A \$200 million grant for fiscal year 1990 was authorized and appropriated as the U.S. contribution to an international fund to help stabilize Poland's economy. The authorization act also allows Poland to sell bonds in the United States at below-market rates.

The authorization act also includes several provisions designed to stimulate Polish and Hungarian trade. Certain Polish and Hungarian products became eligible for preferential tariff treatment under the Generalized System of Preferences. Congress also made Poland and Hungary eligible for Export-Import Bank and Overseas Private Investment Corporation (OPIC) programs. Up to \$40 million worth of OPIC insurance was appropriated for U.S. investment in Poland for fiscal 1990.

**Steel Agreements Implementation Act Signed:** The "Steel Trade Liberalization Program Implementation Act" (Pub. L. 101-221) became law on December 12, 1989. The enacted law gives the President authority to enforce the recently renegotiated voluntary restraint arrangements (VRAs), limiting the import of steel into the U.S., with numerous steel exporting countries. The Act extends the quota authority until March 31, 1992. The President's signing statement emphasized the Administration's commitment to negotiations to conclude an international consensus to reduce and eliminate subsidies and other barriers to trade in steel.

The Act contains two additional time sensitive trade-related provisions that were dropped from the budget reconciliation bill. The Internal Revenue Code was amended to eliminate the differential in the Superfund tax applicable to domestic and imported crude oil. This differential was found inconsistent with United States international trade obligations by a GATT panel. The second provision would continue duty-free treatment for certain levels of ethanol imports from the Caribbean Basin in order to protect the investments of ethanol producers who relied on earlier Congressional programs.

**Conclusion:** As part of the compromise reached on the budget reconciliation bill, the Senate has agreed to consider, early in the Second Session, various pieces of trade legislation including miscellaneous tariff bills, legislation to make U.S. Customs User Fees consistent with the GATT, and amendments to strengthen the Caribbean Basin Initiative. The

Congress will also be busy with other outstanding legislation, such as trade reorganization proposals and legislation that would require the U.S. to impose reciprocal restrictions on foreign investment in the U.S. in response to other countries' limitations on investment. The next edition of the *101st Congress Review* will highlight these bills and other Congressional activities of interest to the Section.

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### **Fair and Equal Representations—** *Continued from page 1*

top of the sheer weight of numbers is the question of who actually *produces* for the ABA in terms of programs, books, resolutions and activities. Without the Sections there would at least be the basis for a good argument that membership in the ABA had comparatively little to recommend it.

To confound matters further, there has recently been a move within the ABA to increase the percentage of members of the House of Delegates who are to be elected by state and local bar associations. The rationale has been that this step will involve such organizations more fully with the ABA and will create close ties among, and consequently will strengthen, such bar associations. Little attention seems to be paid to whether or not state and local bar members are ABA members or not. This is one of the few cases where a major national institution may well be giving greater voting weight to non-members than to members.

The rise of the Sections within the ABA has been a slow and painful process. In the early 1980s, there was a medium-sized revolution within the ABA resulting in the Sections finally being given some representation on the ABA Board of Governors. After considerable wrangling at that time, the Sections and Divisions, collectively, were given the right to elect 9 of the 27 Board of Governors seats.

If the American Bar Association wants to be true to the best (and the most numerous) within it, the Sections will have to be accorded greater representation in the House of Delegates. It seems overly dramatic to say that a storm is brewing on this issue, but it is an issue that it is easy to get excited about. In a future column I will offer some specific suggestions about how the ABA can restructure itself so as to give the Sections the clout that their numbers, their activities and their vitality justify. This is an issue that is not going to go away.

## **DELEGATION TO MEXICO IN SPRING OF 1990**

The Section is sponsoring a Delegation and Briefing Trip from the United States to Mexico to take place between March 24 and March 31, 1990. This highly focused and substantive trip will visit both Mexico City and Monterrey (the industrial capital of Mexico) and will focus on the legal system in Mexico with particular reference to business, investment and trade issues.

In Mexico City, the Delegation will receive briefings from the United States Embassy, from senior officials of the Mexican Foreign Investment Commission and the Mexican Department of Commerce and Industrial Development, from the American Chamber of Commerce of Mexico and from the Barra Mexicana and the Mexican Corporate Attorneys Association. These briefings will focus on foreign investment, industrial property, financial and stock exchange activity, international arbitration and the Mexican tax regime. The Delegation also will be guests at a reception given by the United States Ambassador and will have dinners with Mexican lawyers and senior government officials at both the University Club and the Franz Mayer Museum.

In Monterrey, the Delegation will meet with business and financial leaders as well as with Mexican lawyers involved in trade and investment. Special briefings also will be held on maquiladoras, labor law and ecology law relating to foreign investments.

Cost of participation on the Delegation will be \$1,850 per person, double occupancy. This price includes round trip air fare based upon a Dallas departure (direct flights from other major cities to Mexico will be available at a modest additional cost), air travel between Mexico City and Monterrey, 7 nights accommodations in deluxe hotels, breakfast each day, several dinners, as well as registration fees for all briefing sessions and business meetings.

Membership on the Delegation will be limited to those attorneys who, by reason of their background and expertise, will be able to make a substantive contribution to the success of the Delegation. Applications for participation on the Delegation should be submitted to Edison W. Dick, Executive Director, International Legal Exchange Committee, 1700 Pennsylvania Avenue, N.W., Suite 620, Washington, D.C. 20006, telephone 202-393-7122.

# SUMMER AT THE HAGUE

by Barbara Stark, Assistant Visiting Professor and Coordinator Legal Writing Program, Rutgers Law School

As the winner of the Baxter Competition, I was awarded a scholarship to the Hague Academy of International Law this summer. The course in public international law opened worlds to me. Professor Louis Henkin lectured daily for three weeks and six other renowned jurists taught for one week stints. Professor Henkin basically reinvented the curriculum, outlining in masterly strokes the movement in international law from concept to function and from state to human values. Although the weather was glorious and the beach nearby, his lectures were always crowded. We felt that we were watching intellectual history being made.

Professor Henkin and his colleagues offered us a dazzling array of ideas and insights. Unity and coherence were provided for me by repeated references to certain core principles first set forth in the Universal Declaration of Human Rights. Three hundred of us, from 67 countries, kept returning to these basic concepts as we read, talked, and just thought in the formal gardens of the Peace Palace or over coffee at the marble-topped tables in the cafeteria.

What was the historical purpose of the Universal Declaration? What is its function today? As Professor Henkin explained, the Universal Declaration was drafted in 1945 as an unequivocal denunciation of the atrocities of World War II, a resounding, "Never again!" Never again would the World Powers tolerate such a war, or such violations of human rights. That was the *crie de coeur*, from which three main themes emerged in the lectures: one, the tension between the paramount values of peace and rights; two, the problems of implementing these values; and three, the increasingly compelling idea of collective rights, including a right to peace.

The Universal Declaration links human rights to peace and security, reflecting the major preoccupations of the drafters in 1945. This is not a simple proposition, as we learned listening to Judge Guillaume (International Court of Justice) on terrorism and Professor Puente Egido (University of Madrid) on extradition. Judge Guillaume described how terrorism shatters peace, leaving instead the sense that a "prowling tiger is nearby." But how can we deal with terrorism without violating individuals' rights to privacy, due process, and nondiscriminatory treatment? What if terrorism itself is a frustrated response to an antecedent violation of human rights? Extradition is similarly problematic. Should a

state refuse to extradite a suspect accused of a political crime? What is the difference between "political" and ordinary crime, and who should decide? How can international peace and security best be safeguarded without infringing upon the human rights of suspects — or victims — of international crime?

A second major theme was the Universal Declaration as a working draft, an outline spawning a multitude of specialized regional agreements. Judge Gros Espiell (Inter-American Court) compared the American Covenant with its European counterpart. Both focus on civil and political rights, but differences in regional politics have resulted in vastly different roles for the covenants. In Latin America, the American Covenant is often the only basis for challenging violations of human rights, such as torture and "disappearance", unimaginable in modern Europe. Professor Simmonds (Queen Mary College) added dimension to our understanding of the European concept of rights in his lectures on the European Economic Community (EEC), product of another regional covenant. The EEC, recognizing that economic and social well-being are tied to civil and political rights, is beginning to apply this concept in a broader global context by acknowledging Third World needs. This echoed a third major theme of the summer: the increasing interdependence of states and the emerging notion of collective rights.

This theme was developed by Professor Leanza (University of Rome) and Professor Caflisch (Graduate Institute of International Studies, Geneva) who showed us how hard it is to formulate universal law, even in areas of conceded universal concern. Professor Leanza examined the problems caused in the semi-enclosed Mediterranean Basin by the 1982 Law of the Sea Treaty, which had been drafted more with "open seas" like the Atlantic in mind. Professor Caflisch compared the well settled equitable principles governing watercourses in Europe with the arbitrary rules of the Americas, where customary law has been preempted by treaties or unilateral concessions. Seas and rivers, in which dumping or damming by one is likely to soon affect all, provide particularly vivid examples of state interdependence and collective rights and obligations.

The lecturers were the virtuosos, bringing out the richness and nuance of the themes of the Universal Declaration. Mr. Greenwood (Cambridge), who directed the English-speaking seminar for postgraduate students, helped synthesize what could otherwise have been an overwhelming wealth of material. The students, too, played important parts — asking our halting questions and trying to understand

and harmonize our different backgrounds, languages and world views. Sometimes it seemed as close as most lawyers come to singing in the chorale of the Ninth Symphony. This may seem an extravagant metaphor for the drone of legal jargon, the muffled undertone of simultaneous translation, but the soaring spirit was there. It was unforgettable and I urge anyone who cares about international law to spend a summer at The Hague.

## SIGN UP NOW FOR June 7-12

Eastern Europe Briefing trip.  
Contact the staff offices at  
telephone 202-331-2239 for more  
information.

## Japan, Arms Reductions—

*Continued from page 1*

programs, a dinner and private tour of Universal Studios, and the Fall Council Meeting. The Council of the Section voted to recommend that the ABA House of Delegates urge the amendment of the Code of Ethics for Arbitrators in International Disputes to provide that party-appointed arbitrators in international commercial arbitrations should, to the extent practicable in the circumstances, serve as neutrals.

The Council also recommended to the House that the United States become a party to the 1982 United Nations Convention on the Law of the Sea providing that certain changes and clarifications are made, and also providing that a special group be established to oversee work on the Convention.

The Arms Control and Disarmament Committee presented a recommendation, which was approved, urging early agreement between NATO and Warsaw Pact countries to reduce levels of conventional arms in Europe, and the methods for such reduction. The Council also approved a recommendation urging the United States to sign and ratify the Inter-American Convention on the Taking of Evidence Abroad and the Additional Protocol, with certain reservations and declarations.

The final recommendation approved by the Council recommended the establishment of a new statutory system of amortization for intangible assets. The Council also approved revised Section Bylaws, and authorized the draft to be forwarded on to the Section membership for a vote in April.

The next Fall Meeting of the Section will be December 6-8, 1990 in San Jose, California.