



Conflict & Coordination Across International Regimes

**THE AMERICAN SOCIETY OF
INTERNATIONAL LAW
97th Annual Meeting**

**April 2-5, 2003
Omni Shoreham Hotel
Washington, DC**

FINAL PROGRAM

Thank You!



Come, step into Tillar House.

Start your Friday with a tour of the Society's restored home. See the results of the \$2 million renovation made possible by ASIL members' generosity. See the new Hauser Learning Center. Browse the new deFord Library & Information Center.

Friday, April 4, 2003 – 7:45–8:30 AM

Just 5 minutes by cab, 20 minutes by Metro, or a 1.8-mile walk through the park.

Sign up for the tour and pick up a map and details at the ASIL Exhibit Booth.

See you then!

Tillar House
2223 Massachusetts Avenue, Northwest
Phone: 202-939-6000

April 2, 2003

Welcome to the 97th Annual Meeting

Charles H. Brower II and Nancy L. Perkins, Co-chairs of the 97th Annual Meeting Program Committee, selected the theme, “Conflict and Coordination Across International Regimes” to promote a better understanding of the sources and significance of the conflicts and the tools necessary for coordination in today’s expanding international law arena. We are grateful to the Co-chairs and members of the Committee for the past year’s efforts to organize this fine program.

This year’s program again offers CLE credits for designated panels. Look for the CLE icon. We are also providing some additional opportunities for participants to get together and to visit the exhibitors by adding more time between sessions, a “tea” on Friday, and a closing luncheon on Saturday. All meeting participants are invited to attend these sponsored events.

Although the program is naturally the centerpiece of the Annual Meeting, it is your participation that makes this the premier gathering for international law each year. Recent world events have shaken many of our assumptions and have divided some of us. We hope that the Annual Meeting will provide a forum for the consideration of these questions.

On behalf of the officers and staff of The American Society of International Law, welcome to the 97th Annual Meeting. We look forward to a stimulating and cordial few days that will sustain our activities in the coming months.

Charlotte Ku
Executive Director

NOTES

Conflict and Coordination Across International Regimes

To meet the increasingly complex demands of human existence, international law has expanded both horizontally—to embrace a broad range of activities—and vertically—to reach into what formerly were the provinces of domestic jurisdiction. No master plan guides this expansion; it is happening in response to a wide array of factors. As a result, the expansion of international law has created inevitable incongruities among existing legal frameworks and new regimes, as well as among new regimes *inter se*.

Horizontally, three types of conflicts have emerged:

- (1) among municipal regulatory systems: for example, inconsistent legal rules on competition and data privacy;
- (2) among international regimes: for example, between trade and environmental laws or between the demands of a war against terrorism and state obligations under human rights and humanitarian law; and
- (3) within international regimes: as seen in the widening gap between developed and developing states in the WTO or in the growing estrangement between the United States and Europe on a number of fronts.

Vertically, difficulties have arisen in areas such

as the incorporation of international law into municipal legal systems, and in the transmission of cultural and democratic values from municipal systems to international regimes.

Participants in the 2003 Annual Meeting will examine the sources—and significance—of conflicts within and among international regimes. Do such conflicts merely reflect international law's accommodation of a wealth of perspectives, are they an inevitable by-product of the flexibility needed for the sustained development of international law, or do they generate doctrinal incoherence that threatens to impede commerce and undermine the legitimacy of international law?

Assuming that international regimes require greater coordination among interested parties, what are the most appropriate tools for accomplishing the task? Should states promote judicial dialogue and non-governmental amicus submissions to international tribunals, or are international relations best left to their political branches? Does issue linkage represent an appropriate method of coordination or an illegitimate “tying” arrangement? To what extent should states leave coordination of public regulatory laws to the choice of private actors?

Finally, do the tolerance of conflict and the desirability of coordination vary with different international legal theories, such as positivism, policy-oriented jurisprudence, international legal process, critical legal studies, international relations theory or feminist jurisprudence?

To quote a learned observer, the 2003 Annual Meeting will seek to promote greater insight into the role of conflict and coordination in the “complex rugby scrum” known as international law.*

*Harold Hongju Koh, “Why Do Nations Obey International Law?,” 106 *YALE L.J.* 2599, 2631 (1997).

2003 PROGRAM COMMITTEE

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General Information

Meeting Location

The Omni Shoreham Hotel
2500 Calvert Street, NW, Washington, DC 20008
(Corner of Calvert Street & Connecticut Avenue,
NW; on the Metro Red Line—Woodley Park Station)
Phone: 202-234-0700

On-site Registration

The ASIL registration desk is located in the Blue Room (East Promenade). It will be open as follows:

Wednesday, April 2	2:00 pm–8:00 pm
Thursday, April 3	8:00 am–6:00 pm
Friday, April 4	8:00 am–6:00 pm
Saturday, April 5	8:00 am–noon

Badges & Tickets

Badges must be worn for admittance to panels. Tickets needed for WILIG Lunch and Annual Dinner. Lost tickets will not be replaced. No tickets sales on site. Lunch to go available in the Blue Room.

ASIL Services

Credit card transactions can be made at the ASIL Exhibit Booth by those wishing to buy the latest ASIL products. For information on membership accounts, also visit the Exhibit Booth.

Continuing Legal Education — Approved Panels

The Virginia MCLE Board has approved six hours of CLE credit for the panels listed below:

- Legal Responses to Terrorism – p. 13
- The Global Conflict over Genetic Resources – p.14
- Immunity and Universal Jurisdiction – p.26

- Sovereign Debt Crisis: Creditor's Rights vs. Development – p. 30
- NAFTA's Investment Chapter: Dynamic Laboratory, Failed Experiments and Lessons for the FTAA – p. 32
- Regulating Corporations: Who's Making the Rules? – p. 35
- Sauce for the Gander: Foreign Extraterritorial Regulation of U.S. Parties and Its Limits – p. 37

**MARK YOUR CALENDARS
FOR 2004 AND 2005!**

- ASIL 98th Annual Meeting, March 31-
April 3, 2004
- ASIL 99th Annual Meeting, March 30-
April 2, 2005

(Sites: Loews L'Enfant Plaza Hotel, Washington, DC)

Who's Here This Year?

JESSUP MOOT COURT COMPETITION

The 2003 Jessup International Law Moot Court Competition entitled "The Case Concerning the Women and Children of the Civil War" is underway in the Omni Shoreham Hotel. For information on daily activities of the Jessup Competition/ International Law Students Association (ILSA), visit the ILSA/Jessup hospitality area in the Blue Prefunction Room. The Competition is cosponsored by ILSA and ASIL.

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SPEAKERS, LECTURERS, PANELISTS

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Padideh Ala'i	William S. Dodge
Philip J. Allott	Mark Drumbl
José E. Alvarez	Paul Dudek
Kelly D. Askin	Jeffrey Dunoff
Hugh J. Ault	Diane Edelman
M. Cherif Bassiouni	George Edwards
Louise Doswald Beck	Claus-Dieter Ehlermann
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Franklin Berman	Florentino Feliciano
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Lisa Bhansali	Peter Galbraith
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Irit Kohn	Edward Rubin
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Jeremy Levitt	Marco Sassòli
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Dennis Mandsager	Thom Shanker
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Richard Messick	Neil Stammers
Julie Mertus	Fernando Teson
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Elin Miller	David Tillinghast
Judith A. Miller	Ko-Yung Tung
George Mitchell	Danilo Turk
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Lawrence Newman	Christine Van Den Wyngaert
Bacre N'Diaye	Martina Vandenberg
Vasuki Nesiah	David Victor
Robert Nolan	Arthur von Mehren
Joseph S. Nye, Jr.	Paul Wapner
Hisashi Owada	D. Karel Wellens
Geoffrey Palmer	Ralph Wilde
William Park	John Yoo
Jordan Paust	Fareed Zakaria
Nancy L. Perkins	
B. Donovan Picard	

Wednesday

APRIL 2, 2003

**Key – Omni Shoreham Hotel
Meeting Rooms.**

Overhead signs on either side of the Main Lobby corridor indicate East Promenade/West Promenade areas. See hotel map on back cover of this program.

EP = East Promenade, Main Level

WP = West Promenade, Main Level

WP, LL = West Promenade, Lower Level

Wednesday, April 2, 2003

9:00 am-3:00 pm

**Executive Council Meeting –
Diplomat Room WP**

2:00 pm

**Registration Opens – Blue Room EP
Exhibits Open – Blue/Blue Prefunction Rooms EP**

5:30-6:45 pm

**Fifth Annual Grotius Lecture –
Palladian Room WP**

Shaping Globalization: The Role of Human Rights

Lecturer: HON. MARY ROBINSON, former
UN High Commissioner for Human Rights;
former President of Ireland

Distinguished Discussant: KO-YUNG TUNG,
The World Bank

Moderator: DANIEL BRADLOW, American
University Washington College of Law

*Cosponsored by American University Washington
College of Law (AUWCL)*

7:00-8:15 pm

**President's Reception – Empire Room WP, LL
Cosponsored by AUWCL**

7:30-10:00 pm

**Fifth Annual Grotius Dinner – Presidential
Board Room EP** (by invitation only from AUWCL)

7:30-11:00 pm

**AJIL Editors Meeting/Dinner –
Hampton Room EP**

8:30-9:30 pm

**Reception sponsored by ASIL New
Professionals Interest Group and ILSA –
Palladian Room WP**

Wednesday, April 2, 2003

Thursday

APRIL 3, 2003

7:30-8:45 am

Interest Group Business Meetings

International Environmental Law –

Congressional A&B WP

UN21 – Diplomat Room WP

8:00 am

Registration and Exhibits Open – Blue/Blue

Prefunction Rooms EP

9:00-10:30 am

PANELS

CLE Legal Responses to Terrorism: Security, Prosecution and Rights – *Palladian Room WP*

The aftermath of the September 11, 2001 attacks demonstrates that the legal regime regulating terrorism involves a balance of three considerations: (1) security for civilians; (2) detention and prosecution of accused terrorists; and (3) provision of essential rights to accused terrorists. This panel considers how international and domestic law strike this balance. What is the appropriate method for dealing with captured terrorists: civilian trials, military trials, enemy combatant detentions, an international trial, or some combination of the above? How do international human rights law and international humanitarian law limit these options? Does it matter that a war against terrorists may last much longer than recent traditional wars?

Moderator: JACK L. GOLDSMITH, III,
Office of the General Counsel, U.S.
Department of Defense; The University of
Chicago, The Law School

Panelists: KARIMA BENNOUNE, Rutgers, The
State University of New Jersey, Newark; WJ.
HAYNES II, General Counsel, U.S. Department
of Defense; BACRE N'DIAYE, United Nations;

Thursday, April 3, 2003

JORDAN J. PAUST, University of Houston Law Center; SIR ADAM ROBERTS, Balliol College, Oxford University

CLE The Global Conflict over Genetic Resources – *Diplomat Room WP*

Genetic resources provide a source of increasing tension in the international legal system. Debates over ownership and protection of genetic resources, as well as the utility and safety of genetic modification, entrain international environmental, trade, agriculture, and intellectual property law. Panelists will explore linkages and tensions.

Moderator: KAL RAUSTIALA, Princeton University

Panelists: LAURENCE R. HELFER, Loyola Law School, Los Angeles; ROBERT HOWSE, University of Michigan Law School; SABRINA SAFRIN, Rutgers, The State University of New Jersey, Newark; DAVID VICTOR, Center for Environmental Science and Policy, Stanford University

An Imperial Security Council? Implementing Security Council Resolutions 1373 and 1390 – *Empire Room WP, LL*

Panelists will discuss the two primary Security Council counter-terrorism resolutions, their implementation regime, and the legal/political innovations they may represent. Panelists will also conduct a serious review of how the resolutions have been made to work in practice.

Chair: NICHOLAS ROSTOW, General Counsel, U.S. Mission to the United Nations

Panelists: ELIN MILLER, Legal Counsel, Swedish Mission to the United Nations; JANE STROMSETH, Georgetown University Law Center; AMBASSADOR DANILO TURK, Assistant Secretary-General, United Nations; former Permanent Representative of Slovenia to the UN

Thursday, April 3, 2003

Reconceiving Reality: Women in International Law (10 Years Later) – Congressional A&B Rooms WP

Over the last decade, the law of women's international human rights has extended its reach into a broad range of activities and thereby has underscored the notion that all women enjoy certain rights. Simultaneously, the development of women's human rights has challenged the public/private dichotomy permeating traditional human rights law and has affected areas formerly seen as purely domestic concerns. On the tenth anniversary of the publication of *Reconceiving Reality: Women and International Law*, 1993 (No. 25 – ASIL Studies in Transnational Legal Policy), panelists will evaluate the impact of women's international human rights within and among international regimes and explore the reach of women's international human rights law into domestic and regional legal systems.

Chair: DORINDA DALLMEYER, Dean Rusk Center, University of Georgia School of Law

Panelists: ANDREW BYRNES, Australian National University; CHRISTINE CHINKIN, London School of Economics; KATHERINE GOROVE, U.S. Department of State; CELINA ROMANY, American University Washington College of Law

11:00 am-12:00 noon LECTURES
**The Paradox of American Power –
Palladian Room WP**

Dean Joseph Nye will discuss the role of multilateralism and unilateralism in U.S. foreign policy. Nye explored these issues in his recently published book, *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone*. Key topics to be addressed include the U.S. Administration's approach to international treaties, U.S. policy on aggression in Iraq, and the relationship of U.S. regulation of financial markets to global financial

standards. Nye will probe the extent to which unilateralism may be productive and when, and in what circumstances, multilateral policy and action is the preferred approach.

Lecturer: JOSEPH S. NYE, JR., Dean, Kennedy School of Government, Harvard University; former Chairman, U.S. National Intelligence Council and former U.S. Assistant Secretary of Defense

Moderator: NANCY L. PERKINS, Arnold & Porter

Commentator: FRED HIATT, *The Washington Post*

The Role and Record of Dispute Settlement Panels and the Appellate Body of the World Trade Organization – *Diplomat Room WP*

The WTO Dispute Settlement Understanding (DSU) creates a dispute settlement system designed to provide security and predictability to the multilateral trading system. To those ends, the DSU requires dispute settlement panels and the Appellate Body to clarify existing provisions of the WTO agreements without adding to or diminishing the rights and obligations provided under those agreements. Drawing on over seven years of first-hand experience, Professor Ehlermann, an original Member of the Appellate Body, will reflect on the role and record of the WTO dispute settlement system.

Lecturer: CLAUS-DIETER EHLERMANN, European University Institute, Florence; Wilmer Cutler & Pickering, Brussels; former Member of the World Trade Organization Appellate Body

Moderator: JOHN H. JACKSON, Georgetown University Law Center

Commentator: DONALD M. MCRAE, University of Ottawa

**Human Security: Can It Be Attained? –
Empire Room WP, LL**

Achievement of human security and development requires that we move away from the politicized debates over two false dichotomies: between security and human rights, and between economic/social rights and civil/political rights. These seemingly disparate fields are more closely related than realized, and only through genuine respect for the imperatives of all these fields will maximum human security and development be attainable.

Lecturer: LOUISE DOSWALD BECK, Secretary-General, International Commission of Jurists

Moderator: PAYAM AKHAVAN, Yale University Centre for International and Area Studies

Commentator: REBECCA COOK, University of Toronto Faculty of Law

12:30–1:30 pm INTEREST GROUP PANELS
**The African Union and the New Pan-Africanism:
Economic Development and Integration, Synergy
or Distraction? – Palladian Room WP**

The African Union, in its infancy, follows an economic approach that dispenses with principles articulated by the Lagos Plan of Action and the New International Economic Order, which went out of vogue due in part to unrelenting pressure from Western economic interests. Instead, the AEC seeks economic development using acceptable capitalistic tools, with some reliance on preferential principles embodied in the rules of the world's economic institutions. Does this approach serve African needs for development, and will it have the effect of integrating Africa into the global economy?

Moderator: JEREMY LEVITT; DePaul University College of Law

Panelists: MAXWELL CHIBUNDU, University of Maryland School of Law; CRAIG JACKSON, Texas Southern University, Thurgood Marshall School of Law

Arbitration of Disputes Under Income Tax Treaties – Diplomat Room WP

No formal mechanism currently exists for resolving disputes concerning the application and interpretation of approximately 1,300 bilateral income tax treaties now in force. Under these circumstances, interest has grown in the adoption of a system of binding arbitration. Panelists will consider procedures for appointment of arbitrators, enforcement of the obligation to arbitrate, arbitrability, as well as review and enforcement of awards. This panel is sponsored by the International Tax Law Interest Group.

Chair: DAVID TILLINGHAST, Baker & McKenzie

Panelists: HUGH J. AULT, Boston College Law School; LAWRENCE NEWMAN, Baker & McKenzie; WILLIAM PARK, Boston University School of Law

Why Obey International Law? Theories for Managing Conflicts with Municipal Law – Empire Room WP, LL

Panelists will examine a variety of theories explaining why states should comply with international legal norms that may conflict with legal norms in their domestic legal systems, and how such conflicts between these two levels of norms may be mitigated or resolved. The panel is sponsored by the International Legal Theory Interest Group.

Chair: BRIAN D. LEPARD, University of Nebraska College of Law

Panelists: HILARY CHARLESWORTH, Australian National University; HAROLD HONGJU KOH, Yale Law School; FERNANDO TESON, Florida State University College of Law

Trafficking in Women and Girls: Impunity and Complicity—Women in International Law/Human Rights Interest Groups Joint Luncheon – Congressional Rooms WP

Speaker: MARTINA VANDENBERG, Jenner & Block; formerly with Human Rights Watch

Using Bosnia and Herzegovina as a case study, Ms. Vandenberg will explore the role of corruption and official complicity in the trafficking of women and girls, a gross violation of human rights. She will analyze the international human rights tools available to address trafficking, including the Trafficking Protocol to the UN Convention Against Transnational Organised Crime.

2:00-4:00 pm

Annual General Meeting – Diplomat Room WP

Elections to ASIL Office; Awards Announcements; Panel: The State of the American Society of International Law

As the ASIL approaches its centennial year (in 2006), it is time to take stock of its achievements, failings, and aspirations. What should be the role of the Society vis-à-vis the emerging “hyper-power” in which it is based? Should the Society take positions with respect to vital issues of international law? Who are the Society’s constituencies and how does it serve them? Is the Society best suited to scholarly research or advocacy? Should it model itself on foreign policy think-tanks or the academy? Panelists will avoid prepared remarks and will participate in an open and frank exchange with one another and the audience.

Facilitator: JOSÉ E. ALVAREZ, Columbia University School of Law

Panelists: RITA E. HAUSER, President, The Hauser Foundation; DAOUD KHAIRALLAH, White & Case; FREDERIC L. KIRGIS, Washington and Lee University School of Law; KAREN KNOP, University of Toronto Faculty of Law; JOHN YOO, University of California at Berkeley; U.S. Department of Justice

4:30-5:30 pm

Presidential Address – Palladian Room WP

An American Vision of International Law

ANNE-MARIE SLAUGHTER, Dean, Woodrow Wilson School of Public and International Affairs, Princeton University

Moderator: JOHN KING GAMBLE, Pennsylvania State University, Behrend College

Commentator: PHILIP J. ALLOTT, Cambridge University – *International Law and the American Mind*

6:00–7:00 pm

Immigration After 9/11: A View from the United States – Palladian Room WP

After 9/11, the United States has faced significant challenges in terms of identifying who should be allowed into the country, under what conditions, and how those terms and conditions should be enforced. All of these issues need to be considered in light of domestic and international legal standards and security concerns. Two of the leading U.S. immigration officials, who helped shape and implement U.S. immigration policy in this critical period, will give the audience insight into these issues.

Chair: DEAN MICHAEL K. YOUNG, The George Washington University Law School

Speakers: EUGENE DEWEY, Assistant Secretary for Population, Refugees and Migration, U.S. Department of State; HON. JAMES ZIGLAR, immediate past Commissioner of the Immigration and Naturalization Service; currently Distinguished Visiting Professor of Law at The George Washington University Law School

7:15-8:30 pm

**Members' Reception – Blue/Blue Prefunction
Rooms EP**

*Cosponsored by The George Washington University
Law School*

8:00-10:00 pm

**Executive Council Meeting/Dinner –
Calvert Room EP**

Thursday, April 3, 2003

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Friday

APRIL 4, 2003

7:30-8:45 am

Interest Group Business Meetings

Human Rights – Palladian Room WP

“Proportionality Principle in International Human Rights Law” – Lecture by Sylvia Brown, Ryukoku University

(continental breakfast provided for group members attending lecture and business meeting)

Private International Law – Diplomat Room WP

(continental breakfast provided for group members attending the business meeting)

Rights of Indigenous Peoples – Hampton Room EP

**New Professionals/Law Students –
Empire Room WP, LL**

8:00 am

**Registration and Exhibits Open – Blue/Blue
Prefunction Rooms EP**

9:00-10:30 am

PANELS

**International Law Standards for Domestic
Governance – Palladian Room WP**

Panelists will explore the impact of international law and international organizations, including such trade and financial institutions as the WTO and World Bank, on domestic governance. Discussion will include a review of reform efforts, conflicts of law and institutional practice, cases of “forced reform,” and the purported tendency of international standards to strengthen accountability and improve the performance of governance structures.

Chair: LISA BHANSALI, The World Bank

Panelists: PADIDEH ALA'I, American University Washington College of Law;
NANCY BOSWELL, Executive Director,
Transparency International (Washington);

JULIO FAUNDEZ, University of Warwick;
RICHARD MESSICK, The World Bank

**Self Defense in an Age of Terrorism –
Diplomat Room WP**

This panel will explore the use of military force to defend against terrorist acts. The UN Security Council, NATO, and the OAS characterized the September 11 terrorist attacks as “armed attacks,” and recognized the United States’ “inherent right” to act in self-defense. These actions and the U.S. responses (including the U.S. National Security Strategy) raise fundamental questions, including: Does self-defense require a demonstration of state responsibility for the “armed attack”? What acts by non-state actors trigger the right of self-defense? What evidence triggers the exercise of this right? Is “anticipatory” self-defense legitimate? Can the “defensive” use of force justify the overthrow of governments that support or harbor terrorists?

Moderator: MARK DRUMBL, Washington and Lee University School of Law

Panelists: YORAM DINSTEIN, Naval War College, International Law Department;
MICHAEL J. GLENNON, The Fletcher School of Law and Diplomacy, Tufts University; DEREK JINKS, Saint Louis University School of Law;
W. MICHAEL REISMAN, Yale Law School

**Is the International Trade Regime Fair to
Developing States? – Empire Room WP, LL**

Panelists will examine the world trading system and critically explore its relationship to developing countries. The discussion will focus on TRIPS agreement and the controversy surrounding pharmaceuticals and compulsory licensing, the debate about the inclusion of labor standards in trade regimes, and tensions between the goals of development and WTO obligations.

Chair: LAN CAO, College of William and Mary, Marshall-Wythe School of Law

Friday, April 4, 2003

Panelists: JEFFREY DUNOFF, Temple University, James E. Beasley School of Law; JAMES GATHII, Albany Law School, Union University; SOL PICCIOTTO, Lancaster University Law School

Friday, April 4, 2003

CLE Immunity, Universal Jurisdiction and the Arrest Warrant Judgment – Hampton Room EP

In the *Arrest Warrant* case, the ICJ interpreted customary international law to provide incumbent Ministers for Foreign Affairs with absolute immunity from prosecution before municipal tribunals for war crimes or crimes against humanity. The Court likewise stated that former Ministers for Foreign Affairs retain their immunity in respect of acts committed in an official capacity.

Furthermore, the Court's Judgment, and the Separate and Dissenting Opinions thereto, exposed conflicting views about the existence and application of a principle of universal jurisdiction for serious violations of international criminal law. In light of these developments, panelists will address the current state of the law on immunity and jurisdiction in cases of alleged serious violations of international criminal law and consider the role (if any) that domestic courts can play in the prosecution of such offenses.

Moderator: DANIEL BETHLEHEM, Director, Lauterpacht Research Centre for International Law, University of Cambridge; Counsel to Belgium in the *Arrest Warrant* case

Panelists: CHRISTOPHER HALL, Legal Adviser, International Justice Project, Amnesty International, London; LINDA JACOBSON, Office of the Legal Adviser, U.S. Department of State; IRIT KOHN, International Department, Ministry of Justice, Israel; CHRISTINE VAN DEN WYNGAERT, University of Antwerp; Judge ad hoc in the *Arrest Warrant* case

11:00 am-12:00 noon LECTURES
**Peacemaking: The Interaction of Law, Politics
and Diplomacy – *Palladian Room WP***

Lecturer: HON. GEORGE MITCHELL, Piper
Rudnick LLP; former U.S. Senator

Moderator: B. DONOVAN PICARD, Piper
Rudnick LLP

Commentator: SEAN D. MURPHY, George
Washington University Law School

**The Spread of Democracy: Is More Better? –
*Diplomat Room WP***

The spread of democracy is commonly taken to be an unmitigated good for the international community. This lecture questions the emphasis on the spread of democracy, arguing that illiberal democracies may be destabilizing and dangerous to international peace, security, and the protection of human rights.

Lecturer: FAREED ZAKARIA, Editor,
Newsweek International

Moderator: GREGORY FOX, Wayne State
University Law School

Commentator: MICHAEL MANDELBAUM,
Nitze School of Advanced International
Studies, Johns Hopkins University

**A Reflection on Justice in an Age of
Globalization – *Empire Room WP, LL***

Globalization is not just an economic process. In its essential characteristics, globalization represents a societal phenomenon that is shaking the basic structure of the international system established by the Peace of Westphalia. How to reconstruct a global system of governance, going beyond the current network of national political systems, poses an urgent problem for reflection. A key ingredient to the success of this undertaking will be a considered focus by its participants on justice in the public order of this brave new world.

Lecturer: JUDGE HISASHI OWADA,
International Court of Justice

Moderator: ARTHUR VON MEHREN, Harvard University Law School

Commentator: JUDGE THEODOR MERON, President, UN War Crimes Tribunal

Friday, April 4, 2003

12:30-1:30 pm INTEREST GROUP PANELS
Constraints on the Waging of War: The Jus in Bello and the Challenge of Modern Conflicts – Palladian Room WP

The “war” on terrorism is a conflict unlike those envisaged in treaties and customary international law on armed conflict. Conflicts in the Middle East and Somalia have also exposed difficulties with regard to the application of treaties and customary law. For example, the obligation to distinguish between combatants and civilians has become increasingly difficult to apply to irregular forces. The pinpoint targeting of individual enemy combatants has become controversial. The application of other core principles, such as proportionality, is often unclear. Panelists will consider the relevance of traditional laws to (as well their adequacy to deal with) armed conflict in the twenty-first century. This panel is sponsored by the Lieber Society Interest Group.

Chair: DENNIS MANDSAGER, Naval War College

Panelists: CAPTAIN JANE DALTON, JAGC, U.S. Navy; Legal Counsel to the Chairman, Joint Chiefs of Staff; COLONEL DANIEL REISNER, Head of International Law, JAG, Israeli Defense Force; MARCO SASSÒLI, Faculty of Law and Political Science, University of Québec at Montréal

The UN and Administration of Territory: Lessons from the Front Line – Diplomat Room WP

The administration of territory by the United Nations, as in Kosovo (UNMIK) and East Timor (UNTAET), represents a peculiar phenomenon: while retaining their identity as international civil

servants, UN officials assume the duties of government ministers. This dual role generates both practical tensions and difficult questions of principle. For example, what law applies to the UN when it administers territory? Is the UN willing and able to accept the legal responsibilities—for example, in the field of human rights—that come with this role? How might the Organization better equip itself for such missions in the future? What happens when the needs of the territory conflict with the interests of other states? This panel is sponsored by the International Organizations Interest Group.

Chair: GEORGE EDWARDS, Indiana University School of Law, Indianapolis

Panelists: AMBASSADOR PETER GALBRAITH, National War College, Washington DC; former Director of Political Affairs, UN Transitional Administration in East Timor (UNTAET); AMBASSADOR JACQUES PAUL KLEIN, former Head, UN Transitional Administration in Eastern Slavonia (UNTAES) and UN Mission in Bosnia and Herzegovina (UNMIBH)

Commentator: RALPH WILDE, Lecturer in International Law, University College London

Why Doesn't the Media Report About International Law? – *Empire Room WP, LL*

To promote the role of international law in world politics, international lawyers need to convey to the public, not merely to governments or academics, the content and relevance of international norms. Although some journalists take these issues into account in their writing, media coverage of international law remains a negligible fraction of that devoted to domestic law. This panel, organized by the Society's new Outreach Committee, invites distinguished journalists to consider the opportunities for and obstacles to greater media coverage of international legal issues.

Chair: LEILA SADAT, Washington University School of Law, St. Louis

Panelists: CHARLES LANE, *The Washington Post*; THOM SHANKER, *The New York Times*

Teaching, Decision-Making and International Law in the Twenty-First Century – Hampton Room EP

Friday, April 4, 2003
Horizontal and vertical conflicts among international regimes create unprecedented challenges for legislators and regulators at the international, national and local levels. How can the academy better prepare decision-makers to face the challenges of the twenty-first century? This panel is sponsored by the Teaching International Law Interest Group.

Chair: CHANTAL THOMAS, Fordham University School of Law

Panelists: DIANE EDELMAN, Villanova University School of Law; ROBERT MILBOURNE, Chadbourne & Parke; VASUKI NESIAH, International Center for Transitional Justice; ROBERT NOLAN, Foreign Policy Association

12:30-2:00 pm

Balancing Print and Electronic Resources in International Law: Where Are We Today? – Congressional A WP (by invitation only)

Fostering an International Legal Information Network Luncheon sponsored by the Mellon Foundation

12:30-2:30 pm

AB-ILA Executive Committee Meeting – Calvert Room EP (by invitation only)

2:00-3:30 pm

PANELS

CLE Sovereign Debt Crisis: Creditor's Rights vs. Development – Palladian Room WP

The IMF recently proposed a sovereign bankruptcy system to provide overly indebted countries temporary protection from creditors in exchange for a commitment to negotiate with creditors in good faith. Should there be a formal sovereign bankruptcy system? What role, if any, should the

IMF or other international institutions play? Can this system fairly balance the competing interests of creditors and developing states?

Chair: LEE BUCHHEIT, Cleary, Gottlieb, Steen & Hamilton

Panelists: FLORENTINO FELICIANO, former Judge, World Trade Organization Appellate Body; ROBERT GRAY, Chairman, International Primary Market Association; SEAN HAGAN, Deputy General Counsel, International Monetary Fund

Can International Organizations Be Controlled? Accountability and Responsibility – *Diplomat Room WP*

The panel will explore the linked questions of the accountability and responsibility of international organizations, covering both the work of the International Law Association's Committee on Accountability and the future work of the International Law Commission on legal responsibility. In view of the increasing scope and powers of international organizations, the panel will look at questions raised in the International Financial Institutions and other groups of international organizations, including the UN itself, and at the range of practices and techniques, other than legal liability, that can be brought into play to ensure that international organizations are properly responsive to the interests of their member states and of the wider outside constituency, including NGOs.

Chair: SIR FRANKLIN BERMAN, University of Oxford; former UK Foreign Commonwealth Office Legal Adviser

Panelists: GERHARD HAFNER, University of Vienna; WILLIAM HOLDER, Deputy General Counsel, International Monetary Fund; D. KAREL WELLENS, Katholieke Universiteit Nijmegen

CLE NAFTA's Investment Chapter: Dynamic Laboratory, Failed Experiments and Lessons for the FTAA – *Empire Room WP, LL*

Although debates about NAFTA's investment chapter have become common fare, observers have begun to express surprise at the intensity and sincerity with which claimants, tribunals and the NAFTA parties accuse one another of illegitimate conduct during the course of arbitration. Do these circumstances mark Chapter 11 as a dynamic laboratory or a failed experiment? Panelists will discuss the long-term viability of Chapter 11 and its suitability as a model for the FTAA's investment chapter.

Chair: DIETMAR W. PRAGER, Debevoise & Plimpton

Panelists: JUDGE CHARLES N. BROWER, Iran-U.S. Claims Tribunal; HOWARD MANN, International Institute for Sustainable Development; HUGO PEREZCANO DIAZ, Dirección General de Consultoría Jurídica de Negociaciones SECOFI; JULIE A. SOLOWAY, Davies Ward Phillips & Vineberg LLP

International Criminal Court: First Year and Future Prospects – *Hampton Room EP*

Panelists will review the historical significance of the Court, discuss its progress since the Rome Statute entered into force on July 1, 2002, consider the legitimacy and impact of opposition to the Court, and analyze the Court's legal and practical capacity to prevent and redress international crimes.

Chair: KELLY D. ASKIN, Director, International Criminal Justice Institute

Panelists: M. CHERIF BASSIOUNI, DePaul University School of Law; Chair, Drafting Committee, Rome Conference for an International Criminal Court; BENJAMIN FERENCZ, former Prosecutor at the International Military Tribunals in Nuremberg; ERNST M.H. HIRSCH BALLIN, Tilburg University; Member, Council of State,

Netherlands; AMBASSADOR PIERRE
PROSPER, U.S. Department of State

3:30-4:15 pm

Visit with Exhibitors – Blue Rooms EP

The AM2003 Exhibitors invite to you to come by their tables during this time to preview new books and other products. Enjoy coffee and tea and discuss new ideas with the Exhibitors.

Oxford University Press (OUP) and the Project on International Courts and Tribunals (PICT) will host tea (at OUP exhibit tables) to present the OUP series on international courts and tribunals, developed in cooperation with PICT. The first book of the series, by Yuval Shany, *The Competing Jurisdictions of International Courts and Tribunals*, will be presented. Please stop by and hear more about the new series from OUP and PICT representatives.

Patrons Reception – Governor’s Room EP
(by invitation only)

4:30-5:30 pm

Keynote Address – Palladian Room WP

THE HONORABLE STEPHEN BREYER,
United States Supreme Court

Introducer: ANNE-MARIE SLAUGHTER,
Dean, Woodrow Wilson School of Public and
International Affairs, Princeton University

5:30-6:30 pm

ILM Editorial Advisory Committee and
Corresponding Editors Reception –
Governor’s Room EP (by invitation only)

6:00-7:00 pm

Late-Breaking Plenary Session Sponsored by
Georgetown University Law Center –
Palladian Room WP

Friday, April 4, 2003

7:15-8:00 pm

Annual Reception – Bird Cage Walk WP, LL
Cosponsored by Georgetown University Law Center

8:00-9:30 pm

Annual Dinner – Empire Room WP, LL
(for ticket holders only)
(Note: wine sales at Annual Dinner by cash only)

9:30-10:30 pm

International Law Trivia –
Empire Room WP, LL

Inspired by the annual quiz show at the Australia-New Zealand Society of International Law's annual dinner, ASIL meeting participants are invited to join dinner guests for an hour of International Law Trivia.

Friday, April 4, 2003

Saturday

APRIL 5, 2003

7:30-8:45 am

Interest Group Business Meetings

Lieber Society – *Hampton Room WP*

Teaching International Law – *Diplomat Room WP*

Interest Group Chairs Meeting/Breakfast –
Forum Room WP (by invitation only)

8:00 am

Registration and Exhibits Open – *Blue/Blue
Prefunction Rooms EP*

9:00-10:30 am

PANELS

CLE Regulating Corporations: Who's Making
the Rules? – *Palladian Room WP*

In the past, U.S. regulators have been criticized in some quarters and praised in others for their attempts to base international corporate and financial market regulation on a U.S. model. Panelists will continue this debate in light of recent corporate scandals. Who is (and should be) making the rules in today's global marketplace?

Moderator: HANNAH L. BUXBAUM, Indiana University School of Law, Bloomington

Panelists: PAUL DUDEK, U.S. Securities & Exchange Commission; ROBERTA S. KARMEL, Brooklyn Law School; EDWARD A. KWALWASSER, New York Stock Exchange

Politics and Law in International Adjudication –
Diplomat Room WP

In adjudicating legal disputes between States, international courts and tribunals, whether judicial or arbitral, apply the Law. When the parties to a legal dispute are States, this fact of itself gives to the dispute a political connotation. Against that background, how do politics and law interact in the way international courts and tribunals are constituted and organized, and exercise their functions?

Saturday, April 5, 2003

What role do politics play in the election of members and the operation of international courts and tribunals? Which are the criteria of justiciability? And, focusing on the International Court of Justice, is the Court a Constitutional Court?

Chair: EDUARDO VALENCIA-OSPINA, Consultant, Eversheds; former Registrar, International Court of Justice

Panelists: IAN BROWNLIE, Q.C., Blackstone Chambers; Oxford University (Professor Emeritus); JEAN-PIERRE COT, Judge, International Tribunal for the Law of the Sea; University of Paris I (Professor Emeritus); former Minister, Cooperation and Development; SIR GEOFFREY PALMER, Chen Palmer and Partners; former Prime Minister of New Zealand and Judge Ad Hoc of the International Court of Justice; DAVIS R. ROBINSON, LeBoeuf Lamb Greene & MacRae; former Legal Adviser, U.S. Department of State, and Agent before the International Court of Justice

**International Law and Social Movements:
Towards Transformation – *Empire Room WP, LL***

The entry of transnational social movements into international relations during the last few years—as seen in Seattle in 1999—is having a major impact on international law and politics. Conversely, international law is having a major impact within states by changing state-society relations, including by spurring social movements to action. Is international law equipped, normatively as well as conceptually, to respond to such developments? Panelists will examine recent trends in social movement and international law scholarship and will lay the foundation for a new research agenda.

Chair: JULIE MERTUS, American University School of International Service

Panelists: EDWARD RUBIN, University of Pennsylvania Law School; KATHRYN A.

SIKKINK, University of Minnesota,
Department of Political Science; NEIL
STAMMERS, University of Sussex; PAUL
WAPNER, American University School of
International Service

CLE Sauce for the Gander: Foreign
Extraterritorial Regulation of U.S. Parties –
Hampton Room EP

For many years, other nations protested the U.S. Government's attempts to apply its laws extraterritorially. Increasingly, however, other states have begun to apply their laws extraterritorially to regulate the activities of U.S. parties in areas like antitrust law, data protection, and Internet speech. Panelists will examine the reasons for such developments, as well as the limitations on their practical effect.

Chair: WILLIAM S. DODGE, University of California, Hastings College of the Law

Panelists: RONALD S. KATZ, Manatt, Phelps & Phillips; WILLIAM E. KOVACIC, General Counsel, Federal Trade Commission; GREGORY SHAFFER, University of Wisconsin Law School

11:00 am-12:30 pm WRAP-UP PANEL
International Law – Coordination or Conflict? –
Hampton Room EP

Reflecting on the meeting's theme of "Conflict and Coordination Across International Regimes," panelists will debate the need for deliberate and fundamental change in public and private international law. Are international legal regimes figuratively stuck in a different century? Is greater coordination of international regimes required? How could that be achieved? Has it become qualitatively more difficult to accommodate municipal regulatory systems to multiple, inconsistent and/or intrusive international regimes? Does the inherent flexibility of international law produce adaptation or incoherence? Is it appropriate to address these issues with a sense of urgency?

Saturday, April 5, 2003

Moderator: JUDITH A. MILLER, Williams & Connolly

Panelists: RAJ BHALA, The University of Kansas School of Law; JAMES R. CRAWFORD, University of Cambridge; GAVIN GRIFFITH QC, Solicitor-General of Australia 1984-1997; counsel and chartered arbitrator, Melbourne, and Essex Court Chambers, London; PHILIPPE SANDS, Center on International Courts and Tribunals, University College, London University

Panel sponsored by Piper Rudnick LLP

12:45-2:30 pm

Closing Buffet Luncheon – Blue Rooms EP
Cosponsored by Piper Rudnick LLP

**We hope you have enjoyed
ASIL's 97th Annual Meeting.**

Comments and Suggestions forms are available
at the ASIL registration and exhibit areas.

* * * * *

- Plan now to attend the 98th Annual Meeting, March 31-April 3, 2004, at the Loews L'Enfant Plaza Hotel, Washington, DC. The 98th Annual Meeting Committee will begin its work in May 2003. Send suggestions for panels by early June 2003 to ASIL headquarters, in care of the 98th Annual Meeting Committee; Fax: 202-797-7133; email in care of Sandra Liebel at sliebel@asil.org.
- Also save the date for the 99th Annual Meeting, March 30-April 2, 2005, at Loews L'Enfant Plaza Hotel in Washington, DC.
- The 100th Annual Meeting, in spring 2006—the ASIL Centennial Meeting—will take place in Washington, DC. Watch the ASIL Web site for up-to-date information on dates and the special planning for this important event in the life of the Society.

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*From Government to Governance?
The Growing Impact of Non-State Actors on the
International and European Legal System*

July 3-5, 2003

Steigenberger Kurhaus Hotel
The Hague, Netherlands

Cosponsored by ASIL, the Nederlandse Vereniging voor Internationaal Recht (NVIR), the Stichting Foundation, and the T.M.C. Asser Instituut.

Program Co-chairs:

Dorinda Dallmeyer, Dean Rusk Center, University of Georgia School of Law; Ige F. Dekker, University of Utrecht

This conference will explore the growing role played by non-state actors and its implication for international and European legal theory and practice. Although states remain the primary subjects in international legal systems, their position no longer is an exclusive one. These legal systems now have amassed a great deal of experience working with a variety of non-state actors, not only as objects of legal regulation but also as active contributors to the development and implementation of international law. The conference examination is designed to yield a more realistic understanding of this perceived shift from “government” to “governance.”

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