

**BRITISH INSTITUTE OF
INTERNATIONAL
AND COMPARATIVE LAW**

ANNUAL MEETING 2005

**ANNUAL REPORT 2004
DIRECTOR'S REPORT AND
FINANCIAL STATEMENTS 2004**

CONTENTS

<i>Staff</i>	ix
DIRECTOR'S REPORT	1
RESEARCH PROJECTS	5
Company Law Centre	6
Competition Law Forum	11
Data Protection Research and Policy Group	16
European Financial Law Centre	18
Investment Treaty Forum	20
Product Liability Forum	28
Public International Law	33
Regulation Forum	43
Tort Law Centre	48
The Centre for French Law	53
Other Research Projects	55
RESEARCH PROFILES	58
THE DEVELOPMENT BOARD	73
PUBLICATIONS	76
International and Comparative Law Quarterly	76
Bulletin of Legal Developments	77
Other Institute Publications	77
THE GROTIUS LIBRARY	90
Human Rights Documentation Depository	91
CONFERENCES, LECTURES AND OTHER EVENTS	92
TRAINING AND CONSULTANCY	103
Commonwealth Legal Advisory Service	106
RELATIONS WITH OTHER BODIES	108
ICLQ 2004 TABLE OF CONTENTS	111
THE INSTITUTE'S FULL LIST OF PUBLICATIONS	115
FINANCIAL STATEMENTS AS OF 31 DECEMBER 2004	119

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THE DIRECTOR'S REPORT ON THE ACTIVITIES OF THE BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW IN 2004

INTRODUCTION TO THE DIRECTOR'S REPORT
FROM STEPHEN WALZER

May I offer a warm welcome to readers of the Director's Report for 2004. A word of introduction seems appropriate. Mads Andenas has served the Institute for the past five years as Director, has taken a six-month sabbatical and will thereafter become professor of law at University of Leicester. I now fill the post of Acting Director pending the appointment of a permanent holder of that office for which post the interview process is underway.

A word about myself: I have worked as a solicitor in industry for the past thirty-four years. Following qualification, I have spent some time in private practice and then joined British Petroleum where I spent twenty-two years, followed by a further twelve at British American Tobacco. My field of operation has always been the international legal arena, with some emphasis on Brussels and competition law and policy in particular. Many of the Institute's interests and activities parallel my own and I have supported its operations for a number of years, inspired by the dedication of David Sarre, whose work at the Institute needs no introduction from me.

I joined the Institute in mid-January 2005 and therefore cannot speak with experience of events prior to that time. These will be addressed elsewhere in this Introduction. I have however been enormously impressed by the rapid growth of the Institute's activities in recent years and by the enthusiasm of the Institute staff together with the breadth of their work. Activities range from Investment Treaty claims and the World Trade Organisation to the Death Penalty Project in Commonwealth Africa. Elsewhere on the spectrum figure Human Rights in Iran and from there to Corporate Governance in the New Europe. The place positively hums with activity and I am proud to be at the centre of that activity.

Origins of BIICL

The Institute, going back to 1894, was incorporated in its present form in 1958. Lord Denning initiated the merger of two societies: the Society of Comparative Legislation and the Grotius Society. The Society of Comparative Legislation, founded in 1894, had the object of promoting knowledge about the course of

legislation in different countries. The Grotius Society was created in response to the breakdown of the international legal order during the First World War.

The Institute continues to pursue its founding mission: to understand and influence the development of law on a supranational basis, and to move freely over the boundaries that traditionally divide the fields of law.

The present

The Institute is a membership association and each year a general meeting of the members is held as the Institute's Annual General Meeting. Ordinary business items at the Annual General Meeting are consideration of the accounts and the reports of the Council and auditors, and the election of Council members. Lord Goff of Chieveley is the President of the Institute. The Council of Management, chaired by Lord Bingham of Cornhill, is the governing body of the Institute. It is the function of the Council to manage and control the affairs of the Institute. It normally meets twice a year. The Council appoints the Director of the Institute and the Executive Committee. The Executive Committee, chaired by Michael Hutchings, is a committee of the Council of Management and is entrusted with the management of the affairs of the Institute. It normally meets every other month. The Finance and Audit Sub-Committee of the Executive Committee, chaired by Peter Barton, has a special responsibility for financial control issues. The Advisory Board has four sections, which meet once or twice a year, and advises on the Institute's programme of research and events.

The Institute has completed a very full programme during 2004, involving an increase in expenditure on its objects of over 24 per cent. This has strengthened the Institute's unique position, both in the United Kingdom and at the international level, as a body that contributes to the understanding of law on a supranational rather than simply national basis. Through its research, publications and many other activities it has also provided a forum for policy formation and influence on the development of the law unrestricted by the boundaries that traditionally divide the law.

The Development Appeal has been instrumental in the continued development of the Institute. The Appeal reached its target in 2003 and has contributed to the consolidation and expansion of the Institute. The aims of the Development Appeal were to fund ongoing and new activities at the Institute. It did not aim at providing an endowment and the Institute is continuing its fundraising with the aim of securing a reserve with a view to its long-term financial stability. An important outcome of the Appeal is that it has also stimulated interests in different new activities. New areas of research are supported by the establishment of [several new centres of excellence, a Competition Law Forum and a Data Protection Research and Policy Group, the Investment Treaty Forum, the Regulation Forum].

After a period of rapid growth, the Institute is now in a position to consolidate the progress it has made and look to the future. An internal review of the Institute's governance is being undertaken by a working party under the Chairmanship of

Alex Layton. It is intended that the findings of this review will be published and discussed during the summer of 2005.

This is the 44th Annual Report prepared for circulation to members and friends of the Institute. Up-to-date information is always contained in the Institute's Newsletter, which is distributed to all members and subscribers at quarterly intervals. Separate brochures or leaflets are also prepared for most of the Institute activities and publications. These are usually sent to all members and subscribers who have indicated their interest in the area in question. Members are particularly encouraged to assist the Institute in maintaining an up-to-date record of their interests by completing the appropriate questionnaire when renewing their membership. The website, www.biicl.org, and circulation of invitations by email list provide other means of keeping members informed about the activities at the Institute.

This Report primarily covers the calendar year 2004, but, as in the past, reference has also been made to more recent developments. It is printed together with the Financial Statements but forms no part of them and is of course not covered by the Auditors' Report.

Council of Management

It is a great pleasure to note the appointment of the Chairman, the Rt Hon Lord Bingham of Cornhill to the Order of Knight of the Garter.

Staff

The Institute now has a staff of 28 employees.

Several members of staff have also moved on to pursue their careers elsewhere, all of whom played their part in the development of the Institute. These included Olivia Skinner (Publisher); James Kempster (IT); Mary Clements (Events); Oliver Burton-Smith (Membership Secretary); Liane Hoogland (Director's PA); Omer Tene (Director of the Data Protection Research Group); Angela Wimbourne (Finance); and Elaine Wintle (Librarian).

Membership

Membership of the Institute is worldwide. It entitles members to participate in the activities of the Institute and to receive the ICLQ (including web access from Volume 50, 2001) and a periodic Newsletter of its activities. Individual members are entitled to a discount on all Institute publications, events and conferences.

Corporate membership is available for government departments, law firms, barristers' chambers and companies. It entitles them to full information about the activities of the Institute and up to four copies of the ICLQ as required (and also to web access), one copy of the fortnightly Bulletin of Legal Developments, and reduced fees for as many participants as they wish at events and conferences of the Institute. Many law firms and legal departments in both the private and public sector use the Institute's many events as the backbone of their staff training and development programme. The Institute's publications can be obtained at a 40 per cent discount.

The Institute provides members, including corporate members, with research material and assistance on specific projects within the limits of its resources. Documentation on meetings which members are unable to attend in person is also distributed on request where available, notably for the meetings of the specialist discussion groups. The Institute welcomes and is most grateful for the support of many members in its work, both as speakers and discussants at conferences and meetings, and in the research programme.

The rate for membership for the year 2004 was £95, applicable wherever the member is resident. For students and retirees, the membership rate was £45. The structure and pricing of corporate membership was also unaltered: the rate for foundations, institutions, government departments and barristers' chambers £400. Public companies and partnerships of up to 50 partners paid £650 and larger partnerships paid £1000 to reflect the wider number of individuals who are thereby entitled to participate in the meetings programme free, or at a reduced rate. These arrangements reflect the additional services that the Institute is able to offer its corporate members.

Application forms for membership of the Institute and further information are available from the Institute. Forms are also available on the website of the Institute (www.biicl.org), and it is now possible to make payments to the Institute directly over the Internet. Members are asked to identify areas of their specialist interests on the forms to ensure that they receive full details of meetings and lectures of particular interest to them.

At the end of 2004 we had 809 members in total, with a breakdown as follows: 194 students/retired; 585 individuals; 16 corporate level I membership; 5 corporate level II membership; 9 corporate level III membership.

CURRENT RESEARCH PROJECTS

In recent years there has been a marked increase in the quantity and range of research projects conducted at the Institute. The Institute has increased its research staff, hosted more visiting research fellows, attracted new research funding, and generally expanded the scope of its work.

Research carried out at the Institute takes many forms, undertaken not only by the specialist forums and research centres or by the organization as a whole, but also by individual members of staff, and more importantly, by the many Members and visitors who share information at meetings or use the Institute's research facilities and participate in the new internet discussion groups. The Institute funds research activities from its endowments, from grants from research councils and other research funding bodies, and from other public and private bodies which are willing to support the Institute's research programme or specific projects. At the same time as the research activities of the Institute have a focus on the contemporary challenges to the law, they reflect the mission already established in 1895 to understand and influence the development of law on a global rather than merely national basis. At the core of the Institute's research is the promotion of the international rule of law and human rights by its projects in the fields of international and comparative law and the conflict of laws, and in the fields of European law and Commonwealth law. The Institute is making a unique contribution by, as Lord Denning stated in 1952, moving freely over the boundaries that divide these fields of law and bringing out the underlying unities. The research programme builds upon the Institute's unique perspective on the development of an international legal order, and on the European Union and European Human Rights.

COMPANY LAW CENTRE

Director: Prof Jonathan Rickford
Research Fellow: Dr Matthias Pannier

The Company Law Centre was established in May 2003 and since then has developed an active programme under the direction of Jonathan Rickford. Before his appointment he was the project director of the British Government's independent Review of Company Law, and a member of the European Commission High Level Group on Company Law (Winter Group). Recently, he has also become a visiting Professor of Company Law at the London School of Economics.

The Centre's mission is to provide a forum for developing research in, and policy solutions to, company law and corporate governance issues, focusing particularly on European and international legal problems.

It is intended to provide support for both public and the private sector participation in developing European law and related regulation and implementation. Moreover, as part of this process, the Centre maintains interactive contact with US, Commonwealth and other jurisdictions.

Capital Maintenance

Due to the adoption of International Accounting Standards and their implications for company financing, during the first year of its existence much of the work of the Centre concentrated on the capital issue.

An interdisciplinary group representing academics, practitioners, civil servants and auditors was formed to produce a set of capital maintenance recommendations. The outcome of the five meetings held by the group is a 100-page report, *Reforming Capital*, which covers the legal problems arising on current accounting standards, particularly on stock-options and pension fund deficits, and makes wider proposals for reform. The report was presented and debated at the Conference of 30 January 2004 by leading experts from the US, UK and Continental Europe. The report was published in its final form in May 2004 in volume 15 issue 4 of the European Business Law Review (EBLR) at 919 and further papers by leading French and German commentators were published in the subsequent issue.

The Centre's work on developing and promulgating the report's proposals for reform continues. Professor Rickford addressed a combined faculty seminar of the postgraduate institutes of the Universities of Frankfurt and Mainz convened solely to consider these proposals on 12 January 2005. A conference was convened at the Institute by the Centre and the University of Aarhus Business School for the same purpose on 21 January 2005, at which leading Scandinavian and British experts on law and accounting and the European Commission's newly appointed official dealing with the matter spoke.

Takeovers, Cross-Border Restructuring and the European Company (SE)

The new EU Takeover Directive was agreed in November 2003 between the Council and the Parliament and was finally approved by the Council on 29 March 2004. The Company Law Centre has examined the problems for the implementation of the Directive in the pre-existing national legal structures and institutions, particularly the City Code and the Takeover Panel. The Company Law Centre organised a conference on takeovers in October 2004 (The EU Takeover Directive—A Break Through?) and recent developments on this topic were also covered at the conference on 18 March 2005 (New European Company Law and Corporate Governance—The UK and the New Member States).

The Centre's work also addresses the Directive on cross-border mergers of companies; the proposal for a Directive on the cross-border transfer of companies' registered offices; and the recent case law of the European Court of Justice in the area of Free Movement of companies and capital (Centros, Überseering, Inspire Art Ltd and the so-called Golden Share Cases). These matters were discussed at our conferences on 17 June 2003 (The Golden Shares Cases In The European Court Of Justice); 18 September 2003 (Überseering and Inspire Art: The European Court of Justice and the Freedom of Establishment); 27 February 2004 (Restructuring of Companies in Europe: SE, Tenth and Fourteen Directives); 18 March 2005 (New European Company Law and Corporate Governance—The UK and the New Member States); and subsequent developments will be further discussed on our conference on 11 May 2005 (The Cross Border Merger Directive).

We also focus on the European Company (SE) and how domestic companies in Europe can make use of this new company form. The Company Law Centre held a conference on 27 February 2004 (Restructuring of Companies in Europe: SE, Tenth and Fourteen Directives). The topic was also discussed at the event on 18 March 2005 (New European Company Law and Corporate Governance—The UK and the New Member States).

Corporate Governance

Further, the Company Law Centre also focuses on the latest developments in the area of Corporate Governance. The current EU Recommendations and proposals for corporate governance regulation are the result of the Commission Action Plan of April 2003. Our work focuses in particular on the:

- Proposal for a Directive of the European Parliament and the Council amending Council Directives 78/660/EEC and 83/349/EEC concerning the annual accounts of certain types of companies and consolidated accounts of 28 October 2004.
- Consultation documents on fostering an appropriate regime for shareholder rights of 16 September 2004.
- Commission Recommendation 2004/913/EC of 14 December 2004/913/EC on fostering an appropriate regime for the remuneration of directors of listed companies.

- Commission Recommendation 2005/161/EC of 15 February 2005 on the role of non-executive or supervisory directors and on committees of the (supervisory) board of 15 February 2005.
- Proposal for a Directive of 16 March 2004 on statutory audit of annual accounts and consolidated accounts and amending Council Directives 78/660/EEC and 83/349/EEC.
- Directive of the European Parliament and of the Council on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (Transparency Directive).

Jurisdictional or Regulatory Competition and Company Law

We continue to address the issues of jurisdictional or regulatory competition or freedom of action at state level, as against supranational harmonization or unification of law, and the optimal boundary between the two for Europe. This can affect the appropriate scope for the future programme of the Commission in the area of Company law, and the arguments of the players in considering the optimal scope and character of the Community role.

Events

30 January 2004	Reforming Capital Maintenance: New Accounting Standards and the Case for Reform
27 February 2004	Restructuring of Companies in Europe: SE, Tenth and Fourteen Directives
24 June 2004	The Conflicts of Corporate Laws Revolution in the European Union: Uberseeing, Inspire Art and Beyond
17 September 2004	Corporate Governance Post Enron
22 October 2004	The EU Takeover Directive—A Break Through?
19 November 2004	Corporate Governance—The UK and the EU Agenda
21 January 2005	The Proposal for a new Capital Directive—Towards a new Capital Regime?
18 March 2005	New European Company Law and Corporate Governance—The UK and the new Member States

Communications and Questionnaires

(can be downloaded from www.biicl.org)

- a. Response to the Operating and Financial Review Working Group on the Materiality Consultation Document of June 2003
- b. Response to the Commission's consultation document of 5 May 2004—Recommendation on role of independent non-executive or supervisory directors
- c. Response to the Communication from the Commission to the Council and the European Parliament Clearing and Settlement in the European Union—The way forward COM 2004(312)

- d. Response to the consultation document of the Services of the Internal Market Directorate General—'Fostering an Appropriate Regime for the Remuneration of Directors'
- e. Response to the Public consultation on the outline of the planned proposal for a European Parliament and Council directive on the cross border transfer of the registered office of a company
- f. Response to the Consultation document of the Services of the Internal Market Directorate General—'Fostering an Appropriate Regime for Shareholders' Rights' of 16 September 2004

Publications

- J Rickford (Ed) 'Reforming Capital—Report of the Interdisciplinary Group on Capital Maintenance' 15 (2004) EBLR 919
- J Rickford 'Current Developments in European Law on the Restructuring of Companies: An Introduction' 15 (2004) EBLR 1225
- J Rickford 'The Emerging European Takeover Law from a British Perspective' 15 (2004) EBLR 1379
- J Rickford 'Fundamentals, Developments and Trends in British Company Law—Some Wider Reflections for Europe. First Part: Overview and the British Approach' (2004) ECFR.
- J Rickford 'Fundamentals, Developments and Trends in British Company Law—Some Wider Reflections for Europe. Second Part: Current British Priorities and Wider Reflections' (2005) ECFR 1.
- F Wooldridge and M Pannier 'The German Corporate Governance Code—Status and Development' 16 (2005) EBLR issue 2.
- M Pannier and J Rickford 'Corporate Governance Disclosures in Europe' 16 (2005) EBLR forthcoming
- M Andenas, T Guett and M Pannier 'Free Movement of Capital and National Company Law' 16 (2005) EBLR forthcoming

Other authors:

- R Aitken and C Morgan 'Societas Europaea: Is Tax an Incentive or a Barrier?' 15 (2004) EBLR 1343
- T Baums 'The Regulation of Takeovers under German Law' 15 (2004) EBLR 1453
- U Bernitz 'Corporate Governance in Europe in the Light of the Takeover Directive: an Introduction' 15 (2004) EBLR 1351
- U Bernitz 'The Attack on the Multiple Voting Rights Model: The Legal Limits under EU Law' 15 (2004) EBLR 1423
- M Edbury 'The European Company Statute: A Practical Working Model for the Future of European Company Law Making?' 15 (2004) EBLR 1283
- L Enriques 'EC Company Law and the Fears of a European Delaware' 15 (2004) EBLR 1259

- M Garcia-Riestra 'The Transfer of Seat of the European Company v Free Establishment Case-Law' 15 (2004) EBLR 1295
- P Kruger Andersen 'The Takeover Directive and Corporate Governance: The Danish Experience' 15 (2004) EBLR 1461
- F Kubler 'A Comparative Approach to Capital Maintenance: Germany' 15 (2004) EBLR 1031
- M Menjucq 'French Interpretation and Strategies about the European Company' 15 (2004) EBLR 1275
- H Merkt 'Creditor Protection and Capital Maintenance from a German Perspective' 15 (2004) EBLR 1045
- A Nilsen 'Anglo-American v Continental-Nordic Models of Corporate Governance' 15 (2004) EBLR 1353
- J Simon 'A Comparative Approach to Capital Maintenance: France' 15 (2004) EBLR 1037
- R Skog 'The Takeover Directive, the "Breakthrough" Rule and the Swedish System of Dual Class Common Stock' 15 (2004) EBLR 1439
- C Teichmann 'Restructuring Companies in Europe: A German Perspective' 15 (2004) EBLR 1325

COMPETITION LAW FORUM

Director: Philip Marsden

Research Fellow: Hedvig Schmidt (2005); Charles Smith (2004)

In 2003 the Institute established a centre for international, European and comparative competition policy and law, the Competition Law Forum (CLF). This builds on the Institute's existing competition law activities and extends into a number of new dimensions. The CLF produces and publishes cutting-edge applied research, analysis and recommendations on the content, methodology and application of competition policy at all levels of governance—national, European and global. Alongside research being carried out on the most pressing problems of competition law and policy, the CLF provides a forum in which the practical application of competition policy may be considered by lawyers, judges, economists, senior business managers, senior regulatory officials, public affairs professionals, consumer bodies and other specialist practitioners. The objective of these discussions is to achieve widespread understanding among key actors of the appropriate goals of competition policy and of the most effective means to their achievement.

The CLF has had a positive impact on the competition law programme at the Institute. CLF members are leading experts in their area and interested in contributing to legal and policy developments, and as such continue to support our events and projects more generally.

Dr Philip Marsden took up the position of Director of the Competition Law Forum on 1 May 2003.

The key element of the Forum is the quarterly roundtable Competition Law Forum meeting where members discuss pressing issues. These meetings are open to members only, plus a limited number of invited guests, such as regulators, judges or in-house counsel. Senior regulatory officials are invited to join the CLF as Honorary Consultative Members.

Three meetings each year are held at the Institute and one is held in Brussels. Membership of the CLF is open to practitioners, academics and regulators who have distinguished themselves in the area of competition law and policy. The annual charge for membership (currently £3,500) funds the posts of Forum Director and a junior research fellow as well as contributing to overhead costs, particularly Institute events.

Senior competition lawyers, officials and economists participated in January 2004 in a special meeting on *Ramifications of the IBA Health case*; in March on *Vertical and Conglomerate Mergers*; in Brussels in June on *Competition Issues in Air Transport*; in September on *Criminalisation, Cartels and Leniency*; and in December on *Modernisation II*. At the Brussels meeting, Philip Lowe, the

Director General of DG-COMP at the European Commission, offered us a keynote dinner speech which was very well received by all members. Research notes have been prepared, in particular on the mergers session, which will form the basis of a CLF submission to the European Commission when its consultation on the topic begins later this year. The 2005 schedule includes meetings on Competition Policy and Intellectual Property, Reform of Article 82, Competition Policy and Regulatory Policy and Remedies.

Members

This year we welcome five new members to the CLF: Microsoft, Wilmer Cutler & Pickering, Norton Rose, Allen & Overy and Davies Ward Phillips and Vineberg, and consultative members from the competition authorities in France and Italy, including Judge Frédéric Jenny. Membership currently stands at 39 members and 21 consultative members. Membership fees remain at £3,500/annum. Future plans focus on the recruitment of more corporate members.

Advisory Board

The Advisory Board of the CLF consists of Oliver Bretz, Simon Baker, John Wotton, Peter Carlo Lehrell, Mark Clough QC, Philip Collins, Tim Cowen, Gavin Robert, Michael Hutchings, Stephen Walzer and Stephen Wisking. The Board meets regularly to oversee the activities of CLF and to offer guidance to the Forum Director on programme development and research. Specifically its functions are to supervise the Forum Director; to decide on topics for discussion at future Forum meetings; to decide on other Forum activities; to discuss the general management and future direction of the Forum. The Board and the Director have the key responsibility of ensuring the quality standards of the programme.

Research

CLF research activities in Autumn 2004 focused on reform of Article 82—the abuse of dominance provision in EU law. A small expert group of CLF members was formed in late 2004 to feed into the Commission’s early review process, and then provide economic and legal analysis during the Commission’s consultations to produce policy recommendations (early Spring 2005).

The CLF Director has been involved with research projects of the Institute relating to international enforcement cooperation, the interface of trade and competition policy, and he authored a study for the UN on the Impact of Exclusionary Practices on International Trade and Competition, and an article on the competition issues in the WTO Telmex decision. On these issues he has spoken at conferences at the Institute, at a special DTI consultation held in Oxford, at meetings of UNCTAD and the WTO in Geneva and was UK Rapporteur for Competition Law at the FIDE Congress in Dublin.

He is currently working on a chapter of a book focusing on competition law, telecommunications regulation and dispute settlement. He is also editor of a new Research Handbook on trans-Atlantic antitrust issues. He is a co-editor of the Institute's *Current Competition Law Yearbook*, and has launched the European Competition Journal, which contains lengthy scholarly articles on competition law and economics.

The following research projects are coordinated by the Director of the Competition Law Forum:

Competition Policy Foundations for Trade Reform

This project identifies how national competition laws and enforcement practices in developing countries have changed so as to accommodate, facilitate, or even impede international cooperation on competition enforcement matters. Case studies have been done on the structure and operation of cooperation on competition enforcement matters, between Canada, Chile and Costa Rica; between the US and Brazil, and between EU and South Africa and Mexico. Dr Philip Marsden is directing this study at the Institute in coordination with the European Commission and the Centre for Economic Policy and Research.

Exclusionary Business Practices, their Effects on Trade and Competition, and Analytical and Remedial Mechanisms

The Institute in partnership with UNCTAD examined the harms that exclusionary business practices can have on trade and competition; the degree to which such harms remain unaddressed by existing domestic, bilateral and multilateral commitments and the prospect for further initiatives and instruments, at the domestic, bilateral and/or multilateral level to address such harms. Dr Philip Marsden carried out this study.

Training Judges

The Institute successfully tendered for a European Commission project on *Training Accession State Judges in Competition Law* which was implemented in Brussels in March 2005 with 38 judges from 14 Member States in attendance. The CLF Director, Junior Fellow and CLF members provided the expert training.

Junior Fellow

The CLF Advisory Committee approved a budget for a fellowship to assist the director of the Forum with competition law-related activities of the Forum and the Institute generally. This fellowship programme allows young academics to join the Institute on a rolling six-month basis, and has been invaluable in assisting with the preparation of research, tenders, review of transcripts from our

conferences for publication, etc. Charles Smith and Hedvig Schmidt were the first CLF Junior Fellows.

Events

May conference: The Trans-atlantic Anti-Trust Dialogue

Over this two-day conference, which was held in May 2004 190 attendees benefited from a dynamic programme of topics and 50 speakers, including US DOJ Assistant Attorney General Hew Pate, Philip Lowe, John Vickers, Sir David Edward, Francis Jacobs and other senior officials and practitioners. CLF members played key roles on the Conference Organising Committee and on the various panels. Sponsors included: Freshfields, Lovells and Virgin Atlantic. The 2005 conference, on 9–10 May, will be followed by a one-day research workshop for competition law academics.

Workshops

In 2004, Institute practitioner workshops were held on: *Arbitration of Competition Issues; the BA/Virgin case; Competition Law and Small Businesses; Economists in Court; Extraterritoriality and Empagran; and The Law and Economics of the Microsoft decision; Change of Control under the Enterprise Act; Developments in Competition Litigation; and Modernisation in Practice*. Our 3rd Annual Merger Conference was held in December with the generous support of Shearman & Sterling and RBB Economics.

Publications

Two volumes of proceedings of the Institute's competition law events have been published. The first was *Competition Law Yearbook 2002 (Current Competition Law Volume I)*, published May 2003, bringing together papers and speeches from major conferences at the Institute in 2001–2. *Current Competition Law Volume II* was published in April 2004, and focuses particularly on the Institute's major annual conference on international and comparative competition law in 2003.

Areas covered include in-depth analyses of such topical issues as cartels, compliance, competition in media, pricing practices and mergers, and provide both national and international perspectives from European and North American academics and practitioners, as well as important statements of policy by competition regulators. Both titles cost £85.00 (£51.00 for members) and are available from the Institute by mail order or online via the website.

Press/reviews

The CLF director has been interviewed on Radio 5 Live, and quoted in the *Financial Times*, particularly with respect to the issues in the IBA Health case.

His book, *A Competition Policy for the WTO*, has received five favourable book reviews in leading journals including the *Modern Law Review*.

The success of the CLF has prompted an interest in establishing similar groups. One such initiative is the establishment of a Data Protection Research Group (see below, next section, for full details). Proposals for the formation of additional groups in other areas are most welcome.

DATA PROTECTION RESEARCH AND POLICY GROUP

Director: David Bowden

The Data Protection Research & Policy Group was launched in November 2003. It builds on the Institute's existing data protection activities to extend into new fields of comparative and doctrinal research.

The Group has a diverse membership. This is drawn from major international law firms (including Allen & Overy, Clifford Chance, Slaughter & May, Herbert Smith, Freshfields Bruckhaus Deringer); commerce and industry—the sectors represented are Internet Service Providers, telephone, oil, banking, consultancy, pharmaceuticals, (they include household names such as BT, Disney, Accenture); and large international accountancy practices.

Honorary Members are drawn from the national Data Protection Authorities of the EU Member States and beyond, senior civil servants at relevant government departments (including the UK's Department for Constitutional Affairs) and from DG Justice in the European Commission.

The Group has a network of prominent academics in many countries across the globe (including China, Hong Kong, India, Australia, Argentina, and the main states of the EU including the accession countries). Using this network, comparative research as to how privacy rules have been implemented in a diverse fashion can be achieved.

Research

The work plan for 2005 includes:

- Corporate governance and data protection;
- IT security, international data transfer;
- Data protection and marketing; and
- Data Protection Directive review to coincide with its 10th birthday.

Events

During 2004, quarterly meetings were held around 4 major themes. These were:

- Enforcement Roadmap
- Data Protection in the Employment field
- Choice of law in the on-line arena
- Law enforcement, national security, anti-terrorism measure and the conflicts with Data Protection rules.

In addition in 2004 there were a successful monthly series of Practitioner Workshops. They included events on:

- Outsourcing
- EU Constitution
- Medical records & genetic data
- Privacy, security & transparency
- Protection of children on-line
- Indian Data Protection rules
- Data sharing
- US Data Protection laws
- Freedom of Information

For 2005, there will be more events including those centred around:

- Radio Frequency Identifiers
- Data Protection in the new EU states
- Cross border fight against spam
- National Identity cards
- Audit & Compliance toolkits
- Direct marketing & complaint handling
- Biometrics

The Group has two main objectives which are complementary to each other. The first is to provide a forum which convenes regularly for the discussion of data protection policy by lawyers, business managers, policy advisers, academics, regulators, policy makers and specialist practitioners. The second is to produce applied research on the content, methodology and application of data protection laws and policy at all levels of governance in a wide range of jurisdictions.

EUROPEAN FINANCIAL LAW CENTRE

Director: Jane Welch

The Institute has established a European Financial Law Centre under the direction of Jane Welch.

Research

The aim of the Centre is to provide an informed independent forum for research and discussion of EU financial services law, focusing on the following:

- Clarification of the increasingly complex maze of legislative measures affecting financial institutions operating in the EU, where banks, investment firms and insurers are subject to a variety of 'vertical' and 'horizontal' directives, supplemented by further layers of secondary legislation
- Analysis of ambiguities in drafting and study of the interpretation and implementation of EU financial services law in the UK and other Member States
- Research into possible conflict between European financial services legislation and Community Law
- The relationship between EU financial services law and the global financial markets

Other subjects for research include:

- Competition and Financial Services
- *Lamfalussy* procedures: are they working?
- The impact on financial institutions of the jurisprudence of the European Court of Justice on freedom of establishment and freedom to supply services

Events

A one-day conference was held in June 2004 on the combined impact of the EU Directives on Electronic Commerce, Distance Marketing, Unfair Commercial Practices and Data Protection on the distance marketing of financial services. Speakers included Dr Jens Ring and Giuseppe Abbamonte from the European Commission; Professor Jan Wouters, University of Leuven; Professor Eva Lomnicka, King's College, London; Niamh Moloney, Queen's University, Belfast; Mark Calderon, Freshfields; Quentin Archer, Lovells; Anne-Marie den Tex; Nauta Dutilh and Jane Welch.

The European Financial Law Centre (EFLC) took part in a joint workshop

with the Company Law Centre and the Competition Law Forum held at the British Institute in July 2004 to discuss and prepare a response to the European Commission's Communication on Clearing and Settlement in the EU.

The EFLC is planning a major international conference on Market Abuse, to be held on May 23–24, 2005. The conference will compare and contrast the approach of the EU, USA, Hong Kong and China to combating market abuse following the implementation by EU Member States of the EU Market Abuse Directive.

INVESTMENT TREATY FORUM

Director: Federico Ortino

Co-ordinator: Hugo Warner

*Patrons: Professor Florentino Feliciano; Yves Fortier CC QC;
HE Judge Rosalyn Higgins DBE QC*

Introduction

In 2004, the Institute established a centre for investment treaty research and policy discussion—the Investment Treaty Forum. This Forum built on the Institute’s existing activities in the fields of public international law and international commercial arbitration with the objective of carrying out applied research, analysis and policy discussion. The Forum facilitates debate among lawyers, lawyers, senior business managers, policy advisers, academics, government officials and other specialist practitioners. One fundamental role that the Forum will be able to play is the encouragement of dialogue with state representatives. Clarifying states’ rights and responsibilities under bilateral investment treaties will produce greater legal certainty for investors and practitioners. In fulfilling its aims the Forum will take account of the views of all parties to the debate on the best way forward for investment treaty arbitration.

Composition of the Forum

Patrons

The Patrons of the Forum are: Professor Florentino Feliciano, Yves Fortier CC QC (Ogilvy Renault) and HE Judge Rosalyn Higgins DBE QC.

Advisory Board

An Advisory Board consisting of specialist practitioners and academics supervises the work of researchers and staff, and the Forum’s seminars and meetings of Members are coordinated by a small steering committee. During 2004 the Advisory Board was expanded to comprise: Nigel Blackaby, Freshfields Bruckhaus Deringer, Paris; John Savage, Shearman & Sterling LLP, Singapore; Daniel M Price, Sidley Austin Brown and Wood, Washington; Robert Lawrie, Goldman Sachs; Professor Vaughan Lowe, All Souls College, Oxford, Audley Sheppard, Clifford Chance LLP; and Robert Volterra, Latham & Watkins.

Members of the Public International Law Section of the Institute’s Advisory Board (see above) also provide useful comment on the Forum’s activities and direction.

Consultative Forum Members

The Following Organisations and Individuals are Consultative Forum Members: Professor Christopher Greenwood QC, Essex Court Chambers; The International Institute for Sustainable Development; Professor Vaughan Lowe, All Souls College, Oxford, and Essex Court Chambers; The Organisation for Economic Cooperation and Development; The Permanent Court of Arbitration; The International Law Programme, Royal Institute of International Affairs; and Professor Dr Christoph Schreuer, University of Vienna.

Forum Founding Members

The following individuals and organisations are current founding members of the Forum: Baker & Mackenzie; Clifford Chance LLP; Covington and Burling; Debevoise & Plimpton; Denton Wilde Sapte; DLA; Freshfields Bruckhaus Deringer; Fulbright & Jaworski LLP; Goldman Sachs International; Herbert Smith; Hunton & Williams; Linklaters; Lovells; M & M Bomchil, Buenos Aires; Mannheimer Swartling, Stockholm; Ogilvy Renault; Shearman & Sterling LLP; Sidley Austin Brown and Wood; Simmons & Simmons; Skadden Arps Slate Meagher & Flom LLP; Christopher Thomas QC, Thomas and Partners; V V Veeder QC (Essex Court Chambers); White & Case LLP; Wilmer Cutler Pickering Hale and Dorr LLP; and David Williams QC (Essex Court Chambers).

Events

1. 7 May 2004: Appeals and Challenges to Investment Treaty Awards: Is it Time for an International Appellate System?

On 7 May 2004 the Forum held its fourth public conference on this subject, contributing to the growing debate on the establishment of an appellate mechanism for the hearing of appeals from and challenges to investment treaty awards.

Its approach was a broad one, seeking to tackle the subject from both a theoretical and practical perspective. This subject necessitated two main considerations: is there a demand for an appellate mechanism, and, if so, how best to establish such a mechanism? The discussion was divided among five panels:

- 1. Is There a Need for an Appellate System?*
- 2. ICSID Annulment*
- 3. NAFTA Challenges*
- 4. WTO Appeals*
- 5. The Pros and Cons of an International Appellate System*

The participants in the discussion were: **Dr Mads Andenas** British Institute of International and Comparative Law; **V V Veeder QC** Essex Court Chambers; **Professor James Crawford** Matrix Chambers and Cambridge University; **Doak Bishop** King & Spalding, Houston; **Judith Gill** Allen & Overy; **Nigel Blackaby**

Freshfields Bruckhaus Deringer, Paris; Investment Treaty Forum Advisory Board Member; **Carlos Ignacio Suarez** Former Legal Adviser, Solicitor General's Office, Argentina; Universidad Torcuato di Tella, Buenos Aires; **Professor Martin Hunter** Essex Court Chambers and The Nottingham Trent University; **Philippe Pinsolle** Shearman & Sterling LLP, Paris; **Thomas Johnson** Covington & Burling, Washington; **Abby Cohen Smutny** White & Case, Washington; **Professor William W Park** Boston University Law School; **Noah Rubins** Freshfields Bruckhaus Deringer, Paris; **Daniel M Price** Sidley Austin Brown & Wood, Washington; Investment Treaty Forum Advisory Board Member; **Mark W Friedman** Debevoise & Plimpton; **Philippe Rutley** Clyde & Co; **Dr Valerie Hughes** Director, WTO Secretariat; **Professor Asif Qureshi** 4 Essex Court and Manchester School of Law; **Michael Schneider** Lalive & Partners, Geneva; **Professor Sir Elihu Lauterpacht** QC 20 Essex Street Chambers and Cambridge University; **Bette Shifman** Deputy Secretary-General, Permanent Court of Arbitration; **Barton Legum** US State Department; **Guido Tawil** M & M Bomchil, Buenos Aires; **Professor Thomas Wälde** Centre for Energy, Petroleum and Mineral Law and Policy, University of Dundee; **Robert Volterra** Herbert Smith; Investment Treaty Forum Advisory Board Member; and **Audley Sheppard** Clifford Chance LLP; Investment Treaty Forum Advisory Board Member.

The proceedings of the May 2004 Conference have been published in the online journal *Transnational Dispute Management* (Volume 2—Issue #02—(April 2005)) <<http://www.transnational-dispute-management.com>>. The Forum would like to acknowledge the invaluable assistance of Juliette Huard and Anton Hoenson in producing this publication. The September 2004 Conference proceedings (below) are also to be published in this medium. These publications have been made available to Forum members.

2. 10 September 2004: The Relationship between National Courts and Investment Treaty Arbitration

The third public conference of the Forum focused on a particularly important theme in investment treaty arbitrations—one in which there has been a significant shift in practice. Previously, in investment treaty arbitrations, the issues were whether (i) the investor had exhausted local remedies, and (ii) there had been a denial of justice by the local courts. Now, there are more complex issues arising from this relationship, which are have been and continue to be adjudicated before investment arbitration tribunals. The conference sought to fathom the implications for both investors and states, and was structured under the following headings:

- 1. The Coexistence of Local and International Law Remedies*
- 2. The Fork in the Road Revisited*
- 3. Denial of Justice in Local Courts*
- 4. Contractual Claims, Courts and Bilateral Investment Treaties*

The participants in this discussion were: **Daniel M Price**, Sidley Austin Brown & Wood; **Dr Julian Lew QC**, Herbert Smith; **Kaj Hober**, Mannheimer Swartling; **Professor Cynthia Lichtenstein**, George Washington University Law School; **Professor Dr Christoph Schreuer**, University of Vienna; **Mark Baker**, Fulbright & Jaworski; **Professor Mark Kantor**, Washington DC; **Professor Giorgio Sacerdoti Piergrossi**, Villa Bianchini Riccardi, Milan; **Anthony Sinclair**, Allen & Overy; **Bernardo Cremades** B Cremades Y Asociados, Madrid; **Peter Turner**, Freshfields, Paris; **Nigel Blackaby**, Freshfields, Paris; **Laurence Shore** Herbert Smith; **Professor Philippe Sands QC**, Matrix Chambers and University College London; **Professor Martin Hunter** Essex Court Chambers and the Nottingham Trent University Law School; **Barry Garfinkel** Skadden Arps Meagher & Flom, New York;

3. *14 January 2005: Investment and Sustainable Development: Towards a New Model International Investment Agreement*

On 14 January 2005 the Forum held a discussion in conjunction with Chatham House and the International Institute for Sustainable Development (IISD) entitled *Investment and Sustainable Development: Towards a New Model International Investment Agreement*. This followed a three-day discussion held by the IISD in the Hague on the subject and allowed the Forum's members to discuss the IISD's recent draft for a model investment agreement (available at <<http://www.iisd.org/investment/>>).

The panellists and chairs in this discussion were: **Audley Sheppard** Clifford Chance LLP, London; Investment Treaty Forum Advisory Board Member; **Dr Federico Ortino** Director, Investment Treaty Forum, British Institute of International and Comparative Law; **Howard Mann** Senior International Law Advisor, International Institute for Sustainable Development; **Richard Tarasofsky** Head, Sustainable Development Programme, Chatham House; **Konrad von Moltke** International Institute for Sustainable Development; **Maurice Mendelson QC** Blackstone Chambers; Emeritus Professor of International Law in the University of London; **Alice Palmer** Foundation for International Environmental Law and Development; **Howard Mann** International Institute for Sustainable Development; **Mark Baker** Fulbright & Jaworski LLP; Investment Treaty Forum Member; **John Evans** Assistant Legal Adviser, Foreign and Commonwealth Office; Consultative Member, Investment Treaty forum.

4. *17 March 2005: Arbitration in Latin America*

On 17 March 2005 the Forum, in association with Canning House (www.canninghouse.com), hosted a seminar on *Arbitration in Latin America*. Speakers and chairs included Nigel Blackaby, Freshfields; Lord Brennan QC, Matrix Chambers, Canning House; Cristian Conejero, ICC; Alejandro Escobar,

Herbert Smith; Daniel Gonzalez, Hogan and Hartson; Professor Martin Hunter, Essex Court Chambers; David Lindsey, Clifford Chance; Eduardo Silva Romero, Coudert Brothers; Fernando Mantilla Serrano, Shearman and Sterling; Ignacio Suarez Anzorena, Clifford Chance; Claus Von Wobeser, Von Wobeser and Sierra; Joao Bosco Lee, Brazilian Arbitration Committee. Particular emphasis was given to investment treaty arbitration and recent developments in Argentina during the course of this discussion.

5. *6 May 2005: Nationality and Investment Treaty Claims*

On 6 May 2005 the Forum held its fourth public conference, on the subject of nationality and investment treaty claims. Capitalising on a number of recent cases in this field, the conference focused on the following topics:

1. *Nationality of Corporations under Domestic Law: a Comparative Perspective*
2. *Nationality Requirements under Bilateral Investment Treaties, the ICSID Convention and Related Case Law*
3. *Nationality Requirements under the ICSID Convention and Related Case Law*
4. *The Requirements for Substantive and Continuous Nationality*
5. *Assignment and Transferability of Claims*
6. *Nationality of Physical Persons*
7. *The Relevance of the Law on Diplomatic Protection in Investment Arbitration*
8. *Derivative Actions and Indirect Claims*

The participants in this conference were: **Dr Federico Ortino** Director, Investment Treaty Forum; **Professor Francisco Orrega Vicuña** University of Chile; **Professor Christopher Greenwood QC** Essex Court Chambers and the London School of Economics; **Dr Matthias Pannier** British Institute of International and Comparative Law; **Professor Piero Bernadini** Studio Legale Ughi e Nunziante; ICC International Court of Arbitration; LUISS University, Rome; **Abby Cohen Smutny** White and Case LLP; **Robert Volterra** Latham & Watkins, Investment Treaty Forum Advisory Board; **Professor Loukas Mistelis** Queen Mary University, London; **Professor Maurice Mendelson QC** Blackstone Chambers; **Professor Emmanuel Gaillard** Shearman & Sterling LLP, Paris; **Karyl Nairn** Skadden Arps Slate Meagher & Flom LLP; **Devashish Krishan** Vinson & Elkins; **Professor Franklin Berman QC** Essex Court Chambers; **Robert Wisner** Appleton & Associates, Toronto; **Professor Vaughan Lowe** All Souls College, Oxford and Essex Court Chambers; Investment Treaty Forum Advisory Board; **Audley Sheppard** Clifford Chance LLP; Investment Treaty Forum Advisory Board; and **Daniel M Price** Sidley Austin Brown & Wood LLP, Washington; Investment Treaty Forum Advisory Board.

Research

Investment treaty law raises many difficult issues concerning the proper balance to be had between the rights of investors and rights of States. The settlement of investment disputes raises complex issues of law and procedure. Many of these issues are evolving. There is much useful research that could be done by an independent international institution such as the Forum. Comments on those topics covered and suggestions for future research are most welcome from Forum members and non-members alike. These should be addressed to the Forum's Director, Dr Federico Ortino.

The Forum's Advisory Board have determined a number of topics—by no means a closed list—which may form the basis for research and further discussion. These will also be linked to the discussions—public and closed—which form part of the Forum's agenda.

- The process of negotiating bilateral investment treaties
- The adoption of a multilateral rather than bilateral approach to the investment treaty framework
- The optimal choice and treaty and investment vehicles: how to structure investments to provide treaty stability and satisfy all parties
- The risks and opportunities created by the fork in the road between contracts, domestic courts and treaties
- The impact of forum on the applicable law, and the manner in which remedies sought may differ.
- The impact of sale or insolvency of investment assets on treaty arbitration
- Political risk insurance options
- The applicability of concepts such as *res judicata* and *lis alibi pendens* to investment disputes.
- Identification of lawful and unlawful expropriation
- The distinctions between state regulation and indirect expropriation
- What constitutes appropriate compensation?
- Trends indicated by recent awards
- Proposals for the establishment of an appellate system for investment disputes to counter the risk of inconsistent or conflicting decisions

Damages in International Law

Principally because of its pertinent subject matter, the Forum is greatly involved in the Institute's long-term project on damages in international law. The Institute has recently been awarded a grant of £10,000 by MacQuarie Investment Bank and the MacQuarie Foundation to undertake the first stage of a major project on damages in international law, lasting until June 2005. The objective of the initial phase is to develop an in-depth project plan to be completed over the course of the next three years.

The project is a timely one: the principles applicable to the entitlement to and

assessment of damages under international law are of central importance to the better understanding of the remedies available both to States and non-State actors. However, the last major comprehensive work on the general question of damages in international law was produced in 1943.

The object of the overall project will be to produce a new and comprehensive survey of the contemporary practice of international courts and tribunals in relation to reparation and the award of damages in international law in general, while also examining the rules applicable to specific areas such as violations of human rights norms and investor protection provisions. One of the principal outcomes of the project will thus be to enable a better understanding of the assessment of damages in cases involving both corporations and individuals. Ultimately the project will result in a substantial work examining the entire subject of damages in international law, identifying the general principles of international law in this regard, while also examining the special rules which apply to particular specialist sub-areas, including a database of relevant international decisions containing a brief summary of the facts of the case, the principles applied and the amount awarded.

Dr Silvia Borelli is the principal researcher on this project, and is assisted by Stefano Bettanin during the preliminary phase. Sir Arthur Watts QC and Professor Vaughan Lowe are providing external advice on the content and structure of the work. Dr Federico Ortino and Hugo Warner are also involved in the project.

Assistance to States in Investment Treaty Matters

Following discussions on the topic of 'legal aid' for governments, the Investment Treaty Forum (through appropriate experts) announced its intention to facilitate assistance to States when negotiating treaties or when faced with a dispute. Given that the Forum has been established with a view to facilitating discussion amongst lawyers, policy advisers, academics, government officials and other specialist practitioners, and that it is able to draw on the experience of the Institute's Commonwealth Legal Advisory Service, it is in a strong position to provide non-specific advice to States in such matters.

Related Activities

The Institute will continue to run a number of programmes which will be of interest to Forum Members. The Institute has augmented its public international law programme with a seminar series entitled *Parallel Proceedings Before International Courts and Tribunals*. This addresses important practical and theoretical issues stemming from the increasing number of decisions at international level which address identical or related subject matter. Such issues are of particular concern for investment arbitration practitioners, given the correspondences between most bilateral investment treaties.

The programme is coordinated by Sam Wordsworth (Essex Court Chambers)

and Professor Vaughan Lowe (All Souls College, Oxford and Essex Court Chambers) in conjunction with Hugo Warner. Professor Lowe chairs all of the seminars in this series.

The first event, *Polycentric International Disputes: Fragmentation or Integration?* was addressed by Professor Campbell MacLachlan (Victoria of Wellington University) and took place in November 2003. The second took place on 20 April 2004 and was entitled *Avoiding Conflicting Decisions at the International Level: Forum non Conveniens, Lis Alibi Pendens, Res Judicata and Related Principles*. The speakers were Professor Robin Churchill, Cardiff Law School; Professor August Reinisch, University of Vienna; and David Joseph QC, Essex Court Chambers. The third seminar was entitled *The Precedential Value of Decisions by International Arbitral Tribunals: Sources of International Law?* and was addressed by Professor Christopher Greenwood QC, Essex Court Chambers and LSE, and Professor Philippe Sands QC, Matrix Chambers and UCL. The fourth seminar was entitled *Bilateral Investment Treaties: Contract/Treaty Disputes Revisited*, and addressed by Dr Yuval Shany, College of Management, and Professor Dr Christoph Schreuer, University of Vienna. This was held on 8 December 2004.

WTO law programme

The Institute has developed an active research and events programme in international trade law. Its involvement in this field goes back to the 1960s. In 2001 the Institute organised the first of its *Annual WTO Conferences*, chaired by Advocate General Francis Jacobs and Professor John Jackson, the nestor of international trade law. At the time this report goes to press, the Fifth conference has just taken place (16–18 May). The focus has, as in previous years, been on the dispute settlement mechanism. Together with the Annual WTO Conference, the Institute has organised a seminar on WTO and services, and a further research seminar.

By now these annual conferences are firmly established as the most important annual event for international scholarship and policy discussion. Judges, officials, policy-makers of different sorts have met with the established scholars and recent recruits to the discipline, and participation in the British Institute's Annual WTO Conference has provided all a venue where to confront experiences and reflections about the functioning of the WTO and its dispute settlement system. Topics covered have included the jurisprudential and procedural features of the dispute settlement system, institutional issues such as the allocation of powers between different organs within the WTO as well as between the organization and its Members, the relationship between the WTO legal system and international law, compliance issues, the interrelation between trade liberalization and other non-trade concerns such as environmental protection and labour standards.

The three conference directors are Mads Andenas, Piet Eeckhout and Federico Ortino. Dr. Ortino, who is the Fellow in International Economic Law, is responsible for the Institute's WTO programme.

PRODUCT LIABILITY FORUM

'The British Institute of International and Comparative Law has been in the forefront of debate in the field of product liability, organizing conferences from which no self-respecting practitioner or academic in the area could afford to be absent.'

(Mr Justice Burton, Foreword to Product Liability in Comparative Perspective, 2005).

The British Institute has established a series of highly successful events and projects on Product Liability attracting substantial interest from practitioners and industry. The British Institute's interest in product liability generally and as a regulatory European matter goes back to the 1960s. In 1986, the British Institute in association with the United Kingdom National Committee of Comparative Law (UKNCCL) published the important collection of essays entitled Comparative Product Liability and edited by Professor C J Miller.

Recently, the focus of the Tort Law Centre's programme in this area has been on the national implementation and the need for reform of the Product Liability Directive. The community law issues can only be understood on the basis of extensive comparative research. The experiences with the Product Liability Directive also feature importantly in the discussion about the future harmonization of European civil law and the proposal for a European Civil Code.

Following the success of a series of events and projects on the topic of Product Liability, which attracted substantial interest from practitioners, industry and academia, the Product Liability Forum was launched in June 2004.

The Product Liability Forum allows the practical application of policy and developments in product liability and safety law to be considered by leading lawyers in private practice, industry, academia, regulatory bodies and senior business managers, consumer representatives, public servants, public affairs professionals and other specialist practitioners. Its role is to analyse and improve the conduct of policy and practice in the spheres of Product Liability, Product Safety and Mass Torts.

- The Forum consists of specialist members, regarded as leaders in their field and who work with product liability issues every day. Membership is by invitation only.
- It provides a medium of communication between product liability specialists as to legal developments in their own and other jurisdictions.
- It carries out high-quality research on issues of prime importance to specialists and policy-makers. This research is then presented in a format to facilitate ease of use in a business situation and is available to all subscribing members.

The Forum has developed a web-based database of legislation and case law in EU and Accession Member States on Product Liability and Product Safety which is regularly updated, authoritative and user-friendly, and includes analysis from a European-wide network of academics and practitioners.

- The group meets regularly to discuss the potential plans of regulatory bodies or government with the regulators/government representatives themselves. The group will have the opportunity to present their views to regulators and other bodies on issues of concern whilst policy is being made. The objective of these discussions is to achieve widespread understanding among key actors of the appropriate goals of product liability policy and of the most effective means to their achievement.
- The Forum establishes a collective voice for those practitioners who recognise the value of constructive dialogue with governments, policy makers and regulators.
- It will provide a wide-ranging series of exclusive events, programmes and courses.
- An advisory Board of specialist practitioners and academics will supervise the work of researchers and staff.

The academic credentials of the Product Liability Forum set it apart from other bodies. It is not designed as a lobby group, nor to be identified with any particular perspective or sector.

The Product Liability Database

The Database presents, in an accessible and user-friendly format, information concerning the implementation of the Product Liability Directive in the Member States and selected Accession/New Member countries. This is an internet-based database. For each country, there is an introductory section presenting the general tort and contract law system and the various parallel regimes. The national implementation legislation on Product Liability in each country is analysed and presented in summary and full format. This is also accompanied by a database of case-law applying tort and contract law, as well as the provisions of the Directive and an updated summary of developments at EU level. The full judgments are available where possible with a summary and commentary. A search function will also be provided, including free-text and keyword search.

The database covers all relevant legal sources applying to Product Liability in the relevant countries, whether that legislation, regulations or case-law. It is regularly updated whenever new information, such a case law, legislation or commentaries become available. National experts alert the team of new developments within their country.

The database is also authoritative. An expert in Product Liability has overseen the overviews of legislation and case law for each country, and reviews the analytical materials, thereby providing an essential quality assurance element.

For a demonstration of the database, visit the Tort Law Centre Website at:
<http://www.biicl.org/index.asp?contentid=432>

Research

Over and above this events' programme, the Institute has established an impressive research capacity in this area.

A major publication is to be published by Cambridge University Press in 2005 entitled *Product Liability in Comparative Perspective* with contributions from Professor Jane Stapleton, Professor Geraint Howells, Professor Dr Taschner, Mr Justice Burton, Michael Brooke QC, Ian Forrester QC, Professor Miller, Professor Cees Van Dam, Professor John Miller, and Professor Mark Mildred amongst many others.

Following our conference in March 2005, the Forum Team will be publishing a publication on Product Liability and Pharmaceutical Regulation.

Magdalena Sengayen, Visiting Fellow in Product Liability at the Institute, is currently working on a major comparative law research project on Product Liability in Accession Countries. Professor Cees Van Dam is working on an Introduction to European Tort Law.

Events

Pharmaceutical Regulation and Product Liability

A major international conference on Pharmaceutical Regulation and Product Liability took place on Wednesday 2 March 2005. Speakers included The Rt Hon Lord Justice Latham in the chair; Mr Dan Troy, Sidley Austin Brown & Wood LLP, Former Senior Counsel of the FDA; US, Sir Alasdair Breckenridge, Chairman of MHRA; Jeffrey Bucholtz, US Department of Justice, Trevor Jones, Allergan Inc and Esteve SA; Simon Pearl, Davies Arnold Cooper; Alison McAdams, Davies Arnold Cooper; Jeremy Stuart-Smith QC, 4 New Square; Justin Fenwick QC, 4 New Square; Dr Richard Goldberg, University of Birmingham; Jacques-Antoine Robert, Simmons & Simmons, Paris; Jalil Asif, 4 New Square; Paul Balen, Freethcartwright; David Body, Irwin Mitchell; Dr Peter Feldschreiber, MHRA; John Leadley, Baker & McKenzie; Arundel McDougall, Ashurst; Leigh-Ann Mulcahy, 4 New Square; Shane Sayers, Kennedys; Professor Mark Mildred, Nottingham Law School; Francis McGovern, Duke University School of Law, Durham, USA; Paul Bowden, Freshfields; Jonathan Isted, Freshfields; Harvey Kaplan, Shook Hardy & Bacon LLP; Mark Harvey, Hugh James; Dr Duncan Fairgrieve, Biicl; Stefan Lenze, Biicl, Lovells, Germany; Ina Brock, Lovells, Germany, Marjann Noor, Taylor Wessing; Dr Christopher Hodges, University of Oxford; Theodore Voorhees Jr, Covington & Burling; Professor John Caldwell, Dean of Medical Sciences, Liverpool; Rod Freeman, Lovells; Ian Dodds-Smith, Arnold & Porter.

Product Liability and Product Safety in Accession Countries

A major international conference on Product Liability and Product Safety in Accession Countries took place on 6 February 2004. Speakers included Monika Dobiasova, Ministry of Trade, Czech Republic), Rod Freeman, Lovells, London; Luis González-Vaqué, European Commission; Dr Richard Goldberg, University of Birmingham; Katarzyna Lis, Ministry of Justice, Poland; Professor Dr Miquel Martin-Casals, Universitat de Girona; Dr Alexandra McConnell, Clifford Chance, London; Dr Karl Poernbacher, Lovells, Warsaw/Munich; Ewa Rutkowska, Lovells, Warsaw; Norbert Seiler, European Bank for Reconstruction and Development; Magdalena Sengayen, Centre for Socio-Legal Studies, Oxford University; Nicholas Underhill QC, Fountain Court; Eva Vrana, Clifford Chance, Prague, Trevor Evans, Intertek Research and Testing Centre; Sadie Homer, Consumers International; Professor Dr Cees van Dam, Director Regulation Forum, BIICL; and Stefan Lenze, Fellow in Product Liability, BIICL. This event was kindly supported by Lovells, and was organized in collaboration with the Observatory of European and Comparative Private Law, University of Girona, Catalonia, Spain; directed by Professor Dr Miquel Martín-Casals.

Product Liability: Comparing the EU and US

Our Annual Product Liability Conference took place on 30 April 2004. The focus of which was on European v US Product Liability Today—Different Levels of Consumer Protection and Liability Risks? Speakers included Jeffrey Bucholtz, US Department of Justice; Professor James Henderson, Cornell University; Professor Jane Stapleton, Ernest E Smith Professor, University of Texas School of Law; Joseph Hetrick, Dechert; Professor Geraint Howells; Professor Dr Hans-Werner Micklitz, University of Bamberg; Professor David Owen, USC Law School, Columbia; Professor Mark Mildred, Nottingham Law School; Prashant Popat, Henderson Chambers; Luis González Vaqué, European Commission; Nicholas Underhill QC, Fountain Court; Martyn Day, Leigh, Day & Co; David Body, Irwin Mitchell; Arundel McDougall, Ashurst; Paul Bowden, Freshfields; Simon Pearl, Davis Arnold Cooper; Rod Freeman, Lovells; Dr Alexandra McConnell, Clifford Chance; and Simon Taylor, Université de Paris 7.

Details of exclusive PLF seminars

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| 22 March 2004 | Graham Bartlett of the DTI participated in a discussion relating the implementation of the GPSD into English Law. |
| 23 June 2004 | Stefan Lenze and Dr Duncan Fairgrieve led a seminar on ‘Recent case law developments in Product Liability in France and Germany: Obesity, Drugs, Asbestos, and Tobacco.’ |
| 7 October 2004 | Meeting with Mauro Miranda, the European Commission member responsible for the day-to day work on Product Liability and who is currently coordinating the review of the |

Product Liability Directive. The meeting focussed on the current operation of the Directive and the way in which the Directive might be modified.

20 January 2005 *Expert Evidence in Damages Actions: a Comparative Perspective*

Judge Antoine Garapon, a French judge and Director of the prestigious Paris-based Institut des Hautes Etudes Sur la Justice, Paris, led a seminar on the topic of 'the Use of Expert Evidence in the Common Law and Civil Law.' Mr Garapon spoke about the civil law approach regarding expert reports in damages actions. Jonathan Wulf of the Institut des Hautes Etudes sur la Justice introduced the German law approach to this question.

14 March 2005 Mr Roy Alder, Head of Policy and Executive Support, Medicines and Healthcare Products Regulatory Agency leads a PLF Seminar focussing on regulation in the Pharmaceutical sphere, and the topical theme of the regulatory compliance defence.

PUBLIC INTERNATIONAL LAW

Dorset Fellow in Public International Law: Dr Susan Breau
Research Fellows: Dr Maria Vogiatzi, Theodora Christou
Research Assistant: Agnieszka Jachec

Pilot Project of the Council of Europe on State Practice regarding State Immunities

The Committee of Legal Advisers on Public International Law (CAHDI), an intergovernmental committee which brings together the Legal Advisers of the Ministers for foreign affairs of the forty-three member States of the Council of Europe commissioned a study on State Practice regarding State Immunities. The study on State Immunity in State Practice was undertaken by Dr Breau and her team at the Institute, Professor Gerhard Hafner and his team at the University of Vienna and Professor Marcelo Kohen and his team at The Graduate Institute of International Studies in Geneva. The final report has been prepared and will be considered by the Committee of Legal Advisers on Public International Law (CADHI) of the Council of Europe in March 2005 and following any amendments will be sent to the Member States of the Council of Europe and the Observer States. The report has also been prepared as a publication which considers state practice in Europe not only in the light of the European Convention on State Immunity but the United Nations Convention on Jurisdictional Immunities and their property which currently open for signature.

The Promotion of Democratization and Human Rights in Iran

At the end of July 2004 the European Commission awarded the Institute a large grant of £725,400 to implement a three-year comprehensive project focusing on promotion of democratization and human rights in the Islamic Republic of Iran to start in January 2005. The project is aimed to continue and further promote human rights as a central part of the European Commission and Iran open dialogue, in which both parties have been engaged since 2002. The project is expected to contribute to the adoption and implementation of major UN human rights instruments by raising legal awareness among the wider population and specific focus groups. The Institute plans to invite primarily Iranian but also international academics, lawyers and the judiciary, law enforcement agencies, human rights NGOs, women's organizations, and leaders of ethnic minorities to participate and work together during a series of biannual meetings as well through complementary activities including translation into Persian Farsi and publication of key human rights materials, comparing experiences related to the adoption and implementation of human rights instruments in other Muslim countries; as well as training and fostering cooperation between academic and other networks of

experts. The project is up and running with the assistance of our London Project Manager, Dr. Maria Vogiatzi who is liaising with the European Commission and the Organization for the Defence of Victims of Violence, our partner organization in Iran.

Evidence Before International Courts and Tribunals:

A proposed project by the BIICL

The Institute has undertaken a major study in the law of evidence before international courts and tribunals. In 2000 the Institute obtained funding from the Leverhulme Trust to conduct a pilot study on evidence before international courts and tribunals. The objective of this study was to explore the usefulness and manageability of the topic and provide an insight into a future major study. The pilot project—completed in 2002—was successful in indicating both the need for further examination of evidentiary questions in international adjudication, as well as the feasibility of such a study.

The purpose and utility of the project is as follows: First, a detailed examination of the law of evidence can contribute to the development of more effective, efficient and workable rules, which in turn will maintain and enhance confidence in the system of international justice. Experience shows that the quality of the fact-finding process contributes significantly to the acceptance of judicial decisions by the parties to them and more widely.

Secondly, drawing together an authoritative compilation of practices, procedure and techniques employed in international judicial processes can provide a valuable body of material on which individual courts and tribunals can draw in carrying out their particular tasks, and which the parties can use in the preparation of cases before them.

It is not a specific aim of the project to advocate and promote a consistent approach towards evidence by international courts and tribunals. Nevertheless, it may be a useful by-product of the project to encourage tribunals to adopt a more rigorous and consistent approach where that is desirable and appropriate. If this were to happen, it could alleviate some of the recent anxieties about the proliferation of international tribunals and the ensuing danger of forum shopping. It might also enhance predictability in a way that would encourage states (and other international actors) to submit disputes to international adjudication.

The project will not start from any assumption of an incompatibility between, for example, the common law and civil law or other approaches towards evidence gathering and fact finding. Rather it will explore, through a study of experience in actual cases, what has been achieved in the direction of deriving common international standards on these important questions without undue dependence on the contours of particular national legal systems.

This is a major project of the international law team at the Institute under the leadership of Dr. Breau who will devote a majority of her time to this study. It will involve the public international law research team in the Institute, but will

also need to draw heavily on the actual experience of international judges and practitioners. The project team has begun to draw up a list of the key issues that present themselves in international litigation. The next step will be to assess how these issues have been dealt with in specific cases before the key tribunals, and how the techniques applied have met the expectations of international judges and litigating counsel alike.

International Review of Counter-Terrorism Powers and Practice

The Public International Law Research team led by Dr Breau, Hugo Warner and Theodora Christou successfully completed a comparative analysis of counter-terrorism legislation and policy in eight countries and the international human rights implications of counter-terrorism measures. As part of the project Dr Breau attended a private/high level seminar on Counter-Terrorism as part of the University of Southampton Counter-Terrorism project and met with police officials from across Europe, Interpol and Europol. She and Hugo Warner also attended a similar event sponsored by the Home Office.

Royal Military College of Canada/Department of National Defence Canada Counter-Terrorism

Dr Breau was commissioned by the Royal Military College to undertake a research project sponsored by Department of National Defence in Canada. The mandate of the project was to review the international law implications of Canada embarking on rescue and counter-terrorism missions abroad. The work for this project was completed during the first months of her tenure as Dorset Fellow. This was not a confidential project but rather is being published as a chapter in a book resulting from the project entitled: *Choosing Force? Special Operations for Canada* David Last and Bernd Horn (eds) (McGill-Queen's University Press, Montreal, 2004).

International Humanitarian Law Research Project

Inspired by extensive work of Hazel Fox in the area of International Humanitarian Law in the past and recognizing the lack of a London-based academic centre specializing in this field it is proposed that a major research project in International Humanitarian Law is to be established within the International Public Law programme. Part of this initiative will be a publication of essays in International Humanitarian Law to follow the two previous collections of essays published by the Institute. The resulting book is anticipated to be published at latest in October/November 2005 and shall be followed by a conference presenting the essays by their authors organized by the Institute shortly after.

Events of the last decade, amongst them the establishment of International Criminal Court and the launching of the global 'fight on terrorism', have generated a broad public interest in issues of humanitarian law. At the same time, the

international community has concentrated its efforts on the repression of serious violations of international humanitarian law (IHL) by both the encouragement of national prosecutions of such crimes and by the establishment of relevant international bodies. Despite these advancements in preventive and repressive measures however, insufficient respect for the rules of IHL during an armed conflict remains an abiding problem.

The major challenges to IHL today do not only concern the willingness of State and non-State actors to fully comply with the agreed humanitarian rules and values but also to make these rules and values known and understood on the part of State functionaries as well as among the public more generally. Changing methods of warfare, weapons advancement and the transformation of conflict environments have shown potential gaps and loopholes emerging to challenge compliance with, and the implementation of, IHL in modern conflicts. It is becoming harder and harder to find a fine balance between the necessities of military operations and objectives on one hand and the concerns for preservation of human life, health and human dignity on the other. Such challenges are not to be ignored, being of long standing nature and major importance, and posing questions of the interrelations between the laws of war and international human rights law as they apply in armed conflict situations and the role and scope of the application of IHL in the struggle against terrorism. The international armed conflicts in Afghanistan and Iraq refocused international attention on the norms governing inter-State conflict. Similarly, non-international armed conflicts continued to pose considerable challenges in terms of the legal protection of persons affected by them. The British Institute of International and Comparative Law therefore intends to develop a research initiative as a part of its Public International Law programme with the aim to build on high-level research studies and to serve as a common forum for various experts from the field. BIICL wishes to gather here in London the prominent legal scholars, various experts including government representatives, NGO advocates and other humanitarian practitioners involved in the application of laws of armed conflict in order to create a constructive environment in which participants can share their views and experience on the interpretation and application of the law.

By promoting academic research and policy dialogue we aim to respond to the evolving realities of contemporary conflicts. The studies would serve as a central resource for a number of scientific and educational activities related to the reaffirmation and/or development of the core principles of international humanitarian law in a modern world.

So far strong links were also established with George C Marshall European Centre for Security Studies in Germany and further ones are being initiated with the International Humanitarian Law Research Initiative, operational under Harvard's programme on Humanitarian Policy and Conflict Research.

Public International Law Events

26 February 2004 Post War Iraq Leading academics and practitioners discussed the international law issues arising from the occupation of Iraq.

Chairs: Professor Christopher Greenwood CMG QC, Essex Court Chambers & LSE
The Rt Hon Clare Short MP Elizabeth Wilmshurst CMG, RIIA

Speakers: Dr Roberta Arnold, Swiss Ministry of Defense; Dr Pieter Bekker, White & Case LLP; Juliet Blanch, Norton Rose; Steve Crawshaw, Human Rights Watch London; Dr Robert Cryer, University of Nottingham; Colonel Charles Garraway CBE, BIICL; Matthew Happold, University of Nottingham; Cdr Rupert Hollins, UK Joint Doctrine and Concepts Centre; Daniel Joyner, University of Warwick; Rabinder Singh QC, Matrix Chambers; Ana Stanić, BIICL; Dr Ralph Wilde, University College London.

17 March 2004 Minorities and Migration Conference—Leading academics, practitioners and NGO representatives discussed the international issues affecting the related topics of minorities and migration.

Chairs: Leanne MacMillan, Interights; Hugh Poulton, Amnesty International

Speakers: Dr Chaloka Beyani, London School of Economics; Professor Bill Bowring, London Metropolitan University; Dr Sylvie Da Lomba, University of Leicester; Robert Dunbar, University of Glasgow; Freddy Gazan, Deputy General Advisor for Criminal Policy, Belgium; Professor Geoff Gilbert, University of Essex; Kerry Neal, Birkbeck College

5 April 2004 The Security Council in Law and Practice Conference—jointly hosted by the Society of Legal Scholars Public International Law Group and BIICL—Fourteenth Conference on Theory and International Law

Convenors: Professor Dominic McGoldrick and Dr Susan Breau

Speakers: Dr Mashood A Baderin, University of the West of England, Bristol; Dr Susan C Breau, BIICL; Tom D Grant, University of Cambridge; Enrico Milano, LSE; Dr Stefan Talmon, University of Oxford; Olzem Ulgen, University of Sheffield; Professor Anthony Aust, LSE.

21 April 2004 Economic Social and Cultural Rights Seminar—Discussion of the emerging norms of corporate social responsibility.

Chair: Lord Justice Stephen Sedley

Speakers: Iain Byrne, Interights; Professor Sheldon Leader, University of Essex; Bryan Cress, Senior Adviser Corporate Social Responsibility and Globalisation, CBI

4 May 2004 Lecture—The Coalition Provisional Authority and Military Force in Iraq: Issues of Individual and Collective Responsibility—Dr Ralph Wilde, University College London

8 June 2004 Lecture—The 21st Century War on Terror—Professor Philip Bobbitt, University of Texas

1 October 2004 Conference—Time, History and International Law—Jointly Hosted by Queen Mary, University of London; SOAS, University of London; BIICL.

Chairs: Sir Franklin Berman, QC; Catriona Drew, SOAS; Dr. M. Craven, SOAS; Dr. P. Okawa, Queen Mary

Speakers: Professor D. Bederman, Professor A. Carty, Professor R. Lesaffer, Professor M. Lobban, Dr. Amanda Perreau-Saussine, Professor J. Klabbers, Lady H. Fox Q.C.; Professor N. Berman, Dr. G. Simpson, Professor M. Shaw, Her Excellency Judge R. Higgins, Professor P. Sands, Dr. I. Scobbie.

19 November 2004 Lecture—The New Convention of the Law of State Immunity—Chair: Lady Fox Q.C.—Speaker: Professor Gerhard Hafner, University of Vienna

15 December 2004 Conference—International Legal Positivism: Images of a Tradition—Jointly hosted by SOAS, University of Glasgow and BIICL

Speakers: Dr Gavin Anderson, University of Glasgow; Arnulf Becker Lorca, Harvard Law School; Jason Beckett, University of Newcastle; Professor Nathaniel Berman, Brooklyn Law School; Dr Richard Burchill, University of Hull; Catriona Drew, School of Oriental and African Studies; Professor Peter Fitzpatrick, Birkbeck Law School, University of London; Jörg Kammerhofer, University of Vienna; Professor David Kennedy, Harvard Law School; Sundhya Pahuja, Birkbeck Law School, University of London; Dr Amanda Perreau-Saussine, University of Cambridge; Akbar Rasulov, University of Glasgow; Professor Iain Scobbie, School of Oriental and African Studies; Dr Gerry Simpson, London School of Economics; Thomas Skouteris, University of Leiden; James Sloan, University of Glasgow

1 March 2005 Conference—Religion, Human Rights and International Law—in Association with the Transitional Justice Institute, University of Ulster

Speakers: Professor Kevin Boyle, University of Essex; Professor Shaheen Sadar-Ali, University of Warwick; Professor Anne-Christine Hubbard, Professor of Moral and Political Philosophy, University of Lille, France; Mr Kamran Arif, Advocate, Human Rights Commission of Pakistan; Professor Javaid Rehman, University of Ulster; Dr Martin Lau, SOAS; Dr Siobhan Mullally, National University of Ireland; Professor Kathleen Young, Western Washington University; Dr Nazila Ghanea, Institute of Commonwealth Studies.

22–23 March 2005—Law of the Sea Symposium—Hosted jointly by the University of Hull and BIICL with the generous support of the Society of Legal Scholars and the British Academy

Speakers: Judge Dolliver Nelson, President ITLOS; Judge David Anderson, ITLOS; Judge Tullio Treves, ITLOS; Mr Satya Nandan, International Seabed Authority; Professor David Freestone, World Bank; Professor Robin Churchill, Cardiff University; Professor Erik Franckx, Vrije Universiteit Brussel; Professor Patricia Birnie, LSE; Professor Malcolm Evans, University of Bristol; Dr Alex Oude Elferink, NILOS; Professor Barbara Kwiakowska, NILOS; Ms Constance Johnson, NILOS; Professor Catherine Redgwell, UCL; Professor Surya Subedi, University of Leeds; Dr Stefan Talmon, University of Oxford; Professor Tullio Scovazzi, University of Milan; Professor Vaughan Lowe, University of Oxford; Professor Stuart Kaye, University of Wollongong; Dr Sam Bateman, CSCAP; Dr Richard Barnes, University of Hull; Professor Alan Boyle, University of Edinburgh; Mr David Ong, University of Essex; Sir Michael Wood, FCO; Dr Louise de La Fayette, UN; Ms Natalie McNelis, Wilmer Cutler Pickering Hale and Dorr

9 May 2005—Conference—International Human Rights Law—The State of the Art—jointly hosted by the Society of Legal Scholars Public International Law Group and BIICL—Fifteenth Conference on Theory and International Law

Convenors: Professor Dominic McGoldrick and Dr Susan Breau

Speakers: Professor Françoise Hampson Essex University; Dr Nazila Ghanea-Hercock University of London, Institute of Commonwealth Studies; Professor Kevin Boyle, Essex University; Professor Nigel Rodley, Essex University; Professor Patrick Thornberry, Keele University; Professor Paul Hunt, Essex University; Professor Bill Bowring, London Metropolitan University; Dr Alexandra Xanthaki, Brunel University; Jane Gordon, Kingston University.

Legal Tools in Commonwealth Africa Project (looking at the application of the Death Penalty)

Project Manager: Dr Philip Iya

Project Co-ordinators: Theodora Christou and Juan Pablo Raymond

This project has strengthened the capacity of lawyers (and a wider group of decision makers, including public sector decision-makers and NGOs) in death penalty cases, and in the discussion of law reform, through the use of comparative legal materials. Knowledge of legal developments among neighbouring countries is helping to improve procedures and practices and initiating changes in the law. On a broader scale the project has actively promoted international human rights standards and the rule of law throughout the region by coupling extensive research with training of lawyers and judges on the ground.

The project contract between the BIICL and the European Commission was signed in June 2003 to run for a two-year period ending in June 2005. The project is mostly financed by the European Commission under The European Initiative for Democracy and Human Rights, Support for the Abolition of the Death Penalty, and is further subsidized by a grant from The Nuffield Foundation.

The 13 target countries of the project are Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Nigeria, Sierra Leone, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. The reasons for selecting these countries were: the urgent need expressed by lawyers; the common legal heritage and the continuing influence of English case law on their legal systems; the existing Commonwealth links and networks; and their retention of the death penalty.

Networking

The first stage of this project was to create a network of lawyers, judges and other decision-makers involved in the death penalty in the African States. For each country a legal professional was identified to collaborate in the compilation of legal materials and to act as a contact point in the target country. The collaborators were supplied with a computer and a common email list has been established to enable communication with the London-based BIICL project management team as well as to communicate with project collaborators in other countries. The project is unique in the sense that it seeks to bring together the law and practice regarding the imposition of the death penalty in respect of a series of countries which have no existing structure which is truly integrated on a regional basis for sharing experiences and legal information. The project has a number of multiplier effects solely by virtue of having established a network of collaborators which have urgent needs for support. Lawyers working on death penalty issues having established links with each other can thus share their experiences in relation to other related areas of law such as constitutional challenges, through the same network of collaborators. The network will be self-sustaining and outlast the duration of the project.

Events

Conferences in Africa and London

The organisation of a conference in Africa created the first opportunity to cement the network. Participants found that sharing their knowledge and experiences, and having access to the latest legal developments in other Commonwealth African countries provided them with invaluable insights and examples.

The first international Conference on the Application of the Death Penalty in Africa was held from 10–11 May 2004 in Entebbe, Uganda. It was organized by BIICL in association with the Bar Human Rights Committee and Makerere University. The conference brought together 75 participants representing 20 countries worldwide, with about 60 participants from Africa. The working methodology of this African Conference gave priority to group discussion amongst working

groups of experts and practitioners, established areas in need of action and set up networks that will outlast the project's conclusion. Each collaborator presented a country report covering the death penalty situation in their country and distinguished delegates and experts presented relevant papers that increase the comparative legal materials for regional use. The feedback received was extremely positive, with most delegates expressing the importance and helpfulness of the conference for their work. The conference also helped in identifying various promising lawyers who will keep the network effective after the project's end and who have the energy and commitment to help with human rights issues in Africa.

The May conference in Africa was mirrored by a one-day conference held in London on 5 November 2004. The purpose of this conference was to widen awareness of the project and to highlight the situation of the death penalty and human rights in Africa. There were opportunities to widen the network, get more people on board and follow-up from the African conference. African human rights lawyers shared their various experiences, analysed the major lapses of existing legal systems and charted a way forward, taking advantage of international instruments and the sharing of legal tactics.

A detailed report on both conferences, including the presented papers, can be found on the project's website: www.biicl.org/deathpenalty.

If funding is forthcoming a Pan African Conference will be held in June 2005 in Kenya. It is hoped that it will be a multidisciplinary conference covering all aspects of the application of the death penalty and, in addition to showcasing the research results of the project. It will also present the opportunity to extend the network established by the Project beyond the Commonwealth African countries to others in Francophone and Portuguese-speaking Africa and even beyond. It will be held in association with a number of major international organizations.

Publications

Human Rights Manual and Sourcebook for Africa

The second stage of the project was to conduct an international and comparative study of the application of the death penalty in our target countries and to publish the findings in the form of a Human Rights Manual and Sourcebook. This critical manual is the first of its kind for the African Region and will prove an invaluable resource to human rights practitioners, academics and interested parties.

The first section is mostly written by Keir Starmer QC, a well known and respected human rights lawyer. Key principles and human rights norms are detailed in straightforward language so as to ensure it is accessible and comprehensible.

The second section is devoted to the death penalty. The individual commentaries detail the relevant provisions from both international and regional instruments and offer a comparative commentary as to how the principles relate to the death penalty.

From conducting the research and compiling the material for the final section dedicated to Africa, it is clear that there is nothing of its kind available. Much of the work emanates from primary research and investigation conducted by local research teams in the individual countries. Investigative research techniques varied from spending days outside official buildings to visiting prisons, physically counting the individuals on death row and interviewing the detainees to obtain their age and the length of time they had been on death row. The Manual's Country Files provide an overview of each country's criminal justice system and legal framework, applicable international standards and statistical information. Most importantly the relevant Constitutional provisions are quoted and where available, details of cases in which constitutional challenges have been made are included.

It is hoped that this publication will help change legal systems from within, relying on the rights guaranteed by the individual Constitutions and using the regional and international jurisprudence only as a tool of interpretation. The publication will be published in hard copy and as a CD-Rom which will then be distributed freely in Africa and will be made available internationally. It will be launched in June 2005 in Africa and London.

Training

Following on from the creation of an adequate source of comparative legal information was the need to ensure that proper strategic use of such information is made. This has been promoted in training for practitioners carried out together with the Bar Human Rights Committee. From 17–18 October 2004 a workshop for lawyers took place in Zomba, Malawi in conjunction with the Bar Human Rights Committee. The trainers were Peter Carter QC (Chairman of the Bar Human Rights Committee) and Rupert Skilbeck. Attended by lawyers from all 13 countries in the project, it provided training on the strategic uses of the legal materials assembled by the Project and fostered the further development of the network of death penalty litigators. Lawyers felt that the workshop gave them insights into how to best make use of international law in human rights cases and provided an excellent medium to compare notes on different strategies used in other African countries with similar problems. The 'train the trainers' approach also meant that lawyers left able to develop workshops in their respective countries, ensuring that the experience filters through to a much larger group.

In order to maintain the balance of approach in the Project, to ensure that as wide a group of legal professionals is targeted and to increase the judge's knowledge and understanding of the application of human rights and international standards in the domestic courts, a colloquium for judges was held in April 2005 in Nairobi, Kenya in conjunction with the Bar Human Rights Committee, attended by judges from the 13 target countries. The existence of an independent and well-trained judiciary supported by an effective and informed legal profession contributes to building a society underscored by the rule of law.

REGULATION FORUM

Director: Professor Cees Van Dam

Introduction

The Regulation Forum provides a place for high-quality discussion and research in the area of regulatory policy. Its aim is twofold: to provide members with unique information about the direction in which regulatory policy develops and to influence regulatory policy by recommending best regulatory practices. The Forum's focus is on practical and policy aspects of the regulation of both the financial services sector (banks, insurers, investors, stock exchanges) and the utilities sector (telecoms, gas, electricity, water and railways).

Quality and Independence

The Forum shares the reputation of the British Institute of International and Comparative Law in London for academic rigour, independence and even-handedness. An Advisory Board consisting of paying members of the Forum decides on topics for discussion and supervises the research to ensure that the results are relevant to practitioners.

How to Achieve the Forum's Aims?

- By discussing goals, means and practical application of regulatory policy with key lawyers, regulators, business, policymakers and other experts.
- By producing cutting-edge applied research on regulatory policy at all levels of governance: national, European and global.
- Discussions and research will be the basis for recommendations for best regulatory practice at national and international levels.
- Research will be presented in a clear format that facilitates ease of use in a business situation.

Benefits of Membership

- Participating in an independently run forum which aims to influence regulatory policy at a national and international level.
- Getting to know regulators and other decision makers and discuss with them regulatory policy.
- The Forum seeks to present the view of Members on issues of concern to governments and decision-makers.
- Access to topical and unique information about core issues of regulation and about the direction in which regulatory policy develops in the UK and abroad.
- Access to applied research, focused on areas of direct business relevance.

For more information about the Regulation Forum and about membership, please contact the Director, professor Cees van Dam,
Phone 020 7862 5170,
Fax 020 7862 5152,
Email c.vandam@biicl.org

Research

Unfair Commercial Practices

The Director of the Regulation Forum, professor Cees van Dam, submitted a research proposal to the European Commission on Unfair Commercial Practices in the 10 new EU Member States. In November 2004 the European Commission selected the bid for the award of the contract. The final report is due for the summer of 2005.

The new Directive provides for one binding set of rules for unfair commercial practices, thus harmonizing the various different laws of the 25 Member States. It is a maximum harmonization Directive which means that the Member States are not allowed to issue a higher level of consumer protection than provided by the Directive. The project involves an analysis of the existing national rules, including case law, on unfair commercial practices between business and consumers in the new Member States and the possible resulting internal market barriers.

Liability of Regulators

Professor Cees van Dam also submitted a research proposal to the Ministry of Justice in the Netherlands on Liability of Regulators (Aansprakelijkheid van Toezichthouders). In November 2004 the Ministry decided to grant him this project.

This research project concerns the liability risks for public bodies with a supervisory function in the areas of economic regulation and health and safety. The focus of the project will be on liability risks for inadequate supervision or enforcement. The project needs to investigate how these risks can be limited or eliminated, inter alia by creating statutory immunities. The conclusions will be based on English, French, Italian, German, Belgian and Dutch law and will be set in the framework of European community law and the case law of the European Court of Human Rights. The final report is due for the summer of 2005.

Events

6 July 2004—Launch Regulation Forum: Accountability of Regulators The House of Lords' Report: The Regulatory State: Ensuring its Accountability

Chair: Andrew Whittaker (General Counsel FSA)

Speakers: Lord Slynn of Hadley (House of Lords): Accountability of regulators and judicial review; Lord Currie of Marylebone (Chairman Ofcom): The View of a Regulator

The Regulation Forum was launched at a very successful meeting and was attended by almost 100 people. The two very distinguished speakers, Lord Slynn of Hadley and Lord Currie of Marylebone, set out their views on the House of Lords' Report on The Regulatory State: Ensuring its Accountability. This report was published in May 2004. The event included a lively discussion, introduced and chaired by Andrew Whittaker (General Counsel FSA).

22 September 2004—1st Quarterly Meeting: Purposes of Regulation

Chair: David Arculus (Chairman Better Regulation Task Force)

Speakers: Paul Kennedy—FSA (Manager Legislation Team); Clive Gordon—Ofcom (Director, Telecommunications and Competition Law); John Neilson—Ofgem (Managing Director Corporate Affairs); John Cooke—Financial Leaders Working Group (Chairman); Stephen Sanders—Royal Bank of Scotland Group (Head of Group Regulatory Risk); Gordon Moir—BT Global Services (Vice President); Sara Vaughan—E.ON UK plc (Director of Regulation); John Swift QC (Monckton Chambers; Rail Regulator 1993–1998)

The first quarterly meeting of the Regulation Forum, chaired by David Arculus, saw a high level discussion on a number of issues, such as the level of regulation, the international agenda, the various purposes of regulation and the (un)predictability of regulators' decisions, the rain of Consultation Papers and the effects of regulation.

Since many of these issues appeared not to be confined to one sector, participants were enthusiastic about the multi-sector approach the Regulation Forum takes. It enables a comparison between regulators which encourages regulators to improve their regulatory performance. The common feeling was that the multi-sector approach promises to be fruitful and powerful.

6 January 2005—The ECJ's Decision in Peter Paul

Chair: Mr Justice Walker. *Speakers:* Professor Takis Tridimas (Matrix Chambers); Michelle Ewing (FSA, General Counsel's Division); Simon Gleeson (Allen & Overy); Mads Andenas (BIICL).

Peter Paul (ECJ 12 October 2004, C-222/02) is a case on the crossroads of community law, regulatory law and comparative tort law. German law holds that the functions of the national authority for supervising credit institutions are to be fulfilled only in the public interest. The ECJ had to answer the question whether this supervisory regime is compatible with European law, particularly the First Banking Directive. The court decided that European law does not preclude national law to provide that financial regulators are immune to liability. At this seminar the impact of Peter Paul was clarified and many related issues were discussed, such as the purposes of prudential supervision, the scope of Art. 47(2) EC Treaty and the development of supervisor's liability.

18 January 2005—2nd Quarterly Meeting: International Coordination

Chair: Martin Thomas (European Commission—DG Internal Market; Former Secretary Financial Markets Law Committee). *Speakers:* Leigh Hancher (Allen & Overy; University of Tilburg); Eric van Heesvelde (Chairman European Regulators Group Telecoms); P (Alexandre Verheyden (Jones Day); Selvi Jegatheswara (Committee of European Energy Regulators); S (European Regulators' Group for Electricity and Gas); Simon Gleeson (Allen & Overy); Nigel Phipps (Committee of European Securities Regulators); Steven Preece (Office of Fair Trading).

Companies operating at an international level are facing different national regulatory regimes. Despite the aim to create an internal market for services, the differences in implementation and interpretation of EU legislation, in enforcement and procedures remain considerable. These differences cause costs, delays and lost opportunities for investments and they raise questions as to the effectiveness of Community law. The EU currently does not deal with this by setting up pan-European regulators but by establishing networks of national regulators to enable and facilitate international coordination of regulatory activities and enforcement.

At this meeting representatives of coordinating bodies in the financial services sector and the energy and telecoms sector set out the way these bodies work and the policies they follow. Attention was also paid to the functioning of the recently established European Competition Network. The discussion focused on the powers and the lack of powers of the coordinating bodies, on their relation to the European Commission and on how they could contribute to improving equivalence and certainty.

7 March 2005—Tackling Regulatory Creep

Chair: Stephen Haddrill (DTI, Director General Fair Markets Group). *Speakers:* Ian Peters (EEF—Member Better Regulation Task Force); Simon Virley (Cabinet Office, Director Regulatory Impact Unit); Michael Hunt (Food and Drink Federation).

'Regulatory creep is the "hidden menace" of the red tape burden. Regulatory creep arises when the rules are unclear—when there is confusion about the standards, guidance and regulation. People are left not knowing what (. . .) constitutes compliance with the law. But what is very clear is that the penalty will be high if they fail to do the right thing. It is also clear that (. . .) uncertainty creates additional burden and cost. Compliance with rules and regulations depends on clear parameters and our report finds evidence of failure here.' (Better Regulation Task Force's report *Avoiding Regulatory Creep*). At this seminar the Government's response to the BRTF's report was discussed. Food labelling and money laundering exemplified the more general problems in this area.

20 April 2005—3rd Quarterly Meeting: Enforcement

Chair: Cees van Dam (BIICL—Director Regulation Forum). *Speakers:* David Mayhew (Acting Director Enforcement, FSA); David Stewart (Director of Investigations, Ofcom); Maxine Frerk (Director Enforcement, Ofgem); M (Richard Eccles (Bird & Bird).

Effective enforcement is a key ingredient for the success of any regulatory design. Just as selective deployment of enforcement techniques can remedy defects in legislative frameworks, failures to detect and rectify prohibited behaviour may reduce legislation to mere paper exercises. This meeting highlighted questions pertinent to the effectiveness of enforcement practices. The issues considered included problems posed by individual enforcement mechanisms, publicity, means of reconciling compliance based approaches with those based on deterrence, and the extent to which the best practice can be developed to apply across the three sectors.

TORT LAW CENTRE

Director: Dr Duncan Fairgrieve

The objective of the Tort Law Centre, which was founded in 2002, is to promote research, policy discussion and development in the field of tort law, and to strengthen the link between the law and policy-making in this field. Legal research in this area has been traditionally limited by national jurisdictions. This is unsatisfactory for several reasons. First, because of the international and cross-border nature of the services and products. Second, because of the considerable reform activity in the different countries which has highlighted the need for comparison. Finally, because of the impact of regulation by the European Union in areas such as product liability, requiring a shift of focus from national to international perspective.

The past 12 months have been very busy for the Tort Law Centre. A large number of conferences and seminars have been organised under the auspices of the Centre.

Research

Research work has been continuing. Duncan Fairgrieve published a book on *Comparative Law Before the Courts*, co-edited by the Lord Chief Justice of France, Guy Canivet, and Dr Andenas, drawing on a conference organised jointly by the Centre and the Institute of European Law in Oxford.

Another publication edited by Duncan Fairgrieve, *Child Abuse Claims against Public Bodies*, has recently been published (Ashgate, November 2004) and again is an output of a research project undertaken at the Tort Law Centre. A series of articles on public authority liability have been published by Duncan Fairgrieve in various journals.

Other members of the team have published papers and articles. Dr Stefan Lenze, former Fellow in Product Liability, continues his PhD on Product Liability in Comparative Perspective. Dr Sengayen, Visiting Fellow in Product Liability, completed her PhD on Product Liability in Accession Countries and moved from a part-time position at the Institute to a permanent position at the University of Oxford.

The team at the centre has also undertaken commissioned research work for a number of bodies. The following research projects are coordinated by the Tort Law Centre:

General principles of European Tort Law

Under this heading the Institute takes part in the very important project on the IUS Commune Case Books for the Common Law of Europe, directed by

Professor Walter van Gerven, University of Leuven and former Advocate General of the European Court of Justice. The Institute's Sir Jeremy Lever KCMG QC has made important contributions to the project over many years and the Institute has recently become further involved. A related project is carried out by Professor Cees van Dam. He is writing an introductory book on European Tort Law, which will be compatible with the Van Gerven's Casebook on Tort Law.

Tort Liability of Public Authorities in European and Comparative Law

The British Institute of International and Comparative Law has been particularly active in the sphere of state liability. Cooperation has been undertaken with other institutions including the United Kingdom National Committee of Comparative Law and the Centre for European Law, King's College London.

One outcome of the first phase of the BIICL/UKNCCL project was Bell and Bradley, *Tort Liability of Public Authorities* (1991), published by the UKNCCL and the British Institute. The most recent outcome of the project was the publication of D Fairgrieve, M Andenas and J Bell (eds), *Tort Liability of Public Authorities in Comparative Perspective* (BIICL, 2002).

Dr Duncan Fairgrieve and Dr Tom Hickman are currently undertaking research work on the constitutional context of section 8 of the Human Rights Act 1998 and the relationship between domestic law and international law approaches to damages. There have been a recent number of cases on this topic, which are placed within a wider context.

Dr Fairgrieve has published a book on public authority liability, examining the topical sphere of governmental liability from a comparative perspective, arguing that there has been an important shift in the traditional English law approach under the influence of European human rights law and Community law: *State Liability in Tort* (Oxford University Press, Oxford, 2003).

A complementary project to 'Tort Liability of Public Authorities in European and Comparative Law' is the project on Regulatory Liability in Comparative Law directed by Dr Mads Andenas and Dr Duncan Fairgrieve

Medical Law Principles in the Educational Sphere and Social Welfare Sphere

This project examines the application of medical law principles in the educational sphere, in particular regarding the sphere of teaching and diagnosis of special education needs. This is an area of the law which is developing rapidly, and accompanying academic research is therefore particularly needed.

The subject is placed on the overlap between public law, family law and medical negligence. There has been a recent House of Lords decision concerning this topic, and the lower courts are now developing the principles of liability. With the expertise of the members of the Centre in the area of medical law and public law, the centre is well placed to make a contribution to the current policy debate. The Centre aims to contribute to the current debate by undertaking research work in both a domestic law and comparative law perspective which will

assist in the development of coherent legal solutions by the courts and guidance for practitioners, which is also particularly crucial in this sphere.

Dr Fairgrieve has just completed a paper entitled 'Professional and Medical Negligence in the Education Sphere', which was initially issued as a working paper. It has recently been published as a major article in the leading journal, *Public Law*. The Centre intends to continue the research work on this topic, evaluating the current position of the courts, proposing solutions within a comparative law perspective and tracing developments in the future.

Another linked area of research to be undertaken by the Centre is in the sphere of medical law and child abuse claims. This is an area which has come to public attention in recent years. Legal actions have also been brought before both the domestic and international courts. The English judiciary has been struggling to reconcile the position of English law with the requirements of international instruments and fundamental values. There have been three important House of Lords decision in the past few years. A recent decision of the European Court of Human Rights in Strasbourg concerning a claim against the United Kingdom has given a renewed impetus to the English law debate.

Alternative Dispute Resolution in the Medical and Public Law Field

Litigation and the law should be a last resort. This principle underpins the new era of civil procedure in the UK which places a paramount importance on the need to avoid litigation. Alternative Dispute Resolution procedures (ADR) are thus becoming increasingly important and there is an urgent need for open-minded thinking about ADR techniques and procedures. Two areas of particular concern are public law and medical law. Both of these areas are already the subject of pre-action protocols which attempt to avert litigation and resolve grievances at the earliest opportunity. It is, however, accepted that far more radical measures are required. The Institute is particularly well placed to analyse these problems from a comparative perspective by drawing on both theory and practice from Commonwealth countries and other EU states as well as jurisdictions such as the United States.

Mediation and ADR have had only a minor role to play in the medical context in the past. Yet clinical negligence is one of the most complex areas of law and litigation frequently involves prolonged and expensive High Court trials. Even claims that settle usually do so at a very late stage. This procedure not only fails the victims of medical malpractice but also consumes an enormous, perhaps unsustainable, amount of resources on the part of the NHS. The Legal Services Commission and the NHS Litigation Authority are actively encouraging practitioners to have greater resort to mediation. Comparative perspectives provide fresh insights. Legislation in France has, for example, recently overhauled the procedures for resolving medical disputes, with the introduction of a new mediation body and the non-judicial procedures.

A great deal of medical litigation involves aspects of public law. Public law

generally is also an area in which ADR increasingly has a role to play, whether through the various ombudsman or complaints procedures, the provision of inquiries, or by mediation. Historically, there has always been recognition that public law litigation diverts taxpayers' money away from the provision of public services. Yet despite the strict limitations on bringing public law claims, it remains the case that over half of all judicial review claims eventually settle or are withdrawn, but only after the permission stage. Such problems are not limited to the UK. In the United States radical measures have been proposed, and remain under consideration, to avert public law litigation in all but grave cases, by establishing a scheme of early offers. Such a scheme already has a more limited counterpart in the UK in the context of Part 36 offers under the CPR. Also, the ombudsman system is currently the subject of major reform proposals, and here again the experience of other countries is invaluable. The British Institute is aptly placed to draw together scholars, ideas and policy-makers in order to make recommendations for public law procedures appropriate for the twenty-first century.

Events

The British Institute has an established record in running events on medical law and clinical negligence. We run a large number of academic seminars and conference on tort law related themes.

The well-established series of Personal Injury Evening Seminars has continued, with speakers from the PI bar, such as Lizanne Gumbel QC, Tim Kerr QC, James Badenoch QC, tackling controversial topics of tort law, including:

19 May 2004	Educational Malpractice
5 July 2004	The Better Regulation Task Force paper on the compensation culture,
5th November 2004	Causation and Tort Law: Recent developments <i>Chester v Afshar</i> in the House of Lords,
9 May 2005	Loss of Chance in Comparative law (chaired by Lord Justice Mance and with speakers including Professor Jane Stapleton, Andrew Edis QC and Lizanne Gumbel QC).

Medical Law

19 May 2004	Seminar: 'A duty to educate? To whom does it apply, how far does it extend and what is the cost of breach?' Speakers included Nicholas Bowen, (29 Bedford Row Chambers), Charlotte Capstick, (Berrymans Lace Mawer), Duncan Fairgrieve, (BIICL; Sciences Po, Paris), Elizabeth-Anne Gumbel QC, (199 Strand), Tim Kerr QC,
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(11 King's Bench Walk) and Andrew Warnock, (No 1 Serjeants' Inn). This seminar was kindly sponsored by Berrymans Lace Mawer.

The Tort Law Centre also ran 4 parallel panel sessions at the BIICL Annual Meeting in June 2004:

June 2004	Kobler—National Court Responses Judicial Accountability—Where do We Go? Product Liability: The Comparative Law Angle Accountability of Regulators Post-Penrose
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On 8 December 2004 we held a seminar on the important recent House of Lords' decision of *Rees v Darlington Memorial Hospital* (16 October 2003) on the issue of a claim for the costs of upbringing in respect of an unwanted (healthy) child born to a disabled woman. The Rt Hon Lord Justice Brooke was in the chair. Speakers included Elizabeth-Anne Gumbel QC, Margaret Bowron QC, Edward Faulks QC, Roderick Bagshaw (Magdalen College Oxford), and Dr Duncan Fairgrieve (BIICL).

THE CENTRE FOR FRENCH LAW

Duncan Fairgrieve

The Centre has developed a number of projects and events relating to French law.

A seminar was held on Thursday 20 May 2004 on the topic of the use of comparative law by the courts, with four eminent members of the French Conseil d'Etat. The delegation was led by Monsieur Daniel Labetoulle, président de la Section du contentieux, and included the 3 présidents adjoints de la Section du contentieux, M. Yves Robineau, M. Bernard Stirn, and M. Bruno Lasserre.

A major conference was organised in June to celebrate the centenary of the Entente Cordiale and the bicentenary of the French Civil Code, with over 180 registered delegates. There were over 60 speakers, including the Lord Chief Justice, the Master of the Rolls, Olivier Dutheillet de Lamothe, Conseil constitutionnel; Bertrand du Marais, Conseil d'Etat, Rt Hon Dame Butler-Sloss DBE, Rt Hon Lord Mustill, Hon Lord Reed, Rt Hon Lord Slynn of Hadley, Mr Justice Toulson and Mr Justice Tugendhat. The conference was sponsored by Allen & Overy, the British Council, Beachcroft Wansborough, Dalloz, Eurostar, Gide Loyrette Nouel, Herbert Smith, the Institut Français, Pinsents, Simmons & Simmons, and Vivendi Universal.

The conference was followed by a moot between the Paris Bar and the Bar of England and Wales at Gray's Inn and judged by Guy Canivet, premier President de la Cour de cassation, the Master of the Rolls and Lord Hope.

Under the auspices of the Centre of French law, a book will be published in the New Year on the Bicentenary of the French Civil Code, bringing together papers presented at our conference this June.

Duncan Fairgrieve is currently working on a major publication with two judges from the French Supreme Administrative Court, the Conseil d'Etat, Monsieur le Président Bernard Stirn and Mattias Guyomar. The book is entitled *Droit Public: Public Law*, and examines a number of contemporary public law topics in comparative Anglo-French perspective.

The Centre also collaborated in the organisation of a series of comparative tort law seminars with the Institut des hautes études sur la justice in Paris.

The Centre also collaborated with the French Ministry of Justice, and the magistrat de liaison in the UK, Bernard Rabatel on a project entitled 'Ta jeunesse imagine ton droit—Young lawyers take a fresh look at European Law.' Four BIICL researchers travelled to Paris in March 2004 to take part in the conference.

A variety of research projects and events are projected for the future,

including a mock Criminal trial to be organised with the Paris Bar. A follow-up to the highly successful conference in June is also being planned, with a major international conference to focus on the topic of French public law in collaboration with the French Conseil d'Etat and French Conseil constitutionnel to take place in October 2005.

OTHER RESEARCH PROJECTS

Parallel Proceedings before International Courts and Tribunals

This project on law and evidence in parallel proceedings before international courts is related to the Evidence Project and the projects listed under Comparative Procedure. The focus is on how international courts and tribunals deal with matters which are before other international courts in parallel proceedings and also more generally with findings of facts and law of other international tribunals. Two main issues are the following: should a court stay proceedings awaiting the ruling of another court on evidence or law in parallel proceedings; and what is the relevance and weight of decisions of other courts. The prospect of forum shopping—litigants choosing the court which best suits their purposes—has been considered a problem. Legal systems deal with parallel proceedings in different ways and the issues have to be further analysed. Dr Mads Andenas; Dr Renato Nazzini; Professor Joost Pauwelyn, Duke University; and Hugo Warner have been involved in different parts of this project. Mads Andenas, Samuel Wordsworth, Essex Court Chambers, and Professor Vaughan Lowe, All Souls College Oxford are presently involved. Hugo Warner at the Institute is currently engaged in writing a discussion paper on the subject.

As part of its activities within this project the Institute is organizing a series of workshops that are jointly chaired by Samuel Wordsworth and Vaughan Lowe.

Liability for Breach of Community Law

As part of the public authority liability project, a conference was organized on 31 March 2004 on Liability for Breach of Community Law. Leading practitioners and academics clarified the issues relating to liability for breach of Community Law. In his Keynote lecture Professor Walter van Gerven considered the Crehan case and the way ahead. Other topics addressed included the Factortame cases and the impact of Community law on UK law; the discretion/sufficiently serious breach debate; causation and damages and the differences between Member State liability in the EU and the United States. Professor Sir David Edward KCMG QC, former Judge of the ECJ was in the chair. The keynote lecture was given by Walter van Gerven, former Advocate General ECJ, currently Katholieke Universiteit Leuven; and speakers included Dr Mads Andenas, BIICL; David Anderson QC, Brick Court Chambers; Roberto Caranta, Università di Torino; Chris Hilson, Reading University; Michael Niejahr, European Commission, DG Legal Services; Professor James Pfander, University of Illinois; Takis Tridimas, University of Southampton; Christopher Vajda QC, Monckton Chambers.

Enforcement Agency Practice in Europe

In 2003 the Institute received a grant from the Commission of the European Communities to study Enforcement Agency Practice in Europe. The European Council's long-term goal, which resulted from the Tampere Summit in 1999, is to create an area of free 'movement' of judgments in the same way that there is free movement of goods, persons, services and capital within the EU. Just as the free movement of goods has required the harmonization of standards relating to the manufacture and distribution of goods, the free movement of judgments will require the harmonization of procedural standards and the creation of new interfaces between systems. The result should be lower transaction costs for businesses and consumers, and more confidence that agreements will be honoured.

The differences between the systems of civil procedure in the European Member States are deep-seated and relate in particular to different approaches to judicial organization. These approaches are underpinned by different policies and expectations. The development of appropriate rules for the European Judicial Area (EJA) is, therefore, a complex task. Misunderstandings are commonplace and inhibit the design of suitable interfaces and the removal of obstacles to judicial cooperation. Practitioners typically do not have the time or the incentive to explore the reasons for the difficulties they face in cross-border disputes. Policy makers lack input from practitioners into the policy-making process. It is therefore essential that a framework be created within which detailed comparative information can be provided on subjects that are of interest to policy makers so that structural differences can be properly taken into account.

The project therefore examines in depth the structure, status and procedures of selected Member States' enforcement agencies and the implications for individuals and companies in seeking to enforce a judgment in the EJA. The project is part of a more ambitious programme. It constitutes the starting point of a long-running and fruitful experience that will make a substantial contribution to the development of the EJA.

The participants in the ERI have worked closely together sharing information and research outcomes, co-operating closely with one another with the view to establishing a European Area of Freedom and Justice. The participants in the project are Dr Mads Andenas and Hugo Warner from the British Institute, Professors Burkhard Hess, Tübingen; Ton Jongbloed, Utrecht; Paul Oberhammer, Vienna; Juan Pablo Correa Delcasso, Barcelona; Marie-Laure Niboyet, Paris-Nanterre; Torbjorn Andersson, Uppsala. External revision is provided by Professor Dr Peter Schlosser, University of Munich, author of the 'Schlosser Report' (on the 1st Treaty on Accession to the European Treaty on Jurisdiction and the Enforcement of Judicial Decisions, OJ C 71, 1979) and Dr Wendy Kennett, University of Cardiff, an expert on enforcement issues.

The associated publication *Enforcement Agency Practice in Europe* was published in May 2005. This book examines the structure, status and procedures of enforcement agencies in Europe and the implications for individuals and

companies in seeking to enforce a judgment in the European Judicial Area. In addition to this a more concise Manual on Enforcement Agency Practice has been published through the Institute's Website.

Private International Law Discussion List

In 2004 Andrew Dickinson, Visiting Fellow in Private International Law, and Hugo Warner set up the Institute's first mailing list, devoted to discussions on private international law.

The objective of the forum is to promote discussion and analysis of recent developments and themes in private international law. The subject matter of discussion is selected and developed by forum members, who will be able to contribute on any topic which they consider of interest to other members. The Institute plans to identify matters of particular topical interest and to include these in its programme of seminars, lectures and meetings. The forum is free to join and participate and is open to both members of the Institute and non-members. An email address is all that is required.

Those who wish to join should simply follow the instructions on the list homepage at www.jiscmail.ac.uk.

RESEARCH PROFILES

This section includes an outline of the research profiles of staff members of the Institute.

Dr Mads Andenas [on sabbatical]

Mads Andenas was appointed the Director of the British Institute in November 1999. He was appointed Lecturer in Law, then Senior Lecturer at King's College, University of London in 1991, and from 1994 he was the Director of its Centre of European Law. He continues as a Visiting Professor.

He is also a Senior Teaching Fellow in European Community Law at the Institute of European and Comparative Law, University of Oxford and a Fellow of Harris Manchester College, University of Oxford. In 1993 he was appointed Honorary Director of Studies, later Law Society Senior Research Fellow in Corporate Law, at the Institute of Advanced Legal Studies, University of London. He is a Visiting Professor of Queen Mary College, University of London. In 2002–3 he held the Chaire W J Ganshof van der Meersch under the Fondation Philippe Wiener—Maurice Anspach at the Université Libre de Bruxelles.

He is General Editor of the *International and Comparative Law Quarterly* (Oxford University Press) and of the *European Business Law Review* (Kluwer Law International) and is on the editorial boards of some 12 other law journals and book series. His list of publications includes some 40 books.

He holds the degrees of Cand jur (Oslo), Ph D (Cantab) and MA and DPhil (Oxon) and is a Barrister (England and Wales, Middle Temple) and is also admitted as an Advokat in Norway. He is a Bencher of Inner Temple.

He is involved in research projects concerning the relationship between national law and European and international law; comparative constitutional and human rights law and constitutional aspects of the EU and the WTO; procedure in international and national courts, market regulation (competition, financial market supervision) and company law. He supervises research students at the University of London, and at other British and European universities. He participates in a number of European and international research projects and research networks.

Clémentine Baldon

Clémentine Baldon has completed a three-year Masters in business and management in ESSEC (Grande Ecole de Commerce) and also hold a LLB (licence) and a MA (maîtrise) in International and European law from the Law University Paris II—Assas. She qualified as a French avocat in 2002 and practised as a lawyer in Bignon Lebray & Associés law firm (Paris) until the end of 2003.

She worked as a research officer in the British Institute during 2004 on several

projects concerning French Law and Competition law. She is particularly involved in the Global Trading project, which seeks to investigate to what extent national competition rules may constitute barriers to global trade agreements between manufacturers and retailers. She is also co-editing the Institute's forthcoming publication Current Competition Law Volume III.

David Bowden

David Bowden acts as Principal Consultant to the Data Protection Research & Policy Group. He took over from Dr Omer Tene in February 2005. He is responsible for developing the Group, organising the themed quarterly meetings for members, arranging the monthly Practitioner Workshops and co-ordinating the comparative jurisdictional research.

David originally qualified as a Barrister in England in 1987 before re-qualifying as a solicitor in 1995. He is also admitted as an Attorney and Counselor at Law in New York, USA. He holds a LLB degree in Law from the University of London and a Post Graduate Diploma in Intellectual Property Law.

He has previously sat on the Data Protection Committees of the Finance & Leasing Association and the Confederation of British Industry. He has much practical experience of Data Protection gained from working in-house for companies such as General Electric, Barclays Bank, Alliance & Leicester and Lombard.

He runs his own consultancy specialising in Data Protection and consumer finance.

Dr Susan C Breau

Dr Breau received her PhD in 2002 from the London School of Economics and Political Science, on an examination of the doctrine of humanitarian intervention in customary international law and under the United Nations Charter. She has also studied at the ICRC in Geneva (International Humanitarian Law for Lecturers) and at the Salzburg Law School, International Criminal Law. She also holds the following degrees:

- Master of Laws, London School of Economics and Political Science, University of London, 2000;
- Master of Arts, Queen's University, Kingston, Ontario, 1992: International Relations;
- Bachelor of Laws, Queen's University, 1979
- Bachelor of Arts, Queen's University, 1976:

She is a barrister and a solicitor in the province of Ontario, Canada (called to the Bar in 1981). Her most recent position was at the School of Law, Queen's University, Belfast, Northern Ireland where she was a Lecturer and Course—Convenor in Public International Law (LLB) and the LLM Human Rights Law Course Co-ordinator.

Other Activities:

Part time faculty member and visiting fellow at the London School of Economics, teaching in the LLM programme.

Adjunct Associate Professor Royal Military College of Canada.

Her publications include:

‘Proposal to establish a Unified Family Court in Kingston, Ontario’ co-authored with Martha Downey-Smith on behalf of Family Court advisory committee, submitted to Marion Boyd, Attorney General for the Province of Ontario. Proposal accepted and Unified Family Court established 1995.

‘The Gulf between Contemporary Social Relations and Family Law in Canada’ International Bar Association Conference September 1998, paper published through International Bar Association.

‘The Mythical Validity of Marriage Contracts’ International Transfer of Wealth Seminar—International Bar Association and American Bar Association London, England, February 1999, paper published through International Bar Association.

‘An International Rule of Law’ Hayek Society Journal, London School of Economics, Spring 2001.

‘Anti-Terrorism Law and Human Rights in the United Kingdom Post September 11’ co-authored with Stephen Livingstone and Rory O’Connell published by the British Council 2001

Report on the Canadian Legal and Judicial system for the Human Rights Centre at Queen’s University, Belfast 2003.

Report on the Canadian Criminal Justice System for the Committee on the Administration of Justice, Belfast 2003.

‘Special Operations Concepts and Doctrine: International Law Implications’ Chapter in *Choice of Force: Special Operations for Canada*, edited by David Last and Bernd Horn published by Queen’s McGill Press 2005

Humanitarian Intervention: The United Nations and Collective Responsibility manuscript to be published 2005 by Cameron May.

Theodora Christou

Theodora Christou started working at the Institute in November 2001 and became a Research Fellow in July 2003. She was Administrator of the Institute’s Development Appeal between April 2002 and June 2003. She holds a law degree (LLB) from South Bank University and a Master’s degree (LLM) awarded with merit from the University of London, Kings College London. She was called to the Bar of England and Wales in October 2001 (Lincoln’s Inn).

Her research focuses on a number of areas and she has worked on a wide range of projects. She has worked on a project on Liabilities of Public Authorities in Europe. She has also worked on developing a programme on working towards the abolition of the death penalty in African countries and is

currently the interim co-ordinator of the Death Penalty in Africa Project. She has also contributed to a number of other research projects of the Institute in International, European and Comparative law.

She is interested in the latest legal developments and all the most pressing and topical legal issues. It is for this reason that she was Assistant Editor of the Bulletin of Legal Developments and now continues to be a main contributor. She also works on the Institute's Public International Law and Human Rights Programme of events.

Her main interest is in human rights and more generally public international law. Domestic legislation is increasingly subject to the check of judicial review and European and International legal instruments and standards and domestic cases increasingly engage different areas of law and different jurisdictions. It is rarely that areas of law can be considered in isolation and it is at these crossroads that her particular interest lies.

Professor Dr Cees van Dam

Cees van Dam is Director of the Regulation Forum and Professorial Fellow in European Tort Law. He is also Professor of Civil Law at the Vrije University in Amsterdam.

His main recent publications include a comparative handbook on Dutch tort law (2000), and the revision of parts of two volumes on property law in the Asser-serie, the main Dutch handbook series on civil law (2001, 2002).

As Director of the Regulation Forum he is carrying out research to prepare Forum discussions and to drafting reports and recommendations. In this framework papers have been produced on 'The purposes of regulation', 'International coordination' and 'Enforcement'.

Cees van Dam also conducts research funded by the European Commission into the law on unfair commercial practices in the new Member States. This project is directly linked to the new EU Directive on Unfair Commercial Practices. The new Directive provides for one binding set of rules, harmonizing the various different laws of the 25 Member States. The project involves an analysis of the existing national rules, including case law, on unfair commercial practices between business and consumers in the new Member States and the possible resulting internal market barriers.

In a project funded by the Dutch Ministry of Justice Cees van Dam is doing research on the liability risks for public bodies with a supervisory function in the area of economic regulation and health and safety. The focus of the project will be on liability risks for inadequate supervision or enforcement. The project needs to investigate how these risks can be limited or eliminated, *inter alia* by creating statutory immunities. The conclusions will be based on English, French, Italian, German, Belgian and Dutch law and will be set in the framework of European community law and the case law of the European Court of Human Rights.

In 2006 Cees van Dam will publish the first introductory textbook on European Tort Law. The book familiarises the reader—student, academic and

practitioner—in a concise way with the main features of European tort law. It brings together national tort law, comparative law, community law and human rights law, and provides insights in differences, commonalities and intertwinements between the tort law systems. The first part ('Systems of liability') provides overviews of the state of affairs of the tort law systems of France, Germany and England and the European Union. In a concluding chapter comparisons are made between the rules, the cultures and the policies of the various systems. Finally, the case for a European codification of tort law is being discussed. The second part ('Requirements of Liability') analyses and compares the requirements for liability in the various tort law systems: protected interests, negligence and unlawfulness, breach of statutory duty, stricter rules of liability, causation, damage, damages and contributory negligence. The final part ('Categories of Liability') also assumes a comparative and a supranational point of view and shows how the national and European rules are applied in various ways in a number of categories, such as liability of public bodies, liability for defective products, for motor vehicles, for employees, for children and for premises and highways.

Dr Duncan Fairgrieve

Duncan Fairgrieve is Fellow in Comparative Law and Director of the Tort Law Centre at the British Institute. He is also Maître de Conférences at Sciences Po, Paris. He holds degrees from Oxford, London and Paris.

Dr Fairgrieve's research interests focus upon comparative law, spanning both private and public law. In the sphere of public law, he has a particular interest in the liability of public authorities in tort law. He has just published a book on public authority liability, examining the topical sphere of governmental liability from a comparative perspective, arguing that there has been an important shift in the traditional English law approach under the influence of European human rights law and Community law: *State Liability in Tort* (Oxford University Press 2003).

He also has a particular interest in the comparison of aspects of Anglo-French public law. He is currently working on a major publication with two judges from the French Supreme Administrative Court, the Conseil d'Etat, Monsieur le Président Bernard Stirn and Mattias Guyomar. The book is entitled *Droit Public: Public Law*, and examines a number of contemporary public law topics in comparative perspective.

In the sphere of comparative private law, Dr Fairgrieve works on a variety of topics, in particular tort law. He is the founding Director of the Tort Law Centre at the British Institute, in charge of projects on Product Liability, Clinical Negligence, and Public Authority Liability.

Dr Fairgrieve has also developed research interests in areas of comparative commercial law. He has worked on financial services regulation in England and France, addressing the institutional aspects of regulation of the two systems, as well as publishing papers on the accountability of regulators.

He is the co-editor of a book from the Institute on Comparative Law before the Courts with Monsieur Guy Canivet, Premier Président of the Cour de cassation and Dr Mads Andenas. The aim of this book is to examine the use of comparative law by national and international courts. Authoritative contributions cover both common law and common law jurisdictions from the viewpoint of both practitioners and theorists. Contributors include Lord Goff of Chieveley, Mr Justice Burton, Monsieur le Premier Président Guy Canivet, Judge Jean-Paul Costa, Monsieur le Conseiller Olivier Dutheillet de Lamothe, Judge Koen Lenaerts, Roger Errera, Professor Guido Alpa, and Judge Joaquín Martín Canivell.

Dr Fairgrieve is a qualified French avocat and practises in the field of product liability and commercial litigation in Paris.

Professor Philip Iya

Philip Francis Iya is a Professor of Law, former Dean of Law and thereafter Executive Dean of Research and Development, at the University of Fort Hare in South Africa. He is currently on Sabbatical at the Institute where he heads the research project on the Application of the Death Penalty in Commonwealth Africa.

He obtained his BA (Law) Degree from the University of East Africa; he thereafter gained a Bachelor of Laws (LLB) degree from Makerere University in Uganda, followed by a Master of Laws (LLM) degree from Yale University in USA and finally gained his PhD in Law from the University of Warwick. He is also an Advocate of the Uganda Supreme Court.

Professor Iya previously lectured at both Makerere University and the Law Development Centre in Uganda and he eventually became the Director of the Centre until his departure to the University of Swaziland where he was Senior Lecturer. He thereafter moved to South Africa in 1993 where he was Senior Lecturer at the University of Witwatersrand in Johannesburg before proceeding in 1996 to the University of Fort Hare as Associate Professor of Law becoming a full Professor of Law in 1998. He was also Visiting Professor at Vista University in Bloemfontein and a researcher for South African Law Commission.

His areas of special interest are legal education (specialising in legal skills development), customary law and constitutional development, labour law, human rights, comparative law, law in development and research management. As an eminent scholar and a prolific researcher and writer, he has published widely in Uganda and South Africa (including South African Law Journal, Stellenbosch Law Review, CILSA, UNITRA Law Journal) and internationally (including AALS Journal of Legal Education, International Journal of Clinical Legal Education, International Journal of Legal Education, Australian Journal of Professional Legal Education UNISWA Research Journal, Lesotho Law Journal among others). Professor Iya is a prominent member of several academic,

professional and managerial organizations and associations in Uganda, South Africa, Africa and beyond.

His recent publications include:

- 'Legal Education, Legal Practice and Reconstruction of South African Society' 2002 Third World Studies Journal
- 'Fostering Better Interaction Between Academics and Legal Practitioners' 2003 International Journal of Clinical Legal Education
- 'Fighting Africa's Poverty and Ignorance Through Clinical Legal Education' 2000 International Journal of Clinical Legal Education 13–32.
- 'Fighting Poverty with the Law' 2001 (31) Africa Insight 3 at 47–53.
- 'Legal System and Legal Education in South Africa' 2001 (51) Association of American Law Schools Journal of Legal Education

Agnieszka Jachec

Mrs. Agnieszka Jachec holds a Masters of Science in Law and Administration from the University of Gdansk (Poland) and is currently completing doctorate studies at the International Public Law Department of the same university. Her thesis focuses on philosophical and normative aspects of crimes against humanity.

Mrs. Jachec has an over five years experience in working with international organisations (UN, OSCE) in South-eastern Europe, where she specialised in monitoring domestic war crimes trials and human rights field observation. In the past three years she also gained practical experience of managing three major human rights projects and producing analytical multi-disciplinary reports in the field of international human rights and international humanitarian law.

Currently serving as a researcher she is involved in the Institute's project promoting human rights and democracy in Iran as well as she is developing research specialising in the laws of armed conflict.

Stefan Lenze

Stefan Lenze has been a Research Fellow of the Institute since February 2004. He graduated from the University of Munich in 2000 and qualified as a lawyer in 2002. Between 2002 and 2004 he worked in the product liability group of Lovells in London, where he was involved in conducting the 2003 Study on European Product Liability on behalf of the European Commission.

His research interests focus on European private law, product liability law and product safety law. Stefan Lenze publishes regularly on these subjects in the United Kingdom, Australia and Germany. He has also contributed chapters to the International Legal Guide on Product Liability 2003 and a forthcoming major publication on European product liability. As part of his research at the Institute he is currently setting up an international forum of experts on product liability, and is finishing his doctorate on product liability in Europe and the United States.

Dr Philip Marsden

Dr Philip Marsden joined the British Institute in 2003 as the Director of the Competition Law Forum, having previously been a speaker at our first WTO conference and numerous practitioner workshops. He is a competition lawyer with a particular interest in aspects of the law of the World Trade Organization (WTO) relating to competition issues, telecommunications and dispute settlement proceedings.

Dr Marsden holds a DPhil from Oxford University, an LLM in European Law from Leicester University, and his LLB and BA (Hons) are from the University of Toronto. He qualified as a Barrister and Solicitor at the Law Society of Upper Canada in 1991, and has been in private practice with law firms in Toronto, Tokyo and most recently with Linklaters in London, where he specialised in merger control and general competition and trade law advice. From 1994–1996, he was a case officer with the Economics and International Affairs Branch of the Canadian Competition Bureau.

Dr Marsden is a frequent media commentator on competition and trade issues and has spoken at conferences on the subject in London, Geneva, Sao Paulo, Rome, Brussels, Stockholm, Tokyo, New York among others. He sits on various committees, most notably as a UK Representative to the Business and Industry Advisory Committee, Competition Law and Policy Committee (Paris); as a private sector advisor to the ICN Merger control ‘analytical framework’ and ‘notifications and procedures’ sub-committees; as a rapporteur to the Federal Trust Working Group on Reform of the WTO Dispute Settlement Understanding, and an advisory board member to the current Federal Trust Working Group on the WTO ‘Singapore Issues’. In spring 2003, he contributed to and acted as Editor for the Consumers’ International Technical Report, ‘Consumers, Multilateral Competition Policy and the WTO’.

His book *A Competition Policy for the WTO* was published by Cameron May in February 2003.

Other recent publications include:

- ‘Supplemental Competition Law Forum submission to the European Competition Network regarding the Modernisation Package’ Competition Law Insight February 2004
- ‘Competition after Cancun—a personal view’ Competition Law Insight October 2003
- ‘Cooperation within the European Competition Network’ Competition Law Forum submission to the European Competition Network, Competition Law Insight September 2003
- ‘Private Actions under EC and UK Competition Law’ 31 International Business lawyer 4 August 2003 165 (with Nicholas Roth)
- ‘Consumers and Multilateral Competition Agreements’ Contributor (National Treatment) and Editor of the Consumers’ International Technical Report April 2003

‘International Enforcement of EC Competition Law’ chapter in D Goyder EC Competition Law (4th edn Oxford OUP 2003)

‘Not the end but the end of the beginning: competition policy at the WTO’ Competition Law Insight November 2002

‘Trade and Competition: Why anti-trust lawyers should pay more heed’ European Anti-trust Review 2002, London January 2002

‘The WTO ‘Doha Development Agenda’: a Declaration of Intent’ Linklaters client briefing, December 2002

‘Tune in to the International Competition Network—not the WTO—for practical advances in International Anti-trust’ In Competition Brussels December 2001

‘US–Tax Treatment For ‘Foreign Sales Corporations’’, Report of the Panel, 23 July 2001 Cameron May International Trade Law report July 2001 (with Christopher Stothers)

‘Innovative Trade Rules with Anti-competitive Effects?’ International Business Lawyer London March 2001

Chapter ‘The Divide on Verticals’ Anti-trust Goes Global (Brookings Institution Press, Royal Institute of International Affairs, Washington/London October 2000)

‘Whither Competition Rules at the WTO?’, In Competition, Brussels January 2000

Dr Federico Ortino

Dr Ortino has joined the British Institute in January 2005 as Fellow in International Economic Law and Director of the Investment Treaty Forum. He holds a law degree from the University of Florence, School of Law (1996, magna cum laude), a master of laws from Georgetown University Law Center (1997, with distinction) and a doctorate from the European University Institute, Florence (2002). He is an adjunct professor in International Economic Law at the University of Trento, School of Law and the University of Florence, Economic Law Department. He has worked as legal consultant for law firms in Florence, London and Brussels as well as for the United Nations Conference on Trade and Development in Geneva. In 2004, he was Emile Noël Fellow and Fulbright Scholar at the Jean Monnet Center of New York University.

Dr Ortino’s research interests lie primarily in international economic law, in particular WTO law, investment law and EC law, with additional interests in international commercial law and litigation.

Recent Publications:

‘From Non-Discrimination to Reasonableness: A Paradigm Shift in International Economic Law?’, Jean Monnet Working Paper (No 1 2005)

Andenas & Ortino (eds) WTO Law and Process (London, Biicl, forthcoming 2005)

‘WTO Jurisprudence on de jure and de facto discrimination’, in Federico Ortino & Ernst-Ulrich Petersmann (eds.) *WTO Dispute Settlement System: 1995–2003* (The Hague, Kluwer, 2004)
Basic Legal Instruments for the Liberalisation of Trade: a Comparative Analysis of EC and WTO Law (Oxford, Hart Publishing, 2004)

Dr Matthias Pannier

Matthias Pannier joined the British Institute of International and Comparative Law in March 2004 as a Research Fellow at the Company Law Centre. He is a specialist in Company Law and Financial Market Regulation with a particular interest in European Law. He is also a lecturer for the London LLM programme at King’s College, University of London.

Matthias Pannier holds the degrees of *Dr iur* from Friedrich Alexander University of Erlangen-Nuremberg and *Legum magister* in economics (LLM oec) from Martin Luther University of Halle-Wittenberg in Germany. He completed his Second State Exam in Law at the High Court (Kammergericht) of Berlin in February 2004. From 1997 until 2002 he worked as a research assistant with Prof Dr Dr Stefan Grundmann, Humboldt University of Berlin. During his legal clerkship he held a variety of different positions including the law firm Hengeler Mueller, the Department of Trade and Industry of Berlin and a chamber of commercial matters at the Regional Court of Berlin.

Recent publications:

- M Pannier *Harmonisierung der Aktionärsrechte in Europa—insbesondere der Verwaltungsrechte* (Duncker&Humblot Berlin 2003) 290 pages
- F Wooldridge and M Pannier ‘The German Corporate Governance Code—Status and Development’ 16 (2005) EBLR issue 2
- J Rickford and M Pannier ‘Corporate Governance Disclosures in Europe’ 16 (2005) EBLR forthcoming.
- M Pannier ‘European Company Law—Capital Directive, Merger Directive, Directive on Divisions, Single Member Company Directive’ in S Breidenbach (ed) *Europarecht* (Knowledgetools 2004 software-based and visualized presentation of European Law)
- M Andenas and M Pannier ‘Free Movement of Capital and Economic and Monetary Union’ (Distance Learning Course, King’s College, University of London 2004)
- M Andenas, T Guett and M Pannier ‘Free Movement of Capital’ 16 (2005) EBLR forthcoming.

Juan Pablo Raymond

Juan Pablo Raymond started working at the Institute in 2003. He comes from a mixed background of Finance and International Development, previously he

worked for ING Barings as Global Marketing Manager. He is currently Coordinator for the 'Application of the Death Penalty in Commonwealth Africa' project. He is co-editor of the BIICL publications European court of Human Rights: Remedies and Execution of Judgments and the Human Rights Manual and Sourcebook for Africa. He has also contributed to the organization of a number of human rights and public international law events at the Institute.

His is interested and has worked with human rights and more general public international law, particularly: legislating against corruption, good governance and building strong institutions, democratisation and reform on international institutions.

Jonathan B K Rickford CBE MA BCL (Oxon)

Jonathan Rickford is Director of the Company Law Centre at the British Institute of International and Comparative Law, a Member of the UK Competition Commission (the UK anti-trust authority), and Visiting Professor in corporate law at the London School of Economics.

He was the Project Director of the UK Government's independent Review of Company Law from 1998 to 2001 and a member of the European Commission's High Level Group (the 'Winter' Group) on company law in 2001–2002.

During a varied career in government, business and academe he has been Director of Corporate Strategy, Director of Regulation and Chief Legal Adviser with British Telecommunications plc and Head of Company Law and The Solicitor (or General Counsel) at the UK Department of Trade and Industry.

Early in his career he also taught law at the University of California at Berkeley and the London School of Economics.'

His publications include:

- 'Do Good Governance Recommendations Change the Rules for the Board of Directors?', position paper for Siena Conference on Company Law and Capital Markets Law, March 2000, to be published shortly by OUP.
- 'The Company Law Review—the Final Stages', a paper for Manchester University Faculty of Laws conference on Company Law for the New Millennium, March 2000 (outline only).
- 'The Company Law Review—Shareholders, Stakeholders and the Purpose of a Company', paper for the Pensions and Investors Research Consultants seminar, 1 June 2000 (outline only).
- 'Corporate Governance and the Scope of Directors' Responsibilities', paper for London School of Economics 'Dilemmas' series seminar, 15 June 2000, (outline only).
- 'Migration from Soft Law to Hard Law', a discussion paper for the First European Conference on Corporate Governance, Brussels November 2000, (outline only).

- ‘The Company Law Review—Where are we now and Where are we going?—Law Reform as Economic Engineering’, paper for Cambridge University Centre for Corporate and Commercial Law seminar, February 2001.
- ‘Progress Report on the Company Law Review’ paper for the Institute of Directors Seminar, March 2001 (outline only).
- ‘Duties, Structures and Frameworks’, paper for the Corporate Lawyer Networking Group, 24th July 2001 (outline only).
- ‘Corporate Governance and the Role of the Law’, a paper for the APEC Business Advisory Council Meeting on Corporate Governance, Singapore, 28 August 2001.
- ‘The Company Law Review—Key Outcomes’ paper for the European Policy Forum conference on Corporate Governance on 12 September 2001.
- ‘Directors’ Duties—the New Regime’ paper for the PLC conference on company and securities law, 20 September 2001.
- ‘Institutional issues in British Company Law’ paper for the Institute of Chartered Secretaries and Administrators annual conference, 8 November 2001.
- ‘The Company Law Review—the Key Issues’, Hill and Knowlton breakfast briefing 22 November 2001.
- ‘Forthcoming Change in Corporate Law in the UK’, paper for the Stichtung Forum Internationale seminar on Change in European Corporate Laws, 14 December 2001, now published in *Ondernemingsrecht 2002–11* (Kluwer).
- ‘The History of the Company Law Review’, chapter 1 of *The Reform of UK Company Law*, edited by Professor John de Lacy, (London: Cavendish, April 2002).
- ‘The Company Law Review—an Overview’, chapter 1 of *A Practitioner’s Guide to the Company Law Review*, edited by Danielle Stewart (London: City and Financial Publishers, 2001).

Ana Stanič

Ana Stanič joined the British Institute as a Visiting Fellow to research the decade-long mission of the international community in Bosnia. Since she joined in September 2003, Ana has been involved in a number of Institute’s projects and activities, including the Terrafirma project of the European Space Agency, the organisation of arbitration seminars and the launch of the investment treaty forum. She also presented a paper entitled *Lessons of Bosnia for Iraq* at the Institute’s Conference on Post-War Iraq on 26 February 2004.

[Whilst at the Institute] Ana also conducted research on the foreign investment laws of Uzbekistan, publishing an article in the *Journal of World Investment*. She also analysed the first ever decision by the Administrative Tribunal of the International Labour Organisation which concerned the removal of the head of international organisation and addressed the important issue of the independence of international organisations from political interference by powerful member states. The latter analysis was published in the October 2004 issue of the *AJIL*.

She also spoke on the prospects for lawyers after accession at the inaugural meeting of the Czech branch of the European Women's Lawyers Association in Prague in May and on the rule of law as a driver of competitiveness in the Western Balkans at the Conference on Integrating Western Balkans in Slovenia in October 2004.

After a year at the Institute, Ana has returned to private practice having joined the international dispute resolution department of Skadden Arps. However, Ana remains active at the Institute and is currently partaking in the study conducted by the Institute and headed by Cees Van Dam and Erika Budaite on the law of unfair commercial practices in the new EU Member States as the national rapporteur for Slovenia.

Recent publications:

Independence of International Organisations, Case Note, [2004] AJIL
Exploding the Myth: the Role and Powers of the High Representative,
Presentation at Matrix Chambers, 18 November 2004
Rule of Law Drives Competitiveness in Western Balkans, Speaker at the Regional
Business Meeting Point on Integrating Western Balkans, 26 October 2004
Prospects for Lawyers after Accession, Speaker at the inaugural meeting of Czech
branch of the European Women's Lawyers Association, Prague, 14 May 2004
Lessons of Bosnia for Iraq, Member of the panel on Transitional Administration,
Conference on Post-War Iraq, BIICL, 26 February 2004
Doing Business in Uzbekistan: A guide to its Foreign Investment Framework,
[2003] J. World Investment 1047
Financial Aspects of State Succession: the Yugoslav case, [2001] EJIL 751

Laurent Thomas

In 2004 Laurent Thomas worked with Professor Cees van Dam and Dr Omer Tene as part of the Institute's agreement with the Paris Bar.

Laurent Thomas graduated from the University of Paris with a masters degree in Business Law and from the University of Toulouse with an LLM degree in business law. Before joining the British Institute as an intern as part of an exchange programme with the Paris Bar, he practised for two years in Paris as a solicitor in commercial and company law. His main interests lie in the fields of product liability, company law and data protection, in particular in French and Belgian law. He has also established a website dedicated to English business law (www.britlaw.net)

Dr Maria Vogiatzi

Dr Maria Vogiatzi is a Research Fellow in Public International Law at BIICL. She received her PhD in 2003 from the University of London on the subject of the jurisdiction of the International Court of Justice. She also holds a Masters of Laws with merit from the University of London and a Bachelor of Laws from the

Aristotle University of Thessaloniki, Greece. She is a member of Thessaloniki's Bar Association since 1998.

Her interests include international adjudication and dispute settlement and the sources of international law and in particular treaty law.

Currently, she will be working on the Institute's research project 'Evidence Before International Courts and Tribunals'. She is working on publishing her PhD.

Recent publications:

'The Historical Evolution of the Optional Clause' in *Non State Actors and International Law* vol 2 (2002) 41–88

Hugo Warner

Hugo Warner became a researcher at the Institute in January 2003, having graduated from the University of Edinburgh in 2002, and a Research Fellow in November 2003. He has two principal areas of responsibility at the Institute: in the Institute's development consultancy work and in its Investment Treaty Forum.

He has had substantial involvement in the Institute's training and consultancy activities, having first participated in the Institute's desk-based study on access to Justice in Sudan in early 2003. He is currently engaged in the Armenian Public Sector Reform Programme (APSREP) and the Institute's contribution to DFID's Afghanistan Programme. These projects have involved the drafting of comparative memoranda on wide-ranging areas of reform and the delivering of training presentations to senior civil servants and NGO representatives.

Other Institute projects on which he has worked in a research capacity include: Enforcement Agency Practice in Europe; Global Monitoring and Environmental Security (GMES); Value-Added Taxation in the European Union; Comparative Confidentiality in Psychoanalysis; the Council of Europe Pilot Project on State Immunities; Damages in International Law; the Comparative Report on Counterterrorism Powers and Practice; and the Law of Evidence before International Courts and Tribunals.

He is the coordinator of the Institute's Investment Treaty Forum, having helped build up its constituency and develop its objectives in 2004 prior to the appointment of Federico Ortino. He is also responsible for devising the Institute's other activities in international commercial arbitration.

He has helped promote the Institute's activities in private international law, having set up the Private International Law email discussion list and set up a number of discussions in the field.

His publications include:

Enforcing Contracts in Transition Economies (BIICL & European Bank for Reconstruction and Development, 2005) Editor

Enforcement Agency Practice in Europe (M Andenas, B Hess, P Oberhammer & H Warner (eds) 2005)
Appeals from Investment Treaty Disputes (special edition of *Transnational Dispute Management*, A Sheppard & H Warner (eds) 2005)
Parallel Proceedings before International Courts and Tribunals (forthcoming BIICL publication, A V Lowe & S Wordsworth (eds)) Assistant Editor
The Future of Transnational Civil Litigation (M Andenas, N Andrews & R Nazzini, (eds) 2004) Assistant Editor
Comparative Confidentiality in Psychoanalysis (P Garvey & A Layton QC (eds) 2004) Contributor

Jane Welch

Jane Welch has recently rejoined the British Institute to set up a European Financial Law Centre. The purpose of the Centre is to provide an independent forum for research and debate on European Financial Services Law, focusing on the adoption and implementation by Member States of the European Commission's Financial Services Action Plan.

She graduated from Trinity College, Dublin (BA Mod) and has an LLM from the University of London. She began her career at the British Institute, where she was Assistant General Editor of the *International and Comparative Law Quarterly* and Editorial Assistant on the *Common Market Law Review*.

From 1982–1986, Jane Welch was the Law Society Senior Research Fellow in Company and Commercial Law at the Institute of Advanced Legal Studies. During this period she was asked to write a report for the European Commission on the Regulation of Non-Bank Financial Institutions in EC Member States and to advise the Commission on UK company law during the negotiation of the Regulation for a European Co-operation Grouping.

She then joined the UK Securities and Investments Board as a legal adviser, becoming Head of its Legal Advice Unit. At the SIB, she was involved in the negotiations and implementation of the Second Banking Directive and Investment Services Directive and other key directives affecting financial services. Subsequently, she became Head of European Law at the UK Financial Services Authority, where she was responsible for advising on all aspects of European financial services law.

Since leaving the FSA, Jane Welch has been involved in a number of consultancy projects, including advice to the Hungarian Ministry of Finance on a new Securities Law, advice on securities regulation and investor compensation to the Czech Finance Ministry and Czech Securities Commission and advice on a new Securities Law in the former Federal Republic of Yugoslavia.

She has written and lectured extensively on UK and EU Securities law, company law and banking regulation.

THE DEVELOPMENT BOARD

At the beginning of 2002, the Institute launched a Development Appeal to raise £2m, in the belief that the Institute could, if properly funded, make a substantially greater contribution to the knowledge and understanding of both international and comparative law. Due to the hard work and commitment of the Development Appeal Committee, Patrons and the Executive, the target has been reached, and £2 million has been raised in cash and pledges to date.

The Appeal has contributed to the consolidation and expansion of the Institute. The aims of the Development Appeal were to fund ongoing and new activities at the Institute. It did not aim at providing an endowment, and the Institute is continuing its fundraising with the aim of securing a reserve with a view to its long term financial stability. An important outcome of the Appeal is that it has also stimulated interests in different new activities. New areas of research are supported by the establishment of a Competition Law Forum and a Data Protection Research and Policy Group at the Institute. Funding for the Dorset Fellow in Public International Law has been secured for a period of five years. Lord Goff, the chairman of the Appeal, assisted by Jeremy Carver CBE, John Merrett and the other members of the Appeal Board are owed many thanks for their work. Diane Denny, the Development Director, has played a key part in this extraordinary achievement.

A Business Development Board continues the fundraising work for the Institute. It is chaired by Martin Paisner and Tim Cowen. A major donors campaign was launched with a reception hosted by Cherie Blair QC at 10 Downing Street. Many of the Institute's supporters have assisted in the organizing or hosting of fundraising events. Sir Christopher Bland hosted a dinner in BT Tower for senior partners of the major law firms; meetings and functions have been hosted at different major law firms, and in particular on several occasions at Berwin Leighton Paisner, Clifford Chance, Freshfield Bruckhaus Deringer and Lovells.

The Development Appeal Committee

The Development Appeal Committee was composed of solicitors, barristers, in house counsel, judges and academics from all disciplines. The Committee met regularly to plan fundraising activities and assess progress. They have worked hard both singly and in working groups to target particular disciplines and specific practice areas. They approached firms, companies, the government, the European Commission and trusts as well as individual lawyers. The Development Appeal Committee's involvement and dedication has been critical to the great success enjoyed by the Appeal. Its membership was comprised of:

Chairman: The Rt Hon Lord Goff of Chieveley DCL FBA

Vice Chairman: Jeremy Carver CBE

Deputy Vice Chairman: John Merrett
Treasurer: Sir Jeremy Lever KCMG QC

Patrons:

HE Judge Gilbert Guillaume
Rodriguez Iglesias, President of the ECJ
The Rt Hon Lord Irvine of Lairg
The Rt Hon Beverley McLachlin, Chief Justice of Canada
The Rt Hon Lord Phillips of Worth Matravers
The Rt Hon Lord Rodger of Earlsferry
The Rt Hon Lord Woolf of Barnes

Members of the Development Appeal Committee

Peter Barton DL
Sir Christopher Bellamy QC
Sir Franklin Berman KCMG QC
William Blair QC
Susan Bright
The Hon Mr Justice Lawrence Collins LLD FBA
Tim Cowen
Dr Ross Cranston QC MP
Prof James Crawford SC FBA
Michael Crystal QC
Helen Fletcher Rogers
Pieter Folmer
Prof Malcolm Forster
L Yves Fortier
Lady Fox QC
Prof Sir Roy Goode CBE QC LLD FBA
Michael Hutchings
Alexander Layton QC
Arthur Marriott QC
Andre Newburg
Martin Paisner CBE
Andrew Trollope QC
Dominic Spenser Underhill
VV Veeder QC
Andrew Walker
Stephen Walzer

Development Board

Peter Barton DL
Sir Christopher Bellamy QC

Sir Franklin Berman KCMG QC
William Blair QC
Jeremy Carver CBE
Tim Cowen (Co-chairman)
Dr Ross Cranston QC MP
Helen Fletcher Rogers
Professor Malcolm Forster
Lady Fox QC
Lord Gillford
Prof Sir Roy Goode CBE QC LLD FBA
Martyn Gower
Martin Hunter QC
Alexander Layton QC
Sir Jeremy Lever KCMG QC
Martin Paisner CBE (Co-chairman)
Heather Rowe
Dominic Spenser Underhill
Andrew Trollope QC
VV Veeder QC
Stephen Walzer

PUBLICATIONS

Publisher: [to December 2004 Olivia Skinner]; from January 2005 Orla Fee
Publications Assistant: Bridget Palumbo

The International and Comparative Law Quarterly

The ICLQ has maintained its pre-eminence as one of the most important journals of its kind, encompassing Human Rights and European law. It continues to publish articles of the highest standard by leading scholars from around the world, moving across the boundaries that divide the law, in a way that provides analysis which is much needed at a time when formal distinctions, in scholarship and between jurisdictions, are becoming less relevant.

The ICLQ continues to offer practitioners and academics wide topical coverage without compromising rigorous editorial standards. Under the general editorship of Alan Boyle and Mads Andenas, the journal continues to attract scholarship of the highest standard from around the world.

Professor Malcolm Evans has joined the Editorial Board. The contribution of each of the members of the Board of Editors, and above all the General Editors, remains vital. The quality of the Quarterly, which is the Institute's flagship publication, is achieved by their careful appraisal of material submitted and the authority of their assessment of its content and quality.

The Quarterly continues to attract scholarship of a consistently high standard in public and private international law, comparative and EC law, and is fortunate in receiving a large amount of material from which to choose. Articles are submitted from all over the globe from both members and non-members of the Institute and the Editors continue to welcome contributions which are selected on the basis of excellence, reflecting the independence of the Quarterly and the Institute as a whole. Potential contributors should bear in mind the constraints on space which the Editors face and that shorter articles, of up to 8000 words, have a greater chance of securing earlier publication.

Notwithstanding the great volume of material, the Editors continue to reserve space for five vital areas: the 'Current Developments' sections on European Community Law and Private International Law bring updates on crucial aspects of EC and PIL law; that on Public International Law focuses on subjects of particular concern to public international lawyers; major cases from the International Court of Justice are analysed in the twice-yearly section devoted to the increasing work of the Court; and, finally, Decisions of International Tribunals presents the facts and judgments of recent major cases in fora such as the International Tribunal for the Law of the Sea and the World Trade Organization, with the implications being discussed by leading experts in the field.

In 2004 the subscription rate for the Quarterly was £138, although members of

the Institute continued to benefit from a lower membership subscription of £95, which includes an annual subscription to the Quarterly.

Back copies of the Quarterly are available to purchase from the Institute.

Bulletin of Legal Developments

The Institute's Bulletin of Legal Developments completed its 37th year in 2004. 24 fortnightly issues and an annual index were published. The Bulletin provides subscribers throughout the world with a concise and selective news service including matters relating to legislation, law reform proposals, treaty ratifications, and major decisions of national and international courts and tribunals.

Contributors to the Bulletin include correspondents from national jurisdictions as well as the research staff of the Institute. Elaine Wintle, the editor, left early 2004 but will continue to compile the index. The BLD is now largely researched, edited and administrated by Bridget Palumbo and Noreen O'Meara. The network of national correspondents included: Jean d'Aspremont Lynden and Frédéric Dopagne (Belgium); Zulon Begum (WTO); Veit Konrad (Germany); Souichirou Kozuka (Japan); Josep Suquet-Capdevila (Spain); Dita Valkova (Czech Republic); Julian Waiblinger, Germany and the Institute of Comparative Law, Waseda University (Japan).

The contributors regularly monitor official gazettes, government publications, periodicals, press releases and other publications of international organizations, the decisions of national and international courts and tribunals and the media. Much of this information is now derived from the official web sites of organizations and governments and from the news media.

The subscription rate in 2004 was £180/\$300 for 24 issues of the BLD plus the annual index. Subscribers include lawyers in private practice and government departments and agencies as well as law reform bodies and institutional and university libraries worldwide. The BLD is included in the Society of Legal Scholars publication, *A Library for the Modern Law School: A Statement of Standards for University Law Library provision in the United Kingdom*, (2003 Revision), which is recognition of its importance as a research tool.

Corporate members of the Institute receive the BLD as part of their subscription arrangements.

Other Institute Publications

The Institute continued to expand its publishing programme in 2004, consolidating the achievements of the previous year and continuing its plan to become increasingly professional as an independent legal publisher. Nine new titles were published in 2003, and a further six in the first half of 2004, covering developments in competition law, transnational civil procedure, comparative law before the courts, a reference guide to the ECJ decisions on the interpretation of the Brussels Convention, money laundering law, and many other topics.

The Institute has continued its partnership with International Specialized Book

Services, who have been granted exclusive rights to sell and promote the Institute's titles in North America. They manage over 11,000 titles from an array of small publishers like the Institute, and as one of the oldest specialist North American distributors, they have been providing marketing and distribution services to academic and specialist publishers from around the world for almost thirty years. This is turning into a very fruitful partnership, raising the Institute's profile as a publisher in the USA and giving us a presence at conferences and book fairs across the US.

TITLES PUBLISHED IN 2004 AND 2005

Common Principles of Tort Law

Gert Brüggemeier

Article 288 (2) EC, on liability of the European Community and its organs, refers to the common principles of tort law in the Member States. There are at least two good reasons for looking into these general principles:

In nearly all developed Western legal orders, tort law is determined through judge-made law, which these days requires a comparative orientation by means of principles and systemised casuistry

The various attempts to 'europeanize' private law—from mere restatements to a comprehensive European Civil Code—are all grounded in these common principles of contract law, tort law, property law and so on.

This book's somewhat unconventional contribution takes its cue not so much from the politically defined 'EC Europeanization', but rather from the transnationality of law. By comparing tort law in the EC Member State Germany and the non-EC member, the USA (two of the most developed western industrial nations), this publication endeavours to develop principles which serve as a basis for generalisation. These principles claim validity for the civil-law and common-law legal orders of Western civilisations, which includes the EC with its respective Member States.

This title is aimed at a learned European audience interested in legal harmonization, but also addresses comparatists in the civil-law and common-law legal world and mixed jurisdictions outside of Europe. Its main focus is to contribute to the further development of tort law. The idea of a tort law system based on general principles and specific rules grows out of the continental natural-law tradition of civil law, but increasingly principle-oriented works are also found in common law. This book develops a common level of international work on structures and concepts of modern tort law.

Comparative Law before the Courts

Guy Canivet, Mads Andenas, and Duncan Fairgrieve (eds)

Comparative law is increasingly recognized as an essential reference point for judicial decision-making. The English courts have long been open to considering how legal problems are solved in other jurisdictions and there have been parallel developments across the Channel. Comparative law is gaining in utility and relevance in the decisions of the courts. This book is thus extremely timely, bringing together a collection of essays by distinguished jurists from the judiciary and academia, and providing an important contribution to analysis of this topic. Contributors focus on a variety of European jurisdictions, but also look at North America and South Africa.

The first part of the book deals with the problems and possibilities of comparative law in national courts. Discussion ranges from the problems of proof of foreign law in national courts to legal borrowings and institutional mechanisms for international judicial co-operation in national courts. Part II, on European Law, contains a range of chapters exploring in a number of dimensions the suggestion that an intensification of comparative law methodology in the courts might be attributable to the growth and impact of European supra-national law. Part III takes the argument into the field of administrative law, an area which has traditionally been relatively impervious to comparative cross-fertilization between European States, and finally Part IV covers a widely diverse set of topics in the field of general and mainly private law.

Current Competition Law Volume III

Mads Andenas, Michael Hutchings and Philip Marsden (eds)

This book is a collection of papers given at a number of competition conferences in 2001 and 2002 at the British Institute of International and Comparative Law. Containing excerpts from speeches as well as written papers, this volume is an important contribution to the area of competition law, with statements of policy from competition regulators such as Mario Monti and Bill Kolasky, as well as in-depth analysis of current issues by European and North American academics and practitioners. It includes detailed and topical discussions in the fields of mergers, IPR, e-commerce and banking as well as public policy analysis of procedural and enforcement questions

'The quality of the speakers and their talks is comparable with those of the Fordham Corporate Law Institute. Many experts are in the audience and the discussions after the talks are also perceptive . . . This newcomer to publications on competition law and policy is warmly welcome.'

**(Valentine Korah, Professor Emeritus of Competition Law,
University College London).**

Independent Administrative Authorities

Roberto Caranta, Mads Andenas, and Duncan Fairgrieve

Independent administrative authorities have become a permanent feature of the institutional landscape over past decades. The need for institutions with both impartiality and technical expertise has inexorably led to an increase in number and scope of independent administrative authorities.

Independent administrative authorities regulate stock markets and financial institutions; they protect fundamental rights such as access to administrative documents.

There is however a conflict between independence and accountability. In some ways, independent administrative authorities are at odds with the traditional notion of separation of powers which still lies at the heart of constitutional thinking.

This book aims to shed light on how different legal jurisdictions have articulated their answers to this tension, at the same time discussing how separation of power has been twisted or reworked to make room for this novel form of public authority.

Enforcing Contracts in Transition Economies: Contractual Rights and Obligations in Central Europe and the Commonwealth of Independent States

Mads Andenas and Gerard Sanders (General Editors)

Irena Dajkovic, Paul Moffatt and Hugo Warner (editors)

This important and incisive new book examines contractual enforcement mechanisms in Central and South-eastern Europe and the Commonwealth of Independent States. The volume is an outcome of cooperation in the form of a conference organised by the European Bank for Reconstruction and Development and the British Institute for International and Comparative Law.

The EBRD and BIICL have facilitated both formal and informal dialogue and cooperation on contract enforcement issues. The rich and informed debate between practitioners and academics, together with the representatives of international organisations, policymakers and judges is reflected in this book.

The book addresses four issues of crucial importance to the development of meaningful contract enforcement mechanisms in transition nations:

- What has been the role of the rule of law in development and protection of contractual rights in transition nations of Central and South-eastern Europe and Commonwealth of Independent States?
- What is the role of courts in these countries, their structure, independence and integrity?
- Practical aspects of contract and obligations enforcement; what framework should they follow?
- When it comes to arbitration or alternative dispute resolution, who are the main actors and what is the appropriate script?

The book highlights that after more than thirteen years of transition, contract enforcement has not reached a stage where it provides the required basis for economic development. It requires sustained attention from national governments, regional bodies and the international community. The book concludes by examining the appropriate way forward.

The enforcement of contractual rights and obligations is a condition for economic development, and this book should appeal to a wide readership ranging from academics and practitioners to policy makers and the judiciary in both developed and developing economies.

Multilateralism v Unilateralism: Policy Choices in a Global Society

JB Attanasio and JJ Norton (eds)

This volume is a product of the Carrington Lecture Series Project at the SMU Dedman School, in cooperation with the British Institute of International and Comparative Law. Its aim is to explore the nature and implications of the fact that the major security, economic and environmental challenges facing our global society today can be addressed in either of two broad ways: unilateral mechanisms and multilateral mechanisms.

This volume, through its 19 comprehensive chapters, draws together a most distinguished group of policymakers and academics to discuss and to debate the interaction in unilateral behaviour in the context of the military, economics, the environment, and international organizations. When the tragedy of September 11 occurred, this volume was already well into the planning stage. The focus of the volume was changed not so much to be a critique of unilateralism, but a comparison of unilateral versus multilateral behaviour in the above four areas. The issues presented in this volume represent some of the momentous and historic challenges facing our global society as we embark upon the 21st Millennium. As such, this volume should be of interest to all those in the public sector, private sector and the Academy who are concerned with the future of our planet.

Tradition and Europeanization in Italian Law

Guido Alpa

Guido Alpa's *Tradition and Europeanization in Italian Law* provides a fascinating insight into the interplay between the different European legal traditions and the process of Europeanization. The book takes the reader on a voyage through the fundamental problems of European law, drawing on Professor Alpa's learning in the laws of other countries, and also in European Union and European Human Rights law.

Tradition and Europeanization in Italian Law is a great achievement of scholarship. It assists us in understanding Italian law, but also our own law, and what European law is and might become.

The Right Honourable Lord Slynn of Hadley, Lord of Appeal and former Advocate General and Judge of the European Court of Justice.

The Accountability of the Judiciary

Guy Canivet, Mads Andenas and Duncan Fairgrieve

This new book explores the important and topical subject of judicial independence and judicial accountability. Contributions from distinguished practitioners and academics place these twin issues within a comparative law perspective, showing

how legal systems across the world have adapted to recent developments in this field.

Enforcement Agency Practice

Mads Andenas, Burkhard Hess and Paul Oberhammer (Assistant Editor Hugo Warner)

How far is Europe from an area of 'free movement' of judgments in the same way that there is free movement of goods, persons, services and capital? Just as the free movement of goods has required the harmonization of standards relating to the manufacture and distribution of goods, the free movement of judgments will require the harmonization of procedural standards and the creation of new interfaces between systems. Focus has been on the mutual recognition of judgments. The next stage is the actual enforcement of a legally enforceable judgment, and this book is the first major contribution to comparative scholarship on this topic.

The differences between the systems of civil procedure in the European Member States are deep-seated and relate in particular to different approaches to judicial organization. The development of appropriate rules for the European Judicial Area is a complex task. Practitioners typically do not have the time or the incentive to explore the reasons for the difficulties they face in cross-border disputes. Policy makers lack input from practitioners. A framework needs to be created within which detailed comparative information can be provided on subjects that are of interest to policy makers so that structural differences can be properly taken into account.

This book examines the structure, status and procedures of enforcement agencies in Europe and the implications for individuals and companies in seeking to enforce a judgment in the European Judicial Area. The project is part of a more ambitious programme and a research network on European civil procedure based at the British Institute of International and Comparative Law.

The Future of Transnational Civil Litigation

English Responses to the ALI/UNIDROIT Draft Principles and Rules of Transnational Civil Procedure

Published June 2004

This book addresses the problem of transnational civil litigation by presenting the responses of English law to the project between the American Law Institute and the International Institute for the Unification of Private Law (UNIDROIT) to draft a set of Principles and Rules applicable to transnational civil litigation. Senior members of the judiciary, leading practitioners from Europe and America examine specific issues of transnational civil litigation from the perspective of the English and Welsh Civil Procedure Rules 1998.

The most prominent problems of cross-border dispute resolution are addressed by the book, such as those relating to:

- presentation of evidence and documentary disclosure;
- case management;
- appellate procedures;
- interim measures;
- the relationship between ADR and formal litigation; and
- the need for further harmonization of civil procedure on a global scale.

The analyses in this book represent a significant contribution to scholarship in an emerging field. Core problems and new directions in transnational civil litigation are unearthed for the benefit of the private international lawyer by means of a comparative approach to both civil and common law systems and the American and English models of civil litigation.

FORTHCOMING TITLES

Human Rights Sourcebook and Manual

Keir Starmer and Theodora Christou (eds)

This critical manual is the first of its kind for the African Region and will prove an invaluable resource to Human Rights practitioners, academics and interested parties. At a time when the issue of human rights in Africa is making many advances, this publication introduces easy-to-use jurisprudence that turns a previously difficult research task into a simple procedure. The Africa section looks at 13 countries in depth while the manual and all the jurisprudence covers the whole region.

The first section covers key principles and human rights norms which are detailed in straightforward language so as to ensure it is accessible and comprehensible.

The second section is devoted to the death penalty, detailing the relevant provisions from both international and regional instruments and offering a comparative commentary as to how the principles and relevant rights relate to the death penalty.

The third section summarizes key case-law from international, regional and domestic African courts and tribunals. The case summaries detail the facts and decisions and for quick reference include a headnote of relevant concepts.

The fourth section focuses on 13 African countries but the reports are a useful comparative resource for all countries. From conducting the research and compiling the material for this final section, it is apparent that nothing like this has been attempted before in Africa.

Much of the work emanates from primary research and investigation conducted by local research teams in the individual countries. Investigative research techniques varied from spending days outside official buildings to visiting prisons, physically counting the individuals on death row and interviewing the detainees to obtain their age and the length of time they had been on death row. These Country Files provide an overview of each country's criminal justice system and legal framework, applicable international standards and statistical information. Most importantly the relevant Constitutional provisions are quoted and where available, details of cases in which constitutional challenges have been made are summarised.

Policy Making and Decision Taking: Administrative Law after Alconbury

Mads Andenas and Lisa Busch (eds)

'The British Institute of International and Comparative Law is to be congratulated on publishing this collection of essays. It deals with the impact on challenges to administrative decisions of the right to a fair trial given by Article 6 of

the European Convention on Human Rights. It is well worth reading: those of us who have to argue or decide cases in this field should be able formulate our thoughts with greater precision after having read it. What makes it particularly valuable is that the distinguished counsel specializing in administrative and planning law who have written most of these papers and some of the judges from whom they quote have a wide experience of the practical problems of formulating and applying policy to individual cases. They know how difficult it is, particularly in the field of planning law, to separate out questions of law, policy, fact and judgment. They can look at judicial formulations and try and apply them to factual situations across which they have come in practice. Some distinctions which seem clear in the abstract turn out to be remarkably elusive in the real world.'

From the Foreword by The Rt Hon Lord Justice Schiemann

Towards an International Legal Community? The Sovereignty of States and the Sovereignty of International Law

Colin Warbrick and Stephen Tierney (eds)

In this collection of essays, a number of the UK's leading international legal theorists consider whether, in light of contemporary legal, economic and political challenges which the state faces, state sovereignty can continue to be viewed meaningfully as a legal principle, the legitimacy of which is generated merely by the factual condition of a state's existence; or whether in fact the international legal system is now better viewed as a self-generating and increasingly sovereign force, founded upon an incipient 'international legal community' which has in large measure redefined state sovereignty as a lower order principle both contingent upon and attenuated by the normative authority inherent in this nascent 'community'. Can we now speak of international law as an embryonic 'quasi-constitutional' system, generated by an international legal community? If so, has this community, although finding its historical origins in the aggregated will of states, assumed a new and immanently-generated legitimacy which is no longer dependent upon state consent for its validity and authority?

The book brings together scholars from the ILA (British Branch) Committee on Theory and International Law and is the result of ongoing work since 2002 involving seminars and conferences at Edinburgh University; Corpus Christi College, Oxford; and LSE. Contributors to the volume include: Colin Warbrick; Stephen Tierney; Patrick Capps; Amanda Perreau-Saussine; Samantha Besson; Nicholas Tsagourias; Bill Bowring; Robert McCorquodale.

WTO Law and Process

Mads Andenas and Federico Ortino (eds)

The 10th anniversary of the WTO and of its successful dispute settlement mechanism in 2005, provides the opportunity for a review of how to improve the efficiency and legitimacy of WTO law and process. The present book collects the

papers and discussion at the last three British Institute's Annual WTO Conferences (2002–2004), where judges, officials and policy-makers of different sorts meet with the established scholars and more recent recruits to the discipline. Topics covered include the jurisprudential and procedural features of the dispute settlement system, institutional issues such as the allocation of powers between different organs within the WTO as well as between the organization and its members, the relationship between the WTO legal system and international law, compliance issues, the interrelation between trade liberalization and other non-trade concerns such as environmental protection and labour standards. 'This book makes available an abundance of insights and ideas at a time where the need for addressing the WTO future institutional challenges has been brought to the fore.'

**Contemporary Studies in International Financial and Economic Law:
Global Dimensions of Financial Sector Reform (2003–2004)
JJ Norton and Christos Hadjiemmanuil (eds)**

The Institute is always pleased to consider new proposals for publications and the Institute's Publisher, Orla Fee, will be pleased to discuss new projects with authors. Please write to us via email at publishing@biicl.org or via post.

OCCASIONAL PAPERS SERIES

We are particularly keen to hear from authors interested in contributing to our Occasional Papers Series, which is designed to be a suitable format for shorter papers on topical legal issues.

Comparative Confidentiality in Psychoanalysis

Penelope Garvey, Alexander Layton (eds).

Additional Researchers: Renaton Nazzini, Lydia Sweeney and Hugo Warner

Published November 2004

Occasional Paper Series Number Five

This timely study is the result of research carried out by members of the International Psychoanalytical Association and the British Institute of International and Comparative Law. It gives a clear analysis of the extent to which the confidentiality of patients undergoing psychoanalytic treatment is protected by the law across seven jurisdictions: Argentina, Brazil, Canada, England and Wales, Germany, Italy, and the United States. In addition to providing much valuable information for psychoanalysts and lawyers, the research identifies common themes and makes recommendations on future practice.

There is little doubt as to whether the psychoanalytic process is a confidential one; the difficulty stems from specifying those instances in which other considerations take precedence over the inviolability of this aspect of treatment. While addressing this fundamental question, the study also tackles the sometimes difficult relationship between the psychoanalyst and lawyer. It makes clear that there must be a reciprocal understanding of the psychoanalytic and the legal processes so that in those instances where the two coincide there is full awareness of what is at stake.

European Court of Human Rights: Remedies and Execution of Judgments

Theodora Christou and Juan Pablo Raymond (eds)

Occasional Paper Series Number Six

This publication combines several papers resulting from a conference held at the British Institute of International and Comparative Law in 2003. Tom Barkhuysen and Michel van Emmerik provide a comparative view on the implementation of judgments of the European Court of Human Rights (ECtHR) within the national legal orders of various Member States and assess what improvements are required. Murray Hunt outlines the State's obligations flowing from a judgment of the ECtHR within the context of the wider international law framework governing the legal consequences of internationally wrongful acts. Ed Bates charts the supervision of the execution of judgments delivered by the ECtHR and the challenges facing the Committee of Ministers. Piet Hiem van Kempen

discusses a framework for a national post-trial procedure for redressing violations of the ECtHR in criminal cases. Piers Gardner considers the consequences of a finding by the European Court of Human Rights of an unfair trial in civil proceedings upon the re-opening of those proceedings by the English courts.

Full details of the Institute's list can be found later in this Director's Report. The list can also be obtained from our website at www.biicl.org or by requesting a copy of the latest catalogue.

THE GROTIUS LIBRARY

The holdings of the Grotius Library reflect the key areas of specialization at the Institute—public international law; private international law; European Community law and comparative law—with books and major journals in these fields. However, the physical and financial resources of the Library have, for many years, been insufficient to meet the needs of the staff and interns of the Institute. It has not been possible to maintain an up-to-date range of materials which is as broad in scope as originally planned. In 2003, the Library was re-organized, involving the withdrawal of a large amount of out of date material. Only key textbooks and reference books were kept, and essential journal series were maintained. It has been realised that a clear policy needs to be adopted with regard to the materials held in the library which makes the best use of the space and resources available.

Elaine Wintle, the librarian, left the Institute at the start of 2005 and an assessment of the library's contents was undertaken by the publications department in order to decide what function the library should serve and what the library staff requirements will be in the longterm. This assessment is ongoing.

As members and staff of the Institute have access to the well-stocked library of the IALS with whom we share premises, this allows us some scope to develop a complementary collection of specialist and comparative material which may not be widely available. This should make our library facilities more useful to existing members and could be used as an incentive to new members.

In the short-term, links have been made between the ICLQ and other journals resulting in an expansion of the long-standing exchange of publications programme and further exchange agreements whereby we receive copies of international and comparative journals from all over the world in exchange for providing them with copies of the ICLQ/BLD/other BIICL publications for their libraries. This serves to keep our library acquisition costs down, raises the Institute's profile and gives access to our publications to universities and institutes with low budgets in the new EU accession States and in the developing world.

As well as being a book and serial collection, the other main function of the Library is as a working space for researchers, and particularly our invaluable interns. The space released by the withdrawal of books has been used to provide more work stations, PCs, and better seating for both interns and visitors.

The Library is intended to be a research facility for the staff and membership of the Institute and the reading room forms the main working area for Interns working at the Institute. The Librarian and research staff are available to answer enquiries from members. Members of the Institute may make use of the library's facilities, which are open during the working hours of the Institute (weekdays: 9.30am to 5.30pm).

Gifts of books relevant to the principal interests of the Institute from members, subscribers and others continue to be very welcome. Equally, gifts of money to enable some serial publications to be brought up-to-date and gaps in collections to be filled are most useful.

Human Rights Documentation Depository

The Human Rights Documentation Depository, maintained by the Institute, is the Council of Europe's only official holding of human rights documentation in the United Kingdom. Members and others, interested in the field of human rights, are invited to make use of the Depository as well as the Institute's general expertise in the area of human rights.

In addition to the published decisions of the European Court of Human Rights (and until its abolition the European Commission of Human Rights), the recent case law, including recent decisions on admissibility, are received from the Council of Europe on a priority basis.

The holdings include:

Judgments of the European Court of Human Rights

Resolutions of the Committee of Ministers of the Council of Europe in Human Rights matters

Reports under Article 31 of the Convention in cases before the Court

Decisions of the Commission on admissibility as published in the Decisions and Reports Series and unpublished transcripts of all decisions from January 1986 onwards.

Much of this information is now generally available to the public through the Internet (www.echr.coe.int). However, some older decisions, in particular those published in the Decisions and Reports series, are not so available. Practitioners requiring these texts frequently use the Depository. Distance requests (fax or post) for photocopies of those decisions not available via the Internet can be answered by the Librarian.

The Institute is grateful for the continuing support received from the Council of Europe and particularly from the Directorate of Human Rights in the maintenance and supply of the series and materials for the Depository.

CONFERENCES, LECTURES AND OTHER EVENTS

Events Manager: Jane Nicholson

The Institute has continued its active programme of conferences, lectures and symposia. They complement and are often directly linked to the different research programmes.

The Annual Grotius Lecture—11 November, 2004

This year's Annual Grotius Lecture, chaired by The Rt Hon Lord Bingham of Cornhill, saw Advocate General Francis Jacobs from the European Court of Justice speak. His lecture was entitled 'From the Law of Nations to the European Constitution'. Afterwards, attendees were treated to The Grotius Dinner at Lincoln's Inn, sponsored by Linklaters.

The 2004 Annual Meeting

On 11 June 2004, the Institute held its Annual Meeting, chaired by Lord Goff of Chieveley. The Annual Meeting brings together the members of the Institute for a day-long series of parallel panels and lectures designed to reflect the work, research and activities of the Institute. It was another successful year, with a large turnout of old and new members, many of whom joined us for the dinner afterwards at The Great Hall, Gray's Inn.

Past Events

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| 23 June 2004 | E-Commerce, Distance Marketing and Financial Services in the EU.
Dr Mads Andenas, BIICL, Jane Welch, BIICL, Professor Jan Wouters, University of Leuven, Mark Kalderon, Freshfields Bruckhaus Deringer, Niamh Moloney, Queen's University, Belfast, Annemarie den Tex, NautaDutilh, Jens Ring, European Commission, Quentin Archer, Lovells, Giuseppe Abbamonte, DG SANCO, European Commission, Eva Lomnicka, KCL, University of London |
| 25 June 2004 | International Terrorism and the Rule of Law.
The Rt Hon Lord Hope of Craighead, The Attorney General, The Rt Hon Lord Goldsmith QC, Clive Nicholls QC, 3 Raymond Buildings, Christopher Greenwood QC, London School of Economics and Essex Court Chambers, Helen Duffy, Interights |

- 26 June 2004 49th London Leiden Meeting.
Community External Relations on Common Foreign and Security Policy and Judicial Cooperation.
- 5 July 2004 Second Annual Stuart Chalfen Memorial Lecture—
Privacy, Security and Transparency: Challenges for Data Protection Law in a New Europe.
Mr Christopher Kuner, Hunton & Williams, Brussels
- 6 July 2004 Regulation Forum Launch Andrew Whittaker (General Counsel FSA) Lord Slynn of Hadley (House of Lords) and Lord Currie of Marylebone (Chairman Ofcom)
- 7 September 2004 Adopting the European Approach to Product Liability: Australia and Japan.
Dr Luke Nottage, Senior Lecturer, University of Sydney Law Faculty, Post-doctoral Fellow, Max Planck Institute, Hamburg Shane Sayers, Kennedys
- 7 September 2004 Change of Control under the Enterprise Act.
Simon Holmes, SJ Berwin Sir Jeremy Lever QC, Monckton Chambers; Charles Bankes, Simmons & Simmons; Michael Grenfell, Norton Rose
- 10 September 2004 The Third Conference of the Institute's Investment Treaty Forum: The Relationship Between Local Courts and Investment Treaty Arbitration.
Dan Price, Sidley Austin Brown & Wood; Dr Julian Lew QC, Herbert Smith; Kaj Hober, Mannheimer Swartling; Professor Cynthia Lichtenstein, George Washington University Law School, Professor Dr Christoph Schreuer, University of Vienna; Mark Baker, Fulbright & Jaworski; Mark Kantor; Professor Giorgio Sacerdoti Piergrossi, Villa Bianchini Riccardi, Milan; Anthony Sinclair, Allen & Overy; Bernardo Cremades B Cremades Y Asociados, Madrid; Peter Turner, Freshfields, Paris; Nigel Blackaby, Freshfields, Paris; Laurence Shore Herbert Smith; Dr Susan C Breau, BIICL; Professor Philippe Sands QC, Matrix Chambers and University College London; Professor Martin Hunter Essex Court Chambers and the Nottingham Trent University Law School; Barry Garfinkel Skadden Arps Meagher & Flom, New York
- 13 September 2004 UKNCCL Meeting
Dr Anneli Albi, University of Kent Law School; Camilla Baasch Andersen, University of London; Nick Foster, University of London; Katarzyna Gromec Broc, University of Hull; Jackie Jones, University of Bristol; Jiri Priban,

- University of Cardiff; Professor Dr Walter van Gerven, Katholieke Universiteit Leuven
- 15 September 2004 Seventh Meeting of the Competition Law Forum—Criminalisation & Leniency Terry Calvani, Irish Competition Authority; James Flynn, Brick Court Chambers; Olivier Geursent, European Commission; Jim Griffin, US Department of Justice; Olivier Guersent, European Commission; Julian Joshua, Howrey Simon Arnold And White; Martin Low QC, McMillan Binch; Simon Williams, Office of Fair Trading
- 17–18 September 2004 Corporate Governance Post Enron
Professor Joe Norton, CCLS Professor Jonathan Rickford CBE, Company Law Centre, BIICL Dr Mads Andenas, BIICL
- 22 September 2004 1st Regulation Forum Meeting—Purposes of Regulation (First RF Meeting) . . .
- 22 September 2004 Protection of Children Online—and—Review of the Safe Harbour Agreement.
John Angel, Queen Mary, University of London, Michael Birnhack, University of Haifa, Jacob Rowbottom, University of Cambridge
- 23 September 2004 Applicability of Laws in Multi-Jurisdictional Circumstances (Third Meeting of the DPRPG) . . .
- 27 September 2004 Implementing a New Privacy Regime—Reflections from Australia
Malcolm Crompton, James Michael
- 6 October 2004 India—Data Protection Laws.
Aparna Viswanathan, Viswanathan & Co., New Delhi
- 6 October 2004 Annual Sir Hersch Lauterpacht Memorial Lecture. Chair: Sir Elihu Lauterpacht QC, 20 Essex Street Chambers, University of Cambridge, Ian Brownlie CBE QC, Blackstone Chambers
- 15 October 2004 Developments in Competition Litigation—A Comparative perspective.
Sir Christopher Bellamy, Subatra Bhattacharjee, Heenan Blaikie LLP, Toronto; Kevin Grady, Alston & Bird LLP, Atlanta; Elizabeth Morony, Clifford Chance LLP, London; Aidan Robertson, Brick Court Chambers, London; David Vaughan QC, Brick Court Chambers, London; James Lowe, Wilmer, Cutler & Pickering, Washington; Jean Francois Bellis, Van Bael & Bellis, Brussels; Paul Lomas, Freshfields, London; Michael Bowsher, Monckton Chambers, London; Vincent Smith, Office of Fair Trading,

- London; Peter Freeman, Competition Commission, UK; Suzanne Legault, Competition Bureau, Canada; Donald Baker, Baker & Miller
- 18 October 2004 International Law, Climate Change and the United States. Philip Sands, QC, Matrix Chambers
- 22 October 2004 The EU Takeover Directive—A Break Through? Blanaid Clarke, The Panel on Takeovers and Mergers; Professor Paul Davies, LSE (London School of Economics); Michael Edbury, Department of Trade & Industry; Michael Edbury, Department of Trade & Industry; Julian Francis, Freshfields Bruckhaus Deringer (London); Richard Murley, The Panel on Takeovers and Mergers; Professor Jonathan Rickford CBE, Company Law Centre, BIICL; Professor Daniel Zimmer, University Of Bonn
- 25 October 2004 Treaty Interpretation—35 years of the Vienna Convention on the law of treaties. The Rt Hon Justice Sir Kenneth Keith, Justice of the Supreme Court of New Zealand
- 28 October 2004 The Judge’s Council—its role and significance Lord Justice Thomas, Royal Courts of Justice; Respondent: Professor Sir David Williams QC, University of Cambridge
- 4 November 2004 Charter of Fundamental Rights and the Constitution Sir Christopher, Attorney General The Rt Hon The Lord Goldsmith QC Bellamy QC
- 5 November 2004 Application of the Death Penalty in Commonwealth African States
- 6 January 2005 *Peter Paul* Decision of the ECJ Takis Tridimas (Queen Mary College; Matrix Chambers); Michelle Ewing (General Counsel’s Division FSA); Simon Gleeson (Allen & Overy); Mads Andenas (Director BIICL)
- 14 January 2005 Investment and Sustainable Development: Towards a New Model International Investment Agreement
- 17 January 2005 The Rights Question: The Human Rights Act and the Environment *Speakers:* Karen Morrow, Institute of Advanced Legal Studies (IALS)
- 17 January 2005 The Legal Enforcement of Economic and Social Right Michael Anderson, Department for International Development (DFID)
- 18 January 2005 Eighth Annual Review of the Arbitration Act *Chair:* Marc Blessing Bar & Karrer, Switzerland *Speakers:* David Brynmor Thomas, Herbert Smith Khawar

- Qureshi, Serle Court Chambers Stewart Shackleton, Eversheds
- 18 January 2005 RFID
Chair: John Borking, Borking Consultancy, *Speakers:* Rosa Barcelo, European Commission, Robert Bond, Faegre Benson Hobson Audley LLP, Phil Jones, Information Commissioner's Office, Susanne Lace, National Consumer Council
- 20 January 2005 Expert Evidence in Damages Actions: a Comparative Perspective
Speakers: Antoine Garapon, Institut des Hautes Etudes Sur la Justice, Paris (IDHE); Patrick Matet; Dr Magdalena Sengayen, Centre for Socio-Legal Studies, University of Oxford (CSLS); Jeremy Stuart-Smith, 4 New Square; Jonathan Wulf, Institut des Hautes Etudes Sur la Justice, Paris (IDHE)
- 20 January 2005 Competition Conference Organising Committee Meeting
- 21 January 2005 The Proposal for a new Capital Directive—Towards a new Capital Regime?
Chair: Professor Mads Andenas, BIICL, *Speakers:* Professor Paul Krüger Andersen, Aarhus School of Business; Professor Jan Andersson, University of Bergen; Professor Karsten Engsig Sørensen, Aarhus School of Business; Professor Jonathan Rickford CBE, Company Law Centre, BIICL; Andrew Lennard, Technical Director, Accounting Standards Board, UK
- 25 January 2005 Chilling Competition—Freezer and Cooler Exclusivity under European Competition Law
Speakers: Dr Amelia Fletcher, Office of Fair Trading (OFT); Nicholas French, Freshfields Bruckhaus Deringer (London); Matthew Levitt, Lovells (London); Gabriel McGann, Coca Cola Europe, Euroasia & Middle East; Derek Ridyard, RBB Economics; Pieter Kuipers, Unilever
- 14 February 2005 The General Product Safety Regulations
Speakers: Graham Bartlett, DTI, Andrew Edgar, Clifford Chance LLP, Professor Geraint Howells, University of Lancaster
- 15 February 2005 Data Protection in the New EU Member States
Chair: Niovi Ringou, European Commission
Speakers: Dr Karel Neuwirt, Head of DPA, Czech Republic, Dr Attila Péterfalvi, Head of DPA, Hungary
- 16 February 2005 Reforming the Law of Royal Prerogative
Chair: Mr Justice Beatson

- 22 February 2005 *Speakers:* Professor Rodney Brazier, University of Manchester Michael Fordham, Blackstone Chambers
Cartel Agreements, Criminal Conspiracy and the Statutory Cartel Offence
- 1 March 2005 *Speakers:* Sir Jeremy Lever, KMCG, QC, Monckton Chambers; Scott Megreghian, McDermott Will & Emery; John Pike, 7 New Square, Lincolns Inn; Simon Williams, OFT
Religion, Human Rights and International Law
- 2 March 2005 *Speakers:* Professor Kevin Boyle, University of Essex, Professor Shaheen Sadar-Ali, University of Warwick, Mr. Afrasiab Khattak, Pakistan, Professor Javaid Rehman, University of Ulster, Dr Martin Lau, SOAS, Dr Siobhan Mullally, National University of Ireland, Professor Kathleen Young, Western Washington University, Dr Nazila Ghanea, Institute of Commonwealth Studies
Pharmaceutical Conference—Pharmaceutical Regulation and Product Liability
Chair: The Rt Hon Lord Justice Latham
Speakers: Jalil Asif, 4 New Square; Paul Balen, Freeth Cartwright; David Body, Irwin Mitchell (London); Jeffrey Bucholtz, US Department of Justice; Richard Goldberg, University of Birmingham; Trevor Jones; John Leadley, Baker & McKenzie (London); Alison McAdams, Davies Arnold Cooper; Arundel McDougall, Ashurst; Leigh-Ann Mulcahy, 4 New Square; Simon Pearl, Davies Arnold Cooper; Shane Sayers, Kennedys
- 7 March Tackling Regulatory Creep
Speakers: Stephen Haddrill, DTI, (Department of Trade & Industry), Michael Hunt, Food and Drink Federation, Ian Peters, Better Regulation Task Force, Simon Virley, Regulatory Impact Unit
- 9 March 2005 Do we need a Civil Service Act?
Chair: Lord Lester of Herne Hill QC;
Speakers: Dr Tony Wright MP (Chair of the House of Commons Public Administration Select Committee)
- 10 March 2005 Corporate Accountability for Foreign Government Actions under US Law: The Alien Tort Statute—Recent Developments and Future Prospects
Richard Hermer, Doughty St Chambers; Rae Lindsay, Clifford Chance; David Cook, Clifford Chance; James P Loonam, Clifford Chance
- 16 March 2005 Ninth CLF Meeting—Article 82 Review

- 17 March 2005 Arbitration in Latin America
 Nigel Blackaby, Freshfields, Paris; Lord Brennan QC
 Matrix Chambers; Vice-President, Canning House;
 Cristian Conejero, ICC; Alejandro Escobar, Herbert Smith;
 Daniel Gonzalez, Hogan and Hartson, Miami; Professor
 Martin Hunter, Essex Court Chambers; David Lindsey,
 Clifford Chance, New York; Eduardo Silva Romero,
 Coudert Brothers, Paris; Fernando Mantilla Serrano,
 Shearman and Sterling LLP, Paris; Ignacio Suarez
 Anzorena, Clifford Chance LLP, London; Claus Von
 Wobeser, Von Wobeser and Sierra, Mexico; Joao Bosco
 Lee Chair, Brazilian Arbitration Committee
- 18 March 2005 New European Company Law and Corporate
 Governance—The UK and the New Member States
 Dr Arkadiusz Radwan, Assistant Professor, Jagiellonian
 University Cracow, Poland
 Professor Jonathan Rickford, Director Company Law
 Centre, BIICL, Dr Eilis Ferran, Reader in Corporate Law
 and Financial Regulation, University of Cambridge, Dr
 Bohumil Havel, Assistant Professor University of West
 Bohemia, Pilsen, Czech Republic, A, Assistant Professor
 Faculty of Law, University of Tartu, Estonia, James
 Palmer, Partner, Herbert Smith, London, D, Institute for
 Economic Policy, Jagiellonian University Cracow, Poland,
 Dr Matthias Pannier, Research Fellow in European Law,
 BIICL, Giles Peel, Director of Development, Institute of
 Chartered Secretaries and Administrators, London, P,
 Comenius University, Bratislava, Slovakia, P, Head of the
 Civil Law Department, Eötvös Loránd University
 Budapest, Hungary, Julian Francis, Partner, Freshfields
 Bruckhaus Deringer, D, Associate Professor, University of
 Warsaw, Poland, Theis Klauberg, Partner at BNT Legal
 and Tax Consultants, Riga and Vilnius
- 22 March 2005 Rethinking US Antitrust and Intellectual Property Rights
Speakers: Dr Arkadiusz Radwan, Assistant Professor,
 Jagiellonian University, Cracow, Poland, Professor
 Jonathan Rickford, Director Company Law Centre, BIICL
 Dr Eilis Ferran, Reader in Corporate Law and Financial
 Regulation, University of Cambridge, Dr Bohumil Havel,
 Assistant Professor University of West Bohemia, Pilsen,
 Czech Republic, A, Assistant Professor Faculty of Law,
 University of Tartu, Estonia, James Palmer, Partner,
 Herbert Smith, London, D, Institute for Economic Policy,

- Jagiellonian University Cracow, Poland, Dr Matthias Pannier, Research Fellow in European Law, BIICL, Giles Peel, Director of Development, Institute of Chartered Secretaries and Administrators, London, P, Comenius University, Bratislava, Slovakia, P, Head of the Civil Law Department, Eötvös Loránd University Budapest, Hungary, Julian Francis, Partner, Freshfields Bruckhaus Deringer, D, Associate Professor, University of Warsaw, Poland, Theis Klauberg, Partner at BNT Legal and Tax Consultants, Riga and Vilnius
- 22 March 2005 Law Of The Sea
 Judge Dolliver Nelson, President ITLOS, Judge David Anderson, ITLOS, Judge Tullio Treves, ITLOS, Mr Satya Nandan, International Seabed Authority, Professor David Freestone, World Bank, Professor Robin Churchill, Cardiff University, Professor Erik Franckx, Vrije Universiteit Brussel, Professor Patricia Birnie, LSE, Professor Malcolm Evans, University of Bristol, Dr Alex Oude Elferink, NILOS, Professor Barbara Kwiakowska, NILOS, Ms Constance Johnson, NILOS, Professor Catherine Redgwell, UCL, Professor Surya Subedi, University of Leeds, Dr Stefan Talmon, University of Oxford, Professor Tullio Scovazzi, University of Milan, Professor Vaughan Lowe, University of Oxford, Professor Stuart Kaye, University of Wollongong, Dr Sam Bateman, CSCAP, Dr Richard Barnes, University of Hull, Professor Alan Boyle, University of Edinburgh, Mr David Ong, University of Essex, Sir Michael Wood, FCO, Dr Louise de La Fayette, UN, and Ms Natalie McNelis, Wilmer Cutler Pickering Hale and Dorr.
- 1 April 2005 Judicial Colloquium
- 28 April 2005 *Owusu v Jackson: The Demise of Forum Conveniens?*
Chair: Andrew Dickinson Visiting Fellow, British Institute of International and Comparative Law
Speakers: Professor Adrian Briggs St Edmund Hall, Oxford Alexander Layton QC 20 Essex Street
- 6 May 2005 Fourth Public Conference of the Investment Treaty Forum: Nationality and Investment Treaty Claims
Chairs: Professor Vaughan Lowe, All Souls College, Oxford and Essex Court Chambers; Karyl Nairn, Skadden, Arps, Slate, Meagher & Flom LLP; Robert Volterra, Latham & Watkins Professor Christopher Greenwood, QC Essex Court Chambers and the London School of Economics;
Speakers: Dr Federico Ortino, Director, Investment Treaty

9 May 2005

Forum; Professor Francisco Orrega Vicuna, University of Chile; Dr Matthias Pannier, British Institute of International and Comparative Law; Professor Piero Bernadini, Studio Legale Ughi e Nunziante, ICC International Court of Arbitration, LUISS University Rome; Abby Cohen Smutny, White and Case LLP; Professor Maurice Mendelson QC, Blackstone Chambers; Professor Emmanuel Gaillard, Shearman & Sterling LLP, Paris; Devashish Krishan, Vinson & Elkins; Professor Franklin Berman QC, Essex Court Chambers; Robert Wisner, Appleton & Associates, Toronto; Audley Sheppard, Clifford Chance LLP; Professor Loukas Mistelis, Queen Mary University, London; Daniel M Price, Sidley Austin Brown & Wood LLP, Washington

International Human Rights Law—the State of the Art
Speakers: Prof Francoise Hampson, Essex University; Dr Nazila Ghanea-Hercock, University of London, Institute of Commonwealth Studies; Prof Kevin Boyle, Essex University; Prof Nigel Rodley, Essex University; Prof Patrick Thornberry, Keele University; Prof Paul Hunt, Essex University; Prof Bill Bowring, London Metropolitan University; Dr Alexandra Xanthaki, Brunel University; Jane Gordon, Kingston University
Loss of the Chance after *Gregg v Scott*: reflections and comparisons

Chair: Rt Hon Lord Justice Mance

Speakers: Professor Jane Stapleton, Research Professor, Australian National University, Ernest E Smith Professor, University of Texas School of Law; Andrew Edis QC, Atlantic Chambers; Laura Hoyano, Wadham College, Oxford; Elizabeth–Anne Gumbel QC, One Crown Office Row; Duncan Fairgrieve, BIIIC

The Fifth Annual Trans-Atlantic Antitrust Dialogue

Chair: Dr Philip Marsden

Speakers: Alden Abbott, Federal Trade Commission, Jean-Yves Art, Microsoft, Nicholas French, Freshfield Bruckhaus Deringer, David Hull, Covington & Burling, Michael Hutchings OBE, Competition Law Forum Helen Jenkins, OXERA, Judge Frédéric Jenny, Cour de Cassation, Paris, David Lawsky, Reuters, Mr Justice Lightman, Royal Courts of Justice, Julian Maitland-Walker, Maitland-Walker Solicitors, Dr Philip Marsden, BIIICL, John Temple Lang, Cleary Gottlieb Steen &

	Hamilton, Pat Treacy, Bristows, Sir John Vickers, Office of Fair Trading, Thomas Vinje, Clifford Chance LLP, Greg Werden, US Department of Justice, Mark Williams, NERA PLF—Law Society Food Group presentation
10 May 2005	
11 May 2005	The EU Cross-Border Merger Directive—A New Dimension in Company Restructuring and Employee Involvement
13 May 2005	How much freedom, security and justice? Developments in EU Asylum and Immigration Law
16 May 2005	GATS and Financial Services Seminar
17 May 2005	Fifth Annual WTO Conference (17–18 May 2005)
23/24 May 2005	Market Abuse: National Responses to a Global Problem The EU, USA, Hong Kong and China compared (23–24 May 2005) <i>Speakers:</i> John Barrass, CFA Institute, Nick Bayley, London Stock Exchange Mark Bergman, Paul Weiss, Phyllis Cela, CFTC, USA, Carmine di Noia, Assonime, Italy, Eilis Ferran, University of Cambridge, Professor Guido Ferrarini, University of Genoa, Dilwyn Griffiths, FSA, UK, Martyn Hopper, Herbert Smith, Alan Linning, Securities and Futures Commission, Hong Kong, Diarmuid O’Hegarty, London Metal Exchange, Christian Pawlik, BaFin, Germany, Nigel Phipps, Moodys, Ashar Qureshi, Cleary Gottlieb, Christina Sinclair, FSA, UK, Wayne Smith, AMF, France, Jeremy Stockwell, Ernst & Young, Nick Weinreb, Euronext Liffe, Andrew Winckler, Ernst & Young, Professor Chengang Xu, London School of Economics
27 May 2005	Regional Trade Agreements and the WTO Legal System
1 June 2005	Competition Workshop
7 June 2005	Data Protection Workshop—Data Exports, Model Clauses & Binding Corporate Rules
8 June 2005	Data Protection in the Marketing Context (Second DPRPG Meeting)

Events for the rest of 2005

10 June 2005	2005 BIICL Annual Meeting. Lord Steyn ‘2000–2005: Laying The Foundations of Human Rights Law in the United Kingdom.’ Judge Luzius Wildhaber, President of the ECtHR, on the developing role of the Strasbourg Court. Sir David Edwards ‘Judicial Institutions in a European Setting.’
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10 June 2005	Launch of Death Penalty Project Publications
15 June 2005	Tenth CLF Meeting—Competition Policy, Intellectual Property and Innovation.
15 June 2005	Competition Law Forum Dinner.
23 June 2005	Regulatory Competition in the EU: European Delawares?
25 June 2005	44th Leiden-London Meeting
1 July 2005	International Law in Commercial Disputes.
6 July 2005	Harmonisation of Shareholder Rights on EU level: Implications for the UK.
9 September 2005	Fifth Investment Treaty Forum Public Conference.
14 September 2005	Eleventh CLF Meeting—Conflicts between Competition Policy and Regulatory Policy.
21 September 2005	Basic Terms and Definitions (Third DPRPG Meeting).
5 October 2005	DPRPG Forum Meeting.
10 November 2005	Annual Grotius Lecture.
1 December 2005	Twelfth CLF Meeting—Remedies

TRAINING AND CONSULTANCY

The Institute has played an important role in providing research, advice, and strategic consulting services in law reform projects around the world. Training courses have been designed for a variety of participants including judges, government legal advisers, leading practising lawyers and court officials.

The Institute is able to provide initial needs assessment, customised programmes designed for individual requirements, and training by leading practitioners and professional bodies in the United Kingdom.

The Institute's advantage over most providers is its ability to draw on the practical experience of its members, so as to provide advice based on a truly comparative understanding of the strengths and weaknesses of legal models around the world. Recent work for the Department for International Development (DFID) on the reform of administrative law in Armenia is an example of using comparative law to develop proposals combining the best of common law and civil law experience. The Institute is currently expanding its work in law reform, and is now working with several high-profile partner organisations to assist with developing strategies to enhance safety, security, and accessible justice in developing countries.

Consultancy projects recently completed by the Institute include justice sector reforms in Nigeria, India, Pakistan, Russia, Sudan, Cyprus and South Africa.

Projects currently underway:

DFID Afghanistan Programme

The Institute, in conjunction with Atos Origin Consulting, is participating in this programme from 2005. The Department for International Development (DFID) seeks to establish a range of Framework Agreements to enable it to respond rapidly and effectively to Afghanistan's reconstruction needs. The UK is committed to supporting the reconstruction of Afghanistan in several key areas: public administration and economic management reform, livelihoods and counter-narcotics, trade and investment, and political process and security sector reform.

In support of the Department's work on public administration and economic management, it has been agreed that a series of Framework Agreements will be established with a range of service providers. These agreements will allow DFID to quickly ensure the provision of efficient and effective consultancy services in the above key areas.

The Institute and Atos are carrying out work in the 'political process' area. This will focus on the following elements:

1. Political Participation and Accountability (elections, civic education)
2. Security Sector Reform

3. Judicial Reform
4. Drivers of Change

Consultancy services will include, but not be restricted to: project and programme design work; project implementation, monitoring and evaluation; the design and delivery of training activities; consultancy recruitment; and policy support work.

Armenian Public Sector Reform Programme (APSREP)

From 2003 to 2007 the Institute is involved in this major project in conjunction with PriceWaterhouseCoopers on behalf of the Department for International Development (DFID). Its overall aim is to improve the efficiency, effectiveness, accountability, transparency and responsiveness of all levels of public administration within Armenia as part of DFID's ultimate aim of poverty alleviation. The Institute is advising the Government of Armenia on wide-ranging law reforms.

The project comprises one half of a twin track approach, which forms the next phase of DFID's support to poverty alleviation in Armenia, the other half being the Armenia Regional Development Project (ARDEP). The two DFID projects share a common goal, are complementary and will be implemented together.

The project is part of a multilateral framework for the reduction of poverty in Armenia, including the Interim Poverty Reduction Strategy. The project will also provide a significant element of the technical assistance to GoA within the framework of the World Bank Public Sector Modernisation project and be implemented in close cooperation with the EU-TACIS National Assembly project and the interventions of other bilateral donors.

The project specifically provides technical assistance and support to:

- (i) the Public Sector Reform Commission and Secretariat;
- (ii) the Civil Service Reform Council ;
- (iii) three Counterpart Ministries: Health, Education & Science and Social Security;
- (iv) the Ministry of Territorial Administration;
- (v) the National Assembly;
- (vi) tavoush and Gegkharkunik Marzpeterans (regional government centres);
and
- (vii) relevant national Civil Society Organisations and networks.

The project outputs will be:

- (i) the rationalization of the structure of central and regional government;
- (ii) the increasing of the accountability, independence and effectiveness of the civil service;

- (iii) the increasing of citizens' access to information and public participation in important policy debates; and
- (iv) the enhancement of the Government of Armenia's capacity to coordinate donor support for public sector reform.

The Institute's involvement in the project commenced in July 2003 with a scoping visit to Yerevan. From this a number of assignments were developed; briefing papers have been drafted for each of these and the findings presented to the appropriate government department or non-governmental organisation. The subject matter of these assignments covers the following areas: administrative appeals for civil servants; codes of conduct for public servants; public participation in the legislative process; decentralisation in the provision of health, education and social services; the reform local self-government legislation; and the development of employment inspectorates. In addition, a major structural and organisational review of the counterpart ministries will be undertaken as a key element of the project.

Mads Andenas, Susan Breau and Hugo Warner are conducting the primary research for this project. During its lifespan, the Institute will work closely with PricewaterhouseCoopers and the other donors and implementing teams for the following projects:

- (i) the World Bank Public Sector Modernisation Project;
- (ii) the EU-TACIS National Assembly Capacity Building Project;
- (iii) the USAID National Assembly project.
- (iv) the EU-TACIS Regional Development Project;
- (v) the GTZ Regional Food Security Project; and
- (vi) the World Bank Natural Resources Management and Poverty Reduction Project.

COMMONWEALTH LEGAL ADVISORY SERVICE

This service has been operating since 1962 and provides a legal advice and research facility open to all Commonwealth countries for the provision and exchange of information on legal matters and legal developments. The Commonwealth Legal Advisory Service acts under the general supervision and guidance of the Commonwealth Committee of the Institute's Advisory Board which is chaired by Dr Ross Cranston QC MP DCL.

In response to specific requests made by the governments or law reform agencies of individual Commonwealth countries, the Service provides advice and information on all manner of legal problems. It also prepares memoranda, surveys and bibliographies on particular topics which are based on comparative research into the laws and relevant experience of Commonwealth countries and common law jurisdictions and are designed to inform Commonwealth countries about recent legal developments.

In 2002 the Commonwealth Legal Advisory Service advised the attorneys general of Commonwealth countries, and Hong Kong, on a variety of practical matters, including a comparative analysis of contempt of court proceedings in several European States and its possible conflict with the European Convention on Human Rights; lawyer-client (legal professional) privilege; implementation of the UN Convention on the Rights of the Child and the UN Convention on Transnational Crime; licensing and assignment rights; and immunity of legislative bodies. Many unreported judgements of the English courts were provided.

Various steps have been taken to re-invigorate the Service, subscribers receiving a report each year on the work done during the previous year. Although the confidentiality of the government requesting advice is preserved, sanitised versions of advice will be made available to other subscribers on request. We are also improving the method of collecting subscriptions.

The Institute is concerned to ensure that the Service continues to respond in the most effective way to the demand for legal reform in Commonwealth States. The Service is characterised first by the fact that its work is undertaken in direct response to needs arising in requesting States. Nevertheless it is important to ensure that Attorneys General and Law Reform Commissions are familiar with the assistance available from the Service and that the Service remains responsive to the development of those needs. CLAS continued its assistance to Commonwealth Governments, undertaking research on a wide variety of legal topics. In addition, CLAS provided specifically requested documents, including statute and case law from the Commonwealth, CLAS comparative memoranda, and abstracts of work previously done by it.

The Commonwealth Section of the Institute's Advisory Committee has been reinvigorated and reconstituted in part so that the work of the Commonwealth Legal Advisory Service will be supervised closely. The work of the Advisory Service links closely with a number of the legal reform projects carried out as consultancies by Institute staff.

RELATIONS WITH OTHER BODIES

The Institute encourages cooperation with individuals and institutions engaged in the study and development of the law within its areas of expertise. Many events and research networks are based on various forms of cooperation as documented in other parts of the Report. Below are set out some of those organisations with whom the Institute has set up or continued useful relations in the past year. We are most grateful to them all.

Aarhus School of Business

On 21 January 2005 the European Company Law Centre at the Institute held a conference in conjunction with the Aarhus School of Business entitled *The Proposal For A New Capital Directive—Towards A New Capital Regime?* The European Commission has recently presented a proposal to amend the Second EU Company Law Directive (SLIM-Plus). The aim of this conference was to explore these issues from a Scandinavian, UK and wider European perspective and reach some sort of consensus on the best way forward.

Atos Origin Consulting

During 2004 and 2005 the Institute met with Atos Origin (formerly Atos KPMG Consulting). This led to the Institute's participation in a number of tenders for consulting work submitted by Atos Origin focusing on the following countries: Afghanistan, Bosnia, Serbia and Sudan. From 2005–2008 the two organisations are contributing to the *Political Process* element of DFID's Afghanistan programme. www.atosorigin.com

Bar Human Rights Committee of England and Wales (BHRC)

Through the 'Legal Tools for Commonwealth Africa' Project, the Institute has forged a close working relationship with BHRC. In partnership with BHRC two 'train the trainers' sessions were held, a Lawyers Workshop in Malawi (October 2004) and a Judicial Colloquium in Kenya (April 2005). In addition a notable contribution was made towards the Manual and Sourcebook on Human Rights for Africa. www.barhumanrights.org.uk

The British Council

In November 2005 the Institute joint-hosted a study tour of high-level Chinese civil servants and justice officials conducted by the British Council. In 2005, the two organisations, in association with a number of other consortium partners, submitted a tender for training of judges in Palestine. They continue to explore areas of mutual cooperation. www.britishcouncil.org

Canning House

Canning House is the home of the Hispanic and Luso Brazilian Council, a non-political, non-profitmaking organisation that was founded in 1943 to stimulate understanding between Britain, Spain, Portugal and Latin America. On 17 March 2005 Canning House hosted the Institute's conference on *Arbitration in Latin America*.

www.canninghouse.com

Chatham House (formerly the Royal Institute for International Affairs)

The Institute enjoys a highly cooperative relationship with Chatham House, particularly in its public international law activities. The Public International Law Programme is a consultative member of the Investment Treaty Forum. Chatham House co-hosted the event that the Institute held with the IISD on investment and sustainable development on 14 January 2005.

www.riia.org

Institute of Advanced Legal Studies (IALS)

The Institute also continues its close cooperation with IALS, whose shared facilities in our joint building are important to us, not the least the access to the first rate library. A number of events have been jointly organized with the Institute.

www.ials.sas.ac.uk

Institute of International Economic Law, Georgetown University

The Institute has, since 2000, organised the Annual WTO Conference in London together with the Institute of International Economic Law (IIEL). The Director of IIEL is Professor John Jackson.

www.law.georgetown.edu/iiel

International Constitutional Law Association

The Institute has recently taken on a formal role in hosting events and providing co-ordination and secretarial functions for the UK Branch of the International Constitutional Law Association. This is working under the supervision of the Comparative Law Section of the Advisory Board. A number of meetings have been organized at the Institute, and we are very grateful to Professor Anthony Bradley for important work he has undertaken.

The International Institute for Sustainable Development (IISD)

The Institute has engaged in a number of activities in conjunction with the IISD in 2005. The Institute, together with Chatham House, hosted a presentation by the IISD on 14 January 2005 entitled 'Investment and Sustainable Development: Towards a New Model Investment Agreement'. On 28 April Hugo Warner and Federico Ortino attended a launch held by the Commonwealth Secretariat and the IISD on the subject of the Southern Agenda on Investment and the IISD Model

International Agreement on Investment for Sustainable Development. The IISD is also a consultative member of the Investment Treaty Forum.
www.iisd.org

International Law Association (ILA)

The Institute continues its cooperation with the ILA and with its British branch. Federico Ortino participated in the ILA British Branch 2005 Spring Conference on Regional Trade Agreements and the WTO Legal System in Edinburgh, 27–28 May 2005.

PricewaterhouseCoopers

The Institute continues its longstanding partnership with PricewaterhouseCoopers. It has an ongoing role in the Armenian Public Sector Reform Programme (APSREP), and continues to bid with PwC on a number of development projects. In June 2005 the Institute participated in a conference hosted by PwC on the future of international development.
www.pwcglobal.com

Queen Mary University

On 17–18 September 2004 the Institute hosted a conference in cooperation with the International Financial Law Unit Centre for Commercial Law Studies (CCLS) Queen Mary, University of London and the the Stockholm Centre for Commercial Law University of Stockholm (SCCL) on *Corporate Governance Post Enron*. At this roundtable seminar leading experts discussed the latest developments and their implications from a comparative perspective.
<http://www.ccls.edu/>
<http://www.juridicum.su.se/sccl/>

The UK National Committee on Comparative Law (UKNCCL)

The Institute continued to perform the secretariat functions for the Committee. The UKNCCL is the national branch of the International Academy of Comparative Law, and serves as a general co-ordinating body to facilitate the study of comparative law in the United Kingdom. Professor Mads Andenas is Secretary of the Committee.
www.iel.bham.ac.uk/uknccl

**INTERNATIONAL AND
COMPARATIVE LAW QUARTERLY
VOLUME 53 (2004)
TABLE OF CONTENTS**

JANUARY 2004 VOL 53 PART 1

ARTICLES

- GUANTANAMO BAY: THE LEGAL BLACK HOLE *Johan Steyn*
HARMONISATION OF PUBLIC PROCUREMENT: AN APPRAISAL OF THE
UNCITRAL MODEL LAW AS A GLOBAL STANDARD *Sue Arrowsmith*
REFUGEE LAW AT SEA *Richard Barnes*
PENALTY CLAUSES IN ENGLAND AND FRANCE—
A COMPARATIVE STUDY *Lucinda Miller*
SUBSIDIARY PROTECTION AND
PRIMARY RIGHTS *Ryszard Piotrowicz and Carina van Eck*
THE CONSTITUTIONAL PROTECTION AGAINST DISCRIMINATION:
SOME PROBLEMS THAT CANNOT BE WISHED AWAY *Charles Manga Fombad*

SHORTER ARTICLES, COMMENTS AND NOTES

- ILLEGAL SOUTHERN OCEAN FISHING AND PROMPT RELEASE:
BALANCING COASTAL AND FLAG STATE RIGHTS AND
INTERESTS *Donald R Rothwell and Tim Stephens*
WORLD CULTURAL HERITAGE: OBLIGATIONS TO STATES PARTIES
OR TO THE INTERNATIONAL COMMUNITY AS A WHOLE? *Roger O'Keefe*
CONSENT PRECLUDING STATE RESPONSIBILITY: A CRITICAL ANALYSIS
OF ITS APPLICATION AND LIMITATION *Ademola Abass*

CURRENT DEVELOPMENTS

PUBLIC INTERNATIONAL LAW

- THE CAMBODIAN EXTRAORDINARY CHAMBERS—A DANGEROUS
PRECEDENT FOR INTERNATIONAL JUSTICE? *Rachel Williams*

APRIL 2004 VOL 53 PART 2

ARTICLES

- THE ROAD AHEAD FOR THE COMMON LAW *Robin Cooke*
INTERNATIONAL REGULATION OF UNDERSEA NOISE *Karen N Scott*

CHOICE OF LAW IN CONTRACT UNDER THE ROME CONVENTION: THE APPROACH OF THE UK COURTS	<i>Jonathan Hill</i>
OF SENSE AND SENSIBILITY: REFLECTIONS ON INTERNATIONAL LIABILITY REGIMES AS TOOLS FOR ENVIRONMENTAL PROTECTION	<i>Jutta Brunée</i>
REFLECTIONS ON MARITIME DELIMITATION IN THE <i>CAMEROON/NIGERIA</i> CASE	<i>Yoshifumi Tanaka</i>
PROVISING A CONSTITUTIONAL FRAMEWORK FOR WITHDRAWAL FOR THE EU: ARTICLE 59 OF THE DRAFT EUROPEAN CONSTITUTION	<i>Raymond J Friel</i>

SHORTER ARTICLES, COMMENTS AND NOTES

RESTORING PROPERTY RIGHTS IN THE AFTERMATH OF WAR	<i>Hans Das</i>
INTERIM MEASURES IN THE UN HUMAN RIGHTS COMMITTEE	<i>Gino J Naldi</i>
THE <i>BUSTANI</i> CASE BEFORE THE ILOAT: CONSTITUTIONALISM IN DISGUISE	<i>Jan Klabbers</i>

CURRENT DEVELOPMENTS

EUROPEAN UNION LAW

I COMPETITION LAW	<i>Robert Lane</i>
II THE FREE MOVEMENT OF PERSONS	<i>Julian Lonbay</i>
III INTELLECTUAL PROPERTY	<i>Catherine Seville</i>
IV CITIZENSHIP AND HUMAN RIGHTS	<i>Erika Szyszczak</i>

PRIVATE INTERNATIONAL LAW

I BRUSSELS II <i>BIS</i> : MATRIMONIAL MATTERS, PARENTAL RESPONSIBILITY, CHILD ABDUCTION AND MUTUAL RECOGNITION	<i>Peter McEleavy</i>
II ENFORCING ANTI-SUIT INJUNCTIONS AGAINST SOVEREIGN STATES	<i>Guy Wilkes</i>

JULY 2004 VOL 53 PART 3

ARTICLES

TERRORISM AND INTERNATIONAL LAW	<i>Gilbert Guillaume</i>
CHOICE OF LAW IN CONTRACT: THE MISSING PIECES OF THE ARTICLE 4 JIGSAW	<i>Simon Atrill</i>
CANADIAN REFLECTIONS ON THE TOBACCO WARS: SOME UNINTENDED CONSEQUENCES OF MASS TORT LITIGATION	<i>Jeff Berryman</i>
THE COMMUNITARIZATION OF DIVORCE RULES: WHAT IMPACT FOR ENGLISH AND SCOTTISH LAW?	<i>Peter McEleavy</i>
THE MOX PLANT LITIGATION: THE FIRST HALF-LIFE	<i>Robin Churchill and Joanne Scott</i>

SHORTER ARTICLES, COMMENTS, AND NOTES

- THE PROTECTION OF THE RIGHT TO PROPERTY IN
OCCUPIED TERRITORIES *Loukis G Loucaides*
- SUBSTANCE AND PROCEDURE IN THE CONFLICT OF LAWS:
A CONTINUING DEBATE IN RELATION TO DAMAGES *Janeen M Carruthers*
- HUMAN RIGHTS COMMISSIONS AND RELIGIOUS CONFLICT
IN THE ASIA-PACIFIC REGION *Carolyn Evans*

CURRENT DEVELOPMENTS

DECISIONS OF INTERNATIONAL TRIBUNALS

- I APPLICATION FOR REVISION OF THE JUDGMENT OF
11 JULY 1996 *Nicholas Tsagourias*
- II AVENA AND OTHER MEXICAN NATIONALS *Sandy Ghandi*
- III CERTAIN CRIMINAL PROCEEDINGS IN FRANCE *David Turns*
- IV OIL PLATFORMS *Alexander Orakhelashvili*
- V CASES BEFORE THE COURT
- VI OTHER DEVELOPMENTS

PUBLIC INTERNATIONAL LAW

- I IMMUNITY AND INTERNATIONAL CRIMES IN ENGLISH LAW *Colin Warbrick*

APRIL 2004 VOL 53 PART 4

ARTICLES

- THE USE OF FORCE:
INTERNATIONAL LAW AFTER IRAQ *Jutta Brunnée and Stephen J Toope*
- TORTURE *David Hope*
- A NEW ERA IN THE LAW OF INTERNATIONAL CARRIAGE BY AIR:
FROM WARSAW (1929) TO MONTREAL (1999) *Bin Cheng*
- THE SEPARATION OF POWERS IN THE WTO:
HOW TO AVOID JUDICIAL ACTIVISM *Lorand Bartels*
- THE ADMINISTRATIVE DETENTION OF NON-NATIONALS PURSUANT
TO IMMIGRATION CONTROL: INTERNATIONAL AND CONSTITUTIONAL
LAW PERSPECTIVES *Daniel Wilsher*
- WILL ASEAN ECONOMIC INTEGRATION PROGRESS BEYOND A
FREE TRADE AREA? *Lay Hong Tan*

SHORTER ARTICLES, COMMENTS, AND NOTES

- ENLARGEMENT, THE EUROPEAN CONSTITUTION, AND
ADMINISTRATIVE LAW *Jürgen Schwarze*
- THE PROTECTION OF IRAQI CULTURAL PROPERTY *Catherine Phuong*

CURRENT DEVELOPMENTS

EUROPEAN UNION LAW

- I TIME TO TAKE STOCK ON THE MARKETS: THE FINANCIAL SERVICES ACTION PLAN CONCLUDES AS THE COMPANY LAW ACTION PLAN ROLLS OUT *Niamh Moloney*
- II TRADE MARK LAW: THE COMMUNITY'S THINKING WIDENS AND DEEPENS *Catherine Seville*

PRIVATE INTERNATIONAL LAW

- I ENFORCEMENT OF JUDGMENTS AND BLOCKING STATUTES: *LEWIS v ELIADES* *Elaine Kellman*
- II THE ANTI-SUIT INJUNCTION IN THE EUROPEAN JUDICIAL SPACE: *TURNER v GROVIT* *Thalia Kruger*

THE INSTITUTE'S FULL LIST OF PUBLICATIONS

(INCLUDING FORTHCOMING TITLES)

- Armed Conflict and the New Law*, Vol 1.
Michael Meyer (ed). Published 1989, ISBN 0-903067-30-7. £50.00
- Armed Conflict and the New Law*, Vol. 2 Effecting Compliance.
Hazel Fox QC and Michael Meyer (eds). Published 1993, ISBN 0-903067-36-6.
£50.00
- Aspects of Incorporation of the ECHR into Domestic Law*
JP Gardner (ed). Published 1993, ISBN 0-903067-38-2. £50.00
- Bilateral Agreements for the Joint Development of Offshore Oil and Gas: Texts and Commentary*
To be published December 2004, ISBN 0-903067-81-1.
- Changing Constitution of the United Nations*
Hazel Fox (ed). Published 1997, ISBN 0-903067-80-3. £65.00
- Citizenship: The White Paper*
JP Gardner (ed). Published 1997, ISBN 0-903067-75-7. £50.00
- Common Principles of Tort Law*
Gert Brüggemeier. Published April 2004, ISBN 0-903067-82-X. £55.00
- Comparative Criminal Procedure*
J Hatchard, B Huber & R Volger. Published 1996, ISBN 0-903067-39-0. £50.00
- Comparative Law before the Courts*
Guy Canivet, Mads Andenas and Duncan Fairgrieve (eds). Published June 2004, ISBN 0-90306762-5. £70.00
- Competition Law Yearbook 2002 (Current Competition Law: Volume I)*
Michael Hutchings and Mads Andenas (eds). Published 2003, ISBN 0-903067-92-7
- The 'Conflicts' Process*
David C Jackson. Published 1975, ISBN 0-37900-82-1. £50.00
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Chanaka Wickremasinghe (ed). Published 2000, ISBN 0-903067-46-3. £55.00
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A Tribute to Sir Joseph and Ruth Gold (Sir Joseph Gold Memorial Series
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 Gerhard Dannemann. Published 1993, ISBN 0-903067-35-8. £40.00

Italian Law: From Tradition to Europeanization
 Guido Alpa. To be published December 2004. ISBN 0-903067-48-X.

Joint Development of Offshore Oil & Gas Volume I
 Hazel Fox QC, Paul McDade et al (eds). Published 1989, ISBN 0-903067-31-5.
 £55.00

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 Paolo Galizzi (ed). Published 2003, ISBN 0-903067-85-4. £135.00

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 EJ Cohn. Published 1971, ISBN 6728 195. £40.00

The Market for Corporate Control and the Investments and Securities Act 1999
 Tunde Ogowewo. Published 2002, ISBN 0-903067-57-9. £25.00

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New Directions in the Law of the Sea Volume 10

Nordquist & Simmons. Published 1973, ISBN 0-37900-29-6. £40.00
New Directions in the Law of the Sea Volume 11

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WR Cornish QC (ed). Published 1983, ISBN 0-903067-27-7. £40.00
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Mads Andenas and Lisa Busch (eds). To be published 2005. ISBN 0-903067-77-3.
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Jean G Zorn and Jennifer Corrin Care. Published 2002, ISBN 0-903067-42-0.
£25.00
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Norman S Marsh CBE QC (ed). Published 1987, ISBN 420476-10-5. £40.00
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ISBN 0-903067-97-8. Price £75.00
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Philip Allott, Tony Carey & Martii Koskenniemi. Published 1991, ISBN 0-
903067-34-X. £40.00
Topics in Choice of Law

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Tort Liability of Public Authorities in Comparative Perspective

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903067-72-2. £85.00
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Guido Alpa. Published April 2005, ISBN 0-903067-48-X. £65.00
Yearbook of International Financial and Economic Law 2000/2001

Joseph J Norton and Christos Hadjiemmanuil (eds). Published 2003. ISBN 0-
903067-43-9. £85.00

Company Registration No. 615025
Charity Registration No. 209425

**THE BRITISH INSTITUTE
OF INTERNATIONAL AND
COMPARATIVE LAW**

**ANNUAL REPORT AND FINANCIAL
STATEMENTS
31 DECEMBER 2004**

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**REPORT AND FINANCIAL STATEMENTS
YEAR ENDED 31 DECEMBER 2004**

CONTENTS	Page
Council of Management	121
Legal and Administrative Details	123
Report of the Council of Management	124
Auditors' Report	129
Statement of Financial Activities	131
Balance Sheet	132
Notes to the Accounts	133

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**COUNCIL OF MANAGEMENT
YEAR ENDED 31 DECEMBER 2004**

President: The Rt Hon Lord Goff of Chieveley DCL,FBA

Vice-Presidents: The Hon Sir David Edward KCMG*,
Lady Fox QC and HE Judge Rosalyn Higgins DBE QC

Chairman: The Rt Hon Lord Bingham of Cornhill
David Anderson QC

The Rt Hon Lady Justice Arden DBE*
Peter Barton DL

Sir Christopher Bellamy QC

Sir Franklin Berman KCMG QC

The Hon Judge Sir Nicolas Bratza

Professor Ian Brownlie CBE QC FBA DCL

The Rt Hon Lord Justice Carnwath CVO

Jeremy Carver CBE

The Hon Mr Justice Lawrence Collins FBA LLD

Tim Cowen*

Dr Ross Cranston QC MP DCL

Professor James Crawford SC FBA

Lloyd N Cutler

Professor AL Diamond QC LLM HonDCL HonMRCP

Sir Vincent Evans GCMG MBE QC

Helen Fletcher-Rogers

Diana Good

Professor Sir Roy Goode CBE QC LLD FBA

The Rt Hon Lord Hoffmann

The Rt Hon Lord Hope of Craighead

Michael Hutchings OBE

The Hon Advocate General Francis Jacobs

Dorian Lovell-Pank QC

Professor A Vaughan Lowe

The Rt Hon Chief Justice Beverley McLachlin

The Rt Hon Lord Justice Mance*

HE Judge Thomas Mensah*

John Merrett

Lord Neill of Bladen QC

Sir Peter North CBE QC DCL FBA

The Rt Hon Lord Phillips of Worth Matravers
The Rt Hon Lord Justice Rix*
Peter Roth QC*
The Rt Hon Judge Sir Conrad Schiemann
Robert Sigmon
Sir Ian Sinclair KCMG QC
The Rt Hon Lord Slynn of Hadley
Andrew Trollope QC
David Vaughan CBE QC
Sir Arthur Watts KCMG QC*
Dame Juliet Wheldon DCB QC
Sir Michael C Wood KCMG QC
Honorary Members of the Institute:
Norman Marsh CBE QC*
Sir Jeremy Lever KCMG QC*
Nigel Fox Bassett*
David Sarre*

* The above individuals are not registered with Companies House as Directors of the Institute.

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**LEGAL AND ADMINISTRATIVE DETAILS
YEAR ENDED 31 DECEMBER 2004**

REGISTERED OFFICE

Charles Clore House
17 Russell Square
London WC1B 5JP

REGISTRATION NUMBERS

Company registration number: 615025
Charity Commission registration number: 209425

ACTING DIRECTOR

Stephen Walzer

BANKERS

CAF Bank Ltd
Kings Hill
West Malling
Kent ME19 7TA

HSBC

1 Woburn Place
Russell Square
London WC1H 0LQ

SOLICITORS

Herbert Smith
Exchange House
Primrose Street
London EC2A 2HS

AUDITORS

Horwath Clark Whitehill
St Bride's House
10 Salisbury Square
London EC4Y 8EH

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**REPORT OF THE COUNCIL OF MANAGEMENT
YEAR ENDED 31 DECEMBER 2004**

Status of the Institute

The Institute is a company incorporated under the Companies Act 1985 and has no share capital. It is a company limited by guarantee and the maximum liability of its members is £1. It is governed by its Memorandum and Articles of Association.

Objects and Activities

The objects for which the British Institute of International and Comparative Law is established are set out in the 1958 Memorandum of Association: (a) to promote by means of study groups, meetings and conferences the study and development of international law and comparative law (including foreign law); (b) to promote or commission research into international law and comparative law (including foreign law) and to publish or arrange for publication of the results of that research.

The Institute continues to pursue a mission, established in 1895, to understand and influence the development of law on a global rather than merely national basis. It is an independent self-governing body, a registered charity and a company limited by guarantee.

The Institute promotes the international rule of law and human rights by its activities in the fields of comparative law, international law and the conflict of laws, and in the fields of European Community law and Commonwealth law. The Institute's unique contribution is, as Lord Denning stated in 1952, in moving freely over the boundaries that divide the different fields of law and bringing out the underlying unities. The Institute's location at a centre of the common law world and the financial and commercial centre of London, and between continental Europe and America, supports this mission.

The main assets of the Institute are its membership and the independence of its status that has been maintained and enhanced over the years. Bringing together judges and practitioners, academic lawyers and civil servants, the Institute is uniquely situated to provide both authoritative analysis and practical comment. The international membership has access to its meetings, publications (including the leading international and comparative law journal, the *International and Comparative Law Quarterly*), research projects and specialist staff. Members also contribute to the research activities and advisory work undertaken by the Institute.

The research programme builds upon the Institute's unique perspective on the development of an international legal order. The Institute's research mission reflects the insight that knowledge of comparative and international law is not just a scholarly virtue but, as Lord Goff has stated, an essential feature of modern legal life.

Governance Issues

Ordinary business at the Institute's Annual General Meeting includes consideration of the accounts and the reports of the Council and auditors, and the election of Council members. Lord Goff of Chieveley is the President of the Institute.

The Council of Management, chaired by Lord Bingham of Cornhill, is the governing body of the Institute. Members of the Council (except as noted on Page 1) are the company directors and charity trustees. It is the function of the Council to manage and control the affairs of the Institute. The Council appoints the Director of the Institute and the Executive Committee. The Executive Committee is a committee of the Council of Management and the management of the affairs of the Institute is largely delegated by the Council to it. The Finance and Audit Sub-Committee of the Executive Committee has a special responsibility for financial control issues.

An internal governance review by a working party under the chairmanship of Alex Layton QC is nearing completion. The working party's recommendations include a reform of the Institute's formal governance structure to comply with best charity practice.

Review of Activities

The Institute has continued with a very full programme during 2004 involving an increase in expenditure on its objects of over 30 per cent. The Institute has secured funding for important research projects from UK research funding bodies, government departments and the European Commission. It has achieved further funding for research projects and research posts from charitable foundations, from law firms and from companies. Together with these research projects the Institute has continued with its active programme of events in all areas of legal practice.

Developing from the model of the Competition Law Forum, the Institute has established the Regulation Forum, the Data Protection Forum, the Product Liability Forum and the Investment Treaty Forum, not only for research of legal issues and discussion of important policy developments but also for training lawyers to deal with issues of transnational legal practice. This has strengthened the Institute's unique position, both in the United Kingdom and at the international level, as a body that contributes both to the understanding and also to the development of law and policy through dialogue with regulators and government officials as well as with the judiciary and practising lawyers.

An important part of the Institute is its publications department which

publishes the Institute's periodicals, the International and Comparative Law Quarterly and the fortnightly Bulletin of Legal Developments. Professor Alan Boyle, University of Edinburgh, and Dr Mads Andenas continue as the General Editors of the International and Comparative Law Quarterly. In addition, eight new books were published by the Institute in 2004. The research fellows have also published a wide variety of articles and books on many areas of international and comparative law.

Through its research, publications and many other activities, the Institute has provided a forum for policy formation and influence on the development of the law.

Financial Review

The rapid expansion of the Institute's activities over the past two years has led to corresponding increases in staff, IT functions and equipment. These, coupled with the time it takes to see the full-year financial benefits of the new fora, have contributed to a financial deficit for the first time in four years.

The Directors have decided to provide for £71,325 of bad debts as at 31st December 2004. The majority of these debts relate to 2003 and earlier periods, which had previously been regarded as recoverable, but due to recent changes in circumstances the recoverability of these debts has become doubtful. The Institute will continue to seek payment of these debts, but the Directors consider it prudent to provide for them as, due to their age, their recovery is doubtful. Whilst the resulting deficit for the year is disappointing, we can say with confidence that further reviews of staff quality and internal procedures coupled with our underlying financial security are expected to lead to a return to financial surplus in 2005.

Each forum is now well established with its own membership and each has a full programme for the year coming. The aim is that forum heads should play a larger part in financial management of their fora, operating to strict guidelines set by the Director and overseen by the Finance and Audit Sub Committee. This procedure will be fully developed in 2005.

The Development Appeal (which was launched in November 2002) has been successfully completed. The Appeal has reached its target and has contributed to the consolidation and expansion of the Institute. The aims of the Development Appeal were to fund ongoing and new activities at the Institute. It did not aim at providing an endowment and the Institute is continuing its fundraising with the aim of securing a reserve with a view to its long term financial stability.

A Business Development Board continues the fundraising work for the Institute. It is chaired by Martin Paisner and Tim Cowen.

Future Developments

The Institute is now in a position where it can discuss its future direction. Funding has been achieved for the core functions and a wide range of new activities are taking place at the Institute.

Reserves Policy

Free reserves, defined as unrestricted funds less fixed assets, decreased to £31,350 at 31 December 2004 (2003: £230,546). The Institute's reserves policy is under review and it is intended to increase the level of reserves, having regard to the current level of the Institute's expenditure. In addition the Institute also holds both Expendable and Permanent Endowments.

Risks Policy

The Executive Committee, with the assistance of the Finance and Audit Sub-Committee, continues to review risk issues in order to develop internal routines to strengthen financial management and control and thereby mitigate the risks identified.

Investment Policy and Performance

The Institute's primary objectives are capital conservation and minimisation of risk through diversification and this has involved the Institute funds being invested as stated in note 9 to the accounts. Investment income for the year is shown in note 6 and further details of investments held as fixed assets are shown in note 9. These listed investments have generated a return of 3.7% (2003–4.4%), together with unrealised gains of £12,252 (2003–£3,908). The Committee considered these returns to be satisfactory.

Statement of Council of Management's Responsibilities

Company law requires the Council of Management to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the Institute as at the end of the financial year and of the incoming resources and application of resources, including its income and expenditure, for that year. In preparing those financial statements, the Council of Management is required to:

- select suitable accounting policies and then apply them consistently;
- make judgments and estimates that are reasonable and prudent;
- state whether applicable accounting standards and statements of recommended practice have been followed, subject to any departures disclosed and explained in the financial statements; and
- prepare the financial statements on a going concern basis unless it is inappropriate to assume that the Institute will continue in business.

The Council of Management is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Institute and to enable the Council to ensure that the financial statements comply with the Companies Act 1985. They are also responsible for safeguarding the

assets of the Institute and hence for taking reasonable steps for the prevention and detection of fraud or other irregularities.

Approved by the Council of Management on
and signed on its behalf:

Peter Barton

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF THE BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW

We have audited the financial statements of the British Institute of International and Comparative Law for the year ended 31 December 2004, which comprise the Statement of Financial Activities including the Income and Expenditure Account, the Balance Sheet and the related notes. These financial statements have been prepared under the historical cost convention as modified by the revaluation of certain fixed assets and the accounting policies set out therein.

This report is made solely to the Institute's members, as a body, in accordance with Section 235 of the Companies Act 1985. Our audit work has been undertaken so that we might state to the Institute's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Institute and the Institute's members as a body, for our audit work, for this report, or for the opinion we have formed.

Respective responsibilities of the directors and auditors

The responsibilities of the Council of Management, who are also the charity trustees under charity law, for preparing the Report of the Council of Management and the financial statements in accordance with applicable law and United Kingdom Accounting Standards are set out in the Statement of Responsibilities.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and United Kingdom Auditing Standards.

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Companies Act 1985. We also report to you if, in our opinion, the Annual Report is not consistent with the financial statements, if the Institute has not kept proper accounting records, if we have not received all the information and explanations we require for our audit, or if information specified by law regarding the Council of Management's remuneration and transactions with the Institute is not disclosed.

We read other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. We consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the financial statements. Our responsibilities do not extend to any other information.

Basis of opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the Council of Management in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Institute's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance as to whether the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Unqualified opinion

In our opinion the financial statements give a true and fair view of the state of affairs of the Institute as at 31 December 2004 and of its incoming resources and application of resources, including its income and expenditure, for the year then ended and have been properly prepared in accordance with the Companies Act 1985.

Horwath Clark Whitehill LLP
Chartered Accountants and Registered Auditors

St Bride's House
10 Salisbury Square
London
EC4Y 8EH

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**STATEMENT OF FINANCIAL ACTIVITIES
YEAR ENDED 31 DECEMBER 2004**

	Notes	Unrestricted Funds	Expendable Endowment Funds	Permanent Endowment Funds	Total 2004	Total 2003
	1 & 2	£	£	£	£	£
INCOME AND EXPENDITURE						
INCOMING RESOURCES						
Voluntary Income:						
Membership and subscription income		287,626	–	–	287,626	233,804
Fora income		293,139	–	–	293,139	129,125
Donations		–	–	–	–	25,000
Development appeal		60,892	–	–	60,892	143,200
Activities in furtherance of charity's objects:						
Grants for the Commonwealth Legal Advisory Service		16,169	–	–	16,169	17,731
Conference income		219,945	–	–	219,945	201,825
Publications		56,414	–	–	56,414	37,526
Research and governance projects	3	494,135	–	–	494,135	516,943
Royalties		268	–	–	268	265
Activities for generating funds:						
Rental income		22,563	–	–	22,563	35,141
Investment income	6	18,930	–	–	18,930	14,804
Other incoming resources		–	–	–	–	4
TOTAL INCOMING RESOURCES		<u>1,470,081</u>	<u>–</u>	<u>–</u>	<u>1,470,081</u>	<u>1,355,368</u>
Cost of generating funds						
Fundraising costs		49,561	–	–	49,561	49,977
CHARITABLE EXPENDITURE						
Research and governance projects		433,377	–	–	433,377	405,386
Conference costs		238,009	–	–	238,009	204,142
Membership & subscriptions		165,419	–	–	165,419	86,309
Fora costs		338,122	–	–	338,122	104,835
Publication costs		128,708	–	–	128,708	60,553
Support costs		268,424	–	–	268,424	298,559
Management and administration		46,816	–	–	46,816	27,363
Charitable expenditure		<u>1,618,875</u>	<u>–</u>	<u>–</u>	<u>1,618,875</u>	<u>1,187,147</u>
TOTAL RESOURCES EXPENDED	4	<u>1,668,436</u>	<u>–</u>	<u>–</u>	<u>1,668,436</u>	<u>1,237,124</u>
Net incoming resources	7	<u>(198,355)</u>	<u>–</u>	<u>–</u>	<u>(198,355)</u>	<u>118,244</u>
OTHER RECOGNISED GAINS AND LOSSES						
Unrealised gains/(losses) on investments		4,807	–	7,445	12,252	3,908
Loss on sale of investments		–	–	(1,181)	(1,181)	(87)
Net movement in funds		(193,548)	–	6,264	(187,284)	122,065
FUND BALANCES brought forward at 1 January 2004		<u>317,000</u>	<u>121,532</u>	<u>260,392</u>	<u>698,924</u>	<u>576,859</u>
FUND BALANCES carried forward at 31 December 2004	12	<u>123,452</u>	<u>121,532</u>	<u>266,656</u>	<u>511,640</u>	<u>698,924</u>

The notes on pages 123 to 131 form part of these financial statements.

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**BALANCE SHEET
YEAR ENDED 31 DECEMBER 2004**

FIXED ASSETS	Notes	£	2004 £	<i>2003</i> £
Tangible assets	8		92,102	<i>86,454</i>
Investments	9		210,493	<i>464,180</i>
			302,595	<i>550,634</i>
CURRENT ASSETS				
Stocks			39,070	<i>83,024</i>
Debtors	10		469,745	<i>315,644</i>
Cash at bank and in hand			292,103	<i>43,652</i>
			800,918	<i>442,320</i>
CREDITORS: amounts falling due within one year	11		(591,873)	<i>(294,030)</i>
NET CURRENT ASSETS			209,045	<i>148,290</i>
TOTAL ASSETS LESS CURRENT LIABILITIES			511,640	<i>698,924</i>
ENDOWMENT FUNDS				
Sunley—Percy Rugg Endowment Fund	13		133,328	<i>130,196</i>
Sunley—Sebag Shaw Endowment Fund	13		133,328	<i>130,196</i>
Barnett Shine Charitable Foundation Fund	13		121,532	<i>121,532</i>
			388,188	<i>381,924</i>
UNRESTRICTED FUNDS				
General Fund		31,350		<i>230,546</i>
Fixed Assets Fund		92,102		<i>86,454</i>
			123,452	<i>317,000</i>
	12		511,640	<i>698,924</i>

These financial statements were approved by the Council of Management on
and signed on its behalf by:

The notes on pages 123 to 131 form part of these financial statements.

**THE BRITISH INSTITUTE OF INTERNATIONAL AND
COMPARATIVE LAW**

**NOTES TO THE ACCOUNTS
YEAR ENDED 31 DECEMBER 2004**

1. ACCOUNTING POLICIES

The financial statements are prepared in accordance with the Statement of Recommended Practice (SORP) 'Accounting and Reporting by Charities' SORP 2000 and applicable accounting standards. The particular accounting policies adopted are described below. No cash flow statement has been prepared, as the Institute is considered small for the purposes of Financial Reporting Standard No 1 (Revised 1996).

a) Accounting Convention

The financial statements are prepared under the historical cost convention as modified by the revaluation of fixed asset investments.

b) Tangible fixed assets

Depreciation is provided on the leasehold building at 2% p.a. on cost, computer equipment at a rate of 50% p.a. on the net book value, the telephone system over seven years and other fixed assets at a rate of 25% p.a. on the net book value.

c) Investments

Investments representing endowment funds are included as fixed assets. Listed investments are stated at market value at the balance sheet date.

d) Stocks

The stocks of publications, all of which are goods held for resale, are valued at the lower of cost and net realisable value.

e) Library

The initial cost of the library was written off in 1980, and the cost of additions in each year is included in the overhead expenditure and written off accordingly. The contents of the library, a large proportion of which has been donated to the Institute, have not been valued in these financial statements.

f) Investment income

Dividends and interest are taken to the Statement of Financial Activities (SOFA) on a receivable basis.

g) Pension costs

The Institute contributes to defined contribution pension schemes for three employees. The pension cost charge represents contributions payable by the Institute to these schemes for the year.

h) Government grants

Grants received from UK and overseas governments and governmental agencies are credited to income when the conditions for receipt have been complied with. Grants awaiting matching expenditure are carried forward as deferred income.

i) Allocation of costs

Costs are either directly attributable to functional areas of expenditure, or are allocated based on staff time or floor space used. Management and administration relates to costs of the governance of the Institute.

j) Foreign exchange

Transactions denominated in foreign currencies are recorded at the rate of exchange ruling at the dates of the transactions. Monetary assets and liabilities denominated in foreign currencies are translated into sterling either at year-end rates or, where there are related forward foreign exchange contracts, at contract rates. The resulting exchange differences are dealt with in the determination of income and expenditure for the financial year.

k) Membership and subscription fees

Membership fees credited as income in the year relate to fees receivable for the calendar year less irrecoverable amounts in respect of previous years. Membership fees received in advance are carried forward as deferred income.

l) Funds

Unrestricted funds comprise the accumulated surplus or deficit on the statement of financial activities. They are available for use at the discretion of the Council of Management in furtherance of the general objectives of the Institute. Designated funds are those unrestricted funds set aside by the Council of Management for specific purposes. Restricted funds are subject to specific restrictions imposed by donors.

The permanent endowment funds represent capital, and the income arising forms part of unrestricted funds. Expendable endowment funds are those capital funds where capital is not required to be held in perpetuity.

2. INCOME

Income is derived from the Institute's only class of business, comprising the principal activities, which are to conduct research, discussion and publication in public and private international and comparative law. Detailed income streams are from membership fees, subscriptions to 'The International and Comparative Law Quarterly' and 'The Bulletin of Legal Developments', research and governance projects (see Note 3), sales of publications and periodicals, sundry grants, donations received, conference receipts and sundry income.

24% (2003: 20%) of incoming resources are received from outside the United Kingdom.

3. RESEARCH and GOVERNANCE PROJECTS

	2004	<i>2003</i>
	£	<i>£</i>
Research Grants	432,539	<i>340,958</i>
Governance Grants	61,436	<i>167,926</i>
Training Contracts	160	<i>8,059</i>
	494,135	<i>516,943</i>

	Projects		Conference		Membership Subscriptions & publications		Support		Management & Admin Costs		Fundraising		Total	
	£	£	£	£	£	£	£	£	£	£	£	£	£	£
4. RESOURCES EXPENDED														
Wages, salaries, pensions and redundancy—see note 5	192,074	55,539	355,227	168,045	26,975	5,927	803,787	599,010						
Projects and conferences	186,776	141,738	—	—	—	—	328,514	170,314						
Membership & Subscriptions	—	—	195,759	—	—	—	195,759	155,677						
Fundraising	—	—	—	—	—	—	32,763	31,868						
Discounts	—	—	—	—	—	—	—	1,112						
Light, heat and service charges	7,874	3,150	11,025	7,875	—	—	31,499	41,436						
General rates	—	—	—	(684)	—	—	(684)	2,856						
Travelling, entertaining and attendance at conferences	1,774	—	1,040	5,823	—	—	8,649	8,447						
Stationery and printing	3,612	1,376	6,423	2,097	—	—	14,032	21,495						
Bank interest and charges	—	1,658	1,800	2,756	—	—	6,214	2,838						
Programmes development costs	—	—	—	—	—	—	3,645	25,840						
Postage	3,096	1,548	8,514	3,096	—	—	17,028	20,438						
Telecoms	5,170	1,796	9,874	8,372	—	—	26,244	18,512						
Computer software/ maintenance	5,770	2,885	15,868	5,770	—	—	31,736	28,654						
Office expenses	3,526	1,307	4,569	4,570	—	—	14,482	13,211						
Library	—	—	—	6,136	—	—	6,136	5,620						
Audit, legal & professional	290	145	797	—	15,589	—	16,893	7,262						
Depreciation	5,135	4,998	14,123	7,498	—	—	33,038	33,518						
Bad debts	—	21,111	5,736	44,478	—	—	71,325	39,168						
Advertising, recruitment & training	—	758	1,494	5,872	—	—	8,124	1,215						
AGM costs	—	—	—	—	4,252	—	4,252	8,633						
Contribution to overheads	18,280	—	—	(18,280)	—	—	—	—						
VAT assessment provision	—	—	—	15,000	—	—	15,000	—						
	433,377	238,009	632,249	268,424	46,816	49,561	1,668,436	1,237,124						

5. STAFF COSTS AND FURTHER EMPLOYEE INFORMATION

	2004	<i>2003</i>
	£	<i>£</i>
Wages and salaries	667,101	<i>516,535</i>
Social security costs	68,528	<i>51,173</i>
Pension costs	25,384	<i>18,567</i>
Other staff costs	42,774	<i>12,735</i>
	<u>803,787</u>	<i><u>599,010</u></i>

Average number of persons employed (full time equivalent)

	No.	<i>No.</i>
Research	17	<i>13</i>
Administration	5	<i>4</i>

The number of staff whose emoluments fall into the following band is:

£50,001 – £60,000	2	<i>–</i>
£60,001 – £70,000	1	<i>1</i>

Pension contributions for the 3 members of staff detailed above (2003—1 member of staff) were £16,450 (2003—£8,894).

Editorial fees received by two members of the Council of Management during the year were £nil (2003: £2,000). Apart from that, no member of the Council of Management or the Executive Committee received remuneration or reimbursement of expenses as a member of the Council or Committee during the year.

6. INVESTMENT INCOME

	2004 £	2003 £
Bank interest	11,590	10,220
Dividends receivable from listed investments	7,340	4,584
	<u>18,930</u>	<u>14,804</u>

7. NET INCOMING RESOURCES

The net incoming resources for the year are arrived at after charging:

Depreciation	<u>33,038</u>	<u>33,517</u>
Auditors' remuneration		
—Audit fees	6,135	6,000
—Other services	7,683	330
	<u>13,818</u>	<u>6,330</u>

8. TANGIBLE FIXED ASSETS

	Long Leasehold Building £	Furniture, fittings and Office Equipment £	Total £
Cost			
At 1 January 2004	55,280	252,228	307,508
Additions during the year	—	38,686	38,686
At 31 December 2004	<u>55,280</u>	<u>290,914</u>	<u>346,194</u>
Accumulated depreciation			
At 1 January 2004	16,182	204,872	221,054
Charge for the year	1,106	31,932	33,038
At 31 December 2004	<u>17,288</u>	<u>236,804</u>	<u>254,092</u>
Net book value			
At 31 December 2004	<u>37,992</u>	<u>54,110</u>	<u>92,102</u>
<i>At 31 December 2003</i>	<i><u>39,098</u></i>	<i><u>47,356</u></i>	<i><u>86,454</u></i>

9. INVESTMENTS HELD AS FIXED ASSETS

	Listed investments £	Building Society £	Common Deposit Charity Fund £	Total £
Net book value at 1 January 2004	107,922	–	356,258	464,180
Unrealised gain in year	12,252	–	–	12,252
Disposal/Cash withdrawn	(165,120)	–	(356,258)	(521,378)
Amounts invested	<u>255,439</u>	<u>–</u>	<u>–</u>	<u>255,439</u>
Market value at 31 December 2004	<u>210,493</u>	<u>–</u>	<u>–</u>	<u>210,493</u>
Listed investments—cost				<u>184,476</u>
Investments whose market value exceeds 5% of total valuation (All listed in the UK and held directly):				
Charity Property Fund units	£62,591			
Cazenove Equity Income Trust units	£37,060			
Cazenove Growth Trust units	£36,192			
Cazenove Income Trust units	£35,529			
BP Ordinary shares	£31,455			

10. DEBTORS

	2004 £	2003 £
Trade debtors	372,000	188,704
Other debtors	7,726	36,673
Prepayments and accrued income	90,019	90,267
	<u>469,745</u>	<u>315,644</u>

11. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2004 £	2003 £
Trade creditors	37,639	27,104
Deferred income—membership and other	397,811	181,867
Taxation & social security	91,044	19,779
Accruals & other creditors	65,379	65,280
	<u>591,873</u>	<u>294,030</u>

12. NET ASSETS HELD BETWEEN FUNDS

	Unrestricted funds £	Expendable endowment £	Permanent Endowment £	Total £
Fixed Assets	92,102	–	–	92,102
Investments	171,376	–	39,117	210,493
Current assets	451,847	121,532	227,539	800,918
Creditors: amounts falling due within one year	(591,873)	–	–	(591,873)
Net Assets	<u>123,452</u>	<u>121,532</u>	<u>266,656</u>	<u>511,640</u>

13. ENDOWMENT FUNDS

PERMANENT: THE SUNLEY-PERCY RUGG AND THE SUNLEY-SEBAG SHAW ENDOWMENT FUNDS

The Bernard Sunley Charitable Foundation established two Endowment Funds in 1982, namely:

- The Sunley-Percy Rugg Endowment Fund; and
- The Sunley-Sebag Shaw Endowment Fund

Each fund is owned and administered by the Institute and consisted of £150,000 held in perpetuity for the permanent endowment of the Institute. Income arising from the funds is applied for the general purposes of the Institute. During the year the investments underlying the funds increased in value by £6,264 (2003, decrease in value: £3,820) leading to an increase in the value of the fund.

EXPENDABLE: THE BARNETT SHINE CHARITABLE FOUNDATION

£300,000 was donated by The Barnett Shine Charitable Foundation to provide income to the Institute for general purposes but with the power to 'apply the whole or any part of the Trust Fund whether capital or income in or towards the implementation of any one or more of the objects of the Trust'.

A transfer in 2000 from expendable endowments of £178,468 was made to settle a deficit on unrestricted funds. This left a balance of £121,532 which has remained unaltered since then.

14. TAXATION

The Institute is a registered charity and is exempt from direct taxation liabilities on its charitable activities.