



BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW

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NEWSLETTER

RECENT ACTIVITIES

Institute relaunches its website

Members are invited to visit the Institute's newly redeveloped website at www.biicl.org. This has been substantially restructured to reflect the Institute's current research programme, to better reflect the role and function of the Institute, and to provide a valuable online resource for its members.

Members can now book Institute events online as well as access online the entire archive and current issues of the *International and Comparative Law Quarterly*, the *Bulletin of International Legal Developments*, research reports and papers from the Institute's discussions.

Institute Annual Conference: 16 June 2006

The Institute Annual Conference, held on 16 June 2006, was an opportunity for the Institute to demonstrate its considerable research expertise in many fields to members of both the profession and academia. Approximately 250 people attended the event, held at the School of Oriental and African Studies and in the Institute itself, and many non-members joined the Institute as a result.

An excellent [Keynote Address](#) was given by the Rt Hon Sir Francis Jacobs KCMG QC on the future of the Constitutional Treaty for Europe and the European Court of Justice, introducing the Institute's [European and Comparative Law Programme](#). This followed an introduction by the Institute's Chairman, the Rt Hon Lord Bingham of Cornhill KG, and the Institute Director, Professor Gillian Triggs.

The Plenary Session that followed saw issues currently being addressed by the Institute's research project on *Evidence in International Courts and Tribunals*, discussed in the light of the Bosnia-Herzegovina v Serbia and Montenegro Genocide case currently before the International Court of Justice. Sir Franklin Berman KCMG QC chaired a high calibre panel consisting of advocates from either side of the case: Professors Alain Pellet and Andreas Zimmermann, and Dr Chittharanjan Amerasinghe and Khawar Qureshi, both of whom also have considerable experience of international courts and tribunals. Differing points of view engendered several lively exchanges and the proliferation of questions following the session illustrated the interest of the audience in the subject.

The afternoon session took place at the Institute and was comprised of a series of parallel panel sessions covering topical legal themes, with distinguished panellists from practice and academia. Panel sessions included the Law and Development Panel: *Afghanistan—Fundamental Legal Issues*, chaired by Jeremy CBE, Clifford Chance LLP and Transparency International. Speakers included Hugo Warner, BIICL; Dr Nejib Boussedra, Senior Managing Director and Director of Projects in Afghanistan, International Development Law Organization;

Professor Christine Chinkin, London School of Economics; Emmanuel Reinert, Executive Director, The Senlis Council; and Dr Ali Wardak, University of Glamorgan. Running alongside this was the European Law and Competition Law Panel: *Pressures for European Court Reform—Competition and other issues*. This session panel was chaired by Judge Nicholas Forwood of the Court of First Instance of the European Communities, with speakers including Judge Nicholas Forwood; Andrea Appella, Time Warner; Kyriakos Foutoukakos, Herbert Smith; and David O’Keeffe, Emeritus Professor of European Law, University College, London. A Panel was also run on *International and European Environmental Law*. Chaired by Professor Alan Boyle, Professor of Public International Law, Edinburgh Law School; speakers included Dr Liz Fisher, Fellow in Law, Corpus Christi College, University of Oxford; David M Ong, Reader in International and Environmental Law, University of Essex Law School; and Dr Paolo Galizzi, Centre for Environmental Policy, Imperial College, London.

The final session of the day consisted of two panels: *Protection of Legitimate Expectation in International Trade and Investment Law*, chaired by Professor James Crawford, University of Cambridge, Matrix Chambers. Speakers at this panel included Dr Chester Brown, Clifford Chance LLP; Stephen Fietta, Latham and Watkins; Dr Federico Ortino, BIICL; and Dr Soren Schonberg, European Commission, DG Trade. Running alongside this was *Comparative Law: Pitfalls in Comparative Law (Use and Abuse of Comparative Law)*. This panel was chaired by the Rt Hon Lord Mance, with speakers including Professor Gerhard Wagner, University of Bonn; Professor John Bell, University of Cambridge; Professor Cees van Dam, BIICL; and Dr Duncan Fairgrieve, BIICL.

The day also saw the launch of two publications by Institute staff: Gillian Triggs *International Law Contemporary Principles and Practices* (Butterworths/ LexisNexis 2006); and Cees van Dam *European Tort Law* (OUP Oxford 2006).

Institute Vice President Lady Hazel Fox QC made CMG Honour Conferred for Services to International and Comparative Law

The Institute would like to congratulate its Vice President, Lady Hazel Fox CMG QC, on her admission as Companion of the Order of St Michael and St George, for services to international and comparative law, in the Queen’s Birthday Honours List 2006.

Lady Fox was Director of the British Institute of International and Comparative Law from 1982–1989 and until recently a member of the Board of Editors of the [International and Comparative Law Quarterly](#). She is a tenant at [4–5 Gray’s Inn Square](#) and a Bencher at [Lincoln’s Inn](#). She was formerly a Fellow and Tutor in Law at [Somerville College, Oxford](#).

The Order of St Michael and St George is awarded to men and women of high office, or who render extraordinary or important non-military service in a foreign country. It can also be conferred for important or loyal service in relation to foreign and Commonwealth affairs.

Director’s Report and Financial Statements 2005

The Director’s Report and Financial Statements for 2005 have recently been published by the Institute. This report contains details of all Institute activities for the past year, including details of research projects, events and the Institute’s publishing programme. This report is available to view on the Institute website at http://www.biicl.org/files/499_biicl_annual_report_2006.pdf. If you wish to receive a copy of the report in paper format please contact Gemma Parsons: g.parsons@biicl.org.

INSTITUTE PUBLICATIONS

The Institute is delighted to announce the recent publication of the following new titles:

Invalidity and the Law of Treaties *D W Greig*

Although a good deal of attention has been paid to the jus cogens as a basis for undermining the validity of the treaty, the remaining provisions of the Vienna Convention on the Law of

Treaties dealing with invalidity are either ignored or dealt with in a cursory fashion. This book examines these neglected provisions and enquires whether they can be said to represent customary international law (the usual justification for applying the Convention's rules of States which are not parties to the Convention) and whether they can be linked in a plausible manner to the notion of separability in Article 44 of the Convention. Article 44 excludes a number of provisions from the operation of separability in a way that may not be justified. In addition, it opens up the opportunity for States to avoid the application of separability to their treaties on grounds that are open to a subjective determination supported by distinctly subjective evidence. The final section of the book examines the power of the Security Council to override the treaty rights of States, a power which at one time it disclaimed it possessed. This is linked into the discussion of treaty invalidity by a consideration of the occasion the issue has been raised before the International Court of Justice.

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

Edited by Colin Warbrick and Stephen Tierney

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; and Robert McCorquodale.

PAST EVENTS

COMPARATIVE LAW

45th Leiden-London Meeting: Legal aspects of EU-US relations - Cooperation and Conflict of Interests

Held at the University of Leiden on Saturday 24 June 2006, this conference included the following speakers: Professor George A Bermann Gellhorn Professor of Law & Jean Monnet Professor of European Union Law Columbia University School of Law; Professor Matthias Herdegen Law Faculty, Rheinische Friedrich-Wilhelms-Universität Bonn; Anthea Roberts Debevoise and Plimpton LLP; Professor Jan Wouters, Professor of International Law and International Organizations, University of Leuven; Professor Steve Peers Professor Department of Law, University of Essex.

COMPETITION LAW

Arbitrating Competition Law Issues: A European and US Perspective

On the 12 June 2006 BIICL, in conjunction with SJ Berwin, held a conference focusing on the interrelation between international arbitration and competition law in the widest sense of the word. This conference, entitled *Arbitrating Competition Law Issues: A European and US Perspective*, was held at Gray's Inn and gathered academics and professionals with an international arbitration and/or competition law background (as well as corporate lawyers) for

a detailed discussion of the challenges of arbitrating competition and merger-control-related issues at the dawn of the 21st century.

This seminar covered both the continental and the transatlantic approach to arbitrating competition law as well as merger control issues. Specific attention was given to the nascence of the so-called *ex officio* duty on part of the international arbitrator to raise competition law issues in order to secure the enforceability of his award within the European Union and its development since the ECJ's seminal ruling in *Eco Swiss*. The use and utility of the European Commission's recent practice to use international arbitration in remedy-related arbitrations within the framework of Articles 81/82 of EC Treaty and EC merger control also received particular attention.

Within this context, the role of the European Commission as *amicus curiae* in international arbitration proceedings and the resulting tension between private proceedings and the common role of the European Commission as the Community public prosecutor was discussed in greater depth. Consequently, the gradual transformation of international commercial arbitration and the emergence of the supranational arbitrator within the framework of Community-related arbitrations was highlighted.

Keynote speeches at his event were provided by: Dr Marc Blessing (Bär & Karrer); Professor Luca Radicati di Brozolo (Università di Milano; Studio Bonelli Erede Pappalardo); Gordon Blanke (International Arbitration Group, SJ Berwin LLP); Peter E Greene (Skadden Arps, Slate, Meagher & Flom LLP); Dr Johannes Lübking (Directorate-General for Competition, European Commission); Professor Dr Hans van Houtte (Université de Louvain); Michael Bowsher (Monckton Chambers); and Dr Renato Nazzini (Office of Fair Trading).

A discussion panel consisting of Sir David Edward KCMG (former Judge of the CFI and the ECJ and Vice-President of BIICL); Dr Phillip Landolt (Tavernier Tschanz); Dr Christoph Liebscher (Wolf Theiss); and William Rowley QC (McMillan Binch Mendelsohn LLP and 20 Essex Street) followed these speeches and offered a critical reflection on the keynote speeches by reporting on their own experience and the (likely) approach taken by the respective institution they represent.

Competitiveness versus Competition

This [Competition Law Forum](#) event focused on the application of competition policy vs Europe's competitiveness, and in particular the following topics:

- What is DG Competition doing to promote the aims of the Lisbon Agenda? How is it doing this?
- Does the Lisbon Agenda influence the Commission's decision process on competition cases? How?
- Industrial policy versus competition policy in the review of mergers (especially considering recent events in some Member States) and other areas
- State Aid action plans and competitiveness: R&D, SMEs, de minimis Regional policy
- Economic assessments of competition and competitiveness

It was held at Cercle de l'Union Interalliee, Paris on Wednesday 21 June 2006, and speakers included: Humbert Drabbe, European Commission; Udo Nothelfer, AMD Germany; Nathalie Jalabert-Doury, Sokolow, Carreras & Associés; Jean-Francois Guichard, FIPRA; Pierre Buigues, Toulouse Business School; LECG; Stanislas Martin, Clifford Chance LLP. Peter-Carlo Lehrell, FIPRA and Jean-Francois Guichard, FIPRA, chaired the event.

The Sixth Annual Trans-Atlantic Antitrust Dialogue

This year's conference was held on Thursday 6 and Friday 7 July at Lovells, Atlantic House, and had sessions on mergers, consumer welfare, extradition, Article 82 cases, and private actions. Smaller break-out sessions were also introduced this year on retailing, financial services and energy. The conference closed with the annual Roundtable with the Authorities: a discussion led by Professor Richard Whish, with senior officials from the US, UK, European Commission, Lithuania and Ireland. Keynote Speakers were Bill Kovacic, Federal Trade Commission; Philip Lowe, DG-Competition, European Commission; and Bruce McDonald,

Antitrust Division, Department of Justice. Conference chairs were: Lesley Ainsworth, Lovells; Margaret Bloom, Freshfields Bruckhaus Deringer; Oliver Bretz, Clifford Chance LLP; Cristina Caffarra, CRA; Mark Clough QC, Addleshaw Goddard; Phil Evans, Consumer Policy Team, FIPRA International; Michael Hutchings OBE, Competition Law Forum; Anne Riley, Shell; Professor Richard Whish, Kings College London. Speakers included: Alan Ainsworth, Barclaycard ; Pinar Bagci, CRA; Colin Brown, OFT; Ricardo Cardoso de Andrade, European Commission ; Diana Chan, Citigroup; Liam Colley, PricewaterhouseCoopers LLP; Stuart Davis, BG Group PLC; John Davies, Competition Commission; Carles Esteva Mosso, European Commission; Allan Fels, Australia-New Zealand School of Government; John Fingleton, OFT; James Flynn, Brick Court Chambers; Andrés Font-Galarza, European Commission; Luis Gomez, Baker & McKenzie; Sean Greenaway, European Commission; Judge Nicholas Forwood, Court of First Instance; John Hardy, Three Raymond Buildings; Judge Frédéric Jenny, Cour de Cassation ; Robert Madelin, European Commission; Adrian Majumdar, RBB Economics; Todd Miller, Baker & Miller PLLC; Elizabeth Morony, Clifford Chance LLP; Damien Neven, Graduate Institute of International Studies; Brad Ockene, Lovells; Michael O'Kane, Peters and Peters; Johanne Peyre, Michelin; William Prasifka, Irish Competition Authority; Alan Riley, City Law School; William Robinson, Freshfields Bruckhaus Deringer; Duncan Sinclair, OFGEM; Rimantas Stanikunas, Lithuanian Competition Council.

Sixth Annual Trans-Atlantic Dialogue Gala Dinner

This dinner was held at The Draper's Hall on Thursday 6 July 2006.

EUROPEAN LAW

The Future for Takeovers in the EU—Implementation of the Takeover Directive

This event was held on Friday 12 May 2006 at the Institute. This conference set out to compare the implementation of the Directive in several Member States, focusing on the likely impact of the Directive on barriers to cross-border takeovers by EU and non-EU companies. Topics covered included: the role of the takeover panel under the Directive; German takeover law after the Directive; France and the Takeover Directive; a view from Sweden; UK implementation; Italy: the market for corporate control and the temptation of protectionism; and what the Takeover Directive will mean in practice. Chairs were: Professor Jonathon Rickford CBE and Professor Dan Prentice. Speakers were: Mike Edbury, DTI, UK; Pierre-Henri Conac, University of Paris I, France; Professor Peter Muelbert, University of Mainz, Germany; Professor Rolf Skog, Stockholm Centre for Commercial Law, Sweden; Professor Marco Ventoruzzo, Bocconi University of Milan, Italy; Mark Warham, Director-General, Takeover Panel, UK; and Daniela Weber-Rey, Clifford Chance, Frankfurt.

The Cross-Border Use of Public Documents: European Law Programme Experts' Meeting

This event was held at the Institute on Monday 26 June 2006. The seminar was staged as part of its project on Legalisation of Public Documents in the European Union. The main topics covered were: the cross-border use of documents in the EU justice area; and the E-Apostille Pilot Programme of the Hague Conference on Private International Law. Speakers were: Peter Beaton European Commission, DG Justice, Freedom and Security Unit C1 (Civil Justice); Dr Christophe Bernasconi First Secretary, Hague Conference on Private International Law; Andrew Dickinson Consultant, Clifford Chance LLP, Visiting Fellow, British Institute of International and Comparative Law, Dr Richard Hansberger, Director of eNotarization, National Notary Association (USA); Professor Jukka Snell Professor of European Law, University of Wales, Swansea; Visiting Fellow, British Institute of International and Comparative Law. The seminar was chaired by David Anderson QC, Brick Court Chambers.

INVESTMENT TREATY FORUM

Sixth Investment Treaty Forum Public Conference: Expropriation in Investment Treaty Law

This event was held at the Honourable Society of Gray's Inn on Friday 5 May 2006. Chairs were: Professor Vaughan Lowe, All Souls College, Oxford, and Essex Court Chambers; Professor Dr Christoph Schreuer, University of Vienna; Lord Steyn, Essex Court Chambers, London. Speakers were: Dr Mona Al-Sharmani Weil, Gotshal & Manges LLP, New York; Nigel

Blackaby, Freshfields Bruckhaus Deringer, Paris; Gary B Born, WilmerHale, London; Abby Cohen Smutny, White & Case, Washington DC; Zachary Douglas, University College London and Matrix Chambers; David Fraser, Baker and McKenzie, London; Sophie Nappert, Denton Wilde Sapte, London; Dr Federico Ortino, Director Investment Treaty Forum, British Institute of International and Comparative Law; Jan Paulsson, Freshfields Bruckhaus Deringer, Paris; Domenico di Pietro, Mayer Brown Rowe and Maw, London; Greg Reid, Linklaters, London; Audley Sheppard, Clifford Chance LLP, London; Robert Volterra, Latham & Watkins, London; Todd Weiler, Naftaclaims.com.

PUBLIC INTERNATIONAL LAW

International Law in Domestic Courts Lecture Series: Polemics and Persuasion - The use of International Law by NGOs

This lecture was given by Peter Carter QC, 18 Red Lion Court Chambers, at the Institute on Tuesday 9 May 2006.

Testing the Boundaries of International Humanitarian Law

This two-day conference took place at the Institute on Thursday 1 and Friday 2 June 2006. The event was organized in association with The McCoubrey Centre for International Law, University of Hull. The purpose of this conference was to complement the launch of the Institute's recent international humanitarian law publication of the same name, by providing an opportunity for some of the authors to present their articles, as well as a forum for discussion of the contentious issues in international humanitarian law raised in the publication in a more general sense. Speakers included, among others: Professor Leslie C Green, University of Alberta; Professor Chris Greenwood, LSE; Professor Françoise Hampson, Essex Centre for Human Rights; Professor Michael Newton, School of Law, University of Vanderbilt; Professor Charles Garraway, Chatham House; Dr Avril McDonald, TMC Asser Instituut; James Johnson, Chief of Prosecutions, Sierra Leone Special Court; Dr Robert Cryer, University of Nottingham, Matthew Happold, University of Hull; Steve Crawshaw, Human Rights Watch and representatives from ICRC as well as representatives of British military forces.

This event was kindly sponsored by The British Academy and British Red Cross.

The Antarctic Treaty System: Legal and Environmental Issues

This event was held at the Playfair Library Hall, Old College, University of Edinburgh on Saturday 10 June 2006. This event was arranged in collaboration with the International Law Association (British Branch) and the Scottish Society of International Law. The conference considered legal issues arising from the Antarctic Treaty regimen and coincided with the Antarctic Treaty Consultative Party Meeting hosted by the United Kingdom from 12–23 June 2006 in Edinburgh. Antarctic legal scholars and delegates to the Consultative Party Meeting were invited to give papers and participate in discussions. The aim of the conference was to provide a forum for analysis of Antarctic legal issues which have a contemporary value both generally and for the purposes of the subsequent Consultative Party Meeting itself. Topics included: 'Future Challenges for the Antarctic Treaty System', 'Antarctic Environmental Legal Issues', 'Marine Protected Areas and the Law', and 'The Antarctic Treaty System: institutional practices and future legal development'. The event was chaired by Louise de la Fayette, UNDOALOS; Alan Brown AM; and Professor Christopher Joyner, Georgetown University. Speakers were: Dr Thomas Bauer, Hong Kong Polytechnic University; Dr Jorge Berguño, Chilean Antarctic Institute; Professor Alan Boyle, Edinburgh University; Jan Huber, Antarctic Treaty Secretariat Argentina; Dr Marie Jacobsson, Swedish Foreign Ministry; Professor Christopher Joyner, Georgetown University; Professor Stuart Kaye, University of Wollongong; Professor Don Rothwell, University of Sydney; Karen Scott, Nottingham University; Professor Gillian Triggs, British Institute of International and Comparative Law; Patrizia Vigni, University of Siena; Ivana Zovko, University of Zagreb.

The Internationalization of Public Law: Insidious, Unavoidable, Beneficial?

Held at the Faculty of Laws, University College, London on Monday 19 June 2006, this seminar was hosted jointly by the Constitutional Law Group and the British Institute of International and Comparative Law. Speakers were Professor David Feldman, University of Cambridge and Professor Colin Warbrick, University of Durham.

Sixth Annual WTO Conference

This event took place at the Honourable Society of Gray's Inn on Tuesday 23 and Wednesday 24 May 2006. The event was organized in association with the [Institute of International Economic Law](#) at Georgetown University Law Centre and the [Journal of International Economic Law](#), and was co-sponsored by [Sidley Austin LLP](#). Panel sessions included: 'What Conduct is a Member Responsible For?', 'Exceptions to the Rules: Evolving Jurisprudence', 'Jurisdictional Issues in WTO disputes: "judicial economy" and "completing the analysis"', 'Treaty Interpretation Revisited: Interpreting Schedules of Concessions Regulatory Convergence - A Role for the WTO?', 'Trade and Investment Disputes: Complement or Conflict?', and 'Doha Development Round: Current and Future Challenges'. The conference was chaired by Professor John H Jackson, Director, Institute of International Economic Law, Georgetown University Law Center; and the Rt Hon Sir Francis Jacobs KCMG QC, King's College London; former Advocate-General, European Court of Justice. Speakers included: Stefan Amarasinha, DG Trade, EC Commission, Brussels; Lorand Bartels, Edinburgh University; Milos Barutciski, Davies Ward, Toronto; Jan Bohanes, Appellate Body Secretariat, WTO, Geneva; Jane Bradley, Georgetown University Law Center, Washington DC; Tim Brightbill, Georgetown University Law Center, Washington DC; Marco Bronckers, WilmerHale, Brussels; Sharif Bhuiyan, Dr Kamal Hossain & Associates, Dhaka; Sungjoon Cho, Chicago-Kent College of Law; Thomas Cottier, University of Bern, WTI; Bill Davey, University of Illinois College of Law; Claudio Dordi, University of Milan; Piet Eeckhout, King's College, London; Lothar Ehring, DG Trade, EC Commission, Brussels; Todd Friedbacher, Sidley Austin LLP, Geneva; Gary Horlick, WilmerHale, Washington DC; Valerie Hughes, Gowlings, Ottawa; John Jackson, Georgetown University Law Center, Washington DC; Meredith Kolsky Lewis, Victoria University of Wellington Law School; Andrew Lang, University of Cambridge; Nicolas Lockhart, Sidley Austin LLP, Geneva; Gabrielle Marceau, Office of the DG, WTO, Geneva; Petros Mavroidis, Columbia University Law School, New York; Donald McRae, University of Ottawa; Intan Murnira Ramli, Kent University; Ibrionke Odumosu, University of British Columbia; Federico Ortino, BIICL, London; Joost Pauwelyn, Duke University Law School; Christian Pitschas, WTI Advisors, Geneva; Don Regan, Michigan Law School; Seema Sapra, King's College, London; Joanne Scott, UCL, London; Debra Steger, University of Ottawa; Liz Stuart, Oxfam, Oxford; Cherise Valles, Advisory Centre on WTO Law, Geneva; Isabelle Van Damme, University of Cambridge; Peter Van den Bossche, Maastricht University; Gaetan Verhoosel, Debevoise & Plimpton LLP, Paris; Moritz Wagner, Riga Graduate School of Law; Bruce Wilson, Legal Affairs Division, WTO, Geneva; Werner Zdouc, Appellate Body Secretariat, WTO, Geneva.

GATS and Financial Services Seminar

This took place at the Institute on Monday 22 May 2006. Topics included: trade in banking services and securities markets: liberalization and competitiveness; trade in insurance services and developing countries; regulatory capacity and financial services; and GATS dispute settlement and financial services. Chairs were: Kern Alexander, University of Cambridge; Professor Mads Andenas, Leicester University; Hamid Mamdouh, Director, Trade in Services Division; Juan Marchetti, Trade in Services Division, WTO; Jonathan Taylor, Director General, London Investment Bankers Association (LIBA). Speakers were: Professor Mads Andenas Leicester University; Professor Christine Breining Institute of International and Comparative Law, University of Zurich; John Cooke Financial Leaders Working Group Insurance Evaluation Team; Alastair Evans Head, Government Affairs, Lloyd's Worldwide Markets, London; Professor Mary Footer, University of Nottingham; Juan Marchetti Trade in Services Division, WTO; Mina Mashayekhi UNCTAD, Geneva; Richard O'Toole Goldman Sachs International, London; Dr Federico Ortino British Institute of International Comparative Law; Dr Dan Sarooshi University of Oxford; David Snyder American Insurance Association; Cory Strupp Federation of American Bankers; Alastair Sutton White & Case, Brussels; Lode Van Den Hende Herbert Smith, Brussels.

TORT LAW

'Barker v Corus—The Emergence of a New Tort?'

Held at the Institute on Monday 5 June, this event was kindly sponsored by Pauly Rechtsanwalte and Linex Legal. Charles Gibson QC, Henderson Chambers was in the chair. Speakers included: Elizabeth-Ann Gumbel QC, 1 Crown Office Row; Colin Ettinger, Irwin Mitchell; Roderick Bagshaw, Magdalen College, Oxford; Thomas Lakenberg, Pauly

Rechtsanwaelte, Bonn; Dr Ariane Dahan; Dr Duncan Fairgrieve, British Institute of International and Comparative Law; Jeremy Stuart-Smith, 4 New Square; Allan Gore, 12 KBW.

PRODUCT LIABILITY

Pharmaceutical Regulation and Product Liability

This event was held on Friday 21 April 2006 at Atlantic House, Holborn Viaduct, London. Topics included: recent developments in US pharmaceutical regulation: update on FDA physician labeling rule, the importance of dialogue between regulators, 'The changing Shape of Pharmaceutical Risk', The PREP Act: liability protection to ensure public health protection against pandemic flu, regulation under the scrutiny of the media, The financial impact of pharmaceutical regulation and litigation, obstacles to access to justice in pharmaceutical cases, A worldwide Forum?, European trends in pharmaceutical litigation, US trends in pharmaceutical litigation, liability arising from clinical trials, global regulation of pharmaceuticals: dialogue, efficiency, safety, and challenges of a world-wide pharmaceutical law suit. Chairs were: Mr Justice Underhill; Jeremy Stuart-Smith QC, 4 New Square; Sarah Houlton, Global Correspondent, Pharmaceutical Executive Magazine; John Meltzer, Lovells. Speakers included: Paula M Stannard, Acting General Counsel, US Department of The Health & Human Services; Professor Salvatore Vincenzo, Head of Legal, EMEA; Dr Peter Feldschreiber, MHRA; Jeffrey Bucholtz, US Department of Justice; Simon Gregor, Director of Communications, Medicines and Healthcare products Regulatory Agency; Andrew Baum, Pharmaceutical Research Team, Morgan Stanley; Martyn Day, Leigh Day and Co; Nicholas Diamand, Lieff, Cabraser, Heimann & Bernstein, LLP, New York; Ina Brock, Lovells; Joe Cyr, Lovells; Duncan Fairgrieve, British Institute of International and Comparative Law; Stefan Lenze, British Institute of International and Comparative Law/Lovells; Professor Marco Bona, Università «Bocconi» di Milano; Rob Weiner, Arnold & Porter; Leigh-Ann Mulcahy, 4 New Square; Ian Dodds-Smith, Arnold Porter; Dr Grant Castle, Covington & Burling; Arundel McDougall, Ashurst; Hervé Tainturier, General Counsel, Sanofi Pasteur SA; Jalil Asif, 4 New Square; David Body, Irwin Mitchell Solicitors; Eric Duranson, Legal Affairs, Sanofi Pasteur SA; Gregory Loss, Chadbourne & Parke LL; Simon Pearl, Davies Arnold Cooper; Anne Ware, Covington & Burling.

This event was kindly sponsored by Four New Square, Lovells and IDS.

Seminar with the MHRA and Professor Jane Stapleton: 'Drug Induced Injury - Risk and Causation'

This seminar took place on Thursday 11 May 2006 at the Traveller's Club. Chaired by Andrew Prynne, QC Henderson Chambers; speakers were Professor Jane Stapleton; Rob Hemmings Senior Statistician, MHRA; and Dr Peter Feldschreiber MHRA, 4 New Square.

INTERNATIONAL COMMERCIAL LAW

The Law on Secured Transactions: The need for Reform

Held on Wednesday 31 May 2006 at the Institute. The event was chaired by Professor Ross Cranston QC, LSE. Speakers were: Spiros V Bazinas, Senior Legal Officer, Secretary of WG VI (Security Interests), UNCITRAL; Professor Hugh Beale QC FBA, Law Commission; Professor Michael Bridge, Dean of the Faculty of Law, UCL; Frederique Dahan, Senior Counsel, European Bank for Reconstruction and Development; Herbert Kronke, Secretary General, UNIDROIT; Philip Wood, Special Global Counsel, Allen & Overy LLP.

PRIVATE INTERNATIONAL LAW

The Future of Consumer Law

This event was held at the Institute on Tuesday 25 April 2006. With a mix of plenary sessions and panels, topics included: Is consumer protection law still needed in 2006?; Fundamental Rights, Fundamental Freedoms and Fundamental Consumer Rights; Neo-Liberalism, Regulatory Capitalism and the Future of Consumer Policy; Crime, Punishment and Consumer Protection; The Future of Consumer Law in the United States—As the Civil Justice System

Goes, So Goes Consumer law; The Need for Uniform Conflict of Laws Rules for Electronic Consumer Contracts; Consumers and Services of General Interest; Post-supply Consumer Guarantees: Theory and Practice—a New Zealand Perspective; Credit Reporting and Credit Scoring; The future of Consumer Law - the Perspective from a Small Island State; Behaviourism, Credit Cards and Bankruptcy; 'Long Live' Consumer Law: Developing Countries' Perspective in the New Millennium; From "Goods and Services" to "Financial Services". Participants were Thierry Bourgoignie, University of Quebec; Jules Stuyck, University of Leuven; Iain Ramsay, Osgoode Hall Law School; Peter Cartwright, University of Nottingham; Richard Alderman, University of Houston; Lorna Gillies, University of Leicester; Peter Rott, University of Bremen; Rae Nield, Solicitor; Karen Gross, University of New York; Paul Micallef, Malta Consumer Affairs Council; Edward Janger, Brooklyn Law School; Gail Pearson, University of Sydney; Jean-Sebastien Borghetti, University of Nantes; Hans Micklitz, University of Bamberg; Christian Twigg-Flesner, University of Hull; Dr Duncan Fairgrieve, British Institute of International and Comparative Law.

This event was kindly sponsored by CLAN, Domestic & General and Which?

The 'Rome I' Proposal: The Law Applicable to Contractual Obligations

This event was held at the Institute on 26 April 2006. Chaired by The Rt Hon Lady Justice Arden DBE, speakers included: Andrew Dickinson, Consultant, Clifford Chance LLP, Honorary Fellow, British Institute of International and Comparative Law; Professor Jonathan Harris, University of Birmingham; Oliver Parker, Department for Constitutional Affairs; Jacob van de Velden, British Institute of International and Comparative Law.

GENERAL

Chalfen Memorial Lecture—'Transnational Corporations and the UN: The Evolution of the International Policy and Legal Debate Over 30 Years'

This event was held on 27 April 2006 at the Institute. Stephen Walzer, Competition Commission/Law Society Regulation Board was in the chair. The speaker was Dr Karl P Sauvant, Executive Director of the Columbia Program on International Investment, Lecturer in Law at Columbia Law School and Special Advisor to the UN Millennium Project. He is also Guest Professor at Nankai University, China.

Digital Evidence Research Programme: Cost Effective Dispute Resolution in the Electronic Era

This event, which was held at the Institute on 4 May 2006 examined topics including:

- Resolving disputes in the electronic era—background
- The challenges of the revised CPR 31 Practical solutions addressing issues of proportionality and speed
- Handy hints and tips
- What the future holds

Speakers were: Stephen Mason, British Institute of International and Comparative Law; Nigel Murray, Managing Director, TRILANTIC; and Simon Sloane, Partner at Holman Fenwick & Willan.

Annual Conference 2006

This event was held on Friday 16 June 2006. For full details, please see the 'Recent Activities' section of this Newsletter.

FORTHCOMING EVENTS 2006

The majority of BIICL events are CPD accredited. Please call +44 (0) 20 7862 5151 for further information.

Please note that the cancellation date for refunds is five working days prior to each event, and that payment is required prior to attendance or at the entrance to the event. Spaces for some events are limited and Members will receive priority on bookings.

To register please email: eventsregistration@biicl.org

July 2006

Thursday 13
Covington & Burling, 265
Strand, London WC2R
1BH
11:00–13:00

[The 2006 Amendments to the ICSID Arbitration Rules](#)

Participants: Dr Antonio Parra Former Secretary General, ICSID Visiting Professor, University College London Faculty of Laws; Dr Federico Ortino British Institute of International and Comparative Law; Robert Pietrowski Covington & Burling, London; Mahnaz Malik International Institute for Sustainable Development; Professor Loukas Mistelis Clive M Schmitthof Professor of Transnational Commercial Law and Arbitration, Queen Mary, University of London; Dr Laurence Shore Herbert Smith LLP, London

Kindly sponsored by Covington and Burling

This is a closed meeting of the Institute's [Investment Treaty Forum](#). If you would like more information on this event or joining the Institute's Investment Treaty Forum, please contact [Hugo Warner](#).

[Additional Info](#)

September 2006

Friday 8
09:00–17:00
Location to be confirmed

[7th Investment Treaty Forum Public Conference: Procedural Aspects of Investment Treaty Arbitration](#)

This is the seventh public conference of the Institute's [Investment Treaty Forum](#). The full programme will be published shortly.

[Additional Info](#)

October 2006

Tuesday 10
Council Chamber, BIICL
14:00–18:00
By invitation only

[Regulation Forum meeting - Dispute Resolution in Telecoms \(European Commission's Communication on the Review of the Regulatory Framework for Electronic Communications\)](#)

Chair: Adam Scott Member, Competition Appeals Tribunal

Speakers: Bernard Langeheine European Commission DG InfoSoc, Director, Electronic Communications Policy; Clive Gordon Ofcom; Andrew Tarrant BT; David Scannell Brick Court Chambers

Thursday 12
The Council Chamber,
BIICL

[How is the Product Safety Regime Working in Practice?](#)

This seminar will present the views of the regulator, the practitioner, insurer and PR consultant. **Jonathan Hemus**, Porter Novelli will present the angle of "crisis communications": how to advise organisations on communicating with stakeholders (the media, employees, customers etc) in a during product recalls. **Phil Bell**, Royal Sun Alliance (tbc) and **Stuart White RPC** will concentrate on ramifications for the insurance sector.

Participants: Dr Antonio Parra Former Secretary General, ICSID Visiting Professor, University College London Faculty of Laws; Dr Federico Ortino British Institute of International and Comparative Law; Robert Pietrowski Covington & Burling, London; Mahnaz Malik International Institute for Sustainable Development; Professor Loukas Mistelis Clive M Schmitthof Professor of Transnational Commercial Law and Arbitration, Queen Mary, University of London; Dr Laurence Shore Herbert Smith LLP, London

This is a closed event of the Institute's [Product Liability Forum](#). Please contact [Andrzej Dethloff](#) for more information on the Forum's activities.

[Additional Info](#)

Wednesday 18
Brussels: Location to be
Confirmed
2006 10:00–17:00

[Market Investigations](#)

This is a closed meeting of the Institute's [Competition Law Forum](#). If you would like more information on how to join the Competition Law Forum, please contact [Peter Whelan](#).

[Additional Info](#)

November 2006

Monday 6
The Old Hall, The
Honourable Society of
Lincoln's Inn, London
WC2A 3TL
17:30–18:30

[30th Annual FA Mann Lecture: Collective Security and Non-Aggression: The Contemporary State of the Law](#)

This is the 30th in a series of annual lectures in honour of the late Dr F A Mann QC, one of the founders of the Institute.

This event has been kindly arranged by the partners of [Herbert Smith](#).

Chair: Professor James Crawford, University of Cambridge and Matrix Chambers

Professor Thomas Franck Murry and Ida Becker Professor of Law Emeritus, New York University School of Law

[Additional Info](#)

Friday 24
London House,
Mecklenburgh Square,
London WC1N 2AB

[BIICL 5th Annual Merger Conference](#)

[Additional Info](#)

December 2006

Wednesday 6
Location to be confirmed
10:00–17:00

[Competition Issues in the Media Sector](#)

John Wotton, Allen & Overy

This is a closed meeting of the Institute's [Competition Law Forum](#). If you would like more information on how to join the Competition Law Forum, please contact [Peter Whelan](#).

NEW PUBLICATION

Independence, Accountability and the Judiciary

published July 2006

ISBN 0-903067-64-1

Hardback

£80/\$160/€120

This new book explores the important and topical subject of judicial independence and judicial accountability. The tension between judicial independence and accountability leads to frequent controversy and even constitutional crises. Judicial independence and accountability are live issues in most countries. Modern constitutions (and international treaties establishing international courts) will have provisions about the independence of courts and judges. International law and principles are becoming increasingly important sources for the application of the independence principle. The different national solutions, and also those found for international courts, vary considerably. Presently, anti-terrorist measures adopted by national executives and legislatures continue to test judicial independence. The constitutional bases for judicial review, and on several levels, the court systems too, are in a process of change.

The tension between judicial independence and accountability has become stronger for a number of reasons. The development of individual civil and human rights in national constitutional law and in European and international law has been accompanied by remedies requiring ever closer judicial review of legislation and executive action. Internationalization requires courts to mediate between the national legal order and European and international law, also outside the field of human rights protection. A situation where courts adjudicate on the balancing of rights and the public interest, requires a stronger protection of judicial independence at the same time as it leads to calls for higher accountability.

This book meets the need for comparative law material and analysis. Contributions from distinguished practitioners and academics place judicial independence and accountability within a comparative law perspective, showing how legal systems across the world have adapted to recent developments in this field.

Guy Canivet is premier président of the French Cour de cassation.

Mads Andenas is Professor of Law, University of Leicester and Senior Fellow, Institute of European and Comparative Law, University of Oxford. He was formerly the Director of the British Institute of International and Comparative Law, London (1999-2005).

Duncan Fairgrieve is Fellow in Comparative Law at the British Institute of International and Comparative Law, and Maître de Conférences at Sciences Po, Paris.