Dear PLF Member,

The Forum Year 2006/2007 is coming to an end and we would like to take this opportunity to thank you for your ongoing support.

It has again been a busy year in terms of events and research activities. We have seen a number of new members join the PLF and would thus like to welcome to the Forum: Berrymans Lace Mawer, Covington & Burling LLP, Sidley Austin LLP, and Weil, Gotshal and Manges.

A whole series of lively PLF Seminars took place during the current year, on topics as diverse as:
- The Third Review of the Product Liability Directive by the European Commission;
- The Operation of the Product Safety regime;
- Regulation and Consumer Protection for Healthcare Products;
- Pharmaceutical Product Liability and Insurance.

These seminars brought together guest speakers from the UK and abroad, and we were particularly fortunate this year to be addressed by many distinguished public sector officials including:
- Mr Erik Hansson and Mr Luis Gonzalez-Vaqué of the European Commission;
- Professor Sir Alasdair Breckenridge, Chairman of the MHRA;
- Professor Kent Woods, CEO at the MHRA;
- Dr Peter Littlejohns, Clinical and Public Health Director of NICE;
- Professor Angus McKay, formerly Chairman of the Health Technology Board for Scotland.

If you were unable to attend any of these events, the seminar papers & materials are available for download on the members-only resources page of our website (www.biicl.org/plf). Do not hesitate to contact us if you should require assistance in accessing these.

Over the past year, we have continued to work closely with the European Commission. Shortly after the release of the Commission’s Third Review of the Product Liability Directive in Autumn 2006, we were asked to organise a stakeholder seminar to provide feedback on this exercise. The resultant PLF Seminar was addressed by Mr Luis Gonzalez-Vaqué of the European Commission and Rod Freeman of Lovells. The presentations were followed by a wide-ranging debate on both procedural issues, as well as substantive issues such as the notion of defect under the Directive, and the relative merits of a regulatory compliance defence.

Our Product Liability Alerter produced with our partner Linex Legal is proving to a big success, with a bi-weekly compilation of articles on topical issues, reaching product liability practitioners all around the world. Further details can be found on the Linex Legal website: www.linexlegal.co.uk/productliability. All members of
the PLF are automatically added to the email distribution of the Product Liability Alerter. Do let us know if you would like any of your colleagues to be added to the distribution list.

This year, we have also undertaken a good deal of research activity. The Product Liability Database continues to grow steadily and includes now 19 countries with new reports in preparation. Duncan Fairgrieve and Professor Geraint Howells have jointly produced a piece on the topic of the implementation of the General Product Safety Directive. This was published in the January 2006 edition of the Modern Law Review: “General Product Safety – a Revolution through Reform?” (2006) 69(1) MLR. Another article on the Commission’s Third Review of the Product Liability Directive will be published later this year in the Modern Law Review.

Duncan Fairgrieve has recently produced a BIICL-published book entitled Accountability; Independence and the Judiciary, with the former Lord Chief Justice of France, Guy Canivet, and Professor Mads Andenas. Dr Fairgrieve has also recently co-authored a book entitled Common Law et tradition civiliste – convergence ou concurrence? published in pocket format by French publishers, Presses Universitaires de France. The publication examines the architecture, institutions and socio-legal context of the common law and civil law systems, as exemplified by France and England.

We are already busy preparing events for the 2007/2008 Forum Year and would be most grateful for your feedback on the last year and suggestions for the coming year.

Yours faithfully,

Faria Medjouba
Research Fellow
Product Liability Forum

At a glance:

Upcoming Events

- **Public Conference on 7 June 2007:** “Product Liability and Mass Tort in a Global Market Place”.
- **PLF Seminar on 12 October 2007:** “Product Liability Litigation in the Automobile Industry: the challenges of Global Litigation”.

Past Events

(i) **Exclusive Forum Events**

- 12 October 2006: “How is the Product Safety Working in Practice?”
- 13 March 2007: “Regulation and Consumer Protection for Healthcare Products – are we being Safe and Effective?”

(ii) **Public Events organized by the PLF and Tort Law Centre**

- 29 March 2006, Oxford Style Debate with Lord Hoffmann: “This House has seen the Collapse of Principle in the Tort of Negligence”

1. **Research Activities**

- Product Liability Database
- Comparative Research for various Government Departments.
- Publications

2. **Membership**

- Full members
- Associate membership via the Product Liability Alerter

3. **Product Liability Alerter**
Forthcoming Event

- **PLF Seminar on 12 October 2007**: “Product Liability Litigation in the Automobile Industry: the challenges of Global Litigation”.

  The Fall Seminar of the Product Liability Forum will focus on the theme of global litigation in the Automobile industry, bringing together leading American and European speakers from industry, practice, and financial institutions. Many topics will be explored including global issues concerning product liability litigation, the relationship between safety standards and liability, developments in group actions in a number of continental European countries, and the development of U.S.-style discovery around the world (including e-Discovery).

  Speakers include **Paul Hecht**, LL.M., Assistant General Counsel – Product Litigation, DAIMLERCHRYSLER AG (Germany); **Adam Jonas**, Head of European Automotive Equity Research, Morgan Stanley; **Timothy C. Smith**, Managing Partner, SMITH & PARTNERS (Germany / China); **Louann Van Der Wiele**, Assistant General Counsel – Product Litigation & Discovery, DAIMLERCHRYSLER COMPANY LLC (USA).

Past Events

Exclusive PLF Events:

11 May 2006  **Drug induced Injury – Risk and Causation**  
Chair: Andrew Prynne QC  
Speakers: The two main presentations were given by Dr **Peter Feldschreiber** from MHRA, a regulator and barrister and by **Rob Hemmings**, a Senior Statistician with the MHRA.

12 October 2006  **PLF Seminar: How is the Product Safety Working in Practice?**  
Chair: **Justin Fenwick QC**, 4 New Square  
Product Safety Regulations’; and Jonathan Hemus, Porter Novelli presented the angle of ‘Crisis Communications’

*Chair: Charles Gibson QC, Henderson Chambers.*  
*Speakers: Luis Gonzalez-Vaque, European Commission; Comments by Rod Freeman, Lovells*

13 March 2007  **PLF Seminar: Regulation and Consumer Protection for Healthcare Products—are we being safe and effective?**  
*Chair: Mr Justice Underhill.*  
*Speakers: Professor Sir Alasdair Breckenridge, Chairman, MHRA; Professor Kent Woods, CEO, MHRA; Dr Peter Littlejohns, Chairman, NICE; and Professor Angus McKay, Chairman of the Health Technology Board for Scotland.*


This joint event brought together PLF members with prominent IADC participants and addressed recent issues relating to pharmaceutical product liability and insurance.  
*Chair: Tripp Haston, Bradley Arant LLP*  
*Speakers: James Bird, Partner at the Life Science Group at JLT Risk Solutions Limited, Mary-Alice Barrett, Litigation Counsel for Bristol-Myers Squibb, Bruce Parker, Partner, Venable, LLP (Baltimore, MD).*

**Research Activities**

- **Product Liability Database**

The Product Liability Database is developing well. During the summer of 2006 we worked hard to create a dedicated extranet for our members, featuring a fully integrated and password-protected database. During the Forum Year we have added reports so that the database now covers 19 countries and we are currently awaiting completion of further reports.
• **Review of the Product Liability Directive**


The Product Liability Forum at BIICL was asked by the European Commission to take part in this official review of the Product Liability Directive. As part of this process, the Forum gave detailed feedback on the practical application of the Directive, drawing upon the Forum’s innovative web-based Product Liability Database which presents legislation and cases on Product Liability across European Member States. A number of PLF members played an active role in reviewing our answers to the Commission’s Questionnaire.

We also held a PLF Seminar on 5 December 2006 with Mr Luis Gonzalez-Vaque at the European Commission in order to discuss the conclusions of the third review of the Product Liability Directive.

• **Publications**

*Product Liability & Safety*


Another major article by Duncan Fairgrieve and Professor Geraint Howells on the Commission’s Third Review of the Product Liability Directive will be emerging later this year in the Modern Law Review.

*Comparative Law*

Duncan Fairgrieve published in January 2006 a comparative Franco-British study on Freedom and Rights, entitled *Droits et Libertés en France et au Royaume-Uni*, and co-authored with two judges from the French Supreme Administrative Court, the Conseil d’Etat, Monsieur le Président Bernard Stirn and Mattias Guyomar. The book examines a number of contemporary public law topics in a comparative perspective, and is published by Odile Jacob.
Duncan Fairgrieve has recently produced a BIICL-published book entitled *Accountability; Independence and the Judiciary*, with the then Lord Chief Justice of France, Guy Canivet, and Professor Mads Andenas.

Dr Fairgrieve has also recently co-authored a book entitled *Common Law et tradition civiliste – convergence ou concurrence?* published in pocket format in 2006 by French publishers, Presses Universitaires de France. The publication examines the architecture, institutions and socio-legal context of the common law and civil law systems, as exemplified by France and England.

Under the supervision of Duncan Fairgrieve, Faria Medjouba has undertaken several comparative projects for various government departments.
Membership

Full Membership

The Forum Year 2006/2007 has seen an increase in membership numbers. Members include:

- Four New Square
- Arnold & Porter LLP
- Ashurst
- Berrymans Lace Mawer
- British American Tobacco
- Clifford Chance
- Covington & Burling LLP
- Davids Arnold Cooper
- Dechert LLP
- Freshfields Bruckhaus Deringer
- Gough Square Chambers (Claire Andrews)
- Henderson Chambers
- Kennedys
- Irwin Mitchell
- Lieff Cabraser Heimann & Bernstein LLP (Nicholas Diamand)
- Lovells
- Smith & Partners
- Reynolds Porter Chamberlain LLP
- Richards Butler Reed Smith LLP
- Sidley Austin LLP
- Shook Hardy & Bacon LLP
- Weil, Gotshal and Manges

Benefits of Full Membership:

- 12 months subscription to the Product Liability Alerter
- An invitation to exclusive Forum events. These are all CPD regulated events. For the list of this year’s past and future events, please see the list below.
- Access to a web-based database of legislation and judicial decisions on Product Liability which is regularly updated, authoritative and user-friendly, and includes analysis from a European-wide network of academics and practitioners; Members of the Forum are allowed exclusive access to the legal materials (statutes, regulations, decisions etc) in original language, and in translated summary. Exclusive access is granted to Members for access to the analytical materials. 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. (A recent example of this was the next day report from Denmark on an important Salmonella Case).

- The opportunity to participate in an independently-run Forum that aims to influence policy, and which provides an arena for ongoing and constructive debate with regulators and other decision-makers. A recent example of this was the PLF Response to the European Commission questionnaire on the application of the PL Directive.
- Opportunity to act as speakers at both the PLF and Public events.
- Attendance at a preferential rate to all public events relate to the field.

From the calendar year 2007, being a member of the PLF also includes a corporate membership in the BIICL for one designated member of the participating organisation.

The benefits include:

- Free subscription to the ICLQ (International and Comparative Law Quarterly) both in print and online
- Bulletin of Legal Developments every two weeks via email
- 40% discount on all BIICL events. Priority booking for all Institute public events
- The Institute holds approx 200 CPD regulated events per year
- Networking opportunities. We hold receptions after a large proportion of our events enabling you to meet professionals from all areas of the legal profession.
- 40% discount on the BIICL publications
- Members rates for accommodation at Goodenough Club, WC1

**Associate membership via the Product Liability Alerter**

- Addleshaw Goddard
- Arthur Cox
- Blake Dawson Waldron
- Clayton Utz
- Faegre & Benson LLP
- Freeth Cartwright LLP
- Matheson Ormsby Prentice
- Shire Pharmaceuticals Group Limited
- Shook, Hardy & Bacon L.L.P
- Tilleke & Gibbins
Benefits of Associate Membership

- 12 months subscription to the Product Liability Alerter Service
- Access to the PLF extensive extranet of information covering Product Liability, Product Safety and Mass Torts

Product Liability Alerter

The Product Liability Alerter, a co-operation between the PLF and Linex Legal, is proving a big success. Every two weeks this product liability devoted email service reaches over 1500 recipients around the globe, including law firms in China, South Korea, Japan, Australia and South Africa.

The idea behind the alerter is a merger of the practice and academic legal worlds with a strong international presence. Apart from providing our members with valuable resources and legal updates, the alerter also fulfills an important publicity function for the Forum and its members.