

***AMERICAN
SOCIETY OF
INTERNATIONAL
LAW***

***PROCEEDINGS
of the
77th ANNUAL MEETING***

**WASHINGTON, D.C.
APRIL 14-16, 1983**

It is the policy of the American Society of International Law not to take an official position, by resolution or otherwise, upon controversial questions. The views expressed in the addresses, remarks and discussions delivered at its annual meetings and appearing in its printed PROCEEDINGS are those of the individual speakers and are not to be taken as representing the views of the Society.

COPYRIGHT © 1985 BY
THE AMERICAN SOCIETY OF INTERNATIONAL LAW
2223 Massachusetts Avenue, N.W.
Washington, D.C. 20008

**PROCEEDINGS OF THE SEVENTY-SEVENTH ANNUAL MEETING
OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW**

CHAIRMAN OF THE COMMITTEE
ON THE ANNUAL MEETING
Ved P. Nanda

EDITOR OF THE PROCEEDINGS
Ved P. Nanda
ASST. EDITOR: *Judith R. Hall*

CONTENTS

Open Forum

PRESIDING: Christopher C. Joyner	1
<i>Legal Dimensions of the Use of Force in the Falklands War.</i> Alberto R. Coll	1
<i>The Canadian State Immunity Act: A Comparative Perspective.</i> Daniel Turp.....	1
<i>The Protection of the Earth-Space Environment: The Utilization of Remote Sensing Satellites to Implement Human Rights.</i> W. Paul Gormley.....	2
<i>International Law in the Nuclear Age.</i> Joseph A. Mikus	2

Iran-United States Litigation

CHAIRMAN: Gerald M. Rosberg	3
REMARKS BY:	
Arthur M. Rovine	3
Brice M. Clagett	7
John Dickey	11
John Hoffman	16
Thomas G. Shack, Jr.	23
Arthur M. Rovine	26

Armed Force, Peaceful Settlement, and the United Nations Charter: Are There Alternatives to "A New International Anarchy"?

CHAIRMAN: Richard N. Gardner	31
REMARKS BY:	
Richard N. Gardner	31
Eugene V. Rostow	33
Brian E. Urquhart	37
Thomas M. Franck	40
John F. Murphy	43
DISCUSSION	45

Joint Luncheon with the Section of International Law and Practice of the American Bar Association: *Need the World Collapse?*

Address by Henry Reuss	51
------------------------------	----

Transnational Litigation: Discovery Abroad

CHAIRMAN: Bruno A. Ristau	58
REMARKS BY:	
Bruno Ristau	58
James G. Hergen	60
Richard H. Saylor	62
John R. Schmertz	67
DISCUSSION	71

Developments, Restatement II

CHAIRMAN: Joseph Modeste Sweeney	74
REMARKS BY:	
Joseph Modeste Sweeney	74

<i>Sections of the Revised Draft Restatement Arousing Interest, Comment, and Controversy.</i>	
Malcolm R. Wilkey	77
<i>Act of State and Other Problems with Restatement II (Revised).</i> Malvina Halberstam	
	80
<i>Some Reflections on the International Law Component of the Foreign Relations Law of the United States: Restatement II (Revised).</i> Christopher Osakwe	
	91
DISCUSSION	96
International Law in International Diplomacy	
CHAIRMAN: Francis O. Wilcox	99
REMARKS BY:	
Seymour J. Rubin	99
Francis O. Wilcox	99
Allan Gotlieb	99
Andrew Jacovides	100
Marcial Perez-Chiriboga	102
Seymour J. Rubin	103
DISCUSSION	103
Business Meeting	
Agenda	105
Eulogies	106
Report of the Executive Director	107
Report of the Director of Studies	109
Elections	111
Election of the Nominating Committee	112
Report of the Committee on the Manley O. Hudson Medal	112
Report of the Committee on Honorary Members	112
Report of the Committee on Annual Awards	112
Report of the Committee on Publications of the Department of State and the United Nations	112
Other business	113
Fair and Unfair Trade in an Interventionist Era	
CHAIRMAN: Seymour J. Rubin	114
REMARKS BY:	
Seymour J. Rubin	114
<i>Can Industrial Policy Be Fair?</i> Philip H. Trezise	116
<i>Just Friends: The U.S.-EEC Agricultural Export Subsidies Standoff.</i> Marsha Echols	119
<i>Technology Trade.</i> John H. Barton	130
<i>Indeterminacy and Legitimation Problems in the Regulation of International Trade.</i> D.K. Tarullo	140
REMARKS BY:	
Robert Herzstein	146
D.K. Tarullo	148
DISCUSSION	149
Law of the Sea	
CHAIRMAN: Bernard H. Oxman	150
REMARKS BY:	
Elliot L. Richardson	150
Andres M. Aguilar	153
Theodore Kronmiller	155
Bernard H. Oxman	157
COMMENTARY BY:	
Jan Schneider	161

Keith Highet	164
DISCUSSION	166
The Control of Violence in a Lebanese Context	
CHAIRMAN: Covey T. Oliver	168
REMARKS BY:	
Covey T. Oliver	168
Harold Saunders	169
Alfred P. Rubin	171
<i>Aggression of Self-Defense in Lebanon in 1982?</i> W. Thomas Mallison	174
COMMENT BY:	
George K. Walker	183
REMARKS BY:	
John F. Murphy	183
Jordan Paust	186
DISCUSSION	189
Effectiveness of the United Nations	
CHAIRMAN: Benjamin B. Ferencz	191
REMARKS BY:	
Benjamin B. Ferencz	191
Paul C. Szasz	192
Robert Rosenstock	195
Anthony A. D'Amato	199
COMMENT BY:	
Allan Gerson	201
Ved P. Nanda	202
SUMMARY BY:	
Benjamin B. Ferencz	203
DISCUSSION	205
Humanitarian Law	
MODERATOR: George K. Walker	212
<i>Grotius: His Relevance to Present Day Law of Armed Conflict.</i> Frits Kalshoven	213
<i>Problems of the Law of Armed Conflict in Lebanon</i>	
REMARKS BY:	
Richard A. Falk	214
Eugene V. Rostow	217
Francis A. Boyle	223
COMMENTS BY:	
W. Michael Reisman	236
Frits Kalshoven	239
REMARKS BY:	
Robbie Sabel	240
Extraterritorial Application of U.S. Export Controls—The Siberian Pipeline	
CHAIRMAN: Kingman Brewster	241
REMARKS BY:	
Donald DeKieffer	242
Werner Hein	243
Sherman E. Unger	250
Charles McC. Mathias	256
Roderic Braithwaite	259
John Ellicott	262
DISCUSSION	267

Settlement in the Middle East: What Would It Look Like and Can We Get There from Here?	
CHAIRMAN: Thomas M. Franck	271
ROUND TABLE DISCUSSION	271
DISCUSSION FROM THE FLOOR	285
Can the GATT Resolve International Trade Disputes?	
CHAIRMAN: William Diebold	287
<i>Introductory Remarks by:</i>	
William Diebold	287
REMARKS BY:	
Sir Roy Denman	287
DISCUSSION	288
REMARKS BY:	
Olin Wethington	289
Robert C. Cassidy, Jr.	289
DISCUSSION	290
Legal Principles and Practices Relating to Private Foreign Investment	
CHAIRMAN: David G. Gill	292
REMARKS BY:	
David G. Gill	292
Bruce Wilson	293
Comment by David G. Gill	295
REMARKS BY:	
James V. Hackney	296
Comment by David G. Gill	299
Comment by James V. Hackney	300
REMARKS BY:	
Gerald T. West	300
Heribert Golsong	303
Gerald R. Aksen	307
DISCUSSION	310
Restructuring Sovereign Debt—Will There be New International Law and Institutions?	
CHAIRMAN: Charles N. Brower	312
<i>Restructuring Sovereign Debt.</i> Graeme F. Rea	312
<i>International Debt Problems: The Role of the World Bank.</i> George R. Hoguet	317
<i>Restructuring Sovereign Debt: The Perspective of the Sovereign Debtor.</i> Christine D. Bogdanowicz-Bindert	323
ADDITIONAL REMARKS	326
DISCUSSION	326
COMMENT BY:	
Cecil Hunt	331
Adjudication of Foreign Expropriations in U.S. Courts	
CHAIRMAN: Mark B. Feldman	335
REMARKS BY:	
Mark B. Feldman	335
Andreas F. Lowenfeld	340
Fred L. Morrison	342
Victor Rabinowitz	343
DISCUSSION	344

Space Telecommunications—Issues and Policies

CHAIRMAN: Stephen Gorove 346

INTRODUCTION BY:
Stephen Gorove 346

Space Telecommunications—Issues and Policies: Role of the United Nations. Nandasiri Jasentuliyana 347

The Plenipotentiary Conference of the International Telecommunication Union, Nairobi, 1982: A Summary of Results. Samuel E. Probst 354

REMARKS BY:
Ronald F. Stowe 360
Bert Cowlan 363

COMMENTS BY:
Eilene Galloway 364
David Small 366

DISCUSSION 367

Annual Dinner

Extraterritoriality and Conflicts of Jurisdiction. Address by Kenneth W. Dam 370

Human Rights—Effective Remedies

CHAIRMAN: Thomas Buergenthal 377

International Measures Against Arbitrary Killings by Governments. David Weissbrodt 378

REMARKS BY:
Aryen Neier 387
Rosalyn Higgins 391
Theodor Meron 397

DISCUSSION 404

Philip C. Jessup International Law Moot Court Competition 409

Ten Years after Stockholm—International Environmental Law

CHAIRMAN: Ved P. Nanda 411

International Environmental Law and the Work of the International Law Commission. Stephen C. McCaffrey 414

The Struggle for the Internationally Shared Environment: The United States Abdicates Its Leadership Role. Gunther Handl 418

Environment and Development. Howard Taubenfeld 423

COMMENTS BY:
M. Cherif Bassiouni 426
Robert E. Lutz, II 428
George William Sherk 430
Jan Schneider 431

DISCUSSION 432

Appendices

Association of Student International Law Societies: The Executive Secretary's Report 435

Officers and Committees of the ASIL for the Year 1983-1984 444

Board of Review and Development 447

Report of the Ad Hoc Committee to Review the Organization and Activities of the American Society of International Law 448

Contributing and Supporting Members, 1983 454

Index 455