# American Journal of International Law

*VOLUME 67* 1973



Published by The

American Society of International Law

#### The American Society of International Law

The American Society of International Law was organized in 1906 "to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice."

The Society serves as a meeting place and forum for scholars, teachers, officials, lawyers, and others, from some one hundred countries. In April, it holds a three-day Annual Meeting in Washington at which current problems of international law are discussed. The Society also sponsors regional meetings outside of Washington in co-operation with other institutions. Salient questions of international law and relations are considered in depth by panels and study groups organized by the Society's Board of Review and Development. Works of scholarship are often published under the Society's auspices in connection with studies sponsored by the Board.

The Society periodically issues three publications:

The American Journal of International Law, the leading journal in the field of international law, has been published since 1907. A special issue of the Journal carries the papers and discussions of the annual meeting of the Society. The Journal is distributed to all members of the Society without additional charge, and is available to non-members at a subscription rate of \$30 a year.

International Legal Materials, a bimonthly, is a unique international collection of texts of current official documents, including legislation, treaties, court decisions, and reports. Subscription rates are \$15 a year for members of the Society, \$35 for others.\*

The monthly *Newsletter* provides members with news of the Society and other organizations in the field.

Society membership is open to all persons of whatever nationality and profession who are interested in its objectives. Dues are: regular, \$25 for residents of the United States, \$10 for non-residents;\* professional, \$40; intermediate, \$15; student, \$7.50. Application for membership may be made on the form printed at the back of this issue of the JOURNAL.

#### OFFICERS OF THE SOCIETY, 1973-1974

Honorary President Myres S. McDougal
President William D. Rogers
Vice Presidents RICHARD N. GARDNER, ERNEST A. GROSS, ROSALYN HIGGINS
Executive Vice President Stephen M. Schwebel
Honorary Vice Presidents: William W. Bishop, Jr., Herbert W. Briggs, Arthur H. Dean, Hardy C. Dillard, Leo Gross, John N. Hazard, James N. Hyde, Philip C. Jessup, Harold D. Lasswell, Monroe Leigh, Charles E. Martin, Brunson MacChesney, Oscar Schacter, John R. Stevenson, Robert R. Wilson.
Secretary Edward Dumbauld
Treasurer Franz M. Oppenheimer
Assistant Treasurer LAMES C. CONNER

<sup>&</sup>lt;sup>e</sup> As of January 1974, regular subscriptions for *International Legal Materials* will be \$45; dues for non-resident members will be \$15.

#### **BOARD OF EDITORS**

### Editor-in-Chief RICHARD R. BAXTER Harvard Law School

RICHARD B. BILDER
University of Wisconsin Law School

THOMAS BUERGENTHAL
State University of New York, Buffalo

JOHN CAREY New York, N. Y.

JEROME A. COHEN Harvard Law School

ALONA E. EVANS Wellesley College

RICHARD A. FALK Princeton University

THOMAS M. FRANCK New York University

LOUIS HENKIN
Columbia University School of Law

MONROE LEIGH Washington, D. C.

RICHARD B. LILLICH University of Virginia Law School

OLIVER J. LISSITZYN
Columbia University School of Law

BRUNSON MACCHESNEY
Northwestern University Law School

STANLEY D. METZGER
Georgetown University Law Center

JOHN NORTON MOORE
University of Virginia Law School

COVEY T. OLIVER
University of Pennsylvania
Law School

WILLIAM M. REISMAN Yale Law School

STEFAN A. RIESENFELD University of California Law School

OSCAR SCHACHTER New York, N. Y.

STEPHEN M. SCHWEBEL Washington, D. C.

Louis B. Sohn Harvard Law School

ERIC STEIN
University of Michigan Law School

JOHN R. STEVENSON New York, N.Y.

MARJORIE M. WHITEMAN Liberty Center, Ohio

#### Honorary Editors

WILLIAM W. BISHOP, JR.
University of Michigan Law School

HERBERT W. BRIGGS Cornell University

HARDY C. DILLARD
University of Virginia Law School

LEO GROSS

Fletcher School of Law and Diplomacy, Tufts University PHILIP C. JESSUP New York, N. Y.

MYRES S. McDougal Yale Law School

PITMAN B. POTTER American University

JOHN B. WHITTON Princeton University

ROBERT R. WILSON Duke University

Assistant Editor
ANNE PATRICIA SIMONS

Editorial Assistant
ROSEMARY G. CONLEY

Assistant Editor Emerita ELEANOR H. FINCH

## AMERICAN JOURNAL OF INTERNATIONAL LAW

CONTENTS

1973

July 1973, pp. 423–640; No. 4, October 1973, pp. 641–840.]	),
	PAGE
The Amendments to the Rules of Procedure of the International Court of Justice  Eduardo Jiménez de Aréchaga	1
Poland's Western Frontier and the 1970 Treaties  Krzystof Skubiszewski	23
Berlin and the Quadripartite Agreement of 1971 Günther Doeker, Klaus Melsheimer, and Dieter Schröder	44
A New Legal Framework for Trade Between the United States and the Soviet Union: The 1972 US-USSR Trade Agreement Robert Starr	63
The Twenty-Fourth Session of the International Law Commission Richard D. Kearney	84
National Jurisdiction and International Responsibility: New Canadian Approaches to International Law Allan Gotlieb and Charles Dalfen	229
The Protection of Shareholders' Interests in the Light of the Barcelona Traction Case F. A. Mann	259
After Bangladesh: The Law of Humanitarian Intervention by Military Force  Thomas M. Franck and Nigel S. Rodley	275
El Chamizal Philip C. Jessup	423
The Admission of Judges Ad Hoc in Advisory Proceedings: Some Reflections in the Light of the Namibia Case Michla Pomerance	446
International Law Aspects of Repatriation of Prisoners of War during Hostilities  Richard A. Falk	465
Natural Justice at the United Nations: The Rhodesia Case  Michael Stephen	479
Aircraft Hijacking: What is Being Done Alona E. Evans	641
Confronting Total War: A "Global" Humanitarian Policy Jacques Freymond	672
International Law Aspects of Repatriation of Prisoners of War During Hostilities: A Reply  Howard S. Levie	693
Some International Law Problems Posed by the Nationalization of the Copper Industry by Chile Francisco Orrego Vicuña	711
The Jurisprudence of the Foreign Claims Settlement Commission: Chinese Claims Charles Ford Redick	728

VOLUME 67

Editorial Comment:	PAGI
In Memoriam: Wolfgang Gaston Friedmann	
John N. Hazard, Louis Henkin, and Oliver J. Lissitzyr	102
In-Flight Crime and United States Legislation Oliver J. Lissitzyr	306
Hans Kelsen: October 11, 1881-April 15, 1973 Leo Gross	491
Charles Ghequiere Fenwick: 1880-1973 Alwyn V. Freeman	501
The Doctrine of Self-executing Treaties and Community Law: A Pioneer Decision of the Court of Justice of the European Community  Stefan A. Riesenfeld	•
International Terrorism and International Criminal Jurisdiction  Leo Gross	<b>50</b> 8
Notes and Comments:	
United States Ratification of the Hague Convention on the Taking of Evidence Abroad Philip W. Amram	
Mini-States and a More Effective United Nations Stephen M. Schwebei	! 108
The Service of Professor Brunson MacChesney as Acting Editor-in-	
Chief of the Journal  Richard R. Baxter	116
Annual Meeting of the American Society of International Law Anne Simons	117
U.S. International Law Digests: Some History and a New Approach Arthur W. Rovine	314
International Law as a Cultural Excrescence Alfred P. Rubin	319
New Student Journals Ann Simons	324
Legal Aspects of the Continued Detention of Pakistani Prisoners of War by India Howard S. Levie	512
The US-USSR Trade Agreement From a Soviet Perspective Harold J. Berman	516
The Twelfth Session of the Hague Conference on Private International Law Philip W. Amram	522
The Francis Déak Prizes Anne Simons	531
Recent Movements toward Strengthening the International Court of Justice Eberhard P. Deutsch	741
Public Debt and Sovereign Immunity: Some Considerations Pertinent to S.566  G. R. Delaume	745
Correspondence:	
Letters by Thomas Ehrlich and Carl B. Spaeth to John R. Stevenson, Legal Adviser, Department of State	325
Teaching International Law Alfred P. Rubin	757
Reply to Professor Marek Bruno Simma	<b>75</b> 8
Contemporary Practice of the United States Relating to International  Law Arthur W. Rovine 118, 328, 533	, 760

Copyright © 1973 by The American Society of International Law Second-class postage paid at Lancaster, Pa. 838

840

Table of Cases

Index