Foreword

From its beginning, the Society established as one of its primary functions the regular collection, publication, and dissemination of important international legal materials. These materials were first published as a section of the *American Journal of International Law*, and since the 1960s as the current stand-alone *International Legal Materials* publication. The publication met a critical need in that earlier era—when access to primary source legal materials was limited. Today, access to information is no longer a problem. Indeed, our challenge is too much information. And therein we find a continuing mission for *International Legal Materials*.

The dramatic growth in the international legal field makes it nearly impossible for scholars and practitioners—let alone the general public—to keep abreast of the most important international legal developments. Fortunately they can rely on our staff and Editorial Advisory Committee to sift through the vast array of documents, identify those that are truly significant, and highlight them in *International Legal Materials* and our bi-weekly electronic bulletin, *International Law in Brief.* The Society's periodic *ASIL Insights* provide additional analysis of particularly high-profile developments.

Beginning in 2007, we have been supplementing all documents published in *International Legal Materials* with an introductory note from one of the many experts ASIL counts among its members. These notes provide summaries of the documents and key insights into their significance. In this volume we feature notes by Cristian DeFrancia, Chimène I. Keitner, Frans Viljoen, Antoine Buyse, Georgios Petrochilos, Guglielmo Verdirame, Susan H. Bitensky, Neha Jain, and Diana Goff. We are extremely grateful to these authors, and we are confident that you will value their contributions as well.

Please send us your comments and suggestions as we continue our efforts to meet the evolving needs of the international legal community.

Sincerely,

Elizabeth Andersen Chair Editorial Advisory Committee International Legal Materials

International Legal Materials®

Statement of Editorial Policy

International Legal Materials is a core publication of The American Society of International Law that reproduces texts of documents reflecting the broad scope and evolution of international law. The range of covered subjects has expanded from traditional topics such as international organizations, jurisdiction, and international trade to include developments in fields such as intellectual property, environmental law, nuclear non-proliferation, human rights, and international criminal law.

International Legal Materials serves as both a bi-monthly information service and a widely recognized archive of international law documents for a diverse, global community of legal scholars, government officials, private practitioners and institutions sharing a common interest in international law. To meet the varied demands of such a readership, documents are selected from world-wide sources on the basis of their present and future legal significance.

International Legal Materials is prepared for publication in Washington, D.C., with both the advice of the Editorial Advisory Committee and the assistance of Corresponding Editors around the world. In order to reproduce the texts of selected documents under tight production schedules, the best available source is used, whether electronic or printed.

Readers are invited to send comments to:

Djurdja Lazić Managing Editor, *International Legal Materials* The American Society of International Law 2223 Massachusetts Avenue, NW Washington DC 20008-2864

Subscription Information

International Legal Materials (ISSN 0020-7829) is published bi-monthly (in January, March, May, July, September and November) by The American Society of International Law, 2223 Massachusetts Avenue, NW, Washington, DC 20008-2864.

For 2010 subscriptions, the rate for Society members in the U.S. is \$155; outside the U.S., \$215 (airmail delivery). The rate for non-members of the Society is \$255; outside the U.S., \$315 (airmail delivery). Subscriptions are on an anniversary basis of twelve months starting from start of subscription.

Back Issues and Indices

ILM Volumes 1-49 (1962-2010) are available from William S. Hein & Co., 1285 Main Street, Buffalo, NY 14209-1987, toll-free (800) 828-7571, http://www.wshein.com. Hein's prices for back issues vary according to the ILM volume.

Both an annual table of contents and an annual index are carried in the November issue of each volume. Decennial Indices for *International Legal Materials* are available from Hein for the following periods: 1962-1969, 1970-1979, and 1980-1989.

ILM is also indexed by ABC POL SCI, IBZ-International Bibliography of Periodical Literature, Marine Affairs Bibliography, and Public Affairs Information Service.

Online Access and Microfiche

International Legal Materials is available online through:

LEXIS/NEXIS — http://www.lexis-nexis.com Westlaw — http://www.westlaw.com

Complete and odd volumes of *International Legal Materials* are available on microfiche from William S. Hein & Company, 1285 Main Street, Buffalo, NY 14209-1987, toll-free (800) 828-7571, http://www.wshein.com

ILM Tables of Contents — Online

Recent ILM Tables of Contents are stored at The American Society of International Law website, http://:www.asil.org. The Society's search engine can also be used to find the ILM citation of recently reproduced documents.

Advertising

Inquiries about advertising rates and specifications should be directed to the Marketing Manager at the above address, phone or fax (but not e-mail address).

© The American Society of International Law 2010

Change of Address, Claims and Correspondence

Please inform the ASIL Service Center of a change of address in writing at least 60 days prior to moving in order to assure uninterrupted receipt of ILM. Your post office will not automatically forward your subscription. Claims for undelivered issues must be made in writing within three months of the publication date, which is available online at http://www.asil.org/claims.htm.

All correspondence regarding subscriptions and claims should be addressed to:

ASIL Service Center Association Headquarters Telephone: (856) 380-6810 Fax: (202) 986-4234 E-mail: services@asil.org http://www.asil.org

Authorization to Photocopy

For **permission to reuse** materials from *International Legal Materials*, please access www.copyright.com, or contact the Copyright Clearance Center, Inc. (CCC), 222 Rosewood Drive, Danvers, MA 01923, USA, (978) 646-2600. CCC is a not-for-profit organization that provides licenses and registration for a variety of users.

Statement of Ownership, Management, and Circulation (Act of August 12, 1970; 39 U.S.C. §3685)

Filed November 2009, International Legal Materials (issued six times a year, January, March, May, July, September, November, and December), Cadmus Professional Communications, 3575 Hempland Road, Lancaster, PA 17601. Published by the American Society of International Law, 2223 Massachusetts Avenue, NW, Washington D.C. 20008-2864. Managing Editor: Djurdja Lazic, American Society of International Law, 2223 Massachusetts Avenue, NW, Washington D.C. 20008-2864. Owner, The American Society of International Law. Average number of domestic and international copies per issue, last 12 months: total printed, 1813; mail subscriptions, 1189; total paid circulation, 1689; free distribution, 47; total distribution, 1736. For single issue nearest to filing date: total printed, 1673; mail subscriptions, 883; total paid circulation, 1333; free distribution, 50; total distribution, 1383.

Copyright © 2010 by The American Society of International Law.

Printed by Cadmus Professional Communications, Lancaster, PA 17601

Periodicals postage paid at Washington, DC and additional mailing offices. POSTMASTER: Send address changes and returns to ILM, 2223 Massachusetts Avenue, NW, Washington, DC 20008-2864. Return postage guaranteed.

Guidelines for Submission of Documents

The ILM Office welcomes any effort to bring suitable documents to the Office's attention. Electronic files or web links are required for publication, although printed texts can be used for initial deliberations regarding republication.

The authenticity (i.e. official version status) of submitted documents must be easily verifiable. This is facilitated by submitting files or print versions which are clearly attributable to the original source, or by providing links to documents on the original source's official website.

If the official version of a document is not available in English, an unofficial translation is acceptable. The original text must accompany such a translation.

Introductory Notes

Introductory Notes are brief articles from one to three pages in length which are intended to provide background information for a document reproduced in ILM.

For example, an Introductory Note for a treaty might include a short history of the negotiations, the dates of signature and entry into force. An Introductory Note for legislation would give its history and international significance, while one for judicial proceedings would provide the background of the case.

The views of authors in Introductory Notes are their own and do not necessarily reflect those of either the American Society of International Law or the Managing Editor.

Acceptance of Materials and Corrections

Print submissions cannot be returned. Translators and others submitting material will be notified of the acceptance of their document for publication.

Once a translation or Introductory Note has been accepted for reproduction, the American Society of International Law will send a publication agreement to the author.

Translators and Introductory Note Authors shall be acknowledged in *International Legal Materials*.

In some cases minor editorial or typographical alterations may be made without contacting the author or translator. Major corrections will be sent to the author or translator for approval. Corrected Introductory Notes or translations must be returned within the time specified.

Contributions and Correspondence

Please address all correspondence to:

Djurdja Lazić Managing Editor, *International Legal Materials* 2223 Massachusetts Avenue, NW Washington, DC 20008-2864

Telephone: (202) 939-6000 Fax: (202) 797-7133 E-mail: dlazic@asil.org

International Law In Brief

The Attorney-Editor of *International Legal Materials* also publishes the e-mail newsletter *International Law In Brief*, which contains objective abstracts of recently released documents pertinent to international law.

Documents abstracted in *International Law In Brief* are later considered for reproduction in *International Legal Materials*.

A complete *International Law In Brief* archive is located at The American Society of International Law website (http://www.asil.org). A search engine provides an easy way to find abstracts of specific documents.

The *International Law In Brief* publication is free, but has an independent subscription.

To subscribe, visit us at:

http://www.asil.org/subscribeelectronic.cfm

Leave the subject blank, and in the message space write: For further information, please contact:

Djurdja Lazić at dlazic@asil.org

Managing Editor

Djurdja Lazić

Editorial Advisory Committee

Elizabeth Andersen, *Chair*Christina M. Cerna
John R. Crook
Chiara Giorgetti
Anne Joyce

K. Russell LaMotte Keith Loken Nancy L. Perkins Rafael Porrata-Doria David Stewart Charles Owen Verrill Bruce Zagaris Nassib G. Ziadé

Members Emeriti
John Lawrence Hargrove

ILM Corresponding Editors

Philip C. Aka (Int'l Human Rights Law) Judge Leslie Alden (Int'l Ass'n Women Judges) Evelina Teubal Alhadeff (Mercosur, Argentina) Don Anton (Int'l Env., LOS) Bjorn Arp (Pub. Int'l) David J. Attard (Malta) Valentina Azarov (Int'l Humanitarian Law)
Paolo Bargiacchi (Int'l Hegemonic Law)
Welber Barral (Brazil, Int'l Trade)
Elizabeth Stubbins Bates (Human Rights) Delroy Beckford (Trade Remedies)
Jean-François Bellis (European Communities) Dhrubajyoti Bhattacharya (Health Law) Christiane Bourloyannis (Human Rights, UN) Charles H. Brower, II (Pub. Int'l, Arbitration) Gian Luca Burci (Int'l Health) William E. Butler (CIS) David JA Cairns (Investment Arbitration) N. Jansen Calamita (Pub. Int'l and Investment Law) Alejandra Torres Camprubí (Int'l Environmental Law) James H. Carter (U.S. Second Circuit) John P. Cerone (Human Rights) Elizabeth Chien Hale (IP) Sudhir Chopra (India) Carl Q. Christol (Communications, Outer Space) Nivoi Christopoulou (European Union) John P. Cogan, Jr. (U.S. Fifth Circuit) Alice De Jonge (Multinational Corp. Resp.)
Melaku Geboye Desta (AU, Agriculture, WTO) Christian De Vos (Human Rights) Janelle Diller (Int'l Labor Law) John R. Dugard (Southern Africa) Mete Erdem (Int'l Env., Turkey) Stephanie Farrior (Int'l Hum. Rights) Richard I. Fine (U.S. Ninth Circuit) Ruth Frolich (ICTY) Kimberly Gahan (Nat'l Security) Hannah R. Garry (Int'l Human Rights) Giacomo Gattinara (Int'l Econ. Law) Maria Gavouneli (Greece, Cyprus, LOS) Dencho G. Georgiev (Bulgaria)
Kevin R. Gray (Int'1 Trade and Environment)
Dermot Groome (Int'1 Humanitarian)
Eckhard Hellbeck (Int'1 Dis. Res.)
Jean-Marie Henckaerts (Int'1 Humanitarian Law) Cecil Hunt (Anti-Bribery Laws and Regulations) Chris Jenks (Int'l Human Rights, Int'l Humanitarian Law) Larry D. Johnson (Int'l Atomic Energy Agency) Scott T. Johnson (Int'l Criminal Law, Extradition) Sami Kallel (Maghreb) Jorge H. Kamine (Int'l Banking, Mergers & Acquisitions) Mark Kantor (Int'l Bus., Int'l Arbitration) Susan L. Karamanian (Investment Arbitration) Nicholas Karambelas (Commercial Treaties, LOS) Kenneth Klein (Int'l Taxation) Christina Knahr (Int'l Investment Arbitration) Jeffrey D. Kovar (Pub. and Private Int'l Law) Yaraslau Kryvoi (Int'l Investment Arbitration) Artur Kowalski (Poland, Pub. Int'l)

Yaraslau Kryvoi (Int'l Economic Law, Russia/CIS) Karin Landgren (Children)

Arnold H. Leibowitz (Immigration) Frankie F.L. Leung (Hong Kong)
John Linarelli (Int'l Public Procurement) Ben Love (Int'l Investment Arbitration) Jim Lynch (Int'l Tax) Pedro J. Martinez-Fraga (Int'l Litigation) Chad G. Marzen (Int'l Law in U.S. Courts) Andrew Mitchell (WTO) Charbel A. Moarbes (Int'l Arbitration) Saira Mohamed (Int'l Human Rights) Lelia Mooney (Rule of Law Reform) Jason Morgan-Foster (ICJ, ILC) Daryl A. Mundis (ICC, ICTR, ICTY) Boldizsár Nagy (Hungary) Andrew Newcombe (Int'l Investment Arbitration) Michael O'Boyle (European Court of Human Rights) Kolawole Olaniyan (Africa) Maria Angela Jardim de Santa Cruz Oliveira (WTO) Fabrizio Pagani (OECD) Erin Louise Palmer (Human Rights) Jason Palmer (Pub. Int'l) John R. Pate (Andean Community of Nations) Bimal N. Patel (Pub. Int'l) T. Michael Peay (Pub. Int'l) Eric Pelofsky (Int'l Orgs.)
Hernan Perez-Loose (Int'l Investment)
Ryan Phair (Pub. Int'l) Shawn Pompian (Int'l Trade) Charles H. Poncet (Switzerland) Amelia B. Porges (WTO) Norman Printer (Int'l Humanitarian) Vikram Raghavan (World Bank) Heiko Recktenwald (German, WIPO) Gustavo Ferreira Ribeiro (Brazil, Int'l Economic Law) August Reinisch (European Law) Kenneth M. Rosen (Reg. Int'l Bus.) Nicholas Rostow (Pub. Int'l Law) Timothy Rudy (OAS) Ewa Sakiewicz-Munnerlyn (Poland) Gerald S. Schatz (Bio-Medical Ethics/Health) Richard F. Scott (International Energy Agency) Jeremy Sharpe (Int'l Dis. Res.) William Slomanson (Pub. Int'l) Henri Smets (Int'l Env. Law, OECD) Stefaan Smis (Belgium) Brigitte Stern (France) Sompong Sucharitkul (Southeast Asia and the Pacific) Jiri Toman (Law of War) Patricia Cassar Torregiani (LOS, Maritime Security) Antônio Augusto Cançado Trindade (Brazil, IACHR) Alexander Umole (Nigeria, IBT) Kim Van der Borght (Belgium) Jorge A. Vargas (Mexico) Manuel E. Ventura-Robles (IACHR) Rebecca M.M. Wallace (United Kingdom) John Wilson (Private Int'l Law) Rick Wilson (Human Rights) Anthony Winer (Caspian Sea, Corruption) Yozo Yokota (Japan)

Simon Young (Money Laundering) Alberto Zuppi (Int'l Crim.)

INTERNATIONAL LEGAL MATERIALS

Volume 49 — No. 6 — 2010

— Contents —

(Introductory Note by Cristian DeFrancia	1487
]	Kiobel v. Royal Dutch Petroleum Co. (2d Cir.) Introductory Note by Chimène I. Keitner	1510
	Sudan Human Rights Org. v. Sudan; Ctr. for Hous. Rights & Evictions v. Sudan (Afr. Comm'n on H. & Peoples' R.) Introductory Note by Frans Viljoen	1569
(Gäfgen v. Germany (Eur. Ct. H.R.) Introductory Note by Antoine Buyse	1597
ı	UNCITRAL Revised Arbitration Rules Introductory Note by Georgios Petrochilos	1640
(Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel Introductory Note by Guglielmo Verdirame	1659
	Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Council of Europe) Introductory Note by Susan H. Bitensky	1663
	Co-Prosecutors' Notice of Appeal Against the Judgement of the Trial Chamber in the Case of Kaing Guek Eav Alias Duch (ECCC) Introductory Note by Neha Jain	1683
I	Prosecutor v. Šešelj (ICTY) Introductory Note by Diana Goff	1689
BRIE	BRIEFLY NOTED	
RES	OLUTIONS	1706
INDI	EX	1711
TAB	LE OF CASES	1719

VOLUME 49 — NUMBER 6