

COMMENTARIES ON PRIVATE INTERNATIONAL LAW THE PILIG NEWSLETTER

Editors' Notes

We are pleased to introduce *Commentaries on Private International Law*, the new newsletter of the American Society of International Law (ASIL) Private International Law Interest Group (PIL-IG). The name of our newsletter, *Commentaries*, represents a humble tribute to one of the founding fathers of modern PIL, Joseph Story, by borrowing the name of his seminal book "Commentaries on the Conflict of Laws, foreign and domestic," and only replacing "Conflict of Laws" with "Private International Law" to better reflect the broader object of our discipline nowadays.

The primary *purpose* of our newsletter is to communicate *news* on Private International Law. Accordingly, the newsletter attempts to transmit information on new developments on PIL rather than provide substantive analysis, with a view to providing specific and concise raw information that PIL-IG members can then use in their daily work. These new developments on PIL may include information on new laws, rules and regulations; new judicial and arbitral decisions; new treaties and conventions; new scholarly work; new conferences; proposed new pieces of legislation; and the like.

Commentaries aims to be a truly *global* newsletter, by reporting news from all major legal systems of the world, which may have different conceptions of PIL. Thus, the PIL-IG newsletter is framed in a rather broad sense, comprising all types of situations generating potential conflicts

of laws and/or jurisdictions, regardless of the "international" or "internal," or "public" or "private" nature of those conflicting regulations.

To achieve what is perhaps the first comprehensive global approach to PIL, *Commentaries* includes five sections dealing with regional issues, edited by specialists on the field: Africa, edited by Richard Frimpong Oppong; Asia by Cristián Gimenez Corte and Chi Chung; the Americas by Cristián Gimenez Corte and Jeannette Tramhel (Central and South America), and Nadia B. Ahmad (North America); Europe, by Massimo Benedettelli, Marina Castellaneta, and Antonio Leandro; and Oceania, by Emma Wanchap. This first issue of *Commentaries* covers events that occurred in 2014 and occasionally in 2013. *Commentaries* also includes a Guest Editorial on the Restatement (Fourth) of Foreign Relations Law, prepared by Co-Reporter William S. Dodge; Notes from the Co-Chairs; and, last but definitely not least, the section that attracted the most interest and most contributions by PILIG members, "News from the Members," edited by Freddy Sourgens.

From a substantive point of view, this current issue of *Commentaries* represents interesting common global trends on PIL. PIL is undergoing major reforms in at least four countries. Comprehensive new acts on PIL have been passed in Panama (see p. 7) and Argentina (see p. 7), while the Supreme People's Court of China has issued a general "Interpretation" of China's PIL act (p. 6). Furthermore, the

INSIDE THIS ISSUE

Editors' Notes	1
Co-chairs Notes	3
Guest Editorial	3
Africa	4
Asia	5
Americas	7
Europe	12
Oceania	14
Member News	16

Private International Law Interest Group

CO-CHAIRS

S.I. Strong
Cristián Giménez Corte

EDITORS

Cristián Giménez Corte
Nadia B. Ahmad

Commentaries on Private International Law is the newsletter of the ASIL Private International Law Interest Group. Any views expressed in this publication are those of the authors and not those of the American Society of International Law.

Editors' Notes —continued from page 2

United States is undertaking a substantive review of the Restatements of Law of Foreign Relations Law (p. 3) and of Conflict of Laws (p. 10).

In addition, "enforcement" of foreign judicial and arbitral decisions appears to be common global matter. Europe has issued a new Regulation on Account Preservation Orders (p. 12) and the Brussels I *bis* (p. 12), while key enforcement issues have been considered by the Supreme Court of India (p. 6), a high court in South Africa (p. 4), and a federal court in Australia (p. 15).

Issues related to protection of children are becoming increasingly more of concern worldwide. The Hague Abduction Convention entered into force in Japan (p. 15) and in Zambia (p. 4), while the European Court of Justice issued an opinion on the interpretation of the Convention (p. 12). Moreover, the Hague Child Support Convention entered into force in the European Union, (p. 13), while surrogacy agreements have been tested by the Supreme Court of Italy (p. 13) and a high court of Kenya (p. 4).

As PILIG members know, human rights seems to have become closely intertwined with conflict of laws and jurisdictions, as recent decisions in the United States (p. 9) and Europe have shown.

In general, **PIL appears to be leaving Prosser's "dismal swamp**, filled with quaking quagmires, and inhabited by learned but eccentric professors who theorize about

mysterious matters in a strange and incomprehensible jargon." Nowadays, courts, lawyers, and, more importantly, ordinary people understand very well the problems associated with conflict of law issues as well as the attendant risks and benefits. PIL is becoming a very part of public debate. In Argentina, the discussion on the applicable law to its sovereign debt hit the headlines of major newspapers (p. 10); in Australia the government is conducting public consultations on PIL matters to determine whether **'[h]armonisation of jurisdictional, choice of court and choice of law rules would deliver worthwhile microeconomic benefits for the community.'** (p. 15); in the United States, the people of Alabama has voted on a foreign law in court proposal (p. 9); and everywhere national courts are requested to apply human rights "extraterritorially."

In addition to its global approach, *Commentaries* attempts to present a comprehensive view of PIL. Most blogs on international law provide us with daily updates and news at a frenzied pace; while very useful, such an amount of information is sometimes difficult to process. *Commentaries* intends its readers to pause, catch their breath, take a step back, and enjoy a panoramic perspective of PIL.

Commentaries would not have been possible without the tireless support of co-Chair, S.I. Strong, and the hard work of the section editors and our Guest Editor, mentioned above. In addition, I would like to express our gratitude for the comments, suggestions and help provided by Trey Childress, Christopher A. Whytock,

Yao- Ming Hsu, Iris Canor, Anna Churn Dai, Sheila Ward, Matthew Gomez, Mitsue Steiner, and, of course, the PILIG members who have generously shared their work with us in the News from the Members Section (see p. 16).

We would appreciate receiving your suggestions, comments and critiques. We welcome your feedback and participation. Please send me an e-mail at cristiangimenezcorte@gmail.com.

Cristián Giménez Corte, Editor
Nadia B. Ahmad, co-Editor

In February 2015, the **UNICTRAL Working Group II** on Arbitration and Conciliation will be considering a proposal made by the Government of the United States concerning a possible new convention in the area of international commercial mediation and conciliation. In mid-October, a new empirical study of over 200 members of the international legal and business community was published so as to provide assistance to those participating in the UNICTRAL process. The study, entitled "Use and Perception of International Commercial Mediation and Conciliation: A preliminary Report on Issues Relating to the Proposed UNICTRAL Convention on International Commercial Mediation and Conciliation," was written by Professor S.I. Strong of the University of Missouri and can be downloaded at ssrn.com/abstract=2526302.



Co-Chairs Notes

We would like to thank you all for your trust in selecting us as co-Chairs of the PILIG. We want, most of all, to express our deep appreciation to the outgoing co-Chairs Ralf Michaels and Rahim Moloo for their hard work and committed leadership of our Interest Group over the recent years.

As you know, over the last few months we have developed a work plan for our tenure as co-Chairs of the PILIG. We set some ambitious goals, including issuing a PILIG newsletter, developing regular

webinars, and creating institutional links with other professional and international organizations related to Private International Law.

We are happy to inform you that we are already achieving some of those goals. We have established institutional links with UNCITRAL, and several PILIG members have participated as observers in both Commission meetings and Working Group meetings in New York. A very interesting webinar developed by Louise Ellen Teitz and David Stewart will be held in late February 2015. In addition, we now have the first issue of the PILIG newsletter out.

We look forward to 2015 and beyond. We intend to organize webinars, issue our newsletter on an ongoing basis, and further institutional links with other international law organizations. We would also like to increase PILIG member active participation in leadership of the IG, by establishing new positions of Secretary, Treasurer and a standing committee for the PILIG Prize. Please feel free to contact either of us if you have an interest in any of these positions.

S.I. Strong and Cristián Giménez Corte

GUEST EDITORIAL

Update on the Restatement (Fourth) of Foreign Relations Law

by William S. Dodge, University of California, Hastings College of the Law

In 2012, the American Law Institute began the process of drafting the Restatement (Fourth) of Foreign Relations Law. As members of the interest group know, the Restatement (Third) was published in 1987 and has proved to be quite influential. Developments in the United States and elsewhere made this an appropriate time to revisit at least some of the topics addressed in the Restatement (Third).

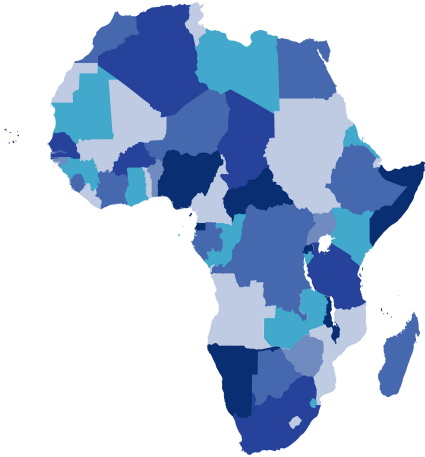
At present, there are three separate projects going forward under the auspices of the Restatement (Fourth): Treaties (Curtis A. Bradley, Sarah H. Cleveland, and Edward T. Swaine serving as reporters); Jurisdiction (William S. Dodge, Anthea Roberts, and Paul B. Stephan serving as reporters); and Sovereign Immunity (David P. Stewart and Ingrid Brunk Wuerth serving as reporters). Each project follows the same basic drafting process. The reporters prepare a Preliminary Draft covering a topic or set of topics, which is discussed with the Members Consultative Group (MCG), the Advisers, and (uniquely with the Fourth Restatement) a set of Counselors. Based on this discussion, the reporters prepare a new draft for the ALI Council. If the Council approves, the reporters prepare a Tentative Draft for discussion and tentative approval at the ALI annual meeting.

In May 2014, the ALI annual meeting approved the first Tentative Draft of the Restatement (Fourth) of Foreign Relations Law: Jurisdiction, subject to revisions that may be made in light of comments at the meeting. That draft dealt with the enforcement of foreign judgments, a subject governed primarily by state law, with relatively well-established rules. Still, the Tentative Draft was able to address a number of unsettled questions, for example, proposing that U.S. judgments recognizing foreign judgments should not be entitled to full faith and credit by courts in other states, a question that has recently divided the courts. The first Tentative Draft is electronically available on Westlaw.

The project on jurisdiction has now turned to prescription. Preliminary Draft No. 2, which was discussed with the MCG, Advisers, and Counselors in November 2014, has sections covering the presumption against extraterritoriality, the customary international law on prescriptive jurisdiction, and the act of state doctrine, among other topics. Future drafts will take up doctrines relating to adjudication, like personal jurisdiction and *forum non conveniens*, as well as jurisdiction to enforce outside the context of foreign judgments. Drafts of all three projects are available to ALI members on the ALI's website.

AFRICA

—Editor: Richard Frimpong Oppong



International Conventions

-ZAMBIA: ZAMBIA JOINS THE HAGUE ABDUCTION CONVENTION.

On 26 August 2014, the Republic of Zambia deposited its instrument of accession to the Hague Convention of 1980 on the Civil Aspects of International Child Abduction. The Convention entered into force for Zambia on 1 November 2014. The country became a member of the Conference in May 2013.

The full text of the announcement may be found here: http://www.hcch.net/index_en.php?act=events.details&year=2014&varevent=375.

-TUNISIA: TUNISIA BECOMES A MEMBER OF THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW.

On 4 November 2014, Tunisia became the 78th Member of the Hague Conference on Private International Law, making it the seventh African Member State. Tunisia is currently examining a range of Hague Conventions with a view to possibly joining them.

The full text of announcement may be found here: http://www.hcch.net/index_en.php?act=events.details&year=2014&varevent=387.

National Legislation

-KENYA: NEW MARRIAGE ACT COMES INTO FORCE.

On 20 May 2014, the Marriage Act, 2014 came into force.

The Act addresses a number of private international law issues, including recognition of foreign marriages and decrees in foreign matrimonial proceedings. The Act defines marriage as the voluntary union of a man and woman whether in a monogamous, or polygamous, union and registered in accordance with the Act.

The full text of the Act may be found here: http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/TheMarriage_Act2014.pdf.

National Case Law

-UGANDA: CONSTITUTIONAL COURT STRIKES DOWN ANTI-HOMOSEXUALITY ACT, 2014.

On 1 August 2014, Uganda's Constitutional Court struck down the recently enacted Anti-Homosexuality Act, 2014. The court held that the law was unconstitutional because it was passed by Parliament without quorum. Among other things the Act provided that a person who purports to contract a marriage with another person of the same sex commits the offense of homosexuality and shall be liable, on conviction, to imprisonment for life.

See *Oloka-Onyango v. Attorney-General* [2014] UGCC 14. The full text of the judgment may be found here: <http://ulii.org/ug/judgment/constitutional-court/2014/14>.

-KENYA: SURROGACY AGREEMENT TESTED.

On 30 June 2014, the High Court of Kenya decided a case the engaged various legal aspects of surrogacy, including who is entitled to be registered as the parent on the birth of the child, and the rights of the child. The Court observed that surrogacy is not a hypothetical issue any more. It is real and many Kenyans are resorting to surrogacy, especially those who cannot for medical reasons have their own children. In such circumstances, it is the duty of the state to protect children born out of such arrangements by providing a legal framework to govern such arrangements.

See *JLN v. Director of Children Services* [2014] eKLR. The full text of the case may be found here: <http://kenyalaw.org/caselaw/cases/view/99217/>.

-SOUTH AFRICA: COURT INTERPRETS PROTECTION OF BUSINESSES ACT NARROWLY.

On 6 May 2014, the South Gauteng High Court, Johannesburg applied a line of authority that has placed a narrow interpretation on section 1(1) of the Protection of

—continued on page 5

Africa —continued from page 4

Businesses Act, 1978. The section prohibits the enforcement of certain foreign arbitration awards, without permission from the Minister of Economic Affairs. The issue of the constitutionality of the ministerial permission requirement was raised but not decided.

See *Fattouche v. Khumalo* [2014] ZAGPJHC 102. The full text of the case may be found here:

<http://www.saflii.org/za/cases/ZAGPJHC/2014/102.pdf>.

Organization for Harmonization of Business Law in Africa

-OHADA. During the ministerial council held in Ouagadougou, the seventeen member-States of the Organization for Harmonization of Business Law in Africa (OHADA), revised the uniform act relating to commercial companies and economic interest group. The old act of April 1997 was replaced by a new one adopted on January 30, 2014. There is a transitional period until May 5, 2016, during which both acts are in force. The new act introduces a new type of company, the simplified public limited company. There is no minimum capital requirement for this company and it is not subject to rules regarding cross ownership. There is also the recognition as contribution for technical or professional knowledge. However, that kind of contribution does not give right to share capital, and it is not allowed for all forms of companies. The new act defines representation and liaison offices.

For more information see <http://www.ohada.org/>.

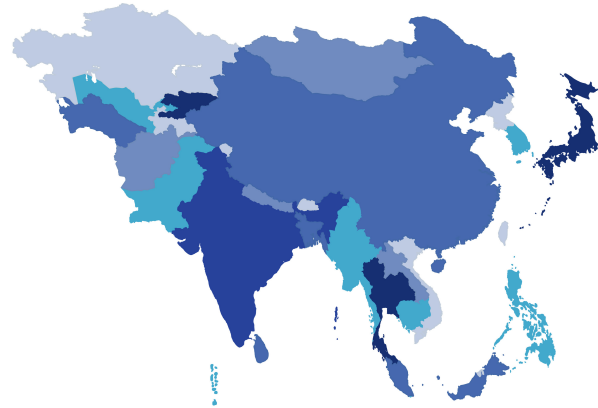
Associations & Events

-The Research Centre for Private International Law in Emerging Countries at the Faculty of Law, University of Johannesburg organized a one-day workshop on 9 September 2014, on the theme *Building a Global Framework to Facilitate Trade and Investment*. One of the sessions focused on the new Hague Principles on Choice of Law in International Contracts.

For more information see:

<http://www.uj.ac.za/EN/Faculties/Law/research/Pages/InstituteForPrivateInternationalLawinAfrica.aspx>. ■

ASIA —Editors: Cristián Giménez Corte and Chi Chung



International Conventions

-JAPAN: THE HAGUE ABDUCTION CONVENTION ENTERS INTO FORCE.

The Japanese National Diet at its 183rd Session approved The Hague Convention on the Civil Aspects of Child Abduction and enacted the respective implementing act, which was followed by the formal deposit of the instrument of acceptance. The Hague Convention entered into force on 1 April 2014.

Detailed information may be found here:

http://www.mofa.go.jp/fp/hr_ha/page22e_000249.html.

National Legislation

-TURKMENISTAN: NEW INTERNATIONAL COMMERCIAL ARBITRATION LAW.

On 16 August 2014, the Government of Turkmenistan passed a new law on international commercial arbitration, which will enter into force on 1 January 2016. According to reports, the new comprehensive law on international commercial arbitration will be applicable to international cases, but not to domestic cases. Commentators consider the promulgation of the new law, though, as a new step in the transition of the country to a market economy.

For more information: <http://www.unpan.org/PublicAdministrationNews/tabid/115/mctl/ArticleView/ModuleID/1467/articleId/43052/default.aspx>.

—continued on page 6



Asia —continued from page 5

For an English version of the law:
<http://cis-legislation.com/document.fwx?rgn=69363>.

National Case Law

-CHINA: SUPREME PEOPLE'S COURT ISSUES THE FIRST INTERPRETATION OF THE NEW PRIVATE INTERNATIONAL LAW ACT.

On 7 January 2013, the Supreme People's Court of China issued the first Judicial Interpretation (*sifa jieshi*) of the recent Private International Law Act of 2010 (PILA). The interpretations of the Court may be considered of quasi-legislative nature, since they consist of opinions establishing rather specific rules supplementing formal statutes, and even establishing completely new rules. For example, the PILA did not establish any provision governing the "preliminary question" or on the determination of the applicable law to multiple international relations concurring into one single case. For these situations, the Judicial Interpretation now establishes the principles of independent characterization and connection (see paragraphs 12 and 13 of the Interpretation). Supreme People's Court interpretations are generally followed by lower courts.

For more information see (in Chinese): http://www.court.gov.cn/qwfb/sfjs/201301/t20130107_181600.htm.

For a commentary in English see: <http://www.mondaq.com/x/246142/international+trade+investment/ain+issues+on+Law+of+the+Application+of+Law+for+Foreignrelated+Civil+Relations+of+China>.

-CHINA: SUPREME PEOPLE'S COURT DECISION ON THE "INTERNATIONALITY" OF A CONTRACT.

The Supreme People's Court recently rendered a decision in the case *Wanyuan vs. LM*, defining the elements of international contract. Jiangsu Wanyuan Company and LM Tianjin Co, two companies incorporated under Chinese law, concluded a sales agreement to purchase wind turbines. The LM Tianjin Co was a wholly owned foreign company held by a Denmark company. The Danish company also guaranteed the obligations of its subsidiary. The parties included a dispute resolution clause, submitting any dispute to an International Chamber of Commerce Arbitration in Beijing. On 31 August 2012, the Supreme People's Court vacated the arbitration clause arguing that, in accordance with the Civil Procedural Law and the Contract Law, only "international" cases can be submitted to arbitration. In the instant case, the Court found that there was no relevant "foreign

element" in the sales contract, as both parties were domestic companies to perform a contract in China.

For more information see:

<http://www.chinalawvision.com/2013/11/articles/china-arbitration-and-arbitrat/china-supreme-peoples-court-holds-that-a-dispute-must-meet-foreignrelated-requirement-for-arbitration-at-foreign-arbitration-forums/>.

-INDIA: SUPREME COURT DECISION ON ENFORCEMENT OF FOREIGN ARBITRAL AWARDS.

While in previous cases the Supreme Court of India had considered, under certain conditions, the re-examination of the merits of foreign decisions and awards in enforcement proceedings, in its recent decision in *Shri Lal Mahal Ltd. V. Progetto Grano Spa*, the Supreme Court expressly overruled its precedents and declined conduct a *revision a fond* of a foreign arbitral award.

Full text of the decision: <http://judis.nic.in/supremecourt/imgs1.aspx?filename=40512>.

For an analysis of the decision:

<http://www.lexology.com/library/detail.aspx?g=681a0c74-2fdd-4d1f-9e35-b81ff981a7c9>.

Associations & Events

-2015 ILA-ASIL ASIA-PACIFIC RESEARCH FORUM, TAIPEI, TAIWAN.

The Chinese (Taiwan) Society of International Law will hold the ILA-ASIL Asia-Pacific Research Forum on May 25-26, 2015 in Taipei, Taiwan, ROC. The theme of the Research Forum is "Integrating the Asia-Pacific: Why International Law Matters?" Paper proposals should be submitted by January 20, 2015 to ila@nccu.edu.tw.

The call for papers is available at <http://www.csil.org.tw/2015-research-forum/>. Other inquiries can be directed to Pasha Hsieh, co-chair of the Research Forum (pashahsieh@smu.edu.sg).

-12TH ASLI CONFERENCE 2015.

The Asian Law Institute (ASLI) and the National Taiwan University (NTU) will hold the 12th ASLI Conference in Taipei on 21 and 22 May 2015. The broad theme of the 2015 conference is "Law 2.0: New Challenges in Asia". The call for papers is available at http://law.nus.edu.sg/asli/12th_asli_conf/call_for_papers.html. ■

AMERICAS

Central and South America

—Editors: Cristián Giménez Corte and
Jeannette Tramhel



International Conventions

-BRAZIL: CISG ENTERS INTO FORCE.

On 1 April 2014, the United Nations Convention on Contracts for the International Sale of Goods (CISG), which was acceded to on 4 March 2013, entered into force in Brazil. The CISG will provide a uniform legal framework for international sales contracts between Brazil and its major trade partners (all of them parties to the CISG), and will provide certainty to the applicable law to international sales contracts, in particular with regard to the principle of party autonomy, which has been contended in Brazilian theory and practice.

For a detailed account on the ratification process see Alvez, R. The CISG has definitely entered into force in Brazil, available at <http://blogs.law.nyu.edu/transnational/2014/11/the-cisg-has-definitely-entered-into-force-in-brazil/>.

National Legislation

-ARGENTINA: NEW "CIVIL AND COMMERCIAL CODE", WITH CHAPTER ON PRIVATE INTERNATIONAL LAW.

On 8 October 2014, Argentina adopted a new Civil and Commercial Code (Law Nr. 26.994). The new Code unifies the former Code of Commerce of 1862 with the former Civil Code of 1871 into a new single, updated and systematic *corpus*. The new Code will enter into force on 1 August 2015. Argentina, thus, follows the trend, initiated by Italy back in 1942, and continued in Latin America by Brazil in 2000, of merging the civil and commercial codes, and thus unifying private law. On Book VI, Title IV, the new Code codifies rules of PIL, following also a trend initiated by Panama (see next entry). This Title includes three chapters, on "General Provisions" on applicable law, on "Jurisdiction," and a "Special Part." The Special Part includes regulations on persons, marriage, civil unions, alimonies, filiations (natural and assisted reproduction), adoption, paternal authority, restitution of minors, successions, form of legal acts, contracts, responsibility, credit instruments, propriety rights, and statute of limitations. Arbitration is regulated as a contract, in the general part of the Code. Due to the federal constitutional system of Argentina, the new Code does not deal with procedural aspects related to recognition and enforcement of foreign judgements and awards, which are under provincial (state) jurisdiction. Following a "classical" approach to PIL, it does not include matters related to criminal law and the law of nationality. The Code also omits regulations on intellectual property, corporations, bankruptcy, and insurance, which are regulated in special legislation.

The full text of the Code may be found here:

http://www.infojus.gob.ar/docs-f/codigo/Codigo_Civil_y_Comercial_de_la_Nacion.pdf.

-PANAMA: LEGISLATURE PASSES A NEW CODE ON PRIVATE INTERNATIONAL LAW.

On 8 May 2014, Panama adopted a new Code on Private International Law, published in the Official Bulletin under No. 27.530. This is the first comprehensive law on PIL in Latin America. It is comprised of 184 articles, including provisions dealing with civil matters: persons, marriage, divorce, filiations, alimonies, adoption, paternal authority, property, succession; commercial matters: contracts, credit instruments, corporations, bankruptcy; torts; and procedural matters: jurisdiction, arbitration, and recognition and enforcement of judicial decisions and awards. Adopting a broad criterion of

—continued on page 8



AMERICAS: Central and South America

—continued from page 7

PIL, the Code also deals with international criminal matters and the law of nationality.

The full text of the law may be found here: <http://www.gac-etaoficial.gob.pa/pdfTemp/27530/46493.pdf>.

-BRAZIL. *Marco Civil da Internet* OR THE "INTERNET BILL OF RIGHTS."

On 24 April 2014, the new law called *Marco Civil da Internet* (Lei Nr. 12.965), known also as the "**Internet Bill of Rights**", entered into force in Brazil. The law is based on the protection of free speech, privacy, personal data, and the net neutrality (article 2). It also seeks to guarantee free access to internet (article 4), and refers to the application of relevant consumer protection laws (article 7). With direct relation to PIL, article 8 establishes the concurrent jurisdiction of Brazilian tribunals when internet services are provided in Brazil. Article 11 establishes the mandatory application of Brazilian law if the collection, storage, custody, transmission, or processing of data occurs in Brazil, even when the internet provider is domiciled abroad.

The text of the law may be found here: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/l12965.htm. For English commentary of the law see http://www.loc.gov/law-web/servlet/lloc_news?disp3_l205403949_text.

Case Law

-VENEZUELA. SUPREME COURT APPLIES THE "NEW LEX MERCATORIA."

On 2 December 2014, the Supreme Court of Venezuela in *Banque Artesia Nederland, N.V. vs Corp Banca, Banco Universal CA* (Exp. 2014-000257), considered the so called "new *lex mercatoria*" as source of Private International Law. The Supreme Court held that, in accordance to the Venezuelan Private International Law Act (Articles 29, 30, and 31), if the parties to an international contract have not expressly chosen the applicable law, judges may apply the "closest connection" criterion. To this end, the judges need to take into account all objective and subjective elements of the contract to determine the law with which it has the closest ties, as well as the *general principles of international commercial law* recognized by international organizations. This includes, the Supreme Court held, the "*lex mercatoria*", which is composed of commercial customs and practices.

For the full text of the decision (in Spanish): <http://www.tsj.gov.ve/decisiones/scc/diciembre/172223-RC.000738-21214-2014-14-257.HTML>.

For a commentary on the decision (in Spanish): <https://cartasblogatorias.com/2014/12/03/venezuela-derecho-aplicable-los-contratos-internacionales-la-autonomia-conflictual-y-el-valor-de-la-lex-mercatoria/#more-401>.

Organization of American States

-OAS: On 13 March 2014, during its 84th regular session, the Inter-American Juridical Committee adopted a report and guidelines on Corporate Social Responsibility in the Field of Human Rights and the Environment in the Americas. For more information see: http://www.oas.org/en/sla/dil/newsletter_IAJC_HR_environment_Apr-2014.html.

-OAS: The Department of International Law (DIL) attended the Annual Meeting of the Association of Latin American and Caribbean Registrars, which was held on September 29 and 30, 2014 in Bogota, Colombia. The main topic was "A Model Law for the Simplified Stock Corporation." A presentation was made by DIL on the progress of the draft Model Law at the OAS and its status; the draft is currently before the Committee on Juridical and Political Affairs (CAJP) and has been scheduled to be considered by the CAJP on 4 December 2014. For more information see http://www.oas.org/en/sla/dil/newsletter_Simplified_Stock_Corporation_Oct-2014.html.

Associations & Events

-ASADIP: The VIII Conference of the American Association of Private International Law (ASADIP) was held on 30-31 October, in Porto Alegre, Brazil. The theme of the Conference was "Services in International Private Law and Private International Law as a Service." For more information see <http://www.asadip.org/v2>.

-ADIPRI: The new Chilean Association of Private International Law (ADIPRI) was constituted in Santiago, Chile, on 31 July 2014. For more information see <http://adipri.cl/>.

—continued on page 9

North America

—Editor: Nadia B. Ahmad



International Conventions

-CANADA: CANADA RATIFIED THE ICSID CONVENTION.

On 1 November 2013, Canada ratified the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention), which entered into force on 1 December 2013. After almost 50 year of its signature, Canada has become the 150th member country of the ICSID.

For the full text of the ICSID Convention: <https://icsid.worldbank.org/apps/ICSIDWEB/Pages/default.aspx>.

-CANADA: CANADA RATIFIED TWO WIPO CONVENTIONS.

On 13 May 2014, Canada ratified the World Intellectual Property Organization (WIPO) Copyright Treaty and the WIPO Performance and Phonograms Treaty, which entered into force on 13 August 2014. In addition, Canada has “tabled” five intellectual property related treaties, including the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (“Madrid Protocol”), the Singapore Treaty on the Law of Trademarks (“Singapore Treaty”), the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (“Nice Agreement”); the Geneva Act of

the Hague Agreement Concerning the International Registration of Industrial Designs (“Geneva Act”); and the Patent Law Treaty. These treaties are now being considered by the Parliament.

For more information see:
<http://www.wipo.int/portal/en/index.html>.

National Legislation

-UNITED STATES: ALABAMA: VOTERS PASSED THE FOREIGN LAWS IN COURT PROPOSAL.

On November 2014, Alabama voters passed the Foreign Laws in Court Amendment One. This ballot measure prohibits the application of foreign laws, mainly on family matters, by Alabama’s courts. Although it is not expressly mentioned, the prohibition aims to bar the application of Sharia law in the State of Alabama. Supporters argue that this measure merely specifies the existing law establishing that courts may not defer to foreign law in cases when doing so may violate state law or a right guaranteed by the Constitution. However, opponents considered as to whether these sorts of measures may violate the constitutional principles of equality and freedom of religion. Other states, including Kansas and Florida, have passed similar laws.

For a full text of the Amendment see:

[http://ballotpedia.org/Alabama_Foreign_Laws_in_Court,_Amendment_1_\(2014\),_constitutional_text_changes](http://ballotpedia.org/Alabama_Foreign_Laws_in_Court,_Amendment_1_(2014),_constitutional_text_changes).

National Case Law

-UNITED STATES: COURT OF APPEAL ON THE EXTRATERRITORIALITY OF THE TORTURE VICTIMS PROTECTION ACT AND ALIEN TORT STATUTE.

In *Mastafa v. Chevron Corp.*, alleged victims of human rights abuses in Iraq brought an action, under the Torture Victims Protection Act (TVPA) and Alien Tort Statute (ATS), against an oil company and French bank, alleged to have aided the regime of Saddam Hussein in obtaining income in violation of the United Nations Oil-for-Food Program. The lower court dismissed the case, and the Second Circuit of the U.S. Court of Appeals held that the company and the bank were not subject to liability under the TVPA. The Court held that the TVPA establishes liability for individuals but not for corporations. Further, the Court held that the claim failed to satisfy the requirements established by the ATS. While the U.S.-

—continued on page 10

AMERICAS: North America —continued from page 9

based conduct “touches and concerns” the United States to satisfy the first prong of extraterritoriality analysis, the complaint failed to plead that defendants’ conduct related to aiding and abetting the alleged violations of customary international law was intentional. Furthermore, the conduct cannot state a claim for aiding and abetting liability under the ATS and thus cannot form the basis for U.S. jurisdiction.

See full text of *Mastafa v. Chevron Corp.*, 770 F.3d 170 (2d Cir. 2014) <http://caselaw.findlaw.com/us-2nd-circuit/1681083.html>.

-UNITED STATES: DISTRICT COURT ON SOUTH AFRICA APARTHEID.

In *South African Apartheid Litigation* (U.S. District Court for the Southern District of New York, 2014), a Manhattan judge dismissed a lawsuit accusing Ford Motor Co. and IBM Corp. of supporting human rights abuses in apartheid-era South Africa, unwillingly concluding that “[that] **these plaintiffs are left without relief in an American court is regrettable. But I am bound to follow Kiobel II and Balintulo, no matter what my personal view of the law may be.**”

The court stated that the South African plaintiffs had been unable to plead “relevant conduct” by Ford and IBM within the United States to justify holding the companies liable.

For the full text of the decision see:

<http://conflictoflaws.net/News/2014/08/SDNY-SAAL.pdf>.

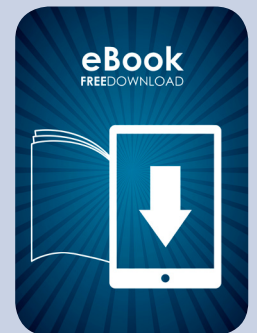
-UNITED STATES: U.S. SUPREME COURT ON FOREIGN SOVEREIGN DEBT.

On 16 June 2014, the U.S. Supreme Court rejected Argentina’s appeal of a lower court decision that found the country was not entitled to make bond payments until it also made payments to creditors that had not accepted restructured debt (2005–2010) after Argentina’s default in 2001. The restructured debt agreements were subject to New York laws and tribunals, and managed through an American bank, therefore the lower court decision had also collateral effects over third parties, which had not taken part in the New York litigation. Accordingly, Argentina was unable to pay to the creditors that did enter into the restructured debt agreements, which led to a *de facto* default.

For the record of *Republic of Argentina v. NML Capital, Ltd* see:

<http://www.scotusblog.com/case-files/cases/republic-of-argentina-v-nml-capital-ltd/>.

New e-publication on PIL: **The Transnational Litigation/ Arbitration, Private International Law, & Conflict of Laws** eJournal, edited by Trey Childress and Linda Silverman is now available at http://papers.ssrn.com/sol3/JELJOUR_Results.cfm?form_name=journalbrowse&journal_id=2447744.



As a legal reaction, Argentina passed a law offering creditors to operate under Argentinean law and jurisdiction, in an attempt to circumvent the court decision. For a full text of the law see: Ley 26.984 (10 September 2014) <http://www.infoleg.gob.ar/infolegInternet/anexos/230000-234999/234982/norma.htm>.

A further legal consequence of the US Supreme Court Decision, on 9 September 2014 the United Nations General Assembly issued a Resolution calling for the establishment of an international sovereign debt legal framework: For the full text see: <http://www.un.org/en/ga/68/resolutions.shtml>.

Associations and Events

-AMERICAN LAW INSTITUTE (ALI) ANNOUNCES PROJECT FOR THIRD RESTATEMENT OF CONFLICT OF LAWS.

The American Law Institute recently announced that it will begin four new projects in 2015, including: *Restatement of the Law, Copyright*; *Restatement of the Law Third, Conflict of Laws*; *Restatement of the Law Fourth, Property*; and *Principles of the Law, Compliance, Enforcement, and Risk Management for Corporations, Nonprofits, and Other Organizations*.

The Third Restatement of Conflict of Laws will be similar to its predecessors in structure and coverage. Its choice-of-law sections will cover torts, property, contract, business organizations, family law and other status questions, and trusts and estates. The Restatement will also cover distinctive choice-of-law issues—the nature of the choice-of-law problem, whether different state or national laws can govern different issues, and what use to make of the choice-of-law rules of other jurisdictions.

—continued on page 11



AMERICAS: North America —continued from page 10

A project is undertaken by the Institute only upon consideration and prior approval of its officers and the Council, ALI's governing body. The draft of the project is prepared by one or more Reporters and Associate Reporters, usually distinguished academics, with input from a diverse group of Advisers and ALI members and Council.

The ALI has appointed Kermit Roosevelt III (University of Pennsylvania School of Law) as Reporter, and Laura E. Little (Temple University Beasley School of Law) and Christopher A. Whytock (University of California, Irvine School of Law) as Associate Reporters. The First Restatement of Conflict of Laws was published in 1934, and the Second in 1971. The Third Restatement will be similar to its predecessors in

structure and scope, but is expected to more thoroughly address international conflicts problems. For more information, see <http://www.ali.org/email/pr-14-11-17.html>. The full text of the ALI press release may be found here: <http://www.ali.org/email/pr-14-11-17.html>.

American Society of International Law

The 2015 Annual Meeting of the American Society of International Law will take place on Washington DC, from 8 to 11 April. For more information see <http://www.asil.org/annualmeeting>. ■

Private International Law Prize

The Private International Law Interest Group of the American Society of International Law invites submissions for this year's ASIL Private International Law prize. The prize is given for the best text on private international law written by a young scholar. Essays, articles, and books are welcome, and can address any topic of private international law, can be of any length, and may be published or unpublished, but not published prior to 2014. Submitted essays should be in the English language.



Competitors may be citizens of any nation but must be 35 years old or younger on December 31, 2014. They need not be members of ASIL.

This year, the prize will consist of a \$400 stipend to participate in the 2016 ASIL Annual Conference, and one year's membership to ASIL.

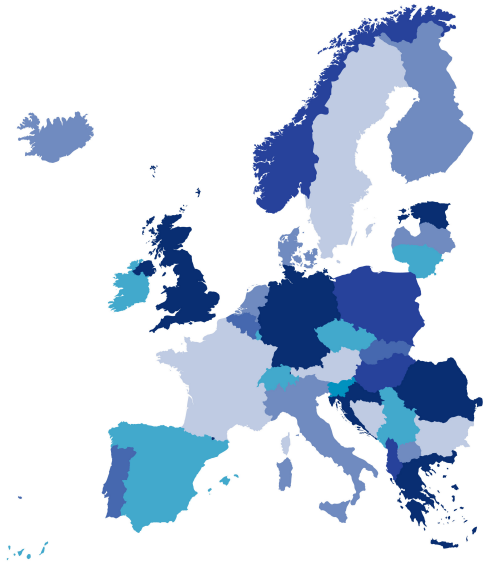
The prize will be awarded by the Private International Law Interest Group based upon the recommendation of a Prize Committee. Decisions of the Prize Committee on the winning essay and on any conditions relating to this prize are final.

Submissions to the Prize Committee must be received by June 1, 2015

Entries should be submitted by email in Word or pdf format. They should contain two different documents: a) the essay itself, without any identifying information other than the title; and b) a second document containing the title of the entry and the author's name, affiliation, and contact details. Submissions and any queries should be addressed by email to Private International Law Interest Group Co-Chairs S.I. Strong (strongsi@missouri.edu) and Cristian Gimenez Corte (cristiangimenezcorte@gmail.com). All submissions will be acknowledged by e-mail.

EUROPE

—Editors: Massimo Benedettelli, Marina Castellaneta, and Antonio Leandro



European Union

EU Legislation

-ACCOUNT PRESERVATION ORDER

On 17 July 2014, the Regulation (EU) No 655/2014 of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters entered into force. The regulation made it easier for creditors to recover claims abroad, namely through cross-border freezing of bank accounts. The main provisions will apply from 18 January 2017. The United Kingdom and Denmark are not bound by the Regulation because of their opting-out.

The text of the Regulation may be found here: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014R0655&from=EN>.

-BRUSSELS I BIS

The Regulation (EU) No 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (known as “Brussels I bis”), which entered into force on 10 January 2013, will be entirely applicable as of 10 January 2015. It revises the Regulation (EC) No 44/2001 by improving the choice of

court agreements and the *lis pendens* regime as well as by simplifying the recognition and enforcement of judgments. It rearranges the rules relating to consumers, employment and insurance contracts.

The text of the Regulation No 1215/2012 may be found here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:351:0001:0032:en:PDF>.

EU Case Law

-INSOLVENCY

By judgment of 4 September 2014 in Case C-327/13 (*Burgo*), the European Court of Justice decided on a question regarding Article 3 of Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings, referred by the Court of Appeal of Brussels. In the national proceedings, the Belgian judges were requested by the Burgo Group, an Italian entity, to institute secondary insolvency proceedings against Illochroma, a company having its registered office in Belgium that was already subject to main insolvency proceedings in France. While the Belgian Court of First Instance dismissed Burgo’s application as unfounded, the Court of Appeal of Brussels stayed the proceedings and referred the case to the EU Court. The referral turned on whether a company enduring main insolvency proceedings in a Member State may be subject to secondary insolvency proceedings in the different country where it has its registered office and in which it possesses legal personality. The EU Court found that Article 3(2) should be interpreted to the extent of permitting secondary insolvency proceedings in the Member State where the company has its registered office and possesses legal personality, provided that it “carries out a non-transitory economic activity with human means and goods”.

For the full text of the decision see: <http://curia.europa.eu/juris/liste.jsf?language=en&num=C-327/13>.

-INTERNATIONAL CHILD ABDUCTION

On 14 October 2014, the European Court of Justice issued an Opinion (1/13) on the European Union’s competence to accept the accession of certain non-Member States to the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. The ECJ held that the EU is competent on this matter due to its external competence on the subject-matter of the Convention. In particular, since the EU adopted the Regulation (EC) No 2201/2003 of 27 November 2003, concerning jurisdiction, recognition and enforcement of judgments in matrimonial, and parental

—continued on page 13

EUROPE —continued from page 12

responsibility matters, the scope and effectiveness of the common rules laid down by the Regulation would be affected if Member States individually made separate declarations accepting third-States' accessions to the Convention.

The text of the Opinion may be found here:

<http://curia.europa.eu/juris/document/document.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=DOC&docid=158600&occ=first&dir=&cid=384546>.

EU and International Conventions

-MAINTENANCE OBLIGATIONS

On 1 August 2014, the Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance entered into force within the European Union except for Denmark.

The text of the Convention may be found here:

http://www.hcch.net/index_en.php?act=conventions.text&cid=131.

-CHOICE OF COURT AGREEMENTS

On 4 December 2014, the EU Council adopted the Decision No 2014/887/UE for the approval of the Hague Convention of 30 June 2005 on Choice of Court Agreements on behalf of the European Union. The Decision has been adopted in the context of the principle of mutual recognition of judicial decisions and for promoting party autonomy in international commercial transactions, ensuring legal certainty of recognition and enforcement in international commercial disputes.

The deposit of the instrument of approval by the President of the EU Council shall take place within one month from 5 June 2015, with a Declaration relating to insurance contracts. The Convention will enter into force three months after the deposit of the instrument of approval by the EU. All EU Member States, except Denmark, will then be bound by the Convention.

The Decision is here: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.353.01.0005.01.ENG.

The text of the Convention may be found here: http://www.hcch.net/index_en.php?act=conventions.text&cid=98.

National Reports

International Conventions

-BELGIUM: CHILDREN CONVENTION ENTERS INTO FORCE.

On 1 September 2014, the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children entered into force.

The text of the Convention may be found here: http://www.hcch.net/index_en.php?act=conventions.text&cid=70.

National Legislation

-SWITZERLAND AMENDS PIL ACT

On 1 July 2014, new provisions amending the Swiss Federal Law of 18 December 1987 on Private International Law (PIL Act) entered into force. The amendment aims at harmonizing the PIL Act with the new provisions on parental responsibility matters of the Swiss Civil Code, and with the relevant provisions of the Hague Convention on the International Protection of Adults and the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, ratified by Switzerland in 2009.

The full text of the Swiss Federal Law of Private International Law may be found in Swiss official languages here: <http://www.admin.ch/opc/fr/classified-compilation/19870312/index.html>.

National Case Law

-ITALY: SUPREME COURT DECISION ON SURROGACY.

The Italian Supreme Court (*Corte di Cassazione*), First Civil Section, by the judgment No 24001/14, filed on 11 November 2014, held that a foreign decision that establishes the status of a child born in Ukraine as a result of surrogacy may not be recognized in Italy. For the Supreme Court, the "surrogate mother" technique is contrary to public order according to the Italian rules of private international law. The concept of public order includes not only the values shared by the international community, but also the fundamental and inalienable principles and values of the

—continued on page 14



EUROPE —continued from page 13

Italian legal order. In addition, for the Supreme Court, denying the recognition of the status of child does not clash with the principle of the best interest of the child, established by the Convention on the Rights of the Child, because the child is protected by "giving motherhood to her who gives birth."

The text of the judgment may be found here (in Italian): <http://www.marinacastellaneta.it/blog/scatta-il-limite-dellordine-pubblico-per-la-maternita-surrogata-allestero.html>.

-UNITED KINGDOM. FAMILY COURT DECISION ON FRAUD OF LAW

The Family Court Division, by judgment of 30 September 2014, declared void the divorces of 180 Italian couples already pronounced in England. According to the Family Court Division, the couples acted in fraud of the law because their habitual residence in England was fictitious, according to Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility.

The full text of the judgment may be found here: <http://www.bailii.org/ew/cases/EWFC/HCI/2014/35.html>.

Associations & Events

-The Hague Academy of International Law has opened the registration for the 2015 Summer Course in Private International Law. The Summer Course will be held in The Hague from 27 July to 14 August 2015. Closing date for applications: 1 March 2015. For the program click: https://www.hagueacademy.nl/wp-content/uploads/2013/11/33465_Posters_01_08-14.pdf.

-The Max Planck Institute Luxembourg for International, European and Regulatory Procedure Law organizes a conference on "The European Court Association – The International Dimensions of European Law of Civil Procedure". The Conference will take place on 25-28 March 2015 at the Max Planck Institute in Luxembourg. To download the program click http://www.mpi.lu/fileadmin/mpi/medien/events/2014/3/Progr_Wissen.pdf.

-The Journal of Private International Law will hold its 10th anniversary conference at the University of Cambridge on 3-5 September 2015. Detailed information on the program

may be found here: <http://conflictoflaws.net/2014/journal-of-private-international-law-10th-anniversary-conference-at-the-university-of-cambridge-3-5-september-2015-call-for-papers/>. ■

OCEANIA —Editor: Emma Wanchap



International Conventions

-AUSTRALIA –NEW ZEALAND: THE TRANS-TASMAN COURT PROCEEDINGS REGIME.

On 11 October 2013, the Agreement between the Government of Australia and the Government of New Zealand on Trans-Tasman Court Proceedings and Regulatory Enforcement entered into force.

The Agreement and enabling legislation in each country allows for the mechanics of dispute resolution across the Tasman more user friendly. For example, the regime allows for proceedings to be issued in Australia against a person located in New Zealand and allows for a person located in New Zealand to give evidence in an Australian court and in some cases give evidence by video-link from Australia in proceedings in New Zealand. Notably, the Agreement also broadens the types of Australian judgments that are enforceable in New Zealand.

For text of treaty see <http://www.austlii.edu.au/au/other/dfat/treaties/ATS/2013/32.html>.



OCEANIA —continued from page 14

Case Law

-AUSTRALIA: HIGH COURT OF AUSTRALIA ON THE CONSTITUTIONALITY OF ARBITRATION LAWS.

On March 2013, the High Court of Australia rendered a decision on the case *TCL Air Conditioner (Zhongshan) Co Ltd v Judges of the Federal Court of Australia* [2013] HCA 5 ('TCL'). TCL was heard by the High Court of Australia, on appeal from the Federal Court of Australia (FCA), and was at its heart a challenge to the private nature of two commercial parties agreeing to submit to arbitration, as opposed to the court system in Australia. This case arose out of the failure of the plaintiff to pay an arbitral award sum and associated costs of the arbitration to the second respondent, where the second respondent applied to the FCA for enforcement of the award.

The High Court considered the distinction between two private parties electing to an arbitration regime and its associated governing international and domestic laws, as opposed to litigating a dispute by way of the state administered courts. The plaintiff, inter alia, submitted that arbitration essentially interfered with the function of the FCA mandated by the *Commonwealth of Australia Constitution Act 1900* (Constitution) and that the Constitution therefore limits the implementation of UNCITRAL Model Law in Australia. This submission was rejected by the HCA and the application was dismissed with costs.

See full judgment at: <http://www.austlii.edu.au/au/cases/cth/HCA/2013/5.html>.

-AUSTRALIA: FEDERAL COURT OF AUSTRALIA DECISION ON ENFORCEMENT OF ARBITRAL AWARD.

On September 2013, the Federal Court of Australia (FCA) rendered a decision on the case *Gujarat NRE Coke Limited v Coeclerici Asia (Pte) Ltd* NSD 1673 of 2013 ('Gujarat'). Three FCA judges dismissed an appeal against a single FCA judge's decision to enforce an arbitral award made by London arbitrators against the appellant in this case. The basis of the appellant's appeal was that the arbitrators had denied them natural justice and procedural fairness. The judges noted in this case that there was no suggestion by the parties 'that there was any relevant difference between the rules of natural justice under English law and under the common law of Australia'. Of note in this case, as part of the arbitral award, receivers of shares, held by the appellant, were appointed where the shares were held in Australia.

See full judgment at:

<http://www.judgments.fedcourt.gov.au/judgments/judgments/fca/full/2013/2013fcafc0109>.

Government Consultations

-AUSTRALIA: GOVERNMENT CONSULTATIONS ON PRIVATE INTERNATIONAL LAW

The Standing Council on Law and Justice, convened by the Attorney-General's Department of the Australian government, is currently conducting a public consultation on private international law. Specifically, the consultation seeks to determine whether '[h]armonisation of jurisdictional, choice of court and choice of law rules would deliver worthwhile microeconomic benefits for the community.'

In the words of the Attorney-General, "[t]he project is designed to drive micro-economic reform and improve access to justice through identifying areas that could benefit from more consistent, cohesive and clearer private international law rules addressing jurisdiction, applicable law and choice of court."

Currently there are two discussion papers available to those wishing to take part in the consultation: These papers pose a number of questions for the public to consider and the Attorney-General's department invites submissions and for the public to keep in touch with the consultation by a number of social media avenues. The next phase of the consultation appears to be an online survey to be developed by the Attorney-General's department in order to collect the views of individuals and businesses who engage in cross-border transactions involving private international law.

For more information see: <http://consult.govspace.gov.au/pil/> and <http://www.ag.gov.au/Internationalrelations/PrivateInternationalLaw/Pages/ImprovingPrivateInternationalLaw.aspx>.

Events & Associations

-ACICA: The Australian Centre for International Commercial Arbitration (ACICA) lists recent events in international arbitration in the region and cites two upcoming events in early 2015: the ICCA Conference 2015, from 15 to 18 April 2015, Sydney & Queenstown; and the CIArb Diploma in International Commercial Arbitration: 18-26 April 2015, Sydney. For more information see <http://acica.org.au>. ■

MEMBER NEWS —Editor: Freddy Sourgens, Washburn University School of Law

As we expected, the Private International Law Interest Group has a tremendously accomplished and prolific membership. Below are some of the recent achievements, which our members sent us to inaugurate the Member News section of *Commentaries*. Please join me in congratulating our fellow members for their recent success. We very much look forward to hearing from you and hope to share your news in upcoming issues.



Bjorklund

Andrea Bjorklund. In autumn 2014 Andrea Bjorklund, L. Yves Fortier Chair in International Arbitration and International Commercial Law, McGill, co-hosted

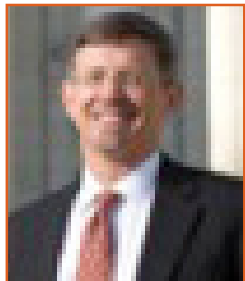
(with Armand de Mestral, Jean Monnet Chair of International Economic Integration, McGill) at McGill a conference on the Canada - EU Comprehensive Economic and Trade Agreement. The two-day event focused on trade one day and on investment and dispute settlement the other day. The CETA Conference drew participants from around the world and included representatives from the Canadian government and the European Commission. Professor Bjorklund also published a book chapter "Applicable Law in Investment Arbitration" in "Litigating International Investment Disputes," a new Brill publication edited by Chiara Giorgetti. Professor Bjorklund was also named the inaugural scholar-in-residence at ICSID.



Brand

Ronald Brand. Ronald A Brand, Chancellor Mark A Nordenberg Brand Professor and Director of the Center for International Legal Education at the University

of Pittsburgh participated in the Hague Conference on Private International Law Working Group on Judgments in The Hague in February 2014 and in Hong Kong in October 2014. The Working Group is considering whether the Conference should move forward on negotiating a global convention on the recognition and enforcement of judgments.



Dodge

William S. Dodge has become The Honorable Roger J. Traynor Professor of Law at the University of California, Hastings College of the Law. His article with Sarah

Cleveland, the Louis Henkin Professor of Human and Constitutional Rights and Faculty Co-Director of the Human Rights Institute at Columbia Law School, *Defining and Punishing Offenses Under Treaties*, has been accepted for publication by the *Yale Law Journal*. Sarah Cleveland was recently elected as the US member on the UN Human Rights Committee.

Dr Jan Kleinheisterkamp, Associate Professor of Law the London School of Economics, has been appointed as a member of the Governing Body of the Dispute Resolution Services of the International Chamber of Commerce (ICC), which includes the ICC International Court of Arbitration. The Governing Body sets out the strategic aims of the Court, propose new policies and assures the Court's independence and sound governance within the ICC framework.

Professor Stephen E. Medvec, Ph.D., Associate Professor of Political Science at Holy Family University, has published an article in *International Relations and Diplomacy* in July (May 2014 issue), "The Legacy of 1968", a forty-year retrospective.



Sourgens

Professor Freddy Sourgens, Washburn University School of Law, Professor Julian Cardenas, University of Houston Law Center, and Professor Ian

Laird, Crowell & Moring LLP/ International Law Institute, co-chaired the First Annual Oil and Gas Investment Arbitration Conference in Houston on October 31, 2014. The conference explored the legal regime governing the oil opening in Mexico, applicable law issues in investor-state arbitrations addressing oil and gas investments, fracking bans, and the issue of successor state liability in investor-state arbitration.



MEMBER NEWS —continued from page 16



Strong

S.I. Strong, Professor S.I. Strong, Associate Professor of Law, University of Missouri School of Law and Co-Chair of ASIL's Private International Law

Interest Group, published an article on international litigation and arbitration in the *Encyclopedia of Law and Economics* (Springer) and spoke at a conference on collective redress and class actions in Zurich, Switzerland.



Wong

Jarrod Wong, Professor Jarrod Wong, Professor of Law, University of the Pacific McGeorge School of Law, was appointed Co-Director of the

Global Center at McGeorge School of Law. He was also recently elected Co-Vice Chair of the ASIL International Economic Law Interest Group. Additionally, Professor Wong recently published "The Subversion of State-to-

State Investment Treaty Arbitration", the lead article in volume 53 of the *Columbia Journal of Transnational Law* (2014). In the article, Professor Wong advocates reconceiving the relationship between state-to-state and investor-state arbitration under investment treaties by treating the two regimes as mutually exclusive, and precluding state-to-state arbitration of any dispute properly resolved through investor-state arbitration. ■