

Introduction

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The goal of the year-in-review project is to provide a thumbnail sketch of the key developments in international law. It is intended to serve as a research tool for practitioners, academics, and students of international law, to answer the simple question: what happened this year? Given that this is the American Bar Association, that question is asked and answered from an American perspective. As Section Chair-Elect Bob Lutz put it, the goal is to “provide a snapshot of international legal developments for the year that would be of interest to or have an impact on the international practice of U.S. (public and private) lawyers.”¹

Given this objective, the reader will note that the style is different from many other law review articles. The contributors are requested to succinctly detail the significant developments in the respective field, with the emphasis of the report being on description rather than analysis. Any other approach would far exceed the page limitations of one volume and would undermine the purpose of this project.

So, then, what happened this year? What are the markers that invite you to further scrutiny? With over 150 authors and over thirty-four submissions, it would be difficult to highlight any particular development. What is important to one practitioner or academic will be of only passing interest to another. The specialization of international law practice is one of the distinctive features of recent decades and therefore any attempt on my part to highlight what I believe to be the most important developments is purely subjective.

On the economic front, developments in international trade deserve special mention. The bilateral agreements that China signed with the United States and the European Union paved the way for China’s accession to the WTO. And the WTO dispute settlement system saw more activity in 2000 than ever before. But the record on compliance was mixed. This led our authors to remark that many countries are making “cosmetic or case-specific changes to their laws,” thus calling into question the “integrity of the WTO settlement

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1. See Editor’s Preface, 31 INT’L LAW. 231 (1997).

system."² Given that the drafters of the WTO fully anticipated non-compliance through the establishment of a system of WTO-sanctioned retaliatory countermeasures, my assessment would be more sanguine. I would simply suggest that this year saw the maturation of the WTO dispute settlement process, and that non-compliance tested the mettle of the Dispute Settlement Understanding.

On the environmental front, the year saw major progress on two treaties – the Cartagena Protocol on Biosafety and the Stockholm Convention on Persistent Organic Pollutants. At the same time, the Kyoto Protocol continued to struggle, as governments remain unable to find mutually acceptable solutions to the issues of climate change.

On the human rights front, there was good and bad news: Bad news in reports of new mass human rights abuses committed; good news in the rise of a transnational human rights network of public and private actors working to promote democracy and human rights.³ Of particular importance are the many developments regarding the rights of children detailed in the human rights report.

One much anticipated development this year proved anti-climactic. It was expected that in *Crosby v. National Foreign Trade Council*,⁴ the U.S. Supreme Court would issue a groundbreaking ruling on the constitutional provisions regarding the foreign relations power and the foreign commerce clause. Instead, the case was resolved on the more pedestrian issue of preemption, leaving unanswered fundamental questions regarding the constitutional limitations on state and local exercise of power implicating foreign affairs.

Congress was quite active on the international front. On immigration, it enacted the American Competitiveness in the 21st Century Act and the Legal Immigration and Family Equity Act, the former addressing problems with H1-B visas, the latter establishing new visa categories for spouses and dependants of U.S. citizens and permanent residents. On trade, Congress could not agree on proposals for wholesale revisions to the Export Administration Act (EAA), but did pass legislation that renews the lapsed EAA and extends protection on export license information from disclosure pursuant to the Freedom of Information Act. Finally, the passage of the African Growth and Opportunity Act establishes preferential trade arrangements with African countries and will enable international trade to play a greater role in the economic development of Africa.

Intellectual property developments include the signing by forty-four countries, including the United States, of the Patent Law Treaty, which will seek to establish harmony in administrative and procedural aspects of the patent application and prosecution process in various patent offices around the world. United States courts, as well as the World Intellectual Property Organization, also saw dramatic increases in the number of domain name disputes.

The year ended with a bang. The deadline for signing the treaty establishing the International Criminal Court was December 31, 2000. In the final hours of December 31, President Clinton signed the Rome Treaty. In signing the treaty, the Clinton Administration emphasized that since 1995, the United States had agreed in principle with the establishment of an international criminal court and that, although it had reservations, by signing

2. Timothy C. Brightbill et al., *International Trade*, 35 INT'L LAW. 407 (2001).

3. 1999 Country Reports on Human Rights Practices, Introduction (Feb. 25, 2000), available at http://www.state.gov/www/global/human_rights/1999_hrp_report/overview.html.

4. 120 S. Ct. 2289 (2000).

the treaty the United States would retain influence on the final stages of establishing the court.

As you can see from this volume, international law is in ferment. The pace of change is so rapid that it is difficult to keep abreast of the developments. One could highlight dozens of other events. I encourage you to peruse your favorite topics in this volume and marvel at the vibrancy of international law at the turn of the century.

