

Introduction

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The year 2002 was remarkable for the number of developments affecting international law. Even focusing on just the U.S. perspective, as this review is, a brief sample of the reports will illustrate the vibrancy and growing maturation of international law.

On the legislative front, the Homeland Security Act of 2002 creating the Department of Homeland Security (DHS) is particularly noteworthy. As reported by the Immigration and Nationality Law Committee, as a result of this Act the Immigration and Naturalization Service as we know it has been dismantled and security concerns have resulted in significantly enhanced enforcement of immigration laws and regulations. Immigration programs that were dramatically affected include the Visa Waiver Program, the National Security Entry Exit Registration System, and the Interagency Border Inspection System.

Likewise, as reported by the Export Control Committee, terrorism and security threats have resulted in significant efforts to identify terrorists and terrorist organizations, freeze assets of organizations with links to terrorism, undertake a comprehensive assessment of the effectiveness of U.S. defense trade policies, and to impose sanctions on entities proliferating weapons of mass destruction.

International adjudication continued to be a highlight. As reported by the International Courts and Tribunals and the International Criminal Committees, the Rome Statute establishing the International Criminal Court entered into force, the prosecution of Slobodan Milosevic continued at the International Criminal Tribunal for the Former Yugoslavia, and survivors of the Rwandan genocide experienced bitter disputes with the Prosecutor and Registrar. The International Court of Justice delivered important decisions regarding boundary disputes, the United Nations Compensation Commission awarded several billion dollars to government, corporate, and individual claimants, and the Holocaust commission resolved thousand of claims.

As reported by the International Litigation and Dispute Resolution Committees, a number of significant cases were decided affecting international litigation and arbitration. Important developments include a decision by the Second Circuit dismissing an enforcement action on the basis of *forum non conveniens* and a decision by the Southern District of New York that a Holocaust commission is not an adequate forum. In applying the Foreign

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Sovereign Immunities Act, several courts clarified the scope of the commercial activity, waiver, expropriation, terrorism, and tortious activity exceptions. In addition, courts addressed the act of state doctrine in a number of important human rights cases. Recognition and enforcement of arbitral awards continues to struggle in defining arbitrator bias and with review of the merits under the doctrine of "manifest disregard of the law." Finally, investment disputes under NAFTA continue apace, with recent decisions clarifying NAFTA rules with respect to statute of limitations, exhaustion, standing, and interest on awards.

On the trade front, as reported by the International Trade Committee, the Bush administration secured fast track authority for trade negotiations and the United States is poised to sign a free trade agreement with Chile and Singapore. The WTO Doha Round trade talks emerged from their first full year of negotiations on issues ranging from agriculture, market access, services, and intellectual property. The World Trade Organization Dispute Settlement Body is busier than ever, with filings up 60 percent over last year. Approximately a dozen involved the United States, which is increasingly critical of the WTO dispute settlement process and has shown greater reticence to comply with certain adverse decisions.

Of course, this introduction only scratches the surface of developments in international law. There are many more developments worthy of analysis and discussion. I encourage you to peruse your favorite subjects.