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## Chairman's Report - Section of International Law - American Bar Association

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# **Chairman's Report**

## **Section of International Law**

### **American Bar Association**

I am pleased to submit this report summarizing the activities of the Section of International Law for the Association year 1980-81, the 48th year since its organization in 1933 (in succession to certain international and foreign law committees of the Association, the first of which was organized in 1878, the year of the Association's foundation).

#### **Meetings**

The Section and Council met at the Annual Meeting in Honolulu, August 1-6, 1980. This meeting was well attended and featured excellent educational and social programs, as reported by Leonard J. Theberge, our Last Retiring Chairman, in the Fall 1980 issue of this publication.

The now traditional Section officers' meeting, which undertakes organization of the Section's work at the beginning of each Association year, was held in Washington, D.C., on September 25, 1980. This officers' meeting was preceded by a luncheon (co-sponsored by the Section) in honor of Dr. Ernst Benda, President of the Supreme Federal Constitutional Court of the Republic of Germany. Dr. Benda addressed the luncheon on the work of his court.

The Council's Midwinter Meeting was held in Palm Springs, California, January 9-12, 1981, with a record turn-out of new participants from the Los Angeles area, suggesting the advisability of holding more meetings in the future close to metropolitan centers where international law is practiced. As a result, the Section this year adopted a plan, on an experimental basis, to hold its Spring Meeting near such a metropolitan location, but the plan calls for annual changes of the location about the country to maximize the exposure of the Section to other cities of the United States where international law practice is concentrated. This plan will require that our Spring Meeting be held separately from the Annual Meeting of the American Society of International Law, which is traditionally held in Washington, D.C. However, our meeting will be held at a different time than such Annual Meeting, in order to permit attendance of our members at both meetings.

In accordance with Section tradition our Spring Meeting was held this year in Washington, D.C., on April 24. This meeting produced numerous important resolutions of a substantive nature, and ended with an elegant reception in the Caucus Room of the Old Senate Office Building, given in honor of Justice Stephen W. Schwebel, newly appointed to the International Court of Justice.

The forthcoming Annual Meeting in New Orleans, scheduled for August 7-12, 1981, features a rich educational program (outlined later on in this report), as well as the consideration of various substantive action items, in keeping with the Section's policy of devoting more and more attention to substantive matters rather than administrative or procedural issues.

## **Section Resolutions**

### *1. House of Delegates Actions*

At the August 1980 Annual Meeting in Honolulu, the House of Delegates adopted resolutions submitted by the Section of International Law with respect to the development of legal systems to govern the Arctic and Antarctic regions. These resolutions (a) recognize the applicability to the Arctic region of general principles of international law and reject the "sector principle" in the Arctic as inconsistent with the law of the sea regime, (b) commend the efforts of United States representatives within the Antarctic Treaty Consultative System for their constructive work regarding the conservation and management of the living resources of Antarctica, and (c) urge the Delegation to seek timely conclusion of a regime for the exploitation of Antarctic mineral resources in which the United States should participate fully with other Treaty Parties and which encourages the continuation of the Antarctic Treaty.

At the February 1981 Midyear Meeting in Houston, the House adopted resolutions proposed by the Section which replaced and updated a 1972 resolution of the Association recommending continued United States support for international cooperation and measures to prevent and punish acts of international terrorism. New measures included in such resolutions recommend United States action to: (a) encourage ratification of relevant Conventions by the maximum number of countries, (b) stimulate implementation of these Conventions, including enactment of United States penal legislation, to implement the 1971 Montreal Convention, and (c) continue support for development of new initiatives.

### *2. Blanket Authority*

The Section of International Law received the Association's blanket authority approval to submit testimony to Congress based on resolutions which the Section's Council adopted in April 1981, with respect to the Overseas Private Investment Corporation (OPIC). The resolutions support, *inter alia*, extending OPIC's authorization until 1985, removing certain

restrictions on OPIC's activities in developing countries based on "per capita" income, permitting OPIC to insure against losses resulting from civil strife, and encouraging OPIC to support developmental projects which have positive trade benefits for the United States.

### 3. *Other Section Resolutions*

At its April 1981 Spring Meeting, the Section approved other resolutions recommended for adoption by the House of Delegates. These resolutions pertain to various matters, including the United States-Iranian agreements providing for release of United States diplomatic personnel and for settlement of claims of United States nationals against Iran, the extraterritorial application of United States laws, United States ratification of the Inter-American Convention on Letters Rogatory, and the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.

Additionally, in June 1981 the Section approved a resolution for proposed adoption by the House of Delegates at the forthcoming Annual Meeting of the Association in New Orleans, which recommends that the Association support signature and ratification by the United States of the United Nations Convention on Contracts for the International Sale of Goods and urges the Senate to give its advice and consent to ratification of such Convention, subject to a certain reservation. This is a most timely action, since the Convention is open for signature until September 30, 1981, importantly affects the substantive law on international sales, and the Department of State desires the Association's endorsement before the Convention may be signed by the United States.

## **Continuing Legal Education Programs**

### 1. *Institute on International Estate Planning*

In October 1980 the Section sponsored a two-day institute, in conjunction with the Section of Real Property, Probate and Trust Law, on "International Estate Planning." Chairman of this institute was Robert A. Hendrickson, who heads our Section's International Property, Estate and Trust Law Committee, as well as a counterpart committee of the co-sponsoring section. The institute was held in Chicago as well as in San Francisco, and dealt with the complex and more and more frequent problems that arise in the handling of estates containing local property owned by foreign decedents and foreign property owned by local decedents. The institute emphasized practicalities and was well attended by lawyers, bank trust officers, insurance and investment advisers, and other estate planning professionals. A publication on this institute is in the final stages of the printing process and should issue in the next few months.

## 2. *Institute on International Trade Law*

In conjunction with its Spring Meeting in April 1981, the Section sponsored another 2-day institute entitled "Critical Issues of International Trade Law: The Realities of Implementing the Tokyo Round Results," which was held in Washington, D.C. under the chairmanship of Professor John H. Jackson, a member of our Council and Co-Chairman of our Section's International Trade Committee. Participants included prominent authorities in the field from government, academic and private sectors. This institute focused on important developments and fundamental issues on a variety of topics concerning United States and international trade law. The institute also featured a discussion on future trends in law and policy.

## 3. *Midwinter Meeting Program*

At the Midwinter Meeting in Palm Springs in January 1981, which was organized by Martin Perlberger, as Meeting Chairman, and Raymond T. Bennett, as Program Chairman, an authoritative and interesting educational program was presented dealing with international transactions and the role of tax treaties. A special highlight of the program was a luncheon address on the growing role of international law in international affairs, given by Geoffrey Rippon, Conservative member of the British Parliament and former British cabinet minister who negotiated British entry into the Common Market.

## 4. *Annual Meeting Program*

At the August 1981 Annual Meeting in New Orleans, which is under the chairmanship of Mont P. Hoyt, the Section will present a variety of educational programs, some of them in conjunction with other sections and committees of the Association. Thus, presentations are scheduled on (a) the proposal to abolish or seriously modify by regulation the Act of State Doctrine; (b) legal and policy issues with respect to the New World information order and transborder data flow; (c) current structures of international petroleum and mining transactions; (d) claims arising from the Iranian revolution, and the operation of the Iran-United States Claims Tribunal; and (e) United States extraterritorial law enforcement and its relation to United States foreign economic policy interests (including a special focus on United States export control, securities, maritime and antitrust laws).

## **International Legal Exchange Program**

Operation of the International Legal Exchange Program (ILEX), which the Section of International Law assumed beginning in August 1979, continues to be very successful, thanks to the dedicated efforts of its Chairman, James C. Tuttle, and Executive Director, Edison W. Dick.

The program is operated by the Section out of the Association's Washington office and, during the current Association year, as in the past year,

has included a group seminar program overseas for United States lawyers, and group programming as well as individual placements for United States or foreign lawyers in countries other than their own.

Thus, ILEX arranged and directed a group seminar for a delegation of thirty-four United States lawyers, including several officers and Council members of the Section, who spent a total of sixteen days, from May 29 through June 13, 1981, in the People's Republic of China (PRC), visiting six major cities and meeting with legal and trade officials of that country for the purpose of learning about recent developments there in the areas of law and trade and facilitating contacts with professional counterparts in that country.

For groups of lawyers, ILEX programming this year included a two-week seminar visit in the fall of 1980 by forty lawyers from the Federal Republic of Germany, all members of the German-American Lawyers Association, to law firms, courts, and government agencies in New York and Washington; program arrangements for a visit to Washington by groups of lawyers from Korea, the Philippines, and Taiwan, to study various aspects of legal aid programs; an extensive seminar tour for a group of lawyers from Kuwait who desired to come to the United States to increase their familiarity with our legal system; design and implementation of substantive programs for the Deputy Solicitor General from Sri Lanka and for the Assistant Director of the Japanese Police Agency; and numerous program arrangements for lawyers coming to the United States as Human Rights Fellows under a program sponsored by the United Nations, as well as continued assistance to the United States International Communications Agency in arranging appointments and meetings in the United States for legal visitors sponsored by that Agency.

With respect to individual placements in the current Association year, ILEX has placed or assisted in the placement of seventeen foreign lawyers who became affiliated with United States law firms or law offices, and three United States lawyers placed in various positions in foreign countries.

## Publications

During the current Association year, the Section has issued three new publications: *Report on the Regulation of Foreign Lawyers (Second Edition)* (Cone), *Current International Legal Aspects of Licensing and Intellectual Property* (Brookhart *et al.*), and *Trade Is a Two-Way Street*, edited by Peter Ehrenhaft. Additionally, the Section's Committee on the People's Republic of China (co-chaired by James R. Silkenat and Stanley B. Lubman) commenced publication of its excellent quarterly, *The China Law Reporter*, of which two issues have been published. The Section is indeed grateful to the editors of each of the foregoing publications.

Moreover, we are certainly indebted to Bruce W. Jenett and Ralph C. Oser, Chairman and Vice-Chairman of the Section's Publications Committee, for their past and continuing efforts in connection with that Committee.

Additionally, the Section is most grateful to Editor-in-Chief Francis S. Ruddy and the Board of Editors of *The International Lawyer*, as well as to Editor-in-Chief Mont P. Hoyt of the *International Law News*, for their success in continuing to improve those publications, within the time schedules and budgetary and other constraints that our Section has imposed upon them.

### **Section Administration**

At the April 1981 Spring Meeting, our Council gave final approval to a proposal (which had been under study by the Section for more than a year and a half) to move certain primary staff and administrative functions of the Section, which are presently being performed at the Association's headquarters in Chicago, to the Association's offices in Washington, D.C. Such proposal has been approved by the Board of Governors of the Association and I understand will be implemented at the beginning of the term of our next Chairman, Charles N. Brower.

### **Membership**

By May 31, 1981, the Section's membership had topped 10,000, including 7,949 lawyers, 1,881 law students, and 251 associate members. This represents a membership increase of about 40 percent since the beginning of the 1977-78 Association year. There is good reason to believe that with time the Section may become one of the larger ones in the Association.

### **Conclusion**

The work and success of the Section depends entirely on the intellectual and material dedication and efforts of its members under the guidance of the Section's leadership and the assistance of the Section's staff. Many persons deserve our commendation and thanks for their valuable and generous contributions to the Section, of talent, time, and treasure. I will only venture a few names. All of us are aware that many other persons are at least equally deserving of mention for their contributions to the Section.

Since the 1978-79 chairmanship of Don Wallace, frequent meetings and conferences have been held between the outgoing Chairman, the then-Chairman, and the Chairman-Elect, in an effort to provide the Section with the benefits of continuity and past experience. I am most grateful to Don, Leonard J. Theberge, and Charles N. Brower for their dedication and support in this connection. Joseph P. Griffin has served the Section well for another year as its Secretary and unofficial Parliamentarian. George C. Spina and George T. Berry have been very helpful in discharging their duties as Representatives to the Young Lawyers and Law Student divisions. All of our Divisional Vice-Chairmen have done an excellent job this year, and M. Sean McMillan, additionally, has continued to serve as our good conscience in helping us formulate and adhere to internal principles

and regulations. Many Council members and Committee Chairmen have made outstanding contributions this year. Among those not previously mentioned in this report, we certainly should list John B. Houck, Arthur W. Rovine, Louis B. Sohn, Joy Cherian, Ronald F. Stowe, Lee R. Marks, Ronald H. Bonaparte, Peter D. Ehrenhaft, Douglas E. Rosenthal, A. Linwood Holton, Anthony F. Essaye, and Peter D. Trooboff.

The Section would not function well without the assistance of its staff. Edison W. Dick continues to serve us faithfully and well in his functions as Attorney-Consultant to the Section. Marilyn Neforas, our Section Administrator at ABA headquarters in Chicago, will be stepping down in that capacity at the end of this year, because of her desire to remain in Chicago and not relocate when our Section's primary staff and administrative functions are moved to the Association's offices in Washington, D.C., as previously mentioned in this report. We are thankful to Marilyn for her many years of service to the Section and value the friendship that she shares with many of us. Cynthia Price continues to do an excellent job out of the Section's office in Washington, D.C. And among the many "unknown soldiers" who have served the Section this year, I should not fail to mention my secretary, Liselotte Kubena, who has cheerfully borne a heavy Section burden in addition to her other demanding duties at my office.

As to the future of our Section, we should all thank Ewell E. "Pat" Murphy, one of our past Chairmen, for his invaluable contribution in bringing about the completion of the Report on the Year 2000, and for the presentation that he will make in that connection at the forthcoming meeting of our Long Range Planning Committee in New Orleans. Our excellent liaison with the Board of Governors of the Association will continue thanks to William L. Howland, who will be serving in that capacity for another year. I also know that the progress of our Section next year is assured under the leadership of Charles N. Brower.

I consider it a high privilege to have been your Chairman this year and will always cherish the feeling of professional and personal fraternity that I perceive we share within the Section.

Respectfully submitted,

LYON L. BRINSMADE, *Chairman*  
Section of International Law

Houston, Texas  
August 1, 1981



