INTERNATIONAL ORGANIZATIONS BULLETIN

INTERNATIONAL ORGANIZATIONS INTEREST GROUP OF THE THE AMERICAN SOCIETY OF INTERNATIONAL LAW **SPRING 2005**

Messages from the Co-Chairs

Ralph Wilde

Dear Colleagues,

Welcome to the Spring, 2005 issue of the International Organizations Bulletin, our Interest Group newsletter. This issue contains an editorial on Darfur by our Editor, Bryan MacPherson, an article on the use of force by John Carey, a review of a book on the WTO by Amin Alavi, and announcements of our members' publications.

The purpose of this brief introduction is to provide information about the Group, its officers, our listserve, our activities at the forthcoming ASIL Annual Meeting, and to urge you, our members, to get involved.

The Interest Group

The purpose of the Interest Group is to exist as a network of ASIL members interested in the work of international organizations. The ASIL website describes the Group thus:

> One remarkable change in international law since the end of World War II has involved the establishment and growth of multilateral organizations as actors in the international arena. As the role of such organizations expands, the interplay of politics and law in the enforcement of international norms must be considered. By sponsoring panels at the Annual Meeting and contributing to regional conferences The International Organizations Interest Group focuses on inquiry into the practices and norms of these multilateral international actors. The group's members have worked closely with other organizations to create a strong and mutually supportive group of scholars and practitioners who seek common under-standing of the evolving multilateral order.

Officers

At last year's Business Meeting, members altered the Group's structure. Each year we will elect one Vice Chair—Chair Elect. The next year, that Vice Chair will become one of two Co-Chairs for a two-year term. The idea is to ensure that incoming Co-Chairs will have been involved in the Interest Group leadership, by serving as Vice Chair. Co-Chairs in their first year will take the lead, and in their second year will support the incoming Co-Chair. Current Officers, until the 2005 ASIL Annual Meeting are:

Co-Chairs: *George Edwards*, Indiana University School of Law at Indianapolis, gedwards@indiana.edu (2003-05)
Ralph Wilde, University College London, ralph.wilde@ucl.ac.uk, (2004-06)
Vice Chair—Chair Elect: David Berry, University of the West Indies, David.Berry@uwichill.edu.bb.
Newsletter Editor: Bryan MacPherson, Citizens for Global Solutions, bryanmacp@yahoo.com

At this year's Business Meeting, David Berry will take up the position of Co-Chair and will serve with me in that position. We will elect a new Vice Chair—Chair Elect. Please consider nominating yourself or others to this position. Do get in touch with me and/or the other Officers if you would like to discuss this further. Email your nominations or questions to me.

Warm thanks should be offered to George Edwards, for all his hard work as Chair. We are very grateful, George, for your work. The Group is also indebted to David Berry for his work as Vice Chair, including organizing the Group's panel at the forthcoming Annual Meeting and to Bryan MacPherson for his long-standing service as Bulletin Editor.

Listserve

As with other Interest Groups, we now have an email listserve drawn from the ASIL membership database. So far this has been used sparingly, to contact members about the Group's panel proposals for the Annual Meeting, distribute this

newsletter, and inform members about a Conference the Group is co-sponsoring. The use of the listserve will be discussed at the Group's Business Meeting at the ASIL Annual Meeting; if you have any views on this, please come along to the Business Meeting or email me in advance.

Annual Meeting

The Interest Group is responsible for two events at the forthcoming ASIL Annual Meeting, March 30—April 2: our Business Meeting, and a panel on democracy in the Americas.

Business meeting

This will take place on Thursday, March 31st at 7.45—8.45 am. The Business Meeting is an opportunity for members to participate in and discuss the work of the Interest Group. It also gives members an opportunity to meet others who have a common interest in the work of international organizations. The agenda for this year's meeting includes the election of Vice Chair—Chair Elect, the use of the listserve, and future Annual Meeting panel proposals. Please join us!

Panel

Our Interest Group usually submits panel proposals to the ASIL Annual Meeting Program Committee. This year we opened the process up to the membership through the listserve, soliciting proposals and conducting a ballot for the proposal that would go forward to the Program Committee on our behalf.

On this basis the Group proposed a panel put together by our Vice Chair, David Berry, on democracy in the Americas. We were pleased to hear that the proposal was accepted. The panel will take place on Thursday, March 31st at 10.45 a.m—12.15 p.m. Please attend. The details are as follows:

Democratic Norms and Regional Stability: Global Challenges and Responses in the Americas: Representative democracy is one of the founding pillars of the Organization of American States. This panel tracks and critically evaluates the potential roles for general public international law and the democratic lex specialis of the Inter-American system, addressing such questions as: Are international or regional organizations empowered to intervene to bring about democratic changes, and, if so, based upon what (or whose) criteria? Should regional democratic norms be implemented in a robust manner or will gentle persuasion be more successful? Can strong regional powers legitimately engage in pro-democratic intervention? Can weaker states or regional organizations-such as the Caribbean Community-challenge such unilateralism?

Moderator: **David S. Berry**, Faculty of Law of the University of the West Indies.
Panelists: **Ambassador Alberto Borea**, Permanent Representative of Peru to the OAS; **Timothy D. Rudy**, Department of Legal Affairs and Services, OAS; **Christopher Sabatini**, National Endowment for Democracy; **Stephen J. Schnably**, University of Miami School of Law

Co-sponsored conference

The Group is co-sponsoring a conference on 'The ICTR: Ten Years After,' at the New England School of Law. Please see page 9 for further information.

Get involved!

This is your Interest Group. Please feel welcome to get involved and make suggestions about any aspect of the Group and its activities. You might want to think about the following:

- Putting yourself forward as an Officer
- Contributing an article to future issues of this Bulletin
- Attending the Business Meeting at the forthcoming Annual Conference
- Organizing a conference that could be sponsored by the Interest Group

Please email myself and/or the other Officers if you have any comments or suggestions.

Ralph Wilde, Co-Chair (2004-06)
University College London
ralph.wilde@ucl.ac.uk

George Edwards

I would like to express my thanks to the ASIL International Organizations Interest Group for giving me the opportunity to serve in a leadership role for the past several years. I am pleased that during this time, with our Co-Chair and other officers, we have been able as a group to contribute to the vibrancy of the Society's work in the area of international organizations.

Earlier in this Bulletin, Ralph Wilde thanked many people associated with the Society who have contributed to our Interest Group's success -- the Executive Council and administrators, other Interest Groups with which we have collaborated, our own Interest Group leaders, and of course, our Interest Group members. I thank you all again.

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JUS AD BELLUM: THE NEXT IRAQ

John Carey*

This is a view on the legality of pre-emptive military intervention. The phrase *jus ad bellum* in the title distinguishes questions about going to war, my topic, from issues of how war, once begun, may legally be carried on. What I am *not* talking about is military intervention permitted by the UN Charter, either with Security Council authorization under Article 42, or in self-defense "if an armed attack occurs" under Article 51. Therefore, I am not talking about military intervention arguably supported by past Council resolutions. What I *am* talking about is military intervention that does not fall under either Article 42 or Article 51, taken to combat either (a) anticipated use of force or (b) existing outrageous human rights violations such as genocide.

The issues thus framed are intended to parallel some of those with which the UN Secretary-General's Panel on Threats, Challenges and Change was charged. In March 2004, the Secretary-General said, "I hope this Panel will help forge a new global consensus on what the threats are . . . . But I also hope the Panel will go further, and recommend specific changes in our policies and institutions, including the UN itself, to enable us to forge a really convincing collective response to these challenges."[1] Also in March, the Secretary-General stated: "The debate over the use of force in Iraq has brought into sharp relief the urgent need for a system of collective security that inspires genuine confidence, so that no State feels obliged to resort to unilateral action. . . . What we need is a new global consensus."[2] On April 29, 2004, Mr. Annan's Spokesman, Fred Eckhard, at a public press briefing answered as follows a question of mine: "And what the Secretary-General has asked that panel to do is to look at new threats to international peace and security, including key questions like when can there be humanitarian intervention? Under what conditions? Who will authorize it? Who will participate in the intervention, et cetera? And other issues such as Security Council reform. So basically the big questions facing the United Nations as we begin a new century."

The Panel is expected to report to the Secretary-General by the end of November 2004, after which he will pass along its ideas, and his own, to the General Assembly. [ed. note, since this article was submitted, the report has been issued.[3]]

Unilateral (i.e. non-Charter-based) use of force for national protection was espoused by both US Presidential candidates and is supported by respectable legal authority. The question that emerges from our Iraq experience, however, is whether the country that uses such force is obliged to be accurate in its claimed fear of attack. One view is that accuracy *is* required for legality. That is effectively the opinion expressed by Anne-Marie Slaughter[4] when she wrote: "The coalition's decision to use force without a second Security Council resolution cannot stand as a precedent for future action, but rather as a mistake that should lead us back to genuine multilateralism."[5]

Unilateral use of military force for humanitarian purposes, traditionally called "humanitarian intervention," had until recent years a spotty record of acceptance. But as early as November 2000 the Secretary-General declared: "I myself believe, and I think it is implicit in the Charter, that there are times when the use of force may be legitimate and necessary because there is no other way to save masses of people from extreme violence and slaughter."[6] Mr. Annan has also from time to time referred approvingly to the doctrine of "responsibility to protect," in which "the principle of non-intervention yields to the international responsibility to protect,"[7] so as to justify unilateral military action if neither the Security Council nor the General Assembly acts. The Annan Panel's direction may be indicated by the fact that one of its members is the Co-Chair of the Responsibility study, Gareth Evans, an Australian Queens Counsel.

Humanitarian intervention and its responsibility to protect version were strongly fortified by the actions of the US, UK, and (briefly) France in establishing "no-fly zones" over the northern and southern areas of Iraq. These were justified as protecting Kurds in the north and "swamp Arabs" in the south from oppression by the Saddam Hussein regime. That this humanitarian intervention used military force is beyond dispute, involving as it did the bombing of Iraqi anti-aircraft installations whenever a patrolling plane was "locked onto" by Iraqi radar.

In 2003 the US and UK talked less in humanitarian terms and more in terms of preventive action to forestall attack with weapons of mass destruction. When that basis proved unsound, emphasis shifted from self-defense back to humanitarian intervention. Much was made of evidence of large-scale brutality practiced by the Hussein regime.

George Melloan, writing in the Wall Street Journal of December 30, 2003, found "a mission just as compelling" as "defensive counterstrikes" in "making it possible for millions of humans to lead decent lives." And now, all nations, especially those that have significant economic and military capacity, are faced in Darfur with what has been

designated as "genocide" by former Secretary of State Colin Powell and both Presidential candidates.[8] Will this be "another Rwanda" or, if all else fails, will not only *jus ad bellum* be recognized but also the political will to protect victims be found to exist? As of this writing, the prospects are looking grim.

Notes

* Editor, UN Law Reports.

1. UN Press release SG/SM/9201.
2. UN Press release SG/SM/9190.
3. A MORE SECURE WORLD: OUR SHARED RESPONSIBILITY, REPORT OF THE SECRETARY-GENERAL'S HIGH-LEVEL PANEL ON THREATS, CHALLENGES AND CHANGE (2004); *See also,* Frederic L. Kirgis, *International Law and the Report of the High-Level U.N. Panel on Threats, Challenges and Change*, ASIL INSIGHTS, at www.asil.org/insights.htm (December 2004).
4. Dean, Woodrow Wilson School of Public and International Affairs, Princeton University.
5. ASIL NEWSLETTER, March/April 2004, at 2.
6. Opening remarks at the IPA Symposium on Humanitarian Action. (Apologies to Professor Slaughter.)
7. REPORT OF THE INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT, International Development Research Center, at XI (2001).
8. [Ed. note: The UN Commission that investigated Darfur found "Crimes Against Humanity", but did not find sufficient evidence of intent to destroy a protected group as required for genocide. Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, at www.un.org/News/dh/sudan/com_inq_darfur.pdf. (2005).

Ed. Note: For more information on Pre-emptive intervention, see Volume 7 of INT'L LEGAL THEORY (2001) (Journal of ASIL's International Legal Theory Interest Group), which is devoted to articles on humanitarian intervention, and Frederic L. Kirgis, *Pre-emptive Action to Forestall Terrorism,* ASIL INSIGHTS (June 2002), at www.asil.org/insights.htm.

EDITORIAL

DARFUR: THE NEXT RWANDA?

Bryan MacPherson

The failure to prevent the Rwandan genocide of 1994, even though warned that it was about to occur, embarrassed the UN and many western states. Many national and world leaders resolved to prevent such massive genocide and crimes against humanity in the future. In spite of this resolve, the world community is doing little to prevent the tragedy that is unfolding in the Darfur region of Sudan.

The Government has bombarded civilian villages with helicopter gunships and encouraged attacks by nomadic Arab militias known as the Janjaweed. The Janjaweed raid villages, execute adult males, rape women and children, nail survivors to trees with iron spikes, burn homes and crops, steal livestock, and kidnap children into slavery. Over the course of the last year and a half, this campaign of ethnic cleansing has killed an estimated 200,000 people (or more) with an additional 10,000 people dying each month. These horrendous acts have helped depopulate a region as large as Texas. More than 2 million persons have been displaced, 1.8 million internally within Sudan and more than 200,000 in neighboring Chad.

The Darfur situation has its roots in the two-decade long civil war between the Sudanese government in the Arab-dominated North and rebel groups, primarily the Sudan People's Liberation Movement (SPLM), in the Christian and animist South. On April 8, 2004, the Sudanese government and Darfur-based rebel movements agreed to a ceasefire, and on January 9, 2005, the Sudanese government and SPLM signed an agreement to end the civil war. Unfortunately, these agreements have done nothing to abate the atrocities in Darfur, which if not resolved may lead to the collapse of the peace accords.

To date, neither the UN nor the rest of the international community has taken effective action to stop the Darfur genocide. The UN has studied the problem, approved Security Council Resolutions, and on May 25, 2004, the African Union (AU) committed a ceasefire monitoring mission to Darfur. The mandate of the AU troops, who number only a few thousand, is to oversee the ceasefire and protect the monitoring force on the ground, however; it does not extend to the protection of civilians. These efforts have had little effect. The killing continues. The UN and the international community must take strong measures if we are to save millions of lives and stem the further disintegration of Sudan into a breeding ground for terrorists.

The international community must keep up the pressure on the Sudanese government and the Janjaweed militias to end the carnage and to respect the monitoring force and give it access to all areas of Darfur. This pressure must be backed up with an adequate military presence. The size of the AU monitoring force needs to be enlarged (with the support and possible addition of troops from other regions) and the Security Council needs to extend its mandate to include protection of civilians. In this regard, on February 3, 2005, Secretary General Kofi Annan stated that the UN should establish a peacekeeping mission to maintain the ceasefire according to the peace agreement signed in January. He requested that member states contribute 10,000 troops and 700 civilian police, with some sent to Darfur to protect civilians.

Currently, nearly 80% of civilian casualties are caused by aerial bombardments. The Security Council must establish and enforce a no-fly zone, over Darfur. While the US is unlikely to commit ground troops so long as it is engaged in a military frolic elsewhere, it should be willing and able to participate in enforcing a no-fly zone.

Finally, those responsible for genocide and crimes against humanity in Sudan must be held accountable for their crimes, both to bring justice to the victims and to deter similar crimes elsewhere in the world. Most members of the Security Council favor referring the matter to the International Criminal Court (ICC). However, referral would be subject to the Security Council veto and the US opposes referral to the ICC. Instead, the US proposes that the matter be referred to a new international tribunal, that would be established under Chapter VII and jointly operated by the UN and AU.

Referral to the ICC is the only pragmatic, immediate way to move forward with bringing those most responsible for atrocities to justice. Establishing a new tribunal would be costly and entail substantial delay, while the ICC already exists and is ready to function. Use of the existing ICC would also be more credible, as there will always be some who will question the fairness of a tribunal established for a particular conflict.

US opposition to ICC referral is disingenuous. It is based not on the merits of the ICC, but on the antipathy of the current US administration toward the court. The US has stated in the past that it objects to the ICC because it is concerned that US personnel could be subject to politically motivated prosecutions and it believes that the Security Council, not the ICC prosecutor, should control submission of cases to the court. Here, however, the Council would be referring the situation to the ICC and the US does not have personnel involved in the conflict. It appears that the current administration is so determined to undermine the credibility of the ICC that it is unwilling to give the court any opportunity to demonstrate what it can do.

Following the holocaust, the world vowed "Never Again"; following the conflict in the former Yugoslavia, the world vowed "Never Again"; following the Rwandan genocide the world vowed "Never Again." Yet, it is happening Again! The UN has done little to end the killing. "Too little, too late" has become the rule rather than the exception. The UN needs to respond to situations such as Darfur in a principled, effective and timely manner. It does not now have that ability, and as a result either millions of people die or concerned states engage in unauthorized humanitarian intervention. To be able to respond effectively will require the UN to reform itself. It needs a military or police force that can respond to situations within days (if not hours), instead of the months it can take to raise a force from member states. Political considerations that too often delay making necessary decisions on how to respond (such as the veto), must be removed from the process. Many necessary changes are within the capability of the UN as it currently exists, others may require amending the Charter. If the vow of "Never Again" is to become a reality, the international community must undertake the essential reforms.

Note

For more on Darfur see Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, at www.un.org/News/dh/sudan/com_inq_darfur.pdf and the Citizens for Global Solutions website at http://www.globalsolutions.org/programs/peace_security/peace_ops/conflicts/conflicts_sudan.html (2005). *See also,* Mikael Nabati, *The U.N. Responds to the Crisis in Darfur: Security Council Resolution 1556*, ASIL INSIGHTS (August 2004) and Frederic L. Kirgis, *UN Commission's Report on Violations of International Humanitarian Law in Darfur*, ASIL INSIGHTS (February 2005) both at www.asil.org/insights.htm

Edwards — Continued from page 2

I would also like to thank someone who Ralph did not thank, and that is Ralph himself. Thank you, Ralph, for your contributions this past year and in years past, including your instrumental role in the last major Annual Meeting Panel our Interest Group sponsored—The United Nations & the Administration of Territory.

Above, Ralph outlined various projects that he and David Berry will spearhead as 2005-06 Co-Chairs. With the help of all of our members, I am certain that we will have another great year. I will remain an active member of the Interest Group, and look forward to seeing you all at the upcoming Business Meeting in Washington.

Thank you again for permitting me to serve.

George E. Edwards, Outgoing Co-Chair
Indiana University School of Law at Indianapolis

BOOK REVIEW

DEFENDING INTERESTS - PUBLIC-PRIVATE PARTNERSHIPS IN WTO LITIGATION

by Gregory C. Shaffer*

Review by Amin Alavi**

Researchers on the World Trade Organization (WTO) and especially its dispute settlement mechanism (hereinafter DS) face a central question: Is DS open and accessible to all its member-states, regardless of their power? A majority find that DS is accessible to all member-states and its use depends, inter alia, on a state's volume of international trade and number of trading partners.[1] A minority, on the other hand, comparing the WTO record with the GATT's, argue that the system is not responsive to smaller countries' interests.[2] Professor Shaffer's well-researched book places itself on the second group.

The book is basically divided into three sections. After laying down the theoretical framework in the first section (Chapter 2), the book compares the domestic mechanisms by which the EU and US, the two major users of the system, decide to bring a case before DS (Chapters 3-6). It then assesses what it means for the whole system, e.g., regarding developing countries' access to DS (Chapter 7). The study is strong in explaining and comparing the EU and US systems but weak in its conclusion. In short the book promises much more than can fulfil. Nevertheless, it is valuable reading for those interested in knowing how the two systems work. Below I will address three of the book's central points and their shortcomings.

As Shaffer explains, the US system of links between public and private actors, which he labels a "bottom-up approach," is older and more developed. The Office of the United States Trade Representative (USTR) is accepted and used by private companies as the central — but not the only — point of reference. One of the functions of USTR is to review companies' claims and, if deemed appropriate, act on their behalf. The EU system is, on the contrary, a "top-down approach," which means that the Commission must encourage companies to use its services. This is mainly because EU member-states still are regarded as the main decision-makers in Europe. Shaffer defines these two systems as comparable because of their success, but different because of their approach. In both cases, he finds that the larger companies are in a better position to utilize the relevant system.

But the description and comparison of the EU and US systems raises a very central question which the book does not answer: Is the difference between the US and EU a permanent feature of the two systems or is the EU moving towards an "Americanization" of its system? Prof. Shaffer seems to mean that, because the EU and US have different political, legal, and cultural systems, the former is the case. But if the later is true, then the EU's "top-down approach" is only a phase in the process of becoming an Americanized system.[3] The book ignores this possibility, which has relevance in designing such linkage systems. Here the (neo)institutionalist theories with their principal-agent analysis offer an interesting theoretical framework.

A greater inadequacy of the book can be found in its assumption that the linkages between public and private constitute partnerships. It is true that all partnerships represent links between different actors, but not all links constitute partnerships. Prof. Shaffer is aware of this problem but does not address it except to mention it and at times call these links ad hoc networks. The problem could have been solved if the book offered a definition of partnerships or analyzed these links as only one type among others, e.g., contracts, networks, ad hoc arrangements, and maybe partnerships.

As an example, the book is precise in explaining the public-private links in the US only when US companies want to use the USTR as the complaining party in a case before WTO. But in order to call these relationships partnerships, one must recognize two-way, permanent and somehow institutionalized relationships between public and private in all other situations as well, e.g., in cases when the US is the defending party. Although this may be the case, the evidence is not found in this book. Thus, the hypothesis that the public-private links are actual partnerships is only partially proved. Having said that, some elements of both the EU and US systems can be regarded as partnerships. One example is the EU's Market Access Strategy's database of trade barriers against EU companies,[4] which is a permanent channel between private and public. As it is now, the database is used as a tool to establish ad hoc partnerships, but if developed it could be the backbone of a permanent partnership.

The partial argument for partnerships has other major disadvantages as well. It is not clear when a relationship constitutes an ad hoc network and whether or when it develops into a permanent partnership or ceases to exist.

The most serious fault with the book is its conclusion. Shaffer's aim is to "evaluate how private firms collaborate with governmental authorities in the United States and the European Union to challenge foreign trade barriers before WTO legal system and within its shadow" (at 5).

The book should have stopped at this, but it goes one step further and, unfortunately, in a wrong direction.

The book makes a very strong case in arguing that the EU and US are frequent and successful users of the WTO because, inter alia, they have well-functioning systems that channel information from the private to the public, irrespective of whether the collaboration between private and public is ad hoc or permanent, or whether the EU is moving toward the US style. But it is a long way from this to state, as Shaffer does, that "[E]ven the richest WTO members have come to depend on the assistance of private parties" (at 159-60), and even further to say that the WTO judicial system is biased toward the wealthy and politically connected.

The book shows that if countries want to use DS, then they should have a public-private linkage system. But to argue that the system in itself demands extreme resources, one should look at what is required from disputing parties and find that these demands are inappropriate and unnecessarily burden states having fewer resources. Although this is not shown or addressed in this book, Shaffer writes that "whatever one's perspective on trade liberalization and its enforcement, developing countries and developing country constituents clearly are at a disadvantage before the WTO's current dispute settlement system" (at 161).

Comparing the WTO record with the GATT's, and citing Busch and Reinhardt,[5] Shaffer writes that developing countries are "up to five times more likely [now than during GATT] to be subject to a complaint" (at 161). But this statistic must be used with caution, mainly because during GATT, developing countries were not as obliged to follow the rules as now. Thus, many developing countries' otherwise illegal measures were not addressed under GATT. The situation is different now thanks, inter alia, to developing countries' own efforts and consent. Second, many developing countries are at a much higher level of development now than they were under GATT, and therefore, the political considerations that play a major role in whether a case should be raised are not as conclusive. Third, during the last three years the number of cases brought by developed against developing countries has decreased dramatically. Only 5 cases out of 89 during 2001-2003 (6%) were brought by developed against a developing countries, while 31 cases (35%) were brought by developing countries against developed ones.[6] These numbers show a change in the way DS is being used. Fourth, developing countries are increasingly initiating cases against other developing countries (30% of all cases during the last three years compared to 15% from 1995-2000). Maybe developing countries are more likely to be subject to a compliant now, but it is more likely that the case is being brought by another developing country.

Even with the latest developments in DS, the issue of how developing countries should be more engaged in the system is crucial, but this problem is not solved by addressing how public-private linkages are established. Many countries, especially the developing and least developed countries, lack such linkage mechanisms. As a result, they use the WTO less than do the EU and US. But this is not what the book ends with. The book's concern is that the US and EU systems open the doors for private companies to influence the development of the WTO legal mechanism, and if not controlled, will put developing countries in a less favorite position. If true, there are only two options: The public-private linkages should be controlled (or banned), or developing countries should be assisted in establishing their own public-private linkage systems. The former is a non-option, while the later would be optimal. The book ends with a warning to public officials to be aware of "the challenges posed for public management of enhanced resources offered through [public-private] litigation networks" (at 163). True, but this will not help developing countries as such, nor will it help the WTO.

Notes

* Brookings Institution Press, Washington, D.C., 2003. 227 pages. Cloth, $46.97 / £34.00, Paper $19.95 / £14.75.

** Ph.D. researcher and external lecturer at Copenhagen University, Denmark, Institute for Political Science and Danish Institute for International Studies.

1. For the latest statistical survey see William J. Davey, The WTO Dispute Settlement System: The First Decade,Paper presented at The World Trade Forum, Geneve 2004, at http://www.worldtradeinstitute.ch. For an economic study see HENRIK HORN, PETROS C. MAVROIDIS, & HÅKAN NORDSTROM, IS THE USE OF THE WTO DISPUTE SETTLEMENT SYSTEM BIASED? (1999).
2. *See, e.g.,* Marc Busch & Eric Reinhardt, *Testing International Trade Law: Empirical Studies of GATT/WTO Dispute Settlement, in* THE POLITICAL ECONOMY OF INTERNATIONAL TRADE LAW — ESSAYS IN HONOR OF ROBERT E. HUDEC, (Daniel L. M. Kennedy & James D. Southwick, eds., 2002).
3. Joost Pauwelyn's article addresses specifically this interesting question: Joost Pauwelyn, *Limits of Litigation: "Americanization" and Negotiation in the Settlement of WTO Disputes*, 19 OHIO ST. J. ON DISP. RESOL. 121 (2003).
4. The database can be accessed at http://mkaccdb.eu.int (last visited June 12, 2004).
5. *See* note 2.
6. A list of all disputes before DS can be found at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited June 14, 2004). The data is from my forthcoming article on how DS has been used.

Book Abstract
Combatting Terrorism: The Role of the UN

By Harris O. Schoenberg*

In demonstrating how the UN has moved from condoning to condemning and combatting terrorism, this study, published by the Center for U.N. Reform Education, Dr. Schoenberg reveals how terrorism has proved to be a most awkward topic for an organization created to promote peace and security. Nobody knows the subject better than Dr. Schoenberg, whose 1989 book, *A Mandate for Terror,* revealed how the UN legitimized terrorism on behalf of the PLO, an organization whose constituents invented international terrorism. *Combatting Terrorism* updates the story, providing an in-depth analysis of the positive roles of the UN Security Council's Counter-Terrorism Committee and of Secretary-General Kofi Annan's Policy Working Group on the UN and Terrorism. At the same time, it analyzes how the UN's efforts continue to break down over Palestinian Arab terrorism.

In a chapter on terrorism and human rights, Schoenberg candidly acknowledges that there has been a tendency both within the UN and the human rights community to fret more about the abuses that could stem from counterterrorism than those from terrorism itself. While Schoenberg insists on upholding the importance of human rights standards even in the face of terrorist threats, he reminds his readers that terrorism is a ruthless infringement of some of the most basic human rights and that there would be no need for counterterrorist measures if terrorism ceased.

Schoenberg offers over 30 proposals for improving the performance of the UN in combatting terrorism, which cover the entire spectrum of UN activities. Professor Edward C. Luck, Director of the Center for International Organizations at Columbia University and a member of Secretary-General Annan's Policy Working Group on the UN and Terrorism writes: "In this thoughtful and balanced account, Harris Schoenberg tackles one of the most urgent and least studied policy dilemmas of our time . . . [He] should be congratulated on the timeliness, as well as the quality, of this study."

* Center for U.N. Reform Education, New York, 2003, $22.00, www.unreformcenter.org..

MEMBERS' PUBLICATIONS

Adelle Blackett

- (with Colleen Sheppard), *Collective Bargaining and Equality: Making Connections*, 142 INT'L LAB. REV. 419 (2003).
- *Toward Social Regionalism in the Americas* 23 COMP. LAB. L. & POL'Y J. 901 (2002).
- *Codes of Corporate Conduct and the Labour Regulatory State in Developing Countries, in* HARD CHOICES, SOFT LAW: VOLUNTARY STANDARDS IN GLOBAL TRADE, ENVIRONMENT, AND SOCIAL GOVERNANCE 121 (John J. Kirton & Michael J. Trebilcock, eds., 2004) (Aldershot).

Bahman Naraghi

- *Does the ICC Need the USA? Taking Over What the USA Started*, at www.civitatis.org (June 2004). (Click on "Papers" for abstract and link to full article.)

Enrique Lagos and Timothy D. Rudy

- *In Defense of Democracy*, 35 U. MIAMI INTER-AM. L. REV. 283 (2004) (concerning legal mechanisms of the Inter-American Democratic Charter).

J. Peter Pham

- LIBERIA: PORTRAIT OF A FAILED STATE (2004) (Reed Press). A study of the social and political histories of the West African nation and its three neighbors, Cote d'Ivoire, Guinea, and Sierra Leone, that provides perspective on the decade-long conflict and the search for a regional and then international solution.
- *Law, Human Rights, Realism and the "War on Terror,"* 4 HUM. RTS. & HUM. WELFARE 91 (2004).
- *The Perils of "Consensus": Hans Kelsen and the Legal Philosophy of the United Nations,* 14 INDIANA INT'L & COMP. L. REV. 553 (2004).

UPCOMING EVENTS

THE ICTR: TEN YEARS AFTER

The New England School of Law Center for Law International Law & Policy is proud to announce that it will host its annual conference on Monday, April 4, 2005, entitled "The ICTR: Ten Years After," at the Radisson Hotel Boston, 200 Stuart Street, Boston, Massachusetts. This year's conference has been designated a Centennial Regional Meeting of the American Society of International Law, with the ASIL International Organizations and Human Rights Interest Groups as contributing sponsors.

The purpose of the conference is to commemorate the 10th anniversary of the formal establishment of the International Criminal Tribunal for Rwanda (ICTR) and to recognize and critically examine the work of this ground-breaking institution over the course of the decade.

The keynote address will be given by ICTR President Erik Mose who will discuss "The ICTR: Experiences and Challenges." Other featured

speakers include Justice Emmanuel O. Ayoola, President of the Special Court for Sierra Leone, and Justice Inés M. Weinberg de Roca of the ICTR Appeals Chamber.

REGISTRATION

To register for the conference, please send your name, affiliation, address, phone number, and e-mail address, along with a check payable to New England School of Law, to the address below. You may send your contact information via e-mail if you prefer. The registration fee is $75 if payment is received by March 28 or $95 if received after that date. The registration fee for students is $10; There is a $20 cost for students who would like to attend the luncheon session.

Please send your registration information, and direct any questions, to:

Megan Kenny, Special Programs Assistant
Center for International Law & Policy
New England School of Law
154 Stuart Street
Boston, MA 02116
Phone: 617-422-7280, Fax: 617-422-7453
CILP@admin.nesl.edu

For a complete schedule and list of speakers, please visit www.nesl.edu/center

REBUILDING NATION BUILDING

Friday, April 8, 2005, 8:30 a.m.—3:30 p.m.
The Frederick K. Cox International Law Center Symposium, Case School of Law

There is no charge for this event, and it webcast live (and available for viewing later viewing at: http://www.law.case.edu/centers/cox/content.asp?content_id=67

From the experience of post-colonial states in Asia and Africa to more recent experience in Haiti, Bosnia, Kosovo, Somalia, Afghanistan, and Iraq, the conceptual clarity and goals of nation building have been difficult to achieve. Beyond the international recognition of what Benedict Anderson called an imagined community, what are the desirable features of the nation under construction, and what, if any, is the appropriate role of the international community in designing, financing, and building them? How should the government be chosen, and powers separated between branches, allocated between the center and the regions, or shared by competing ethnic or religious groups? What are the necessary tools of conflict resolution? How critical is the role of women? Is religion a divisive or unifying force? What is the role of the United States, the United Nations, or the international financial institutions? With a view to comparative experience, a candid look at Iraq, and perspectives on the future, this unique day-long symposium will bring several world-leading experts together to address these fundamental questions.

SCHEDULE

9:00 a.m.—9:30 a.m.
Welcome & Introduction

9:30 a.m.—10:45 a.m.
Panel One: Federalism

11:00 a.m.—12:15 p.m.
Panel Two: Donor Interventions

1:15 p.m.—2:45 p.m.
Panel Three: Religion as Source of Conflict and Reconciliation

3:00 p.m.
Closing remarks

For more details, a list of speakers or to reserve space at the symposium, please visit http://www.law.case.edu/lectures/index.asp?