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For members only

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Editorial



Responding to the grave situation in Libya, the Security Council passed Resolution 1973 which imposed a No-Fly Zone over Libya. The prohibition covered alien as well as domestic aircraft from flying over the airspace of Libya. It also restricted member States from allowing any Libyan aircraft from landing on their lands. The resolution expressed grave concern over the deteriorating situation, the escalation of violence, heavy civilian casualties, gross and systematic violation of human rights, including arbitrary detentions, enforced disappearances, torture and summary executions and attacks against civilians which amounted to crimes against humanity and posed a threat to international peace and security. The resolution also demanded immediate cease fire and allowed all the member States to do whatever was required to protect civilians and the civilian populated areas under the threat of an attack. The Libyan No-Fly Zone is broader than any adopted previously in terms of geographical coverage, enforcement authorization and scope of ban. The UN action and the situation in Libya will surely provoke international law scholars to debate the wisdom of this action. Besides Libya, the so-called ongoing 'humanitarian' interventions other than the one in Libya threaten to rip apart the socio-political fabric of these States. The ICC referral has been seen 'counter productive' by many.

Conceptually, the issues compel examination of 'the responsibility to protect', the rights of third States that offer to act upon these duties and the limitations thereof. In other words, the situation in Libya provokes one to discuss the scope and extent of the interventionist policies and action of third States that engage in foreign military interventions in Libya, ostensibly in the name of the international community and the means by which they choose to fulfill the obligation to protect the people from the oppressive regime in their countries.

An ancillary issue is whether the decision process of the Security Council covers the concerns China and Russia that stay silent instead of exercising a veto. In brief, if the UN intends to establish 'Right to Protect' (R2P) as a legally binding principle, there should be a broader exchange of views leading towards a consensus, followed by a written legal document to govern future decisions.

Rahmatullah Khan

RECENT ACTIVITIES

WORKSHOP ON “INDIA, THE 123 AGREEMENT, AND NUCLEAR ENERGY: ISSUES OF INTERNATIONAL LAW”

Indian Society of International Law (ISIL) and University of Reading and Tamil Nadu Dr. Ambedkar Law University, Chennai jointly organized “Workshop on India, the 123 Agreement, and Nuclear Energy: Issues of International Law” on 2-3 April 2011 at the ISIL premises. The two day programme was inaugurated by Hon’ble Justice Mukundakam Sharma, Judge, Supreme Court of India. In the inaugural session, Dr. Robert P. Barnidge, Project Director, University of Reading, made opening remarks; Prof. Rahmatullah Khan, Secretary General, ISIL, welcomed the participants and chief guest; Prof. N. Manohar, Professor, Tamil Nadu Dr. Ambedkar Law University, Chennai made a brief remarks and Prof. S. K. Verma, Director, ISIL, gave vote of thanks to the dignitaries and the participants. Three sessions were organized to conduct the Workshop. The first session was chaired by Professor Yogesh Tyagi, Chairperson, SIS, JNU, New Delhi. Prof. R. Rajaraman, Emeritus Professor of Theoretical Physics, School of Physical Sciences, Jawaharlal Nehru University, New Delhi gave key note address on “Review of the India-US Nuclear Deal and Our Nuclear Energy Program”. Eminent Panelists Dr. James Green, University of Reading, Prof. C. Mahapatra, Professor, SIS, JNU, New Delhi, Prof. N. Manohar, Professor, Tamil Nadu Dr. Ambedkar Law University, Chennai, Dr. Siddharath Vardarajan, Senior Journalist, The Hindu and Dr. V. G. Hegde, Treasurer, ISIL presented paper on “India as a Persistent Objector to a Customary Comprehensive Nuclear Test-Ban: The Implications of Possible Peremptory Status and the Indo-US 123 Agreement”, “Indo-US 123 Agreement: Law, National Security and Development”, “US-India Nuclear Deal: A Phenomenal Test on the Efficiency of International Nuclear Energy Laws”, “The India-Specific Safeguards Agreement and Additional Protocol: A Legal and Political Analysis”, and “Nuclear Liability Regime: National and International Legal Perspectives” respectively.

The Second session was chaired Dr. E. M. S. Natchiappan, Member of Parliament, Rajya Sabha who also gave the keynote address. Eminent panelists Mr. Michael Liebermann,

Stephoe & Johnson LLP, Dr. Balaji, Tamil Nadu Dr. Ambedkar Law University, Chennai, Mr. Amirthalingam, Advocate, India, Ms. Valeria Eboli, Research Scholar, UK and Dr. Rajiv Nayan, Senior Fellow, IDSA, New Delhi made presentations on “Impact of 123 Agreement on Arms Race and Disarmament”, “Nuclear Energy and Its Implications on the Human Environment”, “International Responsibility for Nuclear Damage”, and “India-US Civil Nuclear Energy Agreement: Opportunities and Challenges?” respectively.

The third session was chaired by Prof. V. S. Mani, Director, School of Law and Governance, Jaipur National University, Jaipur and the keynote address was delivered by Prof. (Dr.) Gudmundur Eiriksson, Ambassador of Iceland to India. Eminent panelists Prof. B. C. Nirmal, Professor, BHU, Varanasi, Prof. J. L. Kaul, Professor-in-Charge, CLC, Delhi University, Delhi, Shri Mohit Kumar Gupta, Ph D Candidate, JNU, New Delhi and Mr. Hiroaki Nakanishi, Ph.D. Candidate, Graduate School of Asian and African Area Studies, Kyoto University, presented paper on “123 Agreement and International Environmental Law”, “Liability in Nuclear Disaster: A Legal Analysis”, “Conflict Resolution in International Law with respect to Nuclear Liability”, “Legal Relationship between the 123 Agreement” and “The U.S. Law: A Possibility of Trade-off between India’s Right of Nuclear Test and Nuclear Cooperation” respectively. The workshop concluded with the valedictory address by His Excellency Prof. (Dr.) Gudmundur Eiriksson, Ambassador of Iceland to India. Prof. S. K. Verma gave a formal vote of thanks.

TRAINING PROGRAMME FOR PROBATIONERS OF INDIAN FOREIGN SERVICE ON INTERNATIONAL LAW

The Indian Society of International Law (ISIL) conducted a seven-day Training Programme on International Law for probationers of Indian Foreign Service Officers at its premises on 04-13 April 2011. Sixteen probationers of IFS Officers participated in the programme. There were lectures and presentations on the themes of international law. The faculty of the orientation course consisted of eminent international law scholars. Prof. Rahmatullah Khan, President, ISIL, gave concluding remarks and distributed certificates to the Officer-Trainees.

40TH ANNUAL CONFERENCE OF THE INDIAN SOCIETY OF INTERNATIONAL LAW

The Indian Society of International Law (ISIL) organized its 40th Annual Conference on 16-17 April 2011 at V. K. Krishna Menon Bhawan (ISIL), New Delhi. More than 250 delegates comprising law faculty members, researchers, students and lawyers from different parts of the country and representatives from several embassies and ministries participated in the Conference. Prof. Rahmatullah Khan, President and Secretary General, ISIL, while welcoming the distinguished guests and the delegates, mentioned the significance of the Annual Conference of the ISIL and the need for



participating in such a conference. He strongly emphasized on the need to train scholars in international law to counter the hegemony of western scholars' writings. He highlighted achievements of ISIL in bringing scholars from all over the world to one platform in the last 50 years. Hon'ble Dr. E. M. S. Natchiappan, Member, Rajya Sabha and Former Chairman, Committee on Public Grievances, Law and Justice, inaugurated the Conference. He strongly argued for increased emphasis on international law in the law schools and colleges and the need to appoint a proper faculty to teach this subject as the subject has wider ramifications and implications on many aspects of day-to-day activities as well. He highlighted importance of identified themes of the Conference. He wished the Conference a great success." Prof. S. K. Verma, Director, ISIL, briefly outlined the scheme of the Conference and proposed a formal vote of thanks.

Three sessions were organized to discuss three themes. The first session (morning) was on the '*Reservation to Treaties*' which was chaired by Prof. Rahmatullah Khan, Secretary General, ISIL and Co-chaired by Prof. B. C. Nirmal, Professor, School of Law, BHU, Varanasi. Dr. Burra Srinivas, Legal Advisor, ICRC gave keynote address in this session. Eminent panelists namely Ms. Meena Panicker, Assistant Professor, Law Center – I, Delhi University, Delhi and Shri Mohit Kumar Gupta, Research Scholar, JNU, New Delhi presented papers on "*A Critical Review of CITES Reservation*" and "*Vienna*

Convention and India and US Practices" respectively.

The second session (afternoon) was on the "Obligation to Prosecute or Extradite" chaired by Dr. Luther Rangreji, Senior Legal Officer, L&T Division, MEA, Government of India and co-chaired by Dr. Aftab Alam, Associate Professor, AMU, Aligarh. Mr. Christopher Harland, Regional Legal Advisor, ICRC, New Delhi gave the keynote address. Eminent panelists namely Shri Y. S. R. Murthy, Executive Director, Global Jindal Law School, Sonapat, Dr. Anupam Jha, Senior Lecturer, CLC, Delhi University, Delhi and Shri Ajay Kumar, Assistant Professor, Amity Law School, Delhi, presented papers on "Kasab Trial and Extradition", "ICC and Extradition", and "Indian Courts and Extradition" respectively.

The third session was held on the theme "Shared Natural Resources" and chaired by Prof. K. Elumalai, Director, IGNOU. Dr. Philippe Cullet, Director, IELRC gave keynote address. Eminent panelists namely, Dr. V. G. Hegde, Treasurer, ISIL, Dr. Ram Mohan, Fellow, TERI, Mr. Deepto Roy, Partner, PXV Law presented papers on "Water Resources", "Conservation, Use and Development of Shared Natural Resources", "Conservation and Use of Shared Natural Resources" respectively. Finally, Prof. Rahmatullah Khan, President, ISIL, gave valedictory address and Dr. V. G. Hegde, Treasurer ISIL proposed a formal vote of thanks. The Annual Conference concluded with General Body Meeting held at 2.15 pm on 25 April 2011.

TRAINING PROGRAMME FOR THE OFFICER TRAINEES OF THE INDIAN ECONOMIC SERVICE

The ISIL conducted a Training Programme for Indian Economic Services on 'International and National Economic Law' sponsored by the Ministry of Finance, Government of India at its premises from May 16-20, 2011. Prof. Rahmatullah Khan, President, ISIL, inaugurated the programme and highlighted the importance of international economic law in increased globalised society. Prof. Khan gave an introductory lecture to the Officer-Trainees. There were lectures and presentations on a variety of themes of international and national economic law. The faculty of the orientation course consisted of eminent international law scholars. Shri Rajinder Singh, Deputy Director, IFS distributed certificate to the Officer-Trainees. Shri Vinai Kumar Singh, Course Co-ordinator proposed a formal vote of thanks.

SUMMER COURSE ON INTERNATIONAL LAW

The ISIL organized its Tenth Summer Course on International Law at its premises from 23 May – 3 June 2011 and the Course received a huge response of 170 participants from different parts of the India. The Summer Course was intended to introduce all branches of international law and highlight contemporary issues to the participants. The Course was inaugurated by Hon'ble Justice Dr. B. S. Chauhan, Judge, Supreme Court of India on Monday, 23rd May 2011. "I am happy to see so many of you to have chosen to participate in the Tenth Summer Course on International Law organized by the Indian Society of International Law. I am convinced that it is the only specialized course of this nature which is filled with international law experts could come out with some practical and workable ideas in this regard. I wish the participants a great success." Prof. Rahmatullah Khan, Secretary General, ISIL, in his welcome address, narrated the purpose and the importance of the course. Prof. S. K. Verma, Director, ISIL gave vote of thanks.

The substantive lectures of the Course were spread over two weeks. Lectures were delivered on vital and contemporary areas of international law, viz., General Principles of Public International Law, Introduction to



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Private International Law, International Institutions, International Human Rights, International Humanitarian and Refugee Law, International Criminal Law, Maritime Law, Public International Trade Law, National and International Arbitration, International Environmental Law and Sustainable Development. The faculties for the Summer Course comprised of eminent international law experts. The Course witnessed lively interactions and discussion by the participants.

11TH V. K. KRISHNA MENON MEMORIAL LECTURE BY HON'BLE SHRI MANI SHANKAR AIYAR ON "THE DILEMMA OF DEMOCRACY AND DEVELOPMENT IN INDIA – THE CASE FOR PANCHAYAT RAJ"

In the memory of Shri V. K. Krishna Menon, former President and founder of ISIL, the ISIL organized its Eleventh V. K. Krishna Menon Memorial Lecture on 2 June 2011 at ISIL premises. Prof. S. K. Verma, ISIL highlighted and underlined the achievements of Hon'ble Chief Guest Shri Aiyar, Member, Rajya Sabha. Shri Aiyar delivered lecture on "The Dilemma of Democracy and Development in India – the Case for Panchayat Raj". Shri C. K. Chaturvedi, Vice President, ISIL summed up the speech of the Chief Guest. Dr. V. G. Hegde, Treasurer, ISIL proposed the vote of thanks and mentioned the relevancy and importance of the topic in the international law as well.



RECENT DEVELOPMENT

ICJ RULES IT HAS NO JURISDICTION TO DECIDE GEORGIAN CLAIM

The International Court of Justice (ICJ) announced, on 1 April 2011, that it cannot consider a claim by Georgia that Russia

breached a global pact against racial discrimination because the two countries had not first tried to resolve their dispute through negotiations. The ICJ, which sits in The Hague, voted by 10 judges to six to uphold one of Russia's four preliminary objections to the court's capacity to hear the claim, in which Georgia contended that Russia had breached the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Detailing the reasoning for its decision, the ICJ said the convention requires the parties to a dispute to first have either attempted negotiations or resorted to the special procedures outlined in the pact, and that the lodging of protests or counter-claims by the two countries was not sufficient. Georgia had contended that Russia had engaged in a systematic policy of ethnic discrimination against ethnic Georgians and other groups living in Abkhazia and South Ossetia from the early 1990s until fighting broke out there in 2008.

WIPO REPORTS SHARP RISE IN CYBERSQUATTING DISPUTES

Disputes over the practice of cybersquatting rose sharply last year, with nearly 2,700 cases filed for arbitration with the WIPO Arbitration and Mediation Centre charged with protecting inventions, trademarks, industrial designs and copyright. The number of arbitration and mediation cases filed represented a 28 per cent increase over the previous year, according to a press release issued by the UN World Intellectual Property Organization (WIPO) on 1 April 2011. Cybersquatting generally refers to the practice of registering, offering for sale or using a domain name with the aim of profiting from a trademark that belongs to someone else. It can also involve buying up domain names that use the names of existing businesses with the intention of selling the same names to those to those firms. Parties filing cases with WIPO last year took advantage of user-friendly online facilities such as the paperless procedure initiated by the entity's Arbitration and Mediation Centre. The cases – which involved some 4,370 domain names – were decided by 327 panellists from 49 countries in 13 different languages, namely English, Spanish, French, Dutch, German, Chinese, Korean, Portuguese, Italian, Turkish, Romanian, Swedish, and Japanese. In 91 per cent of the cases, panels found evidence of cybersquatting, deciding in favour of complainants. The top five areas of WIPO

complainant activities were retail, banking and finance, biotechnology and pharmaceuticals, Internet and information technology, and fashion.

SECURITY COUNCIL TO CONSIDER PLANS FOR SPECIALIZED SOMALI COURTS TO TRY PIRATES

Recognizing the need for further steps to boost anti-piracy efforts, the Security Council, on 11 April 2011, decided to urgently consider the establishment of specialized Somali courts to try suspected pirates both in Somalia and in the region. The Council also urged both State and non-State actors affected by piracy, most notably the international shipping community, to provide support for a host of judicial and detention related projects through the trust fund set up for that purpose. In its unanimously adopted resolution, the 15-member Council stressed the need for "a comprehensive response to tackle piracy and its underlying causes by the international community," as it outlined a wide array of measures to more effectively counter the scourge of piracy. These include calling on States to cooperate on the issue of hostage-taking; encouraging States and regional organizations to assist Somalia in strengthening its coastguard capacity; urging all States, including those in the region, to criminalize piracy under their domestic laws; and underlining the need to investigate and prosecute those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the Somali coast. In adopting this resolution, the Council was acting on the recommendations contained in a report by Secretary-General Ban Ki Moon's Special Adviser on Legal Issues Related to Piracy off the Coast of Somalia, Jack Lang. In its previous resolutions, the Council has authorized States and regional organizations to enter Somalia's territorial waters and use "all necessary means" to fight piracy such as deploying naval vessels and military aircraft, as well as seizing and disposing of boats, vessels, arms and related equipment used for piracy. In the text of the resolution it recognized that the ongoing instability in Somalia is one of the underlying causes of the problem of piracy and armed robbery at sea off the coast of the Horn of Africa nation.

PARTIES TO UN CLIMATE CHANGE CONVENTION APPOINT TEAM TO DESIGN NEW CLIMATE FUND

Parties to the United Nations climate change convention, on 15 April 2011, announced the selection of a 40-member committee tasked with designing an international fund to manage resources mobilized to enable developing countries to address the effects of climate change. The parties to the UN Framework Convention on Climate Change (UNFCCC) said that the transitional committee will prepare operational specifications for the Green Climate Fund in time for approval by the next UN Climate Conference in Durban, South Africa in December. The transitional committee had its first meeting in Mexico City on 28 April 2011. The Green Fund is being launched in the broad context of long-term financial support agreed last year at the UN climate change conference in Cancún, Mexico, under which industrialized countries committed to a goal of jointly mobilizing \$100 billion per year by 2020. The funds would be raised from both public and private sources and directly linked to meaningful climate change mitigation actions and transparency on implementation. The Green Climate Fund was only one of the several new institutions agreed at Cancún. The others are a technology mechanism to get clean technologies to the right places and an adaptation framework to boost international cooperation to help developing countries protect themselves from the impacts of climate change.

SECURITY COUNCIL EXTENDS MANDATE OF UN COMMITTEE ON WEAPONS OF MASS DESTRUCTION

The Security Council, on 20 April 2011, extended for 10 years the mandate of a committee tasked with monitoring a United Nations resolution on the non-proliferation of weapons of mass destruction, and requested it to carry out a comprehensive review of the implementation of the text. The Committee was created under Security Council Resolution 1540 of 2004, which imposes binding obligations on all States to establish domestic controls to prevent the proliferation of nuclear, chemical and biological weapons, and their means of delivery and by

establishing appropriate controls over related materials. In a unanimous decision, the Council adopted a resolution extending the Committee's mandate until 25 April 2021. Widely known as the 1540 Committee, the body also encourages greater international cooperation on issues related to the non-proliferation of weapons of mass destruction to promote universal adherence to existing non-proliferation treaties. In requesting the committee to conduct a comprehensive review on the status of implementation of resolution 1540, both after five years and prior to the renewal of its mandate, the Security Council stated that it should, if necessary, recommend adjustments to its mandate and report on the conclusions of those reviews. The first review should be held before December 2016. The Council requested the Secretary-General "to establish, in consultation with the 1540 Committee, a group of up to eight experts... acting under the direction and purview of the committee, composed of individuals with the appropriate experience and knowledge to provide the committee with expertise, to assist the committee in carrying out its mandate". Resolution 1540 obliges States to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems. The Committee does not act as an international policing body to pursue those who buy or sell weapons of mass destruction or their materials, but rather deals with the legal framework and export and customs controls that countries can use to help stop proliferation.

UN PANEL OF EXPERTS FINDS CREDIBLE REPORTS OF WAR CRIMES DURING SRI LANKA CONFLICT

The panel of experts set up to advise Secretary-General Ban Ki-moon on accountability issues with respect to the final stages of the conflict in Sri Lanka has found credible reports of war crimes committed by both the Government and Tamil rebels and calls for genuine investigations into the allegations, according to a report made public on 25 April 2011 by the United Nations. The decision to release the report, which was submitted to the Secretary-General on 12 April 2011 and shared with the Sri Lankan Government, was made as a "matter of

transparency and in the broader public interest. The panel found credible allegations that comprise five core categories of potential serious violations committed by the Government in the final stages of the conflict, including killing of civilians through widespread shelling and the denial of humanitarian assistance. The credible allegations concerning the LTTE comprise six core categories of potential serious violations, including using civilians as a human buffer and killing civilians attempting to flee LTTE control. The panel's first recommendation is that the Government of Sri Lanka should respond to the serious allegations by initiating an effective accountability process beginning with genuine investigations. With regard to the recommendation that it is required to establish an international investigation mechanism that will require host country consent or a decision from Member States through an appropriate intergovernmental forum. The three-member panel of experts was set up following the Joint Statement made by Mr. Ban and Sri Lankan President Mahinda Rajapaksa after the Secretary-General visited the South Asian nation shortly after the end of the conflict. The members of the panel were Marzuki Darusman of Indonesia (chair), Yasmin Sooka of South Africa and Steven Ratner of the United States. They began their work in September 2010. The panel was tasked with examining "the modalities, applicable international standards and comparative experience with regard to accountability processes," taking into account the nature and scope of any alleged violations of international humanitarian and human rights law during the final stages of the conflict in Sri Lanka. Government forces declared victory over the rebel Liberation Tigers of Tamil Eelam (LTTE) in 2009 after a conflict that had raged on and off for nearly three decades and killed thousands of people. The conflict ended with large numbers of Sri Lankans living as internally displaced persons (IDPs), especially in the north of the island country.

SIX NATIONS TO MAKE THEIR DEBUT ON UN HUMAN RIGHTS COUNCIL

Six countries that have never previously served on the United Nations Human Rights Council are among 15 new members of the UN HRC after a round of balloting among UN Member States held on 20 May 2011.

Austria, Benin, Botswana, the Republic of Congo, Costa Rica and Kuwait will make their debut on the Council from June 2011, starting three-year terms on the 47-member panel that allots seats according to a formula based on world regions. The other newly elected members – although they have previously completed stints since the Council was created in 2006 – are Burkina Faso, Chile, Czech Republic, India, Indonesia, Italy, Peru, Philippines and Romania. Four countries were elected in the African category, four in the Asian States grouping and three from Latin America and the Caribbean, while two countries were chosen from Eastern Europe and two from the Western European and other States grouping. In the Eastern European category, Georgia was unsuccessful, while in Latin America and the Caribbean, Nicaragua missed out on a seat.

GRENADA BECOMES PARTY TO THE INTERNATIONAL CRIMINAL COURT

On 20 May 2011, Grenada acceded to the 1998 Rome Statute, taking the total number of States Parties to the treaty to 115. The ICC noted that the Caribbean region began the initiative for an international tribunal of this kind as far back as 1989, adding it hoped that every member of the Caribbean Community will join the Rome Statute as soon as possible.

COUNTRIES ADOPT NEW UN STANDARDS TO IMPROVE CONDITIONS FOR DOMESTIC WORKERS

Government representatives and delegates representing worker and employer organisations attending a United Nations International Labour Organization (ILO) conference, on 16 June 2011, adopted a set of international standards aimed at improving the working conditions of millions of domestic workers worldwide. The new Convention on Domestic Workers adopted at the annual conference of the ILO in Geneva states that workers around the world who care for families and households must have the same basic labour rights as those available to other employees. It calls for reasonable hours of work, weekly rest of at least 24 consecutive hours, a limit on in-kind payment, clear information on terms and conditions of employment, as well as respect of the rights

associated with employment, including the freedom of association and the right to collective bargaining. The Convention will come into force after it has been ratified by two States.

UN HUMAN RIGHTS COUNCIL (HRC) ENDORSES PRINCIPLES TO ENSURE BUSINESSES RESPECT HUMAN RIGHTS

The United Nations Human Rights Council (HRC), on 16 June 2011, endorsed a new set of global guiding principles for business designed to ensure that companies do not violate human rights in the course of their transactions and that they provide redress when infringements occur. The Guiding Principles for Business and Human Rights outline how States and businesses should implement the UN "Protect, Respect and Remedy" Framework in order to better manage business and human rights challenges. The framework is based on three pillars – the State duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication; the corporate responsibility to respect human rights, which means avoiding infringing the rights of others and to address adverse impacts that occur; and greater access by victims to effective remedy, both judicial and non-judicial. The principles are the product of six years of research led by Professor Ruggie of Harvard University, involving governments, companies, business associations and civil society around the world. Under the 'State Duty to Protect,' the guiding principles recommend how governments should provide greater clarity of expectations and consistency of rules for business in relation to human rights. The 'Corporate Responsibility to Respect' principles provide a blueprint for companies on how to know and show that they are respecting human rights. The 'Access to Remedy' principles focus on ensuring that where people are harmed by business activities, there is both adequate accountability and effective redress, judicial and non-judicial.

GENERAL ASSEMBLY APPOINTS BAN KI-MOON TO SECOND TERM AS UN SECRETARY-GENERAL

The United Nations General Assembly, on 21 June 2011, agreed to appoint Ban Ki-moon to a second consecutive term as the Secretary-General of the 192-member Organization.

Under the resolution, which was adopted by acclamation, Mr. Ban's second term will run from 1 January 2012 to 31 December 2016. The decision of the General Assembly follows a recommendation last week by members of the Security Council that Mr. Ban – the eighth person to serve as UN chief – be re-appointed. He has been in office since January 2007.

TWELVE NATIONS AND EUROPEAN UNION JOIN UN PROTOCOL ON SHARING GENETIC RESOURCES

Twelve nations and the European Union, on 23 June 2011, added their signatures to a United Nations treaty on the equitable sharing of the planet's genetic resources in a ceremony at UN Headquarters. Representatives from Austria, Bulgaria, the Czech Republic, Denmark, Finland, Germany, Hungary, Italy, Luxembourg, Netherlands, Sweden, United Kingdom and the European Union signed the Nagoya Protocol on Access and Benefit Sharing, which calls for "fair and equitable sharing" of the utilization of genetic resources. The protocol, adopted in October 2010 in Nagoya, Japan, will enter into force 90 days after the fiftieth country ratifies it. The Protocol envisages the setting up of an international regime on access and benefit sharing of genetic resources, which will lay down the basic ground rules on how nations cooperate in obtaining genetic resources, according to the administrative offices of the 193-member Convention on Biological Diversity (CBD), which drafted the Protocol.

THAI DECISION TO DENOUNCE WORLD HERITAGE CONVENTION

A Thai Government minister said, on 25 June 2011 in Paris, where the UNESCO World Heritage Committee is currently meeting, that his country does not support the convention, the latest step in a row involving the Preah Vihear Temple, a World Heritage List site that has been damaged during border clashes earlier this year between Thailand and Cambodia. The World Heritage Convention of 1972 is not only the foremost international instrument for the preservation and protection of the world's cultural and natural properties which have outstanding universal value, but also widely recognized as an important and indispensable tool to develop and encourage

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international cooperation and dialogue. Allegation was that the World Heritage Committee did not discuss the management plan for the Preah Vihear Temple or request that reports be submitted on its state of conservation.

WTO APPELLATE BODY ISSUES REPORT ON PHILIPPINE-THAILAND CIGARETTE DISPUTE

The Appellate Body, on 17 June 2011, issued its report in the case "Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines" (WT/DS371/AB/R). Thailand's appeal was limited to certain of the Panel's findings under Article III:2, Article III:4, and Article X:3(b) of the GATT 1994. The Appellate Body upheld the core findings challenged by Thailand on appeal.

The Appellate Body upheld the Panel's finding that Thailand acts inconsistently with Article III:2, first sentence, of the GATT 1994 by subjecting imported cigarettes to internal taxes in excess of those applied to like domestic cigarettes. The Thai measure at issue consists of an exemption from value added tax ("VAT") liability for resellers of domestic cigarettes, together with the imposition of VAT on resellers of imported cigarettes when they do not satisfy prescribed conditions for obtaining input tax credits necessary to achieve zero VAT liability. The Appellate Body agreed with the Panel that this measure affects the respective tax liability imposed on imported and like domestic products. The Appellate Body therefore rejected Thailand's characterization of the measure as "administrative requirements", as well as Thailand's argument that the measure should have been examined under Article III:4, and not Article III:2, of the GATT 1994.

The Appellate Body also upheld the Panel's finding that Thailand acts inconsistently with Article III:4 of the GATT 1994 by according less favourable treatment to imported cigarettes than to like domestic cigarettes. The Thai measure at issue consists of an exemption from three sets of VAT-related administrative requirements for resellers of domestic cigarettes, together with the imposition of these requirements on resellers of imported cigarettes. The Appellate Body found that the Panel properly analyzed this measure and its implications in the marketplace, and therefore agreed with the

Panel that this measure accords less favourable treatment to imported cigarettes by imposing the additional administrative requirements only on resellers of imported cigarettes. The Appellate Body further found that the Panel did not fail to ensure due process or to comply with its duty under Article 11 of the DSU by accepting and relying upon evidence, submitted by the Philippines late in the Panel proceedings, relating to one of the administrative requirements. Due to an error in the Panel's identification of the basis for its finding, the Appellate Body reversed the Panel's finding that Thailand had not satisfied its burden of proving its defence under Article XX(d) of the GATT 1994. In completing the legal analysis, however, the Appellate Body found, as had the Panel, that Thailand failed to establish that the administrative requirements at issue are justified under Article XX(d) of the GATT 1994.

Finally, the Appellate Body upheld the Panel's finding that Thailand acts inconsistently with Article X:3(b) of the GATT 1994 by failing to maintain or institute independent tribunals or procedures for the prompt review of customs guarantee decisions. Thai Customs requires importers to provide a guarantee in order to obtain the release of goods from customs pending a final determination of customs value. The Appellate Body saw no error in the Panel's conclusion that Thailand's system for the review of guarantees does not comply with the obligation to ensure prompt review under Article X:3(b) because such review is not available until after a final determination of customs value has been made.

2011 ELECTION OF THE INTERNATIONAL LAW COMMISSION

The term of office of the thirty-four members of the International Law Commission for the 2007-2011 quinquennium expires at the end of 2011. The election of the members of the Commission for a five-year term beginning on 1 January 2012 (until 31 December 2016) will take place at the sixty-sixth session of the General Assembly, in late 2011. The nomination period for the 2011 election of the International Law Commission was opened by a communication from the Secretary-General, dated 5 October 2010 and closed on 31 May 2011. The nomination of Shri Narinder Singh (India) for second term of ILC membership is also received.

THAILAND BECOMES PARTY TO UNCLOS

On 15 May 2011, Thailand ratified the UN Convention on the Law of the Sea and acceded to the Agreement relating to the implementation of Part XI.

ELECTION OF REMAINING SEVEN MEMBERS OF THE ITLOS

Seven Members of the International Tribunal for the Law of the Sea (ITLOS) have been elected at the twenty-first Meeting of the 162 States Parties to the United Nations Convention on the Law of the Sea, in session at United Nations Headquarters in New York held on 17 June 2011. The judges were elected for a term of nine years commencing on 1 October 2011. Among those seven Members, Judge Cot (France), Judge Gao (China), Judge Lucky (Trinidad and Tobago) and Judge Ndiaye (Senegal) were reelected and Mr Attard (Malta), Ms Kelly (Argentina) and Mr Kulyk (Ukraine) were newly elected by the States Parties. Elections for the judges of the Tribunal are held every three years at the Meeting of States Parties. The judges are elected by the States Parties to the Convention by secret ballot for a term of nine years and may be re-elected.

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FORTHCOMING EVENTS

1. Felicitation of Dr. M. Gandhi, Joint Secretary, L&T Division, MEA, Government of India, 10 August 2011.
2. Book Release Function, 19 August 2011.
3. Inaugural and Convocation of P G Diplomas, 2 September 2011
4. 11th Henry Dunant Memorial Moot Court Competition (National Rounds), 22nd September to 25th September 2011

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Victor Kattan, *From Co-existence to Conquest; International Law and the Orgins of the Arab-Israeli Conflicts 1891-1949.*
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SELECT BIBLIOGRAPHY AND NEW ACQUISITIONS

New Acquisitions to the ISIL Library from April to June 2011