

SYDNEY

A U S T R A L I A

the world jurist

BULLETIN OF THE WORLD JURIST ASSOCIATION
OF THE WORLD PEACE THROUGH LAW CENTER



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WORLD PEACE THROUGH THE RULE OF LAW: CELEBRATING 40 YEARS OF THE WJA

***21st Biennial Congress on the Law of the World
Sydney/Adelaide, Australia August 17-23, 2003***

As the WJA celebrates its 40th anniversary this year, our mission of world peace through the Rule of Law remains more important than ever. With the war in Iraq, an unknown deadly virus spreading throughout the world, and continued violence and hatred permeating the globe, there is no better time to come together as members of the international community to demand change. As our Founder and Honorary Life President, **Charles S. Rhyne**, once said, "*what we lawyers want is to substitute courts for carnage, dockets for rockets, briefs for bombs, warrants for warheads, and mandates for missiles.*"

Forty years later, this statement still rings true. As a result, we have decided to dedicate the 21st Biennial Congress on the Law of the World to promoting the ideals upon which we were founded. Throughout the many panel sessions offered in Sydney and Adelaide, delegates will find numerous opportunities to explore the latest developments in the legal profession. From terrorism and the law to international criminal law, the Sydney/Adelaide Conference will touch upon the timely topics of human rights versus security, confronting terrorism at home and abroad, pre-emptive self-defense, the International Criminal Court, and the role of the United Nations in times of armed interventions.

In addition, delegates will learn about recent innovative initiatives in the fields of international trade and investment, technology and the Rule of Law, and the judiciary.

We will also delve into the many facets of alternative dispute resolution, environmental law and sustainable development, ethics, and corporate governance and business development.

For those individuals who are interested in local government law, two plenary sessions will be hosted by the International Municipal Lawyers Association (IMLA). The first session will examine the structures of local level governance and financing as well as land use planning and growth management. After delegates transfer from Sydney to Adelaide, local government experts will provide detailed advice and guidance on how to make local government work effectively for officials and citizens.

The WJA has invited some of the world's most prestigious scholars and legal professionals to participate in the 21st Biennial Congress. From Chief Justices and Attorneys General to academics, government officials, and private practitioners, this event will provide numerous occasions to network with world leaders and key decision-makers. As such, the Sydney/Adelaide Conference will be one event that should definitely not be missed.

Space is filling up quickly so please be sure to register today. A complete listing of program events, topics, registration information, and related Australian news articles can be found throughout this newsletter. For regular updates and discounted travel packages, please visit www.worldjurist.org or contact the WJA at its Washington Headquarters.

A MESSAGE FROM THE PRESIDENT



Dear Members,

Our 21st Biennial Congress on the Law of the World is cause for excitement and the theme of this year's conference personifies that goal. *"World Peace through the Rule of Law: Celebrating 40 Years of the WJA"* will undoubtedly prove to be among the most successful Biennial Congresses to date. With the onset of war in the Middle East, and a multitude of other pressing issues surfacing throughout the international community, the breadth and comprehensive nature of this conference will answer questions of immediacy that we all strive to resolve.

As we celebrate 40 years of the WJA, our conference aims to include a variety of subjects that we as an Association value. Timely topics such as terrorism and the law and international trade will be coupled with timeless issues such as human rights and the environment. In an effort to combine tradition and emerging trends of law, the World Jurist Association announces "Weapons of Mass Destruction" as our Demonstration Trial theme. For many of you, the Demonstration Trial is the highlight of the conference and this year's will prove to be even more outstanding than in previous years.

As the WJA completes the 40-year landmark, we strive to change and conform to the needs and desires of a growing legal community. This 21st Biennial Congress will be the first time the WJA will provide a practical skills institute. After spending a week in panel sessions discussing pressing legal issues and questioning varying points of view, the WJA will provide a forum for all professionals to gain pragmatic approaches and strategies through demonstrations and critiques. This new facet of the conference is truly exciting and long-awaited by our delegates.

As we embark on yet another attempt to shape policy, we are facing difficult times for international organizations. We will all learn from our personal participation in the conference, but the Congress Declaration and Resolutions afford outside parties the opportunity to share in our knowledge. Let us make this 40-year celebration memorable, both through participation and codification.

I would also like to thank you all for your support over the past two years. Your unwavering dedication to the WJA has made me proud to be part of this Association. I look forward to our meeting in Australia and hope that many, if not all of you, come willing to listen, participate, and form the policies that so greatly influence our societies.

Sincerely,

Hans Thümmel
President

World Jurist Association of the World Peace Through Law Center

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Charles S. Rhyne (USA)

HONORARY PRESIDENTS

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Hilarion G. Davide, Jr., Chief Justice, Philippines
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Ren Jianxin, President, Supreme People's Court, PR China
Mohammed L. Uwais, Chief Justice, Nigeria
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MEMBERSHIP

Membership is open to any individual wishing to support and work for the promotion of world peace through the Rule of Law. For further information, contact the WJA at 1000 Connecticut Avenue NW, Suite 202; Washington, DC 20036; USA. Phone: 1.202.466.5428 / Fax: 1.202.452.8540. Or you may visit our website at www.worldjurist.org.

SPECIAL MEMBERSHIP CATEGORIES

Members of the WJA or anyone interested in its objectives, upon donation of \$1000 to the WJA, may be elected a Sustaining Member, upon donation of \$5000 a Patron, or upon donation of \$15,000 a Benefactor. Payments may be made over a period of time. Donations made in the name of a deceased person allow for election posthumously. Other levels of contribution are available by contacting the WJA.

BENEFACTOR

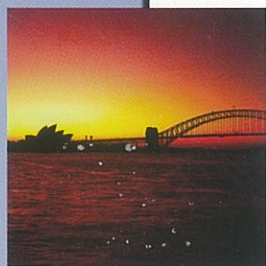
Daniel J. Monaco, USA

PATRON

Hans Thümmel, Germany

SUSTAINING MEMBER

Justice Serafin V.C. Guingona, Philippines



NEW MEMBERS

The World Jurist Association is pleased to announce and welcome the following new members:

- Anatoly Antoshin**, Deputy Chairman, Moscow Arbitration Court, Russia.
- Gabriel Campo**, IT Director, Baker & McKenzie, Australia.
- E.P. Chasovskiy**, Arbitration Court for the Donetsk Region, Ukraine.
- Kenneth Joe Galloway**, IT Director, Baker & McKenzie, Hong Kong.
- Prof. Sergey Gerasimov**, Russia.
- Stefania Guarino**, Attorney-at-Law, Studio Grimaldi & Associati, Italy.
- Danylo M. Kurdelchuk**, President, Ukrainian Bar Association for Foreign Affairs, Ukraine.
- Kairat Mami**, Chairman of the Supreme Court, Kazakhstan.
- Lawal Mustapha**, Attorney-at-Law, Nigeria.
- Mykola Pavlov**, Assistant to the President of the Ukrainian Bar Association for Foreign Affairs, Ukraine.
- Lesya Savchenko**, Dean of the Dept. of Law, Academy of Taxation Service, Ukraine.
- Mykola N.F. Stahkurskiy**, Head of the Arbitration Court for Kyiv Region, Ukraine.
- Andrey A. Trebkov**, President, Union of Lawyers of Russia, Russia.
- Dr. Ilyas Zafar**, Zafar & Associates, Pakistan.
- Leonid Zyma**, Head of Financial Crimes, Donetsk Region Dept. of Ministry of Internal Affairs, Ukraine.

MEMBER NEWS

Prof. Bill Slomanson, Professor of Law at Thomas Jefferson School of Law (USA) and Chair of the American Society of International Law UN21 Section, has recently published the 4th edition of his book, *Fundamental Perspectives on International Law* (WestGroup). The electronic portion of his book is available at <http://home.att.net/~slomansonb/txtcsesite.html>.

UPCOMING ELECTIONS

Just a reminder that the World Jurist Association will be holding elections for our Board of Governors during the upcoming Sydney/Adelaide Conference in August. Pursuant to Article V of the Association's By-Laws, the following provisions have been set forth for nominations and elections:

Each Active and Honorary member in good standing shall, during each Biennial Conference, elect the Association's officers, each for a two year term or until their successor shall have been duly elected following the adjournment of the said Biennial Conference. The officers shall be a President; First, Second, and Third Vice Presidents; President for Africa; President for the Americas; President for Asia; President for Europe; President of the World Association of Judges; President of the World Association of Lawyers; President of the World Association of Law Professors; and President of the World Business Associates. The President and the First, Second, and Third Vice Presidents shall not be eligible for re-election to the post he or she presently holds.

UPCOMING EVENTS

The WJA is proud to once again serve as a co-sponsor of the **Third Annual International Immigration and Naturalization Conference**, hosted by the First Independent University in Poland. This year's theme, "*Global Problems of Immigration: Challenges and Prospects in the New Century*," is the third in a series of debates which began in June 2001 and continued last year.

The conference, scheduled for **June 16-17** in Warsaw, will address many issues that have gained attention since the events of 9/11, the current global economic recession, and the ever-growing intolerance and persecution of minority ethnic groups. The program will include presentations in four areas:

- Legal Problems of Immigration and Naturalization in Europe and the World
- Immigration and the Economy
- The Status of Refugees in Europe
- Terrorism, International Disputes, Military Conflicts, and Immigration

Details are available at the University's website: www.pwsbia.edu.pl/english/international_conferences.htm.

Due to the outbreak of SARS, the WJA's **International Trade, Banking, and Alternative Dispute Resolution Conference** in Hong Kong was postponed until **November 30-December 4, 2003**. Detailed information is now available at: www.worldjurist.org.

IN MEMORIAM

It is with great sadness that we say goodbye to one of our dearest and oldest friends and supporters, **The Hon. Michael Donohue** (USA). Judge Donohue passed away suddenly on February 6 shortly after being diagnosed with lung cancer. His active participation at many of our events, including most recently in Stuttgart, set a wonderful example for others around the world. He will certainly be missed by all.

Each WJA member in good standing may nominate any qualified WJA member, including himself or herself, for each office. Each nomination must be accompanied by 20 signatures of WJA members in good standing who endorse the nomination. Of these 20 endorsements, no more than 10 may come from members residing within the nominee's country.

Time is running out! Nominating petitions, along with a short biography of the candidate's career, must be received by the WJA Headquarters office in Washington, DC by **June 1, 2003**. We have already received many nominations so if you are interested in running for office, now is the time to act. Don't miss this opportunity to have a direct voice in the WJA's affairs!

Voting will take place by means of an official ballot sent to all eligible members on **July 1, 2003**. Completed ballots must be received at WJA Headquarters by **August 1, 2003** or returned in person at the Conference by **3pm Sunday, August 17**.

PRELIMINARY PROGRAM

Sydney, Australia

August 17-20, 2003

	Sunday August 17	Monday August 18	Tuesday August 19	Wednesday August 20
MORNING	REGISTRATION	<p>9.30-10.30 OPENING CEREMONY AT THE GREAT HALL OF SYDNEY UNIVERSITY HOSTED BY: THE VICE CHANCELLOR</p> <p>11.00-12.30 TERRORISM AND THE LAW</p>	<p>9.00-11.00 INTERNATIONAL TRADE</p> <p>11.00-13.00 TECHNOLOGY AND INNOVATIVE INITIATIVES</p>	<p>9.00-12.00 LOCAL GOVERNMENT LAW</p> <p>HOSTED BY: THE INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION</p>
AFTERNOON	<p>SIGHTSEEING TOUR OF SYDNEY</p> <p>17.00 WORLD LAW DAY CELEBRATION AND ECUMENICAL SERVICE ST. MARY'S CATHEDRAL</p>	<p>14.00-16.00 INTERNATIONAL CRIMINAL LAW</p> <p>16.00-18.00 INTERNATIONAL LAW: THE UN, REGIONAL ORGANIZATIONS, AND OTHER LEGAL BODIES</p>	<p>15:00 VISIT TO ST. JAMES' CHURCH</p> <p>16.00-19.30 DEMONSTRATION TRIAL SUPREME COURT OF NEW SOUTH WALES</p>	<p>13.00-14.30 ETHICS AND RESPONSIBILITIES: THE LEGAL PROFESSION AND NEW CHALLENGES</p> <p>14.30-16.30 DEVELOPMENTS AND REFORMS IN THE JUDICIARY</p> <p>16.30-18.30 ALTERNATIVE DISPUTE RESOLUTION</p>
EVENING	<p>18.30 RECEPTION AT ADMIRALTY HOUSE HOSTED BY: THE GOVERNOR-GENERAL AND THE GOVERNOR OF NEW SOUTH WALES</p>	<p>20.00 RECEPTION / CULTURAL EVENT AT TOWN HALL HOSTED BY: TBA <i>INVITATION EXTENDED TO THE LORD MAYOR</i></p>	<p>20.00 RECEPTION AT THE SUPREME COURT HOSTED BY: THE CHIEF JUSTICE OF NEW SOUTH WALES</p>	<p>20.00 DINNER/ CULTURAL EVENT HOSTED BY: TBA <i>INVITATION EXTENDED TO THE PRIME MINISTER OF AUSTRALIA</i></p>

Adelaide, Australia

August 21-23, 2003

	Thursday August 21	Friday August 22	Saturday August 23	Call for Presentations
MORNING	DEPARTURE BY AIR FOR ADELAIDE	<p>9.00-11.00 LOCAL GOVERNMENT LAW</p> <p>HOSTED BY: THE INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION</p> <p>11.00-13.00 HUMAN RIGHTS</p>	<p>9.00-10.30 SKILLS INSTITUTE</p> <p>10.30-12.00 PLANNING FOR THE FUTURE</p> <p>12.00 CLOSING CEREMONY</p>	<p>To deliver a presentation at the Sydney / Adelaide Conference, interested speakers should send the title of their presentation along with an abstract and a CV to the WJA as soon as possible.</p> <p>If your proposal is accepted and fits within one of the categories listed on the next page, you will be asked to submit a workpaper (max. 30 pages) by July 1. All papers must be in English in Word format. Papers should be sent by e-mail attachment if possible; otherwise they may be sent by mail with a disk. Papers submitted after this date will be accepted <i>only</i> if speakers supply an adequate number of copies for conference delegates.</p> <p>Unfortunately, we are unable to reimburse speakers for their expenses. However, representatives from more than 40 nations will be in attendance</p> <p>For questions and submission of materials, please contact us at: Ph: 1.202.466.5428 Fax: 1.202.452.8540 E-mail: wja@worldjurist.org</p>
AFTERNOON	<p>SIGHTSEEING TOUR OF ADELAIDE</p> <p>18.00 INTERFAITH SERVICE ST. PETER'S CATHEDRAL</p>	<p>14.00-15.30 ENVIRONMENTAL LAW AND SUSTAINABLE DEVELOPMENT</p> <p>15.30-17.00 BUSINESS DEVELOPMENT: ENCOURAGING DEVELOPMENT WITHIN LEGAL PARAMETERS</p> <p>17.00-19.00 EMERGING TRENDS / HOT TOPICS</p>	<p>DEPARTURE OF DELEGATES</p> <p>OPTIONAL POST- CONFERENCE TOURS TO NEW ZEALAND OR AYERS ROCK, ALICE SPRINGS, AND THE GREAT BARRIER REEF</p>	
EVENING	<p>20.00 RECEPTION /CULTURAL EVENT HOSTED BY: TBA <i>INVITATION EXTENDED TO THE LORD MAYOR</i></p>	<p>20.00 BANQUET HOSTED BY: TBA <i>INVITATION EXTENDED TO THE PREMIER OF SOUTH AUSTRALIA</i></p>		

TENTATIVE PANEL SESSION AND PRESENTATION TOPICS

Terrorism and the Law

1. Human Rights vs. Security
2. The Media and Terrorism or Confronting Terrorism at Home and Abroad
3. Terrorism and Pre-emptive Self Defense

International Criminal Law

1. The International Criminal Court: The First Year
2. The International Criminal Court: Lessons Learned from the International Criminal Tribunals for Yugoslavia & Rwanda
3. Criminals and Cross-Border Restrictions
4. International Criminal Law and State Responsibility

International Law: The UN, Regional Organizations, and Other Legal Bodies

1. The Armed Intervention in Iraq and the Security Council
2. The UN Security Council: Its Role in International Relations and Its Membership
3. International Law: A Legal System Only for States and International Organizations?
4. The Legal Status of Prisoners Denied POW Status

International Trade

1. Trade and Investment Agreements & National Sovereignty
2. Trade and the Environment, Economic Development
3. Investment Arbitration
4. The IMF Universal Bankruptcy Proposal

Technology and Innovative Initiatives

1. Computerizing the Supreme Court of Nigeria: A WJA Technology Initiative
2. The Technology Divide
3. The Role of NGOs in Developing Rule of Law Technology-Based Initiatives
4. Computerized Legal Information: A Public Resource

Local Government Law (Hosted by IMLA)

1. Understanding the Structures of Local Level Governance
2. Land as a Precious Resource: Effective Planning and Growth Management
3. Financing Local Governments

Ethics & Responsibilities: The Legal Profession & New Challenges

1. Professional Liability & the Impact on Malpractice Insurance
2. Ethics & Professional Responsibility: Setting New Standards
3. Lessons from Enron: Holding Corporations to Higher Standards

Developments and Reforms in the Judiciary

1. Universal Declaration of Principles of Judicial Conduct
2. The Legal and Moral Implications of the Law Practice of Retired Members of the Bench
3. Judicial Activism: Success of Judicial Interventions to Enforce Human Rights Law
4. TBA

Alternative Dispute Resolution

1. ADR: Ethics at the Institutional Level
2. International Commercial Arbitration
3. Alternative Dispute Resolution (Mediation) Developments for Non-Family Civil Disputes in England & Wales
4. ADR in the European Context

Local Government Topics, continued (Hosted by IMLA)

1. Delivery of Services: Making Your Local Government Work Effectively For You

Human Rights

1. Aging: Providing Services, Protecting Rights & Understanding Needs
2. Current Health Issues: Access to Drugs, Genetic Testing, etc.
3. The Internet & the Protection of Children: The Australian Model
4. Rights of Indigenous People

Environmental Law and Sustainable Development

1. The Environment and Water Issues
2. Updates on Environmental Treaties: the Kyoto Protocol, the US Initiative, and the Australia-US Agreement
3. Human Rights in the Context of International Environmental Law and Poverty Alleviation

Business Development: Encouraging Development within Legal Parameters

1. Legal Mechanisms to Encourage Hi-Tech Industry
2. Holding Private Actors Accountable: Corporate Governance
3. TBA

Emerging Trends / Hot Topics

1. A Land Registry in the Australian Torrens System
2. Presentation of the Land Register
3. TBA
4. TBA

Skills Institute

ADR or Ethics Skills Workshop/Demonstration

Planning for the Future

WEAPONS OF MASS DESTRUCTION DEMONSTRATION TRIAL

The WJA's Demonstration Trial proves to be one of the biggest highlights of our Biennial Congresses. This year, we are once again fortunate to have a stellar Demonstration Trial committee composed of **Ronald Greenberg** who created the fact pattern listed below, **Garry Hunter** who will draft the briefs, and **Prof. Ved Nanda** who will oversee the details of the trial.

* * *

Alpha has embarked upon a program of developing weapons of mass destruction. They include chemical, biological, and nuclear weapons. Alpha's professed reason is self-defense. Alpha takes the position that as long as any other country has such weapons, it is entitled to have them as well. Alpha asserts that having these weapons will deter other countries from attacking it.

Beta shares a common border with Alpha. It is a poor country and has no weapons of mass destruction. Its government is engaged in a bitter conflict with Revolution Forever ("RF"), a group that seeks the government's overthrow. RF is supported politically and financially by Alpha. Beta is concerned that if Alpha develops weapons of mass destruction, it will supply them to RF.

Delta is a highly developed country located thousands of miles from Alpha and Beta. It has all forms of weapons of mass destruction. Delta supports the government of Beta politically and financially, and provides conventional weapons to Beta. Delta views Alpha's plan to develop weapons of mass destruction as a threat to world peace and stability. Delta is concerned that Alpha will use weapons of mass destruction on Delta and its allies indirectly through terrorists.

Seeking international law guidance, and hoping to avoid an armed conflict, Alpha, Beta and Delta have submitted the following questions to the International Court of Justice:

1. Does Alpha have the right to develop weapons of mass destruction?
2. Does Alpha have the right to supply weapons of mass destruction to RF?
3. Does Delta have the right to conduct a unilateral preemptive strike on Alpha to destroy Alpha's ability to develop weapons of mass destruction?
4. Does Beta have the right to ask Delta to conduct a preemptive strike on Alpha to destroy Alpha's ability to develop weapons of mass destruction?

AUSTRALIAN LEGAL COMMUNITY OFFERS SUPPORT FOR 21ST BIENNIAL CONGRESS

Over the past two years, the WJA has worked closely with the Australian legal community to bring about a successful program for the 21st Biennial Congress on the Law of the World. We are extremely fortunate to have had the support of some of the country's finest legal professionals and government officials. We would like to take this opportunity to thank all of the wonderful individuals in Sydney, Adelaide, and Canberra who have been so kind and supportive of our efforts to bring the international legal community to Australia.

SYDNEY

We are especially thankful for the contributions of **Prof. David Flint**, the WJA's Third Vice-President and the Chairman of the Australian Broadcasting Authority. In addition, we have had the pleasure of working with numerous government officials, including: **The Rt. Hon. Frank Sartor**, Lord Mayor of Sydney; **The Hon. Justice Keith Mason**, President of the Court of Appeal at the Supreme Court of New South Wales; and **John Feneley**, the Assistant Director General for Policy and Crime Prevention at the Attorney General's Department. The local bar associations have also provided a great deal of support, especially **Michael Tidball**, Chief Operating Officer of the Law Society of New South Wales and **Chris Winslow** of the Bar Association of New South Wales. Additional support came from **Belinda Marriott** of the University of Sydney; the **Sydney Convention and Visitor's Bureau**; and **Art Nigro** and **Colleen O'Neill-McFeeter** of the Ana Harbour Grand Hotel in Sydney.

ADELAIDE

Like their counterparts in Sydney, Adelaide's legal community has provided immeasurable support as well. First and foremost, we must thank **Barry Fitzgerald**, former Director of the South Australia Law Society. In addition, we owe a great debt of gratitude to **Brian Hayes**, President of the South Australia Bar Association and **Bill Cossey**, State Courts Administrator. Government officials have also been extremely helpful, especially **The Rt. Hon. Alfred Huang**, Lord Mayor of Adelaide; **The Hon. M. Rann**, Premier of South Australia; and **The Hon. Chief Justice J.J. Doyle** of the Supreme Court of South Australia. **Pieter van der Hoeven**, **Sue Hocking**, and **Boyd Christenson** of the Adelaide Convention Centre; **Chris Kourakis** of the Law Society of South Australia; **The Very Revd. Steven Ogden** of St. Peter's Cathedral; **The Hon. L.T. Olsson**; and the staff of the **Hyatt Regency Adelaide** have also been extraordinarily helpful.

CANBERRA

The plans for the 21st Biennial Congress would not be complete without the national support we received from government officials based in Canberra. We would especially like to thank **The Hon. John Howard**, Prime Minister of Australia; **The Most Rev. P. Hollingworth**, Governor-General of Australia; **The Hon. Daryl Williams**, Attorney-General; and **Senator The Hon. Chris Ellison**, Minister for Justice and Customs. Additional thanks go to **Michael Lavarch**, Secretary-General of the Law Council of Australia.

SYDNEY/ADELAIDE CONFERENCE REGISTRATION FORM

August 17-23, 2003

Category	#	Pre-Reg.	On-Site Reg.	Total
WJA Member		\$500.00	\$600.00	
Non-Member		\$600.00	\$700.00	
WJA Member from a Developing Country		\$300.00	\$400.00	
Non-Member from a Developing Country		\$350.00	\$450.00	
Spouse/Significant Other/Full-Time Students		\$200.00	\$250.00	
Total				

Payment Terms

All fees must be made payable to the World Jurist Association. Direct transfer payments should be routed to the **WJA Bank Account: ABA (bank code) #061000104 Account #014861522, Sun Trust Banks, Inc., 900 17th Street, NW, Washington, DC 20006.**

For the convenience of European members, payments may be made directly to the WJA's

Deutschland Bank Account: #2503828 (BLZ 60050101) at Landesbank Baden-Württemberg in Stuttgart, Germany.

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Paying by direct transfer _____
 Paying by enclosed check or money order, drawn on a US bank _____
 Charge total amount due to my credit card, as listed below:
 American Express _____
 MasterCard _____
 Visa _____
 Account: _____
 Exp. Date: ____ / ____
 Signature: _____

*Cancellations

All fees are refundable less 25% processing fee provided written notice of cancellation is received one month prior to the Conference.

Please return completed form to:
 World Jurist Association

1000 Connecticut Ave., NW, Suite 202
 Washington, DC 20036, USA

Ph: 1.202.466.5428 Fax: 1.202.452.8540

E-mail: wja@worldjurist.org Internet: www.worldjurist.org

AUSTRALIAN INDIGENOUS PEOPLE AND NATIVE TITLE

The Aboriginal and Torres Strait Islander peoples of Australia have traditionally had a unique and close relationship with the land. In their belief system, the ancestral spirits that created people, animals, plants, and mountains, eventually returned to the land to become creeks, pools, and rocks.

More recently, land ownership has been viewed as a means of allowing aboriginal peoples to gain self-sufficiency. Currently, 15% of the continent is owned and controlled by Aborigines. The Australian government has sought to encourage aboriginal land acquisition through its support for the Aboriginal and Torres Strait Islander Land Fund and the Indigenous Land Corporation.

In 1992, Australia's High Court recognized the existence of native title, defining it as Aboriginal common law rights and interest in the land according to their traditions, laws, and customs. In its decision for Eddie Mabo, a Torres Strait Islander who wanted to prove an entitlement to his traditional land, the Court stated that native title exists where the particular indigenous people maintained their traditional connection to the land and where their native title was not extinguished by a government grant of inconsistent rights.

The Australian government enacted the Native Title Act in 1993 to incorporate the principles propounded in the *Mabo* judgement. However, the Act did not address the possibility that native title may coexist with other rights on the same land. The High Court considered this question in its 1996 *Wik* decision. In this case, the Wik people asked the Court whether they could make a native title claim over pastoral lease land. The question proved to be of significant importance since pastoral leases cover 40% of Australia. The Court decided native title may survive on pastoral lease land, but the rights of pastoral lessees prevail over any rights native titleholders may have. The government subsequently amended the Act in 1998.

While the *Mabo* decision was greeted with great enthusiasm as a first step towards rectifying past wrongs, in recent years, this initial optimism has been replaced by some cynicism due to the slow pace of land claim settlements. Over the past 10 years, authorities have only settled 30 land claims and 590 other claims remain unresolved. Additionally, it is difficult to establish a continuous connection to a particular piece of land, as required by the *Mabo* decision, when white settlers and re-settlements have driven Aborigines from their traditional homes. The *Mabo* decision also does not protect native title from interference by the Parliament or local government acting under land legislation.

In December 2002, the longest-running Aboriginal land claim was dismissed by the High Court, when it determined that the Yorta Yorta people, who had lodged a claim in 1994 for 2000 km² of prime farming land in New South Wales and Victoria, had ceased to occupy their land in accordance with traditional laws and customs.

INTERNET LIBEL SUIT HOLDS IMPLICATIONS FOR MEDIA

In a December 2002 decision that promises to have widespread implications for the way news is published and broadcast over the Internet, Australia's High Court dismissed the Dow Jones Co.'s appeal to relocate a defamation lawsuit lodged against it in the Australian state of Victoria.

An article published by the Dow Jones in its weekly Barron's magazine, prompted Joseph Gutnick, mining magnate and resident of Melbourne to file the lawsuit. The article, entitled "Unholy Gains," linked Gutnick to a jailed money launderer. The Dow Jones made the article available in print and online through its wsj.com website. Subsequently, 140 Australian subscribers downloaded it. Gutnick brought the suit in his home state of Victoria rather than in the US where Dow Jones is headquartered because of Australia's stricter libel laws.

The libelous character of the published article was not at issue in this case because Australia considers the publication of the allegedly defamatory material, and not the material itself, to be the actionable wrong. The High Court determined that even though the Barron's article was uploaded to the Dow Jones' web servers located in New Jersey, publication actually occurred in Victoria when the reader downloaded the article and comprehended the defamation contained in its pages. In the Court's opinion, the appropriate venue for a lawsuit is where the comprehension occurs, that is to say where the page is downloaded. The Court also found that a claim of defamation can only be made if the person has a reputation in the location where the allegedly libelous material was published and when a favorable judgment could redeem that plaintiff's reputation.

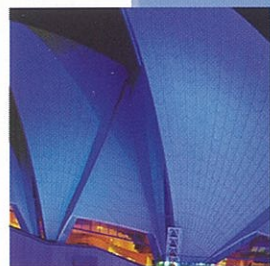
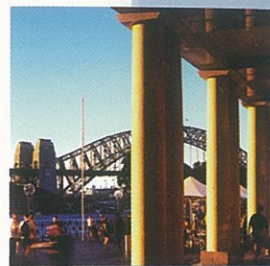
The High Court rejected Dow Jones' argument that the decision would overly restrict information available online because publishers would have to consider the laws of every country with access to its website before publishing an article on the Internet. More than 18 international media companies, including CNN, The New York Times, and Reuters, participated in the case as "friends of the Court."

The High Court returned the case to the Supreme Court of Victoria, which will determine if the Barron's article was actually libelous.

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AUSTRALIA

SYDNEY AUSTRALIA

AUSTRALIA & THE US TO LAUNCH FREE TRADE AGREEMENT

Australia and the United States have recently joined their economies and strengthened relations by proposing a bilateral free trade agreement (FTA). The first round of formal FTA talks in Canberra, Australia, focused on formalizing the negotiating structures, agreeing to a basic framework for the FTA, and creating the foundation for drafting the actual text of the agreement. Further rounds of conferences have been scheduled and a completed text is to be presented in 2004.

An FTA with the US presents a unique opportunity for Australia to advance the interests of their exporters, and offers significant benefits to the nation in terms of economic growth, better living standards, higher incomes, and greater employment. For the past decade, Australia's economy has been the fastest growing in the developing world and has been claimed as "one of the best performers" by the OECD. A new FTA will serve to increase business investment and productivity, thereby providing a strong outlook in the years to come.

Whereas Australia clearly reaps a wide range of benefits from the FTA, American businesses will also gain from the recent talks. The initiated FTA proposal will be the largest economic relationship negotiated by the US since the North American Free Trade Agreement (NAFTA). In addition, a booming Australian economy provides new opportunities for American exports and also creates jobs for American workers.

Presently, the US is Australia's largest trading and investment partner. It serves as the 13th largest export market for the US and the 8th largest foreign investor in the US.

While the FTA has received much acclaim, critics are concerned that the agreement may discriminate against other countries. Currently, East Asia receives more than half of Australia's exports and the US receives about 10%. With the new FTA, exports to East Asian markets will be diverted to the US instead. Labor advocates fear that the FTA will undermine multilateral negotiations and global economic expansion.

Another significant worry is that while the negotiation will reduce tariffs on imports in Australia, laborers want the US Administration to take into account how tariff reductions will affect the US domestic industry. US agriculture, for example, will suffer due to the lack of barriers. US Trade Representative Robert Zoellick has noted that "agriculture is the key area of sensitivity," especially since Australia maintains a number of import restrictions on US agricultural products.

Australia and the US have much to gain with the FTA and are now focusing on improving economic standards within their populations. The concern remains that some domestic industries, especially in the US, will suffer at the hands of the US-Australia FTA. As discussions are still pending, the outcome of the FTA will determine the fate of many markets and industries worldwide.

AUSTRALIA PLANS FOR THE INTERNATIONAL YEAR OF FRESHWATER

The availability of freshwater is vitally important for Australia and this year will provide valuable opportunities for Australian communities to learn about and become more involved in freshwater issues, especially on using water wisely.

The United Nations General Assembly proclaimed the year 2003 as the International Year of Freshwater. The aim of the year is to raise awareness of the importance of protecting and managing freshwater resources and encourage action on world water problems. United Nations Secretary General Kofi Annan claims that it can be a vehicle for cooperation and that the "International Year of Freshwater can play a vital role in generating action needed."

Freshwater for human consumption, agricultural production, industry, and ecosystem health is indispensable, but given that water is not a limitless commodity, its overuse around the world is a growing concern. While one third of the world's population is facing water shortages and poor quality of water, Australia has a steady water flow.

However, many parts of Australia's rivers and groundwater resources are stressed with overuse. This includes increasing salinity levels in soil and water, algal in waterways, and a loss of biodiversity. Australia is the world's driest inhabited continent with a variable annual rainfall. Drought conditions emphasize the importance of water to every Australian, and with river systems stretched to their limits, people face a growing problem.

The Australian Commonwealth Government is now playing a more fundamental role in promoting the sustainable use, management, and protection of Australia's freshwater resources. Australia has implemented a National Action Plan for Salinity and Water Quality to prevent, stabilize, and reverse salinity, to conserve biological diversity, to improve water quality, and to secure reliable allocations for human uses, industry, and the environment.

Australian communities are using funds from the Natural Heritage Trust for environmental activities such as fencing off eroded areas of riverbanks and revegetating areas for local native species. They are also eradicating weeds, protecting waterways from stock and feral animals, and reducing the use of pesticides and other pollutants.

Freshwater ecosystems provide environmental services crucial to all life and well being in Australia. It is necessary for towns and cities and is an essential, non-renewable economic resource that underpins much of Australia's economic development. The International Year of Freshwater encourages awareness of the importance of sustainable freshwater in Australia. It is one region of the world which recognizes a collaborative effort in management to ensure a steady water flow in the future.

