WELCOME

Welcome to the 2012 White & Case International Rounds of the Philip C. Jessup International Law Moot Court Competition.

As a global law firm, White & Case is proud to sponsor this annual event, which brings together the next generation of international lawyers from around the world.

By taking part in the Jessup Competition, you are not only developing skills you will use throughout your career. You are also engaging with your peers in other countries and joining the global legal community.

I would like to congratulate all of the teams that have worked so hard to reach the final rounds of the Competition. Although the White & Case Jessup Cup will go to just one team, you should all be proud of your accomplishment—we are!

Best of luck to all of you.

Hugh Verrier Chairman

White & Case LLP

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Very Special Thanks

Sunday, March 25

10:00 a.m. – 2:00 p.m.

Team Registration

(2nd Floor, Capital Terrace/Upper Lobby, Capital Hilton)

All teams must check in at the ILSA Registration Desk during this period. If a team does not arrive and check in by 2:00 p.m., the team will not be scheduled to compete. Teams are invited to learn about our sponsors, LLM programs, Study Abroad programs and international law publications at the Orientation Fair.

10:00 a.m. – 2:00 p.m. 4:00 p.m. – 6:00 p.m.

Orientation Fair

(2nd Floor, Capital Terrace/Upper Lobby, Capital Hilton)

The Orientation Fair will feature a number of exhibition tables providing information about different opportunities in the field of international law, including LL.M. programs, Study Abroad programs, international law membership organizations, international law publications and more.

2:00 p.m.

Team Orientation

(Presidential Ballroom, 2nd Floor, Capital Hilton)

All team members must attend the Team Orientation.

5:00 p.m.

Bailiff Orientation for Exhibition Teams, Observation Teams and All

Other Bailiffs

(Presidential Ballroom, 2nd Floor, Capital Hilton)

Mandatory meeting for all bailiffs, including exhibition and observation

team bailiffs.

6:00 p.m.

Exhibition Team Meeting

(Presidential Ballroom, 2nd Floor, Capital Hilton)

Mandatory meeting for exhibition teams. Exhibition teams will receive their exhibition match schedule, as well as memorials of their opponents for exhibition

matches.

6:00 p.m.

Distribution of Preliminary Round Schedule and Opponent Memorials

(Outside Senate Room, 2nd Floor, Capital Hilton)

Competing teams will receive their schedule of matches and the memorials of their opponents for the Preliminary Rounds. Teams may line up prior to 6:00 p.m.; however, memorials will not be distributed prior to 6:00 p.m.

8:00 p.m.

Judge Orientation

(Congressional Room, 2nd Floor, Capital Hilton)

Judges only permitted. Expert and experienced Jessup judges will review the

Jessup problem and present judging tips.

Monday, March 26

7:30 a.m. - 8:30 a.m.

IBA Breakfast

(Congressional Room, 2nd Floor, Capital Hilton)

Teams are invited to join the International Bar Association for a buffet-style breakfast. IBA staff will be on hand to answer any questions you may have about the organization, and they will be joined by senior IBA member James Tillen, who is currently serving as North American Regional Officer for the IBA Anti-Corruption Committee.

9:00 a.m. - 9:00 p.m.

Preliminary Rounds—Day One

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the preliminary rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

California, Colorado, Federal A, Federal B, Illinois, Massachusetts, Michigan, New York, Ohio, Oregon, Pan American, South American A, South American B, Statler A, Statler B, Washington, Chesapeake

9:00 a.m. – 11:00 a.m.	Jessup Preliminary Round I
11:30 a.m. – 1:30 p.m.	Jessup Preliminary Round II
2:00 p.m. – 4:00 p.m.	Jessup Preliminary Round III
4:30 p.m. – 6:30 p.m.	Jessup Preliminary Round IV
7:00 p.m. – 9:00 p.m.	Jessup Preliminary Round V

8:00 p.m. - 10:00 p.m.

White & Case Friends of the Jessup Reception

(Congressional Room, 2nd Floor, Capital Hilton)

Judges, National Administrators, Coaches and Team Advisors are invited to a reception recognizing them for the contributions made to students participating in the 2012 Jessup Competition and the advancement of international legal education. Welcome remarks will be given by White & Case Counsel Louis O'Neill.

Tuesday, March 27

9:00 a.m. - 9:00 p.m.

Preliminary Rounds—Day Two

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the preliminary rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

California, Colorado, Federal A, Federal B, Illinois, Massachusetts, Michigan, New York, Ohio, Oregon, Pan American, South American A, South American B, Statler A, Statler B, Washington, Chesapeake

9:00 a.m. – 11:00 a.m.	Jessup Preliminary Round VI
11:30 a.m. – 1:30 p.m.	Jessup Preliminary Round VII
2:00 p.m. – 4:00 p.m.	Jessup Preliminary Round VIII
4:30 p.m. – 6:30 p.m.	Jessup Preliminary Round VIIII
7:00 p.m. – 9:00 p.m.	Jessup Preliminary Round X

Wednesday, March 28

9:00 a.m. - 9:00 p.m.

Preliminary Rounds—Day Three

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the preliminary rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

California, Colorado, Federal A, Federal B, Illinois, Massachusetts, Michigan, New York, Ohio, Oregon, Pan American, South American A, South American B, Statler A, Statler B, Washington, Chesapeake

9:00 a.m. – 11:00 a.m.	Jessup Preliminary Round XI
11:30 a.m. – 1:30 p.m.	Jessup Preliminary Round XII
2:00 p.m. – 4:00 p.m.	Jessup Preliminary Round XIII
4:30 p.m. – 6:30 p.m.	Jessup Preliminary Round XIV
7:00 p.m. – 9:00 p.m.	Jessup Preliminary Round XV

10:00 p.m.

Announcement Party

(Lux Lounge)

Located at 649 New York Ave. NW, Washington, DC 20001, about one mile from the Capital Hilton. Come see which teams will advance past the Preliminary Rounds and socialize with fellow participants. For Jessup Teams, Team Advisors, Judges, Volunteers, ILSA Members and all others. Casual attire.

Alternative Announcement Party

(Capital Terrace outside Senate Room)

Preliminary Round Results will also be announced on the Capital Terrace for Jessup Teams that are unable to attend the official Announcement Party at the Lux Lounge.

Advanced Rounds Memorial Exchange/Coin Toss

(Capital Terrace outside Senate Room)

All advancing teams must come to the Memorial Exchange immediately after all advancing teams are announced at the Announcement Party.

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Thursday, March 29

9:00 a.m. - 11:00 a.m.

Jessup Run-Off Rounds 1

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the run-off rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

California, Massachusetts, New York, Federal A, Federal B, Pan American, Statler A, Statler B

11:30 a.m. – 1:30 p.m.

Jessup Run-Off Rounds 2

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the run-off rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

California, Massachusetts, New York, Federal A, Federal B, Pan American, Statler A, Statler B

1:30 p.m. - 3:00 p.m.

ILSA Spring Panel – Conflicts in International Sports: London 2012 (Fairmont Hotel – Roosevelt Room)

Since 1896, the modern Olympics have brought competitors from nations across the globe to compete in sports as a way to create goodwill among nations. More than a century has passed and in that time sports have become much more commercialized and globalized in scope. With that has come legal conflicts caused by contrasting legal systems and multinational organizations, such as the International Olympic Committee (IOC). Panelists will touch upon issues that arise in the new age of globalized sports.

3:15 p.m. - 4:15 p.m.

ILSA Spring Congress

(Fairmont Hotel – Decatur Room)

All ILSA members and law students are invited to attend the ILSA Congress, the bi-annual meeting of ILSA Chapters. At the Congress, ILSA members will hold elections for the 2012 – 2013 Student Officers, discuss upcoming activities and plan for the future of the organization.

4:00 p.m. - 6:00 p.m.

Octo-Final Rounds

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the Octo-Final Rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

California, Massachusetts, New York, Federal A, Federal B, Pan American, Statler A, Statler B

9:00 p.m.

Go-National Dress Ball

(Presidential Ballroom, 2nd Floor, Capital Hilton)

All are invited to attend. Everyone is encouraged to come dressed in traditional national costume or other creative attire. White & Case will have a photo "booth" in the Ballroom for pictures throughout the event.

Friday, March 30

10:00 a.m. – 12:00 p.m. Quarter-Final Rounds

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the Quarter-Final Rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

Federal A, Federal B, South American AB, Congressional Rooms

1:00 p.m. – 2:30 p.m. Pathways to Careers in International Law Luncheon

(2nd Floor, Federal A&B, Capital Hilton)

The ABA Section of International Law presents an informative panel to offer career advice to those interested in International Law

2:00 p.m. – 4:00 p.m. Semi-Final Rounds

(2nd Floor, Capital Hilton)

Teams should arrive no later than 15 minutes prior to the start of their scheduled matches. All are invited to attend the Semi-Final Rounds, but space may be limited. Observers are requested not to enter or exit once the match has begun. Teams are reminded to follow the scouting rule.

Courtrooms:

South American AB and Congressional Room

4:00 p.m. – 6:00 p.m. White & Case Competitors Reception

(2nd Floor, Presidential Ballroom, Capital Hilton)

All are invited to attend. The reception will be held immediately following the Semi-Finals. The two teams advancing to the White & Case Jessup Cup World Championship Round will be announced, followed by a ceremonial coin toss and exchange of memorials.

10:00 p.m. – 12:00 a.m. ASIL-ILSA Dessert and Dance Party

(Fairmont Hotel)

All are invited to attend. Join fellow competitors and attendees of the ASIL Annual Meeting for a dessert buffet and dancing with a live band. Buses are available to take students from the Capital Hilton to the Fairmont Hotel and back.

Saturday, March 31

11:00 a.m. - 1:30 p.m.

Fletcher LLM Final Round Lunch and Discussion with the Compromis Authors

(Congressional Room A/B, 2nd Floor, Capital Hilton)

Join us for a lively lunch event in anticipation of the White & Case World Championship Round, sponsored by the Fletcher School LLM Program. The Authors of the 2012 Compromis will preside over an open panel discussion for teams to ask questions about the inspiration for and legal issues in the 2012 Compromis. Be sure to send in your questions throughout the week via Twitter at @FletcherSchool #JessupRevealed. The Fletcher School will facilitate a discussion about building an international law career, led by Professors Antonia Chayes and Hurst Hannum, together with Fletcher LLM alumni, and a raffle prize will be awarded at the lunch!

2:00 p.m.

White & Case Jessup Cup World Championship Round

(Presidential Ballroom, 2nd Floor, Capital Hilton)

All are invited to observe the top two teams in the world deliver their oral arguments before an esteemed panel of judges. Special remarks will be delivered by White & Case Partner Ian Forrester, QC. Following the oral arguments,

the White & Case Jessup Cup will be presented to the winning team.

9:00 p.m.

Final Gala and Announcement of Awards Presented by the IBA

(Presidential Ballroom, 2nd Floor, Capital Hilton)

Come to have fun one last time with a night of music and dancing and presentation of Competition awards, brought to you by the International Bar Association. All are invited to attend. Semi-formal dress.

11:00 p.m.

Jessup Reverse Moot

(Federal Room A/B, 2nd Floor, Capital Hilton)

The tables are turned as students preside over a match between judges.

Sunday, April 1

9:00 a.m. - 11:00 a.m.

Distribution of Team Packets

(Capital Terrace/Upper Lobby, 2nd Floor, Capital Hilton)

Team Packets containing the teams' oral round and memorial scoresheets and participation certificates for each team member will be distributed. Packets will only be given to registered team members and advisers. Packet contents will not be mailed or duplicated after the Competition.

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ABOUT THE JESSUP COMPETITION

The Philip C. Jessup International Law Moot Court Competition was the brainchild of Professor Richard R. Baxter at Harvard Law School, who worked with Professor Stephen M. Schwebel (later President of the International Court of Justice) to create a courtroom simulation experience grounded in international law.

Originally named the "International Law Moot," the Jessup Competition held its first round at Harvard University on 8 May 1960. The round, comprised only of Harvard Law students, involved a team of two American law students, Thomas J. Farer and William Zabel, and a team of two foreign LLM students, Ivan L. Head of Canada and Bernard H. Clark of New Zealand. The first Jessup problem was titled, "Cuban Agrarian Reform Case," and was written by then Professor Schwebel. Since 1960, the Jessup Competition has been held annually, and student participation has increased dramatically.

From Afghanistan to Zimbabwe, this year's Jessup Competition has engaged students from more than 600 schools around the world, representing more than 80 countries, and making the Jessup Competition by far the largest Moot Court Competition in the world.

Former Jessup participants now work at foreign, finance and justice ministries in increasing numbers. They can also be found in the world's finest law firms, corporations, universities, parliaments and international organizations. Jessup participants worldwide continue to contribute their efforts to the development of international legal education, as well as international law itself.

More than a competition, the Jessup is a community of legal professionals, young and old, who build bonds and share an invaluable cultural and academic exchange with each other. Now in its 52nd year, the Jessup has a rich history and a longstanding commitment to promote the importance of the rule of law in the peaceful resolution of disputes.

ABOUT THE HONORABLE PHILIP C. JESSUP

The Jessup Competition is named after the Honorable Philip C. Jessup. Born in 1897 in New York, Judge Jessup received his bachelor's degree from Hamilton College and his LLB from Yale University. He earned a Master's degree and PhD. from Columbia University and later, an LLD from Hamilton.

Judge Jessup had a long and distinguished academic, judicial and diplomatic career. From 1961 to 1970, he was a member of the International Court of Justice.

He practiced law and taught at several American universities until 1961. Jessup was an assistant to Elihu Root during the 1929 Conference of Jurists on the Permanent Court of International Justice. He attended both the Bretton Woods and San Francisco Conferences, and played a key role in the formation of the International Law Commission (ILC).

Jessup served as American Ambassador to the United Nations from 1948 to 1953. He was President of The American Society of International Law from 1954 to 1955, and a member of the Curatorium of the Hague Academy of International Law from 1957 to 1968.

Judge Jessup's publications include *The United States and the World Court* (1929); *International Security* (1935); *Elihu Root* (1938); *International Problems of Governing Mankind* (1947); *A Modern Law of Nations* (1948); and *Transnational Law* (1956).

In 1964, Judge Jessup was awarded The American Society of International Law's Manley O. Hudson Medal for preeminent scholarship and achievement in international law and for the promotion of the establishment and maintenance of international relations on the basis of law and justice. Judge Jessup continued to lecture and teach until his death in 1986.

FRIENDS OF THE JESSUP

The Jessup Competition is supported by a worldwide volunteer network of attorneys, judges, legal scholars, and other individuals devoted to the Competition. This network, known as the Friends of the Jessup (FOJ), offers support through monetary contributions and legal expertise, without which the success of the Competition would be impossible. ILSA is grateful to FOJs for their continuing support at all levels of the Competition.

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ABOUT ILSA

The idea of an organization to serve the needs of students interested in international law first arose shortly after the first Jessup Competition. In 1962, students from a number of campuses founded the Association of Student International Law Societies (ASILS). The Association evolved over the years and, in 1987, reconstituted itself as the International Law Students Association (ILSA). In May 1994, ILSA incorporated in response to its rapid expansion and development.

ILSA's mission is to promote awareness, study, and understanding of international law and related issues; to encourage communication and cooperation among law students and lawyers internationally; to promote social responsibility in the field of law; to increase opportunities to learn about other cultures and legal systems worldwide; and to publicize career opportunities in international law.

ILSA is governed by a Board of Directors. The Executive Office, which is staffed by the Executive Director, the ILSA Programs Coordinator, the Jessup Competition Coordinator and the External Relations Coordinator, is headquartered in Chicago, Illinois, USA. Each year, three ILSA student members are elected as student officers and work with the ILSA Board of Directors and Executive Office on academic programming and other initiatives.

ILSA also serves as an umbrella and support organization for student organizations devoted to the study and promotion of international law. ILSA chapters exist as independent entities and as members of the larger Association. ILSA's structure grants autonomy to its chapters to meet their unique needs locally while making available to them an international network of pooled academic and organizational resources.

Individual membership in ILSA is also available to anyone (students, attorneys, non-lawyers) with an interest in international law and international legal education.

In addition to administering the Jessup Competition, ILSA produces several publications, including the *ILSA Quarterly*, the *ILSA Journal of International & Comparative Law* and the *Jessup Compendium*.

The *ILSA Quarterly* is published four times per year. It highlights ILSA's programs and features special articles from scholarly writers and student members. Each year, one issue of the *ILSA Quarterly* is dedicated to study-abroad programs, and one issue per year is devoted to LLM programs.

ILSA EXECUTIVE STAFF

Will Patterson, Executive Director
Vivian Shen, ILSA Programs Coordinator
Joe Terrenzio, Jessup Competition Coordinator
Matthew Szuminski, External Relations Coordinator
Brandon Carter, ILSA Intern
Salma Ghalyoun, ILSA Intern
Raluca Hulea, ILSA Intern
Nick Oswald, ILSA Intern

ILSA STUDENT OFFICERS

Chad Lawler, President
Brittany Young, Vice-President
Alexis Kirkman, Chief Communications Officer

ILSA BOARD OF DIRECTORS

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ILSA HONORARY COUNCIL

The Honorary Council was established in 2011 in anticipation of ILSA's 50th year as the premier organization for students pursuing study in the field of international law. The Council is dedicated to furthering ILSA's mission of promoting the worldwide study, development and practice of international law. Through the support and assistance of the Honorary Council, ILSA will continue to engage the world's foremost jurists, scholars and practitioners as ILSA conference panelists, keynote speakers at ILSA events, advanced round judges of the Jessup Competition and members of the Authorial Committee responsible for drafting the annual Jessup *Compromis*.

Members

Chairman

Stephen M. Schwebel, Former President, International Court of Justice

Council Members

Payam Akhavan, Professor

McGill University

José Alvarez, Professor NYU School of Law

M. Cherif Bassiouni, Professor DePaul University College of Law

Robert Beckman, Professor National University of Singapore

Elizabeth Odio Benito, Vice-President

International Criminal Court

Mohamed Bennouna, Judge International Court of Justice

Rudolf Bernhardt, Professor Max-Planck Institute

Nicola Bonnuci, Legal Director

OECD

Serge Brammertz, Prosecutor International Criminal Tribunal

Charles Brower, Judge Iran-US Claims Tribunal David Crane, Professor

Syracuse University College of Law

James Crawford, Professor University of Cambridge

Sir Christopher Greenwood, Judge International Court of Justice

Hassan Jallow, Prosecutor

International Criminal Tribunal for Rwanda

Larry Johnson, Professor Columbia Law School

Catherine Kessedjian, Professor University of Panthéon-Assas, Paris II

Abdul Koroma, Judge International Court of Justice Pieter Jan Kuijper, Professor University of Amsterdam

Sir Elihu Lauterpacht, Professor University of Cambridge

Maurice Mendelson, Professor

Blackstone Chambers

James Nafziger, Professor Willamette University Jordan Paust, Professor University of Houston

Alain Pellet, Professor University Paris OuestNanterre/La Défense

Fausto Pocar, Judge International Criminal Tribunal for the Former Yugoslavia

Lucy Reed, Partner Freshfields Bruckhaus Deringer

Leila Sadat, Professor Washington University School of Law

Philippe Sands, Professor University College London

Dinah Shelton, Professor George Washington University

Bruno Simma, Judge International Court of Justice

Abraham Sofaer, Professor Stanford University

Peter Tomka, President International Court of Justice

Hugh Verrier, Chair White & Case LLP

ILSA AND JESSUP AWARDS

The Hardy C. Dillard Award

This Award is named in honor of the late Judge Dillard of the International Court of Justice, who was a longtime supporter of the Jessup Competition. The Award is an extension of the US Rutgers Award, initiated at Rutgers Law School in Newark, New Jersey in 1973.

The Award is presented to Teams for excellence in Memorial writing by comparing top Memorials across participating jurisdictions. Memorials of the Teams scoring the highest at National and Regional Rounds, and Memorials of the Teams scoring in the Top 25 at the White & Case International Rounds are considered for the Award. Awards will be presented to the top five scoring Teams.

The Alona E. Evans Award

This Award is named in honor of the late Professor Evans, the first woman to be elected President of the American Society of International Law, and a faithful supporter of the Competition.

The Award is presented to Teams for excellence in Memorial writing at the White & Case International Rounds. Awards will be presented to the top five scoring Teams based on Total Memorial Scores.

The Richard R. Baxter Awards

This Award is named in honor of the late Richard Baxter, who served as Judge of the International Court of Justice, and who was an eminent and pioneering scholar of International Law.

The Award is presented to Teams for excellence in Memorial writing by comparing individual Applicant and Respondent Memorials. The Applicant and Respondent Memorials of Teams that receive the Alona E. Evans Award and/or the Hardy C. Dillard Award are considered for the Richard R. Baxter Award. One award will be given to the Best Overall Applicant Memorial and one award will be given to the Best Overall Respondent Memorial. Both winning memorials will be published in the *ILSA Journal of International & Comparative Law*.

The Stephen M. Schwebel Award

This Award is named in honor of Stephen M. Schwebel, a jurist and expert on international law who served as a Judge of the International Court of Justice from 1981 to 2000 and as the Court's President from 1997 to 2000. In 1959, as a young Assistant Professor of Law at Harvard University, Judge Schwebel established an international law moot court competition, which we recognize today as the Philip C. Jessup International Law Moot Court Competition.

The Award is presented to the best oralist of the World Championship Round.

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The Steven M. Schneebaum Award

This Award is named in honor of Steven M. Schneebaum, an American attorney and scholar who specializes in international dispute resolution and complex litigation. Mr. Schneebaum has filled a critical role in the organization and administration of the Jessup Competition for decades. Among other positions, he has served as a Compromis Author, Chairman of the ILSA Board of Directors, Jessup Coach and Jessup Judge.

The Award is presented to a National Administrator for outstanding service and dedication to the Jessup Competition.

The Francis Deak Award

The Deak Award is a prize provided by Oxford University Press for the best international law student article in a student-edited law journal. The award honors Francis Deak, a World War II veteran who wrote extensively on international law. The award is the student equivalent of the ASIL Deak Award, which is presented by the American Society of International Law to the author of the best article of the year in the *American Journal of International Law*.

The Pamela M. Young Award

Created in 1993 in honor of Pamela Young, Assistant Jessup Administrator from 1974 to 1994, this Award recognizes the outstanding volunteer service of individuals to the Jessup Competition.

The Spirit of the Jessup Award presented by the International Bar Association

The Spirit of the Jessup Award was created in 1996 to recognize the Team that best exemplifies the Jessup spirit of camaraderie, academic excellence, competitiveness and appreciation of fellow competitors. This Award is voted upon by the Jessup participants themselves, and is intended to establish the standard to which all participants should strive to govern their performance and professional demeanor.

International Law Institute (ILI) Award

This Award is given by the International Law Institute (ILI) to the top-ranked oralist from the non-native English-speaking Team with the Best Memorials in the White & Case International Rounds. The recipient receives a full tuition scholarship for ILI's course "Orientation in the US Legal System."

BIOGRAPHIES OF SPEAKERS

James Tillen – International Bar Association Team Breakfast Speaker

James Tillen is currently serving as the North American Regional Officer for the IBA Anti-Corruption Committee. James Tillen is Counsel at Miller Chevalier and serves as Coordinator of the Foreign Corrupt Practice Act and International Anti-Corruption Practice Group, responsible for coordinating more than 25 firm lawyers involved in FCPA matters. He has had significant experience with every facet of an FCPA enforcement matter, from inception to completion, including developing work plans for internal investigations, conducting internal investigations (including in-country witness interviews and document collections and reviews), developing remediation strategies (including employee discipline, compliance program enhancements, and employee training), drafting voluntary disclosures to the US government, negotiating resolutions with the US government, developing strategies for collateral issues (including public relations and related litigation), selecting independent monitors and interfacing with independent monitors on behalf of clients.

Mr. Tillen also has participated in several FCPA due diligence reviews and compliance audits, drafted numerous FCPA compliance programs, developed FCPA training programs, and performed FCPA training for client operations throughout the world. He has created anti-money laundering compliance programs, incorporating Bank Secrecy Act, PATRIOT Act, Financial Action Task Force (FATF), and Know-Your-Customer (KYC) regulations and principles, for a variety of multinational financial and non-financial institutions.

Louis O'Neill - White & Case Friends of the Jessup Reception Speaker

Louis O'Neill is Counsel in the White & Case New York office and divides his work between the Firm's Global Pro Bono and International Arbitration Practices. He advises clients on arbitration and criminal law, as well as issues of human rights, environmental conservation, economic development and sovereign restructuring. Mr. O'Neill has particular experience before the Court of Arbitration for Sport, where he has represented the 12th World Chess Champion Anatoly Karpov and a number of national chess federations.

Mr. O'Neill's career combines extensive work in public service with experience in private practice and business. He has served in non-political expert capacities as Ambassador and Head of Mission to Moldova for the Organization for Security and Cooperation in Europe, as a Member of the State Department's Policy Planning Staff and as White House Fellow to Secretary of State Colin Powell.

Before the White House Fellowship brought him to Washington, Mr. O'Neill served as an Assistant District Attorney in the Special Prosecutions Bureau of the New York County District Attorney's Office. He handled a broad range of white collar, fraud and organized-crime cases from investigation to sentencing and specialized in prosecuting complex financial cases and criminal groups in New York with international ties.

Prior to becoming a prosecutor, Mr. O'Neill served as General Counsel for a leading New York merchant bank and investment house. Mr. O'Neill began his career as an Associate with White & Case.

Ian Forrester, QC – White & Case World Championship Round Speaker

lan Forrester is a Partner in the White & Case Brussels office and head of the Firm's Global Pro Bono Practice. He advises companies in a variety of sectors, as well as sovereign states and other governmental authorities, industry associations and private individuals on European Union law, especially competition law, trade law, customs, internal market rules, intellectual property and constitutional rights. Mr. Forrester has represented clients before national courts, national competition authorities, the European General Court, the European Court of Justice and the European Commission. He has argued numerous leading cases on behalf of Microsoft, Pfizer, Toshiba, the European Commission, the Liberal Democrat Party and the Government of Gibraltar.

Mr. Forrester has particular experience representing individuals and companies on questions of human rights as recognized by the European Convention on Human Rights and Fundamental Freedoms. Notable cases include defending a journalist against attempts to force him to reveal his sources and a challenge to how the European Commission conducts competition cases.

A regular lecturer at universities worldwide, he serves on the advisory bodies of the University of Glasgow and Tulane University schools of law.



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2012 FINAL ROUND BENCH

ILSA would like to recognize and thank its esteemed panel of Final Round Justices.

Joan Donoghue

Judge Donoghue joined the International Court of Justice on September 9, 2010. Prior to joining the Court, she worked for the US State Department in numerous capacities, including as Principal Deputy Legal Adviser, Deputy Legal Adviser for Economic and Business Affairs, Assistant Legal Adviser for Economic and Business Affairs, Assistant Legal Adviser for Oceans, Environment and Science, Director of the Office of Diplomatic Law and Litigation, an Attorney in the Office of Law Enforcement and Intelligence and as an Attorney in the Office of Inter-American Affairs). She has also taught courses on Foreign Relations Law at Georgetown University and Public International Law at George Washington University.

Prior to joining the State Department, Judge Donoghue worked as a Federal Court and Administrative litigator with Covington & Burling in Washington, DC.

Kenneth Keith

Judge Keith joined the International Court of Justice on February 6, 2006. Prior to joining the Court, he served as a Judge on the New Zealand Supreme Court, a Judge on the New Zealand Court of Appeal, President and Member of the New Zealand Law Commission, Member of the Public and Administrative Law Reform Committee, Member of the Office of Legal Affairs (Codification Division) of the United Nations, and Member of the Legal Division of the New Zealand Department of External Affairs.

Judge Keith is a Knight Commander of the Order of the British Empire for services to legal education and law reform and is a member of the Order of New Zealand. Judge Keith has also served as Faculty Member, Dean and Professor Emeritus of the Victoria University of Wellington. He served as a member of the New Zealand legal team in the Nuclear Tests cases before the International Court of Justice in 1973, 1974 and 1995.

Hisashi Owada

Judge Owada joined the International Court of Justice on February 6, 2003, and served as President from February 6, 2009 to February 5, 2012. Prior to joining the Court, he served as President of the Japan Institute of International Affairs, Senior Adviser to the President of the World Bank, Ambassador of the Permanent Representative of Japan to the United Nations, Vice-Minister for the Japanese Ministry of Foreign Affairs, Deputy Minister for the Japanese Ministry of Foreign Affairs, Ambassador of the Permanent Representative of Japan to the OECD, Director General of the Treaties Bureau (Principal Legal Adviser) of the Japanese Ministry of Foreign Affairs, Private Secretary to the Prime Minister of Japan, and Private Secretary to the Minister for Foreign Affairs of Japan.

Judge Owada has also taught at numerous institutions, including as an Adjunct Professor of International Law at the University of Tokyo, a Visiting Professor of International Law at Harvard Law School, a Visiting Professor of Law at the New York University Law School, an Adjunct Professor of International Law at Columbia Law School and a Professor at the Hague Academy of International Law.

The Case Concerning the Temple of Mai-Tocao (Aprophe/Rantania)

- 1. Aprophe, a developing state with a population of about 50 million people, was founded in 1698 at the Council of Marcelux (its present-day capital).
- Rantania, a federal state with a developing industrial economy and a population of almost 90 million people, is located to the immediate east of Aprophe. Rantania's economy has blossomed in recent years, in large part due to its close diplomatic and trade relations with three neighboring countries: Lamarthia, Verland, and Pellegrinia.
- 3. The Mai-Tocao temple complex, one of the most famous religious and archaeological sites in the world, is located near the modern Rantanian-Aprophian border. Archaeologists have found evidence of permanent human habitation on the site as early as 2500 BCE and massive stone structures, apparently religious in nature, dating to at least 2000 BCE. Both Herodotus and Sima Qian mentioned Mai-Tocao in their writings, and although neither historian appears to have visited the site, each remarked upon its tremendous significance to a variety of cultures. Tradition holds that Mai-Tocao was the birthplace of Isah Lereh, the principal deity of the ancient religion in the region. Today, Mai-Tocao consists of a complex of six small stone buildings and one central temple. Over 500,000 tourists visit the site each year, including tens of thousands of Aprophian and Rantanian nationals, who regard the site as central to their cultural heritage.
- 4. The indigenous peoples who initially settled the territory surrounding Mai-Tocao were nomadic, and there was no settled boundary between Aprophe and Rantania at the time of Aprophe's founding. As a result, sovereignty over Mai-Tocao and the surrounding territory was a significant point of contention between Aprophe and Rantania for over 300 years. Disputes ranged from small-scale fighting among ethnic and tribal groups to full-scale wars between the two states.
- 5. The most recent hostilities ("the Mai-Tocao War") began in August 1962, at which time the location of the border near the Mai-Tocao site was still disputed. After local villagers of unknown nationality attacked several Aprophian soldiers in Aprophian territory, an elite unit of the Aprophian army pursued the villagers into Rantanian territory near the Mai-Tocao site. The incident escalated, and skirmishes occurred throughout the region sporadically for two years, resulting in hundreds of civilian casualties and the destruction of several towns and villages. The United Nations Security Council declared itself seized of the matter, but took no steps to enforce a ceasefire because of the opposition of a permanent member.
- 6. From 1962 to 1964, the Aprophian army secured and pacified the Mai-Tocao site and occupied undisputed Rantanian territory, disarming and rounding up Rantanian villagers who lived nearby. More than 500 Rantanian peasants were forced to labor to provide goods and services to the army in shifts of 12 hours a day. The so-called "military internees" were not paid, although the Aprophian army provided them with three meals a day and lodged them in barracks near the labor sites.
- 7. By July 1965, the conflict reached a stalemate. In an effort to quell further violence, the two states resorted to the good offices of the UN Secretary-General and engaged in peace negotiations. By the end of the year, they concluded a Peace Agreement ("the 1965 Treaty," attached at Annex I) intended to "create the basis for a stable and lasting peace."

8. The 1965 Treaty committed the boundary delimitation question to an arbitral tribunal. The parties agreed that once the boundary arbitration was concluded, any affected villagers could elect to resettle in the state of their choice.

- 9. The arbitral tribunal reached a decision in 1968, awarding the entirety of the disputed territory and a small portion of previously undisputed Rantanian territory to Aprophe, and establishing a border placing the Mai-Tocao site 10 kilometers within Aprophe. Over the next six months, hundreds of villagers including the "military internees" relocated to the Rantanian side of the border set by the tribunal. The border has remained peaceful and undisputed to the present day.
- 10. In 1980, Rantania, Lamarthia, Verland and Pellegrinia negotiated and ratified the Eastern Nations Charter of Human Rights ("the Eastern Nations Charter", attached at Annex II). The Eastern Nations Charter established a human rights court ("the Eastern Nations Court"). In its early years, the Eastern Nations Court received only two or three petitions per year, although since 2000 it has heard more than 40 cases annually. States Parties have in all cases complied with the final judgments of the Eastern Nations Court.
- 11. Aprophe and Rantania are both parties to the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage ("the World Heritage Convention"). In 1986, Rantania was elected to the World Heritage Committee for a three-year term. Also in 1986, Aprophe proposed that the Mai-Tocao site be inscribed on the World Heritage List, "to recognize its outstanding historical and archeological value." During the deliberations of the World Heritage Committee, Rantania's representative vigorously supported the application, stating, "Although Mai-Tocao is located within Aprophe, the site is of tremendous importance to Rantania and Rantanians. We will accordingly regard its inscription as a cause for national pride for Rantanians as well as Aprophians."
- 12. Mai-Tocao was inscribed in the World Heritage List in 1988. At a joint press conference of Aprophian and Rantanian government leaders, the Rantanian President declared, "More unites our nations than separates us, and the newly-inscribed Mai-Tocao World Heritage Site is one example of our region's proudly shared history and culture."
- 13. In 1990, Rantania, Lamarthia, Verland, and Pellegrinia created the Eastern Nations International Organization ("the ENI"), a regional organization devoted to strengthening economic cooperation and political ties among its members. The Treaty Establishing the ENI (attached at Annex III) guarantees free movement across borders for citizens of ENI Member States, and also contains a mutual defense pact among them. The Treaty incorporates the Eastern Nations Charter by reference.
- 14. In November 2000, Aprophian Senator Mig Green was elected President by the largest margin of the popular vote in Aprophe's history. His campaign platform proposed applying for membership in the ENI. In January 2001, representatives of Green's government met with the ENI Council which, after several months of study, prepared a list of preconditions for Aprophe's application for membership.
- 15. Over the next five years, Green's government instituted a series of measures designed to meet these requirements. The measures included restrictions on the rights of Aprophe's historically strong labor unions and financial and tax incentives for businesses from ENI Member States investing in Aprophe. To meet another precondition, Aprophe acceded to the Eastern Nations Charter in 2005, having negotiated an exemption according to which it would be subject to the compulsory jurisdiction of the Eastern Nations Court only once it achieved full membership in the ENI. In addition, although not required by the ENI Council,

Green also instituted an "open borders policy" whereby citizens of ENI Member States would be free to enter and reside and work in Aprophe. Several thousand citizens of ENI Member States, chiefly from Rantania, moved to major cities in Aprophe after the policy was implemented. By 2002, labor unions, opposition political parties, and nationalist groups within Aprophe were routinely organizing strikes and demonstrations to protest these measures.

- 16. In August 2001, "Our Forgotten Workers", an award-winning documentary by the filmmaker Fro Ginyo, brought to public attention the story of the Rantanian military internees. The documentary presented interviews with some of the surviving internees who recounted their labor during the war. It was extensively discussed in the media, attracting the attention of the International League for Solidarity and Access (ILSA), a Rantanian advocacy group whose mission includes initiating litigation on behalf of victims of alleged human rights abuses.
- 17. In November 2001, ILSA instituted proceedings against Aprophe in a local Aprophian court on behalf of 60 former Rantanian military internees, including one Mr. Richard Turbando. The complaint alleged that the plaintiffs had been forced to engage in uncompensated labor for the Aprophian military, and sought damages reflecting the monetary value of their labor with interest to the present day as well as moral damages commensurate with the magnitude of their alleged suffering. The trial court granted a motion to dismiss in light of the six-year Aprophian statute of limitations, and the plaintiffs appealed. On June 13, 2002, the Aprophian Supreme Court, Aprophe's highest court, affirmed the decision of the local court.
- 18. After the dismissal of the Aprophian case, ILSA instituted similar proceedings in Rantania against Aprophe on behalf of the internees. Rantania has no statute of limitations for civil and criminal proceedings alleging certain enumerated violations of human rights, including forced labor. Aprophe moved to dismiss the case, *Turbando, et al., v. The Republic of Aprophe*, on two grounds: Article XV of the 1965 Treaty, and the doctrine of foreign sovereign immunity. The trial court granted the motion, concluding that:

The application of foreign sovereign immunity to these facts presents a very difficult question, placing our own tradition of broad immunity in direct conflict with the growing international trend to hold all states responsible for gross violations of human rights. However, in this case, we need not resolve this question. Article XV of the 1965 Treaty constitutes a complete waiver of claims like the ones currently before the court, regardless of whether the defendant is entitled to assert the defense of sovereign immunity.

The Rantanian Supreme Court, Rantania's highest court, affirmed the decision of the trial court in all of its particulars.

19. ILSA then filed a petition against Rantania on behalf of the Rantanian plaintiffs before the Eastern Nations Court. The petition contended that the judgment of the Rantanian courts deprived the plaintiffs of rights protected by the Eastern Nations Charter. The Eastern Nations Court delivered a judgment in January 2009, which in relevant part read:

To the extent that the 1965 Treaty purports to deny the petitioners' right to reparations, this Court cannot permit Respondent to rely on it. To accept Aprophe's argument would allow Rantania to use a treaty relationship with a third party to deprive its own citizens of inalienable rights protected by the Eastern Nations Charter and customary international law. Accordingly, the invocation by the Rantanian courts of Article XV of the 1965 Treaty to bar plaintiffs' suit amounted to a denial of justice and was inconsistent with fundamental human rights law as incorporated in the Charter. The Supreme Court of Rantania is directed to proceed in a manner consistent with this opinion.

20. Following the Eastern Nations Court's decision, the Supreme Court of Rantania remanded the cases for trial, consistent with Rantanian appellate procedure. Aprophe declined to participate, but submitted a letter to the Rantanian Ministry of Foreign Affairs, asserting that the Rantanian court was obliged to dismiss the claim on sovereign immunity grounds. On December 12, 2009, the trial court considered the foreign sovereign immunity question and issued an opinion that read, in relevant part:

In its earlier decision this court was not required to resolve the close question of whether Aprophe is entitled to sovereign immunity in this case; today we must. Modern developments in this area have indicated that immunity does not extend to violations of peremptory norms of international law, particularly where a state stands accused of having breached a fundamental duty to respect human rights. The forced labor alleged in the complaint before this Court would, if proved, constitute an egregious violation of the law of nations. This Court therefore must, consistent with its obligations under the Eastern Nations Charter, proceed to exercise its jurisdiction in this matter.

The court found that forced labor had occurred, took evidence on the measure of damages, and awarded the individual plaintiffs damages ranging from the equivalent of US\$75,000 to US\$225,000 apiece, depending upon the facts established in each plaintiff's case. Aprophe did not participate in these proceedings and did not appeal the decision or the awards.

- 21. The Minister of Foreign Affairs of Aprophe, Ken A. Barrow, denounced the decision of the Rantanian court as "an unacceptable violation of Aprophe's immunity from the jurisdiction of foreign courts," and also as "a flagrant violation of the 1965 Treaty, whereby all claims in this regard had been waived." He also stressed that Aprophe was "not subject to any judgment the Eastern Nations Court might deliver." Rantania's Attorney General, Odelle Gateau, responded, "Once the Eastern Nations Court clarified our obligations under the Eastern Nations Charter, to which both Rantania and Aprophe are parties, the courts of Rantania were bound to give expression to them."
- 22. After the successful plaintiffs applied for leave to enforce their judgments against Aprophian property located in Rantania, the Rantanian Foreign Ministry sought a stay of enforcement "in light of the potentially serious implications of the matter upon Rantanian foreign policy." The trial court granted an indefinite stay, to be reviewed upon the petition of either party in the future.
- 23. The outcome of the lawsuit strengthened nationalist and anti-Rantanian sentiments within Aprophe, and opposition to President Green's pro-ENI program. Dissident factions in Aprophe staged several nationwide strikes throughout 2010, calling for Green's resignation. Despite the social unrest, a poll conducted by the Aprophian Office for National Statistics in November 2010 indicated that 55% of Aprophians considered the policies of Mig Green's government to be "very good" or "good" and that 60% approved of the government's efforts to join the ENI.
- 24. President Green declared his candidacy to stand for a third term in the elections to be held in March 2011. In the wake of the strikes, however, on January 10, 2011, Green invoked the emergency powers granted to the President under the Aprophian Constitution, announcing that he was postponing the election for one year "in the expectation that order can be restored during that time." Relying on the same constitutional provision, on January 13, President Green ordered the Aprophian military to begin armed patrols in major urban areas "to prevent and quell civil unrest."

25. On January 15, 2011, all of the major newspapers in Aprophe published an "Open Letter" to President Green, from General Paige Andler, chief of staff of the Aprophian armed forces. Gen. Andler described the suspension of the March elections as "a clear attempt to subvert the will of the people," and called upon President Green to restore the elections. Her letter concluded:

Mr. President, when you took your oath of office, you swore to uphold the democratic principles of this great nation. I took that same oath over 40 years ago, when I enlisted to serve my country in ending the Mai-Tocao War. All Aprophian soldiers are trained to understand that, in a democracy, we who proudly wear our uniforms are required to implement the decisions of elected political officials without question. But, President Green, although we respect you as our Commander-in-Chief, we will not carry out your order of January 13. We will not take up arms against our fellow Aprophians.

- 26. President Green immediately fired Gen. Andler, withdrew her military commission, and ordered her arrest on charges of insubordination and sedition. On the morning of January 16, 2011, senior officers of the national police arrived at Andler's apartment in Marcelux, and were turned away by armed soldiers loyal to her.
- 27. That evening, army units loyal to Andler forcibly entered the Presidential Palace and other government installations. President Green and his ministers fled during the night to Rantania. The following morning, Andler proclaimed herself "interim president" of Aprophe, and declared that she would stay in power

for as long as necessary to reestablish democratic institutions and the rule of law in the country. Restoring order to our streets and cities requires that we stop the headlong rush toward irreversible change until we are sure that this reflects the will of the people. It is not clear that the Aprophian people are committed to ENI membership, at least until some basic questions are answered. So long as I am interim president, Aprophian concerns come first.

She immediately suspended the open borders policy, the tax and other incentives extended by President Green to nationals of ENI Member States, and other pro-ENI measures instituted by Green.

- 28. In the face of widespread and growing opposition to the interim government, Andler declared a state of emergency and, pursuant to emergency powers granted by law, dissolved parliament. In a press conference held on January 18, 2011, Andler stated that the dissolution had been necessary to "ensure stability and maintain public order." She also assured the citizens of Aprophe that "new elections [would] be called soon" and that, in any event, "all civil rights and liberties [would] be respected."
- 29. Several parliamentarians belonging to Green's party also fled to Rantania. Forty Aprophian Ambassadors, including the Permanent Representatives to the United Nations and to the Kingdom of the Netherlands, renounced Andler and declared their allegiance to Green. Andler's government successfully established order in over 90% of Aprophian territory (comprising approximately 80% of the population), and the armed forces in and around Marcelux were loyal to Andler. However, approximately 800 members of the army's National Homeland Brigade, based in outlying regions, remained loyal to Green and established bases in two villages in the north of Aprophe. The Brigade is a lightly-armed force ordinarily tasked with patrolling Aprophe's borders. Several hundred civilian supporters of Green migrated to those villages, under the protection of the pro-Green forces.
- 30. Andler ordered more than 2,000 members of the army elite Quick Reactionary Forces (QRF) to the two villages to confront the National Homeland Brigade. The heavily-armed QRF troops demanded that the pro-Green

forces surrender and threatened to arrest any soldier who refused to lay down his or her arms. No troops loyal to Green surrendered and no arrests were carried out. Small-scale fighting between the QRF and pro-Green forces began early in the morning on January 20, 2011, and continued for the next three weeks.

- 31. Andler's assault upon the pro-Green units were condemned by several nations. On January 20, 2011, Green announced that he and his ministers had formed what he called a "government in exile" in Rantania. Over the next two days, Green held talks with the Rantanian government, in which he urged Rantania to intervene to end the fighting and to restore his government in Aprophe. On January 22, Rantania introduced a resolution before the ENI Council then chaired by a representative of Lamarthia which began, "Given that the tragedy in Aprophe derives in some measure from that nation's desire to join the ENI, it is appropriate that any response be undertaken by the ENI rather than by any individual Member State." The Council unanimously passed the resolution, which recognized Green as the "lawful President of Aprophe," condemned "the military coup d'état," and urged "a prompt cessation of military activities and restoration of democracy." In the following days, each ENI Member State and 27 other nations formally announced that they would conduct diplomatic relations only with the Green regime. As of the date of submission of this Compromis, 14 nations recognize Andler's government.
- 32. On January 23, 2011, Andler delivered a public statement denouncing the ENI Council resolution. She declared, "This resolution is an unjustified interference in the internal affairs of Aprophe. Despite former President Green's continuing efforts to subordinate our nation and its future to the ENI, in my government, Aprophian concerns come first." On the same day, the Minister of Foreign Affairs of the interim government informed the Secretary-General of the United Nations that Aprophe was denouncing the Eastern Nations Charter.
- 33. Upon the request of Rantania and with the support of the other ENI Members, on January 29, 2011, the United Nations General Assembly adopted Resolution A/RES/65/598, by a vote of 109 votes in favor and 16 against, with the remaining Member States abstaining. The resolution condemned "the *coup d'état* against the democratically elected government of Aprophe" and called upon "the Security Council to consider immediate action under Chapter VII of the Charter of the United Nations to preserve peace and restore the constitutional order of Aprophe."
- 34. Neither the pro-Green nor pro-Andler forces had made any progress in the conflict in the north. On February 10, 2011, the QRF launched artillery strikes against the two villages still loyal to Green. Sixty soldiers and 80 civilians were killed and hundreds more were wounded during shelling in the region over the next three days, and QRF ground-force commanders indicated their immediate intention to enter the villages. Green and his representatives urged the ENI Council to take immediate steps to "prevent an imminent humanitarian crisis."
- 35. On February 15, 2011, Rantania proposed and the ENI Council unanimously approved "Activation Orders" for air strikes against "military and strategic assets in Aprophe that at once threaten civilian lives and perpetuate the illegal exercise of power by the current regime." At Rantania's suggestion, the Council appointed Major-General Otaz Brewscha, a Rantanian national, to head the campaign as Force Commander.
- 36. On the same day, Rantanian President Sue Perego informed ILSA that the Rantanian government had no objection to ending the stay of enforcement proceedings in *Turbando, et al., v. The Republic of Aprophe.* ILSA moved to lift the stay, and the court granted its motion. Bailiffs promptly identified and seized the equivalent of US\$10,000,000 in non-diplomatic property of the government of Aprophe located in Rantania. The court's order and the bailiffs' seizure were fully consistent with Rantanian law on the subject.

37. According to the terms of the Activation Orders, the Eastern Nations Organization launched "Operation Uniting for Democracy" before dawn on February 18, 2011. The operation consisted of around-the-clock air strikes against verified military installations in and around Marcelux. Operation Uniting for Democracy was conducted almost entirely by the Rantanian Air Force, as Rantania is the only ENI Member State with airborne military capability of any significant size. Pursuant to the Activation Orders, all operational decisions were to be taken by Major-General Brewscha, under the direction of the ENI Defense Committee.

- 38. Within days, Operation Uniting for Democracy resulted in the destruction of 12 of the 15 military installations near Marcelux and the deaths of 50 Aprophian soldiers. There were no civilian casualties and only incidental damage to non-military buildings. The Sterfel Institute, an independent military think-tank with long experience in the region and experts on the ground in Marcelux, reported on February 25, 2011, "The Aprophian military has effectively been destroyed. It cannot fight back and it cannot defend itself." On the same day, the United Nations Security Council met in emergency session to discuss what it called "the escalating cycle of violence in Aprophe."
- 39. On February 27, 2011, Andler and her staff fled from the capital to the grounds of the Mai-Tocao National Park. During one of his daily media briefings on February 28, 2011, Major-General Brewscha announced that, rather than risk damage to the Mai-Tocao site by striking Andler's headquarters there, ENI ground forces would be mobilized "within days, if not hours" to enter Aprophe and capture Andler.
- 40. On February 28, 2011, Andler made the following announcement from the Great Antechamber of the Mai-Tocao Temple, which was distributed to the media by satellite uplink:

This is a sad day for Aprophe. Those we have come to regard as friends and neighbors now threaten our independence, and the very lives of our people. They have rained death from the sky every day and every night and I regret to announce that our brothers and sisters in uniform no longer have the means to stop them. I will not order a last-ditch military defense that would inevitably cost the lives of more of our dear soldiers, and that would do no more than postpone the inevitable.

As we speak, foreign soldiers are massing at the border, coming here to hunt down and kill what remains of our fragile democracy. Let us be clear. This massacre of our people is being committed with no legal or moral authority. No policy differences can justify this attack.

These are unprecedented circumstances, and they call for an unprecedented response. If even a single foreign soldier sets foot on the territory of our homeland — and if the bombing campaign does not cease immediately — we must be prepared to sacrifice our beloved Mai-Tocao Temple. We will destroy one building every other day as long as the unlawful military operation continues. This grieves me deeply, but I can see no other way to end the killing, to restore law and order and sanity, and to safeguard the future for our children.

41. On March 1, 2011, the United Nations Security Council unanimously adopted a resolution condemning Operation Uniting for Democracy. Although an early draft of the resolution would have supported stronger Council action and invoked Chapter VII of the UN Charter, the resolution simply noted that neither ENI nor any of its Member States had provided advance notice to the Council as required by the United Nations Charter, called upon the ENI Member States to end the Operation, and indicated that the Security Council would remain seized of the matter.

42. The aerial bombardment of the military installations near Marcelux continued unabated for the next two days. Shortly before midnight on March 3, 2011, Andler ordered the controlled detonation of explosives in one of the smaller buildings in the Mai-Tocao complex, usually described as the residence of Isah Lereh's mortal lover, Lair-Ner. Almost half of the structure was destroyed, although no one was injured.

- 43. On the morning of March 5, 2011, Rantanian President Perego issued a declaration condemning the detonation at the Mai-Tocao Temple as a violation of international law, in particular the 1965 Treaty and the World Heritage Convention. She nonetheless ordered an immediate grounding of the Rantanian air force. That evening, the ENI Council formally suspended Operation Uniting for Democracy.
- 44. In the following weeks, Andler and her government returned to Marcelux. On May 12, 2011, Aprophe filed an application with the Registry of the International Court of Justice, instituting proceedings against Rantania. Andler signed the Application herself, in the capacity of "Interim President of Aprophe." The Application asserted that the ENI attacks were contrary to international law, and that Rantania was internationally responsible for those attacks. It cited as the basis of this Court's jurisdiction the compromissory clause of the 1965 Treaty.
- 45. Upon receiving the Application, Rantanian Attorney General Gateau issued a statement declaring that Rantania would not consent to the jurisdiction of the Court. She explained:
 - In accordance with our treaty obligations, Rantania would willingly accede to a request to have the International Court of Justice resolve a dispute between ourselves and Aprophe were it presented by the proper authorities. But this request does not come from the government of Aprophe: it comes from a gang of military officers, elected by no one and coming to power by force, masquerading as the government. Only the legitimate government, now in exile, may claim to represent Aprophe before the Court or any other international body. Moreover, it is evident that the Court cannot give a ruling on a dispute concerning the action taken by ENI, an international organization possessing a legal personality distinct from that of its members. Only States may be parties to disputes before the Court, according to the terms of its Statute
- 46. Facing increasing public pressure, Ms. Gateau announced on July 1, 2011, that Rantania would engage Aprophe before the International Court of Justice, on the condition that Aprophe withdraw its Application and instead agree jointly to submit to the Court all claims that the parties might have against one another. She specified that any such joint submission would be "without prejudice to our position regarding whether Andler may act on Aprophe's behalf, which we intend to litigate fully in the case." Aprophe withdrew its application on July 20, 2011, and over the course of the next several months, the parties met, negotiated and ultimately agreed to this Compromis.
- 47. Aprophe and Rantania have been parties to the Vienna Conventions on Diplomatic and Consular Relations since 1966; to the Vienna Convention on the Law of Treaties since 1970; and to the World Heritage Convention since 1983. In addition, Aprophe and Rantania have been parties to the Geneva Conventions of 1949 since 1968 and 1976, respectively, to both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights since 1971 and 1976, respectively. Both states were admitted to the United Nations in 1966. Aprophe has signed but not ratified the 2004 United Nations Convention on Jurisdictional Immunities of States and Their Property, not yet in force; Rantania has neither signed nor ratified that Convention. Aprophe and Rantania are not parties to any other relevant bilateral or multilateral treaty.

- 48. Aprophe requests the Court to adjudge and declare that:
 - (a) the Court may exercise jurisdiction over all claims in this case, since the Andler government is the rightful government the Republic of Aprophe;

- (b) Rantania is responsible for the illegal use of force against Aprophe in the context of Operation Uniting for Democracy;
- (c) since the exercise of jurisdiction by Rantanian courts in the case of *Turbando, et al., v. The Republic of Aprophe* violated international law, Rantania may not permit its officials to execute the judgment in that case; and
- (d) Aprophe's destruction of a building of the Mai-Tocao Temple did not violate international law.
- 49. Rantania requests the Court to adjudge and declare that:
 - (a) the Court is without jurisdiction over the Applicant's claims, since the Andler regime and its representatives cannot appear before this court in the name of the Republic of Aprophe;
 - (b) the use of force against Aprophe in the context of Operation Uniting for Democracy is not attributable to Rantania, and in any event, that use of force was not illegal;
 - (c) since the exercise of jurisdiction by Rantanian courts in the case of *Turbando, et al., v. The Republic of Aprophe* was consistent with international law, Rantanian officials may execute the judgment in that case; and
 - (d) Aprophe violated international law by destroying a building of the Temple of Mai-Tocao.

ANNEX I

The Peace Agreement of 1965

Aprophe and Rantania, in the interest of ending decades of conflict between them and between their respective citizens, and in order to create the basis for a stable and lasting peace between them and their populations, hereby agree as follows:

Article I

The cessation of any and all hostilities between the parties starts on the day of signature of this Treaty.

Article X

- (1) The question of territorial boundaries shall be determined by an arbitral tribunal established by the parties, and presided over by an individual to be designated by the Secretary-General of the Permanent Court of Arbitration. The parties agree to abide to the decision of the tribunal, which shall be final.
- (2) For a period of six (6) months after the decision of the tribunal, both parties shall permit any individual who may find himself or herself in the territory of a state other than the one to which he or she professes loyalty or affiliation to relocate and, for this purpose, to cross the territorial boundary.

. . .

Article XV

Each party hereby waives on its own behalf and on behalf of its citizens all claims against the other or the other's citizens arising out of the conflict which began in August 1962. This waiver shall be deemed to include all debts and claims, financial or otherwise, for loss or damage occurring during the conflict. In order to ensure that this commitment will be enforceable, each State represents to the other that it has the authority under its own constitution and laws to waive such claims on behalf of its citizens.

. . .

Article XXV

The Parties shall submit to the judgment of the International Court of Justice any dispute which may arise between them concerning the interpretation or application of this Treaty.

. .

Done in Geneva, Switzerland, on July 25th, 1965.

ANNEX II

EASTERN NATIONS CHARTER OF HUMAN RIGHTS (1980)

Preamble

Lamarthia, Pellegrinia, Rantania and Verland,

Reaffirming their intention to consolidate in the region, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of all people;

Have agreed upon the following:

PART I - RIGHTS PROTECTED

Article 1. Obligation to Respect Rights

The States Parties to this Charter undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

Article 2. Domestic Legal Effects

Where the exercise of any of the rights and freedoms referred to in Article 1 is not already assured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights and freedoms.

. . .

Article 10. Freedom from Slavery

- 1. No one shall be subject to slavery or involuntary servitude, which are prohibited in all their forms.
- 2. No one shall be required to perform forced or compulsory labor. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labor, the carrying out of such a sentence imposed by a competent court is prohibited. Such exceptionally permissible forced labor shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.

Article 11. Right to a Fair Trial

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other kind.

. . .

Article 13. Right to Remedy

- 1. Everyone whose rights and freedoms as set forth in this Convention are violated shall have a right to an effective remedy before a national authority.
- 2. Everyone has the right to simple and prompt recourse to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned, by this Convention or by customary international law, even though such violation may have been committed by persons acting in the course of their official duties.

. . .

Article 31. The Eastern Nations Court of Human Rights

- 1. To ensure the observance of the engagements undertaken in the Charter, there shall be established an Eastern Nations Court of Human Rights, hereinafter referred to as "the Court." It shall function on a permanent basis.
- 2. The Court shall have jurisdiction to hear all cases brought before it by individuals concerning the application of the provisions of this Charter. The jurisdiction is compulsory as to all States Parties to this Charter, for any violation alleged to have happened after the entry into force of this instrument for the State Party.
- 3. The States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.

. . .

Article 44. Ratification and Adherence

Ratification of or adherence to this Convention shall be made by the deposit of an instrument of ratification or adherence with the Secretary-General of the United Nations.

(34)

.....

Article 45. Denunciation

- Any State Party may denounce this Convention by means of notice given three months in advance. Notice of
 the denunciation shall be addressed to the Secretary-General of the United Nations, who shall inform the other
 States Parties.
- 2. Such a denunciation shall not have the effect of releasing the State Party concerned from the obligations contained in this Convention with respect to any act that may constitute a violation of those obligations taken by that state prior to the effective date of denunciation.

. . .

ANNEX III

The Treaty Establishing the Eastern Nations International Organization (1990)

Lamarthia, Pellegrinia, Rantania and Verland,

United by their close historical and cultural ties,

Inspired by the pursuit of the democratic rule of law and respect for human rights,

Devoted to the principles and objectives of the United Nations, in particular regional peace and mutual security, Have agreed to the following:

Section I. Objectives and Principles

Article 1: Establishment of the ENI

The Eastern Nations International Organization (ENI) is hereby established. It shall work for the accomplishment of the objectives outlined below.

Article 2: Objectives

The Member States commit themselves to take all practical measures:

To foster democratic governance and the protection of human rights across the region;

To accelerate political and socio-economic integration;

To defend the sovereignty, territorial integrity and independence of each Member State; and

To maintain and develop their individual and collective capacity to resist armed attack.

Article 3: Principles

The ENI shall function based on the following principles:

- 1. Sovereign equality and independence;
- 2. Respect for the rule of law and democracy;
- 3. Respect for human rights and fundamental freedoms;
- 4. Peaceful dispute settlement;
- 5. Non-interference in the internal affairs of a Member State; and
- 6. Establishment of a common defense policy.

Section II. Organizational Structure

Article 4: Principal Organs

- 1. There are established, as the principal organs of the Eastern Nations International Organization: a Council, a Secretariat, and a Committee on Economic Policy.
- 2. Such subsidiary organs as may be found necessary shall be established in accordance with procedures set out in the present Treaty.

Article 5: The ENI Council

- The ENI Council is the principal decision-making body for the pursuance of the objectives outlined in this Treaty.
 The ENI Council is composed of the Ministers of Foreign Relations of the Member States, or their accredited representatives. The Council shall make decisions in all matters by simple majority vote of the Member States, each Member State having one vote.
- 2. The Chair of the Council shall be held by Member States on the basis of rotation for terms of two (2) years each

. . .

Section IV. Human Rights and Democratic Governance

Article 10: Eastern Nations Charter of Human Rights

- 1. The Eastern Nations Charter of Human Rights is hereby incorporated into this Treaty and the Member States reaffirm their commitments to that Charter. Any State seeking membership in the ENI must ratify the Eastern Nations Charter of Human Rights prior to applying for membership.
- 2. The Eastern Nations Court of Human Rights, established under the Eastern Nations Charter, shall be considered for all purposes a principal organ of the Eastern Nations International Organization.

Section VI. Mutual Defense and Security

Article 50: Peaceful Settlement of Disputes

The Member States undertake to attempt to settle all international disputes by peaceful means, as listed in Article 33 of the United Nations Charter.

Article 61. Mutual Defense

- An armed attack against one Member State shall be considered an attack against all of them. Consequently,
 the Member States agree that, if such an armed attack occurs, each will, in exercise of the right of collective
 self-defense recognized by Article 51 of the Charter of the United Nations, assist the Member State so
 attacked by forthwith taking, individually and collectively, such action as is necessary, including the use of
 armed force, to restore and maintain the security of the region.
- Any Member State facing a situation of internal disruption may request the ENI Council to take collective action, including the use of armed force, to restore and maintain public order, democracy, and the rule of law on its territory.

Article 62. Defense Committee

A Defense Committee, composed of the Ministers of Defense of each of the Member States, is hereby established. The Committee shall implement any action involving armed force that the ENI Council may authorize.

. . .

Section X. Miscellaneous Provisions

Article 83. Relationship to the United Nations Charter

In the event of a conflict between the obligations of ENI Member States and those contained in the United Nations Charter, the latter shall prevail.

Article 84. Privileges and Immunities

The Organization, as well as its representatives, shall enjoy the following privileges and immunities in the territories of the Member States:

- 1. The Organization and its property and assets shall be immune from every form of legal process except insofar as in any particular case it has expressly waived its immunity.
- 2. The headquarters and any missions of the Organization shall be inviolable.
- 3. The Organization's archives, and in general all documents belonging to or held by it, shall be inviolable.
- 4. Organization officials, as identified in this Treaty or as may subsequently be designated by the ENI Council, shall:
 - a. Be immune from legal process in respect of words spoken or written and acts performed by them in their official capacity;
 - b. Be exempt from taxation on the salaries and emoluments paid to them by the Organization; and
 - c. Be accorded the same privileges as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned.

CORRECTIONS AND CLARIFICATIONS

The following corrections and clarifications have been agreed to by the parties, and the Compromis should be considered amended accordingly. The Registrar of the Court reminds all parties and participants of the following:

- a. The Compromis is, in essence, a stipulation of facts. Its words have been carefully chosen, and are the result of extensive negotiation. The parties decline to "clarify" matters about which they are unlikely to agree. The parties will not stipulate as to which legal principles are relevant, or which arguments are acceptable or unacceptable.
- b. Any request for clarification not addressed in the following paragraphs has been considered by the parties to be redundant, inappropriate, or immaterial, or the parties were unable to reach agreement on a mutually acceptable answer.
- c. Except to the extent that corrections and clarifications are set out below, participants are to assume that the Compromis is accurate and complete in all respects. In particular, both parties stipulate as to the authenticity of all documents and of the signatures on all documents referenced in the Compromis.
- d. With respect to pronunciations of the various proper names used in the Compromis, all parties and the Court have agreed that they will not take formal or informal offense at any reasonable effort to pronounce proper names correctly.

CORRECTIONS

- 1. In paragraph 15, the reference to the year "2002" is corrected to read "2006."
- 2. In paragraph 19, the reference to "Aprophe's argument" is corrected to read "the reasoning of the Rantanian courts."
- 3. Gen. Andler's first name is spelled "Paige." All contrary spellings are hereby corrected.
- 4. Paragraph 31 reads, in part, "Andler's assault upon the pro-Green forces were condemned. . . . " It should read "Andler's assault upon the pro-Green forces was condemned. . . . "

CLARIFICATIONS

- 1. Both Aprophe and Rantania have been parties to the UNESCO Constitution since 1960.
- 2. In addition to his position as Force Commander of ENI Operation Uniting for Democracy, Major-General Otaz Brewscha is a reserve officer in the Rantanian air force.
- 3. As of the date of the *Compromis*, Rantanian bailiffs seized Aprophian assets amounting to \$10 million pursuant to domestic law. The assets have not been delivered to the plaintiffs, but are being held by the Rantanian judicial authorities pending further instructions, in accordance with applicable rules of civil procedure.
- 4. On March 4, 2011, the World Heritage Committee issued a press release calling the March 3 detonation at the Mai-Tocao site "tragic."
- 5. Rantanian peasants did not engage in hostilities against the Aprophian army during the Mai-Tocao War.



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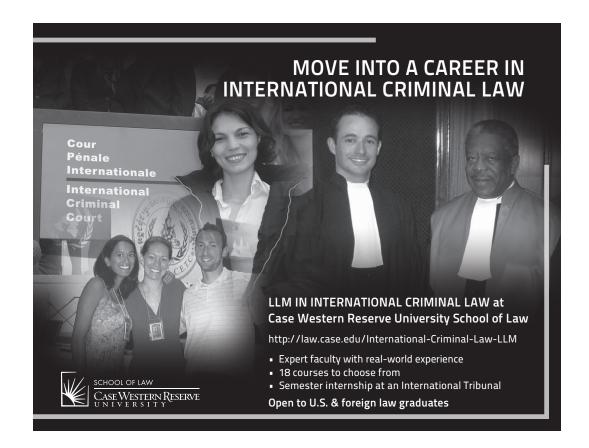
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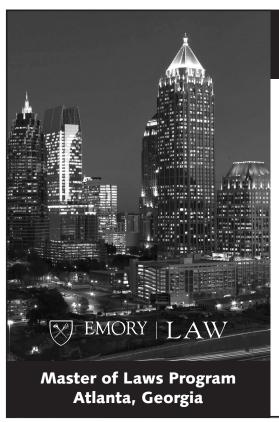
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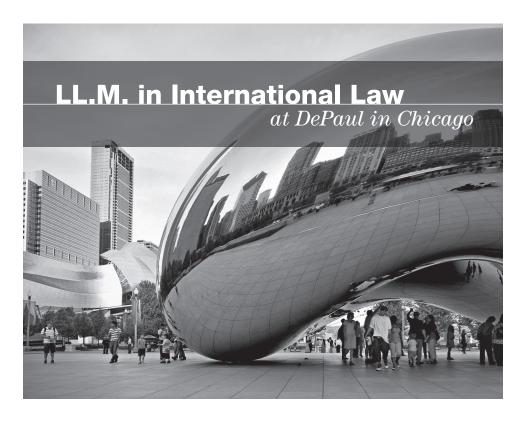
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We would also like to thank the International Bar Association, the world's leading organization of international legal practitioners and bar associations, for its support of ILSA and the Jessup Competition. Our gratitude is also owed to IBA Members who have supported the competition through their donations of time as team coaches, advisors and judges.

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A final word of thanks goes to our regional and national administrators for their tireless work and dedication on behalf of the Jessup Competition.