

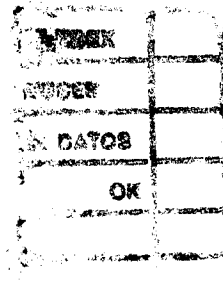
OCTOBER 2007 ■ VOLUME 101, NUMBER 4

# American Journal of International Law



PUBLISHED BY The American Society of International Law

# AMERICAN JOURNAL OF INTERNATIONAL LAW



VOL. 101

October 2007

NO. 4

CONTENTS

PAGE

## Opening Pandora's Box: Sovereign Bonds in International Arbitration

*Michael Waibel* 711

Over the last two decades, private creditors have increasingly resorted to litigation in national courts as a means of obtaining payment on defaulted sovereign debt. Arbitration under the auspices of the International Centre for Settlement of Investment Disputes is commonly mentioned as a viable alternative. Such attempts to take defaulting countries to arbitration could upset the sovereign debt market's delicate equilibrium, and they are also unlikely to succeed. The article shows why ICSID may lack jurisdiction over sovereign debt instruments and why sovereign defaults generally do not trigger state responsibility.

## Internationally Wrongful Acts in Domestic Courts

*André Nollkaemper* 760

This article explores the situations in which principles of international responsibility may guide domestic courts in determining the consequences that should attach to a finding of breach or potential breach by the forum state of its international obligations, in cases like *Sánchez-Llamas* and *Medellín*. It discusses the normative foundation of the application of these principles at the domestic level and explains how domestic courts can contribute to the implementation of international responsibility.

## Notes and Comments

Was Yugoslavia a Member of the United Nations in the Years 1992–2000?

*Yehuda Z. Blum* 800

## Current Developments

Business and Human Rights: The Evolving International Agenda *John Gerard Ruggie*

819

## International Decisions

*Edited by Daniel Bodansky*

*Prosecutor v. Thomas Lubanga Dyilo* (Mark A. Drumbl)

841

International Criminal Court decision confirming war crimes charges for conscripting, enlisting, and using child soldiers

*Prosecutor v. Alex Tamba Brima, Brima Bazzy Kamara & Santigie Borbor Kanu; Prosecutor v. Moinina Fofana & Allieu Kondewa* (Valerie Oosterveld and Andrea Marlowe)

848

Special Court of Sierra Leone judgment on recruitment and use of child soldiers

*Joined Case Nos. 2 BvM 1–5/03 & 2 BvM 1–2/06 [Argentinean state bonds case]*  
(Beate Rudolf and Nina Hüfken)

857

German Federal Constitutional Court decision on defense of necessity in case by private creditors against a foreign state

## Contemporary Practice of the United States Relating to International Law

*Edited by John R. Crook*

New Executive Order Addresses Common Article 3 and Permitted Methods of Detainee Interrogation	866
Treaty Priority List Sets Out Administration Priorities for Senate Action	869
United States Directs Eritrea to Close Consulate in Oakland	874
Justice Department Requires Divestiture of Baltimore Steel Mill as Condition for Approval of Foreign Steel Merger	875
U.S. Criminal Proceedings Involving UN Secretariat Officials and Corruption in Oil-for-Food Program	876
U.S. Military Authorities and Nongovernmental Humanitarian Organizations Establish Guidelines on Relations in Hostile Environments	877
U.S.-European Agreement on U.S. Access to Airline Passenger Data	878
Uncertain Prospects for Pending U.S. Bilateral Trade Agreements	880
United States and South Korea Sign Major Free Trade Agreement; Prospects Uncertain	881
Ninth Circuit Finds FCN Treaty with Japan Does Not Preempt State Whistleblower Law	882
United States Votes Against Adoption of UN Declaration on Indigenous Peoples	884
Manuel Noriega Found Extraditable to France; Geneva Convention Claims Rejected	885
Developments Related to the Military Commissions Act and Detentions at Guantánamo Bay	886
U.S. Officials and Military Personnel Face Charges in Foreign Courts; United States Will Not Extradite; U.S. Officials Criticize Foreign Investigations	890
Continuing UCMJ Proceedings Involving Offenses Against Civilians in Iraq	893
United States and India Sign Nuclear Cooperation Agreement; Prospects for Approval Uncertain	895
NAFTA Panel Awards Costs to United States in Termination of Softwood Lumber Claim	897
Brief Notes	899

## Recent Books on International Law

*Edited by Richard B. Bilder*

### Book Reviews

Stromseth, Jane, David Wippman, and Rosa Brooks. <i>Can Might Make Rights? Building the Rule of Law After Military Interventions</i> (Lan Cao)	901
Zampetti, Americo Beviglia. <i>Fairness in the World Economy: US Perspectives on International Trade Relations</i> (Jeffrey L. Dunoff)	907
Orakhelashvili, Alexander. <i>Peremptory Norms in International Law</i> (Michael Byers)	913
Kuznetsov, V. I., and B. R. Tuzmukhamedov (eds.). <i>Mezhdunarodnoe pravo [International Law]</i> (William E. Butler)	917
Boll, Alfred M. <i>Multiple Nationality and International Law</i> (Hans Ulrich Jessurun d'Oliveira)	922
Moghalu, Kingsley. <i>Rwanda's Genocide: The Politics of Global Justice</i> ; Cruvellier, Thierry. <i>Le tribunal des vaincus: Un Nuremberg pour le Rwanda?</i> (Luc Reydam)	928
Atapattu, Sumudu. <i>Emerging Principles of International Environmental Law</i> ; Louka, Elli. <i>International Environmental Law: Fairness, Effectiveness, and World Order</i> (Charles Di Leva)	933
Saul, Ben. <i>Defining Terrorism in International Law</i> (Tung Yin)	938

<b>Books Received</b>	941
-----------------------	-----

<b>International Legal Materials.</b> Contents, Vol. XLVI, No. 5 (Sept. 2007)	949
---	-----

<b>Table of Cases</b>	950
-----------------------	-----

<b>Index</b>	954
--------------	-----