

GLOBAL ACTION

A Newsletter of the **International Law Section** of the Cleveland Metropolitan Bar Association

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EDITOR'S NOTES

Mark J. Sundahl

As lawyers and business advisors, 2009 is a good time for us to remind our clients about international opportunities to expand their business. This issue of Global Action kicks off the New Year with a very useful article by Robert Brown (who addressed the Greater Cleveland International Lawyers Group in 2008) that should be passed along to all of your clients who are interested in entering the international marketplace. Robert makes a multi-faceted argument for why companies should make that pivotal decision go global – and highlights some of the challenges that face a company that takes this step into foreign markets. Amy Burchfield, one of the talented librarians at Cleveland-Marshall College of Law, has also contributed a piece describing Internet resources for the international lawyer. And, of course, you will find details about the upcoming International Law Section events at the end of the newsletter.

As always, submissions for future issues of Global Action are welcome and can be emailed directly to me for consideration at the address below. Submissions should be brief pieces (500-800 words) on a topic of interest to members of our section. If you would like to view previous issues of Global Action, a link to previous newsletters can be found on the International Law Section homepage.

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A MESSAGE FROM THE CHAIR

Robert M. Spira

We are moving toward the heart of our Section's programming year. Watch your email for notices of the upcoming Forum on February 4th. Also keep an eye out for news of our International Law Symposium scheduled for May 12th.

Please contact me if you have questions or comments on International Law Section activities. I look forward to hearing from you.

Thanks for your support of our Section.

Robert M. Spira,
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WHY BUSINESSES SHOULD THINK GLOBALLY

For the past several centuries, companies wishing to do business internationally had to face two major problems – geographical and temporal space. However, with the emergence of virtually instantaneous communication methods, including telephones, computers, and videoconferences, and the ability to be in almost any other part of the world within twenty-four hours, distance and time are no longer major concerns for operating on a global

playing field. In fact, today, all businesses, from start-up firms to large mature companies, must operate and compete in a rapidly changing environment. Competitive opportunities and threats arise from a number of disparate factors: regulatory, economic, social, cultural, political and technological. As circumstances change, all firms

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must adapt or lose their competitive advantage to other firms. The last thirty years have been marked by the emergence of the international marketplace, making even the smallest firm a potential multinational business enterprise searching abroad for supplies, technology, low-cost manufacturing and, most importantly, potential customers for its goods and services.

Product distribution: Opportunities have expanded rapidly in foreign markets; however, each new market has its own unique requirements with respect to product characteristics and distribution. As a result, domestic firms must develop the capability to differentiate existing products to meet the needs of foreign markets and must understand the distribution channels in those markets. In addition, improvements in communications have led to broad dissemination of advertising information, thereby influencing consumer tastes and preferences in foreign markets.

Production and manufacturing: The factors of production and manufacturing have undergone dramatic changes. The availability of low-cost labor in foreign markets, improvements in transport and communications which permit rapid delivery of goods from point of manufacture to point of sale, and the rapid transfer of production technologies have driven down prices, altered perceptions of quality and service and allowed new competitors to gain rapid entry into product markets.

Trade barriers and regional trading systems: The existence or absence of non-tariff trade barriers, as well as the emergence of regional trading systems in large markets such as the continuously expanding European Union, have had a significant effect on the distribution function. This trend is expected to continue in large untapped markets in Asia, particularly in the Greater China area that includes Hong Kong, the Peoples Republic of China and Taiwan. The U.S., through bilateral negotiations and activities within multilateral trade organizations, has pushed vigorously for reduction of non-tariff trade barriers in order to allow U.S. firms to access new foreign markets.

Foreign competition: In the United States, foreign competition has affected consumer tastes and materially impacted opportunities for growth and expansion. Moreover, many foreign competitors have achieved economies of scale which provide substantial advantages

with respect to the cost of production and the ultimate pricing structure. In many U.S. industries, foreign firms have become strong and effective domestic competitors as they establish and maintain manufacturing and distribution facilities in major regional markets throughout the U.S.

Emerging capital and credit markets: Foreign competitors have utilized emerging capital and credit markets to obtain the funds necessary to expand product development, manufacturing and distribution facilities, as well as for the acquisition of technology and related skills from firms in the United States. In fact, U.S. capital providers have begun to expand the breadth of their investment and credit activities by providing funding directly to companies located outside of the U.S. For example, U.S. venture capitalists are making investments in technology-based companies in Asia and in the European Union and have established local offices in those areas to provide consulting services, monitor their investments and scan innovative activities in other parts of the world.

Regulatory and administrative guidance: The effect of government regulation and administrative guidance has become an important element of competition throughout the world. Foreign investment laws, technology transfer regulations, intellectual property laws and export controls clearly impact the decision to enter new markets; and governmental attitudes toward joint development efforts and other aspects of trade regulation and competition are perceived as creating a number of significant advantages for foreign firms.

Why a company should "Go Global": Companies, both large and small, consider going global for a variety of difference reasons. Some of the more tangible benefits include opportunities to reduce costs and risks, secure additional access to necessary supplies, improve customer service and relations, and gain access to new markets for the companies' goods and services. Companies may also look at global operations as a means of learning about new ways to improve operations through the company and to attract talented managers, engineers, and scientists who can make a contribution to the entire organization.

Robert L. Brown

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ASIL'S ELECTRONIC RESEARCH PUBLICATIONS

The American Society of International Law (ASIL) has been fostering the study of international law and promoting international relations since 1906. ASIL's two premier print publications—the American Journal of International Law and International Legal Materials—have been a mainstay of lawyers and scholars for decades. Since the 1990s, ASIL's collection of electronic publications has grown significantly, and now includes an impressive number of online sources for international news, analysis and research. This article introduces five of ASIL's free electronic publications of interest to private international law practitioners and researchers. If you are reading a digital version of this newsletter, you can click the underlined headings below to go directly to the webpage of the ASIL resource.

International Law in Brief

Prepared by the editors of International Legal Materials since 1998, International Law in Brief contains abstracts of, and links to, key primary documents relating to international law developments. Treaties, judicial proceedings, and resolutions are regularly included in the publication. The reader will find a broad range of materials, touching on both private and public international law issues. International Law in Brief is published twice monthly on ASIL's website and is available through electronic subscription.

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SPECIAL THANKS TO:

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www.zimmerdesign.net

LINKS

Become a section member:

http://www.clemetrobar.org/professionals_sections.asp

World Trade Center Cleveland:

www.wtc.cleveland.org

American Society of International Lawyers: www.asil.org

Cleveland-Marshall College of Law

www.law.csuohio.edu

Case Western Reserve University School of Law

www.law.case.edu

Greater Cleveland International Lawyers Group: GCIL@parker.com

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EISIL

EISIL (Electronic Information System for International Law) is not a traditional publication, but rather an open database of authenticated primary resources and other materials organized across the range of international law topics. Private international law has its own category, subdivided into basic sources, trade and commerce, finance and banking, jurisdiction and judgments, and other subtopics. Legal citation help can be found under the "More Information" link under individual entries.

Electronic Resource Guide

The Electronic Resource Guide, or ERG, has been published online by ASIL since 1997. Since then, this traditional research guide has been continuously updated and expanded. The chapter on private international law provides a handy overview of areas such as the international sale of goods, commercial arbitration, regional harmonization, and private international law sources on Lexis and Westlaw.

ASIL Insights

ASIL Insights bills itself as the "international law behind the headlines." The publication provides neutral accounts of international law issues raised by current world events. Private international law issues recently covered in ASIL Insights include ICSID judgments and WTO Appellate Body decisions. ASIL Insights is made available through electronic subscription and is posted regularly to the ASIL website.

ASIL RIO

A new publication, ASIL's Reports on International Organizations, or ASIL RIO, is the creation of ASIL's Interest Group on International Organizations. While information sources on organizations such as the United Nations, European Union, and World Trade Organization abound, few resources exist on lesser-known international organizations such as l'Organisation pour l'Harmonisation en Afrique du Droit des Affaires (OHADA), the Association of Southeast Asian Nations (ASEAN) or Pacific Islands Forum. ASIL RIO intends to fill this information gap by publishing biannual reports written by experts often employed at these organizations. The reports highlight the work of individual international organizations as well as those broad issues that are of interest to international lawyers in general, regardless of the individual organization.

Amy Burchfield

*Access and Faculty Services Librarian
Cleveland-Marshall College of Law*

UPCOMING EVENTS

Monthly Meetings: The International Law Section holds meetings on the second Monday of every month.

February 4, 2009 – The Global Forum Series: The next Global Forum will be held on Wednesday, February 4th from 12:00 to 1:30 p.m. The forum will feature Tim Nauman of Fay Sharpe who will lead the discussion on international intellectual property protection. The forum will be held at the Cleveland Metropolitan Bar Association headquarters on the Second Level of the Galleria at 1301 East Ninth Street. Members will soon be receiving an email with registration information.

May 12, 2009 – The 2009 International Law Symposium/Managing Directors Forum: Mark your calendars for the International Law Symposium organized by the International Law Section in conjunction with the NEOTEC and the International Trade Assistance Center. This event will combine CLE presentations on international law issues with an opportunity to meet with the managing directors of Ohio's international trade offices.

To join the section, to be placed on our mailing list, or to make inquiries regarding section activities please contact Samantha Pringle, Director of CLE & Sections, at springle@clemetrobar.org or Jessica Paine, Asst. Director of Sections & Community Programs, at jpaine@clemetrobar.org.

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