

# ILM

# International Legal Materials

## INSIDE THIS ISSUE

- Prosecutor v. Al-Bashir: Decision Under Article 87(7) of the Rome Statute on the Non-Compliance by South Africa with the Request by the Court for the Arrest and Surrender of Omar Al-Bashir (Int'l Crim. Ct.)  
*Introductory Note by Max du Plessis*
- Zongo v. Burkina Faso, Judgment & Judgment on Reparations (Afr. Ct. H.P.R.)  
*Introductory Note by Oliver Windridge*
- United Nations Security Council Resolutions 2199 & 2253  
*Introductory Note by Jimmy Gurulé*
- United Nations Security Council Resolutions 2321, 2371, & 2375  
*Introductory Note by Meredith Rathbone and Pete Jeydel*
- Presidential Policy Guidance: Procedures for Approving Direct Action against Terrorist Targets Located outside the United States and Areas of Active Hostilities  
*Introductory Note by Rita Siemion*



# INTERNATIONAL LEGAL MATERIALS®

## Foreword

From its inception, the collection, publication, and dissemination of important international legal materials has been among the primary functions of the American Society of International Law. These materials were originally published as a section of the *American Journal of International Law*, and for the past 50 years they have been produced as a freestanding publication. Throughout this period, *International Legal Materials* has filled a critical need by giving scholars and practitioners access to primary source materials that were often difficult to find.

Today, with the advent of the Internet, many of these materials are widely available. But the explosion of online information related to international law has made it impossible for busy international lawyers to sift through the vast array of documents and identify those that are truly significant. Happily our editorial staff, working with our Editorial Advisory Committee, devotes the time and expertise to selecting the most significant materials and highlighting them in *International Legal Materials* and our blog, *International Law in Brief*. In addition, the Society's *ASIL Insights* series provides analyses of particularly high-profile developments.

Beginning in 2007, we have introduced all documents published in *International Legal Materials* with a prefatory note by experts from among our membership. These notes provide summaries of the documents and offer insight into their significance. In this volume, we feature notes by Max du Plessis, Oliver Windridge, Jimmy Gurulé, Meredith Rathbone, Pete Jeydel, and Rita Siemion. We are extremely grateful to these authors, and we are confident that you will find their contributions of value.

We invite your comments and suggestions as we continue our efforts to meet the evolving needs of the international legal community.

Sincerely,

Mark David Agrast  
Chair  
Editorial Advisory Committee  
*International Legal Materials*

## STATEMENT OF EDITORIAL POLICY

*International Legal Materials (ILM)* is a core publication of the American Society of International Law that reproduces texts of documents reflecting the broad scope and evolution of international law. The range of covered subjects has expanded from traditional topics such as international organizations, jurisdiction, and international trade to include developments in fields such as intellectual property, environmental law, nuclear non-proliferation, human rights, and international criminal law.

*ILM* serves as both a bi-monthly information service and a widely recognized archive of international law documents for a diverse, global community of legal scholars, government officials, private practitioners, and institutions with a common interest in international law. To meet the varied demands of such a readership, documents are selected from world-wide sources on the basis of their present and future legal significance.

*ILM* is prepared for publication in Washington, D.C., with both the advice of an Editorial Advisory Committee and the assistance of Corresponding Editors around the world. In order to reproduce texts of selected documents under tight production schedules, the best available source is used, whether electronic or printed.

Readers are invited to send comments to:

Caitlin Behles  
Attorney-Editor  
*International Legal Materials*  
2223 Massachusetts Avenue, NW  
Washington, DC 20008-2864  
Telephone: (202) 939-6012  
cbehles@asil.org

## THE AMERICAN SOCIETY OF INTERNATIONAL LAW

The American Society of International Law (ASIL) is a nonprofit, nonpartisan, educational membership organization founded in 1906 by U.S. Secretary of State Elihu Root and chartered by Congress in 1950. Headquartered in Washington, D.C., its mission is “to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice.” ASIL holds Special Consultative Status with the Economic and Social Council of the United Nations and is a constituent society of the American Council of Learned Societies.

ASIL’s nearly four thousand members hail from more than one hundred nations with nearly 40 percent residing outside the United States. Its members include scholars, jurists, practitioners, government officials, leaders in international and nongovernmental organizations, students, and others interested in international law. Through its many publications, conferences, briefings, and educational events, ASIL seeks to serve the needs of its diverse membership and to advance understanding of international law among policymakers and the public.

ASIL is a volunteer-led organization governed by a sixty-member Executive Council elected by its membership. In partnership with the elected leadership, ASIL is led by an executive director and supported by a professional staff.

**Become a Member**  
[asil.org/membership](http://asil.org/membership)

**Join one of the Society’s Partner Programs and Receive Complimentary Ad Space in *ILM***  
[asil.org/financial-support/sponsors-and-institutional-supporters](http://asil.org/financial-support/sponsors-and-institutional-supporters)

**Follow the Society on Twitter**  
[twitter.com/asilorg](https://twitter.com/asilorg)

**Like us on Facebook**  
[facebook.com/AmericanSocietyofInternationalLaw](https://facebook.com/AmericanSocietyofInternationalLaw)

## JOURNAL INFORMATION

*ILM* is published six times a year, every other month, in print and online by Cambridge University Press on behalf of the American Society of International Law. To reduce time between acceptance and publication, contributions may appear online as *FirstView* publications in advance of their scheduled publication in an issue. Discover the entire *ILM* back archive at [cambridge.org/core/journals/international-legal-materials/all-issues](http://cambridge.org/core/journals/international-legal-materials/all-issues).

### Subscriptions

The electronic version of *ILM* is available to all members of the American Society of International Law by logging in to the ASIL website [www.asil.org](http://www.asil.org). Print copies are available to members for an additional fee. To subscribe as a non-member or recommend a subscription to your librarian go to [cambridge.org/core/journals/international-legal-materials/subscribe](http://cambridge.org/core/journals/international-legal-materials/subscribe).

### Submission of Material

Primary material included in each issue of *ILM* is carefully chosen by the *ILM* Editorial Advisory Committee. Authors are solicited to write an Introductory Note to preface each document. The *ILM* editorial office welcomes efforts to bring suitable primary material to their attention. Those submitting material will be notified of the acceptance of their document for publication. Full instructions on how to submit primary material can be found at [cambridge.org/core/journals/international-legal-materials/information/instructions-contributors](http://cambridge.org/core/journals/international-legal-materials/information/instructions-contributors)

### Claims and Address Updates

[subscriptions\\_newyork@cambridge.org](mailto:subscriptions_newyork@cambridge.org) (in the USA, Canada and Mexico)  
[journals@cambridge.org](mailto:journals@cambridge.org) (elsewhere)

### Copyright and Permissions

[cambridge.org/about-us/rights-permissions](http://cambridge.org/about-us/rights-permissions)

### To Advertise in *ILM*

[ad\\_sales@cambridge.org](mailto:ad_sales@cambridge.org)

### Abstracting and Indexing Services

[cambridge.org/core/journals/international-legal-materials/information/abstracting-indexing-services](http://cambridge.org/core/journals/international-legal-materials/information/abstracting-indexing-services)

### For Other ASIL Publications

[www.asil.org](http://www.asil.org)

### Proper Citation

*ILM* shall be cited according to the following example:  
56 *ILM* 12 (2017)

### *International Law in Brief*

The Attorney-Editor of *International Legal Materials* also publishes the blog *International Law in Brief*, which contains objective abstracts of recently released documents pertinent to international law. Documents abstracted in *International Law in Brief* are later considered for reproduction in *ILM*. To view *International Law in Brief*, please visit [www.asil.org/blogs/ilib](http://www.asil.org/blogs/ilib). For more information, please contact

ISSN: 0020-7829

E-ISSN: 1930-6571

© American Society of International Law

## Attorney-Editor

Caitlin Behles

## Editorial Advisory Committee

Mark Agrast, <i>Chair</i>	Jonathan Hafetz	Lewis Yelin
Roland Adjovi	Nancy L. Perkins	Bruce Zagaris
Christiane Bourloyannis-Vrailas	David Sullivan	Nassib G. Ziade
Lee Caplan	Allyn Taylor	<i>Members Emeriti</i>
Christina M. Cerna	Mairée Uran Bidegain	John L. Hargrove

## ILM Corresponding Editors

Philip C. Aka (Int'l Hum. Rts. L.)	Ben Love (Pub. Int'l L., Int'l Arb.)
Don Anton (Int'l Env. L., LOS)	Julie B. Martin (Int'l Crim. L., Int'l Hum. Rts. L.)
Valentina Azarov (Int'l Humanitarian L.)	Hilly Moodrick-Even Khen (Int'l Humanitarian L., Int'l Hum. Rts. L.)
Paolo Bargiacchi (EU)	Jason Morgan-Foster (ICJ, Int'l Hum. Rts. L.)
Lisl Andrea Brunner (Int'l Hum. Rts. L.)	Boldizsár Nagy (Int'l Refugee L.)
Gian Luca Burci (Int'l Health L.)	Marko S. Novakovic (Int'l Admin. L.)
Kathleen Claussen (Pub. Int'l L., Int'l Arb.)	Erin Louise Palmer (Int'l Hum. Rts. L.)
Richard I. Fine (Int'l L., Anti-Corruption)	Jason Scott Palmer (Int'l Litig., Int'l Arb.)
Maria Gavouneli (LOS)	John R. Pate (Latin Am. Orgs.)
Thomas D. Grant (Pub. Int'l L.)	Rafael A. Porrata-Doria (EU, Int'l Com. L.)
Kevin R. Gray (Int'l Trade, Int'l Env. L.)	Heiko Recktenwald (Int'l Humanitarian L.)
Eckhard Hellbeck (Int'l Disp. Res., Pub. Int'l L.)	Gustavo Ribeiro (Int'l Econ. L.)
Jean-Marie Henckaerts (Int'l Humanitarian L.)	Christopher M. Ryan (Int'l Arb., Int'l Inv. L.)
Maria Angela Jardim de Santa Cruz Oliveira (Brazil)	Jeremy K. Sharpe (Int'l Disp. Res., Pub. Int'l L.)
Scott T. Johnson (Int'l Crim. L., Extradition)	William Slomanson (Pub. Int'l L.)
Jorge Kamine (Int'l Inv. and Fin.)	Frédéric G. Sourgens (Int'l Disp. Resol.)
Nathaniel Khng (Int'l Inv. Arb.)	Tom Syring (Int'l Humanitarian L., Int'l Refugee L.)
Theodore P. Kill (Int'l Disp. Res.)	Patricia Cassar Torregiani (LOS, Maritime Sec.)
Kenneth Klein (Int'l Tax'n)	Anatoly Vlasov (Int'l Crim. L., Int'l Hum. Rts. L.)
Riikka Koskenmäki (Pub. Int'l L., Int'l Orgs.)	Rebecca M. Wallace (Int'l Hum. Rts. L., Int'l Refugee L.)
Artur Kozłowski (Pub. Int'l L.)	Todd Weiler (Int'l Econ. L., Int'l Arb.)
Yaraslau Kryvoi (Int'l Arb., Russia)	Simon N.M. Young (Int'l Hum. Rts. L.)
Vicheka Lay (Int'l Inv.)	

# INTERNATIONAL LEGAL MATERIALS®

Vol. 56

December 2017

No. 6

— Contents —

Prosecutor v. Al-Bashir: Decision Under Article 87(7) of the Rome Statute on the Non-Compliance by South Africa with the Request by the Court for the Arrest and Surrender of Omar Al-Bashir (Int'l Crim. Ct.) Introductory Note by Max du Plessis .....	1061
Zongo v. Burkina Faso, Judgment & Judgment on Reparations (Afr. Ct. H.P.R.) Introductory Note by Oliver Windridge.....	1091
United Nations Security Council Resolutions 2199 & 2253 Introductory Note by Jimmy Gurulé.....	1144
United Nations Security Council Resolutions 2321, 2371, & 2375 Introductory Note by Meredith Rathbone and Pete Jeydel .....	1176
Presidential Policy Guidance: Procedures for Approving Direct Action against Terrorist Targets Located outside the United States and Areas of Active Hostilities Introductory Note by Rita Siemion.....	1209
BRIEFLY NOTED.....	1226
UNITED NATIONS SECURITY COUNCIL RESOLUTIONS.....	1230