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# INTERNATIONAL LAW AND IMMIGRATION

CALIFORNIA  
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## ILS NEWS (JANUARY 2023)

Editor-in-Chief: Tiffany Heah

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### CHAIR'S COMMENT

#### ILS Membership Renewal and 2023 Activities



Figure 1: Richard Bainter, ILS Chair

I am very excited to take over as Chair of the International Law and Immigration Section of the CLA. Recent past chairs, Bill Gay, Josh Surowitz, and Tiffany Heah, have created an active and dynamic Section

that I hope to continue into 2023.

Please remember to renew your membership in the ILS when you renew your license with the State Bar. When you join ILS, you become a member of a community of international law and immigration practitioners who share a global perspective on the practice of law.

ILS members have opportunities to meet and socialize with legal professionals from other countries. The section is planning trips in 2023 to Spain and to Japan where we will engage with our colleagues from those countries. Members also have opportunities to meet with foreign lawyers who visit California. ILS hosted attorneys from five foreign bars who attended the 2022 CLA Annual Meeting and we sponsored other events where members had opportunities to meet foreign legal experts. We are already planning a number of social and educational



activities for foreign attorneys who will attend the 2023 Annual Meeting.

ILS also offers a broad range of educational programs for MCLE credit, at a discount for members. ILS programs address issues such as immigration, trade, international tax, international family law, international business, and public international law. Several of our programs each year are organized in collaboration with foreign bars. Members can also share their own expertise, and promote their practice, by participating in an educational program as an instructor.

Members are also welcome to participate in the planning of all of the activities described above by joining one of our active committees. Committee participation connects you with like-minded colleagues throughout the state.

I hope that you will join or rejoin the Section for 2023 and that you will encourage other international and immigration practitioners to join as well. I look forward to seeing you at one of our events in the coming year.

Ric Bainter, Chair

International Law & Immigration Section

California Lawyers Association

## **INTERNATIONAL PRIVATE (COMMERCIAL) AND PUBLIC LAW DEVELOPMENT HIGHLIGHTS**

This section focuses on developments of note that impact California transnational legal practice. While the developments below were collected by the editors from July 2022 to December 2022, the *ILS NEWS* welcomes Section members to bring other developments to our attention and invites readers to contribute related short updates.

### **US Executive Branch**

#### ***Congress Expands Jurisdiction of US Courts for War Crimes, by Sean Butler<sup>1</sup>***

On December 23, 2022, Congress passed the Justice for Victims of War Crimes Act. The legislation expands the jurisdiction of US courts over those alleged to have committed war crimes and who are found in the US.

The previous war crimes act of 1998 limited the jurisdiction of US courts to conduct committed in the US, conduct committed by a US national or serviceperson, or where the victim was a US national or serviceperson. That meant there were no criminal penalties the US could impose if the alleged perpetrator of war crimes was found in US territory, but the conduct alleged to be a war crime was committed outside of the US, or if neither the victim nor the perpetrator was a US national or serviceperson. The most common remedy was deportation. That meant, in general, that the US was a “safe haven” for perpetrators of war crimes if the victims were not US nationals or servicepersons.

The 2022 legislative amendment was signed by President Biden on January 5, 2023 and will now allow US courts to exercise criminal jurisdiction for those alleged to have committed war crimes, even for conduct outside of the US and with no victims who are US nationals or servicepersons. The amendment also removes any statute of limitations for war crimes. More information is available [here](#).

#### ***Committee on Foreign Investment in the US (CFIUS) to Evaluate National Security Risks of Foreign Investments in the US***

In an [Executive Order signed on September 15, 2022](#), President Biden directed CFIUS to consider five factors affecting national security risks during its review of certain transactions involving foreign investment in the US. CFIUS is an interagency committee authorized to review such transactions to

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<sup>1</sup> Attorney and Board President of the International Criminal Court Alliance, Los Angeles.



determine the impact on US national security concerns. Critical US supply chain resilience and security, both within and outside of the defense industrial base, in manufacturing capabilities, services, critical mineral resources, or technologies that are fundamental to national security. Attorneys advising supply chain clients should note the broad scope extends to microelectronics, artificial intelligence, biotechnology and biomanufacturing, quantum computing, advanced clean energy (such as battery storage and hydrogen), climate adaptation technologies, critical materials (such as lithium and rare earth elements), elements of the agriculture industrial base that have implications for food security, and any other sectors identified in Sections 3(b) or 4(a) of Executive Order 14017 of February 24, 2021.

The five factors are as follows:

- CFIUS should consider a covered transaction's effects on: (i) the degree of diversification through alternative suppliers across the supply chain, including suppliers located in allied or partner countries; (ii) supply relationships with the US government; and (iii) the concentration of ownership or control by the foreign person in a given supply chain.
- The Order directs CFIUS to examine whether a covered transaction could reasonably result in future advancements and applications in technology that could undermine national security.
- The Order recognizes that a series of acquisitions in the same, similar, or related sectors that are fundamental to national security may result in a particular covered transaction giving rise to a national security risk when considered in the context of transactions that preceded it. Therefore, the Order requires CFIUS to consider incremental investments that could impair US national security. To carry out that review, CFIUS may request an analysis of a specific industry from the Department of Commerce's International Trade Administration.

- The Order requires CFIUS to consider whether a covered transaction may provide a foreign person or their third-party ties with direct or indirect access to capabilities or information databases and systems where threat actors could engage in malicious cyber-enabled activities, including: (i) the protection or integrity of data in storage or databases or systems housing sensitive data; (ii) activity designed to interfere with US elections, critical infrastructure, defense industrial base, or other cybersecurity national security priorities set forth in Executive Order 14028 of May 12, 2021 (Improving the Nation's Cybersecurity); and (iii) the sabotage of critical energy infrastructure.
- The Order requires CFIUS to consider whether a covered transaction involves a US business with access to US persons' sensitive data, and whether the foreign investor has, or the parties to whom the foreign investor has ties have, sought or have the ability to exploit such information to the detriment of national security.

#### ***Implementation of Additional Safeguards on Intelligence Activities to Meet EU Data Protection Requirements***

The [October 7, 2022 Executive Order](#) provides controls for signals intelligence activities. It was developed per formal agreement with the EU after the prior US Data Privacy Shield framework was invalidated.

The Order requires signals intelligence activities to be conducted only following a determination that the activities are necessary, and will be conducted "only to the extent and in a manner that is proportionate to the validated intelligence priority for which they have been authorized, with the aim of achieving a proper balance between the importance of the validated intelligence priority being advanced and the impact on the privacy and civil liberties of all persons, regardless of their nationality or wherever they might reside."



Signals intelligence activities shall also be subjected to rigorous oversight to ensure that they comport with the principles identified in the Order, and conducted in pursuit of legitimate objectives.

President Biden clarified that “[i]t is not a legitimate objective to collect foreign private commercial information or trade secrets to afford a competitive advantage to United States companies and United States business sectors commercially. The collection of such information is authorized only to protect the national security of the United States or of its allies or partners.”

Talks for the agreement began in August 2020 after the preceding agreement, the EU-US Privacy Shield, was invalidated by the Court of Justice of the EU a month earlier.

According to the White House fact sheet, the Order “bolsters an already rigorous array of privacy and civil liberties safeguards for U.S. signals intelligence activities. It also creates an independent and binding mechanism enabling individuals in qualifying states and regional economic integration organizations, as designated under the (executive order), to seek redress if they believe their personal data was collected through U.S. signals intelligence in a manner that violated applicable U.S. law.”

### **US Department of Justice (US DOJ)**

#### ***Former General Electric (GE) Power Engineer Sentenced for Conspiracy to Commit Economic Espionage***

On January 3, 2023, a former GE Power Engineer who specialized in turbine sealing technology was convicted and sentenced to 24 months in prison for conspiring to steal GE trade secrets, knowing or intending to benefit the People’s Republic of China. More information is available [here](#).

#### ***US DOJ Issues Revisions to Guidelines for Corporate and Individual Accountability for Bribery and Corruption***

The [latest memorandum addresses US cooperation with investigations by other nations](#), consistent with the US DOJ’s earlier Yates memorandum setting formal requirements to consider individual

accountability for corporate crimes, and following guidelines issued in 2021.

The Principles of Federal Prosecution recognize that effective prosecution in another jurisdiction may be grounds to forgo federal prosecution. JM § 9-27.220. Going forward, before declining to commence a prosecution in the US on that basis, prosecutors must make a case-specific determination as to whether there is a significant likelihood that the individual will be subject to effective prosecution in another jurisdiction. To determine whether an individual is subject to effective prosecution in another jurisdiction, prosecutors should consider, inter alia: (1) the strength of the other jurisdiction’s interest in the prosecution; (2) the other jurisdiction’s ability and willingness to prosecute effectively; and (3) the probable sentence and/or other consequences if the individual is convicted in the other jurisdiction. JM § 9-27.240.

#### ***GOL Linhas Aéreas Inteligentes S.A. (GOL) to Pay Over \$41 Million to Resolve Foreign Bribery Investigations in the US and Brazil***

GOL, an airline based in Brazil, signed a three-year deferred prosecution agreement with the US DOJ in connection with criminal information filed in the District of Maryland charging the company with conspiracy to violate anti-bribery and books and records provisions of the Foreign Corrupt Practices Act. More information is available [here](#).

### **CALIFORNIA**

#### ***Expanded Access to Abortion***

Senate Bill 1375 was passed to give qualified nurse practitioners and certified nurse midwives the ability to perform first-trimester abortions in California without physician’s supervision. More information is available [here](#).

#### ***Hate Crimes***

Section 11411 of the Penal Code was amended to criminalize the display of Nazi swastikas, hanging of a noose, or burning religious symbols for purposes of terrorizing a person. It is not intended to criminalize the display of ancient swastika symbols associated



with Hinduism, Buddhism, and Jainism. More information is available [here](#).

### **Minimum Wage**

Effective January 1, 2023, the minimum wage in California will increase to \$15.50 an hour. Note that some cities and counties have a higher minimum wage than what is required by the state. UC Berkeley Labor Center maintains a [list of minimum wage requirement](#) in different cities and counties.

### **Pay Transparency**

Employers with 15 or more employees must include the pay scale for a position in any job posting, failing which the Labor Commissioner may impose a civil penalty of no less than \$100 and no more than \$10,000 per violation. More information is available [here](#).

### **Bicycle Omnibus Bill**

Effective January 1, 2023, (1) drivers are required to change lanes before passing a cyclist if a lane is available; (2) cities are prohibited from requiring bicycle licenses; and (3) a statewide ban on Class 3 electric bikes is removed from certain facilities but local governments can still ban them from equestrian, hiking, and recreational trails. More information is available [here](#).

### **Lunar New Year**

Lunar New Year is now recognized as a state holiday in California. State employees, with specified exceptions, to elect to receive eight hours of holiday credit for the “Lunar New Year” in lieu of receiving eight hours of personal holiday credit, and to elect to use eight hours of vacation, annual leave, or compensating time off, consistent with departmental operational needs and collective bargaining agreements, for “Lunar New Year,” as specified.

### **CA to End COVID-19 State of Emergency**

On October 17, 2022, Governor Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023. The timing will allow the State to phase out one of the tools necessary to manage COVID-19 and to provide the healthcare system with the flexibility to handle any potential surge that may occur after the holidays. More information is available [here](#).

### **Converting California Corporations to Foreign Entities**

As of January 1, 2023, Senate Bill 49 established a procedure for a California corporation to convert directly to a foreign corporation or other foreign entity type in one step. Prior to this, California corporations had to complete a two-step process to convert to a foreign entity, first converting to an entity type that allowed for foreign conversion and then converting to a foreign entity. A copy of the bill is available [here](#).

## **CLIMATE CHANGE**

By Professor Nilmini Silva-Send, Ph.D.<sup>2</sup>

### **Offshore Wind is Coming to California!**

An historic agreement between California and the US federal government was signed in May 2021 to allow offshore wind facilities in federal waters. In September 2021, California adopted [AB525](#) which mandated the California Energy Commission (CEC) evaluate offshore wind capacity and goals, among other things. The CEC set the largest off-shore [wind goals](#) in this country, at 2-5 GW by 2030, and 25 GW by 2045, and the first-ever [West Coast lease sales](#) are to take place on December 6, 2022 for the Morro Bay Wind Energy Area and the Humboldt Wind Energy Area, with a potential of more than 4 GW of off-shore power. For context, the only commercial offshore wind facility in the US is a [30 MW farm off Rhode Island](#), while a giant [1.3 GW farm](#) 55 miles offshore from the Yorkshire coast, United Kingdom

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<sup>2</sup> Associate Director / Adjunct Professor, Energy Policy Initiatives Center (EPIC), University of San Diego School of Law





started operations in 2022. All are driven by legislative mandates and incentives to achieve increasing amounts of large-scale grid renewable energy to drive carbon neutrality goals: for example, the EU New Green Deal aims for [60 GW offshore wind by 2030, and 300 GW by 2050](#); [Japan 45 GW by 2045](#), [USA 30 GW by 2030](#), [Korea 12 GW by 2030](#), [India 30 GW by 2030](#), [UK 50 GW by 2030](#).

### ***Interaction of Climate Change and the Oceans***

Significant issues are arising from the interaction of climate change and the oceans in many areas of international law – rising sea levels, fish migrations from ocean warming, changes of maritime zones, loss of marine biodiversity, impacts of ocean acidification such as coral bleaching, and human migrations through rising seas. While the United Nations Convention of the Law of the Sea (UNCLOS, 1982) does have provisions (Article 192) on the obligation of states to protect and preserve the environment, and to cooperate (Article 194) to deal with pollution from all sources, no significant progress has yet been made. Negotiations at the [Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction](#) have made little progress. Climate change and sea level rise threaten to bring instability to lawfully-negotiated and -adopted marine boundaries – and practice to preserve existing boundaries has started.<sup>3</sup> Original mackerel quotas [agreed](#) between the EU, Norway and the Faroe Islands in 1996 have been updated to allow 15.6% for Iceland, Russia, and Greenland to share, but this year Iceland alone fished 16.5% as the fish increasingly migrated towards Iceland. Whether this particular migration is a sign of warming oceans is not clear, but [fish are moving](#) and deals must be re-negotiated. And Vanuatu is leading a group to [seek an advisory opinion](#) at the International Court of Justice on obligations under the Paris Agreement to

protect human rights and the environment from climate change.

### **MARYLAND**

On October 17, 2022, a Maryland circuit judge ruled that Maryland's first-in-the-nation digital advertising tax was unconstitutional because it violates the federal Internal Tax Freedom Act, the Commerce Clause of the US Constitution and the First Amendment.

## **OTHER INTERNATIONAL ORGANIZATIONS AND INTERNATIONAL AGREEMENTS**

### **United Nations (UN)**

#### **COP27**

The [27<sup>th</sup> Conference of the Parties to the UN Framework Convention on Climate Change was held in Egypt from November 6 to 18, 2022](#). The COP27 Presidency launched the new initiative Food and Agriculture for Sustainable Transformation (FAST) to improve the quantity and quality of climate finance contributions to transform agriculture and food systems by 2030. More information is available [here](#).

#### ***Net Zero Commitments by Businesses, Financial Institutions, Cities, and Regions***

A report from the UN high-level expert group on the net zero emissions commitments of non-state entities condemns greenwashing (misleading the public to believe that a company is doing more to protect the environment than it is) and a weak net-zero pledge. The report makes ten recommendations on how to bring integrity to net-zero commitments by industry, financial institutions, cities, and regions to support a global, equitable transition to a sustainable future. A copy of the report is available [here](#).

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<sup>3</sup> The Maritime Zone Notification of 20 January 2020 by the Federated States of Micronesia states: "...the federated States of Micronesia intends to maintain these maritime zones in line with that understanding,

notwithstanding climate-change-induced sea-level rise." For more information, click [here](#).



## European Union (EU)

Global Minimum Level of Taxation for Multinational Enterprise Groups and Large-Scale Domestic Groups in the EU

On December 14, 2022, the EU published a directive in its Official Journal regarding the global minimum tax rate for multinational groups and large domestic groups in the EU.

## Organisation for Economic Co-Operation and Development (OECD)

### ***28 Jurisdictions Took New Steps to Strengthen and Expand Their Co-Operation in Tax Matters***

At a signing ceremony held in Seville in the side-lines of the 15<sup>th</sup> Plenary Meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes, 22 jurisdictions signed the multilateral competent authority agreement (MCAA) for the automatic exchange of information under the [OECD Model Rules for Reporting by Digital Platforms](#). The agreement allows jurisdictions to automatically exchange information collected by operators of digital platforms with respect to transactions and income realized by platform sellers in the sharing and gig economy and from the sale of goods through such platforms. The annual exchange of this information will assist tax administrations and taxpayers to ensure the correct and efficient taxation of such income.

In addition, 15 jurisdictions signed a separate MCAA supporting the [Model Mandatory Disclosure Rules on Common Reporting Standard Avoidance Arrangements and Opaque Offshore Structures](#) (CRS Mandatory Disclosure Rules). This agreement enables the annual automatic exchange of information collected from intermediaries that have identified arrangements to circumvent the Common Reporting Standard (CRS) and structures that disguise the beneficial owners of assets held offshore with the jurisdiction of tax residence of the concerned taxpayers. This allows tax authorities to ensure

compliance of both the taxpayers and the intermediaries involved in such arrangements and structures.

The CRS Mandatory Disclosure Rules are part of broader actions taken by the OECD to ensure the continued effectiveness of international automatic exchange of tax information, including the recently published [Crypto-Asset Reporting Framework and Amendments to the CRS](#), which were welcomed by G20 Finance Ministers and Central Bank Governors as integral additions to the global standard for automatic exchange of information.

Access the list of signatories for the [Digital Platforms MCAA](#) and the [Mandatory Disclosure Rules MCAA](#).

## International Criminal Court (ICC)

### ***ICC and the Crime of Aggression – Russia's Invasion of Ukraine, by Sean Butler<sup>4</sup>***

The 1998 Rome Treaty of the International Criminal Court (sometimes referred to as the Rome Statute) did not initially include a definition of the crime of aggression. It was anticipated aggression would be included as one of crimes within the subject matter jurisdiction of the ICC but no agreement on the definition could be reached.

After the treaty entered into force, there was work to establish a definition of the crime of aggression that could apply to individuals (the ICC tries only individuals, not nations or organizations; Article 25-the UN had a definition of aggression that applied to nations, not individuals.) A proposed definition was added by amendment at the 2010 Kampala Review conference, Article 8 *bis*, which amendment was activated in 2018.

The crime of aggression has different jurisdictional rules than the other crimes within the subject matter jurisdiction of the ICC (genocide, war crimes and crimes against humanity). When the Rome Treaty was amended to include the definition of the crime of

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<sup>4</sup> Attorney and Board President of the International Criminal Court Alliance, Los Angeles.



aggression, there were also amendments regarding the exercise of jurisdiction over the crime of aggression. Articles 15 *bis* and *ter*.

Article 15 *bis* provides in part: “5. In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State’s nationals or on its territory.” This is different than the rules of exercise of jurisdiction for the other three crimes, which do permit the exercise of jurisdiction based on a crime being committed on the territory of a state party, even by nationals of non-state parties.

Article 15 *ter* provides for UN Security Council referrals of the crime of aggression.

Neither Ukraine nor Russia is a party to the Rome Treaty. Ukraine provided declarations submitting to the jurisdiction of the ICC for war crimes and crimes against humanity.

The conduct of Russia’s invasion of Ukraine (an attack on the territory of another state) might constitute an act of aggression within the meaning of the Rome Treaty. However, because of the jurisdictional limitations for non-state parties, and the veto power of Russia in the UN Security Council, there is no practical method for the ICC to institute proceedings related to the alleged crime of aggression for the conduct of Russian individuals involved in the invasion of Ukraine.

The only likely potential methods to hold individuals from Russia accountable for engaging in acts of aggression are a special tribunal established for that purpose, or an amendment to the Rome Treaty changing the jurisdictional limits for the crime of aggression. Both of those would require a substantial amount of work to accomplish.

***Update on the International Criminal Court (June-December 2022), by Radulf Mohika<sup>5</sup> and Melissa Allain<sup>6</sup>.***

### ***Central African Republic (CAR)***

On September 26, 2022, trial began against Mahamat Said Abdel Kani for alleged crimes against humanity and war crimes as commander of the Seleka militia group in 2013. On July 28, 2022, ICC issued an [arrest warrant](#) for Mahamat Nouradine Adam, former Minister of Security, Emigration, Immigration, and Public Order, charging him with related crimes against humanity and war crimes in 2013. See OTP perspectives on the ongoing trial [here](#) and closure of its investigative phase in December 2022 [here](#).

### ***Democratic Republic of Congo***

On September 12, 2022, the ICC Appeals Chamber granted the appeals submitted by Defendant Bosco Ntaganda and by the Legal Representative for one victims group challenging the reparations [order](#) issued by Trial Chamber VI on March 8, 2021. The Appeals Chamber reversed the findings of the Trial Chamber leading to an award of \$30 million in reparations, and remanded to address specified errors and omissions. The earlier conviction of Mr. Ntaganda in July 2019 on five counts of crimes against humanity and 13 counts of war crimes, and 30-year incarceration sentence in 2021, were previously reviewed and confirmed on appeal. He was transferred in December 2022 to a prison in Belgium to complete his sentence. The decision on the appeals of the reparations order and related documents can be found [here](#).

### ***Republic of Georgia***

Six years after the ICC Pre-Trial Chamber opened the investigation into alleged crimes against humanity and war crimes in or near South Ossetia, Georgia, the ICC issued arrest warrants in June 2022 for certain leaders of the de facto South Ossetia administration

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<sup>5</sup> Undergrad at University of Southern California and part of the International Criminal Court Alliance in Los Angeles.

<sup>6</sup> Attorney and ILS Advisor.





in 2008: (1) Mikhail Mayramovich Mindzaev, Minister of Internal Affairs, (2) Hamlet Guchmazov, head of a preliminary detention facility, and (3) David Georgiyevich Sanakoev (“Ombudsman”), Presidential Representative for Human Rights. OTP alleged that these individuals perpetrated the “unlawful confinement, hostage-taking, ill-treatment and subsequent unlawful transfer of ethnic Georgian civilians.” See ICC’s [press release](#) and OTP’s [application for the warrants](#).

### **Republic of Guinea**

On September 28, 2022, OTP signed a [Memorandum of Understanding](#) with the transitional government of the Republic of Guinea. Under the terms of the Memorandum, OTP closed its preliminary examination of crimes against humanity that began on September 28, 2009 in a stadium in Conakry, Guinea, subject to reopening. In turn, Guinea opened the trial proceedings of 11 suspects for the killing and disappearance of nearly 200 people, and for the rape and other sexual violence inflicted on 109 women. Guinea committed to support the ICC trial in collaboration with its international partners, as appropriate. OTP’s statement is available [here](#) including specific commitments.

### **Libya**

On September 7, 2022, OTP Khan announced that his office became a member of the joint team investigating crimes against migrants and refugees in Libya, joining national authorities from Italy, the Netherlands, the United Kingdom, and Spain, with support from the European Union Agency for Law Enforcement Cooperation (Europol). Khan reported receiving “a wide range of credible information indicating that migrants and refugees in Libya have been subjected to arbitrary detention, unlawful killing, enforced disappearance, torture, sexual and gender-based violence, abduction for ransom, extortion, and forced labor.” More information is available [here](#).

In June 2022, ICC Deputy Prosecutor Nazhat Shameem Khan visited Tripoli to affirm the OTP commitment to help Libya authorities conduct their investigations, in line with the principles of complementarity. More information is available in the

related [press release](#) and in [OTP’s 23<sup>rd</sup> report to the UN Security Council on Resolution 1970](#).

### **Sudan – Darfur**

The trial begun in April 2022 continues in January 2023 on 31 counts of war crimes and crimes against humanity in the case of senior militia leader Ali Muhammad [Abd-Al-Rahman](#) (aka Ali Kushayb). Nearly 18 years earlier, on March 31, 2005, the United Nations Security Council referred the Darfur Situation to the ICC to investigate allegations of genocide, war crimes, and crimes against humanity in Darfur, Sudan, from July 1, 2002. More information can be found [here](#).

On August 25, 2022, OTP delivered the “[Thirty-Fifth Report of the Prosecutor of the International Criminal Court to the United Nations Security Council Pursuant to Resolution 1593 \(2005\)](#).” Prosecutor Karim Khan described his recent visit to three refugee camps, noting that one established in 2004 now harbors over 300,000 Darfuris. On August 29, 2022, the OTP met with the chair of Sudan’s Sovereignty Council, General Abdel Fattah Al-Burhan, who agreed to specific actions to facilitate timely conclusion of OTP investigations and trial. ” More information is available [here](#).

### **Ongoing ICC Proceedings**

Ongoing court proceedings to watch in addition to those mentioned above for specific nation states: (1) [Al Hassan](#) (Mali), Trial Chamber X; (2) [Mokom](#) (Central Africa Republic), provisionally scheduled for January 31, 2023; (3) [Said](#) (Central African Republic), Trial Chamber VI trial, which began on September 26, 2022; and (4) [Yekatom and Ngaissona](#) (Central African Republic), Trial Chamber V. (Note the case on [Gicheru](#) (Kenya), which was closed on 14 October 2022 due to the death of the accused.)

### **Appeals**

Dominic [Ongwen](#), Brigade Commander of the Sinia Brigade of the Lord’s Resistance Army (LRA) in Uganda at time of arrest warrant in July 2005, filed an appeal against the conviction. The Appeals Chamber [confirmed](#) on 15 December 2022 the Trial Chamber finding Ongwen guilty on all 61 counts of crimes



against humanity and war crimes committed after July 1, 2002 in northern Uganda, and the 25-year sentence. Next steps: The conviction and the sentence are now final. The ICC Presidency shall designate a State of enforcement for the sentence. Mr. Ongwen will remain in the ICC detention center, as the phase dedicated to the reparations to victims continues.

### **Pre-Trial Cases**

Several pre-trial cases are pending the arrest or voluntary appearance of 11 defendants who remain at large. A calendar of proceedings is available on the ICC website [here](#), at the end of the opening page.

### **Preliminary Examinations**

- [Nigeria and Boko Haram](#) – The preliminary examination concluded with OTP's determination to request authorization from the Pre-Trial Chamber to open an investigation
- [Venezuela II](#) – Alleged crimes committed from a self-referred matter by Venezuela on February 14, 2020 in the Situation in the Bolivarian Republic of Venezuela ("Venezuela"). OTP deferred its investigation at Venezuela's request based on the State's own investigation, sharing of related information with OTP, and implementation of certain legal reforms. OTP has since filed an application with ICC seeking authorization to resume its investigation.

### **Trust Fund for Victims – Witness to Reparations in Uganda**

On September 13-17, 2022, ICC's President of the Assembly of the States Parties (composed of representatives of the States that have ratified or acceded to the Rome Statute), the Trust Fund for Victims at the ICC and representatives from 14 states visited northern Uganda to witness the implementation of reparations to individuals and their communities. Although the US is not a State Party to the Rome Statute, it participated in the monitoring visit. See more details [here](#) on the historic event, and [here](#) for change in TFV leadership.

### **Ukraine – OTP and EU Commission for Justice Support Accountability by Russia**

On July 14, 2022, OTP and the Foreign Minister of the Netherlands, in partnership with the European Commissioner for Justice, hosted the "Ukraine Accountability Conference" with national authorities and international and regional organizations to establish the formal launch of the Guidelines for Civil Society Organisations and a "Dialog Group" to promote visibility and engagement towards a common goal of justice in Ukraine. More information is available [here](#).

### **The Office of the Prosecutor Publishes New Guidelines**

On September 21, 2022, the OTP and Eurojust published the guide, "Documenting International Crimes and Human Rights Violations for Accountability Purposes: Guidelines for Civil Society Organizations." This guide outlines "what may help and what could potentially harm criminal accountability efforts" and can be found [here](#).

### **ICC President Meets with African Union and African Union Commission**

On September 5-6, 2022, ICC President Judge Piotr Hofmański met with H.E. Macky Sall, President of Senegal and Chairperson of the African Union, and with H.E. Moussa Faki Mahamat, Chairperson of the African Union Commission. Thirty-three African States currently form the largest regional group among the States Parties to the Rome Statute (the ICC's founding treaty). Ambassador Kateřina Sequensová, Vice-President of the Assembly of States Parties to the Rome Statute, joined President Hofmański in the meeting with H.E. President Sall. Discussions ranged from ending "impunity for the gravest crimes under international law and providing justice to victims" to promoting universal ratification of the Rome Statute. More information is available [here](#).

### **ICC Amends Code of Judicial Ethics at Annual Judicial Retreat**

In September 2022, ICC judges held their annual retreat at the Siracusa International Institute for Criminal Justice and Human Rights with the support



of the Italian government. The participating judges agreed to amend the Code of Judicial Ethics to apply to judges the Court's "*Administrative Instruction on Investigations of Unsatisfactory Conduct*" and the "*Administrative Instruction on Addressing Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority*"; more information is available [here](#).

### **Who is an ICC Attorney? Training for Counsel.**

On 16 December 2022, the ICC held its annual Training for Counsel with the participation of more than 219 lawyers including counsel registered on the ICC [List of Counsel](#), [list of assistants to counsel](#), and members of the legal teams currently active before the Court. The training was organized with the financial support of the European Commission. More information on attorneys at the ICC can be found [here](#).

### **Eurojust**

Eurojust and the Office of the Prosecutor of the International Criminal Court published [practical guidelines for civil society organizations on documenting core international crimes, such as war crimes and crimes against humanity](#). The goal is to support civil society organizations that seek to collect and preserve information to contribute to investigations and prosecutions at the national level or before the ICC. More information is available [here](#).

## **AVIATION LAW 101: FEDERAL AVIATION REGULATIONS**

**By: John T. Van Geffen**

The aviation industry, and air travel in particular, are safe because those involved in it on a daily basis make safety a matter of professional responsibility, dedication, and pride – not because government agencies having jurisdiction over aviation activities can impose penalties. While the industry is safe, it is not perfect – neither aircraft nor equipment are fail-safe and there is always the human element. People are not perfect – they make mistakes; they make errors in judgment; and sometimes they simply have "a bad day." Unfortunately, neither professional

responsibility, dedication, pride, nor an otherwise exemplary track record guarantees immunity from governmental enforcement actions and prosecution arising from aviation mishaps or even technical noncompliance.



Figure 2: John Van Geffen, Partner at Avialex Law Group, LLP

Even though the airline industry has been "deregulated" for several decades, there is probably no industry that is as highly regulated. And the regulatory scheme which has evolved over the past eight decades since the dawn of air travel generally imposes strict liability. While many of the "do's" and "don'ts" contained in the FAA's Federal Aviation Regulations ("FAR's"; Title 14 C.F.R.) may appear to be specific and clear, many are not. There are ambiguities, and even apparent conflicts between FAR provisions. There are also the "Stealth FAR's" – the FAA's policies, interpretations, internal orders, handbooks, notices, and guidelines, as well as case precedent, which are not always easily found or widely known, and which can change from time to time, essentially without notice. Moreover, the FAA's interpretation of the FAR's can vary, not only from region to region, and from district office to district office, but from inspector to inspector and even from case to case.

Even though most enforcement actions arise not from deliberate acts but rather from inadvertence or simple mistake, to the FAA and its air safety inspectors and enforcement team attorneys, a violation is a violation. If they come across evidence of a violation, there is



little room for prosecutorial discretion. The Federal Aviation Act and Part 13 of the FAR's (14 C.F.R Part 13) embody the authority under which the FAA conducts the enforcement/investigative process.

FAA enforcement actions can be administrative, such as a letter of reprimand or warning, or legal – generally, the suspension or revocation of any certificate or rating or the imposition of substantial civil penalties.

FAA inspectors can show up at any 'reasonable' time and ask for all required compliance information.

In most general aviation cases, the FAA enforcement investigation is precipitated by third-party complaints. In conducting its investigation, the FAA must literally start from scratch. For example, in an airspace incursion incident, the FAA must determine the identity of the aircraft, the operator and crewmember, and specifically what, if anything, happened.

In cases involving manufacturers, air carriers, and repair stations, required compliance records can literally hand the FAA its case on a silver platter. It is difficult, if not impossible, to convince the FAA that required records mean something other than what they appear to say.

While certain deviations, discrepancies, and irregularities may be fairly self-evident, not all potential violations are readily apparent. Organizational certificate holders need to ensure that lines of internal communication are open so the certificate holder can learn of any irregularity or potential violation before the FAA learns of it and proactively implement corrective measures to prevent recurrence or at a minimum mitigate the severity of any potential violation. A certificate holder should never simply wait to see what the FAA does or hope that the FAA will just go away.

And going at this alone without the benefit of advice from competent aviation legal counsel will do you and your organization a severe disservice.

## SPECIAL FEATURE: JAPANESE AMERICAN BAR ASSOCIATION



*Figure 3: Harumi Hata, Incoming President of Japanese Bar Association and Shareholder of Buchalter*

The Japanese American Bar Association (JABA) was founded over 45 years ago in Los Angeles, California. JABA provides a special forum for members of the legal profession with interests and ties to the Japanese American community to discuss issues, network, and serve the community.

Over the years, JABA has expanded its reach beyond Los Angeles, and JABA has chapters in Orange County and San Diego, California, and Chicago, Illinois. JABA has also developed ties with the Japanese legal and business communities. The Shin-Issei Japanese Lawyers Group is an active committee of JABA, and the Shin-Issei Japanese Lawyers Group works to foster closer relationships between JABA and its members and Shin-Issei and Japanese lawyers in Southern California, including Japanese lawyers and professionals who attend LL.M. programs at law schools in the US. JABA's members include lawyers who practice in the US and lawyers who practice in Japan and in other parts of the world.

ILS would like to congratulate Harumi Hata who will be the President of JABA starting February 1, 2023. Harumi is a past ILS Chair.

## EXECUTIVE COMMITTEE

### 2022-2023 Executive Committee

Chair:	Richard Bainter
Vice Chair:	Payal Sinha
Secretary:	Eric Husby
Treasurer:	Agustín Ceballos
Members:	Daniel Alef
	Eric Alizade





Radhika Balaji  
Bob Bowen  
Valeria Granata  
Harumi Hata  
Theresa Leets  
Robert E. Lutz  
Charles Pereyra-Suarez  
John Van Geffen  
Nilmini Silve-Send

ILS Representative: Enrique Hernandez  
Immediate Past Chair: Tiffany Heah  
Section Manager: Mycah Hetzler

## 2022 CLA ANNUAL MEETING

In September 2022, CLA had its Annual Meeting in person. Overall, it was a huge success and it was great to finally have an in-person meeting. The 2022 Annual Meeting was a huge success for ILS. Fifteen foreign guests from three continents and five different countries joined us in San Diego to exchange ideas, to build relationships and to have some fun. It was a wonderful post-pandemic return to in-person, international collaboration. We are hoping to build on the success of the Annual Meeting, and our 2022 virtual collaborations with foreign bars, to create even more opportunities for global, virtual collaboration in 2023. We are also looking forward to a full return to in-person meetings, including possible visits to Japan and to Barcelona in 2023 and more opportunities for ILS members to meet and network here in California.

The 2023 CLA Annual Meeting will be held at the Hilton Bayfront Hotel, San Diego from September 21 to 23, 2023. We look forward to seeing you there.

## Visit from Our Foreign Friends

This year, we were honored to have our foreign friends from the Kanagawa Bar Association, Osaka Bar Association, National Association of Business Lawyers (ANADE), Law Society of Ireland, Czech Bar Association and Montreal Bar Association attend the 2022 CLA Annual Meeting in person.



Figure 4: Dinner with the CLA and ILS Leadership and our Foreign Friends

Our foreign friends attended a dinner with CLA and ILS leadership. We would like to thank our sponsor for organizing and sponsoring the dinner:



## Court Visit

ILS organized a court visit and meeting with Chief Judge Dana Sabraw. Chief Judge Sabraw was very generous with his time as he explained to our foreign friends on how the US court system works.



Figure 5: Meeting with Chief Judge Dana Sabraw.





## Warren Christopher Award



Figure 6: Daniel M. Kolkey

This year, we honored Daniel M. Kolkey as the 2022 Warren M. Christopher Award Recipient. More informational about Dan Kolkey is available [here](#).

We would also like to thank the following sponsors for sponsoring the Warren M. Christopher Award Reception and Dinner:

Gold Sponsors:

**GIBSON DUNN**  
**ELLIS GEORGE CIPOLLONE**  
ELLIS GEORGE CIPOLLONE O'BRIEN ANNAGUEY LLP

Silver Sponsor:



Bronze Sponsor:

Directors and Officers of



## CLA and CJA Gala

The 2022 CLA Annual Meeting ended with the inaugural Gala that was hosted jointly by CLA and the California Judges Association (CJA).

We would like to thank our sponsor for sponsoring a table at the CLA and CJA Gala:

**Buchalter**

## ILS Programs during the 2022 CLA Annual Meeting

Here are the programs organized by ILS at the 2022 Annual Meeting:

### ***Surf & Sewage: Litigation over Cleanup of Tijuana River***

This program discussed litigation brought by citizens against the International Boundary and Water Commission to address pollution flowing from the Tijuana River, across the US/Mexico border and into the ocean near San Diego. The topic addressed issues of interest to environmental, international, litigation, and public law attorneys.

### ***Global Perspectives on the Changing Practice of Law***

This program brought together attorneys who practice in foreign jurisdictions to discuss the latest professional innovations occurring in other parts of the world following the global pandemic.

### ***Immigration Basics for All Lawyers***

This program covered the key and current points all attorneys should be aware of concerning immigration law today.

### ***Censorship, an International Legal Review***

The censorship program featured an historical perspective by Rom Bar-Nissim of the US Supreme Court decisions interpreting the right to free speech, focused on the espionage laws in the early 20th century. Prof. Connie de la Vega provided an overview of the UN right, codified in the treaty ratified by the US and its application in US judicial decisions. Melissa Allain described recent legal restrictions in jurisdictions including China and the Middle East.

## FOREIGN BAR AND EXTERNAL RELATIONS COMMITTEE

### ***Chairs: Joshua Surowitz and Harumi Hata***

Any ILS member interested in joining the Foreign Bar and External Relations Committee of ILS should contact us at [ils@calawyers.org](mailto:ils@calawyers.org).



## In Case You Missed It (ICYMI)

### 12/1/2022 Webinar: Trading with Political Adversaries



This program featured trade experts from the US and the EU who discussed trade sanctions imposed on Russia, China, and other countries because of political conflicts and competing values.

Featured speakers:

1. Paul Eagan, Of Counsel, Mason, Hayes & Curran
2. Eric White, Consultant, Herbert, Smith, Freehills
3. Bob Bowen, Export & Trade Compliance Counsel, ServiceNow

### Climate Change, War and Pandemic Recovery – Accelerating the Transition to Green Energy and Digital Economy in Italy and California

This webinar is in collaboration with Milan Bar Association. Highlighted Speakers:

- Davide Taliente, Director of the Foreign Investments Attraction Office at the Italian Ministry of Economic Development
- Alberto Acito, Head of the Foreign Direct Investment Unit at the Italian Trade Agency in San Francisco
- Stephen Cheung, President, World Trade Center Los Angeles (WTCLA), and Chief Operating Officer and Executive Vice President, Los Angeles County Economic Development Corporation (LAEDC)
- Emily Desai, Deputy Director for the International Affairs and Trade, GO-Biz (the

Governor's Office of Business and Economic Development), the State of California.

This program discussed the legal and financial issues for investors who want to participate in a green energy economy in Italy or in California.

## PROGRAMS COMMITTEE

**Chair: Eric Husby**

Anyone interested in organizing a webinar or interested in speaking about a particular topic that would be of interest to ILS members should email us at [ils@calawyers.org](mailto:ils@calawyers.org). The Committee is currently scheduled to meet at 1 p.m. on the second Tuesday of each month.

## In Case You Missed It (ICYMI)

### Webinar: Introduction to the Hague Convention on Child Abduction

This program provided information about how to initiate Hague Convention on Child Abduction cases at Federal and State levels and defenses to a child custody case under the terms of the convention.



### Webinar: US Trade Laws and China – An Update

This program gives an overview of recent changes in the US Export Administration Regulations and US Office of Foreign Assets Control Regulations that impact customers, business operations, investments, and supply chain actors in China.



## OUTREACH COMMITTEE

**Chairs: Brian Arbetter**

### ILS Members Meet with Foreign Lawyers and Policymakers in San Diego

ILS members mingled with lawyers and policymakers from Viet Nam and Europe at a reception hosted by Procopio in San Diego on September 27<sup>th</sup>. This event, co-sponsored by ILS and the San Diego Diplomacy Council, welcomed two delegations of visitors who were touring the US through the State Department's International Visitor Leadership Program.

The group from Viet Nam consisted of 10 attorneys, mostly from government ministries and agencies, who work on issues related to the law of the sea and maritime law. The group from Europe included policymakers, law enforcement officers, and NGO leaders from Belgium, Bulgaria, Greece, Malta, and Spain who work on immigration and refugee issues.



*Figure 7: ILS members, Bob Bowen and Victoria Torres, converse with a visitor from Viet Nam*

Both delegations traveled to a number of cities in the U.S. to share information with their counterparts here. They happened to be in San Diego at the same time and ILS welcomed the opportunity to introduce them to ILS members in San Diego. It was a great

opportunity for ILS members to interact directly with foreign legal and policy experts.



*Figure 8: ILS Chair, Ric Bainter (center), meets with visitors from Bulgaria, Greece, Malta, Belgium, and Spain*

## IMMIGRATION COMMITTEE

**Chair: Payal Sinha**

The immigration committee meets every two months on the first Wednesday at 12:00pm to 12:30pm. The first meeting is on January 4, 2023. Anyone interested in joining the Immigration Committee, please email us at [ils@calawyers.org](mailto:ils@calawyers.org).

### Monthly Immigration Updates

The Immigration Committee currently compiles immigration updates on a monthly basis. Please check out the [monthly immigration updates](#) available on the ILS website.

### 2023 Immigration Bundle

Receive a total of 4.50 Hours of MCLE for \$180! Includes 4.50 Hours Legal Specialization in Immigration & Nationality Law and 1.50 Hour Legal Ethics. Offer ends 02/15/2023.

This package includes the following programs:

### ***Trauma-Informed Lawyering: Healing Through Representation***

This panel will walk attorneys through how we can approach our legal work with trauma survivors in a



more trauma-informed way, using real-world examples and hypotheticals.

### ***Special Pathways to Adjustment of Status (Green Cards)***

This webinar will review non-standard methods for obtaining LPR status, including INA Section 245(i), U Visa, Military PIP, TPS, and DACA. This webinar will also feature updates regarding court and government decisions effecting these options. The focus will be on those already in the US and who might not be eligible for traditional Adjustment of Status through family. Emphasis will be placed on options for those who lack an inspected entry to the US.

### ***Immigration Law 101 and Frequently Asked Questions for New Attorneys***

This webinar is intended as an introduction to the basics of Immigration Law for new attorneys and those new to practicing Immigration. This webinar will focus on family-based immigration, options for individuals, and removal defense issues. The webinar will give overviews of common case types and scenarios and respond to frequently asked questions for new practitioners.

### ***Human Trafficking 101 and Immigration Remedies***

This webinar will discuss elements of human trafficking and immigration remedies, particularly the T-Visa, which provides critical relief to victims of human trafficking, its requirements, and process, and will provide recommendations regarding how to serve a service seeker in a more trauma-informed manner as well as how to enroll them in other social service relief. This webinar will also discuss ethical considerations while advocating for survivors.

### ***In Case You Missed It (ICYMI)***

#### **11/17/2022 Webinar: Trauma-Informed Lawyering: Healing Through Representation**

- Defining trauma and its impacts on survivorship and memory.
- Exploring how the trauma-informed approach promotes healing through legal representation.

- Considering psychological safety and responses to client distress.
- How to ethically navigate legal representation when conflict situations arise and non-responsive clients, with possible withdrawals
- Reflecting on cultural responsiveness as a component of trauma-informed practice; and
- Building wellness practices to prevent and heal from secondary traumatic stress.

## **PUBLICATIONS COMMITTEE**

### ***Editor-in-Chief: Tiffany Heah***

Managing Editor: Melissa Allain

Editorial Team: Cathy Carlisle, Valeria Granata, Bob Lutz, Theresa Leets, Payal Sinha, Joshua Surowitz, John Van Geffen

We produce several publications throughout the year for the benefit of our members. These publications are designed to keep members up to date about international legal developments in transnational commercial and public law, immigration matters, and ILS activities.

The ILS encourages members and non-members alike to submit articles for inclusion in its publications. Articles submitted for publication will be considered by the ILS Publications Committee to assess whether they conform to the publications guidelines (below), as well as whether they are a good fit for a particular issue. Acceptance of an article will depend on the above factors, as well as timeliness, editorial schedule, etc. Please send all submissions to [ils@calawyers.org](mailto:ils@calawyers.org).

Guidelines for such submissions are described below:

**Topic/Tone:** Articles should be on topics of interest to a sizable number of international and immigration law practitioners. Acceptable types of articles include updates on current developments, practitioner guides





to a particular subject, practice tips, and reasoned presentation and analysis of current issues.

**Length:** Articles should not exceed 1500 words.

**Citations:** Hyperlinks are preferred where possible; otherwise, endnotes in Bluebook format are acceptable. We encourage citations to be kept to a minimum.

**Format:** Please submit articles in Word.

**Author Bio:** Please provide one or two sentences summarizing the author's professional background and CLA affiliation together with a photo. You may also include a disclaimer that the views expressed are those of the author and do not necessarily reflect the views of their employer.

Please submit articles, ideas, comments, notices, current developments, and new publication announcements to us at [ils@calawyers.org](mailto:ils@calawyers.org).

Opinions expressed herein are those of the authors and are not necessarily those of the CLA or of the ILS.

## EVENTS BY OTHER ORGANIZATIONS, INSTITUTIONS AND GROUP

### **LACBA Virtual Networking Event: First Wednesday of Every Month at 5pm**

LACBA organizes a free virtual networking mixer on the first Wednesday of every month at 5pm. Feel free to bring your favorite after work beverage and get to know new friends and develop new connections. Click [here](#) to register for the event.

### **ABA Spring Conference: March 3 to 5, 2023**

The theme for the ABA India Spring Conference 2023 is Law in the Age of Globalization: Convergence of India & the West. More information is available [here](#).

## LEGAL PRO BONO INTERNATIONAL OPPORTUNITIES

The Senior Lawyers Division of the American Bar Association (ABA-SLD) developed a partnership with the US Department of Commerce's Commercial Law Development Program (CLDP) to provide members with legal pro bono international opportunities. CLDP, a program of the DOC's General Counsel's Office,

provides technical legal assistance to requesting foreign countries (primarily developing and post-conflict). SLD International Committee provides pro bono opportunities to its members and others via CLDP. Many interesting and challenging international commercial law assignments, employing senior lawyers' extensive expertise, are available.

If you are interested in any of the following FABULOUS OPPORTUNITIES, please contact Robert Lutz via email with: (1) a cover letter expressing your interest, relevant expertise/experience; and (2) a Curriculum Vitae. You may send these to: [rlutz@swlaw.edu](mailto:rlutz@swlaw.edu)

## Work as an INVESTMENT ADVISOR with the Secretariat of the AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA) in Accra, Ghana

CLDP is recruiting ROTATIONAL INVESTMENT ADVISORS to work with the AfCFTA Secretariat on improving the business environment and expanding market opportunities in African countries and regions. The investment advisors will coordinate between the US private sector, US governmental agencies, the African business communities, and the AfCFTA Secretariat, and advise the Secretariat and its partners of international best practices to attract private sector investment in the areas determined by the Secretariat, inclusive of gender and green competitiveness priorities.

The investment advisors will be resident in Accra, Ghana for rotational periods of two (2) weeks at a time for a total of 24 weeks (12 rotations) and can engage in limited regional travel and capacity-building efforts. Travel expenses are reimbursed. The investment advisors shall also be available for virtual meetings and events as determined by CLDP and the Secretariat.

**Background:** The AfCFTA is the world's largest free trade area, bringing together 55 countries of the African Union (AU) and eight (8) Regional Economic Communities (RECs) to create a single continental market, by eliminating barriers to trade and enabling investment in Africa. The objective of AfCFTA is to significantly boost intra-African trade across all





sectors of Africa's economy. The final agreement will have a comprehensive scope that includes critical areas of Africa's economy, such as digital trade and investment protection, among others.

Achieving its full potential depends on significant policy and investment reforms, as well as trade facilitation measures by the African signatory nations. The AfCFTA Secretariat, hosted in Accra, Ghana, functions as the coordinating body for all AfCFTA activities. The Secretariat houses experts who assist Member States with ensuring fruitful negotiation and that the rules set out in the Agreement are correctly applied and enforced.

CLDP (the US Department of Commerce's Commercial Law Development Program) is uniquely tasked with creating an enabling environment for increased trade and investment through commercial law reform and technical assistance capacity-building of governments and private sectors of developing/transitional countries and regions.

### PRO BONO CUSTOMS EXPERTS FOR CENTRAL ASIA

CLDP seeks 1 or 2 "well-rounded" customs subject-matter experts with experience working on international customs issues, including the TIR Convention and CMR, for 10-20 hrs/wk pursuant to the following tentative timeline, tentatively starting December 2022:

- Phase 1 (6-9months) – analysis, assessment and recommendation for technical assistance projects;
- Phase 2-3 (6-12 months) – implementation;
- Phase 4 (6 months)
- Driver training project (12-24 months)

#### Project Objectives:

- Help accelerate customs digitalization for enhanced transit and trade facilitation;
- Help develop recommendations for increasing the efficiency of transporting goods along the Trans-Caspian trade route using digital TIR, CMR, and other relevant international multimodal transport measures;

- Help approve pilot project between and among the countries of Central Asia and Georgia/Azerbaijan for the development of alternative trade routes;
- Help develop driver-training programs for professionalization of new truck drivers to become eligible international transport drivers under the TIR system rules in Uzbekistan and then in the Kyrgyz Republic.

Tasks for Pro Bono Lawyer(s): there are two aspects of the project during Phases 1-4 – Trade route enhancement and Driver Trainings.

- Trade Route Enhancement – (Phase 1) Needs assessment and stakeholder consultations to identify best road route scenarios, recommendations of specific programs; (Phase 2) Assistance with implementation of initial line of workshops, meetings, programs including supporting the public/private dialogue and stakeholder engagements to develop an action plan for the resolution of observed challenges along the trade route; (Phase 3) Formalization of enhancements and action plan including identifying and signing necessary legal documents/agreements; (Phase 4) Undertake a series of workshops, roundtables in support of the action plan execution.
- Driver Trainings – (Phase 1) Develop training course in collaboration with international experts, the IRU Academy; (Phase 2) Deliver trainings in Uzbekistan; Deliver trainings in Kyrgyz Republic.

Travel Opportunities and Language: The project starts as a virtual project; international travel to various countries in Central Asia and some travel to Georgia or Azerbaijan (if feasible) may be involved. Travel expenses are reimbursed.

### RESOURCES: WORKING FROM HOME

Happy New Year! At this point in time, a lot of employers are debating whether to bring their



employees back to the office or to continue to allow them to work remotely. Several companies are starting to scrap the work from home policy. Some even created a hybrid system where working from home is allowed a few days in a month. There is no right or wrong answer. It is a matter of what works for you and your team.

For those who have decided to continue working remotely, the Standing Committee on Ethics and Professional Responsibility of the American Bar Association has issued the following formal opinions which would be of interest:

- [Formal Opinion 495 dated December 16, 2020](#)
- [Formal Opinion 498 dated March 10, 2021.](#)

Separately, on November 2, 2022, the Standing Committee on Ethics and Professional Responsibility of the American Bar Association issued [Formal Opinion 503](#) regarding “Reply All” in electronic communications such as email and text messages. Lawyers who copy their clients on an electronic communication sent to opposing counsel impliedly consent to receiving opposing counsel’s “reply all” to the communication. If that is not the intended result, the safer option would be to communicate with opposing counsel directly without including client in the communication and forward the communication to the client separately.

## BENEFITS OF JOINING ILS

- [Fastcase legal research](#) – Free access to a powerful service that puts a comprehensive, nationwide law library at your fingertips (valued at \$995/year).
- Membership rate to the CLA Annual Meeting, Solo Summit and other distinguished CLA events.
- [ILS NEWS](#) – designed to keep members up to date about international legal developments in transnational commercial and public law and Section activities.
- Monthly Immigration Update – designed to keep members up to date about immigration

developments ranging from business-based to humanitarian-based immigration issues.

- Lexology feeds subscription – source of international legal updates, analysis, and insights authored by national and international law firms. If you previously unsubscribed and would like to re-subscribe, please update your preferences [here](#).
- Get high-quality [MCLE content online](#) in the format that works best for you: live webinars, on-demand video, downloadable podcasts and self-study articles.
- [6.5 free hours of self-study MCLE Credit](#) and one hour of free MCLE each month in the form of a webinar.
- Up-to-date [California legislation tracking](#).
- Access to [CLA Career Center](#).
- Exclusive discounted offers on house appliances, car rentals and more at CalBar Connect.

## SOCIAL MEDIA

Don’t forget to follow us on social media: [Facebook](#), [LinkedIn](#) and [Twitter](#).

## SPONSORS

For more information on how you and/or your firm might support the International Law and Immigration Section and receive acknowledgement, please email us at [ils@calawyers.org](mailto:ils@calawyers.org).

