

# Michigan Journal of International Law

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Volume 7 | Issue 1

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1985

## Appendix 2: Annotated Bibliography

Michigan Journal of International Law

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### Recommended Citation

Michigan Journal of International Law, *Appendix 2: Annotated Bibliography*, 7 MICH. J. INT'L L. 349 (1985).  
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## Appendix 2: Annotated Bibliography\*

### GOVERNMENT REGULATION OF PRACTICE BY NON-NATIONALS

Baade, Hans W. *Comparative Law and the Practitioner*. 31 Am. J. Comp. L. 499–510 (1983).

Baade describes the expansion of transnational legal practice in the United States during the past two decades. He briefly surveys the changes in federal law and federal government organization, the growth in judicial expertise in foreign legal systems, the heightened interest of law students and law schools in comparative law, and the increase in the number of publications devoted to foreign law.

Bassiouni, M. Cherif. *Licensing of Foreign Legal Consultants in Illinois*. 64 Ill. B.J. 580–81 (1976).

Discussing the reasons supporting the license of foreign attorneys in Illinois, the author describes reciprocity considerations, the large volume of U.S. exports from the Chicago area, and the improved regulation of attorneys that a licensing procedure would provide. He includes the text of a proposed rule, submitted for approval to the Illinois Supreme Court, that would allow a foreign practitioner to offer advice in Illinois if, among other things, he or she were a resident of Illinois and a member of the bar association of his or her home country.

Bronkhorst, H. *Freedom of Establishment and Freedom to Provide Services Under the EEC-Treaty*, 12 Common Mkt. L. Rev. 245–53 (1975).

The author reviews three 1974 cases decided by the European Court of Justice that deal with the freedom of establishment and the freedom to provide services within the European Community. The judgments interpreted Treaty of Rome articles 52 and 55 concerning the right of establishment (*Reyners v. Belgian State* (1974) E.C.R. 631) and articles 59 and 60 concerning the freedom to provide services (*Van Binsbergen v. Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid* (1974) E.C.R. 1299 and *Koch and Walgrave v. Union Cycliste Internationale and Others* (1974) E.C.R. 1405).

\*This collection of annotations is a survey of the books, articles, and U.S. Government reports concerning transnational legal practice and the liberalization of trade in services published over the past fifteen years.—eds.

Bronkhorst, H. *Freedom to Provide Services*. 2 Eur. L. Rev. 224–29 (1977).

The author, a member of the Legal Service Staff of the European Community Commission on Directive 77/249/EEC, examines the history and substance of the directive and the extent to which it facilitates the transnational practice of law among Member States. He concludes that the directive is of limited importance to lawyers currently involved in or interested in developing a transnational practice.

Brown, Walston S. *The Foreign Lawyer in France*. 59 A.B.A. J. 365–67 (1973).

The author, the resident partner of a New York law firm in Paris, describes the provisions of the 1972 French law reorganizing the French bar and setting forth regulations for *conseils juridiques*, individuals (often foreign lawyers) who give legal advice, draft legal documents, and perform other functions of the office lawyer. Brown suggests that while provisions of the law severely restrict the ability of foreign firms to open offices in France, it is better that foreign lawyers are part of a regulated professional community rather than merely a tolerated presence in France.

Busch, Bernard. *The Rights of United States Lawyers to Practice Abroad*. 3 Int'l Law. 297–311 (1969).

Busch provides historical insight into pre-1970 restrictions on U.S. lawyers wishing to practice in foreign jurisdictions. He examines restrictions in the Soviet Union, France, and Austria in light of the 1957 case barring foreign lawyers from giving advice on foreign law in New York. Much of this information is garnered from reports prepared by the European Law Committee Section of the International Bar Association. The article was written prior to enactment of the New York law establishing a limited practice for "foreign legal consultants" and the statute regulating national and foreign lawyers in France.

Campbell, Dennis & Coe, Jack J., Jr. *Introduction to TRANSNATIONAL LEGAL PRACTICE I*. (Dennis Campbell ed.) Deventer, The Netherlands: Kluwer Law and Taxation Publishers (1982). 1–28.

The authors state that the ability of lawyers to respond to client needs in an increasingly global environment depends, in part, on jurisdictional regulations. They examine cooperation and consensus building in the international legal community, judicial impediments to foreign legal practice, statutory recognition of foreign lawyers in different nations, and the trend in legal education toward acknowledging the special needs of transnational practitioners.

Comment. *International Legal Practice Restrictions on the Migrant Attorney*, 15 Harv. Int'l L.J. 298–332 (1974).

The authors describe the restrictions that U.S. attorneys face in Western Europe, Canada, and Japan, as well as those that foreign attorneys encounter in the United States. They argue that the rules and statutes governing migrant attorneys in the countries surveyed are outdated, and that the legitimate interest that national governments have in protecting their citizens from incompetent or unscrupulous attorneys should be balanced against a client's right, even when abroad, to free choice of counsel. The authors propose a system of licensing rules that would allow foreign attorneys limited practice in fields in which they prove their competence.

Comment. *The Reform of the French Legal Profession: A Comment on the Changed Status of Foreign Lawyers*. 11 Colum. J. Transnat'l L. 435-48 (1972).

The author examines 1971 legislation regulating the French *conseil juridique* and discusses its application to foreigners, particularly Americans, practicing law in France. After describing the political and economic factors that led to the change, he traces the evolution of the legislation from its initial form, through Parliamentary debates, to its final enactment. He concludes that the 1971 regulations fail to resolve the crucial issues concerning the status of foreign lawyers in France.

Cone, Sydney M., III. *Foreign Lawyers in France and New York*. 9 Int'l Law. 465-74 (1975).

The author examines the rules regulating the practice of foreign lawyers in France and New York. He compares the licensing requirements in both jurisdictions and notes the greater restrictions on foreign lawyers practicing in France. Cone concludes that relaxation of restrictions on the activities of foreign lawyers is a necessary response to the needs of modern transnational practice and suggests reforms in the regulation of practice by foreign lawyers.

DE CRAYENCOUR, J.P. *THE PROFESSIONS IN THE EUROPEAN COMMUNITY: TOWARDS FREEDOM OF MOVEMENT AND MUTUAL RECOGNITION OF QUALIFICATIONS*. Brussels: Commission of the European Communities (1982). 137 pp.

The author discusses the transnational provision of professional services in the European Community. He argues that mutual recognition of diplomas, qualitative rather than educational verification of competence, and harmonization of national and transnational standards of ethical behavior will improve the ability of lawyers of the European community to practice in all Member Countries.

Edward, David A.O. *Europe and America: A European Lawyer's View*. 65 A.B.A. J. 913-15 (1979).

The author, a Scottish advocate and president of the Consultative Committee of the Bars and Law Societies of the European Community, comments on the parallels between economic integration in the European Community (EC) and the United States. Focusing on *Reyners v. Belgian State*, he outlines the basic principles of the 1977 European Community directive permitting nationals of EC countries to practice law in other Member States and points to contributions of the Consultative Committee of the Bars of the European Community to an integrated legal profession within the European Community. He voices concern about the growth of U.S. law firms abroad and the apparent unwillingness of the United States Justice Department to regulate this growth.

Freeman, Elizabeth. *A Common Market for Professionals?* 33 Current Legal Probs. 57-71 (1980).

The author analyzes the distinction between the right of establishment under article 52 of the Treaty of Rome and the freedom of movement under article 48; the principle of national treatment and its extension to the free movement of services; residence requirements and the enforcement of professional rules; and European Community directives standardizing qualifications and providing for the mutual recognition of those qualifications. The author concludes by asking "whether the

right of establishment and the free provision of services should be dealt with by the relatively simple provisions laid down in the Treaty articles, or whether they should be achieved by implementing directives.”

Fukuhara, Tadao. *The Status of Foreign Lawyers in Japan*. 17 Japanese Ann. Int'l L. 21–41 (1973).

Fukuhara reviews the history of foreign lawyers in Japan, the limited practice currently allowed foreign lawyers, and the need for and possible means of reforming Japanese statutes and informal requirements designed to impede the free and open practice of law by foreign lawyers. Fukuhara argues against Japanese isolation in the face of the rapidly expanding world market for Japanese goods and services.

Gordon, David S. *European Communities Legal-Profession Council Passes Directive Allowing Lawyers to Provide Services Across National Borders*. 7 Ga. J. Int'l & Comp. L. 723–33 (1977).

This student comment assesses the impact of the 1977 European Community (EC) directive pertaining to the freedom of lawyers to provide services. The comment briefly describes the British, Italian, French, and German requirements for legal practice, outlines the rights of citizens of EC countries to practice law in other Member Countries prior to the directive, and compares these rights to the right of U.S. lawyers to practice in states in which they are not licensed.

Herzog, Peter & Herzog, Brigitte. *The Reform of the Legal Professions and of Legal Aid in France*. 22 Int'l & Comp. L. Q. 462–91 (1973).

The authors discuss French Law No. 71-1130 and No. 72-11 which reformed the legal profession in France. The authors describe the structure of the legal profession before the enactment of the laws and the reasons for reform. They also outline the major provisions of the laws. The authors note that the laws apply special rules to foreign lawyers practicing in France, which allow them to provide legal services subject to certain restrictions but make it more difficult for foreign law firms as opposed to individual lawyers, to establish practices.

Karger, Arthur. *Eligibility of Graduates of Foreign Law Schools for Admission to Practice*, 52 B. Examiner, no.2 at 5–15 (1983).

The author, former chairman of the New York State Board of Law Examiners and the National Conference of Bar Examiners, reviews the current rules for admission of foreign law school graduates to state bar associations. Karger also discusses New York's experience with licensed “foreign legal consultants.” He argues for a uniform admissions standard that balances the interests of foreign applicants and non-English speaking U.S. residents desiring their counsel against the interests of the general public, the bar, and the bench in maintaining a minimum level of competence among all practitioners.

Kosugi, Takeo. *Regulation of Practice by Foreign Lawyers*. 27 Am. J. Comp. L. 678–703 (1979).

Tokyo lawyer Takeo Kosugi examines how the growth of Japanese business overseas has increased the demand by Japanese companies for advice on foreign law. Kosugi compares the restrictions on foreigners practicing law in Hong Kong and

the United States, and discusses the role foreign lawyer trainees and the occupation inspired *junkaiin* play in advising Japanese businesses on foreign law. The author believes that possibilities exist for Japanese lawyers to practice abroad, but notes that Japanese lawyers receive little training in international transactions. Kosugi concludes that laws barring foreigners from practicing in Japan are "imperfect and outmoded" given the "internationalization" of legal practice.

Knoppke-Wetzel, Volker. *Employment Restrictions and the Practice of Law by Aliens in the United States and Abroad*. 5 Duke L.J. 871-922 (1974).

Beginning with a general overview of employment restrictions on aliens in the United States from the turn of the century to the present, the author focuses on the exclusion of aliens from the practice of law. He reviews state bar admission policies, both historical and current, and analyzes recent United States Supreme Court and state supreme court rulings. The author suggests new directions which state bar associations may take with regard to foreign practitioners, and steps that foreign lawyers and law firms wishing to give legal advice or establish a practice in the United States may take.

Levy, Steven M. *The American Lawyer in Paris*. 52 N.Y. St. B.J. 647-49, 667-71 (1980).

The author summarizes the history of the activities of U.S. lawyers in Paris and discusses the relative benefits to U.S. law firms of establishing branch offices there. Levy notes that while the cost of maintaining Paris offices is high, they provide an opportunity to meet the growing demand by foreigners with investments in the United States and by Americans involved in commerce in Africa, the Middle and Far East, and Eastern Europe, for expertise in U.S. law.

Lund, Sir Thomas. *Problems and Developments in Foreign Practice*. 59 A.B.A. J. 1154-57 (1973).

The author, the 1973 Director-General of the International Bar Association (IBA), comments on the recommendations of the IBA's Esotril Conference on Foreign Practice. The conference called for the liberalization of trade in legal services and set out a nine point program designed to reach that goal. Although he endorses the program, Sir Lund warns of the danger of allowing foreign lawyers to practice purely local law.

Note. *Providing Legal Services in Foreign Countries: Making Room for the American Attorney*. 83 Colum. L. Rev. 1767-1823 (1983).

This note examines restrictions on the entry of U.S. lawyers into foreign domestic markets. According to the author, foreign governments often erect barriers to combat the allegiance by U.S. attorneys to the American political system, the lack of appreciation on the part of Americans for foreign culture and law, the possibility of foreign economic encroachment, and the failure of the U.S. to offer reciprocal privileges. The author proposes a sample regulatory guideline that attempts to balance the fears of foreign nations with the interests of American lawyers in providing legal services abroad. The author also suggests a vehicle by which the United States could implement future bilateral or multilateral agreements respecting the regulation of foreign lawyers.

Ohira, Kaname & Stevens, George Neff. *Alien Lawyers in the United States and Japan—A Comparative Study*. 39 Wash. L. Rev. 412–36 (1964).

Ohira and Stevens survey the statutes of Japan and the fifty states of the United States to determine how alien lawyers may gain admission to local bars. The authors examine the extent to which local statutes permit corporations doing business abroad to use the services of house counsel and lawyers who are not licensed to practice in the host country.

PHILLIPS, SIR FRED. *THE EVOLVING LEGAL PROFESSION IN THE COMMONWEALTH*. Dobbs Ferry, New York: Oceana Publications (1978). 318 pp.

Sir Phillips, an English barrister, details the historical function of the English lawyer, the organization and control of the English bar, and the professional, economic and political challenges faced by lawyers in Commonwealth countries. He concludes that, in the future, client pressure, public disdain for lawyers, and the increasingly transnational nature of legal practice will mold a new breed of lawyer.

Recent Developments. *E.E.C.: Freedom to Provide Services for E.E.C. Lawyers*. 19 Harvard Int'l L. J. 379–84 (1978).

The article briefly describes the background and major provisions of European Community Directive 77/249/EEC allowing lawyers from the EC to practice in Member States other than their own.

Roth, Larry M. *Requirements for the American Lawyer to Practice Law in Israel*. 15 Int'l Law. 433–44 (1981).

Roth, a Florida lawyer, concludes from discussions with a number of American lawyers practicing in Israel that U.S. lawyers can easily make the adjustment to practicing in Israel, provided they can master Hebrew. Among the requirements for admission to the Israeli bar are a written exam, an oral exam, and a one year clerkship with an Israeli judge or bar member qualified as an instructor.

Schultz, Ulrike & Koessler, Paul. *The Practicing Lawyer in the Federal Republic of Germany*. 14 Int'l Law. 531–43 (1980).

The authors survey the legal profession in the Federal Republic of Germany, describe its structural complexities, and summarize the major statutes and professional organization rules governing the practice of law by nationals and foreigners. They conclude that the highly regulated nature of the legal profession makes it difficult for foreign lawyers to practice in the Federal Republic or even to work as official "legal advisors" in association with German lawyers.

SELECT COMMITTEE OF THE HOUSE OF LORDS ON THE EUROPEAN ECONOMIC COMMUNITY SESSION 1975–76, R/2133/75—FREEDOM OF LAWYERS TO PROVIDE SERVICES, Eleventh Report (1976).

This report includes a transcript of testimony on a draft of European Community Directive R/2133/75 clarifying the rights of European lawyers who wish to provide professional services, on an occasional basis, in Member States other than their own. While supporting the objective of the directive, the select committee points out the difficulty of applying certain provisions as written due to the differences between the legal systems and the legal professions in the United Kingdom and Continental countries.

Slomanson, William R. *Foreign Legal Consultant: Multistate Model for Business and the Bar*. 39 Alb. L. Rev. 199–219 (1974).

Slomanson examines the New York statute allowing qualified foreign lawyers to act as legal consultants on questions of foreign law. He examines potential problems of reciprocity and the possibility of constitutional challenges under the equal protection clause.

Walters, D.B. *Uncertain Steps Towards a European Legal Profession*. 3 Eur. L. Rev. 265–77 (1978).

The author, a lecturer in the Department of Civil and Comparative Law at Edinburgh University, discusses the agreement signed in 1975 between the Senate of the Inns of Court and the Bar of England and Wales and the *Ordre des Avocats à la Cour de Paris* regulating the appearance of barristers and *avocats* before the courts of the other country. Walters also discusses European Community Directive 77/249 on the provision of transnational legal services. He argues that a close reading of the directive reveals inadequacies and potential inequalities. Among the matters the author considers inadequately treated in the directive are the distinction between legal assistance and legal representation, the existence of three mutually exclusive jurisdictions within the United Kingdom, and the variations in the rights of audience granted to non-national lawyers by different European Community Member States.

## CONDUCT AND STRUCTURE OF TRANSNATIONAL PRACTICE

Brothwood, Michael. *International Law Offices*. 1979 J. Bus. L. 8–13.

Brothwood, an English solicitor, reviews the development, composition, and potential function of international law offices. He traces the origin of such offices to the post-World War II expansion in international trade and banking. Although commenting on the difficulties faced by lawyers wishing to practice law in countries other than their own, Brothwood suggests that recent European Court of Justice decisions, Council directives, bilateral conventions between national professional bodies, and the emergence of transnational law degree programs are encouraging developments for the liberalization of transnational practice.

Cann, J.W. Anthony. *Legal Opinions of Foreign Lawyers*, FINANCING IN THE INTERNATIONAL CAPITAL MARKETS 237–59. (H.T. Sprow ed.). New York: Law & Business, Inc. (1980).

Cann, a solicitor working in the U.S. office of a London based firm, describes barriers to the completion of successful international transactions in which a U.S. lawyer, acting as principle attorney, seeks a formal closing opinion from a foreign lawyer. Cann contends that the principal in such cases undertakes a greater responsibility than he or she would in a domestic transaction and must often work harder to assure a satisfactory outcome because many foreign lawyers are inexperienced in drafting formal closing opinions. He argues that the principal must understand both the breadth of the foreign lawyer's experience and the foreign legal problems likely to arise in representing the client. Cann discusses different means of selecting and retaining a foreign lawyer, the content of a model closing legal opinion, and the authority that a principal lawyer should exercise throughout a transaction.

Chew-LaFitte, Pat. *The Resolution of Transnational Commercial Disputes in the People's Republic of China: A Guide for U.S. Practitioners*. 8 Yale J. of World Public Order 236–83 (1982).

Chew-LaFitte provides advice for Americans negotiating dispute resolution provisions with the Chinese. He describes Chinese values, modes of analysis, legal structures and government institutions, and dispute resolution processes, focusing throughout upon the social, cultural, and economic differences between the People's Republic of China and the United States. The author concludes that although Chinese dispute resolution mechanisms are similar to those used in the United States, the differences warrant the attention of U.S. negotiators.

Comment. *Are There No International Lawyers Anymore?* 75 Am. J. Int'l L. 134–37 (1981).

Examining the implications of increased specialization in the practice of international law, the author suggests that it has “divided up the realm of transnational transactions and . . . blurred the international law side of them so that it is no longer a dominant intellectual denominator.” The author argues that a more comprehensive approach toward international law should be taken when it is taught in law schools, written about in legal periodicals, and applied in practice.

Goebel, Roger J. *Professional Responsibility Issues in International Law Practice*. 29 Am. J. Comp. L. 1–58 (1981).

Goebel assesses the helpfulness of the draft Model Rules of Professional Conduct and the Foreign Corrupt Practices Act of 1977 to the American lawyer practicing international and transnational law. He analyzes some ethical problems, such as how to determine who one's client is and how the client is to be served with reference to a lawyer's duty as an employee. The article also examines the role of the international lawyer in counseling and assisting clients in cases where a client's employees or executives have violated, or may be violating, the law.

*The International Practice of Law: A Symposium*. 7 J. Int'l L. & Econ. 167–236 (1972).

The papers presented provide an introduction to the problems of U.S. attorneys working in international law. Of the sixteen papers, eight concern private practice in law firms and multinational corporations, six deal with work in the U.S. Government, and two describe the role of the lawyer in international agencies.

Janis, M.W., *The Lawyer's Responsibility for Foreign Law and Foreign Lawyers*. 16 Int'l Law. 693–704 (1982).

The author notes that although lawyers typically are skilled in only one system of law, they increasingly face client transactions involving the laws of more than one legal system. In analyzing the responsibility of U.S. lawyers to their clients when foreign law matters are involved, Janis asserts that lawyers should be responsible for their actions even when foreign law is involved and that at the point where a lawyer does or should recognize that a transaction involves foreign law, the lawyer is obligated to handle the matter directly if he or she can do so competently or to advise the client to seek foreign counsel. The author concludes by suggesting that given the changing times, U.S. lawyers should become better prepared to recognize and competently handle foreign law matters.

Lalive, Jean-Flavien. *International Commercial Contracts: Negotiations with American Lawyers—A Foreign Lawyer's View*. 11 *Prac. Law.*, November 1966, at 71–89.

Lalive, a Swiss attorney, compares the negotiating and drafting styles of European lawyers with their U.S. counterparts. He emphasizes the differences between U.S. negotiating tactics, including delay and obfuscation, and European tactics, which depend largely on “good faith” concepts. The article asserts that the absence of a jury system in civil disputes, the civil law principle of *a contrario*, and the greater willingness in civil law countries to leave decisions to the wisdom of the judge encourages vagueness in European contracts.

Lando, Ole. *Contracts with Members of the Profession*. 3 *INTERNATIONAL ENCYCLOPEDIA OF COMPARATIVE LAW*, ch. 24, 152–53. (K. Lipstein ed. 1971).

The author discusses the criteria used by U.S. and European courts when deciding which law to apply in the calculation of legal fees due foreign lawyers. Lando concludes that the courts increasingly tend to apply the law of the place where the services were rendered. He finds that this is a good solution provided that the foreigners were legally entitled to render services in that jurisdiction.

Lillich, Richard B. *The Role of Domestic Courts in Promoting International Human Rights Norms*. 24 *N.Y.L. Sch. L. R.* 153–77 (1978).

Professor Lillich discusses two New York and two federal cases involving attempts to enjoin U.S. companies and governmental agencies assisting countries or nationally-owned companies with racially discriminatory policies. In analyzing the four decisions, all denying relief, Lillich criticizes the New York decisions for misconstruing the Act of State doctrine and for excessive hesitancy in acting on matters affecting U.S. foreign policy. The author also criticizes the federal decisions for placing too much emphasis on separation of powers and for failing to give substantial weight to international human rights.

Lubman, Stanley B. *Trade Between the United States and the People's Republic of China: Practice, Policy and Law*. 8 *L. Pol'y Int'l Bus.* 1–76 (1976).

Lubman examines commercial practices involved in trade between the People's Republic of China and the United States. He analyzes negotiating and dispute-settlement procedures that may be important to potential U.S. purchasers and sellers. The article concludes with a survey of legal and policy problems in Sino-U.S. trade.

Macdonald, Ronald, Morris, Gerald L. & Johnston, Douglas. *The New Lawyer in a Transnational World*. 25 *U. Toronto L.J.* 343–57 (1975).

Three Canadian professors of law discuss the interrelationship of national and international legal systems and the lawyer's expanding role in many non-traditional areas. They suggest that changes in legal working environments will be brought about by the transnationalization of law and the legal profession, and improvements in international law curricula.

Note. *Foreign Branches of Law Firms: The Development of Lawyers Equipped to Handle International Practice*. 80 Harv. L. Rev. 1284–1302 (1967).

The author argues that the demand for lawyers competent to advise on foreign law and the relationship between foreign and domestic law has increased because of the rapid growth of international trade and investment. He notes the formal and informal barriers to legal practice by foreigners in the United States, Canada, the Federal Republic of Germany, Japan, the United Kingdom, and Belgium. The author argues that the practice of international law can be further expanded through establishment of educational programs, adoption of an international code of ethics, liberalization of licensing laws, observance of the principle of comity, and continued lobbying by private legal organizations.

PISAR, SAMUEL. *COEXISTENCE AND COMMERCE: GUIDELINES FOR TRANSACTIONS BETWEEN EAST AND WEST*. New York: McGraw-Hill Book Co. (1970). 558 pp.

Pisar discusses the framework needed to incorporate communist state monopolies into international commercial activity. The author identifies political, economic, and commercial influences on East-West trade and examines legal obstacles to such business activity. Evaluating and rejecting several contemporary proposals for improvement of East-West commerce, Pisar advocates an internationally sponsored but independent system of regulation that could be embodied in a code of fair practice.

Salter, Leonard. *American Lawyers and Russian Dissidents: The Lawyer as Social Engineer*. 12 Int'l Law. 869–75 (1978).

In examining the legal system of the Soviet Union, Salter attempts to legitimize the protests of U.S. lawyers against human rights violations by foreign governments. Salter argues that there is a discrepancy between the theory behind the Soviet criminal codes and their application. He believes that by engaging in legal argument with Soviet authorities U.S. lawyers can expose the logical inconsistencies in the Soviet posture of legality. The author also advocates the formation of groups of lawyers to monitor the Soviet Government's treatment of dissidents.

Schachter, Oscar. *The Invisible College of International Lawyers*. 72 Nw. U.L. Rev. 217–26 (1977).

Professor Schachter argues that the preservation of objectivity in international law depends on heterogeneous representation of international bodies to counteract nationalistic influences. He maintains that lawyers are the "appropriate generalists" needed to investigate and implement solutions to "specific legislative problems created by changing international needs." Professor Schachter argues that international lawyers can promote the acceptance of multinational agreements by national governments.

USHER, JOHN A. *EUROPEAN COURT PRACTICE*. New York: Oceana Publications (1983). 357 pp.

Usher, a former Secretary to the European Court of Justice, provides a practical guide to the procedure of the Court. After a brief introduction outlining the Court's history and the basic remedies available from it, Usher lists and discusses the legislative and administrative provisions upon which proceedings before the Court are based. The book also includes an extensive index to cases, treaties, and statutory provisions that define the procedure of the Court.

Warren, Louis B., Monahan, Francois, & Duhot, Francois. *Role of the Lawyer in International Business Transactions*. 58 A. B. A. J. 181-84 (1972).

Three practitioners of international business law describe the attitudes that effective international lawyers bring to their work. The authors stress that an appreciation of the cultural differences between the United States and foreign countries, as well as between U.S. clients and lawyers and foreign clients and lawyers will facilitate transactions. They caution that transactions involving developing countries require greater diplomatic skills than transactions involving industrialized countries.

Wetter, J. Gillis. *The Case for International Law Schools and an International Legal Profession*. 29 Int'l & Comp. L.Q. 206-18 (1980).

Although the author believes that international lawyers are currently able to respond to the needs of their clients, he argues for more academic training to improve the international legal profession. He believes that current deficiencies in professional skills can be eliminated through the establishment of an international law school offering a one year, post-graduate program using the case method practiced in U.S. law schools.

Wilkey, The Hon. Malcolm R. *Transnational Adjudication: A View from the Bench*. 18 Int'l Law. 541-53 (1984).

Judge Wilkey of the United States Court of Appeals for the District of Columbia, describes how each stage in a transnational case might ideally be conducted by transnational litigators. He believes that counsel must educate judges by researching exhaustively and presenting fairly all relevant domestic, international, and foreign law issues, and by making certain that "advocacy [does] not obscure accuracy." He also advises counsel to pursue remedies available in other branches of government and to keep their clients out of court if at all possible.

Wilson, Donald T. *International Business Transactions: A Primer for the Selection of Assisting Foreign Counsel*. 10 Int'l Law. 325-33 (1976).

Wilson describes a two-step process for the selection of assistant counsel for the purpose of carrying out international transactions. The first step consists of ascertaining a small number of possible choices, the second, a meeting with the probable choices. The author emphasizes the importance of inquiring into fee arrangements, possible conflicts of interest, and general interest in assuming responsibility for the client.

## LIBERALIZATION OF TRADE IN SERVICES

Brock, William E. *A Simple Plan for Negotiating on Trade in Services*. 5 *World Econ.* 229–40 (1982).

William Brock, then United States Trade Representative, discusses the consequences of foreign restrictions on international trade in services. He proposes a framework for multilateral negotiations on international trade in services that incorporates the fundamental principles, rules, and negotiating procedures of the General Agreement on Tariffs and Trade.

Diebold, William and Stalson, Helena, *Negotiating Issues in International Services Transactions*, *TRADE POLICY IN THE 1980s*. (William R. Cline ed.) Institute for International Economics. (1983).

Economists Diebold and Stalson outline methods and techniques for negotiating an international agreement to reduce restrictions on transnational trade in services. The authors examine the difficulties inherent in concluding such an agreement, and suggest that while negotiating attempts by the United States have been sound they are unlikely to produce an agreement in the near future.

Comment. *Legal Problems in Expanding the Scope of the GATT to Include Trade in Services*. 7 *Int'l L.J.* 281–305 (1982–1983).

The comment identifies legal issues that must be resolved before multilateral negotiations for a services code can succeed. It describes the applicability of the General Agreement on Tariffs and Trade (GATT) to a trade in services code; the probable legal effect of such a code under the GATT; methods of identifying and classifying nontariff barriers to trade in services; and the commercial activities, including establishment of trade, that may be encompassed by a services code.

Cohen, Michael & Morante, Thomas. *Elimination of Nontariff Barriers to Trade in Services: Recommendations for Future Negotiations*, 13 *L. & Pol'y Int'l Bus.* 495–519 (1981).

The authors contend that the elimination of nontariff barriers to international trade in services, particularly barriers erected by developing nations, requires a common nomenclature for services; a classification of the various nontariff barriers now applied; an understanding of the types of data needed to gauge the barriers' effect on trade in services; and a willingness among developed nations to make concessions to those countries whose protectionist policies now distort the international market for services. The authors call for legislation that would increase the influence of the United States in bargaining aimed at the removal of nontariff trade barriers. They also recommend that existing international agreements on trade in goods be used as models for negotiating procedure and for a code on trade in services.

Fisher, Bart S. & Steinhardt, Ralph G., III. *Section 301 of the Trade Act of 1974: Protection for U.S. Exporters of Goods, Services, and Capital*. 14 *L. & Pol'y Int'l Bus.* 569–690 (1982).

The authors, practicing attorneys in the District of Columbia, examine how U.S. businesses could use section 301 of the Trade Act of 1974 to enlist the aid of the government when the policies of foreign governments adversely affect U.S. commerce. The authors conclude that section 301 can be used to enforce provisions of the General Agreement on Tariffs and Trade and other international agreements affecting trade in goods. They also suggest that it can temporarily substitute for formal international regulatory mechanisms in the area of trade in services.

Gray, H. Peter. *A Negotiating Strategy for Trade in Services*. 17 *J. World Trade L.* 377–87 (1983).

Gray, an economics professor at Rutgers University, suggests answers to problems that confront negotiators attempting to liberalize international transactions in services. He explores foreign investment as an alternative to trade in services, examines the applicability of existing methods for negotiating international trade agreements for goods to trade in services, and discusses the practicality of North-North versus North-South negotiations. Gray concludes that the greatest gains in international trade in services will be achieved if direct foreign investment is substituted selectively for traditional negotiations to eliminate trade barriers.

INT'L TRADE AD., U.S. DEP'T OF COMMERCE, *CURRENT DEVELOPMENTS IN U.S. INTERNATIONAL SERVICE INDUSTRIES*. Washington, D.C.: U.S. Government Printing Office (1980). 131 pp.

This study of the international operations, problems, and prospects of ten U.S. service industries was commissioned by the then newly formed International Trade Administration of the Department of Commerce. The ten industries covered by the report—accounting, advertising, banking, construction and engineering, franchising, health services, insurance, motion pictures, shipping, and tourism and air transport—were selected because of their commercial importance and recent growth. Using data from the middle to late 1970s, the study outlines important developments and identifies significant issues affecting the international position of each industry.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE. *U.S. NATIONAL STUDY ON TRADE IN SERVICES*. Washington, D.C.: U.S. Government Printing Office (1983). 185 pp.

The Office of the United States Trade Representative reviews U.S. regulation of trade in services and explores various liberalizing bilateral and multilateral mechanisms. The study advocates the drafting of a multilateral set of liberalizing principles under which sector-specific rules could be developed. Appendices describe efforts to improve the collection of data on trade in services, list specific trade issues for twelve service sectors, and analyze International Monetary Fund statistics on world trade in services.

Schott, Jeffrey J. *Protectionist Threat to Trade and Investment in Services*. 6 *World Econ.* 195–214 (1983).

Schott suggests that the avoidance of a discussion of trade in services endangers the international economic system. After detailing trade and capital barriers to free movement of services, Schott examines the U.S. initiative offered at the 1982 conference of the General Agreement on Tariffs and Trade and the reactions of various countries to that initiative.

SHELP, RONALD K. *BEYOND INDUSTRIALIZATION: ASCENDANCY OF THE GLOBAL SERVICE ECONOMY*. New York: Praeger Publishers (1981). 242 pp.

Shelp argues that “political power in today’s world no longer reflects economic reality” because neither “national nor global political structures” account for the important role of services in many nations. He examines the meaning and significance of services, economic theories concerning services, national and international regulation of services, and past approaches toward liberalization. The author proposes a framework for the liberalization of trade in the 1980s.

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. *Services and the World Economy*. TRADE AND DEVELOPMENT REPORT, 1982, at 99–111. U.N. Doc. UNCTAD/TDR/2/Rev.1 (1982).

Responding to heightened interest in the role of service industries in domestic and international economies, a portion of this UNCTAD report examines the growth of service industries, the trend toward national specialization in the export of services, and the total volume of international trade in non-factor services. The report includes data on over 30 countries and employs a six part classification scheme and an index of service “export-orientation” to characterize variations in service industry growth.