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1. INTRODUCTION

This annual report is being compiled at the end of my three years as Director of the Institute of European and Comparative Law, and I am delighted to have the opportunity to report what I hope and believe is the flourishing condition of the Institute, and to appreciate the endeavours of those working with and within it and the support which we have received from the Faculty and the Division and our various friends, both institutional and individual.

It is necessarily invidious to single out particular associations, but it is nevertheless appropriate to refer to the major co-operation which we receive from the firm of Clifford Chance, the French Ministry of Education and the German Academic Exchange Service, both for and with our work in relation to the Law with Law Studies in Europe programme, and in our more general programme of academic activity. That activity is focused upon a panoply of colloquia and seminars, arrangements for receiving and exchange of academic visitors, and publication of our scholarly output increasingly through electronic media.

Again at the risk of invidiousness, I should like to home in on certain particular activities which seem to me to represent specially significant progress towards realising the aims of the Institute. I should like to draw attention to the launching of the re-designed Institute Website, for which we are enormously indebted to the patient collaboration with us of Professor John Gardner and Ms Catherine Donaldson, and the electronic publication of our website series of Working Papers beginning with the set of Working Papers in honour of Dr Sally Ball (http://denning.law.ox.ac.uk/iecl/working.shtml). I also celebrate our agreement with the Faculty for the establishment within the Institute of a Centre for Competition Law and Policy, to be directed by Dr Ariel Ezrachi.

I also specially wish to mention two colloquia held in the course of the year, the first in London in December 2003 in collaboration with the British Institute of International and Comparative Law in London on the subject of Tax Law of and within the EU, and the second, right at the end of the academic year, in Oxford in September 2004 on the subject of Constitutionalism and Parliaments in Europe. Between them, those two colloquia combined some of the most positive features of the work of the IECL. Thus, they were created largely or entirely by the work and initiative of colleagues within the Institute and/or the Oxford Law Faculty; they involved close collaboration with other institutions, both academic – the BIICL – and legal professional – Clifford Chance – with which we regard ourselves as specially strongly associated; and they promise the prospect of significant published work emerging from them. However, perhaps their most important single quality consists in the way in which they each combined elements of comparative law on the one hand and EU Law on the other. Indeed, between them they seem to me to express precisely that growing congruence or dialectic between European and Comparative Law which I have continually urged
as the most important intellectual aspect of the work of the Institute.

I hope that through this account of the doings of the IECL there emerges some sense of the interest and excitement which attach to the activity of contributing to and co-ordinating the work of the Law Faculty in the intersecting fields of European and Comparative Law. One of the great satisfactions of the last year has been the taking up of his appointment by Stefan Vogenauer as the Professor of Comparative Law, thus the holder of one of the two Chairs associated with the Institute, and I conclude by welcoming his succession to me as Director of the Institute and wishing him as rewarding and fulfilling a tenure of that office as I have enjoyed.

Mark Freedland
Director of the Institute of European and Comparative Law
Michaelmas Term 2001-Trinity Term 2004
2. DEPARTURES AND ARRIVALS

Trinity Term 2004 regrettably saw the end of the periods of office of two members of staff, Dr Diamond Ashiagbor and Professor Denis Baranger, who, although with the Institute for only two years, each made a significant contribution to its teaching and research activities.

Dr Diamond Ashiagbor has been appointed to a lecturership at University College, London, after completion of her two year Career Development Fellowship in European Community Law at Oxford. The Fellowship, which Dr Ashiagbor held in conjunction with a Junior Research Fellowship at Worcester College, was the first such post in the Faculty, and was created under an innovative university-wide scheme, initially funded with government money, to encourage talented young people to take up an academic career. Dr Ashiagbor, who was an undergraduate at Oxford and completed a PhD at the European University Institute in Florence, specialises in employment and equality law. From her base in the Institute, she was actively involved in both teaching and research in these areas. This included a major research and editorial contribution to a symposium work on Employment Policy and the Regulation of Part-time Work in the European Union (edited by Sciarra, Davies, and Freedland, Cambridge, 2004) and a significant role in the electronic publication of the collection of Working Papers in honour of the late Dr Sally Ball. We wish Dr Ashiagbor every success in the next stage of her academic career.

At the end of this academic year, Denis Baranger concluded his two year secondment to the Institute and resumed his professorial duties at the University of Paris II. As will appear from the more detailed account of his activities which is to be found later in this report, Professor Baranger’s contribution to the teaching and research activities of the Institute and the Faculty has been a distinguished one, culminating in the Constitutionalism and Parliaments conference (see below) in the design and organisation of which he played a major part. We welcome the fact that, like his predecessors as French Deputy Director, he will continue to work closely with us, and indeed is doing so at the time of writing this Report.

The arrivals have been no less momentous. In our previous Report and in the Introduction to this Report we have heralded the appointment of Stefan Vogenauer as Professor of Comparative Law with effect from October 2003 and as Director of the Institute with effect from October 2004.

Another most welcome arrived to the Institute at the end of the academic year was Ariel Ezrachi, the holder of the Slaughter and May University Lecturership in Competition Law from 2003 onwards. His affiliation to the Institute is a further happy consequence of the creation, under the aegis of the Institute, of the Oxford Centre for Competition Law and Policy. The intense and exciting initial
activity of that Centre, for which Dr Ezrachi is largely to be credited, is described in a later section of this report.

3. THE FACULTY’S STUDENT EXCHANGE PROGRAMMES

The Institute continues to provide a focus for the students on our exchange programmes (both the incoming students from our European partners, and the Oxford students on Law Course 2 who will go abroad during their third year). John Cartwright, as a Deputy Director of the Institute, continued in 2003-4 as the academic director of the exchange programmes, and Jenny Dix, the Institute’s Administrator, runs their day-to-day administration. During the year the future direction of the student exchanges was discussed within the Institute, and a new arrangement was devised: with effect from 2004-5 a team of Faculty members will be in place to provide the academic direction for the exchanges.

Applications to join Law Course 2 remain as strong as ever: in the last admissions round there were 276 applications for the 30 places available; and our partner European universities report a continued strength in the number of their own students who wish to come to Oxford for a year under the terms of our bilateral exchange programmes.

This year the Management Committee undertook its planned review of the scope of Course 2 in the light of the number and quality of applications we receive and, with the support of the Law Faculty Board, made two decisions which will lead to a modest expansion. First—and recognising the particularly high demand for places on the French option of the exchange—we have negotiated with Paris an increase from 12 to 15 in the number of students we can exchange each year. This increase will take effect from the students going abroad in 2005-6, and so we have already filled the additional places amongst the first year students on Course 2 in order to have a full group of 15 to follow French law classes in Oxford next year before they go to Paris in their third year. Second—given the likely pool of candidates with Spanish language skills who might wish to follow a course in Spanish law—we have decided in principle to consider setting up a further exchange with a university in Spain, to add to the current exchanges with France, Germany, Italy and the Netherlands. Although it will take a little time to make the necessary exploration of possible Spanish partners, and to select a suitable Faculty for the exchange, we are excited about this new venture and hope to have it in place as soon as possible.

The teaching arrangements for the students on Law Course 2 remained unchanged this year. Classes in French, German and Italian law are given within the Institute to the second year students who are preparing to spend their third year abroad; and classes in French, German, Italian and Dutch language are
arranged in or (with the University’s Language Centre) through the Institute. Part of the French law teaching is provided by a Professor on a two-year secondment to us as Deputy Director of the Institute from either Paris I (Panthéon-Sorbonne) or Paris II (Panthéon-Assas). This year Professor Denis Baranger (Paris II) taught the public law elements of the French law preparatory classes for his second and final year. Mrs Marina Milmo, who has given us great support in the teaching of the programme since its earliest days, continued to teach the private law elements of the French law classes. Dr Katja Ziegler, German Deputy Director of the Institute, teaches the German law preparatory classes, and Mr Nello Pasquini (who has also been involved since the beginning of the Italian law exchange programme) continued to teach the Italian law classes.

In recent years we have reviewed the intensity of language tuition provided, particularly in light of the feedback of students on the course. Dutch language training was introduced a few years ago for the students who will go to Leiden, and continues to be well received by the students. This year we have reviewed the provision of French language classes, following an increase last year in the German language classes, and have decided to increase the intensity of the French language classes for the coming year. We seek to maintain a continuity in the language provision, so that successive years’ students are being taught by those with growing experience of our course (and therefore with experience of the particular language needs of our students). In this, it is particularly helpful to have the German language taught by a person in post for 5 years with the teaching of our students as part of his duties (currently Dr Thomas Martinec, funded by the DAAD, who taught our students for the second time this year, and works closely with Dr Ziegler in her provision of the German law classes). The review of the intensity of French language training has also followed this year from discussions with the French language tutor at the Language Centre with increasing experience of teaching our students.

The Institute maintains contact with our partner European universities throughout the year. Jenny Dix is in regular contact with their administrators, and John Cartwright as Course Director has contact whenever necessary with the academic directors of the exchange programmes. Both are points of contact for our students, both in Oxford and during their year abroad. At the beginning of this report it was mentioned that, for the future, we are putting in place a new structure: a team of Faculty members to provide the academic direction for the exchanges. This will enable an increasing dialogue between Oxford and both our partner universities and the students on the course. Stefan Vogenauer is taking on the overall academic direction of the exchange programmes, but an individual member of the Faculty will be responsible for each separate country exchange. This development has flowed naturally from the way in which the exchanges have been developing in recent years. For example, this year we reviewed the range of courses offered by our partner universities to ensure that the courses our own students take during the year abroad are appropriate. In doing this, Dr Ziegler, who already de facto looks after the students who are going to go to
Germany, discussed courses to be taken during the year abroad with each of our German partner universities. In future, Dr Ziegler will de iure have the role of academic co-ordinator of the German exchange arrangements. John Cartwright will retain responsibility for the French exchange; Stephen Weatherill will take on the oversight of the Leiden exchange, and Stefan Vogenauer will himself look after the arrangements for Italy.

John Cartwright
Course 2 Co-ordinator

4. VISITING SCHOLARS AND INSTITUTIONAL LINKS

University of Paris I and the Association Sorbonne/Oxford
The Director of the Institute was pleased to be able to arrange the continuing full and invaluable support of the French Ministry of Education, for the secondment to Oxford from October 2004, in succession to Professor Denis Baranger, of Pascal de Vareilles-Sommières, a Professor at Paris I and specialist in Private International Law who duly took up his appointment in Michaelmas Term 2004, thus greatly reinforcing our continuing connection with his home university.

The IECL continued to play an active role in the Association, which concentrated this year on its Thesis Prize Scheme and on further support for its Comparative Law Library scheme.

The Association also provided funding for the teaching visit to Paris I of Mr Martin Matthews, a long-standing member of Oxford’s Law Faculty and Fellow of University College. Mr Matthews gave a series of ten seminars on the ‘English Tort of Negligence’. The aim of the course was to give lawyers from a civil law background an example of a common law system at work, as well as providing some knowledge of a particular area of English law. It is a mark of the success of the course that Mr Matthews has been invited to repeat it next year.

Dr Simon Whittaker and Mr John Cartwright represented the Institute at the Association’s Annual General Meeting in Paris in February 2004.

University of Paris II (Panthéon-Assas)
Our institutional contact with Paris II continued in full vigour in this academic year, as various items in this Annual Report will testify. We refer especially to the student exchange programme, and its expansion during this year (see above, p.000), and to the Oxford/Paris II colloquium which took place in Paris in July 2004 (see below).
University of Siena
Our institutional contact with the Law Faculty of the University of Siena has continued to operate, particularly in that Siena continues to be our active partner in the Italian branch of the student exchange programme (see above). Professor Francesco Francioni, although now primarily based at the European University Institute in Florence, continues to be a member of the Siena Law Faculty and, very kindly, to continue to concern himself with the maintenance of our institutional links.

The Oxford University Comparative Law Forum
Professor Gerhard Dannemann, a Fellow of the Institute, who now holds a chair at the Centre for British Studies at Humboldt University Berlin, has continued to provide invaluable support to the Institute by remaining the always active General Editor of our electronic Comparative Law Journal. During the year the following contributions were published:


Long Term Visitors to the Institute
Long term visitors to the Institute have included: Professor Dr Jens Peter Schneider, University of Osnabrück; Professor Marco Olivetti, University of Foggia, Italy; Professor D Rainer Arnold, University of Regensburg; Dr Patrizia Vigni, University of Siena.

The Institute has also been pleased to welcome Aurelia Ciacchi, who holds a Marie-Curie Fellowship and is working in collaboration with Professor Weatherill on an EU-funded project entitled “Unfair Suretyships in the European Union”.

5. THE INSTITUTE’S NEW WEBSITE
http://www.iecl.ox.ac.uk/

I was asked to help with the new IECL website because of my work on the Law Faculty’s website re-launch. Catherine Donaldson, the Law Faculty’s Web Development Officer, also carried her amazing technical innovations across from one site to the other. Thanks to Catherine, several pages are ‘dynamic’, i.e. automatically generated from a database rather than laboriously coded by hand.

The brief was to give the IECL site a different look and feel, while maintaining the organisational clarity and data management facilities of the main Faculty site. Visitors moving from one site to the other would know that they had entered a new province, albeit a new province in the same country. The task was made tricky by the varying aesthetic instincts of my IECL colleagues, and especially the interesting arguments between those who espoused a more classical and those who favoured a more contemporary image for the Institute. As an unreconstructed 20th century modernist, I found myself trapped somewhere in the middle.

The final look chosen is restrained, verging on minimal. The taupe background is a bow to a more luxuriant look, but alas has not proved particularly successful (it is too dark on some displays and causes contrast problems for partially-sighted users). So it will be replaced soon. The small multi-colour ‘flag’ device that forms part of the site’s branding is, however, here to stay. It has been designed to be useable on the spine of books and in the corner of printed pages, so that the Institute’s association with publications and events can always be discreetly but memorably signalled. Correctly and consistently used, a small and striking visual device is more effective in creating an association than any number of words. One of the best examples in the history of corporate identity is the old British Rail ‘double arrow’ device, which is still the national signifier of a railway station. The Institute hopes to have similar success with its little flag, but better sandwiches than BR.

Each page of the site contains only a modest amount of text – this means a few more pages, and a few more clicks, but almost no scrolling, and no need to scan dense pages to find the information you need. The contrast with the old website – basically one long scrolling page of text – could not be more decisive. Various tweaks are still in progress, so any suggestions for improvement, short of a complete redesign, would be very welcome.

John Gardner
john.gardner@law.ox.ac.uk
6. “CONSTITUTIONALISM AND THE ROLE OF PARLIAMENTS” CONFERENCE

On 24 and 25 September 2004, the Institute hosted a conference under the title “Constitutionalism and the Role of Parliaments”, marking the end of Mark Freedland's term of office as the Director of the Institute. The conference was convened by the Deputy Directors (Dr Katja Ziegler and Professor Denis Baranger) and the Research Fellow (Professor Anthony Bradley). The event brought together academics and practitioners in constitutional law and government from France, Germany and the United Kingdom. It also attracted the interest of numerous people within Oxford across the faculties. As well as the speakers and participants from the University of Oxford, those attending came from the Universities of Bielefeld, Bremen, Bristol, Dublin (University College), Frankfurt, Glasgow, Leicester, Liverpool, London (King’s College), Le Mans, Osnabrück and Paris (II). Practitioners attended from Blackstone Chambers, Clifford Chance, the Court of Appeal, the Department for Constitutional Affairs, the Houses of Parliament (History of Parliament, House Select Committee on the Constitution) and the National Assembly of Wales.

The focus of the conference was on the laws and customs of parliamentary procedures and the role and power of parliaments in a constitutional system of distributed powers. Whether a European tradition of parliamentary procedures can actually be discerned, was the underlying question of the opening session chaired by Sir Michael Wheeler-Booth, shedding light on the historic evolution of parliamentary procedures in France, the United Kingdom and Germany (Pierre Avril, Denis Baranger, Christoph Gusy, Pascale Cancik, Vernon Bogdanor). This fed into a more general analysis of the current situation of checks and balances, control instruments and the scope, limits and lacunae of control available for parliaments in relation to the executive in the legal orders under scrutiny (Christoph Gusy, Armel Le Divellec, Katja Ziegler, Nicholas Bamforth, Adam Tomkins). The unique position of the Joint Committee of Human Rights as a parliamentary protector of human rights in the UK was the subject of an illuminating discussion between Murray Hunt (legal adviser to the Committee) and Keith Ewing. Against the backdrop of the current reforms of the judiciary and the judicial appointment system in the UK, the session on the role of parliaments vis-à-vis judicial independence, as elucidated by Lady Justice Arden, attracted a wide audience. The theme gave rise to comparative debate regarding systems with an established constitutional court (Pascale Cancik, Lord Lester, Vernon Bogdanor). The final session concerned the increasing role of the comparatively young European Parliament, despite its origins as a much weaker assembly than its precursors at the national level (Sionaidh Douglas-Scott)

We thank Clifford Chance for their generous support of this event, which brought into focus the Institute’s interest in studying the impact of closer European integration upon the historic public law systems of Western Europe.
7. THE UNIVERSITY OF OXFORD CENTRE FOR COMPETITION LAW AND POLICY

2004 saw the creation of the University of Oxford Centre for Competition Law and Policy (CCLP), under the aegis of the Institute. The centre is led by Dr Ariel Ezrachi, who was appointed to the new Slaughter and May University Lecturership in Competition Law in September 2003. The objective of the centre is to provide a centralised platform for the teaching and research of competition law and policy in the University. Activities and courses focus on the regulation of competition in the UK, EU and US, international aspects of competition law and antitrust economics.

On the teaching side, the CCLP supports the Law Faculty’s graduate BCL/MJur option in Competition Law and the undergraduate EC Competition Law option. It is also involved in teaching Microeconomics and Competition Policy, one of the specified applied topics in Microeconomics - a compulsory paper for Finals in PPE, Economics and Management, and Modern History and Economics.

The CCLP plays an active role in fostering research in competition law and policy by providing opportunities for the fruitful exchange of ideas and perspectives. For the University’s research students, the centre serves as a venue to meet and exchange views on their research projects through the Research Students' Discussion Group. The CCLP is also home to the Competition Law Guest Lecture Programme, where leading practitioners and academics discuss recent issues of competition law and policy. Over the past year, a stimulating range of lectures has included:

- Sir Jeremy Lever on Modernisation
- John Temple Lang on Article 82 (Abuse)
- Professor Stephen Weatherill on Competition Law and Sport
- Dr Mark Williams, NERA, on Antitrust Economics
- Malcolm Nicholson, Slaughter and May, on Airtours (MyTravel)
- Philippe Chappatte, Slaughter and May, on International Cartels and Leniency Procedures
- Philip Marsden, BIICL, on Comparative Aspects of US and EU Competition Laws.
- Chris Bright, Shearman & Sterling, on the Competition Appeals Tribunal
- Michael Rowe, Slaughter and May, on Vertical Agreements – Freezer Exclusivity
- Timothy J. Muris, Chairman US FTC, on Current issues in competition and consumer policy
• Bernardine Adkins, Wragge & Co, on enforcement
• Dr David Gilo, Tel Aviv University, on Passive Investments
• Andrew Chin, University of North Carolina, on Microsoft

The CCLP also provides a venue for scholars and practitioners to exchange views on competition law and policy through its Discussion Forums and its Online Papers and Materials portal.

More information about the CCLP’s activities can be found on its website: http://www.competition-law.ox.ac.uk.

8. THE OXFORD/STOCKHOLM COLLABORATION

2003-4 was the third year of operation of this collaboration, and the last year under the original arrangement. However, the collaboration has been extended for three further years on unchanged terms. Its basis is a donation by the Wallenberg Foundation in Sweden to set up a venture named the Wallenberg Foundation Oxford/Stockholm Association in European Law. Professor Ulf Bernitz is the director of this venture, which enables him to contribute to the work of the Institute in a consultancy capacity.

The object of the association is to deepen collaboration and mutually beneficial intellectual improvement. The activities include attracting Scandinavian doctoral and post-doctoral researchers and active academics to pursue study and research in Oxford, to make conference arrangements, particularly within European law, to participate in funded legal research projects and, in general, to act as a catalyst for more intensive collaboration between Scandinavian and British jurists.

The most important event of the year was the conference “Good Corporate Governance in Europe in the Light of the Take-Over Directive” which was organised by the venture and the Institute and took place in Oxford (Balliol College) March 12-13, 2004. The purpose of the conference was to explore the relations between the shaping of EU company law directives, based on the ambition to create a level playing field and abolish different national obstacles hampering integration, and the existing, manifestly different corporate governance cultures in the Member States. The two fundamental themes of the conference were: “European Models of Corporate Governance - Diversity without Protectionism?” and “The European Take-over Law”. The basis for the latter was the very problematic legislative history of the recently adopted EU Take-over directive.

Major speakers on European models of corporate governance were Professor Paul Davies, LSE, Andre Nielsen, Oxford Council of Good
Governance, Mats Isaksson, Division Corporate Affairs, OECD, Paris, Professor Paul Krüger Andersen, Aarhus School of Business, and Ulf Bernitz. Major speakers on Take-over law were Dr Rolf Skog, Swedish Ministry of Justice and Centre for Commercial Law, Stockholm University, Professor Marco Brecht, European Corporate Governance Institute, Brussels, Professor Theodor Baums, Institut für Bankrecht, Johann Wolfgang, Goethe-Universität, Frankfurt/M and Mr Jonathan Rickford, The Company Law Centre, British Institute of International and Comparative Law, London. The concluding round table discussion was chaired by Paul Davies. Discussants included Mr Manne Airaksinen from the Finnish Ministry of Justice, Dr Andreas Busch, Hertford College, Oxford, Jur Dr Gunnar Nord, Stockholm, Dr Jennifer Payne, Merton College, Oxford, and Professor Dan Prentice, Pembroke College, Oxford.

The majority of the papers will be published as a Special Issue of the European Business Law Review (Issue 6 for 2004), edited by Professor Bernitz. He is contributing the article “The Attack on the Nordic Multiple Voting Rights Model”.

The major papers presented at the conference organized last year by the venture and the Institute on European Contract Law and the Commission’s Action Plan have now been published as another Special Issue of the European Business Law Review, likewise edited by Professor Bernitz (Issue 1 for 2004).

The papers presented last year at the conference organized by Professors Stephen Weatherill and Ulf Bernitz on “The Role of the Self-governing Regions within the European Union” form the primary basis for a book on the topic, to be published by Hart Publishing Co.

Within the framework of the Wallenberg Venture Doctor Catarina af Sandeberg, Lecturer at the Stockholm University Law Faculty spent two study weeks at the Institute in Oct. 2003. She gave a seminar entitled “Advisors’ Exemption Clauses – Where to Draw the Line?”

In May 2004, likewise within the framework of the venture, Dr Morten Broberg, Associate Professor at the Copenhagen University Law Faculty, spent a study week at the Institute. He gave a much attended seminar on the topic “Has the European Commission unduly increased its jurisdiction in relation to mergers?”

Professor Bernitz has been preparing a study visit to the Oxford Faculty of Law in Sept. 2004 of a group of approximately 15 law professors and younger researchers from the Stockholm University Law Faculty.

In Nov. 2003 Professor Bernitz gave a seminar at the Institute on the Modernisation of EU Competition Law. He gave a lecture on the same topic later that month at the inaugural meeting of the ASCOLA, the newly founded
In April 2004 Professor Bernitz gave a lecture at the Law Faculty of the Catholic University in Leuven on “Migration from the New EU Member States: Social Tourism?”

Professor Bernitz has published the article “The Arlanda Terminal 2 Case: Substantial Damages for Breach of Article 82” in the Competition Law Journal 2003 p 195 ff.

Professor Bernitz has acted as external examiner of a DPhil-thesis in law at the University of London: Revising European Safeguards and Antidumping Provisions in Light of the Chinese WTO Accession by Jan Hoogmartens.

9. OTHER EVENTS IN 2003-4

The Comparative Law Discussion Group
During the academic year 2003-2004, the Comparative Law Discussion Group met on three occasions. In Michaelmas Term, Professor Guido Alpa presented a paper entitled “A Glance to Unfair Clauses in Italy and United Kingdom (What an Italian Lawyer Can Learn from the English Experience)”; in Hilary Term, Professor Coester-Waltjen spoke on “The Protective Umbrella of a Contract: pre-contractual and post-contractual duties”; and Professor Zimmermann spoke on “The New System of Remedies under the German Law of Sales”.

Institute Seminars
As part of its mission to provide a focal point for European law-related activity within the Faculty and to promote interdisciplinary work in the University, the IECL continues to play host to regular seminars and lectures. A fortnightly programme of European Law seminars was organised in Hilary Term 2004 at which speakers were Elspeth Guild, Fabian Amtenbrink, Harm Schepel and Chris Hilson, speaking on immigration policy, monetary union, product safety and the nature of rights in EC law respectively. These events provided a chance for staff and students with interests in the broad field of European law to meet and share ideas. In February 2004 the IECL teamed up with the Europeum and Mansfield College to organise a round-table on the proposed European Constitution, which attracted a large audience of (mostly) lawyers and political scientists. Speakers were Paul Craig, Derrick Wyatt, Kalypso Nicolaidis, John Temple Lang and Pavlos Eleftheriadis, with Stephen Weatherill in the Chair.
“The EU and Tax Law - Fiscal and Wider Implications” Conference
This conference, which took place in December 2003, was organised jointly by the Institute of European and Comparative Law and the British Institute of International and Comparative Law, in association with Clifford Chance.

Recent ECJ tax cases have raised major questions about the domestic tax systems of Member States and the international tax regime. The issues in the cases arise from the four freedoms and not from specific tax directives or regulations. At the same time, a number of direct tax initiatives are being put forward by the European Commission which relate to or may even drive developments in other areas, such as the introduction of the European Company and the adoption of International Accounting Standards. This conference brought together leading specialists in taxation, European law and company law to discuss these issues in an integrated way. Speakers included:

- Paul Farmer, Pump Court Tax Chambers
- Malcolm Gammie QC, Chambers of Lord Grabiner QC
- Mark Persoff, Clifford Chance
- Rupert Shiers, Tax Litigation Group KLegal
- Mark Whitehouse, Tax Litigation Group KLegal
- Professor Derrick Wyatt QC, Oxford University, Brick Court
- Professor Judith Freedman, KPMG Professor of Taxation Law, Oxford
- Jonathan Rickford CBE, Company Law Centre, BIICL
- Dr Mads Andenas, BIICL

Two Events in Association with the Maison Française
In April 2004, the Institute was pleased to be associated with Oxford’s Maison Française for two lectures: S.E.M. Gérard Errera, the French Ambassador to the United Kingdom, on “France and Great Britain: Shaping Europe and the World” and Olivier Dutheillet de Lamothe, Member of the French Constitutional Court, on “Evolution of European Social Policy since 1957”.

Oxford/Paris II Colloquium on Contract Law
There is now a well-established annual colloquium, attended by members of both the Oxford Faculty and the Faculty of Paris II to discuss some particular areas of comparative law with a view to eventual publication. In 2004 the fruits of the colloquia held in 2000 and 2001 on the subject of *The Public Law/Private Law Divide*, edited by Jean-Bernard Auby (Paris) and Mark Freedland (Oxford) were published by *Editions Panthéon Assas*. The 2004 colloquium was held in Paris on 1st and 2nd July, and was the third in a trio of colloquia focussing on contract law. Discussion of French law was led by Jean-Bernard Auby, Pierre Delvolvé, Bénédicte Fauvarque-Cosson, Denis Mazeaud and Philippe Théry; and of English law by John Cartwright, Mark Freedland, Ewan McKendrick and Simon Whittaker. The papers this year covered issues relating to the categorisation of contracts (in both public and private law) and judicial control over contractual terms. Many of the contributions from this year’s discussion, as well as from the
colloquia in 2002 and 2003, will now be worked on further by the contributors in the light of the debates that the contributions provoked—both in the colloquia and in continuing discussions afterwards—and a volume on the subject of *The Judge and the Contract* is being edited by John Cartwright (Oxford) and Bénédicte Fauvarque-Cosson (Paris).

10. STAFF ACTIVITIES IN 2003-4

Dr Diamond Ashiagbor

Dr Ashiagbor held a two-year Career Development Fellowship – the first such post in the Law Faculty – in the Institute between September 2002 and September 2004, when she left to take up a post as Lecturer in the Faculty of Laws, University College London.

(i) Teaching
Dr Ashiagbor was a member of the Labour law and European Community law teaching teams. In addition to contributing to tutorial teaching and lecturing to undergraduates taking Labour Law and European Community law, she was also closely involved with the BCL/MJur European Employment and Equality Law course.

(ii) Seminars and Conferences
During the year, Dr Ashiagbor presented papers at several conferences and workshops, including:


‘The Open Method of Coordination in the European Employment Strategy’, at the University of Brescia, Italy, workshop on ‘Nuove forme di decisione e nuove forme di regolazione: il metodo del coordinamento aperto nel processo di integrazione europea’, 9-10 February 2004

Dr Ashiagbor was also invited to give staff research seminars, here at Oxford and at the University of Nottingham:

‘Enterprise Organisation and Labour Law in the EU' paper presented to the School of Law, University of Nottingham, 17 March 2004
(iii) Research and Publications
During her Career Development Fellowship, Dr Ashiagbor continued to undertake post-doctoral research in EU constitutionalism and ‘new governance’; EU social law and employment policy; and EU and UK labour law. In particular, she has been working on the book of her doctoral thesis, entitled *Labour Market Regulation and Employment Policy: The European Employment Strategy and New Governance*, to be published by Oxford University Press in 2005.


Professor Denis Baranger
The academic year 2003-2004 was Professor Baranger’s last year as French Deputy Director at the Institute. Along with his teaching at the Law Faculty, Prof. Baranger has continued his work on British constitutional law and has published several articles.

(i) Teaching in Oxford
Seminar on "Comparative Administrative Law" (with Professor Paul Craig and Mrs Sophie Boyron): the seminar focused on such core topics of Administrative Law as procedural irregularity, jurisdictional review, control of administrative discretion, damages liability, liability for fault, liability without fault, and legitimate expectation. These subjects have been approached from the point of view of three jurisdictions: UK, France and the European Union.

Introduction to French Public Law: this course was intended for students planning to go to France during the next academic year and was held in French. Special emphasis was given to comparative aspects of constitutional law and administrative organization.

Professor Baranger was kindly invited by Dr Simon Whittaker to co-teach three seminars on the sources of French and British private law. The main focus of his teaching has been on the sources of French public law.

(ii) Events in Oxford
Professor Baranger has co-ordinated, along with Dr Katja Ziegler and Professor Anthony Bradley an IECL colloquium on “Constitutionalism and the Role of Parliaments”. (See section 6 of this report.)

Professor Baranger is also working with Professor Mark Freedland and Professor Vernon Bogdanor on a joint public law seminar which would include
French scholars from Paris II and British lawyers and political scientists. The event would take place in Paris in the course of 2005.

(iii) Publications and Papers
Professor Baranger’s recent articles include:


“The Executive Power in France”, to be published in P. Craig and A. Tomkins, *The Executive And Public Law: Power And Accountability In Comparative Perspective*, Oxford University Press, 2005

“The ambiguity of a national tradition: parliamentary law and parliamentary government in the U.K.”: paper presented to the “Constitutionalism and the Role of Parliaments” conference (see above)

Professor Anthony Bradley (Senior Research Fellow)
Professor Bradley, Emeritus Professor of Constitutional Law at Edinburgh University, is a Research Fellow of the Institute.

(i) Lectures, Conference and Seminar Papers
24-26 October 2003, Ankara Conference on human rights and administrative law, for the Turkish Council of State, paper “Freedom of Expression under the ECHR”

14 November 2003, University of Leeds, lecture “The Sovereignty of Parliament: has the Human Rights Act made any difference?”

11-16 January 2004, 6th World Congress of the International Association of Constitutional Law, Santiago, Chile, workshop paper “‘British subject’ and ‘Commonwealth citizen’ – an imperial experience of transnational citizenship?”

13 February 2004, Oxford University, public law seminar “Human rights and the pawnbroker – reflections on *Wilson v First County Trust Ltd*”

8 April 2004, University of Connecticut School of Law, Hartford, lecture “The Architecture of Judicial Independence – Conservation or Re-building?”


17-18 May 2004, Conference on the European Convention on Human Rights to mark the 50th anniversary of Turkey’s ratification of the Convention, University of Marmara, Istanbul, paper “The right to education under the ECHR”
6 July 2004, Worcester Law School, to mark the 25th anniversary of the founding of the Law School, public lecture “Constitutional Reform – Themes and Variations”

(iii) Publications

(iii) Other Activities
Legal adviser, House of Lords Select Committee on the Constitution
Convenor, Constitutional Law Group, British Institute of International and Comparative Law
Member of Executive Committee, International Association of Constitutional Law (elected a Vice-President, January 2004)
Alternate member (UK) of the Council of Europe’s Venice Commission for Democracy through Law
Participant at the Central European University, Budapest, in discussions with a constitutional delegation from Georgia, 19-20 July 2004
Martin Flynn Visiting Professor, University of Connecticut Law School, April 2004

Mr John Cartwright

(i) Teaching and Administration
During the year John Cartwright continued as a Deputy Director of the Institute, responsible for the Faculty’s student exchange programmes, on which there is a separate report. He was also a member of the Law Faculty Board, and continued his college teaching and administration at Christ Church. In addition, he continued for a second year as professeur invité at the University of Paris II, teaching English private law to second year French students, as well as teaching a graduate course on English contract law to students taking the DEA in the Common Law.

(ii) Research and Writing
Mr Cartwright continued his research and writing in contract and comparative law. As a member of the Trento project on The Common Core of European Private Law, he is working (with Professor Martijn Hesselink, University of Amsterdam) on a volume on Precontractual Liability, and is the contributor of the English law report, as well as an additional chapter on ‘The Rise and Fall of Mistake in the English Law of Contract’, for the volume on Mistake, and the Duty to Inform (edited by Ruth Sefton-Green, University of Paris I, expected to be
published late 2004 or early 2005). He continued as a member of the Hungarian-British Joint Academic Research Programme, which this year involved two meetings (once in each of Oxford and Budapest) to discuss the revision of the Hungarian civil code. He also continued as a member of the Oxford/Paris II colloquium on themes in comparative contract law (on which there is a separate report). At this year’s colloquium, held in Paris, he contributed a paper on ‘Compromise Agreements and Agreements to Release Claims’; and he will now be working with Professor Bénédicte Fauvarque-Cosson (University of Paris II) to edit the work of the last three years’ colloquia into a volume for publication.

(iii) Publications

Professor Mark Freedland

(i) Directorship of the IECL
In his final year as Director of the Institute, Professor Freedland’s main responsibilities included:
- reworking of Course 2 arrangements
- upgrading of website
- induction of Stefan Vogenauer
- Clifford Chance – maintenance of relations and putting in place an annual cycle of joint activities
- development of relations with Siena, EUI, Leiden, Paris I and Paris II, Association Oxford/Sorbonne
- BIICL seminars
- appointment of Pascal de Vareilles-Sommières
- preparing Oxford/Paris II symposium for publication
- preparations for July conference in Paris and September conference in Oxford, organised by Professor Baranger and Dr Ziegler

(ii) Teaching and Examining
Professor Freedland contributed to teaching and examining in the undegraduate option in Labour Law, and two BCL/MJur options: ‘European Employment and Equality Law’ and ‘Globalisation and Labour Rights’. He also ran the Course in Legal Research Method, which is compulsory for all first year research students, and supervised a number of individual graduate students.

(iii) Conferences and Papers
Rome, June 2004, Professor Freedland was pleased to be able, with the ever-invaluable help and inter-mediation of Mr Nello Pasquini, to contribute to the intellectual organisation and presentation of a conference held in June
2004 at the Scuola Superiore della Pubblica Amministrazione in Rome on the subject of the State as Employer and Provider of Employment.
University of Florence, November 2003, conference on “Collective Bargaining”
Brussels, May 2004, conference of Group of Experts on EU Non-Discrimination
Law, Oxford Administrative Law group, paper on PFI

(iv) Research and Writing
Introduction to Comparative Law before the Courts, British Institute of International and Comparative Law (2004)
Launch of three-year project in European and Comparative Law at St John’s College

(v) Other Administration
In addition to his duties in the Institute and the Law Faculty, Professor Freedland was also a member of the University’s Working Party on Statutes and Regulations, the Conference of Colleges’ Legal Panel and the University Committee on College Statutes, as well as serving as St John’s College’s Equality and Statutes officer.

Professor Stephen Weatherill

(i) Lectures, Conference and Seminar Papers
Among the papers Professor Weatherill has delivered in the academic year 2003-4 are:

“Does the European Union Need a Constitution?”, delivered as the Second Annual Paul Jackson Lecture in the University of Reading, Reading, February 2004.
“Harmonisation: how much, how little?”, delivered at a conference Down our estuaries and up our rivers: the impact of 30 years of EU membership on UK law, organised by the Society of Legal Scholars and the United Kingdom Association of European Law, London, May 2004.
“Do consumers benefit from competition between legal orders?”, delivered at a conference on Competition Law and Consumers, Groningen, September 2004.

(ii) Publications
In April 2003 a conference under the title "Whose Europe?" was held in Oxford, and jointly organised by the IECL with the Department of Politics and International Relations. The papers were subsequently prepared for publication and have appeared as Weatherill and Nicolaidis (eds), Whose Europe? National Models and the Constitution of the European Union (154 pp., Oxford: European Studies at Oxford series, 2003).

Given the intensity of the current debate about the virtues and vices of a Constitution for Europe, much of Professor Weatherill's recent output has been laced with a constitutional theme. It includes:


Other publications in the field of trade law include:

“Sport as Culture in European Community Law”, Ch. 4 in R. Craufurd Smith (ed), Culture in European Union Law (Oxford University Press, publication scheduled for September 2004).
Dr Katja Ziegler

(i) Teaching
Dr Ziegler continued to teach undergraduate classes on German Constitutional and Private Law to students on the Law with Law Studies in Europe course and undergraduate and postgraduate (BCL/MJur) classes on EC Competition law throughout the year. She also gave tutorials to a number of undergraduate and MJur students in public international law and European law.

(ii) Administration
In order to enable the exchange programme to run as smoothly as possible, Dr Ziegler was regularly in contact with our partner universities in Germany, overhauling the respective curricula for our students in their year abroad. Throughout the year she was able to meet the Oxford students and our contacts in Regensburg, Munich and Bonn.

(iii) Events at Oxford
The concurring terms of office of the French and the German Deputy Directors fruited in a joint event at the end of the academic year at the Institute. Together with Professors Denis Baranger and Anthony Bradley, Dr Ziegler convened a comparative law conference under the title “Constitutionalism and the Role of Parliaments” in September 2004 (see section 6 of this report).

Dr Ziegler also prepared a joint colloquium on human rights together with the partner universities of Leiden and Munich on the theme of privacy to be hosted by the Institute in January 2005.

(iv) Conferences and Invited Seminars
Anglo-German Parliamentary Perspectives on the European Constitution, presentation and chair at a panel discussion between the member of the EU Convention Gisela Stuart, MP and Peter Altmaier, Member of the German Bundestag at a DAAD Conference, Cumberland Lodge, Windsor Great Park, June 2003.


Recht und Ökonomik, Young Public Lawyers Annual Conference, University of Jena, Germany, March 2004.

“An Ever More Social Union? Reinforcing the Social Dimensions of the EU – Methodological Perspectives“, paper delivered at the XI. International
Congress of European Constitutional Law, University of Regensburg, Germany, June 2004.
Rapporteur at the conference: The Reception of the ECHR in Germany and France Compared, Centre for Interdisciplinary Research (ZIF), Bielefeld, September 2004.

(v) Publications and Research

Book:

Articles/Contributions to Books:
“Diskussionsbericht” [Conclusions], in C. Gusy, C. Grewe, R. Harzer (Hrsg.), Die Rezeption der EMRK in Deutschland und Frankreich im Vergleich [The Reception of the ECHR in Germany and France Compared], forthcoming 2005, Nomos, Baden-Baden.
Current research projects include the comparative analysis of executive prerogatives in the UK, Germany and the USA; privacy and the freedom of the press; problems of legitimation and accountability at the supra- and international level; and the relationship between economic regulation and questions of social justice in EU law.

11. PLANS FOR 2004-5

The academic year 2004-5 will be an interesting one for the Institute. Shortly after Christmas we will hold a ‘Joint Colloquium on Human Rights: Privacy’ with members of the Leiden and Munich Law Faculties. Papers will be given on a wide range of topics, ranging from traditional questions in a human rights and tort context to issues of privacy in the areas of intellectual property, labour law or media law.

March will see a high-profile two-day conference on the ‘Harmonisation of European Contract Law: Implications for European Private Laws, Business and Legal Practice’. It is jointly organised by the Institute and our partners from Clifford Chance and will involve both leading academics and experienced practitioners from both sides of the Channel. The conference will examine the repercussions of the European Commission’s recent Communication on ‘European Contract Law and the revision of the acquis: the way forward’. Starting from an overview of the harmonisation already achieved in the area of contract law, we will look at innovation in contract law from the perspective of national legal systems, drawing upon the experience of two countries which recently underwent large scale reforms: the Netherlands and Germany. We further ask what the implications of EU measures on English Contract Law have been so far and may be in the future. Finally, we will look at various areas of contract law and explore opportunities and difficulties of further harmonisation.

On the teaching side the Institute will continue to administer the Faculty’s four-year BA in Law with Law Studies in Europe. Preliminary steps towards expanding the programme to a Spanish university are being made. A new graduate course in ‘European Private Law: Contract’ will be offered for the first time this year. It is taught exclusively by members and associates of the Institute.

As far as administrative and institutional matters are concerned, the Institute will not only see the arrival of a new Director and a new French Deputy Director, but it will also witness the first full year of operation of the Centre for Competition Law and Policy which, under the stewardship of Dr Ariel Ezrachi of Pembroke College and as an integral part of the Institute, will provide a centralised platform for the Faculty’s work in this dynamic area.
Stefan Vogenauer  
Director of the Institute of European and Comparative Law 
from Michaelmas Term 2004
APPENDICES
Appendix A
Members of the Advisory Council
2003-4

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Shearman and Sterling, London

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Judge of the Court of Justice of the
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Professor Dr Hans Franken
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Professor Derrick Wyatt QC
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Institute and Fellow of St Edmund Hall,
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The Institute gratefully acknowledges financial support received from the following Governments, organisations, institutions, and individuals, listed here in alphabetical order.

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The VSB Bank, The Netherlands
Appendix C
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The Institute is also grateful for the support it has received from the following individuals who, in different but equally valuable ways, have promoted its interests and assisted its fundraising efforts.

Professor Dr Dr h.c. Guido Alpa, Rome
Dr Leonhard Aulinger, Rechtsanwalt, Bochum, Germany
Professor Dr Christian von Bar, Osnabrück
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Dr Christian Boode, General Secretary, DAAD, Bonn
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**Appendix D**

**Staff and Honorary Fellows**

### I. The Staff of the Institute

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*Special interests: Employment Law*

**Deputy Director and Jacques Delors Chair in European Community Law**

Professor Stephen Weatherill, Fellow of Somerville College  
*Special interests: European Law and Policy*
**Deputy Director (Law with Law Studies in Europe)**

John Cartwright, Student of Christ Church  
Special interests: Comparative Law

**Deputy Director (French)**

Professor Denis Baranger  
Special interests: Comparative Legal History

**Deputy Director (German) and DAAD Teaching Fellow**

Dr Katja Ziegler  
Special interests. EC Law, Commercial Law, Competition Law, Public International Law, (Comparative) Public Law

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Special Interests: British Constitution

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Special interests: Comparative Law and Anglo-German Studies

Dr Simon Whittaker, Fellow of St John's College  
Special Interests: Comparative Law

**Career Development Fellow**

Dr Diamond Ashiagbor, Junior Research Fellow of Worcester College  
Special interests: European Employment and Equality Law

**Director of the Oxford/Stockholm Collaboration**

Professor Ulf Bernitz  
Special interests: European Community Law
Director of the Centre for Competition Law and Policy

Dr Ariel Ezrachi
Special interests: Competition Law

Marie Curie Fellow

Dr Aurelia Colombi Ciacchi
Special interests: Environmental Liability, Consumer Contract Law, Comparative Law

Teaching Fellow in European Community Law

Professor Mads Andenas, Fellow of Harris Manchester College, Director of the British Institute of International and Comparative Law, London
Special interests: European Community Law, Comparative Law, Public Law

Linklaters & Alliance Teaching Fellow for Italian Law

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Special interests: Italian Law, Commercial Law, Civil Law

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Appendix E
The Management Committee of the Institute

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Mr John Cartwright (Co-ordinator, Law with Law Studies in Europe)
Professor Mark Freedland (Director, Institute of European and Comparative Law)
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Professor Stephen Weatherill (Jacques Delors Chair)
Dr Katja Ziegler (Institute of European and Comparative Law)
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