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Editorial

Dear Readers,

The Crimean crisis represents one of diplomacy's greater challenges in recent history. The demeanor of the parties involved raises numerous questions of international law already extensively commented on in respective blogs.¹ Furthermore, the superpowers' pursuit of evident political and geo-strategical interests exposes yet again what may be perceived as the powerlessness of public international law.

Likewise, it has crystallized the United Nations Security Council's (UN SC) inability to effectively resolve conflict in a temporarily multi-polar world order, as far as its permanent members are concerned. However, despite the poor prospects of a profound reform of the UN SC, hope still rests with the

¹ See, e.g., A. Peters, 'Sense and Nonsense of Territorial Referendums in Ukraine, and Why the 16 March Referendum in Crimea Does Not Justify Crimea's Alteration of Territorial Status Under International Law', *EJIL: Talk!* (16 April 2014), available at <http://www.ejiltalk.org/sense-and-nonsense-of-territorial-referendums-in-ukraine-and-why-the-16-march-referendum-in-crimea-does-not-justify-crimeas-alteration-of-territorial-status-under-international-law/> (last visited 16 April 2014); N. Krisch, 'Crimea and the Limits of International Law', *EJIL: Talk!* (10 March 2014), available at <http://www.ejiltalk.org/crimea-and-the-limits-of-international-law/> (last visited 16 April 2014); D. Wischart, 'The Crisis in Ukraine and the Prohibition of the Use of Force: A Legal Basis for Russia's Intervention?', *EJIL: Talk!* (4 March 2014), available at <http://www.ejiltalk.org/the-crisis-in-ukraine-and-the-prohibition-of-the-use-of-force-a-legal-basis-for-russias-intervention/> (last visited 16 April 2014); G. H. Fox, 'Intervention in the Ukraine by Invitation', *Opinio Juris* (10 March 2014) available at <http://opiniojuris.org/2014/03/10/ukraine-insta-symposium-intervention-ukraine-invitation/> (last visited 16 April 2014); R. McCorquodale, 'Crimea, Ukraine and Russia: Self-Determination, Intervention and International Law', *Opinio Juris* (10 March 2014), available at <http://opiniojuris.org/2014/03/10/ukraine-insta-symposium-crimea-ukraine-russia-self-determination-intervention-international-law/> (last visited 16 April 2014).

Council's non-permanent members. The influence of these members on the organ's decision-making process is examined in the first general article of this issue.

Precisely, 'Non-Permanent Members of the United Nations Security Council and the Promotion of the International Rule of Law' by *Alejandro Rodiles* offers an insight into the set of juridical tools at the disposal of UN SC non-permanent members and their contributions to the promotion of the 'international rule of law'. The author holds that greater legitimacy and thus greater efficiency of the Council – by virtue of not least greater transparency, favouring a 'culture of justification' – has indeed improved its general adherence to the 'international rule of law'.

Completing the 'General Articles' section, *Giovanni Boggero* undertakes to add new theoretical arguments to the rationale of State immunity. In 'Without (State) Immunity, No (Individual) Responsibility', the right to State immunity is identified as an integral precondition for the prosecution of individual perpetrators. As such, it is argued that upholding State immunity for human rights violations should not logically lead to the impunity of State officials acting on behalf of the respective State.

The ensuing section of international legislation and jurisprudence comprises another pair of articles:

Marlitt Brandes' "All's Well That Ends Well" or "Much Ado About Nothing"?: A Commentary on the *Arms Trade Treaty*' examines and comments on the *Arms Trade Treaty* as adopted by the UN General Assembly. Brandes especially focuses on the analysis of the legal value of the provisions enshrined by recourse to their scope, implementation and substantive obligations entailed, which have been devised to help victims of international human rights and humanitarian law violations. Although allegations of ambiguity providing for potential loopholes may not be discarded entirely and both ratification and comprehensive enforcement of major supplier States remains uncertain, the treaty's progressive nature cannot be gainsaid.

Following, in 'The *Lubanga* Case of the International Criminal Court: A Critical Analysis of the Trial Chamber's Findings on Issues of Active Use, Age, and Gravity', *Michael E. Kurth* takes a closer look at the first judgment of the ICC. While analyzing the most significant questions raised in the decision, the author

infers that, certain “blind spots” notwithstanding, the ruling of The Hague’s Court was precedential in nature, especially with regard to the issues of child soldiering and sentencing.

GoJIL Volume 5, No. 2 concludes with a focus on conceptual roots and potentials of international investment treaties.

Tracing the evolutionary path of investment protection treaties leads *Wolfgang Alschner* back to the concept of Friendship, Commerce and Navigation treaties, as initially concluded in 1778, in the midst of the American War of Independence. ‘The Americanization of the BIT Universe: The Influence of Friendship, Commerce and Navigation (FCN) Treaties on Modern Investment Treaty Law’ detects how, following its interim demise, conceptually distinct FCN treaties largely influence the very essence of contemporary bilateral investment treaties (BITs). Formerly short, simple and specialized agreements increasingly encompass provisions covering investment-related issues such as pertaining to intellectual property rights, trade, labour or the environment.

Lastly, in ‘The Possible Future of Promoting and Protecting European Investments in Sub-Saharan Africa’, *Lars Schönwald* examines how and in which ways the outdated level of protection of European investors in Sub-Saharan Africa (SSA) can be improved. By looking at the participating parties of a new investment treaty, already existing standard clauses as well as possible new concepts, the author concludes that there should be more than one EU–SSA international investment agreement comprising the future provisions as only this would guarantee a consistent and effective common commercial policy and regard the tight linkage to international trade and development.

We hope that these thoroughly selected articles provide for yet another worthwhile read to our readership.

The Editors

