outline of world antitrust law in one volume. The potential strength of the book lies in its as yet weakest part. Considering the lack of easily accessible up-to-date information (in English) about most of the laws described in the third part, anyone interested in antitrust will warmly welcome the attempt to give a clear and precise account of the law in national jurisdictions outside the United States. The size of the book need not be altered by any improvements to that particular part. There is ample literature on EC and US antitrust, covering the whole range from pamphlets to encyclopaedia. Barry Hawk (in *United States, Common Market and International Antitrust*), for instance, presents both legal systems in a way that this book cannot compete with. Instead of adding just another introductory text to the existing body of literature in the field, the space devoted to US and EC law could perhaps be better used for a more elaborate description of antitrust laws in other jurisdictions.

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Thürer, Daniel, Matthias Herdegen, and Gerhard Hohloch, *Der Wegfall effektiver Staatsgewalt: 'The Failed State.'* Heidelberg: C.F. Müller Verlag, 1995. Pp 197. Dm 94; öS 686; sFr 89.

This volume presents the proceedings of the German Society of International Law 1995 Leipzig meeting on 'The Failed State'. It consists of presentations by the three authors as well as the full text of the ensuing discussion. The first two presentations address public international law issues arising from the breakdown of effective government, such as in Somalia. The third deals with the private international law consequences of this phenomenon.

Thürer's analysis is based on the continued existence of the failed state, despite the fact that its structure of government has ceased to exist, both for internal and external purposes. This implies the duty to respect the typical obligations *vis-à-vis* foreign states, including the prohibition of the use of force. On the other hand, the Security Council's practice demonstrates that grave and systematic violations of human rights, even without immediate trans-boundary repercussions, may be classified as threats to the peace in accordance with Article 39 of the Charter, and can lead to action under Chapter VII. Situations of internal turmoil and general lawlessness typically create challenges to human rights as well as to humanitarian law. Thürer stops short of condoning unilateral armed humanitarian intervention, but notes the United Nation's tendency to undertake or authorize humanitarian activities, if necessary, including the use of force. He advocates the reactivation of the Trusteeship Council to administer failed states, a step that would require an amendment to the Charter, as well as the creation of a rapid reaction force at the disposal of the Security Council and the completion of the International Law Commission's projects on a Code of Crimes against the Peace and Security of Mankind and on the creation of a permanent International Criminal Court. He adds a number of suggestions on measures to reconstruct the failed state's institutions.

Herdegen argues that the paralysis of elementary state functions suspends the application of certain international law principles which presuppose the effective existence of the state. In the context of the state's external representation, the last government's democratic legitimacy may, for a while, compensate the lack of effectiveness. But ultimately the absence of an effective government will destroy the representative powers of any still existing diplomatic or consular missions. Most importantly, Herdegen pleads in favour of a restrictive interpretation of the Charter's prohibition of the use of force in situations of internal anarchy. While he supports Thürer's thesis on the interpretation of Article 39 and the use of Chapter VII, he would go one step further, arguing that armed intervention by individual states or groups of states for strictly humanitarian purposes is to be permissible in cases of genocide and other massive human rights violations. This result is justified on the basis of ethics, a teleological interpretation of Article 2/4. It is also based on the assertion that the disappearance of an effective central power causes the state itself to disappear, hence losing its protection under the Charter. Not surprisingly, under this ap-

proach humanitarian intervention by regional organizations would not require Security Council authorization. At the same time, Herdegen admits that United Nations action under Chapter VII is to be preferred over regional action, while regional action should take precedence over measures by individual states.

Hohloch's examination of private international law aspects of the failed state has less dramatic overtones. It is primarily concerned with the application of foreign law whose effectiveness in the country of origin is no longer assured. In fact, a judge who is referred by his/her local choice of law rules to the law of a failed state may find it impossible to ascertain the current state of the law in that country. The author develops a sophisticated set of substitute solutions, which include the continued application of the former law, the deliberate continued application of law that has been repealed, the application of new law, if any, the application of local rules and customs, and the application of regional substitute law. The *lex fori* should only be a last resort in the event that all other solutions fail. The author also notes that the breakdown of the administration of justice in the failed state will often lead to an extension of jurisdiction in the forum state.

The plenary discussion offers a number of thoughtful contributions, some of which are quite contentious. In particular, Herdegen's advocacy of unilateral force in situations calling for humanitarian intervention evokes much criticism and controversy.

This book demonstrates that the approach used by the German Society of International Law for its biennial meetings is highly successful. It also attests to the high quality of scholarly discourse on international law in the German language.

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Maresceau, Marc (ed.). *The European Community's Commercial Policy after 1992: The Legal Dimension*. European Institute – University of Ghent. Dordrecht, Boston, London: Martinus Nijhoff Publishers, 1993. Pp. xiv, 467. Index

This book results from a Jean Monnet workshop organized by the European Institute of the University of Ghent on 6–7 February 1992. It contains a foreword by Willy De Clercq and contributions by Marc Maresceau, Ernst-Ulrich Petersmann, Francis Jacobs, Piet Eeckhout, Thiebaut Flory, Jacques Bourgeois, John Usher, Jean Raux, Inge Govaere, Paolo Mengozzi, Thomas Van Rijn, Marc Cogen, Edmond Volker, Paul Demaret and Pieter Jan Kuyper.

In the first part of the book, the general legal framework of the Common Commercial Policy is discussed, with four reflective contributions covering an overview of the (lack of) changes in the concept as a result of the Maastricht Treaty, constitutional principles governing the CCP, the review of commercial policy measures by the European Court of Justice, and the external dimension of the internal market as well as the scope and content of a modern commercial policy.

The second part focuses on so-called border regions of the Community's commercial policy and examines the relationship between the CCP and other policies, such as industrial policy, competition policy, CAP, development policy, intellectual property protection, trade in services, transport policy, technical regulations and standards, environmental policy, and trade sanctions, security and human rights. All of these obviously have an external component, either well-entrenched or in an embryonic stage, on which the second part concentrates.

The idea underlying the entire book rests on the emergent need to revise the concept of Common Commercial Policy and its transformation into a 'Common external economic policy'. This far-reaching concept would cover not only the traditional trade policy issues but also economic measures, services, capital, intellectual property, environment and competition, among others.

Completed before the entry into force of the single market and the completion of the Uruguay Round, the book obviously does not reflect these and other developments that have occurred since mid-1992. Nevertheless, some underlying issues, such as the need to clarify the legal basis upon which the EC external measures are taken and the question whether more powers should be granted to