

Treaty, the Euro and all that implies, and Enlargement.

So it is a major weakness of John McCormick's general introductory text, *The European Union: Politics and Policies*, that it was finalized some time ago and thus throws virtually no light on these recent developments. Curiously and less forgivably, it also seems to peak with the Single European Act and the Single Market Programme. It does limited justice to subsequent events, notably the geopolitical rupture of 1989 and German unification; the Treaty of Maastricht gets patchy treatment, and the 1995 enlargement is barely mentioned. Certainly, readers will find little illumination in the explanation of the Euro as exchange-rate cooperation (rather than a replacement for it, with monetary policy internalized and unified). Nor will they be much the wiser on the forces behind the inexorable emergence of 'security and justice' issues (culminating post-McCormick in little-remarked but fundamental provisions of the Treaty of Amsterdam).

On the other hand, McCormick's book has several merits: it is readable, and — breaking the subject into digestible chunks — it gives an overview of theory, history, form (the institutions) and substance (the policies); all this in a manageable 300 pages. There are gaps (competition policy is one), the simplified sometimes tips over into the simplistic (on French peasant farmers, for example, or on the so-called democratic deficit), and some thematic juxtapositions can be odd (the Court of Auditors lumped with the Court of Justice?). But the treatment makes a change from the usual long march through the institutions. Moreover, McCormick's judgments are mostly fair, notably avoiding the problem-dominated nature of much discourse on the EU.

All the more reason to regret that he did not proffer more insight for his newcomer readers: to point out, for example, that widening and deepening are not mutually exclusive but go hand-in-hand; or that the importance of qualified majority voting or co-decision lies less in the detail than in their effect on negotiating behaviour; or that the fundamental feature of CAP reform is a shift from price

support to income support, with different effects on the different agricultural lobbies. The EU is not an abstract game of 'Go' for political scientists, but a practical process aimed at resolving practical — albeit long-term — problems.

On the political science front, the notion of 'consociationalism' — another snappy bit of terminology for the pubs and cafes — clearly has McCormick's preference as an explanatory model for the way the EU works. This 'government by a coalition representing the different groups in [a divided] society' may well be worth probing deeper. At least it gets us out of the sterile federal-confederal rut. It remains a somewhat one-dimensional view, however, and different models may apply to different sectors: a fully federal economic system alongside a confederal foreign policy, with security and justice somewhere between. The EU as 'post-modern' state? Something for the next edition.

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Wetterstein, Peter (ed.). *Harm to the Environment: The Right to Compensation and the Assessment of Damages*. Oxford: Clarendon Press, 1997. Pp. xvii, 263. Index.

This volume of collected papers resulting from a 1995 seminar in Turku/Åbo (Finland) has all the elements that seem to make environmental topics so very attractive to some international lawyers and so very suspect to others: a mixture of comparative and international, public and private, law and policy; *lata* and *ferenda*, fascinating and irritating. At the risk of spoiling some of the fun in the medley, the present review will try to separate the general environmental discourse of the book from its specific international aspects.

1. The lead paper by Brian Jones ('Detering, Compensating, and Remediating Environmental Damage: The Contribution of Tort Liability') illustrates the old dilemma of traditional tort jurisprudence facing new technological risks. The rationale for various 'strict'

or 'pseudo-strict' liability concepts is analysed in the light of recent British case law and European legislative trends (further elaborated in national reports on Germany by Werner Pfennigstorf, and on Belgium by Hubert Bocken). Rather than attempting to renovate tort law though, the author winds up advocating something broader than tort liability: mainly a combination of criminal sanctions and some new green super-funds, a proposal subsequently spelt out by Henri Smets ('COSCA: A Complementary System for Compensation of Accidental Pollution Damage').

A comparative study by Peter Wetterstein ('A Proprietary or Possessory Interest: A *Conditio Sine Qua Non* for Claiming Damages for Environmental Impairment?') then shifts the focus to the private-rights vs. public-rights distinction reflected both in recent Scandinavian legislation and in American cases concerning harm to common property resources. A crucial question thus arises: Who is entitled to claim compensation for harm to 'unowned' environmental resources? The most innovative response to that question has been the 'public trust' concept developed by the US Supreme Court since 1892 and made operational by the designation of public trustees under federal legislation since 1974, details of which are presented in three papers by Thomas J. Schoenbaum, William D. Brighton and David F. Askman, and Charles B. Anderson. Curiously, the only European legal system where similar trusteeship functions for common property resources have been conferred on public authorities is the Italian law relating to *danno erariale*, succinctly described in the context of the 1986–1993 *Patmos* case by Andrea Bianchi ('Harm to the Environment in Italian Practice: The Interaction of International Law and Domestic Law').

2. As might have been expected, the contribution of *international* law-making to the definition of environmental harm turns out to be disappointing. Apart from limited provisions in civil liability conventions and the rather restrictive experience of the International Oil Pollution Fund (surveyed by Björn Sandvik and Satu Suikkari, 'Harm and

Reparation in International Treaty Regimes'), codification attempts by the UN International Law Commission in this field (summarized by Julio Barboza, 'The ILC and Environmental Damage') were notoriously unsuccessful; and the paper by Alan Boyle ('Remedying Harm to International Common Spaces and Resources: Compensation and Other Approaches') concludes that recourse to state responsibility is 'unrealistic, unprecedented, and largely unworkable'. One of the reasons, of course, is the reluctance of states to define legal consequences of their own misconduct — as manifested by the disclaimer footnote in the 1979 Geneva Convention on Long-Range Transboundary Air Pollution (under Article 8/f: 'the present Convention does not contain a rule on State liability as to damage'); by the 'deferral' of damage assessment and compensation rules in the 1982 UN Convention on the Law of the Sea (Article 235/3); and by the red-faced call, in principle 13 of the 1992 Rio Declaration on Environment and Development, for a 'more determined manner to develop further international law regarding liability and compensation' (more determined than whom?).

Progress is unlikely to trickle down from further distillations of well-meaning soft law — such as the World Conservation Union's 1995 International Covenant on Environment and Development, or the 1997 Strasbourg resolution of the *Institut de Droit International* — but perhaps from the emerging hard practice of the UN Compensation Commission (UNCC) pursuant to the Security Council's Gulf War resolutions, to which unfortunately there are only two cursory references in this volume (at 58, note 4, and 91). And even though the bulk of UNCC work so far concerns 'proprietary' claims for environmental damage alleged to have been suffered by states or individual victims (estimated in up to eleven-digit dollar figures), the question of harm to 'unowned' natural resources is bound to surface here, too. If indeed common heritage is a form of international *trusteeship* (as Alan Boyle casually suggests on page 84 of this book), we now ought to search in earnest for institutions

entitled to claim compensation on behalf of all beneficiaries of that global trust. The Åbo Academy's project is a good start.

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Raisch, Marilyn J. and Roberta I. Shaffer (eds). *Introduction to Transnational Legal Transactions*. New York, London, Rome: Oceana Publications Inc., 1995. Pp. xxi, 363; Seer, Gitelle and Maria Smolka-Day. *Introduction to International Business Law: Legal Transactions in a Global Economy*. New York: Oceana Publications Inc., 1995. Pp. xix, 295.

These books are the result of institutes organized in 1994 and 1995 by the American Association of Law libraries for the purpose of training law librarians in international, comparative and foreign law. Their utility extends to others learning about and researching these areas.

*Transnational Legal Transactions* contains lectures by the presenters at the 1994 Institute. The presenters included a mixture of law practitioners, librarians and professors. The focus of these materials is principally on international civil and commercial litigation, international criminal litigation, international commercial arbitration and substantive law issues in private international law. There is also selected coverage of other areas, such as international intellectual property, waste disposal in Europe, and international trade and the environment. Some of the contents amount to introductory articles (with footnotes), while the majority are bibliographical listings and research and source guides.

*International Business Law* derives from the 1995 Institute. It contains roughly the same mixture of lecture materials found in the first book, although somewhat more practitioner-oriented. There is coverage of international joint ventures, undertaking business abroad, US regulation of international trade, extra-territorial antitrust, intellectual property law, international taxation, labour law, the World

Trade Organization, international business law and law firm global information needs.

One can easily imagine usage of these materials in librarian and student training, which is perhaps their principal utility in print. Since they age rapidly, it would be helpful if the bibliographic and source guides were posted on a web site and then regularly updated. Indeed, a well-maintained collection of useful web sites for international, comparative and foreign research would be a major asset. This would be an undertaking worthy of the American Association of Law Librarians. University of San Diego Ralph Folsom School of Law

Gourion, Pierre-Alain and Georges Peyrard. *Droit du commerce international*. Paris: Librairie Générale de Droit et de Jurisprudence, 2ème éd., 1997. Pp. 205. Index. Fr. 95.

Commercial lawyers and businessmen have every reason to feel pleased with the recent updating of the first edition of P.-A. Gourion and G. Peyrard's *Droit du commerce international*. Using simple, direct language and illustrating their remarks with numerous examples drawn from the most recent events, Gourion and Peyrard provide a study which facilitates understanding of the fundamental legal principles governing international trade. The authors have clearly favoured a practical approach to a technical, disparate and diverse body of law, happily managing to summarize their arguments in some 200 pages.

The work is divided into three parts. The first section describes the structure of the principal world and regional organizations which regulate international trade. In this first section, the authors also list the various state sources (international conventions) and non-state sources (*lex mercatoria*) relating to international commercial activity. The second section sets out the categories of legal structures enabling companies to extend their activities abroad by way of export strategies, establishing overseas branches or by partnership, based on preliminary market analysis. A