

Boyle, Alan and David Freestone (eds).  
*International Law and Sustainable  
 Development: Past Achievements and  
 Future Challenges*. Oxford: Oxford  
 University Press, 1999. Pp. xxx, 364.  
 Index. £60.

During the final drafting rounds for *Agenda 21* (the action plan of the 1992 UN Rio Conference on Environment and Development), the Brazilian delegate — who was not a lawyer — suggested changing the phrase ‘international environmental law’ to ‘international law of sustainable development’ throughout the text. After his proposal carried the floor (at one of those midnight sessions, when most delegates were already too tired to resist), he wound up the debate with a grin: ‘That should keep you lawyers busy in the next century.’

Well, it does. The present collection of essays — which curiously reverses the title of an earlier volume edited by Winfried Lang (*Sustainable Development and International Law*. London: Graham & Trotman, Nijhoff, 1995) — is part of a string of recent publications on the topic. It also comes as a somewhat belated birthday tribute to Patricia Birnie, which serves to explain its unmistakable emphasis on the law of marine resources, and on the interdependence of ocean regimes and global environmental policies. And, as far as I can tell, it is the best up-to-date primer on marine environment law today.

That being said, the title of the book seems a bit of a misnomer. Even though the two editors make a valiant effort in their introduction to focus on the Rio ‘principle’ of sustainable development (which Vaughan Lowe then argues is not really a legal principle at all), most of the other contributors blissfully disregard the pilots’ directions and steer their own course. Philippe Sands explores the prospects for Article 31(3)(c) of the 1969 Vienna Convention to resolve cross-sectoral conflicts between treaty and custom. Alan Boyle reviews the contribution of the ILC to the evolution of environmental law; and Rosalyn Higgins, that of the ICJ to natural resources law. Five of the contributions are by judges at the International Tribunal for the Law of the

Sea: David Anderson on port states and environmental protection; Thomas A. Mensah on land-based sources of marine pollution; Dolliver Nelson on the new regime of high sea fisheries; Tullio Treves on dispute settlement for straddling stocks; and Alexander Yankov on the interface of UNCLOS and UNCED. The remainder is exclusively marine-oriented, too: Robin Churchill on small-cetacean agreements under the Migratory Species Convention; Catherine Redgwell on ecosystem protection in the Antarctic; and Magnus Göransson on IMO practice regarding damage to the marine environment.

To be honest, none of these contributions — authoritative and readable as they all are — have much to say on the law of sustainable development. The closest any of the authors gets to it ostensibly is the chapter by William Edeson on long-term ‘sustainable use’ in the legal regime of fisheries, which, however, turns into a first-hand account of FAO experience with compliance instruments instead. The concluding chapter by David Freestone also addresses the general question of implementation and effectiveness of environmental regimes, but, with an elegant pirouette on the very last page, reverts to the challenge of sustainable development — and

lo and behold, even refers to non-marine issues such as deforestation.

It is true, of course, that the concept of sustainable development has much of its historical roots in forestry; more precisely in the famous treatise on *Sylvicultura Oeconomica* by Hans Carl von Carlowitz (Leipzig, 1713) who advocated reforestation and sustainable forest management to support the long-term economic viability of mining in Saxony, for the benefit of future generations (*denen Nachkommen zum Nutzen*). Not by sheer coincidence, though, Carlowitz had drawn his inspiration from Jean-Baptiste Colbert’s equally famous and innovative forest conservation laws in France (culminating in the enactment of the *grande ordonnance* by Louis XIV in 1669), which were designed to support French naval power — by ensuring the long-term supply of timber for ship-building. So it turns out that from its seventeenth-century beginnings, ‘sustainable development’ (a) was indeed a normative instrument of good governance and (b) originated from international saltwater politics after all — *quod erat demonstrandum*.

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