

## Book Reviews

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which include the continued application of the former law, the deliberate continued application of law that has been repealed, the application of new law, if any, the application of local rules and customs, and the application of regional substitute law.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 Kuypers.

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

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the EC in trade related issues in order to achieve overall consistency between the CCP and other EC policies, remain in current debate. They are elements of any thorough reflection on the future path of the CCP, especially after the Court of Justice's opinion 1/94 which added some disturbing elements to this discussion.

The book is to be recommended as a useful overview of basic concepts underlying the Community's external relations policy and its cross-relations with other policy areas. It also serves as a powerful reminder of the ever-expanding breadth of the Community's commercial policy.

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Berr, Claude J., et Henri Tremeau. *Le Droit douanier Communautaire et national*. 4ème édition. Paris: éditions Economica, 1997.

Claude J. Berr, Professeur agrégé des Facultés de Droit françaises et Henri Tremeau, ancien directeur régional des douanes, collaborent depuis une trentaine d'années à des ouvrages consacrés au droit douanier. La jonction des points de vue d'un praticien et d'un universitaire confère à leur travail une grande valeur scientifique et pratique et fait leur autorité dans ce domaine particulier et à première vue aride du droit douanier. Plus de vingt ans après la première édition de leur traité de Droit douanier, ces auteurs viennent d'en faire paraître une quatrième sous-titrée «Communautaire et national» (éditions Economica, Paris 1997).

Le contexte libéral du commerce mondial a fait évoluer de manière significative le droit douanier qui d'instrument du protectionnisme national qu'il était est devenu un véritable support juridique de la mondialisation des échanges. Dans cette perspective les auteurs ne se sont pas contentés d'exposer le droit national; ils ont procédé à une présentation d'ensemble des textes d'origine communautaire et des textes nationaux, compte tenu notamment de l'étroite harmonie d'inspiration existant entre eux. Le plan du traité a été inspiré par les divers objectifs du droit douanier, la distinction fondamentale ayant été faite entre l'objectif tradition-

nellement fiscal (IIème partie: le droit fiscal douanier) et l'objectif économique nouveau (IIIème partie: le droit économique douanier). Une partie est consacrée au contentieux douanier (IVème) qui garde son unité du fait que les règles relatives à la répression s'appliquent aussi bien dans le domaine économique que dans le domaine fiscal. Enfin, une partie liminaire (Ière) est consacrée à une étude d'ensemble des problèmes généraux du droit douanier.

Cet ouvrage, bien documenté, bien charpenté, retient l'attention du lecteur car il ne se contente pas d'exposer et analyser les réglementations communautaires et nationales mais il a soin de dégager constamment, afin de rendre les textes plus intelligibles, les tendances et les fondements économiques et juridiques de la matière.

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*Hague Yearbook of International Law* (Vol. 5). Dordrecht: Martinus Nijhoff Publishers, 1992. Pp. xix, 283. \$157.50; £107.50.

This yearbook comprises two parts, the first of which contains a number of articles, dealing mainly with different aspects of regional and global cooperation. The first of these articles is 'Delimitation of the Continental Shelf in an Enclosed Sea' (Stanimir A. Alexandrov). Despite the title which suggests a broader outlook on this subject, the article focuses on the more narrow issue of the continental shelf of part of the Black Sea. It analyses the conflicting arguments of Bulgaria and Turkey with respect to its delimitation, in light of the jurisprudence of the ICJ and of state practice. In contrast, the title of the second article, 'The Finnish-Swedish Frontier Rivers Commission' (Malgosia Fitzmaurice), conceals its wide significance. This article describes the mechanisms of a regional institution which manages shared water resources. The author delineates the extensive administrative and even judicial powers enjoyed by this very interesting and innovative Commission. As the author rightly states, this comprehensive arrangement is an example of fruitful cooperation that