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Book Reviews

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Book Reviews

Multinational Enterprises

Dr. Robert Emmett Tindall; Oceana Publications, Inc., Dobbs Ferry, N.Y.; A.W. Sijthoff, Leiden. 1975.

Reviewed by VICTOR C. FOLSOM

Here is a book that swims against the tide. At a time when it is very popular to condemn multinational enterprises and blame them for all of the world's international economic woes, the author has written a work based on *fact*. Some of the printed material on the subject of multinationals is so far-fetched as to be ridiculous to anyone who is familiar with the operations of companies which do business in more than one country. A good percentage of the writing produced in this country is based on false or theoretical assumptions; while some of it written in other countries forms the basis of excuses for gross mismanagement of the economies of many countries. There are many examples to prove the fact that the political management of a country's economy can destroy an economy that would otherwise prosper. What better whipping-boy than the "foreign devils"? Criticism based on fact is always welcome, but when it is used to cover up the critic's misdeeds, it is doubly objectionable.

Multinational Enterprises was originally presented as the author's thesis at the City University, London. While the study is primarily based on five of the world's largest multinationals, Ford, Unilever, Royal Dutch Shell, Dunlop Perelli, and the Mitsubishi Group, the organization and functioning of many others is discussed. That the author chose to acknowledge the fact that not all multinationals are "arms of the Imperialistic Yankees" is in itself a somewhat radical departure from current literature on the subject. The information in the book is founded on corporate data, publications and actual interviews with management.

If this reviewer has given the impression that the author finds everything in good order in the multinational world, such is most assuredly not the case. He finds many things that need correction, but he approaches them on an objective basis—one not too popular in many of our international organizations. Some of our United States politicians are not above using the misdeeds of multinationals (both real and alleged) as a part of their political fodder. The economic power which is sometimes used to the disadvantage of the host country is analyzed and

suggestions made with respect to the type of remedial regulation and enforcement necessary to correct abuses. The failure of many international organizations (such as labor unions) to meet changing global conditions is examined.

If a central theme is present in the book, it is simply that the laws of the nations where multinationals operate have lagged in their development to rationalize the workings of multinationals. The author is a lawyer, and his reasoning is lawyer-like. Most of the books on this subject seem to be written by economists who frequently presume that capital can be forced to go into hostile climates.

Readers will be interested in the diverse types of company organizations which the author treats as multinationals. For example, Ford has a parent company and all but ten of its subsidiaries are wholly-owned. Mitsubishi consists of about forty separate corporations but has no over-all parent company. The cohesion of the group is based on cross-holdings of the three principal entities, the Mitsubishi Bank, Mitsubishi Corporation, and Mitsubishi Heavy Industries. The Kinyo-kai or Friday Conference, consisting of twenty-six Presidents of the leading companies, makes policy decisions based on a long cultural tradition of cooperation. The Dunlop Pirelli Union, formed in 1971, presents a strong contrast with what we United States lawyers think of as a multinational corporation. While it is controlled by a joint Central Committee, former wholly-owned subsidiaries of the two companies are still owned 51 percent by the original parent. This combination might be compared with a joint venture or merger of Firestone and Goodyear in the United States. Apparently the antitrust implications of the combination did not shake the EEC, as it would have in the United States. The author points out that mergers to form strong international enterprises are frequently encouraged in the European Economic Community. Thus while we seem to enjoy the same kind of antitrust laws, the end results are quite different. Tindall doubts that the extension of antitrust laws on an international basis will be the answer to curbing undue economic power.

After perusing his description of the many multinationals discussed by the author, one wonders if he knows what a multinational really is. Some of them are held together simply by contract but operate on a unified management basis.

The author points out a brutal fact of life which is frequently overlooked by developing nations. If host countries overcontrol good foreign investment, much essential development will not occur. As nations are competing for international investment, the result might be disastrous to the economy of a country which discriminates against foreign investment. Those countries which are relying on massive government finance to replace private capital are likely to find that this well is drying up.

The word "balanced" keeps coming to mind as one reads this book. It certainly merits the honor of being placed on the recommended list for our Bicentennial reading. The book that did make that list for this subject is anything but balanced, being replete with distortions and false assumptions.

The Appendix to the book contains a short discussion of the United Nations Commission on Transnational Corporations. It points out the biased slant among the forty-eight members of the commission and predicts that the outcome is likely to represent nothing more than the viewpoint of the host countries. While the geographical distribution of the members of the commission is balanced, only five of its members are capital-exporting countries.

Taxation of Patents, Trademarks, Copyrights, and Know-How

John E. Bischel, published by Warren, Gorham, & Lamont, 89 Black Street, Boston, Mass. 02111. Price \$49.50

Reviewed by MITCHELL B. CARROLL

Lawyers seeking enlightenment in regard to the tax aspects of licensing patents, trademarks, copyrights and know-how can find it in this impressive volume. Its purpose, says the author, is to supply information not found in any other single authority.

This reference work in looseleaf form is to be modified periodically to reflect changes in applicable statutes, regulations, rulings, and commentaries as well as timely additions and supplements on new developments. Moreover, the reader who desires further information can have recourse to the bibliography of current writing.

The contents are divided into two parts: (1) The determination and characterization of income and expenses from licensing operations, and (2) the tax treatment of licensing income from foreign operations. The corporate tax manager or legal adviser will turn with interest to Chapter 8 on the tax effect of foreign licensing and technical assistance income on subsidiary and affiliated corporations.

A very detailed Index facilitates locating what the author has to say on any topic in this very readable book.

International lawyers might be especially interested in the chapter on tax treaties, which covers incidentally the interrelation between United States treaties with second countries and their treaties with third countries.

Defining International Aggression, the Search for World Peace— A Documentary History and Analysis

Benjamin B. Ferencz, Vols. I and II. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1975. Vol. I, pp. 558, Vol. II, pp. 626. \$75.

Reviewed by CARL Q. CHRISTOL

If the international violence of States is to be brought under some form of restraint, there is a need for the international legal system to have a valid working definition of aggression. Man's long time aspirations for a lawful and orderly world community began to focus on the need for an analysis and definition of aggression following World War I. Monumental efforts came to fruition with the adoption by the General Assembly of the United Nations on December 14, 1974 of an eight-article "Definition of Aggression."

Benjamin B. Ferencz of the New York Bar has written and edited a documentary history which identifies the efforts of men and nations to obtain such a definition. He has traced the work of the League of Nations, the activities outside the League during the pre-World War II period, the influence of the war crimes trials following World War II, and the culminating activity of the United Nations.

Through his efforts it is now possible for scholars and officials to consult in these two volumes some 52 critically important documents covering 1056 pages. Relying on his own research, experience, and background he has carefully analyzed in four chapters the forces, influences, and meaning of the definitional effort and also the legal-political significance of the definition.

In his view the product of this historic effort will facilitate the emergence of a more advanced international legal order. He does not regard the consensus definition as a panacea, but it is clear that this new legal force in world affairs must serve as a cautionary influence on the behavior of individuals who would embark on violent adventures on the world scene. These volumes, equipped with an excellent index, will serve as a standard reference for all who will be engaged in advancing the quality of the rule of law in world affairs.

International Protection of the Environment, Treaties and Related Documents

Vol. I. Compiled and Edited by Bernd Rüster & Bruno Simma. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1975 pp. 489. \$40.

Reviewed by CARL Q. CHRISTOL

Consistent with the enlarging interest in international environmental law there is a need for easy access to international legal materials on the subject. Rüster and Simma as members of the Munich Institute für Volkerrecht have undertaken to edit a ten-volume collection.

In embarking on their project the editors have acknowledged the wideranging subject matter included in international environmental law. Thus, their contribution will not constitute a total collection of all possibly relevant materials. While international agreements will comprise a substantial amount of published materials, the editors intend to include agreements which have not as yet entered into force. Further, they will give suitable attention to the programs and work product of international organizations.

Volume I is confined to two areas, namely "General Provisions, Guidelines and Programs" and with "Marine Pollution." In the first category there are 20 "Agreements and Related Documents" and 41 "Acts of International Organizations and Conferences." In the second category there are 25 "Agreements and Related Documents."

The editors have in each case provided the official source of the included documentation. They have promised a comprehensive register in the final volume. Until this appears the user will be obliged to refer to the respective tables of contents in each of the volumes.

