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Book Reviews

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EDITED BY A.U. de SAPERE

Common Market Law of Competition

By C. W. Bellamy and Graham D. Child. London: Sweet & Maxwell, 1978. Pp. xxvii, 492. $50.35.

Review of an encyclopedia is difficult. Suffice it to say that the authors have written a comprehensive review of European Community antitrust law which is copiously footnoted and cross-referenced.

The principal use of the book probably will not be as a text book, but as a reference work to which one turns for help when questions arise. Each topic is clearly captioned and the reader can quickly turn to the discussion of whatever subject he wishes to see described.

This is not the first edition and the authors have had the opportunity to review and polish their work. The results are especially commendable because clarity has not always been a hallmark of material on the European Community's law. Indeed, some of the decisions of the Court of Justice or the European Commission in English read painfully like the translations that they are.

Although the authors make occasional references to American antitrust law, and more frequent references to United Kingdom antitrust law, for the most part they have limited their scope to the European Communities; national antitrust laws are not the subject of the book.

Although primarily directed to the European Economic Community, considerable information on the European Coal and Steel Community is included. Perhaps because there is less to be said about the European Atomic Energy Community, the material on it is more limited.

An example of the thoroughness of the book's coverage is the subchapter that discusses the principle of "free circulation" once a product has been sold in the Common Market with the consent of the owner of the related intellectual property rights. The subchapter includes a perceptive, critical commentary on the possible extension of the principle of "common origin" under articles 30 to 36 of the Treaty Establishing the European Economic Community. This is the principle that if a trademark had an original common source, once a product bearing that mark is lawfully sold in one country of the Com-

mon Market it may be resold in another Common Market country even when no connection ever existed between separate holders of the trademark in the two countries.

The authors hope the concept of common origin will not be extended to patents. They point out that in the *Hag* case, the Court of Justice distinguished trademarks from other intellectual property rights. (The court referred particularly to the possible perpetual duration of a trademark.)

It is particularly important that rigidities not develop in the construction of articles 30 to 36 because the European Commission can only grant exemptions under article 85 (3) from violations of article 85 (1). However, even if the "common origin" concept does not apply to patents or knowhow, article 85 (1) may be used to defend against infringement actions for sales between Common Market countries made directly by parties to license agreements, that is, actions by licensors against licensees or by licensees against licensors or other licensees. Of course, in such actions the products would not have been sold in the Common Market prior to their infringing sales and, therefore, would not have been placed in "free circulation."

Of the 492 pages of text, fourteen pages are an index and eighty-nine pages are appendices containing original documents. These include relevant articles of the Treaty, regulations and notices. Some of these are not too widely available, such as the European Commission's October 21, 1972 Notice on Imports of Japanese Products which cautioned European industries about concerted measures with Japanese industries to restrict imports of Japanese products. The Notice recommended timely notification to the Commission, despite the fact that the head offices of all the participant undertakings were outside the Community, as long as the results spread to the Common Market.

RICHARD SCHWARTZ
New York

Antitrust Cases From Common Market Law Reports: Cartels

Edited by N. March Hunnings. London: European Law Centre Ltd., 1978. Pp. 635. $102.

What distinguishes this volume, according to its editor, from its predecessor, *Restrictive Agreements,* is that the latter was primarily concerned with bilateral agreements whereas the present book covers multilateral arrangements. As with the prior volume, this one consists solely of a facsimile reproduction of pages from *Common Market Law Reports* 1967-1976. The cases are arranged according to economic sector rather than legal description,

since, as the editor indicates, economic facts play an exceptionally important role in this area of antitrust law. The specific economic sectors covered by the cases are quinine, dyestuffs, sugar, cement, ceramic tiles, wallpaper and stoves and heaters.

There are no special annotations to the cases; consequently, the book's only value is that it may serve as a "facilitating device" for research. However, I am afraid this type of research tool will soon pass the way of the horse-drawn carriage with the increasing use of computerized legal research, since the same kind of juxtaposition of cases can be easily accomplished with the use of a computer. The book will probably be of some present, albeit limited, utility to the scholar and practitioner. Unless one is in need of a somnolent agent, this volume is not for bedtime reading.

MICHAEL ROBISON
Houston

The Quebec Civil Code (1977)

Edited by Editeur Officiel Québec. Quebec City: Queen's Printer, 1978. 2 vols. Vol. I: Pp. 781; Vol. II: Pp. 1095.

Quebec shares with Louisiana the distinction of being the only jurisdictions in North America whose legal systems are based not upon the common law but upon the French and Roman civil law tradition of law codification. The Quebec Civil Code, which excludes criminal law—a matter of federal jurisdiction in Canada—is in fact essentially a domestic adaptation of the Napoleonic or French Civil Code. (The distinction between common law and civil law systems relates to the role of precedent, or judge-made law, which has little significance to the latter. A civil law judge's universe is bound by the code provision that applies to the particular case before him; if the code is silent on the issue, he or she will seek to resolve the case by the application of general principles contained in the code. However, the resort to precedents as we know it is simply beyond the ken of his or her experience.)

The 1977 Draft Civil Code is the culmination of a 1955 decision of the Quebec legislature to revise its Civil Code. One of the objectives of the draftspersons was to bring the law into harmony with contemporary economic and social realities. Happily, the new Code is replete with such new provisions (to cite only two, the Code abolishes all legal discrimination between legitimate and illegitimate children, and considerably expands the concept of trusts).

The section on private international law may be of special interest to readers of this journal. It contains not only rules governing conflicts of laws but also rules covering conflicts of jurisdiction, which until now were contained in the Code of Civil Procedure. (This consolidation is a result of the

decision to gather together all the widely dispersed provisions dealing with private international law.) The main chapter headings are: Conflicts of Laws; Conflicts of Jurisdictions; Immunity From Civil Jurisdiction and Execution and Recognition and Enforcement of Foreign Decisions. In the last noted chapter, the Code follows the provision of the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters. Thus, the text mandates the obligation of Quebec courts to recognize and enforce judicial decisions rendered outside the province. In fact, the provision goes even further than the Convention by creating a rebuttable presumption of validity in favor of such foreign judgments.

One can certainly commend the vast scholarship reflected in the Draft Civil Code. It is accompanied by a thick volume of commentaries.

BARNETT SNEIDEMAN
Winnipeg

Multinational Corporation Regulatory Guidebook: A Review and Status Report on International Organization Activities Impacting MNCs

By International Organizations Monitoring Service. Washington, D.C.: 1979. Pp. 144. Appendices.

This is a looseleaf publication supplemented by periodic bulletins. The objective of the material is to link descriptions of major international organizations and updated discussions of the international legal and political issues which those organizations affect. The *Guidebook* also contains a structural diagram describing certain organizations, a glossary of terms, a discussion of the "New International Economic Order," and a calendar of meetings of international bodies.

The *Guidebook* concept is unique and on balance helpful to executives of transnational corporations and their counsel.

. The material, however, is rough and difficult to use. It suffers from significant editing problems which detract from its effectiveness. The *Guidebook* deals with fifteen issues and thirteen international bodies. Those issues are listed alphabetically, but inaccurately, in the table of contents. One issue is listed twice; another is omitted altogether. The organizations which are covered are dealt with in no apparent order. To have arranged them into groups

in terms of their worldwide, regional, or bilateral activities would have been far more helpful.

The *Guidebook* cannot be read quickly or in summary fashion. One must go through all of the material that comprises a section, or through the entire updating "Bulletin." For example, the section dealing with the Organizations for Economic Cooperation and Development begins by listing eight specific issues which it says are influenced by that organization. But the text then specifically treats only some of those issues (although not in the order in which they are first listed) and the reader must search the text closely for the remaining issues. Furthermore, the writing styles are not consistent and are occasionally stilted.

Substantively, the *Guidebook* seems to cite the seriousness of the "New International Economic Order" as a rationale for its existence and use. It also elevates some international groups to the status of "organizations" and adds unnecessary weight to their respective programs by classifying those programs as "regulations." One wonders whether the publisher assumes a problem of maximum scope in order to push the need for the *Guidebook*. In the process some significant issues have been omitted: the General Agreement on Tariffs and Trade Tokyo Round of Multilateral Trade Negotiations; coverage of Arab and other boycotts; UNCTAD approaches toward international shipping conferences; developments with regard to the Law of the Sea.

The *Guidebook* and its supplements are an excellent concept, and they can be helpful. They could be immeasurably more helpful, however, with better editing.

ROBERT R. NIELSEN
San Francisco

Digest of United States Practice in International Law 1977

Edited by John A. Boyd. Washington: Department of State, 1979. Pp. 1081. $12.75.

The publication of compendia of state practice in international law is now widespread, owing in no small measure to the success of the several digests of United States practice. Following the completion of the most recent of these digests, the Whiteman *Digest of International Law,* the Department of State decided to publish an annual volume of United States practice. The 1977 edition is the fifth in this series.

Arthur W. Rovine, the editor of the 1973 and 1974 digests who is now the Department's Assistant Legal Adviser for Treaty Affairs, noted at the time

the new series was introduced that the Whiteman and earlier digests served important functions. "Perhaps most obviously," he wrote, "they have described the American outlook on international law, and by reason of their comprehensiveness and encyclopedic character, have been influential in shaping the structure of international law." The annual digests, by their nature, are not as comprehensive or encyclopedic as the earlier sets, but they continue to exert an influence on the shaping of international law. In fact, they are meant to do just that, which means that to an unknown extent they represent, however subtly, as by omission rather than commission, an effort to persuade. To that extent the objectivity of their reporting may be compromised.

Provided this one caveat is borne in mind, the annual digests are invaluable reference works. What Rovine said of the earlier sets could be said as well for the annual digests: They serve as a convenient repository of international law precedents for the government, permitting policy on similar questions to be decided in light of precedent, with benefits both to legal policymaking and administrative convenience. Used together and with the earlier sets, they permit an understanding of the development, growth and changing patterns of international law over the decades, thus furnishing a long-range perspective not easily acquired in their absence. Finally, like the earlier sets, they reflect the nation's commitment to a law-oriented international society and to the ideal of national decision making in accordance with international legal norms.

The 1977 edition, edited by John A. Boyd, follows essentially the same format as its predecessor. Its text includes significant materials relating to international legal practice from federal legislation and regulations, treaties and executive agreements, federal court decisions, testimony and statements before congressional and international bodies, speeches, diplomatic notes, correspondence, and internal memoranda.

As the annual digests each cover only a year of national practice, they tend to capture in more stark tones than the multiyear sets do the shifts in emphasis which distinguish presidential administrations. The 1977 edition, for example, is more rich in materials bearing upon human rights, arms control and international economic law than some of its predecessors. At the same time, its coverage of the constitutionality of the transfer of United States property to Panama in the 1977 Canal Treaties, the litigation concerning the return of the Crown of St. Stephen to Hungary, and conservation efforts in behalf of bowhead whales, records for history the incredible diversity of subjects upon which United States practice in international law had a bearing in 1977.

The 1977 *Digest* is of special interest to practitioners for its inclusion of the text of the *Special Consular Services Handbook on Protection of American Nationals Arrested, on Trial, or Imprisoned,* published by the State Department in July, 1976, which deals with the responsibility of a United States consular officer with regard to arrests, pretrial confinement, trial, prolonged imprisonment, death of a prisoner, and release. An appendix on sovereign

immunity decisions of the Department of State from 1952 to 1977, which quotes extensively from previously unpublished diplomatic notes, affords some insight into the policies of the State Department on sovereign immunity questions during the quarter century prior to the effective date of the Foreign Sovereign Immunities Act, which transferred a substantial portion of the Department's responsibility in this area to the courts.

Because one does not know which indicia of United States practice have been omitted, one is not in a position to say that these annual digests give a complete or completely accurate picture of United States practice, as opposed to that practice which, with hindsight, seems most suitable to record publicly. Some practice remains classified. Other practice concerns matters too politically sensitive to risk its publication for the time being. Just possibly, some material may be omitted because it could be used against the government in pending or anticipated litigation or could prove embarrassing for the State Department in its relations with Congress or other departments and agencies.

Accordingly, it might be appropriate to consider removing the project from the State Department, perhaps to an independent commission established under the combined aegis of Congress and the executive, capable of maintaining the high standards which the State Department has set in preparing the digests but sufficiently removed from responsibility for the conduct of foreign relations to provide a check on the government's zeal for attaching labels of secrecy and sensitivity to evidence of contemporary practice. But so suggesting is not to gainsay the fact that the 1977 *Digest,* like its predecessors, is a unique reference work for international lawyers and that it remains, like its predecessors, a standard against which similar digests are judged throughout the world.

EDWARD GORDON
Albany, New York

The Law of Privacy in South Africa

By David J. McQuoid-Mason. Capetown: Juta & Company Ltd., 1978. Pp. 272.

Professor McQuoid-Mason has carefully outlined this book in a detailed series of chapters and subheadings which follow the American legal model, and most particularly Professor Prosser's *Law of Torts* categorization of invasion of privacy law into the following four distinct acts: (1) intrusions, (2) public disclosures of private facts, (3) placing a person in a false light, and (4) appropriation of another's name or likeness.

The author applies Prosser's characterization of American invasion of privacy law to the United States, England, Germany, France, Austria, Belgium, Cyprus, Denmark, Iceland, Ireland, Italy, Luxembourg, Malta, Norway, Sweden, and Turkey (the last twelve are reported as signatories to the European Convention on Human Rights, and are treated in less than one page), Canada, Scotland, and Ceylon (the latter two being treated in one paragraph), and South Africa. The comparative summary of each of the countries' privacy law is contained in one chapter—the third—encompassing some sixty-six pages of the book.

The author then offers some comparative commentary, with emphasis on American invasion of privacy legal principles, in the remaining parts of the book. Four separate chapters are devoted to each of the four Prosser privacy categories.

Beginning the book with a comment on the historical development of Roman and Roman-Dutch legal principles, Professor McQuoid-Mason ends his book with over a dozen enumerated conclusions, among the more prominent of which are the following:

(1) The common law development of the right to privacy in South Africa has been inhibited by statutory provisions which give the State wide powers to interfere with the liberty of the individual for ideological reasons;
(2) . . . South Africa cannot be regarded as a "democratic society" and much of its racial and security legislation goes beyond what is acceptable in the Western democracies;
(3) The racial and security laws in South Africa conflict with almost every article of the Universal Declaration of Human Rights to which the country is not a signatory; and
(4) . . . as in the United States and other countries where the right to privacy has evolved in the common law, South African law has been unable to safeguard the individual adequately against the collection of information in data banks by the public and private sectors.

As Professor McQuoid-Mason puts it, "[P]rivacy in South Africa has been further eroded by the mass of racial and security legislation which has been introduced to enforce the government's policy of separate development." Thus, *apartheid* policy is inconsistent with the precepts of personal privacy legal protection.

JAMES C. TUTTLE
Troy, Michigan

Documents on the Arab-Israeli Conflict: Resolutions of the United Nations Organization (Vol. II) (1971-76)

Edited by Wilhelm Wengler and Josef Tittel. Berlin: Berlin Verlag, 1978. Pp. 209-320 (Vol. II). $10.

One of the difficulties in studying the volatile Middle East situation is understanding its international legal aspects. Newspaper accounts of events in that troubled part of the world provide only pieces of the legal panorama. In order to promote a fuller understanding, Drs. Wengler and Tittel have compiled this volume containing the United Nations resolutions relating to the Arab-Israeli conflict from November 30, 1970 to May 31, 1978.

The resolutions involve demands for cease-fires, the sending of United Nations forces to supervise these cease-fires, invitations to the Palestine Liberation Organization to participate in peace negotiations, and statements of concern regarding Israeli involvement in Lebanon. In addition, there are several documents concerning the United Nations efforts to assist Palestinian refugees.

Of particular interest are resolutions relating to permanent sovereignty in the Israeli occupied Arab territories. Resolution 189 of October 28, 1977, for instance, classifies certain Israeli actions, particularly the establishment of settlements in the occupied Arab territories, as obstructions to peace in the Middle East. The settlements founded on the Sinai Peninsula since the 1967 war are still a delicate and crucial issue in negotiations between Egypt and Israel.

In addition to the numerous resolutions, the editors have included selected decisions of the Security Council along with the text and maps of the agreements for disengagement of Israeli, Egyptian and Syrian forces in 1974.

BERTA M. LEÓN
Los Angeles

The German Commercial Code (as amended to January 1, 1978)

Translated with an introduction by Simon L. Goren and Ian S. Forrester. Littleton, Colorado: Fred B. Rothman & Co., 1979. Pp. 174. $37.50.

This book is not the only English translation of the German Commercial Code (*Handelsgesetzbuch,* or HGB), but it is the most current. The other version by Bernard A. Platt was published in 1900, the year in which both the HGB and the German Civil Code (*Bürgerliches Gesetzbuch,* or BGB) entered into force in the German Empire. The current volume is more than a bare translation, containing an illuminating introduction, a glossary and an index.

Commercial law is one of the principal historical antecedents of today's civil law system, and in recognition of its existence as a separate body of substantive law, European codifications of the eighteenth and nineteenth centuries devoted a separate code to commercial law and generally provided for the continued use of separate commercial courts.

The German Commercial Code, however, hardly covers all aspects of commerce, nor does it comprehensively regulate the dealings of every kind of merchant. Largely for historical reasons, a number of business-related areas are dealt with in other statutes, including:

1. various forms of business organization;
2. the law of negotiable instruments;
3. the law against restrictions on competition; and
4. various other areas such as warehouse receipts, railway transportation, insurance, unfair competition, and advertising.

While less than comprehensive, the HGB remains the principal source of legal rules governing day-to-day commerce for a variety of businesses and transactions, small trading businesses, and a number of specific types of commercial undertaking.

The HGB consists of four books. Book One, "The Merchant," regulates both the manner in which merchants do business, and their relationships with people acting in other capacities, such as employees, agents and brokers. Book Two, "Trading Associations and Dormant Partnerships," governs some five forms of partnership which are not covered elsewhere. Book Three, "Commercial Transactions," contains provisions on such matters as commercial sales, forwarding agents, warehousing, carriers, and transport of goods, which were more important to late nineteenth century commerce than they are today. Book Four, "Maritime Commerce," deals with such matters as the rights and duties of the parties involved in shipping and carriage of passengers, salvage, maritime lienholders, and insurance. Like some other parts of the Code, the provisions of this Book on carriage of goods by sea appear somewhat anachronistic.

This book is the third translation of a German code in which Messrs. Goren and Forrester have taken part. Their experience is apparent and should be of some comfort to the non-German-speaking reader. American lawyers will notice, however, that English, rather than American, terminology is often used. One using the book will undoubtedly be assisted greatly by the index and glossary which the translators have provided. A final feature worthy of note is the table of changes in the HGB, covering the period 1900–1977, which precedes the text of the Code.

In sum, Goren and Forrester's translation of the German Commercial Code is a well-done work which should be a valuable addition to the library of the international practitioner or scholar.

STEPHEN C. MCCAFFREY
Sacramento

American International Law Cases, Vol. 20

Edited by Francis Deak, R.R. Baxter and F.S. Ruddy. Dobbs Ferry: New York: Oceana, 1978. Pp. 491. $40.

It may please us to view the United Nations Charter and article 4 of the 1949 Geneva Conventions as enlightened and in tune with modern political developments. Yet in 1819 the New York Court of Errors observed, "since the peace of Versailles, in 1763, formal declarations of war seem to have been disused in Europe, and all the necessary and legitimate consequences of war, flow at once from a state of public hostility. . . ." In the quoted case, *Griswold v. Waddington,* the court proceeds through an awesome review of the classic writers and the actions of governments and decisions of courts to resolve a question of the enforceability of a commercial contract between enemy citizens in time of war. The case is as timely and persuasive today as the day it was written. But it is not easily found without the help of the late *Professor Deak and those who took over after his death, and, in Volume 20 of American International Law Cases,* bring us an absorbingly interesting and useful addition to the series. Volume 20 continues the series with Section VIII: War, Belligerency and Neutrality. It includes cases on economic warfare, termination of hostilities and neutral rights and duties.

Another case reported is *United States v. Shell,* in which the Court of Military Appeals grappled with the application of the "time of war" provisions of the Uniform Code of Military Justice to the events of the Korean conflict. It is a pity the cutoff date of 1968 denies the inclusion of Vietnam War cases. Several courts held that the Vietnam conflict was not a war either,

and then grappled with the termination questions, made more difficult for the lack of a beginning. The important litigation arising from the destruction of civil aircraft by terrorists in Jordan is also excluded by the 1968 cutoff. We cannot fault the editors of the series for having a cutoff, but the ten year lag between the date and the publication of Volume 20, while regrettable, is understandable due to the scope of the project. We also grow weary awaiting the long promised table of contents. But these complaints disclose an underlying respect—even affection—for the series.

However startling and unpleasant the experience may be, international lawyers need to read national court decisions because they are authoritative. Dean Acheson, in this journal in 1968, remarked on the tendency of international lawyers to construct edifices of concept and to rely upon them to an unwarranted degree. Some of this proceeds from wishful thinking, some from political activism. Some is the product of a claim of necessity, for lack of ruling cases. A closer observation suggests there is not a lack of litigation or published decisions, but rather a shortage of national court decisions which suit the current preconceptions of international relations buffs.

There are many intractable problems in international relations, so one can forgive those who seek to press the courts into service in the endeavor to solve them. To many of us it is self-evident that courts have this responsibility. Most of us find it regrettable when courts cause more problems than they solve. Yet our legal system stops short of laying the whole task on the courts: They need not tell us the answer; their only duty is to tell us the law. At a time when "armed conflict" and "aggression" are advancing menacingly on "war and neutrality," when charter interpretation and analysis of power politics are in vogue, we still see lawyers turning to the cases to formulate sound advice to clients, and to salvage something when expectations have failed due to catastrophic institutional failure, as in armed conflict.

Volume 20 of the Deak Series provides another useful volume in a reference series important to the international bar. To be sure, all of the cases are published elsewhere, but it would require extraordinary library facilities and research efforts to bring to hand these cases, ranging from the archaic to the arcane. Although we international lawyers take pride in our unique approach to legal issues, we find, as elsewhere in the law, that most issues have been seen in some form before. The talented and innovative international lawyer, with a case worthy of the effort, will find his muse in these classic decisions.

COL. NORMAN R. THORPE
McGuire AFB

Arms Control: A Survey and Appraisal of Multilateral Agreements

By the Stockholm International Peace Research Institute (SIPRI). Taylor & Francis, Ltd., 1978. Pp. 238. $27.50.

This volume is a useful outline and collection of multilateral arms control agreements. Prepared on the eve of the 1978 United Nations Special Session on Disarmament, it compares the scope of each treaty's obligations, its provisions for verification and enforcement, and its procedures for amendment and reservation. A chapter also deals with United Nations negotiating machinery.

As a collection, the book is useful; as a survey, it is adequate. As an appraisal, however, it is too sketchy, and its conclusions are disappointingly timid.

The section on verification and enforcement takes on added interest in the light of the current debate over the verifiability of SALT II. On the plus side, the authors correctly state that the right of small nations to verify arms control agreements is meaningless since they themselves do not possess sophisticated verification equipment. Recourse to the United Nations Security Council is also fruitless if nations do not possess evidence confirming the validity of their charges. Moreover, as the authors note, the great power veto has frequently been used to block not only substantive decisions but even proposals for investigation and observation.

The authors acknowledge that "comprehensive and general disarmament may require a comprehensive treatment of verification, on a global scale, to guard against risks to the vital security of states," but they timidly and erroneously conclude that "as long as arms control agreements deal with partial measures, the establishment of an overall, worldwide verification organization seems premature."

The national technical means of the United States, including reconnaissance satellites and electronic listening devices, are probably adequate to verify Soviet compliance with limitations on fixed base ICBM launchers and the construction of new submarines. However, if this nation ratifies SALT II and proceeds to negotiate SALT III, which may well involve longer term restrictions on cruise missiles, limitations on laser beams, and perhaps the reduction of nuclear bombs themselves, the necessity for some kind of "on-site" verification to supplement (not replace) national technical means will become paramount. No mention of this is made by the authors.

This reviewer believes that the most feasible way to obtain on-site inspection authority is through the establishment of some kind of International Verification Agency, similar to, but better than, the International Atomic Energy Agency (IAEA), and to give such an agency some arms control verifi-

cation functions. If that agency is effective in verifying one or more partial arms control measures, nations might then be willing to give it additional tasks leading toward comprehensive disarmament.

Verification is the key to genuine disarmament. What is desperately needed is a bold new international approach to the issue of verification. The authors have not presented such an approach in this book. Perhaps they will later.

WALTER HOFFMANN
Wayne, New Jersey

Direct Investment and Development in the United States: A Guide to Incentive Programs, Laws and Restrictions

By Raymond J. Waldmann. Washington, D.C.: Transnational Investments, Ltd., 1979. Pp. 413. $75.

This guide is essentially a reference source book. The compilation of information, neatly outlined in the table of contents and followed by a brief glossary of terms, is useful to the professional and business executive seeking incentive programs, laws and restrictions of the federal and various state governments (and Puerto Rico and the District of Columbia) concerning direct investment and development in the United States.

The book was first published in 1978, and the 1979 version has been described as containing revisions and new material. The author has indicated his intention to update the book annually. Unfortunately, some of the statistics cited in this edition date back a number of years (as far back as 1975 in some cases). It is hoped that any update will reduce the time span between the date of the information and its publication. Much of the information in the book applies to investment and development in the United States generally, and not merely to foreign investment and development. The author has done a good job of indicating provisions specifically applicable to foreign investment in each type of federal programs, laws and restrictions covered, as well as in each category within the various states (and Puerto Rico and the District of Columbia).

Another useful feature of the book is a three-page enumeration of "Sources" for each part and chapter, which lead the reader to background information and more detailed treatment of the covered subjects.

The organization of the book is in three parts: United States Development Programs, Regulation of Foreign Investment, and Profiles of State Pro-

grams. United States Development Programs are divided into federal programs and industrial bond financing. Regulation of Foreign Investment is divided into general federal regulations, such as securities, antitrust and tax, and federal regulation of specific sectors, from aviation to defense contracts and government procurement. For each of the fifty states, the District of Columbia and Puerto Rico, nine categories of information are presented including some basic statistics, federal spending, industrial bonds, limitations on foreign investment, development agencies, financing programs, tax incentives and other incentives.

For the person who has a specific problem in the area of direct investment and development in the United States, as well as the person who wants to obtain a more general familiarity with incentive programs, laws and restrictions concerning the subject, this Guide should provide a valuable reference source, notwithstanding the fact that some of the information is perhaps more out-of-date than might be expected.

MARTIN PERLBERGER
Los Angeles

Doing Business in the United States

Edited by J. Spires. New York: Mathew Bender, 1978. 6 vols. Loose Leaf Service. $360.

Doing Business in the United States is a six volume looseleaf service, which is intended as "a comprehensive statement of the business law of the United States . . . in order to provide the materials necessary to meet the requirements of the great majority of foreign participants in the American economy. . . ." The project is aimed at foreign firms doing business in the United States or contemplating doing such business. A broad range of topics is covered, from administrative law, contracts, and taxation, to antitrust, securities, banking and insurance. In short, this project presents a treatise on American law bearing on the multivarious aspects of doing business in the United States—law governing both American and foreign firms.

To only a minimal extent are the chapters in this project written with the particular interest of foreign firms in mind. A few sections treat problems peculiar to such firms and include: entry of foreign business personnel into the United States (Chapter 6); United States taxation of foreign aliens and entities (Chapter 12); imports and exports (Chapters 33–34); and extraterritorial antitrust (Chapter 35). Within more general chapters topics of special interest to foreign firms are: foreign judgments and arbitration (within Chapter 3); restrictions on alien ownership of property (within Chapter 9); restric-

tions on foreign direct investment in the United States (within Chapter 92); and regulating foreign insurers (within Chapter 100).

Discussions of statutes and regulations enacted essentially to regulate and govern United States business abroad, but applicable also to foreign business in the United States, are omitted or inadequately treated. Such is the case with the Foreign Corrupt Practices Act of 1977 (amending federal securities legislation); the Foreign Sovereign Immunities Act of 1976 (most recently gaining increased prominence in the OPEC antitrust litigation), and the Foreign Antiboycott Act of 1977 (and its potential application to foreign subsidiaries in the United States). Other topics not included or inadequately treated are those concerning international contracts, litigating international business or trade disputes in the United States, matters involving agricultural or energy exports, specific aspects of treaties relating to international patents, copyrights and trademark matters, and related admiralty, maritime and shipping topics, among others.

The editor's emphasis is on presenting a survey of American law rather than tailoring that survey to the particular needs of the foreign business. While some sections conform to that latter approach, most do not. There was no attempt, whatsoever, to explain the American rules in the perspective of foreign law (for example, civil law notions of jurisdiction, obligations or company law). Since the project was intended for use primarily by foreign concerns, this failure is most unfortunate.

Doing Business in the United States, therefore, is recommended to all those American and foreign practitioners of international business transactions desiring a somewhat comprehensive treatise of the legal aspects of doing business in the United States. As a survey of American law with its emphasis on the commercial, corporate and tax aspects, it is first-rate. As a work aimed at foreign business, it is a major beginning, which ought to be acclaimed. Yet it evidences the problems and promises of any pioneering project.

STUART S. MALAWER
McLean, Virginia

The United Nations Operation in the Congo, 1960-1964

By Georges Abi-Saab. Oxford: Oxford University Press, 1978. Pp. 206. $2.75.

Professor Abi-Saab joins the distinguished company of Professors Ehrlich, Chayes, Bowie and Fisher in completing the International Crises and the Role of Law series of the American Society of International Law. His book attempts to discern the role that law played in influencing the actions of

the players in the Congo crisis, or the extent to which law was important as a justification for such actions after they occurred. It is a fascinating chronicle of the "Mission Impossible" scenario of events which occurred at breakneck speed during the crisis, and it contains important insights into the workings of the Secretariat of the United Nations and the approach of Dag Hammarskjold to problems. The attempt to tie the role of law into each of those examinations as they occur is not always successful, but there is probably no way in which it could have been done given the subject matter and the dominant political considerations which characterized it. Undoubtedly recognizing that difficulty, Professor Abi-Saab concludes his book with a masterful "Conclusions" section which contains an examination of the nature of law of which even Professor Henry Hart would have been proud. That section alone makes the book worthwhile to legal scholars.

The work, taken as a whole, is excellent and thoughtfully written, and it should be on the reading list of anyone interested in the United Nations, Mr. Hammarskjold, politics and government or recent African history, in addition to the role of law in international crises.

LAISHLEY P. WRAGG, JR.
New York

Tax Incentives for Private Investment in Developing Countries

Edited by Robert Anthoine. Deventer: Kluwer, 1979. Pp. 272.

Robert Anthoine has undertaken, within a single volume, a comparative analysis of the tax laws of various developed countries which bear upon direct private investment in developing countries. A representative sampling of various developing country laws and their respective treatment of direct private investment is also provided.

This study was initiated by the tax committee of the business section of the International Bar Association and the editor was asked to be the reporter. The book consists of an introduction and two parts. The first part includes studies of fourteen developed countries. Each study provides an overview of the tax structures, exchange controls, if any, and the various incentives which are provided in order to encourage foreign investment. The material for each chapter has been provided by the following authors: "Australia" by Kevin J. Edwards; "Austria" by Dr. Heinz H. Lober; "Belgium" by Dr. R.D. Broglio; "Canada" by James Scott Peterson and Robert Anthoine; "Denmark" by Sevend Oppenhejm; "France" by Jean-Claude Goldsmith; "Federal Republic of Germany" by Reinhard Poellath; "Italy" by Giuseppe Bis-

conti and Bruno Gangemi; "Japan" by Gary M. Thomas; "Netherlands" by A. Hartman; "Sweden" by Sten Sandell and Torbjorn Skold; "Switzerland" by Dr. Robert Briner; "United Kingdom" by Peter Rowland; and "The United States of America" by Robert Anthoine.

Part two contains the background material for the developing countries and has been provided by the following authors: "Argentina" by Pedro de Elizalde; "Brazil" by J. F. Gouvea Vieira; "Greece" by George Stathopoulos; "Guatemala" by Sergio Garcia Granados; "India" by Vasant P. Mehta; "Morocco" by Seddik Zaari; "Spain" by Dr. Bernardo Ma Cremades and "Yugoslavia" by Miodrag P. Popvic.

The background of the different jurisdictions provides the reader with an excellent way to become acquainted with tax structure and the investment laws. Especially interesting are the examinations of West Germany and Japan, both of which provide the most comprehensive system of incentives for private investment in developing countries.

The book provides an invaluable reference for the bookshelves of lawyers, accountants, bankers, and advisors working in the field of international taxation.

LAWRENCE A. FREEMAN
Miami

Terrorism: Documents of International and Local Control

By Robert A. Friedlander. Dobbs Ferry, New York: Oceana Publications, Inc., 1979. 2 vols. $75.

This recently published two-volume collection contains nearly a hundred documents bearing upon the international community's response to the problems and legal issues that terrorism raises. The documents in Volume I consist largely of reports by national and international organizations on some aspect of terrorism, and of United Nations resolutions, declarations and conventions pertaining to the same subject. These, together with an introductory essay, afford an unusual and altogether helpful historical overview.

The second volume (which was not available for review) contains additional examples of international organizational response to terrorism, specifically, in this case, aerial hijacking; American and British cases on piracy, interference with air transport, and terror-violence; and United States, European and Inter-American initiatives aimed at controlling or at least counteracting terrorism.

The author of the essay and collector of the documents is a political scientist who is also a professor of law at Ohio Northern University's Pettit College of Law. Both these disciplines are apparent in Dr. Friedlander's essay, which briefly analyzes the documents, describes some of the political, ideological and psychological aspects of terrorism, and presents a legal analysis of transnational terrorism. Since he has written and spoken frequently on this subject, some of the views the author-collector expresses are already part of the vast scholarly literature terrorism has evoked. The documentation, however, does not appear to be readily available elsewhere and should prove especially useful to those with a need to have it on hand for reference or citation.

EDWARD GORDON
Albany, New York

Modern German Corporation Law

By Enno W. Ercklentz, Jr. New York: Oceana Publications, 1979. 2 vols., Pp. xvii, 714. $75.

German corporation law has received extensive attention in American law journals. Much of this literature consists of theoretical, analytical and comparative treatment reflecting the reform movement which led to the enactment of the Stock Corporation Law *(Aktiengesetz)* of 1965. Valuable and interesting as this eclectic body of literature is, it has not filled the need of the practicing lawyer who needs efficient access to the substantive law to solve problems or to work intelligently with German counsel.

This two-volume work, written by a practicing New York attorney, attempts to fill that gap. The author's expressed purpose is "to provide the reader with a reasonably comprehensive guide to the principles and requirements of the German corporate law and to thereby furnish the English-speaking practitioner with the requisite framework for his dealings with German counsel." As to that limited goal, the author succeeds admirably. The book presents in a straightforward manner the substantive law applying to German corporations. After a short chapter dealing with the nature and history of the corporate entity in the German legal system (chapter I), successive chapters cover the process of forming a corporate enterprise (chapter II), the obligations and potential liabilities surrounding the formation process (chapter III), the structure of the corporate enterprise and the functioning and compensation of corporate management (chapters IV–VII), the rights and obligations of stockholders (chapter VIII), the capitalization of the corporate enterprise (chapter IX), dividends and distributions (chapter X),

financial statements and reports (chapter XI), amendment of constituent instruments (chapter XII), mergers, consolidations and sale of assets (chapter XIII), corporate transformations (chapter XIV), dissolution and liquidation (chapter XV), and affiliated enterprises (chapter XVI).

Reflecting the statutory bifurcation of German corporation law, each chapter is subdivided into two parts, one covering the particular topic with respect to the stock corporation *(Aktiengesellschaft),* the other dealing with the same topic with respect to the GmbH *(Gesellschaft mit beschrankter Haftung).* The corporate form is often called the limited liability company in English and is largely equivalent to our closely held corporation. Other forms of business association possible under German law, which have some corporate attributes, are not covered in this work.

The text is followed by three appendices containing, respectively, translations of a Form of Articles of a stock corporation, of a Form of Association Agreement of a GmbH, and a stock corporation financial statement.

Though the author has successfully achieved his stated goal, the reader can nonetheless ask whether the author set himself too limited a task. Writing in virgin territory, the author presents a black-letter law oriented work that has neither the scope, intellectual appeal, nor stylistic elegance of such old classics as Church's now outdated work, *French Business Associations,* a work also intended for practitioners rather than academics.

This work is an off-set printing of a typewritten manuscript. Had this manuscript been type-set and printed, the author could without doubt have had an additional 200 pages of coverage, thus allowing substantive coverage beyond the "reasonably comprehensive" level.

The book also would have made a more valuable contribution had it contained references to more source materials. With rare exceptions, the book is limited in its citations to the pertinent statutory sections and to the one leading annotated statutory commentary dealing with the stock corporation law or the GmbH.

The physical format, unnecessarily divided into two separate volumes, yields an impression of pretentiousness and financial opportunism that detracts from the substantive merit of the work.

DON BERGER
Sacramento

Exportations Nucléaires et Non-Proliférátion

By Simone Courteix. Paris: Economica, 1978. Pp. 263.

The problem of guaranteeing peaceful uses of atomic energy resources, and assuring, in view of differing norms of various countries, that nuclear energy will be restricted to peaceful uses has been reviewed and updated by

the author, in cooperation with the Centre National de la Recherche Scientifique.

The study is an analysis, in French, of the present system, and of the strategies and insufficiencies of control mechanisms for preventing use of nuclear resources for manufacturing armaments. The appendices contain extracts of the Statute of the International Atomic Energy Agency, the System of Guarantees of the Agency, a document of the structure and contents of agreements which may be concluded between the Agency and States, the London Agreements, the Agreement between the Federal Republic of Germany and Brazil for Peaceful Uses of Atomic Energy, and between the Agency and these countries, the Agreement between the Agency, the Government of the Republic of France and the Republic of Pakistan, that between France and the Republic of South Africa, and Nuclear Policy Declarations of President Ford, President Carter, France, and the Franco-Soviet Agreement on Nuclear Non-Proliferation. There is also a selective bibliography on the present and future development of nuclear energy.

In examining the present state of the matter, one notes that the treaties necessitated by the changes and advances in technology remain in the traditional domain of international law. States retain their sovereignty, in contrast to the regional solution of the European Economic Community (EEC) which controls Euratom, and according to which the Council of Europe and the Parliament of Europe may create legislation directly enforceable by the High Court of the EEC, though Euratom has not always run smoothly.

In view of the present deficiencies of effective control measures and sanctions, and the as yet unratified conventions for compensation of possible nuclear damage, a study of the production figures, as well as a study of economic planning, would reveal diversions of nuclear energy to nonpeaceful uses. The figures could be interpreted in light of the capital investment required for manufacture of nuclear arms in sufficient quantity for utilization, for building and maintaining delivery mechanisms, and for sustaining retaliatory measures for the use of such arms, as well as the time element required for such a development.

In conjunction with the studies, and especially in view of the recent breakthrough in cost reduction for the manufacture of the silicon component of solar cells for photovoltaics, an estimate could be made of the capital expenditure required to manufacture and install solar centers for generating power. The possible necessity of an international agency, and regional associations for establishment and control of such facilities should undoubtedly be examined. Hydroelectric potential and coal resources should be included in the estimate, since the anxiety of all countries is related to the need for energy and economic growth.

SHEILA M. GREENE
Phoenix