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## THEORY AND PRACTICE OF INTERNATIONAL LAW:

### BOOKS RECEIVED

**BREACH OF TREATY.** By Shabtai Rosenne. Cambridge, England: Grotius Publications Ltd., 1984, 142 pp., \$23.00.

Rules are meant to be broken. Nowhere is this more true than in relation to the United Nations' attempts to bring order to international law. *Breach of Treaty*, a contribution to the series of Hersch Lauterpacht Memorial lectures, takes a candid look at the interaction of the Vienna Convention on the Law of Treaties and the International Law Commission, in the area of breaches of international law and state responsibility.

Shabtai Rosenne, a foremost authority on the law of treaties, gives a pessimistic view of the effectiveness of the United Nations in dealing with violations of its laws and treaties. His pessimism is based on the history of unenforceability of much of international law and the impotence of the United Nations in the face of confrontational diplomacy.

*Breach of Treaty* is divided into three parts: breaches in the codified law of treaties, breaches in the law of state responsibility, and other miscellaneous breaches.

**CHINESE YEARBOOK OF INTERNATIONAL LAW AND AFFAIRS, VOLUME 3 (1984).** Edited by Hungdah Chiu. Taipei, Taiwan: Chinese Society of International Law-Chinese (Taiwan) Branch of International Law Association, 1985, 317 pp., \$12.00.

The bulk of this volume contains papers and comments presented at the Conference on Contemporary Issues of International Law held in Taipei on June 26-28, 1984. This Conference commemorated the 25th Anniversary of the founding of The Chinese Society of International Law—the Chinese (Taiwan) Branch of the International Law Association located in London. The Conference was sponsored by the China Times, Inc., the Institute of Public International Law of the University of Munich, the East Asian Legal Studies Program of the University of Maryland School of Law and the Center for Law and National Security of the University of Virginia. It provided an opportunity for Chinese and foreign international lawyers to exchange their views on current issues in public and private international law. Written by an "all-star" cast of international law scholars (including John N. Moore, Burns Weston, Seymour Rubin, Mark Joelson, Hungdah Chiu, Renate Platzoeder, John F. Murphy, Bruno Simma, Gottfried-Karl Kindermann, Aleth Manin, and Ying-jeou Ma), the papers address the legality of nuclear weapons, transnational corporations and international law, fair and

unfair competition in U.S. trade law, the delimitation of marine boundaries, pollution control in the exclusive economic zone, the legal control of terrorism, the U.S.-Iran Claims Tribunal, legal aspects of East-West German relations, and issues in human rights. The papers appear in edited and updated form.

The Recent Developments section includes the translations of Korean courts' decisions on the six Chinese hijackers who sought political asylum in Taiwan via Korea.

The Contemporary Practice section includes many documents of current interest. The Supreme Court Civil Judgment 72 [1983] T'ai Shang No. 1412 (April 8, 1983), finally settled the principle of the supremacy of a treaty over inconsistent laws and the self-executing nature of the 1946 Sino-American Treaty of Friendship, Commerce, and Navigation. The Leung Waikung case is the first case on hijacking decided by a Chinese court. Other documents include the question of the recognition of Hong Kong civil judgments by the Republic of China, the application of the 1961 Vienna Convention on Diplomatic Relations by a Chinese court, the new offshore banking legislation of the Republic of China, and others.

Also included in the *Chinese Yearbook of International Law* is a section of book reviews, a section of books received and a section containing texts of agreements concluded by the Republic of China and other nations in 1984.

## **INTERNATIONAL RELATIONS AND ECONOMICS:**

### **BOOKS RECEIVED**

**A CASE OF SUCCESSFUL ADJUSTMENT: KOREA'S EXPERIENCE DURING 1980-84 (OCCASIONAL PAPER 39).** By Bijan B. Aghevli and Jorge Marquez-Ruarte. Washington, D.C.: International Monetary Fund, 1985, 34 pp., \$7.50.

Occasional Paper 39 of the International Monetary Fund describes Korea's economic development from the 1960s to the 1980s, focusing on the period between 1980-84. Based on the premise that Korea's recent economic development is a success story, the authors, a Division Chief in the Fund's Asian Department, and a Senior Economist in the Asian Department, provide a critical analysis of the Korean government's adjustment program. The authors examine the crisis years and the recovery years as well as the more recent adjustment years.

Comparing the growth of exports with the growth of domestic savings, this work discusses the ratio of investments to the gross national product. This paper examines how, toward the end of the last decade, due to a slower growth of the external market, the government began to weaken. The authors suggest that both domestic shocks and external shocks forced Korea into an economic crisis. This work also describes the 1981-82 adjustment program which included fiscal, monetary, energy and exchange rate policies. Within this framework, the authors assert that inflation declined, agriculture recovered and the gross national product rose. This paper then considers the 1983-84 adjustment program which was supported by a stand-by arrangement with the International Monetary Fund. The authors examine the growth of output and conclude that Korea made substantial economic advances.

Occasional Paper 39 concludes with three appendices. First, the structure of the public sector is explored. Second, the structure of the financial sector is examined. The final appendix contains tables and charts which include a monetary survey, a table on the expenditures of the gross national product, and charts on monetary and external developments.

**EXPORT CREDIT COVER POLICIES AND PAYMENTS DIFFICULTIES (OCCASIONAL PAPER 37).** By Eduard P. Brau and Chanpen Puckahtikom. Washington, D.C.: International Monetary Fund, 1985, 51 pp., \$7.50.

In order for the international trade system to operate smoothly, debtor countries must have sufficient financing available to them. There are three

main sources of financing for a debtor country: bilateral official lending, commercial bank credit, and commercial export credit. Occasional Paper 37 analyzes the third type of financing, which has been used more frequently over the past few years. In its study, the IMF staff held informal discussions with representatives of ten major official export credit agencies and, in some cases, their "guardian authorities." The purpose of the discussions was to improve the major agencies' understanding of export credit cover policies for debtor countries which are experiencing difficulties or improvements in making payments.

The study is divided into three parts. Part I introduces the study and provides a summary of conclusions. The conclusions are drawn about the export credit agencies' policies and practices in these three phases of doing business with debtor countries: the debt buildup phase, the debt-servicing difficulty and rescheduling phase, and the recovery phase and beyond. Part II discusses the principles and practices of export credit agencies. Part III examines the policies and practices of the agencies after the onset of debt-servicing difficulties in 1982. This section of the study explores the repercussions of recent debt difficulties, measures to improve the agencies' financial positions, adaptations in cover policy decisions as a result of debt-servicing difficulties, and implications of the agencies' practices for debtor countries.

The paper also has two appendices. The first examines the policies and practices of selected debtor nations. The countries studied were Argentina, Brazil, Madagascar, Mexico, Nigeria, Peru, the Philippines, Romania, Turkey, Venezuela, and Yugoslavia. For ease of comparison between the countries and/or examination of a particular country, the studies examine trends in exposure, policy turning points, debt buildup phases, prospects and issues and other topics germane to the individual countries. The second appendix provides a technical note and a glossary of terms.

**INTERNATIONAL PRIVATE INVESTMENT. (VOLUME II OF INTERNATIONAL ECONOMIC LAW, 2d ed.).** By Andreas F. Lowenfeld. New York, N.Y.: Matthew Bender, 1982, 207 pp.

In the past few years the number of multinational corporations has increased. Of the four multinational industrial corporations with sales in excess of ten billion per annum, three are United States based. Of twelve multinationals with sales between five and ten billion dollars per year, nine are United States based companies. In this volume, Professor Lowenfeld studies the investment of United States based multinational corporations in Canada and Chile.

Although Canada is one of the largest countries in the world, much of it remains uninhabited. As a result, the land is full of natural resources,

including coal, lead, and precious metals. Because oil, natural gas, and timber provide sources of energy, Canada's abundance of such resources attracts foreign investment from many multinationals, including International Telephone and Telegraph Corporation (ITT).

The first chapter examines ITT's investment in Canada. After a general discussion on the lure of Canadian resources and the works of ITT, Professor Lowenfeld examines ITT's investment analysis process.

He details specific ITT investment agreements in the province of Quebec. This section analyzes Quebec's commitments and subsidies derived from the province and from the national government. This chapter concludes by exploring the new Canadian approach in the development of the National Energy Program.

The second chapter deals with Kennecott Copper in Chile. Professor Lowenfeld analyzes the background of copper in Chile, the nationalization of Chilean copper resources and the involvement of Kennecott Copper.

The epilogue examines the United States' growing concern regarding foreign investment in the United States. It also discusses changing attitudes in the international community toward foreign investment, multinational enterprises and the political economy of development. Following the epilogue, a comprehensive 355 page documentary supplement provides relevant Canadian laws and regulations, Chilean laws and regulations and agreements between the companies and the governments.

**INTERNATIONAL PRIVATE TRADE. (VOLUME I OF INTERNATIONAL ECONOMIC LAW, 2d ed.).** By Andreas F. Lowenfeld. New York, N.Y.: Matthew Bender, 1981, 183 pp.

It is a well established principle of international economic theory that countries produce goods for export in which they have a comparative advantage. International trade will increase with greater comparative advantages. Private merchants will capitalize on such economic activity under favorable circumstances. In order to engage in successful trade, however, knowledge of patent licensing, trademarks, and "know-how" is essential. Transactions involving credit, transfer of funds, and currency are inevitable. Unfortunately, there is no established legal framework governing many of these international activities. Volume I therefore serves as a useful guide to both the scholar and the practitioner in addressing issues related to the private side of international trade.

This volume is divided into five sections. The Introduction discusses the law of the export-import contract. This section discusses unique provisions in international contracts, such as clauses on the choice of law and forum and foreign currency exchange. Because the drafter must take all of these potential risks into account, Professor Lowenfeld treats these issues in

depth.

The second section, entitled "Documentary Sales" analyzes international transactions that use the cost, insurance, freight (C.I.F.) contract. Professor Lowenfeld uses a British case (*Biddell Brothers v. E. C. Lemens Horst Company*) to illustrate the elements of a C.I.F. contract. Professor Lowenfeld also examines the consequences of a breach, as well as the role of a document of title in contracts of this sort.

Section Three deals with the issue of excuse for nonperformance. It discusses who should bear the burden for the occurrence of unforeseen events. Section Four discusses alternatives for dispute settlement in international sales transactions. This section deals with practical problem areas that arise in the settlement of disputes. It compares the British and United States views concerning jurisdiction over absent defendants. The section also emphasizes the need for proper planning in order to obviate problems that may arise in areas such as choice of law and forum clauses.

The last section analyzes letter of credit transactions. Professor Lowenfeld discusses the two methods of payment for these transactions: a draft or a bill of exchange. A bank's role concerning letters of credit is also examined in this section. Because credit transactions have been subject to judicial scrutiny over disputes regarding irrevocability, Professor Lowenfeld carefully examines this. Professor Lowenfeld also describes sources of law concerning letters of credit, including the Uniform Commercial Code and the Uniform Customs and Practice.

This volume also provides an extensive 177 page documentary supplement that includes standard form contracts, letter of credit forms, and relevant statutes discussed in the text.

**REGULATING U.S. INTELLIGENCE OPERATIONS: A STUDY IN DEFINITION OF THE NATIONAL INTEREST.** By John M. Oseth. Lexington, Ky.: The University Press of Kentucky, 1985, 236 pp.

The author, a professional intelligence officer for fifteen years, examines the issues of controls, constraints, and accountability procedures for U.S. intelligence operations. Decisions regarding these regulatory matters establish the operational boundaries for U.S. intelligence agencies and the mechanisms by which their activities are controlled. Essentially, this book is a study of how a free society may control intelligence activities which are necessary for the society's survival, while preventing those same activities from undermining the society they are intended to protect.

The author addresses the issues of: "Dimensions of the Intelligence Debate," "Roles and Rationales of Intelligence Operations," "The Public Critique of Intelligence Operations," "The Ford Administration's Response," "The Carter Administration's Response," "The Carter Endgame and the

Reagan Administration," and "The Critique and the Debate: An Overview." The book contains an extensive bibliography.

**THE INTERNATIONAL MONETARY SYSTEM. (VOLUME IV OF INTERNATIONAL ECONOMIC LAW, 2d ed.).** By Andreas F. Lowenfeld. New York, N.Y.: Matthew Bender, 1984, 404 pp.

International trade inevitably leads to an inflow and outflow of a nation's currency into the international market. Each nation's balance of payments statement reflects the flow of goods and currency. To understand a comparison of the various nations' balance of payments statements, figures from the balance of payment accounts must be in a standard measure of currency. Exchange rates must be used in the process of converting the balance of payment accounts into the particular currency desired.

Volume IV is divided into ten sections analyzing the international monetary system, first looking at the inception of exchange rates and its evolution. Initially the exchange rates were fixed with all currencies tied to a gold standard. A flexible exchange rate subsequently became more suitable as the world's gold resources became scarce. Efforts to return to the gold standard have failed as evidenced by the Bretton Woods Conference. Now governments control their own nation's currency or remain on a floating standard. To facilitate the stability of the world's monetary transactions, the International Monetary Fund (IMF) was created with rules of conduct for its members. Professor Lowenfeld examines the Constitution, the rules of conduct and the organization of the IMF in the first section.

Section Two takes a closer look at the IMF. Each member country must contribute to the IMF Fund, thereby giving it the opportunity to draw from the fund should situations arise when the nation is short of its own currency. The IMF's supervision is preserved, with stand-by arrangements enabling members to draw from IMF funds on short notice. General arrangements to borrow are also an alternative to acquiring IMF funds.

Section Three examines the devaluation of the British Pound in 1967. Professor Lowenfeld gives clear insights into the history of the sterling standard, its foundations and an actual study of its devaluation. His detailed analysis enables the reader to understand the aftermath and ramifications of the devaluation.

Section Four further analyzes the sterling standard and its interrelationship with the U.S. dollar and gold. The pound and the dollar were two principal trading and reserve currencies in the 1960s. Trade with Britain created problems in the U.S. balance of payments, leading President Johnson to enact various economic measures. The gold rush is another significant event in the 1960s that affected the U.S. balance of payments and reserve accounts.

Section Five reviews the crisis of the international monetary system in relation to the franc, the mark and the dollar. In the late 1960s France experienced problems with the franc because of the country's unemployment, overcrowded universities and mood of disillusionment. France's devaluation subsequently led to Germany's policy to allow the mark to float in the market. The dollar was subsequently influenced. Because of a lack of monetary adjustments by the United States, gold was used to maintain the dollar's parity. The resulting outflow of gold from the United States led to huge U.S. balance of payments deficits.

Section Six discusses efforts to correct weaknesses which the monetary system experienced during the previous decades. The Smithsonian Agreement was a specific measure used in the repairing process.

Section Seven focuses on the reform of the monetary system. Reformatory measures focused on the exchange rate mechanism, composition of reserves, disruptive capital flows and settlement of system imbalances.

Section Eight examines the revisions to the monetary system. Special Drawing Rights (SDR) were utilized in an effort to stabilize the system's currency swings. Professor Lowenfeld discusses the use of SDRs and its relationship to the previous system's problems in relation to gold, quotas and exchange rates.

Section Nine studies the early years of the revised system during the 1979 U.S. oil crisis, and the 1980 to 1982 inflationary and recessionary periods. It also explores the European Monetary System, an effort to stabilize inflation and interest rates. Professor Lowenfeld also examines the implications of the Mexican and Brazilian debts on the monetary system.

Section Ten analyzes the IMF and conflict of laws. Problems arise when private parties engaged in international transactions disagree on which currency to use for payments. The private businessman must also be familiar with measures to mitigate the risks associated with different accounting procedures and executory contracts.

An extensive 473 page documentary supplement is provided to facilitate the understanding of the international monetary system.

**THE IRON TRIANGLE.** By A. James Gregor and Maria Hsia Chang. Stanford, Cal.: Hoover Institution Press, 1984, 160 pp.

This book focuses on the U.S.'s security policy for Northeast Asia. Specifically, the book examines the security of three important U.S. allies in Northeast Asia; Japan, South Korea and Taiwan. These are the countries that Gregor and Chang designate as the "Iron Triangle."

The security of the Iron Triangle is dependent upon both the United States' and the region's own armed might. The authors believe that the United States must continue to contribute to the security of Northeast Asia

in order to continue the region's economic development. Additionally, the security of the region is necessary to stop any communist expansion.

The communist countries of the area, the Soviet Union, China, North Korea and Vietnam, have not experienced the economic growth that the Iron Triangle has. The authors contend, however, that any threat to the security of Northeast Asia comes from these countries. Gregor and Chang also criticize the U.S. policy towards China as weakening the defense of the Iron Triangle.

To correct this problem the authors argue that the United States must actively support Taiwan by supplying it with new military weapons. The authors also assert that Japan must rearm itself, at least for defensive purposes. Finally, the United States must provide continued support for South Korea. These concerted actions will prohibit any communist expansion according to the authors.

**THE MANAGEMENT OF THE WORLD ECONOMY.** By Evan Luand. New York, N.Y.: St. Martin's Press, 1983, 270 pp., \$27.50.

Evan Luand has two aims in *The Management of the World Economy*. The first is to give a basic introduction to the problems of the modern world-wide economy. The second is to provide ideas on how to make the international economy more efficient and just.

The book begins with the history of the growth of the international economy. It looks first at the progress of the developed nations of the world from 1895 to the present and then moves on to growth in Third World countries. The section on growth concludes with a look at the trends in the world economy as a whole.

Mr. Luand also discusses international investment and trade. In the chapter on investment he discusses the growth of international investment and the role played by transnational corporations. The emergence of governments of developed nations as investors in Third World countries is also examined. Mr. Luand provides a brief discussion on patterns of trade and a more lengthy look at government restrictions on trade.

Other topics discussed include money, resources and oil. In the chapter on money, the author discusses the emergence of the current monetary system. He also discusses international monetary institutions and the problems with the current monetary system. In the chapter on resources, the author deals with the availability of the world's resources and their accessibility. Also dealt with is the effort of the United Nations and other organizations to form a coherent policy on resources. The author also gives his views on what would be the best resource policy. The chapter on oil, for the most part, mirrors the chapter on resources, except that it begins with a history of oil, from company domination to government control.

The last topics Mr. Luand explores are food and unemployment. He begins with the pressures that the population has created on the food supply. He moves on to world food organizations and finishes the chapter with a look at possible management strategies. Finally, unemployment is discussed, first in rich and then in poor countries. The chapter ends with a look at possible solutions to international unemployment.

The book concludes with an overall look at the world economy. Efficiency in the world economy is dealt with first. The author explores ways of making things run more productively. Finally, justice in the world economy is considered. Mr. Luand asks the question, is efficiency equitable? He then goes on to discuss redistribution to the poorest countries and to the poorest people. His final argument is that only through world-wide economic growth and redistribution of political power can there be an equitable distribution of the staples of life.

**TRADE POLICY ISSUES AND DEVELOPMENTS. (Occasional Paper 38).** By Shailendra J. Anjaria, Naheed Kirmani, and Arne B. Peterson. Washington, D.C.: International Monetary Fund, 1985, 161 pp., \$7.50.

In order for the world economy to experience a sustained recovery and have balanced world trade, trade policies of developed countries and developing countries must be complimentary and liberal. This study examines the trading policy developments in major trading countries and developing nations.

The study is divided into two parts. Part One examines the present situation of international trading practices. Section One of Part One describes the continued drift towards protectionism by developed countries. The authors explore the increasingly frequent use of bilateral, sector-specific trade measures as protectionist tools, the reasons for the continued drift towards protectionism, the need for open trade and payment systems, the obstacles to liberalized trading created by bilateral protectionism and the renewed interest in the bilateral free trade area. The present situation of developing countries' policies are also examined. The authors discuss the restrictive trade regimes of developing countries, the recent moves toward liberalization of developing countries' trading policies, and the possibility that direct foreign investment in developing countries may increase if liberal trading policies are adopted. Section Two analyzes the prospects for global trade liberalization. The authors assess four "key" areas that will determine the extent of such liberalization: structural adjustment; trade relations between developed and developing countries; a strengthened GATT; and modalities of a new round of world-wide trade negotiations.

Part Two explores major trade developments. This part is divided into six sections. Section One examines current trade trends, trade legislation,

and the evidence of the rise in trade barriers and their effects. Section Two describes the evolving framework for international trade. Section Three examines industrial trade policies; and Section Four evaluates agricultural policies. Section Five describes developing countries in more detail and Section Six explores the role of the IMF in trade liberalization attempts.

The study also contains two appendices. Appendix One sets forth the GATT classifications and Appendix Two provides extensive statistical tables.

**WORLD ECONOMIC OUTLOOK: APRIL 1985.** Washington, D.C.: International Monetary Fund, 1985, 283 pp., \$15.00.

*World Economic Outlook: April 1985* is the product of a comprehensive review of world economic developments by the staff of the International Monetary Fund. This has been an annual publication since 1980. The staff gathered information from regular and special consultations with member countries and through econometric modeling techniques and used the data to compile an overview of the world economy and of specific facets of that economy as it presently exists.

The volume is divided into three sections. The first provides an overview of the world economy. This section analyzes the current situation in industrial and developing countries, their prospects for the future in both short and medium terms, and the outlook for the 1990s. Also, this section points out what fundamental issues must be examined in a study of this type.

The second section consists of a series of nine short notes on a variety of topics. The first of these examines the fiscal policies in major industrial nations, such as the United States and Japan, particularly in light of trends in deficit spending and the United States' movement toward an expansionary economy. Also, this note sets out trends in private savings and attempts to postulate these trends into 1985 and 1986. A second related note shifts its emphasis to monetary policies and developments in the same industrial nations and how those policies have affected and been affected by inflation and deficit spending.

The third and fourth notes focus on commodities, their price developments, and the world oil situation. Here, emphasis is placed strongly on the effect of exchange rates vis-a-vis non-oil commodities, on the surplus of oil arising from non-OPEC nations, on oil prices, and on the radical changes in the world oil situation.

The fifth note centers specifically on development in the Soviet block, both in the U.S.S.R. proper and in Eastern Europe. It remarks that there has been a distinct upturn in economic activity in these nations. The next note attempts to estimate the growth potential in industrial nations and dis-

cusses the sources of change in factor productivity.

The seventh and eighth notes deal with the effect of national policies on economic development. One centers on structural policies, such as protectionism and regulation; the other on environmental and domestic policies, including exchange rate and supply-side policies. The final note of this section looks at the flow of capital into developing countries.

The final section of this volume presents a series of tables which present statistical information to support and supplement the earlier notes and reports. Included is a description of the assumptions and conventions by which the information was compiled and presented.