SCHOOL OF LAW
CASE WESTERN RESERVE UNIVERSITY

Case Western Reserve Journal of International Law

Volume 13 | Issue 2

1981

Book Reviews

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BOOK REVIEWS

Money and Exchange Dealing in International Banking. By Nigel R.L. Hudson. New York: John Wiley & Sons, 1979, Pp. xi, 135.

In an effort to dissipate the aura of mystique behind international banking, Nigel Hudson has written a text-style economic book oriented toward explaining "how the basic international banking functions are performed, both in theory and in practice. It serve[s] as a useful reference point for students of banking, individuals who are entering the field of international banking, and outside observers such as customers and academics who would like to know more about how bankers run their international business." (p. vii.).

The author is quick to point out that in the process of explaining and simplifying the theories involved in international banking "certain very specialized practices have been excluded" (p.ix.). Rather than acting as a limitation on the professional banking practices, this 'caveat' is an additional illustration of the practical application of these theories. Since the book is directed toward those first year economists or financiers who have yet to develop the specific skills required in international trading, Hudson takes great care in defining the basic economic terms and concepts.[1] Only after setting such a foundation does he relate these terms to theory and then theory to practice. In explaining these basics to the amateur economist, it is necessary to detail "very specialized practices." Enough concentration is expended grasping the complicated concepts involved in international banking, let alone trying to familiarize oneself with specific practices. This is not to say that the theories are explained in a complicated manner, only that the theories presented are complicated to explain.

Many of the book's twelve chapers are broken down into a number of subsections, each subsection detailing a specific subject. Definitions of relevant terms precede any explanations of theory. Theory is then illustrated by current hypotheticals aimed toward the financier but hardly the first-year economic student. Thus, "Because of the involvement with figures, an aptitude for mathematics is looked for when hiring a dealer" (p. 101.) and when reading this book.

The book as a whole sets the stage for the money dealer-to-be lead-

[1] An extensive glossary of economic terms, concepts and professional jargon is found in the back of the book.

ing the reader through four stages of training; 1) theory, 2) organization and operation of a dealing department, 3) risks and responsibilities of a dealer, 4) peculiarities in the profession.

A brief history of international dealing develops the objectives laid down at Bretton Woods for the newly established International Monetary Fund. Because of the unexpected growth of U.S. dollar reserves between 1951-1971, to the point that they exceeded gold reserves, former President Nixon was forced to take the United States off the gold standard. With these drastic changes in the international exchange system and the development of large Eurocurrency deposits, the importance of the international dealer became increasingly important as the theories and practices became more complicated. The next two chapters cover the basic theories of exchange rates, interest rates, and types of deposits, all of which are easily comprehendable by the student with little economic knowledge.

The organization section of Hudson's book offers an insight into the day-to-day operations of a dealing department. Objectives, customer expectations, and the making and recording of deals are explained by the use of such aids as organizational flow charts, which are often highlighted with an alphabetized checklist which the neophytic dealer may wish to consult.

The concepts presented thus far require no real knowledge of international dealing. Mere exposure to a dealing office atmosphere would offer the same background. Hudson takes a drastic step in the third section by presenting and explaining sophisticated dealing theories, including position-taking, spot and forward dealing, covering positions and international interest arbitrage. Though these theories are well explained using diagrams, written formulas, and mathematical equations, more exposure to financial dealing is needed.

Having gained the requisite knowledge in theory, Hudson introduces the particularities affiliated with the profession. Customs in dealing with influential customers (e.g., central banks, multinational corporations) are stressed because their trade and monetary policies play a strong role in domestic and foreign money markets. Unfortunately, the explanation of these markets is brief and should be used by the dealer with caution.

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Pollution, Politics, and International Law: Tankers at Sea. R. Michael M'Gonigle and Mark W. Zacher. Berkeley: University of California Press, 1979. Pp. xviii, 394. $15.95.

Focusing on the activities of the Intergovernmental Maritime Consultative Organization (IMCO), and the United Nations Conference on the Law of the Sea (UNCLOS), this book traces international efforts to control pollution from oil tankers. R. Michael M'Gonigle, a lawyer and political scientist, is a specialist in international environmental affairs; Mark W. Zacher is Director of the Institute of International Relations at the University of British Columbia.

This study examines the intricate political processes involved in the creation and application of international controls. It probes the powerful economic forces and legal strategies which affect the making of marine environmental policy. Rich in technical information, it is an important contribution to the fields of international law and international organization.

The great expansion in world oil consumption has led, of course, to a tremendous increase in the transportation of oil by sea. This increase has been marked by a sharp, global rise in maritime pollution. In 1973 alone, over 6,700,000 metric tons of oil entered the world's oceans. Despite such tragic and newsworthy tanker accidents as the *Torrey Canyon,* the *Argo Merchant,* and the *Amoco Cadiz,* the authors note that 62 percent of all ship-generated oil discharges are estimated to result from *routine* tanker operations. After delivering their oil, tankers routinely take on seawater ballast in order to maintain sufficient propeller immersion and stability. Prior to loading a new cargo, this oily water must be flushed out. Traditionally and irresponsibly, the oily residues have simply been dumped into the oceans.

A UN-sponsored conference meeting in Geneva in early 1948 produced the Convention of the Intergovernmental Maritime Consultative Organization. There was strong industry opposition to this development, but in 1958, after the required twenty-one states had ratified the convention, IMCO began operations. Functions conferred on the organization include those of passing recommendations, convening conferences, drawing up conventions, and encouraging consultations among states.

Chapter 5, "Coastal State Rights: Intervention and Compensation," is one of the most significant parts of the work. Frequently, the victim of oil pollution is an "innocent bystander"—the coastal state. Two areas have been the focus of attention: the extent of a coastal state's power to intervene in a maritime incident that threatens pollution, and the right of the state to be compensated for resulting damages. It took the trauma of

the *Torrey Canyon* disaster, however, to move interested parties to formulate new rules.

When the *Torrey Canyon* ran aground in March 1967, 35 million gallons of heavy oil polluted over a hundred miles of British and French beaches. The possibility of such a major environmental disaster had apparently not been sufficiently anticipated, as revealed by the inability of the British government to cope with the accident.

> . . . First, existing admiralty laws provided that there was to be a waiting period before anyone other than the shipowner could intervene in a high-seas shipping casualty. This was intended to give the shipowner a chance to exercise his right of salvage and prevent further loss. Only when he had failed to do so could another interest take over, it never having been anticipated that this could seriously affect coastal interests. In good maritime tradition, the British government did wait several days before taking serious action against the *Torrey Canyon*. (p.145)

Second, there is in maritime law the principle of "limitation of liability," which holds that a shipowner may limit his obligation to provide compensation for damage. The 1957 Convention on the Limitation of Liability set the amount for property damage at about $67 per ton of the ship's tonnage. This level of compensation was, of course, woefully inadequate for the pollution damage caused by the *Torrey Canyon*.

Shortly after the accident, the United Kingdom asked IMCO to call an international meeting for the purpose of re-examining the scope of liability. It was not until 1971, however, that IMCO took action on this issue.

Meanwhile, the seven major oil companies created the "Tanker Owner's Voluntary Agreement on Liability for Oil Pollution" (TOVALOP). TOVALOP is a guarantee by participating tankerowners to reimburse national governments for cleanup expenses resulting from spillages of crude oil from their tankers. "TOVALOP is, therefore, a voluntary agreement among shipowning interests for the benefit of a third party, the government of a polluted coastal state. It is not a contract with such a government. No states are party to the agreement, and no questions of jurisdiction arise." (p.157)

TOVALOP was the first in a series of compensation arrangements that were to be created over the next several years. The main provisions of each are summarized in Chart 12 (pp.194-195). Liability is imposed on the tanker "owner," now defined to include the bareboat charterer. Reacting to one of the thorniest problems connected with the *Torrey Canyon*, steps were taken to remedy certain deceptive corporate practices, such as those exemplified by the legal relationship between the Barracuda Tanker Corporation and Union Oil.

The nature of liability, however, remains virtually unchanged. It cov-

ers only governmental cleanup costs—not damage—and is incurred solely on the basis of the "fault with a reversed burden of proof" test. The effect of this is to create a presumption of negligence against the tankerowner which he can rebut if he can prove that the discharge of oil from his . . . tanker occurred without any fault on the part of the said tanker." (p.158)

TOVALOP has nevertheless proven to be a worth-while guarantee to governments. Over 99 percent of all privately owned tanker tonnage is now party to the arrangement, and hundreds of claims have been settled under it. It is, however, a limited remedy in that it extends only to governmental cleanup costs and excludes "all indirect or ecological damage and all actual losses." (p.159)

In 1971, 38 oil companies drew up the Contract Regarding an Interim Settlement of Tanker Liability for Oil Pollution (CRISTAL). The maximum liability of the CRISTAL fund was set at $30 million per incident, whereas TOVALOP had a limit of $10 million per incident.

The 1971 IMCO conference yielded mixed results. On the positive side, the International Fund's total liability was set at $35 million per incident, with the provision that it could be increased to $70 million in case of unusually demanding incidents.

The most significant activity at the conference, however, was the debate on liability for pollution from unidentified ships. The importance of this issue is revealed by the fact that over two-thirds of all ship-source oil pollution comes from intentional discharges whose sources can rarely be identified. This problem is of particular concern to the coastal states of Africa, whose shores are constantly polluted by passing traffic. Detecting culprits is extremely difficult because oil slicks often come ashore months after discharges have occurred.

It was, therefore, a defeat for many coastal states, as well as environmentalists, when the conferees decided that any claimant against the fund must show "that the damage resulted from an incident," a requirement that necessitates proving the identity of the polluting tanker. "Any hope that the fund would introduce some broad industry accountability for the condition of . . . the oceans was dashed." (p187)

Chapter 6 presents a concise discussion of some of the results of the Third United Nations Law of the Sea Conference (UNCLOS III), with emphasis being placed on the "Informal Composite Negotiating Text" (ICNT). For the first time in the history of international law, ICNT gives coastal states a legal environmental interest in waters beyond territorial seas—in the 200-mile economic zone. The authors view this as an important first step for coastal state environmental protection, but only in the long run. "In the immediate future, the powers granted to the coastal state in this zone are apparently important but in fact are quite insignificant." (p.248)

Chapter 7, "The Environmental Law of the Oceans: Determinants of

Change," includes an excellent analysis of the roles of particular states and blocs of states in the law-making process. Readers should find the discussion of the role of the United States especially interesting. The authors note that since the late 1960s, America has paradoxically been both the most radical and also among the most conservative of states with respect to maritime environmental questions. Because of the strength of the environmental movement in the United States, support for many general environmental improvements has been demonstrated by American negotiators. On the other hand, the United States has created and maintained a very extensive system of "flags-of-convenience." This system, which came about after the Second World War, allows American shipowners to register their vessels in foreign countries in order to avoid such economic burdens as American taxes, construction standards, and crew regulations. Today, for example, almost half of the Liberian and Panamanian fleets are actually owned by American interests. As a consequence, the United States must bear a great measure of responsibility for the dismal environmental policies of these flag-of-convenience states.

The concluding chapter, "The Political Process and the Future of Environmental Protection," presents the case for accelerating efforts to improve the marine environment.

> The long-term resolution of ocean oil pollution and other international environmental problems awaits the creation of a truly effective structure of international regulation. This will happen only if states, private interests, and international secretariats can coalesce in the international political arena to produce workable and acceptable solutions. . . . To ensure that the conditions for success prevail at all levels is the great challenge of the global environmental crisis. (p.365)

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