

NETHERLANDS YEARBOOK OF INTERNATIONAL LAW

1997

Netherlands Yearbook of International Law

NETHERLANDS YEARBOOK OF INTERNATIONAL LAW

published jointly with the
Netherlands International Law Review
and under the auspices of the
Stichting T.M.C. Asser Instituut,
Institute for Private and Public
International Law,
International Commercial Arbitration
and European Law,
The Hague

VOLUME XXVIII
1997

MARTINUS NIJHOFF PUBLISHERS

Under the combined subscription arrangements this volume of the Yearbook is linked to Volume 44 of the Netherlands International Law Review. Orders or requests for further information should be sent to: Martinus Nijhoff Publishers, c/o Kluwer Law International, P.O. Box 85889, 2508 CN The Hague, The Netherlands.

All correspondence with regard to the contents of the Yearbook should be addressed to the Managing Editor, T.M.C. Asser Instituut, P.O. Box 30461, 2500 GL, The Hague, The Netherlands (A.Fijalkowski@mail.asser.nl). The closing date for contributions is 1 October of the year prior to the year of publication. All contributions must be in English at a maximum length of 30 printed pages at 450 words per page.

The copyright is exclusively reserved to the author(s). Acceptance of a contribution by the Editors implies, however, acceptance by the author(s) of the condition that such contribution is subject to an embargo as regards publication elsewhere, either in English or in any other language, for a period of two years following publication of the Yearbook containing such contribution. Authors will not receive a fee, but will be presented with a copy of the Yearbook containing their contribution, together with 25 offprints of that contribution free of charge.

Printed in the Netherlands
© Stichting T.M.C. Asser Instituut, The Hague, 1998
Library of Congress Catalog Card Number 72-623109
ISBN 90-411-1028-3
ISSN 0167-6768

Stichting T.M.C. Asser Instituut
Institute for Private and Public International Law,
International Commercial Arbitration and European Law
20-22 R.J. Schimmelpenninklaan, 2517 JN The Hague
Phone +31-(0)70-3420300, Telefax +31-(0)70-3420359
Internet: www.asser.nl

The T.M.C. Asser Institute was founded in 1965 by the Dutch universities which offer courses in international law in order to promote education and research in the fields of law in which the Institute specialises: private international law, public international law including the law of international organisations, international commercial arbitration and the law of the European Union. The Institute discharges this task by organising educational programmes, by the establishment and management of documentary compilations and by undertaking academic research, in some cases in cooperation with international organizations and academic institutions, as well as by the dissemination of information deriving therefrom and by the publication of monographs and series.

The Institute organises *Asser College Europe*, a project in cooperation with East and Central European countries whereby research and educational projects are organised and implemented.

BOARD OF EDITORS

L.A.N.M. Barnhoorn (General Editor)
T.M.C. Asser Instituut

H.H.G. Post
University of Utrecht

N.M. Blokker
University of Leiden

N.J. Schrijver
Vrije Universiteit, Amsterdam
Institute of Social Studies,
The Hague

M.A. Fitzmaurice
Queen Mary & Westfield College,
London

K.C. Wellens (General Editor)
University of Nijmegen

L. Hancher
Catholic University of Brabant,
Tilburg

B. de Witte
University of Limburg, Maastricht

P. Malanczuk
Erasmus University, Rotterdam

* * *

A. Fijalkowski
(Managing Editor)
T.M.C. Asser Instituut

K. Peters
(Editorial Assistant)
T.M.C. Asser Instituut

* * *

HONORARY EDITORS

H. Meijers
University of Amsterdam

Ko Swan Sik
Erasmus University, Rotterdam

TABLE OF CONTENTS

Articles

<i>Olufemi Elias and Chin Lim</i> , ‘General principles of law’, ‘soft’ law and the identification of international law	3
<i>T. King</i> , Human rights in the development policy of the European Community: towards a European world order?	51
<i>Stefan Oeter</i> , Inspection in international law Monitoring compliance and the problem of implementation in international law	101
<i>John McHugo</i> , The judgments of the International Court of Justice in the jurisdiction and admissibility phase of <i>Qatar v. Bahrain</i> : an example of the continuing need for ‘fact-scepticism’	171

Documentation

Classification scheme	199
<i>C. W.J.L. de Keuning</i> , Netherlands state practice for the parliamentary year 1995-1996	219
<i>A.H. Jonkhoff</i> , Treaties and other international agreements to which the Kingdom of the Netherlands is a party Conclusions and developments 1996	269
<i>L.A.N.M. Barnhoorn</i> , Netherlands municipal legislation involving questions of public international law, 1996	305
<i>L.A.N.M. Barnhoorn</i> , Netherlands judicial decisions involving questions of public international law, 1995-1996	325
<i>C. W.J.L. de Keuning</i> , Dutch literature in the field of public international law and related matters, 1996	381
Table of cases	421
Index	424

X *Abbreviations*

KG	Kort Geding
LJIL	Leiden Journal of International Law
McGill LJ	McGill Law Journal
MR	Migranten Recht
NAV	Nieuwsbrief Asiel- en Vluchtenlingenrecht
NILR	Netherlands International Law Review
NIPR	Nederlands Internationaal Privaatrecht
NJB	Nederlands Juristenblad
NJCM-Bulletin	Nederlands Juristen Comité voor de Mensenrechten Bulletin
Nordic JIL	Nordic Journal of International Law
NQHR	Netherlands Quarterly of Human Rights
NY Univ. J Int. L and Pol.	New York Journal of International Law and Politics
NYIL	Netherlands Yearbook of International Law
OJ	Official Journal of the European Communities
Parry CTS	Parry's Consolidated Treaty Series
PCIJ Rep.	Permanent Court of International Justice, Reports
ECHR Series A	European Commission on Human Rights Series A
RGDIP	Revue Générale de Droit International Public
RIAA	Reports of International Arbitral Awards
RSV	Rechtspraak Sociale Verzekeringen
RV	Rechtspraak Vreemdelingenrecht
RvdW	Rechtspraak van de Week
S&S	Schip & Schade
Stb.	Staatsblad van het Koninkrijk der Nederlanden
Stc.	Nederlandse Staatscourant
Texas ILJ	Texas International Law Journal
UN Doc.	United Nations Documents Series
UNTS	United Nations Treaties Series
Virginia JIL	Virginia Journal of International Law
WLR	Weekly Law Reports
YEL	Yearbook of European Law
YIEL	Yearbook of International Environmental Law
ZaöRV	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht

ABBREVIATIONS

AB	Administratiefrechtelijke Beslissingen
AC	Appeal Cases
AFDI	Annuaire français de droit international
AJIL	American Journal of International Law
All ER	All England Law Reports
Am. Univ. J. Int. L and Pol.	American University Journal of International Law and Politics
Arizona JICL	Arizona of International and Comparative Law
ASDI	Annuaire Suisse de droit international
ASIL Proc.	Proceedings of the American Society of International Law
Australian YIL	Australian Yearbook of International Law
Austrian JPIL	Austrian Journal of Public and International Law
Bijl. Hand. I/II	Bijlagen van het Verslag der Handelingen van de Eerste/Tweede Kamer der Staten-Generaal
BYIL	British Yearbook of International Law
Can. YIL	Canadian Journal of International Law
CMLR	Common Market Law Reports
Cornell ILJ	Cornell International Law Journal
Cornell LQ	Cornell Law Quarterly
Denver JIL and Pol.	Denver Journal of International Law and Policy
EJIL	European Journal of International Law
ELR	European Law Review
EPJL	European Journal of Private Law
ETS	European Treaties Series
Fordham ILJ	Fordham International Law Journal
Georgetown LJ	Georgetown Law Journal
GV	Gids Vreemdelingenrecht
GYIL	German Yearbook of International Law
Hague Recueil	Recueilde Couts de l'academie de droit international de la Haye
Harvard ILJ	Harvard International Law Journal
HRLJ	Human Rights Law Journal
HRQ	Human Rights Quarterly
ICJ Rep.	International Court of Justice, Reports of Judgments, Advisory Opinions and Orders
ICLQ	International Comparative Law Quarterly
ILC Yearbook	International Law Commission Yearbook
ILM	International Legal Materials
ILR	International Law Reports
Iran-US CTR	Iran-US Claims Tribunal Reports
JB	Jurisprudentie Bestuursrecht
KB	King's Bench