

# Asian Yearbook of International Law

## Volume 7 1997

*Editor: Ko Swan Sik, M.C.W. Pinto, Surya Subedi*

The Asian Yearbook of International Law is the first publication dedicated primarily to international law as seen from an Asian perspective. It provides international law articles written by experts from the region and other articles relating to Asian topics. The editorial board, national correspondents, advisory council, and governing board comprise a diverse group of academics and government officials from a wide range of countries and positions.

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Academics and practitioners who deal with international public law in Asia will appreciate this unique, complete resource. The Asian Yearbook of International Law provides insight into Asian views and practices, especially for non-Asian readers, and also promotes the dissemination of knowledge of international law in Asia.

Some of the topics covered in this volume: the secession of Bangladesh in international law; the Asian Development Bank Administrative Tribunal; port state control: a comment on the Tokyo MOU; maritime jurisdiction over vessel-source pollution in the EEZ: the Chinese experience.

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# Issues of Arms Control Law and the Chemical Weapons Convention

## Obligations Inter Se and Supervisory Mechanisms

edited by Eric P.J. Myjer

The entry into force in 1997 of the Chemical Weapons Convention (CWC) symbolizes the coming of age of the law of arms control as a separate area of international law. It is not only the first treaty whereby a whole category of weapons of mass destruction, viz. chemical weapons, is completely banned, but it also puts into place a comprehensive compliance control system. For this purpose a specialized international organisation has been created with as its sole purpose the supervision of the commitments under this arms control treaty: the Organisation for the Prohibition of Chemical Weapons (OPCW) based in The Hague. Supervision under this Convention is an example of compliance management, which is cooperative rather than adversarial in character, in spite of the elaborate and intrusive inspection regime concerning not only the military component but also the civilian chemical industries worldwide. Thereby not only States Parties' military security concerns are taken care of, but also the concerns of the chemical industries with regard to the protection of confidential business information.

In general, this volume aims to provide a better understanding of some of the special characteristics of arms control law. One part of this volume highlights the unique characteristics of the compliance control model by providing a detailed analysis of the CWC, the OPCW and of the specific supervisory functions. The obligations of the signatories to the CWC are discussed in the other part. Although an important topic of general international law, clarity as to the obligations of Signatory States appears to be of special importance in the case of arms control treaties, for, given their security interests, it is crucial for States that at a minimum a status quo between all the signatories is maintained. The main contributions are complemented by shorter comments on various aspects of the topics dealt with. The articles are all written by specialists in the field - academic and practitioners - making this book a valuable source for academics, diplomats, (international) civil servants, and practitioners involved in the work of the OPCW, arms control (law) or general international law.

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## ARBITRAL AND DISCIPLINARY RULES OF INTERNATIONAL SPORTS ORGANISATIONS

Edited by Robert C.R. Siekmann and J.W. Soek

*Co-publication with the T.M.C. Asser Instituut, The Hague, The Netherlands*

This volume contains the basic documents on the 'administration of justice', i.e., the law on disputes and disciplinary action, in the international sporting world. Included are, *inter alia*, the Statutes of the Court of Arbitration for Sport, its Rules for the Resolution of Disputes during the Olympic Games and its Mediation Rules. The following categories of rules concerning the international Olympic Sports federations are reproduced in the pertinent section: (1) arbitral and disciplinary rules in the statutes, constitutions, bye-laws and general regulations; (2) special arbitral and/or disciplinary rules and regulations; (3) disciplinary rules that are embodied in the international competition regulations of the international federations; and (4) disciplinary rules in the 'laws of the game' per sport.

This publication is realised within the framework of the international sports law project of the T.M.C. Asser Institute in The Hague and with the cooperation of the International

Olympic Committee. It is the third volume in the Asser Institute's series of collections of documents on international sports law and as such a follow-up publication to *Basic Documents of International Sports Organisations* (Kluwer Law International, 1998), which contains the statutes and constitutions of the international Olympic sports federations, and *Doping Rules of International Sports Organisations* (T.M.C. ASSER PRESS, 1999).

*Arbitral and Disciplinary Rules of International Sports Organisations* provides an invaluable source of reference for sports officials, legal practitioners and the academic world. With the increasing public interest in the legal aspects of sports, this collection of documents is a timely and welcome contribution to enhancing the accessibility of basic texts on international sports law.

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## THE EUROPEAN UNION AND THE INTERNATIONAL LEGAL ORDER: Discord or Harmony?

Editor: Vincent Kronenberger (with a Foreword by Paul J.G. Kapteyn)

Although changing, the relationship between the European Union and international law has not given rise to many publications. Important practical and theoretical issues remain to be explored and discussed in respect of the so-called three pillars of the European Union (European Communities, Common Foreign and Security Policy, Police and Judicial Co-operation in criminal matters) in relation to international law. One way to do so is to establish a dialogue between EU lawyers and international lawyers, in order to further focus on the relationship between EU and international law. *The European Union and the International Legal Order: Discord or Harmony?* aims to contribute to this dialogue.

In practical examples, developed in 25 original essays written by both practitioners and scholars from European institutions and universities, this book seeks to stimulate the discussion on relations and conflicts between the EU and international legal orders. Current issues are addressed, such as:

- the suspension of rights of Member States in international organisations;

- the definition of the precautionary principle under WTO and EC law;
- the UN Convention against transnational organised crime, and the participation of the EU;
- the EU and its involvement in international humanitarian law;
- the EU Charter of Fundamental Rights related to international instruments.

*Vincent Kronenberger, a French Doctor of Law, is an Officer at the EFTA Surveillance Authority in Brussels.*

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# EU ENLARGEMENT

## The Constitutional Impact at EU and National Level

Editors: Alfred E. Kellermann, Jaap W. de Zwaan and Jenö Czuczai

The studies, debates and suggestions collected in this work are the result of an international conference on European Law held in September 2000, organized by the T.M.C. Asser Institute in The Hague, in cooperation with the Constitutional and Legal Policy Institute COLPI, Budapest, Hungary. The subject of the conference concerned the impact of the enlargement of the European Union on the constitutional provisions of both levels of legal order: the national and the European level.

At the *National level*, enlargement will, most likely, contribute in many candidate countries to constitutional modernization and fundamental changes. Constitutional provisions have to be regulated and adjusted before accession. Provisions of national constitutions contrary to or contradicting the *acquis communautaire* have to be amended. National courts interpreting these constitutions (*living constitutions*) will play a new important independent role as community courts. After accession these national courts of the candidate countries should accept and apply the principles of direct effect, direct applicability and supremacy of community law.

At the *EU level* reorganization and simplification of the Treaties as well as reform of the EC's institutions (European Parliament, Council, Commission and European Court of Justice) should increase the effectiveness of the legal order of the Union. The contributions in this Volume are grouped around five major themes:

(i) the European architecture, i.e., the constitutional order and the Charter of Fundamental Rights;

(ii) the impact of enlargement on constitutions and courts of EU Member States;

(iii) the impact of enlargement on the constitutions and courts of the candidate countries;

(iv) the IGC and future perspectives for the European architecture; and

(v) the practical implementation of the challenges of accession.

The contributors, coming from Member States as well as all candidate countries, are representatives and legal experts from national governments, from the EC Institutions, the national judiciary and the academic world (European and constitutional law). The contributions are preceded by a *Report on the Conference* and followed by *Conclusions and Summing up of the Conference*. The *Annexes* include, a.o., documents from the European Council of Nice (December 2000), such as the 'Protocol and Declaration of Enlargement', 'Declaration on the Future of the Union' and the 'Charter of Fundamental Rights of the European Union'.

This book is essential and vital as background information for the broad discussion which will start on the basis of the 'Declaration on the Future of the Union' from the European Council of Nice (December 2000), and which process of debates will continue with appropriate initiatives after the 'Declaration of Laeken' from the Belgian Presidency (December 2001) till the new Conference of the Representatives of the Governments of the Member States, to be convened in 2004.

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