

NETHERLANDS YEARBOOK OF INTERNATIONAL LAW

1999

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 XXX
1999

MARTINUS NIJHOFF PUBLISHERS

Under the combined subscription arrangements this volume of the Yearbook is linked to Volume 46 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.

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.

See page X for General Information for authors.

Printed in the Netherlands
© Stichting T.M.C. Asser Instituut, The Hague, 2000
Library of Congress Catalog Card Number 72-623109
ISBN 90-411-1497-1
ISSN 0167-6768

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

N.M. Blokker
University of Leiden

M.M.T.A. Brus
University of Leiden

D.M. Curtin
University of Utrecht

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

L. Hancher
Catholic University of Brabant,
Tilburg

P. Malanczuk (General Editor)
Erasmus University Rotterdam

H.H.G. Post (General Editor)
University of Exeter

N.J. Schrijver
Vrije Universiteit, Amsterdam

B. de Witte
University of Limburg, Maastricht

* * *

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

K. Peters
(Assistant Managing Editor)
T.M.C. Asser Instituut

* * *

HONORARY EDITORS

H. Meijers †
University of Amsterdam

Ko Swan Sik
Erasmus University, Rotterdam

TABLE OF CONTENTS

Articles

| | |
|--|-----|
| <i>Niels Blokker</i> , Decisions of international organizations: the case of the European Union | 3 |
| <i>Jan Klabbers</i> , re-inventing the law of treaties: the contribution of the EC Courts | 45 |
| <i>Jaap W. de Zwaan</i> , The legal personality of the European Communities and the European Union | 75 |
| <i>Gerhard Loibl and Markus A. Reiterer</i> , levies on aircraft engine fuel – the international legal framework | 115 |

Documentation

| | |
|---|-----|
| Classification scheme | 141 |
| <i>P.C. Tange</i> , Netherlands state practice for the parliamentary year 1997-1998 | 159 |
| <i>M.M. van Breet</i> , Treaties and other international agreements to which the Kingdom of the Netherlands is a party Conclusions and developments 1998 | 223 |
| <i>P.C. Tange</i> , Netherlands municipal legislation involving questions of public international law, 1998 | 269 |
| <i>L.A.N.M. Barnhoorn and P.F.H.A. Tilly</i> , Netherlands judicial decisions involving questions of public international law, 1997-1998 | 277 |
| <i>W.E.C. Plomp</i> , Dutch literature in the field of public international law and related matters, 1998 | 343 |

| | |
|-----------------------|-----|
| Table of cases | 403 |
|-----------------------|-----|

| | |
|--------------|-----|
| Index | 406 |
|--------------|-----|

ABBREVIATIONS

| | |
|------------------|---|
| AA | Ars Aequi |
| Aanh. Hand. I/II | Aanhangsel tot het Verslag der Handelingen van de Eerste/Tweede Kamer der Staten-Generaal |
| AB | Administratiefrechtelijke Beslissingen |
| AFDI | Annuaire français de droit international |
| AJIL | American Journal of International Law |
| AVR | Archiv des Völkerrechts |
| Awb-katern | Administratiefrechtelijke Beslissingen |
| Bijl. Hand. II | Bijlagen bij het Verslag der Handelingen van de Eerste/Tweede Kamer der Staten-Generaal |
| BYIL | British Yearbook of International Law |
| CLMRev. | Common Market Law Review |
| DD | Delikt en Delinkwent |
| ECR | European Court Reports |
| EJIL | European Journal of International Law |
| ELR | European Law Review |
| Emory JIL | Emory Journal of International Law |
| Emory ILR | Emory International Law Review |
| EPIL | Encyclopedia of Public International Law |
| European JIL | European Journal of International Law |
| Finnish YIL | Finnish Yearbook of International Law |
| Fordham ILJ | Fordham International Law Journal |
| GV | Gids Vreemdelingenrecht |
| GYIL | German Yearbook of International Law |
| Hand. I/II | Verslag der Handelingen van de Eerste/Tweede Kamer der Staten-Generaal |
| Harvard ILJ | Harvard International Law Journal |
| ICJ Rep. | International Court of Justice, Reports of Judgments, Advisory Opinions and Orders |
| ICLQ | International & Comparative Law Quarterly |
| ILC Yearbook | Yearbook of the International Law Commission |
| ILM | International Legal Materials |
| ILR | International Labour Review |
| JB | Jurisprudentie Bestuursrecht |
| JV | Justitiële Verkenningen |
| JWTR | Journal of World Trade Law |
| KG | Kort Geding |
| LJIL | Leiden Journal of International Law |
| M&R | Milieu & Recht |

| | |
|-----------------|---|
| MRT | Militair Rechterlijk Tijdschrift |
| NAV | Nieuwsbrief Asiel-en Vluchtenlingenrecht |
| NIPR | Nederlands International Privaatrecht |
| NJ | Nederlandse Jurisprudentie |
| NJB | Nederlands Juristenblad |
| NJB-katern | Nederlands Juristenblad-katern |
| Nordic JIL | Nordic Journal of International Law |
| NTBR | Nederlands Tijdschrift voor Burgerlijk Recht |
| NYIL | Netherlands Yearbook of International Law |
| OJ | Official Journal of the European Communities |
| PCIJ Ser. A/B | Permanent Court of International Justice |
| RdC | Recueil des Cours de l'Académie de droit international de La Haye |
| Rev.trim.dr.Eu. | Revue Trimestrielle de Droit Européen |
| RGDIP | Revue Générale de droit international public |
| RSV | Rechtspraak Sociale Verzekering |
| RTD eur. | Revue trimestrielle du droit européen |
| RV | Rechtspraak Vreemdelingenrecht |
| RvdW | Rechtspraak van de Week |
| SEW | Sociaal Economische Wetgeving |
| Stb. | Staatsblad van het Koninkrijk der Nederlanden |
| Stc. | Staatscourant |
| Trb. | Tractatenblad van het Koninkrijk der Nederlanden |
| UN Doc. | United Nations Documents |
| UNTS | United Nations Treaty Series |
| Virginia JIL | Virginia Journal of International Law |
| WPNR | Weekblad voor Privaatrecht, Notarisambt en Registratie |
| YbIEL | Yearbook International Environmental Law |
| YEL | Yearbook European Law |
| YIHL | Yearbook of International Humanitarian Law |
| ZEuS | Zeitschrift für Europarechtlichen Studien |
| ZLW | Zeitschrift für Luft- und Weltraumrecht |

GENERAL INFORMATION FOR AUTHORS

1. **Copyright and embargo** Copyright is exclusively reserved to the author(s). Acceptance of the Editors' offer to publish implies, however, that authors agree to an embargo on publication elsewhere, either in English or another language, for a period of two years following the year of publication of the Yearbook containing the article in question. Articles should not be currently under consideration elsewhere.

2. **Fees** Authors will not receive a fee, but will be represented with a copy of the Yearbook containing their article, together with 25 off-prints free of charge. Any additional copies of the Yearbook and/or off-prints can be ordered and will be charged.

3. **Editorial policy** All papers are refereed. The Board of Editors reserves the right to suggest modifications and/or additions to the paper submitted, and further reserves the right to reject, or to revoke acceptance or to withhold publication of any paper.

4. **Language** Authors are requested to submit their paper in English. Papers accepted for publication may, at the discretion of the Editors, be linguistically revised.

5. **Proofs** The author will receive proofs for correction. Corrections should be kept to a minimum. The only corrections which should normally be necessary are those relating to type-set errors or those which take account of important material or references not previously available, or subsequent developments of notes. Substantial modifications to the text or footnotes will not be permitted, except in consultation with and with the consent of the Editors.

6. **Typing** The manuscript should be typed, double-spaced with wide margins, on one side of standard A4 paper. Two copies of the paper should be submitted, and one retained by the author. *Pages must be consecutively numbered. The text should be divided into chapters and each chapter may be divided into sections and subsections.*

Authors should carefully check for errors before submitting. Authors are responsible for accuracy of quotations, for supplying complete and correct references, and for obtaining permission where needed to cite another author's material. Authors will be asked to provide a diskette containing the final version of their paper following acceptance for publication. The author is responsible for ensuring that the final hard copy and diskette version of the manuscript are identical.

The maximum length should be 450 words per page, 35 pages, including footnotes for a full article and 20 pages, for a case note. The first page should contain: full title of the article, author(s) full name(s), affiliation, address, telephone and fax and e-mail address.

For house-style please refer to the most recent NYIL.