

Review of European Community & International Environmental Law

Implementation of International Environmental Law

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Book Reviews

Planning and Environmental Law, William Birtles and Richard Stein. (London, Longman Group UK Ltd, 1993), 204 pp. plus two appendices and bibliography, £37, paperback.

Barristers Birtles and Stein have written a basic, step-by-step guide to UK planning and land use law as it is presently developing into a body of law concerned not so much with exploitation of natural resources, as in the nineteenth century, but with preservation and prevention of further degradation of the environment, broadly defined. The book includes diagrams and tables showing process for different legal procedures, as well as the timetables for completion of the various steps. These expositions are set in a complete, if not extremely in-depth (by the authors' own admission, given the length of the book and scope of the material), context of environmental law generally and the effects of EC law on the entire picture. The discussions are supported by relevant statutory and case law; and useful charts such as the major EC Directives concerning different environmental media, and a list of addresses of local and national environmental offices and NGOs in the UK, are added.

After introductory chapters on environmental law generally, which include brief discussions

of various philosophies, such as environmental externalities and different regulatory approaches to standard-setting, and on EC environmental law, the authors provide an overview of UK environmental law as of 31 July 1993 (so that the *Cambridge Water* case, for example, was still awaiting hearing in the House of Lords—an unavoidable problem in such a rapidly-developing area of the law). Then, the planning process is described in some detail with statute and case citations where applicable, both from the perspective of land use and of project control (integrated pollution control, noise abatement, contaminated land, air pollution, and water pollution). The authors also stress the importance of keeping abreast of departmental circulars and policy notes, in order to understand how laws will be interpreted and which areas will be emphasized by government departments.

Whilst the approach is largely descriptive of applicable legal provisions, brief mention is made of practical questions such as the extent to which laws are actually enforced. (The Government's accession to fears of landowners, in delaying the introduction of s. 143 of the Environmental Protection Act 1990, is mentioned at pp. 169–70, for example.) The authors also, wisely, recognize throughout the book the limitations of such a short treatise, and offer in each instance what they consider to be the best source to consult for further

information. They have successfully resisted the temptation to write what could have been a ponderous tome, and have instead provided a complete overview of basics with references where needed. The result is a helpful and thoroughly readable reference guide for both student and practitioner.

The authors concluded, on the basis of their review of this area of the law, that '[w]ithout the benefit of a basic library one is likely to go seriously wrong in the advice given with consequences in costs, wasted time and possibly adverse court decisions' (p. 5). Anyone wondering where to begin in acquiring such a basic body of reference materials and knowledge would do well to begin with this short, relatively inexpensive but nonetheless quite substantial book.

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Biodiversity Prospecting: Using Genetic Resources for Sustainable Development, Walter V. Reid, Sarah A. Laird, Carrie A. Meyer, Rodrigo Gamez, Ana Sittenfeld, Daniel H. Janzen, Michael A. Gollin, and Calestous Juma (Baltimore, Md., WRI Publications, 1993), 341 pp., US\$24.95; paperback.

As the Convention on Biological Diversity was ratified on 30 December 1993, **Biodiversity Prospecting** was the most comprehensive legal guide to the central articles that link revenues from biotechnology products from 'wildland genetic resources' to building national institutions for better conservation through land management. Unfortunately, as the International Year of Indigenous People came to an abrupt close with the Chiapas Uprising, the relationships between biotechnology, biodiversity, and rural communities remained surprisingly unexplored – even in this book. This is the most troubling contradiction in this anthology, which is introduced with the idealistic goal of 'doing right' in the 'gene rush' (p. v). The book is particularly strong, however, in guiding the development of contracts between public institutions and private enterprises for collecting permits, intellectual property frameworks, and royalties.

The book is focused around a small and relatively affluent developing country, Costa Rica, one national institute, the National Biodiversity Institute (INBio), and one pharmaceutical firm, the US-based Merck & Co. Although the examination of one example allows for a relatively small-scaled model, the issues are so multifaceted and complex that it becomes clear that if one were to begin with a larger, federated state with more institutions and private interests (as is the case in most of the world), it would be a recipe for chaos. The book is broken down into a progression of dense articles on the myriad issues emerging around biodiversity prospecting, Costa Rica's national conservation programme, INBio-based prospecting, contracts involving private interests, and strategies for building the capacities of

national institutions. The annexes include a discussion on inventorying, an example of a prospecting contract, an exploration of the potential linkages between the Convention and intellectual property rights, and the text of the Convention.

This guide is the most compelling and immediate in its exploration of the biodiversity prospecting contract and other research agreements in the essay by Sarah A. Laird (ch. IV). It is also in the Laird essay that there is at least some consideration of traditional knowledge and local communities (pp. 119–123). Michael A. Gollins' review of intellectual property and the Convention (ch. VI) is also exceptionally clear and important.

Biodiversity Prospecting is weakest in its coverage of the range of technical and legal aspects of surveys and inventories. There is a simplicity in considering surveys in countries such as Costa Rica and Brunei, but not in nation states that are larger, poorer, and less centralized. It will be the strategies embodied in such comprehensive efforts that will lead to a host of new institutional linkages and legal procedures, however. For example, strategies for gaining access to areas in order to collect in a full range of conditions within a region, ecological zone, or species distribution; with various ownerships, communities, and jurisdictions, are not adequately considered. Contentions over ownership of genetic resources, even under the rubric of developed intellectual property law, with inevitable conflicts between nation states, states and provinces, private land owners, and communal indigenous groups, have barely been mentioned. The problem that may be the major obstacle to the resolution of conflicting

claims under intellectual property law – the inadequacy of most documentation and the lack of a means to establish and verify information standards under the Convention – has similarly been left for subsequent books.

Notwithstanding these flaws, **Biodiversity Prospecting** is a substantial accomplishment, given all the publicity and confusion surrounding the Convention. Its careful and clear treatment of the potential, indeed inevitable, interdependence of conservation-oriented research and the law is its most important accomplishment. More books like this are needed on these complex questions, and most will rely on this initial effort as their major source.

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The Politics of Industrial Agriculture, Tracey Clunies-Ross and Nicholas Hildyard (London, Earthscan, 1992), 162 pp., \$8.95, paperback.

One gets the impression from reading this book that its cover representation of rolling green fields under a cloudless blue sky is intended to be ironic. The authors unfold a tale of power-play and conspiracy in what they term 'industrialized agriculture'. This book has all the best constituents of a political thriller, nothing is conclusively proved against the alleged malefactors and readers are left guessing at the final outcome. Nonetheless, the book does provide food for thought on a serious issue – who controls the food industry, and to the benefit of whom? When the