Book Review. Foreign Investments and International Law by Georg Schwarzenberger

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BRIEFER NOTICES

Foreign Investments and International Law. By Georg Schwarzenberger. (New York and Washington: Frederick A. Praeger, 1969. pp. xxiv, 237. Bibliography. Indexes. §12.00.) Professor Schwarzenberger, a pioneer of international economic law since long before it became the staple of fashionable symposia, tackles in his latest book that field’s most controversial subject: the protection of foreign investment. The book deals first with British state practice in an exhaustive critical survey which provides valuable insights into problems, policies and techniques, and brings interesting facts into light. The second main topic, a study of multilateral schemes (international investment code projects, the World Bank’s Convention on the Settlement of Investment Disputes, proposals for an international investment insurance agency), proves a perfect vehicle for a demonstration of the author’s mastery of legal doctrine, his insights into drafting, his acute critical perception, and for his caustic style (e.g., as to some traits of proposed investment codes: “an astounding exercise in surreptitious law-making” (p. 127), “the less than frank technique of soft texts and hard commentaries” (p. 155)). His critique is intelligent and constructive; it is all the more valuable because it is based on substantial agreement with many of the proposals’ objectives.

Issues are placed in perspective in highly condensed introductory and concluding chapters. The author is pessimistic on current possibilities for effectively protecting foreign investment through legal devices; it is difficult for any student of the subject to disagree. There is, however, room for disagreement with some of his factual assertions (e.g., that private capital is “abundant,” or private investors “credulous and uninformed” (p. 191)) and some of the resulting generalizations. Professor Schwarzenberger consistently juxtaposes and contrasts legal prescriptions and “metalegal” (economic, political, etc.) factors; their interaction he treats as if it were outside the law’s ambit. While recognizing the ambiguity and fluidity of the traditional international minimum standard and its dependence on long-gone conditions and attitudes, he states “existing” legal rules as if they were clear and certain. Nevertheless, his final conclusion is impeccably realistic: the existing pattern “may justly be summarized in the motto: caveat investor” (p. 200). If this implies that an investor’s legitimate expectations should not include strict application of traditional rules of property protection (which the author insists are still in effect) this reviewer would be happy to concur.

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Medunarodno Javno Pravo [Public International Law]. Second revised and enlarged edition. By Smilja Avramov. (Belgrade: 1969. pp. xii, 375. Index. Bibliography.) Dr. Smilja Avramov is an outstanding professor of international law at the Law Faculty of the University of Belgrade. This book was obviously written in the first place for the use of her students. As a textbook it will serve its purpose very well. The book follows general patterns for academic instruction of law students. A bibliography lists Yugoslav and foreign authors of treatises on international law, including Soviet and United States scholars whose publications appeared after World War II.

The author has taken a moderate position in describing the various politically sensitive aspects of international law. She points out the fact that the