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BOOK REVIEWS

China's Economy in Global Perspective. By A. Doak Barnett. Washington, D.C.: The Brookings Institution, 1981. Pp. xxiv, 752.

Fifteen years ago, Doak Barnett,¹ then Professor of Government at Columbia, published a series of lectures he had given at Princeton University under the title "China After Mao."² The turmoil caused by the Great Proletarian Cultural Revolution in China was just beginning to become known in the West, and Professor Barnett took a long-range view of the impending upheaval, which he saw as a tremendously significant historic event, the end of Mao Zedong's³ personal leadership of the Chinese revolution and the succession struggle of the heirs to Mao's revolution. These lectures were remarkably prescient since they predicted the Cultural Revolution would see a violent struggle between the the dogmatic ideologues who followed Mao, striving to keep their revolution "pure," and the pragmatic modernizers, whose moderate policies would have sacrificed some of the egalitarian gains of the revolution to achieve economic growth and other goals. Although it was ten years after Mr. Barnett's lectures before Mao passed from the Chinese scene, this conflict, between a determined utopian commitment to "continuing revolution" and a flexible pragmatism which promotes the economy at the expense of political orthodoxy, has characterized the last decade or so of Chinese history. After ten years of political violence, which cost China's economy dearly, Mao's death brought the succession of Deng Xiaoping⁴ and a group of political moderates who

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² A. BARNETT, *CHINA AFTER MAO* (1967).

³ Barnett uses the "modified" Wade-Giles romanization system throughout his book and provides *pinyin* transliterations of names in parentheses through the text, as well as a table which gives equivalencies for Chinese names and terms in modified (or postal form, for place names) Wade-Giles, full Wade-Giles and *pinyin*. A. BARNETT, *CHINA'S ECONOMY IN GLOBAL PERSPECTIVE* 576-81 (1981) (Table 3). In a prefatory note on romanization, Barnett explains that most non-specialist readers will be more familiar with the Wade-Giles romanization; accordingly, he has used it in his book. This review uses the *pinyin* romanization, which has officially supplanted other forms of romanization, for all Chinese personal names. Place names are given in the romanized form most familiar to English-language readers.

⁴ Although Hua Guofeng succeeded Mao as Party Chairman (a post from which Hua was demoted in 1981), all knowledgeable observers have agreed that from 1977 onward, then Vice-Premier Deng Xiaoping held all real political power in China and had established his associates

have advocated stimulation of rapid economic growth as the policy for China's future.

China's Economy in Global Perspective surveys China's prospects as it enters the international community in its quest for rapid economic expansion. In analyzing the changes in China's economic relations with foreign countries, Barnett ponders both the internal and international implications of China's new policies. Beginning with the changes in China's domestic policies, he shows how change in China's international economic relations have led to increased foreign trade and acquisition of advanced technology from abroad. Mr. Barnett then discusses the prospects for continued growth in China's foreign trade and absorption of new technology, as well as the problems and opportunities for other countries as China embarks on its new course.

China's Economy in Global Perspective has five long chapters, which follow a helpful synoptic introduction. The first two chapters give a comprehensive overview of China's current drive for modernization, followed by a discussion of China's new willingness to engage in foreign trade and to import foreign machinery and technology. The next two chapters discuss China's position in the international community on two crucial issues: food and energy. Weighing the needs of China and its potential contributions, this part of the book presents important information for judging the feasibility of current Chinese policies and China's future influence on global trade in these two basic commodities. A final chapter discusses the economic dimension of United States-China relations, focusing on the development of trade between the two countries and the possibilities for broader relations to provide a firm underpinning for future growth. More than 150 pages of notes to the text follow at the end of the book. Tables are interspersed with the text they explicate, except for three tables of general relevance which are placed in an appendix.

In his opening chapter, Barnett outlines both China's economic record since 1949 and the new economic modernization policies put into practice after 1977. While giving Chinese policies their due for the dramatic growth in the economy over the past thirty years, the author notes that radical shifts in policy caused erratic trends in that growth. Barnett also emphasizes several underlying problems that have plagued

and supporters, including many moderates purged by Mao during the Cultural Revolution whom Deng had rehabilitated, in key governmental and Party positions. See generally A. BARNETT, CHINA'S ECONOMY IN GLOBAL PERSPECTIVE 14-16 (1981). China's current Premier, Zhao Ziyang, and Secretary General of the Communist Party, Hu Yaobang, are both perceived to be proteges of Deng, who now occupies an important position in China's politburo.

the Chinese economy since liberation: low labor productivity, inadequate investment in infrastructure to support future growth (especially in the crucial area of transportation), and dogmatic commitment of central planners to heavy industrialization at the expense of light industry and agriculture. After examining the initial plans for rapid modernization of the economy after the fall of the Gang of Four⁵ in the late 1970s, and the subsequent readjustment of those overambitious goals, Barnett concludes that China's GNP has a good chance of growing at a rate averaging six to seven percent per annum.

This discussion of internal economic factors is followed by the chapter on foreign trade and its connection with China's plans for economic growth and modernization. After a brief description of the thirty-year debate among China's policy-makers on the merits of self-reliance, this chapter surveys what Barnett calls China's "Great Leap Outward" from 1977-1979, and the retrenchment of foreign trade made necessary by the over-optimistic development of such trade during those two years. Barnett draws several cautionary conclusions from this survey. First, the level of scientific and technological knowledge in China today and the capabilities of its industrial labor force requires a slow, gradual process of technology absorption. Second, China's limited supply of foreign exchange and lack of a broad base of exports to increase foreign exchange earnings will restrict Chinese purchases of machinery and equipment from abroad for the foreseeable future. Finally, as China emerges from its largely self-imposed isolation and trades with the rest of the world, it will present other countries with both opportunity (e.g., new markets, cheap sources of raw materials, normalized international relations) and difficulty (e.g., excessive competition among third-world exporters, disruption of markets by low-cost imports, pressures for transfers of military technology).

Chapters Three and Four of Barnett's book examine two specific areas in which the needs and policies of a modernizing China have the potential to contribute to the solution of or exacerbate global problems. In the third chapter, entitled "China and the World Food System," Barnett notes the inevitable impact China will have, as one of the three

⁵ The "Gang of Four" is the epithet used by the current Chinese leadership for the radical Maoists whose policies were largely responsible for the excesses of the Cultural Revolution (1966-1976). The four are Jiang Qing (Madame Mao Zedong), Zhang Chunqiao, Yao Wenyuan and Wang Hongwen. They were arrested in late 1976 and brought to trial in 1980. In 1981, the specially-impanelled session of the Supreme People's Court which tried them sentenced Jiang and Zhang to death (with the customary two-year suspension of the imposition of sentence) and Yao and Wang to life imprisonment. Madame Mao's sentence was recently reduced to life imprisonment. *China Spare's Mao's Widow from Execution*, N.Y. Times, Jan. 26, 1983, at 1, col. 2.

largest grain producers in the world and provider of food to over one-fifth of the world's population, on international grain trade. The author shows that over the past thirty years Chinese economic policies have served agriculture less well than other sectors of the economy, despite undeniable gains in productivity and general nutrition since 1949.

Technological improvements, imports of fertilizer, new incentives for peasants to increase production, and strict family planning policies all will help determine whether China can progress in the future in agriculture, as well as industry. Barnett is confident that current policies—if followed conscientiously—will succeed.

“China and the World Energy System” similarly considers China's relationship, both as consumer and producer, to global energy supplies. China is considered a potentially promising source of oil production, both for domestic consumption and for export. Mr. Barnett notes that coal, however, remains China's most important source of energy, although petroleum has become one of the cornerstones of the government's modernization program. In fact, China's petroleum reserves are substantial, and have only recently begun to be exploited. Considerable foreign investment (Barnett cites one United States government estimate of \$50 billion⁶) will be required to exploit China's petroleum reserves. The foreign exchange and energy for consumption which could be produced are, however, considerable inducement for China's leaders to push for petroleum production.

In his final chapter, on United States-China relations, Barnett begins with an assessment of the United States interest in improved relations and economic ties between the United States and China. The increased stability in East Asia now that the United States, China, and Japan all enjoy friendly relations with each other is, in Barnett's view, reason enough to promote further ties. He then traces the development of United States-China relations and two-way trade since the signing of the Shanghai Communique in 1972. The broadening of economic and other relations between the two countries has resulted in pressures to institutionalize relationships. These concerns have led to agreements which followed the official normalization of United States-China relations, such as the settlement of claims on frozen assets, the trade agreement extending most favored nation treatment to China, and the extension of guarantees and insurance for United States investments in China by the Overseas Private Investment Corporation (OPIC). Nev-

⁶ A. BARNETT, CHINA'S ECONOMY IN GLOBAL PERSPECTIVE 446 n.304 (1981).

ertheless, as Barnett acknowledges, China's contacts with foreigners over the past few years have shown a need for a firmer legal grounding for relationships, especially in the economic area. The adoption of a new civil code, which is now in draft form and will be China's first comprehensive set of civil laws since liberation, should prove to be a major advance towards a well-developed legal framework for China's foreign economic relations. Such a framework should encourage foreign businessmen to invest in China, which in turn will hasten the pace of modernization.

Non-specialists who refer to the tables and statistical information included in this book should be warned that these are not accurate summaries of carefully collected data, but rather the best available information culled from rather sketchy sources. Most of the tabular data come from various publications, each cited by Barnett, of the National Foreign Assessment Center of the Central Intelligence Agency. These publications' sources are, in most instances, Chinese reports and compilations prepared for government distribution. Compiled from information supplied by bureaucrats eager to meet quotas set in Peking by functionaries who have no training in statistical methods and who often lack even rudimentary mechanical aids for data processing, these data are not the reliable reflection of China's current situation that most developed countries obtain from a census or the periodic reports of specialized agencies. To be fair, Barnett warns his readers early in his book that the statistics contained therein are merely the best available and are to "be used cautiously and with some qualifications."⁷ Unfortunately, the amount of attention paid to statistical data in the text and the prominence given such data may give the reader an unwarranted sense of confidence in them. This is, however, only a minor failing in a book of major significance.

As a review of the effectiveness of Chinese economic policies since 1949, an assessment of China's current economic modernization program and an analysis of the prospects for continued modernization, *China's Economy in Global Perspective* is an important contribution by a scholar noted for his previous studies and longstanding reputation as a China-watcher. The book will reward both the serious student and the casual observer of China today.

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⁷ *Id.* at xviii.

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Parry & Hardy: EEC Law. By Anthony Parry & James Dinnage.
London, England: Sweet & Maxwell, 1981 (2d ed.). Pp. 531.

1982 marks the twenty-fifth anniversary of the Treaty of Rome¹ which created the European Economic Community (EEC). The irony of the silver anniversary of the EEC is that the Rome Treaty succeeded in creating a European legal order, but failed to create a corresponding European political order. In 1957 the dream of a federal Europe gripped the imagination of the continent. Today, twenty-five years later, the dream has faded and work toward creating a "United States of Europe"² has been largely abandoned.

During these same twenty-five years, the European legal system has flourished. The European Court of Justice (ECJ) has exercised its jurisdiction to develop a substantial and largely unified body of law interpreting the treaties which established the EEC.³ The ECJ has protected the goals of a European common market by implementing the "Four Freedoms"⁴ set out in the Rome Treaty. Certain substantive areas of the law, such as antitrust and trade, now rival their United States counterparts in thoroughness and comprehensiveness.

This successful development of a European legal order has stimulated scholarly interest in the EEC and its institutions. In the United States, courses in so-called European law (which usually include study of the European Court of Human Rights, as well as the EEC) are common features of law and graduate school curricula. These courses are appearing more frequently at the undergraduate level as well.

¹ Treaty Establishing the European Economic Community, entered in force Jan. 1, 1958, 298 U.N.T.S. 11 [hereinafter cited as EEC Treaty]. This journal recently commemorated the 25th anniversary of the EEC. See *Special Symposium Commemorating the 25th Anniversary of the Founding of the European Economic Community*, 3 NW. J. INT'L L. & BUS. 287-704 (1981).

² See Vinocur, *In Common Market at 25, Uncertainty Over Future*, N.Y. Times, Mar. 22 & 23, 1982, at 1, col. 4.

³ In addition to the EEC Treaty, there is also: Treaty Establishing the European Coal and Steel Community, signed Apr. 18, 1951, 261 U.N.T.S. 140; Final Act of the Intergovernmental Conference on the Common Market and Euratom, signed Mar. 25, 1957, 297 U.N.T.S. 3 (treaty founding the European Atomic Energy Community); plus other accords relating to the functioning of Community institutions and the accession of new members.

⁴ The Four Freedoms include the free movement of goods, services, persons, and capital. EEC Treaty, tits. I, II, *supra* note 1.

The other significant change has been the shift in emphasis in analyzing developments within the EEC. As the movement for political integration has slowed and halted within the Community, legalism has begun to replace functionalism and its related doctrines as the predominant mode of analysis for the actions of the EEC. Accompanying this shift is an explosion of legal literature on the European Economic Community. The revised edition of *Parry & Hardy: EEC Law*⁵ joins a growing list of casebooks⁶ and textbooks.⁷ The first edition appeared in 1973 and sought to survey the law of the European Economic Community as England, Ireland, and Denmark joined the Community. The 1981 edition adds more recent developments, as well as some of the changes brought about by the accession of Greece to the Community.

EEC Law is divided into four main sections. The first section, comprising eleven chapters, describes the institutions of the European Court, with primary emphasis on the structure and jurisdiction of the ECJ. The following three sections survey what might be called the substantive law of the EEC: the "Four Freedoms," various Community policies, and the rapidly expanding external relations of the EEC.

Although *EEC Law* represents a useful survey of Community law and institutions, several flaws bear mentioning. The authors are woefully abstract and describe an endless stream of legal principles without any reference to the underlying facts or context of the cases they discuss. These abstract recitations of the law are annoying to a reader already familiar with the terse and often obscure rulings of the European Court of Justice,⁸ and would most likely discourage a student accustomed only to analyzing the opinions of the United States courts. The lack of background and context makes it impossible for a student to discern which issues are of great controversy and which have long been definitively settled. Presenting issues such as European antitrust,⁹ agricultural policy,¹⁰ and trade policy¹¹ in a vacuum denies the reader

⁵ A. PARRY & J. DINNAGE, *PARRY & HARDY: EEC LAW* (2d ed. 1981) [hereinafter cited as *EEC LAW*].

⁶ The casebook most familiar to an American audience would undoubtedly be E. STEIN, P. HAY & M. WAELBROECK, *EUROPEAN COMMUNITY LAW AND INSTITUTIONS IN PERSPECTIVE* (1976).

⁷ See, e.g., K. LIPSTEIN, *EUROPEAN ECONOMIC COMMUNITY LAW* (1974). There are also a host of more specialized texts on individual topics of EEC law.

⁸ The often abstract nature of the rulings is the product of the jurisdiction of the court under Article 177 of the EEC Treaty, which permits only preliminary rulings on matters of Treaty interpretation. *EEC Treaty*, art. 177, *supra* note 1. Another factor which adds confusion is the Court's practice of issuing only a single opinion, which must necessarily include compromise in the language used in the decision.

⁹ See *infra* notes 23-24 and accompanying text.

¹⁰ See *infra* note 18 and accompanying text.

much vital information. In their attempt to cover all topics of Community law, the authors have failed to distinguish the crucial from the mundane.

Another problem is the authors' conservative and historically oriented view. Few clues are given as to how the law *will* develop in areas such as the role of the European Parliament, or the relationship between the antitrust and intellectual property provisions of the EEC Treaty. The authors' conservative view is exemplified in their treatment of Community institutions. The mechanics of the various institutions and consultative bodies are described in excruciating detail,¹² with the exception of those of the European Parliament. Even though the authors were drafting their manuscript at the time of the first European direct election, only five pages are devoted to the work of the Parliament. Much of this discussion centers on the purely advisory functions of the Assembly. Only one line is devoted to the Assembly's controversial power to reject the *entire budget* of the Community, which in fact it did for the first time in July of 1980.¹³

For the lawyer, as well as the law student, the critical portion of the institutional section is the material on the sources of Community law and the jurisdiction of the European Court. The authors have a three-fold task which they perform quite competently: describing the nature of legislation in the Community,¹⁴ describing the principal bases of jurisdiction of the European Court,¹⁵ and setting forth the concept of "direct applicability" of certain Treaty provisions.¹⁶ The authors have also supplied valuable appendices summarizing the material.

For an American audience, the only shortcoming of this section is the summary treatment of the Advocate-General's role in proceedings before the European Court.¹⁷ The Advocate-General is unknown in the United States except by way of a limited analogy to the role of the Solicitor General appearing *amicus curiae* before the Supreme Court. The opinions of the Advocate General add depth to the rulings of the ECJ and give the reader much factual background and analysis left out of the Court's final ruling. This is a topic that deserves more than the two paragraphs which it receives.

¹¹ See *infra* note 25 and accompanying text.

¹² EEC LAW, *supra* note 5, at 13-67.

¹³ *Id.* at 51.

¹⁴ *Id.* at 71-81.

¹⁵ *Id.* at 116-58.

¹⁶ *Id.* at 92-102. The concept of direct applicability is akin to American concepts of standing and private rights of action.

¹⁷ *Id.* at 106.

The authors next address the free movement of goods, services, persons, and capital under the rubric of the "Four Freedoms." The creation of the customs union is surveyed along with the accompanying rules forbidding quantitative restrictions in trade between member states. In addition, the treaty provisions and regulations which promote a common market for workers, professionals, and other self-employed persons are discussed.

The authors then focus on the Common Agricultural Policy (CAP) as a major example of the legal task of creating a European, rather than a national, market.¹⁸ The substantive regulations governing each category of product are detailed along with the modest efforts at structural reform of the market which have been undertaken by the European Commission. The authors also discuss the effect of the CAP on trade with non-member countries. Import levies and export rebates are thoroughly discussed, but the authors ignore the larger picture. The CAP has been a constant source of friction between the United States and the EEC because the EEC has created a comprehensive system of subsidies and has stringently controlled imports of agricultural goods from the United States. A discussion of the controversies over protectionism that have marred trans-Atlantic relations is sacrificed for a technical discussion on an item-by-item basis of in-coming tariffs and out-going subsidies on EEC agricultural goods.

The next section deals with what may broadly be called the substantive law of the EEC. Ten Community policies are surveyed, ranging from transportation to environmental and energy law.¹⁹ Each chapter is relatively short, reflecting the often nascent legal regulation of the area described. Consequently, the authors rely on Community action programmes and the work of the Commission, rather than Treaty law, as the basis for EEC legal development.

The most extensive chapter concerns the sophisticated antitrust policy of the Community, which has developed from Articles 85 and 86 of the Rome Treaty and the implementing regulations.²⁰ A great deal of space is spent on enforcement mechanisms, and this detracts from the treatment of the substantive principles. Curiously, the authors mention in passing areas like the "effects doctrine"²¹ without any indi-

¹⁸ *Id.* at 206-43.

¹⁹ The book discusses transportation, competition, state aids, taxation, harmonization of laws, economic policy, social policy, regional policy, the environment, and energy. *Id.* at 295-412.

²⁰ EEC Treaty, arts. 85, 86, *supra* note 1; EEC Council: Regulation No. 17: First Regulation Implementing Articles 85 and 86 of the Treaty, J.O. COMM. EUR. (No. 13) 204 (1962), J.O. EUR. COMM. 87 (Spec. Ed. 1959-62).

²¹ EEC LAW, *supra* note 5, at 313. Under the effects doctrine, a court has jurisdiction over acts illegal under the antitrust laws, even if done entirely in a foreign country, if the acts produce

cation of the controversies raging both in Europe and the United States over its application to the antitrust laws. Similarly, little attention is paid to the provisional validity of agreements challenged under Article 85,²² or to the role played by national antitrust laws.²³ Finally, the development of block exemptions for licensing agreements with territorial restrictions, and the relationship between the intellectual property rights and the antitrust laws, which are given only slight attention in an earlier chapter, are given virtually no attention in the chapter on competition law. This is a serious omission because of the significance of these issues which were pending at the time before both the European Commission and the European Court.²⁴

The final section of the book is probably the most innovative and, therefore, the most interesting. Unlike the preceding sections, the material on external relations has a central theme. The authors have developed the notion of the external, or foreign, relations powers of the Community as flowing from an expansive interpretation of the common commercial policy. By definition, the problem of the Community's relationship with other countries forces the authors to consider real world problems of trade relations both among the developed nations and with the third world. The section concludes with a survey of the various international agreements between the Community and non-member countries.²⁵

In light of the foregoing discussion, it should be obvious that *EEC*

substantial anticompetitive effects within the prosecuting territory. The United States adopted the effects doctrine in *United States v. Aluminum Co. of Am.*, 148 F.2d 416 (2d Cir. 1945). The EEC also endorsed a version of the effects doctrine in *Imperial Chemical Indus. v. Commission of the European Communities*, 1972 E. Comm. Ct. J. Rep. 619, 11 COMM. MKT. L.R. 557 (1972).

The validity of the effects doctrine has been bitterly contested by Great Britain, which is one of several nations that have passed laws designed to limit the extraterritorial prosecution of national companies. The omission of any comprehensive discussion of extraterritoriality is all the more surprising given the intended British audience for EEC Law.

²² For a thorough treatment of this topic, see Korah, *The Rise and Fall of Provisional Validity—The Need for a Rule of Reason in EEC Antitrust*, 3 NW. J. INT'L L. & BUS. 320 (1981).

²³ See Vestrynge, *The Relationship Between National and Community Antitrust Law: An Overview After the Perfume Cases*, 3 NW. J. INT'L L. & BUS. 358 (1981).

²⁴ The revised proposed block exemption for patent licensing can be found at 139 J.O. COMM. EUR. 2,819 (1962). See generally Handler & Blechman, *An American View of the Common Market's Proposed Group Exemption for Patent Licenses*, 14 INT'L LAW 403 (1980).

On June 8, 1982, the ECJ handed down its long awaited decision in the *Maize Seed* case, *Nungesser v. Commission*, Case 258/78, which addressed the permissibility of exclusive licenses, the validity of territorial restrictions in license agreements, and the ability of the licensor to grant absolute territorial protection to an exclusive licensee. See generally Axster, *Restrictive License Agreements Under the EEC Law of Competition: the Maize Seed Case*, 38 BUS. LAW. 165 (1982).

²⁵ EEC LAW, *supra* note 5, at 467-84. Here, as in so many places throughout the book, the authors simply present lists of material rather than explanations and analysis.

Law represents only a starting point for any thorough investigation of legal developments in the EEC. The book should be utilized in conjunction with additional material to give the reader a detailed comprehension of the subject matter. At a minimum, the reader will need to make constant reference to a copy of the Rome Treaty and implementing regulations. To obtain a complete understanding of the material discussed, the reader is also well-advised to have at his disposal the full decisions of the European Court of Justice or a well-edited casebook.

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