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BOOK REVIEW

The Law and Organisation of International Commodity Agreements. By Kabir-ur-Rahman Khan. The Netherlands: Martinus Nijhoff Publishers, 1982. Pp. 416.

One wonders why a book that addresses a seemingly dead subject would be published now. Thus, the appearance on my desk of Kabir-ur-Rahman Khan's book¹ came as something of a surprise, particularly since I believed that I was the only other person in the history of humanity to devote book-length energy to the general subject of law and policy in intergovernmental primary commodity agreements.² I was delighted, to say the least, to see that interest in the subject of primary commodity organizations had not faded away with the expansive dreams of the Common Fund. On the contrary, this new work is a significant interpretive contribution to a body of international economic law that has been evolving through the real-world (versus rhetorical-world) experiences of primary commodity organizations.

The fact that few significant works have addressed the subject since 1976³ should not be considered a manifestation of the relative importance of the subject. Those countries that rely heavily on the exportation or importation of raw materials will testify to the substantial, if not critical, role that regulation of trade in raw materials has on their domestic economies. In recognition of the subject's importance, this year UNCTAD VI will once again focus on the problems facing primary commodity trade. The Integrated Programme for Commodities, adopted by the Conference in 1976,⁴ unfortunately has fallen far short of its goal of establishing commodity trade agreements on a wide range of raw materials (approximately eighteen). The establishment of the

¹ K. KHAN, *THE LAW AND ORGANISATION OF INTERNATIONAL COMMODITY AGREEMENTS* (1982) [hereinafter cited as *INTERNATIONAL COMMODITY AGREEMENTS*].

² 1 & 2 C. JOHNSTON, *LAW & POLICY OF INTERGOVERNMENTAL PRIMARY COMMODITY AGREEMENTS* (1976 and periodic supplements).

³ E. ERVIN, *INTERNATIONAL COMMODITY AGREEMENTS: THE SYSTEM OF CONTROLLING THE INTERNATIONAL COMMODITY MARKET* (1982); G. GOODWIN & J. MAYDALL, *A NEW INTERNATIONAL COMMODITY REGIME* (1979); L. RANGARAJAN, *COMMODITY CONFLICT; THE POLITICAL ECONOMY OF INTERNATIONAL COMMODITY NEGOTIATIONS* (1978); J. SINGH, *A NEW INTERNATIONAL ECONOMIC ORDER: TOWARD A FAIR REDISTRIBUTION OF THE WORLD'S RESOURCES* (1977).

⁴ See *INTERNATIONAL COMMODITY AGREEMENTS*, *supra* note 1, at 279-80 n.22 and accompanying text.

Common Fund,⁵ a component of the Programme, likewise has been a disappointing exercise for the advocates of a commodity trade regime oriented toward regulated world markets.

Notwithstanding these functional setbacks, the law and policy of international economic relations, according to Mr. Khan, has seen significant advancement as evidenced by the adoption of the Integrated Programme and the Common Fund, and in recent agreements such as the International Natural Rubber Agreement of 1979.⁶ His views are summarized as follows:

International measures on commodities are no longer seen in a restrictive manner, as the international commodity agreements are recognised as instruments of bringing about the economic and social well-being of peoples in the developing countries. They are now promoted rather than tolerated. The Integrated Programme adopts a multi-dimensional approach. It is no longer considered sufficient that problems of primary commodities can be solved or the objectives of the NIEO [New International Economic Order] can be achieved by supply management measures only. Measures to provide security of market and to improve the bargaining position of the developing countries are envisaged and further elements of organisation in the negotiation process of international measures are introduced. Under the Havana pattern the pre-conference stages were left to individual study groups. In the IPC, they are brought under the UNCTAD framework. Eighteen commodities are specified which are considered suitable for international measures. Preparatory Meetings are provided within which the pre-conference negotiations are conducted. The Ad Hoc Committee has co-ordinative functions and where necessary it provides impetus to the sagging negotiations or to recalcitrant parties.⁷

In addition, the author observes that principles of international law such as freedom of commerce, state responsibility, economic sovereignty and reciprocity are manifested in the regulatory and organizational schemes of intergovernmental primary commodity agreements.

Mr. Khan's book is the most comprehensive research effort to date on the law and policy of primary commodity agreements. The subjects covered range from principles of international economic law and commodity organizations, to analyses of the various commodity regulatory mechanisms and the organizations established to operate those mechanisms. The book is replete with citations to primary and secondary

⁵ See INTERNATIONAL COMMODITY AGREEMENTS, *supra* note 1, at 281-82 nn.56-58 and accompanying text.

⁶ International Rubber Agreement, Oct. 6, 1979, — U.S.T. —, T.I.A.S. No. 10379, — U.N.T.S. —.

⁷ INTERNATIONAL COMMODITY AGREEMENTS, *supra* note 1, at 14-15 (1982).

documents,⁸ as well as to personal interviews conducted by the author. While his organizational format differs somewhat from my work, it is interesting to see that we have categorized a heretofore unorganized body of materials by similar subject headings. This seems to suggest that an analysis of the commodity trade regime logically falls into the categories of chronological policy development and organizational formats.

Mr. Kahn's book, however, is more thorough in its analysis than my treatment of the subject. It is particularly strong in the chapter that discusses the New International Economic Order.⁹ The book gives short shrift to at least two subjects, however: weighted voting and the goal of economic diversification through commodity trade revenues. Weighted voting is prevalent in organizational formats adopted under the auspices of UNCTAD or in keeping with GATT principles that have incorporated, by reference, the fundamental precepts set forth in the stillborn Havana Charter.¹⁰ Weighted voting represents a significant departure from the one nation-one vote principle accompanying the rule of sovereignty and, as such, warrants close analysis in the developing law of international economic relations.

Diversification, the second subject lacking adequate treatment in the book, is from a policy perspective one of glaring omissions in the commodity trade debate. Proponents of commodity arrangements most often claim that a goal of these arrangements is to improve the terms of trade of primary resource exporting countries. But is this the ultimate goal? Historical analysis of commodity trade policy shows us that the ultimate purpose of these arrangements is to lend some predictability to the economic cycles of developing countries dependent on that trade. Economies held hostage by fluctuations in the price of their primary commodity have little chance to "develop." And economic development, particularly for primary commodity exporting countries, requires diversification of the economic base. Thus, commodity agreements and diversification should go hand-in-hand.

In reality they do not, however. There was a brief attempt in the

⁸ Many of these documents are reproduced in 1 & 2 C. JOHNSTON, LAW & POLICY OF INTER-GOVERNMENTAL PRIMARY COMMODITY AGREEMENTS (1976 and periodic supplements).

⁹ See, e.g., INTERNATIONAL COMMODITY AGREEMENTS, *supra* note 1, at 397-400 (bibliography).

¹⁰ Final Act & Related Documents of the United Nations Conference on Trade & Employment, U.N. Doc. E/Conf. 2/78 (1948). See C. JOHNSTON, *supra* note 2, at app. II.2, vol. 1, for a copy of the text.

1968 Coffee Agreement¹¹ to create a diversification fund supported by exporting members, but administration of the fund proved inadequate. Since then, no further attempts to address the diversification objective have been made. It is my opinion that this failure to link the goal of diversification with the regulatory format of commodity agreements has been a basic reason why the developed importing countries withhold their active support for more comprehensive and functional commodity trade mechanisms.

Kabir-Ur-Rahman Kahn concludes his book by calling for a renewed study of the proposal for a General Agreement on Commodity Arrangements¹²—an agreement that if achieved would probably be a formalization of the Integrated Programme. Such an agreement certainly is a worthy objective. But, in light of the failures of smaller-scale initiatives such as the Common Fund, perhaps we should direct our energies to making the Common Fund or a commodity arrangement work before we launch into a massive multilateral rules debate.

If a grand-scale multilateral effort is to be undertaken, however, I submit that the answer to international economic development lies in the organizational infrastructure of multilateral trade institutions. One wonders what could be accomplished if trade and development were truly linked through the merger of UNCTAD and GATT. Perhaps it is in this organizational context that a General Agreement on Commodity Arrangements could be reached.

*Charles R. Johnston, Jr.**

¹¹ International Coffee Agreement, *opened for signature* Sept. 28, 1962, 14 U.S.T. 1911, T.I.A.S. No. 5505, 647 U.N.T.S. 3.

¹² INTERNATIONAL COMMODITY AGREEMENTS, *supra* note 1, at 393-94.

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