Menschenrecht auf Umweltschutz – beides Postulate, deren mangelnde dogmatische Faßbarkeit der Autor selbst hervorhebt.
Den Anhang des umfangreichen Werkes bilden Dokumente zur Arbeitsgrundlage von UNEP. Insgesamt bietet das Buch eine wertvolle Übersicht, in der unter verschiedensten Gesichtspunkten systematisiert und vorsichtig gewertet wird. Es enthält eine Fülle von über eine Darstellung der Umweltorganisationen hinausreichenden Anregungen für einen in der deutschsprachigen Literatur bisher wenig bearbeiteten Teil des Umweltvölkerrechts.

Susanne Rublack

Hubertus Welsch
Die völkerrechtliche Zulässigkeit der Verbringung radioaktiver Stoffe in den Meeresgrund
Köln, Berlin, Bonn, München: C. Heymanns Verlag, 1986
Studien zum internationalen Wirtschaftsrecht und Atomenergierecht, vol. 73, 206 pp., DM 58,—

Not only industrialized nations experience how closely intertwined modern technology and its environmental impacts are. Both global public awareness and the growing frequency and intensity of obvious environmental consequences resulting from man's use and manipulation of nature have made the issue and hazards clear. However, as one of few exceptions, the sub-seabed has – in contrast to the oceans themselves – hardly been included in discussions on environmental protection.
Yet, no matter how secluded the area, modern technology will not allow the subseabed to remain a blank spot on the globe. Recent developments call for vital decisions from specialists as well as from a wide well-informed public on the limits of sub-seabed activities.
The concept of sub-seabed disposal of high-level radioactive substances (SSD), by its very nature, touches that subject, and shows the necessity of answering to which extent international law already provides rules concerning its admissibility or conduct.
Hubertus Welsch centers his thesis on the admissibility of sub-seabed disposal of high-level radioactive waste under international law with the intention to clarify, whether the existing and evolving norms of international law satisfactorily ensure the protection from possible harmful effects of this new technique.
The importance of the SSD-concept has grown with the need to dispose of radioactive substances from increasing numbers of atomic power stations as well as medical or military waste, since no other storage concept has yet proven to be sufficiently safe for final disposal. Welsch points out that the term nuclear fuel *cycle* is frequently disputed, since it conceals both the formation of waste and the lack of feasible concepts for its

disposal. The latter has just recently been confirmed by the controversy over plans to store radioactive wastes in China's Gobi desert.

The fewer alternatives there are, the more the future of peaceful and military use of nuclear power depends on this concept; the question of its admissibility is just as important for supporters and opponents. It may also interfere with deep-seabed mining, and certainly does influence marine environmental protection.

The concept itself is not complete yet. Its technical feasibility and its environmental impacts are still subject of research. But in order to avoid »totally unregulated, unilateral (›free for all‹) SSD activity«, the application of existing legal norms has to be surveyed to evaluate whether new norms are necessary.

In the first part of his book, Welsch centers his attention on international treaties in force. His results are that international law does not restrict SSD in coastal waters, on the continental shelf or in the adjacent zone, but leaves the jurisdiction to the coastal states. That brings up the question of neighborhood principles restricting the costal state in its freedom to exercise jurisdiction. The author points out that international customary law does not provide practicable standards by which measures to realize SSD could be evaluated or even prohibited. He does not go into further detail, however, whether any customary consultation or at least information duties could result from SSD activities in the neighborhood of another nation, since only by applying the most restrictive interpretation he is able to answer the question as to whether the existing norms are satisfactory. Therefore, he only marginally reviews the refined neighborhood principles of the 1974 Nordic Environment Protection Treaty.

As an exceptional rule, Art. V of the 1959 Antarctic Treaty prohibits any disposal of radioactive waste. Its scope covers the area south of 60 ° south latitude including the ice shelves, yet not the high seas. However, the binding recommendations of the 1975 Oslo conference of signatory states do not exclude the high seas from their *efforts to prevent disposal of radioactive waste,* thus any SSD activity is prohibited for the signatory states.

Beyond the continental shelves of the other continents, the SSD concept is part of the freedoms of the high seas, which allow any reasonable utilization that is not prohibited by other rules of international law. Whereas the restrictions put down in Art. 25 of the 1958 Geneva Convention on the High Seas do only refer to dumping of radioactive material *into* the sea, the scope of the freedoms of the high seas also include the sub-seabed. The ›test of reasonableness‹ merely requires users to respect the interests of other users.

Since Welsch clearly separates the idea of *isolation and containment* of the SSD concept from traditional concept of *dilution and dispersal,* hehe thoroughly surveys the scope of existing global and regional marine dumping conventions. The 1972 London Dumping Convention (LDC) prohibits dumping of high-level radioactive waste, yet uses an unclear definition of dumping. Therefore, the scope of the convention depends on the question, whether dumping does not only include dumping *into the sea,* but any dumping that takes place *at sea.* Welsch's precise interpretation of the treaty minutely follows the

principles of Art. 38 I of the ICJ-Statute. This thorough survey of the LDC may be recommended as an exemplified solution for a conflict of interpretation in the application of international law. It is already available for English readers in GYIL 28 (1985), pp. 322 ff. Taking into account the travaux preparatoires on one hand and succeeding practice through national anti-dumping acts on the other hand, Welsch's result is that the LDC prohibits dumping *into* the sea independent of the position of the vessel. Since other dumping conventions use similar dumping definitions, Welsch consequently reaches the same result. A number of dumping conventions, like the sequently reaches the same result. A number of dumping conventions, like the 1976 Barcelona Convention, even expressly restrict their geographical coverage to »maritime waters«.
The same is true about most of the conventions not yet in force.
As an exception, the 1982 United Nations Convention on the Law of the Sea (UNCLOS) provides a detailed set of norms. The regime of coastal seas and adjacent zones is the same in as far as SSD is concerned. Neither peaceful passage through these zones nor transit passage through international straits to leave any room for SSD acitivities. The subsoil of archipelagic waters is subject to the jurisdiction of the archipelagic state. The continental shelf and the exclusive economic zone are governed by the sovereign rights of the coastal state. However, in those two areas the coastal state's consent regarding marine scientific research should be granted »in normal circumstances«, which may facilitate the experimental phase of the SSD concept.
The only new conflicts arise from the provisions on the deep-seabed Authority. Since SSD is both peaceful and does not constitute appropriation, it does not infringe upon the principle of common heritage of mankind. The Authority has to be consulted in any case of conflict with »activities in the Area«, which are the exploration and exploitation of the deep-seabed resources. If this *reasonable regard* is in question, the conflict will be solved by the seabed chamber of the International Court on the Law of the Sea. Part XII on protection of the marine environment does not provide any new restrictions for SSD, but leaves the adoption of specific norms to the states.
A unique exception among the future conventions is the draft convention on dumping in the South Pacific. It generally and unconditionally prohibits sub-seabed disposal of radioactive substances.
The survey finally leads into a detailed and well structured proposal for future steps to develop and manage SSD. The experimental phase first has to prove the technical feasibility within set standards of admissible radioactive exposure. Control and management of standardization should be a result of increasing cooperation of IAEA, NEA and UNEP. An operative phase would only then follow with an amendment or appendix to the LDC to ensure global coverage by international law.
In his book, Welsch manages to point out the weaknesses of the existing and future rules of international law in this field. At times, the reader is bound to feel that the author is interpreting the norms of international law too stringently. Yet, a second thought makes clear that only rigid interpretation is fit to point out that the issue of SSD is not yet

satisfactorily settled and that there is a need for clarification and limitation. It is important that this need is pointed out at such an early stage of the SSD concept.
Welsch also shows the close interdependence of energy, economy and ecology. Yet, he does not forget about the great importance of *acceptance* of legal norms. Both the general public opinion in countries applying SSD and the early information, consultation and involvement of third (world) states are prerequisites to any success of a concept with great international and environmental implications.

Ulf Marzik

Edward Dommen and *Philippe Hein*
States, Microstates and Islands
Croom Helm, London 1985, 216 pp.

I

This is a fascinating little book. The puzzle begins with the title. Why the switch from »States« and »Microstates«, to »Islands«? Because islands can be states or microstates, depending on their size, or because the islands the editors have in mind are too small even to become microstates? Their »Dedication« deepens the mystery. It refers to all the small islands around the world which »have served civilization after civilization well, and are still seeking their future«. Does this mean that this volume is concerned with the future of *islands* and not the *people* living on them? And do we assume that the goal is »statehood«, or rather *viable* statehood – the viability being provided by the kind of economic development past civilisations have been unable to achieve?
The case for this startling interpretation is strengthened by the »Foreword«, written by the Deputy Secretary-General of UNCTAD (the United Nations Conference on Trade and Development) which gives »small state viability« and *economic* development pride of place. But it also speaks of *social* development and, in the same breath, of sustained »identity« (without indicating whether this means cultural uniqueness, political independence or territorial integrity). On the other hand, it leaves no doubt that this book is not intended *for* the people living in small island states. Instead it is adressed to the »intellectual community« (whatever that is) and to »intergovernmental fora« for which it is supposed to throw fresh light »upon the concrete options open to these [small island] States«. Nonetheless, no claim is made that the book performs this task. Rather the essays it contains are presented as »a step toward the search for new answers to . . . long-standing problems«.
Unfortunately this modest assessment is by and large correct. Ironically this may be mainly due to the dominating role played by UNCTAD in the gestation of the volume