

US-amerikanische Literatur und Rechtsprechung, etwa zur *parol-evidence-rule*, wird zu den einzelnen Themenfeldern herangezogen. Bei der Auslegung des Begriffs „Erfüllung in Natur“ nach der *lex fori* behandelt der Autor das italienische Recht und das common law und geht im Zusammenhang mit dem französischen Rechtskreis nur kurz auch auf das mexikanische Recht ein. Offenbar gibt es für Mexiko noch nicht genügend Material in der Anwendung des UN-Kaufrechts.

Diese wissenschaftlich gründlich fundierte, immer wieder vor allem die Entstehungsgeschichte des UN-Kaufrechts heranziehende Abhandlung gibt auch dem deutschen Praktiker wertvolle Hinweise zu den Voraussetzungen und Anwendungen des Nacherfüllungsanspruchs; an ihr ist künftig nicht vorbei zu gehen.

Gerhard Scheffler, Hamburg

Geoff Leane / Barbara von Tigerstrom (Eds.)

International Law Issues in the South Pacific

Ashgate Publishing, Aldershot, 2005, 284 pp., US\$ 130.00, ISBN 978-0754644194.

The South Pacific is a region rarely the focus of legal analysis but which is very interesting from a number of perspectives. It is a region of “micro states”, mostly extremely small in size and also as distant from the major centres of the world as it is possible to be. Even such dramatic events as the military coups in Fiji hardly draw international attention for more than a day or two in Europe or the United States. Academic research on the region is mostly undertaken in or around the South Pacific itself. “International Law Issues in the South Pacific” is no exception, most of the contributors are academics at the University of Canterbury in New Zealand. It consists of a short introduction and seven articles mainly on issues regarding security, environment and economy:

Michael Barutchiski in “Mass Refugee Flows and Burden-Sharing in the South Pacific” discusses the current Australian policy of locating refugees who attempt to enter Australia illegally by boat in off-shore facilities elsewhere in the South Pacific (Nauru, PNG) in order to further “proceed” them. Barutchiski argues that this practice can be seen as a compromise between some acceptance of responsibility and the necessity of finding solutions acceptable within domestic politics. Not everybody will agree with that conclusion.

In “Regional Cooperation in the suppression of Transnational Crime in the South Pacific” *Neil Boister* describes developments in the suppression of transnational crime since the Honiara declaration of 1992. He concludes that the development of a regional transnational criminal law regime has proven difficult not only because many of the small island states lack resources but also because there is a general perception in Pacific Island states that such policies are largely imposed by hegemonic developed countries.

Alex Conte, in “International Terrorism and the South Pacific” addresses security issues in the region. Although it is arguable that the only act of international terrorism in the

region has been the sinking in Auckland in 1985 of the Greenpeace ship “Rainbow Warrior” by French agents, this topic seems unavoidable now, at least in Australia which is under threat of terrorist acts by extreme Islamists. Conte describes international developments in anti-terrorism law and regional initiatives. He agrees that specific threats in most of the region are not particularly imminent, but suggests that the remoteness of the region provides sites for the preparation and planning of acts of terrorism, which would make it an important topic.

Scott Davidson widens in the territorial scope to “The Law of the Sea and Freedom of Navigation in Asia Pacific”. The law of the sea is most crucial for the wider region, not only for the South Pacific, but also for Southeast Asia. He focuses solely on the question of free navigation (questions of fishery, environmental protection etc. are not addressed) and argues that the United Nations Convention on the Law of the Sea has not solved the problems arising from conflicts between coastal states and maritime powers.

Geoff Leane discusses the region’s response to climate change in “Climate Change in Oceania: Responses to the Kyoto Protocol”. This is an important topic for the many low lying islands in the Pacific. The plight of the tiny island state of “Tuvalu” recently gained media coverage as the first state likely to disappear due to rising sea levels. In not so far away Australia awareness of the fate of Tuvalu and other low lying Pacific Islands have not so far convinced the world’s biggest per capita emitter of greenhouse gases to sign up to the Kyoto Protocol. New Zealand is the only regional country that has obligations under the protocol, although Leane labels it as Kyoto-reluctant as well.

Michelle Rogan-Finnemore provides the sixth contribution entitled “What Bioprospecting Means for Antarctica and the Southern Ocean”. This article mainly focuses on Antarctica and Rogan-Finnemore concludes that the legal discussion on a framework for bioprospecting activities has until now been rudimentary. From a territorial perspective this article is somewhat on the borderline of the “South Pacific”, although at least for Australia and New Zealand, both of which claim territorial rights in Antarctica, this is an important issue.

Finally, in the seventh contribution, *Barbara von Tigerstrom* describes participation in global regimes (namely WTO) and regional arrangements. She argues that these small, remote economies face substantial disadvantages that make them uncompetitive in a free trade environment and which might make – even in the long run – some special treatment necessary.

The contributions in this book are informative and well researched. The editors emphasize that the book does not attempt a comprehensive overview of all of the issues facing the South Pacific region. They claim, however, that it would be “apparent to even the casual reader that the outline of a bigger picture emerges from these chapters” (p. 7). From this reviewer’s perspective a somewhat more ambitious painting of this picture would have been appreciated. Whereas some issues are covered which are of only marginal interest to the smaller states of the South Pacific (anti-terrorism, bioprospecting in Antarctica), highly interesting and important topics are missing. To mention only some examples: A more

comprehensive analysis of the institutional structures (regional organisation, multi- and bilateral frameworks of cooperation) might deserve some critical attention. In particular, the role of states such as France, the United States and Australia who exercise quite remarkable and not always undisputed colonial or hegemonic power in the region, certainly deserves attention. In the broader context of human rights developments (entirely missing in this book) the rights of indigenous populations (including land rights) are among the “hot” topics specific to this region. If it had included further articles on these and other relevant topics it could have been a more or less comprehensive handbook on current International Law developments in this interesting region. As it is, it remains a collection of interesting articles on some topics relevant in and around the South Pacific region.

Jörg Menzel, Phnom Penh

Katrin Blasek

Markenrecht in der Volksrepublik China: Analyse und Bewertung unter Berücksichtigung der WTO-Anforderungen

Max-Planck-Institut für Geistiges Eigentum, Wettbewerbs- und Steuerrecht, Schriftenreihe zum gewerblichen Rechtsschutz, Band 147

Carl Heymanns Verlag, Köln, 2007, 462 S., EUR 124,00, ISBN 978-3-452-26587-6.

Die rasante Entwicklung des chinesischen Rechts in den vergangenen Jahren, seine Anpassung an wirtschaftliche Erfordernisse und multilaterale Rahmenbedingungen bleiben keinem mehr verborgen. Bedingt durch diese Einbindung Chinas erfolgen umfangreiche Gesetzesänderungen in nahezu sämtlichen Bereichen, wobei das im Jahre 2001 revidierte Markenrecht einen wichtigen Platz einnimmt. Entlang dieser Änderungen und durch Gegenüberstellung mit WTO-Vorgaben und früheren markenrechtlichen Rechtsmaterien analysiert und bewertet die Autorin das chinesische Markenrecht so, wie es sich aktuell darstellt.

Mit ihrer sorgfältigen und – für Dissertationen vergleichsweise – umfangreichen Darstellung trifft die Autorin zweifach ins Schwarze. Zum einen beschreibt sie die Rechtslage in einem für die wirtschaftliche Praxis außerordentlich wichtigen Bereich, zu welchem bislang noch keine deutschsprachige Monographie existierte. Zum anderen – und das macht die Untersuchung nach Ansicht des Rezensenten so wertvoll und empfehlenswert – wird von ihr nicht nur die reine Gesetzeslage dargelegt. Dem andernorts oft anzutreffenden Trugschluss, die Umsetzung eines Regelwerkes in die nationale Rechtsordnung für bare Münze zu nehmen, weiß die Autorin aufgrund ihrer fundierten Kenntnisse der chinesischen Rechtspraxis von vorneherein aus dem Weg zu gehen. Vielmehr hinterfragt sie diese und beschäftigt sich detailliert mit der Rechtswirklichkeit, das heißt also der praktischen Anwendung und Anwendbarkeit des gesetzten Rechts. Dies erscheint vor dem Hintergrund der chinesischen Rechtstradition und vor allem der Normenhierarchie Chinas als unabding-