

Books Received

The Creation of a European Banking System. A Study of Its Legal and Technical Aspects. By Richard Cordero. New York: Peter Lang, 1990. Pp. 390. \$67.50 (cloth).

The subject of this carefully researched book could hardly be more timely: even after the Second Banking Directive, financial and monetary integration in the European Community remain hotly debated issues. It is to the author's credit that he provides a legal scheme for further discussion on how to bring about a truly European banking system.

Before developing this scheme, the author makes an inquiry into the reasons for the "non-Europe" attributes of the field of banking up to now. Despite the legal basis for the creation of a European banking system in the Treaty of Rome, Cordero points to the ineffective use of directives for harmonization and the dearth of relevant case law of the European Court of Justice to explain why this goal has never been accomplished. It would have been enlightening for Cordero to analyze more thoroughly the rather ambiguous, if open-ended, commitment the Treaty of Rome makes to a common banking market in its chapters on establishment, services, and capital. The multiple political and economic problems underlying such a process carry an explanation for this ambivalence, as illustrated by the reference to "secondary" Community Law for liberalization of capital movements (Treaty of Rome, art. 69) or harmonization of national banking laws (Treaty of Rome, art. 57(2)).

A basic legal problem preventing the realization of free capital movements and banking integration is the inefficient distribution and exercise of power between the Community and its Member States. The author therefore proposes a system of legal mechanisms and institutional structures which, inspired by the ultimate aim of achieving European Union but remaining within the realm of the possible, would solve this problem. This plan brings together institutional structures and legal mechanisms capable of developing and implementing a single set of harmonized supervisory regulations as well as addressing monetary policy. On the basis of specifically recommended practical steps and a fresh interpretation of the Community legal framework, the scheme is designed to establish by stages a new relationship between the authorities at national and Community levels, and between those authorities and the banks. Eventually, it would allow capital and banks as well as their services, to circulate between the Member States as free from restrictions and distortions of competition as they would be within a single internal market.

Cordero wrote this book shortly before European banking integration received new momentum through far-reaching Community measures or proposals in the fields of free movement of capital (Directive of June 24, 1988), establishment and provision of services by credit institutions (the

Second Banking Directive of December 15, 1989 and the Directive on a Solvency Ratio for Credit Institutions of December 18, 1989), and monetary union (the "Delors Report" of April 17, 1989). It could be argued that the fundamental importance of these recent achievements necessitates an updating and perhaps a re-thinking of several strategies elaborated in the book. However, such observations—which are not a serious criticism, given the fast pace of developments in this area—cannot impair the great contribution which this book makes to further reflection on the legal design of European monetary integration. It should be hoped that those who sit at the negotiation table of the current intergovernmental conference on European Monetary Union, read it carefully.

—J. Wouters

Ozone Diplomacy: New Directions in Safeguarding the Planet. By Richard Elliot Benedick. Cambridge, Mass.: Harvard University Press, 1991. Pp. 300. \$27.95 (cloth).

To the amazement of many, in 1987, two years after ozone negotiations had begun, the Montreal Protocol on Substances That Deplete the Ozone Layer was approved by representatives of twenty-four countries and the European Community. By June 1990, a considerably strengthened Protocol had fifty-eight signatories and was evolving into a model for future international environmental regulation.

As chief U.S. negotiator for the Protocol, Richard Benedick knows the inside story of this unique international treaty and is enthusiastic in narrating its formation. His accounts of the influence of scientific evidence, public opinion, and industrial machinations on the negotiations are enlightening, as is his story of the difficulty of dealing with an internally disorganized European Community. Although the book is predictably partial to the United States position in the negotiations, one also learns how occasional libertarian spasms within the Reagan administration threatened to overturn the entire process.

In many ways the Montreal Protocol represents a paradigm for future international environmental negotiations. Benedick explains how its innovative provisions were created and how they may be useful in negotiations on climate change and other global environmental problems. The flexibility created by the treaty's provisions for periodic assessments of evolving scientific knowledge provides a particularly useful model for environmental treaties. Soon after the Protocol was signed, new scientific evidence showed that human destruction of the ozone layer was advancing at a much greater rate than previously thought. The treaty's flexible structure allowed it to be dramatically strengthened and expanded in response to the new information only a year and a half after its entry into force.

Another innovative and controversial feature of the treaty that will influence future environmental negotiations is its creation of a fund to