



# Netherlands Yearbook of International Law

# NETHERLANDS YEARBOOK OF INTERNATIONAL LAW

published jointly with the  
Netherlands International Law Review  
and under the auspices of the  
T.M.C. Asser Instituut,  
Institute for Private and Public  
International Law,  
International Commercial Arbitration  
and European Law,  
The Hague

VOLUME XX  
1989

MARTINUS NIJHOFF PUBLISHERS

Under the combined subscription arrangements this volume of the Yearbook is linked to Volume 36 of the Netherlands International Law Review. Orders or requests for further information should be sent to: Martinus Nijhoff Publishers, c/o Kluwer Academic Publishers Group, Distribution Center, P.O. Box 322, 3300 AH Dordrecht, The Netherlands.

All correspondence with regard to the contents of the Yearbook should be addressed to the General Editors, T.M.C. Asser Instituut, 22 Alexanderstraat, 2514 JM The Hague, The Netherlands. The closing date for contributions is 1 August of the year prior to the year of publication (1 October for contributions in English). Contributions (which should be typed) should be submitted in triplicate.

The copyright is exclusively reserved to the author(s). Acceptance of a contribution by the Editors implies, however, acceptance by the author(s) of the condition that such contribution is subject to an embargo as regards publication elsewhere, either in English or in any other language, for a period of two years following publication of the Yearbook containing such contribution. Authors will not receive a fee, but will be presented with a copy of the Yearbook containing their contribution, together with 25 offprints of that contribution free of charge.

Printed in the Netherlands

© T.M.C. Asser Instituut, The Hague, 1990

Library of Congress Catalog Card Number 72-623109

ISBN 0-7923-0568-X

ISSN 0167-6768

T.M.C. Asser Instituut  
Institute for Private and Public International Law,  
International Commercial Arbitration and European Law  
20-22 Alexanderstraat, 2514 JM The Hague, Phone (0)70-3420300,  
Telex 34273 nl, Telefax (0)70 - 3420359

Director: C.C.A. Voskuil

Senior Staff: M. Sumampouw (Private International Law), Ko Swan Sik (Public International Law), J.J.M. Tromm and A.E. Kellermann (Law of the European Communities), J.A. Swartzburg-Freedberg (International Commercial Arbitration), G.J. de Roode, Institute Manager (General Affairs), J.A. Wade (Legal Translations), M.H. Bastiaans (Publications), J.S. de Jongh (Library and Documentation).

The T.M.C. Asser Instituut was founded in 1965 by the Dutch universities offering courses in international law to promote education and research in the fields of law covered by the departments of the Institute: Private International Law, Public International Law, including the Law of International Organisations, Law of the European Communities and International Commercial Arbitration. The Institute discharges this task by the establishment and management of documentation and research projects, in some instances in co-operation with non-Dutch or international organisations, by the dissemination of information deriving therefrom and by publication of monographs and series. In addition, the Institute participates in the editing of the Yearbook Commercial Arbitration and in the editing and publishing of, *inter alia*, the Netherlands International Law Review and the Netherlands Yearbook of International Law.

## BOARD OF EDITORS

*E.A. Alkema*  
University of Leiden

*H.H.G. Post*  
University of Utrecht

*F. Kalshoven* (General Editor)  
University of Leiden

*A.H.A. Soons*  
University of Utrecht

*Ko Swan Sik* (General Editor)  
T.M.C. Asser Instituut  
Erasmus University, Rotterdam

*E.W. Vierdag*  
University of Amsterdam

*P.J. Kuyper*  
Commission of the European  
Communities  
Université Catholique de  
Louvain

*K.C. Wellens*  
University of Nijmegen

\* \* \*

*P. Morris*  
(Assistant General Editor)  
T.M.C. Asser Instituut

*K. Peters*  
(Editorial Assistant)  
T.M.C. Asser Instituut

\* \* \*

### GENERAL ADVISER

*C.C.A. Voskuil*  
Director, T.M.C. Asser Instituut

### HONORARY EDITOR

*H. Meijers*  
University of Amsterdam

## ABBREVIATIONS

AA	Ars Aequi
Aanh. Hand. I/II	Aanhangsel tot het Verslag der Handelingen van de Eerste Kamer der Staten-Generaal
AB	Administratiefrechtelijke Beslissingen
AD	Annual Digest of Public International Law Cases
AJIL	American Journal of International Law
All ER	All England Law Reports
AROBtB/S	Administratieve Rechtelijke Overheidsbeschikkingen
ASDI	Annuaire Suisse de Droit International
Bijl. Hand. I/II	Bijlagen bij het Verslag der Handelingen van de Eerste/Tweede Kamer der Staten-Generaal
BYIL	British Yearbook of International Law
Clunet	Journal du Droit International
DD	Delikt en Delinkwent
(EC) OJ	Official Journal of the European Communities
ETL	European Transport Law
ETS	European Treaties Series
GAOR	UN General Assembly Official Records
GYIL	German Yearbook of International Law
Hague Recueil	Recueil des Cours de l'academie de Droit International de la Haye
Hand I/II	Verslag der Handelingen van de Eerste/Tweede Kamer der Staten-Generaal
ICJ Rep.	International Court of Justice, Reports of Judgments, Advisory Opinions and Orders
ICLQ	International and Comparative Law Quarterly
ILC Yearbook	Yearbook of the International Law Commission
ILM	International Legal Materials
ILR	International Law Reports
KG	Kort Geding
LNTS	League of Nations Treaty Series
MRT	Militair Rechtelijk Tijdschrift
NILR	Netherlands International Law Review
NIPR	Nederlands Internationaal Privaatrecht
NJ	Nederlandse Jurisprudentie
NJB	Nederlands Juristenblad
NJCM-Bulletin	Bulletin Nederlands Comité voor de Mensenrechten
NYIL	Netherlands Yearbook of International Law
PCIJ ser. A	Permanent Court of International Justice, Advisory Opinions, Judgment and Orders
Rev. Int. Studies	Review International Studies
RGDIP	Revue générale de droit international public
RIAA	Reports of International Arbitral Awards
RvdW	Rechtspraak van de Week

<b>S &amp; S</b>	<b>Schip en Schade</b>
<b>Stb.</b>	<b>Staatsblad van het Koninkrijk der Nederlanden</b>
<b>Stc.</b>	<b>Nederlandse Staatscourant</b>
<b>Trb.</b>	<b>Tractatenblad van het Koninkrijk der Nederlanden</b>
<b>UCLA Pacific Basin LJ</b>	<b>University of California at Los Angeles Pacific Basin Law Journal</b>
<b>UNTS</b>	<b>United Nations Treaty Series</b>
<b>WLR</b>	<b>Weekly Law Reports</b>
<b>WRvS</b>	<b>Weekoverzicht Raad van State</b>
<b>YUN</b>	<b>Yearbook of the United Nations</b>

## TABLE OF CONTENTS

### Articles

<i>H. Fox</i> , State Responsibility and Tort Proceedings against a Foreign State in Municipal Courts	3
<i>C. Greenwood</i> , The Twilight of the Law of Belligerent Reprisals	35
<i>H.G. de Jong</i> , Aruba: a Separate 'Country' within the Kingdom of the Netherlands on its Way to Independence	71
<i>P.P. Rijpkema</i> , Customary International Law in the <i>Nicaragua</i> Case	91

### Documentation

Classification scheme	119
<i>R.C.R. Siekmann</i> , Netherlands state practice for the parliamentary year 1987-1988	137
<i>M. Büchli</i> , Treaties and other international agreements to which the Netherlands is a party: Conclusions and Developments 1988	245
<i>P.C. Tange</i> , Netherlands municipal legislation involving questions of public international law, 1988	273
<i>L.A.N.M. Barnhoorn</i> , Netherlands judicial decisions involving questions of public international law, 1987-1988	283
<i>P.C. Tange</i> , Dutch literature in the field of public international law and related matters, 1988	375
<b>Table of cases</b>	427
<b>Index</b>	433