

An Introduction to International Law

Eighth edition

by J. G. Starke QC

Professor of Humanitarian Law,

International Institute of

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LONDON • BUTTERWORTHS • 1977

- ENGLAND:** BUTTERWORTH & CO. (PUBLISHERS) LTD.
LONDON: 88 KINGSWAY, WC2B 6AB
- AUSTRALIA:** BUTTERWORTH PTY. LTD.
SYDNEY: 586 PACIFIC HIGHWAY, CHATSWOOD,
NSW 2067
Also at MELBOURNE, BRISBANE, ADELAIDE and
PERTH
- CANADA:** BUTTERWORTH & CO. (CANADA) LTD.
TORONTO: 2265 MIDLAND AVENUE, SCARBOROUGH M1P
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- NEW ZEALAND:** BUTTERWORTHS OF NEW ZEALAND LTD.
WELLINGTON: 26-28 WARING TAYLOR STREET, 1
- SOUTH AFRICA:** BUTTERWORTH & CO. (SOUTH AFRICA) (PTY.) LTD
DURBAN: 152-154 GALE STREET
- USA:** BUTTERWORTH & CO. (PUBLISHERS) INC.
BOSTON: 19 CUMMINGS PARK, WOBURN, MASS 01801



BUTTERWORTH & CO. (PUBLISHERS) LTD.
1977

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ISBN—Casebound: 0 406 65954 0
Limp: 0 406 65955 9

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PREFACE

IN his preface to the first edition of his treatise, *The Law of Torts* (1887)—a preface addressed to his famous American friend Mr. Justice Holmes—Sir Frederick Pollock said: "A preface is a formal and a tedious thing at best; it is at its worst when the author, as has been common in law-books, writes of himself in the third person."

Nevertheless, it is believed that a preface to a new edition of a book on international law is warranted for two reasons: (1) To stress, even at the expense of repetition, the precise nature of the object for which the work was written and published in the first instance. (2) To outline therein briefly what changes and developments have taken place since the date when the manuscript of the previous edition was completed, and which have necessitated revision and updating of that earlier edition.

As to the first ground, the object of the book remains, as before, to present an introduction to international law, not full or complete or exhaustive, but one containing the fundamentals needed by those (a) who are preparing to deal with the subject in actual practice; or (b) who, for some reason or other, require a working knowledge of the subject. The fact that the present eighth edition of 1977 is of more than double the length of the first edition published in 1947 is due to the extraordinary expansion of international law both in range and quantum during the period of the past thirty years.

As to the second ground, the period of five years between the date of completion of the manuscript of the seventh edition and the date of completion of that of the present eighth edition has been one of convulsive and dynamic change in numerous areas of the subject.

The new multilateral Conventions calling for treatment or reference in the present edition include such important law-making instruments as the Montreal Convention of September 1971 for the Suppression of Unlawful Acts against the Safety

of Civil Aviation, the Convention of March 1972 on International Liability for Damage Caused by Space Objects, the Convention of November 1972 on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, the Paris Convention of November 1972 for the Protection of the World Cultural and Natural Heritage, the Washington Convention of March 1973 on International Trade in the Endangered Species of World Fauna and Flora, the International Convention of November 1973 for the Prevention of Pollution from Ships, the Protocol of November 1973 relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil, the Convention of December 1973 for the Prevention and Punishment of Crimes Against Internationally Protected Persons including Diplomatic Agents, the Convention of January 1975 on the Registration of Objects Launched into Outer Space, the Convention of March 1975 on the Representation of States in their Relations with International Organisations of a Universal Character, and the International Commodity Agreements as to sugar (1973), cocoa (1975), tin (1975), and coffee (1976). These have constituted additions of some magnitude to the existing *corpus* of international law. In addition, in order to complete the picture in that connection, reference has been made to the draft articles completed by the International Law Commission in July 1974 on the subject of the Succession of States in respect of Treaties, and which formed the basic text for the adoption of a Convention by a Conference on Treaty Succession at Vienna in April–May 1977, and to the Draft Convention of 1975 on Territorial Asylum which constituted the basic text for the adoption in due course of a Convention by a diplomatic conference meeting in Geneva in January–February 1977.

In addition to these instruments it has been necessary to deal with the results so far of two important law-making conferences, neither of which has at the date of writing succeeded in adopting final texts, namely, the Third United Nations Conference on the Law of the Sea and the Geneva Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. The former has

already met in five sessions, 1973–1976, in order to effect a root and branch revision of the entire law of the sea and seabed, while the latter has met in three sessions, 1974–1976, for the purpose of adopting two Protocols for updating and revising the Geneva Red Cross Conventions of 1949. Another important conference considered in some detail in the present edition is the Stockholm United Nations Conference of June 1972 on the Human Environment, which adopted a pioneering Declaration on the Human Environment and which resulted in the establishment of the United Nations Environment Programme (UNEP) as permanent international machinery for protecting and preserving the environment. Other conferences examined or referred to are the United Nations World Population Conference at Bucharest in August 1975, which agreed on an “Action Plan” to deal with global population problems, and the United Nations Conference on Human Settlements at Vancouver in May–June 1977, known familiarly as the “Habitat Conference”, which adopted a far-reaching Declaration on Human Settlements.

Apart from the above-mentioned Conventions and other instruments, there have been a number of important decisions and opinions of international and national tribunals, including those of the International Court of Justice in the *Fisheries Jurisdiction Cases* of 1973–1974 (*United Kingdom and German Federal Republic v. Iceland*), the *Nuclear Tests Cases* of 1973–1974 (*Australia and New Zealand v. France*), and the Advisory Opinion on the *Western Sahara* (1975), the decision of the European Court of Human Rights in the *Golder Case* (1975), and the decision on extradition law of the High Court of Australia in *Barton v. The Commonwealth of Australia* (1974). These and other significant decisions of courts during the period 1971–1976 are dealt with or cited in their appropriate place. So far as the International Court of Justice is concerned, reference has also been made to the new revised Rules of Court adopted by the Court on May 10, 1972, and to the new Resolution adopted by it on April 12, 1976, concerning its internal judicial practice.

Other matters which have received attention are the Helsinki

Declaration of August 1, 1975, adopted by thirty European States, Canada, the United States, and the Holy See, the cessation of the United Nations trusteeship system in respect to non-strategic territories with the termination on September 16, 1975, of the Trusteeship Agreement relating to Papua New Guinea, the report in June 1974 of the Committee of Twenty on the reform of the international monetary system, the Second Amendment of April 1976 to the Articles of Agreement of the International Monetary Fund, the report of the Secretary-General of the United Nations in 1975 on the subject of diplomatic asylum, the Charter of Economic Rights and Duties of States adopted in December 1974 by the United Nations General Assembly, and the approval by the Economic and Social Council of the United Nations in May 1976 of the consolidated terms of reference for the United Nations Committee for Programme and Co-ordination, enabling it to function as the main subsidiary organ of the Council and the General Assembly for planning, programming, and co-ordination. One new matter dealt with is the assignability of treaty rights and obligations. Some opinions previously expressed have been revised or reformulated. Every endeavour has been made to keep the text up to date.

The author is grateful to the publishers for the unfailing assistance that he has received in the preparation of the present edition.

April 1977.

J. G. STARKE

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