

CASES & MATERIALS ON

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PREFACE

It may seem perverse to write a Preface explaining what a book is *not* about, but in the case of Community law I think it is justified. The subject has grown at such a pace over recent years that it is no longer possible to aspire to write a book which is truly comprehensive. The best that one can do is to select areas for examination which seem particularly important and then to use those areas as illustrations to draw out the themes and principles on which the law is based. In this way, one can encourage the student to develop a *communautaire* approach which will permit him or her to tackle substantive areas beyond the scope of this book. So, although it is easy to explain away a failure to cover the full extent of Community law simply by pointing out how much there is of it, I hope that this book has adopted a coherent principle in deciding what to include and what to exclude.

The book is *not* about English law and its reaction to the Community. There is no deep exploration of Parliamentary Sovereignty or the European Communities Act 1972. This is a Community law book. Nevertheless, the development of the Community legal order has not occurred in isolation and is in part dependent on action and reaction at national level. In depicting this process, I have tended to draw on the example of the British experience of the impact of Community membership. However, the *Cohn Bendit* decision (p. 72) will provide an example of practice in another Member State and the student should always be prepared to look beyond domestic law.

I have touched little on the external competence of the Community. There is, for example, passing reference only to the Common Customs Tariff, the Common Commercial Policy and Treaty-making competence generally. Anti-dumping law is examined more for what it tells us about judicial review than for its substantive importance. I have adopted this primarily internal focus with regret, aware that it smacks of an unappealing 'Fortress Europe' attitude. But I think that my choice is in this respect in accordance with most British University degree courses in Community law.

This book is not designed to be comprehensive after the fashion of a textbook. It cannot replace the need to refer to a textbook, though it should

complement one of the several excellent examples presently available (see the Select Bibliography). In the text of this book, I have rarely made special reference to the available textbooks. All are worth consulting. Perhaps I should make special mention of Josephine Steiner's *Textbook on EEC Law*, which is also published by Blackstone Press. My book is not designed to complement that work in any detailed, chapter-by-chapter sense and in several areas it selects significantly different points of emphasis. However, both books share the objective of explaining the key principles of Community law so that the student may apply them even in areas not dealt with specifically in the book.

In this book, I have included many references to academic writing, as well as several extracts from academic articles. I hope that this will stimulate the student to learn from and to value academic research. I have also included material from a number of other more diverse sources, from economists to political scientists, from national newspapers to pressure groups. My intent is to portray the diversity of influences to which Community law is subject and the breadth of the consequences which flow from legal decisions. My objective is to encourage the student to appreciate how the legal order has been developed (and is still in the process of being developed) in response to sometimes conflicting economic, social and political pressures.

Finally, I owe many debts of gratitude. Thank you to everyone who has helped.

Stephen Weatherill
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Litster v Forth Dry Dock [1989] 2 *WLR* 634.

Extracts from *Economics of the European Community*, ed. A. M. El-Agraa (1990). Extracts reprinted with the permission of Philip Allan Publishers.

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Extracts from *1992: One European Market?*, eds R. Bieber, R. Denhousse, J. Pinder and J. Weiler (1988, Nomos Verlagsgesellschaft, Baded Baden).

Extracts from P. Cecchini, *The European Challenge: 1992, the Benefits of a Single Market* (1988, Wildwood House/Gower Publishing). Permission of the EC Commission is also gratefully acknowledged.

Extracts from R. Dudley, *1992: Strategies for the Single Market*, (1990, Kogan Page, London).

Extracts from N. Reich, *Internal Market and Diffuse Interests* (1990, Story Scientia, Brussels).

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Extracts from R. Merkin, *A Guide to the Consumer Protection Act 1987* (1987, Financial Training Publications Ltd, London).

Extracts from M. Wilke and H. Wallace, *Subsidiarity: Approaches to Power-Sharing in the European Community* (1990, Royal Institute of International Affairs, London). Published as RIIA Discussion Paper 27.

Extract from H. Micklitz, 'Consumer Rights' (1989), paper presented at a conference on *Human Rights and the European Community: Towards 1992 and Beyond*, Research Project of the European University Institute, Florence.

Extract from C. Bradley, '1992: The Case of Financial Services', Seminar Paper (1990).

Extracts from C. Vincenzi, 'Freedom of Movement Rights of Community Nationals as a Basis for Citizenship'. The paper is part of a wider study of *New Perspectives on European Citizenship* undertaken by the Federal Trust Study Group on European Citizenship.

Extract from Consumers in the European Community Group (UK), *Briefing Paper on the Draft Product Safety Directive*, (1989, London).

Extract from Allen and Overy (Solicitors), *The EEC Inspector at the Door: a Practical Guide on how to deal with Investigations by the European Commission* (1989, London).

Extract from Clifford Chance (Solicitors), *1992 An Introductory Guide*, (2nd edn), (London).

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