

INTRODUCTION

After about a decade of work the Committee on Coastal State Jurisdiction Relating to Marine Pollution of the International Law Association concluded its work by submitting its final report at the London Conference, held between 25-29 July 2000.

The present book consists of two main parts. First of all, it brings together the official reports prepared by this Committee during its lifetime: A First Report of 1996, a Second Report of 1998, and a Final Report of 2000. In these reports, the Committee has focussed on the issue of coastal-state jurisdiction relating to vessel-source pollution.

With the entry into force on 16 November 1994 of the United Nations Convention on the Law of the Sea of 10 December 1982, it can be said that the work of the Committee spanned a period of crucial importance in this respect. The latter document introduced a totally new approach by scaling down the almost unlimited powers the flag states had enjoyed until then in this particular area to the advantage of coastal as well as port states. By now, it can moreover convincingly be argued that this document has become an ‘international treaty of a universal character, generally agreed upon’, as envisaged by its founding fathers during the early 1970s.

The Committee took this convention as a focal point and analysed whether these novel provisions on vessel-source pollution were in need of adaptation. Indeed, in an area of law which is very susceptible to the occurrence of particular marine casualties for its development, many such incidents have unfortunately happened since the basic compromise on the issue had been arrived at during the negotiations held within the framework of the third United Nations Conference on the Law of the Sea (1973-1982). Nevertheless, unlike its provisions of Part XI (the Area) and those relating to straddling and highly migratory fish stocks, which had already been ‘implemented’ by means of later agreements adopted in 1994 and 1995, the Committee was of the opinion that no new conventional rules were necessary on vessel-source pollution. Instead, the provisions of the 1982 Convention were considered to be sufficiently flexible to accommodate the new stresses placed on the system. Consequently, no draft convention is proposed in the Final Report. Instead, a set of conclusions is presented, explaining particular provisions of the 1982 Convention, followed by an explanatory note.

The second main part of the present book provides a number of ‘country reports’, prepared by members of the Committee. During the work of this Committee it became evident at a very early stage that an accurate assessment of state practice proved more than once problematic, either because of problems relating to interpretation or simply because the basic information was missing. Fifteen reports are included in the present publication. They are written according to a strict outline, especially worked out for this purpose, in order to address

specific issues which were of particular interest for the work of the Committee. This approach furthermore enhances the horizontal analysis between the separate country reports.

It will be easily understood that editing a book, containing such a wide variety of country reports, written in different languages and representing different legal systems and continents, was a daring task. The basic rule has nevertheless been to attempt uniformity. Not that this ultimate goal has been achieved, but with the most co-operative attitude of all the participants, who sometimes had to renounce their own preferences for the public good, it is nevertheless believed that the book made a laudable effort in that direction.

Thanks to the Finnish Branch of the ILA, as already alluded to by the Chairman of the Committee in his foreword, the book was able to rely on the professional help of a native speaker, Mrs. Moira Courtman. Her professional attitude, witty remarks, and most of all her constant preoccupation with the project -- to the extent that she finally almost had to be formally relieved of her duties --, made working with her a very enriching, while at the same time agreeable experience. The use of a native speaker normally places the editor in a rather uncomfortable position since he becomes a kind of middleman who needs to mediate between the native speaker, proposing changes to enhance readability and style, and the separate authors, worried about the substantive rigour of their contributions. This balancing act was once again made easier due to the accommodating attitude of all the parties involved, for which I want to express my sincere thanks.

January 2001

Erik Franckx

Rapporteur

ILA Committee on Coastal State Jurisdiction Relating to Marine Pollution