

## Preface

News coverage in recent years has made everyone aware of the deterioration of the global environment. The human species has been placed at risk by the possibilities of global warming, ozone depletion, species extinctions, deforestation and desertification. Extensive coverage of the United Nations Conference on Environment and Development in Rio de Janeiro in 1992 sensitized the public to the arduous and often unsuccessful attempts to negotiate enforceable multilateral environmental treaties. Yet familiarity with current events does not necessarily help us address basic issues such as the following:

Can nations let species go extinct? Who owns the minerals found on the ocean floor? The fish caught on the high seas? Should nations be allowed to ship their toxic waste to other nations? What if they obtain the consent of the receiving nation? Do current generations owe future generations a healthy environment? Should the former Soviet Union have reimbursed surrounding nations for damages caused by the radioactive fallout from the Chernobyl nuclear plant? Did the United States bear any responsibility for the chemical accident in Bhopal, India? Do trade agreements impede environmental protection? Why does it seem that so much of international environmental law is made up of "soft", or nonbinding agreements? In short, what are and should be the obligations imposed by international environmental law, to whom does it apply, and when is its development or application appropriate or necessary?

This Anthology is an attempt to bring together the leading scholarship that addresses these perplexing issues of fundamental importance. We also include substantial excerpts from the leading treaties and conventions on environmental law. We believe that this Anthology will not only serve as a useful supplement to any law school or undergraduate course on environmental law, but also as a reader that can serve as a basic text on the subject of international environmental law. It is, we believe, complete in coverage and comprehensive in scope.

The legal issues covered in this Anthology are about as controversial as any that can be encountered in any field of law. We reflect the natural dialectics of the subject matter by including in each chapter "debates" which can actively involve the reader and sharpen intellectual interest. Instructors may wish to assign sides in these debates to students who can further the debate in the classroom.

While we have included some material on the theory of international law, obviously we could not devote too much space to general doctrinal considerations. For students who wish to further their understanding of public international law, we recommend *INTERNATIONAL LAW ANTHOLOGY* (Anderson Publishing Co., 1994).

A word regarding our editing techniques. Space limitations prevented us from including the entirety of the articles excerpted in this anthology. And, with all honesty, we must admit that we would not always have wanted to include the entire work, even if we had had sufficient space. We believe that the purpose of an anthology is to expose the reader to as many different viewpoints as possible. In most instances, this meant limiting the excerpt to the author's essential thesis and supporting data or arguments. At other times, it meant using an author's work to illustrate a particular viewpoint which may in fact not have been the central focus or thesis of the author's work but was the best articulation of that viewpoint that we could find in the legal literature. So as not to attribute a focus to a work where the focus was missing, we have provided our own titles to each of the parts and sections of the anthology and simply cited the work from which the text is excerpted in a corresponding footnote. In all cases, we have tried to edit in a manner that does not detract from the author's arguments. We urge the reader to look up the articles and to read them in their entirety. With respect to physical traces of our edits, we hope we have helped, rather than hurt, the reader by providing very few of them. Accordingly, we have omitted most footnotes from the excerpts and have not noted the omission of textual material with ellipses (. . .), brackets [ ] or asterisks (\* \* \*) so as not to clutter up the included text with diverting clues of text foregone. We urge the reader to look up the text of the cited article if he or she has any questions about what may have been omitted from the excerpt here included.

The Editors of this Anthology have devoted many years to the study and research of international environmental law. Anthony D'Amato wrote one of the first essays in the field in 1967 (for an excerpt, see p. 203 of this Anthology). He helped to organize the nation's first environmental teach-in at Northwestern University in 1970; Earth Day evolved out of that memorable evening. He introduced the subject of Environmental Law to the Northwestern Law School curriculum in 1971, where it has become a staple offering. In 1986, he teamed up with Kirsten Engel, then a student at Northwestern, to write an article on environmental aspects of the exportation of nuclear power technology (for an excerpt, see p. 184). After law school, Professor Engel worked on environmental issues in the United States government as a staff attorney in the Environmental Protection Agency's Office of General Counsel. She joined the Tulane Law School faculty in 1992 and currently teaches courses in environmental law and international environmental law.

Finally, there are many people who were instrumental in publishing this anthology whom we would like to thank. First, of course, are the authors of the various articles and books which we have included in this anthology. We would like to acknowledge their contribution to the field as well as their willingness to allow their work to be republished in a shortened form. We would also like to acknowledge the generous help and patience of our editors, especially that of

Sean Caldwell, the Legal Editor of Anderson Publishing Co. We are also grateful for the tremendous commitment of time and energy invested in this project by our secretaries Patricia Welsh and Toni Mochetta. Lastly, the research contributed by Tulane Law students William Rohring, David Sochia and Kerin Booth is gratefully acknowledged.