International Law and Sustainable Development
Principles and Practice

by

Nico Schrijver & Friedl Weiss

Editors

with a Foreword by
Bruno Simma

and

with a Preface by
Kamal Hossain

MARTINUS NIJHOFF PUBLISHERS
LEIDEN / BOSTON
TABLE OF CONTENTS

FOREWORD – Bruno Simma

PREFACE – Kamal Hossain

INTRODUCING THE BOOK – Nico Schrijver and Friedl Weiss

LIST OF CONTRIBUTORS

ACKNOWLEDGEMENTS

TABLE OF CASES

TABLE OF TREATIES

LIST OF ABBREVIATIONS

Part I: Sustainable Development: The Evolution of Principles

Introductory Note by the Editors

1 Ximena Fuentes, International Law-making in the Field of Sustainable Development: The Unequal Competition between Development and the Environment

2 Christopher Pinto, Some Thoughts on the Making of International Environmental Law: A Cautionary Tale

3 Duncan A. French, The Role of the State and International Organisations in Reconciling Sustainable Development and Globalisation

4 Yoshiro Matsui, The Principle of “Common but Differentiated Responsibilities”

5 Gerhard Loibl, The Evolving Regime on Climate Change and Sustainable Development

6 Thomas W. Wälde, Natural Resources and Sustainable Development: From “Good Intentions” to “Good Consequences”
# Table of Contents

## Part II: Sustainable Development: The Evolution of Practice

*Introductory Note by the Editors* 153

### A. International Trade

7. *Surya P. Subedi*, Managing the ‘Second Agricultural Revolution’ through International Law: Liberalisation of Trade in Agriculture and Sustainable Development 159


10. *Erik Denters*, Free Riders, Claims and Countermeasures in Combating Climate Change 231


### B. Foreign Investment

12. *Paul de Waart*, Sustainable Development through a Socially Responsible Trade and Investment Regime 273


### C. Human Rights

15. *Arjun Sengupta*, Implementing the Right to Development 341


17. *Antoinette Hildering*, The Right of Access to Freshwater Resources 405

### D. Natural Resources and Waste Management

18. *Mary E. Footer*, Our Agricultural Heritage: Sustainability, Common Heritage and Intergenerational Equity 433


### Table of Contents

**Part III: Sustainable Development: The Evolution of Regional and National Experience**

*Introductory Note by the Editors*  
555

557

23  *Elizabeth Bastida*, Integrating Sustainability into Mining Law: the Experience of Some Latin American Countries  
575

24  *Roda Mushkat*, The Principle of Public Participation: An Asia-Pacific Perspective  
607

631

26  *Shyami Puvimanasinghe*, Public Interest Litigation, Human Rights and the Environment in the Experience of Sri Lanka  
653

27  *Maria Magdalena Kenig-Witkowska*, Sustainable Development in Polish Law  
677

**APPENDIX**

ILA New Delhi Declaration of Principles of International Law Relating to Sustainable Development, 2002  
699

**INDEX**  
707