deny authorization to make a retaliatory withdrawal of trade concessions or obligations—and in this manner have further emphasized "the conciliatory aspect of their role in dispute settlement."[19] In this connection, Professor Dam describes the unsuccessful effort of Uruguay and Brazil to put more bite into the Article XXIII procedures by making developed countries financially liable to less-developed countries for violations of the General Agreement. He suggests that the reason for the ultimate rejection of this proposal may lie in the inherent conflict between the conciliatory approach favored by GATT, on the one hand, and the imposition of financial liability (requiring an adjudicatory approach), on the other. The discussion here offers little encouragement to those who would look to GATT for the development of international judicial institutions.

Professor Dam's book concludes with an Appendix which conveniently sets forth the text of the General Agreement, including interpretative notes and Protocol of Provisional Application. A very adequate index is also supplied.

This is a work of high scholarship. It should prove to be a great value not only to GATT buffs but to anyone with a serious interest in the problems and the possibilities of international economic organizations. It will not satisfy those who tend to see further organization of the international community as a panacea for the ills of the world. Nor will it give aid and comfort to either ardent free traders or devout protectionists. Instead, it is a balanced presentation, firmly rooted in fact and given to clear analysis and exposition. In a unique way it explores the law, the politics, the history and the economics of an important international institution. Although the terrain is often difficult, the author's footing is sure, and he guides the reader through many difficult areas with understanding, style and ease. I applaud Professor Dam for his achievement.

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Law-Making in the International Civil Aviation Organization. By Thomas Buergenthal. Syracuse: Syracuse University Press, 1969. Pp. xiii, 247. $10.50.

Thomas Buergenthal's *Law-Making in the International Civil Aviation Organization* is a unique study designed to assess the substantial law-making accomplishments of the International Civil Aviation Organization.[1] The

[19] *Id.* at 364.

[1] The International Civil Aviation Organization came into being on April 4, 1947, when the

author's approach hinges on the basic proposition that to understand the law one must first understand the facts and institutional setting to which the law applies. His analysis is made in regard to four broad areas of legal concern. These areas are membership, legislation, settlement of disputes, and amendments to the Chicago Convention.

Using this approach, Buergenthal looks at the manner in which the Civil Aviation Organization has dealt with questions and problems in the four areas. The premise is that this type of analysis yields insight about the I.C.A.O.'s institutional personality and the effect it has on the resolution of legal problems. The institutional personality or *modus operandi* is described as a product of a variety of factors. Of these factors, the author feels the organization's history, functions, membership complexion, and the political and economic power it commands predominate. The organization's *modus operandi* in turn has a significant effect on the manner in which the organization resolves its legal problems or articulates rules that are applicable to the legal problems. Buergenthal points out that the *modus operandi*, in effect, establishes a legal precedent that will aid in resolution of constitutional issues even when a change in the organization's membership lessens the harmonious disposition of issues experienced in earlier years.

It would appear that the real genius of the regulatory system lies in its non-compulsory character. The freedom of action which the contracting states retain under the Chicago Convention makes it possible for them to forego the involvement and control of their foreign offices in the development and adoption of I.C.A.O. annexes, and to leave these matters to their aeronautical authorities. This flexibility frees the I.C.A.O. legislative process of the legal, political, and economic complications that would otherwise drastically curtail its development.

The author further points out that even though the Convention on International Civil Aviation and its two companion agreements provide an elaborate machinery for settlement of disputes, the I.C.A.O. Council has been guided by a policy which favors settlements by political and diplomatic rather

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Convention on International Civil Aviation, its constitutive instrument, came into force. The purposes of the I.C.A.O. are stated in the Preamble which provides:

> WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and
>
> WHEREAS it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which peace of the world depends;
>
> THEREFORE, the undersigned governments have agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;
>
> Having accordingly concluded this Convention to that end.

The Convention on International Civil Aviation, 61 Stat. 1180, T.I.A.S. No. 1591, 15 U.N.T.S. 295 (1948).

than judicial means. Such policy, he claims, has proven to be effective. The Council is in a strong position to compel negotiated settlements and has the ability to delay the institution of formal arbitral proceedings. Council Representatives are better qualified to assist the parties themselves in adjusting their dispute than they are at adjudicating it. These factors tend to produce a result probably not anticipated when the Chicago Acts were drafted. The Council's *modus operandi* in dealing with disputes has for all practical purposes done away with the legal distinction between complaints and disputes.

The I.C.A.O. has demonstrated an unusual capacity for reshaping many provisions of the Convention without formally amending them. Where modifications cannot be achieved by amendment directly, they can often be obtained through acquiescence to certain practices that bring about these modifications.

At the outset, Professor Buergenthal points out that the "book is intended to explore the extent to which the law affects the I.C.A.O., what the nature of the law is, and how it is developed."[2] The book is well organized and keyed to a narrow area of study. Yet, although it is somewhat limited in scope, it provides the reader with an analytical look at the legal function of an international organization and its resulting effect on the decision making process. The proliferation and the increasing importance of international organizations like the I.C.A.O. makes it essential to realize the functional aspects of the study which the author has attempted to present. The limited coverage of his analysis does not present a complete picture of the I.C.A.O. However, the analysis does point to the important role of the lawmaking function and its impact on the study of law and procedural practice of international organizations.

W.C.B.

[2]Buergenthal, *Preface* to T. BUERGENTHAL, LAW-MAKING IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION, at ix (1969).