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AGRICULTURE IN WTO LAW

Bernard O'Connor

ISBN 10: 1 905017 14 6 • ISBN 13: 978 1 905017 14 0 • Hardback • 537pp • 2005 • £125.00/US$250.00

The rules governing trade in agricultural and food products are complex. The Agreement on Agriculture and the Agreement on the Application of Sanitary and Phytosanitary Measures are sector specific agreements covering market access, domestic support, export subsidies and health and safety standards. The other WTO agreements also apply.

This new book on Agriculture in WTO Law examines the application of both the sector specific and the generally applicable WTO agreements to trade in agriculture and food products. The book is a mix of the academic and the practical with an emphasis on accessibility. There are chapters explaining the different agreements or how they apply to specific trade regimes particularly where there are ongoing WTO inconsistencies in national agricultural policies. There is coverage of the latest WTO disputes (cotton and sugar) and the ongoing Doha Development Agenda negotiations including comments on the July Package from 2004.

The book has been written by different authors, each with an expert background in the topic covered. Most of the chapters have been revised and updated as of February 2005.

The book is addressed to diplomats, administrators, lawyers, trade economists and academics. All of these groups need to understand the rapidly changing international regulatory framework for trade in agriculture and food products. This book helps provide that understanding.

ANATOMY OF A TRADE DISPUTE

A Documentary History of the Kodak - Fuji Film Dispute

James P. Durling

ISBN 10: 1 874698 53 8 • ISBN 13: 978 1 874698 53 1 • Hardback • 700pp • 2001 • £85.00/US$170.00

Although there have been many trade disputes adjudicated before the WTO, the battle between the United States and Japan over consumer photographic film stands out as a landmark struggle. Known more popularly as the 'Film Dispute' or the 'Kodak-Fuji Dispute', this particular trade conflict received an unprecedented amount of media, academic and international attention. The impact of this case continues to reverberate, as different interests have cited it for the various lessons that have to be learned.

The Film Dispute represents a textbook example of a trade policy battle. The combination of two fierce commercial rivals, contentious cutting edge policy issues, intensely disputed facts, aggressive advocacy and two determined governments all make this an ideal case study to analyse the different elements and evolving dynamics of a trade policy battle. Indeed, the Film Dispute has already inspired a number of formal and informal studies in classrooms worldwide. In a remarkable display of interdisciplinary interest, professors have taught this case in law schools, business schools, public policy programmes, and even in undergraduate and graduate political science courses.

James P. Durling, one of America's leading private practitioners - who advised the Japanese side throughout this case - has now written the definitive history of the Film Dispute, describing in detail both its Section 301 and WTO phases. Weaving together the substantive arguments of the private companies, the positions of the two governments, and the role of public relations and politics, the author reveals the complex interplay of the various dimensions of trade policy battles. He combines selected excerpts from key documents with his perspectives as an inside observer of the dispute and illuminates its many different dimensions. He also places the issue in the broader context of Section 301, WTO dispute settlement and the history of U.S.-Japan trade conflicts.

Anatomy of a Trade Dispute distils the essence of familiar documents, but also publishes for the first time various key documents from the Film Dispute, such as unadopted Congressional resolutions, letters between the governments and questions posed by the WTO panel hearing the case. The publication also sheds new light on often overlooked aspects of the case, such as the consultations on restrictive business practices that never took place. Even those who followed ‘Kodak-Fuji’ at the time will find new documents and insights in this work.
This volume belongs on the shelves of all those interested in international, US - Japan relations, formulation of trade policy, and the interaction of the private sectors and government in trade policy disputes.

ANTIDUMPING LAWS AND PRACTICES OF THE NEW USERS

Edited by Junji Nakagawa

ISBN 10: 1 905017 25 1 • ISBN 13: 978 1 905017 25 6 • Hardback • 2007 • £125.00/US$250.00

More and more Members of the WTO are using anti-dumping (AD) measures as an effective tool for protecting domestic industries facing competition with foreign products. In contrast to the ‘big four’ (US, EC, Canada and Australia), which have been using AD measures frequently since the GATT era, many of the new users established their AD regimes and began to use them after the establishment of the WTO.

Why are there more and more new users? How are they applying AD measures? Do they comply with the rules of the WTO Anti-Dumping Agreement? What are their specific characteristics in the handling of AD cases? What should exporters and practitioners do to prepare for AD investigations by the new users? Based on extensive analyses of primary materials and hearings from practitioners and AD authorities, this book provides detailed and updated information to answer these questions on the following new users:

China, Chinese Taipei, Korea, Thailand, India, South Africa, Mexico, Argentina and Brazil

Contributors: Satoru TAIRA (India: Professor, Osaka City University), Junji NAKAGAWA (Introduction, China, Brazil, Argentina: Professor, University of Tokyo), Isamu MAMIYA (Chinese Taipei: Professor, Meiji University) Lori Yi (Korea: Keimyung University, Korea) Gustav BRINK (South Africa: Trade Law Centre of South Africa), Yuka FUKUNAGA (Korea: Assistant Professor, Waseda University), Kazuyori ITO (Mexico, Thailand: Lecturer, University of Shizuoka), Naofumi MAKINO (India: Japan Export Trade Organization (JETRO)), Tomohiko KOBAYASHI (South Africa: Ministry of Economy Trade and Industry (METI)), Hiroe OTAKE (Korea: Sharp Corp.)


BILATERALISM AND DEVELOPMENT

Emerging Trade Patterns

Edited by Veniana Qalo

ISBN 13: 978 1 905017 62 1 • Hardback • 2008 • £130.00/US$260.00

Drawing together a number of thought-provoking papers, Bilateralism and Development: Emerging Trade Patterns sets the framework for informed analysis of the spate of bilateral agreements that are currently being concluded in the context of stalled multilateral talks. It allows the reader to get a valuable perspective on the evolving trends of bilateral agreements - pre and post-establishment of the World Trade Organization. Beginning with the premise that bilateralism is not a new phenomenon in the trade sphere, the analyses demonstrate that concurrent agreements outside the direct scope of the WTO can have both positive effects in terms of protecting developed domestic industries and distortive effects on the multilateral trading system, particularly with regards to developing countries’ trade opportunities. Bilateralism and Development: Emerging Trade Patterns addresses the fundamental issue of compatibility of such agreements with the WTO, draws parallels and contrasts these new concords which are now taking precedence over the traditional commodity specific agreements between trading partners.

Veniana Qalo is currently an Economic Adviser with the Commonwealth Secretariat in London, and a registered Barrister and Solicitor in Fiji. She holds a Bachelor of Laws degree and a Professional Diploma in Legal Practice from the University of the South Pacific; and a Masters in International Law and Economics (Magna Cum Laude) from the World Trade Institute Joint Universities
of Neuchatel, Fribourg and Berne in Switzerland. She worked for six years with the Pacific Islands Forum Secretariat in Suva, Fiji as a Research Assistant and Trade Policy Officer before joining the Commonwealth Secretariat in London in August 2004. Ms Qalo has written and published pieces on a range of trade and international law issues.

A COMPETITION POLICY FOR THE WTO

Philip Marsden

ISBN 10: 1 874698 58 9 • ISBN 13: 978 1 874698 58 6 • Hardback • 392pp • 2003 • £125.00/US$250.00

To prevent business practices from restricting trade, governments are considering how best to develop a global framework of competition rules. Formal proposals have been made for Members of the World Trade Organization to undertake binding commitments to ban cartels, cooperate in international law enforcement and enforce their competition laws in a non-discriminatory manner. In this refreshing and highly readable book, however, competition law practitioner Philip Marsden finds that many of these commitments are likely to prove irrelevant, if not actually harmful. They would add nothing to - and could take much away from - commitments that already exist and have precisely the same aim.

Philip Marsden recommends that the discussion and negotiation of competition rules at the WTO focus on the problem that is most relevant to the interaction of trade and competition policy. This is the frequent allegation that competition authorities are tolerating exclusive business arrangements that appear to exclude competitors, and foreign competitors in particular. This allegation was at the heart of the Kodak/Fuji Film trade case about access to the Japanese market, and also underlies a continuing difference of view among trade and competition authorities – particularly on either side of the Atlantic – about how successful companies should be allowed to be. Philip Marsden analyses these differences through a colourful and insightful examination of how the European Commission and the American antitrust authorities reviewed the Boeing/McDonnell Douglas and GE/Honeywell mergers.

He then examines trade policy proposals that have been made to address this divergence. These recommend that WTO Members either change their competition policy analysis to pay more attention to the impact that ‘efficient but exclusionary’ arrangements have on trade, or simply introduce new regulation to provide foreign companies with an improved position in their markets. Marsden’s ground-breaking analysis explains how such changes would pull competition policy away from its core discipline of protecting merit-based competition, thereby distorting the competitive process and the efficient and equitable operation of the marketplace, without providing foreign competitors with the meaningful access to new markets that they so desperately seek.

Marsden concludes by offering a framework of legal and economic reasoning for the review of exclusionary arrangements, and of their toleration by competition authorities, which accords with the aims of both trade and competition policy. This will help the two often conflicting aspects of trade and competition policy finally to work together to address truly harmful business conduct, without depriving truly successful companies of the fruits of their labours. As Lord Brittan says in his Foreword to the book, ‘Marsden’s thoughtful analysis and original and interesting positive proposals go well beyond current thinking. Competition officials, trade negotiators and dispute settlement panellists as well as academics and the heads of companies that are seeking better access to foreign markets will all find this book absorbing and stimulating. It is based on deep knowledge and study and merits serious consideration and discussion.’

A CROSS-SECTION OF WTO LAW

Marco Bronckers

ISBN 10: 1 874698 38 4 • ISBN 13: 978 1 874698 38 8 • Hardback • 300pp • 2000 • £75.00/US$150.00

Marco Bronckers has been practising international trade law for 20 years. He is also professor of WTO and EC external trade relations law at the University of Leyden. This book provides a cross-sectional view of the legal issues that are at the forefront of WTO developments, and contains essays in the following subjects:

Rethinking the ‘Like Product’ Definition in WTO Law: Anti-dumping and Environmental Protection (co-authored with Natalie McNelis)
Rehabilitating Anti-dumping and other Trade Remedies through Cost-Benefit Analyses

Order online at: www.cmppublishing.com
Telecommunications Services and the World Trade Organization, (co-authored with Pierre Larouche)
The Impact of TRIPs: Intellectual Property Protection in Developing Countries
The Exhaustion of Patent Rights under WTO Law
The Position of Privatised Utilities under WTO and EC Procurement Rules
Fact and Law in Pleadings Before the WTO Appellate Body (co-authored with Natalie McNelis)
Outside Counsel in WTO Dispute Process (co-authored with John Jackson)
Private Participation in the Enforcement of WTO law: The New EC Trade Barriers Regulation
Better Rules for a New Millennium: A Warning Against Undemocratic Developments in the WTO

CHINA’S PARTICIPATION IN THE WTO

Edited by Henry Gao and Donald Lewis

ISBN 10: 1 905017 15 4 • ISBN 13: 978 1 905017 15 7 • Hardback • 486pp • 2005 • £125.00/US$250.00

China’s Participation in the WTO brings together the most insightful contributions from the International Conference on China’s Participation in the WTO hosted by the East Asian International Economic Law and Policy Programme (EAIEL) at the University of Hong Kong in February 2005.

The work focuses on three general themes: taking stock of the progress China has made in implementing its WTO commitments, identifying the challenges facing China as a new Member in the WTO, and generating proposals on how China could participate in the WTO more effectively. The contributions capture the intensive discussions held among speakers from the Ministry of Commerce of China, the Permanent Mission of China to the WTO, members of the WTO Secretariat, leading academics from around the world and WTO experts from leading professional services companies and multinationals.

Henry Gao is Deputy Director of the East Asian International Economic Law and Policy (EAIEL) Programme, the Academic Coordinator for the Asia Pacific Regional Trade Policy Course jointly organised by the WTO and the University of Hong Kong.

Donald Lewis is Director of EAIEL and Associate Professor at the University of Hong Kong. His research focuses on China’s WTO accession, administrative governance in China and dynamics of cultural and economic development.

A COMPARISON OF WTO AND EC LAW
Do Different Objectives and Purposes Matter for Treaty Interpretation

Marco Slotboom

ISBN 10: 1 905017 21 9 • ISBN 13: 978 1 905017 21 8 • Hardback • 2006 • £125.00/US$250.00

There seems to exist a preconception that EC trade rules governing the relations between EC Member States are stricter than similar WTO trade rules governing relations between its Members. The preconception is no doubt borne out of the fact that, of the two trading regimes, the EC ostensively subscribes to more ambitious goals. A Comparison of WTO and EC Law examines the validity of this preconception. More precisely, the book aims to find an answer to the following question: ‘Is it correct to assume that, given the different objects and purposes of the EC and the WTO, the EC obligations to liberalise trade between EC Member States is stricter than the corresponding WTO obligations governing the trade between WTO Members?’

With the exception of the procedural law issue of NGO participation before the European courts and the WTO dispute settlement organs, the scope of the book is limited to the EC and WTO rules on trade in goods. This excludes all other areas of EC and/or WTO, such as trade in services, free circulation of capital, right of establishment, competition law etc. The reason for limiting the scope of the book is that trade in goods has been the traditional focus of international trade law. Compared with the WTO rules on goods, the WTO rules on trade in services and other subjects are still very much in their infancy.

Marco Slotboom is a partner at the international law firm Simmons and Simmons. He is head of the EU and Competition Law department of the Brussels office. Marco Slotboom was awarded his PhD in law by the University of Leiden in 2005.
CUSTOMS AND TRADE LAWS AS TOOLS OF PROTECTIONISM

Selected Essays

Edited by Edwin Vermulst and Folkert Graafsma

ISBN 10: 1 905017 00 6 • ISBN 13: 978 1 905017 00 3 • Hardback • 2005 • £125.00/US$250.00

Edwin Vermulst and Paul Waer have been practicing EU and WTO trade law and customs law since 1987. They were joined shortly thereafter by Folkert Graafsma. What has set these lawyers apart from their peers is that from the outset they have made their experiences in these areas of law widely available through publications all over the world.

This book presents an overview of 23 seminal articles that they have published over the years, often in collaboration with other professionals. These articles address an array of topics, from customs classification, rules of origin, and trade remedies (dumping, countervailing duties, safeguards, and the EU trade barriers regulation) to the various aspects of WTO dispute settlement. While a substantial number of the articles reproduced herein appeared in the Journal of World Trade, others were originally published in American or Asian periodicals. Now, for the first time, they are available in one accessible volume.

While the subject-matter, time frame (1987-present), and length (1 to nearly 100 pages) of these articles may vary substantially, every one of them remains topical (this was the primary basis for selection). They are written in a no-nonsense style understandable to specialists and interested laymen alike. Often starting with analyses of the imperfections in existing regulatory structures, the authors go on to offer suggestions for improvements that are pragmatically feasible and, if adopted, make differences in real life.

This book will be essential reading for lawyers, trade counsel, academics and government officials who want to know how the system works in practice and how it can be improved.

THE CHALLENGE OF WTO LAW

Selected Essays

Thomas Cottier

ISBN 10: 1 905017 36 7 • ISBN 13: 978 1 905017 36 2 • Hardback • £125.00/US$250.00

The Challenge of WTO Law is a collection of essays by one of the most influential contemporary commentators on international trade law. This collection chronicles the evolution of the WTO Dispute Settlement System in its quest to protect legitimate expectations and looks at how states and other trading blocks have sought to embrace it.

Professor Thomas Cottier, Managing Director of the World Trade Institute, is Professor of European and International Economics Law at the University of Bern and Director of the Institute of European and International Economic Law.

DEVELOPMENT AND THE RULE OF LAW IN THE WTO

The Case for Developing Countries and Their Use of Dispute Settlement Procedures

Intan Murnira Ramli

ISBN 13: 978 1 905017 59 1 • Hardback • 2008 • £130.00/US$260.00

Development and the Rule of Law explores the fundamental issues of transparency, legitimacy and compliance to the World Trade Organization’s Dispute Settlement Mechanism (DSM) by critically examining the experience of developing countries. The author’s theoretical and empirical analyses suggest that developing countries are disadvantaged by the DSM, which is intended to provide a solid rules-based approach, particularly beneficial to such countries, and fundamentally to the rule of law.

The recent US – Shrimp Turtle dispute and statistical analysis of other disputes brought to the WTO are evaluated to assess the extent
to which the rule of law is upheld in the WTO. Reforms are proposed to enhance the credibility and legal basis of the system, thereby increasing its legitimacy. Further, the relationship between wealth and power of states and their ability to participate fully within this system of dispute resolution are presented as key factors of the 'power hypothesis', which predicts that politically weak countries refrain from filing complaints against politically powerful states for fear of costly retaliation.

**Intan Murnira Ramli** is a Senior Federal Counsel in the International Trade and Finance Unit, International Affairs Division of the Attorney General's Chambers of Malaysia. She is an Advocate and Solicitor of the High Court of Malaya and is also a Certified Mediator. She holds a PhD from the University of Kent at Canterbury and an LLM from Nottingham University.

Intan has wide experience in international law, having negotiated for and represented Malaysia at many international multilateral and bilateral meetings including several Free Trade Agreements between Malaysia and ASEAN and other countries or trade blocks. Currently, Intan sits on the Expert Taskforce on ASEAN Dispute Settlement Mechanism. In 2000-2001, she represented Malaysia at the United Nations Meeting for the Preparatory Commission for the International Criminal Court in New York. Intan was also a member of the Malaysian Legal Committee in 2002, which ascertained the compliance of Malaysia with its obligations under APEC and WTO under its schedule of commitments and WTO agreements. Intan has also advised the Malaysian Government on electronic government, government procurement, privatisation and public-private finance initiatives.

### DIRECT EFFECT OF WTO LAW

**Geert A. Zonnekeyn**

*ISBN 13: 978 1 905017 60 7 • Hardback • 2008 • £130.00/US$260.00*

The effect of the WTO Agreements within the legal order of the EU has been the object of a fierce controversy in the case law of the CFI and of the ECJ ever since the conception of the WTO. The case law of these courts clearly indicates that practitioners seem to have explored practically all the boundaries of this extremely fascinating subject. **Direct Effect of WTO Law** is a collection of essays written by a prominent practitioner of EU law and international trade law which chronicles the evolution in the case law of the European Courts in Luxembourg on the enforceability of GATT and WTO law in the EU legal order. The author was not only actively involved in some of the most prominent cases but was also one of the first scholars to focus on more controversial subjects and questions such as the status of decisions taken by the WTO dispute settlement bodies and the question whether the EU institutions could be held liable under EU law for not acting in conformity with WTO law. The book also contains some essays on the opportunities given to EU companies to enforce WTO law through the application of the so-called Trade Barriers Regulation and gives an almost complete picture of how WTO law can be enforced in the EU legal order.

**Geert A. Zonnekeyn**, partner with Monard D’Hulst, has been practising WTO law and competition law for more than a decade and is included in the roster of panellists of the WTO. He is also an academic consultant at the European Institute of the University of Ghent. He has published widely on various subjects and is a regular speaker at conferences.

### EC ELECTRONIC COMMUNICATIONS AND COMPETITION LAW

**Mira Burri Nenova**

*ISBN 10: 1 905017 48 0 • ISBN 13: 978 1 905017 48 5 • Hardback • £130.00/US$260.00*

Electronic communications has developed at an incredible speed over the last couple of decades. The technological advancement has, most noticeably, enabled our phones to shrink. It now also gives us the ability to communicate in many more ways than we could have imagined in the recent past. This exponential growth in the sector presents the EU with its own set of the challenges.

**EC Electronic Communications and Competition Law** addresses the regulatory aspects of contemporary electronic communications in the EU and advances the outlines of a coherent model for its regulation. It explores whether competition law is indeed the all encompassing regulatory panacea, at the expense of sector specific rules, envisaged by the 2002 reform package.

The book argues that the question of whether competition law is the appropriate tool needs to be examined not in the conventional
contexts of sector specific rules versus competition rules or deregulation versus regulation but in a broader governance context. The reader is provided with an insight into the workings of the communications sector which is exposed as being network-bound, converging, dynamic and endowed with a special societal function. This together with the scrutiny of the underlying regulatory objectives paints the most comprehensive picture of the communications sector.

The author captures the interplay between sectoral communications regulation, competition rules (in particular Article 82 of the EC Treaty) and the relevant rules of the World Trade Organization (WTO). The in-depth analysis takes into account the most important recent developments in EC competition law and practice surrounding the field of refusal to supply policies and tying agreements. The analysis also covers the reform of the EC electronic communications framework and such new decisions of the WTO dispute settlement body as the Panel Report in the Mexico - Telecommunications Services case.

The book will be of particular interest to communications and antitrust law experts, both Community and Member State policy makers, government agencies, consultancies and think-tanks active in the field. Experts on other network industries (such as electricity or postal communications) will also benefit from the in-depth treatment of this fast maturing sector.

### ENFORCEMENT OF ARBITRATION AGREEMENTS AND INTERNATIONAL ARBITRAL AWARDS

**The New York Convention 1958 in Practice**

Edited by Emmanuel Gaillard and Domenico di Pietro


As we approach the 50th anniversary of the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) Enforcement of Arbitration Agreements and International Arbitral Awards provides the most exhaustive commentary on the fundamental aspects of the convention. The significant legal developments and associated practice over the last 50 years have been put under the microscope by distinguished academics and practitioners in the area.

Each of the 31 chapters provides focused analysis of individual issues with the emphasis on the relevant case law from various Contracting States without ever straying from a global outlook.

*Enforcement of Arbitration Agreements and International Arbitral Awards* is intended to be an authoritative text for lawyers working in-house or in private practice. Its structure and depth of analysis makes it suitable for academics and essential reading for students pursuing post-graduate or research degrees that encompass elements of international dispute resolution.

### ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS IN CHINA

**Jianqiang Nie**

ISBN 10: 1 905017 28 6 • ISBN 13: 978 1 905017 28 7 • Hardback • 530pp • £125.00/US$250.00

For China, the implementation of the WTO rules, and the commitments contained in its WTO Accession Protocol, will cause considerable change in the domestic legal order. One of the key legal changes is the introduction and implementation of standards contained in the TRIPs Agreement. *Enforcement of Intellectual Rights in China* focuses on both the domestic impact of the TRIPs Agreement as well as China’s relationship with the IP rich industrialised countries. Professor Jianqiang Nie begins by identifying the philosophical obstacles to enforcement inherent in the pre-WTO Chinese legal order and explores means by which TRIPs compliance may be brought about both in the statute books and, more importantly, in practice.

Dr Jianqiang Nie is Professor of Law at the Institute of International Law, Wuhan University, China.
ENFORCEMENT OF INTERNATIONAL ARBITRATION AWARDS

The New York Convention of 1958

Edited by Domenico Di Pietro and Martin Platte

ISBN 10: 1 874698 97 X • ISBN 13: 978 1 874698 97 5 • Hardback • 288pp • 2001 • £125.00/US$250.00

International disputes are increasingly resolved by arbitration. One of the undeniable advantages of this is the convenient international enforcement of arbitral awards under the New York Convention, one of the most successful international instruments ever.

Enforcement of International Arbitration Awards is aimed at providing the reader with a comprehensive illustration and analysis of the issues which arise through the process of recognising and enforcing international arbitration agreements and awards. Whilst not neglecting the academic aspects of the subject, the book focuses on the practical problems which may be encountered in this area of practice. This is achieved by a thorough discussion of both the well established body of case law, as well as more progressive and updated jurisprudence. In addition, every chapter contains a practical summary and a checklist.

Each chapter is devoted to a key provision of the convention. The analysis takes into account the truly international nature of the subject and attempts to create awareness and provide information as to how specific issues have been approached in different jurisdictions. Therefore it may serve as an indicator of how the courts of other jurisdictions are likely to treat these issues.

Despite the immense importance of the New York Convention, there is surprisingly little literature devoted to this topic. This book attempts to fill this gap by providing a comprehensive, comparative and easy-to-use guide to the recognition and enforcement of international arbitration awards under the New York Convention. As such Enforcement of International Arbitration Awards is a must buy item for legal practitioners and academics alike.

ENFORCING WORLD TRADE RULES

Essays on WTO Dispute Settlement and GATT Obligations

William Davey

ISBN 10: 1 905017 40 5 • ISBN 13: 978 1 905017 40 9 • Hardback • £125.00/US$250.00

Whilst it looks as if the current negotiating round - the Doha Round - is on hold, it is unlikely that it can be completed before the US President’s Trade Promotion Authority runs out in the summer of 2007, the WTO continues to increase its membership (Vietnam acceded in early November 2006) and the dispute settlement system continues to operate robustly. William Davey provides readers with a unique insight of the system, garnered partly from four years as the WTO’s Legal Affairs Director. Enforcing World Trade Rules is a collection of essays on the most pertinent and contemporary issues relating to the World Trade Organization’s dispute settlement system and the basic obligations found in the WTO agreements.

ENVIRONMENTAL LIABILITY IN THE EU

The 2004 Directive Compared with the US and Member State Law

Gerrit Betlem and Edward Brans

ISBN 10: 1 905017 22 7 • ISBN 13: 978 1 905017 22 5 • Hardback • 431pp • 2006 • £125.00/US$250.00

Environmental Liability in the EU focuses on the 2004 EU Environmental Liability Directive - one of the most significant pieces of environmental legislation of the last years. The book provides an overview and introduction to the scheme of the Directive and discusses various specific aspects such as its measure of damages, its rules regarding the liability for damage caused by genetically modified organisms and soil pollution, the issue of standing and its relationship with international civil liability conventions that cover environmental harm, in particular the ones dealing with oil pollution. GMO damage is likewise examined against the backdrop of developments at the global level, ie the emerging liability regime under the Cartagena Protocol.
Environmental Liability in the EU also addresses the issue of who can be held liable for damage covered by the directive (operator liability), the available defences and its relation to the general principles of EC environmental law, notably the polluter-pays principle and the precautionary principle. Given the fact that the directive is partly based on US and Member State law, a comparison is made with relevant US federal laws, namely the US Oil Pollution Act and CERCLA, as well as with the law of some Member States (Germany and the United Kingdom). A scientific paper considers – by way of case study – complex questions of proof of causation of (environmental) damage caused by arsenic.

ESSAYS ON THE FUTURE OF THE WTO
Finding a New Balance
Edited by Kim Van der Borght
Associate editors: Eric Remacle and Jarrod Wiener

Since its establishment in 1995, the World Trade Organization has been the focus of attention in international governance. The WTO is both despised and admired. It has served as the lightning conductor for worldwide protests against a one-sided form of globalisation. It is despised as an organisation that strives for global membership but advances mainly or solely the interests of its richest members. It is accused of undermining international human rights, promoting environmental destruction and hampering social and economic development of the poorest countries. Conversely, it is hailed as the most advanced international organisation. It is applauded for the way it has managed to open new markets and create greater wealth. Its dispute settlement system is praised for its efficiency and for being rule-based. The organisation is admired for having done away with power politics and having replaced it by a legal system where all members are equal, where economic, political or military power is not relevant.

A broad range of topics is covered in the collection by authors from a wide variety of backgrounds including trade diplomats, members from national administrations and international organisations, the judiciary and academia. Tomás García Azcárate co-authored an essay with Marina Mastro-Stefano in which they explore the agricultural negotiations from a European perspective with an emphasis on the transatlantic relationship. Melaku Desta wrote a critical assessment of agriculture in the WTO from a developing country perspective. Isikeli Mataitoga discussed the position of developing countries in WTO negotiations. Surya Subedi and Jürgen Kurtz analysed different aspects of the relationship between investment and trade regulation. The ‘linkages debate’ was further developed by Michel Hansenne, looking at the relationship between WTO and ILO, Sandrine Maljean-Dubois and Yun Zhoa exploring issues of health and environment and Allan Rosas developing an argument to introduce non-commercial values into the World Trade Organization through Article XX GATT. Dencho Georgiev provided an insight into the procedures and realities of decision-making in the WTO. Finally, Chen Licheng and Kim Van der Borght discussed some of the challenges faced by China in implementing its WTO commitments.

ESSAYS ON THE INTERNATIONAL TRADING SYSTEM
An Unfinished Journey
Pradeep S. Mehta

Pradeep S. Mehta has campaigned all his life for a better world, through his writings and his actions. Having established the Consumer Unity and Trust Society (CUTS) in 1984, Mehta has gained first-hand knowledge about the impact of globalisation at both the grassroots and international levels. This collection of essays on economic issues presents a dispassionate analysis of the effectiveness of the international economic system and of how economics affect the everyday lives of people in developing countries. The papers offer practical suggestions on how to benefit from globalisation, without undermining it, as well as a sound analysis of trade and development issues. However, Mehta is less than comfortable with the present international economic order – highly critical of the current state of affairs, his daring attitude will challenge both bureaucrats and anti-globalisers. Indeed, both advocates and opponents of liberalisation from the north and the south alike will benefit from reading. Mehta provides a refreshing point of view from the Third World, backed up with the self-assurance that comes with knowing that what is being done is only for the better.

Order online at: www.cmppublishing.com
THE EC STATE AID REGIME

*Distortive Effects of State Aid on Competition and Trade*

Edited by Michael Sánchez Rydelski

ISBN 10: 1 905017 34 0 • ISBN 13: 978 1 905017 34 8 • Hardback • 848pp • £125.00/US$250.00

The EC State Aid Regime will enable readers without any knowledge in the area easy access to the notion of state aid, the key concepts of the state aid procedure and the legal remedies. At the same time, it provides state aid experts with specific and in-depth analysis of subjects such as infrastructure funding, the market investor test, rescue and restructuring aid, state aid and risk capital, regional aid, aid for environmental protection, state aid and emission trading, state aid to the aviation and shipbuilding sectors, state aid in the fields of agriculture and fisheries, state aid to culture and sports, and the international dimension of state aid. The important area of state aid to services of general economic interest receives special attention in a separate chapter. The growing importance of economic analysis in the area of state aid and the ongoing discussion of the state aid reform have also been addressed in two separate chapters in the book.

The team of contributors is composed of practitioners, scientists, economists and civil servants of different administrative bodies and the European Commission.

The EC State Aid Regime will be a great resource for legal practitioners, national judges, civil servants, academics and students who want to acquire or enhance their knowledge in this expanding field of law.

FOREIGN STATE IMMUNITY AND ARBITRATION

Dhisadee Chamlongrasdr

ISBN 10: 1 905017 39 1 • ISBN 13: 978 1 905017 39 3 • Hardback • 2007 • £125.00/US$250.00

In Foreign State Immunity and Arbitration the author explores the limits of the concept of state immunity as it relates to both jurisdiction and execution against state property in arbitration cases.

The current scope of state immunity from jurisdiction is examined with reference to legislative and jurisprudential developments in the US and UK where the author finds evidence of a definite shift away from the traditional restrictive theory of state immunity. A similar survey of state practice relating to waiver, both express and implied, of immunity from jurisdiction and the relevant rules of arbitration institutions such as the ICC also illustrate a trend towards shrinking immunity.

A GENERAL THEORY OF TRADE AND COMPETITION

*Trade Liberalisation and Competitive Markets*

Shanker Singham

ISBN 10: 1 905017 42 1 • ISBN 13: 978 1 905017 42 3 • Hardback • £125.00/US$250.00

*A General Theory of Trade and Competition* is an important contribution to the understanding of global trade. By going back to first principles, Shanker Singham takes us back to the original purposes of free trade and competitive markets, helping to explain the benefits of free trade. It is an important book for trade specialists and policymakers.

Ambassador Rob Portman, former US Trade Representative, and former Director of the Office of Management and Budget.

*General Theory of Trade and Competition* is the first academic or practitioner text book to establish a general theory of trade and competition and attempts to bring these two disciplines back together. Shanker Singham demonstrates that there is indeed a

Order online at: [www.cmppublishing.com](http://www.cmppublishing.com)
powerful interface between these two areas and that by understanding this interface practitioners, be they in governments, companies or law and economics firms can succeed in trade negotiations as well as build up support for free trade principles in a time when they are being increasingly challenged. By noting that consumer welfare is enhanced where trade liberalisation is accompanied by competitive markets and property rights protection, the author articulates an overall vision in which future policy makers can frame a different kind of trade debate.

Shanker Singham is chairman of the International Trade and Competition Policy Roundtable and the leader of Squire Sanders and Dempsey LLP’s market access/WTO practice. He is one of the world’s leading lawyers in this area, and has written over 50 articles and book chapters on related topics. He is widely quoted on these issues in the media including being interviewed by CNBC on the Doha Development round of WTO negotiations, and being quoted in the Financial Times, Times, Reuters, the Economist, Wall Street Journal and New York Times, as well as Time and Wired Magazines.

THE GENERALISED SYSTEM OF PREFERENCES AND THE WORLD TRADE ORGANISATION

Juan C. Sánchez Arnau

ISBN 10: 1 874698 98 8 • ISBN 13: 978 1 874698 98 2 • Hardback • 300pp • 2002 • £75.00/US$150.00

The Generalised System of Preferences and the World Trade Organization is the result of a detailed research on the GSP, one of the few instruments adopted by the industrialised countries to promote exports from the developing world.

The future of the GSP lies in the forthcoming multilateral trade negotiations. By launching the new round of negotiations on a further reduction of import duties, the Ministerial Declaration adopted in Doha reduces the scope of the preferential treatment but at the same time, it emphasises that the WTO seeks to place the needs and interests of the developing countries ’at the heart of the Work Programme’.

Although the Ministerial Declaration makes no specific reference to the GSP or to ‘preferential treatment’, it specifically refers to all the legal elements that permit such preferences, thus opening the door to the utilisation of the GSP or similar measures as part of the final results of the new round.

The GSP was also used as a model to develop a number of similar preferential systems, such as the EU-Andean countries programme, the US Caribbean Basin Initiative and the Canadian Trade and Investment Caribbean Programme and more recently the US African Growth and Opportunity Act. The GSP is also called upon to play an important role in the restructuring of the EU agreement with the African, Caribbean and Asian countries (the ACPs).

This book gives an analysis on how the GSP was implemented and applied throughout 30 years and the impact that it has had on the exports and industrialisation processes of the beneficiary developing countries.

It has been divided into three parts:
- An analysis of the preferential trade theory including the presentation and discussion of a model representing this type of trade and the role of the effective protection theory in order to understand its effects.
- The structure of protection in the industrialised countries, in the light of the objectives of the GSP and the above-mentioned theoretical model, thus bringing the initial theoretical analysis in line with the reality of the problems associated with international trade.
- An overall picture of the changes in the world economy and the trade policy of the industrialised countries since the GSP was put into effect. The changes brought about in the structure of international trade during that same period.
- A detailed analysis of the preferential schemes of the different industrialised countries and the reasons that help to explain why preferential treatment has had such a limited impact on the beneficiary countries’ exports.

The author, currently Argentina’s Ambassador to Russia, was closely associated with the negotiations for the adoption of the GSP as a representative of his country to UNCTAD and GATT and followed its implementation for many years in these organisations. He took advantage of this experience to choose this subject for a PhD thesis which recently received a mention magna cum laude in the University of Fribourg, Switzerland.

reviews:
It is the best empirical thesis I have ever read...it includes an analysis of international trade that is extremely far-reaching.

Prof. Heinrich Borstis
Universities of London and Fribourg

This book is of an undoubted high quality. It is based on particularly solid sources.

Prof. Dr. Gaston Gaudard
Director of the Centre de Recherches en Economie de l'espace of the University of Fribourg

THE GLOBAL MERGER CONTROL MANUAL

Editors: David J. Laing and Luis A. Gómez
Executive Editor: Brian F. Burke

ISBN 10: 1 874698 50 2 • ISBN 13: 978 1 874698 50 8 • Loose-leaf CD-ROM included • 2007 • £195.00/US$390.00

In the latest edition of The Global Merger Control Manual, the editors acknowledge that parties to cross-border transactions can no longer treat merger control as a box-ticking exercise but must instead build a full merger control analysis (including a substantive assessment, coordinated filing strategies, review process timetables etc) into the transaction strategy as a whole.

This and the prior editions of the Manual were written by, and written for, practising lawyers to assist in carrying out the daunting tasks associated with competition reviews of multinational mergers and acquisitions. Most of the contributors to this edition are competition law experts at Baker & McKenzie, a law firm with offices in 38 countries, which is particularly well suited to such an international survey and publication. We have also drawn on the experience of practising lawyers in many other countries.

The editors of this edition are extremely grateful to these knowledgeable lawyers for their work in keeping our readers current on the many developments in merger control laws this past year has seen. The 2007 Manual now includes new information on the merger control regimes for Bulgaria and Romania, following their accession to the European Union earlier this year.

The latest edition retains the versatility and user-friendly features of the previous editions.
- Includes CD-Rom version of the entire Manual, allowing for easy downloading.
- Quick Reference Guide at the beginning of the Manual, setting out the basic filing thresholds and timing implications of the merger control process in each country.
- Tabulated format, providing easy access to the information about each country.
- Includes both a summary of the merger control rules and the legislation itself for nearly every country.

The Global Merger Control Manual will enable a company's in-house teams, investment bankers and lawyers to carry out an immediate preliminary assessment in order to determine the number and kind of merger notifications that will be required in respect of any multinational merger. The hours of research saved on just one transaction will more than cover the cost of this practical and easy-to-use Manual.

Reviews:

‘This publication (…..) stands as one of the most invaluable information sources for those (...) involved in merger control.’

Philip Lowe
Director General of Competition, European Commission

‘A useful and informative book that addresses an important topic for antitrust practitioners.’

Mark Whitener
Antitrust Counsel, GE

‘This is a wonderful book. It sets forth the basic information on merger notification and procedures, followed by the language of the statutes themselves (…) in a concise and readable way.’

Eleanor Fox-Walter J Derenberg
Professor of Trade Regulation at the New York University School of Law, and member of the US Justice Department's International Competition Policy Advisory Committee
HANDBOOK OF GATS COMMITMENTS
Trade in Services under the WTO

Edited by David Hartridge, Tashi Kaul and Omar Odarda

ISBN 10: 1 874698 44 9 • ISBN 13: 978 1 874698 44 9 • Hardback or Electronic • £195.00/US$390.00

This Handbook presents in graphic format an overview of all services commitments made by 146 WTO Members as of December 2002. The detailed charts for each WTO Member are designed to answer the question: ‘What services does this country allow foreign businesses to offer?’

The charts not only identify services sectors in which Members have undertaken legal commitments to allow foreign access, but also indicate the level of these commitments.

The Handbook is intended as a tool for private companies, trade negotiators and researchers. For example, a private company seeking to invest abroad could refer to the book for an overview of market access opportunities in any one of the 146 WTO Member countries. The Handbook also identifies instances of unclear commitments in Members’ schedules. The book should help negotiators to review such cases in the current services round and therefore avoid ambiguities in the next generation of commitments.

The Handbook provides information that will highlight what is at stake in the negotiations and will identify areas in which improved commitments would benefit consumers and suppliers of services – and the countries making the commitments. These features make the Handbook a quick and comprehensive reference guide to WTO Members’ services commitments and a compendium that is the first of its kind.

IMPROVING WTO DISPUTE SETTLEMENT PROCEDURES
Issues and Lessons from the Practice of Other International Courts and Tribunals

Edited by Professor Friedl Weiss

ISBN 10: 1 874698 03 1 • ISBN 13: 978 1 874698 03 6 • Hardback • 430pp • 2000 • £85.00/US$170.00

This selection of essays is based on the idea that a substantial reform of the GATT/WTO system of dispute settlement may benefit from the insights and lessons to be derived from the practice of other international courts. Improving WTO Dispute Settlement Procedures is a valuable vademecum through the ongoing debate on how best to find, interpret and apply the rule of law in multilateral trade relations. Searchingly analytical papers from eminent specialists, academics and legal practitioners examine various procedural aspects of the GATT/WTO system of dispute settlement. Equal focus is brought to bear upon comparable dispute settlement procedures used by the International Court of Justice and by the European Court of Justice.

Academic teachers and students of the law of international organisations, of European community law and of international economic and trade law, will benefit greatly from this book. Similarly, legal practitioners seeking to establish themselves in the rapidly expanding field of international trade law can ill afford to ignore it.

INTERGOVERNMENTAL TRADE DISPUTE SETTLEMENT
Multilateral and Regional Approaches

Edited by Julio Lacarte and Jaime Granados

ISBN 10: 1 8746 8 89 9 • ISBN 13: 978 1 874698 89 0 • Hardback • 644pp • 2004 • £125.00/US$250.00

This book compiles the proceedings of a conference on dispute settlement in international trade held in Montevideo, Uruguay in April 2004. It also includes papers requested to prestigious scholars and practitioners with the objective of ensuring as complete a collection of papers as possible in a single volume. The book provides a comprehensive view of both multilateral and regional trade dispute settlement mechanisms and the complex array of systemic issues that underlie their mutual interactions, including the challenges associated with the proliferation of dispute settlement mechanisms worldwide, the risk of fragmentation and the special needs of developing countries. All of the chapters were written by leading experts; the papers and the roundtable discussions on multilateral issues expose the strengths and weaknesses of the WTO dispute settlement system, its history, the status of the current process of review and the interactions between trade disputes and ongoing negotiations under the Doha Development Round, in particular regarding the ever difficult issue of agricultural trade. The book also brings a fresh view of the problems and accomplishments with respect to state-to-state trade disputes in several sub-regions of Latin America: MERCOSUR, the Andean Community, the Central American Common Market, and the ALADI framework. These are regions in which the specialised literature in English is scarce, yet their increasing importance as markets and players in international trade negotiations warrants the attention of practitioners, policymakers, negotiators and academics around the world. Dispute settlement in NAFTA and in the European Union are also the subject of individual chapters. Roundtable reports provide interesting comparative views. Those analyses set the stage for more prospective views and discussions on the proposed Free Trade Area of the Americas (FTAA) and its dispute settlement mechanism, an ambitious initiative that seeks to unite 34 countries in the western hemisphere. This book provides an excellent set of readings for those interested in the multiple facets and future challenges of trade dispute settlement around the globe.

INTERINSTITUTIONAL CONVENTIONS IN EU LAW

Bart Driessen

ISBN 13: 978 1 905017 54 6 • Hardback • 2008 • £130.00/US$260.00

Interinstitutional agreements concluded between European institutions affect relations between them and, as such, are directly relevant for the operation of democracy at the European Union level. However, most of these agreements have never been coherently discussed in detail.

Interinstitutional Conventions in EU Law places such agreements in their proper context. Whilst sometimes they can be legal instruments, often they are not. In such cases, they are best compared to constitutional conventions of the legal systems of certain Member States. Analysing interinstitutional arrangements from this angle leads to a refreshing new look at the political system of the European Union.

Interinstitutional conventions in EU law is a compulsory read for anyone interested in the constitutional and decision-making processes of the European Union.

Bart Driessen is a member of the Legal Service of the Council of the European Union. He has also worked as a lawyer in private practice and in the European Commission. He has published widely on both international and European Union law.
INTERNATIONAL COMMODITY ORGANISATIONS IN TRANSITION

Edited by Erik Chrispeels

ISBN 10: 1 874698 09 0 • ISBN 13: 978 1 874698 09 8 • Hardback • 380pp • 2002 • £85.00/US$170.00

International commodity organisations are under stress as a result of changes in economic policies and the political environment. The discontinuation of government sponsored price support measures on international commodity markets, and a diminishing interest in cooperation for development between North and South have raised questions in governments of developed countries about the role of public authorities in commodity markets, and the future of international commodity organisations.

*International Commodity Organisations in Transition* is a timely response to these questions. This book offers new orientations for the future activities of international organisations established to promote international trade in commodities of export interest to developing countries, such as cocoa, coffee, sugar, jute or tropical timber.

Over 30 well-known experts from around the world, holding senior positions in government, international commodity organisations, associations and academia have contributed to this book. Their analyses propose new directions for international cooperation in commodities grown or mined in developing countries.

This book should be read by all those who are interested in the future of international commodity organisations.

The editor *Erik Chrispeels* was a legal adviser to many commodity conferences at the United Nations.

THE INTERNATIONAL ECONOMIC LAW REVOLUTION AND THE RIGHT TO REGULATE

Joel Trachtman

ISBN 10: 1 905017 20 0 • ISBN 13: 978 1 905017 20 1 • Hardback • 2006 • £125.00/US$250.00

The essays in this collection focus on the issue of allocation of authority among states, and between states and international organisations. They analyse various aspects of international legal constraint on the regulatory discretion of states, both substantively and institutionally. They show that in order to achieve important economic goals, the ‘right to regulate’ cannot be unrestrained. Rather, the purpose of all international law is to constrain the sovereign authority of states. So it is important to examine the scope, quality and institutional structure of the constraint. How can states maintain maximal value of regulatory autonomy, while restricting the use of regulation to close markets? How can institutions be designed in order to provide a nuanced and dynamic approach to subsidiarity? How does international law penetrate the domestic legal system? These essays respond to these questions with insight and analytical rigour.

INTERNATIONAL AND EU TRADE LAW

The Environmental Challenge

Geert Van Calster

ISBN 10: 1 874698 33 3 • ISBN 13: 978 1 874698 33 3 • Hardback • 590pp • 2000 • £110.00/US$220.00

In *International and EU Trade Law: The Environmental Challenge* Dr Geert Van Calster undertakes an unbiased, thorough analysis of WTO Agreements and their application to Trade and Environment issues. Employing a carefully documented approach, the book examines whether the WTO leaves room for the environmental pursuits of multilateral environmental agreements; border tax adjustment; unilateral trade-related environmental measures; eco-labelling; and state aid for environmental purposes.

International and EU Trade Law: The Environmental Challenge, offers specific, non-rhetorical suggestions in each chapter, and identifies a broader framework within which the WTO will be able to tackle those trade and environment issues that are outstanding. It is the most comprehensive and analytically underpinned study to date to a wide range of trade and environment issues. It provides
the reader, whether politician, practitioner, civil servant, academic, student or activist, with a comprehensively sourced assessment of the WTO’s lenience for genuine environmental and public health concerns.

INTERNATIONAL INVESTMENT LAW AND ARBITRATION
Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law

Edited by Todd Weiler

ISBN 10: 1 905017 07 3 • ISBN 13: 978 1 905017 07 2 • Hardback + CD-Rom • 822pp • 2005 • £125.00/US$250.00

International Investment Law and Arbitration: Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law is a collection of new essays from the world’s leading international investment law practitioners, academics and arbitrators, edited by Todd Weiler.

International investment law is one of the fastest-growing areas of international law, having gained significant interest over the past few years from policy-makers and business leaders alike. New cases are being lodged at an exponential rate and lawyers and academics have been scrambling to learn everything they need to know about it. Because of its comprehensive coverage of all of the key issues of international investment law and arbitration, and its included CD Rom of case materials, this volume of essays will make both an excellent text book and an essential reference work for anybody practising, or hoping to practise, in this exciting field of law.

Starting with an examination of when state responsibility is engaged and when investments will be protected under investment treaties, the contributors move quickly to answer questions about who is entitled to protection as an investor, including questions of corporate structure and continuous nationality. The book highlights fundamental procedural issues before contributing three essays to topics related to the role for investment treaty arbitration arising out of currency crises. Next, a group of authors comprehensively attack the crucial issues in substantive investment law today, such as regulatory expropriation, national treatment and ‘fair and equitable treatment’, before closing with two thoughtful essays on a much neglected area of investment law: the principles of valuation and damages.

An amusing and thought-provoking foreword this book has also been contributed by one of the world’s most respected and admired arbitrators, V.V. Veeder. Mr Veeder is a member of Essex Court Chambers in London, UK. He is also the General Editor of ‘Arbitration International’; chairman of ARIAS-AIDA (UK); chairman of IFLS’s International Dispute Resolution Panel (UK); member of the Council of the ICC Institute of World Business Law; and Visiting Professor, King’s College, University of London in Investment Arbitration.

Todd Weiler is a pioneer of investment arbitration under the North American Free Trade Agreement who has lectured widely on a broad array of international trade and investment law issues. Todd Weiler acts as counsel, expert consultant and arbitrator on investment treaty claims worldwide and currently serves as an Adjunct Professor at the Washington College of Law at American University in Washington, DC, and as a Global Faculty Member at the Centre for Energy, Petroleum & Mineral Law & Policy at the University of Dundee, in Dundee, Scotland.

In addition to his work as an academic and practitioner, Todd Weiler has also gained notoriety as the author and publisher of Internet resources dedicated to international investment law, including www.naftaclaims.com and www.investmentclaims.com. Accordingly, this volume of essays comes complete with a CD Rom that includes all of the leading cases, treaties and arbitration rules cited by the authors, as well as a link to his website for future reference.
INTERNATIONAL TRADE REGULATION
LAW AND POLICY IN THE WTO, THE EU AND SWITZERLAND
Cases, Materials and Comments

Edited by Thomas Cottier, Matthias Oesch and Thomas M. Fischer

ISBN 10: 1 874698 94 5 • ISBN 13: 978 1 874698 94 4 • Hardback • 1072pp • 2005 • £125.00/US$250.00

International trade regulation has moved centre stage. Economic interdependence, enhanced trade in goods and services and the challenges of globalisation have brought about a substantial body of law on global, regional and national levels. The advent of the World Trade Organization in 1995, building upon the long traditions of the 1947 General Agreement on Tariffs and Trade, provided a new regulatory framework, based on which a rich jurisprudence has emerged over the last decade. The field enjoys increasing interest among practitioners, scholars and students. A new academic discipline of combined research in law, economics and political science is evolving. It deals with an area which, despite being part of positive law, for a long time was largely neglected in legal teaching and research.

This book is part of a worldwide effort to catch up. It emerged from a series of lectures given over the last 10 years in WTO law, EC and Swiss external relations law at the Faculty of Law of the University of Bern. Subsequently, these lectures were merged into a single undertaking. The book deals in an integrated manner with global law, European and Swiss law relevant under the WTO. Experience has shown that these levels cannot be separated in understanding the complexities of the vast subject. The book offers introductory comments, cases and texts from which scholars, practitioners, teachers and students may choose in exploring the framework and details of international trade regulation. While some will focus mainly on the WTO, others will include EC law. The Swiss domestic level will be of interest to those focusing on particular problems of national law. It is here that the book also includes German and French language texts, in the best traditions of European and Swiss multilingual diversity. Texts, cases and materials available up to August 2004 were considered. Permission to reproduce has been generously granted either by the authors themselves or by the publishers who originally printed the materials. The excerpts are consistently introduced indicating the exact source of first publication. We have eliminated almost all footnotes from the texts, except where retained in brackets. References to additional publications can be found throughout the book under the heading of 'further reading', the first one containing general works on WTO law and policy.

Co-published with Staempfli

INVESTMENT AND COMPETITION IN INTERNATIONAL POLICY
Prospects for WTO Law

Ahmad K. Masa’deh

ISBN 10: 1 874698 39 2 • ISBN 13: 978 1 874698 39 5 • Hardback • 320pp • 2003 • £95.00/US$190.00

In the twilight of liberalising foreign direct investment (FDI), where are we on investors’ behaviour? This work covers various aspects of the international law, both extant and proposed, to investment and competition issues. It is concerned with the creation of binding multilateral rules that augment investment freedom in the international sphere and at the same time regulate the behaviour of foreign investors by way of curtailing restrictive business practices (RBPs). Its predominant argument is that a multilateral endeavour, that is only limited to deregulating governmental measures applicable to investment projects, and which ignores the regulation of investors’ conduct, is likely to accord multinational enterprises (MNEs) greater leeway at the expense of host nations, particularly developing ones, which could unhang their development programmes.

This work traces the historical causes for the continuous failure to secure a balanced multilateral instrument for investment and investors’ behaviour, an example of which is the recent failure of the OECD Multilateral Agreement on Investment (MAI). It also examines the potentially restrictive nature of corporate conduct in order to demonstrate the need for international rules for investors. The analysis is the outcome of a synthesis of issues ranging from how investment deregulation may negatively affect the political and economic interests of developing nations, if it is not complemented with another effort that compels foreign investors to be good corporate citizens, to the consequences of the extraterritorial application of the US and EC competition laws as a mechanism to regulate MNEs.

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These questions, over which developed and developing countries have often disagreed, in addition to the immense heat which extraterritoriality generates, support an urgent need to create multilateral harmonised rules for the liberalisation of investment and the regulation of restrictive business practices. In response to the Doha WTO Ministerial Declaration of 2001 to start negotiations on investment and competition issues, the author suggests the enhancement of the World Trade Organization (WTO) and provides analysis as to how to utilise the mechanisms and facilities of the WTO in order to embed investment and competition rules in a multilateral context.

INTERNATIONAL LABOUR RIGHTS AND THE SOCIAL CLAUSE

Friends or Foes

Arne Vandaele

ISBN 10: 1 905017 01 4 • ISBN 13: 978 1 905017 01 0 • Hardback • 960pp • 2005 • £125.00/US$250.00

The debate on the introduction of the so-called ‘social clause’ has been ongoing for a number of decades, and has become particularly lively since the 1999 WTO Ministerial Conference in Seattle. Advocates of the social clause are of the opinion that compliance with labour rights should be one of the issues dealt with by the GATT/WTO. They consider the GATT/WTO, and especially Article XX of the GATT, as being particularly well-placed, because of the capacity to impose trade sanctions on non-compliant member states. In view of the far-reaching consequences of trade sanctions, it is not surprising that the debate has given rise to a vociferous debate among legal experts.

This book takes as its starting point the observation that a social clause should be concerned with achieving international labour rights. Hence, a thorough analysis of the conception of international labour rights is undertaken, involving not only law but also other disciplines such as history, morality and economics. By ‘reconstructing’ an adequate conception of labour rights, an attempt is made to guide the current debate and to assess whether the social clause can be an adequate mechanism for implementing international labour law. The analysis shows that the discussion on the social clause is emblematic of the way the WTO and the international trade system should deal with human rights in general. Hence, a study of the topic also requires an approach grounded in international law in the broadest sense, covering general international law, international human rights law, international trade law, international labour law and legal theory.

The book aims in the first place to be an eye-opener for jurists dealing with this issue. However, because of its interdisciplinary approach, it may also appeal to policy-makers and other readers interested in an in-depth study of the subject.

INTERNATIONAL GOVERNANCE IN THE WTO

Judicial Boundaries, Political Capitulation

Tomer Broude

ISBN 10:1 874698 84 8 • ISBN 13: 978 1 874698 84 5 • Hardback • 352pp • 2005 • £125.00/US$250.00

There is no denying that the WTO’s judicial branch - its dispute settlement system - is perceived to be an exceptionally powerful judiciary. Its strength polarises views of its critics who believe that it is too powerful and engages in judicial activism and those of its proponents who see it as the cornerstone of an advanced model of international constitutional governance, whose promise transcends the field of international trade.

In International Governance in the WTO: Judicial Boundaries, Political Capitulation, Tomer Broude critically analyses the arguments on both sides with a novel, multidisciplinary approach. Broude’s central argument is that the WTO is a dialectical system of governance, with the Membership and political organs creating and maintaining exceptional means of formal vertical control over the judiciary (hence, ‘judicial boundaries’), while at the same time failing to fulfill their law-making mandate for a variety of reasons and motivations, deliberately entrusting the judicial branch with the task of norm-creation in a broad range of socially and politically contentious issue areas (hence, ‘political capitulation’).

Arguments in this highly readable, wide-ranging study, are developed using a comparative judicial politics model combined with legal
analysis, assessing the relative power of the WTO dispute settlement system, the European Court of Justice, and the International Court of Justice, each in its own political system. It draws on sources as diverse as Clausewitz, Hegel and Schmitt, from the *Eastern Carelia* case in the Permanent Court of International Justice, through landmark European jurisprudence, to the latest WTO panel and Appellate Body reports. Finally, on the background of the failed Cancún WTO Ministerial Conference and its aftermath, the book critically evaluates the calls for dejudicialisation in the WTO as both dangerous and futile, and proposes an alternative agenda for reform, towards an invigoration of the political norm-creating process among the WTO’s Membership.

As such, it will be instructive and stimulating not only for WTO scholars but to anyone interested in global governance – academics and practitioners, international and domestic lawyers, political scientists and economists. It does not treat the WTO dispute settlement system as a self-contained phenomenon but rather locates it, through textured and evocative analysis, in the broader context of modern international adjudication and contemporary global politics.

**JUDICIAL APPROACHES TO TRADE AND ENVIRONMENT**

*The EC and the WTO*

Nicola Notaro

*ISBN 10: 1 874698 19 8 • ISBN 13: 978 1 874698 19 7 • Hardback • 342pp • 2003 • £125.00/US$250.00*

The present work is a comparison of the ECJ decisions and GATT/WTO rulings in the area of trade and environment. It is constituted by three main parts.

Part I, composed of three chapters, deals with the treatment reserved by the ECJ to the trade and environment conflict. Chapter 1 introduces the context in which the free movement of goods and environmental policy interact in the EC. Chapter 2 analyses the ‘classic jurisprudence’ of the ECJ on trade and environment and tries to identify and explain the conclusions it has offered and the problems it has left open. Finally and most importantly, chapter 3 analyses the ‘new wave’ case law of the ECJ in the same area and tries to identify and explain the trends and directions of this recent jurisprudential evolution.

Part II, on a similar path to Part I, expands upon the GATT/WTO case law on trade and environment in three chapters. Chapter 1 introduces the context of trade liberalisation in the WTO agreements and the potential conflict with international as well as national environmental regulation. Chapter 2 analyses the GATT jurisprudence on trade and environment predating the birth of the WTO with its new Dispute Settlement Body. Finally and, again, more importantly, chapter 3 analyses the WTO jurisprudence in the same area and attempts to explain the reasons for its important evolution.

Part III of the research, which is much shorter, builds upon the analysis conducted in Parts I and II. It first stresses the different/similar approaches used by the two judicial bodies at issue in relation to the same problem and then examines the possibility of cross-fertilisation between the two. Furthermore, the institutional and procedural changes which could help to improve the quality and effectiveness of the ECJ and panels/Appellate Body’s decisions are dealt with. Finally, the outlook of the trade and environment debate in the WTO after the Doha Ministerial Conference is presented and some conclusions are drawn.

**LEGALIZATION AND JAPAN**

*The Politics of WTO Dispute Settlement*

Keisuke Iida

*ISBN 10: 1 905017 29 4 • ISBN 13: 978 1 905017 29 4 • Hardback • 2006 • £125.00/US$250.00*

The last decade has seen Japan become more aggressive in settling its trade disputes through the WTO process whereas previously it preferred settling such disputes more informally on a bilateral basis. In *Legalization and Japan*, Keisuke Iida demonstrates how and why this transformation has taken place.

Professor Iida argues that though Japanese trade policy has become ‘legalized’ it remains distinct from US or the EU where trade
laywers are in the driving seat of dispute settlement. Instead, Japan has pursued what might be called ‘tactical legalization’, borrowing expertise, information and leverage from the private sector, foreign lawyers and the other major trading partners such as the EU in particular.

The book demonstrates in detail how the multilateral trade system and the trade policy of major trading nations, including that of Japan, interact to increase or restrain the “legalization” of the world trading system.

Keisuke Iida is Professor of International Relations at Aoyama Gakuin University in Tokyo, Japan. He has earned his Ph.D. in Political Science at Harvard University, and has formerly taught at Princeton University, in New Jersey, USA.

**THE LAW OF GEOGRAPHICAL INDICATIONS**

Bernard O’Connor


Over time, a product made in a specific place can develop a unique reputation. This reputation is often due to special characteristics present in the place: its people, its climate and its landscape. Sometimes, the reputation is due to the people or the climate or the landscape alone. Sometimes it is due to a combination of two or all three characteristics combined. There are thousands of examples. In the food and drinks sector there are fruits and vegetables, wines, cheeses and cured meats: Champagne; cheddar, Parma ham and Tipperary turnips. In manufacturers there are Persian carpets, Murano glass, Toledo steel and Japanese electronics.

Should all these reputations be protected by law and if so how? This book ‘The Law of Geographical Indications’ addresses these questions. The book examines what names can and cannot be protected in national and international law and the nature of the protection given.

In the last years there has been a rapid expansion of the protection given to geographical indications. The book looks at the specific systems adopted in some countries and the general systems in others.

Protection is most developed in Europe and specific attention is given to the rules in the European Union and the bilateral agreements the EU has forged with many third countries. The book also examines protection in international law from the 1883 Paris Convention on the protection of intellectual property in general to the more recent TRIPs Agreement in the WTO.

Also examined are the two most controversial legal issues surrounding the protection of geographical indications, namely, conflicts between trademarks and geographical indications and the generic character of certain names.

The purpose of this book is to set out the law in a clear fashion accessible equally to the lay reader and the lawyer. It is not intended as a guide as to how current debates (or disputes) are likely to be resolved. Rather, it is a guide to national and international law as it currently stands.

The book addresses a number of issues for the future in relation to agricultural products: the current discussions within the Doha Round of trade negotiations on completing the international register and the extension of the additional protection given to wines and spirits to other products. Both of these debates are in effect extensions of the current protection granted under the TRIPs Agreement.

Finally, the book underlines the important linkage between geographical indications and developing countries where interest corresponds to the protection of traditional knowledge.

This book will be useful for product and marketing managers, students, lawyers, academics and administrators. In the European Community alone there are more than 30,000 producers of goods using protected geographical origin names. More and more producers elsewhere and in particular in the United States are joining them.

Order online at: [www.cmppublishing.com](http://www.cmppublishing.com)
THE LEGAL STRUCTURE AND FUNCTIONS OF THE WORLD TRADE ORDER

Frieder Roessler

ISBN 10: 1 874698 08 2 • ISBN 13: 978 1 874698 08 1 • Hardback • 215pp • 2000 • £85.00/US$170.00

Frieder Roessler worked for the World Bank and then for the GATT and the World Trade Organization. In 1989 he was appointed Director of Legal Affairs, a post which he held until 1995 when he joined the faculty of law of Georgetown University in Washington, DC.

He has written extensively, mainly in the field of international trade law. This selection of his essays puts the fabric of the world trade order under intense scrutiny, highlighting the strengths and weaknesses in its composition and suggesting potential remedies and improvements to it. The publication will doubtless provide invaluable material for anyone involved with, studying or merely following the fiery and topical debate over the past, present and future structure and function of the world trade order. Topics covered include:

- Law, de facto Agreements and Declarations of Principle in International Economic Relations
- The International Law Commission and the New International Economic Order
- The Concept of Nullification and Impairment in the Legal System of the World Trade Organisation
- The Rationale for Reciprocity in Trade Negotiations Under Flexible Exchange Rates
- The Constitutional Function of the Multilateral Trade Order
- Diverging Domestic Policies and Multilateral Trade Integration
- The Relationship between the World Trade Order and the International Monetary System
- The Relationship Between Regional Integration Agreements and the Multilateral Trade Order
- Domestic Policy Objectives and the Multilateral Trade Order: Lessons from the Past

MARKETS, REGULATION AND PROCEDURE

Transnational Dimensions

Mads Andenas

ISBN 10: 1 905017 30 8 • ISBN 13: 978 1 905017 30 0 • Hardback • 2007 • £130.00 / US$260.00

If law ever could be described as a closed system, it cannot any longer. The traditional view of the national legal system, with a basic norm and a hierarchy of norms built on it, is not a realistic paradigm. Neither is this a realistic paradigm for international law. International and domestic law jurisdictions interact in ways which the traditional paradigm does not capture. The closed systems of the law are opening up at many levels, recognising sources from the outside. The traditional pyramid is replaced by partly overlapping circles.

Markets do not follow national jurisdictions, and regulation and procedure have to respond to this. Markets, Regulation and Procedure moves across the boundaries that traditionally divide the law, discussing international and comparative law issues, and supporting a view of the law as open systems, paying due regard to one another, which can resolve many of the practical problems of international markets and enforcement of internationally recognised rights.

This collection of articles on international trade law, European law, market regulation and procedure falls in six parts. The first, ‘Reviewing National Regulation’ focuses on legal concepts and procedures in WTO and EU law. The second, ‘Nationalising the EU Directive’, discusses fundamental problems of the EU directive and its reception in national law. The third, ‘Problems of Parallel Proceedings’, is concerned with concurrent proceedings, before international courts and tribunals or before regulatory, civil and criminal bodies. A fourth, ‘Immunity or Liability’, again investigates issues of international, European and national law. The two final parts deals with two important areas of law, the fifth, ‘Money and Banking’, and the sixth, ‘European Commercial Law’.
NEGOTIATING THE REVIEW OF THE WTO DISPUTE SETTLEMENT UNDERSTANDING

Thomas Zimmermann

ISBN 10: 1 905017 17 0 • ISBN 13: 978 1 905017 17 1 • Hardback • 2006 • £125.00/US$250.00

This book reviews the DSU reform negotiating process since 1998. It discusses the proposals that Members have submitted under the Doha mandated review in 2002 and 2003, which has so far been the most comprehensive attempt to move the DSU review forward.

In the first part of the book, the foundations for the discussion are laid with a brief account of the economic, legal and political aspects of the dispute settlement mechanism, its evolution and its working in practice.

The second part of the study offers an overview and analysis of the negotiating process in its broader context. Additionally, negotiating proposals on stage-specific and horizontal issues of the dispute settlement mechanism are presented and analysed with regard to their background, their contents, and their potential implications. Topics discussed include *inter alia* consultations, the panel stage, appellate review, implementation, transparency and amicus curiae briefs, third party rights, and special and differential treatment of developing countries.

In the third part of the book, the difficulties faced by negotiators in completing the DSU review are explored. Policy recommendations for further negotiations are discussed and the chances of a future agreement are evaluated. Finally, the study is also intended to offer a one-stop point of departure for other researchers who wish to explore further specific aspects of the DSU review. To this end, the fourth and fifth parts of the monograph contain more than 80 pages of references on the DSU review exercise.

NEW REFLECTIONS ON INTERNATIONAL TRADE

*Essays on Agriculture, WTO Accession and Systemic Issues*

Edited by Jeremy Streatfeild and Simon Lacey

ISBN 13: 978 1 905017 46 1 • Hardback • 2008 • £130.00/US$260.00

New Reflections on International Trade seeks to take a new and refreshing look at some of the issues affecting the multilateral trading system at the present time. Its editors, Jeremy Streatfeild and Simon Lacey, have both been actively involved in the field of international trade for a number of years, in both an academic as well as practical capacity, working first at the World Trade Institute in Bern, and then the Graduate Institute of International Studies in Geneva. They have both been active in advising developing countries with regard to WTO accession as well as the ongoing Doha Round of multilateral trade negotiations. This volume brings together a vibrant combination of experienced and recognised commentators on the subject, such as Tim Josling (Stanford), Pierre Sauve (LSE) and Rakesh Bhal (the University of Kansas). But it also opens the way for younger talent to express their views on a whole range of important issues, such as Xiaolou Zhu (WTO Appellate Body Secretariat), Fernando Pierola (Advisory Center on WTO Law) and Manleen Dugal (the Commonwealth Secretariat). Other young and upcoming talent who has contributed to this book include Robson Fernandez (WTO Secretariat), Paolo Vergano (O’Connor & Company) and Laura Atlee (formerly Vermulst Verhaeghe & Grafasma and now of Steptoe and Johnson Brussels).

The volume includes an introduction by Simon Evenett (University of St Gallen) and a conclusion by Roberto Rios (formerly Director of Studies at the WTI and now a partner at Richardson Rios & Olechowski). The volume contains 15 chapters on a whole range of issues spanning institutional and systemic issues, trade negotiations, trade in agriculture and WTO accession. It is hoped that this volume will make an important scholarly contribution to the field.

The editors would like to dedicate this volume to Bijit Bora, one of the contributing authors who passed away during the work's preparation. Bijit, a trade economist at the WTO's Economic Research Division, was teacher, friend and mentor to many of us who contributed to this volume. We were all shocked by his sudden and early passing, while teaching in South Australia. He is sorely missed and it is with heavy hearts that we dedicate this volume to him and to the loving members of his family who survive him.

Jeremy Streatfeild completed a bachelor's degree in history and economics at Bowdoin College and a Masters in International Law and Economics (MILE) at the World Trade Institute in Bern, Switzerland. He is currently a visiting scholar at the Center for International Studies at the Massachusetts Institute of Technology and is a director for the Summer Programme on WTO Studies at the Graduate Institute of International Studies (HEI) in Geneva. Previously, he was the Head of Communications and later a Research Fellow at
the World Trade Institute and before that, an international trade adviser to the Confederation of the Food and Drink Industries of the EU in Brussels. In addition, he provides his expertise and experience on a pro bono basis to the government of Sierra Leone and has been a Member of their WTO delegation since 2002.

Simon Lacey completed a joint bachelor’s degree in law and European law at the University of Fribourg in Switzerland. He is currently visiting scholar at the Lee Kuan Yew School of Public Policy in Singapore as well as a director for the Summer Programme on WTO Studies at the Graduate Institute of International Studies (HEI) in Geneva. Before joining both these institutions, he worked for several years at the World Trade Institute in Bern, Switzerland, where he held various positions, including Director of Studies and Director of Training Programmes. He has worked in over a dozen countries, both developed and developing, in Africa, Eastern Europe, the Middle East, Central Asia, the Former Soviet Union, South East Asia and East Asia on various WTO issues, including WTO accession and the ongoing Doha Round negotiations. He is currently writing his doctoral dissertation (on WTO law) under the supervision of Dr Marco Bronckers, of the University of Leiden. He spends his time between Geneva and Singapore.

THE OECD STEEL AND SHIPBUILDING SUBSIDY NEGOTIATIONS
Text and Legal Analysis
Fabrizio Pagani

ISBN 13: 978 1 905017 66 9 • 2008 • £130.00/US$260.00

The book brings to the attention of a larger public a bundle of trade negotiations carried out in recent years at the Organisation for Economic Cooperation and Development.

From 2003 to 2005, the OECD hosted talks among major producing countries aimed at reducing subsidies to the steel industry and to shipbuilding. Although the two negotiations were formally unrelated, they had a common economic rationale and similar objectives. They shared the aim of prohibiting subsidies beyond the WTO discipline and, without prejudging possible future incorporation into the WTO system, the negotiations were conducted to achieve self-standing agreements operating outside the WTO.

The book reproduces the key legal documents of the steel and shipbuilding negotiations, among which the final draft negotiating texts. It also put together other materials which otherwise risk being not adequately known.

An extensive introduction to the documentary section analyses the economic and political rationale of the negotiations and their legal implications, the most prominent being the relationship between sectoral trade agreements concluded outside the WTO and the WTO system.

The book is the definitive source for understanding multilateral trade negotiations outside the WTO and for exploring the possibility of concluding ‘plurilateral agreements’ with a WTO Plus content.

Fabrizio Pagani holds an LLM degree from the European University Institute, Florence. He has been lecturer of International Law at the University of Pisa and Senior Legal Adviser at the OECD. In this capacity, he served as legal counsellor to the steel and shipbuilding negotiations. He has written extensively and lectured in various countries on International Law. Currently, he works for Italy’s Prime Minister Office.

PEACE THROUGH TRADE
Building the World Trade Organization
Debra Steger

ISBN 10: 1 874698 74 0 • ISBN 13: 978 1 874698 74 6 • Hardback • 341pp • 2004 • £125.00/US$250.00

Peace through Trade: Building the World Trade Organization is a collection of essays and articles by one of the negotiators and architects of the institutional framework and dispute settlement system of the WTO, Debra Steger.
The essays and articles were written over the past 10 years from the unique perspective of an insider reflecting on the Uruguay Round negotiations which led to the creation of the WTO and the experience during the formative years of the WTO with its integrated dispute settlement system and, in particular, the Appellate Body. This book concludes with articles containing Ms Steger's perspectives on reform of the dispute settlement system and the rule-making bodies of the WTO. A key issue is the struggle for legitimacy that she perceives the WTO is facing today, both from its external critics and also from smaller and developing countries inside the system. These critical questions must be addressed by the WTO, she recommends, by opening up the system and making it more accountable and transparent to the outside world.

As founding director of its secretariat during the first six years of the WTO Appellate Body, Ms Steger advised and guided the Appellate Body through the development of its Working Procedures for Appellate Review and in hearing its first 40 appeals and 12 arbitrations.

Over the past 20 years, she has written extensively and lectured around the world on international trade, the GATT and the WTO, regional trade agreements and dispute settlement. She holds an LLM from the University of Michigan Law School as well as an LLB from the University of Victoria Faculty of Law and a Bachelor of Arts from the University of British Columbia.

REFORM AND DEVELOPMENT OF THE WTO DISPUTE SETTLEMENT SYSTEM

Edited by Dencho Georgiev and Kim Van der Borght

ISBN 10: 1 905017 24 3 • ISBN 13: 978 1 905017 24 9 • Hardback • 2006 • £125.00/US$250.00

The review of the dispute settlement system of the WTO was written into the results of the Uruguay Round establishing the organization. The planned review after four years failed to reach a conclusion and the review process was extended several times, to be finally taken up as a separate part of the Doha Round.

Reform and Development of the WTO Dispute Settlement System brings together leading players and stakeholders in the process and provides an insight into the many proposals and their underlying strategies. Contributors include the chairs of the DSB special session, Members of the Appellate Body, panellists, negotiators from developed and developing countries, trade practitioners and academics.

The book is edited by Dencho Georgiev, Permanent Representative of Bulgaria to the WTO and Kim Van der Borght, Senior Lecturer, School of Law, University of Hull. It is prefaced by Dr Supachai Panitchpakdi, Director-General of the WTO.


THE ROLE OF GOVERNMENT IN INTERNATIONAL TRADE

Essays over Three Decades

Andreas F. Lowenfeld

ISBN 10: 1 874698 28 7 • ISBN 13: 978 1 874698 28 9 • Hardback • 410pp • 2000 • £85.00/US$170.00

The public law of international trade has been a subject of much puzzlement, both in regard to the relation of states to each other and in regard to the relation of international commitments to domestic legislation. In the articles and reviews here assembled, one of America’s leading international lawyers explores and clarifies both parts of the puzzle.

Part I addresses the evolution of the General Agreement on Tariffs and Trade (the GATT) from an ambiguous agreement among a handful of states to a full-blown international organisation, the WTO. The focus is on the interplay between rulemaking, adjudication,
and diplomatic settlement of disputes, and on the lag of remedies well behind the creation of obligations.

Part II addresses bilateral accords such as the Canada-US Free Trade Agreement and in particular the search for dispute settlement mechanisms designed to subject administration of national laws to international scrutiny.

Part III addresses American legislation on the global stage, including the continuing tensions between the Congress, the President and the courts.

Part IV is devoted to economic sanctions. The essays address the US response to the Arab Boycott of Israel; the imposition of martial law in Poland and the Pipeline Crisis and the efforts of the United States to prevent its trading partners from trading also with Cuba.

Altogether the 22 essays, written in Professor Lowenfeld's graceful style, are not only informative and thought-provoking, but are a pleasure to read.

RULES OF ORIGIN
Textiles and Clothing Sector

Edited by Roman Grynberg

ISBN 10: 1 905017 10 3 • ISBN 13: 978 1 905017 10 2 • Hardback • 749pp • 2005 • £125.00/US$250.00

This book is an important contribution towards promoting an understanding of the economic implications of preferential rules of origin in textiles and clothing, and their impact on international trade in these sectors. For the authors, it has been hard to contest that the design of garment rules of origin in both US and EU preferential arrangements is specifically aimed at protecting domestic textile interests, and only peripherally and incidentally at assisting the developing country beneficiary of the preference arrangement.

The articles in Rules of Origin bring together works that provide exceptional analysis and studies commissioned by the Commonwealth Secretariat at the request of developing countries. Apart from the articles, the book contains key legal documents that cover rules of origin and trade in textiles and clothing.

Roman Grynberg is Department Head and Deputy Director, Trade and Regional Integration of the Commonwealth Secretariat in London.

THEORY AND PRACTICE OF EC EXTERNAL TRADE LAW AND POLICY

Rafael Leal-Arcas

ISBN 13: 9781905017652 • Hardback • 2008 • £130.00/US$260.00

Both the European Community (EC) and its Member States agree that it is in their best interest to coordinate their action vis-à-vis the rest of the world in international trade agreements. Theory and Practice of EC External Trade Law and Policy looks at the intricacies of the institutional framework of EC trade law, and with special emphasis on services trade, examines the law and practice of EC external trade relations from a policy, economic, legal and an overarching European constitutional perspective.

The objective of the author's analysis is not only to find ways to nurture and preserve the unitary character of EC external trade relations in areas of shared competence between EU Member States and EU institutions, but also to understand the management of the EC's external trade relations. The book begins with an analysis of the evolution of the EC common commercial policy, through which the author examines the checks and balances at the micro, meso and macro levels. The author then proceeds to analyse the problems faced by the EU in its external relations and the legal complexity of mixed agreements. This unique legal phenomenon is tackled from an intra-EC perspective as well as from an extra-EU perspective taking into account various implications for third parties.

The major EU institutions are examined: the Commission as the negotiator of international trade agreements, the role of the EU Council and the European Parliament in concluding and ratifying of agreements and the European Court of Justice in relation to
judicial enforcement. The EU’s decision-making process in the trade arena and its relation with national institutions are examined. The book concludes with an analysis of the EC’s contribution to the Doha Round in the area of services trade.

Theory and Practice of EC External Trade Law and Policy will prove useful to legal practitioners, judges, trade policy-makers, officials of international organisations, national civil servants, academics, research institutions, and consumer groups who want to acquire or enhance their knowledge in this field of law. This book will also be useful to postgraduate and doctoral students of international trade law and policy, international and European economic law, students of EU law, external relations law of the EU, WTO law, as well as students in international relations with an interest in international political economy.

Rafael Leal-Arcas is Lecturer in International Economic Law and EU Law at Queen Mary, University of London, where he acts as Deputy Director of Graduate Studies, and a member of the Madrid Bar. He is the author of more than 30 publications. He has been a Visiting Researcher at Harvard Law School and Fellow at the Real Colegio Complutense (Harvard University), an Emile Noel Fellow at New York University School of Law, a Fellow at the Australian National University, and a Visiting Scholar at the University of Wisconsin-Madison Law School. Rafael completed his graduate legal education at Stanford Law School, Columbia Law School, the London School of Economics and Political Science and the European University Institute. He has previously taught at the National Law School of India University (Bangalore, India), where he was POROS Chair in European Union law, and the Universidade Federal Minas Gerais School of Law (Brazil). Rafael has been a visiting professor at the University of Vienna School of Law (Austria), as well as the University of Bahçeşehir and Istanbul Kültür University (Turkey).

Rafael has acted as a consultant to the World Trade Organization’s legal affairs division, has served in the United States Court of International Trade, and has clerked at the European Court of Justice as well as the Court of First Instance of the European Communities. He was an intern at the European Commission General Secretariat, EU Council of Ministers Legal Service, European Parliament General Secretariat, United Nations Secretariat and the European Commission Delegation to the United Nations.

TRADE AND AGRICULTURE
Negotiating a New Agreement?

Edited by Joseph A. McMahon

ISBN 10: 1 874698 81 3 • ISBN 13: 978 1 874698 81 4 • Hardback • 483pp • 2001 • £95.00/US$190.00

After the failure of the Ministerial meeting in Seattle a new round of agricultural negotiations was launched on 24 March 2000 in Geneva. After the first meeting the Director General expressed optimism that a positive outcome would result from the negotiations. One of the purposes of this work is to assess the extent of the problems that are to confront the negotiators of a new Agreement on Agriculture.

Part I of the book includes a chapter on the history of international trade regulation and agriculture before a prolonged discussion of the various issues to be raised in the new round of new negotiations. Chapter 2, written by two of the leading authorities in this area, discusses three categories of issues that will be important in these negotiations. The first category is that of the “core” agenda, mandated by Agreement on Agriculture. The second category of issues, referred to as “new” issues, includes issues such as state trading, the administration of tariff rate quotas and the question of export restrictions. The final category of issues are those that currently lie outside the scope of the Agreement on Agriculture itself. The position of developing countries is then addressed; the conclusion offered is that the latest round of negotiations offers probably the best prospects ever for developing countries in general, and their rural communities in particular, to secure growth-enhancing reforms. This includes a number of policy options for the future agenda of the WTO, which would entail a much more coordinated effort involving the WTO and international development finance institutions than has been the case up to now.

Part II examines the emergence of the DSU as a single, integrated system for the settlement of disputes. Separate chapters address the DSU, the question of developing country practice under the DSU and disputes involving the Agreement on Agriculture.

Part III is devoted to a number of issues currently outside the scope of the existing Agreement. This part begins with a discussion of the issue of Labour Rights which is particularly appropriate given the disruption of the Seattle meeting by the emerging movement against the global expansion of capitalism and continues with another difficult area for the WTO, namely competition. The next three chapters examine problems arising from the interface between intellectual property rights and agriculture. This includes separate chapters addressing the issues of biotechnology, the protection of intellectual property rights in plant varieties and the extent to which the emergence of genetically modified organisms is generating policy reactions which may lead to trade disputes in the WTO. The final two chapters of the collection address the issue of trade and the environment.
TRADE AND AID

*Partners or Rivals in Development Policy?*

Edited by Sheila Page

ISBN 10: 1 905017 22 7 • ISBN 13: 978 1 905017 22 5 • Hardback • 301pp • 2005 • £125.00/US$250.00

There is extensive research on how trade and aid can each contribute to development. But there is less understanding of how their effects interact. Calls for 'trade not aid' or 'aid for trade' suggest that they work in the same direction, that they are complementary and perhaps even substitutable. But experience of domestic policy makes it clear that markets and social spending are not equivalent, and may conflict.

Analysing both the differences in what trade and aid can do and the ways in which each can make the other more or less effective is timely. Not only are there opportunities of greatly increased aid at the same time as trade reform, but recent rethinking of aid priorities such as the report by the Commission for Africa (2005) suggests that more aid should go to developing the physical and institutional requirements for countries to be able to trade, while in trade policy, the failures of some countries to respond to purely trade-based policies such as improving access to markets are increasingly obvious, and aid is seen as a potential solution.

The authors start by analysing the current understanding of how trade and aid work, and then examine a range of specific examples of how one has been used to support the other and how both developed countries and developing countries have found difficulty in reconciling the different approaches. Some of the worst apparent conflicts come from badly designed aid or trade policies, not from intrinsic inconsistency, and there is evidence that aid can be used to assist in trading more effectively than it has been in recent years, and that the resulting trade may be 'good for development'. But their roles are too different to subordinate either entirely to the other, and for some of the major current aid recipients there are deeper issues, the inability to deliver the investment climate and leadership in institutional change that would be required for trade-based development to occur, as it did in earlier development successes. Trade and aid can be complementary, but they are not substitutes, and neither can replace effective national policy.

TRADE AND ENERGY

*Investment in the Gas and Electricity Sectors*

Lars Albath

ISBN 10: 1 905017 02 2 • ISBN 13: 978 1 905017 02 7 • Hardback • 299pp • 2004 • £125.00/US$250.00

Our consumption of electricity and gas is growing. Equally steady is the growth of transborder trade and the need for investment in both sectors. In view of these phenomena, the question as to the legal framework for such transactions arises. Which problems appear, where are gaps in the legal set-up, which developments are to be envisaged?

Regulators acting in the field of energy are faced with three objectives: security of supply, efficient use of market forces, and environmental concerns. International trade law aims to establish and maintain unfettered international trade. International investment law intends to enable and to protect foreign investment. In this situation, a balancing of these diverse goals is required.

This work examines the legal framework for such balancing exercises by describing and analysing the international rules applicable to trade in electricity and gas. Asking these questions is not only of value because of the extremely high economic significance of electricity and gas and the consequentially high potential for conflicts. The application of the current law on international trade and investment to electricity and gas also offers the possibility of discussing some of the most fascinating questions of both bodies of law. Finally, the current political discussion on both issues is very dynamic and needs to be considered as well.

Departing from a description of the technical and economic characteristics of network dependent energies, the book offers a critical analysis of the international rules applicable to trade and investment in electricity and gas. While focussing on the agreements administered by the World Trade Organization (WTO), other agreements such as the Energy Charter Treaty and the North American Free Trade Agreement are also taken into account. Examples modelled on real cases illustrate the application of the international rules.
The Structure of the Work

Chapters 1 and 2 give a short overview of the technical and economic background of trade and investment in electricity and gas will be given. It will clarify the subject of the study in factual terms. This information is helpful for an understanding of the phenomena under consideration and necessary to appropriately assess the legal questions.

Chapter 3 deals with some basic features emerging in both the fields of law studied. The protagonists in electricity and gas trade and investment are introduced and typical lines of conflict are described. Basic terminology of international economic law is explained and working definitions are developed. A practical scheme for the assessment of legal problems in both fields is introduced. Finally, some basic features of the current legal and political discussion are outlined.

Chapters 4 and 5 analyse international trade law and international investment law respectively and their application to electricity and gas. Special attention will always be paid to the possibility of waging values.

Chapter 6 will summarise the two foregoing chapters and try to provide an overview.

The study was finalised in July 2003 and updated in early 2004.
TRADE AND INTELLECTUAL PROPERTY PROTECTION IN WTO LAW

Collected Essays

Thomas Cottier

ISBN 10: 1 905017 11 1 • ISBN 13: 978 1 905017 11 9 • Hardback • 495pp • 2005 • £125.00/US$250.00

The articles in this volume, arranged under three broad themes, chronicle the development of IP protection and explore the challenges that lie ahead. It presents a distillation of the contributions made on the subject by one of the most accomplished academics of our time.

Thomas Cottier, managing director of the World Trade Institute, is Professor of European and International Economics Law at the University of Bern and Director of the Institute of European and International Economic Law.

He has also served as a panellist on several GATT and WTO panels, most recently serving as chairman of the panels dealing with the US and Canadian complaints on the measures taken by the EC with regard to meat and meat products (hormone cases).

The Advent of the TRIPs Agreement
• The Prospects for Intellectual Property in GATT
• Perspectives of Intellectual Property in the Triangle of GATT, EC and a European Economic Area
• Intellectual Property in International Trade Law and Policy: The GATT Connection
• The Value and Effects of Protecting Intellectual Property Rights within the World Trade Organization
• The Impact of New Technologies on Multilateral Trade
• Regulation and Governance

The TRIPs Agreement
• The Agreement on Trade-Related Aspects of Intellectual Property Rights
• The Protection of Test Data Submitted to Governmental Authorities: The Impact of the TRIPs Agreement on EC Law
• The Impact of the TRIPs Agreement on Private Practice and Litigation
• Case: United States – Section 211 Omnibus Appropriations Act of 1998 (‘Havana Club’)
• TRIPs, the Doha Declaration and Public Health

New Horizons
• Current and Future Issues Related to the TRIPs Agreement: A European Perspective
• The TRIPs Agreement Without a Competition Agreement?
• The Protection of Intellectual Property Rights: A Requirement for Technology Cooperation, Foreign Investment and Equitable Returns in Biotechnology Prospecting
• The Protection of Genetic Resources and Traditional Knowledge: Towards More Specific Rights and Obligations in World Trade Law
• Legal Perspectives on Traditional Knowledge: The Case for Intellectual Property Protection
• The Case for Protecting Geographical Indications and Traditional Knowledge in Agricultural Trade
• Traditional Knowledge and Geographical Indications: Foundations, Interests and Negotiating Positions

TRADE AND TELECOMMUNICATIONS

Edited by Mark Clough QC

ISBN 10: 1 874698 13 9 • ISBN 13: 978 1 874698 13 5 • Hardback • 307pp • 2001 • £95.00/US$190.00

Trade and Telecommunications is the most current book to address the implications of the global liberalisation of voice telephony and other basic telecom services for the international telecommunications industry. With their focus on areas of potential dispute, the team of authors is led by Ashurst Morris Crisp partner, Mark Clough, who is a leading EU trade, competition and regulatory specialist. A solicitor advocate, he has considerable experience of WTO dispute procedures.

Contributions have been secured from top international telecoms experts, unrivalled in their fields. For example:
- the European perspective has been written by European Commission senior administrator Myriam Gonzalez Durantez, who was a key member of the EU WTO basic telecoms negotiating team;
- the effect on the US market has been contributed by Kelly Cameron, a partner at Powell Goldstein Frazer & Murphy. He was previously the leader of the US Federal Communications Commission WTO basic telecoms team during the three years...

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leading up to the signing of the agreement;
  - Ted Ringrose, writing on the impact on Asian telecommunications markets, was part of the Hong Kong Government’s WTO basic telecoms negotiation team and prepared the Hong Kong schedule of commitments.

Trade and Telecommunications sets both the WTO basic telecoms agreement in the overall context of the WTO institutional framework and the general agreement on trade in services, including the liberalisation of value added telecommunications services. In addition a separate chapter focuses on WTO dispute procedure, and includes an up-to-date table of WTO proceedings.

The WTO basic telecoms agreement provides major commercial opportunities for the international telecommunications industry by opening up foreign markets to competition on the basis of equal treatment with national services and service suppliers. In particular, the agreement has provided a backbone for the liberalisation of domestic markets, illustrated by the total liberalisation of basic telecoms in Europe from 1 January 1998. The agreement has also had a major impact on liberalisation of the domestic markets in the US and Asia. The regulatory paper adopted at the same time as the agreement contains the blueprint for a level playing field and liberalisation guarantees. Entered into force in February 1998, the WTO basic telecoms agreement is one of the most important developments for the international telecommunications industry as it enters the new millennium.

TRADE IN FOOD
Regulatory and Judicial Approaches in the EC and the WTO

Alberto Alemanno

ISBN 10: 1 905017 37 5 • ISBN 13: 978 1 905017 37 9 • Hardback • £125.00/US$250.00

Trade in Food surveys and explores the evolution of the European Community’s regulation of food within the broader framework set out by the WTO Agreements. Its main purpose is to provide readers keen to deepen their knowledge of the field with easy access to the EC and WTO food laws accompanied by a critical explanation and commentary.

The book is suitable for legal practitioners, judges, policy-makers, officials of international organisations as well as postgraduate students of international trade law and policy, international and European economic law, global administrative law and risk regulation.

TRADE LAW AND GLOBAL GOVERNANCE

Steve Charnovitz

ISBN 10: 1 874698 88 0 • ISBN 13: 978 1 874698 88 3 • Hardback • 540pp • 2002 • £95.00/US$190.00

Bringing together 16 of his essays in one collection, Steve Charnovitz demonstrates the linkages among key issues in the current debates about globalisation. The Reviews below speak for themselves:

‘Charnovitz is in a class by himself. His essays reflect both enormous scholarship and a splendid policy sense. No matter how learned you are, you can always read him with profit on the many problems facing the world trading system today. This book is indispensable. Buy, borrow or steal it: and then read and be enlightened.’
Jagdish Bhagwati, University Professor, Columbia University
Economic Policy Adviser to the Director General, GATT (1991-93) & External Adviser to the Director General, WTO

‘Steve Charnovitz has been one of the most profound US analysts of international trade law, environmental law, labor law and human rights law over many years. This book demonstrates his unique success in explaining - from a democratic citizen perspective rather than from an outdated state-centered approach - the complex linkage problems and governance challenges in these vast fields of international law and policy.’
Ernst-Ulrich Petersmann, Professor of Law, European University Institute,
Former Legal Adviser to GATT and WTO

‘Trade and environment’ and ‘trade and labour’ continue to be a challenge for multilateral and regional trade negotiations. This book will help to sharpen the policy debates on trade linkage.’

Order online at: www.cmppublishing.com
‘Steve Charnovitz’s Essays in Trade Law and Global Governance is a tour de force. The volume provides thoughtful and sweeping coverage of a critical subject: the connection between trade liberalisation and other policy domains, such as environmental protection, labor, and human rights.’

‘These linkages — and the WTO’s failure to deal with them — lie at the heart of the backlash against globalisation. Charnovitz not only explains the problem but also spells out where we might begin to look for solutions (...) required reading for anyone interested in the globalisation debate in general or reform of the trade regime in particular.’

Daniel C. Esty, Professor of Environmental Law and Policy, Yale University, USA

TRADE LAW EXPERIENCED
Pottering About in the GATT and WTO

Jacques Bourgeois

ISBN 10: 1 905017 03 0 • ISBN 13: 978 1 905017 03 4 • Hardback • 445pp • 2005 • £125.00/US$250.00

This is a selection of articles published in English by Jacques H.J. Bourgeois, who as former official of the European Commission and now as a practising lawyer dealt with GATT and WTO and EU trade policy matters and who also managed to lecture and teach on these matters.

In his capacity as official he advised and assisted the European Commission on GATT and EC trade policy matters. Subsequently, as a private practitioner he advised and assisted governments of other WTO Members, businesses and occasionally the European Commission on WTO matters. He chaired a GATT and a WTO dispute settlement panel.

Mr Bourgeois now is a partner of Akin Gump Strauss Hauer & Feld in Brussels dealing with international trade and EC competition law. He is teaching EC trade law at the College of Europe (Bruges) and lectures on non-discrimination in international economic law at the World Trade Institute (Bern). He is also visiting professor at the University of Gent Law School and at University of Sankt-Gallen EMBL Programme.

Mr Bourgeois holds a Iuris Doctor degree from the University of Gent and studied economics at the University of Louvain and comparative law at the University of Michigan Law School. He was a Jean Monnet professor at the University of Bonn Law School. He has written extensively and lectured in many countries on EC trade law, the GATT/WTO and WTO dispute settlement.

The selected articles cover various topics related to WTO law, ranging from some principles of WTO law, the WTO dispute settlement system as seen from the Bar, how it operated in one particular area, the use of a ‘waiver’ in the area of TRIPs and health, to whether direct taxation is covered by the WTO, and to connected EC trade policy aspects, such as powers, the effect of WTO law in the EC legal system, the EC’s first regulation on ‘illicit trade practices’, the relationship between EC trade policy and other policies and to the cost and benefits of EC trade measures.

TRADE POLICIES AND STRATEGIES

Richard O. Cunningham

ISBN 10: 1 905017 14 6 • ISBN 13: 978 1 905017 14 0 • Hardback • 382pp • 2005 • £125.00/US$250.00

Trade Policies and Strategies is a collection of articles by Richard O. Cunningham, a Washington lawyer, once described by a U.S. Under-secretary of Commerce as America’s ‘leading practitioner of the black art of international trade law’. Drawing on his experience as counsel – sometimes for US industries, sometimes for exporters from Europe, Asia or Latin America – Mr Cunningham provides insights and commentary on a range of questions that continue to vex today’s lawyers, agency administrators and negotiators that work with the U.S. import relief laws, barriers to market access and participate in WTO negotiations and dispute settlement. Mr. Cunningham’s analyses are both perceptive and comprehensive and often at variance with ‘the conventional wisdom’. 

Order online at: www.cmppublishing.com
Trade Policies and Strategies will be of value to trade law practitioners, government officials, academics and those who seek an in-depth understanding of major trade issues. For practitioners, Mr Cunningham gives detailed advice on how to develop both arguments and strategies to achieve effective advocacy in cases that must be approached, not purely from a legal perspective, but one that encompasses a complex mixture of law, policy and politics. For the government administrator and trade policy maker, he offers equally valuable advice on how attention to the details in the decision-making process and a different approach to advocacy can improve the government’s ‘batting average’ in the courts and in WTO dispute settlement.

Richard O. Cunningham is the senior international trade partner at Steptoe and Johnson LLP, a Washington-based law firm, with offices in London, Brussels, New York, Phoenix and Los Angeles. He is also active in WTO and NAFTA dispute resolution and has advised major companies as well as government negotiators and Congressional Committees on WTO and NAFTA trade negotiations.

TRANSATLANTIC MERGER CASES
United States – European Community Merger Review Co-operation

Charles Smitherman

ISBN 10: 1 905017 45 6 • ISBN 13: 978 1 905017 45 4 • Hardback • 2007 • £125.00/US$250.00

Despite the introduction of the US – EC merger review cooperation initiative in the early 1990s transatlantic mergers remain a minefield for all those involved. For the parties there is the lack of legal certainty and its attendant costs and reputation; for the regulators there is the political toll of reconciling conflicting competition policies.

Charles Smitherman reviews merger regulation frameworks on both sides of the Atlantic. The author identifies areas of substantive and procedural differences as they exist today and explores the viability of convergence to aid the efficiency of the merger process through bilateral and domestic enhancements. Throughout the work the emphasis is placed on pragmatic solutions rather than those of academic and oft-unobtainable nature.

The backbone of the work is made up of the analysis of eight of the biggest US – EC merger cases between 2000 and 2004. In order to provide a thorough and sound examination of the case studies, the author conducted interviews with legal practitioners in the US and Europe and regulators at the European commission, Department of Justice and the Federal Trade Commission who were personally involved in the regulatory review for each case. There is also extensive analysis of individual case filings from the merger transactions, public addresses and presentations by US and EC regulators, practitioners and economists. The case studies closely follow the interview methodology and format of those presented in the OECD commissioned Wood-Whish report.

Transnational Merger Cases will be useful to practitioners, regulators and policy-makers in the merger review regimes of both the U.S. and EC. Those engaged in newer competition regimes around the world and advocates of a multilateral competition framework also stand much to gain from the U.S. - EC experience and its treatment here.

UNDERSTANDING THE WTO ANTI-DUMPING AGREEMENT
Negotiating History and Subsequent Interpretation

James P. Durling and Matthew R. Nicely

ISBN 10: 1 874698 93 7 • ISBN 13: 978 1 874698 93 7 • Hardback • 688pp • 2002 • £125.00/US$250.00

As normal tariffs and the various non-tariff barriers to trade are phased out throughout the world under the various agreements of the World Trade Organization (WTO), more and more countries are turning to ‘sanctioned’ forms of import protection. By far the most common of these are the measures permitted under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 — more commonly known as the Anti-Dumping Agreement. Anti-dumping measures have become the protectionist tool of choice, given the ubiquitous yet largely innocuous act of inter-market price discrimination, combined with the relatively low ‘material injury’ threshold that must be met in order to justify these measures.
Few issues in the history of the GATT and WTO have triggered as much sustained interest and controversy as the issue of ‘dumping’ and the appropriate response to this so-called ‘unfair trade’ activity under international regulatory law. The continuing controversy over whether even to put anti-dumping on the agenda for the new Doha Development Round threatened to derail the whole effort. Having obtained the right to counteract dumping, active users of anti-dumping measures vigorously defend what many view as an end-run around the fundamental principles of the GATT. Few other trade issues have such a long and controversial history.

In their book *Understanding the WTO Anti-Dumping Agreement: Negotiating History and Subsequent Interpretation*, Jim Durling and Matt Nicely provide a much-needed resource to explain to practitioners, national authorities and scholars the detailed history behind the various provisions of this important agreement. It is also the hope of the authors that their book will prove useful to WTO Member nation negotiators as they seek to find ways to improve on the existing agreement during the course of Doha Round.

Organised to follow the order of the various articles of the Anti-Dumping Agreement, the book provides:

- a summary of the changes made from the Tokyo Round Code, including where relevant a blackline version to highlight material changes to the text;
- excerpts from the seven different negotiating drafts on the way to the final Uruguay Round text, including where relevant a blackline version to highlight changes being made from version to version;
- excerpts from the various panel and Appellate Body decisions addressing each provision of the Agreement, through 31 December 2001; and
- commentary about the negotiating history of the underlying provision, the precedents to date, and the open issues to be addressed in future negotiations or future dispute settlement.

With all of these documents collected in one place, and with plans to provide updated analysis of new precedent and commentary, this book is a must for anyone who considers themselves a student of the Anti-Dumping Agreement.

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**3rd WTLA YEARBOOK**

**DUE PROCESS IN WTO DISPUTE SETTLEMENT**

*Edited by Philippe Ruttley, Iain MacVay and Marc Weisberger*

*ISBN 10: 1 874698 68 6 • ISBN 13: 978 1 874698 68 5 • Softback • 199pp • 2000 • £75.00/US$150.00*

The World Trade Law Association’s Yearbooks are the most timely overview of the international legal developments generated by the WTO. Collected over a number of years, the WTLA Yearbooks will form an invaluable series and become an indispensable reference tool for lawyers in private practice, government service or universities working in this field. This series of topical essays will be the most up to date and broad treatment available of this swiftly-moving area.

This volume, the third in the WTLA Yearbook series, brings together a number of the papers delivered at the Association’s 1999 Annual Conference. These have been fully updated and expanded to cover more recent developments. The publication also contains specially written contributions written by key association members.

The WTLA Yearbooks will be required reading for lawyers and decision-makers in industry, government and private practice who need up-to-date knowledge of this rapidly evolving area of international law. The success of the first two volumes in the series underlines the difficulty of finding excellent materials and commentary on this fast expanding field of practice. We are confident that readers will find the 3rd WTLA Yearbook an equally superb treatment of the subject.

In response to the creation of the WTO dispute settlement system, the World Trade Law Association was established in April 1997. Its aim is to provide lawyers working in this field with a forum for discussion and research on the impact of the WTO on international trade. The WTLA held its inaugural conference in April 1997 with a panel of highly distinguished speakers. The conferences now occur on an annual basis, and have consistently maintained standards of excellence and prescience, with the WTLA Yearbooks publishing the substance of the lively debates that this area of international law and policy engenders.
4TH WTLA YEARBOOK
CHALLENGES AND PROSPECTS FOR THE WTO

Edited by Andrew Mitchell

ISBN 10: 1 905017 04 9 • ISBN 13: 978 1 905017 04 1 • Softback • 304pp • 2004 • £85.00/US$170.00

The World Trade Law Association’s Yearbooks are the most timely overview of the international legal developments generated by the WTO. Collected over a number of years, the WTLA Yearbooks will form an invaluable series and become an indispensable reference tool for lawyers in private practice, government service or universities working in this field. This series of topical essays will be the most up to date and provide the broadest treatment available of this swiftly-moving area.

The 4th Yearbook of the WTLA contains contributions from academics, lawyers and diplomats based on papers delivered at the Sixth and Seventh Conferences of the World Trade Law Association (WTLA) in London as well as specially commissioned chapters. The chapters of this book follow four broad themes: (1) the state of play in WTO negotiations and disputes; (2) defining the boundaries of the WTO; (3) the scope of WTO dispute settlement; and (4) the interface between regional trade agreements and the WTO.

As the WTO heads towards its Sixth Ministerial Conference in Hong Kong, China, it is hoped that the first-hand experience and knowledge of the contributors to this book may play a small part in improving understanding of some of the legal and political challenges facing the WTO today, as well as its prospects for the future.

WTO AND EAST ASIA
New Perspectives

Edited by Mitsuo Matsushita and Dukgeun Ahn

ISBN 10: 1 874698 64 3 • ISBN 13: 978 1 874698 64 7 • Hardback • 523pp • 2004 • £125.00/US$250.00

East Asia has huge potential for economic development in the 21st century. This has already led to a more active and substantial role for the region in the world trading system.

China has recently shown a remarkably high growth of its economy. Korea and Japan are currently negotiating a Free Trade Agreement (FTA) that would embrace comprehensive economic cooperation. There may be even a larger free trade area in East Asia including not only China, Korea, Japan, Taiwan and Hong Kong but also ASEAN countries.

In this volume, experts on WTO and international trade – John Jackson, Thomas Cottier, William Davey and Mitsuo Matsushita amongst others - from Asia, Europe and the United States examine various legal, economic and policy aspects of the multilateral as well as the regional trading system. A wide range of WTO and FTA issues have also been addressed with new perspectives on the basis of the East Asian experience.

THE WTO AS A LEGAL SYSTEM
Essays on International Trade Law and Policy

David Palmeter

ISBN 10: 1 874698 34 1 • ISBN 13: 978 1 874698 34 0 • Hardback • 371 pp • £125.00/US$250.00

In this collection of 23 essays, David Palmeter, a partner in the Washington DC office of Sidley, Austin, Brown & Wood, offers the observations of a seasoned practitioner scholar on a wide range of international trade law and policy issues, from trade remedies to regionalism and rules of origin, to the World Trade Organization, which is the subject of 12 of the essays.

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The essays bring a distinctive historical and philosophical perspective to the leading international trade issues of our time. The author considers NAFTA in the historical context of Mexican-US relations, examines the WTO's trade protection regime by the standards of justice put forward by John Rawls, and, in the volume's title essay, analyses the WTO as a legal system in light of HLA Hart's criteria for a mature legal system. Other essays in the volume consider such subjects as import quotas and why they should not be auctioned; why protectionism is still alive; inherent problems with regional free trade agreements; the environment and trade; and national sovereignty and the WTO. All of the essays benefit from the author's perspective as a practitioner as well as a scholar, and from his clear, jargon-free writing style.

David Palmeter has practised international trade law for more than 30 years, and has been involved in GATT and WTO dispute settlement for most of that time. He was involved in WTO dispute settlement from the beginning of the organisation, advising Members in the very first case brought under the WTO as well as the first case to go through the full panel and appellate processes.

He has lectured on WTO and trade policy matters at American, Columbia and Georgetown and George Washington Universities and at Dartmouth College in the United States. In Europe, he has lectured at the College of Europe in Bruges, the European University Institute in Florence, and at the Universities of Bern, Liége, Neuchâtel and St Gallen. He is a member of the faculty of the World Trade Institute's Program for Advanced Studies in International Law and Economics at the Joint Center of the Universities of Bern, Neuchâtel, and Fribourg, Switzerland.

From 1989 to 1993, he was chairman of the International Bar Association's Trade and Customs Law Subcommittee of the Antitrust and Trade Law Committee, and from 1994 to 1998 was the Committee's Liaison to GATT, the WTO and the United Nations Committee for Trade and Development (UNCTAD).

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**A WTO GUIDE FOR GLOBAL BUSINESS**

**Carol C. George and Stephen J. Orava**

*ISBN 10: 1 874698 83 X • ISBN 13: 978 1 874698 83 8 • Softback • 398pp • 2002 • £75.00/US$150.00*

No global enterprise can afford to ignore the regulation of international trade by the World Trade Organization (WTO). Companies must comply with the laws that apply in their home markets and those that apply wherever else they do business. Over 140 Member countries of the World Trade Organization have now established international rules to define how governments can regulate trade through their national legal systems.

Currently in effect in over 140 countries, WTO rules have a direct impact on virtually all trade in goods, the international provision of services and the protection of intellectual property rights. These rules provide businesses with access to new markets and improved competitive conditions in existing ones. Enterprises conducting business across borders should therefore maximise the business advantages of operating with the WTO system and minimise any aspects of the WTO rules that are contrary to their interests.

As WTO rules continue to develop, there is still an opportunity to influence their formation. A ‘proactive’ business will pursue new and favourable disciplines or seek to limit developments that are potentially detrimental. Those who understand and work with the WTO rules will be far ahead of their competitors who do not. Those who fail to consider future developments will certainly lose out to the industry leaders who seek to shape the rules.

The purpose of this book is to provide business people with an introduction to the world trading system as well as a reference guide to the implementation of WTO rules and access to resources and remedies in the major trading jurisdictions around the world. Addressing countries individually, each chapter is prepared by local experts in international trade and WTO law. The book as a whole is closely coordinated to facilitate ease of reference and comparison of the methods by which the WTO agreements are incorporated into domestic law and the procedural routes available for addressing WTO-related interests in the various jurisdictions.

Each chapter (and in the case of the EC subchapter in regard to each Member country) addresses:

- the national context for trade liberalisation including the constitutional perspective on international law and details of WTO
- the WTO agreements in national law, and in particular the question of direct effect and the implementing legislation that has been enacted or is anticipated;
- WTO law in the courts, which considers the impact of WTO law when in conflict with laws of national origin, its influence in judicial interpretation of domestic law and whether private complaints may be grounded on the WTO agreements, either directly or as implemented in national law;
- private WTO complaints, which directs industry participants to resources and procedures to ensure that their interests are addressed in the appropriate international forum, including the dispute settlement mechanism of the World Trade Organization.

WTO AND NAFTA RULES AND DISPUTE RESOLUTION
Selected Essays on Antidumping, Subsidies and Other Measures

Gary Horlick

ISBN 10: 1 874698 24 4 • ISBN 13: 978 1 874698 24 1 • Hardback • £125.00/US$250.00

This collection contains a selection of essays and articles by a leading practitioner and scholar in international law, covering nearly two decades of reflection and research.

Gary Horlick is a senior partner in the International Trade Group of Wilmer, Cutler and Pickering. He has served as head of Import Administration in the US Department of Commerce, responsible for all US antidumping and countervailing duty cases, foreign trade zones and statutory import programmes. He was also Senior International Trade Counsel for the US Senate Finance Committee. He has been a visiting lecturer or adjunct professor at Yale Law School, Georgetown Law Center, and the University of Bern/World Trade Institute. He was the first chairman of the World Trade Organization’s Permanent Group of Experts on subsidies. He has also served on the US Court of International Trade’s Advisory Committee on Rules. He was ‘present at the creation’ of much of WTO anti-subsidy doctrine, and was deeply involved in the negotiation of the current WTO anti-dumping rules. Since the 1980s, he has been a leading practitioner in the field of GATT and WTO litigation, with experience in more than 20 cases. He studied international law at Yale Law School and Cambridge University.

The articles here represent a useful view of the main developments in international trade law since the 1970s. They include ‘eye witness’ accounts of the development of major trade legislation and the WTO agreements on anti-dumping and subsidies and the implementation of those agreements. A number of the articles deal with the most pressing point of international trade law - the degree to which supranational dispute resolution systems should defer to national authorities, or provide independent neutral supervision of unilateral national decisions. The book is a useful ‘insider’s guide’ which ‘pulls very few punches’ on some of the more controversial topics in international trade law.

WTO DISPUTES
Anti-Dumping, Subsidies and Safeguards

Edwin Vermulst and Folkert Graafsma

ISBN 10: 1 874698 78 3 • ISBN 13: 978 1 874698 78 4 • Hardback • 878pp • 2002 • £125.00/US$250.00

This book analyses WTO Panel and Appellate Body Reports with respect to the four commercial defence Agreements: the Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures, the Safeguards Agreement and the Agreement on Textiles and Clothing.

Coming in the aftermath of the succesful launch of a new round of multilateral trade negotiations in Doha in November 2001, it provides a timely and indispensable overview of the state of play of dispute settlement reports covering these four Agreements. Indeed, a disproportionately high number of WTO dispute settlement cases have involved interpretations of provisions of these Agreements, bearing witness to their importance in real life.
While the WTO negotiations continue, WTO Members are likely to continue their quest to clarify opaque provisions in the four Agreements through recourse to WTO dispute settlement proceedings. Over the past seven years WTO Panels and the Appellate Body have already made incalculable progress; this trend will only continue in the foreseeable future.

The authors, having been involved in a number of the proceedings discussed in this volume, have chosen to approach their subject by focusing on the technicalities that are so important in this complex area of trade law. An issue-based analytical first chapter is followed by four chapters providing annotated versions of the four commercial defence Agreements which pursue the order of the Agreements themselves.

The book will be an invaluable reference tool for trade diplomats and other government officials, lawyers and academics involved in both WTO dispute settlement proceedings and in the effort to formulate new rules in the framework of the Doha Round.

WTO DISPUTE SETTLEMENT
An African Perspective

Edited by Trudy Hartzenberg

ISBN 10: 1905017 31 6 • ISBN 13: 978 1 905017 31 7 • Hardback • £85.00 / US$170.00

The settlement of international trade disputes through the Dispute Settlement System of the WTO is the most frequently used form of international litigation between states. It is also an area where developing countries have become increasingly active; except for African states. Why is this so and what can or should be done about it? Is it a ground for concern? Should the WTO address it and find ways for accommodating Africa’s specific needs?

WTO Dispute Settlement: an African Perspective addresses these and other questions and also deals with the ‘record’ and the technical and capacity issues involved. Areas of particular relevance to African governments, such as agriculture and the domestic implementation of trade law and trade remedies are discussed. The technical assistance available to developing countries for settling trade disputes through the WTO are explained and proposals for reform of the DSU in the context of the Doha Round are dealt with.

The work will prove valuable for government officials both in developed and developing nations engaged in shaping trade policies as well as for international development organisations. Universities offering courses on international studies, international dispute resolution and peace keeping will find it useful, in particular because it offers the views of African scholars. It could be a useful publication for developing capacity building programmes in this area where the marginalisation of Africa in international trade is so vividly demonstrated.

WTO JURISPRUDENCE AND POLICY
Practitioners’ Perspectives

Edited by Marco C.E.J. Bronckers and Gary N. Horlick

ISBN 10: 1 905017 06 5 • ISBN 13: 978 1 905017 06 5 • Hardback • 832pp • 2005 • £125.00/US$250.00

With the expansion of its scope, the WTO is having a much greater impact on governments, industries and NGOs. While the GATT was a fairly obscure organisation known mostly to trade professionals, government officials, and diplomats, it is no surprise therefore that the WTO has garnered considerably more attention. The legal profession has been paying more attention too.

WTO Jurisprudence and Policy captures various perspectives the legal profession has to offer on the WTO’s activities. The chapters are written mostly by current and former members of Wilmer Cutler Pickering Hale and Dorr LLP, who have been active for several decades in GATT and WTO affairs.

The book opens with essays on dispute settlement, to which practising lawyers understandably pay particularly close attention. A selection: Claus-Dieter Ehlermann discusses his experiences during six years as a member of the Appellate Body of the WTO. Then
follows a perspective from the other side of the bench: the role of private counsel in WTO litigation. Problems with the compliance structure of the WTO dispute settlement process are examined. The approach taken by the Appellate Body in trade remedies cases is critically reviewed. This part concludes with an analysis of the practical implications of WTO law for private parties: how can private parties protest against WTO violations by third countries (a case study of the EU Trade Barriers Regulation, the equivalent to US Section 301)?

The second part addresses various WTO agreements. This part starts with market protection issues whereby member countries, under WTO authority, use tariffs aimed at offsetting subsidies or dumping, or impose other trade restrictions by way of safeguard measures. To begin with, the WTO subsidies agreement is described. Next follows an analysis of the anti-dumping agreement. In addition, this part surveys practical issues concerning the special safeguard mechanism against China that was agreed at the time of China's accession to the WTO in 2001. An account of the Textile and Apparel Agreements is timely too as the agreed textile quota regime is ending in 2004. The book then moves beyond trade in goods. On intellectual property, the WTO's novel enforcement principles are analysed in detail. A chapter on the WTO’s rules on telecommunications services, including their first interpretation in the 2004 panel report in the *Telmex* case, concludes this part.

Finally, in Part III, practitioners look ahead to developing principles and new issues facing the WTO and the world trading system. Competition law principles, although no longer an immediate subject of negotiation in the current Doha Round, are already developing under existing WTO law. Science and health issues in trade, particularly in foodstuffs, are highlighted as public debates on hormones, biotech foods, and BSE have heightened in recent years. The thorny issue of environmental protection and so-called PPMs is addressed separately. Finally, Charlene Barshefsky, a practitioner who can rely on her previous experiences as US Trade Representative, calls attention to the need for increasing participation of the Middle East in the WTO.

**WTO LITIGATION**

*Procedural Aspects of Formal Dispute Settlement*

Jeff Waincymer

ISBN 10: 1 874698 85 6 • ISBN 13: 978 1 874698 85 2 • Hardback • 935pp • 2002 • £125.00/US$250.00

As regulation bites and pressure-groups, government, regulatory bodies and groups of individuals become ever more active in pursuit of environmental standards, so the field of environmental litigation looms larger on the list of possible hazards that any company, large or small, faces. They must now be aware of not only their potential liabilities under law, but also how to combat what are frequently lawyer-led actions, exposing defendants to potentially enormous costs. This book, written by the partner at Nabarro Nathanson, details the various ways in which companies can prepare themselves for such an action, and covers: Potential liabilities for environmental law including tortious liability, statutory liability, criminal liability and liability for breach of European legislation; the considerations for companies prior to litigation; the law relating to standing; the law relating to the taking of samples by an enforcing authority or a third party. Drawing on personal experience, the author details the lessons learnt from previous cases (generally from the defendant's point of view) and provide an overview of the various strategies which may be adopted. This book is essential for any practising or in-house lawyer.

**WTO OBLIGATIONS AND OPPORTUNITIES**

*Challenges of Implementation*

Edited by Koen Byttebier and Kim Van der Borght

ISBN 10: 1 905017 38 3 • ISBN 13: 978 1 905017 38 6 • Hardback • 425pp • 2007 • £125.00/US$250.00

This book is based on a colloquium that was organised jointly by the Vrije Universiteit and the University of Hull in 2006. The essays collected here explore the theme of the legal implications of the WTO rule making and the challenges it represents not only for the WTO itself, but also regional trading blocs, governments, companies and citizens.

The contributors are seasoned academics and advisers with a wealth of experience in international trade policy and economics. The various essays deal with how WTO rules may be used to enforce social norms and environmental standards. Also discussed are issues surrounding trade in goods, liberalization of legal services and regulation of textiles and intellectual property protection in emerging economies.
THE WTO SYSTEM

_Law, Politics and Legitimacy_

Robert Howse

ISBN 13: 978 1 905017 27 0 • Hardback • 2008 • £130.00/US$260.00

No one with a serious professional or intellectual interest in the WTO can ignore the essays in this volume, many of which have been major flashpoints of controversy and debate in the field - such as the attack on the product/process distinction and the critique of the ‘constitutional’ perspective on the WTO, to give but two examples. Written against the backdrop of the post-Seattle legitimacy crisis of the WTO, these works consider how the doctrine and method of WTO adjudication have responded, especially in sensitive areas such as trade and environment, and health and safety regulation. In addition to providing careful case law analysis, which often illuminates neglected or misunderstood aspects of Appellate Body rulings, the author deploys a variety of interdisciplinary tools, drawing from political philosophy, international relations theory, information economics, and comparative politics, in order to provide an original and provocative perspective on the underlying questions of principle and power that are central to the legitimacy crisis of the WTO.

Robert Howse is an internationally recognised authority on international economic law and is also a specialist in 20th century European legal and political philosophy, particularly the thought of Alexander Kojève and Leo Strauss. Professor Howse received his BA in philosophy and political science with high distinction, as well as an LLB, with honours, from the University of Toronto, where he was co-editor in chief of the Faculty of Law Review. He also holds an LLM from the Harvard Law School. He has been a visiting professor at Harvard Law School, Tel Aviv University, Tsinghua University, and Osgoode Hall Law School in Canada and taught in the Academy of European Law, European University Institute, Florence. During the fall of 2005 Howse was a visiting professor at the University of Paris (Pantheon-Sorbonne).

THE WTO TRADE REMEDY SYSTEM

_East Asian Perspective_

Edited by Mitsuo Matsushita, Dukgeun Ahn and Tain-Jy Chen

ISBN 10: 1 905017 33 2 • ISBN 13: 978 1 905017 33 1 • Hardback • £125.00/US$250.00

_The WTO Trade Remedy System: East Asian Perspectives_ comprises of papers presented at the hugely successful 2005 International Conference on the Trade Remedy System: The East Asian Perspective, held on August 29 - 30 in Taipei and a number of essays commissioned specifically for this volume.

The first part deals with the restructuring issues of the current trade remedy system, where four papers discuss the reforms from different perspectives and point out the direction that such reforms will take. The second part of the book reviews the historical records of the system, portrays the pattern of trade remedy measures, and identifies some important issues that this pattern has revealed. The third part presents the experiences of the East Asian countries in operating the trade remedy system, usually by way of imitating its implementation in the US and the EU. In the case of China, the focus is on its treatment under the WTO’s trade remedy system. The fourth and final part describes some of the recent developments in the trade remedy issues from an East Asian perspective. The discussion includes China’s status as a non-market economy, the role of export subsidies, the operations of trade remedy mechanisms in PTAs, and proposed reforms concerned with anti-dumping agreements that are pertinent to the Doha Round.

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BIOTECHNOLOGY LAW AND REGULATION

The ASEAN Perspective

Sufian Jusoh

ISBN 10: 1 905017 26 X • ISBN 13: 978 1 905017 26 3 • Hardback • 2006 • £125.00/US$250.00

Biotechnology Law and Regulation surveys and dissects the laws and regulations relating to biotechnology activities in 10 member countries of the Association of Southeast Asian Nations (ASEAN). The countries are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), the Philippines, Singapore, Thailand and Vietnam.

The topics covered by the book include biotechnology policies, access to genetic resources and benefit sharing, bio-safety laws relating to food, protection of plant varieties, patent, pharmaceuticals, labelling, religious laws and cloning. Each topic is approached both from the perspective of common ASEAN policies and that of relevant international treaties.

Biodiversity Law and Regulation will be useful to stakeholders engaged in various biotechnology activities including government officials, policy-makers, legislators, judges, legal professionals, investors, research institutions and consumer groups. The book is also suitable for postgraduate students studying international environmental law, environmental law and policy, intellectual property, international economic and world trade law, ethical aspects of biotechnology, and law and economics of regulations.

Sufian Jusoh is an NCCR Research Fellow at the World Trade Institute, Bern, Switzerland. He is also a barrister (England & Wales) and an advocate and solicitor of the High Court of Malaya.

CLIMATE CHANGE LAW

Emissions Trading in the EU and UK

J. Robinson, J. Barton, C. Doswell, M. Heydon and L. Milton

ISBN 10: 1 905017 35 9 • ISBN 13: 978 1 905017 35 5 • Hardback • 2007 • £125.00/US$250.00

Climate Change Law has been written by the team of UK Government lawyers who negotiated the relevant EU legislation, drafted the UK domestic legislation and advised on the UK implementation of the EU emissions trading scheme.

This book is the first comprehensive analysis of the regulatory framework for carbon trading in Europe. It brings together in one volume the first full legal analysis of EU and UK law relating to the EU emissions trading scheme and all the legislative materials necessary to understand this innovative and complex area of environmental law.

It is an essential companion for any professional advising on carbon trading in the UK or EU and a user-friendly reference tool for lawyers, carbon traders and those working in regulated industries and financial institutions within carbon finance.

MAKING LAW WORK:

Environmental Compliance and Sustainable Development

Edited by Durwood Zaelke, Donald Kaniaru and Eva Kruzíkova

ISBN 10: 1 905017 09 X • ISBN 13: 978 1 905017 09 6 • Hardback • £100.00/US$200.00

The scope of Making Law Work ranges from the broadest perspectives on the issue of compliance – theories of why States and firms do or do not comply with domestic and international laws, and discussions of the critical connections among compliance and enforcement, good governance, the rule of law, and sustainable development – to detailed practices for inspections and specific strategies for non-governmental organisations, government regulators, courts and others.

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Making Law Work also focuses on three exciting and empowering newer developments in environmental governance and sustainable development: (1) the increasing use of indicators as part of a movement to a more empirical, data-driven systems approach, with feedback loops and adaptation; (2) the rise of trans-governmental networks as a new vision of global environmental governance, with the component institutions of states (regulators, judges, enforcement officials etc) interacting directly with their peers around the world; and (3) the ‘Porter hypothesis’ demonstrating that states can design, implement and strictly enforce the right kinds of laws and save money, potentially even making a profit for the regulated firms because of technological innovation.

In addition to pulling together some of the best existing literature from authors such as Ronald Mitchell, Kal Raustiala, Clifford Rechtschaffen, Peter Sand, Anne-Marie Slaughter, Oran Young and others, Making Law Work features original works by several leading practitioners, including: K. Madhava Sarma, Elizabeth Mrema, Carl Bruch, Romina Picolotti, David Hunter, Annette Killmer, Georges Kremlis, Jan Dusik, Paul Leinster, Jim Gray, Chris Howes, Rosie Clark, Michael Stahl, Lawrence Pratt and Carolina Mauri.

Durwood Zaelke is Director of the INECE Secretariat, President of the Institute for Governance & Sustainable Development, and co-director of the Program on Governance for Sustainable Development at the Bren School of Environmental Science & Management at the University of California, Santa Barbara.

Donald Kaniaru, a lawyer and advocate in Kenya, formerly served as the Director of the Division of Environmental Policy and Implementation and of the Division on Environmental Conventions during a 28-year career with the United Nations Environment Programme.

Eva Kruzíkova is co-founder and director of the Institute for Environmental Policy, the former head of the Legislation and International Relations departments of the Czech Ministry of Environment (a ministry she was instrumental in establishing), and has served as a member of the Environmental Advisory Council for the European Bank for Reconstruction and Development.

THE MONTREAL PROTOCOL
Celebrating 20 Years of Environmental Progress - Ozone Layer and Climate Protection

Edited by Donald Kaniaru

ISBN 13: 978 1 905017 51 5 • Softback • 2007 • £50.00/US$100.00

The passing of two decades since the inception of the Montreal Protocol has provided scientific proof of the treaty’s effectiveness and truly deserves the title of the most successful environmental treaty to date. Having phased out 95 per cent of the ozone-depleting substances covered in the treaty, the Montreal Protocol has not only allowed the ozone hole to begin the healing process, but as scientists have recently discovered, the treaty has also been an incredibly effective measure in mitigating climate change. Phasing out harmful ozone substances that double as deadly greenhouse gases has delayed climate forcing by 35-41 years.

These ozone and climate benefits however, did not come easily. It took the work and partnership of many to build the strong, but flexible structure that is the Montreal Protocol today. The dedicated team of ozone officers from 191 countries and a critical funding mechanism developed to assist developing countries have been great contributors to its success.

This book aims to take a comprehensive look at the Montreal Protocol from its very beginnings to the present, looking toward the future. Section I: Early History: Science, Diplomacy, and Leadership is comprised of articles that focus on the events leading up to the creation of the treaty and its early years. Section II: Dynamic Evolution: Technology, Assessment, and Funding lays out the structure of the Montreal Protocol, including the development of the Multilateral Fund which has made possible the involvement of developing countries in the phase-outs of ozone-depleting substances. The readings in Section III: New Challenges: Following Through with Ozone and Joining the Climate Battle, address the issue of climate change, and note that while it is appropriate to commend the Montreal Protocol and the ozone team for past successes, we cannot stop there. The authors speak of a proposed adjustment to the treaty: an accelerated phase-out of HCFCs which would bring enormous climate benefits—much more than the emissions reductions expected from the first commitment period of the Kyoto Protocol. Sherwood Rowland and Mario Molina, Guus Velders, K. Madhava Sarma, Durwood Zaelke, Rajendra Shende, Donald Kaniaru, Romina Picolotti, Steve O. Anderson, Mostafa Tolba, and Richard Elliot Benedick are among the contributors to this book.

Donald Kaniaru is a lawyer and advocate in Kenya. Kaniaru formerly served as the Director of the Division of Environmental Policy and Implementation and the Division on Environmental Conventions during a 28-year career with the United Nations Environment Programme.
REGULATION, ENFORCEMENT AND GOVERNANCE OF ENVIRONMENTAL LAW

Richard Macrory

ISBN 13: 978 1 905017 64 5 • Hardback • 2008 • £130.00/US$260.00

Regulation, Enforcement and Governance of Environmental Law is a selection of some of Richard Macrory’s most important writings and is focused on material concerned with major themes concerning the nature of regulation, institutional arrangements and enforcement that underlie the substantive detail of the law.

The book is divided into six core parts:

- Regulatory Reform is concerned with key issues concerning regulatory design, and in particular the current debates on whether traditional British approaches towards constructing regulatory sanctions are best suited to contemporary needs. It includes the text of the final report of Professor Macrory’s recent Review of Regulatory Sanctions commissioned by the Cabinet Office.

- Institutional Reform and Change considers challenges to current institutional arrangements, including the need for a specialised environmental court and tribunals, and the environmental implications of the major constitutional changes that have taken place in the United Kingdom in the last decade.

- The Dynamics of Environmental Law contains material which reflects on the shifting dynamics of environmental law as it copes with changing expectations of how we handle the development of new environmental standards, the opportunities of new technologies to assist enforcement, and the need to develop new notions of responsibility.

- The Courts and the Environment considers how the courts have grappled with the interpretation of environmental legislation and the development of legal principle. It is based on Professor Macrory’s In Court analysis in the ENDS Reports, and covers some of the leading environmental cases over the last decade both in the European Court of Justice and the higher British courts.

- The last two chapters focus on the European dimensions. Europe and the Environment is largely concerned with key principles of European Community law such as environmental integration, free trade and subsidiarity and how these influence and interact with the development of environmental law. The final chapter, Supra-national Enforcement of Environmental Law considers the enforcement of Community environmental law, and the unique mechanisms that have been developed under the European Treaty to ensure that Member States comply with their obligations.

The last 30 years have seen an unprecedented development in both the substantive body of environmental legislation and in thinking about underlying principles and institutional arrangements. With environmental challenges ever growing in scope and complexity, it becomes more important than ever to consider the role of law and the design of effective institutional arrangements to meet the demands that will face society. The material in Regulation, Enforcement and Governance of Environmental Law reflects the author’s distinctive career as both a distinguished scholar and as someone with unrivalled experience of the environmental policy and legal world. The result is a collection that provides an insightful and important analysis for anyone concerned with the practice and future development of environmental law and policy.

Richard Macrory is a barrister with Brick Court Chambers and Professor of Environmental Law at University College London where he is director of the Centre for Law and the Environment. After qualifying as a barrister, he was legal adviser at Friends of the Earth between 1975 and 1978, and then joined Imperial College, where in 1991 he became the first Professor of Environmental Law in the United Kingdom. Richard Macrory was the first chairman of the UK Environmental Law Association and founding editor of the Journal of Environmental Law. He has been Standing Counsel to the Council for the Protection of Rural England, was a member of the Royal Commission on Environmental Pollution for 11 years, and was chair of the steering board of European Environmental Advisory Councils in 2001-2. Professor Macrory has been a specialist adviser to select committees in both the House of Commons and the House of Lords. Between 1999 and 2004 he was a board member of the Environment Agency of England and Wales, and was Honorary President of the National Council for Clean Air and Environmental Protection in 2004-5. In 2005-6 he was appointed by the Cabinet Office to conduct the Review on Regulatory Sanctions. He was honorary chairman of Merchant Ivory film productions for almost 20 years. Richard Macrory is the author of over 100 published articles and books on environmental law currently. He is currently the legal correspondent to ENDS Reports, and in 2006 was appointed a member of General Electric’s Ecomagination Board. In 2000 he was awarded the CBE for services to law and the environment.
REINTERPRETING THE PRECAUTIONARY PRINCIPLE

Edited by Tim O’Riordan, James Cameron and Andrew Jordon

ISBN 10: 1 874698 23 6 • ISBN 13: 978 1 874698 23 4 • Hardback • 284pp • 2001 • £75.00/US$150.00

The precautionary principle is a culturally framed concept that takes its cue from changing social conceptions about the appropriate roles of science, economics, ethics, politics and law in anticipatory environmental protection and management. Originally it was introduced as part of a strategy for taking care in the face of uncertainty over the possible environmental consequences of human action. Since the 1980s, there has been a mismatch between levels of possible danger, and inadequacy of accuracy in forecasts, that has heightened consumer concern over the need to be more proactive and participatory in environmental affairs. Hence, the precautionary principle has become much more politicised in the context of environmental and consumer protest, in changing outlooks on science, and in the social responsibility of corporations. With the huge controversy in trade negotiations over what substances can be incorporated or removed from traded products, notably food, and in the light of the continuing debate over genetically modified crops, mobile phones and brain damage, as well as putative scares over microtoxins and latent carcinogens, the precautionary principle is back in the limelight.

One strand of discussion looks at how the precautionary principle is evolving in various countries representative of important influences in the international debate over the incorporation of the principle into science and public affairs. A second strand analyses the movement of the precautionary principle within the evolution of the public interpretation of science and regulation, especially such conditions of uncertainty. The third strand focuses on the manner in which the principle is evolving in international law and especially international trade, which has become the ground for its most recent reincarnation.

WILDLIFE LAW

Conservation and Biodiversity

Kate Cook

ISBN 10: 1 874698 01 5 • ISBN 13: 978 1 874698 01 2 • Hardback • 514pp • 2004 • £75.00/US$150.00

Wildlife Law brings together the diverse law directly concerned with wildlife conservation, examines how the courts have interpreted these laws and considers some common themes arising in the various sectors. The book begins with a general discussion of the evolution of conservation law and the role of European and international law in its development, together with an examination of some key concepts including biodiversity and sustainable use. The main part of the book consists of three sections dealing with habitat protection, species protection and international trade in endangered species.

It is undeniable that the interaction between land use, planning law and species and habitat protection is assuming greater importance than ever before for both business and government. Special Areas of Conservation, species specific protection, control of trade in endangered species (the CITES Convention as implemented in the EU) are all covered in this wide-ranging book, including their relationship with accepted principles such as the precautionary principle and sustainable development. Written by a former legal adviser to the UK Department of the Environment, it covers habitat protection and development, the relationship between wildlife law and other areas of environmental law, key legislation including the Wildlife and Countryside Act 1981, the Habitats Regulations 1994, CITES and the relevant EC Council Directives.

The focus is on UK Law (principally the law of England and Wales) but the domestic law is presented alongside the European Union Law on which much of it is based. The international framework for nature conservation is also presented in outline. The author’s main aim has been to produce a book that is of practical use to all those interested in the law governing wildlife conservation, whether local or international, activist, independent practitioner, civil servant or student. She has sought to state the law as it was in January 2004 with indications, so far as it is possible, as to forthcoming changes.

Kate Cook is a practising barrister at Matrix Chambers, specialising in public law, European Law and environmental law and was formerly a legal adviser at the Department of the Environment, specialising in international and European Community law (1993-1999). She has considerable experience of environmental law in general and conservation law in particular. She acts for environmental non-governmental organisations, private individuals and public authorities. She publishes and lectures regularly on environmental law and has an LLM in International Legal Studies from NYU Law School.

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THE CRIME OF GENOCIDE IN INTERNATIONAL LAW

Appraising the Contribution of the UN Tribunal for Rwanda

George William Mugwanya

ISBN 13: 978 1 905017 55 3 • Hardback • 2008 • £95.00/US$190.00

The Crime of Genocide in International Law offers a comprehensive evaluation of the contribution of the UN International Criminal Tribunal for Rwanda to the development of the crime of genocide. The author’s analysis of ICTR jurisprudence and other relevant sources, reveal the pioneering role of the Court in establishing the contours of the crime.

In appraising the ICTR’s contribution against the backdrop of limited treaty definition of genocide, and absence of judicial or other precedents, this book examines, amongst other things, the constituent elements of the crime including the actus reus, specific intent and whether all modes of criminal responsibility including joint criminal enterprise, equally apply to all genocidal acts. The book also addresses specific contextual issues surrounding the Tutsis, the victims of atrocities in Rwanda during the 1990s, asking whether they qualify as a protected group under the definition of genocide. More broadly, the author discusses whether it is possible to reconcile cumulative charges of genocide with crimes against humanity and war crimes.

George Mugwanya begins with the background to the creation, mandate and functioning of the ICTR. This is followed by an evaluation of the ICTR’s contribution to the development of international law on the crime of genocide with respect to the notion of ‘group’ that forms part of the definition of the crime, as well as the actus reus of the crime. The mens rea of genocide, along with the constituent elements of the ‘other acts’ of genocide, are appraised in Chapters 4 and 5 respectively. Chapter 6 proceeds to cover the contribution of the Tribunal with respect to some issues pertinent to the prosecution of genocide, such as charging genocide, defences and sentencing following conviction for the crime. Chapter 7 consists of general conclusions.

George William Mugwanya is an advocate of Uganda’s Courts of Judicature, and currently a Senior Appeals Counsel at the Office of the Prosecutor, United Nations International Criminal Tribunal for Rwanda, Arusha. Formerly a senior lecturer at the Faculty of Law, Makerere University, Uganda, he holds a PhD in law from Notre Dame Law School (United States); and LLM degrees from the University of Birmingham (United Kingdom) and the University of Pretoria (South Africa).


DEFINING THE CRIME OF AGGRESSION

Oscar Solera

ISBN 10: 1 905017 43 X • ISBN 13: 978 1 905017 43 0 • Hardback • 521pp • £85.00/US$170.00

Defining the Crime of Aggression represents an exhaustive study of states’ efforts to agree on a definition of the crime of aggression in contemporary international law. In his thorough analysis of state practice and opinio iuris, Oscar Solera traces the evolution of the notion of aggression from both the political and jurisprudential perspectives.

While the ICC Statute includes the crime of aggression, member states have not yet been able to define the crime. Oscar Solera proposes a definition that aims to balance the political interests of states and international criminal law principles. The definition takes into account both the need to punish those responsible for the commission of the most reprehensible crime in the eyes of the international community while assuaging fears in various camps concerning issues such as the relationship between the Security Council and the ICC and legal justification for the use of force. The author then tests his definition by examining three case studies - Kosovo, Afghanistan and Iraq - showing how his proposed definition of aggression would work in practice.

This book will be of great interest to diplomats and policy-makers in government, especially in the areas of peace and security, to international criminal judges and practitioners, as well as to academics in international relations and international law.
ESSAYS ON WAR IN INTERNATIONAL LAW

Christopher Greenwood

ISBN 10: 1 905017 32 4 • ISBN 13: 978 1 905017 32 4 • Hardback • 2006 • £125.00/US$250.00

The essays contained in this volume deal both with the law concerning resort to force (jus ad bellum) and the law which regulates the conduct of hostilities once the decision to resort to force has been taken (jus in bello).

The collection looks at the Iraqi invasion of Kuwait in 1990 and the shift towards the interpretation of decisions of the Security Council rather than the reliance on the law of self-defence in assessing the legality or illegality of a state's resort to force. Also addressed are questions of whether international law permits the pre-emptive use of force and humanitarian intervention.

The collection also contributes to the debates surrounding the law on the conduct of hostilities (the laws of war, properly so-called), including intense debate over whether nuclear weapons could ever lawfully be employed, whether there is a role for belligerent reprisals in modern international law, the system for the prosecution of war crimes and the duties of the belligerent occupant.

Christopher Greenwood, CMG, QC has been Professor of International Law at the London School of Economics since 1996. Between 2004 and 2006 he was Head of the Law Department. He is Joint Editor of the International Law Reports and the author of some 70 other articles.

Christopher Greenwood is a member of the English Bar; he practises as counsel before the English courts and a variety of international tribunals in matters concerning international law. He was appointed Queen's Counsel in 1999 and a Companion of the Order of St Michael and St George for services to international law in 2002.

ESSAYS ON HUMAN RIGHTS AND TERRORISM

Comparative Approaches to Civil Liberties in Asia, the EU and North America

Conor Gearty

ISBN 13: 978 1 905017 58 4 • Hardback • 2008 • £95.00/US$190.00

Conor Gearty has been writing on human rights, civil liberties and terrorism for over 25 years. In this book, his writings on the global, regional and comparative dimensions to his subject are brought together for the first time. The book contains articles from law journals and literary periodicals as well as written versions of a number of distinguished lectures on these topics that have been given by the author. There are also three especially commissioned pieces on the particular application of human rights law and practice in Asia, dealing with the universality of human rights, the impact of ‘Asian values’ on human rights, and the challenge posed by China for contemporary human rights thinking. With chapters on the United States and the European region, and also on such terrorism/human rights related problems as Northern Ireland, the book offers a broad overview of a series of legal issues pressing in on the world today.

Written in the author’s characteristically lucid style, the book should appeal to international lawyers, comparative lawyers, practitioners in the field of terrorism and human rights and to the general reader concerned to understand some of the most important challenges facing the world today.

Conor Gearty is a Barrister and the founding member of Matrix Chambers. He specialises in human rights law and frequently advises judges, practitioners and public authorities on the implications of the Human Rights Act. His notable cases include Secretary of State for Defence v Rusling (2003), Sengupta v Holmes & Ors (2002), In re S (minors) (2002), and Matthews v Ministry of Defence (2002).
INTERNATIONAL LAW AS AN OPEN SYSTEM

James Crawford

ISBN 10: 1 874698 14 7 • ISBN 13: 978 1 874698 14 2 • Hardback • 596pp • 2002 • £125.00/US$250.00

This collection contains a selection of essays and articles by a leading scholar and practitioner in international law, covering nearly two decades of reflection and research.

Professor Crawford is Whewell Professor of International Law at the University of Cambridge, Director of the Lauterpacht Research Centre for International Law, and a fellow of Jesus College, Cambridge. He was a Commissioner of the Australian Law Reform Commission from 1982-1991 where he worked on the recognition of Aboriginal customary laws, foreign state immunity and admiralty jurisdiction. Subsequently he was elected a member of the United Nations International Law Commission, serving for two terms from 1991-2001; he was chairman of the Working Group for the Draft Statute for an International Criminal Court, a process which eventually led to the adoption of the Rome Statute of the International Criminal Court, and from 1997 Special Rapporteur on state responsibility, successfully guiding the Commission through the second reading of the articles on the Responsibility of States for Internationally Wrongfully Acts, culminating in their adoption in 2001. A member of the New South Wales and English Bars, he has an extensive international practice as counsel and arbitrator in matters relating to international law.

The writings cover a wide variety of topics related to international law, ranging from the nature of the international legal system, self-determination, the democratic entitlement in international law, state secession and state succession, to the nature of the codification process within the International Law Commission. Also included are Professor Crawford’s reflections on his work as a member of the Australian Law Reform Commission.

The section on International Responsibility is an invaluable collection of materials by a uniquely qualified writer on a central topic of international law, elaborating on many of the key problems that confronted the International Law Commission during the completion of its work on state responsibility and providing a comprehensive overview of the final stages of the process.

HUMANITARIAN INTERVENTION

The United Nations and Collective Responsibility

Susan Breau

ISBN 10: 1 905017 08 1 • ISBN 13: 978 1 905017 08 9 • Hardback • 499pp • 2005 • £85.00/US$170.00

This book examines the doctrine of humanitarian intervention in light of the end of the cold war and the first decade of institutional and state practice under the revitalised United Nations. This book queries whether the United Nations by Security Council Resolution or in the absence of such resolution, a nation or group of nations, has the legal right to intervene forcefully against another nation’s territorial integrity to end extreme violations of human rights.

This work will trace an evolution in practice from an emphasis on what states do to each other to what states do to their own citizens. This development has resulted in United Nations interventions in what were traditionally considered internal matters of state sovereignty under Article 2 (7) of the United Nations Charter. The practice of the 1990s and the early 21st century has disclosed a startling shift in United Nations peace-keeping to peace-making and peace enforcement within sovereign states. This practice has resulted in a new international order, which permits intervention by the world body when massive violations of human rights occur in the context in a civil war. In that context this book will discuss the actions in Somalia, Bosnia/Herzegovina, Haiti, East Timor, Democratic Republic of Congo and Burundi and the inaction in Rwanda and Darfur.

This publication will be one of the first comprehensive analyses of the recommendation of the United Nations High Level Panel on Threats, Challenges and Change that there is a collective responsibility to protect citizens in the face of massive violations of human rights.

In the circumstances of unilateral humanitarian intervention this study examines whether or not customary international law is developing a doctrine which will allow intervention by states, collectively or individually when the United Nations fails to act. In
In this context the book will review all alleged cases of unilateral intervention since the end of the Second World War including the most recent case of Kosovo.

The study will also review the process of intervention in the context of International Humanitarian Law and the relatively new international law institution of post-conflict transitional administration.

The conclusion of this publication is that although there is not yet a doctrine of customary law that permits unilateral humanitarian intervention there is a clear trend towards a collective responsibility to intervene in cases of massive violations of human rights.

This book will be of great interest to policy makers in government especially in the areas of peace and security and human rights and to practitioners in human rights and international law and to academics in both the disciplines of international relations and international law.

INTERNATIONAL CRIMINAL JUSTICE
* A Critical Analysis of Institutions and Procedures

Edited by Michael Bohlander

ISBN 10: 1 905017 44 8 • ISBN 13: 978 1 905017 44 7 • Hardback • 506pp • 2007 • £85.00/US$170.00

The collective jurisprudence of the ad hoc tribunals for the former Yugoslavia ICTY and Rwanda ICTR has undoubtedly been a welcome catalyst in the development of international criminal justice as it tries to rein in the perpetrators of the most serious crimes against human kind. Although such legal development has, in pace, outstripped those within borders it has been far from perfect. Many have felt that much of the development has been tainted by political expediency and has failed, amongst other things, to strike the right balance between prosecution and the principles of fair trial for the defendant and dignity of victims.

Written by seasoned scholars and practitioners, this collection of essays provides a most comprehensive analysis of the institutional dynamics and political underpinnings of international criminal justice. They explore and provide critical comment on the main institutional difficulties experienced by international tribunals.

The book will be suitable for policy advisers in the area, academics and postgraduate students of the subject.

Professor Michael Bohlander had been a member of the German judiciary from 1991-2004. He sat as a civil and criminal trial and appellate judge, and as Vice-President of the Judicial Disciplinary Tribunal of the State of Thuringia, in East Germany. From 1999 until 2001 he had served as the senior legal officer of Trial Chamber II of the International Criminal Tribunal for the Former Yugoslavia. He joined the Department of Law at Durham in September 2004. Professor Bohlander is the director of the Centre for Criminal Law and Criminal Justice.

INTERNATIONAL CRIMES
* Theories, Practice and Evolution

Caroline Fournet

ISBN 10: 1 905017 22 7 • ISBN 13: 978 1 905017 22 5 • Hardback • 2006 • £85.00/US$170.00

*International Crimes: Theories Practice and Evolution* is unique in that it proposes a theory of international criminal law by questioning the law itself. The analysis focuses on particular definitional aspects of international crimes in order to highlight their similarities as well as the defects of the relevant instruments and ultimately to stress the need for change and the feasibility of such a proposal. The recurring theme of the book is the idea that international criminal law is not, and should not be considered, as a static legal corpus. Rather, it should be acknowledged that the different crimes it covers interact greatly and could – and should – influence one another in order to reinforce, or enforce, the implementation and effectiveness of international criminal law.

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By exploring methods of improvement of international criminal law, this book addresses both theoretical issues as well as practical matters and, in that respect, will be of interest to both academics and practitioners.

Caroline Fournet was awarded a research studentship by the Faculty of Law of the University of Leicester where she obtained her Ph.D in 2003. After an internship at the Association for the Prevention of Torture, a non-governmental organisation based in Geneva, she has been appointed as a Lecturer at Exeter University's School of Law.

PRINCIPLES OF EVIDENCE IN INTERNATIONAL CRIMINAL LAW

Caroline Buisman, Christopher Gosnell and Karim A. A. Khan

ISBN 13: 978 1 905017 57 7 • Hardback • 2008 • £95.00/US$190.00

The purpose of International Criminal Evidence is to provide an overview of the procedure and practice on the admission of evidence before the international criminal tribunals. The emphasis is on day-to-day practice, drawing on the experience of the Yugoslavia, Rwanda and Sierra Leone tribunals. Although common law lawyers sometimes joke that there are no rules of evidence before these tribunals, an extensive jurisprudence has gradually accumulated. Core principles and rules have, to a greater or lesser extent, now emerged. In some areas, interesting divergences between the three main international tribunals can be also discerned. This book is an attempt to define and explain the core principles and rules that have developed; the rationale and origin of those rules; and assess the suitability of those rules in the particular context of international criminal justice.

The authors present a cross-section of the practising international criminal bar, drawn from the ranks of the bench, the prosecution and the defence. They have been chosen not only as astute commentators on their respective subjects, but also because they have access to the daily pronouncements of trial chambers. A recurring theme in this book is the manner in which a legal culture has gradually taken shape in the international tribunals, drawing on the various traditions and experiences of its participants. An informed practitioner can now make relatively quick judgements about which legal rules apply in a particular circumstance, and how they will be applied to a particular question. These authors are uniquely placed to offer their insights on the reality on the ground.

The overall goal of the book is to demystify the world of international criminal evidence, and to ensure that prevailing rules are broadly known and handed on to the next generation of international tribunals. Unfortunately, searching the jurisprudence of the international tribunals is not an easy task and no comprehensive analysis of the rules of evidence has been published for some time. This book fills that void. Such a tool will be helpful not only as a point of reference for the remaining trials of the ad hoc tribunals, but also as a point of inspiration for the next generation of practitioners before the International Criminal Court, who are on the verge of confronting many of the same questions.

Caroline Buisman has been involved in international criminal justice since 1999, first as an intern for the prosecution at the ICTY and participant in various initiatives to establish an International Defence Bar for the ICC. She subsequently worked for different defence teams in the ICTR, ICTY and SCSL, including the case against Charles Taylor. She has a number of publications in the field of international criminal law to her name and taught various courses in international law at Westminster University for a period of two and a half years. She is now completing her PhD at Brunel University on the rules of evidence before international criminal tribunals.

Christopher Gosnell worked as the legal officer of Trial Chamber I of the International Criminal for Rwanda from 2003 until 2006, and now works as a legal officer with the prosecution at the International Criminal Tribunal for the former Yugoslavia. He was previously a practitioner in New York and spent three years teaching common law method to civil law lawyers at Columbia Law School. He holds law degrees from Oxford, McGill and Columbia.

Karim A. A. Khan is a barrister practising at 2 Hare Court, Temple, London, a leading set specialising in national and international criminal law and human rights. He has worked as a senior crown prosecutor and at the Law Commission of England and Wales. From 1997–2000 he worked as a legal adviser in the United Nations International Criminal Tribunals for the Former Yugoslavia and Rwanda. Since 2000 he has acted in numerous international cases including as lead defence counsel for Charles Taylor before the Special Court for Sierra Leone, before the Special Panels for Serious Crimes in East Timor, and in various cases before the ICTY. He has lectured widely on international criminal law and human rights and is a Senior Research Fellow at King's College, London. He is the co-author of Archbold International Criminal Court, a contributor to Human Rights Practice (Sweet & Maxwell) and co-editor of the International Criminal Law Reports (Cameron May) and A Commentary to the Rome Statute (Baden-Baden).
In Rethinking Genocide the author David Nersessian provides a comprehensive examination of the crime of genocide in connection with political groups. The book offers a detailed empirical study of the current status of political groups under customary international law, as well as a comprehensive theoretical analysis of whether political genocide should be recognised by the international community.

During the drafting of the Genocide Convention in 1948, a critical (and controversial) decision was made to exclude political groups, thereby limiting the Convention to national, ethnic, racial and religious collectives. Acts intended physically or biologically to destroy these four groups are condemned as ‘genocide’, whereas identical criminal conduct - directed instead at other human collectives - is not. This leads to anomalous results in international criminal law.

‘Rethinking Genocide’ analyzes whether, notwithstanding the decision 60 years ago, a stand-alone crime of political genocide should be recognized under international law. It begins by examining the historical development of genocide and critically assessing the unique requirements of the crime. It then demonstrates that other international offences—notably crimes against humanity and war crimes—are not workable substitutes for a specific offence that protects political groups.

This is followed by an analytical study of the protection of human groups under international law. The book proposes a new theory that links the protection of groups to individual rights of a certain character that give rise to the group’s existence. It then applies that theory in evaluating whether political groups are legitimate candidates for specific protection from physical and biological destruction ‘as such’.

The book then provides an exhaustive analysis of state practice and opinio juris on the treatment of political groups. It empirically refutes claims by some commentators that political groups are protected already from genocide by virtue of post-Convention developments in customary international law. In response to this legal reality, however, the book analyses theoretical and public policy justifications for international crimes and demonstrates that the international community should create a separate international offence to address political genocide.

‘Rethinking Genocide’ concludes with a suggested course of action to address the problem and a discussion of the various obstacles that must be overcome to put the solution into practice.

David Nersessian is the executive director of the Harvard Law School Program on the Legal Profession and Center for the Study of Lawyers and the Professional Services Industry. He earned his D Phil (PhD) in law from Oxford University (St Catherine’s College), where his research concentrated on international criminal law and genocide. He earned his JD magna cum laude from Boston University School of Law in 1995.

Prior to his doctoral work, Dr Nersessian spent a number of years as a litigation attorney in the Boston offices of several national and regional law firms. He concentrated in complex commercial litigation and represented clients in state and federal courts, administrative proceedings and private arbitrations throughout the United States.

Dr Nersessian served as a Supreme Court Fellow from 2005-2006 at the Supreme Court of the United States. He worked in the Office of the Administrative Assistant to the Chief Justice, who is the Chief Justice’s chief of staff. Dr Nersessian provided research and other support to Supreme Court justices, delivered formal diplomatic briefings to over 900 visiting dignitaries representing some 96 countries, and oversaw the Supreme Court’s judicial internship program. He worked closely with numerous internal and external constituencies to conceive, develop and execute improvements to the Supreme Court’s briefing program, to develop and implement policies and procedures, and to enhance the public’s perception and understanding of the role of the federal judiciary.

Dr Nersessian has offered upper-class seminars in international criminal law and public international law at Boston University School of Law since 2003. He previously taught criminal law at St Benet’s Hall and St Edmund Hall at Oxford University. He writes extensively in the field of international criminal law and is in the process of finalising a book on genocide and political groups.
TORTURE AND THE UNITED NATIONS  
*Charter and Treaty Based Monitoring*

Amrita Mukherjee

*ISBN 13: 978 1 905017 56 0 • Hardback • 2008 • £95.00/US$190.00*

*Torture and the United Nations: Charter and Treaty Based Monitoring* provides an up-to-date and critical evaluation of the achievements and shortcomings of the United Nations monitoring framework for prohibition of torture. The analysis is highly topical in view of recent and proposed restructuring of the UN human rights bodies and the debate surrounding the prohibition of torture.

Amrita Mukherjee examines the functions, procedures, and performance of the more specialised bodies monitoring the implementation of the prohibition of torture. The work of the Human Rights Committee, the Committee against Torture and the Special Rapporteur on the question of torture which together form the core of UN Charter and Treaty Based Monitoring is examined extensively.

In order to assess the impact of the monitoring system, the second part of the book looks at the contrasting experiences of the United Kingdom and India both of which have participated in the development of international human rights policy. A number of issues are examined in this context: the role and status of the public institutions that incorporate human rights standards; the anti-terrorism legislation and administration employed to respond to the increased security risks since September 11th, 2001; the preventative safeguards in place and how they have operated in practice and also the treatment of prisoners and conditions in places of detention. The aim is to further understanding as to how two States have responded to the spheres of influence of the UN human rights bodies under the special procedures and treaties and applied them to their legal and administrative systems.

The book will be useful to academics, scholars, and advanced students of Public International Law; UN Law; International Human Rights Law; and the Law of International Institutions.

*Dr Amrita Mukherjee* LL.B (Hons), LLM, Ph.D. is a lecturer at the School of Law, University of Leeds. She has published on the subjects of the prohibition on torture and the death penalty. She is a member for the Centre for International Governance at the University of Leeds and Director for the Programmes in International Law and International Trade Law.

TOWARDS THE INTERNATIONAL RULE OF LAW  
*Essays in Integrated Constitutional Theory*

Philip Allott

*ISBN 10: 1 905017 13 8 • ISBN 13: 978 1 905017 13 3 • Hardback • 490pp • 2005 • £125.00/US$250.00*

Integrated constitutional theory explores the problems and the possibilities of extrapolating the rule of law from the national to the global level and it explores the problems and possibilities of the intrusion of international law and international institutions into law and government at the national level.

*Towards the International Rule of Law* contains 14 essays, some of them published here for the first time, by a leading international legal philosopher, covering many of the most fundamental aspects of the emerging integration of the national and international constitutional orders.

The essays offer new and profound insights to stimulate the thinking of all those who need to think about the impact of the globalising world on national constitutional development and to all those who are seeking to integrate national constitutional experience into the making of the new international legal order.

*Philip Allott* is Professor Emeritus of International Public Law at Cambridge University, where he is a Fellow of Trinity College.
Transnational Corporate Liability
Accountability for Human Injury

Binda Sahni

ISBN 10: 1 905017 17 0 • ISBN 13: 978 1 905017 17 1 • Hardback • 2006 • £85.00/US$170.00

The sphere within which Transnational Corporations (TNCs) operate is continually expanding. From areas of pure commerce to the battle grounds of Iraq TNCs are required to tread the often fine line between corporate and public good. TNCs and their subsidiaries can and do inflict human injury and environmental damage in pursuit of corporate goals. However, despite their influence, TNCs are not above the rule of law.

TNCs may not only incur direct liability for human injury and death under public international law via state responsibility, but in the context of parent-subsidiary nexus, could also be liable under domestic and applicable international law in the municipal courts of home and host states.

Transnational Corporate Liability explores civil and criminal liability both from the national and international perspectives. It identifies standards of liability as these have evolved under company, tort, human rights and international case law, primarily in the common law jurisdictions. Also explored are means by which these standards may be strengthened in the future.

War Crimes and Human Rights
Essays on the Death Penalty, Justice and Accountability

William Schabas

ISBN 13: 978 1 905017 63 8 • Hardback • £95.00/US$190.00

This is a collection of essays and articles on human rights law and international criminal law authored by William Schabas, one of the most prominent contemporary scholars and practitioners. Particular attention is given to such topics as the limitation and abolition of the death penalty, genocide and crimes against humanity, the establishment and operation of the International Criminal Court and the ad hoc international criminal tribunals, truth and reconciliation commissions, reservations to human rights treaties, and the implementation of international human rights norms in domestic law.

William Schabas is director of the Irish Centre for Human Rights and Professor of Human Rights Law at the National University of Ireland, Galway. He has written more than 200 academic articles and 20 monographs, and his works have been translated into many languages, including Chinese, Russian, Spanish, Persian, Arabic, Albanian and Turkish. His works have been cited by the world’s leading international and constitutional tribunals and courts. Professor Schabas also has a distinguished career as a human rights practitioner, having conducted many missions on behalf of international non-governmental organisations. He served as one of three international commissioners on the Sierra Leone Truth and Reconciliation Commission, and sits as one of five trustees of the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights. Professor Schabas is an officer of the Order of Canada and a member of the Royal Irish Academy.
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En la segunda edición de su libro, Fernando Piérola presenta un panorama actualizado sobre la práctica en solución de diferencias ante la Organización Mundial del Comercio (OMC). Basado en la jurisprudencia producida por grupos especiales y por el Órgano de Apelación de la OMC, el libro se configura como un manual para practicantes sobre la forma cómo se presentan reclamaciones ante la OMC a la luz de las diversas interpretaciones de las disposiciones del Entendimiento sobre Solución de Diferencias y de la práctica en litigio.

A su vez, el libro presenta una descripción actual del debate académico relativo a los fundamentos sobre los cuales se sustenta el sistema de solución de diferencias de la OMC y un panorama estadístico global sobre el funcionamiento del sistema luego de más de diez años de experiencia.

Desde una perspectiva macro, el libro presenta un análisis de la interacción entre el mecanismo de la OMC y los diversos mecanismos de solución de diferencias en el ámbito latinoamericano, así como sobre la conveniencia de optar por uno u otro, y lo que queda de esperar del actual proceso de negociación conducente a la reforma del sistema.

La primera edición recibió el Premio al Mejor Libro 2003 de la Federación Interamericana de Abogados (FIA).

Fernando Piérola es Abogado de la Pontificia Universidad Católica del Perú y Master en Derecho Internacional y Economía del World Trade Institute de las Universidades de Berna, Fríburgo y Neuchâtel, Suiza.

Profesionalmente, Fernando Piérola se dedica a la práctica del litigio y la asesoría jurídica como Consejero del Centro de Asesoría Legal en Asuntos de la OMC, Ginebra. En este puesto, asiste a gobiernos de países en desarrollo en procedimientos de solución de diferencias ante la OMC y brinda asesoría en general a dichos gobiernos con respecto a los acuerdos de la OMC. Ha sido abogado litigante ante la OMC en diferencias relativas al banano (2005), el Sistema Generalizado de Preferencias de las Comunidades Europeas (2003), así como diversos asuntos relativos a medidas de defensa comercial y asuntos de aduanas.

**EL DERECHO DE LA ORGANIZACIÓN MUNDIAL DE COMERCIO**

*Tratados, jurisprudencia y práctica*

Bradly J. Condon


Este libro analiza todos los acuerdos de la OMC a la luz de la jurisprudencia y la práctica, especialmente incorporando los informes del Órgano de Apelación y de los grupos especiales desde 1995. Los informes adoptados de los grupos especiales, los árbitros y del Órgano de Apelación deben tenerse en cuenta cuando sean pertinentes para una diferencia y en las negociaciones comerciales internacionales.

Este libro se dirige a los abogados, los académicos y los oficiales de gobiernos y de organizaciones intergubernamentales. Para los abogados, es un manual práctico indispensable para preparar opiniones para clientes y para preparar argumentos en los litigios relacionados con el derecho OMC. El libro satisface las necesidades de los oficiales de gobiernos y de organizaciones intergubernamentales, tanto los que acaban de ingresar al campo como los que llevan años trabajando en esta rama de derecho. Para los académicos y los alumnos, este libro será el primer paso en la investigación y sirve como texto para los cursos y seminarios sobre el derecho OMC o el derecho económico internacional.

El derecho de la OMC es pertinente no solamente para las medidas relacionadas con el comercio internacional de bienes y servicios, sino también el derecho ambiental, las medidas para proteger la salud humana, el derecho de la propiedad intelectual, y hasta el derecho penal. Todos los Miembros de la OMC deben asegurar que sus leyes nacionales cumplan con sus obligaciones de la OMC. En los sistemas monistas latinoamericanos, el derecho de la OMC forma parte del derecho nacional.


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Trade with China is becoming an increasingly important part of the business of many multinational companies. But along with the benefits of China trade come certain risks. Among these risks is that trade in particular goods may be significantly disrupted by Chinese Government trade measures. Government imposed anti-dumping duties, countervailing duties sometimes closing the China market to foreign products altogether. China, even before its entry into the World Trade Organization, had initiated an aggressive programme of anti-dumping investigations and subsequent to its joining the WTO trade body continued with an aggressive anti-dumping investigation policy and most recently (in 2002) conducted a very far-reaching safeguards investigation of steel imports. Anti-subsidy investigations are authorised and will almost certainly commence soon.

For China the risks that trade disruption present to multinationals are, at least, twofold. On the one hand, China’s domestic market is among the most rapidly expanding in the world, and China’s WTO accession obligations will open that market even further over the next few years. WTO-sanctioned trade measures can effectively close off this market just as it promises to open. On the other hand, many multinationals now use China as their principal manufacturing platform. The economics of manufacturing in China often turn, however, on the ability to import supplies and components from outside China. A disruption in those supplies or a significant increase in costs can change those economics overnight - after a major capital investment in manufacturing facilities.

This journal examines China’s rapidly expanding trade remedy programmes, including the many anti-dumping investigations that China has already conducted, its dramatic steel safeguard measures in 2002, and its incipient countervailing duty enforcement programme. Expert commentary discusses the conformity of China’s trade remedy laws and practices with WTO standards, investigation practices that are likely to prove troublesome to foreign exporters (and their importers), and practical considerations for dealing with Chinese investigation authorities. The journal will include translations of all of China’s final decisions in anti-dumping and countervailing duty cases, as well as translations of all the rules that apply in China’s trade remedy investigations. Published as a loose-leaf, the journal will be updated twice annually.

About the Editors

Patrick M. Norton is a partner in O’Melveny & Myers’, Washington DC office. He was head of the firm’s Beijing office from 2002-2005and was with the Shanghai office from 1999-2002. A well-recognised attorney in both public and private international law, Patrick Norton has extensive experience in a broad range of international commercial transactions, litigation, arbitration and regulatory matters.

At the US State Department, he served as assistant legal adviser for East Asia and later for the Near East and South Asia. He represented the United States in numerous international negotiations, in litigation before the International Court of Justice, and in arbitrations before the Iran/US Claims Tribunal. For these services, Presidents Reagan and Bush awarded Pat the highest honours available to senior US government employees.

Peng Jiang is a partner in T&D in Beijing. He was an Associate of O’Melveny & Myers LLP, China Practice Group. Mr Jiang has extensive experience in WTO enforcement rules under the trade remedy agreements (anti-dumping, anti-subsidy and safeguard) as well as foreign direct investment in China. He advised clients on legal issues relating to China’s accession to the World Trade Organization and represented clients with respect to various industries including steel and chemical products involved in international trade remedy investigations.

Nathan Bush is a counsel in O’Melveny & Myers’, Beijing office. Nate’s practice focuses on regulatory matters and litigation arising under laws and regulations governing international trade and investment. He has represented clients from Australia, Belgium, China, South Africa, Spain and the United States in anti-dumping proceedings before the US Department of Commerce, the US International Trade Commission, and the US Court of International Trade. He has also advised clients from the United States and Japan regarding Chinese anti-dumping proceedings in China and represented multinational companies before the US and Chinese governments on issues involving China’s WTO accession commitments.

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The International and Comparative Corporate Law Journal, as its name indicates, is a journal devoted to the scholarly analysis of the law and practice relating to corporations, on an international and comparative basis. While the law relating to corporate enterprise is properly practical in orientation, scholarly discussion and deliberation has a clear role to play not only in the development of the law and regulatory environment, but also in the application of the existing law and, in particular, its interface with other related bodies of law.

The journal is published under the auspices of the Institute of Advanced Legal Studies of the University of London and the Centre of European Law and Integration of the University of Leicester.

We will, of course, continue also to enjoy the institutional support of many other distinguished research institutions and universities around the world and most importantly the Centre for Comparative Corporate Law at the University of the Free State in South Africa. Articles and contributions from around the world will be refereed by a panel of acknowledged experts in the relevant area, and therefore the journal will provide a reliable, authoritative and learned source of inspiration for the further development of the law of corporate enterprises.

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INTERNATIONAL CRIMINAL LAW REPORTS

Edited by Rodney Dixon and Karim A. A. Khan

ISSN: 1471-4310 • Loose Leaf or Electronic • Annual

Current Subscription: Volume 5
Subscription Price: £350.00/US$700.00 (Please contact us for a special offer on Volumes 1 to 4)

The International Criminal Law Reports (ICLR) publishes decisions of international and national courts from around the world that are relevant to the rapidly expanding field of international criminal law. Ground-breaking developments have recently occurred in the area:

• the permanent International Criminal Court (ICC) in force as of July 2002
• numerous high-profile trials before international war crimes tribunals for the former Yugoslavia and Rwanda, including those of Milosevic
• the heightened world focus on terrorism and global security issues
• the proliferation of domestic proceedings concerned with war crimes and human rights violations, including the widely publicised Pinochet case, and proceedings in Belgium against foreign state officials
• the development of interstate mutual assistance and enforcement procedures to address cross-border crime, such as the European arrest warrant proposal
• the emergence of methods of combating offences committed through new information technology and the internet

International criminal law impacts on the public, private and commercial sectors. The body of law includes war crimes, the ICC, terrorism, extradition, state mutual assistance, money laundering, international corporate liability, drug trafficking and computer and internet crime, together with human rights law. International criminal law is practised and enforced before both national and international courts, with many innovative approaches being adopted to meet the new challenges of a burgeoning field.

The International Criminal Law Reports publish, cross-reference, and comment upon these precedents. They provide an invaluable resource for practitioners in domestic and international jurisdictions (including the ICC), who are increasingly required to cite and compare authorities from foreign courts, and for policy-makers, advisers, academics and researchers. The cases, although often recorded in different national or other law reports, have never before been selected and printed together with a commentary for ease of reference and comparison as is done by the ICLR.

Rodney Dixon is a barrister at Matrix Chambers, London. He practises in the criminal and public law and human rights fields at both the national and international levels. His areas of practice cover: criminal law, both prosecution and defence work; international criminal law, particularly extradition and mutual assistance; war crimes and international humanitarian law; administrative law and judicial review; human rights and European law; public international law; licensing law and civil litigation, especially with human rights or international law dimensions.

Karim A. A. Khan is a barrister practising at 2 Hare Court, Temple, London, a leading set specialising in national and international criminal law and human rights. He has worked as a senior crown prosecutor and at the Law Commission of England and Wales. From 1997-2000 he worked as a Legal Adviser in the United Nations International Criminal Tribunals for the Former Yugoslavia and Rwanda. Since 2000 he has acted in numerous international cases including as lead defence counsel for Charles Taylor before the Special Court for Sierra Leone, before the Special Panels for Serious Crimes in East Timor, and in various cases before the ICTY. He has lectured widely on international criminal law and human rights and is a Senior Research Fellow at King's College, London. He is the co-author of Archbold International Criminal Court, a contributor to Human Rights Practice (Sweet & Maxwell) and co-editor of the International Criminal Law Reports (Cameron May) and A Commentary to the Rome Statute (Baden-Baden).
The Dispute Settlement Body (DSB) of the WTO is now recognised as the most influential legal institution governing world trade. It has become the final arbiter of international trade disputes between the 150 countries that are members of the WTO.

The ramifications of decisions made by the DSB are enormous, not only in terms of their economic impact but also as an evolving body of law, with direct and indirect effects on national law. The cases and decisions are becoming increasingly complex, with some running to over 1000 pages.

The International Trade Law Reports detail DSB decisions in full with annotations and commentary putting the cases in their legal and economic context. These reports comprise the most comprehensive and up-to-date source of information available.

The commentaries are written by a wide variety of independent lawyers, government personnel and consultants. This unique combination of economic and legal commentary, and the expertise of the authors, makes the International Trade Law Reports the most comprehensive and accessible source of materials on the DSB available anywhere in print.

Available as a loose-leaf publication, inserted into a hard binder, and updated every time a new report becomes available, this is the essential tool for all those involved in the crucial and evolving debate surrounding international trade.

The International Trade Law Reports are also available in an electronic format, for the same price as for a single-user licence. This is in Adobe Portable Document Format™ (PDF) on a fully searchable CD-ROM. This provides users with the added advantages of key-word searching, and will be invaluable for specific research.

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ISSN: 1750-7499 • Annual

Current Subscription: Volume 4 (May 2010 - April 2011)
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Journal of European Criminal Law is a new quarterly journal produced with the support of the European Criminal Bar Association (ECBA). The general editors and most members of the editorial board are active members of the ECBA.

The growing incursion of EU law into the criminal field raises many issues of significant practical importance for all lawyers and especially criminal lawyers, including state prosecutors, judges, national legislators of Member States and the EU as legislator.

Amongst these are issues concerning:

- the substantive criminal law deriving from the EU Treaties, EU Legislation and under the European Convention on Human Rights and Fundamental Freedoms
- the protection of the rights of accused and suspected persons; problems of access to justice and ineffective remedies
- identification of substantive and procedural criminal laws at national level which require alignment in order to promote the essential freedoms of the EU, and to ensure common standards as regards defence rights
- EU agencies such as Europol and Eurojust; the European Arrest Warrant and other EU initiatives on criminal law and procedure
- harmonisation of criminal law within the EU; definition of the appropriate level of harmonisation.

The Journal of European Criminal Law attempts to address these and all other questions pertaining to the topic. It is written primarily by practising lawyers for practising lawyers and the legislator. It seeks clear and practical answers to questions which are often complex from a legal, factual and political perspective. It seeks also to stimulate serious and informed discussion among lawyers and between lawyers and the legislator.
THE NAFTA ARBITRATION REPORTS

Edited by John Magnus

ISSN: 1477-3422 • Looseleaf or Electronic • 2007 • £460.00/US$920.00 • Annual

The NAFTA Arbitration Reports will be the first comprehensive collection of NAFTA arbitral awards and decisions as well as decisions of national courts reviewing awards. Since NAFTA’s general dispute settlement process yields important interpretations of the agreement as a whole, those panel reports will be included as well. Each reported decision will be prefaced with a succinct summary and a list of authorities considered. Cases of particular interest or controversy will be accompanied by the commentary of experienced counsel and scholars.

The NAFTA Arbitration Reports will be an invaluable resource for practitioners advising investors seeking to enforce their rights under the NAFTA, other investment treaties, or the ICSID Convention; for government lawyers responsible for defending investor-state claims; for officials responsible for negotiating trade and investment agreements; and for scholars, NGOs and other observers interested in this rapidly developing area of international law.

The first issue will contain 13 reports from 1998 to the present. This will be included in a loose-leaf binder that will accommodate further reports. These will be published as and when the decisions become available. We hope that, given the occasional difficulty in obtaining the reports, you will find the NAFTA Arbitration Reports the most useful regular publication on the area.
WTO DECISIONS
A Comprehensive Topical Index

Edited by C. Christopher Parlin and David Stewart Christy, Jr.

ISSN: 1745-3615 • Loose Leaf + CD ROM • Annual

Subscription Price: £175.00/US$350.00

WTO Decisions: A Comprehensive Topical Index is a research tool prepared by attorneys for attorneys (and other WTO experts) involved in WTO dispute settlement proceedings. We initially created it for our own use to give us a leg up on the competition. The Topical Index allows attorneys and other WTO experts quickly to ascertain the state of play when faced with a specific question regarding a provision of a WTO agreement and how it should be – or, in any case, has been – interpreted by WTO dispute settlement panels or the Appellate Body. It is a table of provisions of the WTO agreements that references specific citations for each interpretation of the provision by a dispute settlement panel, the Appellate Body or, in a few instances, by the Secretariat or a committee. The Topical Index also catalogues findings that do not relate to specific WTO agreement provisions, eg findings regarding rules of interpretation, evidence and practice; panel and Appellate Body procedures; and issues relating to implementation of Dispute Settlement Body recommendations.

The Topical Index is a concise guide to how WTO panels and the Appellate Body have interpreted various provisions of the WTO agreements. It provides no commentary or analysis; it is a research aid to be used in conjunction with the texts of dispute settlement reports (available online (in English) at http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm and commentaries on WTO issues and decisions. We have included as an Appendix a list of GATT/WTO resources that we have found particularly useful in our WTO practice.

The Topical Index will always be a work in process because panels and the Appellate Body regularly issue new reports; we intend to update it on a quarterly basis. (At present, it covers all reports issued prior to 3 September 2004).

About the Authors

C. Christopher Parlin is a Member of Miller & Chevalier Chartered. For over 25 years, Mr. Parlin has focused on GATT/WTO issues and US trade policy, initially as a US government official and later in private practice. Since leaving the USTR in January 1995, he has represented government and corporate clients on international trade policy and trade litigation matters, focusing on the WTO agreements, and negotiations and dispute settlement under them. He was the first non-government attorney to argue before the WTO Appellate Body (EU Banana Regime) and a WTO dispute settlement panel (Indonesian Autos). He serves as Adjunct Professor at the Georgetown University Law Center, where he teaches courses on the WTO agreements with Professor John H. Jackson and he is a founding member of the faculty of the prestigious Academy of WTO Law and Policy of GULC’s Institute for International Economic Law.

David Stewart Christy, Jr. is a Member of Miller & Chevalier Chartered. Since the formation of the WTO in 1995, he has represented WTO members – including Argentina, Brazil, Canada, Indonesia, Korea, Jamaica, Japan, Poland and St Lucia – in dispute settlement negotiations and proceedings. With Chris Parlin, he was the first private counsel to represent a Member in a WTO dispute settlement proceeding. In addition to dispute settlement and other global trade and competition matters, since 1999, Mr Christy has served as Adjunct Professor of Law at the Georgetown University Law Center, teaching courses on the WTO and US implementation of the Uruguay Round agreements. Also, he is a founding member of the faculty of the prestigious Academy of WTO Law and Policy of GULC’s Institute for International Economic Law.
INVESTMENT ARBITRATION REPORTS

General Editor: Professor Robert Howse

In the last decade the number and importance of investor-state disputes submitted to international arbitration has grown exponentially, so that this area is now an important field of international legal practice. However the case law under the various arbitration facilities and fora (ICISID, UNCITRAL, Iran Claims Tribunal, Energy Charter) and the relevant treaty and other legal texts have never been systematically collected and organised in printed volumes accessible to the professional community. This series of volumes is intended to fill the gap.

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Key Investment Decisions 1800-1990 part 1 and 2 will reproduce more than 100 arbitration awards most cited by tribunals and advocates, from the 19th century up to the period around the end of the 1980s when the explosion in investment arbitration began. These include investment-related decisions of Permanent Court of International Justice, the International Court of Justice, the Permanent Court of International Arbitration, various ad hoc claims commissions, and early awards under the major arbitration facilities such as ICSID and UNCITRAL. A brief head note will summarise the facts and key findings of each case, and most importantly, its jurisprudential significance seen from the perspective of recent investor-state disputes. Volume 1 will contain an introduction explaining the diverse contexts and fora out of which investment law jurisprudence has developed, and identifying the different eras and waves of caselaw.

Volume 3 - Investment Arbitration Procedures will gather together the rules and related procedural material for the major arbitration facilities such as ICSID and UNCITRAL, as well as treaty and other legal texts related to the enforcement of arbitral awards, annulment proceedings, and judicial review in domestic jurisdictions of importance.

Beginning winter 2008 the Reports will take a loose-leaf form with quarterly updates. These Reports will include not only the caselaw of investment arbitration but amendments to procedural rules and new procedural material, as well as texts of new bilateral investment treaties, amendments to bilateral treaties, investment provisions in regional or plurilateral trade agreements, and amendments to these agreements, as well as related instruments.

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