

# Book Review

**ESSAYS ON THE FUTURE OF THE WORLD TRADE ORGANIZATION  
VOLUME I, POLICIES AND LEGAL ISSUES  
VOLUME II, THE WTO JUDICIAL SYSTEM: CONTRIBUTIONS AND  
CHALLENGES**

**Julien Chaisse & Tiziano Balmelli, Eds.  
(Editions Interuniversitaires Suisses – Edis 2008)**

*Reviewd by ACWH\**

The matters covered by the World Trade Organization (WTO) are extensive and thus international economic affairs are widely regulated or affected by the comprehensive WTO rules. These rules and their practices have been the bases of the development of numerous enriched and diverse scholarly writings and schools of thoughts. Many people write to discuss the WTO from historical perspectives. More people analyze WTO rules and jurisprudence. Others look at the challenges and real or potential problems faced by the WTO and explore possible solutions. The two volumes of “Essays on the Future of the World Trade Organization” not only include papers to analyze the WTO rules and cases, but also review challenges and propose solutions.

The editors of the books are able to invite scholars from different countries to address the structural and practical problems of the WTO and to propose possible ways of solving them. The essays not only include the review of the WTO structure, but also correctly point out new challenges arising from the organizational structure itself, from past practices and from negotiations.

The editors group the essays in two volumes, the first of which deals with policies and legal issues, such as some WTO Members forming a bargaining coalition at the Doha negotiations, the agricultural negotiations, the services negotiations, the foreign investment issues, the WTO decision

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\* Asian Center for WTO and International Health Law and Policy, National Taiwan University College of Law.

making, the protection of intellectual property rights, the telecommunication services, the anti-dumping measures, the precautionary principle and the trade in cultural products. The second volume discusses the WTO judicial system, including the good faith principle, State responsibility, SPS and scientific evidence, quantitative restrictions and the affirmative defense, reforming the WTO Dispute Settlement Understanding from the India perspective, the repeal of the WTO appeal process, the private party involvement in the dispute settlement procedures, trade sanctions, and monetary compensation.

Although many of the issues are also discussed elsewhere, there are new ideas and forceful thoughts and arguments being developed and presented in these essays. Here are just a few examples to show the innovative views or methods being presented and applied: In the discussion of the status of the precautionary principle, the author examines, analyzes and compares the WTO reports and the ICJ cases and concludes that the principle has not acquired the status of a rule of customary international law, but it has exerted an impressive influence on policies at international, regional and national levels.<sup>1</sup> In the discussion of cultural products under the WTO and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression, the author effectively shows that when a country declines to liberalize a cultural sector, it should be able to argue that the Convention recognizes domestic cultural policies as important “national policy objectives” justifying exempting them from the process of liberalization under Article XIX of the General Agreement on Trade in Services (GATS), which requires Members to “enter into successive rounds of negotiations . . . with a view to achieving a progressive higher level of liberalization.”<sup>2</sup>

For instance, when discussing the possibility of monetary compensation being part of the dispute settlement mechanism, the author clearly clarifies the nature of monetary compensation, and its relations with the most-favored-nation principle and with developing countries’ access to the dispute settlement system.<sup>3</sup> For instance, when elaborating upon private parties’ involvement in the dispute settlement procedure, the author suggests to grant a right of individuals to recover damages suffered as a direct result of persistent and arbitrary non-compliance with Dispute Settlement Body decisions.<sup>4</sup>

No one can expect to have simple and straightforward answers to the

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<sup>1</sup> ESSAYS ON THE FUTURE OF THE WORLD TRADE ORGANIZATION, VOLUME I, POLICIES AND LEGAL ISSUES 382 (Julien Chaisse & Tiziano Balmelli eds., 2008).

<sup>2</sup> *Id.* at 418.

<sup>3</sup> ESSAYS ON THE FUTURE OF THE WORLD TRADE ORGANIZATION, VOLUME II, THE WTO JUDICIAL SYSTEM: CONTRIBUTIONS AND CHALLENGES 338-41 (Julien Chaisse & Tiziano Balmelli eds., 2008).

<sup>4</sup> *Id.* at 280.

problems and challenges encountered by the WTO, but the books cover a very broad range of related issues and try to come up with new proposals or solutions. These two volumes are of useful reference for understanding new issues under the multilateral trading system as well as good sources to brainstorm possible solutions for these issues.