

safeguard and the underlying investigation' and '[t]he obligation has been treated as so fundamental that, despite its procedural nature, its violation leads to the violation of the underlying substantive requirement. It is the major hurdle that in all cases has determined the WTO-inconsistency of all safeguards challenged before panels and the AB.'

These differences exist even though all three legal instruments were negotiated within the same timeframe. To enhance transparency and due process, any future versions of these agreements might wish to incorporate the best of both 'fair' and 'unfair' trade remedy instruments.

While the book does an excellent job in what it covers, this reviewer missed a discussion of the relationship between the WTO safeguards regime and similar regimes in FTAs, which often gives rise to confusion on the part of the responsible authorities, for example, in the sense that when a WTO member has concluded an FTA with another FTA member it does not necessarily mean that an AS safeguard measure could not be applied to the FTA partner. Furthermore, useful reference documents such as the text of the AS and the document of 19 October 2009 in which the WTO members agreed on the contents of the various notifications to the Committee on Safeguards, mandated by Articles 9.1 and 12 of the AS,⁴ could have been added as annexes, so that the book could serve as a stand-alone reference work. Hopefully, these minor shortcomings can be remedied in the second edition.

The book is highly recommended for investigating authorities, trade negotiators, lawyers/consultants, and others with an interest in this 'evasive' (p. 368) instrument. In light of the explosion of safeguard investigations and measures in recent years,⁵ the publication of this book certainly comes at an opportune time and hopefully will prevent some of the more dubious safeguard cases in the future. Piérola notes that 'given the obscurity of many of their operational aspects, it is likely that [safeguard measures] are being displaced by the use of other trade-restrictive devices, in particular anti-dumping and countervailing duty measures'. In light of the bluntness of the safeguards instrument,⁶ this may not necessarily be a bad development.

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A Global History of Trade and Conflict since 1500

edited by Lucia Coppolaro and Francine McKenzie

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This book contains a series of nine essays (as well as an introduction and conclusion) on a wide variety of topics, all of which examine the question of whether, in Montesquieu's

⁴ WTO Doc. G/SG/1/Rev. 1, G/SG/N/6/Rev 1, G/SG/89, 5 November 2009.

⁵ As Piérola notes at 367, '[s]afeguard and safeguard investigations are a day-to-day business in many parts of the world, particularly in developing countries.'

⁶ Compare Vermulst, Pernaute, Lucenti, Recent EC Safeguards Policy: Kill Them All and Let God Sort Them Out?, 38:6 *Journal of World Trade*, 955–984 (2004).

words, ‘the natural effect of commerce is to lead to peace’ (Montesquieu, 1989). The book starts from the opposite perspective, quoting a Governor of the Dutch East Indies Company in the early seventeenth century to the effect that ‘we cannot make war without trade nor trade without war’ (p. 1), and attempts to examine, through a series of case studies, whether there is substance to the connection between trade and peace.

Like its cousin, the democratic peace (democracies do not go to war with each other), Montesquieu’s concept that trade leads to peace is the subject of an extensive academic literature that lends much support to both sides of the debate. As the editors point out in their introduction, the last 500 years have seen a recurrence of ‘trade-related violence, coercion, brutality, destruction, and, in its most extreme form, warfare’ (p. 1). Whether ironically or not, Montesquieu’s concept reached its apogee as a basis of government policy in the aftermath of the most bloody of all wars when US Secretary of State Cordell Hull made free trade a cornerstone of US policy for the reconstruction of the post-World War II international economic order. According to Hull, ‘unhampered trade dovetailed with peace; high tariffs, trade barriers, and unfair economic competition, with war’. Elsewhere in this collection, this is referred to as the ‘great truism of the post-World War II era’ (p. 124).

This collection does not purport to provide a rigorous analytical examination of whether commerce leads to peace. Readers can find such an analysis in the writings of Katherine Barbieri and other scholars cited in the introduction to this book. This collection is rather an anecdotal overview of trade-related conflict in specific historical contexts. The essays are arranged in chronological order. The early essays cover historical events in which the concept of trade is more or less synonymous with plunder, pillage, or exploitation. These include conflicts between Portugal and China in the South China Sea in the early sixteenth century, conflict over the Cape trade route in the seventeenth century, the Haitian Revolution of 1791–1804 and sugar trade, and the Continental Blockade, and the Napoleonic Wars. Well-developed and informative as these essays are, they seem to be of mostly historical interest. In these chapters, the relationship between trade and (usually violent) conflict is that of the chicken and the egg described by the Governor of the Dutch East Indies Company quoted above: it is difficult and ultimately not that productive to try to figure out which came first. These essays suggest that, at the time of writing of *The Spirit of the Laws*, Montesquieu’s theory was as much aspirational as grounded in reality or experience. However, it is occasionally difficult to determine their relevance to the contemporary interpretation and application of the Montesquieu/Hull doctrine.

As the book moves forward chronologically, the essays begin to cover topics of more immediate historical relevance, including: (i) Britain’s renewal of imperial trade between the two world wars; (ii) Winston Churchill’s trade policies and use of rhetoric on trade-related topics; (iii) global wheat trade; (iv) the evolution of the GATT from 1947 to 1967 (by the editors); and (v) US President Richard Nixon’s trade policies. These essays address more directly the role and effects of trade in the contemporary international order.

Perhaps the overriding impression from these informative and well-written essays is that any consideration of Montesquieu’s theory depends largely on how one defines both ‘trade’ and, in particular, ‘conflict’. In this collection, conflict is defined very

broadly, such that trade is by definition inherently conflictual. The editors – and several of the contributors – take what the editors describe as an ‘inclusive’ definition of conflict (p. 3): under this ‘inclusive’ approach, ‘conflict was embedded in the GATT’ and was also ‘entrenched in trade relations between the developed and developing countries’. Similarly, in an enjoyably stimulating conclusion to the book, titled ‘Dismissing the Kantian View of Trade and Peace’, Professor Renato Galvão Flôres says that we should accept that trade relations are conflicting and move on from the doctrine that commerce leads to peace (which, incidentally, Professor Galvão Flôres attributes primarily to Kant’s *Perpetual Peace* rather than to Montesquieu). Based on the view that trade is inherently conflictual and that the current trading system has not led to a nirvana of peace between nations, the theory is more or less discounted. And logically so: if the definition of trade is that it is inherently conflictual, how can it lead to peace?

But it is not clear that the leading exponents of the ‘commerce leads to peace’ theory intended it to mean that trade would in itself be a panacea. Montesquieu recognized that while commerce may unite nations, it would not necessarily unite individuals. Cordell Hull also clearly had a more nuanced vision and recognized that to promote peace, trade must promote the development of living standards: ‘Though *realizing that many other factors were involved*, I reasoned that, if we could get a freer flow of trade – freer in the sense of fewer discriminations and obstructions – so that one country would not be deadly jealous of another and the living standards of all countries might rise, thereby eliminating the economic dissatisfaction that breeds war, we might have a reasonable chance for lasting peace’ (Hull, 1948). Hull’s views were developed in response first to the Great War (which came, of course, after the first intense period of globalization: a black eye for the theory) and, secondly, to the lead up the Second World War, in which Nazi Germany stood apart from the trend of negotiated trade agreements that began after the United States enacted the Reciprocal Trade Agreements Act in 1934. The stakes Hull had in mind in his time were perhaps greater than we now can credit.

In these circumstances, it may be excessive to throw the Montesquieu/Kant/Hull baby out with the bathwater of the commercial rivalries inherent in trade relations. As one contributor to this book, Thomas W. Zeiler, notes in his chapter on Richard Nixon’s trade policies, ‘trade conflict, and jockeying for advantage, should not be considered belligerent, at least in the long-run’ (p. 207). The fact that ‘jockeying for advantage’ in trade matters is now done in the halls of the WTO and other negotiating fora, rather than in the kind of armed conflict described in the early chapters of this book, surely counts in favour of Montesquieu’s theory rather than against it. Even if trade is seen as inherently conflictual, it is surely still better that those inherent ‘conflicts’ are addressed in a peaceful rather than a non-peaceful manner. Professor Galvão Flôres is, of course, correct to observe that ‘[c]onciliation measures must be at the core of international relations, and this has nothing to do with the fact that trade should not be blindly taken as an instrument of peace’ (p. 218). As Daniel Patrick Moynihan once wrote, however, ‘The General Agreement on Tariffs and Trade adjudicates international [trade] disputes by the hour. If such disputes seem marginal today, it may be remembered that for centuries European powers routinely went to war over trade issues’ (Moynihan, 1990).

Thus, the existence and functioning of the multilateral trading system in itself speaks in favour of Montesquieu's theory, even if, as Professor Galvão Flôres notes: 'The WTO exists because trade is conflict: it will never lead us to a rosy garden of free, perpetually peaceful trade. Not at all; it will through considerable trouble and strife mend fences, try to impose close to 'fairer practices' in the swiftly changing trade flows and stand as one of the (fragile) barriers to more drastic approaches to conflict resolution' (p. 219). The important question, however, is not whether the WTO or trade itself will lead to a rosy garden of free and perpetually peaceful trade, but the extent to which the opening of countries to trading freely with each other in a rules-based multilateral trading system really is a barrier to more drastic approaches to conflict resolution. And here – fortunately – we can only guess as to exactly how many lives have been saved or wars avoided by trade-based projects such as the European Union. We should not be too quick to discount the value of such projects simply because imbalances remain in the world economies or because trade relations continue to involve more 'jockeying for advantage' than is sometimes seemly. Notwithstanding this, as the editors acknowledge in their essay on the first 20 years of the GATT, 'the underlying confidence [in the GATT] that freeing trade would generate economic interdependence that would make the world more prosperous, stable and peaceful proved to be surprisingly resilient even though the path by which it was reached was strewn with discord' (p. 182).

I enjoyed all of the essays in this book, covering as they do a range of topics of historical interest that one would not normally encounter, such as the chapter on the Haitian Revolution or trade in the Napoleonic Wars. Some, such as the chapter on Churchill's trade rhetoric, were of considerable personal interest but seemed to be only tangentially related to the relationship between trade and conflict, at least in terms of Montesquieu's theory. I would therefore recommend this book primarily as an enjoyable history of trade rather than as a forensic examination of the relationship between trade and conflict.

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