LEGAL CULTURE

Book Review – Stefan Griller, ed., *International Economic Governance and Non-Economic Concerns: New Challenges for the International Legal Order*

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[Stefan Griller, ed., *International Economic Governance and Non-Economic Concerns: New Challenges for the International Legal Order*, Springer, Vienna/NewYork, 2003, 516 pages, softcover, €85, ISBN 3-211-83823-6]

This book is the result of a conference held in Vienna in December 2001 on "International Economic Governance and Non-Economic Concerns: Transparency, Legitimacy and International Economic Law". This meeting focused on the increasingly important attention paid to non-economic issues. These issues do not pertain to the "world trade classics" normally devoted to market access and reduction of barriers to trade. Items such as legitimacy, democracy, human rights, environmental protection and labour standards become ever more relevant to international trade law where a more thorough balancing of interests is due to take place. This book offers a *tour d'horizon* of what is alleged to be the end of "pure economic governance." Composed of six sections, this publication contains fifteen contributions developing six themes: *i.e*. the relation of economic and non-economic principles in international law, democracy and legitimacy, human rights, labour standards, environmental concerns and transparency.

The section devoted to the relation of economic and non-economic principles in international law has been dealt with by a single contribution of Meinhard Hilf and Goetz J. Goettsche.

The authors stress that no legal system can work satisfactorily with only written provisions. Legal Principles are necessary to complement written rules and to build law into a coherent system. The WTO agreements are by no means an exception to that fact and do contain such principles, as the preamble makes it clear at its last paragraph, which can be used in interpreting written provisions. The author argues

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https://doi.org/10.1017/S2071832200012074 Published online by Cambridge University Press

that the recognition of unwritten principles does not "add or diminish the rights and obligations provided in the covered agreements."[1] The Appellate Body has refused to construe WTO law as being in "clinical isolation" from general public international law and has made reference to treaties covering non-economic interests such as environment, human rights, etc. In case of conflict between economic and non-economic principles, all relevant principles should be taken into account on an equal basis and balanced according to their respective relevance for the given case by making use of the proportionality principle.

The second section, devoted to Democracy and legitimacy, is composed of 5 contributions.

First, J. H. H. Weiler and Julia Motoc address the issue of the normative challenges to the international legal system. The methodology used to analyse international law followed a geological approach. Three strata have been identified in the Twentieth Century, which are captured by reference to the transactional, the communitarian and the regulatory dimension of international law: the oldest discloses a predominance of bilateral, contractual treaties; the second is characterized by multilateral law-making treaties and the third is often associated with a bureaucratic apparatus and shows a greater emphasis on the creation of positive obligations as well as a far greater direct or indirect effect on individuals and national social values. Coupled with the international practice of management, the regulatory layer can also be referred to as governance. However, one should speak of governance without government and without governed since there is no element of accountability and representation. The change in sensibilities towards the legitimation of power and the turn to governance of international law create a considerable normative challenge to the international legal order. There is no easy conceptual template from the traditional array of democratic theories one can employ to meet the challenge. It is not a question of adapting national institutions and processes to international contexts. What is required is both a rethinking of the very building blocks of democracy and a search for alternative legitimating devices which would make up for the non-applicability of some of the classical institutions of democracy. It is argued that the widening and deepening of international law has been beneficial to mankind and that the rule of law is a necessary element and condition for a functioning democracy at both national and international level. However, an international system powerfully skewed to results and based mostly on outputs, but to a limited extent on inputs, would disclose a weak legitimacy.

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Robert Howse wonders about "Democratic Deficit" at the WTO through the following threefold inquiry: are the WTO rules sufficiently underpinned by democratic consent; is the substance of the rules themselves democracy-enhancing or undermining; is there an adequate initial act of consent to the rules to bind tomorrow's majority?

As to the first issue, Robert Howse uses the model of representative democracy, which operates through a principal-agent relationship, in that the consent of people's representatives normally substitutes for direct expression of popular will. Under this model, the problem of democratic deficit is essentially a problem of "agency costs," due to differences in interests between agents and principals and to information asymmetries. GATT/WTO law is an area where information asymmetries between legislators and negotiating agents have traditionally been very severe, and where delegation of negotiating authority for multilateral trade rules are liable to entail significant agency costs. Ex post legislative scrutiny of negotiated rules is largely perfunctory in that the legislature has no real possibility to reshape the package in a manner that makes it better reflect voters' preferences. Ex ante control over negotiating agents could remedy the insufficiency of ex post control, by giving strict mandate and guidelines. However, such ex ante constraints would substantially limit the capacity of negotiating agents to achieve compromise with the position of other member states. Monitoring of agent's on-going activity by requiring agents to extensively consult legislators is also a possible approach.

Concerning the issue of whether WTO rules are themselves democracy-enhancing or undermining, it is argued that GATT rules largely constrain protectionism, but do not as such constrain democratic regulatory choices. Protectionism is almost always considered as an inefficient instrument for achieving legitimate public aims, and GATT rules limit themselves in requiring justification of trade protection as a necessary or legitimate public policy in the circumstances. Consequently, the rules can be understood as requiring a procedure of public justification for regulations and disciplining the process by which choices are made, including requiring policymakers to have at least turned their minds to alternatives less restrictive of trade.

As to the last issue, Robert Howse notes that adhesion to international agreements is a mechanism by which today's government, or today's majority, can bind tomorrow's. This is true for traditional international agreements with decentralized approach to interpretation and enforcement. However, less evident is the case of the WTO, which operates with a compulsory and binding judicial dispute settlement. In the case where a WTO rule or its interpretation has come to be seen as democratically illegitimate, non-compliance, or civil disobedience, remains a possible option. WTO rules and their interpretation are not reversible in a way that is analogous to the ability of domestic polities to change all but a small number of constitu-

https://doi.org/10.1017/S2071832200012074 Published online by Cambridge University Press

tional rules through a routine expression of democratic will within that country. Arguably, more room for reversibility in commitments with opt-outs and safeguards could address the problem of high cost reversibility.

Armin von Bogdandy investigates the interpretative approaches to WTO law and the prospects of its proceduralisation in the perspective of international economic governance legitimacy.

At first sight, Von Bogdandy acknowledges that the WTO adjudicative mechanism in itself is a law generating procedure, which develops in an autonomous manner a substantive body of law through the dispute settlement. In fully developed legal systems, the creative function of the judges is democratically embedded since the legislator can intervene at any given moment. However, no such legislator exists for WTO law since amendments entail extremely cumbersome procedures. If this circumstance might not appear too problematic within the framework of most international agreements due to the limited and specific scope and obligations they cover, it becomes far more problematic with respect to WTO law because it addresses a dynamic, rapidly changing field.

Von Bogdandy investigates three different models of construction of WTO law. The first understanding is the liberal model, which interprets WTO law as an instrument to substantially restrain the grasp of domestic politics on the economy and to increase international competition and, to some extent, deregulation. The second is the federal or governance model, which aims to equip the international legal regimes with more policy functions. The third, which is preferred by the author, is the coordinated interdependence model. This latter model tries to find a balance between the increasingly transnational nature of the economy and the WTO-member's responsibilities under their respective constitutions. It tends to ensure that affected foreign interests are adequately recognized and taken into account in domestic policy formulation. This leads to some proceduralisation of the application of domestic regulatory programs, in that foreign interests must enjoy a right to be heard. Members are obliged to give reasons in proceedings for the permission to import and sufficient legal protection against the denial of such permission. The Appellate Body extends basic elements of the democratic principle and the rule of law to aliens. Only when these requirements have been met, does the importing Member remain free to pursue its domestic preferences and interests.

Gerhard Hafner studies the effect of soft law on international economic relations. He concludes that soft law instruments are a useful option in circumstances where treaties are not within the reach of the States. Indeed, although their effect on international relations primarily depends on their contents and the context of their elaboration, their impact must not be ignored. Such is even more the case in view of

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the advantages soft law has over hard law, especially in terms of flexibility, adaptability, confidence building and reduced formal procedures costs.

Elisabeth Tuerk closes the second section of this book by addressing the issue of the role of non-governmental organizations in the work of the WTO in view of the legitimacy crisis with which the WTO is allegedly faced. This lack of legitimacy is essentially residing in the lack of internal as well as external transparency as far as the consensus building process is concerned and in view of the fact that WTO working meetings are closed to the interested public. The issue of NGOs' participation has given rise to much controversy and discussion. Proponents of NGOs' participation put forward that they would serve as "connecting tissue," bridging the gap between WTO decision-makers and the distant constituencies affected by trade policies. NGOs' could also serve as intellectual competitors to governments, especially in view of the vast body of technical expertise on an important range of issue areas affected by trade policies. Moreover, NGOs are not constrained by political processes or by their geographically limited mandate. Opponents to NGOs' participation essentially stress that such participation would undermine the status of the WTO as an intergovernmental body. It is also claimed that many NGOs traditionally pursue Northern topics and that granting them greater participatory rights would therefore further tip the balance towards Northern interests *vis-à-vis* the South. Developing countries have expressed their reluctance to greater NGO involvement since, through the defence of interests such as environment or labour standards, they might pose threats to increasing developing countries' exports and improving their economic performance. However, developing countries already face some problems in WTO decision-making processes, due to a combination of several factors such as lack of financial resources and technical expertise, informal and in-transparent decision-making processes and insufficient political clout. It could then be argued that NGOs can provide remedies to improve developing countries' positions with respect to all of these aspects and thereby strengthen and complement existing efforts to improve developing countries participation in the WTO. Indeed, NGOs can act as resource enhancers by providing technical expertise to developing countries, namely in the fields of health, genetic resources or environment policies, as well as in TRIPS issues. NGOs can also be useful in addressing specific ex post and ex ante information needs arising in informal, power based decision-making processes. Moreover, by disseminating information to the public and by mobilizing public opinion, NGOs can serve to remedy some of the negative effects developing countries experience because of their lack of political clout vis-à-vis their industrial country WTO counterparts. This can be exemplified by the successful collaboration between developing countries and NGOs in order to overcome the constraints the TRIPS agreement poses on countries' health policies.

https://doi.org/10.1017/S2071832200012074 Published online by Cambridge University Press

The third section, devoted to Human Rights, is composed of contributions from Ernst-Ulrich Petersmann and from Stefan Griller.

Ernst-Ulrich Petersmann addresses the issue of human rights in (global) integration law. The author stresses that, in order to remain politically acceptable, global integration law such as the WTO must pursue not only "economic efficiency" but also "democratic legitimacy" and "social justice" as defined by human rights. The democratic and social legitimacy of integration law will continue to be challenged if it pursues economic welfare without regard to human rights.

The progressive inclusion of human rights in EC integration law shows that the full enjoyment of human rights depend on making them an integral part of a social and sustainable market economy. It confirms that the economy and "specialised organisations" cannot be regarded as autonomous fields unrelated to the human rights of producers, workers, investors, traders and consumers. WTO members must likewise interpret their declared treaty objectives in conformity with their human rights obligations. The history of European integration suggests that the emergence of a human rights culture promoting democratic peace and social welfare depends on empowering individuals to defend not only their civil and political human rights but also their economic and social rights through individual and democratic self-government and access to courts. It upholds the insight of "functional theories" that citizen-driven market integration can set strong incentives for transforming "market freedoms" into "fundamental rights," which, if directly enforceable, can reinforce and extend the protection of basic human rights. The logic of market economies and the logic of human rights can therefore be said to be mutually consistent and to support each other. Economic market integration can progressively promote peaceful cooperation and the rule of law beyond economic areas, thereby enabling more comprehensive and more effective protection of human rights than has been possible in traditional state-centred international law. In a similar perspective, the worldwide WTO guarantees of freedom, non-discrimination and rule of law, protected by the compulsory WTO dispute settlement system, constitute non-economic legal achievements where "human rights values" are no less important than the economic welfare gains resulting from liberalisation of international trade.

The author's principal assertion is, thus, that the EC's integration approach – notably the recognition and empowerment of citizens as legal subjects not only of human rights but also of competition law and integration law, should serve as a model also for worldwide integration law. The modern universal recognition of human rights as part of general international law implies that human rights have become part of the "context" for interpreting the law of worldwide organisations and must be taken into account in all rule-making and policy-making processes at national and international levels. Just as the human rights guarantees and competi-

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tion safeguards of the EC Treaty have reinforced the legitimacy and effectiveness of European integration and of protection of human rights throughout Europe, human rights law and WTO rules also offer mutually beneficial synergies at the worldwide level for rendering human rights and the social functions and democratic legitimacy of the emerging global integration law more effective. In the author's view, the modern universal recognition of the need for respecting human dignity, inalienable equal human rights, open markets, non-discriminatory and undistorted competition, and democratic decision-making offers a coherent moral, legal, economic and political framework for a new integration paradigm focusing no longer one-sidedly on liberalisation and wealth-creation but also on protection of human rights, democratic legitimacy, social justice and solidarity sharing of the adjustment costs in countries committed to human rights and global integration.

Stefan Griller focuses on selective purchasing under the General Procurement Agreement (GPA), as it offers a specific example for the tensions between trade liberalisation and the protection of Human Rights. According to this author, it would be too simplistic to advocate for clear-cut solutions according to a strict hierarchy of norms since, in international law, such hierarchy generally does not exist. Even in a case where *jus cogens* could be involved, no simple solutions are available. Taken altogether, the relationship between trade liberalisation and the protection of Human Rights is one of reconciliation and balanced interpretation rather than one of hierarchy. In the specific field of public procurement, when there is a discussion about selective purchasing on the basis of human rights clauses, the focus should lie on the discriminatory character of the national measure. Indeed, it might not be justified to prevent the state to act in consistence with human rights guarantees enshrined in its legal order, as long as this does not happen in a discriminatory manner. When these conditions are met, the author argues, selective purchasing is not *per se* prohibited by the GPA.

The fourth section, devoted to labour standards, cosists of two contributions: the first from Michael J. Trebilcock and the second co-authored by José M. Salazar-Xirinachs and Jorge M. Martínez-Piva.

Michael J. Trebilcock addresses the issue of trade policy-labour standard linkage, by reviewing sequentially the choice of policy objectives, the choice of policy instruments, and the choice of institutional regime. The author starts by questioning the normative rationale for any such linkage and rejects the unfair competition and race-to-the-bottom rationales. According to him, these rationales are not compelling, incoherent, and provide a thinly disguised cover for protectionism, particularly on the part of developed countries *vis-à-vis* imports from developing countries. They rightly arouse the antagonism and cynicism of developing countries, which already labour under enough disadvantages in trade and other domains

https://doi.org/10.1017/S2071832200012074 Published online by Cambridge University Press

without sustaining yet one more encumbrance on their ability to develop. In contrast, the foundational normative rationale for trade/labour standards linkage is the human rights rationale, which is much more compelling and has important implications for the scope of such linkage, in that trade sanctions would not be contingent on imports of offending goods but would also be triggered when labour standards (e.g. child labour) are violated in relation to non-tradable goods. The human rights rationale bears, therefore, some consequence as to the choice of instrument and the choice of institutional regime. Hard law based trade sanctions carry a high risk of constituting a disguised form of protectionism. The human rights rationale can easily be a mere pretext or cover for protectionist measures not motivated by human rights concerns but in fact by the other two illegitimate rationales for intervention (unfair competition and race to the bottom). Non-discriminatory and consistent treatment of imports reflecting the ostensible human rights rationale for intervention must therefore be rigorously applied. As a matter of international trade law, the author suggests that there should be a negative duty not to discriminate for protectionist reasons, but there should be no positive duty to take affirmative action. Several procedural options are put forward in order to secure non-discrimination and consistency of trade sanctions.

As concerning the choice of institutional regime, Michael Trebilcock stresses two considerations: first, institutional specialisation has many virtues in vindicating desired policy objectives; second, because human rights, not trade effects, motivate the trade/labour linkage, vesting exclusive or primary jurisdiction in an international trade body risks compromising the normative rationale for the linkage by giving primacy to adverse trade effect in either importing or exporting countries. The author's preference is for some form of horizontal co-ordination with specialized international agencies endowed with expertise and legitimacy in the labour standards or human rights fields, which would make determinations of systematic and persistent violations of relevant norms.

José Manuel Salazar-Xirinachs and Jorge Mario Martínez-Piva assess the main arguments for and against inclusion of labour provisions in trade agreement. They identify five rationales based on competitive arguments for inclusion, but reject four of them since they were held as being incoherent, unfounded either in economic theory or empirical evidence, or otherwise inappropriate. One could suspect protectionist interest when any one of these different but related types of competitive arguments is expressed. Those rationales were the race to the bottom, unfair competition, impact on industrial economies and job dislocation. The rationale, which found some defensible arguments for linkage with trade, is the human rights perspective, although one could wonder whether this rationale is too broad in that it could lead to the inclusion of many other varieties of rights. However, in the author's view, the human rights rationale does not justify a sanctions approach in

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trade agreements between trade partners with shared economic, political and social values but in different stages of development.

Developing countries oppose the trade-labour linkage, particularly under any trade restricting and sanctions approach. Indeed, the trade sanctions approach would be a way to institutionalise unilateralism since developing countries would not be in a position to effectively sanction infringements on the part of developed countries. Such proposition is therefore not a win-win approach. This does not mean that developing countries are reluctant to cooperate on labour issues, but they strongly prefer compliance systems based on "soft" mechanisms and cooperation, as is the case within the framework of the International Labour Organisation. While under a sanction based approach, the trade-labour linkage might be a divisive and confrontational issue, a soft compliance system is expected to be a more mutually reinforcing process of improvement of labour rights and of coordination of labour policy.

The fifth section, devoted to environmental concerns, is composed of two contributions from Joanne Scott and Gerhard Loibl.

Joanne Scott examines the integration of environmental concerns into international economic law under two aspects, by conducting a comparative analysis of EC and WTO law. The first aspect relates to the articulation of environmentally motivated limits to the free trade imperatives. The second aspect concerns the process of transnational law-making or harmonisation of norms. The author suggests that under both aspects there is, on the one hand, a substantial flexibility or regulatory autonomy for states, and, on the other hand, some procedural rigour in terms of the manner in which, or the process whereby, the relevant decision is to be adopted. Member States are not so much constrained in what they do but in how they set about doing it. Whereas in respect of negative integration, procedural constraints have as their main concern the respect of due process and fairness, positive integration emphasises more on procedures allowing the formulation of effective and appropriate environmental outcomes capable of responding to a regulatory backdrop characterised by complexity, diversity and deep value pluralism. The legality of departing from free trade imperative will be assessed, at least in part, on the basis of the procedural circumstances surrounding the adoption and application of the contested decision to restrict free movement. Similarly, many multilateral environment agreements establish process-based standards. When tensions arise between such an agreement and the WTO that cannot be solved through the hierarchy-of-norms principle, respect of these shared process based standards can serve to bolster compliance with the WTO. Both international environmental law and international trade law exhibit a high level of deference *vis-à-vis* the regulatory choices of states but are more intrusive as regards the shape of the governance arrangements according to which these choice emerge.

https://doi.org/10.1017/S2071832200012074 Published online by Cambridge University Press

Gerhard Loibl conducts a detailed analysis of the Cartagena protocol on Biosafety, whose main goal is to ensure that health aspects resulting from living modified organisms (LMOs) are taken into account effectively. The Cartagena Protocol can be said to deal primarily with health and environmental concerns although it also affects international trade of LMOs. The Protocol does not only deal specifically with international trade, but with any transboundary movement of LMOs. It sets general standards to be applied by Parties to ensure that health and environment concerns are met. In doing so, the Cartagena Protocol has addressed new issues by including a precautionary principle approach and socio-economic aspects in considering whether the use of new technologies and products should be permitted.

One key issue in the elaboration of this international agreement on LMOs is its relation with international trade rules. The preamble of the Cartagena agreement shows a delicate balance between the two fields of international law (environment and trade), which have to be seen as mutually supportive, while none of these provisions is subordinated to other instruments in general. Whereas it is stated that the protocol does not imply a change in the rights and obligations of a Party under existing international agreement, the Protocol is not subordinated to other international agreements. Since the decision in the *Shrimp-Turtle* case,[2] trade restrictions are regarded as permissible when they have been agreed upon and applied multilaterally. However, dispute between Parties about the application and interpretation of the Cartagena Protocol might arise when a Party prohibits the import of certain goods containing LMOs. The affected Party might choose to challenge this behaviour under the WTO dispute settlement system. The latter would have to interpret and apply the Cartagena Protocol. In such a case, if it concludes that the Cartagena Protocol does not cover the situation, it would then have to decide whether the Party's behaviour in question is in conformity with GATT/WTO. This is in line with the rejection of the subordination of the Cartagena Protocol to GATT/WTO since the question is not so much about subordination but rather about the forum to settle such a dispute. Restrictions of transboundary movement of LMOs between Parties and non-Parties to the Cartagena protocol, which fall within the scope of the general exceptions under Article XX GATT or the relevant provisions of the SPS-Agreement, would be justified. However, trade restrictions for LMOs outside the scope of these provisions would be a violation of GATT/WTO. According to the *Shrimp-Turtle* case, trade restrictions on LMOs by Parties to the Cartagena Protocol would be in conformity with GATT/WTO if a sufficient nexus exists between the LMOs and the Party concerned.

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The author concludes that if the Parties to the Cartagena Protocol comply with its provisions, conflicts with WTO rules are unlikely to arise. But when a Party does not comply with the Cartagena Protocol, the issue of the relationship between GATT/WTO and the Cartagena Protocol might raise problems.

The sixth, and last, section is devoted to transparency. It is composed of contributions from Deirdre Curtin, Sebastian Geiseler-Bonse and John Lewis.

Deirdre Curtin addresses the issue of the electronic access to information within the European Union. After presenting the institutional and administration map within the EU, the author addresses the issue of what she calls the digital dimension of EU governance. In that respect, the evolution of the citizens' right to access EU information is retraced and the legislative process leading to the adoption of the European arrest warrants is taken as a case study on access to information in the aftermath of 11 September 2001.

It is acknowledged that information and communication technology (ICT) has occasioned a very fundamental shift in the role of government and governance, in that it has increased the transparency of processes and structures by generating information about the underlying productive and administrative processes through which public administration accomplishes its tasks. However, the general attitude displayed by the Commission to the significance of ICT is confined to viewing it as a database (on-line information) rather than on reflecting on the institutional potential and dynamics of the technology in the framework of citizenship. According to the author, providing a greatly improved system of information is only to be considered a first step of a much larger project. It would serve as the basis for a system that allows widespread participation in policy-making processes through the mechanisms of interactive dialogue between the Union institutions and interested private actors. It may well prove to be a unique opportunity for deliberations of citizens and interests groups beyond the traditional frontiers of the nation state, without the burden of high entry costs for either individual citizens or public interests groups.

Sebastian Geiseler-Bonse addresses the case of the Internet Corporation of Assigned Names and Numbers (ICANN) as a case study for transparency and democracy in the Internet. ICANN is a non-profit, private-sector organisation formed in 1998 and incorporated in California, which has as its tasks managing Internet domain names, protocols, addresses and the root server system, aspects that are essential to the functioning of the Internet. ICANN proves to be a particularly unusual international organisation in that it is a private entity deriving authority from the US government, but making rules for the whole world. Unavoidably, this leads to questions of legitimacy. Although ICANN's mandate is technical and administrative in

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nature, its decisions are inextricably linked to global public policy, touching on such policy matters such as property rights, speech rights and industry structure. This entity embodies mechanisms for democratic governance since, in the fall of 2000, it held elections of several of its Board of Directors. In doing so, it implemented a precedent-setting experiment in the practice of global democracy. However, representation of the global Internet society is unbalanced towards an over-representation of commercial interests. Nevertheless, the ICANN elections proved that global governance is not at all impossible. One has to keep in mind that an important part of the success of this experiment is the sectoral character of ICANN since the specific characteristics of the Internet facilitated the creation of the necessary political community.

John Lewis tackles the issue of governments' interests in transparency through the specific case study of the International Telecommunication Union (ITU) and of the exploitation of and access to the frequency spectrum/satellite resources. The ITU is an organisation that was established in 1865 for the setting up of common rules to standardise equipment in order to guarantee generalised telegraph interconnection and to adopt uniform operating instructions. Member States of the ITU established a legal regime, which is codified through the ITU Convention and the radio regulation and contains the main principles as well as the specific regulations required to allow, at the international level, access to the spectrum orbit resource. The ITU has been active in providing a forum for the discussion of regulatory approaches on this subject. There is an increasing perception that resource allocation processes should be open, accessible and simple and a recognition that transparent processes should eliminate delays and increase the efficiency of resource allocation. Independence of the decision making process from ministerial involvement is considered especially important. Greater specification of the relationship between the regulatory authority and the competition authority within a country would be needed in order to maximise benefits to the community at large in the resource allocation process. Since the 1990s, privatisation of telecommunications services providers and the establishment of independent regulatory bodies has led to increasing transparency and efficiency in the attribution of the valuable radio frequency spectrum/satellite resource. Commercial and industry interests as well as users of telecommunications services are increasingly involved in the decision making process.

This book certainly addresses one of the most relevant and sensitive issues currently emerging in relation to globalisation, i.e., the growing acknowledgment of the indissociable character of trade and a whole range of social, moral and environmental concerns which can, in extreme cases, be related to fundamental cultural values pertaining to one's identity. The European integration experience, which is founded on an economic agreement, shows how effective the theory of "functional

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integration" and "spill-over effect" proved to be in relation to the taking into account of non-economic concerns and the upholding of human rights in the Community legal order. In view of this precedent, WTO observers/experts are naturally led to look for the emergence at the worldwide level of some kind of WTO-centred management of non-economic issues. If the soundness of such a proposition might be questioned in view of WTO legitimacy polemic and considering the existence of specialised international bodies entirely devoted to some of these concerns, it nonetheless appears that it is unavoidable that some extent of trade related non-economic issues are to be dealt with by WTO organs and, more specifically, by its adjudicative organs (Panels and Appellate Body). It is to be noted that the discussion is not limited to the WTO and touches on the international legal order as a whole with some focus on different specific international bodies or agreements.

The diverse contributions offer an interesting overview of the main points under discussion in relation to the much debated globalisation issue, and place generally the reflection at the crossroads of law, with aspects of juridical technicalities and legal philosophy, and political science. Being mostly addressed to academics and interested students in that it endeavours to investigate an emerging area and to explore new possibilities of integrating non-economic concerns in international economical law, this publication can certainly provide food for new thought.

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