

Rüdiger Wolfrum, Peter-Tobias Stoll and Holger P. Hestermeyer (eds). **WTO: Trade in Goods**. Leiden: Martinus Nijhoff Publishers, 2011. Pp. xl+1225. €195. ISBN: 9789004145665.

This notable book is part of an ambitious project entitled 'Max Planck Commentaries on World Trade Law'. As is widely known, the concept of commentaries originates in the civil law tradition and may be traced back to what the editors of this volume dub the 'Roman legal science' (at ix), crystallized in the *Corpus Juris Civilis* which Justinian I commissioned one and a half millennia ago.

Most of all, the comprehensive nature of this volume is outstanding. Granted, similar efforts have been undertaken previously. As far as the GATT/WTO case law (jurisprudence) is concerned,

the WTO itself provides a well-documented compilation.¹ As for the Uruguay Round negotiation history, Terrence Stewart published a valuable volume.² Yet this Commentary has combined all these elements, offering readers a one-stop service while adding even more extensive contents, such as critiques and reform proposals, on the law of the WTO.

The ‘article-by-article’ format, essential to this type of commentary, is a mixed blessing. Since the launch of the GATT, GATT contracting parties and subsequently WTO members have mostly invoked only a handful of provisions in the GATT, such as Articles I, II, III, VI, XI, XIX, XX, and XXIV. The remaining provisions are seldom in demand. In fact, some provisions, such as Article XXIX, may be considered fossils as they scarcely retain more than historical value. At the same time, however, even a rarely invoked provision can draw fresh attention when a new dispute arises in relation to that provision. For example, Article V (Freedom of Transit), which had produced no panel report ever since the launch of the GATT, has recently come into focus with the new panel report (*Colombia – Ports of Entry*, WT/DS366/R, Apr. 27, 2009). Given the possibility that new disputes based on those rarely invoked provisions may emerge, the book’s article-by-article approach appears sensible. Moreover, detailed comments on various side agreements elaborating the main provisions of the GATT 1994 are most valuable.

The commentary boasts an impressive cast of contributors, including such luminaries in the field as John Jackson, Supachai Panitchpakdi, and Giorgio Sacerdoti. Given that their scholarly and professional opinions are highly valued, this book might supply a supplementary *source* of international law within the meaning of Article 38 of the Statute of the International Court of Justice.³

The aforementioned merits notwithstanding, the commentary still leaves something to be desired. Firstly, one of its mission statements is to broaden its audience to the general public (xii). Yet one might question the logic of this particular goal. Is this type of *commentary* really a suitable forum for educating the public on WTO law, given that most people might be unfamiliar with its norms and institutions? In fact, this book seems to better serve trade ‘specialists’, considering the depth and the breadth of its analysis. In particular, serious researchers will greatly benefit from its encyclopedic nature when searching for historical documents behind GATT provisions. Furthermore, its wide-ranging bibliography and the all-inclusive list of relevant GATT/WTO official documents will save both researchers and practitioners a good deal of time and energy.

In a related matter, the main purpose of the commentary is to provide readers with a ‘comprehensive and concise’ insight on the law of the WTO (at ix).⁴ Yet one might reasonably speculate that the first part of the purpose (‘comprehensive’) is better attained than the second (‘concise’). Ironically, too much information in the book has become its weakness. With over 1200 pages in total, the public would find it daunting to readily access the book. In addition, in terms of organization, too many things run together, which often complicates a straightforward reading.

Likewise, from a pedagogical perspective the commentary should have prioritized a limited number of paradigmatic cases over the rest. General readers would not have the skills, nor

¹ See e.g., WTO, *WTO Analytical Index: GATT 1994*, available at http://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_e.htm.

² T. P. Stewart, *The GATT Uruguay Round: A Negotiating History* (1993).

³ Article 38:1(d) of the Statute of the International Court of Justice (the ‘teachings of the most highly qualified publicists of the various nations’), available at http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0#CHAPTER_II.

⁴ Emphasis added.

mostly importantly would they be willing, to peruse the entire panel and the Appellate Body decisions listed, despite their relevancy.

At the end of the day, though, these weaknesses may perhaps be endemic to the very nature of a 'commentary'. They might be a small price to pay for this valuable companion to the study of GATT/WTO law.

Sungjoon Cho

Visiting Professor of Law, Fordham University School of Law;

Professor of Law and Norman and Edna Freehling Scholar, IIT Chicago-Kent College of Law

Email: scho1@kentlaw.edu

doi: 10.1093/ejil/chr095