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**Julien Chaisse & Tsai-yu Lin (Eds.), *International Economic Law and Governance: Essays in Honour of Mitsuo Matsushita*, Oxford: Oxford University Press, 2016, pp. 587, \$137 Hardcover.**

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**Abstract.** WTO today stands at a crucial crossroad. On one hand the multilateral negotiations are progressing at a snail's pace, often dis-incentivizing Member countries from undertaking additional liberalization commitments. On the other hand, the regional collaborations like the Trans-Pacific Partnership (TPP) are losing relevance, given the recent decision of the US to pull out. As a result, several countries are now treading on a path inclined towards protectionist intents, much to the chagrin of their partners. The emerging development has enormous implications for the interaction between WTO Members at the Dispute Settlement (DS) forum, where the possible violations of the multilateral commitments are analyzed.

**Keywords.** International economics, Economic law, Governance.

**JEL.** F00, F50, F59, F60.

## Book Review

Prof. Mitsuo Matsushita, a renowned scholar and legal expert, in an illustrious career spanned over six decades, has enriched the discipline on DS in numerous ways, including his tenure as a member of WTO Appellate Body (AB) during 1995 to 2000. In this context the recent volume on economic law and governance, edited by Chaisse and Lin in honour of Prof. Matsushita, is a well-structured and timely contribution to the literature. In the introductory chapter, Chaisse and Lin underline the importance of understanding the WTO rules relating to DS, intertwined nature of the WTO provisions and future course relating to plurilateral agreements (PAs).

The contents of the volume are arranged under three sections. The first section deals with rule based international DS mechanism. Tracking the success of the WTO DS system, Davey notes that while the system is now capable of addressing more complex subjects, the consequent delays would frustrate the justice-seekers. Ehlermann indicates the challenges faced by the DS system: the lack of equilibrium between the judicial and political branches of WTO, the inefficiency of dispute redressal involving RTA partners, the resulting rise in workload and the denaturation of the selection process of AB members. Citing a number of WTO cases and the AB observations, and their potential impact on evaluated WTO-compatibility of an otherwise perfectly legitimate domestic policy, Roessler notes the need to go beyond narrow interpretations. Underlining the fact that many countries are yet to enforce WTO rules in domestic courts, Petersmann attempts to find their implications on securing citizen's rights in health-related laws. Looking at the case laws, Trachtman dwells on WTO-compatibility of a policy with

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conservation not as a primary objective. Referring to the limited link between WTO jurisprudence and investment arbitrations, Taniguchi and Ishikawa propose an effective 'normative sharing' between the two in future. Analyzing the scenario in light of the Vienna Treaty Convention's Systemic Integration Clause, Lim notes that while interpreting rules, WTO AB need to fulfil their duty and not discretion. Discussing select anti-dumping and safeguard disputes, Lewis concludes that the AB decision may be interpreted as appeasement of the majority rather than following the Vienna Convention on the Law of Treaties (VCLT) structure. Lee analyzes the evolving complexity given the rise in overlapping investment and trade agreements, and explores the possibility to settle investor-state disputes through Joint Committees. Referring to the recent disputes, Nottage notes the need to reassess and redraft several investment-related treaty provisions in the Asia-Pacific region.

The second section covers normative influences to and from WTO legal architecture. Analyzing the role of G20 members in WTO framework, Wouters and Willemyns note the importance of their complementary, competitive and rebalancing effects, though the replacement effect is non-existent. Weber recommends a harmonized multilateral competition law framework to secure global development. However in the context of competition law and the differing perspective between developed and emerging countries, Abbott opines in favour of tolerance of regulatory diversity. Citing the growing importance of the state-controlled entities and the influence of trade, investment and competition laws, Chaisse raises several pertinent questions which are going to be crucial in coming days. Analyzing the relationship between WTO and public international law, Wu concludes that the most important challenge originates from the investor-state disputes. Discussing the past disputes on trade-environment linkages, Schoenbaum notes that the DS mechanism has significantly contributed in bridging the gap. Lin underlines the importance of the amicus curiae briefs during the investment arbitral proceedings. Discussing crucial cases on environmental protection, Choi underlines the importance of devising a new approach laying greater focus on the design and structure of the Technical Barriers to Trade (TBT) measures. Referring to the recent discussions on data protection in Transatlantic Trade and Investment Partnership (TTIP), TPP and Trade in Services Agreement (TiSA), Peng analyzes the potential trade-off between economic integration and privacy.

The third section focuses on issues in the policy and law making process. Citing the deadlock at Doha negotiations, Hoekman and Mavroidis opine in favour of more PAs to move forward. Gantz and Nielsen analyze the TTIP discussions and demonstrate how policy change in the EU and US may influence global trade flows. Discussing the mega-FTAs like TPP, Nakagawa notes potential gains in terms of flexibility and transparency. Given the rise in the PAs, Anuradha analyzes their potential effects and concludes in favour of optimality of the multilateral process. Analyzing the patent scenario, innovations in pharmaceutical sector and public health, Mercurio concludes that access to medicines is not entirely dependent on patent status. Referring to the intellectual property provisions under TPP, Bhala points to the one-sidedness of the provisions, which has been negotiated in a non-transparent manner. Explaining the WTO laws as a 'Contractual Constitution', Carmody underlines how they can be jurisprudentially linked with equality and fairness. Lo discusses the need to widen the geographic coverage of FTAs through inclusion of more members to make them plurilateralized. Referring to the growing inflexibility towards the interests of the developing countries, Babu stresses the need to make the system work to serve the interests of all. Underlining the involvement of the East Asian countries in trade remedy related cases both as complainant and respondent, Ahn comments on their inclination to embrace WTO rules. Fukunaga underlines the need to explore possibilities to improve the ad hoc consultations so that the Sanitary and Phytosanitary (SPS) measure related concerns can be solved more effectively. In

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the concluding chapter, Muró outlines the future challenges to WTO in the coming two decades.

The volume, significantly focusing on areas where Prof. Matsushita has contributed in the past, provides a detailed discussion on future concerns at DS forums as well as possible solutions. With the ever-expanding WTO case law universe, the present volume, which extensively refers to relevant disputes to drive a point home, is a must-read reference to the academicians, policymakers and researchers.



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