

Review

Reviewed Work(s): La jurisprudence de l'OMC/The Case-Law of the WTO,
1996-1997 by Brigitte Stern and Hélène Ruiz Fabri

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little respect for the rule of law and for the independence of adjudicative institutions. This situation needs to change if an effective regional human rights system is to develop. The existence of a critical mass of states that respect the rule of law and the independence of adjudicative institutions is a precondition for such a system. There are some hopeful signs, though tentative, that Africa may be heading in that direction.

Ouguerouz has written a treatise that finely combines the policymaker's eye for technical details with the scholar's knack of making conceptual and comparative links and analyses that allow the reader to draw many and interesting connections. Although one may not agree with his conclusion that "the African Charter shows itself to be a balanced legal instrument" (p. 777), one would have to agree (and this reviewer certainly does) that the author has written a balanced and valuable book.

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BRIEFER NOTICE

La jurisprudence de l'OMC/The Case-Law of the WTO, 1996–1997. Edited by Brigitte Stern and H el ene Ruiz Fabri. Leiden, Boston: Martinus Nijhoff, 2004. Pp. xi, 356. Index. \$244,  195.

As of July 2004, the dispute settlement system of the World Trade Organization (WTO) has produced decisions in eighty-five disputes between member governments. Each dispute typically will generate several important decisions as the litigation progresses. After the initial panel report, additional decisions may include an appellate body report, an arbitration of the reasonable period of time for implementation, a review of the adequacy of implementation, an appeal of the implementation review, an arbitration of the permissible level of sanctions in the event of non-compliance, and possible parallel and follow-on litigation. Moreover, in some instances panels issue preliminary rulings on procedural points. Even those who specialize in WTO law have a hard time staying current with, and remembering details of, these often lengthy decisions. Practitioners and scholars in other fields of law face a more daunting challenge.

A number of resources are now available to report, index, and provide commentary on WTO

decisions. The decisions themselves are downloadable from the WTO Web site and, in a more user-friendly way, from the nonsubscription portion of the World TradeLaw.net Web site.¹ They are also reported on and reprinted in *Bernan's Annotated Reporter* and *The International Trade Law Reports*.² The subscription portion of the World TradeLaw.net Web site provides an excellent summary and commentary of each WTO decision. Another useful case law commentary is published annually by the Fair Trade Center in Tokyo. Some of the important decisions are reprinted and discussed briefly in *International Legal Materials*, while the *AJIL* occasionally reports on WTO dispute decisions in its International Decisions section. In 2003 the WTO Secretariat published the first edition of the *WTO Analytical Index: Guide to WTO Law and Practice*, which systematizes the case law associated with each WTO rule.³ Also that year, the American Law Institute published the first volume of its new series commenting on WTO case law.⁴ Other reference material surely exists in book, journal, and Internet-based formats.

Given the variety of sources already available, this reviewer was initially skeptical about the value of a new publication on WTO decisions. My study of *The Case-Law of the WTO*, however, convinced me that it delivers substantial value. This new series is supervised and edited by two prominent scholars of international law, Brigitte Stern and H el ene Ruiz Fabri, both professors at the University of Paris I Panth eon Sorbonne. In the foreword, they note that "the stream of decisions" of the WTO dispute mechanism "is creating a genuine 'caselaw,'" which the new series seeks to present in a simple, consistent, and systematic form (p. ix).

This inaugural volume, covering 1996–1997, reports chronologically on the first nine cases decided by the WTO. Each chapter is written by one author, and this first volume involved eight different authors. The format for each chapter

¹ The WTO dispute settlement gateway can be found on the WTO Web site at <<http://www.wto.org>>. World TradeLaw.net is a service available by subscription, and yet a great deal of information on the Web site is available to the public without fee and without registration.

² WORLD TRADE ORGANIZATION, WTO DISPUTE SETTLEMENT DECISIONS; BERNAN'S ANNOTATED REPORTER (2003); THE INTERNATIONAL TRADE LAW REPORTS (published by Cameron May).

³ This two-volume book is also available freely in electronic format on the WTO Web site.

⁴ THE WTO CASE LAW OF 2001 (Henrik Horn & Petros C. Mavroidis eds., 2003). Each case receives both legal and economic analysis.

has two parts: first, a summary of the issues involved and the detailed decisions reached; second, the author's observations on the decisions and their significance. The discussion of each case focuses on the appellate decision when it exists. The editors also took care to provide a good index.

The organization of the book is straightforward and logical except perhaps in the way in which the editors have divided the infamous *Bananas* dispute⁵ into two chapters—one on the underlying decision and the other on implementation. The chapter on implementation covers the arbitration of the reasonable period of time for implementation, the decision of the panel reviewing the actions taken by the European Communities to comply with the decision, and the arbitration regarding the level of sanctions to be authorized for the complaining governments. Admittedly, each of these two chapters must grapple with numerous complex issues that require detailed discussion. Indeed, the two chapters on *Bananas* are the longest in the book. Nevertheless, it seems to me that the editors missed an opportunity to unify the discussion of *Bananas* into one chapter. If one looks ahead to the numerous arbitrations and compliance reviews associated with the WTO case law in 1998 and beyond, a separation of the underlying substantive decision from the decisions relating to compliance is likely to grow unwieldy and become inconvenient for the reader.

This volume would provide benefits to users were it only available in English, but the *raison d'être* for the project is to provide commentaries in French, and the French and English pages are helpfully printed side by side. As far as I am aware, this volume is the only commentary in French on WTO case law and so promises to be of great value to the francophone world.

To be sure, the initiation of a new series in 2004 means that the editors have a lot of catching up to do. Yet in reading the volume, I saw that a long lag between a WTO decision and a report on it can provide time for the full significance of a decision to sink in. The authors have taken advantage of the retrospection inherent in this volume to provide perspective that may not be available in the instant commentaries. Thus,

⁵ European Communities—Regime for the Importation, Sale and Distribution of Bananas, WTO Doc. WT/DS27/51/Add.25 (Jan. 21, 2002), available at <<http://www.wto.org>>.

the bilingual volume will be useful both to readers needing a quick summary of a WTO decision and to specialists seeking to trace through the development of the rapidly evolving WTO jurisprudence.

STEVE CHARNOVITZ
Of the Board of Editors

BOOKS RECEIVED

International Law—General

- Chimni, B. S., Miyoshi Masahiro, and Surya P. Subedi (eds.). *Asian Yearbook of International Law* (Vol. 9, 2000). Leiden, Boston: Martinus Nijhoff, 2004. Pp. xii, 461. Index.
- Chiu, Hungdah (ed.). *Chinese (Taiwan) Yearbook of International Law and Affairs* (Vol. 20, 2002). Taipei: Chinese Society of International Law, 2004. Pp. ii, 551. Index.
- Oceana Publications. *The Global Community: Yearbook of International Law and Jurisprudence 2003* (Vol. I). Dobbs Ferry NY: Oceana Publications, 2004. Pp. xiii, 730. Index.
- Oceana Publications. *The Global Community: Yearbook of International Law and Jurisprudence 2003* (Vol. II). Dobbs Ferry NY: Oceana Publications, 2004. Pp. iii, 701. Index.
- Reus-Smit, Christian (ed.). *The Politics of International Law*. Cambridge, New York, Port Melbourne: Cambridge University Press, 2004. Pp. xiv, 315. Index. \$75, cloth; \$29.99, paper.
- Voeffray, François. *L'actio popularis ou la défense de l'intérêt collectif devant les juridictions internationales*. Geneva: L'Institut de Hautes Études Internationales, 2004. Pp. xxii, 395. Index. €40.

International Economic Law & Relations

- Held, David. *Global Covenant: The Social Democratic Alternative to the Washington Consensus*. Cambridge UK, Malden MA: Polity, 2004. Pp. xxi, 191. Index. \$19.95.

International Tribunals

- Romano, Cesare P. R., et al. (eds.). *Internationalized Criminal Courts: Sierra Leone, East Timor, Kosovo, and Cambodia*. Oxford, New York, Auckland: Oxford University Press, 2004. Pp. lviii, 462. Index. £75, cloth; £35, paper.