

Chapter 6 deals with the operation of basic Common Market principles in the energy sector. In chapter 7 "the Community energy strategy: an evaluation", Daintith and Hancher conclude that "the essential problems of decision-making within the Community, however, reside not so much in the identification of objectives as in the selection of appropriate instruments for their attainment, and here it is clear that the divergencies between States, in such matters as resource endowments, energy market organisation, and so on, have caused them to choose combinations of instruments which are so different in type or content as to be incapable of transfer to, or even harmonisation at, the Community level. Pressing our analysis of these instrumental choices a little further, it would appear that differences in resource endowments may possibly be a less important factor than differences in energy markets and institutional structures" (page 147). In this context the Commission's "strategy" since 1981 leads the authors to remark that they need more time before they can tell if the "strategy document has marked the beginning of a phase of imaginative and effective employment of the Commission's legal competences in aid of energy policy aims, or simply the abrogation in this sector of its responsibility to protect the integrative achievements of the Community" (page 155).

Although the book contains some irregularities in its statistical presentation, it is still a must for people taking an interest in the energy sector and energy policy-making in the Community.

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Stephen Woolcock, Jeffrey Hart and Hans van der Ven, *Interdependence in the Post-Multilateral Era: Trends in U.S.-European Trade Relations*. Center for International Affairs, Harvard University. Lanham, Maryland, London: University Press of America, 1985. 138 pages. US\$7.75, ISBN 0-8191-4882-2; US\$19.50, ISBN 0-8191-4881-4.

Each having researched independently one of the three sectors – steel, automobiles and telematics – during their respective tenures as Paul-Henri Spaak Fellows of the Harvard Center for International Affairs,

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the authors then pooled their findings in this concise volume to demonstrate the "decline of multilateralism" and its effects on U.S.-European trade relations. The grey zone between "internal" and "external" policies ("domestic" and "foreign" on the other side of the Atlantic) is expanding, thus complicating and damaging these relations, while affirming the wisdom of early recommendations for effective, *prior* multilateral consultation on domestic policies having foreign trade impacts. The clash is between sovereignty and increasing interdependence of markets, another illustration of the fact that territoriality is a much less useful international legal principle than it has previously been. The core dilemma is whether, or to what extent, sovereign nations should attend the concerns of trading partners in determining their industrial policies, most notably, the role of state aids (domestic subsidies).

In their common introduction and first chapter, Messrs. Woolcock, Hart and van der Ven warn that trade policy rhetoric is often misleading; commonly recited odes to free trade accompany so-called "temporary" trade regulations, "least-worst" alternatives to protectionism. Macroeconomic considerations, such as recession or exchange rate fluctuations, as well as political considerations which do not affect sectors uniformly (*e.g.*, trade competition, efficacy of lobbyists' efforts, cohesion of a particular domestic constituency, *etc.*) are also barriers to multilateral solutions. They contend that a "genuine" multilateral system, at least as to non-tariff barriers, has never really existed and presage little hope for the new GATT round, mainly because of diverging trade philosophies in the U.S. and E.C. on the role of governmental intervention. One does not know whether they would amend their 1984 predictions.

Mr. van der Ven's chapter on the steel industry adds to existing literature by its too rarely drawn comparison of internal and external regimes. After tracing the history of U.S. and E.C. trade regulation, he describes the traditional conflict between the German and Dutch governments on the one hand, and pro-regulation forces in the other Member States on the other. The well-known Davignon compromise was the Code on Aids to Steel, rules designed to link their approval to restructuring programmes. Though the second major U.S.-E.C. steel agreement, the third Aids Code and relevant provisions of the 1984 U.S. Trade and

Tariff Act (linking exceptional import relief to restructure efforts) are not considered, these subsequent developments do not dilute the overriding message: that the permissiveness of the existing GATT Code on Subsidies and Countervailing Duties has invited disputes in the steel and other sectors and that the "fragile European anticrisis measures" have been dependent upon exports to the U.S. The author rightly anticipates that the U.S. and E.C. positions will converge – the U.S. becoming more receptive to industrial policy and the E.C. becoming more firm in its opposition to subsidies.

Mr. Hart's case study of the U.S., European and Japanese automobile industries demonstrates from economic and political perspectives their multinationalization in the last fifteen years. It too cites the tendency in the U.S. towards federal industrial policymaking. At the same time, however, it emphasizes that unlike the steel industry, it is the leading automotive firms which have substantial autonomy *vis-à-vis* their governments (including France and Japan) and which have been able to internationalize their operations. Contrary to expectations, statistics show that production has not shifted to low-wage countries; rather it remains near high-income markets. Internationalization has instead taken the forms of joint ventures and creation of foreign subsidiaries, solutions which bring their own political and economic problems. A "world-car strategy" – *i.e.*, standardizing basic components while customizing assembly – has been employed by the two largest U.S. firms, but meets stiff opposition in market-fragmented Europe. Unfortunately, in this reviewer's opinion, E.C. efforts to establish uniform environmental and safety standards are mentioned merely in passing.

The fourth chapter by Mr. Woolcock on "Developments in Telematics and Their Impact on U.S.-European Trade Relations"¹ is the best case of the three for cooperation. Again, conflicts stem from divergent views on the proper role of governmental intervention and commercial activity, but the author offers hope that mutual need for reciprocal market access will lead first to *de facto* and then to *de jure* criteria for resolution of trade disputes. His analysis is extremely readable, informative as to

1. See Schulte-Braucks, "European Telecommunications Law in Light of the British Telecom Judgment", 23 *CML Rev.* (1986), 39-59.

general economic and political policy considerations, and instructive on the most elementary legal aspects of regulation and deregulation of the U.S. and European markets. The conclusion is that multilateral cooperation in telematics will depend largely upon "what happens in Europe".

The summary is highly recommended to readers for its synthesis of lessons drawn from the steel, automotive and telematic industries, its comprehensiveness and its originality. The authors explain that "destabilization of regional and national oligopolies" in Europe, the United States and Japan "made more visible the pre-existing differences in government policies toward the promotion and protection of domestic industry and therefore the incompatibility of national rules governing international investment and trade," *i.e.*, subsidy policies. Unfortunately, the section on "Ways of reforming the multilateral regime" is all too brief – three paragraphs, in fact, without mention of GATT or the OECD.

Professor Richard Gardner of Columbia University, among others, has recommended for some years a multilateral forum for consultation on domestic policies having foreign trade impacts. The OECD would seem to be the obvious choice, though its record in terms of concrete recommendations and its exclusion of developing countries augur ill for its success. More likely is a revamped GATT, equipped with more effective dispute resolution machinery and a strengthened Code on Subsidies and Countervailing Duties.

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Richard A. Falk, *Reviving the World Court*. (Procedural aspects of international law series). Charlottesville: University of Virginia, 1986. 192 pages, index. ISBN 0-8139-1084-6.

Since the International Court of Justice (ICJ) was established in 1945 as the successor of the Permanent Court of International Justice, various legal studies have been undertaken, explaining the role, place, contribution and functioning of the Court in the international (legal)