

Interdependence in the Post-Multilateral Era: Trends in U.S.-European Trade Relations.



Review Author[s]:

R. Michael Gadbaw; Rosemary E. Gwynn

The American Journal of International Law, Vol. 82, No. 3 (Jul., 1988), 654-657.

Stable URL:

<http://links.jstor.org/sici?sici=0002-9300%28198807%2982%3A3%3C654%3AIIITPET%3E2.0.CO%3B2-P>

The American Journal of International Law is currently published by American Society of International Law.

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at <http://www.jstor.org/about/terms.html>. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Please contact the publisher regarding any further use of this work. Publisher contact information may be obtained at <http://www.jstor.org/journals/asil.html>.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

JSTOR is an independent not-for-profit organization dedicated to creating and preserving a digital archive of scholarly journals. For more information regarding JSTOR, please contact support@jstor.org.

stances of practice and evolution that have allowed the GATT to exist as a pragmatic and reasonably effective legal order. Particularly to be noted are excellent accounts of the troublesome Multifibre Agreements (p. 32), the legal questions of preferences for developing countries (p. 31), voting and consensus decision making (p. 55) and the procedures for dispute settlement (p. 65). While the opinions and perspectives of the author will certainly not be universally accepted, they are well stated and carefully thought out.

After an opening chapter on "The Legal Framework" of GATT, in which the author surveys the history of GATT and provides an overview of its rules, Long proceeds to an examination of the GATT as a "Forum for Negotiations." He then turns to a chapter on decision making and organizational structure, entitled "The Functioning of GATT." A fourth chapter deals with "supervising" the GATT, focusing on the dispute settlement process, and presenting some judgments (which, of course, can be debated) such as that the GATT Contracting Parties' "main objective is to produce recommendations designed to protect this balance [of advantage], rather than have recourse to sanctions" (p. 71).

After an excellent chapter on the evolution of a GATT legal structure to promote economic development, the author turns to his conclusions. Let some of his words carry the flavor:

In a multilateral trade treaty such as the General Agreement the legal rules provide what the member countries expect from them: the assurance of a reasonable degree of certainty in the conventional conditions under which international trade takes place, and transparency in the conduct by member countries of their trade relations.

The rules and procedures of the GATT are such that they can evolve and be modified in response to changes in the economic and political conditions that influence trade relations [p. 107].

As the world moves forward into the eighth and most complex trade negotiation sponsored by GATT, a negotiation that not only will likely be the last in this century, but also could frame the structure of trade well into the next century, Long's book will be both a delightfully short introduction for those new to the subject and an authoritative source of information and judgment, particularly about the legal institutional aspects of GATT.

JOHN H. JACKSON
Board of Editors

Interdependence in the Post-Multilateral Era: Trends in U.S.-European Trade Relations. By Stephen Woolcock, Jeffrey Hart and Hans van der Ven. Cambridge: Center for International Affairs, Harvard University; Lanham: University Press of America, 1985. Pp. xxv, 138. \$19.50, cloth; \$7.75, paper.

As its title suggests, the authors of this book believe that we have entered an era in which multilateral efforts to resolve trade disputes are doomed to

failure. The premise of the book is that differences in national approaches to trade and the formulation of industrial policy (as illustrated by case studies of U.S. and EC policy with respect to three industrial sectors—steel, automobiles and “telematics”) are so great that the establishment of an effective multilateral regime to govern international trade is a virtual impossibility, at least outside the tariff area. The authors focus in particular on the growing use by individual nations of a variety of industrial targeting measures, including nontariff barriers on imports. They conclude that competing sovereign national interests and approaches are likely to prevent the achievement of any coordination of multilateral policy or effective multilateral resolution of the trade conflicts such measures create.

Despite its gloomy forecast about multilateralism, *Interdependence in the Post-Multilateral Era* makes a valuable contribution to the literature on international trade relations. The authors’ effort to integrate a “micro” political/economic analysis of individual cases with a “macro” view of international trade relations marks an important direction in trade policy analysis. The particular strength of the book lies in its three trade policy case studies. Each of the authors has chosen an industrial sector that has been the subject of trade friction between the United States and the European Communities, and has analyzed the policies adopted by them in these areas in terms of their implications for U.S.-EC relations and, by extension, the international trading system. These studies are useful, and quite insightful, in describing the origins and dimensions of these trade disputes and the policies that have evolved in the United States and the European Communities to address them.

The book also offers a number of thought-provoking observations about the nature of trade and trade policy in the late 1980s. The authors implicitly recognize that although “industrial policy” remains a dirty word in U.S. government circles, U.S. trade policy is increasingly a sectoral policy, which observers from other countries have difficulty distinguishing from industrial policy. Because the “industrial policy” label has become associated in this country with notions of unfair trade and unacceptable levels of government intervention in the marketplace, the United States has tended to take an ad hoc, rather than a consciously coordinated, approach to microeconomic policy, with trade measures frequently forced to carry the burden of achieving essentially microeconomic policy goals when other measures would be more appropriate. However, the official U.S. government view remains that the role of trade policy is a limited one—to eliminate unfair trading practices, and occasionally to allow limited protection for domestic industries to permit them to adjust to foreign competition—and that trade policy should not properly be used as a tool to promote any particular form of, or direction for, economic development.

The European Communities, on the other hand, have been more forthright about employing whatever measures are deemed necessary (e.g., trade restrictions, subsidization, forced rationalization) to foster or preserve important industrial sectors. Trade policy in the Communities, then, is viewed as a subset of overall competition policy rather than as an independent

branch of policymaking with limited applications. When trade conflicts arise between the United States and the European Communities, the differences in their views regarding the proper role of trade policy in the overall policy process inevitably create difficulties in achieving a satisfactory resolution of any particular dispute.

Although few would quarrel with these observations, not all would agree with the authors' reasoning that this state of affairs precludes the possibility that the multilateral regime (GATT) can address trade problems outside the tariff area with any degree of effectiveness. One suspects that the authors were unduly influenced by the pundits and cynics of the day, and are overly skeptical as a consequence. The authors' pessimism may also derive from their focus on the differences in national policies that inhibit policy coordination, and a consequent tendency to overlook or minimize the importance of the areas of mutual interest that promote dispute resolution.

One consequence of this focus on the negative aspects of the cases examined is a tendency to offer criticisms that are not entirely justified. Particularly in the case study on steel, the book criticizes U.S. and EC trade policy actions without sufficient consideration of whether, under existing economic and political conditions, a particular action did or did not represent the best achievable alternative. Granted, there is room to criticize the woodenness of U.S. trade laws and the U.S. policy process, and one can easily paint a picture of a U.S. Government operating at the mercy of domestic steel interests to the detriment of the international trading system. However, this perspective fails to recognize that the solutions crafted in the steel case were designed not only to conform with U.S. obligations under the GATT, but also to take account of European economic and political realities. The trigger price mechanism (TPM) was, after all, designed to allow (often heavily subsidized) European producers to compete against the more efficient Japanese in the U.S. market, rather than subjecting them to the rigors of the U.S. countervailing duty law, a result that would have excluded certain EC producers from the U.S. market entirely. In this context, the study's criticisms of U.S. trade laws and of the details of administering the TPM obscure a central point, namely, the important areas of mutual interest that enabled the United States and the European Communities to reach agreement on measures to address the problem.

Similarly, the analysis of the telematics case would benefit from a more extensive focus on areas of mutual interest, as well as on problem areas. By looking narrowly at the issues surrounding deregulation of telecommunications markets, the study fails to take account of the growing recognition in both the United States and the European Communities that there are large areas of mutual U.S.-EC interest, not only in the telecommunications sector, but across the entire spectrum of electronics products and services, from semiconductors to computers, and from informatics to high-definition television. This growing awareness of common interests and of the need to avoid trade conflicts can be seen in a number of recent positive initiatives such as the U.S.-EC High Technology Working Group and the willingness of the European Communities to entertain comments on the EC Green Paper on telecommunications deregulation. These initiatives suggest that

there are strong undercurrents that could be channeled to promote policy coordination if the issues were properly conceptualized and packaged.

All of this, quite naturally, leads to a consideration of the multilateral system and GATT. The "macro" conclusions drawn by the authors regarding the implications of their analysis for the multilateral trading system are less compelling than the "micro" analysis of the individual case studies. In part, this is because insufficient attention is devoted to developing an overall framework to tie the case studies together, with the result that the book's conclusions and policy prescriptions come across as something of an afterthought.

It appears, moreover, that the standards by which the authors have evaluated prospects for managing trade conflicts multilaterally are unduly restrictive. The GATT system itself recognizes that free trade notions must often be modified to take account of the fundamental economic realities that frequently prevent the development of optimal trade policies. In a world in which sovereign nations are unprepared to cede control over their commercial policies, the GATT cannot realistically be expected to replace sovereign nations in their policymaking function. This does not, however, necessitate the conclusion that there is no useful role to be played by such a multilateral regime. The GATT can (and should) continue to play its traditional role as a forum for developing agreement on the ground rules for international trade and for arbitrating disputes regarding their application. (That interpretation and enforcement of the international rules must, of necessity, begin at the national level is not an argument for doing away with GATT.) Beyond its traditional role, the GATT can also continue to expand what has become (in the new Uruguay Round of negotiations in particular) its de facto function as a promoter of mutual interests and appropriate national trade policies. In this latter function lies the most promising direction for effective multilateral management of international trade relations in an increasingly complex world.

The most telling criticism of U.S. trade policy since the late 1960s and early 1970s is that the United States quite simply does not have one. The studies in this book help one to understand why. In this regard, they make an invaluable contribution to the effort to reconcile the "micro" view of industrial efforts to address foreign competition with the "macro" view of the appropriate role of trade in overall economic policy.

R. MICHAEL GADBAW

Of the District of Columbia Bar

ROSEMARY E. GWYNN

Of the District of Columbia Bar

Rechtliche Beschränkungen des Technologietransfers im Außenwirtschaftsverkehr.

By Klaus Wolfgang Ebert. Baden-Baden: Nomos Verlagsgesellschaft, 1986. Pp. 381. DM 87.

Although most German doctoral dissertations in fields such as law, medicine and economics are not published by a regular publishing house but are printed in upgraded mimeograph form at the candidate's expense, K. W.