Trade and Competition Law in the EU and Beyond, edited by Inge Govaere, Reinhard Quick and Marco Bronckers (eds.) (Edward Elgar, Cheltenham 2011, xxx, 478 pp.).

Trade and Competition Law in the EU and Beyond is a Festschrift for the 75th birthday of the eminent lawyer Jacques Bourgeois. It is composed of a triple foreword and 29 contributions divided into three parts: ‘Trade and Competition’ (two texts), ‘Trade’ (16 texts), and ‘Competition’ (11 texts). The authors - the European and American academics, judges, practising lawyers, officials and, at the same time, colleagues, friends, and former students of the celebrated Geburtstagskind - were not shy to cast some light on their relationship with, and the personality of, Jacques Bourgeois,¹ making it a particularly personal academic volume, a true liber amicorum.

The editors decided to focus the book on trade and competition themes, which are ‘not unrelated, although very few lawyers have been able to combine them as has Jacques [Bourgeois]’ (p. xxi). Trade and competition are typically considered as two different themes. Both audiences are often said not to get involved with each other, generally considering their disciplines as separate. This is somewhat reflected in the tripartite structure of this volume with the part on ‘Trade and Competition’ including only two contributions. It is also not surprising to find the leading commentators on trade law (for example Thomas Cottier, John H. Jackson, and Petros C. Mavroidis) populating the part of the book on trade issues; and the leading commentators on competition law (among them Ian S. Forrester, Damien Geradin, and Barry E. Hawk) feeding into the part on competition. At the same time the facts that this volume came into being, and that it would be rather difficult, in case of quite a few of the contributors, to pigeonhole them into ‘trade’ or ‘competition’ categories- suggest that perhaps the time is ripe to start thinking about ‘trade and competition’ not as separate fields, but a single approach to law.

Furthermore, although the volume’s central focus is on trade and competition, the most dominant part, ‘Trade’, includes contributions that are of more general relevance, extending beyond trade law. That is the case with, for example, Jackson’s piece on modern approaches to treaty interpretation or Kuijper’s article on the Court of Justice and unrecognized entities under international law.

In general, the book’s description promises ‘an overview of cutting edge issues in the areas of trade and competition law’ and the authors kept the promise. Trade and Competition Law in the EU and Beyond raises and discusses a number of current issues, among them those pertaining to the WTO dispute settlement, the domestic law effect of the WTO in the EU, and the 2010 US Horizontal Merger Guidelines.

For example, Cottier and Payosova investigate the very topical issue of exchange rates policies, analysing the currently applicable legal framework. They argue that the IMF is ‘not in a position to offer a sound solution at this time’ (p. 41). While pointing to the existing interlinkages between the international monetary policies and international trade, they find that the WTO is poorly equipped to address exchange rates-related concerns, and that the reliance on instruments available in the

¹ To learn more about Jacques Bourgeois, see recent interview with him on Chillin’Competition blog at http://chillingcompetition.com/2012/03/02/the-friday-slot-6-jacques-bourgeois/.

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WTO framework in such cases, under the Agreement on Subsidies and Countervailing Measures, ‘could destroy the WTO’ (p. 44). Ultimately, Cottier and Payosova call for empowering of the IMF and the creation of a rule-based approach within its framework.

Welge in his text on the negotiations of a new antidumping agreement within the WTO Doha negotiation round offers insights into the more likely reasons why members asked for renegotiation of the agreement currently in force. He further explains how, in practical terms, such negotiations were conducted in the past and what sorts of practices are used at present. Welge goes on to flag the issues considered most controversial in the ongoing negotiations and offers his view on the factors that made the 2007 draft fail, pointing out, for example, the way in which the particularly charged issue of zeroing was addressed in it. This contribution is particularly valuable as it helps to realize the realities of negotiations of rules governing antidumping, as well as, in broader terms, to understand the intricacies of the international trade negotiations.

In the part of the book devoted to competition matters Petit addresses the issue of parallel trade from the law and economics perspective, challenging the current stance of EU competition law, both of the courts and of the Commission, in favour of such activities. He argues that the empirical evidence available does not allow to draw an unambiguous conclusion that parallel trade actually has positive effects on consumer welfare. In this thought provoking piece Petit raises a number of concerns, ranging from detrimental effect of parallel trade on commercial and technological innovation to its arguably wasteful and wastefulness-promoting nature, ultimately contesting the popular intuitive view that parallel trade stimulates intra-brand competition to the benefit of consumers.

Bishop looks into the EU rules on state aid through the public choice theory lens. He sets off by offering a brief look into the origin of the rules in order to then explain the current ‘tutelage model’ with ‘the wise Commission as schoolmaster and disciplinarian of the venal member states’ (p. 425). The author identifies factors, which- in his view- prevent the reform of the system. He concludes this succinct and intriguing article by stating that EU state aid is ‘a microcosm of Europe’s constitutional ills’ (p. 430), offering some more general criticism on the European project.

Overall, Trade and Competition Law in the EU and Beyond is a remarkable collection of scholarly contributions of relevance to academics, practitioners, and officials not only interested in rules governing international trade and competition, but also in international economic law in general. The authorship is diversified, representing views of commentators from many countries, and the focus of individual contributions is not only on law de lege lata but also de lege ferenda greatly adding to the volume’s value and its input in the ongoing academic discourse.

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