

FOREWORD

The launch of the Indian Journal of International Economic Law by the students at the National Law School of India University is a milestone. It fills an important lacuna in India's study of WTO law and should begin to provide us with informed perspectives on the evolving WTO jurisprudence excessively dominated by the perceptions and objectives of policymakers in powerful developed countries and by the activism of the gigantic, financially-flush NGOs like Friends of the Earth and Oxfam reflecting the viewpoints of their origin and location.

For instance, when I was Economic Policy Adviser to the Director General of GATT (1991-93), I was drawn into advising on the Tuna-Dolphin case. Both Frieder Roessler (the Legal Adviser) and I advised against the notion that PPMs should be allowed as a general argument for invoking restrictions against a GATT member which did not use the specified PPMs. We had two reasons: first, anyone could invoke PPMs to provide de facto protection against rival firms abroad that did not use them and we would be opening a Pandora's Box; and second, as the late Anil Agarwal of the Center for Science and Environment agreed with me, the developing countries could not invoke such sanctions against the developed countries for obvious reasons whereas the developed countries surely could, thus building asymmetry of effective rights under the GATT system. Now that this jurisprudence has been overturned by the WTO Appellate Body in its Shrimp-Turtle decision, the chickens are coming home to roost. First, the French, drawing on my writings in the book, *In Defense of Globalization* (2001) over the past several years, planned to tax imports from US because it had not signed the Kyoto Protocol (a measure that would follow logically from the WTO jurisprudence today). And, ironically, the US Congress is already discussing seriously tariffs to harmonise Indian and Chinese carbon taxes as and when the US adopts them. Professor Mavroidis and I have written at length on this issue in a recent article. But while I can understand that the US and EU media will not address these issues, I believe the developing countries cannot afford not to do so. It is here that IJIEL comes in and can and should provide a forum for a discussion.

I also urge that you draw on economists as much as on lawyers, since their interface is what is involved in many of these cases. Years ago, I pioneered fruitful collaboration between lawyers and economists. There is a Bhagwati

Tax on the brain drain, just like the famous Tobin Tax on capital flows. It has been revived in recent years, after lying dormant for nearly a quarter century after a lot of interest in it when I proposed it. At the time, I found collaboration with lawyers extremely valuable: with Martin Partington of LSE Law Department with whom I co-edited a North Holland book, with Frank Newman, the human rights Professor of Law at Berkeley, and with eminent tax lawyers like Professors Oliver Oldman of Harvard Law School and Richard Pomp. My next collaboration was with the great trade law expert, Professor Robert Hudec, with whom I worked on a book, *Aggressive Unilateralism* (1991) on the 1988 Omnibus Trade and Competitiveness Act's S. 301 legislation. We then collaborated on a far more important set of issues: the increasing demands by NGOs and others for harmonization and 'fair trade' as prerequisites for freeing trade. After a major research project, we produced two volumes, one on economics and one on law, but with both sets of scholars collaborating through continual meetings. The results were published under our editorship by in 1996 and had a substantial impact. Recently, Professor Mavroidis has followed in these footsteps and put together a major project with active collaboration between many of today's best trade economists and lawyers again, to examine a host of WTO-related issues, making collaboration between lawyers and economists a continuing reality.

I would therefore urge the IJIEL to follow these models and to have distinguished trade economists from India and elsewhere also on its slate of advisers: Economics and Law are "natural partners" in your enterprise. That would help build a truly powerful voice that can match that of the developed-country politicians, policymakers and NGOs. That would help improve WTO jurisprudence in the future. That can only be to our, and the world's, advantage.

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