

Editorial EYIEL 4 (2013)

Volume 4 (2013) of the European Yearbook of International Economic Law (EYIEL) offers a special focus on recent developments in International Competition Policy and Law.

International competition law is emerging as a distinct subfield of international economic law in recent years even though international agreements on competition cooperation date back into the 1970s. Competition law became a prominent subject of political and academic debates in the late 1990s when competition and trade were discussed as one of the Singapore subjects in the WTO. Today, international competition law is a complex multi-layered system of rules and principles encompassing not only the external application of domestic competition law and traditional bilateral cooperation agreements but also competition provision in regional trade agreements and non-binding guidelines and standards. Furthermore, the relevance of competition law for developing countries or the relationship between competition law and public services raise controversial debates.

The contributions to this volume reflect the growing diversity of the issues and elements of international competition law. The effectiveness of competition law is intrinsically linked to the institutional design of competition authorities. In his distinguished essay, *William E. Kovacic* revisits this classical theme of competition law and develops characteristics of good agency practice reflecting in particular his own experience and expertise as a former Chairman of the US Federal Trade Commission.

The next set of essays addresses the relationship between trade law and competition law. *Alden Abbott* and *Shanker Singham* argue that both fields serve similar welfare-enhancing goals despite distinct legal traditions and support their case with an analysis of anticompetitive market distortions in the WTO and the International Competition Network (ICN). The essays by *Hanspeter Tschaeni* and *Valérie Engammare* and by *Peter Hilpold* supplement the trade and competition debate by studying the role of competition law in regional trade agreements (RTAs). *Tschaeni* and *Engammare* recall the growing importance of RTAs for competition law and share insights from the negotiators perspective. *Hilpold* takes the debate one step further and asks whether RTAs can serve as a stepping stone towards a plurilateral (or even multilateral?) agreement on competition law.

For EYIEL as a European yearbook on economic law it seems fitting to include a specific perspective on European law issues. *Anestis Papadopoulos* exposes us to the external competition law and policy of the EU showing that the EU plays an important role in all areas of international competition law. Focussing on public services in transnational competition law, *Johan van de Gronden* addresses a decisively “European” subject. His question is whether the complex relationship between public services and competition law in the internal legal order of the EU is equally relevant at the international level.

It is often argued that limiting cartels and abusive behaviour by dominant players would also be beneficial for developing countries. In fact, competition law is certainly on the rise in the Global South. *Trudi Hartzenbergs* contribution on competition policy in Africa contains ample evidence of this development, but also highlights the diversity of approaches in Africa at the national and regional level. *Yane Svetiev* approaches the subject from a conceptual and policy perspective. Offering an optimistic view, he shows how competition law can indeed function as an element of the international law of development.

The last essay of the special focus on competition law places competition law in a broader theoretical and constitutional perspective. *Gralf-Peter Calliess*, *Jens Martens*, and *Moritz Renner* ask how the institutional prerequisites of the world market, in particular undistorted competition, can be reproduced. They show that to a certain extent, market-based solutions and private law regimes can contribute to this reproduction leading—at least partly—to a privatisation of the economic constitution.

Part II of EYIEL 4 (Regional Integration), as usual, is devoted to selected questions of regional economic integration development around the world, especially new aspects of the next generation of US and European Free Trade Agreements with third countries, and new developments in Southeast Asia.

Part III (International Economic Institutions) contains analytical reports on recent developments within the International Monetary Fund (IMF), the World Trade Organization (WTO), the World Intellectual Property Organization (WIPO), and the United Nations Conference on Trade and Development (UNCTAD) as Part IV (Reviews) provides for detailed information about recent publication in the field of International Economic Law. The contribution on the World Customs Organization (WCO) addresses the developments with regard to customs valuation in particular.

The editors are happy to introduce Professor *Markus Krajewski*, University of Erlangen-Nürnberg as a new editor of EYIEL. Markus is an internationally recognised expert in the field of International Economic Law and a most valuable addition to the editorial team.

We are also delighted to welcome Professor *Eleonor M. Fox*, New York University School of Law and Professor *William E. Kovacic*, George Washington University School of Law to the Advisory Board of EYIEL. Both are globally well-known experts in the field of International Economic Law, in practice as well as in scholarship.

Very sadly, one of the initial members of the Advisory Board, Prof. Dr. Horst G. Krenzler, former Director General for Trade of the Commission of the European

Union and honorary professor of the Ludwig-Maximilians-University Munich, passed away shortly before this volume went into production. He was not only an extremely supportive board member and extraordinarily competent trade lawyer, who knew trade from all perspectives (as trade negotiator, as of counsel, and as honorary professor), but also constantly strived to hand his knowledge on to others by lecturing at the university and by editing a leading commentary on European external trade law (in German). To Christoph, he was also a personal friend and honoured him greatly by making him his co-editor (and now successor) of the aforementioned commentary. We grieve for him as a trade lawyer and as a most enjoyable, kind and lovely person, and we will do our very best to honour his memory.

Finally, we are indebted to a great number of people, again primarily to our contributors. The collaboration with Springer and especially with Dr. *Brigitte Reschke* was—once more—very enjoyable, cooperative, and fruitful. We have to extend our thanks to the member of the EYIEL Advisory Board, too. Lastly, we would like to thank our research assistants at the Universities of Lüneburg and Passau (in particular to *Sören Rätthling*) for their invaluable support in handling the manuscripts and proofs.

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