

OXFORD

THE WORLD TRADE ORGANIZATION

LAW, PRACTICE, AND POLICY

SECOND EDITION

MITSUO MATSUSHITA
THOMAS J. SCHOENBAUM &
PETROS C. MAVROIDIS

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PREFACE TO THE SECOND EDITION

Almost three years have passed since the publication of the first edition of this book. Although the WTO encountered difficulties in the political arena as exemplified by the failure to initiate multilateral negotiations at the Cancun Ministerial Conference, the dispute settlement system of the WTO has continued to grow and provided rules of trade which are essential for security and predictability of international trading system. With regard to the dispute settlement system of the WTO, the Sutherland Report states: "First, while there are some grounds for criticism and reform of the dispute settlement system, on the whole, there exists much satisfaction with its practices and performance. Second, in appraising ideas for reform or improvement, the most important principle is to 'do no harm.'"¹ In the past three year period, a number of important panel and the Appellate Body reports were adopted and their recommendations were implemented. These reports contributed much toward the establishment of WTO jurisprudence, which is the basis for a stable and orderly international trade.

In light of these developments, the authors decided to revise the book extensively and incorporate new rules and principles enunciated in panel and the Appellate Body reports. Also two new chapters were added, e.g., a chapter on agriculture and a chapter on government procurement. Agriculture is always a focal point in WTO negotiations and dispute settlement. The authors think that agriculture deserves a separate chapter for analysis and explanation. The value and amount of government procurement are indeed great and play an important role in international trade. This is especially true in large trading entities such as the United States, the European Union and Japan. There are also many disputes both internationally and domestically with regard to government procurement. The authors

¹ The Future of the WTO: Addressing institutional challenges in the new millennium, Report of the Consultative Board to the Director-General Supachai Pantichapakdi (World Trade Organization, 2004), p. 49.

think that it makes much sense to incorporate a chapter on government procurement.

WTO law continues to grow and any writing on this subject is destined to be out of date. The authors tried to incorporate as much recent information as possible. However, there has to be a cutoff time in updating and this cutoff time is the end of July 2005.

Our thanks are due to Ms Tomoko Ohhara, a graduate student at The University of Edinburgh specializing in international economic law, who prepared the table of cases and decisions and the WTO agreements and other instruments cited in the texts. Last but not least, our thanks are due to Mr John Louth and editors of the Oxford University Press for their encouragement and patience without which this second edition would not have been completed.

Mitsuo Matsushita
Thomas J. Schoenbaum
Petros C. Mavroidis
October, 2005

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Patrick A. Low found the time and, most importantly, the patience to respond to numerous questions concerning the economics of standardization. Clemens Boonekamp provided us with very useful comments on the chapters on preferential trade agreements. Michael 'Tractor' Roberts provided us with most useful comments on the chapter on Technical Barriers to Trade, and corrected many misunderstandings regarding the interpretation of the SPS agreement. Jasper-Martijn 'Tijn' Wouters, helped us to substantially improve the chapter on Subsidies. 'Tijn' has, over the years, been both a source of inspiration and a wonderful debating partner on all issues regarding contingent protection instruments. Pauline Lièvre and Panagiotis Delimatsis demonstrated dedication beyond the call of duty and tirelessly offered comments, kindly agreeing to share with us their vast expertise on trade issues. Laurenz Sigismondi and Yvan 'Pages' Fauchère read various chapters critically and improved their final content. Eyal Benvenisti, Joost Pauwelyn and Joel Trachtman undertook the daunting task of improving our understanding of public international law. David Palmetier, our dear friend and mentor over the years offered his valuable comments on various chapters.

Acknowledgements

Henrik Horn discussed each and every chapter with us and generously commented on the economics aspects. Finally, Rhian-Mary Wood-Richards pointed us to various WTO documents we had completely neglected and put the whole volume in shape.

Petros Mavroidis would not have finished this book without the unlimited support of his wife Suja, and his two daughters Meera-Natalia and Riya-Valentina who, however, on occasions have been quite upset with his dedication to this book and graciously reminded him time and again that there is more to life and they are very much part of it. This, like all his work, is dedicated to them.

Thomas Schoenbaum wishes to thank, in particular, the senior author of this book, Mitsuo Matsushita, for his unfailing kindness and for the pleasure of working with him on various comparative and trade law projects over almost thirty years. He wishes to dedicate this book to his wife, Naomi.

Mitsuo Matsushita wishes to thank both Thomas Schoenbaum and Petros Mavroidis for their patience and cooperation, without which this book would not have been completed. He wishes to dedicate this book to his wife, Mieko, whose unfailing support for more than forty years has been the foundation of whatever accomplishments he may have made.

Mitsuo Matsushita
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October, 2005

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