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PROCESSES AND  
PRODUCTION METHODS  
(PPMs) IN WTO LAW  
Interfacing Trade and Social Goals  
Christiane R. Conrad



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Interfacing trade and social goals

CHRISTIANE R. CONRAD



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## PROCESSES AND PRODUCTION METHODS (PPMs) IN WTO LAW

Despite a decades-long debate, starting with the *Tuna-Dolphin* disputes of the 1990s, questions on the status of national regulatory measures linked to processes and production methods in WTO law have remained unsolved. Likewise, labelling requirements relating to unincorporated aspects of a product's life cycle remain strongly contested. Ongoing disputes at the WTO, as well as global social and environmental challenges relating to economic activities show how topical and important the search for adequate answers still is. *Processes and Production Methods (PPMs) in WTO Law* identifies and comprehensively analyses the key legal problems concerning such measures, setting them in the context of the current debate and its economic and regulatory background. Christiane R. Conrad develops a new approach to this debate which draws on the objectives and established economic rationales of the WTO Agreements.

CHRISTIANE R. CONRAD is an attorney at law and in-house lawyer with a telecommunications company in Germany. She was a member of the Collaborative Research Centre "Transformations of the State" at the University of Bremen, and she has also been a Visiting Fellow at Georgetown University Law Center.

CAMBRIDGE INTERNATIONAL TRADE  
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*Processes and Production Methods (PPMs) in WTO Law: Interfacing Trade and Social Goals*

Christiane R. Conrad

The *Parties* to this Agreement,  
*Recognizing* that their relations in the field of trade and economic  
endeavour should be conducted  
with a view to raising standards of living,  
ensuring full employment,  
and a large and steadily growing volume of real income and effective  
demand,  
and expanding the production of and trade in goods and services,  
while allowing for the optimal use of the world's resources in  
accordance with the objective of sustainable development,  
seeking both to protect and preserve the environment  
and to enhance the means for doing so in a manner consistent with  
their respective needs and concerns at different levels of economic  
development

Marrakesh Agreement Establishing the  
World Trade Organization  
signed in Marrakesh, Morocco, on 15 April 1994

As of today, 153 countries and other WTO members as well as  
29 candidate countries have committed themselves to the above  
objectives.

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## PREFACE AND ACKNOWLEDGEMENTS

This book is a revised and updated version of my Ph.D. dissertation, which was accepted by the Law Faculty of the University of Berne in 2008. The sub-title of my dissertation, 'A contribution to the debate on the impact of WTO law on national regulation pursuing social goals', shows the broader context of my doctoral research which led to this book. As a member of the project group 'Social regulation and world trade' at the Collaborative Research Centre 'Transformations of the State', I placed a strong focus on the interplay of national social regulation and international trade, and, in particular, on the status of national regulatory measures under the law of the WTO. I found that despite a decades-long debate, the status of such measures – both from a legal and a political perspective – still remains unresolved. Existing regulatory measures show, that despite legal uncertainty, states do not totally refrain from exercising their power to enact such measures. However, there can be no doubt that the existence of the WTO Agreements and the heated legal and political debates on the legality of certain measures of national social regulation, which have been taking place at an international and, above all, at a transnational level, may lead to a chilling effect on the exercise of national powers. These, however, are still necessary to solve certain problems in cases where no capable institutions at other governance levels are in place. This book analyses the problem and offers a new 'regulatory' perspective, which might help to realize the common goals of national regulators and members of the WTO.

Writing this book would not have been possible without the encouragement, advice, help and support of many people, only a few of whom can be mentioned here. First and foremost, I owe particular gratitude to my supervisor, Professor Thomas Cottier, who inspired me to write this thesis in the first place. His advice and encouragement have been much needed major driving forces throughout my work. I am grateful also to Professor Ernst-Ulrich Petersmann for his comments and for reviewing my dissertation in the proceedings at the Law Faculty of the University of Berne. This work benefited greatly from discussions with scholars and

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*US – Tuna and Tuna Products*: see *Tuna-Dolphin III*

## ABBREVIATIONS

AAA	Agricultural Adjustment Administration
AB	Appellate Body
AD Agreement	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement)
CAC	Codex Alimentarius Commission
CAFE	Corporate Average Fuel Economy law
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CFC	Chlorofluorocarbon
DSB	Dispute Settlement Body
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes
EC	European Community/European Communities
ECOSOC	United Nations Social and Economic Council
EEC	European Economic Community
EU	European Union
FDA	Food and Drug Administration
FTC	Federal Trade Commission
GATS	General Agreement on Trade in Services
GATT 1947	General Agreement on Tariffs and Trade 1947
GATT 1994	General Agreement on Tariffs and Trade 1994
GMO	Genetically Modified Organism
GPA	Agreement on Government Procurement
GSP	Generalized System of Preferences
HS	Harmonized System: Harmonized Commodity Description and Coding System of the World Customs Organization
ICJ	International Court of Justice
ILO	International Labour Organization