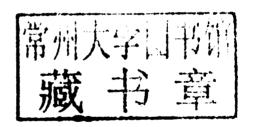


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STUDIES IN INTERNATIONAL TRADE LAW

Constitutionalism, Multilevel Trade Governance and International Economic Law

Edited by
CHRISTIAN JOERGES
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Preface to the Second Edition and Acknowledgments

The very positive reviews, in several law journals, of the first edition of this book encouraged the editors to prepare this second, enlarged paperback edition. As is apparent from the new title, the new edition broadens the scope of our research. The eight interdisciplinary analyses of 'constitutionalisation', 'judicialisation', participatory governance and 'legalisation patterns' in international trade law in Section I, and the six case-studies of transnational governance arrangements for product safety and other social regulation in Section II, are reproduced as they were published in the first edition of this book. Sections III and IV, by contrast, have been replaced by four new contributions on the diverse 'conflicts law' approaches, 'global administrative law' approaches, public international law and 'multilevel constitutional approaches' to international economic regulation and other methodological problems of international economic law.

This broader focus on the systemic and methodological problems of international economic regulation responds to the obvious failures in international economic and social governance over the past years. The 9 years of worldwide negotiations on the Doha Development Round, like the breakdown of parts of the international financial system in 2008 and the lack of leadership for a worldwide treaty preventing climate change, illustrate the ever greater incapacity of the existing system of international economic law to protect 'global public goods' effectively. The entry into force of the Lisbon Treaty on European Union (EU) in December 2009 demonstrates that new forms of multilevel governance in Europe can succeed in protecting European public goods like a common market, human rights, democratic peace and rule of law for the benefit of 500 million EU citizens across the 27 EU member states. Even though Europe seems to be better equipped than worldwide institutions for responding to some of the international governance problems (like reduction of greenhouse gas emissions), the fiscal and monetary problems inside the EU and in the European Economic Area (like the risks of bankruptcy of Greece and Iceland) illustrate the dangerous repercussions of international governance failures also on citizens and governments in Europe.

The broadening of the research scope of this second edition in its new Section III on Alternative Conceptions of International Economic Law and Multilevel Governance required us to omit the three case-studies on environmental governance in Section III of the first edition. An up-to-date

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analysis of the environmental governance problems would have required additional contributions beyond the limited space of this book. We hope that the new Section III will contribute to clarifying the diverse conceptual efforts at promoting the legitimacy, effectiveness and overall coherence of international economic and social regulation. In our view, the diverse perspectives of international private law, 'conflict of laws', global administrative law, international public law and 'multilevel constitutional conceptions' of international economic regulation complement each other in their common search for more effective regulatory approaches to, and legal limitations of, global economic governance problems. As 'we can't solve problems by using the same kind of thinking we used when we created them' (Albert Einstein), there is an urgent need for 'new thinking' challenging the failures of the existing international legal, economic and political governance systems. We are confident that the new Section III will contribute to this discussion on how national and international legal and political systems can respond more effectively to the global economic, environmental, social and political governance problems.

We are deeply indebted to Professors Thomas Cottier, Richard B. Stewart and Michelle Ratton-Sanchez-Badin for their contributions, which enabled us to realize the broader research objective of this second edition. We also thank the EUI doctoral candidates Johanna Croon and Anna Pitaraki for their editorial assistance.

Christian Joerges and Ernst-Ulrich Petersmann Bremen and Florence, April 2010

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Section I

International Trade Law: Constitutionalisation and Judicialisation in the WTO and Beyond

Section I.1

Constitutionalisation and the WTO: Two Competing Visions from Two Different Disciplines