
Foreword

Trade liberalisation has been a dominant feature of international relations since the GATT was founded in 1948. The free trade ideals which gave driving force to the GATT also inspired the Treaty of Rome which established the Common Market in 1958. Both the GATT and the Common Market evolved almost beyond recognition in the subsequent half century, with the GATT incorporated within the framework of the WTO, and the Common Market with its six founding Member States becoming an enlarged European Community and Union of 27 Member States, and a member of the WTO since 1995. While sharing similar aims as regards trade liberalisation, the two organisations define and pursue those aims in different ways, which reflect differences in their institutional structure, and in the reasons for their pursuit of trade liberalisation. For the WTO, trade liberalisation is a goal in itself; a means of improving the economic welfare of the sovereign states who are its Members. For the EU, trade liberalisation is a means to a broader end of economic and political integration. But in each organisation, it is necessary to balance the aim of free trade with other non-economic values, such as health protection, consumer protection, the environment and human rights, and it is the balance between the free movement of goods, and the regulatory autonomy of States to protect these other values which is the theme of this excellent book. It offers an impressive comparative analysis of the scope of the non-fiscal free movement of goods provisions applicable within the EU and WTO respectively, along with the scope for exceptions and derogations, and the mechanisms for dispute settlement, via national courts and the European Court of Justice in the case of the EU, and GATT panels, WTO panels and the Appellate Body, in the case of the WTO. The author offers a convincing critical assessment of both “negative integration” and “positive integration” in the EU. The position in the EU is contrasted with that in the WTO, which does not have the integrationist ambitions of the EU, lacks the developed system of positive integration of the EU; and (unlike the EU) does not go so far as to prohibit indirectly discriminatory measures, and non-discriminatory measures which restrict market access. The balance struck in the WTO between trade liberalisation, on the one hand, and the protection of other values, such as public health, consumer protection, the environment, etc., on the other, can clearly be distinguished from that struck in the EU, and this difference reflects each system’s aims, membership, structure and level of homogeneity, with the EU’s more homogeneous system transferring more regulatory competence to the centre than

would be appropriate or possible in the WTO. Those wanting to be better informed about these aspects of the EU and WTO will find this a readable and well researched book.

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Professor Derrick WYATT QC