Chemicals') compliance and tries to assess their impact on EU companies, on developing country exporters, and on US exporters. He concludes that compliance costs for EU producers will be extremely small in relation to the value of the EU chemicals market. He also argues that most of the cost of REACh compliance in developing countries will fall on large corporations in the mining sector who can easily afford it. Ackerman does acknowledge that there are industries such as essential oils where REACh might have large impacts on some developing countries' export earnings. But he argues that these are the exception rather than the rule.

Cherfane's discussion of trade and environment policy-making in the Middle East (Chapter 25) offers a refreshing alternative perspective. While focusing largely on the political actors and policies in the region, Cherfane highlights the fact that many in the Middle East share concerns with other developing countries that non-tariff barriers, including those implemented for health and safety concerns, might have serious consequences for the competitiveness of developing country exports and for market access. Her discussion highlights the differences in environmental and economics priorities for rich and poor countries, and in the costs/benefits of harmonization of various environmental standards.

A reader might be tempted to characterize HTE as 'anti-globalist,' or as purposely pitting trade and the environment as enemies. Though some chapters fall prey to this on occasion, such a characterization would sell this book short. HTE is a good source for those looking for a better understanding of political issues, of legal debates, and of the state of discussion between government, industry, NGO, and private sector groups on topics that are not often treated elsewhere. The reader mainly interested in learning about the economics of the debate can gain some understanding in Part I of the book, but for an in-depth understanding of the economics of these issues, the reader will have to look elsewhere.

JUDITH M. DEAN, *US International Trade Commission*

References

Copeland, Brian. and M. Scott Taylor (2004), 'Trade, Growth, and the Environment', *Journal of Economic Literature*, **42**: 7–71.

Dean, Judith M. (ed.) (2001), *International Trade and the Environment*, The International Library of Environmental Economics and Policy Series, Farnham, UK: Ashgate.

doi:10.1017/S1474745610000236

Trade Policy Flexibility and Enforcement in the WTO: A Law and Economics Analysis

by Simon A. B. Schropp

Cambridge, UK: Cambridge University Press, 2009

Schropp's monograph follows in the tradition of the economics of contract law to analyze the current system of the WTO's non-performance and enforcement. Based on this framework, the author finds the WTO's current system of trade policy flexibility to be 'profoundly flawed' and offers an agenda for reform.

The author provides a summary of the incomplete contract theory and contract law that establishes a useful framework to discuss the WTO's legal system. Moreover, this book provides an in-depth analysis of the *de jure* and *de facto* rules of renegotiation and non-compliance in the WTO. However, by citing an emerging literature, I argue below that this book's direct application of the above theories to the WTO law is misguided, which undermines its final verdict about the inefficiency of the WTO's remedy system, and its proposed agenda for reform.

In this book, trade agreements are viewed as incomplete contracts between reasonably rational entities (that is, governments) that try to maximize their political welfare in an environment in which future contingencies are uncertain or hard to pin down. Chapters 2 and 3 are dedicated to reviewing the literature on complete and incomplete contracting, with an emphasis on flexible contracts that allow for adjustments in the parties' obligations and entitlements based on the realization of the state of the world.

The framework for the subsequent analysis is mainly laid out in Section 3.3, where various default rules, that is rules governing the breach of a contract, are introduced and compared from an efficiency point of view. In particular, the author discusses in detail the 'property' and 'liability' rules of default as well as the most common remedy calculation methods, namely: expectation damages, reliance, and restitution.

Section 3.3 introduces a familiar result in the economic analysis of contract law: *a liability rule system accompanied by expectation damages usually Pareto-dominates other rules of remedy*. Under such a breach mechanism, a contracting party can choose, unilaterally, to 'escape' from its obligations provided that it pays 'expectation damages' to the injured party. Expectation damages leave the injured party in as good a position as she would have been in had the injurer performed.

Section 3.4 defines and establishes 'Efficient Breach' as an ideal of contract design and a measure to compare various non-performance – *cum* – remedy rules. An efficient breach contract is one that prevents performance of the contract in the contingencies where performance is joint welfare reducing, and ensures performance of the contract when it is joint welfare increasing.

The author turns to examining the WTO's current structure of trade policy flexibility and entitlement protection in Chapter 5. The main finding of this chapter is that countries that are injured because of extra-contractual measures of other parties are not fully compensated under the current system of remedies. The author provides a comprehensive summary of *de jure* and *de facto* protection measures in the WTO and shows that they are structured in a way that is roughly apt to restore the balance of concessions between the injured and injurer. Restoring the balance of concessions, however, does not leave the injured party in as good a position as it would be had the injurer brought its contravening measure into conformity. In other words, the author shows that the size of remedies for extra-contractual behavior is less than the expectation damages. This finding is consistent with Bagwell's (2008) theoretical result that disproportionate retaliation is required to fully compensate an injured party in the WTO.

The author provides ample evidence in support of the claim that the current system of remedies in the WTO does not lead to the award of expectation damages. Therefore, the author concludes that the current non-performance system in the WTO falls short of an efficient breach contract as it fails to replicate the result of a liability rule

system with expectation damages, which was shown to be a Pareto-dominant system of remedies. Based on this analysis, the author formulates his main criticism of the WTO non-performance system and suggests an agenda for reform in Chapters 6 and 7. In summary, the recommended system is 'an unconditional liability rule backed by expectation damages'.

However, the direct application of traditional law and economics analysis of efficient breach to international trade agreements has been criticized by international trade economists. In particular, Beshkar (2010) and a series of working papers, including Beshkar (2007, 2008) and Maggi and Staiger (2009), show that when compensations are costly the first-best system of non-performance is fundamentally different from an expectation damages rule.

As acknowledged by the author, although other forms of compensation are preferred to countermeasures in the WTO, 'retaliation is the more frequently applied remedy' (p. 244). On the other hand, 'retaliation is a suboptimal countermeasure' as it further reduces the joint welfare of the disputing parties. Nevertheless, retaliatory countermeasures are practically the only compensation mechanism available to the WTO members. Therefore, a realistic model of the WTO contract must take into account the efficiency costs associated with compensating an injured party in the WTO. However, the author has assumed the availability of 'monetary compensation' in his formal modeling of the WTO as an incomplete contract (p. 277). As mentioned above, this assumption is consequential on the perceived optimal design of the institution.

One of the reforms proposed in the book is to replace *tariff retaliation* with *tariff compensation* as the remedy of choice in trade dispute settlement. That is, the optimal contract must require an injuring country to offer tariff concessions in other sectors in order to compensate the injured country. The idea behind this proposal is that tariff compensations are not efficiency reducing and, therefore, are preferred to inefficient tariff retaliation. This proposal, however, has at least two problems. First, the availability of such other sectors that can be used for efficient tariff compensation is questionable. That is because if tariffs are set optimally in all sectors, then tariff compensation will be efficiency reducing just as tariff retaliation. In fact, as Jackson (1997, p. 194) points out, 'as the general average of tariffs has declined to a very low point ... it has become increasingly harder for countries invoking safeguard measures to be able to effectively compensate affected countries by way of granting alternative concessions'. The second problem with this proposal, which is also acknowledged by the author, is its enforcement: while tariff retaliation can be imposed on the injuring country, tariff compensation is solely at the injuring country's discretion.

Another proposed reform is to eliminate the high level of *conditionality* that a country has to meet in order to invoke a flexibility instrument, such as safeguard measures. This is also a direct implication of the efficient breach literature under costless transfers that contracting parties must be allowed to escape from their obligations unconditionally, as long as they compensate the injured parties for all of their loss from non-performance. In contrast, when transfers are costly, a first best complete contract advises no compensation and a very high conditionality to use the contract's escape clause. Therefore, this proposed reform also depends critically on the assumption that WTO members have access to an efficient compensation mechanism.

The author also criticizes the current remedy/enforcement system for treating intra- and extra-contractual behavior in the same way. The basic sanction that is allowed against a deviating country, regardless of the nature of the disputed policy (that is, whether it is motivated by *ex-post* regret or by opportunism), is withdrawal of substantially equivalent concessions. As a result, since extra-contractual measures of protection, such as antidumping, are easier to invoke, the member countries are prolific in the use of informal trade policy flexibility instruments.

The author also points out the possibility of other opportunistic behavior by injuring countries, such as foot dragging in the dispute settlement process, which is caused by the system's leniency towards extra-contractual behavior. Indeed, as the author suggests, the WTO system can benefit from a two-layer enforcement mechanism that treats good-faith and bad-faith deviations differently.

The above criticisms should not obscure the virtues of the book. In addition to providing a useful summary of the incomplete contracting literature and economics of contract law, the author provides substantial evidence about the working of the WTO's non-performance and enforcement mechanism. I am, therefore, in agreement with Alan Sykes's assessment that this book is 'valuable and illuminating' for scholars and policymakers in the field of the WTO law.

MOSTAFA BESHKAR, *Yale University*

References

Bagwell, Kyle W. (2008), 'Remedies in the WTO: An Economic Perspective', in M. E. Janow, V. J. Donaldson, and A. Yanovich (eds.), *The WTO: Governance, Dispute Settlement and Developing Countries*, Huntington, New York: Juris Publishing.

Beshkar, Mostafa (2007), 'Trade Skirmishes and Safeguards: A Theory of the WTO Dispute Settlement Process', mimeo, Yale University.

Beshkar, Mostafa (2008), 'Third-Party-Assisted Renegotiation of Trade Agreements', mimeo, Yale University.

Beshkar, Mostafa (2010), 'Optimal Remedies in International Trade Agreements', *European Economic Review*, **54**(3): 455–466.

Jackson, John H. (1997), *The World Trading System: Law and Policy of International Economic Relations*, Cambridge, MA: The MIT Press.

Maggi, Giovanni and Robert W. Staiger (2009), 'Breach, Remedies and Dispute Settlement in Trade Agreements', NBER Working Paper No. 15460.

doi:10.1017/S1474745610000248

Trade, Growth and Poverty Reduction: Least Developed Countries, Landlocked Developing Countries and Small States in the Global Economic System

by T. N. Srinivasan

London, UK: Commonwealth Secretariat, 2009

In this book, Professor Srinivasan sets out to explore why poor countries have failed to grow and to reap more benefits from the recent era of globalization. As I expected