

Christoph Herrmann
Jörg Philipp Terhechte
Editors

2010

**European
Yearbook of
International
Economic Law**



Springer

European Yearbook of International Economic Law

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European Yearbook of International Economic Law 2010

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Editorial

Over the past year, it has become clear that the financial crisis that started 2 years ago in the United States' subprime mortgage market has pushed the global economy into the most severe economic crisis since World War II. Economic policy reactions by national governments as well as the European Union and global economic institutions are manifold, and only in their beginnings. However, it seems safe to assume that the international economic order we will end up with once the crisis is finally over will look different from the order we have become used to. Given both the past changes and those awaiting us in the years to come, the new "European Yearbook of International Economic Law" is all the more timely, even though it could not be foreseen how massive the impact of the crisis would prove to be, and how seriously it would put into question fundamental principles when we launched the project in the first place.

By using the notion "International Economic Law", we deliberately try to tear down the boundaries between the different branches of legal scholarship and practice that have existed over decades, as a result — among other factors — of the failure of the Havana Charter. World trade law, international monetary law, international regulation of financial markets, international investment protection and international competition law — to name only the most prominent sub-disciplines — are from our point of view growing together at an increasing pace. Borrowing a term from European law scholarship, one could legitimately speak of an increasing "cross-pillarization" of international economic law. The global financial crisis provides us with the most significant example of this trend: the spill-over of the crisis from the US into other countries would not have been possible without the free movement of capital as provided for in the OECD codes and in EU law. The global imbalances that have substantially financed the excessive borrowing by the US government and American consumers would not have occurred, at least not to the same extent, had there been effective provisions limiting the ability of countries to prevent an effective appreciation of their exchange rates. Those global imbalances have also caused the massive

accumulation of capital by so-called “Sovereign Wealth Funds”, which in turn has led to renewed investment protectionism in some industrialized countries.

In Part I of the new European Yearbook of International Economic Law, we try to demonstrate the huge variety of topics encompassed by the notion “International Economic Law”. At the same time we seek to point out the links between the different branches, as well as the growing interconnectivity of different questions. Part II is devoted to the growing trend of “going regional” that can be witnessed all over the world. The contributions in this part aim at giving an overview of the different, but at the same time similar regional integration initiatives and their recent developments in the main regions of the world. Two remarks concerning this part are necessary. Firstly, we deliberately excluded the integration process that is taking place within the European Union. This process is a very special topic in its own right (i.e. “European law”), and has already gone far beyond the traditional concepts of international economic law (free trade area, customs union, etc.). Instead, we look at the regional integration strategies and initiatives that are pursued by the European Union as an increasingly important actor in the global economy. Secondly, we did not simply “forget” Africa, as the international community is often being accused of. In fact, a separate analytical report on regional integration in Africa had been planned, but the planned author had to withdraw shortly before the deadline for submission. We strongly hope that we will be able to fill this obvious gap in the second volume of EYIEL. Part III covers major developments in some of the global institutions and fora dealing with the governance of the global economy.

EYIEL is a new project, and as such suffers from many infant diseases. Nevertheless, we are very happy about this first volume, and will try to eliminate remaining shortcomings within the next few years. As Editors, we are heavily indebted to a great number of people, first and foremost to our contributors who have produced a multitude of interesting and stimulating treatises on the current problems of international economic law scholarship. Secondly, we thank Springer and the responsible Executive Editor Law, Dr. Brigitte Reschke, for giving us the opportunity to launch a new and challenging project of this scope and supporting us in many ways in its preparation. Thirdly, we are grateful to the members of the Editorial Advisory Board, who have greatly supported this project with their advice and confidence. Lastly, we would like to thank our academic and student assistants at the Universities of Hamburg and Passau for their invaluable support in handling the manuscripts and proofs.

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May 2009

Christoph Herrmann
Jörg Philipp Terhechte

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Part I

Topics