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## Book Review

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### **Principles of International Economic Law**

**by: Matthias Herdegen**

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Prof. Dr. Matthias Herdegen is a law professor at the University of Bonn in Germany. His book, *Principles of International Economic Law, second edition*, continues his long-lasting work in the field of international economic and financial law. This is a topic, often shadowed by a more elaborated and publically more exposed, international law in general. The book covers all-inclusively the necessary aspects of international law and uses various practical examples to demonstrate the uses of different international treaties and agreements.

In the beginning, Herdegen presents two different understandings for international economic law, as a concept. The book continuous to follow one of the two presented concepts, the broader concept. According to Herdegen (p.3), it includes “the role of private actors or hybrid entities administering public goods of major relevance to the international community --- and more adequately pays tribute to the interplay between international and domestic law in a transboundary economic context.”

The book is divided into six parts with multiple chapters within each part. The first part encompasses the steps throughout history which have led to the modern laws in the field of economics and the different parties involved in shaping and forming the international law system. While the states have the most important role in the decision-making process (the states can in theory choose which international laws to adopt and which not), the other actors (such as international organisations and private enterprises) have increased their importance. The latter, if not well in contact with international law, might cause severe problems to countries since some companies' revenues are higher than a single country's GDP (p.42).<sup>1</sup>

Part 2 focuses on one hand explaining the basic principles of the international economic order, and how all parties should enjoy equal treatment whether dealing in the home country or abroad. Deleting tariffs to ensure this and offering developing countries beneficial tariffs are ways to ensure this equal treatment. On the other hand, Part 2 is looking at the sovereignty of states to rule and how this might conflict with other

countries. Herdegen uses an example of the company Paypal (the USA), which wished for European countries to stop selling Cuban cigars in order to continue working together with Paypal. This according to Herdegen was due to the conflicts between the USA and Cuba (p.92). Solutions for such issues of another country's politics influencing others according to Herdegen, would be as an example the unitising of international laws and following a 'reasonableness test' on the country's own jurisdiction.

Additionally, human rights and environmental protection are brought into the context of economical law. This is a topic which is getting more and more attention, especially after the decades of intensive penetration of Asian economies to the world's trade scene (especially in the case of China). While the importance of human rights might be rather underestimated in the field of economics, it is overarching to the whole of humankind. To quote Herdegen (p.116): "--- international human rights do not only protect the private sphere of life but also entrepreneurial activities and property. Social guarantees and collective rights, such as the freedom of association, significantly shape the economic order and employment conditions." He writes how human rights violations often go hand in hand with exploitation of the environment. Country borders and land rights alter the traditional living of indigenous people. The lands often interest not only the indigenous people, but entrepreneurs to benefit from the resources in the area. Thus, international agreements, such as the ILO Convention No. 169 of 1989, are important to ensure the rights of the indigenous people's rights (p.120). Other international environmental laws are regarding the atmosphere and climate, biodiversity and biotechnology among others. However, it is difficult to have universal treaties and laws for environmental protection, due to different socioeconomic backgrounds of observed countries. Herdegen gives an example of Russia when reducing the emissions of carbon dioxide back to 1990s level universally. Russia had high emissions during that time, but has decreased the levels drastically after that, which enables Russia not to compulsory implement severe cuts to reduce emissions anymore. Another example given in the book is that of a problematic restriction of the CO<sub>2</sub> emissions; is that since countries like Canada and Russia have large areas of carbon sinks, they can pollute more than countries with less forested areas (p.145).

Herdegen points out that many pharmaceutical companies use ingredients in some form from nature, which can cause problems in biodiversity if not handled correctly. The Convention on Biological Diversity (CBD) has set out rules for accessing genetic resources. Parties involved in practice regarding biodiversity should work together and set rules in cooperation. Herdegen comes back to biodiversity, genetic resources and pharmaceutical sector in the third part of the book when talking about patent rights: in order to protect nature, patent rights can be denied, if the invention is exploiting nature. Denying patents involving exploitation of genetic resources has been done in Decision No. 391 of the Andean Commission (p.275). However, denying patent over genetic resources is not yet implemented in the TRIPS Agreement Article 27 which sets out guidelines to patents in general. In general, Part 3 focuses firstly on international trade agreements, WTO, GATT and GATS and secondly to regional trade agreements such as EFTA, NAFTA and The Transatlantic Trade and Investment Partnership (TTIP). Problems with EFTA compared to the European Economic Area (EEA) countries is as an example that the EFTA countries feel "being subject to 'foreign' regulatory powers" (p.327). While TTIP Agreement at its best could lead to abolishing tariffs between the European Union and the USA and help unify health and safety regulations.<sup>2</sup> Herdegen also mentions the critique that has been around the agreement. Fears are as an example

that the regulations over the before-mentioned health and safety regulations and food regulations would suffer on the European Union side since the regulations are much stronger in the European Union than in the USA.

In Part 4, 'International business law', Herdegen introduces us to topics which are important for every single consumer. The main topics are covering the actual transactions when buying and selling and what are the obligations of each party. He continues focusing on the seller's side and explains different laws for competition and compares the Competition Law of the European Union and Antitrust Law of the United States. Additionally, Herdegen writes briefly about international tax laws.

Part 5 focuses on international law of foreign investment where the basis international treaties are explained through multiple different example cases. Herdegen reminds at the end of the fifth part about how interlinked international investment laws are with human rights – environment – and labour laws.

In the final part, Herdegen talks about finance and monetary policies. He explains how the International Monetary Fund (IMF) operates and works. He gives a brief historical look over trade and how from times after WW2, when currencies were stabilised through the value of gold, to today's rather agreed set of currency value, were developing. Lastly, Herdegen reflects the debt crises and how international agreements try to prevent such crises from happening.

Overall, we would recommend reading the book to anyone who wants to get a comprehensive view on international economic law and its interconnection with all the spheres of human global activity. Herdegen uses numerous examples from many different countries and explains different agreements in the global context. The book is rather extensive and it takes some time to read, since it covers a wide range of topics and relevant issues in international affairs. These are very complex issues, which need a lot of previous understanding of the subject as well as general understanding of globalisation, international law, international relations and regional integration (EU). However, we strongly recommend the book to all postgraduate students and even experts, studying or working in the above mentioned fields.

## Notes

- 1 We have presented many cases of economic diplomacy and different roles of companies in this regard in previous volumes of *IJDipE*.
- 2 It was thus interesting to observe the opposition in Europe when the agreement was being negotiated by the parties.