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978-0-521-83423-0 - The WTO Case Law of 2003: The American Law Institute Reporters' Studies

Edited by Henrik Horn and Petros C. Mavroidis

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THE WTO CASE LAW OF 2003
THE AMERICAN LAW INSTITUTE
REPORTERS' STUDIES

This book is the third in a series of annual volumes that will be utilized in the development of an American Law Institute (ALI) project on World Trade Organization (WTO) Law. The volumes undertake a yearly analysis of the case law from the adjudicating bodies of the WTO. The Reporters' Studies for 2003 cover a wide range of WTO law from trade in goods to trade in services. Each case is jointly evaluated by an economist and a lawyer, both well-known experts in the fields of trade law and international economics. The Reporters critically review the jurisprudence of WTO adjudicating bodies and evaluate whether the ruling "makes sense" from an economic as well as legal point of view, and if not, whether the problem lies in the interpretation of the law or the law itself. The Studies do not always cover all issues discussed in a case, but they seek to discuss both the procedural and the substantive issues that form, in the Reporters' view, the "core" of the dispute.

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FOREWORD

This is the third volume in the American Law Institute's effort to analyze decisions rendered in disputes before the World Trade Organization.

Trade Law is in its infancy as a body of legal doctrine. In two prior volumes, the ALI sponsored analyses of decisions issued in 2001 and 2002. This book presents an examination of decisions rendered in 2003. As before, the work has been accomplished by teams consisting of a lawyer and an economist, each a distinguished expert on the world trading system. Early drafts were criticized by the various participants, and then redrafts were presented to an international group of experts at a meeting in April 2005 at the WTO headquarters in Geneva.

Having studied three years of WTO decisions in this "bottom-up" manner, we will now begin to draft the general principles of trade law. We also hope to continue with the analysis of individual decisions.

We are immensely grateful to the two leaders of this project, Henrik Horn of Stockholm University and Petros Mavroidis of the University of Neuchâtel and Columbia University. We also appreciate the work of the economists and lawyers who wrote the studies in this volume. And we appreciate the generous financial support for our project from Jan Wallander's and Tom Hedelius' Research Foundation, Svenska Handelsbanken, Stockholm, and the Milton and Miriam Handler Foundation.

Lance Liebman
Director
The American Law Institute

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A Note on the American Law Institute

The American Law Institute was founded in 1923 and is based in Philadelphia. The Institute, through a careful and deliberative process, drafts and then publishes various restatements of the law, model codes, and other proposals for legal reform “to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work.” Its membership consists of judges, practicing lawyers, and legal scholars from all areas of the United States as well as some foreign countries, selected on the basis of professional achievement and demonstrated interest in the improvement of the law. The Institute’s incorporators included Chief Justice and former President William Howard Taft, future Chief Justice Charles Evans Hughes, and former Secretary of State Elihu Root. Judges Benjamin N. Cardozo and Learned Hand were among its early leaders.

The Institutes’s restatements, model codes, and legal studies are used as references by the entire legal profession.

The American Law Institute’s website is <http://www.ali.org>

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