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978-1-107-03459-4 - Services Liberalization in the EU and the WTO: Concepts, Standards and Regulatory Approaches

Marcus Klamert

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Services Liberalization in the EU and the WTO

Both in WTO law and EU law there is a dichotomy between liberalization based on market access and targeting domestic regulation. Consequently, both regimes share the problem of distinguishing national measures impairing market access and those that do not have such effect. Looking at the provision of services, a cornerstone of EU substantive law, in the EU and the WTO, this book offers a comprehensive evaluation of the current legal status quo on transnational services provision at a global level. Based on thorough analysis of both EU and WTO law, policymakers are provided with concrete proposals for fostering the consistency and effectiveness of the current regime. A final chapter discusses possible approaches to regulation such as home state rule, host state rule and mutual recognition from a comparative perspective. Written by a highly respected author, this is essential reading for EU internal market specialists and WTO law scholars alike.

Marcus Klamert is a member of the Legal and Constitutional Service of the Austrian Federal Chancellery and a lecturer at the Vienna University of Economics and Business.

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Series editors' preface

Services liberalization is just as much a hot potato within the European Union as it is within the WTO. In this work Marcus Klamert offers a stimulating examination of how the EU and the WTO have coped with market liberalization and with the development of regulatory standards. His analysis almost recalls the perceived relationship between the United Kingdom and the United States (two nations divided by a common language). While the EU and WTO regimes display manifest differences, the language of market access, discrimination, justification and harmonization can be seen as being hewn from the same roots. This work seeks to lift the veil of ignorance about these similarities and to encourage more cross-fertilization than has hitherto occurred.

Klamert argues that the EU should take cues from WTO law to permit clarification of the non-discrimination standard in EU law, just as in relation to double burdens, lessons should be learned in the other direction. His analysis of the EU's Services Directive exposes some real weaknesses, yet also in some respects a close relationship between the EU and WTO approaches.

This is a book that is a welcome addition to the *Cambridge Studies in European Law and Policy* series: it is challenging, and is a timely reminder that the development of EU law and policy does not take place in a vacuum; internal and external developments cannot ignore one another, and the solutions that are adopted in order to reach a minimum agreement in the Council are not always the most desirable; a heads in the sand approach on the part of policymakers is rarely productive. With this in mind, this work offers a challenge to look at matters differently.

Laurence Gormley
Jo Shaw

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Preface

This book has been a long time in the making. It dates back to a research project conducted at the Europa-Institut of the Vienna University for Economics and Business, which received funding from the Austrian Science Fund (FWF) and concluded in 2009. While the project was mainly focused on the Services Directive, which at that time had caused a lot of debate, now that several years have passed this book has a much broader perspective. The Services Directive and its impact on the services regime in the EU remains an important issue. The leitmotiv of this book, however, is the discussion of legal principles that are pertinent both in the EU and the WTO, such as the various prohibitions of discriminatory measures, the approach to domestic regulation, the concept of market access, and in general the balance struck between market regulation and regulatory autonomy within the two legal systems.

This book is not a textbook on the GATS, nor is it a textbook on EU services law. While we do need to lay the relevant groundwork by expounding some of the key rules of both regimes, some of the issues that are commonly found in more comprehensive books about the GATS or about EU services law might therefore be missing here. Another word of caution is warranted: the parts of the book on the GATS might not in all respects conform to the orthodox way in which this regime is commonly described. This is not meant as heresy, but also as an attempt to lay the aforementioned groundwork with regard to the GATS in a way that should be more accessible than is often the case. Instead of providing a complete picture of the GATS and EU services law, this book thus aims at laying bare the regulatory approaches adopted under each system, how they relate to each other, what differences exist, where

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we can find analogies, and on which issues there can be a cross-fertilization between the two systems. Another objective of this book is to make the regulatory concepts used in either regime more accessible, and to make the actual degree of sectoral coverage of either regime more transparent.

A thorough comparative study of EU law and WTO law in the pertinent area would necessitate an examination that goes beyond a purely legal analysis, to also cover economic and technical aspects. We will limit ourselves to the legal perspective and will only refer to an economic view where necessary. Hence, while our assessment might not capture all aspects of the relationship between EU and WTO law, it should produce some important findings about the levels and modalities of integration in the EU and the WTO both from a comparative perspective and in absolute terms. While there is one chapter that is thoroughly comparative, comparative aspects will be considered and dealt with throughout this book. Thus, to give one example, an issue such as the overlap between the GATS and the GATT is not dealt with in Chapter 1 on the GATS, but is discussed in Chapter 3 on EU services law, where similar problems exist between the rules applying to goods and to services, respectively.

We are grateful to a number of people who have contributed throughout the course of this project in different ways. We thank Armin Hatje and Robert Adlung for having dedicated their time and expertise as peer reviewers for the FWF research project, to the participants of a conference in Vienna in 2009 where we benefited from discussions with some of the most eminent scholars in the field, especially on the Services Directive, and to Roman Puff for being an invaluable organizational support.

We are indebted to Sanam Haghighi, who has written first drafts of parts of some chapters. Georg Adler has gracefully agreed to contribute to Chapter 7 on the implementation of the Services Directive. Kathrin Blanck-Putz has been so kind as to contribute to one section in Chapter 3 and Chapter 8. Last but not least, Stefan Griller not only initiated the original FWF project grant and was a dedicated project leader until its termination, but also thereafter has been actively engaged with the writing of this book.

Any opinion expressed in this book is the personal opinion of the author and the contributors and does not represent the opinion of the Austrian Chancellery or the European Commission.

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- WTO Appellate Body Report, *Brazil–Export Financing Programme for Aircraft–Recourse by Canada to Article 21.5 of the DSU*, WT/DS46/AB/RW, adopted 4 August 2000, DSR 2000:VIII, 4067 44
- WTO Appellate Body Report, *Canada–Measures Affecting the Importation of Milk and the Exportation of Dairy Products*, WT/DS103/AB/R, WT/DS113/AB/R and Corr.1, adopted 27 October 1999, DSR 1999:V, 2057 34
- WTO Appellate Body Report, *Canada–Measures Relating to Exports of Wheat and Treatment of Imported Grain*, WT/DS276/AB/R, adopted 27 September 2004, DSR 2004:VI, 2739 252
- WTO Appellate Body Report, *China–Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products*, WT/DS363/AB/R, adopted 19 January 2010, DSR 2010:I, 3 272
- WTO Appellate Body Report, *EC Measures Concerning Meat and Meat Products (Hormones)*, WT/DS26/AB/R, WT/DS48/AB/R, adopted 13 February 1998, DSR 1998:I, 135 51
- WTO Appellate Body Report, *European Communities–Measures Affecting Asbestos and Asbestos-Containing Products (EC–Asbestos)*, WT/DS135/AB/R, adopted 5 April 2001, DSR 2001:VII, 3243 39
- WTO Appellate Body Report, *European Communities–Regime for the Importation, Sale and Distribution of Bananas (EC–Bananas III)*, WT/DS27/AB/R, adopted 25 September 1997, DSR 1997:II, 591 56

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- WTO Appellate Body Report, *Korea–Measures Affecting Imports of Fresh, Chilled and Frozen Beef*, WT/DS161/AB/R, WT/DS169/AB/R, adopted 10 January 2001, DSR 2001:I, 5–33
- Appellate Body Report, *Turkey–Restrictions on Imports of Textile and Clothing Products*, WT/DS34/AB/R, adopted 19 November 1999, DSR 1999:VI, 2345–61
- WTO Appellate Body Report, *United States–Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379/AB/R, adopted 25 March 2011, DSR 2011:V, 2869–54
- WTO Appellate Body Report, *United States–Measures Affecting the Cross-Border Supply of Gambling and Betting Services (US–Gambling)*, WT/DS285/AB/R, adopted 20 April 2005, DSR 2005:XII, 5663 (Corr.1, DSR 2006:XII, 5475)–20, 56, 98, 267
- WTO Appellate Body Report, *United States–Standards for Reformulated and Conventional Gasoline*, WT/DS2/AB/R, adopted 20 May 1996, DSR 1996:I, 3–33, 56
- WTO Appellate Body Report, *United States–Transitional Safeguard Measure on Combed Cotton Yarn from Pakistan*, WT/DS192/AB/R, adopted 5 November 2001, DSR 2001:XII, 6027–254
- WTO Panel Report, *Canada–Certain Measures Affecting the Automotive Industry*, WT/DS139/R, WT/DS142/R, adopted 19 June 2000, as modified by Appellate Body Report WT/DS139/AB/R, WT/DS142/AB/R, DSR 2000:VII, 3043–31
- WTO Panel Report, *Canada–Certain Measures Concerning Periodicals (Canada–Periodicals)*, WT/DS31/R and Corr.1, adopted 30 July 1997, as modified by Appellate Body Report WT/DS31/AB/R, DSR 1997:I, 481–106
- WTO Panel Report, *European Communities–Regime for the Importation, Sale and Distribution of Bananas (EC–Bananas III)*, Complaint by the United States, WT/DS27/R/USA, adopted 25 September 1997, as modified by Appellate Body Report WT/DS27/AB/R, DSR 1997:II, 943–20
- WTO Panel Report, *European Communities–Regime for the Importation, Sale and Distribution of Bananas (EC–Bananas III) – Recourse to Article 21.5 of the DSU by the European Communities*, WT/DS27/RW/EEC, 12 April 1999, and Corr.1, unadopted, DSR 1999:II, 783–31
- WTO Panel Report, *Japan–Measures Affecting Consumer Photographic Film and Paper*, WT/DS44/R, adopted 22 April 1998, DSR 1998:IV, 1179–73

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