

Preface

On August 21 and 22, 2000, over thirty trade professionals met at the World Trade Institute in Berne, Switzerland, for the fourth annual World Trade Forum. The topic established for the 2000 Conference was the evolution of the role of the judge in the World Trade system, mainly focusing on the work of the Appellate Body during its first five years of operation. Inquiries went along three lines, the first trying to determine whether we could find cases submitted to the WTO after 1995 where the judge would have exceeded its authority, the second comparing the WTO with operations of national judicial systems, specifically from the U.S. and the EC, and the third trying to show directions for the future.

To favor the debate, contributors coming from divergent backgrounds (economics, political science, and law) were confronted with a simulation case, designed to serve as a benchmark and reproduced in the Appendix. They engaged in a series of discussions on the role of the judicial branch of the WTO, notably regarding the level of deference to be granted to national authorities of Member States, with references to particular problems such as the obstruction of trade for health or environmental purposes, the place to be granted to the civic society and various captivating issues.

Debating does not mean reaching unanimity, and thus the result of the conference was a mix of overlaps and divergences. What is important is that progress was made, everybody agreeing the WTO is in need of some form of evolution, the present state being unsatisfactory. In that perspective, the cross-fertilization of ideas occurring in such meetings shows our modest—but hopefully important—involvement in that evolutionary process.

This volume constitutes our contribution to an existing dialogue that has been taking place for some time now in various fora. Our aim was to provide added impetus to continue this dialogue. The fourth World Trade Forum convinced its participants that a multi-disciplinary approach in this context is highly recommended.

The World Trade Forum could not have taken place without the active involvement and support of the participants. Once again, we want to thank the participants and especially the Silva Casa Foundation, which very generously has been supporting our conferences and largely contributing to their success. Last but not least, we would like to thank our associate editor Patrick Blatter for all his work, Wulfhard Stahl, the WTI librarian, and the people at the University of Michigan Press for their commitment to our project.

Papers and discussions reflect the state of play by the end of 2000. Later developments—beyond the first five years of the Appellate Body and the new system—are only referred to incrementally. – The Editors