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## A Trade Policy for Free Societies: The Case Against Protectionism

ness could benefit enormously from the resolution of these disputes, there is no uniform theory from which to solve them. Okezie Chukwumerije's *Choice of Law in International Commercial Arbitration*, while emphasizing individual party responsibility toward ameliorating these problems, shows that national and international laws need to be harmonized in order for disputes to be satisfactorily resolved. While analyzing the different approaches taken to dispute resolution, great insight is gained in understanding how close we are to bridging these problems.

*Thomas Muther*

MC GEE, ROBERT W., *A TRADE POLICY FOR FREE SOCIETIES: THE CASE AGAINST PROTECTIONISM*; Quorum Books, Westport, CT (1994); ISBN 0-89930-898-8; 191 pp. (hardcover).

Robert McGee's *A Trade Policy for Free Societies* is appropriately subtitled *A Case Against Protectionism* since it is a polemic against protectionism, more than a case for liberalized trade. By dividing the free world economic system into two camps, producers and consumers, McGee argues that the basic result of any protectionist policy is to protect fat-cat producers at the expense of ordinary consumers. Tariffs, subsidies, and other free trade barriers harm consumers more than producers, he claims, because protectionism raises prices. McGee, a professor of business, argues from a neo-classical economic standpoint, and acknowledges political factors only as a thorn in the side of free-trade economic policies in the sense that protectionist ideas have survived, despite well reasoned arguments to the contrary because of a well-financed lobby.

*A Trade Policy for Free Societies* challenges various mercantilistic (e.g. infant industry) and labor (e.g. job and wage preservation) arguments supporting protectionism by revealing the fallacies of each. McGee's approach is to shift the labor vs. management paradigm by utilizing economic models to demonstrate that protectionism harms the average worker as consumer. According to McGee, subsidies are a government's way to soak the taxpayers of one country to pay for the purchases of another country, for the net gain of the producers in both countries. Similarly, anti-dumping laws raise prices thereby lowering real wages for consumers who could otherwise benefit from less expensive products. McGee's logical conclusion is that even if a country's imports grow infinitely while its exports shrink to zero, the economy would be better off because it would be more efficient, in neo-classical economic terms.

Certainly, if neo-classical economic theory is anything, it is logically valid. Problems arise when political and social forces are dismissed as mere "market failure" and not accounted for in the equation.

McGee's economic models and illustrations are, therefore, limited in the sense that they assume static conditions and do not factor in dynamic considerations, such as economies of scale. The fact that some countries are wealthy while some countries are not is a condition attributable to history and must be considered by economic policymakers. Neo-classical trade theories tend to ignore extant wealth disparities in formulating policies and assume everyone is lined up evenly on the starting line. In all fairness, however, McGee's focus is primarily on trade between industrialized countries and not on conditions in less-developed countries where neo-classical trade policies, via the World Bank, often devastate recipient countries.

In Part I, "The Philosophy of Protectionism," McGee advances logical, theoretical arguments for free trade while debunking some of the more common justifications for protectionism, e.g. job security and wage rates. McGee argues that protectionism doesn't safeguard U.S. jobs because export revenues earned by Japan are reinvested in the U.S. resulting in more jobs for Americans created by inevitable capital inflows. And wage rates are not affected by cheap imports because wage rates are determined by productivity rates. U.S. wages are ten times higher than Mexican wages in the auto industry simply because U.S. productivity is ten times higher than Mexican productivity. Trade between countries with unequal advantages is only possible because lower wages offset lower productivity.

As with most theories based on comparative advantage, the reasons for and effects of productivity and wage differentials are overlooked because conditions, such as resource allocation and technology, are considered "given." According to McGee, there is no such thing as "unfair" competitive advantage as long as the right to contract is preserved; but it is unfair to deprive consumers in any country from engaging in the free and voluntary exchange of goods. Whether it is unfair that some countries are rich while others are poor is irrelevant to his analysis. For example, the infant-industry justification for protectionism assumes that a new industry is good for a country and should be encouraged, while free trade advocates don't support any industry over another as long as there is free exchange of goods. If this means that one country will export microchips while another produces bananas, so be it.

In Part II, "The Cost of Protectionism," McGee examines and quantifies, using economic models, the monetary and non-monetary price the world will pay for erecting trade barriers. As evidence of non-monetary losses caused by higher prices he cites the increased unemployment, deteriorated product quality, loss of individual rights, and administration costs, all of which contribute to a reduced standard of living. To illustrate the monetary costs, McGee examines four traditionally protected industries--auto, steel, textiles, and agricultural products--and calculating the gains and losses due to higher prices,

estimates the "deadweight" loss caused by protectionism.

In Part III, "Antidumping Policy," McGee develops utilitarian arguments for free trade based on the (mis)administration of U.S. anti-dumping legislation by the Department of Commerce and the International Trade Commission, which together enforce and investigate Tariff Act violations. Although the technical definition of dumping fluctuates, it is generally regarded as the sale of imports at less than wholesale or actual market value. Problems arise, however, in computing the cost of production of imports, which necessarily results in arbitrary determinations and absurd results. Some of the difficulties are inherent to the process, e.g. how to measure capital depreciation. McGee also offers several examples of crude methodologies, undertaken by government entities, which violate standard accounting principles. One of the worst is determining whether dumping has occurred by comparing U.S. wholesale prices to foreign retail prices.

In addition to the infeasibility of enforcing anti-dumping legislation, McGee offers some convincing philosophical arguments for abandoning anti-dumping policies. Anti-dumping policies are based on the assumption that "dumping" undermines "fair trade" by predatory pricing aimed at bankrupting producers that compete with cheaper imports, in order to monopolize the market and ultimately raise prices. McGee challenges the notion of a substantive concept of "fair trade," outside of the process of free exchange, and compares it to the absurd attempt to define a "fair price." He claims that setting different prices in different markets is simply rational economic behavior allowed at the domestic level.

Furthermore, McGee presents empirical evidence that the predatory pricing threat has never actually driven any U.S. firms into bankruptcy. This may be because U.S. anti-dumping penalties have had such a chilling effect on importers that they keep prices artificially inflated to avoid the legal expenses involved in defending against anti-dumping charges. And higher prices hurt the U.S. economy twofold; they erode the standard of living and cause unemployment by raising the cost of inputs, as occurred in 1984 when voluntary restraints were imposed on U.S. steel imports.

The strength of *A Trade Policy for Free Societies* is the interaction of empirical examples with theoretical assertions. McGee's focus on industrial country situations redeems this book from being merely another recapitulation of neo-classical economic trade theory, complete with questionable assumptions, such as uniform technology. Countries such as South Korea have proven that liberalized trade, if not flawed, should be limited to trade between countries with similar economies, such as Japan and the U.S. In *A Trade Policy for Free*

*Societies*, McGee extolls the virtues of free trade and, to his credit, contextualizes his arguments in the developed world.

*Isabel Posso*

**A LAW FOR THE ENVIRONMENT: ESSAYS IN HONOUR OF WOLFGANG E. BURHENNE**; Edited by Alexandre Kiss and Françoise Burhenne-Guilmin; EPLP Special Issue, IUCN; Gland, Switzerland (1994); ISBN 2-8317-0203-8; 275pp. (pbk).

The editors of *A Law for the Environment* compiled this collection in appreciation of the work of Dr. Wolfgang E. Burhenne, 1991 recipient of the United Nations International Environmental Prize and lifelong scholar of environmental Law. Through an assortment of essays written by some of today's foremost legal scholars, this book shows multi-national perspectives on current environmental legal issues. The global character of the book is demonstrated alone by the fact that of the thirty-one essays, seven are written in French and five are written in German; unfortunately, no supplemental synopses in the secondary languages are provided. All essays are brief and well-written; some take a very narrow focus on specific legal issues, and some include broad policy and sociological perspectives.

*A Law for the Environment* is divided into four principal parts. The first essays describe the historic origins of environmental law, followed by a section on the foundations and principles of environmental law. Several compositions analyze specific problems in the current application of those principles; descriptions of various national approaches to environmental regulation conclude this collection of essays.

The lead article in the first, historical, section is a fictional account written in the middle ages which describes the prosecution of mankind, by Jupiter and Mercury, for destroying the earth by overmining. The article effectively relates this mythology to the difficulty of effecting social responsibility for the environment under national and international legal structures based on democratic ideals. This essay forms the philosophical basis for the historical discussions that follow, including a summary of treaties and instruments concerning international environmental law from 1972 forward as well as analyses of the 1992 United Nations Conference on Environment and Development in Rio de Janeiro and its Agenda 21. The final article in this section provides the history and desired accomplishments of the IUCN draft International Covenant on Environment and Development.

Four essays on regulations and judicial decision-making as related to environmental issues under the regional basic laws of Germany and Switzerland and under the constitutions of French and Djibouti law provide the center stone of the second part of the book. These essays show several examples of centralized and decentralized environmental