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0521834228 - The WTO Case Law of 2002: The American Law Institute Reporters' Studies

Edited by Henrik Horn and Petros C. Mavroidis

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THE WTO CASE LAW OF 2002
THE AMERICAN LAW INSTITUTE
REPORTERS' STUDIES

This book is the second in a series of annual volumes that will be utilized in the development of an American Law Institute (ALI) project on World Trade Organisation Law. The volumes undertake yearly analysis of the case law from the adjudicating bodies of the WTO. The Reporters' Studies for 2002 cover a wide range of WTO law ranging from classic trade in goods issues to intellectual property protection. Each of the cases is jointly evaluated by an economist and a lawyer, both well-known experts in the field 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 a 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 second volume in the American Law Institute's effort to contribute to the development of the law of world trade.

In 2004 we published *The WTO Case Law of 2001*, analyses by distinguished economists and law professors of the decisions rendered by the adjudicating bodies of the WTO in 2001. This book contains analyses of the 2002 decisions. As with the earlier year's work, the draft chapters were analyzed at a meeting of all the Reporters in October 2003. They were then further reviewed and criticized by an international group of experts on the law and economics of the world trading system at a two-day invitational conference in February 2004.

We expect to generate and publish one additional set of studies, discussing the WTO decisions of 2003. Our plan is then to attempt to draft general principles of the law of trade. We believe that we can author principles that will contribute to international discussion and assist the development of a sophisticated and coherent body of law in this growing field.

The analyses in the book are the work of the participating Reporters and not of The American Law Institute. We are grateful to the Reporters and to those who have supplied constructive criticism of earlier drafts. We are also grateful for financial support from Jan Wallander's and Tom Hedelius' Research Foundation, Svenska Handelsbanken, Stockholm, and from 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 Institute’s restatements, model codes, and legal studies are used as references by the entire legal profession.

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