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# A TRIBUTE TO PROFESSOR JOHN JACKSON

*Thomas Cottier\**

Many years ago—I still vividly remember these days—Professor Jackson taught us the basics of the General Agreement on Tariffs and Trade (“GATT”): Most-Favored Nation, National Treatment, exceptions, safeguards, anti-dumping, subsidies, and other salient features of the multilateral trading system. It was a first encounter with the rules of GATT, shortly upon completion of the Tokyo Round. While most of us had a good background in constitutional law and international law, the subject was entirely new to most of us; never heard of before in a regular law school curriculum. Mostly with his hand in his pockets, standing at the edge of the podium, Professor Jackson directed discussions in the class, more interested in issues than answers. He carefully considered views expressed by students. Often, we were left to find out for ourselves—the nature of voluntary restraint export agreements, for example, in international law, or, looking at International Monetary Fund stand-by agreements in the light of national sovereignty. How much was left of this concept, already at that time? The matter of foreign trade regulation and international economic law seemed to follow its own rules and principles, and mainly policies. What we studied with John Jackson’s books did not really fit with the ordinary casebook and thinking on international law. It was somewhat a domain of its own, detached, and with often unclear and unsettled relations to constitutional and administrative law, more difficult to understand, less legal than political and economic, at the time.

Things have changed a lot since these days. With the advent of the World Trade Organization (“WTO”) in 1995, the GATT system has clearly become a part, or perhaps an accepted part, of international law. The integration of the two traditions is taking place and will not remain without mutual implications. GATT no longer is a somewhat remote and specialized field, but has moved center stage in international economic regulation and law. Students around the world, albeit still largely to an insufficient degree, are increasingly exposed to the basics of the WTO system in their courses on international law and economics. Links with constitutional law and thinking are increasing. Practicing lawyers are developing an interest in the subject. After all, and many years, the very subject matter John Jackson taught us in the early 1980s at last is making its way into the ordinary body of law and the legal system. For

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future generations, it may eventually evolve as a body of law of global integration.

These changes, of course, are primarily due to fundamental technological advances, and a changing world which no longer can do with the rules as we knew them under doctrines of nation-state sovereignty, co-existence, and mere cooperation. The process of globalization called for, and continues to call for, trade liberalization and improvement of market access in many areas. These movements are mainly driven by the private sector and governments. And a professor may ask what business he has in all this. Indeed, most of us are critical observers, and not actors on this stage—not so John Jackson. There are two reasons. First, he was among the few of the first generation of scholars dealing with the subject, long before it became a fashionable one among international lawyers who did not care much before trade regulation increasingly hit the headlines of the press and in learned journals during the Uruguay Round. Second, among the scholars dealing with international trade regulation, he perhaps has had the most profound systemic influence. Not on shaping and defending interests in simply advocating market access and opening, but in terms of seeking to cope with constitutional and structural problems caused by the process of globalization. He always has been essentially concerned with the overall balance of different policies.

Indeed, an increasing number of problems transgresses the traditional framework and calls for new approaches. International law, as we learned it, no longer is in a position to cope with the challenges. Equally, constitutional law and administrative law, looked upon in an isolated manner in each country, no longer is in a position to build the necessary bridges. Many years ago, John Jackson has recognized these issues. He would not approach them with a grand design. He would proceed, as he speaks; with a calm and reliable voice. He would look at them with a sound dose of realism, yet without losing out of sight the ultimate goals of finding structures which are in a position to interface—a word he liked at the time when computers came up and started to change our lives and communications—all the different levels and problems. Intellectually, the move towards the World Trade Organization, as we know it today, owes much to his works and his intellectual leadership in the community of world trade lawyers. It is his blend of thorough and careful analysis, his ideal realism (or realist idealism), his interest in details and in big issues alike, and his profound belief in democracy and the need for legitimacy of rules that we all are encouraged to take up his ideas of constitution-building, transgressing traditional provinces of international law, and perhaps even of constitutional law in

building a structure of global law and integration. It would be more difficult to do so on a global level without John Jackson.

For a European lawyer, national sovereignty and prerogatives of the nation have been a concept in decline, as the European Communities and the Union grew. Europeans are increasingly accustomed to perceive the relations of the Member States of the Union in constitutional, rather than international terms. They have learned to accept and see the benefits of regional rules of integration having direct effect and even superseding national law. Yet, in most other parts of the world, in particular the United States, this is still quite different. The realities and checks and balances within the United States' Government and its relationship with the States of the Union, despite a tradition of monism, favors a predominance of domestic law over international law in domestic fora and courts. Europeans sometimes wish that John would show different views on the relationship of WTO law and national law. Discussions held in the International Trade Law Committee on these subjects have been most interesting and lively. Despite globalization, perceptions and attitudes differ, and rightly so. John's position on these issues is carefully reflected. It expresses his profound belief in American values, a warning sense of the fragility of law in the international trading system, and a conviction to approach these matters step by step, as he has done ever since he has chosen to make GATT and international economic regulation the center of his distinguished academic career.

We all perhaps have one or two teachers and professors who have profoundly influenced our ways of thinking and careers. In my case, John certainly was one of them. For this, I am deeply grateful, and my best wishes may accompany him on his continuing service to the world trading system, his efforts at improving and developing it intellectually, and thus on his journey committed to world peace.