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INTERNATIONAL TRADE, INVESTMENT, AND ORGANIZATION. Edited by *W. R. LaFave* and *P. Hay*. Urbana: University of Illinois Press. 1967. Pp. 506. \$7.50.

This volume of essays, first published in the *Illinois Law Forum*, is a welcome addition to the growing literature of international business transactions. Courses and seminars dealing with this area are being or have been added to the curricula of many law schools. The reasons for this innovation are obvious: the traditional course in public international law must be supplemented by inquiries into

the legal problems growing out of the fact that American business is no longer confined to national boundaries. Our territory, large as it is, is too small to contain the dynamism of our enterprises. On the other side of the Atlantic, the European Economic Community (EEC) is the most advanced example of economic regional integration; it was created because the nation-states of that area could no longer satisfy the popular aspirations for rising standards of living with a multiplicity of relatively small markets. Similar movements are under way in other areas. In short, the economy of the industrialized countries has become international to a significant extent, and the developing nations are trying to catch up.

This trend presents the lawyer with an enormous range of problems which can be successfully approached only with the help of some guiding principles of classification. Broadly speaking, there are three major categories of international transactions: trade in goods, licensing of proprietary rights, and direct investment in foreign countries. Export and import trade would generally be the preferred method because it is conducted from bases at home, but it is not always satisfactory because of trade barriers and other costs. Direct operations abroad may then have to be undertaken, and these involve both living under foreign legal systems and, except in the relatively rare cases of one hundred per cent American ownership and management, getting along with foreign partners. Foreign subsidiaries usually are licensees of their parent corporations' patents and know-how, but licenses are frequently granted to independent foreign firms. The present volume deals with all of these types of international business, and with the impact of the European and Latin American integration movement.

There are two essays on trade with the communist bloc, which accounts for only a very small fraction of our total foreign trade, and one partly obsolete article on the Trade Expansion Act¹ which deals mainly with the Kennedy Round negotiations without basic inquiry into the structure of the General Agreement on Tariffs and Trade.² Professor Riesenfeld has contributed a most enlightening and brilliant study on the agricultural policy of the EEC, the most difficult and protectionist aspect of the Common Market, which has profound effects on American agricultural exports. There is also a most informative study on the Latin American Free-Trade Area by W. E. Johnson. Mr. Domke's piece, *Enforcement of American Arbitral Awards in Foreign Countries*, deserves special reference since it contains a discussion of some significant foreign decisions.

Problems of Licensing Abroad by Stephen P. Ladas is an excel-

1. 19 U.S.C. § 1801-991 (1964), and amendments to 19 U.S.C. §§ 1351, 1352, 1352a, 1362, 1364 (1964) and INT. REV. CODE of 1954, §§ 172, 6501, 6511.

2. General Agreement on Trade and Tariffs, Oct. 30, 1947, 61 Stat. pts. 5 & 6, T.I.A.S. No. 2322, 55 U.N.T.S. 194 (1967).

lent study in depth of patent, know-how, and trademark licensing. Although its documentation might have been more ample, it is a thorough treatment which should be required reading for every practitioner and student. Particularly valuable are the detailed discussions of essential clauses in licensing contracts, the analysis of what is and is not permissible under article 85 of the Treaty of Rome,³ and the comments on the Model Law on Inventions and Technological Knowledge,⁴ prepared by the International Bureau for the Protection of Intellectual Property at Geneva.

The articles dealing with direct investment are somewhat disappointing. Professor Krause, in treating the vital subject of foreign incorporation, briefly mentions the two principal forms of European corporate organization: the stock corporation and the limited liability company. He dismisses the latter with the statement that it has rarely been employed by American investors (p. 120). At least with respect to Germany, where this corporate institution was invented, the statement is incorrect; indeed, more than half of all American firms doing business in Germany are registered as *G.m.b.H.*⁵ The reasons for this are not hard to find: Organization of a *G.m.b.H.* is easier and cheaper than that of a stock corporation; in fact, the *G.m.b.H.* is the ideal vehicle for closely held corporations, since it permits restraints on alienation of "shares." It thus provided the model for the movement in favor of similar American legislation.⁶

The question of shareholder protection is treated in only one sentence and a footnote (pp. 128-29).⁷ This subject is crucial because there is often participation by natives in the ownership of equity capital of American-controlled firms, as well as American minority participation in foreign-controlled firms, both of which imply potential conflicts of interest of the type illustrated in the recent case involving the French subsidiary of Fruehauf.⁸ Professor Krause, by limiting himself to admonishing his readers to look into this problem, has done all that could be expected from a brief survey; nevertheless, it is regrettable that his article is no more than that.

3. Done March 25, 1957, 298 U.N.T.S. 14.

4. UNITED INTERNATIONAL BUREAU FOR THE PROTECTION OF INTELLECTUAL PROPERTY, MODEL LAW ON INVENTIONS AND TECHNOLOGICAL KNOWLEDGE.

5. *Gesellschaft mit beschränkter Haftung*, "limited liability company." See H. HARTMANN, AMERIKANISCHE FIRMEN IN DEUTSCHLAND, KOELN UND OPLADEN 36 (1963).

6. See O'Neal, *Recent Legislation Affecting Close Corporations*, 23 LAW & CONTEMP. PROB. 341 (1958).

7. There is a casual reference to the new German law of 1965, which has significantly increased the rights of shareholders of stock corporations.

8. *Sté Fruehauf Corp. v. Massardy*, [1965] Sem. Jur. II 14,274 bis (Cour d'Appel de Paris), in which the French minority obtained the appointment of a judicial administrator to compel performance of a contract calling for delivery of trucks destined for Red China.

There are two articles dealing with taxation.⁹ The first is an excellent discussion of the foreign tax credit, which is, of course, only one of many aspects of international taxation; the intriguing subject of Subpart F income is deliberately omitted. The second article does include a brief discussion of "tax havens" in other countries (pp. 181-82), without reference to the American attempt at control of this device. This omission is probably due to the author's intention to discuss only non-American law. However, the discussion of "treaty provisions" (pp. 176-78) seems deficient because of the absence of a clear analysis of the concept of "permanent establishment" for tax purposes—an essential feature of all tax treaties.

The last part of the book contains four essays on international organizations, and a very good bibliography. The best of these essays is Professor Hay's article on international unification of law.

The entire volume thus offers much useful information about its many and momentous subjects. The scope of its coverage is so broad that deep analysis of all the matters touched on could not be expected, although the best contributions achieve that goal. The others provide helpful guidance for further research, for which they deserve commendation.

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9. Slowinski and Haderlein, *U.S. Taxation of Foreign Income: The Increasing Role of the Foreign Tax Credit* (p. 137), and Van Hoorn: *Foreign Tax and Investment Incentives* (p. 154).