



T · M · C · A S S E R P R E S S

THE HAGUE — THE NETHERLANDS

## REGIONAL TRADE AGREEMENTS IN THE GATT / WTO Article XXIV and the Internal Trade Requirement

by James H. Mathis

*With a Foreword by Professor Jagdish Bhagwati*

The debate over regionalism and the multi-lateral trading system intensifies in the WTO as dozens of regional trade agreements are declared to be exceptions to GATT's most-favoured nation obligation. Commentators debate whether such agreements are "stepping stones" to freer world trade, and WTO Members remain unsettled on criteria to determine the compatibility of agreements with the multilateral trading system.

This work addresses legal aspects of GATT Article XXIV and its "internal" trade requirements as they define the WTO gateway for regional trade agreements. The case for a narrow avenue is made by exploring historical foundations in the Havana ITO negotiations and later difficulties of applying provisions to developed-developing country free-trade areas. The external economic effects for the trade of non-members will remain of concern, but rules of origin and regional safeguard regimes can affect intra-regional trade between large and small members as well. The GATT-47 practice is

contrasted with WTO developments as dispute settlement reports have established the conditional legal nature of the regional exception. A treaty law argument is made that GATT/WTO rules retain continuing validity for regional members. Implications for the WTO review process are considered.

*Regional Trade Agreements in the GATT/WTO* is addressed to trade lawyers and academics, international economists and policy professionals working with non-discrimination issues and the question of legal compatibility of regional agreements in the WTO.

*Dr. James H. Mathis J.D, Ph.D, is the academic co-ordinator for the EU International Trade Law (LL.M) program at the Amsterdam Law School and managing editor of the journal 'Legal Issues of Economic Integration' for the Department of International Law at the University of Amsterdam.*

2002, ISBN 90-6704-139-4, 350 pp., paperback  
Price EUR 80.00 / USD 74.00 / GBP 50.00

**Distributed for T. M. C. ASSER PRESS by Kluwer Law International:**

*For North, Central and South America:*  
Kluwer Academic Publishers  
101 Philip Drive, Norwell, MA 02061, USA  
Toll free in the US 866-269-WKAP  
all other customers: + 1 781-871-6600  
Fax: + 1 781-681-9045  
email: [Kluwer@wkap.com](mailto:Kluwer@wkap.com)

*For all other countries:*  
Kluwer Law International, Order Department  
P. O. BOX 322  
3300 AH Dordrecht, The Netherlands  
Tel +31 (0)78-6576000. Fax +31 (0)78-6576254  
Freephone in the UK: 0800 963 955  
email: [sales@kli.wkap.nl](mailto:sales@kli.wkap.nl)



T · M · C · A S S E R P R E S S

THE HAGUE – THE NETHERLANDS

## EUROPEES RECHT EN DE DECENTRALE OVERHEID IN NEDERLAND EN BELGIË

*Onder redactie en auspiciën van het T.M.C. Asser Instituut te Den Haag*

Op 12 oktober 2001 werd in het Publikatieblad van de Europese Gemeenschappen het 'Witboek over Europese Governance' gepubliceerd. De Commissie doet daarin een aantal voorstellen die onder meer van belang zijn voor de vergroting van de communautaire rol van de decentrale overheid. Volgens deze voorstellen zal de decentrale overheid in de toekomst meer betrokken moeten worden bij de totstandkoming, uitvoering en toepassing van de Europese wetgeving. De juridische problemen die daarbij in de praktijk optreden waren onderwerp van discussie tijdens de 31e zitting van het Asser Instituut Colloquium Europees Recht, die op 7 september 2001 werd gehouden in Den Haag. Om het thema een extra dimensie te geven werd gekozen voor (a) de situatie in Nederland en België en (b) de beleidsterreinen *milieu* en *openbare aanbestedingen*. Aldus werd bij wijze van 'case study' een en ander in vergelijkend perspectief geplaatst. De in deze uitgave opgenomen inleidingen worden gevolgd door een samenvatting van de discussie.

### Inhoud

Voorwoord; Lijst van Afkortingen

Een mijnenveld voor de provincie; enkele opmerkingen over de doorwerking van Europees recht, *Prof. Jan H. Jans*; Europees institutioneel recht en de decentrale overheden in Nederland, *Prof. Dr. Bart Hessel*; Europees institutioneel recht en de decentrale overheden in België, *Prof. Dr. Anne-Marie Van den Bossche*; Europees materieel recht en de decentrale overheden in Nederland, *Prof. Dr. Bart Hessel*; Gevolgen van het EG-milieurecht voor de decentrale overheden in Nederland, *Mr. Johan W. van de Gronden*; De invloed van het Europese Milieurecht op de decentrale overheden in België, *Dr. Geert van Calster*; De overheidsopdrachtenreglementering in België, *Prof. Dr. David D'Hooghe*; EG-aanbestedingsrecht en decentrale overheden in Nederland, *Drs. Gert Wim van de Meent en Mr. A. Stellingwerff Beintema*; Decentrale overheden en Europees Recht, *Frank Hilberman*; Verslag Colloquium en Synthese, *Mr. Hanneke Luijendijk*  
Lijst van deelnemers

2002, ISBN 90-6704-145-9; 250 pp.,  
paperback; Prijs EUR 30,00

---

### Bestellingen via:

Boom Distributiecentrum

Postbus 400 7940 AK MEPPEL

Tel. 0522-237555 Fax: 0522-253864



T · M · C · A S S E R P R E S S

THE HAGUE – THE NETHERLANDS

# NETHERLANDS INSOLVENCY LAW

## The Netherlands Bankruptcy Act and the Most Important Legal Concepts

**NEW**

*Peter J.M. Declercq*

*Netherlands Insolvency Law* is the first book in the English language covering the Netherlands insolvency law as a whole with a focus on bankruptcy and the most important legal concepts pertaining to bankruptcy. It provides the reader with an understanding of the Netherlands Bankruptcy Act, which is the main source of insolvency law in the Netherlands, by laying out the primary law in an order and manner which is logical and comprehensive. Where necessary, guidance has been sought in the parliamentary notes and the interpretation of the law in landmark cases. Furthermore, grey areas and divergence of views have been highlighted. Concepts that are covered include *actio pauliana*, set-off, corporate liability and wrongful act. Pledges and mortgages, being the most important security rights in the Netherlands, are also discussed, as is the EU Insolvency Regulation (2000) and its impact on the Netherlands insolvency practice.

*Netherlands Insolvency Law* is a practical book for use by internal and external legal counsel, Dutch and non-Dutch companies, students, academics and practitioners alike. Throughout the book summaries are included to highlight key points. The book is complemented by, *inter alia*, a *Further Reading* section, a *Bibliography*, a *Table of Cases* and a *General Index*.

*Peter J.M. Declercq* has a master's degree from New York University School of Law. He is working for *De Brauw Blackstone Westbroek* (a member firm of *Linklaters & Alliance*) as a lawyer, currently in their London office. He has an international practice with expertise in the fields of insolvency law, banking and finance.

2002; ISBN 90-6704-144-0; 310 pp.; hard-bound; EUR 80.00 / USD 74.00 / GBP 50.00

**Distributed for T.M.C. ASSER PRESS by Kluwer Law International:**

*For North, Central and South America:*  
Kluwer Academic Publishers  
101 Philip Drive, Norwell, MA 02061, USA  
Toll free in the US 866-269-WKAP  
all other customers: + 1 781-871-6600  
Fax: + 1 781-681-9045  
email: [Kluwer@wkap.com](mailto:Kluwer@wkap.com)

*For all other countries:*  
Kluwer Law International, Order Department  
P.O. Box 322  
3300 AH Dordrecht, The Netherlands  
Tel +31 (0)78-6576000. Fax +31 (0)78-6576254  
Freephone in the UK: 0800 963 955  
email: [sales@kli.wkap.nl](mailto:sales@kli.wkap.nl)

# EUROPEAN BUSINESS ORGANIZATION LAW REVIEW

Established in 2000

*European Business Organization Law Review* is published in cooperation with the T.M.C. Asser Instituut, Institute for Private and Public International Law, International Commercial Arbitration and European Law, The Hague, The Netherlands. The T.M.C. Asser Instituut is responsible for the promotion of research and education in international law, particularly by carrying out research programmes and setting up documentation projects in the fields covered by the Institute.

*European Business Organization Law Review* is indexed in Index to Foreign Legal Periodicals, International Bibliography of the Social Science and Legal Journals Index.

## PUBLISHER AND DISTRIBUTION

*European Business Organization Law Review* is published by T.M.C. ASSER PRESS, P.O.Box 16163, 2500 BD The Hague, The Netherlands. Phone: +31(70)3420800, Fax: +31(70)3420801, E-mail: [press@asser.nl](mailto:press@asser.nl) and website [www.asserpress.nl](http://www.asserpress.nl). It is distributed for T.M.C. ASSER PRESS by Kluwer Law International, The Hague, The Netherlands.

## SUBSCRIPTIONS

Subscription to *European Business Organization Law Review* includes 4 issues a year. The subscription price for Volume 2 (2001) and for Volume 3 (2002) amounts to EUR179.00/USD 180.00 (incl. postage and handling). Volume 1 (2000), comprising 3 issues, is offered to subscribers at the special introductory price of EUR 90.50/USD 90.00 (incl. postage and handling). Subscriptions and requests for specimen copies should be sent to Kluwer Law International, P.O.Box 85889, 2508 CN The Hague, The Netherlands.

## RECOMMENDED CITATION: EBOR

ISSN 1566-7529

© 2002, T.M.C. ASSER PRESS, The Hague, The Netherlands.

Cover: Bert Arts BNO

Layout: JAPES, Amsterdam, The Netherlands

**EUROPEAN BUSINESS ORGANIZATION LAW REVIEW**  
**VOL. 3 2002/1**

**CONTENTS**

**ARTICLES**

- DAVID S. EVANS, DANIEL D. GARCIA SWARTZ, BRYAN G. MARTIN-KEATING,**  
**The Failure of E-Commerce Businesses:**  
**A Surprise or Not? 1**
- ANDREAS HEINEMANN, Business Co-operation on Electronic Marketplaces:**  
**Competition Law Concerns 27**
- PETER NYGH, The Liability of Multi-national Corporations for the Torts of**  
**Their Subsidiaries 51**
- BRAD M. BARBER AND TERRANCE ODEAN, Does Online Trading Change**  
**Investor Behavior? 83**
- ULRICH NOACK AND MICHAEL BEURSKENS, Internet-Influence on Corporate**  
**Governance – Progress or Standstill? 129**
- AVRIL D. HAINES, Why is it so difficult to construct an international legal**  
**framework for e-commerce? The Draft Hague Convention on Jurisdiction**  
**and the Recognition and Enforcement of Foreign Judgments in Civil and**  
**Commercial Matters: A Case Study 157**
- ROBERT PÅHLSSON, The E-com Strain on Tax Law Concepts 195**
- PAUL U ALI, Equity Mini-Derivatives and the Future of On-line Investing: an**  
**Australian Regulatory Perspective 211**

**BOOK REVIEW**

- STEFAN BECHTOLD, The Problems of Perfection, Review of Cass R. Sunstein,**  
***Republic.com*, Princeton, Princeton University Press, 2001, 224 pages,**  
**ISBN 0-691-07025-3 237**



**T · M · C · A S S E R P R E S S**

