

- IV. Salience. As tax specialists we assume that voters and taxpayers care about tax all the time, whereas the likelihood is that even the deepest scandals only exercise a proportion of the population and even that only sporadically. If the preferred position of many taxpayers is indifference punctuated by occasional and minimal compliance effort, trust may simply be a more marginal phenomenon than is suggested throughout this book although the avoidance of widespread *distrust* is likely to remain important to tax authorities.

The book is less to be criticised for failing to resolve these types of questions than congratulated for raising them in the first place. It is also timely, coinciding with an apparent loss of confidence in the legitimacy of institutions within rich countries, often exacerbated by deliberate attacks by populists promising easy answers to intractable problems. The responses of the contributors to this volume are occasionally quite miscellaneous taken individually, but *Building Trust in Taxation* is an example of that rare beast, the edited collection that is greater than the sum of its parts. The volume reads as a sophisticated academic conversation, with each contributor having a characteristic voice of their own but at the same time responding to, adapting to and criticising each other's perspectives. It is rather a privilege to be given a window into these workings. The book is not easily available as an electronic book and, for once, this is probably an advantage. It encourages the reader to adopt the traditional approach of beginning at the beginning and ending at the end, an effort which is amply rewarded.

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Freedom of Transit and Access to Gas Pipeline Networks under WTO Law. By VITALIY POGORETSKY [Cambridge University Press, 2017. xxxvi + 372 pp. Hardback £95.00. ISBN 978-1107163-64-5.]

Electricity and natural gas are network-dependent industries. Supply of these resources can only take place if end-consumers are connected to an energy infrastructure that energy companies can access with sufficient capacity to transport the requested quantity of energy to the point of delivery and off-take. Thus, in many jurisdictions the guarantee of non-discriminatory third-party access to the network is considered to be a cornerstone of national energy law. Internationally, access to cross-border energy networks is even more important. It determines both the ability of energy-importing countries to ensure the supply of energy to the national economy and the ability of energy-exporting countries to supply foreign markets. As highlighted by the recent controversies surrounding the renegotiation of the Russia-Ukraine gas transit agreements and the opposition to the North Stream 2 gas pipeline from Russia to Germany, access to existing networks and the establishment of new pipelines are at the centre of the energy security concerns of Russia, the EU and the EU's neighbours. In the absence of a unified body of international law on this specific issue and with limited case law available, legal scholarship is divided on the extent to which international law can help states gain access to existing networks or build new cross-border energy lines.

Freedom of Transit and Access to Gas Pipeline Networks under WTO Law makes a convincing contribution to the literature on international energy law and energy security, by providing an in-depth analysis of the international regulation of gas pipelines. The focus is on energy transit (i.e. the transportation of energy through the territory of a state located in between an exporting and an importing country) and, more specifically, the freedom of energy transit (i.e. the right of energy importers and exporters to access existing networks in the transit state or establish new transit lines). The legal analysis is mainly centred on the law of the World Trade Organisation, a choice that must be understood in light of the fact that the WTO (in particular the General Agreement on Trade and Tariffs (GATT)) establishes an enforceable transit regime that applies to most key energy importing, exporting and transit states. The focus on energy transit under the WTO raises a more fundamental question on the potential role of the WTO as a legal and institutional instrument to support the development of an international gas market and ensure energy security.

Although the legal analysis is mainly concerned with the application of WTO law on energy transit, the book engages in an ambitious discussion of the international regulation of energy transit more generally. This analytical approach is justified, given the principle of systemic integration in treaty interpretation according to which international treaties (e.g. on world trade law) must be interpreted by taking into account other relevant sources of public international law. The discussion of systemic integration in the introduction of the book provides interesting theoretical background for the following analysis, but the description goes into a level of detail that is not necessary to understand the principle and its relevance for the book, and diverts attention away from the main argument.

Taking into account their strategic location between exporting and importing countries, there is a risk that transit states can abuse their position for geopolitical and economic reasons. Transit states can interrupt the cross-border supply of energy (as in the Russia-Ukraine gas crises), refuse to provide access to their network (or demand unreasonable conditions to that access) or refuse to authorise the establishment of new network capacity needed to ship energy from exporting to importing countries. Pogoretsky does not deal with the interruption of existing gas flows, but instead focuses on the delicate balance that must be found between the necessity for importing and exporting states to have access to transit routes and the sovereign right of the transit state to regulate its energy infrastructure. Besides the sensitive geopolitical conditions that can characterise energy transit, the difficulty of reconciling sovereignty and the freedom of transit relates to the different values that both legal principles represent: on the one hand, independence and territorial integrity and, on the other, interdependence, globalisation and freedom of commerce and communications.

Building on the principle of systemic integration, Pogoretsky aims to make sense of the GATT transit regime, and more generally of the international regulation of transit, by looking at the different treaties that recognise the principle of freedom of transit, including the 1921 Barcelona Convention on Freedom of Transit, the 1923 Convention relative to the Transmission in Transit of Electricity Power, the 1973 United Nations Convention on the Law of the Sea, the 1994 Energy Charter Treaty and pipeline-specific treaties. The broad range of treaties examined helps the reader to understand the origins of transit beyond the energy-specific context in which transit is often analysed in the law literature. The analysis is based on a detailed discussion of the public international law and energy law scholarship on transit, as well as on the relevant international case law.

Only one transit-related case has been brought before the WTO dispute settlement body (*Columbia – Ports of Entry*), and this case did not directly concern energy trade. Pogoretsky deals with the lack of judicial precedents on energy transit and the WTO by seeking guidance in non-WTO cases concerning the freedom of transit and commerce. For instance, the book's discussion of the 2003 judgment of the International Court of Justice in the *Case Concerning Oil Platforms (Islamic Republic of Iran v United States of America)* [2003] I.C.J. Rep. 161 is most helpful to understand the relevance for energy transit of the principle of freedom of commerce and its application (*in casu* unsuccessful) in the context of highly sensitive geopolitical conditions. The analysis of the *Aramco Arbitration* 27 I.L.R. 117 (1963) brings a historical perspective to the delimitation of the scope of upstream energy production and export activities, and the definition of priority rights to transport energy products abroad. The *Iron Rhine Arbitration* I.C.G.J. 373 (PCA 2005) highlights, albeit in a non-energy context, the delicate balance between the transit state's right to regulate transit activities (*in casu* for environmental protection purposes) and the importing state's right to freedom of transit.

The book characterises the principle of freedom of transit under generational international law and the WTO as an imperfect right. Transit cannot be denied without a just reason, but the detailed conditions and modalities of transit must be determined in specific agreements between the transit state and energy exporters and importers. Granting third-party access to an existing network and authorising the establishment of a new line are ways for a transit state to comply with its transit obligations, but on their own neither of these measures is required by WTO law.

Pogoretsky's argument that general international and WTO law do not recognise a right to mandatory access to the network builds, among others, on the difference between the monopoly and liberalisation approaches to the organisation of energy supply in WTO members. The WTO law part of the argument is convincing, but the comparison between liberalisation and monopoly less so. Pogoretsky relies on the case of Russia to demonstrate how monopolisation and vertical integration of gas supply are incompatible with mandatory third-party access. However, this disregards the fact that the Russian gas law mandates non-discriminatory third-party access to the network, and independent gas producers in Russia have on this basis challenged the refusal of Gazprom to provide access to the network. The book at times makes statements on energy law and the structure of energy markets that deserved better support (which, in the case of Russian law, would have helped provide an important nuance to the analysis).

Freedom of Transit and Access to Gas Pipeline Networks under WTO Law makes an important contribution to the field of energy law by clarifying the meaning under international law of one of the most fundamental concepts of energy regulation. The book also contributes to the conceptualisation of the increasingly important interaction between energy and trade law. It will therefore not only be of interest to energy law scholars and practitioners, but also to international trade lawyers.

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