

KEITH E. MASKUS (ed.): *The WTO, Intellectual Property Rights and the Knowledge Economy*. Cheltenham, Edward Elgar Publishing, 2005. Pp. 648. ISBN 1-84376-237-4. £150.

"The WTO, Intellectual Property Rights and the Knowledge Economy," is the first volume in a new series entitled "Critical Perspectives on the Global Trading System and the WTO" organized by economists affiliated with the World Bank. This volume, edited by Keith E. Maskus, Professor of Economics at the University of Colorado at Boulder, features a collection of twenty-one self-contained articles and book chapters written mostly by economists. The contributions generally relate to the economic analysis of intellectual property regimes before and after TRIPS, with a special emphasis on the economic effects of increased patent protection in developing countries. The papers selected for inclusion in the volume were all published between 1991 and 2003 and were reproduced in the book in full length and in their original formats, including footnotes and pagination. The decision not to edit the papers obviates

the need to go back to the originals and facilitates the use of the book in scholarship, but it leads to a certain degree of substantive redundancy and a few cross-references to pieces not included in the book. However, these imperfections are minimal and do not diminish the scholarly value of the volume.

The book is divided into five parts, and also contains a name index and a brief introduction summarizing and contextualizing each paper. Part I familiarizes the reader with the subject matter of the TRIPS Agreement (Primo Braga) and provides different views on whether the inclusion of intellectual property in the WTO was justified from the perspective of international trade (Maskus; Panagariya) before showing that the enforcement of TRIPS is largely in the hands of private multinational companies, in whose interest TRIPS was adopted (Sell). Part II has little to do with international trade and TRIPS, but instead gives an overview of the economic analysis of intellectual property law through the lens of a classic paper on the subject (Besen & Raskind) as well as a study of the theories that are typically used to assess the

economic effects of patent protection (Mazzoleni & Nelson). These two pieces are followed by two more articles, one focusing on the difficulties of legal systems in adapting to technological change (Barton), and the other discussing the intersection of patent and antitrust law (Gallini & Trebilcock). Part III returns to the main theme of the book by highlighting some of the most important controversies underlying the protection of intellectual property rights in developing countries, namely the importance of intellectual property for economic development (Primo Braga et al.), the relationship between global patent protection and biodiversity (Dutfield), and the significance of patent protection for pharmaceuticals with respect to the access to essential medicines (Nogués; Scherer & Watal).

While the first three sections of the book are easily accessible to non-economists, the last two sections are much more technical in nature and require at least some familiarity with economics. Part IV contains articles that develop formal models to explain and evaluate how intellectual property affects global economic activity. The outcomes differ from study to study, and so do the policy recommendations for developing countries derived from the proposed theoretical models. Mostly depending upon the assumptions of the particular model in question, the suggestions range from increasing patent protection (Diwan & Rodrik), to adjusting tariffs (Žigić; Lai & Qiu), to reducing patent protection (Glass & Saggi). Part V supplements these theoretical models with a number of empirical studies. The first two studies show that the positive impact of increased patent protection on bilateral manufacturing imports into developing countries is ambiguous, although stronger patent laws seem to attract larger imports from developed countries (Maskus & Penubarti) and increase U.S. sales and licenses in developing countries with strong imitative abilities (Smith). The re-

maining three papers indicate that strengthening the patent regime in Japan did not increase R&D spending or innovative output (Sakakibara & Branstetter), that international patent harmonization leads to a significant transfer of income between countries (McCalman), and that trade liberalization is more important than intellectual property in stimulating economic growth (Gould & Gruben).

To the extent that the editor's goal is to provide a sense of "the complexity of the underlying questions" (p. xii), the book certainly fulfills its mission. Readers are left with the impression that the economic assessment of the impact of intellectual property protection on innovation and international trade flows is an exceedingly complex matter that cannot readily be reduced to concrete and reliable policy recommendations. Against this background, many of the simple formulae that are often found in judicial opinions and legislative documents in support of specific legal rules, such as the idea that more patent protection is always socially desirable because it increases incentives to innovate, must be revised or at least refined. This insight is particularly important in view of the fact that politicians and other policymakers seem all too easily impressed by normative proposals that have the imprimatur of economics. Another important point that emerges from this book is that intellectual property law is only one of the many factors affecting economic activity and that the role of legal rules in spurring innovation, international trade, and economic growth, tends to be overestimated.

While this book is a good example of how much economic scholarship has to offer, it also suggests that economists could benefit from legal scholarship, as some of the papers exhibit an understanding of law and normativity that very few lawyers would share. One example is the somewhat overdrawn belief

in the power of legal norms to shape behavior and to successfully steer economic activity, which largely ignores enforcement problems, the issues of symbolic legislation and unintended effects, and the fundamental distinction between the law on the books and the law in action. Succumbing to the temptation of reducing law to statutory texts that are simply assumed to be consistently enforced across the board is particularly treacherous when the purpose of a study is to measure the economic impact of specific legal norms, as the actual validity of these norms in practice would seem to be critical for the study's accuracy. Another striking example found in some articles is the utopian vision of disinterested world planners who strictly follow the dictate of welfare maximization and the equally idealist assumption that the lawmaking process is completely rational. The legislative process emerges from an amalgam of competing and conflicting interests and generates bodies of law that can rarely be understood as the application of a single coherent principle, economic or otherwise. Finally, a few papers do not clearly distinguish between facts and norms and simply assume that certain policy recommendations follow automatically from certain factual analyses, when the step from factual to normative claims requires a sepa-

rate explanation that is not necessarily implicit in economic findings.

In this context, it should also be pointed out that the book has nothing to do with critical legal studies or critical social theory, as readers familiar with American legal thought might expect when picking up a book that inaugurates a new series on "critical perspectives" on the global trading system and the WTO. The book is firmly rooted in economic analysis and is critical only in the sense that it includes articles that are critical of TRIPS, but always from an economic perspective.

In conclusion, the book provides a handy collection of interesting contributions to the economic analysis of global intellectual property regimes and provides a good sense of the research done in the field, although it may be a bit overpriced for scholars who already have access to the papers contained in the volume either through their university libraries or through electronic databases.

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