domain names, and maritime law are much more comprehensive.

According to statistics from the China Internet Network Information Center (CNNIC) (online: <http://www.cnnic.net.cn>), the number of Chinese internet users, including those connecting to the internet over broadband connections, has risen sharply over the last few years. With the corresponding increase in worldwide usage and the concomitant development and growth of "borderless" commercial interaction and the exchange of information, issues relating to electronic transactions, including the protection and enforcement of intellectual property rights in China, are becoming very important indeed. Chapter 16 addresses these issues and provides a good and interesting overview of the Chinese experience in each of the specialised intellectual property areas as well as in the related areas of domain name protection, electronic contracting and computer laws.

As noted, the chapters on maritime and labour law are also insightful and relatively well developed. Other modestly-sized, but no less illuminating works include the chapters on investment, joint ventures, real estate and securities arbitration. All in all, these specialist areas are topics that should see considerable growth in analysis in the next edition, corresponding with the expected development and constant changes in transactions and the law in these fields, and the expected concomitant increase in their usage of arbitration. Unlike the other sets of chapters, it can be expected that this set of chapters (grouped under Part 3) and the list of documents under Volume 2, will see the greatest amount of revision by the time the next edition comes along, given their mutable nature.

Finally, there are the stand-alone chapters on arbitration laws in Hong Kong SAR and Taiwan as well as a chapter on the "Supreme People's Court Draft Provisions on Arbitration". References are occasionally made to the laws of Hong Kong SAR and Taiwan in the other chapters, but these chapters deal mostly with the development in arbitration laws on mainland China itself. Thus, the stand-alone chapters are necessary to ensure that arbitration laws in Hong Kong SAR and Taiwan are not overlooked in the overall analysis. In other words, they are necessary to complete the objectives of the book. However, those interested in a more in-depth analysis of the already well-developed arbitration laws of Hong Kong SAR and Taiwan should additionally seek out books which specifically address this subject area.

Written by practitioners with practitioners in mind, this work is notably an elaborate patchwork quilt produced by not less than thirty-five experienced and knowledgeable authors, brought together by a distinguished team of editors. It is an ambitious project and attempts to be an exhaustive treatise on the subject. Unlike most other arbitration textbooks, it takes a more practical rather than academic approach. The "practitioner-centric" approach is to be appreciated given the nature of arbitration law and the target reader who is likely to be the counsel or arbitrator wishing to obtain an understanding of the treatment of the subject in China. Certainly, the use of flowcharts, comparison tables and the like makes it even more user-friendly to the arbitration practitioner. So does the consolidation of legislation and legal instruments in a single reference point, which releases the practitioner from spending an inordinate amount of time wading through a quagmire of documents. Perhaps the only shortcoming is the relative paucity of cases and arbitral decisions referred to in Volume 1. However, all in all, it is undoubtedly an important addition to the literature and jurisprudence in arbitration law. It is certainly a logical follow-up to the book *Arbitration in Hong Kong: A Practical Guide*, which was also published by Sweet & Maxwell a year ago in December 2003. Hopefully, more work in the area within the Asia-Pacific region will emerge to balance out the surfeit of materials from the West.

I would consider this book to be a necessary addition to the bookshelf of the arbitration practitioner in China, Hong Kong SAR and Taiwan, parties to domestic and international transactions with Chinese counterparts who are drafting contracts containing arbitration provisions that provide for China as the seat of arbitration (and Chinese procedural law as the *lex arbitri*) and the application of Chinese substantive law, and academics and researchers in arbitration laws.

reviewed by WARREN B. CHIK

The World Trade Organisation: Law, Practice, and Policy BY MITSUO MATSUSHITA, THOMAS J. SCHOENBAUM & PETROS C. MAVROIDIS (Oxford: Oxford University Press, 2004, civ + 589 pp. Softcover: S$ 126)

The publication of this paperback edition of Matsushita, Schoenbaum and Mavroidis makes

what has otherwise been described as an "instant classic" (Peter Hippold in the *European Journal of International Law*) more widely affordable. It was first published in hardback form in 2003, with this paperback edition appearing a year later. What distinguishes the book is its clarity and authority. It is highly accessible. This is unsurprising in light of the authors' concern about how poorly the World Trade Organisation (WTO) is often understood and their aim to write not only for the international trade lawyer, trade policy-maker or even the trade law student but also for the lawyer, economist and political scientist who is not a trade specialist and the educated layperson. In this regard, the book succeeds magnificently.

For the non-specialist, the organisational and institutional aspects of the WTO, the interrelationship between the Agreements and the ever-expanding jurisprudence of the WTO are laid out with unparalleled concision and clarity without in any way sacrificing the authoritativeness and reliability of the work.

For the student, often bedazzled by the array of treaty provisions and instruments, the authors' clear explanations and the discipline and elegance shown in the organisation of the book have resulted in an exemplary text to be used in conjunction with the primary materials. The book is written plainly, clearly and logically, with propositions of law typically followed by concise pointers to the relevant jurisprudence and analytical commentary, in that order. An example is the explanation of Article XVII of the *General Agreement on Trade in Services* (GATS) (at 247-248):

> The national treatment obligation covers both *de jure* and *de facto* discrimination … The *United States—Superfund* panel report first made the point that for GATT Article III to be violated one need not show actual trade effects … The *EC-Bananas* panel report dealt with the issue of whether the EC had breached its national treatment obligation with respect to wholesale services in the bananas sector. For GATS Article XVII to be breached, three elements must be cumulatively present … The first element is a factual one. The second element should be interpreted in accordance with … With respect to the third element …

For the busy private or government practitioner, the book is an indispensable guide—every authoritative explanation and account reflects the same crispness and confidence of word and expression. Each word carries both experience and learning with great ease, masking the intellectual complexity of some of the ideas behind the words themselves—"The general obligations assumed in the GATS do not, by themselves, guarantee market access: any WTO member can, in principle, respect the Most Favoured Nation (M.F.N.) obligation and keep its market completely inaccessible to foreign services and service suppliers".

Matsushita, Schoenbaum and Mavroidis resolves itself into twenty-one chapters in total, covering the institutions and mechanisms of the WTO; the sources of WTO law; the legal remedies available for the enforcement of members' obligations; the relationship between WTO law and domestic law; market access for goods, the M.F.N. and National Treatment (N.T.) principles; safeguards, export controls and national security, trade in services; trade remedies; intellectual property; investment; competition policy; as well as chapters on environmental protection and trade; technical barriers, standards, trade and health; regional trade agreements (R.T.As); developing countries and (a fascinating final chapter on) "Future Challenges". I am also told that the authors would like to include additional chapters on government procurement and agriculture in the subsequent edition. This is to be welcomed and would make what is already an indispensable guide fully comprehensive in its coverage.

What of the overall "soundness" of the authors' prescriptions? Put simply, their expertise and experience alone should make their views prevail when there is doubt by both the players and the regulators (a true test of legal textbook authoritativeness). People say that a truly authoritative work describes the law not as it should be, but as it will be. But the authors stray into the policy area and put their opinion plainly even in relation to questions which trade negotiators and policy-makers might often rely merely on "gut-feel" or "experience" to provide partial answers to. For example, commenting on how R.T.As will fare in the future under WTO disciplines, the authors say (at 369):

> There is every indication that, in the future, the WTO will inject greater discipline into the formation and maintenance of PTAs [preferential trade areas], as well as derogations based upon Article XXIV of the GATT … the CRTA (Track 1)

> and the Appellate Body (Track II) may be expected to be more active in the future …

This is something which commentators, observers, policy-makers and practitioners must be wondering about as R.T.As continue to proliferate worldwide. Yet it is anybody's guess how the Committee on Regional Trade Agreements (CRTA) will handle a range of technical issues. The CRTA has not been known to come up with firm and conclusive answers in relation to R.T.As under review, let alone throw out any R.T.A. under review. In practice, one expects, at worst, an "inconclusive" review and if there is going to be a major challenge to a R.T.A., it would more likely take the form of a "Track II" (litigation) challenge. See, for example, the *US—Steel Safeguards* case, the latest in a line of cases evincing Appellate Body avoidance of a comprehensive answer to the question of whether R.T.A. countries may or should exclude other R.T.A. members from the application of safeguards. The Appellate Body considered the doctrine of parallelism sufficient to dispose of the issue in that case since even the test imposed thereby had not been fulfilled. It therefore considered it unnecessary to settle the question of whether safeguards may or should be excluded in legal principle. Coming in the wake of the intense political controversy caused by Appellate Body activism in relation to the *amicus* brief issue, perhaps the Appellate Body has been more wary of late of taking on an activist role. Yet, all things considered, surely the authors are right—responsible policy-makers and legal advisers should take a relatively conservative view of the disciplines and requirements imposed by GATT Article XXIV and GATS Article V in such unclear cases. There is already concern in expert circles about the current neglect of more clearly expressed and reliable multilateral rules in relation to the proliferation of R.T.As worldwide.

There are also sharp criticisms of the current system. In the chapter on developing countries, the authors were compelled to point out, for example, that (at 393):

> … there is a need for greater coherence between trade policies and other policies aimed at promoting economic growth in developing countries. Article III:5 of the WTO Agreement mandates greater coherence in global economic policy-making, but this has been lacking in the past … the World Bank and the UN Development Program reduced their assistance for trade-related capacity building in developing countries in 1995, just when the countries were called on to take complex and costly implementation of their Uruguay Round commitments.

Another example, in respect of the legal remedies for enforcement of trade obligations under the WTO Dispute Settlement Understanding (DSU), is the authors' support for Joost Pauwelyn's argument in the *American Journal of International Law* against trade retaliation, saying (at 94) "[t]he result is a new balance of trade relations at more protective levels".

What also deserves special mention is the serious attention given in the book to questions about the relationship between trade liberalisation and environmental protection. The chapter on environmental protection and trade provides a rigorous overview of trade and environment matters, from the usual treatment of the evolution of GATT to WTO Jurisprudence which is now captured in the approach taken by the Appellate Body to GATT Article XX(g) in the *Shrimp-Turtle* case, to GATT Article XX(b) in the *EC-Asbestos* case and to the GATT Article XX chapeau in both these cases. It also goes on to deal with the vexed question of the relationship between the WTO regime and multilateral and bilateral environmental agreements, noting that WTO jurisprudence has been favourable to multilateral environmental agreements (M.E.As). The authors also propose ways in which we may approach the relationship between the WTO and M.E.As (at 457-458). The chapter goes on, thereafter, to discuss the *Agreement on Technical Barriers to Trade* (TBT Agreement) and the *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement) in the context of environmental standards and process and production methods (P.P.Ms). They discuss key issues such as recycling and packaging, eco-labelling, environmental taxation, and the regulation of international trade in hazardous and other wastes under the *Basel Convention on the Transboundary Movements of Hazardous Wastes and their Disposal* (*i.e.*, through the prior informed consent (P.I.C.) procedure). The discussion on hazardous wastes, in particular, exemplifies a key characteristic of the book overall, which is the ability of the authors to compare, swiftly, the position under different national regimes with the broad experience available to three authors from different continents, merging their local with their global expertise. Thus, they point out that while the US Supreme Court has struck down state-imposed restrictions on the

import of hazardous wastes under the Commerce Clause, Europe appears to have gone the other way, and this is followed by a confident discussion of the position under GATT Article XX(b) (at 476).

The subsequent chapter then deals, separately, with the intricacies of technical barriers, standards and health under GATT, the SPS and TBT Agreements. It also contains a welcome discussion of the *Cartagena Biosafety Protocol* and potential conflicts between the *Protocol* and the SPS Agreement. What results is a book which provides the most comprehensive and integrated treatment of trade, environmental and health matters in any trade law textbook currently available on the market, dealing with the various complexities with an admirable neatness of thought and presentation.

Finally, the last chapter, which addresses contemporary concerns about WTO decision-making, civil society and developing countries, presents a useful starting point for those who wish for an authoritative overview of the state of the WTO today.

Rarely do we find a new book, in its first edition, to be both progressive and authoritative at the same time. This book is simply required reading and we should be grateful to the publisher for bringing it out in paperback. Its publication is a significant event in the field.

reviewed by C.L. LIM

Legal Aspects of Implementing the Kyoto Protocol Mechanisms: Making Kyoto Work EDITED BY DAVID FREESTONE & CHARLOTTE STRECK [Oxford: Oxford University Press, 2005, xlvii+643 pp, Hardcover: £95]

On 16 February 2005, the Kyoto Protocol entered into force. *Legal Aspects of the Kyoto Protocol Mechanisms: Making Kyoto Work* is a timely addition to the literature on the Kyoto Protocol at a time when greater understanding of how to implement the Protocol is vital. This book also comes at a time when a wider group of players, including project developers, private corporations, international development institutions, lawyers, consultants and accountants, is starting to engage more with the Kyoto mechanisms.

The Kyoto Protocol is a multilateral environmental agreement that was promulgated to address the serious threat of climate change. Setting aside the controversies surrounding the accuracy of efforts to predict the impact of climate change, the scientific evidence establishing the salient aspects of climate change is unequivocal. Climate change is attributable to the rising concentration of certain gases released into the atmosphere by human activities (particularly industrial activity). These gases produce a "greenhouse effect", hence the name "greenhouse gases" (G.H.Gs), by trapping heat in the atmosphere. These G.H.Gs include methane, nitrous oxide and perflurocarbons but the most significant G.H.G. is carbon dioxide. If no steps are taken to limit G.H.G. emissions over this century, the rate and extent of warming is only expected to increase. Different countries will be affected in different ways and to different extents, but generally, the global impact of climate change will be adverse. Shifts in ocean currents, the collapse of the western Antarctic ice sheets, the flooding of low-lying coastal areas and small island states, adverse impact on agriculture and forestry and public health crises are but some of the likely consequences if climate change continues unmitigated.

Global cooperation is necessary in order to address an issue of global impact and importance. At the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil (commonly known as the Rio Summit) in June 1992, the United Nations Framework Convention on Climate Change (UNFCCC) was opened for signature. It now has 194 Parties. The basic objective of the UNFCCC is not to reverse greenhouse gas emission levels, but to stabilise them "at a level that would prevent dangerous anthropogenic interference with the climate system". Given the vagueness of the obligations in the UNFCCC itself, it was only a matter of time that more concrete obligations and a more precise time-frame for the reduction of G.H.G. emissions would have to be promulgated. This was the driving force behind the Kyoto Protocol.

The Protocol obliges industralised countries to reduce their G.H.G. emissions to meet legally binding targets. These countries are known as "Annex I countries". The challenge these countries face is to reduce their existing emission levels to their assigned amounts. In order to address concerns that reducing G.H.G. emissions, which are primarily caused by industrial activity and energy production from fossil fuels, will harm domestic economies and the global economy, innovative market-based mechanisms were built into the Kyoto Protocol to help Annex I countries reduce emissions at least cost. The use of such economic instruments is unprecedented in international environmental