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John H. Jackson: Pioneer and Visionary

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John Jackson pioneered international trade law, helped to establish the WTO, and taught legions of professors and trade policy officials who continue to promote his goals of a multilateral trading system based on the rule of law, transparency, fairness, and non-discrimination. A great man, he was also a very dear man – humble, quiet, unassuming, kind, and private. In his writings, he had the unique ability to distill very complex issues down to a few, readily comprehensible paragraphs for students and readers.

David Kennedy has chronicled:

> A senior law professor at the University of Michigan, Jackson presides over the field of trade law in the United States. Indeed, it was Jackson who largely invented the field, transforming his experiences with the United States Trade Representative's office from a narrow regulatory specialty into a recognized subject of legal study. In many ways, we can see Jackson's as a classic academic project – founding and developing a field or school. He began by getting trade law recognized as a significant field of study for American lawyers. In *The World Trading System*, he goes further, claiming, quite modestly and tentatively, to represent what he terms 'international economic law'.[2]

As a champion of the field, John developed the first comprehensive casebook on international trade law,[3] which is used worldwide. Indeed, the table of contents is so perfect that it has become a model for other texts and casebooks, and for international trade law courses taught globally. John is 'father' to many of us who first caught the international trade law 'bug' as his students at the University of Michigan or Georgetown University. He mentored and taught a multitude of trade policy officials and scholars around the world – students have always flocked to him. He inspired a passion in me for international trade law over 35 years ago at the University of Michigan, and I am privileged to have enjoyed a

1 Professor, University of Ottawa, Faculty of Law; first Director, WTO Appellate Body Secretariat; former Senior Negotiator for Canada of the Agreement Establishing the World Trade Organization and the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).

2 David Kennedy, 'The International Style in Postwar Law and Policy: John Jackson and the Field of International Economic Law', 10:2 *American University International Law Review* 671–716 (1995).

3 John H. Jackson, William Davey, and Alan Sykes Jr., *Materials and Texts on Legal Problems of International Economic Relations*, West Publishing, 2013.

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very special, close friendship with him and Joan ever since. At the WTO in its early years, Bill Davey, the Director of Legal Affairs, and I were referred to as 'the Michigan Mafia'; students at Georgetown later became known as 'the Georgetown Gang'.

While his academic accomplishments are well-known, perhaps his greatest achievement was his contribution to the establishment of the WTO. John had a constitutional view of the GATT-multilateral trading system.[4] To him, not only the international rule of law, but also strong international institutions mattered. He saw the GATT as a birth defect, weak and fragmented. In 1989–90, John actively promoted, to government officials and scholars in London, Geneva, Brussels, and Ottawa, the idea of creating a World Trade Organization in order to correct what he described as the 'defective constitution' of the GATT system. His reasons were set out in a short monograph, *Restructuring the GATT System*, published in 1990.[5]

His proposal captivated the interest of Canadian Minister of International Trade, John Crosbie, who, in April 1990, became the first trade minister to formally propose the establishment of a World Trade Organization in the Uruguay Round.[6] The Europeans, who had also been considering this idea, and after discussions among Quad negotiators, followed with the first formal proposal in Geneva in the fall of 1990.[7]

I was the Senior Negotiator for Canada in the Uruguay Round responsible for negotiating the Agreement Establishing the WTO and the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). I had brought my former professor's proposal to the attention of my government and Minister, and much to my surprise, Minister Crosbie decided to run with it! John agreed to work as a consultant in the early stages with me during the negotiation of the Agreement Establishing the WTO. However, when I tried to pay him at the end of his contract, he refused to accept any compensation. For him, it was a labour of love. For me, it was such a privilege and pleasure to work with him. Those were exciting, creative times.

John continued to strongly influence the institutional development of the WTO after its establishment in 1995. He was appointed by Director-General Supachai Panitchpakdi in 2003 to the Consultative Board on *The Future of the WTO*[8] (the Sutherland Commission). His excellent chapter on WTO Dispute Settlement included several key, practical recommendations for reform that could be

4 John H. Jackson, 'The Birth of the GATT-MTN System: A Constitutional Appraisal', 12:21 *Symposium on the Multilateral Trade Agreement II: Law and Politics in International Business*, 1980.

5 John H. Jackson, *Restructuring the GATT System*, Royal Institute of International Affairs, 1990.

6 Craig Van Grasstek, *The History and Future of the World Trade Organization*, World Trade Organization, 2013, at 59.

7 Ibid.

8 Consultative Board, *The Future of the WTO: Addressing Institutional Challenges in the New Millenium*, World Trade Organization, 2004.

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implemented without amending the DSU. John was always very prolific, outspoken and actively committed to institutional reform of the WTO. He believed consensus decision making was too cumbersome and recommended ways to improve it. Critical mass and plurilateral agreements, he recommended, could help to improve the WTO negotiating process.[9]

John's objective was to establish a strong, rules-based institution in the WTO with a well-functioning dispute settlement system. He succeeded in making his dream come true. His legacy will live on in the WTO and the multitude of students, officials, and scholars whom he has influenced.

9 John H. Jackson, 'The Perils of Globalization and the World Trading System', 24 Fordham Int'l L.J. 371–382 (2000), at 381–382.

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