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INTRODUCTION

Frieder Roessler and the Trading System

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Dr. Frieder Roessler at work at the ACWL in 2009.

This *Review* has occasionally taken note of the passing of individuals who have made seminal contributions to the public international law of international trade.[1] When Frieder Roessler died on 25 July 2024, the editors undertook to memorialize Frieder's legacy with a Symposium about Frieder the international civil servant, Frieder the scholar and teacher, Frieder the institution builder in advocacy for the legal rights of developing countries, and Frieder the friend to admirers around the world and over the course of several decades.

All seven authors in this symposium worked closely with Dr Roessler and agreed to write tributes under a tight word constraint and with a quick turnaround.

Each of the essays, in some way, highlight Roessler's intellectual contributions to the WTO legal system. Our first essay in the Symposium by Ernst-Ulrich Petersmann provides a capsule history of 'Geneva ordoliberalism' and shows how those ideas forged Roessler's conception of the 'constitutional functions' of GATT/WTO law. Roessler, says Petersmann, 'emphasized ordoliberal rather than utilitarian justifications of the rules-based multilateral trading system'. In his essay, Lothar Ehring takes note of Roessler's 'civilizational achievement' in working to achieve 'the better placement of the GATT … into the family of international treaties and international legal order'. The essay by Werner Zdouc remembers Roessler as 'a relentlessly creative, visionary thinker … ' who 'never stopped thinking about the challenge of reconciling … trade

[1]R. Blackhurst and P.C. Mavroidis (2005) 'A Tribute to Robert E. Hudec', *World Trade Review* 4(1), 3; L.A. Winters (2016) 'J.H. Jackson: A Tribute', *World Trade Review* 15(3), 397.

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liberalization with the pursuit of legitimate "non-trade" objectives by governments and citizens'.

Several of the essays discuss Roessler's legal approach. In his essay 'An Uncommon Mind', Petros Mavroidis recalls that 'Frieder was never shy to confront well-established dicta, and to bring to light inconsistencies and errors.' Excerpting key passages from some of the GATT-era cases in which Roessler served as legal advisor to the panels, Mavroidis marvels at the 'deep thinking about the most fundamental issues circumscribing trade integration'.

In his contribution, Niall Meagher explains that 'Frieder did not think of predictability or the role of precedent as an absolute. It was important to get the decision right and, if that required going back on a previous decision, to do so openly and clearly.' Ehring remembers that Roessler would 'build sharp and powerful arguments that could be eye-opening and persuasive'.

Our authors highlight ways that Roessler improved the GATT dispute settlement process. In her essay, Gabrielle Marceau recalls Roessler's singular initiative of drawing up a standardized working procedure for GATT panels that 'ensured that the dispute resolution process would be transparent and that the parties could trust in the independence, impartiality and neutrality of those tasked with adjudicating disputes'. This idea of an indicative standardized procedure was widely adopted and later incorporated into GATT and WTO law. Ehring's essay explains how Roessler insisted that 'Legal rigour is a necessity, not a luxury, for reliably answering the question' of whether a 'sovereign State' had breached international law.

Several of the essays recall Roessler's style as a manager. Zdouc recalls that in Roessler's role as Director of the GATT Legal Affairs Division, Roessler hired 'the broadest range of different, creative, sometimes outright peculiar legal minds and practitioners, because his [Roessler's] thirst for intellectual debate and incessant self-reflection would be best served in a professional environment of diversity, creativity, modesty, passion and innovation'. One of those hired – Petros Mavroidis – recalls that 'My years next to him were the best complement I could have hoped for to add to my years in various schools.' In her essay, Cherise Valles recalls that 'Frieder was a gifted mentor, combining strong substantive guidance with gentle and respectful encouragement in our ongoing professional development.'

Some of the essays offer insights regarding Roessler's role in crafting the delicate transition from GATT to WTO. A key issue was whether GATT Contracting Parties would be able to avoid adherence to the single undertaking framework of the WTO. According to Zdouc, Roessler gave 'expert advice' on how to adopt the Uruguay Round as a single package and terminate the GATT 1947 'to prevent such free riding'. Marceau recalls that Roessler 'suggested insulating the MFN clause under the WTO Agreement from non-members during the transition period'. Zdouc observes that Roessler was 'visibly affected' by the reaction of some governments who protested this 'coup' by powerful countries. Yet Roessler saw this solution as a way to protect developing countries 'better than ad hoc opting out from an innovative, rule-based package of agreements … '. Looking back, Marceau suggests that Roessler's 'work during the transition from GATT to the WTO laid the foundation of a rules-based trading system where every Member found their voice'.

A few of the essays cover Roessler's second career beginning in 2001 to lead the Advisory Centre on WTO Law (ACWL). Meagher explains that Roessler's 'involvement gave immediate credibility to the ACWL as an independent centre that would serve the needs of its developing and least developed country users without any fear or favour'. Valles remarks that 'Thanks to the vision, guidance, and hard work of Frieder, the ACWL transformed itself from a novelty into a key player in international trade.' Zdouc observes that thanks to Roessler, 'the ACWL first made its name by being diametrically different from a litigative law firm' by sometimes telling clients to refrain from litigating 'and instead autonomously repairing WTO-inconsistent domestic regulation'.

From 1975 onward, Dr Roessler authored nearly 50 important articles/chapters about a broad range of issues in international economic law. Even after he retired as ACWL Executive Director

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in 2012, Roessler remained active in the trade field. In 2019, he contributed an excellent (critical) book review on these pages.[2] Like our Symposium authors, I learned many lessons from Frieder and will greatly miss him.

[2]'Democracy, Redistribution and the WTO: A Comment on Quinn Slobodian's book *Globalists: The End of Empire and the Birth of Neoliberalism*', *World Trade Review* (2019) 18: 2, 353.

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