

THE FREE TRADE AGREEMENT: A COMPREHENSIVE GUIDE by Jon R. Johnson and Joel S. Schachter (Aurora: Canada Law Book Inc., 1988) pp. xiv + 352.

The Canada - U.S. Free Trade Agreement (hereinafter referred to as the FTA), which entered into force on January 1, 1989 after a protracted implementation process, will likely stand as the most consequential and controversial bilateral treaty relationship that Canada has undertaken in the twentieth century. Although debate will continue on the degree of influence that the FTA will exert on the fabric of the Canadian state, the agreement has an immediate and tangible effect on the parties' international obligations and, as a direct consequence, on the changes required in domestic law to implement these obligations.

For those persons who are seeking a text which will decipher the terms of the FTA and discuss it in the context of the multilateral system, *The Free Trade Agreement: A Comprehensive Guide* should be consulted. Johnson and Schachter have undertaken a thorough explanatory review of the provisions of the FTA and its relationship with other extant multilateral and bilateral obligations of the two states. The dominant influence on the FTA is exercised by the General Agreement on Tariffs and Trade (GATT) and the various agreements negotiated during the GATT Tokyo Round which are popularly referred to as the Tokyo Round Codes.¹ The authors have recognized that the FTA bases its existence on the GATT obligations of Canada and the U.S.A., expands upon GATT principles that currently govern trade in goods and goes further to regulate fields such as trade in services and investment that are not within the ambit of GATT at the present time. Throughout the text, Johnson and Schachter describe the manner in which various provisions of the FTA find their origin in the GATT - Tokyo Round network of multilateral rights and obligations. This approach results in an enhanced appreciation of the meaning of elements of the FTA and the nature of the bilateral rights and obligations undertaken as compared with those multilateral rights and duties already in place pursuant to our GATT relationship. In adopting this perspective, the authors have devoted particular attention to the areas of import/export restrictions on trade in goods, technical standards, trade in agricultural goods and government procurement. However, in the treatment of export restrictions on trade in goods in general and energy trade in particular, although satisfactory for the purpose of providing an understanding of the source and nature of the FTA obligations, further analysis on the degree to which the FTA appears to increase the stringency of the parties' existing GATT duties in this area could have been provided.

In addition to facilitating a working comprehension of the FTA, the authors' objectives included an analysis of the potential impact of the FTA

1. General Agreement on Tariffs and Trade, *B.I.S.D.* vol. 4 (1969); Tokyo Round Codes, *B.I.S.D.*, 26th Supp. (1980) and 34th Supp. (1988); see rep. in K.R. Simmonds and B.H.W. Hill, eds., *Law and Practice Under The G.A.T.T.* (1988).

on existing legislation and other measures, with greatest emphasis placed on the Canadian regime. Although there is substantial coverage of the nature and background of the numerous laws that are affected by the FTA, the impact analysis was obviously restricted since at the time of writing, neither the U.S. nor the Canadian implementing legislation was available. Faced with this limitation, the authors could not address the specifics of the subsequent amendments to domestic law that make it possible for each state to fulfill their bilateral FTA obligations.² Nevertheless, there is a realistic appraisal of the amendments to domestic law mandated by the FTA terms.

The authors have structured the book so that its chapters generally follow the ordering of the parts of the FTA and they append the text of the Agreement for convenient reference. Trade in goods, government procurement, services and investment, financial services, temporary entry of business persons, institutional provisions and dispute settlement, culture and miscellaneous provisions are given separate treatment. Both the introductory and closing chapters deserve mention. The Introduction contains a helpful guide to the technical interaction of the FTA with other treaties that Canada and the U.S.A. are party to, explaining the rule of FTA prevalence and exceptions thereto. The final chapter, on the other hand, examines the implementation of the FTA as an international obligation of Canada into domestic law. Johnson and Schachter provide a concise review of the constitutional legal arguments that can be posed to justify federal implementation of the entire FTA, a contention clearly supported by the authors with only brief comment on the opposing viewpoint that can be taken by provincial governments on this simmering issue.

Overall, Johnson and Schachter have produced a book that will prove to be of considerable assistance to those persons who require a ready reference in order to expand upon the terms of the FTA, determine which provisions have amended the parties' extant obligations under international law and the direction of this change. Although the text does not venture beyond a cursory analysis of the ramifications of the effect of the FTA when applied to concrete situations and structures, the authors have provided a commendable source book on the FTA and its legal environment.

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2. See *An Act to Implement the Free Trade Agreement Between Canada and the United States*, S.C. (1988-89), c. C-65; *United States-Canada Free Trade Agreement Implementation Act of 1988*, 102 Stat. 1851, P.L. 100-49.