Book Review


The present volume is the first in a new series of monographs published under the auspices of the recently inaugurated Hamburg Studies on Maritime Affairs, within the Max Planck Research School for Maritime Affairs (IMPRS) at the University of Hamburg. Further titles in this series are listed in the Books Received lists of both the present and previous issues of *IJMCL*. These new studies are already distinguishing themselves by tackling important issues that are less well covered within the academic literature on both the public and private aspects of the international law of the sea, including its links with other fields of international law. The present volume exemplifies this perspective, taking as its main focus of attention the maritime transport services industry. In particular, it juxtaposes the general presumption of navigational freedom in the law of the sea, which is driving the increasingly globalized aspects of this industry, with the ‘… large variety of restrictions affecting free trade in maritime transport services … [that create] … substantial inefficiencies resulting in higher transport costs.’ (p. 1) In doing so, the study emphasizes the role of government protectionist measures in undermining the liberalization of maritime transport services, as opposed to non-competitive industrial practices.

Particularly to be commended is the clear structure and approach adopted throughout this study. Where appropriate (especially in the earlier Chapters), an exposition of the factual background is followed by a consideration of the general legal issues before moving on to the specific legal issues raised by the obstacles and continuing efforts to procure trade liberalization in the international maritime transportation services industry. The study is divided into five main parts: Chapter I provides background information on the general aspects of the international trade in services, and specifically, the maritime transport services sector. Chapter II does the same with the trade barriers that restrict free trade in shipping services. Chapter III then examines how far States are either generally, or specifically, restricted in their discretion to introduce such trade barriers in the face of the presumption of navigational freedoms under...
international law. Chapter IV provides an overview of the international legal framework governing the maritime transport services industry, ranging from the regulation of commercial operations, to labour, safety and environmental protection standards, ‘all of which may considerably impact on shipping services.’ (p. 3). Finally, Chapter V deals with the maritime transport services issue within the World Trade Organization (WTO) context, ‘in order to shed some light on an area of maritime sectoral services negotiations that have been continuing basically without success for more than fourteen years and demonstrates the contentiousness of the issues involved.’ (p. 3) This study is thus of much contemporary relevance as it also addresses proposals brought before the current Doha (Development) Round of WTO negotiations attempting to bring about the substantial liberalization of this industry sector.

In Chapter I, Prameswaran rehearses certain salient points about the rising significance of the international transportation services sector generally to the global economy, and the importance and growing role of the maritime transport services industry within this particular international trade sector. Of import is the fact that developing countries own and/or run a significant proportion of the maritime transport services industry. The author notes that by 2000, developing countries operating so-called ‘open registries’, such as Panama, Liberia, Cyprus, Bahamas, Malta and Bermuda represented 48.1% of the total world shipping fleet. (p. 26, citing from both UNCTAD and the Lloyd’s Register of Shipping Statistics) The sheer size of these ‘open registry’ shipping fleets has raised concerns among developed country economies of their over-dependence on foreign owned and/or run shipping. This is implicit for example in the official statements of the European Community institutions. (p. 27) Related concerns expressed about developing countries’ shipping fleets highlight lower labour, health and safety, and environmental protection standards applied within open registry vessels. While Parameswaran refutes this last charge, he does so by pointing to apparently higher standards imposed by port States’ controls. (p. 28) In doing so, however, he neglects to mention that the converse situation is also possible, namely, that higher than international standards imposed upon foreign-flagged shipping can discriminate against their use of certain ports and thereby unfairly favour domestic port/coastal State flagged vessels. More generally, the author acknowledges that ‘(t)he supply of transportation services may, for example, be affected by environmental standards in the form of emission or energy efficiency standards.’ (p. 47)

Chapter II covers the main trade barriers to maritime transport services. According to Parameswaran, the trade protectionist tools applied are ‘basically the same and may be divided into various forms of flag discrimination practices on the one hand and fiscal support measures on the other hand.’ (p. 49)