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International Economic Conflicts by James Fawcett

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BOOK REVIEW

INTERNATIONAL ECONOMIC CONFLICTS. By James Fawcett.[1] London: Europa Publications Limited, 1977. Pp. v., 127. L5.

*Reviewed by William MacLeod**

"Economic conflict" is a label that has been applied over the years to a variety of social phenomena, ranging from rare instances of human dispute to a pervasive characteristic of all societies. To the classical economist trained in the tradition of Adam Smith's economic harmonies, an economic conflict is almost a contradiction in terms. Economics is the science of cooperative behavior that is only occasionally disrupted by political or property disputes, themselves a result of political or legal imperfections. To the Marxist, conflict is the essence of all economic relationships and the major determinant of the course of history. From the lawyer's perspective, an economic conflict can be viewed as any conflict in which there is an economic stake, which is to say, virtually every conflict.

It is thus appropriate that Professor Fawcett begins his treatise with his definition of international economic conflict: any conflict arising from movements of goods and money across national borders, and from access to natural and human resources. According to the author, such a confrontation is, in practice, inseparable from politics for it is generated by international power struggles and the financial policies adopted by governments of individual countries. Nevertheless, there are good reasons for treating the economic aspects of international conflicts separately. The most obvious one is that *International Economic Conflicts* is the fourth in a series of books from Europa Publications dealing with international disputes; earlier works have already focused on the political aspects[2] and the legal aspects,[3] while one devoted itself entirely to case studies.[4]

Familiarity with the other studies of the general subject matter is assumed by the author, as he resorts almost exclusively and without translation or description to acronyms (such as UNCTAD, STABEX and ICAO) when referring to agencies and arrangements, and spends little time describing cited cases or the content of the rules applied in their resolution. The short book is intended as a complement to the earlier studies; more a thematic outline of the earlier works than a complete treatise on the subject. About two thirds of the text is devoted to exposition and the remainder to appendices containing selected articles of Bilateral Treaties for International

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1. Professor of International Law at King's College, University of London and president of the European Commission of Human Rights.
2. F.S. Northledge & M.D. Donelan, International Disputes: The Political Aspects (1971).
3. International Disputes: The Legal Aspects (Sir Humphrey Waldock ed. 1972).
4. M.D. Donelan & M.J. Grieve, International Disputes: Case Histories 1945-1970 (1973).

Private Investment, the International Bank for Reconstruction and Development's Convention on the Settlement of Investment Disputes . . ., and the United Nations Charter of Economic Rights and Duties of States.

Four international instruments designed to prevent or resolve international disputes are identified and their efficacy is evaluated. The first, national law and legislation, is aptly noted for its importance in determining policy with regard to the regulation of currency, foreign payments, exports and imports of goods, and the relation of federal systems to component states or provinces. International agreements, such as most-favored nation treatment and the General Agreement on Tariffs and Trade (GATT) are next cited. The GATT is briefly described and classified according to the degree of obligation and degree of control accorded to contracting nations. Institutions, mentioned in passing as the third instrument, are cited for their role in providng contacts between trading countries, contacts that can prove valuable in the event of a disagreement. The final governmental instrument is judicial or arbitral settlement, employed by agreement of conflicting parties. Multinational corporations are also included in the list of instruments, because of their potential to both create and resolve international disputes.

In evaluating the efficacy of these instruments, the author selects three main areas of dispute to examine their application: preferential systems and trade discrimination, the control and direction of money movements, and unequal access to resources. Examples of preferences (usually tariff or purchase favors granted to particular countries) are described, along with their purposes of providing economic relief or stimulation to the preferred country. By lowering barriers to trade, countries increase the markets open to their product, thus increasing aggregate demand. Preferences have a long history, encompassing the Navigation Acts of 1651 to 1660. More recently, they have been characterized by European cooperation and support of the exports of less developed countries.

International money movements are primarily the concern of the International Monetary Fund, whose role has altered substantially since the adoption of floating exchange rates. Conflicts that arise from the international repercussions of currency management may be submitted to an arbitration board set up within the Fund, although most disputes have been handled by its powers of persuasion.

Some of the most comprehensive discussion is found in the section dealing with unequal access to and distribution of resources. Conflicts in this area commonly arise following expropriation or nationalization by a host country of the assets of a national of another country. These disputes have been submitted to domestic courts (invoking the law of the host country), after which appeals have been taken to international bodies like the International Court of Justice. Professor Fawcett traces the evolution of United Nations policy in this area, which has become increasingly biased in favor of the discretion of the expropriating country. Rules of "just compensation" to be administered by international tribunals have yielded to procedures entirely under the control of the host state. As would be expected, this policy has prompted a proliferation of bilateral agreements controlling the host's caprice in order to continue to attract foreign investment.

The author concludes that formal international instruments have found limited use in resolving conflicts, their application restricted primarily to minor disputes between states and foreign nationals or corporations. In the larger conflicts between states, the most effective instruments have been persuasion and conciliation. The latter finding is not surprising in view of the recognized source of most of these conflicts — clashing political measures adopted by governments that have chosen to distribute favors selectively to different domestic and international interests, necessarily discriminating against those not chosen. Since before the age of Mercantilism, international trade has been regulated, taxed and restricted. Favors or preferences take the form of relief from these fetters; conflicts arise from the resulting unequal imposition on other traders. It is instructive to note that most of the instruments to prevent conflict are not grants or bribes, but merely arrangements allowing countries to make the most of their own economic endowments.