Foreword

Carl Baudenbacher

I am deeply honoured that the editors of this unusually rich book have invited me to write a foreword. Much has been said about Jacques Bourgeois’ highly successful career as a Commission official, a GATT and WTO panellist, a professor at universities in several European countries and in the United States, and an attorney at law advising and representing clients in what turned out to be landmark cases. In fact, this whole Festschrift bears witness of that. I would like to add some rather personal remarks.

I met Jacques for the first time at a relatively late stage of our lives in his Club de Warande in Brussels. He had invited me to lunch and within an hour I had convinced him to teach in the University of St Gallen’s Executive Master of Business Law programme. For a number of years he acted as a chairman of the programme’s one-week WTO law module, which at the time was held in Geneva. I was impressed with his legal knowledge and his flair for economics, but also, and in particular, with his independent mind. He obviously did not care about whether his views were shared by the powerful or not, but went for what he thought was right. As examples, I may mention his position on anti-dumping or on international exhaustion of intellectual property rights. But I was equally struck by Jacques’ humbleness, by the way he treated the students (all practitioners in their mid-30s) as interlocutors to be taken seriously, and by his fairness and generosity in grading exams. Jacques still serves as a member of the EMBL programme’s Academic Advisory Board. St Gallen University owes him a great deal of thanks.

Several times I had the privilege of sitting on panels with the birthday boy where controversial subjects of WTO law and of European competition law were debated, e.g. in Vienna or in St Gallen. Jacques made his point with ease and his opponents had to wrap up warmly. But he did this with his friendly smile and at times with a clin d’œil. He was very serious, but did not take himself too seriously. And he was and is always ready to

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step in for others. I will never forget the following. Once one of Jacques’ colleagues was a gifted young American professor of International Trade Law. When he heard that she had been denied tenure at her American university, essentially because she lacked international exposure, he spontaneously offered his help and saw to it that she could spend time as a visiting scholar at the WTO Secretariat in Geneva. On the second attempt she was awarded tenure.

I also discovered with joy that as far as European law is concerned, Jacques’ interest does not stop at the borders of the European Union. From the beginning, he dealt with the challenges of the EEA Agreement, in particular with its competition law chapter. He explored, inter alia, the question of whether the one-stop-shop system underlying those provisions would leave room for the application of the ne bis in idem principle in the relationship between the EFTA Surveillance Authority and the European Commission, and he concluded that the principle should apply. In another article, Jacques Bourgeois suggested that should a consensus emerge in the WTO concerning negotiations on an agreement on competition, the respective provisions of the EEA Agreement would offer some interesting solutions.

But academic and professional success is not everything in life. What makes Jacques so special is his humaneness. I remember evenings after the conference work was done when the famous EU and WTO lawyer enjoyed a good meal and a good wine together with colleagues and friends laughing and talking about everything but business. Apart from that, my wife Doris and I have witnessed aspects of Jacques that remained hidden to most. We are fortunate that for years he has, together with Marie-Christine, been one of the best disguised guests at our annual costume party. Party secrets should remain secret. But I think I can reveal one thing: over time Jacques has proven to be a worthy opponent of the European judiciary and of the diplomatic corps in Luxembourg in our traditional cherry pit-spitting contest.

Thank you Jacques and warmest congratulations on your milestone birthday.