

# European Yearbook of International Economic Law

Christoph Herrmann  
Bruno Simma  
Rudolf Streinz  
*Editors*

**|** *Special Issue:*

**Trade Policy between Law,  
Diplomacy and Scholarship**

Liber amicorum in memoriam  
Horst G. Krenzler

 Springer

# **European Yearbook of International Economic Law**

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# Trade Policy between Law, Diplomacy and Scholarship

Liber amicorum in memoriam  
Horst G. Krenzler

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Horst Günter Krenzler \* 26.03.1933 † 20.07.2012



# List of Publications of Horst G. Krenzler

1. *Die vorläufige Anwendung völkerrechtlicher Verträge*, 1964.
2. Allgemeine Lieferbedingungen, "Heidelberger Musterverträge" Heft 38, 1968.
3. Europa und Nordamerika – Die Rolle der Europäischen Gemeinschaften in der nordatlantischen Bündnispolitik, Lecture at RIAS-Funk-Universität on 6 November 1974, Berlin.
4. Die Rolle der Kabinette in der Kommission der Europäischen Gemeinschaften, *EuR* (1974), pp. 75–79.
5. Die Zusammenarbeit auf dem Gebiet der Bildungspolitik in der Europäischen Gemeinschaft, *EA* (1975), pp. 237–242.
6. Die Zusammenarbeit der liberalen Parteien in Westeuropa: auf dem Weg zur Föderation, in: *Zusammenarbeit der Parteien in Westeuropa: auf dem Weg zu einer neuen politischen Infrastruktur?*, 1976 (together with Hans Claudius Ficker, Christian Fischer-Dieskau).
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8. Das Welttextilabkommen III und die bilateralen Textilabkommen der EG, *RIW* (1983), pp. 423–427.
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10. Die Einheitliche Europäische Akte als Schritt auf dem Wege zu einer gemeinsamen europäischen Außenpolitik, *EuR* (1986), pp. 384–391.
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19. Die gemeinsame Außen- und Sicherheitspolitik der Europäischen Union, *EuR* (1994), pp. 144–161 (together with Henning C. Schneider).
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21. Die Handelspolitik der Europäischen Gemeinschaften als Instrument der Friedenssicherung, Speech at the 60th Deutscher Juristentag 1994, Münster.
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23. Die EU braucht eine starke Außenvertretung, *EU MAGAZIN* Baden Baden (1996) 7–8, pp. 18–21.
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39. Die Außenhandelsbefugnisse der EU, in: Schwarze (ed.), *Der Verfassungsentwurf des Europäischen Konvents*, 2004, 1st ed., pp. 385–394.
40. Die Uruguay Runde aus der Sicht der Europäischen Union, Lecture at the Forschungsstelle für Transnationales Wirtschaftsrecht der Martin-Luther-Universität Halle-Wittenberg, 8 July 2013, *Beiträge zum Transnationalen Wirtschaftsrecht* Heft 32 (Oktober 2004).
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# Foreword

It is a good tradition of legal scholars—in particular in Germany—to honour their greatest with a special book: a *Festschrift* for celebrating a significant birthday or—on a less pleasant occasion—a *Gedächtnisschrift* after they have passed away. In the case of *Horst Günter Krenzler*, it is our great and at the same time sad honour to edit this *Liber amicorum in memoriam*, dedicated to his life and work at the European Commission and the Ludwig Maximilians University Munich, but more than that to him as a great colleague, teacher, lawyer, scholar, liberal and European!

We have tried our best to find as many former colleagues and friends of *Horst Krenzler* as possible and have benefitted a lot from referrals of others. We can only hope that we did not miss too many and apologise in every individual case. The contributions we were able to bring together, only with the collaboration and effort of all the contributors, try to touch upon all the matters *Horst Krenzler* was interested in as a lawyer, from a practical as well as a scholarly perspective. Predominantly, they treat matters of EU external relations, the common commercial policy and international economic law. Whether we have achieved to produce a book *Horst Krenzler* would have enjoyed reading is for others to judge.

The editing of a book like this would not be possible without the help of numerous other people. We are enormously grateful to the staff of *Christoph Herrmann's* Chair at the University of Passau, namely *Fiona Whiteside*, *Viktoria Sauter* and *Moritz Zegowitz*, who took care of all the proofreading and formatting. Thank you for your excellent work!

Passau, Germany  
The Hague, The Netherlands  
Munich, Germany  
November 2014

Christoph Herrmann  
Bruno Simma  
Rudolf Streinz



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# Contributors

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**Knut Brünjes** has an MA in Economics and started his career in 1977. After serving as private assistant to Otto Graf Lambsdorff, Member of the German *Bundestag*, in 1978, he became personal assistant to the German Minister of Economics. From 1980, he served in the energy division of Ministry of Economics and was appointed Head of Section for Legislative Affairs in 1982. From 1990, he was Chief of Staff for several Ministers of Economics. In 1996, he was sent to Geneva as German Representative to the WTO, and in 2000, he was appointed Head of Section for Foreign Economic Policy in Berlin, and from 2001 to present, Deputy Director-General for Trade Policy, WTO, OECD, Economic Relations with North America and Latin America in the Ministry of Economics and Energy.

**Marc Bungenberg** is Professor of Public Law, European Law, Public International Law and International Economic Law at the University of Siegen, Germany and visiting Professor at the Swiss Universities of Lausanne (permanent) and Lucerne. He is also Academic Council to the International Investment Law Centre Cologne. His main fields of research are European and international economic law, especially state aids, public procurement, common commercial policy and WTO law as well as of course international investment law.

**Günter Burghardt** served as Ambassador for the European Union to the United States from 2000 to 2005, after having accomplished a 30-year-long career with the European Commission's headquarters in Brussels. He had served, in particular, as the Commission's Director-General for External Relations under Commissioners Patten and van den Broek (1993–2000). From 1985 to 1993, he was a close aide to Commission President Jacques Delors, holding the posts of Deputy Chief of Staff and of the Commission's Political Director. During these years, he participated in major achievements of the Delors Presidency: the completion of the European Union's Internal Market Programme, the introduction of Europe's Single Currency, the Euro, the European Union's key role in helping to bring about German unification, the historic process leading to full EU membership of Europe's new democracies and the strengthening of the transatlantic partnership between the EU and the United States. From 1970 to 1985, his assignments in the Commission included various positions in the areas of internal market, environment protection, nuclear safety and innovation, and external relations. He entered the Commission as a member of the Legal Service in 1970. Günter studied law and economics in Germany, France and the UK and obtained his PhD from the University of Hamburg with a thesis on European Community Law in 1969. He retired from the European Commission in 2005 and joined the transatlantic law firm of Mayer Brown LLP as a senior counsel at their Brussels office. From 2005 to 2011, he also lectured as a guest professor at the College of Europe in Bruges and at the Law

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**Thomas Cottier** is Professor of European and International Economic Law and the Managing Director of the World Trade Institute at the University of Bern. He was educated at the University of Bern, University of Michigan Law School, and was a visiting postdoctoral fellow at Cambridge University, UK. He taught international economic law at different Swiss Universities and abroad. Professor Cottier has written and published on a wide range of trade, European law and international law issues. His main research interests are in constitutional theory of multilevel governance and theory of international law, external relations of the EU, intellectual property, innovation and the challenges of climate change in international economic law. He managed a large national research project, NCCR Trade Regulation, from 2006 to 2013. Professor Cottier has a long-standing involvement in GATT/WTO activities. He served on the Swiss negotiating team of the Uruguay Round from 1986 to 1993, first as Chief Negotiator on dispute settlement and subsidies for Switzerland, and subsequently as Chief Negotiator on TRIPS and on IPRs in the EEA negotiations with the European Communities. He was the Deputy Director-General of the Swiss Intellectual Property Office before returning to university in 1994. He served as a member or chair of several GATT and WTO panels.

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Commission's External Service. He recalls Horst G. Krenzler as Director-General for External Relations in the early 1990s as a very fair senior official with balanced judgement, and as a reliable support. In the third stage of his life, Christian has devoted himself to the task of communicating the importance of Europe in a changing world to a wider public. He is the author of the book *Europe for Us: Why We Need Europe*. Christian graduated from the Technical University Darmstadt as Diplom-Wirtschaftsingenieur.

**Arancha González** is Executive Director of the International Trade Centre (ITC). She has extensive knowledge about international trade and economics, coupled with broad experience in trade and development matters in the public and private sectors, as well as in management at multilateral organisations. Before joining ITC, Arancha served as Chief of Staff to World Trade Organization (WTO) Director-General Pascal Lamy from 2005 to 2013. During her tenure at the WTO, she played an active role in launching the WTO's Aid for Trade initiative and served as Mr Lamy's representative at the G-20. Prior to working at the WTO, Arancha held several positions at the European Commission, conducting negotiations of trade agreements and assisting developing countries in trade-development efforts. Between 2002 and 2004, she was the European Union spokeswoman for trade and adviser to the European Union Trade Commissioner. She joined the Commission in 1996 serving under the leadership of Horst G. Krenzler, then Director-General for External Relations. Arancha began her career in the private sector advising companies on trade, competition and state-aid matters. She served as an associate at Bruckhaus Westrick Stegemann, a major German law firm, in Brussels. Arancha holds a degree in law from the University of Navarra and a postgraduate degree in European Law from the University of Carlos III, Madrid.

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**Rudolf Streinz** (editor) is Professor of Public Law and European Law at the Ludwig Maximilians University Munich. He studied law, political science and history and received his doctorate in law in 1981 under supervision of Bruno Simma. In 1987, Rudolf habilitated at the University of Passau under supervision of Michael Schweitzer and was appointed Professor for Public Law, Public International Law and European Law at the University of Bayreuth, in 1989.

**Milena Weidenfeller** is a lawyer by training and works for the SPD parliamentary group in the German *Bundestag*. Before, she worked as civil servant in the Federal Ministry of Economic Affairs and Energy in Berlin. The area of free trade agreements and the WTO has been her responsibility since 2008.



**Gabriela Wermelinger** read law at the University of Bern and completed her studies in 2013 with a Master in European and International Law. She was a junior research fellow at the World Trade Institute and has been working on her PhD related to the regime of genetic resources in the law of the sea.

**Gunnar Wiegand** is Director for Russia, Eastern Partnership, Central Asia, Regional Cooperation and OSCE at the European External Action Service. He was also the EU's Chief Negotiator for the Association Agreements with Moldova, Georgia and Armenia, as well as the Enhanced PCA with Kazakhstan. Gunnar Wiegand holds an MA in International Relations from the Paul H. Nitze School of Advanced International Studies (SAIS) at Johns Hopkins University, Washington DC USA, and a degree in law from the University of Hamburg, Germany. He first met Horst Krenzler as a student of EC Law at the University of Bonn in 1979. In 1985, he began his career at the Institute for European–Latin-American Relations in Madrid (Spain) followed by a position as Deputy Head of Division for Europe at the Friedrich-Naumann Stiftung in Königswinter, Germany, from 1987 to 1990. Since June 1990, he has worked for EU institutions. His first post at the European Commission (Directorate-General External Relations) was that of a Desk Officer for External Aspects of German Unification, where he worked closely with the Director-General for External Relations, Horst Krenzler. From 1991 to 1993, he was Manager of Financial Services Projects at the Technical Assistance to the Newly Independent States Unit (TACIS Programme). In 1994, Gunnar Wiegand became Policy Assistant to Horst Krenzler, when he was the Director-General for External Economic Relations (1994–1997); then in 1997–1999, Deputy Head of Unit for Relations with the United States, followed by Spokesman for External Relations to Commissioner Chris Patten from 1999 to 2002. From December 2002 to 2010, he has held several management posts in the European Commission responsible for the relations with the US and Canada, Russia, for Northern Dimension and Nuclear Safety, and for Eastern Europe, Southern Caucasus and Central Asia. In 1999, Horst Krenzler and Gunnar Wiegand published an article together on EU–US relations: *EU-US Relations: More than Trade Disputes?*, *European Foreign Affairs Review* 4(2):153–180.

**Part I**  
**The Life and Achievements**  
**of Horst G. Krenzler**

# Horst G. Krenzler's Late Academic Career at the Ludwig Maximilians University Munich

Bruno Simma

If in the mid-1990s a student had looked for an exciting place to study European Community and international trade law, exciting, that is, for the quality of what was on offer, he would probably not have chosen to do so in Munich. He would have found a place in which public international law was being taught with what I think was real passion, but as to European Law, the second subject in the curriculum of the Munich Faculty of Law of which I was in charge, I fulfilled my duty of course and probably did a decent job, but I did so without the fire and excitement I felt for the former. Thus, as to what was on offer for our interested student, European Law decidedly ranked second. (Lest there be no misunderstanding, I refer to the times long before Rudolf Streinz moved from Bayreuth to Munich and Community Law thus got its own prominent faculty “representative”.)

Then in 1997, Horst Krenzler entered the picture. He was introduced to me by our common friend Meinhard Hilf (who in his own career has been much more successful than I in integrating international law and Community law, also academically). From the first time we met, I found Horst not just impressive, but also representing precisely what Munich was in need of at the time: a high-ranking practitioner of European Community/Union Law able to convey his professional experience to students eager to learn how united Europe works in reality and interrelates with the rest of the world. Horst's activities during the three decades of engaging with Community Law in practice have been described in this *liber amicorum* by other friends and colleagues. At the Munich Law Faculty, due to the need felt to enrich the offerings in the field, it did not take long to arrange for a lectureship, indeed this was done by general acclaim, and Horst took up teaching what he had been responsible for developing during his 30 years in Brussels: the external relations of the European Union, its common foreign and security policy as

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well as international trade law. Munich students were simply taken by him, by this tall, always impeccably dressed gentleman, who was able to tell them in his quiet but crystal-clear way how Union Law really moves, because he himself had spent his professional life making it work. Horst did so without any touch of the arrogance with which important players from practice all too often condescend to transmit their knowledge to the non-illuminati. Horst combined personal modesty with intellectual sovereignty and charisma. Students and faculty alike were impressed by his commitment to teaching and the vigour with which he went about it. Thus, after a short time (considerably shorter than was the rule), his status was elevated to that of an *Honorarprofessor*, the highest rank that a person entering university teaching from the outside, as it were, is able to reach. If anybody ever deserved this, it was Horst, and I must say that he enjoyed it. And we, the academic community at the Munich Institute of International and European Law, enjoyed participating in his insights, his friendship and generosity.

The occasion at which I came to admire him most was a lecture Horst gave at the University of Michigan Law School in Ann Arbor. Horst spoke about the transatlantic controversy on genetically modified food, at a time when the debate on this topic was particularly hot and emotional, sometimes even hostile. I, too, had found myself caught in it, unable to overcome the (polite, we were after all in Ann Arbor) scepticism of colleagues and students towards the precautionary position defended by Europeans. It took Horst less than one hour of lecturing and discussion to turn the mood of his audience from overt disapproval to reflection, if not appreciation—and to provide me with a glimpse of how effective Horst must have been in the many international negotiations in which he had taken part. Europe had every reason to be grateful to Horst for what he has achieved in its service—but what I wanted to point to in this short contribution were the good reasons for academic European Law in Munich to be grateful for the ways and means by which Horst has contributed to bringing it to life.

# Words of Honour in memoriam Horst Günter Krenzler (1933–2012)

Karel De Gucht

History of mankind is made by men and women. The history of European integration is made by great Europeans. Horst Günter Krenzler was amongst them. Let me explain why I think so.

From 2010 to 2014, I assumed the political responsibility for European Trade Policy. Becoming the head of a big administration was not new to me, as I previously headed the Belgian Foreign Office. But being at the helm of a big policy Directorate-General of the European Commission is different. I immediately noticed the high quality of expertise required in-house. From the case-handler to the Director-General: everybody should not only know his file by heart—he or she should also be able to convince Member States, the European Parliament and the public. In short: working in DG Trade is only possible with a great degree of knowledge, expertise and communication skills.

Such a culture cannot be created from scratch. It is growing over time. It must have been nurtured in-house. And here is where we come to Horst Günter Krenzler. When he served as Director-General in the Commission for 12 years since 1984, he was not only doing trade—during his time, he was in charge of the entire external policy of the Commission. That was probably an even more demanding job than today's double-hatted High Representative for Foreign Affairs and Vice President of the Commission for external action.

Krenzler was known to be very versatile man. His legal background allowed him to be sharp and to the point. His academic interest gave him an edge when given creative tasks, such as writing for President Delors a draft of the famous 1993 Copenhagen Criteria for the admission of new Member States in a break of the European Council meeting. His sense of duty gave younger colleagues an orientation, and his emphasis of meritocracy enabled bright talents to take on important tasks in a relatively short time after having entered the Commission.

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K. De Gucht (✉)

Against that backdrop, I am happy to write a few words in this *Gedächtnisschrift*. When I walk in the corridors of the seventh floor of the Charlemagne Building, where the senior management of DG is located today, there are pictures of all Director-Generals and Commissioners of Trade since 1957. Sometimes you cannot be sure which function a person actually performed. Some Director-Generals had more influence over the direction of the common commercial policy than their political masters. Some Commissioners have tried to exercise their political role in a more dominant way. And sometimes, Commissioners and Director-Generals work hand-in-hand knowing that there is a division of tasks between political guidance and administrative implementation with a certain room for flexibility. When I look at the picture of Horst Günter Krenzler, I see him intuitively as the prototype of an excellent senior manager with political wisdom, whose *Lebenswerk* I pay my greatest respect to.