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Marc Bungenberg and Thomas Giegerich, Introduction: The European Union on Its Way to Becoming a Strategic International Actor, ZEuS 2017, 377-381.

Marc Bungenberg, The Common Commercial Policy, Parliamentary Participation and the Singapore Opinion of the CJEU, ZEuS 2017, 383-395.

The Future of the EU Common Commercial Policy will be determined by the CJEU “Singapore Opinion” from May 2016. This paper gives a first analysis of the legal and political background of this opinion – with Member States parliaments trying to re-control the EU Common Commercial Policy as well as the shift of competences with the Lisbon Treaty – as well as of the core statements the CJEU has made. The paper concludes that the CJEU has shown a way for EU only agreements in the future – mixed agreements might be history in the field of trade!

Thomas Giegerich, What Kind of Global Actor Will the Member States Permit the EU to Be?, ZEuS 2017, 397-420.

The ambitious mission which the Treaties provide for the Union as a global actor is not matched by the instruments they make available to the EU for accomplishing that mission. More importantly, however, there is a lack of political will by the Member States to make effective use of available instruments. An important example is the unnecessary use of mixed agreements where sole-EU agreements could be concluded (such as in the case of CETA). Another example is the introduction of dysfunctional internal decision-making procedures in various Member States that are likely to prevent the EU from becoming an effective global actor, such as giving veto powers to political minorities – a phenomenon which became obvious with regard to CETA (resistance by the Wallonian regional assembly and by Eurosceptics in the German Federal Constitutional Court) as well as the Association Agreement with Ukraine (contrary Dutch populist referendum campaign). The Member States have not yet permitted the EU to become the effective global actor they have proclaimed in the Treaties. But the international influence which they vainly try to preserve for themselves individually will ultimately be lost to other global actors.

Christian Calliess, Shaping Globalisation by Bringing Together Trade, Politics and Democracy – Lessons to Be Learned from European Integration, ZEuS 2017, 421-430.

Michael Hahn, Brexit und Drittstaaten: Das Beispiel Schweiz, ZEuS 2017, 431-449.

Der Beitrag untersucht einige der tatsächlichen und rechtlichen Probleme, die der Austritt des Vereinigten Königreiches für Drittstaaten, und namentlich die Schweiz, stellen. Nach einem Überblick über die gegenwärtigen wirtschaftlichen und rechtlichen Beziehungen zwischen der Schweiz und dem Vereinigtem Königreich als EU Mitgliedstaat, werden Herausforderungen für Drittstaaten in den Beziehungen zur EU – unter besonderer Berücksichtigung der WTO-relevanten Aspekte – sowie mögliche Lösungsansätze aufgezeigt. Dabei wird auch auf derzeit suspendierte Verträge eingegangen wurde, die lange vor Beitritt des UK zur EU zwischen der Schweiz und dem Vereinigtem Königreich geschlossen wurde, und Teilaspekte der im derzeitigen Abkommens zwischen der Schweiz und der EU über die Freizügigkeit regeln. Abschließend befasst sich der Artikel mit den Herausforderungen des Brexit für die Verhandlungen über die Schaffung eines bilateralen Rahmenabkommens für bestehende und künftige Abkommen über die Beteiligung des Drittstaats Schweiz am EU-Binnenmarkt.

Frank Hoffmeister, Die Außenvertretung der Europäischen Union im Lichte von acht Jahren Erfahrung mit dem Lissabon-Vertrag – wer ist heutzutage der europäische Außenminister?, ZEuS 2017, 451-491.

Der Beitrag untersucht die Außenvertretung der Europäischen Union. Zunächst werden die Regeln des Lissabonner Vertrags analysiert. Dieser unterscheidet zwischen der Gemeinsamen Außen- und Sicherheitspolitik und anderen auswärtigen Politiken und dem diplomatischen Niveau. Anschließend stellt der Autor die jüngere Rechtsprechung des Europäischen Gerichtshofs zum

institutionellen Gleichgewicht zwischen Rat und Kommission vor. Es folgen ausführliche Fallstudien über den Iran, die Ukraine sowie Verhandlungen im Bereich Außenhandel und Umwelt, um die Praxis der letzten acht Jahre auszuwerten. Der Autor kommt zum Schluss, dass in der Außenvertretung ein Mehrebenen-System besteht, in dem supra-nationale Elemente mit einer starken Rolle der Kommission mit zwischenstaatlichen Elementen kombiniert werden, in dem der Hohe Vertreter für die Außenpolitik im Auftrag des Rats und des Ratspräsidenten handelt.

Karsten Nowrot, Environmental Dispute Settlement Mechanisms in EU Free Trade Agreements, ZEuS 2017, 493-511.

Until recently, the rather complex relationship between the regulatory issue of environmental protection on the one side and the normative framework of international economic law on the other side has been primarily discussed and analyzed with a focus on respective developments and opportunities in the multilateral legal order established by the World Trade Organization. However, the interface between environmental governance and trade agreements does currently not only arise at the universal level. In particular in light of the ever-growing importance of treaties aimed at regional economic integration in the international system, comparable legal challenges materialize most certainly also at the level and in the realm of bilateral or regional free trade agreements. Against this background, the present contribution is intended to describe and evaluate some of the main aspects of how environmental governance is addressed – and based on what types of regulatory approaches respective environmental provisions are incorporated as well as enforced – in regional economic integration agreements with a particular focus on free trade agreements concluded or currently negotiated by the European Union. The first part addresses the underlying reasons for the increasing importance attached to regional trade and investment agreements in the more recent debates on trade-environment linkages. Based on the findings made in this section, the subsequent two parts are devoted to a description and evaluation of what is qualified here as the two main dimensions of regulatory approaches to environmental governance in regional trade agreements. In this regard, the second part provides some thoughts on the scope and depth of respective environment-related stipulations from a substantive law perspective. Subsequently, in the third and final section an assessment will be given of the different types of environmental dispute settlement mechanisms in regional economic integration agreements. In this last-mentioned respect, it is argued that the EU, not infrequently acting – and indeed on the basis of Article 21 TEU as well as Articles 205 and 207(1) 2nd sentence TFEU being normatively expected to act – as a kind of “self-styled champion” of the global environment, would surely be well advised to at least seriously consider a change in its foreign trade and investment policy from the current “soft” to a more “hard” quasi-judicial approach concerning the environmental dispute settlement mechanisms stipulated in its free trade agreements.

Marko Davinić, The EU Enlargement and Accession Procedure – The Case of Western Balkan Countries, ZEuS 2017, 513-526.

The author analyzes in the paper the EU accession process for Western Balkan countries, their current position and main obstacles on their road. The term Western Balkans was created by the European Union in the early 2000s with the aim of avoiding associations on the former Yugoslavia, which collapsed in bloody ethnic conflicts during the nineties. Due to the internal and external problems that the EU has been experiencing, the accession process today has become more rigorous, comprehensive and uncertain than in the past. The author analyzes the significance of good neighborly relations for future EU membership, however underlining that stability cannot be substitute for democracy in Western Balkan countries. In this regard, the author warns that the EU should not trade democracy for false stability, meaning it would have to discontinue its cooperation with compromised politicians in this region. The leading problem of nearly all Western Balkan countries is the fact that creating an appearance of reform has become more important than the reforms themselves, while the fight against corruption and organized crime exists only to the extent that it does not endanger the governing structures and individuals connected to them. Therefore the EU should rigorously insist on effective implementation and enforcement of adopted legislation and strategies in the whole region.

Ivana Krstić, Response of Western Balkan Countries to Migration Crisis, ZEuS 2017, 527-540.

In 2015, with the outbreak of the migration crisis, the Western Balkan route has become one of the most important corridors for migrants to reach Europe, transiting the territories of FYROM and Serbia. Before the migration crisis, both countries struggled to establish an effective asylum procedure, and to provide protection from the risk of refoulement, as required by relevant international law. Since June 2015, FYROM and Serbia have been additionally faced with limited government capacity to carry out registration and fingerprinting, and the subsequent inability to accept migrants and to identify migrants at risk. Their reactions to increased migration flow were different, as FYROM declared a state of emergency and in many cases denied access to its territory, while Serbia received migrants and in most cases treated them humanely, but at the same time considered itself as a transit state only. Serbia also initiated amendments to the existing law on asylum which has not been changed since its adoption in 2007, but this process was not completed until May 2017. However, on several occasions, FYROM has changed its asylum legislation but without significant effect in terms of introducing a more effective asylum procedure. The reaction of both states to the migration crisis was also caused by the incapacity of Greece to deal with migrants, and with the conduct of some other neighboring EU member states, particularly Croatia and Hungary, which sealed its southern border and on many occasions violated human rights of refugees and migrants. These aspects are further elaborated in the paper. Also, the author proposes some concrete steps that should be undertaken by the EU in order to improve the situation of migrants and refugees in Europe.

Mark E. Villiger, The European Court of Human Rights and its Role in the European Legal Order, ZEuS 2017, 541-548.

This article deals with the influences of the European Court of Human Rights (the Court) in the national European legal orders. As such, it explains the effects of the judgments of the Court. It then analyses a number of such judgments and explains precisely how different national legal orders have implemented these judgments and what effects they have had in those orders. Finally, the article asks whether the Court can be considered a new Constitutional Court of Europe.