

Topics in International Commerce
International Trade Rule-making and Negotiations
2023 Second Semester

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COURSE DESCRIPTION

The WTO agreements, the fundamental basis of international trade law, were adopted during the Uruguay Round (1986-1994) and came into force in 1995. Since then, WTO has not kept up with the pace of change, concluding only one multilateral trade agreement – the Trade Facilitation Agreement – with the multilateral trade negotiations stalled or moving at a snail’s pace.

The failings of the multilateral system on emerging trade issues as well as further trade liberalization have prompted action on those issues in regional trade agreements, including free trade agreements (FTAs). As FTAs must eliminate tariffs on substantially all the trade between the parties, a demanding requirement, members are increasingly exploring flexible arrangements without a market access component. These alternatives aim to address emerging trade issues through new frameworks and rules.

Against this backdrop, this course deals with international trade rule-making and negotiations, with a focus on emerging trade issues such as digital economy and global supply chains, complementing “Seminar in International Trade on Emerging Trade Issues and Negotiations (2023 first semester)” which focused on WTO case analysis and selected emerging trade issues such as trade-environment and trade-labor nexus, and economic security.

The course will be conducted through lectures and presentations on theoretical aspects of the issues and actual cases, and discussions on recent issues. In particular, students are expected to actively engage in class discussions with thorough preparations throughout the course.

The course devotes the first five weeks to key features of FTAs and a few selected chapters in

the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), Regional Comprehensive Economic Partnership (RCEP) and United States–Mexico–Canada Agreement (USMCA). For the next five weeks we will study digital economy-related issues and rules included in recent FTAs, digital trade agreements and EU’s regulations. The remaining weeks will be devoted to global supply chain-related issues and new arrangements, including the Indo-Pacific Economic Framework (IPEF).

The basic knowledge of the WTO rules and trade negotiations, for example, from the classes such as “Understanding International Trade Law,” “WTO and Multilateral Trade Agreement,” “Trade Rules and Digital Standards,” “Digital Trade Rules and Challenges,” and “Seminar in International Trade on Emerging Trade Issues and Negotiations” will be useful for this course although they are not required as pre-requisites.

The final assessment for the course will be based on a take-home exam (40%), class presentation (30%), and participation (30%). In particular, class participation is evaluated in each session, considering students’ questions, answers, and engagement in discussions. Both the quality and frequency of participation are important factors.

COURSE OUTLINE

In addition to the following reading/reference materials, further reading/reference materials will be available in the “etl” webpage, no later than a few weeks before each class.

Students in this course are also advised to regularly keep up with current developments in the international trade area. Useful sources include, inter alia, Financial Times, The Economist, and Inside US Trade.

1. Most-Favored-Nation (MFN) Treatment and Regional Trade Exceptions

- Van den Bossche & Zdouc (2021), *Law and Policy of the World Trade Organization*, Cambridge University Press, Ch. 4 & 10

2. Overview of FTAs and Its Key Features (with a focus on CPTPP, RCEP and USMCA)

- WTO, *Regional Trade Agreements gateway*
- Cathleen Cimino-Isaacs and Jeffery J. Schott, eds (2016), *Trans-Pacific Partnership: An Assessment*, Peterson Institute for International Economics (PIIE), Ch. 1, 2, 3 & 5
- Deborah K. Elms (2021), “Getting RCEP across the Line”, *World Trade Review* **20**,

373-380

- Mary E. Lovely and Jeffery J. Schott (2019), “The USMCA: New, Modestly Improved, but Still Costly”, PIIE
- Jeffery J. Schott (2019), “Five Flaws in the USMCA and How to Fix Them”, PIIE
- Congressional Research Service (CSR) (2023), “CPTPP: Overview and Issues for Congress”
- Chapters 2, 3, 19 & 20 of the CPTPP
- Chapters 2 & 3 of the RCEP
- Chapters 2, 4, 23 & 24 of the USMCA
- Beth Baltzan (2020), “The Modern Agreement of Amity and Commerce: Toward a New Model for Trade Agreements”, Open Society Foundations
- Beth Baltzan (2020), “A New Deal for This New Century: Restoring FDR’s Vision for Global Trade”

3. Key Aspects of Trade Negotiations

- Charan Devereaux, Robert Z. Lawrence & Michael D. Watkins (2006), Case Studies in US Trade Negotiation: Vol. 1 Making the Rules, Columbia University Press, Ch. 2

4. Digital Trade and Related Issues

- Digital Trade Chapters in the CPTPP, RCEP, USMCA, USJ DTA, DEPA, and EU-NZ FTA
- Mira Burri (2021), Big Data and Global Trade Law, Cambridge University Press
- Shin-yi Peng, Ching-Fu Lin and Thomas Streinz (2021), Artificial Intelligence and International Economic Law, Cambridge University Press
- Ines Willemyns (2021), Digital Services in International Trade Law, Cambridge University Press
- WTO (2021), Adapting to the Digital Trade Era: Challenges and Opportunities
- Dan Ciuriak (2021), “Cybersecurity, National Security and Trade in the Digital Era”, Ciuriak Consulting Inc.

5. Global Supply Chains

- Richard Baldwin and Rebecca Freeman (2021), “Risks and Global Supply Chains: What We Know and What We Need to Know”, National Bureau of Economic Research
- Uri Dadush (2022), “The Future of Global Value Chains and the Role of the WTO”, WTO
- Vinod K. Aggarwal and Andrew W. Reddie (2021), “Economic Statecraft in the 21st

Century: Implications for the Future of the Global Trade Regime”, World Trade Review

- WEF (2023), “A Global Rewiring: Redefining Global Value Chains for the Future”, White Paper in collaboration with Kearney
- WTO (2021), Beyond Production, Global Value Chain Development Report 2021
- WTO (2019), Technological Innovation, Supply Chain Trade, and Workers in a Globalized World, Global Value Chain Development Report 2019

COURSE SCHEDULE

09/06 General Introduction

- Test on cases regarding GATT Art I, III, XX, XXI and XXIV, GATS XIV and XIV bis as well as digital trade (classification) rules
- Recent developments and challenges to the Multilateral Trading System

09/13 MFN Treatment, Regional Trade Exceptions, and Overview of FTAs (4 presenters)

- Analysis of GATT Article I (Most-Favored-Nation Treatment)
- Analysis of GATT Article XXIV (Customs Union and Free-trade Areas)
- Overview of FTAs (including CPTPP, USMCA and RCEP)

09/20 Market Access and Rules of Origin (2 presenters)

- Comparison of market access in CPTPP and RCEP
- Comparison of rules of origin in CPTPP and USMCA
- Trade as manufacturing job loss?

09/27 Key Aspects of International Trade Negotiations (1 presenter) (4 hours)

- International trade negotiation strategies and practices
- Negotiation drafting exercise

10/04 No Class (out of country, one-hour make-up class on Wednesdays in September & October)

10/11 Overview of New Rules Introduced in FTAs and Environment and Labor Rules (2 presenter)

- Overview of new rules introduced in recent FTAs
- Environment rules in CPTPP and USMCA
- Labor rules in CPTPP and USMCA

10/18 Digital Trade Rules (I): Non-discrimination, Data Transfer and Localization (4 hours & 4 presenters)

- Overview of WTO rules in the digital age
- Overview of digital trade rules introduced in recent FTAs and digital trade agreements
- Analysis of digital trade liberalization rules in RCEP, CPTPP, USMCA, USJ DTA and DEPA, and EU-NZ FTA: no customs duties, non-discrimination, cross-border data transfer, ban on localization and non-disclosure of source code
- Analysis of rules on “legitimate public policy objectives” or “government

right to regulate”

10/25 Digital Trade Rules (II) and Data and Security (4 hours, 3 presenters)

- Differences in data governance rules in EU, US and China (including *Case of Meta being imposed fine for violation of GDPR in 2023 and EU-US Data Privacy Framework*)
- Analysis of GATT Article XXI
- Security exception and cybersecurity rules in digital trade agreements
- National security in the digital era

11/01 No Class (out of country, one-hour make-up class on Wednesdays in November)

11/08 AI Governance, Trade Implication of AI Ethics and Other Digital Economy Issues (4 hours, 2 presenters)

- AI Governance: OECD Principles on AI, EU AI Act, etc.
- Trade implication of AI ethics-related measures
- WTO law’s application to AI

11/15 Overview of Global Supply Chains (4 hours, 2 presenters)

- Emergence of global supply chain (GSC) risks
- Policies to enhance the resilience of the GSCs
- WTO’s role in promoting the efficiency and resilience of the GVCs risks

11/22 Reconfiguration of Global Supply Chains in an Era of Economic Security (4 hours, 4 presenters)

- Policies to reconfigure global supply chains: industrial policy, trade restrictions, export controls and investment review
- Mini-multilateralization of globally supply chain reconfiguration policies

11/29 New Trade Arrangements to Tackle Emerging Trade Issues (

- Overview of the new trade arrangements, including the Indo-Pacific Economic Framework (IPEF)
- Analysis of the IPEF supply chain pillar agreement

12/06 Direction of New Trade Governance

- Traditional free trade agreements vs supply chain agreements and other flexible arrangements
- Role of trade in economic growth and resilience
- Future of trade agreements and global economic order

12/15 Take-home exam (Tentative)