GSIS Seoul National University

**Seminar in International Commerce (006):**

**Technical Barriers and Trade Disputes**

Time: Wednesday 14:00-18:00

Lecture Room: 140-105

Instructor: Dr. Minjung Kim

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Office Hour: By appointment

* **Course Description**

 This course explores technical barriers to trade (TBT), i.e. trade barriers arising from technical measures including technical regulations, voluntary standards, and conformity assessments and challenges to the world trading system in preventing their increase and severity as well as resolving relevant disputes. The objective is to learn basic characteristics of technical measures, their relevant issues and problems involved in a globalized society, and mechanisms to regulate and prevent TBT under the GATT/WTO and FTA systems. To this end, the course is divided into two parts: the Part I is for understanding technical barriers and basic mechanisms; and the Part II deals with the world trading system for TBT and dispute resolution. The topics and reading references provide multi-disciplinary approaches and students are expected to analyze TBT cases and disputes in international trade law and policy perspectives.

* **Textbooks/ Reference**

No textbook is assigned. Most readings suggested are available online. Nevertheless, the following references can help students understand and prepare the course:

* WTO (2014), The WTO Agreements Series: Technical Barriers to Trade.
* WTO (2005), Trade, Standards, and the WTO, World Trade Report 05.
* OECD, Technical Barriers to Trade
* **Evaluation**
* Class participation (including attendants): 10%
* Case presentation: 30%
* Two case reports: 20 %
* Final exam: 40%
* **Course Outline & Reading Materials**

**Part I. Techncal Barriers to Trade**

**1. Non-tariff barriers and TBT**

 - Trends and current issues

**Readings:**

* WTO, Trade and Public Policies: A Closer Look at Non-Tariff Measures in the 21st century, World Trade Report 2012.
* OECD, Looking Beyond Tariffs: the Role of Non-Tariff Barriers in World Trade

**2. Standards: Concepts and Relevant Theories**

* Concept and classification
* Functions and economic impacts
* Standard and trade

**Readings:**

* Knut Blind, The Economics of Standards: Theory, Evidence, Policy, 2004
* Victor Stango, The Economics of Standards War, Review of Network Economics Vol 3, Issue 1, 2004.

**3. Technical Regulation(I): Import Safety in Globalized Markets**

* Import product safety and governance
* Case: CE marking and import toy safety
* Case: European hazardous chemical controls

**Readings:**

* Lorna Zach, “Systems and governance in food import safety: A US perspective”, Food Control Vol 27 Issue 1, 2012.
* EU toy safety regulation: <http://www.gov.uk/guidance/toy-manufacturers-and-their-responsibilities>

**4. Technical Regulation(II): Global Environment and Market-entry control**

* Global environmental cooperation and technical regulations
* Case: deforestation control and technical barriers

**Readings:**

* Duncan Brack, Combating Illegal Logging: Interaction with WTO Rules, Chatham House Briefing Paper, 2013.
* Akiva Fishman, European Union Timber Regulation: Is It Legal?, Review of European Community and International Environmental Law(RECIEL) 23(2) 2014.

**5. Certification and Labelling**

* Conformity assessment procedures
* Mutual recognitions
* (International) Accreditation

**Readings:**

* Sherry Stephenson, Standards and Conformity Assessment as Nontariff Barriers to Trade, World Bank Policy Research Working Paper 1826, 1997.
* OECD, Analysis of Non-Tariff Measures: The Case of Labelling. TD/TC/WP(2002)40/Final.
* EU, The ‘Blue Guide’ on the Implementation of EU Product Rules 2016, OJ C272, 2016.

**6. International Standardization and Global Trade**

* International Standards Organization: ISO, IEC, ITU, Codex Alimentarius
* International harmonization
* Case: World Forum for Harmonization of Vehicle Regulations (WP
* Case: Regional standardization and APEC TEL

**Readings:**

* Swann (2010), “International Standards and Trade: A Review of the Empirical Literature”, OECD Trade Policy Working Papers, No. 97
* Johannes Moenius, “Information versus Product Adaptation: The Role of Standards in Trade”, 2004. <http://dx.doi.org/10.2139/ssrn.608022>
* Alan Sykes, Product Standards for Internationally Integrated Goods Markets, 1995.

**Part II. Trade System and TBT Disputes**

**7. WTO TBT system**

* TBT negotiations in the world trading system
* GATT and TBT/SPS Agreements
* Standards-barriers and other WTO Agreements

**Readings:**

* Alan O. Sykes, The (Limited) Role of Regulatory Harmonization in International Goods and Services Markets, JIEL 49-70, 1999.
* Gabrielle Marceau, Joel P. Trachtman, The Technical Barriers to Trade Agreement, the Sanitary and Phytosanitary Measures Agreement, and the General Agreement on Tariffs and Trade: A Map of the World Trade Organization Law of Domestic Regulation of Goods, JWT 36(4), 811-881, 2002.
* Jan McDonald, Domestic regulation, international standards, and technical barriers to trade, WTR 4:2, 249-274, 2005.

**8. FTA TBT system**

* TBT chapters in NAFTA
* TBT mechanisms in KORUS FTA and Korea-EU FTA
* TBT chapters in Trans-Pacific Partnership(TPP)

**Readings:**

* Legal Text of Korea-US Free Trade Agreement
* Legal Text of Korea-EU Free Trade Agreement
* Legal Text of Trans-Pacific Agreement

**9. Implementation and Dispute settlement**

* Transparency
* WTO TBT Committee
* TBT dispute settlement mechanism

**10. Theme I: Pollution Control and TBT disputes**

* US-Standards for Reformulated and Conventional Gasoline (DS2)

**Readings:**

* Jefferey Waincymer, Commentary: Reformulated Gasoline Under Reformulated WTO Dispute Settlement Procedures: Pulling Pandora out of a Chapeau?, 18 Michigan Journal of International Law 141, 1996-1997.
* Robert Hudec, GATT/WTO Contraints on National Regulation: Requiem for an “Aim and Effects” Test, The International Lawyer Vol 32 No 3, 1998.

**11. Theme II: Human Health and TBT disputes**

* EC-Measures Affecting Asbestos and Products Containing Asbestos (DS135)
* US-Measures Affecting the Production and Sale of CloveCigarettes (WT/DS406)

**Readings:**

* Henrik Horn and Joseph Weiler, EC-Asbestos, World Trade Review, Vol 2 Issue 1, 2003
* Tania Voon, The WTO Appellate Body Outlaws Discrimination in US Flavored Cigarette Ban, ASIL Insights, ASIL Insights, Vol 16 Issue 15, 2012
* Weihuan Zhou, US-Clove Cigarettes and US-Tuna II (Mexico): Implications for the Role of Regulatory Purpose under Article III:4 of the GATT, Journal of International Economic Law 15(4), 2012.
* Gabrielle Marceau, The New TBT Jurisprudence in US-Clove Cigarettes, WTO US-Tuna II, and US-COOL, 8 Asian Journal of WTO and International Health Law and Policy 1, 2013.

**12. Theme III: Consumer Information and TBT disputes**

* EC-Trade Descriptions of Sardines (DS231)
* US-Certain Country of Origin Labelling (COOL) Requirements (DS384, 386)

**Readings:**

* Henrik Horn and Joseph Weiler, EC-Trade Description of Sardines: Textualism and Its Discontent, World Trade Review Vol 4 Issue 1, 2005
* Joshua Meltzer, The WTO Ruling on US Country of Origin Labelling(COOL), ASIL Insights, Vol 16 Issue 23, 2012.
* Petros Mavroidis and Kamal Saggi, What is not so Cool about US-COOL Regulations? A critical analysis of the Appellate Body’s ruling on US-COOL, World Trade Review Vol 13, Issue 2, 2914.

**13. Theme IV: Biodiversity and TBT disputes**

* US-Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (DS381)
* EC-Measures Prohibiting the Importation and Marketing of Seal Products (DS369, 400, 401)

**Readings:**

* Enrico Partiti, The Appellate Body Report in US-Tuna II and Its Impact on Eco-Labelling and Standardization, 40 Legal Issues of Economic Integration 73, 2013.
* Luan and Chaisse, Prelimineary Comments on the WTO Seal Products Dispute: Traditional Hunting, Public Morals and Technical Barriers to Trade, 22 Colombia Journal of Int'l Environmental Law & Policy 79, 2011.
* Philip Levy and Donald Regan, EC-Seal Products: Seals and Sensibilities (TBT Aspects of the Panel and AB Reports), World Trade Review Vol 14 Issue 2, 2015.

**14. TBT and Development**

* Sustainable development and standards
* TBT to developing countries
* Trade Development Facility (STDF)

**Readings:**

* John Wilson and Tsunehiro Otsuki, Standards and Technical Regulations and Firms in Developing Countries: New Evidence from a World Bank Technical Barriers to Trade Survey, World Bank Working Paper, 2004.
* Patrick Messerlin and James Zarrouk, “Trade Facilition: Technical Regulations and Customs Procedures”, The World Economy Vol 23 Issue 4, 2000.

**15. Final Exam (December 20)**

\*The schedule and weekly topics are subject to change.