WORLD TRADE ORGANIZATION AND MULTILATERAL TRADE AGREEMENT

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COURSE DESCRIPTION

This course deals with new and more advanced developments in the international trade related rules and regulation. Based on fundamental knowledge on international trading system, this course will cover divergent "new" trade issues with increasing practical importance. Each topic area such as service trade, intellectual property protection, and FTA will be supplemented by selected case studies that are real WTO disputes.

Any questions regarding the class materials or other relevant issues are welcomed at my office hour [Tuesday 1:00-2:30, or by appointment] or after each class.

The final assessment for the course will be based on a take-home examination. Class participation and presentation will be favorably considered in your final grade up to 40%.

COURSE OUTLINE

The following reading list consists of two parts: required reading and recommended reading. The required textbook is Trebilcock, Howse & Eliason, The Regulation of International Trade (4th ed. 2012). John H. Jackson, The World Trading System: Law and Policy of International Economic Relations (2nd ed. 1997) will be used as a supplementary (optional) textbook. Students with serious interest in a particular issue may want to refer to the reading materials listed in the recommended reading sections that will not be fully covered during the class. Occasional handouts will also supplement reading assignments to keep abreast of new developments that occur almost daily.

Students in this course are also advised to regularly keep up current developments in international trade area. Useful sources include, *inter alia*, Financial Times, The Economist, and BNA International Trade Reporter.

Recently, many other textbooks for international trade law are available. You may also refer to the following books for your research and studies:

J. Jackson et al., International Econoic Relations (5th ed. 2008).
M. Matsushita, T. Schoenbaum & P. Mavroidis, The World Trade Organization (2nd ed. 2006).
P. van den Bossche & Werner Zdouc, Law and Policy of the World Trade Organization (3rd ed.

2013).
A. Guzman & J. Pauwelyn, International Trade Law (2nd ed. 2012)
Raj Bhala, International Trade Law (3rd. 2007).
S. Lester, B. Mercurio & A. Davies, World Trade Law (2nd ed. 2012).

1. WTO Dispute Settlement System: Current System and Problems

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 5.

RECOMMENDED

- C. Bown & B. Hoekman, "WTO Dispute Settlement and the Missing Developing Country Cases: Engaging the Private Sector", Journal of International Economic Law, 8:4, 861-890 (2005).
- William J. Davey, 'Reforming WTO Dispute Settlement', in Mitsuo Matsushita and Dukgeun Ahn (eds), *WTO & East Asia* (2004).
- William J. Davey, "The WTO Dispute Settlement System: The First Ten Years", Journal of Int'l Economic Law (2005) 8: 17-50.
- Kara Leitner and Simon Lester, "WTO Dispute Settlement 1995–2011: A Statistical Analysis", Journal of Int'l Economic Law (2012) 179-192.
- David Palmeter & Petros C. Mavroidis, Dispute Settlement in the World Trade Organization: Practice and Procedure (2004, 2nd ed., Cambridge Univ. Press).
- Jeff Waincymer, WTO Litigation (2002, Cameron May Publisher)
- Kym Anderson, "Peculiarities of retaliation in WTO dispute settlement", World Trade Review (2002), 1: 2, 123–134.
- Steve Charnovitz, "Rethinking WTO Trade Sanctions", American Journal of International Law, Vol. 95, No.4, 792-832 (2001).
- Joost Pauwelyn, "Enforcement and Countermeasures in the WTO: Rules are Rules – Toward a More Collective Approach", American Journal of International Law, Vol. 94, No.2, 335-347 (2000).

2. Retaliation under Section 301

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 5.
- WTO, *United States-Sections 301-310 of the Trade Act of 1974* (Panel Report issued on Dec. 22, 1999, WT/DS152/R).

RECOMMENDED

- Raj Bhala, International Trade Law: Cases and Materials, Chapter 11 (1996, Michie Law Publishers).
- Kenneth W. Abbott, *Defensive Unfairness: The Normative Structure of Section 301*, pp. 415-471 (Jagdish N. Bhagwati & Robert E. Hudec eds., Fair Trade and Harmonization: Prerequisites for Free Trade? Vol.2: Legal Analysis, 1996, MIT Press)
- Thomas O. Bayard & Kimberly Ann Elliott, Reciprocity and Retaliation in U.S. Trade Policy (1994, Institute for International Economics).
- Jagdish Bhagwati, *The U.S.-Japan Car Dispute: A Monumental Mistake*, International Affairs, Vol. 72, pp. 261 (1996).

- Jagdish Bhagwati & Hugh T. Patrick eds., Aggressive Unilateralism: America's 301 Trade Policy and the World Trading System (1990, University of Michigan Press).

- I.M. Destler, American Trade Politics (3rd ed., 1995).

- Matthew Schaefer, *Section 301 and the World Trade Organization: A Largely Peaceful Coexistence to Date*, Journal of International Economic Law, Vol. 1, No. 1, pp. 156-160 (March 1998).

3. Agreement on Agriculture

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 12.
- *EC – Measures Affecting the Importation of Certain Poultry Products* (WT/DS69/R).
- *EC – Export Subsidies on Sugar* (WT/DS265/R)

RECOMMENDED

- WTO, The WTO Agreements Series 3: Agriculture (2000).
- Sanoussi Bilal & Pavlos Pezaros, Negotiating the Future of Agricultural Policies: Agricultural Trade and the Millennium WTO Round (Kluwer Law Int'l, 2000).
- Joseph McMahon, The WTO Agreement on Agriculture: A Commentary (Oxford Univ. Press, 2007).
- J. McMahon & M. Desta, Research Handbook on the WTO Agriculture Agreement: New and Emerging Issues in International Agricultural Trade Law (Edward Elgar, 2013).

4. SPS Agreement

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 8.
- WTO, *EC-Measures Concerning Meat and Meat Products* (WT/DS26, 48/R).
- WTO, *Japan-Measures Affecting Agricultural Products* (WT/DS76/R, WT/DS76/AB/R)

RECOMMENDED

- WTO, The WTO Agreements Series 4: Sanitary & Phytosanitary Measures (1998).
- R. Wolfrum, et al., WTO Technical Barriers and SPS Measures (Brill, 2007).
- David S. Johanson, Commentary on the Agreement on the Application of Sanitary and Phytosanitary Measures, in Law & Practice of the World Trade Organization (Joseph F. Dennin ed.)
- Marsha A. Echols, Sanitary and Phytosanitary Measures, in The World Trade Organization (Terence Stewart ed., 1996)
- Joanne Scott, The WTO Agreement on Sanitary and Phytosanitary Measures: A Commentary (Oxford Univ. Press, 2007).
- Dukgeun Ahn, "Comparative Analysis of WTO SPS and TBT Agreements" (International Trade Law & Regulation, 2002).

5. TBT Agreement

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 8.
- WTO, *EC – Trade Description of Sardines* (WT/DS231/R, WT/DS231/AB/R)

- WTO, *US – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products* (WT/DS381/R)

RECOMMENDED

- R. Wolfrum, et al., WTO Technical Barriers and SPS Measures (Brill, 2007).
- Raj Bhala & Kevin Kennedy, World Trade Law, 123-132 (1998, Lexus Publishing).
- Dukgeun Ahn, "Comparative Analysis of WTO SPS and TBT Agreements", International Trade Law & Regulation, Vol.8, Issue 3 (2002).
- National Research Council, Standards, Conformity Assessment and Trade into the 21st Century (National Academy Press, 1995).

6. General Agreement on Trade in Services (GATS)

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 13.
- WTO, *Mexico-Measures Affecting Telecommunications Services* (WT/DS204/R).
- WTO, *US – Measures Affecting Cross-Border Supply of Gambling and Betting Services* (WT/DS285/R & WT/DS285/AB/R).

RECOMMENDED

- WTO, Guide to the GATS (1999).
- Bernard Hoekman, *Assessing the General Agreement on Trade in Services*, in The Uruguay Round and Developing Countries (L. Martin & A. Winters, eds. 1996, Cambridge Univ. Press).
- ITC, Business Guide to the General Agreement on Trade in Services (1999).
- Jagdish Bhawati, *Trade in Services and the Multilateral Trade Negotiations* 282-306, in Political Economy and International Economics (1991, MIT Press).
- Pierre Sauve, Trade Rules Behind Borders (2003, Cameron May).
- Pierre Sauve & Robert Stern, GATS 2000 (2000, Univ of Michigan Press).
- Aaditya Mattoo, A Handbook of International Trade in Services (2007).

7. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 14.
- WTO, *Canada – Patent Protection of Pharmaceutical Products* (WT/DS114/R).
- WTO, *US - Section 211 Omnibus Appropriations Act of 1998* (WT/DS176/R)

RECOMMENDED

- Frederick M. Abbott, *WTO Dispute Settlement and the Agreement on Trade-Related Aspects of Intellectual Property Rights*, pp. 413-437 (Ernst-Ulrich Petersmann ed., International Trade Law and the GATT/WTO Dispute Settlement System (1997, Kluwer Law International)).
- Frederick M. Abbott, Thomas Cottier, Francis Gurry, The International Intellectual Property System: Commentary and Materials (Kluwer Law Int'l, 1999).
- Anthony D'Amato & Doris Estelle Long, eds., International Intellectual Property Anthology (1996, Anderson Publishing Co.).
- Carlos M. Correa & Abdulqawi A. Yusuf, eds., Intellectual Property and International Trade (1998,

Kluwer Law International).

- Carlos M. Correa, Intellectual Property Rights, the WTO and Developing Countries: The TRIPS Agreement and Policy Options (Third World Network, 2000).

- Keith Maskus, Intellectual Property Rights in the Global Economy (IIE, 2000).

- Keith E. Maskus & J. Reichman, eds., International Public Goods and Transfer of Technology Under a Globalized Intellectual Property Regime (2005).

- *Special Issue: Trade-Related Aspects of Intellectual Property Rights*, Journal of International Economic Law, Vol.1, No.4 (December 1998).

- UNCTAD-ICTSD, Resource Book on TRIPS and Development (2005).

8. Government Procurement Agreement

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 10.

- WTO, *Korea-Measures Affecting Government Procurement* (WT/DS163/R)

RECOMMENDED

- Raj Bhala & Kevin Kennedy, World Trade Law, 1311-1329 (1998, Lexus Publishing).

- Bernard M. Hoekamn & Petros C. Mavroidis, eds., Law and Policy in Public Purchasing: The WTO Agreement on Government Procurement (1997, Univ. of Michigan Press).

- Arie Reich ed., International Public Procurement Law: The Evolution of International Regimes on Public Purchasing (Kluwer Law International, 1998).

9. Special and Differential Treatment for Developing Countries

REQUIRED

- Trebilcock, Howse & Eliason, The Regulation of International Trade, Ch. 16.

- WTO, *EC-Conditions for the Granting of Tariff Preferences to Developing Countries* (WT/DS246/R)

RECOMMENDED

- G. Bermann & P. Mavroidis, eds., WTO Law and Developing Countries (2007).

- Will Martin & Alan L. Winters, eds., The Uruguay Round and the Developing Countries (1997, Cambridge Univ. Press).

- The WTO/World Bank Conference on Developing Countries' in a Millennium Round (1999).

- Peter Gallagher, Guide to the WTO and Developing Countries (2000).

SUGGESTED CLASS SCHEDULE

3/4 1. Introduction to the Study of International Trade Policy and Law
Studying internet search on trade laws

3/18 2. Current Situation of the WTO System

3/18 3. WTO Dispute Settlement System:
Understanding how trade disputes are dealt with at the WTO DS system

3/25 4. Retaliation under Section 301
Balance between unilateralism versus multilateralism
WTO, *United States-Sections 301-310 of the Trade Act of 1974*.

4/1 5. Agreement on Agriculture
How agriculture differs from other industries
WTO rules on agricultural policies and trade

4/8 6. Agreement on Agriculture
EC – Measures Affecting the Importation of Certain Poultry Products
EC – Export Subsidies on Sugar

4/15 7. SPS Agreement
Interplay between public health and trade
GMO products

4/22 8. SPS Agreement
EC-Measures Concerning Meat and Meat Products
Japan-Measures Affecting Agricultural Products

4/29 9. TBT Agreement
Technical barriers to trade
Labelling issues
EC – Trade Description of Sardines
US - Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products

5/13 10. General Agreement on Trade in Services (GATS)
What is trade in services
Rules for services trade

5/20 11. General Agreement on Trade in Services (GATS)
Rules for Financial Services
Rules for Telecommunications Services
US – Measures Affecting Cross Border Supply of Gambling and Betting Services

5/27 12. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
What are intellectual property rights

Rules for TRIPS
Canada – Patent Protection of Pharmaceutical Products

6/3 13. Government Procurement Agreement
Government procurement procedure and relevant disciplines
Korea-Measures Affecting Government Procurement

6/10 14. Special and Differential Treatment for Developing Countries
How to help developing countries
EC-Conditions for the Granting of Tariff Preferences to Developing Countries

Takehome Exam (Begin at 10:00 am on 6/17 – Due at 06:00 pm on 6/18.)