

DIGITAL TRADE RULES AND CHALLENGES

Professor: KIM, Minjung
Class: Wednesday 9:30-12:30
Office Hour: Wednesday 2:00-5:00 or by appointment
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COURSE DESCRIPTION

This course addresses international trade law and issues concerning electronic commerce, digitally enabled services and digital trade. Digital transformation has fundamentally changed ways international trade is conducted and enlarged the scope of issues and problems the world trading system has to deal with. Developments in e-commerce rules at the WTO and in FTAs, emerging trade issues surrounding data flow, privacy, online platform businesses, and access to the Internet, and recent proliferation of digital trade agreements are some of the main topics this course offers to discuss and aims to provide students with basic understanding and samples of analytic approaches. In the course, lectures on trade law and policy for each topic are supplemented with selected case studies, and students' participation and researches are necessary.

There is no pre-requisite course. Any subjects dealing with international trade law, international governance issues and/or digital economy can be helpful.

Evaluation will be based on *in-class* final examination (40%), 6 case summaries (30%) and a group presentation (20%). Attendance and class participation will be favorably considered up to 10%.

COURSE MATERIALS

The required reading materials are based on P. van den Bossche & Werner Zdouc, Law and Policy of the World Trade Organization (4th ed. 2017) and the following books that are recently published addressing digital trade issues and relevant trade law:

- Sacha Wunsch-Vincent (2006), The WTO, the Internet and Trade in Digital Products: EC-US Perspectives, Hart Publishing.
- Mira Burri and Thomas Cottier (2012), Trade Governance in the Digital Age, Cambridge University Press
- Mira Burri (2021), Big Data and Global Trade law, Cambridge University Press
- Ines Willemyns (2021), Digital Services in International Trade Law, Cambridge University Press
- Shin-yi Peng, Ching-Fu Lin and Thomas Streinz (2021), Artificial Intelligence and International Economic Law: Disruption, Regulation, and Reconfiguration, Cambridge University Press.

Students with serious interest in a particular issue may want to refer to the reading materials listed in the recommended reading sections that indicated relevant academic papers and reports.

Course Schedule

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| 3/8 | 1. Introduction <ul style="list-style-type: none">- Guide to the study of international trade policy and law |
| | 2. Digital Trade and the World Trading System <ul style="list-style-type: none">- How the GATT/WTO trade rules have evolved- Regulatory challenges in the Digital Age |
| 3/15 | 3. Dispute Settlement and Retaliation <ul style="list-style-type: none">- How trade disputes are resolved at WTO- FTA dispute settlement system |
| 3/22 | 4. Retaliation under US Section 301 <ul style="list-style-type: none">- Balance between unilateralism vs multilateralism- <i>WTO, United States-Sections 301-310 of the Trade Act of 1974</i> |
| 3/29 | 5. Services Trade and Trade Rules <ul style="list-style-type: none">- WTO General Agreement on Trade in Services (GATS)- Annexes on Telecommunication- Annexes on Financial Services |
| 4/5 | 6. Services Trade and Market Access Issues <ul style="list-style-type: none">- <i>WTO, US – Cross Border Supply of Gambling and Betting Services (DS285)</i>- <i>WTO, China – Audiovisual Entertainment products (DS363)</i> |
| 4/12 | 7. Digital Services Issues <ul style="list-style-type: none">- <i>WTO, Mexico – Telecommunications Services (DS 204)</i>- <i>WTO, China – Electronic Payment Services (DS413)</i> |
| 4/19 | 8. E-commerce Negotiations <ul style="list-style-type: none">- WTO e-commerce negotiations, customs moratorium- FTA e-commerce provisions- Advancements in digital trade/economy agreements |
| 4/26 | 9. Cross-border Data Flow <ul style="list-style-type: none">- Digital products vs electronic transmissions- Non-discrimination- Issues of data localization requirement |
| 5/3 | 10. Personal Information Protection <ul style="list-style-type: none">- Classification of data and privacy- Personal information protection in digital trade agreements- GDPR, OECD Guideline, APEC Privacy Shield- <i>US-EU Privacy Shield and the ECJ's Schrems II Case</i> |

- 5/10 11. Online Platforms
- Interactive computing services
 - Internet Services Providers
 - EU Digital Services Act, Digital Market Act
 - *Case: Google's in-app payment systems*
- 5/17 12. Internet Access & Network Neutrality
- Principles of internet use and access in digital trade agreements
 - Network neutrality
 - *Case: Netflix and Network Usage Fee*
- 5/24 13. Technology and Intellectual Property Protection
- WTO Agreement on Trade-related Intellectual properties
 - Source code issues and digital trade rules
 - *WTO, China –Intellectual Property Rights (DS362)*
- 5/31 14. Digital Services Tax and MNEs
- Taxation in digital economy
 - OECD/G20 Inclusive Framework on Base Erosion and
 - *Trade wars over digital tax - US Section 301 retaliatory actions*
- 6/7 15. e-Business, Trade Facilitation and Inclusiveness
- E-authentication and e-signature
 - Participation of SMEs
 - Digital divide and capacity building in developing countries
- 6/12 Final Exam (10:00-12:00 am)