

UNDERSTANDING INTERNATIONAL TRADE LAW

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COURSE DESCRIPTION

The Korean government announced the tax increase on “soju” from 35% to 72%, alleging that it should follow the decision by the Dispute Settlement System of the World Trade Organization (WTO). In fact, the Japanese government and the Chilean government were also recommended to modify their domestic tax systems on alcoholic beverages, “shochu” and “pisco”, after the European Communities challenged them in the WTO. What is happening here regarding “economic sovereignty” to establish domestic tax systems? Who has the authority to make a determination on such issues? The WTO Agreements have contributed to the establishment of the rule-based global trading system.

The Trump administration, however, has raised a huge challenge to the WTO system. What was the problem? Why was such endeavor vehemently opposed by various constituents of the global society?

This course deals with new developments in the world trading system, especially concerning the WTO. The main objective of the course is to provide necessary understanding and analytical capability to students who may practice in relevant subject areas or pursue scholarly interests in this field. In particular, the course will focus on policy and legal issues that become increasingly important in the current world trading system. The course will be supplemented by a visual resource and selected case studies.

This course will cover more fundamental issues in understanding the world trading system. The sequential course in the next semester will deal with more advanced topics in the relevant subject.

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

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

COURSE OUTLINE

The following reading list is based on P. van den Bossche & Werner Zdouc, Law and Policy of the World Trade Organization (4th ed. 2017). 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*, the “world trade” section in the 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:

- John H. Jackson, *The World Trading System* (2nd ed. 1997)
- J. Jackson et al., *International Economic Relations* (5th ed. 2008)
- A. Guzman et al., *International Trade Law* (3rd ed. 2016).
- Matsushita et al., *The World Trade Organization* (3rd ed. 2015)
- Petros C. Mavrodís, *The Regulation of International Trade*, Vol. I & II (2016)
- Trebilcock, et. al, *The Regulation of International Trade* (4th ed. 2012)
- Raj Bhala, *International Trade Law* (5th ed. 2019)
- S. Lester and B. Mercurio, *World Trade Law* (2nd ed. 2012)

1. Introduction to the Study of International Trade Policy and Law

REQUIRED

- Marci Hoffman, *Guide to International Trade Law Sources on the Internet*, <<http://www.llrx.com/features/trade2.htm>>.
- Jean M. Wenger, *The ASIL Guide to Electronic Resources for International Law*, *International Economic Law* < <http://www.asil.org/resources/electronic-resource-guide-erg>>.
- World Trade Organization, <www.wto.org>.

RECOMMENDED

- John H. Jackson, *International Economic Law: Reflections on the “Boilerroom” of International Relations*, *American University Journal of International Law and Policy*, Vol. 10, pp. 595-606 (Winter 1995).
- Alan O. Sykes, “International Trade”, *Encyclopedia of Law and Economics*, <<http://encyclo.findlaw.com/lit/5910art.htm>>.
- Marci Hoffman, *Researching International Trade Law*, <<http://www.law.umn.edu/mhoffman.intlaw/intrade.htm>>.
- Jean M. Wenger, *Trade Winds Across the Plains: International Trade Resources in the Information Age*, <<http://www.marquette.edu/law/libfest/handouts/b1jmw.html>>.

2. Institutional Evolution of the GATT/WTO

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 2.

RECOMMENDED

- John Croome, Reshaping the World Trading System: A History of the Uruguay Round (2nd ed. 1999, Kluwer Law International).
- William Diebold, Jr., The End of the ITO (1952, Princeton Univ. Press).
- Douglas Irwin, Petros Mavroidis, Alan Sykes, The Genesis of the GATT (2009, Cambridge Univ. Press).

- John H. Jackson, Restructuring the GATT System (1990, The Royal Institute of International Affairs).
- Orin Kirshner ed., The Bretton Woods-GATT System: Retrospect and Prospect After Fifty Years (1996, M.E. Sharpe).
- Joost Pauwelyn, "The Transformation of World Trade", Michigan Law Review, 1-65 (2005).
- Benn Steil, The Battle of Bretton Woods: John Maynard Keynes, Harry Dexter White and the Making of a New World Order (2014, Princeton Univ. Press).
- Craig VanGrasstek, The History and Future of the World Trade Organization (2013).
- Thomas Zeiler, Free Trade, Free World: The Advent of GATT (1999, Univ of North Carolina Press).
- WTO, The Future of the WTO (2004).
- GATT, *The WTO: A New Organization for a New Era* (GATT/WTO News, GW/11, December 21, 1994).

3. Dispute Settlement System in GATT/WTO

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 3.

RECOMMENDED

- Steve Charnovitz, *Rethinking WTO Trade Sanctions*, American Journal of International Law, Vol. 95, pp. 792-832 (Oct. 2001).
- Robert E. Hudec, *The New WTO Dispute Settlement Procedure: An Overview of the First Three Years*, Minnesota Journal of Global Trade, Vol. 8, pp. 1-53 (Winter 1999).
- Robert E. Hudec, Enforcing International Trade Law: The Evolution of the Modern GATT Legal System (1993, Butterworth Legal Publishers).
- John H. Jackson, The World Trade Organization: Constitution and Jurisprudence (1998, The Royal Institute of International Affairs).
- John H. Jackson, *Dispute Settlement and the WTO: Emerging Problems*, Journal of International Economic Law, Vol. 1, No. 3, pp. 329-351 (Sep. 1998).
- Gabrielle Marceau, A History of Law and Lawyers in the GATT/WTO (2015, Cambridge Univ. Press).
- David Palmer & Petros C. Mavroidis, Dispute Settlement in the World Trade Organization: Practice and Procedure (2nd ed. 2004, Kluwer Law International).
- Ernst-Ulrich Petersmann, The GATT/WTO Dispute Settlement System: International Law, International Organizations and Dispute Settlement (1997, Kluwer Law International).
- Ernst-Ulrich Petersmann ed., International Trade Law and the GATT/WTO Dispute Settlement System (1997, Kluwer Law International).
- J. Waincymer, WTO Litigation (2002, Cameron May).
- *Symposium on the First Three Years of the WTO Dispute Settlement System*, International Lawyer, Vol. 32, No. 3 (Fall 1998).
- *Special Issue: WTO Dispute Settlement System*, Journal of International Economic Law, Vol. 1, No. 2 (June 1998).
- WTO, The WTO Dispute Settlement Procedures: A Collection of the Legal Texts (1995).
- WTO, Handbook on the WTO Dispute Settlement System (2nd ed. 2017).
- <https://www.wto.org/english/tratop_e/dispu_e/dispu_settlement_cbt_e/signin_e.htm>
- WTO, WTO Dispute Settlement: One-Page Case Summaries (1995-2018) (2019).

4. Most-Favored Nation (MFN) and National Treatment

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 4 & 5.
- WTO, *Korea-Taxes on Alcoholic Beverages* (WT/DS75/R)
- WTO, *Korea-Measures Affecting Imports of Fresh, Chilled and Frozen Beef* (WT/DS161, 169/R)

RECOMMENDED

- Warren F. Schwartz & Alan O. Sykes, *The Economics of the Most Favored Nation Clause*, pp.43-79 (Jagdeep S. Bhandari & Alan O. Sykes eds., Economic Dimensions in International Law: Comparative and Empirical Perspectives (1997, Cambridge University Press)).
- WTO, Analytical Index: Guide to GATT Law and Practice, Article I & III, pp. 23-61, 121-207 (6th ed., 1995).

5. Anti-Dumping Laws

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 11.
- WTO, *US-Anti-Dumping Measures on Stainless Steel Plate in Coils and Stainless Steel Sheet and Strip* (WT/DS179/R).
- WTO, *US-Laws, Regulations and Methodology Calculating Dumping Margin* (WT/DS294/R & WT/DS294/AB/R)

RECOMMENDED

- Rainer M. Bierwagen, GATT Article VI and the Protectionist Bias in Anti-Dumping Laws (1990, Kluwer Law International).
- John H. Jackson & Edwin A. Vermulst eds., Antidumping Law & Practice: A Comparative Study (1989, University of Michigan Press).
- M. Matsushita, D. Ahn, & T. Chen, The WTO Trade Remedy System: East Asian Perspectives (2006, Cameron May).
- P. Mavroidis et al., The Law and Economics of Contingent Protection in the WTO (2010, Edward Elgar).
- Jorge Miranda et al., *The International Use of Antidumping: 1987-1997*, Journal of World Trade, Vol. 32, No. 5, pp. 5-71 (1998).
- Brink Lindsey & D. Ikenson, Antidumping Exposed (Cato Institute, 2003).
- E. Vermulst, The WTO Anti-dumping Agreement: A Commentary (2005, Oxford Univ. Press).

6. Subsidies and Countervailing Duty

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 12.
- WTO, *Australia-Subsidies Provided To Producers and Exporters of Automotive Leather* (WT/DS126/R).
- WTO, *Japan-Countervailing Duties on DRAM from Korea* (WT/DS336/R & WT/DS336/AB/R)

RECOMMENDED

- Jacques H.J. Bourgeois, Subsidies and International Trade: A European Lawyers' Perspective (1991, Kluwer Law and Taxation).
- M. Jean Anderson & Gregory Husisian, *The Subsidies Agreement*, pp. 299-358 (Terence P. Stewart ed., The World Trade Organization: The Multilateral Trade Framework for the 21st Century and U.S. Implementing Legislation (1996, American Bar Association)).
- Cartland, Michel, Depayre, Gérard & Woznowski, Jan. "Is Something Going Wrong in the WTO Dispute Settlement?", Journal of World Trade 46:5 (2012), 979–1016.
- Meredith A. Crowley and David Palmeter, "Japan – Countervailing Duties on Dynamic Random Access Memories from Korea", World Trade Review, 8: 1, 259–272 (2009).
- G. Horlick & P. Clarke, "Rethinking Subsidy Disciplines For the Future" (2016, ICTSD & WEF),
- WTO, World Trade Report 2006 (2006).

7. Safeguard Measures

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 9.
- WTO, *Korea- Definitive Safeguard Measures on Imports of Certain Dairy Products* (WT/DS98/AB/R).

RECOMMENDED

- Dukgeun Ahn, *Restructuring the WTO Safeguard Mechanism*, in The WTO Trade Remedy System: East Asian Perspectives (eds. by M. Matsushita, D. Ahn and T. Chen; Cameron May, 2006).
- Alan O. Sykes, The WTO Agreement on Safeguards: A Commentary (2006).
- Edwin Vermulst & Folkert Graafsma, "EU Safeguard Law and Practice: 1995–2018", Global Trade and Customs Journal, 13:9 (2018).

8. Regional Trading Arrangement

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 10.
- WTO, *Turkey-Restrictions on Imports of Textile and Clothing Products* (WT/DS34/R).
- WTO, *Peru-Additional Duty on Imports of Certain Agricultural Products* (WT/DS457/R)

RECOMMENDED

- W. Davey & A. Sapir, "The Soft Drinks Case: The WTO and Regional Agreements", World Trade Review, 8:1, 5-23 (2009).
- Lorand Bartels, Regional Trade Agreements and the WTO Legal System (2007).
- James Mathis, Regional Trade Agreements in the GATT/WTO: Article XXIV and the Internal Trade Requirement (2002).
- Jeffrey A. Frankel, Regional Trading Blocs: In the World Economic System, (1997, Institute for International Economics).
- Jon R. Johnson, The North American Free Trade Agreement: A Comprehensive Guide (Canada Law Book, 1994).
- Bruce E. Moon, Dilemmas of International Trade (1996, Westview Press).
- Paul Demaret, et al., Regionalism and Multilateralism after the Uruguay Round (European Interuniversity Press, 1997).

9. Article XX & XXI Exceptions

REQUIRED

- van den Bossche & Zdouc, Law and Policy of the World Trade Organization, Ch. 8.
- WTO, *United States-Import Prohibition of Certain Shrimp and Shrimp Products* (WT/DS58/R & WT/DS58/RW).
- WTO, *Russia - Measures Concerning Traffic in Transit* (WT/DS512/R).

RECOMMENDED

- Dukgeun Ahn, “*Environment Disputes in the GATT/WTO: Before and After US-Shrimp Case*”, Michigan Journal of International Law, Vol. 20, No. 4 (1999).
- Daniel C. Esty, Greening the GATT: Trade, Environment, and the Future (1994, Institute for International Economics).
- Ernst-Ulrich Petersmann, International and European Trade and Environmental Law After the Uruguay Round (1995, Kluwer Law International).
- Thomas J. Schoenbaum, *International Trade and Protection of the Environment: The Continuing Search for Reconciliation*, American Journal of International Law, Vol. 91, No. 2, pp. 268-313 (April 1997).
- Ji Yeong Yoo & Dukgeun Ahn, “*Security Exceptions in the WTO System: Bridge or Bottle-Neck for Trade and Security?*”, Journal of International Economic Law, Vol. 19, pp.417–444 (June 2016).