

Seminar in International Commerce
Emerging Trade Issues and Negotiations:
Environment, Digital Trade, and Economic Security
2025 Second Semester

Professor: Yoo Myung-hee (Visiting Professor)

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COURSE DESCRIPTION

Global trade is undergoing a fundamental shift, marked not by expanding liberalization but by growing tensions between long-standing multilateral rules and evolving national policy imperatives. At the heart of this transformation lie three of the most important and contested areas in today's trade landscape: environment, digital trade, and economic security.

These issues have emerged as defining features of the 21st-century trading system. Yet the WTO – the foundation of international trade governance – offers little or outdated guidance on how to address them. Existing rules under the WTO either predate these developments or lack the clarity needed to manage their complex intersections with trade. As a result, countries are increasingly turning to unilateral actions or plurilateral agreements, ranging from carbon-related regulations and data governance laws to export controls. These trends are accelerating the fragmentation of the global trading system and raising concerns about the erosion of shared rules.

This course examines these three areas as core pillars of the emerging trade agenda. It begins with a grounding in WTO disciplines, including Most-Favored Nation treatment, National Treatment, general and security exceptions, and subsidy rules. It then turns to how these rules are being tested or bypassed in response to environmental, technological, and geopolitical challenges.

We explore:

- Environment measures, including the EU Carbon Border Adjustment Mechanism (CBAM), the EU Deforestation Regulation (EUDR), and green industrial subsidies, as

well as their compatibility with the WTO rules;

- Digital trade, with growing attention to issues raised by artificial intelligence, such as cross-border data flows, data localization, source code access and the governance of AI: and
- Economic security, focusing on semiconductor export controls, investment screening mechanisms, and the expansion of security exceptions in the era of geoeconomic and technological competition.

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

A basic knowledge of WTO rules and trade negotiations, from classes such as “Understanding International Trade Law,” “WTO and Multilateral Trade Agreements,” “Trade Rules and Digital Standards,” “Digital Trade Rules and Challenges,” and “Workshop in International Commerce: Green Trade Tensions and Policies” will be useful for this course, although they are not required as prerequisites.

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 discussion engagements. 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. WTO rules: Most-Favored Nation (MFN), National Treatment (NT), Market Access, General and Security Exceptions, and Subsidy Rules

- Van den Bossche & Zdouc (2021), Law and Policy of the World Trade Organization, Cambridge University Press, Ch. 4, 5, 6, 7, 8, and 12
- WTO, U.S. – Import Prohibition of Certain Shrimp and Shrimp Products (WT/DS58/R & AB/R)
- WTO, Indonesia – Certain Measures Affecting the Automobile Industry

(WT/DS64/R)

- WTO, Canada – Certain Measures Affecting the Renewable Energy Generation Sector/Canada – Measures Relocating to the Feed-in Tariff Program (WT/DS412, 426/R & WT/AB/412, 416/R)
- WTO, U.S. – Cross Border Supply of Gambling and Betting Services (WT/DS285)
- WTO, Russia – Measures Concerning Traffic in Transit (WT/DS512)

2. Trade and Environment

- Trade and Environment at the WTO: State of Play and Entry Points, Forum on Trade, Environment, and the SDGs (TESS), WTO (Apr. 2024)
- Laurie Durel (2024), “Border Carbon Adjustment Compliance and the WTO: The Interactional Evolution of Law”, Journal of International Economic Law
- Bruno Capuzzi (2024), “Is the EU Deforestation Regulation WTO-Proof?”, ECIPE
- Giulia Claudia Leonelli (2023), “Anti-deforestation npr-PPMs and Carbon Border Measures: Thinking About the Chapeau of Article XX GATT in Times of Climate Crisis
- Mark Wu & James Salzman, “The Next Generation of Trade and Environment Conflicts: the rise of green industrial policy”, Northwestern University Law Review 108:2 (2014)

3. Digital trade rules and issues

- Mira Burri (2021), Big Data and Global Trade Law, Cambridge University Press
- Shin-yi Peng (2021), Ching-Fu Lin and Thomas Streinz eds., Artificial Intelligence and International Economic Law, Cambridge University Press
- Shin-yi Peng (2024), International Economic Law in the Era of Datafication, Cambridge University Press

4. Economic Security Issues

- Daniel Chow, Thomas Schoenbaum, and Gregory Dorris (2022), International Trade Law: Problems, Cases, and Materials, 4th Edition, Aspen Publishing

COURSE SCHEDULE

09/04 General Introduction

- Overview of the course
- Overview of the current global trading system and its challenges

09/11 WTO Key Principles: Most-Favored Nation (MFN) and National Treatment (NT)

- GATT: MFN, NT, and the issue of PPM
- GATS: MFN and NT

< Reading Material >

- Van den Bossche & Zdouc, Law and Policy of the WTO, Ch. 4 & 5

09/18 WTO Key Principles and General Exceptions

- GATT: Schedule of Concessions
- GATS: Market Access (MA)
- GATT and GATS: General Exceptions

< Reading Material >

- Van den Bossche & Zdouc, Law and Policy of the WTO, Ch. 6, 7 and 8

09/25 WTO Case and the Overview of Trade and Environment

- *WTO, U.S. – Import Prohibition of Certain Shrimp and Shrimp Products (WT/DS58/R & AB/R)**
- Overview of multilateral and unilateral discussions/measures on trade and environment

< Reading Material >

- DS58 Panel and AB reports
- Trade and Environment at the WTO: State of Play and Entry Points, Forum on Trade, Environment, and the SDGs (TESS), WTO (Apr. 2024)

10/02 EU's Measures on Trade and Environment

- *Carbon Border Adjustment Mechanism (CBAM): state of play and its compatibility with the WTO rules*
- *EU Deforestation Regulation (EUDR): state of play and its compatibility with the WTO rules*

< Reading Material >

- Laurie Durel (2024), “Border Carbon Adjustment Compliance and the WTO: The Interactional Evolution of Law”, Journal of International Economic Law
- “Trade Related Aspects of a CBAM (2020): A Legal Assessment”, Policy Department, Directorate-General for External Policies of the Union
- Bruno Capuzzi (2024), “Is the EU Deforestation Regulation WTO-Proof?”, ECIPE
- Giulia Claudia Leonelli (2023), “Anti-deforestation npr-PPMs and Carbon Border Measures: Thinking About the Chapeau of Article XX GATT in Times of Climate Crisis”

10/09 No Class (Hangeul Proclamation Day) - Make-up class on 12/18

10/16 WTO Rules on Subsidies and Cases

- Overview of the WTO subsidy rules
- WTO, Indonesia – Certain Measures Affecting the Automobile Industry (WT/DS64/R)

< Reading Material >

- Van den Bossche & Zdouc, Law and Policy of the WTO, Ch. 6, 7 and 8
- WTO DS 64 Panel report

10/23 WTO Subsidy Cases and Green Industrial Policy

- WTO, Canada – Certain Measures Affecting the Renewable Energy Generation Sector/Canada – Measures Relocating to the Feed-in Tariff Program (WT/DS412, 426/R & WT/AB/412, 416/R)
- Green industrial policy (US IRA and Section 232 on critical materials)
- Group exercises on cases and issues of trade and environment

< Reading Material >

- WTO DS 412 & 416 Panel and AB reports
- Mark Wu & James Salzman (2014), “The Next Generation of Trade and Environment Conflicts: the rise of green industrial policy”, Northwestern University Law Review 108:2
- Alicia Garcia-Herrero (2023), Heather Grabbe, and Axel Kaellenius, “De-risking and decarbonising: a green tech partnership to reduce reliance on China”, Bruegel
- Alessandro Gili & David Tentori (2023), “The Fight for Global Technology Leadership: A Matter for Geopolitics”, The Comeback of Industrial Policy, ISPI

10/30 Overview of Digital Trade Rules

- Key provisions of the GATS
- WTO JSI on E-Commerce
- WTO, U.S. – Cross Border Supply of Gambling and Betting Services (DS285)

< Reading Material >

- WTO DS 285 Panel and AB reports

11/06 Digital Trade Rules in the Era of Artificial Intelligence (AI)

- Key rules on digital liberalization (non-discrimination, data transfer, localization, source code and exceptions)
- Digital trade rules in the context of AI, including source code and algorithm disclosure prohibition

< Reading Material >

- Mira Burri (2023), “The Impact of Digitalization on Global Trade Law”, German Law Journal
- Mira Burri (2023), “Trade Law 4.0: Are We There Yet?”, Journal of International Economic Law
- Relevant rules in RCEP, CPTPP, USJ DTA, DEPA, and UK-Singapore Digital Economy Agreement
- Emily Jones (2023), Digital disruption: artificial intelligence and international trade policy, Oxford Review of Economic Policy

11/13 General and Security Exceptions in the Age of AI

- Review of GATS General Exceptions and Digital Trade Agreements
- Security Exceptions of GATT, GATS, and Digital Trade Agreements
- WTO, Russia – Measures Concerning Traffic in Transit (DS512)

< Reading Material >

- Van den Bossche & Zdouc, Law and Policy of the WTO, Ch. 8
- DS 512 Panel report
- Shin-yi Peng (2023), “Cybersecurity: Digital Economy and National Security: Contextualizing Cybersecurity-related Exceptions, Cambridge University Press
- Mira Burri and Kholofelo Kugler (2024), “Regulatory autonomy in digital trade agreements”, Journal of International Economic Law

11/20 AI Governance and Ethics

- Different AI governance systems, including the EU AI Act and the US AI

Action Plan

- Disciplining AI policies, including issues on data ethics

< Reading Material >

- EU AI Act and the US AI Action Plan
- Neha Mishra (2021), “International Trade Law and Data Ethics”, Artificial Intelligence and International Economic Law, Cambridge University Press

11/27 Group Exercise on Digital Trade and AI cases

12/04 Economic Security: Export Controls and Investment Reviews

- US export controls: state of play and their challenges
- US investment reviews: state of play and their challenges
- Development of export controls on AI semiconductors and their impact

< Reading Material >

- Daniel Chow, Thomas Schoenbaum, and Gregory Dorris (2022), International Trade Law: Problems, Cases, and Materials, 4th Edition, Aspen Publishing, Ch. 12 and 13

12/11 Economic Security and US Tariff Policies

- IEEPA for US reciprocal tariffs, Section 232 for US sector-specific tariffs, and their compatibility with the WTO rules
- Use and abuse of security exceptions

12/18 Take-home exam (Tentative)