

INTERNATIONAL TRADE LAW
SIS 619, Autumn 2007

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COURSE DESCRIPTION

This course is designed to provide students with an understanding of the international rules that govern international trade and investment. The course undertakes an in-depth analysis of the rules regime of the World Trade Organization (WTO) as well as those of several regional and bilateral agreements. This includes an examination of the policy objectives behind the rules, the compromises resulting from the complex negotiating process, and the operation of the rules. This latter will be undertaken through a study of specific dispute settlement cases. The course will conclude with a discussion of so-called "trade-and "issues for which rules have yet to be negotiated, to wit, trade and labor/environment/competition policy.

COURSE REQUIREMENTS:

- A take-home midterm examination, which accounts for 25% of the total grade
- A final take-home examination, which accounts for 55% of the total grade
- Class participation, which accounts for 20% of the total grade.

TEXT

Legal Problems of International Economic Relations, 4th ed. John Jackson, William Davey, Alan Sykes, West Group 2002, ISBN 0-314-24660-6

SYLLABUS

There is a certain flexibility in the topics covered depending on students' interests. The amount of time devoted to each issue will depend to a large extent on students' level of interest.

Unless otherwise indicated the readings are from the Jackson, Davey. Sykes Text.

I Introduction

Class 1

- Economic Trade Theory
The economic concepts underlying the WTO rules regime

Readings: p. 7-22; 24-29

- Brief history of the GATT to the WTO

Readings: p. 208-218; 226-231

Class 2

An explanation and critique of the operation of the WTO

- The decision making process
- The role of the Secretariat
- Accession (focus on China)

Readings: p. 218-226;231-234;236-238

Class 3

The operation of the WTO Dispute Settlement Process

This class will examine the evolution of the dispute settlement process from one emphasizing negotiations to the current more legalistic system with strong enforcement powers. We will discuss the reasons for the evolution and the consequences for member nations.

Readings: p 246-271;305-307;309-313; 335-336

II Trade Policy Issues and related International Rules

Each topic will be examined through the study of a specific dispute settlement case.

Class 4

-Non Discrimination: MFN and National Treatment: the “cornerstones” of the WTO system.

We will discuss the economic and political rationales for the rules and study specific cases clarifying their meaning.

- MFN
- National Treatment

Readings: p.415-419;423-429; 479-485;494-501

Class 5

1. Limiting Border Protection

- Tariffs and Quotas;

Readings: p.339-341;349-351; 387-388;397

2. Protecting vulnerable industries

- Safeguards

Readings: p.604-607;608;611; 616-617; 623-624; 639-640

Class 6

Ensuring Trade is “fair”/The “level playing field”

- Anti-dumping measures
- Countervailing duties

This class will examine the international rules permitting nations to impose duties in response to foreign practices deemed to be “unfair” as well as the raging debate over the merits of the existing rules.

Readings: p. 676-678; 681-688; 699-705; 707-708; 721-722; 727-730;

Class 7

Regulation of government subsidization

This class will study the WTO rules regulating governments’ provision of economic assistance to domestic industries.

Readings: 767-769; 772-776; 829-831; 835-837.

Class 8

Policy-based exceptions

In this class we will discuss one of the most controversial subjects confronting the multilateral trading system: the multilateral rules enabling governments to impose barriers to trade based on the purpose of the protectionist measure. Specifically we will look at the rules regarding measures aimed at protecting health and safety and those aimed at conservation. We will study the famous “shrimp-turtle” and “Beef hormone” cases.

Issues raised in this class will be further discussed in Class 13 when we examine the current proposals for rules designed to protect labor and the environment.

Readings: 532-539; 544; 550-552; 554-558; 561-563; 575; 579-593.

Class 9

Trade in Services

This class will study the very different rules structure applied to trade in services found in the General Agreement on Trade in Services (GATS) -- a part of the WTO rules system. We will study the famous “EU banana case”.

Readings: p. 853; 885-893; 902-907

Class 10

Liberalization of Investment

- This class will discuss the limited rules in the WTO related to restrictions on foreign investment found in the “TRIMS” agreement as well as the controversial NAFTA rules on investment. We will discuss the controversy that has arisen over the NAFTA provisions permitting private foreign investors to challenge government measures affecting their investment, including measures aimed at protecting the environment.

Readings: Xerox hand out (p.201-206 from The Political Economy of the World Trading System, 2nd ed. Hoekman and Kosteki)

Class 11 and 12.

Exceptions to MFN

These classes will examine two major exceptions to the rule of non-discrimination.

1. Regionalism and Bilateralism.

This class will study the WTO rules permitting preferential regional and bilateral agreements and discuss whether the proliferation of such agreements threatens the multilateral system.

Readings: p. 447-455; 465-467; Xeroxed hand (p. 346-367 from Hoekman and Kostecki)

2. The Enabling Clause

During this class we will study the rules enabling developing nations to provide unilateral preferential treatment to developing nations. We will debate the value of such preferences as development tools.

Readings: p. 1167-1171; 1173-1175; 1184-1194

Class 13

The Future

This class will discuss proposals to include in the WTO rules aimed at ensuring signatories provide adequate protection of the environment and of workers. We will study the approach adopted by NAFTA and several FTAs to which the US is a party.

Readings: Xeroxed handout (p. 441-452 from Hoekman and Kostecki)

The class will also briefly review the growing number of controversies surrounding Chinese membership in the WTO and debate the extent to which Chinese membership threatens the viability of the existing system. We will merely highlight the issues with the aim of encouraging students to pursue this topic in greater detail in other courses.

Readings: To be determined

Class 14: Review