International Trade, Development, and the Common Good  
Spring Semester, 2017  
Monday, 5:45 PM-7:45 PM  
Georgetown University Law Center, Hotung 5020  

Course Description:

The seminar will explore the relationship between international economic law and inclusive development, both currently and historically. This examination will include legal frameworks and agreements (WTO, regional trade agreements, national economic regulation), diverse areas of market regulation at the national level, and the difference between legal mechanisms and their application in practice. It will connect different substantive areas of policy, law, and regulation, highlighting the role of law and regulation as a driver for economic change and linking broader legal frameworks and policy debates with the needs of individuals and entrepreneurs on the ground. The seminar will critically investigate the link between trade and development that reaches questions of broad-based poverty alleviation, rule of law, human rights, food security, environmental protections, and legal systems within and between nations. Emerging approaches in the field, such as social entrepreneurship, global value chain development, impact investing, gender and trade, and development corridors will be introduced and discussed throughout the seminar.

The seminar will take place in three phases. In Phase I the seminar will explore the historical and institutional relationship between trade and development, including international and regional legal frameworks. Phase II will cover a number of substantive aspects of trade, investment, and economic law and regulation in depth, all of which impact entrepreneurs and communities in developing markets. Specific areas of focus include investment, sector-specific market regulation (including services), trade facilitation, sanitary and phytosanitary measures, standards, and other non-tariff issues. Agricultural regulation will be a core component of the seminar, including measures that determine whether farmers can access high-quality inputs, food safety standards, and land tenure. The seminar will incorporate the work of experts in the field of trade and development, some of whom may join as speakers, in order to highlight different roles in shaping the enabling environment for business and trade and encourage development at the grassroots level.

Phase II of the course will also include short, practical case studies that illustrate how different issues in trade, development, and economic law and regulation can be applied from the perspective of an entrepreneur or community. These case studies are drawn from the work of the New Markets Lab and its partner organizations, and examination of the case studies will allow seminar members to apply the understanding gained from reading materials and discussion in analyzing the relationship between trade and development in specific, concrete situations. Seminar members will be asked to assume roles in discussion of these case studies, which will count towards class participation and lay the groundwork for the final paper. Phase III of the course will focus on development in class of a short case study, the details of which will be provided early in the semester. Throughout the course, seminar members are encouraged to bring to resources and points of view beyond those recommended to the discussion. Any changes in the syllabus will be shared in advance.
Course Outline and Reading Materials:

PART I – THE LINK BETWEEN TRADE AND DEVELOPMENT

Session One (January 23, 2017): The Intersection Between Trade, Development, and the Common Good

Session 1 will set the stage for the course by introducing the intersection between trade, development, and the common good. In particular, the readings are selected to examine critical legal, economic, social, and political aspects of trade and development and their implications for unlocking inclusive market growth. This session will also include a brief overview of the substantive issues to be covered in the course and explore different approaches to trade and development, evaluating the role of law and policy in promoting the common good.

Readings:

- Hernando de Soto, *The Mystery of Capital*, Ch. 1 pp. 1-13 (Focus on “Legal Failures”).

Session Two (January 30, 2017): Trade, Development, and Rule of Law

The session will examine legal reform initiatives designed to build an enabling environment for enhanced economic opportunity and strengthened rule of law. It will introduce the link between trade and development through legal and policy structures, including special and differential treatment under the World Trade Organization (WTO), which will continue to be discussed in Session Three.

Readings:


Session Three (February 6, 2017): Trade, Development, and Legal Systems: Multilateral Rules, Regional Trade Agreements, and Trade Preference Programs

Session Three will assess trade agreements, including regional trade agreements in sub-Saharan Africa and U.S. free trade agreements, from a trade and development perspective. This session will examine trade preference programs for developing countries, including the Generalized System of Preferences programs and preferences offered on a regional basis, such as U.S. programs covering nations in Africa, the Caribbean, and Central America.

Readings:

• Regis Simo, “‘Law and Development in Africa:’ Paving the Way for Regional Integration Through Harmonization of Laws,” 2013.

Case Study:

SASA Designs for the Deaf, New Markets Lab and International Senior Lawyers Project.

PART II –CURRENT ISSUES AND TRADE AND DEVELOPMENT IN CONTEXT

Session Four (February 13, 2017): Trade and Investment

This session will explore the relationship between trade and investment, both at the institutional level and at the enterprise level. This session will include a case study and methodology for assessing legal and regulatory challenges in the market.

Readings:


Case Study:

• Mtanga Farms (TransFarm Africa), New Markets Lab Case Study Materials and Global Impact Investing Network, Improving Livelihoods, Removing Barriers: Investing for Impact in Mtanga Farms, 2011.

Optional Background Reading:


Session Five (February 24, 2017): Non-Tariff Measures and Market Regulation

This session will examine legal and regulatory issues that arise at all levels of supply chains and agricultural value chains. This session will include discussion of non-tariff issues such as trade facilitation and product and food safety standards.

Readings:


Case Study:

• Lesotho Asparagus, New Markets Lab Case Study.

Optional Background:

• WTO Agreement on the Application of Sanitary and Phytosanitary Measures, WT/L/15.
• WTO Agreement on Technical Barriers to Trade, WT/L/17.
• WTO, Agreement on Trade Facilitation, WT/L/931, July 15, 2014.

February 27 NO CLASS (Class Rescheduled)

Session Six (March 6, 2017): Access to Services and Finance

This session will explore the connection between services regulation and development, including transport, retail, distribution, and financial services, with a particular focus on access to finance for underserved populations, including women entrepreneurs and farmers.

Readings:


Case Study:

Rwanda Tissue Culture, New Markets Lab Case Study

NO CLASS: SPRING BREAK

Session Seven (March 20, 2017): Land and Labor

Session seven will focus on land and labor as part of the evolving debate on trade and development. This session will include international labor conventions and the treatment of labor in free trade agreements. The session will also cover land tenure issues.

• International Finance Corporation, Environmental and Social Performance Standards for Investment, 2012 (Overview).
• Michael Roth and Nancy McCarthy, Land Tenure, Property Rights, and Economic Growth in Rural Areas, U.S. Agency for International Development (USAID) Issue Brief.

Case Study:


Optional Background Reading:


Session Eight (March 27, 2017) Intellectual Property and Environment

This session will examine the link between intellectual property and development, including access to seeds and medicines. Discussion will include assessment of the role of intellectual property in promoting economic development and innovation in emerging markets. Session Eight will also focus on trade, the environment, and development, including treatment of environment in free trade agreements and emerging issues such as environmental and social performance standards for investment and the intersection between climate change and trade.

Readings:


Case Study:

Ethiopian Fine Coffee Trademarking and Licensing Initiative, Light Years IP and Ethiopian Intellectual Property Office.
Optional Background Readings:


PART III – CASE STUDY EXERCISE (Sessions 9-12; April 3, 10, 17, and 24 – Materials to be Provided)

Session 13 (May 1, 2017): Wrap Up: Putting the Pieces Together and Models for the Future

To conclude, Session 13 will assess trade’s ability to contribute to economic development. Drawing upon lessons learned from previous sessions, it will examine how to best use the current system of international rules, policies and practices to deliver on the promise of using trade liberalization and open markets as a tool of economic development and what new models for promoting trade and development might look like.

Required Reading:

- Amartya Sen, Development as Freedom, Ch. 5, pp. 111-126.
- Other, TBD

Seminar Chair: Katrin Kuhlmann