

WORLD TRADE ORGANIZATION:  
NEGOTIATION AND TEXTS OF AGREEMENTS

Spring 2006  
Thursday, 5:45 – 7:45 p.m.

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INTRODUCTION

Course Coverage

World Trade Organization: Negotiation and Texts of Agreements is an advanced course focusing primarily on the World Trade Organization Agreements, with a secondary emphasis on U.S. implementation of international agreements and the development of U.S. trade policy.

The class will concentrate on the substance of the agreements, but also will examine how they were negotiated and the political and procedural factors that played a role. The goal is for the student to understand not only the agreements, but also the forces that shape U.S. negotiating positions internationally and the process by which those agreements are incorporated into U.S. domestic law.

Reading Materials for Course

Each student is expected to read the required materials and should be prepared to participate in class discussion. Required reading is indicated under the “read” section for each class. The materials are contained in (1) the 2002 Documents Supplement to Jackson, J.H., Davey, W.J. & Sykes, A.O., Legal Problems of International Economic Relations, 4th ed. (West 2002) (“Docs. Supp.”) and (2) documents available on the GULC Courseware site for this class. (*Note:* Courseware instructions are not included in this version of the Syllabus.) Secondary materials are listed at the end of this Syllabus and will be on reserve in the library. Students are encouraged to read secondary material, which will greatly enhance their understanding of the subject area.

Final Grade

The final grade will be based on participation in class discussions and a final examination. The final examination will be three hours. It will be open book. Date, time and room number will be announced.

## SYLLABUS

### Class 1 – January 19

Introduction. History and overview of the General Agreement on Tariffs and Trade (GATT 1947). Institutional structure of the World Trade Organization (WTO).

#### Read:

- Articles XXIV and XXV, “General Agreement on Tariffs and Trade 1947” (pages 47-51 of Docs. Supp.)
- “Agreement Establishing the World Trade Organization” (pages 3-14 of Docs. Supp.)
- “General Agreement on Tariffs and Trade 1994” (pages 79-81 of Docs. Supp.)

#### Scan:

- “Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994” (page 93 of Docs. Supp.)
- “Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994” (pages 90-93 of Docs. Supp.)

### Class 2 – January 26

Dispute Settlement in the WTO, including history under GATT 1947.

#### Read:

- Articles XXII and XXIII, “General Agreement on Tariffs and Trade 1947” (pages 46-47 of Docs. Supp.)
- “Understanding on Rules and Procedures Governing the Settlement of Disputes” (pages 366-390 of Docs. Supp.)
- “Decision on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes” (page 446 of Docs. Supp.)

### Class 3 – February 2

Basic concepts of the WTO – MFN, national treatment, no quantitative restrictions and transparency. Exceptions to GATT.

Read:

- Articles I, III, IV, X, XI, XIII, XX and XXI, “General Agreement on Tariffs and Trade 1947” (pages 17-18, 20-22, 27-29, 32-33 and 45-46 of Docs. Supp.)

Scan:

- “Decision on Notification Procedures” (pages 426-428 of Docs. Supp.)

Class 4 – February 9

Tariff schedules and tariff renegotiations. Customs provisions (including Import Licensing and Customs Valuation). State trading. Balance of payments. Development provisions.

Tariffs

Read:

- Articles II, XXVIII and XXVIII*bis*, “General Agreement on Tariffs and Trade 1947” (pages 18-20 and 52-54 of Docs. Supp.)
- “Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994” (pages 95-96 of Docs. Supp.)

Scan:

- “Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994” (pages 93-95 of Docs. Supp.)
- “Understanding on the Interpretation of Article II:1(b) of the General Agreement on Tariffs and Trade 1994” (pages 81-82 of Docs. Supp.)

Customs

Read:

- Articles V and VII to IX, “General Agreement on Tariffs and Trade 1947” (pages 22-23 and 25-27 of Docs. Supp.)
- “Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994” (Customs Valuation) (pages 198-225 of Docs. Supp.)
- “Agreement of Import Licensing Procedures” (pages 246-252 of Docs. Supp.)

Scan:

- “Agreement on Preshipment Inspection” (pages 226-234 of Docs. Supp.)
- “Agreement on Rules of Origin” (pages 235-245 of Docs. Supp.)

- “Decisions Relating to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994” (pages 436-437 of Docs. Supp.)

### State Trading

#### Read:

- Article XVII, “General Agreement on Tariffs and Trade 1947” (pages 37-38 of Docs. Supp.)

#### Scan:

- “Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994” (pages 82-83 of Docs. Supp.)

### Balance of Payments and Development

#### Read:

- Articles XII, XVIII and XXXVI to XXXVIII, “General Agreement on Tariffs and Trade 1947” (pages 29-32, 38-44 and 56-60 of Docs. Supp.)

#### Scan:

- “Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994” (pages 83-87 of Docs. Supp.)
- “Decision on Measures in Favour of Least-Developed Countries” (pages 422-423 of Docs. Supp.)
- “1979 Declaration on Trade Measures Taken for Balance-of-Payment Purposes” (pages 87-90 of Docs. Supp.)

### Classes 5 & 6 – February 16/March 2 [No class on February 23]

The Three Trade Remedies: Analysis of the WTO Agreements on Anti-Dumping, Subsidies and Countervailing Measures, and Safeguards.

#### Read:

- Articles VI, XVI and XIX, “General Agreement on Tariffs and Trade 1947” (pages 23-24, 36-37 and 44-45 of Docs. Supp.)
- “Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994” (pages 174-197 of Docs. Supp.)
- “Agreement on Subsidies and Countervailing Measures” (pages 253-294 of Docs. Supp.)
- “Agreement on Safeguards” (pages 295-303 of Docs. Supp.)

Scan:

- “Decisions and Declarations Relating to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994” (page 435 of Docs. Supp.)

Class 7 – March 16 [No class on March 9]

The WTO Agreements on Agriculture, Sanitary and Phytosanitary Measures, and Technical Barriers to Trade.

Read:

- “Agreement on Agriculture” (pages 97-120 of Docs. Supp.)
- “Agreement on the Application of Sanitary and Phytosanitary Measures” (pages 121-133 of Docs. Supp.)
- “Agreement on Technical Barriers to Trade” (pages 149-169 of Docs. Supp.)

Scan:

- “Decisions on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries” (pages 430-431 of Docs. Supp.)

Class 8 – March 23

The WTO Agreements on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Trade-Related Investment Measures (TRIMS).

Read:

- “Agreement on Trade-Related Aspects of Intellectual Property Rights” (pages 335-365 of Docs. Supp.)
- “Agreement on Trade-Related Investment Measures” (pages 170-173 of Docs. Supp.)

Class 9 – March 30

The WTO General Agreement on Trade in Services (GATS).

Read:

- “General Agreement on Trade in Services” (pages 304-334 of Docs. Supp.)

- “Decisions Relating to the General Agreement on Trade in Services” (pages 438-444 of Docs. Supp.)
- “Understanding on Commitments in Financial Services” (pages 447-450 of Docs. Supp.)
- “Telecommunications Reference Paper” (pages 472-474 of Docs. Supp.)

#### Class 10 – April 6

The WTO Agreement on Government Procurement. Accession to the WTO.

#### Read:

- Article III:8(a), “General Agreement on Tariffs and Trade 1947” (page 21 of Docs. Supp.)
- “Agreement on Government Procurement” (pages 395-421 of Docs. Supp.)
- Article XXXIII, “General Agreement on Tariffs and Trade, 1947” (page 56 of Docs. Supp.)
- Article XII of “Agreement Establishing the World Trade Organization” (pages 10-11 of Docs. Supp.)
- “Accession to the World Trade Organization” by Prof. Parlin; posted on Courseware site

#### Class 11 – April 13

Discussion of the conduct of international trade negotiations in the U.S., including setting negotiating objectives and the congressional-private sector-Executive Branch consultation process. Constitutional powers of Congress and the Executive Branch in the international economic sphere, including authority to negotiate trade agreements and implementation of trade agreements in U.S. law. Analysis of the U.S. Trade Promotion Authority law.

#### Read:

- Section 242 of the Trade Expansion Act of 1962 (inter-agency trade organization) (pages 946-947 of Docs. Supp.)
- Section 141 of the Trade Act of 1974, as amended (19 U.S.C. 2171) (the Office of the United States Trade Representative) (pages 976-979 of Docs. Supp.)
- Section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155) (private sector advisory committees) (pages 971-976 of Docs. Supp.)
- Section 161 of the Trade Act of 1974, as amended (19 U.S.C. 2211) (Congressional advisers) (pages 987-989 of Docs. Supp.)

- Sections 131-33 of the Trade Act of 1974, as amended (19 U.S.C. 2151-53) (advice from the U.S. International Trade Commission) (pages 968-970 of Docs. Supp.)
- Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952); posted on Courseware site
- Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3801 et seq.); posted on Courseware site
- “Bills Implementing Trade Agreements” (19 U.S.C. 2191); posted on Courseware site

Scan:

- Reorganization Plan No. 3 of 1979 (re-organization of international trade functions); posted on Courseware site.

Class 12 – April 20

Analysis of the status and prospects of the Doha Development Agenda. (Materials will be posted on the Courseware site.)

Class 13 – April 27

Open Forum. Review major concepts covered during the semester and discuss examination.

Secondary Material Not Contained in Photocopy Packet:

- Bronckers, Marco, A Cross-Section of WTO Law, Cameron May (2000).
- Dam, Kenneth W., The GATT: Law and the International Economic Organization, Univ. of Chicago Press (1970).
- Destler, I.M., American Trade Politics, 4th Edition, Inst. for International Economics, Washington, D.C. (2005).
- Hoekman, B. & Kostecki, M., The Political Economy of the World Trading System – from GATT to WTO, Oxford Univ. Press (1995)
- Hudec, Robert E., The GATT Legal System and World Trade Diplomacy, Praeger (1975).
- Irwin, D.A., Free Trade Under Fire, Princeton Univ. Press (2002).
- Jackson, John H., World Trade and the Law of the GATT, Bobbs-Merril (1969).
- McGovern, Edmond, International Trade Regulation, Globefield Press (1982).
- Paemen, Hugo & Bensch, Alexandra, From the GATT to the WTO: The European Community in the Uruguay Round, Leuven Univ. Press (1995).
- Palmetier, David & Mavroidis, Petros, Dispute Settlement in the World Trade Organization, Kluwer Law International (1999).
- Preeg, Ernest, Traders in a Brave New World: The Uruguay Round and the Future of the International Trading System, Univ. of Chicago Press (1995).
- Roessler, Frieder, Essays on the Legal Structure, Functions and Limits of the World Trade Order, Cameron May (2000).
- Schott, Jeffrey, The Uruguay Round: An Assessment, Inst. for International Economics, Washington, D.C. (November 1994).
- Stewart, Terence, The GATT Uruguay Round: A Negotiating History, Kluwer (1994).
- Stewart, Terence (ed.), The World Trade Organization: Multilateral Framework for the 21<sup>st</sup> Century and U.S. Implementing Legislation, American Bar Ass'n, Section on International Law and Practice (1996).
- Zeiler, Thomas W., Free Trade—Free World, Univ. of North Carolina Press (1999).