

**INTERNATIONAL ECONOMIC LAW:
REGULATION OF TRADE AND INVESTMENT**

Instructor: Professor P. J. Davidson
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Seminar Time: Friday 2:35 - 5:25

Object of the course

The rules which comprise international economic law form the legal framework at an international level for the regulation of international trade and investment. This seminar will examine the role played by international law and specifically by international economic law in regulating international economic activity. It will examine the development and elements of the international legal framework for regulating trade and investment and, will familiarize students with the nature and structure of international rights and obligations in the field of international trade and investment.

The role of law in society and the nature and basis of international law and its relationship to national law will be examined before continuing with a look at various trade models which have had an influence on the development of international economic law. The course will then concentrate on the World Trade Organisation (WTO) legal framework, and a study will be made of the “juridicalization” of the GATT/WTO framework. The evolution of rules within the framework will be illustrated through a look at select aspects of the regulation of international economic activity, including the main international obligations, contingency protection, bilateral and plurilateral agreements, and regional integration, as well as an examination of the development of the expansion of international regulation of economic activity under the WTO. The course will examine how conflicts in the interpretation and implementation of the WTO agreements are resolved through discussion, negotiation, and dispute resolution under the new Dispute Settlement Mechanisms which has evolved in the WTO and, how the DSM has contributed to the juridification of the framework for regulating international trade. An examination of the developing framework for the regulation of international investment will be made, including the mechanisms for settling investment disputes. The legal framework for regulating investment will be compared to the legal framework for regulating trade. In addition, a brief examination of the position of developing countries in international economic law and the future of the Global trading system will be made.

A fundamental theme of this seminar will be assessing the role of law in regulating international economic transactions. In particular, the course will focus on policy and legal issues that are becoming increasingly important in the current world trading system. Considerable emphasis has been placed by governments recently on the need for greater order and certainty in international commercial relationships. This has led to a considerable increase in domestic law applicable to international trade as well as to considerable legalisation of multilateral and bilateral commercial relationships.

Course Materials

1. The text for the course is: Michael J. Trebilcock and Robert Howse, The Regulation of International Trade, 3rd ed., (London and New York: Routledge, 2005).
2. In addition to the text, weekly readings will be assigned. Most of these readings are available “on-line”, and reference has been included as to where they can be located. Copies of required readings not on-line will be available on reserve in library. (Note: required readings are those indicated under the heading “readings” in the outline; those articles under the heading “see also” are for additional reference.)
3. Students may also wish to consult the following sources:
 1. Bhala, Raj, International Trade Law: Interdisciplinary Theory and Practice, Third Edition, 2007.
 2. Jackson, John Howard, Legal problems of international economic relations; cases, materials, and text on the national and international regulation of transnational economic relations. 3rd ed. (St. Paul, Minn.: West Pub., 1995). Call number: K3943.A58J3 1995.
 3. Jackson, John H., The World Trading System, 2nd ed., (Cambridge: The MIT Press, 1997). Call number: K4602.2 1997.
 4. Kindred, Hugh M., *et al.*, International Law - Chiefly as Interpreted and Applied in Canada. 6th ed. (Toronto: Emond Montgomery Publications, 2000). . Call number: JX68.I4984 2000.
 5. Kohona, Palitha T.B., The Regulation of International Economic Relations Through Law, (Dordrecht:Martinus NijhoffPublishers, 1985). Call number K3823.K63.
 6. Moreno, Carlos, Legal aspects of international trade, (prepared by the UNCTAD secretariat, New York : United Nations, 1999). Call number UN8 TR 99.L21 .ENG.
 7. van den Bossche, Peter., The Law and Policy of the World Trade Organization -Text, Cases and Materials, 2nd ed., (New York: Cambridge University Press, 2008) (2005 edition available on-line through the library).
 8. WTO website - www.wto.org - this website has a lot of information on the WTO/GATT, including a number of videos on different aspects of the WTO, including: “From GATT to WTO”, “To the heart of the WTO”, “Basic principles of the WTO system”, “Why is it important to liberalize ?”
 9. The International Economic Law Interest Group of the American Society of International Law website - <http://www.international-economic-law.org/>
 10. Hoffman, Marci, “Revised Guide to International Trade Law Sources on the Internet”, <http://www.llrx.com/features/trade3.htm> .
 11. International Economic Law and Policy Blog (Blog with contributions from international trade law experts) <http://worldtradelaw.typepad.com/ielpblog/>
 12. Picker, Colin; Bunn, Isabella D.; Arner, Douglas W.: International economic law - The State and Future of the Discipline, (Oxford ; Portland, Or. : Hart Pub., 2008)
 13. Qureshi, Asif H., and Ziegler, Andreas R., International economic law, (2nd ed.) (London: Sweet & Maxwell, 2007).
 14. Matsushita, Mitsuo, Thomas J. Schoenbaum and Petros C. Mavroidis., The world trade organization : law, practice, and policy, (2nd ed.) (Oxford ; New York : Oxford University Press, 2006) (2003 edition available in library).
 15. Bethlehem, Daniel; Donald McRae; Rodney Neufeld; and Isabelle Van Damme; eds. The Oxford Handbook of International Trade Law (New York: Oxford University Press, 2009).

16. Lester, Simon, Bryan Mercurio, Arwell Davies and Kara Leitner, World TradeLaw - Text, Materials and Commentary, (Portland, OR: Hart Publishing, 2008).
17. Wouters, Jan, and Bart de Meester, The World Trade Organization - A Legal and Institutional Analysis (Antwerpen - Oxford: Intersentia, 2007).

Students may also want to look at The United Nations Audiovisual Library of International Law < <http://www.un.org/law/avl/> >. The Audiovisual Library has, *inter alia*, the Lecture Series, featuring a permanent collection of lectures on virtually every subject of international law given by leading international law scholars and practitioners from different countries and legal systems.

Students in this course are also advised to regularly keep up on current developments in the international trade area. Events involving international economic law are a daily occurrence in the press. Useful sources include, *inter alia*, newspapers (the general news section as well as the business section), The Economist, and the World Trade Review < <http://journals.cambridge.org.proxy.library.carleton.ca/action/displayJournal?jid=WTR> >.

Students should consult the WTO website, particularly the section “Resources for Students”: http://www.wto.org/english/forums_e/students_e/students_e.htm.

Format of Course

The course will follow a seminar format and students will be expected to have read the assigned readings and be prepared to discuss and analyse the materials during the seminar. Generally, the first half of the seminar will deal with a general presentation and discussion of the week’s topic(s), while the second half of the seminar will deal with a more detailed discussion of the readings.

Starting with the seminar of October 7th, two or three students per week will be required to lead discussion of that week’s topics, during the second half of the seminar. This will include the preparation of a number of questions to initiate discussion. In addition, as part of the discussion, these students will be required to choose a reading, related to that week’s topic, that is not already on the outline, that they think is a potential reading for inclusion on the outline, and prepare a short summary and critique of the reading for presentation to the class (10-15 minutes). The critique should include, e.g., what the author has to say on the topic, how well the author addresses the issue, how the reading relates to the topic and other readings, whether you agree with the author or not, why it should be a required reading, etc. The critique should not be a simple summary. It must make a critical argument that engages the point/points made by the author, and move beyond a simple “agree” or “disagree” model to provide a critical argument about the text. A report, including the discussion questions, and the summary and critique of the chosen reading must be prepared to hand in. Reports must be typed, double-spaced on 8&1/2x11 paper. Reports should not exceed five pages. A copy of the critique and link to the chosen article should be placed on the WebCT site for the class, for consultation by students in the seminar, following the presentation; one copy is to be handed in for marking, together with a copy of the reading. “Presentation” weeks will be assigned at the class of September 30th. Students should peruse the topics in the outline with a view to choosing a “presentation” week. I will attempt to accommodate student interest in the scheduling of presentations, and students should let me know if they have a preferred topic prior to that time (in class or by e-mail).

Considerable reading is required for all participants in the seminar, not just those leading it. Each week features a reading list divided into two sections. The first section is required reading for all students for that week’s topics; those readings listed as “see also” are additional readings on the topic. The list is not exhaustive. If leading a seminar, students will be expected to have consulted the “see also” readings, as well as other sources they consider useful.

In addition to the above presentation, each student will be required to prepare an in-depth research paper (approximately 6000-6500 words) dealing with an issue relating to the subject matter covered by the course. Specific topics for the papers must be chosen in consultation with me by no later than the class of October 28th. Students must prepare, and hand in by that time, a two page statement on their research paper. The statement should be double-spaced and include a preliminary bibliography. The statement should give an idea of the thrust of the paper, and should indicate the approach to be taken, and how the paper relates to the main theme of the seminar, i.e., the role of law in regulating international economic transactions. An annotated bibliography is not necessary, but a sentence or two on the relevance of each source would be useful. This is meant to be a preliminary bibliography, indicating that some relevant research has been done, not necessarily a comprehensive bibliography. The bibliography would be in addition to the two-page statement indicating the thrust of the paper. The statement will be marked and returned to the student.

Papers must be typed, double-spaced on 8&1/2x11 paper, be properly foot-noted and contain a proper bibliography. Papers must also have a cover page setting out, inter alia, the student's name and number, and the title of the paper. The papers are due the last day of classes, i.e., December 2nd. **No extensions will be given**. Late papers will be downgraded at the rate of one letter grade for each day late, i.e., an A paper will go to B after one day, C after two days, etc.(note: these penalties for late papers also apply to the presentation papers and essay statements).

Evaluation

(All components must be completed in order to get a passing grade)

Participation	10%
Written presentation	10%
Oral presentation	10%
In-Class test	20%
Research paper statement	5%
Research paper	45%
	<hr/> 100%

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see:

<http://www2.carleton.ca/pmc/students/accommodations>. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

Students are requested to read the section 'Instructional Offences' in the University's Graduate Calendar. Cheating, plagiarism and/or complementarity will be severely penalized. Penalties range from a zero mark to expulsion or suspension from studies at the University.

COURSE OUTLINE and READINGS

INTRODUCTORY MATERIAL

Sept.9

a) About the Course

- outline of course
- expectations

b) "Law"

- the idea of law
- theories of law
- the role of law in society
 - establishing rules
 - dispute settlement
- the Concept of Legalization

c) International Law

- nature and basis of IL
- "soft law"
- reception of IL in Domestic Law
- constitutional problem in Canada

Readings:

- b) Abbott, Kenneth W., et al, 'The Concept of Legalization', (2000) 54 (3) *Intl Organization*, 401-419.
<http://web.ebscohost.com.proxy.library.carleton.ca/bsi/pdf?vid=3&hid=13&sid=ffaa3ece-f4f9-416e-8a8f-f94a81a74b1a%40sessionmgr10> >
- c) 1. Christian Reus-Smit, "Politics and International Legal Obligation", *European Journal of International Relations* 2003; 9; 591-625.
<http://ejt.sagepub.com.proxy.library.carleton.ca/cgi/reprint/9/4/591> >
2. Davidson, P.J., "Uniformity in International Trade Law: The Constitutional Obstacle", (1988) 11 *Dal. L J* pp.677-680 (Introduction) and pp.685-697 (The Constitutional Issue). In library: call # K4.A37.
3. "Provinces want trade role outlined in writing", Carl Meyer, *Embassy Magazine*, August 3, 2011
<http://www.embassymag.ca/page/view/provinces-08-03-2011> >

See also:

- a) Lloyd, *The Idea of Law*, (Harmondsworth: Penguin, 1964), pp. 86-115.)
- b) 1. Koh, H. H., Review Essay, "Why Do Nations Obey International Law? (1997) 106 *The Yale Law Journal*, pp.2599-2659.
<http://www.jstor.org.proxy.library.carleton.ca/stable/797228> >
2. Anthony D'Amato, "International Soft Law, Hard Law, and Coherence", *Northwestern University School of Law Public Law and Legal Theory Series* No. 08-01 (2008).
<http://anthonydamato.law.northwestern.edu/Adobefiles/SSRN-hard-law2008.pdf> >.
3. Mehrdad Payandeh, "The Concept of International Law in the Jurisprudence of H.L.A. Hart", (2010) *The European Journal of International Law* Vol. 21 no. 4, pp.967-995.
<http://journals2.scholarsportal.info.proxy.library.carleton.ca/tmp/185061755428232707.pdf> >

4. Krista Nadakavukaren Schefer, Social Regulation In The WTO - Trade Policy and International Legal Development, (Cheltenham, UK: Edward Elgar Publishing, 2010)
- c)
 1. John H. Jackson, The World Trading System, 2nd ed., (Cambridge: The MIT Press, 1997), Chapt.3, "National Institutions", pp.79-105.
 2. "Federal-Provincial-Territorial Consultations on Trade", Foreign Affairs and International Trade Canada website,
<http://www.international.gc.ca/trade-agreements-accords-commerciaux/goods-produits/Consult5.aspx?lang=en>

THEORETICAL UNDERPINNINGS

- Sept.16
- a) Underpinnings of the trade regime
 - the Ideal of Free Trade and Comparative Advantage
 - the Efficiency Model
 - the Collective Action Model
 - the Embedded Liberalism Model
 - b) the international legal framework
 - liberal trade and the impact of trade restrictions
 - a legal framework for trade and investment
 - the role of international economic law (IEL)
 - relation to private and public international law
 - bilateral/plurilateral/multilateral agreements
 - the scope of international economic law
 - the relevance of the international legal framework

Readings:

- a)
 1. Text: Preface, first edition, pp.xiii-xiv; Chapt.1, "The Evolution of International Trade Theory, Policy and Institutions", pp.1-20.
 2. Dunoff, Jeffrey L., "The Death of the Trade Regime", Vol. 10 (1999) No. 4 *European Journal of International Law*.
<http://207.57.19.226/journal/Vol10/No4/100733.pdf> >, Part 1, "Conventional Understandings of the Trade Regime", pp.736-739.
 3. S. Zleptnig. "Free Trade And Its Limits.", chapter 1 in Non-Economic Objectives in WTO Law: Justification Provisions of GATT, GATS, SPS and TBT Agreements. Martinus Nijhoff Publishers, 2010. Martinus Nijhoff Online, pp.15-27.
http://www.nijhoffonline.nl.proxy.library.carleton.ca/book?id=nij9789004178601_nij9789004178601_i-421>
- b)
 1. Jackson, John H, "Global Economics and International Economic Law", (1998) *J. Int'l Econ. L.*, pp1-23
<http://jiel.oxfordjournals.org.proxy.library.carleton.ca/content/1/1/1.full.pdf+html>>
 2. Jackson, John H., The jurisprudence of GATT and the WTO : insights on treaty law and economic relations, (Cambridge: Cambridge University Press, 2000)(Call # K4602.2 2000) , Excerpt from Part I, pp.10-14.
<http://www.fathom.com/feature/121776/>>

See also:

- a) Steve Suranovic, International Trade Theory and Policy,
<<http://www.flatworldknowledge.com/pub/international-trade-theory-and/200062>>
chapter 2, section 2: "The Theory of Comparative Advantage: Overview".
- b)
 1. Kohona, Palitha T.B., The Regulation of International Economic Relations Through Law, (Dordrecht:Martinus NijhoffPublishers, 1985) [on reserve in library], ch.2, "The regulation of international economic relations through multilateral agreements and international organisations", pp.20-42. (Call # K3823.K63)
 2. Jeffery Atik, "Interfaces: From International Trade to International Economic Law - Introductory Essay", (2000) 15 *Am. U. Int'l L. Rev.* 1231.
<<http://www.lexisnexis.com.proxy.library.carleton.ca/hottopics/lnacademic/?shr=t&sfi=AC00NBGenSrch&csi=142670>>
 3. Petersmann, Ernst-Ulrich, "International Economic Theory and International Economic Law: On the Tasks of a Legal Theory of International Economic Order", in MacDonald, R. St. J. and D.M. Johnston (eds.), The Structure and Process of International Law: Essays in Legal Philosophy Doctrine and Theory, (The Hague: Martinus Nijhoff, 1983), pp.227-261. (Call # JX3091.S75)

Sept. 23 APEC Study Centres Conference - class cancelled

THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT), AND THE WORLD TRADE ORGANISATION (WTO)

From GATT to WTO

Sept.30 Multilateral regulation of trade
 - the Bretton Woods System
 - a legal framework for international trade regulation
 - the GATT rules
 - Non-discrimination - the MFN obligation, national treatment
 - Competing Policies, national security, "general exceptions", e.g., health and welfare
 -the WTO

Readings:

1. Text: 'Chapt.1, "The Evolution of International Trade Theory, Policy and Institutions", pp.20-38; chapt.2, "The Most Favoured Nation Principle", pp.49-76; chapt.3, "National Treatment", pp.83-111.
2. Lamy, Pascal, "The Place of the WTO and its Law in the International Legal Order", (2006) 17 *European Journal of International Law*, 969-984
<<http://ejil.oxfordjournals.org.proxy.library.carleton.ca/content/17/5/969.full.pdf+html>>.
3. Chios Carmody, "A Theory of WTO Law", (2008)11 *Journal of International Economic Law* pp.527-557
<<http://jiel.oxfordjournals.org.proxy.library.carleton.ca/content/11/3/527.full.pdf+html>>

See also:

1. Gilbert R. Winham, "The Evolution of the World Trading System - The Economic and Policy Context", Chapter two in Daniel Bethlehem, Donald McRae, Rodney Neufeld and Isabelle Van Damme, eds., The Oxford Handbook of International Trade Law (New York: Oxford University Press, 2009), pp.5-29. (Available at University of Ottawa Library, Call Number: MRT General K 1005 .O94 2009).
2. Claus-Dieter Ehlermann and Lothar Ehring, "Decision-Making in the World Trade Organization: Is the Consensus Practice of the World Trade Organization Adequate for Making, Revising and Implementing Rules on International Trade?", (2005) 8 *J Int Economic Law*, 51-75,
<<http://jiel.oxfordjournals.org.proxy.library.carleton.ca/content/8/1/51.full.pdf+html>>.
3. Gilbert R. Winham, "The World Trade Organisation institution-building in the multilateral trade system" (1998) 21 *World Economy*, pp.349-368
<<http://web.ebscohost.com.proxy.library.carleton.ca/bsi/pdf?vid=3&hid=8&sid=3ae50702-81a5-4d26-af59-5a711eba24da%40sessionmgr14>>.
4. Castel, J.G., et al., The Canadian Law and Practice of International Trade, 2nd ed., (Toronto: Emond Montgomery Publications, 1997), pp.16-23, pp.26-32.
5. Long, Olivier, Law and its Limitations in the GATT Multilateral Trade System, (Dordrecht: Martinus Nijhoff Publishers, 1985), ch.II, "Forum for Negotiations", p.21 to top of p.25; ch.III, "The Functioning of the GATT", pp.43-56.
6. John H. Jackson, The World Trading System, 2nd ed., (Cambridge: The MIT Press, 1997), Chapt.5, "Tariff and Non-Tariff Barriers", pp.139-156; Chapt.6, "The Most Favoured Nation Policy", Sections 6.1-6.3, pp.157-166; Chapt.8, "National Treatment Obligations and Non-Tariff Barriers", pp.213-228; Chapt.9, "Competing Policies and Ingenious Devices", pp.229-246.

The Juridicalization of the GATT/WTO**A. Evolution of Rules**

Oct.7

Contingency Protection

- a) Safeguards and Adjustment Policies
 - the GATT safeguard regime
 - adjustment
 - export restraints, agreements and arrangements
- b) Subsidies and Dumping
 - antidumping rules and their sources
 - the material injury test
 - rules on subsidies and countervailing duties

Readings:

- a) 1. Text: chapt.10, "Safeguard regimes and domestic adjustment policies", pp.300-320.
2. WTO website, "Safeguard measures",
<http://www.wto.org/english/tratop_e/safeg_e/safeg_e.htm>
3. Chad P Brown, "Why are safeguards under the WTO so unpopular?", (2002) 1 *World Trade Review* 47-62
<<http://journals.cambridge.org.proxy.library.carleton.ca/action/displayFulltext?type=1&fid=100394&jid=WTR&volumeId=1&issueId=01&aid=100393&bodyId=&membershipNumber=&societyETOCSession=>>>

- b) 1. Text: chapt.8, "Antidumping Laws", pp.232-245, and 250-261; chapt.9, "Subsidies, Countervailing Duties, and Government Procurement", pp.262-292.
2. WTO websites, "Subsidies and countervailing measures",
http://www.wto.org/english/tratop_e/scm_e/scm_e.htm >; "Anti-dumping",
http://www.wto.org/english/tratop_e/adp_e/adp_e.htm >.
- a)&b) 1. Giese, J.L., "The Special Import Measures Act: Balancing the Interests of Foreign Exporters and Canadian Industries", (1987) 21(3) *JWTL*, pp.9-25. (In library call # K10.O7)

See also:

- a) 1. Sykes, Alan O., "The safeguards mess: a critique of WTO jurisprudence", *World Trade Review* (2003), 2: 3, 261–295.
<http://journals.cambridge.org.proxy.library.carleton.ca/action/displayFulltext?type=1&fid=216720&jid=WTR&volumeId=2&issueId=03&aid=216719&bodyId=&membershipNumber=&societyETOCSession=> (For a critique and reply see: Kent Jones, "The safeguards mess revisited: the fundamental problem", *World Trade Review* (2004), 3: 1, 83–91
<http://journals.cambridge.org.proxy.library.carleton.ca/action/displayFulltext?type=1&fid=228888&jid=WTR&volumeId=3&issueId=01&aid=228887&bodyId=&membershipNumber=&societyETOCSession=>), and Alan O. Sykes, "The 'safeguards mess' revisited – a reply to Professor Jones", *World Trade Review* (2004), 3: 1, 93–97
<http://journals.cambridge.org.proxy.library.carleton.ca/action/displayFulltext?type=1&fid=228890&jid=WTR&volumeId=3&issueId=01&aid=228889&bodyId=&membershipNumber=&societyETOCSession=>
2. Ginzburg, E., "Analysis of Article XIX: the Safeguard Problem After the Uruguay Round", (1992) 71 *Nebraska Law Review*, pp.566-580.
- b) 1. Castel, J.G., et al., The Canadian Law and Practice of International Trade, 2nd ed., (Toronto: Emond Montgomery Publications, 1997), pp.497-565.
2. Holbein, J.R., et al., "Comparative Analysis of Specific Elements in United States and Canadian Unfair Trade Law", (1992) 26 *Intl Lawyer*, pp.873-898. (In library call # JX1.I55).

Oct.14

Plurilateralism and Bilateralism

- the GATT rules - custom unions, free trade areas and preferential arrangements
- the Canada-U.S. Free Trade Agreement and the NAFTA
 - the rules
 - more than trade --regulation of investment
- the European Community (EC)
- AFTA; APEC

Readings:

1. Text: chapt.1, "The Basic Elements of ... the North American Free Trade Agreement, and the European Union", pp.38-48; chapt.6, "... Multilateralism vs. regionalism", pp.193-201.
2. Davidson, Paul J., "Ask not what the WTO can do for RTAs, But what RTAs can do for the WTO", (2005) *Asia Pacific Law Review*, Vol 13 No 1, pp.47-61 [on reserve in library].
3. Hirsch, Moshe, "The Sociology of International Economic Law: Sociological Analysis of the Regulation of Regional Agreements in the World Trading System", *The European Journal of International Law* (2008) Vol. 19 no. 2, pp.277-299 <<http://ejil.oxfordjournals.org.proxy.library.carleton.ca/content/19/2/277.full.pdf+html>>.
4. Abbott, Frederick M., "A New Dominant Trade Species Emerges: Is Bilateralism a Threat?", (2007) *Journal of International Economic Law* 10(3), 571–583 <<http://jiel.oxfordjournals.org.proxy.library.carleton.ca/content/10/3/571.full.pdf+html>>

See also:

1. WTO website: "Regional Trade Agreements", <http://www.wto.org/english/tratop_e/region_e/region_e.htm#top>
2. "Compendium of Issues Related to Regional Trade Agreements", Background Note by the Secretariat, WTO, TN/RL/W/8/Rev.1, 1 August 2002 <http://www.wto.org/english/tratop_e/region_e/region_negoti_e.htm>
3. ASEAN and APEC websites: <www.aseansec.org>; <www.apecsec.org.sg>.
4. Asian Pacific Economic Cooperation, The Impact of Subregionalism on APEC, Report by the Economic Committee, November 1997, Chapter 2: "Issues Raised by Subregional Trade Arrangements"; Chapter 3: "Subregional Trade Arrangements in APEC", pp.4-15 <http://www.apecsec.org.sg/apec/publications/free_downloads/1997-1993.html>

Oct.21

In-Class Test**B. Evolution of the Dispute Settlement Mechanism**

Oct.28

Dispute Settlement(1)

- power-oriented versus rule-oriented diplomacy
- from diplomacy to juridification; from GATT to the WTO

Readings:

1. Text: Chapt. 4, "Dispute Settlement", pp.112-143.
2. William J. Davey, "The WTO Dispute Settlement Mechanism", Illinois Public Law Research Paper No. 03-08, June 25, 2003, pp.3-10 (up to and including the introductory remarks on the WTO Dispute Settlement System. Students should also skim the remainder of the article. (The remainder will be required reading for next week.) <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=419943>

3. Jackson, John H., "International Law Status of WTO Dispute Settlement Reports: Obligation to Comply or Option to "Buy Out"?", (2004) 98 *The American Journal of International Law*, 109-123
<<http://www.lexisnexis.com.proxy.library.carleton.ca/hottopics/lnacademic/?shr=t&sfi=AC00NBGenSrch&csi=7416>>
4. Juscelino F. Colares, "The Limits Of WTO adjudication: Is Compliance the Problem?", (2011) *Journal of International Economic Law*, Vol.14(2), pp.403–436.
<<http://jiel.oxfordjournals.org.proxy.library.carleton.ca/content/14/2/403.full.pdf+html>>
5. Claus-Dieter Ehlermann, "Tensions between the dispute settlement process and the diplomatic and treaty-making activities of the WTO", *World Trade Review* (2002), 1: 301–308
<<http://journals.cambridge.org.proxy.library.carleton.ca/action/displayFulltext?type=1&fid=142104&jid=WTR&volumeId=1&issueId=03&aid=142103&bodyId=&membershipNumber=&societyETOCSession=>>>

See also:

1. Gazzini, Tarcisio, "The Legal Nature of WTO Obligations and the Consequences of their Violation", (2006) *The European Journal of International Law* Vol. 17 no.4, pp.723–742
<<http://journals2.scholarsportal.info.proxy.library.carleton.ca/tmp/13458345326867625628.pdf>>
2. Marc L. Busch & Eric Reinhardt, "Bargaining in the Shadow of the Law: Early Settlement in GATT/WTO Disputes", (2000) 24 *Fordham Int'l L.J.* 158-172
<<http://www.lexisnexis.com.proxy.library.carleton.ca/hottopics/lnacademic/?shr=t&sfi=AC07STJrnlsSrch>>
3. Joost Pauwelyn, "Enforcement and Countermeasures in the WTO: Rules Are Rules--TOWARD a More Collective Approach", (2000) 94 *The American Journal of International Law*, 335-347,
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Nov. 4

Dispute Settlement(2)

- institutions of WTO dispute settlement
- WTO dispute settlement proceedings
- challenges to the WTO DSM, e.g., amicus briefs, transparency, precedent

Readings:

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A LEGAL FRAMEWORK FOR REGULATING INVESTMENT

Nov.11 Regulation of Investment

- investment and trade protection
- TRIMs
- BITs and FIPAs
- the FTA and NAFTA chapt.11
- the MAI
- codes of conduct

Readings:

1. Text: chapt.14, "Trade and Investment", pp.439-470.
2. Jeswald W. Salacuse, "The Emerging Global Regime for Investment", 51 Harv. Int'l L.J. 427-473.
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Nov.18 Investment Disputes Settlement

- state-state vs. investor-state DS
- dispute settlement procedures in the NAFTA
- role of ICSID
- issues/problems with investment DS

Readings:

1. Text: Chapt. 4, "Dispute Settlement", pp.147-154.
2. J. Anthony VanDuzer, "Enhancing the Procedural Legitimacy of Investor-State Arbitration Through Transparency and Amicus Curiae Participation", (2007) *McGill Law Journal*, pp681-723.
<<http://web.ebscohost.com.proxy.library.carleton.ca/bsi/pdf?vid=3&hid=9&sid=547d8d44-9ea4-4504-b2bd-619b3277a605%40sessionmgr12>>

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DEVELOPING COUNTRIES

Nov.25 Developing Countries

- GATT: Article XVIII
- GATT: Part IV
- Enabling Clause
- The WTO Agreements
- Development Law

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THE FUTURE?

- Dec.2 The Future of the Global Trading System
- the post-Uruguay Round agenda
 - multilateralism vs. regionalism/bilateralism
 - environment
 - labour
 - competition policy
 - transparency
 - participation
 - democratic deficit

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