

LAWS5200/INAF5507

September 2010

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

Instructor:

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Office Hours:

Tuesday 12:00 - 2:30
or by appointment

Seminar Time: Tuesday 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.

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 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. In addition, an examination of developing countries in international economic law and an examination of some of the elements of the regulation of international investment will be made. Various dispute settlement mechanisms for different international economic disputes will be discussed, with an emphasis on the WTO Dispute Settlement Mechanism, and its contribution to the juridification of the framework for regulating international trade.

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". 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. Useful sources include, *inter alia*, the business section of newspapers, The Economist, and the World Trade Review (electronic resource, available in the library).

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 5th, two or three students per week will be required to lead discussion of that week's topics. This will include the preparation of a number of questions to initiate discussion. In addition, these students will be required to choose a reading for discussion, 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 (maximum 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 or not, why it should be a required reading, etc. 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. One copy should be placed in the NPSIA Resource Centre, Dunton Tower, and one copy in the Law Graduate Study Room/Lounge in the Loeb Building, C463, for consultation by students in the seminar; one copy is to be handed in for marking, together with a copy of the reading. Weeks will be assigned at the class of September 28th. 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 at the class of September 21st if they have a preferred topic.

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 arising from 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 26th. 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., November 30th. **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%
<u>Research paper</u>	<u>45%</u>
	<u>100%</u>

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://www.carleton.ca/pmc/students/accom_policy.html. 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

Sept.14

a) Introduction

- outline of course
- expectations

b) The Role of IEL

- the Ideal of Free Trade and Comparative Advantage
- liberal trade and the impact of trade restrictions
- the relevance of the international legal framework
- a legal framework for trade and investment

Readings:

Text: Preface, first edition, pp.xiii-xiv; Chapt.1, "The Evolution of International Trade Theory, Policy and Institutions", pp.1-20.

See also:

1. Steve Suranovic, International Trade Theory and Policy Analysis, on line at <http://internationalecon.com/index.php>, chapter 40-0: "The Theory of Comparative Advantage - Overview"; and chapter 120-4: "Economic Efficiency with Imperfectly Competitive Markets or Market Distortions: The Case for Selected Protection".
2. Krugman, Paul R. (1993). The Narrow and Broad Arguments for Free Trade, *American Economic Review, Papers and Proceedings*, 83(2):362-366.. (Available on-line at library)

Sept. 21

a) "Law"

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

b) International Law

- nature and basis of IL
- "soft law"

c) IL and Domestic Law

- reception of IL in DL
- constitutional problem in Canada

Readings:

- a) 1. Abbott, Kenneth W., et al, 'The Concept of Legalization', (2000) 54 (3) *Intl Organization*, 401-419. (Available on-line at library)
2. Abbott, Kenneth W., and Duncan Snidal, "Hard and Soft Law in International Governance", (2000) 54 (3) *Intl Organization*, 421-456. (Available on-line at library).
- b) Christian Reus-Smit, "Politics and International Legal Obligation", *European Journal of International Relations* 2003; 9; 591-625. Available at < <http://ejt.sagepub.com.proxy.library.carleton.ca/cgi/reprint/9/4/591> >
- c) 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).

See also:

- a)
1. Lloyd, The Idea of Law, (Harmondsworth: Penguin, 1964), pp. 86-115.)
 2. Harris, Phil, An Introduction to Law, 4th ed., (London: Weidenfeld and Nicolson, 1993), Ch. I, "Law and Society", pp.1-22. (Call # KD661 .H37)
 3. Jean d'Aspremont, "Softness in International Law: A Self-Serving Quest for New Legal Materials", (2008) *The European Journal of International Law* Vol. 19 no. 5, pp1075-1091. Available at
<http://journals2.scholarsportal.info.proxy.library.carleton.ca/tmp/1612759355311278026_9.pdf >
- b)
1. Scott, Shirley V., "International Law as Ideology: Theorizing the Relationship between International Law and International Politics", (1994) 5 *EJIL*, 313-325 (on-line at <http://www.ejil.org/journal/Vol5/No3/art1.pdf>)
 2. D'Amato, Anthony, "Is International Law Really 'Law'?", chapter 1 in, D'Amato, International Law: Process and Prospect, (Dobbs Ferry: National Publishers Inc., 1987), pp.1-26. (Call Number JX3091.D36)
 3. Koh, H. H., Review Essay, "Why Do Nations Obey International Law? (1997) 106 *The Yale Law Journal*, pp.2599-2659. (Available at lexis.com)
 4. Andrew T. Guzman, "A Compliance-Based Theory of International Law", (2002) *California Law Review*, Vol. 90, No. 6, pp. 1823-1887. (Available on-line through library)
 5. 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). Available at
< <http://anthonydamato.law.northwestern.edu/Adobefiles/SSRN-hard-law2008.pdf> >
- c)
1. Kindred, Hugh M., et al., International Law - Chiefly as Interpreted and Applied in Canada, 6th ed., (Toronto: Emond Montgomery, 2000), Chapter 4. National Application of International Law, A. National Application in Canada, 1. Customary Law in Canada, pp.165-8; 2. Treaties in Canada - pp.180-193; 3. Influence of International Law on Canadian Law - pp.227-233.
 2. John H. Jackson, The World Trading System, 2nd ed., (Cambridge: The MIT Press, 1997), Chapt.3, "National Institutions", pp.79-105.
 3. Douglas M. Brown, "The Evolving Role of the Provinces in Canadian Trade Policy", in Douglas M. Brown/Murray G. Smith, Editors, Canadian Federalism: Meeting Global Economic Challenges? (Kingston: Institute of Intergovernmental Relations. 1991), pp.81-128.
 4. "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>

Sept.28 a) Trade Models

- The Efficiency Model
- The Collective Action Model
- The Embedded Liberalism Model

b) Introduction to "International Economic Law" - "IEL"

- what is international economic law?
- approaches to international economic law
- the scope of international economic law
- a legal theory of WTO law
- relation to private and public international law
- bilateral/plurilateral/multilateral agreements

Readings:

- a) 1. Dunoff, Jeffrey L., "The Death of the Trade Regime", Vol. 10 (1999) No. 4 *European Journal of International Law*, on-line: < <http://207.57.19.226/journal/Vol10/No4/art4.html#TopOfPage> > , Part 1, "Conventional Understandings of the Trade Regime", pp.736-739.
2. Lang, Andrew T. F., "Reconstructing Embedded Liberalism: John Gerard Ruggie and Constructivist Approaches to the Study of the International Trade Regime", (2006) 9 *Journal of International Economic Law*, 81-116 (on-line at library)
- b) 1. John H. Jackson, "Global Economics and International Economic Law", (1998) *J. Int'l Econ. L.*, pp1-23 (on-line at library)
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. Available at < <http://www.fathom.com/feature/121776/> >
3. Chios Carmody, "A Theory of WTO Law", (2008)11 *Journal of International Economic Law* pp.527-557 (on-line at library)

See also:

- b) 1. Tarullo, Daniel K. "Logic, Myth, and the International Economic Order", (1985) 26 *Harv. Int'l. L.J.*, pp.533-552.
2. Johnston, Douglas M., "Functionalism in the Theory of International Law", (1988) *The Canadian Yearbook of International Law*, pp.3-60.
3. Mattias Kumm, "The Legitimacy of International Law: A Constitutionalist Framework of Analysis", (2004) *The European Journal of International Law* Vol. 15 no.5, pp.907-931. Available at < <http://www.ejil.org/journal/Vol15/No5/3.pdf> >
4. 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)
5. Jeffery Atik, "Interfaces: From International Trade to International Economic Law - Introductory Essay", (2000) 15 *Am. U. Int'l L. Rev.* 1231. (on-line at library)
6. 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)

Oct.5 Multilateral regulation of trade

- the Bretton Woods System
- from GATT to WTO
- 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.22-38; 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 (on-line at library).

3. Kerr, William A., "GATT-1947: A Living Legacy Fostering the Liberalization of International Trade", (2010) Volume 11 Number 1 *The Estey Centre Journal of International Law and Trade Policy*, pp.1-11. Available at, < http://www.esteycentre.com/journal/j_pdfs/kerr11-1.pdf >

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, (on-line at library).
3. Gilbert R. Winham, "The World Trade Organisation institution-building in the multilateral trade system" (1998) 21 *World Economy*, pp.349-368 (on-line at library).
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.

Oct.12

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 (Available on-line through library)
- 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.

See also:

- a) 1. Sykes, Alan O., "The safeguards mess: a critique of WTO jurisprudence", *World Trade Review* (2003), 2: 3, 261–295. (Available on-line through library) (For a critique and reply see: Kent Jones, "The safeguards mess revisited: the fundamental problem", *World Trade Review* (2004), 3: 1, 83–91, and Alan O. Sykes, "The 'safeguards mess' revisited – a reply to Professor Jones", *World Trade Review* (2004), 3: 1, 93–97).
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.

Oct.19

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 (on-line in library).
4. Abbott, Frederick M., "A New Dominant Trade Species Emerges: Is Bilateralism a Threat?", (2007) *Journal of International Economic Law* 10(3), 571–583 (on-line in library)

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. Available at < 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. Available at

http://www.apecsec.org.sg/apec/publications/free_downloads/1997-1993.html

Oct.26
Nov.2

In-Class Test

Regulation of Investment

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

Readings:

1. Text: chapt.14, "Trade and Investment", pp.439-470.
2. Pierre Sauvé, "Multilateral Rules on Investment: is Forward Movement Possible?", (2006) 9(2) *Journal of International Economic Law*, 325-355. [available on-line through library]
3. Bryan Schwartz, "The Doha Round and Investment: Lessons from Chapter 11 of NAFTA", (2003) 3 *Asper Rev. Int'l Bus. & Trade L.* pp.1-21 (available on-line through library).

See also:

1. "Legal and Institutional Arrangements Governing Foreign Investment", and "Investment-related WTO rules and disciplines", in "Trade and Foreign Direct Investment", New Report by the WTO, WTO Press/57, October 9, 1996, pp.33-51.
2. Newfarmer, Richard, "An International Investment Agreement: Promise and Potential Pitfall", Development Outreach, July, 2003, World Bank Institute. Available at: < <http://www1.worldbank.org/devoutreach/july03/article.asp?id=210> >
3. International Chamber of Commerce, "ICC's expectations regarding a WTO investment agreement", Commission on Trade and Investment Policy, 7 March 2003. Available at http://www.iccwbo.org/home/statements_rules/statements/2003/wto_investment_agreement.asp
4. WTO website on Trade and Investment, < http://www.wto.org/english/tratop_e/invest_e/invest_e.htm >
5. UNCTAD Website on Foreign Direct Investment, < <http://www.unctad.org/Templates/StartPage.asp?intlItemID=2527&lang=1> > particularly "International Investment Agreements" (IIAs), < <http://www.unctad.org/Templates/StartPage.asp?intlItemID=2310&lang=1> >
6. Anne van Aaken, "International Investment Law Between Commitment and Flexibility: A Contract Theory Analysis", (2009) *Journal of International Economic Law* 12(2):507-538 (available on-line through library)
7. Young, Stephen and Teresa Tavares, "Multilateral rules on FDI: Do we need them? Will we get them? A developing country perspective", (2004) 13 *Transnational Corporations*, UNCTAD/ITE/IIT/2004/3]
8. Cai Congyan, "Change of the Structure of International Investment and the Development of Developing Countries' BIT Practice", (2007) 8 *Journal of World Investment & Trade*, 829-847
9. Stephen W. Schill, "The Multilateralization of International Investment Law: the Emergence of a Multilateral System of Investment Protection on the Basis of Bilateral Treaties", Society of International Economic Law (SIEL) Inaugural Conference Paper, 2008, SIEL Online Proceedings Working Paper No. 18/08. Available at

<http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1151817&rec=1&srcabs=1152338>

10. Gilbert Gagné and Jean-Frédéric Morin, "The Evolving American Policy on Investment Protection: Evidence from Recent FTAs and the 2004 Model BIT", (2006) *Journal of International Economic Law* 9(2), 357-382 (available on-line through library)

Nov.9

Dispute Settlement(I)

- power-oriented versus rule-oriented diplomacy
- dispute settlement procedures in the GATT/WTO

Readings:

1. Text: Chapt. 4, "Dispute Settlement", pp.112-147.
2. 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 (available on-line through library)
3. Korotana, M.S., "Collective Retaliation and the WTO Dispute Settlement System", (2009) 10 *The Estey Centre Journal of International Law and Trade Policy*, pp. 196-208. Available at <http://www.esteycentre.com/journal/j_pdfs/korotana10-1.pdf>
4. 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, (available on-line through library).
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Nov.16 Dispute Settlement(II)

- dispute settlement procedures in the NAFTA
- role of ICSID
- issues/problems with DS - e.g., amicus briefs, transparency, precedent

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Nov.23 Developing Countries

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

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Nov.30

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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