

THE GEORGE WASHINGTON UNIVERSITY
Department of Economics

Economic Analysis of International Trade Law	Economics 6295.10
Fall 2015	W 5:10 — 7:00
Location:	Monroe 251
Professor Joseph Pelzman	Office — Monroe 319
Office Hours	W 2:00 – 4:00 & By Appointment
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COURSE OVERVIEW:

U.S. trade obligations derive from international trade agreements, including the General Agreement on Tariffs and Trade (GATT), World Trade Organization (WTO) agreements, and additional bilateral and regional trade agreements, as well as domestic laws intended to implement those agreements or effectuate U.S. trade policy goals.

Despite the fact that international trade issues are discussed in the popular press most people cannot answer the following simple questions. What is the WTO? What is it trying to accomplish and why? How does the world trading system function? Why are there so many disputes among countries that belong to the WTO? Why is the WTO a ‘rules based’ system rather than a system based on negotiated outcomes?

Given the significant influence of GATT/WTO on the world economy, it is of special importance to assess the progress that economists have made in providing a theoretical interpretation of GATT/WTO. The focus of the present course is on the actions that members take to stop “unfair” trade practices such as “dumping” and “subsidy” actions. Most of the litigants in these actions are developing countries. The economic principal that justifies these actions is “contingent protection.” This begs the question can the WTO members construct trade agreements which might solve the “contingent protection” paradigm without litigation?

COURSE PREREQUISITS:

This course is designed for both law school students (with an economics major) and graduate PhD and MA economics and MA ESIA students. In addition to the regular economics graduate school prerequisites, it is highly recommended that students also have successfully passed graduate International Economics (Econ 6280, Econ 6283 or Econ 8381).

REQUIREMENTS FOR THE COURSE:

Your grade is based on three elements: (a) a research paper (40%) and (b) take-home mid-term exam (30%) and a take-home final (30%). The mid-term exam will be distributed on 10/14/2015. The final exam will be distributed on 12/2/2015. You have 48 hours to

complete the exams and turn them in. The final paper has to be turned in on (or before) 12/9/2015.

Your papers are expected to be approximately 20 pages and submitted as an attachment to me at jpelz@gwu.edu in pdf format, using the following formatting instructions:

- Naming format: Your Last Name_Paper Title.
- Margins - set at 0.5" or greater
- Font – Arial or similar font
- Font Size – 12 (A smaller font size may be used for figures, graphs, diagrams, charts, tables, figure legends and footnotes but it must be readily legible.
- Headers/Footers – No information should appear in the side margins or in the header. The footer should read [LAST NAME, FIRST NAME], Page #.
- Spacing – The paper must be double-spaced.
- Page Limit – 20 pages. (not including figures, graphs, diagrams, charts, tables, figure legends and footnotes).

REQUIRED TEXTS:

The reading material assigned for this class is quite large, spanning both the legal literature and the economics literature. It is *essential* that you read the material prior to class. Since I refer to different parts of the GATT/WTO during lectures please make sure to upload the relevant document on your laptops.

The list of textbooks that I have ordered includes:

- (1) Trebilcock, Michael J., *Advanced Introduction to International Trade Law*, (2015) Elgar (hereinafter Advanced Introduction);
- (2) Herdgen, Matthias. *Principles of International Economic Law* (2013) Oxford University Press. (hereinafter Herdgen);
- (3) Lowenfeld, Andreas F., *International Economic Law* (2011, 2nd edition) Oxford University Press. (hereinafter Lowenfeld);

READINGS AND LECTURE LIST:

The dates to the right represent the dates when the material will be discussed in class.

READINGS

1. *Introduction & Economic Approach to GATT — WTO* 9/2 – 9/9

The reading for this introductory class is very long. It is designed to provide the necessary background to our discussion of the economics analysis of international trade law.

Advanced Introduction (pp. 1 – 215).

2. *GATT Articles (Article I, II and III)* 9/16 —10/7

NO CLASSES – YOM KIPPUR (9/23)

Lowenfeld Pages 21- 116.

Herdegen Pages 171- 224

WTO Docs. *Havana Charter*, Articles 15-16, 17, 43-45, and 98-99
GATT Articles I, II, XX, XXI, XXIV, XXXV, XXVIII *bis*, and XXX.
1979 Tokyo Round *Enabling Clause*; WTO *Agreement* Articles IX-XI

WTO Docs. *Havana Charter*, Articles 18-19, 29, 46-54
GATT Articles III, XV:4, XV:9, XVII, and XXIV:12
Interpretative Notes, *Ad Article III* and *Ad Article XV* WTO *Agreement on Trade Related Investment Measures (TRIMs Agreement)* Articles 2-3, and Annex
WTO *Agreement on Government Procurement (GPA)*, Article III.
NAFTA Chapter 3, and Article 1102

WTO DSU: European Communities -- Conditions for the Granting of Tariff Preferences to Developing Countries, WT/DS246/AB/R, (issued 7 April 2004, adopted 20 April 2004) (complaint by India).

Johnson, Harry G., “Optimum Tariffs and Retaliation,” *The Review of Economic Studies*, Vol. 21, No. 2 (1953 - 1954), pp. 142-153.

Grossman, Gene M. and Elhanan Helpman, “Protection for Sale,” *The American Economic Review*, Vol. 84, No. 4 (Sep., 1994), pp. 833-850.

Grossman, Gene M. and Elhanan Helpman, “Trade Wars and Trade Talks,” *Journal of Political Economy*, Vol. 103, No. 4 (Aug., 1995), pp. 675-708.

Maggi, Giovanni and Andrés Rodríguez-Clare, “The Value of Trade Agreements in the Presence of Political Pressures,” *Journal of Political Economy*, Vol. 106, No. 3 (June 1998), pp. 574-601.

Bagwell, Kyle and Robert W. Staiger (1999), “An Economic Theory of GATT,” *The American Economic Review*, Vol. 89, No. 1 (Mar., 1999), pp. 215-248.

Lowry, Pamela E. “Model GATT: A Role-Playing Simulation Course,” *The Journal of Economic Education*, Vol. 30, No. 2 (Spring, 1999), pp. 119-126.

Maggi, Giovanni “The Role of Multilateral Institutions in International Trade Cooperation,” *The American Economic Review*, Vol. 89, No. 1 (Mar., 1999), pp. 190-214.

Horn, Henrik, Giovanni Maggi and Robert W. Staiger, "Trade Agreements as Endogenously Incomplete Contracts," *The American Economic Review*, Vol. 100, No. 1 (March 2010), pp. 394-419.

Brester, Gary W., John M. Marsh and Joseph A. Atwood "Distributional Impacts of Country-of-Origin Labeling in the U.S. Meat Industry," *Journal of Agricultural and Resource Economics*, Vol. 29, No. 2 (August 2004), pp. 206-227.

Hoekman, Bernard and Kamal Saggi, "National Treatment and the Choice between Exports and FDI," *Topics in Economic Analysis & Policy*, Volume 3, Issue 1 2003 Article 13.

Horn, Henrik "National Treatment in the GATT" *The American Economic Review*, Vol. 96, No. 1 (Mar., 2006), pp. 394-404.

Jackson, John H. "Afterword: The Linkage Problem-Comments on Five Texts" *The American Journal of International Law*, Vol. 96, No. 1 (Jan., 2002), pp. 118-125.

Messerlin, Patrick A. "Climate and Trade Policies: From Mutual Destruction to Mutual Support," *World Trade Review* (2012), 11: 1, 53–80

Saggi, Kamal and Nese Sara "National Treatment at the WTO: The Roles of Product and Country Heterogeneity," *International Economic Review*, Vol. 49, No. 4 (Nov., 2008), pp. 1365-1394.

Staiger, Robert W. and Alan O. Sykes "International Trade, National Treatment, and Domestic Regulation," *The Journal of Legal Studies*, Vol. 40, No. 1 (January 2011), pp. 149-203.

Srinivasan, T. N. "Nondiscrimination in GATT/WTO: was there anything to begin with and is there anything left?" *World Trade Review* (2005), 4: 1, 69–95

Sykes Alan O. "International Cooperation on Migration: Theory and Practice," *The University of Chicago Law Review*, Vol. 80, No. 1 (Winter 2013), pp. 315-340.

Trachtman, Joel P. "United States--Restrictions on Imports of Tuna. No. DS21/R, 30 ILM 1594 (1991)," *The American Journal of International Law*, Vol. 86, No. 1 (Jan., 1992), pp. 142-151.

3. MFN and Preferential Trade Agreements

10/14

Herdegen Pages 274 - 298

MFN Treatment (Article I) *Regional Agreements (Article XXIV)*

Lipsey, R.G. “The Theory of Customs Unions: A General Survey,” *The Economic Journal*, Vol. 70, No. 279 (Sep., 1960), pp. 496-513

Venables, Anthony J. “Winners and Losers from Regional Integration Agreements,” *The Economic Journal*, Vol. 113, No. 490 (Oct., 2003), pp. 747-761.

Kemp, Murray and Henry Wan, Jr., “An Elementary Proposition Concerning the Formation of Customs Unions,” *Journal of International Economics* 6 (1976) pp. 95-97.

Horn, Henrik and Petros C. Mavroidis, “Economic and Legal Aspects of the Most-Favored-Nation Clause,” *European Journal of Political Economy*, 17 (2001) pp. 233-279.

Saggi, Kamal and Halis Murat Yildiz, “An Analysis of the MFN Clause under Asymmetries of Cost and Market Structure,” *The Canadian Journal of Economics*, Vol. 38, No. 1 (Feb., 2005), pp. 242-254.

Saggi, Kamal and Faruk Sengul, “On the Emergence of an MFN Club: Equal Treatment in an Unequal World,” *The Canadian Journal of Economics*, Vol. 42, No. 1 (Feb., 2009), pp. 267-299.

Bagwell, Kyle, and Robert W. Staiger, “Multilateral Trade Negotiations, Bilateral Opportunism and the Rules of GATT/WTO,” *Journal of International Economics* (67, (2005) 2, 268–294)

Bhagwati, Jagdish and Arvind Panagariya, “The Theory of Preferential Trade Agreements: Historical Evolution and Current Trends,” *The American Economic Review*, Vol. 86, No. 2, Papers and Proceedings of the Hundredth and Eighth Annual Meeting of the American Economic Association San Francisco, CA, January 5-7, 1996 (May, 1996), pp. 82-87

Bhagwati, Jagdish, David Greenaway and Arvind Panagariya, “Trading Preferentially: Theory and Policy,” *The Economic Journal*, Vol. 108, No. 449 (Jul., 1998), pp. 1128-1148.

Ornelas, Emanuel “Rent Destruction and the Political Viability of Free Trade Agreements,” *The Quarterly Journal of Economics*, Vol. 120, No. 4 (Nov., 2005), pp. 1475-1506.

Limão, Nuno “Are Preferential Trade Agreements with Non-trade Objectives a Stumbling Block for Multilateral Liberalization?,” *Review of Economic Studies* (2007) 74, 821– 855

5. DSU, SUBSIDIES & DUMPING

10/21 — 11/11

Lowenfeld Part III - Pages 143 - 212.

Part IV - Pages 213 - 336

Herdegen Pages - 245- 263

DSU:

Schwartz, Warren F. and Alan O. Sykes, “The Economic Structure of Renegotiation and Dispute Resolution in the World Trade Organization,” *Journal of Legal Studies*, vol. XXXI (January 2002).

Pelzman, Joseph and with Amir Shoham, “WTO DSU — Enforcement Issues,” in James Hartigan (ed.) *Frontiers of Economics and Globalization, Volume 6, Chapter 15. Trade Disputes and the Dispute Settlement Understanding of the WTO: An Interdisciplinary Assessment*. London: Emerald Group Publishing Ltd. pp. 369-395. 2009.

Pelzman, Joseph and with Amir Shoham, “WTO Enforcement Issues,” *The Global Economy Journal*, 7:1, 2007.

Guzman, Andrew T. and Beth A. Simmons, “Power Plays and Capacity Constraints: The Selection of Defendants in World Trade Organization Disputes,” *Journal of Legal Studies*, vol. 34 (June 2005).

Martin, Alberto and Wouter Vergote, “On the Role of Retaliation in Trade Agreements,” *Journal of International Economics*, Volume 76, Issue 1, September 2008, Pages 61–77.

Maggi, Giovanni and Robert W. Staiger, “The Role of Dispute Settlement Procedures in International Trade Agreements,” *The Quarterly Journal of Economics*, (2011) 126, 475–515

Maggi, Giovanni and Robert W. Staiger, “Breach, Remedies and Dispute Settlement in Trade Agreements,” NBER Working Paper 15460, October 2009.

Maggi, Giovanni and Robert W. Staiger, “On The Role And Design Of Dispute Settlement Procedures In International Trade Agreements,” NBER Working Paper 14067 June 2008.

Subsidies:

Goetz, Charles J., Lloyd Granet and Warren F. Schwartz, “The Meaning of “Subsidy” and “Injury” in the Countervailing Duty Law,” *International Review of Law and Economics* (1986), 6 (17-32)

Sykes, Alan O., “Countervailing Duty Law: An Economic Perspective,” *Columbia Law Review*, Vol. 89, No. 2 (Mar., 1989), pp. 199-263.

Bagwell, Kyle and Robert W. Staiger, “Strategic Trade, Competitive Industries and Agricultural Trade Disputes,” *Economics and Politics*, July 2001, v. 13, iss. 2, pp. 113-28.

Bagwell, Kyle and Robert W. Staiger (2006), ‘Will International Rules on Subsidies Disrupt the World Trading System?’, *American Economic Review*, June 2006, v. 96, iss. 3, pp. 877-895.

Sykes, Alan O. (2011), ‘The Questionable Case for Subsidies Regulation: A Comparative Perspective’ Research Paper.

Dumping:

Boltuck, Richard and Robert E. Litan “Down in the Dumps: Administering America's "Unfair" Trade Laws,” *The Brookings Review*, Vol. 10, No. 2 (Spring, 1992), pp. 42-45

Boltuck, Richard D., Seth T. Kaplan, Gene M. Grossman and Keith Hall, “An Economic Approach to ITC Sunset Reviews,” *Brookings Trade Forum*, (1998), pp. 219-249.

Prusa, Thomas J., “Why Are So Many Antidumping Petitions Withdrawn?” *Journal of International Economics* 33 (1992) 1-20.

Sykes, Alan O. “The Economics of Injury in Antidumping and Countervailing Duty Cases,” *International Review of Law and Economics*, March, 1996, 5-26.

Staiger, Robert W. Frank A. Wolak, Robert E. Litan, Michael L. Katz and Leonard Waverman, “Measuring Industry-Specific Protection: Antidumping in the United States,” *Brookings Papers on Economic Activity. Microeconomics*, Vol. 1994 (1994), pp. 51-118

Sykes, Alan O. and Richard N. Cooper, “Antidumping and Antitrust: What Problems Does Each Address?” *Brookings Trade Forum*, (1998), pp. 1-53.

6. Safeguards — Article XIX

11/18 — 12/9

NO CLASS

Thanksgiving Break

11/25

Grossman, Gene M. and Alan O. Sykes, “United States – Definitive Safeguard Measures on Imports of Certain Steel Products,” *World Trade Review*, Volume 6 Issue 01 March 2007, pp 89-122.

Pindyck, Robert S. and Julio J. Rotemberg, ‘Are Imports to Blame? Attribution of Injury under the 1974 Trade Act,’ *Journal of Law and Economics*, Vol. 30, No. 1 (Apr., 1987), pp. 101-122.

Bagwell, Kyle and Robert W. Staiger (1990), ‘A Theory of Managed Trade,’ *The American Economic Review*, Vol. 80, No. 4 (Sep., 1990), pp. 779-795.

Sykes, Alan O. ‘Protectionism as a “Safeguard”: A Positive Analysis of the GATT “Escape Clause” with Normative Speculations,’ *The University of Chicago Law Review*, Vol. 58, No. 1 (Winter, 1991), pp. 255-305.

Irwin, Douglas A. “Causing Problems? The WTO Review of Causation and Injury Attribution in US Section 201 Cases,” NBER Working Paper 9815. July 2003.

Sykes, Alan O. “The Safeguards Mess: A Critique of WTO Jurisprudence,” *World Trade Review*. Volume 2 Issue 03 November 2003, pp. 261-295.

Bagwell, Kyle and Robert W. Staiger, “Enforcement, Private Political Pressure, and the General Agreement on Tariffs and Trade/World Trade Organization Escape Clause,” *The Journal of Legal Studies*, Vol. 34, No. 2 (June 2005), pp. 471-513.

Beshkar, Mostafa “Trade Skirmishes Safeguards: A Theory of the WTO Dispute Settlement Process,” *Journal of International Economics* 82 (2010) 35–48

TAKE HOME MID TERM DISTRIBUTED ON **10/14/2015**

TAKE HOME FINAL EXAM DISTRIBUTED ON **12/2/2015**

FINAL PAPER DUE — 12/9/2015