

THE GEORGE WASHINGTON UNIVERSITY
Department of Economics

Economic Analysis of International Trade Law	Economics 6295.10
Fall 2018	M 5:10 — 7:00
Location:	Monroe 114
Professor Joseph Pelzman	Office — Monroe 319
Office Hours	Wednesday - By Appointment
Office Phone	202-994-7108
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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 US domestic laws intended to implement those agreements or effectuate U.S. trade policy goals.

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 most recent example of a country taking advantage of the open trading system is the People’s Republic of China and its State Supervised Capitalist model.

This course covers the following topics:

- (1) The pillars of the GATT/WTO system;
- (2) Remedies against ‘Unfair’ trade;
- (3) Remedies against ‘Fair’ trade; and
- (4) Unilateral trade measures.

LEARNING GOALS:

- Students will explain the basic laws governing the GATT/WTO system.
- Student will explain the economic rationale for the pillars of the GATT/WTO system.
- Students will explain the remedies used by the USA against “unfair” trade.
- Students will explain the remedies used by the USA against “fair” trade.
- Students will explain the legal and economic grounds for unilateral trade measures.

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).

AVERAGE MINIMUM AMOUNT OF INDEPENDENT, OUT-OF-CLASS, LEARNING EXPECTED PER WEEK:

According to university policy, students in this 14 week - 3-credit hour course are expected to devote on average a minimum of 10 hours of independent learning per week in addition to the 2.0 hours per week of direct instruction. The actual amount of studying required depends on many factors including your background and preparation, your study skills, and your target grade. Success in this class is highly likely to require substantially more independent learning given its research designation. More information about GW's credit hour policy can be found in the university bulletin: <http://bulletin.gwu.edu/university-regulations/>.

UNIVERSITY POLICY ON OBSERVANCE OF RELIGIOUS HOLIDAYS

In accordance with University policy, students should notify faculty during the first week of the semester of their intention to be absent from class on their day(s) of religious observance. For details and policy, see: students.gwu.edu/accommodations-religious-holidays.

ACADEMIC INTEGRITY CODE

Academic dishonesty is defined as cheating of any kind, including misrepresenting one's own work, taking credit for the work of others without crediting them and without appropriate authorization, and the fabrication of information. For details and complete code, see: studentconduct.gwu.edu/code-academic-integrity

SAFETY AND SECURITY

In the case of an emergency, if at all possible, the class should shelter in place. If the building that the class is in, is affected, follow the evacuation procedures for the building. After evacuation, seek shelter at a predetermined rendezvous location.

DISABILITY SUPPORT SERVICES (DSS)

Any student who may need an accommodation based on the potential impact of a disability should contact the Disability Support Services office at 202-994-8250 in the Rome Hall, Suite 102, to establish eligibility and to coordinate reasonable accommodations. For additional information see: disabilitysupport.gwu.edu/

MENTAL HEALTH SERVICES 202-994-5300

The University's Mental Health Services offers 24/7 assistance and referral to address students' personal, social, career, and study skills problems. Services for students include: crisis and emergency mental health consultations confidential assessment, counseling services (individual and small group), and referrals. For additional information see: counselingcenter.gwu.edu/

REQUIREMENTS FOR THE COURSE:

Your grade is based on a mid-term (50%) and a final exam (50%). Both exams are in class and are open-book exams.

REQUIRED TEXTS:

The reading material assigned for this class is quite large, spanning both the legal literature and the economics literature. All the articles have been uploaded to BB. In addition, I use material from the three texts assigned along with the articles. Since I refer to different GATT/WTO Articles during lectures please make sure to upload the relevant document from the WTO onto your laptops prior to class.

The list of textbooks that I have ordered includes:

- (1) Bhala, Raj. *International Trade Law: An Interdisciplinary, Non-Western Textbook*, (LexisNexis, 4th edition, 2 volumes, 2015). (hereinafter Bhala V1 or V2);
- (2) Pelzman, Joseph. *Spillover Effects of China Going Global*, (2016). World Scientific Press. (hereinafter Pelzman)
- (3) Trebilcock, Michael J., *Advanced Introduction to International Trade Law*, (2015) Edward Elgar Publishing, Incorporated (hereinafter Trebilcock);

I suggest that you acquire electronic copies of these textbooks. I find it easier to search the content using the electronic copies.

READINGS AND LECTURE LIST:

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

READINGS**1. *Introduction to the economic approach to GATT — WTO* 8/27**

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

Bhala Vol 1.	(pp. 1 – 154).
Trebilcock	(pp. 1 – 202).
Pelzman	(pp. 5 -122)

Note that Sept 3 is Labor Day – No classes;

Note that Sept. 10 is the Jewish New Year – No classes;

These classes will be made up using the University calendar for make-up dates.

2. *The Pillars of the GATT-WTO System* 9/17—10/15

Bhala Vol 1	(pp. 641-924)
Pelzman	(pp.113 – 238)
WTO Docs.	<i>Havana Charter</i> , Articles 15-16, 17, 43-45, and 98-99 GATT Articles I, II, XX, XXI, XXIV, XXXV, XXVIII <i>bis</i> , and XXX. 1979 Tokyo Round <i>Enabling Clause</i> ; WTO <i>Agreement</i> Articles IX-XI
WTO Docs.	<i>Havana Charter</i> , Articles 18-19, 29, 46-54 GATT Articles III, XV:4, XV:9, XVII, and XXIV:12 Interpretative Notes, <i>Ad Article III</i> and <i>Ad Article XV</i> WTO <i>Agreement on Trade Related Investment Measures (TRIMs Agreement)</i> Articles 2-3, and Annex WTO <i>Agreement on Government Procurement (GPA)</i> , Article III. <i>NAFTA</i> 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).

Recommended Articles:

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.

MID-TERM EXAM**10/22****3. Remedies against ‘Unfair’ trade****10/29 — 11/19**

Bhala Vol 2.

(pp. 53 – 546)

Pelzman

(pp. 239 – 274)

Recommended Articles:**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.

4. Remedies against ‘Fair’ trade

11/26 — 12/3

Bhala Vol 2.

(pp. 547 – 596)

Recommended Articles:

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

5. Unilateral trade measures

12/10 — 12/11

Bhala Vol 2

(pp. 683 – 805)

FINAL EXAM — 12/17/2018