



DALHOUSIE
UNIVERSITY

SCHULICH SCHOOL OF LAW

INTERNATIONAL TRADE LAW

LAWS 2056

WINTER 2019

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My Office: Weldon Law Building, Room 422

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Class Time: Fridays, 1-2:50pm

Classroom: Room 308

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Course Description

This course examines the World Trade Organization (WTO) and prepares the student to understand generally the role of international and domestic law in modern trading relations. The course is introductory in nature, as such the primary aim is to examine the main structural characteristics of the WTO, with particular focus on the procedural issues in the WTO dispute settlement mechanism and the traditional free trade doctrines: most-favored nation treatment, and national treatment. In addition, the course will examine the New North American Free Trade Agreement (New NAFTA)/ Canada-United States – Mexico Agreement (CUSMA or USMCA) and the Canadian Inter-provincial trading regime. We will also survey a number of subject areas and debates relevant to the contemporary international trade system.

Although the attention of the students will be drawn to other WTO agreements such as the General Agreement on Trade in Services (GATS) and Trade-Related Aspects of Intellectual Property Rights (TRIPS), mega-regional agreements, as well as the WTO and developing countries, we will not focus on them.¹ The course will also offer a critical perspective to analyzing some of the debates and challenges in international economic law.

Learning Objectives

Upon successful completion of this course, you should:

1. Know the WTO and its role in the international trading system.
2. Demonstrate a clear understanding of the dispute settlement system of the WTO.
3. Understand the relationship and differences between international and national (Canadian) trading regimes.
4. Have a general understanding of the New NAFTA and its implications for Canadian markets.
5. Understand and appreciate the role of the Canadian interprovincial free trade agreement.

Seminar Format

The format of the course is a blend of in-class teaching, group discussions, quizzes, and peer learning. This is an upper year seminar, as such to get the most out of the seminar you need to ensure that you complete the assigned readings *before* class and participate fully in the discussions.

¹ You are encouraged to draw on these areas for your major research paper.

Attendance

Attending class is an important part of the learning process for this seminar as it feeds into your participation marks. Failure to attend class may impact on your learning outcomes in the course and basic understanding of critical issues discussed.

Office Hours

Fridays: 3-4pm

In addition to the office hours, you may schedule appointments by e-mail. As a courtesy, if you need to cancel a previously scheduled appointment, please email or call beforehand. I encourage office consultations with two or more students and will be glad to visit with study groups. The best way to reach me is via email.

Students with Special Needs

If you have special needs that require special accommodation, please indicate early in the term so we can make appropriate arrangements through the office of the Associate Dean.

Course Materials

Required Textbook:

- Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, (3rd ed) (2018: Hart Publishing, Bloomsbury)

There are other books that are available at the Sir James Dunn Law Library that are relevant to the course and may be useful for your paper, I encourage you to consult them.

Learning Management System Site Information:

Where necessary, supplementary articles are provided to complement the required/assigned readings.

- Where necessary, supplement materials for this course will be available on-line through Dalhousie's on-line course management software. To access the materials click on the Brightspace link found on any of the Dal websites, or if you prefer you can navigate directly to dal.brightspace.com. Once logged in using your Dalhousie NetID and password click on the link for "LAWS 2056 International Trade Law – 2019 Winter" in the My Courses and Communities tab to access the materials specific to this course. If you have any questions regarding on-line course materials please contact Geordie Lounsbury in the Information Media Center.

Evaluation:

The course evaluation consists of three parts: a **major paper**, **class participation**, and a **minor assignment**. The final grade you will receive for this course will be based on the cumulative score from assignments below. Copies of all assignments must be submitted by the date, time and manner indicated below. You will be informed where the electronic copy must be submitted.

In-class Contribution - 10%

Description: You will be evaluated on the basis of your attendance and contributions to class discussions throughout the term.

Minor Assignment – 20%

Due Date: February 22

Description: You will be asked to write a reflective and analytical piece of a maximum of 1000 words on any issue or question that has been agreed with the professor. Being a reflective piece, the aim is to work with minimal citations, while making more use of hyperlinks. I will provide more details on this aspect of the evaluation in class.

Research Paper – 70%

Due Date: April 20th, 2019

Length: 25 (minimum) to 30 pages (maximum) (Double-spaced)

Description: The major research paper topic must be agreed with the professor. The idea is to ensure that you have a question that is not too broad nor too descriptive and one that can be examined convincingly. You are encouraged to have met and agreed topic with me by the end of January.

List of Possible Paper Topics: I will upload a list with couple of suggestions on Brightspace.

- Your Research Paper will be a maximum of thirty (30) (double-spaced) research paper with appropriate footnoting and citations to articles, textbooks, blogs, newspaper articles etc.
- For adequate planning purposes, it is important that you submit an abstract of 150 words for your paper clearly stating your draft topic, the research question for your essay, and have me sign off on them by January 31st, prior to commencing your research.
- If you are unable to meet the January 31st deadline, you may with my approval seek a revised date individually. However, justifiable reasons must be provided ahead of such request.
- You are encouraged to schedule an appointment with me to discuss the progress of your research papers after the reading week. This is also an opportunity to discuss

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any challenges you may be facing in producing the paper and receive appropriate guide.

Online Resources

WTO – www.wto.org

Trade News, Case Summaries, Analysis etc; International Economic Law & Policy Blog - <http://worldtradelaw.typepad.com>

Short Primers (video) on selected topics in international economic law:

<http://legal.un.org/avl/ls/intleconomiclaw.html>

Trade Law Guide: TradeLawGuide's research tools are designed to comprehensively address the vital role of jurisprudence in the development of WTO law.

– www.tradelawguide.com

TradeLab: “TradeLab is an independent, Geneva-based NGO bringing together students, academics, and legal practitioners with the aim of empowering countries and smaller stakeholders to reap the full development benefits of institutions and rules that govern our global economy.” – www.tradelab.org

Law Roundtable - <http://www.rtable.net/index/rt/law/287/>

Centre for International Governance Innovation - <https://www.cigionline.org>

For Africa and International Economic Law related blog posts, see, <http://www.afronomicslaw.org/about/> (Co-edited by me)

Pod-Cast

Trade Talk Pod-Cast, hosted by Peterson Institute for International Economics - https://twitter.com/Trade_Talks; <https://piie.com/trade-talks>

Canada

You should familiarize yourself with the activities of the Canadian government with respect to international trade by regularly visiting the **Global Affairs Canada** (Trade Negotiations and Agreements) – <https://www.canada.ca/en/services/business/trade/negotiations-agreements.html>

The list below provides specific trade agreements that the Canadian government has recently concluded.²

Canada-European Union Comprehensive Economic and Trade Agreement –

<https://www.international.gc.ca/gac-amc/campaign-campagne/ceta-aecg/index.aspx?lang=eng>

New NAFTA/CUSMA/USMCA – <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/index.aspx?lang=eng>

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) –

<https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr->

² Issues arising from any of them may be the subject of your major research paper.

acc/cptpp-ptpgp/index.aspx?lang=eng

Some International Trade Law/International Economic Law Journals

You will find the names of the journals below useful to consult for the purpose of your research paper.

Journal of International Economic Law (Oxford University Press)
Journal of World Trade
Journal of World Investment and Trade
Journal of International Dispute Settlement
Manchester Journal of International Economic Law
Estey Centre Journal of International Law and Trade Policy
Journal of International Trade Law and Policy
Legal Issues in Economic Integration
SSRN International Economic Law Page
Trade, Law and Development
World Trade Review

Law School Policies:

1. *Student Requests for Accommodation*

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

2. *Plagiarism*

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>.

Any paper or assignment submitted by a student at the Schulich School of Law may be checked for originality to confirm that the student has not plagiarized from other sources.

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Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

Additional Information:

* General Academic Support – Advising Halifax:

https://www.dal.ca/campus_life/academic-support/advising.html

* Fair Dealing Guidelines <https://libraries.dal.ca/services/copyright-office/guidelines/fair-dealing-guidelines.html>

READING LIST³

Introduction to the Legal and Economic Aspects of World Trade Regulation

Class 1 - January 11

“Introduction to World Trade Law” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 3-5; 13-20.

Class 2 - January 18

“Introduction to World Trade Law” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 28-49

Milton Friedman – “Free Trade vs. Protectionism” ([YouTube Video](#))

History, Institutional Aspects, and the relationship between World Trade Law, International Law, and Domestic Law

Class 3 - January 25

“The History and Institutions of the Multilateral Trading System” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, (2nd ed) (2012: Oxford Publishing, Oxford & Portland, Oregon), pp. 53-76

Daniel Politi and Jack Ewing, “Trade ministers Call for W.T.O. Overhaul, but Offer Few Details”, *The New York Times*, Sept. 14, 2018.

February 1 – Munro Day – University Closed.

Class 4 - February 8

“World Trade Law and International Law” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 91-100

“World Trade Law and Domestic Law”, pp. 111-117; 138.

Dispute Settlement in the WTO

Class 5 - February 15

“The Settlement of Dispute in GATT/WTO” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 149-167

³ Assigned readings are subject to change or modification. In any case, I will draw the attention of the class to such changes.

February 22 – Last day of reading week. No class.

Class 6 - March 1

“The Settlement of Dispute in GATT/WTO” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 169-190

Class 7 – March 8

“The Settlement of Dispute in GATT/WTO” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 190-213.

Robert McDougall – “[Crisis in the WTO: Restoring the Dispute Settlement](#) Function” CIGI Paper No. 194, October 16, 2018.

**Traditional GATT Obligations
Non-Discrimination: Most-Favored-Nation and National Treatment**

Class 8 - March 15

“National Treatment” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 259 – 268; 270 – 271; 277 – 281, 281-287, 294-300.

Class 9 - March 22

“Most Favored Nation” in Simon Lester, Bryan Mercurio & Arwel Davies, *World Trade Law, Texts, Materials & Commentary*, pp. 311-328.

Class 10 – March 29 (Reading materials to be assigned).

Canada-US-Mexico Trade Agreements

Canada Interprovincial Trade Rules

Class 11 - April 5 (Reading materials to be assigned).

Contemporary Issues in International Trade Law.