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**COURSE TITLE: LEGAL FOUNDATIONS OF TRADE AND TRADE POLICY**

**Programme: MSc in International Trade Policy and Trade Law**

**Course Code: TRP 502**

**SYLLABUS**

## **Format**

## The module will be delivered through:

## Off-site pre-session study and assignment to be handed in. (Assignment already provided by trapca).

## On-site session teaching to take place at the trapca/ESAMI campus, Arusha, Tanzania.

## Two on-site assignments will be given to participants (one each week).

## One post-session assignment will be given

## Two examinations will be given (one each end-of-week).

**Instruction on Assessments**

**Pre-session assignment:** To be administered 4 weeks before the start of the module and to be submitted on the first day of the first week of the course.

**Onsite Assignment:** To be administered on Wednesday of each of the two weeks of the course.

**Post Session Assignment:** To be administered on Thursday of the second week of the course.

**Key Texts**

* Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization* (4th ed) Cambridge: Cambridge University Press.
* Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy,* Oxford: Oxford University Press

**Recommended literature:**

* Michael J. Treibilock & Robert Howse (2005) *The Regulation of International Trade*(3rd ed) London & New York: Routledge
* James T. Gathii (2011) *African Regional Trade Agreements as Legal Regimes* (1st ed), Cambrideg University Press
* Stefano Inama (2011). Rules of Origin in International Trade (Cambridge: Cambridge University Press)

**PART B: LECTURE PLAN AND REFERENCES**

* Morning session between 9:00 and 13:00.
* Afternoon session between 14:00 and 17:00
* The course is based on interactive lectures, which implies that real-world examples/case studies and exercises from will be discussed in detail during lectures.

**Responsibilities**

* **Week One:**
* **Week Two:**

**Lecture Plan**

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| **DAY** | **BROAD COVERAGE** | **PARTICULAR COVERAGE** | **PRIMARY READINGS**  |
| **Mon** Morning 09:00-10:30 | Pre-session assignment and Situating WTO Law under International Law. | Review of submitted and grade pre-session assignments* Review relationship of WTO Law with International law in general
* Review relationship of WTO Law with and Domestic Laws and trade policy.
 | Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy Chapter 2*Andrew Guzman and Joost Pauwelyn. (2012*) International Trade Law. (Wolters Kluwer) Chapter 3*  |
| **11:00-13:00 hrs** | WTO Mechanisms for implementation, transparency and review  | * Regular WTO Committee work – review of implementation of agreements
* Specific Trade Concerns (is a subset of the work of certain regular bodies)
* Accessions (review accession protocols)
* Trade Policy Review implementation issues
 | Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy Chapter 1* |
| **Afternoon****14:00-17:00 hrs** | Non Discrimination: MFN and National Treatment[[1]](#footnote-1) | Legal analysis of MFN as reflected in the GATT, GATs, and TRIPs* Analysis and review of WTO rulings on the MFN principle and implications of the outcomes of WTO cases on MFN to LDCs and Sub-Saharan African Countries
 | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 4* |
| **Tuesday**Morning**9 – 13hrs** | Non Discrimination: MFN and National Treatment | Legal analysis of National Treatment Principle under WTO case law as reflected in the GATT, GATs, and TRIPs * Implications of the outcomes of WTO cases on the “national treatment” principle to LDCs and Sub-Saharan African countries
 | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 5* |
| Afternoon**14:00 – 17hrs**  | Exceptions | Exceptions to the MFN and National Treatment Principles* General Exceptions: Art. XX GATT
* Art. XXIV GATT, Enabling Clause, Art. IX GATT & Art. V GATS
* GSP (using LDCs relevant case studies)
 | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 8-10* |
| **Wednesday Morning and Afternoon** | Exceptions | * S&DT
* Security Exceptions
* Review of waiver schemes

Groups Case Studies on the application of MFN, NT and Exceptions drawn from case law and the implications of resulting outcomes on LDCs and Sub-Saharan African Countries |  |
| **Thursday Morning** | Border management and barriers to market access | **Analysis of rules and WTO case Law on Tariff barriers to trade** * Tariffs and domestic policies
* Tariff classification and the Harmonized System
* Harmonized commodity description and coding system
* GATT framework
* Schedules of concessions
* WTO commitments on tariffs
* Protection of tariff bindings
* Border tax adjustments
* Modification of schedules
* Other GATT provisions on schedule modification
* Customs valuation
 | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 6* |
| **Afternoon** | Border management and Non-tariff barriers to market access | **Analysis of Regulation of Non-Tariff Barriers*** Import and Export eligibility requirements
* Non-Automatic Licensing Quotas, Prohibitions and Quality Control Measures
* Price-Control and Finance Measures
* Export-Related Measures
* State subsidies, trading enterprises and procurement
* Buy national policy
* Seasonal import regimes

Relevance of NTMs and Implications of NTBs on LDCs and Sub-Saharan African Countries. | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 7.* |
| **Friday**Morning **9 – 12:30hrs** | Rules of Origin | Analysis of legal aspects and features of Rules of Origin* Role of Rules of Origin
* Rules of Origin Legal Instruments: WTO Agreement on Rules of Origin
* Intersection of Rules of Origin and trade policy measures and resulting consequences
* Origin Criteria
* Scope of Application of Rules of Origin
 | Stefano Inama (2011). Rules of Origin in International Trade (Cambridge: Cambridge University Press) |
| **Friday**Afternoon**14:30 – 17hrs** | Rules of Origin | * Preferential Rules of Origin
* Non-Preferential Rules of Origin
* Rules of Origin in integrated productions processes and multiple manufacturing locations.
* Relationship of rules of Origin and Services

Review of a case studies involving or of relevance to LDCs and Sub-Sahara African Countries | Stefano Inama (2011). Rules of Origin in International Trade (Cambridge: Cambridge University Press) |
| Sat Morning**9am-10:30am** | Final exam (90 mins) | **Faculty to mark exam scripts and assignments** |  |
| **WEEKEND** | **WEEKEND** | **WEEKEND** | **WEEKEND** |
| **Mon** Morning**9 – 10:30hrs** | Trade Remedies  | Anti-Dumping* The Determination of Dumping and the relevant WTO case law
* The Determination of Injury and the relevant WTO case law
* National Procedures and WTO Procedures

Application of Anti-Dumping Agreement by developing countries including LDCs using selected relevant case studies. | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 11* |
| Afternoon**14:00 – 17hrs** | Trade Remedies  | Subsidies and Countervailing Measures* Determination of Subsidization
* Determination of material injury, adverse effects and serious injury
* Procedural rules and remedies
* Special and Differential Treatment for Developing countries

Case study on subsidies and countervailing measures | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 12* |
| **Tue**Morning**9 – 13:00hrs** | Trade Remedies | Safeguards: * Analysis of the conditions for the application of Safeguards Measures, including relevant WTO case law
* Application of Safeguard Measures by developing countries including LDCs using selected relevant case studies.
 | Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy* Chapter 6 |
| **Tue**Afternoon**14 – 15:00hrs** | The relationship between the GATT and TBT and SPS Agreements | Review of the relationship between the TBT Agreement and Articles III:4 and XX of GATT Review of the relationship between the TBT Agreement and Articles III:4 and XX of GATT 1994; and the SPS Agreement and GATT Article XX(b) and  the distinction between TBT and SPS measures.  Illustration of the difference between legitimate regulatory objectives and regulations for protectionist objectives. | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 14* |
| **15-17:00hrs** | Legal Aspects of SPS in international trade  | Analysis of the basic disciplines of the SPS Agreement and Procedures for Control, Inspection and Approval.The Principles of Harmonization, Equivalence and Transparency in the SPS Agreement and other Agreement | -Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 14*-Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2015) *The World Trade Organization: Law, Practice and Policy. Chapter 13.*  |
| **Wed**Morning**9 – 13hrs** | Legal Aspects of SPS in international trade  | * Analysis of Risk Assessment, appropriate level of protection, consistency, provisional measures and regionalization in the SPS Agreement.
* Analysis of relevant WTO case law and review of case studies of relevance to LDCs and Sub-Saharan African Countries

Analysis of Government, business and LDCs as well as Sub-Saharan African countries’ concerns with respect to NTBs in general and the SPS Agreement in particular  | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 14* |
| **Wed**Afternoon**14:00 – 17hrs** | Legal Aspects of TBT in international trade  | Analysis of key principles and rules of the TBT Agreement* Non-discrimination
* Technical Regulations, Standards and Conformity Assessment Procedures.
* The prevention of unnecessary obstacles
* Harmonization
* Use of Relevant International Standards
* Equivalence and Mutual Recognition
* Transparency

Analysis of relevant WTO case law.Analysis of Government, business and LDCs as well as Sub-Saharan African countries’ concerns with respect to NTBs in general and the TBT Agreement in particular. | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 13* |
| Thurs.Morning**9 – 13hrs** | Legal Aspects of TBT in international trade  | Analysis of key principles and rules of the TBT Agreement* Non-discrimination
* Technical Regulations, Standards and Conformity Assessment Procedures.
* The prevention of unnecessary obstacles
* Harmonization
* Use of Relevant International Standards
* Equivalence and Mutual Recognition
* Transparency

Analysis of relevant WTO case law.Analysis of Government, business and LDCs as well as Sub-Saharan African countries’ concerns with respect to NTBs in general and the TBT Agreement in particular. | Peter van den Bossche (2017) *The Law and Policy of the World Trade Organization, Chapter 13* |
| Thurs.Afternoon**14:00 – 17hrs** | Special and Differential Treatment in the WTO | Review of Special and Differential Treatment Provisions under WTO Law.Analysis of Special and Differential Treatment provisions and challenges associated with them from the perspective of LDCs and Sub-Saharan African Countries.  | Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy. Chapter 19.*  |
| **Friday**Morning**9 – 13hrs** | Special and Differential Treatment in the WTO | Analysis of Special and Differential Treatment provisions and challenges associated with them from the perspective of LDCs and Sub-Saharan African Countries. Review of WTO LDCs and Africa Groups proposals on SDT including in the latest WTO ministerial Conference:* The G90 25 agreement-specific proposals and the arguments advanced by the opposing side

Conclusion and Revision, (Lecturer to administer post session assignment.) | Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy.* Chapter 19 |
| **Friday**Afternoon**14:00 – 17hrs** | WTO Plurilateral Agreements  | Analysis of the Government Procurement Agreements and the relevant case lawAnalysis of potential Plurilateral Agreements under negotiations (, MSMES, e-commerce and investment facilitation)Implications of the Plurilateral Agreements for LDCs and Sub-Saharan African Countries and consideration of their relationship to current developments in the world economy, and multilateral trading system. | Mitsuo Matsushita, Thomas J. Schoenbaum & Petros C. Mavroidis (2017) *The World Trade Organization: Law, Practice and Policy. Chapter 18* and Chapter 20 |
| Sat Morning**9am-10:30am** | Final exam (90 mins) | **Faculty to mark exam scripts**  |  |

1. It should be noted that the basics of the principles of MFN and National Treatment as well as exceptions have already been introduced in the prerequisite courses. Therefore, focus should be on substantive and implementation related elements of the principles and the exceptions. [↑](#footnote-ref-1)