

**TOPICS IN INTERNATIONAL RELATIONS:  
INTERNATIONAL & U.S. TRADE LAW, POLICY, AND NEGOTIATIONS**

**WWS 555c  
Fall 2004**

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**Course Description**

International trade negotiations have expanded far beyond their traditional focus upon tariffs and related barriers at national borders. For at least a quarter century, domestic subsidies to manufacturers have figured as prominently as tariffs. In the Uruguay Round of trade negotiations completed in the mid-1990s, intellectual property protection was among the most important issues. Public interest advocates worry that domestic environmental and health regulations may be found to violate provisions of international trade agreements dealing with product standards. In the current Doha Round of negotiations, various countries have argued for national competition and investment policies to be on the agenda. Meanwhile, U.S. labor unions and some political figures continue to argue for inclusion in trade agreements of enforceable labor standards.

This seminar will examine a number of recent trade decisions and current trade issues to explore the policy, institutional, and political implications of broadening the scope of “international trade” to include elements of domestic social and regulatory policy. The first two sessions will introduce the legal and institutional structure of the world trading system. These will be the only sessions of the class with substantial lecturing time. In subsequent sessions, we will generally adopt the perspective of the U.S. policymakers confronting demands for action from domestic constituencies, trading partners, or the World Trade Organization.

For each topic, the readings will provide background on relevant economic, legal, and political considerations and then set forth the specifics of the issue. For a few sessions we will be joined by guests who participated – either as government officials or as representatives of private interests – in the policy process under examination.

During the first part of the semester we will evaluate case studies of recent issues that, for better or worse, have already been decided. We will try to understand why these issues were resolved as they were – taking into account domestic constituent interests, Congressional influence, the political and policy views of the Administration, institutional and legal contexts, and the international negotiating context within which they arise. Later in the semester, we will look at issues on which the United States has taken only a tentative position, or no position at all. In these sessions we will try to

assess policy options for the United States in light of what we have learned through the first set of case studies.

### Course Requirements

While we will not use role-playing or other formal simulation techniques, we *will* use class discussion to draw out the often conflicting factors that inform the positions taken by governmental and private participants in the trade policy process. ***Preparation for, and active participation in, class discussion*** by each student are essential to maximize the value of the discussion to the class as a whole.

Each seminar participant will also be required to submit two papers. In a ***short paper*** of 1000-1500 words each student will provide reaction to, and analysis of, one of the case studies from the early part of the semester. No research beyond the course materials and discussion will be necessary. This paper may be submitted electronically any time before 5:00 P.M. **October 22.**

In the ***long paper*** of 5000-6000 words each student will analyze a current trade policy issue. The subject of that analysis may be relatively discrete (e.g., how the United States should respond to an adverse ruling of the World Trade Organization), or more open-ended (e.g., policy options for pursuing a goal of government transparency in regulatory actions affecting foreign exporters and investors). Students may develop one of the topics considered in the “Current Issues” part of the course, though they will be expected to pursue considerable research beyond the materials provided for the class. A suggested framework for use in the long paper will be elaborated in the first part of the course. A list of possible topics will also be provided.

A statement of each student’s **intended topic** must be submitted electronically no later than 5:00 PM on **November 5**. An **outline** of 2-4 pages must be submitted electronically no later than 5:00 PM on **December 3**. Comments on both the topic and outline will be returned to students within a week of their submission. The final paper must be submitted electronically no later than 5:00 PM on **January 7, 2005**.

### Grades

The final grades will be based upon the following weighting system:

<i>Class participation</i>	30%
<i>Short paper</i>	20%
<i>Long paper</i>	50%

## Readings

Readings are assigned from two sources:

1. Trebilcock & Howse, *The Regulation of International Trade* (2d edition 1999) (pb), available from the Princeton University Store (abbreviated “**T & H**” in assignment list)
2. A course packet, available from the Woodrow Wilson School Business Office. (Readings for each session are segregated and clearly identified in the course packet by both the number of the class session and the topic of that session.)

## Course Outline and Assignments

There follow two outlines of the course. The first is a detailed statement of the topic for each session, including questions you should consider in preparing for class, along with the reading assignment for that session. The second is a simple identification of the topics and assignments for each session. The second outline also indicates the deadlines for the short paper and the various stages of the longer paper.

### *Detailed Statement of Topics*

#### Introductory Sessions

*Session 1, Sept. 14: The International Trading System.* Introduction to the World Trading Organization (WTO), including its history, institutional structure, and basic legal rules. Relationship of WTO to regional and bilateral trade agreements, as well as non-trade international organizations. Particular emphasis on increasing topical reach of trade agreements and growing legalization of international trade arrangements.

Assignment: **T & H, pp. 1-38**

*Session 2, Sept. 21: U.S. Trade Policy – Law and Politics.* Introduction to the U.S. trade policy process: Constitutional and statutory allocation of authority between Congress and the President; organization of Executive Branch trade functions; “fast-track” trade negotiating authority; informal accommodations between Congressional committees with principal jurisdiction over trade and Executive branch; formal roles of non-government interests; constituent interests and lobbying. Discussion of how U.S. trade politics have been changed both by shifts in U.S. economy and by broadening of subjects covered in trade agreements.

Assignment: **Course Packet Materials for Session #2**

Case Studies of Recent Trade Policy Actions

*Session 3, Sept. 28: The 2002 Steel Safeguards Decision.* This first case study presents a “traditional” trade policy issue – whether to restrict imports in order to assist an import-sensitive domestic industry. The domestic industry here is steel, which along with textiles has been the most important recipients of import relief in the last quarter century. In reading the materials, note carefully the interaction among legal, economic, and policy considerations. To what degree was President Bush’s decision constrained by domestic law? By WTO rules? Was the decision “pure politics”? Try to develop the arguments that might have been advanced within the Administration *against* granting relief, notwithstanding the obvious political gains in doing so.

Assignment: **T & H, pp. 226-239**  
**Course Packet Materials for Session #3**

*Session 4, Oct. 5: Tax Subsidies on Exports.* The second case study is also concerned with a long-running problem in the world trading system – the potential subsidy provided to exports by certain features of a nation’s tax system. The potential for “domestic” programs to be export subsidies is a principal reason why nations sought rules to govern such programs in the Tokyo Round of trade negotiations in the 1970s. Still, the intersection of international trade rules with national tax systems is an early example of the broadening scope of trade arrangements. In reading these materials, consider first whether the economic effects of the WTO-impermissible U.S. system are significantly different from the economic effects of the WTO-permissible European systems. Regardless of your answer to this question, note how the difference in international legal status affects the U.S. approach to the policy issue. Why does the United States feel compelled to comply with the WTO ruling? Note how the need for legislation to effect compliance complicates the Executive’s efforts to solve the problem.

Assignment: **T & H, pp. 190-199**  
**Course Packet Materials for Session #4**

*Session 5, Oct. 12: Intellectual Property, the TRIPs Agreement, and Access of Developing Countries to Patented Pharmaceuticals.* Another important aim of the United States in the Uruguay Round was to obtain protection for the intellectual property of its companies, including – among other things music, movies, trademarked merchandise, and pharmaceuticals. The U.S. was dissatisfied with the protection that had been achieved under the World Intellectual Property Organization (WIPO). The resulting TRIPs (“Trade-Related

Intellectual Property”) Agreement imposed on each WTO country the obligation to enact and enforce certain intellectual property rights. This agenda was controversial from the outset, insofar as it did not *liberalize* trade, but actually restricted trade in goods that arguably infringed on patents or copyrights granted *in other countries*. Developing countries, in particular, argued that the specific rules in question were inappropriate for them. And the fact that the WTO was, in effect, displacing WIPO in an important respect led to charges of “trade imperialism” in the international system. In the end, though, the developing countries acquiesced (in return for developed countries’ agreement to eliminate their restrictions on trade in textiles). The materials for this session recount how the matter did not stop with the conclusion of the Uruguay Round, however, since developing countries believed TRIPs did not provide adequately for their access to generic versions of such essential pharmaceuticals as those used to fight HIV/AIDS. In reading the materials, consider what the objectives of the United States were in responding to the complaints of the developing countries. Why *did* the U.S. feel obliged to “give” a concession without getting anything in return?

Assignment: **T & H, 307-328**  
**Course Packet Materials for Session #5**

*Session 6, Oct. 19: Financial Services.* Yet another principal objective of the United States during the Uruguay Round was the addition of trade in services to the agenda of the international trading system. This aim was related to the increasing portion of U.S. gross domestic product accounted for by services (now greater than 70%) and the perception that, even as the U.S. appeared to be losing comparative advantage in many manufactures, it had significant advantages in many service areas. Most of the service sectors on which negotiations have been held are regulated domestically: telecommunications, architects, accounting, law practice, and the focus of today’s case study – financial services (banking, insurance, broker-dealers, investment banking, etc.). Here, then, is a clear case of international trade arrangements and principles running headlong into domestic economic regulation. In reading these materials, ask yourself first the salient differences between trade in services and trade in goods. What are the implications of these differences for a set of international rules? Did it make sense to adapt the approach to trade liberalization in the old General Agreement on Tariffs and Trade (which applied only to goods) for services? Is there a de-regulatory or anti-regulatory bias in “trade” negotiations on services?

Assignment: **T & H, pp. 270-275; 278-299**  
**Course Packet Materials for Session #6**

## Current Trade Policy Issues

*Session 7, Nov. 2: Restrictions on Production/Trade for Health and Environmental Reasons – Genetically Modified Organisms.* This first session on pending trade policy issues addresses the particularly controversial topic of challenges by one WTO member state to the health or environmental regulations of another WTO member state. The WTO Sanitary-Phytosanitary (SPS) Agreement imposes both procedural and substantive requirements on these regulations, at least insofar as they affect imports. These requirements – including one for a scientific basis for these regulations – apply regardless of any overt or disguised discrimination against imports. Thus the SPS Agreement reflects an unmistakable incursion of trade rules into domestic regulation. A U.S. challenge to a European ban on the sale of beef fed with certain hormones was successful in the WTO dispute settlement process but led to such a public backlash in Europe that the EU was not able, as a political matter, to comply with the ruling. Meanwhile, public mistrust of genetically-modified organisms (GMOs) has slowed to a crawl European approval of food containing them, despite their widespread use in the United States. In this session we consider U.S. options for responding to the near-ban. Why has it taken the U.S. so long to begin WTO consultations and why is there such reluctance to initiate full-blown dispute settlement proceedings? On the other hand, if the case is so hot politically, why not just let the issue slide altogether? What are the implications of committing this kind of issue to a trade dispute settlement process? Are there other options?

Assignment: **T & H, 135-142, 145-147, 150-165**  
**Course Packet Materials for Session #7**

*Session 8, Nov. 9: Dispute Settlement.* In several of the case studies considered thusfar WTO dispute settlement proceedings have played a central role. This session looks at the WTO dispute settlement system itself and at proposals to change it. During the Uruguay Round of trade negotiations (1980s-1994), the United States made creation of a binding, quasi-judicial dispute settlement system a key objective during that Round. Why would the most powerful country in the world agree to be bound by the determinations of a panel of former trade officials? Did the U.S. desire for a strong “judicial” function reflect a false domestic analogy? Did advocates for this kind of dispute settlement anticipate the effect of making “litigation” such a prominent feature of the trading system? What are the implications of the broadening scope of international trade rules for a binding, quasi-judicial dispute settlement system? How can U.S. policymakers sort out the interests of the United States as “plaintiff” versus its interests as “defendant”?

Assignment: **T & H, pp. 51-80**  
**Course Packet Material for Session #8**

*Session 9, Nov. 16: Investor-State Dispute Settlement.* This session considers a quite different form of dispute settlement – one that allows foreign investors to initiate arbitration directly against a host government for violations of expropriation, fair treatment, discrimination, or other provisions of the underlying investment obligations. This “investor-state” dispute settlement is a feature of the North American Free Trade Agreement (NAFTA) and a number of subsequent U.S. bilateral trade agreements. There is no equivalent provision in the WTO. Proposals for a plurilateral investment agreement in the Organization for Economic Cooperation and Development (OECD) foundered in substantial part because of controversy surrounding investor-state cases in NAFTA. As the materials describe, some changes in NAFTA have already been made through an “interpretation” by trade ministers, and the standard investor-state provision in new bilateral trade agreements appears to have been modified. The immediate issue for U.S. policymakers is whether to effect more far-reaching changes and, if so, how to pursue these changes. By altering the scope and reach of the underlying obligations (e.g., definition of “expropriation” to exclude certain regulatory practices) or by changing the dispute settlement process (e.g., by creating an appellate body similar to that in the WTO?). And how should these changes be implemented? Prospectively only (i.e., in new agreements)? Retrospectively as well (i.e., through changes in NAFTA and other existing agreements)? How much does economic or, for that matter, legal analysis tell us about these issues? Are they essentially political, either in the “high” political sense of fundamental choices about sovereignty and governance or in the “low” political sense of being driven by popular opinion? Finally, note that Senator Kerry took an active role on this issue during reauthorization of fast-track negotiating authority in 2002, favoring more restrictions on the scope of investor-state dispute settlement. Since we will know the outcome of the presidential election by the time of this session (failing a repeat of the 2000 experience, of course), you should factor it into your analysis.

Assignment: **T & H, 335-366**  
**Course Packet Materials for Session #9**

*Session 10, Nov. 23: Competition Policy.* The European Union proposed to include in the Doha Round several new areas for negotiated rules – including investment, environment, and competition. Many developing countries strongly resisted this initiative. Indeed, the clash over it was one of the causes of the WTO Ministerial meeting in Cancun collapsing in late 2003. The United States has been ambivalent. Although the Doha Round seems destined not to include anything on competition policy (better known in the United States as antitrust law), the issue will live on in WTO working groups, perhaps to be revived later. And competition policy could be included in bilateral and regional trade initiatives. What should the U.S. policy be? Obviously there are complementarities between trade liberalization and competition policy, but does that indicate the need to merge them? In answering this question, you might first

want to consider why the European Union was so eager to include this and other issues on the WTO agenda. What exactly would the competition rules be and, perhaps as importantly, to whom would they apply? Also, to what degree is this a bureaucratic “turf battle” between trade and antitrust agencies in the United States? Of course, sometimes turf battles – unseemly as they may be – have substantive implications.

Assignment: **T & H, 464-483**  
**Course Packet Materials for Session #10**

*Session 11, Nov. 30: Labor Standards.* Labor unions in the United States and, to a lesser degree, other countries have long argued that basic labor standards ought to be included in trade agreements and enforceable in the same way that other obligations are (i.e., with the potential for trade sanctions). Although labor standards are included in some U.S. bilateral and regional trade agreements – including NAFTA – nowhere do they have the same status as, say, intellectual property protection. The United States has not succeeded in even getting labor standards on the slow-track agenda for the Doha Round that includes competition and investment. And, as you might imagine, the relative intensity with which the United States has pursued the issue has varied considerably depending on whether Republicans or Democrats controlled the White House. Accordingly, as with the session on investor-state dispute settlement, we will take full account of who won the Presidential election in assessing U.S. policy options. What *are* the options for pursuing the labor standards issue internationally? How much depends on the particular standards being chosen? Given international resistance, does the U.S. have the option of dropping the idea in the WTO and simply redoubling efforts in the ILO?

Assignment: **T & H, pp. 441-463**  
**Course Packet Materials for Session #11**

### Concluding Session

*Session 12, Dec. 7: The Future of the Trading System.* For this last session we will not be so concerned with elaborating specific policy options for the United States, although we will still bear in mind the constraints upon U.S. policymakers. Two intersecting topics will be discussed: *First*, the relationship between bilateral and regional trade agreements on the one hand, and multilateral trade agreements negotiated at the WTO, on the other. *Second*, we will try to pull together some general observations about the use of trade agreements to dictate or constraint domestic economic and social policy choices.

Assignment: **T & H, pp. 129-134, 500-522**  
**Course Packet Materials for Session #12**

### *Summary of Assignments*

Session 1, Sept. 14: *International Trading System*. T & H 1-38

Session 2, Sept. 21: *U.S. Trade Policy – Law & Politics*. Course Packet Session #2

Session 3, Sept. 28: *Steel Safeguards Decision*. T & H 226-39; Course Packet Session #3

Session 4, Oct. 5: *Tax Subsidies on Exports*. T & H, 190-99; Course Packet Session #4

Session 5, Oct. 12: *TRIPs and Developing Country Access to Pharmaceuticals*.  
T & H 307-28; Course Packet Session #5

Session 6, Oct. 19: *Financial Services*. T & H 270-275; 278-299; Course Packet  
Session # 6

**Friday, Oct. 22: Short Paper Due Electronically by 5:00 PM**

Oct. 26 – *Fall Recess*

Session 7, Nov. 2: *Trade Restrictions on GMOs*. T & H 135-142, 145-147, 150-165;  
Course Packet Session #7

**Friday, Nov. 5: Topic Statement for Long Paper Due Electronically by 5:00 PM**

Session 8, Nov. 9: *Dispute Settlement*. T & H 51-80; Course Packet Session #8

Session 9, Nov. 16: *Investor-State Disputes*. T & H 335-66; Course Packet Session #9

Session 10, Nov. 23: *Competition Policy*. T & H 464-483; Course Packet Session #10

Session 11, Nov. 30: *Labor Standards*. T & H, 441-463; Course Packet Session #11

**Friday, Dec. 3: Outline of Long Paper Due Electronically by 5:00 PM**

Session 12, Dec. 7: *Future of the Trading System*. T & H 129-134, 500-522;  
Course Packet Session #12

**Friday, Jan. 7, 2005: Final Paper Due Electronically by 5:00 PM**