



Advisory Centre on WTO Law
Centre Consultatif sur la Législation de l'OMC
Centro de Asesoría Legal en Asuntos de la OMC

ACWL COURSE ON
WTO LAW AND JURISPRUDENCE
PART I - BASIC PRINCIPLES OF WTO LAW

8 October 2009 – 18 March 2010

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No.	Date	Subject
INTRODUCTION		
1	8 October	<p><u>Introductory Session</u></p> <ul style="list-style-type: none"> ▪ Objectives and format of the course. ▪ How did we get here? From Havana to Doha in forty minutes. ▪ Legal structure of the WTO Agreement and the hierarchy of WTO agreements. ▪ Where do I find WTO law and jurisprudence?
BORDER MEASURES		
2	15 October	<p><u>Tariffs</u></p> <p>Principle: Tariffs exceeding the rate bound in the Member's schedule of concessions and charges other than ordinary customs duties on bound items are prohibited.</p> <ul style="list-style-type: none"> ▪ Article II of the GATT - Schedule of Concessions. ▪ Understanding on the Interpretation of Article II:1(b) of the GATT. ▪ Articles XXVIII and XXVIIIbis of the GATT - The negotiation and renegotiation of tariff bindings.
3	22 October	<p><u>Tariffs (cont'd)</u></p> <p>Principle: Tariffs exceeding the rate bound in the Member's schedule of concessions and charges other than ordinary customs duties on bound items are prohibited.</p> <ul style="list-style-type: none"> ▪ Article II of the GATT - Schedule of Concessions. ▪ Understanding on the Interpretation of Article II:1(b) of the GATT. ▪ Articles XXVIII and XXVIIIbis of the GATT - The negotiation and renegotiation of tariff bindings.
4	29 October	<p><u>Customs valuation, fees and formalities</u></p> <p>Principles: Tariffs shall be levied on the basis of the transaction value. Fees must be commensurate with the cost of services rendered.</p> <ul style="list-style-type: none"> ▪ Articles 5 - 7 of the Agreement on Customs Valuation - Methods of determining the customs value. ▪ Articles II:2(c) and VIII of the GATT - Fees and formalities connected with importation and exportation.

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5	5 November	<p><u>Restrictions</u></p> <p>Principle: Import quotas and other non-tariff restrictions are prohibited.</p> <ul style="list-style-type: none"> ▪ Article XI of the GATT - General prohibition of quantitative restrictions. ▪ Article 4 of the Agreement on Agriculture - Restrictions applied to imports of agricultural products. ▪ Article 11 of the Agreement on Safeguards - Voluntary export restraints and similar measures. ▪ Articles 2 and 3 of the Agreement on Import Licensing Procedures - Automatic and non-automatic import licensing procedures.
THE PRINCIPLE OF NON-DISCRIMINATION		
6	12 November	<p><u>Scope of the principle of non-discrimination</u></p> <p>Principle: When applying restrictive border measures, Members shall treat like products equally irrespective of their origin.</p> <ul style="list-style-type: none"> ▪ Article I:1 of the GATT - General most-favoured-nation (MFN) obligation in respect of tariffs. ▪ Article XIII of the GATT - Non-discriminatory application of quantitative restrictions and tariff quotas. ▪ Article XVII of the GATT - Non-discrimination in respect of purchases and sales by state trading enterprises.
7	19 November	<p><u>Exceptions to the principle of non-discrimination</u></p> <p>Principle: Discrimination within the framework of regional trade arrangements is permitted.</p> <ul style="list-style-type: none"> ▪ Article XXIV of the GATT - Free trade Areas and customs unions. ▪ Understanding on Article XXIV - Criteria and procedures for the review of free trade areas and customs unions. ▪ Paragraph 2(c) of the Enabling Clause - Trade arrangements among developing countries.
	26 November	No class

No.	Date	Subject
INTERNAL MEASURES		
8	3 December	<p><u>General national treatment obligation</u></p> <p>Principle: Imported products must be accorded treatment no less favourable than that accorded to like domestic products.</p> <ul style="list-style-type: none"> ▪ Article III:2 of the GATT - National treatment obligation with respect to internal taxation. ▪ Article III:4 of the GATT - National treatment obligation with respect to all laws and regulations affecting the sale, purchase, transportation, distribution or use of products.
9	10 December	<p><u>Technical regulations, standards and conformity assessment procedures</u></p> <p>Principle: A Member may not use technical regulations, standards or conformity assessment procedures so as to create unnecessary obstacles to trade.</p> <ul style="list-style-type: none"> ▪ Article 2 of the TBT Agreement- Technical Regulations and Standards. ▪ Article 4 of the TBT Agreement - Preparation, Adoption and Application of Standards. ▪ Article 5 of the TBT Agreement - Conformity Assessment Procedures. ▪ Relationship of the TBT Agreement with the GATT 1994 and the SPS Agreement.
10	17 December	<p><u>Sanitary and phytosanitary measures</u></p> <p>Principle: WTO Members shall ensure that their SPS measures are applied only to the extent necessary to protect human, animal or plant life or health.</p> <ul style="list-style-type: none"> ▪ Basic requirements set out in the SPS Agreement: <ul style="list-style-type: none"> Articles 2 and 5 - SPS measures must be based on a risk assessment, sufficient scientific evidence, or applied provisionally. Article 5.5 - The level of protection shall not be determined in an arbitrary manner. Article 5.6 - SPS measures shall not be more trade-restrictive than required. Article 8 - Members shall administer their control, inspection and approval procedures in an efficient and transparent manner. ▪ Relationship of the SPS Agreement with Article XX(b) of the GATT 1994.

No.	Date	Subject
SUBSIDIES		
11	14 January 2010	<p><u>Sanitary and phytosanitary measures (cont'd)</u></p> <p>Principle: WTO Members shall ensure that their SPS measures are applied only to the extent necessary to protect human, animal or plant life or health.</p> <ul style="list-style-type: none"> ▪ Basic requirements set out in the SPS Agreement: Articles 2 and 5 - SPS measures must be based on a risk assessment, sufficient scientific evidence, or applied provisionally. Article 5.5 - The level of protection shall not be determined in an arbitrary manner. Article 5.6 - SPS measures shall not be more trade-restrictive than required. Article 8 - Members shall administer their control, inspection and approval procedures in an efficient and transparent manner. ▪ Relationship of the SPS Agreement with Article XX(b) of the GATT 1994.
12	21 January	<p><u>General obligations related to subsidies</u></p> <p>Principles: (1) Subsidies contingent upon export performance or the use of domestic over imported products are prohibited. (2) Members should not cause through the use of any subsidy adverse effects to the interests of other Members.</p> <ul style="list-style-type: none"> ▪ Articles 1 and 2 of the SCM Agreement - Definition of a subsidy. ▪ Article 3 and 4 of the SCM Agreement - Prohibited subsidies. ▪ Articles 5 - 7 of the SCM Agreement - Subsidies with adverse effects. ▪ Article 8 of the SCM Agreement - Non-actionable subsidies.
13	28 January	<p><u>Agricultural Products: Scope and export subsidies</u></p> <p>Principle: In respect of agricultural products, Members may accord export subsidies and apply domestic support measures within the limits of their reduction commitments.</p> <ul style="list-style-type: none"> ▪ Articles 3.3, 9 - 11 of the Agreement on Agriculture - Export subsidies. ▪ Articles 3.2, 6 and 7 of the Agreement on Agriculture - Domestic support. ▪ Relationship between the Agreement on Agriculture and the SCM Agreement.

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14	4 February	<p data-bbox="384 248 1209 282"><u>Agricultural Products: Market access and domestic support</u></p> <p data-bbox="384 322 1465 427">Principle: In respect of agricultural products, Members may accord export subsidies and apply domestic support measures within the limits of their reduction commitments.</p> <ul data-bbox="432 468 1445 611" style="list-style-type: none"> <li data-bbox="432 468 1406 501">▪ Articles 3.3, 9 - 11 of the Agreement on Agriculture - Export subsidies. <li data-bbox="432 504 1445 537">▪ Articles 3.2, 6 and 7 of the Agreement on Agriculture - Domestic support. <li data-bbox="432 539 1331 611">▪ Relationship between the Agreement on Agriculture and the SCM Agreement.
SPECIAL AND DIFFERENTIAL TREATMENT		
15	11 February	<p data-bbox="384 786 1137 819"><u>Tariff preferences for and among developing countries</u></p> <p data-bbox="384 860 1406 925">Principle: Developing countries may be accorded, and may accord each other, preferential tariff treatment.</p> <ul data-bbox="432 965 1474 1137" style="list-style-type: none"> <li data-bbox="432 965 1474 999">▪ Paragraph 2(a) of The Enabling Clause - The General System of Preferences. <li data-bbox="432 1001 1337 1066">▪ Paragraph 2(c) of the Enabling Clause - "South-South" preferential arrangements. <li data-bbox="432 1068 1474 1137">▪ Paragraph 2(d) of the Enabling Clause - Special treatment for least-developed countries. <p data-bbox="384 1178 887 1211"><u>Non-reciprocity in trade negotiations</u></p> <p data-bbox="384 1252 1469 1424">Principles: (1) Developed countries do not expect the developing countries, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. (2) Developing countries expect their capacity to make contributions to improve with the progressive development of their economies.</p> <ul data-bbox="432 1464 1353 1570" style="list-style-type: none"> <li data-bbox="432 1464 1086 1498">▪ Part IV of the GATT - Trade and Development. <li data-bbox="432 1500 1353 1570">▪ Paragraphs 5 - 8 of the Enabling Clause - Principles governing trade negotiations.
GENERAL EXCEPTIONS		
16	18 February	<p data-bbox="384 1753 707 1787"><u>Public policy exceptions</u></p> <p data-bbox="384 1827 1410 1933">Principle: Measures inconsistent with the basic provisions of the GATT may be justified if taken to achieve one of the ten public policy purposes listed in Article XX of the GATT.</p> <ul data-bbox="432 1973 1206 2038" style="list-style-type: none"> <li data-bbox="432 1973 1086 2007">▪ Article XX of the GATT - General Exceptions. <li data-bbox="432 2009 1206 2038">▪ The jurisprudence of the Appellate Body on Article XX.

No.	Date	Subject
17	25 February	<p data-bbox="375 248 727 282"><u>Foreign policy exceptions</u></p> <p data-bbox="375 322 1422 427">Principle: Members may suspend their trade relations with another Member to protect their essential security interests and may reserve the right not to apply the WTO Agreement to new Members.</p> <ul data-bbox="432 468 1453 573" style="list-style-type: none"> <li data-bbox="432 468 1098 501">▪ Article XXI of the GATT - Security exceptions. <li data-bbox="432 504 1453 573">▪ Article XIII of the WTO Agreement - Non-application of multilateral trade agreements between particular Members.
18	4 March	<p data-bbox="375 651 667 685"><u>Moot Court Exercise</u></p> <p data-bbox="375 725 1474 831">Simulation of a dispute settlement proceeding involving a problem based on some of the legal principles discussed during the course. Participants will be divided into panellists and teams representing different parties and third parties to the dispute.</p>
19	11 March	Moot Court Exercise (cont'd)
20	18 March	Lunch concluding the course