



Advisory Centre on WTO Law

Centre Consultatif sur la Législation de l'OMC

Centro de Asesoría Legal en Asuntos de la OMC

ACWL TRAINING PROGRAMME ON WTO LAW AND JURISPRUDENCE

PART II

WTO AGREEMENTS ON SERVICES, INTELLECTUAL PROPERTY RIGHTS AND TRADE REMEDIES (ANTI-DUMPING, COUNTERVAILING & SAFEGUARD MEASURES)

7 October 2010 – 24 March 2011



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No	Date	Subject
1	7 October 2010	<p>Introductory Session</p> <ul style="list-style-type: none"> ▪ Objectives and format of course ▪ How to research WTO law ▪ The relationship between the WTO Agreements <p><i>Recommended reading:</i> - F. Roessler 'The Agreement Establishing the World Trade Organization' in J.H.J Bourgeois <i>et al</i> (eds.) <i>The Uruguay Round Results: A European Lawyers' Perspective</i> (1995)</p>
2	14 October	<p>Trade in Services I</p> <ul style="list-style-type: none"> ▪ The General Agreement on Trade in Services (GATS) <ul style="list-style-type: none"> - Scope - Modes of supply - General obligations and disciplines (Part II): Articles II (MFN), III (Transparency), IV (Domestic Regulation), V and XIV (Exceptions) <i>etc.</i> - Specific commitments (Part III): Market Access (XVI), National Treatment (XVII) <i>etc.</i> - Progressive liberalisation (Part IV) <p><i>Recommended reading:</i> - WTO, <i>Guide to the Uruguay Round Agreements</i> (1999) pp. 161-206 - D. Steger, <i>Course on Dispute Settlement: GATS Module</i> (UNCTAD, 2003)</p>
3	21 October	<p>Trade in Services II</p> <ul style="list-style-type: none"> ▪ How to read a GATS schedule
4	28 October	<p>Trade in Services III</p> <ul style="list-style-type: none"> ▪ Review of key Appellate Body rulings involving the GATS <p><i>China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products</i> WT/DS363 <i>United States – Measures affecting the Cross-Border Supply of Gambling and Betting Services</i> WT/DS285 <i>Mexico – Measures Affecting Telecommunications Services</i> WT/DS204</p> <p><i>Recommended reading:</i> - E.H. Leroux 'Eleven Years of GATS Case Law: What Have We Learned?' 2007 <i>Journal of International Economic Law</i> 10(4) pp. 749-793</p>

No	Date	Subject
5	4 November	<p>Trade-Related Aspects of Intellectual Property Rights (TRIPS)</p> <ul style="list-style-type: none"> ▪ Overview of the TRIPS Agreement <ul style="list-style-type: none"> - Negotiating history - Nature and scope - Cross cutting rules (National Treatment, MFN <i>etc.</i>) - Substantive rules by IP right: <ul style="list-style-type: none"> Copyright Trademarks Geographical indications Industrial designs Patents Confidential information <p><i>United States – Section 211 Omnibus Appropriations Act of 1998</i> WT/DS285 <i>Canada – Term of Patent Protection</i> WT/DS170 <i>United States – Section 110(5) of the US Copyright Act</i> WT/DS160 <i>Canada – Patent Protection of Pharmaceutical Products</i> WT/DS114</p> <p><i>Recommended reading:</i> - WTO, <i>Guide to the Uruguay Round Agreements</i> (1999) pp. 207-222 - F.M. Abbott, <i>Course on Dispute Settlement: TRIPS Module</i> (UNCTAD, 2003)</p>
6	11 November	<p>TRIPS and Geographical Indications</p> <ul style="list-style-type: none"> ▪ The definition of GIs ▪ Rationale for protection ▪ The obligations of WTO Members ▪ The "higher level" of protection for wines and spirits ▪ Exceptions <p><i>European Communities – Protection for Trademarks and Geographical Indications for Agricultural Products and Foodstuffs</i> WT/DS174, WT/DS290</p> <p><i>Recommended reading:</i> - G.E. Evans & M. Blakeney 'The protection of geographical indications after Doha: Quo Vadis?' 2006 <i>Journal of International Economic Law</i> 9(3) pp. 575-614</p>

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7	18 November	<p>TRIPS and Public Policy</p> <ul style="list-style-type: none"> ▪ General and developing-country flexibilities ▪ The use of a patent without the authorisation of the right-holder ("compulsory licensing") ▪ TRIPS and Public Health <ul style="list-style-type: none"> - Doha Declaration on the TRIPS Agreement and Public Health (2001) - The Decision on the Implementation of Paragraph 6 of the Doha Declaration on TRIPS and Public Health (2003) and the experience of Rwanda. - Amendment to TRIPS Article 31 <i>bis</i>, 6 December 2005 ▪ Protection of undisclosed test data <p><i>Brazil – Measures Affecting Patent Protection</i> WT/DS199</p> <p><i>Recommended reading:</i></p> <ul style="list-style-type: none"> - Doha Declaration on the TRIPS Agreement and Public Health (2001) WT/MIN(01)/DEC/2 - Decision on the Implementation of Paragraph 6 of the Doha Declaration on TRIPS and Public Health (2003) WT/L/540 - General Council, Minutes of Meeting Held on 25, 26 and 30 August 2003, WT/GC/M/82 - Council for TRIPS, Minutes of Meeting Held on 28 August 2003, IP/C/M/41 - General Council, Amendment to the TRIPS Agreement: Decision of 6 December 2005, WT/L/641 - F.M. Abbott 'The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health' 2005 <i>American Journal of International Law</i> 99 pp. 317-358
8	25 November	<p>TRIPS Enforcement</p> <ul style="list-style-type: none"> - Section 1 (General obligations) - Section 2 (Civil and administrative procedures) - Section 3 (Provisional measures) - Section 4 (Border measures) - Section 5 (Criminal procedures) <p><i>China – Measures Affecting the Protection and Enforcement of Intellectual Property Rights</i> WT/DS362</p> <p><i>EU and a Member State – Seizure of Generic Drugs in Transit</i> WT/DS408 and WT/DS409</p>

No	Date	Subject
9	2 December	<p>Trade Remedies – Overview</p> <ul style="list-style-type: none"> ▪ Comparison between anti-dumping measures, countervailing duty measures and safeguard measures ▪ Differing rationales for these measures ▪ Major users and major targets <p><i>Recommended reading:</i></p> <ul style="list-style-type: none"> - Global Trade Protection Report 2009 - P. Mavroidis, <i>Trade in Goods</i> (2008) pp. 338-366 <hr style="width: 10%; margin: 10px auto;"/> <p>Moot Court Exercise</p> <p><i>This exercise will examine issues related to the first 8 sessions of the training course. Participants will work on moot court submissions during the rest of the course. There will be an oral hearing during the 10 March 2011 class and the Panel will deliver its report during the end-of-course lunch on 24 March 2011.</i></p> <ul style="list-style-type: none"> ▪ Circulation of facts ▪ Course participants and ACWL lawyers sign up for complainant, respondent, third party and panel teams ▪ Teams will have until 16 December to submit any requests for clarification of the facts
10	9 December	<p>Trade Remedies – Anti-dumping</p> <ul style="list-style-type: none"> ▪ The concept of dumping ▪ The definition of product under investigation and like product ▪ The determination of normal value ▪ The determination of export price ▪ Cost calculations ▪ Fair comparison ▪ The zeroing problem <p><i>United States – Continued Existence and Application of Zeroing Methodology</i> WT/DS350/AB/R <i>United States – Final Anti-Dumping Measures on Stainless Steel from Mexico</i> WT/DS344</p> <p><i>Recommended reading:</i></p> <ul style="list-style-type: none"> - E. Vermulst, <i>The WTO Anti-Dumping Agreement</i> (2005) pp. 19 - 62 - WTO, <i>Guide to the Uruguay Round Agreements</i> (1999) pp. 79-89 - P. Van den Bossche, <i>The Law and Policy of the WTO</i> (2005) pp. 513-550 - J. Viner, <i>Dumping: A Problem in International Trade</i> (1923) pp. 374-380

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11	20 January 2011	<p>Moot Court Exercise</p> <ul style="list-style-type: none"> ▪ Any requested clarifications of the facts will be given to the teams <p>Trade Remedies – Subsidies and Countervailing Measures</p> <ul style="list-style-type: none"> ▪ Quick recap of SCM and AoA law on subsidies ▪ Calculation of the amount of a subsidy ▪ The problem of pass-through <p><i>Japan – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMs) from Korea</i> WT/DS336 <i>United States – Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMs) from Korea</i> WT/DS296 <i>United States – Final Countervailing Duty Determination with Respect to Certain Softwood Lumber from Canada</i> WT/DS257 <i>United States – Countervailing Measures Concerning Certain Products from the European Communities</i> WT/DS212</p> <p><i>Recommended reading:</i> - A. Lowenfeld, <i>International Economic Law</i> (2002) pp. 199 - 241 - WTO, <i>Guide to the Uruguay Round Agreements</i> (1999) pp. 90-102 - P. Van den Bossche, <i>The Law and Policy of the WTO</i> (2005) pp. 551-587</p>
12	27 January	<p>Moot Court Exercise</p> <ul style="list-style-type: none"> ▪ Complainant, respondent and third party teams meet with lawyers to prepare written submissions ▪ Panel team meets with lawyers to prepare an outline of its report ▪ Complainant, respondent and third party teams will file their written submissions by 24 February
13	3 February	<p>Trade Remedies – Injury and Causation in Anti-dumping and Countervailing Duty Investigations</p> <ul style="list-style-type: none"> ▪ The concept of material injury and the assessment of injury factors ▪ The assessment of causal link – price effects, volume effects, other factors ▪ Threat of injury cases <p><i>European Communities – Anti-Dumping Measure on Farmed Salmon from Norway</i> WT/DS337 <i>Mexico – Anti-Dumping Duties on Steel Pipes and Tubes from Guatemala</i> WT/DS331</p>

No	Date	Subject
		<p><i>United States – Investigation of the International Trade Commission on Softwood Lumber from Canada (Softwood Lumber VI) WT/DS277</i> <i>Egypt – Definitive Anti-Dumping Measures on Steel Rebar from Turkey WT/DS211</i> <i>European Communities – Anti-Dumping Duties on Imports of Cotton-type Bed Linen from India - Recourse to Article 21.5 of the DSU by India WT/DS141/AB/RW</i> <i>Thailand – Anti-Dumping Duties on Angles, Shapes and Sections of Iron or Non-Alloy Steel and H-Beams from Poland WT/DS122</i></p> <p><i>Recommended reading:</i> - E. Vermulst, <i>The WTO Anti-Dumping Agreement</i> (2005) pp. 63 -99</p>
14	10 February	<p>Trade Remedies – Injury and Causation in Anti-dumping and Countervailing Duty Investigations (cont'd)</p> <ul style="list-style-type: none"> ▪ The concept of material injury and the assessment of injury factors ▪ The assessment of causal link – price effects, volume effects, other factors ▪ Threat of injury cases
15	17 February	<p>Trade Remedies – Procedures in Anti-dumping and Countervailing Duty Cases</p> <ul style="list-style-type: none"> ▪ Overview of the process from initiation to final determination and the responsibilities of relevant actors at every stage ▪ Duties of cooperation by exporters and the use of facts available ▪ Collection of duties – the retrospective and prospective systems (including prospective normal value) ▪ Sunset reviews <p><i>Korea – Anti-Dumping Duties on Imports of Certain Paper from Indonesia WT/DS 312</i> <i>United States – Anti-Dumping and Countervailing Measures on Steel Plate from India WT/DS206</i> <i>United States – Sunset Reviews of Anti-Dumping Measures on Oil Country Tubular Goods from Argentina WT/DS268</i></p> <p><i>Recommended reading:</i> - J. Czako <i>et al</i>, <i>A Handbook on Anti-Dumping Investigations</i> (2003) pp. 1-96</p>
16	24 February	<p>Trade Remedies – Safeguards</p> <ul style="list-style-type: none"> ▪ Requirements of unforeseen developments and increased imports ▪ Serious injury and causation <p><i>Argentina – Safeguard Measures on Imports of Footwear WT/DS121</i></p>

No	Date	Subject
		<p><i>Korea – Definitive Safeguard Measures on Imports of Certain Dairy Products</i> WT/DS98 <i>United States – Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities</i> WT/DS166 <i>United States – Safeguard Measure on Imports of Fresh Chilled or Frozen Lamb from New Zealand and Australia</i> WT/DS178 <i>United States – Definitive Safeguard Measures on Imports of Certain Steel Products</i> WT/DS248</p>
17	3 March 2011	<p>Moot Court Exercise</p> <ul style="list-style-type: none"> ▪ Complainant, respondent and third party teams meet with lawyers to prepare opening statements ▪ Panel team meets with lawyers to prepare questions for the parties
18	10 March	<p>Moot Court Exercise</p> <ul style="list-style-type: none"> ▪ Participants present their oral statements as complainant, defendant and third party teams to the Moot Court Panel
19	17 March	<p>Trade Remedies – Safeguards (cont'd)</p> <ul style="list-style-type: none"> ▪ The application of safeguards ▪ The parallelism problem ▪ Rebalancing rights for affected WTO Members ▪ Procedural rights/obligations <p><i>Recommended reading:</i> - A. Sykes, <i>The WTO Safeguards Agreement</i> (2006) - WTO, <i>Guide to the Uruguay Round Agreements</i> (1999) pp. 103-109</p>
20	24 March	<p>Concluding Session - Lunch</p> <ul style="list-style-type: none"> ▪ Moot Court Panel renders its report ▪ Evaluation of the course