

WTO Law on Anti-Dumping & Safeguard Measures

Semester: Spring Semester- FS 2020

Root Number: 446635

ECTS: 3

Lecturers: Edwin Vermulst & Fernando Piérola

Dates: 27 - 30 January 2020

Room: Silva Casa Auditorium, World Trade Institute, Hallerstrasse 6, Bern

Audience:

- Master of Advanced Studies of International Law and Economics (MILE) Students – Optional
- Joint LL.M. / Diploma of Advanced Studies Trade and Investment Law (TRAIL+) Students - World Trade Institute / Faculty of Law, Unibe - Optional
- Certificate of Advanced Studies / Diploma of Advanced Studies in International Law and Economics (CAS ILE & DAS ILE) Students - World Trade Institute, Unibe – Optional
- MILE a la Carte

Course Description

This first part of a two week course on international trade remedies will be comprised of lectures and studies that deal primarily with US and EC Anti-Dumping law and practices, how they relate to WTO law (specifically, the Anti-Dumping Agreement), and the disciplines on safeguards in the WTO legal system. The course will cover both substantive and procedural aspects from a practical perspective, taking into account the interest of the main stakeholders usually involved in these matters, e.g. the authorities of the country applying these regulations, the domestic producers, exporters, importers, industrial consumers and the government of the affected

exporters. This course is relevant for individuals working in government, industry, law practice, NGOs, and academia who have an interest in trade remedy issues.

Lecturers

Edwin Vermulst

Edwin Vermulst has practiced international trade and EU law and policy since 1985 and is a founding partner of VVGB Advocaten. He is a member of the Brussels bar A-list. Mr. Vermulst graduated from the University of Utrecht in 1983 and received LL.M and SJD degrees from the University of Michigan Law School in 1984 and 1986.

Mr. Vermulst specializes in the representation of multinationals, governments, trade associations, exporters and importers in EU and WTO TDI and customs proceedings, for example, in the recent anti-dumping and/or anti-subsidy proceedings involving Solar panels and Solar glass, many steel products, Wireless WAN modems and Footwear. He is, among others, the trade counsel of the World Federation of Sporting Goods Industry [WFSGI] and the Federation of European Sporting Goods Industry [FESI].

Mr. Vermulst was a WTO Panellist in Mexico-HFCS from the US and has been involved in various WTO dispute settlement proceedings as a member of the delegation, most recently in EU-Biodiesel as counsel for the Indonesian government and in EU-FiT schemes from Italy and Greece and EU-Footwear as counsel for MOFCOM. He has co-authored nine books, including landmark comparative analyses of the anti-dumping systems of Australia, Canada, the EU and the US with Professor John Jackson in 1989 and of rules of origin in 1994, and numerous articles. The second edition of his book on EU Anti-Dumping Law and Practice was published in October 2010 by Sweet & Maxwell. His book on the WTO Anti-Dumping Agreement was published in 2006 by Oxford University Press.

Mr. Vermulst is the Editor-in-Chief of the Journal of World Trade. He is a Member of the Faculty of the World Trade Institute in Bern and a member of the Advisory Board of ECIPE, the European Centre for International Political Economy.

Mr. Vermulst is invariably selected as a top trade practitioner by leading directories such as Chambers, Who's Who Legal, Legal 500 and the Rushford report. Who's Who Legal has ranked him as the top trade lawyer worldwide for four years.

Fernando Piérola

Fernando Piérola is a senior lawyer at the Advisory Centre on WTO Law (ACWL) in Geneva, Switzerland, where he represents governments of developing countries and least-developed countries in WTO dispute settlement proceedings and provides legal advice and training to these countries on WTO law. Since 2002 he has participated in a large number of disputes representing complainants, respondents and third parties, in a wide variety of matters covered by the WTO agreements, including trade remedies, market access barriers in trade in goods, trade in services

and internal regulations. He has also served as an arbitrator in regional (CAFTA-DR) and investor-State (ICSID) disputes. Prior to his current undertakings, Dr. Piérola worked for the trade remedies authority of Peru's Government and conducted research at the World Trade Institute. He has published numerous works on WTO law, including a book on the WTO Safeguard Disciplines and two textbooks in Spanish on WTO dispute settlement. His doctoral degree in law was conferred by the University of Bern. In addition, he holds a Master's degree in Business Administration from the University of Geneva, and a Master's degree in International Law and Economics (MILE) from the World Trade Institute. He obtained the law degree from the Catholic University of Peru. He is a member of Lima's Bar Association.

Learning Objectives

- Students should understand the role of AD and safeguard measures in international trade regulation.
- Students should be able to identify the key similarities and differences between AD and safeguards, both in terms of their objectives and practical application.
- Students should obtain a sense of how AD and safeguard investigations are conducted.
- Students should understand the basics of dumping margin calculations and of how determinations of material/serious injury are made.

Assessment

- Students' knowledge will be assessed on the basis of an open book, take home exam which needs to be completed on an individual basis. The exam will consist of essay questions.
- Take home assignment made available on Thursday, 30 January 2020, 16:00 and to be submitted before Friday, 31 January 2020 by 20:00
- One question from Edwin Vermulst, carries 50% weight in the final course grade
- One question from Fernando Pierola, carries 50% weight in the final course grade

Course Overview

Date	Day	Time	Lecturer/s	Topic
27 Jan	Monday	9:00 - 12:00	Edwin Vermulst	Incoterms, Customs, Dumping
		14:00 - 16:00	Edwin Vermulst	Determination of Dumping
28 Jan	Tuesday	8:30 - 11:30	Edwin Vermulst	Determination of Dumping
		12:30 - 14:30	Edwin Vermulst	Dumping-Procedures
29 Jan	Wednesday	9:00 - 12:00	Fernando Piérola	Safeguards
		14:00 - 16:00	Fernando Piérola	Safeguards
30 Jan	Thursday	9:00 - 12:00	Fernando Piérola	Injury Determinations in Anti-Dumping & and Safeguards Investigations
		14:00 - 16:00	Fernando Piérola	
31 Jan	Friday	Due 20:00	Take-home assignment	Case-Study Paper/Exam

MONDAY, 27 JANUARY 2020

Lecturer: Edwin Vermulst

Subject:

Dumping

Topics:

- Incoterms
- Customs and trade laws
- The determination of dumping

Compulsory Reading Material:

- ADB Trade remedies toolkit (2009) *Anti-Dumping measures*.

Optional Reading Material:

- Czako, J., Human, J. and Miranda, J., *A Handbook on Anti-Dumping Investigations*, Cambridge: Cambridge University Press, 2003.
- Vermulst, E., *The WTO Anti-Dumping Agreement*, Oxford: Oxford University Press, 2005.

TUESDAY, 28 JANUARY 2019**Lecturer: Edwin Vermulst****Subject:**

Dumping

Topics:

- The determination of dumping (continued)
- Procedures

Compulsory Reading Material:

- ADB Trade remedies toolkit (2009) *Anti-Dumping measures*.

Optional Reading Material:

- Czako, J., Human, J. and Miranda, J., *A Handbook on Anti-Dumping Investigations*, Cambridge: Cambridge University Press, 2003.
- Vermulst, E., *The WTO Anti-Dumping Agreement*, Oxford: Oxford University Press, 2005.

WEDNESDAY, 29 JANUARY 2019

Lecturer: Fernando Piérola

Subject:

Safeguards

Topics:

- The role of safeguards in international trade regulation
- Non-discrimination and its limits
- Conditions for the imposition of safeguard measures
- Safeguard measures – scope, form, level and duration
- Adjustment and public interest
- Investigation procedures
- Compensation and suspension of equivalent concessions

Compulsory Reading Material:

- Article XIX of GATT 1994
- The WTO Agreement on Safeguards
- Panel Report, *Dominican Republic-Safeguard Measures on Imports of Polypropylene Bags and Tubular Fabric (WT/DS415/R)* (not necessary to read the whole report in detail but students should become familiar with the case).

THURSDAY, 30 JANUARY 2020

Lecturer: Fernando Piérola

Subject:

Injury Determinations in Anti-Dumping & and Safeguards Investigations

Topics:

- Injury determinations – similarities and differences
- Injury, threat and material retardation
- Cumulation of injury
- Defining the domestic industry – injury to whom?
- Establishing the state of the industry
- Assessment of causation and other factors

Compulsory Reading Material:

- Article VI of GATT 1994
- The WTO Agreement on the Implementation of Article VI of GATT 1994, Articles 3 and 4.

Optional Reading Material:

- Czako, J., Human, J. and Miranda, J., *A Handbook on Anti-Dumping Investigations*, Cambridge: Cambridge University Press, 2003, Part III.

FRIDAY, 31 JANUARY 2020

Assessment

Assessment and instructions will be provided via ILIAS after Thursday's class.