WTO Law on
Border Measures and Trade Facilitation

Semester: Spring Semester- FS 2022

Root Number: 446634

ECTS: 3

Lecturer: Anna Jerzewska and Roy Santana

Dates: 24 – 28 January 2022

Room: The is a hybrid course. The course will be held on-site at the World Trade Institute and online on Zoom.

Audience:

- Government officials; Embassy staff; people working for international organizations and NGOs, industry and in legal practice
- Master of Advanced Studies of International Law and Economics (MILE) Students
- Joint LL.M. / Diploma of Advanced Studies Trade and Investment Law (TRAIL+) Students - World Trade Institute / Faculty of Law, Unibe
- Certificate of Advanced Studies / Diploma of Advanced Studies in International Law and Economics (CAS ILE & DAS ILE) Students - World Trade Institute, Unibe
- Students from different universities across Switzerland

Course Description

The course will introduce students to the main international trade rules on market access for trade in goods, focusing on the key border management measures. Students are expected to acquire a thorough understanding of the rules applicable to different forms of border control measures and to appreciate the challenges faced in applying the WTO rules.
The course will focus on the basic border management measures (tariffs, tariff classification, customs valuation, rules of origin, and quantitative restrictions), including the applicable WTO rules, practice and jurisprudence, as well as practical challenges faced by traders. The course will conclude by providing a brief introduction to the concept of trade facilitation and an overview of the new Trade Facilitation Agreement. The course will also explore, through focused discussions and practical exercises, the legal and practical implications of issues such as Schedules of concessions, bound tariffs, tariff renegotiations under Article XXVIII, other duties and taxes, tariff rate quotas, non-tariff barriers, prohibitions and restrictions, as well as the manner in which the new agreement on Trade Facilitation Agreement seeks to improve the clearance procedures.

This course will be of particular interest to those interested in private sector trading, government negotiations and regulation. It will also be of particular interest to those working in customs compliance matters or on the export side of companies and those supporting such companies as consultants or via institutions like the Chambers of Commerce.

Lecturer

Dr Anna Jerzewska

Dr Anna Jerzewska is the founder and CEO of Trade and Borders, a London and Geneva based customs and international trade consultancy specializing in delivering bespoke advice to a broad range of clients. Dr Jerzewska has worked in trade since 2005 and has a combination of private sector, policy and academic experience. Based in London and Geneva, she offers strategic and operational support on a wide range of customs and trade policy matters to both private and public sector clients. Anna’s main clients include International Trade Centre, the UK Government, the Scottish Government and the British Chambers of Commerce. She holds a PhD in free trade agreements, is a published author and is frequently asked to give evidence on trade and customs to UK Parliament’s Select Committees. Anna is an Associate Fellow of the UK Trade Policy Observatory. Previously Anna worked as a customs specialist for PwC, EY and KPMG.

Roy Santana

Roy Santana is an expert on tariff and customs matters who has worked for the Market Access Division of the World Trade Organization since 2004, including as Secretary of the Committee on Market Access and the Committee on Customs Valuation. He has also provided support to several negotiations and WTO bodies, including the Committee of Participants of the Information Technology Agreement (ITA), the 2016 expansion of the ITA, the Negotiating Group on Non-Agricultural Products (NAMA), the Environmental Goods Agreement (EGA), and the Trade Facilitation Agreement Facility (TFAF). He has served as a technical liaison in eight disputes under the Dispute Settlement Understanding, contributed to many reports and publications by the WTO Secretariat, and has frequently trained government officials in a number of WTO agreements. Mr. Santana holds an LL.M.
in Trade Regulation from New York University (NYU), as well as a degree in Law and a bachelor’s degree in Economics from the University of Costa Rica.
Learning Objectives

- To provide a simple and clear introduction to the basic concepts and features of customs law as applied at the border.
- To provide an introduction to the main pillars of customs law, namely: tariff classification, rules of origin and customs valuation.
- To provide participants with practical examples, relevant case law related to customs law concerning various countries and including WTO case law.
- To provide practical training and hands-on experience in the application of the rules on market access for goods in concrete, true-to-life situations.
- To provide a comprehensive understanding of WTO law on market access for goods, and in particular the practice law on tariffs and quantitative restrictions on both imports and exports.
- To provide a brief introduction to the Trade Facilitation Agreement.

Assessment

- Students’ knowledge will be assessed on the basis of in-class participation (50%) and an open book, take home exam (50%) which needs to be completed on an individual basis.
- Take-home assignment made available on Thursday, 23 January 2020, 16:00 and to be submitted before Friday, 24 January 2020, 20:00

Course Overview

<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Time</th>
<th>Topic</th>
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<tbody>
<tr>
<td>24 Jan.</td>
<td>Monday</td>
<td>10:00-12:00</td>
<td>Tariffs and tariff classification</td>
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<td>13:00-15:00</td>
<td>Practical exercise</td>
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<tr>
<td>25 Jan.</td>
<td>Tuesday</td>
<td>10:00-12:00</td>
<td>WTO Schedules of concessions and their changes</td>
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<td>13:00-15:00</td>
<td>Practical exercise</td>
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<td>26 Jan.</td>
<td>Wednesday</td>
<td>10:00-12:00</td>
<td>Quantitative restrictions</td>
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<td>13:00-15:00</td>
<td>Customs valuation</td>
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<tr>
<td>27 Jan.</td>
<td>Thursday</td>
<td>10:00-12:00</td>
<td>Customs valuation / rules of origin</td>
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<td>13:00-15:00</td>
<td>Rules of origin</td>
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<td>28 Jan.</td>
<td>Friday</td>
<td>10:00-12:00</td>
<td>WTO Trade Facilitation Agreement</td>
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<td>13:00-15:00</td>
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<td>29 Jan.</td>
<td>Saturday</td>
<td>Due 16:00</td>
<td>Case-study paper/exam (Take-home assessment)</td>
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Lecturer: Roy Santana

Subject
- Introduction to tariffs and tariff classification

Topics
- Tariff classification and the Harmonized System
- General Interpretation Rules
- Tariff measures, including tariff rate quotas
- MFN and preferential duties
- Bound tariffs
- Internal taxes
- Other duties and charges

Compulsory Reading Material

Optional Reading Material
- Lyons, Timothy, (3rd edition 2018), EU Customs Law (Oxford University Press), Chapter 5 (The Common Customs Tariff: Administration and Interpretation)
Tuesday, January 25, 2022

Lecturer: Roy Santana

Subject

- WTO Schedules of concessions (AM session)
- Changes to the Schedules of concessions (PM session)

Topics

- WTO Schedules of concessions
- Tariff negotiations
- 1980 Procedures for modification and rectification of Schedules
- Article XXVIII of the GATT 1994
- Transposition of WTO Schedules

Compulsory Reading Material


Optional Reading Material

AM session:

Lecturer: Roy Santana

Subject

- Quantitative restrictions (PM session)

Topics

- Non-tariff barriers
- Quantitative restrictions; import & export controls
- Articles XI and XIII of the GATT 1994
- Carve outs and exceptions, including Article XX and XXI of the GATT
- Link to the Agreement on Import Licensing Procedures

Compulsory Reading Material


Optional Reading Material

- WTO Analytical Index, Articles XI and XIII of the GATT 1994, Jurisprudence (WTO); available at:
  and
- WTO Analytical Index, Articles XX and XXI of the GATT 1994, Jurisprudence (WTO); available at:
  and
Wednesday, January 26, 2022 (PM)

Lecturer: Dr Anna Jerzewska

Subject

- Customs Valuation (AM session)

Topics

- Customs Valuation
  - Importance and various methods of valuation
  - Transaction value vs. normal value
  - Authorized adjustments
  - Alternative valuation methods

Compulsory Reading Material


Optional Reading Material

- Santana, Roy (2016), The End of Customs Duties: How far are we from full tariff elimination and what would be the consequences of achieving it?", Revue européenne et internationale de droit fiscal, N° 2016/2, pp. 165-172
- Lyons, Timothy, (3rd edition 2018), EU Customs Law (Oxford University Press), Chapter 8 (The Valuation of Goods)
Lecturer: Dr Anna Jerzewska

Subject

- Rules of Origin

Topics

- Rules of Origin
  - Rationale and two main types of origin: preferential and non-preferential
  - Non-preferential rules: wholly obtained goods and substantial transformation
  - Preferential rules: product-specific rules and origin provisions

Compulsory Reading Material


Optional Reading Material

- Lyons, Timothy, (3rd edition 2018), EU Customs Law (Oxford University Press), Chapter 7 (The Origin of Goods)
FRIDAY, JANUARY 28, 2022

Lecturer: Dr Anna Jerzewska

Subject
- WTO Trade Facilitation Agreement

Topics
- The concept of trade facilitation
- Trade Facilitation Agreement
- Implementation of the TFA

Compulsory Reading Material
- World Trade Organization (2014), Agreement on Trade Facilitation, WTO document WT/L/940

Optional Reading Material
SATURDAY, JANUARY 29, 2022

Take-home assessment due 16:00