Trade and Agriculture: New Challenges

Semester: Fall semester - HS 2020

Root Number: 446638

ECTS: 3

Lecturers: Christian Häberli & Lee Ann Jackson

Dates: 6 – 10 July, 2020 (take-home assessment due on 11 July)

Location: In response to the COVID-19 pandemic and following the guidelines established by the University of Bern, all courses of the 2020 WTI Summer Academy will only be held online. This course will have live sessions on Zoom.

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 à la Carte
- Government officials; Embassy staff; people working for international organisations and NGOs

Course Description

Trade in food and agriculture is one of the most sensitive subjects within the WTO rules framework. While agriculture was covered by GATT 1947, many exceptions allowed countries to use measures and to provide subsidies that obstructed imports and displaced more efficient producers abroad. Together with agreements such as SPS, TBT, and TRIPS, the Agreement on Agriculture (AoA) constitutes the WTO legal framework guiding regulations along the whole food value chain (“from farm to fork”). However, while export subsidies have finally been outlawed, and after heavy litigation clarified several issues, efforts to improve market access and address numerous remaining distortions through negotiations have been unsuccessful: the agricultural
trade rules framework remains work in progress. The rules and disciplines resulting from the Uruguay Round reflect the interests and compromises achieved between the then negotiators – not of the present membership. New issues, especially climate change mitigation and pandemic prevention, remain unaddressed.

In the decades since the end of the Uruguay Round, the agri-food sector has undergone significant changes. Production and trade have increased substantially, including in large and competitive developing countries. Nonetheless, old and new forms of farm support, industrial subsidies, and trade barriers persistently impact agricultural trade and investment. The location and type of demand is changing due to growing and increasingly urbanized population, particularly in food-insecure developing countries. At the same time, increasing incomes have led to higher consumption of animal products and demands for feedstock commodities, as well as for biofuels and other non-food uses.

Food systems face a formidable triple challenge: to produce enough food for growing world populations, to provide livelihoods for those working along the food challenges, and to both of these in an environmentally sustainable way. The agro-food system also faces disruptions – such as those generated by the Covid-19 pandemic, but also those generated by climatic shocks. When faced with these disruptions, governments must manage potentially competing priorities – responding immediate to safety concerns, while simultaneously facilitating the smooth functioning of food systems and managing the consequences of shocks to the macroeconomy. Policy responses over the short, medium and long term will determine how damaging impacts turn out to be for food security, nutrition and livelihoods of those working along the food chain.

Policy makers need to balance their complex agriculture and food policy objectives with their commitments under the WTO framework. These challenges are likely to compound still unsolved problems where both multilateral and preferential trade rules appear to look out of date. In addition, “old” rules, subsidy entitlements, and entrenched market shares, may disadvantage newcomers, particularly from least-developed countries with non-resilient producers. This year, while the pandemic will have overwhelmingly negative economic impacts, it also could be an opportunity to accelerate transformations in the food and agriculture sector to build its resilience to future shocks.

Pressing questions include:

- What enabling conditions will allow food trade to contribute to food security, including of marginalized groups such as small farmers, women, poor consumers and migrants?
- How to ensure food safety in the context of rapidly globalising food value chains without strangling developing country exports?
- How to address increasing trade conflicts arising from deforestation and other unsustainable production patterns?
- What are the optimal policies for meeting (at times conflicting) core societal values and new challenges (e.g. animal welfare, child and forced labour, climate change, pandemic prevention or malnutrition and obesity), and for
When facing new challenges, regulators, trade negotiators, scholars, politicians and activists need to understand existing rules in the AoA and their impact on a wide range of policy issues. In this week we look at the history of, and the economic justification for, the rules in the AoA and related agreements. We then examine how these rules which were created in response to the agricultural policy landscape of the 1980's fit the current global context and what the implications of these rules are for food security, obesity and malnutrition, food safety, rural and urban poverty, and the food trade impact of climate change. In addition to participating in interactive lectures and exercises, participants will be invited to identify specific agriculture-related issues for further discussion. In addition to the challenges mentioned above, topics could include sustainable development goals, “land grab”, gender issues, water allocation and wood scarcity, fish, biofuels and biotechnology. On Day 4 of the week, and if made possible in a virtual course mode, participants will lead a discussion on the selected topics highlighting the interaction between existing trade rules and policy outcomes, and identifying the ways the existing framework provides flexibility to, or constrains, policy makers and operators.

This course on agricultural goods trade (food, feed, fuel, fibre) builds on the basic knowledge which students will have acquired, especially in the courses on International Economic Law and the Pursuit of Core Societal Values and Interests, and on other WTO Agreements (e.g. GATT/GATS, SPS/TBT, ASCM, TRIPS, TRIMS).

**Lecturers**

**Lee Ann Jackson**

Head of the Agro-food Trade and Markets Division in the OECD’s Trade and Agriculture Directorate. Based in Paris, she leads the work examining the links between policies and outcomes on food and agricultural markets, including specific analysis related to modelling medium term outlook for commodity markets, understanding policies from a food systems perspective, and enhancing the transparency and predictability of agricultural trade. She has over 20 years of experience working in the area of trade and agriculture, including 16 years working at the WTO, where she served as the Secretary to the Committee on Agriculture, advising WTO member countries on issues related to agricultural trade policy and multilateral negotiations. She was previously a Research Fellow in the School of Economics at the University of Adelaide in South Australia and a researcher in the Environment Division of the International Food Policy Research Institute in Washington DC. Dr Jackson completed her PhD in applied economics at the University of Minnesota; and has a joint master’s degree in public policy and environmental studies from Yale University. She earned certification as a mediator through the Center for Effective Dispute Resolution. She has served as a consultant for leading international organisations involved in agriculture policy and
trade, including the Food and Agriculture Organization and the Consultative Group for International Agriculture Research.

Christian Häberli

Fellow of the World Trade Institute since 2007 and a consultant for scientific research and outreach activities in Europe, Asia, Africa, and in the Americas. Over 60 publications on trade and investment issues related to agriculture, food security and food safety, obesity and malnutrition, water, climate change, employment, multilateral and regional trade, and development. In 1977 he earned a PhD with a thesis in African Investment Law (Basel University). He also has university degrees in Development Sciences from Geneva (1975) and in Theology from Bern (2009). His professional career started in 1978 with the International Labour Organization (ILO) and then with the Swiss Government, based in Madagascar, Thailand, Nepal, and Switzerland. Dr Häberli was a trade negotiator for Switzerland in the GATT and the WTO during the Uruguay and the Doha Rounds (1986 to 2007). He was Chair of the WTO Committee on Agriculture (Regular Session, 2005 – 07) and WTO Panellist 1996 – 2015, in twenty stages of five dispute settlement cases (bananas, apples, biotech, audiovisuals, and country of origin labelling). He also served as Chair (every other year) of the Joint Committee of the Agriculture Agreement Switzerland–EU (2002 to 2007). He presently chairs the Arbitration Panel established on 28 January 2020, initiated by the EU on restrictions applied by Ukraine on exports of certain wood products.

Learning Objectives

At the end of this week, participants will have:

• Improved understanding of existing rules affecting food production, trade, investment and consumption, and of policy trends in global markets for agricultural products;

• Enhanced perspective on the limitations of the present rules and the implications of liberalising agricultural trade on trade, income, and policy options to address core societal values and domestic priorities; and

• Exposure to a wide range of agri-food related policy issues.

Assessments

Quick Q&A on the preliminary readings (distributed and to be sent to the lecturer during the first lunchbreak)

• Carries a 10% weight in the final course grade

In-Class Performance

• Individual participation in the class discussions, ability to answer questions correctly and demonstration of the expected level of knowledge is evaluated from Monday to Friday, submission of written reflection after day 1, 2, and 3

• Carries a 20% weight in the final course grade
Group Presentation (Friday, 10 July 2020 10:00 – 12:00)
- Presentation of a topic “WTO/Agriculture and...” of your group’s choice
- Carries a 30% weight in the final course grade

Take-home assignment
- Assignment made available on Friday, after class
- 24 hours take-home assignment to be released via Google Drive on Friday, 10 July after class
- To be submitted via ILIAS before Saturday, 11 July, 20:00
- Carries a 40% weight in the final course grade

Course Overview*

<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Time</th>
<th>Lecturer/s</th>
<th>Topic</th>
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<tbody>
<tr>
<td>6 July</td>
<td>Monday</td>
<td>11:00 13:00</td>
<td>Christian Häberli</td>
<td>GATT and WTO Agrifood Rules</td>
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<td>14:00 16:00</td>
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<td>Quick understanding test Preparation of Group Exercises</td>
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<tr>
<td>7 July</td>
<td>Tuesday</td>
<td>11:00 13:00</td>
<td>Lee Ann Jackson</td>
<td>Evolving agri-food systems and the role of agricultural trade</td>
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<td>Agricultural policy landscape</td>
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<td>8 July</td>
<td>Wednesday</td>
<td>11:00 13:00</td>
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<td>Political Economy of Agriculture Policy</td>
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<td>Agriculture and sustainable development</td>
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<td>9 July</td>
<td>Thursday</td>
<td>11:00 13:00</td>
<td>Christian Häberli</td>
<td>“Agriculture and...” (name it!)</td>
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<td>14:00 16:00</td>
<td>Lee Ann Jackson</td>
<td>Agriculture, trade, and Covid19</td>
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<td>10 July</td>
<td>Friday</td>
<td>11:00 13:00</td>
<td>Christian Häberli</td>
<td>Presentations of selected topics by groups/participants</td>
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<td>14:00 16:00</td>
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<td>AOB and Summing Up</td>
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<td>11 July</td>
<td>Saturday</td>
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<td>Take-home assignment</td>
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* Lecturing times (and study times, and group work) will be discussed on Day 1, depending on participants’ whereabouts, topical choices and preferences.

The format is part roundtable, part general discussion. Participation requires registration. To register, please email communication@wti.org (Virtual) space is limited!
MONDAY, 6 JULY, 2020

Lecturer Christian Häberli

Subject GATT and WTO Rules

Topics

The Regulation of Agriculture

- WTO Agreements on Agriculture
  - Agriculture in the GATT
  - The Uruguay Round negotiations
  - The Agreement on Agriculture
  - (Briefly:) Related Agreements (SPS, TBT, TRIPS)
- Agricultural Development Provisions
- Agricultural FDI issues (“land grabbing” and “commercial agriculture”)
- The Doha Negotiations, the Bali Decisions, the Buenos Aires Non-Decisions and the postponement of MC12

Preparation of Group Exercises (examples): Assisting your choice for a topic “WTO / Agriculture and…"

Food Security (e.g.):
  - How to design and manage food reserves
  - Risk management tools
- Climate change
- Water
- Fish
- RTA (e.g. Brexit)
- Animal Welfare

- Geographical Indications
- Health/Obesity/Malnutrition
- Renewable Energies/Biotech
- Specific Commodities e.g. Rice, Palm Oil/Nutella, Avocados
- Food Safety
- Human Rights e.g. Right to Food
- Gender
- Labour Issues (forced labour, child labour)
Compulsory Reading Material for the whole week

- (Excerpts from©):
  
  o WTO, The WTO Agreements Series: Agriculture
    [https://www.wto.org/english/res_e/booksp_e/agric_agreement_series_3_e.pdf].
  
  o In the same series
    [https://www.wto.org/english/res_e/publications_e/wto_agree_series_e.htm]
    you find the official WTO view on Sanitary and Phytosanitary Measures
    [https://www.wto.org/english/res_e/booksp_e/agrmntseries4_sps_e.pdf] and
    the Technical Barriers to Trade
    [https://www.wto.org/english/res_e/publications_e/tbttrade_e.pdf].
  
  o For SPS and TBT, even better (but not available for agriculture), read
    Peter VAN DEN BOSSCHE and Werner ZDOUC, The Law and Policy of
    the World Trade Organization, Cambridge University Press (Fourth
  
- (Much shorter, but not official©):
  
  o Häberli, Christian, The WTO Agreements on Agriculture, and Climate
    change adaptation in food and agriculture. Chapter III.51 in Elgar
    Encyclopedia of International Economic Law (pp.468-470). Edward Elgar
    Publishing Ltd (2017)
  
  o Häberli, Christian, The Decision on Landlocked Developing Countries
    (LLDCs) and Net Food-Importing Developing Countries (NFIDCs).
    Chapter III.52 in Elgar Encyclopedia of International Economic Law
    (pp.470-471). Edward Elgar Publishing Ltd (2017)

Optional Materials (including for the Thursday morning Group Exercise! please also look at ILIAS!)

- Asche, Frank. Impacts of climate change on the production and trade of fish
  and fishery products. (FAO – SOCO – 2018)

- Bartels, Lorand. The Relationship between the WTO Agreement on Agriculture
  and the Agreement on Subsidies and Countervailing Measures (2015,
  available at SSRN and
  https://www.researchgate.net/publication/315336184_The_Relationship_between_the_WTO_Agreement_on_Agriculture_and_the_Agreement_on_Subsidies_and_Countervailing_Measures)

- Bellemare, Marc (2014). Rising Food Prices, Food Price Volatility, and Social
  Unrest. in American Journal of Agricultural Economics, Volume 97, Issue 1, 1
  January 2015, Pages 1–21, https://doi.org/10.1093/ajae/aau038


- Creative Commons. AGRIFOOD ATLAS 2017: Facts and figures about the corporations that control what we eat. (Downloads inter alia at Heinrich-Böll-Stiftung, www.boell.de/agrifood-atlas)

- Cui, Kuiper, van Mejl & Tabeau - Climate change and global market integration Implications (FAO – SOCO – 2018)


- Gonzalez, Carmen. Institutionalizing Inequality: the WTO, Agriculture and Developing Countries. Seattle University School of Law (2002)


• Häberli, Christian. God, the WTO – and Hunger. in Krista Nadakavukaren Scheffer (Ed), Poverty and the International Economic Law System: Duties to the Poor, Cambridge University Press (2013), pp.79-106


• Häberli, Christian. Seals and the Need for more Deference to Vienna by WTO Adjudicators. Fourth Biennial Global Conference of the Society of


Hertel, Climate Change, Agricultural Trade and Global Food Security (FAO – SOC – 2018)


Laborde, David et al., Transforming Agriculture in Africa & Asia: What are the policy priorities? (IISD, 2018)
• Lopian, R. 2018. Climate change, sanitary and phytosanitary measures and agricultural trade (FAO – SOCO – 2018)


• Sekhar, C.S.C.. Climate change and rice economy in Asia Implications for trade policy. Rome, FAO, 2018

• Smith, Laurence G. et al. The greenhouse gas impacts of converting food production in England and Wales to organic products. in Nature Communications 10, Article 4641 (October 2019). At https://www.nature.com/articles/s41467-019-12622-7

• Sky, Melissa Blue. The WTO, Agriculture, and Developing Countries: The Need for Trade Reforms. in Sustainable Development Law & Policy, Fall 2008, 41-42. At https://digitalcommons.wcl.american.edu/sdlp/vol9/iss1/14/


Tuesday, 7 July 2020

Lecturer: Lee Ann Jackson

Subject: Evolving Agri-food Systems and the Role of Agricultural Trade

- What is the agri-food system? How do the pieces fit together?
- How are patterns of production and consumption likely to change? Understanding agriculture supply and demand
  - Factors explaining agricultural supply and demand
  - Price formation for agriculture and food commodities
  - Price trends
- How does trade contribute to the resilience of the system? What are the impacts of agricultural trade at the farm, national and global levels?

Agricultural Trade Policy Landscape

- Agricultural policies in major countries: The potential impact on international trade and resulting hunger and poverty outcomes
- How are these policies evolving in response to COVID-19?
- Measuring economic impacts of policies
- What are the models missing? (climate externalities, food safety risks, gender ...)

Compulsory Reading Materials


Optional Reading Materials

WEDNESDAY, 8 JULY 2020

Lecturer  Lee Ann Jackson

Subject  Political Economy of Agriculture Policy

- What are the objectives of agriculture policies?
- Who are the winners and losers of different types of policies?
- Who is reforming and how?

Agriculture, Trade and Sustainable Development

- What’s the role of agricultural trade in achieving the Sustainable Development Goals?
- How do agricultural policies affect the distribution and intensity of resource use?
- What policies can accelerate and amplify the transition to sustainable agro-food systems?

Compulsory Reading Materials


Optional Readings Materials

- Anderson and Martin (2018) Food price changes, domestic price insulation, and poverty (when all policymakers want to be above average) in Agricultural and rural development in a globalizing world: Challenges and opportunities. (to be provided)
THURSDAY, 9 JULY 2020

Lecturer
Christian Häberli
Lee Ann Jackson

Subject
“Agriculture and…” (name it!)
Agriculture, trade, and Covid19

Reading Materials
- See Monday 6 July (additional readings on request to the lecturers)

FRIDAY, 10 July 2020

Lecturer
Christian Häberli

Subject
Group Presentations

Any Other Questions and Summing Up

SATURDAY, 11 July 2020

Take-home assignment