

ASPEN PUBLISHERS
TEACHER'S MANUAL



CARDEX	
VOCES	
B. DATOS	
OK	
3-2097	

International Trade Law

Problems, Cases, and Materials

Daniel C.K. Chow

Joseph S. Platt – Porter Wright Morris & Arthur Professor of Law
The Ohio State University College of Law

and

Thomas J. Schoenbaum

Professor of Graduate Studies, International Christian University, Tokyo
Research Professor of Law, George Washington University, Washington, DC

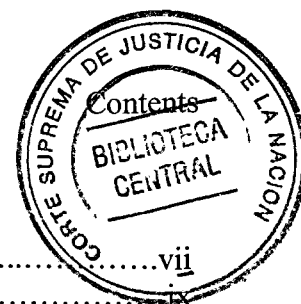
Biblioteca de la Corte Suprema	
Nº de Orden	121.252
Ubicación	G 2387



Wolters Kluwer
Law & Business

AUSTIN BOSTON CHICAGO NEW YORK THE NETHERLANDS

CONTENTS



Notes to Users of this Manual.....	vii
Preface.....	ix

CHAPTER 1: THE LAW OF INTERNATIONAL TRADE AND THE MULTILATERAL TRADING SYSTEM ✓

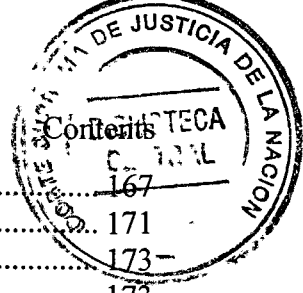
I. Some Background Considerations.....	1
A. What is the Law of International Trade?	1
B. Distinguishing the Law of International Trade and the Law of International Business Transactions	5
II. International Trade Flows	6
III. The Principal Global Economic Institutions.....	11
A. The World Bank.....	11
B. The International Monetary Fund	12
C. The World Trade Organization	14
IV. The Case for Free Trade: A Brief Look at International Economics	16
A. Arguments in favor of free trade.....	16
B. U.S.-China Relations.....	20
V. Negotiating Trade Concessions	24
VI. Dispute Settlement.....	25
A. General Considerations	25
B. Trade Remedies.....	28
C. Nullification or Impairment	28
D. Burden of Proof.....	35
E. Principles of Interpretation and Status of Adopted Reports.....	39
F. Retaliation Under National Laws	43
VII. Preferential Trade Agreements.....	47

CHAPTER TWO: THE IMPLEMENTATION OF INTERNATIONAL TRADE OBLIGATIONS IN THE DOMESTIC LEGAL ORDER ✓

I. Introduction	53
II. Implementation of International Trade Law Obligations.....	54
A. The United States	54
B. The European Union	64
III. The Effect of International Agreements On Domestic Law and Resolving Conflicts Between International Trade and Domestic Law.....	68
A. The United States.....	68
B. The European Union	71

CHAPTER THREE: THE CORE PRINCIPLES OF THE WTO: THE MOST FAVORED NATION AND NATIONAL TREATMENT PRINCIPLES ✓

I. Introduction	74
II. Most Favored Nation Principle	75
A. Scope of the MFN Obligations	78
B. The “Like Product” Issue	80



C. De Facto Discrimination 81

D. Exceptions to MFN Obligations 83

III. National Treatment 83

 A. Internal Taxes and Charges 87

 B. Government Regulation 93

 C. Government Procurement 99

CHAPTER FOUR: INTELLECTUAL PROPERTY AND TRIPs ✓

 I. Introduction 102

 II. Copyright 103

 III. Patents 105

 A. Introduction 105

 B. TRIPs and Pharmaceutical Patents 108

 III. Trademarks and Geographical Indications 115

 A. Trademarks 115

 B. Geographical Indications 120

 V. Enforcement Under TRIPs 122

 A. Commercial Privacy 122

 B. TRIPs Enforcement Obligations 123

 1. General Obligations 123

 2. Criminal Enforcement 124

 3. Civil and Administrative Enforcement 125

 4. Border Controls 125

CHAPTER FIVE: TRADE IN SERVICES AND GATS ✓

 I. Introduction 128

 II. Definition of Services and Modes of Supply 128

 III. GATS Obligations 128

 A. General Obligations 128

 B. Obligations for Committed Sectors 129

 IV. Market Access Commitments 131

 V. Sectoral Annexes Under the GATS 137

CHAPTER SIX: FOREIGN DIRECT INVESTMENT AND TRIMS ✓

 I. Introduction 140

 II. The Agreement On Trade Related Investment Measures 143

CHAPTER SEVEN: TRADE IN GOODS: CUSTOMS AND TARIFF LAW ✓

 I. Introductions 152

 A. Tariff Concessions 152

 B. Economic and Social Policy Implications of Tariffs 153

 II. GATT Rules on Tariffs and Customs 156

 III. Harmonized Tariff System 157

 IV. Customs Procedures 159

 V. Product Classification 160

 A. The WTO Rules 160

 B. The United States 167

 C. The European Union 171

VI. Valuation 173

 A. The WTO Rules 173

 B. United States Law 174

 C. European Union Law 180

VII. Rules of Origin 182

 A. WTO Standards 182

 B. United States Law 182

 C. European Union Law 185

VIII. Customs Areas and Free Trade Areas 187

CHAPTER EIGHT: NON-TARIFF TRADE BARRIERS ✓

 I. Introduction 192

 II. Quotas 192

 A. Background 192

 B. GATT Rules on Quotas 196

 III. Agricultural Trade 206

 IV. Technical Regulations and Product Standards 211

 V. State Trading Enterprises 218

CHAPTER NINE: GENERAL EXCEPTIONS: TRADE AND CIVIL SOCIETY ✓

 I. Introduction 222

 II. Environmental Protection 224

 III. Protection of Human Health and Safety 232

 IV. Food Safety: Sanitary and Phytosanitary Measures 234

 V. Workers' Rights 240

CHAPTER TEN: SAFEGUARDS ✓

 I. Introduction 243

 II. Safeguards Under the WTO 245

 III. Safeguards Under U.S. Law 247

CHAPTER ELEVEN: DEVELOPING COUNTRIES ✓

 I. Introduction 262

 A. Overview of Developing Countries 262

 B. What is a Developing Country 263

 C. The History of Developing Countries Within the GATT/WTO 264

 II. The GATT and Developing Countries 266

 III. Developed Country Preference Systems Under the WTO 267

 A. The Generalized System of Preferences for the Trade In Goods 268

 1. The United States 268

 2. The European Union 272

 IV. Agricultural Trade Subsidies 276

Contents

**CHAPTER TWELVE: UNFAIR TRADE REMEDIES: ANTI-DUMPING AND
COUNTERVAILING DUTIES** ✓

I. Introduction 283

II. Dumping and Anti-Dumping Duties 285

 A. The Economic and Political Debate 285

 B. The Operation of the U.S. Anti-Dumping Laws: Procedural Aspects 286

 C. The Calculation of Anti-Dumping Duties 286

 D. Injury Analysis 290

III. Subsidies and Countervailing Duties 297

 A. Introduction 297

 B. The Economic and Political Rationales For Policies Against Subsidies 297

 C. Challenging Subsidies at the WTO: The Subsidies and Countervailing Measures Agreement 298

 D. Countervailing Duty Procedures Under U.S. Law 304

 E. WTO Standards For Countervailing Duty Investigations 306

CHAPTER THIRTEEN: EXPORT CONTROLS ✓

I. WTO Export Rules 310

II. U.S. Export Controls 310

III. U.S. Imposed Embargoes and Trade Restrictions on Foreign Countries 311

IV. Anti-Boycott Regulations 315