

## **Advanced Introduction to International Trade Law, Second Edition**

By Michael J. Trebilcock and Joel Trachtman. Cheltenham, UK;  
Northampton, MA, USA: Edward Elgar, 2020, 245pp.

Gabriel Gari\*

This book meets its aim of providing a succinct and simple explanation of the basic structure and principles of international trade law, principally GATT/WTO law, for a non-specialist readership with flying colours. The success is explained by the right combination of coverage, depth, case law review and an interdisciplinary approach to the subject matter.

First, the book's content covers all the relevant components of the regulatory framework for international trade. It rightly starts by setting the theoretical framework underpinning trade rules, the free vs fair trade debate and the political divide over international trade. It then provides a brief overview of the WTO institutional structure that paves the way for the analysis of the substantive law, including the fundamental principles of international trade law (most favoured nation and national treatment) and the key WTO agreements. The final chapters go beyond the WTO rule book as it currently stands, offering an introduction to contemporary issues dealing with the interface between trade and non-trade concerns such as the environment, labour standards, human rights, and development. The book concludes with a forward-looking chapter that identifies the main challenges that lie ahead for the multilateral trading system. As discussed below, while the analysis of some topics is more detailed than others, none of the core components of international trade law are overlooked.

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\* Reader in International Economic Law, Queen Mary University of London.

Second, the book succeeds in introducing the essential concepts required to grasp a basic understanding of the field, without falling into an artificial simplification of its complexities. Chapter 10 on Trade in Services is a good example of this. In this chapter the authors display their mastery in presenting an extremely complex agreement in a simple and effective way. In just over ten pages, the chapter introduces the reader to the idiosyncratic nature of trade in services, the structure of the agreement, the relevant case law and the controversies surrounding the liberalisation of trade in services. The chapter provides sufficient information to learn the fundamentals of the law on trade in services in a limited amount of time, while also highlighting the underlying complexities of this topic in a way that elicits a desire to go beyond the understanding of basic concepts.

Third, any attempt to introduce international trade law without reference to the case law would be a futile exercise. At the same time, too much discussion of the intricacies of long and complex judgments can suppress the non-expert's desire to engage with a new area of law. Chapter 5 dealing with the GATT/WTO case law on national treatment is a masterpiece in handling an extremely voluminous, evolving and controversial body of jurisprudence in a simple, accessible and systematic way, without taking shortcuts or hiding the complexity of the topic or the remaining unresolved issues. As such, it is an exceptional resource for anyone learning or teaching the fundamental principles of international trade law.

It must be said that not all chapters managed to offer the same balanced approach to analysing the relevant case law against the treaty backdrop. While the chapters on Anti-dumping laws and on TRIPS barely mention a few relevant cases, the chapter on trade policy and domestic health and safety regulation does the opposite. It explains two extremely complex WTO agreements – the Agreements on the Application of Sanitary and Phytosanitary Measures and on Technical Barriers to Trade - in just one and a half pages, followed by a dense and intricate ten-page discussion of the case law. In the absence of a more comprehensive outline of the basic concepts, it is unlikely that a reader with no prior knowledge of these agreements—which is this book's target audience—can benefit from such a thorough discussion of the case law.

Finally, throughout the book, the authors discuss the law in its broader economic, social and political context. This is particularly appropriate for international trade law, given the almost inseparable interlinkages between the law and the economic and political economy factors that shape its contours. Any analysis of international trade law without reference to these factors would be as vain as a description of the black letter of the law without reference to the case law. The discussion of the normative rationales for trade remedies (anti-dumping, safeguards and countervailing duties) stands out as a helpful example of combining legal and non-legal considerations that illustrate the genuinely interdisciplinary nature of this area of international trade law.

Minor inaccuracies are inevitable on a work of this scale. On page 37 the authors claim that the Doha Round is ‘nearing completion’, a prediction that seems overly optimistic considering the failure of WTO Members to unanimously reaffirm the DDA following the Nairobi Ministerial Conference in 2015.<sup>1</sup> On pages 43-44, the review of the case law on the MFN’s unconditionality requirement does not include any reference to the Appellate Body Report on *EU-Seal Products*, which made interesting findings on this matter.<sup>2</sup> On page 48, the authors claim that there are approximately 460 Preferential Trade Agreements (PTAs) in force that have been notified to the WTO. Notifications count goods, services and accessions to a PTA separately and thus overestimate the actual number of PTAs. By December 2020, the cumulative number of PTAs in force was 305, while the cumulative notifications of PTAs in force was 496. On page 78, the reference to China’s complaint against the continued application of non-market economy methodologies by the USA and the EU is outdated, since China requested to suspend the proceedings until further notice.<sup>3</sup> Chapter 11 on Trade and Investment makes no

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<sup>1</sup> See Nairobi Ministerial Declaration, 19 December 2015 (WT/MIN(15)/DEC), para 30 at <[https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S009-DP.aspx?language=E&CatalogueIdList=225910,225713&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=225910,225713&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True)> accessed 14 May 2021.

<sup>2</sup> See European Communities — Measures Prohibiting the Importation and Marketing of Seal Products, WT/DS400/AB/R, 22/05/14, para. 5.86-5.96 at <[<sup>3</sup> At the request of China, the Panel suspended its work on 14 June 2019. See Communication from The Panel dated 14/06/19 WT/DS516/13, 17/06/19 at <\[https://docs.wto.org/dol2fe/Pages/FE\\\_Search/FE\\\_S\\\_S007.aspx?AllTranslationsCompleted=1&Id=254\]\(https://docs.wto.org/dol2fe/Pages/FE\_Search/FE\_S\_S007.aspx?AllTranslationsCompleted=1&Id=254\)](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20wt/ds400/ab/r*%20not%20rw*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChecked=true#> accessed 14 May 2021.</a></p>
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reference to GATS coverage of foreign direct investment through mode 3, i.e. the supply of a service by a service supplier of one Member, through commercial presence in the territory of any other Member, nor to the current plurilateral negotiations on investment facilitation.<sup>4</sup>

Of course, none of these minor shortcomings compromise the outstanding quality of this book. In turbulent times for international trade, where rising protectionism and trade wars are capturing the attention of an increasingly wide audience of non-specialists like never before, this book is a timely and extremely useful contribution to scholarship.

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996&PageAnchorPosition=254996&SearchPagePageNumber=50&SearchPageCurrentIndex=0&SearchPageViewStatePageIndex=0&SearchPageStartRowIndex=0&returnedPage=FE\_S\_S006.aspx&IsNotification=False&LeftTabFieldText=&NumberOfHits=14&DreReference=&Query=(%40Symbol%3d+wt%2fd516%2f\*)&Context=FomerScriptedSearch&btsType=&IsEnglishSelected=&IsFrenchSelected=&IsSpanishSelected=&IsAllLanguageSelected=&SearchPage=&SourcePage=&Language=& >accessed 14 May 2021. Since the Panel has not been requested to resume its work, pursuant to Article 12.12 of the DSU, the authority for establishment of the Panel lapsed as of 15 June 2020. Note by the WTO Secretariat of 15 June 2020 (WT/DS516/14) at

<[<sup>4</sup> See first Joint Ministerial Statement on Investment Facilitation for Development, 13 December 2017 \(WT/MIN\(17\)/59\) at <\[https://docs.wto.org/dol2fe/Pages/FE\\\_Search/FE\\\_S\\\_S009-DP.aspx?language=E&CatalogueIdList=240870\]\(https://docs.wto.org/dol2fe/Pages/FE\_Search/FE\_S\_S009-DP.aspx?language=E&CatalogueIdList=240870\)> accessed 14 May 2021 and second Joint Ministerial Statement on Investment Facilitation for Development, 22 November 2019 \(WT/L/1072/Rev.1\) at <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/1072R1.pdf&Open=True>> accessed 14 May 2021.](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S007.aspx?AllTranslationsCompleted=1&Id=264373&PageAnchorPosition=264373&SearchPagePageNumber=50&SearchPageCurrentIndex=0&SearchPageViewStatePageIndex=0&SearchPageStartRowIndex=0&returnedPage=FE_S_S006.aspx&IsNotification=False&LeftTabFieldText=&NumberOfHits=14&DreReference=&Query=(%40Symbol%3d+wt%2fd516%2f*)&Context=FomerScriptedSearch&btsType=&IsEnglishSelected=&IsFrenchSelected=&IsSpanishSelected=&IsAllLanguageSelected=&SearchPage=&SourcePage=&Language=& > accessed 14 May 2021. .</p>
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