

Law 817-001: International Trade and Development Law  
American University, Washington College of Law  
Spring 2008

UPDATED November 15, 2007

**Course Information:**

Professor: Kevin J. Fandl  
Course schedule: Wednesdays, 6-8pm  
Course location: TBA

**Required Books:**

Kenneth Reinert and Ian Golding, GLOBALIZATION FOR DEVELOPMENT (2006)

David M. Trubek and Alvaro Santos, "THE NEW LAW AND ECONOMIC DEVELOPMENT: A CRITICAL APPRAISAL (2006) (hereinafter "NLED")

Kenneth Dam, THE LAW-GROWTH NEXUS (2006)

**Recommended Books:**

James M. Cypher and James L. Dietz, THE PROCESS OF ECONOMIC DEVELOPMENT (2d ed)

Joseph Stiglitz, GLOBALIZATION AND ITS DISCONTENTS (2003)

William Easterly, THE ELUSIVE QUEST FOR GROWTH (2001)

Amartya Sen, DEVELOPMENT AS FREEDOM (1999)

*Additional readings will be provided as handouts.*

**Course Description:**

International trade has a profound impact on economic growth and political and social change. The developmental impact of trade has occurred unevenly across the globe, expanding the gap between and within developed and developing countries. Globalization is the dissemination of knowledge, goods and services, and intangibles such as culture and language, across the globe. Trade plays a pivotal role in globalization and is often promoted as a mechanism for providing economic growth. But can economic growth be achieved in developing countries when vast poverty, corrupt legal and political practices and civil conflict are pervasive and when the benefits of globalization are inequitably distributed? Are the goals of trade compatible with development?

This survey course explores the developmental impact of international trade, as well as the intersection between trade laws and regulations and development-oriented policies and laws. It is intended to provide students with a thorough understanding of international trade law and economic growth theories, as well as a survey of the role of international institutions and legal bodies in facilitating development strategies. Subjects covered include: the impact of globalization on developing country economies; the effects of international development aid; economic and trade adjustment policies oriented toward economic and social development; inequality and the sustainability of modern trade policy; trade liberalization, protectionism and free trade agreements; human rights and the law; environmental justice; labor law and free trade.

Globalization has raised the standard of living in many countries around the world, exponentially improved technology and has connected more people than ever imagined. However, it has also brought rising inequality, growing poverty levels, and civil conflict to some parts of the world. The law has a significant role to play in balancing the spread of free trade with the creation of equitable development policies and practices. Through a series of economic and policy analyses, case reviews, and legal research, we will attempt in this course to identify practical trade-related policy solutions that promote economic growth and social and political development in an equitable and sustainable environment.

**Final Paper:**

To complete this class with a passing grade, you must complete a high-quality written piece that reflects your thorough understanding of the concepts discussed. Your paper should be no less than twenty (20) pages and you must submit to me electronically a one-page abstract of the paper along with a proposed bibliography. The topic is generally in your discretion and could include, for instance, a regional analysis of law and development projects, a study of the potential developmental effects of a Doha round agreement, or an analysis of a particular free trade agreement with regard to economic development. Your one-page proposal is due to me no later than Session 6.

**Participation:**

Class participation is essential to the successful completion of this course. Students will be expected to come to class prepared to discuss the readings in detail and should be ready for questions about the subjects in each class.

<b>Grading:</b>	Participation	20%
	Quizzes	30%
	Final Paper	50%

**Assignments:**

*Note: All readings must be completed prior to the class for which they are listed. If the assignment includes a Handout, the reading will be emailed to you or handed to you prior to the class for which it is assigned. If the reading is a law review article, you are responsible for locating the article on Lexis or in the law library.*

## **PART I: Development Law**

### **Session 1. Introduction to the course and to development**

January 9

*Readings:* NLED: David M. Trubek and Alvaro Santos, Introduction: The Third Movement in Law and Development Theory and the Emergence of a New Critical Practice (1-18).

[Handout] Amartya Sen, “Development as Freedom”, pages xi-xiv, 1-11 and 35-53.

### **Session 2. Economic Growth Theory**

January 16

*Readings:* Goldin and Reinert, Chapter 2 (21-46).

[Handout] Dani Rodrik, Rethinking Growth Policies in the Developing World, Harvard University Working Paper (Oct. 2004).

### **Session 3. The Role of Law in Economic Development**

January 23

*Readings:* Kenneth Dam, Chapter 1: Where Does the Rule of Law Fit in Economic Development? (13-25).

NLED: David M. Trubek, The “Rule of Law” in Development Assistance: Past, Present and Future (74-94).

Tom Ginsburg, Does Law Matter for Economic Development? Evidence from East Asia, 34 Law & Soc’y Rev. 829 (2000).

### **Session 4. Institutions**

January 30

*Readings:* [Handout] Douglass North, Economic Performance Through Time, 84 Am. Econ. Rev. 359 (June 1994).

Kenneth Dam, Chapter 2: Legal Institutions, Legal Origins, and Governance (26-55).

[Handout] Daron Acemoglu, Simon Johnson and James A. Robinson, Institutions as the Fundamental Cause of Long-Run Growth, in Handbook of Economic Growth (2005).

Joel Paul, *Do International Institutions Contribute to Economic Growth and Development?*, 44 Va. J. Int'l L. 285 (2003).

**Session 5. The History of Law and Development**

February 6

*Readings:* NLED: Duncan Kennedy, *Three Globalizations of Law and Legal Thought: 1850-2000* (19-73).

**Session 6. Role of International Organizations in Development.**

February 13

One-Page Final Paper Proposal Due.

*Readings:* Goldin and Reinert, Chapter 5: Aid (113-150).

[Handout] William Easterly, Chapter 6: The Loans That Were, the Growth That Wasn't (101-120).

[Handout] Joseph Stiglitz, *Globalization and Its Discontents*, Chapter 1: The Promise of Global Institutions (3-22).

**Session 7. Intersection Between Trade and Development Law**

February 20

*Readings:* Joel P. Trachtman, "Legal Aspects of a Poverty Agenda at the WTO: Trade Law and 'Global Apartheid'", 6 *Journal of International Economic Law* 3 (2003).

[Handout] Joseph Stiglitz, *Fair Trade for All*, Chapter 2: Trade Can be Good for Development (11-40).

**PART II: International Economic Law**

**Session 8 Introduction to International Economic Law Theory**

February 27

*Readings:* Goldin and Reinert, Chapter 3: Trade (47-78).

[Handout] John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations*, 2d ed. (1997), Chapter 1, *The Policies and Realities of International Economic Regulation*.

**Session 9. The World Trade Organization**

March 5

*Readings:* [Handout] Barton, et al., The Evolution of the Trade Regime, Chapter 3: The Politics of the GATT/WTO Legal System: Legislative and Judicial Processes (61-90).

WTO Enabling Clause (1979)

[http://www.wto.org/English/docs\\_e/legal\\_e/enabling\\_e.pdf](http://www.wto.org/English/docs_e/legal_e/enabling_e.pdf)

[Handout] Joseph Stiglitz, Fair Trade for All, Chapter 6: Special Treatment for Developing Countries (87-105).

## **March 8-16 Spring Break**

### **Session 10. The Doha Ministerial and Aftermath**

March 19

*Readings:* WTO Doha Ministerial Declaration (2001)

[http://www.wto.org/English/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.pdf](http://www.wto.org/English/thewto_e/minist_e/min01_e/mindecl_e.pdf)

[Handout] Richard Newfarmer, Through the Window: Beacons for a Pro-Poor World Trading System, in Richard Newfarmer, TRADE, DOHA, AND DEVELOPMENT, 15-25.

[Handout] Joseph E. Stiglitz and Andrew Charlton, FAIR TRADE FOR ALL, pages 41-67.

### **Session 11. Regional Integration through Free Trade Agreements**

March 26

*Readings:* GATT Article XXIV

[Handout] Richard Newfarmer, Regional Trade Agreements: Designs for Development, in Richard Newfarmer, TRADE, DOHA, AND DEVELOPMENT, 243-254.

[Handout] Barton, et al., Chapter 6: Expansion of GATT/WTO Membership and the Proliferation of Regional Groups (153-181).

## **PART III: New Ideas and Applications**

### **Session 12. Property Law and the Informal Economy.**

April 2

*Readings:* [Handout] Hernando de Soto, THE MYSTERY OF CAPITAL, Chapter 6: The Mystery of Legal Failure.

[Handout] World Bank, INFORMALITY: EXIT AND EXCLUSION: Overview (1-20).

[Handout] Harold Demsetz, *Toward a Theory of Property Rights*, 57 Am. Econ. Rev. 2.

**Session 13. Inequality, growth and sustainability**  
April 9

*Readings:* United Nations World Economic Survey, 2006, selected portions.  
<http://www.un.org/esa/policy/wess/wess2006files/wess2006.pdf>

[Handout] David Dollar, *Globalization, Poverty, and Inequality since 1980*, World Bank Policy Research Working Paper 3333 (June 2004).

[Handout] Dani Rodrik, *Comments on "Trade, Growth, and Poverty" by D. Dollar and A. Kraay*, Harvard University Working paper (Oct. 2000).

[Handout] Frank Garcia, *Trade and Inequality: Economic Justice and the Developing World*, Boston College Law School Legal Studies Research Paper Series No. 2000-02 (2000).

**Session 14. Migration**  
April 16 – Last Day of Class

*Readings:* GATS Mode 4: Select any paper to read from this conference:  
[http://www.wto.org/english/tratop\\_e/serv\\_e/symp\\_mov\\_natur\\_perso\\_april02\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/symp_mov_natur_perso_april02_e.htm)

Goldin and Reinert, Chapter 6: Migration (151-192).

Michael J. Trebilcock and Matthew Sudak, *The Political Economy of Emigration and Immigration*, 81 New York Univ. L. Rev. 234-293 (2006).

**Final Paper due electronically by April 21.**