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ANDREW T. GUZMAN

Professor of Law

Berkeley Law School

University of California, Berkeley

JOOST H.B. PAUWELYN

Professor of International Law

Graduate Institute of International and
Development Studies, Geneva, and

Senior Advisor, King & Spalding LLP



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To Jeannie

—ATG

To Fanny

—JP

And to our trade law students, past, present, and future

Preface

This book offers an introduction to international trade law and, in particular, the law and agreements made at the World Trade Organization (WTO). As such, it is a book about *international* law (not about the domestic trade laws of particular countries) and, more particularly, *public* international law, that is, the rules applicable between countries (not private international law or commercial contracts between private economic operators). Throughout the book, our goal is to put this international trade law in the context of economic theory and economic policy or politics. To understand why countries conclude trade agreements and to grasp fully the reasoning behind the content and interpretation of specific trade law rules, it is crucially important to know about some trade economics and politics (see, in particular, Chapters 1-3).

We tried to combine the U.S. case law approach with core elements of the European textbook method so as to explain basic concepts and rules (with summaries and core legal provisions referenced in each chapter) and, hopefully, bring them to life through real and extensively excerpted disputes and practical problems or case studies at the end of each chapter.

The bulk of the book, once the background economics, politics, and institutional structure and history are explained (Chapter 1-4), follows the structure of the major WTO agreements: Chapters 5 and 6 explain the WTO dispute settlement system. Chapters 7 to 14 address trade in goods through the core principles and exceptions under the *General Agreement on Tariffs and Trade* (GATT): tariffs, quantitative restrictions, national treatment, most-favored nation, preferential trade agreements, and general (including environmental) exceptions. Chapters 15 to 17 address trade remedies (subsidies, dumping, and safeguards). The sensitive question of sanitary, phytosanitary, and other technical or non-tariff barriers to merchandise trade are addressed in Chapters 18 and 19. Chapters 20 and 21 move from the first pillar of the WTO (trade in goods) to the WTO's second and third pillars: trade in services (GATS) and the protection of intellectual property rights (TRIPS). The book concludes with an assessment of a cross-cutting theme: development and the WTO's treatment of developing countries (Chapter 22).

We hope that newcomers to the field will share our passion for international trade law as it touches on crucial societal questions of our times: globalization, balancing economic development with protecting health, the environment and other non-economic values, the role of the state versus market forces, etc. International trade law is specific and "legalized" enough to offer multiple employment opportunities, be it in

private practice, government, international institutions, NGOs, or business. This book prepares students to be critical and effective operators in any of these functions.

Andrew T. Guzman
Joost H.B. Pauwelyn

May 2009

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This book has profited greatly from the assistance of several institutions and individuals. We have both been teaching international trade law for a good number of years now, and the interactions, questions and feedback from our students have helped us a great deal in structuring and writing this book. Many of our colleagues used drafts of the book in their teaching, and their feedback has been invaluable. We have also benefited from our own institutions, Berkeley Law School and the Graduate Institute in Geneva, which have provided financial assistance as well as other support. Of the many individuals who provided us with feedback on the book, we owe special thanks to Jeff Atik, Jeff Dunoff, and Amy Kapczynski whose advice and comments were indispensable. We also wish to thank our research assistants, all of whom worked tirelessly to help us prepare the book and whose unfailing good humor helped us make it to the finish line: Miguel Burnier, Karis Gong, Amy Hunt, Elaine Meckenstock, Sabrina Ross, and Luiz Salles. Writing a casebook often takes more time and energy than originally expected. This one is no exception, and has pulled us away from our families for more than one weekend. We would like to thank them for their patience. We do hope that readers will agree that the end result is worth it. We certainly tried our best to combine, among many other things, Andrew's background in economics and Joost's hand-on experience with WTO rules and disputes, Andrew's North American perspective and Joost's European outlook, to produce what we hope is a stimulating set of materials that trade law teachers and students all over the world may find useful and attractive.

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