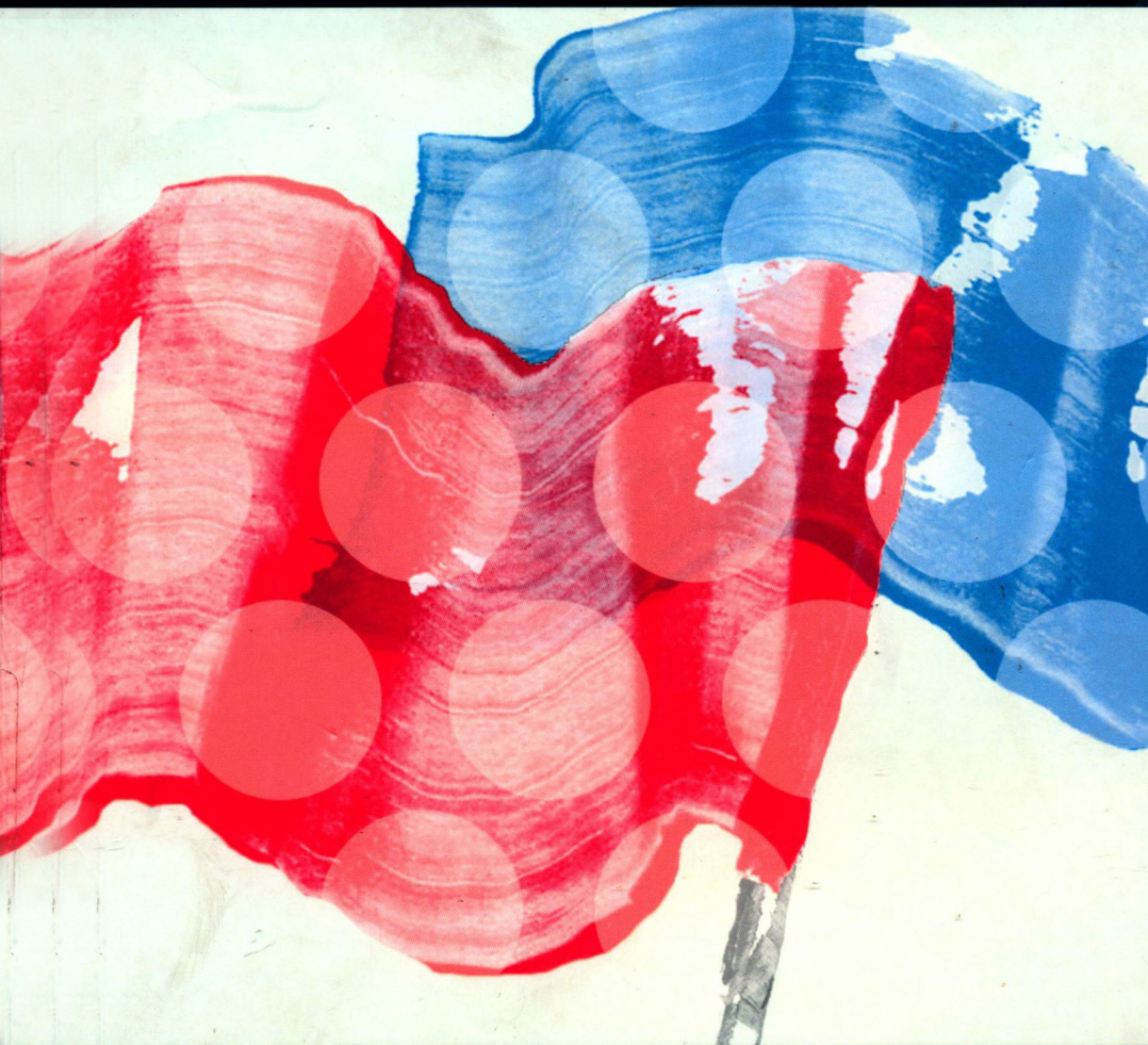


World Trade Law

Text, Materials and Commentary



Simon Lester and Bryan Mercurio
with Arwel Davies and Kara Leitner

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World Trade Law

This new textbook on world trade law offers a unique perspective on this important subject in a number of ways. It is the first book to combine the best aspects of both the casebook and legal analysis approaches, providing both detailed explanations and analysis of the law to help understand the issues as well as case extracts to offer a flavour of the judicial reasoning of trade adjudicators. Moreover, the book is truly global in outlook, being equally useful for students of international trade law in the UK, Europe, the US, Asia and elsewhere in the world. For instance, where domestic regulatory issues come into play, the book examines a variety of country practices, to illustrate how the rules apply around the world.

The book is written with students in mind and provides an ideal learning tool to appeal to students across the globe. In this regard, the authors draw on their diverse experiences and geographic backgrounds – with one primary author based in the US and the other based in Hong Kong, with additional authors based in the US and UK.

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Part I

Introduction to the Legal and Economic Aspects of World Trade Regulation

Introduction to World Trade Law

The scope of the field of ‘World Trade Law’ is somewhat difficult to define. In part, this is because a number of terms have been used to describe it: International Economic Law, International Trade Law, Global Trade Law and International Trade Regulation, among others. All seem to refer to generally the same subject matter, although there may be slight variations. There are a wide range of topics that have, to some extent, aspects that are ‘global’ or ‘international’ or ‘world-wide’; that relate to ‘trade’ or ‘economics’; and that are ‘legal’ or ‘regulatory’ in nature. We chose the term ‘World Trade Law’ in large part because it emphasises the central role of the World Trade Organisation (WTO) in regulating the rules of world trade. The WTO is not the only relevant legal instrument or international organisation, but it is the broadest and most comprehensive in its coverage, and to some extent governs other bilateral and regional agreements in this area. In addition, while we address various ‘economic’ issues in this book, the core focus is on ‘trade’ issues. To the extent that other issues are discussed, it is in large part because of their connection to trade. Thus, ‘World Trade Law’ seemed the most appropriate title for this volume.

The ‘World Trade Law’ covered by this book focuses on the legal instruments that regulate trade flows. This includes international agreements related to trade, as well as certain domestic laws affecting trade flows. The international agreements begin with the WTO Agreement, which established the World Trade Organisation. With 151 countries (or customs territories) as members as of this writing (and many more attempting to join), the WTO is almost a fully global agreement at this point. It provides a binding set of rules on a wide range of trade-related topics (including trade in goods and services, intellectual property protection, as well as a few limited rules on investment).

In addition to the WTO, there are the numerous bilateral, regional and plurilateral trade agreements. These agreements are, in a sense, still part of the multilateral system. This is the case because the WTO Agreement establishes conditions which these agreements must meet in order to be permitted under WTO rules. However, these agreements often go further in terms of economic integration than do WTO rules, so there are important substantive differences. The most prominent of the regional agreements are the European Union (EU), the North American Free Trade Agreement (NAFTA), Mercosur (the Southern Common Market) and the ASEAN Free Trade Area (AFTA). Having proliferated in large numbers in recent years, bilateral agreements are increasingly gaining in importance in any ‘World Trade Law’ discussion or debate.