

ESSENTIALS OF WTO LAW

At a time when developments in WTO law have made this field increasingly complex, this concise and non-technical introduction provides a timely and carefully considered overview of the substantive rules and institutional arrangements of the WTO. A variety of text features enables a rich understanding of the law; illustrative examples clarify important issues of the law and demonstrate the law's practical application; boxed summaries of key rulings in WTO case law highlight the interpretation of the relevant provisions and lead readers to a deep understanding of the meaning and application of legal rules; and recommendations for further reading allow readers to engage with current debates. Online resources include links to useful sources of information for work and research within the field. Co-written by a leading authority in the field, this is essential reading for anyone who wants to get to grips with this fascinating yet challenging field of law.

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P R E F A C E

This book was motivated by the need for an accessible text providing a brief overview of the law of the WTO, which we both encountered in our own teaching and were alerted to by colleagues. As WTO law continues to gain in importance, its role in curricula is no longer limited to graduate programmes at law faculties. Instead, the study of WTO law is increasingly an integral part of graduate programmes at other faculties, undergraduate law programmes, summer schools and training programmes for government officials and other professionals. While teachers and students of graduate courses on WTO law have a choice of many excellent textbooks, providing a detailed examination of this increasingly complex area of law, the specific needs of teachers and students of undergraduate courses and courses outside the law faculty are less well served.

This book aims to fill this gap by providing a succinct introduction to the main aspects of WTO law. It provides a systematic, carefully considered discussion of the legal framework, incorporating key clarifications from the case law, that is sufficient to give the reader a strong foundation in the main aspects of WTO law. For a detailed discussion of WTO law, we refer the reader to Peter Van den Bossche and Werner Zdouc, *The Law and Policy of the World Trade Organization*, 3rd edition (Cambridge University Press, 2013).

PREFACE

We have drawn on many years of experience in teaching WTO law to a wide variety of audiences to write a text that aims both to stimulate the interest of students in the field of WTO law and to facilitate their learning process. To this end, this book includes fictional illustrative examples where useful to clarify key concepts and important issues and show their practical application. Recommendations for further reading complement the text and enable students to gain a more in-depth understanding of current debates and critical analysis of the issues discussed in the book. An online resources section provides students with the tools they need to work within this field.

This book reflects the current state of WTO law (as of 1 December 2015). Although we mention legal issues still to be adjudicated, we do not express in this book any opinion on how these issues should be decided or, more broadly, how WTO law should develop in the future. Where we refer to various and often divergent opinions of academics or other eminent experts in our recommendations for further reading, we do so in order to give the reader a full picture of open debates and the ongoing critical discussion of the legal issues covered in this book.

It is evident that the description of the current state of WTO law contained in this book is to be attributed to the authors in their private capacity and does not represent the views of the WTO or the WTO Appellate Body.

Peter Van den Bossche, Geneva
Denise Prévost, Maastricht

ABBREVIATIONS

ACP	African, Caribbean and Pacific
ACWL	Advisory Centre on WTO Law
AFTA	Association of Southeast Asian Nations Free Trade Area
AMS	Aggregate measurement of support
Anti-dumping Agreement	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
ASEAN	Association of Southeast Asian Nations
Berne Convention	Berne Convention for the Protection of Literary and Artistic Works of 1971
BoP Committee	Committee on Balance-of-Payments Restrictions
CARICOM	Common Market of the Caribbean
Code of Good Practice	Code of Good Practice for the Preparation, Adoption and Application of Standards
COMESA	Common Market of Eastern and Southern Africa

LIST OF ABBREVIATIONS

CITES	Convention on International Trade in Endangered Species
CTG	Council for Trade in Goods
CTS	Council for Trade in Services
Customs Valuation Agreement	Agreement on the Implementation of Article VII of the GATT 1994
DSB	Dispute Settlement Body
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes
EC	European Communities or European Community
Enabling Clause	Decision of the GATT Contracting Parties of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries
EU	European Union
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross domestic product
GIs	Geographical indications
Goods Schedule	Schedule of Concessions
GSP	Generalized System of Preferences

LIST OF ABBREVIATIONS

Harmonized System	see HS
HS	International Convention on the Harmonized Commodity Description and Coding System
ICJ	International Court of Justice
IMF	International Monetary Fund
Import Licensing Agreement	Agreement on Import Licensing Procedures
IP	Intellectual property
IPIC Treaty	Treaty on Intellectual Property in respect of Integrated Circuits of 1989
ITLOS	International Tribunal on the Law of the Sea
LDC	Least-developed country
MERCOSUR	Southern Common Market
MFN	Most-favoured-nation
NAFTA	North American Free Trade Agreement
NAMA	Non-agricultural market access
NGO	Non-governmental organization
Paris Convention	Paris Convention for the Protection of Industrial Property of 1967
PPM	Process and production method
PTAs	Preferential trade agreements
Rome Convention	International Convention for the Protection of Performers, Producers of Phonograms and

LIST OF ABBREVIATIONS

	Broadcasting Organizations of 1961
Rules of Conduct	Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes
S&D treatment	Special and differential treatment
SADC	Southern African Development Community
SCM Agreement	Agreement on Subsidies and Countervailing Measures
SCM Committee	Committee on Subsidies and Countervailing Measures
Services Schedule	Schedule of Specific Commitments
SPS	Sanitary and phytosanitary
SPS Agreement	Agreement on the Application of Sanitary and Phytosanitary Measures
SPS Committee	Committee on Sanitary and Phytosanitary Measures
TBT Agreement	Agreement on Technical Barriers to Trade
TBT Committee	Committee on Technical Barriers to Trade
TNC	Trade Negotiations Committee
TPP	Trans-Pacific Partnership
TPRB	Trade Policy Review Body
TPRM	Trade Policy Review Mechanism

LIST OF ABBREVIATIONS

TRIPS Agreement	Agreement on Trade-Related Aspects of Intellectual Property Rights
TRIPS Council	Council for Trade-Related Aspects of Intellectual Property Rights
TTIP	Transatlantic Trade and Investment Partnership
UN	United Nations
UN CPC	United Nations Central Product Classification
UNCTAD	United Nations Conference on Trade and Development
Understanding on BoP Provisions	Understanding on the Balance of Payments Provisions of the GATT 1994
US	United States of America
VAT	Value-added tax
VCLT	Vienna Convention on the Law of Treaties
WCO	World Customs Organization
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO	World Trade Organization
WTO Agreement	Marrakesh Agreement Establishing the World Trade Organization

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