

Europa-Institut of Saarland University (ed.)

**International and European
Trade Law
Selected Documents**

Third revised and extended edition

Europa-Institut of Saarland University
Selected legal documents
Edited by
Europa-Institut of Saarland University
Law Department
Volume III

**INTERNATIONAL AND EUROPEAN
TRADE LAW
SELECTED DOCUMENTS**

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Verlag Alma Mater, Saarbrücken

Die Deutsche Bibliothek verzeichnet diese Veröffentlichung in der
Deutschen Nationalbibliographie. Die bibliographischen Daten
im Detail finden Sie im Internet unter <http://dnb.ddb.de>

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www.verlag-alma-mater.de

Druck: Faber, Mandelbachtal
ISBN 978-3-946851-38-7
EAN 9783946851387

Preface

The Europa-Institut, as the editor of this edition, is the second oldest institution of its kind in Europe. More than 5.000 students from all over the world have been educated in the fields of European and International Law at the Europa-Institut since its foundation in 1951. Each year students from over 30 countries enrol in the one-year postgraduate master programme “European and International Law” to study the legal, political, economic and cultural foundations of the European Union. The programme is characterized by six modules which provides students with greater freedom of choice with regard to the courses they wish to attend and which also allows for a high degree of specialization. The six modules are European Integration, European Economic Law, Foreign Trade and Investment, International Dispute Resolution, International and European Protection of Human Rights and IT Law. The programme can be completed entirely in English, entirely in German or through a combination of the two languages and results in the attainment of the title “Master of Laws (LL.M.)”.

We decided to assemble our own collection series combining key documents for each respective field of the LL.M. programme after recognizing that existing collections do not comply with the specific requirements necessary for the successful performance of our students. In attempting to fill these gaps, we began with volume I covering the module “International Dispute Resolution”, followed by volume II covering the module “European Law”, volume III covering the module “International and European Trade Law”, volume IV covering “Public International Law”, volume V covering “International Human Rights Law” and volume VI covering “European Law” with a special focus on South Eastern Europe.

The specialization “Foreign Trade and Investment” familiarizes students with economic globalization in the areas of trade, investment and capital transactions. The programme focuses in particular on the interplay between law and economics – a relationship that is becoming increasingly important in both international and European legal practice. We offer courses that delve deeply into this relationship such as foreign trade law of the European Union and its member states, substantive WTO law and the harmonization of national and European trade laws. In addition, students have the possibility to take courses on international economic and monetary policy as well as on international investment law.

The first edition of this volume focused on WTO law only. Since the second edition the content was extended to the most important Regulations of the European Union in the field of trade law, both the foundations in primary law and the most important Regulations in the body of EU common commercial policy. This third edition maintains this close relationship between international and European trade law, and contains the most recent modifications and alterations of the relevant EU Regulations. Particularly with regard to the anti-dumping and anti-subsidy rules, significant recent legislative amendments years have been included. In addition, the Comitology Regulation and the new Investment Screening Regulation now form part of this core compilation of legal texts. Finally, in 2017, the TRIPS was amended and the Agreement on Trade Facilitation entered into force. These novelties in WTO law have been included as well.

Therefore, the current volume “International and European Trade Law – Selected Documents” is a comprehensive collection of documents on the law of the World Trade Organization as well as the essential European Regulations relating to trade law and is addressed not only to the students in our own LL.M. programme, but also to universities in general, practitioners, policy-makers and international lawyers.

We thank Akad. Dir. Julia Legleitner LL.M. (programme director of the Europa-Institut), Ass. iur. Christina Backes (managing editor), Pieter Van Vaerenbergh LL.M. and Yannik Hausmann (text editors) and Uwe Loebens (art editor) who have made this book possible by designing the layout, formatting and proofreading the texts.

All documents are presented in their official (consolidated) version whenever possible. We acknowledge with thanks the permission granted by the World Trade Organization to reproduce their materials. For EU legislation, materials have been taken from the online EUR-Lex website. According to Article 1(2) of the Council Regulation (EU) No 216/2013 only the Official Journal published in electronic form shall be authentic and shall produce legal effects.

We hope that these selected documents will prove a useful roadmap through the system of International Trade Law for the students in our LL.M. programme and beyond.

Finally, this publication would not have been possible without the financial support of the Alumni Association of the Europa-Institute’s Law Section (EVER e.V.) which is gratefully acknowledged.

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Saarbrücken, August 2019

Contents

International Trade Law

I	Marrakesh Declaration of 15 April 1994	15
II	Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations	17
III	Agreement establishing the World Trade Organization	19
IV.1	General Interpretative Note to Annex 1A	31
IV.2	General Agreement on Tariffs and Trade 1994 (GATT 1994)	33
IV.3	General Agreement on Tariffs and Trade 1947 (GATT 1947)	37
IV.3.1	Understanding on the Interpretation of Article II:1(b) of the General Agreement on Tariffs and Trade 1994	95
IV.3.2	Understanding on the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994	97
IV.3.3	Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994	99
IV.3.4	Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994	103
IV.3.5	Understanding in respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994	107
IV.3.6	Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994	109
IV.3.7	Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994	111
IV.4	Agreement on Agriculture	113
IV.5	Agreement on the Application of Sanitary and Phytosanitary Measures	127
IV.6	Agreement on Technical Barriers to Trade	141
IV.7	Agreement on Trade-Related Investment Measures	163
IV.8	Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994	167
IV.9	Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994	191
IV.10	Agreement on Preshipment Inspection	219

IV.11 Agreement on Rules of Origin	229
IV.12 Agreement on Import Licensing Procedures	241
IV.13 Agreement on Subsidies and Countervailing Measures	249
IV.14 Agreement on Safeguards	295
IV.15 Agreement on Trade Facilitation	303
V General Agreement on Trade in Services	337
VI Agreement on Trade-Related Aspects of Intellectual Property Rights	367
VII Understanding on Rules and Procedures Governing the Settlement of Disputes	401
VIII Trade Policy Review Mechanism	427
IX.1 Agreement on Trade in Civil Aircraft	431
IX.2 Revised Agreement on Government Procurement	439
X Uruguay Round Ministerial Decisions and Declarations	467
X.1 Decisions adopted by the Trade Negotiations Committee on 15 December 1993 and 14 April 1994	
Decision on Measures in Favour of Least-Developed Countries	467
Decision on Notification Procedures	469
Decision on Measures concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries	472
Decision on Proposed Understanding on WTO-ISO Standards Information System	474
Decision on Review of the ISO/IEC Information Centre Publication	475
Decision regarding Cases where Customs Administration have Reasons to Doubt the Truth or Accuracy of the Declared Value	476
Decision on Texts relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires	477
Decision on Institutional Arrangements for the General Agreement on Trade in Services	478
Decision on certain Dispute Settlement Procedures for the General Agreement on Trade in Services	479
Decision on Trade in Services and the Environment	480
Decision on Negotiations on Movement of Natural Persons	481
Decision on Financial Services	482
Decision on Negotiations on Maritime Transport Services	483
Decision on Negotiations on Basic Telecommunications	485
Decision on Professional Services	486
Decision on Accession to the Agreement on Government Procurement	487
Decision on the Application and Review of the Understanding on Rules and Procedures Governing the Settlement of Disputes	488
Decision on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization	489

Decision on Trade and Environment	491
Organizational and Financial Consequences Flowing from Implementation of the Agreement Establishing the World Trade Organization	494
Decision on the Establishment of the Preparatory Committee for the World Trade Organization	495
X.2 Declarations adopted by the Trade Negotiations Committee on 15 December 1993	
Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking	497
Declaration on the Relationship of the World Trade Organization with the International Monetary Fund	499
X.3 Decisions and declarations on anti-dumping (GATT Article VI) and subsidies and countervailing measures adopted by the Trade Negotiations Committee on 15 December 1993 and 14 April 1994	
Decision on Anti-Circumvention	501
Decision on Review of Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994	501
Declaration on Dispute Settlement pursuant to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 or Part V of the Agreement on Subsidies and Countervailing Measures	501
XI Understanding on Commitments in Financial Service	503
XII.1 Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries	507
XII.2 Preferential Tariff Treatment for Least-Developed Countries	511
XIII Doha Ministerial Declaration 2001	513
XIV Bali Ministerial Declaration 2013	525
XV Nairobi Ministerial Declaration 2015	529
XVI Protocol on the Accession of the People's Republic of China	535
XVII Protocol on the Accession of the Russian Federation	549

European Trade Law

I Primary Law	
I.1 Treaty on European Union (Articles 21, 22 and 47)	555
I.2 Treaty on the Functioning of the European Union (Articles 2-6, 205-222 and 351)	559
II Secondary Law	
II.1 Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports (codification)	571

II.2	Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (recast)	587
II.3	Regulation (EU) 2015/479 of the European Parliament and of the Council of 11 March 2015 on common rules for exports (codification)	601
II.4	Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (codified version)	609
II.5	Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (recast)	617
II.6	Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition	637
II.7	Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (recast)	653
II.8	Regulation (EU) No 125/2019 of the European Parliament and of the Council of 16 January 2019 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (codification)	679
II.9	Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein	707
II.10	Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products	729
II.11	Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (codification)	737
II.12	Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (codification)	779

II.13	Regulation (EU) 2015/476 of the European Parliament and of the Council of 11 March 2015 on the measures that the Union may take following a report adopted by the WTO Dispute Settlement Body concerning anti-dumping and anti-subsidy matters (codification)	829
II.14	Regulation (EU) 2015/477 of the European Parliament and of the Council of 11 March 2015 on measures that the Union may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures (codification)	833
II.15	Regulation (EU) 2015/1843 of the European Parliament and of the Council of 6 October 2015 laying down Union procedures in the field of the common commercial policy in order to ensure the exercise of the Union's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (codification)	837
II.16	Regulation (EU) 2011/182 of the European parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers	849
II.17	Regulation (EU) No 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union	859

International Trade Law

Marrakesh Declaration of 15 April 1994

Ministers,

Representing the 124 Governments and the European Communities participating in the Uruguay Round of Multilateral Trade Negotiations, on the occasion of the final session of the Trade Negotiations Committee at Ministerial level held at Marrakesh, Morocco from 12 to 15 April 1994,

Recalling the Ministerial Declaration adopted at Punta del Este, Uruguay on 20 September 1986 to launch the Uruguay Round of Multilateral Trade Negotiations,

Recalling the progress achieved at the Ministerial meetings held at Montreal, Canada and Brussels, Belgium in December of 1988 and 1990 respectively,

Noting that the negotiations were substantially concluded on 15 December 1993,

Determined to build upon the success of the Uruguay Round through the participation of their economies in the world trading system, based upon open, market-oriented policies and the commitments set out in the Uruguay Round Agreements and Decisions,

Have today **adopted** the following:

Declaration

1. Ministers salute the historic achievement represented by the conclusion of the Round, which they believe will strengthen the world economy and lead to more trade, investment, employment and income growth throughout the world. In particular, they welcome:
 - the stronger and clearer legal framework they have adopted for the conduct of international trade, including a more effective and reliable dispute settlement mechanism,
 - the global reduction by 40 per cent of tariffs and wider market-opening agreements on goods, and the increased predictability and security represented by a major expansion in the scope of tariff commitments, and
 - the establishment of a multilateral framework of disciplines for trade in services and for the protection of trade-related intellectual property rights, as well as the reinforced multilateral trade provisions in agriculture and in textiles and clothing.
2. Ministers affirm that the establishment of the World Trade Organization (WTO) ushers in a new era of global economic cooperation, reflecting the widespread desire to operate in a fairer and more open multilateral trading system for the benefit and welfare of their peoples. Ministers express their determination to resist protectionist pressures of all kinds. They believe that the trade liberalization and strengthened rules achieved in the Uruguay

Round will lead to a progressively more open world trading environment. Ministers undertake, with immediate effect and until the entry into force of the WTO, not to take any trade measures that would undermine or adversely affect the results of the Uruguay Round negotiations or their implementation.

3. Ministers confirm their resolution to strive for greater global coherence of policies in the fields of trade, money and finance, including cooperation between the WTO, the IMF and the World Bank for that purpose.

4. Ministers welcome the fact that participation in the Uruguay Round was considerably wider than in any previous multilateral trade negotiation and, in particular, that developing countries played a notably active role in it. This has marked a historic step towards a more balanced and integrated global trade partnership. Ministers note that during the period these negotiations were underway significant measures of economic reform and autonomous trade liberalization were implemented in many developing countries and formerly centrally planned economies.

5. Ministers recall that the results of the negotiations embody provisions conferring differential and more favourable treatment for developing economies, including special attention to the particular situation of least-developed countries. Ministers recognize the importance of the implementation of these provisions for the least-developed countries and declare their intention to continue to assist and facilitate the expansion of their trade and investment opportunities. They agree to keep under regular review by the Ministerial Conference and the appropriate organs of the WTO the impact of the results of the Round on the least-developed countries as well as on the net food-importing developing countries, with a view to fostering positive measures to enable them to achieve their development objectives. Ministers recognize the need for strengthening the capability of the GATT and the WTO to provide increased technical assistance in their areas of competence, and in particular to substantially expand its provision to the least-developed countries.

6. Ministers declare that their signature of the “Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations” and their adoption of associated Ministerial Decisions initiates the transition from the GATT to the WTO. They have in particular established a Preparatory Committee to lay the ground for the entry into force of the WTO Agreement and commit themselves to seek to complete all steps necessary to ratify the WTO Agreement so that it can enter into force by 1 January 1995 or as early as possible thereafter. Ministers have furthermore adopted a Decision on Trade and Environment.

7. Ministers express their sincere gratitude to His Majesty King Hassan II for his personal contribution to the success of this Ministerial Meeting, and to his Government and the people of Morocco for their warm hospitality and the excellent organization they have provided. The fact that this final Ministerial Meeting of the Uruguay Round has been held at Marrakesh is an additional manifestation of Morocco’s commitment to an open world trading system and to its fullest integration to the global economy.

8. With the adoption and signature of the Final Act and the opening for acceptance of the WTO Agreement, Ministers declare the work of the Trade Negotiations Committee to be complete and the Uruguay Round formally concluded.

Final Act embodying the Results of the Uruguay Round of Multilateral Trade Negotiations

1. Having met in order to conclude the Uruguay Round of Multilateral Trade Negotiations, representatives of the governments and of the European Communities, members of the Trade Negotiations Committee, **agree** that the Agreement Establishing the World Trade Organization (referred to in this Final Act as the “WTO Agreement”), the Ministerial Declarations and Decisions, and the Understanding on Commitments in Financial Services, as annexed hereto, embody the results of their negotiations and form an integral part of this Final Act.
2. By signing the present Final Act, the representatives **agree**
 - (a) to submit, as appropriate, the WTO Agreement for the consideration of their respective competent authorities with a view to seeking approval of the Agreement in accordance with their procedures; and
 - (b) to adopt the Ministerial Declarations and Decisions.
3. The representatives **agree** on the desirability of acceptance of the WTO Agreement by all participants in the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as “participants”) with a view to its entry into force by 1 January 1995, or as early as possible thereafter. Not later than late 1994, Ministers will meet, in accordance with the final paragraph of the Punta del Este Ministerial Declaration, to decide on the international implementation of the results, including the timing of their entry into force.
4. The representatives **agree** that the WTO Agreement shall be open for acceptance as a whole, by signature or otherwise, by all participants pursuant to Article XIV thereof. The acceptance and entry into force of a Plurilateral Trade Agreement included in Annex 4 of the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.

5. Before accepting the WTO Agreement, participants which are not contracting parties to the General Agreement on Tariffs and Trade must first have concluded negotiations for their accession to the General Agreement and become contracting parties thereto. For participants which are not contracting parties to the General Agreement as of the date of the Final Act, the Schedules are not definitive and shall be subsequently completed for the purpose of their accession to the General Agreement and acceptance of the WTO Agreement.

6. This Final Act and the texts annexed hereto shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade who shall promptly furnish to each participant a certified copy thereof.

Done at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

[List of signatures to be included in the treaty copy of the Final Act for signature]

Agreement establishing the World Trade Organization

The **Parties** to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

© World Trade Organization

Article I Establishment of the Organization

The World Trade Organization (hereinafter referred to as “the WTO”) is hereby established.

Article II Scope of the WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.
2. The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as “Multilateral Trade Agreements”) are integral parts of this Agreement, binding on all Members.
3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as “Plurilateral Trade Agreements”) are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.
4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as “GATT 1994”) is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as “GATT 1947”).

Article III Functions of the WTO

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.
2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.
3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the “Dispute Settlement Understanding” or “DSU”) in Annex 2 to this Agreement.
4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the “TPRM”) provided for in Annex 3 to this Agreement.
5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.