

**Lecture: Specific Questions of International Trade Law**  
**Law School at the Osaka City University (undergraduates), 5 - 7 January 2009**

This lecture will emphasize basics of international trade law, i. e. WTO law, as well as some aspects of EC trade law, by discussing practical cases from current trade law practice. The first half will concentrate on WTO Law and the Doha Round, and the second half on export law.

**The plan is as follows:**

**1. 05 January 2009, 10.00 – 17.00**

- Main principles of WTO Law and of EC Law concerning International Trade (10.00 – 11.30) (and 11.45 – 13.00)
- Justification of Embargoes under WTO Law: the Iran embargoes of the EC and of the US compared (14.00 – 15.15)
- Justification of Trade-Related Environmental Measures (TREM): *Shrimps/Turtle I & II and Asbestos Cases* (15.30 – 17.00)

**2. 06 January 2009, 10.00 – 17.00**

- Higher national health standards under WTO Law and under EC Law (10.00 – 11.30)
- The WTO Panel Procedure and Proposals for its Improvement (11.45 – 13.00)
- Discrimination and Like Products: Cases *Japan Alcoholic Beverages* and *China Car Parts* (14.00 – 15.15)
- Export/Customs Checks as Trade Barriers, Trade Facilitation and the AEO (15.30 – 17.00)

**3. 07 January 2009, 10.00 – 17.00**

- The Dual-Use Regulation of the EC (EC Regulation 1334/2000): Decisive EC Export Provisions and Their Legal Basis in WTO Law (10.00 – 11.15)
- Cases of EC Export Law (11.30 – 13.00)
- Repetition of the Results of this Lecture (14.00 – 15.15)
- Examination (15.30 – 17.00)

(The program may be shortened)

## Literature:

*Literatur.* Trebilcock/Howse, *The Regulation of International Trade*, 2nd ed. London/New York 1999; Hilf/Oeter, *WTO-Recht*, Baden-Baden 2005; M. Krajewski, *Wirtschaftsvölkerrecht*, (cf müller-Start), Heidelberg 2006 (18 EUR); Senti, *WTO-System und Funktionsweise der Welthandelsorganisation*, Zürich 2000; Stoll/Schorkopf, *WTO – Welthandelsordnung und Welthandelsrecht*, Köln 2002; Hohmann ed., *Agreeing and Implementing the Doha Round*, Cambridge 2008; M. Moore ed., *The Future of the Multilateral Trading System*, Cambridge 2004; Hohmann/John Hrsg., *Kommentar zum Ausfuhrrecht*, 2002; Hohmann, *Angemessene Außenhandelsfreiheit im Vergleich (Jus Publicum 89)*, Tübingen 2002; Hermann/Weiß/Öhler, *Welthandelsrecht*, 2. Aufl. München 2007; Prieß/Berrisch Hrsg., *WTO-Handbuch*, München 2003; Matsushita, *The World Trade Organization*, Oxford 2004; Ortino/Petersmann ed., *The WTO Dispute Settlement System 1995-2003*, Den Haag 2004; *WTO Appellate Body* ed., *WTO Appellate Body Repertory of Reports and Awards, 1995-2004*, Cambridge 2005; Hohmann u .a., *Annual Reports on WTO Panel Decisions (in German)*, the last in: RIW 2005, 321 ff; *WTO* ed., *WTO Dispute Settlement: One-Page Case Summaries (1995 – September 2006)*, Genf 2006; Meng u.a., *Das Internationale Recht im Nord-Süd-Verhältnis*, BDGV 41 (2005); Weith/Wegner/Ehrlich, *Grundzüge der Exportkontrolle*, Köln 2006, BAFA Hrsg., *Praxis der Exportkontrolle*, Köln 2006; Puschke/Hohmann, *Basiswissen Sanktionslisten*, Köln 2008, Böer/Groba/Hohmann, *Praxis der US-Re-exportkontrolle*, Köln 2008; Witte Hrsg., *Praxishandbuch Export- und Zollmanagement*, Köln 2007, Julia M. Natzel, *Der Zugelassene Wirtschaftsbeteiligte – Entwicklung und Ergebnis des Rechtsetzungsprozesses*, Witten 2007; Möller/Schumann/Summersberger, *Der Zugelassene Wirtschaftsbeteiligte: Bewilligung, Status, Vorteile*, Köln 2008; Weerth, *Der neue Zollkodex*, Köln 2008; Hohmann, *Zur Vereinbarkeit von REACH mit WTO- und EG-Recht*, *Stoffrecht* 2006, 67 ff, and in: *Boeki to Kanzai* 55 (2007) 1, S. 34 – 42 und 55 (2007) 2, Seite 49 - 52 (with a critical review by Rosenbaum, *Stoffrecht* 2006, S. 207 ff); Streinz, *Europarecht*, 8. Aufl. Heidelberg 2007; Bieber/Epiney/Haag, *Die Europäische Union*, 7. Aufl. Baden-Baden 2006; Borchardt, *Die rechtlichen Grundlagen der EU*, 3. Aufl. Heidelberg 2006.

Update of literature: C. Murray, *Schmitthoff's Export Trade: The Law and Practice of International Trade*, 11th Edition, London 2007; A. Alavi, *Legalization of Development in the WTO: Between Law and Politics (Global Trade Law Series Band 17)*, London 2009; Y. Aubin / A. Idiart, *Export Control Law and Regulations Handbook: A Practical Guide to Compliance (Global Trade Law Series Band 10)*, London 2007; X. Wu, *Anti-Dumping Law and Practice in China (Global Trade Law Series Band 16)*, London 2009.

*Texts of law.* The following texts should be brought to the lecture: (1) WTO Law (Beck Text in dtv 5752), (2) EC-Treaty (Beck-Text in dtv 5014), (3) the text of the EC Dual Use Regulation; all of these texts are also available in: [www.hohmann-partner.com](http://www.hohmann-partner.com) under: Current Legal Documents (1) EC export law, (2) US Export law, (3) WTO Law

**Cases:**

**Case 1:**

The EC Iran embargo (EC Regulation 423/2007) provides for an:

- export prohibition to Iran of goods listed on Annex I,
- export license requirement to Iran of goods listed on Annex II, and for an
- export prohibition to Iran concerning trade with persons/companies listed on Annexes IV and V.

This EC Iran embargo is firmly based on a Security Council resolution of the UN. The US Iran embargo (the Iranian Transaction Regulations, enacted by OFAC within the Treasury Department) provides for a total embargo by US Persons to Iran; it is not based on an UN embargo. Which of these two embargoes is justified by WTO Law?

**Case 2:**

The USA introduced an import prohibition of shrimp from non-certified countries, in order to protect endangered sea-turtles by a certain technology for shrimps catch. Will it be sufficient when the USA requires that the catching technology must be certified by the USA?

**Case 3:**

France prohibits the importation of asbestos from Canada since there was a reasonable cancer risk included in them, as long as there have been national substitutes. Canada argues that this preference of French asbestos substitutes violates WTO Law. Is this correct?

**Case 4:**

Which steps must Japan take under WTO Law, if Japan wants to introduce higher sanitary standards than those which are due under international standards?

**Case 5:**

What steps must Denmark take under EC Law, if Denmark wants to introduce higher environmental standards, after the EC has harmonised this legal area?

**Case 6:**

Korea is taxing foreign whiskey with 100% and Korean soju with 35%. The UK of Great Britain wants to start a WTO panel procedure, since there is a feeling that this is a tax discrimination of British whiskey. Is this correct?

**Case 7:**

Can China allow that auto parts from Chinese producers are preferred for tax reasons, while auto parts from foreign producers will be higher taxed?

**Case 8:**

The Konnichiwa Germany GmbH, the German subsidiary of the Japanese Konnichiwa Corporation, and her Turkish sales agent are exporting non-listed aluminium tubes to China, which are used for bicycles frames, lifts etc. Suddenly the German export agency BAFA sends a letter saying that this export might be regarded as sensitive, since the tubes could possibly be used for a gas ultra centrifuge in North Korea. What should Konnichiwa Germany do? And what precautionary risk management is recommended?