



SAMUEL BECKFORD
ATTORNEYS-AT-LAW AND INTERNATIONAL LEGAL CONSULTANTS



UNDERSTANDING INTERNATIONAL TRADE LAW

International trade can be aptly defined as the exchange of goods and services across borders. Typically, international trade significantly contributes to the GDP of most countries and is of growing importance as countries increasingly become more inter-dependent. An understanding of international trade cannot be gained by limiting its assessment to only an economic standpoint of trade, but must also include examining social, political and environmental issues from the national and global perspectives. As such, the field of international trade also entails matters relating to climate change, food security, migration, investment, culture and human rights, among others.

This level of inter-relation and notable expansion of issues impacting trade between nations makes the law governing international trade of increasing importance. Consequently, different actors engaged in the cross-border trade of goods and services, are also impacted, including governments, organizations, corporations and individuals; prompting discussion on the role and placement of the various actors in the global landscape. Agreeable however is the notion that the rules governing international trade are complex and entities often find themselves having to navigate through an intricate network of multilateral, regional and bilateral trade agreements, as well as widely differing national laws and regulations.

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WELCOME TO SAMUEL BECKFORD

The International Trade Law Group of Samuel Beckford helps clients manage the risks and maximize the opportunities associated with the increasing regulation of international trade in goods and services. Our practice, centered in the Caribbean and Brussels, provides a range of services designed to match the scope of global trade regulation and to answer the needs of our clients wherever and whenever they arise.

Our international experience and global presence allows us to offer our clients legally sound advice and services grounded in our current global context of trade and development.

In our inaugural Bulletin, we take *our firm, our team, our services and our commitment* to you!

*Welcome to
Samuel Beckford*

Trade Developments Bulletin
is accessible at

[www.samuelbeckford.com/
news-resources/newsletters/](http://www.samuelbeckford.com/news-resources/newsletters/)

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OUR TEAM



KL Menns
LL.B., LL.M., LL.M.

KL Menns is a Brussels based international legal consultant who has been working as a legal academic, practitioner and advisor since 2002. She is a US and EU trade regulation and competition lawyer and holds a Post Graduate Diploma in European Competition Law, LL.M. Degree in Trade Regulation Law, Specialist Degree in Antitrust Law, LL.M. Degree in Corporate and Commercial Law and a Bachelor of Laws Degree.

She represents clients across the Atlantic, including cases brought under the Treaty on the Functioning of the European Union and US Federal Antitrust Cases. She continuously analyses worldwide product and geographic markets in industries ranging from agricultural biotechnology, pharmaceuticals, airline and airport infrastructure, telecommunications, energy markets and mining. Clients include several multinational companies including Monsanto, Microsoft, Samsung, Johnson and Johnson, Emirates Airline, and Xstrata Plc. Ms. Menns, who is a trade-related economic affairs advisor and competition law consultant to the United Nations Conference on Trade and Development, has also advised several governments and agencies including the Bahamas, Barbados, Jamaica, Turks and Caicos Islands, the Gambia and Sierra Leone.



Dr. Mary Kopczynski, J.D./Ph.D

Dr. Kopczynski is an award winning trade scholar with ten years of experience in international development and non-profit management. Her dissertation focused on the winners and losers in the Dispute Settlement System of the World Trade Organization. Mary graduated from Santa Clara University as a double major in English and Classical Studies, and later a combined J.D./Ph.D. in Law and Global Affairs from Rutgers University. She has worked as a Student Calling Centre Manager at Santa Clara's Development Department, as a Development Writer, and project manager at World Vision.

She has practiced in the areas of Intellectual Property Law, Energy Law, Immigration Law, and complex financial instruments while working at Credit Suisse in the area of Collateralized Debt Obligations (CDO's) and Fixed Income Derivatives.

Dr. Kopczynski is the Founder of Eight of Nine Consulting involved in trade development and regulation advice and she advises regularly on WTO dispute settlement issues, in particular providing strategic counseling on litigation strategies regarding the outcome of WTO disputes.



Dr. Delroy S. Beckford
B.A.,LL.B.,LL.M., Ph.D

Dr. Beckford is an Attorney-at-Law with practice interests in trade remedies, customs, competition law and international economic law. Dr. Beckford is a Member of the Jamaican Bar Association and a Member of the American Society of International Law, where he is a Contributing Editor to its publication, International Legal Materials (ILM).

Delroy has worked as Senior Legal Counsel to the Jamaica Fair Trading Commission, and Adjunct Lecturer at the Faculty of Law, University of the West Indies, Mona. Prior to this, Dr. Beckford worked as Legal Counsel to the Jamaica Customs Department, Litigation Associate at Dunn Cox, Group Legal Counsel to CARICOM Investments Limited, Senior Legal Counsel to the Anti-dumping and Subsidies Commission. In addition to publishing articles in international economic law, Dr. Beckford is the author of Power and Judicial Activism in the WTO: The Appellate Body's Interpretation of Trade Remedy Agreements which examines the extent to which WTO Appellate Body decisions that may be characterized as activist are attributable to power configurations within trade remedy disputes.

Marcia Elliott, lived and obtained her undergraduate legal training in the United Kingdom from School of Oriental and African Studies (SOAS), University of London. A graduate of the Norman Manley Law School, Jamaica 1998 and a member of the Jamaican Bar, her legal practice is mainly in civil law. She specializes in real estate (conveyancing), landlord and tenant matters, divorce, personal injury, probate and estate planning.

She was formerly the Co-ordinator of Legal Education at the Institute of Law and Economics (ILE) for over five years, then became a Director and Legal Education Consultant to the ILE a teaching institution which prepares distance learning law students registered with the Universities of London and Wolverhampton.



Marcia Elliott
LL.B



Dr. Intan Hamdan-Livramento, Ph.D

Intan is an economist with more than ten years of experience working on issues of economics of innovation and international trade. She obtained her doctoral degree from the Chair of Economics and Management of Innovation (CEMI) at the École Polytechnique Fédérale de Lausanne (EPFL), specializing on intellectual property rights in developing countries, and is a graduate of the WTI's MILE programme. She is a member of the European Policy on Intellectual Property (EPIP) group and lectures graduate level students on Economics of Innovation at the EPFL. Intan is a founder and managing director of Intelligent Strategy, an EPFL-CEMI spin-off consulting firm. She also serves as a part-time consultant for the International Monetary Fund (IMF) in Geneva since October 2004.

Intan's experiences include being a research assistant in the area of international business and trade with the World Trade Organization and the U.S. Chamber of Commerce, Washington D.C .

She currently holds two master's degree in International Economics from the Graduate Institute of International Studies, Geneva and in International Law and Economics from the World Trade Institute, Berne.

About **Samuel Beckford**

Samuel Beckford provides a range of trade-related professional legal services. Our services include:



WTO Compliance

Evaluating whether proposed and existing national measures comply with WTO law and other trade agreements, including in the area of investment, services, sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT) and environmental and climate change law.

Legal Representation

Representing governments, trade associations and NGOs in WTO and other dispute settlement proceedings.

WTO Enforcement

Advising corporate clients on how they can enforce WTO law, the CARICOM Agreement and other trade agreements.

Real Estate Services

In assisting you to acquire property, our approach is to thoroughly investigate all prerequisites in order to minimize the risk of error, delays and additional costs to our clients while negotiating with our client's best interest in mind by providing practical guidance and solutions.

Strategy Development

Development of strategies to secure access to foreign markets, including through market, legislative and regulatory monitoring and analyses.

Business Facilitation

Multi-jurisdictional merger filings, defense of agency investigations in abuse of dominance claims, and anti-competitive agreements and other alleged anti-competitive practices; advice on exclusive distribution agreements.

Personal Injury Representation

Representation of companies and individuals in insurance-related claims relating to injuries arising from motor vehicle accidents, work-place and work-related injuries and medical negligence.

Advisory Services

Providing advisory services and Amicus Briefs to governments, trade associations, the private sector and NGOs on all trade-related matters, inter alia, anti-dumping and other trade remedy cases.

OUR AREAS OF EXPERTISE



Trade in Goods and Services
Trade Negotiations
Anti-dumping Investigations
Anti-Subsidy Investigations



Climate Change Law
Environmental Law
Green Investment Facilitation



Trade Facilitation
Customs Valuation and Investigations
Duty Reduction Strategies



Dispute Settlement
Arbitration and Mediation
Personal Injury



Investment Agreements
Commercial Contracts
Investment Incentives
Legislation



Real Estate Transactions
Probate and Estate Planning
Divorce



Intellectual Property Rights
Competition and Anti-trust
Compliance



Cross-border M&A
Company Formation
Employment Law

Our Clientele

SAMUEL BECKFORD provides legal services to anyone involved in matters pertaining to international trade. As such, our core clientele includes governments, governmental agencies, the private sector, such as exporters, manufacturers and service providers, NGOs, representative organisations, trade associations and the academia.

SAMUEL BECKFORD is strategically located in Jamaica, the wider Caribbean, the United States and Europe. We are fully competent to provide legal services to local, regional and international clients and have a proven track-record of success within numerous jurisdictions.

OUR REAL ESTATE SERVICES

Samuel Beckford handles real estate matters including transactional and litigious matters. Our transactional practice covers various types of premises including vacation properties, apartments and commercial properties, and housing developments in matters involving drafting of leases, sales agreements, property management agreements, title searches, and local authority applications for appropriate licenses and approvals for housing construction and development.

Our firm also handles litigious matters arising from real estate transactions including landlord and tenant issues, breach of contract, the exercise of a mortgagees' powers of sale, and modification of restrictive covenants.

In assisting you to acquire property, our approach is to thoroughly investigate all prerequisites in order to minimize the risk of error, delays and additional costs to our clients while negotiating with our client's best interest in mind by providing practical guidance and solutions.



TRADE LAW TERMINOLOGY

Alternate Dispute Resolution

(ADR): A process which acts as a means for disagreeing parties to end a dispute before taking legal action. ADR may take various forms, including Arbitration, Conciliation, Mediation, Negotiation and Restorative Justice.

Amicus Curiae: Or 'friend of the court' is a party that is not involved in litigation but offers information to assist a court in deciding a matter before it. The information, which can be used to support public interests, is termed an amicus brief.

Bound Tariff Rate: The most-favoured-nation tariff rate resulting from negotiations under the General Agreement on Tariffs and Trade (GATT). Unlike Applied Tariffs, the bound rate cannot be exceeded, unless under special circumstances.

CARICOM: The Revised Treaty of Chaguaramas of 4th July 1973 established the Caribbean Community. CARICOM is comprised of 15 Members and 5 Associate Members.

Most Favoured Nation (MFN): Non-discriminatory trade policy commitment offered reciprocally offered between countries. Countries set import duties and quota restrictions on each other's imports as they do on similar imports from any other country, thereby ensuring that no country is discriminated against.

OUR PRO BONO SERVICES



Samuel Beckford offers *Pro Bono Services* in select international trade matters. The firm's commitment to providing client specific solutions is enhanced by our unique consultation *Pro Bono services* to the private sector, governments, the academia and NGOs. We invite clients to access the various elements of independent legal opinions and briefs which may be accessible at reduced rates or which may attract a waiver of legal fees.

Grounded in *Our Core Values* of dedication and professionalism, we emphasize teamwork by collaborating and sharing information and knowledge across disciplines to arrive at the best results for our clients.

Our Principal Goal is to provide the highest quality legal consultancy and attorney-client services and to lead our clients to the best solution on the most challenging transactions and cases.



RESOLVING TRADE DISPUTES UNDER THE REVISED TREATY OF CHAGUARAMAS: THE JURISDICTION OF THE CARIBBEAN COURT OF JUSTICE

By Dr. Delroy S. Beckford

The enhanced pace of globalization reflected in the proliferation of regional trade agreements has generated simmering disputes among trading parties, involving issues such as market access and discriminatory treatment in the provision of goods and services and investment. Traditionally, the parties to such disputes would be the states that are parties to the agreements. Recent developments have, however, seen the increasing use by private parties of dispute settlement mechanisms under such treaty arrangements.

This development is reflected in the dispute settlement mechanism under the Revised Treaty of Chaguaramas (RTC) which governs trade relations among CARICOM Members with the possibility of CARICOM nationals resolving trade disputes through the established dispute settlement mechanism even when their respective governments refuse to bring a claim.

Under the RTC, the [Caribbean Court of Justice](#) (CCJ), in its original jurisdiction, is charged with the responsibility of resolving trade disputes. Recent case law suggests that private parties have a low threshold test to meet to bring such disputes before the CCJ.

The relevant provision of the RTC is that set out in Article 222 which provides as follows:

Persons, natural or juridical, of a Contracting Party may, with the special leave of the Court, be allowed to appear as parties in proceedings before the Court where:

(a) the Court has determined in any particular case that this Treaty intended that a right or benefit conferred by or under this Treaty on a Contracting Party shall ensure to the benefit of such persons directly; and

(b) the persons concerned have established that such persons have been prejudiced in respect of the enjoyment of the right or benefit mentioned in paragraph (a) of this Article; and

(c) the Contracting Party entitled to espouse the claim in proceedings before the Court has:

(i) omitted or declined to espouse the claim, or

(ii) expressly agreed that the persons concerned may espouse the claim instead of the Contracting Party so entitled; and

(d) the Court has found that the interest of justice requires that the persons be allowed to espouse the claim.

This provision has been given a liberal interpretation making it more than likely that the test will be met by private parties to bring their disputes for resolution before the CCJ. At the very least, the requirements for meeting the threshold simply means that the private party must have an arguable case which most likely is to be based on an alleged breach of the RTC.

THE LAW TO BE APPLIED

In resolving trade disputes the CCJ is obliged, under Article 217 of the RTC, to '**apply such rules of international law as may be applicable**'. To the extent that the RTC contains provisions which are in many respects the same as or identical to the provisions of the Agreement establishing the World Trade Organization (WTO Agreement), it is to be expected that the CCJ will apply the case law of the WTO whenever appropriate.

In fact the CCJ has already done so in its recent case law whereby the CCJ, in commenting on its jurisdiction in trade matters, referred to the WTO case of *European Communities-Measures Affecting Meat and Meat Products (Hormones)*, WT/DS26/AB/R, WT/DS48/AB/R (16 January 1998) in which the WTO Appellate Body noted (at para.115) that the standard of review must reflect the balance between the jurisdictional competence conceded by the Members of the WTO and the jurisdictional competence retained by the Members for themselves.

In light of this direction being taken by the CCJ, it is therefore to be expected that future trade disputes are more likely than not to involve a significant reliance on the case law from the WTO.

It is therefore important for disputing parties in their negotiations and consultations with each other, and in the preparation of briefs and arguments for submission to the CCJ, or other avenues for resolving their particular dispute, to bear these observations in mind.

SUBSIDIES AND COUNTERVAILING MEASURES

Final extension granted to export subsidy programmes of 19 developing countries.

The Committee on Subsidies and Countervailing Measures, on 23 October 2012, approved the final extension of the transition period – until end 2013 – for export subsidy programmes of 19 developing countries. These programmes consist mainly of free trade zones and tax incentives.

The beneficiaries of the transition period are Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, Saint Vincent and the Grenadines, and Uruguay.

In 2007, the General Council adopted a decision on procedures for the extension of the transition period for the elimination of export subsidy programmes of these developing countries. The decision enables the Subsidies Committee to continue to grant extensions of the transition period until the end of 2013, with a final phase out period of two years, which shall end no later than 31 December 2015.

At the meeting, Colombia urged beneficiary countries to start enacting legislation that would phase out the subsidy programmes.

Notifications

The Chair, Mr. Sam C.S. Hui (Hong Kong, China), expressed concern that 73 members have not yet submitted their 2011 subsidy notifications. He underlined the importance of notifications in the work of the Committee.

New Zealand, supported by Argentina, Norway, the United States and Chile, urged members to notify fisheries subsidy programmes as called for by the Rio+20 Conference.

The United States reiterated its concerns about incomplete subsidy notifications from China and India respectively. The European Union, Canada, Japan and Turkey shared the US concerns. China said it is in contact with the United States on this matter bilaterally and would keep the Committee informed of progress. India said it had recently notified its fisheries subsidy programmes, and that it remains committed to fulfilling its obligations under the Agreement.

Textiles

The United States and Turkey again urged India to start phasing out its export subsidies to its textile and clothing industry, which the WTO Secretariat had found to be export competitive as from 2007.

India reiterated that it wants clarity and common understanding first on certain issues about its obligations to phase out subsidies, and that it is open to bilateral discussions.

For a full discussion visit...

http://www.wto.org/english/news_e/news12_e/scm_23oct12_e.htm

The Outcomes of Rio+20: An Informal Dialogue Among Stakeholders

One of the clearest messages delivered by the Rio+20 conference is that, in spite of important achievements during the last two decades, much remains to be done to reset the world on a path of inclusive sustainable development. The “Future We Want” — the outcome document of Rio+20 — provides the overall state-of-play in areas of critical importance to sustainable development, and alerts the international community to the formidable challenges ahead.

For more on this critical development...





Customs Valuation

The collection of customs duties in Jamaica is administered by the Customs Department, pursuant to the Customs Act and Regulation. In determining the value of the goods being imported and thus the duty to be charged.

Section 19 of the Customs Act holds that *“a duty of Customs is chargeable on the value of the imported goods at the time of importation. This duty of charged on the CIF (Cost, Insurance and Freight) value of the goods when converted into Jamaican currency”*.

On June 3, 2002, the Customs Act was amended to incorporate pertinent parts of the WTO Customs Valuation Agreement, Article VII of GATT 1994. Applicable to commercial goods, the process now entails six (6) methods of valuing goods which must be used in hierarchical order, namely:

- i. Transaction value method
- ii. Transaction value of identical goods
- iii. Transaction value of similar goods
- iv. Deductive value method
- v. Computed value method and
- vi. Fallback method

What does this mean for the *Real Trader?*

Essentially, the agreement is intended to facilitate a single system for the valuation of imported goods for customs purposes. The Customs Act has thus provided for rules-based system which guarantees greater transparency, fairness and predictability in the valuation of goods, as based as much as possible on the actual price of the goods being valued.

Trading with Europe

The Economic Partnership Agreement (EPA) signed between CARIFORUM and the European Community on October 15, 2008 governs trade relations between both parties. The EPA, which has created a WTO compliant arrangement, succeeds the Trade Chapter of the Cotonou Agreement. The EPA grants market access to individuals and firms to supply goods and temporarily provide services. Contractual Service Suppliers and Independent Professionals may explore entry to supply their services in some of the following sectors: Accounting, Architectural, Engineering, Medical and Dental, Veterinary, Midwives, Taxation Advisory, Management Consulting, Chef de Cuisine and Fashion Model services.

What does this mean for the *Real Service Trader?*

- i. The importance of the recognition of qualifications between the relevant bodies or associations
- ii. Knowledge of the entry requirements and limitations
- iii. Knowledge of the individual European regulations governing the sector

Samuel Beckford underscores the importance of understanding the regulations governing the importation and exportation of goods and services and hopes to be called upon to provide the requisite services to the

Real Trader.

At the Negotiating Table

This Issue: The Canada-CARICOM TDA PART I



CARICOM is currently negotiating a Trade and Development Agreement (TDA) with Canada. Trade Development Bulletin will track the progress of the negotiations and provide analysis of salient issues in this agenda, including those impacting the private sector.

BACKGROUND

Trade relations between Canada and CARICOM are governed by various agreements, including CARIBCAN which is a non-reciprocal preferential trade agreement granting unilateral duty free access to eligible goods from beneficiary countries in the English-speaking Caribbean up to 2011. Pursuant to the WTO, CARIBCAN currently operates under a waiver which is now set to expire December 2013, having received an extension. It is within the context of securing market access before the expiration of the Agreement, that both parties are now engaged in negotiations.

Below are critical issues for consideration in the negotiations to improve on the trade relations between CARICOM and Canada.

In the area of goods:

- ◆ The 'MFN Clause' within the EPA with the European Community will impact on the concessions which can be extended to Canada.
- ◆ Exports of fish and fish products to Canada are already duty-free, therefore CARICOM's interest will be in securing

- ◆ An improvement in Market Access conditions for some commodities exported by CARICOM, such as alcoholic beverages.

In the area of services, CARICOM interests include:

- ◆ The removal of residency, citizenship requirements, and joint venture requirements;
- ◆ Introduction of temporary licensing for CARICOM architects in those provinces that do not have such a system;
- ◆ Recognition of CARICOM services suppliers certified in one Canadian province in other Canadian provinces;
- ◆ To exempt examination fees for engineers;
- ◆ Acceptance of CARICOM work experience to meet accreditation requirements.
- ◆ Licensing of CARICOM professionals for work on specific projects in partnership with Canada

A beneficial trade agreement with Canada will require input on issues of interest, particularly to Governments and the private sector. This input requires sound understanding of the Canadian legal landscape for both goods and services.

**What does
CARICOM-Canada mean
for you and your
business?**



IN THE *Spirit* OF FAIR TRADE: A Looming Dispute in the Caribbean Rum Industry

That the Caribbean is synonymous with excellent rum is unquestionable and so too is the industry's contribution to regional economic development, including through export earnings and employment. The annual growth rate for the rum industry in Jamaica, between 2002 and 2008 was 11.24%.¹ Further data from the Statistical Institute of Jamaica (see the table below) indicates a tremendous increase in export value of rum between 2009 and 2011²; all indicative of the industry's significance.

Commodity	Jan-Dec 2008	Jan-Dec 2009	Jan-Dec 2010	Jan-Dec 2011	Jan-Jul 2012
Rum	2,945,311	4,278,911	4,119,987	4,180,533	1,638,109

Adopted from <http://statinja.gov.jm/Trade-Econ%20Statistics/InternationalMerchandiseTrade/trademore.aspx>

It is therefore a highly troubling when the viability of the industry is threatened, particularly via what is being considered as unfair trade practices by major competitors. As reported by the Jamaica Observer, the US Virgin Islands and Puerto Rico are benefiting from massive subsidies to their rum industries, in some cases exceeding 100 per cent of the fixed and variable costs of production for rum destined for the American market. These subsidies are funded by the US excise tax on rum, most of which is returned by the United States to the USVI and Puerto Rican governments.”³

Chairman of the Barbados Rum Committee, Frank Ward indicates the extreme difficulty faced by the Barbados Rum industry to compete in the industry in light of the “iniquitous and pernicious use of subsidies” being extended by the US. It has been further indicated that Caribbean rum producers have lost long-term supply contracts, reflecting the negative impact of this purported anti-competitive trade practice on the region.

The dialogue within the Caribbean on the available options to resolve the impasse is heating up as there are indications that pursuit of a resolution through diplomatic channels will be woefully unsuccessful in getting the US to alter its policy. This likelihood is further strengthened when one recalls the protracted US-Antigua/ Barbuda Gambling case. It is no surprise therefore, that with legal opinions having questioned the legality of the subsidies being given by the US, there are strong indications that the Dispute Settlement process of the WTO may be accessed by Caribbean rum producers as an avenue to pursue their case against the US subsidies in a bid to preserve the viability of the industry and in fact the integrity and equity of the global trading system.

1. See Vision 2030 Jamaica Manufacturing Sector Plan 2009-2030.

http://www.vision2030.gov.jm/Portals/0/Sector_Plan/Microsoft%20Word%20-%20Vision%202030%20Jamaica%20-%20Final%20Draft%20Manufacturing%20Sector%20Pla%20E2%80%A6.pdf

2. <http://statinja.gov.jm/Trade-Econ%20Statistics/InternationalMerchandiseTrade/trademore.aspx>

3. http://www.jamaicaobserver.com/editorial/will-even-the-wto-be-able-to-help-caribbean-rum-exporters-_12973646

UNDERSTANDING INTERNATIONAL TRADE LAW (cont.)

Essentially, International Trade Law seeks to marshal the relationship between the numerous actors and facets of global trade. In viewing Trade law from a multi-lateral perspective, full appreciation of the mandate and work of the World Trade Organization (WTO), the inter-governmental body which succeeded and expanded the mandate of the General Agreement on Tariffs and Trade (GATT), is indispensable. In-depth and current understanding of regional groupings and trade blocs, such as CARICOM, NAFTA, MERCUSOR, the European Commission, COMESA, SADC, ASEAN which establish the rules pertinent to trade within each group as well as with external partners is critical for both Governments and private actors seeking to trade internationally.

From a governmental perspective, the importance of reconciling and accommodating divergent economic interests is essential in promulgating pertinent and appropriate trade laws in supporting national development policies, in a manner which remains cognizant of the wider global environment. The Multi-National Corporations, Small and Medium Enterprises and individuals who actively participate in turning the wheels of trade have to contend with the laws and policy instruments, such as tariffs and non-tariff barriers, the enactment or elimination of which may reflect a protectionist or liberal approach. Appreciating how to manoeuvre and influence this global terrain of trade law directly impacts on the private actors' ability to maximize returns on investment.

International trade law is in a constant state of flux, as can be seen with the impact of technology which has driven and created new products and services, expanded the opportunity to trade, demanded enactment of legislation and policies at a commensurate level, impacting the more traditional view of how trade can be conducted.

It is imperative therefore, in understanding international trade law, to appreciate its multi-faceted and all-encompassing nature. It is essential that all actors seek to equip themselves with the necessary knowledge and support in order to ensure that global trade works for them.



Historic signing ends 20 years of EU-Latin American banana disputes

The European Union and 10 Latin American countries signed an agreement on 8 November 2012 settling the longest-running series of disputes in the history of the multilateral trading system.

“This is a truly historic moment,” said WTO Director-General Pascal Lamy. “After so many twists and turns, these complicated and politically contentious disputes can finally be put to bed. It has taken so long that quite a few people who worked on the cases, both in the Secretariat and in member governments have retired long ago.”



http://www.wto.org/english/news_e/news12_e/disp_08nov12_e.htm

WTO launches new “International Trade and Market Access” interactive tool

The “International Trade and Market Access” interactive tool, launched by the WTO on 19 November 2012, provides a new dynamic presentation for all WTO data on merchandise and commercial services trade as well as selected market access indicators from World Tariff Profiles, a WTO, ITC and UNCTAD co-publication.



http://www.wto.org/english/res_e/statis_e/statis_e.htm

TRADE DIALOGUE is our interactive platform where we seek to discuss topical trade issues. Our response should not be construed as legal advice.

QUESTION: *The Doha Round of Negotiations at the WTO is proving to be a waste of time and valuable resources. What are the areas of the stall and what are the real reasons?*

ANSWER: The level of disillusionment over the Doha Round continues to gain traction, owing to, as the question alludes, the lack of substantive progress over the last 12 years. Whilst not an exhaustive analysis of the reasons for the stall, in positing a reason for the ‘failure’ of this critical ‘Development Round’ one is moved to acknowledge the increased importance of newly emerging developing countries (such as India, China, South Africa and Brazil) which are exerting greater influence on the process of crafting the rules governing global trade. See also Pascal Lamy’s speech at the Richard Snape Lecture (http://www.wto.org/english/news_e/sppl_e/sppl258_e.htm).

The discussion on the reasons surrounding the stall will require much analysis and as such cannot be completed in this issue. However it can be acknowledged that a slew of major issues, including agriculture, industrial tariffs and non-tariff barriers, services, and trade remedies are central to the current impasse. Calls for deeper liberalization efforts by developing countries, the removal of agricultural subsidies by developed countries, provision for LDCs and essentially failure to deliver on the ‘development’ dimension of the round may aptly summarize the current stall.

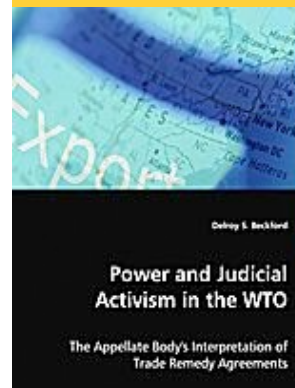
It should be recalled however that while the WTO’s “*main function is to ensure that trade flows as smoothly, predictably and freely as possible*”, the liberalization negotiating platform and administration of agreements are only two components of the multilateral structure. Other core elements include monitoring national trade policies through the Trade Policy Review Mechanism, resolving disputes pursuant to the Dispute Settlement Understanding and building trade capacity by providing training and technical assistance to developing countries.

Notwithstanding these additional elements, Pascal Lamy has indeed openly acknowledged the importance of concluding the DDA. Whilst it is not envisaged that factors which have shaped the impasse will change substantively, nor is there the expectation of achieving a comprehensive deal, the Chairman has continuously implored members to approach the negotiations in a pragmatic and constructive manner, without setting *a priori* red lines and without pushing for unattainable levels of ambition.

There may be hope yet for salvaging the Round. Let’s wait and see.

Please submit your **TRADE DIALOGUE** feedback to admin@samuelbeckford.com or visit us at <http://www.samuelbeckford.com/contact-us/>

POWER AND JUDICIAL ACTIVISM IN THE WTO



The Appellate Body’s Interpretation of Trade Remedy Agreements

This book provides a detailed analysis of some landmark rulings of the Appellate Body on issues of dumping, subsidies and safeguards and examines the relationship between the outcomes of those decisions and the power (im)balance within specific disputes and whether the particular power configuration of the countries involved in specific cases impact the decisions of the Appellate Body in cases where activist rulings are identified.

To purchase, please visit our website at:

<http://www.samuelbeckford.com/news-resources/publications/>

Samuel Beckford welcomes the opportunity to participate in conferences, seminars, analytical discourse and information sessions on international trade matters.

Our expert and highly trained legal consultants offer vast practical experience which complements the highest academic and legal scholarship in the field of international trade law.

We invite your partnership to engage in trade matters with associations, government departments, the academia and other NGOs in this important discourse of how trade and trade law matters!

We await your invitation!

Web Resources

<http://www.wto.org/>
<http://www.oecs.org/>
<http://www.crn.com/>
<http://www.unctad.org/>
<http://comtrade.un.org/>
<http://www.caricom.org/>
<http://www.intracen.org/>
<http://www.sice.oas.org/datae.asp>
<http://www.wcoomd.org/home.htm>



Chosen Quotation

“Policies and decision making must become external in reach given that their impacts are now felt beyond the borders of the nation state. As existentialists would say, we are in an ‘age of transition’.”

Pascal Lamy

Speech delivered at the Richard Snape Lecture on November 26, 2012 in Melbourne, Australia

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