

# **NATIONAL REGULATION AND TRADE LIBERALIZATION IN SERVICES**

*The Legal Impact of the General Agreement  
on Trade in Services (GATS)  
on National Regulatory Autonomy*

*Markus Krajewski*

**KLUWER LAW INTERNATIONAL**

# National Regulation And Trade Liberalization In Services The Legal Impact Of The General Agreement

**Todd Weiler**



## **National Regulation And Trade Liberalization In Services The Legal Impact Of The General Agreement:**

**National Regulation and Trade Liberalization in Services** Markus Krajewski, 2003-01-01 Like tariffs and other border measures national regulatory barriers impede international trade Unlike tariffs however such barriers usually indicate an important domestic policy choice This conflict of interest has emerged as a crucial issue in international law particularly with regard to services such as telecommunications and health services This study is the first to analyze the potential impact of incompatibilities between national regulatory regimes and the rules and obligations imposed by the General Agreement on Trade in Services GATS In the process of arriving at his challenging concluding theses the author investigates such relevant concepts as the following the political and ideological dynamics of GATS negotiations services trade liberalization in regional integration systems particularly in EC law policies common to diverse national regulatory systems the notions of deregulation and privatization the human rights implications of international trade law the GATS obligations of market access national treatment and most favoured nation treatment the role of the WTO's dispute settlement organs GATS transparency obligations Professor Krajewski's study is of enormous significance to specialists in regulatory policies and instruments at all national and sectoral levels especially in the context of ongoing GATS negotiations As the author warns Unless GATS negotiators and national regulators have a thorough understanding of the relationship between GATS obligations and regulatory policies and instruments they cannot effectively use the flexible elements of GATS and could reach an agreement which they may later regret

**The Definition of Subsidy and State Aid** Luca Rubini, 2009-12-24 This book presents a conceptual analysis of the definitions of state aid and subsidy in EC and WTO law It provides a comparative analysis of the regulation of subsidy in both systems examining the coherence of the conceptual understanding of subsidy and the grounds for legitimate state intervention

**A World Government?** Sabino Cassese, 2018-02-28 There are now many features of a new world order the circulation of concepts techniques rules the development of global epistemic communities an increasing mix of national and supranational institutions the formation of more horizontal links among States which do not disappear but rather become accountable to one other the generalization of common usages and rules Overall this is conventionally called globalization Globalization is the major development in the field of public law in the second half of the twentieth century It has evolved according to an incremental pattern First it was applied to peace and human rights the United Nations then to areas such as the sea nuclear waste health labor the environment Subsequently it was applied to trade and finally to global terrorism and global crises The process of globalization has been piecemeal and globalization has developed through crises and unbalances by accretion and accumulation

**Digital Trade and Data Privacy** Roman Pascal Kalin, 2024-11-26 This monograph provides a comprehensive examination of the intricate legal challenges arising at the intersection of digital trade and data privacy It argues in favour of an integrated approach to understanding the dynamic interaction between digital trade and data privacy with the aim of building a bridge between these two fields of law Cross border data flows are

paramount for the operational efficiency and productivity of companies across diverse industries The ongoing economic transformation characterized by the perception of data as both a commodity and currency exacerbates the tension between the push for economic liberalization of cross border transfers of personal data under a trade rationale and the limitations imposed on such transfers for non economic reasons Given that the regulation of cross border personal data transfers is profoundly influenced by both international trade law and national data privacy laws a complex relationship has developed between the normative values that underpin these legal frameworks This publication centers on the resulting interdependence of digital trade and data privacy in a global digital economy It provides a contribution to the debate on a re contextualisation of trade law against the background of the advent of digital trade      *Digital Services in International Trade Law* Ines Willemyns,2021-09-30 The first comprehensive analysis of the applicability of international trade law to digital services at multilateral and regional levels      Sustainable Waste Trade under WTO Law Mirina Grosz,2011-05-10 Waste tends to be understood as the potentially polluting and unsolicited by product of our daily lives a source of risk for the environment and human health Nonetheless a transboundary market for wastes as valuable raw materials and second hand goods has emerged and states ship wastes to specialised disposal and recycling sites abroad This book provides a thorough analysis of the Basel Convention and the applicable OECD and EU frameworks of regulation The author adopts a legal approach that encompasses the environmental human rights and WTO law aspects of waste trade It explores the potential of the concept of sustainable development to integrate divergent regulatory approaches under the umbrella of the WTO in particular and identifies crucial elements of a more comprehensive and sustainable solution for international waste trade

**Government Internet Censorship Measures and International Law** I-Ching Chen ,2018 Internet governance is a simple term without a simple definition In the name of Internet sovereignty nations have begun to implement various regulations to control the flow of information within or across their virtual territorial boundaries The unique interconnected and multilateral characteristics of the Internet renders it impossible for one nation alone to provide adequate solutions to managing the Internet The author argues that many of the issues related to Internet governance should be allocated to international institutions and a nation s sovereign power over the Internet should be bounded by its commitments and responsibilities under international law In the absence of a coherent regulatory framework this book examines whether the existing international legal systems are sufficiently generic to accommodate the challenges brought about by technological developments      **Handbook of Deep Trade Agreements** Aaditya Mattoo,Nadia Rocha,Michele Ruta,2020-09-23 Deep trade agreements DTAs cover not just trade but additional policy areas such as international flows of investment and labor and the protection of intellectual property rights and the environment Their goal is integration beyond trade or deep integration These agreements matter for economic development Their rules influence how countries and hence the people and firms that live and operate within them transact invest work and ultimately develop Trade and investment regimes

determine the extent of economic integration competition rules affect economic efficiency intellectual property rights matter for innovation and environmental and labor rules contribute to environmental and social outcomes This Handbook provides the tools and data needed to analyze these new dimensions of integration and to assess the content and consequences of DTAs The Handbook and the accompanying database are the result of collaboration between experts in different policy areas from academia and other international organizations including the International Trade Centre ITC Organisation for Economic Co operation and Development OECD United Nations Conference on Trade and Development UNCTAD and World Trade Organization WTO *The EU Treaties and the Charter of Fundamental Rights* Manuel Kellerbauer, Marcus

Klamert, Jonathan Tomkin, 2019-05-16 This Commentary provides an article by article summary of the TEU the TFEU and the Charter of Fundamental Rights offering a quick reference to the provisions of the Treaties and how they are interpreted and applied in practice Written by a team of contributors drawn from the Legal Service of the European Commission and academia the Commentary offers expert guidance to practitioners and academics seeking fast access to the Treaties and current practice The Commentary follows a set structure offering a short overview of the Article the Article text itself a key references list including essential case law and legislation and a structured commentary on the Article itself The editors and contributors combine experience in practice with a strong academic background and have published widely on a variety of EU law subjects **The Oxford Handbook on The World Trade Organization** Amrita Narlikar, Martin Daunton, Robert

M. Stern, 2012-05-31 This handbook provides a holistic understanding of what the World Trade Organization does how it goes about fulfilling its tasks its achievements and problems and how it might contend with some critical challenges The

Interpretation of International Investment Law Todd Weiler, 2013-05-02 In *The Interpretation of International Investment Law Equality Discrimination and Minimum Standards of Treatment in Historical Context* author Todd Weiler demonstrates how historical analysis should be adopted in the interpretation of international investment law obligations Weiler subjects some of the most commonly held beliefs about the nature and development of international investment law to a critical re appraisal based upon meticulously assembled historical record In the process the book provides readers with a fresh perspective on some of the oldest obligations in international law This stimulating contribution to the discourse on interpretation of international investment law standards sheds new light on the formation of such primary obligations as fair and equitable treatment protection and security and the customary international law minimum standard of treatment for aliens Additionally a thought provoking historical analysis explains why a one size fits all approach to obligations found in both trade and investment treaties such as MFN treatment and national treatment must be rejected With a keen attention to detail *The Interpretation of International Investment Law Equality Discrimination and Minimum Standards of Treatment in Historical Context* reveals the dynamic relationship between historical analysis critical theory and the construction of both customary and treaty norms in international investment law **International Law in Namibia** Zongwe, Dunia

Prince, 2019-04-22 This book provides readers with the knowledge necessary to fully understand how international law carved the history and life of Namibia. It observes that Namibia has benefited from and contributed to international law in a way that shaped that country's political and socio-economic development and to an extent that few other countries experienced. For many years since Namibia achieved Independence on 21 March 1990 and established the Faculty of Law at the University of Namibia in 1992, students and lecturers have relied on materials from South Africa despite the fact that Namibian law has since then grown apart from its South African heritage. It is high time for lecturers and students in Namibia to teach and learn with a textbook that analyses international law from the distinct standpoint of Namibia and that views the nation's legal interactions with other states through its own prism. And this textbook aims to do just that. Through its 19 chapters, this book informs readers about international law, its sources, international treaties, Namibian statehood, dispute resolution, the use of force, human rights, Namibia's economic relations with the outside world, including the Southern African Customs Union and the law of the sea. Namibian courts have in their own way followed the rules of international law scrupulously, but as this book shows, international law nonetheless remains the source of Namibian law that lawyers apply the least. Accordingly, this book underlines the significance, the practical utility, and the relevance of international law in the unique Namibian context.

**Data Protection without Data Protectionism** Tobias Naef, 2023-01-13 This open access book offers a new account on the legal conflict between privacy and trade in the digital sphere. It develops a fundamental rights theory with a new right to continuous protection of personal data and explores the room for the application of this new right in trade law. Replicable legal analysis and practical solutions show the way to deal with cross-border data flows without violating fundamental rights and trade law principles. The interplay of privacy and trade became a topic of worldwide attention in the wake of Edward Snowden's revelations concerning US mass surveillance. Based on claims brought forward by the activist Maximilian Schrems, the ECJ passed down two high-profile rulings restricting EU-US data flows. Personal data is relevant for a wide range of services that are supplied across borders, and restrictions on data flows therefore have an impact on the trade with such services. After the two rulings by the ECJ, it is less clear than ever how privacy protection and trade can be brought together on an international scale. Although it was widely understood that the legal dispute over EU-US data flows concerns the broad application of EU data protection law, it has never been fully explored just how far the EU's requirements for the protection of digital rights go and what this means beyond EU-US data flows. This book shows how the international effects of EU data protection law are rooted in the EU Charter of Fundamental Rights and that the architecture of EU law demands that the Charter as primary EU law takes precedence over international law. The book sets out to solve the problem of how the EU legal data transfer regime must be designed to implement the EU's extraterritorial fundamental rights requirements without violating the principles of the WTO's law on services. It also addresses current developments in international trade law, the conclusion of comprehensive trade agreements, and offers suggestions for the design of data flow

clauses that accommodate privacy and trade      *Strategic Arena Switching in International Trade Negotiations* Joachim Becker, Wolfgang Blass, 2017-11-28 Since the 1970s global rule making with respect to international trade has increased in importance Political and academic attention has been focused either on global institutions like the IMF the World Bank the WTO and UN organisations or on regional blocs like the EU or NAFTA As negotiations take place in different international arenas these arenas themselves take on added strategic significance with agendas pursued and switched from one arena to another should one route be blocked While dominant actors have sought to use arena switching to their advantage subordinate actors have begun to reactivate alternative arenas of negotiation in order to pursue their different agendas This book employs a multi level and multi arena perspective to analyze global rule making in international trade It explains why actors both state and non state actors prefer particular arenas It also addresses the question of which institutional designs serve the aims of specific groups best and how the rules of the different arenas are related      **The Regulation of the Global Water Services Market** Julien Chaisse, 2017-01-26 Drinking water and wastewater services must be provided to many sectors of a nation s economy including its industrial commercial and residential sectors This forms the scope of the water industry s activities and it explains why the privatization of water sanitation and water services has become a huge market and a much debated issue in a number of jurisdictions Historically the water industry has been run as a public service which is owned by the local or national government however recent trends suggest that the role of the private sector is increasing The growing economic interests concerning water and wastewater services are generating a tension with the recent recognition of the human right to water and sanitation This tension between human right and economic rules is the focus of this book which reviews all the international rules that form the regulation of global water services      **Public Participation and Legitimacy in the WTO** Yves Bonzon, 2014-10-09 The legitimacy of the WTO s decision making process has always been questioned and many have advocated public participation mechanisms as a remedy Yves Bonzon considers the limits and potential of these mechanisms by advancing a conceptual framework which distinguishes the four implementation parameters of public participation the goal the object the modalities and the actors He addresses the issue of legitimacy by considering to what extent and by virtue of which legal developments one can see implementing the democratic principle as a goal for public participation in the context of the WTO By analysing the institutional structure of the WTO and its different types of decisions he then outlines how this goal should influence the object and modalities of public participation which decision making procedures should be opened to public participation and how the mechanisms should be implemented in practice Finally he suggests specific amendments to existing WTO arrangements on public participation      **The Human Right to Water and International Economic Law** Roberta Greco, 2022-05-05 This book discusses the international right to water and the liberalization of water services It is concerned with the harmonization of the right to water with the legal systems under which liberalization of water services has taken or may take place It assesses paths of

harmonization between international human rights law and international economic law in this specific field The issue of the compatibility between the fulfilment of the right to water and the liberalization of water services has been at the heart of a passionate public debate between opponents and advocates of the privatization of the utility The book provides an unbiased analysis of different international legal regimes under which the liberalization of water services has occurred or is likely to occur notably international investment law international trade law and European Union law in order to assess whether the main features of the right to water can be guaranteed under each of these systems of law and whether there is space for prospective harmonization The work will be an invaluable resource for academics researchers and policy makers working in the areas of International Human Rights Law International Economic Law International Water Law International Trade Law and EU Law

WTO - Trade in Services Rüdiger Wolfrum, Peter-Tobias Stoll, Clemens Feinäugle, 2008-02-28 With the establishment of the WTO trade in services became part of the world trade order Volume 6 is dedicated to these rather recent developments It covers the core agreement the General Agreement on Trade in Services GATS with annexes as well as the additional instruments which have been adopted later on to govern the liberalization in specific sectors Those are the Understanding on Commitments in Financial Services the Second Protocol on Financial Services the Third Protocol on the Movement of Natural Persons the Fourth Protocol on Basic Telecommunications and the Fifth Protocol which contains further rules for financial services This volume will be a valuable reference tool for the WTO community as a whole as well as for professionals and researchers who deal with one of the sectors concerned e.g. financial services and telecommunications Furthermore it is highly relevant in view of those sectors which are the subject of ongoing liberalization efforts or earmarked for future negotiations namely accounting legal services transport tourism environmental services legal and educational services

*Public Services and International Trade Liberalization* Barnali Choudhury, 2012-11-01 Does public service liberalization pose a threat to gender and human rights Traditionally considered essential services provided by a state to its citizens public services are often viewed as public goods which embody social values Subjecting them to market ideology thus raises concerns that the intrinsic social nature of these services will be negated Moreover as those most likely to be reliant on public services public service liberalization may also further marginalize women Nevertheless states continue to increasingly liberalize public services Barnali Choudhury explores the implications of public service liberalization Using primarily a legal approach but drawing from case studies empirical research and gender theories she examines whether liberalization under the General Agreement on Trade in Services and other liberalization vehicles such as preferential trade and investment agreements compromise human rights and gender objectives

Normative Conditions to Make WTO Law More Responsive to the Needs of Developing Countries Philipp Scheuermann, 2010



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