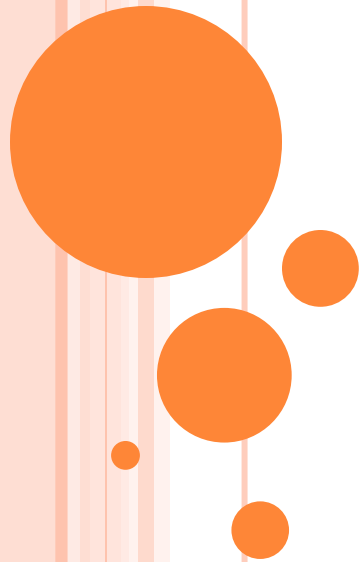




INTRODUCTION TO INTERNATIONAL BUSINESS LAW



CONTENTS

Part 1: Legal Environment of International Business

- Forms of International Business
 - Trade
 - Government Controls over Trade
 - International Licensing Agreements
 - Foreign Direct Investment (FDI)
- Managing risks of International Business
 - Distance and Communication
 - Language and Cultural Differences
 - Other risks?

Part 2: International Law and Organizations

- The Law of Treaties
 - Global treaties vs. Regional treaties
- GATT & WTO
 - History Development
 - Core principles
- Vietnam and WTO in brief



LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

- What is International Business?
- Why do people conduct International Business?
- Why do we need International Business Law?



LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

Forms of International Business:

1. Trade (Export/Import)
2. International Licensing of technology and intellectual property (Trademarks, patents, copyrights)
3. Foreign Direct Investment (FDI)



LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

- Trade: import and export of goods and services
- Exporting: process of sending goods out of a country
- Importing: when goods are brought into a country
- Why do countries trade?
 - What is Absolute Advantage?
 - What is Comparative Advantage?
- Trade in services?



LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

Government Controls over Trade:

- Reasons for regulating Trade:
 - Implementation of foreign policy
 - Implementation of national economic policies
 - Protection of national resources or the environment
- Tariffs or Non-tariff barriers?
- Tariffs: import duties/taxes imposed on goods entering the customs territory of a nation
- The use of tariffs



LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

- Non-tariff barriers: all barriers to importing or exporting other than tariffs
 - Direct: embargoes, quotas...
 - Indirect: laws, administrative regulation...
- Why Non-tariff barriers?
- Export Controls?
- Problems with trade barriers in international business context?




LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

Intellectual Property Rights:

- Trademarks: names/symbols that identifies a firm or its product
- Patents: exclusive legal right to produce and sell inventions for a period of years
- Copyrights: legal rights to artistic works

International Licensing agreements:

- Technology Transfer: exchange of technology and manufacturing know-how between firms in different countries
 - International Franchising: legal right to use a name/trademark in offering goods or services to the public in exchange for a royalty on percentage of sales or a fee structure
- 

LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

Foreign Direct Investment:

- What is FDI?
- Home country: country under whose laws the investing corporation was created or is headquartered
- Host countries: countries where the investing corporation operate
- Why FDI? Advantages and Disadvantages?



LEGAL ENVIRONMENT OF INTERNATIONAL BUSINESS

Managing the Risks of International Business:

- Distance and Communication
- Cultural and Language Differences
- Currency and Exchange Rate
- Payment Risks
- Delivery Risks
- Marine Risks
- Political Risks
- Ethical Issues in International Business



INTERNATIONAL LAW AND ORGANIZATIONS

The Law of Treaties:

- Treaty: a binding agreement or contract between two or more nations or international organizations
- Is recognized and given effect under International Law
- Bilateral and Multilateral treaties?
- The needs of treaties?



INTERNATIONAL LAW AND ORGANIZATIONS

- Convention: treaty on matters of common concern
- Is usually negotiated on a regional or global basis and open to adoption by many nations
- Or negotiated under the administration of the United Nations
- Examples of a regional treaty?
- Example of a global Convention?



GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)


- The needs of GATT?
- Purpose:
 1. Reducing tariff and nontariff barriers
 2. Opening markets
 3. Setting rules for promoting fairer trade
- First signed in 1947 with 23 “member nations”
- “New” GATT in 1994 with 125 “contracting parties”



GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1947)

- GATT legal framework:
 1. Provide an organized global legal structure
 2. Improve the economic, political, and legal climate for trade, investment, and development
 - Primary goals: creating free trade by removing artificial barriers and restrictions imposed by self-serving national Governments
 - The system of GATT produces:
 1. An international legal system with rules
 2. A mechanism for interpreting those rules
 3. Procedures for resolving disputes under them
- 

GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1947)

- Scope and Coverage:
 - GATT 1947 applied only to trade in goods
 - Was GATT 1947 an “ideal” modern trading system?
 - What’s missing here?
 - Services
 - Agriculture products
 - Intellectual Property Rights
 - Rules to deal with unfair trade and dispute settlement process were ineffective
- 

GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1994)

- GATT 1994 with broader scope and coverage and two (2) most important agreements:
 1. Final Act Embodying the Uruguay Round of Multilateral Trade negotiations
 2. Agreement establishing the World Trade Organization (WTO)
 - To provide a common framework for most multilateral trade negotiations aimed at reducing trade barriers
 - To create the WTO, an International Organization charged with administering the GATT world trade system
- 

GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1994)

○ GATT 1994's Major Principles:

1. Multilateral Trade Negotiations (Art.II)
2. Predictability of Trade Opportunities (Art.II)
3. Non-discrimination and unconditional Most-favoured-nation trade (Art.I)
4. National Treatment (Art.III)
5. Elimination of Quotas and other Non-tariff barriers (Art.XI & XIII)
 1. The term “tariffication”



GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT 1994)

- Special rules to:
 - Promote trade with developing nations
 - Allow the establishment of free-trade areas and customs unions (Examples?)
 - Allow restrictions on Imports when necessary to:
 - Protect public health and safety
 - Domestic firms from unfair trade practices



WORLD TRADE ORGANIZATION (WTO)



- Established 1 January 1995
 - Current work comes from 1986-94 negotiations called the Uruguay Round and earlier negotiations under the GATT
 - Membership: 154 countries as at 29 April 2012
 - Purpose:
 - To help trade flow as freely as possible – as this is important for economic development & well-being
 - Ensuring individuals, companies & governments know what trade rules are around the world
 - Giving them confidence that there will be no sudden changes of policy
- The rules must be “transparent” and “predictable”



WORLD TRADE ORGANIZATION (WTO)



Main Functions:

- Administering WTO trade agreements
- Forum for trade negotiations
- Handling trade disputes
- Monitoring national trade policies
- Technical assistance and training for developing countries
- Cooperation with other international organizations

WORLD TRADE ORGANIZATION (WTO)



Main activities:

- Negotiating the reduction or elimination of obstacles to trade & agreeing on rules governing the conduct of international trade
- Administering & monitoring the application of the WTO's agreed rules for trade in goods, services and IP rights
- Monitoring and reviewing trade policies of the member nations & ensuring transparency of regional and bilateral trade agreements



WORLD TRADE ORGANIZATION (WTO)



Main activities (cont.):

- Settling disputes among member nations (especially in interpretation and application of the agreements)
- Building capacity of developing country government officials in international trade matters
- Assisting the process of accession of some 30 countries who are not yet members of the organization
- ...





VIETNAM & WTO



- 01/1995: Vietnam officially filed for membership application
- 07/11/2006: WTO's General Council approved Vietnam's application documents
- 07/01/2007: Vietnam officially became a full member of WTO (150th member)
- The documents: 260 page Negotiating Team's report + 560 page Vietnam's Commitment in almost all economic sectors (services, banking, import, export, taxation, agriculture, goods, etc.)



VIETNAM & WTO



- Five (05) years after joining the WTO:
 - Expanding export markets, more competitive advantages and attract FDI
 - Fair trading for all economic components
 - Vietnam's economy will be less impacted by economic sanctions in case of disputes
 - Vietnam's agricultural products will benefit most
 - Eliminating the monopoly in domestic markets





VIETNAM & WTO



- Anything that is not good?
 - Competitive advantage level?
 - Stable economic development policies?
 - Official's knowledge?
 - Two sides of Globalization context?

