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## PREFACE TO THE FOURTH EDITION

Few legal topics are as volatile as the law of international trade. The Third Edition of this book, published during the Obama Administration, alluded to the fact that the United States and eleven Pacific Rim nations representing over 45 percent of global GDP had completed negotiation of the Trans-Pacific Partnership Agreement, and the European Union and the United States were negotiating an even more comprehensive trade deal. Of course, both these matters as well as many other international trade expectations fell by the wayside of economic and political events.

From the American perspective, International Trade Law is drawn from two different legal orders, on the one hand, the domestic laws and jurisprudence of the United States and, on the other hand, public international law, stemming from treaties and decisions of international tribunals. Over many years, the balance between these two legal orders shifts with the prevailing winds of economics and politics. In the period between the successful conclusion of the Uruguay Round of Trade of multilateral trade agreements and the Global Financial Crisis of 2007-2010, the international law of trade was paramount; domestic trade laws played only secondary roles.

As of 2022, however, this balance has clearly shifted so that U.S. domestic laws of international trade have taken center stage. The United States is wary of entering into new trade agreements, has changed its traditional support of the World Trade Organization (WTO) and the global, multilateral trading system, and has adopted a much more confrontational stance with respect to even its traditional trading partners. Domestic law trade remedies now are paramount, including national security tariffs, section 301 retaliation for unfair trade practices, antidumping and countervailing duties remedies, safeguard, and export controls and trade sanctions placed upon other nations.

This Fourth Edition of *International Trade Law: Cases, Problems and Materials*, fully takes account of these new developments in the law of international trade. We include extensive analysis of all domestic U.S. trade remedies, albeit against the background of the public international law rules of the multilateral trading system. Our goal is to provide a tool for teaching U.S. trade remedies against a full background of WTO law. Through judicious editing, our expanded coverage of U.S. domestic law remains within the context of a compact law casebook that can be profitably adopted and used to teach a one-semester law school course on International Trade.

Although polls show a majority of Americans support free and open international trade, protectionist policies have come to the fore in political discussions and sometimes in decisions taken by U.S. leaders. The Fourth Edition has been thoroughly revised to provide materials to understand the debate over “free trade,” “fair trade,” “globalization,” and “protectionism.” In Chapter 1 we present all sides

of this debate, including materials that we think will enable students to decide for themselves the merits or demerits of the arguments presented.

When the previous edition of this book was published, China was America's largest international trading partner. During the past five years China for most Americans has now become an "enemy" nation with which the United States is famously locked into a "trade war." This Fourth Edition fully covers this change in perspective and the new confrontational nature of our relationship with China.

This Fourth Edition also covers the changed nature of the World Trade Organization, which is experiencing a crisis more profound than ever in its history. With the failure of the Doha Development Agenda, the WTO is no longer trusted as a forum for multilateral trade negotiations. Most nations, including the United States, now look to regional and bilateral trade negotiations rather than turning to the WTO. Dissatisfaction has also grown concerning the dispute resolution function of the WTO. For the past two years the WTO Appellate Body has not been able to function because of a U.S. boycott of membership appointments. The most important consequence of the U.S. boycott is that all WTO obligations have become, in effect, unenforceable. Ironically, however, the WTO dispute settlement mechanism is more popular than ever as measured by the number of pending trade disputes. This Fourth Edition covers the debate over the Appellate Body and the increasing criticism of U.S. policies on this issue.

For this new Fourth Edition we welcome a new coauthor, Gregory C. Dorris, a prominent trade law practitioner who has over 35 years' experience dealing with all-important issues of international trade law on behalf of a great variety of clients. Greg was the partner-in-charge of the international trade law practice for a major national and international law firm. He has vast experience in areas of trade policy, trade litigation, regulatory work, customs law, and export controls and economic sanctions.

Although this Fourth Edition has been thoroughly revised, we have kept what we believe are the strengths of this popular Casebook, which was first published in 2006. In this volume we present the law of international trade, which we differentiate from the complementary subject of International Business Transactions, which is the private law governing export/import transactions, international licensing and distribution agreements, international investment, and private international business litigation and arbitration. We have published a complementary Casebook on IBT: Chow and Schoenbaum, *International Business Transactions: Cases, Problems and Materials* (Aspen, 4th ed., 2020).

We believe that a "problem" oriented approach to teaching the law of international trade has merit. Accordingly, we include a variety of short problems that the instructor may find useful in assigning to students as classroom exercises. Of course, we realize that each instructor may wish to include his/her own problems or classroom exercises as well.

This Fourth Edition also covers comprehensively and thoroughly all the traditional topics of international trade, ranging from the "core obligations" of the

General Agreement on Tariffs and Trade (GATT) to “linkage” issues, such as trade and environment, trade and labor, and trade and human rights.

We are always glad to hear from colleagues who give us excellent suggestion about how they use this book.

Daniel C.K. Chow  
chow.1@osu.edu

Thomas J. Schoenbaum  
tjschoen@uw.edu

Gregory C. Dorris  
dorrisgc@gmail.com

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