

# Legal Aspects of International Trade

Kreshnik Aliaj, Genc Mekaj

MA. Kreshnik ALIAJ, MA. Genc MEKAJ

## Abstract

International law serves to increase international trade, investment and promote prosperity. These laws and mechanisms fall into two main categories, the private law of international trade and international public law, albeit there is a significant overlap between the categories. The law on private trade deals with the rights and obligations of international traders and investors facing each other. Here, there is a need for mechanisms to resolve the conflicts of laws between persons from different legal systems. There is also a value in promoting harmonization initiatives to reduce trade transaction costs between people from different legal cultures. Where there is a law on international trade, there is a need to develop an appropriate compromise between the sovereign rights of the nation states and the desire for cooperative behavior between them. Here, there is a special need to identify processes and mechanisms to promote the normative effect of international rules, given the lack of any form of coercion over national states. Insufficient and inefficient laws and mechanisms will be a disincentive to trade and productive investment.

**Key words:** International Trade; Foreign Trade; Trade law; Commercial law;

## 1. Introduction

International trade says otherwise foreign trade involving the exchange of goods, services, capital and intellectual personal rights between individuals of different states is interpreted differently in different aspects.

Foreign trade is interpreted in two different meanings. In the first sense, this type of trade means the turnover of goods from different countries, while foreign trade in its second sense, other than the turnover of goods, means the turnover of capital services, labor force, information transfer, etc. Based on this, depending on the currency exchange in foreign trade are distinguished: international freight exchange, international exchange of services, international capital movements (benefits) and the international labor force movement.

Currency exchange involves the international exchange of goods as one of the most specific types. Moreover, it is alluded to the fact that trade in goods at international level exists earlier than the domestic trade of goods. In ancient times, individuals made various exchanges between nature and then traded between members belonging to different tribes.

With the introduction of capitalism, conditions have been created for the development of contemporary commerce, and within them, contemporary foreign trade. The value of commodity exchange is permanent, though in the last decades of the 20th century, relative reductions in its participation in world trade became apparent.

International trade has a positive impact on economic growth. When referring to the international law of international trade, the institutions are called upon and the rules or conditions that were created after World War II. Through these bodies was required the creation of an appropriate legal environment to regulate the global flows of goods and services (Charnovitz 2011). Although the first steps for international trade law are present in the twentieth century, the current multilateral system is a relatively new phenomenon, enabling the post-war geopolitical context (Mazower 2012).

## 2. Aspects of International Trade

International law is defined as a set of norms and rules that states should pursue when attempting to cooperate with one another. International Law may include three distinct legal processes that can be identified as International Public Law (Relationships between sovereign

states and international entities such as the International Criminal Court), International Private Law (Addressing Conflict Jurisdictions) and Supranational Law (Set of collective laws that sovereign states give voluntarily).

The law is perceived in different ways. According to domestic law, we understand the law as a rule that the state puts under control the lives of its citizens. These rules are usually created by the legislature, interpreted by the judiciary and implemented by the executive branch, using the police, if necessary, to compel citizens to obey.

There are a number of Treaties and other types of agreements between countries that set rules for international trade and finance, such as GATT; Encourage cooperation on environmental protection; and the establishment of fundamental human rights, such as the International Covenant on Civil and Political Rights. Meanwhile, among many international organizations, the United Nations facilitates international diplomacy, the World Health Organization coordinates public health and international protection and the International Labor Organization monitors and promotes workers' rights around the world.

Foreign trade represents a complex activity which is characterized by significant specificities in relation to domestic trade. The specification of domestic trade in relation to that of the outside does not only stem from the differences in market size and the preferences of the buyers, but also of the differences in the socio-economic systems between different countries. Within that framework are highlighted the differences of national policy of partner countries in the field of foreign trade system, foreign exchange system, credit system with foreign countries, fiscal system etc. At the same time; the exchange in general is carried out on a non-equivalent basis where the disproportionate division of the excess of value between the subjects in exchange occurs, ie the revenue spill (one wins, the other loses or one wins more than the other of the actual work outcomes and past). The unequal distribution in the surplus value has different effects on the national economy in the exchange of goods and services in domestic and foreign trade.

**A. *The sources of international law include*<sup>1</sup>:**

- International treaties: kinds, significance and the sphere of application. Treaties are similar to contracts between countries; promises between States are exchanged, finalized in writing, and signed. States may debate the interpretation or implementation of a treaty, but the written provisions of a treaty are binding. Treaties can address any number of fields, such as trade relations.
- Bilateral treaties: kinds, significance and the sphere of application.
- Uniform laws.
- Codes of conduct.
- Arbitration rules.
- Acts of international organizations.
- National legislation as applicable to international trade.

**B. *The main actors of International Trade include*:**

- States that imply different approaches of developed and developing countries to the international legal framework governing international trade. States play a key and indisputable role in the creation of international law. Determining whether an entity is actually a state presents a challenge on its own. Most sovereign countries are both de jure states (in law) as well as de facto (in reality).
- Corporations. Corporations sometimes called multinational corporations are playing a growing role in the development of international law. Corporations are commercial entities whose profits are profit-driven. Corporations lobby states and international organizations in a way similar to NGOs, in the hope that their interests will be protected under international law. Many of the same suspicions about the accountability and legitimacy of NGOs can also be raised in the context of corporations.
- International organizations, otherwise known as intergovernmental organizations or NGOs, are formed between two or more state governments. Some NGOs act by making decisions based on a vote for each member state, some making decisions on the basis of consensus or unanimity, while others have weighted voting structures based on security interests or monetary donations.

---

<sup>1</sup> <http://www.globalization101.org/uploads/File/Inter/interall.pdf>

- Regional organizations.
- Juridical persons.
- Physical persons. The position of individuals under international law has evolved significantly during the last century. Now, more than ever, under international law individuals are being given more rights and being held responsible for their actions. Human rights law, for example, has tried to establish that every person around the world has certain basic rights that cannot be violated.
- Arbitration associations.

### ***C. International commercial contracts:***

Contracts are considered "international" when two or more states conclude an agreement (see United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (Article 1 (1), Principles on the Law Choice in International Trade Contracts (2015) ("The Hague Principles"), Article 1 (2)).

The parties to a contract are allowed to choose both international law and the governing law for their contracts. If the parties fail to choose an applicable law, a court that accepts the jurisdiction of the dispute will have to apply the relevant rules of the conflict of international private law to determine which law is applicable to the contract, including any international instrument that may be implemented in absentia.

In the international trade practice, it is common for parties to choose arbitration as a method for settling disputes (Schwenzer et al., 2012). International trade arbitration may be particularly popular because unlike court rulings there is a single almost inclusive regime for enforcing foreign arbitration decisions.

### ***D. Risk analysis in international trade***

There are some risks that need to be taken into account when discussing international trade. The nature of risk analysis in international trade is a key concept that helps to understand how the risks of international trade operate.

- Systemic nature of the risk analysis.
- Commercial risks.
- Political risks.
- Legal risks

### 3. International Trade Law

International trade law laws exist with each other. Sometimes they overlap and in other countries their relationships are determined (Charnovitz 2002).

International law is the entire system of legal rules and customary practices governing the interactions between states. International law is a collection of legal ideas, customs, treaties and legal organizations that includes the acquisition of treaties, the articulation of rights to states and (and some groups of people), the regulation of the oceans and the making of war and peace (Kennedy 2006).

Entities dealing with foreign trade represent the national economy at the international and world level, hence their economic and moral obligation, to preserve the authority of their country. From the specifics of foreign trade, it is also seen the tendency to make it effective. Entities dealing with foreign trade, in order to perform efficient and rentable work, must reach international competition for the introduction (debut) in the market. They should be well aware of the provisions for regulating foreign trade, both national and those applying in the countries of business partners. This type of compactness is conditioned to achieve high levels of technical equipment and staffing by foreign trade entities. Realizing the potential benefits of foreign trade in any national economy and not allowing the share of excess value to flow always to foreign countries that poses a challenge to the state government, which justifies its involvement in regulating flows in having a sphere. The state through the adoption of measures and protective policy instruments tends to influence the improvement of the position of local entities and foreign trade, but also in the domestic market as well as in the international markets.

Within this wide and incomplete and sometimes fragmented international system lies a law often called international economic law (Koskenniemi 2006). This transnational regulatory treaty and transnational regulatory body includes commercial law, global and regional investment law, commercial law, and law dealing with taxation, financial regulation, competition and intellectual property (Guzman and Sykes 2008).

International trade habits are "unwritten rules" used in business relations between partners in foreign trade and international economic relations in general. Trade habits, as if rules for regulating the relations of foreign trade participants are not adopted by the state legislature, legal

institutions or others, but derive from the multi-annual work practices of the international markets, with stable stihic behavior of people. But over time, it has also been modified through the formation of meaningful meanings for the correct or incorrect behavior of people in the same social cases. then the correct behavior has passed into the habit and is morally accepted, in ordinary reality, normal behavior, behaviors that are compulsory.

So, social consciousness is created that any different behavior is contrary to the moral of the government in society. In this way, many years of practice have built good business habits, which at their base have the commercial and business morality of participants in trade and business in general. In addition, trade practices include: honor, loyalty to competition, giving true information about themselves and other participants in trade exchanges, adherence to the given word, non-betrayal of business secrets important to the interests of the partner, realization of the tasks obtained from the contract etc.

The common honor standard is in moral norms in general, and within good business habits it is understood that the conduct by which each of the legal business partners provides accurate data for itself and for its signature. According to Lester, Mercury and Davies (2012), the term itself is somewhat difficult to define because it is often used to refer to the largest body of the international economic law as well as deals directly related to the flow of goods and services across national borders. For this reason, most of the initial legal texts focus on the law regarding "legal instruments regulating trade flows"; the type, quantity, qualities and quality of the goods that are the subject of sale; respecting the deadlines for the delivery and ordering of goods and payment; they do not question their partner; fully respects the given word and consequently adheres to the promises it has given, etc.

Trade habits are severely condemned by the unfair practice of competition in the international market, as well as the injuries of the enterprise's authority and the country of profit with foreign trade. From the unfair competition in the international market are specifically referred to these activities of the foreign trade subject; unfair advertising when released publicly; not true of the goods or services that its enterprise or any other enterprise works, and for the purpose of finding an interest in itself; false signs of the origin of the goods; disclosure of false information about its own enterprise or another enterprise; misuse of trademarks for their

enterprise or the alien; injury or exploitation of business secrets and the like.

As an injury to authority in foreign trade, each conduct is contrary to good business practices, which incites or may cause more serious injuries to the obligations of the agreement. In case of non-compliance with the aforementioned norms and other customs, different sanctions are used; public mockery, boycott, public announcement of the name and signature of the one who behaves contrary to the moral standards of business, a so-called "black list" advertisement; sentencing by the honorary courts of chambers and other business associations etc.

Commercial law is taken as different from international law because it is practiced by field specialists dealing with internal regulation or by GATT specialists in Geneva (2012).

After the establishment of the WTO, one has been increasingly seen with great importance, the interpretation of international law in WTO law (Pauwelyn 2001, Trachtman 2004, Bartels 2001).

Lester et al (2012) examines a number of approaches to the theorization of the place of commercial law in the broader system of international law, concluding that there is still a general lack of clarity about the scope of international law in the commercial system.

Foreign trade is a pluralistic and multidisciplinary field of study with deep roots in philosophical similarities with politics and economics (Cropsey 1960).

Trade law is seen as a factor of global development. International trade is driven by some internal forces. According to Helpman and Krugman, "economies of scale provide additional incentives and promote trade even if countries are identical in tastes, technology and factor factors" (1989).

Compliance of open markets with economic development remains an important part of the intellectual infrastructure underlining the multilateral project (Bhagwati 2008).

Trade law affects global political interdependence. It is low the possibility of an uncompromising adjustment between popular democracy and the international trade regulation, highlighting the economic benefits of technological and economic integration (Abbott and Snidal 1998).

Civil governments and intergovernmental organizations are holding international governments, which has raised doubts and questions about the changing nature of the relationship between national governance and trade regulation (Jackson 2009).

Issues such as dispute resolution between investors and states (Choi 2007) are often discussed by critics and scholars, but the scholarship has evolved into discussions of the impact of legal mechanisms on participation in multilateral trade governance (Shaffer 2009), the causes and consequences of trade (Krugman 2013) and the impact of a hyper-globalized trading system on a number of issues ranging from climate change to currency wars and food security (Subramanian and Kessler 2013).

Another point of discussion and the third concerns the place of trade law in global economic regulation (Hudec 1999). Some scholars wonder whether the WTO is a constitution for world trade. Petersman (2011) defines a constitution as "a coherent set of long-term principles and rules of a higher legal standard that is the basic rule of a political community or a functionally limited community."

The question is whether the actual matrix of WTO agreements and institutional processes constitutes a constitutional order for global trade (Cass 2005)? This question is surrounded by definitive and conceptual traps, as the literature shows (Dunoff 2006). Is the WTO part of a political project by which trade rules have become lawful (Pauwelyn 2005)? This may indeed be the case, however researchers are uncertain whether it serves as an organizational framework for future liberalization and legalization processes (Howse and Nicolaidis 2003).

Certainly, as Trachtman (2006) points out the WTO has a constitution in the legal sense of the term, but it remains unclear whether it operates as a constitution for legal and political activity in the international trading system.

The American legal scholars McGinnis and Movsesian (2000) offer another way to think about constitutionalism, arguing that the World Trade Organization does for its membership much of what the American constitution was designed to do for its states – repress factionalism, allow the free flow of goods, and set up the legal parameters for effective economic relations.

The comparison between Madisonian constitutionalism and twenty-first century trade governance is controversial, yet somewhat apt, as at least if we do not stretch the comparison too far. Another way to consider the constitutionalism debate is in the critical context of Gramscian/Marxist discourse that views the World Trade Organization as an organizing rubric for the continued globalization of neoliberal economic policy (Gill 1995).

Critical social scientists argue that capitalist power relations are reified through legal systems and the institutionalization processes underway represent the globalization of a neoliberal economic order with outside benefits for wealthy nations and their transnational firms (Cutler 2003).

In certain functional ways the WTO does offer centralizing, aggregating and legitimizing functions (Evans 2000). Slaughter (2003) has proposed an alternative to the constitutionalism metaphor by imagining a world of interconnected legal systems, in which the network of legal communities, rather than the exemplary template is a guide for future change. However, like the constitutionalism debate, the community of courts thesis suffers from a paucity of positive evidence, which does not invalidate the observation, but certainly calls for more research.

#### **4. International Trade Law and the WTO**

Scholars of the world trade law begin their studies of the trading system with the principles that give the law its distinctive form, namely the Most Favoured Nation and National Treatment principles. These conceptual touchstones form the basis of much of the scholarship about trade governance and animate much discussion about the developmental trajectory of the multilateral trading system (Heiskanen 2004).

The Most Favoured Nation principle dates back to the Medieval period in the twelfth century, and in the 18th and 19th century its inclusion in treaty arrangements occurred as a conditional clause, in which “benefits granted by one State were dependent on the granting of the same concessions by the beneficiary State” (UNCTAD 2010).

Traditionally, MFN treatment required certain conditions to be met in order to trigger its benefits, and its inclusion in treaty arrangements required a substantial level of good will on the part of treaty signatories. As VanGrasstek notes, the granting of MFN was more often an exception rather than the rule of trade governance (2013).

Following the Second World War, MFN was defined so as to make the unconditional granting of most-favoured nation status the basis for membership in the GATT (Cottier, Mavroidis and Blatter 2000). Article I of the GATT 1947 declares that “any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and

unconditionally to the like product originating in or destined for the territories of all other contracting parties”.

The benefits of a multilateral application of MFN are particularly important for developing countries and include transparency in the application of tariffs across all member jurisdictions that gives smaller economies a trading advantage they would have otherwise been unlikely to negotiate with large trading partners (Aggarwal 2006).

The second principle is national treatment. The principle of national treatment states that nations must treat imported goods the same way that they treat domestic goods for regulatory and taxation purposes. GATT 1947 Article III paragraph 1 states “The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements... should not be applied to imported or domestic products so as to afford protection to domestic production.”

Like the MFN principle, the principle of the national treatment is difficult to apply in the real world because while some protectionist regulations are obvious, much of what the state does to protect and enhance economic output occurs in the domain of business regulation.

Even so, members have an obligation and must maintain law and policy in such a way as to minimize (and hopefully eliminate) substantive differences in the way domestic and imported goods are regulated (Ortino 2005). These two principles give some sense of the complexity of bringing together the priorities of national governments and the demands of citizens with the multilateral standards for fair treatment of goods for trade.

The WTO was created in order to develop an institutional frame in the form of the secretariat with which to deal with the complexity of an international trading system in which more than a hundred countries had signed on to the GATT (McRae 2009).

A legal and institutional frame was necessary for the administration of new agreements brought into the trading system in the Uruguay round, in particular the General Agreement on Trade in Services (GATS), the Agreement on Trade Related Investment Measures (TRIMS) and the Agreement on Trade Related Intellectual Property Rights (TRIPS).

It was also increasingly apparent that the GATT’s dispute settlement measures were inadequate to the growing task of managing trade related legal conflict, so a more robust legal system for the resolution of disputes was also needed. (Horn and Mavroidis 2006; WTO 2012; Weiler 2000).

VanGrasstek (2013) describes in great detail the negotiations that took place in the run up to the WTO's birth. Professor John Jackson put forward a series of proposals part way through the Uruguay Round negotiations calling for a 'World Trade Organization,' and describing its potential uses.

His proposals were met with tepid support, but later championed by Debra Steger, a Canadian diplomat who had studied under Jackson and believed in the necessity of a new institutional mechanism for the administration of trade governance (Steger 2004).

The Canadian trade Minister raised the issue with the European Union, which then championed the concept of a 'multilateral trade organization,' which contrasted with the less formal mechanisms proposed by the United States for the administration of the new agreements currently under negotiation.

In the final months of the Uruguay Round, horse-trading between the US and the EU saw the creation of a new institution with robust dispute settlement mechanisms in exchange for a wider mandate for trade governance and the understanding that the US would stop using domestic courts to determine damages in international trade disputes, a practice which began as a stopgap measure, but which was increasingly considered to be a conflict of interest by the international community.

## **5. International trade rules**

This is meant by those international trade laws and regulations, which are appropriately formulated and certified by authorized bodies and institutions, scholarships, commercial chambers and economic development, professional organizations, and even international commercial chambers. With trade rules, one-size-fits-all regulates a large number of practical problems in the field of foreign trade or explains the terms of trade, the actions, the principles in the essential choice of important relationships and controversies, one-sided instructions are given for explaining professional terms when working with currencies, foreign currency or using non-cash payment instruments in the payment of international earnings, use of measures and measurement systems, etc (Krasniqi, 2012).

In short, the function of international rules is to equate and to become the same practice in international business relations. Depending on who codifies and what is their impact, we distinguish general and special trade.

General trade rules accept and declare the wider associations of economic development entities, traders or others. General International General Approves and Announces International Trade Shares in Paris. More importantly, it is worth mentioning these summaries of the general international rules (Krasniqi, 2012):

- Similar Rules and Documents for Documentary Letters Accepted in 1933 and Revised in 1963 and 1984. These rules completely regulate the subject for accreditation payment;
- Types and notifications of letters of credit, liabilities and responsibilities of banks and issuers;
- Presentation documents (transport documents, insurance documents, commercial invoices etc);
- The deadline for accreditation, transfer of accreditation and the like. The same rules for collection have come into force in 1958. These rules have elaborated all the moments of payment rule;
- Obligations and responsibilities of banks and issuers;
- Presentation of documents;
- Payment and information between banks and issuers, as well as the issue of interest, expenses and supplementary expenses.

Burden rules describe the different types of the international scholarships as the specific foreign trade market where the basic conditions for incorporating those markets are contained. Any subject that wants to transact on a stock exchange must correctly and in detail know all the "game rules" of that market. In addition to regulating the sale transaction; the way of affiliation; norms and standards in terms of quantitative and qualitative qualities of goods, in the rules of the stock exchange are also regulated the issues of the manner of the choice of eventual disputes etc. Some rules also describe the form of sales contracts (eg, sale under "standard termination"). Admission and strict adherence to the provisions of special rules by participants in those markets is a condition for participation in trading transactions. Failure to comply with trade rules means no possibility for trading in a particular market(Krasniqi, 2012).

The consequences of disrespect of the rules are similar to those of the trade habits. However, their importance as a specific source of justice is greater, because with them more concrete arrangements and concrete relations are made in the foreign trade work. International trade customs and rules, as well as autonomous and international law provisions in the

field of foreign trade, are the basis for regulating all behaviors in various forms in international transactions as well as for the rights and obligations of business partners in the exchange international (Krasniqi, 2012).

## 6. World Trade Law and Social Priorities

In addition to the issues raised by the inclusion of many small economies in the institutions of global trade governance, the rise of world trade law has simultaneously highlighted the many areas of importance to national publics in developed economies where trade overlaps with social priorities. In particular, the literature most often highlights issues relating to the environment, culture, labour standards, human rights and health. In the interests of space, there will be examined two of these issue areas below – the environment and cultural goods.

Trade Law and Cultural Goods. Much as been made of the incommensurate differences between cultural products and industrial goods. Advocates of a cultural distinctiveness model for the treatment of cultural goods and services argue that a film cannot be treated in the same way as softwood lumber for example, both in the flow of the product in question across national borders as well as the basic form of regulation of the product behind the border. There are three reasons for this. First, most cultural goods are increasingly digital, making their movement similar to financial flows than the import/export movement of commodities. Second, the endless replication of these cultural goods raise concerns for the cultural producers in smaller economies, that their industries will be swamped by high-quality, low cost iterations from large economies, where cultural producers recoup the cost of production in their home jurisdiction.

Finally, cultural goods embody identities and social values in a way that industrial goods do not, contributing a number of complex socio-cultural and political implications to their consumption. Needless to say the WTO's membership is deeply divided upon these issues, with producers in the United States arguing that consumers treat cultural goods much like any other product, consuming according to their tastes with little regard for national origins. A film may portray the American social values, but many other products may be identified by the distinctive features and symbolic properties as well. Even so, the cultural distinctiveness thesis has gained significant traction, and provides a useful counterpoint to intellectual

property when considering the relationship between trade governance and the global cultural economy (Sundara 2008).

Trade Law and the Environment. Even before the WTO came into being, national publics had begun to question the impact of multilateral trade regulation on environmental protection. In particular, the Dolphin-Tuna dispute in which the GATT struck down as discriminatory an American dolphin-safe labelling initiative for canned tuna, seemed to signal a new impatience within the multilateral trading order for domestic regulation protecting environmental priorities. The concern was then, and remains today, that environmental measures will be considered solely in terms of their potential trade distorting effects, rather than in terms of their possible impact upon environmental sustainability. A number of disputes have arisen in which WTO panels have attempted to apply an appropriate standard of review that maintains the principles of most-favoured nation and national treatment while simultaneously leaving room for national approaches to social priorities (Vranes 2009).

## **7. Equalization of international contract law based on the organization of actions by international forums**

Unification of international contract law through the competent international forums has gone in two directions from two conventions. The first has gone in terms of taking the existence of business practice as a basis, while the second has asked the legislators to unify legal systems both internally and internationally through international codification. The rules that were proposed to be issued should have general and abstract character. Under this concept, international codification should be established in laws, jurisprudence and national scientific doctrine. It was supposed to provide general and authoritative legal resources in order to contribute to the same interpretation of contracts and the creation of a unique practice in national judiciary bodies (Krasniqi, 2012).

Unification through the normalization of existing trade practices. Within this concept, the activity of the European Economic Commission, the United Nations and the International Trade Chamber is particularly important. The European Economic Commission has adopted a series of contract types and general rules known as the "Geneva Contract". This was attempted to create unified models of general type contracts and conditions in order to reduce ambiguities to the parties and avoid the eventual

domination of any one of them. These contracts are established in the method of their voluntary application and are complete to the extent that they exclude the application of any national right. The basis for the interpretation of the rules has been international trade. Incoterms - are distinguished for a fairly wide participation in the implementation of international doctrines, so that according to the theory of law are considered mandatory in implementation even if the parties have not been declared for them. Also important are the activities of various scientific organizations and institutes in order to make international trade available to those rules that economists would use during their business. It should also be noted the activity of the Society for International Law, the International Law Society, the International Law Institute and others (Krasniqi, 2012).

Previously unified acts are characterized by their voluntary implementation. This implies that these acts are only applied to those contracts in which the parties are summoned to them or they are not excluded. The enforceability of the implementation of unified rules can only provide the acts that have been approved by the competent state bodies through international conventions. The concept for formal unification starts from law, jurisprudence and scientific doctrine, and the first results were achieved at the end of the 19th and early 20th centuries. The most important achievements in this area have been achieved with regard to industrial property, traffic, bill and bill. Trends to stay and continue in this direction have also contributed to international (state) organizations (Krasniqi, 2012).

The United Nations has also noted the importance of unification of trade law activities both in the world plan and in the regional plan. Of particular importance in the framework of the UN activity regarding the unification of the law, an important step has been the establishment of the UN special commission on international commercial law (UNCITRAL) in 1966. Approximately for three decades the work of UNCITRAL has yielded significant results, bringing these conventions and regulations:

- UN Convention on Unpredictability before International Sales;
- The UN Convention on Contracts for International Supplement;
- The UN Convention on the Transition of the Personal International Bond;
- Convention on International Checks;
- Regulation on UNCITRAL Arbitration;

- Convention on the Transport of Goods; and
- Uniform rules on clauses on contracted amount due to non-compliance.

The second method, with regard to the uniform nature of contract law, is characterized by the effects of regulating certain relationships. With the adoption of similar laws, certain relations are regulated if they are of international character, while national law, if still in force, regulates only domestic character relationships (Krasniqi, 2012). This means that with the adoption of the convention in practice there are two types of provisions:

- similar legal rules adopted in the convention, which applies in contractual relations with the parties to which one belongs to the foreign state with which the convention has been signed;
- national legal rules which are further applied in contractual relations that have a foreign element.

Uniform laws as a source of justice for now are quite rare, because they are the result of a long, difficult and complicated work. Illustrative example is the Uniform Law on International Sales for its Conduct Initiative has been undertaken since 1929. Since then four draft laws have been offered, two international conferences have been held and a series of remarks and suggestions from national governments have been attached. The law came into force in 1972 and only in 10 states. It is quite clear that such long and complicated procedures do not conform to the dynamic needs of international trade (Krasniqi, 2012).

## **8. Conclusion**

The terrain of the trade law is complex and prognostication is inherently risky, but it is possible to identify a number of potential trajectories for the development of international economic law. In particular, we will identify possible futures identified in the literature for regional trade agreements, multilateral trade negotiation, dispute settlement, and the future role of the WTO in the larger system of international law.

Regional trade agreements have proliferated exponentially in the years following the birth of the WTO, and while it is perhaps safe to say that the trend has peaked in numerical terms, the future of integration likely lies at the regional level (Crawford 2005). This is not to deny the significance and

rising juridical importance of the WTO, but rather point towards the number of increasingly large and complex arrangements currently under negotiation at the Transpacific Partnership, the EU-US negotiations, and many others.

The literature is split on the implications of the new regionalism, with some commentators seeing the rise of a particularism that undercuts the multilateral liberalization project (Bhagwati 2007), while others see a compliment to the current trading system (Summers 1991). They further argue that regionalism may offer a way to bypass the deadlock in the Doha Round while simultaneously offering multiple platforms upon which to test new institutional and legal mechanisms for governance.

The future of the trade law within the broader system of public international law is likely to be one in which the many small challenges, conflicts and overlaps within and between these bodies will continue to be addressed as they arise in the processes of treaty negotiation and dispute settlement.

Compromise will continue to be the rule, and now that a rationalization process is underway, it will continue to knit together the many disparate legal strands that compose the body of international economic law (Guzman and Sykes 2008; Lester 2013). The final outcome is likely to be a more coherent and focused body of trade law with a stronger understanding of its own strengths and limitations within the growing body of public international law that exists beyond the state.

## List of References

- Abbott, F. M. and D. Snidal (1998). "Why States Act through Formal International Institutions." *Journal of Conflict Resolution* 42(1): 3-32.
- Aggarwal, V. K. (2006). *Bilateral Trade Agreements in the Asia-Pacific*. Bilateral Trade Agreements in the Asia-Pacific: Origins, Evolution and Implications. V. K. Aggarwal and S. Urata. New York, Routledge.
- Krasniqi, A. (2012). *E drejta biznesore ndërkombëtare*.
- Bartels, L. (2001). "Applicable Law in WTO Dispute Settlement Proceedings." *Journal of World Trade* 35
- Bhagwati, J. (2007). "The Consensus for Free Trade - Has it Frayed?" *Economic Research and Analysis* Retrieved October 9, 2007, from [www.wto.org/english/news\\_e/news07\\_e/bhagwati\\_oct07\\_e.htm](http://www.wto.org/english/news_e/news07_e/bhagwati_oct07_e.htm).

- Cass, D. Z. (2005). *The Constitutionalization of the World Trade Organization: Legitimacy, Democracy and Community in the international Trading System*. Oxford, Oxford University Press
- Charnovitz, S. (2011). "What is International Economic Law?" *Journal of International Economic Law* 14(1): 3-22.
- Choi, W.-M. (2007). "The Present and Future of the Investor-State Dispute Settlement Paradigm." *Journal of International Economic Law* 10(3): 725-747.
- Crosey, J. (1960). "On the Relation of Political Science and Economics." *American Political Science Review* 54(1): 3-14
- Cutler, A. C. (2003). *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy*. Cambridge, Cambridge University Press.
- Dunoff, J. L. (2006). "Constitutional Conceits: The WTO's "Constitution" and the Discipline of International Law." *European Journal of International Law* 17(3).
- Gill, S. (1995). "Constitutionalizing Inequality and the Clash of Globalizations." *Millenium* 23(3): 399- 423.
- Evans, G. E. (2000). *Lawmaking under the Trade Constitution: A Study in Legislating by the World Trade Organization*. The Hague, Kluwer Law International.
- Guzman, A. and A. O. Sykes (2008). *Research Handbook in International Economic Law*. London, Edward Elgar
- Heiskanen, V. (2004). "The Regulatory Philosophy of International Trade Law." *Journal of World Trade* 38(1): 1-38.
- Helpman E., Krugman P.R.: *Trade Policy and Market Structure*. MIT Press, Cambridge (1989)
- Howse, R. and K. Nocolaidis (2003). "Enhancing WTO Legitimacy: Constitutionalization of Global Subsidiarity?" *Governance: An International Journal of Policy, Administration and Institutions* 16(1): 73-94.
- Hudec, R. (1999). *Essays on the Nature of International Trade Law*. London, Cameron May.
- Jackson, J. H. (2009). *The Evolution of the World Trading System - The Legal and Institutional Context*. *The Oxford Handbook of International Trade Law*. D. Bethlehem, D. McRae, R. Neufeld and I. Van Damme. New York, Oxford University Press.

- Kennedy, P. (2006). *The Parliament of Man: The Past, Present, and Future of the United Nations*. Toronto, HarperCollins.
- Koskenniemi, M. (2006). *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*. Report of the Study Group of the International Law Commission. Geneva, United Nations International Law Commission.
- Krugman, P. (2013). "Interregional and International Trade: Different Causes, Different Trends?" Retrieved October 16, 2013, from [http://krugman.blogs.nytimes.com/2013/10/11/notes-on-interregionaland-international-trade/?smid=tw-share&\\_r=0](http://krugman.blogs.nytimes.com/2013/10/11/notes-on-interregionaland-international-trade/?smid=tw-share&_r=0).
- Lester, S., B. Mercurio and A. Davies (2012). *World Trade Law: Text, Materials and Commentary*. Oxford, Hart Publishing.
- Mazower, M. (2012). *Governing the World: The History of an Idea*. New York, The Penguin Press.
- McGinnis, J. O. and M. L. Movsesian (2000). "The World Trade Constitution." *Harvard Law Review* 114(2): 511-605.
- McRae, D. (2009). *The Place of the WTO in the International System*. The Oxford Handbook of International Trade Law. D. Bethlehem, D. McRae, R. Neufeld and I. Van Damme. New York, Oxford University Press.
- Ortino, F. (2005). "From 'Non-Discrimination' to 'Reasonableness': A Paradigm Shift in International Economic Law?" Jean Monnet Working Paper No. 01/05, from [www.ssrn.com/abstract=922524](http://www.ssrn.com/abstract=922524).
- Pauwelyn, J. (2005) "The Transformation of World Trade." Duke Law Faculty Scholarship Paper 1229
- Petersmann, E.-U. (2011). "International Economic Law, 'Public Reason', and the Multilevel Governance of Interdependent Public Goods." *Journal of International Economic Law* 14(1): 23-76.
- Shaffer, G. C. (2009). *Developing Country Use of the WTO Dispute Settlement System: Why it Matters, the Barriers Posed*. Trade Disputes and the Dispute Settlement Understanding of the WTO: An Interdisciplinary Assessment. J. Hartigan. Amsterdam, Elsevier.
- Slaughter, A.-M. (2003). "A Global Community of Courts." *Harvard International Law Journal* 44(1): 191-219.
- Steger, D. P. (2012). "WTO Resilient but Changed after Ministerial Meeting." Retrieved December 23, 2012, from <http://www.cigionline.org/publications/2012/2/wto-resilient-changed-after-ministerialmeeting>.

- Subramanian, A. and M. Kessler (2013). *The Hyperglobalization of Trade and its Future*. Washington DC, Peterson Institute for International Economics.
- Summers, L. (1991). *Regionalism and the World Trading System. Policy Implications of Trade and Currency Zones*, A Symposium Sponsored by the Federal Reserve Bank of Kansas City. Jackson Hole, Federal Reserve Bank of Kansas City: 295-302.
- Sundara Rajan, M. T. (2008). *Strange Bedfellows: Law and Culture in the Digital Age. The Cultural Economy*. H. Anheier and Y. R. Isar. Thousand Oaks, Sage Publishers.
- Trachtman, J. (2004). "Conflict of Norms in Public International Law: How WTO Law Relates to other Rules of International Law by Joost Pauwelyn, Review." *American Journal of International Law* 98: 855-861.
- UNCTAD (2010). *Most-Favoured Nation Treatment: UNCTAD Series on Issues in International Investment Agreements II*. New York, United Nations Conference on Trade and Development.
- Vranes, E. (2009). *Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory*. Oxford, Oxford University Press.

