

OUTLINE

| | |
|---|-----------|
| PREFACE | V |
| ABOUT THE AUTHOR | VII |
| A FOREWORD ON “POLITICS MATTER” | IX |
| TABLE OF CASES | XXV |
| Introduction | 1 |
| The Boston Client | 1 |
| The Bartow Client | 3 |
| Global Trade Law | 4 |
| United States Import Remedies | 6 |
| Export Controls | 8 |
| Regional and Bilateral Trade Law | 11 |
| Biden Impacts | 12 |
| Chapter 1. World Trade and Multinational | |
| Enterprises | 13 |
| Trade Deficits | 15 |
| Patterns of World Trade | 17 |
| Services Trade | 18 |
| The Rise of Asia | 19 |
| Nontariff Trade Barriers | 20 |
| Trade Incentives | 21 |
| The Legal Framework of Trade | 23 |
| The Multinational Enterprise (MNE) | 25 |
| Transfer Pricing | 27 |
| The Role of MNE Corporate Counsel | 31 |
| A Hypothetical Day for MNE Corporate Counsel | 33 |

| | |
|--|-----------|
| Chapter 2. Global Trade Law | 37 |
| Smoot-Hawley et al. | 37 |
| Trade Treaties | 41 |
| The GATT (1947)..... | 43 |
| Trade in Goods: Core GATT Principles..... | 44 |
| GATT Procedures | 46 |
| GATT Multinational Trade Negotiation Rounds ... | 48 |
| Doha Dies..... | 50 |
| Biden on Plurilaterals..... | 51 |
| Creating the World Trade Organization (WTO) ... | 52 |
| WTO Agreements | 53 |
| The WTO Agreements Package..... | 55 |
| Admission to the WTO, Withdrawal | 58 |
| WTO Agreements and U.S. Law | 59 |
| GATT/WTO Nontariff Trade Barrier Codes (NTBs) | 60 |
| WTO Agreement on Agriculture | 63 |
| WTO Agreement on Textiles | 66 |
| General Agreement on Trade in Services (GATS) | 66 |
| WTO Decision-Making..... | 69 |
| WTO Consensus Rules | 71 |
| Dispute-Settlement Under the WTO | 73 |
| Phase 1: Consultation | 77 |
| Phase 2: Panel Establishment, Investigation and Report | 78 |
| Phase 3: Appellate Body Review of the Panel Report..... | 80 |
| Biden on the Appellate Body | 82 |
| Phase 4: Adoption of the Panel or Appellate Body Decision | 83 |
| Phase 5: Implementation of the Decision Adopted | 83 |

| | |
|---|------------|
| Phase 6: Settlement by Compensation | 84 |
| Phase 7: Authorized Retaliation | 84 |
| Retaliation in Action | 86 |
| Cross-Sector Retaliation | 87 |
| U.S. Involvement in WTO Dispute Resolution..... | 88 |
| Beef Hormones NTB Dispute | 95 |
| China Involvement in WTO Disputes..... | 97 |
| The International Monetary Fund (IMF) | 100 |
| IMF Operations | 101 |
| Special Drawing Rights (SDRs)..... | 103 |
| Chapter 3. Imports | 105 |
| United States Trade Agencies and Actors | 105 |
| U.S. International Trade Administration | |
| (ITA) | 106 |
| U.S. International Trade Commission (ITC).... | 107 |
| U.S. Court of International Trade (CIT)..... | 108 |
| The United States Trade Representative | |
| (USTR) | 111 |
| Biden on the USTR | 113 |
| United States Trade Laws | 114 |
| U.S. Import Laws | 116 |
| The Origins of United States Tariffs | 120 |
| United States Tariff Rates..... | 122 |
| Column One “Normal” Tariffs and the | |
| GATT..... | 123 |
| Additional U.S. Tariffs..... | 125 |
| Foreign Trade Zones | 125 |
| U.S. Customs Law..... | 126 |
| Customs Classification..... | 127 |
| HTSUS | 128 |
| Rules of Origin for Goods..... | 130 |
| Customs Valuation..... | 131 |

| | |
|--|------------|
| U.S. Import Quotas, Voluntary Export Restraints | 133 |
| U.S. Public Procurement | 136 |
| Buy American | 137 |
| Biden on Procurement | 139 |
| GATT 1947 Procurement Code and U.S. Response | 140 |
| WTO Procurement Code | 142 |
| U.S. Product Standards | 144 |
| WTO Product Standards Law | 147 |
| Tuna and Shrimp Disputes | 148 |
| Major Agricultural U.S. NTB Disputes | 150 |
| Import Labeling Disputes | 154 |
| Transborder Data Flows | 154 |
| U.S. Duty Free Generalized Tariff Preferences (GSP) | 156 |
| Biden on GSP Renewal | 157 |
| The GSP System | 157 |
| GSP Country Eligibility, Graduation | 158 |
| GSP Product Eligibility, Removal | 160 |
| U.S. Duty Free Caribbean and African Trade Preferences | 162 |
| Caribbean Preferences | 162 |
| Andean Preferences | 164 |
| African Preferences | 164 |
| Goods Incorporating United States Components | 165 |
| Duty Free Access to Multiple Markets | 166 |
| Chapter 4. Trade Remedy Responses to Import Competition | 169 |
| Trade Remedies | 169 |
| AD and CVD Basics | 171 |

| | |
|---|-----|
| Safeguard Basics | 172 |
| National Security Basics..... | 172 |
| Section 301 Basics | 174 |
| Trump and Section 301 | 176 |
| Biden on Section 301 | 176 |
| Dumping and Antidumping Duties..... | 177 |
| WTO Antidumping Agreement | 178 |
| Origins of U.S. Antidumping Law..... | 180 |
| U.S. Procedures Relating to the Imposition of | |
| Trade Remedies | 181 |
| AD and CVD Duties | 181 |
| The Importance of the ITA Preliminary AD | |
| and CVD Determinations | 184 |
| Trade Safeguards | 186 |
| National Security Import Controls | 186 |
| Biden on National Security Tariffs | 187 |
| WTO and North American Tribunals | 187 |
| U.S. Law on Antidumping Duties | 188 |
| ITA Dumping Determinations..... | 189 |
| ITC Injury Determinations..... | 190 |
| Antidumping Duties..... | 191 |
| U.S. Antidumping Rules and Nonmarket | |
| Economies | 192 |
| Other Provisions of U.S. Law Designed to | |
| Conform to the WTO Antidumping | |
| Agreement..... | 193 |
| U.S. Anti-Circumvention Rules..... | 196 |
| U.S. Antidumping Proceedings Reviewed by the | |
| WTO | 197 |
| Zeroing | 197 |
| Material Injury Issues | 198 |
| The Byrd Amendment..... | 199 |
| Subsidies and Countervailing Duties | 200 |

| | |
|--|-----|
| WTO Agreement on Subsidies and Countervailing Measures..... | 201 |
| Countervailable Subsidies | 203 |
| Trump and Biden on Environment Subsidies | 204 |
| SCM Dispute Procedures | 204 |
| Boeing v. Airbus | 206 |
| U.S. Countervailing Duty Law | 207 |
| Two U.S. Statutory Tests..... | 209 |
| The Subsidy Requirement | 211 |
| The Specificity Requirement | 211 |
| Export Subsidies..... | 212 |
| Domestic Subsidies | 213 |
| The Injury Requirement | 214 |
| U.S. CVD Enforcement Procedures..... | 215 |
| Subsidies, CVDs and Nonmarket Economies | 216 |
| Trade Preferences Extension Act of 2015 | 217 |
| Softwood Lumber Dispute | 220 |
| Biden on Softwood Lumber Dispute | 223 |
| Safeguard (Escape Clause) Measures | 223 |
| WTO Agreement on Safeguards..... | 225 |
| U.S. Safeguard Law | 226 |
| The Statutory Standard..... | 227 |
| Protective Relief, Compensation | 230 |
| Special Safeguard Rules for Chinese Imports..... | 232 |
| U.S. Safeguard Actions Reviewed by the WTO | 233 |
| The Bush Administration U.S. Steel Safeguards Dispute | 234 |
| U.S. Trade Adjustment Assistance | 236 |

| | |
|--|------------|
| Protection from Pirated and IP Infringing | |
| Imports..... | 238 |
| Remedies Against Counterfeiting and IP | |
| Infringement..... | 238 |
| U.S. Section 337 Proceedings | 240 |
| Patents and General Exclusion Orders | 241 |
| Other U.S. Trade Remedies Against | |
| Counterfeit and IP Infringing Imports | 243 |
| International Approaches to Counterfeiting ... | 246 |
| Trade in Gray Market Goods..... | 248 |
| U.S. Genuine Goods Exclusion Act | 249 |
| Other U.S. Gray Market Import Barriers | 250 |
| Gray Market Trading Outside the USA | 251 |
| Chapter 5. Exports..... | 255 |
| U.S. Export Policy | 257 |
| U.S. Export Governance | 259 |
| Export Administration Act (EAA)..... | 261 |
| No EAR Judicial Review..... | 262 |
| The Export Control Reform Act (ECRA) of | |
| 2018..... | 262 |
| Biden on Export Controls | 265 |
| EAA Regulations | 266 |
| Deemed Exports | 268 |
| The Process of Licensing U.S. Exports | 269 |
| Product and Country Control Lists..... | 271 |
| Licensed Exports and Re-Exports..... | 273 |
| COCOM and Wassenaar Export Controls | 274 |
| Sanctions for EAA Violations, Non-U.S. | |
| Entities Included..... | 275 |
| Debarment..... | 277 |
| Non-U.S. Entities | 278 |

| | |
|--|------------|
| International Traffic in Arms Regulations (ITAR)..... | 280 |
| U.S. Boycotts | 281 |
| EAA, ITAR and Boycott Sanctions..... | 283 |
| SDNs | 285 |
| Trump’s SDN Lists..... | 286 |
| Biden on Iran Sanctions | 288 |
| Piling On..... | 288 |
| Biden on China Trade Sanctions..... | 289 |
| China’s Unreliable Entity List | 290 |
| U.S. Anti-Boycott Provisions | 291 |
| Focus on the Arab Boycott of Israel | 293 |
| Refusals to Deal..... | 294 |
| Discrimination | 294 |
| Furnishing Information | 295 |
| Blacklists | 296 |
| Anti-Boycott Sanctions, Private Claims | 298 |
| U.S. Foreign Corrupt Practices Act | 299 |
| 1988 Amendments..... | 300 |
| 1998 Amendments..... | 302 |
| FCPA Sanctions..... | 303 |
| Enforcement of the FCPA..... | 305 |
| The Rise in FCPA Enforcement | 308 |
| Biden on FCPA..... | 312 |
| Individual and STING Prosecutions | 312 |
| Voluntary Disclosures..... | 313 |
| FCPA Compliance Programs | 313 |
| OECD and U.N. Anti-Corruption Codes..... | 315 |
| British Bribery Act..... | 318 |
| Chapter 6. Technology Transfers | 321 |
| Mechanics of Technology Transfers | 323 |

| | |
|---|------------|
| Computer Software, Management and Knowhow Contracts | 325 |
| The Basics of TRIPs | 327 |
| Pharmaceuticals, Medicines Agreement..... | 329 |
| Special 301—Prioritization of U.S. Intellectual Property Rights Disputes | 330 |
| TRIPs Disputes..... | 334 |
| Trump Administration TRIPs Complaint..... | 336 |
| Developing World Technology Transfer Controls..... | 336 |
| EU Technology Transfer Regulation..... | 339 |
| Transfer of Technology Regulation 240/96 | 340 |
| Transfer of Technology Regulation 772/2004 ... | 342 |
| Transfer of Technology Regulation 316/2014 ... | 344 |
| Technology Transfers and the PRC | 345 |
| China IP Law..... | 346 |
| PRC Patents | 347 |
| PRC Trademarks..... | 348 |
| PRC Copyrights..... | 349 |
| PRC Trade Secrets | 350 |
| Technology Piracy in the PRC | 351 |
| Made in China 2025 | 353 |
| Responses to Made in China 2025 | 356 |
| USTR Section 301 Study of China’s Tech Transfer and IP Practices | 357 |
| PRC Foreign Investment Law 2020..... | 358 |
| Chapter 7. Free Trade Agreements and | |
| Customs Unions | 361 |
| The Spaghetti Bowl..... | 362 |
| GATT Article 24 | 364 |
| Early GATT Regulatory Failure..... | 364 |
| Attempts at GATT Regulatory Reform | 365 |

| | |
|---|-----|
| GATS Integrated Services Agreements | 367 |
| Developing World Integration | 368 |
| Enabling Clause | 368 |
| Africa | 370 |
| Islamic World..... | 371 |
| Caribbean..... | 372 |
| Latin America | 373 |
| Free Trade Agreements After NAFTA..... | 375 |
| U.S. FTAs from NAFTA to President Trump ... | 378 |
| Trans-Pacific Partnerships..... | 382 |
| TPP-12..... | 382 |
| U.S. Withdrawal from TPP-12 | 383 |
| TPP-11..... | 384 |
| Biden on TPP-11, Mini-Deals | 388 |
| Pacific Rim Free Trade | 390 |
| ASEAN, RCEP, China, Hong Kong, Japan, Russia, South Korea and India..... | 390 |
| Southeast Asian Free Trade (ASEAN) | 390 |
| RCEP 2020..... | 393 |
| China..... | 394 |
| Hong Kong | 395 |
| Japan, U.S. Mini-Deal..... | 397 |
| Japan-EU Economic Partnership Agreement..... | 398 |
| Russia..... | 400 |
| India | 401 |
| South Korea | 401 |
| The Canada-EU Comprehensive Economic and Trade Agreement (CETA)..... | 401 |
| European Union FTAs— BREXIT, U.S. Mini- Deal | 403 |
| EU-USA Mini-Deal | 405 |
| Biden on BREXIT..... | 405 |

| | |
|---|------------|
| Trump and Biden on Free Trade..... | 406 |
| KORUS Re-Negotiated (2018)..... | 406 |
| The USMCA Agreement (2020)..... | 409 |
| Naming the Agreement..... | 414 |
| USMCA Provisions with Little Change from NAFTA..... | 415 |
| New or Notably Revised USMCA Provisions | |
| Common to All Partners..... | 416 |
| Canada Under the USMCA..... | 431 |
| Mexico Under the USMCA..... | 433 |
| Ratification..... | 436 |
| USMCA Overview..... | 438 |
| Biden on USMCA..... | 439 |
| Summary Perspective on Free Trade..... | 440 |
| Chapter 8. Beyond Trump and Trade..... | 441 |
| America First and Trump Tariffs..... | 441 |
| Softwood Lumber and Paper..... | 441 |
| Biden on Softwood Lumber CVDs..... | 442 |
| Clothes Washers..... | 442 |
| Biden on Washer Tariffs..... | 443 |
| Solar Panels..... | 443 |
| Biden on Solar Panel Tariffs..... | 444 |
| Steel and Aluminum National Security Tariffs..... | 445 |
| Responses to Trump’s Steel and Aluminum Tariffs..... | 449 |
| Autos Next?..... | 451 |
| Biden on National Security Tariffs..... | 452 |
| A Tech-Driven U.S.-China Tariff and Trade | |
| Sanctions War..... | 454 |
| Trump and China..... | 454 |
| The U.S. Section 301 Report on China..... | 455 |

| | |
|--|-----|
| A Tariff and Trade Sanctions War | 456 |
| Biden on Trump's Trade War Against China | 466 |
| Trump and Biden on the WTO | 468 |
| Biden on WTO | 470 |
| Trade and COVID-19 | 471 |
| Biden on COVID and Trade..... | 474 |
| U.S. Trade Alliances Beyond Trump | 474 |
| Biden on Trade Alliances | 475 |
| The EU-China 2021 Bilateral Investment Treaty (BIT) | 476 |