

Regulating for Globalization

Trade, Labor and EU Law Perspectives

Journal Highlights: Women in Trade in Global Customs and Trade Journal

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We wanted to draw your attention to some interesting articles on Women in Trade that appeared in the *Global Trade and Customs Journal* in 2017:

[Arancha Gonzalez, ‘Making the Case for Trade in the XXI Century’ \(2017\) 12, Issue 11/12](#)

[Eva Valle Lagares, ‘Trade from the Trenches: Negotiating in Practice’ \(2017\) 12, Issue 11/12](#)

The Transatlantic Trade and Investment Partnership (TTIP) generated significant public curiosity about trade, triggering a passionate debate reflecting many concerns. The European Commission Communication ‘Trade for All: Towards a More Responsible Trade and Investment Policy’ (2015) was intended to support a well-informed debate based on facts, and this was followed by ‘A Balanced and Progressive Trade Policy to Harness Globalisation (2017)’. EU Member States, in the Council, have always been closely involved in trade negotiations, giving the mandate to the Commission to negotiate, following progress closely and approving the results of the negotiations. A positive side-effect of the public debate on TTIP and subsequently the Canada-EU Comprehensive Economic Trade Agreement (CETA) is that it has awoken curiosity on trade and investment negotiations. This article provides an overview of the lifecycle of a negotiation focusing on the procedural steps, efforts to increase transparency and engagement with stakeholders.

[Marjut Hannonen, ‘Implementation of EU Free Trade Agreements’ \(2017\) 12, Issue 11/12](#)

The EU has a very active trade negotiating agenda, with new negotiations starting every year and being in preparation. Increasing number of free trade agreements (FTAs) are also being concluded. Against this background, and the fact that trade policy is attracting much more attention from the public that used to be the case still a few years back, effective implementation of EU trade agreements has become an important priority for the EU Trade policy. The EU needs to demonstrate that its trade agreements work in practice and deliver the negotiated benefits to EU operators.

Penelope Naas, ‘Emerging Issues in Free Trade Agreements’ (2017) 12, Issue 11/12

As technology evolves and global commerce soars, both governments and businesses need to think critically and creatively about the new issues that should be included in free trade agreement (FTA) negotiations. Chapters on e-commerce, cryptography, and genetically modified foods are just some of the issue now addressed in trade agreements. Other emerging issues include small and medium size enterprises (SMEs), investment facilitation and gender, which have been proposed in recent FTAs. This article presents a deep dive into the elements of a FTA, from tariffs and agriculture, to e-commerce and investment. It will look at current developments taking place in FTA negotiations, citing different examples with a focus on Europe.

Eugenia Costanza Laurenza, Fabienne` Goyeneche, ‘Regulatory Cooperation in Free Trade Agreements: Perspectives from the Automotive and Information and Communication Technology Sectors’ (2017) 12, Issue 11/12

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Michiko Lloyd, Jessie Chen, Melissa Irmen, ‘The Process of Qualifying for Trade Agreements and the Differences/Challenges Around the World from an Industry Perspective’ (2017) 12, Issue 11/12

Trade agreements offer many opportunities for importers and exporters alike. To maximize the benefits of a trade agreement, traders must know how to successfully apply the agreement rules. This article summarizes some basic preferential treatment rules and describes some variations and challenges companies engaging in global trade face in realizing these benefits.

Laura Carola Beretta, Agnieszka Smiatacz, ‘Is the Supreme and Constitutional Courts’ Rebellion Against EU Law a Threat for the Lack of Direct Effect of the New Generation EU Free Trade Agreements?’ (2017) 12, Issue 11/12

This article presents the current perspective on the roles of Constitutional Courts of the EU Member States in the future implementation of the new generation Free Trade Agreements (FTAs), particularly concerning the application of the ‘counter-limits doctrine’. According to such doctrine, whenever national law amounts to a breach of EU law, the judge shall apply European Union law. However, if and when provisions of EU law would infringe on basic

fundamental rights protected by the Constitution, then the Constitutional Court would declare the primacy of domestic law to protect the citizen's fundamental rights. The present article discusses the current trend in the judicial rebellion pending in the EU against the Court of Justice of the European Union (CJEU) and argues that it should be tackled by the European Commission in a firm and strong manner, as the above situation adversely impacts also the everyday application of the new generation of FTAs by the EU.

Vera Kanas, Carolina Müller, 'The New Brazilian Anti-Dumping Regulation: A Balance of the First Years' (2017) 12, Issue 11/12

In 2013, Brazil issued a new anti-dumping regulation: Decree 8058/2013. The new rules came under a context of enhancement of the trade remedies system, in the scope of an industrial policy that aimed to protect the domestic production against imports. Since then, Brazilian public policies changed significantly, becoming more focused on seeking new markets for exports instead of protecting the domestic market. Nonetheless, the new anti-dumping law has changed permanently the trade remedies system in Brazil.

Zhaokang Jiang, 'Trade Facilitation and Customs Compliance for Cost-Saving and Efficiency: Policies, Practices and Proposals – A China Case Study' (2017) 12, Issue 11/12

Under WTO and WCO obligations and its own initiatives, Chinese government, like other governments, especially China customs, in the recent years has been making great efforts to modernize trade and customs process to facilitate legitimate trade of efficiency and protect public interest for compliance. The recent developments, especially the nationally integrated customs clearance process, are welcomed by the international trade community though, uncertainties and concerns remain, particularly on non-tariff technical barriers, transparency, consistency, performance, and stability for ruling-making and implementation. With all the pilot programs and reform initiatives on informed customs and trade facilitation and compliance, we propose that a new round Customs Law and regulation review, modernization and revision is timely demanded for rule of law, legitimacy, consistency of the reforms. We encourage the trade community, at the same time of enjoying the trade facilitation advantages, to invest and implement in customs and trade compliance program, including promise, policy, process, procedure and people, to avoid costs arising from customs and trade compliance crisis.

Bruno G. Simões, Tobias Dolle, 'How to Properly Account for Sustainable Production and Supply Chains in Modern Tariff Schedules and Trade Rules' (2017) 12, Issue 11/12

A recent Resolution adopted by the European Parliament on 'palm oil and deforestation of rainforests' included, among its Recommendations, a call to reform the tariff classifications maintained by the World Customs Organization (WCO), so as to recognize sustainable versus unsustainable palm oil. Furthermore, the Resolution called for such a differentiation, at least for products imported into the EU, to be based on yet-to-be-developed sustainability criteria, which the Resolution also outlined and called for. This article explores the potential feasibility of distinguishing tariff classifications based on process-characteristics rather than product-

characteristics, while contrasting such approach to non-tariff related measures implemented by major economies (e.g., tying biofuel subsidies to ‘renewability’ in the United States, or to ‘sustainability’ in the European Union). The article also discusses the sustainability criteria outlined and proposed by the European Parliament, as well as their relation to other sustainability criteria present on the world stage, trying to identify the scope, tools and legal ambits through which tariff advantages could be provided to sustainable products in a WTO consistent and non-discriminatory manner.

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