INTRODUCTION TO INTERNATIONAL BUSINESS LAW
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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?
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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?
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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
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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?
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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
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?
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
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
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
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
- ...
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.)
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
Anything that is not good?

- Competitive advantage level?
- Stable economic development policies?
- Official’s knowledge?
- Two sides of Globalization context?