Preface to the Third Edition

This third edition of our book, *International Trade Law: Problems, Cases and Materials*, is published at a time when international trade and investment are under attack from virtually all quarters. The Doha Development Agenda, begun with great fanfare by the World Trade Organization in 2001, has died a slow, ignominious death, although WTO members refuse to bury its corpse. In the United States, both major candidates for President have attacked international trade, and the Republican Party, which historically has supported new trade deals, seemingly has reversed course to become anti-trade.

To the uninitiated observer, these developments might seem to make a course in international trade law superfluous; but this is not the case. On the contrary, knowledge of the economics and rules of international trade are more important than ever. The importance of international trade continues to grow: in 2015, merchandise trade constituted 45 percent of world GDP. In the United States, exports of goods and services constitute 14 percent of U.S. GDP, while international trade as a whole amounts to 21.2 percent of the U.S. economy. Thus, there is great need to understand the specifics of the international trade debate and to move past the generalized attacks on trade by politicians. This may only be accomplished by studying the technical legal and economic rules and principles of international trade. We present this book as a handy means to this end.

We acknowledge, however, that International Trade Law is in transition. While the rules of the global, multilateral trading system are still primary, there is a distinct movement toward concluding regional and preferential trade deals to supplement and enhance the global rules. To this end, the United States and eleven Pacific Rim nations have negotiated the Trans-Pacific Partnership Agreement (TPP), which comprises over 45 percent of world GDP. The United States and the European Union are negotiating an even more comprehensive trade deal, the Trans-Atlantic Trade and Investment Partnership (TTIP). At this writing the fate of these new blockbuster trade agreements is uncertain; but this book expands coverage of these regional and preferential trade deals, which may in the future eclipse the global trade rules in certain key areas of law.
In preparing this new edition, we retain the salient characteristics of the previous editions:

We are convinced more than ever of the pedagogical necessity to separate the teaching and study of International Trade Law and International Business Transactions. While the traditional approach is to cover these subjects together, we believe that this is confusing and unwise for several reasons. International Trade Law is primarily a specialized branch of public international law while International Business Transactions (IBT) is largely private law with an important smattering of public and private international law. Moreover, the jurisprudence in both subjects is now enormous, and we think that, although the practitioner may handle both subjects in an integrated fashion, the student can best learn these two complex areas in different courses. Accordingly, we have designed this book to be a companion book to our own IBT book, Chow and Schoenbaum, International Business Transactions (Aspen 3d ed. 2015). Although each of these two books can be used independently, we have carefully designed each book to complement the other with virtually no overlap of coverage. We believe that these two compact books together provide an excellent coverage of the entire field of international business/economic law.

We continue to believe that students studying international trade law must study the primary materials of the law: the texts of the WTO agreements and WTO jurisprudence, as well as trade law cases decided by the WTO panels and Appellate Body. Accordingly, we have kept use of secondary materials to the absolute minimum. Our second edition is up to date, including some 70 principal cases as well as scores of cases discussed in the notes. Although most of the cases are WTO cases, we have also included many U.S. cases since most trade lawyers will encounter WTO rules through their implementation into U.S. law by federal and state statutes. We have, of course, edited the principal cases extensively to keep the book a manageable size. We publish herewith a Documents Supplement containing the text of the WTO trade agreement and other relevant materials.

Since International Trade Law is international economic law, the student must understand the basics of the economics of international trade and the economic basis and impacts of trade law provisions. We have included enough materials on economics throughout the text so that, in our experience, this need is served.

We believe that solving short problems is an excellent pedagogical aid to learning the law so there are many problems in this edition. The problems are designed to be used selectively by professors and students: the teacher may wish to announce in advance the problems he or she wishes to cover in class or ask the students to write an answer to a problem as an exercise.

We also retain the “channels” approach to international trade law as in the first edition. Although trade in goods is the most important channel of international business, three other “channels” are very important as well: trade in services, trade in technology (i.e., intellectual property), and foreign direct investment. Although we have revised this edition to reflect the overriding importance of trade in goods, this is not to downgrade the importance of the other three channels and the WTO agreements relevant to them.

The new edition of this book also reflects the growing importance of China and emerging-market and developing-member countries of the WTO. We emphasize as well the growing importance of preferential trade agreements and their sometimes uneasy fit with the law of the WTO. We have expanded our coverage of “linkage” issues, such as trade and environment and human rights. At the same
time, we have carefully pruned outdated materials from the first edition and have developed a concise teaching tool that can be covered in a one-semester, three- or four-hour course in law school or business school. At less than 700 pages, this book is one of the most concise international trade law casebooks available on the market.

We enjoy hearing comments and criticisms on our work. We hope that teachers who use this book will share their experiences teaching the subject with us and let us know what techniques and problems work best for them. We promise to consider all comments carefully and to adapt as many as we can.

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