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## The International Review | 1999 Spring

Michael Rhee

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# The International Review

## NYLS Center for International Law

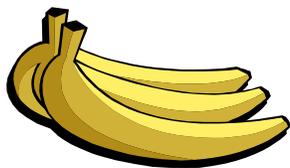
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A Quick Guide to  
Current Issues in the  
Worlds of International  
Law, Trade, and  
Finance for Busy  
Law Students.  
Read top news stories  
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career and faculty  
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New York Law School.

# Top News from the Worlds of International Trade and Finance: Your Quick Guide to the Headlines

## The Trade Fight of the Year Over . . . Bananas?



### **Important terms to be reviewed:**

- **Article 21** of the Dispute Settlement Understanding (DSU) of the World Trade Organization (WTO)
- **Article 22** of the DSU of the WTO
- **§301** of the Trade Act of 1974

In what is brewing to be the world's biggest trade fight, the United States recently imposed 100 percent tariffs on over \$500 million worth of luxury European goods, including Scottish cashmere sweaters, Italian cheese, French plastic handbags, and British sweet biscuits. What is the fuss about? The answer is, in part, bananas.

Since 1993, European Union (EU) trade regulations have favored bananas imported from former colonies in Africa, the Caribbean, and the Pacific over bananas grown by American companies operating in Latin America. In 1997, the World Trade Organization (WTO), the world's foremost trade dispute resolution body of which the US is a member, ruled

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## **The International Review**

**Spring 1999**

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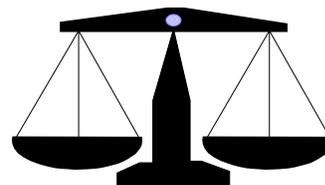
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Created in 1996, the Center for International Law supports teaching and research in all areas of international law but concentrates on the law of international trade and finance. The Center organizes symposia, forums, and workshops whereby students, faculty, and guests of New York Law School may interact with experts who link theory and practice. Visit the Center in C-301 for more information.

## Compete in the Jessup International Law Moot Court Competition

Are you interested in debating the most current issues in international law? Would you like to sharpen your legal research and public-speaking skills? How about getting a head start on your career in international law?

The Philip C. Jessup International Law Moot Court Competition, which celebrated its 40th anniversary this year, is the largest and most prestigious Moot Court Competition of any kind in the world today. Named in honor of Judge Philip C. Jessup of the International Court of Justice, the Competition attracts approximately 1,500 students from more than 300 law schools in almost 50 nations on six continents every year.



Participants research and write briefs on a timely topic selected by Competition officials and then compete in National Rounds. Winners from the National Rounds then advance to the International Championship Round held in Washington, DC.

There are many tangible and intangible benefits of participating in the Jessup Competition:

- The Competition will sharpen your legal research and public-speaking skills;
- Your completed brief satisfies the NYLS writing requirement upon approval of the Moot Court Faculty Advisor, and you'll receive credits on your transcript for your participation;
- You'll add to the rack of Jessup trophies already won by New York Law School students in the past;
- If you advance or win an award, you automatically become a member of the Moot Court Association with all of the accompanying benefits;
- You will have opportunities to travel with some expenses paid for by New York Law School;
- You'll gain an in-depth understanding of international law beyond the classroom;

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that the EU's banana regulations unfairly discriminated against Latin American bananas and ordered the EU to change its rules by January 1, 1999.

As the deadline loomed two years later, the EU argued that they have since complied with the WTO ruling. However, the US and several Latin American countries saw the EU's latest changes as "nothing but window dressing" and then threatened trade sanctions unless the EU actually complied with the WTO ruling. The US argues that under **Article 22(2) of the Dispute Settlement Understanding (DSU)** of the WTO, the US may retaliate against a member nation who has failed to comply with a WTO ruling. The US says that it will retaliate by using **§301 of the Trade Act of 1974**, which allows the President to impose tariffs against countries using unfair trade policies and practices.

On the other hand, the EU argues that the US cannot decide on its own whether the changes to its banana regulations comply with the WTO and that the US must go through the regular dispute settlement process (which typically takes about 30 months) as stated under **Article 21(5) of the DSU** before imposing sanctions. Article 21(5) states that disagreements over whether a member nation has complied with a WTO ruling must be decided through WTO dispute procedures. The US responds that, under Article 21(5), the EU would go through an endless cycle of superficial changes without ever complying with the 1997 WTO ruling.

On March 3, 1999, after further talks broke down, the US slapped 100 percent tariffs on \$520 million worth of European luxury goods which it will not collect until a WTO arbitration panel affirms this amount demanded by the US. (Under WTO rules, sanctions must be roughly equal to lost American banana sales in Europe.) On April 6, 1999, the arbitration panel determined that the EU's latest changes did not comply with the 1997 WTO ruling and authorized the US to impose \$191 million in sanctions instead of \$520 million.

In the meantime, several unresolved questions still remain. Can a WTO member nation take immediate action against another member who does not comply with a WTO ruling? Who decides whether a member nation is in compliance? And how is compliance determined? These are thorny questions which the WTO must confront in the months ahead. ❖

We're now on-line at  
<http://www.nyls.edu/CIL/>

## International Law Courses Taught by NYLS Faculty

- **Professor Willem Korthals Altes:** European Telecommunications and Broadcasting Law (F99); European Copyright and Data Protection Law.
- **Professor Richard Beck:** International Taxation (SP00).
- **Professor Lung-chu Chen:** Foreign Affairs, the Constitution, and International Law Perspectives; Human Rights in International and Constitutional Law Perspectives; International Law in Contemporary Perspectives (F99); International Law: Selected Topics; The United Nations and World Order (F99).
- **Professor Sydney M. Cone, III:** International Business Transactions (F99); International Finance (SP00); International Trade Disputes (SP00).
- **Professor Paul Dubinsky:** European Community Law; International Civil Litigation (formerly Transnational Litigation); International Law: An Introduction (SP00); Judgments: How to Enforce Them Domestically and Internationally (F99).
- **Professor Stephen Ellmann:** Constitutional Development in South Africa and the United States.
- **Professor Alain Gardrat:** European Copyright and Data Protection Law.
- **Professor B.J. George, Jr:** Comparative Law (F99); Comparative Law: Japan; Comparative Law: People's Republic of China.
- **Professor Zuhayr Moghrabi:** Comparative Law; International Business Transactions (F99); International Law: Selected Topics; Islamic Law and Middle East Legal Institutions.
- **Professor Rudolph Peritz:** Competition and International Trade Policy.
- **Professor Lewis Schnurr:** European Telecommunications and Broadcasting Law (F99).
- **Professor Nadine Strossen:** Human Rights in International and Constitutional Law Perspectives.
- **Professor Ruti Teitel:** Comparative Law; Comparative Constitutional Law: Revolution and Constitutional Law. International Human Rights Seminar and Workshop (SP00).
- **Professor Ann Thomas:** Comparative Tax Law: Technical and Policy Issues.
- **Professor Ad van Loon:** Broadcasting Regulation in European States. ❖

Contact the Director of Academic Affairs, Stephen Goot, at 431-2860 for information on course availability. ❖

# What's the Problem with Cheap Steel?

## Important terms to be reviewed:

- **Dumping**
- **§201** of the Trade Act of 1974
- **Article VI** of the 1994 General Agreement on Tariffs and Trade (GATT)
- **Article XIX** of the 1994 GATT

Tempers are flaring as economically stricken countries increase their steel exports to the United States. According to the American Iron and Steel Institute, steel imports jumped 33 percent last year, from 31 million tons imported in 1997 to over 41 million tons imported in 1998. The Department of Commerce reports that many countries are selling steel at prices as much as 70 percent below the average US price of around \$260 per ton.



In response to this surge in imports, twelve US steel companies and unions have filed trade complaints against Russia, Japan, and Brazil in September 1998, accusing them of “**dumping**” or selling steel at unfair prices and below production costs. Under **§201 of the Trade Act of 1974**, in a dumping complaint, the Department of Commerce determines whether dumping actually took place while the US International Trade Commission determines whether imports have been a “substantial cause of serious injury” to a domestic industry.

The steel industry contends that over 10,000 steelworkers have lost their jobs. However, steel-exporting countries and large American companies, such as General Motors and Caterpillar, Inc., argue that curbing the flow of imports will hurt consumers who will then have to pay higher prices for products

containing steel such as cars, heavy equipment, and building materials.

The US steel industry and several Senators have urged President Clinton to use his authority under the **Trade Act of 1974** to impose quotas (i.e. specified limits) on steel imports. The Trade Act of 1974 allows the President to take safeguard actions (such as imposing quotas or tariffs) to prevent a sudden surge in imports from hurting domestic industries unless taking such action is not in the country’s national interest.

What courses of action can the US undertake under international law? The 1994 General Agreement on Tariffs and Trade (GATT), of which the US is a signatory, allows its members under **Article XIX(1)(a)** to take safeguard actions to protect domestic industries. However, **Article VI(2)** of the agreement limits these safeguard actions to duties and tariffs which cannot be greater than the margin of dumping. (GATT rules prohibit quotas.)

In January 1999, the Clinton administration announced that it will not, under the Trade Act of 1974, impose quotas on steel imports but will, instead, propose \$300 million in tax breaks and other incentives for the steel industry. Administration officials feared that imposing quotas would invite retaliation by trading partners which would, in turn, slow down global economic recovery. And in a preliminary ruling in February 1999, the Department of Commerce announced that Japan and Brazil had indeed dumped steel in the US and that the administration would impose tariffs ranging from 25 percent to 71 percent which would not be paid until a final ruling is made on April 28, 1999.

Dissatisfied with the administration's responses and under political pressure from the steel industry, the US House of Representatives voted on a bill last month to limit steel imports to pre-July 1997 levels, which would, if enacted, put the President in the difficult position of dramatically increasing tariffs greater than the margin of dumping. The debate continues as to whether the US should take more action in curbing the flow of steel imports. ❖

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international law?  
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actual practitioners.  
<http://www.nyls.edu/CIL/>

## CALENDAR OF EVENTS

### **“Seventh Annual Conference on International Intellectual Property Law and Policy”**

Fordham Law School, James B.M. McNally Amphitheater, 140 W. 62nd St. Thursday and Friday, April 8 – April 9. For information call, Bernadette Dormer at (212) 636-6809 or visit <http://www.researchtheworld.com/detailed.html>

### **“U.S. – Cuban Relations in the 21st Century”**

The World Policy Institute at The New School, Wolff Conference Room, 65 Fifth Ave. Tuesday, April 13 from 6:00 pm – 7:30 pm. For information, call Amanda Roberts at (212) 229-5808, ext. 101 or visit <http://www.worldpolicy.org/>

### **“Transatlantic Regulatory Cooperation: Problems and Prospects in Light of International Experience and Domestic Legal Environments”**

Columbia University School of Law, 435 West 116th St. Friday and Saturday, April 16 – April 17. For information, call Krissy Sudano at (212) 854-1382. Registration available at <http://www.columbia.edu/cu/law/europe/eurolegal.htm>

### **“Conflict Resolution in Northern Ireland”**

Hosted by George Mitchell, former U.S. Senator and Chairman of the peace negotiations in Northern Ireland. Queens College, LeFrak Concert Hall, Flushing, Queens. Thursday, April 22 from 9:00 am - 5:00 pm. For information, call (718) 997-5864.

### **“Women in International Trade Annual Spring Dinner”**

Guest Speaker: The Honorable Judge Judith Barzilay, U.S. Court of International Trade. May 1999. Specific date to be announced. For more details, call (212) 408-3361.

### **“How Can Russia Survive?”**

Annual Harriman Institute/Associated Press Conference. Friday, May 7 from 8:30 am - 6:00 pm, Columbia University, 420 West 118th St. 6th Floor. To register, contact Gordon N. Bardos, Program Officer, at (212) 854-8487 or visit <http://www.columbia.edu/cu/sipa/REGIONAL/HI/events.html>

### **“Adventures in Euroland: The First Five Months”**

Baruch College/Journal of Commerce Global Market Breakfast. Tuesday, May 25 from 8:00 am - 10:00 am. Baruch College Conference Center, 151 East 25th St. To reserve seats at \$45 each, please call (212) 802-6730 or visit <http://www.baruch.cuny.edu/weissman/global2.html>



## The Euro Makes Its Way Into the World Market

On January 1, 1999, the euro became the official currency of eleven nations in Europe. The currencies of Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal, and Spain are fixed to the euro which will fluctuate according to market conditions.

All of the countries using the new euro currency will essentially have the same inflation targets, interest rates, and economic policy goals which will be decided, in large part, by a new European Central Bank (roughly equivalent to the Federal Reserve Bank in the United States).

While euro notes and coins will not go into circulation until January 1, 2002, stock exchanges in Europe are carrying out transactions in euros, and banks are offering checking accounts, bank transfers, and traveler's checks denominated in euros. By July 1, 2002, national bills and coins will be taken out of circulation and wholly replaced by the euro.

Since it was introduced in January, the euro has declined in value against the American dollar. Initially trading at \$1.17, the euro's value declined to \$1.08 in early-April. ❖

### *Jessup Competition Continued from page 2*

- Your preparations for the Competition will make you more competitive among future employers, and you will meet those who are already practicing in the field; and
- You'll add variety to and distinguish your law school experience.

Actual briefs from past cases are located in the NYLS Law Library (**JX24 .P55** Loc Main). They include:

- *Immunities of a Diplomatic Agent*
- *State Responsibility for Certain Acts of Terrorism*
- *Cultural Identity and International Copyright Law*
- *Media Gulf War*
- *International Trade in Electromobiles*
- *International Criminal Tribunal*

Registration materials and the 1999-2000 Jessup problem will be available in early-September 1999. Watch for notices for an organizational meeting next semester. For more information and background on the Jessup Moot Court Competition or to read this year's problem, visit the official website located at: <http://www.kentlaw.edu/ilsa/> or see Michael Rhee, Center for International Law, in C-301. ❖



## Study Abroad

Interested in studying abroad? Get advice and information from the Legal Study Abroad Headquarters: <http://www.studyabroad.com>

NYLS students must obtain written permission from the Office of Academic Affairs to receive credit for summer abroad classes. All courses must be approved prior to attending the program. To see a directory of current programs or if you have further questions, call Sondra Downing at 431-2165. ❖

### What you'll find online at <http://www.nyls.edu/CIL/>

- Advice from International Law Practitioners
- Direct Links to Internship and Job Opportunities
- Information on Upcoming Events
- Careers & Study Abroad Information
- Edited transcripts and photos from past events, including World Trade and the Environment; NAFTA; Latin American Financing; the Euro; and the Russian Securities Market. ❖



## BOOKS

To research careers in international law, visit the Career Center on the Fifth Floor, B Building, and read the following resources:

- Careers in Admiralty Law by the American Bar Association, Law Student Division, 1993 edition.
- Careers in International Law by the American Bar Association, Section of International Law and Practice, 1993 edition.
- Internships and Careers in International Law: A Guide for Graduate and Law Students by the American Society of International Law, 1996. (Located in the NYLS Law Library 1st floor Reference Section **JX1291 .I58 1996.**)
- Public Service in International Law: A Guide to Professional Opportunities in the United States and Abroad by Yale Law School, 1998.
- International Jobs: Where They Are & How to Get Them by Eric Kocher, 4th edition.
- Public International Law in a Nutshell by Thomas Buergethal & Harold G. Maier.



CENTER FOR INTERNATIONAL LAW

### New York Law School Center for International Law

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