

## CASE STUDIES IN US TRADE NEGOTIATION

**VOL. 1: MAKING THE RULES** 

CHARAN DEVEREAUX ROBERT Z. LAWRENCE MICHAEL D. WATKINS

Washington, DC September 2006

## **Contents**

	Preface	ix
	Acknowledgments	хi
	Introduction	1
	The Agreement on Trade-Related Aspects of	
	Intellectual Property Rights	2
	The Multilateral Agreement on Investment	3
	Fast Track/Trade Promotion Authority	3
	China's WTO Accession: The 1999 US-China Bilateral	
	Agreement and the Battle for Permanent Normal	
	Trade Relations	4
	The US-EU Mutual Recognition Agreements	4
1	Making Trade Policy	7
	Coverage	8
	Depth	10
	Enforcement	11
	Developing Countries	12
	Winners and Losers	14
	Governance	15
	Looking Forward	16
2	Negotiating Trade Agreements	17
	Foundations of Negotiation Analysis	18
	Analyzing Process Dynamics	27
	Guiding Questions	35

Trade-Related A	Aspects of Intellectual Property Rights	37
Making Trade	Policy	37
CASE STUDY:	: International Trade Meets Intellectual Property—	_
The Making	of the TRIPS Agreement (TRIPS, Case 1)	42
CASE STUDY:	: International Trade Meets Public Health-	
Patent Rules	s and Access to Medicines (TRIPS, Case 2)	76
	nalysis of the Cases	111
	TRIPS: Timeline	119
Appendix 3B		
	Substances Control Amendment Act of 1997,	
	Section 15C	121
Appendix 3C	Excerpts from the TRIPS Agreement (1994)	122
Appendix 3D	A Selection of Press Headlines on	404
1: 25	Intellectual Property Rights and TRIPS	124
Appendix 3E	Doha Declaration on the TRIPS Agreement	100
A 1: 2E	and Public Health	126
Appendix 3F	Implementation of Paragraph 6 of the Doha	
	Declaration on the TRIPS Agreement and Public Health	120
	and Public Health	128
The Multilatera	al Agreement on Investment	135
Making Trade		135
	: A Virtual Defeat? Stalling the Multilateral	100
	on Investment	139
	nalysis of the Case	177
	Agreement on Trade-Related Investment	
11	Measures (1995)	183
	,	
	de Promotion Authority	187
Making Trade		187
	: Fast Track Derailed—The 1997 Attempt	
	ast-Track Trade Legislation	192
Negotiation A	analysis of the Case	232
The 4000 HE C	thing Dileteral Agreement and the Dettle	
forPNTR	China Bilateral Agreement and the Battle	241
Making Trade	Doliov	241
	: Folicy : The Eagle and the Dragon—	241
	S-China Bilateral Agreement and the	
Battle for P		248
	analysis of the Case	240 292
	Timeline: The 1999 US-China Bilateral	2)2
rippendix ort	Agreement and the Battle for PNTR	299

7	The US-EU Mutual Recognition Agreements	301	
	Making Trade Policy CASE STUDY: International Trade Meets Domestic		
	Regulation—Negotiating the US-EU Mutual		
	Recognition Agreements		
	Negotiation Analysis of the Case	348	
	Appendix 7A Excerpt from the FDA Modernization		
	Act of 1997	356	
	Appendix 7B Agreement on Mutual Recognition		
	Between the European Community and		
	the United States of America (1998)	357	
Re	eferences	359	
Additional Readings			
In	dex	373	

## CASE STUDIES IN US TRADE NEGOTIATION

**VOL. 2: RESOLVING DISPUTES** 

CHARAN DEVEREAUX ROBERT Z. LAWRENCE MICHAEL D. WATKINS

Washington, DC September 2006

## **Contents**

Preface	ix	
Acknowledgments		
Introduction	1	
The Cases	2	
Barriers to Negotiated Agreement	11	
Designing Dispute Resolution Systems	15	
Dispute Resolution in the Trading System	17	
Gaming the System	25	
Questions to Consider	27	
Food Fight: The United States, Europe, and Trade		
in Hormone-Treated Beef	31	
Background	33	
The Ban	37	
Hormones and International Institutions	44	
Internal Politics and a Failure to Ease Tensions	47	
The Ban Goes into Effect and the United States Retaliates	51	
Changing the Rules	57	
The United States Tries Again	63	
Back to the Future—Retaliatory Tariffs and a Stalemate	72	
The Standoff Continues	79	
Case Analysis	81	
Appendix 1A Timeline of Key Events in the Beef		
Hormones Case	86	
Appendix IB The WTO Panel Process	89	

	Appendix 1C	and Phytosanita	on the Application of Sanitary ry Measures (1994),	01
		Selected Articles	<b>;</b>	91
2	Banana Wars: (	Challenges to the Eur	ropean Union's	
	Banana Regime		•	97
	•	oric Importance		98
	Regulation 404	_		102
	US	Section	301	108
	Taking the Cas	se to the WTO		112
	The WTO Pane			119
	The Road to C			121
	An Elusive Re	•		130
	Striking a Deal	1		133
	Case Analysis			137
	•	Regulation 404		140
3	Snapshot: Koda	k v.Fuji		143
	•	n Kodak and Fuji		145
	Antitrust and	Trade Frameworks		150
	Kodak Takes A	Action		155
	Fuji Responds			159
	The Agencies	Take Action		160
	Judgment in C			169
	Case Analysis			174
	Appendix 3A	Changes in film d	istribution in Japan	178
	Appendix 3B	_	Affecting Photographic Film	
	11		Submission of the	
		_	f America, February 20,1997	181
4	Standing Up for	r Steel		193
		Trade Remedies		194
	History of Res	structuring		197
	The 1998 Steel	Crisis		200
	A Brief Recove	ery—A Further Fall		211
	A New Admir	nistration		215
	The World Rea	acts		223
	A Period of C	onsolidation		224
	The WTO Rul	es		227
	Case Analysis			230
5	Brazil's WTO Co	otton Case: Negotiat	ion Through Litigation	235
	The Change N	/laker	- <del>-</del>	235
	Pedro de Cam	argo Neto's Backgi	round	237
	Brazil Mounte			240

	The West African Cotton Sectoral Initiative			
	Ripple Effects: The WTO Dispute Panel Ruling			
Implications of the Panel Ruling Brazil Wins the Appeal, but Negotiations Stall				
	Case Analysis		262	
	Appendix 5A	WTO Dispute Panel Findings: US Subsidies		
		for Upland Cotton	267	
	Appendix 5B	Timeline of Key Events in Brazil's WTO		
		Disputes	268	
	Appendix 5C	The Uruguay Round Agreement on		
		Agriculture	271	
	Appendix 5D	US Farm Policy	274	
	Appendix 5E	The World Cotton Market	278	
	Appendix 5F	The Impact of a 20 Percent Reduction in		
	11	Overall Trade-Distorting Support: The		
		United States, the European Union,		
		and Japan	282	
6	Agricultural Bio	otechnology Meets International Trade:		
	The US-EU GMO		283	
		logy and Regulation	283	
	Part II: A Case	c; c	320	
	Case Analysis		338	
	Appendix 6A	Timeline of Key Events in the GM Crop		
	PF	Dispute	341	
	Appendix 6B	Excerpts from Annexes B and C of the	511	
	rippenam ob	Agreement on the Application of Sanitary		
		and Phytosanitary Measures	344	
		and Thytosamtary Measures	J <del>-1-1</del>	
Re	ferences		345	
Ad	ditional Reading	<b>js</b>	351	
Ind	· ·		355	