

Law, Politics, and Trade Policy: Lessons from East Asia

Harvard University Gen Ed 1119

Spring Semester 2024, MW 3-4:15pm (Harvard Hall 101)

Professor Christina Davis

Email: cldavis@harvard.edu

Phone: 617-495-4446

Office: CGIS Knafel Building, room 216

Office hours: Thursday 2-4, by sign-up (remote or in person)

<https://tinyurl.com/Davis-Office-Hours>

Teaching Fellows:

Head TF: Taegyun Lim (taegyun_lim@g.harvard.edu)

Sagnik Das (sadas@sjd.law.harvard.edu)

Rose Karoro (rkaroro@sjd.law.harvard.edu)

Jerry Min (jiemin@fas.harvard.edu)

Course description: How do states balance the challenges and opportunities of international markets? Importing ideas and resources while exporting manufactured goods underlies the East Asian growth miracle but also builds conflict with other governments. This course examines the transformative role of trade policy for Japan, Korea, and China. From the “unequal treaties” of the nineteenth century to the World Trade Organization today, trade law binds the interactions between East Asia and the world. Through negotiating rules, adjudicating disputes, and imposing sanctions governments attempt to reconcile different interests to benefit from trade. Multinational companies build supply chains around rules of origin embedded in trade agreements. Compliance offices are a growth industry in law schools helping firms follow rules. But many also question if trade works for everyone. What is fair trade and how do we achieve economic security? East Asia offers models of the success and problems that accompany globalization.

Requirements:

- Participation in section 20 percent
- In-class quiz 20 percent (February 21)
- Policy Evaluation Paper (5 pages, due by noon March 25th) 20 percent
- Trade Dispute Simulation (in section during first week of April) 10 percent
- Capstone assignment: trade negotiation briefing paper (10 pages, due by noon May 8th) 30 percent

Required books (available on canvas, Perkins ordered at Coop):

Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013).

Blustein, Paul. *Schism: China, America and the Fracturing of the Global Trading System* (Ontario Canada, Centre for International Governance Innovation, 2019), pp 13-90.

Supplementary resources: podcasts and articles of interest will have links posted with optional discussion threads on slack.

Assignments Overview (more detailed instructions will be provided in class)

Weekly assignments: The syllabus lists required readings (available on Canvas) and for select weeks a *Trade Talks* podcast hosted by Chad Bown of the Peterson Institute for International Economics (the episode number contains link to the site).

Quiz: This will be an in-class quiz to review core theoretical concepts introduced in the first four weeks of the course. The quiz consists of identification terms and short essays.

Policy Evaluation Paper: This exercise consists of three components. First, explore the goals of states when opening their economy to trade. What outcomes should policy maximize? Choose one priority and describe a benchmark measure that could be used to evaluate progress toward achieving this goal. Second, compare industrial policy tools and the historical experience of industrialization in East Asia with regards to this policy outcome. What different approaches have been attempted? Single out one policy that offers a lesson you think could apply to other countries. The paper should draw on material from assigned readings with some supplementary outside research.

Trade Dispute Simulation: During section, we will conduct a mock WTO trade dispute with students assigned to present arguments for each side and vote on final ruling. You will be provided with the background material for the case. Grading is based on participation in simulation and brief write-up note.

Trade Negotiation Briefing Paper: As states interact in trade negotiations they must reflect on the priorities and policy measures taken by other states. This final exercise calls on students to build on their understanding of national policies and trade disputes to reconcile competing objectives. Select a country you will represent and write a briefing paper for the national negotiating team of the government for a multilateral trade negotiation. Outline what your government should request and offer at the negotiating table. Your proposal should include three components: one item related to market access, one item related to rules, one item defining conditions for an exception to the market access and rules demands based on national security. Defend how the proposal would advance national interest and evaluate the implications for other countries and the trade order. Your analysis should draw on examples from the experience of East Asian countries in past trade negotiations to offer supporting evidence. In the last section of the semester, students will negotiate proposals based on presenting their preliminary outline of their paper.

Formatting of paper submissions:

All written assignments should be submitted by email to your teaching fellow with your name and the assignment clearly identifying the electronic file and as header on the first page. Use standard 12 point font and double spacing for text. You should include full references in a bibliography, which will not count toward the page limit.

Collaboration Policy

All written work should be your own writing and ideas with proper citation to source material as necessary. You are encouraged to discuss the assignment and exchange draft papers for peer comments so long as the final submission is independent. Please review the Harvard Honor Code (<https://honor.fas.harvard.edu/honor-code>) and the Guide to Using Sources (<https://usingsources.fas.harvard.edu/>).

Generative AI Policy

We expect that all work students submit for this course will be their own. The default is that the use of generative artificial intelligence (GAI) is disallowed unless otherwise stated. Any such use of AI must be appropriately acknowledged and cited. It is each student's responsibility to assess the validity and applicability of any GAI output that is submitted; you bear the final responsibility. Violations of this policy will be considered academic misconduct. Also, carefully read the guidelines on generative AI to make sure you follow Harvard's guidelines and academic policies.

Late Policy:

There will be a one-third grade penalty assessed for each day past the deadline. Extensions will only be granted in the case of medical or family emergency.

Absences:

Attendance will be taken in section with participation graded according to engagement with assigned readings and discussion questions during class. One absence can be excused without loss of participation points with the exception of the trade simulation exercise. If you are absent for more than one section, you may submit a 2 page response essay about the readings for the section by the last day of reading period to receive participation points for the missed class.

Academic Accommodations:

Any student needing academic adjustments or accommodations is requested to present their letter from the Accessible Education Office (AEO) and inform the head teaching fellow Taegyung Lim (taegyung.lim@g.harvard.edu) and Professor Davis (cldavis@harvard.edu) by the second week of the term. All discussions will remain confidential.

OPENING TO THE WORLD

First we examine why governments choose to engage in the world economy. From Tokugawa period Japan to contemporary North Korea, some governments severely restrict the movement of trade, ideas, and goods into their country. We will explore how international coercion and domestic political change influenced when and why governments of Japan, Korea, and China at different times chose to embrace economic exchange with the world as a strategy for development. This section also lays the building blocks to understand theories of international law and development.

1: Introduction (Jan. 22)

- Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013) Introduction pp. 1-13.
- Vogel, Ezra. *Japan as Number One*. Harvard University Press, 1979. pp.1-23.

2: Outside Pressure and the Unequal Treaties (Jan. 24)

- Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013) Chapter 1 “The Historical Foundations of East Asian Development,” pp. 14-47.
- Kang, David C. *East Asia Before the West: Five Centuries of Trade and Tribute* (Columbia University Press, 2010) pp. 1-11; 107-116.

3: Sovereignty and International Law (Jan. 29)

- Malcolm N. Shaw *International Law* eighth edition (2017), pp. 1-10 (pages 10-31 recommended additional reading).
- Kang, David C. *East Asia Before the West: Five Centuries of Trade and Tribute* (Columbia University Press, 2010) pp. 25-35.

4: Trade and Development (Jan. 31)

- Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013) Chapter 2 “Understanding East Asian Growth,” pp. 48-65.

STATE-LED DEVELOPMENT

What are the goals of government economic policy? Should the state play the part of referee or coach in its guidance of economic activity? This section will explore the roots of industrial policy and export orientation that underly government strategies for development in East Asia.

5: Governments and Markets (Feb. 5)

- Fallows, James. “How the World Works.” *Atlantic Monthly*, Dec 1993, pp. 60-87.
- Krugman, Paul. “The Myth of Asia’s Miracle,” *Foreign Affairs*, Nov/Dec 1994.
- Krugman, Paul. “What Ever Happened to the Asian Miracle?” *Fortune*, Aug 18, 1997. pp. 26-28.
- Rodrik, Dani. “China as Economic Bogeyman,” 9 July 2020 *Project Syndicate*.

6: Japanese Industrialization: 1868-1945 (Feb. 7)

- Vogel, Ezra. *China and Japan Facing History* (Harvard University Press, 2019) pp.109-131.
- Samuels, Richard. *Rich Nation, Strong Army: National Security and the Technological Transformation of Japan*. Cornell University Press, 1994. pp. 33-42.

JOINING THE TRADING SYSTEM

Japan, Korea, and China have been rule takers accepting an international trade regime negotiated by others. The decision to become a member of the trade regime required liberalization in exchange for market access guarantees. Flexibility within these rules has accommodated a range of industrial policy measures whereby the governments of Japan, Korea, and China have intervened to shift economic structure. This section explores the extent to which international trade rules constrain the design of trade policies.

7: The Multilateral Trading System (Feb. 12)

- Lamy, Pascal. *The Geneva Consensus: Making Trade Work for All*, (Cambridge University Press, 2013) “Harnessing Globalization amid the crisis facing multilateralism” pp. 1-18.
- Sell, Susan. “Trade” in Acharya, Amitav editor *Why Govern? Rethinking Demand and Progress in Global Governance* (Cambridge University Press, 2016) pp. 157-173.

* *Trade Talks* podcast 9, “The Origins of Multilateral Trade ”

8: Entry into the GATT (Feb. 14)

- Forsberg, Aaron. “The Politics of GATT Expansion: Japanese Accession and the Domestic Political Context in Japan and the United States, 1948-1955,” *Business and Economic History*: 27 no. 1 (Fall 1998) pp. 185-195.
- Kim, Chulsu, “Korea” in *The World Trade Organization: Legal, Economic and Political Analysis* (New York, Springer Press, 2005) pp. 185-191.

President's Day NO CLASS (Feb. 19)

9: In-class Quiz (Feb. 21)

10: The Developmental State in Japan: 1950-1989 (Feb. 26)

- Johnson, Chalmers. *MITI and the Japanese Miracle*, 1982. pp. 305-324.
- Gordon, Andrew. *Fabricating Consumers: The Sewing Machine in Modern Japan* (University of California Press, 2012). Chapter 6 "Mechanical Phoenix" pp. 151-185.

11: The Developmental State in Korea: 1960-2000 (Feb. 28)

- Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013) Chapter three, "Government Intervention versus Laissez-Faire in Northeast Asia," pp. 66-99.
- Hundt, David. *Korea's Developmental Alliance* (Routledge, 2009) pp. 1-12, 74-92.

* *Trade Talks* podcast 189, "South Korea's Controversial Industrial Policy"

12: Market Socialism in China: 1978-2000 (March 4)

- Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013) Chapter 5 "From Command to Market Economy in China and Vietnam," pp. 122-152.
- Wang, Yuhua. *Tying the Autocrat's Hands: The Rise of the Rule of Law in China* (Cambridge University Press, 2015) "Introduction" pp. 1-15; Chapter 4 "State-Business Relations in China" pp. 86-102.
- Vogel, Ezra. *China and Japan Facing History* (Harvard University Press, 2019) pp. 333-355.

13: China's Entry into the WTO (March 6)

- Blustein, Paul. *Schism: China, America and the Fracturing of the Global Trading System* (Ontario Canada, Centre for International Governance Innovation, 2019), pp 13-90; 111-140; 169-205.
- Wu, Mark (2016) "The 'China, Inc.' Challenge to Global Trade Governance," *Harvard International Law Journal*, 57 (2), pp. 261-324. And see also, Mark Wu (28 February 2019), "Testimony Before the U.S.-China Economic and Security Review Commission Hearing on U.S. Companies in China."

* *Trade Talks* podcast 107, "How China Got into the WTO"

SPRING BREAK (no class March 11 & 13)

TRADE CONFLICT & COOPERATION

When interests conflict in a trading system, states have multiple tools to resolve their differences. The export-led development model of East Asia has given rise to significant pushback from the United States and others. This section compares how different strategies have been tried with mixed results.

14: Threats, Sanctions, and Trade War (March 18)

- Blustein, Paul. Chapter 10 “Might Unmakes Right,” pp. 223-258 in *Schism: China, America, and the Fracturing of the Global Trading System* (Centre for International Governance Innovation, 2019)
- Black, Stewart and Allen Morrison. “The Strategic Challenges of Decoupling,” *Harvard Business Review*, (May-June, 2021): pp. 49-54.
- * *Trade Talks* podcast 181, “US-China trade war fallout”

15: Rule-based Dispute Settlement (March 20)

- Blustein, Paul. Chapter 7 “China in the WTO Dock” pp. 141-167 and Chapter 11 “Make the WTO Great Again,” pp. 259-266 in *Schism: China, America and the Fracturing of the Global Trading System* (Ontario Canada, Centre for International Governance Innovation, 2019).

16: Case Study of US-China Auto Disputes (March 25)

- Wauters, Jasper and Hylke Vandenbussche. “China–Measures Affecting Import of Auto Parts,” *World Trade Review* (2010), 9: 1, 201-238.

17: Opposing Free Trade: Farmers and Civil Society (March 27)

- Davis, Christina. “Japan: Interest Group Politics, Foreign Policy Linkages, and TPP” in Kingsbury et al editors *Megaregulation Contested Global Economic Ordering After TPP* (Oxford University Press, 2019) pp. 573-591.
- Choi, Byung-Il and Jennifer Oh. “Civil Society, Interest Groups, and FTA Politics,” in *Politics of East Asian Free Trade Agreements: Unveiling the Asymmetry between Korea and Japan*. (Routledge 2021) pp. 81-99.

18: Sustainable Development (April 1)

- Brewster, Rachel Claire Brunel and Anna Maria Mayda. “Trade in Environmental Goods: A Review of the WTO Appellate Body’s Ruling in US-Countervailing Measures (China),” *World Trade Review* (2016), 15: 2, 327-349.

19: Negotiating New Rules (April 3)

Guest speaker: Glen Fukushima, Vice Chair, Securities Investor Protection Corporation; Former Deputy Assistant United States Trade Representative for Japan and China

- Lamy, Pascal. *The Geneva Consensus: Making Trade Work for All*, (Cambridge University Press, 2013) “Last but not Least: The Doha Round” pp. 164-189.
- Blustein, Paul. Chapter 9 “Trans-Pacific Delusions,” pp. 207-221 in *Schism: China, America and the Fracturing of the Global Trading System* (Ontario Canada, Centre for International Governance Innovation, 2019).

* *Trade Talks* podcast 34, “So You Want To Be a Trade Negotiator”

MANAGING GLOBALIZATION

As states accept deeper integration they must manage the domestic adjustment. How have states in East Asia responded to economic crises and the range of trade-offs presented by trade for labor, security, and environmental impact? What flexibility exists within the international trading system to address these priorities?

20: MNCs & Regional Production Networks (April 8)

- Lamy, Pascal. *The Geneva Consensus: Making Trade Work for All*, (Cambridge University Press, 2013) “The Changing Face of Trade” pp. 19-26; “Trade and competition” pp. 131-145.
- Yeung, Henry Wai-Chung. *Interconnected Worlds: Global Electronics and Production Networks in East Asia*. (Stanford University Press, 2022) pp. 1-35.

21: Crises and Trade in Hard Times (April 10)

- Perkins, Dwight. *East Asian Development: Foundations and Strategies*. (Harvard University Press, 2013) Chapter six, “The End of High Growth Rates,” pp. 153-176.
- Pempel, T.J. “Two Crises, Two Outcomes” In Pempel, T.J & Tsunekawa, Keiichi. eds. *Two Crises, Different Outcomes: East Asia and Global Finance* (Cornell University Press, 2015) pp. 17-38.

* *Trade Talks* podcast 158, “How America responded to its PPE shortage”

22: Politics of Adjustment and Social Policy (April 15)

- Pempel, T.J. “Developmental Regimes Reconstructed,” pp. 115-141 in *A Region of Regimes: Prosperity and Plunder in the Asia-Pacific*. (Cornell University Press, 2021).
- Estevez-Abe, Margarita. *Welfare and Capitalism in Postwar Japan* (Cambridge University Press, 2008) pp. 1-6; 19-50.

23: Social Interdependence and Culture (April 17)

- Yano, Christine. *Pink Globalization: Hello Kitty’s Trek Across the Pacific*, (Duke University Press 2013) Chapter two “Marketing Global Kitty” pp 84-118; Chapter seven “Japan’s Cute-Cool as Global Wink,” pp. 252-271.
- Rosen, Stanley. “The Chinese Dream in Popular Culture: China as Producer and Consumer of Films at Home and Abroad,” Chapter twelve in *China’s Global Engagement: Cooperation, Competition, and Influence in the 21st Century* (Brookings Institution Press, 2017) pp. 359-388.

24: National Security and Trade (April 22)

Guest Speaker: Meg Rithmire, Associate Professor at Harvard Business School and author of *Precarious Ties: Business and the State in Authoritarian Asia* (Oxford, 2023)

- Pearson, Margaret M., Meg Rithmire, and Kellee S. Tsai, “China’s Party-State Capitalism and International Backlash: From Interdependence to Insecurity,” *International Security* (Fall 2022) 47: 2, pp. 135–176.
- Miller, Chris. *Chip War: The Fight for the World’s Most Critical Technology*. (Scribner, 2022) pp. 295–351.

25: Conclusion: Lessons and New Realities (April 24)

- Shaffer, Gregory and Henry Gao, “A New Chinese Economic Law Order?” pp. 222-268 in Shaffer, Gregory *Emerging Powers and the World Trading System* (Cambridge University Press, 2021).
- Farrell, Henry and Abraham Newman. “Chained to Globalization: Why It’s Too Late to Decouple,” *Foreign Affairs* (January/February 2020) pp. 70-80.