

UNIVERSITY OF BELGRADE
FACULTY OF LAW

JEAN MONNET MODULE



LEGAL IMPLICATIONS OF TRADE LIBERALIZATION UNDER SAAs AND CEFTA

edited by
Dušan V. Popović



Co-funded by the
Erasmus+ Programme
of the European Union

LEGAL IMPLICATIONS OF TRADE LIBERALIZATION UNDER SAAS AND CEFTA

Edited by
Prof. Dr. Dušan V. Popović

Belgrade, 2018.

LEGAL IMPLICATIONS
OF TRADE LIBERALIZATION
UNDER SAAS AND CEFTA

Editor

Prof. Dr. Dušan V. Popović
Full Professor, University of Belgrade, Faculty of Law

Publisher

University of Belgrade, Faculty of Law
Publishing and Information Center

For the Publisher

Prof. Dr. Sima Avramović,
Dean of the University of Belgrade, Faculty of Law

General Editor

Prof. Dr. Dragan M. Mitrović
University of Belgrade, Faculty of Law

Reviewers

Dr. Dr. h.c. Christa Jessel-Holst
Affiliate, Max Planck Institute for Comparative and International Private Law (Germany)

Prof. Dr. Mirko Vasiljević
Full Professor, University of Belgrade, Faculty of Law (Serbia)

Priv.-Doz. Dr. Rainer Kulms, LL.M.
Senior Research Fellow, Max Planck Institute for Comparative and International Private
Law (Germany)

*This edited book is published within the Jean Monnet Module
“Free Trade Agreements and European Integration of SEE Countries”
(project number: 586505-EPP-1-2017-1-RS-EPPJMO-MODULE), co-funded by the
Erasmus+ Program of the European Union.*

© University of Belgrade, Faculty of Law, 2018

All rights reserved. No part of this book may be reproduced in any form by any electronic or mechanical means (including photocopying, recording or information storage and retrieval) without permission in writing from the publisher.

www.ius.bg.ac.rs

CONTENTS

FOREWORD FROM THE EDITOR.....	7
-------------------------------	---

Chapter 1: TRADE IN GOODS AND SERVICES

Prof. Dr. Neda Zdraveva

TOBACCO PRODUCTION AND TRADE IN MACEDONIA – THE LEGAL FRAMEWORK AND POLICY IN LIGHT OF ACCESS TO THE EU AND THE GLOBAL MARKETS.....	11
---	----

Prof. Dr. Zlatan Meškić

TRADITIONAL TRADE WITH THE NEW EU MEMBER STATE AS A GROUND FOR REVISIONS OF THE SAA.....	29
---	----

Doc. Dr. Marko Jovanović

TECHNICAL BARRIERS TO TRADE UNDER FREE TRADE AGREEMENTS THAT BIND SOUTH EAST EUROPEAN COUNTRIES	41
---	----

Chapter 2: CORPORATE AND FINANCIAL ASPECTS OF TRADE LIBERALIZATION

Prof. Dr. Tatjana Jevremović Petrović

RIGHT OF ESTABLISHMENT: FOREIGN BRANCHES IN THE REPUBLIC OF SERBIA.....	61
--	----

Prof. Dr. Tatjana Jovanić

GRANDFATHERING (STANDSTILL) CLAUSE AND ITS IMPLICATIONS IN NEGOTIATIONS ON CAPITAL MOVEMENTS LIBERALIZATION.....	81
--	----

Prof. Dr. Mirjana Radović

LEGITIMATE RESTRICTIONS ON THE FREE MOVEMENT OF CAPITAL AND PAYMENTS BETWEEN THE EU AND SEE COUNTRIES.....	99
---	----

Doc. Dr. Jelena Lepetić

CJEU JUDGMENTS ON GOLDEN SHARES: IMPLICATIONS FOR SERBIA AS AN EU CANDIDATE COUNTRY	121
--	-----

Chapter 3:

IP AND COMPETITION LAW ASPECTS OF TRADE LIBERALIZATION

Prof. Dr. Slobodan M. Marković

THE EXHAUSTION OF INTELLECTUAL PROPERTY RIGHTS IN THE CONTEXT OF INTERNATIONAL FREE TRADE AGREEMENTS	139
---	-----

Prof. Dr. Yane Svetiev

DISCIPLINES FROM TRADE AND COMPETITION LAW ON THE IMPLEMENTATION OF INDUSTRIAL POLICY IN SOUTH-EAST EUROPEAN COUNTRIES	157
--	-----

Prof. Dr. Dušan V. Popović

COMPETITION RULES IN FREE TRADE AGREEMENTS THAT BIND THE SEE COUNTRIES: A ROSE WITHOUT THORNS?	175
---	-----

Prof. Dr. Joanna Banasiuk

COPYRIGHT EXHAUSTION FROM THE POLISH PERSPECTIVE BEFORE AND AFTER THE ACCESSION TO THE EU	191
--	-----

Ass. iur. Mareike Fröhlich

THE POTENTIAL INFLUENCE OF FREE TRADE AGREEMENTS AS A BOOST FOR A MULTILATERAL COMPETITION LAW – THE SPECIAL CASE OF SAAS AND CEFTA	203
---	-----

Chapter 4:

PERSPECTIVES

Prof. Dr. Predrag Cvetković

INTERPRETATION OF WTO LAW: EVOLUTIONARY APPROACH	221
--	-----

Prof. Dr. Agnieszka Piekutowska

ECONOMICS OF FREE TRADE AGREEMENTS: WINNERS AND LOSERS . . .	235
--	-----

Prof. Dr. Magdalena Rutkowska-Sowa

ADVISORY OPINION OF THE EFTA COURT: LESSONS TO BE LEARNT . . .	249
--	-----

Andrijana Mišović, LL.M

INTEGRATION OF THE SEE COUNTRIES – BETWEEN NEW REGIONALISM AND THE EU'S ENLARGEMENT POLICY	261
---	-----

FOREWORD FROM THE EDITOR

The edited book “Legal implications of trade liberalization under SAAs and CEFTA” is the result of the cooperation of researchers from Serbia, Italy, Bosnia-Herzegovina, Germany, Macedonia and Poland, who took part at the international scientific conference organized on February 26, 2018 at the Faculty of Law, University of Belgrade. Both the conference and the edited book represent activities undertaken within the Jean Monnet Module “Free trade agreements and European integration of SEE countries”, awarded to the University of Belgrade, Faculty of Law in 2017. This project is co-funded by the Erasmus+ program of the European Union (project no. 586505-EPP-1-2017-1-RS-EPPJMO-MODULE). All papers are divided into four chapters: (1) Trade in goods and services; (2) Corporate and financial aspects of trade liberalization; (3) IP and competition law aspects of trade liberalization; and (4) Perspectives.

*Prof. Dr. Dušan V. Popović
Jean Monnet Module Leader*