



FACULDADE DE DIREITO  
Universidade de Lisboa

## Ficha de unidade curricular

Curso de Doutoramento

Ciclo de Estudos 3.º Ciclo

### 1. Especialidade

Direito Financeiro e Económico Global

### 2. Docente responsável

Pedro Miguel Infante Mota

### 3. Nome da Unidade Curricular

Direito Internacional Económico e do Investimento

### 4. Tema/matéria a lecionar

Os Acordos Comerciais Preferenciais

Todos os membros da Organização Mundial do Comércio (OMC) são partes pelo menos de um acordo comercial preferencial, existem acordos comerciais preferenciais em que as partes são elas próprias outros acordos comerciais preferenciais (por exemplo, o acordo concluído entre a Associação Europeia de Livre Comércio (EFTA) e a União Aduaneira da África Austral (SACU) e muitos membros da OMC participam em vários acordos comerciais preferenciais ao mesmo tempo. No dia 1 de Janeiro de 2019, por exemplo, a União Europeia participava em 40 acordos comerciais preferenciais notificados à OMC; o Chile em 30; Singapura em 24; a Turquia em 23; o Japão em 16; e a China em 15. Atendendo à sua importância nos dias de hoje, faz todo o sentido estudar e analisar esta “Preferential Trade Agreement pandemic” <sup>(1)</sup> e verificar se, efetivamente, os acordos comerciais preferenciais representam a melhor solução do ponto de vista do bem-estar mundial e se colocam em causa o papel dos acordos da OMC enquanto instrumento de liberalização do comércio internacional ou se o complementam.

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<sup>(1)</sup> Jagdish BHAGWATI, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade*, Oxford University Press, 2008, p. 98.



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## 5. Resumo

### **CAPÍTULO I**

#### **ASPECTOS INTRODUTÓRIOS**

1. INTRODUÇÃO HISTÓRICA E EVOLUÇÃO
2. QUESTÕES TERMINOLÓGICAS
3. FORMAS DE INTEGRAÇÃO ECONÓMICA

### **CAPÍTULO II**

#### **A BASE JURÍDICA**

4. O ARTIGO XXIV DO GATT
  - 4.1. Introdução
  - 4.2. A Condição relativa ao Comércio Interno
  - 4.3. A Condição relativa ao Comércio Externo
  - 4.4. As Condições Formais
  - 4.5. O N.º 10 do Artigo XXIV do GATT
  - 4.6. O Mecanismo de Transparência

#### 5. A CLÁUSULA DE HABILITAÇÃO

#### 6. O ARTIGO V DO GATS

#### 7. OUTROS ACORDOS DA OMC

#### 8. A RELEVÂNCIA DAS CONDIÇÕES APLICÁVEIS

### **CAPÍTULO III**

#### **A RESOLUÇÃO DE LITÍGIOS**

#### 9. A JURISPRUDÊNCIA IR(RELEVANTE) NO GATT 1947

#### 10. A JURISPRUDÊNCIA RELEVANTE NA OMC



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10.1. O Caso *Turkey – Textile and Clothing Products*

10.2. O Princípio do Equilíbrio Institucional:

10.2.1. O GATT 1947

10.2.2. A Organização Mundial do Comércio

11. A INTERACÇÃO DOS SISTEMAS DE RESOLUÇÃO DE LITÍGIOS

#### **CAPÍTULO IV**

#### **OS NOVOS ACORDOS MEGA-REGIONAIS**

12. OS ACORDOS MEGA-REGIONAIS

12.1. Aspectos Introdutórios

12.2. Economia e Geopolítica

12.3. Os Obstáculos ao Comércio

12.3.1. Obstáculos Pautais

12.3.2. Obstáculos Não Pautais

12.4. Algumas Considerações

#### **CAPÍTULO V**

#### **OS EFEITOS DOS ACORDOS COMERCIAIS PREFERENCIAIS**

13. OS EFEITOS DOS ACORDOS COMERCIAIS PREFERENCIAIS

13.1. O Critério de Jacob Viner

13.2. *Building Blocks* ou *Stumbling Blocks*?

13.3. Os Aspectos Políticos

13.4. A Solução do Primeiro Ótimo

#### **CONCLUSÕES GERAIS**



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## BIBLIOGRAFIA RECOMENDADA

ALLEE, Todd, ELSIG, Manfred e LUGG, Andrew

- *The Ties between the World Trade Organization and Preferential Trade Agreements: A Textual Analysis*, in *Journal of International Economic Law*, 2017, pp. 321-343.

BALDWIN, Richard

- *Big-Think Regionalism: a critical survey*, in *Regional Rules in the Global Trading System*, Antoni Estevadeordal, Kati Suominen e Robert Teh ed., Cambridge University Press, 2009, pp. 17-95.

- *21st Century Regionalism: Filling the gap between 21st century trade and 20th century trade rules*, Centre for Economic Policy Research Policy Insight N.º 56, 2011.

- *Preferential Trading Arrangements*, in *The Oxford Handbook on The World Trade Organization*, Amrita Narlikar, Martin Daunton e Robert Stern ed., Oxford University Press, 2012, pp. 632-654.

BALDWIN, Richard e CARPENTER, Theresa

- *Regionalism: moving from fragmentation towards coherence*, in *The Prospects of International Trade Regulation: From Fragmentation to Coherence*, Thomas Cottier e Panagiotis Delimatsis (ed.), Cambridge University Press, 2011, pp. 136-165.

BALDWIN, Richard e FREUND, Caroline

- *Preferential Trade Agreements and Multilateral Liberalization*, in *Preferential Trade Agreement Policies for Development: A Handbook*, Jean-Pierre Chauffour e Jean-Christophe Maur ed., The World Bank, Washington, D.C., 2011, pp. 121-141.

BALDWIN, Richard e VENABLES, Anthony

- *Regional Economic Integration*, in *Handbook of International Economics*, vol. III, Gene Grossman e Kene Rogoff ed., Elsevier, 1995, pp. 1597-1644.

BANCO MUNDIAL

- *Trade Blocs*, Oxford University Press, 2000.

- *Global Economic Prospects 2005: Trade, Regionalism, and Development*, ed. World Bank, 2004.



FACULDADE DE DIREITO  
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BARTELS, Lorand

- *Interim agreements' under Article XXIV GATT*, in *World Trade Review*, 2009, pp. 339-350.
- Social issues: Labour, environment and human rights, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 364-384.

BHAGWATI, Jagdish

- Regionalism and multilateralism: An Overview, in *New Dimensions in Regional Integration*, Jaime de Melo e Arvind Panagariya (ed.), Cambridge University Press, pp. 22–51.
- *Termites in the Trading System: How Preferential Agreements Undermine Free Trade*, Oxford University Press, 2008.

CATTANEO, Olivier

The political economy of PTAs, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 28-52.

CHASE, Claude, YANOVICH, ALAN, CRAWFORD, Jo-Ann e UGAZ, Pamela

- Mapping of dispute settlement mechanisms in regional trade agreements – innovative or variations on a theme?, in *Regional Trade Agreements and the Multilateral Trading System*, Rohini Acharya (ed.), Cambridge University Press, 2016, pp. 608-702.

CHASE, Kerry

- *Multilateralism compromised: the mysterious origins of GATT Article XXIV*, in *World Trade Review*, 2006, pp. 1-30.

CHOI, Won-Mog

- *Regional Economic Integration in East Asia: Prospect and Jurisprudence*, in *Journal of International Economic Law*, 2003, pp. 49-77.

CHO, Sungjoon

- *Breaking the Barrier Between Regionalism and Multilateralism: A New Perspective on Trade Regionalism*, in *Harvard International Law Journal*, 2001, pp. 419-465.

CRAWFORD, Jo-Ann



FACULDADE DE DIREITO  
Universidade de Lisboa

- Market access provisions on trade in goods in regional trade agreements, in *Regional Trade Agreements and the Multilateral Trading System*, Rohini Acharya (ed.), Cambridge University Press, 2016, pp. 21-57.

CUNHA, Luís Pedro

- *O Sistema Comercial Multilateral e os Espaços de Integração Regional*, Coimbra Editora, 2008.

DAVEY, William

- A Model Article XXIV: Are There Realistic Possibilities to Improve It?, in *Preferential Trade Agreements: A Law and Economic Analysis*, Kyle Bagwell e Petros Mavroidis ed., Cambridge University Press, 2011, pp. 233-261.

DEVUYST, Youri e SERDAREVIC, Asja

- *The World Trade Organization and Regional Trade Agreements: Bridging the Constitutional Credibility Gap*, in *Duke Journal of Comparative and International Law*, 2007, pp. 1-75.

FRANKEL, Jeffrey

- *Regional Trading Blocs in the World Economic System*, Institute for International Economics, Washington, D.C., 1997.

GANTZ, David

- Regional Trade Agreements, in *The Oxford Handbook of International Trade Law*, Daniel Bethlehem, Donald McRae, Rodney Neufeld e Isabelle Van Damme Ed., Oxford University Press, 2009, pp. 237-265.

HANDLER, Michael e MERCURIO, Bryan

- Intellectual property, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 324-363.

HEYDON, Kenneth e WOOLCOCK, Stephen

- *The rise of bilateralism: Comparing American, European and Asian approaches to preferential trade agreements*, United Nations University Press, Tóquio, Nova Iorque e Paris, 2009.

HORN, Henrik, MAVROIDIS, Petros e SAPIR, André

- EU and U.S. Preferential Trade Agreements: Deepening or Widening of WTO Commitments, in *Preferential Trade Agreements: A Law and Economic Analysis*, Kyle Bagwell e Petros Mavroidis ed., Cambridge University Press, 2011, pp. 150-172.

HOSNY, Amr Sadek

- *Theories of Economic Integration: A Survey of the Economic and Political Literature*, in *International Journal of Economy, Management and Social Sciences*, May 2013, pp. 133-155.



FACULDADE DE DIREITO  
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HUDEC, Robert e SOUTHWICK, James

- Regionalism and WTO Rules: Problems in the Fine Art of Discriminating Fairly, in *Trade Rules in the Making: Challenges in Regional and Multilateral Negotiations*, Miguel Rodríguez Mendoza, Patrick Low e Barbara Kotschwar ed., Organization of American States-Brookings Institution Press, Washington, D.C., 1999, pp. 47-80.

JOSLING, Timothy

- Agriculture, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 171-212.

KRISHNA, Pravin

- Preferential Trade Agreements, in *Handbook of Trade Policy for Development*, Arvid Lukauskas, Robert Stern e Gianni Zanini (ed.), Oxford University Press, 2013, pp. 67-86.

- The economics of PTAs, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 11-27.

KRUEGER, Anne

- *Free trade agreements versus customs unions*, in *Journal of Development Economics*, Vol. 54 (1997), pp. 169-187.

LIMÃO, Nuno

- Preferential Trade Agreements (Chapter 6), in *Handbook of Commercial Policy*, Volume 1B, Kyle Bagwell e Robert Staiger (ed.), Elsevier, 2016, pp. 279-367.

LUNDESTAD, Geir

- *“Empire” by Integration*, Oxford University Press, 1998.

MARCEAU, Gabrielle

- *The primacy of the WTO dispute settlement system*, in *Questions of International Law*, 2015, pp. 3-13.

MARCEAU, Gabrielle e KYUNG, Kwak

- Overlaps and Conflicts of Jurisdiction between the World Trade Organization and Regional Trade Agreements, in *Regional Trade Agreements and the WTO Legal System*, Lorand Bartels e Federico Ortino ed., Oxford University Press, 2006, pp. 465-524.

MARCEAU, Gabrielle e REIMAN, Cornelis

- *When and How Is a Regional Trade Agreement Compatible with the WTO?*, in *Legal Issues of Economic Integration*, 2001, pp. 297-336.

MATHIS, James

- *Regional Trade Agreements in the GATT/WTO: Article XXIV and the Internal Trade Requirement*, T.M.C. Asser Press, Haia, 2002.



FACULDADE DE DIREITO  
Universidade de Lisboa

- Regulatory regionalism in the WTO: Are 'deep integration' processes compatible with the multilateral trading system?, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 142-168.

MEADE, James

- *The Theory of Customs Unions*, North-Holland Publishing Company, Amesterdão, 1955.

MITCHELL, Andrew e LOCKHART, Nicolas

- Legal requirements for PTAs under the WTO, in *Bilateral and Regional Trade Agreements: Commentary and Analysis*, 2.<sup>a</sup> ed., Simon Lester, Bryan Mercurio e Lorand Bartels (ed.), Cambridge University Press, 2015, pp. 81-114.

MITCHELL, Andrew e SHEARGOLD, Elizabeth

- Regulatory Coherence in Future Free Trade Agreements and the Idea of the Embedded Liberalism Compromise, in *The Future of International Economic Integration: The Embedded Liberalism Compromise Revisited*, Gillian Moon e Lisa Toohey (ed.), Cambridge University Press, 2018, pp. 137-158.

ORGANIZAÇÃO MUNDIAL DO COMÉRCIO (OMC)

- *Le régionalisme et le système commercial mondial*, ed. OMC, Genebra, 1995.

- *Coverage, Liberalization Process and Transitional Provisions in Regional Trade Agreements - Background survey by the Secretariat* (WT/REG/W/46), 5-4-2002.

- *Compendium of Issues Related to Regional Trade Agreements – Background Note By the Secretariat* (TN/RL/W/8/Rev.1), 1-8-2002.

- *Legal Note on Regional Trade Arrangements under the Enabling Clause – Note by the Secretariat* (WT/COMTD/W/114), 13-5-2003.

- *World Trade Report 2011 – The WTO and preferential trade agreements: From co-existence to coherence*, ed. OMC, Genebra, 2011.

ORGANIZAÇÃO DE COOPERAÇÃO E DESENVOLVIMENTO ECONÓMICO (OCDE)

- *Intégration Régionale et Système Commercial Multilatéral: synergie et divergence*, ed. OCDE, 1995.

OVÁDEK, Michal e WILLEMYNS, Ines





FACULDADE DE DIREITO  
Universidade de Lisboa

- *International Law of Customs Unions: Conceptual Variety, Legal Ambiguity and Diverse Practice*, in *The European Journal of International Law* Vol. 30 n.º 2, pp. 361-389.

PANAGARIYA, Arvind

- *Preferential Trade Liberalization: The Traditional Theory and New Developments*, in *Journal of Economic Literature*, Vol. XXXVIII (June 2000), pp. 287-331.

PAUWELYN, Joost

- Legal avenues to ‘multilateralizing regionalism’: beyond Article XXIV, in *Multilateralizing Regionalism: Challenges for the Global Trading System*, Richard Baldwin e Patrick Low Ed., Cambridge University Press, 2009, pp. 368-399.

POMFRET, Richard

- *The Economics of Regional Trading Arrangements*, Clarendon Press, Oxford, 1997.

- *Is Regionalism an Increasing Feature of the World Economy?*, in *World Economy*, 2007, pp. 923-947.

PORGES, Amelia

- Dispute Settlement, in *Preferential Trade Agreement Policies for Development: A Handbook*, Jean-Pierre Chauffour e Jean-Christophe Maur ed., The World Bank, Washington, D.C., 2011, pp. 467-501.

PORTO, Manuel Lopes

- *Teoria da Integração e Políticas da União Europeia: Face aos Desafios da Globalização*, 5.ª ed., Almedina, Coimbra, 2017.

ROBSON, Peter

- *The Economics of International Integration*, 4.ª ed., Routledge, Londres e Nova Iorque, 1998.

SAPIR, André

- *European Integration at the Crossroads: A Review Essay on the 50<sup>th</sup> Anniversary of Bela Balassa’s Theory of Economic Integration*, in *Journal of Economic Literature*, 2011, pp. 1200-1229.

SERRA, Jaime *et al.*

- *Reflections on Regionalism. Report of the study group on international trade*, Carnegie endowment for international peace, Washington, D.C., 1997.

TEVINI, Anna

- Article XXIV: Territorial Application—Frontier Traffic—Customs Unions and Free-trade Areas, in *WTO - Trade in Goods*, Max Planck Commentaries on World Trade Law, Volume 5, Rüdiger Wolfrum, Peter-Tobias Stoll e Holger P. Hestermeyer (ed.), Martinus Nijhoff Publishers, 2011, pp. 616-661.

TRACHTMAN, Joel

- International trade: regionalism, in *Research Handbook in International Economic Law*, Andrew Guzman e Alan O. Sykes ed., Edward Elgar, Cheltenham, UK-Northampton, USA, 2007, pp. 151- 176.



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VALDÉS, Raymundo e MCCANN, Maegan

- Intellectual property provisions in regional trade agreements: revision and update, in *Regional Trade Agreements and the Multilateral Trading System*, Rohini Acharya (ed.), Cambridge University Press, 2016, pp. 497-607.

VINER, Jacob

- *The Customs Union Issue*, Edited and with an introduction by Paul Oslington, Oxford University Press, 2014.

WINTERS, Alan e SCHIFF, Maurice

- *Regional Integration and Development*, World Bank-Oxford University Press, 2003.

## WEBGRAFIA

- <http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx> (OMC)

- [https://wits.worldbank.org/gptad/trade\\_database.html](https://wits.worldbank.org/gptad/trade_database.html) (Global Preferential Trade Agreements Database do Banco Mundial)

- <https://data.worldbank.org/data-catalog/deep-trade-agreements> (Banco Mundial)

- <https://aric.adb.org/fta> (Banco Asiático de Desenvolvimento)

- <https://rtaexchange.org> (Banco Interamericano de Desenvolvimento)