

Legal Considerations

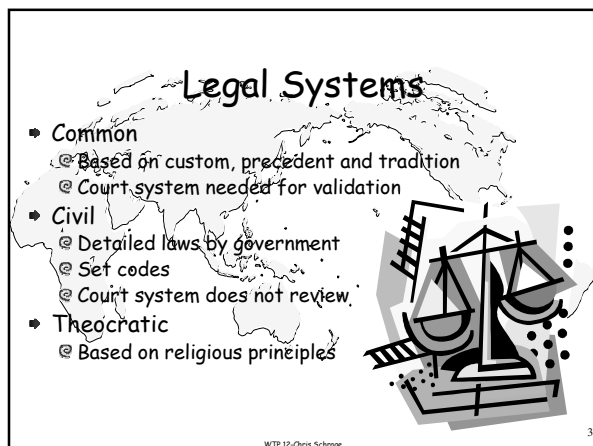
World Trade Practices
Chapter 12



Fundamental Issues

- ◆ Key legal issues
 - Ⓢ Legal systems
 - Ⓢ U.S. Legal considerations
 - Ⓢ Foreign law
 - Ⓢ Contract law

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Legal Systems

- ◆ Common
 - Ⓢ Based on custom, precedent and tradition
 - Ⓢ Court system needed for validation
- ◆ Civil
 - Ⓢ Detailed laws by government
 - Ⓢ Set codes
 - Ⓢ Court system does not review
- ◆ Theocratic
 - Ⓢ Based on religious principles

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U.S. Legal Considerations

- ♦ Foreign Corrupt Practices Act
- ♦ Grease Payments
- ♦ U.S. Embargoes
 - @ Sanctions
 - @ Against US
- ♦ Export Controls
- ♦ Antitrust Laws
 - @ The Sherman Antitrust Act
 - @ Federal Trade Commission Act
- ♦ Product liability
 - @ No contingency payment programs
 - @ Loser pays fees of both parties




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US Economic Sanctions

The Case of Cuba

Information as presented by Hildy Teegen



Unilateral trade sanctions on Cuba

- ♦ 40 years- since 1964
- ♦ Soviet Support Era- traded sugar for oil
- ♦ 1990 Soviet support ended
 - @ 90 to 94 "Special Period"
 - @ 1996 to present- Recovery?
 - Some opportune liberalization
- ♦ Largest influx of capital is from relatives living in Miami sending money back to Cuban families

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Trade History

- 50% of all Soviet aid supported Cuba
 - Trade on bland terms
 - Sugar for oil
 - Strict quotas
- Second experience with dependence on one trading partner
 - When Soviet Union fell apart- Castro realized the need to diversify trade

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History

- 1959 overthrow of Batista
- 1986 quit making payments on debt
 - So unable to get credit
- 1992 Cuban Democracy Act (US)
 - Put on many strict restrictions
- 1996 Helms-Burton act
 - Many aspects in violation of WTO and International Law
 - Right to sue companies using assets confiscated by Castro's regime

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Impacts for Cuba

- Negatives
 - Negative impact on investment
 - Higher costs of trade & consumption
 - Limits to "best use" of resources
- Positives
 - Scapegoat for failed domestic policy
 - Attraction of remittances from family
 - \$1 billion per year

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Impacts for US

- ◆ Negative
 - ◉ Market Lock-out
 - ◉ Subsidiary Fire Sales
 - ◉ Lost Global Leadership??
- ◆ Positive
 - ◉ Avoidance of Bad Loans

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Impacts for Third Party Countries

- ◆ Serious implications for Caribbean
 - ◉ Basin nations due to similarities to Cuba loose transactions
- ◆ Trade Divisions
 - ◉ Canada and others who have built trade there since the 1960's
- ◆ Investor Nations
 - ◉ Get first mover advantage in tourism and agriculture
- ◆ Exile Community Linkages
 - ◉ Venezuela
 - ◉ Spain

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Foreign Legal Considerations

- ◆ Intellectual Property Rights
 - ◉ Trade alliances make easier registration
- ◆ Patents
 - ◉ The invention itself
- ◆ Trademarks
 - ◉ The word, phrase or symbols that specifically identify a product or service
- ◆ Copyrights
 - ◉ Refer to artistic or literary work
 - ◉ Jingles
 - ◉ Advertising

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International Contracts

- **Contract and Negotiation**
 - Refer back to negotiation discussed in chapter 8
- **Guidelines**
 - Definitions
 - Exclusive vs. nonexclusive
 - Term of agreement
 - Technical information
 - Duties of distributor
 - Duties of manufacturer/service provider
 - Termination
 - Dispute resolution provision
 - Governing law



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