

SUBJECT DETAILS

Data on the subject	
Name	EU and International Trade Law
Degree	Postgraduate in Master in International and European Business Law
Year	2016-17
Nature	Fall semester
ECTS Credits	3 ECTS
Department	Law
Area	Law
Teaching staff	Shared: Dr. Dorothy Estrada Tanck and Dr. Juan Jorge Piernas López (see details below)

Data on the teaching staff	
Teaching staff	Dr. Dorothy Estrada Tanck
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Tutoring Schedule	Upon request from students

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Tutoring Schedule	Upon request from students

SPECIFIC DATA ON THE SUBJECT

Pre-requisites
None

Contribution of the degree to the professional profile

This subject will provide students with a general knowledge of the normative framework and main conceptual and practical challenges of International and EU Trade Law. Thus, it will contribute to preparing the professional development of skills useful to work in business enterprises, law firms, public institutions, chambers of commerce and any national or international organization dedicated to foreign commercial matters. It will also grant them tools to evaluate critically the current state of world and EU trade law and policy and its impact on broader issues of global development.

COMPETENCES TO BE IMPROVED

What skills you'll gain from this class:

I

1. The student will develop the following general skills:

Instrumental skills that will allow the student to deepen in the knowledge of International and EU Trade Law, and its application to practical cases. To review this branch of law critically against the more general background of Public International Law and EU Law.

She or he will also foster interpersonal abilities, such as exercising participation skills and respect for the opinions of others.

Finally, the student will enhance systemic skills in the fields of normative and critical analysis, as well as the ability to apply theoretical knowledge to practical problems.

2. The student will also gain the following specific competences of the subject:

- a) In the conceptual aspect (knowing)

- To review the international treaties that regulate global trade: the WTO *par excellence*
- To know the legal powers of the WTO and its part in the formation of a global normative and regulatory framework in the field of trade.
- To review the international treaties that regulate bilateral and multilateral trade.
- To understand their interaction with the WTO legal framework.
- To examine the legal challenges regarding the role of International Trade Law in global issues such as human rights, gender equality, sustainable development and environmental protection.
- To understand the modification in political priorities at the national and international level as a determining factor in international economic law and the policies of relevant institutions.
- To understand the original objectives and subsequent development of the European integration process in the area of trade.
- To know the functioning of the European Union institutional architecture as related to trade.
- To understand the characteristics, role and significance of the participation of the European

Union in the WTO and examine the legal challenges regarding EU's participation in the WTO.

- To review the international treaties that regulate bilateral and multilateral trade of the EU with other commercial partners.
- To understand the interaction of such treaties with the WTO legal framework.
- To understand the scope and limits of EU's interaction with its Member States in International Economic Institutions.
- To know the functioning of the WTO Dispute Resolution System and review it critically.

b) In the procedural aspect (doing):

- To exemplify the functioning of the WTO through the study of practical cases.
- To participate in the resolution of a hypothetical case (based on existing precedents) in which each team will represent a different part in the dispute.
- Solve practical cases of policy and law making.
- Debate in class through small working groups.
- To illustrate the functioning of bilateral, regional and multilateral trade treaties through the analysis of practical cases.
- To demonstrate the impact of trade law on broader global concerns through case studies.
- To exemplify the interactions between the EU and the WTO through practical cases.
- To discuss the main issues regarding the EU's interaction with the global trading system.

c) In the professional aspect (knowing how):

- To critically analyze the legal challenges involved in the subject.
- To argue in favor of a certain position based on the abilities acquired through discussion in class and exercises dealing with case studies.
- To analyze through case studies the actual functioning of the institutions of more relevance for trade operators at the WTO and the EU levels, and their relationship to the wider global economic and social context in which they operate.

THEMATIC AREA AND CONTENT

AREA 1: International Trade Law

Theme 1: International treaties that regulate global trade: the World Trade Organization (WTO)

1.1 Introduction: economic globalisation and trade

1.2 History of the World Trade Organization

1.2.1 Havana Agreement, GATT, UNCTAD

1.3 Normative and institutional framework of the WTO: powers, functions and composition

Theme 2: International treaties that regulate bilateral, regional and multilateral trade

- 2.1 Normative framework of bilateral, regional and multilateral trade treaties
 - 2.1.1 The case of Preferential Trade Agreements (PTAs)
 - 2.1.2 Examples of regional treaties: NAFTA, MERCOSUR (CARICOM, ASEAN, African agreements)
 - 2.1.3 Case studies
- 2.2 Interaction of the actors of such treaties with the WTO

AREA 2: International Trade Law, Public International Law and global public goods

Theme 1: Normative framework

- 1.1 Public International Law and International Trade Law (ITL)
- 1.2 ITL and International Economic Law
- 1.3 ITL, International Human Rights Law and International Environmental Law: the ‘international law of cooperation’
 - 1.3.1 Human rights law and trade law
 - 1.3.2 International legal regime for transnational corporations in the sphere of human rights

Theme 2: International Trade and Development

- 2.1 Sustainable Development, Human Development and Environmental Protection
 - 2.1.1 Case study
- 2.2 Trade for development: which development and for whom?
- 2.3 Developed and developing countries: the Doha agenda and beyond

Theme 3: Political and economic actors and the global order

- 3.1 The UN, international actors, and the global trade context
- 3.2 Recent trends of analysis: World Poverty, Global Justice and Gender Equality
 - 3.2.1 Gender equality and world development: a matter of global governance?

AREA 3: EU Trade Law

Theme 1: Introduction / The EU in the international trade system

- 1.1 Introduction
- 1.2 EU as an economic actor in the world trade system today
- 1.3 EU competences in external action
- 1.4 EU international representation

Theme 2: EU Trade Policy – Unilateral instruments

- 2.1 Introduction: Principles and General scheme
- 2.2 Instruments
 - 2.2.1 Common Customs Tariff
 - 2.2.2 Generalized tariff preferences
 - 2.2.3 General import regulations
 - 2.2.4 Anti-dumping

- 2.2.5 Anti-subsidy
- 2.2.6 The trade barriers instrument
- 2.2.7 Export policy
- 2.3 Main actors of Common Commercial Policy

Theme 3: EU Trade Policy – Bilateral and Multilateral instruments

- 3.1 Introduction
- 3.2 Bilateral Agreements
- 3.3 Multilateral Agreements
- 3.4 The EU in the WTO
- 3.5 The WTO in the EU

AREA 4: The WTO Dispute Resolution System

Theme 1: Introduction

- 1.1 Origins and evolution of the system
- 1.2 Principles of current system
- 1.3 Institutions involved

Theme 2: Proceedings

- 2.1 Consultations
- 2.2 Panel proceedings
- 2.3 Appellate review proceedings
- 2.4 Enforcement

Theme 3: Case studies

AREA 5: Main International Trade rules

Theme 1: Rules on market access

- 1.1 Tariff barriers to trade in goods
- 1.2 Non-Tariff barriers to trade in goods
- 1.3 Barriers to trade in services
- 1.4 Case studies

Theme 2: Rules on unfair trade

- 2.1 Dumping and anti-dumping measures
- 2.2 Subsidies and countervailing measures
- 2.3 Case studies

AREA 6: Exceptions to the Main International Trade rules

Theme 1: Trade liberalisation versus other goods, societal values and norms

- 2.1 General exceptions under the GATT
- 2.2 General exceptions under the GATS
- 2.3 Regional integration exceptions
- 2.4 Case studies

BIBLIOGRAPHY AND RESOURCES

Basic Bibliography

Text books

Baldwin, Richard and Patrick Low (eds.), *Multilateralizing Regionalism: Challenges for the Global Trading System*, World Trade Organization, Cambridge University Press, New York, 2008.

Eeckhout, Piet, *External Relations of the European Union: Legal and Constitutional Foundations*, Oxford University Press, 2011.

Eibner, Wolfgang, *International economic integration: selected International Organizations and the European Union*, München Oldenbourg, 2008.

Folsom, Ralph H., *Principles of International Trade Law: including the World Trade Organization, NAFTA and the European Union*, Concise Hornbook Series, West Academic Publishing, U.S., 2014.

Govaere, Inge, Reinhard Quick and Marco Bronckers, *Trade and Competition Law in the EU and Beyond*, Edward Elgar, UK, 2011.

Hoekman, Bernard M. and Petros C. Mavroidis, *The World Trade Organization: Law, economics, and politics*, The Global Institution Series, Routledge, London and New York, 2007.

Lowenfeld, Andreas F., *International economic law*, Oxford University Press, Oxford/New York, 2nd ed., 2008.

Odell, John (ed.), *Negotiating Trade: Developing Countries in the WTO and NAFTA*, Cambridge University Press, Cambridge, 2006.

Van den Bossche, Peter, Zdouc Werner, *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, 3rd ed., Cambridge University Press, 2013.

Willem Van Genugte, Willem, *The World Bank Group, the IMF and Human Rights: A Contextualised Way Forward*, Intersentia, The Netherlands, April 2015.

Chapters of books

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Eeckhout, Piet, 'The EU and its Member States in the WTO - Issues of Responsibility', in *Regional trade agreements and the WTO legal system*, Lorand Bartels & Federico Ortino (eds.), 2006.

Hillion, Christophe, 'Mixity and coherence in EU External Relations: The significance of the "duty of cooperation', in *Mixed Agreements Revisited*, Cristophe Hillion & Panos Koutrakos (eds.), 2010.

Hoekman, Bernard and L. Alan Winters, 'Multilateralizing preferential trade agreements: a developing country perspective' (Chapter 13), in Baldwin, Richard and Patrick Low (eds.), *Multilateralizing Regionalism: Challenges for the Global Trading System*, World Trade Organization, Cambridge University Press, New York, 2008, pp. 636-680.

Tamas, Kristof and Joakim Palme (eds.), *Globalizing Migration Regimes: New Challenges to Transnational Cooperation*, Research in Migration and Ethnic Relations Series, Ashgate, UK, 2006, specifically Chapters 15 and 17:

Oucho, John O., 'Cooperation and barriers to people and goods: examples from Africa', pp. 218-232.

Koslowski, Rey, 'Towards an international regime for mobility and security?', pp. 274-288.

Articles

Billiet, Stijn, 'The EC and the WTO Dispute Settlement: The Initiation of Trade Disputes by the EC', in 10 *European Foreign Affairs Review*, 2005.

Dimopoulos, Angelos, 'The validity and applicability of international investment agreements between EU Member States under EU and international law', in 48 *Common Market Law Review*, 2011.

Howse, Robert and Donald Regan, 'The Product/Process Distinction - An Illusory Basis for Disciplining 'Unilateralism'', in *European Journal of International Law*, 2000, available at <http://ejil.oxfordjournals.org/content/11/2/249.full.pdf>

Jackson, John H., 'Comments on Shrimp Turtle and the Product Process Distinction', in *European Journal of International Law*, 2000, available at <http://www.ejil.org/pdfs/11/2/526.pdf>

Klabbers, Jan, 'Safeguarding the Organizational Acquis: The EU's External Practice', in *International Organizations Law Review*, 2007.

Pauwelyn, Joost, 'Bridging Fragmentation and Unity: International Law as a Universe of Inter-Connected Islands', in *Michigan Journal of International Law*, Vol. 25, 2004, pp. 903-916.

Steinberger, Eva, 'The WTO Treaty as a Mixed Agreement: Problems with EC's and the EC Member States' Membership of the WTO', in 17 *European Journal of International Law*, 2006.

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<https://www.nafta-sec-alena.org/Default.aspx?tabid=87&language=en-US>

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Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, A/HRC/17/31, 21 March 2011, available at <http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>.

Millennium Development Goals, available at www.un.org/millenniumgoals.

The Millennium Development Goals Report 2010, United Nations, New York, 2010, available at <http://www.un.org/millenniumgoals/pdf/MDG%20Report%202010%20En%20r15%20-low%20res%2020100615%20-.pdf>

The World Bank, *World Development Report 2012: Gender Equality and Development*, April 2012, available at <http://econ.worldbank.org/> [Go to WDR2012]

The ABC of European Union Law, http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-EUR/ViewPublication-Start?PublicationKey=OA8107147

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Alston, Philip, ‘Rethinking the World Bank’s Approach to Human Rights’, Keynote address to the Nordic Trust Fund for Human Rights and Development Annual Workshop on “The Way Forward”, The World Bank, Washington D.C., 15 October 2014.

Other material

Howse, Robert and Ruti G. Teitel, *Beyond the Divide: The Covenant on Economic, Social and Cultural Rights and the World Trade Organization*, Dialogue on Globalization, Occasional Paper No. 30, Friedrich-Ebert-Stiftung, Geneva Office, April 2007.

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De Baere, Gert, *Constitutional Principles of EU External Relations*, Oxford University Press, 2008.

Kolsky Lewis, Meredith and Susy Frankel (editors), *International economic law and national autonomy*, New York, Cambridge University Press, 2010.

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Hoffmeister, Frank, 'Outsider or Frontrunner? Recent Developments under International and European Law on the status of the European Union in International Organizations and Treaty Bodies', in 44 *Common Market Law Review*, 2007.

Ličková, Magdalena, 'European Exceptionalism in International Law', in 19 *European Journal of International Law*, 2008.

Weiler, J. H. H., 'The Transformation of Europe', in *The Yale Law Journal*, Vol. 100, No. 8, Symposium: International Law, Jun., 1991, pp. 2403-2483.

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TEACHING METHODOLOGY

General methodological aspects of the subject
Contact hours methodology: Activities
<p>Critical assessment of relevant International and EU legal norms and principles.</p> <p>Analysis of relevant scholarly development on the subject.</p> <p>Application of theoretical framework to practical case studies.</p> <p>Completion of written exam.</p>
Independent study methodology: Activities
<p>Reading of assigned materials.</p> <p>Analysis of normative instruments and academic literature to duly participate later in class.</p> <p>Preparation of written and oral interventions regarding application of theoretical material to practical case studies.</p> <p>Study of analysed materials in preparation for written exam.</p>

SUMMARY OF STUDENT WORK HOURS			
Activity	Number of contact hours	Number of independent study hours	Total number of hours
Lecture	20	30	50
Practical class			
Debate	4	10	14
In class presentation			
Individual work			
Work in collaboration	5	10	15
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	1	5	6
Evaluation: exam review			
Others			
ECTS Credits: 3	30	55	85

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Attendance	Punctuality, responsibility, respect for class	Arriving punctually to class and remaining present for the whole duration of the lecture, respecting the time assigned for breaks and duly re-joining the class in the schedule specified by the professors.	10%
Work in collaboration	Ability to work in teams through providing individual input and adding value to group position.	Preparation of written argumentation on case studies to be dealt with in class based on reviewed materials. Construction of legal arguments within assigned group. Adequate defence of a position reflecting application of legal and theoretical framework to practical case study. Development of views on a concrete case study in a written manner demonstrating well-founded critical thinking. Specific requirements of written piece of work will be announced in first session.	20%
Debate	Participation, oral presentation skills	Participation in class reflecting reading and understanding of the assigned/presented articles, chapters and case studies, either by reacting to direct	20%

		<p>questions of the professors to each student, by open questions to all the class, or by spontaneous interventions related to the subject matter that is being explained or debated.</p>	
Evaluation: exam	Theoretical knowledge and its practical application	<p>Correct completion of a written exam consisting of multiple choice questions. Adequate reflection of general and specific knowledge of the theoretical and practical subjects dealt with in class.</p>	50%