

SUBJECT DETAILS

Data on the subject	
Name	International and EU Trade Law
Degree	Postgraduate in Master in International and European Business Law
Year	2024-2025
Nature	Fall semester
ECTS Credits	3
Department	Law
Area	Law

Data on teaching staff	
Teaching staff	Manuel Fontaine Campos / Ildikó Szegedy-Maszák
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Tutoring Schedule	Upon request from students

SPECIFIC DATA ON THE SUBJECT

INTRODUCTION

The growth of international trade has generated a complex body of **primary law**, including **treaties and international agreements, national legislation, and trade dispute settlement case law**. This body of law and agreements has been expanding into a system of multilateral trade that nowadays has reached a deadlock.

This course will analyse this system of international law, its main agreements and will delve into the reasons why it has reached a stalemate. It will depart by providing a brief introduction to the history of international trade law, and the first international organizations that regulated trade. It will then move on to the present international organization that regulates trade, the World Trade Organization, where main agreements, bodies and functions will be studied. It will then approach the substantive law that regulate trade and analyse the main principles and tariff barriers and non-tariff barriers to trade in goods, market access rules to trade in services. The Dispute Settlement Mechanism of WTO makes it a unique trade organization and it will be discussed in detail throughout the course. The course will also delve into the permitted exceptions to international trade, talk about regional and bilateral trade agreements and later will discuss the impact of WTO in developing economies and trade liberalization. Finally, it will end with discussing how green transition and the current tech war between China and US/EU affects WTO institutions, analysing subsidies, safeguards, intellectual property, direct investment and anti-coercion measures.

What skills the students will gain from this class

The course provides students a general knowledge on international trade, but it aims at also to engage in discussions regarding international trade law and its intersections with other concerns, such as trade liberalization, development, the green transition, international investment and intellectual property.

The student will also gain the following specific competence of the subject:

- I. In the conceptual aspect (knowing)
 - a. To review the international treaties that regulate global trade: the WTO
 - b. 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.
 - c. To review the international treaties that regulate bilateral and multilateral trade.
 - d. To understand their interaction with the WTO legal framework.
 - e. To examine the legal challenges regarding the role of International Trade Law in global issues such as sustainable development and environmental protection.

f. To understand and examine the legal challenges regarding EU's participation in the WTO.

II. In the procedural aspect (doing):

a. To exemplify the functioning of the WTO through the study of practical cases.

b. Solve practical cases of policy and law making.

c. To illustrate the functioning of bilateral, regional and multilateral trade treaties through the analysis of practical cases.

d. To demonstrate the impact of trade law on broader global concerns through case studies.

e. To exemplify the interactions between the EU and the WTO through practical cases.

III. In the professional aspect (knowing how):

a. To critically analyse the legal challenges involved in the subject.

b. To argue in favour of a certain position based on the abilities acquired through discussion in class and exercises dealing with case studies.

c. To analyse 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.

Organization and Required Books

There are a total of 12 sessions. Each one will consist of 2 hours and 15 minutes.

Students will be required to do the readings before coming to class.

The required readings vary according to the session. They are mentioned in each session below.

Competences - Goals
Competences to be developed
Generic Compétences
<p>GC 1: Analysis and synthesis abilities</p> <p>GC 3: Ability to manage information</p> <p>GC 6: Team work skills</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 10: Ability to develop autonomous learning skills</p> <p>GC 11: Concern for quality</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p>
Specific Compétences
<p>SC 2 Mastering the main relevant international treaties in the field of international trade, distinguishing between binding instrument and mere recommendations or instruments merely of an interpretive or guiding nature (soft law)</p> <p>CE 3 Understand the advantages of international economic traffic for the businesses in the EU and other member states and identify the implications for business.</p> <p>RA1 To understand the commercial agreements that establish the framework for the development of international commercial agreements and the mechanisms for applying them in international organizations and tribunals.</p>

Course Structure
<p>Session 1: Introduction to the course and the history of international trade law</p> <p>a. The history of international trade law</p> <p>b. The World Trade Organization</p>

Reading:

- MICHAEL TREBILCOCK/JOEL TRACHTMAN, *Advanced introduction to International Trade Law*, 2nd ed., Elgar, 2020, pp. 1-7, 16-22
- MATTHIAS HERDEGEN, *Principles of International Economic Law*, OUP, 2013, pp. 13-18.
- ANDREW GUZMAN/JOOST PAUWELYN, *International Trade Law*, 2nd ed., Wolters Kluwer, Austin, 2012, pp. 1-30.

Session 2: Main principles and tariff barriers and non-tariff barriers to trade in goods and trade in services

a. "Tariffs only": Tariffs and Quantitative Restrictions

Readings:

- ANDREW GUZMAN/JOOST PAUWELYN, *op. cit.*, pp. 165-195 and 199-222
- Tariffs: more binding and closer to zero:
https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm2_e.htm

Session 3: Main principles and tariff barriers and non-tariff barriers to trade in goods and trade in services (cont.)

b. Most Favoured Nation

Preferential trade agreements and developing economies

a. Regional and Bilateral trade agreements

b. International trade and developing economies: Enabling clause (WTO)

Readings:

- M. TREBILCOCK/J. TRACHTMAN, *op. cit.*, pp. 40-57, 206-220
- Special and differential treatment provisions:
https://www.wto.org/english/tratop_e/dda_e/status_e/sdt_e.htm
- WTO_ Regional trade agreements:
https://www.wto.org/english/tratop_e/region_e/region_e.htm
- *Mainstreaming the right to development into international trade law and policy at the World Trade Organization*, report prepared by Robert Howse, [E/CN.4/Sub.2/2004/17](https://www.wto.org/english/press/p/200417.htm), par. 46-49

Session 4: Main principles and tariff barriers and non-tariff barriers to trade in goods and trade in services (cont.)

c. National Treatment

Readings:

- ANDREW GUZMAN/JOOST PAUWELYN, *op. cit.*, p. 225-241, 254-278

Session 5: Exceptions to the main international trade rules

a. General Exceptions

b. Security and other exceptions

Readings:

- ANDREW LOWENFELD, *International Economic Law*, pp. 33-45
- Article XX General Exceptions_ WTO
https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art20_e.pdf
- Article XXI Security Exceptions_ WTO
https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art21_e.pdf

Cases:

- US Gasoline Case
- Russia and Ukraine: Measures concerning traffic transit

Session 6: Rules on unfair trade: Subsidies and Countervailing Measures

Readings:

- ANDREW GUZMAN/JOOST PAUWELYN, *op. cit.*, pp. 405-431

Session 7: Rules on unfair trade: Dumping and Anti-Dumping Measures; Safeguards

Readings:

- M. TREBILCOCK/J. TRACHTMAN, *op. cit.*, pp. 70-83, 100-113
- WTO Gateway: Introduction to Antidumping in the WTO
https://www.wto.org/english/tratop_e/adp_e/adp_e.htm
- The Indian Shrimp Industry Organizes to Fights the threat of Anti-Dumping Action

Session 8: The Dispute Settlement Mechanism

Readings:

- M. TREBILCOCK/J. TRACHTMAN, *op. cit.*, pp. 25-35.

Session 9: Green Transition and Trade War: Subsidies, Safeguards, Anti-Coherence Measures; EU-US Approaches I.

- a. Why are subsidies in the center of trade war?
- b. Does Chinese state-led economy boost state intervention worldwide?

Readings:

Obligatory

1. On Regulation (EU) 2022/2560 - Michel Ponsard and Benjamin de Sevin: Regulation on foreign subsidies distorting the internal market: what you need to know on the eve of its application /11/07/2023

<https://www.uggc.com/en/regulation-on-foreign-subsidies-distorting-the-internal-market-what-you-need-to-know-on-the-eve-of-its-application/>

2. DS519 China — Subsidies to Producers of Primary Aluminium

Story of the Case

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds519_e.htm

WT/DS519/1 - Request for Consultations by the United States

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/519-1.pdf&Open=True>

3. DS623 United States — Certain Tax Credits Under the Inflation Reduction Act

Story of the Case

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds623_e.htm

WT/DS623/1 - Request for Consultations by China

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/623-1.pdf&Open=True>

Complementary

1. USITC: Understanding Antidumping & Countervailing Duty Investigations, Antidumping and Countervailing Duty Laws Under the Tariff Act of 1930

https://www.usitc.gov/press_room/usad.htm

2. Christian SCHEINERT (Directorate-General for Internal Policies): EU's response to the US Inflation Reduction Act (IRA) ECON Committee Policy Department for Economic, Scientific and Quality of Life Policies (June 2023)

[https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/740087/IPOL_IDA\(2023\)740087_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2023/740087/IPOL_IDA(2023)740087_EN.pdf)

Session 10: Green Transition and Trade War: Subsidies, Safeguards, Anti-Coercion Measures; EU-US Approaches II.

- a. Does trade coercion become the new norm of international trade?
- b. Is green transition possible in free trade based international trading system?

Readings:

Obligatory

1. On Regulation (EU) 2023/2675 - Johannes Schäffer: The EU Anti-Coercion Instrument: Anti-What, Exactly? /19/02/2024

<https://www.celis.institute/celis-blog/the-eu-anti-coercion-instrument-anti-what-exactly/>

2. DS562 United States — Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products

Story of the Case

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds562_e.htm

WT/DS562/1 - Request for Consultations by China

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/562-1.pdf&Open=True>

3. DS610 United States — China — Measures Concerning Trade in Goods

Story of the Case

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds610_e.htm

WT/DS610/1 - Request for Consultations by the European Union

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/610-1.pdf&Open=True>

Complementary

1. Chad P. Bown and Melina Kolb: Trump's Trade War Timeline: An Up-to-Date Guide (2022)

<https://www.piie.com/blogs/trade-and-investment-policy-watch/2018/trumps-trade-war-timeline-date-guide>

2. Chad P. Bown (PIIE): Trump ended WTO dispute settlement. Trade remedies are needed to fix it. (2022)

<https://www.piie.com/publications/working-papers/trump-ended-wto-dispute-settlement-trade-remedies-are-needed-fix-it>

Session 11: Intellectual Property / Direct Investment and Tech War, EU-US Approaches

a. How did the trade war convert into a tech war?

b. Which are the differences between EU and US approaches to tackle IP rights violations in China?

c. How did FDI regulations connect to tech war?

Readings:

Obligatory

1. DS611 China — Enforcement of intellectual property rights

Story of the Case

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds611_e.htm

WT/DS611/1 - Request for Consultations by the European Union

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/611-1.pdf&Open=True>

2. DS615 United States — Measures on Certain Semiconductor and other Products, and Related Services and Technologies

Story of the Case

https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds615_e.htm

WT/DS615/1 - Request for Consultations by China

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/615-1.pdf&Open=True>

3. CFIUS Rules: A Crash Course in Assessing and Navigating Risk A Practical Guidance® Practice Note by Stephen R. Heifetz, Joshua F. Gruenspecht, Jonathan R. Davey, and Nimit Dhir, Wilson Sonini Goodrich & Rosati (2022)

<https://www.wsgr.com/a/web/eEJgAmdZD9DCDVeDwQoD1P/cfius-rules-0322.pdf>

4. Norton Rose Fulbright: EU Regulation on Foreign Direct Investment Screening (2022)

<https://www.nortonrosefulbright.com/en/knowledge/publications/fe64bdfd/eu-regulation-on-foreign-direct-investment-screening>

5. White & Case: European Commission proposes measures to up the ante on EU FDI screening (2024)
<https://www.whitecase.com/insight-alert/european-commission-proposes-measures-ante-eu-fdi-screening>

Complementary

1. Joseph Longo: A Brief Analysis of the Chinese Intellectual Property Regime (2019)
<https://a-capp.msu.edu/article/a-brief-analysis-of-the-chinese-intellectual-property-regime/>

2. USPTO: IPR Toolkit (2021)
https://www.uspto.gov/sites/default/files/documents/China_IPtoolkit_FINAL.pdf

3. Chad P. Bown: How the United States marched the semiconductor industry into its trade war with China, PIIE (2020)
<https://www.piie.com/publications/working-papers/how-united-states-marched-semiconductor-industry-its-trade-war-china>

4. DLA PIPER Multi-jurisdiction guide for screening foreign investments
<https://www.dlapiper.com/en/insights/topics/multi-jurisdiction-guide-for-screening-foreign-investments/americas>

Session 12: Revision and Q&A, Exam

Assessment

Total Assessment

The assessment for the course will be as follows:

- ATTENDANCE: 10% attendance
- CONTINUOUS EVALUATION: 40%
 - o 10% - In session 5: 15 minute multiple choice test on the subjects taught in sessions 1-4
 - o 15% - Initiated in Session 10 submitted by 11, November 2024 – hypothetical case analysis – individual exercise
 - o 15% - For Session 11 – 850-word opinion piece on any current (August-November 2024) news issue regarding US Tech War (with China or any other trading partner) – individual exercise
- EXAM: 50%:
 - o MULTIPLE CHOICE TEST

Group case study

Information

- The details of the group work will be provided in the beginning of the course.

Exam

Multiple choice

- The exam will consist of a multiple-choice test

Summary of Student Work Hours			
Activity	Number of class hours	Number of independent study hours	Total number of hours
Lecture	20	20	40
Practical class	8	8	16
Debate			
In class presentation			
Individual work		6	6
Work in collaboration			
Evaluation: one-minute paper			
Evaluation: class test			
Evaluation: exam	1	11	12
Evaluation: exam review			
Others	1		1
ECTS Credits: 3	30	45	75