

# **International Trade Law II**

## **Syllabus --preliminary draft**

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Wed, 6pm – 7:50pm

### **Course coverage**

The course explores a broad set of topical issues in international trade law that go beyond traditional disciplines in merchandise trade. The goal of the course is to give students interested in internal trade and investment law a comprehensive introduction to the main points in the current agenda in international trade governance. To that end, the course offers a review of prominent topics in multilateral and bilateral trade negotiations beyond rules governing the liberalization of trade in goods; in particular, it covers issues like:

- developments in regional and bilateral agreements;
- regulation of trade in services;
- trends in investment disciplines;
- e-commerce;
- role of State-owned enterprises in international trade and investment;
- trade disciplines on domestic regulation;
- trade in US politics.

Each of these discussions will be based on the latest developments in trade negotiations, including the WTO and latest agreements concluded by the US, EU, and China, as well as trade and investment disputes.

The course can be of particular interest to students wishing to expand on their knowledge gained in International Trade Law I and other related courses on international economic law, such as on Investment Law and Arbitration.

### **Pre-requisites and recommendations**

There are no courses required as pre-requisite for this course. Having taken International Trade Law I is recommended.

## Grading

The final grade in this course will be based as follows:

- 50% on a 15-page final paper (legal opinion or policy note)
- 30% on class participation.
- 20% on a 15-min individual presentation of designated topics for debate.

Module	Topics	Classes	Reading (TBC)	Remarks
<b>Intro and recap</b>	<ul style="list-style-type: none"> <li>• Welcome</li> <li>• Introduction to course plan and structure</li> <li>• Brief recap trade and investment law</li> <li>• Why is trade and investment policy important to the global economy?</li> </ul>	1	<ul style="list-style-type: none"> <li>• Winham, Gilbert R, “The Evolution of the World Trading System – The Economic and Policy Context“, in Bethlehem Daniel et al. “The Oxford Handbook of International Trade Law”, Oxford University Press, 2009.</li> <li>• Jackson, John H., “The Evolution of the World Trading System – The Legal and Institutional Context”, in Bethlehem Daniel et al. “The Oxford Handbook of International Trade Law”, Oxford University Press, 2009.</li> </ul>	
<b>Regionalism and trade integration</b>	<ul style="list-style-type: none"> <li>• WTO rules on preferential trade agreements (goods, services)</li> <li>• Types of PTAs: unilateral, FTAs, customs unions, single markets</li> <li>• Regional trade agreements around the world (Europe, Americas, Africa, Asia)</li> <li>• Mega-agreements: TTIP, TPP, RCEP</li> </ul>	1	<ul style="list-style-type: none"> <li>• Cottier, Thomas: <i>The Legal Framework for FTAs and CUs in WTO Law</i>, 2004</li> <li>• WTO RTAs PTAs database</li> <li>• Horn, Henrik, P Mavroidis, and A. Sapir, “Beyond the WTO? An anatomy of EU and US preferential trade agreements”, Bruegel Blueprint Series, 2009.</li> <li>• Skim NAFTA, TPP, EU-Colombia-Peru EPA, China-Australia FTA</li> </ul>	
<b>Trade in</b>	<ul style="list-style-type: none"> <li>• Economics of Services</li> </ul>	2	<ul style="list-style-type: none"> <li>• Adlung, Rudolf and A. Matto. “The GATS”. In A. Matto, R.</li> </ul>	

<p><b>Services</b></p>	<ul style="list-style-type: none"> <li>● Scope and Definition</li> <li>● Main disciplines on trade in services</li> <li>● Sectoral disciplines (financial services, telecoms, air transport, transport)</li> <li>● Services disputes (WTO, NAFTA)</li> <li>● Relationship with investment agreements</li> </ul>		<p>Stern, and G. Zannini, “A Handbook on International Trade in Services”, Oxford University Press, 2008.</p> <ul style="list-style-type: none"> <li>● WTO Secretariat: “The General Agreement on Trade in Services. An Introduction”. WTO.2006. Available at <a href="http://www.wto.org/english/tratop_e/serv_e/gsintr_e.doc">www.wto.org/english/tratop_e/serv_e/gsintr_e.doc</a></li> <li>● Skim GATS, CAFTA (chapters on Cross-border trade in Services, Investment, Movement of Natural Persons)</li> <li>● Fink, Carsten, and M. Molinuevo, “East Asian FTAs in Services. Roaring Tigers or Timid Pandas?”, Policy Note, report no. 40175, The World Bank, 2008.</li> <li>● Adlung Rolf and M. Molinuevo, “Bilateralism in Services Trade. Is there Fire Behind the (BIT-)Smoke?” JIEL 11:2, 2008.</li> <li>● WTO Disputes: EC- Bananas III, US – Gambling, Argentina – Financial services, China – Electronic Payments, (summaries)</li> </ul>	
<p><b>Investment</b></p>	<ul style="list-style-type: none"> <li>● Re-cap investment agreements (BITs, MITs)</li> <li>● Investment disciplines in trade agreements</li> <li>● Latest trends in investor-State dispute settlement</li> </ul>	<p>2</p>	<ul style="list-style-type: none"> <li>● Kaj Hober, “Investment Treaty Arbitration: A Brief Overview” 42 Intertax, Issue 3, pp. 189-193, 2014, Kluwer Law International <a href="https://www.kluwerlawonline.com/abstract.php?id=TAXI2014022">https://www.kluwerlawonline.com/abstract.php?id=TAXI2014022</a></li> <li>● UNCTAD, IIA Issues Note, February 2015, Recent Trends in IIAs and ISDS, <a href="http://unctad.org/en/PublicationsLibrary/webdiaepcb2015d1_en.pdf">http://unctad.org/en/PublicationsLibrary/webdiaepcb2015d1_en.pdf</a> .</li> <li>● Practical Law, Investment Treaty Arbitration (selected articles), <a href="http://us.practicallaw.com/topic/8-205-4997?">http://us.practicallaw.com/topic/8-205-4997?</a></li> </ul>	

			<a href="#">sv=6-382-1328&amp;sort=rt&amp;rt=All</a> .
<b>Domestic regulation</b>	<ul style="list-style-type: none"> <li>• Disciplines on domestic regulation in trade and investment agreements</li> <li>• Regulatory cooperation</li> </ul>	1	<ul style="list-style-type: none"> <li>• Regulatory Coherence &amp; Cooperation in the TTIP, US Chamber of Commerce, <a href="https://www.uschamber.com/sites/default/files/regulatory_coherence_regulatory_cooperation_-chamber_ttip_paper-final_2.pdf">https://www.uschamber.com/sites/default/files/regulatory_coherence_regulatory_cooperation_-chamber_ttip_paper-final_2.pdf</a> .</li> <li>• TTIP is about regulatory coherence, Lionel Fontagne and Sebastien Jean, Vox, November 16, 2014, <a href="http://www.voxeu.org/article/ttip-about-regulatory-coherence">http://www.voxeu.org/article/ttip-about-regulatory-coherence</a></li> <li>• WTO Domestic Regulation and Services Trade, Putting Principles into Practice, Edited by Aik Hoe Lim and Bart De Meester, World Trade Organization, 2014, (selected articles) <a href="https://www.wto.org/english/res_e/publications_e/domreg14_e.pdf">https://www.wto.org/english/res_e/publications_e/domreg14_e.pdf</a></li> </ul>
<b>Dispute settlement</b>	<ul style="list-style-type: none"> <li>• WTO dispute settlement</li> <li>• Investor-State arbitration</li> <li>• Comparison between WTO DS and ISDS (access, substantial disciplines, remedies)</li> </ul>	1	<ul style="list-style-type: none"> <li>• M. Molinuevo, “Protecting Investment in Services: Investor-State Arbitration versus WTO Dispute Settlement”, 2011 (excerpts)</li> <li>• Brooks Allen and Tommaso Soave, “Jurisdictional Overlap in WTO Dispute Settlement and Investment Arbitration”, 30 Arbitration International 1 (2014), June 6, 2014, <a href="http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2446806">http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2446806</a></li> </ul>
<b>Trade in US political agenda</b>	<ul style="list-style-type: none"> <li>• Congress, fast-track, and relevant domestic constituencies</li> <li>• Treaties versus Congressional-executive Agreements</li> </ul>	1	<ul style="list-style-type: none"> <li>• Jonathan T. Stoel and Michael Jacobson, “U.S. Free Trade Agreements and Bilateral Investment Treaties: How Does Ratification Differ?”, October 28, 2014, <a href="http://kluwerarbitrationblog.com/blog/author/jonathanstoelandsmichaeljacobson/">http://kluwerarbitrationblog.com/blog/author/jonathanstoelandsmichaeljacobson/</a></li> <li>• “Why Certain Trade Agreements are Approved as Congressional-executive Agreements,” Jane M. Smith et. al., April 15, 2013, Congressional Research Service,</li> </ul>

			<p><a href="https://www.fas.org/sgp/crs/misc/97-896.pdf">https://www.fas.org/sgp/crs/misc/97-896.pdf</a></p> <ul style="list-style-type: none"> <li>● The Trans-Pacific Partnership (TPP) Negotiations and Issues for Congress, Ian F. Fergusson et. al., March 20, 2015, Congressional Research Service, <a href="https://www.fas.org/sgp/crs/row/R42694.pdf">https://www.fas.org/sgp/crs/row/R42694.pdf</a></li> </ul>
<b>New topics in the trade agenda</b>	<ul style="list-style-type: none"> <li>● State-owned enterprises and competition policy</li> </ul>	5	<ul style="list-style-type: none"> <li>● Office of the US Trade Representative, SOE and Competition Policy, <a href="https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-chapter-chapter-negotiating-7">https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpp-chapter-chapter-negotiating-7</a>.</li> <li>● Competitive Neutrality and State-Owned Enterprises Challenges and Policy Options, Antonio Capobianco and Hans Christiansen, May 1, 2011, OECD Corporate Governance Working Papers, <a href="http://www.oecd-ilibrary.org/governance/competitive-neutrality-and-state-owned-enterprises_5kg9xfjdhg6-en">http://www.oecd-ilibrary.org/governance/competitive-neutrality-and-state-owned-enterprises_5kg9xfjdhg6-en</a>.</li> </ul>
	<ul style="list-style-type: none"> <li>● E-trade: modes, disciplines</li> </ul>		<ul style="list-style-type: none"> <li>● Bieron, Brian and A. Usman. ‘Regulating E-commerce through International Policy: Understanding the International Trade Law Issues of E-commerce’. Journal of World Trade 46, no. 3 (2012): 545–570</li> </ul>
	<ul style="list-style-type: none"> <li>● Trade and labor: labor standards, disciplines in trade agreements, movement of people and trade.</li> </ul>		<ul style="list-style-type: none"> <li>● CAFTA Guatemala-US Labor Dispute (forthcoming).</li> <li>● AFL-CIO, Trade, Labor Rights, <a href="http://www.aflcio.org/Issues/Trade/Trans-Pacific-Partnership-Free-Trade-Agreement-TPP/Labor-Rights">http://www.aflcio.org/Issues/Trade/Trans-Pacific-Partnership-Free-Trade-Agreement-TPP/Labor-Rights</a>.</li> <li>● How Labor Issues are Complicating the Latest Wave of Free Trade Pacts, Wharton, June 27, 2014, <a href="http://knowledge.wharton.upenn.edu/article/labor-issues-complicating-latest-wave-free-trade-pacts/">http://knowledge.wharton.upenn.edu/article/labor-issues-complicating-latest-wave-free-trade-pacts/</a></li> </ul>

<ul style="list-style-type: none"> <li>● Trade and investment disciplines on environmental policies</li> </ul>	<ul style="list-style-type: none"> <li>● Trade and the Environment, the Editorial Board, The New York Times, January 18, 2014, <a href="http://www.nytimes.com/2014/01/19/opinion/sunday/trade-and-the-environment.html?_r=0">http://www.nytimes.com/2014/01/19/opinion/sunday/trade-and-the-environment.html?_r=0</a>.</li> </ul>
<ul style="list-style-type: none"> <li>● Intellectual Property: recap and new developments</li> </ul>	<ul style="list-style-type: none"> <li>● Training Module on the WTO Agreement on TRIPS, UNCTAD, 2010, <a href="http://unctad.org/en/Docs/ditctncd20083_en.pdf">http://unctad.org/en/Docs/ditctncd20083_en.pdf</a> .</li> <li>● Review IP chapters in TPP, China-Australia FTA, EU Epa.</li> </ul>
<ul style="list-style-type: none"> <li>● Currency manipulation and international trade</li> </ul>	<ul style="list-style-type: none"> <li>● New York Federal Reserve, “The Story of Foreign Trade and Exchange”, 2010 <a href="http://www.newyorkfed.org/education/addpub/comic_foreign.pdf">http://www.newyorkfed.org/education/addpub/comic_foreign.pdf</a></li> </ul>