

REGULATORY ASPECTS OF INTERNATIONAL TRADE AND INVESTMENT

I. Description

The Course objective is to provide students with a structured and dynamic understanding of international trade regulation and its relevance for governments and business. It will teach the students how business operators can take advantage of the rights and obligations accruing to Governments under the trading system, the typology of trade disputes and the procedures available to solve trade disputes.

The World Trade Organization is a remarkable institution. It has jurisdiction over a wide range of international economic activity – trade in goods and services, and intellectual property rights (though not investment). In addition to the WTO, trade law is governed by a vast array of regional and bilateral free trade agreements. Several of them – the so-called “new generation agreements” – also contain investment-related provisions and they provide for their own dispute resolution system.

The course will start with a discussion of why countries trade, and of the origins and achievements of the General Agreement on Tariffs and Trade, the WTO’s predecessor. We will then spend time on the WTO’s institutional structure as well as the WTO dispute settlement system. We will then highlight the major differences with the regional and bilateral trade and investment agreements. Finally, through case studies, we will explain how the dispute settlement provisions of the various agreements are actually used and provide insights on their practical functioning.

II. Course Contents and Readings

9 February 2026

Content

- I. General introduction to the course
- II. An introduction to trade and investment policies
 - The political and economic assumptions of the Regulation of International Trade
 - Setting the scene: enterprises as the subject of policy
 - Object of trade law
 - Object of investment law
 - The International trading order
 - The International Investment agreements
 - Tensions in trade law
 - Protectionist vs expansionist
 - North vs South:

- Trade liberalisation vs non trade concerns
- Multilateral system vs preferential agreements

III. History – From the Atlantic Charter to the WTO

Material

- Power point presentations 1 and 2
- Additional sources of inspirations include the following online courses and books:
 - Presentation by Prof. Cottier: [The Common Law of International Trade and the Future of the WTO - Bing video](#)
 - International Trade Law and International Investment Law: [International Trade Law and International Investment Law - Bing video](#)
 - Book: Cope & Ness (eds) - The Oxford Handbook of Economic Imperialism [2022], Oxford University Press
 - Book: *The GATT Legal System and World Trade Diplomacy*; Robert E. Hudec; second edition, Butterworth Legal Publishers, Salem (NH) 1990, ISBN 0-88063-344-1; xxi + 376 pp.. Published online by Cambridge University Press: 21 July 2009
- Cases that illustrate the tensions are :
 - LAN case¹
 - GSP case²
 - asbestos case³,
 - beef hormones⁴

10 February 2026

Content

IV. The WTO

- The WTO as an organisation vested with legal personality
- The Institutional structure of the WTO
- The role of Councils and Committees
- The Secretariat
- Rule-making within the WTO
 - Accessions
 - Interpretations
 - waivers
- Trade diplomacy within the WTO and the trade policy review mechanism

¹ Report of the Appellate Body, "European Communities - Customs Classification of Certain Computer Equipment, WT/DS62/AB/R, WT/DS67/AB/R, WT/DS68/AB/R, 5 June 1998

² Report of the Appellate Body, "European Communities – Conditions for the granting of tariff preferences to developing countries", WT/DS246/AB/R, 7 April 2004

³ Report of the Appellate Body, "European Communities - Measures Affecting Asbestos and Asbestos-Containing Products", WT/DS135/AB/R, 12 March 2001

⁴ Report of the Appellate Body, "EC Measures Concerning Meat and Meat Products (Hormones)", WT/DS26/AB/R, WT/DS48/AB/R, 16 January 1998

- The Dispute Settlement mechanism
 - a. Consultations
 - b. Panel procedure
 - c. Appeal
 - d. Implementation procedures
 - e. Compensation and Counter-measures
 - f. Mediation and Conciliation
 - g. Tactics in Dispute Settlement Proceedings
 - h. Shortcomings
- The WTO in the context of Public International Law
- The Appellate Body Crisis
- Expected Developments in the DDA Negotiations

Material:

- Power point presentations 3 and 4
- WTO, Flow Chart (www.wto.org)
- Marrakech Agreement Establishing the World Trade Organisation
- WTO Dispute Settlement Understanding
- UNCTAD, *Course on Dispute Settlement, World Trade Organisation*, Chapter 3.1, *An Overview*, by P. Vanden Bossche, pp 12 to 23, 42 to 55
- D. Palmeter, P.C. Mavroidis: *Dispute Settlement in the World Trade Organization. Practice and Procedure*, 2nd ed., Kluwer Law International 2003 [1st ed. published in paperback, 1999] (Palmeter & Mavroidis)
- *WTO Analytical Index. Guide to WTO Law and Practice*, WTO 2003, pp. 365-383, 1265-1436 (*WTO Analytical Index*)

23 February 2026

Content

V. General approach to domestic regulation

- The principle of the single undertaking and the distinction between trade in goods, trade in services and the protection of intellectual property rights.
- Measures by Government
- The rules of Interpretation

VI. Trade in Goods: Core Principles

- Introduction: the MFN clause and the national treatment clause: review of Articles I and III of the GATT
- Tariff barriers: negotiated bindings (Article II of the GATT), including a description of tariff peaks and the Information Technology Agreement
- Related rules: origin, customs valuation
- Prohibition of Non-tariff barriers: Articles XI and XIII of the GATT
- Customs facilitation
- Tariff Negotiations
- Transparency

Material:

- Power point presentations 5 and 6
- Articles 31 to 33 of the Vienna Convention on Law of Treaties
- Article XVI of the Marrakesh Agreement
- Report of the Panel, “Japan - Measures Affecting Consumer Photographic Film and Paper”, WT/DS44/R, 31 March 1998, paragraphs 10.42 to 10.60
- Law:
 - Article I of GATT
 - Article II of GATT
 - Article III of GATT
 - Article XI of GATT
 - Articles VII of GATT and Agreement on Customs Valuation
 - Articles V, VIII and X of GATT

24 February 2026

Content:

VII. Trade in Goods: Exceptions to Basic Principles

- Regional integration: Article XXIV of the GATT
- Preferential treatment of developing countries: the Enabling Clause and the EC GSP mechanisms
- Authorised discriminations
- Authorised increase of Tariffs: Trade remedies
- Authorised non-tariff barriers (balance of payment, waivers, commodities etc)
- Non-Trade concerns (Articles XX and XXI of the GATT)

VIII. The “Trade and...” debate: an analytical construct to address the interface between trade liberalisation principles and other policy objectives.

- Trade irritants: NTMs and NTBs
- General exceptions
- Technical Regulations and standards
- Sanitary and phytosanitary measures. Link with the agreement on Agriculture
- Discussion: science, consistency and necessity
- Principles of transparency
- Objective, neutral and transparent application of domestic regulation
- Case studies

Material :

- Power point presentations 7 and 8
- Law:
 - Articles XX and XXI of GATT
 - Article XXIV of GATT and related Understanding
 - Articles XII and XVIII of GATT, Section IV of GATT and related Understanding

- The Enabling Clause (Decision on Differential and More Favourable Treatment, Reciprocity, and Fuller Participation of Developing Countries, GATT Document L/4903, 28 November 1979, BISD 26S/203)
 - Article X of GATT
 - Agreement on Technical Barriers to Trade
 - Agreement on Sanitary and Phytosanitary Measures
- Illustrations: GSP case⁵, shrimp – Turtle⁶, baby seals⁷, Beef Hormones⁸

9 March 2026

Content:

IX. Models of international integration and regulatory convergence

- Customs Unions – EEA, UE-Turkey
- Old generation FTAs – EU-Chile
- New generation FTAs – EU-CARIFORUM, EU-Vietnam, EU-Japan, CETA
 - Regulatory convergence – cooperation: TBT
 - Regulatory convergence – Harmonisation
 - Recognition
 - Alignment
 - Joint institutions
- Rules of origin

X. Analysis of case studies: Group discussion

Material :

- Power point presentation 9
- Case studies

⁵ Report of the Appellate Body, “European Communities – Conditions for the granting of tariff preferences to developing countries”, WT/DS246/AB/R, 7 April 2004

⁶ Report of the Appellate Body, “United States - Import Prohibition of Certain Shrimp and Shrimp Products”, WT/DS58/AB/R, 12 October 1998

⁷ Report of the Appellate Body, European Communities — Certain Measures Prohibiting the Importation and Marketing of Seal Products, WT/DS400/AB/R

⁸ Report of the Appellate Body, “EC Measures Concerning Meat and Meat Products (Hormones)”, WT/DS26/AB/R, WT/DS48/AB/R, 16 January 1998

10 March 2026

Content:

- XI. Regulatory Impact Assessments: the OECD model.
- XII. Analysis of case studies: Group discussion

Material:

- Power point presentation 10
- Case studies

III. Course Assessment

The course is assessed on the basis of 20 points, through a written examination of three hours. Class participation influences the grade.

No retake if this course is passed.

No course material is allowed during the examination.