

The Laws of World Trade

UGRA_016215

Departments	Department of International, European Union and Comparative Law
Teaching Languages	English
ECTS	6
Teacher responsible	Olivier Georges Robert Baillet - olivier.baillet@esade.edu

Course Goals

To acquire a sound knowledge of:

- the institutional framework within which international trade law is created, interpreted, implemented and applied;
- core substantive law on trade in goods, the provision of services, and trade-related intellectual property rights issues;
- how international trade is affected and reacts to the main geopolitical and economic challenges of our times, namely climate change and increased geopolitical tensions.

Previous knowledge

Public international law is a plus.

Prerequisites

Public international law is a plus.

Teaching methodology

The course will employ a Socratic teaching methodology, emphasising active student participation through continuous dialogue. Students will collaboratively construct their understanding of the subject matter. Assigned readings will be provided in advance, with a particular emphasis on contemporary case studies.

The course aims to foster critical thinking skills, encouraging students to analyse and evaluate complex issues within international trade law.

Description

Course contribution to program

The law of world trade is a critical body of international law to understand the framework within the current geopolitical challenges of our times are, should or could dealt within: commercial competition and wars, climate change, and globalisation generally. As such, it is crucial for citizens, businesses and lawyers and decision-makers generally to acquire a sound understanding of it.

Short description

Can a State raise tariffs on cars in order to protect its domestic production in the face of an economic crisis, or invoke national security to limit exports of critical materials to other countries? To what extent is it legal to restrict trade in order to fight against climate change?

The laws of world trade regulate all of these questions at the international level. The course aims to provide an overview of the critical characteristics of this international regime, with a focus on its current structural, political, and legal challenges.

To ensure a comprehensive understanding, the course will first delve into the intellectual and legal history of world trade law. It will then examine the World Trade Organisation's institutional framework and the original but now controversial dispute settlement mechanism it established as the main international organisation in the field. In a third phase, it will examine the fundamentals of trade in goods under the General Agreement on Tariffs and Trade, including its non-discrimination disciplines, the regional trade exception under Article XXIV, its general and security exceptions, and its rules on subsidies and anti-dumping, before turning to the General Agreement on Trade in Services and the Trade-Related Aspects of Intellectual Property Rights agreement. Finally, the course will close by examining the rise of unilateralism and ad hoc trade 'deals' as a lens through which to open a debate on the future of the multilateral trading system

Bibliography

Peter Van den Bossche; Werner Zdouc, *The Law and Policy of the World Trade Organization Text, Cases, and Materials*, Cambridge University Press, 9781108747103 (Book)

Peter Van den Bossche; Denise Prévost, *Essentials of WTO Law*. 5th edition, Cambridge University Press, 9781108878845 (Book)

, *World Trade Organisation* (Website)

, *Understanding on Rules and Procedures Governing the Settlement of Disputes (WTO)* (Legal Document)

, *The General Agreement on Tariffs and Trade (GATT 1947)* (Legal Document)

Joseph H.H. Weiler, *The Rule of Lawyers and the Ethos of Diplomats Reflections on the Internal and External Legitimacy of WTO Dispute Settlement*, *Journal of World Trade*, Issue 2, pp. 191-207, 2001, 35 (Article)

, *Marrakesh Agreement Establishing the World Trade Organization* (Legal Document)

, *General Agreement on Trade in Services (GATS)* (Legal Document)

Robert Howse and Joanna Langille, *Continuity and Change in the World Trade Organization: Pluralism Past, Present, and Future*, *American Journal of International Law*. 2023;117(1):1-47 (Article)

Robert Howse, *Non-tariff Barriers and Climate Policy: Border-Adjusted Taxes and Regulatory Measures as WTO-Compliant Climate Mitigation Strategies* (Article)

Anne Orford, *How to Think About the Battle for the State at the WTO*, *German Law Journal*. 2023;24(1):45-71 (Article)

, *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)* (Legal Document)

, *Regulating for Globalization* (Blog)

Kent Jones, *The populist damage to the trading system* (Electronic Article)

Content

#	Topic
1	Trade Law in a Changing World: Intellectual, Economic and Legal History This module introduces the intellectual, economic, and political foundations of international trade law. It examines the historical development of the global trading system and the competing ideas that have shaped it, from free trade and comparative advantage to protectionism and strategic industrial policy. Particular attention is paid to contemporary challenges, including the resurgence of tariffs and economic nationalism under the Trump administrations, the increasing use of national security exceptions in trade policy, the growing economic rivalry between major powers, and the tension between trade liberalisation and climate change mitigation. Through these developments, students will explore how the objectives and legitimacy of the world trading system are being reassessed in the twenty-first century.
2	The World Trade Organisation: Institutional Framework and Dispute Settlement This module turns to the WTO itself, examining its institutional architecture, decision-making processes, and role as the principal organisation overseeing global trade relations. Particular emphasis is placed on the WTO's dispute settlement system, historically considered one of the most innovative features of international economic law, but one that has become increasingly contested in recent years. Students will analyze why the mechanism is under strain and what this means for the future of multilateral trade governance.
3	Trade in Goods (GATT): Non-Discrimination, Tariffs and Quantitative Restrictions This module introduces the foundational disciplines of the General Agreement on Tariffs and Trade, focusing on the principle of non-discrimination as expressed through the most-favoured-nation and national treatment obligations, and on the rules governing tariffs and quantitative restrictions. Students examine how these obligations are defined and applied through key WTO case law, including the contested concept of "likeness" between products. Particular attention is paid to how tariff bindings and schedules of concessions structure market access commitments, and why GATT's strong preference for transparent tariffs over quotas has shaped decades of trade negotiation. Through these foundations, students will gain the analytical tools needed to assess whether a given trade measure complies with GATT's core disciplines.
4	Trade in Goods (GATT): Regionalism and Preferential Trade (Article XXIV) This module examines regionalism as an exception to the non-discrimination principle introduced in Module 3, focusing on the legal basis for customs unions and free trade areas under Article XXIV of GATT, including the conditions such agreements must satisfy to qualify for the exception, such as covering substantially all trade among the parties and not raising barriers against third countries. Building directly on the rules of origin introduced earlier, students examine why preferential trade agreements require stricter, preferential rules of origin to prevent trade deflection, and assess the Agreement on Climate Change, Trade and Sustainability, signed by Costa Rica, Iceland, New Zealand and Switzerland in 2024, as a contemporary example of a plurilateral agreement using preferential trade rules to advance climate objectives. Through these examples, students will assess the long-standing debate over whether regional trade agreements act as a stepping stone toward, or a stumbling block against, deeper multilateral liberalisation.

#	Topic
5	Trade in Goods (GATT): Exceptions This module explores the exceptions that allow WTO members to depart from their GATT obligations in pursuit of legitimate non-trade objectives. It examines the general exceptions under Article XX, covering measures necessary to protect public morals, human, animal, or plant life and health, and natural resources, alongside the security exceptions under Article XXI that permit trade restrictions on national security grounds. Particular attention is paid to the growing and contested use of the national security exception amid rising geopolitical tensions, as well as the role of environmental and climate-related justifications within the Article XX framework. Through these case studies, students will assess how WTO adjudicators balance the competing demands of trade liberalisation and domestic regulatory autonomy.
6	Trade in Goods (GATT): Protecting Fair Trade (Subsidies and Anti-Dumping) This module addresses the rules designed to protect fair competition in international trade, focusing on the disciplines governing subsidies and anti-dumping measures. Students examine how subsidies are defined and classified as actionable under the Agreement on Subsidies and Countervailing Measures, and how anti-dumping duties may be imposed where goods are sold below normal value and cause injury to a domestic industry. Particular attention is paid to the proliferation of trade remedy investigations in recent years, the controversies surrounding state-driven industrial subsidisation, and the difficulty of applying traditional fair-trade disciplines to economies with significant state involvement in production. Through these developments, students will understand why subsidy and anti-dumping disputes remain among the most frequently litigated and politically charged areas of modern trade law.
7	Introduction to the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) This module introduces the two principal WTO agreements beyond trade in goods. Students examine how GATS establishes a framework for the progressive liberalisation of services through its distinct modes of supply and schedules of commitments, and how TRIPS sets minimum standards for the protection of intellectual property rights across member states. Particular attention is paid to the tensions these regimes generate, including the trade-off between IP protection and access to medicines or technology transfer, and the practical and political constraints that have limited further liberalisation of services. Through this overview, students will understand how the WTO's substantive law extends beyond goods to address the increasingly service- and knowledge-based nature of the global economy.
8	Closing Discussion: Return of Unilateralism and the Future of International Trade Law This closing module asks students to revisit unilateralism, including the recent turn toward ad hoc bilateral "deals" struck outside the WTO's formal framework, as a synthesis exercise drawing together themes introduced throughout the course: the resurgence of tariffs and economic nationalism from Module 1, the practical consequences of a paralysed Appellate Body from Module 2, and the contested use of the national security exception from Module 5.

Assessment

Tool	Assessment tool	Category	Weight %
Group project	In-class Presentation	Ordinary round	40.00%
Attendance and punctuality	Participation	Ordinary round	20.00%

Tool	Assessment tool	Category	Weight %
Written and/or oral exams	Final Exam	Ordinary round	40.00%

PROGRAMS

113-Law Exchange Program (Undergraduates: Law)

113 Year 1 (Optative)

DD05-Double Degree Program (exchange) (Undergraduates: Law)

DD05 Year 1 (Optative)

GBD20-Double Degree in Business Administration and Law (Undergraduates: Law)

GBD20 Year 5 (Optative)

GDL20-Double Degree in Law and Global Governance, Economics and Legal Order (Undergraduates: Law)

GDL20 Year 5 (Optative)

GED20-Bachelor in Law (Undergraduates: Law)

GED20 Year 4 (Optative)