

Course Outline

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| COURSE: | LAWS 4200 A – International Economic Law |
| TERM: | FALL 2021 |
| PREREQUISITES: | <u>LAWS 2908</u>, 0.5 credit from <u>LAWS 3207</u> or <u>LAWS 3208</u>, and fourth-year Honours standing |
| CLASS: | Day & Time: Mondays 2:30 – 5:30 Room: Please check Carleton Central for current Class Schedule. This course will be delivered in synchronous format and in person. |
| INSTRUCTOR: | KSENIA POLONSKAYA |
| CONTACT: | Office Hrs: 10 am – 11 am on Fridays via Zoom Telephone: N/A Email: Ksenia.polonskaya@carleton.ca |

CALENDAR COURSE DESCRIPTION

Selected topics in international economic law. May include: the legal regulation of international economic activity; methods of dispute settlement; standardization and development of an autonomous international trade law; and selected conventions and institutions governing international economic law.

COURSE DESCRIPTION

This course will provide you with the general overview of the key topics in the subfields of international economic law (IEL). Specifically, you will learn the general principles and overall structure of international investment law, international trade law, and international financial law.

In the Schedule, you will see that the subject-areas generally will include the sessions on:

- General Overview: Key Principles

- Jurisdiction and Admissibility
- Selective Substantive Standards
- Dispute Resolution
- The Backlash (critiques of these principles and structures)
 - The critical overview of the theoretical discourse
- Reform (the pathway forward)
 - Various proposals for reforming the system

Each lecture in this course will be organized around three pillars, namely “legal instruments”, “contexts” and “networks”. Exclusive focus on the legal instruments, without due appreciation of how context and professional fields shape such instruments, can create a perception that law is given and static rather than an evolving social institution. Accordingly, this course demonstrates the evolution of the law in the relevant historical, political, and social contexts, and the influence of various participants of IEL that shape and re-shape the legal rules.

COURSE DELIVERY

In the schedule, you will see that **our course will be conducted synchronously and in person.**

Our first class will be introductory. You will be expected to complete the mandatory readings for our first class to participate in the discussion. Please refer to the section “Schedule” for further particulars. During the class, we will focus the guided discussions based on the mandatory readings that will include scholarly works, cases, and international treaties. For some classes, I may introduce practical exercises and/or questions for the discussion. Please note that our course is a seminar that requires your participation and engagement. I do not intend to lecture during the class. Please refer to the Evaluation section of this Syllabus for further particulars.

Structure of our “In Person” Sessions

Our in-class time is an opportunity to engage in critical reflections and discussions that relate to certain legal concepts in the context of IEL. Our “in person” seminar will include three components:

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| Guided discussions based on your mandatory readings | <ul style="list-style-type: none"> ● I will prepare the questions for the discussion. |
| Practical Exercises | <ul style="list-style-type: none"> ● The practical exercises are in place to help you to develop the problem-solving skills and apply the theoretical concepts in practice. Please note that your participation in the guided discussions will be evaluated. |

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| | Please refer to the Evaluation section of this Syllabus for further particulars. |
| Critical Reflections (CR), beginning week 3 | <ul style="list-style-type: none"> • CRs are oral presentations concerning an assigned reading. • CRs are <u>GRADED (12 min per student+10 minutes for questions)</u>. They must be completed during the class. • You must complete the CR individually. Please sign up for a particular timeslot via Bright Space. Please note that you can choose only one paper. • You will find the selection of the papers in this syllabus, section “Schedule”, subsection “In class” • Please refer to the section on Evaluation for further particulars. |

*please note that our first two weeks, we will dedicate the “in person” seminars to discussing the introductory legal concepts. I will share certain strategies on developing legal arguments and discuss appropriate strategies for how to conduct legal research in IEL. These two weeks will serve as a “buffer” for you to sign up and prepare for the Critical Reflection presentations.

LEARNING OUTCOMES

Students will develop:

- understanding of the core legal concepts in IEL
- an ability and flexibility to critically engage with the core legal concepts of IEL and analyze these concepts from various theoretical perspectives
- advanced understanding of the core theoretical and policy debates in IEL
- ability and flexibility to analyze legal issues, build argumentation and counter-argumentation

In addition, students will further advance their research, writing and presentation skills by completing the assignments in this course

REQUIRED TEXTS

Textbook: David Collins, *Foundations of International Economic Law* (Edward Elgar Publishing, 2019) [referenced as “Collins”]. You can order the book from Elgar directly, online via Google Books and the Carleton University Bookstore. Please note that Google books provides the cheapest option (32 CAD, digital copy of the book only).

There are several good textbooks available on international economic law, I chose Collins for two reasons. First, it is the most recent textbook on IEL. Second, it is the most affordable option.

In addition, the schedule and the Bright Space Announcement Board can specify additional mandatory reading and video/audio materials. These materials are accessible online: via the Carleton library online search database, free of charge on the websites as specified. You are expected to review all materials in the section "Mandatory Readings & Materials" (see the schedule) prior to each class. You will also see some materials posted on Ares.

Note on mandatory readings: for some classes, you will be required to read significantly less than for others to manage the materials successfully. I expect you to complete the mandatory readings prior to each class.

The mandatory readings are absolutely essential at this stage of your education for three reasons. First, you need to develop a good grasp of some basic concepts in IEL. Second, you need to learn how to think critically about the development of legal rules and institutions in IEL. It is only possible if you read and analyze cases. Third, cases are essential. However, you also will have to read relevant scholarly commentaries to understand how the cases fit in the broader context. As you will see, the international courts and tribunals themselves rely on scholarly works. Accordingly, when I ask you to review a particular scholarly work, please do not dismiss it as the mere legal theory that has no practical application; instead, try to think about theories as your toolkit for resolution of practical problems in IEL.

Please note that some mandatory readings include online links so by clicking you can easily access a particular case or paper. However, other mandatory readings do not embed such links. This is a deliberate choice. The reason for it is that I would like you to learn how to navigate the search system, and how to work with the library database to successfully access the source. Our time demands you to develop an ability and flexibility to navigate the databases (including but not limited to the library databases) to be successful in your chosen career.

Useful Websites:

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| Investment Policy Hub (UNCTAD) | https://investmentpolicy.unctad.org/ |
| SSRN (free access to scholarly papers and commentaries) | https://www.ssrn.com/index.cfm/en/ |
| ITA Law (search: investment law cases) | https://www.italaw.com/ |

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| WTO Disputes (search: WTO disputes) | https://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm |
| International Economic Law and Policy Blog | https://ielp.worldtradelaw.net/about.html |
| International Institute for Unification of Private Law (UNIDROIT) | https://www.unidroit.org/contracts |

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

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Please note that this course has no final examination. The course presentation (critical reflection) and the mid-term paper constitute the two major assessments for this course, together with the other assessments listed below.

Please note that it is your responsibility and duty to review all the available instructions for this course, including the Syllabus and the instructions posted at the Bright Space Announcement Board. You must stay up to date with the course materials. Please note that for this course you need high-speed Internet access and a computer.

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| Short mid-term paper – 25% (due 20 October 2021, 5 pm via Bright Space) | <ul style="list-style-type: none"> You will prepare and deliver a short mid-term paper. The paper must be in the range of 1000-1200 words (exclusive of footnotes). You must include footnotes (please do not use end notes). Please note that I will not mark assignments that include less than 700 words. The formatting requirements: Times New Roman, 12 font, 1.5 spacing. I do not require a bibliography for the paper, but you must include the footnotes formatted in accordance with the McGill Guide. If you do not have a copy of McGill Guide, you can find the key rules for the citations here: https://guides.library.queensu.ca/legalcitation-mcgill-9th. Please review Bright Space for further particulars. You will find |
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| | <p>the instructions at the Mid-Term Paper: FAQ document. The rubric will be provided for you.</p> <ul style="list-style-type: none"> • This assignment is crucial to develop practical skills in legal writing and case-law analysis as well as master appropriate terminology • Please review the paper by Professor Allison Christians, “Really Basic Rules for Writing Good Papers in Law School” (2020), before you begin working on your writing assignments. Professor Christians discusses papers. However, I find that her advice is very useful for any type of writing. You can access this paper at SSRN. • Please monitor the Bright Space Announcement Board. I will post the question/topic for the mid-term paper and the instructions. • Please note that to complete this assignment you may be required to consult the sources outside of the materials in the syllabus. I will provide additional sources you may wish to consult to complete this assignment. |
| <p>Presentation: Critical Reflection – 25% (throughout the term, please sign up via Bright Space)</p> | <ul style="list-style-type: none"> • Reflections are critical analytical presentations that students complete during the “in person” sessions of the class. You will need to review a particular scholarly work and engage with me/ other students during the “in person” component. • CRs are <u>GRADED (12 min per student+10 minutes for questions)</u>. They must be completed during the “in person” sessions. • You must complete this activity individually. You are expected to review the paper, analyze the key points and be prepared to answer the questions about the paper. Please note that you will see a number near the date of each session in the section “Schedule”. This number indicates the maximum number of presenters during this session. The presenters must choose one of the papers indicated in the section “in class”. • I will post a Survey on Bright Space so you can sign up for the date of our seminar that will work for you and select the work you would like to discuss. Please note that you must complete |

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| | <p>this assignment during the “in person” component of the lecture. Unfortunately, I cannot accommodate the completion of the critical reflections in any other times/dates.</p> <ul style="list-style-type: none"> • From a pedagogical perspective, it is essential for you to master the presentation skills, including by Zoom and develop an ability and flexibility to engage with your peers in critical ways. Critical reflections, as a method of evaluation, will help you to achieve it. • If for equitable reasons (care obligations, any form of disability, illness), you cannot participate in this exercise at any point during the term, you will need to contact me by email and let me know about it within first two weeks of our class. The exceptions are allowed only in the most extraordinary circumstances. Please note that lack of access to high-speed internet is not considered to constitute such circumstances. • For your critical reflection, you should: <ul style="list-style-type: none"> ▪ prepare a short presentation/ provide a summary of a particular work and your assessment ▪ demonstrate analytical engagement with the scholarly work by questioning the key argument of the paper/ identifying the gaps in the argument/ proposing a counterargument • I will grade your reflective activity on the following basis: • 10% - the student prepared a short overview/ summary of the paper by preparing PowerPoints. Alternatively, the students developed an alternative way present the scholarly work. The delivery is well-structured and clear. • 10% - the student demonstrated confidence in identifying and summarizing the key arguments of the scholarly work correctly. The student can appropriately link the scholarly work to the relevant case-law, policy changes in the field or to the broader theoretical discourse. • 10% - the students can answer the questions in a respectful and |
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| | <p>analytical way that demonstrates solid knowledge of the scholarly work and understanding of the relevant terminology.</p> <ul style="list-style-type: none"> • Please note that I do not need a copy of your PowerPoint (if you choose to use it) in advance. |
| <p>Quizzes – 30% (6*5%) (due 26 November 2021, 11:59 PM)</p> | <ul style="list-style-type: none"> • Multiple choice quizzes that cover the core principles, concepts and cases in IEL. You do not need to do any outside research to complete these quizzes. They are based on the materials of this course (including the mandatory readings). You will have 6 quizzes total. Each quiz will include 5 questions and will weight 5% each. The quizzes will be open during the full term. Please note that there is no extension policy for quizzes. • Quizzes will be available on 25 September 2021 via Bright Space. You must complete all the quizzes by 26 November 2021, 11:59 PM, please plan your schedule accordingly. • You will have 1 attempt and 60 minutes to complete each quiz. |
| <p>Forum post– 10% (due 10 December 2021, 5:00 pm)</p> | <ul style="list-style-type: none"> • By the end of the course, you will be provided with the passage for the critical theoretical reflection. You will be required to provide the answer in the range between 200-250 words. The goal of this short assignment is to engage your critical thinking about the concepts we learned in this course. • Please note that I will evaluate the forum posts on the pass/fail basis. In other words, if you submit your post where you not only express your opinion about the passage but also rationalize it, you will automatically obtain 10%. In my assessment, I am looking to review your opinions about the passage and your ability to rationalize your opinions. This exercise intends to help you to develop an ability to “closely” read the short theoretical passage. This passage will relate to IEL. |
| <p>Participation – 10% (throughout the term)</p> | <ul style="list-style-type: none"> • I will evaluate your participation based on quality not quantity. Your interventions should demonstrate knowledge of the mandatory readings. Please note that each student can obtain maximum of 2% for the intervention during a single class. |

ONLINE SUBMISSIONS

You must make all submissions via the Bright Space platform by the deadline indicated above unless you obtained an extension. All the marking and feedback will be delivered via Bright Space as well. **Please, keep copies of your assignments until you receive your final grade.**

LATE PENALTIES AND REQUESTS FOR EXTENSIONS**EXTENSIONS**

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date. <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days). Please make sure you submit the extension request at least 2 days before the assignment is due. For your extension to be given full consideration, you must download the form, fill the form, explain the reasons for an extension, sign the form and email it to me at least two days before the deadline. **The extension requests submitted after this deadline (except in the direst of circumstances of true emergencies) would not be given any consideration. Please note that I process the extension requests only during regular working hours (8 am to 5 pm) during weekdays.**

Please note that you cannot take advantage of the extension policy for the critical reflections i.e., your presentations except in the extraordinary circumstances. If you cannot complete the presentation after you signed up for it, you must notify me at least 3 days in advance and I will do my best to accommodating the rescheduling. If you notify me after this timeframe, the rescheduling will likely be impossible so you will lose an opportunity to complete this assignment.

Quizzes. Please note that this extension policy does not apply to quizzes. You will have the whole term to complete the quizzes. They are in place to ensure that you complete the mandatory readings and review the course-materials.

B. PENALTIES

Penalties: if you submit a mid-term late without an extension, **you will lose 5% of the mark PER DAY.** It does not matter if you are late by 1 second, 30 minutes or 12 hours. The standard is objective i.e., if you are late, you will lose 5%. I will accept the mid-term papers only 3 days past deadline. The same policy applies to the forum posts. If I receive the mid-term paper and the forum post 3 days after the respective deadlines, you will be awarded 0.

SCHEDULE

| Fall Term 2021 Sessional Dates and University Closures | |
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| <i>Please find a full list of important academic dates on the calendar website: https://calendar.carleton.ca/academicyear/</i> | |
| September 6, 2021 | Statutory holiday. University closed. |
| September 8, 2021 | Fall term begins. Fall and fall/winter classes begin. |
| October 11, 2021 | Statutory holiday. University closed. |
| October 25-29, 2021 | Fall break, no classes. |
| November 26, 2021 | Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade before the official examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar). |
| December 10, 2021 | Fall term ends. Last day of fall term classes. Classes follow a Monday schedule. |
| December 11-23, 2021 | Formally Scheduled Final Exams may be held. |
| December 23, 2021 | All take home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar. |
| December 25, 2021 through January 1, 2022 inclusive | University closed. |

Please note that you will need to purchase the textbook by Collins, all other sources indicated in this schedule are accessible online via Carleton University Library. The librarians may add certain sources to Ares.

September 13

Seminar 1: “Introduction: International Economic Law as a Professional Field and Discipline”

| In class | Mandatory readings |
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| <ul style="list-style-type: none"> • Introductory remarks -discussing research databases in IEL and sources; reading strategies and syllabus; discussing basic rules of legal interpretation and sources; Q&A. • Guided discussion on the basis of mandatory readings • Practical exercises | <ul style="list-style-type: none"> • Collins 1-27, • Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field” 38 <i>Hastings Law Journal</i> (1987) 810- 815. • Umut Özsu, “Hydrocarbon Humanitarianism: Ibrahim Shihata, ‘Oil Aid’, and Resource Sovereignty” (see Ares). • <i>Vienna Convention on the Law of Treaties</i> (VCLT), article 31. • Statute, International Court of Justice (ICJ), article 38. |

September 20

International Investment Law (IIL)

Seminar 2: “History of IIL: Why Does it Matter for Studying IIL?”

| In class | Mandatory readings |
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| <ul style="list-style-type: none"> • Reading strategies; Discussing writing and research strategies: how to build and develop a legal argument • Guided discussion on the basis of mandatory readings • Practical exercises | <ul style="list-style-type: none"> • Collins 187-214 • John Linarelli, Margot E. Salomon & Muthucumaraswamy Sornarajah, <i>The Misery of International Law: Confrontations with Injustice in the Global Economy</i> (Oxford University Press, 2018), see chapter “Foreign Investment: Property, Contract, and Protecting Private Power”. • UN, Charter of Economic Rights and Duties of States, GA Res 3281 (XXIX), |

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| | <p>29th Sess, UN Doc. A/9631.</p> <ul style="list-style-type: none"> • Declaration on the Establishment of a New International Economic Order, G.A.Res.3201 (S-VI) of May 1, 1974, 13 ILM 715. |
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September 27 (3 CRs)¹

Seminar 3: “Jurisdiction and Admissibility: Key Concepts”

| In class | Mandatory Readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Practical exercises • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Emmanuel Gaillard, “Abuse of Process in International Arbitration” (2017) ICSID Rev 1. • Yuka Fukunaga, “Abuse of Process under International Law and Investment Arbitration” (2018) 33:1 ICSID Review 181. • Mavluda Sattorova, “Defining Investment Under the ICSID Convention and BITs: Of Ordinary Meaning, Telos, and Beyond” (2012) Asian Journal of International Law 267. | <ul style="list-style-type: none"> • Rudolf Dolzer & Christoph Schreuer, <i>Principles of International Investment Law</i> (Oxford University Press, 2012) 44-60 (see Ares) • <i>Convention on the Settlement of Investment Disputes between States and Nationals of Other States</i> (1965), 5 ILM 532, 575 UNTS 159 [ICSID Convention], article 25 and the preamble. • <i>Philip Morris Asia Limited v The Commonwealth of Australia</i> (2015), Award on Jurisdiction and Admissibility, PCA Case No. 2012-12 (Permanent Court of Arbitration) (Arbitrators: Gabrielle Kaufmann-Kohler, Don McRae, Karl-Heinz Böckstiegel), please review the table of contents to understand the structure of the arbitral award + pp.166-184. |

¹ Please note that you will see a number near the date of our in person session. This number indicates the maximum number of presenters during this session. The presenters must choose one of the papers indicated in the section “in class”.

October 4 (3 CRs)**Seminar 4: “Substantive Standards: General Principles”**

| In class | Mandatory readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Practical exercises • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Michael Reisman, “Canute Confronts the Tide: States versus Tribunals and the Evolution of the Minimum Standard in Customary International Law” (2015) 30:3 ICSID Rev 616. • Caroline Henckels, “Indirect Expropriation and the Right to Regulate: Revisiting Proportionality Analysis and the Standard of Review in Investor-State Arbitration” (2012)15:1 J Intl Econ L 223. • Simon Batifort & J. Benton, “Heath, The New Debate on the Interpretation of MFN Clauses in Investment Treaties: Putting the Brakes on Multilateralization” (2018) 111:4 AJIL 873. | <ul style="list-style-type: none"> • Collins 158-187, • Martins Paparinskis, <i>The International Minimum Standard and Fair and Equitable Treatment</i> (OUP, 2013) chapter 4 “Content of the Modern International Standard” (see Ares) • <i>Agreement between the Government of Australia and the Government of the Independent State of Papua New Guinea for the Promotion and Protection of Investments</i> (1991), only review article 3 and the preamble. <p><i>Comprehensive Economic and Trade Agreement between EU and Canada</i>, only review art.8.10, para.2.</p> <ul style="list-style-type: none"> • <i>Bilcon v Canada</i>, Award on Jurisdiction and Liability (2015), pp.23-35, 124-176 |

October 11 – no class

October 18 (4 CRs)**Seminar 5: “Backlash: Legitimacy Deficits in IIL”**

| In class | Mandatory readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Stavros Brekoulakis, “Systemic Bias and the Institution of International Arbitration: A New Approach to Arbitral Decision-Making” (2013) 4:3 <i>Journal of International Dispute Settlement</i> 553. • Wolfgang Alschner, “The Impact of Investment Arbitration on Investment Treaty Design: Myth versus Reality” (2017) 42:1 <i>Yale J Intl L</i> 1. • David Schneiderman, “Investment Arbitration As Constitutional Law: Constitutional Analogies, Linkages, and Absences” in Thomas Schultz & Federico Ortino, <i>The Oxford Handbook of International Arbitration</i> (Oxford University Press, 2020) 421. • Asha Kaushal, “Revisiting History: How the Past Matters for the Present Backlash against the Foreign Investment Regime” (2009) 50 <i>Harv. Int’l L.J.</i> 491. | <ul style="list-style-type: none"> • Muthucumaraswamy Sornarajah, “Disintegration and Change in the International Law on Foreign Investment” (2020) 23:2 <i>Journal of International Economic Law</i> 413. • Freya Baetens, “The Rule of Law or the Perception of the Beholder? Why Investment Arbitrators are under Fire and Trade Adjudicators are not: A Response to Joost Pauwelyn”, 109 <i>AJIL Unbound</i> (2016) 302. • <i>Vattenfall AB and others v Germany</i>, Decision on the <i>Achmea</i> Issue (2018), pp.4-16, 24-52, 66-69. • <i>Bear Creek Mining Corporation v Peru</i> (2017), Partial Dissenting Opinion by Professor Philip Sands. |

October 25 – no classes

November 1 (3 CRs)**Seminar 6: “Reform of IIL”**

| In class | Mandatory Readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Makane Moise Mbengue & Stefanie Schacherer, “Africa and the Rethinking of International Investment Law” in Anthea Roberts et al, eds, <i>Comparative International Law</i> (Oxford: Oxford University Press, 2018). • Gabrielle Kaufmann-Kohler and Michel Potestà, “Can the Mauritius Convention Serve as a Model for the Reform of Investor-State Arbitration in Connection with the Introduction of a Permanent Investment Tribunal or an Appeal Mechanism? Analysis and Roadmap” <i>CIDS</i> 4. • Wendy Miles & Merryl Lawry-White, “Arbitral Institutions and the Enforcement of Climate Change Obligations for the Benefit of all Stakeholders: The Role of ICSID” (2019) 34:1 <i>ICSID Review</i> 1. | <ul style="list-style-type: none"> • Sergio Puig and Gregory Shaffer, “Imperfect Alternatives: Institutional Choice and the Reform of Investment Law” (2018) 112:3 <i>American Journal of International Law</i> 361. • Anthea Roberts and Taylor St John, (24 October 2019) UNCITRAL and ISDS Reform: Visualising a Flexible Framework, https://www.ejiltalk.org/uncitral-and-isds-reform-visualising-a-flexible-framework/. • Optional: you can review the following call for consultation by Australia on ISDS reform |

November 8 (3 CRs)**International Trade Law (ITL)****Seminar 7: “History of ITL and Overview of the System”**

| In class | Mandatory Readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Pascal Lamy, “The Place of the WTO and its Law in the International Legal Order”, (2006) 17 <i>European Journal of International Law</i> 969-984. • Nicolas Lamp, “The Club Approach to Multilateral Trade Lawmaking” (2014) 49:1 <i>Vanderbilt Journal of Transnational Law</i> 7. • Andrew Mitchell & Neha Mishra, “Data at the Docks: Modernizing International Trade Law for the Digital Economy” (2017) 20 <i>Vand. J. Ent. & Tech. L.</i> 1073. | <ul style="list-style-type: none"> • Collins 27-52, • Michael Fakhri, <i>Sugar and the Making of International Trade Law</i> (Cambridge University Press, 2014) 3-10, 28-41, 165-169. • Sven Beckert, <i>Empire of Cotton: A Global History</i> (Vintage Books, 2015) 3-29. |

November 15 (4 CRs)

- **Seminar 8: “General Principles of the WTO Law”**

| Live Lecture | Mandatory Readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Practical exercises • Critical Reflections <p>For critical reflections, you can choose:</p> | <ul style="list-style-type: none"> • Andrew D. Mitchell, <i>Legal Principles in WTO Disputes</i> (Cambridge University Press, 2008) 2.1.-2.5. • WTO Basics |

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| <ul style="list-style-type: none"> • Joel Trachtman, “Bananas, Direct Effect and Compliance” (1999) 10:4 EJIL 655. • Anwar Shaikh, <i>Capitalism: Competition, Conflict, Crises</i> (Oxford University Press, 2016) 11 (I-III). • Jeffrey Dunoff and Mark Pollack, “The Application of “The Judicial Trilemma” to the WTO Dispute Settlement System Part of “The Judicial Trilemma” (2017) 111 AJIL 359-363. • Harlan Grant Cohen, “What Is International Trade Law For?” (2019) AJIL 326. | <ul style="list-style-type: none"> • Michael J. Trebilcock & Joel Trachtman, <i>Advanced Introduction to International Trade Law</i> (Edward Elgar Publishing, 2020) 3.4.-3.5., 5.1.-5.5. • George Abi-Saab, “The Appellate Body and Treaty Interpretation” in M. Fitzmaurice, Olufemi Elias & Panos Merkouris (eds), <i>Treaty Interpretation and the Vienna Convention on the Law of Treaties: 30 Years on</i> (Brill, 2010) 97-109. |
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November 22 (3 CRs)

Seminar 9: “Exceptions”

| <p style="text-align: center;">In class</p> | <p style="text-align: center;">Mandatory Readings</p> |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Practical exercises • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Michael Fakhri, “The WTO, Self-Determination, and Multi-Jurisdictional Sovereignty Part of WTO EC-Seal Products Case” (2014) AJIL Unbound 287. • Paola Conconi & Tania Voon, “EC–Seal Products: The Tension between Public Morals and International Trade Agreements” (2016) 15:2 World Trade Review | <ul style="list-style-type: none"> • Caroline Henckels, Permission to Act: The Legal Character of General and Security Exceptions in International Trade and Investment Law (2000) 69 ICLQ 557 • Russia-Measures Concerning Traffic in Transit, Report of the Panel (2019) WT/DS512/R. Please review the table of contents to understand the structure of the report + section 1, section 2, section 7.5.3.1-7.5.6.1. • European Communities, Measures Prohibiting the Importation and Marketing of Seal Product (2014) WT/DS400/AB/R, pp 13-17, 129-139,174,175. |

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| <p>211.</p> <ul style="list-style-type: none"> • Robert Howse & Joanne Langille, "Permitting Pluralism: The Seal Products Dispute and Why the WTO Should Accept Trade Restrictions Justified by Noninstrumental Moral Values" (2012) 37 Yale Journal of International Law 367. | |
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November 29 (3 CRs)

Seminar 10: "Trade at the Intersection: Gender, Environment, IP, Indigenous Rights"

| In class | Mandatory Readings |
|---|---|
| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Practical exercises • Critical Reflections <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Rochelle Dreyfuss & Susy Frankel, "From Incentive to Commodity to Asset: How International Law is Reconceptualizing Intellectual Property" (2015) 36 Mich J Intl L 557. • Laurence Helfer, "Regime Shifting: The TRIPs Agreement and New Dynamics of International Intellectual Property Lawmaking" 29:1 Yale Journal of International Law (2004) 1. • Elen t'Hoen, "TRIPS, Pharmaceutical Patents, and Access to Essential Medicines: A Long Way from Seattle to Doha" (2002) 3 Chicago Journal of | <ul style="list-style-type: none"> • Collins 101-120, • John Borrows & Risa Schwartz (eds), <i>Indigenous Peoples and International Trade: Building Equitable and Inclusive International Trade and Investment Agreements</i> (Cambridge University Press, 2020) 9-25. • OECD, "Labour Provisions in International Trade Agreements" (2019), pp.11-15,23-32. |

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| International Law 27. | |
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December 6 (3 CRs)

Seminar 11: “WTO: Backlash and the Reform of Dispute Settlement”

| Live Lecture | Mandatory Readings |
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| <ul style="list-style-type: none"> • Critical Reflections • Discussing the challenges before the multilateral trade system <p>For critical reflections, you can choose:</p> <ul style="list-style-type: none"> • Robert Howse, “Making the WTO (Not So) Great Again: The Case Against Responding to the Trump Trade Agenda Through Reform of WTO Rules on Subsidies and State Enterprises” (2020) 23:2 <i>Journal of International Economic Law</i> 371. • Anne van Aaken & Jürgen Kurtz “Beyond Rational Choice: International Trade Law and The Behavioral Political Economy of Protectionism” (2019) 22:4 <i>Journal of International Economic Law</i> 601. • Nicolas Lamp, “How Should We Think about the Winners and Losers from Globalization? Three Narratives and Their Implications for the Redesign of International Economic Agreements” 30 <i>European Journal of International Law</i>, (2019) 1359. | <ul style="list-style-type: none"> • Collins 52-76, • Bernard M Hoekman, Petros C Mavroidis, “To AB or Not to AB? Dispute Settlement in WTO Reform” (2020) 23:3 <i>Journal of International Economic Law</i> 1. • Michael J. Trebilcock & Joel Trachtman, <i>Advanced Introduction to International Trade Law</i> (Edward Elgar Publishing, 2020) 17.1-17.2. • Reform of the WTO • EU, Multilateralism in International Trade |

International Financial Law
December 10

Seminar 12: “IMF & World Bank: Critical Legal Perspectives”

| Live Lecture | Mandatory Readings |
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| <ul style="list-style-type: none"> • Guided discussion on the basis of mandatory readings • Critical Reflections • Practical exercises • Concluding Remarks | <ul style="list-style-type: none"> • Collins 214-239 • Chris Brummer, “Why Soft Law Dominates International Finance—and not Trade” (2010) 13:3 Journal of International Economic Law 623. |

IMPORTANT POINTS ON COURSE DELIVERY: TEACHING AND COVID-19

COVID-19 significantly disrupted our lives in 2020-2021 so we cannot pretend that this year will be business as usual. Accordingly, teaching and learning will require us to adjust the process as we proceed in this course.

My goal is for you to succeed and feel comfortable engaging with the materials as well as your peers throughout the term. Please be patient, understanding, and polite to everyone around you as we make our way through this course.

I will do my best to ensure smooth and structured course delivery throughout the term. To achieve this goal, I will need you to keep in mind the following features of the course this term, and certain basic points of order.

- **Etiquette:** Be polite and considerate in all circumstances, particularly in all your written and oral communications with your peers and myself. Please remember about the rules on professional communication when you interact with me and your colleagues.
- **Emails:** please get in touch with me via Bright Space. The timeframe for the reply is 48 hours. If I did not get back to you within this timeframe, you could resend your inquiry. Please note that I do not reply to emails outside of the regular working hours (8 am to 5 pm) and on the weekends. Please plan all your communications accordingly.
- **Office hours:** I will hold my office hours Friday 10 am to 11 am. Please check the Bright Space Announcement Board for the Zoom link.

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs. For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

ACADEMIC ACCOMMODATIONS

Academic Accommodation

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

Academic Accommodations for Students with Disabilities: [The Paul Menton Centre for Students with](#)

[Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation will be provided to students who compete or perform at the national or international level. Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or

international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit:
<https://students.carleton.ca/services/accommodation/>.

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations:
<https://carleton.ca/law/student-experience-resources/>.