

Syllabus

International Economic Law / Winter 2023

**University of Carleton / Department of Law and Legal Studies / LAWS
4200**

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Prerequisites: LAWS 2908, 0.5 credit from LAWS 3207 or LAWS 3208, and fourth-year Honours standing.

1. Description

This course offers in-depth and practical knowledge of the rules governing the international economic legal order.

Following the introduction of the subject through presentation of the history and evolution of international economic law, the relevant regulatory framework will be reviewed and discussed. Students will also learn about how international disputes are litigated and resolved.

Participation by students, with a view to fostering intellectually interesting and constructive debates and discussions in the classroom (or online, as the case may be), is important, expected and required.

2. Material Covered and Learning Outcomes

Over the course of the semester, the following topics will be covered:

- (i) Introduction: Historical Evolution of Economic/Trade Liberalization and Global Governance
- (ii) Trade in Goods
 - Non-Discriminatory Treatment
 - Tariffs & Quantitative Restrictions
 - Trade-Related Investment Measures

- Protection of Legitimate Public Policies
 - Multilateral/Regional/Bilateral Trade Agreements
 - Emergency Exceptions in the case of Fair Trade (Safeguards & Balance-of-Payments Measures)
 - Measures to Address Unfair Trade (Dumping and Subsidies)
 - Technical Barriers to Trade
 - Sanitary and Phytosanitary Measures
- (iii) Trade in Services
- Non-Discriminatory Treatment
 - Market Access
 - Domestic Regulation
 - Monopolies and Cartels
 - New Issues, *e.g.* E-Commerce
 - Protection of Legitimate Public Policies
 - International Payments and Transfers of Capital
 - Sector-Specific Rules
 - ❖ Financial Services
 - ❖ Telecommunications
 - ❖ Movement of Natural Persons
- (iv) Intellectual Property (IP)
- Importance of IP Protection Nowadays
 - Key Rules and Principles

- Enforcement of IPs
- (v) Protection of International Investment
 - Rationale and Evolution
 - Key Standards of Protection
- (vi) Dispute Settlement (DS)
 - DS at International Law
 - Process – State-to-State DS v. Investor-State DS
 - Remedies
 - Problems/Issues with the Current System

3. Selective Readings and Relevant Sources

Required

- L. Choukroune, J. J. Nedumpara, *International Economic Law: Text, Cases and Materials*, Cambridge University Press, 2022 – available digitally at https://www.amazon.ca/International-Economic-Law-Cases-Materials/dp/1108436641/ref=rtpb_sccl_2/142-4482819-8840502?pd_rd_w=N6eof&content-id=amzn1.sym.20523d9a-69e9-4cf2-81bb-78c83b713159&pf_rd_p=20523d9a-69e9-4cf2-81bb-78c83b713159&pf_rd_r=2SJXS3MW0N2SQGGW9DC7&pd_rd_wg=kouNr&pd_rd_r=d5c96bd5-221b-4303-b75b-39dfa5a66701&pd_rd_i=1108436641&psc=1

Additional

- Text of the WTO agreements: available in hard copy and on the Internet (<https://www.wto.org>).
- P. Van Den Bossche, W. Zdouc, *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, 5th Ed., Cambridge, 2022.
- Panel and Appellate Body reports: (<https://www.wto.org>).
- Investment tribunals' awards and other material: <http://www.italaw.com/>

4. Teaching Method and Evaluation

Teaching

Lectures are interactive with PowerPoint presentations used to guide the discussion and the Professor asking students to express their views on the topic *du jour*, with a view to a healthy debate taking place in the course of students learning and understanding the law. It follows that students should come to every lecture having done the recommended preparatory work and being ready to fully participate in the classroom.

The Professor has some 30 years of experience teaching and practicing in this area of the law, hence the content of lectures consists in a mix of both theory and practice (what goes on in the “real world”...). Discussions are broad-based, frank and direct, based on the understanding that they are **confidential, limited to the classroom, and not recorded in any shape or form**. Any breach of this understanding shall be strongly sanctioned.

Evaluation

- (i) Essay – 10 pages; double-spaced; due by March 31th; 30%
- (ii) Final examination – case study; take-home exam (5 hours); 50%
- (iii) Attendance and participation by students – 20%

Plagiarism

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else;

- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course's instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

5. Bio of Eric H. Leroux

M. Leroux is head of E. H. Leroux Associates, a boutique firm providing specialized international trade and investment law and policy services to governments, international organizations and private stakeholders around the world.

M. Leroux also teaches international trade and investment law and policy at various academic institutions around the world, such as, for many years, the Pan-American University in Mexico City and the World Trade Institute in Bern. He is a frequent speaker on these subject matters in various fora.

Prior to establishing his own firm, M. Leroux had a distinguished career in government in Canada, serving as Senior Counsel in the Trade Law Bureau, in which capacity he represented Canada before investment tribunals, WTO panels, and in the context of more than 50 trade and investment negotiations, including with all the major stakeholders such as the EU, the USA, China and India. In his government career, M. Leroux last served in the capacity of Associate Deputy Minister. Prior to his government career, M. Leroux notably practiced international economic law in the private sector in Washington, D.C., USA.

M. Leroux is an international trade and investment lawyer educated in Canada, the UK and Mexico. He is fluent in French, English and Spanish, and he has written extensively on these matters in all three languages.

In his spare time, M. Leroux is a novelist and an avid alpine skier and practitioner of martial arts, especially enjoying teaching these sports to kids.

Contact:

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6. Breakdown of Lectures and Required Preparatory Work

Week 1 – January 9

Introduction to International Economic Law (IEL)

- Course presentation & Q&As
 - Getting to know each other & survey of group (background, general knowledge of international law and international relations, etc.)
 - Initial brainstorming on IEL and understanding how international trade works
- ❖ No preparatory work required

Week 2 – January 16

The Big Picture: Understanding the Rationale for Economic/Trade Liberalization and Global Governance

- Is economic/trade liberalization good or bad?
 - Economics *versus* politics
 - Conditions for success
 - Pros and cons of global governance
- ❖ Preparatory work: Choukroune & als (Introduction)

Week 3 – January 23

Historical Evolution of the International Economic Legal Order (IELO)

- Origins
 - Economic nationalism
 - The GATT
 - The WTO
 - Regional trade agreements (*e.g.* NAFTA/USMCA)
 - Investment protection agreements
 - Current challenges to IELO
- ❖ Preparatory work: Choukroune & als (Introduction)

Week 4 – January 30

Foundations: Basic Principles of Public International Law

- Measures regulated by IEL
 - State responsibility
 - Applicable law
 - Different approaches to regulating economic activity in international agreements
- ❖ Preparatory work: Choukroune & als (Introduction, Part I.1)

Week 5 – February 6

Border Measures, Tariffs and Quotas

- Trade in goods
 - Understanding tariffs
 - Other limitations on access to goods markets
- ❖ Preparatory work: Choukroune & als (Part I.2)

Week 6 – February 13

Non-Discrimination

- Understanding the general principle and its rationale
 - Most-favored-nation treatment (MFN)
 - National treatment
 - Non-discrimination as applied in practice
 - Does it make sense?
- ❖ Preparatory work: Choukroune & als (Parts I.1)

Week 7 – February 27

Balancing Economic/Trade Liberalization and Other Public Policy Objectives

- The need for an equilibrium
 - Approach to protecting general public policy interests
 - The emerging case of national security
 - Sanitary and phytosanitary measures
 - Current challenges and the need for reform
- ❖ Preparatory work: Choukroune & als (Parts I.9, I.4)

Week 8 – March 6

Countering Unfair Trade

- Subsidies
 - Dumping
 - Safeguards & balance of payments...
- ❖ Preparatory work: Choukroune & als (Parts I.5, I.6)

Week 9 – March 13

Issues Specific to Trade in Services and IP

- Market access
 - Domestic regulation
 - Cross-border trade
 - Sensitive sectors (e.g. financial services)
 - Protection and enforcement of IP
- ❖ Preparatory work: Choukroune & als (Parts I.8, I.7)

Weeks 10&11 – March 20-27

The Special Case of International Investment and Its Protection

- Why special?
 - A new and evolving branch of the IELO
 - Key rules & principles
- ❖ Preparatory work: Choukroune & als (Part II)

Weeks 12&13 – April 3-10

The Resolution of International Economic Disputes & Recap

- The general mechanism: State-to-State arbitration
 - The exceptional mechanism: investor-State arbitration
 - What's working and what doesn't
 - Recap and Q&As
- ❖ Preparatory work: Choukroune & als (Part II.14)

7. Student Mental Health

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you. Here is a list that may be helpful:

Emergency Resources (on and off campus): <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Empower Me: 1-844-741-6389, <https://students.carleton.ca/services/empower-me-counselling-services/>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

8. Pandemic Measures

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are [a number of actions you can take](#) to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

Feeling sick? Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you should follow Carleton's [symptom reporting protocols](#).

Masks: Masks are no longer mandatory in university buildings and facilities. However, we continue to recommend masking when indoors, particularly if physical distancing cannot be maintained. We are aware that personal preferences regarding optional mask use will

vary greatly, and we ask that we all show consideration and care for each other during this transition.

Vaccines: While proof of vaccination is no longer required to access campus or participate in in-person Carleton activities, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible and submit their booster dose information in [cuScreen](#) as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements please see the [University's COVID-19 website](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca.

9. Requests for Academic Accommodations

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 ([click here](#)).

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>

Winter 2023 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website:</i> https://calendar.carleton.ca/academicyear/	
January 9, 2023	Winter term begins.
January 20, 2023	Last day for registration and course changes (including auditing) in full winter and late winter courses.
February 20, 2023	Statutory holiday. University closed.
February 20-24, 2023	Winter break. No classes.
March 15, 2023	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
April 7, 2023	Statutory holiday. University closed.
April 12, 2023	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
April 15-27, 2023	Final examinations in full winter, late winter, and fall/winter courses will be held.
April 27, 2023	All final take-home examinations are due on this day.