

International Economic Law and the Pursuit of Core Societal Values and Interests

Man shall not live by bread alone.

Matthew 4.4

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Course description

The most challenging rules of international economic law are those which aim to strike the appropriate balance between, on the one hand, free trade and unrestricted foreign investment, and, on the other hand, other core societal values and interests, such as public health, environmental protection, national security, consumer protection, public order, public morals, privacy, and cultural identity. Oftentimes, free trade and unrestricted foreign investment significantly facilitate the protection and promotion of the societal values and interests referred to above. Sometimes, however, the protection or promotion of these values and interests is difficult, if not impossible, without limiting trade and/or restricting foreign investment. Recognizing that in such situations these values and interests must prevail over free trade and/or unrestricted foreign direct investment, the law of both international trade and international investment law allows – under certain conditions – national legislation and measures to impose limits on trade and restrict foreign investment. However, the conditions under which this is allowed are often criticised for leaving insufficient policy space to national governments to pursue the core societal values and interests referred to above.

This course aims at introducing students to the different rules in international economic law aimed at striking the appropriate balance between free trade and unrestricted foreign investment on the one hand, and other core societal values and interests on the other hand. This course seeks to make students reflect on whether the relevant rules of international economic law, as they currently exist, are interpreted and are applied, allow for an appropriate balance to be struck between conflicting societal values and interests. The course starts with an overview of the basic rules under both international trade and investment law providing governments policy space to pursue core societal values and interests. Subsequently the course addresses the policy space governments have to pursue

specific core societal values and interests, including public health, consumer protection, a clean environment, minimum labour standards, animal welfare, cultural identity and diversity, national security, and 'full' employment.

Participation

The course is designed for advanced students in law, economics or political science with a strong command of English and an interest in international (economic) law and international relations. Prior knowledge of international economic law is helpful but not indispensable.

Schedule

This 5 ECTS course runs over 14 weeks. From Friday, 24 February to Tuesday, 23 May 2023, the course includes seven lectures by Prof. Van den Bossche, five guest lectures, and one revision and exam preparation class. The course also includes on 30 and 31 May 2023, a two-day study trip to the World Trade Organization in Geneva.

- Week 1: Introduction on the policy space for national legislation and measures under international economic law
- Week 2: National legislation and measures for the protection of public health
- Week 3: National legislation and measures for the protection of the environment
- Week 4: National legislation and measures for the protection of public morals, public order and human rights
- Week 5: National legislation and measures for the protection of the domestic industry
- Week 6: National legislation and measures for the protection of national security
- Week 7: National legislation and measures for economic development and innovation
- Week 8: Guest lecture on *International Economic Law and the Climate Crisis* by Prof. Gracia Marin Duran, Associate Professor, University College London
(<https://www.ucl.ac.uk/laws/people/gracia-marin-duran/>)
- Week 9: Guest lecture on *International Economic Law and the Weaposition of Trade in the Pursuit of Core Societal Values* by Mr. Lothar Ehring, Senior Expert – Legal Officer, Directorate-General Trade, European Commission, Brussels
(<https://www.wti.org/institute/people/154/ehring-lothar/>)
- Week 10: Guest lecture on *International Economic Law and Gender* by Prof. Gabrielle Marceau, Senior Counsellor, Research Division, World Trade Organization, and Associate Professor, Université de Genève
(<https://www.wti.org/institute/people/251/marceau-gabrielle/>)
- Week 11: Guest lecture on *International Economic Law and the Weaposition of Investment in the Pursuit of Core Societal Values* by Dr. Rodrigo Polanco, Senior Lecturer, World Trade Institute, and Legal Advisor, Swiss Institute of Comparative Law
(<https://www.wti.org/institute/people/421/polanco-rodriigo/>)
- Week 12: Guest lecture on *International Economic Law and Food Security* by Dr. Christian Häberli, Senior Fellow, World Trade Institute
(<https://www.wti.org/institute/people/44/haberli-christian/>)

Week 13: Revision and exam preparation class

Week 14: Study trip to the World Trade Organization, Geneva

Exam

The final exam is an open-book oral exam of 20 minutes. Students will receive the exam questions 30 minutes in advance and may use this time to prepare for the oral exam. In the evaluation, emphasis will be placed on the ability to critically discuss whether, and, if so, how, the rules of international trade and investment law strike an appropriate balance between the societal values and interests discussed in this course.

Lecturer

Peter Van den Bossche is a former Member and Chair of the Appellate Body of the World Trade Organization (2009-2019), and is currently Director of Studies and Professor of International Economic Law at the World Trade Institute of the University of Bern, and President of the Society of International Economic Law (SIEL). Van den Bossche is also a visiting professor at the Bocconi University, Milan (2022), the Université de Genève (since 2018), LUISS Guido Carli University, Rome, Italy (since 2016), the Universidad San Francisco de Quito, Ecuador (since 2016), and the College of Europe, Bruges (since 2010), and Maastricht University (since 2010). He is member of the Advisory Board of the *World Trade Review*, *Journal of International Economic Law*, the *Journal of World Investment and Trade* and the *Revista Latinoamericana de Derecho Comercial Internacional*. Since 2013, he is also member of the Advisory Board of the WTO Chairs Programme (WCP). Van den Bossche is on the roster of arbitrators for disputes under the EU-UK Trade and Cooperation Agreement (TCA), the EU-Canada Comprehensive Economic and Trade Agreement (CETA), and the EU-Andean Community Trade Agreement, on the panel of arbitrators of the Shenzhen Court of International Arbitration (SCIA) and the South China International Arbitration Center (Hong Kong) (SCIAHK), and on the EU list of candidates suitable for appointment as arbitrators and TSD experts.

Van den Bossche holds an LL.M. from the University of Michigan, Ann Arbor (1986) and a PhD in law from the European University Institute, Florence (1990). Van den Bossche graduated *magna cum laude* from the Faculty of Law of the University of Antwerp (1982). Van den Bossche worked at the Court of Justice of the European Communities, Luxembourg, as référendaire of Advocate-General W. Van Gerven (1990-92) after which he joined the Faculty of Law of Maastricht University. From 1997 to 2001, Van den Bossche was Counsellor to the Appellate Body of the World Trade Organization, Geneva. In 2001, he served as Acting Director of the Appellate Body Secretariat after which he returned to Maastricht University as Professor of International Economic Law. From 2005 to 2009, Van den Bossche was Head of the Department of International and European Law of Maastricht University. In 2007, he founded the Institute for Globalisation and International Regulation (IGIR) at Maastricht University and served as its first Academic Director until 2009. He obtained substantial research grants from *inter alia* the European Commission, the Asian

Development Bank, the Government of the Netherlands, and the Southern African Customs Union.

Van den Bossche is the author (with Werner Zdouc) of *The Law and Policy of the World Trade Organization*, 5th edition (Cambridge University Press, 2022), 1170 p., and (with Denise Prévost) of *Essentials of WTO Law*, 2nd edition (Cambridge University Press, 2021), 223 p. The Chinese edition of *The Law and Policy of the World Trade Organization* was published in 2020 by Law Press China.

Reading materials

Students will receive a digital reader with chapters and sections from books and articles on the topics addressed in this course. The reader also contains relevant jurisprudence. Note the difference made between 'Main Reading Materials' and 'Other Reading Materials'. This digital reader will be available on ILIAS.