

WTI Summer Academy course on the Proposed EU Carbon Border Adjustment Mechanism

When:	20-23 June 2022
Root number:	477689
Where:	Silva Casa Auditorium, World Trade Institute, Hallerstrasse 6, 3012 Bern or <i>online</i>
What:	Carbon border adjustment mechanism (CBAM): legal, economic, and political economy perspectives
Who:	The best specialists in law, economics, and political economy

Course Description

This course will provide an in-depth understanding of the European Commission's Proposed Carbon Border Adjustment Mechanism (CBAM). During the course, participants will be invited to discuss and explore CBAM through the prism of law, economics, and politics. After an introduction to the genesis of the idea and motivations behind CBAM, its place among the EU's efforts to address climate change, to reactions to the CBAM proposal to date and recent development, the course will first address the economics of border carbon taxes, and in particular the linkages between global value chains (GVCs) and carbon flows, trade policy, trade agreements, and carbon flows, and (trade) policy objectives and border taxes. The course will subsequently look at CBAM from a legal perspective and first explore the product, country, and emissions scope of the proposed CBAM, its carbon price calculation methodology, its relation to the EU ETS and free allowances, the proposed CBAM revenue allocation and intended the implementation and administration of CBAM. The course will then address the international framework and new initiatives on carbon pricing, the interface between international trade and environmental law, and the consistency of the proposed CBAM and amendments thereof with WTO law and other obligations under international law. The European Commission's CBAM

proposal faces opposition from within the European Union as well as its trading partners. This course will, thus, also discuss politics of CBAM by mapping actors and interests on CBAM based on the results of a survey-experiment. The course will conclude with a Roundtable Session on the challenges presented by CBAM and ways to address them.

Lecturers

Law (in order of appearance)

- **Prof. Dr. Peter Van den Bossche**, Director of Studies, Professor of Law, World Trade Institute, University of Bern; President, Society of International Economic Law (SIEL)
- **Ms Yuliia Kucheriava**, PhD Fellow and Lecturer, World Trade Institute, University of Bern
- **Dr Christian Häberli**, Senior Fellow, World Trade Institute, University of Bern
- **Dr Ilaria Espa**, Senior Assistant Professor of International Economic Law at Università della Svizzera italiana (USI); Fellow, World Trade Institute (WTI), University of Bern
- **Mr Nicolas Lockhart**, Partner at Sidley Austin LLP, Geneva
- **Dr Dominic Coppens**, Senior Associate at Sidley Austin LLP, Brussels

Economics

- **Prof. Dr. Joseph Francois**, Managing Director, World Trade Institute (WTI), University of Bern

Political economy

- **Prof. Dr. Manfred Elsig**, Deputy Managing Director and Director of Research, World Trade Institute (WTI), University of Bern

Roundtable (tbc)

- **Dr. Carolyn Deere Birkbeck**
Director, Forum on Trade, Environment & the SDGs (TESS), Senior Researcher, Global Governance Centre, The Graduate Institute
- **Ms. Iana Dreyer**, Founder and Editor, Borderlex.eu
- **Mr. Ignacio Garcia Bercero**, Director and Chief Negotiator, DG Trade, European Commission, Brussels
- **Prof. Jennifer Hillman**, Professor of Law, Georgetown Law, Washington D.C.
- **Dr. David Kleimann**, Visiting Fellow, Bruegel, Brussels
- **Prof. Dr. Gabrielle Marceau**, Professor of International Economic Law, Université de Genève, Geneva

Course Schedule (CET time)

Date	Time	Lecturers	Topic
20/06/22	10:00-12:00	Van den Bossche/ Kucherava	Introduction: <ul style="list-style-type: none"> - The concept of carbon leakage - Genesis of the idea of adjusting carbon at the border: practices of the EU and the US - Historical milestones of the CBAM proposal in the EU - The place of CBAM in the regulatory framework of the EU: Green Deal and Fit for 55, EU ETS - International reactions: EU trading partners; domestic industry; reactions by various institutions and organisations, including NGOs - Recent developments: the outlook of trade in carbon-intensive goods and the effects of the Russia's invasion of Ukraine - Possible ways forward: EU process VS WTO/other fora
	14:00-16:30	Francois	The economics of CBAM: <ul style="list-style-type: none"> - Global value chains (GVCs) and the complexity of cross-border production and trade - Linkages between GVCs and carbon flows
21/06/22	10:00-12:30	Francois	<ul style="list-style-type: none"> - Trade policy, trade agreements, and carbon flows - Policy objectives and border taxes
	14:00-16:00	Häberli/Espa	The law of CBAM: <ul style="list-style-type: none"> - CBAM as proposed: product, country, and emissions scope; carbon price calculation; relation to the EU ETS and free allowances; revenue allocation; implementation and administration of CBAM
	16:00 -17:00	Lockhart/Coppens	<ul style="list-style-type: none"> - International framework on carbon pricing (UNFCCC, Paris Agreement); international initiatives on carbon pricing
22/06/22	10:00 - 11:00	Lockhart/Coppens	<ul style="list-style-type: none"> - The interface between international trade law and international environmental law
	11:00 - 12:30	Lockhart/Coppens	<ul style="list-style-type: none"> - Claims of WTO-inconsistency of CBAM as proposed
	14:00 - 15:30	Lockhart/Coppens	<ul style="list-style-type: none"> - Scope for justification under WTO law of otherwise WTO-inconsistent aspects of CBAM as proposed
	15:30 - 17:00	Häberli/Espa	<ul style="list-style-type: none"> - Consistency with WTO law and the Paris Agreement of possible amendments to CBAM (export rebates;

			country-scope- exclusion for LDCs; revenue allocation)
23/06/22	10:00 - 12:30	Elsig	The politics of CBAM: <ul style="list-style-type: none"> - Mapping actors and interests within the EU on CBAM - Aggregating interests in a multi-level system - Micro foundations: A view from a survey-experiment
	14:00-15:30	tbc	Roundtable

Biographies of the Lecturers

Christian Häberli

Christian Häberli has been a Senior Fellow of the World Trade Institute (Bern University) since 2007 and is a consultant for scientific research and outreach activities in Europe, Asia, Africa, and in the Americas. He has produced over 60 publications on trade and investment issues related to agriculture, food security and food safety, obesity and malnutrition, water, climate change, employment, multilateral and regional trade, and development. In 1977 he earned a PhD with a thesis in African Investment Law (Basel University). He also has university degrees in Development Sciences from Geneva (1975) and in Theology from Bern (2009).

His professional career started in 1978 with the International Labour Organization (ILO) and with the Swiss Government, based in Madagascar, Thailand, Nepal, and Switzerland. Christian Häberli was a trade negotiator for Switzerland in the GATT and the WTO during the Uruguay and the Doha Rounds (1986 to 2007). He was Chair of the WTO Committee on Agriculture (Regular Session, 2005 – 07) and WTO Panellist 1996 – 2015, in 20 stages of 5 dispute settlement cases. He also served as Chair (every other year) of the Joint Committee of the Agriculture Agreement Switzerland–EU (2002 to 2007).

Dominic Coppens

Dominic Coppens, PhD, is senior managing associate at Sidley Austin LLP, Brussels. He advises governments, business, and NGOs on international trade rules, in particular on WTO rules, and on the intersection between trade and environment (e.g., carbon pricing and offsets, international waste regulation, and the EU's Green Deal). Dominic also regularly lectures and writes on trade law, including on subsidy law. He is a member of the International Law Association's Committee on Sustainable Development and the Green Economy in International Trade Law.

Ilaria Espa

Ilaria Espa is Senior Assistant Professor of International Economic Law (with tenure track) at the Università della Svizzera italiana (USI), Senior Research Fellow at the World Trade Institute (WTI) and Adjunct Professor at the Law Faculty of the Università Cattolica del Sacro Cuore. She is furthermore Lead Counsel of the Programme "Natural Resources" of the Centre for International Sustainable Development Law (CISDL).

Ilaria's areas of expertise include international economic law, with a focus on trade regulation, international environmental law, and EU law. She has published extensively on issues at the intersection of trade and sustainability, mainly in the areas of climate change, energy and commodities, as well as on the law governing the sustainable management of natural resources, always from a multi-layered governance perspective. In particular, she is the author of a monograph on Export Restrictions on Critical Minerals and Metals: Testing the Adequacy of WTO Disciplines (Cambridge University Press, 2015) and the co-editor of the volume on International Trade in Sustainable Electricity: Regulatory Challenges in International Economic Law (Cambridge University Press, 2017). Her works have been published in leading international peer-reviewed journals such as Journal of International Economic Law, World Trade Review, Journal of World Trade, Journal of World Investment and Trade and European Yearbook of International Economic Law. In 2020, she was conferred the International Legal Specialist in Natural Resources Award by the Centre for International Sustainable Development Law (CISDL).

Ilaria is an elected member of the Committees of the International Law Association (ILA) on the 'Role of International Law in Sustainable Natural Resources Management for Development' and 'Sustainable Development and the Green Economy in International Trade Law'. She is an elected member of the Executive Council of the Society of International Economic Law (SIEL) and a member of the Board of the Italian Society of International Law (SIDI) International Economic Law Interest Group. Ilaria is furthermore the elected Secretary-General of the Swiss Energy Law Association (SELA), a member of the Scientific Committee of the European Association of Energy Law Associations (EFELA), and a Fellow of the Cambridge University Centre for Environment, Energy and Natural Resource Governance (C-EENRG) Platform on Global Energy Governance. She has served as a member of and contributor to the Expert Group on 'Trade and Investment in Extractive Industries' and the Task Force on 'Rethinking International Subsidies Disciplines' of the E15 Initiative, an initiative jointly implemented by the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum (WEF). She has acted as consultant to a number of governmental agencies, NGOs, international organizations and business

associations including the World Trade Organisation, the European Commission, the Swiss State Secretariat for Economic Affairs and the Swiss Federal Office of Energy. She is a frequent presenter at academic conferences and guest lecturer, and has also given numerous talks for non-academic audiences.

Manfred Elsig

Manfred Elsig is Professor of International Relations, Deputy Managing Director and Director of Research of the World Trade Institute of the University of Bern. From 2013-2017 he was the Director of the NCCR Trade Regulation. He studied at the universities of Bern and Bordeaux and earned a degree in political science. He worked from 1997 to 1999 at the Swiss Federal Office for Foreign Economic Affairs. He later joined the Political Science Institute at the University of Zurich and received his PhD (Dr Phil) in 2002 with a dissertation on European Union trade policy. From 2002 to 2004 he worked for UBS financial services group and as a personal advisor to the Minister of Economy of Canton Zürich. In 2004-2005 he was a teaching fellow at the International Relations Department at the London School of Economics and Political Science. From 2005 to 2009 he worked as a post-doc fellow at the World Trade Institute and at the Graduate Institute of International and Development Studies in Geneva. From 2009 to 2013 he was an Assistant Professor at the World Trade Institute.

His research focuses primarily on the politics of international trade, regional trade agreements, European trade policy, international organisations, US-EU relations, and private actors in global politics. He has published in international peer-reviewed journals including *International Studies Quarterly*, *European Journal of International Relations*, *European Union Politics*, *Journal of European Public Policy*, *Journal of Common Market Studies*, *Review of International Organizations*, *Review of International Political Economy*, and *World Trade Review*. He has been visiting lecturer/visiting professor at the University of Zurich, the University of Geneva, the Graduate Institute of International and Development Studies, the London School of Economics and Political Science, and the Thunderbird School of Global Management. His courses include international political economy (IPE), international relations theories, international institutions, globalisation and European integration, and research methods.

Nicolas Lockhart

Nic Lockhart is a partner with Sidley Austin LLP in Geneva. He advises sovereigns, businesses, and NGOs on international trade and environmental law, as well the relationship between these two areas of law. Building on experience in the WTO Appellate Body Secretariat, Nic has litigated dozens of WTO disputes, including disputes raising the protection of the environment and public health. Alongside his

practice, Nic regularly teaches and writes on sustainability issues, such as carbon pricing, carbon offsets, the circular economy, the EU Green Deal, and, more generally, the relevance of rules and principles of international environmental law to trade law and policy.

Peter Van den Bossche

Peter Van den Bossche is Director of Studies of the World Trade Institute (WTI) and Professor of International Economic Law at the University of Bern, Switzerland. Since 2018, he serves as President of the Society of International Economic Law (SIEL). From 2009 to 2019, he was a Member of the Appellate Body of the World Trade Organization (WTO) and served as chairman of the Appellate Body in 2015. He is an honorary professor at Maastricht University, the Netherlands (since 2018), and a visiting professor at the University of Geneva (since 2018), at LUISS Guido Carli University, Rome, Italy (since 2016), at the Universidad San Francisco de Quito, Ecuador (since 2016), and at the College of Europe, Bruges, Belgium (since 2010). 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 Shan Wenhua) of the Chinese edition of this book (Law Press – China, 2020), 1151 p. Van den Bossche is also the author (with Denise Prévost) of *Essentials of WTO Law*, 2nd edition (Cambridge University Press, 2021), 225 p.

Yuliia Kucheriava

Yuliia Kucheriava is an international trade lawyer, with corporate and litigation experience. Currently Yuliia is pursuing a PhD in law under the supervision of Professor Dr. Peter Van den Bossche. Her research interests focus on elaborating an international legal framework of effective carbon border adjustment instruments. Yuliia Kucheriava has a diverse professional experience, which includes private sector, consultancy, academia, and international organisations. Recently she conducted legal analysis of how the existing WTO framework supports the conditions underpinning economic resilience by contributing to more open and predictable international markets for the World Trade Report 2021.

From 2020 to 2022 Yuliia carried out legal assessments and prepared submissions on sustainable trade and development for FratiniVergano, the Brussels-based law firm. She also assisted in the drafting and editing of the 5th edition of *“The Law and Policy of the World Trade Organization”* (Professor Dr. Peter Van den Bossche and Dr. Werner Zdouc 5th edition) as well as of the 2nd edition of the *“Essentials of WTO Law”* (Professor Dr. Peter Van den Bossche and Dr. Denise Prévost). Yuliia is a lecturer and a project coordinator at the WTI. She also participates in various capacity building activities.

Before receiving her Master's in International Law and Economics (MILE) degree from the WTI, in 2019, Yuliia worked as a legal counsel in the largest private company of Ukraine - Metinvest Group. She was providing legal support during the implementation of strategic investment projects and assisted with all aspects of trade-defence proceedings directed against imports from Ukraine since 2015.

Yuliia received multiple awards, including the Winner Team Award and Best Orator Award in the WTI Moot Court on international Trade Law and WTO Dispute Settlement in June 2019, and Thomas Cottier Award for Best Master Thesis (MILE 2019). She is also a Member of the Association of Certified Anti-Money Laundering Specialists and is certified as a Global Sanctions Specialist.