

# International Law and Policy Options for Climate Mitigation

<b>Semester:</b>	Spring Semester- FS 2023
<b>Root Number:</b>	481926
<b>ECTS:</b>	3
<b>Lecturer:</b>	Dominic Coppens, Nicolas Lockhart and Elena Cima
<b>Dates:</b>	<b>July 17 to July 21, 2023</b>
<b>Room:</b>	This a hybrid course. The course will be held on-site at the World Trade Institute and online on Zoom.

## Audience

- Government officials, Embassy staff, people working for international organizations, NGOs, industry and in legal practice
- Master of Advanced Studies of International Law and Economics (MILE) Students
- Joint LL.M. / Diploma of Advanced Studies Trade and Investment Law (TRAIL+) Students - World Trade Institute / Faculty of Law, Unibe
- Certificate of Advanced Studies / Diploma of Advanced Studies in International Law and Economics (CAS ILE & DAS ILE) Students - World Trade Institute, Unibe
- Students from different universities across Switzerland

## Course Description

There is broad consensus on the urgent need to pursue climate mitigation but not on the ways to do so. This course will guide participants through the international law framework governing climate mitigation, and then explore the climate mitigation policies that public and private actors can pursue consistently with the framework.

This course is for anyone interested in the law and policy of climate change – policymakers, academics, NGOs, and lawyers working on sustainability issues.

In **Part I**, we will present the international law framework governing climate mitigation. Against the background of the principles of international environmental law, we will discuss the main international treaties addressing climate change (UNFCCC, Paris Agreement), as well as other relevant parts of international law (e.g., general public international law, trade law, human rights, and the law of the sea).

In **Part II**, the focus will shift to policy options for climate mitigation, covering both regulatory and litigation angles. We will explore the merits of the different policy options and assess them against the international law framework developed in Part I, including international trade law.

We will discuss the following policy options: (i) *carbon pricing* (e.g., ETS, carbon taxes, and carbon offsets), with case studies on carbon border adjustments (CBAM) and the sector-specific international aviation agreement on carbon offsetting and reduction (CORSA); (ii) *subsidies*, with case studies on the US Inflation Reduction Act (IRA), EU Green Deal Industrial Plan, and proposals to regulate fossil fuel subsidies; and (iii) *standards for products, processes, and reporting*, with case studies on the EU's proposed regulations on batteries, deforestation, and corporate sustainability reporting and due diligence.

Finally, we will examine emerging trends in the creative use of national and international adjudication to push climate mitigation. We will address ongoing initiatives in international law to seek advisory opinions from the International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS), as well as domestic 'greenwashing' litigation and domestic litigation leveraging international law.

## Lecturers

### Dominic Coppens

Dominic Coppens is Professor of International Economic Law at Maastricht University (the Netherlands), and a Senior Managing Associate at Sidley Austin LLP. Dominic's academic work and practice focus on the intersection between trade and sustainability. He collaborates with, among others, governments, international organizations, and civil society on new rulemaking in this area (e.g., sustainable trade, plastic pollution, carbon pricing, circular economy, international waste regulation, and the EU's Green Deal).

### Nicolas Lockhart

Nicolas Lockhart is a partner at Sidley Austin LLP, and a Fellow of the World Trade Institute of the University of Bern. Nic is a member of an international expert group, convened by the TESS Forum, which is developing principles for trade-related climate measures. Nic's academic work and his practice focus on international and EU law, in particular trade and environmental law. His recent work advising governments, corporations and civil society has covered a wide range of sustainability issues, including the policy options addressed in this course.

## Elena Cima

Elena Cima is a Lecturer in International Law at the University of Geneva, where she teaches courses on international environmental law, energy law, and investment law. She is also the co-director of the University of Geneva's Summer School in International Law and International Humanitarian Law. Elena holds a PhD in International Law from the Geneva Graduate Institute, a Bachelor of Laws from the University of Milan and an LL.M degree from Yale Law School. She has published in several peer-reviewed journals on international environmental law, climate law, investment law, and trade law. Elena often participates in investment arbitrations as well as in international water and climate negotiations.

## Learning Objectives

- To provide participants with an in-depth and critical understanding of:
  - The international law framework governing climate mitigation (e.g., UNFCCC, Paris Agreement, general public international law, trade law, human rights, and law of the sea)
  - Climate mitigation policies pursued by governments related to:
    - a. Carbon pricing (EU ETS, EU CBAM, carbon taxes, carbon offsets, CORSIA)
    - b. Subsidies (US IRA, EU Green Deal Industrial Plan)
    - c. Standards: EU's proposed regulations on batteries, deforestation, corporate sustainability reporting (CSRD) and due diligence (CS3D)
  - The compatibility of these climate mitigation policies with international law, including international trade law.
  - International and domestic litigation related to climate mitigation
    - a. International: ICJ and ITLOS advisory opinions
    - b. Domestic: 'greenwashing'; leveraging international law
- To enable participants to apply the international law framework to other climate mitigation policies, and to assess climate mitigation litigation options and risks.

### Assessment WTI

- Class participation (20%); paper (80%).
- Participants' knowledge will be assessed on the basis of a short paper (1500-2000 words) related to international law and policy options for climate mitigation.
- Participants can choose the specific topic of their paper, with input, if they wish, from the lecturers.
- Participants must submit the topic of their paper by 21 July (to [masters@wti.org](mailto:masters@wti.org)); and submit the final paper by 20h00 on 28 July 2023 (to [masters@wti.org](mailto:masters@wti.org)).

### Course Overview

Date	Day	Time	Topic (each lecture by Coppens & Lockhart)
17 July	Monday	10:00 12:00	International law framework on climate mitigation
		13:00 16:00	International law framework on climate mitigation ( <i>cont'd</i> ) & overview of policy options for climate mitigation
18 July	Tuesday	10:00 12:00	Carbon pricing
		13:00 16:00	Carbon pricing ( <i>cont'd</i> ) & subsidies
19 July	Wednesday	10:00 12:00	Subsidies ( <i>cont'd</i> )
		13:00 16:00	Standards for products, processes, and reporting
20 July	Thursday	10:00 12:00	Domestic climate litigation
		13:00 16:00	International climate litigation

Detailed topics and reading materials per session will be provided later in Spring 2023.