

International Energy Law and Governance

Semester: Spring Semester- FS 2023

Root Number: 481930

ECTS: 3

Lecturer: Anna-Alexandra Marhold

Dates: **July 24 to July 28, 2023**

Room: This is 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 and 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
- Master students from different universities across Switzerland

Course Description

Europe and the World are confronted by a pressing, multi-level energy crisis propelled by the perfect storm of rapidly progressing climate change and Russia's war in Ukraine. Globally, as well as in Europe, a fine balance must constantly be maintained between ensuring a secure, competitive, affordable, but also a sustainable energy supply. The transition to a low carbon economy is moreover accompanied by many obstacles (regulatory, geo-political and technical).

This course aims to give a comprehensive insight into international energy law and governance and the challenges ahead. Participants will gain a solid understanding of the relevant actors and international and regional agreements in the area of energy. It will centre on the intricacies of cross-border energy trade regulation under the rules of the World Trade Organization (WTO), the Energy Charter Treaty (ECT) and Preferential Trade Agreements. The course will always link energy law and governance to timely case studies, such as the shift of European energy regulation as a response to Russia's invasion of Ukraine, as well as to decarbonization and climate change mitigation.

Lecturer

Anna-Alexandra (Anna) Marhold

Anna-Alexandra Marhold is Assistant Professor at the Institute of Public Law and the Grotius Centre for International Legal Studies at Leiden University (NL) and a Visiting Professor at Vermont Law School (USA). Her specialization is international economic law, with a particular focus on international trade law at the intersection of energy and environmental regulation.

She obtained her PhD in Law at the European University Institute (EUI) in Florence (2016). In 2015, she was a Marie Curie Early Stage Research Fellow at the Graduate Institute in Geneva, Switzerland, in the framework of DISSETTLE (Dispute Settlement in Trade: Training in Law and Economics). In 2013-2014, Anna was a recipient of the EU-US Fulbright-Schuman Grant and a visiting scholar at NYU School of Law, USA. She is a graduate in Law (LLB, LL.M), specializing in international trade and investment law, and in Russian (BA, MA) from the University of Amsterdam (UvA). Prior to joining Leiden in 2019, Anna was Assistant Professor at the Tilburg Law and Economics Centre (TILEC). She speaks Dutch, English, Czech and Russian.

Anna has published widely in the field of international economic, trade and energy law and EU external trade relations. Her monograph titled *Energy in International Trade Law: Concepts, Regulation and Changing Markets* (Cambridge University Press, 2021) examines energy regulation in international trade law against the backdrop of energy markets that have radically changed over the past decades.

She is on the editorial board of the *Leiden Journal of International Law* (Cambridge University Press). She is also a member of the Executive Council of the Society for International Economic Law (SIEL) and the Coordinating Committee of the European Society of International Law (ESIL) Interest Group on International Economic Law, as well as a member of the Platform on International Energy Governance.

Anna is included in the newly established European Commission pool of Arbitrators and Trade and Sustainable Development Experts for dispute settlement under EU Free Trade Agreements.

Learning Objectives

- To provide comprehensive insight into international energy law and governance and the challenges ahead
- To provide an introduction to the international regulation of energy trade
- To provide participants with practical examples and real life scenarios and case studies of energy challenges
- To provide practical training and hands-on experience in the application of multilateral trade law and preferential trade agreements to energy disputes
- To provide a comprehensive understanding of the legal angle of pressing issues we are facing today, i.e. the energy and climate change nexus and the European energy crisis

Assessment

- Students' knowledge will be assessed on the basis of a take home exam which needs to be completed on an individual basis.
- Each lecturer will provide a set of questions or a topic for a paper on the topic of international energy regulation.
- Take-home assignment made available on 27 July 2023, 16:00 and to be submitted before 28 July 2023, 20:00 to masters@wti.org

Course Overview

Date	Day	Time	Topic / lecturer
24 July	Monday	10:00 12:00	Topic 1: Introduction: Energy in International Law / Anna Marhold
		13:00 16:00	Topic 2: Sources and Foundations of Energy Regulation / Anna Marhold
25 July	Tuesday	10:00 12:00	Topic 3: Energy in International Trade Law I – WTO / Anna Marhold
		13:00 16:00	Topic 4: Energy in International Trade Law II – Energy Charter Treaty and PTAs / Anna Marhold
26 July	Wednesday	10:00 12:00	Topic 5: Energy in International Trade Law III – Fossil fuel subsidies / Anna Marhold
		13:00 16:00	Topic 6: Energy in International Trade Law IV – Restrictive Practices and Energy Security / Anna Marhold
27 July	Thursday	10:00 12:00	Topic 7 / EU Case Study I: The Energy Crisis / Anna Marhold
		13:00 16:00	Topic 8 / EU Case Study II: The Energy-Climate Change Nexus / Anna Marhold
28 July	Friday	Due 20:00	Case study/exa, (take-home assessment)

MONDAY, JULY 24, 2023**Lecturer: Anna Marhold****Subject**

- Energy in International Law: Sources and Foundations

Topics

- An introduction to the regulation of energy in international law
- The sources and foundations of international energy law
- An overview of the fundamental global institutions regulating energy
- The realities and challenges of international energy regulation

Compulsory Reading Material

- 1 J Viñuales, *The International Law of Energy (CUP, 2022)*, chapter 1: *Energy in International Law*, pp. 11-41
- 2 J Viñuales, *The International Law of Energy (CUP, 2022)*, chapter 2: *Foundational Approach: International Energy Transactions*, pp. 42-103

Optional Reading Material

- 1 K Talus (ed), *Research Handbook on International Energy Law (EE, 2014)* Chapter 2: S de Jong and J Wouters, 'Institutional Actors in International Energy Law' pp. 18-43
- 2 J Viñuales, *The International Law of Energy (CUP, 2022)*, chapter 3: *Foundational Approach: Regulating Negative Externalities* pp. 104-193

TUESDAY, JULY 25, 2023**Lecturer: Anna Marhold****Subject**

- Energy in International Trade Law I & II: WTO, ECT and PTAs

Topics

- Energy in the Context of International Trade Law
- Current WTO Legal Framework Relevant to Energy
- Energy Regulation under the Energy Charter Treaty and Preferential Trade Agreements

Compulsory Reading Material

- 1 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 1: Energy in the Context of International Trade Law: Concepts and Changing Markets pp. 7-34
- 2 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 3: The Current WTO Legal Framework Relevant to Energy pp. 66-109
- 3 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 4: Beyond the WTO: The Energy Charter Treaty and Preferential Trade Agreements pp. 110-156

Optional Reading Material

- 1 J Topper and K Wagner, The European Union Proposal for the Modernisation of the Energy Charter Treaty – A Model for Climate-Friendly Investment Treaties? (2022) Journal of World Investment and Trade 23, pp 813-848
- 2 A Marhold, [Externalizing Europe's Energy Policy in EU Free Trade Agreements: A Cognitive Dissonance between Promoting Sustainable Development and Ensuring Security of Supply?](#) (2019) Europe and the World: A Law Review
- 3 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 2: Energy's Place in International Trade Law's history pp. 35-65

WEDNESDAY, JULY 26, 2023

Lecturer: Anna Marhold

Subject

- Energy in International Trade Law III & IV: Fossil Fuel Subsidies, Restrictive Practices and Energy Security

Topics

- Fossil Fuel Subsidies in International Trade Law
- Restrictive Practices in Energy
- Energy Security in International Trade Law

Compulsory Reading Material

- 1 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 6: Decarbonising Energy Markets: Constraining Dual Pricing and Options for Fossil Fuel Subsidy Reform in the WTO
- 2 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 5: Decentralising Energy Markets: OPEC and the EU Internal Energy Market
- 3 A. Marhold, Energy in International Trade Law (CUP, 2021) chapter 7: The Emerging Concept of Energy Security in International Trade Law

Optional Reading Material

- 1 I Barsauskaite, [Background Note on Fossil Fuel Subsidy Reform](#) (IISD, sept 2022)
- 2 Look at: [OECD Work on Support for Fossil Fuels](#)

THURSDAY, JULY 27, 2023**Lecturer: Anna Marhold****Subject**

- EU Case Study I & II : The Energy Crisis and the Energy-Climate Change Nexus

Topics

- Foundations of the European Internal Energy Market
- EU approaches to the energy crisis following Russia's invasion of Ukraine and consistency with trade rules
- The EU Green Deal, CBAM and Green Industrial Plan in the context of International Trade Law

Compulsory Reading Material

- 1 K. Talus, *An Introduction to EU Energy Law* (OUP, 2016), Introduction; chapter 1: The vertical division of competences; chapter 2: Sector specific Regulation of the Energy Market and chapter 4: Treaty Freedoms and EU Energy Markets
- 2 A. Marhold, 'Press Reset: Regulating Europe's Energy Security under EU and WTO Law Following the Russian Invasion - Reconciling Legal Ambitions and Geopolitical Realities' (forthcoming)
- 3 World Trade Report 2022, *Climate Change and International Trade* (WTO, 2022) chapter D: Carbon Pricing and International Trade pp. 78-97 and chapter E: The decarbonization of international trade pp. 98-115.

Optional Reading Material

- 1 European Commission, [EU Action to Address the Energy Crisis](#)
European Council on Foreign Relations: [EU Energy Deals Tracker](#)
- 2 I Espa and G Marín Durán, 'Promoting Green Energy through EU Preferential Trade Agreements: Potential and Limitations' (with G. Marín Durán), *47 Legal Issues of Economic Integration* 2 (2020), pp. 115-150
- 3 B Van Vooren en R Wessel, *EU External Relations Law: Texts, Cases and Materials* (CUP, 2014), chapter 13, 'The External Dimension of the Internal Energy Market'

FRIDAY, JULY 28, 2023

- Take-home assessment due 20:00