

International Economic Dispute Resolution

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Course description

Disputes regarding cross-border trade and investment have always existed, and so have institutions and procedures to resolve these disputes in a peaceful manner. However, with economic globalisation and the ever-increasing interaction between national economies, these disputes have proliferated both in number and complexity, and so have the institutions and procedures to resolve them. Rules-based, rather than power-based, systems for resolving international economic disputes form a core aspect of global economic governance and are essential to sustainable economic growth and development worldwide. With the current rise of nationalism and unilateralism in many countries, rules-based international dispute resolution is in crisis.

This course aims at introducing students to the key features and principal challenges of international economic dispute resolution. The course starts with an introduction to methods and institutions/systems of international economic dispute resolution. The methods discussed include diplomatic methods, such as negotiation, mediation, inquiry and conciliation, as well as legal methods, such as arbitration and judicial settlement. The emphasis of this course is on the latter methods of dispute resolution. The course focuses on economic dispute resolution by the International Court of Justice (ICJ), the dispute settlement system of the World Trade Organization (WTO) and under bilateral or regional free trade agreements, and the International Centre for the Settlement of Investment Disputes (ICSID). Rather than examining, one by one, these different institutions/systems for economic dispute resolution, this course focuses on specific features of, and challenges encountered by, these institutions and systems in resolving international trade and investment disputes.

Learning outcomes

- To understand the key features and principal challenges of methods of dispute resolution in international economic law
- To understand the functions of binding third party adjudication and alternative methods of dispute resolution in international economic law

- To understand the jurisdiction, applicable law, and interpretive methods of the ICJ, the dispute settlements bodies of the WTO and under bilateral and regional trade agreements, and ISDS tribunals
- To understand (and be able to compare) the procedural framework for litigating disputes before different fora in international economic law
- To be able to develop a multi-fora strategy for litigation trade and investment measures, and compare the (dis)advantages of using the available fora
- To understand general international law governing countermeasures and the specific remedies for which certain types of dispute resolution in international economic law provide
- To understand the key reform agendas affecting dispute resolution in international economic law

Participation

The course is designed for advanced students in law, economics or political science with a strong command of English and interest in international law and international relations. Prior knowledge of international law and/or domestic judicial institutions and procedures is helpful but not indispensable.

Schedule

This 5 ECTS course runs from 17 February to 19 May 2025. The course includes 10 lectures by Prof. Van Damme and three guest lectures.

Week 1 (17 Feb 25):	Methods and institutions for international economic dispute resolution (part 1)
Week 2 (24 Feb 25):	Methods and institutions for international economic dispute resolution (part 2)
Week 3 (3 Mar 25):	Jurisdiction of courts and tribunals over international economic disputes (part 1)
Week 4 (10 Mar 25):	Jurisdiction of courts and tribunals over international economic disputes (part 2)
Week 5 (17 Mar 25):	Judges and arbitrators in international economic dispute resolution
Week 6 (24 Mar 25):	Process and procedures of international economic dispute resolution (part 1)
Week 7 (31 Mar 25):	Process and procedures of international economic dispute resolution (part 2)
Week 8 (7 Apr 25):	Interpretation and precedent in international economic dispute settlement
Week 9 (14 Apr 25):	Applicable law in international economic dispute settlement and the standard of review
Week 10 (28 Apr 25):	Remedies for breach of obligations and enforcement of rulings in international economic disputes

- Week 11 (5 May 25): Guest lecture on *Leveraging International Economic Law in Times of Geopolitical Crisis: Some Reflections on the Disputes Arising out of the 2017 Gulf Diplomatic Crisis*, by Mr Deepak Raju, Senior Managing Associate, Sidley Austin
- Week 12 (12 May 25): Guest lecture on *The actors of international dispute settlement*, by Mr. Shashank Kumar Legal Officer, Legal Affairs Division, WTO Secretariat
- Week 13 (19 May 25): Guest lecture on the *WTO Multi-Party Interim Appeal Arbitration Mechanism* by Prof. em. Dr. Thomas Cottier, Founder and Senior Fellow, World Trade Institute, and WTO MPIA Arbitrator

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 the core features of, and challenges encountered by, the institutions/systems for the resolution of international economic disputes.

Lecturer

Isabelle Van Damme is Professor of International Economic and Director of Studies at the World Trade Institute, University of Bern.

She completed her studies in law at the University of Gent (Cand. Jur and Lic. Jur.) in 2002 and at Georgetown University Law Center (LLM) in 2003. After working a year at Georgetown University Law Center, for Professor John H. Jackson and the Journal of International Economic Law, Prof. Van Damme wrote her PhD on 'Treaty Interpretation by the WTO Appellate Body', under the supervision of Professor James Crawford, at the University of Cambridge (2004-2007). Following her master studies and during her PhD, Prof. Van Damme interned at the World Trade Organization (WTO) Appellate Body Secretariat, worked at the Codification Division of the Office of Legal Affairs of the UN Secretariat, and was a Global Law Fellow at Columbia University.

After completing her doctorate, Prof. Van Damme worked as a College Lecturer, Director of Studies and the Turpin-Lipstein Fellow at Clare College, University of Cambridge, where she taught EU law, public international law and WTO law. She next joined the Geneva office of a US law firm, where she worked on WTO disputes, and also served as a référendaire in the Chambers of Advocate General Sharpston at the Court of Justice of the European Union (CJEU).

Prior to her appointment to the University of Bern and the World Trade Institute, Prof. Van Damme was a partner at a Brussels-based law firm, where she practiced international (trade) law and EU law and managed that firm's pro bono programme. In that role, she acted for

several governments in WTO and FTA dispute settlement proceedings, including in disputes relating to national security and sustainability, and parties in CJEU proceedings. She also advised clients on the negotiation of trade and investment agreements, and compliance with export control and sanctions legislation. She maintains an affiliation, as of counsel, with that law firm.

Prof. Van Damme has been a Visiting Lecturer at the Université Catholique de Louvain and has also taught at the University of Luxembourg, the Graduate Institute, KU Leuven, the World Trade Institute, and the Academy of International Economic Law and Policy.

She continues to teach a seminar on EU trade and policy at the College of Europe in Bruges. She is currently also serving her second term as Executive Vice-President of the Society of International Economic Law. On 23 June 2022, the European Commission added Prof. Van Damme to the “List of Candidates for Appointment as Arbitrators and TSD Experts”.

Prof. Van Damme is a member of the editorial boards of SEW (Tijdschrift voor Europees en economisch recht), EU Law Live, the Cambridge Journal of International and Comparative Law and the Revue belge de droit international. Since 2024, she also sits on the editorial advisory board of the Journal of International Economic Law.

Her main publications include *Treaty Interpretation by the WTO Appellate Body* (OUP), *EU Foreign Subsidies Regulation* (Concurrences, co-authored), *Commentary on the WTO Anti-Dumping Agreement* (CUP, co-authored), and the first and second editions of *The Oxford Handbook of International Trade Law* (OUP, co-edited).

Compulsory and recommended reading materials

Students will receive a reading list and a digital reader with chapters and sections from books and articles on the topics addressed in this course. The reader also contains basic international instruments and relevant decisions of international courts and tribunals. Note, in the reading list, the difference made between mandatory and optional reading materials. This digital reader will be available on ILIAS.