

**Universidad de los Andes****International Economic Law****Summer 2021**

---

<b>Instructor:</b>	Dr. Jessica Lawrence Senior Lecturer School of Law University of Essex
<b>Credits:</b>	4 credits
<b>Office hours:</b>	Students can reach the instructor via email during normal working hours to answer questions or schedule appointments.

---

**1. COURSE DATES, TIMES, AND LOCATIONS**

The course will consist of 40 in-class hours, equivalent to 4 academic credits.

The material is divided into 20 2-hour sessions, which will be conducted over the course of two weeks during July 2021.

All classes will take place at the Universidad de los Andes in Bogotá.

**2. REQUIRED TEXTS AND READINGS**

Course materials will be made available on the e-learning site of the course.

Because this course is structured in the condensed summer school format, readings will be limited to approximately 40 pages per day (20 pages per session).

**3. COURSE DESCRIPTION AND OBJECTIVES**

This course presents an introduction to the fundamentals of international economic law, providing students with a broad understanding of the field. It delves into topics such as: the development of the Bretton Woods system and the struggles between capital-exporting and capital-importing states over the course of the last century; the history, operation, and continued relevance of the International Monetary Fund (IMF); the challenges of development and the work of the World Bank; the

establishment of the World Trade Organization (WTO), the basic rules that its covered agreements establish, and its dispute settlement system; the growing level regional economic integration through Free Trade Agreements (FTAs) and the political impacts of this trend; and the explosive rise of bilateral investment treaties (BITs) and the counter-movements of resistance and calls for reform. Throughout the course special attention will be paid to challenges and critiques of international economic law, and students will be encouraged to think further and deeper with respect to the real-world application of the principles they learn. The impact of the economic law on state actors in times of crisis (such as the economic crisis of 2008 or COVID-19), tensions between economic and non-economic policy, the choice between regional and global mechanisms, and Colombia's role in the global economy will all be given special consideration.

#### **4. INTENDED LEARNING OUTCOMES**

By the end of this course, students should:

- Become familiar with the breadth and subjects of international economic law
- Be able to analyze and discuss the history and political context of the international economic system
- Understand the structure and functions of the Bretton Woods institutions and the differences between them
- Understand the role of law within these institutions and how regulation affects different actors in the international economic environment
- Be able to critically assess the philosophy, performance, and impact of international economic regimes and institutions
- Be able to analyze real world issues in light of international economic law

In addition, students should develop their skills, including:

- Interpersonal communication skills – mastering the legal terminology of international economic law through exposure, repetition, and use in class
- Legal skills – improving their skills in analyzing and interpreting legal texts (such as cases and treaties) and critically assessing judgments of international dispute settlement bodies
- Technology skills – learning to work with resource databases
- Cultural sensitivity and diversity – feeling comfortable working with different legal systems and traditions, applying comparative principles
- Critical thinking – developing the ability to analyze, compare, and critique different legal approaches to problem solving

#### **5. AVAILABILITY OF LECTURE NOTES**

PowerPoint slides used during the course will be made available to students on the e-learning site following each class session.

## 6. POLICY ON CLASS ATTENDANCE AND PARTICIPATION

Regular and punctual attendance at every class session is a requirement. Each class covers materials not found in the readings. Furthermore, participation in class is an important part of the learning experience for all students as well as a factor in grading.

If illness or another unusual circumstance requires missing a class, please inform the instructor as early as possible.

## 7. GRADING

### **Class Participation: 20%**

Because it is conducted on the condensed summer school schedule, and will thus take place over only 10 days, it is extremely important that students attend and participate in all class sessions.

Class participation grades will make up 20% of the final grade, and will be assessed as follows:

	<b>Stronger</b>	<b>Weaker</b>
<b>Attendance</b>	Student attended all classes, or was excused in case of absence.	Student did not attend all classes, and absences were not excused.
<b>Preparation</b>	Student came to class sessions prepared, having consistently read and considered all assigned materials and was ready to discuss the materials in class.	Student was often unprepared for class, having failed to read and consider all assigned materials, as evidenced by inability to discuss the materials in class.
<b>Participation</b>	Student actively participated in class discussions and activities by making relevant contributions that demonstrated critical thinking and engagement with the subject of the course.	Student regularly failed to participate in class discussions and activities.

### **Group Presentations: 30%**

During Session 1, students will be divided into groups for the purpose of preparing an in-class presentation for their fellow students. The presentations will be given during the second week of the course.

Each group will prepare and deliver a **20-minute presentation** on an international economic law issue of particular relevance to Colombia. The topics of the presentations will be assigned by the instructor.

Presentations should provide a brief overview of the topic and mention the most important ongoing issues with respect to the theme.

Please see the **Presentation Guidelines** for further specific instructions.

The Presentation will make up 30% of the final grade for the course, and will be assessed as follows:

	<b>Stronger</b>	<b>Weaker</b>
<b>Organization and Structure</b>	<ul style="list-style-type: none"> <li>• Introduction is attention-grabbing and provides a strong framework for the presentation.</li> <li>• Information is presented in clear and logical sequence throughout the presentation, without gaps or repetition.</li> <li>• Technical terms are defined in language appropriate for the target audience.</li> <li>• Material included in the presentation is of high relevance to the topic.</li> </ul>	<ul style="list-style-type: none"> <li>• Introduction states the subject of the presentation, but lacks an overview of the structure and topic.</li> <li>• Information is presented in an inconsistent or ambiguous way, with significant gaps or errors.</li> <li>• Terminology is poorly explained, or inconsistently used.</li> <li>• Material included in the presentation is not relevant or tangential to the topic.</li> </ul>
<b>Content</b>	<ul style="list-style-type: none"> <li>• Presentation provides an excellent introduction to the history and current state of play in the topic area.</li> <li>• Presentation provides a good discussion of any controversial issues in the topic area.</li> <li>• Presentation contains accurate, up-to-date and relevant information.</li> <li>• Presentation demonstrates a good knowledge of the broader field.</li> </ul>	<ul style="list-style-type: none"> <li>• Presentation provides a cursory or shallow overview of the history and current state of play in the topic area.</li> <li>• Presentation does not address controversies, or does so in a misleading or one-sided way.</li> <li>• Presentation contains significant amounts of mistaken, inaccurate, or out-of-date information.</li> <li>• Presentation demonstrates a poor understanding of the broader field.</li> </ul>
<b>Conclusion and Analysis</b>	<ul style="list-style-type: none"> <li>• The main conclusions of the presentation follow logically from the material presented.</li> <li>• The presentation offers a critical analysis of the topic area, touching on its primary strengths and weaknesses and engaging with the relevant debates.</li> <li>• The presentation contains a clear ‘take-away’ message.</li> </ul>	<ul style="list-style-type: none"> <li>• The main conclusions of the presentation are not related to the material presented.</li> <li>• The presentation does not offer any analysis of the topic area, sticks to reporting the facts or is merely descriptive.</li> <li>• The presentation does not contain a ‘take-away’ message.</li> </ul>

	<ul style="list-style-type: none"> <li>• The presentation makes relevant, original, and innovative recommendations (as appropriate).</li> </ul>	<ul style="list-style-type: none"> <li>• The presentation makes generic, irrelevant, or inconsistent recommendations (as appropriate).</li> </ul>
<b>Presentation Skills</b>	<ul style="list-style-type: none"> <li>• Speakers present at a good pace, in a clear, audible voice.</li> <li>• The presentation is clear and easy for the instructor and fellow students to follow.</li> <li>• PowerPoint slides (or other visual aids) are well designed, and used to provide support for the presentation.</li> <li>• Speakers engage with the audience, and do not read from slides.</li> <li>• Length of presentation is within the assigned time limits.</li> <li>• Presentation demonstrates good time management, spending a balanced amount of time on each theme/part without rushing.</li> </ul>	<ul style="list-style-type: none"> <li>• Speakers are unclear or difficult to understand.</li> <li>• The presentation is hard for the instructor and fellow students to follow.</li> <li>• PowerPoint slides (or other visual aids) are difficult to read, contain too much text, or are inappropriate or irrelevant.</li> <li>• Speakers read directly from the slides and fail to engage with the audience.</li> <li>• Length of presentation significantly exceeds the assigned time limits (e.g. by more than 25%).</li> <li>• Presentation demonstrates poor time management, devoting unbalanced amounts of time to each theme/part or rushing through the final parts in order to meet the time limit.</li> </ul>
<b>Interaction</b>	<ul style="list-style-type: none"> <li>• Presenters are able to respond to follow-up questions in a focused manner, providing relevant and accurate answers.</li> <li>• Responses to audience questions demonstrate a command of the topic area.</li> <li>• Disagreement is expressed in a professional and respectful manner.</li> </ul>	<ul style="list-style-type: none"> <li>• Presenters are unable to respond to follow-up questions, or respond to questions in an irrelevant, inaccurate, or confusing way.</li> <li>• Responses to audience questions demonstrate significant gaps or errors of understanding of the topic area.</li> <li>• Speakers express disagreement in an aggressive, unprofessional, or offensive manner.</li> </ul>

**Final Exam: 50%**

The final assessment for the course will consist of a 2-hour exam, which will take place during the final Session of the course. The exam will be 'open book', meaning that students will be permitted to look at their notes and readings from the course while taking the exam.

The exam will be made up of four short-answer essay questions, each of which should take approximately 25% of the total time. The final exam will be worth **50% of the total grade** for the course.

## **8. ACADEMIC INTEGRITY**

All students must adhere to the principles of academic integrity in all work done for this class and for other classes. Attempted cheating in any form, including plagiarism, will be taken seriously and will be dealt with according to university policy.

Students have a duty to collaborate in good faith on group work.

## Course Sessions and Readings

### Day 1: Introduction

#### Session 1: Introduction & Economics

Session 1 will begin by introducing the instructor and the students, going over the course syllabus, and explaining the course requirements and grading. Groups and topics for the presentations that will take place during week 2 will also be selected during this first session, so that students will have adequate time to prepare.

The session will then provide a general introduction to the subject of international economic law, explaining what topics are covered by international economic law; what national, international, public, and private bodies contribute to the creation and enforcement of international economic law; how international economic law fits into the broader picture of public and private international and transnational law; and examining the role of international economic law in the context of globalization.

#### Required Readings:

- Steve Charnovitz, “What is International Economic Law,” 14 *Journal of International Economic Law* 3 (2011), p. 3-22.

#### *Session 1 Assignment*

Before arriving in class, please conduct an informal poll of 3 friends or family members, asking them to explain to you what the following institutions and treaties are, what they do, and whether they have positive or negative feelings about them:

- The WTO
- The IMF
- The World Bank
- Free Trade Agreements
- International Investment Treaties

It’s okay if they don’t know or haven’t heard about these things! Our objective is to get a sense of what the general public knows and how they think about international economic law.

At the end of Session 1, students will be asked to share their results in small groups, then return to discuss and analyze their results collectively.

**Session 2: International Economic History I**

Session 2 will begin the historical discussion by focusing on global economic governance as it existed prior to World War II. It will examine the ‘first era of globalization’ in the late 1800s, the conclusion of early intellectual property agreements such as the Berne and Paris Conventions, and early trade and investment rules set out in Friendship, Commerce and Navigation (FCN) Treaties, as well as the darker side of economic law, its colonial heritage, and its association with gunboat diplomacy and imperial projects. The session will then explore the impact of World War I and the global depression of the 1930s with its associated ‘beggar thy neighbor’ economic policies, the role of the gold standard, and the ‘great debate’ between Hayek and Keynes. Finally, the session will conclude with a discussion of the Bretton Woods Conference in 1944 and the birth of the modern system of international economic law.

**Required Readings:**

- Dani Rodrik, *The Globalization Paradox* (2011), p. 24-46.

***Session 2 Activity***

At the end of Session 2, students will be divided into groups and assigned a topic for their presentations, which will take place at the end of the second week during sessions 21-24.

Students will then meet with their groups for the first time in order to discuss when and how they plan to develop their presentation.



**Day 2: History & IMF****Session 3: International Economic History II**

Session 3 will continue the analysis of international economic history by looking at the growth of the international system from its birth at Bretton Woods in 1944 to the present day. It will discuss the role of the IMF, World Bank, and WTO in the rebuilding of Europe following World War II, and the search of these organizations for new meaning in the following decades. It will explore the shift caused by the end of the dollar-pegged currency system in the 1970s, the impact of decolonization and attempts at establishing a New International Economic Order, the IMF and World Bank's turn to 'development' work, and the impact of the Washington consensus policies of the 1980s and 1990s on countries throughout the developing world. Finally, Session 4 will conclude by looking to some of the contemporary debates that continue within international economic law, exploring the conflicting interests of the developed and developing worlds, multilateralism versus regionalism, economic versus non-economic values, and the impact of decentralized production and the rise of global value chains.

**Required Readings:**

- UN General Assembly Resolution, Declaration on the Establishment of a New International Economic Order, A/RES/S-6/3201, 1 May 1974
- John Williamson, "What Washington Means by Policy Reform," in John Williamson (ed), *Latin American Adjustment: How Much Has Happened?* (1990), ch 2

***Session 3 Activity***

Before arriving in class, please read the two documents assigned as 'required readings' for today's class, and consider the following questions:

- What are the main ingredients of the "Washington Consensus"?
- What are the main ingredients of the New International Economic Order (NIEO)?
- What are the primary differences between these two economic governance paradigms?
- Are there any similarities between them?
- Which elements of each program do you think are good or bad ideas, and why?

During the final 30 minutes of Session 3, the class will break into small groups to discuss the two economic visions. We will then come back together to share our findings and evaluate our responses.

**Session 4: The IMF**

Session 4 will dive into the discussion of the substance of international economic law by introducing the first of the three pillars of international economic governance: the International Monetary Fund (IMF).

The session will first explain the IMF from an institutional perspective, examining the organization, its membership and voting procedures, its financing, and its mission to stabilize the international monetary system. It will then explore the IMF's powers and procedures, including in particular a look at the multilateral system of payments, international liquidity and the role of IMF Special Drawing Rights, surveillance of national monetary and exchange rate policies, and lending for IMF members facing economic difficulties.

The second hour will continue the discussion of the IMF from the perspective of international political economy. It will explore in particular the differences between the IMF's Article IV surveillance and Article V lending powers, and the impact of IMF conditionality on countries that receive loans for balance of payment support.

**Required Readings:**

- James Raymond Vreeland, *The International Monetary Fund: Politics of Conditional Lending* (2007), p 1-36

***Session 4 Activity***

During the last 30 minutes of Session 4, students will be broken into groups. Each group will be given a press release summarizing the findings of the IMF's most recent Article IV report for a particular country. Students will read the summary and discuss in their small groups before returning to the class to share their findings. In particular, students will be asked to compare the evaluations and recommendations in the reports with what they have learned about the Washington consensus. To what degree has the IMF moved on from the policy of the 1990s?

**Day 3: The World Bank & Critiques****Session 5: The World Bank**

Sessions 5 will turn to the second of the three pillars of international economic governance: the World Bank.

The session will begin by explaining the World Bank from an institutional perspective. It will describe the five separate institutions that make up the 'World Bank Group': the International Bank for Reconstruction and Development (IBRD), the International Development Association (IDA), the International Finance Corporation (IFC), the Multilateral Investment Guarantee Agency (MIGA), and the International Centre for the Settlement of Investment Disputes (ICSID). It will examine each of these organizations in turn, relating each one to the overall development mission of today's World Bank, and describing their powers with respect to lending, finance, and the provision of technical assistance and support.

**Required Readings:**

- Matthias Herdegen, *Principles of International Economic Law* (2<sup>nd</sup> ed. 2016), p. 489-492, 493-494, 531-539
- World Bank project research (see Activity box)

***Session 5 Activity***

Before arriving in class, research a World Bank (IDA/IBRD) project or program of your choice. Answer the following questions with respect to your question:

- What is your project or program, and where is it located?
- What type of financing has it been given by the World Bank?
- What conditions were placed on the financing?
- What is the development impact of your project or program?
- Have there been any criticisms of your project or program?

During the final 30 minutes of Session 5, students will be asked to share their projects with the class. We will discuss the goals, diversity, and funding strategies of the World Bank in light of these findings.

**Session 6: IMF & World Bank – Critiques**

Session 6 will discuss the critiques that have been made of the IMF and World Bank, including the effects of World Bank projects on local populations and the effects of structural adjustment programs in the developing world.

This session will be structured as a group debate. The class will include a brief period of time at the outset for students to research the debate topics and plan their arguments in groups.

**Required Readings:**

- William Finnegan, “Leasing the Rain,” *The New Yorker* (8 April 2002), p. 1-21.

***Session 6 Activity***

Before arriving in class, please read the long article from the *New Yorker* discussing the famous Cochabamba water crisis, and consider the following questions:

- Who was to blame for the problems that befell the local population?
- How did the policies of the IMF and World Bank impact the situation in Cochabamba?
- What could the IMF and World Bank do differently in the future (if anything) to prevent this type of situation from occurring?

**Day 4: WTO I****Session 7: The World Trade Organization I – The WTO**

Sessions 7-10 will examine the structure and law of the third pillar of international economic governance: the World Trade Organization (WTO).

Session 7 will begin by examining the WTO as an organization, discussing topics such as leadership, committees, voting rights, the process of accession, and the adoption of new agreements and concessions by the Members. The second hour will then explore the WTO's dispute settlement system. It will explain the WTO dispute settlement process, including the role of Panels, the Appellate Body, and the Dispute Settlement Body, and the procedures and timeline of a typical WTO dispute. Session 7 will conclude with a look at the remedies available to parties within the WTO system, and what the WTO can and cannot do with respect to the implementation and enforcement of trade law.

**Required Readings:**

- Amrita Narlikar, *The World Trade Organization: A Very Short Introduction* (2005), pp. 42-58; 85-98

***Session 7 Activity***

Session 7 will go further into depth regarding the dispute settlement system at the WTO by investigating a current event of central relevance to this topic: the blocking of the appointment of new Appellate Body members by the United States. Before class, students should read the brief summary of the 'Appellate Body crisis' linked in the readings. During the final 30 minutes of class, students will be broken into groups to discuss the US's objections to the AB's behavior. Are the objections legitimate, given what you know of the WTO? What should be done to resolve this impasse?

**Session 8: The World Trade Organization II – GATT**

Session 8 will begin an exploration of the disciplines that WTO places on countries by taking a look at the oldest of the WTO covered agreements: the General Agreement on Tariffs and Trade (GATT).

The first half of the session will examine the GATT's rules regarding border measures. Specifically, it will focus on two categories: tariffs and quantitative restrictions. First, it will investigate how the GATT imposes disciplines on national tariff policies, teaching students how to read national tariff schedules and understand the World Customs Organization's Harmonized System. Second, it will discuss the GATT's disciplines on quantitative restrictions, providing examples from historical practice.

The second half of the session will continue the discussion of the General Agreement on Tariffs and Trade (GATT) by examining its non-discrimination requirements. It will explain the rules regarding most favored nation (MFN) treatment and national treatment (NT), and discuss how the GATT disciplines rules regarding internal taxes and regulations that may impede the free flow of international trade.

**Required Readings:**

- GATT Arts. I, II, III, XI
- US Harmonized Tariff Schedule Section 6207
- Chad P. Bown, "COVID-19: Demand Spikes, Export Restrictions, and Quality Concerns Imperil Poor Country Access to Medical Supplies," in Richard Baldwin & Simon J. Evenett (eds) *COVID-19 and Trade Policy: Why Turning Inward Won't Work* 31 (2020)
- Appellate Body Report, *EC—Asbestos* (selections)

***Session 8 Activity***

In the last 30 minutes of Session 8, students will be broken into small groups to discuss the concept of 'likeness' in WTO law. They will be asked to determine whether, under the rules as described in *EC—Asbestos*, three given sets of products are likely to be found 'alike' under GATT Articles I and III, and why.

**Day 5: WTO II****Session 9: The World Trade Organization III – GATT Exceptions**

Session 9 will examine the ways in which countries may be justified in deviating from GATT rules. It will explain the general exceptions contained in GATT Article XX, such as its exceptions for actions necessary to protect public morals, to secure human, animal, or plant life or health, and related to the conservation of exhaustible natural resources. It will then turn to some broader exceptions to WTO rules, such as those for regional integration agreements and national security. Along the way, it will address some critiques of the WTO system, asking whether these exceptions are adequate to protect the sovereign “right to regulate” in accordance with each country’s own economic and political choices.

**Required Readings:**

- GATT Arts. XX, XI, XXIV
- John H. Jackson, William J. Davey, & Allan O. Sykes, *Legal Problems of International Economic Relations* (4th ed. 2002), 532-539, 544-552

***Session 9 Activity***

In the last 30 minutes of Session 9, students will examine the application of GATT XX. Students will be given a short paragraph describing a fictional national rule designed to protect animal welfare. They will then be asked to state which of the article XX exceptions could theoretically be used to justify the rule, and whether they believe the rule would be deemed compliant with the requirements of that exception and the Article XX *chapeau*. We will then return to the class to discuss our findings.

**Session 10: The World Trade Organization IV – SPS & TBT**

Session 10 will discuss two further WTO covered agreements that reach behind the national border to discipline internal regulatory policies: the Agreement on Technical Barriers to Trade (TBT) and the Agreement on Sanitary and Phytosanitary Measures (SPS). These two agreements act as *lex specialis* to the GATT with respect to technical barriers and measures taken to protect plant, animal and human health. They impose their own sets of disciplines that differ from the primary GATT obligations, presenting interesting questions with respect to the appropriate roles of science and the power of international standard-setting bodies such as the International Organization for Standardization (ISO) and the Codex Alimentarius Commission in international economic law.

**Required Readings:**

- Autar Krishen Koul, *Guide to the WTO and GATT: Economics, Law and Politics* (6<sup>th</sup> ed. 2018), 451-488

***Session 10 Activity***

The final 30 minutes of Session 10 will be devoted to a discussion of the issue of regulatory harmonization. Students will be broken into groups and asked to discuss two big picture questions:

- Is the goal of harmonizing technical and sanitary regulations a good one? What are the advantages and disadvantages, or costs and benefits, of this approach? In other words: who wins and who loses when standards are harmonized across the globe?
- Who should be involved in setting international harmonized standards? Is it appropriate to rely on expert bodies like the ISO and Codex as the source of international trade rules? What is the trade-off here between technocracy and democracy?

We will then return to the group to share our findings.



**Day 6: WTO III****Session 11: The World Trade Organization V – GATS**

Session 11 will turn to the second major WTO covered agreement: the General Agreement on Trade in Services (GATS). This session will examine the basic architecture of the GATS, including its ‘positive listing’ system and its distinction of four ‘Modes of Supply’ for national schedules of commitments, as well as its specific disciplines. Students will learn how to read a GATS Schedule of Specific Commitments and distinguish between obligations that apply across the board to all national actions, and the voluntary obligations that a country takes on as a result making positive commitments.

This session will also discuss the exceptions to GATS rules, both in general, and specifically with respect to the controversial ‘Mode 4’ movement of persons across national borders, and the relationship between service provision and migration.

**Required Readings:**

- GATS Articles II, XIV, XVI, XVII
- Kenya, GATS Schedule - sample
- WTO, “An Introduction to GATS”

***Session 11 Activity***

During the last 30 minutes of Session 11, students will be broken into small groups and asked to complete two exercises regarding GATS law. First, they will need to determine what ‘Mode of Supply’ is relevant for each of 3 services. Second, they will need to determine, on the basis of the sample from its GATS Schedule included in the readings, whether Kenya has made specific commitments with respect to each of these 3 services such that they can expect market access and/or national treatment under the GATS.

**Session 12: The World Trade Organization VI – TRIPS**

Session 12 will conclude the discussion of the WTO by examining the final of the major covered agreements: the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). We will examine the TRIPS disciplines on national intellectual property law and its relationship with other international intellectual property regimes (such as the 1967 Paris Convention and the 1971 Berne Convention). We will also take a look at an issue that has been of particular interest for developing countries: the right to grant compulsory licenses for the production and export of affordable generic medicines.

**Required Readings:**

- Aaron Schwabach, *Intellectual Property: A Reference Handbook* (2007), pp. 99-123

***Session 12 Activity***

In the last 30 minutes of Session 12, students will explore the issue of compulsory licensing for medicines. Following a brief introduction to TRIPS rules on compulsory licensing, students will be broken into groups to discuss the following questions:

- Should countries be able to issue compulsory licenses for patented medicines?
- Under what conditions should compulsory licensing be permitted?
- Do the TRIPS rules on compulsory licensing strike the right balance between patent protection and public health?

## Day 7: Regional Trade Agreements

### Session 13: Regional Trade Agreements I

Session 13 will introduce the subject of RTAs by sharing some statistics on the number and scope of regional trade agreements currently in existence, and explaining trends in the negotiation and conclusion of these agreements.

It will then examine the most common types and forms of RTAs, explaining the differences between partnership agreements, free trade areas, customs unions, and other forms of regional integration. It will make a general survey of the scope and substantive coverage of different types of RTAs, from traditional trade in goods agreements, to new generation agreements that expand their reach to issues such as intellectual property and services. Finally, the session will discuss the balance between economic, political, and legal integration, and asking why groups of countries would conclude RTAs with one another.

#### Required Readings:

- David Lynch, *Trade and Globalization: An Introduction to Regional Trade Agreements* (2010), ch. 1 (first half)

#### *Session 13 Activity*

During the last 30 minutes of class, students will be broken into groups to discuss one of the major debates in international economic law: whether the rise of regionalism *contributes to or undermines* the multilateral trade law system overseen by the WTO. Are RTAs ‘termites in the trading system’, as Jagdish Bhagwati famously wrote? Or are they ‘building blocks’ to further global integration?

**Session 14: Regional Trade Agreements II**

Session 14 will dive deeper into RTA law with an exploration of the substantive coverage of RTAs and potential conflicts between RTA and WTO law.

The first hour will examine the typical content of RTAs, exploring common 'WTO plus' provisions relating to the treatment of goods, services, and intellectual property, as well as 'WTO-X' issues such as investment protection, competition, and procurement. In doing so, it will address the important topics of regulatory harmonization and policy space, and the protection of non-economic values in regional trade agreements.

The second hour will then explore one of the biggest issues on the international economic landscape: the conflict between multilateralism and regionalism and the relationship between the WTO and RTAs. In principle, the WTO's MFN provisions should preclude such arrangements. However, the WTO covered agreements include special exceptions permitting RTAs under certain conditions. Nevertheless, conflicts remain, and RTAs and the WTO continue to coexist somewhat uneasily in the transnational legal sphere, raising issues of global constitutionalism and the appropriate boundaries of institutional competence in international economic law.

**Required Readings:**

- David Lynch, *Trade and Globalization: An Introduction to Regional Trade Agreements* (2010), ch. 1 (second half)
- Canada—Chile FTA, Chapter N bis: Trade and Gender <[https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017\\_Amend\\_Modif-App2-Chap-N.aspx?lang=eng&\\_ga=2.157279993.372874820.1592117093-877545787.1592117093](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017_Amend_Modif-App2-Chap-N.aspx?lang=eng&_ga=2.157279993.372874820.1592117093-877545787.1592117093)>

***Session 14 Activity***

The final 30 minutes of Session 14 will be devoted to a discussion of the trend toward including non-economic values in regional trade agreements. In particular, students will be asked to evaluate the 'Trade and Gender' chapter in the Canada-Chile FTA, included in the readings for this session:

- What does the chapter require the parties to do?
- From a practical perspective, do you think this chapter will be useful for promoting gender equality? Why or why not?
- Do you think FTAs should include rules on gender equality (or, similarly, labor rights or environmental protection)? Why or why not?

**Day 8: Investment Law****Session 15: International Investment Law I**

Session 15 will introduce the basic premise and concepts of international investment law, the rules concerning cross-border investment by foreign persons in host countries. It will explore the importance of foreign direct investment for the developing world, and the origins of the investment law system in the desire to promote investment by creating secure international legal regimes within the World Bank's ICSID and elsewhere. And it will provide some statistics in order to illustrate the 'explosion' of international investment agreements beginning in the 1990s.

The second half of the session will explain some of the key protections that international investment law provides for foreign investors, including non-discrimination rules, protection against expropriation without compensation, and the right to fair and equitable treatment.

**Required Readings:**

- M. Sornarajah, *The International Law on Foreign Investment* (3<sup>rd</sup> ed. 2010), ch 5 (first half)

***Session 15 Activity***

During the last 30 minutes of Session 15, students will be broken into groups in order to discuss one of the foundational questions of international investment law: whether and to what extent foreign investors should receive special protection that is not granted to national investors. Does this 'reverse discrimination' unfairly privilege the interests of foreign capital over domestic policy concerns? Or, is it necessary to protect non-citizens from 'biased' national legal systems?

**Session 16: International Investment Law II**

Session 16 will continue the discussion of international investment law by discussing two topics: investor-state dispute settlement (ISDS), and criticisms of investment law.

The first half of the session will explain the ISDS system and the way that dispute settlement functions under typical bilateral investment treaties. It will discuss the primary differences between arbitration and adjudication, and examine the basics of the New York Convention and the enforcement system for arbitral awards.

The second half of the session will then discuss the ‘dark side’ of investment law, including the ‘race to the bottom’ and claims that corporate actors may be using investment rules to pressure states into lowering their environmental and other standards.

**Required Readings:**

- M. Sornarajah, *The International Law on Foreign Investment* (3<sup>rd</sup> ed. 2010), ch 5 (second half)

***Session 16 Activity***

In the last 30 minutes of Session 16, students will be broken into groups to explore the question of ISDS reform. Currently, UNCITRAL is debating several proposals for changes to the ISDS system. One of these is the proposed creation of a ‘Multilateral Investment Court’ (MIC) with a standalone appellate mechanism modeled after the WTO dispute settlement system. Students should discuss this proposal in their groups:

- Would the creation of an MIC address the current complaints regarding the fragmentation of ISDS arbitration? What about the complaints regarding the quality and independence of arbitrators? The issue of third party funding? The issue of domestic policy space?
- Do you think the benefits of creating an MIC (in terms of, e.g., addressing the fragmentation problem) would outweigh the costs (such as increased formality, cost, and the potential constitutionalization of the investment arbitration system)?

## Day 9: Presentations

### Session 17: Presentations I

Sessions 17 and 18 will be devoted to group presentations.

**Required Readings:**

- None – preparation for presentations

### Session 18: Presentations II

Sessions 17 and 18 will be devoted to group presentations.

**Required Readings:**

- None – preparation for presentations

**Day 10: Review and Exam****Session 19: Conclusion & Review**

Session 19 will conclude the course by providing a summary overview of the material covered during the previous 18 sessions. In particular, it will focus on tying the various topics together into a larger whole, and exploring the ways in which the 'big questions' of the course (multilateralism v. regionalism, developing v. developed country needs, economic v. non-economic values) have resurfaced time and again in each of the different areas of international economic law.

Students will also be given time to ask any remaining questions, and receive clarification on any outstanding issues that they wish to address prior to the final exam.

**Required Readings:**

- None – preparation for exam

**Session 20: Final Exam**

Session 20 will consist of a 2-hour exam, which will cover the entire subject matter of the course. The exam will be 'open book', meaning that students will be permitted to look at their notes and readings from the course while taking the exam.

The exam will be made up of four short-answer essay questions, each of which should take approximately 30 minutes of the total time. The final exam will be worth 50% of the total grade for the course.

**Required Readings:**

- None – preparation for exam