



LAW 852

Trade and Environment Law

S1 Day 2014

Dept of Law

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General Information

Unit convenor and teaching staff

Unit Convenor

Shawkat Alam

shawkat.alam@mq.edu.au

Contact via shawkat.alam@mq.edu.au

Credit points

4

Prerequisites

Admission to MEnvLaw or PGCertEnvLaw or PGDipEnvLaw or MIntEnvLaw or PGCertIntEnvLaw or PGDipIntEnvLaw or MIntTrdeComLaw or PGCertIntTrdeComLaw or PGDipIntTrdeComLaw or MIntReIMIntTrdeComLaw or LLM in (Environmental Law or International Environmental Law) or MSocEntre or PGCertSocEntre or 42cp in LAW units at 400 or 500 level or (admission to JD and 32cp in LAW units at 800 level)

Corequisites

Co-badged status

Co-taught with LAW582

Unit description

This unit examines the ways in which trade and environment issues are addressed in a variety of international legal instruments, ranging from, the United Nations through to global and regional free trade agreements. It provides an overview of international institutions, policies and instruments such as the UN, GATT, the WTO, NAFTA, the World Bank and the IMF as they relate to environmental issues. It also, where appropriate, compares the achievements of one legal instrument with those of others in the area of trade and the environment. It particularly focuses on the interests and concerns of developing countries on this pressing issue.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Explain and critique linkages between international environmental law and international trade law

Critique key institutions and actors through which international environmental law and international trade law interact

Explain and critically assess how law, politics and the self-interest of nation states play a critical role in the inter-relationship of trade and environmental protection

Evaluate the relationship between trade related economic growth and the environmental impacts on the pursuit for sustainable development, especially as related to the interests of developing countries

Construct an enquiring, critical and creative approach to the existing debates and tensions surrounding the trade-environment nexus.

Develop and present a proposal for law reform and/or further research needed to address cross cutting issues in trade and environmental law taking into account the perspectives of various actors including ethical considerations

Assess where the relationship between international environmental law and international trade law can be expected to develop in the future, especially having regard to the objectives of sustainable development and making recommendations for policy development and institutional reform

Assessment Tasks

Name	Weighting	Due
<u>Participation</u>	15%	Ongoing
<u>Synopsis</u>	0%	21 March 2014
<u>Assignment</u>	35%	21 April 2014
<u>Research Paper</u>	50%	13 June 2014

Participation

Due: **Ongoing**

Weighting: **15%**

Class Participation

All students are required to attend at least 80% of classes. Attendance is mandatory to complete this unit.

If a student is unable to attend any seminar, he or she should, within a reasonable time, provide a written explanation of the reason(s) for the absence together with any appropriate corroborating evidence, e.g. medical certificate. The written explanation must be personally signed by the student and forwarded to the convener. In this respect, if:

- the reason(s) for the absence are, in the opinion of the convener, not justifiable reasons for not attending the relevant seminar(s); or
- no written explanation is provided to the convener within a reasonable time,
- the absence will be deemed to be an unauthorised absence for the purpose of the attendance requirement set out above.

As assessment for this unit includes class participation, students should ensure they have completed the required reading before each class, and be prepared to discuss this material in class. Students will not be awarded class participation mark just for attending class. The following non-exhaustive criteria list will be used to assess your class participation:

- The level of preparedness for each seminar/on campus session gauged by your responses to questions and answers and opinions offered throughout each class.
- The level of analysis you display in class.
- Your ability to answer questions put directly to you in class.
- Your ability to make an educated and legally feasible argument in class.
- The way in which you engage in a constructive way with other students and the Convenor in the class.
- The quality NOT quantity of your work in class.

Please note that the onus to participate in class is on you not on the Convenor. In other words, it is not the job of the Convenor to engage you in discussion so that you may avail yourself of the class participation assessment.

Online Participation

The Convenor or Tutor will also assess participation on discussion forums for this unit to elicit evidence of students' understanding of the course materials. In order to receive marks from online participation, students are required to

- Provide a critical response of a peer's research synopsis through iLearn. This is a short response which provides students an opportunity to receive critical and constructive feedback for their final essay ideas. In providing responses, students should identify both weak and strong points of their peer's essay ideas. Responses must be uploaded no later than the 31 March 2014, 5pm and a strict 500 word limit applies.

Provide at least 1 short response on each topic of the course. Each week a thread will be posted where students must contribute a critical evaluation based on the topic's reading material. As aforementioned, marks will be based on the quality of material posted, not the length and quantity of responses. Responses are due one week from when the thread is started.

On successful completion you will be able to:

- Explain and critique linkages between international environmental law and international trade law
- Critique key institutions and actors through which international environmental law and international trade law interact
- Explain and critically assess how law, politics and the self-interest of nation states play a

critical role in the inter-relationship of trade and environmental protection

- Evaluate the relationship between trade related economic growth and the environmental impacts on the pursuit for sustainable development, especially as related to the interests of developing countries
- Construct an enquiring, critical and creative approach to the existing debates and tensions surrounding the trade-environment nexus.
- Develop and present a proposal for law reform and/or further research needed to address cross cutting issues in trade and environmental law taking into account the perspectives of various actors including ethical considerations
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Synopsis

Due: **21 March 2014**

Weighting: **0%**

Students are expected to choose their respective research topic from the topics suggested below. This is a thought provoking exercise intended to stimulate students to work out an appropriate proposal of research. However, students who are unable to select a topic of research and to formulate a research proposal may be assisted. They are advised to approach the Convenor after exhausting their own sincere efforts. Each student is required to submit a one page outline of your research topic for approval before 21 March 2014. Feedback will be provided on the viability of the proposed research with a view to support the skills for independent research at an early stage. This will be marked on a Pass/Fail basis.

(Students who do not submit a Synopsis for their Research Paper will receive a Fail Grade of zero for their final assessment task).

Topic List:

1. Food and Agriculture
2. Environmental Issues in WTO Agreements
3. Trade and Natural Resource Protection

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Assignment

Due: **21 April 2014**

Weighting: **35%**

The first assignment will be a written assessment answering a set question provided to all students. This question will be provided to students within the first two weeks of the semester. The paper should be no more than 3000 words (for which there is no 10% leeway). Students will be assessed on their understanding and explanation of the legal issues presented, the depth of their research as well as their critical evaluation of the relevant issues. Research should extend beyond the prescribed books and course materials (the recommended books and journals provide a starting point for further research). Clarity of expression, presentation of argument, responsiveness to question, and correct and consistent reference style will also be taken into account.

The paper should be well structured including sub-headings where appropriate. The introduction should set out the scope of the paper. Students need to include sufficient detail of the specific legal principles or regime and analysis/application of that law. Be sure to answer the question asked. The conclusion should include recommendations for new law, law reform, further research and/or creative application of the existing law where appropriate. The essay should be fully referenced according to the Australian Guide to Legal Citation.

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Research Paper

Due: **13 June 2014**

Weighting: **50%**

Students will be required to prepare a 4,000 word research paper on one of the listed topics. Please refer to instructions under the Synopsis above.

On successful completion you will be able to:

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Delivery and Resources

REQUIRED TEXT

The required text for this course is the IISD and UNEP, *Environment and Trade: A Handbook - Second Edition*. It is available online at <http://www.iisd.org/publications/pub.aspx?pno=754>

SUPPLEMENTARY TEXT

Shawkat Alam, *Sustainable Development and Free Trade* (Routledge,2008). Call number [HF1713 .A436 2008](#), Macquarie Library

Unit Schedule

DATE	SEMINAR TOPIC
Semester 1 commences (3 March)	No seminars in Week 1.
Session 1 (Week 2)	Introduction
Session 2 (Week 3)	Establishing the Linkage: The Trade-Environment Interface Synopsis due on 21 March 2014
Session 3 (Week 4)	International Environmental Governance: Origins and Principles
Session 4 (Week 5)	GATT/WTO Approaches to Trade, the Environment and Sustainable Development Synopsis responses due 31 March 2014 on iLearn
	Legal and Policy Linkages: Process and Production Methods (PPMs), Eco-labelling and Environmental Standards
Mid Semester Break (14 April)	2 week break, classes resume on 28 April. Assignment 1 due on 21 April 2014 during the break.
Session 6 (Week 7)	The GATT/WTO Dispute Settlement Mechanism and the Environment
Session 7 (Week 8)	Environmental Issues in WTO Agreements Examines the Sanitary and Phytosanitary Measures (SPS) Agreement and the Agreement on Technical Barriers to Trade (TBT)
Session 8 (Week 9)	Trade in Services and Intellectual Property Examines the General Agreement on Trade in Services (GATS) and the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement

Session 9 (Week 10)	The Trade-Environment Linkage in Multilateral Environmental Agreements (MEAs) Examines the tensions with MEAs including the 1973 Convention on International Trade in Endangered Species (CITES), Convention on Biological Diversity (CBD), the 2003 Cartagena Protocol on Biosafety, the 1992 United Nations Framework Convention on Climate Change (UNFCCC), the 1997 Kyoto Protocol and the 1992 Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal.
Session 10 (Week 11)	Regional Agreements on Trade and Environment Examines the European Union (EU), the North American Free Trade Agreement (NAFTA) and the Asia-Pacific Economic Cooperation (APEC)
Session 11 (Week 12)	Cross Cutting Issues
Session 12 (Week 13)	Trade, Environment and Sustainable Development: The Way Forward Assignment 2 due 13 June

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy http://mq.edu.au/policy/docs/grievance_management/policy.html

Disruption to Studies Policy http://www.mq.edu.au/policy/docs/disruption_studies/policy.html *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/support/student_conduct/

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

Graduate Capabilities

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

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Assessment tasks

- Participation
- Synopsis
- Assignment
- Research Paper

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

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Assessment tasks

- Assignment
- Research Paper

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

- Evaluate the relationship between trade related economic growth and the environmental impacts on the pursuit for sustainable development, especially as related to the interests of developing countries
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- Develop and present a proposal for law reform and/or further research needed to address cross cutting issues in trade and environmental law taking into account the perspectives of various actors including ethical considerations
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Assessment tasks

- Participation
- Synopsis
- Assignment
- Research Paper

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

- Evaluate the relationship between trade related economic growth and the environmental impacts on the pursuit for sustainable development, especially as related to the interests of developing countries
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Assessment tasks

- Participation
- Research Paper

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

- Critique key institutions and actors through which international environmental law and international trade law interact
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- Evaluate the relationship between trade related economic growth and the environmental impacts on the pursuit for sustainable development, especially as related to the interests of developing countries
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Assessment task

- Research Paper

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Develop and present a proposal for law reform and/or further research needed to address cross cutting issues in trade and environmental law taking into account the perspectives of various actors including ethical considerations
- Assess where the relationship between international environmental law and international trade law can be expected to develop in the future, especially having regard to the objectives of sustainable development and making recommendations for policy development and institutional reform