



LAW 889

International Trade and Finance

S2 External 2013

Macquarie Law School

Contents

<u>General Information</u>	2
<u>Learning Outcomes</u>	2
<u>Assessment Tasks</u>	3
<u>Delivery and Resources</u>	8
<u>Unit Schedule</u>	9
<u>Policies and Procedures</u>	10
<u>Graduate Capabilities</u>	11
<u>Learning Resources</u>	14
<u>Changes since First Published</u>	16

Disclaimer

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General Information

Unit convenor and teaching staff

Unit Convenor

Gisele Kapterian

gisele.kapterian@mq.edu.au

Contact via gisele.kapterian@mq.edu.au

Credit points

4

Prerequisites

Admission to MIntEnvLaw or MIntTrdeComLaw or PGDiplIntTrdeComLaw or PGCertIntTrdeComLaw or MIntRelMIntTrdeComLaw or LLM in International Environmental Law or 42cp in LAW units at 400 or 500 level

Corequisites

Co-badged status

Unit description

The unit deals with the international legal regime governing the multilateral exchange (imports and exports) of goods, services, capital, and technology within the legal framework of the World Trade Organisation (WTO); regional and bilateral free trade; the nexus between trade and the monetary system, and between trade and non-trade issues (the environment and human rights); the North-South dimensions of trade; the position of middle-sized developed countries (eg, Australia) and developing countries under the WTO; institutional, legislative, and transactional aspects of trade (sale and carriage of goods and international payment); dispute resolution; and future challenges for global trade liberalisation under the WTO.

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:

An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.

An ability to undertake high level critique of the interests of states in their decision-

making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures. Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.

An ability to apply the laws relating to the international trade of goods and finance

An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

Assessment Tasks

Name	Weighting	Due
<u>Participation/Attendance</u>	10%	ongoing
<u>Research Assignment</u>	50%	5pm 20 September 2013
<u>Take Home Exam</u>	40%	5pm, 19 November 2013

Participation/Attendance

Due: **ongoing**

Weighting: **10%**

(a) Substantive requirements in relation to class participation

Students will be assessed on the basis of their knowledge, understanding and ability critically to evaluate the issues raised in each topic, as demonstrated through participation in class discussions, including any online discussions, and in responses to assigned questions in the seminars. Students should generally be prepared to talk about the assigned readings, provide their own assessment of those readings, and contribute to the discussion of questions and problems set in relation to these readings. Students are also encouraged to participate in discussions that extend beyond these set questions and readings through their own evaluation of the issues raised.

(b) Formal requirements in relation to class participation

Internal students are required to attend seminars for each of the 13 weeks that the subject runs during the semester. Students will be permitted **a maximum of two unexplained absences** from attendance at seminars. Students with more than two unexplained absences **will get a zero mark for class participation**, and, irrespective of marks gained in other assessment items, **will be awarded a 'Fail' grade**.

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. If you send this explanation via email, you should not expect that it is received unless a reply email confirming receipt is sent to you. If:

(i) the reason(s) for the absence are, in the opinion of the Convener, not justifiable reasons for not attending the relevant seminar(s); or

(ii) 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.

On successful completion you will be able to:

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- Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.
- An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

Research Assignment

Due: **5pm 20 September 2013**

Weighting: **50%**

The Research Assignment will provide students with a choice of essay questions that focus on topics and readings in the first half of the semester, but also intended to bring together the core knowledge and graduate capabilities being assessed in the unit.

(a) Formal requirements for the written assignments

The following requirements as to presentation of written papers must be complied with:

- All written assignments must be typed on A4 paper, and must be double-spaced. You may print on both sides of the paper if your inclinations towards conservation are threatened by the double-spacing requirement.
- The Research Assignment cannot exceed 4,000 words. The word limit does not include footnotes, although footnotes must not include any substantive content. The actual word length of a paper must be stated on the cover sheet.
- Footnotes must be consistent with the Australian Guide to Legal Citations, which can be downloaded at <http://www.law.unimelb.edu.au/mulr>.
- You are **not** required to include a bibliography, as your footnotes should indicate what sources you have used in your research.

(b) Substantive requirements for the written assignments

LAW889 students will be held to a higher standard to LAW460 students, consistent with the greater opportunity they have to examine issues in their written assignments and the higher level of learning outcomes sought to be achieved. While taking into account the different structures and outcomes, students will be assessed on the following criteria:

- Understanding and explanation of the legal issues presented
- Application of the relevant legal principles to the facts provided
- Critical evaluation of the relevant issues
- Depth of research
- Clarity of expression
- Presentation of argument
- Responsiveness to question
- Correct, consistent and adequate referencing

On successful completion you will be able to:

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.
- An ability to undertake high level critique of the interests of states in their decision-making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures.
- Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.
- An ability to apply the laws relating to the international trade of goods and finance
- An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

Take Home Exam

Due: **5pm, 19 November 2013**

Weighting: **40%**

The Take Home Exam will consist of 4 questions covering topics and readings from the first half of the semester. Students are required to answer all 4 questions. Each written response will be limited to a maximum of 800 words and will be worth 10% of your final mark for the course (4 x 10% = 40%). The questions will be a mix of problem questions, reflective questions and essay-style questions.

(a) Formal requirements for the written assignments

The following requirements as to presentation of written papers must be complied with:

- All written assignments must be typed on A4 paper, and must be double-spaced. Please print on both sides of the paper where possible.
- Each response cannot exceed 800 words. The word limit does not include footnotes, although footnotes must not include any substantive content. The actual word length of a paper must be stated on the cover sheet.

- Footnotes must be consistent with the Australian Guide to Legal Citations, which can be downloaded at <http://www.law.unimelb.edu.au/mulr>.

- You are not required to include a bibliography, as your footnotes should indicate what sources you have used in your research.

(b) Substantive requirements for the written assignments

LAW889 students will be held to a higher standard to LAW460 students, consistent with the greater opportunity they have to examine issues in their written assignments and the higher level of learning outcomes sought to be achieved. While taking into account the different structures and outcomes, students will be assessed on the following criteria:

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- Critical evaluation of the relevant issues
- Depth of research
- Clarity of expression
- Presentation of argument
- Responsiveness to question
- Correct, consistent and adequate referencing

On successful completion you will be able to:

- An understanding of the core principles governing the law of international trade and

finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.

- An ability to undertake high level critique of the interests of states in their decision-making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures.
- Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.
- An ability to apply the laws relating to the international trade of goods and finance
- An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

Delivery and Resources

Hard Copy Submissions

Written work must be submitted through the Arts Student Centre (via the appropriate assignment box) on Level 1, W6A (for internal students) or via COE (for external students). Internal students must print and attach a completed coversheet to all submitted work. A personalised assignment coversheet is generated from the student section of the Faculty of Arts website at:

http://www.arts.mq.edu.au/current_students/undergraduate/admin_central/coversheet.

Please provide your student details and click the *Get my assignment coversheet* button to generate your personalised assignment cover sheet. No other coversheets will be provided by the Faculty.

Return of marked work

During semester, marked work will be returned to students via tutorials, seminars or lectures.

Electronic Submissions

Information about how to submit work online can be accessed through the iLearn unit.

This will apply to all external students.

Unit Schedule

Week 1	Introduction: Theory, Policy and Institutions
Week 2	The WTO: Basic Principles and Structure
Week 3	WTO Dispute Settlement Process
Week 4	Rules on Market Access
Week 5	Rules on Unfair Trade (Dumping, Subsidies, Countervailing Duties)
Week 6	TBT, SPS, TRIMS, TRIPS
Week 7	"Trade and..." Debate, Domestic Sovereignty
Week 8	Regional Trade Agreements, Australia's Trade Policy

Week 9	International Investment
Week 10	International Investment (cont'd)
Week 11	IMF, World Bank, Balance of Payments
Week 12	UNCITRAL Conventions
Week 13	Challenges for International Trade, Doha Round

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://www.mq.edu.au/policy/docs/academic_honesty/policy.html

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

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

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

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

Special Consideration Policy http://www.mq.edu.au/policy/docs/special_consideration/policy.html

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

Student Support

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at: <http://students.mq.edu.au/support/>

UniWISE provides:

- Online learning resources and academic skills workshops http://www.students.mq.edu.au/support/learning_skills/
- Personal assistance with your learning & study related questions.
- The Learning Help Desk is located in the Library foyer (level 2).
- Online and on-campus orientation events run by Mentors@Macquarie.

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

Details of these services can be accessed at <http://www.student.mq.edu.au/ses/>.

IT Help

If you wish to receive IT help, we would be glad to assist you at <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 and it outlines what can be done.

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

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.
- An ability to apply the laws relating to the international trade of goods and finance

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

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.
- An ability to undertake high level critique of the interests of states in their decision-making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures.
- An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

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

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.
- Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.

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

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.
- An ability to undertake high level critique of the interests of states in their decision-

making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures.

- Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.

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

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.
- An ability to undertake high level critique of the interests of states in their decision-making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures.
- Respond clearly and convincingly in writing and verbally to challenges to views, as well as presenting articulate ideas to demonstrate understanding and persuade in the value of the view expressed.
- An ability to apply the laws relating to the international trade of goods and finance
- An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

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

- An understanding of the core principles governing the law of international trade and finance, including an understanding of the rights and duties of states arising from their multilateral and bilateral commitments.

- An ability to undertake high level critique of the interests of states in their decision-making in relation to international trade policy, accurately assessing the relative strengths and weaknesses of conflicting views over the use of certain trade measures.
- An independent ability to assess contemporary international trade issues and gauge the legality of state conduct and available legal responses.

Learning Resources

REQUIRED READING

The prescribed textbook for this unit is Peter van den Bossche, *The Law and Policy of the World Trade Organization* (2008, Cambridge University Press).

Required readings are also being listed on the iLearn page and will be available via the eReserve. Please note that there are additional readings for students enrolled in LAW889 beyond those prescribed for students enrolled in LAW460.

The following texts and websites are useful study tools:

Texts

Michael J. Trebilcock, Robert Howse, & Antonia Eliason, *The Regulation of International Trade*, (Routledge, 4th ed. 2012).

Mitsuo Matsushita, Thomas J. Schoenbaum and Petros C. Mavroidis, *The World Trade Organization: Law, Practice, and Policy* (Oxford University Press, 2nd ed., 2006).

John H. Jackson, *The World Trading System*, (The MIT Press, 2nd ed. 1997)

Andrew Newcombe & Lluís Paradell, *Law and Practice of Investment Treaties – Standards of Treatment* (Wolters Kluwer, 2009).

Rudolf Dolzer and Christoph Schreuer, *Principles of International Investment Law* (Oxford University Press, 2008).

Peter Muchlinski, Federico Ortino, & Christoph Schreuer, eds., *The Oxford Handbook of International Investment Law* (Oxford University Press, 2008).

Websites

Official WTO website: www.wto.org

WTO Cases and summaries: www.worldtradelaw.net

ICTSD Bridges weekly: <http://ictsd.org/news/bridgesweekly/>

USTR: <http://www.ustr.gov/>

European Commission: <http://ec.europa.eu/trade/>

DFAT: <http://www.dfat.gov.au/>

Investment Treaty Arbitration: www.ita.law.uvic.ca

ICSID: <http://icsid.worldbank.org/ICSID/Index.jsp> This is the official website of the International Centre for Settlement of Investment Disputes (ICSID).

UNCTAD BITs Online: http://www.unctadxi.org/templates/DocSearch____779.aspx

NAFTA Claims.com: www.naftaclaims.com

RECOMMENDED READING

Recommended and supplementary materials will be posted on iLearn for each week. Searching for international law articles is most easily facilitated through Lexis-Nexis (International Law Reviews, Combined library), and also through WestLaw and Hein Online. These databases are available through the Library website.

Changes since First Published

Date	Description
21/12/2012	The Prerequisites was updated.