

Ministry of Education and Science of Ukraine
Yaroslav Mudryi National Law University
Department of Private International Law and Comparative Law

SYLLABUS
of academic discipline
“INTERNATIONAL TRADE AND INVESTMENT LAW”

Level of higher education – the second (master's) level

Degree of higher education - master's degree

Field of knowledge - 29 "International relations"

Specialty - 293 "International Law"

Discipline status - at the student's discretion

Recruitment year - 2022

Kharkiv - 2022

Syllabus of academic discipline “International Trade and Investment Law” for the second (master's) level students in the field of knowledge 29 "International Relations", specialty 293 "International Law". Kharkiv: Yaroslav Mudryi National Law University, 2022. 17 p.

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Approved by the Department of Private International Law and Comparative Law
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Head of the Department - Dmytro Lukianov, Doctor of Law, Professor, Professor

Information about the academic staff

Academic discipline	International trade and investment law
Status of the discipline	At the student's choice
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Annotation of the academic discipline

The essence of international trade and investment law as a complex branch of international law regulating social relations in the field of cross-border movement of goods, services and capital is revealed. The basic categories of the branch are considered, attention is drawn to the specifics of sources, principles and subjects of international trade and investment law. The author outlines the main stages of formation of legal regulation of cooperation between states in international trade and investment activities and the prospects for its development in the context of globalization and digitalization of the economy. Particular attention is paid to the legal mechanisms for the settlement of international trade and investment disputes.

Purpose and objectives of the discipline

The purpose of the discipline is to form a system of scientific knowledge in the field of international trade and investment relations, as well as a deep understanding of the nature of WTO law as a central part of international trade law, to intensify the analytical activities of higher education students, and to conduct research in the field of legal regulation of international trade and investment relations.

Objectives:

- mastering theoretical knowledge in the field of legal regulation of cross-border movement of goods and capital developed by the science of international trade and investment law;
- mastering the normative material resulting from cooperation between states and other subjects of international trade and investment law;
- Identification of topical issues of development of legal regulation of relations between subjects of international trade and investment law and directions of modern scientific research in this area;
- familiarization with the judicial and arbitration practice of international bodies that consider disputes in the field of legal regulation of international trade and protection of foreign investments;
- development of skills and abilities to apply international trade and investment law in practice, taking into account the problems of international trade development and investment protection.

Academic discipline in the structure of the educational and professional programme. Interdisciplinary connections

Prerequisites: "Tax Law", "European Union Law and its System", "Actual Problems of Research Methodology".

Credentials: "European Private International Law", "International Contract Law", "WTO Law".

Postgraduate qualifications: "International Intellectual Property Law, EU Corporate Law and Governance, Notary and Notarial Actions of Consular Offices.

Expected learning outcomes of a higher education student

As a result of mastering the discipline, a higher education student must demonstrate the following learning outcomes:

LO AD 1. To demonstrate knowledge of the key concepts, principles,

theories and doctrines of international trade and investment law, determine the place of international trade and investment law in the legal system.

LO AD 2. To demonstrate knowledge of the main stages of evolution of international trade and investment law, its main institutions, characterize the current state and directions of further development of international legal cooperation in the field of international trade and protection of foreign investment.

LO AD 3. To demonstrate knowledge of the specifics of the subject, special principles, sources of international trade and investment law, its systemic and structural structure.

LO AD 4. To critically analyse judicial and arbitration practice in cases related to the resolution of international trade and investment disputes regarding the interpretation and application of international legal norms in the relevant field.

LO AD 5: To determine the limits of legal personality of various participants in international trade and investment relations; discuss the scope of competence of legal entities and their associations, non-governmental organizations in international trade and investment legal relations.

LO AD 6. To identify problems of legal regulation within certain institutions of international trade and investment law, propose ways to overcome them in accordance with the principles of international trade and investment law, fundamental principles of international law, general principles of law, practice of international organizations and modern doctrinal work on relevant issues.

LO AD 7. To describe the peculiarities of international legal regulation of cooperation between states in the field of international trade development and protection of foreign investment.

LO AD 8. To describe the stages of development, principles and main directions and institutional mechanisms of international legal cooperation in the field of international trade and foreign investment protection.

LO AD 9. To demonstrate knowledge of the basic mechanisms, rules and

procedures for resolving international trade and investment disputes.

LO AD 10. To provide professional advice on the nature and methods of international legal protection of foreign investments and interests of subjects of international trade law.

LO AD 11. To describe the strategic directions of Ukraine's foreign policy activities in the field of international trade and foreign investment, the effectiveness of cooperation in the relevant areas.

LO AD 12. To analyse Ukrainian legislation for compliance with international trade and investment law, to formulate proposals for approximation of national legal acts to the relevant legal framework.

**Types of classes and independent work
for full-time higher education students**

No. p/n	Types of class teaching		Independent work (in academic hours)
	Lecture topics	Topics of practical classes	
1	The concept and sources of international trade law.	The concept and sources of international trade law.	10
2	International trade and WTO rules.	International trade and WTO rules.	10
3	Implementation of the principles of non-discrimination in international trade law.	Implementation of the principles of non-discrimination in international trade law.	10
4	Trade liberalization and sustainable development goals in international trade law	Trade liberalization and sustainable development goals in international trade law	10
5	Concept, legal nature and sources of international investment law.	Concept, legal nature and sources of international investment law.	8
6	Basic concepts and subjects of international investment law	Basic concepts and subjects of international investment law	10
7	Guarantees and remedies to protect the rights of foreign investors	Guarantees and remedies to protect the rights of foreign investors	8
8	Insurance of foreign	Insurance of foreign	8

	investments	investments	
9	Mechanisms for resolving international investment disputes	Mechanisms for resolving international investment disputes	8

**Types of classes and independent work
for part-time higher education students**

No. p/n	Topics of lectures	Topics of practical classes	Independent work (in academic hours)
1	The concept and sources of international trade law.	The concept and sources of international trade law.	110
2	Guarantees and remedies to protect the rights of foreign investors	Guarantees and remedies to protect the rights of foreign investors	
3	Mechanisms for resolving international investment disputes	-	

Independent work of students

Students' independent work is carried out in the following forms:

- written homework;
- mastering theoretical material on the topics of practical classes;
- revision of lecture materials;
- work in information networks;
- studying additional literature;
- case study development;
- essays on highly specialized issue
- creating a training course portfolio and presenting it;
- writing abstracts and reports and presenting them;
- preparation and publication of scientific articles and abstracts;
- participation in student research and practice conferences;
- compiling a bibliography on the relevant topic;
- generalization of court practice;
- commenting on sources of international law, as well as national law of Ukraine and foreign countries;

- other forms of work.

Tasks and methodological recommendations for independent work are provided in the Methodological materials for the discipline "International Trade and Investment Law" for students of the second (master's) level of higher education in the field of knowledge 29 "International Relations", specialty 293 "International Law".

Educational, methodological and information support of the discipline

Legislation, Conventions, Treaties

1. Agreement Establishing the World Trade Organization of 15.04.1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/995_342#Text.
2. General Agreement on Tariffs and Trade 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_003#Text.
3. General Agreement on Trade in Services of April 15, 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_017#n.
4. On Approval of the Procedure for Ensuring Protection of Rights and Interests of Ukraine in the Trade and Economic Sphere within the World Trade Organization: Resolution of the Cabinet of Ministers of Ukraine; Procedure of 01.06.2016 No. 346. Official website of the Verkhovna Rada of Ukraine. The official website of the Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/346-2016-%D0%BF#Text>.
5. Agreement on the Application of Sanitary and Phytosanitary Measures of April 15, 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_006#Text.

6. Agreement on Rules and Procedures for the Settlement of Disputes of April 15, 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_019#n3.
7. Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_018#n3.
8. WTO Agreement on Technical Barriers to Trade of April 15, 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_008#Text.
9. Agreement on Safeguard Measures of April 15, 1994. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/981_016#Text.
10. Agreement on Trade and Investment Cooperation between the Government of Ukraine and the Government of the United States of America of 28.03.2008. Official website of the Verkhovna Rada of Ukraine. The Verkhovna Rada of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/840_133#Text.
11. Agreement between the Government of Ukraine and the Government of the Republic of Turkey on Mutual Promotion and Protection of Investments dated 09.10.2017. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/792_005-17#Text.
12. Agreement between the Government of Ukraine and the Government of the Republic of Latvia on the Promotion and Reciprocal Protection of Investments dated 24.07.1997. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/428_005#Text.
13. Agreement between Ukraine and Japan on the Promotion and Protection of Investments dated February 05, 2015. Official website of the Verkhovna Rada of Ukraine. Council of Ukraine. URL: https://zakon.rada.gov.ua/laws/show/392_037#Text.
14. Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18.05.1965. Official website of the Verkhovna Rada of

Ukraine. Council of Ukraine. URL:
https://zakon.rada.gov.ua/laws/show/995_060#Text.

15. On the Protection of Foreign Investments in Ukraine: Law of Ukraine of 10.09.1991 No. 1540a-XII <https://zakon.rada.gov.ua/laws/show/1540%D0%B0-12#Text>

Literature

Basic literature

1. Golubeva V.O. International Trade Law: Study guide. Kyiv : VC of the Academy of Advocacy of Ukraine APress, 2020. 381 c.
2. Dovhan V. WTO Dispute Settlement Mechanism and Overview of Ukraine's Trade Policy: a textbook. Lviv: Panorama Publishing House, 2016. 320 c.
3. Liubashenko V. I. International investment law: a textbook. Odesa: Phoenix, 2018. 125 c.
4. Myroshnychenko V.O. International Trade Law in Schemes, Tables and Definitions: a textbook. Kyiv: TsUL, 2020. 142 c.
5. Shutak I.D. Legal regulation of international economic relations: a textbook. Kyiv : Alerta, 2012. 412 c.
6. Bossche P. Van den. The Law and Policy of the World Trade Organization: Text, Cases and Materials. Cambridge; New York: Cambridge University Press, 2017. 1077 p.
7. Collins D. An Introduction to the International Investment Law. Cambridge: Cambridge University Press. 2017. 350 p.
8. Sornarajah M. The International Law on Foreign Investment. Cambridge: Cambridge University Press. 2010. 55 p.
9. Dolzer R., Schreuer C. Principles of International Investment Law. Oxford: Oxford University Press. 2012. 407 p.
10. Surya P. Subedi. International Investment Law Reconciling Policy and Principle. Portland: Oxford and Portland. 2008. 253 p.

11. Mann F.A. Foreign Investment in the International Court of Justice: the ELSI Case. *The American Journal of International Law*. URL: <https://www.jstor.org/stable/2203139>.
12. Choukroune L., Nedumpara, J. *International Economic Law: Text, Cases and Materials*. Cambridge: Cambridge University Press, 2021. doi:10.1017/9781108500241
13. Sornarajah M. *The International Law on Foreign Investment* (4th ed.). Cambridge: Cambridge University Press, 2017. doi:10.1017/9781316459959.

Additional literature

1. Ostapenko Y. I. *WTO Law: a course of lectures*; Yaroslav Mudryi National Law University. Kharkiv: Pravo, 2021. 192 c.
2. *The Law of International Organizations and Ukraine: in diagrams and tables : a textbook*. Edited by Y. L. Boshytskyi, M. O. Dey ; National Academy of Sciences of Ukraine, Kyiv University of Law. Kyiv : Lira-K, 2014. 268 c.
3. Shumilo I.A., Klymovych Y.O. Problematic issues of recognition and enforcement of arbitral awards in Ukraine on the grounds of violation of public order. *International scientific journal "Internauka". Series: "Legal Sciences"*. 2020. № 10. URL: <https://doi.org/10.25313/2520-2308-2020-11>.
4. International legal regulation of foreign investment. In the book: *Investment law: a textbook*. Edited by Yu. Zhornokuy. Kh. Pravo, 2015. C. 193-208.
5. International trade law: potential impact on the economic development of states. *Customs business*. 2013. № 4. C. 10-17.
6. Bergh C. van den Reciprocity Clause and International Trade Law. *Journal of Energy & Natural Resources Law*. 2019. №27(2). 228-257. DOI: 10.1080/02646811.2009.11435214
7. Blyzniuk V., Shumilo I., Ushenko N. Expanding the boundaries of the economic security of international companies on the basis of corporate social

responsibility practices. *Journal of Security and Sustainability Issues*. 2020. T. 10. № 2. P. 631-642. URL: http://www.tb.lt/Leidiniai/SSI/10-2/10_2_21.pdf.

8. Bonnitcha J., Brewin, S. Compensation Under Investment Treaties: What are the problems and what can be done? International Institute for Sustainable Development (IISD), 2020. <http://www.jstor.org/stable/resrep29241>.

9. Bossche P. van den, Zdouc, W. The Law and Policy of the World Trade Organization: Text, Cases, and Materials (5th ed.). Cambridge: Cambridge University Press, 2021. doi:10.1017/9781108784542.

10. Charwat N., Boyd J. The transmission of international trade norms, ideas and expertise into national statutory institutions: the case of GATT and the Australian Tariff Board. *Griffith Law Review*. 2019. № 28:3. P. 281-302, DOI: 10.1080/10383441.2019.1674466.

11. Chernykh Y. (2022). Overview of Contract Interpretation in Investment Treaty Arbitration. In Contract Interpretation in Investment Treaty Arbitration: A Theory of the Incidental Issue. P. 17-70. Brill, 2022. <http://www.jstor.org/stable/10.1163/j.ctv2gjww9q.8>

12. Cleis M. N. Independence and Impartiality in the ICSID Convention and Arbitration Rules. In The Independence and Impartiality of ICSID Arbitrators: Current Case Law, Alternative Approaches, and Improvement Suggestions (pp. 12-30). Brill, 2017. URL: <http://www.jstor.org/stable/10.1163/j.ctt1w8h3hc.7>.

13. Collins D. An Introduction to International Investment Law (2nd ed.). Cambridge: Cambridge University Press, 2023. doi:10.1017/9781009245715.

14. Diependaele L., De Ville F., Sterckx S. Assessing the Normative Legitimacy of Investment Arbitration: The EU's Investment Court System. *New Political Economy*. 2019. № 24:1. P. 37-61. DOI: 10.1080/13563467.2017.1417362.

15. Fedorenko V., Filipenko N., Shumilo I., Nesterovych V., Nischymna S. Entrepreneurial activity of the IT sector in the conditions of the COVID-19 pandemic and in the post-quarantine period. *Entrepreneurship and Sustainability*. 2021. Issues 8(4). P. 697-712. [https://doi.org/10.9770/jesi.2021.8.4\(43\)](https://doi.org/10.9770/jesi.2021.8.4(43))

16. Lim C., Ho J., Paporinskis M. *International Investment Law and Arbitration: Commentary, Awards and other Materials* (2nd ed.). Cambridge: Cambridge University Press, 2021. doi:10.1017/9781108913652.
17. Margulis M.E. The World Trade Organization between law and politics: negotiating a solution for public stockholding for food security purposes. *Transnational Legal Theory*. 2018. № 9:3-4. P. 343-360. DOI: 10.1080/20414005.2018.1562290.
18. Minhas Sh., Remmer K.L. The Reputational Impact of Investor-State Disputes. *International Interactions*. 2018. № 44:5. P. 862-887. DOI: 10.1080/03050629.2018.1492384
19. Pogoretsky, V. *Freedom of Transit and Access to Gas Pipeline Networks under WTO Law*. New York: Cambridge University Press, 2017. 372 p.
20. Qureshi A. H. The World Trade Organization and the Promotion of Effective Dispute Resolution: In Times of a Trade War. In P. Quayle & X. Gao (eds.), *International Organizations and the Promotion of Effective Dispute Resolution: AIIB Yearbook of International Law*, 2019. Vol. 2. P. 145-160. Brill. <http://www.jstor.org/stable/10.1163/j.ctvrk3sj.12>.
21. Ratner S. R. Compensation for expropriations in a world of investment treaties: beyond the lawful/unlawful distinction. *The American Journal of International Law*. 2017. 111(1). P. 7-56. <https://www.jstor.org/stable/26568821>
22. Reinsch, W., Caporal, J. A Renewed Global Trade System in M. P. Goodman, S. Miller (Eds.) *Toward a New Global Trade Framework*. Center for Strategic and International Studies (CSIS), 2021. P. 12-19 <http://www.jstor.org/stable/resrep28661.5>
23. Saei J. Amicus curious: structure and play in investment arbitration. *Transnational Legal Theory*. 2017. № 8:3. P. 247-295. DOI: 10.1080/20414005.2017.1385246.
24. Shumilo I., Zhuravlova Z., Hasparian S., Franchuk V. Addressing the experience of intellectual property right legal support and it's necessity of recognition in Ukraine. *Revista do Curso de Direito do UNIFOR*. 2021. Vol. 12(1).

- P. 190-205.
<https://periodicos.uniformg.edu.br:21011/ojs/index.php/cursodireitouniformg/articled/view/1442>.
25. Voon T. The security exception in wto law: entering a new era. AJIL Unbound.2019. № 113. P. 45-50. <https://www.jstor.org/stable/27003877>

Internet resources:

- Official web portal of the Verkhovna Rada of Ukraine - <http://rada.gov.ua/>
- Official web portal of the President of Ukraine - <http://www.president.gov.ua>
- Official web portal of the Cabinet of Ministers of Ukraine - <http://www.kmu.gov.ua>
- Official website of the Ministry of Justice of Ukraine - <https://minjust.gov.ua/>
- The official web portal of the United Nations is <http://www.un.org/>
- Official web portal of the World Trade Organization - <https://www.wto.org>
- Official web portal of the United Nations Conference on Trade and Development (UNCTAD) - <http://unctad.org>
- Official web portal of the United Nations Commission on International Trade Law (UNCITRAL) - <https://www.uncitral.org/>
- The official web portal of the International Center for Settlement of Investment Disputes is <https://icsid.worldbank.org/>
- Official web portal of the North American Free Trade Agreement (NAFTA) Secretariat - <https://www.nafta-sec-alena.org/>
- Official web portal of the International Chamber of Commerce - <https://iccwbo.org/> Офіційний web portal of the International Commercial Arbitration Court at the Ukrainian CCI - <https://icac.org.ua/>
- ITALAW database of investment tribunals and arbitration awards - <https://www.italaw.com/>
- Database of court decisions, arbitrations and international treaties Investor - <https://www.investorstatelawguide.com/>

Bibliography on international investment law and procedure -
<https://icsid.worldbank.org/en/Pages/resources/Bibliography-onInvestment-Law-and-Procedure.aspx>

ICSID Review - Foreign Investment Law Journal -
<https://academic.oup.com/icsidreview/>

The Journal of World Investment & Trade -
<http://booksandjournals.brillonline.com/content/journals/22119000>

Investment Arbitration Reporter (news in the field of investment arbitration and comments on the awards) - <http://www.iareporter.com/>

Network of news, articles (including a journal), audio library, etc. on international arbitration, mediation and international investment law Transnational Dispute Management <https://www.transnational-dispute-management.com/>

SENMK

Standardized electronic educational and methodological complex on private international law URL: <https://library.nlu.edu.ua/senmk/item/436-mizhnarodne-pryvatne-pravo.html>

Teacher requirements

Higher education students must: regularly attend lectures and practical classes; systematically and actively work on them; provide convincing arguments when solving problems; perform written assignments, tests and independent work, etc. Practical classes missed for valid reasons may be made up by prior agreement with the instructor.

Higher education applicants are encouraged to participate in scientific conferences, competitions of scientific papers, the work of the department's scientific circle, mut-circles, prepare abstracts of scientific reports, etc.

A mandatory requirement is that higher education applicants comply with the

Code of Academic Ethics of the Yaroslav Mudryi National Law University
https://nlu.edu.ua/files/norm_doc/kodeks_academichnoyi_etyky.pdf.

During class, you may use gadgets for educational purposes only (e.g., to view lecture presentations). Laptops and tablets may be used to take notes and keep track of information.

Control measures

The assessment of the results of mastering the discipline "International Trade and Investment Law" involves current and final control and is carried out on the basis of a cumulative point-rating system.

Current knowledge control includes:

- control of the quality of students' mastering the program material of the discipline in practical classes using the following means: oral, written or express survey, solving practical problems or tasks, participation in the development of a case, defence of an essay or abstract at the initiative of the student. The current control is aimed at checking the level of training of the applicant in the study of the current material. During the practical training, the applicant can receive a grade on a four-point scale (0, 3, 4, 5);

- quality control of students' mastery of the program material of the discipline, which is carried out at the end of the modules in the form of colloquia, quizzes, testing, etc.

During the semester students complete assignments for independent work (preparation of a presentation, essay, abstract, etc.).

The maximum number of points for students' independent work is 20 points.

The form of final control of knowledge of higher education students in the discipline is a test. The minimum number of points to receive for a test is 60.

Scale of final pedagogical control:

Assessment on the ECTS scale	Description.	Assessment according to the national scale	Assessment according to a 100-point scale used in Yaroslav Mudryi National Law

			University
A	Excellent - excellent performance, with only a few errors	Credited	90 - 100
B	Very good - above average with a few errors		80 - 89
C	Good - generally correct work with a number of minor errors		75 - 79
D	Satisfactory - not bad, but with a significant number of shortcomings		70 - 74
E	Sufficient - performance meets the minimum criteria		60 - 69
FX	Unsatisfactory - you need to work on it before retaking it	Uncredited	35 - 59
F	Unsatisfactory - serious further work is required, a repeat course is mandatory		0 - 34