

University of Florida
International Economic Law
EUS 4930/INR 4931
Fall 2021

COURSE INFORMATION:

Instructor: Prof. Alexander Panayotov, Ph.D.

Course Location: Turlington 1101

Course Time: T 8:30-10:25 AM; R 9:35-10:25 AM

Office Location: Turlington Hall 3343

Office Hours: Tuesday, 11:45 AM-1:45 PM (Zoom); Thursday 1:00-2:00 PM (Zoom)

“Thoughts without content are empty, intuitions without concepts are blind.”

Immanuel Kant

This is an introductory course in international economic law (IEL). It has three main objectives: 1) to explore the origins of IEL and its relation to international politics; 2) to outline the general principles governing the creation, interpretation, and enforcement international economic rules, 3) to provide a broad overview of the main issues in IEL: trade, finance, foreign direct investment, and economic sanctions.

In this class, we will study IEL as a legal discipline. While we will analyze the evolution of IEL at the intersection of legal and political theories, the crux of the course will be a systematic examination of international rules and cases decided by international, European, and US courts. We will start with a general introduction to international public law. Then we will examine the basic principles of international trade, finance, and foreign investment. Our discussions will revolve around the existing rules and institutions for regulating these activities. The course will emphasize the interdependence between public and private law. We will conclude with a close examination of economic rules and their relationship to national security issues.

You will learn different styles of legal analysis and argumentation. Understanding these styles might prove challenging. Because of this, be prepared to discuss them during the class. The class discussion is a deliberative exercise: you are expected to contribute to it because everyone will benefit from a vigorous exchange of ideas. In order to facilitate this exchange, I will call people in class. Please note that class attendance is mandatory.

In addition, please respect your colleagues' views: IL is a subject open to multiple interpretations and an arena of contentious debates. Don't forget that collegiality and tolerance are virtues not vices.

LEARNING OBJECTIVES:

Students in this course will:

- Explore the foundations of public international law and its regulation of the use of force in international politics.
- Learn the methodological skills to read, analyze, and understand international legal cases.
- Refine their writing, editing, and presentation skills.

COURSE TEXTS:

1. Sean D. Murphy, *Principles of International Law*, 3rd edn. (West Academic Publishing, 2018) [hereinafter PIL]. Check carefully and don't buy previous editions of the book.
2. Matthias Herdgen, *Principles of International Economic Law*, 2nd edn. (Oxford University Press, 2016) [hereinafter IEL]. Check carefully and don't buy the previous edition of the book.
3. Materials on the Canvas web site.

EXAMINATIONS AND ACADEMIC HONESTY:

- I will not be able to change exams' parameters and presentation dates except in the following cases: a medical emergency, which must be properly documented, and a death in the immediate family.
- Absences from class must be properly documented. An absence without proper documentation will be counted as an unexcused one. Two or more unexcused absences will result in lowering of your attendance and participation grade.
- Depending on our progress, there might be changes in the schedule. You will be notified of all changes in advance.
- No extra credit assignments will be offered.
- Please note that UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor in this class. Please note that this is a research-intensive course. Because of this, plagiarism and other forms of academic dishonesty will not be tolerated. Students are required to read, understand, and abide by the University of Florida Academic Honesty policy. The policy can be found here: <https://sccr.dso.ufl.edu/process/student-conduct-code/> . All violations of the said policy will be reported in accordance with the process outlined in it.
- The requirements in the syllabus are consistent with the UF grading policy. The policy can be found here: <https://catalog.ufl.edu/UGRD/academic-regulations/grades-grading-policies/>

GRADE CONCERNS:

If a student disagrees with her grade, she must outline her concerns in writing within 48 hours of receiving the grade. I will not accept grade concern statements after the expiration of the 48-hour period. The statement must contain a reasoned claim backed by textual evidence. After evaluating the merit of the claim, I will do one of the following: 1) increase the grade; 2) lower the grade; or, 3) leave the grade unchanged. The student will be notified about my decision within a reasonable time frame and the grade will be adjusted accordingly. Please note that this policy will not be applicable to the final paper and the overall final grade.

ATTENDANCE:

- Please be advised that class attendance is mandatory. I reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences).
- Arrive on time. I reserve the right to lower your attention and participation grade in cases of systematic tardiness. I define systematic tardiness as “three or more late arrivals to class.”
- Do not leave early. If you leave early three or more times, I reserve the right to lower your attention and participation grade.
- Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>

INCOMPLETES:

Incompletes will be granted under exceptional circumstances. A student who wants to receive an incomplete must: (1) inform the professor 10 (ten) days prior to the last day of class and (2) provide a written explanation about the reasons necessitating the incomplete. These reasons must be properly documented. In addition, the student must provide a written plan for finishing the missing work. The student must complete the work during the following semester. Failure to complete the work will result in an E.

COURSE EVALUATIONS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/> . Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/> . Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

ACCOMMODATIONS:

Students with disabilities who experience learning barriers and would like to request academic accommodations should connect with the disability Resource Center by visiting disability.ufl.edu/students/get-started. It is important for students to share their accommodation letter with their instructor and discuss their access needs, as early as possible in the semester.

Faculty can expect to receive a student's accommodation letter within the first 3 weeks of classes; however, if a student registers with the DRC later in the semester faculty are still obligated to facilitate accommodations. Neither faculty nor administrators may independently deny a request for accommodation that is approved by the Disability Resource Center.

Students are also advised to explore the opportunities offered by the UF Disability Resource Center. The Center is located at 001 Reid Hall, web page: <https://disability.ufl.edu/#> .

RECORDINGS:

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

A "class lecture" is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To "publish" means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

RESPONSIBILITIES:

- Ensure that you have a reliable access to Canvas because it will be used extensively throughout the semester. Note that you will be responsible for printing or viewing the assigned material.
- Read the materials in advance and in the order indicated in the syllabus.
- Turn off your cell phones **before** coming to class.
- Restrict the use of electronic devices to class-related activities, e.g., note-taking or article reading.

- Please do not eat in class. Drinks in closed containers are permitted.
- Please note that I will call people in class. This means that it's your responsibility to be prepared at all times. I reserve the right to lower your participation grade if you are unprepared.

GRADE SCALE:

| | |
|----|--------|
| A | 94-100 |
| A- | 90-93 |
| B+ | 87-89 |
| B | 84-86 |
| B- | 80-83 |
| C+ | 77-79 |
| C | 74-76 |
| C- | 70-73 |
| D+ | 67-69 |
| D | 64-66 |
| D- | 60-63 |
| E | 0-59 |

ASSIGNMENTS AND DEADLINES:

| DUE DATE | ASSIGNMENT | DESCRIPTION | WEIGHT |
|---------------------------------|------------------------------|---|---------------|
| | Attendance and participation | Please note that attendance is mandatory. Participation is an essential ingredient for your success in the course. I reserve the right to revise your grade one grade step up (e.g. A- to A) to reward your class participation. I also reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences). I will consider revising the grade one grade step down (e.g. B+ to B) for systemic tardiness (three or more late arrivals). I will not revise grades upwards to reward regular attendance. Do not leave early. If you leave early three or more times, I reserve the right to lower your attention and participation grade. | 10% |
| 16-Sep-2021 | Précis I | The précis is a one-page summary of an important IL concept. I will post three concepts on Canvas and you will have to select one of them. The précis will have to be 1'' margin all around, Times New Roman font, size 12, single line spacing. You may cite course materials or external sources — books, articles, judicial decisions or primary documents — related to the concept. All sources must be properly cited in a bibliography, which will not be counted toward the page requirement. Please submit your proposal by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will deduct 10 points if an exam is submitted after the deadline and prior to 11:59 PM on September 18 th . I will not accept submissions after that and no points will be awarded for this assignment. | 10% |
| 07-Oct-2021 – 14-Oct-2021 | Midterm (take-home exam) | The midterm will consist of two questions and two short answers. The answer to each essay question should not exceed 5 double-spaced pages. The short answers should not exceed five sentences. The additional requirements for the essay questions and the short answers are: 1'' margin all around, Times New Roman font, size 12. Your answers should reflect the assigned readings and the class discussions. Please submit your proposal by using | 30% |

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| | | the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will deduct 15 points if an exam is submitted after the deadline and prior to 11:59 PM on October 16 th . I will not accept submissions after that and no points will be awarded for this assignment. | |
| 02-Nov-2021 | Precis II | <p>The précis is a one-page summary of an important IEL concept. I will post three concepts on Canvas and you will have to select one of them.</p> <p>The précis will have to be 1” margin all around, Times New Roman font, size 12, single line spacing. You may cite course materials or external sources — books, articles, judicial decisions or primary documents — related to the concept. All sources must be properly cited in a bibliography, which will not be counted toward the page requirement. Please submit your proposal by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u> I will deduct 10 points if an exam is submitted after the deadline and prior to 11:59 PM on November 4th. I will not accept submissions after that and no points will be awarded for this assignment.</p> | 10% |
| 07-Dec-2021 – 14-Dec-2021 | Final Exam (take home) | <p>The final exam will consist of two questions and one short answer. The short answer should not exceed five sentences. The additional requirements for the essay questions and the short answers are: 1” margin all around, Times New Roman font, size 12. Your answers should reflect the assigned readings and the class discussions. The final exam will cover all materials studied throughout the semester. Please submit your proposal by using the Canvas web site. Alternatively, you can send the document to apanayotov@ufl.edu . <u>If you choose the latter option, you must use your UF account.</u></p> | 40% |

SUBMISSIONS:

All assignments should be submitted by using the class Canvas web site unless otherwise noted in the syllabus.

IMPORTANT DATES:

- September 16th: Precis I due
- October 14th: Midterm due
- November 2nd: Precis II due
- December 14th: Final exam due

TOPICS AND READINGS:

INTERNATIONAL ECONOMIC LAW: GENERAL PART

“Where Do We Come From? What Are We? Where Are We Going?”

Paul Gauguin

| Date | Subject | Readings |
|-------------|--|--|
| 24-Aug-2021 | Introduction History and Theory of Public International Law | 1. <i>PIL</i> 3-11 2. <i>PIL</i> 21-32 |
| 26-Aug-2021 | History and Theory of International Economic Law | 1. <i>IEL</i> 3-26 |
| 31-Aug-2021 | Actors in IL: States | 1. <i>PIL</i> 35-52 2. <i>IEL</i> 28-29 |
| 02-Sep-2021 | Actors in IL: International Organizations, Non-Governmental Organizations, Corporations, and Individuals | 1. <i>IEL</i> 30-41 |
| 07-Sep-2021 | Sources of Law I: Treaties | 1. <i>PIL</i> 81-101 2. <i>IEL</i> 54-64 |
| 09-Sep-2021 | Sources of Law II: Custom, General Principles, Judicial Decisions, and Soft Law | 1. <i>PIL</i> 101-117 2. <i>IEL</i> 65-76 |
| 14-Sep-2021 | Jurisdiction in IL | 1. <i>PIL</i> 313-338 2. <i>IEL</i> 77-79 |
| 16-Sep-2021 | Immunity from National Jurisdiction I | 1. <i>PIL</i> 345-357 (skim) 2. <i>PIL</i> 357-367 3. <i>PIL</i> 361-366 |
| 21-Sep-2021 | Immunity from National Jurisdiction II | 1. <i>PIL</i> 367-384 |
| 23-Sep-2021 | Immunity from National Jurisdiction III | 1. <i>IEL</i> 81-90 |

INTERNATIONAL ECONOMIC LAW: HUMAN RIGHTS, ENVIRONMENT, AND DISPUTE RESOLUTION

“The purpose of law is to prevent the strong always having their way”

Ovid

| Date | Subject | Readings |
|-------------|--|-----------------------|
| 28-Sep-2021 | International Economic Law and the Environment | 1. <i>IEL</i> 136-157 |
| 30-Sep-2021 | International Economic Law Human Rights | 1. <i>IEL</i> 116-135 |

| | | |
|-------------|--|--------------------------------------|
| 05-Oct-2021 | The Dispute Resolution in International Economic Law | 1. <i>IEL</i> 168-191 |
| 07-Oct-2021 | REVIEW SESSION | There are no readings for this class |

INTERNATIONAL ECONOMIC LAW: TRADE

“Free trade is not a principle; it is an expedient.”

Benjamin Disraeli

| Date | Subject | Readings |
|-------------|--|--|
| 12-Oct-2021 | WTO GATT | 1. <i>IEL</i> 195-211 |
| 14-Oct-2021 | GATT I | 1. <i>IEL</i> 212-231 |
| 19-Oct-2021 | GATT II | 1. <i>IEL</i> 231-249 |
| 21-Oct-2021 | GATS (Services) TRIPS (Intellectual Property) | 1. <i>IEL</i> 265-272 2. <i>IEL</i> 273-286 |
| 26-Oct-2021 | WTO Dispute Resolution | 1. <i>IEL</i> 300-318 |
| 28-Oct-2021 | Subsidies and Anti-Dumping Measures | 1. <i>IEL</i> 287-289 |

INTERNATIONAL ECONOMIC LAW: FOREIGN DIRECT INVESTMENT (FDI)

Mad kings and mad bulls are not to be held by treaties and packthread.”

Benjamin Franklin

| Date | Subject | Readings |
|-------------|---|--|
| 02-Nov-2021 | FDI: Political and Economic Factors FDI: Customary International Law | 1. <i>IEL</i> 405-411 2. <i>IEL</i> 411-426 |
| 04-Nov-2021 | FDI: Concessions and Investment FDI: Treaties on Investment Protection I | 1. <i>IEL</i> 427-432 2. <i>IEL</i> 432-448 |
| 09-Nov-2021 | FDI: Treaties on Investment Protection II | 1. <i>IEL</i> 448-487 |
| 11-Nov-2021 | No school | |

INTERNATIONAL ECONOMIC LAW: MONETARY LAW

"Money makes the world go 'round."

A song from the musical "Cabaret"

| Date | Subject | Readings |
|-------------|---|------------------------------|
| 16-Nov-2021 | International Monetary Law and Economic Relations | 1. <i>IEL</i> 501-513 |
| | The International Monetary Fund | 2. <i>IEL</i> 513-530 |
| 18-Nov-2021 | The World Bank | 1. <i>IEL</i> 531-539 (skim) |
| | Debt Crises and State Insolvency | 2. <i>IEL</i> 540-555 |

WARS WITHOUT ARMS: LAW, COERCION, AND ECONOMIC SANCTIONS

Right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must."

Thucydides "History of the Peloponnesian War", 4th ct. BC

| Date | Subject | Readings |
|-------------|---|--|
| 23-Nov-2021 | International Law Compliance and Coercion | 1. <i>PIL</i> 197-227 |
| 30-Nov-2021 | Economic Sanctions and Secondary Boycotts | 1. Andreas Lowenfeld, "Congress and Cuba: The Helms-Burton Act" 419-432 [Canvas] |
| 02-Dec-2021 | Lawfare | 1. Joel Trachtman "Integrating Warfare and Lawfare" [Canvas] |
| 07-Dec-2021 | REVIEW SESSION | There are no readings for this class |

USEFUL LINKS:

1. The United Nations: <http://www.un.org/en/> (English version)
2. The International Court of Justice (English version): <http://www.icj-cij.org/homepage/index.php?lang=en>
3. The American Society of International Law: www.asil.org
4. The EISIL (Electronic Information System for International Law): <http://www.eisil.org/>
5. The Avalon Project at Yale Law School: <http://avalon.law.yale.edu/>
6. Lawfare, the national security law blog: <https://www.lawfareblog.com/>
7. Research Guides at NYU School of Law
<https://www.law.nyu.edu/library/research/researchguides>
8. UN IL audiovisual library:
<http://legal.un.org/avl/lectureseries.html>
9. The Vienna Convention on the Law of Treaties:
http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf
10. UN Charter and the Statue of the International Court of Justice:
<https://treaties.un.org/doc/Publication/CTC/uncharter.pdf>

A (VERY) SHORT DICTIONARY OF FOREIGN PHRASES:

A contrario: “from a contrary position”

A fortiori: “for a still stronger reason”

Ad hoc: “for this; for the specific purpose”

Contra legem: “against the law” (often used in the context of legal interpretation)

De jure: “according to law”

De facto: “in reality; in fact”

Erga omnes: “toward all” (often used in relation to obligations)

De lege ferenda: “law as it should be”

De lege lata: “law as it is”

Opinio juris: “opinion of the law”

Rebus sic stantibus: “things standing thus” (doctrine used to describe fundamental change of circumstances in international law, Art.62 of the VCLT)

Travaux préparatoires: “preparatory work” (often used for interpreting international treaties in accordance with Art. 32 of the VCLT)