

# Máster Universitario en Diplomacia y Organizaciones Internacionales

Curso 2020-2021

- **Course:** International Trade Law and Foreign Investments
- **Coordinator:** PhD. Miguel A. Elizalde.
- **Language: English (2 sessions will be in Spanish).**
- **Schedule:** Classes are on Wednesdays from 11:45 a.m. to 1:45 p.m. (some sessions could take place in a different day or time), starting on January 27th, 2021 and ending on April 21st, 2021.
- **Professors:** PhD. Miguel A. Elizalde (Coord.), Univeritat Oberta de Catalunya; PhD. Xavier Fernández Pons, Professor of Public International Law, University of Barcelona; Ms. Maria Alcover, Counsel of the Advisory Center on WTO Law - ACWL.
- **Credits:** 3 ECTS.

## COVID-19

El **Máster en Diplomacia y Organizaciones Internacionales se impartirá en modalidad semipresencial**. En caso de que se produzcan circunstancias excepcionales derivadas de la pandemia global, el Máster tendrá lugar de **forma virtual, sin perder el carácter personalizado y profesional** que caracteriza a nuestra oferta formativa.

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## 1. COURSE OBJECTIVES:

### Objectives:

The course aims to present and analyze the main international legal institutions and standards that regulate foreign trade and investment worldwide. The course will focus mainly on the study of the rules on international trade in goods, services and intellectual property of the World Trade Organization (WTO) and on the different types of international treaties (bilateral and multilateral) that govern foreign investment, and investor-State dispute settlement.

## 2. COMPETENCES:

### GENERAL COMPETENCES

- Mastering specialized language orally or in writing
- Critical reasoning and self-criticism
- That students know how to apply the knowledge acquired and their ability to solve problems in new or little-known environments within broader (or multidisciplinary) contexts related to their area of study
- That students are able to integrate knowledge and face the complexity of formulating judgments based on information that, being incomplete or limited, includes reflections on the social and ethical responsibilities linked to the application of their knowledge and judgments

### SPECIFIC COMPETENCES

- Interpret the interests in tension, the strengths and the weaknesses, underlying in different given international scenarios, identifying the political, economic and legal elements involved, where appropriate
- Propose new and original criteria for the interpretation and application of international norms and jurisprudence in order to adapt them to the complex and changing international reality under study

- Know how to identify and assess the impact of European integration on internal state regulations and on its foreign policy, as well as on EU foreign relations, in relation to the different areas under study
- Formulate, present and debate solutions to specific problems in international and multicultural environments, with original and superior arguments, both orally and in writing
- Capacity to conduct critical analysis on trade law and investment matters
- Ability to identify obstacles and to find solutions related to the application of trade law and investment law
- Capacity to participate in collective work efforts
- Ability to conduct oral presentations of technical and legal content

### **3. LEARNING OUTCOMES:**

- Know the main international institutions and standards that regulate international trade and the promotion and protection of foreign investments
- Understand the impact of international institutions and norms in the current process of economic globalization and how they condition the policies of States and their internal legal systems.
- Analyze international disputes regarding trade and foreign investment, determining the applicable regulations and what procedures may be used to try to resolve them peacefully

### **4. EVALUATION SYSTEM:**

- Active and informed participation in class (15% of the final grade).
- Performance in seminars I and II (50% of the final grade, 25% each seminar)
- Oral presentation (35% of the final grade): Each participant must make an oral presentation on a subject included in the study plan.

### **5. METHODOLOGY:**

In every session, the concepts and key elements of each topic will be presented, and the issues or cases of special relevance will be studied and analyzed. Teachers will

lead each session, and active participation of students in form of debate and answering case studies is expected.

## 6. PROGRAM:

### **SESSION 1 (Wednesday, January 27, 2021, from 11:45 to 1:45 p.m.): Institutional aspects of the WTO**

PhD. Xavier Fernández Pons

WTO Background. - Legal nature. - Members. - Organizational structure: intergovernmental bodies; jurisdictional bodies; Secretary. - Functions of the WTO. - WTO assessment.

### **SESSION 2 (Wednesday, February 3, 2021, from 11:45 a.m. to 1:45 p.m.): The General Agreement on Tariffs and Trade (GATT) of 1994: basic principles**

PhD. Miguel A. Elizalde

Conditional admission of customs tariffs. - General treatment of the most favored nation. - General elimination of quantitative restrictions. - National treatment in matters of internal regulation and taxation. - Transparency

### **SESSION 3 (Wednesday, 17 February 2021, from 9:30 a.m. to 11:30 a.m.): The General Agreement on Tariffs and Trade (GATT) of 1994: exceptions**

Mrs. M. Alcover

The general exceptions contemplated in Article XX of the GATT. - Restrictions to protect the balance of payments. - Safeguard measures. - Exceptions related to security. - Regional or preferential trade agreements. - Exemptions. - The Enabling Clause and the Generalized System of Preferences (GSP).

**SESSION 4 (Wednesday, 17 February 2021, 11:45 a.m. to 1:45 p.m.): The WTO dispute settlement system**

Mrs. M. Alcover (\* in English)

Background. - Main provisions of the Dispute Settlement Understanding (ESD). - Phases of the procedure. - Participation of developing countries (developing countries) in the system. - The Advisory Center on WTO Law (ACWL).

**SESSION 5 (Wednesday, February 24, 2021, from 11:45 a.m. to 1:45 p.m.): Other multilateral agreements on trade in goods**

PhD. Miguel A. Elizalde

The Anti-Dumping Agreement. - The Agreement on Subsidies and Countervailing Measures (SMC). - The Agreement on Technical Barriers to Trade. Other agreements.

**SESSION 6 (Wednesday, March 3, 2021, from 11:45 to 1:45 p.m.): The General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)**

PhD. Miguel A. Elizalde

Introduction. - Structure and scope of the GATS: modes of supply of services. - General obligations and specific obligations. - Exceptions. Introduction. - Intellectual Property Rights contemplated in TRIPS. - Exceptions.

**SESSION 7: (Wednesday, March 10, 2021, from 11:45 a.m. to 1:45 p.m.): Regional economic integration agreements within the framework of the multilateral trade system**

PhD. Miguel A. Elizalde

Introduction. - History and economic bases of regional economic integration agreements-. Legality criteria. - The enabling clause.- Procedural and transparency requirements.

**SESSION 8 (Wednesday, March 17, 2021, from 11:45 a.m. to 1:45 p.m.): Seminar on the international trade regime.**

PhD. Miguel A. Elizalde

**SESSION 9: (Wednesday, March 24, 2021, from 11:45 a.m. to 1:45 p.m.): International regulation of foreign investment**

PhD. Xavier Fernández Pons

Notion and regulation of foreign investments. - Historical evolution of the international regulation of foreign investments. The principle of permanent sovereignty over natural resources: the expropriation and nationalization of foreign assets.

**SESSION 10 (Wednesday, April 7, 2021, from 11:45 a.m. to 1:45 p.m.): Investment treaties.**

PhD. Miguel A. Elizalde

Introduction. - Admission and promotion of foreign investments. Investment treatment and protection standards. Other standards.

**SESSION 11 (Wednesday, April 14, 2021, from 11:45 a.m. to 1:45 p.m.): Dispute settlement on foreign investments**

PhD. Miguel A. Elizalde

Internal remedies in the receiving State and diplomatic protection. - International investor-state arbitration - The International Center for the Settlement of Investment Disputes (ICSID).

**SESSION 12 (Wednesday, April 21, 2021, from 11:45 a.m. to 1:45 p.m.):**

**Foreign investment seminar**

PhD. Miguel A. Elizalde

**7. BASIC GENERAL BIBLIOGRAPHY:**

As a basic general bibliography for the subject, any of the following three works can be used:

- FERNÁNDEZ ROZAS, J. C.: *SisSession de Derecho Económico Internacional*, Pamplona, Civitas – Thomson Reuters, 2010.
- HINOJOSA MARTÍNEZ, L. M.; ROLDÁN BARBERO, J. (Coords.): *Derecho Internacional Económico*, MaPhDid, Marcial Pons, 2010.
- TREBILCOCK, M. J.: *Understanding Trade Law*, Cheltenham, Edward Elgar, 2011.

#### **8. COMPLEMENTARY BIBLIOGRAPHY:**

- FERNÁNDEZ PONS, X.; LAVOPA, F.: *Comentarios a los principales artículos del GATT de 1994*, Barcelona, UNCTAD – Virtual Institute – UB – Fundación CEDDET, 2012.
- GUZMÁN, A. T.; SYKES, A. O. (Eds.): *Research Handbook in International Economic Law*, Cheltenham, Edward Elgar, 2007.
- LOWENFELD, A. F.: *International Economic Law*, New York, Oxford University Press, 2<sup>nd</sup> edition, 2008.
- SORNARAJAH, M.: *The International Law on Foreign Investment*, Cambridge, Cambridge University Press, 2004.
- SUBEDI, S. Y.: *International Investment Law – Reconciling Policy and Principle*, Oxford, Hart Publishing, 3<sup>rd</sup> edition, 2016.
- VAN DEN BOSSCHE, P.: *The Law and Policy of the World Trade Organization. Texts, Cases and Materials*, Cambridge, Cambridge University Press, 3<sup>rd</sup> edition, 2013.
- VAN DEN BOSSCHE, P.; PRÉVOST, D.: *Essentials of WTO Law*, Cambridge, Cambridge University Press, 2016.