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# INTERNATIONAL TRADE AND PRIVATE INTERNATIONAL LAW

IUS/13 - 12 CFU - 2° Semester

## Teaching Staff

### CALOGERO ALFIO PETTINATO

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## COURSE STRUCTURE

Lectures and some seminars with a progressive interaction with students, also based upon the analysis of case-law and group work.

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## DETAILED COURSE CONTENT

Organizational and legal structure of the World Trade Organization. The WTO and domestic legal systems. Regional integration agreements. The basic legal principles: non-discrimination (Most-Favoured-Nation Treatment and National Treatment), reciprocity and related general exceptions. Basic features of: Trade in goods, Non-tariff barriers to trade, Anti-dumping and subsidies, General Agreement on Trade in Services (G.A.T.S.), and Trade-Related Aspects of Intellectual Property Rights (TRIPs). Settlement of disputes. New issues and new perspectives in WTO system.

Sources of law in the field of foreign investments. Principles and rules of customary international law on the protection of foreign investments. The diplomatic protection. Bilateral treaties on reciprocal promotion and protection of foreign investments. The settlement of investment disputes: the International Centre for Settlement of Investment Disputes (I.C.S.I.D.), applicable law and autonomy of the parties (the stabilization clauses in international contracts). The Multilateral Investment Guarantee Agency (M.I.G.A.).

The basic problems underlying conflict of jurisdictions and conflict of laws. Sources of Procedural and Private International Law. Conflict of Jurisdictions: jurisdiction in "transnational" cases, recognition and enforcement of foreign judgments (Italian Law no. 218 of 31 May 1995; EU Regulation no. 1215/2012); international commercial arbitration (New York Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards). Conflict of Laws - General Issues: structure and purpose of choice-of-law rules; connecting factors and their possible combinations; characterization; preliminary

questions; renvoi; knowledge, interpretation and application of foreign law; non-unified foreign legal systems; public policy and mandatory rules; the principle of reciprocity.

The law applicable to legal capacity and capacity to act, companies and legal entities, property and intellectual property rights. The EU uniform rules on the law applicable to contractual and non-contractual obligations (Regulation no. 593/2008 and Regulation no. 864/2007).

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## TEXTBOOK INFORMATION

1) VAN DEN BOSSCHE P., PREVOST D., *Essentials of WTO Law*, Cambridge, 2017; 2) LOWENFELD A. F., *International Economic Law*, Oxford, 2002, pp. 387-493; 3) FARUQUE A., *Validity and Efficacy of Stabilisation Clauses. Legal Protection vs. Functional Value*, in *Journal of International Arbitration*, 2006, 4, pp. 317-336; 4) MENGOZZI P., *Private International Law - Italy*, in *International Encyclopaedia of Laws*, The Hague, 2005, pp. 33-115, 168-173; 5) BRIGGS A., *The Conflict of Laws*, 3<sup>rd</sup> ed., Oxford, 2013, pp. 55-110, 138-163, 212-292; 6) STELÉ D., CERINA P., *The New Italian Conflict-of-Laws: The Law N° 218 of May 31, 1995*, in *International Business Law Journal*, 1996, 1, pp. 11-27; 7) GAILLARD E., SAVAGE J. (eds.), *Fouchard, Gaillard, Goldman on International Commercial Arbitration*, The Hague-Boston-London, 1999, pp. 966-1001.

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