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# INTERNATIONAL TRADE AND PRIVATE INTERNATIONAL LAW

12 CFU - 1° and 2° Semester

## Teaching Staff

### CALOGERO ALFIO PETTINATO

**Email:** [dario.pettinato@unict.it](mailto:dario.pettinato@unict.it)

**Office:** Via Vittorio Emanuele II, 49 - 95131 Catania, primo piano, ufficio n. 7

**Phone:** 095-7347202

**Office Hours:** martedì ore 9.30-11; mercoledì ore 15-16.30

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## COURSE STRUCTURE

### ▪ International Law on Trade and Foreign Investments

Academic teaching with a progressive interaction with students, also based upon case-law analysis and group work.

### ▪ Conflict of jurisdictions and conflict of laws

Academic teaching with a progressive interaction with students, also based upon analysis of real and simulated cases and group work.

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## DETAILED COURSE CONTENT

### ▪ International Law on Trade and Foreign Investments

Historical evolution of international trade relations (GATT-WTO). The World Trade Organization (WTO): purposes and organizational structure, new issues and future perspectives. The sources of the WTO legal system and their relationship with domestic legal systems of Member States. The basic legal principles: non-discrimination (Most-Favoured-Nation Treatment and National Treatment), the reciprocity principle. The regional trade agreements. The general exceptions to the principles of the WTO legal system. Basic features of: Trade in goods, Non-tariff barriers to trade, Anti-dumping and subsidies, the General Agreement on Trade in Services (G.A.T.S.), and the Trade-Related Aspects of Intellectual Property Rights (TRIPs). Settlement of disputes.

Sources of international law in the field of foreign investments and their relationship with the domestic legal systems. Principles and rules of customary international law on the protection of aliens and their economic interests. The diplomatic protection. Bilateral treaties on reciprocal promotion and protection of foreign investments (BITs). 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 investment contracts). The insurance guarantee of foreign investments: The Multilateral Investment Guarantee Agency (M.I.G.A.) and the most important domestic systems.

▪ **Conflict of jurisdictions and conflict of laws**

The basic problems underlying conflict of jurisdictions and conflict of laws. Sources of Procedural and Private International Law. Conflict of jurisdictions: the Italian 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; characterization; preliminary issues; 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. The law applicable to property and intellectual property rights. The EU uniform rules on the law applicable to contractual obligations and non-contractual obligations (EC Regulation no. 593/2008 and EC Regulation no. 864/2007). The residual applicability of the Italian Law no. 218 of 31 May 1995.

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## TEXTBOOK INFORMATION

▪ **International Law on Trade and Foreign Investments**

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.

▪ **Conflict of jurisdictions and conflict of laws**

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, 212-291;
  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. BANTEKAS I., *An Introduction to International Arbitration*, Cambridge, 2015, pp. 218-251.
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