

Program: Undergraduate Academic Studies –
Course title: INTERNATIONAL COMMERCIAL (TRADE) LAW
Teachers: Assist. Prof. Dr. Milena Đorđević, LL.M. Assist. Prof. Dr. Marko Jovanović, LL.M.
Course status: mandatory for Business Law stream
Number of ECTS: 3
Requirements: /
<p>Aims of the course:</p> <ul style="list-style-type: none"> – Introduction to the basic principles and institutes of the Law of International Trade – Understanding of the international business in its totality: from the rules enacted by the state in order to regulate the transactions of the international economic circulation to the rules that arise from the transaction itself, including the rules of dispute resolution. – Acquiring practical knowledge necessary for future work in this area.
<p>Course result:</p> <p>The course should provide students with basic knowledge on the rules of international trade (with a special emphasis on international trade in goods) as well as on the basic mechanisms of international trade dispute settlement. Such concept allows to analyse the international trade relations not only from theoretical but also from practical standpoint. Alongside the lectures and seminars, the students are encouraged to expand their knowledge of international trade law through participation in various moot court competitions (<i>Willem C. Vis Arbitration Moot, FDI Moot</i> etc..).</p>
<p>Course content:</p> <p style="text-align: center;"><u>I. GENERAL PART</u></p> <ol style="list-style-type: none"> 1. INTRODUCTION <ol style="list-style-type: none"> 1. Definition of the International Business Law (IBL) 2. Subject-matter of the IBL 3. Methods of the IBL 4. Relations with other branches of law 5. The importance of IBL 2. HISTORICAL DEVELOPMENT OF IBL 3. LEGAL SOURCES OF IBL <ol style="list-style-type: none"> 1. Sources of domestic law (statutes, implementing regulations etc) 2. Sources of international law (Conventions, international standards and customs, business customs) 3. Specific sources of IBL (codified rules, typical and adhesion contracts, general terms of business, customs and usages for trade in specific sector or on the specific market, business and product standards, arbitral practice of international commercial arbitrations, legal doctrine) 4. Unification of the IBL <ol style="list-style-type: none"> 1) International organizations for unification 2) Instruments of unification 3) UNIDROIT Principles for international commercial contracts 4) Principles of European contract law 5. <i>Lex mercatoria</i> 4. GENERAL PRINCIPLES OF IBL <ol style="list-style-type: none"> 1. General principles of international trade relations <ol style="list-style-type: none"> 1) Principle of free trade 2) Principle of free money transfer 3) Principle of free traffic (communications) 2. General principles of IBL in international business transactions <ol style="list-style-type: none"> 1) Minimum system

- 2) The most-favored nation principle
- 3) National treatment
- 4) Reciprocity principle
- 5) Preferential treatment
- 6) Open door system

5. NEW INTERNATIONAL ECONOMIC ORDER – GLOBALIZATION AND IBL

6. SUBJECTS OF IBL

1. State as a subject of IBL and state immunity in international commercial transactions
2. International organizations as subjects of IBL
3. Commercial subjects: from the individual to multinational companies

II. THE LAW OF INTERNATIONAL TRADE

1. INTRODUCTION

1. Role and importance of foreign trade exchange
2. The effects of the foreign trade exchange to the domestic economy
3. Foreign trade regime under globalization conditions

2. FOREIGN CURRENCY AND BALANCE OF PAYMENT

1. Foreign currency course and foreign currency market
2. Gold standard, fixed and fluctuating foreign currency courses
3. Structure and equilibrium of balance of payment
4. Theory and politics of adjustment of balance of payment

3. INSTRUMENTS OF INTERNATIONAL TRADE

1. Protectionism versus liberalism
2. Customs and customs protection
3. Types of non-tariff protection
4. Free trade areas and customs unions

4. SPECIAL TYPES OF INTERNATIONAL TRADE

1. Types and characteristics of foreign investment
2. Concessions
3. Effects of foreign investment to national economy

5. GENERAL AGREEMENT ON TARIFFS AND TRADE – GATT

1. Establishing the GATT and its basic principles
2. Contents of GATT – rules and exceptions
3. Evolution of GATT through rounds of negotiation from 1947 to 1995
4. GATT – WTO system after the Uruguay round
5. International trade in services and GATS

6. WORLD TRADE ORGANIZATION

1. Establishing the WTO and its organization scheme
2. Accession process to the WTO
3. Basic principles of the WTO system
4. Dispute settlement system
5. Results of ministerial conferences after 1995
6. Doha Agenda of 2001

7. FOREIGN TRADE POLICY OF THE EUROPEAN UNION

1. Basic principles
2. Instruments of the foreign trade policy
3. EU trade agreements

8. INTERNATIONAL FINANCIAL ORGANIZATIONS

6. The role of IMF in international trade
7. Contents of the drawing rights and stand/by arrangements
8. Realization of the special drawing rights
9. Reforms within IMF
10. World Bank Group

9. CREDIT TRANSACTIONS WITH ABROAD

III. INTERNATIONAL BUSINESS TRANSACTIONS

1. INTERNATIONAL SALE OF GOODS

- 1) Vienna Convention – scope of application
- 2) Definition of international sales
- 3) Contract interpretation
- 4) Contract formation
- 5) Form of the contract
- 6) General rules of sales contract
- 7) Seller's obligations
- 8) Buyer's obligations
- 9) Manner of payment : Documentary credit – UCP 500
 - a) Definition and purpose
 - b) Types
 - c) General rules
 - d) Legal relations between persons engaging in this transaction
 - e) Legal nature
- 10) Breach of the contract - fundamental breach
- 11) Non-conformity of goods
- 12) Protection from the breach of contract:
 - a) Independent guaranties – *performance guarantee*
 - b) *Force majeure* clause and *hardship* clause
- 13) Rights of the aggrieved party in case of breach of contract
- 14) Avoidance
- 15) Damages
- 16) Common rules for sellers and buyer
- 17) Transfer of risk under Incoterms 2000
 - a) Definition and importance
 - b) Types
 - c) Basic obligations of the contractual parties
- 18) Limitation period in international sales (UN Convention on limitation period in the area of international sales of 1974 and other relevant sources)

2. COUNTER TRADE

- 1) Definition
- 2) Sources of law
- 3) Types of counter trade
- 4) Contractual rights and obligations

3. FRANCHISING AND EXCLUSIVE DISTRIBUTION AGREEMENTS

- 3.1.1. Definition and history of the franchising contract
- 3.1.2. Characteristics of the franchising transaction
- 3.1.3. Contractual rights and obligations
- 3.1.4. Types of franchising agreements
- 3.4.1. Definition and importance of exclusive distribution agreements
- 3.4.2. Characteristic elements of the exclusive distribution contract
- 3.4.3. Competition and contract validity under the EU law

4. FINANCIAL LEASING

- 4.1. Definition
- 4.2. Sources of law
- 4.3. Parties to the contract
- 4.4. Subject matter of the contract
- 4.5. Important and other elements of the contract
- 4.6. Contractual rights and obligations

4.7. Leasing Register and termination of the contract

5. FACTORING AND FOREFEITING

- 5.1. Definition and importance
- 5.2. Types
- 5.3. Contractual rights and obligations

6. INTERNATIONAL ENGINEERING

- 6.1. Definition
- 6.2. Sources of law
- 6.3. International bidding
- 6.4. Contractual obligations
- 6.5. Technical accept and delivery of the engineering object

7. E-COMMERCE

- 7.1. Definition
- 7.2. Sources of law
- 7.3. Methods of providing authenticity
- 7.4. Conclusion of the contract over the Internet

IV. DISPUTE RESOLUTION BY MEANS OF INTERNATIONAL COMMERCIAL ARBITRATIONS

- 1. DEFINITION AND TYPES**
- 2. SOURCES OF LAW**
- 3. IMPORTANCE**
- 4. ARBITRATION AGREEMENT**
- 5. BASIC CHARACTERISTICS OF THE PROCEDURE**
- 6. THE EFFECTS OF THE ARBITRAL AWARD**
- 7. RECOGNITION AND SETTING ASIDE OF THE ARBITRAL AWARD**
- 8. IMPORTANT CENTERS OF INTERNATIONAL COMMERCIAL ARBITRATION**

Literature:

Folsom, Gordon, Spanogle, International Business Transaction, 5th edition, West Group, 2002
Folsom, Gordon, Spanogle, International Trade and Investment, West Group, 2000
J. Ramberg, International Commercial Transactions, Kluwer Law International, 2011.
R. Brand, Fundamentals of International Business Transactions, Kluwer Law International, 2005
Jackson, Davey, Sykes, International Economic Relations, West Group, 2013
J. Jackson, The World Trading System, The MIT Press, Cambridge Massachusetts, 2002
Varady, Barcelo, von Mehren, International Commercial Arbitration, West Group, 2005.
Van den Bossche, Zdouc, Law and Policy of the World Trade Organization, CUP, 2013

Number of lectures – active classes 30	Theoretical classes:	Practical classes :	
Instruction method: Lectures, study groups, seminar papers, guest lectures, consultations, power-point presentations, moot court			
Grading system (maximum number of points 100)			
Pre-exam obligations	points	Final Exam	points
Activities during lectures	20	<i>Oral exam</i>	60
Activities during practical classes			
Tests			
Seminar classes	20		