# European International Trade Law

## Prof. Vera Squaratti

COURSE AIMS AND INTENDED LEARNING OUTCOMES

COURSE AIMS

The course in European International Trade Law pursues the following objectives:

* provide an in-depth study of the EU regulation of trade in goods and services, by addressing the law of the European internal market and the regulation of trade with third states;
* analyse EU policies in the context of trade in goods and services, by addressing the law of the European internal market and the regulation of trade with third countries, in relation to the EU institutional framework, the sources of EU law and their relevance in the internal legal systems of the Member States;
* examine the profiles of customs law, which are of considerable importance for those who are destined to operate in the sector of importing and exporting goods.

The issues will be addressed using a constant comparison with the rules of international trade law, with particular regard to the rules of the World Trade Organization (WTO), free trade and customs union agreements, as well as, in particular, the regulation of trade defence measures.

INTENDED LEARNING OUTCOMES

Knowledge and understanding

At the end of the course, students will be able to understand:

* the system of trade in goods and services within the context of the European Union internal market;
* the regulation of trade in goods and services with third states;
* the regulation of international trade relations, with particular reference to customs regulations.

Ability to apply knowledge and understanding

At the end of the course, students will be able to:

* analyse and interpret the sources of European Union law relating to trade in goods within the context of the European Union internal market;
* analyse the acts of the European institutions and, in particular, the case law of the Court of Justice;
* assess the compliance of the rules of the domestic legal systems of the EU Member States with international obligations;
* identify and apply the customs rules applicable to international trade.

COURSE CONTENT

During the course, the following topics will be addressed and explored:

* the European Union as a customs union and the difference with respect to free trade agreements;
* the EU Customs Tariff;
* the exclusive competence of the EU in the field of trade policy;
* the trade regime with developing countries;
* the EU and the WTO: trade defence measures;
* to improve the free movement of goods within the EU internal market;
* EU case law relating to the free movement of goods;
* other freedoms of movement within the internal market.

***READING LIST[[1]](#footnote-1)***

It is compulsory to study the following text:

A. Arena - F. Bestagno- G. Rossolillo**,** *Mercato unico e libertà di circolazione nell’Unione europea*, Giappichelli, 2020, 2nd ed., of which the following pages are to be studied: pp. 1-160; 221-240; 273-287; 293-299. In the pages indicated, all the Comments will be covered in the exam, as well as only the judgments indicated below as judgments relating to the second edition; on the other hand, the rules contained in the book are not intended for study, and their consultation is simply recommended to better understand the Comments in the chapters and judgments. [Purchase from V&P](https://librerie.unicatt.it/scheda-libro/amedeo-arena-francesco-bestagno-giulia-rossolillo/mercato-unico-e-liberta-di-circolazione-nellunione-europea-9788892133341-683168.html).

TEACHING METHOD

The teaching method chosen involves mainly lectures, with the discussion of practical cases under the guidance of the lecturer and the examination of materials partly in English. In particular, a series of WTO rules, EU law and Italian law relating to customs operations, trade in the EU internal market, and international trade in goods and services will be analysed during lectures. In addition to this regulatory material, a series of judgments by the EU Court of Justice relating to the internal market and international trade will be analysed.

ASSESSMENT METHOD AND CRITERIA

The exams will take place orally.

During the exams, the student's knowledge of the fundamental characteristics of international exchanges in EU law will be verified, also concerning exchanges with third states. The purpose of the assessment will be to understand and know the relevant legal institutions and the solutions offered in application and jurisprudential practice.

Excellent and good grades will be awarded to those who demonstrate, respectively, excellent or good: ability to comprehensively and correctly answer the questions; skill in critical evaluation and legal argumentation; ability to indicate with precision the regulatory and jurisprudential sources; ability to frame the topics covered and draw links between the various topics; accuracy of the presentation and appropriateness of the legal terminology used.

A fair assessment will be awarded to those who demonstrate knowledge of the programme and reference sources without significant gaps, a decent ability to argue, frame and draw links, as well as adequate technical-legal language.

A simple pass mark will be awarded to those who possess only basic knowledge and display learning gaps on non-essential parts of the programme, who demonstrate a sufficient ability to navigate between the various topics and draw links, and who use only partially inaccurate technical-legal language.

A fail mark will be given to those who exhibit learning gaps in fundamental parts of the programme, significant difficulties in classification and orientation regarding the subject, as well as a highly inappropriate technical-legal language.

Judgments of the Court of Justice to be prepared from the 2nd EDITION of the volume "Mercato unico e libertà di circolazione nell’Unione europea":

Chapter 1: La libera circolazione delle merci [Free movement of goods]

A. The Internal Market and the Customs Union

3.3. Judgment of 10 December 1968, Case 7/68, Comm. vs Italy ("Italian Art") (p. 14)

B. Relevance and effects of EU laws on the free movement of goods

2.1 Judgment of 5 February 1963, Case 26/62, Van Gend en Loos (p. 22)

2.5 Judgment of 5 March 1996, Joined Cases C-46/96 and C-48/93, Brasserie du Pêcheur (p. 27)

C. The prohibition of obstacles of a fiscal nature in trade between Member States

2.5 Judgment of 26 February 1975, Case 63-74, Cadsky (p. 40)

2.8 Judgment of 4 May 1986, Case 106/84, Comm. vs Denmark ("grape and fruit wines", p. 43)

2.9 Judgment of 12 July 1983, Case 170/78, Comm. vs United Kingdom ("wine and beer", p. 53)

D. The prohibition of quantitative restrictions and measures having an equivalent effect: the distinctly applicable measures

3.1 Judgment of 11 July 1974, Case 8/74, Dassonville (p. 55)

3.4 Judgment of 9 December 1981, Case 193/80, Comm. vs Italy ("Vinegar") (p. 57)

E. Following: the measures indiscriminately applicable

3.1 Judgment of 20 February 1979, Case 120/78, "Cassis de Dijon" (p.71)

3.2 Judgment of 24 November 1993, Joined Cases C-267/91 and C-268/91, Keck and Mithouard (p. 73)

3.3 Judgment of 11 December 2003, Case C-322/01, Deutscher Apothekerverband (p. 75)

3.4 Judgment of 10 February 2009, Case C-110/05, Commission vs Italy (trailers, p. 78)

F. Margins of regulatory autonomy of the Member States in the protection of general interests

3.1 Judgment of 14 July 1988, Case 90/86, Zoni (p. 101)

3.4 Judgment of 3 December 1998, Case C-67/97, Bluhme (p. 106)

3.5 Judgment of 11 September 2014, Joined Cases C-204/12 to C-208/12, Essent Belgium (p. 108)

3.7 Judgment of 20 March 2003, Case 3/00, Denmark vs Comm. (p. 112)

Chapter 2: La cittadinanza europea [European Citizenship]

A. European Citizenship and National Citizenship

3.1 Judgment of 7 July 1992, Case C-369/90, Micheletti (p. 125)

3.3 Judgment of 2 October 2008, Case C-148/02, Garcia Avello (p. 126)

3.4 Judgment of 2 March 2010, Case C-135/08, Rottmann (p. 127)

B. Civil rights stemming from European citizenship

3.3 Judgment of 19 October 2004, Case C-200/02, Chen (p. 149)

3.6 Judgment of 5 June 2018, Case C-673/16, Coman (p. 153)

Chapter 4: La libertà di stabilimento [Freedom of establishment]

A. The scope of freedom of establishment

3.1 Judgment of 30 November 1995, Case C-55/94, Gebhard (p. 224)

3.3 Judgment of 27 September 1988, Case 81/87, Daily Mail (p. 226)

B. Negative integration in terms of establishment

2.2 Judgment of 21 June 1974, Case 2/74, Reyners (p. 232)

2.4 Judgment of 25 July 1991, Case C-221/89, Factortame (p. 233)

Chapter 5: La libera prestazione dei servizi [Freedom to provide services]

A. The scope of freedom to provide services

3.3 Judgment of 2 February 1989, Case 186/87, Cowan (p. 280)

3.4 Judgment of 3 December 1974, Case 33/74, van Binsbergen (p. 281)

C. Exceptions to the freedom to provide services

2.1 Judgment of 14 October 2004, Case C-36/02, Omega (p. 297)

Alternatively, for those in possession of the 1st edition, strictly adhering to the following list and without comparisons with the second edition or related "creative" interpretations of what is to be prepared or not:

Judgments of the Court of Justice to be prepared from the first edition of the volume "Mercato unico e libertà di circolazione nell’Unione europea":

 Chapter 1: La libera circolazione delle merci [Free Movement of Goods]

A. The Internal Market and the Customs Union

3.3. Judgment of 10 December 1968, Case 7/68, Comm. vs Italy ("Italian Art") (p. 14)

B. Relevance and effects of EU laws on the free movement of goods

2.1 Judgment of 5 February 1963, Case 26/62, Van Gend en Loos (p. 21)

2.5 Judgment of 5 March 1996, Joined Cases C-46/96 and C-48/93, Brasserie du Pêcheur and Factortame (p. 27)

C. The prohibition of obstacles of a fiscal nature in trade between Member States

2.1 Judgment of 1 July 1969, Case 24/68, Comm. vs Italy (p. 39)

2.5 Judgment of 26 February 1975, Case 63-74, Cadsky (p. 45)

2.8 Judgment of 4 May 1986, Case 106/84, Comm. c. Denmark (p. 49)

2.9 Judgment of 12 July 1983, Case 170/78, Comm. vs United Kingdom (p. 50)

D. The prohibition of quantitative restrictions and measures having an equivalent effect: the distinctly applicable measures

3.1 Judgment of 11 July 1974, Case 8/74, Dassonville (p. 62)

3.3 Judgment of 17 June 1987, Case 154/85, Comm. vs Italy (p. 65)

3.4 Judgment of 9 December 1981, Case 193/80, Comm. vs Italy ("Vinegar") (p. 66)

E. Following: the measures indiscriminately applicable

3.1 Judgment of 20 February 1979, Case 120/78, "Cassis de Dijon" (p. 81)

3.2 Judgment of 24 November 1993, Joined Cases C-267/91 and C-268/91, Keck and Mithouard (p. 83)

3.3 Judgment of 11 December 2003, Case C-322/01, Deutscher Apothekerverband (p. 85)

F. Margins of regulatory autonomy of the Member States in the protection of general interests

3.1 Judgment of 14 July 1988, Case 90/86, Zoni (p. 111)

3.5 Judgment of 11 September 2014, Joined Cases C-204/12 to C-208/12, Essent Belgium (p. 120)

3.7 Judgment of 20 March 2003, Case 3/00, Denmark vs Comm. (p. 125)

 Chapter 2: La cittadinanza europea [European Citizenship]

A. European Citizenship and National Citizenship

3.1 Judgment of 7 July 1992, Case C-369/90, Micheletti (p. 139)

3.3 Judgment of 2 October 2008, Case C-148/02, Garcia Avello (p. 142)

3.4 Judgment of 2 March 2010, Case C-135/08, Rottmann (p. 144)

B. Civil rights stemming from European citizenship

3.3 Judgment of 19 October 2004, Case C-200/02, Chen (p. 163)

3.5 Judgment of 8 March 2011, Case C-34/09, Ruiz Zambrano (p. 168)

 Chapter 4: La libertà di stabilimento [Freedom of establishment]

A. The scope of freedom of establishment

3.1 Judgment of 30 November 1995, Case C-55/94, Gebhard (p. 268)

3.3 Judgment of 27 September 1988, Case 81/87, Daily Mail (p. 270)

B. Negative integration in terms of establishment

2.1 Judgment of 27 September 1988, Case 81/87, Daily Mail (p. 276)

2.3 Judgment of 12 July 1984, Case 107/83, Klopp (p. 278)

 Chapter 5: La libera prestazione dei servizi [Freedom to provide services]

A. The scope of freedom to provide services

3.5 Judgment of 2 February 1989, Case 186/87, Cowan (p. 341)

3.6 Judgment of 3 December 1974, Case 33/74, van Binsbergen (p. 343)

3.8 Judgment of 26 February 1991, Case C-198/89, Comm. vs Greece (tourist guides) (p. 344)

NOTES AND PREREQUISITES

Notes

In light of the teaching method used, that is, lectures in the classroom that do not only cover the theory but also include the discussion of judgments under the guidance of the lecturer and practical aspects of customs law, attendance at lectures is recommended.

Even without attending lectures, however, the volume for study provides a complete coverage of the subject. The holder of the course is available for any clarification for those who have not been able to attend.

Prerequisites

There is no need for prior training on basic and related legal issues. Knowledge of the fundamental features of EU law and a basic familiarity with legal language is certainly useful, but not indispensable. The materials consulted in class will be partly in English, so it is desirable for students to have an adequate ability to understand complex texts in that language; nonetheless, explanations in class or clarifications after lectures may compensate for any linguistic comprehension difficulties.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=Eng or on the Faculty notice board.

1. The texts indicated in the reading list may be purchased at the University bookstores; they may also be bought from other outlets. [↑](#footnote-ref-1)