

## SETTLEMENT OF INTERNATIONAL ECONOMIC DISPUTES

### Syllabus

#### A. Outline

The seminar will focus on existing institutions and mechanisms for the settlement of international economic disputes. The nature of such disputes will be discussed and the variables that affect their settlement will be defined. This model of analysis will be applied to institutions and mechanisms such as the GATT/WTO, the NAFTA, investment dispute settlement mechanisms, disputes in and with the European Communities, etc. The differences between the various dispute settlement mechanisms, reflecting the different nature of the types of disputes they were designed to settle, will be emphasized. The focus will be on the analysis of a consistent set of variables or elements in the dispute settlement process (e.g., parties, procedure, remedies, enforcement, etc.) and how each institution addresses these elements.

The seminar will not discuss settlement of international economic disputes in national courts. In addition, the seminar will not discuss disputes where all parties involved are private parties.

#### B. Class Topics

##### **Class One: Introduction/Settlement of International Trade Disputes**

1. Overview of the WTO Dispute Settlement Process
2. Analysis of the Evolution of the GATT 1947 Dispute Settlement System
3. Analysis of the WTO Dispute Settlement System

##### **Class Two: Settlement of International Trade Disputes (Cont'd)**

1. WTO Case Studies: The Bananas Dispute

##### **Class Three: Settlement of International Trade Disputes (Cont'd)**

1. Remedies in the WTO
2. Third Parties in the WTO Dispute Settlement System

**Class Four: Settlement of International Trade Disputes (Cont'd)**

1. Trade Disputes under the NAFTA
2. Trade Disputes Based on Free Trade Agreements

**Class Five: International Arbitration**

1. Institutions and Procedures
2. Non-Administered and Administered Arbitration
3. Enforcement of Arbitral Awards

**Class Six: Settlement of Investment Disputes**

1. Investment Disputes under Bilateral Investment Treaties and Chapter Eleven of the NAFTA
2. ICSID Arbitration

**Class Seven: Settlement of Investment Disputes (Cont'd)**

1. Case Study

**Class Eight: Settlement of Disputes in the European Communities**

1. Role, Competence and Jurisdiction of the Court of Justice of the European Communities (ECJ)
2. Types of Disputes Referred to the ECJ
  - a. Subject matter (trade, investment, freedom of movement, economic, social and political rights)
  - b. Remedies and enforcement
3. Role of Private Parties in Disputes before the ECJ

**Class Nine: Special Bodies for the Settlement of International Economic Disputes**

1. Iran-U.S. Claims Tribunal
2. United Nations Compensation Commission
3. National Registration of Claims: The U.S. Foreign Claims Settlement Commission

**Class Ten: Sanctions under One Agreement as an Independent Violation of Another Agreement**

1. Case Study: The WTO and Environmental Disputes
2. The WTO and Cultural Diversity

**Class Eleven: Economic Sanctions and International Law**

1. Economic Sanctions and the WTO
2. Economic Sanctions and National and International Security
3. Economic Sanctions under European Community Law

**Class Twelve: International Economic Disputes and Public International Law**

1. Public International Law and Economic Disputes
2. The Role of the International Court of Justice

**Class Thirteen: Conclusion**

1. Comparative Analysis of Mechanisms Reviewed
2. Discussion of Research Papers

C. Reading Assignments and Materials

Reading materials will not exceed 100 pages per class. Reading assignments will provide the minimum basis for class discussion. Students are therefore required to read the assigned materials and are encouraged to review other materials suggested by the instructor.

D. Format and Requirements

The seminar will meet for two hours on a weekly basis. Class attendance and participation are essential. Students should come ready to participate actively in the discussion; this will not be a lecture course. For some of the classes students will be required to submit typed one page papers on the topic to be discussed addressing questions raised in the readings, raising new questions, or responding to questions assigned by the instructor.

E. Methods of Evaluation

The basis of grading will be a research paper. The instructor may decide to raise or lower a student's grade by one to two grade steps for class performance and/or the quality of the one page papers submitted during the seminar. Please remember that active participation in class is essential for meeting the requirements of the seminar.

F. Research Paper Requirements

Research papers written on topics approved by the instructor should follow the Blue Book style. They should be between 30 and 40 double spaced typed pages in length, including footnotes.

Suggested research paper topics will be offered. Students may choose as a topic a

hypothetical dispute and discuss in a paper the most appropriate mechanism for its settlement.

Students should submit for approval a proposal for a topic accompanied by an outline by February 15. A draft is due by March 31. Students should schedule an appointment with the instructor during the first week of April (or earlier, if the draft is submitted before the deadline) to discuss the draft. Research papers are due by April 30. Papers will not be accepted after that date absent a medical excuse.