

COURSE LIST FALL 2008

Course code Title

CML 3378	Advanced International Law
CML 4115	European Union Law
CML 3399	Human Rights (International Protection)
CML 4303	International Commercial Arbitration
CML 3161	International Environmental Law
CML 3231A	International Law
CML 2318	International Taxation
CML 4105	International Trade Regulation
CML 3356A	National Security Law
CML 4109A	Studies in Human Rights : Introduction to African Women's Law and Politics
CML 41 08A	Studies in International Law: Transnational Corporations, Human Rights and International Economic Law
CML 3163	The Law of the Sea
CML 3385	WTO Dispute Settlement

COURSE DESCRIPTIONS - FALL 2008

CML 2318 – International Taxation (3 credits)
Professors Grant Nash and Ted Cook

Fall 2008

Prerequisite(s): CML 2202 - Business Organizations and CML 3204 - Taxation

Teaching method: Lecture/Seminar

Method of evaluation: Assignment 40% and Final Exam, 60%

Course objective(s): This course provides an introduction to Canada's regimes for taxing income arising from cross-border activities. We will consider Canadian tax issues facing Canadian residents carrying on business and investing outside Canada ("outbound") and foreign residents carrying on business or investing in Canada ("inbound"). The course will also consider the various mechanisms for preventing tax avoidance in the international context and for promoting relief from double taxation, including the role of bilateral tax treaties. Classes will involve a discussion of the underlying policy rationale and detailed review of the relevant statutory provisions.

Materials used: Li, Cockfield and Wilkie's *International Taxation in Canada – Principles and Practices* (Lexis Nexis Canada, 2006) and *Income Tax Act* (2007 or later edition)

Maximum enrolment: 25

Schedule: Monday, 8:30 to 11:30

Prerequisite(s): None

Teaching method: Interactive lecture

Method of evaluation: Optional paper 50% (25-30 pages) qualifies for major paper, due end of classes.
Exam 50% (or 100% if paper option not chosen), 2 hours, open book

Course objective(s): This survey course will introduce students to the international legal system. No prior knowledge of international law will be assumed. Topics to be covered include: the origins and nature of the international legal system; the formation, sources and application of international law; the law of treaties; international legal personality; the institutional framework of international law; the relationship between international law and domestic (national) law; the relationship between states and territory; the law of the sea; state jurisdiction; jurisdictional immunities of states; state responsibility; and, as time permits, a selection of substantive international legal topics including the use of force by states, international human rights law, and/or international criminal law. Successful completion of this course will prepare students for more in-depth study of specific areas of international law in more specialized courses.

Materials used: Required: J.H. Currie, C. Forcese & V. Oosterveld, *International Law: Doctrine, Practice and Theory* (Toronto: Irwin Law, 2007).
Recommended: J.H. Currie, *Public International Law*, 2nd ed. (Toronto: Irwin Law, 2008).

Maximum enrolment: 60

Schedule: Monday, 11:30 to 13:00
Thursday, 13:00 to 14:30

CML 3353 – Children and the Law (3 credits)
Professor Jacqueline Huston

Fall 2008

Prerequisite(s): None

Teaching method: Lectures, discussions and selected guest lecturers

Method of evaluation: Class participation, final exam

Course objective(s): To provide an opportunity for students to examine in some detail a broad variety of legal issues relating to children. The course will incorporate theoretical and practical content and will also look at the law as an instrument of social policy.

The topics to be covered include UN Convention on the Rights of the Child, Canadian charter and the civil rights of children, education rights, medical rights, child protection, family law issues, youth criminal justice, child as immigrant and refugee, sexual abuse and exploitation of children and other topics.

Materials used: Textbook and selected additional readings

Maximum enrolment: 25

Schedule: Tuesday, 11:30 to 13:00

Friday, 8:30 to 10:00 **(Change)**

Prerequisite(s): There are no formal pre-requisites for this course. This course covers topics in international, constitutional, administrative, criminal and immigration law. Students will already have a background in criminal and constitutional law, and are encouraged (although not required) to pursue studies in one or more of international, international human rights, administrative or immigration law, either simultaneously with this course or prior to enrolment.

Teaching method: Seminar

Method of evaluation: Students will be evaluated on the basis of a term paper/research memorandum and classroom participation, as follows:

Option 1: Term paper option

Class participation, 20%

Term paper (approx. 25-35 pages for LLB students; qualifies as major paper), 80%

Option 2: Memorandum option

Class participation, 20%

Research Memorandum (approx. 25-35 pages for LLB students), 80%

Any research memorandum must be prepared for a non-profit organization on a theme related to the course and jointly approved by the organization and the instructor. Students may select their own non-profit organization or work with the instructor to identify an interested organization.

Class participation will be measured, first, by participation in (and presence for) class discussions and, second, by student participation in either periodic debates on issues in national security law or as a "special rapporteur" for a specific class during the term (in which students will be expected to read materials above and beyond those assigned for the class and report back to the class).

Graduate students will be expected to prepare a paper or memo of 35-45 pages.

Course objective(s): "National security" has been defined as the protection and preservation of a state's values, institutions and the well-being of its citizens. It is an expansive concept that, in colloquial terms, has a strong association with military preparedness and law enforcement. It is also a concept that sometimes co-exists uncomfortably with the "rule of law."

This seminar course will examine international and Canadian laws governing efforts to preserve "national security." United States and United Kingdom law will also figure in the discussion. Issues discussed will include: international, Canadian and comparative law dealing with terrorism, weapons proliferation, epidemic diseases, espionage, government secrecy and the actions of intelligence agencies, both foreign and domestic. The conflict between national security imperatives and human and civil rights at both the international and national level will be a key pre-occupation of the course.

Materials used: To be confirmed. For updates, please view the course webpage for this class, available through www.cforcese.ca and updated in summer 2008.

Maximum enrolment: 15

Schedule: Tuesday, 13:00 to 16:00
(Students should expect one or two make-up classes during the term to compensate for cancelled classes)

CML 3378 - Advanced International Law (3 credits)
Professors Donald McRae and John Hannaford

Fall 2008

Prerequisite(s): CML3231 - International Law.

Teaching method: Seminar

Method of evaluation: Major Paper (25 pages), 80% (penalty of 2% per day for late submission);
Class presentations, 20%.

Course objective(s): An in-depth study of selected contemporary problems in Public International Law.

Materials used: Readings are assigned.

Maximum enrolment: 25

Schedule: Tuesday, 19:00 to 22:00

CML 3385 – WTO Dispute Settlement (3 credits)
Professor Debra Steger

Fall 2008

- Prerequisite(s):** Recommended: CML 4105 or a background in international trade
- Teaching method:** Seminar – lectures, class discussion and presentations by students in moot court simulation exercises.
- Method of evaluation:** Students will be assessed on preparation of written pleadings, participation in moot court exercises and class participation – 100%.
- Course objective(s):** The purpose of this course is to provide in depth examination of the WTO dispute settlement procedures and training in litigating international dispute settlement cases.
- Course description:** This seminar analyzes how the WTO deals with trade disputes. We will examine the origins of the WTO dispute settlement system and how it compares to other international dispute settlement systems. We will assess the different settlement methods that are available in the WTO -- consultations, mediation and adjudication - and consider the jurisdiction and applicable law before WTO panels/Appellate Body and the potential for overlap with other international courts or tribunals (including the NAFTA). Selected questions will be examined related to the work of panels and the Appellate Body ranging from treaty interpretation, standing, fact finding, and the appointment of experts, to amicus curiae briefs, burden of proof, and scope of appellate review. Finally, we will review the remedies available in the WTO and the enforcement of WTO dispute settlement reports, trade sanctions, and the role of compensation.
- A significant aspect of this seminar is its moot court component. Students will be divided into teams and required to challenge or defend hypothetical trade disputes according to WTO rules and procedures.
- Materials used:** David Palmeter and Petros Mavroidis, *Dispute Settlement in the World Trade Organization: Practice and Procedure*, 2nd ed., Cambridge U Press 2004; WTO Secretariat, *A Handbook on the WTO Dispute Settlement System*, Cambridge U Press 2004. The WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes*. Additional course materials will be provided. Students will be required to do online research of WTO dispute settlement procedures, pleadings and cases on www.wto.org and www.worldtradelaw.net. As research tools, the Appellate Body's Repertory (www.wto.org/english/tratope/dispu_e/repertory_e/repertory) and the WTO Analytical Index will be particularly helpful.
- Maximum enrolment:** 25
- Schedule:** Monday, 13:00 to 14:30
Wednesday, 16:00 to 17:30

CML 3399 – Human Rights (International Protection) (3 credits)
Professor Penelope Simons

Fall 2008

Prerequisite(s): None, but knowledge of public international law would be very helpful.

Teaching method: Seminar

Method of evaluation: **Paper:** 60% (25-30 pages) qualifies for a major paper.
Other: 40% student presentation, participation, and submission of paper proposal.

Course objective(s): This course is an introduction to international human rights law. It will examine the history and philosophical foundations of human rights and international human rights law, the international legal context, and the universal and regional regimes and mechanisms for the protection of human rights at the international level. Certain categories of rights and human rights problems will be considered in the form of specific case studies. These may include women's rights; economic, social and cultural rights; extraordinary rendition and the prohibition against torture; counter-terrorism and human rights; globalization, non-state actors and human rights; and the relationship between international human rights and humanitarian law. These studies will be used to illustrate some of the problems and controversies underlying international human rights law and discourse. Major themes will include the universality of human rights, the enforceability of human rights.

Materials used: Required: Steiner and Alston, *International Human Rights in Context: Law Politics and Morals* (3rd edn Oxford University Press, 2007) and supplementary readings.

Maximum enrolment: 25

Schedule: Monday, 10:00 to 13:00

Prerequisite(s): None

Teaching method: Lectures and class discussion.

Method of evaluation: Class participation (10%); 2 short commentaries on the readings (20%); an exam or a research paper (70%). Topics for research papers must be approved by the professor. Graduate students are required to prepare two short commentaries and a research paper.

Course objective(s): Introduction to the principles and practice of international trade law with reference in particular, to the institution, the dispute settlement procedures, and the substantive case law of the World Trade Organization (WTO).

Course description The course will address questions related to globalization and the international trading system, focusing on the principles, law and procedures of the WTO. The functioning of the dispute settlement system of the WTO will be explored, together with the fundamental principles of non-discrimination and market access as they apply to trade in goods, investment, and trade in services. Rules on unfair trade and trade remedies will be examined. Potential conflicts between trade liberalization and other important societal values will be addressed as well as the role of developing countries in the international trading system. Consideration will be given to the future of the WTO as an international organization, including in relation to regional trade agreements and its future negotiating agenda.

Materials used: Peter Van den Bossche, [The Law and Policy of the World Trade Organization](#), Cambridge University Press, 2nd edition, 2008; or John H. Jackson, William Davey and Alan Sykes, [Legal Problems of International Economic Relations](#), 5th edition (American Casebook Series, WTO Agreement provisions and cases (down-loadable from www.wto.org or www.worldtradelaw.net)).

Maximum enrolment: 25

Schedule: Monday and Wednesday, 10:00 to 11:30

CML 41 08A – Studies in International Law: Transnational Corporations, Human Rights and International Economic Law (3 credits)

Professor Penelope Simons

Fall 2008

Prerequisite(s): None, but a good working knowledge of public international law or international human rights law is strongly recommended

Teaching method: Seminar

Method of evaluation: Paper: 60% (25-30 pages) qualifies for a major paper.

Other: 40% student presentation, participation and submission of paper proposal

Course objective(s): This course examines the intersection between the activities of transnational corporations, international economic law and international human rights law. Students will consider the conceptual, normative and regulatory challenges transnational corporate actors pose to the international legal system; the facilitation of globalized corporate activity through international economic law, in particular the international regulation of trade and investment; concerns about the human rights impact of transnational corporate activity; and the variety of regulatory mechanisms available to promote or ensure corporate accountability for violations of human rights.

Materials used: Compilation of readings

Maximum enrolment: 25

Schedule: Friday, 13:00 to 16:00

CML 4109A - Studies in Human Rights : Introduction to African Women's Law and Politics (3 credits)

Professors Joanne St. Lewis and Fiona Sampson

Fall 2008

Prerequisite(s): None

Teaching method: Seminar

Method of evaluation: 100% Paper due on December 3rd

Course objective(s): This course will allow students to explore legal and political issues raised by African women's inequality, and explore potential remedies and strategies through which to advance African women's human rights. Various sources of human rights law relating to African women, including international, regional and national sources of law, and human rights implementation machineries will be discussed. A particular focus of the course will include the contributions women made to African societies prior to colonialism, and how and why colonialism affected African men and women differently. The course will also provide an introduction to the study of how to translate equality theory into practice so as to address the concrete manifestations of African women's inequality, such as the feminization of HIV/AIDS. How to deal with the challenges associated with addressing experiences of women's inequality in the African context of pluralistic and complex legal systems will be discussed. Course materials will include legal and political texts and journal articles, autobiographical and fictional accounts of African women's experience with inequality, and films. During the course, students will meet advocates and experts on African women's law and politics.

The course will serve as a prerequisite for students to volunteer with the African women's equality clinic (POWER – Progress & Opportunities for Women's Equality Rights: Africa/Canada).

Materials used: To be determined

Maximum enrolment: 25

Schedule: Monday, 19:00 to 22:00

Prerequisite(s): None

Teaching method: Seminar

Method of evaluation: **Final exam 80%:** 3 hours - limited open book (case book, documents volume, handouts and personal notes are allowed; library books are not) **OR**

Paper 80%: 30-40 pages (which qualifies as a major paper, on a subject to be agreed between student and instructor) **AND**

Class participation 20% (this includes participation in class discussion of materials that will be assigned on a weekly basis)

Course objective(s): This course will deal with the legal system of the European Community (as well as the broader European Union) against the background of recent developments, such as the increased membership of the Union and the Treaty of Lisbon (amending the Treaty on European Union and the Treaty establishing the European Community), signed at Lisbon, 13 December 2007.

Following an overview of the institutions of the Community and the Union, the focus of the course will be on the role of the Court of Justice and the role of its jurisprudence in European integration. Specifically, the different functions of the Court of Justice will be discussed, as well as the relationship between Community law and national law (including the relationship between the Court of Justice and the national courts), the access of private parties, the institutions of the European Community and the Member States to the Court, and the remedies that the Court of Justice can provide. Included in the course will be some discussion of the four freedoms in the Community (of goods, workers, services and capital), the common policies of the Community (e.g., competition), and the treaty-making power of the Community.

Materials used: George Bermann (et al.), Cases and Materials on European Union Law (Second edition, West Publishing Company, 2002), plus documents supplement (produced by the Faculty of Law; not the Bermann supplement).

Handouts will also be provided

Maximum enrolment: 22

Schedule: Wednesday, 19:00 to 22:00

CML 4303– International Commercial Arbitration (3 credits)
Professors J. Anthony VanDuzer and Anthony Daimsis

Fall 2008

Prerequisite(s): For students interested in the Vis Option, International Business Transactions (CML 3372) is recommended.

Teaching method: Seminar

Method of evaluation: Class Participation, 15%; Mid-term exam 10%; Mock Arbitration, 20%; Final exam 55% OR

Vis option: Class Participation, 15%; Mid-term exam 10%; Claimant's Memorandum, 25%; Oral presentation of Claimant's arguments, 20%; Final exam 30%*

*Students in the Vis Option must write the Final Examination but will receive the better of the grade obtained on the Examination and the Claimant's Memorandum for 55% of their final grade.

For the past nine years, the Faculty of Law has competed in the Willem C. Vis International Commercial Arbitration Moot, held each spring in Vienna. The moot provides an excellent opportunity to develop experience in both international commercial law and international commercial arbitration. For the past several years, our teams have been finalists in the oral rounds and won numerous mentions for our written pleadings and individual speakers. The Vis Option is the first stage in participating in this year's moot competition.

The Vis Option is open to a maximum of eight students registered in International Commercial Arbitration who are interested in learning about the United Nations Convention on the International Sale of Goods and other uniform international commercial law as well as ICA. Students will be chosen for the Vis Option based on a competitive tryout in September. Collectively, the students will be required to draft a written memorandum for the claimant (35 pages) based on the moot problem for the 2008/09 moot. The memorandum is due in early December. Students in the Vis Option will also present the Claimant's arguments orally as part of their final grade.

At the end of the fall semester, based on their performance in the International Commercial Arbitration Course, a maximum of four students will be invited to continue the course as the Faculty's Moot team throughout the winter term with the possibility of flying to Vienna, Austria to compete in the oral round of the moot competition. These students will receive an additional three credits.

For more information see the description of the Willem C. Vis International Commercial Arbitration Moot in this course selection guide.

- Course objective(s):** International commercial arbitration (ICA), both between private parties and between private parties and states, is a burgeoning area of practice and study. The principal objectives of this course are the following.
1. To introduce the student to the basic concepts, rules, practices and institutions related to ICA. The focus will be on the major international instruments and institutions of ICA and the law as it has developed in Canada. Where applicable, distinctions between Quebec's civil law approach and Ontario's common law approach to international commercial arbitration will be examined.
 2. To build on the knowledge and skills acquired in previous courses relating to dispute settlement in order to develop the student's understanding of the advantages and disadvantages of ICA as an alternative to litigation and other methods of resolving international commercial disputes.
 3. To allow students to gain experience with the role of legal counsel, arbitrators and institutions in international commercial arbitration. By the end of the course, students will be familiar with the procedures of the major international arbitral institutions and have an opportunity to participate in a mock arbitration.

Additional Description Topics covered in the course include:

Sources and nature of international and domestic Canadian rules; requirements for a valid arbitration agreement; arbitrators; arbitration counsel; conduct of arbitration proceedings; arbitration awards; enforcement of arbitration awards; and investor-state arbitration under NAFTA and other international investment treaties.

Materials used: A. Redfern & M. Hunter (with N. Blackaby and C. Parasides), Law and Practice of International Commercial Arbitration, 4th ed (Student Version) (London: Sweet & Maxwell, 2004), Course Supplement

Maximum enrolment: 25

Schedule: Monday and Wednesday, 14:30 to 16:00