

# **LAW311 International Trade Law**

Unit Information and Learning Guide

*Summer 2010*

Teaching Dates: Monday January 25  
to Saturday January 30

**Lecturer:**

**Professor Dr. Hans van Houtte**

Faculty of Laws, Leuven, Belgium

**Unit coordinator:**

**Professor Gabriël Moens**

School of Law

9360 6064

[G.Moens@murdoch.edu.au](mailto:G.Moens@murdoch.edu.au)



© Published by Murdoch University, Perth, Western Australia, October 2009.

This publication is copyright. Except as permitted by the Copyright Act no part of it may in any form or by any electronic, mechanical, photocopying, recording or any other means be reproduced, stored in a retrieval system or be broadcast or transmitted without the prior written permission of the publisher.

**International Trade Law**  
**LAW311**  
**Unit Information**

This information should be read in conjunction with the online learning materials which can be found on your MyUnits page.

# ONE

## Introduction

### Unit overview

Welcome to LAW311 International Trade Law.

The course intends to familiarize the participants with issues that attorneys or company lawyers encounter in transnational commercial practice. It starts with an analysis of the Legal Rules applicable in International Business (Part 1) .

After a brief exploration of how international public law treaties may be relevant and how the WTO and regional organizations ,such as the European Union, are shaping international business, have shaped , the course will focus on the conflict of law rules to determine which law applies to contracts and discuss the potential of truly transnational standards, such as the Lex Mercatoria or General principles of International Commercial Contracts.

In Part II, some specific business contracts will be discussed. International sales contracts and the Convention on the International sales of goods will be discussed in much detail. Moreover distribution agreements, agency contracts, contracts for the transfer of property and investment contracts will be discussed. Also specific contracts to finance transnational business transactions will be studied.

Part III introduces the participants to transnational dispute settlement. Court jurisdiction, presentation of evidence and enforcement of foreign judgments will be covered (with the system operating within the European Union as reference). Finally a few classes will cover international arbitration.

In order to take this course, students already need to be aware of the basics of contract law, court procedures and commercial law.

### Prerequisites

Students will need to have completed all Part 1 Law units and LAW260 Contract.

## Lecturer



The lecturer for this unit, Prof. HANS VAN HOUTTE, teaches conflict of laws, arbitration and international business law at Leuven University (KU Leuven). He also directs the University's Institute for International Trade Law.

He has served as chairman, sole arbitrator and party appointed arbitrator in proceedings under the rules of i.a. ICC, LCIA, ICSID, UNCITRAL, the European Development Fund, CEPANI, the Netherlands Arbitration Institution, the Polish Chamber of Foreign Trade in over 120 arbitrations. Moreover, he has been member of the Commission for Real Property Claims in Bosnia and Herzegovina (1996-2003) and the United Nations Compensation Commission (1998-2001) as well as an Arbitrator and Senior Judge at the Claims Resolution Tribunal for Dormant Accounts in Switzerland (1999-2002) and has been President of the Eritrea-Ethiopia Claims Commission (2002 – 2009).

He is considered by Global Arbitration Review 2009 one of the 20 'most highly regarded individuals' in arbitration.

Professor van Houtte is Vice-President of the Belgian arbitration institution CEPANI. Moreover, he is a member of the ICC International Arbitration Commission and of the ICC Commission on Commercial Practices.

He is the author of over 100 articles on arbitration and international business transactions. Moreover he has published some books, i.a. *The Law of International Trade* ( Sweet & Maxwell, 2d ed. 2002).

### Contact details

Email: [hans.vanhoutte@law.kuleuven.be](mailto:hans.vanhoutte@law.kuleuven.be)

Room: LAW2.107 (inside the law School Office)

Consultation arrangements will be outlined by the lecturer during the first lecture. Students should be aware that the practicalities of the intensive teaching pattern will limit staff availability outside of class times.

## Unit Coordinator:

### Professor Gabriël Moens

School of Law

9360 6064

[G.Moens@murdoch.edu.au](mailto:G.Moens@murdoch.edu.au)

## Administrative contacts

Miriam Everall: 9360 6820 or [M.Everall@murdoch.edu.au](mailto:M.Everall@murdoch.edu.au)

Lyn Tooley: 9360 6192 or [L.Tooley@murdoch.edu.au](mailto:L.Tooley@murdoch.edu.au)

## Technical help

For help with technical difficulties contact the IT Service Desk:  
[ITservicedesk@murdoch.edu.au](mailto:ITservicedesk@murdoch.edu.au) or phone 9360 2000

## How to study this unit

The full class will meet at the following times:

**Monday, January 25 to Friday, January 29:**

9.00am – 1.00 pm and 2.00 pm – 3.30 pm

**Saturday, January 30:**

9.30am – 4.30pm. *This will include the in-class test.*

*At the time of publication, the venue for this class is the Freehills Lecture Theatre. However, this may be subject to change, so please check the teaching timetable:  
<http://www.murdoch.edu.au/admin/timetables/teaching/>*

### Attendance

Attendance at all sessions is integral to your success in this unit. Please organise your other commitments accordingly, as there will not be opportunities to make up for missed sessions.

Lectopia recordings will not be used for this unit.

# TWO

## Resources for the unit

### Required Text:

Hans van Houtte, *The Law of International Trade* (2<sup>nd</sup> edition, Sweet & Maxwell) will be the basis for discussions. Participants will receive excerpts from the handbook as course materials, which they are requested to have read beforehand.

### Other References:

For specific topics treaty texts will be posted electronically. Participants are also expected to prepare presentations on the Convention on the International sale of goods on the basis of electronic data bases.

### Computing resources

Students will have access to computing laboratories on levels 1 and 2 of the Law building.

# THREE

## Assessment

### Assessment components

You will be assessed on the basis of:

<b>Description</b>	<b>Value</b>	<b>Due</b>
<i>In-Class Examination</i>	<i>70%</i>	<i>Saturday January 30</i>
<i>Class Participation</i>	<i>5%</i>	<i>In class</i>
<i>CISG Presentation</i>	<i>5%</i>	<i>In class</i>
<i>New York Convention memorandum</i>	<i>20%</i>	<i>Friday February 19</i>

## Assessment Details

### Examination – 70%, Saturday January 30

The in-class examination will be a three-hour, open book examination.

For further information about examinations, refer to

<http://www.murdoch.edu.au/oss/exams/>

### CISG Presentation – 5%

Each participant will be asked to research some CISG cases using the internet and electronic databases. Students will present the facts to the class, and facilitate discussion on the outcome of the decision.

### Class Participation – 5%

Students will be assessed on their level of engagement and participation in class discussions.

### New York Convention Memorandum – 20%, due Friday, February 19

For this written assessment task, students will analyse a decision from the International Commercial Arbitration Yearbook, with reference to other decisions on the same matter and to scholarly writings as appropriate.

### Assignment cover sheets

*Please use the electronic assignment coversheet available via this link:*

<http://www.murdoch.edu.au/admin/policies/electronic.html>

### Assignment submission

*Assignments are to be submitted using the LMS assignment drop-box.*

- *Please submit your assignment as a single document, including the electronic coversheet.*
- *Please include your name and student number in the filename.*
- *Please also include your name and student number as a header on each page of your submission.*

## Determination of the final grade

See Section 11 of the Assessment Policy regarding grades

<http://www.murdoch.edu.au/admin/policies/assessment.html#11>

Notation	Grade	Percentage Range
HD	High Distinction	80 – 100
D	Distinction	70 – 79
C	Credit	60 – 69
P	Pass	50 – 59
N	Fail	Below 50
DNS	Fail: Did not participate in any assessments after HECS census date	
S	Supplementary Assessment	45 – 49*

*\*The award of the grade of S shall be at the discretion of the Unit Coordinator.*

The grade descriptors are provided in the *Murdoch University Handbook and Calendar*

and at <http://www.murdoch.edu.au/admin/policies/assessment.html#11>

## University policy on assessment

Assessment for this unit is in accordance with the provisions of Degree regulations 40–48. Check these in the current *Murdoch University Handbook and Calendar* or

<http://www.murdoch.edu.au/admin/legsln/regs/bachelor.html#assessment>

## Assessment roles and responsibilities

Please refer to the University Policy on Rights and Responsibilities of Students and Staff

<http://www.murdoch.edu.au/admin/policies/assessment.html#8>

## Academic Integrity

Murdoch University encourages its students and staff to pursue the highest standards of integrity in all academic activity. Academic integrity involves behaving ethically and honestly in scholarship and relies on respect for others' ideas through proper acknowledgement and referencing of publications. Lack of academic integrity, including the examples listed below, can lead to serious penalties.

Find out more about how to reference properly and avoid plagiarism at:

<http://www.murdoch.edu.au/teach/plagiarism>

## Plagiarism

Inappropriate or inadequate acknowledgement of original work including:

- Material copied word for word without any acknowledgement of its source
- Material paraphrased without appropriate acknowledgement of its source
- Images, designs, experimental results, computer code etc used or adapted without acknowledgement of the source.

## Ghost writing

An assignment written by a third party and represented by a student as her or his own work.

## Collusion

Material copied from another student's assignment with her or his knowledge.

## Purloining

Material copied from another student's assignment or work without that person's knowledge.

Adapted from Section 9.3 of the Assessment Policy, Plagiarism and Collusion  
<http://www.murdoch.edu.au/admin/policies/assessmentlinks.html#9>

**Non-discriminatory language**

Please refer to: [http://www.murdoch.edu.au/teach/studyat/non\\_disc.html](http://www.murdoch.edu.au/teach/studyat/non_disc.html)

**Student appeals and grievances handling processes**

Please refer to: <http://www.oss.murdoch.edu.au/grievances/>

**International Trade Law  
LAW311**

*LAW311 Learning Guide*

**PART I : The Rules of International Business  
( January 25)**

- General Principles of International Law and International Custom
- Treaties and International Business
- International Economic Organizations, e.g. WTO and European Union
- Custom Duties

**Part II : The Contracts of International Business ( January 26-28).**

- International Sales
- Distribution Agreements
- Agency Contracts
- Transfer of Technology
- Investment Contracts
- Financing of international Transactions

**Part III : Resolution of International Business Disputes ( January 29)**

- Transnational Jurisdiction of Courts
- Delivery of Summons and other Notifications
- Conduct of Court Proceedings – Evidence
- Transnational Enforcement of Court Decisions
  
- Mediation
  
- Transnational Arbitration
  - Legal Framework
  - The Agreement to Arbitrate
  - Where to Arbitrate ?
  - Which Arbitration Institution to Select ?
  - The Nomination of Arbitrators.
  - The Conduct of Arbitration Proceedings
  - Evidence in Arbitration
  - The Standards for Decision
  - The Award
  - Court Scrutiny
  - Enforcement of Awards