

Course Goals

Modern international law continues to be based primarily on multilateral, regional and bilateral treaties. Questions relating to the interpretation and application of treaties figure prominently in the day-to-day work of many practitioners and students of international law, and most disputes submitted to international adjudication involve one or more questions of treaty interpretation.

This interactive course offers a detailed understanding of the historical development of the rules of treaty interpretation codified in the 1969 Vienna Convention on the Law of Treaties, and an in-depth analysis of those rules. It also covers the use of principles of treaty interpretation not expressly codified in the Vienna Convention. This course is aimed at understanding the different functions of treaty interpretation, and how treaty interpretation is a task of international courts and tribunals which is shaped by the institutional, political and historical context of those institutions. The course also seeks to identify the limits of rules of treaty interpretation and situate them within a broader conception of the process and character of judicial reasoning and justification.

Lecturer



Dr. Isabelle Van Damme is a Member of the Brussels Bar. As an associate at Van Bael & Bellis, her practise focuses on WTO law and EU law. She frequently appears before the WTO dispute settlement bodies and the Court of Justice of the European Union. She is also a visiting lecturer at the Université Catholique de Louvain and KU Leuven, where she teaches WTO law and EU external relations law. Her main publications include a monograph on *Treaty Interpretation by the WTO Appellate Body* (Oxford University Press, 2009) and an edited collection entitled *The Oxford Handbook of International Trade Law* (Oxford University Press, 2009).
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Course Content

- I. **The historical development of rules of treaty interpretation**
 - a. Origins of the rules of treaty interpretation
 - b. The codification of rules of treaty interpretation in the VCLT
 - c. The limits of the codified rules of treaty interpretation
- II. **The rules of treaty interpretation**
 - a. Textual analysis and the general rule of treaty interpretation
 - b. Treaties evolving over time: subsequent agreements/subsequent practice/evolutionary interpretation
 - c. Use of other relevant rules of international law and harmonious interpretation
 - d. Negotiating history
 - e. Principle of effectiveness
 - f. In dubio mitius
- III. **The function of treaty interpretation**
 - a. Quality and character of judicial reasoning and justification
 - b. Precedent
 - c. Legitimacy
 - d. Transparency
- IV. **The context of treaty interpretation**
 - a. Historical context
 - b. Institutional context
 - c. Political context
- V. **The future challenges of treaty interpretation**

Readings

A detailed syllabus, comprising both primary and secondary materials, will be made available to the students. For each section of the course, a reading list will be set. Each reading list will include a series of questions which are aimed at guiding students in their readings and in preparing for each class.

This course is organised in the context of the *Doktoratsprogramme universitäre Hochschulen 2017-2020*.

Participation

The course is intended for PhD students. A limited number of persons with relevant professional or academic interest may be also admitted.

Lecture hours: 25.

Participants taking this course for credit must attend all lectures and write a research paper on one of the topics covered. The research paper must be submitted no later than 1 February 2018.

Timetable and Registration

The course takes place from Monday to Friday from 9.30 to 12.00 and from 13.30 to 16.00 at the World Trade Institute.

Tuition fee: For PhD students registered at Swiss universities, the course is free. PhD students registered at universities outside of Switzerland and other participants pay **500 CHF**. Financial support may be available.

Register at:

<http://www.wti.org/education/doctoral-programme/>

Lecturer



Graham Cook is a Counsellor with the Legal Affairs Division of the WTO Secretariat. In that capacity, he serves as a legal advisor to WTO dispute settlement panels. He also lectures on legal and procedural aspects of WTO dispute settlement as part of the Secretariat's various training and technical co-operation programmes. He is the author of various publications on WTO law and treaty interpretation, including *A Digest of WTO Jurisprudence on Public International Law Concepts and Principles* (Cambridge University Press, 2015).
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