

GOVERNMENT OF THE RUSSIAN FEDERATION

**NATIONAL RESEARCH UNIVERSITY
“HIGHER SCHOOL OF ECONOMICS”**

FACULTY OF LAW

SCHOOL OF INTERNATIONAL LAW

**MASTER PROGRAM
“LAW OF INTERNATIONAL TRADE AND DISPUTE RESOLUTION”**

PROGRAM OF THE FINAL STATE EXAMINATION

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Academic director of the program Vladislav
Starzhnetskiy

Moscow, 2024

GENERAL PART FOR ALL STUDENTS

I. Theory of International law

Subject № 1.

The Theories of International law: legal formalism and beyond

1. Legal formalism (positivism).
2. Overview of the main theories of contemporary International law.
3. The New Haven School; The New 'New Haven School'; International Legal Process.
4. Global governance. Constitutionalism in International Law. Global Administrative Law.
5. International Law and Economics approaches: price theory; game theory; public choice; behavioural economics and International law.
6. Critical Legal Studies. TWAIL. Feminism.
7. Theories of Compliance with International Law: realism, liberalism and constructivism.

Main sources:

1. Bianchi A. International Law Theories. An Inquiry into Different Ways of Thinking. Oxford, 2016, <https://proxylibrary.hse.ru:6352/view/10.1093/acprof:oso/9780198725114.001.0001/acprof-9780198725114>;
2. D'Aspremont J. Epistemic Forces in International Law Foundational Doctrines and Techniques of International Legal Argumentation. Edward Elgar, 2015, <https://proxylibrary.hse.ru:2397/view/9781781955277.xml>;
3. Orford A., Hoffmann F. The Oxford Handbook of the Theory of International Law. Oxford, 2016, <https://www.oxfordhandbooks.com/view/10.1093/law/9780198701958.001.0001/oxfordhb-9780198701958>.

Additional sources:

1. Aaken A. Behavioral International Law and Economics // Harvard International Law Journal. 2014. Vol. 55 (2), <https://harvardilj.org/wp-content/uploads/sites/15/552vanAaken.pdf>;
2. Chayes A., Chayes A. H. On Compliance // International Organization. 1993. Vol. 47. № 2). P. 175-205, <https://www.jstor.org/stable/2706888>
3. Chimni B.S. Third World Approaches to International Law: A Manifesto // International Community Law Review. 2006. № 8, <https://www.jnu.ac.in/sites/default/files/Third%20World%20Manifesto%20BSChimni.pdf>;

4. Finnemore M., Sikkink K. International Norm Dynamics and Political Change // International Organization, vol. 52, no. 4, 1998, pp.887–917, <https://www.jstor.org/stable/2601361>
5. Guzman A. [How International Law Works: A Rational Choice Theory](https://proxylibrary.hse.ru:6352/view/10.1093/acprof:oso/9780195305562.001.0001/acprof-9780195305562-chapter-2). OUP, 2008; <https://proxylibrary.hse.ru:6352/view/10.1093/acprof:oso/9780195305562.001.0001/acprof-9780195305562-chapter-2> [Chapter 2 - at minimum];
6. Kingsbury B., Krisch N., Stewart R.B. The Emergence of Global Administrative Law // Law and Contemporary Problems. Vol. 68. P. 15-61, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1361&context=lcp>;
7. Koh H. Transnational Legal Process // Nebraska Law Review. 1996. Vol. 75. P. 181-207; https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2902&context=fss_papers
8. Koskenniemi M. From Apology to Utopia: the Structure of International Legal Argument (CUP, 2006) – HSE library (paper form);
9. Peters A. The Merits of Global Constitutionalism // Indiana Journal of Global Legal Studies. 2009. № 16. P. 397-411, <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1396&context=ijgls>;
10. Reisman W.M., Wiessner S., Willard A.R. The New Haven School: A Brief Introduction // Faculty Scholarship Series. 2007, https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1996&context=fss_papers;
11. Shannon V. Norms are what states make of them // International Studies Quarterly. 2000. № 44. P. 293-316.
12. van Aaken A., Simsek B. Rewarding in International Law // American Journal of International Law. 2020. Vol. 115 (2), <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/rewarding-in-international-law/C0869441AAD92ED773E762F98AF46C8E>.

Subject № 2.

International Law-Making and System-Design of International law.

1. International Law-Making: traditional and alternative approaches (substance-based; process-based; impact- or effect-based; “new formalism”).
2. Politics of International Law in the writings of M. Koskenniemi. Norms of International law between normativity and concreteness.
3. Formation and identification of international customary law: two-elements structure of international customs and its critique; methods of induction, deduction and assertion in identification of international customs. New / modern / deductive customs.
4. Concept of the *jus cogens* norms: origin; positivistic and natural law explanation of its nature; examples. Relationship between *jus cogens* norms, obligations *erga omnes* (partes, proper), diplomatic protection and *jus standi* (standing).
5. Fundamental human rights and obligations under the UN Charter. Approaches of the Court of the European Union, the UN Human Rights Committee, and the European Court of Human Rights.
6. Fragmentation of International law. Principle of systemic integration. Approach of the Working group of the ILC to fragmentation and conflicts of norms in International law.

Alternative approaches to fragmentation: MSEN doctrine, “conflict of laws” approach and legal pluralism.

Main sources:

1. The ILC, Draft Conclusions on Identification of Customary International Law, 2018, with Commentaries,
https://legal.un.org/ilc/texts/instruments/english/commentaries/1_13_2018.pdf;
2. The ILC, Draft Articles on Diplomatic Protection, 2006,
https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_8_2006.pdf;
3. Responsibility of States for Internationally Wrongful Acts, 2001,
https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf;
4. The ILC, Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law, Report of the Study Group of the International Law Commission, finalized by Martti Koskenniemi, 2006, <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G06/610/77/PDF/G0661077.pdf?OpenElement>;
5. The ILC, Draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*), 2022,
https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_14_2022.pdf
6. Koskenniemi M. The Politics of International Law // EJIL. 1999. Vol. 1. No. 1,
<http://ejil.org/pdfs/1/1/1144.pdf>;
7. Koskenniemi M. The Politics of International Law – 20 Years Later // EJIL. 2016. Vol. 20. No. 1. (<http://www.ejil.org/pdfs/20/1/1785.pdf>).

Additional sources:

1. Broude T., Shany Y. The International Law and Policy of Multi-Sourced Equivalent Norms, in: Multi-Source Equivalent Norms in International Law (Tomer Broude & Yuval Shany eds., 2011);
2. Michaels R., Pauwelyn J. Conflict of norms or conflict of laws?: Different techniques in the Fragmentation of public international Law // Duke Journal of Comparative & International Law. 2012. Vol 22.

Judicial (and quasi-judicial) decisions:

1. The UN Human Rights Committee, *Nabil Sayadi and Patricia Vinck v. Belgium*, Views, 22 October 2008, <http://juris.ohchr.org/Search/Details/1477>;
2. ECHR, *Al-Dulimi and Montana Management Inc. v. Switzerland*, Judgment (Grand Chamber), 21 June 2016, <http://hudoc.echr.coe.int/eng?i=001-164515>;
3. “Kadi I 2005”: Court of First Instance, *Yassin Abdullah Kadi v Council of the European Union and Commission of the European Communities*, Judgment, 21 September 2005, <http://curia.europa.eu/juris/liste.jsf?language=en&num=T-315/01>;
4. “Kadi I 2008”: Court of Justice of the European Communities, *Yassin Abdullah Kadi and Al Barakaat International Foundation v Council of the European Union and Commission of the European Communities*, Judgment, 3 September 2008, <http://curia.europa.eu/juris/liste.jsf?num=C-402/05&>;

5. "Kadi II 2010": General Court, Yassin Abdullah Kadi v. European Commission, Judgment (Grand Chamber), 30 September 2010, <http://curia.europa.eu/juris/liste.jsf?language=en&num=T-85/09>.

Subject № 3.

Relationship between International and Domestic Law

1. Monistic and dualistic approaches to the relationship between International and domestic law and their critique.
2. Approaches of states to the relationship between International and domestic law.
3. Ways of transformation of international norms at the domestic level.
4. International norms in Russian legal system.
5. The relationship between the Constitution of the Russian Federation and norms of international law. Implementation of decisions of international courts and interstate bodies in the Russian Federation.
6. Interaction between International and national courts: problem of strategic resistance.

Main sources:

1. European Commission for Democracy through Law (Venice Commission), Report on the implementation of international human rights treaties in domestic law and the role of courts, 10-11 October 2014, pp. 5-17, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)036-e).

Additional sources:

1. *Principled Resistance to ECtHR Judgements – A New Paradigm?* (Ed. by M. Breuer), Springer, 2019.

Judicial decisions:

1. The Constitutional Court of the Russian Federation, Judgment of 19.04.2016 N 12-Р (Постановление Конституционного Суда РФ от 19.04.2016 N 12-П "По делу о разрешении вопроса о возможности исполнения в соответствии с Конституцией Российской Федерации постановления Европейского Суда по правам человека от 4 июля 2013 года по делу "Анчугов и Гладков против России" в связи с запросом Министерства юстиции Российской Федерации).
2. The Constitutional Court of the Russian Federation, Judgment of 19.01.2017 N 1-П (Постановление Конституционного Суда РФ от 19.01.2017 N 1-П "По делу о разрешении вопроса о возможности исполнения в соответствии с Конституцией Российской Федерации постановления Европейского Суда по правам человека от 31 июля 2014 года по делу "ОАО "Нефтяная компания "ЮКОС" против России" в связи с запросом Министерства юстиции Российской Федерации").

3. The Constitutional Court of the Russian Federation, Judgment of 06.12.2013 (Постановление Конституционного Суда РФ от 06.12.2013 г. по делу о проверке конституционности положений статьи 11 и пунктов 3 и 4 части четвертой статьи 392 Гражданского процессуального кодекса Российской Федерации в связи с запросом президиума Ленинградского окружного военного суда).

4. The Federal Constitutional Court of Germany, Judgment, 5 May 2020 (concerning the implementation in Germany of the bond-buying programme of the ECB known as Public Sector Purchase Programme), https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2020/05/rs20200505_2bvr085915en.html

5. The Italian Constitutional Court, Judgment no. 238, 22 October 2014 (on compliance with the Judgment of the ICJ of 3 February 2012), https://www.cortecostituzionale.it/documenti/download/doc/recent_judgments/S238_2013_en.pdf.

6. The US Supreme Court: *Medellin v. Texas* (<https://caselaw.findlaw.com/us-supreme-court/552/491.html>) on enforcement of the ICJ Judgment on the Avena case (<https://www.icj-cij.org/files/case-related/128/128-20040331-JUD-01-00-EN.pdf>).

II. Law of International Treaties

Subject № 1.

Contemporary Law of Treaties

1. Sources of the International Law of Treaties: treaties, customs and general principles of law.
2. Definition and legal nature of international treaties. International treaties and non-binding agreements.
3. Scope of international treaties: temporal, personal, territorial. The relationship between jurisdiction and territory. Non-retroactivity rule and its exceptions. A 'federal clause' and its implications.
4. Provisional application of treaties. Application of treaties, which did not enter into force.
5. Means and methods of interpretation of treaties. Evolutionary interpretation of treaties.
6. Reservations and interpretative declarations: validity, objections, legal effects of reservations, procedural rules applicable to reservations.
7. Validity of a treaty. Withdrawal from a treaty. Termination and suspension of a treaty.

Main sources:

1. Research Handbook on the Law of International Treaties / Ed. by Ch. Tams, A. Tzanakopoulos, A. Zimmerman, A. Richford (Cheltenham/ Northampton: Edward Elgar, 2014), <https://proxylibrary.hse.ru:2397/view/edcoll/9780857934772/9780857934772.xml>;

2. The ILC, Draft Articles on the Law of Treaties with Commentaries, http://legal.un.org/docs/index.asp?path=../ilc/texts/instruments/english/commentaries/1_1_1966.pdf&lang=EF&referer=http://legal.un.org/ilc/texts/1_1.shtml;
3. The ILC, Draft conclusions on subsequent agreements and subsequent practice in relation to the interpretation of treaties, 2018, https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_11_2018.pdf;
4. The ILC, Guide to Practice on Reservations to Treaties, 2011, <http://legal.un.org/ilc/reports/2011/english/addendum.pdf>;
5. The Oxford Handbook of United Nations Treaties, Ed. by Simon Chesterman, David M. Malone, and Santiago Villalpando (OUP, 2019), <https://proxylibrary.hse.ru:4334/view/10.1093/law/9780190947842.001.0001/law-9780190947842?rskey=OZIX3f&result=1>;
6. Vienna Convention on the Law of Treaties: A Commentary. Ed. by Oliver Dörr and Kirsten Schmalenbach (Springer: 2018), <https://proxylibrary.hse.ru:2084/book/10.1007%2F978-3-662-55160-8>.

Additional sources:

1. Bjorge E. The Evolutionary Interpretation of Treaties. OUP, 2014. <https://proxylibrary.hse.ru:4280/view/10.1093/acprof:oso/9780198716143.001.0001/acprof-9780198716143?rskey=KYhRhW&result=10>;
2. Buga I. Modification of Treaties by Subsequent Practice. OUP, 2019, <https://proxylibrary.hse.ru:4280/view/10.1093/oso/9780198787822.001.0001/oso-9780198787822?rskey=rh1xCe&result=1>;
3. Chang-fa Lo. Treaty Interpretation Under the Vienna Convention on the Law of Treaties. A New Round of Codification. Springer, 2017, <https://proxylibrary.hse.ru:2084/book/10.1007%2F978-981-10-6866-9>;
4. Merkouris P. (Inter)Temporal Considerations in the Interpretative Process of the VCLT: Do Treaties Endure, Perdure or Exdure? // [Netherlands Yearbook of International Law 2014](https://proxylibrary.hse.ru:2084/chapter/10.1007%2F978-94-6265-060-2_6), P. 121-156, https://proxylibrary.hse.ru:2084/chapter/10.1007%2F978-94-6265-060-2_6;
5. The Oxford Handbook of the Sources of International law. Ed. by Samantha Besson and Jean d'Aspremont. OUP, 2017, <https://proxylibrary.hse.ru:4334/view/10.1093/law/9780198745365.001.0001/law-9780198745365>.

Judicial decisions:

1. ICJ, *Case Concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, Judgment of 25 September 1997.
2. ICJ, *Case Concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, Jurisdiction and Admissibility, Judgment of 1 July 1994.
3. ICJ, *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, Judgment of 13 July 2009.
4. *Yukos Universal Limited (Isle of Man) v. The Russian Federation*, PCA Case No. AA 227, Final Award, 18 July 2014.

III. Contemporary International Economic Law

Subject № 1.

States and International Organizations as Subjects of International Economic Law

1. Subjects of International Economic Law.
2. States as subjects of International Economic Law. Legal Criteria of Statehood
3. Recognition of States and their economic rights and obligations
4. Legal personality of International Organizations and International Economic Relations
5. Other subjects of international economic law relations.

Main source:

1. Shaw M.N. International Law. Cambridge University Press 2021.

Additional sources:

1. Boklan D., Korshunova A. [National Security as a Foundation and a Limit on a State's Right to Rely on Permanent Sovereignty Over Natural Resources](#) // *Kutafin University Law Review*. 2017. Vol. 4. No. 2. P. 299-314;
2. Boklan D. [The Eurasian Economic Union and the European Union](#). Hauge : Eleven International Publishing, 2017.

Subject №2.

Jurisdiction in international law. Jurisdictional immunities of States and their property in International law.

1. Meaning and principles of jurisdiction in International law.
2. Extraterritorial jurisdiction in International law. Universal (civil and criminal) jurisdiction.
3. Concept of Jurisdictional immunities of States in International law and national laws of selected States.
4. Legal sources of jurisdictional immunities. UN Convention on Jurisdictional Immunities and States and their property.
5. International case-law on jurisdictional immunities. International Court of Justice, Jurisdictional Immunities of the State (Germany v. Italy: Greece Intervening).
6. National case-law on jurisdictional immunities: recent trends and challenges.
7. Extraterritorial jurisdiction in International law.

Main sources:

1. *Ryngaert C. (2015) Jurisdiction in International Law*. Oxford University Press;

2. *The Oxford Handbook of Jurisdiction in International Law* (2019) Edited by Stephen Allen, Daniel Costelloe, Malgosia Fitzmaurice, Paul Gragl, and Edward Guntrip. Oxford University Press;

3. T. Ruys, N. Angelet, L. Ferro (eds.), *The Cambridge Handbook of Immunities and International Law* (Cambridge University Press, 2019).

Additional sources:

1. Bismuth, R., Rusinova, V., Starzhenetskiy, V., Ulfstein, G. (eds) *Sovereign Immunity Under Pressure*. Springer, 2022;

2. Orakelashvili A. *Research Handbook on Jurisdiction and Immunities in International Law*. Elgar, 2015.

Judicial decisions:

1. ICJ, *Jurisdictional Immunities Of The State (Germany v. Italy: Greece Intervening)*, Judgment of 3 February 2012, <http://www.icj-cij.org/docket/files/143/16883.pdf>

Subject № 3.

Responsibility of States for international wrongful acts in international economic relations

1. The nature and basis of State Responsibility.
2. Sources of International Law of State Responsibility.
3. The conditions for State Responsibility.
4. Responsibility for the Acts of State Organs, Officials, and others. Attribution in International Law.
5. Circumstance precluding wrongfulness. Countermeasures.

Main sources:

1. Crawford J. *State Responsibility: The General Part*. Cambridge, 2014;
2. ILC Articles on State Responsibility for Internationally Wrongful Acts, annexed to GA Res. 56/83, 2001;
3. ILC, Draft Articles on the Responsibility of International Organizations, with Commentaries, 2011. http://legal.un.org/ilc/texts/instruments/english/commentaries/9_11_2011.pdf

Additional sources:

1. Daugirdas K. Reputation and the Responsibility of International Organizations // EJIL. 2014. N 4. <http://www.ejil.org/pdfs/25/4/2543.pdf>;
2. Evans M.D. *International Law*. 4th Ed. Oxford, 2014;
3. Nollkaemper A., Jacobs D. [Distribution of Responsibilities in International Law \(Shared Responsibility in International Law\)](#). Cambridge, 2015;
4. Paparinskis M. *Investment Treaty Arbitration and the (New) Law of State*

Judicial decisions:

1. ICTY, *Tadic case*, Judgment of the Appeals Chamber, IV part. P. 30-75, <http://www.icty.org/x/cases/tadic/acjug/en/tad-aj990715e.pdf>;
2. ICJ, *Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment of 27 June 1986, <http://www.icj-cij.org/icjwww/icas/inus/inusframe.htm>;
3. ICJ, *Corfu Channel Case (UK v. Albania)*, Judgment of 9 April 1949, <http://www.icj-cij.org/icjwww/icas/icc/iccframe.htm>;
4. ICJ, *United States Diplomatic and Consular Staff in Tehran (United States v. Iran)*, Judgment of 24 May 1980, <http://www.icj-cij.org/icjwww/icas/iusir/iusirframe.htm>;
5. ICJ, *Genocide Case*, Judgment of 26 February 2007.

Subject № 4.

International Economic Law and Human Rights

1. Concept of Human Rights in International law and its limits. Legal entities as holders of Human Rights. Legal entities as addressees of obligations under International Human Rights Law.
2. The “Protect, Respect and Remedy” Framework (2008). The UN Guiding Principles on Business and Human Rights (2011).
3. Drafting of a legally binding instrument on business and human rights (updated third draft, 2023).
4. Obligatory and voluntary human rights due diligence.
5. International investment law and protection of fundamental human rights.

Main sources:

1. UN HRCouncil, The “Protect, Respect and Remedy” Framework, 2008, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/128/61/PDF/G0812861.pdf?OpenElement>;
2. The UN Guiding Principles on Business and Human Rights, 2011, https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf;
3. Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises, OEIGWG Updated Third Draft (2023), <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/igwg-transcorp/session9/igwg-9th-updated-draft-lbi-clean.pdf>
4. OECD Guidelines for Multinational Enterprises, 2011, <http://mneguidelines.oecd.org/guidelines/>.

Additional sources:

1. Birchall D. Between Apology and Utopia: The Indeterminacies of the Zero Draft Treaty on Business and Human Rights // Suffolk Transnat'l L. Rev. Vol. 42. P. 289-326;
2. Karp D. J. Fixing Meanings in Global Governance?: "Respect" and "Protect" in the UN Guiding Principles on Business and Human Rights // Global Governance. 2020. Vol. 26. Issue 4. P. 628-649;
3. Human Rights in Transnational Business: Translating Human Rights Obligations into Compliance Procedures. Ed. by J. R.-M. Wetzels. Springer, 2016, <https://proxylibrary.hse.ru:2084/book/10.1007/978-3-319-31325-2#about>;
4. Research Handbook on Human Rights and Investment. Ed. by Y. Radi. Edward Elgar, 2018;
5. Rusinova V., Korotkov S. Mandatory Corporate Human Rights Due Diligence Models: Shooting Blanks? // Russian Law Journal. 2021. №4. URL: <https://cyberleninka.ru/article/n/mandatory-corporate> or <https://publications.hse.ru/articles/535202668>
6. Ulanova D. Causes of Action Behind Parent Companies' Accountability for Human Rights Violations in National Courts // HSE University Journal of International Law. 2024. №2(2). P. 95–112, <https://jil.hse.ru/index.php/jil/article/view/22267>

Judicial decisions and arbitral awards:

1. ICSID, Urbaser S.A. and Consorcio de Aguas Bilbao Bizkaia, Bilbao Biskaia Ur Partzuergoa v. The Argentine Republic, Case No. ARB/07/26, Award (December 8, 2016), URL: http://icsidfiles.worldbank.org/icsid/ICSIDBLOBS/OnlineAwards/C255/DC9852_En.pdf;
2. Supreme Court of Canada, Nevsun Resources Ltd. v. Gize Yebeyo Araya, Kesete Tekle Fshazion and Mihretab Yemane Tekle, *Case no 37919. Judgement of 28 February 2020*.
3. Vedanta Resources PLC and another (Appellants) v Lungowe and others (Respondents), Judgment of 10 April 2019, [2019] UKSC 20, <https://www.supremecourt.uk/cases/uksc-2017-0185.html>

Subject № 5.

International economic law and environmental protection

1. Special characteristics of sources of international economic law
2. State sovereignty over their natural resources and the responsibility not to cause transboundary environmental damage
3. Principle of cooperation in international environmental law
4. Precautionary principle in international environmental law
5. International legal protection of biodiversity
- 6.

Main source:

1. Sands P., Peel J. Principles of International Environmental Law. Cambridge University Press. 2018.

Additional sources:

1. Kuppuswamy C., Boklan D. Beyond free trade in raw materials: Reconciling international trade rules with planetary boundaries // Extractive Industries and Society. 2024. Vol. 19. Article 101481 <https://www.sciencedirect.com/science/article/pii/S2214790X24000790>
2. Boklan D., Kuppuswamy C. Defending permanent sovereignty over natural resources against the obligation to freely trade: the international legal dimension // Mineral Economics. 2024. Vol. 1. No. 1. P. 1–10. <https://link.springer.com/article/10.1007/s13563-024-00473-8>
3. Boklan D., Janusz-Pawletta B. Legal challenges to the management of transboundary watercourses in Central Asia under the conditions of Eurasian Economic Integration // *Environmental Earth Sciences*. 2017. No. 76. P. 437-1-437-13;
4. Boklan D., Korshunova A. National Security as a Foundation and a Limit on a State's Right to Rely on Permanent Sovereignty Over Natural Resources // *Kutafin University Law Review*. 2017. Vol. 4. No. 2. P. 299-314.

IV. Law and Jurisprudence of the WTO

Subject № 1.

Legal status of the WTO

1. Objectives and functions of the WTO.
2. The Marrakesh Agreement establishing the World Trade Organization.
3. Structure and Membership of the WTO.
4. Decision-making in the WTO.
5. Interpreting of WTO law.

Subject № 2.

Non-discrimination and exceptions

1. MFN under the GATT and under the GATS.
2. NT under GATT and under the GATS.
3. General exceptions under the GATT and the GATS.
4. Security exceptions under the the GATT and the GATS.

Subject № 3.

Trade in services and intellectual property rights

1. Scope of application of the General Agreement on Trade in Services (GATS).
2. The Modes of Supply under the GATS.
3. Schedules of concessions under the GATS.
4. The origins and objectives of the Agreement on Trade-Related Aspects of Intellectual Property Rights 1994 (TRIPS).

5. Scope of application of the TRIPS Agreement.

Main Sources:

1. Peter Van den Bossche, Werner Zdouc. The Law and Policy of the World Trade Organization. / Cambridge University Press, 2018;
2. Boklan D., Olga Starshinova, Amrita B. [Joint Statement Initiatives: A Legitimate End to ‘Until Everything Is Agreed’?](#) // Journal of World Trade. 2023. Vol. 57. No. 2. P. 339–360. <https://kluwerlawonline.com/journalarticle/Journal+of+World+Trade/57.2/TRAD2023014>
3. Bahri A., Boklan D. [Not Just Sea Turtles, Let’s Protect Women Too: Invoking Public Morality Exception or Negotiating a New Gender Exception in Trade Agreements?](#) // European Journal of International Law. 2022. Vol. 33. No. 1. P. 237–270. <http://ejil.org/pdfs/33/1/3238.pdf>
4. Boklan D., Bahri A. [The WTO’s Collapsing Judicial and Legislative Wings: Is ‘Consensus’ the Real Elephant in the Room?](#) // Global Trade and Customs Journal. 2022. Vol. 17. No. 2. P. 81–90. <https://kluwerlawonline.com/JournalArticle/Global+Trade+and+Customs+Journal/17.2/GTCJ2022011> Boklan D., Bahri A. [The First WTO’s Ruling on National Security Exception: Balancing Interests or Opening Pandora’s Box?](#) // World Trade Review. 2020. Vol. 19. No. 1. P. 123-136 - Режим доступа: <https://www.cambridge.org/core/journals/world-trade-review/article/first-wtos-ruling-on-national-security-exception-balancing-interests-or-opening-pandoras-box/05E969672D936A1019C0998BD189808C>;
5. Boklan D., Absaliamov V., Kurnosov Y. Are Restrictive Measures and Countermeasures Justifiable by WTO Security Exceptions: objective or subjective approach? [Electronic resource] // Moscow Journal of International Law, Volume 3, 2018, Pages 18-29. - Режим доступа: <https://publications.hse.ru/mirror/pubs/share/direct/229910210>;
6. Boklan D.S., Boklan O.S. Preliminary Ruling Request to the Panel of the WTO Dispute Settlement Body, as a Procedural Remedy for the Respondent [Electronic resource] // International Justice, Volume 3 (23), 2017, Pages 110-118. - Режим доступа: <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=CJI&n=109327#040133899619947067>;
7. Cook G. A Digest of WTO Jurisprudence on Public International Law Concepts and Principles [Electronic resource] / Cambridge University Press, 2015. – 363 p. – Режим доступа: <https://drive.google.com/file/d/1UDKTwaPF3peXZ8BboQRLXpMUbfuUl65j/view?usp=drivesdk>;
8. Final Report of the Study Group of the International Law Commission on the MFN Clause. URL: http://legal.un.org/docs/?path=../ilc/texts/instruments/english/reports/1_3_2015.pdf&lang=EN;
9. Schill S.W., Vidigal G. Reforming Dispute Settlement in Trade: The Contribution of Mega-Regionals [Electronic resource] / International Centre for Trade and Sustainable Development, 2018. - 16 p. - Режим доступа: http://e15initiative.org/wp-content/uploads/2015/09/reforming_dispute_settlement_in_trade-stephan_schill-rta_exchange-final.pdf.

Additional sources:

1. Boklan D., Belova O. Trade in electricity under WTO and EAEU Law: compatibility of two legal regimes // *Journal of World Energy Law and Business*. 2020. Vol. 13. No. 2. P. 129-140 - Режим доступа: <https://academic.oup.com/jwelb/article-abstract/13/2/129/5861496?redirectedFrom=fulltext>;
2. Boklan D., Lifshits I. Eurasian Economic Union Court and WTO Dispute Settlement Body: Two Housewives in One Kitchen // *Russian Law Journal*. 2019. No. 7 (3). P. 169-193. - Режим доступа: <https://www.russianlawjournal.org/jour/article/view/802>;
3. Boklan D.S. Eurasian Economic Union and World Trade Organization: Interrelation of Legal Regimes [Electronic resource] // – Law. HSE Journal, Volume 2, 2017, Pages 223-236. - Режим доступа: <https://law-journal.hse.ru/data/2017/07/20/1173826820/Боклан.pdf>;
4. Boklan O.S. Equivalence as a Substantive Condition of Retaliation in WTO [Electronic resource] // *Eurasian Law Journal*, Volume 6 (109), 2017, Pages 41 - 44. - Режим доступа: <http://www.eurasian-interlaw.pro/international-law/632-ekvivalentnost-kak-materialnoe-uslovie-vvedeniya-otvetnykh-mer-v-ramkakh-vto.html>;
5. Terence P. S. Disputed Court: A Look at the Challenges to (and from) the WTO Dispute Settlement System [Electronic resource] / *Global Business Dialogue*, 2017. - 28 p. - Режим доступа: <http://www.stewartlaw.com/Content/Documents/WTO%20Dispute%20Settlement%20System%20-%20Paper%20for%2012-20-17%20GBD.pdf>;
6. Trunk-Fedorova M.P. The Appellate Body of the World Trade Organization [Electronic resource] // *International Justice*, Volume 1 (25), 2018, Pages 112-121. <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=CJI&n=113096#023750380331816268>.

V. International Investment Law

Subject № 1.

Protection of Foreign Investment: Legal Framework and Scope of Applicable Treaties

1. Definition of investment and national laws, bilateral and multilateral treaties.
2. Definition of investor. Treaty structuring and abuse of process.
3. Temporal and territorial scope of protection.
4. Key mechanisms of investor-state dispute settlement. The role and status of ICSID.

Subject № 2.

Expropriation

1. Definition of expropriation. Direct and indirect expropriation.
2. Conditions of lawful expropriation: public purpose, due process, non-discriminatory nature, compensation.
3. Police powers doctrine.

4. Compensation for expropriation: standards of compensation and valuation approaches.

Subject № 3.

Standards of treatment (I): Fair and Equitable Treatment, Full Protection and Security, National Treatment and MFN

1. The plurality of standards of protection under BITs. Importance of the wording and other factors that affect interpretation.
2. Minimum standard of treatment under customary international law.
3. Fair and equitable treatment and prohibition on arbitrary measures.
4. Full protection and security.
5. National treatment and the doctrine of “like circumstances”.
6. Most-favored nation treatment, Applicability of MFN to procedural rights.

Main sources:

1. Douglas Z. The Hybrid Foundations of Investment Treaty Arbitration // British Yearbook of International Law, Volume 74, Issue 1, 2003, Pages 151-289, available at <https://proxylibrary.hse.ru:2120/10.1093/bybil/74.1.151>;
2. Elimination of TRIMS: The Experience of Selected Developing Countries, UNCTAD, 2007, available at https://unctad.org/en/Docs/iteia20076_en.pdf;
3. Paparinskis M., The International Minimum Standard and Fair and Equitable Treatment, Oxford University Press, 2013, available at <https://proxylibrary.hse.ru:4280/view/10.1093/acprof:oso/9780199694501.001.0001/acprof-9780199694501?rskey=w0XKQv&result=1>;
4. Paulsson J. Arbitration Without Privity // ICSID Review – Foreign Investment Law Journal, Volume 10, Issue 2, Fall 1995, Pages 232-257, available at <https://proxylibrary.hse.ru:2120/10.1093/icsidreview/10.2.232>;
5. Kaufmann-Kohler G., Potesta M., Can the Mauritius Convention Serve as a Model of Investor-State Arbitration in Connection with the Introduction of a Permanent Investment Tribunal or an Appeal Mechanism, 2016, available at http://www.uncitral.org/pdf/english/CIDS_Research_Paper_Mauritius.pdf.

Additional sources:

1. Douglas Z., The MFN Clause in Investment Arbitration: Treaty Interpretation Off the Rails // Journal of International Dispute Settlement, Volume 2, Issue 1, 2011, pages 97-113, available at <https://proxylibrary.hse.ru:2120/10.1093/jnlids/idq015>;
2. Kalicki J, Medeiros S., Fair, Equitable and Ambiguous: What is Fair and Equitable Treatment in International Investment Law // ICSID Review – Foreign Investment Law Journal, Volume 22, Issue 1, Spring 2007, pages 24-54, available at <https://proxylibrary.hse.ru:2120/10.1093/icsidreview/22.1.24>;
3. Mortenson J., The Uneasy Role of Precedent in Defining Investment // U of Michigan Public Law Research Paper No. 344, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2286376;

4. Repousis O., Fry J., Armed Conflict and State Succession in Investor-State Arbitration, Columbia Journal of European Law, Volume 22, 2015-2016, pages 421-456, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3013226;

5. Sinclair A., The Origins of the Umbrella Clause in the International Law of Investment Protection // Arbitration International, Volume 20, Issue 4, 1 December 2004, pages 411-434, available at <https://proxylibrary.hse.ru:2120/10.1093/arbitration/20.4.411>.

INTERNATIONAL TRADE LAW
(for students of “International trade law” track)

Subject № 1

Dispute settlement in the WTO

1. Jurisdiction of the WTO Dispute Settlement Body.
2. Stages of the WTO dispute settlement.
3. Appellate Body Crisis.
4. Enforcement of the reports of the WTO Dispute Settlement Body. Suspension of concessions.

Subject № 2

SPS and TBT measures under WTO Law

1. The scopes of application of the SPS Agreement and the TBT Agreement.
2. Harmonization obligations under Article 3.1 of the SPS Agreement. The three international standard-setting organizations in the SPS sphere explicitly recognized in the SPS Agreement. The presumption of compliance under Article 3.2. Difference between measures ‘based on’ a standard and measures which ‘conform to’ a standard’. The ‘autonomous right’ under Article 3.3.
3. The concept of ‘risk assessment’ in the SPS Agreement for food/feed-borne as opposed to other risks. The difference between ‘risk assessment’ and ‘risk management’ in international SPS standards.
4. The concept of ‘appropriate level of protection’ (ALOP) and WTO members’ obligation to establish it. The relationship between an SPS measure and an ALOP.
5. The obligations of importing and exporting WTO members under Article 6 of the SPS Agreement. The ongoing obligation under Article 6.1 and the obligation to provide ‘effective opportunity’ to make a claim under Article 6.2.
6. The legal test under Article 2.3 of the SPS Agreement. The issue of ‘relevant conditions’ in *Korea – Radionuclides*.
7. The legal test under Article 2.1 of the TBT Agreement. The *US – Clove Cigarettes* dispute: the measure at issue and panel/Appellate Body findings under Article 2.1.
8. The legal test under Article 2.2 of the TBT Agreement. The *US – Tuna II* dispute: the measure at issue and panel/Appellate Body findings under Article 2.2.

Subject № 3

Economic integration

1. Legal, economic and political reasons behind regional trade agreements proliferation. Overview of the key ongoing negotiations in relation to regional trade agreements.
2. Free trade areas, customs unions and common (single) markets: common and distinctive features, major examples.
3. Modern trends in regional economic integration. Concepts of “mega-regionals” and “deep integration”.
4. Scope of Article XXIV of the GATT. Internal and external requirements addressed to regional economic integration agreements.
5. The Enabling Clause and its operation on the modern WTO framework. Flexibilities available to less developed countries in relation to regional trade agreements.

6. Outstanding issues in the interpretation of Article XXIV of the GATT. Possibility of making regional trade agreements with non-Members to the WTO. Application of trade remedies against a regional trading partner.

7. Eurasian Economic Union: basic principles and key institutions.

Main sources:

1. P. van den Bossche, W. Zdouc. The Law and Policy of the World Trade Organisation, 5th edition (2022), Cambridge University Press, pp. 964–1080 (or the TBT Agreement and SPS Agreement chapters in 3rd or 4th editions);

2. Bartels, L., and Ortino, F., eds. Regional Trade Agreements and the WTO Legal System. Oxford: Oxford University Press, 2006. Oxford Scholarship Online, 2012;

3. Börzel, T. and Risse, Th., eds. The Oxford Handbook of Comparative Regionalism. Oxford University Press, 2016.
<https://proxylibrary.hse.ru:4334/view/10.1093/oxfordhb/9780199682300.001.0001/oxfordhb-9780199682300>;

4. *Building Global International Tax Law*, Editor Pasquale Pistone, 2022.

Additional sources:

1. Appellate Body Report, *European Communities — Measures Concerning Meat and Meat Products (Hormones) (EC — Hormones)* DS26, DS48;

2. Appellate Body Report, *United States — Measures Affecting the Production and Sale of Clove Cigarettes (US — Clove Cigarettes)*, DS406;

3. Appellate Body Report, *United States — Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (US - Tuna II)*, DS381;

4. P. Mavroidis. Driftin' too far from shore – Why the test for compliance with the TBT Agreement developed by the WTO Appellate Body is wrong, and what should the AB have done instead, *World Trade Review*, Volume 12, Issue 3, July 2013, pp. 509 – 531;

5. Kim, S. Y. Deep Integration and Regional Trade Agreements, in Martin Lisa, ed. The Oxford Handbook of the Political Economy of International Trade, Oxford University Press, 2015

<https://proxylibrary.hse.ru:4334/view/10.1093/oxfordhb/9780199981755.001.0001/oxfordhb-9780199981755>;

6. Ohkawa, T., Okamura, M. and Nomura, R. Regional Free Trade Areas and Strategic Trade Policies, Springer Japan, 2016,
<https://proxylibrary.hse.ru:2084/book/10.1007/978-4-431-55621-3#about>;

7. Rensmann, Th, ed. Mega-Regional Trade Agreements. Springer International Publishing AG, 2017. <https://proxylibrary.hse.ru:2084/book/10.1007/978-3-319-56663-4#about>;

8. Jennifer E. Farrell, The Interface of International Trade Law and Taxation, 2013, IBFD Doctoral Series. [Sample excerpt, including table of contents](#) is available at: <https://www.ibfd.org/shop/book/interface-international-trade-law-and-taxation>;

9. Starshinova, Olga. 'Is the MPIA a Solution to the WTO Appellate Body Crisis?'. *Journal of World Trade* 55,no. 5 (2021): 787–804.

10. Rovnov, Yury. 'Appropriate Level of Protection: The Most Misconceived Notion of WTO Law'. *European Journal of International Law* 31 no. 4 (2020): 1343–1377.

INTERNATIONAL DISPUTE RESOLUTION
(for students of “International dispute resolution” track)

Subject № 1.
International and Cross-Border Disputes

1. Interstate vs. transnational (cross-border) dispute resolution: main similarities and differences.
2. Main theoretical approaches to the scope of transnational litigation.
3. Jurisdiction of state courts in cross-border dispute resolution: common law vs. civil law approach.
4. Jurisdiction of international courts and tribunals: *ratione materiae*, *ratione personae*, *ratione temporis*, *ratione loci*.
5. Due Process concept in international dispute resolution: basic elements, importance and legal effects.
6. Interim and protective measures in international dispute resolution: goals, types and legal effects.
7. Enforcement of international courts and tribunals' judgments: main procedures and legal effects.
8. Recognition and enforcement of foreign judgments: legal and doctrinal basis in cross-border litigation.
9. Human Rights International Litigation: courts, parties and legal effects.
10. Legal instruments of parallel proceedings prevention in transnational litigation (*Lis Pendens* and *Res Judicata* rules).
11. Interstate dispute resolution: main features.
12. Transnational (cross-border) litigation: main features.
13. Procedure in interstate litigation: main pillars and issues.

Main sources:

1. David McClean. (2012). International Co-operation in Civil and Criminal Matters: Vol. 3rd ed. OUP Oxford;
2. Kiestra, L. (2014). The Impact of the European Convention on Human Rights on Private International Law. Den Haag: T.M.C. Asser Press. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&site=eds-live&db=edsebk&AN=846011>;
3. Richard Garnett. (2012). Substance and Procedure in Private International Law. Oxford: OUP Oxford. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&site=eds-live&db=edsebk&AN=2245010>.

Additional sources:

1. Harold Hongju Koh, The 1994 Roscoe Pound Lecture: Transnational Legal Process, 75 Neb. L. Rev. (1996) Available at: <https://digitalcommons.unl.edu/nlr/vol75/iss1/7>;

2. International Litigation in Practice (series); Loretta Malintoppi & N. Janssen Calamita (eds.); Brill / Nijhoff;
3. Burkard Hess. The public-private divide in international dispute resolution. Brill, 2018;
4. Gernot Biehler. Procedures in International Law. Springer, 2008.

Subject № 2.

International Investment Disputes

1. Key features of the modern system of investor-state dispute settlement. Key sources of substantive rights of foreign investors and the nature of these rights. The role and status of ICSID.
2. The key features of ICSID arbitration and status of ICSID awards. Arbitration under the UNCITRAL Rules and other non-ICSID arbitrations.
3. Assessment of legality / illegality of investors' behavior in investor-state arbitration
4. Damages and compensation in investor-state arbitration. Valuation approaches. Factors mitigating the amount of compensation.
5. Recognition and enforcement of investor-state arbitral awards. Annulment of awards under the ICSID Convention.
6. The ongoing process of investor-state dispute settlement reform. The role of UNCITRAL and other institutions.

Main sources:

1. Lim, C. L., Ho, Jean, & Paparinskis, Martins. (2018). International Investment Law and Arbitration. Cambridge University Press. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&site=eds-live&db=edsrep&AN=edsrep.b.cup.cbooks.9781107180338>;
2. Knahr C. (2010). Investment and Commercial Arbitration : Similarities and Divergences. Eleven International Publishing. Retrieved from <http://proxylibrary.hse.ru/login?url=https://search.ebscohost.com/login.aspx?direct=true&db=nlebk&AN=709956&site=eds-live>;

Additional sources:

1. Giorgetti C. (2014) Litigating International Investment Disputes : A Practitioner's Guide. Brill. Retrieved from <http://proxylibrary.hse.ru/login?url=https://search.ebscohost.com/login.aspx?direct=true&db=nlebk&AN=815482&site=eds-live>;
2. Tamar M. (2021). Procedural Cross-Fertilization in International Commercial and Investment Arbitration: A Functional Approach. Journal of International Dispute Settlement, Vol. 12 Issue 4, p. 585-616. Retrieved from <http://proxylibrary.hse.ru/login?url=https://search.ebscohost.com/login.aspx?direct=true&db=po h&AN=154222861&site=eds-live>;

3. Franck S.D. (2019). *Arbitration Costs: Myths and Realities in Investment Treaty Arbitration*. Oxford University Press. Retrieved from http://proxylibrary.hse.ru/login?url=https://search.ebscohost.com/login.aspx?direct=true&db=eds_ebk&AN=2075215&site=eds-live.

Subject № 3.

International Commercial Arbitration

1. International commercial arbitration: principles, forms, essential characteristics.
2. Arbitration agreement: autonomy, formal and substantial requirements.
3. Seat of arbitration: importance and consequences of choice.
4. Parties to an arbitration agreement and non-signatures in proceedings.
5. Multiparty and multi-contract arbitration.
6. Arbitration procedure: major steps.
7. Arbitration award: types, content, confidentiality, correction.
8. Challenges to an award. Recognition and enforcement of foreign arbitral awards.

Main sources:

1. *Born G. International Commercial Arbitration. Wolters Kluwer, (3d Edition), 2021;*
2. Julian D M Lew, Loukas A Mistelis, Stefan M Kroll. *Comparative International Commercial Arbitration*. The Hague, 2003;
3. Moses M.L. *The Principles and Practice of International Commercial Arbitration*. Cambridge University Press, 2017. – 432 p.

Additional sources:

1. Born G. *International Arbitration and Forum Selection Agreements: Drafting and Enforcing*. Wolters Kluwer, 2016;
2. Conrad N., Munch P., Black-Branch J. *International Commercial Arbitration. Model clauses, forms and documents – A Commentary*. Hart Publishing, 2013;
3. Burcu Osmanoglu, *Third-Party Funding in International Commercial Arbitration and Arbitrator Conflict of Interest*, *Journal of International Arbitration* Volume 32, Issue 3 (2015);
4. Peter R. Griffin, *Recent Trends in the Conduct of International Arbitration – Discovery Procedures and Witness Hearings*, 17(2) *J Int. Arb* 19-29 (2000);
5. Stavros Brekoulakis, Julian David Mathew Lew, et al. (eds), *The Evolution and Future of International Arbitration*, *International Arbitration Law Library*, Volume 37 (Kluwer Law International 2016);
6. Thomas J. Stipanowich, *Arbitration and the Multiparty Dispute: The Search for Workable Solutions*, 72 *Iowa L. Rev.* 473 (1987);
7. Wolff R. (ed.) *The New York Convention: Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958 – A Commentary*. Beck/Hart, 2012.

Subject № 4.
Contemporary problems of international dispute resolution

1. Justiciability and “Political Issue” doctrines in international dispute resolution.
2. Methods of interpretation of law by national and international tribunals; key interpretative canons. Modern textualism.
3. Concept of “Living” documents in the practice of international tribunals.

Main sources:

1. Reading Law. The Interpretation of Legal Texts by Antonin Scalia, Bryan A. Garner, Thomson/West. 2012;
2. Glanville Williams: Learning the Law, edited by A.T.H. Smith. Sweet & Maxwell. 17th Editionю 2020;
3. Galperin M. Politicising Law or Legalising Politics? Justiciability and the ‘Political Question’ Doctrine in International Justice // Human Rights Law Journal. 2020. Vol. 40. No. 1-12. P. 29-34.

Additional sources:

1. Domestic Courts and the Interpretation of International Law. Series: Developments in International Law, Volume: 72. Brill. 2020;
2. Dominic McGoldrick. The Boundaries of Justiciability. The International and Comparative Law Quarterly Vol. 59, No. 4 (October 2010), Cambridge University Press. pp. 981-1019.

Each student will get one question from the general part and one question from the special part depending on the track he/she studies.

An overall assessment formula comprises a sum total of the following variables:
 $(\text{answer to the first question}) * 0.5 + (\text{answer to the second question}) * 0.5 = \text{final grade}.$

Assessment criteria for written exam

<i>10-point scale</i>	<i>Assessment criteria</i>
10 points	The answer is characterized by clear logic and knowledge of the material far beyond the obligatory content of the discipline. Excellent understanding of each question above scope of master program. Links to academic sources are given - monographs and articles. Its own position on certain problems of international economic law has been substantiated. Outstanding knowledge of the basic terminology of international economic law, excellent knowledge of relevant case-law
9 points	All questions are answered correctly and accurately. The knowledge of the problems of international economic law is persuasively demonstrated above scope of master program. Excellent and impressive knowledge of the basic terminology of international economic law, the ability to reveal and apply the legal concepts of international economic law, excellent knowledge of relevant case-law.
8 points	The questions are disclosed quite fully and correctly. Excellent knowledge of the basic terminology of international economic law, the ability to reveal and apply the legal concepts of international economic law, knowledge of relevant case-law
7 points	The questions are fully and correctly disclosed. Good knowledge of the basic terminology of international economic law. However, some defects in the logic and content of the answers still do not allow to evaluate it as “excellent”.
6 points	The questions are disclosed rather fully and correctly. The terminology of international economic law is well understood. But there was a number of defects in the logic and content of the answers
5 points	On the whole, the answers to the questions were given correctly, but a number of serious defects in the logic and content of the answers do not allow a good assessment. The basic terminology of international economic law is understood.
4 points	On the whole, the answers to the questions are correct, but incomplete. The logic of the answers is not well built. A number of important details are missing or, on the contrary, the answer raised

	extraneous questions. The basic terminology of international economic law is generally understood.
3 points	Some fragmentary correct thoughts still do not allow a positive assessment, since there are significant gaps in knowledge and the discipline as a whole has not been mastered.

2 points

Student does not know a single question to the end, gets confused in the basic concepts of international economic law, is not able to reveal the content of the basic terms.

0-1 point

Knowledge of the discipline is completely lacking.

LIST OF TOPICS FOR STATE EXAMINATION:

GENERAL PART

1. Legal formalism (positivism) as a mainstream theory of International law: history, content, strong and weak features, and functions.
2. The New Haven School, The New “New Haven School” and International Legal Process as Theories of International law: scholars, content, strong and weak features.
3. Global governance approaches to International law (constitutionalism in International Law and ‘Global Administrative Law’): scholars, content, strong and weak features.
4. International Law and Economics approaches in International law (price theory; game theory; public choice; behavioural economics and International law): scholars, content, strong and weak features.
5. Critical Legal Studies in International law: scholars, streams, content, strong and weak features.
6. Formation and identification of international customary law.
7. Concept of the *jus cogens* norms: origin; nature; examples. The relationship between *jus cogens* norms, obligations *erga omnes* (partes, proper), diplomatic protection and *jus standi* (standing).
8. Fragmentation of International law. Principle of systemic integration. MSEN doctrine, “conflict of laws” approach and legal pluralism.
9. Monistic and dualistic approaches to the relationship between International and domestic law and their critique. Approaches of states to the relationship between International and domestic law. Ways of transformation of international norms at the domestic level.
10. International norms in the Russian legal system. The relationship between the Constitution of the Russian Federation and norms of international law. Implementation of decisions of international courts and interstate bodies in the Russian Federation.
11. Theories of Compliance with International Law (realism, liberalism and constructivism): scholars, content, strong and weak features.
12. Sources of the Law of Treaties and their correlation. The scope of application of the Vienna Convention on the Law of Treaties.
13. International treaties and non-binding agreements: notions and distinction.
14. Scope of international treaties: temporal, personal, territorial. Non-retroactivity rule and its exceptions. A ‘federal clause’ and its implications.
15. Provisional application of international treaties. Obligation not to defeat object and purpose of the treaty.
16. General rule of interpretation of international treaties. Means and methods of interpretation of international treaties.
17. Reservations and interpretative declarations: validity, objections, legal effects of reservations and objections, procedural rules applicable to reservations.
18. International treaties: validity, withdrawal, termination, suspension.
19. Subjects of International Economic Law. States as subjects of International Economic Law. Legal Criteria of Statehood. Recognition of States and their economic rights and obligations.
20. Meaning and types of jurisdiction in International law. Extraterritorial jurisdiction in International law.

21. Concept of Jurisdictional immunities of States in International law and national laws of selected States. Legal sources of jurisdictional immunities. The UN Convention on Jurisdictional Immunities and States and their property.
22. The nature and legal basis of State Responsibility. Sources of International Law of State Responsibility.
23. The conditions for State Responsibility. Responsibility for the Acts of State Organs, Officials, and others. Attribution in International Law.
24. Circumstances precluding wrongfulness. Countermeasures. Relevant practice of states and recent challenges.
25. Concept of Human Rights in International law and its limits. Legal entities as holders of Human Rights. Legal entities as addressees of obligations under International Human Rights Law. Content of the Draft of a legally binding instrument on business and human rights.
26. The “Protect, Respect and Remedy” Framework (2008). The UN Guiding Principles on Business and Human Rights (2011). Corporate human rights due diligence.
27. Interconnection between International Economic Law and International Environmental Law. Prevention of global environmental problems and transboundary environmental harm from economic activities.
28. Current inter-state economic disputes concerning environmental protection. Overview of the main case law, description of facts, main arguments and relevant conclusions.
29. Describe institutional structure of the WTO (including composition and authority of the bodies).
30. Decision-making in the WTO. Describe the process and main stages.
31. Most-favoured nation principle (MFN) under the GATT. Describe content of the principle, give examples.
32. National treatment (NT) under the GATT. Describe content of the principle, give examples.
33. Notion of “Like products” under WTO law. Describe content, give examples.
34. Notion of the “Single Undertaking” under the WTO law. Describe content, give examples.
35. General exceptions under the GATT. Provide definition, content, give examples.
36. Security exceptions under the WTO law. Provide definition, content, give examples.
37. Name and describe modes of supply under the GATS.
38. MFN treatment under the GATS (distinguish with the GATT, explain the difference).
39. NT under the GATS (distinguish with the GATT, explain the difference).
40. What are Schedules of specific commitments under the GATS? Provide definition, content, give examples.
41. General provisions and basic principles of the TRIPS Agreement.
42. Definition of investment in national laws, bilateral and multilateral treaties. Objective meaning of investment.
43. Definition of investor. Defining the nationality of foreign investors. Provide examples from case law.
44. Definition of expropriation. Direct expropriation, indirect expropriation, measures tantamount to expropriation. Conditions of lawfulness of expropriation and difference between lawful and unlawful expropriation.

45. Fair and Equitable Treatment. Correlation between FET and the minimum standard of treatment under customary international law. The doctrine of legitimate expectations. Police powers doctrine.
46. National treatment and MFN in investment treaties. The concept of like circumstances.
47. Assessment of legality / illegality of investors' behavior in investor-state arbitration
48. Damages and compensation in investor-state arbitration. Valuation approaches. Factors mitigating the amount of compensation.
49. Key mechanisms of investor-state dispute settlement.
50. Recognition and enforcement of investor-state arbitral awards. Describe possible ways and identify problems.
51. Consent of the state party to be bound by the arbitration agreement/award in investor-state arbitration. Arbitration without privity. Explain, give examples, provide case law.

INTERNATIONAL TRADE LAW

1. Understanding of Rules and Procedures Governing the Settlement of Disputes: basic principles.
2. Jurisdiction of the WTO Dispute Settlement Body.
3. Access to the WTO dispute settlement system.
4. Stages of the WTO dispute settlement.
5. Future challenges to WTO dispute settlement.
6. Appellate Body Crisis. Reasons. Possible solutions.
7. Arbitration under Article 25 of the Dispute Settlement Understanding. Multiparty Interim Appeal Arbitration Arrangement.
8. Reform of the Dispute Settlement Understanding. Main issues.
9. Interim and final panel reports. Appellate Body report. Arbitration award.
10. Enforcement of the reports of the WTO Dispute Settlement Body. Suspension of concessions.
11. The scopes of application of the SPS Agreement and the TBT Agreement.
12. The relationship between Articles 3.1, 3.2 and 3.3 of the SPS Agreement according to the Appellate Body jurisprudence.
13. The difference between 'risk assessment' and 'risk management' in international SPS standards ('the three sisters'). The role of risk management under Article 5.1 of the SPS Agreement according to the Appellate Body jurisprudence.
14. The legal test under Article 2.1 of the TBT Agreement according to the Appellate Body jurisprudence.
15. The elements of the assessment of 'necessity' under Article 2.2 of the TBT Agreement according to the Appellate Body jurisprudence.
16. Exceptions to the general MFN rule in the field of trade in goods.
17. Legal, economic and political reasons behind regional trade agreements proliferation. Overview of the key ongoing negotiations in relation to regional trade agreements.
18. Free trade areas, customs unions and common (single) markets: common and distinctive features, major examples.
19. Modern trends in regional economic integration. Concepts of "mega-regionals" and "deep integration".

20. Differences between the EU customs union and the EEA. 'Hard' and 'Soft' Brexit. Other major economic integration agreements concluded by the EU.
21. Scope of Article XXIV of the GATT. Internal and external requirements addressed to regional economic integration agreements.
22. Restrictive regulations of commerce permitted to be implemented between parties to regional trade agreements in the field of trade in goods and services.
23. WTO rules on MFN and regional trade liberalization in the field of services trade. Article V of the GATS.
24. The Enabling Clause and its operation on the modern WTO framework. Flexibilities available to less developed countries in relation to regional trade agreements.
25. Outstanding issues in the interpretation of Article XXIV of the GATT. Possibility of making regional trade agreements with non-Members to the WTO. Application of trade remedies against a regional trading partner.
26. Major international organizations and agreements with the participation of the former USSR republics. The CIS Free Trade Agreement and the trade relations between the Russian Federation and Ukraine.
27. Eurasian Economic Union: basic principles and key institutions.
28. The Court of the Eurasian Economic Union and the WTO law within the system of the legal system of the Eurasian Economic Union.
29. Parallel proceedings before international trade tribunals. Applicability of res judicata and lis pendens principles.
30. Forum shopping before international trade tribunals and international investment tribunals: key legal issues and approaches.

INTERNATIONAL DISPUTE RESOLUTION

1. Key features of the modern system of investor-state dispute settlement. Key sources of substantive rights of foreign investors and the nature of these rights. The role and status of ICSID.
2. The key features of ICSID arbitration and status of ICSID awards. Arbitration under the UNCITRAL Rules and other non-ICSID arbitrations.
3. Recognition and enforcement of ICSID awards. Annulment of awards under the ICSID Convention.
4. The ongoing process of investor-state dispute settlement reform. The role of UNCITRAL and other institutions.
5. Interstate dispute resolution: courts and tribunals, basic principles, legal effects.
6. Do you agree with the idea that there are «a classic» and «a new» generations of international courts and tribunals? Substantiate your answer.
7. International Human Rights Litigation: courts, parties and legal effects.
8. Procedures in interstate dispute resolution: legal bases and common principles.
9. Briefly describe the criteria of jurisdiction of international courts and tribunals: *ratione materiae*, *ratione personae*, *ratione temporis*, *ratione loci*.
10. Due Process and Fair Trial concept in international dispute resolution: what do they have in common?
11. Jurisdiction of domestic courts in cross-border dispute resolution: common law vs. civil law approach.

- 12.** Legal instruments of parallel proceedings prevention in cross-border litigation.
- 13.** Res judicata rules in common law and civil law jurisdictions: similarities and divergences.
- 14.** Enforcement of interstate courts and tribunals' judgments: main procedures and legal effects.
- 15.** Legal grounds for recognition and enforcement of domestic courts' judgments in cross-border disputes.
- 16.** Public policy as a ground for refusal of recognition and enforcement of arbitral awards and domestic courts' decisions in cross-border disputes.
- 17.** Strategic Litigation in International Context: origins, jurisdiction issues, impact on international law and politics.
- 18.** Professional Ethics and Conduct in International Procedure: regulation and modern trends
- 19.** International commercial arbitration: principles, forms, essential characteristics.
- 20.** Arbitration agreement: autonomy, formal and substantial requirements.
- 21.** Doctrine of separability in international commercial arbitration.
- 22.** Seat of arbitration: importance and consequences of choice.
- 23.** Parties to an arbitration agreement and non-signatures in proceedings.
- 24.** Multiparty arbitration. Multi-contract arbitration.
- 25.** Arbitration procedure: major steps.
- 26.** Arbitration award: types, content, confidentiality, correction.
- 27.** Challenges to an award. Recognition and enforcement of foreign arbitral awards.
- 28.** Justiciability and "Political Issue" doctrines in international dispute resolution.
- 29.** Methods of interpretation of law by national and international tribunals; key interpretative canons. Modern textualism.
- 30.** Concept of "Living" documents in the practice of international tribunals.