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| <b>Title</b>             | <b><u>The law of international trade and investment protection</u></b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Lecturers:</b>        | János Katona,<br>Tamás Kende,<br>György Molnár-Bíró,<br>Dávid Pusztai<br><a href="mailto:tkende@ajk.elte.hu">tkende@ajk.elte.hu</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Brief description</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Schedule</b>          | <p><b>1. 18.2.2026 Introduction to International Economic Law</b></p> <ul style="list-style-type: none"><li>- Definition and scope of international economic law; relationship with public international law</li><li>- Historical evolution of international economic institutions</li><li>- Overview of key players (WTO, IMF, World Bank)</li><li>- Overview of main fields of international economic law</li><li>- - Historical development of foreign investment regulation</li></ul> <p><b>2. 25.2.2026 Sources of investment law -Bilateral and Multilateral Investment Treaties (BITs)</b></p> <ul style="list-style-type: none"><li>- Sources of international investment law: bilateral investment treaties (BITs), free trade agreements, customary international law</li><li>- The role of policy objectives (economic development, investor protection, national sovereignty)</li><li>- Basic objectives and common provisions of BITs</li><li>- Typical structure and clauses (MFN, Fair and Equitable Treatment, expropriation)</li><li>- Investment chapters in free trade agreements (e.g., NAFTA/USMCA, CETA)</li><li>- Ongoing evolution in newer model BITs and investment chapters (e.g., “modern” approach, sustainable development, environment etc.)</li></ul> <p><b>3. 4.3.2026 Substantive Protections in International Investment Law</b></p> <ul style="list-style-type: none"><li>- Fair and Equitable Treatment Standard (FET)</li><li>- Full Protection and Security (FPS)</li><li>- Prohibition of expropriation without compensation (direct and indirect)</li><li>- Umbrella clauses</li></ul> <p><b>4. 11.3.2026 Substantive Protections in International Investment Law 2</b></p> <ul style="list-style-type: none"><li>- Prohibition of expropriation without compensation (direct and indirect)</li><li>- Umbrella clauses</li></ul> <p><b>5. 18.3.2026 Overview of Investor-State Dispute Settlement (ISDS) 2</b></p> <p><b>ICSID and Other Arbitral Institutions</b></p> <ul style="list-style-type: none"><li>- The special character of ISDS</li><li>- Key arbitration rules: ICSID, UNCITRAL, SCC, ICC</li><li>- Jurisdiction, consent, and procedural mechanisms of ISDS</li><li>- ICSID Convention: historical context, institutional structure, procedural rules</li><li>- Comparison with other arbitral forums (e.g., UNCITRAL, London Court of International Arbitration)</li></ul> |

- Dissatisfaction and reforms: criticisms and proposed alternatives, critical perspectives, including transparency, legitimacy, and regulatory chill

#### **6. 8.4.2026 The Relationship between EU Law and Investment Law and EU Investment Policy**

- Overview of the European Union's competence in investment matters (post-Lisbon Treaty)
- Termination of Intra-EU BITs
- ECT

#### **CJEU Case Law on Investment Agreements**

- The Achmea decision (CJEU) and its impact on investor-state arbitration within the EU
- Tension between EU primacy and states' international obligations under investment treaties
- Analysis of landmark rulings (e.g., Opinion 2/15, Achmea, Komstroy)
- The approach taken by EU courts toward arbitration clauses in investment agreements
- Compatibility of ISDS mechanisms with EU legal order
- Future trajectory and potential solutions for reconciling conflicts

#### **EU Investment policy**

- The evolving EU common investment policy since the Treaty of Lisbon
- EU free trade agreements with investment chapters (e.g., CETA, EU-Vietnam FTA)
- The Investment Court System (ICS) as an alternative to traditional ISDS
- Ongoing negotiations and the push for a Multilateral Investment Court (MIC)
- Control of foreign investment in the EU

#### **7. 15.4.2026 Enforcement of Investment Arbitral Awards and Reforms and Emerging Trends in International Investment Law**

- Recognition and enforcement of arbitral awards under the ICSID Convention 3
- The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards
- Grounds for refusal of enforcement in various jurisdictions
- Practical challenges: state immunity, execution against state assets
- Enforcement of intra EU awards.

#### **Reforms and Emerging Trends in International Investment Law**

- Critiques of the current ISDS model and legitimacy concerns
- Transparency in investment arbitration (UNCITRAL Transparency Rules)
- Environmental and social considerations: sustainable development clauses in modern investment treaties
- Regional approaches and the rise of alternative forms of dispute resolution

#### **8. 22.4.2026 Foundations of International Trade and the WTO, dispute settlement**

- History and crisis
- WTO structure, institutions, decision making,
- fields,
- sources of law
- principles
- fora of dispute settlement and procedures, jurisdiction

#### **9. 29.4.2026 GATT, SPS, rules of origin, exceptions**

- main provisions
- principles
- crisis and alternatives
- the emerging map of FTA-s
- SPS
- Rules of origin
- exceptions

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|                 | <p><b>10. 6.5.2026 SCM and state intervention</b></p> <ul style="list-style-type: none"> <li>- state intervention,</li> <li>- statistics and trends</li> <li>-subsidies and countervailing measures</li> <li>- dumping</li> </ul> <p><b>11. 13.5.2026 GATTs and TRIPS</b></p> <ul style="list-style-type: none"> <li>- main provisions</li> <li>- principles</li> <li>- exceptions</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Readings</b> | <p>1) The Law and Policy of the World Trade Organization Text, Cases and Materials Peter Van den Bossche Werner Zdouc, Cambridge University Press – pages indicated</p> <p>2) Principles of International Investment Law Second Edition Rudolf Dolzer and Christoph Schreuer OUP 456 o.</p> <p>3) The Oxford Handbook of International Trade Law Daniel Bethlehem, Donald McRae, Rodney Neufeld, and Isabelle Van Damme Oxford Handbooks in Law 856 o. 2009</p> <p>4) M. Herdegen: Principles of International Economic law 2ed. OUP 2016.</p> <p>5) Joost Pauwelyn: Rational Design or Accidental Evolution? The Emergence of International Investment Law</p> <p>6) Christian Tietje &amp; Clemens Wackernagel: Enforcement of Intra-EU ICSID Awards Multilevel Governance, Investment Tribunals and the Lost Opportunity of the Micula Arbitration</p> <p>7) August Reinisch: The EU on the Investment Path – Quo Vadis Europe? The Future of EU BITs and other Investment Agreements</p> |
| <b>Exam</b>     | <p>15 April, 2026 <b>Midterm paper</b> (after class) – A multiple choice test to be written in moodle in 20 minutes.</p> <p>May 20-22, 2026</p> <p><b>Term paper.</b> – An essay to be written in moodle in 72 hours. A choice of 3 subjects shall be offered. Length 20.000 characters</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |