

# Introduction to International Economic Law

Edited by Fulvio M. Palombino

With contributions from

Pierfrancesco Rossi, Domenico Pauciulo, Donato Greco,  
Giuliana Lampo, Caterina Milo, Ester Ferriello

 **Routledge**  
Taylor & Francis Group  
LONDON AND NEW YORK



G. Giappichelli Editore

First published 2025  
by Routledge  
4 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge  
605 Third Avenue, New York, NY 10158

*Routledge is an imprint of the Taylor & Francis Group, an informa business*

and by G. Giappichelli Editore  
Via Po 21, Torino – Italia

© 2025 selection and editorial matter, Fulvio M. Palombino; individual chapters, the contributors. The right of Fulvio M. Palombino to be identified as the author of the editorial material, and of the authors for their individual chapters, has been asserted in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

*Trademark notice:* Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

*British Library Cataloguing-in-Publication Data*  
A catalogue record for this book is available from the British Library

*Library of Congress Cataloging-in-Publication Data*  
A catalog record has been requested for this book

ISBN: 978-1-032-95076-1 (hbk-Routledge)  
ISBN: 978-1-003-58309-7 (ebk-Routledge)  
ISBN: 978-1-032-95073-0 (pbk-Routledge)  
ISBN: 979-12-211-1206-1 (pbk-Giappichelli)

DOI: 10.4324/9781003583097

Typeset in Simoncini Garamond  
by G. Giappichelli Editore, Turin, Italy

The title has been subjected to a peer review process prior to publication.

Printed by LegoDigit s.r.l.  
Lavis (TN) – Italy – January 2025

# CONTENTS

	<i>page</i>
<b>1. Introduction</b>	1
<i>Fulvio Maria Palombino</i>	
1.1. A Tentative Definition of International Economic Law	1
1.2. Outline of the Volume	4
References	5
<b>2. The Subjects, Actors and Sources of International Economic Law</b>	7
<i>Pierfrancesco Rossi</i>	
2.1. Introduction: The Interplay between Subjects and Sources of International (Economic) Law	8
2.2. States	9
2.2.1. The Role of States in International Economic Law	10
2.2.2. The Equality of States and Its Limits in International Economic Law	13
2.3. International Organizations	16
2.3.1. General Features of International Organizations	16
2.3.2. The Role of International Organizations in International Economic Law	18
2.3.3. The United Nations and the Global Economy	20
2.4. Private Corporations	22
2.4.1. The Status of Private Entities in International Law	22
2.4.2. The International Legal Regime on Private Corporations: Corporate Rights	25
2.4.3. The Problem of Corporate Duties under International Law	26
2.5. Non-Governmental Organizations	29
2.6. An Overview of the Sources of International Law	30

	<i>page</i>
2.7. International Treaties	32
2.7.1. The Relevance and Interplay of Treaties in International Economic Law	33
2.7.2. The Interpretation of International Economic Treaties	36
2.8. Customary International Law	38
2.8.1. Elements and Basic Features of International Customs	39
2.8.2. The Interplay between Treaties and Customs in International Economic Law	40
2.9. General Principles	43
2.9.1. General Principles Common to Domestic Legal Systems	43
2.9.2. General Principles of International Law	44
2.10. Decisions of Courts and Tribunals	46
2.11. Acts of International Organizations	49
2.12. Soft Law	50
References	53
<b>3. International Investment Law</b>	<b>55</b>
<i>Giuliana Lampo and Caterina Milo</i>	
PART I. <i>Substantive Rules on the Protection of Foreign Investments</i>	
3.1. The Sources of International Investment Law: From Customary International Law to Investment Treaties	56
3.1.1. The Conclusion of Investment Treaties: The Case of European Union Member States	60
3.2. The Object of International Investment Law: The Notion of Investment	63
3.3. The Rules on the Treatment of Foreign Investments: The Main Standards of Treatment	67
3.3.1. Expropriation and Nationalization	70
3.3.2. Fair and Equitable Treatment	76
3.3.3. National Treatment	80
3.3.4. Most-Favored Nation Treatment	83
3.3.5. Full Protection and Security	88
3.3.6. Umbrella Clauses	91
3.4. Reconciling the Protection of Foreign Investments with Other Public Interests	94
PART II. <i>The Settlement of Investment Disputes</i>	
3.5. Introduction to the Settlement of Investment Disputes: Fundamental Notions	98

	<i>page</i>
3.6. From Disputes between States to Investor-State Dispute Settlement	100
3.6.1. The International Centre for Settlement of Investment Disputes	104
3.6.2. Other Relevant Frameworks	106
3.7. Consent as the Basis of Investment Arbitration	107
3.8. Jurisdiction and Admissibility of Investment Arbitration Claims	111
3.8.1. The Scope of Jurisdiction: A Dispute Arising Out of an Investment Between the Investor and the Host State	113
3.8.1.1. Jurisdiction <i>Ratione Materiae</i>	113
3.8.1.2. Jurisdiction <i>Ratione Personae</i>	115
3.8.1.3. Jurisdiction <i>Ratione Loci</i>	115
3.8.1.4. Jurisdiction <i>Ratione Temporis</i>	116
3.9. The Laws Applicable to Investment Disputes	117
3.9.1. The Law Governing the Merits of the Dispute	118
3.9.2. The Law Governing the Arbitral Process and the Law of the Seat of Arbitration	119
3.10. The ICSID Procedure	120
3.10.1. Institution of a Claim	120
3.10.2. Constitution of the Tribunal	121
3.10.3. The Written and Oral Procedure	122
3.10.4. Conclusion of the Procedure	123
3.11. The Award	124
3.11.1. ICSID Awards	124
3.11.2. Non-ICSID Awards	127
3.12. Post-Award Remedies	128
3.12.1. ICSID Awards	128
3.12.2. Non-ICSID Awards	131
3.13. Conclusions: The Ongoing Debate on ISDS	132
References	134
<b>4. The Law of the World Trade Organization</b>	<b>137</b>
<i>Donato Greco and Ester Ferriello</i>	
4.1. Introduction	138
4.2. The Historical Origins of the WTO	138
4.3. Objective and Functions	142
4.4. Membership, Accession, and Withdrawal	143
4.5. Sources	144
4.5.1. The GATT 1994 and Other Multilateral Trade Agreements	145
4.5.2. The Single Undertaking Principle	147

	<i>page</i>
4.5.3. Plurilateral Trade Agreements	148
4.5.4. Regional Trade Agreements	148
4.6. Interpretation of WTO Law and General International Law	148
4.6.1. The Application of General International Law Norms in the WTO System	152
4.7. The Legal Value of Judicial Precedents	154
4.8. Institutional Structure	155
4.9. The WTO Dispute Settlement System	158
4.9.1. The Dispute Settlement Body	159
4.9.2. Panels	160
4.9.3. The Appellate Body	161
4.9.4. Jurisdiction: Nature and Scope	162
4.9.5. Implementation and Enforcement	164
4.9.6. A Paralyzed System: Current Challenges and Future Perspectives	167
4.10. Substantial Obligations: The Multilateralization of Internation- al Trade	169
4.10.1. The Most-Favored-Nation Treatment	170
4.10.2. The National Treatment	175
4.10.2.1. ...for Internal Taxation on Like Products	178
4.10.2.2. ...for Internal Taxation on Directly Competi- tive or Substitutable Products	180
4.10.2.3. ...for Internal Regulation	181
4.11. Derogations and Flexibilities	184
4.11.1. General Exceptions	184
4.11.2. Security Exceptions	186
4.11.3. Regional Integration	189
4.11.4. Enabling Clause	191
References	192
<b>5. International Financial Law</b>	<b>195</b>
<i>Domenico Pauciulo</i>	
5.1. Introduction	195
5.2. The G20 and the Intergovernmental Dimension of Interna- tional Financial Law	198
5.3. The International Monetary Fund	203
5.3.1. Internal Structure	204
5.3.2. The Functions of the IMF: Surveillance and Capacity Development	207
5.3.3. Lending Activities	208
5.4. The World Bank Group	211

	<i>page</i>
5.4.1. The International Bank for Reconstruction and Development	212
5.4.2. Internal Structure	214
5.4.3. The International Development Association	216
5.4.4. Functions of the World Bank: Analytics and Policy Advice	217
5.4.5. Financing Activities	218
5.4.6. The International Finance Corporation and Its Support to the Private Sector	222
5.4.7. The Multilateral Investment Guarantee Agency	223
5.5. The Relationship between the Bretton Woods Institutions and International Law	226
5.5.1. The IMF and Human Rights	231
5.5.2. The World Bank “Environmental and Social Framework”	232
5.6. Accountability of International Financial Institutions	234
5.6.1. The IMF Independent Evaluation Office	236
5.6.2. The World Bank Accountability Mechanism	238
5.6.2.1. The Inspection Panel	240
5.6.2.2. Procedural Steps before the Inspection Panel	241
5.6.2.3. The Dispute Resolution Service	242
5.6.3. The IFC/MIGA Compliance Advisory Ombudsman	244
5.7. Final Remarks	247
References	249
Index	251