

# Private and Transactional International Law at New York University School of Law

## Overview

NYU School of Law provides a rich academic environment for the study of private and transactional international law. The Law School offers a diverse array of courses, special internship opportunities, and extra-curricular activities designed to provide students with a solid foundation upon which to develop careers in the fields of private and transactional international law – in an academic, governmental, inter-governmental, or professional setting. The depth and breadth of NYU Law School’s offerings provide students with no prior exposure to the fields of private and transactional international law a forum within which to develop serious scholarly and professional interests. In addition, students with prior relevant academic/professional experience will have many opportunities to further refine and enhance their expertise.

In the central area of Private International Law, **Professor Andreas Lowenfeld** offers numerous courses and seminars, including Conflict of Laws, International Economic Transactions, International Litigation, and International Arbitration: Investment Disputes. Professor Lowenfeld, who celebrated his 40<sup>th</sup> year of teaching at NYU Law School during the Fall of 2007, possesses considerable expertise in the fields of both public and private international law, and has long advocated that the academic distinction between those two fields does not exist in practice. He was awarded the prestigious Manley O. Hudson Medal by the American Society of International Law in 2007 in honor of his prolific scholarship, outstanding achievements, and his incredible and influential contributions to the field of international law. A former Deputy Legal Advisor at the U.S. State Department, the Professor has also been a Co-Reporter of two substantial international law projects undertaken by the American Law Institute: the Restatement (Third) of the Foreign Relations Law of the United States, with primary responsibility for the Jurisdiction and Judgments and International Economic Law sections, and Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute (with Professor **Linda Silberman**), an innovative project designed to bring uniformity to existing U.S. practice with respect to foreign-country judgments. Professor Lowenfeld is also the author of International Economic Law, published by Oxford and widely recognized as the leading and most comprehensive treatise on the subject. In addition to his many scholarly activities, the Professor remains actively involved, in a professional capacity, in the fields of international arbitration and international litigation. He has served as counsel, expert, or *amicus* in some of the most prominent international law cases argued before the U.S. Supreme Court, the Iran-US Claims Tribunal, and the International Court of Justice; Professor Lowenfeld maintains a selective practice in these types of cases and is also active in the international arbitration community, both as an advocate and as an arbitrator.

**Professor Linda Silberman** also offers numerous courses and seminars in the central area of Private International Law, including Conflict of Laws, International Litigation, and International Commercial Arbitration. Professor Silberman, is a teacher, scholar, and consultant in the fields of Civil Procedure, Conflict of Laws, Family Law (Domestic and International), International Litigation, and International Arbitration. Professor Silberman has co-authored a leading casebook, *Civil Procedure: Theory and Practice*, which brings a comparative perspective to the required first-year course in Civil Procedure. In fact, in recent years, Professor Silberman has increasingly applied her expertise in procedural issues to the international arena; her efforts to that end encompass a broad set of international issues. She has participated in several Study Groups convened by the U.S. Department of State on a diverse array of private international law issues and has also been a member of numerous U.S. State Department delegations to the Hague Conference on Private International Law. During the then-ongoing negotiations at the Hague Conference to conclude a world-wide jurisdiction and judgments convention, Professor Silberman, together with Professor Lowenfeld, organized a conference with the objective of promoting an understanding of the widely divergent opinions of leading scholars and practitioners; the proceedings of this conference are published in *The Hague Convention on Jurisdiction and Judgments*. Since then, Professor Silberman has served as Co-Reporter (with Professor Lowenfeld) for the ALI project, *Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute*. The comparative methodology adopted by Professors Silberman and Lowenfeld in the ALI project was the subject of the 2006 Graveson Memorial Lecture that she was invited to deliver at King's College in London, entitled *Some Judgments About Judgments: A View from America*. Professor Silberman is also a leading figure in international family law, in particular on international child abduction. Her Hague Academy lectures, entitled *Cooperative Efforts in Private International Law on Behalf of Children* delivered in 1999, have been updated and are forthcoming in 2007. In addition, Professor Silberman teaches a course (with Professor Oscar Chase and Global Visitor Vincenzo Varano) in Comparative Civil Procedure. She is the co-author (with Professor Chase, Professor Helen Hershkoff *et al.*) of a recent book, *Civil Litigation in Comparative Context*.

**Professor Richard Hulbert** and **Professor Donald Donovan**, both members of NYU Law School's Adjunct Faculty and leading practitioners, teach courses on International Commercial Arbitration every year.

The traditional sphere of Private International Law, generally thought to encompass choice-of-law, jurisdiction, and judgments issues, has expanded significantly in response to the increasing inter-connectedness of the global community, as well as the economic forces driving globalization. Private International Law concerns are now implicated in many areas of substantive law, including commercial law and intellectual

property law. NYU Law School is home to two leading authorities on these substantive areas.

**Professor Clayton Gillette** possesses considerable expertise in the international law of commercial sales, the United Nations Convention on Contracts for the Sale of International Goods (CISG) and is a co-author, with Steven D. Walt, of the book *Sales Law: Domestic and International*. In addition to his scholarly efforts aimed at promoting an understanding of the CISG, Professor Gillette is an active participant in the debate regarding the merits of the harmonization of international sales law. He recently convened a Conference on Commercial Law Theory and the Convention on the International Sale of Goods (CISG) at the University School of Law at Villa La Pietra in Florence, Italy; the conference was attended by prominent European and American commercial law scholars whose objective it was to explore different methodological approaches for analyzing the CISG.

**Professor Rochelle Dreyfuss**, Director of the Engelberg Center on Innovation Law and Policy, has attained global recognition as a leader and innovator in the field of international intellectual property. She serves as Co-Reporter of the American Law Institute's *Project on Intellectual Property: Principles Governing Jurisdiction, Choice of Law, and Judgments in Transnational Disputes* (with Professor Jane Ginsburg, Columbia Law School, and Professor François Dessemontet). During the Summer of 2007, Professor Dreyfuss, along with her colleagues, NYU Professors Harry First and Diane Zimmerman, organized a Conference on Working Within the Boundaries of Intellectual Property Law in Florence; the objective of the conference was to compare US and European approaches to dealing with strong intellectual property rights. Professor Dreyfuss will speak on a panel entitled "Developing International Private Law: Informing and Understanding Hard Law and Soft Law" at International Law Weekend 2007, hosted by the American Branch of the International Law Association.

**Professor Kevin Davis** teaches a course entitled Financing Development, which introduces students to the funding mechanisms designed to support global development. His scholarship focuses on the commercial and financial law aspects of law and development and related issues of governance. He has particular expertise on Caribbean and small-island economies and politics. Professor Davis is co-author of a major study of these issues with Michael Trebilcock (2005), and has also written an economic analysis of the OECD Anti-Bribery Convention.

Other faculty members whose scholarship and practice often inter-twine with the fields of private and transactional international law include Professor Harry First, Director of the Law School's Trade Regulation Program; Professor Eleanor Fox, an expert in the field of international antitrust expert and recipient of the American Foreign Law Association's 2007 Distinguished Service Award in honor of her dedication to scholarship and education in the field of international and comparative law; and

Professor Geoffrey Miller, Director of the Center for the Study of Central Banks at NYU Law School.

To complement the efforts of its “in-house experts”, NYU Law School reaches out to prominent private international law scholars every year and invites them to visit as members of the Global Faculty. These members of the Global Law Faculty, in turn, become part of the intellectual life at the Law School, engaging with faculty and students, and enhancing the depth and breadth of its Private International Law offerings. Most recently, this list has included **Professor Werner Ebke** (University of Heidelberg); **Professor Mario Giovanoli** (University of Lausanne); **Professor Franco Ferrari** (University of Verona); **Professor Catherine Kessedijan** (University of Paris II - Panthéon-Assas); and **Professor Janet Walker** (Osgoode Hall).

## **Student Perspectives**

### **Jocelyn L. Burgos, NYU LLM (International Legal Studies) 2006**

“My participation in NYU Law School’s premier Private International Law program has been my most enriching intellectual experience, and has re-shaped my academic and professional interests. One year was not nearly a long enough period of time to take advantage of all that the school has to offer. Indeed, after completing my LLM studies – during which I had the opportunity to study Conflict of Laws and International Economic Transactions with Professor Andreas Lowenfeld, International Litigation with Professor Andreas Lowenfeld and Professor Linda Silberman, and to participate in NYU’s 2005-2006 Willem C. Vis International Commercial Arbitration Moot – I stayed on at the Law School for an additional year as a Research Fellow. During that time, I had the privilege of working closely with both Professor Silberman and Professor Lowenfeld, both powerhouses in the field of private international law. The Professors involved me in every aspect of their academic and professional endeavors, thus enhancing the expertise I had developed as an LLM student. It was immensely gratifying to see the issues I had studied in the classroom come to life in such a meaningful way, and to work so closely with two individuals whose efforts continue to shape the landscape of private international law. My advice to students – your time at NYU will pass more quickly than you can imagine, so avail yourselves of these unparalleled opportunities!”

### **Rashida A. Allie, NYU LLM (International Legal Studies) 2007**

“My studies at NYU Law School provided me with an outstanding introduction to private international law, especially Professor Lowenfeld’s International Economic Transactions and Professor Hulbert’s International Commercial Arbitration. My participation in these classes and the knowledge I have acquired as a consequence have proven key in helping to promote myself to the commercial Bar in London. Without doubt, my experience at NYU has been key in solidifying my choice to pursue a career involving international commercial issues.”

### **Flavio Foz Mange, NYU LLM (International Legal Studies) 2007**

“Working toward an LLM at NYU Law School provided me with both substantive knowledge and practical experience in core areas for an attorney interested in dispute resolution on a transnational level -- Conflicts of Laws, International Law, International Commercial Arbitration, and Contracts for LLM Students.

I had the opportunity to attend classes that were far more interactive than my classes back home. For example, Professor Lowenfeld structured his Conflict of Laws class so that we would learn to think critically about the topics of discussion and not just attempt to learn a set of principles. I also had the opportunity to participate in seminars -- such as International Litigation -- that are designed to simulate real-life disputes by

having students present written briefs and oral arguments, and to be part of the team that represented NYU at the Willem C. Vis (East) International Commercial Arbitration Moot in Hong Kong.

These opportunities, without a doubt, helped me to define and then achieve my career goal of entering the field of international commercial arbitration.”

**NYU JD 2008 (Anonymous until after graduation)**

“What a privilege it is to study private international law at NYU. My course selections in conflict of laws, international commercial and investment arbitration, international sales law and international litigation are just a few of NYU’s many offerings. From seminars on settling international business disputes with China, to competing in the Vis International Commercial Arbitration Moot in both Vienna and Hong Kong, NYU Law has given me more opportunities than fit into a three-year JD program. We are truly spoiled for choice!”

# People

## Full-Time Faculty

### **Kevin E. Davis**

Professor Davis joined the NYU School of Law as Professor of Law in 2004. He is a member of the Faculty Advisory Committee for NYU Law School's Institute for International Law and Justice. In addition to his courses on Contracts, Law and Development, and Secured Transactions, Professor Davis teaches a seminar on Financing Development, designed to introduce students to the types of transactions used to promote development and infrastructure in the global community. His current research is focused on commercial law and the general relationship between law and economic development.

### **Andreas F. Lowenfeld**

#### **Herbert and Rose Rubin Professor of International Law**

Professor Lowenfeld recently received the prestigious Manley O. Hudson medal at the 101<sup>st</sup> Annual Meeting of the American Society of International Law for his prolific scholarship and outstanding contribution to the field of international law. Thus far, Professor Lowenfeld has written 18 books, 115 articles, and 34 book reviews on such diverse topics as: aviation law, conflict of laws, international economic law, and international litigation and arbitration. He has also served as counsel, expert, or *amicus* in some of the most prominent international law cases before the U.S. Supreme Court, the Iran-US Claims Tribunal, and the International Court of Justice. In addition, he was Associate Reporter for the American Law Institute's *Restatement (Third) of the Foreign Relations Law of the United States*, with primary responsibility for Part IV, Jurisdiction and Judgments, and Part VIII, International Economic Law. More recently, he served as co-Reporter (with Professor Silberman) for the ALI's project on *Recognition and Enforcement of Foreign Judgments: Analysis and Proposed Federal Statute*. According to Professor Lowenfeld, in order to become "a good international lawyer," one must focus on the fundamental skills required to become "a good lawyer." Professor Lowenfeld endeavors to teach his students these skills, in addition to substantive legal principles, when they enroll in any of his numerous courses and seminars.

### **Linda J. Silberman**

#### **Martin Lipton Professor of Law**

Professor Silberman is a leading scholar and practitioner in the fields of U.S. and comparative civil procedure, private international law/conflict of laws, international dispute resolution, and domestic and international family law. After graduating law school, she was a Fulbright Scholar in London. As a Fulbright Scholar, Professor Silberman conducted a study of English masters and wrote a lengthy comparative piece

on U.S./English practice with respect to masters and magistrates under the supervision of the late Sir I.H. (Jack) Jacob. After firmly establishing her pre-eminence as a teacher and scholar of U.S. civil procedure, Professor Silberman turned her attention to the procedural issues that arise in the international arena; her casebook, *Civil Procedure: Theory and Practice* (with Allan Stein and Tobias Wolff), introduced a comparative dimension to the first-year Civil Procedure course. Since then, she has participated in several Study Groups convened by the U.S. Department of State on a diverse array of private international law issues and has also been a member of numerous U.S. State Department delegations to the Hague Conference on Private International Law. She is a member of the Association of the Bar of the City of New York's International Commercial Disputes Committee; she sits on the Editorial Board of the Journal of Private International Law; and she writes extensively on a diverse array of private international law issues - from international jurisdiction and comparative recognition/enforcement of foreign judgments to substantive issues in international family law. Professor Silberman also has substantial litigation experience; she was Professor-in-Residence at the U.S. Department of Justice, Appellate Staff, Civil Division, and has been both expert and counsel in a number of important cases in both the U.S. and abroad, including the Iran-U.S. Claims Tribunal.

## **Clayton P. Gillette**

### **Max E. Greenberg Professor of Contract Law**

Professor Gillette possesses considerable expertise in the law of commercial sales, both domestic (the UCC) and international (the CISG). In addition to his scholarly efforts aimed at promoting an understanding of the CISG, Professor Gillette is an active participant in the debate regarding the merits of the harmonization of international sales law. He is an active member of the Association of the Bar of the City of New York's Uniform State Laws Committee; in addition, he recently organized a Conference on Commercial Law Theory and the Convention on the International Sale of Goods (CISG) at the University School of Law at Villa La Pietra in Florence, Italy; the proceedings of the conference are available in the *International Review of Law and Economics* 25 (2005). Professor Gillette will be teaching a course in international sales law as a Visiting Professor at Tel Aviv University in late 2007.

## **Rochelle Cooper Dreyfuss**

### **Pauline Newman Professor of Law**

Professor Dreyfuss is the Director of the Engelberg Center on Innovation Law and Policy at NYU School of Law. She is widely recognized as one of the world's leading experts in intellectual property law. Professor Dreyfuss is a member of the American Law Institute and serves as a Reporter for its *Project on Intellectual Property: Principles Governing Jurisdiction, Choice of Law, and Judgments in Transnational Disputes*, which was recently approved by the Institute for publication in 2008. Professor Dreyfuss has spoken about the ALI Project at numerous international conferences, including three in

Japan during 2006: one at Waseda University, one for the Japanese International Private Law Society, and one for the Japan Intellectual Property Association. Professor Dreyfuss is the editor (with Harry First and Diane Zimmerman) of the Oxford volume, Expanding the Boundaries of Intellectual Property: Innovation Policy for the Knowledge Society (publication forthcoming).

## **Adjunct Faculty**

### **Donald F. Donovan**

Professor Donovan, a partner with Debevoise & Plimpton LLP, teaches a course in International Arbitration at NYU Law School in the Fall semester. He concentrates his practice in international disputes before courts in the United States, international arbitration tribunals, and international courts. Based on surveys of other practitioners, Professor Donovan was recently identified as one of the ten leading international arbitration practitioners in the world by *Chambers Global* (2006), one of the five leading international arbitration practitioners in the United States in *Chambers USA* (2006), and one of the nine leading litigators in New York in *Dispute Resolution Handbook 2004/05* (Practical Law Company 2004); he was recently described in *Who's Who Legal: Commercial Arbitration* (IBA 2006) as "an absolute star," and in *Chambers USA 2006* as "'an energetic visionary with creative flair' whose strong background in public international law is evidenced by his regular appearances at the ICJ." Professor Donovan was recently awarded, along with his partner David Rivkin, the first "Chambers Award of Excellence in International Arbitration." More recently, for his achievements in both international arbitration and international human rights, Professor Donovan was awarded the Premio Nacional de Jurisprudencia by the Mexican Bar Association, the first non-Mexican so honored.

### **Richard W. Hulbert**

Professor Hulbert, Senior Counsel and former Managing Partner of the New York office of Cleary Gottlieb, co-teaches a course in International Commercial Arbitration with Professor Linda Silberman in the Spring semester. He served as a Vice Chairman of the International Court of Arbitration of the International Chamber of Commerce from 1994 through 1999. His practice has focused on domestic and international litigation and arbitration; his articles in these areas are widely published. Professor Hulbert is a member of the American Law Institute and serves on several committees on arbitration.

## **Global Faculty**

### **Werner F. Ebke**

Professor Werner Ebke is a chaired professor of German and European Corporate Law at the University of Heidelberg School of Law. He also serves as director of the Law School's Institute of German and European Corporate and Business Law. Prior to joining the faculty at the University of Heidelberg, he was a chaired professor of Civil Law, Business Law, and Tax Law at the University of Konstanz School of Law. Professor Ebke has published several books and almost 200 law review articles -- in English, German, French and Spanish -- on various aspects of corporate and business law, financial accounting, auditing and securities laws, conflict of laws and taxation. He is a member of the American Law Institute and an internationally recognized and sought-after arbitrator. He has also served as non-executive director of companies in Germany, the United States of America and South Africa. Since 2005, Professor Ebke has served on the Board of Directors of the Foundation Lindau Nobel Prize Winners Meetings at Lindau am Bodensee (Lake Constance), Germany.

### **Franco Ferrari**

Professor Ferrari is a chaired professor at Verona University School of Law. He has also held chaired positions at Tilburg University in the Netherlands and at Bologna University. Professor Ferrari has served as a member of the Italian delegations to several sessions of the United Nations Commission on International Trade Law (UNCITRAL). He has also served as Legal Officer at the United Nations Office of Legal Affairs, International Trade Law Branch, with responsibility for numerous projects, including the preparation of *The Draft UNCITRAL Digest and Beyond: Cases, Analysis and Unresolved Issues in the U.N. Sales Convention*. Professor Ferrari has published over 120 law review articles in various languages and nine books in the areas of comparative law, private international law, and international commercial law. He is a member of the editorial board of several peer-reviewed European law journals, including *Internationales Handelsrecht*, *European Review of Private Law*, *Contratto e impresa*, and *Revue de droit des affaires internationales*.

### **Catherine Kessedijan**

Professor Kessedijan is a professor at the University of Paris II (Panthéon-Assas). She has served as Deputy Secretary-General of the Hague Conference on Private International Law, with responsibility for a wide variety of projects, including the proposed worldwide Convention on Jurisdiction and Judgments and background reports for a study on international internet and e-commerce regulation. Professor Kessedijan is a member of the American Law Institute and is an adviser on several ALI projects. She has published over 90 books and articles on all aspects of private international law and dispute resolution. Professor Kessedijan was also a practicing lawyer in Paris for many years, a Founding Director of ArbitralWomen, and has been

active in the International Bar Association. Professor Kessedijan is an active member of the International Law Association, and presently chairs the committee on International Civil & Commercial Procedure: Public interest in Private Litigation.

## **Janet Walker**

Professor Walker currently teaches Conflict of Laws and International Dispute Resolution at Osgoode Hall Law School. At Osgoode, she has served as Associate Dean; Director of the Part-time LLM in Litigation and Dispute Resolution; Convener of the Litigation, Dispute Resolution and the Administration of Justice Stream; and Director of the Mooting Program. Professor Walker has also taught Conflict of Laws as a special lecturer in Wuhan and Xi'an, as a visitor in Melbourne and Haifa, as a Foreign Research Professor in the Masters Program in Common Law at Tunis II for past five years, and as a visitor at the University of Toronto. In 2005, she gave a series of lectures at The Hague Academy of International Law on "Federalism, Regionalism and the Evolution of the Conflict of Laws." Professor Walker, who is active in the international arbitration community, has written numerous articles on the subject of cross-border litigation and arbitration, and is the author of *Castel and Walker: Canadian Conflict of Laws*, the General Editor of *The Civil Litigation Process (6th ed.)*, a co-author of *A Practical Guide to Mooting*, and the author of the forthcoming Halsbury's Laws of Canada volume on the *Conflict of Laws*.

# Curriculum

## Representative Courses

(Not all courses are offered every year)

### Professor Davis

#### Financing Development

It is widely believed that in the context of the developing world access to capital is one of the crucial determinants of prosperity. Through close study of specific transactions this seminar will explore legal and economic aspects of some of the distinctive channels through which capital tends to flow to the inhabitants of developing countries. The types of transactions examined will include sovereign lending, project financing, development banking, and micro-lending. In addition to canvassing the relevant academic literature, for each type of transaction we will review examples of the supporting documentation and, in some cases, hear from actual participants. Students will be evaluated on the basis of: an in-class presentation of their analysis of a specific transaction (which may be done as part of a group); written comments upon other students' presentations; a 12-15 page paper; and, classroom participation.

### Professor Donovan

#### International Arbitration

This course will examine the law and practice of international arbitration. We will spend the first class on an introduction to the field. We will then look more closely at the intersection of international law, national law, and private contract that makes up the governing legal regime. Finally, we will consider the arbitral process itself and the rules and standards that govern the process.

### Professor Dreyfuss

#### International Intellectual Property Law

In the information society, intellectual property plays an important role. While intellectual property law is still based on exclusive rights granted by national law, the internet and the globalisation of the economy have made the exploitation of intellectual property rights international. The course will examine the existing framework for international intellectual property protection, including the roles of the World Intellectual Property Organisation (WIPO) and the World Trade Organization (WTO) and the core international agreements--the Paris and Berne Conventions, the Patent Cooperation Treaty, the Madrid Agreement, and the TRIPS Agreement. It will discuss the wisdom of harmonization, issues related to parallel importation, and access to essential medicines. Litigation issues, such as question of applicable law, conflict of laws, and consolidated litigation, will also be explored.

## **Professor Ebke**

### **Comparative Corporate Law: U.S. and European Union**

The course focuses, on a comparative basis, upon the modern law of corporations in the United States and the European Union. Emphasis will be on the substantive law of corporations, but procedural issues (e.g., jurisdiction, derivative law suits and class actions) and conflicts of laws will also be dealt with. The role of securities laws in regulating business enterprises and controlling corporate management will also be reviewed. In addition, methods and techniques concerning the harmonization of the law of corporations in multi-jurisdictional legal systems such as the United States and the European Union will also be studied. In view of the fact that modern American and European corporation law can be most effectively studied and compared in the context of a specific set of statutes, the course is based upon uniform and model acts such as the Revised Model Business Corporation Act and Statute of a European Company.

### **Workshop for Diploma in Corporate and Commercial Law**

The course will focus on selected topics of comparative corporate law and corporate governance. Students will present their paper on an assigned topic in class and discuss it with their fellow students and the instructor. In addition, students will be invited to attend special lectures by professor, attorneys and accountant to improve their knowledge of the pertinent law and its practical implications.

### **Global Financial Disclosure (with Professor Siegel)**

This seminar will involve comparative discussion of financial disclosure systems in use around the world. Much of our study will be centered on comparing U.S. Generally Accepted Accounting Principles (GAAP) with the International Accounting Standards (IAS) followed in most of the rest of the world. We will also study developments in auditing and government regulation, as well as the implications of recent accounting frauds. Students will be expected to prepare a paper, which -- upon advance approval of the instructors -- may be the basis for total credit (including independent research) of 2 credits for the seminar and the paper. Students are encouraged to discuss paper topics in advance with Prof. Siegel.

## **Professor Ferrari**

### **International Commercial Sales**

This course will focus in detail on the UN Convention on Contracts for the International Sale of Goods, governing international commercial sales in the US and abroad. The objective of this course is to give participants an overview of the (different) ways in which this Convention has been applied by judges and arbitrators throughout the world, thus giving participants the tools to draft international import/export agreements favorable to their future clients. Participants will be given hypothetical cases and will be asked to critically examine the different substantive solutions proposed by courts and arbitrators. As the convention does not deal with all the

problems that may arise out of international commercial sales, the course will also deal with the issue of how to fill the gaps left by this Convention.

### **The Theory of Uniform Law in Europe and Beyond**

During the last century many efforts have been made towards the unification of commercial law, both on a regional and a global level; this course explores the possibility of elaborating a coherent theory that is able to explain and possibly link all of those efforts. The first part of the course is devoted to the “when, why and how” of the unification of commercial law; the second part will more critically look at the relationships between the various unification efforts; it will also focus on the relationship between those unification efforts and forum shopping which those unification efforts purportedly try to prevent. Through the analysis of case law from various European and non-European countries relating to various instruments of unification, the course will try to show that unification of law only partially reaches its goals, and that forum shopping will always be available to practicing lawyers everywhere.

### **Professor Giovanoli**

#### **Selected Issues of International Payments and Financial Law**

Significant cases and issues of interest for international financial and monetary relations will be examined, with special emphasis on their impact on the development of international financial law and regulation. In particular, the following topics will be covered: international payments, payment and settlement risk, payment systems and book-entry securities, official freezes and third-party attachment of bank assets, gold and other value clauses and currency baskets, dormant accounts, banking secrecy and the fight against money laundering and terrorist financing, international banking supervision and liability of supervisors. Each student will be required to write a comment on a case and to present it in class.

#### **International Monetary Law**

Provides a broad overview of major legal issues connected with both official and private international monetary relations. Part I (on money and currency) will include topics such as the concept and status of money and currency under domestic and international law, the position of central banks, the evolution (and associated legal implications) from the Bretton Woods international monetary system to a market-led global financial system, international monetary institutions (IMF, BIS) and standard-setting bodies (FSF, Basel Committee...), the process of international financial standard-setting and implementation, regional currency areas and monetary unions, sovereign debt legal issues. Part II (on monetary obligations) will focus on legal aspects of international payments and credit transfers, foreign money obligations, indexation and value clauses including with respect to structured instruments, how international payments may be affected by third-party attachments, governmental and international sanctions, freezes and other administrative or judicial measures.

## **Professor Gillette**

### **Commercial Sales: International and Domestic**

This course examines the law governing the domestic and international sale of goods as regulated by the Uniform Commercial Code and the UN Convention on Contracts for the International Sale of Goods (CISG). The course will emphasize the use of statutory default rules to define the commercial relationship and to allocate commercial risks. There will be explicit consideration of how legal doctrines distinguish among different types of commercial relationships, e.g., long-term contracts versus one-shot, discrete transactions. Specific topics include acceptance and rejection of goods, contract interpretation in business transactions, warranty liability, damage rules, risk of loss, and commercial impracticability. We will compare how the UCC and the CISG deal with these issues. We will also pay particular attention to long-distance transactions and the use of “rolling” contracts in Internet and other consumer transactions.

## **Professor Kessedijan**

### **International Commercial Transactions**

International commerce is based on special methods of contracting and drafting agreements. The objective of this class is to give students a toolbox for drafting international commercial agreements taking into account the difference in culture and legal systems (mostly between the United States and Europe but with some indications of other systems). Students will be given a hypothetical case and will be asked to draft the most important clauses of an agreement. Their drafts will be inspired by the materials distributed for the class, including the Vienna Sales Convention, the UNIDROIT Principles on International Commercial Contracts, ICC Model contracts and real life contracts. Based on the drafts, discussion will be developed in class on each of the clauses, their practical and legal consequences. Emphasis will be put on contract coherence and strategies.

### **Rule Making in a Global World**

In the world we live in today, norms are created by all sorts of different bodies and no more by States only. They are created at different geographical levels: global, regional and local, hence engendering potential conflicts. We are also concerned with norms that are not only legal but also infra-legal or supra-legal such as standards or ethics. This seminar will essentially look at the rule making processes, starting with the actors, looking at the methods by which the norms are created, studying how the different interests at stake are being incorporated or not into the norms. Legal pluralism will also be discussed, together with the texture of the norms and a potential hierarchy to be established between the norms. Examples will be drawn from all kinds of activities, be it commercial law, investment law, dispute resolution mechanisms and, if students are interested, even family law.

## **Internet Contracts**

Internet has caused much turmoil in the law. Some would argue that the law must be dramatically changed, when others would plead for some adaptation, only if absolutely necessary. New legislation has been proposed in many countries, particularly in Europe where the electronic commerce directive causes difficulties. The ICC and many international organizations, such as the OECD or UNCTAD, have issued recommendations or guidelines. UNCITRAL has adopted a model law and hosts an ongoing working group which discusses current issues in internet law. Consumer contracts over the internet pose another array of difficulties. All these issues and other will be discussed in light of the most recent domestic and international sources.

## **Professor Lowenfeld**

### **Conflict of Laws: Private International Law**

This course will explore the legal consequences of transactions touching on more than one state or nation. Looking at litigation concerning torts, contracts, property, decedent estates, family law, and regulatory law, the course will address choice of the applicable law, bases of judicial jurisdiction, and recognition of foreign judgments. Special attention will be placed on comparison between approaches within the American federal system and within the European Union.

### **International Arbitration: Investment Disputes**

The course will cover the law and practice of international arbitration, focused on investor-State disputes under NAFTA, ICSID, WTO, and other controversies involving governments. While the leading judicial decisions will be addressed, the emphasis will be on arbitration itself, rather than what courts have to say about arbitration. The first nine weeks will be devoted to readings and discussion concerning the reasons for increasing resort to arbitration in international transactions; the evolution of arbitration in Anglo-American and international law; provisional remedies; drafting and enforcement of agreements to arbitrate; defenses to arbitration and arbitrability; selection of arbitrators and the task of arbitrating; procedure in arbitration; the arbitral award; and recognition and enforcement of arbitral awards under international treaties and national law. The last five weeks of the course will be devoted to conduct of actual cases, with students writing briefs, conducting hearings, giving testimony, or drafting awards.

### **International Economic Transactions: The Private and Public Aspects of International Trade**

The course will explore both the private law and the public law aspects of international trade. The first third of the course will focus on documentary sales, excuse for non-performance, settlement of disputes, and letters of credit in commercial transactions. The second two thirds of the course will focus on the public international law of international trade, as embodied in the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) as well as regional agreements such

as the European Union and the North American Free Trade Agreement (NAFTA). The course will explore the distinctions between fair and unfair trade, definitions and remedies concerning dumping, subsidies, safeguard and similar measures, and the devices for international settlement of trade disputes.

### **International Economic Transactions: International Trade and Investment**

The first part of the course will focus on the public international law of international trade, as embodied in U.S. legislation, the General Agreement on Tariffs and Trade (GATT), the World Trade Organization (WTO), and the North American Free Trade Agreement (NAFTA). Looking primarily at Japan, the European Community, and the United States, the course will explore the distinctions between fair and unfair trade, and definitions and remedies concerning dumping, subsidies, safeguards, voluntary restraint agreements and similar practices. The second part of the course will focus on the changing attitudes toward international investment and multinational enterprises, including investment in developing countries, the role of the World Bank, the spread of Bilateral Investment Treaties, and the investment provisions of the North American Free Trade Agreement (NAFTA). Both parts of the course will emphasize the interrelation between legislation (national and international) and the opportunities and techniques of dispute settlement.

### **International Economic Transactions: International Investment and Finance**

The course is an introduction to International Economic law, focused this semester on investment and the international monetary system. The first part of this course will focus on the changing attitudes toward international investment and multinational enterprises, including investment in developing countries, the role of the World Bank, the spread of Bilateral Investment Treaties, and the investment provisions of the North American Free Trade Agreement (NAFTA). The second part of the course will focus on the international monetary system, including the evolution of the International Monetary Fund, the debt of the developing countries, and remedies for monetary crises in Latin America, Southeast Asia, and the former Soviet Union, as well as the creation of the European Monetary Union.

## **Professor Silberman**

### **Conflict of Laws: Private International Law**

This course is important for anyone interested in domestic or international litigation and in private international law more generally. It explores the legal consequences of transactions touching on more than one state or nation. In subjects that range from contracts and torts to family law and decedents' estates, the course concentrates on the appropriate law that applies to such matters. It examines the rules governing choice of law, judicial jurisdiction, and recognition of judgments as developed in the interstate context and explores their application in the transnational setting. Included are important issues involved in international litigation, such as the reach of U.S. securities and antitrust laws, choice-of-court and arbitration clauses, and the recognition and

enforcement of foreign country judgments. Comparative aspects relating to jurisdiction and judgments as embodied in the EU regulation are also included. Current choice-of-law issues involving e-commerce, the internet, and class actions will be covered.

### **Comparative Civil Procedure (with Professor Oscar Chase and Professor Vincenzo Varano)**

The goal of this course is to acquaint students with the principal rules and practices of civil procedure used in the major legal systems, the problems faced by these systems, and contemporary efforts to reform and improve them. We will study examples from many of the world's legal systems including, among others, the U.S., the U.K., Continental Europe, and East Asia. Among the specific issues we will examine are: jurisdiction over the parties, organization of courts and the bar, "first instance" proceedings, obtaining and proving facts, summary proceedings and provisional remedies, appellate processes, and the prospects for the harmonization of procedure. The course will satisfy the Part B Writing Requirement. Students will be required to write short papers during the semester that reflect the assignments for particular classes and a longer paper that will be due at the end of the exam period.

## **Seminars**

### **Professor Ebke**

#### **Global Financial Disclosure (co-taught with NYU Law Professor Stanley Siegel)**

This seminar will involve comparative discussion of financial disclosure systems in use around the world. Much of our study will be centered on comparing U.S. Generally Accepted Accounting Principles (GAAP) with the International Accounting Standards (IAS) followed in most of the rest of the world. We will also study developments in auditing and government regulation, as well as the implications of recent accounting frauds. Students will be expected to prepare a paper, which -- upon advance approval of the instructors -- may be the basis for total credit (including independent research) of 2 credits for the seminar and the paper. Students are encouraged to discuss paper topics in advance with Prof. Siegel.

### **Professor Lowenfeld and Professor Silberman**

#### **International Litigation**

The course explores in a litigation context current developments in international law, public and private, civil procedure, international arbitration, and comparative law and procedure. The first part of the course is devoted to readings and discussions of international transactions, including jurisdiction to prescribe, jurisdiction of courts, enforcement of judgments, litigation with governments, transnational discovery and the relative merits of adjudication and arbitration. The second part of the course is devoted to litigation of actual pending cases, with students preparing briefs, conducting oral

arguments, and serving as judges or arbitrators. The seminar is most successful with a mixture of foreign and U.S.-trained participants, and an effort will be made to achieve an approximate balance. The grade will be based on class participation, work on a substantial appellate brief, oral argument, and service as judge.

## **Professor Silberman and Professor Hulbert**

### **International Commercial Arbitration**

The course covers the basics of the law and practice in international commercial arbitration, including drafting arbitration clauses in international transactions and enforcement of arbitral agreements; preparing and presenting cases before arbitral tribunals, including issues of witnesses, experts, discovery and evidence; recognition, enforcement and setting aside of arbitral awards; the course reviews the major international arbitral institutions and their latest rules of procedure; reviews court decisions on arbitration, and the relationship between international arbitration and national court systems; analyzes the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and other bilateral treaties and conventions dealing with international arbitration.

## **Professor Walker**

### **International Litigation**

The seminar explores in a litigation context current developments in international law, public & private, civil procedure, international arbitration, and comparative law and procedure. The first part of the term is devoted to readings & discussions of international transactions, including jurisdiction to prescribe, jurisdiction of courts, enforcement of judgments, litigation with governments, transnational discovery and the relative merits of adjudication & arbitration. The second part of the term is devoted to the litigation of cases, with students preparing briefs, conducting oral arguments, and serving as judges or arbitrators. Grades are given for briefs and judgments and for participation in the seminar as this reflects engagement with the issues (and not merely oral advocacy skills). The seminar is most successful with a mixture of foreign and US-trained participants as this permits students to bring their experiences of other legal systems and other perspectives to bear on the issues.

NYU Law School, in partnership with the National University of Singapore, also maintains an active program of courses and events in Singapore for NYU@NUS students.

# Extra-Curricular Activities

## Willem C. Vis and Vis (East) International Commercial Arbitration Moot

This Moot is named after the late Willem Cornelis Vis, Executive Secretary of the Vienna Diplomatic Conference that created the UN Convention on Contracts for the International Sale of Goods (CISG). The goal of the Vis Moot is to foster the study of international commercial law and arbitration for resolution of international business disputes through its application to a concrete problem of a client and to develop the requisite skill set for a successful career in the fields of international commercial law and international commercial arbitration.

It is a clinical exercise designed to train law students through two crucial phases: the writing of memorandums for claimant and respondent and the hearing of oral argument based upon the memorandums -- both settled by prominent arbitration practitioners and scholars in the issues considered. The oral and written exercises require determining questions of contract -- flowing from a transaction relating to the sale or purchase of goods under the United Nations Convention on Contracts for the International Sale of Goods and other uniform international commercial law -- in the context of an arbitration of a dispute under specified Arbitration Rules.

The Vis Moot is a truly international competition; it brings together law students from over 150 law schools from nearly every continent. The cast of arbitrators is truly outstanding - hundreds of world-class practitioners and renowned scholars from both civil- and common-law jurisdictions judge the Moot every year. In the pairings of teams for each general round of the oral and written advocacy exercises, the Moot organizers strive to have participants trained in civil law jurisdictions argue against those trained in common law jurisdictions. The idea is that the participants can learn first-hand about the approaches taken by persons trained in another legal tradition. Similarly, the teams of arbitrators judging each round are from both common law and civil law backgrounds. The competition provides an unparalleled personal and professional experience; students find that their participation in the Moot is not only academically enriching, but also a delightful cross-cultural experience. In 2007, the Moot's 14th year, a record number of 177 universities -- from all over Europe, North America, Brazil, Asia, and Australia -- participated in the Vis Moot.

The Vis Moot (East) is a sister moot to the Willem C. Vis International Commercial Arbitration Moot. It takes place in Hong Kong, and was created in 2004. The Vis Moot (East) uses the same Problem and the rules are essentially the same as the Moot that takes place in Vienna. Nevertheless, they are two separate competitions with separate

registration, including registration fee, and separate winners. Within the four years of its existence, the Vis Moot (East) has grown considerably; in 2007, 48 universities – again, from all over Europe, North America, Brazil, Asia, and Australia – participated in the Vis Moot (East).

NYU Law School's students performed phenomenally well at both the Vis and Vis (East) Moots in 2007. The NYU Claimant's Memorandum received a citation of Honorable Mention in both Vienna and Hong Kong (Flavia Foz Mange was invaluable in the Vis (East) team's preparation of both the Claimant's and Respondent's Memoranda). Both teams advanced to the final elimination rounds in their respective competitions. The Vis Team (Vienna), featuring Philipp Groz, Michael Howe, Rahim Moloo, and Ramona Vijeyarasa, placed eleventh in the general rounds. In addition, Philipp Groz and Ramona Vijeyarasa were awarded the distinction of Honorable Mention for their outstanding advocacy skills. The Vis (East) team, featuring Rashida Allie, Wangui Kaniaru, Jeena Shah, and Stacia Sowerby, placed second in the general rounds. All four participants of the Vis (East) Team were awarded the distinction of Honorable Mention for their outstanding advocacy skills.

In 2007-2008, Jocelyn Burgos, NYU LLM '06 ([jocelyn0102@gmail.com](mailto:jocelyn0102@gmail.com)), will coach the Vis Team (Vienna); Olivia Dixon ([liv.dixon@gmail.com](mailto:liv.dixon@gmail.com)), NYU LLM '05 and current J.S.D. student, will coach the Vis Team (East). Professors Franco Ferrari, Clayton Gillette, and Linda Silberman, will act as Faculty Advisors to the teams. Professors Andreas Lowenfeld and Richard Hulbert will act as Faculty Consultants to the teams.

# Professional Opportunities

## Internships

### Hague Conference on Private International Law

#### Description

Since the summer of 2000, the Hague Conference on Private International Law has offered a special Private International Law Fellowship to one or two NYU Law School Students. The Hague Conference is an inter-governmental organization established by treaty “to work for the progressive unification of the rules of private international law.” Much of the work of the Hague Conference involves the preparation of international treaties, covering a range of subjects, such as service of process, the taking of evidence, choice of law, international adoption, international child abduction, and recognition and enforcement of foreign judgments. Professor Linda Silberman interviews interested candidates and, together with the Secretariat of the Hague Conference, selects students for the internship based on the Hague Conference’s stated objectives and ongoing projects in a given year.

#### Student Experiences as Hague Conference Interns

##### **Derek Soller, JD 2007, Summer 2005 Hague Conference Intern**

“My summer at the Hague Conference is among my most cherished memories from NYU and has had a profound impact on my legal career. While I was already interested in private international law before attending law school, the internship at HCCH gave me a far greater appreciation of the challenges facing the advancement of the field, and the lawyers from around the world who devote themselves to addressing those challenges. It also gave me the opportunity to enjoy the Hague -- one of the most international cities in the world -- and the Netherlands generally. I enjoyed it so much, in fact, that I plan to return as a private international law practitioner.”

##### **Shawn Pelsinger, JD 2009, Summer 2007 Hague Conference Intern**

“Working at the Hague Conference on Private International Law after my first year of law school afforded me one of the most substantive experiences I could have hoped for in the field of private international law. I was able to help shape the actual drafting of treaties, conventions, and protocols and help send them off to the ratification process. Specifically, I worked on research for structuring the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and the protocol on applicable law. The instrument will help ensure enforcement and recognition of international child support claims across borders, and I was able to help prepare it for

its final negotiation session this coming November. More broadly, my experience at the Hague Conference influenced my interest in private international law to the degree that I will be spending either all or a portion of my summer working in a law firm office abroad. It solidified my desire to spend a significant portion of my career working to reconcile the differences that arise throughout cross-border interactions.”

## **Careers**

### **Office of Career Services**

#### **On-Campus Recruiting Programs**

At various points during the year, law firms and employers from across the country and around the world visit New York University School of Law for recruiting purposes. On-campus interviews are generally scheduled on the basis of students' preference selections.

During 2006-2007, over 588 private law firms, public interest organizations, government agencies, corporations, and public accounting firms visited NYU School of Law to interview J.D. students. The interviewers came from 21 states and 4 foreign countries; 68% were from outside New York. They conducted approximately 20,000 individual interviews, or 25-29 interviews per student.

#### **Programs for 2007-2008**

##### **Early Interview Week 2007**

This is the largest J.D. recruitment program of the year for 2L and 3L students. Approximately 350+ employers come to NYU Law to interview for summer or full-time positions. Students must participate in required workshops prior to registration for this program. Students participate in an average of 25-29 interviews during this intensive program (August 20-24) and approximately 150 interviews are scheduled each day. This program takes place the week before classes begin.

##### **Fall On-Campus Interview Program 2007**

This interview program includes employers from both the public and private sector. This program, which takes place between September 17 and October 19, is designed primarily for 2L, 3L, and LL.M. students.

##### **Spring On-Campus Interview Program 2008**

This interview program includes employers from both the public and private sector. This program, which takes place between February 4 and March 14, is designed primarily for 1L and LL.M. students as well as 2L and 3L students for both summer and full time employment.

**International Student Interview Program (ISIP)**

NYU School of Law hosts the International Student Interview Program, a one-day consortium program on campus with students from 30 law schools. This program provides foreign-trained lawyers pursuing graduate degrees in the U.S. with the opportunity to be considered for internships and permanent positions worldwide with over 125 U.S. and foreign employers in more than 36 countries. The upcoming program will be held January 25-26, 2008. This program is 100 percent pre-screened by employers.