

**Advanced Master in Legal Sciences /  
Master in European and Global Law  
2016-2017**

**INTERNATIONAL LAW ON SUSTAINABLE DEVELOPMENT**

**Term: 3**

**Credits: 4**

**Language:  
English**

**Profesor:**

Angel J. RODRIGO HERNÁNDEZ, Senior Lecturer on Public International Law at the Universitat Pompeu Fabra.

His publications to date include:

*El desafío del desarrollo sostenible. Los principios de Derecho internacional relativos al desarrollo sostenible*, Madrid, Marcial Pons, 2015.

*La gobernanza del interés público global*, with N. Bouza and C. García (eds.), Madrid, Tecnos, 2015.

"El pluralismo radical del constitucionalismo societal", *Revista Electrónica de Estudios Internacionales*, 2014, N<sup>o</sup> 27, pp. 1-16.

"El pluralismo del constitucionalismo internacional", *Anuario Español de Derecho Internacional*, 2013, vol. 29, pp. 61-109.

*Compendio de Derecho internacional público*, (con Oriol Casanovas), 4<sup>a</sup> ed., Madrid, Tecnos, 2015.

"El principio de integración de los aspectos económicos, sociales y medioambientales del desarrollo sostenible", *Revista Española de Derecho Internacional*, 2012, vol. LXIV, N 2, pp. 133-161.

*Unidad y pluralismo en el Derecho internacional público y en la Comunidad internacional. Coloquio en homenaje a Oriol Casanovas. Barcelona, 21-22 de mayo de 2009* (ed. Con Caterina García), Madrid, Tecnos, 2011.

*Casos y textos de Derecho internacional público* (con Oriol Casanovas y La Rosa), Madrid: Tecnos, 6<sup>a</sup> ed., 2010.

*La seguridad comprometida. Nuevos desafíos, amenazas y conflictos armados*, (ed. con C. García), Madrid, Tecnos, 2008.

*Los límites del proyecto imperial. Estados Unidos y el orden internacional en el siglo XXI*, (con C. García), Madrid, La Catarata, 2008.

"El Derecho internacional hegemónico y sus límites", *Anuario Español de Derecho Internacional*, 2007, vol. XXIII, pp. 147-207.

"El concepto de desarrollo sostenible", *Agenda ONU*, 2002, N<sup>o</sup> 5, pp. 109-170.

*El imperio inviable. El orden internacional tras el conflicto de Irak* (ed. con García Segura, Caterina), Madrid: Tecnos, 2004

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### Descripción de la asignatura

#### *Objective*

The objective of this course is twofold. On one hand, it seeks to determine the meaning and scope of the concept of sustainable development, in particular the nature and legal implications in public international law. To this end, it will make an effort to reconstruct the notion of sustainable development. Despite the rhetoric that surrounds it, it is possible to identify the essential content through the analysis of the three pillars that comprise it: the economic development, the social development and the environmental protection. Also it aims to analyze the content and legal status of some of the legal principles that already exist in international law so that they can contribute more directly to sustainable development. The content provides information on the material and personal scope of application, performance potential and the problems raised by the application. The study of the legal status, meanwhile, seeks to determine whether the conventional rules binding those who have agreed to international treaties or it have also become customary rules of general international law. This development would be of great significance because the rules would become mandatory for States that are not parties to such treaties. In effect, the rules would be "exported" to other international regimes.

On the other hand, this course aims to examine some techniques, institutions, mechanisms and procedures that already exist in some international regimes such as those relating to environmental protection, protection of human rights, the international financial regime or the multilateral trading system that can help integrate the various components of sustainable development and help to achieve this objective. In particular, we examine the Clean Development Mechanism in the international regime on climate change, the bio prospection agreements of genetic resources, the ecosystem management of natural resources, the strategic environmental assessment, the social dimension of sustainable development, the Inspection Panel of the World Bank and the Compliance Adviser Ombudsman of the IFC and MIGA and the possibilities of harmonizing between the sustainable development and the international trade, foreign investments and cultural diversity.

#### *Specific skills to develop*

- ♣ Analysis of the political, legal and social discussion on sustainable development.
- ♣ Ability to identify different sources of law that directly or indirectly regulate the various aspects that make up the sustainable development legal framework.
- ♣ Ability to identify key elements that need to be integrated in order to achieve the sustainable development.
- ♣ Identification of the various actors involved in the sustainable development.
- ♣ Ability to identify principles, arguments and reasoning techniques that strengthen and

integrate the components of sustainable development in international and state practice.

### Requisitos previos

No prerequisites are required.

### Metodología

The course will consist of 12 sessions of two hours over one term. The first part of every session will be dedicated to the presentation of the topic by the teacher. The second part will be dedicated primarily to the discussion of the item using the reading material assigned for each session.

For the preparation and subsequent discussion of the issues, students should read one or two articles (or book chapters) and a normative text of those recommended by the teacher. The required literature and legal texts will be made available to students electronically through Campus Global.

For the discussion of topics in each session, some students will be required to prepare the oral presentation of a paper (10-15 minutes). The subject and date will be agreed with the teacher in advance. The topic of the paper will be developed in a written paper of approximately 10-15 pages (double-spaced). The paper must include a cover page with the title and name of the student, an index, several chapters with internal subdivisions and a final section with the literature and documentary sources used. The deadline for submission of work will be the last day of class of the course.

### Programación

#### 1ª session

#### **The notion of sustainable development**

I. Origin and evolution. II. The contents of sustainable development: a/ Economic development; b/ Social development; c/ Environmental protection. III. The multidimensional nature of the concept of sustainable development: a/ A political objective; b/ A legal concept; c/ A methodological framework.

#### *Readings:*

- Virginie Barral, "Sustainable Development in International Law: Nature and Operation of an Evolutive Legal Norm", *EJIL*, 2012, Vol. 23, pp. 377-400.

- Ángel J. Rodrigo, *El desafío del desarrollo sostenible. Los principios de Derecho internacional relativos al desarrollo sostenible*, Madrid, Marcial Pons, 2015, pp. 17-88.

<p><b>2<sup>a</sup> session</b></p>	<p><b>The principles of International Law relating to sustainable development</b></p> <p>I. Introduction. II. The principle of sustainable use of natural resources. III. The principle of intergenerational and intragenerational equity. IV. The principle of common but differentiated responsibilities. V. The precautionary principle. VI. The principle of public participation and access to information and justice. VII. The principle of good governance. VIII. The principle of integration of economic, social and environmental aspects.</p> <p><i>Readings:</i></p> <p>- Angel J. Rodrigo, "El principio de integración de los aspectos económicos, sociales y medioambientales del desarrollo sostenible", <i>Revista Espanola de Derecho Internacional</i>, 2012, vol. LXIV, pp. 133-161.</p> <p>- Ángel J. Rodrigo, <i>El desafío del desarrollo sostenible. Los principios de Derecho internacional relativos al desarrollo sostenible</i>, Madrid, Marcial Pons, 2015, pp. 91-178.</p>
<p><b>3<sup>a</sup> session</b></p>	<p><b>Climate change and sustainable development: The Clean Development Mechanism</b></p> <p>I. The international regime on climate change: a) The climate change problem and its juridical qualification; b) Obligations; c) The Flexibility Mechanisms on Compliance; d) The Non-Compliance Procedures. II. The Clean Development Mechanism: a) Purpose; b) Bodies of direction and control; c) Participation requirements; d) The implementation of sustainable development projects.</p> <p><i>Readings:</i></p> <p>A.M. Halvorsen, "The Kyoto Protocol and Developing Countries- the Clean Development Mechanism", <i>Colorado Journal of International Environmental Law</i>, 2005, Vol. 16, No. 2, pp. 353-375.</p> <p>A.J. Rodrigo, "Nuevas técnicas jurídicas para la aplicación de los tratados internacionales de medio ambiente", en: <i>Cursos de Derecho internacional y Relaciones internacionales de Vitoria-Gasteiz 2001</i>, Bilbao, Servicio editorial de la Universidad del País Vasco, 2002, pp. 155-210.</p> <p>J. Juste Ruiz, "Nuevas técnicas jurídicas frente al cambio climático: los mecanismos de flexibilidad del Protocolo de Kioto", en: J.J. Martín Arribas (dir.), <i>Hacia una política comunitaria europea en cambio climático y sus consecuencias para España</i>, Burgos, Universidad de Burgos, 2009, pp. 169-195.</p>

<p><b>4<sup>a</sup> session</b></p>	<p><b>International regime of the access to genetic resources and bio prospection agreements</b></p> <p>I. Introduction. II. The new legal statute of genetic resources. III. Evolution, characteristics and basic principles of the access regime. IV. Nagoya Protocol: a/ Objective; b/ Scope of application; c/ Basic obligations; d/ Regime administration organs. V. Bio prospection agreements.</p> <p><i>Readings:</i></p> <p>- M. Dross y F. Wolff, "Do We Need a New Access and Benefit Sharing Instrument? <i>Yearbook of International Environmental Law</i>, 2004, vol. 15, pp. 95-118.</p> <p>G. SINGH NIJAR, "Incorporating Traditional Knowledge in an International Regime on Access to Genetic Resources and Benefit Sharing: Problems and Prospects", <i>European Journal of International Law</i>, 2010, Vol. 21, pp. 457-475.</p> <p>Morgera, E., Buck, M. y Tsiumami, E. (eds.), <i>The 2010 Nagoya Protocol on Access and Benefit-Sharing in Perspective: Implications for International Law and Implementation Challenges</i>, Dordrecht, Martinus Nijhoff, 2012.</p> <p>Oberthur, S. y Rosendal, K. (eds.), <i>Global Governance of Genetic Resources. Access and Benefit Sharing after the Nagoya Protocol</i>, Routledge, 2013.</p>
<p><b>5<sup>a</sup> session</b></p>	<p><b>The natural resources and the Ecosystem Based Management</b></p> <p>I. The Approach of Ecosystem Based Management of Natural Resources: a) Definition; b) Principles; c) Implementation. II. The Ecosystem Based Management of Fisheries. III. The Ecosystem Based Management of Forest</p> <p><i>Readings:</i></p> <p>Trouwborst, A., "The Precautionary Principle and the Ecosystem Approach in International law: Differences, Similarities and Linkages", <i>RECIEL</i>, 18 (1) 2009, pp. 26-37.</p> <p>Agardy, T., et al., <i>Taking the Steps toward Marine and Coastal Ecosystem-Based Management: An Introductory Guide</i>, UNEP, Nairobi, 2011.</p>
<p><b>6<sup>a</sup> session</b></p>	<p><b>The Strategic Environmental Assessment of activities, substances and hazardous wastes</b></p> <p>I. The international regime on activities, substances and wastes. II. Environmental impact assessments of certain projects. III. Strategic environmental assessments as tools for sustainable development: a) Origin, objectives and characteristics; b) The plans and programs; c) The policies</p>

	<p>and legislation; d) The procedure</p> <p><i>Readings:</i></p> <p>S. Marsden y T. Koivurova (eds.), <i>Transboundary Environmental Impact Assessment in the European Union. The Espoo Convention and Kiev Protocol on Strategic Environment Assessment</i>, Routledge, 2011.</p> <p>S. Ripol, "Principios y normas generales internacionales sobre seguridad de las instalaciones nucleares", <i>Cursos de Derecho Internacional de Vitoria-Gasteiz</i>, 1996, Bilbao, Servicio de publicaciones de la Universidad del País Vasco/Tecnos, 1997, pp. 175-231.</p>
<b>7ª session</b>	<p><b>Human Rights and sustainable development</b></p> <p>I. The Human Rights international regime: the social dimension of sustainable development. II. Freshwater and the right to water and sanitation. II. Food security and the right to adequate food</p> <p><i>Readings:</i></p> <p>General Comment No. 15 (2002): "The Right to Water" (arts. 11 and 12 of the International Covenant on Economics, Social and Cultural Rights), (doc. E/C.12/2002/11, 20 January 2003.</p> <p>General Comment No. 12: "The Right to Adequate Food (Art 11)", Committee on Economic, Social and Cultural Rights (doc. E/C.12/1999/5, 12 May 1999).</p>
<b>8ª sesión</b>	<p><b>Environmental Displaced</b></p> <p>I. Environmental changes and migration. II. Environmental displaced and climate refugees: a) The concept of environmental displaced; b) The limits of international norms. III. Environmental displaced and human rights.</p> <p><i>Readings:</i></p> <p>C. Espósito y A. Torres, "Cambio climático y Derechos Humanos: El desafío de los "nuevos refugiados", <i>Relaciones Internacionales</i>, 2011, Nº 17, pp. 67-87.</p> <p>O. Solà, <i>Desplazados ambientales. Una nueva realidad</i>, Bilbao, Deusto, 2012.</p> <p>-----</p>
<b>9ª Session</b>	<p>-</p> <p><b>The financing of sustainable development</b></p>



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<b>12<sup>a</sup> Session</b>	<p style="text-align: center;"><b>The cultural dimension of sustainable development</b></p> <p>I. The culture, the forth pillar of sustainable development? The cultural diversity protection as a general interest of international community</p> <p>F. Esteve and C. Jiménez (dirs), <i>La liberalització dels serveis cultural a l'OMC i el seu impacte a Catalunya</i>, Barcelona, Institut d'Estudis Autònoms, 2006.</p> <ul style="list-style-type: none"> <li>• V. Guevrèmont, "Le développement durable: ce gène méconnu du droit international de la culture", <i>Revue Générale de Droit International Public</i>, Vol. 116, No. 4, 2012, pp. 801-834.</li> </ul>

Actividades
<p>Before the sessions, the students must read the articles and recommended texts for each subject. Preparation of written work on certain topics will be required. There will be debate and discussion of the issues, and presentations by the students, especially in the second hour of the class sessions.</p>

Evaluación		
Concepto	%	Comentario
		The evaluation of the course will be based on:
Activities during the course	60%	<ul style="list-style-type: none"> <li>a. Attendance and participation in class discussions [aprox. 10%].</li> <li>b. The preparation of a paper on a topic which will be a orally presented (10-15 minutes) and writing of a paper (10-15 pages, double spaced) [aprox. 50%].</li> </ul>
Final written test	40%	A comprehensive written test at the end of the course

Bibliografía y materiales
GENERAL BIBLIOGRAPHY



Boyle, A. y Freestone, D. (eds.), *International Law and Sustainable Development. Past Achievements and Future Challenges*, Oxford, Oxford University Press, 1999.

Cordonier, M-C. y Kalfhan, A., *Sustainable Development Law. Principles, Practices and Prospects*, Oxford, Oxford University Press, 2004.

French, D., *International Law and Policy of Sustainable Development*, Manchester, Manchester University Press, 2005.

Rodrigo, A.J., *El desafío del desarrollo sostenible. Los principios de Derecho internacional relativos al desarrollo sostenible*, Madrid, Marcial Pons, 2015.

Schrijver, N., "The Evolution of Sustainable Development in International Law: Inception, Meaning and Status", *R. des C.*, 2007, T. 329, pp. 217-412.

Schrijver, N. y Weiss, F. (eds.), *International Law and Sustainable Development. Principles and Practice*, Leiden, Martinus Nihjoff, 2004.

#### ELECTRONIC INFORMATION SOURCES

<http://web.worldbank.org>

<http://www.cao-ombudsman.org/about/whoweare/index.html>

<http://unfccc.int/2860.php>

<http://www.cbd.int/>

[http://www.unece.org/env/eia/sea\\_protocol.html](http://www.unece.org/env/eia/sea_protocol.html)

<http://www.unhchr.ch>

<http://www.worldbank.org/>

<http://www.coursera.org/course/susdev>

<http://www.wcl.american.edu> (Sustainable Development Law and Policy)