Universidad de Navarra

***International contracts (RRII)***
*Guía docente 2026-27*

INTERNATIONAL CONTRACTING: Convention of Kanagawa (1854)

## International contracting (RRII)

**• Description: This course deals with the massive amounts of contracting carried out in the international arena, in many fields. The various national and international legal sources of contracting are dealt with (both from the Anglo-American 'Common Law' and Roman/French 'Civil Law' systems), as well as the basic problems of applicable law and competent jurisdiction. We will also cover the general categories of contract law and the main contracting players, as well as the key ethical and certain technological issues. Issues relating to contracting and human rights, bribery/corruption and compliance requirements will also be covered. The course aims to be practical and pragmatic for one's future work in the international arena, whether that be in the public or private realm. The subject does not require prior knowledge of Law, and is presented with sufficient detail for students of International Relations.**

• **Characte**r: Mandatory (Obligatoria)

• **Number of ECTS credits**: 6

• **Course and semester**: Third Year, first semester.

• **Teaching Language:** English

• **Title:** Degree in International Relations, School of Law

• **Módulo y Materia:** Módulo III: Derecho Privado. Materia: Obligaciones y contratos.

• **Professor**: Prof. Dr. Patrick O'Malley.

• **Schedule and locatons**: Class will be held in Room/Aula S01 in the Amigos building on Wednesdays from 12:00 h. - 13:45 h., and in Room/Aula 12 in Amigos on Thursdays from 10:00 h. - 11:45 h. Any changes to the schedule will be notified via announcement and should appear on the main RRII/Derecho calendar.

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# RESULTADOS DE APRENDIZAJE (Competencias)

COURSE BASIC / SPECIFIC COMPETENCIES

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| CB2 | That students know how to apply their knowledge to their work or vocation in a professional way and possess the skills that are usually demonstrated through the elaboration and defense of arguments, as well as the resolution of problems within their area of study. |
| CB3 | That students have the ability to gather and interpret relevant data (usually within their area of study) to make judgments that include a thoughtful reflection on key issues of a social, scientific or ethical nature. |
| CB4 | That students can transmit information, ideas, problems and solutions to both specialized and non-specialized audiences. |
| CB5 | That students develop those learning skills necessary to undertake further studies, with a high degree of independence. |
| CG01 | To analyze, evaluate and reason through the different international situations in light of the knowledge acquired regarding contracting. |
| CG02 | To negotiate, mediate, persuade and communicate/express oneself confidently in the field of international relations. |
| CG03 | To be able to draft and interpret legal texts, especially in the field of public international law. |
| CG05 | Know how to orally express oneself in a correctly/properly and adequately as regards international issues. |
| CE02 | Analyze the nature and characteristics of relations between international actors and particularly between Nation States/national governments. |

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|---|---|
| CE03 | Know and understand the main elements that influence and help define foreign policy of the States/national governments. |
| CE09 | Understand the structure, competencies and functioning of international institutions and organizations. |
| CE23 | Analyze political, legal, socio-cultural, economic and technological environments as a major influence on industrial and business activity in any given country in the world. |

The objectives to be achieved include:

- Knowledge of the basics of international contractual agreements- especially focusing on the differences and similarities between contracts in the Common Law world (US, UK, Commonwealth, etc.) and the Civil Law world (Europe, Latin America, East Asia, etc.).

o To know and understand the basic contractual figures of the international private commercial trade system (although public procurement will be considered as well), understanding its economic and legal logic, and how through them the private exchanges of goods and services globally are made.

o To understand the key problems concerning the question of applicable law, the competent jurisdiction/courts, in accordance with the various normative/legal sources, as well as the forms of conflict resolution.

o Understanding the current and potential impact of new technologies, such as AI and blockchain, on the contracting process and trade more generally (and how to use such successfully in contracting).

- Skills and attitudes

o Understanding the economic reasons driving commercial legal institutions, and design of the most appropriate contracting form for each type of business or consumer needs.

o Understanding the impact of new technologies on global contracting.

o Understanding the greater focus in the past few years on ethical and human rights issues in global contracting (through an introduction to the world of business and government "compliance" efforts).

- Learning outcomes

o Drawing up / drafting commercial contracts.

o Determining the regulatory source applicable to the contractual relationship.

o Learning about the negotiation process and management of contracts-driven projects- the all-important 'human factor'.

Didactic/training activities

1) Theoretical classes: these classes will explain the fundamental rules of international contracting, whilst considering selected relevant cases concerning contracting.

2) Practical classes: in these, students will be able to pose questions concerning the various course modules, and practical cases will be discussed, interesting documentation or web pages will be considered, as well as news items that touch upon international contracting issues, etc.

All the classes assume, and indeed require, that the student has read and understood in advance the topic that will be treated on any given day in the live class. Indeed, class participation is a key component of the final grade. Day-to-day topics & reading assignments will be posted on ADI or announced well in advance.

There will also be a research paper assignment due in early November, focusing on an aspect or topic of international contracting that will be chosen by the student and approved by the professor. This will be worth approximately 20% of the final grade.

Near the end of the course, the practical classes will have a "competition" format involving a number of teams: the topic will be the negotiation of an IJV (international joint venture) agreement. The instructor will ask questions and observe the negotiations, assigning points for the quality of the work. That score will be taken into account as part of the overall student participation grade (which totals 30%).

| The Distribution of the student's workload measured in hours is the following: | |
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| Theory in class periods | approx. 25 hours |
| Practical in-class periods | approx. 25 hours |
| Seminars and personal tutoring | 10 |
| Evaluation | 2.5 |
| Personal study | 70 |

## PROGRAMA - SYLLABUS

**MODULES**

**1. Introduction to Comparative Contract Law**

• Key initial principles and issues

• The “Nexus of Contracts”: the system of stakeholders in the contracting world, between businesses, citizens and governments

• Contracts law & its interaction with other areas of the legal system (e.g., IP, Competition, Corporate/Securities, Commercial, Compliance, bribery, CSR/ESG)

**2. Contract Basics: definitions, offer, acceptance, consideration, performance**

**3. Comparative law: Common Law vs. Civil law of contracting**

• General overview

• French contracts law, English contracts law, US (NY) contracts law

• The question of “Good Faith” in contracting

**4. International contracting standardization efforts I: International public law regarding contracting**

• CISG Vienna / International Sales: Convention on Contracts for the International Sale of Goods

• UNIDROIT

• EU – Rome I and Rome II

**5. International contracting standardization efforts II:**

International private efforts

• INCOTERMS

• International Chamber of Commerce (ICC) role and materials

• International dispute resolution / ADR - arbitration, etc.

**6. Part I: “Boilerplate” contract terms and key types of international contractual agreements (Licencing / IP, Purchase / Sales of goods, Purchases / sales of shares (securities), Agency and distribution, Confidentiality/non-disclosure, Employment, Franchise, Shareholders’, Guarantees, etc. and Part II: New technologies and their impact on contracting: "Smart Contracts" and Blockchain / AI (artificial intelligence) tools**

**7. Introduction to pre-contractual or quasi-contractual documentation: MOUs, LOIs and Term Sheets; Cross-cultural contracting issues**

**8. The “A to Z” of International Joint Ventures (IJVs): The Who, What, When, Where and How?**

**9. International Contracting Practice Point: Due Diligence the key to successful international contracting transactions- an introduction to contract/commercial due diligence processes (focus on IJVs)**

**10. International Joint Venture – negotiations sessions I (groups to be assigned)**

**11. International Joint Venture – negotiations sessions II (groups to be assigned)**

**12. Current legal/ethical issues in International Contracting– COMPLIANCE & “Contractual Pushdown”: the Global Campaign against bribery and corporate corruption (and larger connections to international human rights efforts):**

• Definition and negatives effects of corruption on socio-economic development

• The US FCPA 1977 (Foreign Corrupt Practices Act), The OECD Convention 1997, The UK Bribery Act 2010, French law (Sapin II), the United Nations Convention against Corruption (UNCAC) – 2003

• Commercial and trade sanctions regimes: global public policy limits on the “freedom of contract”

## ACTIVIDADES FORMATIVAS

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# GRADING / EVALUACIÓN

**Exams & Final Grade**

The final grade for the course will be based 50% on the results of the final written exam (a mix of multiple choice questions, short essays and a practical drafting exercise- you must pass it to pass the course) and 20% on the in-class mid-term written essays project explained below. Additionally, approximately 30% of the grade will be based on the overall level of participation in class (which also includes successfully completing the IJV - international joint venture-negotiations exercise).

Thus, the final grade will be comprised of the following elements:

50% = final exam (you must pass this to pass the course)

20% = in-class mid-term written essays

30% = class participation

**Note on In-class mid-term essays**

In order to give all students the opportunity to actively deal with and consider current issues of international contracting, class requirements include an in-class written exercise that consists of replying to a number of questions that will be based on contracting issues, discussions and cases that have been covered in class until that date. It will bascially function as a "mid-term" test. The goal of the essay questions will be to help you considolate your knowlege and familiarity with both the big-picture issues of contarcting around the world, from a comparative perspective, as well as to place international contracting more generally in into the scheme of your studies of international relations. The questions will also include a measure of freedom & flexibility for students to share their thoughtful and informed opinions and recommendations concerning some of the key issues impacting global contacting today. Additional information on these essays will be provided in class.

It is scheduled to be held on **Thursday, 29 October 2026** and will account for 20% of the final grade.

**CONVOCATORIA ORDINARIA**

- TBA in December 2026

**CONVOCATORIA EXTRAORDINARIA**

- TBA in June 2027

**OFFICE HOURS**

Dr. Prof. Patrick O'Malley **(pomalley@unav.es)**

- Despacho 1661 Edificio Ismael Sánchez Bella.
- When: usually, Thursdays from 12:30 until 14:30. In case of urgent or important matters, I suggest contacting me a couple of days in advance to set up a personal appointment.

# BIBLIOGRAFÍA SELECTA

Partial Bibliography/Readings (NB they will be augmented continuously throughout the semester)

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**NB readings / cases for each module will be uploaded under each module's section here in ADI**

- "AT A GLANCE GUIDE TO BASIC PRINCIPLES OF ENGLISH CONTRACT LAW", Prepared by lawyers from Allen & Overy (British global law firm): Microsoft Word - english-contract-law.doc (a4id.org)

- "English Contract Law - Module Study Guide", University of London, 2017: Contract law (london.ac.uk)

- [Official] Translation of new French Law code provisions impacting Contracts (Cartwright & Fauvarque) 2016; http://www.textes.justice.gouv.fr/art_pix/THE-LAW-OF-CONTRACT-2-5-16.pdf

- Rowan, Solène (2017) The new French law of contract. International & Comparative Law Quarterly. ISSN 0020-5893: http://eprints.lse.ac.uk/75815/1/Rowan_New%20French%20law_2017.pdf

- Article, Barbara Beveridge, "Legal English - How it developed and why it is not appropriate for international commercial contracts": Microsoft Word - Barbara Beveridge.rtf (tradulex.com)

HELPFUL REFERENCE TEXTBOOK: Contract Law: An Introduction to the English Law of Contract for the Civil Lawyer, John Cartwright, 3d ed., Hart Publishing Find it at the Library (2nd. edition)

Cases (NB more are being added)

- Case "Carlill v Carbolic Smoke Ball Company (England, 1892-93)

- Case Yam Seng Pte Limited v ITC (England 2013)

- Case Flynn & Anor v. Breccia & Anor, 2017 IECA 74 : http://www.courts.ie/Judgments.nsf/09859e7a3f34669680256ef3004a27de/9e17a954405384d4802580df003157c7?OpenDocument

- Article, Giuditta Cordero Moss, "International Contracts between Common Law and Civil Law: Is Non-state Law to Be Preferred? The Difficulty of Interpreting Legal Standards Such as Good Faith"

- Distribution Agreement - Eldor Spinal Needle (Israel)

- Kluwer Arbitration Blog - UNIDROIT rules bridge globally 2018

- UNIDROIT Contracting principles 2016-e TEXT

- UNIDROIT case 2001- Unilex case no. 2

- Incoterms 2020

- UN – CISG Vienna Convention -- e-book UNICTRAL 2010

- Case LUCY v ZEHMER - VA -1954

- Case HOFFMAN v. RED OWL STORES, INC. WI (1965)

- Boilerplate Contract Clauses in global financial contracts -- FBD

- IATA 2012 NY new master used aircraft purchase-agreement

- Contract-GE_Oil_Gas_DrillingSystems_General_Terms_of_Purchase.pdf

- CORPORATE SURVIVAL GUIDE (LONDON), INTERNATIONAL JOINT VENTURES (2010) - FBD LLP

- Article-International Joint Ventures – DW Tremaine Law Firm - Stewart

- Article -Schwalb - The Wahaha International Joint Venture as Pedagogy (IJVs) 2008

***Course slides - will be uploaded under a dedicated tab here in ADI:***

- Introductory set of course slides

- Short slides on "Principles of contracts interpretation"

- Short slides on Canadian "comma case"

- Slides on International Joint Ventures

- Slides on Corruption / bribery & trade sanctions in international contracting