

International Law as a Means of Globalization, Business Internationalization and Global Economy: A Mechanism with Proclivities

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Abstract

This paper analyzes, describes and presents the relationship and effects between globalization and the international law. Historically, between globalization and international law, there is a dialectical relationship, both have been intertwined for more than the end of the twentieth century and the last phase of globalization. Globalization has come up with major changes at the international level and distribution of power between different actors of the international society. It has impacted and shaped the World Wide system of law with implicit ambitions. The research questions are: "Are there any interconnection between international law, globalization and internationalization? How does international law affect global economy?" The used methodology of research focused on a literature review, the United Nations charter of international law and qualitative descriptive analysis. The results show that doing business with individuals from other nations focuses on the activities of individuals that are governed with the context of global economy starting from the applicable rules to industries in the home country or nation. International law provides a background, assurance, confidence and a means or mechanism by which individuals can trade or do business with regard to goods and services, to start with the utility of law is based upon first international relations, and the way countries relate to each other, particularly with regard to trade of goods and services between those nations. Doing business with individuals from other nations focuses on the activities of individuals that are governed with the context of global economy starting from the applicable rules to industries in the home country or nation. In Conclusion, international law has got a high contribution to the insights of global economy, globalization and internationalization processes especially for companies. There is a huge interconnection between Globalization, Internationalization that is important for global economy and international law.

Keywords: globalization, international law, internationalization, companies, economy, global.

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1. Introduction

Historically, between globalization and international law, there is a dialectical relationship, both have been intertwined for more than the end of the twentieth century and the last phase of globalization. Globalization has come up with major changes at the international level and distribution of power between different actors of the international society². It has impacted and shaped the world wide system of law with implicit ambitions.

Globalization is not only identified with scientific and technological advances, above all in communications, which afford commercial and financial exchanges in order to achieve the

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² See in this regard: Backer, L.C., (2007) *Economic globalization and the rise of efficient systems of global private law making: Walmart as global legislator*, „Connecticut Law Review”, 39 (4), p. 17; Benabed, A. (2022) *Overhanging the future socio-economic aspects through the consequences of globalization and international law*, „Perspectives of Law and Public Administration”, 11(1), p. 165-168. Retrieved from: <https://www.proquest.com/scholarly-journals/overhanging-future-socio-economic-aspects-through/docview/2670468993/se-2>; Bradford, A., Posner, E. (2010) *Universal exceptionalism in international law*, „Public Law and Legal Theory”, p. 290; Chang, S.J. and Rosenzweig, P.M. (2001), *The choice of entry mode in sequential foreign direct investment*, „Strategic Management Journal”, Vol. 22, No. 8, pp. 747-776.

implementation of the free market for interdependence, but also it deals with International Law, that regulates situations of conflict and cooperation, originated or produced by this economic and social phenomenon, which many rightly reject due to the implicit injustices of the free market, the product of savage capitalism, and fight for the implementation of a radical reorientation of objectives of trade towards social justice and the definition of norms and applicable values to trade policies and democratization of international institutions on behalf of all affected parties (fair trade, with preferential or exceptional treatment for developing countries, which contemplates an adjustment equitable prices), there are conventions on climate change, human rights that must be strengthened, transnational criminal activities, human trafficking,... etc. and fundamental freedoms, includes and focuses on the right to development, and thus to achieve an effective and real functioning of the world economy and the fight against international crimes through the institutionalization of justice bodies. Globalization is the economic, technological, political, cultural and social process at the international level that consists of the raise of communication and independence between nations of the world that unite their markets, societies and cultural environment, a series of social and political transformation that give it a global character.

The modern term of international law was invented by Jeremy Bentham in 1789 and established itself in the 19th century. International law is a broad term, split up into private and public, the relationship between sovereign powers starts with the respect to public International law and they are guided by some form of agreements, or a treaty between these nations, or the nations are the collective signatories to some larger international bodies such as the United Nations. On the other hand, private International law is applicable when individuals from different nations interact in some way and this generally in the form of business transactions, the buying and selling of goods and services. Internationalizing a company is the process by which the organization creates the necessary conditions to operate in the international market³. In fact, more and more companies tend to relocate and direct their strategy abroad, it is a process that requires conviction, commitment and willpower.

2. Methodology and research question

The research questions are “Are there any interconnection between international law, globalization and internationalization? How does international law affect global economy?”

The used methodology of research focused on a literature review, the United Nations charter of international law and qualitative descriptive analysis.

3. Literature review - internationalization of companies, international business and foreign market

Internationalization involves the expansion of companies across national borders with the goal and objective of producing and selling products and services⁴. Others mainly consider internationalization as a growth and business development strategy for organizations⁵. Likewise, it is observed as one of the components that is repeated in various definitions is that the internationalization process is a dynamic process, understood as a phenomenon of an evolutionary and gradual nature⁶. On the contrary, there are research papers that highlight that, through

³ Keinert C. (2008). *Corporate social responsibility as an international strategy*. Springer Science & Business Media, Springer, p. 131; Koskeniemi, M., (2006), *From apology to Utopia: The structure of international legal argument: Reissue with a new epilogue*, Cambridge University Press, pp. 1-683. DOI: 10.1017/CBO9780511493713; Krisch, N. (2010), *Beyond Constitutionalism: The Pluralist Structure of Postnational Law*, Oxford University Press, p. 75; Combacau, J. (1986), *Le droit international: bric-à-brac ou système?*, Archives de philosophie du droit, 31, p. 142; F. J. Garcia (2005), *Globalization and the Theory of International Law*, 11 „International legal theory”, 9- 26.

⁴ Hitt MA, Hoskisson RE, Kim H (1997). *International diversification: Effects on innovation and firm performance in product-diversified firms*. „Academy of Management Journal”, 40(4), p. 75.

⁵ Welch, L.S. and Loustarinen, R. (1988), *Internationalization: evolution of a concept*, „Journal of General Management”, Vol. 14, No. 2, p. 98.

⁶ Albaum G, Strandkov J, Duerr E, Dowd L (1994): *International Marketing and Export Management*. Cambridge: Addison-Wesley., p. 121.

internationalization that companies are exposed to greater learning in social and environmental and consider that internationalization can allow them to acquire valuable knowledge from different markets that results in a substantial improvement in their social performance⁷. Technology and digitalization have been reshaping global business. Correspondingly, e-commerce companies have surged both global and domestic economies. No other firm-level forces have alone so evidently triggered the borderless of international business like ECCs⁸. While established companies are scrambling to reconfigure and restructure their business strategies to compete and fulfill successfully in a global marketplace, e-commerce companies are changing the way businesses operate and the wisdom of management philosophies and practices. It is true that e-commerce companies still face various challenges and pitfalls in operating overseas, for instance in foreign emerging markets, they encounter and deal with even stronger. E-commerce companies, enabled by internet ability, are generally subject to some physical barriers in surpassing national borders and are less volatile to entry barriers associated with startup facilities and expensive physical presence. E-commerce as selling, buying, marketing, or servicing of products information services through a variety of computer networks is defined as companies that based on Internet for business activities are fully influenced by both micro - and macro-levels⁹. The internationalization models value and suppose that firms need to have a strong home base before entering and dealing with a foreign market and to follow an evolutionary approach to expand globally¹⁰.

3.1. Globalization, international law and global economy

Globalization would be one of the main factors and signs of the move from bilateralism to community interest in international law¹¹. On the other hand, through Globalization a risk could be presented to international lawyers, so they would be asked to be complicit in developing commoditization or imperial logics, consequently, conflicts, issues and opportunities, may witness a rise and rebirth of thinking about international justice¹². When reliance on rules and process cannot be critically a substitute for thinking about the main or ultimate goals of the international order¹³.

According to article 55 and it chapter 9 from the United Nations' Charter on International Economic and Social Cooperation, higher standards of living, full employment, and conditions of economic and social progress and development (art 55 (a), UN charter 1945), solutions of international economic, social, health, and related problems; and international cultural and educational cooperation (art 55 (b), UN charter 1945).

According to Yasuaki¹⁴, relations between international law and the global economy demonstrates complex features according to the area of economic activities and the historical time. These complex features derive from the fact that capitalist economy, which has been predominant during the modern era, requires legal infrastructures on one hand, yet few legal regulations on the other. These dual requirements may be seen in the relationship between two major systems that have

⁷ Iyer, L.S., Taube, L. and Raquet, J. (2002), *Global e-commerce: rationale, digital divide, and strategies to bridge the divide*, „Journal of Global Information Technology Management”, Vol. 5 No. 1, p. 131.

⁸ Leamer, E.E. and Storper, M. (2001), *The economic geography of the internet age*, „Journal of International Business Studies”, Vol. 32 No. 4, p. 321; Johanson J., Vahlne J.E. (1990). *The mechanism of internationalisation*. „International marketing review”, 7(4):11-24; Johanson J, Wiedersheim F (1975). *The internationalization of the firm-fourswedish cases*, „Journal of Management Studies”, 12(3), p. 305-322; Johanson, J. and Vahlne, J-E. (1977), *The internationalization process of the firm: a model of knowledge development and increasing foreign market commitments*, „Journal of International Business Studies”, Vol. 8 No. 1, p. 23-32.

⁹ Fujita, M.P., Krugman, A. and Venables, A. (1999), *The Spatial Economy: Cities, Regions and International Trade*, MIT Press, Cambridge, p. 193.

¹⁰ Anderson E, Gatignon H. (1986), *Modes of foreign entry: A transaction cost analysis and propositions*, „Journal of International Business Studies” 17, 1–26.

¹¹ B. Simma, *From Bilateralism to Community Interest in International Law* (1994) 250 *Recueil des Cours de l'Academie de Droit International* 233.

¹² T. Brooks, *The Global Justice Reader*, Blackwell Malden 2008, p. 214.

¹³ E Jouannet (2008), *What Is the Use of International Law ? International Law as a 21st Century Guardian of Welfare*, 28 „Michigan Journal of International Law” 815-862.

¹⁴ Yasuaki, O. (2017). *The Global Economy and International Law. In International Law in a Transcivilizational World* (pp. 422-479). Cambridge: Cambridge University Press, pp. 422-479, doi:10.1017/9781139175951.009.

defined the fate of humankind during the modern period: the sovereign state system and the global capitalist economy.¹⁵ There was a cooperation and conflict between two systems. In the area of international (more correctly, “transnational”) commerce, the supportive and regulative role of international role of International law over the global capitalist economy was conspicuous. Treaties of friendship, commerce and navigation with the most favored nation clause contributed to securing the capitalist economy from the nineteenth to twentieth centuries. During the post second world war period, the General Agreement on Tariffs and Trade (GATT) covered international trade in goods and then the World trade Organization (WTO) was functioning as a powerful “free trade” system¹⁶. Although there were competing economic systems such as socialist planned economy, their power and influence were limited. The capitalist economy, however, sought to have even more useful and effective legal systems for its activities. Responding to this demand, various types of regional systems for its activities. Responding to this demand, various types of regional regional systems emerged. Although these regional systems profited from the global WTO system, they have undermined it and are undermining it as well. In the area of International (or Transnational) investment, there were various International legal norms, supporting and regulating investment activities, but not in the form of the systematic global international legal order¹⁷.

4. Analysis, results and discussion

4.1. Are there any interconnection between international law, globalization and internationalization? How does international law affect global economy?

The appearance of International order and the emergence of the United Nations organization after the Second World War introduced the mediation of International law and diplomacy in response to the use of force. However, in multiple international conflicts and arena the principles and objectives of the United Nations have not be respected, by considering the fact of crises between states and nations, and known periods such as the cold war and geopolitical conflicts such as the Russian-Ukrainian conflict and so on. Consequently, they have been resolved by force the thing that rise the question about the validity and legal effectiveness of International law especially after the appearance of Globalization and Internationalization of industries and companies as well that focus on more interactions between nations. The International law has undergone challenges and changes following the facts and interests of globalization and internationalization process by covering various areas, intervening in states, individuals, organizations and groups, activities, decisions...etc. The international law started from its main philosophy of protecting and preserving peace on the planet, financial systems, human rights, global economy... etc. by considering more the capitalist society with a huge importance and the simplest example is the international currencies and transaction (Dollar and Euro). Globalization focuses on the integration of countries at an economic level and degree that aims at creating a world market by taking off tariff barriers, allowing free movements in trade, production and finance. In this regard, some small countries can see economic growth from different perspectives in short or long terms but more or less at the cost of developed countries, since neo-colonialism, culturally, economically, socially, environmentally most developing countries have resisted and undergone changes and challenges implied by globalization or neo-colonialism as it is mentioned in some societies theoretically (See *Figure 1*).

Indeed, globalization has become a dominating necessary phenomenon especially after the appearance of digitalization. However it has got advantages and disadvantages from a breadth of view. As advantages, it contributes to technological advances and the diffusion of new inventions in a short term, since back to the past, it took long time and years for a technological advance to reach the developing countries, for instance, telephone, cars, machines, TV, the Radio, etc. It facilitate the exchange of professionals, collaboration, culture, science and communication, in order to acquire

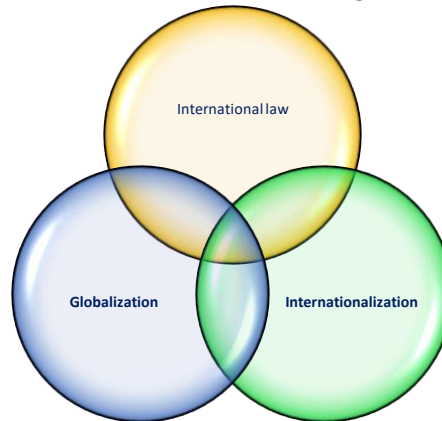
¹⁵ Ibid, p. 423.

¹⁶ Ibid., p. 423.

¹⁷ Ibid, p. 425.

knowledge it has become necessary. Likewise, free trade agreements facilitates the reduction of tariffs facilitates the exchange of products. On the other hand, it has negative impacts and disadvantages it favors developed countries and creates such a dependency and political interference by developed countries in developing countries.

Figure 1. *The interconnection bubbles between international law, globalization and internationalization*



Source: Author's design, 2023

It makes powerful countries try to intervene and manipulate vulnerable developing countries like what happened recently the Russian - Ukrainian conflict that turned to war and invasion but Russia it is called “a military operation”, it covers so many political lies and conflicts of interests especially through social media by spreading disinformation, misinformation and false news. Basically many nations decline globalizing culture within their environments to take the attribution of deciding for their people, thus it might cause or provoke internal conflicts as well.

Besides, it can become a dictatorship, a powerful country can economically block one that does not agree with its ideology, pressure in the presidential elections of a country determined or even intervene in their education and culture. Economic and political sanctions that make it look somehow like a dictatorship, furthermore, some countries can be blocked economically if they do not agree and support the ideology of a powerful country, it intervenes in countries education, elections and systems in different ways. Sometimes it boosts monopoly and international rules like what happened with the vaccine against Covid-19 and the pandemic structure that were exaggerated and full of lies to manipulate and controls the international society from central points. Globalization is found and seen nowadays in many areas and human activities, it has become part of our everyday life and daily routine. It is in the environment, economy, art, law, politics, culture by focusing on many things. Rationally, it is permeated in such a way geographical borders and almost made them disappear and as we that in the virtual world, the appearance of digitalization and social media that have no borders by making the world more connected day by day than ever. Nowadays any event or something that occurs in any point of the globe seems to influence and affect it in its entirety by getting spread fast during even the blink of eyes since the distances the world distances and limits have been shorten so far, Globalization has made economies intertwine, it has affected the autonomy and sovereignty of states and has profiled them and shared sovereignty as the new relation between states or what we may call interstate relations. Undoubtedly, the international law has granted globalization legal instruments and tools, starting from the society of nations and the international court of justice to the appearance of the United Nations (UN) where the new international order started and was made up by focusing on multilateralism an staying away somehow of the path of bilateralism by emphasizing the fact of solving and focusing on international issues like peace, international security and International trade and human rights. Upon joining the organization, they renounce using force to solve international problems and relations and commit to solving common problems of an economic, political and social nature, as well as specialized organizations and mechanisms such as international organizations such as the World Bank, World Trade Organization (WTO), UNESCO, International

Monetary Fund (IMF), the international commission of human rights. In addition, actors such as transnational companies are beginning to emerge in the international arena (See **Figures 1, 2, 3 and 4**).

In fact, Globalization has introduced the international law as a mean whose subjects are States, international organizations, the warring or belligerent community, national liberation movements... etc. A large economic scale, technological, cultural, environmental and social processes belong to Globalization and its development and improvement that aim at growing communication and independence somehow even if there is more dependence between advanced economies, the emerging market and developing countries or even between advanced economies, it has focused and boosted economic union and international trade, unifying markets, societies and cultures (See **Figure 1**).

4.2. Why is there an international law for global society?

International law regulates the conduct of states as main actors on international scene, the responsibility of international organizations and transnational corporations became topical in the last decade. However, international legal instruments traditionally address states. On the other hand, there is no single authority in international law, in the national legal system on the top of hierarchy there is the president, the monarch or the government but in the international legal system there is no such authority, that means that the national legal system is vertical and centralized whereas the international is horizontal and decentralized, there is no central body making law of enforcing law. Furthermore, International law is based on state consent to define consent is a legal or official permission to do something or an agreement as to action or opinion and international law is based on state consent to assume legal obligations (See **Figures 1, 2, 3**).

Besides, in international law responsibility is collective, even if in the national legal system, we focus on individual responsibility but in the international legal system it is about the state responsibility, which is by its nature collective, in other words, the whole state is liable (as a single legal entity). In addition, sovereign equality of states is important in the international law, all states have equal rights and duties and are equal members of the international community irrespective of their distances or differences of an economic, social, political or other nature. States have to respect the personality of other states. Moreover, it bases on non-intervention in internal affairs of another states, that means states do not have the right to intervene directly or indirectly for any reason whatever, in the internal affairs of any other states such as financing terroristic activities, economic pressure and or coercion... etc. but the withdrawal of economic aid is not always a violation. The use of force is prohibited and forbidden, according to article 2 (4) from the charter of the United Nations, all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations" (Charter of the United Nations, 1945). But there are exceptions, collective action for protection of international peace and security (chapter 7, Charter of the United Nations, 1945). In international law, preserving peace and respect for human rights is key (See **Figure 2**).

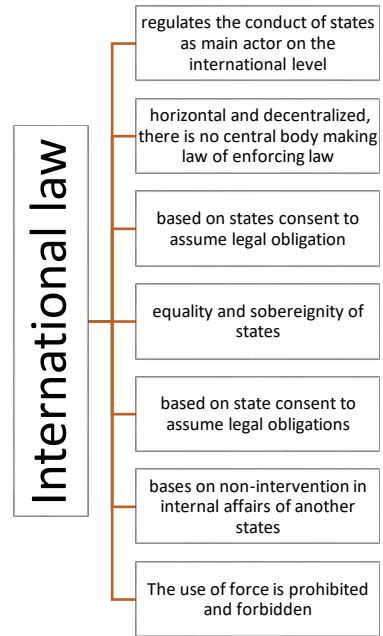
4.3. The contribution of international law to global economy

Global economy focuses on a provision, purchase, sales, transfer of goods and services that often traded among individuals to create a fiscal economy of a particular country, everyone has a form of value represented either in the form of currency or in their actions or goods they hold.

The strength of an economy bases on how regularly people trade a value, in a vibrant economy is one where you have lots o trading activities of value and it happens regularly with some speed or velocity. The greater global economy is the transaction of goods and services between individuals throughout the entire globe. So, the extent to which the productivity of the entire globe is measured upon the total of individuals. International law facilitates all this by providing a background, assurance, confidence and oftentimes it provides a means or mechanism by which individuals can

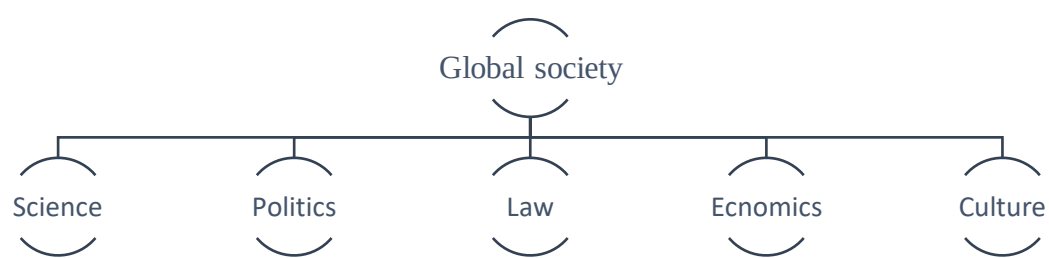
trade or do business with regard to goods and services, to start with the utility of law is based upon first international relations, how do countries relate to each other, particularly with regard to trade of goods and services between those nations. Doing business with individuals from other nations focuses on the activities of individuals that are governed with the context of global economy starting from the applicable rules to industries in the home country or nation (See **Figure 4**).

Figure 2. International and its main objectives



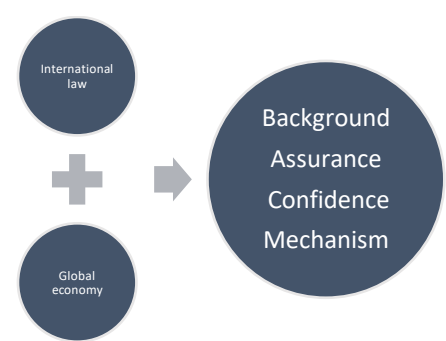
Source: Author’s design and contribution, 2023, UN charter 1945

Figure 3. Global society and its main elements



Source: Author’s design and research

Figure 4. The contribution international law to the global economy



Source: Author’s contribution and research, 2023

5. Conclusions

International law has got a high contribution to the insights of global economy, globalization and internationalization processes especially for companies. There is a huge interconnection between Globalization, Internationalization that is important for global economy and international law. Globalization is on the one hand a large economic scale, on the other hand, it is technological, social and cultural process, which consists of the growing communication and interdependence between different countries of the world, unifying their markets, societies and cultures. International law plays an important role in globalization and international cooperation. Globalization has made economies intertwine, it has affected the autonomy and sovereignty of states and has profiled them and shared sovereignty as the new relation between states or what we may call interstate relations.

Bibliography

1. Albaum G, Strandskov J, Duerr E, Dowd L (1994): *International Marketing and Export Management*. Cambridge: Addison-Wesley.
2. Anderson E, Gatignon H. (1986), *Modes of foreign entry: A transaction cost analysis and propositions*, „Journal of International Business Studies” 17, 1–26.
3. Backer, L.C. (2007), *Economic globalization and the rise of efficient systems of global private law making: Walmart as global legislator*, „Connecticut Law Review”, 39 (4).
4. Benabed, A. (2022). *Overhanging the future socio-economic aspects through the consequences of globalization and international law*. „Perspectives of Law and Public Administration”, 11(1), 165-168.
5. Bradford, A. & Posner, E., *Universal exceptionalism in international law* (2010) „Public Law and Legal Theory”.
6. Brooks, T., *The Global Justice Reader*, Blackwell Malden 2008.
7. Chang, S. J. & Rosenzweig, P.M. (2001), *The choice of entry mode in sequential foreign direct investment*, „Strategic Management Journal”, Vol. 22, No. 8, pp. 747-776.
8. Charter of the United Nations (1945), <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>.
9. Combacau, J. (1986), *Le droit international: bric-à-brac ou système?* Archives de philosophie du droit, 31.
10. Fujita, M.P., Krugman, A. & Venables, A. (1999), *The Spatial Economy: Cities, Regions and International Trade*, MIT Press, Cambridge, MA.
11. Garcia, F. J., *Globalization and the Theory of International Law* (2005) 11 „International legal theory” 9- 26.
12. Hitt, M.A., Hoskisson, R.E. & Kim, H. (1997). *International diversification: Effects on innovation and firm performance in product-diversified firms*. „Academy of Management Journal”, 40(4).
13. Iyer, L.S., Taube, L. & Raquet, J. (2002), *Global e-commerce: rationale, digital divide, and strategies to bridge the divide*, „Journal of Global Information Technology Management”, Vol. 5 No. 1.
14. Johanson J, Vahlne JE (1990). *The mechanism of internationalisation*. „International marketing review”, 7(4):11-24.
15. Johanson J, Wiedersheim F (1975). *The internationalization of the firm-four Swedish cases*. „Journal of Management Studies”, 12(3), p. 305-322.
16. Johanson, J. and Vahlne, J-E. (1977), *The internationalization process of the firm: a model of knowledge development and increasing foreign market commitments*, „Journal of International Business Studies”, Vol. 8 No. 1, p. 23-32.
17. Jouannet, E., (2008), *What Is the Use of International Law ? International Law as a 21st Century Guardian of Welfare*, 28 „Michigan Journal of International Law” 815-862.
18. Keinert, C. (2008). *Corporate social responsibility as an international strategy*. Springer Science & Business Media.
19. Koskeniemi, M. (2006), *From apology to Utopia: The structure of international legal argument: Reissue with a new epilogue*, Cambridge University Press, DOI: 10.1017/CBO9780511493713.
20. Krisch, N. (2010) *Beyond Constitutionalism: The Pluralist Structure of Postnational Law*, Oxford University Press.
21. Leamer, E. E. & Storper, M. (2001), *The economic geography of the internet age*, „Journal of International Business Studies”, Vol. 32 No. 4.
22. Simma, B. (1994) *From Bilateralism to Community Interest in International Law*, 250 Recueil des Cours de l'Academie de Droit International 233.
23. Welch, L.S. & Loustarinen, R. (1988), *Internationalization: evolution of a concept*, „Journal of General Management”, Vol. 14, No. 2.
24. Yasuaki, O. (2017). *The Global Economy and International Law. In International Law in a Transcivilizational World*. Cambridge: Cambridge University Press. Doi:10.1017/9781139175951.009.