

**CENTRE FOR INTERNATIONAL LEGAL STUDIES
SCHOOL OF INTERNATIONAL STUDIES**

Course : Ph.D.
Course No. : DI619
Course Title : International Trade Law
Course Type : Optional
Course Teacher: Prof. V. G. Hegde
Credits : 2
Contact Hours : 2 hours per week
Semester : Winter

COURSE OBJECTIVES:

The course will provide basic insights into the working of the global trading system with specific emphasis on the General Agreement on Tariffs and Trade (GATT)/World Trade Organization (WTO) regimes. The course primarily examines the GATT/WTO framework and its impact on India and other developing countries. The normative evolution of international trade law through the negotiations of GATT and later its implementation will form the core of the course. Subsequently, with the transformation of GATT into WTO brought into focus more complex regime of international trade law that includes elaborate and interpretative provisions relating to Most-Favoured Nation Treatment (MFN), National Treatment (NT), Safeguard Measures, Anti-dumping norms, prohibition of Quantitative Restrictions and subsidies, trade issues concerning developing countries, and settlement of trade disputes within the GATT/WTO system.

The course will focus on the attempts of the GATT system, despite it being dominated by major trading countries, to bring about several improvements in its operation through various rounds of negotiations. The GATT mandate was to negotiate to bring down tariffs. However, over the years it has gone into many new areas framing new and broader trade regulatory frameworks. The course will examine these aspects. It will also examine the concerns of newly emerging developing countries. Although 'special and differential treatment' provisions were introduced to ameliorate the concerns of developing countries, they remain largely ineffective. The Uruguay Round of negotiations, launched in 1986 and eighth in the series of such rounds, brought about major changes. The Course will consider the institutional aspects of the World Trade Organization (WTO) as a permanent global trade institution and its role in international law-making. It is to be noted that besides the creation of the WTO, the Uruguay Round of negotiations brought on board several new issues into the negotiating agenda of the GATT/WTO system such as intellectual property rights, investments and services. The GATT system which was hitherto primarily concerned with the tariff reduction of goods that are being either exported or imported, now with the advent of WTO, the new norms sought to regulate several new areas in international trade law. With the rapid development of technology in several areas the nature and functioning of international trade also transformed. Considering the range of topics and the interpretative techniques used in its dispute settlement process the relevance and reach of WTO has increased manifold. The rapid process of globalization also created the conditions for the dominant role for the WTO in global trade affairs. Therefore, the course will also deal with contemporary concerns that are debated and dealt within the WTO.

LEARNING OUTCOMES:

The course will seek to equip the PhD students with basic understanding of the legal and institutional framework of the GATT/WTO regime. It will also provide various perspectives about the nature and working of the GATT/WTO. It will include the basic principles and standards that form part of the international trade regime, in particular within the context of the WTO. . The focus on domestic regulatory frameworks relating to international trade law, in particular the Indian legal framework, will help the students understand the role of nodal Ministries such as Ministry of Commerce as well as Ministry of External Affairs. The study of various negotiating formats in the area of international trade law will help students to understand and contribute to the work of not only the Government, but also the private sector and the civil society.

EVALUATION METHODS:

Grading: 100 marks for Grade to be given after evaluation

- End semester examination (60 marks)
- Term paper (20 marks)
- Book review (10 marks)
- Attendance (class participation) (10 marks)

COURSE CONTENT**Unit I - Origin and Nature of International Trade Law**

An Overview - Concept and Nature of International Trade Law – Origins - Theories of International Trade, Globalization and International Trade.

Historical Background of the General Agreement on Tariffs and Trade (GATT, 1947) - Evolution of WTO – GATT 1994 and WTO – India/South Asia and GATT/WTO.

Unit II - Understanding Institutional Framework

Legal Structure, Principles and working of WTO and its Covered Agreements – Understanding the structures of the Covered Agreements – Issues concerning implementation of WTO agreements and rulings.

Unit III - Basic Principles

Most-favoured Nation Treatment (MFN) – History and Basic issues – Grandfather clauses – Definitional Issues - GATT/WTO cases concerning MFN

National Treatment – scope and application – History and Basic issues – GATT/WTO cases concerning National Treatment.

Like products – scope and application – aim and effect test – the product and process distinction.

Unit IV - Exceptions to MFN

Exceptions to MFN – Special and Differential Treatment for Developing Countries – The Enabling Clause – Regional Trading Arrangements – SAFTA and GATT/WTO – Article XX ‘General Exceptions’ – GATT/WTO cases on Article XX exceptions.

Safeguards – Legal and Policy Framework – GATT Article XIX and the Agreement on Safeguards – GATT/WTO cases on Safeguard Measures.

Anti-dumping – GATT/WTO Rules on Dumping – Determination of Dumping – Determination of Injury – Definition of ‘domestic industry’ – GATT/WTO cases on anti-dumping.

Subsidies and Countervailing Measures – identification of subsidies – regulation of subsidies – GATT/WTO cases on Subsidies.

Unit V - Standards Code

Sanitary and Phytosanitary (SPS) Measures – Technical Barrier to International Trade (TBT) – Basic Rights and Obligations - GATT/WTO Cases on SPS and TBT.

Unit VI - Dispute Resolution

Dispute Settlement Understanding (DSU) and WTO – An Overview of DSU Process – Procedural and systemic Issues – Enforcement of WTO Obligations: Remedies and Compliance – Proposals for Reform – South Asian Countries and the DSU

Unit VII - New Issues and Future Challenges

IPRs, Trade and Environment – General Agreement on Trade in Services (GATS) – Agriculture – The Doha Development Round and after - Future Challenges -

Unit VIII -

Coalitions and Complexities in Negotiations - Concerns of Developing Countries with specific focus on India

READING LIST:

1. Arup, Christopher (2000), *The New World Trade Organisation Agreements* (Cambridge University Press).
2. Chaturvedi, Sachin and S.K. Mohanty (2008), “The WTO and Trade in Electronically Delivered Software: Emerging Challenges and Policy Options – An Indian Perspective”, *Journal of World Trade*, 42 (5): 927- 951.
3. Chimni, B. S. (2006), “The World Trade Organization, Democracy and Development: A View from South”, *Journal of World Trade*, 40 (1): 5-36.
4. Chimni, B.S. (2000), “WTO and Environment: The Shrimp-Turtle and EU-Hormone Cases”, *Economic and Political Weekly*, 35 (20): 1752–62.
5. Dam, Kenneth W. (1970), *The GATT: Law and International Economic Organization* (Chicago: University of Chicago Press).
6. Hegde, V.G. (2007), “Intellectual Property Rights and Asian African States” (New Delhi: Asian African Legal Consultative Organization).
7. Hoekman, Bernard and Michel Kostecki (2010), *The Political Economy of the World Trading*

System (Oxford: Oxford University Press).

8. Hudec, Robert E. (1990), *The GATT Legal System and World Trade Diplomacy*, 2nd edition (Salem, New Hampshire: Butterworth).
9. Jackson, John H. (1997), *The World Trading System: Law and Policy of International Economic Relations*, 2nd edition (Cambridge: MIT Press).
10. Koul, A.K. (2004), “Developing Countries in the GATT/WTO - Their Obligations and the Law”, *Indian Journal of International Law*, 44: 451-487.
11. Lester, Simon, Bryan Mercurio, Arwel Davies and Kara Leitner (2022), *World Trade Law: Text, Materials and Commentary* (London: Bloomsbury).
12. Matsushita, Mitsuo, Thomas J. Schoenbaum and Petros C. Mavroidis (2015), *The World Trade Organization: Law, Practice and Policy* (Oxford University Press).
13. Mattoo, Aaditya and Arvind Subramanian (2004), “The WTO and the Poorest Countries: The Stark Reality”, *World Trade Review*, 3 (3): 385-407.

Selected GATT/WTO Case Law

Australia - Measures Affecting Importation of Salmon, WTO Doc. WT/DS18/R (18 February 2000) [WTO | dispute settlement - the disputes - DS18](#);

Brazil - Measures Affecting Imports of Retreaded Tyre, WTO Doc. WT/DS332/R (15 September 2009) [WTO | dispute settlement - the disputes - DS332](#);

Canada - Measures Affecting the Export of Civilian Aircraft, WTO Doc. WT/DS70/R (adopted 14 August 2000) [WTO | dispute settlement - the disputes - DS70](#);

Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products, WTO Doc. WT/DS113/R (15 May 2003) [WTO | dispute settlement - the disputes - DS113](#);

Canada - Certain Measures Affecting the Automotive Industry, WTO Doc. WT/DS139/R (4 October 2000) [WTO | dispute settlement - the disputes - DS139](#);

Canada - Certain Measures relating to Periodicals, WTO Doc. WT/DS31/R (9 October 1998) [WTO | dispute settlement - the disputes - DS31](#);

European Communities - Countervailing Measures on Dynamic Random Access Memory Chips from Korea, WTO Doc. WT/DS299 /R (20 April 2006) [WTO | dispute settlement - the disputes- DS299](#);

European Communities - Measures Affecting Asbestos and Products Containing Asbestos, WTO Doc. WT/DS135/R (11 April 2001) [WTO | dispute settlement - the disputes - DS135](#);

European Communities - Regime for the Importation, Sale and Distribution of Bananas, WTO Doc. WT/DS27/R (20 November 2012) [WTO | dispute settlement - the disputes - DS27](#);

European Communities - Anti-Dumping Duties on Imports of Cotton-type Bed Linen from India, WTO Doc. WT/DS141/R (29 April 2003) [WTO | dispute settlement - the disputes - DS141](#);

European Communities - Measures Concerning Meat and Meat Products (Hormones), WTO Doc. WT/DS26/R (17 April 2014) [WTO | dispute settlement - the disputes - DS26](#);

European Communities - Trade Description of Sardines, WTO Doc. WT/DS231/R (29 July 2003) [WTO | dispute settlement - the disputes - DS231](#);

European Communities - Conditions for the Granting of Tariff Preferences to Developing Countries, WTO Doc. WT/DS246/R (18 July 2005) [WTO | dispute settlement - the disputes - DS246](#);

Guatemala - Anti-Dumping Investigation Regarding Portland Cement from Mexico, WTO Doc. WT/DS60/R (9 April 1999) [WTO | dispute settlement - the disputes - DS60](#)

India — Certain Measures Relating to Solar Cells and Solar Modules, WTO Doc. WT/DS456/R (18 July 2023) [WTO | dispute settlement - the disputes - DS456](#)

India — Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products, WTO Doc. WT/DS90/R (26 March 2001) [WTO | dispute settlement - the disputes - DS90](#)

Japan — Taxes on Alcoholic Beverages, WTO Doc. WT/DS8/R (12 January 1998) [WTO | dispute settlement - the disputes - DS8](#).

Korea — Measures Affecting Imports of Fresh, Chilled and Frozen Beef, WTO Doc. WT/DS161/R (12 April 2001) [WTO | dispute settlement - the disputes - DS161](#).

Thailand — Anti-Dumping Duties on Angles, Shapes and Sections of Iron or Non-Alloy Steel and H Beams from Poland, WTO Doc. WT/DS122/R (23 January 2002) [WTO | dispute settlement - the disputes - DS122](#).

Thailand — Customs and Fiscal Measures on Cigarettes from the Philippines, WTO Doc. WT/DS371/R (5 July 2022) [WTO | dispute settlement - the disputes - DS371](#).

Turkey — Restrictions on Imports of Textile and Clothing Products, WTO Doc. WT/DS34/R (19 July 2001) [WTO | dispute settlement - the disputes - DS34](#).

United States — Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan, WTO Doc. WT/DS184/R (6 September 2023) [WTO | dispute settlement - the disputes - DS184](#)

United States - Final Countervailing Duty Determination with respect to Certain Softwood Lumber from Canada, WTO Doc. WT/DS257/R (16 November 2006) [WTO | dispute settlement - the disputes - DS257](#).

United States — Measures Affecting the Cross-Border Supply of Gambling and Betting Services, WTO Doc. WT/DS285/R (25 April 2013) [WTO | dispute settlement - the disputes - DS285](#).

United States — Measures Affecting Imports of Woven Wool Shirts and Blouses from India WTO Doc. WT/DS33/R (27 May 1997) [WTO | dispute settlement - the disputes - DS33](#)

United States — Restrictions on Imports of Tuna, GATT (3 September 1991) (not adopted) [WTO | Environment - disputes 4](#).

United States — Section 337 of the Tariff Act of 1930 and Amendments thereto, WTO Doc. WT/DS186/R (1 February 2000) [WTO | dispute settlement - the disputes - DS186](#).

United States — Import Prohibition of Certain Shrimp and Shrimp Products WTO Doc. WT/DS58/R (26 November 2001) [WTO | dispute settlement - the disputes - DS58](#).

United States — Standards for Reformulated and Conventional Gasoline, WTO Doc. WT/DS2/R (26 August 1997) [WTO | dispute settlement - the disputes - DS2](#).

United States — Subsidies on Upland Cotton, WTO Doc. WT/DS267/R (23 October 2014) [WTO | dispute settlement - the disputes - DS267](#).

United States — Tax Treatment for “Foreign Sales Corporations”, WTO Doc. WT/DS108/R (17 March 2006) [WTO | dispute settlement - the disputes - DS108](#).
