OBJECTIVE

The objective of the course is to provide an overview of the content, meaning and application of international economic law. The scope and limits of international economic law essentially lie within the ambit of international economic relations. States, therefore, form the core of the economic activities and relations. It is also important to note that the phrase “international economic law” is understood in this course in its broadest sense to include various aspects of international trade, financial and investment laws. Within the broad spectrum of international law, it is to be noted that both international trade law and international commercial law have evolved into a separate and yet specialized areas of study. This course may not traverse the entire length and breadth of these areas, although an attempt will be made to study some of the basic principles that have had an impact on the international economic law. At its broadest sense, as defined by available sources, international economic law essentially seeks to “deal with the conduct of sovereign States in international economic relations and also the conduct of private parties involved in cross-border economic and business transactions”.

At the more basic level, to understand the meaning, formulation and working of the international economic law it is inevitable for us to study its evolutionary and historical aspects. As it has been argued in the context of public international law, it would be appropriate to assert in the case of international
economic law as well that majority of the developing countries had no role to play in the formulation of some of the basic principles of international economic law. This is also true and equally applies to the formation and working of international economic institutions. Both these principles and the institutions that seek to apply them evolved in a certain context in the aftermath of post Second World War. The rationale of evolving these international economic institutions and the principles on which they were based should be understood in the context of global politics, trade and economic relations. New Stats that emerged post Second World War sought to challenge some of these political, legal and regulatory assumptions that led to the formulation of these principles and the economic institutions created on the basis of these economic and trade assumptions. Some of these understandings of the developing and newly emerging countries have been recorded and reflected in the debates and resolutions of the United Nations General Assembly (UNGA). The UNGA resolutions on Permanent Sovereignty over Natural Resources (PSNR) in the 1960s followed by the idea of New International Economic Order (NIEO) and Charter of Economic Rights and Duties of States in the 1970s need consideration and analysis to understand the continued disparities that existed in the formation and application of international economic law principles.

The Course, besides examining international economic legal principles, will also study the context, formation and impact of various international economic institutions with specific focus on South Asian countries. The formulation and implementation of the international economic legal principles concerning varied subject matters have been moved from one economic or trade institution to another taking into account the impact and change it could bring to domestic legal and regulatory framework. The negotiations and the formulation of minimum standards concerning intellectual property rights (IPRs) is one fine example. Besides IPRs, these subject matters include goods and services, investment measures and dispute settlement.

The South Asian countries, like other developing countries, were also part of this process and were also impacted in terms of these global economic legal frameworks. Considering these, an attempt will be made in this course to understand specific substantive and technical issues from the perspective of South Asian countries. The negotiating stance taken by the South Asian countries, both collectively and individually, on some of these substantive issues would be examined. The impact of such stance on their domestic legal and policy framework also would be examined to the extent possible. There have been efforts, considering the need to evolve a common procedural framework to facilitate smooth movement of global transactional chain and trade, to bring in uniformity or harmonization in these procedural frameworks. Such uniformity already exists in maritime practices for a very long time through various treaties and conventions among countries. However, efforts are underway to extend these efforts to other areas as well. Besides maritime practices, we could note many other areas which are being considered for harmonization such as for example, various principles in the field of private international law, legal and policy issues relating to regional economic integration, international investment measures, competition, electronic commerce, international monetary regulation and international commercial arbitration.

These challenges at the global and international level have been impacting the domestic legal regulatory frameworks. This is taking place in terms of implementation and has been constantly reducing or shrinking policy space for the developing countries, including South Asian countries, to frame their laws and regulations keeping in view their own needs and interests. These changes and the process of harmonization in the context of emerging principles of international economic law are being articulated on the basis of globalization. The issues of globalization and its impact on the South Asian countries in understanding and applying international economic law will also form part of this course. The course will
also offer a brief understanding of theoretical and conceptual framework of international economic law in the specific context of right to development. The specific focus in this regard will be to the sharing of natural resources including transnational water resources.

The course on International Economic Law is primarily based on the perspective of South Asian countries with specific focus on studying their conduct in international economic relations. Besides others, one of the primary concerns of the international economic law is about studying regional economic integration. The present course will look at the basic structure of South Asian Association of Regional Cooperation (SAARC) and will also study the impact of working of the South Asian Free Trade Area (SAFTA). It should be noted that the content of International Economic Law encompasses a wide spectrum of areas such as for example, trade in goods and services, international financial law, economic and regional integration, dispute settlement and conflict resolution (with focus on alternative dispute resolution mechanisms), investment law and regulation of foreign investment. The proposed course may deal with major part of these areas, though not necessarily all the above specified areas.

COURSE CONTENT

WEEK-1 & 2

Definition, Scope and History of International Economic Law with specific focus on theoretical framework; Concept of sovereignty in International Economic Relations; Globalization, International Economic Law and South Asia

WEEK-2 & 3

Permanent Sovereignty over Natural Resources (PSNR); New International Economic Order (NIEO); Charter of Economic Rights and Duties: United Nations Conference on Trade and Development (UNCTAD); Approach of South Asian Countries

WEEK-4 & 5

Evolution of General Agreement on Trade and Tariffs (GATT), World Trade Organization (WTO); Structures, Principles and Working of WTO; South Asian Countries and WTO.

WEEK-6

International Economic Institutions: An Overview, Evolution and History, Role and Participation of South Asian Countries

WEEK-7

International Monetary Fund (IMF) and International Bank for Reconstruction and Development (IBRD) Structure and Functions; Impact on Developing Countries with specific focus on South Asian countries.

WEEK-8 & 9

United Nations Commission on International Trade Law (UNCITRAL); Structure and Functions. Brief Survey of International Conventions adopted by UNCITRAL; South Asian Countries and UNCITRAL
WEEK-10

Regional Integration and International Economic Law – with specific focus on South Asian Free Trade Area (SAFTA)

WEEK-11

Dispute Settlement and Conflict Resolution; International Commercial Arbitration and Alternative Modes of Resolving Disputes; Negotiation, Mediation, Conciliation, Arbitration and Adjudication

WEEK-12

Right to Development and Developing Countries

Readings

5. Anand R.P. New States and International Law, (Vikas Publishing Hosue: Delhi:1972);


21. UNCTAD, The Outcome of the Uruguay Round: An Initial Assessment (Geneva: UNCTAD, 1994), 41-105, 205-219

22. www.wto.org (for all GATT/WTO cases and other primary documents)

23. www.unctad.org (for the perspective of developing countries)

24. www.southcentre.org (for the perspective of developing countries)

25. www.uncitral.org