OBJECTIVE

The International Trade Law has gained more importance in recent decades in the wake of unprecedented focus of nations on developing close international economic relations. Initially, the General Agreement on Tariffs and Trade (GATT), 1947 provided the necessary setting, norms and regulations for the evolution of international trade law. However, over the last few decades, the GATT system has undergone a significant change, although some of the basic norms for regulating international trade remain intact. Some of these basic norms, for example, include Most-Favoured Nation Treatment (MFN), National Treatment (NT), Safeguard Measures, Anti-dumping norms, prohibition of Quantitative Restrictions and subsidies, trade issues concerning developing countries, settlement of trade disputes within the GATT/WTO system. GATT system, despite it being dominated by major trading countries, attempted to bring about several improvements in its operation through various rounds of negotiations. Several rounds of such negotiations have been held to bring down not only tariffs, but also to bring some kind of a balance into the global trading system. Concerns of newly emerging developing countries were sought to be accommodated in some of these rounds, although implementation of these ‘special and differential treatment’ provisions remain largely ineffective. The Uruguay Round of negotiations, eighth in the series of such rounds, brought about major changes. The World Trade Organisation (WTO) as a permanent global trade institution was created. 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, for instance, intellectual property rights, investments and services. The GATT system which was hitherto was 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, it is important to understand both the legal and institutional framework of GATT/WTO. This course will attempt to do that.

Further to this, the increase in the membership of the WTO in the last several years also shows its growing importance in the global trading system. The majority membership of the WTO now consists of developing countries and this membership has resulted in creating binding trade obligations. The implementation of these obligations created by the WTO Agreements has been presenting several difficulties for the developing countries. These obligations, it is being argued, have shrunk the policy space for the countries to manage their trade and economies taking into account their own realities.

The obligations created for the WTO members of the South Asian countries will have special reference. Bangladesh, India, Nepal, Pakistan and Sri Lanka are the members of WTO and have been subject to varied kinds of obligations under various WTO covered agreements. The other South Asian countries, Afghanistan for example, is in the process of joining WTO as a member. Implementation issues have assumed importance in the context of these South Asian Countries. The South Asian Free Trade Area (SAFTA) has been functioning, albeit with certain constraints. Some of these regional trade issues in the context of South Asia will be addressed. Besides these aspects, the course will focus on various aspects of international trade law with specific focus on the GATT/WTO Covered Agreements. The applicability of international law to the working and interpretation of the WTO agreements will also form a part of the course. The focus of the course will be to familiarize students with the nature and structure of international rights and obligations in the field of international trade with specific focus on South Asia.

COURSE CONTENT

WEEK-1 [VGH]


WEEK-2 [VGH]

Historical Background of the General Agreement on Tariffs and Trade (GATT, 1947) - Evolution of WTO – GATT 1994 and WTO – South Asia and GATT/WTO
WEEK-3 [VGH]

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

WEEK-4 [VGH]

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

WEEK-5 [VGH]

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

WEEK-6 [VGH]

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

WEEKS 7 & 8 [PR]

Plurilateral Trade Agreements (PTAs) (Article XXIV of GATT)

• What are PTAs and Customs Union (Article XXIV of GATT)
• What conditions have to be satisfied for a PTA to be consistent with Article XXIV of GATT (internal and external trade requirements)
• Notification and Transparency mechanism for PTAs
• SAFTA

Compulsory Readings:

Key Cases:


WEEKS 9 &10 [PR]

Imposition of Anti Dumping Duties under the Anti Dumping Agreement

- Dumping and Anti dumping Measures;
- Challenging anti dumping measures;
- Concept of Zeroing in anti dumping investigations;
- Determination of Injury and demonstration of a causal link
- Standard of review in the Anti Dumping Agreement.

Compulsory Readings


Key Cases:

WEEKS 11 & 12 [PR]

Imposition of Safeguard measures under the Agreement on Safeguard Measures (Week 11)

- Relationship Between Article XIX of GATT and the Agreement on Safeguards
- Conditions to be satisfied for imposition of Safeguard Measures
- Injury requirement in safeguard measures
- Causation requirement
- Parallelism in imposition of safeguard measures
- Characteristics of Safeguard measures

Compulsory Readings


Key Cases:


WEEK 13 [PR]

Imposition of Technical Barriers to Trade
• What standards of the TBT Agreement a country has to satisfy while imposing technical requirements on trade?
• TBT Agreement Article 2.1 – National Treatment and Most Favoured Nation (meaning of ‘treatment no less favourable’)
• TBT Agreement Article 2.2 – More Trade Restrictive than Necessary
• Obligation to base technical barriers to trade on international standards

Compulsory Readings:


Key Cases:


Readings:

12. [www.wto.org](http://www.wto.org) (for all GATT/WTO cases and other primary documents)
13. [www.unctad.org](http://www.unctad.org) (for the perspective of developing countries)
14. [www.southcentre.org](http://www.southcentre.org) (for the perspective of developing countries)

-----------------------------------------------

Selected GATT/WTO Case Law