

Course Outline

Instructor: Dr. Amrita Bahri, Assistant Professor of Law, ITAM University Name:

WTO Law: Understanding Law and Jurisprudence

The course focuses on the laws, principles, functioning and jurisprudence of World Trade Organization. Students will understand the principles of multilateral trade and engage with the practice of international trade law with the help of current jurisprudence and hypothetical dispute scenarios. The students will receive an appreciation of the purpose and functions of the WTO and be familiar with its principal rules, impact and jurisprudence. Students will also appreciate and understand how international trade relates and interacts with non-economic issues such as gender justice and women empowerment. There will be a special focus on WTO's dispute settlement mechanism and the landmark disputes covering different countries, industries and legal issues. Students will learn with a unique combination of lectures, class discussions and practice exercises. The approach employed will be practical (with real life examples), critical (with practical assessments) and contemporary (with recent developments).

Aims and Objectives

The aim is to provide students with:

- A good working understanding of the multilateral trading system and its fundamental principles
- A sound technical understanding of the core provisions of the GATT
- A deep understanding of WTO dispute settlement system
- An appreciate of how international trade relates to and interacts with non-economic issues such as empowerment of women and gender justice
- Learning practical tools to think critically about the role played by the WTO in global economic governance

Reference Books

- Lester, Mercurio, and Davies, World Trade Law: Text, Materials and Commentary (2nd ed, Hart,2012);
- Van den Bossche, The Law and Policy of the World Trade Organization: Text, Cases and Materials (3rd ed, Cambridge UP, 2013).

Note: You do not need to buy any book. I will upload readings for each and every class. If you still would like to use a textbook for additional study, you can go for any one of the above.

Lecture Outline:

Lecture 1: The Origins, Architecture and Purpose of WTO

The topic provides a general background to international trade law and multilateral trading system, setting the stage for the remainder of the course. It explains the evolution, procedures, mechanics, substance and significance of WTO agreements.

Topics covered include:

1. Introduction to the course
2. Economic globalization and international trade
3. Trade Liberalization versus protectionism
4. International trade and need for regulation

5. The origins and evolution of the GATT/WTO system
6. The nature, purpose and principles of the WTO/GATT
7. Sources of WTO Law
8. WTO Law in context
9. Mandate of the WTO
10. Membership of the WTO
11. Institutional architecture of the WTO
12. Decision Making in the WTO
13. Practice Exercise: Globaphiles *versus* Globaphobes /To Join or not to Join?

Lecture 2: International Trade and Gender Justice

This lecture will be divided in two parts. The first part will focus on identifying and discussing various financial, legal, regulatory and cultural barriers that women face to access trade and commerce. The second part will focus on how new generation trade agreements are trying to demolish these barriers and create a gender-responsive trade environment. Gender justice provisions in new-generation trade agreements such as the United States-Mexico-Canada Agreement (USMCA) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) will be analyzed to see how they can contribute and whether they are adequate to achieve economic empowerment of women.

1. Importance of women in trade
2. Barriers to trade
3. How trade agreements can solve these barriers (USMCA, CPTPP)
4. Measuring gender-responsiveness of trade agreements
5. A workshop: group presentations on trade agreements and their gender-responsiveness

Lecture 3 and 4: Non-discrimination

Now we turn to the GATT rules on non-discrimination, which are central to the balance that the GATT strikes between disciplining protectionism on the one hand, and maintaining adequate regulatory flexibility for WTO Members on the other. How well has GATT/WTO jurisprudence under these provisions maintained that balance? We start by considering the most-favoured nation (MFN) rule in Article I, then turn to the National Treatment provisions in Article III.

Topics covered include:

1. Introduction to non-discrimination (scope, like products, less favourable treatment, regulatory purpose)
2. GATT Article I; Article III:4; Article III:2; Article III:8 of GATT 1994 (MFN and NT under GATT 1994)

Lecture 5 and 6: General Exceptions

Although WTO is sometimes portrayed as only concerned with promoting free trade, it also recognizes the value of other policy goals. The exceptions in GATT Articles XX and XXI provide regulatory space for Members to protect, among other things, public morals, public health, exhaustible natural resources, and national security. The application of these exceptions has been the subject of intense legal and political debate, resulting in some of the GATT's most contested jurisprudence and its most visible legitimacy crises to date.

Topics covered include:

1. Introduction to GATT Article XX;
2. General exceptions: public morals; human, animal or plant life or health; securing compliance with laws or regulations; necessity; conservation of exhaustible natural

resources

3. Mock Litigation (on principles of non-discrimination)

Lecture 7: The WTO Dispute Settlement System

The WTO Dispute Settlement System is often referred to as the ‘jewel in the crown’ of the multilateral trading system. What has earned it this magnificent title? We explore the relationship between WTO law and dispute settlement, as well as the role of WTO, national government, industries, civil society, lawyers in the disputes litigated at WTO DSS. We will also consider the role played by developing countries in WTO negotiations and decision- making and in dispute settlement.

Topics covered include:

1. Principles of WTO dispute settlement
2. Institutions of WTO dispute settlement
3. WTO dispute settlement proceedings
4. Main Challenge to the WTO dispute settlement system
5. Participation of Developing Countries
6. Case laws discussion

Lecture 8: Final Exam: Written

The students will receive a problem question. They will have 3 hours to solve the problem. This is the final assessment of the course.

**This outline is indicative and may undergo minor changes/revisions

Teaching Methods

Sessions will comprise lectures with the help of illustrative slides, on-the-spot quizzes, discussions, self-study hours and practice exercises. Constant feedback on performance will be provided after each exercise.

Assessment Methods

Final written exam	70%
Class Participation	30%

**Marking criteria will be provided individually for each assessment activity.

If you have any questions or comments about this course, please do not hesitate to contact me at amrita.bahri@itam.mx