



**Two Credit/Certificate Course (Online) on  
Introduction to WTO Jurisprudence**

**Offered By**

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**for**

**NLUO Centre for International Trade Law (CITL)**

**INTRODUCTION TO WTO JURISPRUDENCE**

**TWO CREDIT/CERTIFICATE COURSE**

## INTRODUCTION TO THE COURSE

International trade and investment are the main catalysts of globalization. Major wars in the 19<sup>th</sup> and 20<sup>th</sup> centuries have been for trade. It is always an important agenda in any diplomatic relations and any international summit or negotiations. Trade is an aspect of human interaction and like all human interactions it involves issues of access, self-preservation and self-interest, dominance, equality, benefits, fairness, rights, culture, disputes, dispute resolution etc.

The World Trade Organization was established to ensure that trade being an essential requirement of human civilization and growth does not become a reason for destructive wars. The Agreements under WTO are basic undertakings of countries to other countries. The course based on these WTO Agreements is essential for a law students. It is an essential part of international commercial law and provides students who have mastered the subject opportunities to work with international organizations, governmental departments and commercial law firms. In addition to this, students educated in international trade law are better able to understand underpinnings of international political developments and many domestic issues such as farmer suicides and farm laws.

**Course Objectives:** The main purpose of the course is to spread WTO literacy. Many aspects of our lives are affected by international agreements and we are not aware about it. This ignorance breeds misconceptions about various government policies and we end up either wrongly blaming the international treaties or passively accepting where we should be cautious. International trade treaties have come to stay. Hence, general awareness about this law should be encouraged so that our interests are better safeguarded in the international forum. The two-credits course being offered by NLUO Centre for International Trade Law is an effort in this direction.

The main objectives of the course are

- To impart knowledge about the basic legal framework of the WTO Agreement.
- To clarify the concepts of international trade law under the WTO.
- To guide through case laws how legal provisions are used and applied in disputes.
- To help students analyse and evaluate the Agreements and case laws in the background of academic debates around them.

- To guide students in research and writing on issues relating to international trade law.

**Course Outcomes:** After completing the course successfully, a student will be able to

- Identify the foundational principles of the WTO law.
- explain the framework of the WTO Agreements and their concepts.
- critically analyse and evaluate WTO cases and the legal provisions.
- Comment on trade-related issues from social, legal, and developmental perspectives.

## **COURSE OUTLINE**

The course is broadly divided into four parts with specific modules in each part.

### **PART I**

#### **Theoretical and Organizational Background Module**

##### **Module 1: Theoretical and Historical Background**

In this historical background to the creation of WTO and theories of international trade will be discussed along with a discussion about the need for governmental regulation of trade.

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 1.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. Rafael Lima Sakr, *Beyond Histories and Boundaries: Rethinking International Economic Law* (June 12, 2018) LSE Legal Studies Working Paper No. 9/2018.

4. Steve Charnovitz, *Historical Lens in International Economic Law* *Journal of International Economic Law* 22, 1(2019)93-97.

##### **Module 2: The Structure of the World Trade Organization**

- Organizational Structure of WTO
- Dispute Settlement Mechanism

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 2, pp. 21-43.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. P. Van den Bossche, “From Afterthought to Centrepiece: The WTO Appellate Body and its Rise to Prominence in the World Trading System” Maastricht Faculty of Law Working Paper 2005/1 (University of Maastricht, 2005).
4. B.S. Chimni, “The World Trade Organisation, Democracy and Development: A View from the South” *Journal of World Trade* 40, 1 (2006): 5–36.

## **PART II**

### **Rules on Trade in Goods: The Three Pillars**

#### **Module 3: The First Pillar-Market Access**

Elimination of quantitative restrictions and tariff bindings

- Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 3, pp. 71-83.
2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).
  3. Bin Gu “Mineral Export Restraints and Sustainable Development—Are Rare Earths Testing the WTO’s Loopholes” *Journal of International Economic Law* 14, 4 (2011): 765–805.

#### **Module 4: Second Pillar: Non-Discrimination (Most Favoured Nation Treatment and National Treatment**

- Like Products
- MFN
- National Treatment

- Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 4.
2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).
  3. Richard E. Baldwin, “Multilateralising Regionalism: Spaghetti Bowls as Building Blocs on the Path to Global Free Trade” *The World Economy*, 29, 11 (2006): 1451–1518
  4. Jason Potts “The Legality of PPMs under the GATT: Challenges and Opportunities for Sustainable Trade Policy” (International Institute for Sustainable Development, 2008) available at [https://www.iisd.org/system/files/publications/ppms\\_gatt.pdf](https://www.iisd.org/system/files/publications/ppms_gatt.pdf).

### **Module 5: Third Pillar: Trade Facilitation**

- GATT provisions relating to trade facilitation
- The Trade Facilitation Agreement
- Other Agreements under Annex IA relating to trade facilitation

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 5.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

### **PART III**

#### **Exceptions to the Rules on Trade in Goods and Regulation of Non-Tariff Barriers**

### **Module 6: Policy Based Exceptions**

- General Exceptions under GATT
- Security Exceptions

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 6.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. Prabhash Ranjan, National Security Exception in the General Agreement on Tariffs and Trade (GATT) and India-Pakistan Trade *Journal of World Trade* 54 no. 4 (2020) 643-665.

### **Module 7- Exceptions to Protect Particular Industries**

- Antidumping Measures
- Subsidies and Countervailing Measures & Fisheries Subsidies
- Safeguard Measures

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 7.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. Robert Howse, 'From Politics to Technocracy -And Back Again: The Fate of the Multilateral Trading Regime' *American Journal of International Law* vol. 96, no. 1 (2002): 94-117.
4. Timothy Meyer, 'The Political Economy of WTO Exceptions' *Washington University Law Review* 99, no. 4 (2022): 1299-1370.
5. Sheela Rai, 'Imposition of Safeguard Measures and Unforeseen Developments' *Foreign Trade Review* 41 no. 4 (2007): 48-69.

### **Module 8-Regulation of Non-Tariff Barriers**

- Sanitary and Phyto-Sanitary Measures
- Technical Barriers to Trade

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 8.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. Pritam Banerjee, "SPS-TBT Measures: Harmonisation and Diversification" in Dipankar Sengupta, Debashis Chakraborty, and Pritam Banerjee (eds), *Beyond the Transition Phase of WTO: An Indian Perspective on Emerging Issues* (New Delhi: Academic Foundation and Centre de Sciences Humaines, 2006), 47–74.

### **Module 9-Agreement on Agriculture**

- Market Access
- Domestic Support
- Export Subsidies
- Food Security

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 9.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. Sachin Kumar Sharma, Teesta. Lahiri, Suvayan Neogi, and Raihan Akhter, "Revisiting Domestic Support Negotiations at the WTO: Ensuring a Level Playing Field" *Journal of International Trade and Economic* 2021

4. A. Jayagovind, "India and Food Security: WTO Perspective" *Indian Journal of International Law* 54, 3&4 (2014): 505–513.

## **PART IV**

## **Expanding Horizons of WTO**

### **Module 10- Trade in Services**

- Modes of supply of service
- Specific Commitments
- General Obligations
- Exceptions and Built in Agenda.

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 10.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

### **Module 11- Trade-Related Aspects of Intellectual Property Rights**

- Negotiation Background
- General Principles
- Specific IPRs protected under TRIPs
- Administration of IPRs

**Reading:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), Chapter 11.

2. Sheela Rai, Eluckiaa A. and Kapil Sharma (ed.) *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International and CITL, 2021 & 2023).

3. Cassandra Mehlig Sweet and Dalibor Sacha Eterovic Maggio, “Do Stronger Intellectual Property Rights Increase Innovation?” *World Development* 66 (2015): 665–677.

### **Module 12 -Trade and Investment**

- Agreement on Trade Related Investment Measures
- Trade Facilitation Agreement

**Readings:** 1. Sheela Rai, *An Introduction to WTO Jurisprudence* (Thomson Reuters, 2022), pp. 394-400

## **LECTURE PLAN**

<b>Class No.</b>	<b>Module</b>	<b>Topic</b>
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Class 1	Module 1	General Introduction and History
Class 2	Module 1	History and Creation of WTO
Class 3	Module 1	Theories on Trade
Class 4	Module 2	Organisational Structure of WTO
Class 5	Module 2	Dispute Settlement Under WTO
Class 6	Module 2	Dispute Settlement Under WTO
Class 7	Module 3	Market Access (Articles XI of GATT and Exceptions)
Class 8	Module 3	Market Access (Article II of GATT)
Class 9	Module 4	MFN and Exceptions
Class 10	Module 4	National Treatment
Class 11	Module 5	Trade Facilitation
Class 12	Module 5	Trade Facilitation
Class 13	Module 6	General Exceptions under GATT
Class 14	Module 6	Security Exceptions
Class 15	Module 7	Antidumping Measures
Class 16	Module 7	Antidumping Measures
Class 17	Module 7	Subsidies and Countervailing Measures
Class 18	Module 7	Subsidies and Countervailing Measures & Fisheries Subsidies
Class 19	Module 7	Safeguard Measures
Class 20	Module 8	Agreement on Sanitary and Phytosanitary Measures
Class 21	Module 8	Agreement on Sanitary and Phytosanitary Measures
Class 22	Module 8	Agreement on Technical Barriers to Trade
Class 23	Module 9	Agreement on Agriculture
Class 24	Module 9	Agreement on Agriculture
Class 25	Module 10	General Agreement on Trade in Services
Class 26	Module 10	General Agreement on Trade in Services
Class 27	Module 11	Trade Related Aspects of Intellectual Property Rights



Class 28	Module 11	Trade Related Aspects of Intellectual Property Rights
Class 29	Module 12	Trade and Investment
Class 30		General Discussion

### **EVALUTION**

Evaluation will be based on written assignment for 50 marks. Students will have to submit the a research paper on a given topic. The purpose is to encourage students to research and think on WTO related issues.

### **Mode of Teaching and Duration of the Course**

July 1, 2024 to August 10, 2024.

The course will be conducted online Monday to Friday 7pm. to 8 pm.

Google meet link will be shared with the registered students.

Declaration of results August 16, 2024.

Successful students will be given a certificate. The certificate will also specify that the course is of two credits.

### **FEE AND PAYMENT**

**Fee :** Rs. 1000/- per person.

**Last Date for payment and Registration:** June 25, 2024.

**Google Form for Registration:**

<https://docs.google.com/forms/d/11M5QQsKzZ7xrue1Se7IJ8R1OpWhfDeWAUtW8a46fCYc/edit>

**Payment Guidelines:**

[https://docs.google.com/document/d/14--0lVykSqFJ1IRyr2D3Genrq1QYS\\_TO/edit](https://docs.google.com/document/d/14--0lVykSqFJ1IRyr2D3Genrq1QYS_TO/edit)

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## ABOUT NATIONAL LAW UNIVERSITY ODISHA

The National Law University Odisha (NLUO) has made a place for itself in the field of legal education in a very short time. It is ranked among the top 10 under the 'Top 10 Law Colleges' category in India Today's Best Colleges Ranking of 2022, being at no. 9. This category is for the highest-scoring colleges among those set up in or after 2000. NIRF Ranking for 2022 ranked the National Law University Odisha at twenty-fifth rank amongst all categories of law colleges of the country and Tenth among NLUs. University's faculty research output has always been of a very high standard. Faculty publications in several top-tier international publications bespeak their subject expertise and scholarship.

## ABOUT NLUO CENTER FOR INTERNATIONAL TRADE LAW (CITL)

The Centre for International Trade Law is a research centre of National Law University Odisha established in 2015. The Centre is geared primarily towards research. The Centre strives to produce high quality and cutting-edge research in the field of International Trade Law and International Investment Law. The Center is regularly publishing books on issues relating to WTO and international trade. It is in the process of publishing edited version of all the WTO Appellate Body decisions. Two volumes are already published. This work is unique and a valuable addition to literature on WTO jurisprudence.

## CITL Publications



## ABOUT THE RESOURCE PERSON



The Course is offered by Prof. Sheela Rai. Sheela Rai is Professor of Law at the National Law University Odisha. She teaches International Trade Law and International Investment Law. She has published four books- *An Introduction to WTO Jurisprudence* (Thomson Reuters South Asia Pvt. Ltd. 2022), *Antidumping Measures: Policy, Law and Practice in India* (Partridge: A Penguin Random House Company, 2014), *Recognition and Regulation of Safeguard Measures under GATT/WTO* (London & New York: Routledge, 2011), *Recognition and Regulation of Antidumping Measures under GATT/WTO* (Lucknow : Eastern Book Company, 2004). In addition to the above she has published edited volumes- *Trade Facilitation and the WTO* (Co-edited with Prof. Jane K. Winn of Washington Law School) (Cambridge Scholars Press, 2019), *Women and Trade: The Indian Context* (Thomson Reuters, 2024), *Guide to WTO Appellate Body Reports Volumes 1 and 2* (Satyam International, 2021 & 2023). She has also published articles in Indian and international journals. She has more than 20 years of teaching and research experience in International Trade Law.