

## **IMPACT OF WTO DISPUTE SETTLEMENT SCHEME ON INTERNATIONAL TRADING SYSTEM**

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### **1. Introduction**

As consequences of Uruguay round, the World Trade Organization (WTO) established on 1 January 1995, as the successor of General Agreement on Tariffs and Trade (GATT) 1947. At present, in the international trading system WTO is the only legal and institutional foundation. Since its evolution, WTO opened markets and assists to advance such basic principles as the rule of law and fair play in the world trade and economy. The member countries of the WTO is trying to take full advantage of those benefits with the opening of the world markets, trades in both goods and services, and are contributing to world trade and economic growth.

The WTO predecessor GATT, in its life from 1948 to 1995 was a provisional agreement and organization with a limited field of action. The GATT mainly focused on the liberalization of world trade in goods. By the early 1980s, as the world trade had become far more complex and important than 40 years before, GATT clearly no longer perceived relevant to the realities of world trade, as it had been in the 1940s. Moreover, GATT's weak, time consuming and ineffective dispute settlement tools sometimes created trade barrier throughout the 47 years resulted low trade flow globally. Hence, an enforceable legal institution is been urged by the members to establish smooth trade flow by overcoming the weakness of GATT in the table of Uruguay round 1986-1994. WTO, the child of Uruguay Round, engendered to construct not only those new and expanded rules, but also a greatly improved framework for enforcing them<sup>1</sup>.

The WTO deals with the rules of trade among nations. In addition to its predecessor, the GATT, its purpose is to ensure a continuous liberalization and a free flow of world trade through a reduction of tariffs and other barriers to international trade. In order to achieve this

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<sup>1</sup> Dunkley, G. (2001), *The Free Trade Adventure: The WTO, the Uruguay Round and Globalism- A Critique*, London: Zed Books, pp. 34-48.

goal, the WTO Member States have entered into a number of international agreements, which administered by the WTO. Trade disputes handled by the WTO concern the rights and obligations of WTO members under those Agreements. The provisions dealing with dispute settlement under the WTO are entitled in the Dispute Settlement Understanding (DSU). The dispute settlement system appears to be success overall by its nature such as speedy, mutual and effectiveness, which encouraging Members to use the dispute settlement system more and more.<sup>2</sup> This has lead to a rising caseload year after year. By March 2004, almost 309 disputes have been brought to the WTO; in contrast, 200 disputes are been settled by GATT in its 47 years lifetime.<sup>3</sup> These achievements have encouraged most developing countries to participate in WTO wholeheartedly, which ultimately changes economic fundamental and leverages international trade.

Economists ascertained that today's international trade is increasing rapidly, and offcourse WTO try hard to contribute in this development by follows activities as prescribed in its agreements. This study has taken to assess contribution of the WTO to boost up world trade by clearing the trade barriers through its legal and mechanical instruments.

## **2. World Trade Organization**

The World Trade Organization (WTO) is a group of nations and 'customs territories' (i.e., the European Union or EU), which have agreed to perform their trade according to WTO trade agreements.<sup>4</sup> These agreements negotiated and ratified by each Member country, making them legally binding and multilateral. The WTO currently has 150 Members, which account for over 97 percent of world trade.<sup>5</sup>

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<sup>2</sup> Torsten, L.T. (2003), 'WTO Dispute Settlement and Arbitration,' *International Arbitration Law Review*, London: Sweet and Maxwell , 203-206.

<sup>3</sup> World Trade Organization, (2004), *Dispute Chronologically*  
<[http://www.wto.org/english/tratop\\_e/dispu-status-e.htm](http://www.wto.org/english/tratop_e/dispu-status-e.htm) > at 12 April 2004.

<sup>4</sup> John, M. (2003), *International Commercial Law*, 3<sup>rd</sup> Ed, Australia: LexisNexis Butterworths, , p.578.

<sup>5</sup> World Trade Organization, (2004), *The WTO in Brief: Part 2*  
<<http://www.wto.org/english/thewto-e/whatis-e/inbrief-e/inbro2-e.htm>> at 17 April 2004.

## **2.1. Genesis of the WTO**

In 1944, at Bretton Woods, New Hampshire, in the U.S.A., 44 nations met for the United Nations Monetary and Financial Conference. The conference resulted in the creation of the International Monetary Fund (IMF) and the World Bank, along with a charter for the International Trade Organization (ITO). The ITO intended to be a specialized agency of the United Nations governing world trade and other business practices. In 1946, while the ITO finalized, 23 out of all participants began working together to liberalize trade by negotiating tariffs and by adopting some of the trade rules of the draft ITO charter. This combination of trade rules and tariff compromises known as the General Agreement on Tariffs and Trade (GATT) that enacted in January 1948.<sup>6</sup> A secretariat created to handle the administrative needs of the GATT members, thus making it into both a provisional organization and a trade agreement. The GATT evolved through a series of eight major trade negotiations or rounds, mostly focusing on further reducing tariffs (import taxes). In 1986, at the beginning of the Uruguay Round, GATT had grown to 123 members. Its narrow focus on trade in goods no longer provided adequate coverage for new globalize trade industries, and loopholes in its various policies made it inefficient. Members began a seven and a half year process of intense negotiations that ended on January 1, 1995 with the Marrakesh Agreement establishing the World Trade Organization.<sup>7</sup>

## **2.2. Agreement under the WTO and its Annexes**

The WTO Agreement is fundamental tools to regulate and control the international trade among the Member countries. The WTO Agreement incorporates 29 agreements and Understanding, which contains in four Annexes.<sup>8</sup> Annex 1A: Multilateral Agreements on Trade in Goods (including GATT, and various other associated agreements), Annex 1B: General Agreements on Trade in Services (GATS), Annex 1C: Agreement

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<sup>6</sup> Bageell, K., and Staiger, R.W. (2002), *The Economics of the World Trading System*, London: The Massachusetts Institute of Technology Press, p.43-45.

<sup>7</sup> Qureshi, A.H. (1996), *The WTO Implementing International Trade Norms* , Manchester University Press, Manchester, pp.3-5.

<sup>8</sup> Petersmann, E.U. (1998), *The GATT/WTO Dispute Settlement System: International Law, International Organizations and Dispute Settlement*, The Hague: Kluwer Law International, pp. 47.