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DISPUTE SETTLEMENT

WORLD TRADE ORGANIZATION

3.5 GATT 1994



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NOTE

The Course on Dispute Settlement in International Trade, Investment and Intellectual Property consists of forty modules.

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TABLE OF CONTENTS

Note	ii
What you will learn	1
1 GATT 1994: TRADE IN GOODS	3
1.1 What Does “GATT” Mean?	3
1.2 Scope of Application of the GATT 1994	4
1.3 Structure of the GATT 1994	5
1.4 Provisions of the GATT 1994	6
1.5 Legal Instruments Adopted under the GATT 1947	7
1.6 Understandings and the Marrakesh Protocol	8
1.7 The Relationship Between the GATT 1994 and Other WTO Agreements	9
1.7.1 The Relationship Between the GATT 1994 and the WTO Agreement	10
1.7.2 The Relationship Between the GATT 1994 and Other Agreements in Annex 1A to the WTO Agreement	10
1.8 Test Your Understanding	11
2 THE PRINCIPLE OF NON-DISCRIMINATION IN THE GATT 1994	13
2.1 Non-Discrimination: Definition	13
2.2 Most-Favoured-Nation Treatment Obligation: Article I:1	13
2.3 When is There a Violation of the Most-Favoured-Nation Treatment Obligation?	14
2.3.1 Has an “advantage” been conferred upon imported or exported products?	14
2.3.2 Are the products “like”?	16
2.3.3 Was the advantage accorded “immediately and unconditionally”?	17
2.4 National Treatment Obligation: Article III	18
2.5 When is There a Violation of the National Treatment Obligation, under Article III:2, first sentence?	21
2.5.1 Have internal taxes been applied?	22
2.5.2 Are the imported and domestic products “like”?	23
2.5.3 Are the imported products taxed “in excess of” the domestic products?	26
2.6 When is There a Violation of the National Treatment Obligation, under Article III:2, second sentence?	28
2.6.1 Have internal taxes been applied ?	29
2.6.2 Are the imported and domestic products “directly competitive or substitutable”?	29
2.6.3 Are the imported and domestic products “not similarly taxed”?	31
2.6.4 Is the internal tax measure applied “so as to afford protection to domestic production”?	32
2.7 When is There a Violation of the National Treatment Obligation, under Article III:4?	33
2.7.1 Have laws, regulations or requirements affecting the sale and use of products been applied?	34
2.7.2 Are the imported and domestic products “like”?	36
2.7.3 Was the treatment less favourable?	39
2.8 Test Your Understanding	41

3	THE MARKET ACCESS PRINCIPLE IN THE GATT 1994	43
3.1	<i>Market Access Barriers: Definition</i>	43
3.2	<i>Tariffs</i>	43
3.2.1	<i>Tariff Concessions in Schedules</i>	46
3.2.2	<i>Interpreting Tariff Concessions</i>	47
3.2.3	<i>Onus of Clarifying Tariff Concessions</i>	48
3.2.4	<i>Tariff Concessions and the GATT 1994</i>	49
3.3	<i>Quantitative Restrictions</i>	49
3.3.1	<i>General Prohibition of Quantitative Restrictions</i>	50
3.3.2	<i>Exceptions to the General Prohibition</i>	50
3.3.3	<i>Administration of Quantitative Restrictions</i>	50
3.4	<i>Other Duties and Financial Charges</i>	51
3.5	<i>Other Non-Tariff Barriers</i>	52
3.6	<i>Publication and Administration of Trade Regulations</i>	53
3.6.1	<i>Enforcement Only After Official Publication of Laws and Regulations</i>	53
3.6.2	<i>Uniform, Impartial and Reasonable Administration of Laws and Regulations</i>	54
3.7	<i>Test Your Understanding</i>	54
4	EXCEPTIONS TO THE DISCIPLINES IN THE GATT 1994	57
4.1	<i>What Are the General Exceptions to the GATT 1994?</i>	57
4.1.1	<i>Types of Measures Enumerated in Article XX</i>	59
4.1.1.1	<i>Measures Necessary to Protect Human, Animal or Plant Life or Health</i>	59
4.1.1.2	<i>Measures under Article XX(d)</i>	63
4.1.1.3	<i>Measures Relating to the Conservation of Exhaustible Natural Resources</i>	64
4.1.2	<i>Requirements of the Chapeau of Article XX</i>	66
4.1.2.1	<i>Arbitrary or Unjustifiable Discrimination</i>	67
4.1.2.2	<i>Disguised Restriction on International Trade</i>	68
4.2	<i>What are the Security Exceptions?</i>	69
4.2.1	<i>National Security Exceptions</i>	69
4.2.2	<i>Actions Under the United Nations Charter for the Maintenance of International Peace and Security</i>	70
4.3	<i>Safeguard Measures</i>	71
4.4	<i>Regional Integration</i>	71
4.5	<i>Balance-of-Payments Restrictions</i>	73
4.6	<i>Test Your Understanding</i>	74
5	DEVELOPING COUNTRY MEMBERS IN THE GATT 1994	77
5.1	<i>Balance-of-Payments Restrictions</i>	78
5.2	<i>Infant Industry</i>	81
5.3	<i>“Trade and Development”(Part IV of the GATT 1994)</i>	82
5.4	<i>Regional Integration</i>	86
5.5	<i>Test Your Understanding</i>	86
6	CASE STUDY	87
7	FURTHER READING	89
7.1	<i>Books and Articles</i>	89
7.2	<i>Documents and Information</i>	89

WHAT YOU WILL LEARN

The GATT 1947 is at the very source of the current WTO system. Its basic principles applicable to trade in goods have been incorporated into other WTO agreements dealing with other areas of trade, such as trade in services and trade in intellectual property products and, it also provided the very first dispute settlement provisions upon which the WTO dispute settlement system is built. Although the GATT 1994 is only one of the numerous WTO “goods” agreements, its importance in the history of the GATT/WTO is undisputable. This Module provides an overview of the obligations relating to trade in goods in the GATT 1994.

The first Section of this Module defines the GATT 1994 and its constituent elements. The first Section also circumscribes the scope of application of the GATT 1994, and examines its relationship with other WTO agreements.

The second Section discusses the cornerstone of the entire multilateral trading system, the principle of non-discrimination in the GATT 1994, and explores its two facets: the most-favoured-nation treatment obligation and the national treatment obligation.

The third Section addresses the market access barriers to trade in goods and presents the obligations relating to the publication and administration of trade regulations.

The fourth Section deals with the exceptions to the disciplines of the GATT 1994, namely, the general exceptions, the security exceptions, and the exceptions for the purposes of applying safeguard measures, balance-of-payments restrictions, and for the purpose of carrying out regional trade agreements.

Finally, the Fifth Section analyses the position of developing country Members under the GATT 1994.

1. GATT 1994: TRADE IN GOODS

After completing this Section, the reader will be able to:

- define the GATT 1994 and its scope of application;
- list the constituent elements of the GATT 1994;
- explain the relationship between the GATT 1994 and other WTO agreements.

1.1 What Does “GATT” Mean?

GATT

The acronym “GATT” stands for the “General Agreement on Tariffs and Trade”. It is an agreement between States aiming at eliminating discrimination and reducing tariffs and other trade barriers with respect to trade in goods.

Trade in Goods

The GATT was originally, and is still today, only concerned with trade in goods, although its main principles now also apply to trade in services, and intellectual property rights as dealt with respectively by the *General Agreement on Trade in Services* and the *TRIPS Agreement*. The GATT is a WTO agreement that deals exclusively with trade in goods, but it is not the only one. All the agreements listed in Annex 1A to the *Marrakesh Agreement Establishing the World Trade Organization* (hereinafter the “*WTO Agreement*”) concern particular aspects or sectors of trade in goods.

The WTO “Goods ” Agreements

The so-called WTO “goods agreements” in Annex 1A to the *WTO Agreement* consist of ¹:

WTO Agreement

ANNEX 1

ANNEX 1A: Multilateral Agreements on Trade in Goods

GATT 1994

Agreement on Agriculture

Agreement on the Application of Sanitary and Phytosanitary Measures

Agreement on Textiles and Clothing

Agreement on Technical Barriers to Trade

Agreement on Trade-Related Investment Measures

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (also known as the Anti-Dumping Agreement)

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (also known as the Agreement on Customs Valuation)



¹ Please refer to Module 3.1, Section 1.1. Several of these agreements are dealt with in separate Modules of this course.

Agreement on Preshipment Inspection
Agreement on Rules of Origin
Agreement on Import Licensing Procedures
Agreement on Subsidies and Countervailing Measures
Agreement on Safeguards

GATT 1947

The GATT was concluded in 1947 and is now referred to as the GATT 1947. The GATT 1947 was last amended, last in 1965. Later on, additional disciplines were agreed to in side agreements, such as the Tokyo Round agreements, which did not amend the GATT 1947 as such, but only bound the GATT Contracting Parties that became a party to these side agreements.² The GATT 1947 was terminated in 1996. However, the provisions of the GATT 1947 as well as all legal instruments concluded under the GATT 1947 are integrated into the GATT 1994, subject to clarifications brought about by Understandings which also form integral parts of the GATT 1994.

Terminology

The acronym “GATT” is sometimes confusingly used to describe a number of different things. It is sometimes referred to as the “GATT disciplines”, or “GATT disputes”, to mean the current WTO obligations or disputes relating to trade in goods. However, it may also be referred to as the “GATT” to mean the old multilateral trading system and/or Secretariat preceding the WTO. In this Module, “GATT” only means the current obligations under the GATT 1994.

1.2 Scope of Application of the GATT 1994

A WTO agreement

The GATT 1994 is one of the multilateral agreements annexed to the *WTO Agreement*. It is an international treaty binding upon all WTO Members.

Scope of Application

The GATT 1994 is only concerned with trade in goods. The GATT 1994 aims at further liberalizing trade in goods through the reduction of tariffs and other trade barriers and eliminating discrimination.

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