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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

W H I T E   B L A C K  
L E G A L

# **ANALYZING THE IMPORTANCE OF GATT**

AUTHORED BY - PRANJAL VASHISHT

## **ABSTRACT**

*A number of conditions are necessary for the foundation of trade groups. Nevertheless, the goal of the negotiators was to establish a multinational analysis organization for trade issues. The GATT has changed the face of international commerce since it went into effect on January 1, 1948. Since 1947, the hardly regulated international commerce has undergone significant organization and structure as a result of the implementation of a work system subject to broad agreements. As a result of this tactic, disagreements between the parties concerned have been resolved and tariffs and non-tariff barriers have decreased. Expert conferences and committee meetings were created to handle certain issues at the ministerial level. From the start of the discussions, several rounds of talks, including the Kennedy, Tokyo, and Uruguay rounds, have been held. Because of the particular issues that developing nations face, several decisions made in trade discussions have solely affected them. However, because they are structured as a free trade area, customs union, or community, regional groupings such as European Economic Community (EEC) and the Economic Community of West African States (ECOWAS) are permitted by Article 24 of the GATT treaty, so long as they do not impose trade barriers with the rest of the world.*

## **KEYWORDS**

Trade, GATT, Tariff, Agreements, Trade Issues, Treaty.

## **INTRODUCTION**

The laws controlling international commerce are more complex than those governing domestic trade. Indeed, the country's enacted rules and regulations dominated foreign trade. International commerce regulations are even more intricate. This intricacy results from the pressing necessity for any nation to safeguard its own economic territory. Up until recently, the development of

international commerce has been impeded by the lack of supranational authority with the ability to impose duties on nations. States that prioritize their own interests above all others have long resisted trade restrictions of any form. These obstacles come in the form of quantitative limitations and bans, which are non-tariff and tariff kinds.

Following the global upheaval caused by the Great Depression of 1929 and globe War II, a few developed nations with sizable economies, such the United States, Britain, and others, handled the reconstruction of the postwar globe. As a result, the UN was established, and its many organizations were given separate mandates to handle different tasks. Those with a solely economic focus, like the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD), which is currently known as the World Bank, stand out among these organizations. There has never been ratification of the Havana Charter, which was intended to result in the establishment of the International Trade Organization (ITO). As a result, the sole multilateral agreement regulating international commerce continued to be the General Agreement on Tariffs and commerce (GATT). Using this paradigm as a guide, this assessment sheds light on the GATT 1947 before highlighting a few of its accomplishments.

### **STATEMENT OF PROBLEM**

Investigating the GATT's transformation into the WTO and its effects on global trade practices is one important area. It is crucial to comprehend the shift from GATT to WTO and how it affects trade agreements, talks, and dispute settlement procedures.

Examining how GATT promotes trade liberalization and how it affects member nations' economic growth is important. It is essential to investigate whether GATT rules have promoted economic progress and given developing countries fair access to international markets.

The growing amount of bilateral and regional trade agreements makes it necessary to evaluate how well the GATT promotes global trade cooperation. Examining the difficulties presented by the cohabitation of preferential trade agreements and multilateralism under the GATT/WTO is essential.



An assessment is necessary of the GATT's dispute settlement procedures' effectiveness in resolving trade disputes and guaranteeing adherence to trade regulations. Understanding the benefits and drawbacks of the GATT/WTO dispute settlement procedures as well as how they affect the upkeep of a trade system based on rules is crucial.

GATT's applicability in tackling modern trade issues including digital trade, IP protection, and environmental sustainability must be investigated. Understanding the enduring significance of trade requires evaluating how well the GATT/WTO frameworks adapt to new concerns.

It is important to comprehend the dynamics of political economics that impact GATT/WTO negotiations and decision-making procedures. For a thorough understanding, it is imperative to examine how power dynamics, vested interests, and geopolitical upheavals shape the outcomes of GATT/WTO.

## **RESEARCH METHODOLOGY**

The General Agreement on Tariffs and Trade's (GATT) significance is to be thoroughly examined using the research methods used in this work. An amalgamation of qualitative and quantitative procedures will be applied in a mixed-method approach to accomplish this goal. The purpose of this technique is to offer a thorough comprehension of the various facets of GATT's importance in global commerce.

- **Literature Review**

To comprehend the origins, development, and essential elements of GATT, a thorough analysis of the body of current research will be undertaken.

The relevance of GATT in influencing international trade policy will be gleaned through an analysis of scholarly publications, books, official documents, and reports from international organizations, for example, World Trade Organization (WTO).

- **Evaluation of Quantitative Data**

From reputable sources including the World Bank, International Monetary Fund (IMF), and WTO databases, statistical data on global trade trends, tariff rates, trade agreements, and economic indicators will be gathered.

To investigate the link between GATT and other economic indicators, such as trade volume, GDP growth, and tariff reductions, quantitative approaches including regression analysis, correlation research, and trend analysis will be utilized.

- **Case Studies**

To evaluate the real-world effects of GATT on trade policy, economic performance, and development paths, case studies of particular nations or areas will be carried out.

The varied effects of GATT membership will be assessed by a comparative study between nations that have actively engaged in talks and those that have not.

- **Creation of Frameworks**

Placed on the outcomes of the quantitative analysis, case studies, qualitative insights, and literature study, a conceptual framework will be created.

With the help of this framework, one will be able to comprehend the significance of GATT in terms of supporting trade liberalization, stimulating economic growth, settling trade disputes, and advancing international cooperation.

## **HISTORY OF GATT**

During the 1930s global economic downturn, some states attempted to shield their economy with high protective tariffs, quantitative import limitations, and exchange controls, among other types of obstacles. It became evident during World War II that these limitations would continue to burden the world unless strong efforts were undertaken to eliminate and outlaw them. In addition to the IBRD (now the World Bank) and the IMF, a number of states also thought of establishing the international trade organization (ITO), an agency tasked with controlling trade.

Even though this institution has never been established, a group of twenty-three nations (eleven developed and twelve developing, according to the WTO; FOCUS, 1998) started tariff negotiations and came to an agreement on a set of standards meant to liberalize their trade. The General Agreement on Tariffs and Trade (GATT), which went into effect in January 1948 (Geneva, since 1945), is the outcome of these criteria. Up until 1995, when the World Commerce Organization (WTO) was established, the GATT was the sole multilateral body regulating commerce internationally. To put it another way, the GATT was the concrete outcome of all the

efforts made to address issues related to international commerce. The foundation is found in the Atlantic Charter and other agreements reached by the Allies during the conflict to jointly search for a nondiscriminatory economic system that aims to achieve high standards through the free and equitable exchange of goods and services. In pursuit of this objective, the US, the UK, and other leading trading nations of the era spoke of creating international bodies well in advance of the war's conclusion to address issues pertaining to commerce, investment, and capital flows. As a summary, the GATT's tenets are as follows: a) rates ought to be the exclusive tool utilized to safeguard homegrown industries; b) quantitative restrictions (prohibitions/limitations) are normally forbidden (GATT Art. xi) but may be allowed in specific situations; c) tariffs ought to be transparent, predictable, and stable; and d) commitment tariffs consist of a "list of concessions."<sup>1</sup>

When the Havana Charter went into effect and the ITO was established as a specialized organization of the UN, the GATT was first viewed as a temporary agreement. However, due to certain circumstances, the GATT has been the sole international organization that has established standards of behavior for international commerce, utilizing a significant amount of global trade, since 1948. The number of contractual parties, which was initially limited to 23, has increased significantly over time. The list of these nations is complete as of 1988. They included (among the actual contracting parties) the Federal Republic of Germany, Antigua and Barbuda, Argentina, Bangladesh, Botswana, Brazil, Burkina Faso, Burundi, Cameroon, and South Africa. To far, just one nation has temporarily joined the GATT: Tunisia.<sup>2</sup>

Regarding the nations that applied the GATT immediately, they included (Bahama, Brunei Darussalam, Bahamas, Egypt, Angola, Cape Verde, Dominica, United Arab Emirates, Fiji, Grenada, Guinea Bissau, Equatorial Guinea, etc.). The majority of these nations—the real contracting parties, those that have acceded to the GATT provisionally, and those that are applying the GATT immediately or immediately—became members of the WTO between 1995 and 1997, while Algeria, Cape Verde, Seychelles, and Tonga stayed observers until May 1998 (WTO, FOCUS, 1998). The GATT held the majority of its sessions in its Geneva headquarters.

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<sup>1</sup> D. Sergio, "Organisation Mondiale du Commerce" (2008).

<sup>2</sup> D. Chirstian, "WTO / WTO Pol. 4470" (2006).

## PRINCIPLES OF GATT

An agreement containing rights and duties was the GATT of 1947. These core ideas serve as its foundation: (1) Nondiscrimination. Under this concept, each contractual party is required to provide any other contracting party with the same privileges that it provides to another party or nation. This is known as the most favored nation (MFN). Moreover, it suggests that it is forbidden to harm one party at the expense of another. Additionally, signatory nations agree to b) the requirement that parties view tariffs as the only legal way to defend domestic industry and c) not subject import products to more stringent tax and regulation policies than domestic items. Quantitative constraints are therefore often discouraged; c) the norm governing all arrangements is the parties' consultation with one another. It forbids actions taken without considering other people's interests and released unexpectedly. Information sharing, consultation, and conflict resolution are among the norms of procedure.

### Objectives of GATT

"Their relations in the commercial and economic matters should be directed towards raising standards of living, guaranteeing full employment and a large and rapidly increasing volume of real income and effective demand, the full utilization of global resources and increased production and trade of products and to the accelerating development of the economies of all contracting parties," the contracting parties acknowledge in the preamble, which lays out the goals of the general agreement. This passage from the GATT treaty's preamble illustrates how ambitious the goal the general agreement has set for itself. Let's take a closer look at a few of these goals.

- **Improving Living Standards**

Higher living standards and the steady development of all contracting parties are the fundamental goals of the GATT (Part IV of GATT). As a result, the Generalized System of Preferences (GSP) was introduced at UNCTAD's initiative to account for national development disparities.<sup>3</sup> The global accord seeks to open up access to all productions through trade liberalization. Every manufacturer, no matter where they are, is free to export their goods whenever they see fit thanks to the elimination of tariff and non-tariff restrictions. It furthermore enables every customer to get

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<sup>3</sup> G. Jacques, "For sustainable development in West Africa: Food sovereignty" (2006).

what they need from any market.

- **Successful Employment**

Full employment and the efficient use of global resources are inextricably connected, and neither can be attained without more trade liberalization. In fact, the state of affairs hinders autarkic growth since national borders limit the potential and capacities of each producing nation. This suggests that all nations have to have a wide range of industries. However, the truth is that no nation possesses every manufacturing element.

- **Advanced Development of Contracting Parties' Economies**

The contractual parties' capacities and producing potential will thus be developed as they consent to trade their goods with one another. Consequently, there will be a sizable worldwide market where all nations may freely trade their goods. Since they won't experience issues with opportunities, countries can raise their output if they want. It is important to remember that trade agreements only help nations with large manufacturing capacities. Smaller nations are pushed to the bottom because they can only export raw resources, whose prices change based on how eager the richer countries are to buy them. As a result, the parties have implemented extra steps to further trade and economic growth in developing nations.

### **WTO Advancements in Comparison to GATT**

The WTO is without a doubt to be commended for the significant advancements it has made in comparison to the GATT: i) it is a truly international organization that is in charge of guaranteeing adherence to standards that its members have agreed upon; ii) it is in charge of mediating commercial disputes between nations. The WTO is the model of true international trade law; iii) it includes mechanisms to accomplish this arbitration (DSS); iv) theoretically, nations are equal. Smaller nations have the ability to rebel against the majority thanks to the WTO; v) wealthy nations may force the South to open its markets; and vi) the WTO's authority has grown to include new domains such as services and intellectual property rights. Through the progressive removal of trade barriers—which at first had no universal purpose—free trade advances the GATT. However, it currently appears that there is free commerce throughout the world as a result of the fall of the

Soviet Union, economic globalization, and WTO establishment.<sup>4</sup>

The limitations of the current WTO are as follows, which must be noted: (i) bilateral practices did not vanish; (ii) the US still uses the infamous sections 301 and super 301 of US trade law as a weapon against unfair trade practices and to threaten to sanction US companies doing business in Cuba, Iran, Libya, and Iraq. The question of whether the DSS actually has the resources to carry out its recommendations may also arise. With the Doha Round still ongoing in 2009, the WTO is currently an organization in crisis. The Doha Round started in 2001. Conflicts over the role of services between developing nations and big industrialized powers, particularly in agriculture, are the root cause of this institution's crises (GATT, 1947 to 1995). Lastly, the DSS's name is deceptive because it serves as a tool for conflict resolution rather than the actual rule. As such, the help in carrying out members' responsibilities is administrative rather than judicial<sup>5</sup>.

## CONCLUSION

The first thing to note about the GATT's accomplishments is that it was able to endure until the WTO replaced it not too long ago. Aside from theoretically controlling over 80% of global trade, its regulatory role in international trade (Jackson and Winhan) has also resolved numerous economic disputes by pressuring contracting parties who desired to take actions against the rules, consulting with them, and even tolerating actions with questionable legality (e.g., the GATT's stance). One other noteworthy accomplishment is the unquestionable growth in international trade, which started as soon as the arrangement was implemented (particularly between developed nations). This growth was facilitated by tariff reductions in manufacturing sectors that were deemed non-sensitive, and significant access to these markets was made possible by the Kennedy round's adoption of the lineal system as an alternative to the product-by-product system. Such a strategy was employed with remarkable success from that point on until the "Uruguay round." Both an agreement collection and a negotiating hub are included inside the GATT<sup>6</sup>.

Notably, raising living standards in underdeveloped nations is one of the GATT's primary goals,

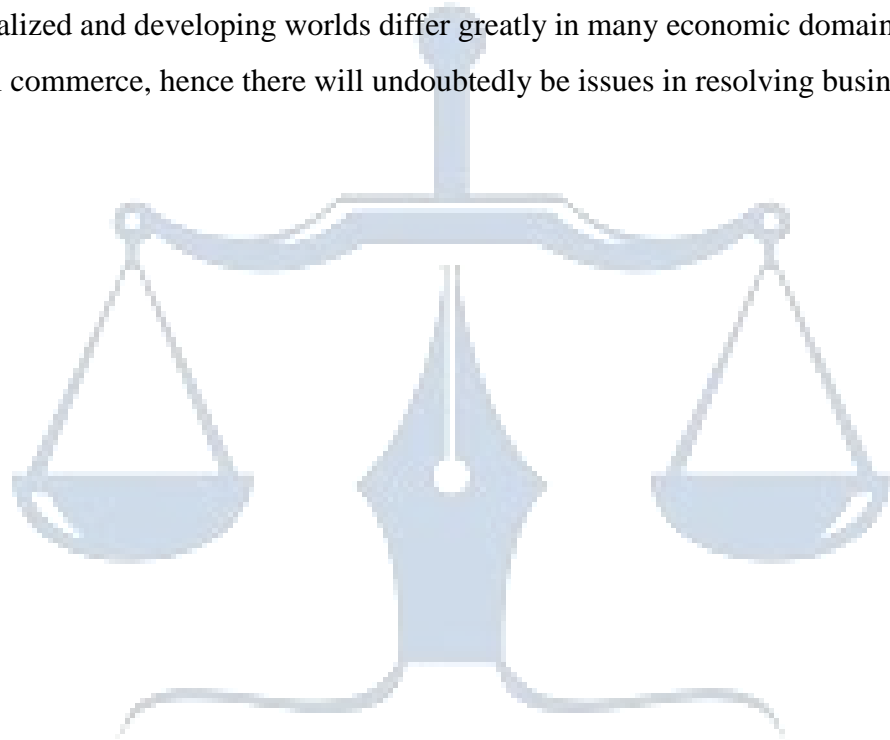
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<sup>4</sup> D. Sandrine D, "Les relations entre les règles des accords multilatéraux sur l'environnement et celles de l'OMC" (2003).

<sup>5</sup> B. Julien, "Effectiveness Of Dispute Settlement Mechanism Of The Wto: Towards A Better The Multilateral Trading System Predictability" (2005).

<sup>6</sup> L. Olivier, "GATT (Geneva), an instrument for multilateral negotiations, Mr. LONG delivered the text of the speech before an audience gathered at the Pakistan Institute of International Affairs (Karachi)" (1976).

which is still far from being accomplished. The reverse occurrence does exist, though. Development nations' terms of trade have gotten worse, and GATT is to blame. Declining terms of trade is a significant issue that the GATT Agreement must address in order to remain credible. In order to be immediately enforceable in member states, the suggestions must be given legal force. The GATT was superseded by the WTO in January 1995 because of the recognized deficiencies in the organization's 1948-enacted function in international commerce. The WTO is a young institution that has made great strides in tackling trade-related issues, yet it still faces challenges. The industrialized and developing worlds differ greatly in many economic domains, most notably international commerce, hence there will undoubtedly be issues in resolving business conflicts.



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