

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

# 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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## 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 <sup>1</sup>:

#### 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)*



<sup>1</sup> 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.<sup>2</sup> 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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