

CHAPTER II

WORLD TRADE ORGANIZATION (WTO)

A. WTO Profile

The WTO is an organization which promotes trade liberalization and competence to produce trading rule among countries. The WTO is a place where member of governments go to try sorting out the trade problems they face with each other. The first step is to talk. The WTO was born out of negotiations, and everything the WTO does is the result of negotiations.¹¹ The WTO is a set of rules, which its agreements, negotiated and signed by the majority of the world's trading nations that the current work comes from the 1986–1994 negotiations called the Uruguay Round. These documents provide the legal rules for international commerce. They are essentially contracts, binding governments to keep their trade policies within agreed limits. Although negotiated and signed by governments, the goal is to help producers of goods and services, exporters, and importers conducting their business, while allowing governments to meet social and environmental objectives. Moreover, the WTO also helps to settle disputes that might be occur during trade negotiations or relations among countries.

¹¹*Sekilas WTO*, Direktorat Perdagangan dan Perindustrian Multilateral & Direktorat Jenderal

A. 1. WTO History

The WTO was set up in 1 January 1995 as a kind of revolution. In the 1930s, the countries met to discuss the new trading system see open trade as essential for economic stability and peace. The intention of these negotiators was to establish an International Trade Organization (ITO), which would address not only trade barriers but other issues indirectly related to trading, including employment, investment, restrictive business practices, and commodity agreements. The ITO was to be a United Nations specialized agency, but the ITO treaty was not approved by the United States and a few other signatories and never went into effect.

Afterwards, a provisional agreement on tariffs and trade rules, called the General Agreement on Tariffs and Trade (GATT) was reached and went into effect in 1948 which there were 23 countries had adopted that agreement in Geneva in 1947.¹² This provisional GATT became the principal set of rules governing international trade for the next 47 years. One of the GATT's chief purposes was the reduction of barriers to trade.¹³

But since GATT was only the principal set of rules, in Uruguay Round from 1986 to 1994 had the agenda to reform the existing GATT system, as well as expansion of rules to cover new areas such as services trade and the trade aspects of intellectual property rights such as

copyrights, trademarks, and patents.¹⁴ One of the most important changes that came about from the Uruguay Round was the establishment of a new trade structure, which was the World Trade Organization (WTO).

The WTO is located in Geneva, Switzerland. It was made up of 148 member countries with about 30 countries applying to join. Its main function is to ensure that trade between nations flow as smoothly, predictably, and freely as possible because this is important for economic development.

It is so because consumers and producers both know they could enjoy the continuous supply of goods while ensuring the widest selection of finished products, components and raw materials as well as production services. Moreover, both of them ensure that external markets will remain always open for them. The result achieved from all that is the establishment of a world dominated by economic prosperity and peace. The consumers and producers also can be confident that they enjoy guaranteed supply and more choices of finished products, components, raw materials and services they use.

The WTO is totally different from the GATT since the GATT from 1947 was two things: (1) an international agreement that sets out the rules for conducting international trade, and (2) an informal structure to

administer the agreement.¹⁵ GATT has no headquarters and it does not have permanent structure too. While in another hand, the WTO has headquarter and its member countries. A version of the GATT exists today is part of the WTO. In another word, the WTO is the successor to the General Agreement on Tariffs and Trade (GATT) which was existed in the wake of the Second World War.

For the mission of the WTO, a statement from the director-general begins with: "The WTO provides a forum for negotiating agreements aimed at reducing obstacles to international trade and ensuring a level playing field for all, thus contributing to economic growth and development. The WTO also provides a legal and institutional framework for the implementation and monitories of these agreements, as well as for settling disputes arising from their interpretation and application."¹⁶The WTO is the international organization whose primary purpose is to open trade for the benefit of all.¹⁷

¹⁵ *ibid.*

¹⁶ WTO, "About the WTO, A Statement by the Director-General".

¹⁷ WTO, "About the WTO, A Statement by the Director-General".

A. 2. Structure of the Organization

The decision in the WTO is still using consensus as well as the tradition since the GATT existed in the first very beginning. Here are the structure of the WTO :

- Ministerial Conference,

It consists of representatives of all WTO members and required to meet at least every two years. Under any of the multilateral trade agreements, they can take decisions on all matters.

The Ministerial Conference also established three other bodies and reported to the General Council. *The Committee on Trade and Development* is concerned with issues related to the developing countries, and especially to the LDCs (Least-Developed Countries). *The Committee on Balance of Payments* is responsible for consultations between WTO members and countries which take trade-restrictive measures in order to deal with balance of payments difficulties, under Articles XII and XVIII of GATT. *The Committee on Budget* is dealing with issues related to WTO's financing and budget.

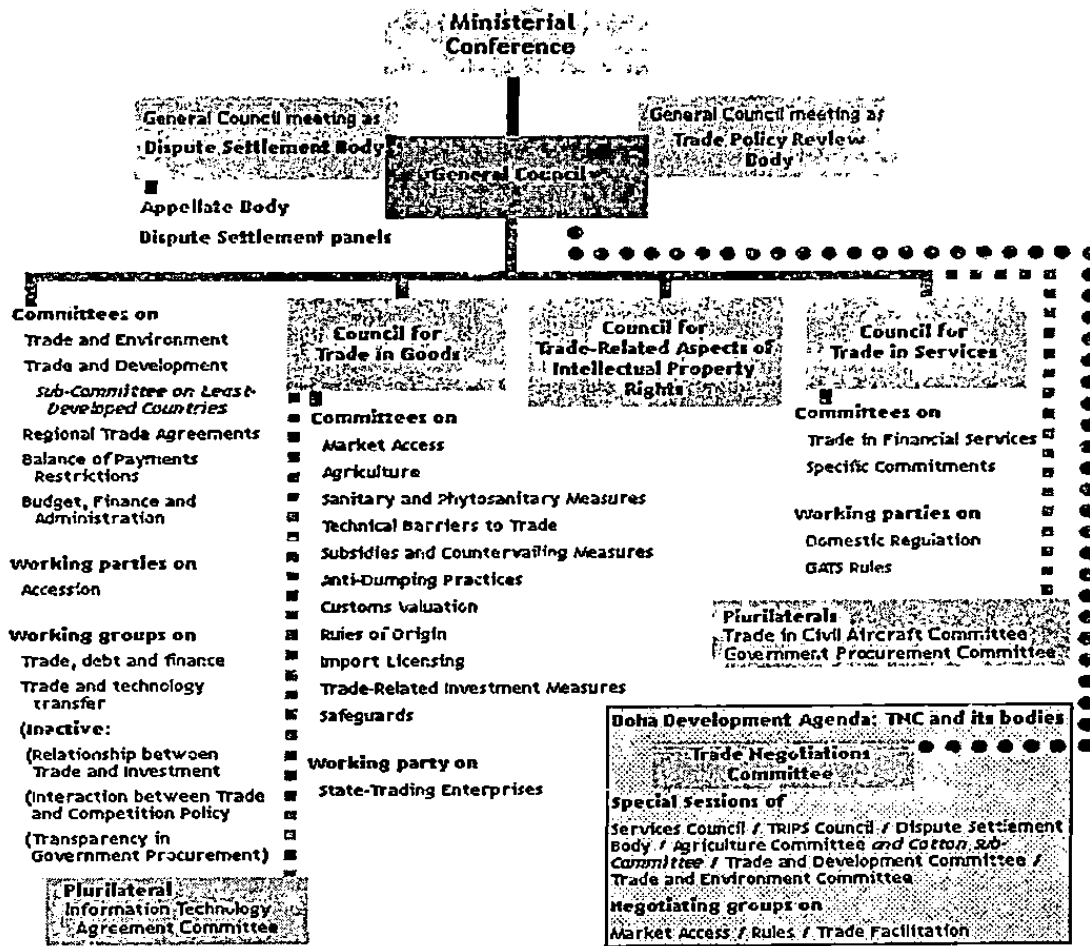
- General Council,

It consists of all WTO members, which is required to report to the Ministerial Conference. The General Council conducted in two forms, as the *Dispute Settlement Body* – to taking care the dispute settlement procedures, and as the *Trade Policy Review Body* – to conduct regular

The delegates of the General Council have responsibilities to three other major bodies, they are *the Councils for Trade in Goods* – taking care the implementation and functioning of all the agreements covering trade in goods, *Trade in Services*, and *Trade-Related Aspects of Intellectual Property* – both Councils have responsibility for their respective WTO agreements and if necessary they may establish their own subsidiary bodies.¹⁸

- Each of Plurilateral agreements of the WTO – Committee on Trade in Civil Aircraft and Committee on Government Procurement, establish their own management bodies which are required to report to the

Graph 2. 1 Structure of WTO



Source: www.wto.org

▬ Reporting to General Council (or a subsidiary)

▬ Reporting to Dispute Settlement Body

▬

Plurilateral committees inform the General Council or Goods Council of their activities, although these agreements are not signed by all WTO members

●●●●● Reporting to Dispute Settlement Body

A. 3. WTO Agreements

According to the Ministerial Conference Fourth Session in Doha, 9-14 November 2001 about implementation related-issues and concerns, the WTO covered the area of goods, services, and intellectual property. Here are ten related agreements that the WTO concerned at:¹⁹

- The General Agreement on Tariffs and Trade (GATT),
 To eliminate all remaining tariff and non-tariff barriers to the movement of capital and goods across countries borders.
- The General Agreement on Trade in Services (GATS),
 To cover all services, including key public services which could be opened to competition with transnational corporations and privatization.
- Trade Related Intellectual Property Rights (TRIPS),
 To take care of global rules on patents, copyrights, trademarks, and to patent of many plant and animal, bio-piracy, and the commodification of bio-diversity.
- Trade Related Investment Measures (TRIMS),
 That the governments can and cannot do in regulating foreign investment.

- Trade Agreement on the Application of Sanitary and Phytosanitary Standards,

To set on government policies related to food safety and animal and plant health.

- The Financial Services Agreement (FSA),

To remove obstacles to the free movement of financial services corporations, including banks and insurance companies.

- The Agreement on Agriculture (AoA),

To set the rules on the international food trade and restricts domestic agriculture policy, including protection against dumping, protection for small scale farmers producing for their domestic market, government support for farmers and sustainable agricultural services, and to ensure that citizens have an adequate food supply.

- The Agreement on Subsidies and Countervailing Measures (ASCM),

To rule the governments may and may not subsidize and contains many loopholes favoring wealthy countries and agribusiness.

- The Agreement on Technical Barriers to Trade (TBT),

To limit national regulations (non-tariff barriers) that interfere with trade, such as eco-labeling regulations.

- The Agreement on Government Procurement (AGP),

To set limits on government purchasing, including domestic

A. 4. WTO's Decision Making

A long tradition in GATT then make the WTO continues by making decisions by consensus, not by voting. This procedure allows members to ensure their interests are properly considered, although they may decide to join a consensus in the overall interests of the multilateral trading system. Where consensus is not possible, the WTO agreement allows for voting. In such circumstances, decisions are taken by a majority of the votes cast and on the basis of "one country, one vote".²⁰

There are four specific voting situations envisaged in the WTO Agreement. First, a majority of three-quarters of WTO members can vote to adopt an *interpretation* of any of the multilateral trade agreements. Second, and by the same majority, the Ministerial Conference, may decide to *waive an obligation* imposed on a particular member by a multilateral agreement. Third, decisions to *amend* provisions of the multilateral agreements can be adopted through approval either by all members or by a two-thirds majority depends on the nature of the provision concerned.²¹ However, such amendments only take effect for those WTO members which accept them. Finally, a decision to *admit a new member* is taken by a two-thirds majority in the Ministerial Conference.

²⁰*Sekilas WTO*, Direktorat Perdagangan dan Perindustrian Multilateral & Direktorat Jenderal

B. Indonesia-European Union Relations

Bilateral relations among the European Union and Indonesia were built since 1949. Since Indonesia is one of the ASEAN member countries, their relations have been facilitated through EU-ASEAN cooperation. Bilateral cooperation was expanded and the EU Delegation to Indonesia was opened in 1988. Economic and political dialogue between Indonesia and the EU takes the form of regular Senior Officials Meetings. In 2000, both relations were further reinforced with the release of the European Commission's communication "Developing Closer Relations between Indonesia and the EU".²²

A deeper economic relations between the EU and Indonesia make them more encompassing, which also broader to political, institutional and economic reforms that Indonesia has undertaken since the late 1990s. In 2006, the EU tried to implement its new trade policy, which was seeking deeper economic partnership with countries or groups that have significant potential. This identified how a new comprehensive agreement can build on what has been achieved so far.

The EU and Indonesia have similar favors of the Doha Round. The Doha Round is the latest round of trade negotiations among the WTO membership. Its aim is to achieve more advantages of the international trading system through the introduction of lower trade barriers and to revise trade rules. The work program covers about 20 areas of trade.²³ The Round is also known semi-officially as

²² About EU-Indonesia Relations, accessed 6 March 2014, available in http://europa.eu/rapid/press-release_IP-00-98_en.htm

²³ Sekilas WTO, Direktorat Perdagangan dan Perindustrian Multilateral & Direktorat Jenderal Multilateral Ekonomi, Keuangan dan Pembangunan Departemen Luar Negeri.

the Doha Development Agenda as a fundamental objective which is to improve the trading prospects of developing countries. The Round was officially launched at the WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001.²⁴ The Doha Ministerial Declaration provided the mandate for the negotiations, including on agriculture, services and an intellectual property topic, which began earlier. In Doha, ministers also approved a decision on how to address the problems that developing countries face in implementing the current WTO agreements. The EU and Indonesia believe that active bilateral and regional economic agreements would be run smoothly considering its necessity while the Doha Round is incompletd yet.

In terms of economic and trade relations, EU committed to increase support for Indonesia as reflected by increasing the amount of annual grant of the European Commission through the Country Strategic Paper and National Indicative Program with an allocation of funds amounting to € 400 millions for the years 2007 to 2009. EU aid classified for economic reform, good governance, enhanced local autonomy, management of natural resources, and enhanced the capacity of Indonesia in multilateral trade.²⁵

The EU is Indonesia's second largest foreign investor. More than 700 EU companies are operating in Indonesia, provides directly more than 500.000 jobs, and indirectly an income to many more. The EU is Indonesia's second largest

²⁴About the Doha Round, accessed in 6 March 2014, available in http://www.wto.org/english/tratop_e/dda_e/dda_e.htm.

²⁵About Indonesia-EU Economic and Trade Relations, accessed in 6 March 2014, available in

export market in goods with a value of €14 billion in 2010. EU and member states also provide €700 million annually to Indonesia that are vital for future prosperity such as education, health, trade, and development sustainability.²⁶ The relations among EU as a developed economy and Indonesia as an emerging economy are strongly complement considering different resources, whether per capita incomes and wealth or per capita stock of intangible capital. Direct investment is a very important component of EU-Indonesia relations. Overall, the trend in Indonesia's investment policy has been greater opened further.

In another hand, Indonesia is also invest in the EU, the major concerns include compliance with various technical, sanitary and environmental requirements, marketing standards, product safety, packaging and labeling and some other industry specific requirements.²⁷

More about Indonesia position in international arena, Indonesia is as a key partner in a strategic region, and an increasingly important internationally. As one of the G20 members has made Indonesia become a trillion dollar economy, it is also very active in promoting integration in ASEAN, for the south-east Asia's emerging political, security and economic development.

There are three key priorities for relations with Indonesia considered by the EU, they are:

- Strengthening economic ties including promoting the Comprehensive Economic Partnership Agreement
- Deeper political partnership
- Exchanging views on regional and global topics, in the light of Indonesia's increasing prominence in world affairs, for example the South China Sea issue, North Korea and ASEAN's future.

On the other hand, Indonesia's domestic affairs, such as economic recovery, democratization process, and security instability due to separatism and terrorism, gave impact to each other's foreign policy. In relation to the EU's enlargement, Indonesia hopes that it will not make EU's orientation become decreased in cooperation with developing countries, with ASEAN member countries, especially Indonesia. This enlargement is hoped to bring more benefit to its external partners.

During their bilateral relations, the dynamics occur where in particular time, the dispute settlement should be held in order to overcome the problem. Take a look an example of the imposition of definitive and provisional anti-dumping measures by the European Union on the importation of fatty alcohols from Indonesia (used in the chemical industry), that on 27 July 2012 Indonesia notified the WTO Secretariat of a request for consultation with the European

inconsistency of the measures with the Anti-Dumping Agreement and the General Agreement on Tariffs and Trade (GATT 1994).²⁸ The case then discussed by involving panelist and other third parties smoothly run in order to find the result that will not harm both Indonesia and the EU.

²⁸ *About Dispute Settlement*, accessed on 7 March 2014. Available from [http://www.wto.org/press/pr/140307.htm](#)