

CHAPTER IV
THE WTO AS AN INTERNATIONAL ACTOR IN LIBERALIZING
INDONESIA'S TRADING SECTOR

There are 97 developing countries of 128 of the total GATT membership in 1994. They are expected to play important role in the WTO as the organization's membership expands. As the consequences, they got much attention related to the special needs and problems of developing and transition economies. In respect of this issue, the WTO Secretariat assists those developing countries by conducting seminars and providing some practical technical cooperation for the governments and their negotiators, also courses and individual assistance related to dispute settlement and trade policy reviews, considering the WTO commitments to participate effectively in multilateral negotiations.

In 1 January 1995, Indonesia had officially become the member of the WTO. By joining the WTO, Indonesia expected to obtain bigger opportunity to market access, by using various agreements for the national interests such as increasing the export as well as increasing the economic growth. As the member, Indonesia had to follow all the rules of the WTO that had been decided together since the first very beginning. Not only following the rules, Indonesia also had the right to use opportunities, which were offered by the WTO.

The Ministers in Doha confirmed that capacity building and technical cooperation were the core elements of the development dimension of the

WTO. The Ministers also confirmed that the WTO played a significant role for developing

countries, Indonesia in particular. The program of the WTO then was the continuation of the Doha Development Round that still had to be implemented. The round mainly talked about following points:³⁶

Trade and Investment, which are including the main agenda since the nature of the WTO is concerning on those in the first place. The working Group on Trade and Investment is specifically concerned on this issue and continues its discussion in observing the elements of the multilateral agreement which related to investment.

Interaction among Trade and Competition, since trade is the main thing that the WTO concerned about, there must be competition that occurs during bilateral or multilateral trade relations. The Working Group on Trade and Competition Policy (WGTCP) specifically takes care of this agenda and continues its discussion related to multilateral framework, focusing on basic principles, transparency, non-discrimination, interest, and articles about Hardcore Cartel.

Transparency of the selling activity, transparency could be said as a basic of trading activity that needs to be upheld by the WTO and supported by every single member, shortly every single negotiation should be based on transparency as one of the principles, hopefully it could avoid conflicts or misunderstanding that might occur anytime during the relations among parties.

³⁶Sekilas WTO Edisi Ketiga, Direktorat Perdagangan dan Perindustrian Multilateral & Direktorat

Trade Facilitation aims to facilitate trade activity running smoothly and freely as possible, the program should be relevant with trade facilitation issues. Council for Trade in Goods is handling this program by seeking relevant aspects with trade facilitation issues seriously that has been stated in Article VIII and X of the GATT Agreement 1994. *Electronic Commerce*, that the program could be relevant with electronic commerce issues.

Small Economic Countries, the program related to trade relations among small economies countries. The aim is to identify the issues and plan the strategy how those countries can extensively integrate in global trading system without making their own group only. In other words avoiding the gap between small and large economic countries that might occur.

Trade, Debt, and Finance, the aim is to use multilateral trading system to decrease developing countries debt. Moreover, to increase the coherent between international trade and financial policy. *Trade and Transfer Technology*, with aim to transfer technology to developing countries as a kind of assistances.

A. WTO Principles

Generally the WTO is upholding the idea of fairness where trade should be run without discriminations, but there are some specific principles of the WTO that should be also considered by countries who want to propose a new program or rule to be decided by all member countries and be implemented then. The TSP

1. Most Favored Nation (MFN)

This principle explained that treating other people equally is a must in the WTO as well as in WTO agreements asking on how between trading partners, countries cannot normally discriminate. In general, MFN means that every time a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all its trading partners, whether rich or poor, weak or strong.

For example granting someone a special favor, such as a lower customs duty rate for one of their products, it has to do the same for all other WTO members. MFN is also a priority in the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Some exceptions are allowed, for example countries can set up a free trade agreement that applies only to goods traded within the group and discriminates against goods from outside or they could give developing countries special access to their markets. In services, countries are allowed to discriminate in limited circumstances, but the agreements itself only permit these exceptions under some strict conditions.

2. National Treatment

This principle is about equality, means treating foreigners and locals should be equal. Imported and locally produced goods should be

... all ... goods have entered the market

The same thing should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. National treatment only applies when a product, service or item of intellectual property has entered the market.

Freer trade: through negotiation gradually

One of the most means of encouraging trade is lowering the trade barriers. The barriers itself include custom duties or tariffs and measures such as import bans or quotas that restrict quantities selectively. Afterwards from time to time, some other issues such as red tape and exchange rate policies have also been discussed.

Since the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property. Opening markets can give advantages, but it also requires adjustment. The WTO agreements allow countries to introduce the changes gradually through progressive liberalization. Developing countries are usually given longer to fulfill their obligations compared to the developed one.

Predictability: through binding and transparency

With stability and predictability, investment will be encouraged, jobs are created and consumers can fully enjoy the benefits of competition, choice and lower prices. Back to the nature of the multilateral trading system that is an

Once countries agree to open their markets for goods and services in the WTO, they should bind their commitments. Sometimes the tax import of countries at rates is lower than the bound rates. Commonly, this is the case in developing countries. In developed countries the rates actually charged and the bound rates tend to be the same. A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade.

The system is trying to improve predictability and stability as well. One way is to discourage the use of quotas and other measures to set the limits on imports. The other one is to make the trade rules of countries to be clear and transparent for public as possible. The Trade Policy Review Mechanism has been created to encourage transparency whether domestically or at the multilateral level. Many WTO agreements also require governments to practice the needs of transparency for public showed by their policies and notifying the WTO.

Promoting fair competition

As well as the nature of the WTO itself as a system of rules which concerned to open, fair and undistorted competition, the system allows tariff in some limited circumstances as the form of protection. With the purpose to secure fair conditions of trade, the rules of non-discrimination, MNF and national treatment were designed. Many of the other WTO agreements aim to support fair competition, such as in agriculture, intellectual property, services.

Encouraging development and eco.

Seeing the need of flexibility for the system's agreements, the WTO system's agreements have been existed in GATT assistance and trade concessions for developing three quarters of WTO members are developing in transition to market economies. They are Round negotiations, the previous round, all

Called as technical assistance, required to allow duty free and quota free imports developed countries as well as adopted in WTO members are still in learning process. This includes developing countries concerns implementing the Uruguay Round agreements

The Trade Support Program -1 program time and has been accepted by the WTO fulfilled the requirement which is in line

with the requirements of the Uruguay Round negotiations, the writer said

Table 4. 1The Redline of TSP -1 which in line with WTO Principles

No.	WTO Principles	Description	TSP -1
1.	Most Favored Nations (MNF)	Equal in term of lowering a trade barriers or open up a market, it has to do the same from all its trading partners (rich or poor, weak or strong)	Component 3, 4
2.	National Treatment	Treating foreigners and locals should be equal as well as imported and locally produces goods or services. Foreign and local trademarks, copyrights and patents.	Component 3, 4
3.	Freer Trade; through negotiations gradually	For lowering trade barriers, within the agreement or cooperation, everything should be negotiated gradually.	Component 1, 2
4.	Predictability; through binding and transparency	To make multilateral trading system as an attempt for the governments to make the business environment stable and predictable.	Component 3, 4
5.	Promoting Fair Competition	Keep secure fair conditions of trade, the rules of non-discrimination, MNF, and national treatment. Such as in agriculture, intellectual property, and services.	Component 1, 2, 4
6.	Encouraging Development and Economic Reform	Special assistance and trade concessions for developing countries	Component 1, 2, 3, 4

*The content of the component is in chapter III

Furthermore, to show that TSP -1 is in line with the WTO principles, it could also be seen with the balance of the trade activity between Indonesia and European Union.

Indonesia's main import commodities from the EU include electronic equipment for telecommunications networks, acid and hydraulic solution, military ships, paper, yacht, electronic circuit boards, aircraft devices, washing machines pottery, medicine therapist, machine tools and equipment. At the same time, Indonesia's main export commodities to the EU includes palm oil, coal, and the results of its derivatives, natural rubber and other natural gum, shoes, copra, furniture and its supporting components, copper ore, coffee, electronic devices, chairs. Those give a kind of advantages each other.

Moreover, for the EU, Indonesia is a democratic country with the largest Moslem population in the world. It has potentials to become regional security stability. This could be considered as one of the reasons why the EU puts more attentions to Indonesian efforts in combating terrorism and separatism. As what has been explained previously that other aspects such as politics, security, etc also give influence toward the bilateral relations among the EU-Indonesia.

Meanwhile, Indonesia sees the EU as a global economic and political power that would be a good partner in achieving national interests. In relations

with Asia and the Pacific region, EU has shown to boost its political role in Southeast

Asia by intensively cooperate with ASEAN in order to maintain an international order in the name of effective multilateralism. In this context, Indonesia can play a strategic role in the effort to maintain stability and security in the region. The EU welcomes Indonesia's democratic succession and reformation process that also can open more opportunities for the EU to hold political dialogues with Indonesia. In particular, the EU puts more attentions to the political development in Indonesia to the democracy and human rights issues considering those are including important elements that must be owned by a country nowadays.

The Trade Support Program -1 (2005-2008) has supported the identification, adaptation and dissemination of EU technical standards to the local industry, together with the improvement of quality control processes and sanitary or phytosanitary compliance of Indonesian exports.³⁷

As mentioned in the first chapter, in 23 January 1995 the US proposed a new rule to Venezuela about tied chemical characteristics of the import gasoline from Venezuela instead of US's national gasoline. But that proposal then rejected by the WTO in 19 August 1997 since it harms Venezuela because of unfairness and it broke the *national treatment* rule.³⁸

Another example is Indonesia-Certain Measures Affecting the Automobile Industry or National Car which was also rejected with reason the program is

³⁷About Action Fiche for Indonesia, accessed in 8 May 2014, available in http://ec.europa.eu/europeaid/documents/aap/2008/af_aap_2008_idn.pdf

³⁸Sekilas WTO Edisi Ketiga, Direktorat Perdagangan dan Perindustrian Multilateral & Direktorat

creating discrimination among member countries. It is not in line with the WTO principles related to TRIMs agreement. Shortly, both were not fulfilling the requirements. With aim to avoid further disputes, the member countries were agreed to reject the proposals. These shows that the WTO is strict about its principle that cannot be avoided.

B. WTO Autonomy and EU Influence

Since the program was proposed by the European Union, the writer sees the need to analyze EU position or influence in the WTO and show the autonomy of the WTO itself, in decision making especially.

The EU has considered as a solid regional grouping since it integrated through the integration process of politics and economy sectors in order to uniting Europe under the EU. Furthermore, by having a stable of democratic values, Indonesia is considered as an important partner in the region by the EU³⁹. To face global challenges ahead, the EU and Indonesia become important actors together by getting closer in the name of cooperation, strengthening bilateral links that brings mutual benefits.

In the WTO itself, some groups are exist that could be said based on territorial, trade cooperation or economic point of views, such as the well known group, called as Cairns Group whereas come from four continents, members ranging from OECD countries to the least developed (Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia,

Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, and Uruguay). The group was set up just before the Uruguay Round began in 1986 to argue for agricultural trade liberalization. The group became an important third force in the talking of farm and remains in operation. Its members are diverse, but they share a common objective that agriculture has to be liberalized and the common view that they lack of resources to compete with larger countries in domestic and export subsidies.

The other group is ASEAN countries (Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Thailand, Singapore and Viet Nam). North American Free Trade Agreement (NAFTA), consists of Canada, the United States and Mexico), and MERCOSUR known as the Southern Common Market (Argentina, Brazil, Paraguay, Uruguay and Venezuela, with Bolivia, Chile, Colombia, Ecuador and Peru as associate members) are also kinds of grouping in the WTO that have similar set up by having many common trade interests and are frequently able to coordinate positions and to speak with a single voice.

The EU and its 27 member states is the largest and most comprehensive group in the WTO. The EU is a customs union with a single external trade policy and tariff. The EU is a WTO member by having its own right as well as its each member states. The European Commission speaks for the EU at almost all WTO meeting while the member states coordinate their position in Brussels and Geneva. European Union position in the WTO could be said as an important issue

... of the ... was proposed by the EU to the

Not only because EU is the largest and most comprehensive group in the WTO, the EU itself also well known as its involvement in the Quad or Quadrilaterals together with Canada, Japan, and the United States. The group was first suggested during a private meeting during the 7th G7 summit in July 1981. The trilateral group was proposed (excluding Canada) because of tensions between the two North American countries at the time but then, the Canadian government successfully lobbied to be included. What the Quad can do is acting as a problem solver when there is kind of hard negotiation among countries and quite difficult the way out to be founds. Here, the Quad is needed to help solve the problem. This group could also be considered as the most important group or actor who give big influence within the WTO, whether decision making or dispute settlement.

The EU has willingness to cooperate extensively with Indonesia since 2000. The progress of both relations affect not only in economic aspect, but also politics and so on and so forth, even if it's still here speaking about trade, especially export-import activities. The EU is an important market and one of the main foreign investors for Indonesia. The EU is a potential export market for Indonesia and considered as the biggest market after the United States and Japan.⁴⁰

However, Indonesia and EU trade relations at the WTO are not always run smoothly. For example the case of EU's proposal policy concerning anti-dumping

⁴⁰ *About the Role and Interest of Indonesia in the EU*, accessed in 6 May 2014, available in <http://embassyofindonesia.eu/content/indonesia-eu>

measures imposed on imports of biodiesel into the EU from Indonesia (also with Argentina at the same case) by launching Council Implementing Regulation No. 1194/2013 in 19 November 2013. This thing caused diesel product from Indonesia is much expensive compared to EU domestic product (from 0%-9,6% to 8,8%-20,5%).⁴¹ Indonesia claims that these measures are inconsistent with the EU's obligations under the Anti-Dumping Agreement. Indonesia then proposed this case into Dispute Settlement of the WTO in Geneva since its backlash the idea of equality as well as the concerning of WTO in its principles (MNF, about the equality in term of lowering a trade barriers or open up a market should be equal among all its trading partners. Indonesia proposed objections toward the European Court of Justice.

Even if European Union is including the Quad, it does not mean that they can propose program or policy based on their own interest. The case above that bring into Dispute Settlement Body at WTO has shown that the WTO really concerns to stand right to its principles without any intervention from any members. Every single program or policies should be in line with WTO principles as well as Trade Support Program -1 that has been accepted and implemented at the time.

⁴¹About Ekspor Biodiesel Dihambat, Indonesia Adukan Uni Eropa ke WTO, accessed in 21 July 2014.