

# T5 Intl & Regional Trade Agreements

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## Private & Public Intl Law

**Private-** private transactions that take place on an intl level T2-4

**Public-** As it applies to states in their governmental functions. Obligations binding upon states. T5

3 overall issues-

1. The World Trade Organisation (WTO) – world's principle trading system
2. The European Union (EU)- regional trading arrangement
3. Investor-State Dispute Settlement (ISDS)- current development, trans pacific TPP

### 1. World Trade Organisation (WTO)

As far as public intl law is concerned, arguably the most important development in the history of intl trade. This is very different to the body of rules governing private trading in Ts 2-4.

The focus of the WTO is very different to the others. It is constituted by a variety of conventions. Each of these create obligations, state to state.

WTO came into operation 1 Jan 1995. It is an intl organisation. WTO has its own legal personality at intl law. WTO's predecessor was the GATT 1947. This was the General Agreement on Tarrifs and Trade. This was only an agreement, not a fully functioning intl organisation. Only had provisional (not full) operation. It ran for decades. It was an arrangement relating to goods only.

Now, WTO covers IP rights, goods and services. Originally styled, 'the multilateral trade organisation'. It was a series of negotiation rounds in relation to intl trade. Its negotiations concerned-

- Taxes
- Tarrifs
- Laws affecting arrangements for trade between countries

The focus of these negotiations were countries negotiating with eachother in relation to the rules of trade. The negotiations were held between 1986 and 1993. The previous forum was the existing GATT system 1947. On 15 Dec 1993, the final act was signed. 15 April 1995, 124 countries and the EU approved the WTO agreement at the meeting in Morocco. 162 member states of WTO at present (Nov 2015).

### Purposes-

WTO's purpose is set out in a number of conventions. Art 3 identifies 5 major functions of the WTO-

- implement and administer the WTO agreement and annexes
- provide a forum for negotiations between WTO members, in order to discuss issues of concern in relation to the international trading system. Through this forum, members can seek to resolve issues that arise under the operation and implementation of the agreement. Solutions can be negotiated to improve the state of the international trading system.
- A dispute settlement system is provided for issues/disputes outside the operation of the WTO can be resolved. WTO system is a public intl law system, with state to state obligations.

This dispute settlement system allows states to enforce their obligations against states within the WTO system.

- Administers the Trade Policy Review Mechanism. This acts as a monitoring body which observes, collects and reviews data on member state policies.
- Co-operate with the International Money Fund (IMF) and the International Bank for Reconstruction and Development (IBRD).

It is a trading system, and has an intl legal personality.

### Constituent agreements-

It is constituted by a series of intl agreements which together, provide the basis for its operation and its activities. Consists of the final act embodying the Uruguay round, and the Marrakesh agreements, and 6 annexes - 1A, 1B, 1C, 2, 3, 4.

#### Annexes-

- **1A-** multi lateral agreement on trading goods. It comprises several agreements. Includes the GATT 1994. (different to the 1947 GATT). This one is the new version of the GATT, which was incorporated as one part of the agreement of the WTO. This includes not only trading goods, and other things. 1A2 also relates to trading goods, eg agricultutre agreement; sanitary measures; textiles and clothing; rules of origin (full list in text).
- **1B-** general agreement on trading services. GATS regulates this area.
- **1C-** agreement on intellectual property rights- TRIPS.
- **2-** understanding on rules and procedures governing settlement of disputes referred to as the DSU- Dispute Settlement Understanding. Sets out how dispute resolution state to state works.
- **3-** Trade Policy Review Mechanism
- **4-** Plurilateral Trade Agreements for govt procurement and aircrafts. This one is different to the others above. Here, this annex is optional. States can choose whether or not they want to enter into these agreements. All of the other agreements are integral and WTO states must follow them. This section also sets out the official organisational structure of the WTO. See text-

### Organisational structure-

- at top, there is the **Ministerial** function. This is the highest decision making body of the WTO, and comprises representatives of each member states who meet once every two years. It takes decisions on all matters, and can call special conferences. But it has limited sitting time ability.
- **General council** consists of reps from all WTO member states. Permanent body and performs all the Ministerial functions (above) when they are not in session. The GC kicks in. Rules are made by the Ministerial function, but the GC can make administrative/limited policy decisions. Performs the functions of the dispute settlement body and trade policy review body. There are 3 separate councils of the GC-
  - Council for trading goods
  - Council for trading services
  - Council for trade related aspects of IP rights.