Model Courts of Justice 2026

WORLD TRADE ORGANIZATION

Written by *Zeynep Kalkan*
Supervised by *Rana Elif Taze*

14 LIFE BELOW WATER

17 PARTNERSHIPS FOR THE GOALS

LETTER OF THE SECRETARY-GENERAL

Highly Esteemed Participants,

I welcome you all to the 14th Annual Edition of the Model Courts of Justice as the Secretary-General. My name is Rana Elif TAZE, and I am a junior law student at Ankara University.

The participants of the Model Courts of Justice 2026 will be focusing on the fields of International Trade Law and Environmental Law, specifically questioning the balance between free trade and the conservation of exhaustible natural resources. The case that will be simulated this year is the landmark WTO dispute, 'United States – Import Prohibition of Certain Shrimp and Shrimp Products'. In this regard, the participants will have the opportunity to practice their subjects and improve their written and oral skills concerning international trade litigation within the framework of the GATT 1994, as well as the legal complexities of Article XX exceptions and the environmental obligations of member states.

I would like first to express my appreciation to the Under-Secretaries-General of this court. I would like to thank Ms. Zeynep KALKAN for her contributions and efforts. On the other hand, Ms.Elfin Selen ERMİŞ never withheld her support for the court and conference in general, once again I would like to express my gratitude for having her as a friend and a teammate. Secondly, I would like to thank Ms. Sude DEMİR for her hard work and her contributions to the court. Lastly, I would like to express my greatest thanks to Ms.İlayda KARA, Director-General of the 14th Edition, to walk with me on this long journey. Without her dedicated work, this edition would never be possible. I am glad we were together in this.

Before attending the sessions, I highly recommend that all the participants read the Study Guideand Rules of Procedure and prepare the printed versions of these documents with them to refer to during the Conference. If you have any questions or hesitations about the Conference, please do not hesitate to contact me at secretarygeneral@modelcj.org.

Warm Regards,
Rana Elif TAZE
Secretary-General of the Model Courts of Justice 2026

LETTER OF THE UNDER-SECRETARY-GENERAL

Esteemed Participants,

I am Elfin Selen Ermiş, a third-year law student at Hacettepe University. It is my great honour to welcome you to the 14th edition of Model Courts of Justice, the distinguished international law conference organised by Ankara University.

Within this edition of Model Courts of Justice, the World Trade Organization committee will simulate the landmark case of *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (*US – Shrimp*). This case represents one of the cornerstone disputes in WTO jurisprudence and illustrates the complex interaction between international environmental law and global trade regulation. The simulation will therefore address fundamental questions concerning the relationship between environmental protection and the multilateral trading system, as well as the broader legal principles shaping international trade and environmental governance.

It has been a particular pleasure for me to contribute academically to a conference to which I have devoted years of effort. Preparing this Study Guide on a dispute that reflects the areas of international law I am deeply interested in has been both intellectually rewarding and personally meaningful. I sincerely hope that the tradition of Model Courts of Justice will continue to grow and inspire students of international law for many years to come.

I would also like to extend my sincere gratitude to the Secretary-General, Ms. Rana Elif Taze, whose dedication and leadership made this edition possible. My thanks also go to our Director-General, Ms. İlayda Kara, for her remarkable efforts in organizing this conference. Also, I would like to thank my Co-Under-Secreatary-General, Ms. Zeynep Kalkan, for her collaboration and support throughout the preparation of this Study Guide. Finally, I would like to thank our Academic Assistant, Sude Demir for her invaluable assistance and dedication.

Kindest regards,
Elfin Selen ERMİŞ
Co-Under-Secretary-General for the World Trade Organization

LETTER OF THE UNDER-SECRETARY-GENERAL

Highly Esteemed Participants,

I am Zeynep Kalkan, a senior law student at Ankara University, Faculty of Law. This is my second year at the Model Courts of Justice, and it is a great honor for me to serve as the Co-Under-Secretary-General for the World Trade Organisation. I am delighted to be a part of this esteemed conference, and it is a privilege to welcome you all to this year's Model Courts of Justice, the most prestigious conference in Türkiye simulating international court proceedings.

During this conference, the committee will examine one of the most significant disputes in international trade and environmental law: the WTO – United States: Import Prohibition of Certain Shrimp and Shrimp Products (Shrimp/Turtle Case). This landmark dispute highlights the complex interaction between international trade obligations and environmental protection measures. Although the issue at hand and this document are both complex and detailed, I sincerely hope you will enjoy the process and gain a deeper understanding of the legal principles involved, just as I did while preparing this study guide.

First and foremost, I would like to express my sincere gratitude to our Secretary General, Ms. Rana Elif Taze, whose dedication, encouragement, and leadership have been truly inspiring throughout the preparation of this conference. I would also like to extend my appreciation to our Director General, Ms. İlayda Kara, for her remarkable efforts and commitment in organizing such a distinguished conference.Furthermore, I would like to thank our Co-Under-Secretary-General, Ms. Elfin Selen Ermiş, for her valuable guidance and continuous support during this process. It was such a blessing to work with her. Lastly, I would like to convey my heartfelt gratitude to my Academic Intern, Sude Demir, whose outstanding effort and dedication proved invaluable in every stage of this process.Please do not hesitate to contact me at worldtradeorganization@modelcj.org for any inquiries you may have regarding the study guide or the proceedings.

Yours faithfully,

Zeynep KALKAN

Co-Under-Secretary-General for the World Trade Organization

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1. HISTORY AND DEVELOPMENT OF THE INTERNATIONAL TRADE

International trade refers to physical movement and electronic transfer of goods and services across national borders.[1] Although the trade of today is enabled by digital networks and complex global supply chains, its foundation date back to ancient exchange systems and the early formation of long-distance trade routes. Over time, international trade has expanded through periods of accelerated integration as well as sharp contractions driven by wars, economic crises, and protectionist policies.

One of the earliest and most influential milestones in global trade history was the Silk Road, which refers to a network of ancient trade routes that connected the East and West, facilitating not only the exchange of silk and other goods but also cultural, social, and intellectual interactions.[2]

Figure 1. Silk Roads map

Source: National Geographic Society, 'The Silk Roads'

[1] J E McConnell, 'International Trade: Geographic Aspects' in Neil J Smelser and Paul B Baltes (eds), *International Encyclopedia of the Social & Behavioral Sciences* (Pergamon 2001) 7848–7852

[2] UNESCO, 'Silk roads' (UNESCO) https://www.unesco.org/en/query-list/s/silk-roads accessed 2 March 2026.

Silk, the coveted fabric that gave the route its name, was among the most prized goods traded along the route. However, the Silk Road was not limited to silk alone. It also facilitated the trade of spices, tea, jade, porcelain, precious metals, and exotic goods from distant lands. The exchange of these goods not only enriched the economies of the regions involved but also fostered the development of luxury markets, urban centers, and artisanal craftsmanship.[3]

As trade systems evolved, states began to develop theories to manage commerce and national wealth. Mercantilist reasoning linked prosperity and power to holding larger stocks of precious metals, so it advocated exporting more than importing in order to bring bullion into the country.[4]Under this view, governments actively intervened in trade to secure favorable balances of payments and to protect domestic industries. This period illustrates how international trade has long been tied not only to markets, but also to state power and strategic economic policymaking.

World War I left many economies weakened and politically fragile, creating an international environment marked by instability and uneven recovery. In this context, a worldwide depression struck countries with market economies at the end of the 1920s, as the global economy entered the Great Depression. The downturn was driven by multiple, interrelated factors, including overproduction, intensified international competition, protectionist trade policies such as high tariffs, and declining export prices[5]. Demand collapsed and unemployment rates rose to extremely high levels, reaching about 25% in some places such as the United States and Canada.[6] This era highlighted how fragile trade can be when confidence falls and governments respond with restrictive economic measures.

[3] Jeevan Vichare, 'The Impact of the Silk Road on Global Trade: A Historical Perspective' (2024) 9(5) *International Journal of Novel Research and Development (IJNRD)*.

[4] Stephen E Cohn, *International Trade Theories* (SIM Global Education 2017) 6.

[5] Gene Smiley, 'Great Depression' (*Econlib CEE: Concise Encyclopedia of Economics*) https://www.econlib.org/library/Enc/GreatDepression.html accessed 4 February 2026.

[6] American Trading International, 'A Brief History of International Trade and Its Importance Today' (ATI News, 15 July 2022) https://www.american-trading.com/news/history-of-international-trade accessed 3 February 2026.

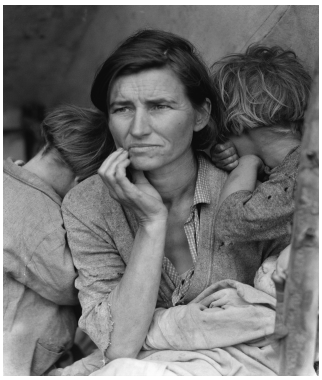

Figure 2. Great Depression
Source: United States Office of the Historian

Following World War II, international trade entered a period of strong expansion. A growing number of countries joined the United Nations, and international cooperation contributed to the spread of free trade agreements and a more integrated global economy. This post war environment also supported the rise of multinational corporations ("MNCs"), which leveraged economies of scale and mass production to reduce costs and operate across borders.[7] Over time, many MNCs gained considerable influence in global trade not only through production capacity, but also through political lobbying, extensive advertising, and strategic mergers and acquisitions.[8] As a result, international trade increasingly became shaped by both state-level agreements and corporate power.

In this post war context, the expansion of international trade was not only a result of economic recovery and technological change, but also of deliberate institutional design. As governments sought to avoid a return to the protectionism and trade fragmentation associated with earlier crises, they increasingly prioritized a rule-based framework for reducing trade barriers and managing

[7] International Monetary Fund, 'The Postwar Economic Achievement' (Finance & Development, 1995) https://www.elibrary.imf.org/downloadpdf/journals/022/0032/002/article-A013-en.xml accessed 4 February 2026.

[8] United Nations, 'Multinational corporations in world development' (UN, 1973) https://digitallibrary.un.org/record/1648044/files/ST_ECA_190-EN.pdf accessed 4 February 2026.

disputes.[9] This need for predictable and cooperative trade rules laid the groundwork for the emergence of the General Agreement on Tariffs and Trade ("GATT"), which became the central platform for multilateral trade liberalisation in the decades following World War II. Over time, however, the growing complexity of global commerce, including the rise of services trade, intellectual property issues, and the proliferation of non-tariff barriers, exposed the limits of the GATT framework and intensified demands for a more comprehensive institutional structure. These pressures culminated in the Uruguay Round Negotiations between 1986 and 1994, which ultimately led to the establishment of the World Trade Organization ("WTO") in 1995, strengthening the legal and institutional foundations of the multilateral trading system.[10]

a. THE GATT YEARS

The General Agreement on Trade and Tariffs ("GATT") was enacted as an attempt to reduce the number of tariffs and trade barriers and to foster international trade in the years following World War II. It was signed in 1947 by over 100 countries and has served the international community for decades.[11] The reason for the establishment of GATT was the failure of the International Trade Organization ("ITO"). At the Geneva Conference in 1947, negotiations resulted in GATT. It has been found to play a greater role in the development of international trade compared to the ITO. [12]

Although the attempt to establish the ITO is often described as unsuccessful, the collapse of that project produced a pragmatic substitute with long-lasting consequences.[13] Conceived as an interim arrangement pending the creation of the ITO, the GATT nevertheless became the principal

[9] World Trade Organization, 'The history of the multilateral trading system' https://www.wto.org/english/thewto_e/history_e/history_e.htm accessed 4 February 2026.

[10] World Trade Organization, 'The Uruguay Round' https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm accessed 4 February 2026.

[11] Columbia Law School, 'Introduction to GATT and WTO' (*International Trade Law – Research Guides*, 14 November 2025) https://guides.law.columbia.edu/c.php?g=1221777&p=8966854 accessed 4 February 2026.

[12] Autar Krishen Koul, Guide To The WTO And GATT (2018) 6th edn, Springer Singapore, Imprint: Springer.

[13] Donald M McRae, 'General Agreement on Tariffs and Trade' (United Nations Audiovisual Library of International Law) https://legal.un.org/avl/pdf/ha/gatt/gatt_e.pdf accessed 4 February 2026.

instrument for coordinating world trade for nearly five decades.[14] Throughout this period, GATT operated primarily as a multilateral treaty framework rather than a fully fledged international organisation: it lacked the institutional apparatus typically associated with an organisation, yet it proved capable of facilitating successive rounds of negotiations aimed at reducing tariffs and disciplining trade restrictions.

The early negotiating rounds under GATT were shaped by the immediate post war objective of preventing a return to uncontrolled tariff escalation. In the Geneva Round, contracting parties agreed not only on schedules of tariff concessions but also on foundational principles intended to structure trade relations on a non-discriminatory basis, most notably the most favoured nation principle. Over time, as membership expanded and the scope of global commerce widened, the agenda of GATT negotiations gradually moved beyond tariff reductions to include non-tariff barriers, anti-dumping practices, and broader questions of market access. However, the contractual nature of GATT and its limited institutionalisation also generated structural weaknesses, especially in relation to decision-making, dispute settlement and these weaknesses tended to exacerbate power asymmetries between industrialised and developing countries.[15] In practice, resource constraints often limited the ability of many developing states to participate on equal terms in complex negotiations and rule-making processes.

By the late 1970s and early 1980s, it became increasingly apparent that the GATT framework, despite its achievements, was not well equipped to govern the rapidly evolving architecture of international trade. The expansion of trade in services, the growing relevance of intellectual property, and the rise of sophisticated non-tariff measures intensified demands for clearer, more predictable, and more enforceable multilateral disciplines. These pressures set the stage for the Uruguay Round, which sought not merely to deepen tariff liberalisation but to redesign the institutional foundations of the system, ultimately resulting in the establishment of the WTO in 1995.[16]

[14] World Trade Organization, 'The GATT years: from Havana to Marrakesh' https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm accessed 4 February 2026.

[15] *General Agreement on Tariffs and Trade* (GATT), 30 October 1947, 55 UNTS 194, art I.

[16] *Marrakesh Agreement Establishing the World Trade Organization*, Apr. 15, 1994, 1867 U.N.T.S. 154.

b. THE URUGUAY ROUND NEGOTIATIONS AND THE FOUNDING OF THE WTO

The Uruguay Round, launched in Punta del Este in 1986 and concluded in Marrakesh in 1994, remains the most ambitious and significant trade negotiation in history.[17] This round marked a departure from previous GATT negotiations by expanding the multilateral trading system's scope beyond traditional goods to include trade in services, intellectual property rights, and agriculture. The negotiations culminated in the signing of the **Marrakesh Agreement**, which officially established the World Trade Organization on January 1, 1995.[18] Unlike the GATT, which was a provisional agreement, the WTO was established as a permanent international organisation with a legal personality and a unified institutional framework.[19] A central achievement of this transition was the **Single Undertaking** principle, which required member states to accept all agreements of the round as a single package, ensuring a more cohesive and enforceable global trade regime.[20]

2. FUNCTION AND STRUCTURE OF THE WORLD TRADE ORGANIZATION

The World Trade Organization is the only global international organisation dealing with the rules of trade between nations.[21] Its primary function is to ensure that trade flows as smoothly, predictably, and freely as possible. Under **Article II of the Marrakesh Agreement**[22], the WTO is tasked with five specific mandates: overseeing the implementation of trade agreements, serving as a forum for multilateral trade negotiations, resolving trade disputes, monitoring national trade policies, and providing technical assistance to developing economies.[23] Structurally, the WTO is

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[17] World Trade Organization, 'The Uruguay Round' https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm accessed 4 February 2026.

[18] *Marrakesh Agreement Establishing the World Trade Organization*, Apr. 15, 1994, 1867 U.N.T.S. 154.

[19] World Trade Organization, 'GATT and the WTO' https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm accessed 4 February 2026.

[20] John H. Jackson, *The World Trading System: Law and Policy of International Economic Relations* (2nd edn, MIT Press 1997) 45.

[21] World Trade Organization, 'What is the WTO?' https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm accessed 4 February 2026.

[22] Marrakesh Agreement Establishing the World Trade Organization,1867 UNTS 154 art II.

[23] *Marrakesh Agreement Establishing the World Trade Organization*, Apr. 15, 1994, 1867 U.N.T.S. 154, Art. II.

characterised by its *member-driven* nature, meaning decisions are made by the entire membership, typically through consensus.[24] This hierarchical structure is topped by the **Ministerial Conference**, followed by the **General Council**, which oversees specialised bodies such as the Council for Trade in Goods and the Council for Trade in Services, ensuring a professionalised approach to global economic governance.[25]

Figure 3. World Trade Organization Building

Source:World Trade Organization

a. MINISTERIAL CONFERENCE

The Ministerial Conference serves as the supreme decision-making authority within the WTO.[26] Established under **Article IV of the Marrakesh Agreement**[27], this body is mandated to convene at least once every two years, bringing together trade ministers from all member nations.[28] As the

[24] World Trade Organization, 'Who we are' https://www.wto.org/english/thewto_e/whatis_e/who_we_are_e.htm accessed 4 February 2026.

[25] *Marrakesh Agreement Establishing the World Trade Organization*, Art. IV:5.

[26] World Trade Organization, 'Ministerial Conferences' https://www.wto.org/english/thewto_e/minist_e/minist_e.htm accessed 4 February 2026.

[27] Marrakesh Agreement Establishing the World Trade Organization, 1867 UNTS 154 art IV.

[28] Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, Art. IV:1.

highest body of the organisation, it is empowered to take action on any matter arising under the multilateral trade agreements.[29] A defining characteristic of this governance structure is its commitment to sovereign equality: regardless of economic stature or geographical size of a nation, each member state is entitled to one vote, ensuring that all voices have a formal place in the global trade dialogue.[30]

b. GENERAL COUNCIL

The General Council serves as the preeminent decision-making body of World Trade Organization in Geneva, tasked with managing the organization's functions between sessions of the Ministerial Conference.[31] Established under Article IV(2) of the Marrakesh Agreement, it is composed of ambassadors or equivalent permanent representatives from all member states.[32] The mandate of General Council is exceptionally broad; it is not only executes the mandates of the Ministerial Conference but also convenes under different terms of reference to fulfill specific roles. Specifically, it transforms into the Dispute Settlement Body ("DSB") to oversee trade conflicts and the Trade Policy Review Body ("TPRB") to analyse members' trade regimes.[33] This multi-functional nature ensures continuous governance and the steady application of the multilateral trading system's rules.

c. DISPUTE SETTLEMENT BODY

The Dispute Settlement Body ("DSB") operates as the judicial pillar of the World Trade Organization, providing an effective mechanism for resolving trade conflicts between member states.[34] Although it is composed of the same representatives as the General Council, the DSB

[29] *Ibid*. Art. IV:1

[30] *Marrakesh Agreement Establishing the World Trade Organization, Art. IX:1.*

[31] World Trade Organization, 'The General Council' https://www.wto.org/english/thewto_e/gcounc_e/gcounc_e.htm accessed 4 February 2026.

[32] *Marrakesh Agreement Establishing the World Trade Organization*, Apr. 15, 1994, 1867 U.N.T.S. 154, Art. IV:2.

[33] *Ibid*. Art. IV:3, IV:4.

[34] World Trade Organization, 'Dispute Settlement' https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm accessed 4 February 2026

convenes under a distinct mandate to administer the rules and procedures outlined in the Dispute Settlement Understanding ("DSU").[35] The DSB holds the exclusive authority to establish adjudicatory panels, adopt reports issued by these panels and the Appellate Body, and monitor the implementation of rulings and recommendations.[36] A cornerstone of procedural efficiency is the 'negative consensus' rule: a panel or Appellate Body report is adopted automatically unless *every* WTO Member in the DSB including the party that won agrees not to adopt it, making unilateral blocking impossible.[37]

d. APPELLATE BODY

The Appellate Body functions as the standing adjudicatory organ of the WTO, established to provide a second-tier review of the legal findings issued by dispute settlement panels.[38] Composed of seven individuals of recognised authority and legal expertise, the Appellate Body is mandated to hear appeals from panel reports based strictly on issues of law and legal interpretations developed by the panel.[39] Under Article 17 of the DSU[40], the Appellate Body has the authority to uphold, modify, or reverse the legal findings and conclusions of a panel, ensuring consistency and predictability in the multilateral trading system.[41] It is important to note, however, that while the Appellate Body remains a statutory pillar of the WTO, it has been unable to function since

[35] *Marrakesh Agreement Establishing the World Trade Organization*, Apr. 15, 1994, 1867 U.N.T.S. 154, Art. IV:3; *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) art 2.

[36] *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) Art 2.1.

[37] *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) Art 16.4,17.4

[38] World Trade Organization, 'Appellate Body' https://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm accessed 4 February 2026.

[39] *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) art 17.6.

[40] Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 art 17.

[41] DSU, art 17.13.

December 2019 due to the impasse regarding the appointment of new members, leading to a significant crisis in the enforcement of trade rulings.[42]

3. ADMISSIBILITY

Admissibility in the WTO dispute settlement process refers to the legal standing of a member to bring a claim and the appropriateness of the claim itself for adjudication.[43] Unlike many other international legal systems, WTO law does not strictly require a complaining member to demonstrate a specific legal interest or to exhaust local remedies before initiating a dispute.[44]Instead, under Article 6.2 of the DSU[45], admissibility primarily hinges on the precise identification of the specific measures at issue and a summary of the legal basis of the complaint.[46]Furthermore, members are expected to exercise "good faith" judgment in deciding whether an action under the DSU would be fruitful, as mandated by Articles 3.7[47] and 3.10[48] . While panels generally have broad jurisdiction, a claim may be deemed inadmissible if the complaining party fails to meet the due process requirements of providing sufficient clarity in its request for the establishment of a panel.[49]

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[42] Marinette Cano, 'The World Trade Organization: Ministerial Conferences and the dispute settlement system' (EPRS Briefing, European Parliamentary Research Service 2024) https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2024)762342 accessed 4 February 2026.

[43] World Trade Organization, 'Dispute Settlement System Training Module: Chapter 6' https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm accessed 4 February 2026.

[44] Appellate Body Report, *European Communities – Regime for the Importation, Sale and Distribution of Bananas* (EC – Bananas III), WT/DS27/AB/R, adopted 25 September 1997, para 132.

[45] Understanding on Rules and Procedures Governing the Settlement of Disputes Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 art 6(2).

[46] *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU) art 6.2.

[47] *Understanding on Rules and Procedures Governing the Settlement of Disputes* (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 art 3(7).

[48] *Understanding on Rules and Procedures Governing the Settlement of Disputes* (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 art 3(10).

[49] Marinette Cano, 'The World Trade Organization: Ministerial Conferences and the dispute settlement system' (EPRS Briefing, European Parliamentary Research Service 2024) 4.

II. INTRODUCTION TO THE FIELD OF LAW

1. International Environmental Law

International Environmental Law (IEL) is commonly understood as the body of international rules ,treaty obligations, customary norms, and general principles of law, that regulate the protection of the environment and the conservation and sustainable use of natural resources.[50] IEL has developed in response to the structural features of environmental harm: ecological processes frequently cross national borders; pollutants and biodiversity loss generate negative externalities; and many environmental problems present collective-action and free-rider dynamics that cannot be effectively addressed through purely domestic regulation.[51] In this sense, IEL is not merely an aggregation of sectoral treaties, but a legal field shaped by the functional need to coordinate State behaviour where unilateral action is insufficient and where the costs of inaction are shared, diffuse, and often irreversible.[52]

IEL draws on classical sources of international law. Treaties remain central, ranging from broad framework instruments to issue-specific regimes (for example, biodiversity, climate change, marine pollution, and transboundary watercourses).[53] Alongside treaties, customary international law and general principles supply cross-cutting standards that operate even in the absence of detailed treaty commitments. A foundational expression of such standards appears in the well-known formulation that States have sovereign rights to exploit their own resources pursuant to their environmental and developmental policies, coupled with a responsibility to ensure that activities within their jurisdiction or control do not cause environmental damage to other States or to areas beyond national jurisdiction.[54] This "sovereignty–responsibility" balance is reflected in Principle 21 of the Stockholm Declaration and reiterated (with refinements) in Principle 2 of the

[50] Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, CUP 2018).

[51] *Ibid*; see also UN, 'Rio Declaration on Environment and Development' (1992) UN Doc A/CONF.151/26/Vol I.

[52] Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018) 15–16.

[53] *Ibid*; Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79.

[54]Rio Declaration on Environment and Development (adopted 14 June 1992) UN Doc A/CONF.151/26 (Vol I) (Rio Declaration) Principle 2.

Rio Declaration.[55] While declarations are not treaties, they are widely treated as influential evidence of normative expectations and, in some respects, as restatements or catalysts of customary rules.[56]

A second structural pillar of IEL is the principle of prevention, often operationalised through due diligence,which requires states to take all reasonable and appropriate measures to prevent activities within their jurisdiction from causing significant environmental harm to other states or areas beyond national jurisdiction.[57] Prevention is not a guarantee of zero harm; rather, it is a standard of conduct requiring States to deploy reasonable measures legislative, administrative, and enforcement-oriented—commensurate with the risk and the State's capabilities.[58] The International Law Commission's Draft Articles on the Prevention of Transboundary Harm from Hazardous Activities capture this logic by articulating obligations such as prior authorisation, risk assessment, and the adoption of appropriate measures to prevent significant transboundary harm.[59] In practice, prevention and due diligence also underpin procedural duties of cooperation, notification, consultation, and information exchange, all of which aim to reduce uncertainty and build trust where cross-border environmental impacts are foreseeable.[60]

[55] UN, 'Report of the United Nations Conference on the Human Environment' (Stockholm Declaration) (1972) Principle 21; see archival text.

[56] Rio Declaration on Environment and Development (adopted 14 June 1992) UN Doc A/CONF.151/26 (Vol I);Declaration of the United Nations Conference on the Human Environment (adopted 16 June 1972) UN Doc A/CONF.48/14/Rev.1 (Stockholm Declaration).

[57] Pulp Mills on the River Uruguay (Argentina v Uruguay) (Judgment) [2010] ICJ Rep 14, para 197; Patricia Birnie, Alan Boyle and Catherine Redgwell, *International Law and the Environment* (3rd edn, OUP 2009) 143–146.

[58] Oxford Public International Law, 'Due Diligence' (Max Planck Encyclopedias of International Law) (OUP) (discussing due diligence as a standard of conduct)

[59] International Law Commission, 'Draft Articles on Prevention of Transboundary Harm from Hazardous Activities' (2001).

[60] International Law Commission, *Draft Articles on Prevention of Transboundary Harm from Hazardous Activities*, in *Report of the International Law Commission on the Work of its Fifty-third Session* (23 April–1 June and 2 July–10 August 2001) UN Doc A/56/10;Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018).

Among IEL's most frequently invoked norms is the duty to prevent significant transboundary harm. In modern jurisprudence, this duty is closely linked to procedural obligations, including the performance of environmental impact assessment (EIA) where there is a risk of significant adverse transboundary effects. In *Pulp Mills on the River Uruguay*, the International Court of Justice (ICJ) confirmed that conducting an EIA in such circumstances is a requirement under general international law, even while acknowledging that international law does not prescribe a uniform methodology and leaves the content and scope of an EIA to be determined by domestic practice, subject to reasonableness.[61] The significance of this move is twofold. First, it recognises that procedural environmental duties can have autonomous legal force. Second, it supports a broader understanding of IEL as a field in which *process* ,transparency, participation, and reasoned decision-making, matters as much as substantive outcomes.

Closely associated with prevention and EIA is the duty to cooperate. Cooperation is expressed through treaty commitments and general expectations of good faith engagement, including information exchange and consultation on planned measures with cross-border implications.[62] These procedural duties are particularly salient in areas involving shared resources (such as international rivers, migratory species, or shared marine ecosystems) and in global commons contexts (such as the high seas or the atmosphere), where no single State can unilaterally internalise environmental costs.

IEL also contains principles whose status and scope remain more controversial. The precautionary principle/approach, expressed in Rio Principle 15, provides that where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.[63] Precaution responds to the reality that environmental science is often probabilistic and that waiting for conclusive evidence may lock in irreversible harm. Yet its precise legal effects—whether it shifts burdens of

[61] *Pulp Mills on the River Uruguay (Argentina v Uruguay)* (Judgment) [2010] ICJ Rep 14 (EIA as requirement under general international law; paras 204–205 are commonly cited).

[62] ILC Draft Articles (n 9) (cooperation and procedural duties).

[63] Rio Declaration (n 2) Principle 15.

proof, how it interacts with proportionality, and how it should be operationalised—are debated across regimes and dispute-settlement contexts.

Another contested but highly influential idea is common but differentiated responsibilities (CBDR), articulated in Rio Principle 7.[64] CBDR acknowledges that while environmental protection is a common concern, States' historical contributions to environmental degradation and their capacities to respond differ, warranting differentiated commitments and support mechanisms. This concept has become particularly important in climate governance and broader debates on distributive justice in environmental regulation.

Finally, sustainable development has emerged as a framing principle that seeks to reconcile between environmental protection and socio-economic development. Sustainable development is often invoked as an interpretive lens rather than as a self-standing rule, but it has real doctrinal effects: it pushes adjudicators and policymakers toward balancing environmental integrity, intergenerational equity, and development priorities.[65] The sustainable development concept is especially relevant where environmental measures intersect with trade policy, because trade disciplines are often designed to constrain regulatory divergence and to ensure predictability, while environmental governance sometimes requires adaptive, precautionary, and context-sensitive regulation.

The relevance of IEL in the trade context stems from a simple institutional fact: environmental measures frequently affect market access. Product standards, process and production method (PPM) requirements, bans on harmful substances, certification schemes, labelling, and border measures aimed at internalising environmental externalities can all function as restrictions on trade, whether deliberately or incidentally. This creates a recurring tension between;

(i) a State's claimed regulatory autonomy to pursue legitimate environmental objectives

[64] *Ibid* Principle 7.

[65] Sands and Peel (n 1) (sustainable development as interpretive concept).

(ii) international economic obligations that constrain discrimination and unjustified trade restrictions.[66]

The WTO legal system has become the most visible venue for resolving this tension, particularly through disputes arising under the GATT 1994. In the environmental domain, adjudication commonly turns on the relationship between substantive market-access disciplines,such as the prohibition on quantitative restrictions (Article XI) and non-discrimination obligations (Articles I and III),and the general exceptions in Article XX.[67] Article XX operates as a structured "safety valve". It allows measures pursuing certain objectives (including the protection of human, animal or plant life or health and the conservation of exhaustible natural resources), but conditions such policy space on requirements of necessity/relationship and on compliance with the chapeau's non-abuse discipline.[68]

The emblematic illustration is *US – Shrimp*, where the Appellate Body accepted that sea turtles may constitute "exhaustible natural resources" and that conservation-oriented measures may fall within Article XX(g), but stressed that even provisionally justified measures must still satisfy the chapeau's demands particularly that application must not amount to arbitrary or unjustifiable discrimination or a disguised restriction on international trade.[69] The jurisprudential significance lies in the Appellate Body's effort to avoid a rigid "trade versus environment" dichotomy: it recognised environmental protection as a legitimate objective and, in principle, compatible with the multilateral trading system, while simultaneously constraining unilateralism by requiring flexibility, fairness, and non-discriminatory application.[70]

A common scholarly and institutional framing of the trade–environment relationship is "mutual supportiveness": the idea that trade rules and environmental goals can, and should, be interpreted

[66] WTO, 'General Exceptions: Article XX of the GATT 1994' (WTO Analytical Index / Repertory).

[67] *Ibid*; WTO, 'Environmental Multilateral Agreements' (WTO Repertory).

[68] WTO Analytical Index (n 16).

[69] *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WT/DS58/AB/R (12 October 1998).

[70] WTO, 'India etc versus US: "shrimp-turtle"' (WTO Environment Gateway explainer).

as to avoid conflict and to support both sets of objectives where possible.[71] This framing is visible in WTO political commitments as well as in adjudicatory reasoning. The Doha Ministerial Declaration, for example, launched negotiations addressing the relationship between WTO rules and specific trade obligations in multilateral environmental agreements (MEAs), and emphasised that outcomes should be compatible with the open and non-discriminatory nature of the multilateral trading system and should not add to or diminish Members' rights and obligations.[72] Although Doha did not resolve all doctrinal tensions, it reflects a systemic awareness that environmental governance increasingly relies on trade-related instruments (for example, trade bans for endangered species or compliance mechanisms for hazardous substances), and that legal coherence requires careful delineation of when such measures are legitimate and how they interact with WTO disciplines.

From an IEL perspective, WTO environmental disputes raise two recurring questions. First, legitimacy of objectives: when and how can environmental goals justify restrictions that otherwise impede market access? Second, design and application: what features of an environmental measure (scope, flexibility, equivalence, process, transparency, opportunities for negotiation) determine whether it is an acceptable conservation tool or a form of disguised protectionism?[73] These questions are not unique to the WTO; they mirror broader IEL debates about unilateral versus cooperative approaches, the role of scientific uncertainty (precaution), and the need for differentiated responsibilities. But WTO disputes crystallise them in a particularly high-stakes legal setting, because the remedies and compliance expectations of the dispute settlement system can directly affect domestic regulatory choices.

For disputes where conservation objectives are invoked, especially where measures affect foreign production practices, IEL provides both normative vocabulary and institutional context. Normatively, IEL supplies the conservation rationale (protection of biodiversity, endangered species, and ecosystem integrity) and the procedural ethos of cooperation and due diligence

[71] WTO, 'Environmental Multilateral Agreements' (n 17) (mutual supportiveness framing in WTO materials).

[72] WTO, *Doha Ministerial Declaration* (2001) paras 31–32.

[73] *US – Shrimp* (n 19) (chapeau analysis and non-discrimination constraints).

(negotiation, information exchange, proportionality, and reasoned decision-making).[74] Institutionally, IEL highlights that environmental problems often require cross-border solutions and that insistence on a single regulatory model may be counterproductive or inequitable, particularly for developing countries facing capacity constraints.[75]

Accordingly, WTO jurisprudence in environment-related disputes is frequently analysed as a site of reconciliation: it tests whether and how global environmental stewardship can be pursued through trade instruments without eroding the predictability and non-discrimination commitments that underpin the multilateral trading system.[76] When the WTO adjudicator applies Article XX, it effectively performs a balancing exercise that resonates with IEL's own core themes: prevention and conservation must be credible and connected to the measure; unilateral coercion should be constrained; procedural fairness and flexibility reduce arbitrariness, and cooperation remains the preferred pathway for addressing transboundary environmental challenges.[77]

2. Global Trading

Global trading refers to the cross-border exchange of goods and services that is organised not only by price signals and comparative advantage, but also by a dense set of legal rules and institutions that enable, discipline, and stabilise international commerce.[78] In contemporary practice, global trade is increasingly shaped by global value chains (GVCs) production networks in which services, raw materials, parts, and components cross borders, often multiple times, before a final good reaches consumers.[79] This fragmentation of production changes what "market access" means in practical terms: it is no longer determined solely by border tariffs, but by the cumulative trade costs and regulatory frictions encountered across supply chains, including customs procedures,

[74] ILC Draft Articles (n 9); Rio Declaration (n 2).

[75] Rio Declaration (n 2) Principle 7 (CBDR).

[76] WTO DS58 case page (procedural and case framing).

[77] WTO Analytical Index (n 16); *US – Shrimp* (n 19).

[78] WTO, 'The WTO in brief' https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr00_e.htm\ accessed 28 February 2026.

[79] OECD, 'Global value and supply chains' https://www.oecd.org/en/topics/policy-issues/global-value-and-supply-chains.html\ accessed 28 February 2026.

licensing requirements, private and public standards, and conformity assessment processes.[80] The policy significance of GVCs is therefore twofold. First, it widens the set of actors and activities implicated in trade governance (manufacturers, logistics providers, digital service suppliers, testing bodies, and regulators). Second, it makes trade flows more sensitive to non-tariff measures (NTMs) and to regulatory divergence, because compliance burdens can compound at multiple nodes of the chain.[81]

Against this background, the role of WTO can be characterised as providing the central legal infrastructure for a rules-based trading system. It operates the global system of trade rules, supports negotiations and oversight, and offers a compulsory forum for dispute settlement functions that collectively aim to reduce the risk of unilateralism and to enhance the security and predictability of the multilateral trading system.[82] This objective is explicit in DSU Article 3.2, which frames dispute settlement as a means of clarifying rights and obligations and preserving the security and predictability of the system.[83] In institutional terms, the WTO does not eliminate regulatory diversity; rather, it channels that diversity through disciplines that limit arbitrary barriers and discrimination, while providing structured exceptions and balancing mechanisms for legitimate public policies.

A defining feature of contemporary global trading is the growing salience of non-tariff measures as determinants of effective market access. The WTO itself recognises that market access conditions include not only tariffs but also non-tariff measures agreed or maintained by Members that shape the entry of goods into domestic markets.[84] NTMs encompass a broad spectrum: traditional border controls (import licensing, quotas, customs procedures) as well as behind-the-border regulations (technical standards, sanitary and phytosanitary measures, labelling

[80] OECD–WTO–UNCTAD, *Implications of Global Value Chains for Trade, Investment, Development and Jobs* (2013) (discussion of value-added trade and multi-stage production).

[81] Alberto Nicita, *Global Supply Chains: Trade and Economic Policies for Developing Countries* (UNCTAD 2013).

[82] WTO, 'The WTO in brief' (n 1).

[83] Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), art 3.2.

[84] WTO, 'Market access for goods' https://www.wto.org/english/tratop_e/markacc_e/markacc_e.htm\ accessed 28 February 2026.

requirements).[85] Many such measures are not primarily "trade" instruments; they are often directed at non-trade objectives such as health, consumer safety, or environmental protection. Yet even when adopted for legitimate purposes, they can increase trade costs through procedural obligations (testing, certification, documentation) or through substantive requirements that require adaptation of products and processes.[86] For legal analysis, the key point is that the trade relevance of a measure cannot be inferred solely from its stated objective; its design, operation, and practical effects on foreign goods and suppliers are frequently decisive.

At a conceptual level, global trading is therefore not merely an economic phenomenon; it is a domain of governance in which States pursue legitimate public policies through instruments that may incidentally or deliberately, shape trade flows. This governance dimension is especially visible where Members adopt measures that condition market access on compliance with public-interest standards. Such standards can be territorially framed or, more controversially, can seek to influence production methods abroad. Since supply chains are transnational, domestic regulation can have extraterritorial practical effects even when its formal scope is domestic. The legal tension that emerges is not simply "trade liberalisation versus regulation," but the more precise conflict between (i) commitments to open, non-discriminatory, and predictable market access and (ii) the preservation of regulatory autonomy to address public policy risks that may be local, transboundary, or global in nature.

WTO law structures that tension through core market-access disciplines and calibrated exceptions. Substantive obligations, such as the prohibition of quantitative restrictions in GATT Article XI and non-discrimination requirements, seek to prevent disguised protectionism and to stabilise expectations about trading conditions. At the same time, the system recognises that Members may pursue public policies, including environmental conservation, through trade-affecting regulation, provided that the measure fits within the legal conditions for justification and is applied without abusive discrimination. This balancing logic is most clearly reflected in the architecture of the GATT general exceptions, which permit certain measures (for example, those relating to

[85] Robert W Staiger, 'Non-tariff Measures and the WTO' (WTO Staff Working Paper ERSD-2012-01, 2012).

[86] WTO, *A Practical Guide to the Economic Analysis of Non-Tariff Measures* (WTO 2019) (SPS/TBT and procedural compliance burdens).

conservation of exhaustible natural resources) while imposing a stringent "good faith" constraint through the chapeau to prevent arbitrary or unjustifiable discrimination.[87] In this sense, disputes that arise at the intersection of market access and public policy do not challenge the legitimacy of regulation as such; they test the permissible design and application of regulatory measures within a multilateral framework that is built on reciprocity, non-discrimination, and predictability.

Accordingly, legal analysis of "global trading" must account for the contemporary drivers of trade governance: the rise of GVCs, the centrality of NTMs, and the institutional role of the WTO as a stabilising mechanism for policy diversity. In practical terms, the most legally contentious disputes often arise where a trade restriction is defended as necessary to protect values with international or global significance—such as biodiversity conservation, human health, or climate-related objectives—especially where the measure imposes conditions that foreign producers must meet to secure market access. Understanding global trading in this governance sense is essential for analysing environment-related WTO disputes: the legal question is rarely whether conservation is a legitimate aim (it is), but usually whether the measure's structure, flexibility, and application reconcile that aim with the multilateral commitments that Members have undertaken.[88]

III. THE CASE: UNITED STATES-IMPORT PROHIBITION OF CERTAIN SHRIMP AND SHRIMP PRODUCTS

1. THE DISPUTE IN THE WORLD TRADE ORGANIZATION

The dispute *United States – Import Prohibition of Certain Shrimp and Shrimp Products* is a landmark WTO case addressing the compatibility of a unilateral, environmentally motivated import restriction with the disciplines of the GATT 1994. The challenged measure, grounded in Section 609 of U.S. Public Law 101–162 and its implementing guidelines, effectively conditioned access to the U.S. market for certain shrimp and shrimp products on whether exporting countries were "certified" as maintaining shrimp-harvesting practices and regulatory programmes comparable in effectiveness to those required under U.S. law—most notably, through the use of

[87] WTO, 'General Exceptions: Article XX of the GATT 1994' (WTO Analytical Index / Repertory).

[88] *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WT/DS58/AB/R (12 October 1998).

Turtle Excluder Devices (TEDs) to reduce incidental sea turtle mortality in shrimp trawl fisheries.[89] The complainants (India, Malaysia, Pakistan, and Thailand) argued that the measure operated as a *de facto* import prohibition inconsistent with core market-access obligations, particularly the general prohibition on quantitative restrictions under Article XI:1 of the GATT 1994[90], and that it impermissibly linked market access to the adoption of regulatory policies in foreign jurisdictions.[91] The United States, by contrast, sought to justify the measure under the environmental exceptions in Article XX, contending that the protection of endangered sea turtles widely recognized as an exhaustible natural resource-could warrant trade-restrictive action when such action is directed to conservation objectives and is applied in a manner consistent with the chapeau of Article XX.[92]

The systemic importance of *US – Shrimp* lies not only in its substantive holding but also in the methodological guidance it provides for reconciling trade liberalization with environmental protection. While the WTO adjudicators accepted that a measure relating to conservation could in principle fall within Article XX, the Appellate Body emphasized that the decisive constraint is the *chapeau*: even a provisionally justified measure may still violate the GATT if its application results in "arbitrary or unjustifiable discrimination" between countries where the same conditions prevail, or constitutes a "disguised restriction on international trade."[93] In particular, the case highlighted the procedural and design features that can turn an environmental measure into discriminatory trade coercion—such as rigid comparability requirements, insufficient flexibility for different regulatory conditions, and inadequate efforts to negotiate cooperative solutions—thereby shaping

[89] NOAA Fisheries, 'Shrimp Import Legislation for Sea Turtle Conservation' (NOAA) https://www.fisheries.noaa.gov/national/endangered-species-conservation/shrimp-import-legislation-sea-turtle-conservation accessed 25 February 2026.

[90] General Agreement on Tariffs and Trade 1994 (GATT 1994) art XI:1.

[91] WTO, 'United States — Import Prohibition of Certain Shrimp and Shrimp Products' (Dispute DS58) https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds58_e.htm accessed 25 March 2026.

[92] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Appellate Body Report, WT/DS58/AB/R (12 October 1998) (adopted 6 November 1998).

[93] *Ibid* (WT/DS58/AB/R) (chapeau of GATT art XX; arbitrary or unjustifiable discrimination / disguised restriction).

subsequent debates on how Members may pursue transboundary environmental objectives without undermining the multilateral, non-discriminatory structure of the WTO legal order.[94]

a. Overview of the WTO Proceedings

The dispute was initiated through a joint request for consultations submitted on 8 October 1996 by India, Malaysia, Pakistan and Thailand, pursuant to DSU Article 4 and GATT 1994 Article XXII:1, challenging the United States' import prohibition on certain shrimp and shrimp products adopted under Section 609 and associated implementing measures.[95] As consultations failed to yield a mutually agreed solution within the prescribed timeframe, the complainants proceeded to the panel stage and requested the establishment of a panel by the Dispute Settlement Body (DSB).[96] On 25 February 1997, the DSB established panels in response to the complainants' requests and ,given the common factual matrix and closely related legal claims,agreed to consolidate the proceedings into a single panel under DSU Article 9, applying standard terms of reference. This consolidation was procedurally significant, as it ensured coherent fact-finding and legal reasoning across the parallel complaints, while also streamlining the adjudicatory process in a dispute implicating sensitive questions at the intersection of market-access disciplines and environmental policy.[97] The consolidated Panel ultimately circulated its report to WTO Members on 15 May 1998, setting out its findings on the compatibility of the US measure with the GATT 1994 and addressing the structure of the parties' claims and defences.[98]

Following the circulation of the Panel Report, the United States notified its decision to appeal certain issues of law and legal interpretation, thereby triggering the appellate phase under the DSU

[94] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Panel Report, WT/DS58/R (15 May 1998), as modified by Appellate Body Report WT/DS58/AB/R (adopted 6 November 1998).

[95] WTO, 'United States — Import Prohibition of Certain Shrimp and Shrimp Products (DS58)' https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds58_e.htm\ accessed 26 February 2026.

[96] *Ibid* (procedural history: consultations and panel request).

[97] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Panel Report, WT/DS58/R (15 May 1998) para 1.2 (panel establishment and consolidation under DSU art 9).

[98] *Ibid* (circulation date and consolidated report).

framework.[99] In the Appellate Body proceedings, the participants and third participants filed written submissions, and the Appellate Body held an oral hearing on 19–20 August 1998, consistent with its Working Procedures and established practice.[5] The Appellate Body Report was then circulated on 12 October 1998 (signed 8 October 1998), and it subsequently became the authoritative statement on the legal questions raised on appeal, including the relationship between the substantive exceptions in GATT Article XX and the non-discrimination discipline embodied in the chapeau.

b. Chronology of the Case

The dispute was initiated when India, Malaysia, Pakistan and Thailand jointly requested consultations on 8 October 1996, challenging the consistency of the United States' import prohibition on certain shrimp and shrimp products with the GATT 1994.[100] As consultations did not resolve the matter, Malaysia and Thailand (9 January 1997) and Pakistan (30 January 1997) requested the establishment of a panel.[101] At its meeting of 25 February 1997, the DSB established two panels in response to these requests and, given the close factual and legal overlap among the complaints, decided to consolidate the proceedings into a single panel pursuant to DSU Article 9, adopting standard terms of reference.[102] Following India's further request dated 25 February 1997, the DSB established an additional panel on 10 April 1997, which was likewise merged into the consolidated proceedings.[103] The Panel Report was subsequently circulated to Members on 15 May 1998.[104]

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[99] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Appellate Body Report, WT/DS58/AB/R (12 October 1998) (signed 8 October 1998) (appeal and AB proceedings).

[100] WTO, 'United States — Import Prohibition of Certain Shrimp and Shrimp Products (DS58)' https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds58_e.htm\ accessed 27 February 2026.

[101] *Ibid* (panel requested dates: 9 January 1997; 30 January 1997).

[102] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Panel Report, WT/DS58/R (15 May 1998) (panel establishment and consolidation under DSU art 9).

[103] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Panel Report, WT/DS58/R (15 May 1998) (additional panel established 10 April 1997; merged into consolidated proceedings).

[104] WTO, 'DS58' (n 1) (Panel Report circulated 15 May 1998).

After the Panel stage, the United States notified its decision to appeal on 13 July 1998 and filed its notice of appeal, followed by its appellant's submission on 23 July 1998.[105] The appellees' submissions (both joint and separate) and the third participants' submissions were filed on 7 August 1998.[106] At the Appellate Body's invitation, the participants lodged additional submissions on issues arising under GATT 1994 Articles XX(b) and XX(g) on 17 August 1998, and the oral hearing took place on 19–20 August 1998.[7] The Appellate Body Report was signed on 8 October 1998 and circulated to Members on 12 October 1998.[107]

IV. KEY CONCEPTS

1.Turtle Excluder Devices (TEDs)

As a result of research conducted in the 1970s, all sea turtles in the North Gulf were included among the endangered or endangered species. The danger of being entangled in fishing lines and drowning is one of the major risks to sea turtles. Shrimp fishing in the South Atlantic and the Gulf of America are the locations where the situation is most common and attracts attention. The most significant influence on turtle populations is the drowning mortality of turtles caught during shrimp fishing. In order to eliminate and reduce the damage that shrimp fishing causes to turtles, NOAA Fisheries has launched a project to develop a new tool for use in shrimp fishing in collaboration with the Southeast and Texas Shrimp Association to eliminate and reduce the threat that shrimp fishing poses to turtles.

In the first turtle excluder devices produced, large mesh weaving panels were placed in the mesh opening. Thus, it was tried to completely prevent turtles from entering a trawl. After the two-panel design was developed, it was fitted to different types of trolls. The first design reduced turtle catches by 30 percent, along with shrimp losses between 38 and 53 percent. The second design

[105] United States – Import Prohibition of Certain Shrimp and Shrimp Products, *Dispute Settlement Reports 1998* (Cambridge University Press) (notice of appeal 13 July 1998; appellant's submission 23 July 1998; appellees/third participants 7 August 1998).

[106] *Ibid* (additional submissions 17 August 1998; oral hearing 19–20 August 1998).

[107] United States – Import Prohibition of Certain Shrimp and Shrimp Products, Appellate Body Report, WT/DS58/AB/R (12 October 1998) (signed 8 October 1998).

yielded a more successful result and reduced turtle catches by 79 percent. However, both designs were extremely shrimp loss and were not practical enough.[108]

In the early 1980s, a new style of turtle excluder began to be developed. This new design is actually the development of a device that commercial shrimp fishermen use to remove jellyfish from trawls. Together with the tests, this design resulted in minimal shrimp losses with a turtle separation rate of 89 percent and then 97 percent. In 1981, an incentive program was launched for the voluntary use of TED. In this context, the state was carried out by NOAA Fisheries in cooperation with Sea Grant marine consultancy programs. Thanks to commercial companies contracted with NOAA Fisheries, the devices were manufactured and distributed to interested individual fishermen. But fishermen argued that TED was too big and bulky. For this reason, the overall size of TED was reduced in 1982. The reduction of the size did not cause any loss of performance, and in 1983, along with some development work, it brought some advantages in the last situation. Thus, a limited number of fishermen in North Carolina, Georgia, Alabama, Mississippi, Louisiana and Texas voluntarily adopted the use of TED. w

NOAA Fisheries held mediation talks to discuss the use of TED (Turtle Excluder Device) due to disagreements between environmental groups and the shrimp industry. In 1987, regulations mandating the use of TED in shrimp fishing came into force. With further development, new TED designs were found to be lighter, cheaper and more effective. Initially, TED use was irregular and few. With the federal regulation enacted in 1989, the use of Ted became widely mandatory. Its efficiency has been increased thanks to ongoing work with fishermen and equipment manufacturers.

Section 609 of Public Law 101-162, signed on November 21, 1989, prohibited the use of TED or the import of shrimp from countries that did not have a conservation program comparable to the United States, to protect sea turtles and, incidentally, to reduce the number of shrimp trawlers.[109]

[108] National Oceanic and Atmospheric Administration (NOAA Fisheries), *History of Turtle Excluder Devices*https://www.fisheries.noaa.gov/southeast/bycatch/history-turtle-excluder-devices accessed 6 March 2026.

[109] National Oceanic and Atmospheric Administration (NOAA Fisheries), *History of Turtle Excluder Devices*https://www.fisheries.noaa.gov/southeast/bycatch/history-turtle-excluder-devices accessed 6 March 2026.

2. Discrimination

In WTO law, the notion of discrimination is principally operationalised through the twin non-discrimination pillars of Most-Favoured-Nation (MFN) treatment and National Treatment, which collectively aim to prevent Members from altering competitive opportunities through origin-based differentiation.[110] Beyond these core rules, the GATT 1994 also contains complementary disciplines that constrain trade distortions arising from certain forms of differential treatment which are the most notably the prohibition of quantitative restrictions under Article XI and the broader architecture of market-access commitments that seek to preserve the integrity of negotiated concessions.[111] Importantly, WTO adjudication has consistently approached discrimination as a concept that cannot be reduced to formal classifications alone. The inquiry extends from *de jure* discrimination (explicit differentiation on the face of the measure) to *de facto* discrimination, where a facially neutral regulation or administrative practice modifies the conditions of competition to the detriment of imported products or selectively burdens certain exporting Members.[112] In this sense, discrimination analysis is structurally attentive to both legal form and economic effect, and,particularly in the National Treatment context,turns on whether a measure results in less favourable treatment by altering competitive relations in a manner that cannot be justified by legitimate regulatory distinctions.[113]

This doctrinal orientation becomes especially salient in environment-related disputes, where Members often attempt to condition market access on compliance with environmental requirements or production practices. Because many environmental harms are transboundary and because conservation objectives may legitimately motivate trade-affecting regulation, the decisive question is frequently not whether the objective is permissible, but whether the measure is designed

[110] General Agreement on Tariffs and Trade 1994 (GATT 1994) arts I:1 (MFN), III:4 (National Treatment).

[111] GATT 1994 art XI:1 (general elimination of quantitative restrictions).

[112] *Japan – Taxes on Alcoholic Beverages* (Appellate Body Report) WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R (4 October 1996) (National Treatment analysis; focus on competitive relationship and treatment in practice).

[113] *Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef* (Appellate Body Report) WT/DS161/AB/R, WT/DS169/AB/R (11 December 2000) (less favourable treatment and conditions of competition under art III:4).

and applied consistently with non-discrimination commitments. The jurisprudence thus places particular weight on how a measure operates in practice: whether it provides flexibility to accommodate different conditions, whether it is administered with procedural fairness and transparency, and whether it is accompanied by good-faith efforts at cooperation rather than functioning as a unilateral instrument of economic coercion.[114] The chapeau of GATT Article XX captures this logic with particular clarity: even where a measure is provisionally justified under a listed exception (such as conservation of exhaustible natural resources under Article XX(g)). However it must still be applied so as not to constitute "arbitrary or unjustifiable discrimination between countries where the same conditions prevail" or a "disguised restriction on international trade."[115] The result is that discrimination analysis operates as a doctrinal safeguard against disguised protectionism while preserving, under carefully delimited conditions, regulatory space for *bona fide* environmental measures within the multilateral trading system.[116]

V. CASE BEFORE THE COURT

1. Introduction to the Case

The United States – Import Prohibition of Certain Shrimp and Shrimp Products (WT/DS58), also referred to as the "Turtle–Shrimp" case, is one of the most important cases in the history of the World Trade Organization (WTO) related to the interaction between international commerce and protecting the environment.[117] The 1998 Appellate Body Report had a major impact on how the multilateral trading system balanced trade liberalization and environmental protection, and it indicated a change in how Article

[114] *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WT/DS58/AB/R (12 October 1998) (chapeau analysis emphasising flexibility, due process-type considerations, and good-faith efforts to negotiate).

[115] GATT 1994 art XX *chapeau*; *US – Shrimp* (n 5), concerning arbitrary or unjustifiable discrimination and disguised restrictions on international trade.

[116] *United States – Standards for Reformulated and Conventional Gasoline* (Appellate Body Report) WT/DS2/AB/R (29 April 1996) (Article XX structure and chapeau as constraint against abuse of exceptions).

[117] WTO, *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Panel Report) WT/DS58/R (15 May 1998).

XX of the General Agreement on Tariffs and Trade (GATT) 1994 was interpreted.[118] The decision clarified that environmental measures with extraterritorial implications are not per se incompatible with WTO law, provided that they comply with the conditions set out in Article XX.[119]

In the 1970s and 1980s, the US National Oceanic and Atmospheric Administration (NOAA) found that a large number of sea turtles were accidentally caught and died in mechanical shrimp trawl nets. This situation creates a serious environmental problem, especially for species in danger of extinction. In order to reduce the effects of the problem in question, special devices called "Turtle Excluder Devices" (TEDs) have been developed. These devices allow the turtles to come out of the net at the same time as keeping the shrimps in the net.

In 1989, the U.S. Congress passed section 609 of Public Law 101–162, restricting the import of shrimp caught without the use of TED. According to this regulation, countries that want to export shrimp to the United States must either use TED or prove that they have implemented similar protection measures. Initially, the US granted a three-year transition period to 14 countries in the Caribbean region to adapt to the new regulations. However, in 1996, the application was expanded to all countries, and countries that wanted to export to the USA were obliged to switch to the use of TEDs in a short time. Affected by this situation, in 1996, India, Malaysia, Thailand, and Pakistan challenged section 609 and filed a joint request for consultations at WTO of dispute settlement body. The countries claimed that the law violates Article XI of GATT. Under Article XI, WTO members may not impose discriminatory import restrictions on other member countries. Discriminatory restrictions are treating imports from other countries differently and applying restrictions automatically to countries without giving countries time to address the issue regulated by the restriction. United States is the member of World Trade Organization and according to countries United States is violating the Law. The United States argued that the law does not violate

[118] WTO, *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WT/DS58/AB/R (12 October 1998).
[119] Robert Howse, 'The Appellate Body Rulings in the Shrimp/Turtle Case: A New Legal Baseline for the Trade and Environment Debate' (2002) 27 Columbia Journal of Environmental Law 491

GATT because it falls under Article XX(g). Under Article XX(g), countries may impose import restrictions against exporting countries that are related to conserving exhaustible natural resources, provided that the restrictions are not arbitrary or unjustifiably discriminatory.[120] The United States argued that sea turtles are within the scope of exhaustible natural resources and that the import restriction aims to protect the environment.

The main legal issue in this dispute is whether the US practice can be justified under Article XX(g) and whether it complies with the prohibition of *"arbitrary or unjustifiable discrimination"* contained in the chapeau of Article XX of the GATT 1994. This ruling established an essential foundation for WTO rules addressing how to negotiate between free trade and environmental protection.[121]

2. .The U.S. Measure: Section 609 and the Import Ban

All sea turtles found in United States waters are currently listed as endangered or threatened with extinction. Incidental capture in fisheries and habitat degradation are among the primary factors contributing to this situation. Research conducted by NOAA Fisheries during the 1970s and 1980s demonstrated that a significant cause of sea turtle mortality was accidental drowning in mechanical shrimp trawls, which led to substantial population declines.In order to address this problem, NOAA Fisheries developed specialized fishing gear technology known as Turtle Excluder Devices (TEDs). These devices are designed to allow sea turtles to escape from shrimp trawl nets while enabling shrimpers to retain their shrimp catch.[122]

[120] Joel P Trachtman, 'Introduction to the Shrimp-Turtle Case: Brief Summary and Analysis of the WTO Panel and Appellate Body Decisions' (NYU Institute for International Law and Justice) https://www.iilj.org/wp-content/uploads/2016/08/Trachtman-Introduction-to-the-Shrimp-Turtle-Case.pdf accessed 4 March 2026. 20 February 2026.
[121] General Agreement on Tariffs and Trade 1994 (GATT 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 UNTS 187 (entered into force 1 January 1995) art XX (chapeau).
[122] US Department of State, *Sea Turtle Conservation and Wild-Caught Shrimp Imports into the United States* (11 June 2024) https://2021-2025.state.gov/sea-turtle-conservation-and-wild-caught-shrimp-imports-into-the-united-states/ accessed 25 February 2026.

Under Public Law No. 101-162, Section 609, which entered into force on 21 November 1989, shrimp harvested using commercial fishing technology that may adversely affect sea turtles may not be imported into the United States. This prohibition does not apply to countries that have adopted and implemented a sea turtle conservation program comparable to that of the United States, including the use of Turtle Excluder Devices (TEDs), or to fisheries in which incidental capture does not pose a threat to sea turtle populations.Countries seeking to export shrimp to the United States must obtain annual certification demonstrating compliance with the requirements set out in Section 609.[123]

Part of the 1989 Law, Section 609 aims to prevent sea turtles from dying, especially during shrimp fishing, as an environmental method adopted by the United States. The trade sanction is aimed at banning shrimp imports in the US from countries that do not use TEDs and do not provide protection equal to their standards. The requirements stipulated by Section 609 were put into effect on May 1, 1996, to cover all shrimp-importing countries.[124]

3. Background of the Dispute

The protection of sea turtles might be considered as a matter of international protection. Many species of sea turtles are included in the Annex-1 Appendix list, which provides the highest protection under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).[125] It is necessary to maintain a balance between international environmental protection obligations and multilateral trade rules. In this context, domestic environmental policies taken for the protection of sea turtles and international trade obligations should be parallel. The USA is one of the parties to the CITES convention and has a responsibility to fulfil international obligations for the protection of endangered species.

In light of scientific research carried out in the USA since the 1970s, it has been revealed that shrimp trawl nets cause the death of sea turtles when they are caught by chance. The Turtle

[123] National Oceanic and Atmospheric Administration (NOAA Fisheries), *Shrimp Import Legislation for Sea Turtle Conservation* (18 August 2025) https://www.fisheries.noaa.gov/national/endangered-species-conservation/shrimp-import-legislation-sea-turtle-conservation accessed 25 February 2026.
[124] US Department of State, *Sea Turtles and Section 609* https://www.state.gov/wp-content/uploads/2019/04/Section-609-One-Pager.pdf accessed 25 February 2026.
[125] Convention on International Trade in Endangered Species of Wild Fauna and Flora (adopted 3 March 1973, entered into force 1 July 1975).

Excluder Device (TED), developed to solve this problem, allows turtles to escape from the net and also allows shrimp to be caught. These devices were developed throughout the 1980s and implemented in U.S. fishing activities. Enacted in 1989, Public Law 101-162 Section 609 made the use of TED mandatory on shrimp trawlers operating in certain areas.[126] However, the USA stated that since sea turtles are migratory species, national regulations alone will not be sufficient, and that the status of international sea turtles is defined as "exhaustible natural resources" and that all CITES member countries are under a debt to protect these creatures. For this reason, the measure envisaged under Section 609 is to develop international agreements for the protection of sea turtles and to conduct negotiations with other countries.[127] For this purpose, within the scope of the regulation, an application that reflects the environmental protection standards of the USA to trade relations has been regulated. Countries that export commercially harvested shrimp to the U.S. will be subject to an import ban if they do not have a similar prevention system as the U.S., do not use TED, and pose a threat to sea turtles. The USA certifies every year as a result of examinations to see whether exporting countries meet these conditions. If the exporting countries did not have a certificate, their imports were prohibited. Thereupon, it was argued that this import ban of countries such as India, Malaysia, Pakistan, and Thailand, which export shrimp, was incompatible with the multilateral trade system and that the prohibition of discrimination and free trade principles in GATT 1994 were violated by the USA. In response to this argument, the USA claimed that the measures it took were legitimate under GATT Article XX for the purpose of protecting the environment.

4. Facts of the Case

1. Sea turtles are protected under CITES Annex-1.
2. As a result of scientific research conducted in the 1970s, shrimp trawl nets catch endangered sea turtles and cause them to drown. This situation poses a serious environmental problem, especially in the South Atlantic and the Gulf of Mexico.

[126] National Oceanic and Atmospheric Administration (NOAA Fisheries), *History of Turtle Excluder Devices*https://www.fisheries.noaa.gov/southeast/bycatch/history-turtle-excluder-devices accessed 6 March 2026.
[127] *Foreign Operations, Export Financing, and Related Programs Appropriations Act 1990* (Public Law 101-162, 21 November 1989) s 609.

3. To prevent this situation, which poses a problem for sea turtles, a device called the Turtle Excluder Device (TED) has been developed in the USA. TED is a device that both hunts shrimp and allows turtles caught in nets to escape at the same time.
4. In 1987, federal regulations mandating the use of TED in shrimp fishing came into force in the USA. Then, in 1989, the US Congress passed Public Law 101-162, and the Section 609 regulation was enacted as part of this law. The purpose of this regulation is to introduce environmental policy implementation aimed at protecting sea turtles.
5. Within the scope of Section 609, the import of shrimp and shrimp products to the USA is prohibited as a result of shrimp-exporting countries not meeting the requirements. In 1996, the scope of Section 609 was expanded, and the certification system became mandatory for all countries exporting shrimp to the USA.
6. India, Malaysia, Pakistan, and Thailand argue that the U.S. practice is a unilateral environmental policy and restricts market access. In this context, the USA did not sufficiently resort to multilateral negotiations while implementing environmental measures and argued that it carried out a discriminatory practice against some countries.
7. India, Malaysia, Pakistan and Thailand applied to the WTO Dispute Settlement Body on 8 October 1996, arguing that this regulation by the United States violated Article XI:1 of GATT 1994, which specifically prohibits import restrictions.
8. Although the US admits that the regulation in question violates Article XI of the GATT, it argues that it can be justified as a legitimate exception to environmental protection under GATT Article XX.
9. In 1997, upon the application of India, Malaysia, Pakistan, and Thailand, some environmental and non-governmental organizations submitted opinion papers (*amicus curiae* briefs) during the Panel review and were sent to the Panel by non-party organizations.[128]
10. The European Communities, Australia, Ecuador, Nigeria, and Hong Kong, which are also members of the WTO, joined as parties in 1997 upon the establishment of the panel with the idea that their interests could be affected.

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[128] *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, Appellate Body Report, WTO Doc WT/DS58/AB/R, adopted 6 November 1998 (12 October 1998).

11. The Dispute Settlement Panel, established upon the request of the complaining parties, issued its report on 15 May 1998. The Panel concluded that the U.S. measure, Section 609, constituted a prohibited quantitative restriction under Article XI:1 of GATT 1994 and could not be justified under the introductory clause (chapeau) of Article XX, even if it fell under the specific exceptions of paragraphs (b) or (g).
12. On 13 July 1998, the United States formally notified the Dispute Settlement Body of its decision to appeal certain issues of law and legal interpretations developed by the Panel. The appeal was heard by three members of the Appellate Body.
13. In its appeal, the United States argued that the Panel erred in its legal interpretation of the Article XX chapeau. The U.S. maintained that its measure was not a "disguised restriction on international trade" nor "unjustifiable discrimination," but a legitimate environmental policy aimed at the conservation of exhaustible natural resources (sea turtles) as permitted under Article XX(g). Conversely, the appellees (India, Malaysia, Pakistan, and Thailand) requested the Appellate Body to uphold the finding of the Panel, asserting that the U.S. measure was a unilateral attempt to force other sovereign nations to adopt specific domestic policies.

5. Claims of the Parties

a.Claims of the United States

1. The Panel stated that non-requested submissions from non-governmental organizations (NGOs) cannot be accepted. DSU Article 13.2[129] gives panels extensive information collection and source selection discretion. However, there is no prohibition at DSU that unsolicited opinions will not be accepted. The panel's attitude unnecessarily narrows the discretionary power given by DSU to panels.[130]
2. It is erroneous to conclude that Section 609 given by the Panel is not covered by GATT 1994 Article XX. It argues that the measure can be assessed both under the chapeau

[129] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) art 13.2.
[130] *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, Appellate Body Report, WTO Doc WT/DS58/AB/R, adopted 6 November 1998 (12 October 1998).

part of Article XX and specifically under Article XX(g) and, alternatively, under Article XX(b). The Panel's finding that the measure constitutes "unfair discrimination between countries where the same conditions exist" is also wrong. The Panel's interpretation of Article XX on the basis of the criterion of "threat to the multilateral trading system" has no basis in the text and this approach narrows the rights of the members.

3. ‘The concept of 'unjustifiable discrimination' does not take into account its ordinary meaning. According to the USA, the main purpose of Section 609 is to reduce the threat of sea turtle extinction by increasing the use of TEDs. Therefore, it is reasonable and justified to distinguish between countries that use TED and countries that do not.
4. The panel argues that it does not interpret the text in the usual way and does not apply it. Instead of examining whether discrimination is justified or not, it makes a broader evaluation. This assessment imposes an obligation that is not included in XX. If an environmental purpose justifies differential treatment, then there is no need to investigate the effects on the trading system.
5. The Panel does not evaluate the concept of "unfair discrimination" correctly. The chapeau part of Article XX aims to prevent the protectionist and abusive use of exceptions. If the exception is related to the policy purpose, it is not appropriate to consider the different treatment as unfair.
6. The United States contends that sea turtles are "exhaustible natural resources" within the meaning of Article XX(g). It argues that this provision is not limited to inanimate resources and that the conservation of migratory species, which pass through U.S. waters, falls under its legitimate environmental jurisdiction.
7. Furthermore, the U.S. asserts that the Panel erred in its interpretation of the Article XX chapeau. The measure does not constitute "unjustifiable discrimination" because it provides for a certification process that considers the different conditions of exporting countries. The primary objective is the global protection of endangered species, rather than creating a disguised restriction on international trade.
8. The U.S. also maintains that it has made good faith efforts to pursue multilateral environmental agreements. However, it argues that the failure to reach a consensus with certain countries does not preclude a member from adopting domestic measures

to protect shared global resources, provided those measures are applied in a non-discriminatory manner.

9. The Panel misinterprets the purpose of the WTO Agreement. GATT Article XX prioritizes specific public interest objectives. However, GATT is a trade agreement, but this does not mean that commercial interests prevail over other public policies.
10. International agreements generally do not have a single purpose. In this context, the WTO aims both to expand trade and to sustainable development and environmental protection. The one-sided perspective of the panel is not appropriate.
11. The additional elements on which the Panel relies to support its analysis (members' expectations of competition, the principle of good faith, and an old GATT panel report) have a weak legal basis. Section 609 does not pose a threat to the multilateral trading system. Hypothetical analyses are erroneous, and Article XX should be evaluated separately in each concrete case.[131]
12. Section 609 is a regulation for the risk of extinction of turtles and to prevent abuse. If differential treatment under the exception of Article XX is legitimately parallel in policy, it is not abuse.
13. The precaution is to treat countries that cause similar risks in the same way. For this reason, only countries where turtles are present and use mechanical nets are subject to restrictions. It accepts the fact that the TED obligation is only a condition for certain countries, even though they pose a risk, as a factor that justifies discrimination.
14. The measure taken by the USA is applied not only to fishermen in certain countries, but also to fishermen in their own country. In addition, the USA has provided support to other countries on TED technology.
15. Section 609 is a well-intentioned environmental protection method and has also been scientifically proven. The Panel's approach narrows the exercise of the exceptional rights of WTO members under GATT 1994.
16. If Chapeau's conditions are met, XX(g) should be applied first, and then XX(b) should be evaluated if necessary.

[131] *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, Appellate Body Report, WTO Doc WT/DS58/AB/R, adopted 6 November 1998 (12 October 1998).

17. Sea turtles are an exhaustible natural resource and are protected under CITES. Therefore, Section 609 satisfies all the elements of Article XX(g). The species is endangered, and shrimp nets are a major cause of turtle mortality. TEDs reduce this mortality.
18. The practice is "even-handed" because it applies to US fishermen and allows certification to countries that provide comparable protection.
19. Section 609 application is "necessary to protect human, animal or plant life or health" within the scope of Article XX(b). Considering the extinction of turtles, other measures are not enough.[132]

b.Claims of India, Pakistan and Thailand

1. India, Pakistan and Thailand (Joint Appellees) stated that it is correct that the Panel rejected unsolicited NGO opinions. The USA misinterprets Article 13 of the DSU[133]. The initiative to request information and choose its source under Article 13 belongs to the panel and is not obliged to evaluate unsolicited information.[134]

2. When the panel requests information from a person or entity within the jurisdiction of a member state, the relevant state must be informed. This information process consists of three stages. First, the Panel decides to ask for technical information. Thereupon, the relevant member is informed. Finally, the requested information is evaluated. The United States is eliminating the first two of the three stages, which weakens the control of the panel.

[132] U*nited States – Import Prohibition of Certain Shrimp and Shrimp Products*, Appellate Body Report, WTO Doc WT/DS58/AB/R, adopted 6 November 1998 (12 October 1998).
[133] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) art 13.
[134] *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Panel Report) WTO Doc WT/DS58/R (adopted 6 November 1998) para 7.8.

3. Specifically, paragraphs 4 and 6 of the Working Procedures in Annex 3 of the DSU[135] limit the right to make written presentations to the parties and third parties. While non-party members do not have such a right, NGOs cannot be granted such a right.[136]

4. When the US approach is accepted, the panels will be exposed to an intense and biased influx of information from around the world. This situation may damage impartiality and increase the administrative burden of the Secretariat.

5. There are some things that are being asked to be done to address concerns about the procedural due process. These are: knowing that the panel will take into account justified submissions, allowing the parties to respond, and according to Article 12.6 of the DSU,[137] the second written submissions must be conducted simultaneously; therefore, the addition of amicus curiae may impair the other party's right to reply.

6. The Panel's interpretation of Article XX chapeau is correct. The United States has not appealed the violation of Article XI:1, it has not determined Chapeau's first examination as a subject of indictment, it states that the burden of proof lies with it. The panel decision is based on the WTO agreement, previous GATT and WTO practices, and the Vienna Convention on the Law of Treaties[138] . The claim that the USA has developed a new test is not appropriate.[139]

7.The main problem is that the US allows Market access subject to certain conditions. This approach ignores the understanding of unilateral and multilateral solutions. The abuse of Article XX must be prevented and the multilateral trading system must be protected.

8. Article XX is a regulation that allows for exceptions. However, the misuse of these exceptions is prohibited. Considering the history of GATT and WTO practices and recent jurisprudence, especially the *United States – Restrictions on Imports of Tuna* [140] panel

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[135] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) Appendix 3 ('Working Procedures').

[136] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) Appendix 3, paras 4 and 6.

[137] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) art 12.6.

[138] Vienna Convention on the Law of Treaties (23 May 1969) 1155 UNTS 331 (entered into force 27 January 1980).

[139] *United States — Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WTO Doc WT/DS58/AB/R (adopted 6 November 1998).

[140] *United States — Restrictions on Imports of Tuna* (Panel Report, unadopted, 16 June 1994) GATT Doc DS29/R.

report, the chapeau part of Article XX of the Panel interprets correctly. The main purpose of Chapeau is to prevent the abuse of the exceptions contained in Article XX. The Panel also considered the prevention of this abuse directly related to the protection of the multilateral trading system. In other words, chapeau is a safeguard mechanism against such abuses, as the arbitrary or excessive application of exceptions can harm not only the countries involved, but the system as a whole.[141]

9. The panel decision is *parallel to the United States – Gasoline*[142] decision. In this decision, Chapeau looks at the way the measure is applied primarily; its purpose is to prevent the abuse of exceptions. Exceptions cannot be applied in a way that makes GAAT obligations unauthorized.

10. The way the embargo is implemented has not been previously negotiated, although it has linked market access in the US to adopting policies similar to its own. In support of the Panel's conclusion, it not only used the text of Article XX, but also referred to the basic principles of international law.[143] In this context, it emphasized the principles of good faith and pacta sunt servanda. It is stated that exceptions must also comply with these principles. To further strengthen this assessment, *Belgian also*[144] referred to the Family Allowances panel report, revealing that previous GATT practices were also interpreted to prevent the abuse of exceptions.

11. Even if the phrase threat to the trading system is not considered, there is evidence to suggest that the exception is abused. As the first abuse, the USA did not conduct a multilateral negotiation, and the necessity of multilateralism was emphasized under Article

[141] *United States — Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WTO Doc WT/DS58/AB/R (adopted 6 November 1998).

[142] *United States — Standards for Reformulated and Conventional Gasoline* (Appellate Body Report) WTO Doc WT/DS2/AB/R (adopted 20 May 1996).

[143] *United States — Import Prohibition of Certain Shrimp and Shrimp Products* (Panel Report) WTO Doc WT/DS58/R (adopted 6 November 1998) para 7.40.

[144] *Belgian Family Allowances* (Panel Report, adopted 7 November 1952) BISD 1S/59.

23.1 of the DSU [145] and Principle 12[146] of the Rio Declaration. As the second abuse, some countries agreed, and others did not; the transition times were different, and discrimination was made based on production methods that were not related to the product. As a result, discriminatory practices and non-implementation through multilateral negotiations are the main reasons for abuse.

12.The USA only interprets indirect protectionism as narrow within the scope of the chapeau. *In the United States-Gasoline* [147] decision, "unfair discrimination" is broader. If Article XX alone justifies discrimination, then chapeau is meaningless.

13. Chapeau, when interpreted by the Panel, should be in accordance with the general purposes of the WTO Agreement. Two buts were determined by the panel. These are: finding collaborative solutions and avoiding conflicting trade requirements. Section 609 jeopardizes these two main objectives determined by the Panel.

14. If the Appellate Body overturns the chapeau decision, the XX(b) and XX(g) must also be decided. The panel must first examine the chapeau.

c.Claims of Malaysia

1. There is no clause in the DSU that allows the acceptance of unsolicited written opinions from NGOs, and in accordance with Article 13 of the DSU[148] , it is a prerequisite for the panel to request information ("seek"). It is up to the Panel to request information and determine its source. For these reasons, the Panel's decision to reject NGO opinions is correct and should be approved. Even if the Appellate Body were to accept the U.S. argument, it is not obliged to read amicus curiae opinions, i.e., it is at the discretion of the

[145] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) art 23.1.

[146] Rio Declaration on Environment and Development (adopted 14 June 1992) UN Doc A/CONF.151/26 (Vol I), Principle 12.

[147] *United States — Standards for Reformulated and Conventional Gasoline* (Appellate Body Report) WTO Doc WT/DS2/AB/R (adopted 20 May 1996).

[148] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) art 13.

members of the Panel. The panel's choice not to read these opinions does not cause a procedural error and does not affect the outcome of the panel report.

2. The Panel's assessment of GATT Article XX is correct. Trade interests are not seen above non-trade interests, the WTO Agreement has been accepted to have more than one purpose, and the USA misinterprets some GATT/WTO agreements. In particular, it erroneously applies the interpretation in the *India – Patent Protection for Pharmaceutical and Agricultural Chemical Products*[149] decision. However, the *Belgian Family Allowances* [150] panel report, on which the Panel bases its evaluation, is misinterpreted by the USA.
3. The Panel's assessment of the "threat to the multilateral trading system" is not a new legal test. Only the principle that the exceptions in GATT Article XX should be prevented from being abused is expressed. In other words, WTO members cannot take measures to weaken the multilateral trading system based on exceptions under Article XX. The interpretation of the panel is based on the interpretation rules provided for in Article 3.2 of the DSU, and therefore does not impose any new obligations on WTO members.[151]
4. The import ban of the USA is applied if the relevant country has not been certified, even though it has been caught using TEDs. However, certification is only granted if there is a comprehensive regulation on the use of TEDs or if shrimp fishing does not pose a threat to turtles and there are no turtles in that area. According to these findings, the USA unfairly discriminates between countries that meet the same conditions.
5. In the Panel's assessment, it is *emphasized that the chapeau part of Article XX of the GATT adopted in the United States v. Gasoline*[152] *decision aims to prevent the abuse of exceptions and that the way it is applied while carrying out the prevention should not be discriminatory. Section 609 violates chapeau for these reasons. The species of sea turtles in Malaysia are different from those in the US and are less numerous. The habitat of turtles*

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[149] *India — Patent Protection for Pharmaceutical and Agricultural Chemical Products* (Appellate Body Report) WTO Doc WT/DS50/AB/R (adopted 16 January 1998).

[150] *Belgian Family Allowances* (Panel Report, adopted 7 November 1952) BISD 1S/59.

[151] Understanding on Rules and Procedures Governing the Settlement of Disputes (15 April 1994) Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 UNTS 401 (entered into force 1 January 1995) art 3.2.

[152] *United States — Standards for Reformulated and Conventional Gasoline* (Appellate Body Report) WTO Doc WT/DS2/AB/R (adopted 20 May 1996).

and shrimp areas differ. Granting exemptions to some countries and granting different adjustment periods is unequal treatment. The US discriminates between countries, even if the same conditions apply.

6. *The US claims to support other countries to adopt TEDs technology, but no technology transfer has been made to Malaysia and only one regional workshop has been attended. The scope of the "aid and cooperation" argument put forward by the USA is exaggerated.*
7. The legal arguments put forward under Articles XX(b) and XX(g) of GATT 1994 were examined in detail by the Panel. In this context, Malaysia's views and claims on this issue were evaluated in paragraphs 3.213, 3.218–3.221, 3.231, 3.233, 3.236, 3.240, 3.247, 3.257, 3.266, 3.271–3.275, 3.286–3.288 and 3.293 of the Panel Report.[153]

d. Claims of Third Participants

i. Austrilia

1. The panel's interpretation of the DSU's articles limits the discretion of the panels in choosing their sources of information. There is no statement in the Panel Report that there is any legal obstacle preventing it from requesting information from non-governmental organizations. Not requesting information from the panel is an exercise of discretion. The United States did not state that the Panel had misused its discretion or that it contained a legal error.
2. Section 609 constitutes unfair discrimination between countries where the same conditions apply, and the panel's decision in this regard is appropriate. However, the U.S. appeal that Section 609 Article XX does not fall within the scope of the chapeau is appropriate. The Appellate Body must conduct its Article XX review and determine whether the U.S. measure in question is compliantt.
3. The USA has tried to implement a unilateral environmental protection policy through trade restrictions. International cooperation with other countries on this issue has not been adequately initiated. For these reasons, Section 609 creates unfair discrimination between countries with which it has the same conditions and creates a hidden restriction on international trade.

[153] *United States — Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WTO Doc WT/DS58/AB/R (12 October 1998, adopted 6 November 1998)

4. The Panel does not interpret the phrase "no arbitrary and unfair discrimination between countries with the same conditions" correctly enough, taking into account the rules of interpretation in international law.
5. In order to determine the legality of Section 609, the correct conclusion will be reached by first examining the policy purpose of the measure, then evaluating the relationship between the measure and the purpose, and finally evaluating it within the scope of chapeau.
6. Article XX contains a number of tests to prevent abuse of exceptions. In order not to eliminate the effect of Article XX, the concept of "unfair discrimination" should not be interpreted too broadly and turned into an independent test.
7. The approach that the exception to Article XX on discrimination of the USA will not be considered unfair discrimination based on policy purposes is not correct. This will reduce the effect of Article XX chapeau's function to prevent the abuse of exceptions.
8. The U.S.'s application of Section 609 creates unfair discrimination and creates a latent restriction on international trade.
9. The U.S. does not consider other countries' sea turtle conservation programs and does not consider risk differences. The United States has refused to certify under Section 609, although there are cooperation programs with Australia's shrimp industry.
10. Under Article XX chapeau, the United States should negotiate with other countries, examine whether trade restrictions are necessary, determine whether discrimination can be avoided, and investigate the least trade-restrictive situation.

ii. Ecuador

1. The main purpose of participation as a third party is to defend the basic principles of international law. The Panel's decision on Section 609 is appropriate. Section 609 is incompatible with Article XI:1 of GATT 1994 and cannot be justified by Article XX of GATT 1994. It is unacceptable for a country to reflect its domestic law to the international trade system. For this reason, the basic principles determined in the agreements regulating the multilateral trading system should be followed. In particular, non-discrimination, environmental protection and implementation of environmental policies are within this scope.
2. This dispute is not about whether an environmental protection policy is necessary, but about how it will be implemented. It is important to protect the environment, but there can

be no arbitrary use of domestic legal rules. The Panel's view that WTO members have the freedom to determine their own environmental policies as long as they comply with their obligations is appropriate.

iii.European Communities

1. Article 13 of the DSU gives the panel the power to explicitly solicit their opinion on the case. NGOs are free to express their views to the public. These views can be heard by the WTO Constitution and panel members. However, the panel may take into account the opinion expressed to the public. This situation is at his own initiative. However, it is open to debate whether the NGOs applying directly to the panel can be taken as such a broad interpretation within the scope of the DSU.
2. Article 13 of the DSU does not mandate the acceptance of information not requested by the panels. NGO opinions that are not solicited by the panel should be rejected. If the panel is interested in the information in the amicus curiae report, there is no harm in formally requesting information. However, a WTO member can convey the NGO opinion he or she deems relevant to the panel in his/her own presentation.
3. It is very important to protect the environment and not disrupt the functioning of the multilateral trading system. The European Community,[154] in accordance with the Treaty on the European Community, should ensure that economic activities develop in a balanced and harmonious manner while respecting the environment. This approach is seen in public international law and especially in the statements of the International Court of Justice, which emphasize the importance of respect for the environment.[155][156]
4. International cooperation is important to solve global environmental problems. Unilateral measures taken by a country will both disrupt trade and have little impact on environmental protection. While aiming for economic development, it is possible to protect the environment at the same time. Countries are free to adopt environmental policies in order

[154] Treaty Establishing the European Economic Community (Treaty of Rome), signed 25 March 1957, entered into force 1 January 1958, as amended.
[155] *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)* [1996] ICJ Rep 226, 241–242 para 29; *Gabčíkovo-Nagymaros Project (Hungary v Slovakia)* [1997] ICJ Rep 7, para 140 (also reported in (1998) 37 *International Legal Materials* 162).
[156] *United States – Import Prohibition of Certain Shrimp and Shrimp Products*, WTO Appellate Body Report, WT/DS58/AB/R (12 October 1998) https://www.wto.org/English/tratop_e/dispu_e/58abr.pdf accessed 6 March 2026.

to solve their own environmental problems, but they also have a responsibility to contribute to the solution of international environmental problems. Therefore, international cooperation should be taken.

5. The view that US trade interests should not take precedence over all other interests under WTO rules in all cases is appropriate. GATT Article XX, trade; environment, health, and other legitimate policy goals. Each case should be evaluated according to its own circumstances.
6. The US view that the concept of "test" proposed by the panel will put trade interests above all other interests is correct. This is because this concept evaluates whether a measure threatens the security and predictability of the multilateral trade system. In this context, this concept is not compatible with the purpose and spirit of the WTO Agreement
7. Sea turtles are included in Annex 1 of CITIES and are covered by the Convention for the Conservation of Migratory Species of Wild Animals. Therefore, they are a global shared environmental resource. Although it is an internationally shared environmental resource, the protection of sea turtles should be achieved through common solutions through international agreements. The GATT Article XX chapeau section covers the measures taken by such multilateral agreements.
8. A WTO member country can take some measures as a last resort. However, this state must prove that the measure it has taken, while reasonable, does not restrict the environment to commercial activities more than necessary. In line with Article 12 of the Rio Declaration on Environmental Development[157] , the member state should strive to establish environmental agreements in cooperation with other states.
9. The US did not enter any negotiations with other states before implementing the import ban. Therefore, it cannot be proven by the United States whether any negotiated solution can be brought about by the measures taken for the protection of sea turtles.

iv. Hong Kong, China

1. It is not correct to think that the WTO is closed to environmental concerns. The WTO system prevents arbitrary and unjustified measures to protect the environment. If there is a

[157] *Rio Declaration on Environment and Development* (adopted 14 June 1992) UN Doc A/CONF.151/26 (Vol I) Principle 12.

justified reason, there is no blocking. The Panel's view that the chapeau, which is the preamble of Article XX of the GATT, should not be interpreted in a way that threatens the security and predictability of the WTO's trade relations is appropriate. *As seen in the United States-Reformulated and Conventional Gasoline* decision, the chapeau review should focus on how the measure is implemented. The basic examination should be whether the measure includes abuse of any exceptions in practice. In this review, discussions for policy purposes are not prioritised.

2. GATT Article XX does not provide an unlimited exception to the principle of non-discrimination. States may take measures for legitimate purposes, such as the environment, but if they make products from domestic and certain countries advantageous, it will violate the chapeau part of Article XX as it would be discriminatory.
3. Section 609 violates the chapeau part of GATT Article XX. Because the USA arbitrarily and unfairly discriminates against shrimp from some countries. It only accepts the use of TEDs and does not recognize countries that have similar measures.

v. Nigeria

1. The panel decision must be upheld by the Appellate Body. The protection of sea turtles should be supported, but the measures and implementation of the USA are not correct to achieve this goal.

6. Established Agenda of the Tribunal

1. Can the measure taken by the USA be considered within the scope of the exceptions in GATT Article XX?
2. Has the measure taken by the USA been implemented in accordance with the chapeau part of Article XX?
3. Does the measure implemented by the USA constitute arbitrary or unfair discrimination between countries with the same conditions?
4. Can the US enforce the import ban without seeking international cooperation or negotiation?
5. Can unilateral environmental measures be justified to protect global resources?

VI. APPLICABLE LAW

1. General Agreement on Tariffs and Trade (GATT 1994)

Article I

General Most-Favoured-Nation Treatment

1. *With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III,* any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.*
2. *The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:*
    a. *Preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;*
    b. *Preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;*
    c. *Preferences in force exclusively between the United States of America and the Republic of Cuba;*
    d. *Preferences in force exclusively between neighbouring countries listed in Annexes E and F.*

3. *The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 51 , of Article XXV, which shall be applied in this respect in the light of paragraph 1 of Article XXIX.*
4. *The margin of preference* on any product in respect of which a preference is permitted under paragraph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule annexed to this Agreement shall not exceed:*
    a. *in respect of duties or charges on any product described in such Schedule, the difference between the most-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;*
    b. *in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.*

    In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in subparagraph (a) and (b) of this paragraph shall be replaced by the respective dates set forth in that Annex.

Article III

National Treatment on Internal Taxation and Regulation

1. *The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.*

2. *The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1.*
3. *With respect to any existing internal tax which is inconsistent with the provisions of paragraph 2, but which is specifically authorized under a trade agreement, in force on April 10, 1947, in which the import duty on the taxed product is bound against increase, the contracting party imposing the tax shall be free to postpone the application of the provisions of paragraph 2 to such tax until such time as it can obtain release from the obligations of such trade agreement in order to permit the increase of such duty to the extent necessary to compensate for the elimination of the protective element of the tax.*
4. *The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.*
5. *No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources. Moreover, no contracting party shall otherwise apply internal quantitative regulations in a manner contrary to the principles set forth in paragraph 1.*
6. *The provisions of paragraph 5 shall not apply to any internal quantitative regulation in force in the territory of any contracting party on July 1, 1939, April 10, 1947, or March 24, 1948, at the option of that contracting party; Provided that any such regulation which is contrary to the provisions of paragraph 5 shall not be modified to the detriment of imports and shall be treated as a customs duty for the purpose of negotiation.*

7. *No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.*

8. *(a) The provisions of this Article shall not apply to laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial sale.*

(b) The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

9. The contracting parties recognize that internal maximum price control measures, even though conforming to the other provisions of this Article, can have effects prejudicial to the interests of contracting parties supplying imported products. Accordingly, contracting parties applying such measures shall take account of the interests of exporting contracting parties with a view to avoiding to the fullest practicable extent such prejudicial effects.

10. The provisions of this Article shall not prevent any contracting party from establishing or maintaining internal quantitative regulations relating to exposed cinematograph films and meeting the requirements of Article IV.

Article XI

General Elimination of Quantitative Restrictions

1. *No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.*

2. *The provisions of paragraph 1 of this Article shall not extend to the following:*

a. Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party;

b. *(b) Import and export prohibitions or restrictions necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade; (c) Import restrictions on any agricultural or fisheries product, imported in any form,* necessary to the enforcement of governmental measures which operate:*

i. *to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted; or*

ii. *to remove a temporary surplus of the like domestic product, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted, by making the surplus available to certain groups of domestic consumers free of charge or at prices below the current market level; or*

iii. *to restrict the quantities permitted to be produced of any animal product the production of which is directly dependent, wholly or mainly, on the imported commodity, if the domestic production of that commodity is relatively negligible.*

Any contracting party applying restrictions on the importation of any product pursuant to subparagraph (c) of this paragraph shall give public notice of the total quantity or value of the product permitted to be imported during a specified future period and of any change in such quantity or value. Moreover, any restrictions applied under (i) above shall not be such as will reduce the total of imports relative to the total of domestic production, as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions. In determining this proportion, the contracting party shall pay due regard to the proportion prevailing during a previous representative period and to any special factors which may have affected or may be affecting the trade in the product concerned.*

Article XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(...)

(b) necessary to protect human, animal or plant life or health;

(…)

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

(…)

2. Dispute Settlement Understanding (DSU)

Article 3

General Provisions

(…)

2. The dispute settlement system of the WTO is a central element in providing security and predictability to the multilateral trading system. The Members recognize that it serves to preserve the rights and obligations of Members under the covered agreements, and to clarify the existing provisions of those agreements in accordance with customary rules of interpretation of public international law. Recommendations and rulings of the DSB cannot add to or diminish the rights and obligations provided in the covered agreements.

(…)

7. Before bringing a case, a Member shall exercise its judgement as to whether action under these procedures would be fruitful. The aim of the dispute settlement mechanism is to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute and consistent with the covered agreements is clearly to be preferred. In the absence of a mutually agreed solution, the first objective of the dispute settlement mechanism is usually to secure the withdrawal of the measures concerned if these are found to be inconsistent with the provisions of any of the covered agreements. The provision of compensation should be resorted to only if the immediate withdrawal of the measure is impracticable and as a temporary measure pending the withdrawal of the measure which is inconsistent with a covered agreement. The last resort which this Understanding provides to the Member invoking the dispute settlement procedures is the possibility of suspending the application of concessions or other obligations under the covered agreements on a discriminatory basis vis-à-vis the other Member, subject to authorization by the DSB of such measures.

(...)

10. It is understood that requests for conciliation and the use of the dispute settlement procedures should not be intended or considered as contentious acts and that, if a dispute arises, all Members will engage in these procedures in good faith in an effort to resolve the dispute. It is also understood that complaints and counter-complaints in regard to distinct matters should not be linked.

Article 4

Consultations

1. Members affirm their resolve to strengthen and improve the effectiveness of the consultation procedures employed by Members.

2. Each Member undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another Member concerning measures affecting the operation of any covered agreement taken within the territory of the former (3).

3. If a request for consultations is made pursuant to a covered agreement, the Member to which the request is made shall, unless otherwise mutually agreed, reply to the request within 10 days after the date of its receipt and shall enter into consultations in good faith within a period of no more than 30 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution. If the Member does not respond within 10 days after the date of receipt of the request, or does not enter into consultations within a period of no more than 30 days, or a period otherwise mutually agreed, after the date of receipt of the request, then the Member that requested the holding of consultations may proceed directly to request the establishment of a panel.

4. All such requests for consultations shall be notified to the DSB and the relevant Councils and Committees by the Member which requests consultations. Any request for consultations shall be submitted in writing and shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

5. In the course of consultations in accordance with the provisions of a covered agreement, before resorting to further action under this Understanding, Members should attempt to obtain satisfactory adjustment of the matter.

6. Consultations shall be confidential, and without prejudice to the rights of any Member in any further proceedings.

7. If the consultations fail to settle a dispute within 60 days after the date of receipt of the request for consultations, the complaining party may request the establishment of a panel. The complaining party may request a panel during the 60-day period if the consulting parties jointly consider that consultations have failed to settle the dispute.

8. In cases of urgency, including those which concern perishable goods, Members shall enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the complaining party may request the establishment of a panel.

9. In cases of urgency, including those which concern perishable goods, the parties to the dispute, panels and the Appellate Body shall make every effort to accelerate the proceedings to the greatest extent possible.

10. During consultations Members should give special attention to the particular problems and interests of developing country Members.

11. Whenever a Member other than the consulting Members considers that it has a substantial trade interest in consultations being held pursuant to paragraph 1 of Article XXII of GATT 1994, paragraph 1 of Article XXII of GATS, or the corresponding provisions in other covered agreements (4), such Member may notify the consulting Members and the DSB, within 10 days after the date of the circulation of the request for consultations under said Article, of its desire to be joined in the consultations. Such Member shall be joined in the consultations, provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded. In that event they shall so inform the DSB. If the request to be joined in the consultations is not accepted, the applicant Member shall be free to request consultations under paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATT 1994, paragraph 1 of Article XXII or paragraph 1 of Article XXIII of GATS, or the corresponding provisions in other covered agreements.

Article 6

Establishment of Panels

(...)

2. The request ort he establishment of a panel shall be made in writing. It shall indicate whether consultations were held, identify the specific measures at issue and provide a brief summary of the legal basis of the complaint sufficient to present the problem clearly. In case the applicant requests the establishment of a panel with other than standard terms of reference, the written request shall include the proposed text of special terms of reference.

Article 9

Procedures for Multiple Complainants

1. Where more than one Member requests the establishment of a panel related to the same matter, a single panel may be established to examine these complaints taking into account the rights of all Members concerned. A single panel should be established to examine such complaints whenever feasible.

2. The single panel shall organize its examination and present its findings to the DSB in such a manner that the rights which the parties to the dispute would have enjoyed had separate panels examined the complaints are in no way impaired. If one of the parties to the dispute so requests, the panel shall submit separate reports on the dispute concerned. The written submissions by each of the complainants shall be made available to the other complainants, and each complainant shall have the right to be present when any one of the other complainants presents its views to the panel.

3. If more than one panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as panelists on each of the separate panels and the timetable for the panel process in such disputes shall be harmonized.

Article 11

Function of Panels

The function of panels is to assist the DSB in discharging its responsibilities under this Understanding and the covered agreements. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the relevant covered agreements, and make such other findings as will assist the DSB in making the recommendations or in giving the rulings provided for in the covered agreements. Panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution.

Article 12

Panel Procedures

(...)

6. Each party to the dispute shall deposit its written submissions with the Secretariat for immediate transmission to the panel and to the other party or parties to the dispute. The complaining party shall submit its first submission in advance of the responding party's first submission unless the panel decides, in fixing the timetable referred to in paragraph 3 and after consultations with the parties to the dispute, that the parties should submit their first submissions simultaneously. When there are sequential arrangements for the deposit of first submissions, the panel shall establish a firm time-period for receipt of the responding party's submission. Any subsequent written submissions shall be submitted simultaneously.

(...)

Article 13

Right to Seek Information

1. Each panel shall have the right to seek information and technical advice from any individual or body which it deems appropriate. However, before a panel seeks such information or advice from any individual or body within the jurisdiction of a Member it shall inform the authorities of that Member. A Member should respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information which is provided shall not be revealed without formal authorization from the individual, body, or authorities of the Member providing the information.

2. Panels may seek information from any relevant source and may consult experts to obtain their opinion on certain aspects of the matter. With respect to a factual issue concerning a scientific or other technical matter raised by a party to a dispute, a panel may request an advisory report in writing from an expert review group. Rules for the establishment of such a group and its procedures are set forth in Appendix 4.

Article 17

Appellate Rewiew

Standing Appellate Body

1. A standing Appellate Body shall be established by the DSB. The Appellate Body shall hear appeals from panel cases. It shall be composed of seven persons, three of whom shall serve on any

one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation shall be determined in the working procedures of the Appellate Body.

2. The DSB shall appoint persons to serve on the Appellate Body for a four-year term, and each person may be reappointed once. However, the terms of three of the seven persons appointed immediately after the entry into force of the WTO Agreement shall expire at the end of two years, to be determined by lot. Vacancies shall be filled as they arise. A person appointed to replace a person whose term of office has not expired shall hold office for the remainder of the predecessor's term.

3. The Appellate Body shall comprise persons of recognized authority, with demonstrated expertise in law, international trade and the subject matter of the covered agreements generally. They shall be unaffiliated with any government. The Appellate Body membership shall be broadly representative of membership in the WTO. All persons serving on the Appellate Body shall be available at all times and on short notice, and shall stay abreast of dispute settlement activities and other relevant activities of the WTO. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

4. Only parties to the dispute, not third parties, may appeal a panel report. Third parties which have notified the DSB of a substantial interest in the matter pursuant to paragraph 2 of Article 10 may make written submissions to, and be given an opportunity to be heard by, the Appellate Body.

5. As a general rule, the proceedings shall not exceed 60 days from the date a party to the dispute formally notifies its decision to appeal to the date the Appellate Body circulates its report. In fixing its timetable the Appellate Body shall take into account the provisions of paragraph 9 of Article 4, if relevant. When the Appellate Body considers that it cannot provide its report within 60 days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed 90 days.

6. An appeal shall be limited to issues of law covered in the panel report and legal interpretations developed by the panel.

7. The Appellate Body shall be provided with appropriate administrative and legal support as it requires.

8. The expenses of persons serving on the Appellate Body, including travel and subsistence allowance, shall be met from the WTO budget in accordance with criteria to be adopted by the

General Council, based on recommendations of the Committee on Budget, Finance and Administration.

Procedures for Appellate Review

9. Working procedures shall be drawn up by the Appellate Body in consultation with the Chairman of the DSB and the Director-General, and communicated to the Members for their information.

10. The proceedings of the Appellate Body shall be confidential. The reports of the Appellate Body shall be drafted without the presence of the parties to the dispute and in the light of the information provided and the statements made.

11. Opinions expressed in the Appellate Body report by individuals serving on the Appellate Body shall be anonymous.

12. The Appellate Body shall address each of the issues raised in accordance with paragraph 6 during the appellate proceeding.

13. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel.

Adoption of Appellate Body Reports

14. An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by consensus not to adopt the Appellate Body report within 30 days following its circulation to the Members (8).This adoption procedure is without prejudice to the right of Members to express their views on an Appellate Body report.

Article 23

Strengthening of the Multilateral System

1. When Members seek the redress of a violation of obligations or other nullification or impairment of benefits under the covered agreements or an impediment to the attainment of any objective of the covered agreements, they shall have recourse to, and abide by, the rules and procedures of this Understanding.

(...)

Annex 3

(...)

4. Before the first substantive meeting of the panel with the parties, the parties to the dispute shall transmit to the panel written submissions in which they present the facts of the case and their arguments.

(...)

6. All third parties which have notified their interest in the dispute to the DSB shall be invited in writing to present their views during a session of the first substantive meeting of the panel set aside for that purpose. All such third parties may be present during the entirety of this session.

3.Marrakesh Agreement Establishing the World Trade Organization

Article II

Scope of the WTO

1.The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.

2.The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as "Multilateral Trade Agreements") are integral parts of this Agreement, binding on all Members.

3.The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as "Plurilateral Trade Agreements") are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4.The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as "GATT 1994") is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as "GATT 1947").

Article IV

Structure of the WTO

1.There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

2.There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

4.Stockholm Declaration

Principle 21

States have, in accordance with the Charter of the United Nations and the principles of international law, thesovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of otherStates or of areas beyond the limits of national jurisdiction.

5.Rio Declaration on Environment and Development 1992

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities.

The developed countries acknowledge the responsibility that they bear in the interna tional pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

6.Public Law 101-162 (of United States of America)

Section 609

(a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

VII. CONCLUSION

The United States – Import Prohibition of Certain Shrimp and Shrimp Products case has an important place, especially in terms of the relationship between international trade law and environmental protection. The dispute is not limited to the commercial dispute between the USA and the plaintiff states India, Malaysia, Pakistan, and Thailand. In particular, the measures

introduced to protect the environment have also brought up the discussion of the legal appropriateness of a trade-restrictive application.

The dispute arose due to the US making the use of Turtle Excluder Device (TED) **mandatory in shrimp fishing** and regulations limiting the import of shrimp caught using methods that harm sea turtles. With sea turtles being protected under CITES, the USA has stated that it aims to protect these creatures that are in danger of extinction. The plaintiff States, on the other hand, claimed that the US imposed the standards in its legal systems on other countries and that the provisions prohibiting import restrictions under GATT 1994 were violated due to its behaviour restricting market access.

This dispute shows that the measures taken to protect the environment, although they have a legitimate purpose, must be compatible with the basic principles of the multilateral trading system. In particular, it has brought about basic legal discussions on how Article XX of GATT 1994 should be interpreted.

In its decision, the Appellate Body underlined that although the protection of endangered species is a legitimate policy objective within the scope of Article XX of the GATT, these measures should be implemented in a non-discriminatory manner and in cooperation with transparency. In this context, the Resolution once again emphasized the premise of international cooperation in solving global environmental problems and aimed to protect the reliability and predictability of the multilateral trade system.

VIII. BIBLIOGRAPHY

1. PRIMARY RESOURCES

- *Belgian Family Allowances* (Panel Report, adopted 7 November 1952) BISD 1S/59.
- Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79.
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (adopted 3 March 1973, entered into force 1 July 1975).
- Endangered Species Act 1973, 16 USC §§1531–1544.
- Foreign Operations, Export Financing, and Related Programs Appropriations Act 1990 (Public Law 101-162, 21 November 1989) s 609.

- General Agreement on Tariffs and Trade (adopted 30 October 1947) 55 UNTS 194.
- General Agreement on Tariffs and Trade 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1867 UNTS 187.
- *Japan – Taxes on Alcoholic Beverages* (Appellate Body Report) WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R (4 October 1996).
- *Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef* (Appellate Body Report) WT/DS161/AB/R, WT/DS169/AB/R (11 December 2000).
- Marrakesh Agreement Establishing the World Trade Organization (adopted 15 April 1994) 1867 UNTS 154.
- *Pulp Mills on the River Uruguay (Argentina v Uruguay)* (Judgment) [2010] ICJ Rep 14.
- Rio Declaration on Environment and Development (1992) UN Doc A/CONF.151/26.
- Stockholm Declaration on the Human Environment (1972) UN Doc A/CONF.48/14/Rev.1.
- Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Marrakesh Agreement Establishing the WTO, Annex 2, 1869 UNTS 401.
- *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Panel Report) WT/DS58/R (15 May 1998).
- *United States – Import Prohibition of Certain Shrimp and Shrimp Products* (Appellate Body Report) WT/DS58/AB/R (12 October 1998).
- *United States – Standards for Reformulated and Conventional Gasoline* (Appellate Body Report) WT/DS2/AB/R (29 April 1996).
- Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.

2. SECONDARY SOURCES

a. Books

- Cohn SE, *International Trade Theories* (SIM Global Education 2017).
- Jackson JH, *The World Trading System: Law and Policy of International Economic Relations* (2nd edn, MIT Press 1997).
- Koul AK, *Guide to the WTO and GATT* (6th edn, Springer 2018).

- Nicita A, *Global Supply Chains: Trade and Economic Policies for Developing Countries* (UNCTAD 2013).
- Sands P and Peel J, *Principles of International Environmental Law* (4th edn, Cambridge University Press 2018).
- Smelser NJ and Baltes PB (eds), *International Encyclopedia of the Social & Behavioral Sciences* (Pergamon 2001).
- United Nations, *Multinational Corporations in World Development* (UN 1973).

b.Journal Articles

- Howse R, 'The Appellate Body Rulings in the Shrimp/Turtle Case: A New Legal Baseline for the Trade and Environment Debate' (2002) 27 *Columbia Journal of Environmental Law* 491.
- Vichare J, 'The Impact of the Silk Road on Global Trade: A Historical Perspective' (2024) 9(5) *International Journal of Novel Research and Development*.

c.Websites

- American Trading International, 'A Brief History of International Trade and Its Importance Today' (15 July 2022) https://www.american-trading.com/news/history-of-international-trade accessed 3 February 2026.
- Columbia Law School, 'Introduction to GATT and WTO' (International Trade Law Research Guides, 14 November 2025) https://guides.law.columbia.edu/c.php?g=1221777&p=8966854 accessed 4 February 2026.
- International Law Commission, 'Draft Articles on Prevention of Transboundary Harm from Hazardous Activities' (2001) UN Doc A/56/10.
- International Monetary Fund, 'The Postwar Economic Achievement' (Finance & Development 1995) https://www.elibrary.imf.org accessed 4 February 2026.
- National Oceanic and Atmospheric Administration (NOAA Fisheries), 'History of Turtle Excluder Devices'

https://www.fisheries.noaa.gov/southeast/bycatch/history-turtle-excluder-devices accessed 6 March 2026.

- OECD, 'Global Value and Supply Chains' https://www.oecd.org/en/topics/policy-issues/global-value-and-supply-chains.html accessed 28 February 2026.
- OECD, WTO and UNCTAD, *Implications of Global Value Chains for Trade, Investment, Development and Jobs* (2013).
- Smiley G, 'Great Depression' (Econlib: Concise Encyclopedia of Economics) https://www.econlib.org/library/Enc/GreatDepression.html accessed 4 February 2026.
- Trachtman JP, 'Introduction to the Shrimp-Turtle Case: Brief Summary and Analysis of the WTO Panel and Appellate Body Decisions' (NYU Institute for International Law and Justice) https://www.iilj.org accessed 4 March 2026.
- UNESCO, 'Silk Roads' https://www.unesco.org/en/query-list/s/silk-roads accessed 2 March 2026.
- World Trade Organization, 'Dispute Settlement' https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm accessed 4 February 2026.
- World Trade Organization, 'The History of the Multilateral Trading System' https://www.wto.org/english/thewto_e/history_e/history_e.htm accessed 4 February 2026.
- World Trade Organization, 'United States — Import Prohibition of Certain Shrimp and Shrimp Products (DS58)' https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds58_e.htm accessed February–March 2026.
- World Trade Organization, 'What is the WTO?' https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm accessed 4 February 2026.