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THESIS ADVISOR

RECOMMENDATION LETTER

This thesis entitled “The Role of World Trade Organization (WTO) as Arbitrator in Resolving Cotton Dispute between Brazil and The United States of America” prepared and submitted by Sekarsari in partial fulfillment of the requirements for the degree of Bachelor of Arts in International Relations in the Faculties of Humanities has been reviewed and found to have satisfied the requirements for a thesis fit to be examined. I therefore recommend this thesis for Oral Defense.

Cikarang, Indonesia, March 24, 2018

Recommended and Acknowledged by,

Teuku Rezasyah, Ph. D
Thesis Adviser
DECLARATION OF ORIGINALITY

I declared that this thesis entitled “The Role of World Trade Organization (WTO) as Arbitrator in Resolving Cotton Dispute between Brazil and The United States of America (2002 – 2014)” is, to the best of my knowledge and belief, an original piece of work that has not been submitted, either in whole or in part, to another university to obtain a degree.

Cikarang, Indonesia, March 24, 2018

Sekarsari
Panel of examiners stated that the thesis entitled “The Role of World Trade Organization (WTO) as Arbitrator in Resolving Cotton Dispute between Brazil and The United States of America (2002-2014)” that was submitted by Sekarsari majoring in International Relations from the Faculties of Humanities was assessed and approved to have passed the Oral Examinations on March 24, 2018.

Chair Panel of Examiners/Examiner II

Examiner I

Teuku Rezasyah, Ph.D
Adviser
ABSTRACT

Title: The Role of World Trade Organization (WTO) as Arbitrator in Resolving Cotton Dispute between Brazil and The United States of America (2002 – 2014).

In the world of globalization, international trade is increasingly growing and there are a lot of actors involved, not just states, so it will create more complex conflicts. One of the most widely disputed commodities in international trade is cotton. In 2002, Brazil filed a lawsuit against a domestic support program created by the United States of America. In their claim, Brazil requested the help from the World Trade Organization to resolve their cotton dispute. In the process, there are several countries involved as third parties. The conflicted domestic support programs made by US are Countercyclical Payment, Export Credit Guarantee, Marketing Assistance Loan, and Step 2 Payments. In the end, those programs have been proven guilty and the US made a one-time payment of $ 300 million to Brazilian Cotton Institute as a form of compensation. This thesis was written using qualitative methods in analyzing and summarizing the cases taken. In addition, there is also a combination of descriptive research and analysis to find out the facts as the main source of the process of writing this thesis. Therefore, the result of this thesis shows the role of the WTO as one of the international organizations can effectively help the settlement of disputes between countries, especially in the trade sector.

Key words: Brazil, United States, Cotton Dispute, WTO, International Trade
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Jakarta, March 24, 2018

Sekarsari
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<tr>
<td>WTO</td>
<td>World Trade Organization</td>
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<tr>
<td>IO</td>
<td>International Organization</td>
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<tr>
<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<tr>
<td>USDA</td>
<td>The United States Department of Agriculture</td>
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<tr>
<td>ITO</td>
<td>International Trade Organization</td>
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<tr>
<td>ECOSOC</td>
<td>United Nations Economic and Social Council</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<td>DS</td>
<td>Dispute Settlement</td>
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<td>DSU</td>
<td>Dispute Settlement Understanding</td>
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<tr>
<td>DSB</td>
<td>Dispute Settlement Body</td>
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<tr>
<td>FAPRI</td>
<td>Food and Agricultural Policy Institute</td>
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<tr>
<td>MOFA</td>
<td>Ministry of Foreign Affairs</td>
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<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IBRD</td>
<td>International Bank Reconstruction and Development</td>
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<tr>
<td>GATS</td>
<td>General Agreement on Trade in Services</td>
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<td>TRIPS</td>
<td>The Agreement Trade Related Aspects of Intellectual Property Rights</td>
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<td>MFN</td>
<td>Most Favored Nation</td>
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CHAPTER I

INTRODUCTION

I.1. Background of Study

Due to the World War that have cost a lot of damages in many forms, countries are suffering from bankruptcy because they have spent much money on war and post-war. In order to resolve this issue, the United States, Britain, and 44 other countries agreed to hold the Bretton Woods meeting on 1-22 July in order to discuss the world peace. This meeting resulted in 3 important points: the establishment of the IMF to address monetary issues, the idea of establishing the ITO to address trade issues, and the establishment of IBRD to address the reconstruction problem. After the world war end, economic conditions in each country are very different. There are countries that have capital and raw goods so they can produce their own goods needed, but there are countries that run out of capital and raw goods and thus have to rely on other countries. Therefore, countries engaged in international trade, which resulted in the increasing price of imported goods. This phenomenon is caused by the need of each country with efforts to protect their domestic products. This situation will only be detrimental to the related countries and only the domestic trade flows will most likely survive. This condition will bring more bilateral relations between countries. This concerning situation encouraged ITO to create trade liberalization, reduced monopoly and expanded commodity distribution among countries, and encouraged coordination of inter-state trade policies. This idea has been well responded by ECOSOC, the economic and social council of the United Nations.

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In 1946 and 1947, the procurement of conferences was one of the UN's work programs, and trade was one of the most troubling issues. As an advanced form of Bretton Woods initiation, GATT was formed in 1947. In the beginning, GATT was not an organization, but only an agreement that accommodated the results of inter-state negotiations on tariffs. After that, there was a meeting in Geneva from April to November 1947 contained negotiations by countries that would become members of the Havana conference with the focus of the talk of the ITO charter formulation which eventually resulted in Havana Charter with the signing of 53 countries. Havana Charter is a Charter of International Trade Organizations, but in the process the participants involved find the difficulty to ratify, caused by the United States Congress who disagrees with the reason of worrying that their authority will be reduced in the process of policy determination. After this failure, the GATT, which was originally only an agreement vessel, turned into an important role as a pivot that holds the foundation in regulating international trade procedures.

The holding of the Havana Charter on 21 November 1947 to 24 March 1948 stated in article 103 that this Charter only regulates the Charter’s as well as its membership issue, therefore the ITO here does not have sufficient strength. Due to the failure of its ratification process and many countries encouraged the formation of the organizations that have to contain a solid mechanism about the implementation of tariffs policy, GATT was established. From 1947 to 1986 there were many agreements on international trade relations consisting of eight rounds, which are:

1. 1947 in Geneva which resulted in tariff reduction decisions and followed by 23 countries.
2. 1949 in Annecy (Paris) which resulted in tariff reductions and followed by 13 countries.

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4 Ibid.

3. 1951 in Torquay (England) resulting in tariff reductions and followed by 38 countries.
4. 1956 in Geneva resulting in tariff reductions followed by 26 countries.
5. 1960 - 1961 in Geneva, resulting in tariff reductions and followed by 26 countries (this round is called The Dilon Round).
6. 1964-1967 in Geneva resulting in tariff reduction, anti-dumping measures, as well as negotiating the GATT regulations, followed by 62 countries (this round is called The Kennedy Round).
7. 1973-1979 in Geneva resulting in 35% and 5-8% average tariff reductions among developed countries (this round is called The Tokyo Round).
8. 1986-1994 in Geneva, in this round there was an extension of decisions that included restrictions on agricultural subsidies, services, intellectual property rights, dispute settlements and WTO (this round is called The Uruguay Round).

The Uruguay Round can be considered as the most successful agreement among all, because in just 2 years, the participants have agreed to cut the import duty on goods from developing countries and dispute resolution. Members have also agreed to provide regular reports on their trade policies. This is regarded as one of the major steps towards the transparency of the world trade system.

By adopting the principles and concepts of GATT, the WTO has a main objective of reducing international trade barriers. This organization is a continuation of the GATT formed on January 1, 1995 and headquartered in Geneva, Switzerland. The purpose of the WTO is to support the flow of state trade and reduce the barriers that occur in the process, provide a forum for negotiation with the aim of launching strategic and mutually beneficial open market access, and facilitating inter-state dispute settlement resulting from trade conflicts.\(^6\) WTO holds the same principle as GATT which is its forerunner, that is rule of non discrimination covering the most favored nation that is principle which adheres to non-discrimination principle that does not allow WTO to distinguish one country to another, and national treatment which is a rule that

\(^6\) WTO | Understanding the WTO - what is the world trade organization? (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm
prohibits differentiation of treatment between imported goods and domestic goods in each country.⁷

As a solid international organization and recognized by its member states, WTO is regarded as an arbitrator for the trade conflicts that occurred.⁸ This organization regulates the trade system according to the rules they have adopted from GATT. All member states shall comply with the WTO rules according to the consequences they have agreed upon when registering. WTO have a strong and binding legal device, one of them is the Dispute Settlement Understanding (DSU), its purpose is to maintain the trade flow between countries and the organ in charge in this device is called the Dispute Settlement Body (DSB).⁹ DSB obliged to respond and follow up the conflicts that occur between member states.¹⁰

Brazil is a developing country that is beginning to advance the country's development toward the industrial sector. However, Brazil continues to race on its agricultural sector, which is the backbone of the country's economy. Cotton is one of Brazil's largest commodities.¹¹ Amazon, one of Brazil’s regions produces 9/10 global rubber commodities.¹² However, Brazil's success in its cotton farming spurs other countries to monopolize it. In 2004, Brazil protested the US cotton subsidy and filed a lawsuit against United States through the WTO. Brazil argues that cotton subsidies in the US have led to an emphasis on world cotton prices as well as an increase in world share of US exports.¹³ This subsidy allows US producers to take market share to the detriment of cotton farmers in Brazil. In 2000, when Pedro de Camargo served as Vice Minister of Agriculture, he has been focused on applying trade policy and checking whether anything goes

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¹⁰ Ibid.
wrong.\textsuperscript{14} In article 13 by the Uruguay Round Agreement states that its member states are forbidden to oppose other member farm subsidies within the DSU.\textsuperscript{15} If the subsidy level exceeds the established level, then the country is no longer protected by the peace clause in the case of the dispute.\textsuperscript{16} 

The United States of America is one of the largest cotton producers and also spends much on its cotton subsidy compared to other countries. John Baffes, a Senior Economic Analyst at the World Bank, said that $4 billion subsidy on cotton commodity is a high amount of money given at that time the world value of cotton is $20 billion.\textsuperscript{17} This statement came out after cotton producers in the United States proved to receive $1.9 billion up to $3.9 billion during 1998 to 2002, far exceeded beyond the 1992 level limit.\textsuperscript{18} Within a few months, a cotton case initiated by Brazil began to take shape and Pedro started discussing the case with CAMEX which is Brazil's Council of Foreign Trade, comprising the Minister of Finance, Industry and Trade, Agriculture, and Foreign Relations.\textsuperscript{19} On September 27, 2002, Agriculture Deputy Minister Pedro de Camargo filed an official lawsuit against the United States to the WTO.\textsuperscript{20} On 26 April 2004, the WTO issued a decree stating that the United States had breached agreements that had been agreed in Uruguay Round Agreement because most of the US cotton program was inconsistent with the prevailing rules.\textsuperscript{21} On June 18, 2004, the WTO again issued a decision to support the Brazil's favor and stated that the US cotton

\textsuperscript{15} WTO | legal texts - Marrakesh agreement. (n.d.). Retrieved from https://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm#articleXIII
\textsuperscript{16} Ibid.
program was not given the protection of the peace clause because the cotton subsidy that had been made within the 12-year period from 1992 to 2002 exceeded the level of 1992.\textsuperscript{22}

In this case, the WTO took approximately 17 months to review and finalize its final decision in September 2004. The WTO has also added extra time to further review the initial decisions that has been made and review the US compliance with the early decision as well as reviewing the Brazil’s proposal in this dispute. During the process, in March 18, 2013 a Panel consisted Argentina, Canada, China, Chinese Taipei, the European Communities, India, Pakistan, and Venezuela as third parties was established.\textsuperscript{23} As a final decision, on September 8, 2004, WTO released a dispute settlement (DS) panel that supports Brazil’s proposal that ruled against the United States.\textsuperscript{24} A year later on August 31, 2009 the WTO finally released a decision on the dispute with document number DS267. In this final decision, it has been found that the United States have used gaps and creative accounting to continue to dumping the products in developing markets, which resulted in hurting poor farmers.

The WTO dispute resolution panel also found that the United States misreported certain programs as 'no trade distortions', when in fact they distorted trade.\textsuperscript{25} In 2014, Brazil wants to raise tariffs on imports of goods from the United States that include electronic goods and pharmaceuticals. In accordance with the latest decision issued by the WTO stating that United States was found guilty in the Cotton Dispute, finally an agreement was reached between the two countries marked by the signing of the Memorandum of Understanding (MoU) stating that the United States is willing to make a one-time payment of $ 300 million to the Brazilian Cotton Institute as a form of compensation against Brazil.\textsuperscript{26} The deal was approved just before the Brazilian threat in raising the price of imported goods against the United States.

\textsuperscript{23} Ibid.
\textsuperscript{24} Ibid.
\textsuperscript{25} Ibid.
\textsuperscript{26} Ibid
From this case, it is proved that the WTO helps the dispute between its state members by using their regulatory that has been adapted from the GATT. WTO serves as mediator but also arbitrator since it is an international organization that holds solid mechanism and rules. The Cotton Dispute between Brazil and United States was pertained as one of the successful case of the WTO.

I.2. Problem Identification

As mentioned earlier, the WTO is a mediator among its state member and will continue to do so. The Cotton Dispute between Brazil and the United States marked the success of the work by WTO. The WTO holds an important role in solving the trade disputes among states and for this reason its role will be continuously discussed and be given a recommendation. In this particular research, the author will focus more on elaborating and explaining the roles of World Trade Organizations as an International Organizations focusing their position as arbitrator among states disputes.

I.3. Statement of Problem

The success of WTO in solving the Cotton Dispute between Brazil and the United States has received many positive responds from many countries. WTO as an International Organizations holds an important role between its state members, serves both as mediator and arbitrator that based on their legislation.

Topic: This topic is describing about the role of WTO as an International Organization in solving the Cotton Dispute between Brazil and the United States.

Question: How the WTO as an arbitrator solve the cotton dispute between Brazil and the United States?

I.4. Research Objectives

The most important thing is to discover the existence of WTO as an International Organization that play significant role towards the Cotton Dispute between Brazil and the United States. Basically, the objectives of this research are focused on the followings:
1. To analyze the roles of WTO as an International Organizations in solving the Cotton Dispute between Brazil and the United States.

I.5. Significance of the Study

The WTO will not just solving the disputes between its state members, but also serves as a legislation that governs the trade policy among the members. Through WTO, peaceful and profitable international trade flow for its state members will be created.

The researcher will provide outline for the readers in general and the WTO in specific about the importance of international organization as part of the tools in bringing peaceful international trade flow. The researcher also hopes this research will give contribution and benefits to the academic community like student or beneficiaries of the research.

I.6. Theoretical Framework

In order to analyze and explain further about the core issue within this case, it would be better to have an understanding on significant theory and certain concept as interconnection of the theory itself. The most significant theory on explaining this case would be coming from Mercantilism Theory.

I.6.1. Mercantilism Theory

International trade is an economic cooperation between countries in the form of trade transactions between one subject of the economy of the country with other countries.\(^27\) The economic subjects are citizens, export companies, import companies, industrial companies, state-owned enterprises or state departments that can be seen from the trade balance.\(^28\) According to Mercantilism Theory, the welfare of a country is measured by the amount of assets or resources stored and the volume of global trade plays an important role in this theory.\(^29\)

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\(^28\) Ibid.

16th to 18th centuries, this theory began to be well known and widely taught in schools and institutions in Europe.\textsuperscript{30} In this theory, it is explained that the war occurred during the imperialism in Europe due was caused by the increasing of market share needs. In essence, the theory of Mercantilism believes that the hoarding of money, which at that time was in the form of gold, silver, or precious metals, should serve as a benchmark, which is the main goal of national policy. When the theory of Mercantilism was on the rise, the people at that time were embracing the feudal system but as time went by, the system began to erode by itself.\textsuperscript{31} The feudal system basically granted privileges consist of the king, the nobles, and the high-ranking officers, which at that time were landlords who ended up harming the peasants because they were obliged to pay tribute periodically to those who had the privilege.

The theory of Mercantilism believes that to make a country prosperous, then the level of exports should be raised and the level of imports should be lowered. With so much gold, silver, and precious metal owned by a country, then the country can be considered prosper and rich.\textsuperscript{32} However, this can be detrimental to countries that do not have enough assets or resources to be used as export commodities due to the gold that obtain a fixed value and is a form of currency at that time so that there will be economic inequality among countries in the world. It can be said that the prosperity achieved by a country is the result of the sacrifice of another country that does not have enough of assets. The more gold, silver, and precious metal possessed by a country, then the treasure can be channeled to the military fleet and defense of its armed forces so that the strength of the state will be stronger. National employment opportunities will also increase with the rise of their exports sector.

\textsuperscript{30} Ibid.
\textsuperscript{31} Ibid.
The researcher believes that the WTO reflects the core value of Mercantilism theory because the WTO as an international organization, serves as a mediator for countries with trade disputes which is the real form of this Mercantilism theory. It is one of the WTO's main job, to be the bridge for the countries involved in international trade agreements that strive to benefit all involved parties.

I.6.2. International Organization

According to Daniel S. Cheever dan H. Field Haviland Jr, any cooperative arrangement instituted among states, usually by a basic agreement, to perform some mutually advantageous functions implemented through periodic meetings and staff activities. The definition stated is one of the definitions that describe the understanding of International Organizations. Basically, an International Organization is an organization that moves across national borders with actors who are governmental devices of the countries concerned. International organizations have the objective of reaching an international agreement in the absence of violations against the objectives of each country. According to Clive Archer, who is an international relations expert, international organizations can be classified into 3 specifications, based on membership, goals, and organizational activities as a benchmark.

International organizations by membership are classified into 2 types, namely Intergovernmental Organizations (IGOs) and Transnational Organizations (TNOs). In this classification, the WTO belongs to the IGOs because the members of the IGOs are sovereign states, but federal states can also join with the permission from their parent country. Since the role of WTO in the Cotton Dispute is included in the realms of IO, this theory is necessary to be understood.

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in order to comprehend IO’s origins and behavior relating to other IR concepts and entities such as globalization and state.

The researcher believes that the WTO reflects the main point of the theory of international organizations and is classified as an international organization itself. As an international organization, the WTO has direct involvement in trade disputes among its member states. The WTO is an actor who has been actively involved in the world of globalization where there has been transparency of trade between countries and sometimes could cause conflict among the countries. WTO as an international organization has proven its ability and authority in resolving international trade conflict through the Cotton Dispute between Brazil and the United States.

I.6.3. Role Theory

Role theory stated that political behavior is a behavior in running the political role. This theory assumes that some of the political behavior is the result of demands or expectations against the role that being held by political actors. Someone who occupied certain positions are expected or expected to behave in a certain way. These expectations are the one that shapes a role. The emergence of expectations can be examined from two sources. First, expectations that others have for political actors, and expectations that arise from the way the role-holder interprets the role he hold, his own expectations of what should and should not be done. While the purpose of this role theory, is to analyze and the most important thing is to explain and forecast the political behavior. The role can be implemented as the function by certain structure. This role depends on the structure of the position and the surrounding environmental expectations of the structure. Roles are also influenced by the situation and condition, as well as the ability of the role holder.
International organization plays a very important role which is facilitating cooperation between countries in various fields that will create mutual benefit. Not only act as a facilitator between countries cooperation, international organizations also have board that obligates to review and study the conflict between countries, make decisions on that conflict, and process it into action. International organizations may be indirectly regarded as individuals among the community. The role of international organizations is not limited solely as problem solvers, but also as collective legitimacy for the activities of organizations or members individually. International organizations are also the determinants of the international agenda.

![Figure 1.1 Research Framework](image)

**Figure 1.1 Research Framework**

In this theoretical framework, the researcher is trying to connect the variables taken in order to give the reader a view on how the research is related to every aspect that the researcher is trying to examine. This research will elaborate about the two countries that is having a conflict and got resolved with the help of the involvement from international organization.
This research will discuss about the two countries that is having a conflict, particularly in international trade sector. The framework will start on the level where Brazil and the United States become the main actors. In analyzing the state level, researcher will elaborate on each of state’s behavior reacting to the conflict and pursuing a solution through the role of an international organization. The researcher will pay attention on how both countries make an effort in solving the conflict and how this conflict will impact on bilateral relations between the two countries. The researcher chose Brazil and the United States because there is interesting conflict happened between them and has been resolved and creating a more stable and peaceful trade relations after that.

This research will focus on analyzing the role of international organization in this term is WTO in resolving the conflict between Brazil and the United States. In analysis part, the researcher will examine the conflict between Brazil and the United States using Mercantilism Theory in the first phase. This theory is a way to explain the state’s behavior regarding the conflict and how it reacted to each other. Then, the researcher will further analyze the role of WTO in resolving the conflict between two countries through becoming the facilitator and mediator by adhering the principles of international organization. To conclude the analysis, the theories mentioned above will become the main approach to analyze the study on “The Roles of World Trade Organization (WTO) in Resolving Brazil – United States Cotton Dispute”.
I.7. Scope and Limitation of the Study

The scope and limitation of this study will focus on the cotton dispute between Brazil and the United States that covers the trade sector with the study case of the role of WTO as international organization that acts as a mediator towards both countries. This research will elaborate the involvement of WTO. The timeframe will be set since the cotton dispute is being issued (2002 – 2014).

I.8. Definition of Terms

1. World Trade Organization (WTO)

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business.36

2. Brazil – United States Cotton Dispute

On 27 September 2002 Brazil requested consultations with the United States regarding prohibited and actionable subsidies provided to US producers, users and/or exporters of upland cotton, as well as legislation, regulations, statutory instruments and amendments thereto providing such subsidies (including export credits), grants, and any other assistance to the US producers, users and exporters of upland cotton.37

3. International Trade

International trade is the exchange of goods and services between countries. Total trade equals exports plus imports.\(^{38}\) International trade gives rise to a world economy, in which prices, or supply and demand, affect and are affected by global events. Trading globally gives consumers and countries the opportunity to be exposed to goods and services not available in their own countries.\(^{39}\) Global trade allows wealthy countries to use their resources, whether labor, technology or capital, more efficiently. Because countries are endowed with different assets and natural resources (land, labor, capital and technology), some countries may produce the same good more efficiently and therefore sell it more cheaply than other countries. If a country cannot efficiently produce an item, it can obtain the item by trading with another country that can. This is known as specialization in international trade.\(^{40}\)

4. International Organization

An international organization is “a body that promotes voluntary cooperation and coordination between or among its members”.\(^{41}\) As the researcher have stated above, there are 2 types of international organization, first is Intergovernmental Organization (IGOs) and Transnational Organizations (TNOs). International organizations include international cooperative relationships conducted in various ways, one of them is by sending diplomats of the country concerned and negotiate to reach an agreement. International organization is a vessel that facilitate the process so that the agreement can be established. According to D.W. Bowett, an international organization...


\(^{40}\) Ibid.

is a permanent organization (eg: in the field of postel or railway administration) established on the basis of a treaty that is more multilateral than bilateral and with certain objective criteria.42


I.9.1. Chapter I: Background of Study

This chapter will provide the brief background of the role of international organization in solving disputes among countries and its connection in International Relations study that makes the author intrigued in making this research. This chapter will explain about some important information related to the topic of the research such as background of the study, problem identification, statement of the problem, research objectives, significance of study, the theoretical framework, scope and limitation of the study, definition of terms, and the thesis outline itself.

I.9.2. Chapter II: Literature Review

This chapter will elaborate the case studies that already written within this academic research by providing several ideas and arguments from experts in the form of books and journals that related on the issue. These literatures provide the ideas that have been and have not been established for the author to further study the case.

I.9.3. Chapter III: Research Methodology

This chapter covers the methodology of the research that is going to be used for thesis writing process. This chapter will provide the detail explanation on the research process and how the methodology is actually related with the topic that is being explored. The discussion in this chapter is structured start from the research method, research time and place, as well as the research instruments. The purpose of this chapter is to inform the reader on how the research was conducted.

I.9.4. Chapter IV: The Overview of Cotton Dispute between Brazil and the United States

This chapter will explain the cotton dispute between Brazil and the United States that generates further discussion through WTO as an international organization, start from how the issue arose, how the government of both countries reacted to this case, how the actors process it, and how it eventually solved. The researcher will provide brief explanation about the overview of this case for the last ten years. The researcher hopes that this thesis will help the reader to understand the international trade dispute and the importance of international organization’s role in solving that dispute.

I.9.5. Chapter V: The Role of WTO as Arbitrator in Resolving the Cotton Dispute between Brazil and the United States

This chapter will explain more about the role of WTO as an international organization in solving the cotton dispute between Brazil and the United States. The researcher will define the role of WTO that is believed to be playing a significant role on solving the case.

I.9.6. Chapter VI: Conclusion and Recommendation

This chapter will conclude and wrap up the result of the research based on the previous chapters explanation, which is believed that international organization as the facilitator for countries disputes will eventually benefit the actors involved by solving the case.
CHAPTER II

LITERATURE REVIEW

International organizations provide a common platform wherein representatives from different parts of the world can discuss and evolve solutions for contemporary issues. In today’s globalization where many inter-state problems arise and become more complicated, there is a need for an intermediary to deal with the problem, before causing more serious consequences in the future, such as war. In the present times where many countries are developed, diplomacy is needed to establish relations and cooperation between countries so as to increase the prosperity of life for the people. In the case of cotton dispute experienced by Brazil and the United States, it can be seen that the role of international organization, which is WTO, is very influential in solving the problems between the two countries. The cotton dispute phenomenon portrays the function of international organization, which is a tool to help in cooperation between different countries by setting up negotiation deals between them.

In this globalization era, there is a need to have a neutral forum where countries could participate and discuss problems that significant with the world order. This gave rise to International Organizations. In order to be able to analyze the roles of WTO in solving the Cotton Dispute between Brazil and the United States, the researcher has analyzed several papers that has existed and relatable with the topic of the research. Each of the studies possessed its own viewpoint, which expected to be used by the researcher as points and explanatory in writing this thesis.

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44 Ibid.
II.1. Background of the Literature Review

In order to highlight the points of the core topic issued in this thesis, the researcher has utilized the literature review to elaborate the basic understanding of the study to support the argument. Literature review is the foundation for the researcher that provides a comprehensive guidance like the main resource or primary data collection that has been made by the previous researcher or scholars. An appropriate literature review is necessary for the researcher since it will become the essential tools to identify the topic. Every research needs a specific literature reviews because the more supporting document we have the easier way for the researcher to running on the research. In this thesis, there are seven literatures to be reviewed by the researcher such as:

Books:


Journals:

II.2. Review of Books

In this section, the author tries to take the important points contained in the book and relate them to the subject matter discussed in this study in order to get a clearer picture and stronger argument foundation. The researcher attempts to summarize the book clearly and briefly so that readers can easily understand the contents of the book and its relationship to the research topic discussed.

II.2.1. International Relations: The Key Concepts (Book), by Martin Griffiths & Terry O’Callaghan (2001)

This book is a collection of explanations of the concepts that exist in the study of international relations. The book defines the concepts and processes as well as the factors that shape them. This book is not a dictionary, but a collection of theoretical explanations in international relations. The scope of this book covers the developments taking place in politics and explains how political actors respond to international events. The book also discusses how important international organizations play a role in politics.

On this book, the researcher highlighted the certain part that relates to the topic of the research. First is Free Trade. In this book, it is explained about the phenomenon of free trade that plays an important role in the era of globalization today. The free trade in this book is discussed with the theory of comparative advantage. At first, the author explains the meaning of free trade, which is a trade between countries in the world without restriction, but still based on solid rules. In comparative theory, the author explains that there is a difference in the cost of producing goods in a country with another country, which later could be compared in order to figure out the measurement of the free trade itself. This theory was first coined by David Ricardo, a political economist in the 18th
There are two types of law described by David Ricardo, the first law is the Positive Law of Comparative Advantage which explains if a country is permitted to enter into free trade with another country, then it can export their goods that has a comparative advantage value. The second law is the Normative Law of Comparative Advantage which explains that if a country is allowed to enter into free trade with another country, it will receive a profit whose value exceeds the cost of the trade itself.

The direction of development of free trade can be measured from the domestic price of goods available within the country itself. If the price of goods production in the country is quite low, then the goods can be sold to another country at a price higher than its production value. This can certainly benefit the working people who produce the goods so that there is the possibility the state’s welfare can be achieved with free trade. But this phenomenon can also harm the neighboring countries that act as the consumers because this country will continue demanding the goods from producer countries, leads to the increasing level of dependence of the country. It goes back again to the producer countries that gains quite a high amount of benefit from the free trade so it will be able to continuing the supply and compensating the countries in need, without having to experience a shortage of profits within the country itself.

In the topic discussed by the researcher, Brazil and the United States who had a Cotton Dispute is a form of clear evidence that free trade is still far from its goal to maintain peace and prosper the economic conditions of the country concerned. In practice, free trade countries focus more on strengthening the price of their domestic products so that their tendency is more directed to regionalism rather than a single global market. In the Cotton Dispute, it is proved that the United States had given their subsidy to cotton farmers at a high amount, even exceeding the prescribed subsidy standard, leading to the suppression of world cotton prices. This is done by the United States to protect the price of their

47 Ibid.
domestic products so that they can still maintain their strength in world trade. In the liberal point of view, free trade is not seen from its purpose to advance the economic conditions of the countries concerned, but rather its aim to create world peace. By mutually trading with other countries, countries will keep negotiating with each other in order to reduce barriers from trade sector, so that as time goes by, the countries will realize that the costs for war is way more expensive which naturally will reduce their intensity to start a war.

In this book, the authors also include the WTO as one of their conceptual explanations. According to the authors, the WTO is an institution that contains regulations with the aim of creating a more stable and structured world trade order. Along with the emergence of new and more complex trade issues, the WTO has expanded its scope and made more detailed and substantive regulations. Since the WTO has detailed rules covering clauses established from previous agreements, the countries joining the WTO must comply with the regulations to avoid sanctions imposed by the WTO itself. From this phenomenon, it can be seen that the WTO plays an important role in controlling trade relations between countries in the world. The WTO also acts as an mediator that has a solid mechanism among its member states. This can be clearly seen in the Cotton Dispute between Brazil and the United States. If a country in the WTO sees an error from another country or feels aggrieved by another country, the conflicting country will consult first, and when the consultation fails, the victim country may submit a request to create a panel in the WTO to assist in the settlement of the conflict this. This reflects the role of the WTO as a mediator in the settlement of trade conflicts that make the WTO plays an important role in world trade.

This book discusses about global governance and the process of occurrence from this phenomenon as well as issues arising in its scope. The idea of global governance has attained near-celebrity status. In little more than a decade the concept has gone from the ranks of the unknown to one of the central orienting themes in the practice and study of international affairs. Global governance is often equated with international organizations, because this term explains the same thing and has similar criteria. Global governance is formed from various collective efforts by countries in the era of globalization to complement each other's needs and achieve prosperity as well as maintain the position of the country. This complex and dynamic phenomenon has led to the existence of global governance. This book also explains the relations between government and the government of a country. Both refer to purposive behavior, to goal-oriented activities, to systems of rule; but government suggests activities that are backed by formal authority, by police powers to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police powers to overcome defiance and attain compliance. Governance, in other words, is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, nongovernmental mechanisms whereby those persons and organizations within its purview move ahead, satisfy their needs, and fulfill their wants. Through this statement, it can be concluded that global governance cannot be called a global government as well.

There is no definite structure or hierarchy, but a global government has a different kind of authorities. The era of globalization that encompasses the countries of the world accompanied by the increasing complexity issues has encouraged the formation of international organizations that act as a bridge between international actors and assist them to enter into cooperation with the aim of complementing the needs of each other that can bring the equitable prosperity.
Free trade that includes multilateral relations with transparency is sufficient to prevent countries from monopolizing other countries. Global regulation is needed to address this transnational problem. As a result of this phenomenon, since the 1990s, legislations and laws have been developed, which goes in line with the increasing complexity of state issues.

Although the effects of globalization are very wide, but not all countries affected by this phenomenon. Globalization is often seen as a positive international phenomenon and only leads to good development for developed countries, but globalization could bring bad effects as well, especially in developing countries. Globalization has deepened global inequalities between rich and poor, especially those living on less than a dollar a day. The globalization arrangements must be systematically arranged in order to avoid such effect that has been explained above. Globalization can shape winners and losers among the countries of the world, and therefore can create issues or conflicts, or even create wars. The central challenge we face today is to ensure that globalization becomes a positive force for all the world’s people, instead of leaving billions of them behind in squalor.

In this book, it was also reviewed about the failure of the WTO to conclude a new multilateral trade agreements which ultimately led to bilateral trade cooperation between countries, which could lead to the destruction of a liberal world trade system, as adopted by the WTO. This saying is quite contrast with the topic of the research. The development of globalization can also be reversible, unpredictable. The development of inter-country transport and communications revolution are some of the phenomena that arise as a result of globalization.
II.3. Review of Journals

To be able to deepen the WTO’s role in resolving international trade conflicts as discussed in this study, the researchers took several previous journals that are relatable with the research’s topic and have it summarized, to provide more clues and explanations of the subject matter in this study. Some of the existing literature has explained the importance of international organizations and how efficient their role in international trade governance in the current era of globalization. This literature deals with the relations between certain international organizations and the decision-making process of particular countries. The researcher decided to select these journals because of their content that has comprehensive explanation of the roles of international organizations in international governance. In this section, researcher try to review some journals related to topics that come from several experts related to the field of international organizations.

II.3.1. The Political and Economic Determinants of Trade Disputes under the WTO, by Muhamadou L. Fadiga & Leslie A. Fadiga-Stewart (2005)

The seventh literature was written by Muhamadou L. Fadiga and Leslie A. Fadiga-Stewart which essentially describes the consequences of the emergence from disagreements between the countries that joined the WTO. The authors argue that the disagreement arose because of the disproportionate subsidization by the challenging state involved in the conflict. This is largely influenced by the economic and political sectors of the country. The results of the research are variously achieved from the variables related to economic and political sectors by the disputing countries. The emergence of powerful countries is an important factor that shifts the paradigm of world trade, becomes more complex and fragile. The political science literature has highlighted the role domestic political factors play in the outcomes of international conflicts. The type of regime or era that occurs in a country has a major influence in determining international conflict.
In this journal, it is discussed that democratic countries are more often involved in a conflict but can be resolved in a peaceful and structured way. Other scholars have noted that non-democratic states and mixed dyads (a mixture of democratic and non-democratic states) have a greater tendency to become involved in international disputes. This definition may be more applicable to military conflicts, but it cannot be denied that this can happen either in trade conflicts or even in all sectors. Any decision made by a country must come from its leader, and if the state has been reckless in choosing its leader that signified the destruction of the democratic system within the country itself, it will result in the country experiencing an international conflict. In that sense, some scholars have argued for greater attention on how different regime types have emerged and the type of trading relationships that exist between democratic countries as alternative explanations for the democratic peace.

The authors used six factors to measure the reason for the international conflict, which consisted of system of government, stage of democratization, income strata, election cycle, Gross Domestic Product (GDP), and trade. In the system of government, based on the literature, it is expected that states with presidential systems will be more inclined to free trade and are expected to be more likely to initiate disputes as well as more likely to be targeted for disputes. In the stage of democratization factor, the authors argue that the higher the democratic level of a country, the more complex the issue will be. In the strata income factor, the authors explain the classification of countries involved in the conflict based on the country's per capita gross domestic product that can be used as a measurement. In the election cycle factor, the authors state that there is a possibility that the election of a leader of a state occurs when a trade conflict arises. It is hoped that the election can have a good impact on the phenomenon of trade conflicts experienced by the country. In the gross domestic product variable, the author hope that this factor can bring a positive impact on the issue of trade conflicts that occur among the countries concerned. In the trade factor, the author discusses the trade sector of a country, which is used as a benchmark to measure the flow of exports and imports and determine the percentage of its gross
domestic product. This factor can identify the level of economic openness of a country and is expected to have a negative impact on the country's trade disputes.

In conclusion, the authors stated that the six factors mentioned earlier can be used as a significant measurement, while the rest are not very influential in calculating the occurrence of trade dispute issues. In the factor of income strata and democracy, trade conflicts are influenced by homogeneity within the country, whereas within the system of government, the heterogeneity within government parties is a supporter that encourages trade conflicts. In this journal, the author does not discuss the existence of third party roles in encouraging conflict or resolving the dispute. The author also discusses that the rise of developed countries such as China and Japan has changed the paradigm of world trade issue to be more complex, and the countries have different democratic and governmental system.

II.3.2. Process of Change in International Organization, by Davesh Kapur, Assistant Professor of Department of Government in Harvard University (2000)

The first literature is a journal written by Davesh Kapur, the assistant professor of Department of Government in Harvard University. This journal explains about the process of change that occurs within the international organization and the factors that shaped this phenomenon. As a starter, the writer stated about how the role of international organizations has been widely known by all countries in the world. But few know about the process of change that took place from the very beginning of the international organization created until now. The writer also focuses on the topic in discussing the process and explore the mechanisms inside the international organization itself. The impact of this change process was discussed, both experienced by outside and inside party. In essence, this journal develops the incorporated variables and shapes them into a theoretical framework that ultimately explains the mechanism of the change.
International organizations are institutions that involve many countries working transnationally.\textsuperscript{48} This organization was formed to create international cooperation in various fields, and emerged in various types, one of which is a government-based organization and non-governmental organization.\textsuperscript{49} Although the organization is governmental and non-governmental, both have the same goal to create unlimited cooperation among its member states and to address issues that may occur in the future. In general, international organizations are formed at the same level of mutual interest among their member countries, as well as their desire to address issues that occur in a peaceful manner. Many well-known theories explained that in the process of negotiation in international organizations, it takes a lot of time, energy, and money so that it makes the international organization tend to be sticky. Were this not the case, the sub optimality of most international bargaining outcomes (of which international institutions are the product), would encourage governments to perennially negotiate and renegotiate agreements underpinning international institutions.\textsuperscript{50}

In this journal, the author uses seven factors that are the source of change from international organizations. The seven factors consist of structural changes, crises and disasters, competition, norms, domestic politics, leadership, and learning. In structural changes, the authors discuss the impact of globalization that causes an increase in the demand for global goods so that the expansion of the scope of international organizations is also required. Nevertheless, international organizations continue to play an important role as a neutral measure of agreement in resolving the issues of its member states. In crises and disasters, the author explains that change is often resulting in shocks. Like the background of the formation of the United Nations and Bretton Woods caused by the catastrophic crisis of 1930 to the 1940s. This is a major reason for changes in various fields in international organizations.

In competitive factors, changes in international organizations are caused by competitive pressure among its member countries in conducting global goods transactions. For example is the Cuban Revolution that made the United States establish an inter-American Development Bank as the result of demands from countries in Latin America. Before an international organization is formed, the need for norms is set as a benchmark within the organization's own system. The norms discussed here consist of human rights, the environment, the state economic agenda, and other relevant factors. The norms that form the background of organizational formation play an important role in maintaining the sustainability of the organization itself.

In the domestic politics effect, a process of change in international organizations is sometimes influenced in the process of political change schemes in its member countries. The international organization is an active political institution in a bureaucracy whose actors are international officials and government leaders of their own member countries, so that changes to the leadership of their member countries can influence the change of the international organization system itself. Changes in international organizations are also influenced by the learning process of things that has happened in the past. Such as the Uruguay Round, which result can be calculated only to benefit the developed countries and not the developing countries. The effects described above are factors that shape changes in international organizations.

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II.3.3. International Organization, by Mizanie Abate & Alemayehu Tilahun, prepared under the Sponsorship of the Justice and Legal System Research Institute (2009)

The second literature is a journal written by Mizanie Abate and Alemayehu Tilahun. This journal basically explains the meaning and scope of International Organization as well as its approaches. At the beginning of the journal, the authors stated that international organizations are formed from two or more formal states, unlike non-governmental organizations that are formed by a community or group of individuals, although there are some non-governmental organizations that a country believes to address specific issues which make the organization plays an important role. To define an international organization, it is necessary to have a variable used as a benchmark to limit the definition itself. In the case of an international organization, if the organization is constituted under international law accepted by all its member states, then the organization is on the right track. But it is different with non-governmental organizations that are most likely to be governed by the domestic law of the country itself. The authors take the example of Greenpeace and Amnesty International to define non-governmental organizations as they play an important role to address a particular issue, but do not qualify to be called an international organization.

In a broader sense, an international organization is a systematic form of institution dealing with the increasing complexity of international relations. In contrast to non-governmental organizations that sometimes can emerge and disappear following the dynamism of international relations issues that occur, international organizations are more established and stable. International organizations can also be called as a forum of cooperation between sovereign states established on the basis of international issues that have occurred before. Participants from international organizations are relatively stable and have considerable strength. One of the characteristics of an international organization is the way the organization is formed through an agreement, and is not affected by a legal act under a domestic legal system. Under international law, international organizations are formed under a written agreement of their member states based on common goals and needs. However, not all international organizations are
formed under an agreement. The authors take The United Nations Industrial Development Organization (UNIDO) and The United Nations Children's Fund (UNICEF) as an example. These organizations were created based on legal action from an existing organization, which in this case is the United Nations.

The authors explain that from a rationalist point of view, international organizations are considered to be the key role in a world that has a considerable influence on mobilizing the mechanisms of the countries concerned and bringing greater efficiency. The rationalist approach also explains that the countries of the world move into a more advanced and sophisticated order. This phenomenon is progressive in that it brings higher complexities based on applicable laws and international laws. The author takes the example of the United Nations as an organization that is more likely beneficial for playing the role of world authority and plays a very important and inevitable role for the phenomenon of this ongoing world. Therefore, international organizations have substantive goals and deep procedures in the process. Another approach discussed by the author is how the doctrine of realism explains that international organizations are formed by developed countries with purpose to strengthen their status quo. This phenomenon can be regarded as a form of the role of international organizations as a dominating force in the world order. However, international organizations today are seen as an institution that maintains the balance of power of the countries in it so that it can bring peace to all. The author takes the example of the United Nations as an organization that reinforces the status quo of developed countries after the end of world war, but this has happened in the past. When we talk about the present, the UN is seen as an international organization that maintains the balance of the power of third world countries, so realists see that international organizations are strengthening the balance that safeguards the security and peace of the countries of the world.

Another way to define the role of international organizations is by measuring the areas of dependence among the countries concerned in this globalization era. The higher the interdependence of these countries, the more it will encourage international cooperation in the future so that the existence of international organizations will be increasingly needed. By identifying and
measuring the actors or subjects in this phenomenon, it will be easier to measure the level of cooperation in all areas that in the future will underlie the occurrence of a stable world peace. This functional approach is a blend of rationalist and nationalist views that emphasize the behavioral patterns and operations of the bureaucracy concerned, so that the tasks and functions of the organization can be easily identified.


In this journal, it is explained about the process of the establishment of WTO from the beginning as well as issues that arise within the scope of the organization itself. Early on, after the Second World War ended, countries all over the world began to gather and discussed the consequences and disadvantages of the war they had endured. Basically figuring out the way on how they repair the losses that they suffered and how to enhance the welfare of the economic conditions of each country. The assembled nations agree to establish a transparent body and non-discrimination against the countries of the world so that they can engage in systematic and orderly free trade. Through this discussion, the panel agreed to form an organization called International Trade Organization (ITO), which in the process failed to achieve its goal because the United States did not agree on the outcome of the agreement, for fear of a decline in their influence of power.\textsuperscript{52} ITO is one of the agencies of the United Nations. After the failure of ITO, the General Agreement on Tariffs and Trade (GATT) was established starting in 1948. After 47 years later, in 1995, the WTO was formed as a substitute for GATT, but still upholding the GATT principle and making the GATT rule a solid rule of the WTO itself.

\textsuperscript{52} The World Trade Organization (WTO). (n.d.). International Economic Integration. doi:10.1524/9783486599381.9
The journal addresses the issue of policy within the WTO itself, and the author also questioning whether the WTO needs to change its policy, which could adapt with the development of the world. The GATT, which is the parent organization of the WTO, has established rules on trade quotas as well as internal practices that directly impact trade issues, such as subsidies. The WTO has also expanded its regulations in dealing with more detailed issues, but the regulation has not yet applied to countries that do not experience these issues, which can be said to be less effective. Many countries also demand WTO to expand its scope, mainly addressing labor and environment issues. It can be seen from the era of globalization, which many companies run the procedure by exploiting and monopolizing the workers and its surroundings, and generated the waste that has polluted the environment, which then could cause global warming issue. This should be the focus of the WTO's attention that is expected to be controlled and managed.

The questions discussed by the author of this journal also include the ability of the United States in maintaining its sovereignty as a member of the WTO and also as a superpower country. Indeed, the WTO holds an international regulation that limits its member countries to trade wildly, but that does not decrease the possibility of members of these countries violating the rules. The WTO regulations are strong, but the nationalist interests of each country can be stronger and motivate the country to violate the agreed rules at the beginning of the country signing up for member states. The next question that still covers the United States is the comparison between the trade objectives that the United States can achieve by joining the WTO and US trade objectives when using other trading alternatives. So far, the WTO is an international organization that has helped the United States in resolving its trade disputes and maintaining trade transparency on the principle of non-discrimination. Related with the topic of this thesis, from cotton dispute that has happened between the United States and Brazil, the use of the WTO as a mediator and resolving trade disputes could be

clearly seen. The most suitable trade objective for the United States is to join multilateral cooperation. If the United States chooses to engage in regional or bilateral cooperation with other countries, the profits will also be gained but not as much as if the United States engages in multilateral cooperation.

The problem discussed further by the author in this journal is the role of Congress in controlling the United States and other member states in trading under the scope of the WTO. Although the WTO has an executive branch in charge of managing its staff, congress plays an important role in making decisions. In the WTO regulation, member states are required to submit laws covering the country's own trade policy. Congress also works with the executive branch in this process. Congress has the right to approve or disapprove laws or implementing regulations that have been proposed by the United States or other member countries, thereby making the Congress become a key role in the WTO. Apart from its legislative and executive bodies, congress has formed into a constitutional authority, which power is still being questioned, since the nature of the congress tends to be flexible and not rigid, so this issue should be reviewed further. Many argue that congress must be more assertive in determining existing and proposed trade policies. Countries also assume that the relationship of the executive and legislative bodies is no longer useful in addressing the issues that exist.

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In this journal, the author begins by defining the meaning of business. A company's development begins with an individual in deciding on purchasing an item. Based on that individual, other individuals will follow that behavior, which make the company bigger and employ more workers. This phenomenon can prosper the life of the community and expand employment opportunities. However, if the business has reached a level where this process involves almost all citizens in a country, then it could be a starter of an international trade. An advanced and developing company that wants to conduct a trade with another countries, will surely ask for the government’s help in taking care of matters pertaining to the law. This is what led to the start of the phenomenon of international trade. The market focus will be changed, from domestic to international.

There are pros and cons that could happen in international trade. When a domestic business turns global, its scope will expand and domestic individuals, consist of old consumers will tend to be forgotten. Old consumers will become secondary actors and there may be domestic economic conflicts. In order to avoid this problem, the company that works together with the government will try to manage the costs that will occur in making the business engage in the international market. This process is quite difficult due to many obstacles that can occur, such as the cost of opening new industries, environmental adjustments, labor pay, and applicable international law.

In helping with this, the government has proposed an idea called free trade policy. Free trade is a cooperation that covers the trade sector involving two or more countries with the aim to meet the needs of each and the prosperous economic conditions of the country concerned. The first free trade took place in trade between Canada and the United States in the 1960s covering automobile trading and its components. It reduced, and even eliminated, the duty at times when all conditions of the agreement were met. With the trade phenomenon that brings a high complexity, the role of domestic society of a country becomes unimportant and tends to be forgotten. This can lead to conflict or trade issues. In
the present, free trade tends to be exploited by the government in fulfilling their own interests, as well as the creation of new trade reforms, which eventually suppress employment sector applied for the people of the country itself. Therefore, many international organizations has been established to organize and control the flow of free trade so that such issues can be avoided, one of the organizations mentioned is the WTO.

The two main factors in running free trade are exports and imports. Export is a process of selling a commodity to another country while import is the process of importing another country's commodities to buyer's country. A company needs to know a lot of information about these two factors before engaging in free trade. It does not matter where you are shipping the goods, what matters is whether or not the seller has put together all necessary paperwork and documentation required to allow for a smooth transition when the purchased goods have reached Customs.

In this journal, the writer also discussed about the strategy of the United States in running its free trade system. This is quite relevant to the topics discussed by the researcher in this thesis. United States has other laws in export and import. In general, a duty drawback is the refund of a duty, tax and other fees that were collected by the U.S. Customs and Border Protection when the article was imported into the United States. This refund is available after the importer either destroys or exports the article. In this statement, the intended loss of liability is when the article does not exceed 99 per cent of the original duty or tax.

Government as an actor in the phenomenon of free trade also tends to attract the attention of foreign communities to buy domestic products, or vice versa. People tend to be hesitant to try or buy new products on the market, which in this case, the role of government is quite important. Many creative ideas are created in effort to attract buyers in international business world. In fact, in the international trade history, World Expos has held a lot of new ideas for international trade strategy. Many countries are always updating their trade ideas

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to be more innovative and creative, but there are also countries that still adhere the idea of their old trades. These shows are great for “prestige, public image and introduction of new ideas,” but they also provide a means to target specific markets or people.\footnote{Nakra, 2007} Government efforts to help with its trade issues may be helpful, but if the government is overly pressing and interfering, it may lead to future losses or conflicts for the company and the country itself. Cotton Case would be an example from this phenomenon, where the level of cotton subsidy given by United States is overly high and has angered Brazil, which then given them enough reason to file a lawsuit against United States through WTO.

In its conclusion, the authors summarize the impact of globalization, which brings more complicated issues to the export and import process in the international trade. If domestic market conditions are insufficient to allow a country to reach the international market, it will cause problems for the community and the companies within the country itself. It is not possible that the role of the government will have little effect on the promotion of its trade sector, even though the government has made considerable effort in helping. Therefore, there are many bilateral and multilateral trade agreements among countries in the world, with the aim of avoiding the trade conflicts discussed above. The advantages derived from the trade process of a country may not be enjoyed directly by the individuals within the country itself. The writer expect in the future, that the government will be able to organize its trading system to be more fair and generate equitable returns.
II.4. Conclusion of the Chapter

From all the literature discussed above, both from books and journals, it can be concluded that since the international organization was formed up to now, it plays an important role in the international dynamics of the present, ranging from platforms that hold absolute rules to problem solver between countries. In this present time, the variety of non-state actors are increasingly involved in the decisive issues of world politics, which in this case is international organization. Various phenomenon of the world brings both good and bad impacts, and it has changed the world order to be more advanced and complex. However, this brings great opportunities for international organizations to step up and increase their role in facilitating countries to engage in and resolve conflicts between them. Because of this, international organization has risen to greater prominence in almost every region of the world. The purpose of the author in summarizing the books and journals above is to highlighting the relationship between the state and international organizations and vice versa.

In the present, the international organization seeks to place itself in a neutral position and strives to hold a more stable authority and making it easier for themselves to maximize its function as one of the world's actors, and also it’s trying to involve in decision-making processes as an independent bodies. Furthermore, international organization’s attempt to influence the governments’ policies in order to achieve the vision and mission of the international organization itself. As the intention of the researcher to examine the role of WTO as one of international organization in resolving the cotton dispute between Brazil and the United States, the statement of the experts above is supporting the role of international organization in joining worldwide together with the government.
CHAPTER III

RESEARCH METHODOLOGY

III.1. Research Methodology

The researcher is confident in writing this thesis, as she was always been interested with the international trade phenomenon, particularly the cotton dispute that occurred between Brazil and the United States. The researcher was conducting this thesis program starting from November 2017 until January 2018 and therefore has been deeply explored the cotton dispute and its connection with the role of World Trade Organization as one of the international organization existed. During the research process, the author has understood how the conflict arose and eventually be solved. The writing process of this thesis is using data collection method. This choice of method is influenced by the data collection strategy, the type of variable, measuring the accuracy, as well as the collection point.

As the case that is being explored has happened and solved, the researcher believes she can learn from this case and therefore adding the knowledge as a student. As the researcher has completed its internship period in the Ministry of Foreign Affairs which allows her to receive information regarding this conflict which is beneficial in helping the researcher get a deep understanding regarding this issue.

This researcher used qualitative approach in order to answer the research question and problems without needing to use the quantitative approach that is usually utilized to analyze data in the form of numbers. Using the qualitative method in working on the research is considered suitable to meet the ultimate purpose of this research. According to Ross, 1999, quantitative approach is a research that use numbers to approve or disapprove a notion or hypothesis. Therefore, since the research is not depending on mathematical orders or numbers as well as statistics as its main sources, qualitative method gives the best solution.
to be utilized on this topic. The author used the qualitative method as it is the most suitable for the issue that is being explored, and this method also allows the author to collect the data and examine on how they are correlated to each other. This author is striving to understand the regulation, information, and relations between the role of WTO as an international organization in the case of cotton dispute between Brazil and the United States.

The researcher found that this method is highly relatable with the purpose of this activity research. The variables have shaped the countries relations, initiated by the urge to achieve its countries needs. The method that will be discussed in this research is the persuasive diplomacy, coercive diplomacy, and peace. Those concepts can be determined by the facts of the conflict that reflects the role of the WTO itself.

III.2. Research Time and Place

Place of Research: President University Student Library

The Ministry of Foreign Affairs (MoFA) Office

Time of Research:

![Figure 3.1 Research Timeline]
III.3. Research Instrument

**Internet:** In this globalization era, where many advanced technologies can be easily used to access data from all around the world, the Internet has been playing an essential role that cannot be separated from people’s lives. With the power of Internet in allowing people to access data in this borderless world, the author has succeeded in getting all the data needed and required for this research. It would be hard for the research to finish this thesis if the Internet is not existed.

**Journals and Reports:** During the process of this research, the author used many journals and reports that provide not only valuable information, but also provide influential idea during this research writing process. The author will explain the review of the journals that has given all the ideas in the literature review chapter.

**Media Articles:** In this research, the author also explained the detailed timeframe of the cotton case, which took place in Brazil, United States, and other countries involved starting from 2002 until 2014. In order to get the correct and reliable information, the researcher compiled the articles related with the topic and has been published on website which then the author analyze those articles using the qualitative method. This way, the author has been able to gather complete and reliable data about all the facts and events related with the role of WTO in solving the cotton dispute between Brazil and the United States.
CHAPTER IV

IV.1. The Overview of The Cotton Dispute between Brazil and The United State

As one of the world's largest cotton producers, ranked fifth on the world level, Brazil is very concerned about the development of the world cotton market competition, and for some time Brazil had paid attention to the cotton market policy in the United States. The United States is considered to have violated the rules of the cotton market policy, in accordance with the rules contained in the Uruguay Round, which is the foundation of the formation of WTO. Due to the decline in its domestic market use, the United States has been increasing its export on their cotton commodities. Also, the level of subsidies to cotton farmers in the United States is proved to have violated the rules, which has damaged the price of cotton in the world that resulted in the bankruptcy of many cotton farmers in developing countries, especially in Brazil and Africa.

Several processes of conflict resolution between the two countries that took a decade involved many actors, mostly from the WTO. The negotiation process begins with discussions between the two countries, which ultimately proceed into the WTO trial. During the process, the United States proved wrong and Brazil asked for accountability. Initially, the United States was still quite evasive and Brazil took threatening action by raising tariffs on electronic and


medical goods from the United States that worth millions of dollars. However, before Brazil adopted the regulation, the United States was willing to compensate by paying compensation costs to Brazil's cotton institutions.  

IV.1.1. The History of The Cotton Dispute

It all started with Pedro de Camargo who was inaugurated as Secretary of Production and Trade of the Ministry of Agriculture from 2000 to 2002. During his tenure, he was very concerned about the trade conflict between Brazil and the United States. Pedro began researching issues on cotton and soybean commodities in the United States and finding out where their mistakes were. With the help of Brazilian economists who are specialized in WTO rules, he began to examine the issue.

According to the Peace Clause in the Article 13 of the Uruguay Round Agreement, WTO member countries are prohibited from opposing the subsidized agricultural subsidies of other member countries in the Dispute Settlement Understanding (DSU) unless the challenged state has exceeded the overall subsidy level in their AMS (Aggregate Measurement of Support) commitments. Total AMS is a calculation that includes specific support for a product or non-product by a country, calculated on one scale. For developed countries bound in total AMS, they must reduce their support by 20 percent over a 6-year period, as for developed countries should reduce support to 13 percent in more than 10 years. Within a specified period, calculated within a certain year, the actual AMS of a country must not exceed the previous year limit within the specified period. So it can be said that the maximum level of support is bound in the WTO

63 Ibid.
64 Ibid.
rules. In the Article 13 of the Peace Clause it is stated also that a country should not provide a volume of subsidy in excess of the volumes they have given to producers in the 1992 marketing year. So if producers receive a larger subsidy than they received in 1992, then the country is no longer protected by the Peace Clause and may be prosecuted at any time.

All started from the economic crisis that hit Asia, which occurred in 1997. This crisis started from Thailand that soon spread into the neighboring countries, including Indonesia. It came as a form of a currency crisis when Bangkok unpegged the Thai baht from the U.S. dollar, setting off a series of currency devaluations and massive flights of capital. It also affects the United States, which affected their agricultural policies that have been oriented towards the open market. The decline in market prices on global commodities makes the countries in the world provide assistance programs to their people, and the United States were included. The United States decided to provide $30 billion to its farmers for a period of four years. Many countries are protesting against this new US policy, with allegations that the country has returned to the old price support system. This new policy is called a relief program because it acts as a base price, but it has a negative impact on world market prices that essentially lowered predetermined standards. Rules made by the United States are stipulated as a permanent rule in US Farm Bill 2002 and referred to as countercyclical payments.

Many critics have come to this United States decision. According to Bob Thompson, a former USDA economist under the Reagan Administration and President of the Council on International Trade Policy on Food and Agriculture, the rules made have lowered the United States' credibility in WTO agricultural

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65 WTO | Agriculture - explanation of the agreement - other issues. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/agric_e/ag_intro05_other_e.htm


67 Lesson #1: Every farm bill is unique ? the last one was a doozy. (n.d.). Retrieved from https://www.agri-pulse.com/articles/8894-lesson-1-every-farm-bill-is-unique-the-last-one-was-a-doozy

legislation. Supporting Bob Thompson's argument, Joe Glauber, USDA Deputy Chief Economist and chief economist in the case of cotton also argues that America looks like a two-faced, and Brazil is the only country to dare to challenge it, but criticism comes from almost all parties. Pedro was aware of problems with this cotton commodity. It is well known that cotton is a distorted commodity and during 2000 to 2002, world cotton market prices have declined by 40% so that the original global cotton value was $35 billion to $20 billion. This is very worrying, because this phenomenon is the lowest decline in cotton prices since the Great Depression. Pedro saw an opportunity for Brazil to bring this issue and make the United States change again their rules, so that world cotton prices can be fixed.

In July 2002, world economist John Baffes and other economists who are members of the ICAC held a conference on negotiations on world cotton market prices due to this increasingly alarming issue. This is an indirect support for Brazil in challenging the United States in their cotton policy. At the conference, many countries agreed on the issue. Some countries have also provided aid programs to its market commodities, namely Turkey, Brazil, Mexico, Egypt and India. African countries are also directly affected by this phenomenon, so they provide a $50 million assistance program. These countries are Burkina Faso, Chad, and Mali. After the conference was over, Brazil began to prepare by creating a case frame.

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70 Ibid.


73 Ibid.

74 Ibid.
The case-building process did not take long, and Brazil classifies it into two parts: legal and economic. Brazil declared that the United States had violated the 1992 level rule, measured by the amount of subsidies granted from 1999 to 2002. And also, the US export credit loans that were one of their aid programs had violated the WTO Agricultural Agreement rules. In terms of its economy, Brazil stated that the cotton subsidy made by the United States has pressed the world cotton price. Brazil proved it by collecting data obtained from the USDA and creating an approximate model framework made by FAPRI. Within that framework, if the US cotton subsidy is abandoned, its cotton production will drop to 29%, leading to a 12% world cotton price increase measured by world prices. According to Brazil, the decline in world cotton prices has pressured cotton producers in the world by $ 478 million, measured from their lost revenue from 1999 to 2002. Brazil also argued that the rate of US cotton subsidy could allow its producers to seize the world's cotton share, thus having the same effect on the Brazilian cotton economy.

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76 Ibid.
79 Ibid.
80 Ibid.
As soon as the cotton case ware structured, Pedro needed a permit from the Minister of Agriculture to approve it so that the case could be brought to the court. Pedro has also given an initial briefing on the case to CAMEX. CAMEX is Brazil's Council of Foreign Trade consisting of 4 ministers, the Ministers of Finance, Industry & Trade, Agriculture, and Foreign Relations and supplemented by the Chief of Staff of the President. At first the Minister of Foreign Affairs felt reluctant, and told Pedro to go further on the case before challenging the United States. Pedro also wanted to invite countries in Africa to participate in supporting Brazil in this conflict, but it wasn’t easy to get their support. Pedro held a three-month negotiation with CAMEX to seek their approval in the procurement of this cotton dispute case. Finally, on September 27, 2007, Pedro filed the cotton dispute to the WTO headquarters in Geneva.

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IV.1.2. Analysis of The United States Cotton Subsidies

The United States is one of the largest cotton producers among countries in the world and this country is eligible to provide assistance programs to its cotton farmers. As of 2000, the rate of cotton subsidy has been high enough, with a value of $3.5 billion per year.

Figure 4.2 U.S. Upland Cotton Program Outlays and Harvest-Time Value of Production, FY1991-FY2010
($millions)

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>Cash</th>
<th>Non-Cash</th>
<th>Total</th>
<th>Value of production</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>382</td>
<td>13</td>
<td>395</td>
<td>5,076</td>
</tr>
<tr>
<td>1992</td>
<td>1,443</td>
<td>373</td>
<td>1,816</td>
<td>4,512</td>
</tr>
<tr>
<td>1993</td>
<td>2,239</td>
<td>572</td>
<td>2,810</td>
<td>4,274</td>
</tr>
<tr>
<td>1994</td>
<td>1,539</td>
<td>292</td>
<td>1,831</td>
<td>4,523</td>
</tr>
<tr>
<td>1995</td>
<td>99</td>
<td>3</td>
<td>102</td>
<td>6,795</td>
</tr>
<tr>
<td>1996</td>
<td>685</td>
<td>0</td>
<td>685</td>
<td>6,573</td>
</tr>
<tr>
<td>1997</td>
<td>561</td>
<td>0</td>
<td>561</td>
<td>6,410</td>
</tr>
<tr>
<td>1998</td>
<td>1,132</td>
<td>25</td>
<td>1,157</td>
<td>5,972</td>
</tr>
<tr>
<td>1999</td>
<td>1,882</td>
<td>230</td>
<td>2,112</td>
<td>4,122</td>
</tr>
<tr>
<td>2000</td>
<td>3,809</td>
<td>862</td>
<td>4,671</td>
<td>3,812</td>
</tr>
<tr>
<td>2001</td>
<td>1,868</td>
<td>381</td>
<td>2,249</td>
<td>4,257</td>
</tr>
<tr>
<td>2002</td>
<td>3,307</td>
<td>1,018</td>
<td>4,325</td>
<td>2,904</td>
</tr>
<tr>
<td>2003</td>
<td>2,889</td>
<td>689</td>
<td>3,578</td>
<td>3,676</td>
</tr>
<tr>
<td>2004</td>
<td>1,372</td>
<td>169</td>
<td>1,541</td>
<td>5,415</td>
</tr>
<tr>
<td>2005</td>
<td>4,245</td>
<td>1,458</td>
<td>5,703</td>
<td>4,643</td>
</tr>
<tr>
<td>2006</td>
<td>3,982</td>
<td>939</td>
<td>4,921</td>
<td>5,470</td>
</tr>
<tr>
<td>2007</td>
<td>2,592</td>
<td>973</td>
<td>3,565</td>
<td>4,819</td>
</tr>
<tr>
<td>2008*</td>
<td>1,604</td>
<td>398</td>
<td>2,002</td>
<td>5,468</td>
</tr>
<tr>
<td>2009*</td>
<td>3,191</td>
<td>na</td>
<td>3,191</td>
<td>3,014</td>
</tr>
<tr>
<td>2010*</td>
<td>2,472</td>
<td>na</td>
<td>2,472</td>
<td>3,424</td>
</tr>
<tr>
<td>Sum: 1991-2010</td>
<td></td>
<td>41,292, 9,194</td>
<td>50,486</td>
<td>95,559</td>
</tr>
<tr>
<td>Average: 1991-1999</td>
<td></td>
<td>1,107, 167</td>
<td>1,274</td>
<td>5,406</td>
</tr>
<tr>
<td>Average: 2000-2010</td>
<td></td>
<td>2,852, 854</td>
<td>3,547</td>
<td>4,264</td>
</tr>
</tbody>
</table>

Source: USDA, Farm Service Agency (FSA), Budget Division, Commodity Credit Corporation, Books 3 (April 9, 2001) and 4 (July 15, 2003); and FSA Budget Table No. 35, Aug. 25, 2009, available at http://www.fsa.usda.gov/FSA/webapp/area=about&subject=landing&topic=bap-bu-cc.

And in this case, the cotton program provided by each country has enough impact on the price of its world commodity market. If a given aid program is high enough, which triggers the commodity prices, it is driving much demand that
keeps the level of exports up. This phenomenon will make world market prices decline, due to the country that provide the number of high-aid programs to the people. This is evidenced by the table below, which indicates that loans granted to US cotton farmers are very high, compared to other countries' loans. Brazil declared that the policy adopted by the United States would adversely affect the world cotton market price.

**Figure 4.3 Frequency Selected Covered Commodities Due To Low Market Prices**

*January 1997 – May 2010*

(% level of months the market price is less than the loan rate or the effective target price)

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Effective Target Price</th>
<th>Loan Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cotton</td>
<td>92%</td>
<td>70%</td>
</tr>
<tr>
<td>Rice</td>
<td>75%</td>
<td>49%</td>
</tr>
<tr>
<td>ALL CROPS</td>
<td>50%</td>
<td>30%</td>
</tr>
<tr>
<td>Sorghum</td>
<td>57%</td>
<td>35%</td>
</tr>
<tr>
<td>Wheat</td>
<td>57%</td>
<td>29%</td>
</tr>
<tr>
<td>Corn</td>
<td>57%</td>
<td>20%</td>
</tr>
<tr>
<td>Peanuts</td>
<td>56%</td>
<td>16%</td>
</tr>
<tr>
<td>Oats</td>
<td>55%</td>
<td>28%</td>
</tr>
<tr>
<td>Soybeans</td>
<td>39%</td>
<td>24%</td>
</tr>
<tr>
<td>Barley</td>
<td>39%</td>
<td>4%</td>
</tr>
</tbody>
</table>

Source: Monthly Farm Prices, USDA, NASS with policy parameters from the 2008 US Farm Bill and comparison based on crop year 2010 program parameter values.

The United States has also established an **Export Credit Guarantee** policy, which is one of their assistance programs, and US Commodity Credit
Corporation guarantees 98 percent of the principal and part of interest, in order to allow US banks to provide conditions that compete with foreign financial institutions, reduce financial risk to creditors and encourage exports to eligible countries.\textsuperscript{83} Also, the availability of Export Credit Guarantee encourages exports to US product buyers in countries where they cannot obtain financing for purchase.\textsuperscript{84} In addition, as one of their aid programs, the United States has also undertaken a Step 2 Payments, which provides payments to the cotton farmers on the high land on a regular basis each week.\textsuperscript{85} Payments are in the form of cash or certificates to exporters based on export shipments and milling users based on cotton consumption, with the aim of reducing the difference between US cotton prices and the world. The policy of Step 2 Payment was deemed to have violated the rules of WTO agriculture agreement, so the issue was processed in court and the United States was found guilty, so in August 2006, the United States eliminated this policy.\textsuperscript{86}

Other than Export Credit Guarantee and Step 2 Payments, the United States has also given its cotton producers another support programs. The Marketing Assistance Loan is one of the agricultural aid programs of the United States. Basically, the government lends money to producers of agricultural commodities through Commodity Credit Corporation. The program is managed entirely by the USDA's Farm Service Agency (FSA). From 2004 to 2012, the loan rate for the upland cotton commodity was $0.52 per pound, and also for the commodity cotton staple at $7977 per pound.\textsuperscript{87} The repayment process has been adjusted to the world cotton price, and if the world cotton price falls to be lower than the loan rate, then the farmers are allowed to pay at a lower rate, adjusting to the world price level. Contained in the Farm Act 2008, which is included in the

\textsuperscript{83} USDA Foreign Agricultural Service, 2009


\textsuperscript{86} Ibid.

\textsuperscript{87} USDA Economic Research Service, 2009c
Food Security Act of 1985, the payment of this shortfall is acceptable to farmers who are eligible to substitute marketing aid loans, so if the world market price is lower than the rate of lending, it can receive profits at the expense of collateral crops to Commodity Credit Corporation.88 This loan makes farmers in the United States protected from seasonal fluctuations.

There is one more aid program from the United States, which is **Countercyclical Payments**. This program basically provides assistance to farmers whose commodities are selected and are below the effective price.89 And in this case, upland cotton is included. The program is also fully managed by the FSA. In contrast to less loan repayment programs, countercyclical payments are determined by historical production. The government decided to make a countercyclical payment so that it could help farmers stabilize their revenues when prices in the world market decline. Counting from 2008 to 2012, the effective price set by the United States is $0.71 per pound, for the highland cotton commodity.90 This program provides high subsidies to its cotton farmers, and it is given continuously. According to WTO rules, this has violated the terms of their agreement. As mentioned in Article 6 in the Uruguay Round which is an Agreement on Agriculture, that domestic support measures are considered to distort production and trade, including the price of subsidies directly related to production quantities, are to be reduced by member countries.91 In this case, the United States has been proven guilty of the policies in their aid programs that have proven to press the world cotton market prices.

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88 USDA Economic Research Service, 2009a

89 USDA Economic Research Service, 2009b

90 Ibid.

91 WTO | legal texts - Marrakesh agreement. (n.d.). Retrieved from https://www.wto.org/english/docs_e/legal_e/14-ag_01_e.htm#articleVI
IV.1.3. Brazil’s Claims Against The United States Cotton Subsidies

1. Peace Clause Violation

In this case, the United States is said to have violated the peace clause contained in the WTO Article 13 in its Agreement of Agriculture. Article 13 basically contains the rule of Annex 2 about domestic support given by a country, which basically the Basis for Exemption from the Reduction Commitments. In Annex 2, it says that domestic support measures that are exceptions to reduction commitments are claimed to meet fundamental requirements that do not have, or at least, distortion or trade effects on production. Accordingly, all actions for the claimed exception must conform to the following basic criteria: 92

1. Questionable support should be provided through government-funded government programs (including past government revenues) that do not involve transfers from consumers.

2. The support in question does not affect the pricing of the producers.

In accordance with the rules above, a country is no longer protected from prosecution if the amount of subsidy granted by the state over a commodity exceeds the 1992 marketing year. 93 In this case, the United States has been proven to commit violation, since the subsidy given in 2001 was $4 billion, while the subsidy they granted in 1992 was $2 billion. 94 This case has made the United States no longer protected by the peace clause so that The United States can be prosecuted by any party and can be proven to have committed an offense. Parties from the United States have denied this by reasoning that the term exempt from actions as contained in Article 13 applies not only to making a recovery in policy,
but also to making claims. The United States feels they are still eligible for immunity, because as contained in the 1994 GATT rules, WTO members agree that indirect agricultural subsidies can be eliminated, under certain conditions and exclusions, in accordance with the Countervailing Measures (SCM) Agreement rules.

2. Step 2 Payments as Domestic Support Program

In the Step 2 Payments Policy made by The United States, the government provides compensation assistance to exporters and domestic millers in upland cotton commodity that purchases at a high price. It is made with the aim that highland cotton commodity can continue to compete in world trade. This policy is classified as an export subsidy grant, while the United States registers this policy to the WTO as a "trade-distorting" domestic support payment. In this case, Brazil has a case for using Step 2 Payments policy as one of their claims. Step 2 Payments made by the United States are also deemed to be incompatible with their obligations against WTO, which is contained in the SCM Agreement. As it is stated in the SCM Agreement, The United States acts inconsistently with its obligations under Articles 5(c) and 6.3(c) of the SCM Agreement in that the effect of marketing loan and counter-cyclical payments provided to US upland cotton producers pursuant to the FSRI Act of 2002 is significant price suppression within the meaning of Article 6.3(c) of the SCM Agreement in the world market.
for upland cotton constituting "present" serious prejudice to the interests of Brazil within the meaning of Article 5(c) of the SCM Agreement.\(^9^9\)

3. The United States Export Credit Guarantees as Domestic Support Program

The United States has established the GSM-102 program which is basically an export credit programs guarantee payment from approved foreign banks, normally to financial institutions in the United States that extend credit to them to finance imports of U.S. agricultural commodities.\(^1^0^0\) The reduction of risk to financial institutions in the United States may be reflected in lower interest rates and lower financing fees than would be the case without a USDA guarantee, or may make possible financing that would otherwise be unavailable, which makes the country gives implicit subsidies.\(^1^0^1\) This prompted Brazil to file a claim against the United States, as the GSM-102 program did not comply with the commitments set out in the Agriculture Agreement by the WTO.\(^1^0^2\) In this matter, The United States have been proven being inconsistent wit their commitment to Agriculture Agreement contained in the WTO Commitment when it was measured in Articles 3.1(a) and 3.2 of the SCM Agreement by providing export subsidies to unscheduled products and by providing export subsidies to scheduled products in excess of the commitments of the United States under the Agreement on Agriculture.\(^1^0^3\)

\(^1^0^0\) What Every Importer Should Know About the GSM-102 and GSM-103 Programs. (n.d.). Retrieved from https://apps.fas.usda.gov/excredits/english.html
\(^1^0^1\) Ibid.
\(^1^0^3\) WTO | dispute settlement - the disputes - DS267. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm
4. The United States Domestic Support Program Caused Serious Prejudice

In this regard, Brazil states that the domestic support programs created by the United States have made a huge impact on the world's cotton trade. As can be seen from Figure 4.5 that the level of support provided by the United States to its cotton producers far exceeds the 1992 marketing year.\(^{104}\) This has certainly violated the rules in the WTO, and has made some impact on the world's cotton trade. The first is that the US support program has made the production of cotton in the country soaring and makes an increase in export production insignificantly, and the second is the sharp decline in world cotton prices.\(^{105}\)

![Figure 4.4 USDA Cotton Support, 1992 to 2010](https://www.wto.org/english/tratop_e/scm_e/subs_e.htm)

Source: USDA, FSA budget data (cash and non-cash support)

Both of these impacts have violated the rules contained in the SCM Agreement made by the WTO so that the case is eligible to be brought to justice.\(^{106}\) The decline in domestic use of goods occurring in the United States,

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\(^{105}\) Ibid.

such as textile goods, has made an increase in its domestic support program.\textsuperscript{107} This allows the United States to remain competitive in the world's cotton trade. This, however, leads to an increase in US cotton export levels that lead to the suppression of world cotton prices. In addition to the surge in cotton export levels by the United States, the weakening world economy has also contributed to the global cotton price pressures.\textsuperscript{108} Due to the US cotton production surge, the world's synthetic cotton prices weakened during the period of the United States providing its domestic support program.

5. FSC-ETI Act of 2000 Act by The United States as a form of Domestic Support Program

In the program of the Foreign Sales Corporation's Repeal and Extraterritorial Income Act of 2000 (ETI Act of 2000) made by the United States, it was stated that the government abolished taxes for the exporters of upland cotton and this could be classified in export subsidies as their domestic support program.\textsuperscript{109} Brazil declares that this has violated the rules in the WTO so that it can be prosecuted in court.

IV.1.4. Analysis of The Cotton Dispute in The WTO

In 2002, Pedro de Camargo, as Brazil's representative, filed an official suit against the United States to the WTO in the case of DS267. In its process, there are several countries that joined and act as third parties. These countries are Argentina, Australia, Benin, Canada, Chad, China, Chinese Taipei, European Communities, India, New Zealand, Pakistan, Paraguay, Venezuela, Bolivarian Republic of, Japan, and Thailand.\textsuperscript{110} In its demands, Brazil stated that several domestic support programs made by the United States have violated WTO rules, such as export credit guarantees, Step 2 payments, and countercyclical

\textsuperscript{108} Ibid.
\textsuperscript{109} Ibid.
During the consultation phase with the WTO that started on 27 December 2002, Brazil declared that some of these policies violated SCM agreements, Agricultural Agreements, and GATT. It also impacted the world cotton price pressures, and Brazil felt the immediate impact of the problem. This issue has also increased the world market share of US cotton producers from 16.7 percent to 20.6 percent during the marketing years of 1985-2001, violating Articles 5 and 6.3 of the WTO SCM Agreement. In SCM rules Articles 5 and 6, it is basically state that if a subsidy given by a country that has exceeded the level of marketing year specified, can be followed up and processed as a case in court.

There are 4 panels as the total of proceedings in court, and the first panel report was made on September 8, 2004. In this report, it is stated that the United States Step 2 Payments policy has been proven to violate the WTO rules contained in Articles 3.1 (b) and 3.2 of the SCM Agreement, which basically include rules on subsidies exempted from agreements on Agricultural obligations and subsidies that provide "support in favor of domestic producers". Also, export and payment credit guarantee, and step 2 payments is declared as a prohibited subsidies, defined by articles as subsidies that depend on export performance or on the use of domestic goods on imported goods. In the case of $ 4 billion in grants in 2001, the amount of aid granted in 1992 of $ 2 billion, which was a violation of the 1992 marketing year rate, was declared to have violated the rules. This case plays a major role in the fall in world cotton prices

111 Ibid.
112 Ibid.
113 Ibid.
114 WTO | WTO analytical index: Guide to WTO Law and Practice - Agreement on Subsidies and Countervailing Measures. (n.d.). Retrieved from https://www.wto.org/english/res_e/booksp_e/analytic_index_e/subsidies_02_e.htm#article5B1
118 Ibid.
in that period. In response to this, the panel recommends that the United States take steps to eliminate the adverse effects of the price contingency policy, which is a payment of Step 2, the terms of the marketing loan, and the countercyclical payment, or withdraw the policy at the latest by September 2005.\(^\text{119}\)

After the panel report was released, the United States reacted to this decision and wanted to appeal against the Panel’s report to the WTO Appellate Body. After a thorough investigation, The Appellate Body decided to instead accelerate the deadline of the process of eliminating the indicted policies, namely export credit guarantee and step 2 payments, to July 1, 2005 or 6 months since the report of the Appellate Body by the Dispute Settlement Board being adopted.\(^\text{120}\)

After this decision is issued, the United States decides to comply and remove the step 2 payments program, as well as modify the export credit guarantee program. However, other aid programs remain available, as listed in the 2008 Farm Bill by the United States.\(^\text{121}\)

After this process has passed, Brazil felt that the cotton support programs, which are still available in the United States is still considered to be in breach of the rules, so Brazil decides to request a WTO authorization to enact a counterattack against the United States.\(^\text{122}\) This incident is similar to the case of Banana Dispute experienced by the United States and Europe, which was successfully completed in 2012.\(^\text{123}\) Following this countermeasure, the United States objected and asked for arbitration assistance to the WTO. Due to the objection, the case was postponed in August 2005, until further negotiations made by the parties involved.\(^\text{124}\) Due to the lack of progress in the negotiation process, a WTO compliance panel was established in 2006 at the request of Brazil, with the aim of reviewing whether the United States has complied with the Appellate

\(^\text{120}\) Ibid.
\(^\text{121}\) Ibid.
\(^\text{122}\) Ibid.
\(^\text{123}\) Ibid.
\(^\text{124}\) Ibid.
Body’s decision in 2005. After review, the Panel adopted its decision in October 2007 that the continuation of credit guarantees made by the United States has violated the decision early in 2005. The United States again appealed to Appellate Body, and once again the Appeals Board supported the findings of the compliance panel against the US.

So far, there are 3 reports that have been released by Appellate Body WTO, and following this matter, Brazil again filed a request to review the countermeasures process for violations committed by the United States, namely export credit guarantee and step 2 payments. Initially, Brazil implemented a $3 billion annual cross-cutting effort, but was later reduced to $1.155 billion, against a prohibited US subsidy, in line with estimates of the rate of profit lost to cotton exporters as a result of the United States policies. And also, Brazil asked for $350 million as a one-time award for the losses they experienced during the United States step-by-step payments. Thereafter, Brazil also filed retaliation measures of $1,037 billion for actionable subsidies. The proposals submitted by Brazil were discussed in the WTO Arbitration Panel until August 2009. The decisions issued in this discussion stated that the Panel approved Brazil's submission of retaliation measures, but in the case of its step 2 payments, the Panel has not been able to approve a one-time award of $350 million as the United States has eliminated its step 2 payments policy in 2006, in line with its commitment to Appellate Body recommendations.

However, as noted in the cross-retaliation authorization proposed by Brazil, the country will not only do countermeasures on agricultural goods, but also medical, electronic, and transportation. It also includes the termination of Brazil's obligations against WTO agreements on intellectual property and services with respect to US patents and copyrights, as well as the termination of tariff concessions to the United States. The arbitration panel also stipulates the total number of annual counts allowed in Brazil-America cotton disputes United as a

125 Ibid.
126 Ibid.
128 Ibid.
form of retaliation by Brazil of $294.7 million for 2006 ($147.4 million against prohibited subsidies and $147.3 million on actionable subsidies). This assessed panel has been commensurate with the losses suffered by Brazil in its cotton sector, during the period the United States carries out its subsidy programs. This decision is declared final and cannot be appealed by the United States.

With the ongoing arbitration process in the WTO trial, the United States continues to exercise the remainder of its agricultural support program against its people that made Brazil take cross-sector retaliatory measures against 102 American products in March 2010, including the termination of its WTO obligations against US patents and copyright to medicine and medical technology.\textsuperscript{129} Reacting to this, in April 2010, instead of removing cotton subsidies, US representatives met with Brazil to negotiate their dispute settlement without WTO mediation and to prevent Brazil’s retaliation. Agreements resulting from the Memorandum of Understanding and Mutually Agreed Solution, which restricted United States support to cotton producers to levels below the annual average from 1999 to 2005, were particularly distinguished by the provision of annual funds for $147.3 million for the purpose make monthly payments to the Brazilian government with explicit intent to keep Brazil from retaliating.\textsuperscript{130}

Subsequently, at a meeting of both parties in Dispute Settlement Body on October 23, 2012, the Farm Bill 2008 by the United States has expired and there is no substitute law as its successor.\textsuperscript{131} But even so, the United States has not changed its agricultural support program, so Brazil decides to continue running the Memorandum of Understanding and the Framework Agreement and will not propose any countermeasures at this time. On October 16, 2014, Brazil and the United States notified the Dispute Settlement Body that, according to Article 3.6 of the Dispute Settlement Understanding, they had concluded a Memorandum of Understanding, and agreed that the dispute was over.\textsuperscript{132} Consequently, no

\textsuperscript{131} Ibid.
\textsuperscript{132} Ibid.
termination of any concessions or other obligations under the authorization previously granted by the DSB shall be applied and no further action shall be taken under Section 21.5 DSU based on disagreement regarding the existence or consistency of any action taken to comply with DSB recommendations and decisions.\footnote{WTO | dispute settlement - the disputes - DS267. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds267_e.htm} Basically, the two parties have reached a final decision with the approval of a US $ 300 million payment of the United States as a form of compensation paid to the Brazilian Cotton Institute.

**IV.2. The Overview of WTO**

World Trade Organizations is an international organization that deals with issues of international trade between countries. This organization has been recognized almost all countries in the world and has a solid law that most likely obeyed by its member states. Within the WTO, there are systematic structures and devices, each addressing international trade conflicts with specific sectors. The organization has a headquarter office, located in Geneva, Switzerland, with a total membership of 164 countries by July 29, 2016.\footnote{WTO | About the organization. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/thewto_e.htm} This organization was formed under The Uruguay Round negotiations, which took place from 1986 to 1994.\footnote{Ibid.} The organization has a budget of 197 million Swiss francs as of the year of 2016.\footnote{Ibid.} The WTO Secretariat has a staff of approximately 628 people with Roberto Azevêdo as its Head Director General. World Trade Organizations have several functions, such as administering WTO trade agreements, forum for trade negotiations, handling trade disputes, monitoring national trade policies, technical assistance and training for developing countries, cooperation with other international organizations.\footnote{Ibid.}
IV.2.1. The Establishment of WTO

After the 2nd World War ended, the countries began to feel the losses gained from the swelling of expenditures for war. United States, England, Argentina, and 44 other countries agreed to hold a meeting called Bretton Woods. The meeting was held from 1 to 22 July 1944, which resulted in 3 agreements. The first is the establishment of the International Monetary Fund (IMF), which is in charge of monetary issues, the second is the establishment of the International Trade Organization (ITO), which is responsible for addressing world trade issues, and the establishment of International Bank for Reconstruction and Development (IBRD) aimed to solve issues related with states reconstruction.

The meeting attended by 730 delegates from all around the world, with the aim of establishing the foreign rate exchange system main that could prevent future devaluation, and to encourage economic improvement after the 2nd World War ended. This meeting is prepared within two years. The primary designers of the system were John Maynard Keynes, from the United Kingdom, and Harry Dexter White, the chief international economist of the Treasury Department. Keynes’ plan was to establish a global central bank called the Clearing Union. White’s plan limited the powers and resources of each country. In the end, the adopted plan took ideals from both, leaning more toward White’s plan.

Being unexpected, the agreement leads to the decision in making gold as the official currency benchmark, while the US dollar is the 2nd benchmark of the

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139 Ibid.
142 Ibid.
reserve currency. Reacting to this decision, the United States stated that they disagree with the result and declared withdrawal from this deal that caused Bretton Woods to be dissolved. At that time, President Richard Nixon allowed the exchange of any currency, except gold. This has led to flooding of foreign currencies by foreign governments resulting in the destruction of the Bretton Woods deal.

After the end of the world war, there are some countries that still have the capital and raw resources to produce into goods, which can save them from the fatal losses of the war. However, other countries that do not have the capital and raw materials to produce are forced to meet their needs by importing goods from another countries. This is increasingly detrimental to these countries, because their domestic market will get worse. Therefore, as a rescue effort to their domestic market, the state tends to impose import duty tariff on imported goods, which causes the price of the goods to rise so that it will decrease consumer interest. This phenomenon has created a reciprocal effect on world trade and made the flow of trade unstable.

World trade is getting worse due to the ego of countries that want to protect their respective domestic markets, so at that time there were many bilateral cooperation relations between countries to discuss the cost of import duty tariffs between related goods. In a small scope, this will benefit the two countries involved in the agreement. However, when it is viewed from a wider scope, this phenomenon will harm the world trading system because the price of a commodity sold to one country with another country will be different, depending on the bargaining power of each country in discussing the sale and purchase of commodity goods. This trade conflict started the idea of the establishment of the International Trade Organization. In essence, the organization was formed to regulate the flow of trade in a systematic and orderly manner so that there is no difference in commodity prices sold by one country to another from the bilateral

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145 Ibid.
agreement as described earlier. This organization is considered effective because it will facilitate the countries in trading. Also, tariff of each goods will apply the same for each country, which gives fair and flat effect.

The establishment of ITO was initiated by the United States, with the aim of liberating the world trade system, coordinating trade policies of the countries of the world, reducing monopoly tactics, and expanding as well as generalizing the prices of commodities in the world.\textsuperscript{146} The initiative was welcomed by the Economic and Social Council of the United Nations special body called ECOSOC, which at that time was formed shortly after the United Nations was formed, which was in 1945.\textsuperscript{147} The councils in the UN at that time were in charge of holding conferences to discuss important issues are concerning, trade is one of them. ECOSOC strongly welcomes the idea of establishing an organization that organizes the flow of international trade. This initiated the formation of the General Agreement on Tariffs and Trade (GATT), which is the ancestor of the World Trade Organization (WTO).

GATT at that time was still a multilateral agreement between countries in the world in handling international trade problems. GATT formation occurred due to ITO's Bretton Woods discussion and the continuation of that discussion process about ITO in Havana Charter.\textsuperscript{148} The first GATT is called GATT 1947, which is not yet an organization, but a collection of inter-state agreements in determining tariff issues, as well as protection clauses for the tariff.\textsuperscript{149} Havana Charter contains a charter of international trade organizations and was formed in 1948 in Havana. Beginning with meetings in Geneva from April to November 1947, which essentially formulated the ITO charter to the participating countries of the Havana conference held in 1948. In this charter, it was formulated on the importance of tariff issues that are increasingly concerning within the international trade. In the

\textsuperscript{147} Ibid.
\textsuperscript{149} Ibid.
end, Havana Charter was inaugurated with the signing by 53 countries.\textsuperscript{150} The formulation of International Trade Organization through the Havana Charter was eventually failed, caused by the United States Congress who disagrees with the reason of worrying that their authority will be reduced in the process of policy determination. After this failure, the GATT, which was originally only an agreement vessel, turned into an important role as a pivot that holds the foundation in regulating international trade procedures.\textsuperscript{151}

The holding of the Havana Charter on 21 November 1947 to 24 March 1948 stated in article 103 that this Charter only regulates the Charter’s as well as its membership issue, therefore the ITO here does not have sufficient strength. Due to the failure of its ratification process and many countries encouraged the formation of the organizations that have to contain a solid mechanism about the implementation of tariffs policy, GATT was established.\textsuperscript{152} From 1947 to 1986 there were many agreements on international trade relations consisting of eight rounds, which are: \textsuperscript{153}

1. 1947 in Geneva which resulted in tariff reduction decisions and followed by 23 countries.
2. 1949 in Annecy (Paris) which resulted in tariff reductions and followed by 13 countries.
3. 1951 in Torquay (England) resulting in tariff reductions and followed by 38 countries.
4. 1956 in Geneva resulting in tariff reductions followed by 26 countries.
5. 1960 - 1961 in Geneva, resulting in tariff reductions and followed by 26 countries (this round is called The Dilon Round).

\textsuperscript{150} WTO | Understanding the WTO - The GATT years: from Havana to Marrakesh. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm
\textsuperscript{151} Ibid.
\textsuperscript{152} Ibid.
\textsuperscript{153} WTO | Understanding the WTO - The Uruguay Round. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm
6. 1964-1967 in Geneva resulting in tariff reduction, anti-dumping measures, as well as negotiating the GATT regulations, followed by 62 countries (this round is called The Kennedy Round).

7. 1973-1979 in Geneva resulting in 35% and 5-8% average tariff reductions among developed countries (this round is called The Tokyo Round).

8. 1986-1994 in Geneva, in this round there was an extension of decisions that included restrictions on agricultural subsidies, services, intellectual property rights, dispute settlements and WTO (this round is called The Uruguay Round).

The Uruguay Round can be considered as the most successful agreement among all, because in just 2 years, the participants have agreed to cut the import duty on goods from developing countries and dispute resolution. Members have also agreed to provide regular reports on their trade policies. This is regarded as one of the major steps towards the transparency of the world trade system.\textsuperscript{154} Uruguay Round is the one that started the formation of WTO.

During the years 1947 - 1986 there are 8 rounds as described above and in the Uruguay Round that was held in Morocco in 1986, the World Trade Organizations (WTO) was formed. ITO is the forerunner to the establishment of the WTO, because although ITO legally never existed and The Havana Charter also does not have binding power, but however due to the legal vacuum that makes ITO not yet have solid rules, the countries agreed to fill the legal vacuum by making GATT agreement, where tariff is an important and urgent issue that must be addressed immediately. Then the GATT rounds are also a way of negotiating from countries to regulate trade so that in one round of international trade organizations, it is deemed to be more accommodating of trade matters. Thus WTO was born.

\textsuperscript{154} WTO | Understanding the WTO - The Uruguay Round. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact5_e.htm
IV.2.2. The Principles of WTO

1. Trade Without Discrimination

There are two categories in the trade without discrimination section, which are the most favored nation (MFN) and national treatment.

1. Most Favoured Nation (MFN)

Under the rules of the WTO, all of its member countries are treated equally, if one of the countries receives assistance such as the reduction of customs or others, then other countries should be granted the same assistance. This principle is very important, considering that it is in almost all WTO rules, as the example lies in article 2 of the General Agreement on Trade in Services (GATS) and Article 4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). However, in certain cases a country may increase the trade limit with other countries if it is deemed unfair, and a country may provide greater access to its trade sector to a more demanding country, such as a developing country. MFN allow these things to happen, but with strict requirements and supervision. In the MFN, if a country makes an exemption in its trading system, the country shall enforce the exemption on all its trading partners.

2. National Treatment

National treatment is a WTO principle whose core is treating foreigners and locals equally. This principle basically applies within the country itself, where after the foreign goods enter, the country must treat the local goods with foreign goods equally and fairly. This should also apply to patents, services, and foreign and local trademarks. This principle is also one of the most important principles
in the WTO, since this principle is found in some core rules of the WTO, as in article 3 of GATT, article 17 of GATS and article 3 of TRIPS.  

However, this principle applies only after foreign products enter the country's market, so the application of customs to foreign goods is not measured as a violation of the principle of national treatment.

2. Freer trade
In an effort to create a freer trade so as to bring maximum profits to all the countries involved, the decline in international trade barriers such as customs can be seen as the most conducive solution for now. As mentioned earlier, GATT consists of 8 rounds, but there is an ongoing ninth round of the Doha Round. In the Doha Round Agenda, the decision on the decline of the industrial tariff rate on industrial goods became less than 4%. In accordance with the progressive context of liberalization, changes to more open world trade can be profitable, but the countries involved need to adapt and adapt, particularly to developing countries.

3. Predictability
In the WTO, if a country establishes a commitment to open the goods and services market, the commitment is binding which will be channeled to the customs tariff. If the country wishes to change its bindings, it should be discussed against the state of its business partner, to avoid possible losses to the countries involved. In this case, the principle of predictability becomes important. The principle of predictability was created to create stability in the multilateral trading system. This can be achieved by reducing quotas as a form of decreasing the customs and imports of goods that can maximize the benefit for the parties concerned. According to the rules, each country must report its policies to the WTO, so that any precautions action can be made to avoid possible trade

157 Ibid.
158 Ibid.
conflicts. The regular surveillance of national trade policies through the Trade Policy Review Mechanism provides a further means of encouraging transparency both domestically and at the multilateral level.\textsuperscript{159}

4. Promoting Fair Competition

The WTO is sometimes described as a “free trade” institution, but that is not entirely accurate.\textsuperscript{160} However, it cannot be denied that by coming to a more free trade, there will be competition between countries that can enable conflicts in the future. Thus, the WTO enacts certain rules to avoid such conflicts, such as the enforcement of tariffs and other special safeguards. In essence, the WTO makes the principle of this rule to accommodate fair and open trade competition. The above-mentioned non-discrimination principle, which consists of the Most Favored Nation and the National Treatment, is a form of WTO effort to support fair and transparent trade conditions. In spite of that, many efforts have been made by the WTO to promote fair and open trade for its member states.

5. Encouraging Development and Economic Reform

One of the goals of the WTO is to promote economic conditions and development of its member countries. WTO members are mostly developing countries, and these countries have made progress during joining the WTO, due to the direction of trade that is shifting to the market economy. After the Uruguay Round, more than 60 countries have independently implemented trade liberalization programs. Today, these countries are becoming more active in terms of economy and development, thus affecting the decisions to be taken in the ongoing Doha round. In Uruguay's round, the developed countries gave several conditions of obligation to developing countries. Conditions of obligation

\textsuperscript{159} WTO | Understanding the WTO - principles of the trading system. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm

\textsuperscript{160} Ibid.
that makes developing countries experience a period of transition to WTO rules and also rules of developed countries. A ministerial decision adopted at the end of the round says better-off countries should accelerate implementing market access commitments on goods exported by the least-developed countries, and it seeks increased technical assistance for them.\footnote{WTO | Understanding the WTO - principles of the trading system. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm} And also, in the present, developed countries have imposed duty-free systems that facilitate the entry of imported goods to developing countries. This phenomenon is an example of global economic trade progress, and the future is expected to continue to improve.

### IV.2.3. The Structure of WTO

As a solid international organization and recognized by its member states, WTO is regarded as an arbitrator for the trade conflicts that occurred. This organization regulates the trade system according to the rules they have adopted from GATT. All member states shall comply with the WTO rules according to the consequences they have agreed upon when registering. WTO have a strong and binding legal device, one of them is the Dispute Settlement Understanding (DSU), its purpose is to maintain the trade flow between countries and the organ in charge in this device is called the Dispute Settlement Body (DSB). DSB obliged to respond and follow up the conflicts that occur between member states.\footnote{WTO | Dispute settlement gateway. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm}

The highest decision-making body in the WTO is the Ministerial Conferences which usually being held once every two years.\footnote{WTO | Ministerial conferences. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/minist_e/minist_e.htm} Decision-making in the WTO is generally done by consensus by all member countries. Among the Ministerial Conferences, WTO's decision - making activities are being undertaken by the General Council. Underneath there are subsidiary bodies including
councils, committees, and sub-committees assigned to exercise and oversee the application of WTO agreement by member States.\textsuperscript{164} To be more precise, within the Ministerial Conferences, there are bodies in charge of its activities, which are General Council, Dispute Settlement Body whose role will be discussed further in overcoming cotton dispute, and Trade Policy Review Body. The General Council has representatives (usually ambassadors or equivalent) from all member governments and has the authority to act on behalf of the ministerial conference, which only meets about every two years.\textsuperscript{165}

The Dispute Settlement Body has authority to establish dispute settlement panels, refer matters to arbitration, adopt panel, Appellate Body and arbitration reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.\textsuperscript{166} Trade Policy Review Body is tasked with supervising national trade policy, which is one of the fundamental activities in WTO.\textsuperscript{167} Containing the WTO’s members, the Trade Policy Review Body operates under special rules and procedures and the reviews are therefore essentially peer-group assessments, although much of the factual leg work is done by the WTO Secretariat.\textsuperscript{168} Being on the third level, there are more specific councils addressing trade issues in more particular scene, which are The Council for Trade in Goods (Goods Council), The Council for Trade in Services (Services Council), and The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council).\textsuperscript{169} These councils are still required to report to the general council.

\textsuperscript{166} WTO | Dispute settlement gateway. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/dispu_body_e.htm
\textsuperscript{168} Ibid.
\textsuperscript{169} WTO | Understanding the WTO - Whose WTO is it anyway? (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm#ministerial
Figure 4.5 WTO Organization Chart

Ministerial Conference

General Council meeting as Dispute Settlement Body

Appellate Body
Dispute Settlement panels

General Council

General Council meeting as Trade Policy Review Body

Committees on
Trade and Environment
Trade and Development
Subcommittee on Least-Developed Countries
Regional Trade Agreements
Balance of Payments
Restrictions
Budget, Finance and Administration

Working parties on
Accession

Working groups on
Trade, debt and finance
Trade and technology
transfer
(Inactive:
(Relationship between
Trade and Investment
(Interaction between
Trade and Competition
Policy
(Transparency in
Government Procurement)

Committees on
Market Access
Agriculture
Sanitary and Phytosanitary
Measures
Technical Barriers to Trade
Subsidies and Countervailing
Measures
Anti-Dumping Practices
Customs Valuation
Rules of Origin
Import Licensing
Trade-Related Investment
Measures
Safeguards

Working party on
State-Trading Enterprises

Committees on
Trade in Goods
Council for
Trade-Related Aspects
of Intellectual Property Rights
Council for
Trade in Services

Committees on
Trade in Financial Services
Specific Commitments

Working parties on
Domestic Regulation
GATS Rules

Plurilaterals
Trade in Civil Aircraft Committee
Government Procurement Committee

Doha Development Agenda:
TNC and its bodies

Trade Negotiations Committee

Special Sessions of
Services Council / TRIPS Council / Dispute Settlement
Body / Agriculture Committee and Cotton Sub-
Committee / Trade and Development Committee / Trade
and Environment Committee

Negotiating groups on
Market Access / Rules / Trade Facilitation

Key

- Reporting to General Council (or a subsidiary)
- Reporting to Dispute Settlement Body
- Plurilateral committees inform the General Council or Goods Council of their activities, although these agreements are not signed by all WTO members
- Trade Negotiations Committee reports to General Council

The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body
IV.2.4. Settling Disputes in WTO

The more open and free phenomenon of international trade brings many advantages to the countries that do so, but it is undeniable that there will be conflicts and disputes between them. Within the WTO, there is a structured and systematic regulation established on the Uruguay round, which regulates disputes occurring among its member countries. At the beginning of the WTO, its member states have agreed if any party or country violates the rules, it will be sanctioned and first discussed multilaterally, and the decision is taken by deliberation, not taking action unilaterally. Conflict usually arises when there is one of the countries that make trade policy or engage with other countries that violate the rules that have been made by the WTO. The country is said to have failed to fulfill its obligation as a member country of the WTO.

The rules on settling disputes were originally created at the time of GATT, but being quite not binding and solid, so it was considered to be less disciplined and effective. But with the rules for settling disputes that was made at the time of Uruguay round, settling disputes become faster because this rule is considered more disciplined. This rule is more systematic and structured, making it easier to understand and obeyed by its member states. If a dispute case runs its full course to a first ruling, it should not normally take more than about one year until 15 months if the case is appealed.\(^\text{170}\) The deadline for completing disputes is fairly flexible, but when it comes to perishable goods, the case will be accelerated.

The Uruguay Round agreement also made it impossible for the country losing a case to block the adoption of the ruling.\(^\text{171}\) In the preceding rules of GATT, a country may lose if one of the parties disagrees with the decision made, because the decision is adopted by consensus. Now, rulings are automatically adopted unless there is a consensus to reject a ruling, any country wanting to block a ruling has to persuade all other WTO members (including its adversary in


\(^\text{171}\) Ibid.
the case) to share its view. The way the conflicts resolved in the WTO are quite similar to the courts in general, but the settlement in the WTO is more subtle and familial. A conflicting country will be offered consultation and mediation with the conflicting country, and if both cannot correct its conflict, it will be processed to a WTO court.

Figure 4.6 Timeline of The Dispute Settlement

| These approximate periods for each stage of a dispute settlement procedure are target figures — the agreement is flexible. In addition, the countries can settle their dispute themselves at any stage. Totals are also approximate. |
|---|---|
| 60 days | Consultations, mediation, etc |
| 45 days | Panel set up and panellists appointed |
| 6 months | Final panel report to parties |
| 3 weeks | Final panel report to WTO members |
| 60 days | Dispute Settlement Body adopts report (if no appeal) |
| **Total = 1 year** | **(without appeal)** |
| 60-90 days | Appeals report |
| 30 days | Dispute Settlement Body adopts appeals report |
| **Total = 1y 3m** | **(with appeal)** |

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The Dispute Settlement Body is a device that has the authority to form a panel, which will process the dispute submitted by the country concerned. The panel formed consists of experts who understand the dispute sector that occurs. The Dispute Settlement Body also has the authority to accept or not receive panel findings or appeals from cases. It is also obliged to monitor the course of the dispute process and have the authority to retaliate if the country is found to have violated the applicable rules. Before the panel is established, there are 2 stages that must be passed by a country to bring the dispute to the WTO court. The two stages are: 1\textsuperscript{73}

1. First Stage: This stage contains consultation, which lasts up to 60 days from the case issued. If a country has a dispute with another country, the WTO will advise consultation between the two parties involved in the dispute, to allow for a settlement of differences before the case is brought to justice. If this does not work, help from the WTO director-general will be provided, with the aim of helping to mediate the dispute case.

2. Second Stage: This stage contains the implementation of panel formation, which takes up to 45 days, with 6 months for the panel to conclude. If stage 1, which contains consultation, has been made and turned out fail, then the country that filed the claim may form a panel. The state party charged can block the creation of panels, but only once. If the Dispute Settlement Body has met for the second time with the country that filed a lawsuit, then the state may not be able to block the formation of panels. But there are exceptions to this, if consensus disagrees with the formation of panels, the panel will not be established, and the case will be far different from expected.

If the disputes have passed through stages one and two, then the case will be brought to the WTO court. The process in court is not as easy and as short as expected. There are several processes and stages that must be passed. These stages are: 1\textsuperscript{74}


\textsuperscript{74} Ibid.
1. Before the first hearing: each side in the dispute presents its case in writing to the panel.

2. First hearing: the case for the complaining country and defense: the complaining country (or countries), the responding country, and those that have announced they have an interest in the dispute, make their case at the panel’s first hearing.

3. Rebuttals: the countries involved submit written rebuttals and present oral arguments at the panel’s second meeting.

4. Experts: if one side raises scientific or other technical matters, the panel may consult experts or appoint an expert review group to prepare an advisory report.

5. First draft: the panel submits the descriptive (factual and argument) sections of its report to the two sides, giving them two weeks to comment. This report does not include findings and conclusions.

6. Interim report: The panel then submits an interim report, including its findings and conclusions, to the two sides, giving them one week to ask for a review.

7. Review: The period of review must not exceed two weeks. During that time, the panel may hold additional meetings with the two sides.

8. Final report: A final report is submitted to the two sides and three weeks later, it is circulated to all WTO members. If the panel declares that the country charged is claimed to have violated the WTO rules and its policies is proven guilty, the panel will recommend the country to immediately correct the policy.

9. The report becomes a ruling: The report becomes the Dispute Settlement Body’s ruling or recommendation within 60 days unless a consensus rejects it. Both sides can appeal the report (and in some cases both sides do).
CHAPTER V

THE ROLE OF WTO AS ARBITRATOR IN RESOLVING THE COTTON DISPUTE BETWEEN BRAZIL AND THE UNITED STATES

V.1. Overview

As one of the most recognized international organizations in the world, the WTO is a platform where trade issues are discussed and resolved. There are stages and processes in resolving these issues, as well as parties that involved in the trade conflict, and also, there are some countries that generally act as third parties. This organization has binding rules that have a decisive effect on its member states. This has a good impact, because it can play a role in making order in the world trade order. There are many ways to define this organization, because this organization plays a role in many sectors in world trade, and has a broad and global effect.

Basically, WTO is an organization for trade opening. It is a forum for governments to negotiate trade agreements. It is a place for them to settle trade disputes. It operates a system of trade rules. Essentially, the WTO is a place where member governments try to sort out the trade problems they face with each other. In this chapter, it will be discussed more about the WTO roles in processing and resolving its trade issues. In this case, the author takes the case of Cotton Dispute experienced by Brazil and the United States. Also, the WTO roles will be described in accordance with the timeline when the Cotton Dispute was being processed.

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175 WTO | About the organization. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/thewto_e.htm
V.2. Actors Involved in Resolving the Cotton Dispute between Brazil and the United States

V.2.1. Brazil

In the case of cotton dispute occurring between Brazil and the United States completed in 2014, Brazil acts as a complainant.\textsuperscript{176} The first lawsuit was filed by Pedro de Camargo who acted as Secretary of Production and Trade of the Ministry of Agriculture with a term of office from 2000 to 2002. In this regard, Brazil was very firmly voiced their opinion and explained in detail all the infringements committed by the United States in implicating its cotton policy. Brazil is aware of the violations made by the United States when they take into account the level of subsidy granted by the US in 1998 to 2001 that has exceeded the level of its 1992 marketing year.\textsuperscript{177} This is what makes Brazil confident in prosecuting the United States and bringing the case to the WTO’s court.

V.2.2. The United States

United States acts as a party that is claimed or can be called as a respondent.\textsuperscript{178} In this case, the United States has acted obediently and remains following the path of its WTO trial. But in the process, the United States had proposed some appeals, which in the end remains rejected so that the United States was still charged with sanctions in accordance with written rules. Due to the numerous offenses committed in implicating its cotton policy the United States has been heavily criticized by other countries, and Brazil is a country that dares to set up cases and put them in the lawsuit, which then submitted to the WTO panel.


\textsuperscript{177} Ibid.

\textsuperscript{178} Ibid.
V.2.3. WTO

In this case, the WTO has many roles in resolving cotton disputes between Brazil and the United States. For more details it will be discussed in the next section. In essence, the panel within the WTO has performed its duties in accordance with the written rules contained in the Uruguay Agreement adopted from GATT.\textsuperscript{179} The WTO has solid and binding rules that can serve as a benchmark for countries that want to resolve their trade conflicts with other countries. Various court proceedings take quite a long time, because the panel needs to conduct a thorough investigation of the charges filed with the United States, and measure how much the offense has been committed. However, with the help of the WTO and the relevant parties, Brazil succeeded in winning the case and was compensated for the losses they experienced during the period the United States undertook its cotton policy.\textsuperscript{180}

V.2.4. Third-party Countries

In addition to Brazil, the United States and the WTO, there are parties involved as third parties. The function of a third party is to monitor the course of the proceedings and make sure whether the parties involved have performed their duties properly and fairly in accordance with existing regulations.\textsuperscript{181} In the case of cotton dispute, the third parties involved are Argentina, Australia, Benin, Canada, Chad, China, Chinese Taipei, European Communities, India, New Zealand, Pakistan, Paraguay, Bolivarian Republic of Venezuela, Japan, and Thailand.\textsuperscript{182} In the case dispute resolution process in the WTO, third parties play an important

\textsuperscript{179}WTO | Dispute settlement gateway. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/dispu_body_e.htm
\textsuperscript{181}WTO | Disputes - Dispute Settlement CBT - Participation in dispute settlement proceedings - Parties and third parties and principle of confidentiality - Page 1. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c9s1p1_e.htm
role in making decisions as they also participate in the consultation process, panel discussions and appellate stage.\textsuperscript{183}

V.3. The Role of WTO as Arbitrator in Resolving the Cotton Dispute between Brazil and the United States

In a technologically advanced and progressive world like now, countries are increasingly working together on many sectors and usually create partnerships, but this phenomenon can lead to the creation of more complicated conflicts between them. The WTO is an organization that specifically helps these countries in resolving conflicts, especially in the trade sector. If we look back to the past, where there were no written rules on the world order, the conflicting countries found it difficult to cope with it. But now, with organizations like the WTO that hold solid rules, it can be a platform to resolve those conflicts. Basically, before World War II, there was no container for international trade negotiations, and there was no official legal procedure for processing conflicts between countries.\textsuperscript{184} However, after the WTO, which is an organization entrusted with trade rules, conflicted countries may find it helpful, and the tensions between them can be reduced and eventually the conflict can be resolved.\textsuperscript{185}

The fact that disputes are based on WTO agreements means there is a clear basis for judging, who is right or wrong.\textsuperscript{186} And if the dispute has been resolved by the WTO, decisions issued on the basis of an already-existing conflict may serve as a new benchmark and rule for future conflicts. The increasing number of conflicts in the world does not reflect the increasing tension of countries in the world, but shows that the economic cooperation between these countries is growing closer and progressive. Given the claims made by these countries against the WTO, it shows that they believe in the WTO as an international organization.

\textsuperscript{183} WTO | Disputes - Dispute Settlement CBT - Participation in dispute settlement proceedings - Parties and third parties and principle of confidentiality - Page 1. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c9s1p1_e.htm
\textsuperscript{184} WTO | settle disputes and reduce trade tensions. (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi02_e.htm
\textsuperscript{185} Ibid.
\textsuperscript{186} Ibid.
that contains the rules of a solid trading system. In the process, sometimes conflict-affected countries may experience tension between one another, such as what happened to Brazil and the United States in its cotton case, but both sides continue to adapt to the commitments they have made in the negotiations, and comply with the rules stated in the WTO.

V.3.1. WTO as Arbitrator

In the case of cotton experienced by Brazil and the United States, the WTO is an actor who acts as a mediator. In the case of trade or other sectors, countries usually ask for help to other countries or organizations to help resolve their conflicts. International mediation is an emerging phenomenon as countries begin to experience conflict. International mediation is an attempt to resolve disputes between countries.\(^{187}\) It operates on the same principle of dispute resolution as applicable to disputes between individuals. This is a way to give the parties control over the settlement of their differences with objective guidance in a neutral atmosphere.\(^{188}\) Many countries use international mediation to resolve disputes on various issues.

The World Trade Organization (WTO) has developed its own dispute resolution system.\(^{189}\) The WTO is actively involved in resolving many trade disputes, including the case of cotton between Brazil and the United States. In the process of international mediation, countries usually send representatives to discuss with each other, with the supervision of the mediator. Sometimes in international mediation, there is a rigid state and tend to use its power to defend their principles. Also, the problems that can be found in the international mediation process are the limitations of language and cultural differences that can


\(^{188}\) Ibid.

create dissent.\textsuperscript{190} If such an issue arises, further and deeper learning is required of the dispute being negotiated.

The WTO also describes their role as contained in articles 5.1, 5.5 and 5.6 in the Uruguay Agreement, which form the basis of the WTO's establishment. In article 5.1 it is stated that good offices, conciliation and mediation are procedures that are undertaken voluntarily if the parties to the dispute so agree.\textsuperscript{191} Whereas in article 5.5 it is stated that if the parties to a dispute agree, procedures for good offices, conciliation or mediation may proceed while the panel process proceeds.\textsuperscript{192} And finally, in article 5.6 it states that The Director-General may, acting in an ex officio capacity, offer good offices, conciliation or mediation with the view to assisting Members to settle a dispute.\textsuperscript{193} Essentially these articles make it clear that the WTO provides mediation facilities to the countries that ask for its conflicts, and with the consent of both parties, the WTO can assist the conflict by acting as mediator.

From October 2002 to January 2003, Brazil and the United States held consultations with the WTO three times and the consultations ended in failure. In essence, the consultations discussed Brazil's proposed claims as well as the domestic support program policy by the United States.\textsuperscript{194} The WTO also gave time to Brazil and the United States to resolve their own conflicts, without the WTO assistance. However, after three failed consultations, Brazil decided to file its lawsuit against the United States to the WTO. In this process, the WTO's role stands out as a mediator. Serving as the temporary third party, the WTO reviewed the case of this cotton in depth and listened to the opinions of each party, namely Brazil and the United States. And in accordance with article 5.1 of the Uruguay agreement stating that good offices, conciliation and mediation are undertaken

\textsuperscript{191} WTO | legal texts - Marrakesh Agreement. (n.d.). Retrieved from https://www.wto.org/english/docs_e/legal_e/28-dsu_e.htm#5
\textsuperscript{192} Ibid.
\textsuperscript{193} Ibid.
voluntarily if the parties to the dispute so agree, are clearly reflected in the discussion process between the WTO, Brazil and the United States.\textsuperscript{195}

As we know, the notion of arbitration is the use of a person or an actor to assist in the settlement of a dispute, so it can be concluded that the notion of the arbitrator is one who is appointed to assist in the settlement of a dispute. In the case of cotton between Brazil and the United States, the WTO acts as its arbitrator. According to article 21.3 of the DSU provides that a Member found to be in violation of its WTO obligations must comply with the rulings and recommendations of the Dispute Settlement Body (DSB) immediately.\textsuperscript{196} When immediate compliance is impracticable, however, the Member shall have a “reasonable period of time” to implement the DSB’s rulings and recommendations. The “reasonable period of time” may be “the period of time proposed by the Member concerned, provided that such period is approved by the DSB” or “a period of time mutually agreed by the parties to the dispute”.\textsuperscript{197} If neither of these matters is applicable in the case, there is a recommendation as stated in article 21.3, which basically states the determination of through binding arbitration.\textsuperscript{198} In this statement, it is clearly reflected on the role of the WTO as an arbitrator for cases occurring against its member states.

On March 18, 2003, Brazil made a second request to the WTO to create a panel that would address the cotton case and the request was approved.\textsuperscript{199} From Brazil's request to the WTO to create a panel that can resolve its dispute, it reflects the role of the WTO as an arbitrator, as Brazil has entrusted the WTO to assist it and run its process in accordance with the prevailing rules. In accordance with article 21.3, it is explained that arbitrators are selected by the parties to the arbitration, or if they cannot agree on an arbitrator, the Director-General appoints

\textsuperscript{197} Ibid.
\textsuperscript{198} Ibid.
the arbitrator.\textsuperscript{200} This statement is suitable to what Brazil did in filing a lawsuit against the WTO and asked the WTO to create a panel that can assist in overcoming its cotton case with the United States. Basically, since the panel was formed, the WTO has been acting as an arbitrator until the cotton case is resolved. The various processes that took place in the courts were under the supervision of the WTO appointed as arbitrators, the matter of appointment of WTO as the arbitrator has also been approved by all parties involved in the conflict, namely Brazil, the United States and other third party countries.

After all the trial process has been completed, the panel makes a final report which basically contains all proceeds of the court stages that have been passed, and this report will be shared with all concerned parties, in this case Brazil, the United States and the countries acting as third party.\textsuperscript{201} Some of the judicial processes that happened before the final report that will be made by the Panel are first hearing, rebuttals, first draft, interim report, and review.\textsuperscript{202} At this stage, it shows that the WTO acts as a decision maker because they are the one who make the final report based on a thorough review in the course of litigation from beginning until the end, which is of course under the WTO supervision as well. Final Report is a benchmark in decision-making process, which eventually decide whether the defendant country in the conflict is guilty or not. In decision-making, the WTO remain acting as an arbitrator, which they keep supervising the decision-making process as well.

It is stated in the WTO procedure that the final report made by the Panel shall be the Dispute Settlement Body's Ruling or Recommendation within 60 days unless a consensus rejects it. Both sides can appeal the report (and in some cases both sides do). On October 16, 2014, Brazil and the United States notified the Dispute Settlement Body that, in accordance with Article 3.6 of the DSU, they had concluded a Memorandum of Understanding, and agreed that the dispute was

\textsuperscript{201} WTO | What is the WTO? (n.d.). Retrieved from https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm
\textsuperscript{202} Ibid.
over. Consequently, no termination of any concessions or other obligations under the authorization previously granted by the DSB shall be applied and no further action shall be taken under Section 21.5 DSU based on disagreement regarding the existence or consistency of any action taken to comply with DSB recommendations and decisions.

Brazil and the United States made a Memorandum of Understanding after the WTO released its final report on the cotton case. The WTO has also proven and concluded that domestic support programs created by the United States have violated the rules and the United States was found guilty. This reflects that the WTO's decision is the foundation of the decisions issued by Brazil and the United States by creating a Memorandum of Understanding, which was subsequently approved by both of them, which become a sign of the completion of the dispute. Indirectly, the WTO has become a decision-maker because the decisions they have made became the benchmark of the final decision of the dispute. Indeed, the WTO's role is more prominent in the arbitration process, but if the WTO does not issue its final report, then Brazil cannot prove whether the United States is guilty or not, so there will be difficulties in making the final decision.

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204 Ibid.
205 Ibid.
206 Ibid.
V.4. The Result of WTO’s Participation in Resolving Cotton Dispute between Brazil and The United States of America

As a result of participation of the WTO in resolving the cotton dispute case between Brazil and the United States, on October 16, 2014 there was a signing of a Memorandum of Understanding (MOU) followed by one time payment from the United States to the Brazilian Cotton Institute for $300 million as a form of compensation. This has made the MoU a strong evidence of the WTO's role in resolving the case of cotton dispute between Brazil and US. The WTO as an international organization and platform for the world trade has shown its roles and effect to the maximum level so that the two countries can reach an agreement and resolve the conflict.

The MoU document between Brazil and the United States can be seen in the Appendix Section.
CHAPTER VI

CONCLUSION AND RECOMMENDATION

In the modern world that has advanced technology and continues to move forward, the countries also follow the flow of globalization so that the frequency of their development process is also increasing. This process also involves cooperation between countries in various sectors. However, over time, the existing cooperation generated many conflicts as well, due to the increasingly complicated issues. In this thesis, it is discussed about cotton dispute between Brazil and the United States. This case was being handled by the WTO, with the approval from the parties in involved, which are Brazil, United States, and third-party countries. The WTO plays an important role in this case, as the WTO acts as a watchdog against the proceedings of all proceedings and the WTO holds the rule that is the basis of the world trade system. Due to holding a solid rule, all parties involved in the case of cotton disputes agreed that the WTO acts as an arbitrator and it is proven that the WTO has succeeded in resolving the case.

If we take a look on the Cotton Dispute between Brazil and the United States that has been resolved, there is a chance that this kind of conflict might happen in the future. Cotton status as one of the most subsidized crops in the United States provides much evidence for the Brazil case to the WTO on the nature of prohibited subsidies. With this in mind, the variety of commodities covered by various programs can be a boost for future claims by other exporters against the US. The repeated decision to override Brazil's wishes in the case of cotton can signal similar decisions and settlements to prospective complainants. Although Brazil has approved payments from the United States as a substitute for enforcing its punitive measures, cotton issues remain and will surely be an issue in world trade conflicts.
As mentioned earlier, Brazil filed a lawsuit against domestic support programs created by the United States, and Brazil found that the programs had violated the rules of world trade. As a forum containing world trade rules, the WTO is being asked by Brazil to prove whether the United States is guilty or not. The WTO decided to create a panel to process the case and after passing through all applicable legal procedures and court proceedings, the United States was found guilty. After releasing its final report, Brazil and the United States as conflicted countries decided to create a Memorandum of Understanding and the United States agreed to pay US $ 300 million to the Brazilian Cotton Institute as a form of compensation to Brazil.

In accordance with what has been described above, it can be concluded that the WTO had a major impact on the course of the cotton case from beginning to end. Acting as arbitrator, the WTO has reflected its obligations as the organization that handles its trade dispute among member countries. WTO is a platform that can be used for countries in the world to discuss trade issues they are experiencing. There are many lessons that researcher think Brazil and the United States can learn from the case studies conducted. While countries are high actors in International Relations and act as higher levels in politics, they need to consider the existence of international organizations such as the WTO, which play a major role in resolving trade disputes experienced by countries in the world. The existence of the WTO will create regularity in the world trade order, which ultimately maximizes the function of the trade sector itself.
BIBLIOGRAPHY

Websites:


Lesson #1: Every farm bill is unique? the last one was a doozy. (n.d.). Retrieved from https://www.agri-pulse.com/articles/8894-lesson-1-every-farm-bill-is-unique-the-last-one-was-a-doozy


WTO | Agriculture - explanation of the agreement - other issues. (n.d.). Retrieved from https://www.wto.org/english/tratop_e/agric_e/ag_intro05_other_e.htm


Journals:


Books:
BINDSCHEDLER, R. L. (1983). INTERNATIONAL ORGANIZATIONS,
GENERAL ASPECTS. International Organizations in General Universal
International Organizations and Cooperation, 119-140.
doi:10.1016/b978-0-444-86236-5.50044-4
Case 180 - United States - Subsidies on Upland Cotton. (n.d.). Handbook of
WTO/GATT Dispute Settlement. doi:10.1163/2211-4386_rwwtogatt_wtogatt_cs180
Chapter Ten. From International Trade Organization to World Trade
doi:10.7312/tabb13154-010
Deese, D. A. (n.d.). Introduction: politics, trade, and the international political
economy. Handbook of the International Political Economy of Trade, 1-
24. doi:10.4337/9781781954997.00005
Reimagined, 371-382. doi:10.1093/acprof:oso/9780199988532.003.0017
and Taxation, 146-185. doi:10.1017/cbo9781107589421.008
Encyclopedia of Political Science. doi:10.4135/9781412959636.n392
APPENDICES