1 Introduction

The establishment of a formal organisational and institutional basis for the multilateral trading system signifies that the WTO has become the main forum for institutional developments in the field of international trade law. At the same time the WTO Agreement and the annexed Multilateral Trade Agreements provide a code of conduct for world trade in a larger normative framework than existed under the GATT and one which is noteworthy in a couple of respects.

First, there is a strong normative continuity between the former GATT and the current WTO, as evidenced by the results of the Uruguay Round, which build upon the normative structure of the GATT and the Tokyo Round Agreements, with revised and new agreements on sectoral issues and rules-based disciplines. This continuity is further endorsed by the GATT acquis,1 which is the body of principles, rules and standards, as embodied in various legal instruments, decisions and customary practices that were adopted by the CONTRACTING PARTIES under the GATT 1947 and bodies established in the framework of the GATT 1947.2 As the Appellate Body has stated in one of its earliest decisions:

1 The term acquis is coined from European Community law where it is understood as the patrimony or body of rules, principles, agreements, decisions, understandings, resolutions, positions, opinions, objectives and practices developed in the EC legal order; see A. Toth, Oxford Encyclopaedia of European Community Law (Oxford: Oxford University Press, 1990) Vol. I, 9. Cf. Gabrielle Marceau, ‘Transition from GATT to WTO. A most pragmatic operation’ (1995) 29 JWT 147-163 at 147, n. 1 thereof, who disputes the use of the term acquis as applied to the GATT in the wider European law sense of the word.
Article XVI:1 of the *WTO Agreement* and paragraph 1(b)(iv) of the language of Annex 1A incorporating the *GATT 1994* into the *WTO Agreement* bring the legal history and experience under the GATT 1947 into the new realm of the WTO in a way that ensures continuity and consistency in a smooth transition from the GATT 1947 system.³

Second, the WTO’s normative landscape has come to fulfil Wolfgang Friedman’s notion of the ‘horizontal’ and ‘vertical’ expansion of international law.⁴ The results of the Uruguay Round MTN are evidence of a horizontal expansion of international trade law not only through the increased number and variety of norms but also through a broadening of the scope and coverage of subject matter. Whereas the subject of the GATT 1947 was a multilateral regime for the reduction of tariffs and the development of a number of disciplines on trade in goods so as to protect the value of those tariff concessions, the Multilateral Trade Agreements go much further in adding new disciplines in the field of trade in goods, which include the gradual inclusion over time of trade sectors that were formally exempt from full GATT coverage (agriculture and textiles), in developing stricter disciplines on contingent protection measures (antidumping, subsidies and safeguards) and in introducing rules and disciplines where previously none existed (rules sanctioning the use of sanitary and phytosanitary measures, provided that they are administered on a non-discriminatory basis). In addition, for the first time in the history of the multilateral trading system the WTO adds rules on new subject matter (trade in services and trade-related intellectual property rights).⁵

There has also been a vertical expansion of international trade law because WTO rule-making now reaches more directly into the private conduct of natural

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