

















































































































Services trade on the other hand must encompass cross border, commercial presence, consumption abroad and movement of natural persons. GATS and SCM agreement should modify the current rules to accommodate services more effectively.

Over and above the Schedule of Commitments that the WTO requests from its members, the WTO should follow the *ex ante* approach like that of the EU Commission which would allow the proactive investigation of members' subsidies before they are put in place. The major challenge with this may be the time frame needed to effectively conduct such a process given a financial crisis and the need to act fast to save the financial system, but this would ensure that the subsidies that do get implemented are in accordance with the principles of the WTO. This would also take away the need for consultations between members over adverse effects and serious prejudice. Another recommendation could be that of creating a dispute settlement panel that focuses on the collection of information on subsidy practices and analyses them on behalf of aggrieved parties who would have less too costly and time consuming. By doing this, more developing countries in combating subsidies in services trade from developed countries.



The national treatment provision in **UNIVERSITY of the WESTERN CAPE** as more liberalisation takes place in the financial services arena. If confirmed mode of supply, it could be deemed discriminatory to give less favourable treatment to domestic based foreign subsidiaries. The use of domestic subsidies as was the case with the bail-outs should not then create a reward for inefficient firms or distort competition. This means that the WTO rules should not only focus on trade distortion but also develop competition policy along with national treatment principles.

The 'too big to fail' notion of large conglomerates may also require some reconsideration. A large corporation enjoys relatively larger market share and is very competitive. Therefore in times of financial crises such a firm should not just be bailed out due to the magnitude of its losses but rather a focus on the greater good should be exercised. In other words an in depth investigation into the negative impact of its demise for stakeholders versus the cost to stakeholders, especially to the state, of bailing it out should be conducted.

Word Count: 18049

# BIBLIOGRAPHY

## Books

Abel AB & Bernanke BS *Macroeconomics* 5 ed (2005) New York: Pearson.

Adamantopoulos K & Pereyra-Friedrichsen MJ *EU anti-subsidy law and practice* (2001) Bembridge: Palladian Law.

Biondi A, Eeckhout P & Flynn J (eds) *The law of state aid in the European Union* (2005) Oxford: Oxford University Press.

Claessens S & Jansen M (eds) *The Internalization of Financial Services* (2000) The Hague: Kluwer Law International.

Cohen BJ (ed) *International Trade and Finance: New Frontiers for Research Essays in Honor of Peter B. Kenen* (1997) Cambridge: Cambridge University Press.

Dobson W & Jacquet P *Financial Services Liberalization in the WTO* (1998) Washington DC: Institute for International Economics.

Gitman LJ & Zutter CJ *Principles of Managerial Finance*(2012) Essex, England: Pearson.

Goldin I, Reinert KA & Bank W *Globalization for development; trade, finance, aid, migration, and policy*(2006) Washington, DC: Palgrave Macmillan.

Greenaway D (ed) *Current Issues in International Trade* 2 ed (1996) New York: St Martin's Press.

Jepma CJ & Rhoen AP (eds) *International Trade: A business perspective* (1996) London: Pearson Education.

Lal Das B *The WTO Agreements: Deficiencies, Imbalances and Required Changes* (1998) New York: Zed Books Third World Network.

Marx J *Finance for Non-Financial Managers* 2 ed (2009) Pretoria: Van Schaik.

Van Den Bossche P *The Law and Policy of the World Trade Organisation: Text, Cases and Materials* 2 ed (2008) New York: Cambridge University Press.

Van Beers C & De Moor A *Public Subsidies and policy failures: how subsidies distort the natural environment, equity and trade and how to reform them* (2001) Northampton: Edward Elgar.

Vermulst EA & Graafsma F *WTO disputes: anti-dumping, subsidies and safeguards* (2002)  
London: Cameron May.

Weishing Huang T *Trade remedies: laws of dumping, subsidies, and safeguards in China* (2003)  
The Hague; New York: Kluwer Law International.

## **Conference Proceedings and Reports**

Anderson K *Copenhagen Consensus 2004 - Subsidies and Trade Barriers* (2004) Centre for  
International Economic Studies: Copenhagen.

Auboin, M *Economic Research and Statistics Division 2009- Restoring Trade Finance during a  
period of Financial Crisis: Stock-Taking of recent initiatives* (2009) WTO: Geneva.

Claus I, Jacobsen V & Jera B 'Financial systems and economic growth: An evaluation  
framework for policy' (2004) 17 New Zealand Treasury.

Finger MK & Schuknecht L *Special Studies 1999 -Trade, Finance and Financial Crises* (1999)  
WTO: Geneva.

International Monetary Fund *Policy Development and Review Department 2003 -Trade Finance  
in Financial Crises: Assessment of Key Issues.* (2003) International Monetary Fund: Washington.

Stiglitz JE, Jaramillo-Vallejo J & Chal Park Y *Annual Conference on Development Economics  
Supplement 1993 - The role of the state in financial markets* (1993) World Bank Research  
Observer: Washington.

Truman EM *Halle Institute for Economic Research 2010- Linkages between International Trade  
and Financial Markets: Mapping the Issues* (2010) Peterson Institute for International  
Economics: Halle.

Truman EM *The IMF and the Global Crisis: Role and Reform. Committee on Foreign Relations*  
(2009) Peterson Institute for International Economics: Dallas.

## Internet Sources

A Guide to UNCITRAL at <http://www.uncitral.org/pdf/english/texts/general/12-57491-Guide-to-UNCITRAL-e.pdf> (accessed 23 May 2013).

Ashurst State Aid at [www.ashurst.com/doc.aspx?id\\_Resource=4631](http://www.ashurst.com/doc.aspx?id_Resource=4631) (accessed 22 May 2013).

Auboin M & Meier-Ewert M 'WTO Discussion Papers' available at [http://www.wto.org/english/res\\_e/publications\\_e/disc\\_paper2\\_e.htm](http://www.wto.org/english/res_e/publications_e/disc_paper2_e.htm) (accessed 20 April 2012).

Documentary Credits at [http://corporateandinvestment.standardbank.co.za/pages/docs/its/doc\\_credits\\_brochure.pdf](http://corporateandinvestment.standardbank.co.za/pages/docs/its/doc_credits_brochure.pdf) (accessed 4 November 2012).

ECB The Dynamics of Sovereign Debt Crises and Bail Outs at [http://www.ecb.int/events/conferences/shared/pdf/researchforum7/Uhlig\\_Harald.pdf?c7eb45ea771a5794368d40d58d8bc40c](http://www.ecb.int/events/conferences/shared/pdf/researchforum7/Uhlig_Harald.pdf?c7eb45ea771a5794368d40d58d8bc40c) (Accessed 14 June 2013).

ECIC at <http://www.thedti.gov.za/agencies/ecic.jsp> (Accessed 17 June 2013).

ESCAP Trade Finance Infrastructure Development Handbook for Economies in Transition at [http://www.unescap.org/tid/projects/globalize\\_wgtfbk.pdf](http://www.unescap.org/tid/projects/globalize_wgtfbk.pdf) (accessed 1 November 2012).

Export Credit Agencies and the WTO at [http://www.ciel.org/Publications/ECA%20WTO\\_Nov03.pdf](http://www.ciel.org/Publications/ECA%20WTO_Nov03.pdf) (Accessed 17 June 2013).

Factoring and Invoice Discounting at [http://www.insightassociates.co.uk/uploads/CreativeFinance\\_FactoringInvoiceDiscountingGuide\\_Jan%2007.pdf](http://www.insightassociates.co.uk/uploads/CreativeFinance_FactoringInvoiceDiscountingGuide_Jan%2007.pdf) (accessed 23 May 2013).

IMF 'The IMF and World Trade Organisation' at <http://www.imf.org/external/np/exr/facts/imfwto.htm> (Accessed 23 May 2013).

IMF 'Trade Finance in Financial Crises: Assessment of Key Issues' at <http://www.imf.org/external/np/pdr/cr/2003/eng/120903.htm> (Accessed 23 May 2013).

International Monetary Fund 'Trade Finance in Financial Crises-Assessment of Key Issues' available at <http://www.imf.org/external/np/pdr/cr/2003/eng/120903.htm> (accessed 15 May 2012).

International Trade Agreements and Barriers at [http://www.dotd.la.gov/programs\\_grants/latin/Documents/10%20Sec%20B5%20International%20Trade%20Agreements%20and%20Barriers.pdf](http://www.dotd.la.gov/programs_grants/latin/Documents/10%20Sec%20B5%20International%20Trade%20Agreements%20and%20Barriers.pdf) (accessed 1 November 2012).

Maslow's Hierarchy of Needs at <http://www.comprofessor.com/2010/04/maslows-hierarchy-of-needs.html> (visited 31 October 2012).

ODI 'Balance of Payments Stabilisation Policy in Developing Countries' at <http://www.odi.org.uk/publications/5514-balance-payments-stabilisation-policy-lDCs> (Accessed 23 May 2013).

Role and Importance of Export Credit Agencies at <http://www.gwu.edu/~ibi/minerva/Fall2011/Raquel.pdf> (Accessed 17 June 2013).

The Definitive Guide to Self Improvement at <http://briankim.net/blog/2008/03/the-meaning-behind-more-money-more-problems/> (visited 25 October 2012).

The Economist 'The Cyprus Bailout: A better deal but still painful' at <http://www.economist.com/blogs/charlemagne/2013/03/cyprus-bail-out> (Accessed 22 May 2013).

Trade Finance Guide at <http://www.trade.gov/publications/pdfs/tfg2008ch4.pdf> (accessed 23 May 2013).

Trade Finance Methods and Instruments: An Overview at [http://www.unescap.org/tid/publication/tipub2374\\_chap2.pdf](http://www.unescap.org/tid/publication/tipub2374_chap2.pdf) (accessed 23 May 2013).

UNCTAD 'Dispute Settlements' at [http://unctad.org/en/docs/iteiit30\\_en.pdf](http://unctad.org/en/docs/iteiit30_en.pdf) (accessed 19 November 2012).

Understanding the Importance of Export Credit Financing for US Competitiveness at <http://www.itif.org/files/2011-export-credit-financing.pdf> (Accessed 17 June 2013).

Uniform Rules for Collection at <http://www.tradefinanceguru.net/international-rules/urc> (Accessed 23 May 2013).

What is forfaiting at <http://www.forfaiters.org/forfaiting/what-is-forfaiting> (accessed 4 November 2012).

World Trade Organisation at [https://www.wto.org/english/thewto\\_e/whatis\\_e/whatis\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm) (accessed 24 August 2012).

World Trade Organisation 'What is the WTO?' available at [https://www.wto.org/english/thewto\\_e/whatis\\_e/whatis\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm) (accessed 20 June 2012).

WTO *Spain-Tariff Treatment of Unroasted Coffee* at [http://www.wto.org/english/tratop\\_e/dispu\\_e/80coffee.pdf](http://www.wto.org/english/tratop_e/dispu_e/80coffee.pdf) (Accessed 19 November 2012).

WTO 'The 10 Benefits: Growth and Jobs' at [http://www.wto.org/english/thewto\\_e/whatis\\_e/10ben\\_e/10b07\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/10ben_e/10b07_e.htm) (accessed 23 May 2013).

## Journal Articles

Auboin M 'Boosting the availability of trade finance in the current crisis: Background analysis for a substantial G20 package' (2009) 35 *Policy Insight* 1-7.

Brummer C 'Why soft law dominates international finance-and not trade' (2010) 13 *Journal of International Economic Law* 623 -643.

Claus I, Jacobsen V & Jera B 'Financial systems and economic growth: An evaluation framework for policy' (2004) 4 *New Zealand Treasury* 2 -4.

De Meester B 'The Global Financial Crisis and Government Support for Banks: What role for the GATS?' (2010) 13 *Journal of International Economic Law* 27-63.

Delimatsis P & Sauve P 'Financial Services Trade after the crisis: Policy and Legal conjectures' (2010) 13 *Journal of International Economic Law* 837-857.

Ehlermann C & Goyette M 'The Interface between EU State Aid Control and the WTO Disciplines on Subsidies' (2006) 4 *European State Aid Law Quarterly* 695 719.

Gavigan RJ 'Wysko Investment Company v. Great American Bank: A New Attack on the Usefulness of Letters of Credit' (1993) 14 (1) *North-Western Journal of International Law and Business* 184-205.

Horlick GN & Clarke PA 'WTO Subsidies discipline during and after crisis' (2010) 13 *Journal of International Economic Law* 859-874.

Kenessey Z 'The Primary, Secondary, Tertiary and Quaternary sectors of the economy' (1987) *Journal of the International Association for Research in Income and Wealth* 359-385.

Krajewski M 'Public Services and the scope of the General Agreement on Trade in Services (GATS)' (2001) *Centre for International Environmental Law* 3-22.

Lastra RM & Wood G 'The Crisis of 2007-09: Nature, Causes and Reactions' (2010) 13 (3) *Journal of International Economic Law* 525-968.

Porter ME 'The Competitive Advantage of Nations' 1990 *Harvard Business Review* 73-91.

Voon JP & Voon JK 'Export Enhancement, WTO Rules and Financial Crises' (2011) 2  
*International Journal of Business and Social Science* 1-10.

Wagner H 'The causes of the recent financial crisis and the role of central banks to avoid the next one' 2010 *International Economics and Economics Policy* 63-82.

Yokoi-Araim M 'GATS' Prudential Carve Out in Financial Services and its Relation with Prudential Regulation'(2008) 57 *International and Comparative Law Quarterly* 613-648.

## Working Papers

Ahuja R 'Towards Developing Subsidy Discipline under GATS' (2005) Working Paper 174  
Indian Council for Research on International Economic Relations.

Chami R, Fullenkamp C & Sharma S 'A Framework for Financial Market Development' IMF  
Working Paper 09/156.

Delimatsis P 'Of Bailouts and Rescue Measures: Subsidies in Financial Services' (2012) 24  
National Centre of Competence in Research Trade Regulation Working Paper 2012/24.

Gai P & Kapadia S 'Contagion in Financial networks' (2010) Working Paper 383 Bank of  
England.

Herring, Santomero 'The Role of The Financial Sector in Economic Performance' (1996) The  
Warton School Working Paper 95-08.

Sun P & Heshmati A 'International Trade and its Effects on Economic Growth in China' (2010)  
Discussion paper 5151 Institute for the Study of Labour.

WTO Working Group on Trade, Debt and Finance 'Restoring Trade Finance: What Can the G-  
20 Do?' (2009).