

**THE LEGALITY OF QATAR'S TRADE EMBARGO CONDUCTED BY
ARAB COUNTRIES BASED ON WORLD TRADE ORGANIZATION
RULES**

A BACHELOR DEGREE THESIS



By:

MUHAMMAD KURNIAWAN TUIYO

Student Number: 14410321

**INTERNATIONAL PROGRAM
FACULTY OF LAW
UNIVERSITAS ISLAM INDONESIA
Yogyakarta
2018**

**THE LEGALITY OF QATAR'S TRADE EMBARGO CONDUCTED BY
ARAB COUNTRIES BASED ON WORLD TRADE ORGANIZATION
RULES**

A BACHELOR DEGREE THESIS

Submitted in Partial Fulfillment of the Requirement to Obtain Bachelor's Degree
(Tier-1) at Faculty of Law

Universitas Islam Indonesia

Yogyakarta



By:

MUHAMMAD KURNIAWAN TUIYO

Student Number: 14410321

**INTERNATIONAL PROGRAM
FACULTY OF LAW
UNIVERSITAS ISLAM INDONESIA**

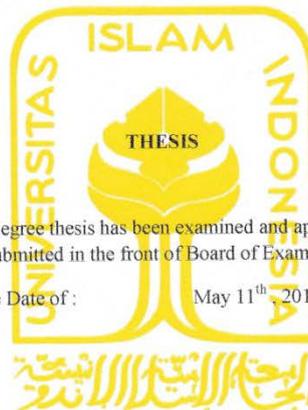
Yogyakarta

2018

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

THESIS PAGE APPROVAL PRE FINAL EXAMINATION

**THE LEGALITY OF QATAR'S TRADE EMBARGO CONDUCTED BY
ARAB COUNTRIES BASED ON WORLD TRADE ORGANIZATION
RULES**



This bachelor degree thesis has been examined and approved by Thesis Supervisor to be submitted in the front of Board of Examiners in an oral exam

At the Date of : May 11th, 2018

Yogyakarta, May 11th, 2018

Thesis Supervisor

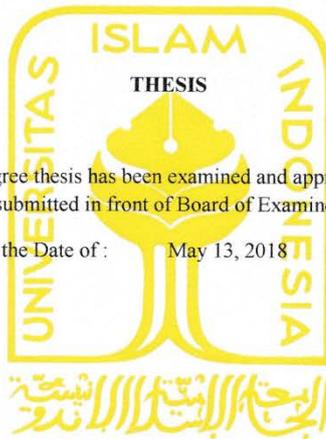
(Nandang Sutrisno, SH, LL.M, M.Hum, Ph.D)
NIK. 874100201

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

THESIS PAGE APPROVAL PRE FINAL EXAMINATION

**THE LEGALITY OF QATAR'S TRADE EMBARGO CONDUCTED BY
ARAB COUNTRIES BASED ON WORLD TRADE ORGANIZATION**

RULES



This bachelor degree thesis has been examined and approved by Language Supervisor to be submitted in front of Board of Examiners in an oral exam

At the Date of : May 13, 2018

Yogyakarta, May 13, 2018

Language Advisor

(Rina Desitarahmi, S.Pd, M.Hum)

PAGE OF FINAL THESIS APPROVAL

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

A BACHELOR DEGREE THESIS

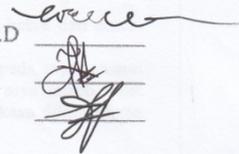
THE LEGALITY OF QATAR'S TRADE EMBARGO CONDUCTED BY
ARAB COUNTRIES BASED ON WORLD TRADE ORGANIZATION
RULES

Defended Before the Board of Examiners
And Declared Acceptable on June 4th 2018

Board of Examiners

1. Chief of Examiner: Nandang Sutrisno, S.H, LL.M, M.Hum, Ph.D
2. Examiner I : Dr. Sefriani, S.H., M.Hum
3. Examiner II : Dr. YUSDANI, M.Ag

Signature



International Program

Faculty of Law

Universitas Islam Indonesia

Dean,



Dr. H. AUNUR ROHIM FAQIH, SH., M.Hum.

NIK. 8441100101

SURAT PERNYATAAN
ORISINALITAS KARYA TULIS ILMIAH/TUGAS AKHIR MAHASISWA
FAKULTAS HUKUM UNIVERSITAS ISLAM INDONESIA
BISMILLAAHIRRAHMAANIRRAHIM

Yang bertandatangan di bawah ini:

Nama : Muhammad Kurniawan Tuiyo

NIM : 14410321

Adalah benar-benar mahasiswa Fakultas Hukum Universitas Islam Indonesia Yogyakarta yang telah melakukan penulisan Karya Tulis Ilmiah (Tugas Akhir) berupa skripsi dengan judul:

THE LEGALITY OF QATAR'S TRADE EMBARGO CONDUCTED BY ARAB COUNTRIES BASED ON WORLD TRADE ORGANIZATION RULES

Karya ilmiah ini saya ajukan kepada Tim Penguji dalam Ujian Pendadaran yang diselenggarakan oleh Fakultas Hukum UII.

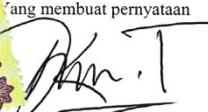
Sehubungan dengan hal tersebut, dengan ini saya menyatakan:

1. Bahwa Karya Tulis Ilmiah ini adalah benar-benar hasil karya sendiri yang dalam penyusunannya tunduk dan patuh terhadap kaidah, etika, dan norma-norma penulisan sebuah karya tulis ilmiah sesuai dengan ketentuan yang berlaku.
2. Bahwa saya menjamin hasil karya ilmiah ini adalah benar-benar asli, bebas dari unsur-unsur yang dapat dikategorikan sebagai perbuatan plagiarisme.
3. Bahwa meskipun secara prinsip hak milik karya ilmiah ini adalah pada saya, namun untuk kepentingan yang bersifat akademik dan pengembangannya, saya memberikan kewenangan kepada Perpustakaan Fakultas Hukum UII dan Perpustakaan dilingkungan UII untuk mempergunakan karya ilmiah saya ini.

Selanjutnya berkaitan dengan hal di atas (terutama pernyataan butir nomor 1 dan 2 saya anggap menerima sanksi baik administratif, akademik ataupun pidana, jika saya terbukti secara kuat telah melakukan perbuatan yang menyimpang dari pernyataan tersebut. Saya juga akan bersikap kooperatif untuk hadir, menjawab, membuktikan dan melakukan pembelaan terhadap hak-hak saya serta menandatangani Berita Acara terkait yang menjadi hak dan kewajiban saya, di depan Majelis atau Tim Fakultas Hukum UII yang ditunjuk oleh pimpinan fakultas, apabila tanda-tanda plagiat disinyalir terjadi pada karya ilmiah saya ini. Demikian surat pernyataan ini saya buat dengan sebenar-benarnya dalam kondisi sehat jasmani dan rohani, dengan sadar serta tidak ada tekanan dalam bentuk apapun dan oleh siapapun.

Dibuat di : Yogyakarta

Tanggal : 13 Mei, 2018

Yang membuat pernyataan

MUHAMMAD KURNIAWAN TUIYO



CURRICULUM VITAE

A. Biodata

Name : Muhammad Kurniawan Tuiyo

Gender : Male

Current Address : Jl. Menteri Supeno 14, Sorosutan, Umbulharo,
Yogyakarta.

Origin Address : Jl. Sultan Botutihe 92, Heledulaa Selatan, Kota Timur,
Gorontalo.

Birth of date : January 28th 1997

Place of Birth : Gorontalo City, Gorontalo

Status : Single

Religion : Islam

Phone : +62 821 9720 6161

E-mail : wantuiyo@gmail.com

B. Study Description :

Formal Study

- 1. Elementary School* : SDN 61 Kota Gorontalo, Gorontalo
(2002-2008)
- 2. Junior High School* : MTs AL- Huda Kota Gorontalo, Gorontalo
(2008-2011)
- 3. Senior High School* : SMAN 1 Kota Gorontalo, Gorontalo
(2011- 2014)
- 4. University* : Universitas Islam Indonesia (2014-2018)
Faculty : Law

Status

: Expected Graduation June (2018)

Informal Study

-

C. Experiences :

Committee Experiences

2017 : **Head of Event Organizer** in International Student Conference on The Importance of Information Security in Global Perspective, held by Human Resources and Development Department of Juridical Council of International Program, Universitas Islam Indonesia, Yogyakarta.

Master of Ceremony in International Seminar on The Role of Southeast Asia Countries in Conflict Resolution in The Middle East, held by Faculty of Law, Universitas Islam Indonesia, Yogyakarta.

Committee in International Seminar on Medical Law, held by Faculty of Law, Universitas Islam Indonesia, Yogyakarta.

Moderator in Socialization of Agrarian Law, held by Village Project ,Juridical Council of International Program, Universitas Islam Indonesia, Yogyakarta.

Participant of Intermediate Islamic Leadership Training, held by Character Building Program, Universitas Islam Indonesia Yogyakarta.

2016 : **Participant** in International Student Conference, held by Indonesia Global Network, Kuala Lumpur, Malaysia.

Liaison Officer of the Ambassadors in International Symposium on the Protection of Migrant Workers based on Human Rights held by Centre for Local Law Development Studies, Universitas Islam Indonesia, Yogyakarta.

Master of Ceremony in the 2nd Indonesia Statistics Conference and Olympiad, held by Faculty of Mathematics and Science of Universitas Gadjah Mada and Universitas Islam Indonesia, Yogyakarta.

Master of Ceremony in International Student Conference held by Human Resources and Development Department of Juridical Council of International Program, Universitas Islam Indonesia, Yogyakarta.

Master of Ceremony in UII Law Fair, held by Forum Kajian dan Penulisan Hukum (FKPH), Faculty of Law, Universitas Islam Indonesia, Yogyakarta.

Participant in Indies Interest 2.0 Visit Institution, Laboratory Legal Practice held by Public Relations Department of Juridical Council of International Program, Universitas Islam Indonesia, Jakarta.

Participant of Intermediate Islamic Leadership Training in Kaliurang, Yogyakarta.

2015 : **Master of Ceremony** in International Student Conference held by Human Resources and Development Department of Juridical Council of International Program, Universitas Islam Indonesia, Yogyakarta.

Master of Ceremony in National Moot Court Competition AKM VI, held by Komunitas Peradilan Semu (KPS), Faculty of Law, Universitas Islam Indonesia, Yogyakarta.

Master of Ceremony in National Seminar on “*Penyusunan Rancangan Undang-Undang Jabatan Hakim*”, held by Forum Kajian dan Penulisan Hukum (FKPH) and Komisi Yudisial Republik Indonesia Yogyakarta.

Participant of Indies Interest Visit Institution Activity in District Law and Human Rights Ministry (KEMENKUMHAM), Financial Service Authority (OJK), and the Honorary Consulate of Italy Organized by the Indies Interest Committee, Public Relations Department under the sphere of Juridical Council of International Program, Universitas Islam Indonesia.

Achievements

2017 : **Scholarship grantee** from Chinese Government for Winter School in Nanjing Xiaozhuang University, China

2016 : **Scholarship grantee** from Indonesia’s Ministry of Youth and Sports 2016

The best team in International Student Conference, held by Indonesia Global Network, Kuala Lumpur, Malaysia.

2015 : **The best speaker** of Internal Debate Competition held by LEM FH UII.

Silver medalist of Internal Debate Competition held by LEM FH UII.

Participant of National Debate Competition Padjajaran Law Fair, held by Universitas Padjajaran, Bandung.

Participant of National Debate Competition Diponegoro Law Fair, held by Universitas Diponegoro, Semarang.

The best GPA among the International Program of Law Department Students, Universitas Islam Indonesia.

2014 : **Participant** of Social and Political Debate, held by Universitas Negeri Yogyakarta.

2013 : **Finalist** in DJBC Essay Competition held by Direktorat Jendral Bea dan Cukai, Gorontalo.

Participant of International Competitions and Assessments for Schools (Applied Science), held by University of New South Wales, Australia.

Participant of National English and Applied Science Olympic, held by Universitas Gadjah Mada, Yogyakarta.

Participant of National English Olympiad, organized by Universitas Brawijaya, Malang.

2012 : **Scholarship grantee** from Indonesia's Ministry of Youth and Sports 2012

Working Experiences

2018 : Internship in Pusat Studi Hak Kekayaan Intelektual (PSHAKI), Universitas Islam Indonesia as researcher.

2017 : Internship in the Embassy of the Republic of Indonesia in Muscat, Oman, Consular Affairs and Legal Protection as Legal Intern.

Internship in Komisi Persaingan Usaha Republik Indonesia, Kerjasama Dalam Negeri as Legal Intern.

Organization Experiences

2016 – 2017 : **Head** of Research and Discussion Department in Forum Kajian dan Penulisan Hukum (FKPH) Period of 2016/2017, Faculty of Law, Universitas Islam Indonesia

2015 – 2016 : **Member** of Human Resources and Development (HRD) Department in Juridical Council of International Program Period of 2015/2016, Universitas Islam Indonesia.

Member of Research and Discussion Department in Forum Kajian dan Penulisan Hukum (FKPH) Period of 2015/2016, Faculty of Law, Universitas Islam Indonesia

Member of Research and Discussion Department in Takmir Mesjid Al-Azhar Period of 2015/2016, Faculty of Law, Universitas Islam Indonesia

Member of Himpunan Mahasiswa Islam (HMI) Period of 2015/2016, Faculty of Law, Universitas Islam Indonesia

2014 – 2015 : **Member** of English Debate Society (EDS) Period of 2014/2015, Universitas Islam Indonesia

Member of Human Resources and Development (HRD) Department in Juridical Council of International Program Period of 2014/2015, Universitas Islam Indonesia.

2012 – 2013 : **Vice President** of Student Council in SMAN 1 Kota Gorontalo Period of 2012/2013

President of Student Islamic Council in SMAN 1 Kota Gorontalo Period of 2012/2013

D. Language Proficiency

Indonesia : Native Speaker

English : Professional Proficiency (speech, reading, writing)

Chinese : Limited User

Arabic : Limited User

MOTTO

“And He is with you wherever you are”

-Q.S Al- Hadiid 57:4

“Sekali gagal, seribu kali bangkit! Pasti kamu akan lebih berhasil. Jangan bersedih, karena Allah tak akan pernah mengecewakan”

-My Mom

“Lakukan segalanya karena Allah, maka kesuksesanmu kelak tak akan dibatasi oleh waktu”

-My Dad

“You deserve to be happy. You were born to add something, to add value to this world. To simply be something, bigger, better than you were yesterday”

-Lisa Nichols

“Jadilah seperti mata air, bila dirimu air yang jernih, maka sekitarmu akan bersih. Tapi bila dirimu kotor, sekitarmu juga ikut kotor”

- Alwi Abdul Jalil Habibie

“Be like water, my friend”

- Bruce Lee

“Our Thoughts and our feelings create our life. These two things are started by what books we are read and with whom we are make friends”

-Muhammad Kurniawan Tuiyo

DEDICATION

Dedicated to You

*May this thesis bring you a new perspective and knowledge
for your entire existence.*

*This is my intention for you,
and for the world.*

ACKNOWLEDGMENT

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Assalamualaikum Warahmatullahi Wabarakatuh,

Praise and Thank to Almighty God, Allah *Subhanahu Wa Ta'ala*, for everything because of the Compassionate and the Merciful along the way of my life. My gratitude also goes to our master, the Prophet Muhammad *Sallallahu-alaihi-wasallam*, the most noble and influential person whose life became light of knowledge for all the seekers.

On this occasion, my thanks to all those who have provided direction and guidance as well as motivation so that I have completed this thesis in accordance to a predetermined time. My thanks to:

1. Dad and Mom, **Ir. H. Rully Tuiyo, M.Si. & Ir. Hj. Patria Lasindrang**, as one of the main reasons why I am here. Thank you for all of the supports and loves along the way.
2. **Intan Tuiyo, Siti Fatima Tuiyo, Luthfia Hasan and Ismail Dai**. Thank you for being good siblings.
3. **Mr. Nandang Sutrisno, SH., LLM., M.Hum., Ph.D.**, as my supervisor as well as the Rector of Universitas Islam Indonesia, Thank you for being patient and helping me improve.
4. **Mr. Dr. Aunur Rahim Faqih, S.H., M.Hum.**, as the Dean of Faculty of Law of Universitas Islam Indonesia, for the permission to write this thesis.

5. **Mr. Dodik Setiawan Nur Heriyanto., SH., MH., LL.M., Ph.D**, as the Secretary of International Program Faculty of Law Universitas Islam Indonesia, for the permission to write this thesis.
6. **Mrs. Dr. Sefriani., S.H., M.Hum., Mr. Drs. Agus Triyanta M.A., M.H., Ph.D, Mrs. Siti Anisah, SH., M.Hum, Ms Inda Rahadiyan, Mrs. Dr. Aroma Elmina Martha, S.H., M.H and Mr. Prof. Jawahir Thontowi, S.H., Ph.D.** for being my favorite lecturers through the last few years in my college. I am grateful for the positive learning environment you provided me with. Your lessons have been very insightful and fun!
7. The lecturers of International Program of Faculty of Law, Universitas Islam Indonesia who have taken significant part in my foundation as a law student that I cannot mention one by one , may all the knowledge that have given to us becomes *Amal Jariyah*.
8. **Ms. Novera Widyarani** and **Mr. Muhammad Setiawan, S.H**, for your tremendous amount of administrative matters and other kind of assistance throughout my study.
9. Forum Kajian dan Penulisan Hukum (FKPH). Thank you for being the first organization where I learnt a lot about law as well as where I improved my soft-skills. And al so for; Addi Fauzani, Meika Arista, Irwan Hafidz, Ghina, Essa Galih, Yona, Sarah and Giri. I thank you for the cooperation in the organization.
10. Juridical of International Program (JCI), Lembaga Eksekutif Mahasiswa (LEM), English Debate Society (EDS), Student Association of International Law (SAIL), Takmir Mesjid Al-Azhar, Himpunan Mahasiswa Islam (HMI)

and Business Law Community (BLC). Thank you for ever being my study places during my college life.

11. IP Class of 2014: Renggi, Wildan, Irfan, Karin, Memey, Wira, Galih, Garin, Budi, Amalina, Inka, Alin, Citra, Putri, Bella, Pras, Julian, Maulana, Bang Ilham, Abel, Bayu, Iqbal, Piete, and Dian. Thank you for everything. Chase your dreams guys. I know you can do it!
12. Saufa Taqiyya S.H and Ratu Wulandari S.H thank you for being my best friends since the beginning of my college life. See you on the top!
13. FH UII, Class of 2014, especially for : Nabila, Emma, Yuniar, Faisol, Retno, Irma, Ali, Adit, Ayu, Dalila, Alam, Soleh, Mada, Renaldi, Tamara, Ibnu and many more. Thank you for ever being good friends.
14. Research Department FKPH 2016-2017: Mentari, Ilham, Jiah, Marita, Bayu, Alda, Auly, Asfia, Rayibim, Eva, Nadiya and Tasa Gina. Thank you for being good teammates.
15. Power Rangers 139, my KKN mates: Fauzi, Isnaini, Faris, Valen, Asep, Regina and Ayu. Thank you for being my family in a month. Chase your dreams guys. I know you can do it!
16. Northern Sulawesi's friends: Zakhy Subekti, Mawan Dayi, Liana Novitasari and Ryan Mahardika. Thank you for accompanied me to the cinema even though just once.
17. **Ms. Rina Desitarahmi., S.Pd., M.Hum**, as my language advisor Faculty of Law Universitas Islam Indonesia, for assisted me when I was completing this thesis.

18. My boarding house's family: Mr and Mrs. Sukirwanto, Nenek, Mas Ade and friends. Thank you for ever being unforgettable part in my life.
19. Every single person who has encouraged me to complete this thesis that I cannot mention one by one.

And all of parties which the author could not mention one by one who have already give pray, encouragement, helping, motivation, support, recommendations and advices. For all goods manners that have been given to author, may Allah SWT give equitable retaliation. In the writing this thesis, author realize there are still many deficiency. For that reason, all humility, the authors will receive critic and suggestions from all parties and readers that are constructive in nature.

Wassalamu'alaikum Wr. Wb

ABSTRACT

Embargo is one of the forms of economic sanction in international communities. The current issue on embargo since 2017 was the embargo conducted by some of Arab countries over Qatar. The dispute raised related to the legality of the embargo imposed by some of gulf countries whether it is complied with WTO rules or not, especially the Article XXI of the General Agreement on Tariffs and Trade. Furthermore, this research analyzed the WTO's jurisdiction to interpret Article XXI of GATT on Security Exceptions and the measures of Article XXI of GATT on Security Exceptions, subsequently, obtained the legality status from these factors. Furthermore, the research employed normative juridical approach method. The research was aimed at understanding the related issues, the researcher analyzed the contextualization of the legal principles regarding the issue of the legality of the embargo implemented over Qatar by its Arab neighbors. The result shows that, WTO had no jurisdiction to interpret the measures of Article XXI of GATT on Security Exceptions. In addition, the measures of embargoing countries as the basis of legality of Qatar's trade embargo conducted by some of Arab countries based on World Trade Organization rules was actually valid. In order to ensure the legal certainty, World Trade Organization should provide a clear legal instrument or system that accommodates such dispute. WTO also needed to provide clear criteria related to the measures of the article, for example, the criteria of the article XXI of GATT should be based solely on commercial reasons. Therefore, it would not overlap the commercial or political reasons in which the competence would be adjudicated by WTO Dispute Settlement.

Keywords: Embargo, Qatar, World Trade Organization, Security Exceptions.

TABLE OF CONTENTS

COVER	II
PAGE OF APPROVAL	III
PAGE OF APPROVAL	IV
PAGE OF APPROVAL	V
ORIGINALITY STATEMENT	VI
CURRICULUM VITAE	VII
MOTTO	XII
DEDICATION	XIII
ACKNOWLEDGMENT	XIV
ABSTRACT	XVII
TABLE OF CONTENTS	XIX
LIST OF ABBREVIATION	XXII
LIST OF CHART	XXIII
CHAPTER I: INTRODUCTION	1
A. Context of Study	1

B. Problem Identification	7
C. Research Objective	7
D. Definition of Terms	8
E. Theoretical Review	9
F. Research Method	15
CHAPTER II: LITERATURE FRAMEWORK	18
A. General Overview of Qatar’s Trade Agreements in Region	18
1. Economic Relations of Qatar with State Membership in GCC	18
2. Economic Relations of Qatar with Iran	23
B. Regulation of Trade Embargo in World Trade Organization Rules	26
1. WTO General Overview and Economic Sanctions in International Trade Law	26
2. WTO Principles and Regulations on Trade Embargo	32
3. Application of Article XXI of GATT	42
C. Dispute Settlement System of WTO	64
D. Islamic View on Trade Embargo of Qatar	72
CHAPTER III: ANALYSIS THE LEGALITY OF QATAR’S TRADE EMBARGO BASED ON WTO RULES	78

A. Qatar’s Embargo Case Position	78
B. Implementation of Article XXI of GATT on Qatar’s Case	86
1. Authority of WTO to Interpret Article XXI of GATT on Security Exceptions	86
2. Measures of Article XXI of GATT on Security Exceptions	90
CHAPTER IV: CONCLUSION AND RECOMMENDATION	95
REFERENCES	97

LIST OF ABBREVIATION

DSB	Dispute Settlement Body
CP	Contracting Parties
MM	Minutes of Meeting
GCC	Gulf Cooperation Council
GATT	the General Agreement on Tariffs and Trade
GATS	the General Agreement on Trade in Services
SR	Summary Record
TRIMs	Agreement on Trade related Investment Measures
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
WTO	World Trade Organization

LIST OF CHART

Chart. 2.1 Organs in World Trade Organization	30
Chart. 2.2 WTO Dispute Settlement Scheme	71

CHAPTER I

INTRODUCTION

A. Context of Study

Embargo is one of the forms of economic sanction which is practising in international relations nowadays. It is based on national security led to a decision made by a government to target another government that conducts unacceptable actions.¹ Embargo becomes a way of isolating a targeted government to show the cost of their unacceptable conducts that overlap the trade area and cause denying people trade rights, denying their access to products as well as a way to create a punitive system.²

The effects of the conducts create a dilemma to the targeted government's people. The major effect is the limitation of their rights which are attached as human rights principles³. Whether or not each embargo essentially has violated the human

¹ Jeannette Chu. *Economic Sanctions and Embargoes: More Lore than Law?*. PwC United States PwC.com - <http://pwc.to/16JJjME> published on June 19th 2013. The Front Line host and PwC Partner, Kristin Rivera joined by Jeannette Chu Leader of PwC's Export Control Services Practice and Serena Moe, International Trade Attorney at Wiley Rein in D.C. The discussion brings to light issues involving today's highly complex regulatory environment, how they can navigate it and how to engage effectively with the government to remain in compliance. Accessed on January 13th 2018.

² *Ibid.*

³ Human rights principles are universal and inalienable; indivisible; interdependent and interrelated. They are universal because everyone is born with and possesses the same rights, regardless of where they live, their gender or race, or their religious, cultural or ethnic background. Inalienable because people's rights can never be taken away. Indivisible and interdependent because all rights – political, civil, social, cultural and economic – are equal in importance and none can be fully enjoyed without the others. They apply to all equally, and all have the right to participate in decisions that affect their lives. They are upheld by the rule of law and strengthened through legitimate

rights principles, moreover if the consideration of national security as the basis of the conducts related to the internal affairs of a sovereign state which protected by the principle of non-interference⁴ in international law.

Back then, embargo was firstly conducted by Athenian Empire. Trade embargoes that have been used to convince a change in the government policies of specific countries go back to 432 B.C. Athenian Empire. Pericles was the one who first imposed sanctions on Megara for land violation. However, the embargo did not work in favor of Pericles and the Peloponnesian war was triggered as a result of the sanctions.⁵ Sanctions have been used throughout history, especially in the 18th century when England used this method against other states for political retaliation. Applying sanctions has become a global trend in the 20th century and increased rapidly since then. The US has been at the top of the list in applying the maximum number of sanctions compared to other states.⁶ Even the longest and some considered as the cruelest embargo was conducted by United States over Cuba. The US Trade Embargo was launched on Oct. 19, 1960, in retaliation for Castro's expropriation of American-owned Cuban oil refineries. Cuba offered no compensation for the seizure.

claims for duty-bearers to be accountable to international standards. Accessed on January 14th 2018 from United Nations Population Fund (UNPF) <http://www.unfpa.org>

⁴ In international law, the principle of non-intervention includes, but is not limited to, the prohibition of the threat or use of force against the territorial integrity or political independence of any state (Article 2.4 of the UN Charter). The principle of non-intervention in the internal affairs of States also signifies that a State should not otherwise intervene in a dictatorial way in the internal affairs of other States.

⁵ Harun Yahya. *How Effective are Embargoes?*. <http://harunyahya.com> accessed on January 14th 2018

⁶ *Ibid.*

The terms of the US embargo banned most of the exports to Cuba, with a humanitarian exception made for food and medicine. On February 7, 1962 the embargo was extended to include in almost all US products. In addition, the embargo still remain up to now even though European Union criticizes US embargo on Cuba and call it as obsolete and illegal.⁷

A hot issue on embargo along 2017 up to 2018 was the embargo conducted by some of Arab countries over Qatar. It was started few years ago but enforced on Monday June 5, 2017. Saudi Arabia, the United Arab Emirates, Bahrain and Egypt cut diplomatic ties with Qatar⁸ and closed off the Gulf countries with an embargo on air, sea or land traffic to and from Qatar.⁹ This action became a nightmare to Qatar in 2017 and affected all business fields in Qatar.

The effect on air travel in the region was immediate. Qatar Airways, one of the region's major long-haul carriers as well as the best airline in the world in 2017¹⁰, was suspending all flights to Saudi Arabia. Etihad, the Abu Dhabi-based carrier, was suspending flights to Qatar "until further notice". Emirates, the Dubai-based carrier, announced it suspended Qatar flights as well, and Dubai-based low budget carrier,

⁷ Karina Martin. *EU Official Criticizes US Embargo on Cuba*, Calling it "Obsolete and Illegal". Published on January 4th 2018 <https://panampost.com> accessed on January 14th 2018

⁸ Qatar occupies a tiny headland on the Arabian Peninsula, with a single land border with Saudi Arabia and across the sea from Iran. The former British protectorate gained its independence in 1971 and has since been ruled by the al-Thani family. With the highest per capita income in the world, the tiny monarchy has grown fabulously wealthy on the back of massive oil and natural gas reserves. Tensions with its Gulf Arab neighbors have grown in recent years over support for Islamist movements that emerged from the Arab Spring. It now finds itself isolated and backed into a corner.

⁹ Client Alert of Baker McKenzie Law Firm on 7 June 2017

¹⁰ Benjamin Zhang. *Ranked: The 20 best airlines in the world*. Business Insider June 20, 2017. <https://www.businessinsider.sg/20-best-airlines-in-the-world>. Accessed on December 12, 2017.

Flydubai, also suspended flights to and from Doha. Egypt announced its airspace would be closed to all Qatari airplanes from Tuesday 6 June 2017.¹¹

Two weeks after, four Arab countries blocked Qatar-based media, Al-Jazeera, over the appearance of comments attributed to the Qatari emir that praised Iran. Qatar argued that hackers had taken over the website of its state-run news agency and faked the comments.¹² The diplomatic crisis along with embargo that was conducted by Qatar's neighbors Arab countries urged Qatar to seek new sources of basic food supplies to avoid potential food shortage because majority of foods and beverages in Qatar were supplied by Kingdom of Saudi Arabia and the United Arab Emirates.

Moreover, the dispute raised in Qatar's embargo at least had two main reasons why the embargoing countries announced they broke the diplomatic ties with Qatar. First, it was because of the allegations of Qatar's relations with Iran and second, it was because of the accusations that support Islamist Movements.¹³ Actually, the dispute was the worst hit to the Gulf since the formation of the Gulf Co-operation Council (GCC)¹⁴ in 1981.

¹¹ Patrick Wintour. *Gulf plunged into diplomatic crisis as countries cut ties with Qatar*. The Guardian June 05, 2017. <https://www.theguardian.com/world/2017/jun/05/saudi-arabia-and-bahrain-break-diplomatic-ties-with-qatar-over-terrorism>. Accessed on December 1,2017.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ The Cooperation Council for the Arab States of the Gulf, originally known as the Gulf Cooperation Council, is a regional intergovernmental political and economic union which currently consisting of The United Arab Emirates, Saudi Arabia, Kuwait, Qatar, Bahrain and Oman.

Saudi Arabia decided to cut diplomatic ties owing to Qatar's embrace of various terrorist and sectarian groups aimed at destabilizing the region, including the Muslim Brotherhood, al-Qaida, Islamic State and groups supported by Iran in Saudi Arabia's restive eastern province of Qatif.¹⁵ Moreover, outside the gulf countries, Egypt's foreign ministry accused Qatar of taking an opponent approach towards the country and tried all attempts to stop it from supporting terrorist¹⁶ groups. It gave the Qatari ambassador 48 hours to leave Egypt or *persona non grata*¹⁷, and ordered its own *chargé d'affaires* in Qatar to return to Cairo within 48 hours.¹⁸

The state of Bahrain blamed its decision on Qatar's media provocation, supporting armed terrorist activities, and funding Iranian groups to carry out sabotage and spreading chaos in Bahrain.¹⁹ In respond to the embargo conducted by the majority of gulf countries and followed by some non- gulf countries such as Egypt, Qatar argues that the measures were unjustified and based on false allegations and assumptions. As the Qatari stock market tumbled and oil prices rose, it accused its

¹⁵ Patrick Wintour. *Op. Cit.*, p.1

¹⁶ The word terrorism derives from the Latin *terrere* means to frighten, to terrify, to scare away, to deter. Cited from Victor V Ramraj, *Global Anti-Terrorism Law and Policy*, Cambridge University Press, Cambridge, 2005, p.16.

¹⁷ *Persona Non Grata* is a person who is not wanted or welcome in a particular country, because they are unacceptable to its government. *Persona Non Grata* is a Latin phrase which literally means an unwelcome person. It is a phrase which is used both in legal and non-legal settings. In the legal sense, the phrase has a specific meaning in the context of diplomacy. Pursuant to the *Vienna Convention on Diplomatic Relations*, a State may at any time and without explanation declare any member of a diplomatic staff *persona non grata*. <https://dictionary.cambridge.org> accessed on December 4, 2017.

¹⁸ Patrick Wintour. *Op. Cit.*, p.1

¹⁹ *Ibid.*

fellow Gulf States of violating its sovereignty²⁰ as well as World Trade Organization (WTO) Rules.

In August 2017, Qatar requested WTO dispute consultations²¹ with the United Arab Emirates, Bahrain and Saudi Arabia concerning measures adopted by the three countries which allegedly restricted the trade in goods and services from Qatar, and trade related to intellectual property rights. However, the first stage dispute settlement in WTO was unsuccessful and inflicted Qatar's request to adjudicate the case by establishment of panel.

The United Arab Emirates requested to WTO to block a judicial process at the WTO, argued that its steps against Qatar were legal under WTO rules because they were based on national security considerations. Nevertheless, the World Trade Organization consistency, in November 2017, adjudicated the dispute over the embargo that several Arab countries had imposed on Qatar. The establishment of Dispute Settlement Body (DSB) had approved this request on November 22nd. Qatar's claim concerned a long list of complaints under the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the

²⁰ *Ibid.*

²¹ The request for consultations formally initiates a dispute in the WTO. Consultations give the parties an opportunity to discuss the matter and to find a satisfactory solution without proceeding further with litigation. After 60 days, if consultations have failed to resolve the dispute, the complainant may request adjudication by a panel. www.wto.org accessed on December 4, 2017

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).²²

The contradiction of reasoning among the disputing parties related to the legality Qatar's trade embargo become the most interesting in this case. It triggers the researcher to analyze whether the embargo has complied with WTO rules or not.

B. Problem Formulation

Based on the background, the research focuses on the following questions:

1. Does WTO have jurisdiction to interpret Article XXI of GATT on Security Exceptions?
2. What are the measures of Article XXI of GATT on Security Exceptions?

C. Research Objective

Based on the problem formulation above, the purposes of this study are as follows:

1. To figure out the jurisdiction of WTO to interpret Article XXI of GATT on Security Exceptions.

²² Agency Report, *WTO to Adjudicate on Saudi-led Embargo on Qatar*, Premium Times, November 22, 2017. <https://www.premiumtimesng.com/foreign/250293-wto-adjudicate-saudi-led-embargo-qatar.html> accessed on December 4, 2017

2. To identify the measures of Article XXI of GATT on Security Exceptions that would determine the legality of trade embargo done by some of Gulf countries toward Qatar.

D. Definition of Terms

Embargo is defined as:²³

An embargo is a government order that restricts commerce or exchange with a specified country or the exchange of specific goods. An embargo is usually created as a result of unfavorable political or economic circumstances between nations. The restriction looks to isolate the country and create difficulties for its governing body, forcing it to act on the underlying issue.

World Trade Organization (WTO) is defined as:²⁴

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.

World Trade Organization Rules are defined as:

All of World Trade Organization covered agreements, Decisions of WTO Panels, Customary Law of WTO, including law principles which recognized by WTO.

²³ <https://www.investopedia.com/terms/e/embargo.asp>. Accessed on December 4, 2017

²⁴ https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm. Accessed on December 4,

Gulf Cooperation Council (GCC) is defined as:²⁵

The Cooperation Council for the Arab States of the Gulf, originally known as the Gulf Cooperation Council, is a regional intergovernmental political and economic union which currently consisting of The United Arab Emirates, Saudi Arabia, Kuwait, Qatar, Bahrain and Oman.

E. Theoretical Framework

The richest country on earth²⁶ since June 2017 up to now has been under an embargo imposed by its Arab neighbors. It was motivated by their discontent over Qatar's increasingly independent course in international affairs.²⁷ From this embargo reflected those countries were actually intervening Qatar's internal affairs of state. It is considered as violation of non-interference principle stated in United Nations Charter²⁸. However, with the basis of national security protection, those countries legitimated their conduct. Moreover, Qatar argues that the measures of Arab neighbors were unjustified and based on false claims and assumptions. Subsequently, legitimating the conduct could not be accepted. The interesting part in this case is

²⁵ <http://www.gcc-sg.org/en-us/Pages/default.aspx> accessed on December 4 2017

²⁶ Business Insider, *The Richest Countries in The World* 2016, <http://uk.businessinsider.com/the-richest-countries-in-the-world-2016-3/?IR=T/#25-france--gdp-per-capita-41396-28749-1> accessed on 19th April 2018

²⁷ Johannes Fahner. *Qatar under Siege: Chances for an Article XXI Case?*. Blog of the European Journal of International Law 2018. <https://www.ejiltalk.org> accessed on January 13, 2018

²⁸ In international law, the principle of non-intervention includes, but is not limited to, the prohibition of the threat or use of force against the territorial integrity or political independence of any state (Article 2.4 of the UN Charter). The principle of non-intervention in the internal affairs of States also signifies that a State should not otherwise intervene in a dictatorial way in the internal affairs of other states.

how to identify the legality of trade embargo without abuse of national security as the basis of doing trade embargo.

For the time being, Qatar has tested the ban's lawfulness at the World Trade Organization (WTO) by requesting consultations with the UAE (DS526), Bahrain (DS527), and Saudi Arabia (DS528). The dispute, for the first time, required a WTO panel to interpret Article XXI General Agreement on Tariffs and Trade (GATT). The security provision in the Article XXI of GATT has been described as 'an unreviewable trump card'. It is an exception to all WTO rules that can be exercised at the sole discretion of a Member State'.²⁹

Meanwhile, the cases against Bahrain and Saudi Arabia have not passed the consultations phase³⁰. Qatar has requested the establishment of a panel in the case against the UAE, and the Dispute Settlement Body (DSB) has approved this request on November 22nd, 2017. Qatar's claim concerns a long list of complaints on the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). In response, the UAE has clearly referred to the security exceptions of the relevant agreements stated in Article XXI specifically Article XXI verse (b) point (ii) of GATT, it argues, that the measures were a response

²⁹ Johannes Fahner. *Op. Cit.*,p.1

³⁰ Consultation is the first stage of WTO dispute settlement (up to 60 days). Before taking any other actions the countries in dispute have to talk to each other to see if they can settle their differences by themselves. If that fails, they can also ask the WTO director-general to mediate or try to help in any other way

to Qatar’s funding of terrorist organizations. Therefore, UEA justified the interest of national security.³¹ The content of article XXI of GATT is as follows;

Article XXI: Security Exceptions

Nothing in this Agreement shall be construed

1. to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
2. to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
 - a. relating to fissionable materials or the materials from which they are derived;
 - b. relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - c. taken in time of war or other emergency in international relations; or
3. to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

From the Article XXI GATT stipulated above, amongst other things, that is nothing in the GATT ‘*shall be construed*’ and ‘*to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests*’, in three different contexts, including those of ‘*war or other emergency in international relations*’.³² From these phrases, they actually indicated that Article XXI GATT could be said as “Self-Judging Clause”³³ which means this

³¹ *Ibid.*

³² *Ibid.*

³³ Although, there is currently no generally accepted definition of self judging clauses, existing state practice and jurisprudence by international Courts and Tribunals provide a structural framework on the basis of which a definition can be distilled. At the most general level, self-judging clauses have the function of allowing a state to enter into international cooperation on the basis of binding international obligations, while at the same time retaining the power to escape from such obligations in certain circumstances, most frequently if the state determines that it would harm its sovereignty, security, public policy, or more generally, its essential interests. It constitutes a safely

clause open opportunity to every state justifying the measures which are considered essential by the state that adopts this article.

Therefore, other legal questions that come up from this article are to what extent this article permits to review WTO jurisdiction to interpret this article. Meanwhile it was clearly stated that “*Nothing in this Agreement shall be construed*”. Subsequently, for the first time Qatar required a WTO panel to interpret Article XXI General Agreement on Tariffs and Trade (GATT) especially for this article. According to the UAE, the WTO dispute settlement system is neither enabled nor prepared to hear question concerning national security. However, Qatar argues that although the members have the right to adopt *bona fide*³⁴ security measures, such measures stay subject to WTO oversight.³⁵

Currently, GATT and WTO have not given a definite answer on the review states of Article XXI. A decision on Article XXI received by the GATT Council in 1982 just stipulated that contracting parties ‘ought to be informed to the fullest extent possible’ of Article XXI measures, while they ‘hold their full rights under the General Agreement’. With regards to an EC protestation concerning the US trade embargo

valve for reconciling international cooperation and for state’s occasional preference for unilateralism within cooperative regimes. Cited on Article “If the State Considers: Self-Judging Clauses in International Dispute Settlement” by Stephan Schill & Robyn Briese. Max Planck UNYB 13 (2009)

³⁴ *Bona fide* In Latin means "good faith," it signifies honesty, the "real thing" and, in the case of a party claiming title as bona fide purchaser or holder, it indicates innocence or lack of knowledge of any fact that would cast doubt on the right to hold title. Legal Dictionary <https://dictionary.law.com> accessed on January 15th 2018.

³⁵ Johannes Fahner. *Op. Cit.*p.1

against Cuba³⁶, the US encouraged the EC to 'consider whether the WTO was very much prepared to address, not to mention resolve, the sort of difference they had conveyed to the DSB', and the board procedures were eventually suspended. The constrained practice under Article XXI proposes that the members have an enthusiasm for keeping the lawful status of the security special case and want to settle the case through different means. In the meantime, the inquiries encompassing Article XXI have turned out to be more disputable to the assents embraced by and against Russia with regards to the Ukraine conflict.³⁷

The existence of self-judging clause becomes the basis of argument of one disputing party to justify their conduct. It is strengthened by “*Nothing in this Agreement shall be construed*” clause. In point of fact, this justification legalized by the existing law (WTO Rules) beyond stipulates this conduct was conducted by good aim or not. However, if WTO accepts to interpret this clause to obtain facts with *bona fide*, there will be legal questions that has to be answered by WTO, such as how to measure a case which used this article as the basis of conduct to be reviewed and whether or not the article on security exceptions that clearly stated unreviewable still has exceptions. So far WTO does not provide solution for this case, because this is case the first case of WTO to interpret the article.

³⁶ See WTO Case No DS38 on United States — The Cuban Liberty and Democratic Solidarity Act

³⁷ *Ibid.*

Along with the adjudication of the case which World Trade Organization decided to make the panel, all of the disputing parties generally will involve in the WTO dispute settlement procedures as follows;

World Trade Organization (WTO)

There are two main ways to settle a dispute once a complaint has been filed in the WTO:³⁸

1. The parties find a mutually agreed solution, particularly during the phase of bilateral consultations; and
2. Through adjudication, including the subsequent implementation of the panel and Appellate Body reports, which are binding upon the parties once adopted by the DSB.

There are three main stages to the WTO dispute settlement process:³⁹

1. Consultations between the parties;
2. Adjudication by panels and, if applicable, by the Appellate Body; and
3. The implementation of the ruling, which includes the possibility of countermeasures in the event of failure by the losing party to implement the ruling.

³⁸https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm
accessed on December 4 2017

³⁹ *Ibid.*

F. Research Method

1. Object of Research

There were two things in the object of research that would be examined. The first was the legality of trade embargo done by some of Gulf countries toward Qatar based on World Trade Organization Rules. The second focused on the Article XXI of General Agreement of Trade and Tariffs particularly.

2. Sources

The main research materials used in this thesis were primary, secondary and tertiary legal sources. The primary sources were obtained from World Trade Organization Rules, General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The secondary data were obtained from the literature, which consisted of relevant books, journals, research report and other works, such as articles, background papers, from seminars or lecturers which were relevant to the research topic as well as correlated with the primary source. Furthermore, the tertiary legal sources were all literatures which supported the primary and secondary sources, among others: legal dictionary and media publication.

3. Legal Material Gathering Method

The research material was gathered by using library research method. For the first step of the research method, the writer compiled and analyzed all of the materials, consisting of primary, secondary and tertiary legal source which were relevant to the issue discussed. This step becomes the secondary materials that played a role as the main material source.

4. Legal Research Method and Legal Approach Method

The legal research method engaged in this research was analytical descriptive method. This research identified and reviewed the existing facts or legal rules. The analysis used relevant theories in answering the main issue which would be discussed in regards to the legality of embargo implementation over Qatar by its Arab neighbors according to WTO Rules.

Furthermore, the research employed normative juridical approach method. The aim to understand more regarding the issues, the researcher analyzed the contextualization of the legal principles with certain issues regarding legality of embargo implementation over Qatar by its Arab neighbors.

5. Material Analysis Method

The material analysis in this thesis used qualitative analysis. The data obtained were described in the form of informations and explanations. Then, it was analyzed by experts, legal theories that were relevant, and the arguments of the researcher.

CHAPTER II

LITERATURE FRAMEWORK

A. General Overview of Qatar's Trade Agreements in Region

1. Economic Relations of Qatar with State Membership in Gulf Cooperation Council (GCC)

The Cooperation Council for the Arab States of the Gulf, originally known as the Gulf Cooperation Council or GCC, is a regional intergovernmental political and economic union which currently consisting of The United Arab Emirates, Saudi Arabia, Kuwait, Qatar, Bahrain and Oman. The GCC was established in Riyadh, Saudi Arabia, in May 1981. The idea of the GCC is to accomplish harmony among its members based on their universal objectives and their similar political and cultural identities, which are ingrained in Islamic beliefs. And for Administration of the council rotates annually.¹

Arguably the most significant article of the GCC charter is Article 4, which states that the alliance was created to strengthen relations among its member countries and to promote cooperation among the countries' citizens. The GCC likewise has a safeguard arranging chamber that directions military collaboration between each nations. The most elevated basic leadership element

¹ Britanica, *Overview of Gulf Cooperation Council* <https://www.britannica.com/topic/Gulf-Cooperation-Council> accessed on April 5 2018

of the GCC is the Supreme Council, which meets on a yearly premise and comprises of GCC heads of state. Choices of the Supreme Council are received by consistent approval. The Ministerial Council, made up of foreign ministers or other government officials, meets each three months to put into practice the decisions of the Supreme Council and to recommend new policy. The administrative arm of the alliance is the office of the Secretariat-General, which monitors policy realization and arranges meetings. Several of the most essential achievements of the GCC include the formation of the Peninsula Shield Force, a joint military venture based in Saudi Arabia, and the signing of an intelligence-sharing pact in 2004. At a GCC summit in December 2009, an agreement was reached to initiate a single regional currency alike to the Euro in European Union.²

Unfortunately, the recent Qatar's relationships with its neighbors especially with members of Gulf Cooperation Council countries have been tense at times. Following the outburst of regional unrest in 2011, Doha prided itself on its support for many popular revolutions, particularly in Syria and Libya. This deportment was to the disadvantage of Qatar's relations with Bahrain, Saudi Arabia, and the United Arab Emirates (UAE), which temporarily recalled their respective ambassadors from Doha in March 2014. Tamim as the current Emir of Qatar afterward oversaw a warming of Qatar's relations with Bahrain, Saudi Arabia, and the UAE following Kuwait mediation

² *Ibid.*

and signing of the Riyadh Agreement in November 2014. In June 2017, however, the Quartet — Bahrain, Egypt, Saudi Arabia, and the UAE — cut diplomatic and economic ties with Qatar in response to suspected violations of the agreement.³ In the Riyadh Agreement objectives are:⁴

- a. To combat terrorism in all its forms, address its intellectual roots, dry up its sources from funding and to take all necessary measures to prevent and combat terrorist crimes in close cooperation among their states.
- b. To exchange important information about foreign fighters and their movements among terrorist organizations.
- c. To broaden the scope of meaningful and serious cultural dialogue, this demonstrates the tolerance of Islam and its rejection of all forms of violence and extremism and its ability to coexist peacefully.
- d. To renew and rationalize intellectual discourse to be consistent with moderate Islam which call for tolerance, love, mercy, and peace, stressing that the misconception about Islam must be addressed and clarified.
- e. To enhance sustainable development programs to improve the living level of their people, and provide a safe, stable and prosperous performance that serve the incubator for the youths against unusual and extremists thought.

³ Comparison of Qatar and the United Arab Emirates, Index Mundi, <https://www.indexmundi.com/factbook/compare/qatar.united-arab-emirates> accessed on April 5 2018

⁴ What is Riyadh Agreement. Pressreader. 6 June 2017 <https://www.pressreader.com/uae/gulf-news/20170606/281565175728426> accessed on April 5 2018

- f. To reject sectarian agendas, due to their hazardous repercussions on the security of the region and the world for the most part.
- g. To reject the practices of the Iranian regime designed to destabilize the security and stability of the region, its continuing support terrorism and extremism, and its continuing interference in the domestic affairs of other countries in a flagrant violation of the principles of international law.
- h. To boost the security in the region and the world in principal and definitely face up to the subversive and destructive Iranian activities inside their countries and through joint coordination.

Those objectives above actually obtained from Riyadh Agreement in 2013 as well as in 2014 which is remained secret by those countries leaders because of the sensitivity of the issues.⁵ The leaders underlined the dangerous Iranian ballistic missiles program and denounced the Iranian regime's continuing violations for Vienna Convention on Diplomatic Relations.

However, because of Qatar suspected of breach of the agreement, since June 2017 the richest country on earth has been under an embargo imposed by its Arab neighbors, apparently motivated by their discontent over

⁵ Jim Sciutto and Jeremy Herb, *The Secret Documents that Helps Explain the Qatar Crisis*, CNN, July 11 2017 <https://edition.cnn.com/2017/07/10/politics/secret-documents-qatar-crisis-gulf-saudi/index.html> accessed on 19 April 2018

Qatar's increasingly independent course in international affairs.⁶ From these kinds of actions reflected those countries actually were conducting interference of Qatar's internal affairs of state which can be considered a violation of the non-interference principle which is stated in the United Nations Charter⁷ but with the basis of national security protection, those countries legitimated their conduct. Moreover, Qatar argues that the measures of Arab neighbors were unjustified and based on false claims and assumptions subsequently legitimating the conduct could not be accepted. That becomes an interesting thing in this case is how to identify the legality of trade embargo without abuse of the term of national security as the basis of doing trade embargo.

For the time being, Qatar has tested the ban's lawfulness at the World Trade Organization (WTO), by requesting consultations with the UAE (DS526), Bahrain (DS527), and Saudi Arabia (DS528). The dispute could, for the first time, require a WTO panel to interpret Article XXI General Agreement on Tariffs and Trade (GATT), the security provision that has been described as

⁶ Johannes Fahner. *Qatar under Siege: Chances for an Article XXI Case?*. Blog of the European Journal of International Law 2018. <https://www.ejiltalk.org> accessed on January 13, 2018

⁷ In international law, the principle of non-intervention includes, but is not limited to, the prohibition of the threat or use of force against the territorial integrity or political independence of any state (Article 2.4 of the UN Charter). The principle of non-intervention in the internal affairs of States also signifies that a State should not otherwise intervene in a dictatorial way in the internal affairs of other states.

‘an unreviewable trump card, an exception to all WTO rules that can be exercised at the only discretion of a Member State’.⁸

2. Economic Relations of Qatar with Iran

The bilateral relation between the Islamic Republic of Iran and the State of Qatar is pretty good. Qatar has an embassy in Tehran while Iran has an embassy in Doha. Qatar and Iran have close ties but relations between the two countries were soured after Saudi Arabia severed ties with Iran following the attack on the Saudi diplomatic missions in Iran in January 2016.

In term of economic relations Qatar and Iran have pretty close ties. Both are members of OPEC,⁹ the Non-Aligned Movement (NAM),¹⁰ and the

⁸ Johannes Fahner. *Op. Cit.*,p.1

⁹ The Organization of the Petroleum Exporting Countries (OPEC) is a permanent, intergovernmental Organization, created at the Baghdad Conference on September 10–14, 1960, by Iran, Iraq, Kuwait, Saudi Arabia and Venezuela. The five Founding Members were later joined by ten other Members: Qatar (1961); Indonesia (1962) – suspended its membership in January 2009, reactivated it in January 2016, but decided to postpone it again in November 2016; Libya (1962); United Arab Emirates (1967); Algeria (1969); Nigeria (1971); Ecuador (1973) – suspended its membership in December 1992, but reactivated it in October 2007; Angola (2007); Gabon (1975) - ended its membership in January 1995 but rejoined in July 2016; and Equatorial Guinea (2017). OPEC had its headquarters in Geneva, Switzerland, in the first five years of its existence. This was moved to Vienna, Austria, on 1 September , 1965. OPEC's purpose is to co-ordinate and unites petroleum policies among Member Countries, in order to secure fair and stable prices for petroleum producers; an efficient, economic and regular supply of petroleum to consuming nations; and a fair return on capital to those investing in the industry. http://www.opec.org/opec_web/en/about_us/24.htm accessed on 19 April 2018

¹⁰ Non-Aligned Movement (NAM), international organization concerned to representing the interests and aspirations of developing states. The Non-Aligned Movement counts more than 100 member states, whose combined population amounts to more than half of the world's population. <https://www.britannica.com/topic/Non-Aligned-Movement> accessed on 19 April 2018

Organization of the Islamic Cooperation (OIC)¹¹. Distinct fellow GCC member states such as Saudi Arabia and the UAE, Qatar commonly refrains from criticizing Iran's domestic and foreign activities. Qatar has also held several high-level meetings with Iranian officials to talk about security and economic agreement.¹²

The close relationship of Iran and Qatar is reflected particularly in the oil and gas industries. Iran and Qatar are respectively holders of the world's second and third largest natural gas reserves, behind Russia ultimately both of these countries jointly control the world's largest gas field.¹³ They have made agreements to develop their economic relationship especially within the OPEC. Their South Pars/North Field gas field holds an estimated 50.97 trillion cubic meters of gas and some 50 billion barrels of condensates, according to the International Energy Agency. It covers an area of 9,700 square kilometers, of which 3,700 square kilometers (South Pars) is in Iranian territorial waters and 6,000 square kilometers (North Field) is in Qatari territorial waters. In addition

¹¹ The Organization of Islamic Cooperation (OIC) is the second largest inter-governmental organization after the United Nations with a membership of 57 states spread over four continents. The Organization is the collective voice of the Muslim world. It endeavors to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world. https://www.oic-oci.org/page/?p_id=52&p_ref=26&lan=en accessed on 19 April 2018

¹² Fulton, Will; Farrar-Wellman, Ariel 22 July 2011. "*Qatar-Iran Foreign Relations*". AEI Iran Tracker. American Enterprise Institute. <https://www.criticalthreats.org/foreign-relations/qatar-iran-foreign-relations> Accessed on 19th April 2018

¹³ Factbox: "Qatar, Iran share world's biggest gas field". Reuters. 26 July 2010 <https://www.reuters.com/article/us-northfield-qatar/factbox-qatar-iran-share-worlds-biggest-gas-field-idUSTRE66P1VV20100726> accessed on 19 April 2018

to ties in the oil and natural gas arena, Iran and Qatar also cooperate in the shipping sector.¹⁴

Other than natural resources cooperation between Qatar and Iran, currently also they have signed transportation pact together with Turkey in order to boost trade among three countries.¹⁵

In January 2016, as a consequence of the attack on the Saudi diplomatic missions in Iran by Iranian protesters, Qatar recalled its ambassador to Tehran, claiming that the attack was in violation of international charters and norms.¹⁶ On 23 August 2017, it was announced that Qatar would be returning its ambassador to Iran.

¹⁴ *Ibid.*

¹⁵ Turkey, Iran, Qatar sign transportation agreement to boost trade, Dailysabah, November 26 2017 <https://www.dailysabah.com/business/2017/11/26/turkey-iran-qatar-sign-transportation-agreement-to-boost-trade> accessed on 19 April 2018

¹⁶ "Qatar recalls envoy to Iran after attacks on Saudi missions: State News". Reuters. 6 January 2016. <https://www.reuters.com/article/us-saudi-iran-qatar/qatar-recalls-envoy-to-iran-after-attacks-on-saudi-missions-state-news-idUSKBN0UK23Z20160106> accessed on 19 April 2018

B. Regulation of Trade Embargo in World Trade Organization Rules

1. WTO General Overview and Economic Sanctions in International Trade Law

The main basic establishment of World Trade Organization (WTO) is General Agreement on Trade and Tariffs (GATT). The initiative formation of GATT was appeared from United States during and after World War II where it is believed that one of the stimuli of the world war is the condition of the world. It is believed that international economic dysfunction occurred at that time. The protection of tariff and trade is seen to have the greatest responsibility for the occurrence of depression and high distrust between nations in relation to trade issues. The conflict is a consequence of distrust and therefore the concept that situations such as should be anticipated and international trade in the future must be made as free as possible.¹⁷

An important aspect of this is the need for institutions that can believe in the trading of a world economy that has the independent ability to keep free trade between countries. The importance of such institutions is claimed to be able to apply actions taken in the framework of international trade as an action on behalf of the nation's interests collectively so as to prevent the potential ego of the interests of a particular.

¹⁷ Meria Utama, *Hukum Ekonomi Internasional*, Fikahati Aneska, Jakarta, 2012,p.38

It can be said that the Bretton Woods Conference In 1944 was the beginning of the current international economic arrangements. This conference aims to embody the International Monetary Fund (IMF), the International Bank for Construction and Development (World Bank) as well as to establish the International Trade Organization (ITO). ITO Charter Draft has been prepared by the United States of America.¹⁸

This simultaneous work in the framework of the international economy begins with an attempt to establish the General Agreement on Trade and Tariffs (GATT), which is addressed as a temporary arrangement until the establishment of an ITO institution. This includes the Protocol of the Provisional Application of the General Agreement on Trade and Tariffs (1947). From 1948 to 1995, GATT provided the rules for international trade and the world experienced the highest growth period in the history of international trade. However, within 47 years of GATT was applied only temporarily (provisional) until the establishment of World Trade Organization (WTO).¹⁹

The World Trade Organization was formed on 1 January 1995 marking the greatest reform in the field of international trade since the end of the World War II. It has also redeemed the failure to establish the International Trade Organization in 1948. The formation of WTO was a result of GATT

¹⁸ Hata. *Hukum Ekonomi Internasional: IMF World Bank WTO*, Setara Press, Malang, 2016,p.127

¹⁹ *Ibid.*

Uruguay Round 1986-1994 which had approved by the Agreement Establishing the World Trade Organization and annexes.²⁰

The history over the period of 47 years was much written in Geneva. But it was also a series of journeys that span across several continents. Starting with a hesitant start in Havana (Cuba) in 1948 to Annecy (France), Torquay (Great Britain), Tokyo (Japan), Punta del Este (Uruguay), Montreal (Canada), Brussels (Belgium), and finally Marakesh, Morocco in 1994. During this period, the international trading system was under the GATT arrangement that persisted after a failed attempt to establish ITO. GATT has helped build and maintain a strong and lucrative multilateral trading system and becomes more liberal through various rounds of negotiations. However, in the 1980s the system required a total overhaul. It led to Uruguay's round and ultimately the formation of the WTO.²¹

Some of the most important functions of the WTO are to smooth its implementation, administer it, and by increasing the objectives and agreement of the WTO establishment will be a negotiating forum for members in the fields concerning multilateral trade, conducting a review of trade policy as well as a dispute resolution forum. WTO is equipped with a number of organs namely;²²

²⁰ Triyana Yohanes, *Hukum Ekonomi Internasional Perspektif Kepentingan Negara sedang Berkembang dan LDCs*, Cahaya Atma Pustaka, Yogyakarta, 2015,p. 68

²¹ *Ibid.*

²² Article IV Agreement Establishing the World Trade Organization 1994

a. Ministerial Conference

This is the main organ which the membership is the whole state's members. In this organ also conducting the WTO functions and takes necessary action in order to do its functions.

b. General Council

This organ comprises of member's states representatives and this organ implements the functions of Ministerial Conference.

c. Council Trade in Goods

This organ under General Council that has authorizes to monitor approval implementation that achieved in the field of services.

d. Council for Trade related Aspects of Intellectual Property Rights

This organ under General Council which has objective in the field of trade related to intellectual property rights.

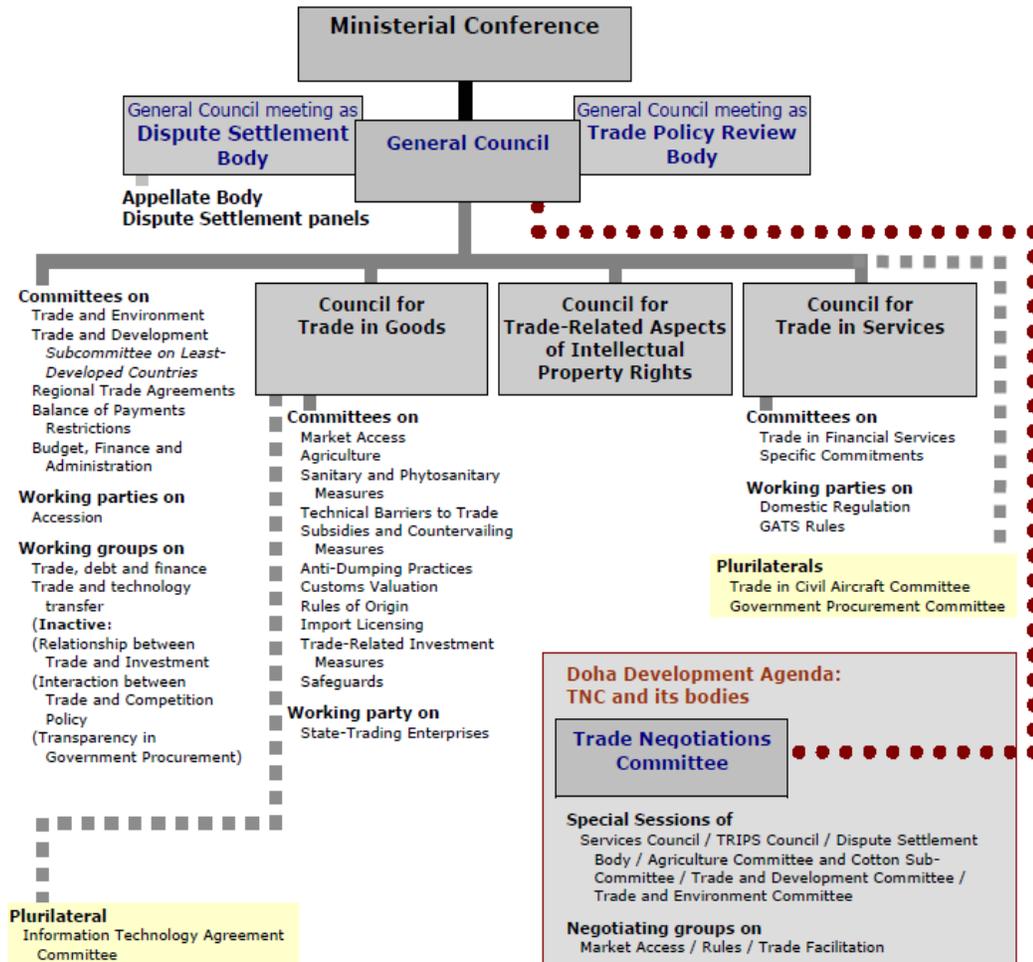
e. Dispute Settlement Body

This organ under Ministerial Conference that organizes trade dispute settlement forum which appear in WTO's member's states

f. Trade Policy Review

Trade Policy Review has authorizes to organize review policy mechanism in the field of trade.

Chart 2.1 Organs in World Trade Organization²³



During the period of GATT up to WTO establishment there were many cases settled by WTO through the WTO dispute settlement body or DSB. And some of those cases were related to economic sanctions.

²³ Organs in World Trade Organization https://www.indiaonline.com/article/print/news-top-story/economics-for-everyone-going-global-world-trade-organization-wto-part-i-114082700103_2.html accessed on May 9 2018

In relation of economic sanction the basis legal source is The United Nations Charter stated in Article 25, 39, 41 and 42 of the Charter. United Nations Charter empowers the Security Council to impose economic and military sanctions upon nations which threaten world peace. A prerequisite to the imposition of such sanctions is Security Council determination of the existence of “*any threat to the peace, breach of peace, or act of aggression*”. Once such of a determination is made, recourse may be had to either Article 41 or Article 42 of the Charter.²⁴

Article 41 provides a general way for taking measures “not involving the use of armed force”. Economic and diplomatic sanctions are suggested along with interruption of communications. Article 42 allows military actions should the Council “consider that measures provided for in Article 41 would be inadequate or have proved to be adequate”. Once the Security Council has made in Article 39 determination and has decided upon sanctions, it may invoke Article 25 of the Charter, which binds member nations to accept and carry out the decisions of the Security Council.²⁵

²⁴ Jhon H Jackson. *Legal Problems of International Economic Relations Cases, Materials, and Text on the National and International Regulation of Transnational Economic Relations*, West Publishing Co, Michigan, 1977,p. 961

²⁵ *Ibid*,p. 962

Punishment have been imposed only once in the history of the United Nations.²⁶ This single example is the case of economic sanctions imposed in Rhodesia. In term of WTO dispute settlement related to economic sanctions United Nations recognized and provided for in GATT Article XXI, paragraph C, which exempts from GATT duties actions taken by a contracting party in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

In the example case of Rhodesia, the United Nations imposed sanctions on Rhodesia. Different with Qatar only few countries imposed economic sanctions in form of trade embargo.

2. WTO Principles and Regulations on Trade Embargo Case

The WTO Agreement builds upon the original provisions of GATT 1947 and continues to be relevant the fundamental principle of non-discrimination all the way through the elimination or reduction of quantitative restrictions.²⁷ These and other basic doctrines of WTO law are examined as they have evolved since 1947.

²⁶ S.C.Res.232, U.N.Doc. S/Res/232 (1966); 30 U.N.SCOR, Spec.Supp.No.2, Vol. II, at 100; U.N. Doc. S/11594/Rev. 1 1975. See infra, text at subsection B. See also Mc Dougall & Riesman, "Rhodesia and the United Nations: *The Lawfulness of International Concern*," 62 Am .J. International. 1968; R. Zacklin, *the United Nations and Rhodesia: A Study in International Law*, Praeger. 1974

²⁷ Gillian D Triggs, *International Law Contemporary Principles and Practices*, LexisNexis Butterworths, Victoria, 2006,p. 715

In the WTO itself there are 5 basic principles of the first Non-Discrimination consisting of the Most Favored Nation and National Treatment. Secondly, Liberalization of Trade, No Unfair Trade, Transparency and the last is Exceptions.

a. Non- Discrimination

Non-Discrimination principle contains of the Most Favored Nation and National Treatment principles²⁸

1) Most Favored Nation

The concept of MFN²⁹ is a fundamental concept in international trade. This concept is not limited only to Member States, therefore if WTO members treat different States non-members then they should also apply to member States.

2) National Treatment

The National Treatment³⁰ concept is contained in Article III GATT, Article VII GATS and Article III TRIPS has become the most

²⁸ Meria Utama. *Op. Cit.*,p.22

²⁹ In international economic relations and international politics, "most favoured nation" (MFN) is a status or level of treatment accorded by one state to another in international trade. The term means the country which is the recipient of this treatment must nominally receive equal trade advantages as the "most favoured nation" by the country granting such treatment. (Trade advantages include low tariffs or high import quotas.) In effect, a country that has been accorded MFN status may not be treated less advantageously than any other country with MFN status by the promising country. There is a debate in legal circles whether MFN clauses in bilateral investment treaties include only substantive rules or also procedural protections.

³⁰ National treatment is a principle in international law vital to many treaty regimes. It essentially means treating foreigners and locals equally. Under national treatment, if a state grants a

frequently interpreted article both before and after the WTO establishment.

b. Liberalization of Trade

The WTO agreements cover goods, services and intellectual property. They spell out the principles of liberalization, and the permitted exceptions.³¹ Liberalization is one way to eliminate all forms of restrictions in the field of export and import. Also, in this case there is no subsidy and no tariff at all.

Perhaps this seems unrealistic to be achieved globally and perhaps this will make some countries not to support the existence of the WTO, one of the warmest cases is the current President of the United States, Donald Trump by publicly declaring that globalization is currently harming the United States as a result this State makes some trade restriction policies recently. But it is important to remember that the WTO aims to achieve a sustainable process of liberalization.³²

It should be noted that there will always be restrictions on the liberalization process. In the WTO agreement, restrictions are represented by

particular right, benefit or privilege to its own citizens, it must also grant those advantages to the citizens of other states while they are in that country. In the context of international agreements, a state must provide equal treatment to those citizens of other states that are participating in the agreement. Imported and locally produced goods should be treated equally at least after the foreign goods have entered the market. www.wto.org accessed on May 9th 2018

³¹ World Trade Organization, *What We Do*
https://www.wto.org/english/thewto_e/whatis_e/what_we_do_e.htm accessed on May 10, 2018

³² Meria Utama. *Op. Cit.*,p.47.

what are called safeguards, a further special agreement on safeguards and the special case of textiles.³³

In essence, safeguards allow Member States to take "emergency" measures to prevent fatal consequences for the State. For example, temporary or transitional measures designed to prepare domestic industry to encounter international competition, but only for a period of 3 years.

c. No Unfair Trade

The ban on unfair trade³⁴ will obviously harm many parties and make the competition and international trade climate unhealthy. Some examples of unfair trade are dumping and subsidies. Product dumping is seen as an example of price discrimination internationally. Different markets have different prices for the same item. Dumping is also seen as predatory pricing where a producer sells below the price to intimidate or eliminate his rival and in the long term the price will be increased once the competitor can be eliminated.

³³ *Ibid*, p.47.

³⁴ Unfair trade practice refers to the use of various deceptive, fraudulent or unethical methods to obtain business. Unfair trade practices include misrepresentation, false advertising or representation of a good or service, tied selling, false free prize or gift offers, deceptive pricing and non-compliance with manufacturing standards. Such acts are considered unlawful by statute via Consumer Protection Law, which opens up recourse for consumers by way of compensatory or punitive damages. An unfair trade practice is sometimes referred to as a "deceptive trade practice" or an "unfair business practice." UnfairTradePractice <https://www.investopedia.com/terms/u/unfair-trade-practice.asp#ixzz5F6xr8Hz0> accessed on May 10, 2018

Antidumping is permitted by article VI GATT, with the exception of only protecting the national economy against unfair competition and not as a means to protect trade. The anti-dumping policy for the parties is subject to the Agreement on Implementation of Art VI of the GATT³⁵, with the purpose to unify the practices of the contracting parties in applying art VI of GATT, and also represents efforts at preventing abuse of the antidumping power of governments as a means of trade protectionism. For instance, to protect a domestic industry that has not made efforts to become internationally competitive.

Article VI stated that dumping occurs only when the product is sold at a price which is below the home market price of the product and the sale is detrimental to the local economy of the importing country.³⁶

Therefore two levels and requirements are required for a dumping, namely:³⁷

- 1) Products sold at a price below the sale price of the product in the domestic market.
- 2) The sale is intended to damage the local economy of the importing country.

³⁵ See Antidumping Code 1979

³⁶ Meria Utama. *Op. Cit.*,p.48.

³⁷ See Antidumping Code 1979

If both of these conditions are not met then there is no dumping. While what is meant by "the same product", according to Antidumping code 1979 defined as "A product which is identical , that is alike on all respects to the product under consideration, or in the absence of such a product another product which, although not all alike in all respects has characteristics closely resembling those of the product under consideration".

In addition to dumping, subsidy is also included in the principle of no unfair trade mentioned in XVI, XVII, and XVIII. In Uruguay's Round 1986-1994 for the first time the subsidy was given a definition which is a financial contribution by the government or any public body where the government practices involves the following;³⁸

- 1) A direct transfer of funds
- 2) Potential direct transfers of liabilities
- 3) Government revenue (for example taxation or payroll duty) that is otherwise due to foregone
- 4) Government provisions of goods and services other than general infrastructure
- 5) Government payment to a funding mechanism or direction to a private body to carry out the above functions

³⁸ See the Agreement on Subsidies and Countervailing Measures <http://www.meti.go.jp/english/report/data/gCT9906e.html> accessed on May 10 2018

As a general rule, subsidies are prohibited when this causes disturbed international trade. So it is not the price and quality of goods that reach the consumer, but the price caused solely by the subsidy and not the result of competitive pressure.

GATT allows some form of subsidy and government assistance for producers, as follows;³⁹

- 1) Article XVIII GATT permits Member States including GATT to provide special concessions to certain domestic industries.
- 2) To suppress discriminatory tariff
- 3) Quantitative restrictions on certain imported products to support domestic industry
- 4) As long as its implementation does not conflict with notification and negotiation procedures. For example in article XVI GATT which requires member states to subsidize its foreign trade to notify other countries of the details of the subsidy and discuss its use with the relevant State requesting it.

The difference between dumping and subsidizing is as a general rule, antidumping is related to an action by a company. While, subsidies is related to the practice undertaken by the government.⁴⁰

³⁹ Meria Utama. *Op. Cit.*,p.50.

d. Transparency

The rules relating to the principle of transparency can be found in article X GATT, III GATS, and article 63 TRIPS. The essence of transparency of the regulation as follows;

- 1) Publication of all types of laws and rules before being implemented
- 2) Uniformity, not separate and reasonable administration of the rules and laws
- 3) Judicial review of each administrative decision

Basically, this principle regulates about publication and trade rules administration of WTO member's state.⁴¹ The principle of transparency is crucial to the confidence of businessman, it is expects that the domestic legal system treats foreign corporations and individuals equal to local corporations and individuals.

e. Exceptions

There are exceptions in the WTO principles of general exceptions and security exceptions and this principle is also the basis in the case of an embargo by some Arab countries against Qatar.

- 1) General Exceptions

⁴⁰ *Ibid.*

⁴¹ Triyana Yohanes. *Hukum Ekonomi Internasional Perspektif Kepentingan Negara Sedang Berkembang dan LDCs*, Cahaya Atma Pustaka, Yogyakarta, 2015, p.77.

The horizontal exceptions in GATT are contained in article XX.

These exceptions include:⁴²

- a) Interests to protect people's morale
- b) Interests to protect human beings, animals or planet life and health
- c) Related to export or import of gold and silver
- d) Interest on the basis of laws and rules that are not in accordance with the rules contained in the agreement relating to;
 - Customs enforcement
 - Protection of patents, trademarks and copyrights
 - Enforcement of monopolies
 - Prevention of deceptive practices
- e) Products produced by a prison person /prison labor
- f) Applied to protect artistic heritage, past history and archeological value
- g) Conservation of few natural resources
- h) Taken in the framework of obligations arising from intergovernmental commodity agreements
- i) Involve restrictions on imports of essential domestic goods to ensure the main quality of the material in the domestic industry

⁴² See Article XX of GATT

process during the period when the domestic price of the material is below world prices, as part of the government stabilization plan included in the subject to the principle of non-discrimination

- j) Useful to acquire or distribute the product as a short-term supply to the public or local

2) Security Exceptions

While the case for free trade is supported by compelling economic and moral arguments, no government would consider trade barrier reduction to be a higher priority than its obligation to protect national security. Consequently, since 1947 the GATT has contained a “national security exception,” found in Article XXI.⁴³

This article permits members to impose trade restrictions for purposes of national security without any condition or agreed-upon definition of a national security threat. States may choose to invoke the exception to protect strategic domestic production capabilities such as required to equip their military or produce energy. States may use trade sanctions in foreign policy or they may prohibit certain exports such as

⁴³ Scott Miller, *National Security Exceptions: When Trade Rules Do Not Apply* June 1 2017 <https://tradevistas.csis.org/national-security-exception-trade-rules-dont-apply/> accessed on May 10 2018

military arms to countries they consider hostile to their national security interests.⁴⁴

Security exceptions are the right of a State to defend itself against outside attacks guaranteed in the fundamental principles of international law. Since the WTO State Member is a sovereign State and is responsible for its internal security, it is difficult to imagine how the WTO dispute settlement body (DSB) will act as a judge on this matter if this security exception is not made as clear as possible and the security measure is placed in the real sense of trade discrimination in the case of domestic producers. Such legal matters are also largely addressed in public international law rather than private international law. As well as being the main discussion of the case of trade embargo imposed on Qatar by some Arab countries.

3. The Application of Article XXI of GATT

In the case of Qatar's embargo, Qatar has requested the establishment of a panel in the case against the UAE, and the Dispute Settlement Body (DSB) has approved this request on 22 November 2017. Qatar's claim concerns a long list of complaints under the General Agreement on Tariffs and Trade (GATT),

⁴⁴ *Ibid.*

the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).⁴⁵ In response, the UAE has clearly referred to the security exceptions of the relevant agreements which is contain in Article XXI specifically Article XXI verse (b) point (ii) of GATT, arguing that the measures were a response to Qatar’s funding of terrorist organizations and therefore justified in the interest of national security.⁴⁶ The content of article XXI of GATT as follows;

Article XXI: Security Exceptions

Nothing in this Agreement shall be construed

- a. to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- b. to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
 - 1) relating to fissionable materials or the materials from which they are derived;
 - 2) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - 3) taken in time of war or other emergency in international relations; or
- c. to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

From the Article XXI GATT above stipulates, amongst other things, that nothing in the GATT ‘*shall be construed*’ and ‘*to prevent any contracting party from taking any action which it considers necessary for the protection of its*

⁴⁵ Agency Report, *WTO to Adjudicate on Saudi-led Embargo on Qatar*, Premium Times, November 22, 2017. <https://www.premiumtimesng.com/foreign/250293-wto-adjudicate-saudi-led-embargo-qatar.html> accessed on December 4, 2017

⁴⁶ *Ibid.*

essential security interests’, in three different contexts, including those of ‘*war or other emergency in international relations*’.⁴⁷ From these phrases actually indicated Article XXI GATT could be said as “self-judging clause”⁴⁸ which means this clause open opportunity to every state justifying the measures which are considered essential by the state that adopts this article.

In this case for the first time require a WTO panel to interpret Article XXI General Agreement on Tariffs and Trade (GATT) especially for this article. According to the UAE, the WTO dispute settlement system is neither enabled nor prepared to hear question concerning national security. Qatar, however, argues that while Members have the right to adopt *bona fide*⁴⁹ security measures, such measures stay subject to WTO oversight.⁵⁰

Up until now, GATT and WTO rehearse has not given a definitive answer on the reviewability of Article XXI measures. A Decision on Article XXI received by the GATT Council in 1982 just stipulates that contracting parties

⁴⁷ *Ibid.*

⁴⁸ Although, there is currently no generally accepted definition of self judging clauses, existing state practice and jurisprudence by international Courts and Tribunals provide a structural framework on the basis of which a definition can be distilled. At the most general level, self-judging clauses have the function of allowing a state to enter into international cooperation on the basis of binding international obligations, while at the same time retaining the power to escape from such obligations in certain circumstances, most frequently if the state determines that it would harm its sovereignty, security, public policy, or more generally, its essential interests. It constitutes a safely valve for reconciling international cooperation and for state’s occasional preference for unilateralism within cooperative regimes. Cited on Article “*If the State Considers: Self-Judging Clauses in International Dispute Settlement*” by Stephan Schill & Robyn Briese. Max Planck UNYB 13 (2009)

⁴⁹ *Bona fide* In Latin means "good faith," it signifies honesty, the "real thing" and, in the case of a party claiming title as bona fide purchaser or holder, it indicates innocence or lack of knowledge of any fact that would cast doubt on the right to hold title. Legal Dictionary <https://dictionary.law.com> accessed on January 15th 2018.

⁵⁰ Johannes Fahner. *Op. Cit*, p.1

ought to be informed to the fullest extent possible' of Article XXI measures, while they 'hold their full rights under the General Agreement'. With regards to an EC protestation concerning the US trade embargo against Cuba⁵¹, the US encouraged the EC to 'consider whether the WTO was very much prepared to address, not to mention resolve, the sort of difference they had conveyed to the DSB, and the board procedures were eventually suspended. The constrained practice under Article XXI proposes that Members have an enthusiasm for keeping the lawful status of the security special case questionable and want to settle case through different means. In the meantime, the inquiries encompassing Article XXI have turned out to be more disputable with regards to the assents embraced by and against Russia with regards to the Ukraine conflict.⁵²

With the existing of self-judging clause that becoming the basis of argument of one disputing party to justify their conduct in which strengthens by “*Nothing in this Agreement shall be construed*” clause, in point of fact this justification legalized by the existing law (WTO Rules) beyond stipulates this conduct was conducted by good aim or not.⁵³ But if WTO accepted already to interpret this clause in order to obtain facts with *bona fide* there will be legal questions that has to be answered by WTO, such how to measure a case which used this article as the basis of conduct to be reviewed? Does the article on

⁵¹ See WTO Case No DS38 on United States — The Cuban Liberty and Democratic Solidarity Act

⁵² *Ibid.*

⁵³ Johannes Fahner. *Op. Cit.*,p.1

security exceptions that clearly confirmed unreviewable still has exceptions?. So far WTO does not provide solution for this case, because this case is the first time for WTO requires interpreting the article.

After all in legal interpretation and application of the General Agreement⁵⁴ related to of Article XXI on security exceptions there are the scope and application which stated in WTO Analytical Index⁵⁵ that can be a point of reference in order to determine the measures of the appliance of Article XXI as follows:

a. Paragraphs (a) and (b): “it considers... essential security interest”

Amid dialogs in the Geneva session of the Preparatory Committee, because of a request with regards to the importance of "basic security interests", it was expressed by one of the drafters of the first Draft Charter that "we have a decent arrangement of thought to be question of the security exemption which we thought ought to be incorporated into the Charter. We have knowledge of that there was an enormous jeopardy of having too extensive an exception and we could not put into the Charter, simply by saying: ‘by any member of measures relating to a member’s

⁵⁴ GATT, Analytical Index: Guide to GATT Law and Practice, Volume 1 updated 6th Edition, 1995, p.599

⁵⁵ The Analytical Index is a shortened compendium of explanation resources from the entire work of the WTO as an organization, approved by topic and set into context by preliminary summaries or interpretation. Its coverage includes panel and Appellate Body reports, arbitral decisions and awards, and decisions and other noteworthy activities of WTO Committees, Councils, and other WTO bodies. The Analytical Index is distinctive because it is the only legal research tool that provides an integrated outlook of all of the WTO’s work, as well as the work of the Members in these bodies.

security interests,' because that would permit anything under the sun. Therefore we thought it well to draft provisions which would take care of security interests and at the same time, so far as we could, to limit the exceptions so as to prevent the adoption of protection for maintaining industries under conceivable condition. There must be some autonomy here for security measures. It is really a question of equilibrium. We have got to have a number of exceptions. We cannot make it too tight, because we cannot prohibit measures which are needed simply for security reasons. On the other hand, we cannot make it so extensive that, under the appearance of security, countries will put on measures which really have a commercial purpose". The Chairman of Commission A recommended in response that the spirit in which Members of the Organization would construe these provisions was the only guarantee against abuses of this kind.⁵⁶

The elucidations above that make the provision of security interests being as mentioned as "self-judging clause". Sometimes any nation states can determine the measures by their own interests within encounter any cases in order to justify their position because the interests.

Even though during the discussion of the complaint of Czechoslovakia at the Third Session in 1949 it was stated, *inter alia*⁵⁷, that "every country

⁵⁶ *Ibid.*p.600

⁵⁷ In Latin is defined as "among other things." This phrase is often found in legal pleadings and writings to specify one example out of many possibilities. Example: "The judge said, *inter alia*,

must be the judge in the last resort on questions relating to its own security. On the other hand, every contracting party should be cautious not to take any step which might have the result of discouragement the General Agreement".⁵⁸ In here if relates to Qatar's embargo case it's a good step for Qatar requested to establish WTO Panel to interpret the Article of security exceptions, but in here as well there is prospect by other party to see this kind of action as a part of undermining the General Agreement.⁵⁹

In 1961, on the occasion of the accession of Portugal, Ghana stated that its boycott of Portuguese goods was justified under the provisions of Article XXI:(b)(iii), noting that

*" under this Article each contracting party was the sole judge of what was necessary in its essential security interest. There could therefore be no objection to Ghana regarding the boycott of goods as justified by security interests. It might be observed that a country's security interests might be threatened by a potential as well as an actual danger. The Ghanaian Government's view was that the situation in Angola was a constant threat to the peace of the African continent and that any action which, by bringing pressure to bear on the Portuguese Government, might lead to a lessening of this danger, was therefore justified in the essential security interests of Ghana".*⁶⁰

For the duration of the Council discussion in 1982 of trade restrictions applied for non-economic reasons by the EEC, its member States, Canada

that the time to file the action had passed." <http://dictionary.law.com/Default.aspx?selected=996> accessed on May 10 2018

⁵⁸ *Ibid.*

⁵⁹ General Agreement on Tariffs and Trade /Contracting Parties.3/Summary Record.22, Corr.1

⁶⁰ GATT Summary Record.19/12, p.196

and Australia alongside imports from Argentina the spokesperson of the EEC stated that “the EEC and its member States had taken definite measures on the basis of their inherent rights, of which Article XXI of the General Agreement was a reflection. The exercise of these rights constituted a general exception, and necessary neither notification, justification nor approval, a procedure is confirmed by thirty five years of execution of the General Agreement. He said that in effect, this procedure showed that every contracting party was in the last resort - the judge of its exercise of these rights”. The representative of Canada stated that “Canada’s sovereign action was to be seen as a political response to a political issue. Canada was convinced that the situation which had necessitated the measures had to be satisfactorily resolved by appropriate action elsewhere, as the GATT had neither the competence nor the responsibility to deal with the political issue which had been raised. His delegation could not, therefore, accept the notion that there had been a violation of the General Agreement”. The representative of Australia “stated that the Australian measures were in conformity with the provisions of Article XXI: (c), which did not require notification or justification”.⁶¹ The representative of the United States stated that “The General Agreement left to each contracting party the judgment as to what it considered to be necessary to protect its security interests. The Contracting Parties had no power to question that judgement”.

⁶¹ GATT Minutes of Meeting C/M/157, p.11

The representative of Argentina noted that it had attempted to submit to GATT only the trade aspects of this case and stated “that in order to justify restrictive measures a contracting party invoking Article XXI would specifically be required to state reasons of national security there were no trade restrictions which could be applied without being notified, discussed and justified”.⁶² Paragraph 7(iii) of the Ministerial Declaration adopted 29 November 1982 at the Thirty-eighth Session of the Contracting Parties provides that “the contracting parties undertake, individually and jointly to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement”.⁶³

The question of whether and to what extent the contracting parties can review the national security reasons for measures taken under Article XXI was discussed again in the GATT Council in May and July 1985 in relation to the US trade embargo against Nicaragua which had taken effect on 7 May 1985. While a panel was established to examine the US measures, its terms of reference stated that “the Panel cannot examine or judge the validity or motivation for the invocation of Article XXI (b)(iii) by the United States”.⁶⁴ In the Panel Report on “United States - Trade Measures affecting Nicaragua”, which is has not been adopted,

⁶² GATT Minutes of Meeting C/M/159, p.19

⁶³ GATT L/5424, adopted on 29 November 1982 Action Program Resulting from Ministerial Meeting https://www.wto.org/gatt_docs/English/SULPDF/92170978 accessed on 21 April 2018

⁶⁴ GATT Minutes of Meeting C/M/196, p.7

The Panel noted that, while both parties to the dispute agreed that the United States, by imposing the embargo, had acted contrary to certain trade-facilitating provisions of the General Agreement, they disagreed on the question of whether the non-observance of these provisions was justified by Article XXI (b)(iii).⁶⁵

The Panel further noted that, in the view of Nicaragua, this provision should be interpreted in the light of the basic principles of international law and in harmony with the decisions of the United Nations and of the International Court of Justice and should therefore be regarded as merely providing contracting parties subjected to an aggression with the right of self-defense. The Panel also noted that, in the view of the United States, Article XXI applied to any action which the contracting party taking it considered necessary for the protection of its essential security interests and that the Panel, both by the terms of Article XXI and by its mandate, was precluded from examining the validity of the United States' invocation of Article XXI.⁶⁶

The Panel did not consider the question of whether the terms of Article XXI precluded it from examining the validity of the United States' invocation of that Article as this assessment was precluded by its mandate. It

⁶⁵ Analytical Index of the GATT, p.601

⁶⁶ *Ibid.*

recalled that its terms of reference put strict limits on its activities because they stipulated that the Panel could not examine or judge the validity of or the motivation for the invocation of Article XXI:(b)(iii) by the United States. The Panel concluded that, as it was not authorized to examine the justification for the United States' invocation of a general exception to the obligations under the General Agreement, it could find the United States neither to be complying with its obligations under the General Agreement nor to be failing to carry out its obligations under that Agreement".⁶⁷

b. Paragraph (a): "furnish.. any information"

During the discussion at the Third Session of a Czechoslovak complaint concerning United States national security export controls, in response to a request by Czechoslovakia for information under Article XIII:3 on the export licensing system concerned, the US representative stated that while it would comply with a substantial part of the request, "Article XXI provides that a contracting party shall not be required to give information which it considers contrary to its essential security interests. The United States does consider it contrary to its security interest - and to the security

⁶⁷ GATT L/6053, dated 13 October 1986 (unadopted) United States- Trade Measures Effecting Nicaragua https://www.wto.org/gatt_docs/English/SULPDF/91240197 accessed on 21 April 2018

interest of other friendly countries - to reveal the names of the commodities that it considers to be most strategic”.⁶⁸

The “Decision Concerning Article XXI of the General Agreement” of 30 November 1982 provides *inter alia* that “Subject to the exception in Article XXI:a, contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI”.⁶⁹

c. Paragraph (b): “action”

- 1) *relating to fissionable materials or the materials from which they are derived;*

The reports of the Geneva discussions of the Preparatory Committee indicate that the representative of Australia withdrew its reservation on the inclusion of a reference to “fissionable materials” in the light of a statement that the provisions of Article 35 [XXIII] would apply to Article XXI.⁷⁰

- 2) *relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on*

⁶⁸ GATT/CP.3/38, p.9

⁶⁹ GATT L/5426, 29s/23-24, para.1, Decision Concerning Article XXI of the General Agreement https://www.wto.org/gatt_docs/english/SULPDF/91000212 accessed on 21 April 2018

⁷⁰ United Nations EPCT/A/PV/33, p.29, see also EPCT/A/PV/33/Corr.3, Second Sessions of the Preparatory Committee of the United Nations Conference on Trade and Employment <https://docs.wto.org/gattdocs/q/UN/EPCT/APV-33C3> accessed on 21 April 2018

directly or indirectly for the purpose of supplying a military establishment;

During discussions in the Geneva session of the Preparatory Committee, in connection with a proposal to modify Article 37(g) [XX(g)] to permit export restrictions on raw materials for long-term defense purposes, the question was put whether the phrase “for the purpose of supplying a military establishment” would permit restrictions on the export of iron or when it was believed that the ore would be used by ordinary smelting works and ultimately for military purposes by another country. It was stated in response that “if a Member exporting commodities is satisfied that the purpose of the transaction was to supply a military establishment, immediately or ultimately, this language would cover it”.⁷¹

At the Third Session in 1949, Czechoslovakia requested a decision under Article XXIII as to whether the US had failed to carry out its obligations under Articles I and XIII, by reason of the 1948 US administration of its export licensing controls (both short-supply controls and new export controls instituted in 1948 discriminating between destination countries for security reasons). The US stated that its controls for security reasons applied to a narrow group of exports of goods which

⁷¹ Analytical Index of the GATT, p.602

could be used for military purposes and also stated that “the provisions of Article I would not require uniformity of formalities, as applied to different countries, in respect of restrictions imposed for security reasons”.⁷² It was also stated by one contracting party that “goods which were of a nature that could contribute to war potential” came within the exception of Article XXI.⁷³ The complaint was rejected by a roll-call vote of 17 to 1 with 3 abstentions.⁷⁴

3) *taken in time of war or other emergency in international relations;*

The 1970 Working Party Report on “Accession of the United Arab Republic” notes that in response to concerns raised regarding the Arab League boycott against Israel and the secondary boycott against firms having relations with Israel, the representative of the UAR stated that “the history of the Arab boycott was beyond doubt related to the extraordinary circumstances to which the Middle East area had been exposed. The state of war which had long prevailed in that area necessitated the resorting to this system. In view of the political character of this issue, the United Arab Republic did not wish to discuss it within GATT. It would not be reasonable to ask that the United Arab Republic should do business with a firm that transferred all or part of its profits from sales to the United Arab

⁷² GATT/CP.3/SR.22, p.4-5

⁷³ GATT/CP.3/SR.20, p.3-4

⁷⁴ GATT/CP.3/SR.22, p.9

Republic to an enemy country”.⁷⁵ Several members of the working party supported the views of the representative of the UAR that the background of the boycott measures was political and not commercial.⁷⁶

Sweden introduced a global import quota system in November 1975 for certain footwear. The Swedish Government considered that the measure was taken in conformity with the spirit of Article XXI and stated, *inter alia*, that the “decrease in domestic production has become a critical threat to the emergency planning of Sweden’s economic defence as an essential part of the country’s security policy. This policy necessitates the maintenance of a minimum domestic production capacity in vital industries. Such a capacity is indispensable in order to secure the provision of essential products necessary to meet basic needs in case of war or other emergency in international relations”.⁷⁷ In the discussion of this measure in the GATT Council, “Many representatives expressed doubts as to the justification of these measures under the General Agreement. Many delegations reserved their rights under the GATT and took note of Sweden’s offer to consult”. Sweden notified the termination

⁷⁵ GATT L/3362, adopted on 27 February 1970, 17s/33, 39, para.22, Report by the Working Party on Accession of the United Arab Republic
https://www.wto.org/gatt_docs/English/SULPDF/90830154 accessed on 21 April 2018

⁷⁶ *Ibid.*

⁷⁷ GATT L/4250, p.3, Negotiating Group on GATT Articles
https://www.wto.org/gatt_docs/English/SULPDF/92020251 accessed on 21 April 2018

of the quotas as far as leather and plastic shoes were concerned as of 1 July 1977.⁷⁸

The EEC and its member states, Canada, and Australia In April 1982 suspended indefinitely imports into their territories of products of Argentina. In notifying these measures they stated that “they have taken certain measures in the light of the situation addressed in the Security Council Resolution 502 [the Falkland/Malvinas issue]; they have taken these measures on the basis of their inherent rights of which Article XXI of the General Agreement is a reflection”. Argentina took the position that, in addition to infringing the principles and objectives underlying the GATT, these measures were in violation of Articles I:1, II, XI:1, XIII, and Part IV. The legal aspects of these trade restrictions affecting Argentina were discussed extensively in the Council. The measures were removed in June 1982. Argentina sought an interpretation of Article XXI; these efforts led to the inclusion of paragraph 7(iii) in the Ministerial Declaration of November 1982, which provides that “ the contracting parties undertake, individually and jointly: to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement”⁷⁹

⁷⁸ *Ibid.*

⁷⁹ GATT L/5424, adopted on 29 November 1982, Ministerial Declaration https://www.wto.org/gatt_docs/English/SULPDF/91000208 accessed on 21 April 2018

The US notified the contracting parties of an Executive Order prohibiting all imports of goods and services of Nicaraguan origin on 7 May 1985, all exports from the US of goods to or destined for Nicaragua (except those destined for the organized democratic resistance) and transactions relating thereto.⁸⁰ In Council discussions of this matter, Nicaragua stated that these measures contravened Articles I, II, V, XI, XIII and Part IV of the GATT, and that “this was not a matter of national security but one of coercion”.⁸¹ Nicaragua further stated that Article XXI could not be applied in an arbitrary fashion; there had to be some correspondence between the measures adopted and the situation giving rise to such adoption.⁸² Nicaragua stated that the text of Article XXI made it clear that the Contracting Parties were competent to judge whether a situation of “war or other emergency in international relations” existed and requested that a Panel be set up under Article XXIII:2 to examine the issue. The United States stated that its actions had been taken for national security reasons and were covered by Article XXI:(b)(iii) of the GATT; and that this provision left it to each contracting party to judge what action it considered necessary for the protection of its essential security interest. The terms of reference of the Panel precluded it from examining or judging the validity of the invocation of Article XXI(b)(iii) by the US.

⁸⁰ GATT L/5803

⁸¹ GATT Minutes of Meeting C/M/188, p.4

⁸² *Ibid*, p.16

Concerning the Panel decision on this issue, and the discussion of Article XXIII below. When the Council discussed the Panel Report, Nicaragua requested that the Council recommend removal of the embargo; authorize special support measures for Nicaragua so that countries wanting to do so could grant trade preferences aimed at re-establishing a balance in Nicaragua's pre- embargo global trade relations and at compensating Nicaragua for the harm caused by the embargo; and prepare an interpretative note on Article XXI. Consensus was not reached on any of these alternatives. The Panel Report has not been adopted. At the meeting of the Council on 3 April 1990 Nicaragua announced the illegal use of the trade embargo. The representative of the US announced that the conditions which had necessitated action under Article XXI had ceased to exist, his country's national security emergency with respect to Nicaragua had been terminated, and all economic sanctions, including the trade embargo, had been lifted.⁸³

In November 1991, the European Community notified the contracting parties that the EC and its member States had decided to adopt trade measures against Yugoslavia "on the grounds that the situation prevailing in Yugoslavia no longer permits the preferential treatment of this country to be upheld. Therefore, as from 11 November,

⁸³ GATT Minutes of Meeting C/M/240, p.31

imports from Yugoslavia into the Community are applied M.F.N. treatment. These measures are taken by the European Community upon consideration of its essential security interests and based on GATT Article XXI.”⁸⁴ The measures comprised suspension of trade concessions granted to the Socialist Federal Republic of Yugoslavia under its bilateral trade agreement with the EC; application of certain limitations (previously suspended) to textile imports from Yugoslavia; withdrawal of GSP benefits; suspension of similar concessions and GSP benefits for ECSC products; and action to denounce or suspend the application of the bilateral trade agreements between the EC and its member states and Yugoslavia. On 2 December the Community and its member states decided to apply selective measures in favour of “those parties which contribute to progress toward peace”. Economic sanctions or withdrawal of preferential benefits from the Yugoslavia were also taken by Australia, , Norway, Sweden, Switzerland, Austria, Canada, Finland, Japan, New Zealand, and the United States.

At the Forty-seventh Session in December 1991, Yugoslavia referred to the Decision of 1982 on notification of measures taken under Article XXI and reserved its GATT rights. In February 1992 Yugoslavia

⁸⁴ GATT L/6948, Trade Measures Taken by European Community Against the Socialist Federal Republic of Yugoslavia https://www.wto.org/gatt_docs/English/SULPDF/91600060 accessed on 21 April 2018

requested establishment of a panel under Article XXIII:2, stating that the measures taken by the EC were inconsistent with Articles I, XXI and the Enabling Clause; departed from the letter and intention of paragraph 7(iii) of the Ministerial Decision of November 1982; and impeded the attainment of the objectives of the General Agreement. Yugoslavia further stated:

*“The situation in Yugoslavia is a specific one and does not correspond to the notion and meaning of Article XXI(b) and (c). There is no decision or resolution of the relevant UN body to impose economic sanctions against Yugoslavia based on the reasoning embodied in the UN Charter....the ‘positive compensatory measures’ applied by the European Community to certain parts of Yugoslavia [are] contrary to the MFN treatment of ‘products originating in or destined for the territories’ - taken as a whole - ‘of all contracting parties’”.*⁸⁵

The Council agreed to establish a panel In March 1992 with the standard terms of reference unless, as provided in the Decision of 12 April 1989, the parties agreed otherwise within twenty days.⁸⁶ At the April 1992 Council meeting, in discussion of the notification of the transformation of the Socialist Federal Republic of Yugoslavia (SFRY) into the Federal Republic of Yugoslavia (FRY) consisting of the Republics of Serbia and Montenegro, the EC representative said that until the question of succession to Yugoslavia’s contracting party status had been resolved, the Panel process which had been initiated between the

⁸⁵ GATT DS27/2, dated 10 February 1992, EEC- Trade Measures Taken for Non- Economic Reasons-Recourse to Article XXIII:2 by Yugoslavia https://www.wto.org/gatt_docs/English/SULPDF/91600334 accessed on 21 April 2018

⁸⁶ GATT Minutes of Meeting C/M/255, p.18

former SFRY and the EC no longer had any foundation and could not proceed.⁸⁷ At the May 1992 Council meeting, in a discussion concerning the status of the FRY as a successor to the former SFRY as a contracting party, the Chairman stated that “In these circumstances, without prejudice to the question of who should succeed the former SFRY in the GATT, and until the Council returned to this issue, he proposed that the representative of the FRY should refrain from participating in the business of the Council”. The Council so agreed.⁸⁸ At the June 1993 Council meeting this decision was modified taking into account United Nations General Assembly Resolution 47/1 to provide that the FRY could not continue automatically the contracting party status of the former SFRY and that it shall not participate in the work of the Council and its subsidiary bodies.⁸⁹

- d. Paragraph (c): “any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security”

India’s 1994 background document for simplified balance-of-payments consultations notes that while almost all of India’s trading partners received most-favored-nation treatment in the issue of import licenses, import licenses were not issued for imports from countries facing UN mandated sanctions, at present Iraq, Fiji, Serbia and Montenegro”. Brazil’s 1994 notification on import licensing notes

⁸⁷ GATT Minutes of Meeting C/M/256, p.32

⁸⁸ GATT Minutes of Meeting C/M/257, p.3 and Corr.1

⁸⁹ GATT Minutes of Meeting C/M/264, p.3

that the import licensing system of Brazil applies for goods entering from or exported to any country except for those covered by UN embargoes. The import licensing notification of Cyprus similarly notes that imports from certain countries are prohibited in accordance with United Nations resolutions.⁹⁰ The 1993 licensing notification of Norway remarks that all imports from Iraq and Serbia/Montenegro are prohibited.

e. Procedures concerning notification of measures under Article XII

On 30 November 1982 the Contracting Parties adopted the following

“Decision Concerning Article XXI of the General Agreement”:

“*Considering* that the exceptions envisaged in Article XXI of the General Agreement constitute an important element for safeguarding the rights of contracting parties when they consider that reasons of security are involved;

“*Noting* that recourse to Article XXI could constitute, in certain circumstances, an element of disruption and uncertainty for international trade and affect benefits accruing to contracting parties under the General Agreement;

“*Recognizing* that in taking action in terms of the exceptions provided in Article XXI of the General Agreement, contracting parties should take into consideration the interests of third parties which may be affected;

“That until such time as the Contracting Parties may decide to make a formal interpretation of Article XXI it is appropriate to set procedural guidelines for its application;

The contracting parties decide that:⁹¹

⁹⁰ GATT L/5640, 24 January 1994, Status of Notifications under GATT Procedures Note by Secretariat <https://docs.wto.org/gattdocs/q/GG/L5799/5640R1> accessed on 21 April 2018

⁹¹ Analytical Index of the GATT, p.606

- 1) Subject to the exception in Article XXI:*a*, contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI.
- 2) When action is taken under Article XXI, all contracting parties affected by such action retain their full rights under the General Agreement.
- 3) The Council may be requested to give further consideration to this matter in due course.

C. Dispute Settlement System of WTO

With regard to international economic organizations Malinverni observes that the primary objective of dispute settlement is not to decide who is right and who is wrong, or to determine a State's liability in the matter, but to precede in such a way those even significant violations are only temporary and are completed as fast as possible.⁹²

GATT has a similar discernment with its mission. It is made a clear in procedures for the application of Article XXIII that a precondition for an effective function of the General Agreement is the fast settlement for any circumstances that could finding the middle ground the balance of the advantage between the contracting parties concerned.⁹³ In any proceedings, the contracting party's main objective is to generate recommendations premeditated to protect this equilibrium rather than have way out sanctions.

⁹² Olivier Long. *Law and Its Limitations in the GATT Multilateral Trade System*. Graham & Trotman Martinus Nithoff Publishers. Dordrecht. 1987.p.71

⁹³ *Ibid.*

Disputes in the WTO are essentially about broken promises. WTO members have agreed that if they believe fellow-members are violating trade rules, they will use multilateral system of settling dispute instead of taking actions unilaterally. That means abiding by the agreed procedures, and respecting judgments.

A dispute arises when one country adopt a trade policy measure or takes some actions that one or more fellow- WTO members considers to be breaking the WTO agreements, and to be a failure to live up the obligations a third group of countries can declare that they have an interest in the case and enjoy some rights.⁹⁴

In the case of Qatar Trade Embargo done by some of Arab countries, the embargoing countries accused Qatar's government for supports extreme Islamic movements in Gulf area which led to un-peaceful in regional of Middle East especially under its fellow Gulf Cooperation Council (GCC) members. Based on this accusation Qatar indicated has been violating the agreements in regional GCC as well as International then the sanction in form of economic sanction imposed by those countries for based on Article XXI on Security Exceptions even though until current time Qatar refused all of the accusations and submit the case under WTO Dispute Settlement.⁹⁵

Procedure for dispute settlement in WTO regulated under the old GATT, but it had no fixed timetables, rulings were easier to block, and many cases dragged on

⁹⁴ WTO Dispute Settlement in https://www.wto.org/english/thewto_e/whatis_e/tif_e/utw_chap3_e last accessed on April 1st 2018

⁹⁵ Analytical Index of the GATT, p.606

for a long time inconclusively. The Uruguay Round agreement introduced a more prearranged procedure with a more undoubtedly defined stages in the process. It introduced greater obedience for the length of time a case should take to be settled, with flexible deadlines set in a variety of stages of the procedures. The agreement emphasizes that punctual settlement is crucial if WTO is to role effectively. It sets out in considerable detail the procedure and the timetable to be followed in resolving dispute. If a case runs its full course to a first ruling, it should not normally take more than about one year up to 15 months if the case appealed. The agreed time confines are flexible, and if the case is considered urgent, it is could accelerate as fast as possible.⁹⁶

The Uruguay Round agreement also completed it impracticable for the country losing a case to block the adoption of the verdict under the prior GATT process, rulings could only is adopted by consensus, meaning that a single objection could block the ruling. Currently, rulings are automatically adopted unless there is a consensus to reject a ruling. Any country wanting to block a ruling has to persuade all others WTO members including its adversary in this case to share its view.⁹⁷

Even though much of the procedure does be similar to a court or tribunal, the preferred solution is for the countries concerned to talk about their problems and settle the dispute by themselves. The first stage is therefore consultations among the

⁹⁶ *Ibid.*

⁹⁷ Analytical Index of the GATT, p.607

governments concerned, and even when the case has progressed to other stages, consultation and mediation are still always possible.

According to John H Jackson, the settlement of trade disputes within the WTO, contains about thirty forms, including some authorities to take unilateral action from the disadvantaged participants.⁹⁸ Settling disputes is the responsibility of Dispute Settlement Body (DSB) which comprises of all WTO members. The Dispute Settlement Body has the one and only authority to establish panels of experts to consider the case, and to accept or reject the panels findings of the results of as appeal. It monitors the execution of rulings and recommendations, and has the power to authorize the retaliation when a country does not comply with the rulings.

Along with the adjudication of the case which World Trade Organization decided to make the panel, generally all of the disputing parties will involve in the WTO dispute settlement procedures as follows two main ways to settle a dispute once a complaint has been filed in the WTO:⁹⁹

1. The parties find a mutually agreed solution, particularly during the phase of bilateral consultations; and

⁹⁸ Jhon H Jackson, *Legal Problems of Economic Relations*, West Academic, St Paul Minn. 1974

⁹⁹ World Trade Organization Dispute Settlement
https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm accessed on December 4 2017

2. Through adjudication, including the subsequent implementation of the panel and Appellate Body reports, which are binding upon the parties once adopted by the DSB.

There are three main stages to the WTO dispute settlement process:¹⁰⁰

1. Consultations between the parties;

In this stage called as first stage in WTO dispute settlement process and take time up to 60 days. Before taking any other actions the countries in dispute have to talk to each other to see if they can settle and their differences by themselves. If that fails, they also can ask the WTO director general to mediate or try to assist in any other way.

In this stage also Qatar has requested WTO dispute consultations with the United Arab Emirates, Bahrain and Saudi Arabia concerning measures adopted by the three countries which purportedly restrict trade in goods and services from Qatar, and trade-related intellectual property rights. There are some obstacles among disputing countries of Qatar trade embargo case get solution for the problem. And even for some countries like Saudi Arabia could not end the case by consultation only and currently in process of panels.¹⁰¹

2. Adjudication by panels and, if applicable, by the Appellate Body;

¹⁰⁰ *Ibid.*

¹⁰¹ *Ibid.*

Following the consultations is unsuccessful, the complaining country can request for a panel to be appointed and established. The country in the tie up can block the creation of a panel once, but when the Dispute Settlement Body meets for a second time, the selection can no longer be blocked unless there is consensus in opposition to the appointing panel. In this second stage the duration of dispute settlement up to 45 days for a panel to be appointed, added by 6 months for the panel to conclude.¹⁰²

And for appeal, sometimes both parties do so. Appeals have to be based on points of law such as legal interpretation and in appellate body they cannot reexamine existing evidence or examine new issues or in law known as *Judex Juris*.

Each appeal is heard by three members of a permanent seven members Appellate Body set up by the Dispute Settlement Body and broadly representing the range of WTO membership. Members of Appellate Body have four year terms. They have to be individuals with recognized standing in the field of law and international trade, not affiliated with any government.¹⁰³

The appeal can uphold, modify or reverse the panel's legal findings and conclusions. Normally appeal should not last more than 60 days, with an absolute maximum of 90 days. The Dispute Settlement Body has to accept or

¹⁰² World Trade Organization Dispute Settlement
https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm accessed on December 4 2017

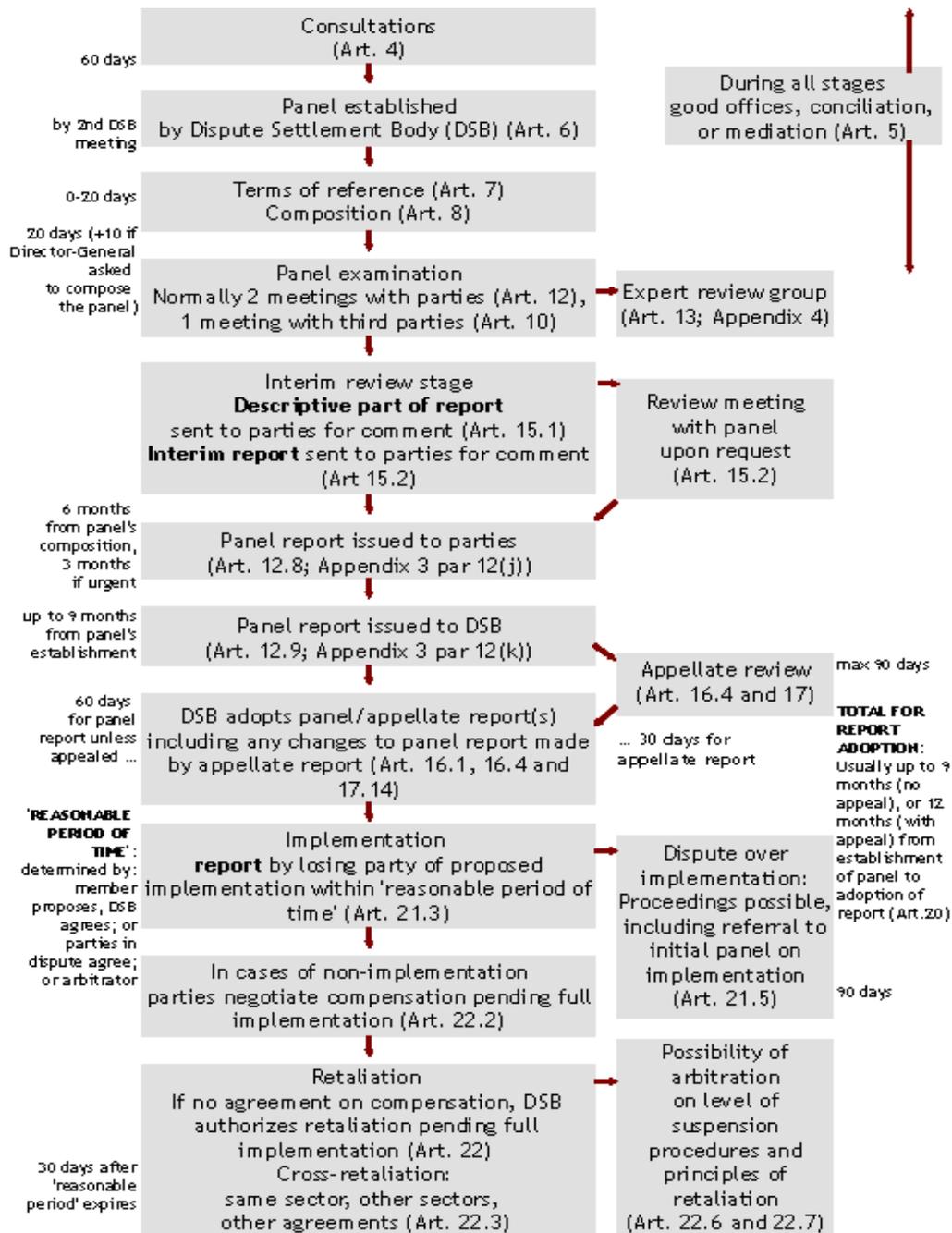
¹⁰³ *Ibid.*

reject the appeals report within 30 days and rejection is only possible by consensus.¹⁰⁴

3. The implementation of the ruling, which includes the possibility of countermeasures in the event of failure by the losing party to implement the judgment.

¹⁰⁴ *Ibid.*

Chart 2.2 WTO Dispute Settlement Scheme¹⁰⁵



¹⁰⁵ The Process- Stages in A Typical WTO Dispute Settlement Case, https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm accessed on May 11 2018

D. Islamic View on Trade Embargo of Qatar

It is not a theory but a historical finding proves that Islam has advocated international trade. Whilst, examined the history of commercial law, the vast Moro Muslim views have extensive trade relations with the Levant from Barcelona and elsewhere. There were trade offices and consuls in Tunisia, while large trades were held with Istanbul. This trade reached the port of India and China and extended to the coast of Africa up to Madagascar.¹⁰⁶

It is interesting to note that in the middle of the eighth century when Europe was still in the dark ages, the Spain's Arab Muslims such as Abdul Qasim and others have written treatises on the principles of commerce, commercial law and taxation. Indeed, Islam has been a boost to international trade, not only for economic cooperation, but also to form a universal brotherhood by exchanging ideas and knowledge.¹⁰⁷ Islam is very concerned in good relationships among human beings, moreover when it is among Muslim called as Muslim brotherhood.

Muslim brotherhood¹⁰⁸ is the basis for a good Muslim civilization and making friends among Muslims. It opens the way in the direction of better perceptive and building a better Muslim community. Muslim Brotherhood is not based on economic

¹⁰⁶ Abdul Mannan, *Teori dan Praktek Ekonomi Islam, Dana Bakti Waqaf*, Yogyakarta, 1997, p.293

¹⁰⁷ *Ibid.*

¹⁰⁸ Muslim brotherhood in this context is not the organization of the Muslim Brotherhood as transnational Sunni Islamist organization founded in Egypt by Islamic scholar and schoolteacher Hassan al-Banna in 1928. Nevertheless, it refers to the brotherhood in language term.

interests, races, or colors. It is based on something noticeably superior that is Rejection of falsehood and acceptance of the Truth as revealed by the One True Lord Almighty Allah SWT.¹⁰⁹

Brotherhood is not simply based on faith, however, it is also a part of with the purpose of faith. The Prophet Muhammad SAW said: “*You cannot enter paradise unless you become a total believer and you won’t become a total believer unless you love each other.*”¹¹⁰ It means that nobody can enter the heaven as long as he or she always hatred among Muslim. Faith and community are indivisible. Even an infrequent reader of Quran would note that it always addresses the Believers, not the Believer. All acts of worship that are affirmed pillars of Islam have a communal structure shows the importance of Muslim brotherhood that one be supposed to get the benefit while doing with other Muslim brothers.¹¹¹ In addition, the verse about the importance of Muslim brotherhood stated in Al-Hujarat:10 that;

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ فَأَصْلِحُوا بَيْنَ أَخَوَيْكُمْ وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُرْحَمُونَ

“*The Believers are nothing else than brothers, therefore make reconciliation between your brothers, and fear Allah, that you may be given mercy*”.

¹⁰⁹ The Importance of Muslim Brotherhood in Quran and Sunnah <http://www.quranreading.com/blog/importance-of-muslim-brotherhood-in-quran-and-sunnah/> accessed on 16th April 2018

¹¹⁰ Ṣaḥīḥ Muslim 54

¹¹¹ *Ibid.*

This verse in Quran actually reflected already how important Muslim Brotherhood in Islam. In addition, Islam has provided a solution how Muslim encountered any problems among them with amicable way, yet again it must be based on the truth.

Related to Dispute Settlement in Islam, basically it can be reached by three paths that are by way of peace (*shulh*), arbitration (*tahkim*) and the last through litigation (*al-qadha'*).¹¹² The terms *hakam* and *tahkim* are sometimes understood in the context of peaceful dispute resolution with third parties as arbitrators / mediators. This notion is similar to *shulh*, only in the presence of third parties. But when viewed from the root word, *hakam* and *tahkim* can also be understood as a legal dispute settlement with *al-qadha'* as its place. Others argue, in Arabic (modern-pen) countries, non-litigation dispute resolution covers several ways. Besides *sulh* (conciliation) and *tahkim* or *hakam* (arbitration) as in the time of Prophet Muhammad SAW and the companions is also known by the term *al-wasathah* (mediation).¹¹³

These kinds of dispute settlement according to Islam are not only among Muslim and limited designed for personal to personal it could be in a larger scope of Muslim for instance is Muslim's nations. If such dispute occurred among Muslim's states these amicable resolution can be applied in order to embody Muslim Brotherhood could be applied for each Muslim's nations in order to help each other.

¹¹² Abu Rokhmad, *Paradigma Hukum Islam Dalam Penyelesaian Sengketa*, International Journal Ihya'Ulum Al-Din, Vol 18 No 1, 2016, p. 55

¹¹³ *Ibid.*

Allah SWT stated in Al-Quran Al Hujarat:9 that:

وَإِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا فَإِنْ بَغَتَ
إِحْدَاهُمَا عَلَى الْأُخْرَى فَقْتُلُوا الَّتِي تَبَغَى حَتَّى تَفِيءَ إِلَى أَمْرِ اللَّهِ فَإِنْ
فَاءَتْ فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ
الْمُقْسِطِينَ ﴿٩﴾

“And if there are two classes of believing (mu'min) then reconciling between the two. If one of the two groups is persecuting another, then fight the group that commits the persecution so that it returns to God's command; if the party has returned (to the command of Allah), then reconcile between the two of them justly and act justly. Allah loves those who are just.”

In the verses of the Qur'an, it is not determined that justice, law enforcement, and legal protection must be done with an institutional system or an individual entrusted with a certain power. In the perspective of Islamic law, it is really important not only how justice and legal protection are realized in the midst of people's lives, but whether justice and legal protection can be implemented in the lives of human beings in an effective and efficient way.¹¹⁴

¹¹⁴ Ridwan HR. *Fiqh Politik: Gagasan, Harapan dan Kenyataan*, FHUII Press, Yogyakarta, 2007, p.286.

Moreover, with Islam provided these ways of course it can be the basis as well for peace resolution among Muslim's nations which are currently involved in a dispute as first stage as well as to strengthen the Muslim Brotherhood. It is included the case of Qatar's Embargo. No matter what the dispute settlement institution that has jurisdiction the essential thing is the process based on truth and justice.

However, how does Islam see the legality of the embargo imposed by some Gulf countries on Qatar? This might be viewed from one of the rules (*Qaaidah*)¹¹⁵ of Islamic law namely Ushuliyah's rules. Ushuliyah's rules are the legal rules that arise from pronouncement or *nash*. For instance, the rules that mentioned the command shows an obligation, prohibition shows *haram*, and certain pronouncements can receive *nasakh*.¹¹⁶

One of Ushuliyah's rules that can be applied in the case of the Qatar embargo is:

عرد دس افمل امدقم ىلع بلج حل اصملا

The *qaaidah* means that “*ward off evil takes precedence over bringing benefits*”. This Ushuliyah's rule is applicable for Qatar's case, if Qatar is proved wrong or liable for the chaos that happened in the Middle East by funding terrorism etc. Embargo might seem evil, because of denying people trade rights, denying people access to products and even generating enormous economic losses of the

¹¹⁵ Rules (*Kaidah*) derived from Arabic word *Qowaa'id* is a form of plural from *qaaidah*, *qaaidah* is something made a foothold or grip. Cited from Yahya Khusnan Mansur, *Ats-Tsamarot al-Mardliyyah*, Pustaka al-Muhibbin, Jombang, p. 8.

¹¹⁶ Abdul Mughits, *Ushul Fikih Bagi Pemula*, CV Artha Rivera, Jakarta, 2008, p.19

targeted state. However, if the main aim of the conduct in this case was the embargo imposed to Qatar preventing the evil, it is actually legal according to Islam.

One thing shall keep in mind that the essential thing is the process based on truth and justice.¹¹⁷ If, the process of adjudication found there were lies and injustices, subsequently, whatever the principle or Ushuliyyah's rules that will be applied, it would turn to *haraam* or prohibited. Including the process adjudication of Qatar, it would turn to illegal or invalid according to Islamic law if contained these elements.

¹¹⁷ See Al-Qur'an Al Hujarat: 9

CHAPTER III

ANALYSIS THE LEGALITY OF QATAR'S TRADE EMBARGO

BASED ON WTO RULES

A. Qatar's Embargo Case Position

The dispute raised in Qatar's embargo since 2017, that at least there are two main reasons why embargoing countries announced they were breaking diplomatic ties with Qatar. The first is due to allegations of Qatar's relations with Iran. The second is because accusations that is Qatar supports Islamist Movements which actually the dispute is the worst to hit the Gulf since the formation of the Gulf Cooperation Council (GCC) in 1981.¹

Qatar has long practiced an ambitious foreign policy with different priorities to its neighbors but there are two key issues which have infuriated the neighbors' countries in recent years. One is Qatar supports for Islamist groups. Qatar acknowledges that it has provided support to some organizations, such as the Muslim

¹ Patrick Wintour. *Gulf plunged into diplomatic crisis as countries cut ties with Qatar*. The Guardian June 05, 2017. <https://www.theguardian.com/world/2017/jun/05/saudi-arabia-and-bahrain-break-diplomatic-ties-with-qatar-over-terrorism>. Accessed on December 1,2017.

Brotherhood², but denies aiding confrontational groups associated with al-Qaeda or so-called Islamic State (IS). The other key issue is Qatar's relations with Iran, in which it shares the world's biggest gas field. The Shia Muslim power of Iran and Sunni Muslim-ruled Saudi Arabia's is the foremost regional opponent.³

Some Gulf States like Saudi Arabia stated that diplomatic breaks are needed to protect them from terrorism and extremism. However, the reality is not that simple. The reasons for terrorism might be a narrative.

The isolation of Saudi Arabia against Qatar was over the old conflict of 22 years ago, precisely in 1995. The feud was related to Qatar's natural gas. At that time, Hamad bin Khalifa Al Thani Qatar's emir's current father, Sheikh Tamim bin Hamad Al Thani ousted the pro-Saudi ruler earlier, he took over power from his own father, Khalifa bin Hamad Al Thani, who was on holiday in Geneva. At the same time, a small country at the tip of a small peninsula in the Arabian Peninsula was shipping its liquefied natural gas from the world's largest reservoir or reserve off the North Field which is the equivalent of Qatar.⁴

Qatar shares the management of North Field with Iran, a country that is hated by Saudi Arabia. From that point, the two neighbors buried fire in the chaff. The large

² Muslim Brotherhood as transnational Sunni Islamist organization founded in Egypt by Islamic scholar and schoolteacher Hassan al-Banna in 1928.

³ World Middle East, BBC <http://www.bbc.com/news/world-middle-east-40173757> accessed on 22 April 2018

⁴ The Roots of Dispute between Qatar and Saudi Arabia since 22 years ago, Liputan6 <https://www.liputan6.com/global/read/2982767/akar-permusuhan-arab-saudi-dan-qatar-ada-sejak-22-tahun-lalu> accessed on 22 April 2018

amount of natural gas reserves did not only transformed Qatar into one of the richest countries in the world, with annual per capita income almost reaching US \$ 130 thousand in 2017⁵, but also the largest LNG exporter in the world. Qatar's focus on gas management has put the country apart with its neighbors in the Gulf Cooperation Council which was relying on Qatar's economy on petroleum alienating it from Saudi Arabia's dominance. Instead of Riyadh, Qatar have relations with Iran, the United States, and recently Russia. One of the US military bases in the Gulf was in Qatar. Meanwhile, lately the Government of Qatar Investment Agency agreed to invest US \$ 2.7 billion into a Russian company, Rosneft Oil Co. PJSC.⁶

A trial in 2000, two senior Qatari officials allegedly involved in the overthrow of the emir claimed that Bahrain helped to organize the overthrow of a legitimate government aided by Saudi Arabia. The Emir of Qatar at that time did not build a pipeline that integrated Qatar into the markets of its neighbors in the Gulf. On the other hand, the oil states did not consider natural gas was valuable. Its function was only to be injected into the oil wells to increase the extraction rate. There was only one pipeline built, the Dolphin project that connected North Field to the United Arab Emirates and Oman had operated in a capacity of half to two-thirds. Contracts signed last year must meet the quota set. Most of Qatar's natural gas distributes into Asian and European markets instead of its neighbor Arab countries.

⁵ The Richest Countries in the World 2017, business insider <http://www.businessinsider.com/the-richest-countries-in-the-world-2017-3/?IR=T/#1-qatar-gdp-per-capita-129726-105791-30> accessed on 22 April 2018

⁶ *Ibid.*

In 2013 and 2014, Qatar and some leaders of GCC countries held a meeting and agreed on several agreements known as Riyadh Agreement. Then, the results published the following objectives;⁷

1. To combat terrorism in all its forms, deal with its intellectual roots, dry up its sources from funding and to take all necessary measures to prevent and combat terrorist crimes in close collaboration among their states.
2. To exchange important information about foreign fighters and their movements among terrorist organizations.
3. To broaden the scope of meaningful and serious cultural dialogue, this demonstrates the tolerance of Islam and its rejection of all forms of violence and extremism and its ability to coexist peacefully.
4. To renew and rationalize intellectual dialogue to be consistent with moderate Islam which call for tolerance, love, mercy, and peace, stressing that the misunderstanding about Islam must be addressed and clarified.
5. To enhance sustainable development programs to improve the living level of their people, and provide a safe, stable and prosperous performance that serve the incubator for the youths against unusual and extremists thought.
6. To reject sectarian agendas, due to their hazardous repercussions on the security of the region and the world for the most part.
7. To reject the practices of the Iranian regime considered to destabilize the security and stability of the region, its ongoing support terrorism along with extremism, and its continuing interference in the domestic affairs of other countries in a fragrant violation of the principles of international law.
8. As well as on the way to boost the security in the region and the world in principal and definitely face up to the subversive and destructive Iranian activities contained by their countries and through joint coordination.

The original text of this agreement used handwriting agreed in Riyadh by the King Abdullah Bin Abdel Aziz Al-Saud, the King of Saudi Arabia, and his brother His Highness Sheikh Sabbah Al-Ahmad Al-Jabber Al-Sabbah, the Prince of Kuwait, and his brother His Highness Sheikh Tamim bin Hamad bin Khalifa Al-Thani, the prince of Qatar. Then, the agreement unfolded by the international media contained

⁷ What is Riyadh Agreement. Pressreader. 6 June 2017
<https://www.pressreader.com/uae/gulf-news/20170606/281565175728426> accessed on April 5 2018

the translation of Riyadh Agreement 2013. Due to the importance of the foundation for a new phase of collective work between the Council's states, the agreement guarantee their movements within a unified political framework based on the principles included in the main system of the Cooperation Council, the following has been agreed upon:⁸

1. No interference in the internal affairs of the Council's states, whether directly or indirectly. Not to give asylum/refuge or give nationality to any citizen of the Council states that has an activity opposes his country's regimes, except with the approval of his country; no support to deviant groups that oppose their states; and no support for antagonistic media.
2. No support to the Muslim Brotherhood or any of the organizations, groups or individuals that threaten the security and stability of the Council states through direct security work or through political influence.
3. Not to present any support to any faction in Yemen that could pose a threat to countries neighboring Yemen.

Then, in 2014 the head of GCC Country made Riyadh Agreement 2014 with the following has been reached:⁹

1. Stressing that non-committing to any of the articles of the Riyadh Agreement and its executive measure amounts to a violation of the entirety of the agreement.
2. What the intelligence chiefs have reached in the aforementioned report is considered a step forward to implement Riyadh agreement and its executive measures, with the necessity of the full commitment to implementing everything stated in them (agreement and the Intelligence report) within the period of one month from the date of the agreement.
3. Not to give refuge, employ, or support whether directly or indirectly, whether domestically or abroad, to any persons or a media apparatus that harbors inclinations harmful to any Gulf Cooperation Council state. Every state is committed to taking all the regulatory, legal and judicial measures against

⁸ *Ibid.*

⁹ See Riyadh Agreement 2014

anyone who [commits] any encroachment against Gulf Cooperation Council states, including putting him on trial and announcing it in the media.

4. All countries are committed to the Gulf Cooperation Council discourse to support the Arab Republic of Egypt, and contributing to this security, stability and its financial support; and ceasing all media activity directed against the Arab Republic of Egypt in all media platforms, whether directly or indirectly, including all the offenses broadcasted on Al-Jazeera, Al-Jazeera Mubashir Masr, and to work to stop all offenses in Egyptian media.

Ultimately, the relationship of Qatar and some Arab neighbors exploded in 2017 with the imposition of a trade embargo against Qatar with accessions that Qatar has breach the agreement. Firstly, this conduct of neighboring countries in particular Saudi Arabia and the United Arab Emirates made a huge impact to Qatar especially in the food distribution industry and flight industry. Whereas Qatar is reliant on imports by land and sea for the basic needs of its citizens and about 40% of its food came in all the way through the land border with Saudi Arabia. At the outset, supermarket shelves in Doha were emptied of basic supplies as residents hurried to stock up but the signpost quickly ended after Turkey and Iran began sending food by air and sea after the imposition of Embargo of some gulf countries.

The countries that embargoing Qatar drafted the list points of demands presented to Qatar on 22 June 2017. In return to end the restrictions, they had told the emirate to:¹⁰

1. Restrain diplomatic ties with Iran and close its diplomatic missions
2. Sever all ties to "terrorist organizations" and hand over "terrorist figures"

¹⁰ New York Times, *Countries that Broke Ties with Qatar Indicate some Flexibility on Demands*, https://www.nytimes.com/2017/07/18/world/middleeast/qatar-crisis-demands-saudi-arabia-tillerson.html?rref=collection%2Fsectioncollection%2Fmiddleeast&_r=0 accessed on 22 April 2018

3. Stop all funding for individuals or organizations designated as terrorists by Saudi Arabia, Bahrain, the UAE, Egypt, the United States and other countries
4. Shut down Al Jazeera and other Qatar-funded news outlets
5. Close a Turkish military base and stop the progress of joint military co-operation inside Qatar
6. End interfering in other sovereign countries' internal affairs
7. Pay reparations and recompense for loss of life caused by Qatar's policies

Bring into line with other Arab countries militarily, politically, socially and economically on 18 July 2017, diplomats from the four nations said they were no longer insisting Qatar to fulfill with the demands and they were combating terrorism and radicalism, denying financing and safe havens to terrorist groups, stopping incitement to hatred and violence, and refraining from interfering in the internal affairs of other countries.

On the other hand, the treatment of some Arab countries to Qatar who always demanded not to interfere in the internal affairs of their respective countries seems poignant. Yet, each country has their respective sovereignty, including Qatar. Qatar is a sovereign State which has the capacity to engage in foreign relations without any other State interfering with its foreign relations.¹¹ Since, Qatar and Iran border directly with a bay that has the largest natural gas reserves in the world. Moreover, Qatar sea territory has an area that is almost equal to the country's land territory and makes the country able to push the economy by doing economic cooperation with Iran. Such cooperation, indeed, has bigger economic interests compared to political cooperation or just a matter of sectarian religious differences. Otherwise, the conduct

¹¹ See The Montevideo Convention on Statehood 1933 sets out several requirements of Statehood.

of embargoing countries was legal if the conduct of Qatar was proven and had violated the international peace and order. But, how to measure the imposition of embargo to Qatar really based on international security reasons as argues of those countries which imposing embargo.

If considering the WTO dispute settlement body adjudication for the time being, Qatar has tested the ban's legality at the World Trade Organization (WTO), by requesting consultations with the UAE, Saudi Arabia and Bahrain.¹² The dispute for the first time required a WTO panel to interpret Article XXI of General Agreement on Tariffs and Trade (GATT) on the security exceptions. The Article XXI of GATT has been described as 'an unreviewable, an exception to all WTO rules that can be exercised at the sole discretion of a Member State. From the phrases of 'Nothing in this Agreement shall be construed' actually indicated that Article XXI GATT could be said as "Self-Judging Clause". It means that the clause open opportunity to every state to justify the measures which are considered essential by the state that adopts this article. Essentially finding the measures of security exceptions in this article, can lead to whether or not the embargo done by some of Arab countries are in point of fact stated legal based on WTO rules. Then, how is the application of this rule in Qatar's case?

¹² See WTO Dispute Settlement Case No DS526 for UAE, DS528 for Saudi Arabia and DS527for Bahrain.

B. Implementation of Article XXI GATT on Qatar's Case

1. WTO's Jurisdiction to Interpret Article XXI of GATT on Security Exceptions

One of the main functions of WTO is being a dispute settlement of state's member related to trade. This function runs by General Council meeting as Dispute Settlement Body under Ministerial Conference. In the case of Qatar's embargo, Qatar had requested the establishment of a panel in the case against the UAE, and the Dispute Settlement Body (DSB) had approved this request on 22 November 2017. Qatar's claim concerns a long list of complaints under the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). In response, the UAE has clearly referred to the security exceptions of the relevant agreements which is stated in Article XXI specifically Article XXI verse (b) point (ii) of GATT. The UAE argued that the measures were a response to Qatar's funding of terrorist organizations. Therefore, they justified the embargo in the interest of national security. The content of article XXI of GATT as follows;¹³

Article XXI: Security Exceptions

Nothing in this Agreement shall be construed

- a. to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

¹³ See General Agreement on Tariffs and Trade 1994

- b. to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
 - 1) relating to fissionable materials or the materials from which they are derived;
 - 2) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - 3) taken in time of war or other emergency in international relations; or
- c. to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

From this article, it can be seen that it has confirmed at the beginning that this article cannot be interpreted. This makes the passage often referred as self-judging clause in justifying something or blaming something on the basis of the State's interests. Interestingly, when the article has affirmed that it cannot be interpreted but in the case of the Qatar embargo, nevertheless Qatar proposed the establishment of a WTO panel to interpret the article. In addition, it was the first time a State had proposed the establishment of a WTO dispute settlement body panel to construe for an article that not allowed to be interpreted.

If it was the first time ever WTO panel submission to interrogate a self-judging clause that even for the status of article is not allowed to be interpreted, The next legal question focuses on the authority of WTO dispute settlement body could carry out the interpretation. Some scholars have analyzed the security exception and have piercingly divided into suitable interpretation. Those who are acquired a textual, prudential or historical standpoint favor as

self-judging approach.¹⁴ Raj Bhala, for instance, concludes that the connotation of the word “it” from the article means neither WTO Member, nor group of Members and WTO Panel or other adjudicatory body has any right to settle whether a measure taken by a sanctioning member satisfies the requirements.¹⁵ Other points to be longstanding and combined practice of the foremost powers such as Canada, the United States, Japan, New Zealand, Australia and the European Union asserted exclusive competency in excess of security measures.¹⁶ Those countries have been unified in their belief that foreign policy, political, and national security issues are beyond the auspices of the agreement and that the GATT has no power, competence, or experience to resolve such disputes.¹⁷

In fact, if the rule is too free of exploitation and being used for political interest from influential States will be very vulnerable to conflicts of interest. In the international community, the superior countries have a greater victory presentation than inferior countries. The superior states allied to make a rule based on their interests, for example the size of national security determined by the State itself according to their interests. Once these superior

¹⁴ Alford Roger P, *The Self-Judging WTO Security Exception*, Scholarly Work, Paper 330,2011, p.705

¹⁵ Raj Bhala, *National Security and International Trade Law: What the GATT Says and What the United States Does*, Journal of International Economic Law, Volume 11 ,1998, p. 268

¹⁶ Alford Roger P, *Op. Cit*, p. 705

¹⁷ Wesley A Cann Jr, *Creating Standards and Accountability for the Use of the WTO Security Exception: Reducing the Role of Power-Based Relations and Establishing a New Balance Between Sovereignty and Multilaterals*, Yale Journal of International Law, Volume 26, 2001, p.430

countries agree to apply a rule on the basis of their ultimate interests it will become an international custom then it will form a new source of international law namely customary law or international custom as stated in Article 38 of Statute of the International Court of Justice (ICJ).

In verse (2) of article 38 of Statue of the International Court of Justice explains that a judge may also decide a dispute based on propriety and feasibility (*at aqua at bono*) again, if agreed upon by the parties.¹⁸ There is no meaning of propriety or feasibility when it is determined measure of propriety and feasibility criteria to the parties. Nevertheless, the measure of propriety and feasibility should be made as clear as possible to realize the true meaning of the court of justice. It would be better to have an international body or current body that have an authority to interpret the size of a propriety and feasibility. Looking back at the Qatari case, Qatar required WTO panel to interpret the measure of security exception. Although it might not guarantee it will be completely free of any particular interest intervention however at least it is more guarantee then granting a measure of propriety and feasibility to a State in dispute.

¹⁸ Sefriani, *Hukum Internasional Suatu Pengantar*, Rajawali Press, Jakarta, 2012, p.26

2. Measures of Article XXI of GATT on Security Exceptions

The elucidations above that make the provision of security interests is being mentioned as self-judging clause. In addition, up to this point, there is no institution that has an authority to interpret such article including WTO panel. Even though, the article is stated within the GATT. Sometimes any states can determine the measures by their own interests within the encounter of any cases in order to justify their position because of the interests. However, it is needed to be reminiscent that nothing in the agreements requires a member to furnish information to the WTO regarding its essential security interests. But still, it is indispensable to know the extent a state can measure the security exceptions stated in Article XXI of GATT.

The case of United States embargo on trade with Cuba, which was imposed by means of Proclamation 3447 by the President of the United States, dated 3 February 1962, was not formally raised in the contracting parties but notified by Cuba in the inventory of non-tariff measures. The United States invoked Article XXI as justification for its action.¹⁹ It was said that the measure of the XXI article of GATT depends on how the State use it and the State concerned has no obligation to explain the measure they apply to the use of the

¹⁹ COM.IND/6/Add.4, p.53 (notification); MTN/3B/4, p.559 (response citing binding resolution under Inter- American Treaty of Reciprocal Assistance). See also Council Discussion May 1986 concerning US measures authorizing denial of sugar import quota to any failing to certify that it does not import sugar produced in Cuba for re-export to the US, stated by US to be a “procedural safeguard” against trans-shipment of sugar in violation of the embargo, C/M/5980. See also statement by Cuba in L/7525.

article. It is being a result due to it does not include in any WTO agreement. However, from this incident the states began to protests the measure as well as the procedure of using the article XXI of GATT on security exceptions.

During the Council discussion in 1982 of trade measures in regards to non-economic reasons taken against Argentina. It was stated by the countries taking these measures that “Article XXI did not mention notification” and that many contracting parties had, in the past, invoked Article XXI without there is any notification or challenge to the situation in GATT.²⁰ Argentina sought after an interpretation of Article XXI. Informal consultations took place during the Thirty-eighth Session in November 1982 in connection with the adoption of the Council report to the Contracting Parties (WTO Member’s States), in so far as it related to trade restrictions.²¹

As a result, on 30 November 1982 the Contracting Parties adopted the following “Decision Concerning Article XXI of the General Agreement” which stated:²²

- a. “*Considering* that the exceptions envisaged in Article XXI of the General Agreement constitute an important element for safeguarding the rights of contracting parties when they consider that reasons of security are involved;
- b. “*Noting* that recourse to Article XXI could constitute, in certain circumstances, an element of disruption and uncertainty for international

²⁰ GATT Minutes of Meeting C/M/159, p.18

²¹ See GATT L/5414 (Council Report), see also C/W/402, W.38/5, L/5426

²² See Decision Concerning Article XXI of the General Agreement 1986

trade and affect benefits accruing to contracting parties under the General Agreement;

- c. “*Recognizing* that in taking action in terms of the exceptions provided in Article XXI of the General Agreement, contracting parties should take into consideration the interests of third parties which may be affected;
- d. “That until such time as the Contracting Parties may decide to make a formal interpretation of Article XXI it is appropriate to set procedural guidelines for its application;

The contracting parties decided that:²³

- a. Subject to the exception in Article XXI:*a*, contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI.
- b. When action is taken under Article XXI, all contracting parties are affected by such action retain their full rights under the General Agreement.
- c. The Council may be requested to give further consideration to this matter in due course”.

In regards to the Decision Concerning Article XXI of the General Agreement 1982, it was stated that any WTO member countries that uses the Article XXI of GATT is obliged to provide information on the extent to which the trading measure under article XXI. However, the 1982 Decision Concerning Article XXI of the General Agreement only provided a solution to the implementation procedure of the Article XXI of GATT.²⁴ The procedure required a notice but did not clearly specify the measure limitations. Therefore, the measure determination remains the authority of the State concerned.

However, with the existence of the 1982 Decision, it would open the possibility of competence of WTO to be able to do interpretation to article XXI

²³ See Decision Concerning Article XXI of the General Agreement 1986

²⁴ *Ibid.*

of GATT on security exceptions. It can be seen in “The Council may be requested to give further consideration to this matter in due course”. Although, it has never existed in the history of the WTO had been a panel to interpret the article XXI of GATT.

However, if the WTO forms a panel and decides the measure of the article XXI of GATT, it will have an impact on the contradiction of the agreement itself. Due to the fact that has entitled the authority determines the measure of the article is a State that has its own interests. The establishment of WTO panels is supposed not to be used to interpret the measure of the article. But, rather in the application of measures prescribed by a State in accordance with its application procedures or not, the application procedure here means to predetermine the measure of a State shall be fully informed of the possibilities of that measure before being applied.

In regards to the Decision Concerning Article XXI of the General Agreement 1982, it is only a guarantee of certainty that the State using the article XXI of GATT on security exceptions shall inform the extent measurements established by that State or in this case only guarantee the procedure prior to the application of the article. However, the actual measure remains from the State itself or in other words the 1986 Decision did not limit the substantial dimension of article XXI of GATT.

Referring to the case of an embargo by some Arab countries to Qatar, the substance of the problem is legal actually. Some Arab countries such as Saudi Arabia and the United Arab Emirates embargo Qatar on the basis of their measures according to article XXI of GATT on Security Exceptions. As a result, the use of this self-judgment clause has become an international practice and still no international regulation has restricted usage in terms of trade measure in article XXI of GATT.

In regards to the competence of the WTO panel to construe this article as proposed by Qatar, it actually cannot be accepted. Even in Decision Concerning Article XXI of the General Agreement 1982, WTO did not have the opportunity to do such interpretation. Nevertheless, it only reviews the procedure (formal) rather than the interpretation of the substance (materiel) of the predetermined measure of a country that uses the article XXI of GATT.

CHAPTER IV

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the description and analysis of the prior chapters, then the conclusions of this thesis are:

1. WTO has no jurisdiction to interpret the measures of Article XXI of GATT (General Agreement of Trade and Tariffs) on Security Exceptions. The use of the Article XXI of GATT on security exceptions with their own measures is recognized by the legal instruments of WTO. In regards to the competence of WTO panel to interpret the measure of article XXI of GATT is actually invalid based on the Decision Concerning Article XXI of the General Agreement 1982. The possibility of the establishment of WTO panel is only to review the use of Article XXI of GATT. Whether it had been run the same as the procedure or not. Therefore, Qatar's request to the establishment of WTO panel to interpret the use of measure actually cannot be done.
2. The measure of Article XXI of GATT until now there is no any agreement prohibits or limits the use of interpretation of the article. Subsequently, the measures of embargoing countries as basis of legality of Qatar's trade embargo conducted by some of Arab countries based on World Trade Organization rules is actually valid.

B. Recommendation

In connection with the conclusion above, there are things that need to be further examined, namely:

1. Sometimes it is pretty complex to classify what is legal dispute and political dispute impacted the economical dispute that World Trade Organization is competent to settle this kind of dispute. Unfortunately, World Trade Organization does not provide such a clear legal instrument or system that accommodates such dispute. In the context of Qatar's case, there is still legal uncertainty need to be regenerated related to the competence/jurisdiction whether or not WTO panel can interpret the article XXI of GATT.
2. WTO need to provide clear criteria related to the measures of the article. For example the criteria of the article XXI of GATT shall based on purely commercial reasons only. Therefore, it would not overlap the commercial or political reasons, which the competence will be adjudicated by WTO Dispute Settlement.

Bibliography

Books

Abdul Mannan, *Teori dan Praktek Ekonomi Islam*, (Yogyakarta: Dana Bakti Waqaf, 1997).

Abdul Mughits, *Ushul Fikih Bagi Pemula*, (Jakarta: CV Artha Rivera, 2008).

Gillian D Triggs, *International Law Contemporary Principles and Practices*, (Victoria: LexisNexis Butterworths, 2006).

Hata. *International Economic Law: IMF World Bank WTO*, (Malang: Setara Press, 2016).

Jhon H Jackson, *Legal Problems of Economic Relations*, (Minnesota: West Academic, 1974)

_____, *Legal Problems of International Economic Relations Cases, Materials, and Text on the National and International Regulation of Transnational Economic Relations*, (Michigan: West Publishing Co, 1977).

Meria Utama, *International Economic Law*, (Jakarta: Fikahati Aneska, 2012).

Olivier Long. *Law and Its Limitations in the GATT Multilateral Trade System*, (Dordrecht :Graham & Trotman Martinus Nithoff Publishers, 1987).

Ralph. Zacklin, *The United Nations and Rhodesia: A Study in International Law*, (Westport: Praeger, 1974).

Ridwan HR. *Fiqih Politik: Gagasan, Harapan dan Kenyataan*, (Yogyakarta: FHUII Press, 2007).

Robyn Briese & Stephan Schill. *If the State Considers: Self-Judging Clauses in International Dispute Settlement*. (Max Planck UNYB 13, 2009)

Sefriani, *Hukum Internasional Suatu Pengantar*, (Jakarta: Rajawali Press, 2012).

Triyana Yohanes. *Hukum Ekonomi Internasional Perspektif Kepentingan Negara Sedang Berkembang dan LDCs*, (Yogyakarta: Cahaya Atma Pustaka, 2015).

Victor V Ramraj, *Global Anti-Terrorism Law and Policy*, (Cambridge: Cambridge University Press, Cambridge, 2005).

Yahya Khusnan Manshur, *Ats-Tsamarot al-Mardliyyah*, (Jombang: Pustaka al-Muhibbin, 2011).

Journals

Abu Rokhmad,(2016), *Paradigma Hukum Islam Dalam Penyelesaian Sengketa*, International Journal Ihya'Ulum Al-Din, Volume 18. No 1

Alford Roger P, (2011), *The Self-Judging WTO Security Exception*, Scholarly Work, Paper 330.

Mc Dougall & Riesman, (1968), *Rhodesia and the United Nations: The Lawfulness of International Concern*, Am .Journal International, Volume 62.

Raj Bhala,(1998), *National Security and International Trade Law: What the GATT Says and What the United States Does*, Journal of International Economic Law, Volume 11.

Fahner, Johannes. (2018). *Qatar under Siege: Chances for an Article XXI Case?*. Blog of the European Journal of International Law. <https://www.ejiltalk.org> accessed on January 13.

Wesley A Cann Jr, (2001), *Creating Standards and Accountability for the Use of the WTO Security Exception: Reducing the Role of Power-Based Relations and Establishing a New Balance Between Sovereignty and Multilaterals*, Yale Journal of International Law, Volume 26.

Laws and Legal Documents

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)

GATT, Analytical Index: Guide to GATT Law and Practice, Volume 1 updated 6th Edition 1995.

General Agreement on Tariffs and Trade (GATT)

General Agreement on Trade in Services (GATS)

General Agreement on Tariffs and Trade /Contracting Parties.3/Summary Record.22

GATT Minutes of Meeting C/M/157

GATT Minutes of Meeting C/M/159

GATT Minutes of Meeting C/M/196

GATT Minutes of Meeting C/M/240

GATT Minutes of Meeting C/M/255

GATT Minutes of Meeting C/M/256

GATT Minutes of Meeting C/M/257

GATT Minutes of Meeting C/M/264

GATT L/5640, 24 January 1994

GATT L/6053, dated 13 October 1986 United States- Trade Measures Effecting
Nicaragua

United Nations EPCT/A/PV/33

Documents and Electronics Data

Agency Report, *WTO to Adjudicate on Saudi-led Embargo on Qatar*, Premium Times, November 22, 2017. <https://www.premiumtimesng.com> accessed on December 4, 2017

Martin, Karina. 2018. *EU Official Criticizes US Embargo on Cuba, Calling it "Obsolete and Illegal"*. <https://panampost.com> accessed on January 14th 2018

Serena, Moe. 2013. *Economic Sanctions and Embargoes: More Lore than Law?*. PWC United States

Scott Miller, *National Security Exceptions: When Trade Rules Do Not Apply* June 1 2017 <https://tradevistas.csis.org/national-security-exception-trade-rules-dont-apply/> accessed on May 10 2018

Jim Sciutto and Jeremy Herb, *The Secret Documents that Helps Explain the Qatar Crisis*, CNN, July 11 2017 <https://edition.cnn.com/2017/07/10/politics/secret-documents-qatar-crisis-gulf-saudi/index.html> accessed on 19 April 2018

Wintour, Patrick.2017. *Gulf plunged into diplomatic crisis as countries cut ties with Qatar*. The Guardian.

Yahya, Harun. 2017.*How Effective are Embargoes?*. <http://harunyahya.com> accessed on January 14th 2018

Zhang, Benjamin.2017. *Ranked: The 20 best airlines in the world*. Business Insider <https://www.businessinsider.sg/20-best-airlines-in-the-world>. Accessed on December 12, 2017

Britanica, *Overview of Gulf Cooperation Council* <https://www.britannica.com/topic/Gulf-Cooperation-Council> accessed on April 5 2018

Quranreading, *The Importance of Muslim Brotherhood in Quran and Sunnah* <http://www.quranreading.com/blog/importance-of-muslim-brotherhood-in-quran-and-sunnah/> accessed on 16th April 2018

Dailysabah, *Turkey, Iran, Qatar sign transportation agreement to boost trade*, November 26 2017 <https://www.dailysabah.com/business/2017/11/26/turkey-iran-qatar-sign-transportation-agreement-to-boost-trade> accessed on 19 April 2018

Fulton, Will; Farrar-Wellman, Ariel 22 July 2011. "*Qatar-Iran Foreign Relations*". AEI Iran Tracker. American Enterprise Institute. <https://www.criticalthreats.org/foreign-relations/qatar-iran-foreign-relations> Accessed on 19th April 2018

The Process- Stages in A Typical WTO Dispute Settlement Case, https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c6s1p1_e.htm accessed on May 11 2018