



WTO

in an age of multilateral and bilateral

Free Trade Agreements:

Is it still relevant to

HONG KONG?



The Importance of the WTO to Hong Kong, China: A Government Perspective



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Hong Kong and WTO

- ▷ Founding WTO Member since 1995
- ▷ WTO enables Hong Kong businesses to access overseas markets and reinforce Hong Kong as an international trading centre
- ▷ Hong Kong's active and constructive participation in recent negotiations on Fisheries Subsidies, Electronic Commerce, Micro, Small and Medium-sized Enterprises that go beyond traditional FTAs
- ▷ Hong Kong has never been subject to any complaints under the WTO DSB but has acted as a Complainant or Third Party



DS597: Origin Marking Case

- ▶ Hong Kong challenged US requirement that products from Hong Kong be labelled as ‘Made in China’
- ▶ Panel found the requirement to be discriminatory **contrary to Article IX:1 of the GATT 1994**
- ▶ Security Exception under GATT 1994 is **NOT** ‘self-judging’
- ▶ The US failed to demonstrate the situation constitutes an emergency in international relations



Safeguarding Hong Kong's Businesses Interests

- ▷ Demonstrate strong commitment to upholding WTO agreements and to support a rule-based multilateral trading system
- ▷ Ready and willing to take action against unfair and discriminatory trade practices affecting Hong Kong businesses
- ▷ US requirement results in increased costs and complexity, putting Hong Kong at a disadvantage – clear violation of Article IX:1 of the GATT



Affirming Hong Kong's Distinct Membership in WTO

- ▶ Hong Kong is a distinct member of the WTO based on its own merits as a separate customs territory with full autonomy in external trading relations
- ▶ Hong Kong's membership is recognised under the 'One Country, Two Systems' principle enshrined under the Basic Law
- ▶ Hong Kong's economic and trade status is the same as other WTO members and its membership is not unilaterally granted by foreign countries



Ensuring a Predictable Trading Environment

- ▶ Consistent WTO interpretation crucial for predictable trading environment
- ▶ Panel's finding aligns with previous rulings to prevent security exception from being used for unilateralism or protectionism
- ▶ Consistent interpretation maintains legitimacy, certainty, and predictability of multilateral trading system
- ▶ Promotes transparency and accountability in policymaking, reducing uncertainty for long-term investments



Importance of the Need to Reform the DSB

- ▷ Origin marking case highlights the need for DSB reform
- ▷ Appellate Body in impasse since 2019
- ▷ Appeal into the void delays implementation of Panel's recommendations, derails WTO dispute settlement system
- ▷ Urgent need to reform DSB and restore appellate function



Hong Kong's Contributions to WTO Dispute Settlement Reform

- ▷ Hong Kong actively contributes to WTO dispute settlement reform with like-minded members
- ▷ Hong Kong helped establish Multiparty Interim Appeal Arbitration Agreement (MPIA) to preserve appellate function while AB remains dysfunctional
- ▷ 25 WTO members are parties to MPIA and first MPIA appeal arbitration award issued in December 2022
- ▷ China and Japan recently agreed to use MPIA mechanism to resolve any appeal in case of DS601 China – Anti-Dumping on Stainless Steel (Japan)



Concluding Thought: Recognising the Essential Functions of the WTO

- ▶ The impasse or possible abuse of the mechanism by a member should not overshadow the WTO's other essential roles and functions in promoting global trade and economic growth
- ▶ Hong Kong remains committed to supporting the WTO and the rules-based multilateral trading system
- ▶ The WTO promotes a stable and predictable global trading environment, enhancing Hong Kong's status as an international trading center

