

EVALUATION OF THE INSTITUTIONAL FRAMEWORKS ADMINISTERING INTERNATIONAL TRADE REMEDIES IN ETHIOPIA: A CRITICAL APPRAISAL

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ABSTRACT

Due to liberalization and related reasons, International trade is expanding more than ever seen in the human being's history. Consequently, international trade inseparably becomes an increasing concern to every nation globally, and affects (either negatively or positively) all countries of the world be it may develop such as the USA or LDCs like Ethiopia. It is not controversial to conclude that the success of any laws and policies highly depends on the efficiency of institutions to implement these laws. Whatever it may be the laws and policies are prudent and comprehensive, without implementing institutions, the laws and policies are equal as their absences. Hence, the comprehensive institutional framework of any country designed to regulate trade remedies matters has been the pillar for facilitating and promoting international trade and ultimately advancing its overall economic progress. Similarly, for a country like Ethiopia, without having a comprehensive institution with more precise goals and missions, would be highly challenging to be developed. Therefore, this article critically scrutinizes the comprehensiveness of the Ethiopia's institutional frameworks administering trade remedy matters in view of its role to the country's trade and overall economic development with a suggestion that Ethiopia should establish a comprehensive trade remedy administering institution. Qualitative Doctrinal legal research method is predominantly applied in order to contextually analyze the institutional setups related to trade remedies in

Ethiopia. Besides, to support further data, non-doctrinal research method also applied to a limited extent.

Keywords: International Trade, Unfair Trade, Trade Remedies, WTO, Institutional Frameworks.

INTRODUCTION

Laws and policies do not function in a vacuum, and it is natural that the success or failure of the laws and policies highly depend on the manner of the existing institution.ⁱ Given the developing agreement on institutions' paramount importance, it is expected to think that institutional differences could be a source of comparative advantage in North-South trade (more developed north vs. less developed south).ⁱⁱ For a trade to function well, both substantive and procedural laws starting from the supreme law (the constitution) to other specific laws such as directives are essential. International trade laws and industrial importance are the primary concern of these days. It is vehemently true that a country with better institutional set-ups that can effectively implement the existing trade laws and policies has seen winning the global trade competition (sometimes considered a trade war). Therefore, in the absence of implementing institutions, global trades become too expensive and troublesome.ⁱⁱⁱ Not only that, the practice of unfair trade will prevail and highly results with damage to industries that cannot have a full-fledged capacity for global competition. To add insult to injury, without effective global trade implementing institutions, not only economic aspects but also social aspects of human life will be at risk (for example, irresponsible multinational corporations will probably cause the harm to human life and environment if not regulated by appropriate laws and effective institutions). To deal with global trade issues, depending on their context, several countries have curved institutional mechanism (both in domestic and multilateral bases). WTO is an essential institution at the multilateral level to facilitate as well as regulate global trade competition.

WTO (INSTITUTIONAL SET-UP)

It was right after the end of the First World War the dream to establish a multilateral institution that is responsible for regulating and facilitating international trade came to see. Regardless, the US congress rejection ended its life. Even though the outcome of ITO's failure resulted in the 'GATT 1947'^{iv}, it had no institutional setup to play the role of the ITO. Later, in 1995 the breakthrough institution existed under the Marrakesh agreement with a membership of 123 sovereign countries. It is an umbrella international organization with a big responsibility to administer an international trade between and among the member nations. It provides the primary contractual obligations, determining how governments frame and implement their own domestic trade laws and other related trade regulations. Moreover, the WTO gives mechanisms for further negotiations among member nations on trade-related matters, on a constant basis, through a negotiation and meetings widely known as —rounds in periodic bases.^v

WTO, as an organization, has three crucial bodies responsible for functioning the institution's overall tasks. These bodies of the WTO are; (1) General council^{vi}, (2) Dispute settlement body^{vii} and (3) the trade policy review body^{viii}. The WTO's highest authority is the Ministerial conference held every two years, composed of a representative from each member nation^{ix}.

The major organizational body that concerns trade and development within the WTO is the Committee on Trade and Development (CTD). The CTD is established under the General Council with a mandate to handle issues on trade and development. Its mandate is also to address related issues, such as the implementation of preferential provisions for developing countries, guidelines for technical cooperation, increased participation of developing countries in the trading system, least developed countries (LDCs) issues, notifications of Generalized System of Preferences (GSP) programs, and preferential trade arrangements among developing countries.^x The WTO's operating basis is a three-legged structure of agreements: GATT (updated to 1994) for goods, the General Agreement on Trade in Services (GATS) for services trade, and the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement for 'knowledge trade'. Under the 'single undertaking' rule, WTO members must accept these three plus most other WTO agreements. Unlike the IMF and World Bank's donation-based voting

systems, the WTO's main decision-making body, the General Council, has one delegate from each country, all having one equal vote, thus making the WTO (theoretically) democratic.^{xi}

EXPERIENCES OF SELECTED COUNTRIES

Irrespective of their level of strength and institutional capacity, every country in the world developed or less developed has trade and industrial policy implementing institutions. Because, whatever it may be comprehensive, without effective institutions to implement it, the law is not more than just a black letter. Hence, cognizant of this fact almost all countries have legally established institutions embodied with duties and responsibilities. For example, in the US, The united states international trade commission (USITC) is responsible among other to Investigate and make determinations in proceedings involving imports claimed to injure a domestic industry, as well as the institution, is responsible for providing independent analysis and information on tariffs, trade and competitiveness; and maintain the U.S. tariff schedule.^{xii} This institution is an independent government agency tasked with imposing anti-dumping duties. In order to effectively implement its responsibilities, the commission is headed by six Commissioners.^{xiii}

For smooth implementation, the USITC is divided into more than eight operational offices, six administrative offices, and five other offices. For example, operational offices include but not limited to, Office of analysis and research services (OARS), the office of economics, office of investigations, the office of operations, Office of Tariff Affairs and Trade Agreements (TATA), Trade Remedy Assistance Office (TRAO), and The Office of Unfair Import Investigations (OUII) can be considered as very essential among others.^{xiv}

Among these operational offices if we look the missions of the Trade Remedy Assistance Office (TRAO), The Office of Unfair Import Investigations (OUII), and office of investigations, are mainly related to trade remedy matters. For example, The USITC's Trade Remedy Assistance Office (TRAO) provides general information to small businesses and other small entities concerning the remedies and benefits available under U.S. trade laws and provides technical and legal assistance for eligible small entities seeking remedies.

Accordingly, the office provides informal advice and assistance, including informal legal support intended to enable eligible small entities to determine the appropriateness of pursuing remedies under the trade laws, prepare petitions and complaints, and seek to obtain the remedies and benefits available under the trade laws.^{xv} Besides, The mission of the Office of Unfair Import Investigations is to investigate and assess the sufficiency of complaints filed under section 337 of the Tariff Act of 1930, participate as a party representing the public interest in section 337 investigations, identify relevant issues and develop relevant information in such investigations, and conduct appropriate preliminary investigations under section 603 of the Tariff Act.^{xvi}

Apart from that, The Office of Investigations conducts the USITC's countervailing duty, antidumping, and review investigations under Title VII of the Tariff Act of 1930; safeguard and market disruption investigations under the Trade Act of 1974; investigations under section 302 of the North American Free Trade Agreement (NAFTA) Implementation Act of 1994; and investigations under section 22 of the Agricultural Adjustment Act.^{xvii} Moreover, let us look at the Office of Tariff Affairs and Trade Agreements' mission. Accordingly, it serves as a vehicle for U.S. International Trade Commission (USITC) participation in creating, modifying, and maintaining national and international product nomenclature systems for tariff, trade, and statistical purposes. The Office of Tariff Affairs and Trade Agreements is responsible for investigations concerning the operation of related customs law according to the Tariff Act of 1930 and the Omnibus Trade and Competitiveness Act of 1988. The Director, Office of Tariff Affairs and Trade Agreements reports to the Director, Office of Operations.^{xviii}

The International Trade Administration Commission of South Africa (ITAC) is a Public Entity established according to the International Trade Administration Act, No. 71 of 2002, and came into force on 1 June 2003. Based on that, the commission's main objective as stated in the Act is to foster economic growth and development in order to raise incomes and promote investment and employment in South Africa and within the Common Customs Union Area by establishing an efficient and effective system for the administration of international trade subject to this Act and the Southern African Customs Union (SACU) Agreement (having core functions are such as customs tariff investigations; trade remedies; and import and export control).^{xix} The institution is embodied for investigating trade remedies and is an independent

statutory entity reporting to the Minister of Economic Development and the Minister of Trade and Industry. ITAC conducts investigations on behalf of all the Southern African Customs Union (SACU) member states.^{xx} Hence, South Africa's Trade remedy investigations are governed by the International Trade Administration Act 71 of 2002 (ITA Act) and accordingly, Anti-dumping investigations are conducted based on Anti-Dumping Regulations, GN 3197 which was enacted in 2003, Countervailing investigations are based on Countervailing Regulations, GNR 356 of 2005 and finally Safeguard investigations are based on Amended Safeguard Regulations, GNR 662, 2015.^{xxi}

There are four working units under the ITAC. The first one is The Trade Remedies Unit^{xxii} (which is responsible for administering the trade remedies instruments, through investigation of alleged dumping, subsidized imports, and a surge of imports into the SACU, according to domestic legislation and consistent with WTO rules. The second unit is the Tariff Investigations Unit^{xxiii} responsible for promoting, in a complementary manner, domestic production, job retention and creation, and international competitiveness. Furthermore, the third and fourth unit is import and export control unit. Their crucial role is to enforce health, environmental, security and safety, and technical standards that arise from domestic laws and International Agreements.^{xxiv}

When we look at India's experiences, the country has a comprehensive institutional set up to promote international trade.^{xxv} Department of Commerce is the country's prime agency to promote international trade, which is supported by a considerable institutional set up at the union and state government levels, assigned to carry out a range of trade facilitation activities.^{xxvi} Looking at its organizational setup, under the ministry of commerce and industry, the department of commerce is the government's vast body to regulate substantial issues of international trade. Accordingly, there are about fifteen subdivisions under the department of commerce.^{xxvii}

Under the commerce department, Directorate General of Trade Remedies(DGTR) which was earlier known as Directorate General of Anti-dumping and Allied Duties was named in May 2018 as an integrated single-window agency for providing comprehensive and swift trade defence mechanism in India.^{xxviii} The main objectives of the director-general of the trade

remedies are Protecting sensitive sectors of the Indian economy against the adverse impact of the trade liberalization like dumping and subsidy from any exporting country, by way of carrying out investigations in a transparent and time-bound manner to remove trade distortive effects to the domestic industry under Customs Tariff Act and WTO framework by way of recommending imposition of anti-dumping duty/countervailing duty to the Government of India(GOI).^{xxix}

INSTITUTIONAL FRAMEWORK IN ETHIOPIA

Since building efficient and quality institutions requires skilled human resources, substantial financial resources, and many other key issues; it would not be easy to build well-organized institutions in poor countries like Ethiopia. However, at whatever low economic situation a country exists, it would also be vital to have well-organized institutions. Well-established institutions in general and those working in trade and economic policies play a vital role in a country's economic transformation. The quality of institutions is very important to enable the use of new and emerging technologies and innovations that are central to economic transformation to be successful. Moreover, mainly institutional reform, which is endogenous, is an important part of the transformation process.^{xxx} Therefore, building well organized and strong institutions capable of handling complicated and long-run development issues mainly on international trade and economic development is crucial.

As discussed above, Ethiopia is not a member to WTO (though the country has stayed for more than two decades having an observer status). In the last recent years, the country has begun to restart the negation process. Though it takes years, it is expected that the country will one day be a member to WTO once the minimum WTO commitment criteria are fulfilled. As experiences from other countries indicate if necessary prior preparations are not done, upon accession, the challenges of accession to WTO will also remain to severely restrain the acceding country's ability to fully implement the obligations and concessions that have made with WTO. This is true particularly in LDC countries like Ethiopia since they highly lack the institutions in national levels and the skilled human capital and financial related resources to leverage the outcome of trade negotiations and appropriately implement the commitments and

concessions they have entered. Those are the main reasons why poor countries like Ethiopia after acceding to WTO cannot successfully translate international trade-related prospects (rises from multilateral trade agreements.)^{xxxii}

In Ethiopia, there are stakeholder institutions both at Federal and regional levels responsible for handling trade and industrial policy-related issues. At the federal level, Ministry of trade and industry, investment commission, trade competition and Consumers' Protection Authority, and Customs Commission are the main responsible organs concerning trade, investment, industrial development, and trade competition issues. There are also several other institutions at lower-level rank to support the effective facilitation of trade and investment issues of the country. Bearing this in mind, let us look and critically assess each of these institutions' duties and responsibilities concerning their legal role to administer trade remedy issues and international trade protectionism. Apart from that, institutional capacities each of these sectors to fulfil their legal obligations (if any) will be examined.

Ministry of Trade and Industry

A proclamation^{xxxiii}, which was enacted by the FDRE parliament in 2018, defined the power and duties of executive organs. Since Ministry of Trade and Industry is among the country's top executive organ, article 19 of the Proclamation No.1097/2018, defined powers and duties (about 25 illustrative lists). Among these powers, as stipulated under Article 19(a) of the proclamation, it is the Ministry of trade and industry's duty to formulate and implement trade and industrial policies that can guarantee competitiveness in trade and industry and help sustainability in development. Besides, the institution also has the duty to work create a favourable business environment so that the extent and quality of the export will increase, work to establish foreign trade relation and sign trade agreements.^{xxxiii} Apart from these, the institution has the mandate to control the qualities of imports and exports (mainly fulfilment of health and environmental standards). However, it is general, Article 19 sub-article (h)^{xxxiv} seems crucial provision as it allows power to the institution to control the price of imports and exports.

To promote industrial sectors (mainly infant domestic industries) and increase its global competitiveness, the institution has the responsibility to work to design mechanisms to fulfill

human and other resources required to strengthen the competitiveness of the industrial sector.^{xxxv}

Trade Competition and Consumers Protection Authority

In order to attain the objectives set under article five of the Competition and consumer protection proclamation^{xxxvi}, an authority established as per article 27 of the same proclamation. According to the article 27 of the proclamation, the trade competition and consumer protection authority is established as an independent federal government organ. The authority responsible to the ministry of trade and Industry is headed by Director General appointed by the prime minister of Ethiopia^{xxxvii}. Article 30^{xxxviii} describes the power and duties of the authority. Among others, the authority works to protect consumers from ‘unfair trade practices’^{xxxix} of business persons and make regular announcements regarding consumer goods that are banned by the government or at the international level from being consumed or sold.^{xl} The authority has eight directorates, each with specific duties and responsibilities. For example, investigation and prosecution directorate is owed with the undertaking investigations related to trade, competition and consumer protection issues and finally hand over the investigation result to the tribunal court of the Authority.

Table Two: Institutional framework of the Trade competition & consumer protection Authority

R. No	Name of the Directorate	Role of the directorate
1	Market Information directorate	In order to create transparency of the Authority, market information directorate collects all necessary data from the market. Furthermore, the data collected is analyzed and interpreted so that the public could be aware of it. The directorate also undertakes investigation (surveillance) in the market. Accordingly, consumer and business could be

		protected against goods that are defective, harmful for human health, below the standard and misleading advertisements.
2	Investigation and prosecution directorate	The directorate of investigation and prosecution investigates the trade competition and protection of consumers. The information and evidence collected during investigation are submitted to the Authority and Authorities tribunal so that they can be well informed while making decisions.
3	Merger	This directorate examines issues and practices of the acquisitions and merger. Besides, it is the directorate's obligation to enforce the provisions of the proclamation (No. 813/2013), related to merger control.
4	Human Resources Management directorate	This directorate is responsible for developing and making strategy to equip the authority's human resources and manage it accordingly.
5	Consumer Affairs, Education and Training directorate	This directorate is mainly responsible for conducting awareness creation training and other related tasks in all over the country (in two federal cities as well as ten regions of the country).
6	Public Relations & Communication Directorate	This directorate mainly works advocacy and makes awareness regarding the authority's' overall function (for both consumers and traders by using several medias such as social media, mainstream media and any other similar means of publication relations).

7	Research & Development	R&D directorate is among the essential sub-body of the Authority. It is responsible for conducting and facilitating all necessary scientific research that closely connects to the consumer and competition issues.
8	Planning & Data Management	This directorate is embodied with the responsibility to prepare the Authority's yearly budget and operational plans. As well as the directorate is responsible for preparing reports in quarterly bases. (1) Capacity building; (2) advocacy; and (3) enforcement are the three key strategic issues in this directorate. Besides, all necessary data of the Authority is managed through this directorate.

Source: TCCPA Human resource directorate, published by UNCTAD

Ethiopian Custom Commission

The Ethiopian customs commission, which previously was in one institution with Ethiopian revenue Authority has now separated and existed as an independent institution at the federal level. While the Revenue Authority developed to Ministry level structure, Customs Authority was changed into Ethiopian customs commission in Nov.2018. Both institutions established with independent proclamations with separate duties and responsibilities. While Ministry of revenue is mandated to work with Inland Revenue issues, the Ethiopian customs authority is authorized to administer and regulate imports and exports matters.

Regulation No. 437/2018^{xli} enacted to determine the power and duties of the Ethiopian customs commission. The objectives of the commission are listed under Article IV. For example, the commission works to effectively control the imports and exports of goods that are either restricted or prohibited^{xlii}. Besides, the commission works to implement custom laws and other international trade-related agreements to which Ethiopia is a party. It is also under the commission's objective to work to control contrabands and custom fraud.^{xliii}

In order to attain the objective set under article IV, the regulation listed about 22 specific duties and responsibilities to the customs commission under article V. Going through all this list, it is highly unlikely to find duties and responsibilities related to trade remedy issues. Of course, there are some essential sub-provisions^{xliv} that talks about controlling the imports and exports of contraband (illegal trade) and as well as to prohibit the import of goods that are banned by law due to human health and environmental issues.

PROBLEMS UNDER THE INSTITUTIONAL FRAMEWORKS OF ETHIOPIA

Several studies and empirical evidence have indicated that though economic liberalizations are essential based on the countries' context, it is not a sole condition for a country's prosperity and development. That is why a simple spread of markets failed to eradicate poverty from the world. In global trade, not all countries and the whole world are blessed and acquired prosperity; rather, those countries have had well-equipped institutions and prudent laws. Hence, without well-functioning government institutions and without having prudent legal systems, globalization and international trade will not be a blessing, it instead is a challenge.^{xlv} Therefore, issues related to trade and developments have to be rendered high-level considerations to legal and institutional matters (a good reform that is made in institutional setups would highly help a countries ability to resolve challenges related to trade).

As this fact is not different to Ethiopia, a need for strong institutions and similar other working committees or else to properly regulate trade-related issues in general and trade in good mainly is not time giving. For example, during the end of 20th century (which is also considered a protectionism period), there was a rule in the US that negotiation has to be made with exporting countries if the import reaches a certain degree (aimed to protect domestic industries). To successfully accomplish this kind of negotiation deals if possible, and or in case the negotiation failed, the US congress had authorized the executive organ of the government to take unilateral actions that could secure the national trade interest. Regarding the administration and execution of agreements related to T&C, the responsibility lies upon the Committee's shoulder for the

Implementation of Textile Agreements (CITA) together with Office of the US Trade Representative (USTR)^{xlvi}. The CITA committee composed representatives from several institutions such as state department, Labor department; US trade sectors, treasury and some other essential organs. This committee worked hard in order to manage the sector and made them globally competent sector. Hence, this vital move indicates how much emphasis was given to institutional set up to protect their industries and make them globally competent during that time.^{xlvii}

In Ethiopia, when we look at the proclamations and regulation which provide power and duties to the executive organs, such as Ministry of trade and industry, Trade competition and consumer protection Authority, Ethiopian customs commission and other institutions related to the tasks of trade and industrial policies, we cannot find legal provisions authorizing these institutions regarding the issues of trade remedies. As discussed here above, according to the establishment proclamation, the mandate of the ministry of trade and industry is limited regarding the issues of international trade remedy measures.

According to the interview made by the Ethiopian customs commission civil cases service team coordinator, since Ethiopia has no active and comprehensive trade remedy laws, we have been facing practical challenges to remedy the problems.^{xlviii} He also added that, since trade remedy laws have never been applied in the country, it has been clearly observed that the government been ignoring the applications submitted by business communities (mainly domestic manufacturers) requesting the government to grant protection against goods unfairly imported. He raised a critical example regarding the complaint of domestic footwear manufacturers. Their complaint stated that cheap imports from foreign countries, mainly from China, have been forcing them to stop their business.^{xlix} He further explains that since there is no clear law and legally established institutions regulating this domain, it is highly blurred which federal institution would take the complaint from the private sectors seeking protection and give solution against such kinds of unfair international trade practices.¹

Besides, a senior legal advisor from trade competition and consumer protection Authority further emphasized that, despite the importance of proclamation enacted in 2003 incorporating dumping issues and its Anti-dumping remedy, the current proclamation (proclamation number

813/2013 intentionally removed the concept. He further stated that it had been recalled that, the old proclamation had given the authority to regulate and take action against such trade activities. However, without justified reason, the new proclamation failed to do the same. Hence, the authority has lacked this jurisdiction at present.^{li}

Kassayye Ayele, a senior legal expert (with 22 years of experience in the sector), explained that in Ethiopia, there is no law and institutions that are clearly embodied with the mandate of controlling and managing the issues of trade remedy^{lii}. He further adds that, since there is no institutional setup and capacities to deal with dumping, subsidized imports and other similar trade activities, it is highly believed that practical challenges to this regard are prevalent in the country.^{liii}

Ashenafi Basa, Head, customs law enforcement department, explained how important is the government's institutional capacity and commitment to this sector. He also emphasised that to defend unfair trade activities such as dumping; the government should establish institutions either independently or under the Trade and Industry Ministry.^{liv} He also added that the country keeps facing challenges posed due to unfair international trade if this is not done on time. Besides, he indicated that the capacity of existing institutions is not designed to address these problems. Since those issues related to international trade, mainly trade remedies require skilled manpower (such as trade lawyers), the government has to give special attention to building institutions and skilled manpower.^{lv}

According to Kassaye Ayele, since Ethiopia has started negotiating to join WTO, it would be wise to start prior preparations that begin by building institutions capable of dealing with it. He also added that in cases the country joins the WTO in the future, the prior preparation is highly rewarding for the country as it helps to cope with the WTO's principles easily. Therefore, the government should start staff development in the sector and allocate a fair budget to train human power capable of administering international trade remedy issues.^{lvi}

Mr Zerhun Abebe Gizew, Director in the ministry of trade and industry, states that we are too late to have institutions dealing with trade remedy issues as a country.^{lvii} Since the issues related to international trade in general and trade remedy issues, in particular, are too complicated, we need well-established institution as well as a skilled workforce that can able to administer the

sector. A team of legal experts from the Ministry of trade also added that it is unclear why the country has failed to establish institutions and enact laws related to trade remedies. However, whatever the reasons are to be raised on the government's side, it would be highly important to establish independent institutions that will work on trade remedy issues.^{lviii} They also emphasised that the seriousness of the case by raising local business communities compliant as an example against unfair imports, mainly domestic small-scale apparel manufacturers (cultural and fashion clothes manufacturers), have submitted complaints several times. Mr. Zerhun Alo shares the same threat raised by the team. He also added that small scale domestic manufacturing industries are being hacked by Chinese cheap import trade. He believes that to establish capable institutions and laws effectively dealing with these problems are not time giving^{lix}.

In Ethiopia, as we see from the laws establishing and defining the power and duties of the executive organs (including Ministry of Trade and Industry, Ethiopian customs commission, Trade competition and consumer protection Authority and many other similar federal organs of governments), there is no laws/proclamations that give (at least clearly and comprehensively) the mandate of trade remedy issues to any federal institution. This legal and institutional gap and failure to deal with this vital issue of the trade aspect have practically caused a problem to domestic manufacturers (mainly small-scale domestic manufacturing industries).

CONCLUSION AND SUGGESTIONS

It is true that, in a world of a scarce resource, and unlimited wants international trade is inevitable to every country. In the 21st century, since the impact of globalization is everywhere, Ethiopia's case is not different, and international trade has imposed an increasing impact on the country's overall economy for better or for worse. To regulate ever-increasing international trade concerns, it is a must to have legal and institutional frameworks both in the domestic and global level.

Institutions are vital for implementing policies and laws. Without a comprehensive institution with more precise goals and missions, it would be highly challenging for any country to develop. Similarly, Institutions that are responsible for regulating and facilitating international trade and industrial policies are primarily crucial. If the US had not built strong and well-established international trade institutions, it would not have been possible today to be the number one world Economic superpower. The same conclusion holds valid for several other developed countries. For example, in the US, the United States International Trade Commission (USITC) is responsible for regulating international trade matters. Under the USITC, there are three key sub-sectors directly assigned to deal with trade remedy issues. A similar trend is also seen in India, South Africa, and many other countries. However, if we look at the cases in Ethiopia, there is no legally assigned institution (either as sub-sector under the Ministry of trade or as an independently established authority), responsible for dealing with trade remedy matters. As a result of these, business communities have complained to the government organs to establish an institution that embodied with clear vision and responsibility to deal with unfair trade and its trade remedy measures. Therefore, the Government in Ethiopia should establish a trade remedy administering institution either as a sub-sector under the ministry of Trade and industry or as an independent commission/Authority.

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- [1]. Interview with Mr. Zerhun Abebe Gizew, director of Textile and apparel industry sector study follow up and support directorate, Ministry of Trade and industry, Addis Ababa, Ethiopia, (01 Jan. 2020).
- [2]. Interview with Mr. Habtamu Tilahun, Ethiopian Customs commission civil cases service team coordinator, Mon 03/2020, Addis Ababa.

- [3]. Interview made with senior expert of the Authority who didn't want his name to be disclosed, 03 Feb/2020, Addis Ababa.
- [4]. Interview with Kasaye Ayele, Senior legal expert in customs commission, Addis Ababa, Ethiopia, January 28/2020.
- [5]. Interview with Ashenafi Basa, Head, customs law enforcement office, Addis Ababa, Ethiopia, January 28/2020.
- [6]. Interview with Mr.Zerhun Abebe Gizew, Director in the ministry of trade and industry, Addis Ababa, Ethiopia, January Feb 01/2020.

ENDNOTES

ⁱ HA-JOON CHANG, Institutional Foundations for Effective Design and Implementation Of Trade And Industrial Policies In Least Developed Economies, In: THE POLITICS OF TRADE AND INDUSTRIAL POLICY IN AFRICA: FORCED CONSENSUS? 135, 137 (Charles C. Soludo, Osita Ogbu & Ha-Joon Chang, eds., 2004).

ⁱⁱ Andrei A. Levchenko, Institutional Quality and International Trade, 74(3) *The Review of Economic Studies*, 791, 791(July 2007), Pages 791–819, available at, <https://doi.org/10.1111/j.1467-937X.2007.00435.x> , accessed on 29 October 2020.

ⁱⁱⁱ “For another example, a laissez faire industrial policy may produce a lot of "wastes" in the form of excess capacity and unnecessary bankruptcies (and the scrapping of "specific" assets), if there are no institutions such as industry associations or cartels that can "regulate" or "manage" competition in the industry, the risk will be very high”. *See*, HA-JOON CHANG, *Supra note 1*, at 137.

^{iv} After the ITO failure, instead, a Secretariat based in Geneva was set up to administer the GATT. This Secretariat became a de facto world trade organization. As a result, GATT continued to be governed by "provisional" and "interim" measures and remained an agreement without a formal organization to enforce it. These "provisional" arrangements persisted up until 1994, the year in which the Uruguay Round (UR) Agreement was concluded and the WTO established. The WTO is the only international organization that deals with the global rules of trade among nations by helping trade to flow as smoothly, freely, and predictably as possible. *See*, BACRY YUSUF, MAMO E.MEHERETU, AND MR. BERHANU LAKEW, How to optimize advantages of accession to the World Trade Organization and measures to be taken to meet possible challenges, 4(2008).

^v *Id.*

^{vi} A general council also composed of one member from each WTO member nation. The council composed of several sub-committees such as Council for Trade in Goods, council for Trade-Related Aspects of Intellectual Property Rights, Council for Trade in Services, and Trade Negotiations Committee. *See* article IV of the agreement establishing WTO.

^{vii} “The DSB has authority to establish dispute settlement panels, refer matters to arbitration, adopt panel, Appellate Body and arbitration reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.” *See*, World Trade Organization, Dispute Settlement Body, available at https://www.wto.org/english/tratop_e/dispu_e/dispu_body_e.htm, accessed on 23/09/2020

^{viii} “The Trade Policy Review Body (TPRB) is a subsidiary body of the General Council created by the Marrakesh Agreement Establishing the WTO to administer the Trade Policy Review Mechanism (TPRM). The TPRM offers a forum for Members to shed light on the trade policies of the country under review from a multilateral perspective. *See*, Office of the United States Trade Representatives, Trade Policy Review Body, available at, [https://ustr.gov/trade-agreements/wto-multilateral-affairs/wto-issues/trade-policy-review-body#:~:text=The%20Trade%20Policy%20Review%20Body,Policy%20Review%20Mechanism%20\(TPRM\).&](https://ustr.gov/trade-agreements/wto-multilateral-affairs/wto-issues/trade-policy-review-body#:~:text=The%20Trade%20Policy%20Review%20Body,Policy%20Review%20Mechanism%20(TPRM).&)

text=In%20a%20review%2C%20the%20WTO,of%20the%20Member%20under%20review, accessed on 23/09/2020

^{ix} See, article 4 of the WTO establishment agreement.

^x YONG-SHIK LEE, World Trade Organization and Developing Countries: Reform Proposal, *In.*, LAW AND DEVELOPMENT PERSPECTIVE ON INTERNATIONAL TRADE LAW, 105, 107 (Yong-Shik Lee, Gary N. Horlick, Won-Mog Choi and Tomer Broude eds., 2011).

^{xi} GRAHAM DUNKLEY, FREE TRADE: MYTH, REALITY, AND ALTERNATIVES, 192 (2004).

^{xii} The United States international trade commission, home page, available at https://www.usitc.gov/press_room/about_usitc.htm, accessed on 25 October 2020. *See also*, JOHN M DOBSON, Two Centuries of Tariffs - The Background and Emergence of the United States International Trade Commission, UNITED STATES INTERNATIONAL TRADE COMMISSION library, December 1976, available at <https://www.usitc.gov/publications/332/pub0000.pdf> last visited 04 Jan 2021.

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^{xv} United states international trade commission, Trade Remedy Assistance Office (TRAO), https://www.usitc.gov/press_room/trao.htm, accessed on 25 October 2020

^{xvi} United states international trade commission, *Office of Unfair Import Investigations*, Available at <https://www.usitc.gov/offices/ouii>, accessed on 25 October 2020.

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^{xx} Stephen Meltzer, Claudette Smith and Chuma Bubu, Webber Wentzel , International trade in goods and services in South Africa: overview, 2020 THOMSON REUTERS, Available at <file:///C:/Users/Dell/Desktop/International%20trade%20in%20goods%20and%20services%20in%20South%20Africa%20overview.pdf> Accessed on 25 Oct.2020, P.10.

^{xxi} *Id.*

^{xxii} ITAC home page, trade remedies unit, Available at <http://www.itac.org.za/pages/services/trade-remedies>, accessed on 25 October 2020.

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^{xxiv} ITAC home page, import export control unit, Available at <http://www.itac.org.za/pages/services/import-export-control/export-control>, accessed on 25 October 2020.

^{xxv} Prakash Kumar Saha, Institutional Framework for International Trade in India, <https://www.economicdiscussion.net/essays/institutional-framework-for-international-trade-in-india/17991>, accessed on 25 October 2020.

^{xxvi} *Id.*

^{xxvii} Ministry of commerce and industry home page, department of commerce, Available at <https://commerce.gov.in/InnerContent.aspx?Id=9>, accessed on 25 October 2020.

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^{xxix} *Id.*

^{xxx} DEBORAH BRAUTIGAM AND TANIA DIOLLE, Coalitions, Capitalists, and Credibility: Overcoming the Crisis of Confidence at Independence in Mauritius, In: CONTEMPORARY AFRICAN POLITICAL ECONOMY: DEVELOPMENT AND SUSTAINABLE GROWTH OF MAURITIUS, 17, 18-20(Vanessa T. Tang, Timothy M. Shaw and Merle G. Holden, eds., 2019).

^{xxxi} YUSUF *Et al.* *Supra note* 4, at 14.

^{xxxii} Proclamation No.1097/2018, a proclamation to provide for the definition of the powers and duties of the executive organs of the federal democratic republic of Ethiopia.

^{xxxiii} See, article 19(d)&(f) of the proclamation No.1097/2018.

xxxiv Article 19(h) states that; the ministry of trade and industry has the power to “...establish system to ascertain that export or import goods are traded or bought at appropriate prices; follow up same in collaboration with concerned agencies.”

xxxv See, art 19 (s) and (t) of the proclamation No.1097/2018.

xxxvi See, Trade competition and consumer protection proclamation no.813/2013.

xxxvii *Id.* article 27(2) and 28(1).

xxxviii *Id.* article 30 .

xxxix “unfair trade practice” means any act in violation of provisions of trade related laws; see article 2(9) of the proclamation No. 813/2013.

xl *Id.* article 30(5) (8).

xli Definition of powers, duties and regulations of the customs commission regulation, Regulation No. 437/2018.

xlii See, *Id.* article 4(4).

xliii See, *Id.* article 4(3) & (5).

xliv See, *Id.* article 5(5&7).

xlv PETER VAN DEN BOSSCHE, THE LAW AND POLICY OF THE WORLD TRADE ORGANIZATION TEXT, CASES AND MATERIALS, 33 (2005).

xlvi HA-JOON CHANG, *Supra note* 1, at 131.

xlvii *Id.*

xlviii Interview with Mr. Habtamu Tilahun, Ethiopian Customs commission civil cases service team coordinator, Mon 03/2020, Addis Ababa.

xlix *Id.*

¹ *Id.*

li An Interview made with senior expert of the Authority who didn’t want his name to be disclosed, 03 Feb/2020, Adis Ababa.

lii An interview with Kasaye Ayele, Senior legal expert in customs commission, Addis Ababa, Ethiopia, January 28/2020.

liii *Id.*

liv An interview with Ashenafi Basa, Head, customs law enforcement office, Addis Ababa, Ethiopia, January 28/2020

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lviii *Id.*

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