CHAPTER V

CONCLUSION

A. Conclusion

Based on the results of this study, it can be concluded two things, namely:

1. The principle of non-discrimination initially emerged as a moral norm within the international community and was later formalized under the GATT framework, before being firmly established as a legally binding principle in the 1994 WTO Agreement. The principle of non-discrimination that consisting of the Most-Favoured Nation (MFN) and National Treatment (NT) principles, forms the core foundation of the multilateral trading system under the 1994 GATT and the WTO framework. The MFN principle as stipulated in Article I : 1 and Article II : 1 requires every WTO member to grant equal, direct, and unconditional treatment to all other members with respect to like products and services, while the NT principle as stipulated in Article III : 1, 2, 4, and Article XVII : 1 prohibits member states from granting more favourable treatment to domestic products than imported products. These principles aim to ensure fairness, transparency, and predictability in international trade. Although the WTO allows limited exceptions, such as general exceptions (Article XX), security exceptions (Article XXI), safeguards, regional integration (Article XXIV), and special and differential treatment, their application is restrictive and cannot serve as a justification for unilateral protectionist measures.

2. The United States 2025 tariff measures clearly constitute violations of the non-discrimination principle. The imposition of the universal 10 percent tariff and additional tariffs ranging from 15 percent, 35 percent, 84 percent, up to 125 percent on major trading partners such as China, Mexico, and Canada also Indonesia reflects explicit origin-based and *de jure* discriminatory treatment. These measures violate Article I:1 of the 1994 GATT because the U.S. provided advantages to certain states while denying them to others, despite the products being like products and violate Article III:4 of the 1994 GATT, as it creates a competitive barrier for imported goods from local compared to domestic products from the U.S.. In the case of China (DS638/1), the U.S. tariffs also exceeded its bound tariff commitments, thereby violating Article II GATT 1994. In relation to Mexico and Canada, the differential tariffs imposed on "non-USMCA originating" goods similarly discriminate against like products from other WTO members. The fact that Indonesia was initially subjected to a higher tariff before subsequent adjustments further illustrates the unequal and selective treatment contrary to MFN obligations. Justifications claimed by the U.S. such as economic security, fentanyl concerns, migration issues, or reciprocal treatment do not satisfy the strict legal requirements of Article XX or Article XXI GATT. Consequently, the 2025 U.S. tariff regime represents a substantive breach of the non-discrimination obligations under international economic law.

B. Recommendation

Based on the discussion and conclusions above, suggestions can be given, as:

1. Theoretical Recommendation

   Further scholarly analysis is needed to clarify the limits of Article XXI GATT, especially concerning the use of "economic security" arguments, to prevent misuse of security exceptions for disguised protectionism.

2. Practical Recommendations

   a. The WTO members affected by the 2025 U.S. tariffs, including Indonesia should strengthen trade diplomacy and consider coordinated multilateral or plurilateral responses to mitigate discriminatory unilateral measures.

   b. The WTO members should prioritize the revival and reform of the WTO Dispute Settlement Body, particularly the Appellate Body, to restore legal certainty and prevent continued unilateralism in global trade.