



DAVID MOSS
NICK BARTLETT

The World Trade Organization

Shrouded in secrecy, the fourth ministerial meeting of the World Trade Organization convened in the tiny nation of Qatar in mid-November 2001. Doha, the capital city, had been turned into a veritable fortress in anticipation of the conference. The beach-front line of hotels where the negotiations took place could only be accessed through checkpoints equipped with metal detectors and other security devices. Thousands of rifle-toting security forces congregated at intersections and blocked off streets. More than 2,000 U.S. marines, two warships, and a group of attack helicopters stood ready in case of trouble.¹ According to one delegate, Doha looked like “a lunar landscape, empty but for a forest of new steel and glass buildings, cocooned in eerie isolation from the rest of the world...”²

Officials were taking no chances this year. The last ministerial meeting of the WTO, held in Seattle in 1999, had been rocked by protest and rioting, as tens of thousands of activists of almost every imaginable variety had converged on the city to make their frustrations known. Now, just two months after the terrorist attacks of September 11th, security concerns were obviously paramount in Doha. Yet the symbolism of conducting critical negotiations on the future of the global economy in an armed and isolated city could hardly have been worse.

As the protests in Seattle had made clear, suspicions about the WTO ran deep. For many decades, international trade negotiations had focused mainly on increasing the flow of goods across borders by reducing protective tariffs and eliminating quotas. In recent years, however, the scope of these negotiations had increased considerably, as it became clear that tariffs and quotas were not the only relevant barriers to trade and that tangible goods were not the only products being traded. A national health or environmental regulation could impede trade every bit as much as a tariff or quota. So could a financial regulation, though in this case the effect was more likely to be on the flow of services (such as banking and insurance) than on the flow of merchandise.

The problem was that as international officials began grappling with these issues, they found themselves impinging on the authority of national governments in the most sensitive of areas, from health and environmental standards to competition policy and intellectual property rules. They also seemed to pit developed against developing countries, on everything from minimum wages and working conditions to trade in agricultural and pharmaceutical products. But somehow the WTO had to build a global trading system that would accommodate everyone. With so much at stake, the question remained whether the WTO was up to the task.

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Background: From the “Golden Age of Free Trade” to the GATT

Attempts to create an open trading regime, free of protectionist barriers, went back a long way.³ Several decades after David Ricardo published his seminal writings on trade policy and comparative advantage, Britain unilaterally repealed its protectionist Corn Laws (in 1846) and subsequently negotiated deep tariff reductions with France, its traditional archrival. Most of the major European states followed Britain’s lead by entering into bilateral agreements that sharply reduced tariff levels across the continent and signaled the arrival of the so-called “golden age of free trade.” The European experiment with free trade began to break down in the 1880s, however. For its part, the United States maintained very high tariff rates on a broad range of imports before, during, and after the “golden age.” (See **Exhibits 3 and 4.**)

Worldwide, tariff rates increased from 1870 until the beginning of WWI. After a brief period of increased trade during the prosperous inter-war years, the web of bilateral trading agreements that held the system together disintegrated during the 1930s, when nationalist responses to the Great Depression set off a crippling increase in protectionist barriers.⁴ Some observers blamed the return of protectionism for the duration of the depression and, indirectly, even for the outbreak of the Second World War.

Eager to avoid past mistakes and ensure both peace and prosperity in the aftermath of WWII, many leading policymakers (including U.S. Secretary of State Cordell Hull) soon began to consider the creation of an international trade body, which they hoped would lay the institutional foundations for another “golden age” of free trade. Intended to complement the newly-founded World Bank and International Monetary Fund as the “third leg of the Bretton Woods stool,” the proposed International Trade Organization (ITO) would have been a formidable institution, boasting a permanent staff, rules covering a wide range of trade and investment issues, as well as effective mechanisms for enforcement. Despite having been originally proposed and backed by the United States, the ITO was, ironically, ultimately killed in America, with Congress decisively failing to ratify the ITO Charter by 1950.⁵ While the essential notion of free trade remained attractive, many American lawmakers apparently wished to retain a greater degree of autonomy in domestic policymaking and international negotiations than the ITO would have allowed.⁶

Already in 1947, however, the United States and 22 other nations had signed the General Agreement of Tariffs and Trade (GATT), which was originally intended merely as a temporary measure, to be superceded by the ITO. The GATT, which was never formally ratified by the participating governments, set basic guidelines for future trade negotiations and restricted the establishment of any new trade preferences. The agreement applied to countries representing more than 75 percent of world trade, and to more than 65 percent of the trade carried out by the nations represented.⁷ Eventually, an international organization – also known as GATT – was created to help administer the agreement. But its duties remained ill-defined, and it lacked clear enforcement powers. It also lacked the experienced leadership, the extensive funding, and the clear mandate of its better-endowed Bretton Woods siblings. Yet despite its obvious institutional shortcomings, the GATT survived for 47 years as the principal mechanism through which the capitalist world reduced barriers to trade.⁸

As an ad hoc mechanism, GATT was entirely dependent on the goodwill and commitment of participating states. In order to achieve its goal of “substantial reduction of tariffs and other barriers to trade and ... the elimination of discriminatory treatment in international commerce,”⁹ GATT embraced the most-favored-nation principle (MFN), which required non-discrimination among GATT signatories. This ensured that tariff concessions granted by one GATT member to another would always be made available to *all* members. The MFN principle was regarded as so critical to

the future of international trade negotiations that it was enshrined as the very first article of the agreement. But there were obviously other important principles as well. For example, GATT required signatories to observe the principle of “national treatment,” which prevented them from taxing or regulating imported goods differently from domestic goods, once the imported goods had cleared customs. GATT also encouraged signatories to “bind” their tariff rates (i.e., to commit not to raise their rates above bound levels), and it actively discouraged the use of quotas.

Recognizing that some industries were more politically sensitive than others, member nations effectively excluded certain areas of trade from MFN and other GATT rules. Government procurement and civil aviation were two such areas. Another was trade in textiles, where the United States and Europe demanded special protection from a flood of cheap imports. This was operationalized through a series of market-sharing pacts (or voluntary export restraints), which culminated in the 1974 Multi-Fiber Arrangement. In agricultural trade as well, GATT waived standard restrictions on quotas and subsidies, mainly in response to European and American demands.

From its earliest days, GATT also permitted certain exemptions for regional trading alliances (RTAs), which aimed to reduce local barriers to trade. Specifically, GATT allowed countries to form regional trade zones and to reduce in-zone tariffs below their MFN rates. The European Community quickly took advantage of this allowance, dramatically reducing tariffs on intra-European trade.

Finally, as a result of the Tokyo Round’s efforts to aid poor nations in the 1970s, GATT adopted the Generalized System of Preferences (GSP), which permitted developed countries to extend – at their discretion – lower-than-normal tariffs to developing countries. Because these preferences operated outside the bounds of MFN, they were not subject to standard GATT rules on non-discrimination. This meant that a developed nation could grant tariff preferences to some developing nations and not to others, and it could rescind any or all of these preferences at any time and for any reason. Still, the system made it possible for developing countries to receive improved market access in some cases.

Despite these exceptions — or perhaps in part because of them — world trade experienced fantastic growth during the first 25 years of GATT’s existence, as widespread tariff reductions helped to fuel a five-fold increase in the volume of international trade (see **Exhibit 2**). A weighted average of tariff rates in the United States is estimated to have fallen by 36 percent over the first five rounds of GATT negotiations (1947-1962), and a similar weighted average of tariff rates in four major markets (the United States, Japan, the European Community, and the United Kingdom) is said to have declined by another 37 percent as a result of the Kennedy Round (1964-1967). The first five rounds of cuts were to be fully implemented by 1963, and those planned during the Kennedy Round by 1972.¹⁰ (See **Exhibit 6**.)

The essential logic of opening the world economy by reducing tariffs and eliminating quotas only went so far, however. By the mid 1970s, with most tariffs in developed nations already bound at relatively low levels, it was becoming increasingly clear that a broad range of “non-tariff barriers” could impede the flow of international commerce as much as tariffs and quotas.¹¹ Americans and Europeans, for example, claimed that the structure and conventions of numerous industries in Japan effectively kept out foreign goods, even in the absence of direct barriers.¹² Indeed, most developed nations employed a range of non-tariff barriers to trade, including domestic subsidies and “voluntary” market-sharing arrangements.¹³ Particularly troubling to developing nations was an increase in anti-dumping measures, the practice of levying duties against goods allegedly sold at “unfair” prices in a country’s domestic market (i.e., below cost, below the home market price, or below the price charged in other markets). Often appearing as little more than thinly veiled

protectionism, anti-dumping activity surged – especially in the United States – during the economically volatile 1970s.¹⁴

Trade experts quickly recognized that the GATT was ill-suited to address these sorts of non-tariff barriers. It suffered from a toothless and inefficient dispute settlement mechanism that lacked the power to bind offending countries to its rulings.¹⁵ Under GATT rules, sanctions could only be imposed if all members, including the offending party, joined in agreement.¹⁶ In addition, the growth of trade in areas beyond GATT's jurisdiction, such as transport, insurance, and banking, further reduced its effectiveness. Attempts were undertaken during the Tokyo Round negotiations (1973-1979) to remedy some of these deficiencies, but they met with only limited success. Though GATT signatories agreed to further tariff reductions, only a small number of countries participated in a new process of adopting voluntary “codes” that attempted to reduce non-tariff barriers in such areas as subsidies and countervailing duties.¹⁷ When an unusually severe recession struck in the early 1980s, the deterioration of the trade environment was palpable. The chief U.S. trade negotiator, William Brock, concluded in 1982 that “the GATT system is in serious trouble.” Another official observed that “protectionist pressures on governments [had] multiplied, disregard of GATT disciplines [had] increased and certain shortcomings in the functioning of the GATT system [had] been accentuated.”¹⁸

With many international leaders believing that the world trade system was “seriously endangered,” the United States led the push to return to the negotiating table in the hopes of turning the tide.¹⁹ The result was a new round of talks that opened at Punta Del Este, Uruguay, in 1986. In acrimonious debates that dragged on for seven-and-a-half years (almost twice as long as originally planned), the ministers ultimately reached agreements that profoundly restructured the international trading regime and set a new course for the global economy in the twenty-first century.

Beyond the Confines of GATT

The Uruguay Round

The Uruguay Round has been described as “the largest trade negotiation ever, and most probably the largest negotiation of any kind in history.”²⁰ Involving over 120 countries, it produced 22,500 pages worth of promised tariff cuts as well as agreements covering a broad range of issues that had eluded effective treatment under earlier rounds of GATT negotiations.

On average, the developed economies promised to reduce tariff rates on industrial goods by 40 percent between 1995 and 2000, which meant that the average tariff would fall from 6.3 percent to just 3.8 percent.²¹ At the same time, negotiators from the developed nations also increased the number of “bound” tariff rates (which could not be raised in the future) from the existing 78 percent to a remarkable 99 percent of all tariff lines. Developing nations, meanwhile, committed to even more dramatic increases in “bound” rates, from 21 percent to 73 percent of all tariff lines.²²

But that was just the beginning. The Uruguay Round also added whole new chapters to the liberalization playbook. Most important of all was the General Agreement on Trade in Services (GATS), which constituted the “first ever set of multilateral, legally-enforceable rules covering international trade in services.”²³ Whereas GATT covered goods, GATS covered nearly every form of tradable service, from banking and consulting to data transmission and even tourism. Similar to GATT in structure and principles, GATS comprised a central set of rules (such as MFN), supplementary agreements (on telecommunications and air transport, for example), and an expandable set of national schedules for service-specific liberalization (i.e., concrete commitments for

improved market access).²⁴ While all WTO members were required to become signatories of GATS, participation in its bottom-up negotiations remained optional. This meant that individual countries were encouraged to create “schedules of commitment” on service liberalization, but that there were no universal commitments as in most other multilateral trade agreements. In addition, since a large number of bilateral agreements on services already existed at the time GATS was created, one-off exemptions from MFN were permitted on a temporary basis so that signatories could grant limited concessions to all member nations without having to terminate their existing bilateral arrangements.²⁵

The Agreement on Trade-Related Intellectual Property Rights (TRIPS), meanwhile, introduced a common set of principles and rules to help guide the enforcement of copyrights, patents, trademarks, and other forms of intellectual property within the context of international trade. As in the case of GATT, the principles of MFN and national treatment were adopted as pillars of the new regime. But TRIPS also introduced a number of specific international standards, which were supposed to help facilitate remunerative trade in idea-driven and knowledge-intensive products, such as medicines, computer software, and movies. The agreement, for example, mandated that software receive the same copyright protection as books and that inventions be eligible for patent protection for no fewer than 20 years.

Together, GATT, GATS, and TRIPS emerged as the three central chapters of the new multilateral trading regime created during the Uruguay Round. Even beyond these, however, there were numerous supplementary agreements, mostly designed to improve upon GATT. The Agreement on Sanitary and Phytosanitary Measures (SPS), which was introduced to prevent member nations from employing safety and sanitary regulations as unfair impediments to trade, specified under what conditions countries could legitimately employ such regulations to ban food, animal, or plant imports. The Agreement on Implementation of Article VI, which was intended to address abuses of anti-dumping rules, defined more precise criteria for determining when dumping had occurred as well as new standards for the implementation of retaliatory measures. The Agreement on Trade-Related Investment Measures (TRIMs) aimed to limit the use of foreign investment rules (such as local content requirements) that created impediments to trade. There were many other agreements as well, addressing everything from “technical barriers to trade” and “preshipping inspection” to “rules of origin” and “import licensing procedures.”²⁶

The Uruguay Round also overhauled several existing agreements. The Agreement on Textiles and Clothing (ATC) promised to phase out quotas, which had long been permitted under the Multi-Fiber Arrangement, and to bring textile and clothing trade under standard GATT rules by 2005. Similarly, the Agreement on Agriculture committed all members to a process of “tariffication” (in which agricultural quotas would be replaced by tariffs providing comparable protection), followed by a steady reduction of tariff rates (36 percent over six years for developed countries and 24 percent over ten years for developing).²⁷ The Agreement on Agriculture also required member nations to undertake substantial cuts in most production-related agricultural subsidies. (By one estimate, “consumers and governments in rich countries pay \$350 billion per year supporting agriculture – enough to fly their 41 million dairy cows first class around the world one and a half times.”²⁸) Finally, a few Uruguay Round agreements, including the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards, which had previously constituted separate voluntary “codes” under GATT, now became universal for all member nations.

Creating a Full-Fledged International Organization

Having dramatically expanded the scope of the international trading system through a broad array of new agreements, the Uruguay Round negotiators also decided to create a new international

institution to help govern them. The World Trade Organization officially replaced GATT (the organization, not the agreement) on January 1, 1995.

Organizational Structure

On the surface, little about the organization had changed. Embracing the essential principles of non-discrimination (MFN and national treatment) and absorbing thousands of pages of GATT codes, the WTO remained in the same location (Geneva), retained the same director, and only marginally expanded its staff of several hundred. Yet the new body gained considerably stronger tools to enforce its mandate. Unlike its predecessor, the WTO enjoyed the legal foundation of a full-fledged international institution whose agreements had been ratified by its member governments.

Responsibility for running the organization fell to a number of different entities (see **Exhibit 11**). The Ministerial Conference, which sat atop the organization, met at least once every two years and had the power to amend or develop virtually any aspect of the multilateral trading system. Trade ministers met in Singapore at the end of 1996, Switzerland in 1998, Seattle in 1999, and Doha in 2001.

Below the Ministerial Conference was the General Council, which also included representatives from every member country, but which was responsible for day-to-day operations between meetings and for overseeing the work of numerous smaller councils and committees. Depending on the context, the General Council also convened as the Dispute Settlement Body and the Trade Policy Review Body.

Ideally, decisions within the WTO were to be made by consensus; but if this proved impossible, they were to be settled by majority vote, with each country casting one ballot. Particularly important decisions required super-majorities. The decision to admit a new member nation, for example, required a two-thirds majority of either the Ministerial Conference or the General Council.²⁹ (As of mid-2002, no formal votes had yet been taken since consensus had always been achieved.) Although in theory each country was supposed to have an equal voice in the organization, in practice the most powerful nations seemed to exercise disproportionate influence by exerting political pressure of various sorts and by convening private “green room” meetings to reach key decisions.³⁰

Dispute Resolution

The ideal of equal treatment was perhaps most fully achieved under the WTO's new protocol for handling trade disputes. According to the WTO's Director General, the dispute resolution mechanism was “in many ways the central pillar of the multilateral trading system and the WTO's most individual contribution to the stability of the global economy. The new WTO system is at once stronger, more automatic and more credible than its GATT predecessor. ... By reducing the scope for unilateral actions, it is also an important guarantee of fair trade....”³¹

Under the new system, nations seeking to adjudicate trade disputes are required first to meet for consultations, which are to last no longer than 60 days. If these fail, the complainant may then ask the Dispute Settlement Body (DSB) to form a panel of experts to hear the case. The panel, which is to be set up within 45 days and is typically selected in consultation with the countries involved, is supposed to accept written arguments from both sides, issue an interim report and obtain comments from the parties, and ultimately deliver its final report within six months (or three months where

perishable goods are involved). The panel report automatically becomes an official ruling unless it is unanimously rejected or modified by the DSB, which is exceedingly unlikely since the DSB is composed of representatives from all member nations including every party to the dispute. Once a ruling is rendered, either or both sides have the option of appealing to a three-person tribunal, which is drawn from a rotating seven-member Appellate Body. Appeals decisions must be based on interpretations of law (not new or existing evidence) and must be concluded within a maximum of 90 days. It is then up to the DSB to accept or reject the appeals report, though once again rejection is virtually impossible since unanimity is required. In all, the DSB is supposed to render its final report within 15 months of the original complaint (or 12 months if there is no appeal).³² (See **Exhibit 12**.)

In cases where the DSB rules against the “respondent” nation and its ruling is not implemented within a “reasonable period of time,” the respondent is then required to negotiate with the complainant(s) to reach a mutually acceptable settlement, such as compensation or the reduction of relevant tariffs or quotas. If no agreement is reached within a month, the DSB may then authorize the complaining party or parties to retaliate with trade sanctions against the offending party.

In its first seven years of operation (through January 1, 2002), the WTO heard a total of 242 cases.³³ GATT, by contrast, had heard only about 300 over nearly a half century. The main difference was that the dispute settlement process under GATT often took many years to produce a ruling – and even then a ruling that could rarely be enforced. As a result, many nations apparently felt that there was no point in filing a complaint. Under the new WTO system, however, those nations that filed complaints could expect timely hearings and vigorous efforts to enforce the final rulings.³⁴ With the exception of some of the very poorest nations, developed and developing countries alike were well represented on both sides of the docket. Although the U.S. and the EU were involved in more disputes than were any other nations (due in part to their larger share of global trade), they were the targets of complaints almost as often as they were the complainants in these disputes.³⁵ The U.S. was the target in 55 cases and the complainant in 70, while the EU was the target in 34 and the complainant in 56.³⁶ Developing (and transition) nations were targets in 109 cases and complainants in 86.³⁷ (See **Exhibit 8**.) Overall, disputes involving anti-dumping (34) and safeguard measures (20) were among the most common.³⁸ Through April 2002, the Body’s decisions had been implemented in 60 cases, while in five others non-compliance had resulted in the WTO’s authorization to impose sanctions.³⁹ Roughly 25 percent of all disputes, meanwhile, had actually been settled in the consultation phase.⁴⁰

Following Through on Uruguay: The GATS Protocols

Beyond dispute resolution, the WTO devoted much of its energy during its early years to following through on agreements that had come out of the Uruguay Round. Sector-specific negotiations associated with the GATS agreement figured especially prominently, perhaps because services, which had not been covered under GATT, accounted for over 60 percent of global production and 20 percent of world trade.⁴¹

Between 1994 and 1997, member nations concluded negotiations on three new GATS-related protocols covering telecommunications, financial services, and “movement of natural persons.” Sixty-nine members (including all of the developed nations and more than 40 developing nations) signed the Protocol on Basic Telecommunications Services (BTS).⁴² Those participating represented markets accounting for more than 90 percent of telecom revenues.⁴³ Commitments among BTS signatories varied widely, however. Whereas the United States and the United Kingdom committed to nearly complete opening of their domestic telecommunications markets, many other nations were unwilling to go nearly as far. Indonesia, for example, made numerous concessions but still limited foreign equity ownership in telecommunications to 35 percent.⁴⁴

By the end of 1997, 70 member nations had reached another major multilateral agreement addressing financial services, which brought the total number of WTO members with multilateral commitments in this sector to 102.⁴⁵ The Financial Services Agreement, which bound signatories to varying levels of liberalization, covered an estimated \$18 trillion in global securities assets, \$38 trillion in global bank lending, and \$2.5 trillion in global insurance premiums.⁴⁶ As a result of this and earlier agreements, “59 nations agreed to allow 100 percent [foreign] ownership of branches or subsidiaries in banking, 44 in securities firms, and 52 in insurance.”⁴⁷ One representative of the American insurance industry gushed, “[F]or the first time ever our member companies will have solid, legal assurance that conditions for doing international business will be favorable and secure over the long run in every corner of the globe.”⁴⁸ The WTO itself announced that the “landmark” financial services agreement “brings trade in this sector – worth trillions of dollars – under the WTO’s multilateral rules on a permanent and full most-favored-nation basis. The agreement covers more than 95 percent of trade in banking, insurance, securities, and financial information.”⁴⁹ Others, however, were less impressed. Trade specialist Wendy Dobson argued that the agreements largely “formalized the status quo,” with developed countries rehashing previously made commitments and developing countries offering only limited additional access to their financial sectors.⁵⁰

One other protocol on services, adopted in July of 1995, covered the “movement of natural persons,” otherwise known as the “fourth mode.” In developing the original GATS agreement, negotiators had identified four modes of international service provision: cross-border supply (such as architectural plans transmitted across national borders by fax or mail), consumption abroad (such as tourism), commercial presence (including foreign subsidiaries of banks and other financial service firms), and the presence of natural persons (such as doctors and teachers working abroad). Of the four, the last proved perhaps the most challenging of all. Under the Uruguay Round negotiations, most member commitments covered only two categories of persons: “essential personnel” associated with foreign direct investment and short-term “business visitors” who were not actually employed in the host country. As part of the protocol adopted in 1995, only six member nations were willing to enhance their commitments on the movement of natural persons, and even here the changes were quite limited in scope.⁵¹

Challenges Ahead

To be sure, the “fourth mode” was not the only piece of unfinished business facing the WTO at the turn of the century. Uruguay Round negotiators had commenced work on a broad array of issues that remained exceedingly controversial.

Assorted Impediments to Liberalization

Deficient Foreign Investment Rules

Although the Uruguay Round inaugurated the Agreement on Trade-Related Investment Measures, signaling the need for an internationally accepted set of rules governing foreign direct investment, the TRIMs agreement itself provided but a skeletal framework, leaving many of the most contentious issues unresolved. Should foreign investment be governed by the principle of national treatment (which would require that foreign investors be treated no differently than domestic investors) or by the principle of most-favored nation (which would require only that foreign investors from different countries be treated no differently than one another)? Although many analysts viewed national treatment as a superior means of reducing barriers to cross-border capital flows, few nations

were ready to live up to all that the principle implied. Even the United States, famous for its free and open markets, maintained discriminatory restrictions on foreign investment in key areas such as radio and television broadcasting, domestic air travel, and coastal shipping.

Protective Measures (anti-dumping, countervailing duties, and safeguards)

Similarly, while the Uruguay Round had produced new agreements on an assortment of protective and retaliatory measures – including anti-dumping, countervailing duties, and emergency safeguards – there was still considerable uncertainty about how these agreements would be interpreted and whether they went nearly far enough. Under WTO rules, a member nation was permitted to impose special protective measures against another member so long as it could prove that one of its industries was being materially damaged as a result of either (1) imports sold at an unfair price (the aggrieved party could pursue anti-dumping measures), (2) imports that were unfairly subsidized (countervailing duties), or (3) a sudden surge of imports into its domestic market (safeguards).⁵²

Anti-dumping suits proved to be of particular concern in many quarters. According to the WTO, 1845 anti-dumping suits had been initiated worldwide between January 1, 1995 and December 31, 2001. Of these, 255 were initiated by the United States, 246 by the European Union, and 1040 by developing countries (see **Exhibits 9 and 10**).⁵³ Said one expert, “If you go down these lists [of anti-dumping cases], it’s hard not to start giggling, it’s an open door for anyone to use.”⁵⁴ Indeed, many WTO members argued that the misuse of anti-dumping represented one of the worst forms of protectionism.⁵⁵ The United States, often viewed as the staunchest defender of the status quo as far as anti-dumping was concerned, came in for particular criticism, having initiated more anti-dumping suits than any other country.⁵⁶ At the Doha negotiations, the United States agreed to immediate “negotiations aimed at clarifying and improving” anti-dumping rules, signaling that the “anti-dumping era” might soon come to an end.⁵⁷ But many nations remained unconvinced.

Another option for constraining economic powerhouses like the United States and the European Union was for affected nations to file official complaints with the WTO’s dispute settlement body. By the end of April 2002, member nations had filed dozens of complaints against the U.S. and the EU, alleging inappropriate use of anti-dumping measures, countervailing duties, and emergency safeguards. In fact, the U.S. decision in March 2002 to impose heavy tariffs on foreign steel in order to “safeguard” its ailing steel industry ended up provoking a slew of complaints before the WTO by a broad range of steel exporters, including Brazil, China, Korea, Japan, New Zealand, Norway, Switzerland, and even the EU itself. What remained unclear, of course, was just how strictly the DSB would interpret the various agreements on protective measures and whether big powers like the U.S., the EU, and Japan would fall into line if and when it ruled against them.

Regional Trade Agreements: Building Blocks or Stumbling Blocks?

Another potential impediment on the path to globalization was a surge in both the number and importance of regional trade agreements, all of which permitted exceptions to the MFN principle. Alliances such as the European Union (EU), the European Free Trade Association (EFTA), the Association of South East Asian Nations Free Trade Area (AFTA), the Southern Common Market (Mercosur), the Common Market of Eastern and Southern Africa (COMESA), and the North American Free Trade Agreement (NAFTA) played an increasingly important role in trade relations, prompting some to wonder if their progress came at the cost of WTO liberalization. After examining

the issue internally, a 1995 report from the WTO Secretariat concluded that “[t]o a much greater extent than is often acknowledged, regional and multilateral integration initiatives are complements rather than alternatives in the pursuit of more open trade.”⁵⁸

Many economists agreed with this analysis, surmising that the regional reduction of trade barriers could expedite future WTO negotiations by accelerating the liberalization process. They pointed out that the growing regional groups encompassed more than simple trade liberalization, in many cases undertaking complex patterns of policy coordination.⁵⁹ Others, however, believed that the proliferation of regional trade agreements stemmed from a failure in the WTO’s mission. “Regionalist initiatives,” suggested one analyst, “are not taking place as a means of boosting multilateralism, but in the absence of multilateralism.”⁶⁰ These critics warned that by pulling countries away from the WTO’s unifying mission, regional accords could compromise both the stability and the predictability of international trade. Only time would tell if the regional trade alliances were bringing WTO members closer together or pushing them farther apart.

Rich vs. Poor

What was already clear was that many of the most controversial questions about the international trading system tended to divide nations along income lines. Developed countries generally supported tough labor and environmental standards (in order to ensure “fair trade”), while developing countries tended to view the very same standards as representing unjustified meddling with the law of comparative advantage. Investment rules, too, seemed to offer differential costs and benefits based on the incomes of the nations involved. Whereas developed countries typically viewed foreign investment rules as a way to increase transparency and reduce uncertainty in the global economy, developing nations frequently regarded them as unwelcome constraints on their freedom to implement development strategies.⁶¹

WTO proponents frequently claimed that despite these differences, all countries stood to benefit from freer trade, and developing nations most of all. According to WTO Director-General Mike Moore, commenting on developments at Doha, “Three quarters of all the benefits from cutting industrial tariffs would go to developing countries. Each year developing countries command a larger and larger share of the industrialized world’s imports, from 15 per cent in 1990 to almost 25 percent in 2000. Half of Japan’s manufactured imports come from developing countries. For the U.S., the figure is 45 per cent and rising. ... Trade is not the only development factor, but it is an important motor for growth.”⁶² Still, in spite of these and many related arguments, the income divide within the WTO ran deep.

Textiles and Agriculture

Nowhere was the division more evident than in discussions of textile and agricultural trade, two areas that had long been treated outside the reach of normal GATT rules. Although the agreements on textiles and agriculture that came out of the Uruguay Round had promised to change this state of affairs (eventually making trade in these sectors subject to MFN and significantly opening developed country markets in the process), many developing-country exporters claimed that precious little progress was being made. The International Textiles and Clothing Bureau (ITCB), a group of textile exporters, announced in November 2001: “We remain deeply disappointed and concerned that major developed countries have not yet delivered on their commitment to liberalize trade in textiles and clothing in any meaningful manner... [F]ew quota restrictions have been phased out. ... Unless major improvements are effected, the large bulk of quotas will remain until the end of the transitional period on 1 January 2005: 701 out of 758 in the United States, 167 out of 219 in the EU, 239 out of 295 in Canada.” The ITCB statement also reminded readers that “for over 40 years the

conduct of trade relations in textiles has been characterized by a sharp departure from the basic principles of the multilateral trading system, involving discriminatory treatment of developing countries....”⁶³

Many of the same complaints could be heard from agricultural exporters in the developing world. While liberalization in the agricultural sector saw nations shift from quotas to a “tariff-quota” system (which applied varying tariff rates based on the quantity of imports), effective market opening had been minimal, with worldwide agricultural tariffs still estimated at 45 percent in the year 2000 (see **Exhibit 7**).⁶⁴ In Doha, the ministers committed themselves to “comprehensive negotiations [on agricultural trade] aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” Yet at the EU’s insistence, they also added a rather curious clause indicating that while all members had committed to reaching these objectives in future negotiations, they did so “without prejudging the outcome.”⁶⁵

Ironically, many critics believed that rapid liberalization, if it indeed occurred, would actually hurt the world’s poorest nations, since increased liberalization meant lower subsidies and diminished preferences. “The GATT Uruguay Round deal produced losers as well as winners, and the losers – mostly in Africa and the Caribbean – are some of the poorest countries in the world,” wrote Peter Madden of the organization Christian Aid. “As a result of the deal, the losers will face higher costs to feed their people as the price of cereals increases on world markets, they will face declining terms of trade and they will see the value of their current trading preferences with Europe undermined.”⁶⁶ Based on this reading, which remained highly controversial, the prognosis for the least developed nations could hardly have been worse.

Intellectual Property

Yet another source of contention between the developed and the developing world concerned the enforcement of intellectual property rights and the new TRIPS agreement concluded during the Uruguay Round. Representatives from knowledge-based industries argued that TRIPS promoted innovation worldwide and preserved “the central public policy pillar on which the knowledge-based industries of the late twentieth century rest.”⁶⁷ Many third world officials and activists, meanwhile, protested that an international standard of intellectual-property protection would intensify the inequality between rich and poor, particularly since corporations from developed nations held 97 percent of patents worldwide.⁶⁸ As Martin Khor, director of the Third World Network, explained, “The WTO is meant to be an organization that looks into liberalization. The TRIPS Agreement does the opposite – it is a protectionist device to prevent the transfer of technology from transnational corporations to domestic firms of developing countries.”⁶⁹

Conflict over access to medicines fueled the most vociferous criticism of TRIPS. At the dawn of the 21st century, the horrifying AIDS crisis in Africa prompted governments to attempt to import generically manufactured (and significantly cheaper) AIDS drugs to treat their populations. Despite a loophole in TRIPS allowing for patent suspensions in the event of national medical emergencies, pharmaceutical companies and their governmental allies issued political threats and undertook legal action (including consultations in the DSB) in an effort to defend their intellectual property.⁷⁰ The pharmaceutical companies justified their actions by arguing that “[patents do] not in any way block developing countries’ access to important drugs” and warning that “if we no longer took patent protection seriously, there will be no more medical advances.”⁷¹ AIDS activists and patients in Africa took a decidedly different view, accusing western drug companies of abusing TRIPS to “wage[] an undeclared drugs war” against the developing world.⁷² In the Doha meetings in late 2001, the WTO ministers attempted to calm rising resentment by issuing a declaration reaffirming that “the TRIPS

agreement does not and should not prevent members from taking measures to protect public health.”⁷³ But even this gesture sparked conflicting interpretations. While developing nations hailed the declaration as a major victory in the larger battle to reduce their TRIPS commitments, pro-pharmaceutical lawyers announced that they believed it was merely a “political statement” that could not be operationalized in national law to justify breaking patents for medical emergencies.⁷⁴ As deadlines neared for full compliance on intellectual property rights enforcement, debate over the future of TRIPS raged on.

China and the WTO

In many ways, the controversy surrounding China’s application to join the WTO reflected the deep underlying tensions between the developed and the developing world in discussions of international trade. Although China was not a party to the Uruguay Round negotiations and thus not a founding member of the WTO, Chinese officials (who had long sought entry into the GATT) immediately indicated their desire to join. For China, membership in the WTO would mean permanent MFN status, the right to take complaints to the DSB, and an equal voice in all future multilateral trade negotiations.

To gain entry, however, China would have to win the approval of at least two-thirds of WTO members, who were demanding that China substantially liberalize both its domestic economy and its trade regime. The question of *how* China should liberalize – and particularly *how fast* – soon became a major source of conflict. China’s trade officials insisted that the nation’s low per capita income (about \$840 at market exchange rates or approximately \$3900 when adjusted for purchasing power) qualified it for the more gradual tariff-reduction schedules of a lesser developed country.⁷⁵ But many WTO members, including the United States, were adamant that China not be treated like other developing countries. After all, China was (at the end of 2000) the world’s seventh largest exporter of merchandise and the twelfth largest exporter of commercial services, and its overall GDP ranked seventh in the world – and perhaps as high as second, behind only the United States, when adjusted for purchasing power.⁷⁶ Although compromises were eventually reached in a complex web of bilateral negotiations, developed nations made sure that China agreed to sharp (and fairly rapid) tariff reductions on “priority” items. Overall, China’s tariffs on industrial goods were supposed to fall from an average of 24.6 percent in 1997 to an average of 9.4 percent in 2005 (and in agriculture from 31 to 17.5 percent), as the Chinese government committed to far-reaching liberalization across a wide array of industries, from automobiles to insurance.⁷⁷

Negotiations finally came to an end on September 17, 2001, and China officially entered the WTO a little less than two months later, on November 11. For many, China’s accession constituted a truly monumental development – “equivalent to [China] exploding its first nuclear device,” in the words of Claude Smadja, principal advisor to the World Economic Forum. “We’re talking about a tremendous shift in terms of setting the rules of the game,” Smadja observed. “The white man’s monopoly over key decisions is dead...”⁷⁸ In economic terms, too, the impact was expected to be large. A 1999 study conducted by Goldman Sachs estimated that if China were admitted into the WTO, its trade and FDI flows would both almost double by 2005.⁷⁹

Not everyone was so confident, however. In a speech discussing China’s entry into the organization, Prime Minister Zhu Rongji warned, “Friends, you clap, but even I don’t yet know how big the competition is that we’ll face after we enter the W.T.O. My heart isn’t yet very settled.”⁸⁰ A McKinsey study noted that domestic banking, insurance, chemicals, distribution, and Internet services industries would all be “dramatically affected” by China’s membership.⁸¹ As for agriculture, one researcher from China’s Academy of Agricultural Science claimed that the nation’s 530 million

farmers would be especially hurt by the agreement: "Everybody is saying that the WTO is both a challenge and an opportunity for China, but for agriculture, the challenge is very real, and the opportunities are largely invisible."⁸² Others worried about the effect on inefficient state-owned enterprises, with some economists estimating that rapid liberalization, which had already caused state-owned enterprises to shed 35 million jobs in five years, could lead to the loss of another 25 million jobs in the first five years after China's entry.⁸³

Was China, still a relatively poor country in the middle of a massive economic transition, really ready to join the WTO and adhere to its rules? One well-known economist and lawmaker in China, Li Yining, believed that the long-term benefits probably were worth the costs. But he cautioned that in the short term, "WTO accession [would] bring a shock to many sectors of the economy." Although numerous experts had cried wolf before, he declared, "this time the wolves are really coming."⁸⁴

Liberalization Without Representation?

Representatives of developing nations were certainly not the only ones who feared that the wolves were at the door. Increasingly, a diverse set of interest groups and even individual citizens were complaining loudly about the direction of the WTO and raising doubts about its legitimacy as a decision-making body. These protests reached a deafening pitch during the 1999 Ministerial Conference in Seattle, when an estimated 50,000 to 100,000 activists – representing mainly labor, environmental, and human rights causes – descended on the city to express their discontent. While most protests remained peaceful, some turned violent. The meeting itself fell into disarray and broke up after four days without an agreement.⁸⁵

Reflecting on the episode, one authority observed that "the era of trade negotiations conducted by sheltered elites balancing competing commercial interests behind closed doors is over."⁸⁶ For the first time, ordinary citizens – albeit mainly from developed countries – had made their voices heard. Said one environmental activist, "There simply is no place for a trade organization that doesn't place the public's priorities first."⁸⁷ Politicians rushed to mitigate the damage. President Clinton praised the demonstrators, saying "they represent millions of people who are now asking questions about whether this enterprise in fact will take us all where we want to go. We ought to welcome their questions and be prepared to give an answer."⁸⁸

What remained unclear was precisely what the answer would be. Protesters charged that the WTO was eviscerating basic labor and environmental standards in the name of free trade. Organized labor, for example, wanted every nation – at a minimum – to recognize and uphold certain "core" labor rights, including the right to organize and a ban on child and forced labor. President Clinton agreed, announcing during the Seattle meetings his intention to put labor standards on the WTO agenda. But the leaders of most developing nations vehemently opposed this approach, believing that any attempt to link trade to labor standards would only serve to undermine their cost advantage and provide developed nations with yet another justification for protecting against low-cost imports.

For the most part, the WTO itself had assiduously avoided the issue. "Strictly speaking," read one of its summary reports, "[labor standards] should not be mentioned here at all because there is no work on the subject in the WTO, and it would be wrong to assume that it is a subject that 'lies ahead.' ... The WTO agreements do not deal with any core labour standards."⁸⁹ At the 2001 Ministerial Conference in Doha, proposals for linking trade and labor standards were once again brushed under the table. According to the official Doha Declaration, such issues were better left to the International Labor Organization, rather than the WTO itself.⁹⁰

To the surprise of many, the WTO proved less standoffish when it came to environmental issues. By the time of the protests in Seattle, most environmental activists had become almost instinctively suspicious of the international trading system, particularly after the infamous tuna-dolphin case in the early 1990s. In this dispute, GATT officials refused to uphold a U.S. environmental measure that prohibited the importation of tuna harvested in ways that killed dolphins. Once the WTO was created in 1995, it was widely believed that the Dispute Resolution Body would adopt the tuna-dolphin decision as precedent. According to one of the WTO's own publications from 1999 (published just prior to the events in Seattle), a country could limit imports "to protect its own domestic environment," but it could not impose trade restrictions on a product "purely because of the way it has been produced" or as a means of "reach[ing] out beyond its own territory to impose its standards on another country."⁹¹ In Seattle, some demonstrators dressed up as sea turtles as a way of protesting an earlier WTO ruling against another U.S. trade measure designed to protect sea turtles in foreign shrimping operations.

Already, however, an appellate panel of the WTO had partially reversed the earlier decision, ruling largely in favor of the United States. Citing environmental language from Article XX of GATT as well as the preamble to the original WTO agreement, the DSB held that as long as American policy did not discriminate among WTO members, the United States was fully within its rights to forbid the importation of shrimp harvested in ways that were detrimental to sea turtles.⁹² A victory for the United States and for environmentalists, the sea-turtle decision was a big defeat for India, Malaysia, Pakistan, and Thailand, the shrimp exporters that had filed the complaint. According to an article in Malaysia's *Business Times*, "It signals yet another victory for powerful developed nations to practise double standards and selective protectionism, in the name of conservation and the environment."⁹³

Although environmental activists had reason to be pleased with the outcome of the sea-turtles case, many continued to believe that the WTO had actually ruled against them – perhaps because the case had taken a number of twists and turns before the DSB finally upheld the U.S. prohibition. There were certainly other cases, however, that went the other way. One rather major loss (from an environmental standpoint) was the beef hormones case, in which the DSB ruled against the European Union's ban on American hormone-treated beef. Whereas the EU claimed that the beef was unsafe for human consumption, the DSB found no compelling scientific evidence in support of this position. After failing to get the EU to withdraw its ban voluntarily, the DSB authorized the United States to retaliate.⁹⁴

While recognizing that the beef hormones case was fought mainly on health grounds, many environmentalists were still deeply dismayed by the result. Said Ana Toni, a Greenpeace Trade Advisor, after the EU had lost the first round of the case:

The WTO has become one of the most powerful instruments of current foreign policy in this era of globalization, and its Dispute Settlement Body is central to its functioning. However, the WTO continues to be a very undemocratic and untransparent body. How can three lawyers [on a DSB panel] be allowed to over-rule the decision of the elected representatives of 360 million people? Despite the greater effectiveness of its Dispute Settlement Body in comparison to the former GATT, it has failed to assure consumers and environmentalists, as well as legislators and decision makers, that it can rule in an unbiased manner on issues of major public concern such as health or environment protection.⁹⁵

Indeed, such sentiments were widely shared across Europe. For their part, EU officials simply refused to give in, even after the WTO authorized the U.S. to levy punitive duties totaling US\$117 million annually on selected European imports. There could be little doubt that the EU's decision,

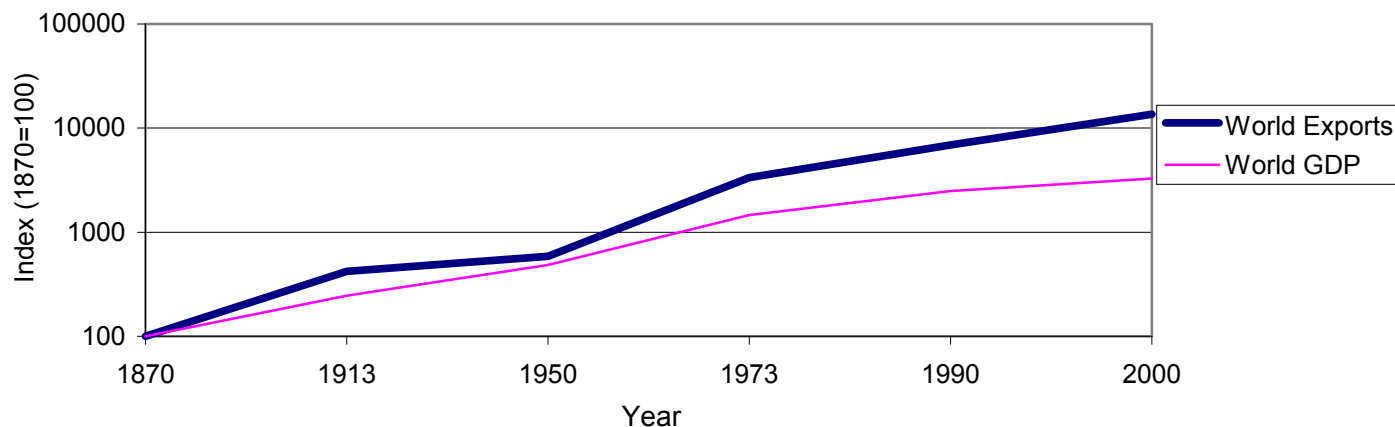
which reflected a growing rift between the EU and the U.S. on international trade, also represented a stinging rebuke to the WTO and to its legitimacy as a governing institution.

Conclusion

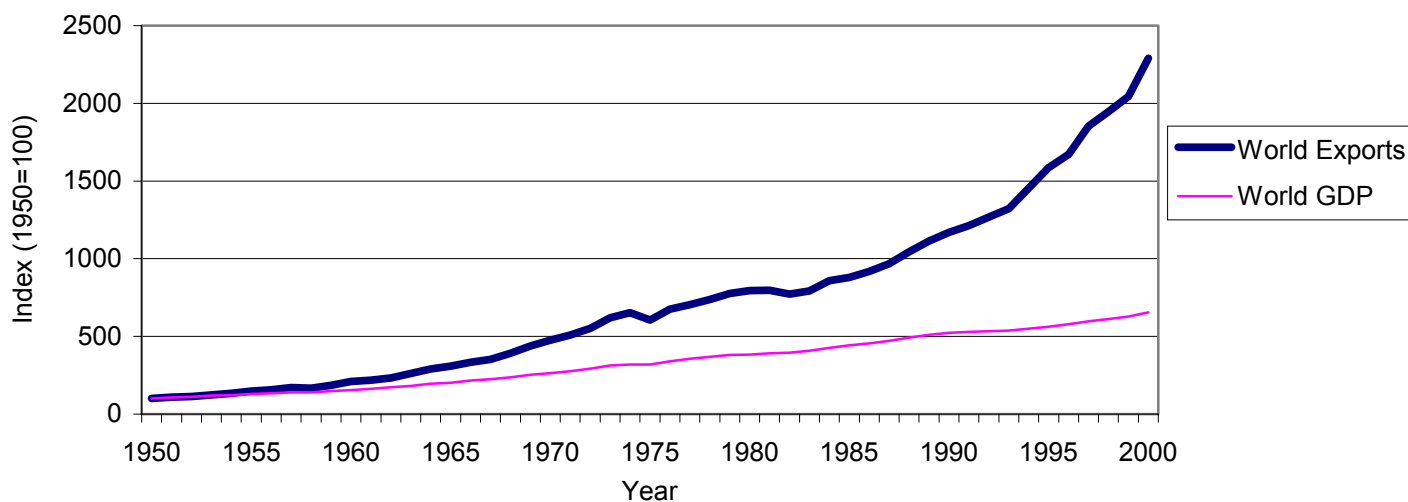
The World Trade Organization thus faced many challenges at the dawn of the twenty-first century. The task of fashioning a common international trade regime seemed regularly to butt up against the prerogatives of national sovereignty and to pit developed against developing nations. Dealing effectively with non-tariff barriers, moreover, meant reaching deep inside national borders to address – and potentially even overturn – domestic regulations, procedures, and conventions. And the more the WTO expanded its reach, the more its legitimacy was questioned, particularly since it enjoyed no democratic mandate. In the WTO, China (with well over a billion people) had no more voice than tiny Qatar (a nation of less than a million). Said one environmental activist on the eve of the Seattle protests, “In just five years of existence, the WTO has proved itself to be the most effective anti-democratic institution on earth.”⁹⁶ Another critic claimed that the inevitable effect of the WTO would be “to radically restructure the role of government worldwide – subjecting an ever-greater degree of governmental decision-making to oversight by the WTO.”⁹⁷

Still others worried that the WTO would ultimately prove too weak, rather than too strong, as a result of its unwieldy institutional structure. “The WTO will likely suffer from slow and cumbersome policy-making and management – an organization with more than 120 member countries cannot be run by a ‘committee of the whole.’ Mass management simply does not lend itself to operational efficiency or serious policy discussion.”⁹⁸

Without a doubt, the multilateral trade regime established after WWII had proved enormously successful in reducing direct and quantifiable barriers to trade, such as tariffs and quotas. The original authors of GATT could hardly have imagined how far their ideas would be taken over the next half century. Eventually, however, as GATT reached its natural limits in addressing tariffs and quotas, trade officials negotiated a new set of agreements (including GATS and TRIPS) and a new institution to administer them and to guide future negotiations. The big question that remained was whether the WTO was merely the last dying gasp of GATT or the beginning of something new.

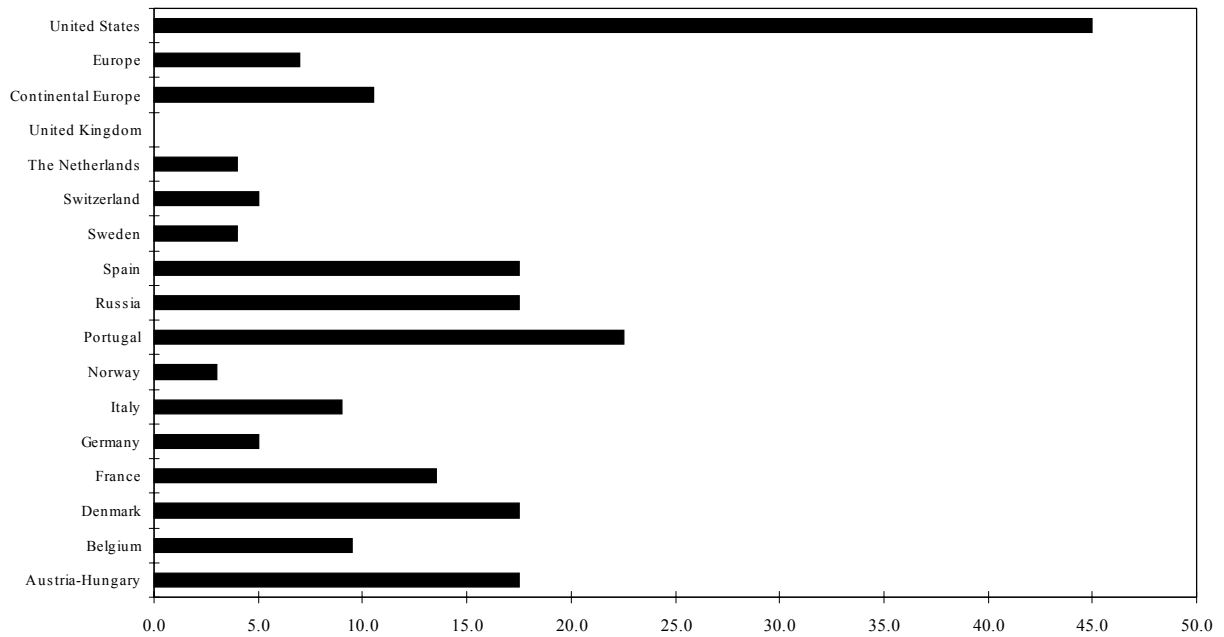
Exhibit 1 World Export Volume and Real GDP, 1870-2000 (log scale)

Sources: Created by case writers from Angus Maddison, *The World Economy: A Millennial Perspective*, p. 362; Angus Maddison, *Monitoring the World Economy 1820-1992*, p. 227 (for 1990 figures); WTO data, available at http://www.wto.org/english/res_e/statis_e/statis_e.htm#stats2001 (for 2000 figures).

Exhibit 2 World Export Volume and Real GDP, 1950-2000 (linear scale)

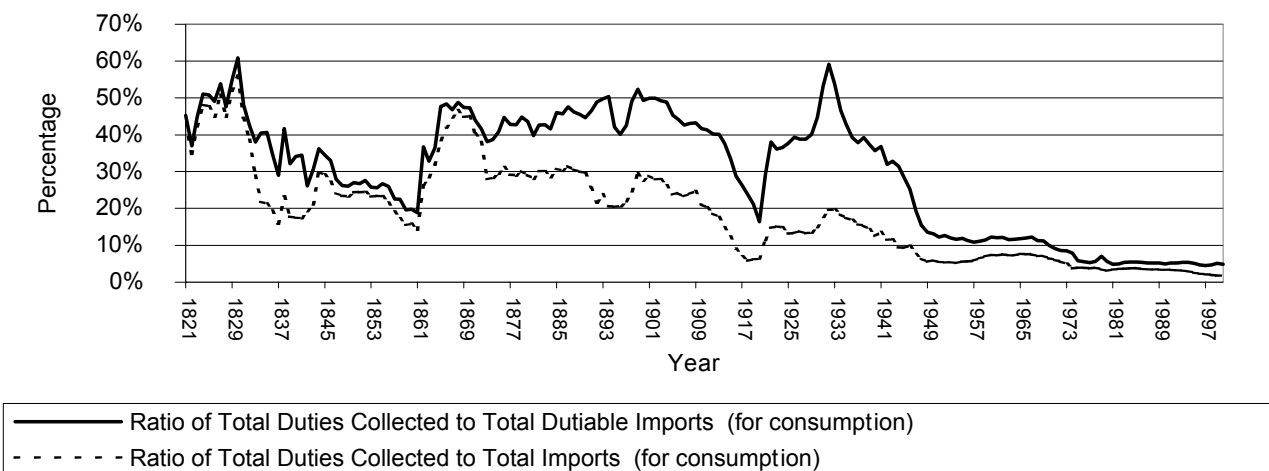
Source: Created by case writers from WTO Data. Available at http://www.wto.org/english/res_e/statis_e/statis_e.htm#stats2001, accessed July 2002.

Exhibit 3: Estimated Average Tariff Rates on Manufactured Goods in 1875



Source: David A. Moss, George Appling, and Andrew Archer, *Creating the International Trade Organization*, Harvard Business School Case Study No. N9-798-057 (Boston: Harvard Business School Publishing, 1998), Figure 1, which was adapted from Paul Bairoch, *Economics and World History: Myths and Paradoxes* (Chicago: University of Chicago Press, 1993), Table 2.2.

Exhibit 4: Average U.S. Tariff Rates on Imports for Consumption, 1821-2000



Sources: Statistical and Editorial Services Division of the U.S. International Trade Commission, *Value of U.S. Imports For Consumption, Duties Collected, and Ratio of Duties to Value* (U.S. International Trade Commission, March, 2001), 2-6; *Historical Statistics of the United States, Colonial Times to 1970* (Washington: U.S. Bureau of the Census, 1975), Part 2, s. U209-10 (p. 888).

Exhibit 5 : U.S. Tariff Schedule on Selected Products, 1930-2005

Product Category	1930	1940	1960	1975	1990	2005
Hand-made lace	90.0	90.0	50.0	20.0	15.0	13.2
Ceramic roofing tiles	60.0	50.0	35.5	13.5	13.5	13.5
Syringes	55.0	55.0	40.0	16.0	8.4	Free
Fresh radishes	50.0	50.0	12.5	6.0	6.0	2.7
Glasses for spectacles	50.0	50.0	50.0	10.0	4.0	Free
Screwdrivers	45.0	45.0	22.5	11.0	6.2	6.2
Upright pianos	40.0	40.0	17.0	8.5	5.3	4.7
Garlic powder	35.0	35.0	35.0	35.0	35.0	29.8
Radio receivers	35.0	35.0	12.5	10.4	8.0	4.4
Shoe polish	25.0	25.0	6.0	3.0	2.5	Free
Shampoo	15.0	15.0	8.5	7.5	4.9	Free
Radial tires for cars	10.0	10.0	8.5	4.0	4.0	4.0
Passenger cars	10.0	10.0	8.5	3.0	2.5	2.5
Trade-weighted average for all dutiable imports	44.9	29.0	12.2	5.8	5.0	na

Note: MFN (NTR) rates in percentages ad valorem.

Source: Adapted from Craig VanGrasstek, *The Three Dimensions of U.S. Trade Policy* (unpublished manuscript, May 22, 2002), table 2.5, p. 41 [rates are from U.S. tariff schedules (for 1930-1990) and Uruguay Round schedule (for 2005); averages are from unpublished U.S. International Trade Commission data].

Exhibit 6: Tariff Reductions Across a Half Century of GATT Negotiations

MFN tariff reductions for industrial products (excl. petroleum) in industrial countries

Implementation Period	Rounds Covered	Weighted tariff reductions
1948-63	First five GATT Rounds (1947-1962) ^a	36%
1968-72	Kennedy Round (1964-1967) ^b	37%
1980-87	Tokyo Round (1973-1979) ^c	33%
1995-99	Uruguay Round (1986-94) ^d	38%

^a Tariff reductions for the first five GATT rounds refer to U.S. only.

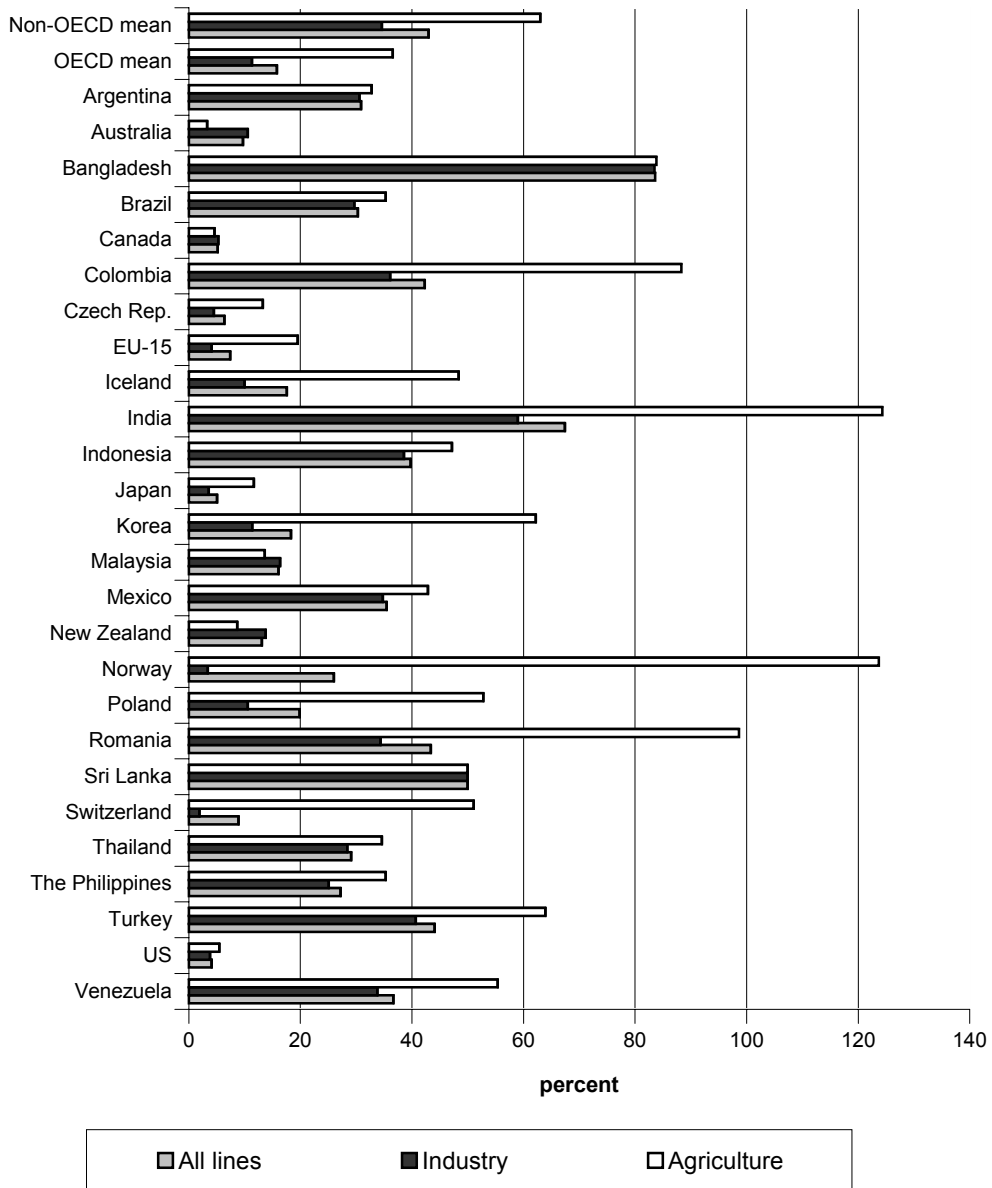
^b Refers to four markets: U.S., Japan, EC(6), and the United Kingdom.

^c Refers to eight markets: U.S., EU(9), Japan, Austria, Finland, Norway, Sweden, and Switzerland.

^d Refers to eight markets: U.S., EU(12), Japan, Austria, Finland, Norway, Sweden and Switzerland.

Source: WTO Website. Available at http://www.wto.org/english/thewto_e/minist_e/min99_e/english/about_e/22fact_e.htm, accessed July 2002.

Exhibit 7: Post-Uruguay Round Bound Tariff Rates, by main sector



Source: Adapted from Trade Committee, Trade Directorate of the OECD, *Review of Tariffs: Synthesis Report*, TD/TC(99)7/Final (OECD, 2 July 1999), Figure 1 (p. 46).

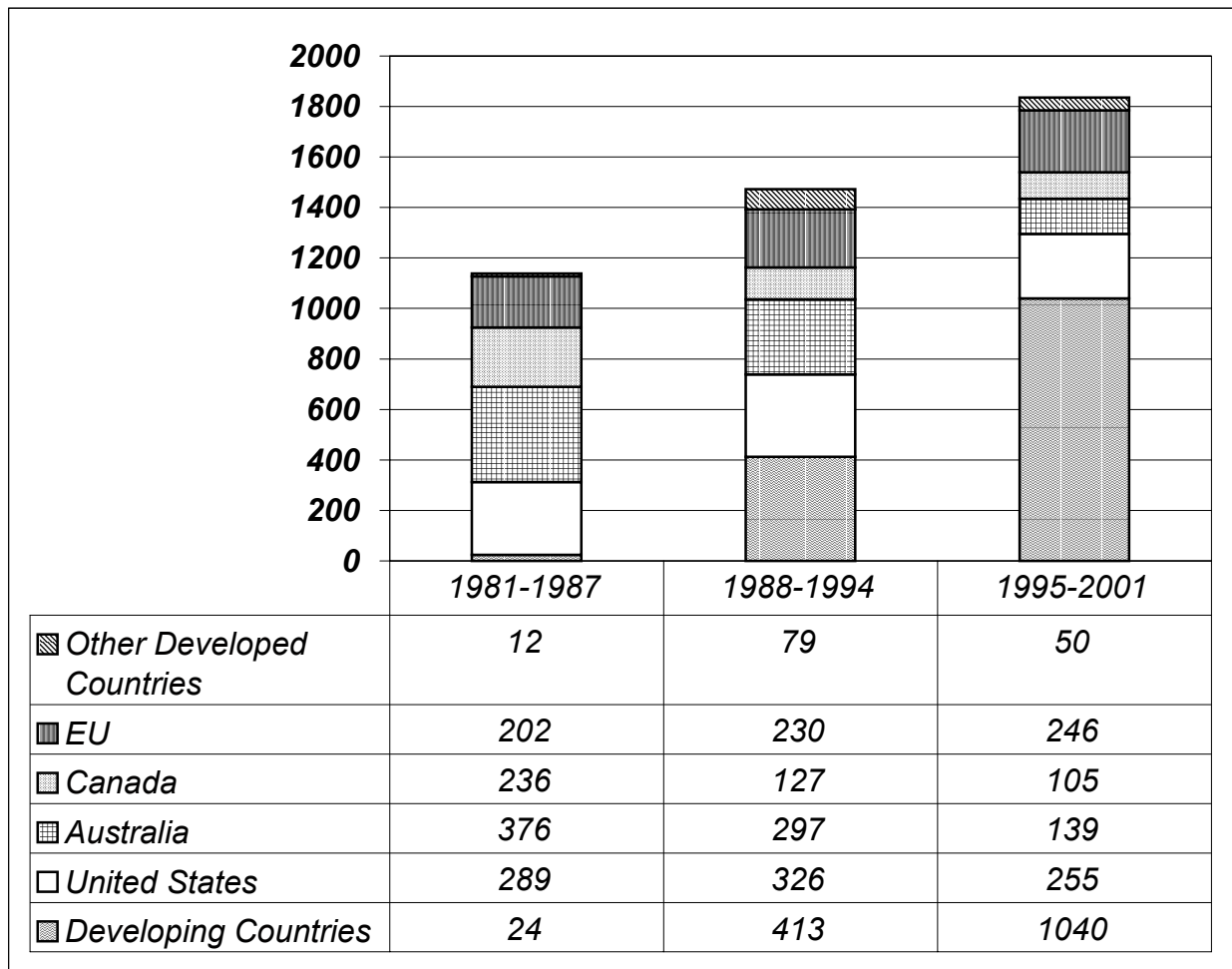
Exhibit 8: Cases Initiated Under WTO Dispute Resolution Mechanism, 1995-2001

		Complainants											TOTAL	Number of Actual Cases*	
		Argentina	Brazil	Canada	European Union	India	Japan	Korea	Mexico	United States	Other Developed Countries (6)	Other Developing Countries (23)			
Targets (Respondents)	Argentina	0	2	0	6	1	0	0	0	4	0	2		15	15
	Brazil	0	0	1	3	1	1	0	0	4	0	2		12	12
	Canada	0	3	0	3	0	1	0	0	3	1	0		11	11
	European Union	0	4	6	0	3	0	0	3	13	1	15		45	34
	India	0	0	1	6	0	0	0	0	3	3	0		13	13
	Japan	0	0	1	6	0	0	0	0	5	0	0		12	12
	Korea	0	0	1	3	0	0	0	0	6	1	0		11	11
	Mexico	0	1	0	1	0	0	0	0	4	0	1		7	7
	United States	1	5	7	23	5	5	5	2	0	3	12		68	55
	Other Developed Countries (10)	0	0	1	0	0	0	0	0	19	1	0		21	21
	Other Developing Countries (21)	3	2	1	5	3	2	1	5	9	3	22		56	51
	TOTAL	4	17	19	56	13	9	6	10	70	13	54		271	242

* The total number of actual cases is less than total number of complainants because there is often more than one complainant per case.

Source: Adapted from WTO Data. Available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm, accessed July 2002.

Exhibit 9 Anti-Dumping Initiations Reported to the WTO, 1981-2001



Source: Adapted from WTO anti-dumping data, courtesy of the WTO.

Exhibit 10: Anti-Dumping Initiations Reported to the WTO, 1995-2001

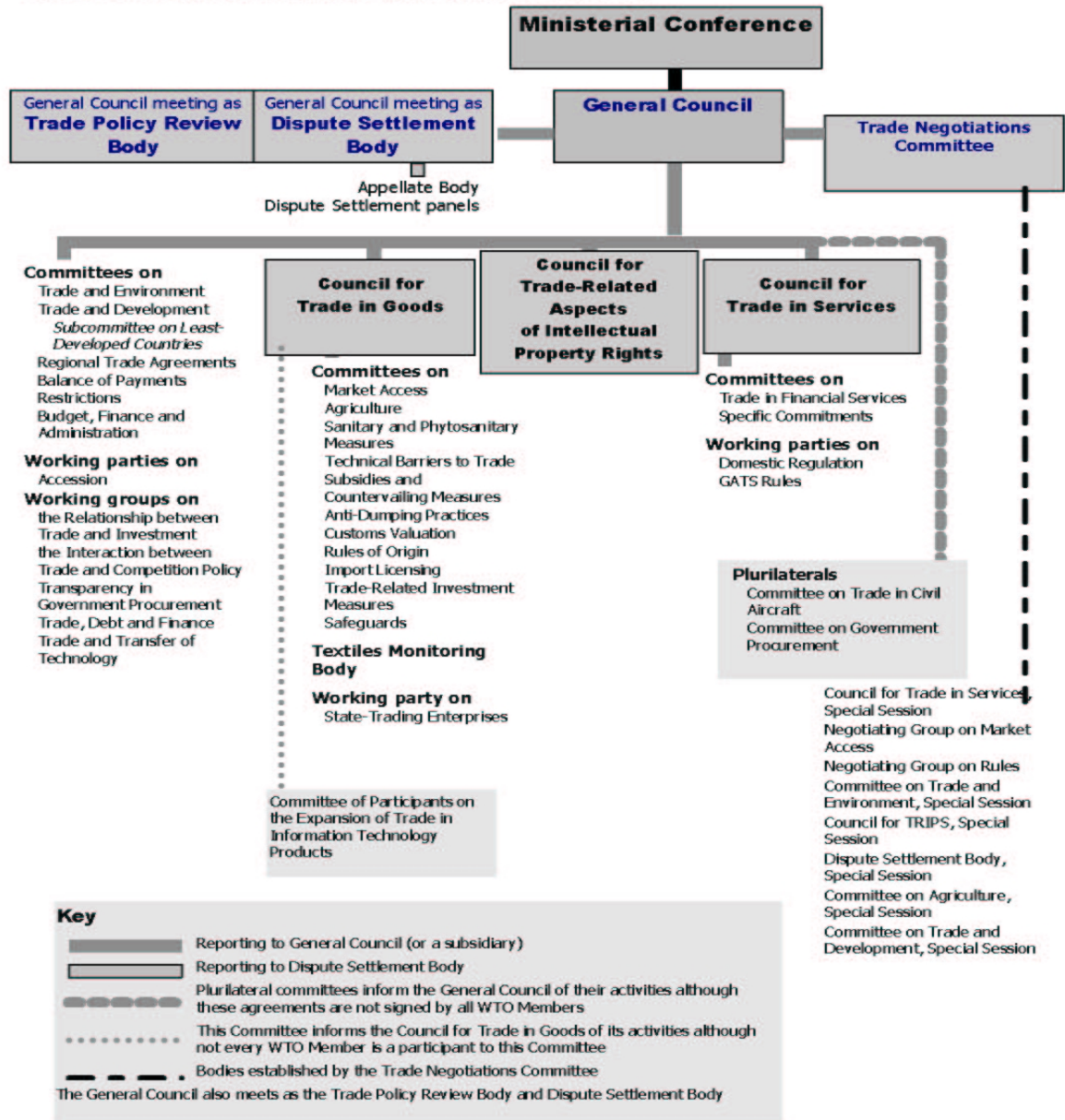
	Initiating Country																	Total
	Argentina	Australia	Brazil	Canada	Taiwan	European Union	India	Indonesia	Japan	Korea	Mexico	South Africa	Thailand	United States	Other Developed Countries (2)	Other Developing Countries (19)		
Argentina	0	0	2	1	0	0	0	0	0	0	0	0	0	4	0	3	10	
Australia	1	0	1	0	0	1	0	2	0	0	0	4	0	1	0	2	12	
Brazil	31	2	0	5	0	3	2	0	0	0	3	4	0	5	0	8	63	
Canada	0	1	1	0	0	1	3	1	0	0	0	0	0	9	1	0	17	
China	36	13	11	10	0	36	48	3	0	8	7	15	1	33	5	29	255	
Taiwan	9	9	2	5	0	14	15	3	1	3	3	4	0	16	1	11	96	
European Union	0	0	2	0	0	0	19	1	0	0	1	0	0	0	0	7	30	
Germany	5	7	3	3	0	0	8	1	0	3	0	11	0	11	7	4	63	
India	1	3	1	4	0	24	0	7	0	1	0	15	0	10	0	3	69	
Indonesia	2	15	1	3	1	8	8	0	0	3	0	5	1	12	5	10	74	
Japan	2	4	2	2	0	8	16	3	0	6	1	1	0	24	0	10	79	
Korea	8	11	3	5	2	21	17	6	1	0	2	13	1	19	6	23	138	
Mexico	2	0	2	1	0	2	1	0	0	0	0	0	0	8	1	9	26	
Russia	3	1	3	4	0	9	10	2	0	2	4	2	0	8	0	14	62	
Saudi Arabia	0	2	0	1	0	1	3	0	0	0	0	2	0	0	1	0	10	
South Africa	9	4	2	4	0	4	1	0	0	0	0	0	0	11	2	0	37	
Thailand	2	11	2	2	1	13	11	2	0	2	0	3	0	4	7	11	71	
United States	9	6	15	11	0	6	13	1	0	5	17	7	0	0	5	7	102	
Other Developing Countries (51)	22	15	22	20	2	92	46	5	0	9	8	24	2	43	5	52	367	
Other Developed Countries (22)	25	35	20	21	0	3	27	4	0	5	3	46	0	37	16	22	264	
Total	167	139	95	102	6	246	248	41	2	47	49	156	5	255	62	225	1845	

Source: Adapted from WTO Data. Available at http://www.wto.org/english/tratop_e/adp_e/adp_e.htm, accessed July 2002.

Exhibit 11: WTO Organizational Structure

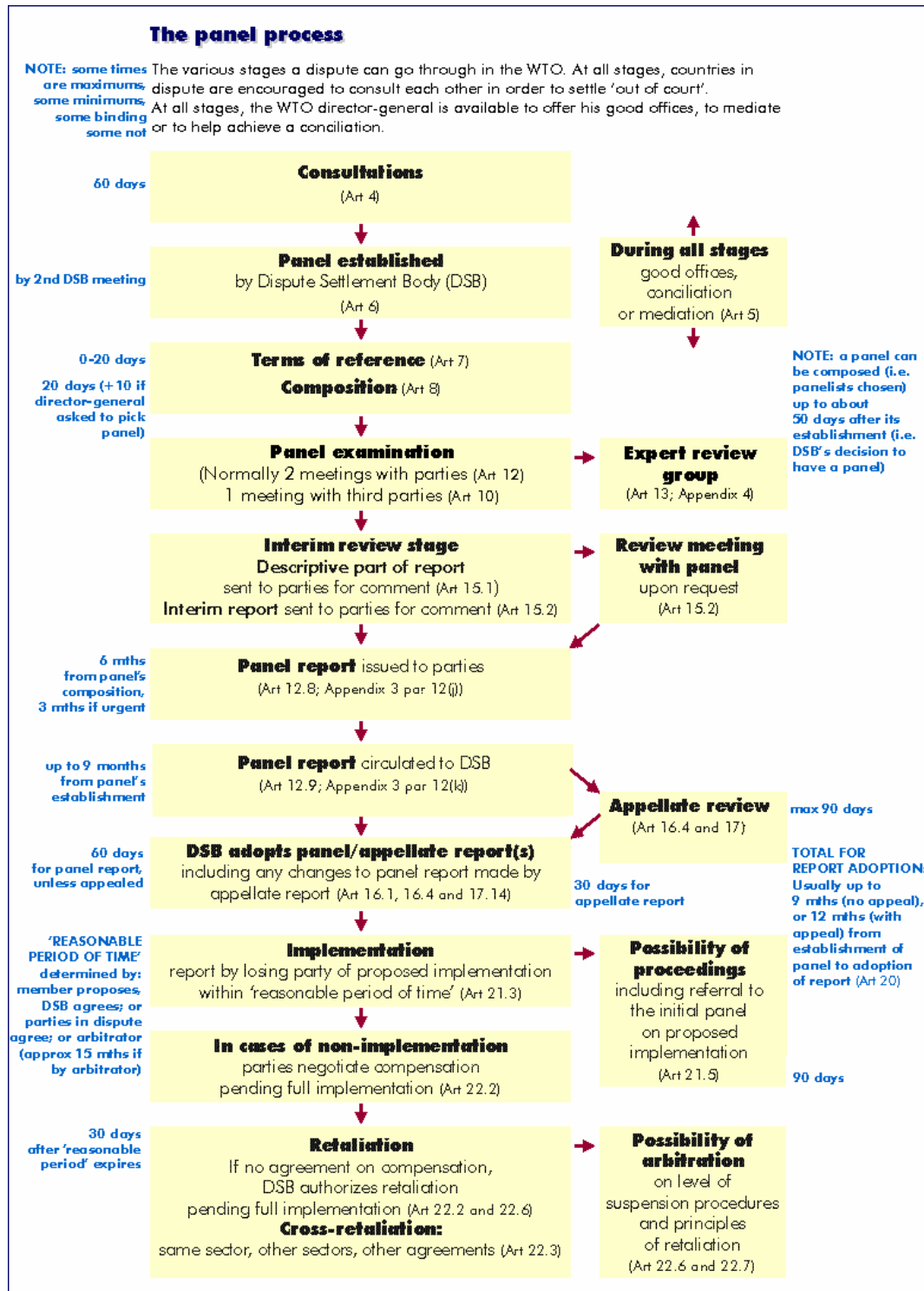
WTO Structure

All WTO Members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels, Textiles Monitoring Body, and plurilateral committees.



Source: WTO Website. Available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/organigram_e.pdf, accessed July 2002.

Exhibit 12 WTO Dispute Resolution Process (flow chart)



Source: WTO Website. Available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/disp2_e.htm, accessed July 2002.

Endnotes:

¹ "U.S. Security Extremely Tight at WTO," *WorldTribune.com* [journal online], 12 November 2001, accessed 26 April 2002, available from <http://www.worldtribune.com>.

² Caroline Lucas, "The Ill Wind of Trade," *Guardian* (London), 21 November 2001, 8.

³ Parts of this section draw material from David A. Moss, George Appling, and Andrew Archer, *Creating the International Trade Organization*, Harvard Business School Case Study No. N9-798-057 (Boston: Harvard Business School Publishing, 1998).

⁴ Douglas A. Irwin, "The GATT in Historical Perspective," *American Economic Review* 85 (May 1995): 324.

⁵ Irwin, 325.

⁶ For a more detailed discussion of this process, see Moss, Appling, and Archer.

⁷ Clair Wilcox, *A Charter for World Trade* (New York: Macmillan, 1949), 46.

⁸ See William Diebold, Jr., "From the ITO to GATT – And Back?" in Orin Kirshner, ed., *Bretton Woods-GATT System* (Armonk: M.E. Sharpe, 1996), 158; Irwin, 325; Moss, Appling, and Archer, 9-10.

⁹ General Agreement on Tariffs and Trade (GATT), *Text of the General Agreement* (Geneva, July 1986) [text online], accessed May 2002, available from http://www.wto.org/english/docs_e/legal_e/final_e.htm, 1.

¹⁰ World Trade Organization, "Some Facts and Figures: Stats for Seattle" [table online], accessed 11 June 2002, available from http://www.wto.org/english/thewto_e/minist_e/min99_e/english/about_e/22fact_e.htm. See also U.S. Tariff Commission, Operations of the Trade Agreements Program, 1st to 13th report covering the period from June 1934 to June 1960; Ernest H. Preeg, *Traders and Diplomats*, Tables 13-1 to 13-4; and WTO calculations based on 1964 import values.

¹¹ For a discussion of the reasons behind the shift towards this "New Protectionism," see Peter J. Lloyd and Rodney E. Falvey, "The Choice of Instrument for Industry Protection," in R.H. Snape, ed., *Issues in World Trade Policy: GATT at the Crossroads* (New York: St. Martin's Press, 1986), 152-170.

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¹⁵ Rodney de C. Grey, "The Decay of the Trade Relations System," in Snape, 20.

¹⁶ World Trade Organization, *Trading into the Future* (Geneva: World Trade Organization, April 1999), 39.

¹⁷ *Trading into the Future*, 10.

¹⁸ "Eleventh Hour: Uruguay Round of Talks on the General Agreement on Tariffs and Trade," *Economist*, 4 December 1993, 23.

¹⁹ "Eleventh Hour," 23.

²⁰ *Trading into the Future*, 12.

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²² *Trading into the Future*, 16-17.

²³ *Trading into the Future*, 21.

²⁴ WTO Secretariat Trade in Services Division, *Introduction to the GATS*, October 1999 [text online], accessed May 2002, available from http://www.wto.org/english/tratop_e/serv_e/gsintr_e.doc, 1.

²⁵ *Trading into the Future*, 24.

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²⁹ *Trading into the Future*, 60-63.

³⁰ Rana Foroohar, "The Poor Speak Up," *Newsweek International*, 11 February 2002, 32.

³¹ "Future Path of the Multilateral Trading System," (WTO Director-General's address to the Korean Business Association), *M2 Presswire*, 18 April 1997.

³² *Trading into the Future*, 38-42.

³³ World Trade Organization, *General Agreement on Trade in Services (GATS): Objectives, Coverage, and Disciplines* [text online], accessed 13 June 2002, available from http://www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm.

³⁴ Bernhard Speyer, "Dispute Settlement: A Gem in Need of Polish and Preservation," in *World Trade Organization Millennium Round: Freer Trade in the Twenty-First Century*, Klaus Günter Deutsch and Bernhard Speyer, eds. (London: Routledge, 2001), 276.

³⁵ While this case will refer to the 15-member European alliance as the European Union (EU), the WTO refers to it as the European Communities (EC). Members of the EU can initiate dispute proceedings by themselves or as a group. According to WTO voting procedures, each EU member has one vote and the EU itself has one additional vote. Drawn from a conversation with Peter Ungphakorn, WTO Information Officer, May 2002.

³⁶ *The WTO...Why It Matters, Resource Booklet for the 4th Ministerial Conference* (Geneva: World Trade Organization, 2001), 9. Numbers updated from WTO sources (see Exhibit 8).

³⁷ Since more than one country may have been a complainant or target in a particular case, the total number of times developing countries were involved in disputes were 114 and 104, respectively.

³⁸ Authors' calculations based on WTO case titles. These numbers likely understate the frequency of these types of cases, since not all relevant information is always revealed in the title. For example, a WTO study that examined all relevant documents found 16 cases involving TRIMs, while the title-counting method revealed only six. See *The WTO...Why It Matters*, 11.

³⁹ World Trade Organization, "Update of WTO Dispute Settlement Cases," 3 May 2002, ii. (document WT/DS/OV/6.), accessed 13 June 2002, available from http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm.

⁴⁰ Total from January 1995 through March 2000 (Speyer, "Dispute Settlement," in *World Trade Organization Millennium Round*, 276).

⁴¹ World Trade Organization, *GATS: Fact and Fiction* (Geneva, 2001) [text online], accessed 13 June 2002, available from http://www.wto.org/english/tratop_e/serv_e/gats_factfiction_e.htm, 3-4.

⁴² "WTO: Ruggiero Congratulates Governments on Landmark Telecommunications Agreement," *M2 Presswire*, 18 February 1997.

⁴³ "Telecom Pact Hailed as Major Economic Boost for World Trade," *Irish Times*, 17 February 1997, 14.

⁴⁴ "Indonesia Does Will in WTO Telecoms Pact," *Jakarta Post*, 18 February 1997.

⁴⁵ Frances Williams and Guy de Jonquie'eres, "WTO Pact Will Open Financial Services Sectors," *Financial Times*, 15 December 1997, 1.

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⁴⁷ "Good Financial Base," *Journal of Commerce*, 17 December 1997, 6A.

⁴⁸ Jan Jobe quoted in Helen R. MacLeod, "Insurance Industry Heaps Praise on Global Financial Services Pact," *Journal of Commerce*, 19 December 1997, 5A.

⁴⁹ "Successful Conclusion of the WTO's Financial Services Negotiations," WTO Press Release no. 86, 15 December 1997.

⁵⁰ Wendy Dobson, "Financial Services Liberalisation in the Millennium Round," in Deutsch and Speyer, 96. See also "WTO: Ruggiero Congratulates Governments."

⁵¹ World Trade Organization, *Movement of Natural Persons* [text online], accessed 13 June 2002, available from http://www.wto.org/english/tratop_e/serv_e/movement_persons_e/movement_persons_e.htm

⁵² *Trading into the Future*, 28-32.

⁵³ World Trade Organization, "Anti-dumping Statistics" [text online], accessed 13 June 2002, available from http://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

⁵⁴ Bruce Blonigen quoted in Wirtz, "Anti-dumping," 24.

⁵⁵ Ralf Boscheck, "Trade, Competition and Anti-dumping: Breaking the Impasse!?" *Intereconomics* (November/December 2000): 282-283.

⁵⁶ On U.S. use of anti-dumping suits, see e.g., Wirtz, "Anti-dumping."

⁵⁷ World Trade Organization, *Ministerial Declaration*, WTO Ministerial Conference, 4th sess., Doha, 9-14 November 2001 (WTO document WT/MIN(01)/DEC/1) [text online], accessed 13 June 2002, available from http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm, 6.

⁵⁸ WTO Secretariat 1995 study, quoted in *Trading Into the Future*, 45.

⁵⁹ Gerhard Fisch, "Regionalism and Multilateralism: Side by Side," in Deutsch and Speyer, 215.

⁶⁰ Jean-Pierre Lehmann, "Regional Trade Blocs are Stumbling Blocks to the Global Economic Order," *Evian Group*, February 2001, 3.

⁶¹ Martin Khor, "Why the 'New Issues' Should Not Be on the Negotiating Agenda," *Third World Network* [article online], October 2001, accessed 13 June 2001, available from <http://www.twinside.org.sg/title/info9.htm>.

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⁶³ "Statement Circulated by the ITCB," 1.

⁶⁴ John Wainio, Paul Gibson, and Daniel Whitley, "Options for Reducing Agricultural Tariffs," in Mary E. Burfisher, ed., *Agricultural Policy Reform in the WTO: The Road Ahead* (Washington DC: U.S. Department of Agriculture, May 2001), 43.

⁶⁵ *Ministerial Declaration*, WTO Ministerial Conference (Doha), 3.

⁶⁶ Quoted in *Trading into the Future*, 56.

⁶⁷ Edmund J. Pratt, "Intellectual Property" [text online], accessed 13 June 2002, available from <http://www.pfizer.com/pfizerinc/policy/intellectualpropfrm.html>.

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⁶⁹ Martin Khor, in "WTO and the Third World: On a Catastrophic Course, An Interview with Martin Khor," *Multinational Monitor* 20 (October/November 1999).

⁷⁰ In the 1990s, the United States government had regularly placed nations that violated pharmaceutical patents on a "priority watch" list, which could lead to sanctions. By the year 2000, President Clinton had pledged to end the practice in the case of AIDS emergencies.

⁷¹ Schering spokesman Friedrich von Heyl quoted in "Pharma Firms Want WTO to Keep Patent Laws Intact as Drug Demand Rises," *AFX News*, 31 October 2001.

⁷² "Oxfam Accuses Big Drug Firms Waging 'War' on Poor Nations," *Toronto Star*, 12 February 2001, NE10.

⁷³ The Declaration continues: "We affirm that the agreement...be interpreted and implemented in a manner...to ensure access to medicines for all" (World Trade Organization, "Declaration on the TRIPS Agreement and Public Health," WTO Ministerial Conference, 4th sess., Doha, 9-14 November 2001, section 4).

⁷⁴ Veena Jha, "You Might Trip Over the Fine Print," *Economic Times* (India), 19 November 2001.

⁷⁵ World Bank (World Development Indicators database), GNI per capita 2000, Atlas Method and PPP (table), April 2002 [text online], accessed 13 June 2002, available from <http://www.worldbank.org/data/databytopic/GNPPC.pdf>.

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