CHAPTER I

THE WORLD TRADE ORGANIZATION – ORIGIN, STRUCTURE AND PRINCIPLES
INTRODUCTION

The roots of the World Trade Organization extend back to World War II and the global economic chaos that preceded it. In the early 1930s the world was plunged into economic depression, and nations tried to protect their economies by erecting protective trade barriers against imports. But such trade barriers only worsened the global economy, increasing strains among nations and propelling them down the path to war. Following World War II, the victor nations sought to create institutions that would eliminate the causes of war. Their principles were to resolve or prevent war through the United Nations and to eliminate the economic causes of war by establishing three international economic institutions.

The three institutions were:

- The International Monetary Fund (IMF) (fiscal and monetary issues),
- The World Bank (financial and structural issues),
- The International Trade Organization (ITO) (international economic cooperation).

1 A. E. Eckes Jr., USTradeHistory, 73 A. Smithies, Reflections on the Work of Keynes, P 578-601
N. Warren, Internet and Globalization, P 193
These three were taken in the Bretton Woods Confluence. The economic philosophy of these Bretton Woods institutions were classical economic neo liberalism, the ITO, in contrast, set up a code of world trade principles and a formal international institution. The ITO's architects were greatly influenced by John Maynard Keynes, the British economist. The ITO represented an internationalization of the view that Governments could play a positive role in encouraging international economic growth.

**INTERNATIONAL TRADE ORGANIZATIONS**

The original 23 GATT countries were among over 50, which agreed a draft Charter for an International Trade Organization (ITO) - a new specialized agency of the United Nations. The Charter was intended to provide not only world trade disciplines but also contained rules relating to employment, commodity Agreements, restrictive business practices, international investment and services. The ITO also includes Secretariat with the power to arbitrate trade disputes. But the ITO was not popular.

In an effort to give an early boost to trade liberalization after the Second World War and to begin to correct the large overhang of protectionist measures which remained in place from the early 1930s - tariff negotiations were opened among the 23 founding GATT contracting parties. The negotiationing countries decided to bring the provisions of the GATT into force immediately. Nevertheless, they also feared that to spend the political effort required to get the GATT through the legislature might jeopardize the later effort to get the ITO passed. Therefore, they preferred to take the ITO

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2P. van den Bossche, The Law and Policy of the World Trade Organization, P 79
Palmeter-Mavroidis, Dispute Settlement

3(P. van den Bossche, The Law and Policy of the WTO, P 80)
Charter and the GATT to their legislatures as a package. To resolve this problem, eight of these countries signed the PPA; fifteen more countries entered soon the Agreement in 1946. This first round of negotiations resulted in 45,000 tariff concessions affecting $10 billion or about one-fifth of world trade. It was also agreed that the value of these concessions should be protected by early and largely “provisional” acceptance of some of the trade rules in the draft ITO Charter. The tariff concessions and rules together became known as the General Agreement on Tariffs and Trade and entered into force in January 1948. ITO also took a long time to negotiate. Its final Charter was signed by 54 nations at the UN Conference on Trade and Employment in Havana in March 1948, but this was too late. The ITO missed the flurry of support for internationalism and which led to the establishment of agencies such as the UN, the IMF and the World Bank. The U.S. Congress did not object to the establishment of the World Bank and the IMF but refused to agree to the ITO on the grounds that it would cede too much sovereignty to an international body. When the United States’ Government announced, in 1950 that it would not seek Congressional ratification of the Havana Charter, the ITO was effectively dead. In the absence of an international organization for trade, the GATT would over the years “transform itself” into a de facto international organization. Despite its

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4 P.B. Kenen, The International Economy, I, P 376

5 P. van den Bossche, The Law and Policy of the World Trade Organization, P 80

Palmeter-Mavroidis, Dispute Settlement, P 2

6 Havana Charter was the Charter of the defunct International Trade Organization or ITO. It was signed by 54 countries on March 24, 1948. It allowed for international cooperation and rules against anti-competitive business practices. The Charter ultimately failed because the Congress of the United States rejected it. Elements of it would later become part of GATT. The Charter, proposed by John Maynard Keynes, was to establish the ITO and a financial institution called the International Clearing Union (ICU), and an international currency; the banker. The Havana Charter institutions were to stabilize trade by encouraging nations to 'net zero,' with trade surplus and trade deficit both discouraged. This negative feedback was to be accomplished by allowing nation’s overdraft equal to half the average value of the country’s trade over the preceding five years, with interest charged on both surplus and deficit.

7 It was contemplated that the GATT would be applied for several years until the ITO came into force. However, since the ITO was never brought into being, the GATT gradually
provisional nature, the GATT remained the only multilateral instrument
governing international trade from 1948 until the establishment of the WTO
in 1995.8

The GATT had few teeth, and was sometimes snidely referred to as
the "general Agreement to talk and talk." Although, in its 47 years, the basic
legal text of the GATT remained much as it was in 1948, there were
additions in the form of "plurilateral" - voluntary membership - Agreements
and continual efforts to reduce tariffs. Beyond doubt it also supported a
general movement towards lowering tariff barriers between nations using the
rule of law to resolve trade disputes. The GATT was very successful in
lowering tariffs, the then existing major barrier to free trade of this was
achieved through a series of "trade rounds".

The GATT was the only multilateral instrument governing international
trade from 1948 until the WTO was established in 1995. Despite attempts in
the mid 1950s and 1960s to create some form of institutional mechanism for
international trade, the GATT continued to operate for almost half a century
as a semi-institutionalized multilateral Treaty regime on a provisional basis.9

became the focus for international governmental cooperation on trade matters (P. van den
Bossche, The Law and Policy of the World Trade Organization, 81; J.H. Jackson, Managing
the Trading System, P 134)

8The GATT Years: from Havana to Marrakesh, World Trade Organization

9M.E. Footer, Analysis of the World Trade Organization, P 17
Seven rounds of negotiations occurred under the GATT. The first GATT trade rounds concentrated on further reducing tariffs. Then, the Kennedy Round in the mid-sixties brought about a GATT anti-dumping. The Tokyo Round during the seventies was the first major attempt to tackle trade barriers that do not take the form of tariffs, and to improve the system, adopting a series of Agreements on non-tariff barriers, which in some cases interpreted existing GATT rules, and in others broke entirely new ground. Because these plurilateral Agreements were not accepted by the full GATT membership, they were often informally called "codes". Several of these codes were amended in the Uruguay Round, and turned into multilateral commitments accepted by all WTO Members. Only four remained plurilateral (those on Government procurement, bovine meat, civil aircraft and dairy products), but in 1997 WTO Members agreed to terminate the bovine meat and dairy Agreements, leaving only two Uruguay Round.

While the GATT functioned well enough, the leading Members wished to replace it with a world-wide trade-regulating body like the WTO for a number of reasons:

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10A standard technical definition of dumping is the act of charging a lower price for a good in a foreign market than one charge for the same good in a domestic market. This is often referred to as selling at less than "fair value." Under the WTO Agreement, dumping is condemned (but is not prohibited) if it causes or threatens to cause material injury to a domestic industry in the importing country.

11The GATT Years: from Havana to Marrakesh, World Trade Organization
First, the GATT rules applied to trade only in merchandise goods. In addition to goods, the WTO covers trade in services and trade-related aspects of intellectual property (through the Agreement on Trade-related Aspects of Intellectual Property Rights—TRIPs).

Secondly, while GATT was a multilateral instrument, by the 1980s many new Agreements of a plurilateral, and therefore selective nature had been added. The Agreements which constitute the WTO are almost all multilateral and, thus, involve commitments for the entire membership.

Thirdly, the WTO dispute settlement system is faster, more automatic, and thus much less susceptible to blockages, than the old GATT system.

But beyond these practical and functional reasons for establishing the WTO, there were also more philosophical and symbolic reasons. The GATT was a set of rules, a multilateral Agreement, with no institutional foundation, only a small associated Secretariat which had its origins in the attempt to establish an International Trade Organization in the 1940s. By contrast, the WTO is a permanent institution with its own Secretariat. Moreover, the GATT was applied on a "provisional basis" even if, after more than forty years, Governments chose to treat it as a permanent commitment while the WTO commitments are fully and functionally permanent.

**THE URUGUAY ROUND, 1986**

Well before GATT's 40th Anniversary, its Members concluded that, the GATT system was straining to adapt to a new globalizing world
In response to the problems identified in the 1982 Ministerial Declaration (structural deficiencies, spill-over impacts of certain countries' policies on world trade GATT could not manage, etc.), the eighth GATT Round — known as the Uruguay Round; was launched in September 1986, in Punta del Este, Uruguay. It was the biggest negotiating mandate on trade ever agreed: the talks were going to extend the trading system into several new areas, notably trade in services and intellectual property, and to reform trade in the sensitive sectors of agriculture and textiles; all the original GATT articles were up for review. The round was supposed to end in December 1990, but the US and EU disagreed on how to reform agricultural trade and decided to extend the talks.

Finally, in November 1992, the US and EU settled most of their differences in a deal known informally as "the Blair House Accord", and on April 15, 1994, the deal was signed by ministers from most of the 123 participating Governments at a meeting in Marrakesh, Morocco. The Agreement established the World Trade Organization, which came into being upon its entry into force on January 1, 1995, and replaced GATT as an international organization. It is widely regarded as the most profound institutional reform of the world trading system since the GATT's establishment.

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12P. Gallagher, The First Ten Years of the WTO, P4; The Uruguay Round, World Trade Organization
13P. Gallagher, The First Ten Years of the WTO, P4
14A. Bredimas, International Economic Law, P16
15Even after Agreement was reached in December 1993, and the Final Act was signed, the effort almost foundered in the US Congress, and the Member States engaged in a quarrel for close to a year about who would be the first Director General of the WTO (A.F. Lowenfeld, Preface, Pix)
16P. Gallagher, The First Ten Years of the WTO, 10; Martin-Winters, The Uruguay Round, P2
During the Doha Round, the US Government blamed Brazil and India for being inflexible, and the EU for impeding agricultural imports. Enlarge during the Doha Round, the US Government blamed Brazil and India for being inflexible, and the EU for impeding agricultural imports. President of Brazil, Luiz Inácio Lula da Silva, responded to the criticisms arguing that progress will be only achieved if the richest countries (especially the US and EU) make deeper cuts in their agricultural subsidies, and open further their markets for agricultural goods.

The GATT still exists as the WTO's Umbrella Treaty for trade in goods, updated as a result of the Uruguay Round negotiations (a distinction is made between GATT 1994, the updated parts of GATT, and GATT 1947, the original Agreement which is still the heart of GATT 1994). The GATT 1994 is not however the only legally binding Agreement included in the final Act; a long list of about 60 Agreements, Annexes, decisions and understandings was adopted. In fact, the Agreements fall into a simple structure with four main parts:

- An Umbrella Agreement (the Agreement Establishing the WTO);

- Agreements for each of the three broad areas of trade that the WTO covers: goods and investment (the Multilateral Agreements on Trade in Goods including the GATT 1994 and the Trade Related Investment Measures (TRIMs), General Agreement of Trade in Services (GATS), and Trade Related Intellectual Property Rights (TRIPs)

17B.S. Klapper, With a "Short Window"

18Lula, Time to Get Serious about Agricultural Subsidies

19P. Gallagher, The First Ten Years of the WTO, P4; The Uruguay Round, World Trade Organization
Dispute Settlement Understanding (DSU); and

• Reviews of Governments' Trade Policies (TPRM).20

DIFFERENCE BETWEEN GATT AND WTO

The World Trade Organization is not a simple extension of GATT; on the contrary, it completely replaces its predecessor and has a very different character. Among the principal differences are the following:

- The GATT was a set of rules, a multilateral Agreement, with no institutional foundation, only a small associated Secretariat which had its origins in the attempt to establish an International Trade Organization in the 1940s. The WTO is a permanent institution with its own Secretariat.

- The GATT was applied on a "provisional basis" even if, after more than forty years, Governments chose to treat it as a permanent commitment. The WTO commitments are full and permanent.

- The GATT rules applied to trade in merchandise goods. In addition to goods, the WTO covers trade in services and trade-related aspects of intellectual property.

While GATT was a multilateral instrument, by the 1980s many new Agreements had been added of a plurilateral, and therefore selective, nature. The Agreements which constitute the WTO are almost all multilateral and, thus, involve commitments for the entire membership.

The WTO dispute settlement system is faster, more automatic, and thus much less susceptible to blockages, than the old GATT system. The implementation of WTO dispute findings will also be more easily assured.

The "GATT 1947" will continue to exist until the end of 1995, thereby allowing all GATT Member countries to accede to the WTO and permitting an overlap of activity in areas like dispute settlement. Moreover, GATT lives on as "GATT 1994", the amended and up-dated version of GATT 1947, which is an integral part of the WTO Agreement and which continues to provide the key disciplines affecting international trade in goods.

DOHA ROUND

During the Doha Round, the WTO launched the current round of negotiations, the Doha Development Agenda (DDA) or Doha Round, at the Fourth Ministerial Conference in Doha, Qatar in November 2001. The Doha Round was to be an ambitious effort to make globalization more inclusive and help the world's poor, particularly by slashing barriers and subsidies in farming. The initial Agenda comprised both further trade liberalization and

[21] The Economist, in the twilight of Doha, P 85
new rule-making, underpinned by commitments to strengthen substantially assistance to developing countries.\textsuperscript{22}

The talks have been highly contentious and Agreement has not been reached, despite the intense negotiations at Fifth Ministerial Conference in Cancún in 2003 and at the Sixth Ministerial Conference in Hong Kong on December 13-18, 2005. On July 24, 2006, at the end of yet another futile gathering of trade ministers in Geneva, Pascal Lamy, the WTO's Director-General, formally suspended the negotiations. Nevertheless, in his report to the WTO General Council on February 7, 2007, Lamy said that, "political conditions are now more favorable for the conclusion of the Round than they have been for a long time". He then added that "political leaders around the world clearly want us to get fully back to business, although we in turn need their continuing commitment". \textsuperscript{23}

\textsuperscript{22}The Doha Development Agenda, European Commission

\textsuperscript{23}Lamy: "We have resumed negotiations fully across the board", World Trade Organization
<table>
<thead>
<tr>
<th>NAME</th>
<th>START</th>
<th>DURATION</th>
<th>COUNTRIES</th>
<th>SUBJECTS COVERED</th>
<th>ACHIEVEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENEVA</td>
<td>April 1947</td>
<td>7 months</td>
<td>23</td>
<td>Tariffs</td>
<td>Signing of GATT, 45,000 tariff concessions affecting $10 billion of trade</td>
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<td>ANNECY</td>
<td>April 1949</td>
<td>5 months</td>
<td>13</td>
<td>Tariffs</td>
<td>Countries exchanged some 5,000 tariff concessions</td>
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<td>TORQUAY</td>
<td>September 1950</td>
<td>8 months</td>
<td>38</td>
<td>Tariffs</td>
<td>Countries exchanged some 8,700 tariff concessions, cutting the 1948 tariff levels by 25%</td>
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<tr>
<td>GENEVA II</td>
<td>January 1956</td>
<td>5 months</td>
<td>26</td>
<td>Tariffs, admission of Japan</td>
<td>$2.5 billion in tariff reductions</td>
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<tr>
<td>DILLON</td>
<td>September 1960</td>
<td>11 months</td>
<td>26</td>
<td>Tariffs</td>
<td>Tariff concessions worth $4.9 billion of world trade</td>
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<td>KENNEDY</td>
<td>May 1964</td>
<td>37 months</td>
<td>62</td>
<td>Tariffs, Anti-dumping</td>
<td>Tariff concessions worth $40 billion of world trade</td>
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<td>TOKYO</td>
<td>September 1973</td>
<td>74 months</td>
<td>102</td>
<td>Tariffs, non-tariff measures, &quot;framework&quot; Agreements</td>
<td>Tariff reductions worth more than $300 billion dollars achieved</td>
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<td>URUGUAY</td>
<td>September 1986</td>
<td>87 months</td>
<td>123</td>
<td>Tariffs, non-tariff measures, rules, services, intellectual</td>
<td>The round led to the creation of WTO, and extended the range of trade negotiations, leading to major reductions</td>
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<td>property, dispute settlement, textiles, agriculture, creation of WTO, etc</td>
<td>in tariffs (about 40%) and agricultural subsidies, an Agreement to allow full access for textiles and clothing from developing countries, and an extension of Intellectual Property Rights.</td>
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<tr>
<td>DOHA</td>
<td>November 2001</td>
<td>?</td>
<td>141</td>
<td>Tariffs, non-tariff measures, agriculture, labour standards, environment, competition, investment, transparency, patents, etc</td>
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<td></td>
<td></td>
<td></td>
<td>The round is not yet concluded.</td>
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Sources: 
a) The GATT years: from Havana to Marrakesh, World Trade Organization

b) Timeline: World Trade Organization – A chronology of key events, BBC News

c) Brakman-Garretsen-Marrewijk-Witteloostuijn, Nations and Firms in the Global Economy, Chapter 10: Trade and Capital Restriction
MEMBERSHIP

As of 1 January 2007, there were 149 Member nations of the WTO. There were over 30 applicants negotiating membership at that time. All GATT signatory nations who signed the Final Act of the Uruguay Round in Marrakesh in July of 1994 automatically became original Members of the WTO. In addition, several other countries who joined the GATT later in 1994 and signed the Final Act of the Uruguay Round and became original WTO Members. When the WTO became effective on 1 January 1995, there were 76 original WTO Members and another 50 nations at various stages in the membership process.

The process of becoming a WTO Member is unique to each applicant country, and the terms of accession are dependent upon the country’s stage of economic development and current trade regime. The process takes about five years, on average, but it can last more if the country is less than fully committed to the process or if political issues interfere. As is typical of WTO procedures, an offer of accession is only given once consensus is reached among interested parties. Any nation or "customs territory" having full autonomy in the conduct of its trade policies may accede to the WTO on terms agreed with WTO Members.

24 Accessions Summary, Center for International Development

25 The shortest accession negotiation was that of the Kyrgyz Republic, while the longest was that of the People's Republic of China (P. Farah, Five Years of China's WTO Membership, 263-304). Russia, having first applied to join GATT in 1993, is still in negotiations for membership. Recently, it secured a bilateral trade agreement with the EU and US (Accessions: Russian Federation, World Trade Organization; Factsheet on U.S. – Russia WTO Bilateral Market Access Agreement, Office of the United Stated Trade Representative; Russia - WTO: EU-Russia Deal Brings Russia a Step Closer to WTO Membership, European Commission). Moldova and Georgia are the remaining two nations that Russia must make agreements with to enter the WTO (A. Aslund, Russia's WTO Accession; V. Novostai, USA OKs Russia's Entry into WTO, Pravda. Ru)

26 C. Michalopoulos, WTO Accession, P 64
ACCESSION PROCESS

The process of a nonmember nation joining the WTO takes place in several stages. A country wishing to accede to the WTO submits an application to the General Council, and has to describe all aspects of its trade and economic policies that have a bearing on WTO Agreements, called memorandum.27 This memorandum becomes the basis for a detailed examination of the accession request in a working party.28 Alongside the working party's efforts, the applicant Government engages in bilateral negotiations with interested Member Governments to establish its concessions and commitments on goods and its commitments on services. This bilateral process, among other things, determines the specific benefits for WTO Members in permitting the applicant to accede. Once both the examination of the applicant's trade regime and Market Access negotiations are complete, the working party draws up basic terms of accession.29

Finally, the results of the working party's deliberations contained in its report, a draft protocol of accession, and the agreed schedules resulting from the bilateral negotiations are presented to the General Council or the Ministerial Conference for adoption. If a two-thirds majority of WTO Members vote in favour, the applicant is free to sign the protocol and to accede to the Organization; when necessary, after ratification in its national Parliament or legislature.

After becoming a Member, many countries are represented in the WTO by permanent diplomatic missions in Geneva usually headed by a

27Membership, Alliances and Bureaucracy, World Trade Organization
28C. Michalopoulus, WTO Accession, P 62-63
29How to Become a Member of the WTO, World Trade Organization
special Ambassador. The WTO has 149 Members (almost all of the 123 nations participating in the Uruguay Round signed on at its foundation, and the rest had to get membership).\textsuperscript{30} As a result of regional economic integration in the form of customs unions and free trade areas and looser political and geographic arrangements, some groups of countries act together in the WTO with a single spokesperson in meetings and negotiations.

The largest and most comprehensive grouping is the European Union and its 25 Member States. The EU is a customs union with a single external trade policy and tariff. While the Member States coordinate their position in Brussels and Geneva, the European Commission alone speaks for the EU at almost all WTO meetings. The EU is a WTO Member in its own right as are each of its Member States.

WTO Members do not have to be full sovereign nation Members. Instead, they must be a customs territory with full autonomy in the conduct of their external commercial relations. Thus Hong Kong became a GATT Contracting Party, and Chinese Taipei (Taiwan) acceded to the WTO in 2002.\textsuperscript{31}

**OBSERVERS**

A number of non Members have been observers (30) at the WTO and are currently negotiating their membership. With the exception of the Holy Sea, observers must start accession negotiations within five years of

\textsuperscript{30}For an updated list of WTO Members, see here Members and Observers, World Trade Organization

\textsuperscript{31}J.H. Jackson, Sovereignty, P109
becoming observers. Some international inter-governmental organizations are also granted observer status to WTO bodies, 3215 states and 2 territories so far have no official interaction with the WTO. It is important to note that any country can withdraw at any time from the WTO.

**OBJECTIVES OF THE WTO**

In the Preamble of the Marrakesh Agreement establishing the WTO, the parties to the Agreement recognize certain objectives, to which they wish to contribute through the multilateral trading system. It is recognized that Member's relations "in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development..." The Agreement also recognizes the need for "positive efforts to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development".

Furthermore, Members recognize the "need for positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in international trade commensurate with the needs of their economic development." To contribute to the achievement of these objectives, WTO Members have agreed to enter into "reciprocal and mutually advantageous arrangements directed to the

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32International Intergovernmental Organizations Granted Observer Status to WTO Bodies, World Trade Organization
substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations."

**SCOPE OF THE WTO**

The scope of the WTO as given in the Agreement establishing the World Trade Organization is as under:

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the Agreements and associated legal instruments included in the Annexes to this Agreement.

2. The Agreements and associated legal instruments included in Annexes 1, 2 and 3 are integral parts of this Agreement, binding on all Members.

3. The Agreements and associated legal instruments included in Annex 4 are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4. The General Agreement on Tariffs and Trade, 1994 as specified in Annex 1A is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory
Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.

FUNCTIONS OF WTO

The Functions of the WTO as laid down in the Agreement establishing the WTO are as follows:

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the Agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the 'Dispute Settlement Understanding' or 'DSU') in Annex 2 to this Agreement.
4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the 'TPRM') provided for in Annex 3 to this Agreement.

5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

**BASIC PRINCIPLES**

The main principles on which the WTO revolves are as under:

**TRADE WITHOUT DISCRIMINATION**

The basic principles of the multilateral trading system, as embodied in the WTO Agreement, derive mostly from the principles that constituted the foundations of the GATT. Trade without discrimination is one of these basic principles, guaranteed through the operation of various clauses included in the multilateral Agreements on trade in goods, in the GATS, and in the TRIPs Agreement.

**MOST FAVOURED NATION CLAUSE (MFN)**

The Most Favoured Nation Clause has been the pillar of the system since the inception of the GATT in 1947. The Contracting Parties to the
GATT 1947 were bound to grant to the products of other Contracting Parties treatment no less favourable than that accorded to products of any other country.

Members of the WTO have entered into similar commitments, under the GATT 1994 (Article I) for trade in goods, under the GATS (Article II) in relation to treatment of service suppliers and trade in services, and under the TRIPs Agreement (Article 4) in regard to the protection of intellectual property.

NATIONAL TREATMENT

The national treatment principle condemns discrimination between foreign and national goods or services and service suppliers or between foreign and national holders of Intellectual Property Rights. GATT 1994 and the TRIPs Agreement provide for national treatment as one of the main commitments of WTO Members. Imported goods, once duties have been paid, must be given the same treatment as like domestic products in relation to any charges, taxes, or administrative or other regulations (GATT Article 3). With regard to the protection of Intellectual Property Rights, and subject to exceptions in existing international Conventions, Members of WTO are committed to grant to nationals or other Members' treatment no less favourable than that accorded to their own nationals (Article III). GATS, however, due to the special nature of trade in services, deals with national treatment under its Part III, Specific Commitments, (Article XVII), where national treatment becomes a negotiated concession and may be subject to conditions or qualifications that Members have inscribed in their schedules on specific commitments in trade in services.
TRANSPARENCY

Provisions on notification requirements and the Trade Policy Review Mechanism are set out in the WTO Agreement and its Annexes, with the objective of guaranteeing the fullest transparency possible in the trade policies of its Members in goods, services and the protection of Intellectual Property Rights. Article X of GATT 1994 deals with the publication and administration of trade regulations; Article III of GATS sets out provisions on transparency as one of the general obligations and disciplines under that Agreement; and Article 3 establishes transparency rules for the TRIPs Agreement.

PREDICTABLE AND GROWING ACCESS TO MARKETS

Predictable and growing access to markets for goods and services is an essential principle of the WTO. This principle is fulfilled through various provisions so as to guarantee security, predictability and continued liberalization of trade. In the case of goods, a basic GATT postulate is that tariffs should normally be the only instrument used to protect domestic industry. Furthermore, tariffs should be predictable and stable.

BINDING OF TARIFFS

Security and predictability in trade in goods are achieved through the commitments embodied in the "binding of tariffs". A "bound" tariff is a tariff in respect of which there is a legal commitment not to raise it beyond the bound level. The binding of a tariff at a level higher than the tariff actually applied is considered as a legitimate concession. In this case, the concession is the
binding itself, that is, the commitment not to raise the tariff beyond that level. The developed countries have normally bound their tariffs at the applied levels. By contrast, and consistently with open market policies, developing countries have adopted commitments on "ceiling bindings", that is, bindings at levels higher than the applied rates. This has allowed developing countries to substantially increase their bound commitments, thus underpinning their open markets' policies, while keeping a certain margin for protection in case of need.

PROHIBITION OF QUANTITATIVE RESTRICTIONS

As a general rule, quantitative restrictions are prohibited under the GATT 1994. However, in some cases, such as safeguard action, quantitative restrictions can be introduced under strictly defined criteria.

TARIFF NEGOTIATIONS: PROGRESSIVE REDUCTION IN PROTECTION

In the past, tariff negotiations were launched periodically under the auspices of the GATT. These negotiations served to reduce progressively the level of tariff protection in many countries, now Members of the WTO. Tariff negotiations will remain important in the future, particularly in relation to agricultural products, where all non-tariff barriers have been eliminated and substituted by tariffs, in many cases at very high levels.
EMERGENCY IMPORT MEASURES: SAFEGUARDS

A safeguard measure is an import restriction which can be adopted in emergency circumstances, when imports have increased in such quantities and conditions that they are the cause of serious injury or threat of such injury to a domestic industry producing a like or directly competing product. An Agreement on safeguards, setting out conditions and criteria for these actions, is one of the multilateral trade Agreements. Measures affecting prices, that are tariffs, are preferable to quantitative restrictions. However, quantitative restrictions can be applied as safeguard measures in specific cases.

TARIFF RENEGOTIATIONS: COMPENSATION

The contractual nature of a bound tariff concession lies in the fact that the tariff rate cannot be increased beyond the bound level. However, countries would not enter into this kind of commitment without the possibility of revision when the situation of a domestic industry so requires. The GATT 1994 allows for the possibility of renegotiations. A Member desiring to withdraw or modify tariff bindings has to renegotiate them with other interested Members and provide compensation, that is, substantially equivalent tariff concessions on other products.

TRADE IN SERVICES

The General Agreement on Trade in Services (GATS) establishes a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and
progressive liberalization, and as a means to promote the economic growth of all countries and the development of developing countries. Through general obligations and principles, the negotiation of specific commitments and the commitment to launch further rounds of negotiations on trade in services, the GATS seeks to achieve predictable and growing access to markets for services.

**MINISTERIAL CONFERENCES**

**FIRST MINISTERIAL CONFERENCE - 1996**

The inaugural Ministerial Conference was held in Singapore in 1996. Disagreements between largely developed and developing economies emerged during this Conference over four issues initiated by this Conference, which led to them being collectively referred to as the "Singapore issues".

**SECOND MINISTERIAL CONFERENCE -1998**

WTO Ministerial Conference of 1998 was held in Geneva in Switzerland.

**THIRD MINISTERIAL CONFERENCE -1999**

The third Conference in Seattle, Washington ended in failure, with massive demonstrations and police and National Guard crowd control efforts drawing worldwide attention.
FOURTH MINISTERIAL CONFERENCE - 2001

WTO Ministerial Conference of 2001 was held in Doha in Persian Gulf nation of Qatar.

FIFTH MINISTERIAL CONFERENCE - 2003

WTO Ministerial Conference of 2003 was held in Cancún, Mexico, aiming at forging Agreement on the Doha Round. An alliance of 22 Southern states, the G20 (led by India, People's Republic of China and Brazil), resisted demands from the North for Agreements on the so-called "Singapore issues" and called for an end to agricultural subsidies within the EU and the US. The talks broke down without progress.

SIXTH MINISTERIAL CONFERENCE - 2005

The sixth WTO Conference Ministerial was held in Hong Kong from December 13 - December 18, 2005. It was considered vital if the four-year-old Doha Development Agenda negotiations were to move forward sufficiently to conclude the round in 2006. In this meeting, countries agreed to phase out all their agricultural export subsidies by the end of 2013, and terminate any cotton export subsidies by the end of 2006. Further concessions to developing countries included an Agreement to introduce duty free, tariff free access for goods from the Least Developed Countries, following the everything but arms initiative of the European Union - but with up to 3% of tariff lines exempted. Other major issues were left for further negotiation to be completed by the end of 2006.

Footnote:
Five Years of China WTO Membership. EU and US Perspectives about China's Compliance with Transparency Commitments and the Transitional Review Mechanism

26
STRUCTURE OF WORLD TRADE ORGANIZATION

The WTO has a multi-tire organizational structure as discussed below. According to WTO rules, all WTO Members may participate in all Councils, Committees, etc., except Appellate Body, Dispute Settlement Panels, and Plurilateral Committees.

The WTO consists of the following components:

MINISTERIAL CONFERENCE

A Ministerial Conference is the highest authority in the World Trade Organization (WTO). It brings together all Members of the WTO, all of which are countries or separate customs territories. The Ministerial Conference can make decisions on all matters under any of the multilateral trade Agreements. Ministerial Conference has to be held once in two years. Six Ministerial Conferences were held since its commencement in 1995.

• Singapore 1996
• Geneva 1998
• Seattle 1999
• Doha 2001
• Cancun 2003
• Hong Kong 2005
GENERAL COUNCIL

The daily work of the Ministerial Conference is handled by three groups.

The General Council, the Dispute Settlement Body, and the Trade Policy Review Body. All three consist of the same membership - representatives of all WTO Members but each meets under different rules. The General Council is the highest decision-making body of the WTO with its headquarters in Geneva. It has representatives (usually Ambassadors or equivalent) from all Member Governments. The General Council acts on behalf of the Ministerial Conference on all WTO affairs including settling of disputes between Members and analyses trade policies.34

DISPUTE SETTLEMENT BODY

The Dispute Settlement Body consists of various panels to deal with different issues. The dispute settlement procedure of the WTO is based on well-defined rules and regulations. There are specific time frames for completing each case, which are handled by different panels.

THE TRADE POLICY REVIEW BODY

The WTO General Council also has the Trade Policy Review Body to undertake trade policy reviews of Members.

COUNCILS AND COMMITTEES

Apart from the above organs, there are various councils and committees to deal with various issues. There are three Councils under General Council.

• Council for Trade in Goods
• Council for Trade-Related Aspects of Intellectual Property Rights
• Council for Trade in Services

Each Council works in different fields. Apart from these three Councils, six other bodies report to the General Council reporting on issues such as trade and development, the environment, regional trading arrangements and administrative issues.

COUNCIL FOR TRADE IN GOODS

The workings of the General Agreement on Tariffs and Trade (GATT) which covers international trade in goods are the responsibility of the Council for Trade in Goods. It is made up of representatives from all WTO Member
countries.

COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

The responsibility of the TRIPs Council are to gather information on intellectual property in the WTO, to keep news and official records of the activities of the TRIPs Council, and details of the WTO’s work with other international organizations in the field.35

COUNCIL FOR TRADE IN SERVICES

The Council for Trade in Services operates under the guidance of the General Council and is responsible for overseeing the functioning of the General Agreement on Trade in Services (GATS). It’s open to all WTO Members, and can create subsidiary bodies as required.

There are subsidiary bodies under each of the three Councils.

1. THE GOODS COUNCIL

Subsidiary under the Council for Trade in Goods. It has 11 committees consisting of all Member countries, dealing with specific subjects such as agriculture, Market Access, subsidies, anti-dumping measures and so on. Committees include the following:

35http://www.wto.org/english/tratop_e/trips_e/intel2_e.htm
• Information Technology Agreement (ITA) Committee
• State Trading Enterprises
• Textiles Monitoring Body consists of a Chairman and 10 Members acting under it.
• Groups dealing with notifications process by which Governments inform the WTO about new policies and measures in their countries.

2. THE SERVICES COUNCIL

Subsidiary under the Council for Trade in Services which deals with financial services, domestic regulations and other specific commitments.

3. DISPUTE SETTLEMENT PANELS AND APPELLATE BODY

Subsidiary under the Dispute Settlement Body to resolve disputes and the Appellate Body to deal with appeals, committees, working groups and working parties deal with the individual Agreements and other areas such as the environment, development, membership applications and regional trade Agreements.

OTHER COMMITTEES

Committees on
• Trade and Environment
The WTO Secretariat, based in Geneva, has around 600 staff and is headed by a Director-General. It does not have branch offices outside Geneva. Since decisions are taken by the Members themselves, the Secretariat does not have the decision-making role that other inter-Secretariat, Geneva-national bureaucracies are given.

The Secretariat's main duties are to supply technical support for the various Councils and committees and the Ministerial Conferences, to provide technical assistance for developing countries, to analyze World trade, and to explain WTO affairs to the public and media. The Secretariat also provides
some forms of legal assistance in the dispute settlement process and advises Governments wishing to become Members of the WTO.

The WTO operates on a one country, one vote system, but actual votes have never been taken. Decision-making is generally by consensus, and relative market size is the primary source of bargaining power. The advantage of consensus decision-making is that it encourages efforts to find the most widely acceptable decision. Main disadvantages include large time requirements and many rounds of negotiation to develop a consensus decision, and the tendency for final Agreements to use ambiguous language on contentious points that makes future interpretation of Treaties difficult.

In reality, WTO negotiations proceed not by consensus of all Members, but by a process of informal negotiations between small groups of countries. Such negotiations are often called "Green Room" negotiations (after the colour of the WTO Director-General's Office in Geneva), or "Mini-Ministerials", when they occur in other countries. These processes have been regularly criticized by many of the WTO's developing country Members which are often totally excluded from the negotiations. Richard Steinberg (2002) argues that, although the WTO's consensus governance model provides law-based initial bargaining, trading rounds close through power-based bargaining favouring Europe and the United States, and may not lead to Pareto improvement.

**DISPUTE SETTLEMENT MECHANISM**

In 1994, the WTO Members agreed on the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) annexed to the
"Final Act" signed in Marrakesh in 1994. Dispute settlements are regarded by the WTO as the central pillar of the multilateral trading system, and as a "unique contribution to the stability of the global economy". WTO Members have agreed that, if they believe fellow-Members are violating trade rules, they will use the multilateral system of settling disputes instead of taking action unilaterally.

**TABLE 2**

**DISPUTE SETLEMENT UNDER WTO**

**Duration of a Dispute Settlement procedure**

These approximate periods for each stage of a dispute settlement procedure are target figures. The Agreement is flexible. In addition, the countries can settle their dispute themselves at any stage. Totals are also approximate.

<table>
<thead>
<tr>
<th>Duration</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>60 days</td>
<td>Consultations, mediation, etc</td>
</tr>
<tr>
<td>45 days</td>
<td>Panel set up and panellists appointed</td>
</tr>
<tr>
<td>6 months</td>
<td>Final Panel report to parties</td>
</tr>
<tr>
<td>3 weeks</td>
<td>Final Panel report to WTO Members</td>
</tr>
<tr>
<td>60 days</td>
<td>Dispute Settlement Body adopts report (if no appeal)</td>
</tr>
</tbody>
</table>

Total = 1 year (without appeal)

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Stewart-Dawyer, The WTO Dispute Settlement System, P 7

S. Panitchpakdi, The WTO at ten, P 8

"Settling Disputes: a Unique Contribution, World Trade Organization"
The operation of the WTO dispute settlement process involves the DSB panels, the Appellate Body, the WTO Secretariat, arbitrators, independent experts and several specialized institutions. The General Council discharges its responsibilities under the DSU through the Dispute Settlement Body (DSB). Like the General Council, the DSB is composed of representatives of all WTO Members. The DSB is responsible for administering the DSU, i.e. for overseeing the entire dispute settlement process. If a Member State considers that a measure adopted by another Member State has deprived it of a benefit accruing to it less than one of the covered Agreements, it may call for consultations with the other Member State. If consultations fail to resolve the dispute within 60 days after receipt of the request for consultations, the complainant state may request the appeals process.

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36 WTO Bodies involved in the dispute settlement process, World Trade Organization

40 Article IV:3 of the WTO Agreement

41 Article IV:3 of the WTO Agreement

42 A list of covered agreements is included in Appendix 1 to the DSU

43 A.F. Lowenfeld, International Economic Law, 152
establishment of a Panel.\textsuperscript{44}

It is not possible for the respondent state to prevent or delay the establishment of a Panel, unless the DSB by consensus decides otherwise.\textsuperscript{45} The Panel, normally consisting of three Members appointed \textit{ad hoc} by the Secretariat, sits to receive written and oral submissions of the parties, on the basis of which it is expected to make findings and conclusions for presentation to the DSB. The proceedings are confidential, and even when private parties are directly concerned, they are not permitted to attend or make submissions separate from those of the state in question.\textsuperscript{46}

The final version of the Panel's report is distributed first to the parties, and two weeks later it is circulated to all the Members of the WTO. The report must be adopted at a meeting of the DSB within 60 days of its circulation, unless the DSB by consensus decides not to adopt the report or a party to the dispute gives notice of its intention to appeal.\textsuperscript{47} A party may appeal a Panel report to a standing Appellate Body, but only on issues of law, and legal interpretations developed by the Panel.\textsuperscript{48} Members may express their views on the report of the Appellate Body, but they cannot derail it. An Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties, unless the DSB decides by

\textsuperscript{44}By July 2005, only about 130 of the nearly 332 cases had reached the full panel process (Settling Disputes: a Unique Contribution, World Trade Organization)

\textsuperscript{45}Article 6.1 of the DSU

\textsuperscript{46}A.F. Lowenfeld, International Economic Law, 153

\textsuperscript{47}Article 6.1 of the DSU

\textsuperscript{48}The possibility for appeal makes the WTO dispute resolution system unique among the judicial processes of dispute settlement in general public international law (M. Panizzon, Good Faith in the Jurisprudence of the WTO, 275)
Within thirty days of the adoption of the report, the Member concerned is to inform the DSB of its intentions; if the Member explains that it is impracticable to comply immediately with the recommendations and rulings, it is to have a "reasonable period of time" in which to comply. If no Agreement is reached about the reasonable period for compliance, that issue is to be the subject of binding arbitration. If there is a dis-agreement as to the satisfactory nature of the measures adopted by the respondent state to comply with the report that disagreement is to be decided by a Panel, if possible the same Panel that, heard the original dispute, but apparently without the possibility of appeal from its decision. 

If all else fails, two more possibilities are set out in the DSU:

• If a Member fails within the "reasonable period" to carry out the recommendations and rulings, it may negotiate with the complaining state for a mutually acceptable compensation.

• If no Agreement on compensation is reached within twenty days of the expiry of the "reasonable period", the prevailing state may request authorization from the DSB to suspend application to the Member concerned of concessions or other obligations under the covered Agreements.

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49 Article 17.14 of the DSU
50 Article 21 of the DSU
51 Article 22.2 of the DSU
52 Article 22.2 of the DSU
In contrast to prior GATT practice, authorization to suspend concessions in this context is semi-automatic, in that the DSB "shall grant the authorization [...] within thirty days of the expiry of the reasonable period", unless it decides by consensus to reject the request. 53

The DSU states that fellow Members should give "special attention" to the problems and interest of the developing countries. 54 If one party to a dispute is a developing country, that party is entitled to have at least one panelist who comes from a developing country. 55

Further, if a complaint is brought against a developing country, the time for consultations (before a Panel is convened) may be expended, and if the dispute goes to a Panel, the deadlines for the developing country to make its submissions may be relaxed. 56 Formal complaints against least developed countries are discouraged, and if consultations fail, the Director-General and the Chairman of the DSB stand ready to offer their good offices before a formal request for a Panel is made. 57 As to substance, the DSU provides that "particular attention" is to be paid to the interests of the developing countries, and that the report of Panels shall "explicitly indicate" how account has been taken of the "differential and more favourable treatment" provisions of the Agreement under which the complaint is brought. 58 In order to assist developing countries overcome their limited expertise in WTO law and assist them in the management of complex trade

52 Article 22.6 of the DSU
54 Article 4.10 of the DSU
55 Article 8.10 of the DSU
56 Article 12.10 of the DSU
57 Article 24 of the DSU
58 Article 12.11 of the DSU
disputes. An Advisory Centre on WTO Law was established in 2001.60

THE WTO AND THE BROADER POLICY AGENDA

ENVIRONMENT

The founding Charter of the WTO formally addresses the intersection of trade and the environment. The opening paragraph states that parties to the WTO should "allow for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking to both protect and preserve the environment."

The rules enshrined in the WTO also allow exceptions, specifically to achieve environmental objectives. Countries may impose trade measures "necessary to protect human, animal, or plant life or health" or "relating to the conservation of natural resources." The WTO also established a Committee on Trade and the Environment (CTE) to look more closely at areas of policy overlap.

COOPERATION WITH OTHER INSTITUTIONS

The founding Charter of the WTO also directs the trade body to work with the IMF and the World Bank to achieve greater coherence in global economic policymaking. Such links and cooperation have been slow to evolve and would do much to ensure a more balanced approach to

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60K. Van der Borght, The Advisory Center on the WTO Law, P723-728
Many commentators have also suggested that the WTO should work with other international agencies such as the International Labour Organization (ILO).

CONCLUSION

The World Trade Organization is a cooperative, multinational institution designed to protect and promote a rules-based system of global commerce. Though the organization itself is young, its rules, statutes, and regulations have evolved over the last fifty years and have formed the basis of the international trade system since the Second World War.

In recent years, critics on both the left and the right have criticized the WTO on a range of issues claiming it undermines hard-won local laws, degrades the environment, and destroys jobs. Much of this criticism is based on fundamental misunderstandings about what the WTO does and does not do. Increased openness and transparency on the part of the WTO would not only make the institution more accessible to non-specialists, it would increase common understanding of its vital role in the international economy. Such an understanding would then allow an informed debate about ways to strengthen and reform the WTO to better achieve the ultimate goal of raising living standards well into the next century.