

PART ONE

*The World Trade Organization:
Its role and functions*

CHAPTER 1

WTO: Forum for negotiations, dispute settlement and trade policy reviews

Summary

WTO is the umbrella organization responsible for the surveillance of the implementation of:

- GATT and its associate agreements,*
- GATS,*
- Agreement on TRIPS, and*
- WTO's other legal instruments.*

WTO provides a forum for continuous negotiations among its member countries for the further liberalization of the trade in goods and services and for discussions on other trade-related issues that may be selected for the development of rules and disciplines.

In addition, it carries out periodic reviews of the trade policies of individual member countries. It is also responsible for settling trade disputes among its member countries on the basis of the rules of its legal instruments.

By 31 May 1999, WTO had 134 members. In addition, 30 countries were negotiating for membership.³

WTO: Its objectives, functions and structure

Objectives and mandate

The WTO is the umbrella organization responsible for overseeing the implementation of all the multilateral and plurilateral Agreements that have been negotiated in the Uruguay Round and those that will be negotiated in the future. Its basic objectives are similar to those of GATT, which has been subsumed into WTO. These objectives have been expanded to give WTO a mandate to deal with trade in services. Furthermore, they clarify that, in promoting economic development through the expansion of trade, adequate attention has to be given to protecting and preserving the environment. (See box 3.)

Marrakesh Agreement
Establishing the World
Trade Organization (WTO
Agreement), Preamble

Functions

The Agreement establishing WTO provides that it should perform the following four functions:

³ On 21 May 1999, Estonia's application for membership was accepted by the General Council; it will become the WTO's 135th member 30 days after it notifies the Secretariat of the completion of its national ratification proceedings.

Box 3**Objectives of WTO**

In its preamble, the Agreement Establishing the World Trade Organization reiterates the objectives of GATT. These are: raising standards of living and incomes, ensuring full employment, expanding production and trade, and allowing for the optimal use of the world's resources. The preamble extends these objectives:

- ❑ *To trade in services.*
- ❑ *To the need to promote 'sustainable development' and to protect and preserve the environment in a manner consistent with various levels of national economic development.*
- ❑ *To the need for positive efforts to ensure that developing countries, and especially the least developed among them, secure a better share of the growth in international trade.*

WTO Agreement,
Article III:1

First, it shall facilitate the implementation, administration and operation of the Uruguay Round legal instruments and of any new agreements that may be negotiated in the future.

WTO Agreement,
Article III:2

Second, it shall provide a forum for further negotiations among member countries on matters covered by the Agreements, on new issues falling within its mandate, and on further liberalization of trade.

WTO Agreement,
Article III:3

Third, it shall be responsible for the settlement of differences and disputes among its member countries.

WTO Agreement,
Article III:4

Fourth, it shall be responsible for carrying out periodic reviews of the trade policies of its member countries.

Structure

WTO Agreement,
Article IV:1

The apex WTO body responsible for decision-making is the Ministerial Conference, which meets every two years. Since the establishment of WTO, two Ministerial Conferences have been held: the first in Singapore in December 1996 and the second in Geneva in May 1998. The third is to be held in Seattle from 30 November to 3 December 1999.

WTO Agreement,
Article IV:2

During the two years between meetings, the functions of the Conference are performed by the General Council.

WTO Agreement,
Article IV:3

The General Council meets as a Dispute Settlement Body when it considers complaints and takes necessary steps to settle disputes between member countries. It is also responsible for carrying out reviews of the trade policies of individual countries on the basis of the reports prepared by the WTO Secretariat.

The General Council is assisted in its work by the:

WTO Agreement,
Article IV:5

- ❑ Council for Trade in Goods, which oversees the implementation and operation of GATT 1994 and its associate Agreements;
- ❑ Council for Trade in Services, which oversees the implementation and operation of GATS; and
- ❑ Council for TRIPS which oversees the operation of the Agreement on TRIPS.

Annex I to this chapter contains a chart showing the organizational structure of WTO. It also indicates the various committees established by the WTO Agreement itself and the other committees that have been established for detailed work at the operational level under the various associate Agreements.

Decision-making process

WTO Agreement,
Article IX:1

The Agreement stipulates that WTO shall continue the GATT practice of decision-making by *consensus*. Consensus is deemed to have been reached when, at the time a decision is being taken, not a single member country voices opposition to its adoption.

When a consensus is not possible, the WTO Agreement provides for decision by majority vote, with each country having one vote.⁴

Despite these provisions, decisions on all important policy matters (like launching negotiations in areas not so far covered by the WTO legal instruments) are expected to continue to be taken by consensus. The rule of consensus prevents ‘tyranny of the majority’ particularly where a sizeable section of opinion strongly opposes the decision being taken.

There are, however, a few cases where special voting requirements are prescribed. These are listed in box 4.

Box 4

Special voting requirements

The Agreement lays down different voting requirements for decisions in the following cases:

- The interpretation of the provisions of any of the agreements requires a three-fourths majority. [WTO Agreement, Article IX:2]
- Amendments generally require a two-thirds majority. However, amendments to:
 - The provisions in the WTO Agreement on amendments and decision-making, and
 - MFN provisions in GATT 1994, GATS and the TRIPS Agreement
 will take effect only upon acceptance by all members. [WTO Agreement, Article X:1, 2]
- Requests for a temporary waiver by any member country from its WTO obligations require a three-fourths majority. [WTO Agreement, Article IX:2]

The WTO Secretariat

WTO Agreement,
Article VI:1

WTO is located at Geneva, Switzerland. It is headed by a Director-General, who is assisted by three Deputy Directors-General. They are appointed by the Director-General in consultation with member countries.

WTO Agreement,
Article VI:4

The WTO Secretariat has a staff of 500 of varying nationalities. In performing their duties, the Director-General and the WTO staff are expected not to “seek or accept any instructions from any government or any other authority external to the WTO” and thus maintain the international character of the Secretariat.

⁴ Unlike the International Monetary Fund (IMF) and other organizations, WTO does not have a *weighted voting* system, under which some countries have right to more votes than others.

WTO Agreement,
Article XI

Membership

WTO had 134 members as at 31 May 1999.

Final Act, §5; WTO
Agreement, Article XII;
Decision on the
Acceptance of and
Accession to the
Agreement Establishing
the WTO

Countries that are at present not members can become members of WTO by negotiating for accession. In such negotiations, they have to agree to take steps to bring their national legislation in conformity with the rules of the multilateral Agreements. In addition they have to make commitments to reduce tariffs and modify their regulations so as to provide improved access for foreign goods and services. These commitments are often referred to as the price of the 'entry ticket' entitling the acceding country to benefit on an MFN basis from all tariff reductions and other commitments undertaken by member countries in the past. Thirty countries are currently negotiating for accession.

Annex II lists members of WTO and the countries/areas that are seeking entry into it.

WTO as a forum for negotiations

Continuous negotiations

WTO Agreement,
Article III:2

WTO provides a forum for negotiations on a continuing basis on:

- The further liberalization of trade in both areas of goods and services, and
- The improvement of existing rules or the adoption of rules in new subject areas.

Built-in agenda for negotiations

The provisions for beginning or conducting negotiations to review all or some of the provisions of specific Agreements are often contained in the Agreements themselves. These provisions have come to be known as the 'built-in agenda' for negotiations.

GATS, Article XIX:1

Agreement on Agriculture,
Article 20

In accordance with the built-in agenda of GATS, negotiations to liberalize the trade in the telecommunications and financial sectors were held and completed after the conclusion of the Uruguay Round. GATS further provides that negotiations to liberalize trade in all services sectors should be held from 1 January 2000. In the area of trade in goods, the Agreement on Agriculture stipulates that negotiations to achieve a higher level of trade liberalization and to improve the agriculture reform programme adopted under its provisions should commence before the end of 1999.

Review of Agreements

In addition to provisions on launching negotiations by specific dates, some Agreements provide for a review of all or some of their provisions, with a view to examining, on the basis of experience gained in their implementation, whether any modifications or improvements in these provisions are necessary. Box 5 lists the Agreements that are under review and those due for review in the near future.

Addition of new subjects to the WTO work programme

Decisions to add new subject areas to the work programme of WTO, with a view to examining whether negotiations should be held on adopting rules in these areas, are taken at the biennial Ministerial Conferences. Box 6 lists the subjects that have been added to the WTO work programme as a result of the

Box 5**WTO legal instruments: schedule of ongoing and future reviews**

Understanding on Rules and Procedures Governing the Settlement of Disputes: review ongoing

Agreement on TRIPS, Article 27:3(b) on the exclusion of plants, animals other than micro-organisms from patentability: review ongoing

Agreement on TRIPS: first biennial review provided for by Article 71:1 scheduled to begin on 1 January 2000.

Agreement on TRIMS: review provided for by Article 9 on the operation of the Agreement and to consider whether provisions on “investment policy and competition policy” should be included in the Agreement scheduled to begin on 1 January 2000.

Box 6**New subjects added to the WTO work programme as a result of decisions taken at WTO Ministerial Conferences**

- Trade and environment
- Trade and investment
- Trade and competition policy
- Trade facilitation
- Transparency in government procurement
- Electronic commerce

WTO is currently carrying out analytical work to determine whether new rules should be adopted to deal with the trade-related aspects of these subject areas.

decisions taken at the Ministerial Conferences held at Marrakesh in 1995, Singapore in 1996 and Geneva in 1998. The study and analysis of the trade-related problems that arise in each of these areas are carried out on the basis of background documentation prepared by the Secretariat and submissions by delegations and do not involve any commitment on the part of member countries to engage in negotiations on rule-making. (This subject is taken up in greater detail in Part Six.)

Possible launching of a new round of trade negotiations

The WTO rules further visualize that Ministers may at their Conferences decide to launch a new round of negotiations on a wide range of subject areas.

At the 1998 Geneva Conference, the Ministers called on the General Council to prepare a programme for further work and negotiations, taking into account, *inter alia*:

- The problems that have arisen in the implementation of the Agreements;
- The provisions of the built-in agenda for the commencement of negotiations in certain subject areas; and
- The new subjects which are currently under study and analysis in WTO.

The programme is expected to pay special attention to the trade problems of developing countries, and particularly to the problems faced by least developed countries and certain small economies as a result of their increasing marginalization in world trade.

In drawing out such a work programme, the Council is expected to examine the desirability of launching by the beginning of 2000 a new round of negotiations – now being referred to as the ‘millennium round’ – embracing a wide range of subjects. The decisions on these matters are expected to be taken at the third Ministerial Conference to be held in November-December 1999.

WTO system for the settlement of disputes

For a multilateral trading system to function properly and without friction, it is not enough to have an agreed set of rules. The rules have to be supplemented by other rules giving countries the right of redress when infringements occur and for settling their differences and disputes. The establishment of a strong multilateral dispute settlement mechanism which removes some of the weaknesses of the earlier GATT system is thus one of the most critical achievements of the Uruguay Round talks.

Dispute Settlement Body

WTO Agreement, Articles III:3, IV:3; Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)

The WTO Agreement provides a common system of rules and procedures applicable to disputes arising under any of its legal instruments. The main responsibility for administering these rules and procedures lies with the General Council, which as noted in earlier, acts as the Dispute Settlement Body (DSB).

Importance of consultations and conciliation

DSU, Article 4

One of the important principles which these procedures lay down is that a dispute should be brought to DSB by the government of a member country for settlement only after efforts to settle it through consultations on a bilateral basis have failed. The procedures also provide that, in order to reach mutually acceptable solutions, the two parties may request the WTO Director-General or any other person to use his or her good offices to conciliate and mediate between them.

DSU, Article 5

DSU, Article 5:4

Only when consultations or efforts at conciliation have not produced the desired results within 60 days may the complaining party request DSB formally to commence the dispute settlement mechanism by establishing a *panel* to examine the complaint. In order to expedite the settlement of disputes and to ensure that the establishment of a panel is not delayed by the country against whom a complaint is made, the procedures require DSB to establish the panel, when requested by the complaining country, unless there is a consensus against the establishment of such a panel.

DSU, Article 6.1

DSU, Article 8

Panels

DSU, Article 8:5

A panel normally consists of three persons, unless parties to the dispute agree that it should have five persons. The names of the persons to be appointed to the panel are proposed by the WTO Secretariat from the list maintained by it of governmental and non-governmental experts. The persons in the list are well-qualified senior officials of member countries, members of their delegations to WTO, senior officials who have worked in the Secretariat, and persons who have taught international trade law or policy.

DSU, Article 12:8

DSU, Article 11

The membership of the panels is usually settled in consultation with the parties to the dispute. The panels are generally required to submit to DSB within a period of six to nine months reports containing their recommendations after

making an objective assessment of the facts of the case and of the conformity of the measures complained about with the relevant provisions of the legal instruments.⁵

DSU, Article 17

Appellate Body

DSU, Article 17:2
DSU, Article 17:5

The establishment of the Appellate Body as a kind of court of appeal is a new addition to the dispute settlement system. The Body consists of seven persons of recognized authority, with expertise in law, international trade and the subjects covered by the various Agreements. They must not be affiliated to any government. Of the seven, only three persons are called to serve in any one case. The appeal can be made by any of the parties to the dispute. The report of the Appellate Body, which will be confined to issues of law in the panel report and the legal interpretations developed by it, has to be submitted to DSB within a period of 60 to 90 days.

Consideration of reports by DSB

DSU, Article 20

The report of the panel or of the Appellate Body, where one of the parties has appealed against the panel's report, is submitted to DSB for adoption and appropriate recommendations and rulings. In order to ensure prompt settlement of disputes, it is provided that the period "from the date of the establishment of the panel by the DSB" and the date "when it considers the panel or appellate report" should not exceed nine months when the panel report is not appealed and 12 months when it is appealed.

DSU, Article 21

Implementation of the reports

According to the procedures, the reports of the panels are to be implemented by the parties in the three ways described below.

DSU, Article 21.1

Compliance

DSU, Article 20

DSU, Article 21:3

First, the procedures emphasize that the party in breach of obligations must promptly comply with the recommendations of the panel or Appellate Body. If it is not possible for the party to implement the recommendations immediately, DSB may on request grant it a reasonable period for implementation.

DSU, Article 22

Provision of compensation

Second, where the party in breach does not comply within a reasonable period, the party that has invoked the dispute settlement procedure may request compensation. Alternatively, the party in breach of the obligations may itself offer to pay compensation.

Authorization of retaliatory action

DSU, Article 22:2-9

Third, where the party in breach fails to comply and adequate compensation where requested is not provided, the aggrieved party may request DSB to authorize it to take retaliatory action by suspending concessions or other obligations under the Agreements. This means that, where the party is for instance in breach of its obligations under GATT or under one of its associate Agreements, the aggrieved party may be authorized by DSB to raise tariffs on products which it imports from the party in breach; the trade in such products should be approximately equal to that affected by the measures complained about.

⁵ The procedures recognize that the parties may in certain cases by mutual consent agree to refer the dispute to arbitration. However, they provide that, in such cases, the award shall be binding on the parties and that it should be reported to DSB.

DSU, Article 22:3

The rules provide that such retaliatory actions shall be authorized by DSB as far as possible in the same sectors of GATT, GATS or the Agreement on TRIPS in which the panel or appellate body has found violation. However, where DSB considers that this is not possible, it can authorize retaliation under other sectors of the same Agreement. Only in rare cases and as a last resort can DSB authorize retaliation across Agreements, i.e. imposition of higher tariffs on goods for breach of an obligation under GATS or the Agreement on TRIPS.

DSU, Article 2

The provision of compensation and authorization by DSB of retaliatory measures are, however, temporary measures. The ultimate solution is for the country which is in breach of the obligation to implement the recommendations. The rules require DSB to keep such cases under review to secure their full implementation.

How the dispute settlement mechanism works in practice

An ambassador from a country which had a case before the Dispute Settlement Body explained in reply to a question from a journalist how his government decided to bring the matter to WTO:

The petrochemical industry brought the problem to our notice and furnished us with the information on the restrictive import licensing procedure which the importing country had introduced. We requested our commercial representative to check the facts and obtain more detailed information on regulations. When we were satisfied on the basis of the information provided by the affected industry and the report received from our commercial representative that there was a violation of the rules by the importing country, we decided to invoke the dispute settlement procedures by requesting the importing country for bilateral consultations. When we found that these bilateral consultations were not resulting in solutions, we decided to request the Dispute Settlement Body for the appointment of a panel.

Almost all, if not all, disputes brought to WTO are the result of the information provided by industries or their associations to their governments on the difficulties they are encountering in marketing their products in foreign markets. The government invokes dispute settlement procedures when it agrees with the industry's assessment that the country where the difficulties are being encountered is in breach of the WTO rules.

The first step the government has to take when it decides to invoke dispute settlement procedures is to enter into bilateral consultations with the country considered in breach of its obligations. Only when these bilateral efforts at reaching mutually satisfactory solutions fail may the complaining country request WTO to appoint a panel to examine both the facts of the case and its legal issues.

It is important to note that a large number of problems raised by governments under dispute settlement procedures are settled in bilateral consultations. These consultations fail to provide solutions only in a much smaller number of cases, where the country against which the complaint is made does not agree with the view of the complaining country that it has breached the rules; it is these cases that are brought to WTO for settlement by panels.

Even though the participants in the entire process of dispute settlement – bilateral consultations, examination by the panel and later by the Appellate Body – are government representatives, they rely heavily on advice and support on a continuing basis from the industry and the associations with an interest in the subject matter under dispute. The ability of governments to pursue its case or to defend the industry's interests in a case brought against it depends greatly on the assistance and support provided by the industry groups concerned.

As regards the facts of the case, the government representatives have to depend on information from industry, which has first-hand information on problems

encountered. In addition, the government representatives participating in the work of the panels or the Appellate Body often find useful the behind-the-scene advice provided by industry on legal issues.

The summaries of two recently settled disputes provided in box 7 illustrate the type of cases that are brought to WTO for settlement.

Box 7

Summary of issues of fact and law in two cases settled under WTO dispute settlement procedures

United States – Measure Affecting Imports of Woven Wool Shirts and Blouses, complaint by India (WT/DS33)

WTO rules

The Agreement on Textiles and Clothing (ATC) requires countries maintaining discriminatory restrictions on imports of textiles and clothing to remove them gradually over a period of 10 years ending on 1 January 2005. Even though the aim of the Agreement is to facilitate the removal of restrictions, it permits importing countries to take “transitional safeguard measures” to restrict imports, where imports of certain categories of textile products are causing or threatening to cause “serious damage or actual threat thereof” to the domestic industry producing the like product. Article 6 of Agreement sets out the economic factors (e.g. changes in output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits and investment) that must be taken into account in determining whether the increased imports are causing injury. It further provides that such safeguard measures should not be imposed if the serious damage or actual threat thereof is caused by “such other factors as technological changes or changes in consumer preferences”.

Facts of the case

The United States imposed a transitional safeguard measure restricting imports of woollen shirts and blouses from India on 18 April 1995. Prior to imposing this measure, the United States and India held consultations on the former’s claim that imports of woollen shirts and blouses were causing serious damage to its domestic industry. As the consultations did not bring about a satisfactory solution, India brought the case to WTO for settlement.

Findings of the Panel

The Panel, after examining the facts, found that the United States, in determining whether or not increased imports were causing injury to its domestic industry, had not examined all the economic variables listed in Article 6 of ATC which countries are required to take into account in determining a causal link between injury, the domestic industry and increased imports. It had also failed to examine, as required by the Article, whether the damage to the industry was not the result of changes in consumer preferences or technological changes.

The Panel therefore concluded that in imposing the temporary safeguard measure, the United States was in breach of its obligations under ATC. The United States implemented the Panel’s decision by withdrawing the transitional safeguard measure.

Japan – Taxes on Alcoholic Beverages, complaints by the European Communities (WT/DS8), Canada (WT/DS10) and the United States (WT/DS11)

WTO rules

According to the national treatment principle of GATT 1994 internal taxes and other charges should not be used to provide domestic industries a higher level of

protection than that extended by tariffs. Levying taxes and charges on an imported product, after it has entered the importing market on payment of customs duties, at rates which are higher than that imposed on the like domestic product is a violation of this principle. Article III:2 of GATT 1994 provides that imported products should not be subject to internal taxes and charges that are “in excess of those applied directly or indirectly to like domestic products”.

Facts of the case

The dispute arose from the Japanese Liquor Tax Law which imposed a tax on imported alcoholic beverages like vodka, rum and gin (white spirits) and whisky and brandy (brown spirits) which was higher than the tax on Japan’s domestically produced liquor shochu. The United States, Canada and the European Communities, which considered the law to be in violation of the provisions of GATT Article III:2, held individual bilateral consultations with Japan. The failure to reach satisfactory solutions in these bilateral consultations resulted in the establishment of the Panel.

Findings of the Panel and the Appellate Body

The Panel determined that white spirits such as vodka and brown spirits such as whisky which were being imported and the shochu which was being produced domestically in Japan were “like products” taking into account their physical characteristics and end uses. It also held that the alcoholic strengths of the beverages did not preclude the finding of likeness because alcoholic beverages were often drunk in diluted form and vodka and shochu were classified in the Japanese tariffs under the same heading.

Since the imported white and brown spirits and the domestically produced shochu were like products, the imposition of taxes at a higher rate on the imported products than was imposed on the domestic product under the Japanese Liquor Tax Law constituted a breach of Japan’s obligations under the first sentence of GATT Article III:2.

The Panel also found that in terms of the provisions of Article III, the imported products concerned (vodka, rum, gin, brandy, whisky and liquors) were “directly competitive and substitutable” for shochu. In arriving at this finding, it relied on the study submitted by the complaining countries which demonstrated that there was a high degree of price elasticity between shochu and five brown spirits and three white spirits. The Panel further found that as under the Japanese Liquor Tax Law, directly competitive and substitutable imported products (white and brown spirits) and domestic produce (shochu) were not “similarly taxed” and the tax favoured domestic products, additional protection was being afforded to such products. The Panel therefore concluded that Japan had also violated its obligations under second sentence of Article III:2 by maintaining such a system.

Japan appealed against the ruling of the Panel. The Appellate Body endorsed the main findings of the Panel described above. The findings and the rulings of the Appellate Body were implemented by the Japanese Government by making the necessary changes in the relevant legislation.

Trade Policy Review Mechanism (TPRM)

WTO Agreement, Article III

TPRM, A

In addition to providing a mechanism for settling disputes, WTO acts as a forum for the periodic review of the trade policies of member countries. The objectives of these reviews are twofold. First, they aim at finding out how far countries are following the disciplines of, and the commitments made under, the multilateral Agreements (and, where applicable, under the plurilateral Agreements). By carrying out such reviews periodically, WTO acts as a watchdog to ensure that its rules are carried out and thus contributes to the

prevention of trade friction. The provisions establishing the review mechanism, however, clarify that it is not intended to serve as a basis for enforcing obligations; nor should such reviews be used for the settlement of disputes. The second equally important objective of these reviews is to provide greater transparency and understanding of the trade policies and practices of member countries.

TPRM, B

TPRM, C:ii

Periodicity of reviews

The frequency with which such reviews are carried out depends on the share of the individual member countries in world trade. The top four are examined every two years: at the moment these are the European Communities (counted as one), the United States, Japan and Canada.

The next 16 are reviewed every four years, and the rest every six, except that longer intervals may be fixed for least developed countries.

TPRM, C:v

The basis for the review is provided by:

- A full report prepared by the Member whose trade policy is being reviewed; and
- The report prepared by the Secretariat on its own responsibility, taking into account the information provided by the Member and other information, including that obtained during visits to the country concerned.

TPRM, C:i

The reviews are carried out by the General Council, which for the purpose of such reviews acts as Trade Policy Review Body. The country report and the reports prepared by the Secretariat, together with the minutes on the discussions, are published promptly after the review.

TPRM, C:vi

WTO-related consultations

Mechanism for consultations between governments and the private sector

Governments do not act in isolation. In most developed countries and a large number of developing countries, formal institutional mechanisms have been established for consultations with industries and their associations, chambers of commerce and other trade associations on issues discussed in WTO. In these consultations, governments seek to obtain the views of the business community on:

- The policy approaches they should adopt on the specific issues under negotiation;
- The stand they should take on proposals made for the inclusion of new subjects in the agenda for negotiations.

The mechanism also provides an opportunity for industries and businesses to raise any problems they may be confronting in their target export markets because of the measures taken by governments of importing countries.

In developing countries where such a mechanism for consultations does not exist, it will be necessary to develop it. In countries where it does, it may be necessary to improve it to ensure that different business interests are adequately represented and able to bring to the notice of their governments the problems they encounter abroad.

Influence of associations of industries

In addition to participating in consultations arranged by governments, industries and trade enterprises in developed countries make known their

concerns and views on subjects under negotiation in WTO by holding discussions under the auspices of chambers of commerce or federations of industries. Furthermore, pressure groups try to ensure that their sectoral interests are adequately taken into account by their governments when specific issues are discussed at the international level. The reports on these discussions are widely publicized to influence public opinion in favour of the group's views. The reports are also used to lobby members of national legislatures to ensure that governments ultimately adopt policy approaches to negotiations in WTO which adequately reflect their views and concerns.

For instance, the basic groundwork on a number of subjects in the agenda for the Uruguay Round negotiations was carried out by associations of industries and trade. The detailed studies prepared by national and international federations of industries on the implications of the trade in counterfeit goods were to influence governments of developed countries to press for the inclusion of this item in the agenda, ultimately leading to the Agreement on TRIPS. Again, the genesis of the Agreement on TRIMs can be traced to the studies prepared by organizations of industries and other research institutes on the adverse implications for trade of the local content and export performance requirements imposed on foreign investors. Many of the proposals for improved rules in the Agreement on Anti-dumping Practices originated from the problems and concerns industries brought to the attention of their governments.

The Information Technology Agreement (ITA), which was adopted at the Ministerial Conference in Singapore in December 1996, was the result of pressures placed by exporting industries on their governments. In fact, most of the new subjects in the WTO work programme, such as trade facilitation and electronic commerce, were suggested by governments on the basis of the recommendations made by industries, business associations and other interest groups that there was a need for the development of new rules in these areas.

The interest taken by associations of industries does not end with suggesting subjects for inclusion in negotiations. In most cases they follow the negotiations closely, and make their views known to their governments when they consider that proposals for new rules would not be to their benefit. In the Uruguay Round, for instance, the final outcome of the negotiations on textiles was greatly influenced by the pressures exerted by textile lobbies on the governments of the importing developed countries. It is well known that the Uruguay Round negotiations were held in abeyance for over two years because of the pressures brought to bear on the governments of some countries by agricultural lobbies, which considered that they would be adversely affected by the liberalization proposals under discussion.

Trade and industry associations must therefore continue to follow WTO's ongoing work on the implementation of the rules of the various Agreements and the work at the analytical level that is being done in new subject areas.

To enable trade and industry associations and NGOs to take an active interest in the work of WTO, the Secretariat has been taking a number of steps to add greater transparency to its work. The working documents prepared by the Secretariat and reports on meetings, previously treated as restricted documents available only to governments, are now derestricted within a period of six months. Further, in certain subject areas, like trade and environment, the Secretariat has been arranging briefing meetings for NGOs and other private-sector organizations on developments in discussions in WTO.

In most developing countries, however, chambers of commerce and trade associations have so far not shown an active interest in the discussions in international organizations like WTO. This was partly due to the fact that, until a few years ago, a number of these countries were pursuing import

substitution policies. Consequently they focused attention mainly on domestic policy issues. With the shift to policies promoting export-oriented growth, these associations are becoming increasingly conscious of their members' need to become familiar with the WTO legal system and of their own need to pay more active attention to WTO's ongoing work. Many of them require assistance in improving their understanding of the system's substantive and procedural rules. International organizations could assist such associations by holding for the benefit of their members:

- ❑ General seminars on the WTO legal system, and
- ❑ Workshops on rules in specific areas, such as mandatory standards and sanitary and phytosanitary regulations, customs valuation, subsidies, countervailing and anti-dumping measures, and intellectual property rights.

Effective utilization of the legal and trade information available in WTO

One of the other less publicized advantages to the business person of the WTO system arises from the increasing availability at the WTO Secretariat of information on national legislation and rules in the foreign trade sector. Almost all WTO Agreements require member countries to notify the WTO Secretariat of national legislation, rules and regulations in the subject areas covered by them.

In addition, valuable information on products is available in the country reports prepared under the Trade Policy Review Mechanism. This information should be useful to enterprises exporting or considering the export of specific products. By studying the report on consultations with a particular country, it may be possible for an exporter to obtain information on the tariffs, mandatory standards and other regulations that are applicable to specific products or product groups in his or her target market. Although these reports are published, they are rarely mentioned in the national business journals of developing countries.

The WTO Web site (<http://www.wto.org>) has become a rich and valuable source of information on all aspects of the WTO system.

Summing up

To sum up, the ability of business persons to benefit from the improved institutional framework that has resulted from the Uruguay Round will depend greatly on:

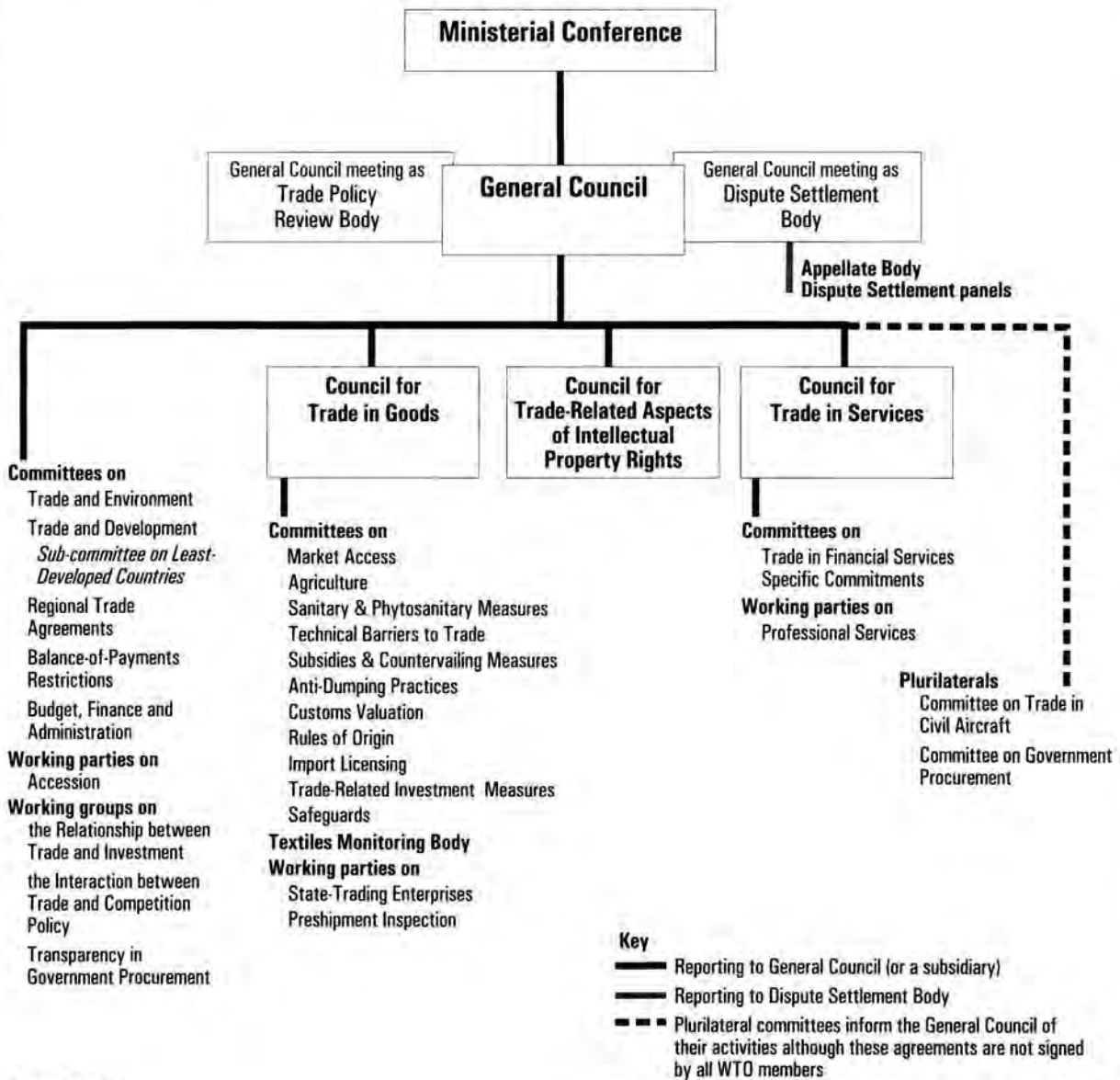
- ❑ Their knowledge of the trade rules and of the rights which these give as well as the obligations they impose.
- ❑ Their knowledge of the new opportunities for trade that have been created by the liberalization commitments undertaken by countries during the negotiations.
- ❑ Their initiative in bringing to the notice of their governments their problems in selling to international markets so that their governments can raise the issues in appropriate WTO forums and, if necessary, invoke WTO dispute settlement procedures.

Chapters 2 - 20 of this Guide explain the rules of the system, the new opportunities that have been created as well as the challenges which business enterprises may encounter in both domestic and foreign markets as a result of trade liberalization.

Annex I

WTO structure

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



September 1997

Source: WTO.

The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body

Annex II

WTO membership

(As of 31 May 1999, with dates of membership in WTO)

Government	Entry into force Membership	Government	Entry into force Membership
Antigua and Barbuda	1 January 1995	Ghana	1 January 1995
Angola	1 December 1996	Greece	1 January 1995
Argentina	1 January 1995	Grenada	22 February 1996
Australia	1 January 1995	Guatemala	21 July 1995
Austria	1 January 1995	Guinea Bissau	31 May 1995
Bahrain	1 January 1995	Guinea	25 October 1995
Bangladesh	1 January 1995	Guyana	1 January 1995
Barbados	1 January 1995	Haiti	30 January 1996
Belgium	1 January 1995	Honduras	1 January 1995
Belize	1 January 1995	Hong Kong, China	1 January 1995
Benin	22 February 1996	Hungary	1 January 1995
Bolivia	13 September 1995	Iceland	1 January 1995
Botswana	31 May 1995	India	1 January 1995
Brazil	1 January 1995	Indonesia	1 January 1995
Brunei Darussalam	1 January 1995	Ireland	1 January 1995
Bulgaria	1 December 1996	Israel	21 April 1995
Burkina Faso	3 June 1995	Italy	1 January 1995
Burundi	23 July 1995	Jamaica	9 March 1995
Cameroon	13 December 1995	Japan	1 January 1995
Canada	1 January 1995	Kenya	1 January 1995
Central African Republic	31 May 1995	Korea	1 January 1995
Chad	19 October 1996	Kuwait	1 January 1995
Chile	1 January 1995	Kyrgyzstan	20 December 1998
Colombia	30 April 1995	Latvia	10 February 1999
Congo	27 March 1997	Lesotho	31 May 1995
Costa Rica	1 January 1995	Liechtenstein	1 September 1995
Côte d'Ivoire	1 January 1995	Luxembourg	1 January 1995
Cuba	20 April 1995	Macau	1 January 1995
Cyprus	30 July 1995	Madagascar	17 November 1995
Czech Republic	1 January 1995	Malawi	31 May 1995
Democratic Republic of the Congo	1 January 1997	Malaysia	1 January 1995
Denmark	1 January 1995	Maldives	31 May 1995
Djibouti	31 May 1995	Mali	31 May 1995
Dominica	1 January 1995	Malta	1 January 1995
Dominican Republic	9 March 1995	Mauritania	31 May 1995
Ecuador	21 January 1996	Mauritius	1 January 1995
Egypt	30 June 1995	Mexico	1 January 1995
El Salvador	7 May 1995	Mongolia	29 January 1997
European Communities	1 January 1995	Morocco	1 January 1995
Fiji	14 January 1996	Mozambique	26 August 1995
Finland	1 January 1995	Myanmar	1 January 1995
France	1 January 1995	Namibia	1 January 1995
Gabon	1 January 1995	Netherlands - For the Kingdom in Europe and for the Netherlands Antilles	1 January 1995
Gambia	23 October 1996		
Germany	1 January 1995		

Government	Entry into force Membership	Government	Entry into force Membership
New Zealand	1 January 1995	Slovenia	30 July 1995
Nicaragua	3 September 1995	Solomon Islands	26 July 1996
Niger	13 December 1996	South Africa	1 January 1995
Nigeria	1 January 1995	Spain	1 January 1995
Norway	1 January 1995	Sri Lanka	1 January 1995
Pakistan	1 January 1995	Suriname	1 January 1995
Panama	6 September 1997	Swaziland	1 January 1995
Papua New Guinea	9 June 1996	Sweden	1 January 1995
Paraguay	1 January 1995	Switzerland	1 July 1995
Peru	1 January 1995	Tanzania, United Rep. of	1 January 1995
Philippines	1 January 1995	Thailand	1 January 1995
Poland	1 July 1995	Togo	31 May 1995
Portugal	1 January 1995	Trinidad and Tobago	1 March 1995
Qatar	13 January 1996	Tunisia	29 March 1995
Romania	1 January 1995	Turkey	26 March 1995
Rwanda	22 May 1996	Uganda	1 January 1995
Saint Kitts and Nevis	21 February 1996	United Arab Emirates	10 April 1996
Saint Lucia	1 January 1995	United Kingdom	1 January 1995
Saint Vincent & the Grenadines	1 January 1995	United States	1 January 1995
Senegal	1 January 1995	Uruguay	1 January 1995
Sierra Leone	23 July 1995	Venezuela	1 January 1995
Singapore	1 January 1995	Zambia	1 January 1995
Slovak Republic	1 January 1995	Zimbabwe	3 March 1995

Observer Governments

Albania	Ethiopia	Oman
Algeria	Former Yugoslav Republic of	Russian Federation
Andorra	Macedonia	Samoa
Armenia	Georgia	Saudi Arabia
Azerbaijan	Holy See (Vatican)	Seychelles
Belarus	Jordan	Sudan
Bhutan	Kazakhstan	Taiwan Province (China)
Cambodia	Lao People's Democratic Republic	Tonga
Cape Verde	Lebanon	Ukraine
China	Lithuania	Uzbekistan
Croatia	Moldova	Vanuatu
Estonia*	Nepal	Viet Nam

Note:

All observer countries have applied to join WTO except the Holy See (Vatican) and, for the time being, Ethiopia, Cape Verde, Bhutan and Yemen. Estonia's application for membership was approved by the General Council in May 1997.

International organization observers in the General Council (observers in other councils and committees differ):

- United Nations
- United Nations Conference on Trade and Development (UNCTAD)
- International Monetary Fund (IMF)
- World Bank
- Food and Agriculture Organization of the United Nations (FAO)
- World Intellectual Property Organization (WIPO)
- Organisation for Economic Co-operation and Development (OECD)

Source: WTO.