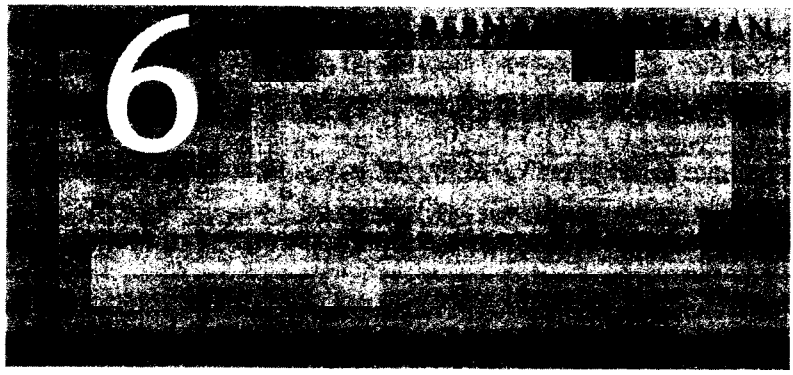

6

THE WTO: FUNCTIONS AND BASIC PRINCIPLES

THE WTO, ESTABLISHED IN 1995, ADMINISTERS THE TRADE AGREEMENTS NEGOTIATED by its members, in particular the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. (These and other major WTO agreements are contained in the CD-ROM "Applied Trade Policy," which is included with this Handbook.) The WTO builds on the organizational structure that had developed under GATT auspices as of the early 1990s.

The origins of the GATT were in the abortive negotiations to create an International Trade Organization (ITO) following World War II. Negotiations on the charter of such an organization were concluded successfully in Havana in 1948, but the talks did not lead to the establishment of the ITO because the U.S. Congress was expected to refuse to ratify the agreement. Meanwhile, the GATT was negotiated in 1947 by 23 countries—12 industrial and 11 developing—before the ITO negotiations were concluded.[1] As the ITO never came into being, the GATT was the only concrete result of the negotiations.

Since 1947, the GATT has been the major focal point for industrial country governments seeking to lower trade barriers. Although the GATT was initially largely limited to a tariff agreement, over time, as average tariff levels fell, it increasingly came to concentrate on nontariff trade policies and domestic policies having an impact on trade. (See the Glossary to this volume for a list of trade-related policies used by countries.) Its success was reflected in a steady expansion in the number of contracting parties. By the end of the Uruguay Round (1994), 128 countries had joined the GATT. Since the entry into force of the WTO, membership has grown to 144, as of the end of 2001.

The WTO differs in a number of important respects from the GATT. The GATT was a rather flexible institution; bargaining and deal-making lay at its core, with significant opportunities for countries to "opt out" of specific disciplines. In contrast, WTO rules apply to all members, who are subject to binding dispute settlement procedures. This is attractive to groups seeking to introduce multilateral disciplines on a variety of subjects, ranging from the environment and labor standards to competition and investment policies to animal rights. But it is a source of concern to groups that perceive the (proposed) multilateral rules to be inappropriate or worry that the adoption of specific rules may affect detrimentally the ability of governments to regulate domestic activities and deal with market failures.

The main function of the WTO is as a forum for international cooperation on trade-related policies—the creation of codes of conduct for member

governments. These codes emerge from the exchange of trade policy commitments in periodic negotiations. The WTO can be seen as a market in the sense that countries come together to exchange market access commitments on a reciprocal basis. It is, in fact, a barter market. In contrast to the markets one finds in city squares, countries do not have access to a medium of exchange: they do not have money with which to buy, and against which to sell, trade policies. Instead they have to exchange apples for oranges: for example, tariff reductions on iron for foreign market access commitments regarding cloth. This makes the trade policy market less efficient than one in which money can be used, and it is one of the reasons that WTO negotiations can be a tortuous process. One result of the market exchange is the development of codes of conduct. The WTO contains a set of specific legal obligations regulating trade policies of member states, and these are embodied in the GATT, the GATS, and the TRIPS agreement.

Basic Principles

The WTO establishes a framework for trade policies; it does not define or specify outcomes. That is, it is concerned with setting the rules of the trade policy game, not with the results of the game. Five principles are of particular importance in understanding both the pre-1994 GATT and the WTO: nondiscrimination, reciprocity, enforceable commitments, transparency, and safety valves.

Nondiscrimination

Nondiscrimination has two major components: the most-favored-nation (MFN) rule, and the national treatment principle. Both are embedded in the main WTO rules on goods, services, and intellectual property, but their precise scope and nature differ across these three areas. This is especially true of the national treatment principle, which is a specific, not a general commitment when it comes to services.

The MFN rule requires that a product made in one member country be treated no less favorably than a "like" (very similar) good that originates in any other country. Thus, if the best treatment granted a trading partner supplying a specific product is a 5 percent tariff, this rate must be applied immediately and unconditionally to imports of this good originating in all WTO members. In view of the small number of contracting parties to the GATT (only 23 countries), the benchmark for MFN is the best treatment offered to any country, including countries that are not members of the GATT.

National treatment requires that foreign goods, once they have satisfied whatever border measures are applied, be treated no less favorably, in terms of internal (indirect) taxation than like or directly competitive domestically produced goods (Art. III, GATT). That is, goods of foreign origin circulating in the country must be subject to taxes, charges, and regulations that are "no less favorable" than those that apply to similar goods of domestic origin.

The MFN rule applies unconditionally. Although exceptions are made for the formation of free trade areas or customs unions and for preferential treatment of developing countries, MFN is a basic pillar of the WTO. One reason for this is economic: if policy does not discriminate between foreign suppliers, importers and consumers will have an incentive to use the lowest-cost foreign supplier. MFN also provides smaller countries with a guarantee that larger countries will not exploit their market power by raising tariffs against them in periods when times are bad and domestic industries are clamoring for protection or, alternatively, give specific countries preferential treatment for foreign policy reasons.

MFN helps enforce multilateral rules by raising the costs to a country of defecting from the trade regime to which it committed itself in an earlier multilateral trade negotiation. If the country desires to raise trade barriers, it must apply the changed regime to all WTO members. This increases the political cost of backsliding on trade policy because importers will object. Finally, MFN reduces negotiating costs: once a negotiation has been concluded with a country, the results extend to all. Other countries do not need to negotiate to obtain similar treatment; instead, negotiations can be limited to principal suppliers.

National treatment ensures that liberalization commitments are not offset through the imposition of domestic taxes and similar measures. The requirement that foreign products be treated no less favorably than competing domestically produced products gives foreign suppliers greater certainty regarding the regulatory environment in which they must operate. The national treatment principle has often been invoked in dispute settlement cases brought to the GATT. It is a very wide-ranging rule: the obligation applies whether or not a specific tar-

ill commitment was made, and it covers taxes and other policies, which must be applied in a nondiscriminatory fashion to like domestic and foreign products. It is also irrelevant whether a policy hurts an exporter. What matters is the existence of discrimination, not its effects.

Reciprocity

Reciprocity is a fundamental element of the negotiating process. It reflects both a desire to limit the scope for free-riding that may arise because of the MFN rule and a desire to obtain "payment" for trade liberalization in the form of better access to foreign markets. As discussed by Finger and Winters in Chapter 7 of this volume, a rationale for reciprocity can be found in the political-economy literature. The costs of liberalization generally are concentrated in specific industries, which often will be well organized and opposed to reductions in protection. Benefits, although in the aggregate usually greater than costs, accrue to a much larger set of agents, who thus do not have a great individual incentive to organize themselves politically. In such a setting, being able to point to reciprocal, sector-specific export gains may help to sell the liberalization politically. Obtaining a reduction in foreign import barriers as a quid pro quo for a reduction in domestic trade restrictions gives specific export-oriented domestic interests that will gain from liberalization an incentive to support it in domestic political markets. A related point is that for a nation to negotiate, it is necessary that the gain from doing so be greater than the gain available from unilateral liberalization. Reciprocal concessions ensure that such gains will materialize.

Binding and Enforceable Commitments

Liberalization commitments and agreements to abide by certain rules of the game have little value if they cannot be enforced. The nondiscrimination principle, embodied in Articles I (on MFN) and III (on national treatment) of the GATT, is important in ensuring that market access commitments are implemented and maintained. Other GATT articles play a supporting role, including Article II (on schedules of concessions). The tariff commitments made by WTO members in a multilateral trade negotiation and on accession are enumerated in schedules (lists) of concessions. These schedules establish "ceiling bindings": the member concerned cannot raise tariffs above bound levels without negotiating compensation with the principal suppliers of the products concerned. The MFN rule then ensures that such compensation—usually, reductions in other tariffs—extends to all WTO members, raising the cost of reneging.

Once tariff commitments are bound, it is important that there be no resort to other, nontariff, measures that have the effect of nullifying or impairing the value of the tariff concession. A number of GATT articles attempt to ensure that this does not occur. They include Article VII (customs valuation), Article XI, which prohibits quantitative restrictions on imports and exports, and the Agreement on Subsidies and Countervailing Measures, which outlaws export subsidies for manufactures and allows for the countervailing of production subsidies on imports that materially injure domestic competitors (see Chapter 17, by Pangestu, in this volume).

If a country perceives that actions taken by another government have the effect of nullifying or impairing negotiated market access commitments or the disciplines of the WTO, it may bring this situation to the attention of the government involved and ask that the policy be changed. If satisfaction is not obtained, the complaining country may invoke WTO dispute settlement procedures, which involve the establishment of panels of impartial experts charged with determining whether a contested measure violates the WTO. Because the WTO is an intergovernmental agreement, private parties do not have legal standing before the WTO's dispute settlement body; only governments have the right to bring cases. The existence of dispute settlement procedures precludes the use of unilateral retaliation. For small countries, in particular, recourse to a multilateral body is vital, as unilateral actions would be ineffective and thus would not be credible. More generally, small countries have a great stake in a rule-based international system, which reduces the likelihood of being confronted with bilateral pressure from large trading powers to change policies that are not to their liking.

Transparency

Enforcement of commitments requires access to information on the trade regimes that are maintained by members. The agreements administered

by the WTO therefore incorporate mechanisms designed to facilitate communication between WTO members on issues. Numerous specialized committees, working parties, working groups, and councils meet regularly in Geneva. These interactions allow for the exchange of information and views and permit potential conflicts to be defused efficiently.

Transparency is a basic pillar of the WTO, and it is a legal obligation, embedded in Article X of the GATT and Article III of the GATS. WTO members are required to publish their trade regulations, to establish and maintain institutions allowing for the review of administrative decisions affecting trade, to respond to requests for information by other members, and to notify changes in trade policies to the WTO. These internal transparency requirements are supplemented by multilateral surveillance of trade policies by WTO members, facilitated by periodic country-specific reports (trade policy reviews) that are prepared by the secretariat and discussed by the WTO General Council. (The Trade Policy Review Mechanism is described in Box 6.1.) The external surveillance also fosters transparency, both for citizens of the countries concerned and for trading partners. It reduces the scope for countries to circumvent their obligations, thereby reducing uncertainty regarding the prevailing policy stance.

Transparency has a number of important benefits. It reduces the pressure on the dispute settlement system, as measures can be discussed in the appropriate WTO body. Frequently, such discussions can address perceptions by a member that a specific policy violates the WTO; many potential disputes are defused in informal meetings in Geneva. Transparency is also vital for ensuring "ownership" of the WTO as an institution—if citizens do not know what the organization does, its legitimacy will be eroded. The trade policy reviews are a unique source of information that can be used by civil society to assess the implications of the overall trade policies that are pursued by their governments. From an economic perspective, transparency can also help reduce uncertainty related to trade policy. Such uncertainty is associated with lower investment and growth rates and with a shift in resources toward nontradables (Francois 1997). Mechanisms to improve transparency can help lower perceptions of risk by reducing uncertainty. WTO membership itself, with the associated commitments on trade policies that are subject to binding dispute settlement, can also have this effect.

Safety Valves

A final principle embodied in the WTO is that, in specific circumstances, governments should be able to restrict trade. There are three types of provisions in this connection: (a) articles allowing for the use of trade measures to attain noneconomic objectives; (b) articles aimed at ensuring "fair competition"; and (c) provisions permitting intervention in trade for economic reasons. Category (a) includes provisions allowing for policies to protect public health or national security and to protect industries that are seriously injured by competition from imports. The underlying idea in the latter case is that governments should have the right to step in when competition becomes so vigorous as to injure domestic competitors. Although it is not explicitly mentioned in the relevant WTO agreement, the underlying rationale for intervention is that such competition causes political and social problems associated with the need for the industry to adjust to changed circumstances. Measures in category (b) include the right to impose countervailing duties on imports that have been subsidized and antidumping duties on imports that have been dumped (sold at a price below that charged in the home market). Finally, under category (c) there are provisions allowing actions to be taken in case of serious balance of payments difficulties or if a government desires to support an infant industry.

From GATT to WTO

Over the more than four decades of its existence, the GATT system expanded to include many more countries. It evolved into a de facto world trade organization, but one that was increasingly fragmented as "side agreements" or codes were negotiated among subsets of countries. Its fairly complex and carefully crafted basic legal text was extended or modified by numerous supplementary provisions, special arrangements, interpretations, waivers, reports by dispute settlement panels, and council decisions. Some of the major milestones are summarized in Table 6.1.

The GATT's early years were dominated by accession negotiations and by a review session in the mid-1950s that led to modifications to the treaty. Starting in the mid-1960s, recurring rounds of mul-

BOX 6.1: TRANSPARENCY: NOTIFICATION AND SURVEILLANCE

Transparency at both the multilateral (WTO) level and the national level is essential to ensure ownership of commitments, reduce uncertainty, and enforce agreements. Efforts to increase the transparency of members' trade policies take up a good portion of WTO resources. The WTO requires that all trade laws and regulations be published. Article X of the GATT, Article III of the GATS, and Article 63 of the TRIPS agreement all require that relevant laws, regulations, judicial decisions, and administrative rulings be made public. More than 200 notification requirements are embodied in the various WTO agreements and mandated by ministerial and council decisions. The WTO also has important surveillance activities, since it has a mandate to periodically review the trade policy and foreign trade regimes of members. The WTO's Trade Policy Review Mechanism (TPRM), established during the Uruguay Round, builds on a 1979 Understanding on Notification, Consultation, Dispute Settlement, and Surveillance under which contracting parties agreed to conduct a regular and systematic review of developments in the trading system. The objective of the TPRM is to examine the impact of members' trade policies and practices on the trading system and to contribute to improved adherence to WTO rules through greater transparency. The legal compatibility of any particular measure with WTO disciplines is not examined, this being left for members to ascertain.

The TPRM was originally motivated in part by concerns stemming from the fact that the only available review of global trade policies at the time was produced by the United States (Keesing 1998). The TPRM is an important element of the WTO because it fosters transparency and enhances communication, thereby strengthening the multilateral trading system. Country-specific reviews are conducted on a rotational basis, and the frequency of review is a function of a member's share in world trade. The four largest players—the European Union, the United States, Japan, and Canada—are subject to review by the WTO General Council every two years. In principle, the next 16 largest traders are subject to reviews every four years, and the remaining members are reviewed every six years. A longer periodicity may be established for least-developed countries. The trade policy review (TPR) for a country is based on a report prepared by the government concerned and on a report by the WTO Trade Policies Review Division. TPRs are supplemented by an annual report by the Director-General of the WTO that provides an overview of developments in the international trading environment.

By subjecting the trade policies of the largest industrial country markets to regular public peer review, the TPRM shifts the balance of power in the WTO ever so slightly in favor of the developing countries (Francois 2001). Equally important, the TPRM provides domestic interest groups with the information necessary to determine the costs and benefits of national trade policies. The reports are not analytical in the sense of determining the economic effects of various national policies—the size of the implied transfers and the beneficiaries and losers under the prevailing policies. This task is left to national stakeholders (think tanks and policy institutes).

Sources: Hoekman and Kostecki (2001); Francois (2001).

tilateral trade negotiations gradually expanded the scope of the GATT to take in a larger number of nontariff policies. Until the Uruguay Round, however, no progress was made on agriculture or on textiles and clothing. The deal that finally allowed these sectors to be subjected to multilateral disciplines included the establishment of rules for trade in services and enforcement of intellectual property rights (IPRs), as well as the creation of the WTO.

There are many similarities between the GATT and the WTO, but the basic principles remain the same. The WTO continues to operate by consensus and to be member driven. There were, however, a number of major changes. Most obviously, the coverage of the WTO is much wider. A change of great importance is that in contrast to the GATT, the WTO agreement is a "single undertaking"—all its provisions apply to all members. Under the GATT there was great flexibility

for countries to "opt out" of new disciplines, and in practice many developing countries did not sign specific agreements on issues such as customs valuation or subsidies. This is no longer the case, implying that the WTO is much more important for developing countries than the GATT was. Also important were changes in the area of dispute settlement, which became much more "automatic" with the adoption of a "negative consensus" rule. (All members must oppose the findings in a dispute settlement to block adoption of reports.) Finally, the secretariat acquired much greater transparency and surveillance functions through the creation of the Trade Policy Review Mechanism.

Scope, Functions, and Structure of the WTO

The WTO is headed by a ministerial conference of all members that meets at least once every two years. By contrast, under the GATT a decade could pass between ministerial meetings. The more frequent participation by trade ministers under the WTO was intended to strengthen the political guidance of the WTO and enhance the prominence and credibility of its rules in domestic political arenas. Article II of the Marrakech Agreement that established the WTO charges the organization with providing a common institutional framework for the conduct of trade relations among its members in matters to which agreements and associated legal obligations apply.

Four annexes to the WTO define the substantive rights and obligations of members. Annex 1 has three parts: Annex 1A, Multilateral Agreements on Trade in Goods, which contains the GATT 1994 (the GATT 1947 as amended by a large number of understandings and supplementary agreements negotiated in the Uruguay Round); Annex 1B, which contains the GATS; and Annex 1C, the TRIPS agreement. Annex 2 contains the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)—the WTO's common dispute settlement mechanism. Annex 3 contains the Trade Policy Review Mechanism (TPRM), an instrument for surveillance of members' trade policies. Finally, Annex 4, Plurilateral Trade Agreements, consists of

Table 6.1 From GATT to WTO: Major Events

Date	Event
1947	The GATT is drawn up to record the results of tariff negotiations among 23 countries. The agreement enters into force on January 1, 1948.
1948	The GATT provisionally enters into force. Delegations from 56 countries meet in Havana, Cuba, to consider the final draft of the International Trade Organization (ITO) agreement; in March 1948, 53 countries sign the Havana Charter establishing an ITO.
1950	China withdraws from the GATT. The U.S. administration abandons efforts to seek congressional ratification of the ITO.
1955	A review session modifies numerous provisions of the GATT. The United States is granted a waiver from GATT disciplines for certain agricultural policies. Japan accedes to the GATT.
1965	Part IV (on trade and development) is added to the GATT, establishing new guidelines for trade policies of and toward developing countries. A Committee on Trade and Development is created to monitor implementation.
1974	The Agreement Regarding International Trade in Textiles, better known as the Multifibre Arrangement (MFA), enters into force. The MFA restricts export growth in clothing and textiles to 6 percent per year. It is renegotiated in 1977 and 1982 and extended in 1986, 1991, and 1992.
1986	The Uruguay Round is launched in Punta del Este, Uruguay.
1994	In Marrakech, on April 15, ministers sign the final act establishing the WTO and embodying the results of the Uruguay Round.
1995	The WTO enters into force on January 1.
1999	Ministerial meeting in Seattle fails to launch a new round.
2001	A new round of trade talks (the Doha Development Agenda) is agreed on in Doha, Qatar.

Source: Hoekman and Kostecki (2001).

Tokyo Round codes that were not multilateralized in the Uruguay Round and that therefore bind only their signatories. Together, Annexes 1 through 3 embody the multilateral trade agreements. Article II of the WTO specifies that all the agreements contained in these three annexes are an integral part of the WTO agreement and are binding on all members. All of these instruments are discussed further in this chapter or in other chapters of this volume,

The WTO is charged with facilitating the implementation and operation of the multilateral trade agreements, providing a forum for negotiations, administering the dispute settlement mechanism, exercising multilateral surveillance of trade policies, and cooperating with the World Bank and the IMF to achieve greater coherence in global economic policymaking (Art. III WTO). Between meetings of the ministerial conference, which is responsible for carrying out the functions of the WTO, the organization is managed by the General Council, at the level of diplomats. The General Council meets about 12 times a year. On average, about 70 percent of all WTO members take part in its meetings, at which members are usually represented by delegations based in Geneva. The General Council turns itself, as needed, into a body that adjudicates trade disputes (the Dispute Settlement Body, or DSB) or that reviews members' trade policies (the Trade Policy Review Body, or TPRB).

Three subsidiary councils, on goods, on services, and on intellectual property rights, operate under the general guidance of the General Council. Separate committees deal with the interests of developing countries (Committee on Trade and Development); surveillance of trade restriction actions taken for balance of payment purposes; surveillance of regional trade agreements; trade-environment linkages; and WTO finances and administration. Additional committees or working parties deal with matters covered by the GATT, the GATS, or the TRIPS agreement. There are committees, functioning under the auspices of the Council on Trade in Goods, on subsidies, antidumping and countervailing measures, technical barriers to trade (product standards), import licensing, customs valuation, market access, agriculture, sanitary and phytosanitary measures, trade-related investment measures, rules of origin, and safeguards. In addition, working groups have been established to deal with notifications, with state-trading enterprises, with the relationships between trade and investment and between trade and competition policy, and with the issue of transparency in government procurement. Specific committees address matters relating to the GATS or the TRIPS agreement. All WTO members may participate in all councils, committees, and other bodies, with the exceptions of the Appellate Body, dispute settlement panels, the Textiles Monitoring Body, and committees dealing with plurilateral agreements.

About 40 councils, committees, subcommittees, bodies, and standing groups or working parties functioned under WTO auspices in 2000, more than twice the number under the GATT. Such bodies are open to all WTO members, but generally only the more important trading nations (less than half of the membership) regularly send representatives to most meetings. The degree of participation reflects a mix of national interests and resource constraints. The least-developed countries, in particular, tend not to be represented at these meetings; often, they do not have delegations based in Geneva. All of these fora, plus working parties on accession (averaging close to 30 in the late 1990s), dispute settlement panels, meetings of regional groups, meetings of heads of delegations, and numerous ad hoc and informal groups add up to 1,200 events a year at or near WTO headquarters in Geneva. Most WTO business is conducted in English, but many official WTO meetings require French and Spanish interpretation.

The main actors in the day-to-day activities are officials affiliated with the delegations of members. The WTO—like the 1947 GATT—is therefore something of a network organization (Blackhurst 1998). The WTO secretariat is the hub of a very large and dispersed network comprising official representatives of members based in Geneva, civil servants based in capitals, and national business and nongovernmental groups that seek to have their governments push for their interests at the multilateral level. The operation of the WTO depends on the collective input of thousands of civil servants and government officials who deal with trade issues in each member country.

Initiatives to launch multilateral trade negotiations and to settle disputes—the two highest-profile activities of the WTO—are the sole responsibility of WTO members themselves, not the secretariat. The member-driven nature of the organization puts a considerable strain on the national delegations of members. Many countries have no more than one

or two persons dealing with WTO matters; a large minority has no delegations in Geneva at all.

Decisionmaking

Most decisionmaking in the WTO follows GATT practices and is based on consultation and consensus. The consensus practice is of value to smaller countries, as it enhances their negotiating leverage in the informal consultations and bargaining that precede decisionmaking, especially if they are able to form coalitions. Although recourse to voting may be had if a consensus cannot be reached, in practice voting occurs only very rarely. If a vote is needed, it is based on the principle of "one member, one vote." Unanimity is required for amendments relating to general principles such as MFN or national treatment. Interpretation of the provisions of the WTO agreements and decisions on waivers of a member's obligations require approval by a three-quarters majority vote. A two-thirds majority vote is sufficient for amendments relating to issues other than the general principles mentioned above. Where not otherwise specified, and where consensus cannot be reached, a simple majority vote is, in principle, sufficient. In practice, voting does not occur. Indeed, in 1995 WTO members decided not to apply provisions allowing for a vote in the case of accessions and requests for waivers but to continue to proceed on the basis of consensus (WT/L/93). Legislative amendments are also likely to be quite rare, as, in practice, changes to the various agreements occur as part of broader multilateral rounds.

Management of the Secretariat and Daily Operations

Unlike the World Bank and the IMF, the WTO does not have an executive body or a board comprising a subset of members some of whom represent a number of countries. Such executive boards facilitate decisionmaking by concentrating discussions within a smaller but representative group of members. The closest the GATT ever came to such a forum was the Consultative Group of Eighteen (CG18), established in 1975. It ceased meeting in 1985 and never substituted for the GATT Council of Representatives (Blackhurst 1998).

As of January 1, 2002, the WTO had a membership of 144. Achieving consensus among such a large number of members is not a simple matter, and mechanisms have therefore been developed over the years to reduce the number of members that are active participants in WTO deliberations. The first and most important device is to involve only "principals," at least initially. To some extent this is a natural process; a country that has no agricultural sector is unlikely to be interested in discussions centering on the reduction of agricultural trade barriers. In general the "Quad" economies—Canada, the European Union, Japan, and the United States—are part of any group that forms to discuss any topic. They are supplemented by countries that have a principal supplying interest in a product and by the major (potential) importers whose policies are the subject of interest. Finally, a number of countries that have established a reputation as spokespersons tend to be involved in most major meetings. Historically, such countries have included Egypt, India, and Yugoslavia.

During the Tokyo and Uruguay Rounds, contentious issues as to which deals had to be struck were often thrashed out in the "green room," a conference room adjacent to the Director-General's offices. Green-room meetings were part of a consultative process through which the major countries and a representative set of developing countries—a total of 20 or so delegations—tried to hammer out the outlines of acceptable proposals or negotiating agendas. Such meetings generally involved the active participation and input of the Director-General. The convention now is to call such meetings green-room gatherings, no matter where they are held. The green-room process became a contentious issue during the Seattle ministerial meeting; many developing countries that were excluded from critical green-room meetings, where attempts were being made to negotiate compromise texts of a draft agenda for a new multilateral trade negotiation, felt that they were not being kept informed of developments and were not being granted the opportunity to defend their views. Proposals have been made periodically to formalize the green-room process by creating an executive committee to manage the WTO agenda, based on shares in world trade (Schott and Buurman 1994). To date, no progress in this direction has proved possible in the WTO.

Conclusion

The Uruguay Round and the establishment of the WTO changed the character of the trading system.

The GATT was very much a market access–oriented institution: its function was to harness the dynamics of reciprocity for the global good. Negotiators could be left to follow mercantilist logic, and the end result would be beneficial to all contracting parties. This dynamic worked less well for developing countries, where the burden of liberalization rested much more heavily on the shoulders of governments. Even if they wanted to, their scope to use the GATT was often limited because exporters had fewer incentives and were less powerful than in industrial countries. The reciprocal, negotiation-driven dynamic also worked much less well for issues that were "lumpy" and where the terms of the debate revolved around what rules to adopt, not around how much of a marginal change was appropriate. Once discussions center on rules, especially on disciplines for domestic policy and regulations, it is more difficult to define intraissue compromises that make economic sense. Cross-issue linkage becomes necessary. Disengagement was not an option during the Uruguay Round (because of the "single undertaking"), so the task was to come up with a balanced package that ensured gains for all players. One can argue whether the package that emerged from the round was a balanced one; views on this point differ widely.

Whatever the conclusion, it is clear that the approach taken toward ensuring and supporting implementation of WTO agreements by developing countries was not an effective one. Limiting recognition of this problem to the setting of uniform transition periods was clearly inadequate. The case for uniform application of agreements that involve reducing trade barriers—tariffs and nontariff barriers—is very strong. But in other areas requiring minimum levels of institutional capacity, such as customs valuation, a good case can be made that implementation should be linked to national capacity and international assistance (Hoekman 2002).

A lesson from post–Uruguay Round experience and thinking is that trade policy should be made more central to the development process and development strategies. This needs to be done at both the national and international levels. At the national level it is necessary in order to ensure that governments have a basis on which to resist efforts to negotiate agreements in an area. Governments must be able to identify what types of rules will promote development and what types would lead to an inappropriate use of scarce resources. At the international level such a change is necessary in order to enhance the communication between trade and development assistance bodies in member countries. One reason for the implementation assistance problems that were encountered in the late 1990s was that the best-endeavors commitments on assistance that were made by industrial country trade negotiators were not "owned" by counterpart agencies in their governments that controlled development assistance money. Progress on both fronts would do much to ensure that future negotiations do not give rise to problems of the type that were created in the Uruguay Round.

Notes

This chapter draws on Hoekman and Kostecki (2001).

1 The founding parties to the GATT (giving the names used at the time) were Australia, Belgium, Brazil, Burma, Canada, Ceylon, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxembourg, the Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Syria, South Africa, the United Kingdom, and the United States. Subsequently, China, Lebanon, and Syria withdrew.