



Introduction to the Multilateral Trading System

1. The modern Multilateral Trading System
2. The GATT Years
3. The WTO
4. The GATT/WTO Basic Principles
5. Doha Development Agenda

WTO Today

- The WTO is an intergovernmental organization that provides the multilateral framework for the conduct of world trade. The WTO Agreement establishes the organization and provides the institutional framework for its administration. The individual agreements annexed to the WTO Agreement contain detailed obligations relating to: trade in goods, trade in services and trade-related intellectual property measures (TRIPS) and the settlement of disputes concerning WTO provisions. This package, and agreements reached after the WTO Agreement came into force in 1995, are accepted by all WTO Members as a single undertaking, and as a basic condition of membership in the organization.

- WTO agreements on goods, services and TRIPS contain rules that discipline the adoption and application of measures relating to international trade. These provide a measure of special and differential treatment for developing countries and least-developed countries (LDCs). Each WTO Member has also negotiated lists of detailed market access commitments setting maximum levels for its customs tariffs on imports of goods, restrictions on trade, and limitations on national treatment in particular categories of services.

- Twenty-three new Members have acceded to the WTO since 1995, bringing its membership to 151². The WTO membership accounts for 96 percent of world trade and, in this respect, the organization is close to achieving its aim of becoming a truly universal body. A further 32 governments have applied for membership. Only 13 members of the United Nations have not yet taken this step. While many of the 45 non-Members are small, they are home to some 580 million people. Many of them are in the early stages of economic development and 18 of them are least-developed countries (LDCs). All countries with large economies which are still outside the multilateral trade system are either applicants for membership in the WTO or are currently in the process of negotiating accession.

2. GATT



1 Jan. 1948	Entry into force of the GATT (Provisional application)	
1949	"Annecy Round"	TARIFF
1951	"Torquay Round"	TARIFF
1956	"Geneva Round"	TARIFF
1960-62	"Dillon Round" - Geneva	TARIFF
1964-67	"Kennedy Round" - Geneva	NTMs - TARIFF
1973-79	"Tokyo Round" - Geneva	NTMs - TARIFF
Nov. 1982	First Attempt to expand GATT - Failure	
1986-93	"Uruguay Round"	
Sep. 1986	Punta del Este Declaration (Uruguay)	
1988	Mid-Term Review (Montreal)	
Dec. 1990	Brussels Conference	
Dec. 1993	Conclusion of the Round (Adoption of the FINAL ACT)	
Apr. 1994	Marrakesh Ministerial Conference	
1 Jan. 1995	Entry into force of the Marrakesh Agreement (WTO)	
31. Dec 1995	End of GATT 1947	





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1949	"Annecy Round"	TARIFF
1951	"Torquay Round"	TARIFF
1956	"Geneva Round"	TARIFF
1960-62	"Dillon Round" - Geneva	TARIFF
1964-69	"Kennedy Round" - Geneva	NTMs - TARIFF
1973-79	"Tokyo Round" - Geneva	NTMs - TARIFF

RULES ("Framework Agreements") - CP Decisions

- "Enabling Clause"
- Declaration on BOP Measures (Art. XII, XVIII)
- Safeguards for development purposes (XVIII)
- Memorandum on Dispute Settlement (Art. XXIII)

Plurilateral Agreements (TOKYO CODES)

- Technical Barriers to Trade (TBT)
- Government Procurement
- "Subsidies Code" (Art. VI, XVI, XXIII)
- "Customs Valuation Code" (Art. VII)
- Import Licensing Procedures
- "Antidumping Code" (Art. VI)

Sectorial Agreements (pluri.)

- Bovine Meat
- Dairy Products
- Trade in Civil Aircraft



3. WTO



*Marrakesh Agreement
establishing the
World Trade
Organization*

Signed in Marrakesh (April 1994)

Ratified according to national procedures

Entered into force in January 1995

Legally binding (engaging the responsibility of Governments)





*Marrakesh Agreement
establishing the
World Trade
Organization*

international trade

Goods (GATT 1994 +)

Services (GATS)

Intellectual Property (TRIPS)

Marrakesh Agreement establishing the World Trade Organization



Member **Driven** (151)

Serviced by a permanent Secretariat (625 staff)

Budget CHF 182'000'000.- (2007) + Trust Funds

Headquarters in Geneva - Switzerland

Marrakesh Agreement

Preamble
WTO Agr.

OBJECTIVES

Raising Standards of living

Ensuring full employment

Ensuring large and steadily growing volume of real income and effective demand

Expanding the production of and trade in goods and services , while allowing for the optimal use of the world's resources (sustainable development)

... seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their (the Parties to the Agreement) respective needs and concerns at different levels of economic development.



Marrakesh Agreement

FUNCTIONS (1)

Art. III
WTO Agr.

Framework to facilitate the implementation, administration and operation of **WTO Agreements**

Forum for multilateral trade negotiations (new rules and disciplines)

Framework to administer the **Understanding on Rules and Procedures Governing the Settlement of Dispute (DSU)**



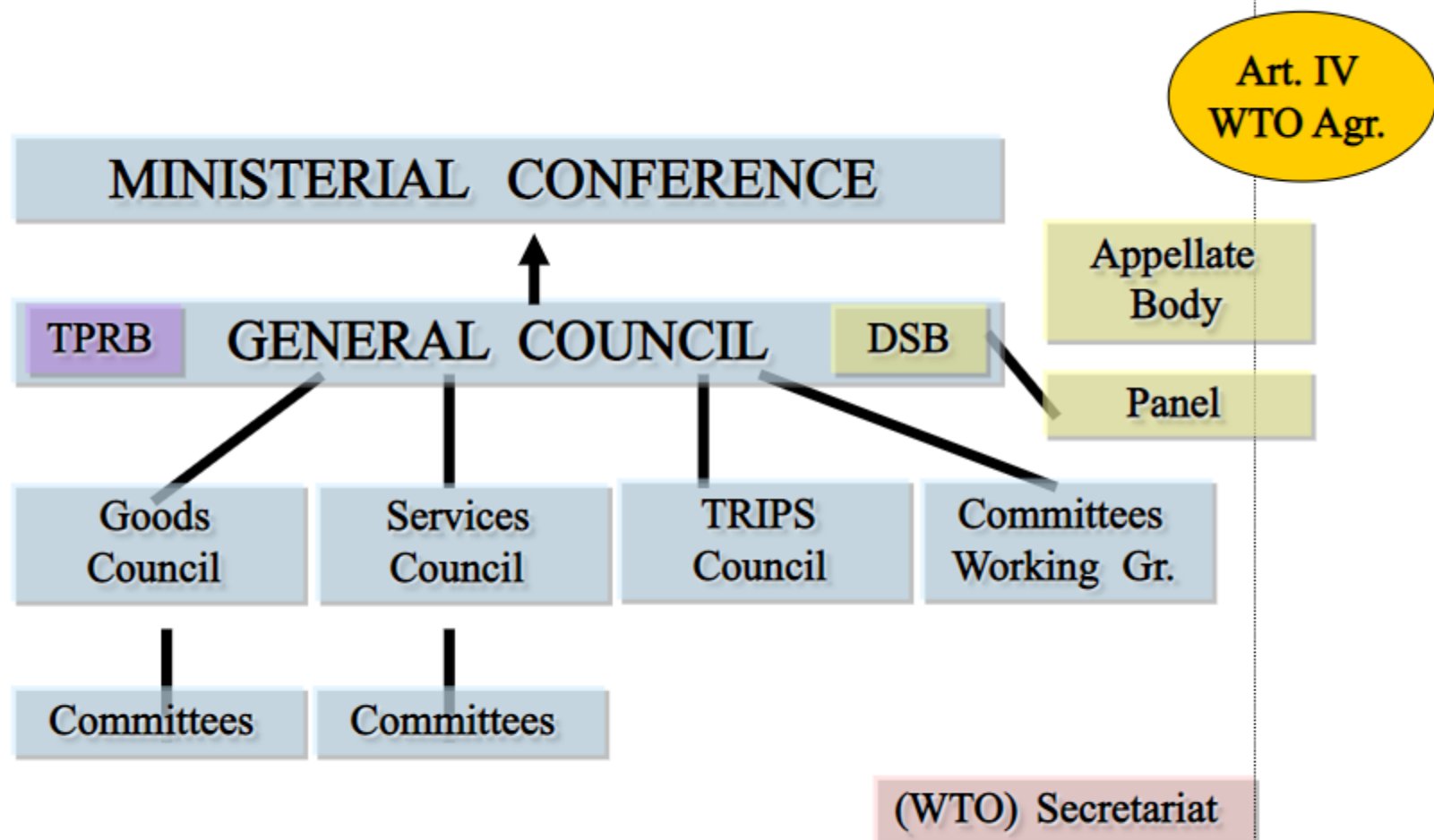
Marrakesh Agreement

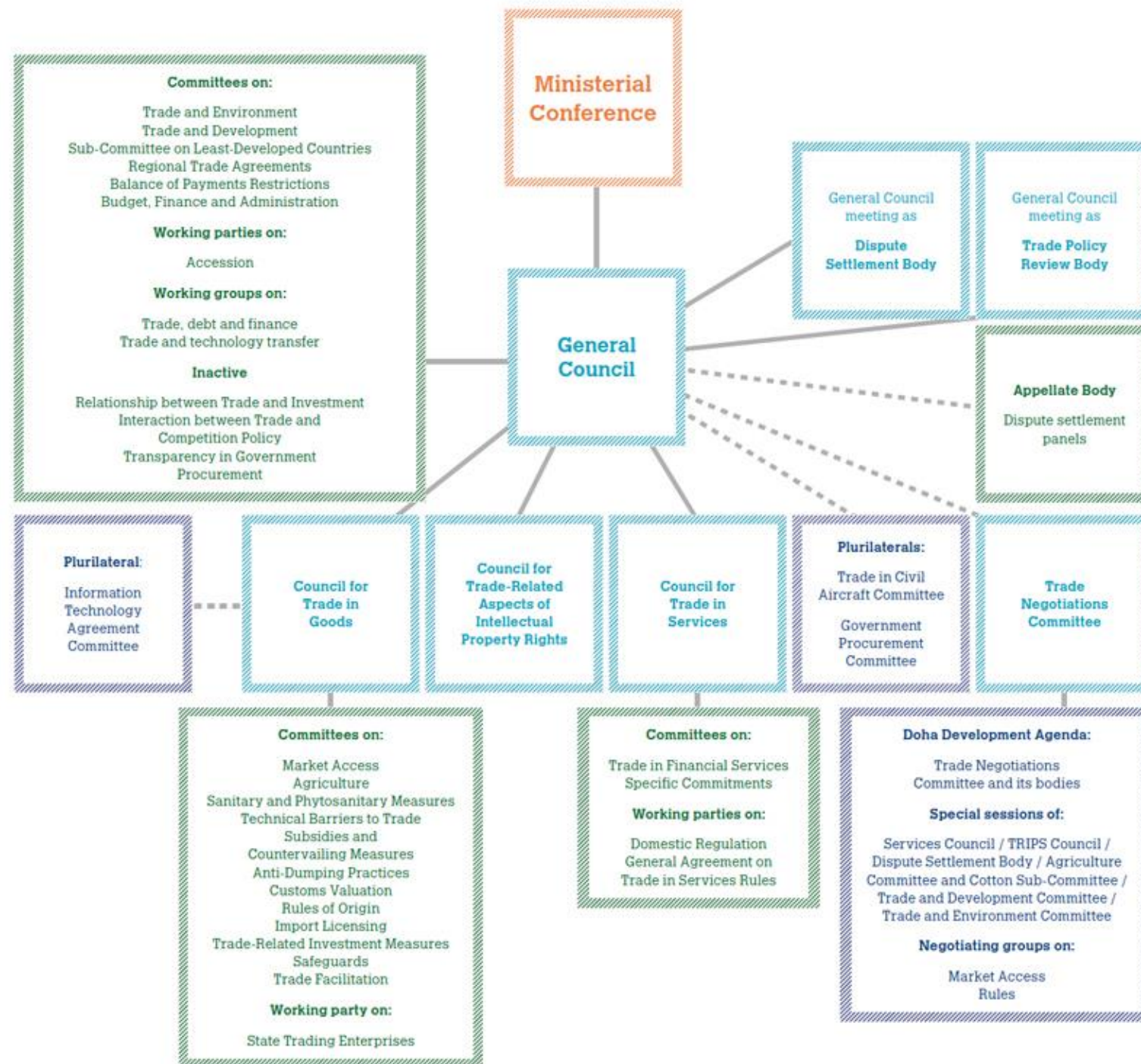
FUNCTIONS (2)

Art. III
WTO Agr.

Framework to administer the **Trade Policy Review Mechanism (TPRM)**

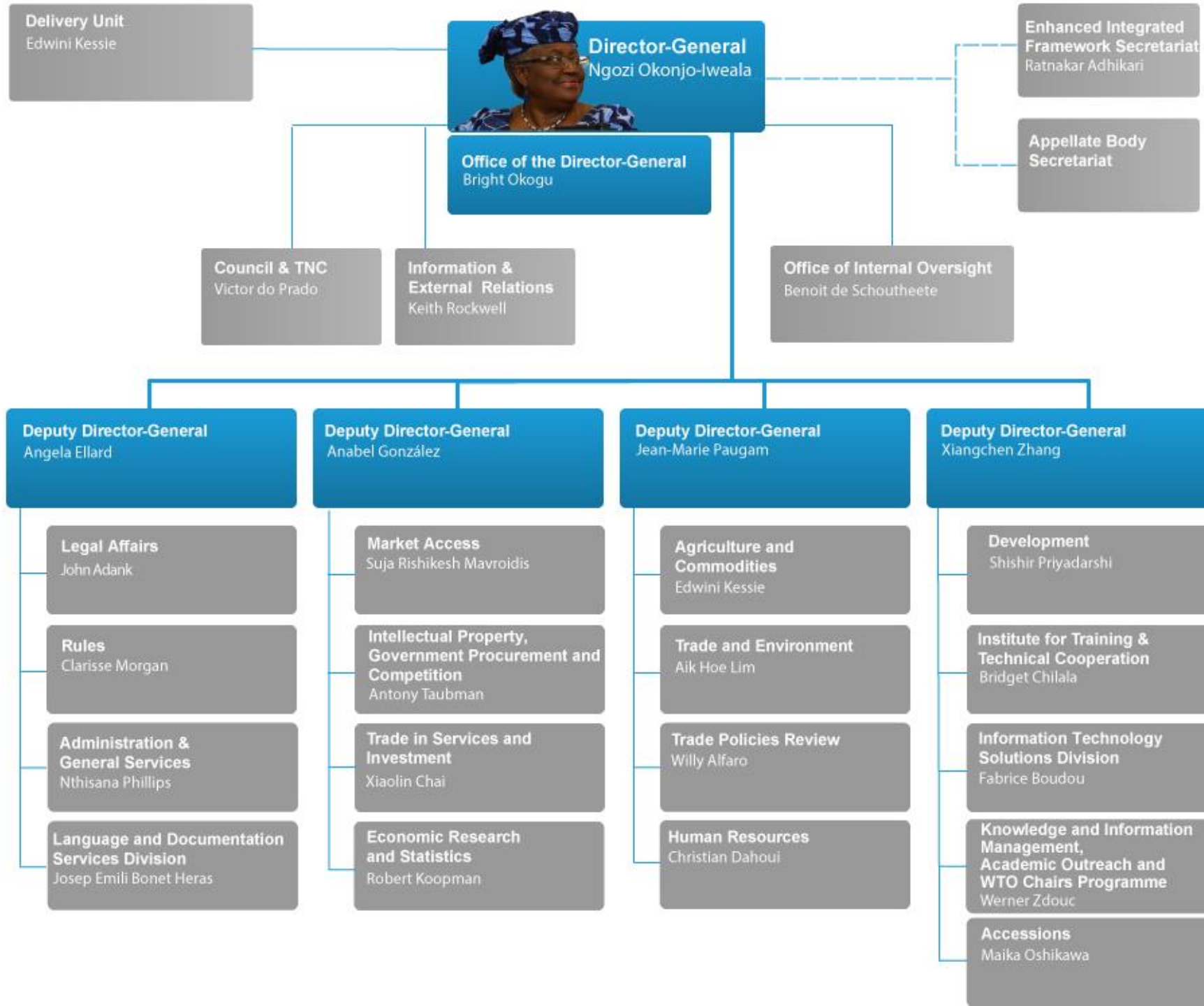
Co-operation with the IMF and the World Bank **(coherence in global economic policy-making)**





WTO Secretariat

- The WTO Secretariat is headed by a Director-General. Divisions come directly under the Director-General or one of the Deputy Directors-General. This is the current structure.



How are decisions taken?

- by *consensus*
- Otherwise, decisions are taken by a *majority of the votes cast* and on the basis of “one Member, one vote”, but ...
- amendments to the provisions of the agreements only take effect for those Members who accept them.

Art. IX
WTO Agr.

Art. X
WTO Agr.

Other provisions

- Accession (Art. XII)
- Miscellaneous Provisions (Art. XVI)
 - ensure conformity of national laws, regulations and administrative procedures





1 Jan. 1995

Entry into force of the Marrakesh Agreement (WTO)

Dec. 1996

Ministerial Conference - 1st Session (Singapore)

- (Singapore) Ministerial Declaration
- Ministerial Declaration for the expansion of trade in information technology products (ITA I)

1997

Conclusion of the negotiations concerning trade in financial services and in basic telecommunications

May 1998

Ministerial Conference - 2nd Session (Geneva)

- (Geneva) Ministerial Declaration
- Declaration on electronic commerce

Nov. 1999

Ministerial Conference - 3rd Session (Seattle)

2000-...

Negotiations on Services, Agriculture, etc (Build-in Agenda)

Nov. 2001

Ministerial Conference - 4th Session (Doha)

- Ministerial Declaration ("Doha Development Agenda")
- Declaration (TRIPS / Public Health)



4.

The GATT/WTO Basic Principles

4.1 Basic Disciplines

- Most-Favoured Nation Principle (MFN)
- Binding
- General Prohibition of QRs
- National Treatment

- The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. They deal with: agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards and product safety, food sanitation regulations, intellectual property, and much more. But a number of simple, fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system.
- A closer look at these principles:

Trade without discrimination

- 1. Most-favoured-nation (MFN): treating other people equally Under the WTO agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favour (such as a lower customs duty rate for one of their products) and you have to do the same for all other WTO members.

- Some exceptions are allowed. For example, countries can set up a free trade agreement that applies only to goods traded within the group — discriminating against goods from outside. Or they can give developing countries special access to their markets. Or a country can raise barriers against products that are considered to be traded unfairly from specific countries. And in services, countries are allowed, in limited circumstances, to discriminate. But the agreements only permit these exceptions under strict conditions. In general, MFN means that every time a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all its trading partners — whether rich or poor, weak or strong.

- 2. National treatment: Treating foreigners and locals equally Imported and locally-produced goods should be treated equally — at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. This principle of “national treatment” (giving others the same treatment as one’s own nationals) is also found in all the three main WTO agreements (Article 3 of GATT, Article 17 of GATS and Article 3 of TRIPS), although once again the principle is handled slightly differently in each of these.

Freer trade: gradually, through negotiation

- Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customs duties (or tariffs) and measures such as import bans or quotas that restrict quantities selectively. From time to time other issues such as red tape and exchange rate policies have also been discussed.
- Since GATT's creation in 1947-48 there have been [eight rounds of trade negotiations](#). A ninth round, under the Doha Development Agenda, started in 2001. The first 8 rounds of negotiations focused on lowering tariffs (customs duties) on imported goods. As a result of the negotiations, by the mid-1990s industrial countries' tariff rates on industrial goods had fallen steadily to less than 4%.

- But by the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property.
- Opening markets can be beneficial, but it also requires adjustment. The WTO agreements allow countries to introduce changes gradually, through “progressive liberalization”. Developing countries are usually given longer to fulfil their obligations.
 - example: Under Article 15 of the protocol by which China joined the WTO, China was recognized as a Non-market economy (NME). This status allows special treatment within the WTO. The status was set for 15 years and has been disputed after 2016, the year when the 15 years had passed.

Predictability: through **binding** and transparency

- Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives businesses a clearer view of their future opportunities. With stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition — choice and lower prices. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

- The Uruguay Round increased bindings
- Percentages of tariffs lines bound before and after the 1986-94 talks

	Before	After
Developed countries	78	99
Developing countries	21	73
Transition economies	73	98

- In the WTO, when countries agree to open their markets for goods or services, they “bind” their commitments. For goods, these bindings amount to ceilings on customs tariff rates. Sometimes countries tax imports at rates that are lower than the bound rates. Frequently this is the case in developing countries. In developed countries the rates actually charged and the bound rates tend to be the same.
- https://wits.worldbank.org/wits/wits/witshelp/content/data_retrieval/p/intro/c2.types_of_tariffs.htm

- A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. One of the achievements of the Uruguay Round of multilateral trade talks was to increase the amount of trade under binding commitments ([see table](#)). In agriculture, 100% of products now have bound tariffs. The result of all this: a substantially higher degree of market security for traders and investors.

- The system tries to improve predictability and stability in other ways as well. One way is to discourage the use of quotas and other measures used to set limits on quantities of imports — administering quotas can lead to more red-tape and accusations of unfair play. Another is to make countries' trade rules as clear and public ("transparent") as possible. Many WTO agreements require governments to disclose their policies and practices publicly within the country or by notifying the WTO. The regular surveillance of national trade policies through the [Trade Policy Review Mechanism](#) provides a further means of encouraging transparency both domestically and at the multilateral level.

Promoting fair competition

- The WTO is sometimes described as a “free trade” institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other forms of protection. More accurately, it is a system of rules dedicated to open, fair and undistorted competition.
- The rules on non-discrimination — MFN and national treatment — are designed to secure fair conditions of trade. So too are those on dumping (exporting at below cost to gain market share) and subsidies. The issues are complex, and the rules try to establish what is fair or unfair, and how governments can respond, in particular by charging additional import duties calculated to compensate for damage caused by unfair trade.

- Many of the other WTO agreements aim to support fair competition: in agriculture, intellectual property, services, for example. The agreement on government procurement (a “plurilateral” agreement because it is signed by only a few WTO members) extends competition rules to purchases by thousands of government entities in many countries. And so on.

Encouraging development and economic reform

- The WTO system contributes to development. On the other hand, developing countries need flexibility in the time they take to implement the system's agreements. And the agreements themselves inherit the earlier provisions of GATT that allow for special assistance and trade concessions for developing countries.
- Over three quarters of WTO members are developing countries and countries in transition to market economies. During the seven and a half years of the Uruguay Round, over 60 of these countries implemented trade liberalization programmes autonomously. At the same time, developing countries and transition economies were much more active and influential in the Uruguay Round negotiations than in any previous round, and they are even more so in the current Doha Development Agenda.

- At the end of the Uruguay Round, developing countries were prepared to take on most of the obligations that are required of developed countries. But the agreements did give them transition periods to adjust to the more unfamiliar and, perhaps, difficult WTO provisions — particularly so for the poorest, “least-developed” countries. A [ministerial decision](#) adopted at the end of the round says better-off countries should accelerate implementing market access commitments on goods exported by the least-developed countries, and it seeks increased technical assistance for them. More recently, developed countries have started to allow duty-free and quota-free imports for almost all products from least-developed countries. On all of this, the WTO and its members are still going through a learning process. The current Doha Development Agenda includes developing countries’ concerns about the difficulties they face in implementing the Uruguay Round agreements.

Enabling Clause for developing countries (goods)

- [The Enabling Clause](#) officially called the “Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries”, was adopted under GATT in 1979 and enables developed members to give differential and more favourable treatment to developing countries.

- The Enabling Clause is the WTO legal basis for the Generalized System of Preferences (GSP). Under the GSP, developed countries offer non-reciprocal preferential treatment (such as zero or low duties on imports) to products originating in developing countries. Preference-giving countries unilaterally determine which countries and which products are included in their schemes.

- The Enabling Clause is also the legal basis for [regional arrangements](#) among developing countries and for the Global System of Trade Preferences (GSTP), under which a number of developing countries exchange trade concessions among themselves.
- <http://ptadb.wto.org/ptaList.aspx>

Plurilaterals: of minority interest

- For the most part, all WTO members subscribe to all WTO agreements. After the Uruguay Round, however, there remained four agreements, originally negotiated in the Tokyo Round, which had a narrower group of signatories and are known as “plurilateral agreements”. All other Tokyo Round agreements became multilateral obligations (i.e. obligations for all WTO members) when the World Trade Organization was established in 1995. The four were:
 - [trade in civil aircraft](#)
 - [government procurement](#)
 - [dairy products](#)
 - [bovine meat](#).
- The bovine meat and dairy agreements were terminated in 1997.

Fair trade in civil aircraft

- The [Agreement on Trade in Civil Aircraft](#) entered into force on 1 January 1980. It now has 32 signatories. The agreement eliminates import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement — civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft, and flight simulators and their parts and components. It contains disciplines on government-directed procurement of civil aircraft and inducements to purchase, as well as on government financial support for the civil aircraft sector.

Government procurement: opening up for competition

- In most countries the government, and the agencies it controls, are together the biggest purchasers of goods of all kinds, ranging from basic commodities to high-technology equipment. They also buy large amounts of services and construction services, such as telecommunications, roads, airports and power stations, etc. Having in place a sound public procurement system based on principles of transparency, integrity and competition is vital in order to maximize the benefit arising from the procurement for citizens and businesses alike. At the same time, the political pressure to favour domestic suppliers over their foreign competitors can be very strong.

- An [Agreement on Government Procurement](#) was first negotiated during the Tokyo Round and entered into force on 1 January 1981. Its purpose is to open up as much of this business as possible to international competition. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent and to ensure they do not discriminate against foreign products or suppliers. During the Uruguay Round and later in parallel with the Doha Round, the Agreement was revised twice through negotiations among its signatories. Its latest version came into force on 6 April 2014.

- The Agreement has two elements — general rules and obligations, and schedules of each participant's entities, whose procurements of listed goods, services and construction services are subject to the agreement if they exceed the threshold levels indicated in the schedules. The general rules and obligations mainly concern tendering procedures. They have evolved through different versions of the Agreement to enhance fair and non-discriminatory conditions of international competition and to reflect new developments in the procurement field, e.g. the wide use of electronic means in tendering. Governments are also required to put in place domestic procedures by which aggrieved private bidders can challenge procurement decisions and obtain redress in the event such decisions were made inconsistently with the rules of the agreement. The coverage schedules contained in the Agreement have expanded from central government entities to sub-central entities, public utilities and state-owned enterprises, and from goods to services and all types of construction services.

- At present, the Agreement has 21 parties comprising 48 WTO members. Another 35 WTO members participate in the GPA (Government Procurement Agreement) Committee as observers. Out of these, Eleven members are in the process of acceding to the Agreement.

Dairy and bovine meat agreements: ended in 1997

- The [International Dairy Agreement](#) and [International Bovine Meat Agreement](#) were scrapped at the end of 1997. Countries that had signed the agreements decided that the sectors were better handled under the Agriculture and Sanitary and Phytosanitary agreements. Some aspects of their work had been handicapped by the small number of signatories. For example, some major exporters of dairy products did not sign the Dairy Agreement, and the attempt to cooperate on minimum prices therefore failed — minimum pricing was suspended in 1995.

The GATT/WTO Basic Principles

4.1 Basic Disciplines

4.2 Possibility to take "Adjustment measures"

- General Safeguard Measures
- BOP-related Safeguard Measures
- Special Safeguards

Safeguard Measures

- A WTO member may take a “safeguard” action (i.e., restrict imports of a product temporarily) to protect a specific domestic industry from an increase in imports of any product which is causing, or which is threatening to cause, serious injury to the industry.
- Safeguard measures were always available under the GATT (Article XIX). However, they were infrequently used, and some governments preferred to protect their industries through “grey area” measures (“voluntary” export restraint arrangements on products such as cars, steel and semiconductors).
- The WTO Safeguards Agreement broke new ground in prohibiting “grey area” measures and setting time limits (“sunset clause”) on all safeguard actions.

Example

- WTO panel issues report regarding US safeguards on imported photovoltaic cells from China
- On 2 September the WTO circulated the panel report in the case brought by China in “United States — Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products” (DS562).
- https://www.wto.org/english/news_e/news21_e/562r_e.htm

Safeguards: emergency protection from imports

- A WTO member may restrict imports of a product temporarily (take “safeguard” actions) if its domestic industry is injured or threatened with injury caused by a surge in imports. Here, the injury has to be serious. Safeguard measures were always available under GATT (Article 19). However, they were infrequently used, some governments preferring to protect their domestic industries through “grey area” measures — using bilateral negotiations outside GATT’s auspices, they persuaded exporting countries to restrain exports “voluntarily” or to agree to other means of sharing markets. Agreements of this kind were reached for a wide range of products: automobiles, steel, and semiconductors, for example.

- The WTO agreement broke new ground. It prohibits “grey-area” measures, and it sets time limits (a “sunset clause”) on all safeguard actions. The agreement says members must not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures on the export or the import side. The bilateral measures that were not modified to conform with the agreement were phased out at the end of 1998. Countries were allowed to keep one of these measures an extra year (until the end of 1999), but only the European Union — for restrictions on imports of cars from Japan — made use of this provision.

- An import “surge” justifying safeguard action can be a real increase in imports (an absolute increase); or it can be an increase in the imports’ share of a shrinking market, even if the import quantity has not increased (relative increase).
- Industries or companies may request safeguard action by their government. The WTO agreement sets out requirements for safeguard investigations by national authorities. The emphasis is on transparency and on following established rules and practices — avoiding arbitrary methods. The authorities conducting investigations have to announce publicly when hearings are to take place and provide other appropriate means for interested parties to present evidence. The evidence must include arguments on whether a measure is in the public interest.

- The agreement sets out criteria for assessing whether “serious injury” is being caused or threatened, and the factors which must be considered in determining the impact of imports on the domestic industry. When imposed, a safeguard measure should be applied only to the extent necessary to prevent or remedy serious injury and to help the industry concerned to adjust. Where quantitative restrictions (quotas) are imposed, they normally should not reduce the quantities of imports below the annual average for the last three representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury.

- In principle, safeguard measures cannot be targeted at imports from a particular country. However, the agreement does describe how quotas can be allocated among supplying countries, including in the exceptional circumstance where imports from certain countries have increased disproportionately quickly. A safeguard measure should not last more than four years, although this can be extended up to eight years, subject to a determination by competent national authorities that the measure is needed and that there is evidence the industry is adjusting. Measures imposed for more than a year must be progressively liberalized.

- When a country restricts imports in order to safeguard its domestic producers, in principle it must give something in return. The agreement says the exporting country (or exporting countries) can seek compensation through consultations. If no agreement is reached the exporting country can retaliate by taking equivalent action — for instance, it can raise tariffs on exports from the country that is enforcing the safeguard measure. In some circumstances, the exporting country has to wait for three years after the safeguard measure was introduced before it can retaliate in this way — i.e. if the measure conforms with the provisions of the agreement and if it is taken as a result of an increase in the quantity of imports from the exporting country.

- To some extent developing countries' exports are shielded from safeguard actions. An importing country can only apply a safeguard measure to a product from a developing country if the developing country is supplying more than 3% of the imports of that product, or if developing country members with less than 3% import share collectively account for more than 9% of total imports of the product concerned.

- The WTO's Safeguards Committee oversees the operation of the agreement and is responsible for the surveillance of members' commitments. Governments have to report each phase of a safeguard investigation and related decision-making, and the committee reviews these reports.

Declaration of BOP (balance of payment) Measures

- Balance of Payment:
 - The balance of payments includes both the current account and capital account.
 - The current account includes a nation's net trade in goods and services, its net earnings on cross-border investments, and its net transfer payments.
 - The capital account consists of a nation's transactions in financial instruments and central bank reserves.
 - The sum of all transactions recorded in the balance of payments should be zero; however, exchange rate fluctuations and differences in accounting practices may hinder this in practice.

- The balance of payments divides transactions into two accounts: the [current account](#) and the [capital account](#). Sometimes the capital account is called the financial account, with a separate, usually very small, capital account listed separately. The current account includes transactions in goods, services, investment income, and [current transfers](#).
- The capital account, broadly defined, includes transactions in [financial instruments](#) and central bank [reserves](#). Narrowly defined, it includes only transactions in financial instruments. The current account is included in calculations of national output, while the capital account is not.

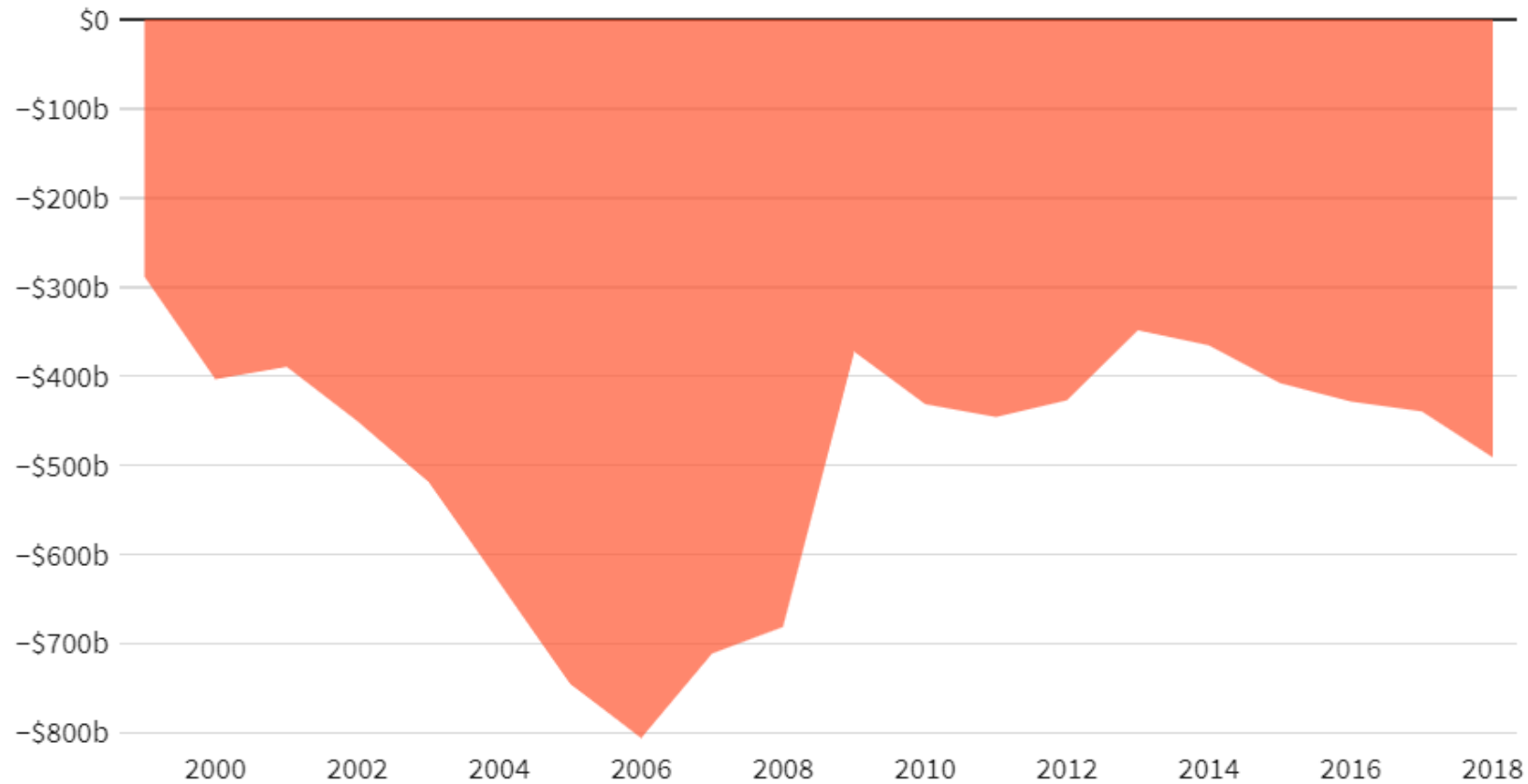
- The sum of all transactions recorded in the balance of payments must be zero, as long as the capital account is defined broadly.
- The reason is that every credit appearing in the current account has a corresponding debit in the capital account, and vice-versa.
- If a country exports an item (a current account transaction), it effectively imports foreign capital when that item is paid for (a capital account transaction).
 - Exporting to a good to US, earning USD. The USD is foreign capital. Firms earning USD can also invest in the US, this is foreign direct investment to the US. China, holding large amount of USD reserves, can also choose to purchase treasury bills from the US.

- If a country cannot fund its imports through exports of capital, it must do so by running down its reserves. This situation is often referred to as a balance of payments deficit, using the narrow definition of the capital account that excludes central bank reserves. In reality, however, the broadly defined balance of payments must add up to zero [by definition](#).
- In practice, statistical discrepancies arise due to the difficulty of accurately counting every transaction between an economy and the rest of the world, including discrepancies caused by foreign currency translations.

Imbalances in Current Account between Countries

- While a nation's balance of payments necessarily zeroes out the current and capital accounts, imbalances can and do appear between different countries' current accounts. According to the World Bank, the U.S. had the world's largest [current account deficit](#) in 2019, at \$498 billion. Germany had the world's largest surplus, at \$275 billion.

U.S. Balance on Current Account: 1999–2018



- Such imbalances can generate tensions between countries. Donald Trump campaigned in 2016 on a platform of reversing the U.S.'s trade deficits, particularly with Mexico and China.

History of the Balance of Payments (BOP)

- Prior to the 19th century, international transactions were denominated in gold, providing little flexibility for countries experiencing trade deficits. Growth was low, so stimulating a trade surplus was the primary method of strengthening a nation's financial position. National economies before the Industrial Revolution were not well integrated with each other, so steep trade imbalances rarely provoked crises. The industrial revolution increased international economic integration, and balance of payment crises began to occur more frequently.

- The Great Depression led countries to abandon the [gold standard](#) and engage in competitive devaluation of their currencies, but the [Bretton Woods system](#) that prevailed from the end of World War II until the 1970s introduced a gold-convertible dollar with fixed exchange rates to other currencies.² As the U.S. money supply increased and its trade deficit deepened, however, the government became unable to fully redeem foreign central banks' dollar reserves for gold, and the system was abandoned.

- Since the [Nixon shock](#)— the end of the dollar's convertibility to gold is known—currencies have floated freely, meaning that country experiencing a trade deficit can artificially depress its currency—by hoarding foreign reserves, for example—making its products more attractive and increasing its exports.⁴
- Due to the increased mobility of capital across borders, balance-of-payments crises sometimes occur, causing sharp currency devaluations such as the ones that struck in [Southeast Asian countries](#) in 1998.

Aside: What Is the Nixon Shock?

- Nixon Shock is a phrase used to describe the aftereffect of a set of economic policies touted by former President Richard Nixon in 1971.
- Most notably, the policies eventually led to the collapse of the [Bretton Woods](#) system of [fixed exchange rates](#) that went into effect after World War II.

- The Nixon Shock was an economic policy shift undertaken by President Nixon to prioritize the United States' economic growth in terms of jobs and exchange rate stability.
- The Nixon Shock effectively led to the end of the Bretton Woods Agreement and the convertibility of U.S. dollars into gold.
- The Nixon Shock was the catalyst for the stagflation of the 1970s as the U.S. dollar devalued.
- Thanks in large part to the Nixon Shock, central banks now have a greater degree of control over their own money, making it easy to "manage" variables such as interest rates, overall money supply, and velocity.
- Many decades after the Nixon Shock, economists are still debating the merits of this massive policy shift and its eventual ramifications.

- The Nixon Shock followed President Nixon's televised New Economic Policy address to the nation. The crux of the speech was that the U.S. would turn its attention to domestic issues in the post-Vietnam War era. Nixon outlined three main goals for the plan:
 1. Creating better jobs
 2. Stemming the rise in the cost of living
 3. Protecting the U.S. dollar from international money speculators.

- Nixon cited tax cuts and a 90-day hold on prices and wages as the best options for boosting the job market and tamping down the [cost of living](#). As for speculative behavior toward the U.S. dollar (USD), Nixon supported suspending the dollar's convertibility into gold. In addition, Nixon proposed an additional 10% tax on all [imports](#) that were subject to duties. Similar to the strategy of suspending dollar convertibility, the levy intended to encourage the United States' main trading partners to raise the value of their currencies.
- Anxiety eventually crept into the [foreign exchange market](#), with traders abroad fearful of an eventual dollar [devaluation](#). As a result, they began selling USD in greater amounts and more frequently.

- Beginning in February 1973, speculative market pressure caused the USD to devalue. Amid still-heavy pressure on the dollar in March of that year, the G-10 implemented a strategy that called for six European members to tie their currencies together and jointly [float](#) them against the dollar.
- That decision essentially brought an end to the fixed exchange rate system established by [Bretton Woods](#).

Advantages and Disadvantages of the Nixon Shock

- the long-term benefits of the Nixon Shock are a matter of scholarly debate.
- Today, we live in a world of mostly free-floating, market-traded currencies.
- This system has advantages, especially in terms of making radical monetary policy such as [quantitative easing](#) (QE) possible. Central banks now have a greater degree of control over their own money, making it easy to "manage" variables such as interest rates, overall money supply, and velocity.
- On the other hand, Nixon's move also created uncertainties and led to a massive market based on [hedging](#) the risks created by currency uncertainty. The financial crisis of 2007-2008, in particular, proved that central bank control is no guaranteed defense against severe recessions.

- During the [Great Recession](#), several countries embarked on competitive devaluation of their currencies to try to boost their exports. All of the world's major central banks responded to the financial crisis at the time by executing dramatically expansionary monetary policy. This led to other nations' currencies, especially in emerging markets, appreciating against the U.S. dollar and other major currencies. Many of those nations responded by further loosening the reins on their own monetary policy in order to support their exports, especially those whose exports were under pressure from stagnant global demand during the Great Recession.

BOP and Import Restrictions

- First, the balance of payments is a factor in the demand and supply of a country's currency. For example, if outflows exceed inflows, then the demand for the currency in the domestic market is likely to exceed the supply in the foreign exchanging market, ceteris paribus. One can thus infer that the currency would be under pressure to depreciate against other currencies. On the other hand, if the inflows exceed outflows, then its currency would be likely to appreciate.

- Second, a country's balance of payments data may signal the country's potential as a business partner for the rest of the world. A country grappling with a major balance of payments difficulty may not be able to expand imports from the outside world. Instead, the country may impose measures to restrict imports and discourage capital outflows in order to improve the balance of payments situation. On the other hand, a country with a significant balance of payments surplus would be more likely to expand imports, offering marketing opportunities for foreign enterprises, and less likely to impose foreign exchange restrictions.

- Third, balance of payments data can be used to evaluate the performance of the country in international economic competition. A country that is experiencing trade deficits year after year may be a signal that the country's domestic industries lack international competitiveness.

- https://www.wto.org/english/tratop_e/bop_e/bop_e.htm
- https://www.wto.org/english/tratop_e/bop_e/bop_info_e.htm
- https://www.wto.org/english/docs_e/legal_e/09-bops_e.htm

- Example: Ecuador
- https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=228577,135453,132563,132302,132280,131414,131398,100357,81747,76035&CurrentCatalogueIdIndex=1&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True
- https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=228577,135453,132563,132302,132280,131414,131398,100357,81747,76035&CurrentCatalogueIdIndex=0&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True

Special Safeguard Measures

- Due to surges in imports or price falls, a country may raise tariffs temporarily.
- https://www.wto.org/english/tratop_e/agric_e/guide_agric_safeg_e.htm

The GATT/WTO Basic Principles

4.1 Basic Disciplines

4.2 Possibility to take "Adjustment measures"

4.3 Possibility to correct distortions

- Dumping and Antidumping Measures
- Subsidies and Countervailing Measures
- Subsidies and Remedies
- State Trading Enterprises



Possibility to correct distortions

- Binding tariffs, and applying them equally to all trading partners (most-favoured-nation treatment, or MFN) are key to the smooth flow of trade in goods. The WTO agreements uphold the principles, but they also allow exceptions — in some circumstances. Three of these issues are:
 - actions taken against dumping (selling at an unfairly low price)
 - subsidies and special “countervailing” duties to offset the subsidies
 - emergency measures to limit imports temporarily, designed to “safeguard” domestic industries.

Anti-dumping actions

- If a company exports a product at a price lower than the price it normally charges on its own home market, it is said to be “dumping” the product. Is this unfair competition? Opinions differ, but many governments take action against dumping in order to defend their domestic industries. The WTO agreement does not pass judgement. Its focus is on how governments can or cannot react to dumping — it disciplines anti-dumping actions, and it is often called the “Anti-Dumping Agreement”. (This focus only on the reaction to dumping contrasts with the approach of the Subsidies and Countervailing Measures Agreement.)

- GATT (Article 6) allows countries to take action against dumping. The Anti-Dumping Agreement clarifies and expands Article 6, and the two operate together. They allow countries to act in a way that would normally break the GATT principles of binding a tariff and not discriminating between trading partners — typically anti-dumping action means charging extra import duty on the particular product from the particular exporting country in order to bring its price closer to the “normal value” or to remove the injury to domestic industry in the importing country.

- There are many different ways of calculating whether a particular product is being dumped heavily or only lightly. The agreement narrows down the range of possible options. It provides three methods to calculate a product's "normal value". The main one is based on the price in the exporter's domestic market. When this cannot be used, two alternatives are available — the price charged by the exporter in another country, or a calculation based on the combination of the exporter's production costs, other expenses and normal profit margins. And the agreement also specifies how a fair comparison can be made between the export price and what would be a normal price.

- Calculating the extent of dumping on a product is not enough. Anti-dumping measures can only be applied if the dumping is hurting the industry in the importing country. Therefore, a detailed investigation has to be conducted according to specified rules first. The investigation must evaluate all relevant economic factors that have a bearing on the state of the industry in question. If the investigation shows dumping is taking place and domestic industry is being hurt, the exporting company can undertake to raise its price to an agreed level in order to avoid anti-dumping import duty.

- Detailed procedures are set out on how anti-dumping cases are to be initiated, how the investigations are to be conducted, and the conditions for ensuring that all interested parties are given an opportunity to present evidence. Anti-dumping measures must expire five years after the date of imposition, unless an investigation shows that ending the measure would lead to injury.
- Anti-dumping investigations are to end immediately in cases where the authorities determine that the margin of dumping is insignificantly small (defined as less than 2% of the export price of the product). Other conditions are also set. For example, the investigations also have to end if the volume of dumped imports is negligible (i.e. if the volume from one country is less than 3% of total imports of that product — although investigations can proceed if several countries, each supplying less than 3% of the imports, together account for 7% or more of total imports).

- The agreement says member countries must inform the Committee on Anti-Dumping Practices about all preliminary and final anti-dumping actions, promptly and in detail. They must also report on all investigations twice a year. When differences arise, members are encouraged to consult each other. They can also use the WTO's dispute settlement procedure.

Subsidies and countervailing measures

- This agreement does two things: it disciplines the use of subsidies, and it regulates the actions countries can take to counter the effects of subsidies. It says a country can use the WTO's [dispute settlement procedure](#) to seek the withdrawal of the subsidy or the removal of its adverse effects. Or the country can launch its own investigation and ultimately charge extra duty (known as “countervailing duty”) on subsidized imports that are found to be hurting domestic producers.

- The agreement contains a definition of subsidy. It also introduces the concept of a “specific” subsidy — i.e. a subsidy available only to an enterprise, industry, group of enterprises, or group of industries in the country (or state, etc) that gives the subsidy. The disciplines set out in the agreement only apply to specific subsidies. They can be domestic or export subsidies.

- The agreement defines two categories of subsidies: prohibited and actionable. It originally contained a third category: non-actionable subsidies. This category existed for five years, ending on 31 December 1999, and was not extended. The agreement applies to agricultural goods as well as industrial products, except when the subsidies are exempt under the Agriculture Agreement's "peace clause", due to expire at the end of 2003.

- Prohibited subsidies: subsidies that require recipients to meet certain export targets, or to use domestic goods instead of imported goods. They are prohibited because they are specifically designed to distort international trade, and are therefore likely to hurt other countries' trade. They can be challenged in the WTO dispute settlement procedure where they are handled under an accelerated timetable. If the dispute settlement procedure confirms that the subsidy is prohibited, it must be withdrawn immediately. Otherwise, the complaining country can take counter measures. If domestic producers are hurt by imports of subsidized products, countervailing duty can be imposed.

- Actionable subsidies: in this category the complaining country has to show that the subsidy has an adverse effect on its interests. Otherwise the subsidy is permitted. The agreement defines three types of damage they can cause. One country's subsidies can hurt a domestic industry in an importing country. They can hurt rival exporters from another country when the two compete in third markets. And domestic subsidies in one country can hurt exporters trying to compete in the subsidizing country's domestic market. If the Dispute Settlement Body rules that the subsidy does have an adverse effect, the subsidy must be withdrawn or its adverse effect must be removed. Again, if domestic producers are hurt by imports of subsidized products, countervailing duty can be imposed.

- Some of the disciplines are similar to those of the Anti-Dumping Agreement. Countervailing duty (the parallel of anti-dumping duty) can only be charged after the importing country has conducted a detailed investigation similar to that required for anti-dumping action. There are detailed rules for deciding whether a product is being subsidized (not always an easy calculation), criteria for determining whether imports of subsidized products are hurting (“causing injury to”) domestic industry, procedures for initiating and conducting investigations, and rules on the implementation and duration (normally five years) of countervailing measures. The subsidized exporter can also agree to raise its export prices as an alternative to its exports being charged countervailing duty.

- Subsidies may play an important role in developing countries and in the transformation of centrally-planned economies to market economies. Least-developed countries and developing countries with less than \$1,000 per capita GNP are exempted from disciplines on prohibited export subsidies. Other developing countries are given until 2003 to get rid of their export subsidies. Least-developed countries must eliminate import-substitution subsidies (i.e. subsidies designed to help domestic production and avoid importing) by 2003 — for other developing countries the deadline was 2000. Developing countries also receive preferential treatment if their exports are subject to countervailing duty investigations. For transition economies, prohibited subsidies had to be phased out by 2002.

The GATT/WTO Basic Principles

4.1 Basic Disciplines

4.2 Possibility to take "Adjustment measures"

4.3 Possibility to correct distortions

4.4 Special and Differential Treatment (S&D)

Special and differential treatment provisions

- The WTO Agreements contain provisions which give developing countries special rights. These are called “special and differential treatment” provisions. The Ministers in Doha, at the 4th WTO Ministerial Conference mandated the Committee on Trade and Development to examine these special and differential treatment provisions. The Bali Ministerial Conference in December 2001 established a mechanism to review and analyse the implementation of special and differential treatment provisions.

- The special provisions include:
 - longer time periods for implementing Agreements and commitments,
 - measures to increase trading opportunities for developing countries,
 - provisions requiring all WTO members to safeguard the trade interests of developing countries,
 - support to help developing countries build the capacity to carry out WTO work, handle disputes, and implement technical standards, and
 - provisions related to least-developed country (LDC) Members.
- https://www.wto.org/english/tratop_e/devel_e/dev_special_differential_provisions_e.htm

Developing Countries

- Part IV of GATT (1947) – increased trade opportunities
- “Enabling” Clause
- Technical Cooperation and Training
- UNCTAD/WTO International Trade Center (ITC)
- Least Developed Countries (Ministerial Decision)



The GATT/WTO Basic Principles

4.1 Basic Disciplines

4.2 Possibility to take "Adjustment measures"

4.3 Possibility to correct distortions

4.4 Special and Differential Treatment (S&D)

4.5 Horizontal Exceptions

- General Exceptions
- Security Exceptions
- Waivers



General Exceptions

- GATT Article XX on General Exceptions lays out a number of specific instances in which WTO members may be exempted from GATT rules:
 - a. protect public morals
 - b. protect human, animal, plant health
 - c. gold and silver imports and exports
 - d. secure compliance with laws or regulations which are not inconsistent with the provisions of the WTO Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices

- e. relating to the products of prison labour
- f. imposed for the protection of national treasures of artistic, historic or archaeological value
- g. relating to the conservation of exhaustible natural resources
- h. undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the contracting parties.
- i. involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan
- j. essential to the acquisition or distribution of products in general or local short supply.

- Two exceptions are of particular relevance to the protection of the environment: paragraphs (b) and (g) of Article XX. Pursuant to these two paragraphs, WTO members may adopt policy measures that are inconsistent with GATT disciplines, but necessary to protect human, animal or plant life or health (paragraph (b)), or relating to the conservation of exhaustible natural resources (paragraph (g)).

- GATT Article XX on General Exceptions consists of two cumulative requirements. For a GATT-inconsistent environmental measure to be justified under Article XX, a member must perform a two-tier analysis proving:
 - first, that its measure falls under at least one of the exceptions (e.g. paragraphs (b) to (g), two of the ten exceptions under Article XX) and, then,
 - that the measure satisfies the requirements of the introductory paragraph (the “chapeau” of Article XX), i.e. that it is not applied in a manner which would constitute “a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail”, and is not “a disguised restriction on international trade”.

- In the [US — Gasoline](#) case, the United States had adopted a measure regulating the composition and emission effects of gasoline in order to reduce air pollution in the United States. The Appellate Body found that the chosen measure was “primarily aimed at” the policy goal of conservation of clean air in the United States and thus fell within the scope of paragraph (g) of Article XX. As far as the second requirement of paragraph (g) is concerned, the Appellate Body ruled that the measure met the “even-handedness” requirement, as it affected both imported and domestic products.

Venezuela, Brazil versus US: gasoline

- One of the first WTO cases, brought by Venezuela and later Brazil against the US. The panel report was adopted in 1996. The case did not challenge a country's right to set environmental standards. The central question was about discrimination — whether the US measure discriminated against imported gasoline and in favour of domestic refineries.

- On 23 January 1995, only days after the WTO and its new dispute settlement procedure came into being, Venezuela complained to the Dispute Settlement Body that the United States was applying rules that discriminated against gasoline imports. Venezuela formally requested consultations with the United States, as required under WTO dispute settlement process.
- The case arose because the United States applied stricter rules on the chemical characteristics of imported gasoline than it did for domestically refined gasoline (for details [see box](#)).

- Venezuela said this was unfair because US gasoline did not have to meet the same standards — it violated the “[national treatment](#)” principle and could not be justified under [exceptions to normal WTO rules for health and environmental conservation measures](#). ([Legal details below](#).)
- Just over a year later (on 29 January 1996) the dispute panel completed its final report. (By then, Brazil had joined the case, lodging its own complaint in April 1996. The same panel considered both complaints.) The dispute panel agreed with Venezuela and Brazil.
- The US was found to be violating WTO rules because it discriminated against the gasoline imports.
- The United States appealed.

- The Appellate Body completed its report, and the Dispute Settlement Body adopted the report on 20 May 1996, one year and four months after the complaint was first lodged. The appeal report upheld the panel's conclusions (although it made some changes to the panel's legal interpretation).
- The United States and Venezuela then took six and a half months to agree on what the United States should do. The agreed period for implementing the solution was 15 months from the date the appeal was concluded (20 May 1996 to 20 August 1997). The Dispute Settlement Body monitored progress — the United States submitted “status reports” on 9 January and 13 February 1997, for example.
- The United States agreed with Venezuela that it would amend its regulation within 15 months, and on 26 August 1997 it reported to the Dispute Settlement Body that a new regulation had been signed on 19 August.

- In the [US — Shrimp](#) case, the Appellate Body considered that the general structure and design of the measure in question were “fairly narrowly focused” and that it was not a blanket prohibition of the importation of shrimp imposed without regard to the consequences to sea turtles; thus, the Appellate Body concluded that the regulation in question was a measure “relating to” the conservation of an exhaustible natural resource within the meaning of Article XX(g). The Appellate Body also found that the measure in question had been made effective in conjunction with the restrictions on domestic harvesting of shrimp, as required by Article XX(g).

India etc versus US: 'shrimp-turtle'

- A case brought by India, Malaysia, Pakistan and Thailand against the US. The appellate and panel reports were adopted in 1998. US lost the case, although the appellate reports states:
- "... We have not decided that the sovereign nations that are Members of the WTO cannot adopt effective measures to protect endangered species, such as sea turtles. Clearly, they can and should. ..."

United States — Import Prohibition of Certain Shrimp and Shrimp Products

- WTO case Nos. 58 (and 61). [Ruling](#) adopted on 6 November 1998
- Seven species of sea turtles have to date been identified. They are distributed around the world in subtropical and tropical areas. They spend their lives at sea, where they migrate between their foraging and nesting grounds.
- Sea turtles have been adversely affected by human activity, either directly (their meat, shells and eggs have been exploited), or indirectly (incidental capture in fisheries, destruction of their habitats, pollution of the oceans).

- In early 1997, India, Malaysia, Pakistan and Thailand brought a joint complaint against a ban imposed by the US on the importation of certain shrimp and shrimp products. The protection of sea turtles was at the heart of the ban.
- The US Endangered Species Act of 1973 listed as endangered or threatened the five species of sea turtles that occur in US waters, and prohibited their “take” within the US, in its territorial sea and the high seas. (“Take” means harassment, hunting, capture, killing or attempting to do any of these.)
- Under the act, the US required that US shrimp trawlers use “turtle excluder devices” (TEDs) in their nets when fishing in areas where there is a significant likelihood of encountering sea turtles.

- Section 609 of US Public Law 101–102, enacted in 1989, dealt with imports. It said, among other things, that shrimp harvested with technology that may adversely affect certain sea turtles may not be imported into the US — unless the harvesting nation was certified to have a regulatory programme and an incidental take-rate comparable to that of the US, or that the particular fishing environment of the harvesting nation did not pose a threat to sea turtles.
- In practice, countries that had any of the five species of sea turtles within their jurisdiction, and harvested shrimp with mechanical means, had to impose on their fishermen requirements comparable to those borne by US shrimpers if they wanted to be certified to export shrimp products to the US. Essentially this meant the use of TEDs at all time.

- In its report, the Appellate Body made clear that under WTO rules, countries have the right to take trade action to protect the environment (in particular, human, animal or plant life and health) and endangered species and exhaustible resources). The WTO does not have to “allow” them this right.
- It also said measures to protect sea turtles would be legitimate under [GATT Article 20](#) (i.e. XX) which deals with various exceptions to the WTO’s trade rules, provided certain criteria such as non-discrimination were met.

- The US lost the case, not because it sought to protect the environment but because it discriminated between WTO members. It provided countries in the western hemisphere — mainly in the Caribbean — technical and financial assistance and longer transition periods for their fishermen to start using turtle-excluder devices.
- It did not give the same advantages, however, to the four Asian countries (India, Malaysia, Pakistan and Thailand) that filed the complaint with the WTO.
- The ruling also said WTO panels may accept “amicus briefs” (friends of the court submissions) from NGOs or other interested parties.

Security Exceptions

- Nothing in this Agreement shall be construed
- (a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
- (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Waivers

- Example:
- TRIPS Council agrees to continue discussions on IP response to COVID-19
- At a meeting of the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) on 20 July 2021, WTO members agreed to continue consideration of the proposal for a temporary waiver of certain TRIPS obligations in response to COVID-19 and other related proposals. Members approved a status report which they tasked the chair to deliver at the General Council at its next meeting on 27-28 July.

- The EU proposal calls for limiting export restrictions, supporting the expansion of vaccine production, and facilitating the use of current compulsory licensing provisions in the TRIPS Agreement, particularly by clarifying that the requirement to negotiate with the right holder of the vaccine patent does not apply in urgent situations such as a pandemic, among other issues.
- The two texts discussed in the TRIPS Council reflect that positions remain divergent. While delegations remain committed to the common goal of providing timely and secure access to high-quality, safe, efficacious and affordable vaccines and medicines for all, disagreement persisted on the fundamental question of what is the appropriate and most effective way to address the shortage and inequitable access to vaccines and other COVID-related products.
- https://www.wto.org/english/news_e/news21_e/trip_20jul21_e.htm

The GATT/WTO Basic Principles

4.1 - 4.5

4.6 Other Principles

- Transparency
- *"Single Undertaking"*
- WTO Rules and Disciplines:
an element of the international public Law
- Panels and Appellate Body:
a delegated and limited jurisdiction

How the negotiations are organized

- The November 2001 declaration of the Fourth Ministerial Conference in Doha, Qatar, provides the mandate for negotiations on a range of subjects, and other work including issues concerning the implementation of the present agreements.
- The negotiations take place in the [Trade Negotiations Committee](#) and its subsidiaries.
- Other work under the work programme takes place in other WTO councils and committees.

Principles

- **Single undertaking:** Virtually every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. “Nothing is agreed until everything is agreed”.
- **Participation:** The negotiations are open to all WTO members and to observer governments negotiating or intending to negotiate membership. But decisions on the outcomes are only taken by members.
- **Transparency:** The negotiations have to be transparent.
- **Special and differential treatment:** The negotiations have to take fully into account the principle of special and differential treatment for developing and least-developed countries.
- **Sustainable development:** The Trade and Development and Trade Environment identify and debate developmental and environmental aspects of the negotiations to ensure that sustainable development is appropriately reflected.
- **Subjects not negotiated:** Elements of the work program which do not involve negotiations are also accorded a high priority.

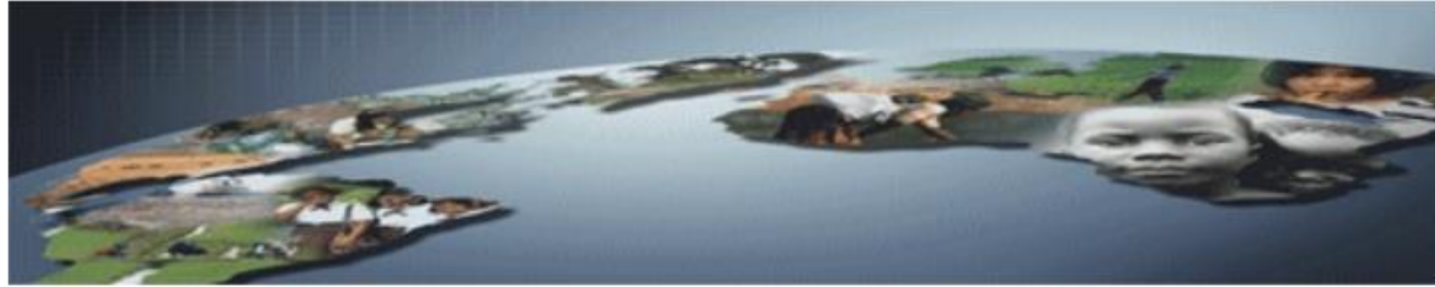
Jurisdiction of Panels and the Appellate Body

- To put it more simply: against what can the complaint be directed? For example, in a violation complaint, what types of action by a Member are covered by a commitment in a covered agreement? Can only acts of administrative authorities be challenged or also legislative acts? Can the complainant invoke the dispute settlement system only against legally binding acts of Members or also against non-binding acts taken by the Members' authorities? Can the challenge only be directed against governmental conduct or also against behaviour of private individuals? Can it be directed only against positive action or also against omissions, i.e. the failure to act?
- Answers to these questions are important because they serve to delineate the jurisdiction of WTO panels and the Appellate Body.

- One could give a simple and formalistic answer to the question of jurisdiction: the WTO dispute settlement system has jurisdiction over any dispute between [WTO Members](#) arising under any of the covered agreements ([Article 1.1](#) of the [DSU](#)).
 - Dispute Settlement Understanding (DSU): The Dispute Settlement Understanding is a legal text containing the rules for dispute settlement in the WTO.

- How the object of a dispute is viewed in legal terms depends on the content of the agreements (i.e. on the type of complaint possible under the agreement in question, combined with the substantive provision in question).
 - For example, a violation complaint under Article X, Y or Z of GATT 1994 can be directed against anything that might violate those provisions. In such a case, a panel would probably not spend any time deciding whether the complainant is challenging a proper measure, but rather would simply assess whether what is alleged to violate the invoked article actually does so. There is no doubt that the panel would have jurisdiction to answer that question.
- More on this when we look at the WTO dispute settlement system.
- https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c5s1p1_e.htm

5. Doha Development Agenda



- The work programme lists 21 subjects. The original deadline of 1 January 2005 was missed. So was the next unofficial target of the end of 2006...
- September 2003, Cancun, Mexico, Ministerial Conference ended in discord
- Dec 13-18 2005 - Hong Kong Ministerial Conference
- July 24 2006, - Ministers gathered in Geneva – Talks stalled - Pascal Lamy formally suspends the negotiations.



- October 2006 - The US and Russia reach agreement in principle on a bilateral market access deal in the context of Russia's efforts to join the WTO!
- Efforts now focused on trying to achieve a breakthrough in the DDA before late 2008...
- Two main areas of concern are Agriculture and Non-agricultural Market Access (NAMA)



- NAMA and Agriculture Chairs Circulated their blueprints for an Agreement (Feb 8 2008)
- Agriculture
 - Domestic Support
 - Market Access **Sensitive** Products –Special Products
 - Export Competition
 - Next Room E meeting 31 March (Cancelled)

- Trade Facilitation
 - clarify and improve GATT
 - Article V (Freedom of Transit),
 - Article VIII (Fees and Formalities connected with Importation and Exportation), and
 - Article X (Publication and Administration of Trade Regulations).

- Rules

- Agreement on Implementation of Article VI of GATT 1994 (better known as the Anti-dumping Agreement);
- Agreement on Subsidies and Countervailing Measures
- WTO disciplines on fisheries subsidies; and
- WTO provisions applying to regional trade agreements

Summary

Multilateral Framework of Rules

- Rules negotiated and accepted by all Members under the consensus decision-making process
- Maintaining a basic balance/equilibrium, between
 - open and expanding markets; and
 - needs and requirements of domestic economic policy: making domestic industries more competitive; protecting environment and consumers; operating an efficient economy; contribute to economic development and growth