WTO ENGLISH

WTO实用英语

毛卓亮 容新芳 主编

河北大学出版社
Hebei University Press

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总策划：王逢振
主　编：毛卓亮　容新芳
编　委：秦明霞　赵　林
　　　　郑　悦　朱　静
　　　　李秋榆　范淑芹

河北大学出版社
Hebei University Press

责任编辑:臧燕阳
封面设计:赵　谦
责任印制:李晓敏

图书在版编目(CIP)数据

WTO实用英语/毛卓亮主编.—保定:河北大学出版社,2003.5
ISBN　7-81028-922-5

Ⅰ.W...　Ⅱ.毛...　Ⅲ.世界贸易组织-英语
Ⅳ.H31

中国版本图书馆CIP数据核字(2003)第031712号

出版:河北大学出版社(保定市合作路88号)　　经销:全国新华书店
印制:河北供销印刷厂　　规格:1/32 (880mm×1230mm)
印张:11　　字数:300千字　　印数:1～6000册
版次:2003年6月第1版　　印次:2003年6月第1次

ISBN 7-81028-922-5/H·56　　定价:19.00元

前　言

2001年,经过漫长的谈判,中国终于加入了WTO,人们欢呼,人们议论,一时间成了最热门的话题。但是,什么是WTO?它的内容是什么?似乎许多人并不十分了解。

WTO是"世界贸易组织"(World Trade Organization)的简称。其主要作用是规范世界各国之间的贸易。WTO是在"关贸总协定"(General Agreement on Trariffs and Trade,简称"GATT")的基础上形成的,于1993年在乌拉圭回合谈判中达成协议,1994年4月在摩洛哥举行了签字仪式,1995年1月正式成立。因此它是"关贸总协定"的延续和完善。"关贸总协定"主要是通过限制关税促进自由贸易,而WTO则积极推进自由贸易,并扩大范围,增加了服务业、知识产权以及农产品自由贸易等相关的内容,规定了解决贸易冲突的程序和方式。WTO是世界最大的贸易组织,现有成员约150个国家和地区,在世界贸易中正发挥着越来越大的作用。随着经济全球化的发展和我国对外贸易的不断扩大,WTO对我国的经济乃至日常生活都将产生巨大的影响。

众所周知,教育应该适应社会的需要。但是,当前我国熟悉WTO的人才十分匮乏,如不改善,必将影响对外贸易和经济的发展。为了适应加入WTO以后的形势,培养一专多能的复合型人才,我们编选了这本《WTO实用英语》。

《WTO实用英语》包括WTO的背景，主要条款的解释，以及典型案例的分析。主要目的是使英语专业和经济贸易专业的学生既学习有关WTO的英语，又了解WTO的基本内容，为将来深造和求职拓宽道路，更好地为国家服务。对其他相关专业的学生，对已经掌握英文并在相关部门工作的人，同样也有实用价值。

《WTO实用英语》依据的是当前最新的资料，是由参与WTO谈判的外经贸部条法司司长正玉卿先生提供的(这里我们对正玉卿先生表示诚挚的谢意)。作者均为WTO权威教授或专家，不仅解释精确，而且英文地道。

《WTO实用英语》可作为大学英语专业三年级及三年级以上学生的选用教材，亦可作为具有相应英文水平者的参考资料。为了便于读者阅读和理解，我们对文章进行了编辑加工，并对某些难点做了注释。

我们对河北大学出版社为此书出版所做的努力表示衷心的感谢。但由于我们对WTO缺乏充分了解，在编选和注释中难免有不当之处，恳切期望专家、学者和广大读者批评指正。

王逢振

2003年6月

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Chapter 1

The Policies and Realities of International Economic Regulation

Ⅰ. The Meaning of Interdependence

In a world where trade across borders constitutes an ever larger percentage of the gross domestic product of some countries, even for an internal market as large as the United States, it is no wonder that government leaders, business people, and almost everyone else feels some anxiety about those mysterious foreign influences that can affect daily lives so dramatically.

Even these percentages do not tell the whole story. It is generally recognized that the influence of international trade on national economies has been growing for decades and can be much more profound than the percentages might indicate, both because the trade itself is often a much higher percentage of the goods-producing sectors of economies, and because a multiplier or ripple effect amplifies the consequences of such sectors expanding or contracting.

In sum, the world has become increasingly interdependent. With that interdependence has come great wealth: goods are produced where their costs are lowest; consumers have more choices; institutions of production are disciplined through competition; producers can realize the advantages of economies of scale. But with interdependence has come vulnerability. National economies do not stand alone: economic forces move rapidly across borders to influence other societies. Government deficits in the United States can have an impact on its interest rate, which can push heavily indebted developing countries to the verge of "bankruptcy." An embargo or price rise implemented by major oil-producing nations can cause deep and frustrating unemployment, farm bankruptcies, and dramatic rises in the cost of living in the United States. A recession in one part of the world is rapidly felt in other parts.

How did this interdependence come about? Perhaps the technological innovations of the post-World War Ⅱ era alone would have created these conditions, at least in the absence of major military conflict. The time and cost of transport have fallen rapidly, so that these barriers to greater trade flows and service exchanges have also dropped. Communications have become spectacularly instantaneous: in our living rooms we watch foreign local wars broadcast on the TV news by satellite, and it is possible now to order goods or shift huge sums of money across oceans, literally in seconds. Information systems are changing the character of markets and also affecting business techniques, such as the control of inventories, the use of borrowed money, the response to changing interest rates, and the adoption of new developments of technology. But these scientific advances have little influence if they are resisted by governments, as we observed in the cases of those governments that do resist them.

We must recognize that the international institutions erected or reinstated by governments after World War Ⅱ have made their contribution. If some world organizations have failed to perform in the manner contemplated by their founders, they have nevertheless contributed symbolically to the general trend of a shrinking world[1] made possible by scientific innovation. This is particularly the case with the economic institutions.

The 1944 Bretton Woods Conference[2] launched the World Bank (WB)[3] and the International Monetary Fund(IMF)[4]. A few years later came a failed attempt to add a complementary organization for trade, the ill-fated International Trade Organization (ITO)[5] of the Havana Charter[6], but into the vacuum came the General Agreement on Tariffs and Trade(GATT)[7]. These institutions were later joined by others, including the Organization for Economic Cooperation and Development (OECD)[8], the United Nations Conference on Trade and Development(UNCTAD)[9], and some important regional systems. By the late 1960s, therefore, the liberalization of trade and financial flows promoted by this postwar system—sometimes broadly called the Bretton Woods System[10]—had progressed far enough to foster an unprecedented surge of trade and to demonstrate the economic benefits that flow from such liberalization. But at the same time, new problems were emerging. The receding waters of tariff and other overt protection inevitably uncover the rocks and shoals of nontariff barriers and other problems[11]. As the European Community[12] has experienced in recent decades, creating free trade requires attention to a group of interrelated activities such as the flow of capital, the movement of labor, and the flow of technology and services. These in turn have revolutionized government methods traditionally used to control fiscal and monetary policy, taxation structure, environment regulation, product standards, and liability for product defects. The propensity for government summit meetings, both within Europe and on a worldwide basis, is obviously not unrelated to these world economic trends of interdependence. Likewise, the attempts of governments to combine their efforts through international organizations have a similar result. The question is not whether a government will play on the international scene; the question is, where will it play and with whom(that is, what forum will it work in and what other governments is it willing to let into its "club")?

The problem of international economics today, then, is largely a problem of "managing"[13] interdependence. The success of the Bretton Woods System has created a host of new problems. When economic transactions so easily cross national border, tensions occur merely because of the differences between economic institutions as well as cultures. In addition, the freedom of border "transit" sometimes allows unscrupulous entrepreneurs to evade national government regulation. Even morally sensitive entrepreneurs have their effective power enhanced when they can move activity quickly from one nation to another. Governments, by contrast, are increasingly frustrated by effective evasion of their regulatory powers. Furthermore, governments find that actions of other governments can cause them great difficulties.

Governments respond to these problems in a variety of ways. Some join other governments in an attempt to create an international regulatory system to help ameliorate the "free-for-all" aspects of international trade (such as beggar-thy-neighbor policies[14]), or to provide a unified posture to confront the less public-spirited entrepreneurs. Another common response is to develop internal policies, designed to enable their nations to better cope with the challenges of the world economy. Thus, governments adopt "industrial policies," measures to enhance "competitiveness," measures (usually at the border) to offset foreign-governmental or private actions deemed potentially damaging, or reciprocal responses of various kinds.

In considering any of these responses, however, government participating in the Bretton Woods System confront international as well as national sets of rules, procedures, and principles that may narrowly constrain their options. One of the purposes of this book is to describe one part of that system: the rules of international trade as developed principally in the context of GATT, but related closely to national laws that regulate trade.

Ⅱ. "Liberal Trade"

The starting point for any discussion of policy for the international economic system of today is the notion of "liberal trade," meaning the goal to minimize the amount of interference of governments in trade flows that cross national borders. The economic arguments concerning this central policy concept will be discussed below, but regardless of their validity or intellectual persuasiveness, there is no question that they have been influential. The basic liberal trade philosophy is constantly reiterated by government and private persons, even in the context of a justification for departing from it!

The prominent economist Paul Samuelson said that "there is essentially only one argument for free trade or freer trade, but it is an exceedingly powerful one, namely: Free trade promotes a mutually profitable division of labor, greatly enhances the potential real national product of all nations, and makes possible higher standards of living all over the globe."

The GATT itself began with a preamble that includes phrases expressing goals of "raising standards of living," by, among other things, "expanding... exchange of goods." The Leutwiler "eminent persons" Report of 1985 prepared for the GATT expressed a similar view:

> Ever since ancient times, people have found that they can increase their incomes by developing specialized skills and trading the fruits of their labor in the marketplace. A farmer may know how to sew and a tailor may know how to raise chickens—but each can produce more by concentrating on doing what each can do most efficiently.
>
> The same applies to countries. Trade allows countries to concentrate on what they can do best. No two countries are exactly alike in natural resources, climate or work force. Those differences give each country a "comparative ad-

vantage" over the others in some products. Trade translates the individual advantages of many countries into maximum productivity for all. This is the classic theory of international trade. It is still valid today.

A 1970 Senate[15] document noted that "It had been the principal goal of American foreign policy since 1934 to strive for the removal of barriers to the free flow of international trade. The original trade agreements program has been extended several times; and since 1934 the Congress, after careful scrutiny and examination[16], repeatedly renewed the president's advance authority to negotiate reciprocal agreements to lower trade barriers."

The July 1971 Report of the President's Commission on International Trade and Investment Policy (also known as the Williams Commission), in expressing the goals of U.S. policy, included this sentence: "The ultimate goal should be to achieve for all people the benefit of an open world in which goods and capital can move freely."

More recently, the developments of the Uruguay Round and its implementation have reinforced these various expressions of policy. The WTO Charter carries forward some of the phraseology of the GATT Agreement, speaking of "raising standards of living and expanding the production of and trade in goods and service, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development. ..." The United States Uruguay Round Agreements Act of 1994 carries forth these policies.

Thus there can be little doubt of the general policy underpinnings of the post-World War Ⅱ international economic system as it prevails at least among the so-called industrial-market economies. There is uncertainty, however, about what this basic policy implies in specific instances, and doubt that this basic policy is still viable in the face of changed circumstances. These are issues to which this book repeatedly returns.

Of course, this basic "economic goal" is not the only goal of international trade policy. A number of other goals can be articulated also. In some cases these other goals may be partly inconsistent with the central goal, requiring some "balancing" or "compromise." At this point there is no attempt to inventory all possible goals of international economic policy, but describe some other policy goals, which could be classified as "noneconomic."

During the years near the end and just after World War Ⅱ, as leaders of the victorious nations began formulating postwar plans for international economic institutions, one could detect in speeches and documents a strong political goal that accompanied the economic thinking of the day. The political goal arose from the view that the interwar economic problems were causes in part for World War Ⅱ. The Great Depression[17], the mishandling of policy toward Germany after World War I, and other similar interwar circumstances weighed heavily on the minds of policymakers who wanted to design post-World War Ⅱ institutions that would prevent a recurrence of these problems. For example, Harry Hawkins who was, at the time, Director of the Office of Economic Affairs of the U.S. Department of State, said in a 1944 speech, "Trade conflict breeds noncooperation, suspicion, bitterness. Nations which are economic enemies are not likely to remain political friends for long." A 1945 presidential message stated: "The fundamental choice is whether countries will stuggle against each other for wealth and power, or work together for security and mutual advantage. . . . The experience of cooperation in the task of earning a living promotes both the habit and the techniques of common effort and helps make permanent the mutual confidence on which the peace depends."

There are several problems with the argument about competition such as the case in industry. Economists can argue that there are better ways to achieve the goal of promoting the new industry, such as the explicit use of subsidies. (The same constraints discussed in the case of national security may apply here as well, however.) And as with the national security arguments, there may be the problem of identifying which industries should receive the benefit of "infant" treatment. For small economies, the infant industry argument[18] for import protection may be relatively weak: such an industry may need to depend on exports to establish the economies of scale necessary for true viability. Related to these arguments are more perplexing ones that focus on the advantage of "learning by doing" to justify governments or individual firms pursuing certain strategic policies or market share-enhancing programs.

This can lead to arguments about tariff and trade preferences which later chapters discuss. One problem has been determining when an "infant" industry has reached maturity, so that it no longer merits the exceptional treatment of import protection. There is often a tendency for industries to argue for perpetual infancy status.

One noneconomic goal greatly affecting national trade policies is the preservation of political or economic power. At least in a democratic nation, national leaders will be observably influenced in their trade-policy decisions by the desire to get elected or reelected. But not only political leaders manifest the desire for power. Business leaders and labor leaders can also be seen to have similar tendencies. It has been queried whether liberal trade policies render labor unions more vulnerable and reduce their power. Although it may not yet be possible to answer this query definitively, it does seem that some evidence supports an affirmative answer. (This relates to goals of distributive justice also.) But the reduction of power may occur not only to labor unions. Some industrial leaders and owners of capital may also find their power reduced. No one involved in trade policy questions can afford to ignore the often intense feelings that are engendered by these effects from international trade(or other international transactions). No one can effectively explain the specially favored place that agricultural producers gave preserved in trade policy measures without reference to some of these ideas. An interesting study beyond the scope of this book would analyze the gains and losses of power among national groups resulting from international economic interdependence and international trade. Do the nimble, well-managed multinational corporations find their effective power enhanced by these international economic trends?

Ⅲ. International Economic Law

In recent years one has increasingly heard references to "international economic law." Unfortunately, this phase is not well defined. Scholars and practitioners have differing ideas about the meaning of this term. Some would have it cast a very wide net, and embrace almost any aspect of international law that relates to any sort of economic matter. Considered broadly, almost all international law could be called international economic law, because almost every aspect of international relations touches in one way or another on economics. Indeed, it can be argued from the latter observation that there cannot be any separate definition of international economic law. A more restrained definition of international economic law, however, would embrace trade, investment, and services when they are involved in transactions that cross national borders, and those subjects that involve the establishment on national territory of economic activity of persons or firms originating from outside that territory[19].

In any event, clearly the subject of international trade[20], whether in goods or in services (or both), is at the core of international economic law. This book focuses on the rules of international trade in products, but the implications of those rules for other subjects of international economic relations should be obvious. The rules of product trade, centrally served by the GATT, are the most complex and extensive international rules regarding any subject of international economic relations that exist. As such it is natural that they would have some influence on the potential development of rules for other international economic subjects, particularly the subjects developed in the Uruguay Round context, including services and intellectual property. In addition, there is mention of a "GATT for investment" and the possibility of a WTO approach for certain other subjects. For this reason there is considerable justification for focusing on the rules of product trade as reflected in the WTO/GATT system. This focus can be thought of as sort of a "case study" of the advantages and disadvantages, the positives and negatives, of an elaborate rule system at the international level.

Two unfortunate bifurcations of the subject of international economic law exist, however. One is the distinction between monetary and trade affairs. Given that both are, in a sense, "two sides of the same coin," a degree of artificiality separates them as topics. Yet international organizations, national governments, and even university departments tend to indulge in the same separation; and given that the whole cannot be studied at once, there is great practical value in taking up the trade questions separately.

An even less fortunate distinction of subject matter is often made between international and domestic rules. This book will not indulge in that separation. In fact the domestic and international rules and legal institutions of economic affairs are inextricably intertwined. It is not possible to understand the real operation of either of these sets of rule in isolation from the other. The national rules (especially constitutional rules) have had enormous influence on the international institutions and rules. Like-