The WTO as an International Organization

Edited by Anne O. Krueger

with the assistance of Chonira Aturupane

The University of Chicago Press

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The University of Chicago Press, Chicago 60637
The University of Chicago Press, Ltd., London

Printed in the United States of America
07 06 05 04 03 02 01 00 99 98 1 2 3 4 5
ISBN: 0-226-45487-8 (cloth)

Library of Congress Cataloging-in-Publication Data

The WTO as an international organization / edited by Anne O. Krueger with the assistance of Chonira Aturupane.
p. cm.
Papers presented at the Conference on the World Trade Organization as an International Institution held in Singapore in Dec. 1996.
Includes bibliographical references and index.
ISBN 0-226-45487-8 (cloth : alk. paper)
1. World Trade Organization—Congresses. 2. International trade—Congresses. 3. Free trade—Congresses. 4. Commercial policy—Congresses. 5. Free trade—Developing countries—Congresses. I. Krueger, Anne O. II. Aturupane, Chonira. III. Conference on the World Trade Organization as an International Institution (1996 : Singapore)
HF1385.W78 1998
382'.06'01—dc21 97-33584
CIP

♾ The paper used in this publication meets the minimum requirements of the American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI Z39.48-1992.

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Foreword

As Singapore's ambassador to the GATT, and then to the WTO, from December 1991 to February 1997, I had long felt the need for increased "interaction" between the communities of international trade officials, academics, and policymakers. With increasing globalization, a well-functioning open multilateral trading system is of crucial importance for us all. Understanding that system well, and making it function smoothly, is a challenging task for which the skills and insights of academics and policymakers alike are greatly needed. Indeed, the latter are dependent on scholars for dispassionate, objective analysis of the critical issues facing the world of trade.

I was very pleased, therefore, when the Conference on the World Trade Organization as an International Institution was organized, and when I was invited to participate. The conference brought together national policymakers, officials from the trade community, and academics from a variety of disciplines. The stimulating papers provided an excellent backdrop for discussion of the challenges and issues facing the WTO. I believe that all participants were enriched by the excellent dialogue that took place at the conference.

Held only about two months before the inaugural WTO ministerial meeting in Singapore in December 1996, the conference had special significance. The results of the deliberations provided input for defining the agenda of the Singapore meeting.

The papers and discussion at the conference continue to have great relevance for the WTO as it grapples with new and increasingly complex issues. Apart from trade and trade-related issues, the WTO, in concert with the IMF and the World Bank, also has to take into account other issues such as development, environment, and the impact of technology on the global trading system. The authors of the papers have given us much food for thought. Even though we may not agree with all of their conclusions, the relevance of the issues addressed and the quality of the discussion that the papers generated make all the contributions important. It is my belief that the outcome of the proceedings of the conference will be of interest and benefit to all those interested in international economic issues and the maintenance of an open multilateral trading system.

I hope that this volume represents only the first step toward closer interactions and interchange between the academic and policymaking communities concerned with global issues of trade.

K. KESAVAPANY

Acknowledgments

With any edited volume, the primary acknowledgment must be to the contributors to the volume. In the case of this volume, the debt to contributors is even greater than usual: the authors gathered at a conference in Palo Alto in September 1996 and the interactions were highly productive and stimulated all in the revisions of these papers. In addition to those whose contributions are included in the volume there were many others (included in the list of participants) whose comments and analyses were stimulating and invaluable.

In turn, neither the paper preparation nor the conference would have been possible without the support of Richard Blackhurst and Gary Sampson of the WTO and of Seamus O'Clearicain of the Ford Foundation. Deborah Carvalho, administrator of the Center for Economic Policy Research at Stanford, provided excellent organization and arrangements for the conference, with the able assistance of Christy Drexel. Evren Ergin, Jess Gasper, and Calgar Ozden, all then graduate students at Stanford, were excellent research assistants.

Financial support for the project was provided by the Ford Foundation, and is gratefully acknowledged.

Abbreviations

AD antidumping
APEC Asia-Pacific Economic Cooperation
ASEAN Association of Southeast Asian Nations
CAP Common Agricultural Policy
CEA Council of Economic Advisers
CFCs chlorofluorocarbons
CG.18 Consultative Group of Eighteen
CGE computable general equilibrium
COMECON Council for Mutual Economic Assistance
CU customs union
CVD countervailing duty
DSB Dispute Settlement Body
DSU dispute settlement understanding
EC European Community
EDF European Development Fund
EEC European Economic Community
EFTA European Free Trade Area
EPG Eminent Persons Group
EPU European Payments Union
EU European Union
FOGS functioning of the GATT system
FTA free trade area
G7 Group of Seven
GATS General Agreement on Trade in Services
GATT General Agreement on Tariffs and Trade
GCC Gulf Cooperation Council
GSP Generalized System of Preferences
IBRD International Bank for Reconstruction and Development
IDA International Development Association
IDB Integrated Data Base
IFC International Finance Corporation
ILO International Labor Organization
IMF International Monetary Fund
ITC International Trade Commission
ITO International Trade Organization
LAFTA Latin American Free Trade Association
LAIA Latin American Integration Association
MAI Multilateral Agreement on Investment
MFA Multifiber Arrangement
MFN most favored nation
MTN multilateral trade negotiations
NAFTA North American Free Trade Agreement
NAM National Association of Manufacturers
NATO North Atlantic Treaty Organization
NFTC National Foreign Trade Council
NGO nongovernmental organization
NIRA National Industrial Recovery Act
NT national treatment
NTB nontariff barrier
OECD Organization for Economic Cooperation and Development
PPP purchasing-power parity

PTA preferential trading arrangement
ROO rules of origin
RTAA Reciprocal Trade Agreements Act
STR special trade representative
TAA Trade Agreements Act
TAFTA Transatlantic Free Trade Area
TBT technical barriers to trade
TPRM Trade Policy Review Mechanism
TRIM trade-related investment measure
UNCTAD United Nations Conference on Trade and Development
UNDP United Nations Development Programme
USTR U.S. trade representative
VER voluntary export restraint
WHO World Health Organization
WIPO World Intellectual Property Organization
WPS working paper series
WTO World Trade Organization

Chronology

1944	Bretton Woods Conference.
1946	The IMF and IBRD open for business.
1947	Drawing up of the GATT.
1947	First round of multilateral tariff reductions negotiated in Geneva.
1947	Start of the Marshall Plan and the establishment of the Organization for European Economic Cooperation.
1948	Adoption of the ITO charter by the International Conference on Trade and Employment in Havana.
1949	Second round of multilateral tariff negotiations at Annecy.
1951	Third round of multilateral tariff negotiations at Torquay.
1956	Fourth round of multilateral trade negotiations at Geneva.
1957	Signing of Treaty of Rome establishing the European Common Market.
1957	Establishment of the Commission of the European Communities.
1960	Creation of LAFTA.
1960–61	Fifth round of tariff negotiations under the GATT: Dillon Round.
1961	The Organization for European Economic Cooperation becomes the OECD.
1964–67	Sixth round of multilateral tariff negotiations under the GATT: Kennedy Round. The first multilateral tariff negotiations round to deal with nontariff measures.
1967	Establishment of ASEAN.
1973–79	Seventh round of multilateral tariff negotiations under the GATT: Tokyo Round.
July 1975	Establishment of the CG.18 by the GATT Council.
1979	The enabling clause: The Decision on Differential and More Favorable Treatment, Reciprocity, and Fuller Participation of Developing Countries.
1979	Declaration on Trade Measures taken for Balance of Payments Purposes by GATT contracting parties.
1983	Establishment of a formal office of legal affairs for the GATT Secretariat.

1986–92	Eighth round of multilateral tariff negotiations under the GATT: Uruguay Round.
1989	The Canada-U.S. Free Trade Agreement goes into effect.
1989	Trade Policy Review Mechanism (TPRM) introduced into the GATT following the midterm review of the Uruguay Round.
1989	Formation of APEC.
April 1990	Proposal to create a WTO by Canada's trade minister, John Crosbie.
February 1992	Signing of the Treaty of Maastricht.
1 January 1994	NAFTA goes into effect.
15 April 1994	Signing of the Final Act embodying the results of the Uruguay Round of multilateral trade negotiations and establishing the WTO in Marrakesh, Morocco.
1 January 1995	Birth of the WTO.
28 July 1995	Conclusion of negotiations on the *Financial Services Agreement.*
28 July 1995	Conclusion of negotiations on *Movement of Natural Persons.*
November 1996	Formal agreements concerning cooperation reached between the WTO and the IMF and World Bank.
December 1996	WTO Ministerial Conference in Singapore.
February 1997	Conclusion of negotiations on *Basic Telecommunications:* the telecommunication agreement.
26 March 1997	Agreement by forty governments to implement the ministerial Declaration on Trade in Informational Technology Products.

Introduction

Anne O. Krueger

Until the end of 1994, there was no multilateral or international organization that dealt with trade issues between countries. For almost fifty years, the international trading system had functioned without such an organization: under the aegis of the General Agreement on Tariffs and Trade, rules of the game had been developed and respected. But the GATT was created through agreement among trading nations: it did not have the international standing of the International Monetary Fund (IMF) or the World Bank, both of which were international organizations. Instead, the GATT Secretariat, as its name implied, served the signatories to the GATT.

All of that changed suddenly in 1994, when, contradicting earlier gloomy forecasts, the Uruguay Round of trade negotiations under the GATT ended not only with considerable progress in strengthening the international trading system, but also with an agreement to found the World Trade Organization.

The WTO now has the same legal and organizational standing as the Fund and the Bank. The WTO came into being on 1 January 1995, without much fanfare. The staff of the WTO was the same as that of the former GATT, although it was subsequently expanded by about 10 percent to 400, contrasted with the Fund's approximate 3,000 and the World Bank's 6,000 employees! The WTO was housed in the same building as the GATT had been, and the director general of the GATT became director general of the WTO.

A casual observer might well have asked whether anything had changed. The answer was a qualified yes. On one hand, the WTO was assigned responsibilities additional to those earlier carried out by the GATT. On the other hand,

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the fact that the WTO was an organization provided potential and opportunities for the institution to alter its role in the international trading system, at least to some extent, relative to the passive "instrument of the GATT signatories" that the GATT Secretariat had earlier, necessarily, taken.

While considerable attention was given to the substantive achievements and challenges arising out of the Uruguay Round agreement, little attention was paid to the challenges facing the WTO as an international organization.

It was therefore deemed worthwhile to focus attention on the fledgling international organization. To that end, a conference was organized by the Program in International Economics of the Center for Economic Policy Research at Stanford University on the WTO as an international institution.

To provide the reader with some helpful background for the papers that follow, this introduction provides a short history of those aspects of the evolution of the international trading system since the Second World War that are pertinent to consideration of the WTO and its effectiveness. An initial section points out the irony of the weakness of the institutional structure underlying trading relations compared to the enormous success in liberalizing international trade. A second section reviews the key principles of the open multilateral trading system as they are embodied in the WTO. A third section briefly sketches some of the threats arising out of protectionist pressures that many observers believe constitute major challenges for the WTO. A fourth section introduces some of the key problems with which the WTO will have to deal: policies toward preferential trading arrangements, establishing agreements for trade in services, pressures for environmental and labor standards, and liberalization of agriculture. A fifth section focuses on the need for a strengthened and effective international organization. A final section overviews the individual papers that follow.

The papers cover many aspects of the issues outlined in this introduction. Chapter 15 synthesizes the key results, bringing together some of the crucial insights from individual papers. It starts with a "communiqué" that paper givers agreed to at the conference, enumerating those areas where they believed that progress might be made at the Singapore ministerial meeting in December 1995. The actual results of the Singapore ministerial and the challenges ahead for the WTO are then synthesized.

Ironies in the Evolution of the International Trading System

The evolution of the multilateral trading system since the Second World War has been replete with ironies. A first irony is that the growth and liberalization of the international trading system has been the most prominent success of the postwar period, even though the nations participating in deliberations over the postwar international economic system were unable to produce a charter for an international trade organization that was acceptable to key

governments.[1] Hence, the great liberalization of tariffs and trade in the postwar period was achieved under the auspices of the GATT, which did not even have the legal status of an international economic organization.[2]

A second irony is that the very success of the multilateral tariff negotiations conducted under the aegis of the GATT was so remarkable that the world has become interdependent at an unprecedented rate. That interdependence in itself has generated a number of new challenges for the international trading system. As transport costs and tariff barriers have fallen and the ease of communication has increased, trade in services is booming, while foreign investment is rising sharply, treatment of intellectual property rights in other countries matters as it never did before, and there is increasing concern about a "level playing field" for all competitors.

A third irony is that concerns over the ramifications of increased interdependence gave rise to great gloominess over the prospects for a successful outcome of the Uruguay Round, yet the round achieved far more than those instigating it anticipated. The pessimism regarding the outcome of the round was well founded, given the complexities of the issues with which negotiators were dealing, and the round was far longer than any preceding one, beginning in 1987 and concluding only in 1994.[3] However, the outcome included not only a framework agreement on services, agreements on intellectual property rights and trade-related investment measures, a timetable for phasing out all quantitative restrictions on trade, and first steps toward bringing agriculture more firmly under a multilateral discipline, but also the establishment of the WTO, giving that body the same international status as the International Monetary Fund and the World Bank.

A fourth irony is that the United States provided strong leadership for an open multilateral system and its very success has resulted in its retreat from

1. As is well known, the International Trade Organization (ITO) was envisaged as a third pillar—along with the IMF and International Bank for Reconstruction and Development (later the World Bank)—of the postwar economic order. In deliberations about the postwar arrangements, however, there was a significant divide between those who anticipated a postwar return to depression as in the 1930s, and those who expected a return to more "normal" economic conditions. The former group pushed for a number of provisions in the ITO Charter that effectively permitted signatories to undertake virtually any trade policy they desired if it was done to pursue domestic "employment objectives." There were sufficient objections to this in the U.S. Congress that the ITO Charter was not submitted for ratification, and other major countries did not ratify the charter, pending U.S. action.

While work was progressing on the ITO Charter, the United States undertook an initiative for a first multilateral round of trade negotiations. In order to make the round meaningful, the GATT was formulated and accepted. At the time it was anticipated that the GATT articles would become part of the charter of the ITO, but in the absence of the ITO, the GATT articles became the basis for governance of the international trading system.

2. See Dam (1970) for an account.

3. There had been seven rounds of multilateral tariff negotiations: the Geneva Round in 1947, the Annecy Round in 1949, the Torquay Round in 1951, another round in Geneva in 1956, the Dillon Round in 1960–61, the Kennedy Round in 1964–67, and the Tokyo Round in 1973–79. For a chronology of major events in GATT history, see Hoekman and Kostecki (1995).

open multilateralism. That retreat has taken place when the United States is no longer as dominant economically as it was yet when trade liberalization is probably even more in U.S. economic self-interest than it was in the first quarter century after the Second World War. U.S. support for the GATT and for the successive rounds of multilateral tariff negotiations at a time when it was simultaneously economically dominant was clearly an important factor in permitting the cooperative dismantling of trade barriers.[4] Its very success in fostering the open multilateral trading system led to a reduction in its share of world GDP and world trade. Increased competition from abroad has, in turn, increased protectionist pressures in the United States and led Americans to see themselves more as a competitor in, rather than as a protector of, the open multilateral trading system. Yet even the United States is more "globalized" than it was, as its percentages of GDP in exports and imports have risen and its businesses are increasingly global in scope.

Thus, the history of international trade since the Second World War has been one of "accidental success," where plans (such as the International Trade Organization [ITO]) were not realized and the outcome (i.e., liberalization under the GATT) far exceeded what any of those planning the system could have reasonably hoped for.

That track record should be borne in mind, as this volume focuses on future challenges. The major challenges that are currently facing the open multilateral trading system and the WTO as an international organization arise to a fair degree out of past successes and the increased globalization of economic activity. As will be seen, however, increased interdependence has raised to the forefront difficult and complex issues. A simple litany of those issues is enough to persuade even the most optimistic that continued liberalization and economic integration will require not only commitment and attention on the part of the world's key policymakers, but also an appreciation of the importance of maintaining the open multilateral system.

Principles Underlying the GATT and WTO

The key principle to which the GATT contracting parties subscribed was an open and nondiscriminatory trade, thus giving rise to the term "open multilateral system."[5] Except for provisions in article XXIV, which governs preferential trading arrangements,[6] signatories undertook to treat all other GATT signatories equally in applying whatever tariffs they imposed on imports from abroad.[7] GATT articles precluded export subsidies and quantitative restrictions on trade (with the exception of some provisions for grandfathering existing quantitative restrictions).[8]

4. Another contributing factor was the memories of the 1930s and the fear that competitive "beggar thy neighbor" policies might result once again in worldwide depression.

5. The GATT articles were incorporated into the WTO. Nonetheless, the WTO encompasses a number of additional issues, and hence I shall refer to the GATT principles to designate that set of commitments that have prevailed in the GATT articles since 1947.

6. See the discussion of preferential trading arrangements and article XXIV in the next section.

GATT contracting parties *did not* commit to free trade with zero tariffs. Under GATT auspices, however, it was anticipated that they would undertake a series of negotiating rounds in which "tariff concessions" would be exchanged. As took place in the first round in 1947 (where the articles were simultaneously drafted), contracting parties negotiated with their key trading partners for reductions of tariffs on items they exported in return for "concessions" on items of interest to their trading partners.[9] Once tariff concessions were agreed, they extended to all contracting parties (the most-favored-nation, or nondiscrimination, clause). The tariff rates were subsequently "bound" so that tariffs could not be raised unless the "escape clause" was invoked.

The principle that each country should offer "concessions" on its own tariffs in order to gain something (tariff reductions from its trading partners) flew right in the face of international trade theory, which demonstrated that, in most circumstances, tariffs hurt most the countries that impose them. However, for purposes of analyzing some of the challenges facing the international system, it is useful to note that the principle of reciprocal concessions has important political economy implications that require stressing. That is, when bargaining is reciprocal, the interests of exporters in a given country will support the agreement and make it politically more acceptable than would be the case if unilateral tariff reduction were to be undertaken by a country. When, for example, in the Uruguay Round the United States and other developed countries undertook to dismantle the Multifiber Arrangement over the next decade, that commitment was politically easier because American exporters of goods such as machinery supported the agreement because of promised reductions in tariffs in importing countries. While the GATT articles may not represent "good economics," in the sense that reducing a tariff unilaterally normally helps the

7. In the 1960s, the GATT articles were revised to permit, among other things, the Generalized System of Preferences for developing countries. This permitted unilateral discrimination, in the form of tariff remissions, for developing countries. The Multifiber Arrangement (MFA), which was administered under the GATT, permitted individual country quotas and was clearly discriminatory.

8. The MFA, which is a series of quantitative restrictions on imports of textiles and apparel administered by exporters, is administered under the GATT despite the obvious inconsistency with the GATT principles. Under the Uruguay Round agreement, however, the MFA is to be phased out within ten years, and nations have agreed to refrain from entering any new "voluntary export restraints" or other arrangements involving quantitative restrictions.

9. Bargaining was relatively simpler in early rounds when the United States, Canada, key European countries, and Japan were the key trading nations. Normally, exchanges of "concessions" took place between "principal suppliers," with a balancing out at the end of the round for third parties who would benefit from the negotiated reductions when it was deemed that they had not themselves "given enough." Of course, until the Uruguay Round, developing countries did not participate actively in the negotiations, but were "free riders" benefiting from whatever tariff reductions were negotiated because of the most-favored-nation principle embedded in the GATT.

trade-liberalizing country,[10] those arrangements do represent good politics, in tying export interests to political support for trade liberalization. I return to this point below in considering the scope for advances of liberalization through sectoral bargaining.

The open multilateral trading system has served the world well, as has the system of multilateral tariff negotiations. Indeed, as early as 1970, it was possible to argue that the GATT had been so successful that tariffs among the major industrialized countries were no longer a problem, and that remaining barriers to trade were virtually all nontariff barriers (see Baldwin 1970). World merchandise trade in volume terms had grown at an average annual rate of around 8 percent between 1950 and 1974, while world output had grown at around 5 percent. There was no question that trade was, at least to some extent, an "engine of growth," and that trade liberalization had contributed to that growth.

Growth in both trade and output slowed down after 1974. From 1974 to 1994, the volume of world trade grew at an average annual rate of about 4 percent while growth of world output averaged about 2 percent.[11] A number of factors accounted for slower growth, although again the volume of international trade grew more rapidly than output. Removing nontariff barriers to trade, especially nontraditional trade in services and related items, became paramount once tariffs had successfully been dismantled, and the pace of liberalization was clearly slower.

Before turning to the challenges to the system, it should be noted that two major exceptions were made to the "open multilateral" aspect of the international trading system. One concerned centrally planned economies, and the other related to developing countries.

The provisions governing trade with centrally planned economies were never of great importance under the GATT because those economies were to a very great degree cut off from world trade. With the abandonment of central planning and the emergence of economies in transition, one challenge for the WTO is to devise terms of entry for those economies. For the economies in transition that are embracing market principles, the challenge is minimal. For Chinese entry, however, serious issues are raised. Not only is China still far from a market economy, it is sufficiently large so that concerns regarding possible decisions that might adversely impact international markets cannot be entirely dismissed. Clearly, China is too large to remain outside the WTO and to be entitled to the exceptions that developing countries had in the past (but that are now being abandoned in any event).

10. It is significant that, in the "new" trade theory dealing with imperfectly competitive markets, tariff reductions may not be in the interests of a country if undertaken unilaterally, but a cooperative solution may be vastly preferable to a noncooperative tariff equilibrium. On this point, see Irwin (1996, 216ff.).

11. WTO 1995a, data from chart 1.6, p. 16. It should be noted that the WTO measure of output growth is below that of real GDP because of the more rapid growth of services than of goods. The same is probably true, however, for trade in services, and as such, the comparison figures may still be valid.

Developing countries' attitudes and trade policies during the 1950s and 1960s generally resulted in heightened walls of protection as industrialization through "import substitution" was attempted. That generally meant that developing countries were not benefiting as much as they might have from the growth of the world economy, while the "balance-of-payments" provisions of the GATT were liberally interpreted to enable developing countries to maintain quantitative restrictions, often including import prohibitions, on their imports. Moreover, the GATT articles were amended in the early 1960s to provide nonreciprocal preferential treatment of imports from those countries. One consequence was that developing countries (the East Asian newly industrializing countries being a prominent exception) were losing shares of their world markets (see Krueger 1990). Until the 1980s, therefore, it appeared that the world was divided into three major trading areas: the industrialized countries and the newly industrializing countries, the other developing countries, and the centrally planned economies.

Interestingly, the developing countries' leaders themselves began recognizing the economic costs of their failure to integrate with the international economy, and policies began shifting during the 1980s. Many developing countries participated in the Uruguay Round, agreeing to items such as the treatment of intellectual property rights and rules governing trade-related investment measures, but also seeking and achieving agreement for liberalization of trade in agricultural products and in textiles and apparel. By the early 1990s, the centrally planned economies began shifting toward market-oriented economies, and they, too, therefore began integrating with the rest of the world. Thus, one "challenge" that faced the international economy as of the late 1970s and early 1980s in fact was resolved without international action.[12]

Increasing Protectionist Pressures and Bilateralism

Increased interdependence and globalization has necessarily made producers in many countries much more sensitive to small changes in their competitors' situations than was earlier the case. After all, when merchandise from Hong Kong can be air freighted overnight to New York for transport costs equal to about 5 percent of cif value, U.S. producers are much more concerned with that competition than when ocean shipments used to take three weeks and cost 20 percent or more of cif prices.

While the benefits of globalization are widely recognized, the sensitivity to foreign competition has increased pressures for protection in a number of industrialized countries. When the United States was a dominant economy and simultaneously had a strong political consensus for free trade,[13] protectionist

12. To be sure, the economies in transition needed to achieve membership in the WTO.

13. It is now often forgotten that, until the late 1960s, even the American labor unions supported free trade, and there was little opposition to it. Even the protection then granted to textiles, apparel, and footwear was insufficient to prevent large increases in imports at that time.

pressures were held at bay in other countries and, in any event, U.S. pressures to remove quantitative restrictions in Europe and Japan, and subsequent rounds of multilateral tariff negotiations, resulted in bound tariffs that were very low.

Over time, however, those seeking protection have found other remedies, and simultaneously, protectionist pressures in the United States have increased dangerously. Moreover, the United States has increased its willingness to exert pressure bilaterally on its trading partners.

Administered Protection

Each of these two trends is dangerous. One alternative to protection through tariffs was voluntary export restraints, but those measures were outlawed by the Uruguay Round. The other alternative was and is administered protection. Antidumping (AD) and countervailing-duty (CVD) measures are sanctioned under the GATT articles. AD duties may be imposed when it is determined that producers are selling below cost of production or that their selling price in the importing country's market is below that at other destinations. CVDs are used when it is determined that a government has subsidized its exports of a particular product.

In theory, a case can be made for AD and CVD when the exporting firm intends to use predatory pricing to obtain monopoly control in a given market. In fact, however, the test for AD and CVD cases is much weaker. In the United States, for example, a foreign firm can be found to be dumping even if it is selling well above marginal cost or if it fails to provide adequate information in the time stipulated by the American authorities. Even different timing of the recording of sales in the home and the foreign market could result in a finding of dumping when sales prices were, in fact, identical.[14]

The harassment value of an AD or CVD suit may be considerable for the foreign firm against which the complaint is filed, as is evidenced by the number of times countries have agreed to voluntary export restraints to avoid AD or CVD proceedings and penalties.[15] Moreover, the AD and CVD provisions of U.S. law permit GATT-consistent discrimination in tariff rates between countries on imports of identical goods, regardless of whether tariff rates were bound during GATT negotiations. The average U.S. tariff on imports for which AD and CVD tariffs were in effect in the early 1990s was several times higher than the average tariffs on other goods. To make matters still worse, there is no automatic sunset provision or mechanism by which AD or CVD duties are removed or reconsidered after any specified period of time.

There is no doubt that, in the United States, administered protection has become a major barrier to trade and a vehicle by which protectionist pressures can be satisfied. Given the importance of the United States as a trading nation, that in itself is reason enough to be concerned about administered protection.

14. See Boltuck and Litan (1991) for a full analysis.
15. See Krueger (1993, chap. 3) for a discussion.

But, in fact, a number of other countries are emulating U.S. law with respect to AD and CVD provisions and increasingly using those weapons as protectionist instruments.

One of the challenges facing the WTO, as an international organization, and the world trading system will be to find means to contain the protectionist content of AD provisions in domestic legislation.

Bilateral Trade Negotiations

In addition to administered protection, the tendency to negotiate bilaterally has increased, again especially by the United States. Since the mid-1980s, U.S. trade policy has become increasingly aggressive and bilateral.[16]

"Voluntary import expansions" have become frequent, as negotiations have resulted in stipulated shares of the market for U.S. products.[17] In some instances, such as Korean insurance and Japanese semiconductors, the United States has obtained preferential treatment for itself. In others, there has been market opening, and the United States has defended the practice by pointing to those results.

The problems with bilateral dealings are several, however: large countries are able to pinpoint the economic activities about which they wish to negotiate and understandably choose those of greatest concern to themselves; their exports receive preferential treatment sometimes as a direct outcome of the negotiations and sometimes because foreign governments are attempting to avoid further pressure; and, perhaps even more important, the political economy of GATT (and, in the future, WTO) negotiations, under which export interests were harnessed to the pursuit of trade liberalization, is undone. Exporters can seek, and have obtained, more favorable terms by pressuring for direct negotiations on issues of concern to them, and as such have been less supportive of multilateral activities.

Even if bilateralism were confined to the United States (and it is inherently a process that will gain more favor in large countries), there would be cause for concern as such dealings further undermine support for the open multilateral system. However, as the United States resorts increasingly to bilateral measures, the tendency to move away from open multilateralism, toward regional preferential arrangements or other mechanisms for protecting one's producers from the vagaries of administered protection and bilateral pressures, will necessarily become stronger.

Finding ways to contain, and if possible greatly restrict, resort to administered protection and bilateralism is clearly a challenge for the open multilateral trading system, and for the WTO. It should be of concern for all trading nations, not only because they may become the objects of administered

16. This is not to say that there were no bilateral dealings before that date; but until then, they were infrequent and seen to be exceptions to general practice. Since the mid-1980s, they have been considered standard practice in the United States.
17. See Irwin (1994) for an account.

protection or bilateral pressures, but also because of the erosion of support for the WTO and open multilateralism that results from these measures.

Substantive Challenges to the System

Regional Trading Arrangements

Preferential trading arrangements, under article XXIV, were to be permitted only when (1) the arrangement was to consist of complete tariff removal for countries within the arrangement; (2) it was to cover "substantially all" trade; and (3) it had to go into effect on a predetermined and fixed timetable.[18] Until the 1980s, however, little attention was paid to article XXIV, in large part because the only successful preferential trading arrangement appeared to be the European Union (EU), which had begun as a customs union with the Treaty of Rome in the 1950s, and gradually moved toward increasing integration.

The EU, in turn, had been reducing its external tariffs (in line with the various rounds of multilateral tariff negotiations) at the same time as it was integrating internally. As such, trade with the rest of the world had been expanding rapidly because of rapid European growth and the magnitude of preferences was dropping because of lower tariffs. Hence, until the 1980s, attention to preferential trading arrangements was generally diminishing, although when preferential arrangements were taken to GATT panels for approval, very few were found to meet the article XXIV requirements.[19] To a considerable extent, the very rapid expansion (and liberalization) of world trade obscured any potential "trade diverting" effects that future preferential arrangements might have. Adding to that the fact that preferential trading arrangements other than the EU were generally failing to integrate the countries entering into them, it is little wonder that the issue of preferences did not arise in more serious form.

The situation changed in the 1980s, however, when the United States abandoned its long-standing policy of multilateralism and began entering into preferential trading arrangements.[20] While most observers viewed the initial U.S. forays into preferential arrangements as being idiosyncratic and not indicative of a trend,[21] the decision to negotiate an extension of the Canada-U.S. Free Trade Agreement into the North American Free Trade Agreement (NAFTA)

18. In light of the U.S. position of the late 1980s and 1990s, it is ironic that the United States opposed any preferential trading arrangements in the negotiations leading up to Bretton Woods and the ITO, while the United Kingdom insisted upon permissible preferences.

19. This is not to say that they were found to be inconsistent: rather, panels failed to reach a conclusion. See World Trade Organization (1995b).

20. The first such arrangement (other than the Generalized System of Preferences, which the United States had reluctantly joined in 1976 and which was GATT-sanctioned) was the Caribbean Basin Initiative under which the United States unilaterally extended duty-free status to a large number of imports from Caribbean countries. See Krueger (1993, chap. 7) for a discussion.

21. Even the Canada-U.S. Free Trade Agreement had been preceded by the auto parts agreement between those two countries. The auto parts agreement was a sectoral preferential arrangement and clearly would have been GATT-illegal had it been tested.

with Mexican accession changed the situation rapidly. At about the same time, the U.S. administration announced its intention to seek a Western Hemisphere Free Trade Agreement, and subsequently the Western Hemisphere nations declared their intention of achieving regional free trade by 2005. The Asia-Pacific Economic Cooperation (APEC) group of nations has also declared its intention to achieve regional free trade by 2010 for developed countries and by 2020 for developing countries.[22]

Meanwhile, with the transition to market economies of the countries of eastern Europe, the EU seems set to expand to include at least the Czech Republic, Hungary, Poland, the Baltic states, and probably Romania and Bulgaria, and it has already entered into customs union (not including agricultural products) with Turkey.[23]

There are a number of reasons for concern about proliferating preferential arrangements. Use of rules of origin and other protectionist measures within trading blocs has considerable potential for trade diversion, and can therefore result in the establishment of yet more opposition to multilateral trade liberalization.[24] And there are issues arising from individual countries' membership in overlapping free trade agreements.[25] Different rules of origin can apply to each individual member country; addition of new members can "dilute" the value of concessions obtained by existing members.[26]

The strong move toward increased preferential trading arrangements therefore presents a challenge for the WTO to ensure not only that these arrangements are compatible with an open multilateral system, but also that members of preferential arrangements will not divert their support from the WTO and multilateral arrangements. The key issue is whether and how preferential trading arrangements can be structured so as to be conducive to further multilateral liberalization.

Trade in Services

As is well known, trade in services is increasing as a percentage of all international trade in goods and services. The WTO estimates that, by 1994, world

22. It remains unclear whether the APEC intention is for free trade policies for countries within the region or for a preferential trading arrangement.

23. There are also preferential arrangements, through the Lomé convention, with a number of African countries.

24. The U.S. negotiations with Mexico centered, at the end, on rules of origin for textiles and apparel and autos. In each instance, U.S. domestic producers were seeking protection from East Asian exporters by requiring sufficient North American content to handicap their competitors.

25. A country could not belong to more than one customs union since membership, by definition, requires a common external tariff. Membership in multiple free trade agreements, however, is not only theoretically possible but is already a practice. Mexico, for example, has free trade agreements with several countries, including Chile, Venezuela, and Colombia, as well as the United States and Canada.

26. See, for example, the discussion by Snape (1989, 194) of the difficulties that might result for the Caribbean Basin Initiative countries and Canada were Australia to negotiate a free trade agreement with the United States involving sugar and beef. Difficulties have already been reported in Caribbean countries as some trade and foreign investment has been diverted to Mexico now that it has a free trade agreement with the United States.

trade in *commercial* services had reached U.S. $1.1 trillion and was growing at an average annual rate of 8 percent (WTO 1995a).

Since many services are location-specific in either their production or their consumption, barriers to trade in services tend to vary with the nature of the service. In some instances (e.g., software via satellite), it is virtually impossible to erect barriers. In many instances, domestic regulations of activities such as banking and insurance raise questions as to how liberalization might be achieved. In still other cases, issues of migration (of professional workers on temporary assignment, of construction workers, and so on) raise other issues.

Yet very clearly, liberalization of trade in services is vital to the continued integration of the international economy. The General Agreement on Trade in Services (GATS) in the Uruguay Round provided a framework for notification of existing rules governing trade in services, and for negotiations in specific sectors, most notably financial services and maritime products. In both of these latter instances, however, a multilateral agreement was not reached. On financial services, an agreement was reached without the United States, and no agreement was reached on maritime services. The challenge is to structure the WTO's functions, to find mechanisms to bring about agreements, and in particular, to enable bargaining across sectors.

Agriculture

Whereas the GATS provided little more than a framework, the agreements covering agriculture were a major step in beginning to dismantle economic inefficiencies in the world's agricultural activities. Even after the Uruguay Round agreements are fully implemented, however, rates of protection (and their producer subsidy equivalents) will remain very high. In contrast to trade in services, where there is not yet a comprehensive framework for measuring protection or the value of "concessions," the framework for further liberalization of production and trade in agricultural commodities exists. It will be important, however, to ensure that further cuts are forthcoming, for the world as a whole and especially for economies currently in transition and for exporters of temperate agricultural commodities.

Concerns about Labor and the Environment

Increasing globalization has been accompanied by increased global awareness and concern about the global commons. To a great extent, that heightened awareness has been healthy and beneficial, but it has had some side effects on multilateral trade issues that need to be addressed.

Two of these issues have sufficiently serious implications for the open multilateral trade policy to warrant discussion here. In each instance, the political imperative to do something is strong enough to constitute a major challenge to the open multilateral trading system to find a response that will ease concerns without significantly damaging the efficiency of resource allocation in the world economy. This is especially so since those seeking

protection have no hesitation in cloaking their aspirations with the legitimacy of other issues.

The two key issues focus on the environment and labor standards. In each instance, there are calls for resort to trade measures as a mechanism for enforcing, or at least attempting to enforce, the labor or environmental standards deemed appropriate by those concerned. The issues are similar in that each is essentially unrelated to trade, yet the pressure groups behind each issue call for trade measures as a remedy for the perceived problems.

The issues are different, however, in that there are significant environmental "spillovers," where the negative externality of environmental despoliation in one country can affect the rest of the world, whereas labor standards are inherently domestic matters.[27] Despite those differences, however, the two issues have one major characteristic in common: genuine supporters, whose motives may be entirely altruistic, are joined by those seeking protection for the usual reasons of self-interest. The challenge, in each instance, is to find policies that will address the legitimate concerns in such a way that self-interested seekers of protection cannot use the issue to promote their own selfish ends. The substance of the issues are different, however. Each issue, and the challenge it poses to the WTO, is therefore considered separately.

Strengthening the Organization

In 1947, the GATT was intended as a stopgap arrangement until the ITO was ratified. Although the successes achieved under the GATT were remarkable, the shift to the WTO with a formal status as a multilateral institution alongside the World Bank and the IMF is highly significant.

The challenge for the WTO is one of perception and one of reality. On one hand, the perceptions of the GATT as a weak, Geneva-based, small organization must be altered. On the other hand, reality must change as dispute settlement, trade policy surveillance, and other related activities increase their importance and impact in the world.

Perception is important, especially when the same people, housed in the same place, are undertaking much the same jobs. For the WTO, this challenge is enormous as the budgetary and staff expansion permitted to date have been small contrasted with the enormity of the challenges facing the WTO.

The World Bank, IMF, and WTO are instructed by their governments to achieve "coherence" in economic policies between trade, financial, and

27. It has sometimes been argued that people find it offensive to consider people working at "substandard" wages or in a workplace that fails to meet their standards. One can argue that a great deal of the "offense" comes from lack of awareness of the alternatives that poor people face. It is also, of course, true that when individuals find practices offensive, they are free to choose products made under other circumstances. Carrying the "offensive" argument to its logical conclusion would imply that people in a Muslim country could, for instance, adopt trade sanctions against countries where pork is eaten, or that those in monogamous societies could use trade sanctions in countries where polygamy is permitted.

developmental issues, and the WTO has a mandate in this direction. However, while the Bank and the Fund have their own financial base (generated by paid-up capital), the WTO does not. Moreover, while the Bank and the Fund have considerable influence by virtue of their resources and of their dealing predominantly with developing countries, the GATT is dealing with relations between countries, and inherently must be concerned with the trade practices of the most powerful.

There is thus a major challenge confronting the WTO as an institution to buy its way into the game with the Bank and the Fund. Clearly, finding mechanisms that increase coherence is important in reality. But for the WTO it is doubly important because it needs to raise perceptions of its standing as the third of the global international economic institutions.

Contributions in the Present Volume

The papers in this volume focus on some of the key challenges that confront the WTO as it evolves. These challenges range from concerns about its capacity to undertake its currently assigned tasks to issues surrounding the ways in which the Uruguay Round agreements can be carried out.

Papers in part 1 examine the WTO's institutional capacity. Richard Blackhurst describes the organization and functioning of the secretariat. David Vines considers how the WTO's mandate and organizational capabilities differ from those of the IMF and the World Bank, and the ways that those considerations will affect the WTO's capacity. David Henderson proceeds to analyze the functioning of six international organizations to see what can be learned about their scope for independent action. Judith Goldstein examines the extent to which international rules and organizations can override domestic political concerns.

John Jackson examines one of the more controversial aspects of the WTO—the newly strengthened dispute settlement mechanism, and how that may affect the functioning of the international trading system in the context of national political constraints.

Given the importance of the politics in individual countries, it is clear that the support for international institutions by the dominant players is crucial. To that end, John Odell and Barry Eichengreen consider the determinants of U.S. support for the GATT and now the WTO.

Part 2 addresses some of the substantive challenges the WTO faces. Frieder Roessler examines the problems arising out of the tendency to assert "linkages" between trade and other issues, while Kym Anderson considers the problem specifically from the viewpoint of labor standards and environmental issues.

The next several papers consider "new issues" that arise because of the Uruguay Round agreements and the changing international economic environment. The first concerns coherence: the WTO is charged with finding means to achieve more coordination in the realms of international finance, international

capital flows, and development and trade. Gary Sampson addresses the issues raised by that mandate in his paper. Richard Snape analyzes the incorporation of trade in services into the WTO discipline. Another issue growing in importance is the increased use of AD and CVDs. Robert Baldwin addresses the issue and considers how the WTO could reduce the negative consequences of this trend. T. N. Srinivasan addresses the growing resort to preferential trading arrangements in the context of an open multilateral system. A new issue not addressed in these chapters, but considered in chapter 15, is agricultural protection.

Part 3 considers the role of the WTO from the perspective of two groups of countries: economies in transition and developing countries. Jaroslaw Pietras considers how the international trading system and the WTO affected the ease of transition from centrally planned economies to market-oriented economies with special emphasis on the eastern European countries. In his comment, Constantine Michalopoulos considers differences between the circumstances of those economies and the countries in transition that were not members of the WTO as transition started.

Michael Finger and Alan Winters likewise consider key provisions of the WTO as they affect developing countries. In his comment, Alan Hirsch suggests how some of these, and other, considerations played out in the case of South Africa.

In chapter 1, Richard Blackhurst addresses some of the institutional issues associated with the mandate of the WTO and the capacity of its secretariat to carry out that mandate. He first examines the nature of the WTO as an institution, distinguishing between what he terms "best endeavors" organizations (where members are obliged to try to achieve objectives) and sanction-based organizations such as the WTO. He focuses on the ways in which the WTO, as a rules-making and rules-enforcing organization, differs from the World Bank and the IMF in its mandate, and the ways in which those differences affect the desired relationship of the members to the secretariat and its functions.

Blackhurst then explains the mandate of the WTO, and the ways in which that mandate has enlarged since the GATT Secretariat began functioning in the late 1940s. From the evidence he presents, there can be little doubt that the secretariat and the delegations to Geneva are carrying a very large workload. In the final section, Blackhurst considers whether the WTO Secretariat is equipped to carry out the functions assigned to it under the Uruguay Round agreement. He concludes that more efficient use of existing resources will not permit the secretariat to carry out the mandate, and puts forward the case for increased resources. He contrasts the size of the budget and the staff of the WTO Secretariat with that of other international organizations: fourteen international organizations (including the International Labor Organization, the United Nations Population Fund, the International Telecommunications Union, and the World Intellectual Property Organization) had larger staffs than did the WTO in 1996. Similarly, the WTO's 1996 budget of $101 million contrasted with the United Nations Development Programme's $1,840 million, and even the United Nations Office for Project Services' budget of $403 million. Blackhurst provides a strong case for a shift of some resources from other international organizations toward the WTO, given the tasks assigned to it, but notes that the interests of ministers of agriculture and commerce and others will probably prevent such a shift.

David Vines addresses the question of the international organizations, the ways in which they can be effective, and the capacity of the WTO to carry out its mandate effectively. He also analyzes the need for coordination ("coherence") among the institutions. He notes that organizations, to be effective, need (1) an analytical capacity in an area where there is a need that cannot be met by individual nations or the private market, (2) a way of achieving agreement among their members and implementing those agreements, and (3) sanctions that can be applied if the agreement is violated. He argues that both the IMF and the World Bank have those capabilities and that, to a significant degree, their activities reinforce each other in generating their capability. Analytical capacity provides greater force for policy advice; policy advice is listened to in part because of lending capacity but also because of the strength of analytical capacity; and sanctions are present in the form of the ability to withhold lending.

In Vines's analysis, the WTO is an entirely different organization, focusing as it does on setting rules *between* its members and then, to a degree, enforcing them in its dispute settlement mechanism. As of now, Vines does not see the WTO's analytical capacity as being sufficient to give it the clout it would need to strengthen its role. It is also lacking sufficient resources, with a very small staff. Vines believes that cooperation with the Bank and the Fund can play a useful role if it enables the WTO to acquire the capacity and resources to meet the challenges it faces. But he does not believe that, simply because issues of trade, finance, and capital flows overlap, formal coordination mechanisms are necessarily called for.

David Henderson considers the role of six international agencies—the Organization for Economic Cooperation and Development (OECD), IMF, World Bank, Commission of the European Communities, GATT/WTO, and United Nations Conference on Trade and Development (UNCTAD)—in influencing cross-border liberalization. He seeks to understand how each agency has influenced events, particularly external liberalization. In the process, some hypotheses emerge about the determinants of international institutions' effectiveness.

Henderson starts by considering the structure of each of the six, focusing on the size, the role and status of their staffs, their relations with member governments, and the channels through which they can exert an independent influence. Henderson distinguishes between agencies such as the WTO and the OECD, which are intergovernmental, and agencies that are international, such

as the World Bank and the IMF. He also notes that intergovernmental agencies' size is an ambiguous concept, because of the role played by the national delegations to the institution. This is a point that Richard Blackhurst notes in his paper, as well.

A number of dimensions can be used to characterize the six agencies. Among those noted by Henderson are size, the mandate of the institution, the universality of its membership and its governing structure, the degree to which it must depend on national governments for budgetary resources, and, related to that, the autonomy of its staff.

Channels of influence include budgetary resources, the extent of research undertaken (which itself is a function of the willingness of governments to permit analytical leadership on the part of the agency), and interactions with national government representatives. The effectiveness of the heads of the organizations is also very important.

Henderson then considers the past effectiveness of international agencies and reaches some tentative conclusions for the future. He starts by pointing out that decisions governing cross-border liberalization have always been, and will continue to be, taken by national governments. However, governments may be more willing to do so when they are acting simultaneously with other governments. Moreover, governments consist of many different actors and ministries, and international agencies can influence the outcome in intragovernmental decision making. Moreover, as governments are more willing to embrace liberalization, the effectiveness of international agencies supporting liberalization will likely increase. Henderson also points to the qualifications of staff of international institutions as an important determinant of their effectiveness.

He concludes by considering some aspects of the future roles of the WTO, UNCTAD, and the OECD in light of his earlier analysis. He considers that the WTO is much better situated to influence events by virtue of its being much more thoroughly accepted after the Uruguay Round, but notes that the small size of the secretariat and its limited role may inhibit its ability to do so. He also considers the role of the WTO Secretariat in research, and rejects the notion that the OECD should become the "research arm" of the WTO, both because the law-and-economics competency of the WTO is not available at the OECD, and because the OECD's wide-ranging competence can better serve the WTO in other dimensions. He advocates the continued reliance on the OECD for developing new ideas as they become politically acceptable, such as agricultural policies in the 1980s and an investment code in the mid-1990s.[28]

Whereas Henderson's assignment was to consider how international agencies can be effective, Judith Goldstein focuses on the ways in which domestic

28. Many of the participants at the conference questioned the wisdom of the OECD's development of an investment code. They believed that such a code, relating as it does to cross-border flows, more properly belonged with the WTO, and that its initial development at the OECD ran the risk of alienating developing countries who are not members of the OECD, but who nonetheless would be asked to subscribe to the resulting doctrine when it as "handed over" to the WTO.