

Sonnenberg & Anderson

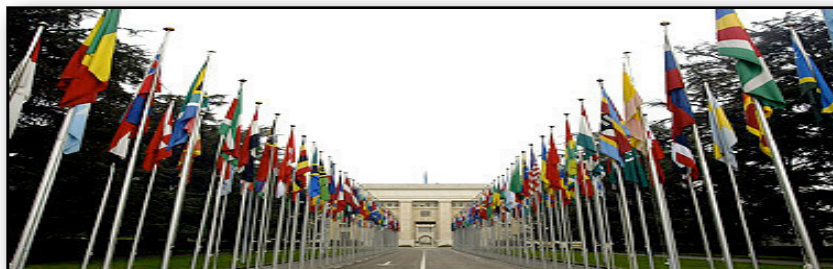
Customs Law & International Trade Bulletin

Highlights:

- This Newsletter is dedicated to a discussion and overview of the **World Trade Organization**, the "WTO".

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World Trade Organization - Overview

In response to many inquiries about the World Trade Organization's impact upon products that flow into and out of the United States and its major trading partners, this newsletter is entirely dedicated to providing a relatively brief overview of the World Trade Organization ("WTO")

This edition of the Sonnenberg & Anderson Customs Law and International Trade Bulletin outlines the WTO's history, its structure, its objectives, and its functions.

WTO History. from GATT to WTO

The General Agreement of Tariffs and Trade ("GATT") was created by member countries after the Second World War as a provisional series of international agreements on trade and tariff concessions. Subsequent negotiations were intended to create a specialized United Nations agency, to be called the International Trade Organization, to administer the GATT. The charter to create this "ITO" was never ratified by the U.S. Congress, thereby effectively killing it.

Nonetheless, the GATT agreements remained in place and, in effect and provided the principal means of multilateral regulation of world trade.

Several rounds of multilateral trade negotiations have been held under the auspices of the GATT agreements. The "Uruguay Round" of negotiations created a permanent institution to administer the GATT rules and to monitor and govern world trade. The institution created to serve these purposes is the WTO. The WTO is not, however, a simple extension of the GATT,

although the original GATT rules of 1947 form an important component of the WTO's foundation. The WTO has broader authority to govern world trade, to settle trade disputes, and to serve as a forum for continuing discussion and negotiation concerning all multilateral, and even regional, trade issues.

Ed. Note: Recently, the Doha rounds failed to produce significant advances for trade and were suspended.





Structure of the WTO

The WTO is based in Geneva, Switzerland, and is headed by Director-General Pascal Lamy and by several deputy directors-general. The WTO's highest authority is its Ministerial Conference, comprised of trade representatives from all member countries. The Ministerial Conference must meet every two years.

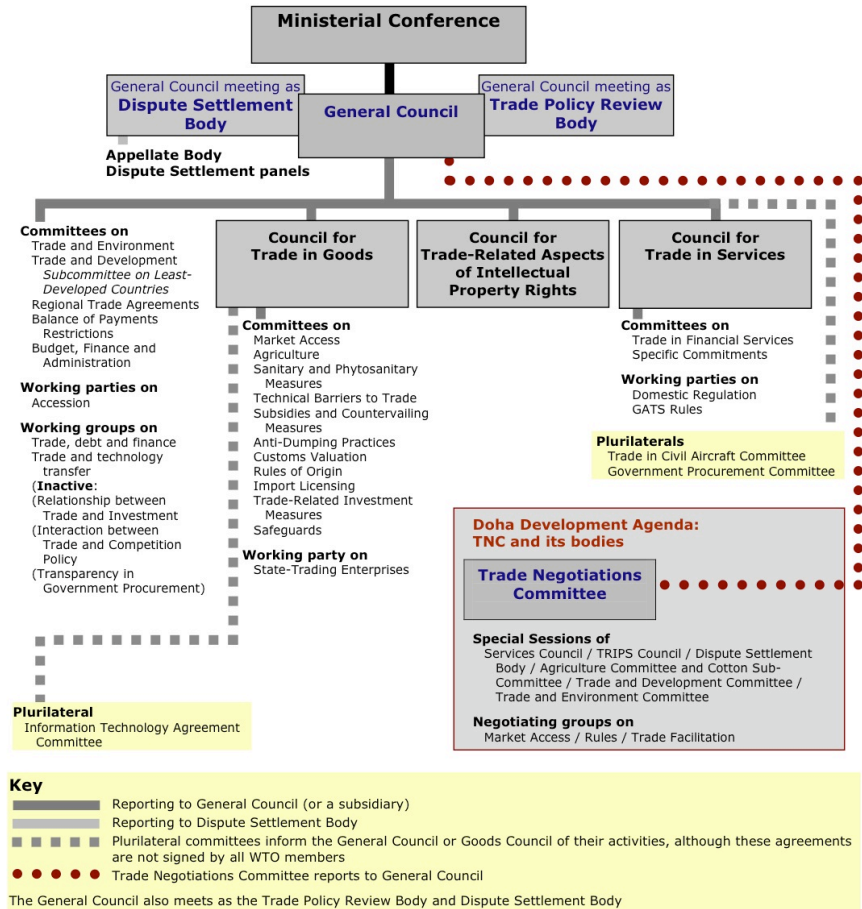
The WTO has 149 country members and is served by a 635 Secretariat Staff members.

The daily work of the WTO is the responsibility of several subsidiary bodies. Two such bodies consist of the WTO's General Council sitting as, alternatively, the Dispute Settlement Body ("DSB") and the Trade Policy Review Body. Other bodies within the WTO have specific functions as well, and include the Trade in Goods Council, the Trade in Services Council, and the TRIPs Council (concerned with issues of intellectual property in trade).

WTO structure

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

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Objectives of the WTO

The WTO is intended to promote predictable and increased access to markets worldwide. One way of achieving this goal is to reduce customs duties on imports. For example, the Uruguay Round of the GATT negotiations resulted in roughly 40% reduction in the tariffs assessed by industrialized countries on imports of industrialized products.

Additionally, the WTO is meant to promote fair competition. To do so, it has rules governing dumping and subsidies, as well as trade in services and in intellectual property. In concert with the World Bank and the International Monetary Fund, the WTO encourages development and economic reform. The WTO also helps developing countries to become competitive and encourages industrialized countries to assist in promoting trade with developing countries

Functions of the WTO:

Continued Trade Negotiations and Dispute Resolution

One of the WTO's primary functions is to administer the GATT agreements, as well as other multi-and plurilateral trade agreements. Among its other functions, the WTO serves as a forum for further trade negotiations and oversees the national trade policies of its many member countries.

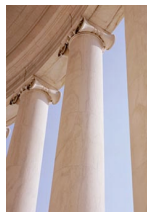
Other than its role in trade negotiations, though, perhaps the WTO's most publicized role is in the settlement of trade disputes between member countries. WTO members commit themselves not to take unilateral action against any violations or perceived violations of the WTO's rules. Instead, they must seek settlement in the WTO's multilateral dispute settlement system and are expected to abide by the conclusions of any dispute settlement panel.

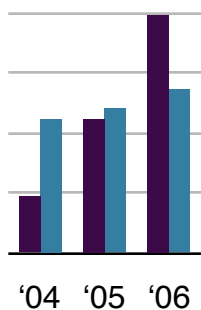
The first stage of dispute settlement requires consultation between the parties involved and can involve the Director-General as a mediator. If the consultations produce no positive results after 60 days, the parties can ask the General Council's DSB to form a dispute settlement panel. The panel is ordinarily expected to submit its final report on the dispute within 6 months. This final report is presented to the parties and, subsequently, to all WTO members.

If the trade measure in question is found to violate or to be inconsistent with WTO rules, the panel's recommendation will be that the member country bring its practices into conformity with the rules in question. The panel may suggest ways in which this may be accomplished. Absent an appeal or disagreement with the panel's final report, that report will be adopted by the General Council's DSB within 60 days of its issuance.

The WTO's dispute settlement system offers the opportunity for appeals to either party in a panel proceeding. Such appeals are heard by an Appellate Body which is established by the General Council's DSB. The appellate process should not take longer than 60 to 90 days. The Appellate Body can uphold, modify, or even reverse the legal findings and conclusions of the dispute settlement panel. Then, 30 days after the Appellate Body issues its report, it is adopted by the DSB, and is unconditionally accepted by the original parties to the dispute, unless there is a consensus against the adoption of the appellate report. The report's conclusions are expected to be promptly implemented by the parties to the original dispute.

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WTO's Impact upon Business

Most frequently, WTO decisions and policies impact companies involved in antidumping cases. For example, the WTO dispute resolution body ruled that the United States practice of disbursing antidumping duties collected on imports to U.S. domestic producers, commonly referred to as the "Byrd Amendment" violated the WTO rules.

It is commonly believed that the Byrd Amendment encouraged the significant increase in the number of antidumping cases initiated in the United States in recent years -- introducing more domestic producers and importers to the complexities of antidumping cases.

Further, many companies that neither produced nor imported goods subject to U.S. antidumping cases were impacted by the WTO dispute settlement

body's ruling that the Byrd Amendment violated the United States obligations under the WTO. Because the United States did not repeal or modify the Byrd Amendment, the WTO authorized our trading partners to impose "retaliatory" duty increases upon U.S. goods sent to those countries. Many U.S. exporters suddenly found that their products faced significantly higher duties when exported to the European Union and other locations around the globe.

Directly or indirectly, WTO actions also impact all aspects of trade, including protection from counterfeit goods, trademark violations, protection of intellectual property rights, allowable and prohibited agricultural subsidies, and non-tariff barriers to trade, such as licensing or labeling by the U.S. and other countries.

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Sonnenberg & Anderson

About Our Organization...

The law firm of Sonnenberg and Anderson has guided clients through Customs and International Trade Law for more than two decades.

Practice areas include matters involving:

- U.S. Customs and Border Protection
- U.S. Department of Commerce
- U.S. International Trade Commission
- U.S. Court of International Trade
- Court of Appeals for the Federal Circuit



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