The WTO and the Multilateral Trading System

ESTIMATED TIME: 2 hours

OBJECTIVES OF MODULE 1

- To present the historical background, objectives, functions, organizational structure and decision-making rules of the WTO.

- To provide an overview of the WTO Agreements, with a special focus on those relevant to trade in goods, including the GATT 1994.

- To provide an overview of the process of accession to the WTO.

- To introduce the negotiations launched under the Doha Development Agenda.
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I. INTRODUCTION TO THE WTO

I.A. WHAT IS "WTO"?

IN BRIEF

"WTO" is the acronym for World Trade Organization. The WTO is an intergovernmental organization which came into being in 1995 after the culmination of long, intense negotiations, which took place under the auspices of the General Agreement on Tariffs and Trade (GATT). The WTO is the only international organization dealing with multilateral trade rules. At its heart are the WTO Agreements, which lay down rules for international trade and have binding effects on WTO Members.

This section will explain that the WTO is many things, including:

1. An organization for trade liberalization
2. A forum for trade negotiations
3. A set of international trade rules
4. A place for settling trade disputes

AN ORGANIZATION FOR TRADE LIBERALIZATION

The WTO is an organization for progressively liberalizing trade. Trade liberalization is the main approach that the WTO adopted to help Member countries achieve economic growth and raise living standards.

However, subject to the conditions provided in the WTO Agreements, the WTO recognizes Members' right to maintain certain trade barriers in pursuit of legitimate objectives such as the protection of human, animal or plant life or health, or the protection of consumers. In so doing, the WTO Agreements aim at striking a balance between trade liberalization and the flexibility Members need to meet their policy objectives.

A FORUM FOR TRADE NEGOTIATIONS

The WTO provides a multilateral forum for Member governments to negotiate rules of international trade. The WTO was born out of negotiations, and everything the WTO does is the result of negotiations among its Members. The WTO is, since 2001, hosting negotiations under the Doha Development Agenda.
A SET OF INTERNATIONAL TRADE RULES

International trade rules, concluded as a result of negotiations, are contained in the WTO Agreements which were signed by the bulk of the world’s trading nations and have binding effects on them. Thus, the WTO Agreements lay down the legal ground for international commerce between WTO Members. They cover trade in goods, trade in services and trade-related aspects of intellectual property rights.

A PLACE FOR SETTLING TRADE DISPUTES

The WTO is also a place for settling trade disputes between its Members. The WTO’s procedure for resolving trade disputes is vital for enforcing the rules and for contributing to the smooth conduct of world trade.

WTO Members

Intergovernmental organizations are normally made up of sovereign states, that is also the case for the WTO. The vast majority of WTO Members are states. However, “separate customs territories” under certain conditions can also become Members of the WTO.

According to their level of development, WTO Members are grouped as “developed country Members” or “developing country Members”. In addition, some developing country Members are considered “least-developed countries” (LDCs).

There is no agreed WTO definition of what is a “developed” or “developing country” because the system is based on self-election. In other words, Members decide for themselves if they are to be considered “developing countries”. The distinction is important insofar as developing country Members enjoy special rights under the WTO Agreements. This being said, other Members can challenge the decision of a Member to be considered as a “developing country”. The situation is different with respect to the LDCs, where the WTO recognises as such those countries which have been designated by the United Nations Economic and Social Council. ¹ The special provisions applicable to developing country Members apply to LDC Members, but LDC Members enjoy additional rights.

To find a list of the WTO Members, please refer to:

http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

¹ The criteria for the designation of LDCs as well as the full list of countries currently considered to be LDCs by the UN can be found at: http://www.unohrils.org.
I.B. GATT AND WTO

IN BRIEF

"GATT" is the acronym of General Agreement on Tariffs and Trade. While legally distinct from the GATT, you will see that the WTO and the GATT are interrelated.

The original GATT was concluded in 1947. It contained the rules and obligations that governed trade in goods for almost fifty years between its "Contracting Parties". Until the creation of the WTO in 1995, the GATT provided the legal framework for the bulk of world trade. The GATT 1947 is now part of the GATT 1994.

The GATT developed rules for a multilateral trading system through eight "rounds" of trade negotiations. The early rounds dealt mainly with tariff reductions on goods, but later rounds included other areas, such as anti-dumping and other non-tariff measures (see chart below). The last round under the purview of the GATT, which lasted from 1986 to 1994, is generally known as the "Uruguay Round" and extended negotiations from goods to services and trade-related aspects of intellectual property rights. The Uruguay Round negotiations also led to the creation of the World Trade Organization (WTO) in 1995.

### ROUNDS OF TRADE NEGOTIATIONS UNDER THE AUSPICES OF THE GATT

<table>
<thead>
<tr>
<th>Year</th>
<th>Place/Name</th>
<th>Subjects Covered</th>
<th>Parties</th>
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<tbody>
<tr>
<td>1947</td>
<td>Geneva</td>
<td>Tariffs</td>
<td>23</td>
</tr>
<tr>
<td>1949</td>
<td>Annecy</td>
<td>Tariffs</td>
<td>13</td>
</tr>
<tr>
<td>1951</td>
<td>Torquay</td>
<td>Tariffs</td>
<td>38</td>
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<tr>
<td>1956</td>
<td>Geneva</td>
<td>Tariffs</td>
<td>26</td>
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<tr>
<td>1960-1961</td>
<td>Dillon Round</td>
<td>Tariffs</td>
<td>26</td>
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<tr>
<td>1964-1967</td>
<td>Kennedy Round</td>
<td>Tariffs and anti-dumping measures</td>
<td>62</td>
</tr>
<tr>
<td>1973-1979</td>
<td>Tokyo Round</td>
<td>Tariffs, non-tariff measures, &quot;framework&quot; agreements:</td>
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<td></td>
<td></td>
<td>- first negotiations on non-tariff measures;</td>
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<td>- creation of plurilateral codes; and</td>
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<td>- creation of the Enabling Clause – i.e. the</td>
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<td>&quot;Decision on Differential and More Favourable</td>
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<td>Treatment, Reciprocity and Fuller Participation</td>
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<td>of Developing Countries&quot;.</td>
<td>102</td>
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**ROUNDS OF TRADE NEGOTIATIONS UNDER THE AUSPICES OF THE GATT**

<table>
<thead>
<tr>
<th>Year</th>
<th>Round</th>
<th>Contents</th>
<th>Code</th>
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<tbody>
<tr>
<td>1986-1994</td>
<td>Uruguay Round</td>
<td>Tariffs, non-tariff measures, rules, services, TRIPS, dispute settlement, textiles, agriculture, creation of WTO, etc.</td>
<td>123</td>
</tr>
</tbody>
</table>

**IF YOU WANT TO KNOW MORE ...**

The eight rounds of negotiations on tariffs under the auspices of the GATT will be further elaborated in Module 3.

If you want to know more about the GATT History, please view the slideshow "Multilateral Trading System: 50 years of achievement".

Participants in the Uruguay Round of multilateral trade negotiations concluded the Round by adopting the "Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations" ("the Final Act"). The Final Act includes the "Marrakesh Agreement Establishing the World Trade Organization" (the "Agreement Establishing the WTO") and its four Annexes ("the WTO Agreements"). The GATT 1994 is the WTO’s Agreement containing the main rules for trade in goods (it will be explained below).

**I.C. OBJECTIVES OF THE WTO**

**IN BRIEF**

In the Preamble to the Agreement Establishing the WTO, Members recognize certain objectives they wish to attain through the multilateral trading system:

- raise living standards;
- ensure full employment;
- ensure a large and steadily growing volume of real income and effective demand; and,
- expand the production of and trade in, goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development.

The Agreement also recognizes the need for positive efforts to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with the need of their economic development.
The WTO recognizes the importance of continuity with the previous GATT system. Thus, the objectives of the WTO are not fundamentally different from those contained in the Preamble to the GATT 1947. However, it is worth noting that the WTO adds three new dimensions:

Preamble to the Agreement Establishing the WTO - New Dimensions added to the Objectives of the GATT 1947

- the expansion of "the production of and trade in goods and services". While the GATT 1947 covered only trade in goods, the WTO coverage was expanded to trade in services;
- the objective of sustainable development seeking both to protect and preserve the environment and to enhance the means for doing so...;
- the "development dimension" aiming at helping "...developing countries and especially the least-developed among them secure a share in the growth in international trade commensurate with the needs of their economic development".

Furthermore, it is noteworthy that although the objectives of the WTO do not mention trade liberalization explicitly, the drafters considered "substantial reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international trade relations" as important steps to achieving the stated objectives. Trade expansion is not seen as an end in itself, but as an instrument to promote growth and development.

I.D. FUNCTIONS OF THE WTO

IN BRIEF

According to Article III of the Agreement Establishing the WTO, the main functions of the WTO are to:
- administer the trade agreements between its Members;
- serve as a forum for trade negotiations;
- settle trade disputes;
- review Members' trade policies;
- cooperate with relevant international organizations; and,
- provide technical assistance (TA) to developing and least-developed Members.

ADMINISTRATION OF THE WTO AGREEMENTS

The WTO Agreements lay down the legal ground rules for international trade among WTO Members. Thus, the first function of the WTO is to facilitate the implementation, administration and operation, as well as further the
objectives of these Agreements. The administration of these Agreements is carried out by the different WTO Bodies and Councils, which consist of all WTO Members (explained below).

FORUM FOR NEGOTIATIONS

The WTO provides a permanent institutional forum for multilateral negotiation and cooperation on trade-related policies among its Members. Although the WTO is specifically charged with providing the forum for negotiations on matters already covered by the WTO Agreements, Members may decide, through negotiations, to extend the scope of multilateral trade rules to be disciplined by WTO Agreements. As mentioned above, the WTO is currently hosting negotiations under the Doha Development Agenda, which was launched in 2001.

SETTLEMENT OF TRADE DISPUTES

The WTO acts as a forum for the settlement of disputes between its Members in accordance with the disciplines and procedures elaborated in the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), found in Annex 2 to the Agreement Establishing the WTO. A dispute arises when a Member believes another Member is acting in a manner that is inconsistent with its WTO commitments. When Members are unable to reach a mutually agreed solution to a dispute arising under one of the Agreements covered by the DSU, they may have recourse to the dispute settlement procedure. The WTO dispute settlement system will be introduced later on in this Module.

SURVEILLANCE OF NATIONAL TRADE POLICIES

This function underscores the role of the WTO with regard to the Trade Policy Review Mechanism (TPRM) provided for in Annex 3 to the Agreement Establishing the WTO. All WTO Members are subject to review under the TPRM, but the frequency of each Member’s review varies according to its share of world trade. The regular surveillance of national trade policies through the TPRM provides a means of encouraging transparency both domestically and at the multilateral level.

COORDINATION WITH RELEVANT INTERNATIONAL ORGANIZATIONS

This function identifies the “coherence mandate” as one of the objectives of the WTO. Cooperation with the International Monetary Fund (IMF) and the World Bank, as well as their affiliated agencies, is essential and is an important factor that WTO Members need to consider when they enter into negotiations to design an international regulatory framework related to economic policy. Cooperation with other international organizations would allow the WTO to achieve “greater coherence in global economic policymaking”.

TECHNICAL ASSISTANCE (TA)

At the Doha Ministerial Conference in November 2001, Members confirmed that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system (MTS).
They instructed the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction (Doha Ministerial Declaration, paragraph 38).

The delivery of WTO technical assistance shall be designed to assist developing, least-developed and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rule-based MTS

<table>
<thead>
<tr>
<th>EXERCISES:</th>
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<tbody>
<tr>
<td>1. What is the relationship between the old GATT and the WTO?</td>
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<tr>
<td>2. Please briefly summarize the objectives of the WTO.</td>
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<tr>
<td>3. Please briefly summarize the main functions of the WTO.</td>
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</table>
I.E. WTO ORGANIZATIONAL STRUCTURE

WTO Members established a working structure for the WTO to allow them to monitor the implementation and the development of the WTO. All WTO Members may participate in all Councils, Committees and Bodies, except plurilateral committees, Appellate Body and dispute settlement panels.

![Organizational Structure of the WTO](image)

**Key**
- Reporting to General Council (or a subsidiary)
- Reporting to Dispute Settlement Body
- Plurilateral committees inform the General Council or Goods Council of their activities, although these agreements are not signed by all WTO members
- Trade Negotiations Committee reports to General Council

The General Council also meets as the Trade Policy Review Body and Dispute Settlement Body

**Figure 1:** Organizational Structure of the WTO
IN BRIEF

The Ministerial Conference is the topmost decision-making body in the WTO. It is composed by representatives of all WTO Members and shall meet at least once every two years. The Ministerial Conference may take decisions on all matters under any of the Multilateral Trade Agreements, in accordance with the decision making procedures contained in the Agreement Establishing the WTO.

The second tier in the decision-making structure of the WTO is the General Council, which is also formed by representatives from all Members, usually Ambassadors or Permanent Representatives, based in Geneva. It adopts decisions on behalf of the Ministerial Conference on all WTO affairs when the Conference is not in session. It also meets as the Trade Policy Review Body (TPRB) and the Dispute Settlement Body (DSB).

In the third level are three subsidiary councils – Council for Trade in Goods (Goods Council), Council for Trade in Service (GATS Council) and Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council), which operate under the general guidance of the General Council and are responsible for the workings of the WTO Agreements dealing with their respective areas of trade. They consist of all WTO Members and have subsidiary bodies.

Finally, the Secretariat of the WTO headed by a Director-General appointed by the Ministerial Conference has no decision-making powers. Its main duties include, among others, to supply technical support for the various councils and committees, to provide TA to developing countries and to provide legal assistance in the dispute settlement process. The WTO Secretariat is composed of nationals from WTO Members who cannot seek or accept instructions from any government or any other authority external to the WTO in the discharge of their duties.

I.E.1. THE MINISTERIAL CONFERENCE

Article IV:1 of the Agreement Establishing the WTO provides that the Ministerial Conference is the topmost decision-making body in the WTO. It is composed by representatives of all the Members and shall meet at least once every two years. The Ministerial Conference may take decisions on all matters under all Multilateral Trade Agreements, in accordance with the decision-making procedures contained in the Agreement Establishing the WTO.

The Doha Declaration, adopted during the Fourth Ministerial Conference, in Doha, Qatar, will be explained latter on, while introducing the Doha Development Agenda (DDA).

I.E.2. THE GENERAL COUNCIL

Article IV:2 of the Agreement Establishing the WTO, establishes the General Council which constitutes the second tier in the decision-making structure of the WTO and is also formed by representatives from all Members, usually Ambassadors or Permanent Representatives, based in Geneva, who periodically elect a Chairperson to organise the work of the Council. It meets to adopt decisions, on behalf of the Ministerial Conference, when the Conference is not in session.
The General Council also meets as:

- The Dispute Settlement Body (DSB) (Article IV:3 of the Agreement Establishing the WTO), with a different Chairperson to administer the rules in the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The DSB has the authority to establish panels, adopt panel and Appellate Body reports, oversee the implementation of rulings and recommendations, and authorize the suspension of concessions under the “covered agreements” according to the DSU (the WTO dispute settlement system will be introduced in Module 2).

- The Trade Policy Review Body (TPRB) (Article IV:4 of the Agreement Establishing the WTO), with a different Chairperson, to carry out trade policy reviews as mandated by the Decision on the Trade Policy Review Mechanism.

**The Trade Negotiations Committee (TNC)**

The General Council has authority over the Trade Negotiations Committee (TNC), which is in charge of the negotiations mandated under the Doha Development Agenda (DDA). The TNC is chaired by the Director-General of the WTO. It was set up by the Doha Ministerial Declaration (paragraph 46), which assigned it to create subsidiary negotiating bodies to handle different subjects, including the Special Sessions of various Committees or Councils that have a mandate to negotiate. The TNC created three negotiating groups to deal with different issues: Negotiating Group on Market Access, Negotiating Group on Rules and Negotiating Group on Trade Facilitation.

I.E.3. **THE COUNCILS & SUBSIDIARY BODIES**

Article IV:5 of the Agreement Establishing the WTO provides three subsidiary councils – Council for Trade in Goods, Council for Trade in Service and Council for Trade-Related Aspects of Intellectual Property Rights – which operate under the general guidance of the General Council and carry out the functions assigned to them by their respective agreements and by the General Council. As their names indicate, the three councils are responsible for the workings of the WTO Agreements dealing with their respective areas of trade. They consist of all WTO Members. The Goods and Services Councils also have subsidiary bodies, normally called “Committees” or “Working Groups” where work on specific subjects is conducted.

The three subsidiary councils are (see also the organizational chart above):

- The Council for Trade in Goods (normally referred to as the "Goods Council" or "CTG") oversees all the issues related to the Agreements on trade in goods. The Goods Council has Committees working on specific subjects (market access – see box below -, agriculture, sanitary and phytosanitary measures, technical barriers to trade, subsidies and countervailing measures, anti-dumping practices, customs valuation, rules of origin, import licensing, trade-related investment measures and safeguards). Also reporting to the Goods Council are the Working Party on State Trading Enterprises and the Information Technology Agreement (ITA) Committee. ²

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² The ITA constitutes a plurilateral agreement, i.e. it applies only to those WTO Members that accepted to be bound by it. An explanation of what constitutes a plurilateral agreement is provided in the next section of this Module.
- The Council for Trade in Services (normally referred to as the "GATS Council") oversees all issues related to the **GATS Agreement**. The GATS Council has subsidiary bodies dealing with financial services, specific commitments, domestic regulations and GATS rules. It does not have a fixed number of subsidiary bodies, for example, the Negotiating Group on Basic Telecommunications was dissolved in February 1997 when its work was completed.

- The Council for Trade-Related Aspects of Intellectual Property Rights (normally referred to as the "TRIPS Council") oversees issues related to the **TRIPS Agreement**.

The Committee on Market Access

As explained above, all issues related to the Multilateral Agreements on trade in goods (contained in Annex 1A of the Agreement Establishing the WTO) are the responsibility of the Council for Trade in Goods (CTG). The Goods Council has, among others, a Committee on Market Access which has the following terms of reference (WT/L/47):

(a) in relation to market access issues not covered by any other WTO body:
   - supervise the implementation of concessions relating to tariffs and non-tariff measures (tariffs will be explained in Module 3 and non-tariff measures in Module 5);
   - provide a forum for consultation on matters relating to tariffs and non-tariff measures;

(b) oversee the application of procedures for modification or withdrawal of tariff concessions (these procedures will be explained in Module 4);

(c) ensure that GATT Schedules are kept up-to-date, and that modifications, including those resulting from changes in tariff nomenclature, are reflected (explained in Module 4);

(d) conduct the updating and analysis of the documentation on quantitative restrictions and other non-tariff measures, in accordance with the timetable and procedures agreed by the Members in 1984 and 1985 (BISD 31S/227 and 228, and BISD 32S/92 and 93);

(e) oversee the content and operation of, and access to, the Integrated Data Base (IDB) (the IDB will be explained in Module 4);

(f) report periodically — and in any case not less than once a year — to the Council on Trade in Goods.

To find the documents of the Committee on Market Access, please refer to:
http://www.wto.org/english/tratop_e/markacc_e/markacc_e.htm

I.E.4. OTHER SUBSIDIARY BODIES

Several other subsidiary bodies, which focus on specific issues, report to the General Council. The scope of their coverage is smaller, so they are "Committees" or "Working Parties/Groups" (Article IV:7 of the Agreement Establishing the WTO). They cover issues such as trade and environment, trade and development, regional trading arrangements (RTAs) and accession. They also consist of all WTO Members.
I.E.5. THE WTO SECRETARIAT

Article VI of the Agreement Establishing the WTO provides a Secretariat of the WTO ("the Secretariat") headed by a Director-General appointed by the Ministerial Conference. Since decisions are taken by Members only, the Secretariat has no decision-making powers.

The Secretariat is located in Geneva and has around 630 regular staff who are nationals from WTO Members and cannot seek or accept instructions from any government or any other authority external to the WTO in the discharge of their duties. Its main duties include to supply technical and professional support for the various councils and committees, to provide technical assistance for developing countries, to monitor and analyze developments in world trade, to provide information to the public and the media, and to organize the ministerial conferences. The Secretariat also provides legal assistance in the dispute settlement process and advises governments wishing to become Members of the WTO.

I.F. DECISION-MAKING AT THE WTO

CONSENSUS

The WTO continues GATT's tradition of making decisions by consensus, i.e. not by voting. Consensus is defined in footnote 1 to Article IX of the Agreement Establishing the WTO, which states that "the body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally, objects to the proposed decision".

VOTING ... IF CONSENSUS NOT REACHED

Where consensus is not possible the WTO Agreements allow for voting. Article IX of the Agreement Establishing the WTO provides that "except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting".

Article IX of the Agreement Establishing the WTO states that at meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in that Agreement or in the relevant Multilateral Trade Agreement.

Voting can be exercised in the following situations:

- **Interpretations**: a three-fourths majority of WTO Members in the Ministerial Conference or the General Council can adopt an interpretation of the Agreement Establishing the WTO and of the Multilateral Trade Agreements (Article IX:2 of the Agreement Establishing the WTO).

3 Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States which are Members of the WTO.
- **Waivers:** in exceptional circumstances, the Ministerial Conference may decide, by three-fourths majority, to waive an obligation imposed on a Member by the Agreement Establishing the WTO or any of the Multilateral Trade Agreements (Article IX:3 of the Agreement Establishing the WTO).

- **Amendments:** any Member may initiate a proposal to amend the provisions of the Agreement Establishing the WTO or the Multilateral Trade Agreements by submitting such a proposal to the Ministerial Conference, which shall decide by consensus to submit the proposed amendment to the Members for acceptance. If consensus is not reached, the Ministerial Conference shall decide by a two-thirds majority according to the rules set forth in Article X of the Agreement Establishing the WTO. The rules applicable to decisions on amendments vary depending on the provision subject to amendment.

- **Accessions:** decisions on accessions of new WTO Members are taken by the Ministerial Conference or the General Council by a two-thirds majority (Article XII of the Agreement Establishing the WTO). However, it is worth noting that since 2002 decisions on accession have been taken by consensus according to WTO practice (Article XVI:1 of the Agreement Establishing the WTO).

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**Formal and Informal Meetings**

Since decisions in the WTO are generally made by consensus, without voting, WTO informal consultations play a vital role in bringing the diverse interests of its Members towards reaching an agreement.

Some informal meetings include the full Membership, such as those of the heads of delegations. However difficult issues are discussed effectively in smaller groups. One practice is for the chairperson of a negotiating group to attempt to forge a compromise by holding consultations with delegations in twos or threes, or in groups of 20 to 30 delegations ensuring that the full spectrum of Members' views and interests are represented. Some variable geometry may be needed depending on the issues being discussed.

These smaller meetings have to be handled with sensitivity. The key is to ensure that the process is transparent, keeping everybody informed even if they are not in a particular consultation or meeting, and that they have an opportunity to participate or to provide input (it must be “inclusive”).

Some meetings take place in the “Green Room”. The “Green Room” is an expression taken from the informal name of the Director-General's conference room at the WTO building. The term refers to meetings of 20 to 40 delegations, which are convened by a Committee Chairperson, as well as by the Director-General and can take place elsewhere, such as at Ministerial Conferences.

In the end, decisions have to be taken by all Members and by consensus. However, informal consultations play a vital role in generating consensus to facilitate formal decisions in the Councils and Committees. Formal meetings are the forums for exchanging views, putting the positions of all Members on the record, and ultimately adopting decisions. These formal and informal meetings form the basis of negotiations in the WTO.
EXERCISES:

4. Please arrange the following WTO bodies in hierarchical order:
   (a) Committee on Technical Barriers to Trade
   (b) Ministerial Conference
   (c) Council for Trade in Goods
   (d) General Council

5. Please state the function of the following WTO bodies:
   (a) Ministerial Conference
   (b) General Council
   (c) Council for Trade in Goods

6. What are the decision-making rules at the WTO?
I.G.  OVERVIEW OF THE WTO AGREEMENTS

The WTO Agreements are the result of the 1986-1994 Uruguay Round of negotiations, signed at the Marrakesh Ministerial Meeting in April 1994. What are these Agreements?

The WTO Agreements cover trade in goods, trade in services and trade-related aspects of intellectual property rights. They spell out the main principles of trade liberalizations and the permitted exceptions (explained in Module 2). The Agreements also include individual countries’ commitments to lower customs duties and other trade barriers. Moreover, they provide a procedure for settling trade disputes among the Members, as well as special and differential treatment for developing and least-developed country Members. The Agreements also require governments to make their trade policies transparent, for example, by notifying the WTO their laws in force.

THE "FINAL ACT"

The Final Act, signed in Marrakesh in 1994, could be seen as a cover note to all the WTO Agreements.

THE MARRAKESH AGREEMENT ESTABLISHING THE WTO

After the Final Act follows the Marrakesh Agreement Establishing the World Trade Organization (the Agreement Establishing the WTO), which serves as an umbrella agreement. The Agreement Establishing the WTO includes provisions on scope, functions and structure of the WTO. It defines the WTO relationship with other organizations, its Secretariat, budget and contributions, decision-making and amendment procedures. It also includes provisions on accessions. Many provisions of this Agreement were referred to earlier in this Module.

THE "ANNEXES"

The Agreement Establishing the WTO has four Annexes. Annexes 1, 2, and 3 are called "Multilateral Trade Agreements", while Annex 4 is called "Plurilateral Trade Agreements". While the Multilateral Trade Agreements apply to ALL the Members, the Plurilateral Trade Agreements apply only to those Members that agreed to be bound by them.

- Annex 1 is divided into three sections:
  - Annex 1A (The Multilateral Agreements on Trade in Goods)
  - Annex 1B (General Agreement on Trade in Services – the GATS)
  - Annex 1C (Agreement on Trade-related Aspects of Intellectual Property Rights – the TRIPS)
- Annex 2 includes the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)

4 It is worth noting that since 1994, negotiations have produced additional legal texts, such as the plurilateral Information Technology Agreement (ITA) and the Protocols of Accession of new Members.
- Annex 3 contains the Trade Policy Review Mechanism (TPRM)
- Annex 4 contains the Plurilateral Trade Agreements

The Multilateral Trade Agreements (Annexes 1, 2, 3) are applicable to all Members and as such are deemed a “single undertaking” (see below).

"SINGLE UNDERTAKING"

According to the "single undertaking" approach, adopted during the Uruguay Round, all Multilateral Trade Agreements concluded during a negotiation round shall be adopted as a whole (i.e. as a single package). As a result, these Agreements have binding effects on all WTO Members. The "single undertaking" approach is also being used in the current negotiations under the Doha Development Agenda (DDA).

However, despite the single undertaking approach to most WTO Agreements, four plurilateral trade agreements were negotiated during the Uruguay Round. These agreements apply only to those Members who agreed to be bound by them: Agreement on Trade in Civil Aircraft, Agreement on Government Procurement, the International Dairy Agreement and the International Bovine Meat Agreement. The latter two were terminated at the end of 1997.

The Schedules of concessions, which also form part of the WTO Agreements, contain Members' specific commitments during trade negotiations. For trade in goods, these take mainly the form of an enumeration of the specific binding conditions that a Member commits to apply to the importation of individual goods.

IN A NUTSHELL: THE BASIC STRUCTURE OF THE WTO AGREEMENTS

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Table 1: The WTO Agreements
I.G.1. **THE WTO AGREEMENTS ON TRADE IN GOODS**

We provide a brief introduction to these Agreements in this Module, while leaving a more detailed presentation of them to subsequent Modules.

**There is no Multilateral Agreement called Agreement on NAMA under the WTO!**

The Multilateral Agreements on Trade in Goods as contained in Annex 1A of the Agreement Establishing the WTO have rules applicable to both non-agricultural products and agricultural products. That is, to goods in general. Agricultural products, however, are subject to additional specific rules laid down in the Agreement on Agriculture, which is not applicable to non-agricultural products. Thus, unlike agricultural products, which are subject to both the general rules on goods and the specific rules on agriculture, there are no specific rules dealing with non-agricultural products.

As you will study in Module 2, "non-agricultural products" refer to all products NOT covered by the Agreement on Agriculture. These were referred to as "the other products" in the context of the Uruguay Round and are sometimes referred to (incorrectly) as the "industrial" products.

The Agreements that contain disciplines on trade in goods (Annex 1A) are the following:

- **General Agreement on Tariffs and Trade (GATT 1994):** GATT 1994, as a modified version of the original GATT 1947, sets out the basic obligations on trade in goods, including the principles on non-discrimination (most-favoured nation and national treatment rules – explained in Module 2).

- **Agreement on Agriculture:** deals mainly with issues of market access, domestic support, and export subsidies for agricultural products (defined in Annex 1 of the Agreement on Agriculture).

- **Agreement on Sanitary and Phytosanitary Measures (the SPS Agreement):** applies to sanitary and phytosanitary measures which may, directly or indirectly, affect international trade. Members have the right to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with the provisions of the SPS Agreement.

- **Agreement on Textiles and Clothing (ATC, terminated on 1/1 2005):** after the expiry of this Agreement, the specific rules that governed trade in textile and clothing products have lapsed and trade is now governed by the general rules and disciplines embodied in the WTO Agreements.

- **Agreement on Technical Barriers to Trade (the TBT Agreement):** recognizes Members’ right to adopt technical regulations and standards, as long as they do not constitute unnecessary barriers to trade. The TBT Agreement does not apply to sanitary and phytosanitary measures covered by the SPS Agreement.

- **Agreement on Trade Related Investment Measures (the TRIMS Agreement):** recognizes that certain investment measures can have a distorting effects on trade in goods. It does not deal with investment as such.

- **Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement):** provides disciplines for the application of anti-dumping measures when dumped imports are causing or threatening to cause injury to the domestic industry producing like products.
- Agreement on Implementation of Article VII of the GATT 1994 (Agreement on Customs Valuation): aims for a fair, uniform and neutral system for the valuation of goods for custom purposes — a system that conforms to commercial realities, and outlaws the use of arbitrary or fictitious customs values.

- Agreement on Preshipment Inspection: recognizes that GATT principles and obligations apply to the activities of preshipment inspection agencies mandated by governments to check shipment details such as price, quantity and quality of goods ordered overseas.

- Agreement on Rules of Origin: aims at long-term harmonization of rules of origin (criteria used to define where a product is made). It ensures that such rules do not have restricting, distorting or disruptive effects on international trade and that they are administered in a consistent, impartial and reasonable manner.

- Agreement on Import Licensing Procedures: the Agreement says import licensing should be simple, transparent and predictable so as not to become an obstacle to trade.

- Agreement on Subsidies and Countervailing Measures (the SCM Agreement): the SCM Agreement disciplines the use of subsidies and regulates the actions countries can take to counter the effects of subsidies.

- Agreement on Safeguards: allows WTO Members to temporarily restrict the imports of a product temporarily when a surge of imports is causing or threatening to cause injury to the domestic industry producing like or directly competitive products.

I.G.2. THE GATT 1994

IN BRIEF

The original General Agreement on Tariffs and Trade, now referred to as GATT 1947, provided the rules of the multilateral trading system from 1 January 1948 until the Agreement Establishing the WTO entered into force on 1 January 1995. These rules, which dealt only with trade in goods, were supplemented and modified over the 47 years by many legal instruments adopted between 1948 and 1995 in multilateral negotiations, including protocols of accession, waivers and other decisions. The GATT 1947 is no longer in force and has been superseded by the GATT 1994.

The GATT 1994 sets out the basic principles and disciplines on international trade in goods (see Module 2 for a brief introduction to these basic principles and disciplines). The most important component of the GATT 1994 is the original GATT 1947 as rectified, amended or modified up to 1 January 1995. In addition, the GATT 1994 also contains other legal instruments, several Uruguay Round Understandings, and the Marrakesh Protocol.

The “General Agreement on Tariffs and Trade 1994” provides that the GATT 1994 shall consist of the provisions in the GATT 1947 as rectified, amended or modified by the terms of legal instruments which entered into force before the date of entry into force of the WTO Agreement. Although the GATT 1947 is legally distinct from and has been superseded by the GATT 1994, many of its key elements, including post-1948 legal instruments, have been carried over to the GATT 1994 without change. Furthermore, several provisions contained in the original GATT 1947 are elaborated in detail by the corresponding Multilateral Agreements on trade in goods contained in Annex 1A. For example, the Agreement on Implementation of Article VI of the GATT 1994 (Anti-
Dumping Agreement) elaborates the rules on anti-dumping laid down in Article VI of the GATT. The same applies to the Agreement on Customs Valuation, which further elaborates the rules on valuation for customs purposes laid down in Article VII of the GATT.

Besides the GATT 1947, the GATT 1994 contains other legal instruments which entered into force under the GATT 1947 and were incorporated into the GATT 1994. These various "legal instruments" are, in themselves, "integral parts" of the WTO Agreements and are binding on all Members. These are:

- Protocols and certifications relating to tariff concessions. All tariff concessions pre-dating the date of entry into force of the Agreement Establishing the WTO remain valid and continue to bind the respective Members (explained in Module 3).
- Protocols of Accession (to the GATT up to 31 December 1994). States and customs territories that became Contracting Parties to the GATT between 1948 and 1994 had to negotiate the conditions of their accession to the GATT. These conditions and commitments are contained in protocols of accession, which form an integral part of the GATT 1994. Similarly, the protocol of accession of Members that joined the WTO after its establishment are an integral part of the Agreement Establishing the WTO.
- Decisions on waivers still in force on 1 January 1995. As mentioned earlier, a waiver is a temporary right granted, in exceptional circumstances, to a Member with the authorization of the other Members to derogate from an obligation contained in the Agreement Establishing the WTO or any Multilateral Trade Agreement.
- Other decisions of the Contracting Parties to GATT 1947. An example is the "Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries" – the so-called "Enabling Clause" (explained in Module 2).

The GATT 1994 also contains several Uruguay Round Understandings, which constitute clarifications to GATT provisions that participants adopted during the Uruguay Round (some of them will be explained in detail in subsequent Modules due to their relevance to market access for non-agricultural products). They include:

- Understanding on the Interpretation of Article II:1(b) of the GATT 1994. Article II contains the main provisions on tariff concessions. The Understanding on the Interpretation of Article II:1(b) clarifies the provision on "other duties or charges" (ODCs) (explained in Module 4).
- Understanding on the Interpretation of Article XVII of the GATT 1994 ("state trading enterprises"): which clarifies the definition of a state trading enterprise.
- Understanding on Balance-of-Payments (BOPs) Provisions of the GATT 1994 (Articles XII and XVIII:B of the GATT 1994). The Understanding clarifies the provisions that allow Members to depart from their GATT obligations in order to take measures to safeguard their BOPs (explained in Module 2).
- Understanding on the Interpretation of Article XXIV of the GATT 1994. The Understanding further interprets Article XXIV of the GATT 1994 allows Members to depart from the MFN principle in order to grant preferential treatment to goods from trading partners within a customs union or a free trade area, without extending such treatment to all WTO Members (explained in Module 2).

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5 It is worth noting however, that the Uruguay Round negotiations introduced changes to most of the concessions granted previously.
Understanding in Respect of Waivers of Obligations under the GATT 1994. It clarifies the procedure for the grant of waivers under Article IX:3 of the Agreement Establishing the WTO.

Understanding on the Interpretation of Article XXVIII of the GATT 1994. Article XXVIII of the GATT 1994 is the main provisions dealing with the modification or withdrawal of tariff concessions (explained in Module 4).

In addition, the Marrakesh Protocol to the GATT 1994, which incorporates the Schedules of concessions and commitments on goods negotiated under the Uruguay Round -and is different from the Agreement Establishing the WTO-, is also part of the GATT 1994.

**How to resolve conflicts between WTO Agreements?**

- In the event of a conflict between a provision of the Agreement Establishing the WTO and a provision of any of the Multilateral Trade Agreements (including the GATT, any of the Multilateral Trade Agreements on Goods, the GATS and the TRIPS), the provision of the Agreement Establishing the WTO shall prevail to the extent of the conflict (Article XVI:3 of the Marrakesh Agreement).

- In the event of a conflict between a provision of the GATT 1994 and a provision of another agreement in Annex 1A (Multilateral Agreements on Trade in Goods), the provision of the other agreement (i.e. not the GATT 1994) shall prevail to the extent of the conflict (General interpretative note to Annex 1A).

**EXERCISES:**

7. Which WTO Agreements apply to trade in goods?

8. Briefly explain the concept of "single undertaking".
I.H. ACCESSION OF NEW MEMBERS

WHO CAN BECOME A MEMBER OF THE WTO?

As mentioned above, intergovernmental organizations are normally made up of sovereign States, this is also the case of the WTO. However, Article XII of the Agreement Establishing the WTO opens up a possibility for trading partners who are not fully-fledged sovereign States to accede, subject to two conditions: 1. they must be separate customs territories; and, 2. they must possess full autonomy in the conduct of their external commercial relations. Separate customs territories have the same rights and obligations as any other Member.

HOW TO JOIN THE WTO?: THE ACCESSION PROCESS

States or separate customs territories wishing to become a Member of the WTO have to go through an accession process involving multilateral and bilateral negotiations. Each accession is unique and negotiated on a case-by-case basis. The terms of accession will always depend on the legal and institutional framework of the acceding government and are different for each applicant. Technical assistance plays a key role in helping acceding governments face the challenges of the accession process.

Although Article XII of the Agreement Establishing the WTO does not prescribe specific procedures to join the WTO, a set of procedures has been developed by the Secretariat, in consultation with the Members, as a practical non-binding guide. In general, the accession process includes the following main stages: (i) the government wishing to join the WTO shall send a request for accession; (ii) a Working Party, open to all Members, is established to examine the request of accession and submit recommendations to the General Council or Ministerial Conference; (iii) multilateral and bilateral negotiations take place with the acceding government (multilateral negotiations are on WTO rules and principles, while bilateral negotiations on conditions of access to the applicant's market for goods and services); and (iv) approval of the accession package, which represents the result of multilateral and bilateral negotiations, by the Ministerial Conference or General Council.

In December 2002, recognizing the special needs of acceding LDCs, the General Council adopted Guidelines to facilitate and accelerate negotiations with acceding LDCs.

6 See document WT/ACC/1.

7 Once the Working Party is established, the applicant government becomes an observer to the General Council.

8 In addition, plurilateral negotiations may take place to facilitate multilateral negotiations.

9 See document WT/COMTD/LDC/11. The Guidelines made provisions for simplified and streamlined accession procedures for LDCs.
Accession to the WTO: Some Figures

The WTO came into force on 1 January 1995 with 128 original members. Since then, around 30 governments have joined the multilateral trading system (MTS).

To find the list of WTO Members, see: http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

NOTE

If you look for more information on Accession, please refer to the interactive course on accession: http://www.wto.org/english/news_e/news08_e/etraining_june08_e.htm

EXERCISES

9. Explain briefly who can apply for WTO Membership.
II. THE WTO DISPUTE SETTLEMENT SYSTEM

One of the main functions of the WTO is to provide a forum for the settlement of trade disputes among its Members. The dispute settlement system plays an important role in the MTS by enforcing the rights and obligations contained in the WTO covered Agreements. By doing so, the WTO dispute settlement system underscores the rule of law and improves the stability and predictability of the MTS.

The rules and procedures of the WTO dispute settlement system are embodied in the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), contained in Annex 2 of the Agreement Establishing the WTO.

II.A. MAIN FEATURES OF THE DISPUTE SETTLEMENT SYSTEM

Typically a dispute arises when a WTO Member adopts a trade policy measure that one or more Members consider to be inconsistent with the obligations set out in the covered Agreements. Any Member who considers that any benefit accruing to it under the covered Agreements is being impaired is entitled to invoke the provisions of the dispute settlement system in order to challenge such measure. It is worth noting that only WTO Member governments have the right to initiate and participate in the dispute settlement system either as "parties" (complaint(s) and respondent – enjoy full rights) or as "third parties" – enjoy some rights. 10

The WTO dispute settlement system applies to all disputes under the WTO "covered" Agreements listed in Appendix 1 of the DSU (Article 1.1 of the DSU). The covered Agreements include the GATT 1994 and the other Multilateral Agreements on Trade in Goods contained in Annex 1A of the Agreement Establishing the WTO. 11

Many matters brought before the DSB include alleged violations of more than one covered Agreement.

The DSB (the General Council with a different Chairperson), which is composed of representatives of all WTO Members, is responsible for administering the DSU, i.e. for overseeing the entire dispute settlement process. Panels and the Appellate Body are the entities in charge of adjudicating disputes. The WTO Secretariat provides assistance in the dispute settlement process.

10 It is worth noting however, that Article 13 of the DSU permits panels to accept and consider submissions received from entities which are not a party or third party of a dispute ("amicus curiae briefs") – see EC – Sardines, Appellate Body Report, para. 165-167. Since panels have no obligation to consider these briefs, amicus curiae have no legal right to participate before a panel.

11 The covered Agreements include the Agreement Establishing the WTO and the Agreements annexed thereto: the GATT 1994 and the other Multilateral Agreements on Trade in Goods contained in Annex 1A, GATS, TRIPS, DSU and potentially, the Plurilateral Trade Agreements.
II.B. THE WTO DISPUTE SETTLEMENT PROCESS

In order to promote the settlement of disputes, the DSU sets out in considerable detail the procedures and the timetable for the various stages of a dispute. In general, there are three main stages to the WTO dispute settlement process:

(i) consultations between the parties;
(ii) adjudication by panels and, if applicable, by the Appellate Body; and,
(iii) implementation of the ruling, which includes the possibility of countermeasures in the event of failure by the losing party to implement the ruling.

The flow chart of the WTO dispute settlement process illustrates the main stages and timeframes of the WTO dispute settlement process. The sum of the indicated timeframes represents the approximate total time generally needed to settle a WTO dispute. For the adjudicating stage, it normally takes 9 months without appeal and 12 months with appeal (Article 20 of the DSU).
II.B.1. CONSULTATIONS

The preferred objective of the DSU is for the Members concerned to settle the dispute between themselves in a manner that is consistent with the WTO Agreements. Accordingly, bilateral consultations are the first stage of formal dispute settlement (Articles 4 of the DSU).

II.B.2. ADJUDICATION

The process of adjudication starts before a panel and may continue before the Appellate Body, if one of the parties decides to appeal the report of the panel. The interpretations of the adjudicating bodies under the DSU are legally binding only upon the parties in respect of the subject matter to a specific dispute. The rulings are binding for the parties after their adoption by the DSB.

Panel

If the consultations have failed to settle the dispute, the complaining party may request the establishment of a panel to resolve the dispute. Panels consist normally of three experts who examine the legal and factual aspects of the case and submit a report to the DSB.

Appellate Review

Any party to the dispute may appeal a panel report. The Appellate Body is responsible for hearing appeals from panel decisions. Appeals are limited to issues of law and legal interpretations developed by the panel. The Appellate Body provides consistency of decisions, which is in line with the objective of providing predictability to the system.

II.C. IMPLEMENTATION & NON-COMPLIANCE

The DSB, composed of all WTO Members, supervises the implementation of the panel and Appellate Body reports. After the report is adopted by the DSB, the "losing" party has to bring its measure into compliance with the WTO Agreements. If immediate compliance is not possible, the respondent will have a reasonable period of time to comply.

If there is disagreement as to the consistency with the WTO Agreement of measures taken to comply with DSB recommendations, a party may have recourse to the dispute settlement procedures. In cases of non-compliance, parties may agree to compensation. In the absence of such agreement, the "winning" party may suspend concessions or other obligations (retaliate) but only after obtaining the prior authorization of the DSB. None of these temporary measures (compensation or retaliation) is preferred to the full implementation of a ruling to bring a measure into conformity with the covered Agreements.
IF YOU WANT TO KNOW MORE ...

For more information on the DSU, there is a self-training module on the WTO site at the following address: http://www.wto.org/english/tratop_e/dispu_e/dispsettlement_cbt_e/signin_e.htm

EXERCISES

10. Who is entitled to initiate dispute settlement proceedings in the WTO?

11. Explain briefly the main functions of the DSB, the panels and the Appellate Body.
III. ON-GOING NEGOTIATIONS: THE DOHA DEVELOPMENT AGENDA

As you already know, the 4th Ministerial Conference was held in Doha, Qatar, in November 2001. In Doha, Members decided to launch a new round of negotiations, and pursuant to their decision, adopted the **Doha Development Agenda** and its accompanying work programme.

Currently, negotiations are taking place:

- In new negotiating groups, on:
  - Market access for non-agricultural products
  - WTO rules (anti-dumping, subsidies, regional trade agreements)
  - Trade Facilitation
- In existing bodies, on:
  - Agriculture: in special sessions of the Agriculture Committee
  - Services: in special sessions of the Services Council
  - Geographical indications: in special sessions of the Council for TRIPS. Other TRIPS issues are addressed in regular TRIPS Council meetings
  - Dispute Settlement Understanding: in special sessions of the Dispute Settlement Body
  - Environment: in special sessions of the Trade and Environment Committee
  - Negotiations on outstanding implementation issues: in relevant bodies according to paragraph 12 of the Doha Ministerial Declaration.

Considerable emphasis is placed on special and differential treatment (S&DT) for developing countries (explained in Module 2). The principle of S&DT is an integral part of the WTO Agreements. All negotiations and other aspects of the DDA work programme are to fully incorporate this principle. According to the "Doha Declaration" (paragraph 44 - WT/MIN(01)/DEC/1) and the "Decision on Implementation-Related Issues and Concerns" (WT/MIN(01)/17), all S&DT provisions are to be reviewed to make them more precise, effective and operational. These reviews are carried out in special sessions of the Trade and Development Committee (CTD).

The negotiations on Non-Agricultural Market Access (NAMA), as mandated by the Doha Development Agenda, will be explained in Module 6.
IV. SUMMARY

The WTO is the successor of the old GATT (the General Agreement on Tariffs and Trade) which was negotiated and concluded half a century ago. Although the GATT was not intended to be an international organization, it served as a *de facto* organization during the past 50 years, until the WTO came into force. Several rounds of negotiations, including the Uruguay Round which created the WTO, took place under the auspices of the GATT.

The objective of the WTO, as encapsulated in the Preamble to the Agreement Establishing the WTO, is to improve the welfare of the peoples of its Members (standard of living, employment, income, etc.) by expanding the production of, and trade in, goods and service; in accordance with the objective of sustainable development and in a manner consistent with the different levels of economic development. In addition, it recognizes the need for positive efforts to ensure that developing and least-developed countries secure a share in international trade commensurate with their development needs.

The functions of the WTO are to:

- facilitate the implementation, administration and operation, and furthering of the objectives of the WTO Agreements (including the plurilateral agreements);
- serve as a forum for trade negotiations;
- administer the Dispute Settlement Understanding (DSU);
- administer the Trade Policy Review Mechanism (TPRM);
- cooperate with the IMF and the World Bank to achieve coherence in global economic policy making;
- provide technical assistance to developing Members.

There are various organs and bodies that make up the structure of the WTO:

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Ministerial Conference
| General Council (also DSB and TPRB)
| Councils for Goods, Services, Intellectual Property
| Committees
| Subsidiary Bodies
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The Council for Trade in Goods (CTG) oversees all issues related to the WTO Agreements on trade in goods. The CTG has, among others, a Committee on Market Access.

The WTO Agreements form the heart of the multilateral trading system. The umbrella agreement - the Agreement Establishing the WTO - contains 4 Annexes – Annexes 1, 2, 3 and 4.

Annexes 1, 2, and 3 - the "Multilateral Trade Agreements" (binding on all Members).
Annex 1 is divided into three sections:

- Annex 1A (The Multilateral Agreements on Trade in Goods, including the GATT 1994)
- Annex 1B (Agreement on Trade in Services)
- Annex 1C (Agreement on Trade-Related Aspects of Intellectual Property Rights)

Annex 2 covers the DSU.

Annex 3 covers the TPRM.

Annex 4 contains the "Plurilateral Trade Agreements."

The Multilateral Agreements on Trade in Goods as contained in Annex 1A of the Agreement Establishing the WTO have rules applicable to both non-agricultural products and agricultural products. That is, goods in general. Agricultural products however, are subject to additional specific disciplines as laid down in the Agreement on Agriculture, which is not applicable to non-agricultural products. Thus, unlike agricultural products, there are no rules specifically applicable to non-agricultural products.

States and separate customs territories, meeting certain requirements, may become Members of the WTO. In order to become WTO Members, they have to go through an accession process involving multilateral and bilateral negotiations. Each accession process is unique and negotiated on a case-by-case basis. Special technical assistance is provided to developing and LDCs wishing to become Members of the WTO.

One of the main functions of the WTO is to provide a forum for the settlement of trade disputes among its Members. The dispute settlement system plays an important role in the MTS by enforcing and clarifying the rules and exceptions contained in the WTO covered Agreements, including the GATT 1994 and the other Multilateral Agreements on Trade in Goods.

The ongoing negotiations, known as "Doha Round of Negotiations."

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PROPOSED ANSWERS:

1. The GATT 1947, as the "predecessor" to the WTO, is an international agreement concluded in 1947. Until the creation of the World Trade Organization (WTO) in 1995, the GATT provided the legal framework for the bulk of world trade. The GATT developed multilateral trade rules through several rounds of trade negotiations. The early rounds dealt mainly with tariff reductions on goods, but later rounds included also non-tariff measures. The last round, which lasted from 1986 to 1994, is known as the "Uruguay Round" and extended negotiations from goods to services and trade-related aspects of intellectual property rights. The Uruguay Round negotiations also led to the creation of the WTO in 1995. The GATT 1947 is no longer force and has been superseded by the GATT 1994, which incorporates the former as rectified, amended or modified by the legal instruments adopted before the WTO was created.

2. The objectives of the WTO are listed in the Preamble to the Agreement Establishing the WTO. They are as follows:
   - raise living standards;
   - ensure full employment;
   - ensure a large and steadily growing volume of real income and effective demand;
   - expand the production of and trade in, goods and services, while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development; and,
   - make positive efforts to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with their economic development.

3. The main functions of the WTO are listed in Article III of the Agreement Establishing the WTO, they are as follows:
   - to facilitate the implementation, administration and operation, and further the objectives of the WTO Agreements;
   - to serve as a forum for trade negotiations;
   - to settle trade disputes among its Members;
   - to review Members' trade policies;
   - to cooperate with the relevant international organizations; and,
   - to provide technical assistance to developing and least-developed Members.

4. (a) Ministerial Conference
   (b) General Council
   (c) Council for Trade in Goods
   (d) Committee on Technical Barriers to Trade

5. The Ministerial Conference is the highest authority of the WTO. It is composed by representatives of all WTO Members and meets at least once every two years. The Ministerial Conference may take decisions on all matters under any of the Multilateral Trade Agreements, in accordance with the decision making procedures contained in the Agreement Establishing the WTO.
Below the Ministerial Conference in rank is the General Council, which is also conformed by representatives of all Members. It takes all decisions on behalf of the Ministerial Conference when the Ministerial Conference is not in session. The General Council meets regularly, usually at the Geneva headquarters. The General Council reports to the Ministerial Conference.

The Council for Trade in Goods (normally referred to as the "Goods Council") oversees all the issues related to the Agreements on trade in goods. The Goods Council has Committees working on specific subjects (including market access, agriculture, sanitary and phytosanitary measures, technical barriers to trade, customs valuation, rules of origin and import licensing). Also reporting to the Goods Council are the Working Party on State Trading Enterprises and the Information Technology Agreement (ITA) Committee. All Members participate in the work of all WTO Bodies, except plurilateral committees, Appellate Body and dispute settlement panels.

6. Decisions at the WTO are frequently made by consensus. However, in cases where a decision cannot be arrived at by consensus, the Agreement Establishing the WTO permits voting. Article IX of the Agreement Establishing the WTO states that at meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in the Agreement Establishing the WTO or in the relevant Multilateral Trade Agreement.

7. The Multilateral Agreements on Trade in Goods as contained in Annex 1A of the Agreement Establishing the WTO have rules applicable to both non-agricultural products and agricultural products, that is, goods in general. One exception is the Agreement on Agriculture, which applies to agricultural products only.

8. The "single undertaking" is a negotiating approach adopted during the Uruguay Round. According to it, the Multilateral Trade Agreements concluded during the Round were to be accepted as a whole (as a single package). The GATT 1994, the other Multilateral Agreements on Trade in Goods, the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are part of this single undertaking. Therefore, they are applicable to all WTO Members. The concept of "single undertaking" is also being used for negotiations under the Doha Development Agenda.

Despite the single undertaking approach to most WTO Agreements, there are four Plurilateral Trade Agreements which were also negotiated during the Uruguay Round but apply only to those Members who agreed to be bound by them. These are the Agreement on Trade in Civil Aircraft, the Agreement on Government Procurement, the International Dairy Agreement and the International Bovine Meat Agreement. The latter two were terminated at the end of 1997.

9. International organizations are normally made up of sovereign states, this is also the case of the WTO. However, Article XII of the Agreement Establishing the WTO opens up a possibility for separate customs territories who are not fully-fledged sovereign states to accede, subject to two conditions: 1. they must be separate customs territories, and; 2. they must possess full autonomy in the conduct of their external commercial relations. Separate customs territories have the same rights and obligations as any other Member.

10. Only WTO Member governments have the right to initiate proceedings and to participate in the dispute settlement system either as "parties" (complaint(s) and respondent) or as "third parties". It is worth noting however, that Article 13 of the DSU permits panels to accept and consider submissions received from entities which are not a party or third party of a dispute ("amicus curiae briefs"). Since panels have no obligation to consider these briefs, amicus curiae have no legal right to participate before a panel.
11. Besides the parties and third parties in a dispute, the operation of the WTO dispute settlement process involves the Dispute Settlement Body (DSB), the panels, the Appellate Body and the WTO Secretariat. The DSB (the General Council with a different Chairperson - which is composed of representatives of all WTO Members) is responsible for administering the DSU, i.e. for overseeing the entire dispute settlement process. Panels and the Appellate Body are the entities in charge of adjudicating disputes. The panels (similar to a first instance court) normally consist of three experts who examine the legal and factual aspects of the case. The Appellate Body is responsible for hearing appeals from panel decisions (limited to issues of law and legal interpretations). The WTO Secretariat provides assistance in the dispute settlement process.