



USAID
FROM THE AMERICAN PEOPLE



WTO Overview and Dispute Settlement

Dr. Sherry Stephenson

March 25, 2007



From GATT to WTO

- General Agreement on Tariffs and Trade (GATT)
 - Provisional agreement
 - Signed by 23 “contracting parties” in 1947, including 11 developing countries
 - Entered into force on January 1, 1948
- World Trade Organization (WTO)
 - Permanent organization
 - Replaced GATT; third pillar of Bretton Woods institutions
 - Came into existence January 1, 1995

Three roles of WTO/GATT system

- Body of multilateral rules for trade providing transparency and predictability to trade relations
- Forum for resolving disputes
- Structure for conducting multilateral trade negotiating rounds



GATT & WTO negotiating rounds

Eight negotiating rounds have expanded the WTO/GATT agenda

Year	Name	Subjects covered	Countries
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Dillon Round	Tariffs	26
1964-1967	Kennedy Round	Tariffs, NTB's, anti-dumping	62
1973-1979	Tokyo Round	Tariffs, NTB's, subsidies, government procurement, standards	102
1986-1994	Uruguay Round	Tariffs, dispute settlement, rules, services, IPR, textiles agriculture, TRIMS	123
2001- Present	Doha Development Agenda		150 + 31 Observers

GATT vs. WTO—Main differences between the two

GATT

- Provisional agreement not ratified by governments
- Trade in goods only
- Slower, less certain dispute settlement

WTO

- Legal organization with members; permanent framework
- Trade in goods, services, & trade-related aspects of intellectual property
- More robust dispute settlement mechanism

Basic principles of the WTO/GATT system

- Trade without discrimination
 - Most-favored nation (MFN)  Article I
 - National treatment  Article III
- Transparency – notification; review; tariffs as principal instrument of protection
- Predictability—through binding (tariffs and services measures)
- Impartial dispute settlement
- Objective: Increasing trade liberalization

WTO Basic Facts

- Came into existence January 1995
- 150 WTO Members at present
 - $\frac{3}{4}$ are developing countries, 31 of which are least developed countries (LDCs)
- 29 observer governments negotiating accession
- Membership requirements:
 - Acceptance of all WTO Agreements resulting from Uruguay Round
 - National Tariff Schedule (GATT)
 - National Services Schedule (GATS)
- **Egypt** is a contracting party to the GATT since 1970 and a WTO Member since 30 June 1995

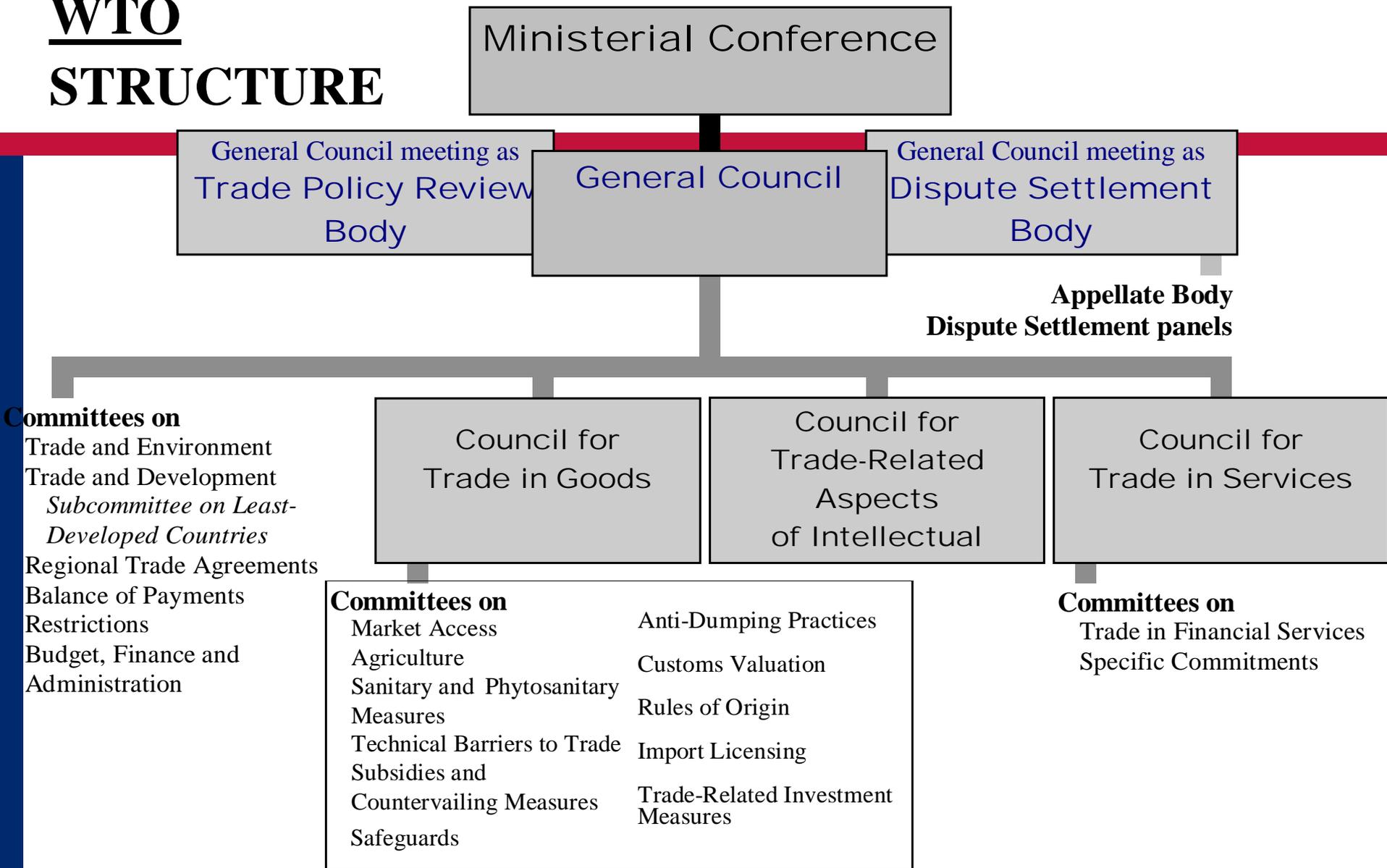
WTO agreements Part I (GATT 1994) cover:

- Agriculture
- Textiles and Clothing
- Trade-Related Investment Measures
- Customs Valuation
- Preshipment Inspection
- Import Licensing
- Safeguards
- Sanitary and Phytosanitary Measures
- Technical Barriers to Trade
- Anti-dumping
- Rules of Origin
- Subsidies and Countervailing Duties

WTO Agreements PARTS II, III and IV cover :

- **Part II**
General Agreement on Trade in Services (GATS)
 - **Part III**
**Agreement on Trade-Related Aspects of
Intellectual Property Rights (TRIPS)**
 - **Part IV**
Dispute Settlement Understanding
- Plus:**
- Trade Policy Review Mechanism**
 - Two Optional Plurilateral Agreements**
 - **Civil Aircraft; Government Procurement**

WTO STRUCTURE





WTO—Basic Disciplines : MFN and National Treatment

- Non-discrimination
 - **MOST FAVORED NATION** —Treat every trading partner the same as every other trading partner.
 - **NATIONAL TREATMENT**—Treat foreign goods, services and intellectual property the same (or better) as similar local products, services, and IP.

Exceptions

- A Free Trade Agreement where benefits are available to participants only
- Temporary barriers against products from specific countries in response to unfair trade practices

WTO—Exceptions and safety valves to basic principles

- Temporary suspension of obligations
 - Countervailing duties in the case of subsidization
 - Safeguard action for increased, fairly traded imports
 - Antidumping duties to compensate for dumping
- Balance of payments
 - In case of external disequilibria
 - Protect infant industries
 - Waivers (requires approval by WTO Council)
- Permanent suspension of obligations
 - Tariff renegotiations
 - National security
 - General exceptions (e.g., health, safety, environment, morals)

Special & Differential Treatment

Integral Part of WTO

- WTO recognizes that DCs are at different economic, financial, and social stages of development from developed countries
- Self-definition of DC category: countries announce for themselves whether they are “developed” or “developing” countries. However, other members can challenge the decision of a member to make use of provisions available to developing countries
- The overwhelming majority of WTO Members are DCs. With more than 100 DCs, S&D issues more critical today than ever

S&D Treatment—Types

- Four basic types of S&D treatment
 - Flexibility in implementing WTO commitments
 - Priority in tariff reductions to products of DCs and LDCs
 - Provisions for enhancing trade opportunities
 - Capacity-building support activities



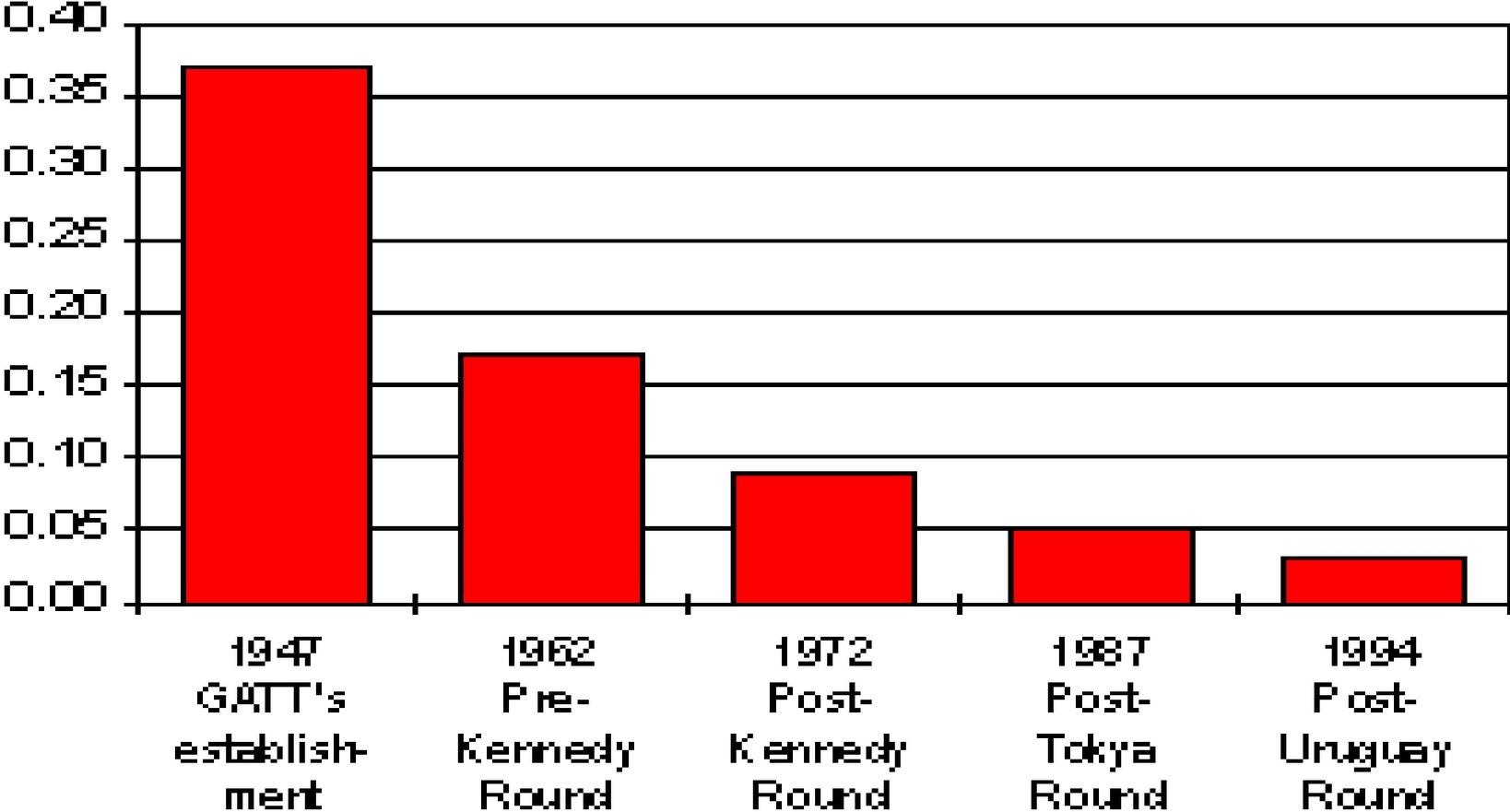
Major Achievements of Uruguay Round - 1994

- Greater security through increased tariff bindings
- Key areas brought under trading rules
 - Textiles: timetable to remove quotas (2005)
 - Agriculture and services: liberalization process begun
- Inclusion of new areas not addressed by GATT
 - Services (GATS); Intellectual property (TRIPs)
 - Trade related Investment Measures (TRIMs)
- Permanent monitoring/enforcement mechanisms
 - Transparency: Trade Policy Review Mechanism (TPRM)
 - Dispute settlement: DSB, Appellate Body

Impact of Uruguay Round—Goods

Reducing trade protection at the border

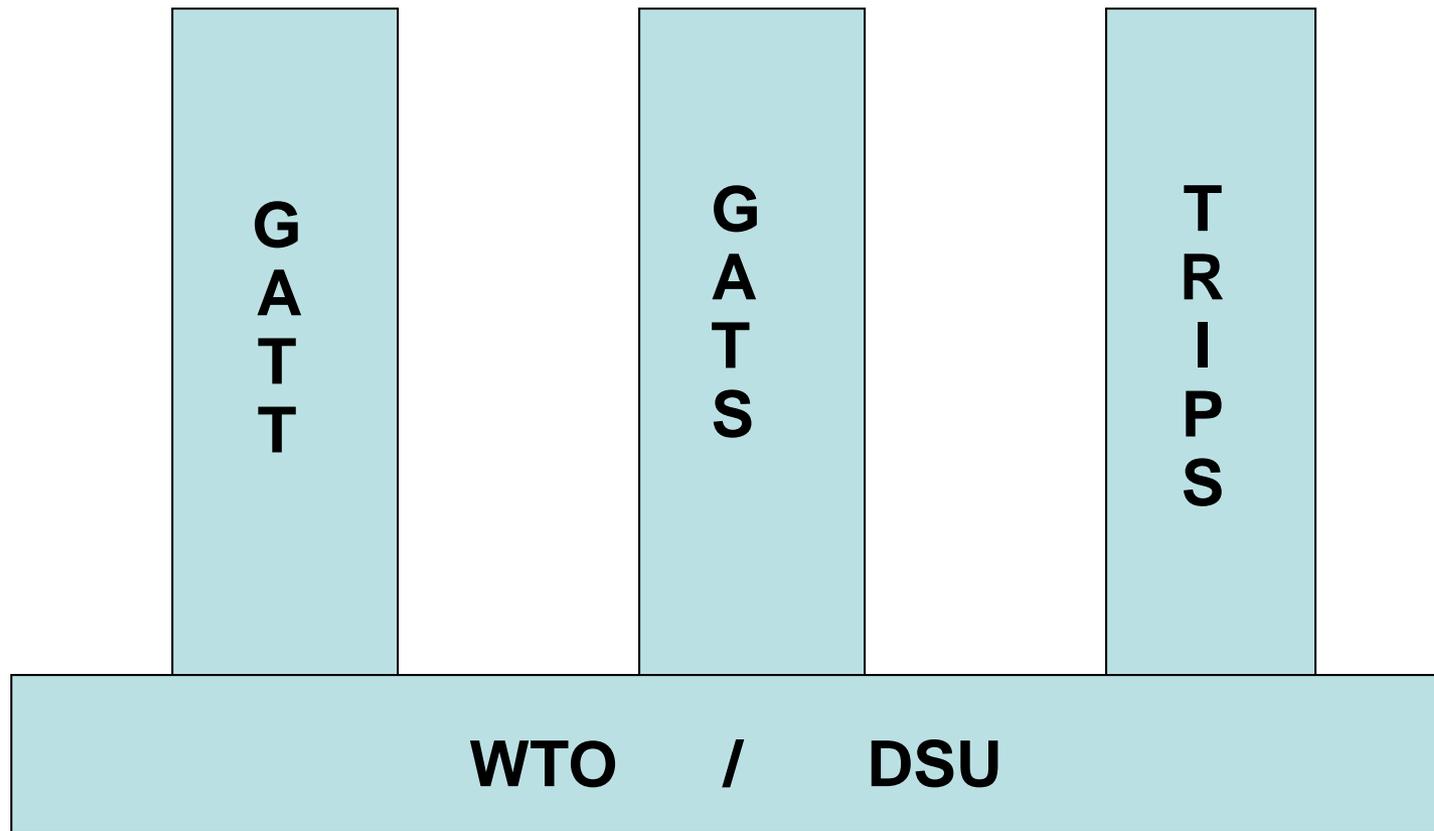
Per cent tariffs



WTO : a Tariff Schedule for every Member

- Country Schedules constitute commitment (binding) to tariff levels no higher than in schedule
- 99% of Developed Country tariffs bound
- 61% of Developing Country industrial tariff schedules bound
- Binding of 100% of agricultural tariffs

Current Structure of the WTO



Two types of WTO agreements

Multilateral

- **General Agreement on Tariffs and Trade (GATT 1994)**
 - Agriculture
 - Sanitary & Phytosanitary Standards
 - Technical Barriers to Trade
 - Textiles and Clothing
 - Trade-Related Investment Measures
 - Subsidies and Countervailing Measures
 - Antidumping
 - Safeguards
 - Customs valuation
 - Preshipment inspection
 - Rules of origin
 - Import licensing
- **General Agreement on Trade in Services (GATS)**
- **Trade-related aspects of Intellectual Property Rights (TRIPS)**
- **Dispute Settlement Understanding**

Plurilateral

- Government Procurement
- Trade in Civil Aircraft
- Information Technology Agreement
- **Egypt** is a signatory to the Trade in Civil Aircraft Agreement and to the Information Technology Agreement (2003)

WTO Agriculture Agreement

- MAJOR COMPONENTS
 1. Market access
 - Tariffication through tariff rate equivalents, tariff quotas
 2. Domestic support
 - Programs that support production directly have to be cut back (“aggregate measure of support”)
 - Others can be maintained
 3. New export subsidies prohibited
 4. Special provisions for LDCs, net food importers

WTO Agreement on Textiles and Clothing

- MAIN FEATURES

1. Replaces the Multifibre Arrangement (MFA)
2. Reintegrates textiles and clothing into GATT rules in four stages
3. Eliminates all quotas by January 1, 2005
“Transitional safeguards” are permitted
4. Establishes Textile Monitoring Body

WTO Agreements on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Measures

- For TBT and SPS measures:

Should not discriminate against imports or raise unnecessary obstacles to trade

Regulation/certification procedures should be no more restrictive than necessary to fulfill legitimate objectives

National security

Health and safety

Protection of environment

International standards presumed to fulfill legitimate objectives

WTO Agreements on Import Administration

- I. Customs Valuation Agreement

Common rules - Predictability in valuation

Transaction value (most of the time)

Precedence for determining valuation established

- II. Pre-shipment Inspection

Inspection on behalf of governments should not delay/interfere with legitimate trade

Binding arbitration

WTO Agreements on Import Administration

- III. Import Licensing Agreement

- Publication and notification

- Licensing to be automatic (issued in 10 days)

- If licenses non-automatic, they should

- Not create restrictions in excess of intentions

- Be allocated based on published criteria

- Take into account past performance

WTO Agreements on Import Administration

- IV. Rules of Origin (Non-Preferential)

Notification and harmonization

Origin based upon:

Country from which initially obtained

Country of substantial transformation

Change in classification

Value added

Manufacturing/processing operation

3-year work program begun in 1995 but not yet completed

WTO Agreements on Temporary Trade Remedies

- I. Anti-Dumping Agreement
 - Procedural improvements to Tokyo Round Code requiring greater uniformity
 - In calculating dumping margins
 - Assessing injury
 - Sunset reviews
 - De ‘minimis’ margin and volume levels
- II. Subsidies/Countervailing Duties
 - Successor to Tokyo Round Code
 - Prohibited, actionable, non-actionable subsidies

WTO Agreements on Temporary Trade Remedies

- III. Safeguard Agreement
 - Elaboration of GATT Article XIX
 - Negotiations during Tokyo Round unsuccessful
 - WTO agreement permits temporary (8 year), digressive protection of injured industry
 - First 3 years compensation/ retaliation can be avoided
 - Preference expressed for use of tariffs
 - VERs prohibited
 - Selective application possible

WTO Agreement on Trade-Related Investment Measures

- TRIMS
- National Treatment (Article III) and Quota Prohibitions (Article XI) apply to certain investment policies that affect trade and are not allowed, namely:
 - 1) Local content requirements
 - 2) Trade balancing requirements
 - (export = imports)
 - Existing restrictions notified/ phased out

WTO General Agreement on Trade in Services (GATS)

- The GATS consists of a framework agreement that lays out general obligations for trade in services in much the same way GATT laid out general rules for trade in goods
- --Basic rules and disciplines for services trade
 - Schedules of market access and national treatment commitment for signatories
 - Annexes on specific sectors particularly air transport and telecommunications



Services trade - four modes

- Four ways of trading
 - Cross border
 - Int'l telephone calls
 - Consumption abroad
 - Tourism
 - Commercial presence
 - Foreign bank branches
 - Presence of natural persons
 - Consultants, Teachers
- 11 Major Service Sectors
 - Business (including professional and computer)
 - Communications
 - Construction and engineering
 - Distribution
 - Education
 - Environmental
 - Financial
 - Health
 - Tourism and travel
 - Transport
 - Recreational, cultural, and sporting

Main Differences between GATT and GATS

GATT

- General national treatment obligation
- General prohibition against QRs
- Tariff bindings
- Covers cross-border trade in goods

GATS

- Sector-specific national treatment
- Only requirement to list QRs, not eliminate
- Market access commitments
- Four modes of supply (cross-border trade + movement of capital and people)



Services commitments under the WTO

- Binding commitments contained in national schedules, one for each WTO Member
- Uneven number of commitments in GATS schedules; DCs have fewer commitments than developed countries overall and by sector
- Higher number of commitments in
 - Tourism, financial, and business services
 - Mode 2—consumption abroad
- Low number of commitments in
 - Health, education, social services
 - Mode 4—movement of natural persons

WTO General Agreement on Trade in Services (GATS)

- Unfinished rules and market access negotiations at end of Uruguay Round
- Further negotiation of GATS articles
 - Safeguards
 - Subsidies
 - Government Procurement
 - Domestic Regulation
- Sectoral agreements (1997)
 - Telecommunications
 - Financial Services

WTO Trade Related Intellectual Property Rights (TRIPS)

- Agreement sets out rules for the availability, acquisition, scope, maintenance, enforcement and use of:
 - Patents, Trademarks, Copyrights
 - Trade secrets, Industrial designs, Semiconductor layouts
 - TRIPs Agreement requires
 - Establishment of adequate standards for protecting IPR
 - Enforcement measures at border and internally in member countries

WTO Trade Related Intellectual Property Rights

- Under TRIPS each WTO Member must
 - Apply IPR conventions (Madrid, Paris, Berne) plus additions to the conventions by TRIPS
 - Key features
 - Patents : Protection at least 20 years from date of filing
 - Trademarks : Well known marks must be protected on entry
 - Copyright : Economic rights of authors and creators to be protected for 50 years; software considered a literary work
 - Broad areas cannot be excluded

WTO Dispute Settlement Understanding

- Objective of Agreement: the prompt and impartial settlement of trade disputes
- Improves, elaborates GATT Articles XXII and XXIII
 - “Nullification and impairment” of benefits
 - Violations of trade rules
- WTO adopted negative consensus approach to:
 - Procedural steps
 - Adoption of panel rulings
- Review by an appellate body possible

WTO Dispute Settlement Understanding

- WTO process faster and more effective
- All countries have equal rights and are on equal footing
- Very resource-intensive process
- **Usage (1948-1994)
Pre Uruguay Round**
 - 300 Cases Presented
- **Usage (Jan 1995 – January 2007)
Post Uruguay Round**
 - 356 Complaints notified to the WTO
 - 100 Appellate Body and Panel Reports adopted
 - 82 Panel Reports appealed

Total Time: 12 months if not appealed *or* 15 months with appeal.
Implementation should be within 15 months

Source: WTO, 2007

Egypt and WTO Dispute Settlement

- **WTO DS cases involving Egypt: 4 cases as a respondent:**
 1. Import Prohibition on Canned Tuna with Soy Bean Oil – Complainant: Thailand, 2000. Panel not requested.
 2. Definitive Anti-Dumping Measures on Steel Rebar from Turkey – Complainant: Turkey, 2000. Panel Report 2002: Egypt had acted inconsistently with its WTO obligations – Panel Report recommended to bring the measure into conformity.
 3. Measures Affecting Imports of Textiles and Apparel Products – Complainant: United States, 2003. Mutually Agreed Solution 2005.
 4. Anti-Dumping Duties on Matches from Pakistan – Complainant: Pakistan, 2005. Mutually Agreed Solution 2006.
- Egypt has also reserved its third party rights in the case relating to anti-dumping duties imposed by the European Communities on imports of cotton-type bed linen from India, 1998.

WTO Trade Policy Review Mechanism (TPRM)

- Objective: To increase transparency of country trade policies and practices; “peer reviews” by fellow WTO members begun in 1989
- Schedule for reviews
 - US, EU, Japan, Canada reviewed every 2 years
 - Next 16 countries (by share of world trade) every 4 years
 - Egypt reviewed in 2000 and in 2005
 - Other countries every 6 years, possibly longer for LDCs
- Two reports
 - Policy statement prepared by country under review
 - Detailed independent review by WTO Secretariat
 - **Egypt 2005 TPR**, Report by the Secretariat: “Since its last TPR, Egypt has taken steps towards the liberalization of its trade regime. The reforms reflect its commitment to the multilateral trading system, in which it participates actively...Nonetheless, Egypt's recent macroeconomic performance has been mixed”.

MAJOR GATT ARTICLES

GATT 1994 (GATT 1947 amended)

- ARTICLE I: Most Favored Nation
- ARTICLE II: Schedules (Tariffs and Other Charges)
- ARTICLE III: National Treatment
- ARTICLE X: Transparency
- ARTICLE XI: Prohibition of Quotas
- ARTICLE XII; XVIII(B) Balance of Payments
- ARTICLE XIX Safeguards
- ARTICLE XX General Exceptions
- ARTICLES XXII; XXIII Dispute Resolution/Nullification
and Impairment
- ARTICLE XXIV: Customs Unions and Free Trade Areas

Article I: Most-Favored Nation (MFN)

- Contractual to members
- Coverage
 - Imports and exports
 - Methods of levying charges
 - Other rules and formalities
- Like product
- Preferences

Article II: Tariff Schedules

- Bound (consolidated) levels
- Other duties and charges
 - “Commensurate with services”
- Exceptions
 - Internal taxes
 - Temporary measures
 - Anti-dumping, Countervailing Duties
 - Safeguards
 - Fees
- Applied tariffs and other charges in excess of bindings account for 20% of WTO disputes

Exceptions to Bound Tariffs

- Preferential Duties (Article I)
 - Generalized System of Preferences (GSP)
 - Between developing countries (enabling clause)
 - ASEAN (Philippines, Singapore, Malaysia, Thailand, Indonesia, Brunei)
 - By Waiver
 - US to Caribbean Basin
 - Lomé IV
- Free Trade Areas (FTAs) (Article XXIV)
 - North American FTA (US, Canada, and Mexico)

Exceptions to Bound Tariffs

- Customs Union (Article XXIV)
 - European Union
- Article XXVIII Renegotiation/Compensation
 - INR's, principal and substantial supplier
 - Principal export negotiating right
- Article XIX, Safeguards Agreement action
- Anti-Dumping/Countervailing Duty
- Developing Country Balance of Payment Actions (Article XVIII B)

Article III: National Treatment

- Non-discrimination with respect to Internal taxes and charges
- Protection in tariff not in taxes
- Accounts for 1/3 of the completed dispute settlement cases
 - Venezuela/US - “Reformulated Gasoline”
 - EC/Japan - “Taxes on Alcohol”
 - US/Japan - “Taxes on Alcohol”
 - US/Canada - “Periodicals”
 - US, EC, Japan/Indonesia - “National Car”

Article X: Transparency

- Publish trade regulations/agreements
- Notify changes in policy/actions
- Make decisions available to those affected
- Allow appeal to independent reviewers
- Each NTM agreement has above obligations as well

Article X: Transparency

- Pillar of the GATT system
- Laws, regulations, judicial decisions, administrative rulings covering classification, valuation, rates of duty, taxes or other charges, or to requirements, restrictions, or barriers to imports or exports, transfer of payments, or affecting the sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, etc. shall be published promptly in such a manner as to enable governments and traders to become acquainted with them
- Agreements affecting trade, but not confidential business information
- New tariffs or more burdensome requirements not in effect until published
- Uniform, impartial, and reasonable application; judicial review tribunals independent of original agency

Article XI: Prohibition of Quotas

- No restrictions other than duties, taxes and other charges (Article II and III)
- No quotas except
 - Part of scheme to regulate agricultural production

Article XI: Prohibition of Quotas

- Reflected in WTO agreements
 - Agriculture Agreement (tariffication)
 - Textiles (end of MFA)
 - Safeguards (ban on VERs)
 - Preference for tariffication
 - Article XVIII
 - Preference for tariff measures

Article XII and XVIII:B Balance of Payments Measures

- Article XII applies to developed and Article XVIII:B to developing countries
- System improved during the Uruguay Round, less possibility for abuse
- Developing countries need not demonstrate imminent threat; reserves only to be inadequate
- IMF views regarding financial questions

Article XII and XVIII:B Balance of Payments Measures

- When taking action, preference to be given to least disruptive measure
- Avoid quantitative measures
- Apply to total or near total, not specific imports
- Not exceed what is necessary
- Public announcement - include time schedules for removing measures

WTO Technical cooperation and trade capacity building

- Core elements of the WTO activity
- Technical assistance on
 - Trade mainstreaming
 - Adjustment to WTO rules and disciplines
 - Implementations of rights and obligations
- Coordination with bilateral donors and relevant international and regional agencies
- Secure and predictable funding
 - WTO Doha Development Agenda Global Trust Fund

WTO Training of Trade Officials

- Training Courses Offered by the WTO
 - Trade Policy Course
 - Introduction Course to the WTO
 - Introduction Course to the WTO for LDCs
 - Specialized Courses (topics vary)
 - Dispute Settlement Course
 - WTO eTraining

Website:

http://www.wto.org/English/tratop_e/devel_e/train_e/training_e.htm

Contact: Serafino Marchese, Serafino.Marchese@wto.org



WTO Training, continued

- Latest Training Courses
 - Trade Policy Course Jan 07
 - Introduction Course on WTO for LDCs Nov 06
 - E-training courses for developing-country officials Oct 06
 - Specialized Course on Sanitary and Phytosanitary Measures Oct 06
 - Specialized Course on WTO dispute settlement Sept 06
 - Specialized Course: “Negotiating trade agreements: from theory to practice” May 06

Technical cooperation and trade capacity building

(continued)

- Geneva Week: For Non-Resident Members and Observers
- The aim of Geneva Week is
 - To provide participants with briefing sessions concerning the latest developments under the Doha Development Agenda
 - Attend meetings of negotiating groups such as, the Special Session of the Dispute Settlement Body, Negotiating Group on Market Access, and the Working Group on Trade
- Geneva Week XIII: November 20-24, 2006

WTO Technical Assistance Funding

- Doha Development Agenda Global Trust Fund
 - Purpose: to help developing countries participate effectively in the current Doha Round.
 - WTO General Council approved a target amount of 24 Million CHF.
 - Recent Donations
 - Czech Republic 76,000 CHF
 - Luxembourg 115,000 CHF
 - Norway 1.8 Million CHF
 - United States 1.3 Million CHF
- IMF Trade Integration Mechanism
 - Assistance to low income countries in the adjustment difficulties from the loss of trade preferences due to lowering MFN tariffs (Agreed Apr. 2004)
- Integrated Framework (IF)
 - IMF, ITC, UNCTAD, UNDP, World Bank, and WTO
 - Sound basis for improving LDC's Trade-related Capacity Building

Why the WTO?

- The WTO is a system that
 - Seeks to eliminate barriers to trade in goods and services
 - Is transparent and fair to all
 - Can arbitrate disputes according to who is right and not who has the might
 - Can adapt in an era of unprecedented global change