**Slide Show Notes — The WTO As an Organization**

Hello again!

We turn now to looking at a number of specific international institutions built by sovereigns to facilitate cooperation on economic issues. The first institution I've chosen is the World Trade Organization, the WTO.

The references in this module, along with this presentation, will concretely describe the WTO and its operations.

You have probably all at least heard of the WTO. It has been in the headlines pretty regularly for decades now.

Out of curiosity, how well do you feel you know the WTO? On a scale from 0 to 10:

* 0 is "Never heard of it,"
* 1 to 3 is "Have heard of it but have only pretty vague awareness,"
* 4 to 6 is "Have studied it some and know the basics of its history, how it works, what the issues are,"
* 7 to 9 is "Am intimately familiar with the WTO's operations on the basis of extended research and having worked with it on professional assignments," and
* 10 is "I was the Director General of the WTO Secretariat in Geneva from 2005 to 2010."

Okay, show of hands for the various levels.

Also, how many of you remember, or have heard of "The Battle in Seattle," the demonstrations at the time of the WTO's meeting in 1999? Look it up!

My impression from teaching and conversation with friends is that the WTO's name is known but that people have gotten little information about it. Everyone knows, or thinks they know, that the WTO is a part of "The Establishment" in capital letters, which means that it is a big, unresponsive institution dedicated to helping big business make money.

This, however, is an attitude; it's not knowledge. The point of this course isn't to deal with attitudes, or theory, but to orient you to concrete knowledge. Let's all get to the '4 to 6' range when this module is over.

This information may confirm whatever attitude you started with. But whether it changes your attitude or not, it should allow you to act on your conclusions more effectively. I think that is a practical skill.

Since we'll cover a lot of material, maybe an overview might help anchor expectations.

The WTO primarily provides a forum where member governments negotiate and decide on policy. Like Congress in the U.S., the members do the work and make the decisions, while the staff supports the work of the members.

Secondarily, however, the WTO itself engages with the members in a couple important ways. Members have to report their policies to the WTO and have them reviewed and publicized by WTO staff. And members may find their interests affected if the WTO's dispute settlement system determines that they have not complied with their agreements and obligations. Also, WTO staff provide technical assistance to developing-country members in managing their WTO involvement.

Since the WTO is the first institution we're studying in this course, it might also be useful to say a word about types of institutions and how you might classify the WTO as a type.

In terms of being an institution, the WTO is like many in that it is an independent entity: it has a bank account and can own property; it can enter into contracts; it has staff and a place of business; it has a governing structure that oversees its operations and rules that set its procedures.

But it's important to understand that not all institutions that we will look at are organizations of this type.

For example, some institutions are just customary ways of working together. An institution in this category is the G-20. You have probably heard the G-20 mentioned in the news; it will come up in another module of this course. The world's sovereigns have a concrete set of expectations about what a G-20 meeting is and what can be gotten out of it. So, you can call it an institution. But there is no written G‑20 agreement and the G-20 is not an organization with a bank account, a staff, or a place of business.

On the other hand, an institution may be defined explicitly by a written agreement. In a typical case, after signing the agreement each party acts on its own to fulfill its obligations under the agreement (and hopes to benefit from all the parties' actions). For example, in the Convention on International Trade in Endangered Species, the countries that are signatories agree to set up internal agencies to control import and export of certain species. That particular aspect of the Convention doesn't create an international organization, any more than you and your landlord set up a new organization when you sign a rental agreement.

But, in addition to implicit understandings and written agreements, a group of sovereigns may also agree to create an organization that will act separately from existing governments to carry out the mission they specify. The WTO is like this. Some other international organizations are even more independent than the WTO is.

How far to go in institutionalizing cooperation is a big deal to sovereigns, so the structure of an international institution will tell you something about the sovereigns' intentions and concerns. We will keep an eye out for the elements of structure: custom, written agreements, and independent organizations. Particularly, if there is an independent organization, how many staff does it have, and what's its annual budget? That really helps tell you the extent of its role.

The WTO is a case where all three elements are present.

* The WTO was established by a written agreement and is an organization with a substantial staff of its own.
* It largely works to help implement a set of specific agreements, the main one being the General Agreement on Tariffs and Trade, or the GATT.
* And in addition to the work carried out by the WTO's own staff, much of the work is done by the staff of the WTO's member governments who are sent as delegations to work and negotiate with one another at the WTO's headquarters. Actually, in the WTO's case, most of the work is done by member country delegates.

At this point, you should be looking at the required references for the WTO module. The presentation that follows is intended as an introduction and guide. But the real sources for your study should be the primary materials that I have made available in Canvas.

The 1994 agreement establishing the WTO is required reading. This is not only because of its value as authoritative information, but in order to get you used to seeing "the real thing," as opposed to seeing someone else's summary or interpretation of it. This real-world material is not "above your head": in fact, it's easy to understand.

I have done some highlighting of the agreement's text in Canvas. You should take that as an indication of points that you need to read carefully enough to understand and be able to explain to others. If you can't teach it, you don't understand it.

You'll see in the last page of the WTO agreement (page 11) a list of the other agreements that the WTO helps implement, with the GATT being at the top of the list. I really should require you to read the GATT itself, and I have put it in the Files for this Module. But it's a little long, so I will only strongly recommend that you look at it. For presenting information about the GATT, I will mainly rely on this slide show and, more importantly, on the WTO's own training document, *Understanding the WTO*, which is in Canvas and is required reading.

The version of the WTO's training document in Canvas is the 2015 version, which at that time closely followed the WTO's online material. Since 2015, however, the WTO's online training system has become more automated and not as easy to integrate into this course. You can go on-line to look at the WTO's current training system, which requires that you register. You might like to look up specific topics there, in the future.

A second reference is a book titled *The Political Economy of the World Trading System*, by two authors named Hoekman and Kostecki. (Fortunately, the book is available to IU students on-line: go to the IU libraries catalogue on line, search for it, and choose the electronic version of the third edition.) This is not required reading, but rather is something like an encyclopedia to use as a reference. When I want to review something, that's where I go. For any of the topics we study, you might be interested to open it up and at least scan the relevant chapter.

Going back to page 11 of the WTO agreement, the list includes several specialized agreements that this course will touch on as we go along. They're referred to by exotic acronyms: TRIMS, TRIPs, GATS, etc. Hopefully they won't seem so foreign to you as you learn more about global economic issues and institutions.

We will also get into some details about the functions shown in Slide 3, both those performed by member delegations sent to WTO-hosted negotiating forums, and those performed by WTO staff, notably the Trade Policy Review Mechanism.

Let's start with a case — a recent action that took place in the framework of the WTO and that can maybe illustrate what the institution is about.

The case is the Agreement on Fisheries Subsidies, reached by the WTO's Negotiating Group on Rules and approved by the WTO's Ministerial Council in June 2022. [[Video](https://youtu.be/y07KIrkBi5g)]

Now, the question of subsidies for fishing — frequently cheap fuel that governments provide to fishing fleets — wouldn't immediately bring the WTO to mind, would it? But as One Ocean Hub, an international research organization, noted: "While the WTO may not seem the natural home for discussions on fisheries subsidies, it already encompasses a WTO Agreement on Subsidies and Countervailing Measures."

In other words, the WTO is a facility: an existing institution whose capacities can be drawn on by the sovereign members to help them address a variety of issues.

Not only can they use the WTO's existing negotiating framework — and use it and use it, over a 20-year period when the absence of an institutional home for the negotiation might have doomed it — but also they can use the WTO's existing supervision framework — a system of reporting, dissemination, and discussion of implementation of commitments members have made and obligations, like this agreement, that they have entered into.

As we go through the WTO's organization and principles, we can refer to this case as an example of how they work.

[Footnote: It might interest you to know that the 2021 edition of this course — before the adoption of the Agreement of Fishing Subsidies — performed a consulting project for the Department of State's San Jose Regional Environment Hub (in Costa Rica) on IUU fishing problem in the Eastern Tropical Pacific Marine Corridor, which comprises the waters, coasts, and islands off the shores of Costa Rica, Panama, Colombia, and Ecuador. The Corridor is one of the RFMOs — Regional Fisheries Management Organizations — mentioned in the WTO agreement. Given Colombia's interest in the subject, it's perhaps not surprising that Colombia's ambassador to the WTO chaired the final negotiating process — although in that role he was representing the WTO as a whole rather than his home country.]

This presentation can be divided between (1) the principles and policies embodied in the WTO agreements, and (2) the WTO's operations as an organization.

This presentation initiates the course's practice of pairing institutions with the leading issues that they are designed to deal with. In the case of the WTO, the most essential issue is discrimination, which, as I pointed out in the introduction to the course, is one of the things that makes international economics different from general economics.

As we have seen, each country, being sovereign, is empowered by law and popular custom to discriminate against sources located in the territories of other sovereigns. But as we discovered by looking at the idea of discriminating locally within Bloomington, there will be pushback from local customers when you discriminate against their preferred sources. And there will be complaints from the local firms that are discriminated against by other sovereigns: they'll ask their own governments to do something about it.

So, the result is that sovereigns talk to one another about, "Hey, if you stop annoying my people, I'll stop annoying yours." And they make concessions to one another. Eventually, they institutionalize this interaction. That's the WTO.

The institutions we have today were built in a process that started in 1947 and that reached maturity in 1995, when the organizational aspects were reformed into what was called the WTO. The resulting structure has continued with relatively marginal changes since 1995.

As this cooperation has been institutionalized, it has established some basic, across-the-board principles of non-discrimination (in addition to engaging in commodity-level negotiations).

Three general principles are (1) most-favored nation, (2) national treatment, and (3) transparency.

The most-favored nation principle (MFN) is very old. Sovereigns used it as a short-cut to get deals from each other that had been negotiated previously in other agreements: "Whatever concessions you agreed to give that other country, I want them too." In other words, I want to be treated as well as you're treating the nation to which you've given the most favors, your most-favored nation. Don't discriminate against me, at least not any more than you're discriminating against anyone else.

MFN made it into the GATT as a concession every signatory makes to all the others.

A second anti-discrimination principle is called "national treatment." The word "national" here is the noun meaning "citizen." So, "national treatment" means getting the same treatment as a citizen gets. For a good, what that means is that once a good has been imported, having gotten over whatever hurdles there are for foreign-sourced goods (tariffs or anything else), then once it is inside your territory the imported good will be treated as if it were of local origin. It can't be held to different standards or regulated differently than similar goods of local origin.

A third principle is that members will take steps to make their practices transparent. They establish contact points for inquiries, they notify the WTO about any changes in their policies, and they participate in occasional "trade policy reviews" that comprehensively go over everything their country does affecting cross-border commerce, and they publish the results in a standard format that can be consulted easily by everyone — including by members of this class!

MFN is not an absolute rule. Starting with the initial GATT in 1947, long before the WTO was formed, sovereigns took account of the unique relations that exist between particular countries, especially the countries that share borders.

So, the 24th article of the GATT agreement (GATT Art. XXIV) takes account of this. Two countries can agree, for example, on border-crossing protocols for trucks without granting the same rights to other countries who don't share borders with them, and without violating the GATT, despite ignoring MFN in this case.

Also, neighboring countries have mutual concerns like military security that lead them to adopt unique political ties that differ from their ties with distant countries. They frequently decide to harmonize taxes and regulations, in order to lower the potential for economic conflict that can lead to political and military conflict. GATT Art. XXIV therefore exempted *bona fide* free trade agreements (FTAs) from the MFN requirement.

Regional trade agreements — in other words, agreements that discriminate against non-members — have become increasingly common and problematic, so we'll get into them in more detail in another module of the course.

At this point, it's worth noting that one rationale for the GATT's exception for RTAs was that the European Union project was developing at the same time as the GATT in the 1940s. An exception for RTAs of the type the Europeans were committed to was necessary to make sure that the Europeans could accept the GATT.

Also, the exception provides standards for RTAs to try to minimize their discriminatory impact.

An additional argument in favor of some RTAs is that, given how long it takes to reach mulitlateral agreements with over 100 sovereigns, RTAs can be tactical devices by which agreements are given a tryout by the most interested governments. If a particular concession has a good track record in an RTA, maybe it will be adopted multilaterally by the whole WTO membership later (getting around the difficulty it would have had if it had to be accepted multilaterally from the beginning).

The three principles just discussed (MFN, NT, and transparency) help guide the implementation of the specific decisions that sovereigns make in negotiating among themselves. The WTO supports negotiations logistically but does not participate in them: the negotiations are the job of delegations from the members' governments.

One of the slightly amusing things about the WTO is that, while they are naturally proud of the beautiful, historic building they occupy in Geneva, the space available for the delegations leaves them pretty crowded when they all meet at once, as you can see in the snapshot on pages 6-7 of "Understanding the WTO." (Actually, council meetings, while open to all members, are usually attended by only about 70% of the members.)

Although the WTO's various "Councils" are open to all members, negotiations frequently take place bilaterally, between staff of just two members' governments. Less crowding! The fruits of the negotiations are then shared with all the members via the MFN principle.

By the way, the WTO uses the term "multilateral" to describe something common to all its members. "Plurilateral" is used to refer to a sub-group.

What is negotiated are reductions in discrimination that come about via "concessions." One important kind of concession is lower discriminatory taxes (called "tariffs" or "customs duties"). (Nondiscriminatory taxes are the ones that everyone pays, like sales taxes. Nondiscriminatory taxes are not dealt with in the WTO.)

While the WTO itself doesn't negotiate with its members, it is plain that the WTO as an organization supports specific goals in negotiations, like lower tariffs and also less dispersion between tariff rates.

Why should the WTO care about reducing dispersion in rates? Two reasons.

One is that substantially different tax rates result in changing what economists call "relative prices," which as you'll remember from university economics' price theory are what correspond to the allocation of resources. A substantial dispersion of tax rates means that the tariffs are changing resource-allocation decisions, which may lower welfare unless there is a good reason for it, like an externality. (By the way, I'm counting on you to have enough background in economics to be familiar with points like these. If this is a problem for you, please contact me about it.)

A second reason is that a substantial difference between tariff rates for similar goods makes administration of the system more difficult.

Why? Because you have to be careful about distinguishing between types of goods when the tax rate that's going to be applied depends on it. This would be unnecessary if the tariff rates were the same.

Not only does the customs administration need to work harder, but the buyers and sellers have to pay more attention to how goods are classified, to make sure that buyers don't pay higher rates. A temptation for corruption to misdeclare goods to get lower rates arises from this situation, and that harms customs administration also.

By the way, both these reasons would apply to an internal tax like a sales tax: you don't want to have very different rates on similar products in a sales tax system either. In other words, the WTO's principles generally correspond to what economists consider ordinary economic logic, not logic that only applies when you cross borders. The reason why the principles seem more important for international trade is that they are violated more often when you cross borders and discrimination is considered okay.

Discriminatory taxation is not the only way to discriminate. A government can also impose ceilings on imports (sometimes called "quotas"), or can bar imports based on technical requirements that local goods don't have to meet. These are called "non-tariff barriers."

The negotiations that take place in the WTO's framework cover non-tariff barriers (NTBs) as well as tariffs.

Actually, the WTO as an organization also encourages replacing NTBs with tariffs. Why?

Again, this is standard economics. Economists argue that non-tariff barriers raise prices, but by percentages that you are hard to know because they fluctuate with market conditions. In other words, the impact of NTBs on prices is less transparent than the impact of a fixed-percentage tariff is.

NTBs' non-transparency also facilitates corruption, since you can do big favors without initially being noticed.

In fact, NTBs essentially require corruption. How?

First, we know that the local prices people have to pay for the import will go up. Second, we know that the cost of buying the import does NOT go up, since there's no tariff. This creates a gap between cost and price, which is an opportunity for profit.

So, everyone in the import-export trade suddenly wants to import this item. But, can everyone import as much as they want\?

No. Because there's a quota limitation.

So, who gets to import?

That's where corruption comes in. The quota means few people get to import but that many people want to. The government gets to choose who makes a lot of money, by giving them import licenses so that they can "buy low and sell high."

That's inherently corrupting in a way that tariffs are not. Tariffs raise the import cost by as much as what you can sell them for, so importers aren't getting something for nothing.

The diplomats who built the GATT and the WTO balanced two things: (1) the desire to promote commerce and reduce discrimination and conflict, and (2) an awareness that their clients back home would want to control some sectors in ways that might reduce or even preclude imports.

Areas like human health and environmental protection, and others as described in GATT Art. XX (20), are frequently heavily regulated. It's expected by the GATT that this might reduce imports in ways that are non-negotiable. At the same time, regulations should not simply discriminate against foreign sources.

For example, diseases need to be quarantined, and they need to be quarantined whether the outbreak is local or foreign. So, commerce will be affected, but for an objective reason applying to both local and imported supplies, not in a way that discriminates for commercial advantage.

A famous case of environmental regulation, which was well documented because it came up in the WTO's Dispute Settlement System in the mid-1990s, had to do with U.S. Government environmental requirements for imported gasoline. The only slight problem was that the USG "forgot" to subject U.S.-refined gasoline to the same requirements.

An exporter of gasoline, Venezuela, brought a complaint to the WTO, and the dispute-settlement process, which included an appeal, found that the USG's regulation violated the U.S. commitment to "National Treatment." The USG eventually changed its regulation. You can easily find documentation on this case through web searches.

The area of military security that is dealt with in the following article, Art. XXI, which recognizes that members are likely to adopt measures in the national-security area that not only affect commerce but that specifically discriminate against foreign sources. So, this article of the GATT recognizes that it's not a purpose of the GATT to try to negotiate market-access for foreign sources in this domain.

The GATT's designers were also realistic enough to know that members needed "insurance" or "safety valves" in case events put stress on members' economies. A number of safety valves were written into the GATT so that members could take exceptional measures on a temporary basis without completely dropping out of the system. These safety valves are designed to minimize conflict and to be temporary.

The safety valves come in two flavors: (1) those where a member alleges harm from others' "unfair practices," and (2) temporary shelter when changes are legitimate — not the result of unfair practices — but too big for local industry to adjust to them quickly.

With respect to unfair practices, these can be governmental or private. On the government side, there are export subsidies, which allow industries to price exports below cost.

Since WTO members have a general agreement not to subsidize exports (GATT Article XVI), a member who feels damaged by another member's export subsidies can complain through the WTO's Dispute Settlement System (DSS). If the complaint is found to be justified, the remedy is ideally for the subsidy to be removed. If the member won't do that, the WTO can approve the adoption by the complainant of a "Countervailing Duty" equal to the price reduction caused by the subsidy (as permitted by GATT Article VI). The DSS is discussed in more detail below.

Since government promotion of industry in general won't necessarily qualify as a specific subsidy to exports, it can be tricky to prove the existence of an export subsidy (and governments surely try to disguise export subsidies as general promotion of the economy).

On the private side, there are business practices where firms set different prices in different markets according not just to the different costs of supplying those markets but according to differences in willingness to pay. For example, prices might be set higher in territories with high average incomes vs. those with low average incomes.

Private practices are also hard to stigmatize, because they are part of "normal" business when you consider how common it is to have returns to scale and market power that allows big business to choose what prices to charge. Even within a single sovereign's territory, big business charges different prices in different areas, sometimes accompanied by cosmetic differences in product name or appearance to "justify" the price discrimination. Since this is not illegal locally, people sometimes ask why you would complain when it crosses borders.

On the other hand, there is a different practice called "predatory pricing" where a well-financed firm cuts prices and sells at a loss knowing that less well-financed competition who has to meet the low price will be bankrupted, leaving the predator with a monopoly where prices can be raised. If a firm engaged in this practice across borders, to drive out local firms through below-cost pricing, complaints would not be surprising.

Whether predatory (anti-competitive) or just discriminatory, export prices lower than costs can, under the GATT's Article VI, be countered by "Anti-Dumping" tariffs. Again, this remedy would be authorized through the WTO's Dispute Settlement System if the price discrimination could not be removed.

Of particular importance because of the large volume of exports from China and Vietnam is the clause in GATT Article VI that allows importing countries to assume that prices of exports from those countries are fixed by the government without necessarily being related to true costs. (This clause is found in the GATT's Annex I — the annex after Annex H — which contains "supplementary provisions.")

To judge whether export prices from China and Vietnam are related to actual costs, importers are permitted to make their own calculations of costs and to declare "dumping" if their calculations are lower than export prices. The conflict of interest in the importing country makes the already extremely difficult idea of reconstructing true costs (without benefit of accepted market prices) hard to do in an objective way.

The Krugman-Obstfeld-Melitz textbook has a section showing university economics professors' arguments for the contention that the foundations of anti-dumping complaints are weak and that this provides a back-door for discrimination through anti-dumping tariffs.

Even without unfair practices, the diplomats who negotiated the GATT and the WTO agreement knew that they had to provide safety valves for crises that individual industries or financial systems can encounter.

One temporary escape clause appears in GATT Article XIX for cases where a concession made in a WTO negotiation results in an import surge that affects specific industries. The rules allow the importing member to suspend the concession for the period of time necessary to remedy their industry's problem.

The concession is suspended for all WTO members on an MFN basis, not just for one particular exporting country (since the importer is not alleging any exporter of unfair practices).

Exporting countries who are affected by the emergency suspension may apply to the WTO for approval of removing equivalent concessions to compensate.

There is another GATT clause, Article XII, that allow members to restrict imports in order to conserve foreign-exchange reserves (the Balance of Payments). (We'll get into the Balance of Payments later in the semester.)

In contrast with the GATT's limitations on subsidizing firms, the GATT places no limit on compensation for individual persons who lose jobs because of import competition. In the case of the U.S., where evolution of industrial structure has increased national income per capita, economists regularly point out that compensation for workers who are displaced through no fault of their own could greatly exceed the value of their former jobs without using up the economic benefit received by the country as a whole.

LDCs also get special consideration, including through measures adopted in the 1960s after a number of countries gained independence and started participating in international organizations.

It was agreed that LDCs should get special treatment in several different ways.

First, LDCs were not expected to make as many market-access concessions as was expected from developed economies.

Second, the GATT allows LDCs to suspend commitments more flexibly, if needed to implement development programs.

And third, outside the GATT negotiating rounds, the idea of "preferential" tariffs for LDCs was championed by UNCTAD, the UN Conference on Trade and Development. The idea was for industrial countries to lower tariffs for the LDCs even though they didn't want to give other industrial countries the same concessions. (Presumably, the developing countries wouldn't export enough to make the concessions painful.)

The result of this concept was the "Generalized System of Preferences" (GSP), which specifies that preferences should equally benefit all countries listed as LDCs, rather than just former colonies or neighboring countries.

So, that's a summary of the core WTO and GATT principles. Obviously, it leaves out all the details about specific industries and sectors. But the larger point is that the WTO provides a venue for negotiations that have reduced discrimination and have been sensitive to the concerns and special needs of the members.

The WTO system recognizes that negotiations are hard. There are lots of tactics deployed, such as having countries with similar interests negotiate as groups, which we won't get into. Nonetheless, the WTO as an organization recognizes that negotiations take time.

As an aid to continuing the negotiation process, the WTO supports transparency in the evolution of members' policies, particularly through the process of members sending notifications of policy changes to the WTO and then having comprehensive reviews of their trade policies. We'll look at the Trade Policy Review mechanism in more detail, below.

In the end, however, negotiations belong to the individual members. No one makes a concession that they can't be persuaded to make. Usually, the factor that persuades them is compensating concessions made by other members.

Now, let's turn to the WTO's operations as an organization.

As an organization, the WTO is located in Geneva, Switzerland.

Both trade policy initiatives and organizational policy of the WTO are in the hands of the members' delegations. So far, the member states have not wanted the WTO as an organization or its staff (except perhaps for its Director General) to get officially involved in policy.

As a practical matter, however, the Secretariat and its Director General do contribute to WTO policy through their expertise in drafting and through their negotiating skills in helping members reach agreement.

WTO member governments have to dedicate a lot of their own resources to WTO activities. Thirty-nine countries have offices in Geneva that are dedicated solely to WTO work, with a total of almost 300 staff.

In addition, almost 100 other countries have permanent Geneva offices with over 500 staff who work partly on WTO matters and partly on other UN-type agencies located in Geneva.

All the 160+ WTO member countries regularly send staff on trips from their home capitals to the WTO in Geneva for negotiations.

The head of a member's WTO delegation in Geneva has the title of "Ambassador."

(See VanGrasstek, *History and Future of the WTO*, p. 88. Also, remember that Geneva is not the capital of Switzerland. The bilateral diplomatic embassies are all in Bern.)

Policy-making authority in the WTO resides in councils and committees composed of all member countries.

Member countries' Ambassadors to the WTO fill important positions in the WTO's operations as chairs of the councils and committees. It may seem tricky, but when the Ambassadors are in those roles, they cease being representatives of their countries. In order to perform neutrally, objectively, and professionally, they effectively become representatives of the WTO itself, as if they were employees of the WTO Secretariat rather than of their own governments.

WTO bodies are diplomatic in the particular sense that they try to operate but by "consensus," which is not the same as unanimity, but rather is the willingness to go along without open objection, subordinating disagreements in the spirit of compromise. Open objection by a single member disrupts consensus, so negotiations try to avoid that.

To reach consensus, much negotiation on policy is conducted outside the councils, with the Director General taking a mediating role. A space called "the Green Room" outside the DG's office is used for some of these discussions. Informal, high-level discussions have come to be referred to as "the Green Room" even if they take place somewhere else.

There are quite a few WTO committees and councils. This organigram is from *Understanding the WTO*, page 103.

The WTO's Secretariat has around 630 staff, headed by a Director General. Its annual budget is a bit more than USD 200 million. (The budget is actually computed in Swiss francs, CHF.)

Measuring the WTO by just its Secretariat would make it a pretty small organization. The Bloomington city government has more employees than the WTO's Secretariat does, although Bloomington's operating budget is only about half the WTO's, probably because the WTO's employees are higher-paid on average.

But because of the Secretariat's limited role, the Secretariat's staff size understates the organization's importance, which largely has to do with providing the framework for work done by member-government delegations.

Secretariat staff, along with specialists hired on contracts, lead some of the WTO's functions, notably the Trade Policy Review Mechanism and the Dispute Settlement System. We'll have a closer look at these functions shortly.

The organigram for the WTO Secretariat staff doesn't fit very well in a slide, so look at it in the WTO's website, here: <https://www.wto.org/english/thewto_e/whatis_e/tif_e/org4_e.htm>.

This slide shows the costs of what the WTO's management identifies as the organization's eight functions. To mention three:

* "Facilitating Negotiations," which is what the Negotiating Group on Rules did in the case of fishing subsidies.
* "Administering Agreed WTO Rules" entails various committees hearing concerns that are filed by members about other members' practices. The Council for Trade in Goods has committees on Agriculture and on Subsidies and Countervailing Measures, for example. The WTO's Annual Report has a chapter that gives a good idea of the issues that members bring to these committees.
* Note how big the budget for "Capacity Building" is. This is mainly for developing countries and small economies, helping them build trade capacity and implement trade agreements.

One issue that some people raise is that the WTO's members might perhaps accomplish more if the relatively non-political WTO staff were allowed take more initiative. For example, staff of the WTO's Secretariat could draft policy options for the members to debate. This would not put the burden on any member to appear to be the advocate for a particular policy. So far, such ideas have not been implemented.

WTO service bodies managed by WTO staff provide informational services, mainly for developing-country members, particularly relating to managing disputes with other members.

Two important operations that are managed primarily by WTO staff, rather than by member-country delegations, are the Dispute Settlement System and the Trade Policy Review Mechanism.

We'll consider each of these in turn.

First, the Dispute Settlement System, or DSS.

The basic references on the Dispute Settlement System are the WTO's e-learning documents. To orient you, here's a quick overview.

What is the purpose of the Dispute Settlement System?

One main purpose is to increase the credibility of the WTO agreements. "Trust, but verify" is a well-known saying. Having the DSS allows members to verify if they (or their industries) have any doubts that other members are performing on their commitments.

Clarification is also a major purpose. No text stands on its own, especially not brief documents like the WTO agreements, which have to apply to hundreds of industries and innumerable policy decisions. Where more precise distinctions are needed in practice, you have to go through a focused process like the DSS to make those distinctions.

Conflict resolution is obviously an objective. If disputes about implementation of the specifics of WTO agreements can be done credibly and transparently, there is hopefully less chance that the disputes will grow into wider conflicts. So the DSS emphasizes cooperation in dispute settlement, with mandatory consultations before requesting adjudication, and with mediation available.

To illustrate the WTO's online information on actual disputes, one possible example is the New Zealand-Australia dispute over whether Australia's sanitary limitations on apple imports were justified scientifically, or whether (if they were not) they were inconsistent with Australia's commitments: case DS367.

The WTO is proud of the DSS as it was strengthened in the agreements of the mid-1990s. The form and principles of the DSS are based, however, on experience with dispute settlement under the GATT going back to the 1940s.

The basic idea of having a "panel" of third parties to decide a dispute between a complainant and a respondent originally was implemented by having third countries participate in "working parties" of members, and by using the third countries' comments as the proposed resolution. In the early 1950s, the "working parties" of member delegations was transformed into "panels" of experts from third countries, and after a few years the panel members were finally understood to be serving in their personal capacities as experts, rather than as representatives of member countries.

As the dispute system was handling a growing number of more diverse disputes and was becoming more contentious and less diplomatic, the members decided to strengthen it.

Annex 2 of the main WTO agreement, which came into effect in 1995, gave the DSS an explicitly independent status, with the Dispute Settlement Board (composed by all WTO members) as its governing council, with professional panels of outside experts for each dispute, and with an internal Appellate Body, also of outside experts.

These reforms ensured that the process can't be vetoed by the respondent: a panel can be set up and the Dispute Settlement Body can adopt the panel's findings despite the respondent's disagreement.

This slide provides a couple details about the panel process, particularly the point that the rules do permit a single country to block any and all appointments to the Appellate Body.

In recent years, the USG has done so. As previous appointments expired, the USG's blockage has left the WTO without enough staff for the normal, three-person appeal process. About a third of the WTO's members, including the EU but not the U.S., are participating in an alternative mechanism. As the paper by Mr. Wolff (in Canvas) explains, there are many options for addressing the procedural points raised by the USG about the DSS, but it is unlikely that the USG will approve any option unless it allows the USG to take the measures it wants against China, including measures that don't comply with WTO principles.

Winning and losing are of course important, but it's perhaps even more important what the "remedy" is, in case a respondent is found to be out of compliance. If the complainant is really suffering damage, the remedy repair that damage.

There are three types of remedy.

(1) The respondent moves back into compliance.

(2) "Compensation": The respondent withdraws the original concession (which it is no longer willing to honor) and substitutes a concession that the complainant agrees is of equal value.

(3) "Retaliation": The WTO allows the complainant to remove a concession of equal value.

The WTO's real goal is to bring everyone back into compliance, so compensation or retaliation are not ideal alternatives.

Also, some cases involve violations of basic WTO requirements. Unlike cases where the member violated its own voluntary concession, the member can't just erase a basic WTO requirement, so compensation is not an option.

WTO members have voluntarily signed on to all the WTO agreements (even though some agreements have a "take it or leave it" character) and have voluntarily decided on the concessions they offer.

But DSS rulings are somewhat different. A respondent who is the losing party in a dispute may disagree with the DSB's decision and yet have "no choice" but to live with the ruling.

Of course, the losing respondent can just do nothing about it. There may be a loss of prestige and of negotiating position, but the losing respondent doesn't actually have to change policy.

Nonetheless, questions about "sovereignty" and "democracy" come up in the context of dispute settlement because a respondent can't prevent a negative judgment.

Is there a problem in this respect? What do you think? [Discuss]

The WTO Secretariat's staff play an important role that can sometimes be invisible. Since they frequently write the first draft of dispute-panel decisions or of policy documents for members' debate, they have a chance to "frame" issues.

WTO staff have an openly leading role, however, in the Trade Policy Review Mechanism.

Annex 3 of the basic WTO agreement calls for "periodic" reviews of the "full range" of each member's trade policies. It establishes that the WTO membership will meet as a Trade Policy Review Board (TPRB) to receive individual members' reports on their trade policies, and that the Secretariat both will assist members in drafting reports and will write its own report on each member's policies, for presentation to the TPRB.

After a TPRB meeting to discuss the reports, everything is put online in the WTO's website. Because the published policy reviews are so useful, we'll study one (Thailand 2015) as a case and then each of you will report on your country's most recent review.

The WTO's short e-Learning document on the TPRM is required reading, as highlighted. In addition, the very brief Trade Policy Review agreement itself is required.

The TPRB establishes a common format for all countries' reports, so it's easy to find information and to compare countries (and to compare successive reports from the same country).

To make it even easier, the same information is presented in two ways. First, the country's policies are reported in chapter 3 by type of policy: tariffs and nan-tariff barriers, for example. Second, the policies are reported in chapter 4 by sector: agriculture and industry, for example.

WTO policy reviews are not negotiating sessions, nor do they require members to take policy actions.

But they promote transparency about what the policies, laws, regulations, and practices of the members really are. This makes it more feasible to frame negotiations and disputes, which can result in real action.

A look at the Secretariat's 2015 trade-policy report on Thailand shows that the TPRM both signals potential issues and encourages transparency.

As regards policy issues, in section 3.42 the report frankly says that Thailand's new, 2013 safety requirements for car tires are "ambiguous." It also refers to "criticism" of Thai import licensing. Although it's relatively polite, this is a case of the WTO staff more or less criticizing a WTO member's policy. The criticism has no teeth, except for the "soft power" that the prestige of neutral, objective evaluation can have on subsequent events.

As regards transparency, in section 4.1 the report notes that Thailand's price-supports for rice are "costly and controversial" and that Thailand had not sent the WTO any notifications of policy measures in this area in the previous five years back to 2008.

Thailand's overall performance on its obligation to share information with the WTO is mentioned in section 2.15, which includes a list of areas where notifications are "outstanding." This doesn't mean, "Wow, these are the best notifications we've ever seen!" It means they're still standing out there somewhere and the WTO hasn't been received them yet, meaning that Thailand is delinquent.

Having completed this review of the WTO as an institution, I thought we might look back at the 2022 Agreement on Fishing Subsidies to reflect on the WTO's usefulness at present. This slide notes the continued relevance of the WTO as platform for negotiation and for maintenance of agrements already reached.

Please look back at the goals for this module and think about what you will do to reach them!