

THE MULTILATERAL TRADING SYSTEM

**Presentation to 2025 International Trade Update
“Trade 101” Sessions**

**John Magnus (TradeWins) & Matt Nicely (Akin Gump)
Washington, DC
March 2025**

WTO History

- Evolved from General Agreement on Tariffs and Trade (GATT) 1947, among multiple international agreements reached in the wake of WWII.
 - Goal was to establish framework for reducing trade barriers and intersecting economies, driven in part by a commitment to free market liberalization and Ricardian economic theory (comparative advantage).
 - Historical moment was important – the idea was that more and freer trade would lead to less war, as economies would become more interdependent.
- Multiple rounds of negotiations since the 1940s led to the most groundbreaking (and most recent successful) Uruguay Round of 1986-1994, which formed the World Trade Organization (WTO), headquartered in Geneva, Switzerland.
- Negotiation breakthroughs since then have been limited; the more robust dispute settlement (DS) system created by UR Agreements led to increased adjudication of existing rules and less negotiation of new rules.
- Controversies over China, over DS system and over carbon control strategies have led to reduced commitment to WTO's rules-based system.

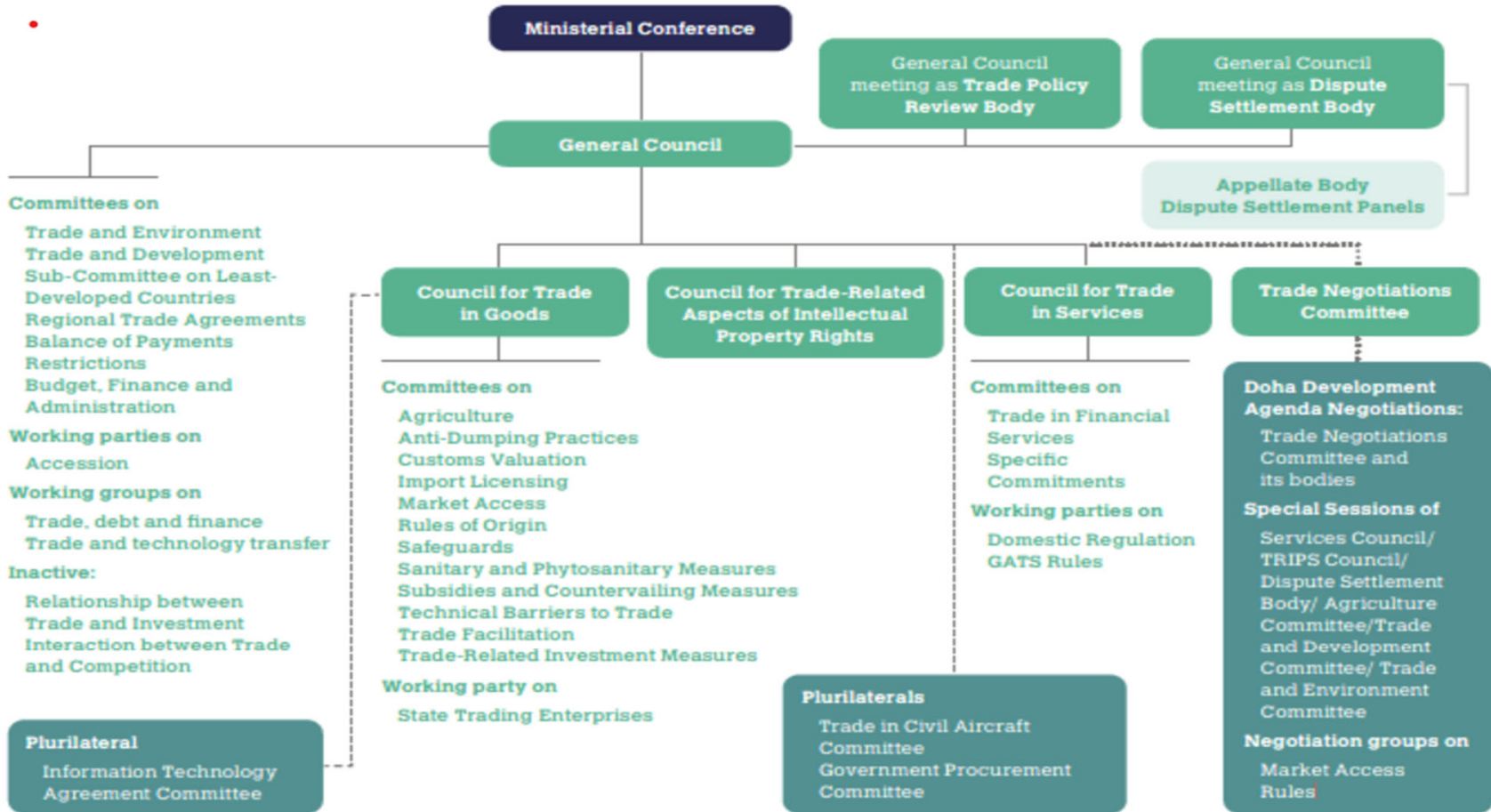
WTO's Legal Structure

- GATT is primary, from which most other agreements have evolved, including several agreements covering trade in goods:
 - Subsidies and Countervailing Measures (SCM) Agreement
 - Anti-Dumping (AD) Agreement
 - Safeguards (SG) Agreement
 - Sanitary and Phytosanitary Measures (SPS) Agreement
 - Technical Barriers to Trade (TBT) Agreement
 - Agriculture Agreement (special rules for most sensitive sector)
- Important expansions beyond GATT are:
 - General Agreement on Trade in Services (GATS)
 - Note bottom-up sectoral coverage
 - Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)
- Separate rules for dispute settlement:
 - Dispute Settlement Understanding (DSU)

WTO Institutional Structure

- Ministerial Conference – topmost decision-making body; meets every two years; includes minister-level representatives of all 166 WTO members.
- General Council – next highest level; regular meetings in Geneva by Mission representatives of each member country (Ambassador or equivalent level); these same officials can also convene as:
 - Dispute Settlement Body
 - Trade Policy Review Body
- Next is Councils for: Trade in Goods, TRIPs, Trade in Services
- Subject matter Committees under each Council
- Secretariat organization largely mirrors the Council/Committee structure

WTO Organizational Chart



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

WTO's Core Substantive Rules

- Foundational rules are embedded in the first three articles of the GATT, the focus of which is non-discriminatory reduction of trade barriers:
 - Article I – Most Favored Nation Treatment (country vs country)
 - Article II – Schedule of Concessions (bound tariff rates)
 - Article III – National Treatment (domestic vs foreign)
- The remaining rules either expand on these foundational rules or provide details on when those rules can be relaxed or suspended.
- Additional rules and exceptions are embedded in:
 - Article VI – Antidumping and Countervailing Duties (note separate agreements)
 - Article XII, XIII, & XIV – Safeguarding Balance of Payments
 - Article XIX – Global Safeguards (note separate agreement)
 - Article XX – General Exceptions
 - Article XXI – Essential Security
 - Article XXIV – Customs Unions & Free Trade Agreements
 - Article XXXVI et seq – Preferential Treatment for Developing Countries
- Success of this system relies, among other things, on judicious use of exceptions.

WTO's Main Functions



Negotiation



**Committee
Work**



**Dispute
Resolution**

WTO Current Issues & Problems

Negotiating function:
under-performing

DS function: operating
minus one engine
(Appellate Body), under
stress

Frantic effort to prepare
positive Ministerial
outcomes (while
tectonic shifts are
occurring underneath)

Some important
bilateral relationships
(including China-US)
are effectively no
longer WTO-based

WTO's Future?

- Accessions and continued use of DS by some members suggest it could be bright.
- Behaviors of largest members suggest it could be bleak.
- Pattern of declining respect for existing rules must reverse:
 - Are Members still committed to MFN?
 - What about respecting tariff bindings?
- Then, inability to negotiate new disciplines must be addressed.