Order Code 98-928 E

CRS Report for Congress
Received through the CRS Web

The World Trade Organization: Background and Issues

Updated March 5, 2003

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Summary

The World Trade Organization (WTO) was established on January 1, 1995, under an agreement reached during the Uruguay Round of multilateral trade negotiations. The Uruguay Round was the last of a series of periodic trade negotiations held under the auspices of the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT).

The WTO is the most important international organization that governs world trade. It has 145 members and 31 observer governments (most of which have applied for membership), and members represent over 95% of world trade. Agreements administered by the WTO cover a broad range of goods and services trade and apply to virtually all government practices that directly relate to trade, for example tariffs, subsidies, government procurement, and trade-related intellectual property rights. Coverage of the agreements is growing through negotiation.

The WTO continues to apply many of the principles that were included originally in the GATT. One of these principles is most-favored-nation treatment, which states that any advantage given by one member country to a product of another member must also be extended unconditionally to a like product of any other member. Another principle is national treatment, which requires that countries must treat imports no worse than domestic products. Countries also commit to open information on rules and regulations, negotiated limits on trade barriers, and settlement of disputes under specific procedures.

Several bodies in the WTO administer the agreements reached during the Uruguay Round. The highest level body is the Ministerial Conference, which is the group of trade ministers from member countries. The Ministerial Conference meets at least every two years. The General Council is the body that oversees the day-to-day operations of the WTO. Each member country has a representative on the General Council. The Council also meets in two other capacities: it reviews national trade policies, and it oversees the dispute settlement process. Three major bodies under the General Council administer rules on (1) trade in goods, (2) trade in services, and (3) trade-related aspects of intellectual property rights (copyrights, trademarks, and patents). Also under the General Council are numerous committees and working groups.

Among the questions asked during debate on U.S. trade policy and the WTO are: To what extent should the United States meet its trade goals in the WTO versus other options? Can the United States maintain its sovereignty as a member of the WTO? Are U.S. interests served through the WTO dispute process? Should the WTO continue to cover traditional trade issues only, or should it be broadened to include nontraditional issues such as labor and the environment? What is the role of Congress in U.S. participation in the WTO?

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Background

Following World War II, nations throughout the world, led by the United States and several other developed countries, sought to establish an open and nondiscriminatory trading system with the goal of raising the economic well-being of all countries. Aware of the role of trade barriers in contributing to the economic depression in the 1930s, and the military aggression that rose following the depression, the countries that met to discuss the new trading system saw open trade as essential for economic stability and peace.

The intent of these negotiators was to establish an International Trade Organization (ITO), which would address not only trade barriers but other issues indirectly related to trade, including employment, investment, restrictive business practices, and commodity agreements. The ITO was to be a United Nations specialized agency, but the ITO treaty was not approved by the United States and a few other signatories and never went into effect. Instead, a provisional agreement on tariffs and trade rules, called the General Agreement on Tariffs and Trade (GATT) was reached and went into effect in 1948. This provisional GATT became the principal set of rules governing international trade for the next 47 years.

The GATT document established trade principles that continue to be applied today. Among the most important of these principles was nondiscrimination with regard to the treatment of trade in goods among countries. The most-favored-nation principle, which was Article I of the GATT, states that any advantage given by a contracting party to a product of another country must be extended unconditionally to a like product of all other contracting parties. A second rule of nondiscrimination was national treatment, which said that imported and domestic goods should be treated equally. Although nondiscrimination was a cornerstone of the GATT, some exceptions were allowed. For example customs unions, free-trade areas, and special treatment for developing countries were permitted.

Another principle was the open and fair application of any trade barriers. Tariffs were the most common and visible form of trade barrier at the time the GATT was established. Tariffs were to be "bound," or set at maximum levels, and not increased above the negotiated level. In general, quantitative restrictions such as quotas were not allowed, since tariffs were much easier to identify and to eventually reduce.

The GATT also included a forum and process for countries to follow in trying to resolve disputes. The dispute process allowed countries to consult with each other and if that was not successful, a country could ask that a panel hear the complaint. Although the panel's decision was not enforceable, the panel report carried some force of opinion and encouraged countries to work toward an agreeable resolution.

One of the GATT's chief purposes was the reduction of barriers to trade. With this goal in mind, GATT contracting parties met periodically to negotiate further reduction of tariffs and other trade barriers and changes to GATT rules. These negotiations were called "rounds." Early rounds dealt only with tariff reductions, but later rounds also included nontariff barriers to trade. The most recent round, the Uruguay Round, lasted from 1986 to 1994 and included the most encompassing set of negotiations in the history of the GATT. On the agenda was reform of the existing GATT system, as well as expansion of rules to cover new areas such as services trade and the trade aspects of intellectual property rights (copyrights, trademarks, and patents). The agreements that resulted from the Uruguay Round also contained a built-in agenda requiring that further negotiations on agriculture, services, intellectual property rights, and government procurement begin by the year 2000.

One of the most important changes that came about from the Uruguay Round was the establishment of a new trade structure, the World Trade Organization (WTO), which incorporated the many changes reached during the Uruguay Round: the former GATT with its newly negotiated reforms, bodies to oversee the new trade issues, a stronger dispute resolution procedure, a regular review of members' trade policies, and many other committees and councils. In contrast to the GATT, the WTO was created as a permanent structure, with "members" instead of "contracting parties." The WTO went into effect on January 1, 1995.

The World Trade Organization

There are 145 members of the WTO, representing over 95% of world trade, 31 observer governments (most of which have applied for membership in the WTO), and seven international organization observers. (Members and observers are listed in **Appendix 1**.) The WTO is located in Geneva, Switzerland. Its top official is Director-General Supachai Panitchpakdi of Thailand, whose 3-year term began on September 1, 2002. The WTO staff numbers about 550. Its budget for the year 2003 is 153.8 million Swiss francs, or about $111 million (1.3868 Sf = $1). Countries contribute according to their share of world trade, based on trade in goods, services and intellectual property rights.[1]

Decisions within the WTO are made by members, not staff, and they are made by consensus, not by formal vote. The highest level body in the WTO is the **Ministerial Conference**, which is the body of political representatives (trade ministers) from each member country. (See the WTO structure in **Appendix 2**.) The Ministerial Conference examines current programs and sets the agenda for future work. It must meet at least every two years.

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[1] In 2003, the U.S. share is 15.9% of total contributions to the WTO budget. The U.S. contribution is part of the Department of State budget and was $12 million in fiscal year 2002, the most recent calculation available.

The *first* meeting of the Ministerial Conference was held in Singapore on December 9-13, 1996. At that meeting, trade ministers reviewed the work of the WTO, since its establishment and agreed on a work schedule for the next few years. They also approved an action plan for least-developed countries, and many members entered into an agreement to eliminate tariffs on information technology products by the year 2000. The *second* meeting of the Ministerial Conference was held in Geneva on May 18 and 20, 1998. Again, it reviewed the work of the WTO and approved a future work program. It called for an examination of issues related to global electronic commerce and started preparations for the next meeting. The *third* Ministerial Conference was held in Seattle on November 29-December 3, 1999. That meeting was intended to review an agenda for a new round of trade negotiations, but trade ministers could not reach agreement and suspended their work. The WTO Director-General was directed to consult with delegations and discuss ways in which countries might bridge remaining differences. The *fourth* Ministerial Conference was held in Doha, Qatar on November 9-14, 2001. At that meeting, trade ministers agreed to launch a new round of multilateral trade negotiations, called the Doha Development Agenda, and set a deadline for final agreements of January 1, 2005. They established a work program for the new round and agreed to consider numerous developing-country issues.[2] The *fifth* Ministerial Conference is scheduled for September 10-14, 2003, in Cancun, Mexico.

The body that oversees the day-to-day operations of the WTO is the **General Council**, which consists of a representative from each member. The Council generally meets monthly and provides a forum for countries to discuss a range of trade matters. The U.S. delegate to the General Council is the Deputy U.S. Trade Representative in Geneva.

The General Council also meets in two other, unique capacities. One is the **Trade Policy Review Mechanism (TPRM)**. The TPRM was established under the Uruguay Round agreements to allow closer monitoring of national trade policies of member countries. The four countries with the largest shares of world trade are reviewed every two years, the next 16 largest traders are reviewed every four years, and other countries are reviewed every 6 years, although least-developed countries might be reviewed less frequently. The trade reviews provide information on a country's trade policies and comment on whether a country is pursuing market-opening or market-restrictive policies. This public examination is a mild form of pressure for a country to avoid practices that discourage trade.

The General Council also meets in the capacity of the **Dispute Settlement Body (DSB)**. The Uruguay Round agreements greatly strengthened the process for settlement of disputes. The first stage of the process is consultation between the governments involved. If consultation is not successful, the complainant may ask the DSB to establish a dispute panel. The dispute panel hears the case and reports back to the DSB. If the complaint is upheld, the respondent must either change its practice or negotiate an agreeable resolution. Otherwise, the complainant may request that

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[2] For more information on results of the Doha Ministerial Conference, see CRS Report RL31206, *The WTO Doha Ministerial: Results and Agenda for a New Round of Negotiations,* coordinated by William H. Cooper.

the DSB authorize suspension of obligations, thereby giving permission for the complainant to retaliate. For example, a complainant may receive permission to increase tariffs against a respondent country that disregards a decision by the DSB. Permission is automatic unless unanimously disapproved. Procedures are clearly set out with specific timetables at each stage.

More specialized work is done in three major bodies under the General Council. One of these is the **Council for Trade in Goods**, under which committees work on a number of trade areas. One committee works on trade in agriculture. Another committee oversees the related topic of sanitary and phytosanitary measures, which are measures that pertain respectively to animal and plant health and safety. Some committees monitor practices that are considered "unfair" if not implemented in accordance with WTO rules (antidumping, subsidies and countervailing measures). Other committees examine practices that are not necessarily "unfair" but could be trade-distorting nonetheless (rules of origin, safeguards, technical barriers, customs valuation, and import licensing). One committee works on the relatively new area of trade-related investment measures, and another addresses market access issues (tariffs and nontariff measures).

Also under the Council for Trade in Goods are the Information Technology Agreement Committee and the Textiles Monitoring Body. Before the Uruguay Round, trade in textiles had been regulated by an extensive system of bilateral quotas under the Multifiber Agreement, but the Uruguay Round agreement on textiles will eventually replace the quota system with tariffs, and these tariffs will be reduced through multilateral negotiation.

A second major body under the General Council is the **Council for Trade in Services**, which oversees the Uruguay Round agreement on trade in services. The Uruguay Round services agreement has three parts. The first part lists basic principles that countries agree to observe, including national treatment, most-favored-nation treatment, and transparency (open information about relevant laws and regulations). The second part contains four annexes with rules on: (1) the movement of persons who provide services, (2) financial services, (3) telecommunications, and (4) air transport services. The third part is a schedule of country commitments. These commitments are bound and cannot be reduced in scope, much like the tariff levels on goods, which cannot be increased once they are bound. The service commitments may include exceptions to the national treatment and most-favored-nation principles, if countries included these exceptions when they originally negotiated the commitments.

The **Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS)** is the third major body under the General Council. The TRIPS Council monitors the agreement on intellectual property rights that was reached during the Uruguay Round and supervises members' compliance. The TRIPS agreement has three parts. The first part outlines basic principles that countries must observe, including national treatment and most-favored-nation treatment. The second part establishes standards for the different types of intellectual property rights. For example, it ensures copyright protection for computer programs, sets rules for rental rights, protects integrated circuit designs and geographical indications (e.g., "champagne" indicates a wine from a specific region), and ensures minimum lengths of time for protections. The third part of the agreement establishes enforcement processes. Developing, transition, and least-developed countries are allowed additional time to implement the changes.

In addition to the bodies discussed above, there are many other committees and working groups under the General Council. For example, working groups cover the relationship between trade and investment, the interaction between trade and competition policy, and transparency in government procurement. Plurilateral groups, which do not necessarily include all WTO members, deal with civil aircraft and with government procurement. The Committee on Trade and Development often works with other international institutions on special concerns of countries in development. Working parties on accession meet with applicant countries to identify changes that are necessary to bring the applicant's trade regime into line with WTO rules and principles. The Uruguay Round also established a committee on trade and environment.

Policy Issues

Congressional debate involving the WTO has focused on several major issues. These concern: (1) seeking U.S. trade goals in the WTO versus alternative means; (2) maintaining U.S. sovereignty; (3) serving U.S. interests through the WTO dispute process; (4) traditional versus nontraditional topics in the WTO; and (5) the congressional role in U.S. participation in the WTO

1. To what extent should the United States seek trade goals through the WTO versus alternative means? The WTO has many benefits for the United States: it provides the only multilateral dispute mechanism for international trade, administers rules to discourage discrimination, and ensures greater security on how trade will be conducted. However, critics of the WTO charge that the WTO is slow-moving, because there are so many members with such varied national interests and decisions are by consensus. One option is to pursue U.S. goals through another multilateral body. For example, the United States and other (mostly developed) countries have pursued negotiations on shipbuilding and investment in the Organization for Economic Cooperation and Development, but with mixed success. Another option is to pursue trade benefits through regional or bilateral agreements. Some trade experts say that these agreements offer substantial benefits to U.S. exporters and are easier to negotiate. Other, however, assert that regional and bilateral agreements may distract the United States and other countries from the possibly greater benefits from a worldwide approach.

2. Can the United States maintain its sovereignty as a member of the WTO? Some critics of the WTO have raised the question of whether the United States will lose its sovereignty as a member of the WTO. As a member of the WTO, the United States does commit to act in accordance with the rules of the multilateral body. It is legally obligated to ensure national laws do not conflict with WTO rules; however, the WTO cannot force members to adhere to their obligations. The United States and any other WTO member may act in its own national interest in spite of WTO rules. The WTO even recognizes certain allowable exceptions such as national security. However, any multilateral institution is only as strong as its members' adherence to the institution's rules. If the United States or any other member country chooses to take unilateral action contrary to WTO rules, that action may weaken the institution. It is a decision for U.S. policymakers whether the discipline imposed by the WTO is an acceptable cost for the benefits of more open trade.

3. Are U.S. interests served through the WTO dispute process? The United States realizes several benefits from the existence of a multilateral forum for trade disputes. Such a forum in general allows countries to peacefully resolve disputes without having to use destructive action. The WTO dispute process presents a clear, understandable set of rules that must be followed, and the process is nondiscriminatory among countries.[3] The United States has used the process as a complainant 68 times, and has been relatively successful in addressing foreign trade barriers: the U.S. Trade Representative reports that of those 68 cases, 35 were either resolved to U.S. satisfaction without litigation, or the United States was successful in its challenge of a foreign measure.[4]

There have been, however, many complaints. In some cases, countries have not adhered to dispute panels' findings. An example is the U.S. complaint brought against European Union (EU) trade restrictions on imports of beef produced with hormones. Another complaint is that some cases are said to be filed for political, not economic, reasons. For example, some analysts say that the EU took no action for years against a U.S. tax benefit for exports, but then filed a challenge after a U.S. win in another case. Finally, the United States as defendant has lost several cases involving trade remedies, and this has led some Members to charge that the WTO dispute panels are assuming too much authority in interpreting trade agreements.

4. Should the WTO cover traditional trade issues only, or should it be broadened to include nontraditional issues such as labor and the environment? The GATT agreement first established rules only on border measures (tariffs and quotas) and later added rules on certain internal practices that clearly had direct effects on trade in goods (e.g., subsidies, government procurement). The WTO-administered agreements further expanded trade rules to cover new areas such as trade in services, but did not include rules that reached into areas that were not directly related to trade practices. U.S. businesses generally want the WTO to refrain from extending beyond these traditionally trade-related issues, because they argue that the greatest export opportunities will be achieved only if negotiators focus on trade barriers and do not include social factors.

Many groups, however, argue that the WTO should be expanded to include nontraditional topics. Two topics that have been at the center of current trade debate are labor and the environment. Labor groups argue that countries sometimes exploit workers, including children, to produce low-cost products for foreign markets, and environmental groups want more consideration of the environmental effects of the production of goods for trade included under WTO rules. There is strong

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[3] For information on the WTO dispute process, see CRS Report RS20088, *Dispute Settlement in the World Trade Organization: An Overview*, by Jeanne J. Grimmett.

[4] U.S. Trade Representative web site at <http://www.ustr.gov/enforcement/snapshot.pdf.>

disagreement domestically on traditional and nontraditional topics in trade negotiations, and internationally countries hold a wide range of positions on this question.

5. What is the role of Congress in how the United States participates in the WTO? Although the executive branch maintains a staff in Geneva and conducts trade negotiations in the WTO, Congress has had an important role in how the United States participates in the WTO through its constitutional responsibility for the conduct of foreign commerce. In recently enacted legislation (P.L. 107-210) that approved expedited procedures for legislation to implement trade agreements ("trade promotion authority"), Congress prescribed trade objectives for U.S. negotiators and required the executive branch to consult with it. After an agreement is reached, some Members will probably work jointly with the executive branch in drafting legislation to implement the trade agreement. Once an implementing bill has been introduced, Congress decides whether or not to approve those legislative changes necessary to implement the trade agreement.

The congressional role described above has evolved as one way to address the separate constitutional authorities of the executive and legislative branches on trade matters, but this role is continually debated and reevaluated. Many of those involved in the debate question whether this executive-legislative relationship is still useful or appropriate. The Administration has called for greater authority in trade negotiations, saying that the need for repeated reauthorization of trade promotion authority interrupts U.S. trade policy and keeps the United States from participating in trade negotiations. However, many Members assert that Congress has given up too much of its constitutional role and should have a stronger hand in trade policy formulation and in oversight of trade negotiations.

Appendix 1. WTO Members (as of March 5, 2003)

Members

Albania	Dominican Republic	Lesotho	Saint Kitts and Nevis
Angola	Ecuador	Liechtenstein	Saint Lucia
Antigua & Barbuda	Egypt	Lithuania	Saint Vincent & the Grenadines
Argentina	El Salvador	Luxembourg	Senegal
Armenia	Estonia	Macau	Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu
Australia	European Communities	Madagascar	Sierra Leone
Austria	Fiji	Malawi	Singapore
Bahrain	Finland	Malaysia	Slovak Republic
Bangladesh	France	Maldives	Slovenia
Barbados	Gabon	Mali	Solomon Islands
Belgium	The Gambia	Malta	South Africa
Belize	Georgia	Mauritania	Spain
Benin	Germany	Mauritius	Sri Lanka
Bolivia	Ghana	Mexico	Suriname
Botswana	Greece	Moldova	Swaziland
Brazil	Grenada	Mongolia	Sweden
Brunei Darussalam	Guatemala	Morocco	Switzerland
Bulgaria	Guinea	Mozambique	Tanzania
Burkina Faso	Guinea Bissau	Myanmar	Thailand
Burundi	Guyana	Namibia	Togo
Cameroon	Haiti	Netherlands, for the Kingdom in Europe and for the Netherlands Antilles	Trinidad and Tobago
Canada	Honduras	New Zealand	Tunisia
Central Africa Republic	Hong Kong, China	Nicaragua	Turkey
Chad	Hungary	Niger	Uganda
Chile	Iceland	Nigeria	United Arab Emirates
China	India	Norway	United Kingdom
Columbia	Indonesia	Oman	United States
Congo	Ireland	Pakistan	Uruguay

Costa Rica	Israel	Panama	Venezuela
Cote d'Ivoire	Italy	Papua New Guinea	Zambia
Croatia	Jamaica	Paraguay	Zimbabwe
Cuba	Japan	Peru	
Cyprus	Jordan	Philippines	
Czech Republic	Kenya	Poland	
Democratic Republic of the Congo	Korea, Republic of	Portugal	
Denmark	Kuwait	Qatar	
Djibouti	Kyrgyz Republic	Romania	
Dominica	Latvia	Rwanda	

Observer Governments

Algeria	Former Yugoslav Republic of Macedonia	Seychelles
Andorra	Holy See (Vatican)	Sudan
Azerbaijan	Kazakstan	Tajikistan
Bahamas	Lao People's Democratic Republic	Tonga
Belarus	Lebanese Republic	Ukraine
Bhutan	Nepal	Uzbekistan
Bosnia and Herzegovina	Russian Federation	Vanuatu
Cambodia	Samoa	Vietnam
Cape Verde	Sao Tome and Principe	Yemen
Equatorial Guinea	Saudi Arabia	
Ethiopia	Serbia and Montenegro	

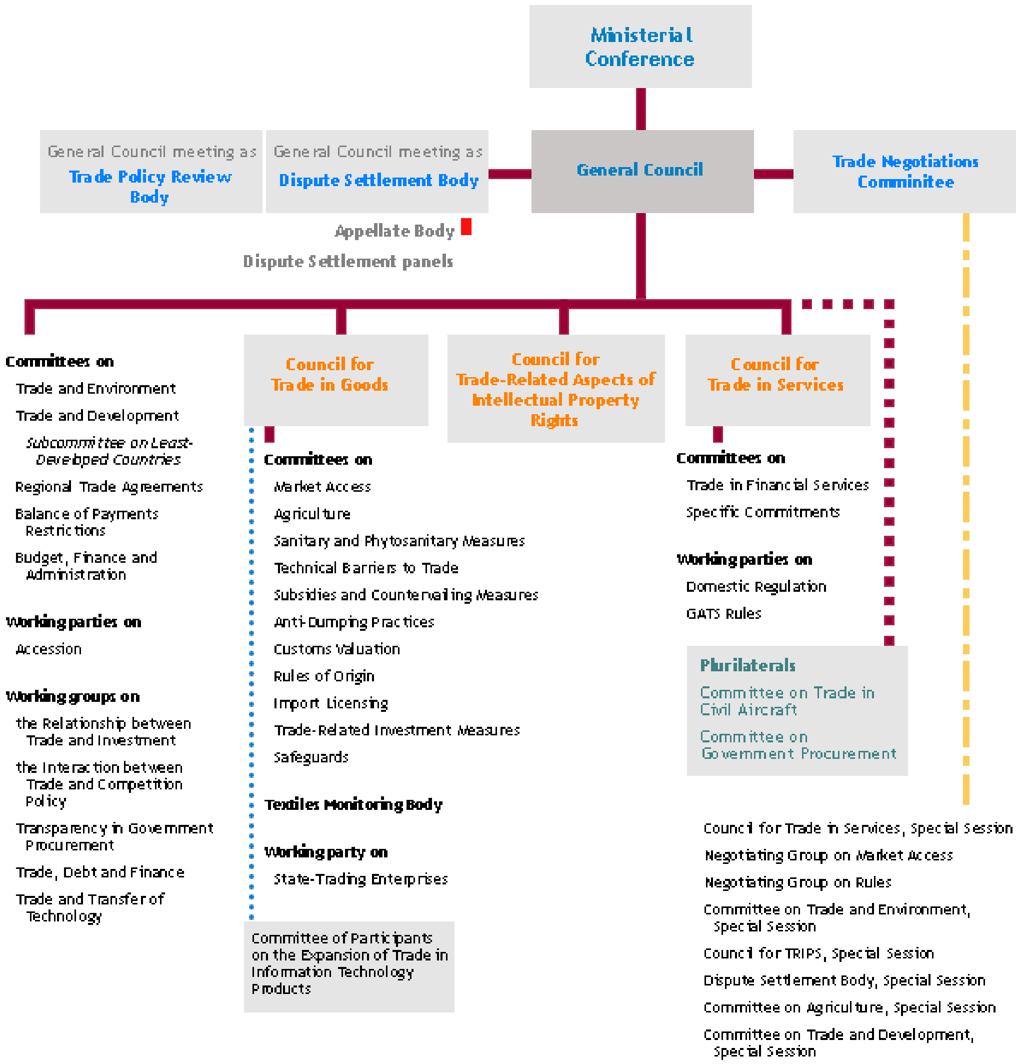
International Organization Observers to General Council

United Nations (UN)	Food and Agricultural Organization (FAO)
United Nations Conference on Trade and Development (UNCTAD)	World Intellectual Property Organization (WIPO)
International Monetary Fund (IMF)	Organization for Economic Co-operation and Development (OECD)
World Bank	

Source: World Trade Organization web page [http://www.wto.org/]

Appendix 2. WTO Structure

All WTO members may participate in all councils, committees, etc., except Appellate Body, Dispute Settlement panels, Textiles Monitoring Body, and plurilateral committees. The negotiations mandated by the Doha Declaration take place in the Trade Negotiations Committee and its subsidiaries.



Source: World Trade Organization web page at [http://www.wto.org/].