

OVERVIEW OF THE WTO AGREEMENTS

BASIC OBJECTIVES OF THE WTO

As stated in the preamble of the Agreement Establishing the World Trade Organization, the objectives of the WTO Agreements include “raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services”; in other words, developing the world economy under market-economy principles. In order to contribute to these objectives, the WTO Agreements are established for the purpose of entering into reciprocal and mutually advantageous arrangements designed for “the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations.” This means that the WTO Agreements are structured, for the purpose of introducing market-economy principles into international trade, on the basis of the two ideals: (1) reducing trade barriers, and (2) applying nondiscriminatory rules.

Such an approach conforms to the traditional spirit of GATT (The General Agreement on Tariffs and Trade), which was carried over from the preamble of the GATT 1947 to the new WTO preamble. In light of the subsequent changes, two objectives were added to the WTO. One is environmental consideration, which entails “allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.” The other is consideration for developing countries, which seeks to recognize “that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development.” The WTO Agreements also provide more consideration to the interests of developing countries, because the number of its members is by far larger than when GATT was established and single undertaking was a condition of entry.

BASIC PRINCIPLES OF THE WTO AGREEMENTS

1. BASIC PRINCIPLES OF THE WTO AGREEMENTS

As explained above, the WTO Agreement is based on the concept of reducing trade barriers and applying nondiscriminatory rules. These ideals are embodied in the following basic principles of the WTO.

(1) PRINCIPLE OF MFN (MOST-FAVOURLED-NATION) TREATMENT

GATT Article I provides that with respect to tariffs, etc. on exports and imports, the most advantageous treatment accorded to the products of any country must be accorded immediately and unconditionally to the like products of all other members (see Chapter 1 “Most- Favoured -Nation Treatment Principle”).

(2) PRINCIPLE OF NATIONAL TREATMENT

GATT Article III requires that with respect to internal taxes, internal laws, etc. applied to imports, treatment not less favourable than that which is accorded to like domestic products must be

accorded to all other Members (see Chapter 2 “National Treatment Principle”).

(3) PRINCIPLE OF GENERAL PROHIBITION OF QUANTITATIVE RESTRICTIONS

GATT Article XI stipulates that “No prohibitions or restrictions other than duties, taxes or other charges shall be instituted or maintained by any contracting party” and generally prohibits quantitative restrictions. One reason for this prohibition is that quantitative restrictions are considered to have a greater protective effect than tariff measures and are more likely to distort the free flow of trade (see Chapter 3 “Quantitative Restrictions”).

(4) PRINCIPLE REGARDING TARIFFS AS LEGITIMATE MEASURES FOR THE PROTECTION OF INTERNATIONAL INDUSTRIES

GATT accepts the imposition of tariffs as the only method of trade control, and attempts to gradually reduce tariff rates for individual items in tariff negotiations. Member countries make “concessions” (“bind” themselves to maximum rates) according to GATT Article II the imposition of tariffs beyond such maximum rates (“bound rates”) or the unilateral raise in bound rates is banned. In addition, tariff rates are to be reduced in negotiations “on a reciprocal and mutually advantageous basis” according to GATT Article XXVIII bis (see Chapter 5 “Tariffs”).

2. BASIC PRINCIPLES

The WTO Agreements provide important exceptions to the above basic principles. There are two chief reasons for the necessity of these exceptions. The first is that, in order to maintain the multilateral trade system, it is necessary to permit exceptional measures in a controlled manner when specific criteria are met. GATT Articles XX (General Exceptions) and XXI (Security Exceptions) are representative examples of provisions that coordinate the principles of trade liberalization with the rights of member countries to regulate (see Chapter 4 “Justifiable Reasons”). The GATT and WTO have provisions that permit exceptions to the basic principles when it is necessary to take measures (so-called trade remedies) to countervail the effects of other countries’ trade-related measures (see Chapter 6 “Anti-Dumping Measures”, Chapter 7 “Subsidies and Countervailing Measures” and Chapter 8 “Safeguards” for trade remedies). The second involves a need to consider the ability of a country to implement its obligations based on the degree of its economic development. Thus, the WTO Agreements permit the protection of domestic industries via tariffs and contain various exception provisions to its principles for developing countries.

The exceptions are established because of the difficulty involved in applying the principles of the multilateral system to the real international economy. The WTO Agreements try to harmonize reality and principles by specifying the requirements for allowing exceptions in certain cases. While the WTO’s attitude can be highly praised for its forward-looking realism, there exist abuses of the exception provisions because of ambiguities among the requirements. The WTO Agreements improved some provisions of GATT that were hotbeds of abuse by clarifying their requirements. However, there still remain some unsatisfactory provisions. Further clarification is one of the challenges facing the WTO.

OVERVIEW OF THE WTO AGREEMENTS

Figure II-0-1 provides an overview of the WTO Agreements. The WTO Agreements comprise the Agreement Establishing the World Trade Organization and its Annexes. Annexes 1A to 3 are integral parts of the Agreement and are binding on all members of the WTO (“single undertaking”

mentioned earlier). The members are 164 economies as of January 2018. In contrast, the agreements included in Annex 4 are independent agreements and, therefore, binding only on the members that have accepted them. Below, we briefly describe each agreement of the WTO.

< The Marrakesh Agreement Establishing the World Trade Organization >

This is an agreement for implementing the results of the Uruguay Round and establishing the World Trade Organization, which will be a framework for future multilateral trade negotiations. The Agreement comprises general provisions on the WTO's organization, membership, decision-making, etc.

< Annex 1A: Multilateral Agreement on Trade in Goods >

(1) GENERAL AGREEMENT ON TARIFFS AND TRADE 1994 (GATT 1994)

The General Agreement consists of: (i) the provisions of GATT 1947 (including those amended by the terms of legal instruments that have taken effect before the entry into force of the WTO Agreement); (ii) legal instruments, such as protocols and certifications relating to tariff concessions, protocols of accession, etc., that have taken effect under the GATT 1947 before the entry into force of the WTO Agreement; and (iii) the six understandings that are deemed to be an integral part of the GATT 1994, such as Article II:1(b) and Article XVII.

(2) AGREEMENT ON AGRICULTURE

The Agreement on Agriculture includes specific and binding commitments made by WTO Member governments in the three areas of market access, domestic support and export subsidization for strengthening GATT disciplines and improving agricultural trade. These commitments were implemented over a six-year period. The Agreement also includes provisions on the implementation of these commitments (see Chapter 3 "Quantitative Restrictions" and Chapter 7 "Subsidies and Countervailing Measures" for quantitative restrictions and domestic support).

(3) AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY (SPS) MEASURES

This agreement establishes multilateral frameworks for the planning, adoption and implementation of sanitary and phytosanitary measures to prevent such measures from being used for arbitrary or unjustifiable discrimination or for camouflaged restraint on international trade and to minimize their adverse effects on trade (see Chapter 11 "Standard and Conformity Assessment Systems").

(4) AGREEMENT ON TEXTILES AND CLOTHING

Textile trade was governed by the Multi-Fiber Arrangement (MFA) since 1974. However, the GATT principles had been undermined by import protection policies, etc. The agreement provides that textile trade should be deregulated by gradually integrating it into GATT disciplines over a 10-year transition period, which expired at the end of 2004 (see Chapter 8 "Safeguards").

(5) AGREEMENT ON TECHNICAL BARRIERS TO TRADE (TBT)

Standards and conformity assessment systems, such as industrial standards and safety/environment regulations, may become trade barriers if they are excessive or abused. This agreement aims to prevent such systems from becoming unnecessary trade barriers by securing their transparency and harmonization with international standards (see Chapter 11 "Standards and Conformity Assessment Systems").

(6) AGREEMENT ON TRADE -RELATED INVESTMENT MEASURES (TRIMS)

In relation to cross-border investment, countries receiving foreign investment may take various measures, including imposing requirements, conditions and restrictions (investment measures) on investing corporations. In the Uruguay Round, negotiations were initially conducted with an eye toward expanding disciplines governing investment measures. However, the Agreement on Trade-Related Measures, which was the result of the negotiations, banned only those investment measures inconsistent with the provisions of Article III (principle of national treatment) and Article XI (general elimination of quantitative restrictions) which have direct adverse effects on trade in goods. As examples, the Agreement cited local content requirements (which require that certain components be domestically manufactured) and trade balancing requirements. (See Chapter 9 “Trade-Related Investment Measures”).

(7) AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994 (ANTI-DUMPING AGREEMENT)

This agreement aims to tighten and codify disciplines for calculating dumping margins and conducting dumping investigations, etc. in order to prevent anti-dumping measures from being abused or misused to protect domestic industries (see Chapter 6 “Anti-Dumping Measures”).

(8) AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994 (CUSTOMS VALUATION AGREEMENT)

In order to implement GATT Article VII (customs valuation) in a more consistent and reliable manner, this agreement specifies rules for the application of the article and aims to harmonize customs valuation systems on an international basis by eliminating arbitrary valuation systems (Chapter 5 “Tariffs”).

(9) AGREEMENT ON PRESHIPMENT INSPECTION (PSI)

This agreement aims to secure transparency of PSI and to provide a mechanism for the solution of disputes between PSI agencies and exporters.

Note: Pre-shipment Inspection is a system under which a pre-shipment inspection company designated by the importing country (mostly developing countries) conducts inspection of the quality, volume, price, tariff classification, customs valuation, etc. of merchandise in the territory of the exporting country on behalf of the importing country’s custom office and issues certificates. In the Trade Facilitation Agreement, use of pre-shipment inspection regarding tariff classification and customs valuation, is prohibited.

(10) AGREEMENT ON RULES OF ORIGIN

This agreement provides a program for the harmonization of rules of origin for application to all non-preferential commercial policy instruments. It also establishes disciplines that must be observed in instituting or operating rules and provides for dispute settlement procedures and creates the rules of origin committee. However, details on the harmonization of rules of origin are left for future negotiations (see Chapter 10 “Rules of Origin”).

(11) AGREEMENT ON IMPORT LICENSING PROCEDURES

In order to prevent import licensing procedures of different countries from becoming unnecessary trade barriers, this agreement aims to simplify administrative procedures and ensure their fair operation.

(12) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

This agreement aims to clarify definitions of subsidies, strengthen disciplines by subsidy type

(extension of the range of prohibited subsidies, etc.), and to strengthen and clarify procedures for adopting countervailing tariffs (see Chapter 7 “Subsidies and Countervailing Measures”).

(13) AGREEMENT ON SAFEGUARDS

This agreement aims to, in relation to the application of safeguards (emergency measures to restrict imports) of GATT Article XIX, clarify disciplines for requirements and procedures for imposing safeguards, and related measures, etc. (see Chapter 8 “Safeguards”).

(14) TRADE FACILITATION AGREEMENT

This agreement aims to improve the transparency of customs clearance procedures and accelerate these procedures, providing for the publication of trade procedures on the Internet, the prior acceptance of written import applications, cooperation between customs authorities, etc. The negotiation concluded at the Ministerial Conference held in Paris in December 2013, followed by the ratification process to incorporate the Agreement into Annex 1 of the WTO. The Trade Facilitation Agreement came into effect on February 22, 2017.

<Annex 1B>

General Agreement on Trade in Services (GATS)

This agreement provides general obligations regarding trade in services, such as MFN treatment and transparency. In addition, it enumerates 155 service sectors and stipulates that a member country cannot maintain or introduce, in the service sectors for which it has made commitments, market access restriction measures and discriminatory measures that are severer than those on the commitment table (see Chapter 12 “Trade in Services”).

<Annex 1C>

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

This agreement stipulates MFN treatment and national treatment for intellectual properties, such as copyright, trademarks, geographical indications, industrial designs, patents, IC layout designs and undisclosed information. In addition, it requires Member countries to maintain high levels of intellectual property protection and to administer a system of enforcement of such rights. It also stipulates procedures for the settlement of disputes related to the agreement (see Chapter 13 “Protection of Intellectual Property Rights”).

<Annex 2>

Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU)

This “agreement” provides the common rules and procedures for the settlement of disputes related to the WTO Agreements. It aims to strengthen dispute settlement procedures by prohibiting unilateral measures, establishing dispute settlement panels whose reports are automatically adopted, setting time frames for dispute settlement, establishing the Appellate Body, etc. (see Chapter 17 “Dispute Settlement Procedures under WTO”)

<Annex 3>

Trade Policy Review Mechanism (TPRM)

Annex 3 provides the procedures for the Trade Policy Review Mechanism to conduct periodical

reviews of Members' trade policies and practices conducted by the Trade Policy Review Body (TPRB) (see Chapter 18 "Monitoring Trade Policies/Measures").

<Annex 4> Plurilateral Trade Agreements

(1) AGREEMENT ON TRADE IN CIVIL AIRCRAFT

Concurrently with the Uruguay Round, negotiations were under way to revise the civil aircraft agreement (an agreement from the Tokyo Round) and strengthen disciplines on subsidies. However, no agreement has yet been reached and the agreement reached under the Tokyo Round remains in effect.

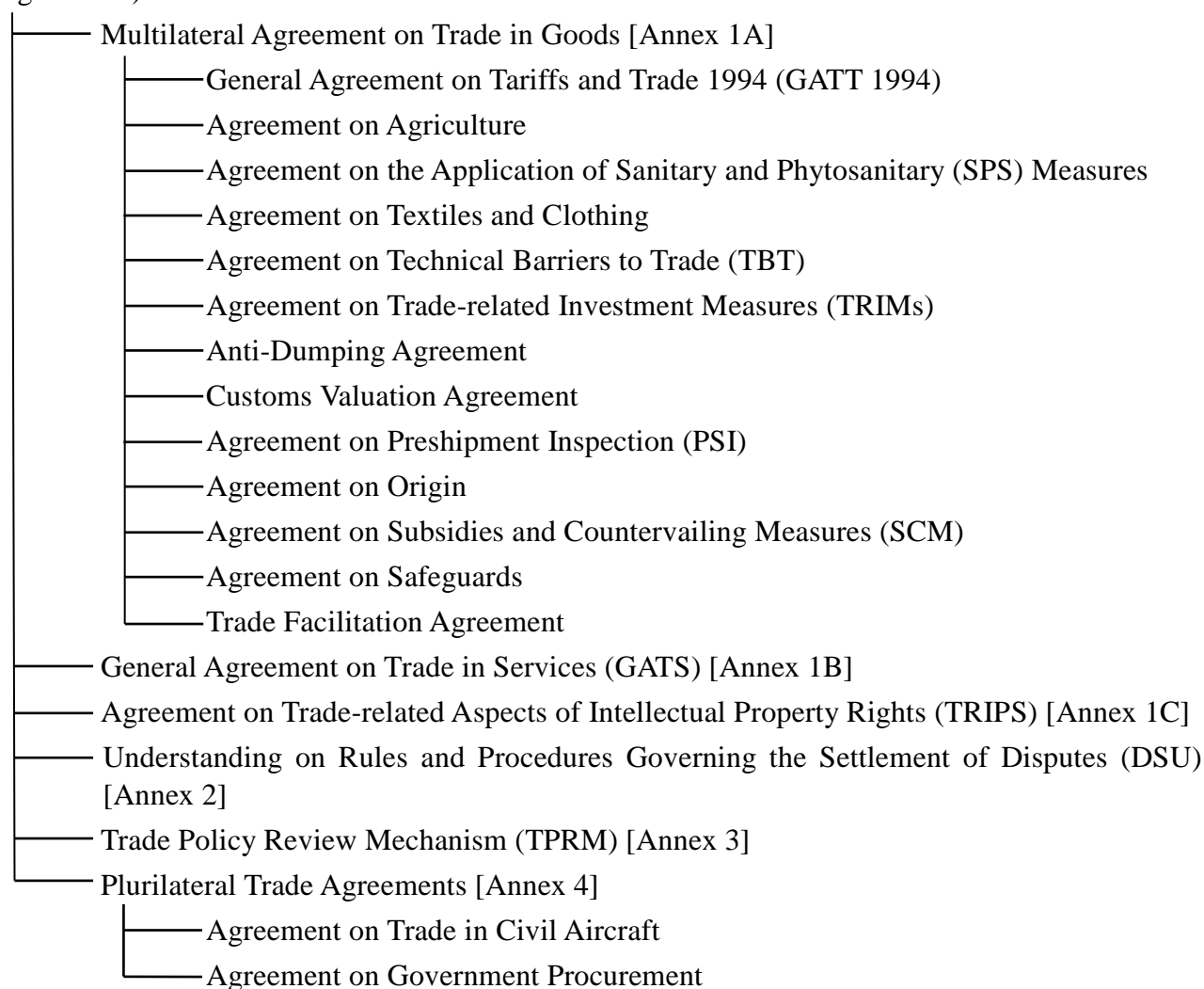
(2) AGREEMENT ON GOVERNMENT PROCUREMENT

This agreement requires national treatment and non-discriminatory treatment in the area of government procurement (purchase or lease of goods and services by governments) and calls for fair and transparent procurement procedures. It also stipulates complaint and dispute settlement procedures. The new Government Procurement Agreement is based on the Agreement of 1979 (an agreement from the Tokyo Round), but expands its scope. The new Agreement covers the procurement of services (in addition to goods) and the procurement by sub-central government entities and government-related agencies (in addition to central government). (See Chapter 14 "Government Procurement")

Note: The International Dairy Agreement and the International Bovine Meat Agreement, which were in effect for three years from 1995, ceased to be effective as of the end of 1997 because of a decision not to renew them after 1998.

Figure II-0-1 Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement)

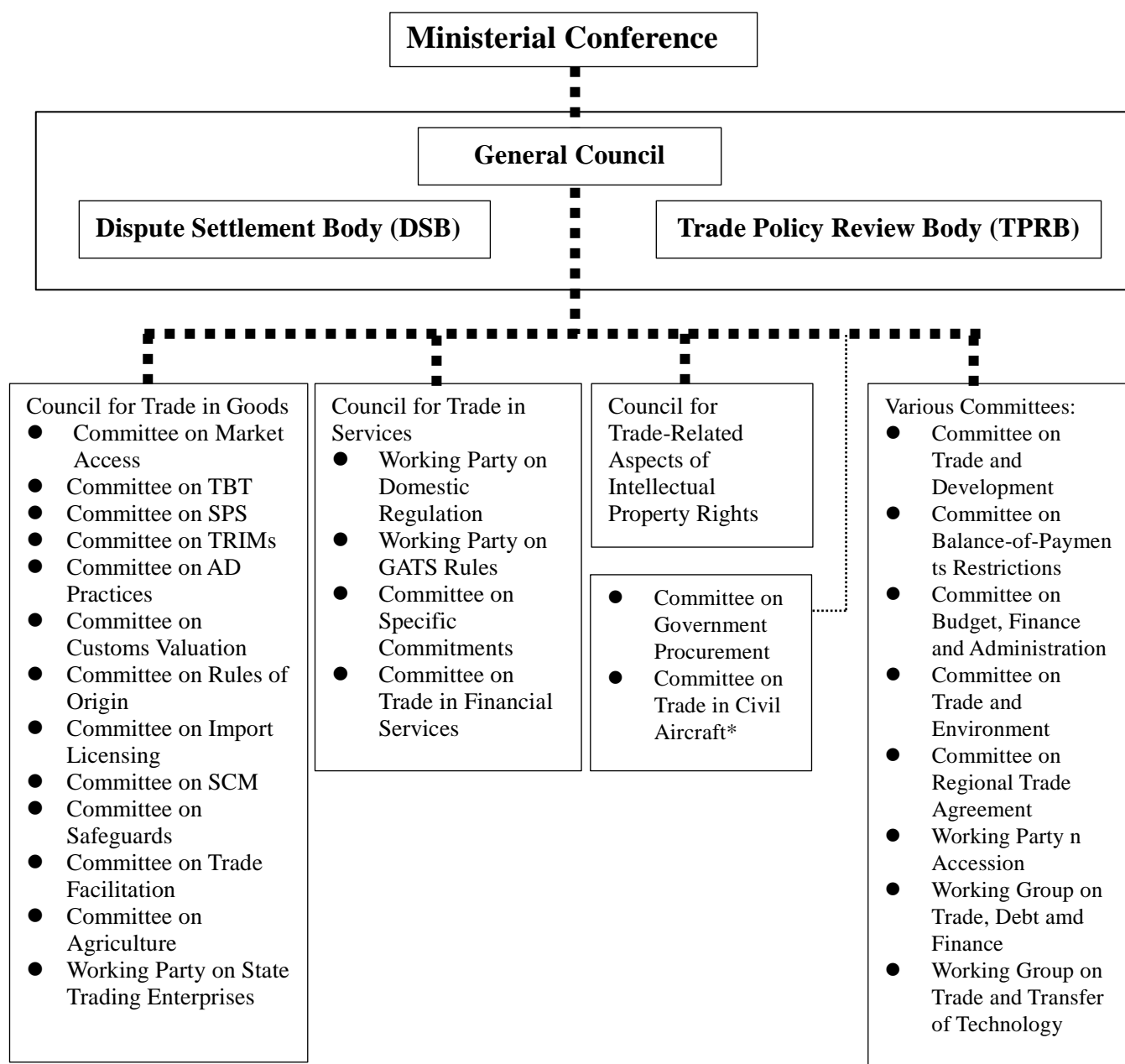
Marrakesh Agreement Establishing the World Trade Organization (WTO Establishment Agreement)



ORGANIZATION OF THE WTO

The WTO is an organization established for achieving the objectives of the WTO Agreements and other multilateral trade agreements. Under the WTO system, the operation and implementation of agreements, including dispute settlement and trade policy review, are accomplished and multilateral trade negotiations are carried out to further liberalize, strengthen and expand trade rules. The ministerial conference, general council, councils for trade in goods, services and TRIPs, etc. have been established in the WTO for these purposes (see Figure II-0-2).

Figure II-0-2 Organization of the WTO



* The International Meat Council and the International Dairy Council terminated at the end of 1997 as the International Agreement on Dairy Products and the International Agreement on Beef Products expired.

HISTORY OF LIBERALIZATION NEGOTIATIONS UNDER THE GATT AND THE WTO

What is a Round?

GATT members have engaged in eight intensive series of multilateral trade negotiations. Since the fifth series of negotiations (Dillon Round), multilateral negotiations under the GATT have been called the “XX Round Negotiations” or simply the “XX Round.”

During the Doha Ministerial Conference in November 2001, it was decided to launch a new series of negotiations. This series of negotiations is called the Doha Development Agenda, because some developing countries opposed the word “Round.” Tariffs were gradually reduced over the course of several negotiating rounds. In addition, trade rules other than tariffs were developed. In particular, the Uruguay Round produced landmark results, including the strengthening of trade rules and the development of binding dispute settlement procedures.

Figure II-0-3 outlines a brief history of trade liberalization negotiations.

Figure II-0-3 History of WTO Trade Liberalization Negotiations

| 〈Market access〉 | | | | 〈Rules〉 | | | |
|--|--------------------------------|--------------|--|---|---|---|-------------|
| | Tariffs on industrial products | 1947 | 1st negotiations | | | | |
| | | January 1948 | GATT established | | | | |
| | Tariffs on industrial products | 1949-1961 | 2nd negotiations 3rd negotiations Dillon Round | | | | |
| | Tariffs on industrial products | 1964-1967 | Kennedy Round | AD, etc. | | | |
| | Tariffs on industrial products | 1973-1979 | Tokyo Round | AD, TBT, government procurement, subsidies, licensing, etc. | | | |
| Services Agriculture | Tariffs on industrial products | 1986-1994 | Uruguay Round | AD, TBT, government procurement, subsidies, licensing, etc. | Textile agreement, PSI, rules of origin, TRIPS, SPS, DSU, TRIMs | | |
| | | January 1995 | WTO established | | | | |
| Services ---Energy ---Distribution ---e-commerce Agriculture | Tariffs on industrial products | 2001- | Doha Development Agenda | AD Subsidies Regional trade agreements | TRIPS (Partial negotiations) | Investment Competition Trade facilitation Transparency in government procurement e-commerce | Environment |

GATT round negotiations

| Year | GATT round negotiations | Countries |
|---------|-------------------------|-----------|
| 1947 | 1st | 23 |
| 1949 | 2nd | 13 |
| 1951 | 3rd | 38 |
| 1956 | 4th | 26 |
| 1960-61 | Dillon Round | 26 |
| 1964-67 | Kennedy Round | 62 |
| 1973-79 | Tokyo Round | 102 |
| 1986-94 | Uruguay Round | 123 |
| 2001- | Doha Development Agenda | 164 |