

INTERNATIONAL TRADE AGREEMENTS

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Summary

The law of international trade has deep roots in international relations, bearing witness to the importance of trade in the creation of welfare. History includes a number of developments that were largely determined by trade interests, for instance the expansion of the ancient Greek and Roman civilizations, and the era of colonialism. More recently, deeper trade integration has steered the countries of Western Europe away from the devastating effects of two world wars towards peace and cooperation, leading to a collective creation of welfare.

This article, however, is not written with the insight of a political scientist, nor does it offer an economic analysis of the theory that free trade leads to collective creation of welfare (based mainly on the assumptions of comparative advantage). Rather, it attempts to guide readers through the maze of international agreements that regulate trade.

The international organization with the highest profile in this area is undoubtedly the World Trade Organization, the successor to the General Agreement on Tariffs and Trade. Regional trade blocs are increasingly being formalized in regional trade agreements, often with dispute settlement mechanisms attached. Finally, over and above regional trade agreements, countries are linked via a wide array of bi- and multilateral trade agreements.

This article summarily reviews the core of international trade agreements. It firstly looks into the World Trade Organization, recalling its central contents and institutional structure. This is followed by a brief overview of the most visible regional trade agreements.

It is noteworthy that the wide array of regional trade agreements poses the international trade community something of a dilemma. Is increased regional integration a threat to or an interim period towards, achieving a truly global international trade community? Economic analysis is not sure on this point, even though it would seem to side with the argument that regional trade integration may indeed serve to foster trade integration at the global level.

The World Trade Organization would seem to have accepted regional integration as a *fait accompli* that it monitors but whose agenda it cannot directly set. Interestingly, some of the regional developments described below are complicated by interwoven aims. For instance, both the Southern Common Market MERCOSUR and ANDEAN have internal trade integration agendas of their own; however, they concurrently work on plans to launch a Free Trade Area of the Americas.

Plans are now afloat effectively to merge MERCOSUR and ANDEAN, even though their own internal agendas are far from complete. It is difficult to discern whether merger plans between MERCOSUR and ANDEAN would serve or hamper the creation of a Free Trade Area of the Americas. Likewise, Association of South East Asian Nations countries are keen to develop links with Asia-Pacific Economic Cooperation Conference members.

1. World Trade Organization

1.1. History

The World Trade Organization (WTO) has more than 130 members, accounting for over 90% of world trade. Over 30 others are negotiating membership. The forerunner of the WTO was the 1947 General Agreement on Tariffs and Trade, or the GATT. The GATT was the cornerstone of international trade law and trade negotiations for more than four decades. It achieved this status only after the collapse of the agreement on an International Trade Organization (ITO). ITO had been prepared after World War II, under the auspices of the United Nations (U.N.), in particular of the U.N. Economic and Social Council and the U.N. Conference on Trade and Development. After it became clear that the U.S. Congress would not ratify the ITO agreement, plans to have the ITO established were dropped and by default the GATT became the single most important international trade (law) instrument.

GATT's profile was at its highest at the time of negotiating the eight successive "rounds" of tariff negotiations. These each led to new "schedules" of tariff concessions, in which the contracting parties (as the states adhering to the GATT were known) individually agreed to cut tariffs on specified products, according to the agreed timetable. The last of these rounds, the Uruguay Round, led to the creation of the WTO by the 1994 Marrakech Agreement. GATT 1947 was integrated into the WTO Agreement, and, together with the GATT 1994 Agreement, forms the backbone of international trade in goods.

Decisions in the WTO are made by the entire membership. This is typically by consensus. A majority vote is also possible but it has never been used in the WTO, and was extremely rare under the WTO's predecessor, the GATT. The WTO's agreements have been ratified in all members' parliaments.

1.2. Institutions

The WTO's top-level decision-making body is the Ministerial Conference, which meets at least once every two years. Below this is the General Council (normally ambassadors and heads of delegation in Geneva, but sometimes officials sent from members' capitals), which meets several times a year in the Geneva headquarters. The General Council also meets as the Trade Policy Review Body and the Dispute Settlement Body. At the next level, the Goods Council, Services Council, and Intellectual Property (TRIPs) Council report to the General Council. Numerous specialized committees, working groups, and working parties deal with the individual agreements and other areas such as the environment, development, membership applications, and regional trade agreements (*see International Trade Law*).

The first ministerial conference in Singapore in 1996 added three new working groups to this structure. They deal with the relationship between trade and investment, the interaction between trade and competition policy, and transparency in government procurement. At the second ministerial conference in Geneva in 1998 ministers decided that the WTO would also study the area of electronic commerce, a task to be shared out among existing councils and committees.

The WTO Secretariat's main duties are to supply technical support for the various councils and committees and the ministerial conferences, to provide technical assistance for developing countries, to analyze world trade, and to explain WTO affairs to the public and media. The secretariat also provides some forms of legal assistance in the dispute settlement process and advises governments wishing to become members of the WTO. It is based in Geneva.

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Biographical Sketch

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Geert van Calster graduated from the Law Faculty of Leuven University in June 1993 (LL.B. 1990, LL.M. 1993) and obtained a master's degree (LL.M.) at the College of Europe, Bruges, in July 1994. In September 1994, he was granted a fellowship at the University of Leuven, first at the Institute of Administrative Law, as of 1995 at the Institute of Environmental and Energy Law (IMER). From September 1997 until September 1998, he was a Chevening Scholar at St. Edmund Hall, Oxford University. He obtained a Ph.D. degree at Leuven University in May 1999, on the conflicts between international trade law and environmental protection.

At the Institute of Environmental and Energy Law, he teaches and researches European and international environmental law, European economic law, and international trade law. He is also a visiting professor at Erasmus Universiteit, Rotterdam (Netherlands), where he holds the chair of international economic law, and at the Universities of Nijmegen and Amsterdam (both Netherlands), where he teaches on European Community environmental law.

He was called to the Brussels Bar in February 1999, having worked as a counsel with the City law firm S.J. Berwin & Co. since 1995. He is now an associate in the DLA Caestecker Brussels office. His practice focuses on E.C. economic law, including competition law, E.C. environmental law, and international trade law.

His expertise covers international trade law; E.C. environmental law and E.C. economic law; and international environmental law, subjects on which he publishes and speaks extensively. Professor van Calster co-directs the master's programme on energy and environmental law at the K.U. Leuven (<http://www.law.kuleuven.ac.be/imer/master>).