Agree to Disagree: The Future of International Trade Agreements

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The World Trade Organization

- What does it do?
- Why do we have it?
- Why is it controversial?
- What is its future after Doha?
What Does the WTO Do?

- Provides set of rules for trade policy
- Forum for dispute settlement
- Forum for trade negotiations
What Does the WTO Do?

- But it does not:
  - Force changes in trade policies
  - Enforce trade agreements
Why do we have the WTO?

- Avoid repetition of 1930s
  - Higher trade barriers
  - Discrimination & quotas

- General Agreement on Tariffs & Trade (1947)
PAYS SIGNATAIRES DU GATT — 1947-48

23 pays signataires du protocole d'application de l'Accord général sur les tarifs douaniers et le commerce ou GATT (General Agreement on Tariffs and Trade)

Source : www.itd.org/eol/e/wto01/wto1_6.htm#note3
GATT (1947-present)

- Established trade rules
- Negotiations to reduce trade barriers
GATT Principles

- Nondiscrimination
  - Article I – MFN
  - National Treatment
- Tariffs only
- Consensus decision-making
- Negotiations
- Small secretariat with limited mandate
GATT a success?

- Marked reduction in trade barriers
- Tremendous expansion in world trade
- No trade wars
Gaps in GATT?

- Developing countries outside system
- Only manufactured goods
- No enforcement of rules
Uruguay Round (1986-1993)

- Trade Liberalization
  - Agriculture & Textiles (MFA)
  - No voluntary restraints
Uruguay Round (1986-1993)

- New Issues
  - Agriculture
  - Services
  - Investment
  - Intellectual Property
Uruguay Round (1986-1993)

- Institutional Issues
  - World Trade Organization
  - Dispute settlement
  - Trade policy review mechanism
World Trade Organization

- GATT
- GATS
- TRIPs
- TRIMs
Controversies about the WTO

- Dispute settlement
- Trade rules
- Doha round
Dispute Settlement

- Panel hears disputes
- Rules on conformity of practice
- Can appeal to Appellate Body
- Implementation/Compliance
  - Up to member states, not WTO
Compliance

1. Modify WTO-inconsistent policy

2. Compensation
   - Grant plaintiff another concession

3. Nothing
   - Plaintiff can “suspend” (i.e., withdraw) concession (i.e., retaliation)

WON / LOST for U.S. in Panel / Appellate Cases

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<th>Cases Won</th>
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High Stakes Cases

- Bananas (US-EC) - $200m
- Beef Hormones (US-EC) - $120m
- Foreign Sales Corp. (EU-US) - $4b
- Steel (EU-US) - $350m
- More to come? GMO? Airbus?
Concerns about DSM

- Overly legalistic approach to high profile, politically sensitive cases

- Little diplomatic maneuvering room

- Result: high likelihood of closing markets
Retaliation

- Undesirable Outcome
  - Harms complainant country
  - Doesn’t help complainant exporter
  - Harms innocent firms in defendant country
Judicial Activism – another problem?

- Rules evolve slowly, disputes resolved quickly
  - Judicial legislation?
  - AB overruling panels
  - Panels & AB “making up” rules?

- Lack of transparency and accountability
Proposals for Reform

1. Go back to GATT-type system

- More diplomacy, less legalism
- Economic & political considerations equal to legal ones
- Diffuse threat to integrity of multilateral trading system
- Limited negative consensus rule
Trade rules

- Generic complaints
  - Tool of multinationals?
  - Harms developing countries?
Anti-WTO Protesters
Doha Dead?

- Agriculture – key issue
- Are developing countries serious?
- Structural problems at WTO
Conclusions

- WTO a useful institution but faces difficult challenges ahead