

In Brief

Case Studies in US Trade Negotiation Volume 2: Resolving Disputes

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The six cases in this volume analyze efforts to resolve trade disputes under the World Trade Organization's (WTO) dispute settlement system. The old system under the General Agreement on Tariffs and Trade (GATT) had limited provisions for dispute settlement: Adjudication was provided, but the emphasis was on consultation and consensus. The WTO approach entails a stronger, more routinized, and juridical way of managing conflicts over trade. The system is more powerful and has a greater ability to enforce trade rules but is also more controversial.

As in the first volume, *Making the Rules*, the authors pay particular attention to the United States and how trade disputes play out in the American political context. The cases involve conflicts with Europe, Japan, and Brazil over a wide array of products—notably cotton, steel, beef, bananas, and camera film. They also span a broad range of trade rules—on food safety, technical barriers, competition policies, subsidies, safeguards, and quotas. Some of the trade conflicts are long-term, initiated during the GATT and continuing to the present day. Others arose after the creation of the WTO. Some focus on how domestic government officials deal with the dispute at hand, while others highlight the roles of business and consumer groups. But all the cases explore the interaction between the rules, the politics, and the process of resolving trade disputes.

US-EU Trade in Hormone-Treated Beef. This long-standing dispute began with the widespread adoption of growth-promoting hormones for raising beef cattle in the United States. In 1989 Europe banned the use of these hormones. The ban covered all beef, including meat imported from the United States. US officials were frustrated by what they saw as a political move to protect the EU beef market by invoking scientifically unsupported claims about the detrimental health effects of hormones. The real issue, Europe retorted, was that the US trade system had capitulated to the demands of the beef lobby. Ultimately, the United States brought a case against the European Union at the WTO. Some consumer groups argued that trade lawyers should not make decisions related to health and safety.

Banana Wars. Trade in bananas was highly regulated, especially in Europe. EU nations limited the import of inexpensive US brand bananas—a policy they justified as a way to assist former European colonies, long reliant on banana trade. The United States brought a successful case against the European Union and later imposed retaliatory tariffs following EU resistance to the WTO panel's findings.

Snapshot: Kodak v. Fuji. In May 1995, after an intensive lobbying effort, Eastman Kodak Co. asked the US Trade Representative to initiate an intervention against restrictions on US exports to Japan, claiming that Japanese authorities' anticompetitive policies had impeded its sales. A year later, the Clinton administration chose not to implement this case bilaterally and instead brought the case to the WTO, which ruled in favor of Japan. Significantly, the United States did not appeal the ruling. This case reveals private actors' role in bringing cases and focuses on whether domestic regulations may, because of their practical application, constitute trade barriers.

Standing Up for Steel. The March 2002 decision by President George W. Bush to impose tariffs on some imported steel capped a long-running campaign by the US steel industry and its unions for assistance in dealing with surges of low-priced imported steel. The decision came as a surprise to many who assumed that a free trade-oriented administration would not adopt such measures. The case examines the behavior of lobby groups and Congress, particularly the role of subgroups (such as the so-called Congressional Steel Caucus, a group of members from steel-producing states) and committees within Congress. The case also describes the successful European challenge to these tariffs at the WTO and the US decision to remove them in the face of threatened retaliation.

Brazil's WTO Cotton Case. Between December 2000 and May 2002, the world price of cotton declined by 40 percent, shrinking the value of the global cotton market from \$35 billion to \$20 billion in just 18 months. The reasons for this dramatic price decline are complex, but nearly everyone pointed a finger at US subsidies to domestic producers. In September 2002 Brazil initiated a WTO case against the United States—the first-ever challenge of a developed country's agricultural subsidies by a developing country. West African countries also lobbied the WTO to include a separate initiative on cotton in the WTO's Cancún ministerial text. Many in the media have framed the cotton case as a litmus test of whether the WTO can work for the poor.

US-EU Dispute over Trade in Genetically Modified Crops. In 1996 American farmers began planting genetically modified (GM) corn and soybean crops. Use of these herbicide- and insect-resistant varieties skyrocketed in the United States. After some public debate, GM foods were generally treated the same as non-GM foods by the US regulatory system using existing laws. But the European Union developed a separate regulatory approach for GM products, including a different approach toward risk. Resistance to the technology grew in Europe, and many consumer groups, environmentalists, nongovernmental organizations, and politicians rejected GMOs. Ultimately, the European Union placed a de facto moratorium on new GM products in 1998, frustrating US exporters. The Bush administration challenged the European Union at the WTO, arguing that the moratorium violated the Agreement on the Application of Sanitary and Phytosanitary Measures.

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