Peer Pressure: Correlations Between Membership in Regional and Regional Economic Organizations and WTO Dispute Resolution Claims and Their Implications

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Peer Pressure: Correlations Between Membership in Regional and Regional Economic Organizations and WTO Dispute Resolution Claims and Their Implications.

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I – INTRODUCTION

Peer pressure is a well-known phenomenon, believed responsible for everything from teenage experimentation and angst to the cliff-diving habits of lemmings. But peer pressure is less commonly thought of as a motivation for a state to act – or fail to act – in the international trade arena. The goal of this article is to explore the relationship between a state’s membership in a variety of regional and regional economic organizations and its history of bringing complaints against fellow members of these organizations at the WTO dispute settlement body in order to determine whether membership in these organizations creates any sense of peer pressure regarding WTO complaints.

In order to complete this exploration, Part II of this article provides background on the WTO’s dispute settlement body and the procedure it uses to handle complaints brought before it by member states. Part III provides legal and economic background on the regional and regional economic organizations whose members have complained against other members to the WTO’s dispute settlement body. Part IV analyzes the actions of members of the selected regional and regional economic organizations once at the WTO’s dispute settlement body. Part V then analyzes the information in Parts II – IV and makes findings regarding the importance of legal structures and a sense of regional communality in the decision of whether to bring a WTO complaint against a fellow

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member of a regional or regional economic organization. Finally, Part VI summarizes the information contained in this article and demonstrates its usefulness for understanding the past, present and future of complaints brought before the WTO dispute settlement body. This Part concludes that peer pressure in the context of regional and regional economic organizations is more dependent on the structure of the organization and the communal understandings of its members than on the overt appeal of giving in to a state’s peers.

II – WTO DISPUTE SETTLEMENT BODY

A system of organized trade rules and principles for international trade has existed in some form for nearly a century.¹ Beginning as a set of agreements between a limited number of economically powerful states, the concept of a globalized trading scheme became popular among states of all sizes in the aftermath of World War II and the beginning of the decolonization process.² Between 1947 and 1994, the framework for this globalized system was contained in the 1947 GATT agreement.³ In 1994, however, the extant system created under the 1947 GATT was overhauled in favor of a new GATT agreement, which included the creation of the WTO.⁴

¹ See Paul A. Stephan, Julie A. Roin, Don Wallance Jr., International Business and Economic Law and Policy 3d ed. 76.
² See id.
Among the inventions of the 1994 GATT agreement was the WTO dispute settlement system. Under this system, a WTO member has recourse for alleged violations of GATT or subsequently enacted WTO trade agreements in the form of bringing a formal complaint before the WTO dispute settlement body. This body has several levels of juridical competence. Procedurally, after a complaint is filed with the WTO dispute settlement body, a member state must request the establishment of a Panel. The Panel is a non-partisan group of experts that hears the complaint and makes findings of law and fact in regards to the issues raised in the complaint and any counter-complaints raised by the respondent state. There is a set timeframe in which the Panel must make its findings, although this period may be extended where facts or legal issues require an extension. Once the Panel issues its decision – which can be in favor of either party or favorable to each party on some level – both parties may take an appeal of the Panel’s decision to the Appellate Body. Even after the Appellate Body issues a decision, the parties will typically enter into WTO-overseen negotiations regarding the implementation of the measures required in the decision of the Appellate Body; the same procedure typically occurs with regard to a Panel decision.

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6 See id.
7 See id.
8 See id.
9 See id.
10 See id.
12 See id.
III – LEGAL FRAMEWORKS OF APPLICABLE REGIONAL AND REGIONAL ECONOMIC ORGANIZATIONS

There are a plethora of regional and regional economic organizations in existence at present. For the purposes of this article, however, the following regional economic organizations and regional organizations with economic components will be analyzed because members of these organizations have brought claims against other members before the WTO. Specifically, these organizations are: the Asian Development Bank (“ADB”), Asian-Pacific Economic Cooperation (“APEC”), the Association of Southeast Asian Nations (“ASEAN”), the Central American Common Market (“CACM”), the Central American Bank for Economic Integration (“BCIE”), the European Investment Bank (“EIB”), the Inter-American Development Bank (“IADB”), the Latin American Integration Association (“LAIA”), Southern Cone Common Market (“MERCOSUR”), the Organization of American States (“OAS), and the South Asian Association for Regional Cooperation (“SAARC”). The European Union has specifically been excluded from the parameters of this study because it operates as a governmental body rather than a strictly regional organization and thus offers its members a unique setting in which to address trade-related disputes with each other.

A. ADB

The ADB was founded in 1966 with the goal of functioning as a regional bank that would finance projects for its member states and encourage economic growth and stability throughout the economies of its member states.\(^\text{13}\) The ADB is structured in a

\(^{13}\) See ABOUT ADB, ASIAN DEVELOPMENT BANK, available at http://www.adb.org/About/default.asp (last visited Apr. 20, 2008).
similar manner to a corporation in that its members and non-regional members subscribe
to a certain amount of bank shares, the cost of which is used as the central method of
funding bank operations.\textsuperscript{14} Under the terms of the Agreement Establishing the ADB,
funding for approved projects may go to the government of a member state directly or to
a private entity operating within the member’s territory and seeking to perform a certain
project.\textsuperscript{15} Specific criteria exist for project eligibility and approval, making it difficult for
any country or project to suffer a rejection as the result of suits brought before the WTO
were such retaliation contemplated.\textsuperscript{16} The terms and conditions of loans and financing
arrangements undertaken by the ADB are set forth in this Agreement, again making
retaliation for actions taken at the WTO in the form of recalling or otherwise altering a
debt virtually impossible.\textsuperscript{17}

The Agreement Establishing the ADB provides that each member has a
representative on the ADB Board of Governors\textsuperscript{18} and specifically articulates the powers
of the Board of Governors,\textsuperscript{19} further limiting the possibility for retaliation due to equality
of membership on the governing body of the ADB. Each member has equal voting power
on the ADB Board of Directors.\textsuperscript{20} Suspension of a member state may only occur in a
defined set of limited circumstances, which do not involve other activities at the WTO
level.\textsuperscript{21} The Board of Directors hears and decides any questions of the Agreement
Establishing the ADB’s “interpretation or application” where this issue arises between

\textsuperscript{14} \textit{AGREEMENT ESTABLISHING THE ASIAN DEVELOPMENT BANK} ch. II.
\textsuperscript{15} \textit{Id.} ch. III.
\textsuperscript{16} \textit{Id.}
\textsuperscript{17} \textit{Id.} art. 15.
\textsuperscript{18} \textit{Id.} ch. VI.
\textsuperscript{19} \textit{Id.}
\textsuperscript{20} \textit{AGREEMENT ESTABLISHING THE ASIAN DEVELOPMENT BANK} ch. VI.
\textsuperscript{21} \textit{Id.}
the Bank and a member state. In the event that a withdrawn member state and the Bank disagree on issues related to the withdrawal, the issue will be submitted to a panel of three arbitrators for resolution. The same procedure would be used in the event that the ADB dissolves and there is a conflict with a member state during or after the dissolution. There are, however, no provisions regarding settling disagreements between member states themselves.

The members of the ADB are: Afghanistan, Armenia, Australia, Azerbaijan, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Cook Islands, Fiji, Georgia, Hong Kong, India, Indonesia, Japan, Kazakhstan, Kiribati, the Republic of Korea, the Kyrgyz Republic, Laos, Malaysia, the Maldives, the Marshall Islands, the Federated States of Micronesia, Mongolia, Myanmar (Burma), Nauru, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, the Philippines, Samoa, Singapore, the Solomon Islands, Sri Lanka, Taiwan, Tajikistan, Thailand, Timor-Leste, Tonga, Turkmenistan, Tuvalu, Uzbekistan, Vanuatu and Vietnam. Of these members, Armenia, Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, Georgia, Hong Kong, India, Indonesia, Japan, the Republic of Korea, the Kyrgyz Republic, Malaysia, the Maldives, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Papua New Guinea, the Philippines, Singapore, the Solomon Islands, Sri Lanka, Taiwan, Thailand, Tonga and Vietnam are

22 Id. ch. IX art. 60.
23 Id. art. 61.
24 Id.
25 Id.
26 Although frequently referred to as Chinese Taipei, the author will use the designation of Taiwan because of its familiarity to American readers.
27 Timor-Leste is frequently referred to as East Timor.
also WTO members.\textsuperscript{29} Eight ADB members – Azerbaijan, Bhutan, Kazakhstan, Laos, Samoa, Tajikistan, Uzbekistan and Vanuatu are WTO observer governments, meaning that they will either become full-fledged members of the WTO within a set period of time in the future or become disassociated with the WTO entirely.\textsuperscript{30} Interestingly, Vietnam is one of the WTO’s newest members, having become a member in 2007.\textsuperscript{31} There are also sixteen non-regional members of the ADB: Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Luxemburg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.\textsuperscript{32} All of these non-regional members are also WTO members.\textsuperscript{33}

\textbf{B. APEC}

APEC was founded in 1993 with the goal of creating a free trade zone in the Asian-Pacific region by the year 2010.\textsuperscript{34} The scope of APEC’s policy area extends beyond that of the WTO, seeking to incorporate regional businesses and technological advances in its overall economic liberalization scheme.\textsuperscript{35} APEC is funded entirely through its members, although it has a very limited range of projects for which it will

\begin{flushright}
\textsuperscript{30} Id.
\textsuperscript{31} Id.
\textsuperscript{33} Id.
\end{flushright}
provide funding directly.\textsuperscript{36} Once a member state makes a donation to APEC for any purpose, the member state is removed from control over the use of that money, thus significantly reducing the ability of an APEC member state to retaliate against a member state that seeks to bring a dispute proceeding against it before the WTO dispute settlement body.\textsuperscript{37}

APEC operates as a consensus driven entity in which all members have parity, and its goal is to foster progressive trade systems domestically and throughout the region.\textsuperscript{38} Key leadership positions within APEC rotate between member states, as does the location of APEC meetings.\textsuperscript{39} Importantly, APEC does not have a dispute settlement body or dispute resolution system in the event that a trade dispute arises between its members.\textsuperscript{40}

The member states of APEC are: Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, Russia, Singapore, Taiwan, Thailand, the United States and Venezuela.\textsuperscript{41} All of these members are also WTO members except for Russia.\textsuperscript{42}

\textbf{C. ASEAN}

\begin{flushleft}
\textsuperscript{37} See \textit{id}.
\textsuperscript{38} See \textit{id}.
\textsuperscript{39} See \textit{id}.
\end{flushleft}
ASEAN was originally founded in 1967 and accepted new members through 1999. ASEAN is an organization which seeks to promote trade and economic development among its members and also seeks to promote a unified regional stance on political structures, the environment and transportation issues, to name only a few other policy areas in which ASEAN works. In this sense, it is a regional organization rather than a purely regional economic organization.

In furtherance of its trade promotion goals, ASEAN created a member free trade agreement (AFTA) and has entered into similar free trade arrangements with neighboring non-member states. ASEAN has become especially involved in trade and technology transfers with China, although it is worth noting that none of the free trade and knowledge sharing agreements in existence between ASEAN and China allow the parties to seek outside intervention in the event of a dispute. Other than its relationship with China, no other ASEAN partnerships or agreements have such restrictions. More than any other regional organization studied in this article, ASEAN’s financial agreements and declarations are truly consensus-based and echo a sense that ASEAN’s members are in a unique and relatively similar financial position, which is benefitted by its members acting in concern and settling differences between themselves.

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44 Id.
46 See id.
49 See, e.g., DECLARATION OF ASEAN CONCORD II (BALI CONCORD II), ASEAN, available at http://www.aseansec.org/19096.htm (last visited Apr. 22, 2008); AGREEMENT ON THE COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME FOR THE ASEAN FREE TRADE AREA, ASEAN, available at
trade agreements are virtually silent on the WTO’s existence or jurisdiction.\footnote{See id.} At the same time, many measures agreed to by ASEAN members – especially in terms of tariffs – could easily be viewed as problematic under GATT and the WTO system in that they create regional preferences and reciprocal tariff-lowering requirements solely for ASEAN members.\footnote{See id.} ASEAN has enacted two protocols on dispute settlements, each of which are essentially the same as the WTO’s dispute settlement system.\footnote{See Protocol on Dispute Settlement Mechanism (1996), ASEAN, \textit{available at} \url{http://www.aseansec.org/7813.htm} (last visited Apr. 22, 2008); ASEAN Protocol on Enenhanced Dispute Settlement Mechanism (2006), ASEAN, \textit{available at} \url{http://www.aseansec.org/16755.htm} (last visited Apr. 22, 2008).} The dispute settlement systems created by ASEAN have broader jurisdiction than most of the dispute settlement mechanisms created by other regional organizations and do not specifically reference the WTO dispute settlement body.\footnote{See id.}

The members of ASEAN are: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.\footnote{Member Countries, ASEAN, \textit{available at} \url{http://www.aseansec.org/74.htm} (last visited Apr. 22, 2008).} All ASEAN members are WTO members except for Laos, which is currently a WTO observer government.\footnote{Members and Observers, World Trade Organization, \textit{available at} \url{http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm} (last visited Apr. 22, 2008).}

\begin{center}
\textbf{D. CACM}
\end{center}
CACM was founded in 1958, when its members enacted the Central American Free Trade and Economic Integration Multilateral Treaty.\(^5^6\) This treaty enshrined the ideals of creating a free trade area between members and provided for economic interrelation but did not contain any provisions governing the resolution of disputes between member states.\(^5^7\) In addition to these economic principles, CACM exists to further an overall system of regional protection and integration that includes security assistance.\(^5^8\) In 1960, CACM enacted the General Treaty on Central American Integration, which provided that questions of treaty interpretation raised by member states would be settled by the executive entity which the 1958 treaty established.\(^5^9\)

The members of CACM are: Belize, Costa Rica, El Salvador, Honduras, Nicaragua, Panama and the Dominican Republic.\(^6^0\) All members of CACM are WTO members.\(^6^1\)

E. BCIE

Founded in 1960, the BCIE seeks to promote poverty eradication, increased access to and benefit from globalization and economic integration among its members.\(^6^2\) It operates largely outside of the WTO framework by encouraging regional and bilateral


\(^{5^7}\) Id.

\(^{5^8}\) Id.


\(^{6^0}\) Id.


free trade agreements. The BCIE is heavily focused on business development and support, eschewing a good deal of focus on member states in favor of focusing on the needs of particular businesses and sectors of the regional economy. As with other regionally-focused banks discussed in this article, the BCIE’s member states are its shareholders and the proceeds of share sales are used as a key method of financing BCIE’s projects.

Member states have equal power in the governing institutions of the BCIE, mitigating the potential for retaliatory action in the event that a WTO dispute claim is brought against another member state. The BCIE Board of Governors has jurisdiction to decide any questions of interpretation or application of the basic BCIE agreement provisions. The BCIE’s funding decisions are made subject to specific guidelines and requirements, which further militate against any potential for retaliation. The BCIE does not have a dispute settlement procedure or apparatus.

The members of the BCIE are: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. Each of these members is also a member of the WTO.

63 See id.
64 See id.
66 See CABI CONSTITUT. CH. IV.
67 Id. ch. V.
68 Id. ch. VII.
69 See generally id.
The EIB was originally created in 1958 and has become the banking arm of the EU in terms of funding projects for EU members.\textsuperscript{72} All members of the EIB hold shares in the organization and the proceeds from the sale of these shares are used to finance projects undertaken by the EIB.\textsuperscript{73} The EIB is subject to specific mandates from the EU as to the types of projects it must fund and support, removing much of the discretionary element from its funding decisions.\textsuperscript{74} The focus of the EIB’s funding measures is to support projects within the EU member states and to promote business creation among its member states.\textsuperscript{75} Outside the EU, the EIB also funds projects in Asia and Latin America under strict guidance of the EU itself, again removing much of the discretionary component from its funding decisions.\textsuperscript{76}

The member states of the EIB are the members of the EU, namely: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.\textsuperscript{77} All members of the EIB are also WTO members.\textsuperscript{78}

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\textsuperscript{72} See ABOUT THE EIB, EIB, available at \url{http://www.eib.org/about/index.htm} (last visited Apr. 22, 2008).
\textsuperscript{73} See MISSION, ABOUT THE EIB, EIB, available at \url{http://www.eib.org/about/mission/index.htm} (last visited Apr. 22, 2008).
\textsuperscript{74} See STRATEGY, ABOUT THE EIB, EIB, available at \url{http://www.eib.org/about/strategy/index.htm} (last visited Apr. 22, 2008).
\textsuperscript{75} Id.
\textsuperscript{76} Id.
\textsuperscript{77} See SHAREHOLDERS, EIB, available at \url{http://www.eib.org/about/structure/shareholders/index.htm} (last visited Apr. 22, 2008).
\textsuperscript{78} MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at \url{http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm} (last visited Apr. 22, 2008).
G. **IADB**

The IADB was founded in 1959.\(^79\) Its stated purpose is to “contribute to the acceleration of the process of economic and social development of the regional developing member countries, individually and collectively.”\(^80\) To that end, the IADB funds public and private projects within its borrowing members’ territories, provided that these projects are in accordance with the guidelines established for IADB funding decisions.\(^81\) All classes of members have purchased shares in the IADB; the purchase price of these shares was used to contribute to the overall capital of the IADB.\(^82\) At several times throughout its history, the IADB has authorized additional fundraising in order to support certain projects.\(^83\)

All limitations and requirements for IADB loans and other funding are set out in the agreement establishing the IADB, mitigating against the possibility of retaliatory measures by states which have been brought before the WTO’s dispute settlement body.\(^84\) Every member has a seat on the Board of Directors, ensuring that no state can dominate the decision-making process within the IADB itself.\(^85\) Every IADB member has a vote proportionate to the number of shares it holds in the bank plus 135.\(^86\) Suspension of membership in the IADB may only occur in certain limited circumstances, which are

\(^{79}\) *See Agreement Establishing the Inter-American Development Bank* (1959).

\(^{80}\) *Id.* art. I § 1.

\(^{81}\) *Id.* § 2.

\(^{82}\) *Id.* art. II.

\(^{83}\) *See id.* prologue.

\(^{84}\) *Id.* art. III.

\(^{85}\) *Agreement Establishing the Inter-American Development Bank* (1959) art. VIII § 2.

\(^{86}\) *Id.* § 4.
elaborated in the Agreement Establishing the Inter-American Development Bank.\textsuperscript{87}
Interpretative questions regarding the Agreement Establishing the Inter-American Development Bank between either member states or a member state and the IADB are under the jurisdiction of the Board of Executive Directors.\textsuperscript{88} Arbitration is used in situations where former members have disputes with the IADB or where the IADB disbands and there is a dispute with a member state.\textsuperscript{89}

The borrowing members of the IADB are: Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.\textsuperscript{90} With the exception of the Bahamas, which is currently an observer government to the WTO, all other borrowing members of the IADB are members of the WTO.\textsuperscript{91} Regional non-borrowing members of the IADB are the United States and Canada;\textsuperscript{92} both of which are members of the WTO.\textsuperscript{93} Non-regional non-borrowing members of the IADB are: Austria, Belgium, Croatia, Denmark, Finland, France, Germany, Israel, Italy, Japan, Korea, the Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland and the United Kingdom,\textsuperscript{94} all of which are WTO members.\textsuperscript{95}

\textsuperscript{87} Id. art. IX § 2.
\textsuperscript{88} Id. art. XIII § 1.
\textsuperscript{89} Id. § 2.
\textsuperscript{91} MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at \url{http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm} (last visited Apr. 22, 2008).
\textsuperscript{93} MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at \url{http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm} (last visited Apr. 22, 2008).
LAIA was created in 1980 through the 1980 Montevideo Treaty. LAIA’s goal is the creation of an integrated economic zone within its member states for the promotion and growth of member economies and societies. LAIA specifically recognizes the differences between the development statuses of its member states and seeks to facilitate an increase in development for its lesser developed members while establishing principles of economic free trade throughout the area. The 1980 Montevideo Treaty provides for lists of products for which tariffs will be reduced or eliminated by member states when they are exported by other member states, with the proviso that these requirements are limited in the case of lesser developed members. Under the terms of the 1980 Montevideo Treaty, LAIA’s governing body is the Council of Ministers of Foreign Affairs, comprised of foreign ministers or their equivalent from each member state, thus giving each member state parity in governmental representation at the LAIA level. In limited circumstances relating to the taxation of products that are not significant parts of a member state’s economy, a member state may bring the issue to the

96 See 1980 MONTEVIDEO TREATY INSTRUMENT ESTABLISHING THE LATIN AMERICAN INTEGRATION ASSOCIATION.
97 Id. preamble.
98 Id. ch. III.
99 Id. ch. 18 – 19.
100 Id. arts. 28 – 31.
Committee of Representatives for a determination.\textsuperscript{101} Beyond this, however, the 1980
Montevideo Treaty does not address the settlement of disputes between members.\textsuperscript{102}

The members of LAIA are: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela.\textsuperscript{103} All LAIA members are
also members of the WTO with the exception of Cuba.\textsuperscript{104}

\section{I. MERCOSUR}

MERCOSUR was created in 1991 in order to create a common market system for
member states in the Southern Cone of South America.\textsuperscript{105} MERCOSUR’s founding
documents include provisions for the free movement and transportation of goods,
establishing a common market and trading policy for MERCOSUR members, and
coordinating the trade policies of member states across a range of policy areas related to
the economy.\textsuperscript{106} MERCOSUR was intended to work as a complement to LAIA.\textsuperscript{107}
Originally, there was no dispute settlement provision in MERCOSUR’s founding
document.\textsuperscript{108} Later in 1991, MERCOSUR adopted a basic dispute settlement system that

\begin{footnotes}
\footnote{101} Id. art. 47.
\footnote{102} See \textit{generally} id.
\footnote{103} See \textit{Member Countries}, LAIA, \textit{available at}
\footnote{104} Members and Observers, \textit{World Trade Organization}, \textit{available at}
http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm\textit{ (last visited Apr. 22, 2008).}
\footnote{105} See \textit{Treaty Establishing a Common Market Between the Argentine Republic, the Federal
Republic of Brazil, the Republic of Paraguay and the Eastern Republic of Uruguay} (1991),
MERCOSUR, \textit{available at} http://www.sice.oas.org/trade/mrcsr/TreatyAsun_e.ASP\#CHAPTER _I\textit{ (last
visited Apr. 22, 2008).}
\footnote{106} See \textit{id.} art. 1.
\footnote{107} See \textit{id.} preamble.
\footnote{108} See \textit{generally} \textit{id.}}
was based on the use of arbitration to settle disputes between member states.\textsuperscript{109} In 2002, MERCOSUR adopted a new treaty on the handling of disputes between its members.\textsuperscript{110} The provisions of this treaty are far more thorough than the prior dispute settlement procedures used by MERCOSUR, however the subject matter is limited to disputes arising out of the implementation of MERCOSUR regulations.\textsuperscript{111}

The member states of MERCOSUR are: Argentina, Brazil, Paraguay and Uruguay.\textsuperscript{112} All are members of the WTO.\textsuperscript{113}

\textbf{J. OAS}

Founded in 1948, the OAS is a regional organization which exists for the coordination and encouragement of member interaction in areas such trade, economic development and cooperation, as well as military coordination, legal coordination, and societal harmonization.\textsuperscript{114} Throughout its history, the OAS has enacted trade agreements involving primarily private contract and trading systems,\textsuperscript{115} and has created several

\textsuperscript{110} See PROTOCOLO DE OLIVOS PARA LA SOLUCION DE CONTROVERSIAS EN EL MERCOSUR, MERCOSUR, available at \url{http://www.sice.oas.org/Trade/MRCSR/olivos/polivos_s.asp} (last visited Apr. 22, 2008).
\textsuperscript{111} Id. ch. 1 art. 1.
\textsuperscript{113} MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at \url{http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm} (last visited Apr. 22, 2008).
\textsuperscript{114} OAS HISTORY AT A GLANCE, OAS, available at \url{http://www.oas.org/key_issues/eng/KeyIssue_Detail.asp?kis_sec=17} (last visited Apr. 22, 2008).
committees that examine and promote economic issues of importance throughout OAS member states.\footnote{116 See id.; see also SOCIAL AND ECONOMIC DEVELOPMENT, KEY ISSUES, OAS, available at http://www.oas.org/key_issues/eng/KeyIssue_Detail.asp?kis_sec=19 (last visited Apr. 22, 2008).}

The OAS’ Charter is silent on settlement of economic disputes between member states.\footnote{117 See generally CHARTER OF THE ORGANIZATION OF AMERICAN STATES, available at http://www.oas.org/juridico/english/charter.html (last visited Apr. 22, 2008).} The Charter does provide that the OAS was created, in part, for the “pacific settlement of disputes” between members, however this is generally regarded as applying to situations of state conflict that could otherwise rise to the level of armed conflicts.\footnote{118 Id. ch. V.} Since its founding, the OAS has established several juridical bodies under its auspices, such as the Inter-American Court of Human Rights, however none of these bodies address economic or trade disputes between member states.\footnote{119 Id.} Thus, there is no juridical body under the OAS system to which OAS member states can bring economic or trade based disputes.\footnote{120 See INTER-AMERICAN JURIDICAL COMMITTEE, OAS, available at http://www.oas.org/cji/eng/inter_american_juridical_committee.htm (last visited Apr. 22, 2008); INFORMATION, INTER-AMERICAN COURT OF HUMAN RIGHTS, available at http://www.corteidh.or.cr/historia.cfm (last visited Apr. 22, 2008).} Additionally, there are no legal provisions regarding the resolution of disputes between OAS member states in either the OAS Charter or subsequently enacted OAS agreements.\footnote{121 See CHARTER OF THE ORGANIZATION OF AMERICAN STATES, available at http://www.oas.org/juridico/english/charter.html (last visited Apr. 22, 2008).} The greatest means of economic binding in existence between OAS member states is membership in certain committees, such as SEDI, which operate under the OAS’ auspices to provide economic assistance to certain member states.\footnote{122 See SEDI – DEPARTMENT OF TRADE AND TOURISM, OAS, available at http://www.sedi.oas.org/dttc/trade/ (last visited Apr. 22, 2008).} Even within these entities, there is no punitive mechanism for states that bring disputes to the
Further, the methods of sanctioning or removing an OAS member state, as set forth in the OAS Charter, would generally preclude seeking any such actions against a member state because of its actions at the WTO unless these actions posed a serious and demonstrable threat to the OAS and its member states as a whole.\(^\text{124}\)

The members of the OAS are: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay and Venezuela.\(^\text{125}\) Cuba remains a nominal member of the OAS, although much of its abilities have been curtailed since the Cuban Revolution.\(^\text{126}\) All OAS member states except for the Bahamas and Cuba are members of the WTO.\(^\text{127}\) The Bahamas is currently a WTO observer government and is in the process of acceding to the WTO.\(^\text{128}\)

\(K.\) \text{SAARC}

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\(^{123}\) See id.


\(^{126}\) See id.


\(^{128}\) Id.
SAARC was founded in 1985. There are two major agreements relating to trade between SAARC members: the Agreement on SAARC Preferential Trading Arrangement (“SAPTA”) and the Agreement on South Asian Trade Areas (“SAFTA”).

SAPTA, which was enacted before SAFTA, provides many of the same trade protections that GATT seeks to provide on a global level, specifically most favored nation status, safeguard prohibitions, and the easing of the applicable tariff regimes in each member state. SAPTA provides that member state disputes “regarding the interpretation and application” of SAPTA itself or any subsequent economic agreements would be referred to a governing committee, which would settle the dispute in the event that the members themselves could not. Apart from directing such a committee to create rules for the handling of disputes, the provisions addressing dispute settlement provide no further guidance.

SAFTA was enacted several years after SAPTA with the goal of furthering SAPTA’s economic provisions. Interestingly, SAFTA explicitly endorses the WTO structure and the obligations of SAARC’s members under it. Such an endorsement would necessarily include the rights of SAARC’s members to seek redress against each other and other WTO members pursuant to the WTO dispute settlement procedure.

133 Id. art. 20
134 See generally id.
136 Id. art. 3
SAFTA is more explicit than SAPTA in regards to the obligations of SAARC members to liberalize their trading regimes, yet still takes into account the uneven development status of its member states by making special, less onerous provisions for lesser developed member states.\(^{137}\) SAFTA’s dispute settlement provisions are far more evolved than those contained in SAPTA.\(^{138}\) SAFTA provides for a dispute settlement procedure that in many ways mirrors the WTO’s dispute settlement apparatus.\(^{139}\) Although SAFTA requires that disputes regarding the “interpretation and application” of SAFTA and subsequent SAARC agreements “will be amicably settled among the parties concerned through a process initiated by a request for bilateral consultations,”\(^{140}\) nothing in its dispute resolution provisions prohibits a member state from taking a dispute to the WTO.\(^{141}\)

The members of SAARC are: Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka.\(^{142}\) Bangladesh, India, the Maldives, Nepal, Pakistan and Sri Lanka are also members of the WTO.\(^{143}\) Afghanistan and Bhutan are currently WTO observer governments.\(^{144}\)

IV – CORRELATIONS BETWEEN MEMBERSHIP IN REGIONAL ECONOMIC ORGANIZATIONS AND WTO DISPUTES

\(^{137}\) Id. art. 3
\(^{138}\) Id. art. 20.
\(^{139}\) Id.
\(^{140}\) Id.
\(^{144}\) Id.
Slightly more than half of the disputes brought before the WTO’s dispute settlement body are brought by states that share membership in a regional or regional economic organization with the state against which the complaint is brought. These

145 Many other WTO disputes involve states that share the status of an observer or non-regional member in the regional and regional economic organizations profiled above. These disputes have been excluded from analysis in this article because of the author’s belief that merely being an observer nation or non-regional member of these organizations does not provide the same possibility for peer pressure with the organization generally.

146 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr, 27, 2008). Specifically, these disputes are: 371 (Philippines, Thailand); 368 (China, US); 367 (NZ, Australia); 366 (Panama, Colombia); 365 (Brazil, US); 363 (US, China); 362 (US, China); 359 (Mexico, China); 358 (US, China); 357 (Canada, US); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 348 (Panama, Colombia); 346 (Argentina, US); 344 (Mexico, US); 343 (Thailand, US); 342 (Canada, Chile); 340 (US, China); 338 (US, Canada); 336 (Korea, Japan); 335 (Ecuador, US); 333 (Costa Rica, DR); 331 (Guatemala, Mexico); 329 (Mexico, Panama); 325 (Mexico, US); 324 (Thailand, US); 323 (Korea, Japan); 322 (Japan, US); 318 (Taiwan, India); 312 (Indonesia, Korea); 311 (Canada, US); 310 (Canada, US); 309 (US, China); 308 (US, Mexico); 306 (Bangladesh, India); 303 (Chile, Ecuador); 302 (Honduras, DR); 300 (Honduras, DR); 298 (Guatemala, Mexico); 296 (Korea, US); 295 (US, Mexico); 292 (Canada, EC); 289 (Poland, Czech); 285 (Antigua, US); 284 (Nicaragua, Mexico); 282 (Mexico, US); 281 (Mexico, US); 270 (Mexico, US); 278 (Argentina, Chile); 277 (Canada, US); 276 (US, Canada); 275 (US, Venezuela); 274 (Taiwan, US); 272 (Argentina, Peru); 271 (Philippines, Australia); 270 (Philippines, Australia); 268 (Argentina, US); 267 (Brazil, US); 264 (Canada, US); 261 (Chile, Uruguay); 259 (Brazil, US); 258 (NZ, US); 257 (Canada, US); 255 (Chile, Peru); 254 (Norway, US); 253 (Switzerland, US); 252 (China, US); 251 (Korea, US); 250 (Brazil, US); 249 (Japan, US); 247 (Canada, US); 245 (US, Japan); 244 (Japan, US); 241 (Brazil, Argentina); 240 (Hungary, Romania); 239 (Brazil, US); 238 (Chile, Argentina); 236 (Canada, US); 235 (Poland, Slovakia); 234 (Canada & Mexico v. US); 232 (Chile, Mexico); 231 (Peru, EC); 230 (Colombia, Chile); 228 (Colombia, Chile); 227 (Chile, Peru); 226 (Argentina, Chile); 224 (Brazil, US); 222 (Brazil, Canada); 221 (Canada, US); 220 (Guatemala, Chile); 218 (Brazil, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 216 (Brazil, Mexico); 215 (Korea, Philippines); 210 (US, Belgium); 207 (Argentina, Chile); 204(U.S, Mexico); 203 (US, Mexico); 202 (Korea, US); 201 (Honduras, Nicaragua); 199 (US, Brazil); 197 (US, Brazil); 196 (US, Argentina); 195 (US, Philippines); 194 (Canada, US); 190 (Brazil, Argentina); 188 (Colombia, Nicaragua); 187 (Costa Rica, Trinidad); 185 (Costa Rica, Trinidad); 184 (Japan, US); 182 (Mexico, Ecuador); 180 (Canada, US); 179 (Korea, US); 178 (Australia, US); 177 (NZ, US); 173 (US, France); 171 (US, Argentina); 170 (US, Canada); 169 (Australia, Korea); 167 (Canada, US); 164 (US, Argentina); 163 (US, Korea); 162 (Japan, US); 161 (US, Korea); 156 (Mexico, Guatemala); 144 (Canada, US); 139 (Japan, Canada); 132 (US, Mexico); 131 (US, France); 128 (US, Netherlands); 127 (US, Belgium); 126 (US, Australia); 112 (Brazil, Peru); 111 (Argentina, US); 110 (EC, Chile); 109 (US, Chile); 106 (US, Australia); 103 (US, Canada); 102 (US, Philippines); 101 (US, Mexico); 99 (Korea, US); 97 (Chile, US); 95 (Japan, US); 93 (NZ, India); 91 (Australia, India); 89 (Korea, US); 86 (US, Sweden); 84 (US, Korea); 83 (US, Denmark); 80 (US, Belgium); 78 (Colombia, US); 76 (US, Japan); 74 (US, Philippines); 71 (Brazil, Canada); 70 (Brazil, Canada); 67 (US, UK); 65 (US, Brazil); 64 (Japan, Indonesia); 61 (Philippines, US); 60 (Mexico, Guatemala); 59 (US, Indonesia); 58 (India, Malaysia, Pakistan, Thailand v. US); 57 (US, Australia); 56 (US, Argentina); 55 (Japan, Indonesia); 52 (US, Brazil); 51 (Japan, Brazil); 49 (Mexico, US); 46 (Canada, Brazil); 45 (US, Japan); 44 (US, Japan); 41 (US, Korea); 37 (US, Portugal); 31 (US, Canada); 28 (US, Japan); 24 (Costa Rica, US); 23 (Mexico, Venezuela); 21 (US, Australia); 20 (Canada, Korea); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US); 5 (US, Korea); 4 (Brazil, US); 3 (US, Korea); 2 (Venezuela, US); 1 (Singapore, Malaysia). Id.
disputes will be examined through three different prisms in this Part. First, they will be
examined for general trends in the states that have brought disputes before the WTO
dispute settlement body and their membership in regional or regional economic groups.
Second, they will be examined in terms of the subject matter areas in which complaints
have been brought against other members of the same regional or regional economic
organization(s) as the complainant state. And third, they will be examined in terms of
outcome once at the WTO dispute settlement body.

In all of these examinations, the activities of members of each of the above-discussed
regional and regional economic organizations are evaluated individually, although –
where there is a commonality in membership – it is rare that a complaint involve states
which share only one membership in common. This method of evaluation has been used
to gain insights into the activities of the membership of each regional and regional
economic organization as a distinct entity. However, this examination also references the
common pairings of membership commonalities and disputes before the WTO in order to
demonstrate the strengths and weaknesses of the above-discussed regional and regional
economic organizations in tandem.

A. General trends in complaints

Since the inception of the WTO dispute settlement process there have been three
hundred seventy-one complaints filed with the WTO. As discussed below, these

147 See CHRONOLOGICAL LIST OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at
complaints have covered a wide range of trade law and policy areas and have resulted in a variety of outcomes, some of which were years in the making.

Of the complaints brought to the WTO dispute settlement body, a majority involved WTO member states that also shared at least one common affiliation as primary members of a regional or regional economic organization.\textsuperscript{148} The following information should be framed within the understanding that, at times, a WTO member state has brought suit against a state with which it shares multiple regional or regional economic organization affiliations. Members of the OAS\textsuperscript{149} and APEC\textsuperscript{150} have most frequently

\begin{footnotesize}
\begin{enumerate}
\item Id.
\item Id. Specifically, these disputes were: DS366 (Panama, Colombia); DS 365 (Brazil, US); DS 357 (Canada, US); DS 356 (Argentina, Chile); DS 355 (Argentina Brazil); DS 351 (Argentina, Chile); DS 348 (Panama, Colombia); DS 346 (Argentina, US); DS344 (Mexico, US); DS 338 (US, Canada); DS335 (Ecuador, US); DS 333 (Costa Rica, DR); DS331 (Guatemala, Mexico); DS 329 (Mexico, Panama); DS 325 (Mexico, US); DS 311 (Canada, US); DS 310 (Canada, US); DS 308 (US, Mexico); DS 303 (Chile, Ecuador); DS 302 (Honduras, DR); DS 300 (Honduras, DR); DS 298 (Guatemala, Mexico); DS 295 (US, Mexico); DS 285 (Antigua, US); DS 284 (Nicaragua, US); DS 282 (Mexico, US); DS 281 (Mexico, US); DS 280 (Mexico, US); DS 278 (Argentina, US); DS 277 (Canada, US); DS 276 (US, Canada); DS 275 (US, Venezuela); DS 272 (Argentina, Peru); DS 268 (Argentina, US); DS 267 (Brazil, US); DS 264 (Canada, US); DS 261 (Chile, Uruguay); DS 259 (Brazil, US); DS 257 (Canada, Mexico); DS 255 (Chile, Peru); DS 250 (Brazil, US); DS 247 (Canada, US); DS 241 (Brazil, Argentina); DS 239 (Brazil, US); DS 238 (Chile, Argentina); DS 236 (Canada, US); DS 234 (Canada & Mexico v. US); DS 232 (Chile, Mexico); DS 230 (Colombia, Chile); DS 228 (Colombia, Chile); DS 227 (Chile, Peru); DS 226 (Argentina, Chile); DS 224 (Brazil, US); DS 222 (Brazil, Canada); DS 221 (Canada, US); DS 220 (Guatemala, Chile); DS 218 (Brazil, US); DS 216 (Brazil, Mexico); DS 207 (Argentina, Chile); DS 204 (US, Mexico); DS 203 (US, Mexico); DS 201 (Honduras, Nicaragua); DS 199 (US, Brazil); DS 197 (US, Brazil); DS 196 (US, Argentina); DS 194 (Canada, US); DS 190 (Brazil, Argentina); DS 188 (Colombia, Nicaragua); DS 187 (Costa Rica, Trinidad); DS 185 (Costa Rica, Trinidad); DS 182 (Mexico, Ecuador); DS 180 (Canada, US); DS 171 (US, Argentina); DS 170 (US, Canada); DS 167 (Canada, US); DS 164 (US, Argentina); DS 156 (Mexico, Guatemala); DS 144 (Canada, US); DS 132 (US, Mexico); DS 112 (Brazil, Peru); DS 111 (Argentina, US); DS 109 (US, Chile); DS 103 (US, Canada); DS 101 (US, Mexico); DS 97 (Chile, US); DS 78 (Colombia, US); DS 71 (Brazil, Canada); DS 65 (US, Brazil); DS 60 (Mexico, Guatemala); DS 56 (US, Argentina); DS 52 (US, Brazil); DS 49 (Mexico, US); DS 46 (Canada, Brazil); DS 31 (US, Canada); DS 24 (Costa Rica, US); DS 23 (Mexico, Venezuela); DS 4 (Brazil, US); DS 2 (Venezuela, US). \textsuperscript{Id.}
\item Id. Specifically, these disputes were: DS 371 (Philippines, Thailand); DS 368 (China, US); DS 367 (NZ, Australia); DS 363 (US, China); DS 362 (US, China); DS 359 (Mexico, China); DS 358 (US, China); DS 357 (Canada, US); DS 344 (Mexico, US); DS 343 (Thailand, US); DS 342 (Canada, China); DS 340 (US, Canada); DS 338 (US, Canada); DS 336 (Korea, Japan); DS 325 (Mexico, US); DS 324 (Thailand, US); DS 323 (Korea, Japan); DS 322 (Japan, US); DS 312 (Indonesia, Korea); DS 309 (US, China); DS 308 (US, Mexico); DS 296 (Korea, US); DS 295 (US, Mexico); DS 282 (Mexico, US); DS 281 (Mexico, US); DS 280 (Mexico, US); DS 277 (Canada, US); DS 276 (US, Canada); DS 274 (Taiwan, US); DS 271 (Philippines, Australia); DS 270 (Philippines, Australia); DS 264 (Canada, US); DS 258 (NZ, US); DS 257 (Canada, US); DS 255 (Chile, Peru); DS 252 (China, US); DS 251 (Korea, US); DS 249 (Japan, US); DS
brought complaints against each other in the WTO setting. Rounding out the top three most commonly shared regional and regional economic organization membership affiliations in the WTO dispute settlement body setting is the IADB, although the frequency with which members of the IADB brought complaints against each other to the WTO dispute settlement body is far less than that of OAS and APEC members.

247 (Canada, US); DS 245 (US, Mexico); DS 244 (Japan, US); DS 236 (Canada, US); DS 234 (Canada & Mexico, US); DS 232 (Chile, Mexico); DS 227 (Chile, Peru); DS 221 (Canada, US); DS 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); DS 215 (Korea v. Philippines); DS 204 (US, Mexico); DS 203 (US, Mexico); DS 202 (Korea, US); DS 195 (US, Philippines); DS 194 (Canada, US); DS 184 (Japan, US); DS 180 (Canada, US); DS 179 (Korea, US); DS 178 (Australia, US); DS 177 (NZ, US); DS 170 (US, Canada); DS 169 (Australia, Korea); DS 167 (Canada, US); DS 163 (US, Korea); DS 162 (Japan, US); DS 161 (US, Korea); DS 144 (Canada, US); DS 139 (Japan, Canada); DS 132 (US, Mexico); DS 126 (US, Australia); DS 109 (US, Chile); DS 106 (US, Australia); DS 103 (US, Canada); DS 102 (US, Philippines); DS 101 (US, Mexico); DS 99 (Korea, US); DS 97 (Chile, US); DS 95 (Japan, US); DS 89 (Korea, US); DS 84 (US, Korea); DS 76 (US, Japan); DS 74 (US, Philippines); DS 64 (Japan, Indonesia); DS 61 (Philippines, US); DS 59 (US, Indonesia); DS 58 (India, Malaysia, Pakistan, Thailand v. US); DS 57 (US, Australia); DS 55 (Japan, Indonesia); DS 49 (Mexico, US); DS 45 (US, Japan); DS 44 (US, Japan); DS 41 (US, Korea); DS 28 (US, Japan); DS 27 (Ecuador, Guatemala, Honduras, Mexico v. US); DS 21 (US, Australia); DS 20 (Canada, Korea); DS 11 (US, Japan); DS 10 (Canada, Japan); DS 6 (Japan, US); DS 5 (US, Korea); DS 3 (US, Korea); DS 1 (Singapore, Malaysia). Id.

See supra notes 158 – 159.

See CHRONOLOGICAL LIST OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr. 22, 2008). Specifically, these disputes were: DS 366 (Panama, Colombia); 365 (Brazil, US); DS 357 (Canada, US); DS 356 (Argentina, Chile); DS 355 (Argentina, Brazil); DS 351 (Argentina, Chile); DS 348 (Panama, Colombia); DS 346 (Argentina, US); DS 344 (Mexico, US); DS 338 (US, Canada); DS 335 (Ecuador, US); DS 331 (Guatemala, Mexico); DS 329 (Mexico, Panama); DS 325 (Mexico, US); DS 322 (Japan, US); DS 311 (Canada, US); DS 310 (Canada, US); DS 308 (US, Mexico); DS 303 (Chile, Ecuador); DS 298 (Guatemala, Mexico); DS 295 (US, Mexico); DS 284 (Nicaragua, Mexico); DS 282 (Mexico, US); DS 281 (Mexico, US); DS 280 (Mexico, US); DS 278 (Argentina, Chile); DS 276 (US, Canada); DS 275 (US, Venezuela); DS 272 (Argentina, Peru); DS 268 (Argentina, US); DS 267 (Brazil, US); DS 264 (Canada, US); DS 261 (Chile, Uruguay); DS 259 (Brazil, US); DS 257 (Argentina, US); DS 256 (Brazil, US); DS 255 (Chile, Peru); DS 254 (Norway, US); DS 253 (Switzerland, US); DS 250 (Brazil, US); DS 249 (Japan, US); DS 247 (Canada, US); DS 245 (US, Japan); DS 244 (Japan, US); DS 241 (Brazil, Argentina); DS 239 (Brazil, US); DS 238 (Chile, Argentina); DS 236 (Canada, US); DS 234 (Canada & Mexico v. US); DS 232 (Chile, Mexico); DS 230 (Colombia, Chile); DS 228 (Colombia, Chile); DS 227 (Chile, Peru); DS 226 (Argentina, Chile); DS 224 (Brazil, US); DS 222 (Brazil, Canada); DS 221 (US, Canada); DS 220 (Guatemala, Chile); DS 218 (Brazil, US); DS 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); DS 216 (Mexico, Brazil); DS 210 (US, Belgium); DS 207 (Argentina, Chile); DS 204 (US, Mexico); DS 203 (US, Mexico); DS 201 (Honduras, Nicaragua); DS 199 (US, Brazil); DS 197 (US, Brazil); DS 196 (US, Argentina); DS 194 (Canada, US); DS 190 (Brazil, Argentina); DS 188 (Colombia, Nicaragua); DS 187 (Costa Rica, Trinidad); DS 185 (Costa Rica, Trinidad); DS 184 (Japan, US); DS 180 (Canada, US); DS 173 (US, France); DS 171 (US, Argentina); DS 170 (US, Canada); DS 167 (Canada, US); DS 164 (US, Argentina); DS 162 (Japan, US); DS 156 (Mexico, Guatemala); DS 144 (Canada, US); DS 139 (Japan, Canada); DS 132 (US, Mexico); DS 131 (US, France); DS 128 (US, Netherlands); DS 127 (US, Belgium); DS 112 (Brazil, Peru); DS 111 (Argentina, US); DS 109 (US, Chile); DS 103 (US, Canada); DS 101 (US, Mexico); DS 97 (Chile, US); DS 95 (Japan, US); DS 86 (US, Sweden); DS 83 (US, Denmark); DS 80 (US,
members brought complaints against each other over twenty times\textsuperscript{153} and members of the ADB brought complaints against each other more than ten times.\textsuperscript{154} Members of MERCOSUR have brought two complaints against each other\textsuperscript{155} and the EIB have brought complaints against each other three times.\textsuperscript{156} Members of ASEAN\textsuperscript{157} have brought complaints against each other twice, while members of BCIE,\textsuperscript{158} SAARC\textsuperscript{159} and CACM\textsuperscript{160} have brought suit against each other once.\textsuperscript{161}

Meaningful trends can also be observed in the times when states that are members of multiple regional or regional economic organizations file disputes against states which are members of these same organizations. The most frequent combination of organization membership to appear before the WTO dispute resolution body is the combination of IADB and OAS members; this combination has appeared before the WTO dispute
resolution body nearly forty times. The combination of APEC, IADB and OAS has appeared before the WTO dispute resolution body thirty times. The combination of members of IADB, LAIA and the OAS has appeared before the WTO dispute resolution body sixteen times, while the combination of membership in IADB and APEC has appeared before the WTO dispute resolution body fourteen times and the combination of ADB and APEC members have appeared before the WTO dispute resolution body twelve times. The combination of APEC, IADB, LAIA and OAS members and the combination of IADB, LAIA, MERCUSOR and OAS members have appeared before

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Specifically, these disputes were: 365 (Brazil, US); 348 (Panama, Colombia); 346 (Argentina, US); 331 (Guatemala, Mexico); 329 (Mexico, Panama); 311 (Canada, US); 310 (Canada, US); 298 (Guatemala, Mexico); 275 (US, Venezuela); 268 (Argentina, US); 267 (Brazil, US); 259 (Brazil, US); 250 (Brazil, US); 239 (Brazil, US); 224 (Brazil, US); 222 (Brazil, Canada); 218 (Brazil, US); 199 (US, Brazil); 197 (US, Brazil); 196 (US, Argentina); 187 (Costa Rica, Trinidad); 195 (Costa Rica, Trinidad); 171 (US, Argentina); 164 (US, Argentina); 156 (Mexico, Guatemala); 112 (Brazil, Peru); 111 (Argentina, US); 78 (Colombia, US); 71 (Brazil, Canada); 70 (Brazil, Canada); 65 (US, Brazil); 60 (Mexico, Guatemala); 56 (US, Argentina); 52 (US, Brazil); 31 (US, Canada); 24 (Costa Rica, US); 23 (Mexico, Venezuela); 4 Brazil, US); 2 (Venezuela, US). Id.

163 Id. Specifically, these disputes are: 357 (Canada, US); 344 (Mexico, US); 338 (US, Canada); 335 (Ecuador, US); 325 (Mexico, US); 308 (US, Mexico); 305 (US, Mexico); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 280 (Mexico, US); 276 (US, Canada); 264 (Canada, US); 257 (Canada, US); 247 (Canada, US); 236 (Canada, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 204 (US, Mexico); 203 (US, Mexico); 194 (Canada, US); 180 (Canada, US); 170 (US, Canada); 167 (Canada, US); 144 (Canada, US); 132 (US, Mexico); 109 (US, Chile); 103 (US, Canada); 101 (US, Mexico); 97 (Chile, US); 49 (Mexico, US). Id.

164 Id. Specifically, these disputes are: 366 (Panama, Colombia); 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 284 (Nicaragua, Mexico); 278 (Argentina, Chile); 272 (Argentina, Peru); 261 (Chile, Uruguay); 238 (Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 216 (Brazil, Mexico); 207 (Argentina, Chile); 188 (Colombia, Nicaragua); 182 (Mexico, Ecuador). Id.

165 Id. Specifically, these disputes were: 322 (Japan, US); 249 (Japan, US); 245 (US, Japan); 244 (Japan, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 184 (Japan, US); 162 (Japan, US); 139 (Japan, Canada); 95 (Japan, US); 76 (US, Japan); 28 (US, Japan); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US). Id. It is important to note that Japan was a party to each of these disputes. Id.

166 Id. Specifically, these disputes were: 367 (NZ, Australia); 336 (Korea, Japan); 323 (Korea, Japan); 312 (Indonesia, Korea); 271 (Philippines, Australia); 270 (Philippines, Australia); 215 (Korea, Philippines); 169 (Australia, Korea); 64 (Japan, Indonesia); 55 (Japan, Indonesia); 45 (US, Japan); 44 (US, Japan). Id.

167 Id. Specifically, these disputes were: 255 (Chile, Peru); 232 (Chile, Mexico); 227 (Chile, Peru). Id. Notably, each of these disputes involved Chile as the complainant. Id.

168 Id. Specifically, these disputes were: 355 (Argentina, Brazil); 241 (Brazil, Argentina); 190 (Brazil, Argentina). Id. All of these disputes featured the same parties in some combination. Id.
the WTO dispute resolution body three times. The combination of ADB, APEC and ASEAN members has appeared before the WTO dispute resolution body twice, while the combinations of ADB and SAARC, APEC and OAS, and CACM, IADB and OAS have each appeared once before the WTO dispute resolution body.

B. Topic trends

To better understand the nature of the complaints brought before the WTO dispute settlement body, these complaints have been broken down into the following classifications: Anti-dumping measures, Classification, Countervailing duties, Customs, Distribution, sale and transportation of goods, Export-specific issues, General system of preferences, Governmental action disputes, Imports, Inspections, Intellectual property, Procurement, Safeguards, Specific product measures, Standards, Subsidies and Tariffs.

Members of the OAS and IADB have brought more than thirty complaints relating to Anti-dumping measures, and APEC members have brought more than

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169 See supra notes 178 – 9.
170 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr. 27, 2008). Specifically, these disputes were: 371 (Philippines, Thailand); 1 (Singapore, Malaysia). Id.
171 Id. Specifically, this dispute was: 306 (Bangladesh, India). Id.
172 Id. Specifically, this dispute was: 277 (Canada, US). Id.
173 Id. Specifically, this dispute was: 201 (Honduras, Nicaragua). Id.
174 See supra notes 182 – 4.
175 See INDEX OF DISPUTE ISSUES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm (last visited Apr. 27, 2008). Specifically, these disputes were: 355 (Argentina, Brazil); 346 (Argentina, US); 344 (Mexico, US); 338 (US, Canada); 335 (Ecuador, US); 331 (Guatemala, Mexico); 325 (Mexico, US); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 277 (Canada, US); 272 (Argentina, Peru); 268 (Argentina, US); 264 (Canada, US); 247 (Canada, US); 241 (Brazil, Argentina); 239 (Brazil, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US) 216 (Brazil, Mexico); 203 (US, Mexico); 197 (US, Brazil); 187 (Costa Rica, Trinidad); 185 (Costa Rica, Trinidad); 182 (Mexico, Ecuador); 156 (Mexico, Guatemala); 132 (US, Mexico); 102 (US, Philippines); 60 (Mexico, Guatemala); 49 (Mexico, US); 23 (Mexico, Venezuela). Id.
twenty such complaints.\textsuperscript{178} In descending order, members of LAIA,\textsuperscript{179} the ADB,\textsuperscript{180} MERCOSUR,\textsuperscript{181} and SAARC\textsuperscript{182} have also brought complaints regarding Anti-dumping measures.\textsuperscript{183}

Members of APEC,\textsuperscript{184} the IADB\textsuperscript{185} and OAS\textsuperscript{186} have each brought one complaint regarding Classifications.\textsuperscript{187}

In descending order, members of OAS,\textsuperscript{188} IADB,\textsuperscript{189} APEC,\textsuperscript{190} LAIA,\textsuperscript{191} and the ADB\textsuperscript{192} have brought complaints involving Countervailing duties.\textsuperscript{193}

\begin{flushright}
\textsuperscript{176} Id. Specifically, these disputes were: 355 (Argentina, Brazil); 346 (Argentina, US); 344 (Mexico, US); 338 (US, Canada); 335 (Ecuador, US); 331 (Guatemala, Mexico); 325 (Mexico, US); 322 (Thailand, US); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 272 (Argentina, Peru); 268 (; 264 (Canada, US); 247 (Canada, US); 244 (Japan, US); 241 (Brazil, Argentina); 239 (Brazil, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 216 (Brazil, Mexico); 203 (US, Mexico); 197 (US, Brazil); 187 (Costa Rica, Trinidad); 185 (Costa Rica, Trinidad); 180 (Canada, US); 178 (Mexico, US); 162 (Japan, US); 156 (Mexico, Venezuela); 132 (US, Mexico); 102 (US, Philippines); 60 (Mexico, Guatemala); 49 (Mexico, US); 23 (Mexico, Venezuela). Id.
\textsuperscript{177} See supra notes 186 – 7.
Specifically, these disputes were: 368 (China, US); 344 (Mexico, US); 338 (US, Canada); 325 (Mexico, US); 324 (Thailand, US); 322 (Japan, US); 312 (Indonesia, Korea); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 277 (Canada, US); 264 (Canada, US); 247 (Canada, US); 244 (Japan, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 215 (Korea, Philippines); 203 (US, Mexico); 184 (Japan, US); 179 (Korea, US); 162 (Japan, US); 132 (US, Mexico); 102 (US, Philippines); 99 (Korea, US); 89 (Korea, US); 49 (Mexico, US).
\textsuperscript{179} Id. Specifically, these disputes were: 355 (Argentina, Brazil); 272 (Argentina, Peru); 241 (Brazil, Argentina); 216 (Brazil, Mexico); 182 (Mexico, Ecuador). Id.
\textsuperscript{180} Id. Specifically, these disputes were: 318 (Taiwan, India); 312 (Indonesia, Korea); 306 (Bangladesh, India); 215 (Korea, Philippines). Id.
\textsuperscript{181} Id. Specifically, these disputes were: 355 (Argentina, Brazil); 241 (Brazil, Argentina). Id.
\textsuperscript{182} Id. Specifically, this dispute was: 306 (Bangladesh, India). Id.
\textsuperscript{183} See supra notes 190 – 3.
Specifically, this dispute was: 180 (Canada, US). Id.
\textsuperscript{185} Id. Specifically, this dispute was: 180 (Canada, US). Id.
\textsuperscript{186} Id. Specifically, this dispute was: 180 (Canada, US). Id.
\textsuperscript{187} See supra notes 195 – 7.
\textsuperscript{188} Id. Specifically, these disputes were: 365 (Brazil, US); 338 (US, Canada); 311 (Canada, US); 280 (Mexico, US); 257 (Canada, US); 222 (Brazil, Canada); 218 (Brazil, US); 167 (Canada, US); 112 (Brazil, Peru); 97 (Chile, US). Id.
Specifically, these disputes were: 365 (Brazil, US); 338 (US, Canada); 311 (Canada, US); 280 (Mexico, US); 257 (Canada, US); 222 (Brazil, Canada); 218 (Brazil, US); 167 (Canada, US); 112 (Brazil, Peru); 97 (Chile, US). Id.
IADB members have brought complaints against each other for Customs issues four times, while members of the ADB, APEC, ASEAN, LAIA, and the OAS have brought one complaint in regards to Customs.

APEC members have brought two complaints involving the distribution, sale and/or transportation of products, while members of the IADB and OAS have each brought one such complaint.

Members of the OAS and IADB have brought a limited number of complaints regarding Export measures.

Members of the IADB and OAS have each brought one complaint regarding governmental disputes. There have been no direct member on member complaints in the WTO dispute settlement system regarding general systems of preferences.

\[^{194}\text{See INDEX OF DISPUTE ISSUES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm (last visited Apr. 27, 2008).}
\[^{195}\text{Specifically, these disputes were: 366 (Panama, Colombia); 298 (Guatemala, Mexico); 210 (US, Belgium); 67 (US, UK).}
\[^{196}\text{See supra notes 199 – 203.}
\[^{197}\text{See INDEX OF DISPUTE ISSUES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm (last visited Apr. 27, 2008).}
\[^{198}\text{Specifically, these disputes were: 363 (US, China); 45 (US, Japan).}
\[^{199}\text{See supra notes 206 – 210.}
\[^{200}\text{See INDEX OF DISPUTE ISSUES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm (last visited Apr. 27, 2008).}
\[^{201}\text{Specifically, these disputes were: 71 (Brazil, Canada); 46 (Canada, Brazil).}
\[^{202}\text{See supra notes 213 – 7.}
Members of APEC\textsuperscript{212} and the OAS\textsuperscript{213} have brought more than ten complaints involving Import measures. In decreasing order, members of the ADB\textsuperscript{214} and LAIA\textsuperscript{215} have brought more than one complaint in regards to Imports.\textsuperscript{216} Members of ASEAN,\textsuperscript{217} CACM,\textsuperscript{218} the EIB,\textsuperscript{219} BCIE,\textsuperscript{220} and the IADB\textsuperscript{221} have brought one Import related complaint.\textsuperscript{222}

In descending order, members of the IADB,\textsuperscript{223} OAS\textsuperscript{224} and APEC\textsuperscript{225} have brought complaints regarding Intellectual Property.\textsuperscript{226} APEC members have brought one
complaint regarding Inspection-related issues. APEC members have brought two complaints regarding Procurement issues.

Members of the IADB, OAS and LAIA have brought more than ten complaints each in regards to Safeguards, followed in descending order by APEC and the EIB and MERCOSUR members.

APEC and IADB members have brought more than ten complaints each regarding specific products. OAS members have brought six such complaints and ADB members have brought two such complaints.

Specifically, these disputes were: 224 (Brazil, US); 199 (US, Brazil); 196 (US, Argentina); 171 (US, Argentina); 170 (US, Canada); 86 (US, Sweden); 83 (US, Denmark); 37 (US, Portugal). Id.

Specifically, these disputes were: 224 (Brazil, US); 199 (US, Brazil); 196 (US, Argentina); 171 (US, Argentina); 170 (US, Canada). Id.

Specifically, these disputes were: 362 (US, China); 170 (US, Canada). Id.

Specifically, these disputes were: 163 (US, Korea); 95 (Japan, US). Id.

Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 259 (Brazil, US); 254 (Norway, US); 249 (Japan, US); 238 (Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina); 78 (Colombia, US). Id.

Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 259 (Brazil, US); 238 Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina); 78 (Colombia, US). Id.

Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 238 Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina). Id.

Specifically, this dispute was: 41 (US, Korea). Id.

Specifically, these disputes were: 163 (US, Korea); 95 (Japan, US). Id.

Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 259 (Brazil, US); 254 (Norway, US); 249 (Japan, US); 238 (Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina); 78 (Colombia, US). Id.

Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 238 Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina). Id.

Specifically, this dispute was: 235 (Poland, Slovakia). Id.

Specifically, this dispute was: 190 (Brazil, Argentina). Id.

Specifically, these disputes were: 343 (Thailand, US); 236 (Canada, US); 204 (US, Mexico); 195 (US, Philippines); 139 (Japan, Canada); 102 (US, Philippines); 76 (US, Japan); 74 (US, Philippines); 64 (Japan, Indonesia); 59 (US, Indonesia); 55 (Japan, Indonesia); 44 (US, Japan); 28 (US, Japan); 20 (Canada, Korea); 5 (US, Korea). Id.

Specifically, these disputes were: 236 (Canada, US); 204 (US, Mexico); 173 (US, France); 80 (US, Belgium); 76 (US, Japan); 65 (US, Brazil); 52 (US, Brazil); 51 (Japan, Brazil); 31 (US, Canada); 28 (US, Japan). Id.
Members of the IADB\textsuperscript{241} and OAS\textsuperscript{242} have brought two complaints regarding Standards.\textsuperscript{243} APEC members have brought four complaints regarding Subsidies,\textsuperscript{244} while members of the IADB\textsuperscript{245} and OAS have each brought three such complaints.\textsuperscript{246}

Members of the IADB\textsuperscript{247} and APEC\textsuperscript{248} have brought more than ten complaints regarding Tariff measures.\textsuperscript{249} OAS members have brought Tariff-based complaints eight times,\textsuperscript{250} followed in decreasing order of frequency by members of LAIA\textsuperscript{251} and the EIB.\textsuperscript{252}

\section*{C. Result trends}

\textsuperscript{238} See supra notes 247 – 8.
Specifically, these disputes were: 285 (Antigua, US); 236 (Canada, US); 204 (US, Mexico); 65 (US, Brazil); 52 (US Brazil); 31 (US, Canada). \textsuperscript{Id.}
\textsuperscript{240} Id. Specifically, these disputes were: 64 (Japan, Indonesia); 55 (Japan, Indonesia). \textsuperscript{Id.}
\textsuperscript{241} Id. Specifically, these disputes were: 4 (Brazil, US); 2 (Venezuela, US). \textsuperscript{Id.}
\textsuperscript{242} Id. Specifically, these disputes were: 4 (Brazil, US); 2 (Venezuela, US). \textsuperscript{Id.}
\textsuperscript{243} See supra notes 252 – 3.
\textsuperscript{244} See INDEX OF DISPUTE ISSUES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm (last visited Apr. 27, 2008).
Specifically, these disputes were: 357 (Canada, US); 194 (Canada, US); 126 (US, Australia); 106 (US, Australia). \textsuperscript{Id.}
\textsuperscript{245} Id. Specifically, these disputes were: 357 (Canada, US); 267 (Brazil, US); 194 (Canada, US). \textsuperscript{Id.}
\textsuperscript{246} Id. Specifically, these disputes were: 357 (Canada, US); 267 (Brazil, US); 194 (Canada, US). \textsuperscript{Id.}
\textsuperscript{247} Id. Specifically, these disputes were: 329 (Mexico, Panama); 308 (US, Mexico); 261 (Chile, Uruguay); 255 (Chile, Peru); 251 (Korea, US); 227 (Chile, EC); 131 (US, France); 128 (US, Netherlands); 127 (US, Belgium); 111 (Argentina, US); 109 (US, Chile); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US). \textsuperscript{Id.}
\textsuperscript{248} Id. Specifically, these disputes were: 359 (Mexico, China); 358 (US, China); 308 (US, Mexico); 255 (Chile, Peru); 227 (Chile, EC); 109 (US, Chile); 84 (US, Korea); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US). \textsuperscript{Id.}
\textsuperscript{249} See supra notes 258 – 9.
Specifically, these disputes were: 329 (Mexico, Panama); 308 (US, Mexico); 261 (Chile, Uruguay); 255 (Chile, Peru); 251 (Korea, US); 227 (Chile, EC); 111 (Argentina, US); 109 (US, Chile). \textsuperscript{Id.}
\textsuperscript{251} Id. Specifically, these disputes were: 261 (Chile, Uruguay); 255 (Chile, Peru); 227 (Chile, EC). \textsuperscript{Id.}
Specifically, this dispute was: 289 (Poland, Czech). \textsuperscript{Id.}
There are many possible outcomes once a WTO member files a complaint with the WTO dispute settlement body. For the purposes of this article, these outcomes have been broken down into the following categories: Appeal pending, Mixed outcomes (meaning that both the complainant state and the respondent state have had positive rulings from the Panel), Mutually Agreed Settlements, Panel decision against Complainant state, Panel decision against Respondent state, Panel established but no further action, and Settled or Inactive.

Both APEC\textsuperscript{253} and IADB\textsuperscript{254} members have ended their complaints against member states through Mutually Agreed Settlements in excess of fifteen times.\textsuperscript{255} Members of the OAS,\textsuperscript{256} LAIA,\textsuperscript{257} the ADB,\textsuperscript{258} MERCOSUR\textsuperscript{259} and EIB\textsuperscript{260} have also seen their complaints settled through Mutually Agreed Settlement.

\textsuperscript{253} \textit{See generally} CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr, 27, 2008). Specifically, these disputes were: 323 (Korea, Japan); 311 (Canada, US); 281 (Mexico, US); 277 (Canada, US); 264 (Canada, US); 247 (Canada, US); 245 (US, Japan); 236 (Canada, US); 126 (US, Australia); 103 (US, Canada); 102 (US, Philippines); 74 (US, Philippines); 28 (US, Japan); 21 (US Australia); 20 (Canada, Korea); 6 (Japan, US); 5 (US, Korea). \textit{Id.}

\textsuperscript{254} \textit{Id.} Specifically, these disputes were: 348 (Panama, Colombia); 329 (Mexico, Panama); 311 (Canada, US); 309 (US, China); 281 (Mexico, US); 264 (Canada, US); 261 (Chile, Uruguay); 257 (Canada, US); 250 (Brazil, US); 247 (Canada, US); 245 (US, Japan); 236 (Canada, US); 210 (US, Belgium); 199 (US, Brazil); 196 (US, Argentina); 190 (Brazil, Argentina); 171 (US, Argentina); 103 (US, Canada); 86 (US, Sweden); 83 (US, Denmark); 37 (US, Portugal); 28 (US, Japan); 6 (Japan, US). \textit{Id.}

\textsuperscript{255} \textit{See supra notes} 264 – 5.

\textsuperscript{256} \textit{See generally} CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr, 27, 2008). Specifically, these disputes were: 348 (Panama, Colombia); 329 (Mexico, Panama); 311 (Canada, US); 281 (Mexico, US); 277 (Canada, US); 264 (Canada, US); 261 (Chile, Uruguay); 257 (Canada, US); 250 (Brazil, US); 247 (Canada, US); 245 (US, Japan); 236 (Canada, US); 210 (US, Belgium); 199 (US, Brazil); 196 (US, Argentina); 190 (Brazil, Argentina); 171 (US, Argentina); 103 (US, Canada). \textit{Id.}

\textsuperscript{257} \textit{Id.} Specifically, these disputes were: 261 (Chile, Uruguay); 190 (Brazil, Argentina). \textit{Id.}

\textsuperscript{258} \textit{Id.} Specifically, these disputes were: 323 (Korea, Japan); 93 (NZ, India); 91 (Australia, India). \textit{Id.}

\textsuperscript{259} \textit{Id.} Specifically, this dispute was: 190 (Brazil, Argentina). \textit{Id.}

\textsuperscript{260} \textit{Id.} Specifically, this dispute was: 235 (Poland, Slovakia). \textit{Id.}
Members of the IADB, APEC and OAS have had complaints end in Panel decisions against the complainant. Panel decisions against the respondent have most frequently occurred in complaints involving members of the IADB, OAS and APEC, while such decisions have occurred once for members of the ADB. Mixed Panel and/or appellate decisions have also most frequently occurred in complaints brought by members of the IADB, OAS and APEC, as well as for members of

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261 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr. 27, 2008). Specifically, these disputes were: 296 (Korea, US); 282 (Mexico, US); 244 (Japan, US); 204 (US, Mexico); 194 (Canada, US); 163 (US, Korea); 44 (US, Japan). Id.

262 Id. Specifically, these disputes were: 282 (Mexico, US); 244 (Japan, US); 204 (US, Mexico); 194 (Canada, US); 44 (US, Japan). Id.

263 Id. Specifically, these disputes were: 282 (Mexico, US); 204 (US, Mexico); 194 (Canada, US). Id.

264 See supra notes 273 – 5.

265 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr. 27, 2008). Specifically, these disputes were: 335 (Ecuador, US); 331 (Guatemala, Mexico); 322 (Japan, US); 308 (US, Mexico); 295 (US, Mexico); 170 (US, Canada); 156 (Mexico, Guatemala); 70 (Brazil, Canada); 56 (US, Argentina); 24 (Costa Rica, US); 11 (US, Japan); 10 (Canada, Japan); 4 (Brazil, US); 2 (Venezuela, US). Id.

266 Id. Specifically, these disputes were: 335 (Ecuador, US); 331 (Guatemala, Mexico); 308 (US, Mexico); 302 (Honduras, DR); 295 (US, Mexico); 285 (Antigua, US); 170 (US, Canada); 162 (Japan, US); 156 (Mexico, Guatemala); 70 (Brazil, Canada); 56 (US, Argentina); 24 (Costa Rica, US); 4 (Brazil US); 2 (Venezuela, US). Id.

267 Id. Specifically, these disputes were: 322 (Japan, US); 308 (US, Mexico); 295 (US, Mexico); 170 (US, Canada); 169 (Australia, Korea); 162 (Japan, US); 99 (Korea, US); 84 (US, Korea); 76 (US, Japan); 58 (India, Malaysia, Thailand v. US); 11 (US, Japan); 10 (Canada, Japan). Id.

268 Id. Specifically, this dispute was: 169 (Australia, Korea). Id.

269 Id. Specifically, these disputes were: 268 (Argentina, US); 267 (Brazil, US); 259 (Brazil, US); 253 (Switzerland, US); 249 (Japan, US); 241 (Brazil, Argentina); 238 (Chile, Argentina); 234 (Canada & Mexico v. US); 222 (Brazil, Canada); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 207 (Argentina, Chile); 184 (Japan, US); 132 (US, Mexico); 31 (US, Canada). Id.

270 Id. Specifically, these disputes were: 268 (Argentina, US); 267 (Brazil, US); 259 (Brazil, US); 241 (Brazil, Argentina); 238 (Chile, Argentina); 234 (Canada & Mexico v. US); 222 (Brazil, Canada); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 207 (Argentina, Chile); 132 (US, Mexico); 46 (Canada, Brazil); 31 (US, Canada). Id.

271 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr. 27, 2008). Specifically, these disputes were: 313 (India, EC); 258 (NZ, US); 252 (China, US); 251 (Korea, US); 249 (Japan, US); 234 (Canada & Mexico v. US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 202 (Korea, US); 184 (Japan, US); 179 (Korea, US); 178 (Australia, US); 177 (NZ, US); 161 (US, Korea); 139 (Japan, Canada); 132 (US, Mexico); 64 (Japan, Indonesia); 59 (US, Indonesia); 55 (Japan, Indonesia). Id.
LAIA,272 the ADB273 and MERCOSUR.274 There is currently one complaint in which an appeal is pending; this case involves members of the ADB, APEC and the IADB.275

Panels have been requested by the IADB276 and OAS most frequently,277 followed by APEC,278 LAIA,279 ADB,280 and ASEAN281 and the EIB.282 Panels have been established by APEC,283 OAS,284 the IADB,285 LAIA,286 ADB,287 and MERCOSUR.288

272 Id. Specifically, these disputes were: 241 (Brazil, Argentina); 238 (Chile, Argentina); 207 (Argentina, Chile). Id.
273 Id. Specifically, these disputes were: 313 (India, EC); 64 (Japan, Indonesia); 55 (Japan, Indonesia). Id.
274 Id. Specifically, this dispute was: 241 (Brazil, Argentina). Id.
275 Id. Specifically, this dispute was: 336 (Korea, Japan). Id.
276 Id. Specifically, this dispute was: 346 (Argentina, US); 338 (US, Canada); 325 (Mexico, US); 310 (Canada, US); 303 (Chile, Ecuador); 278 (Argentina, Chile); 275 (US, Venezuela); 272 (Argentina, Peru); 239 (Brazil, US); 230 (Colombia, Chile); 226 (Argentina, Chile); 224 (Brazil, US); 220 (Guatemala, Chile); 218 (Brazil, US); 216 (Brazil, Mexico); 203 (US, Mexico); 201 (Honduras, Nicaragua); 197 (US, Brazil); 187 (CR, Trinidad); 182 (Mexico, Ecuador); 180 (Canada, US); 173 (US, France); 172 (Canada, US); 131 (US, France); 128 (US, Belgium); 112 (Brazil, Peru); 111 (Argentina, US); 109 (US, Chile); 97 (Chile, US); 80 (US, Belgium); 78 (Colombia, US); 71 (Brazil, Canada); 65 (US, Brazil); 52 (US, Brazil); 51 (Japan; Brazil); 45 (US, Japan). Id.
277 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr, 27, 2008). Specifically, these disputes were: 346 (Argentina, US); 338 (US, Canada); 325 (Mexico, US); 310 (Canada, US); 303 (Chile, Ecuador); 278 (Argentina, Chile); 275 (US, Venezuela); 272 (Argentina, Peru); 239 (Brazil, US); 230 (Colombia, Chile); 226 (Argentina, Chile); 224 (Brazil, US); 220 (Guatemala, Chile); 218 (Brazil, US); 216 (Brazil, Mexico); 203 (US, Mexico); 201 (Honduras, Nicaragua); 197 (US, Brazil); 187 (CR, Trinidad); 182 (Mexico, Ecuador); 180 (Canada, US); 173 (US, France); 172 (Canada, US); 131 (US, France); 128 (US, Belgium); 112 (Brazil, Peru); 111 (Argentina, US); 109 (US, Chile); 97 (Chile, US); 80 (US, Belgium); 78 (Colombia, US); 71 (Brazil, Canada); 65 (US, Brazil); 52 (US, Brazil). Id.
278 Id. Specifically, these disputes were: 368 (China, US); 338 (US, Canada); 325 (Mexico, US); 310 (Canada, US); 303 (Chile, Ecuador); 278 (Argentina, Chile); 275 (US, Venezuela); 272 (Argentina, Peru); 239 (Brazil, US); 230 (Colombia, Chile); 226 (Argentina, Chile); 224 (Brazil, US); 220 (Guatemala, Chile); 218 (Brazil, US); 216 (Brazil, Mexico); 203 (US, Mexico); 201 (Honduras, Nicaragua); 197 (US, Brazil); 187 (CR, Trinidad); 182 (Mexico, Ecuador); 180 (Canada, US); 173 (US, France); 172 (Canada, US); 131 (US, France); 128 (US, Belgium); 112 (Brazil, Peru); 111 (Argentina, US); 109 (US, Chile); 97 (Chile, US); 80 (US, Belgium); 78 (Colombia, US); 71 (Brazil, Canada); 65 (US, Brazil); 52 (US, Brazil). Id.
279 Id. Specifically, these cases were: 371 (Philippines, Thailand); 318 (Taiwan, India); 271 (Philippines, Australia); 215 (Korea, Philippines); 203 (US, Mexico); 180 (Canada, US); 167 (Canada, US); 144 (Canada, US); 109 (US, Chile); 97 (Chile, US); 61 (Philippines, US); 45 (US, Japan); 41 (US, Korea); 3 (US, Korea). Id.
280 Id. Specifically, these disputes were: 303 (Chile, Ecuador); 278 (Argentina, Chile); 272 (Argentina, Peru); 230 (Colombia Chile); 226 (Argentina, Chile); 216 (Brazil, Mexico); 182 (Mexico, Ecuador); 112 (Brazil, Peru). Id.
281 Id. Specifically, these disputes were: 371 (Philippines, Thailand); 318 (Taiwan, India); 271 (Philippines, Australia); 215 (Korea, Philippines). Id.
282 Id. Specifically, this dispute was: 289 (Poland, Czech). Id.
283 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr, 27, 2008). Specifically, these disputes were: 367 (NZ, Australia); 363 (US, China); 362 (US, China); 359 (Mexico, China); 357 (Canada, US); 344 (Mexico, US); 343 (Thailand, US); 342 (Canada, China); 340 (US, China); 280 (Mexico, US); 270 (Philippines, Australia); 195 (US, Philippines). Id.
284 Id. Specifically, these disputes were: 366 (Panama, Colombia); 365 (Brazil, US); 357 (Canada, US); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 344 (Mexico, US); 280 (Mexico, US); 188 (Colombia, Nicaragua); 164 (US, Argentina). Id.
In descending order, the members of the following organizations have initiated complaints that are currently listed as Settled or Inactive by the WTO: APEC, IADB, OAS, LAIA, ASEAN, ADB, and the EIB.

V – ANALYSIS OF CORRELATIONS AND LAW OF REGIONAL ORGANIZATIONS

What can be learned from the above study of the interaction between members of various regional economic organizations and regional organizations at the WTO dispute settlement level? The answer to this question is that there are several important lessons that can be taken from the information presented in this study. These lessons are important not only in that they shed light on past and current behavior of WTO member states viz a viz the WTO dispute settlement process but also because they are predictors

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285 Id. Specifically, these disputes were: 366 (Panama, Colombia); 365 (Brazil, US); 357 (Canada, US); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 344 (Mexico, US); 280 (Mexico, US); 188 (Colombia, Nicaragua); 164 (US, Argentina). Id.
286 Id. Specifically, these disputes were: 366 (Panama, Colombia); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 188 (Colombia, Nicaragua). Id.
287 Id. Specifically, these disputes were: 355 (Argentina, Brazil). Id.
288 See generally CHRONOLOGICAL INDEX OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr, 27, 2008). Specifically, this dispute was: 1 (Singapore, Malaysia). Id.
289 Id. Specifically, these disputes were: 298 (Guatemala, Mexico); 284 (Nicaragua, Mexico); 255 (Chile, Peru); 232 (Chile, Mexico); 228 (Colombia, Chile); 227 (Chile, Peru); 101 (US, Mexico); 95 (Japan, US); 89 (Korea, US); 57 (US, Australia); 49 (Mexico, US); 23 (Mexico, Venezuela). Id.
290 Id. Specifically, these disputes were: 358 (US, China); 255 (Chile, Peru); 232 (Chile, Mexico); 227 (Chile, Peru); 106 (US, Australia); 101 (US, Mexico); 95 (Japan, US); 89 (Korea, US); 57 (US, Australia); 49 (Mexico, US); 1 (Singapore, Malaysia). Id.
291 Id. Specifically, these disputes were: 306 (Bangladesh, India); 1 (Singapore, Malaysia). Id.
of future behavior. This is especially true because, even where not all members of the regional organizations discussed are members of the WTO at the present moment, most of these non-WTO members are in the process of becoming WTO members in the near future.

The quintessential finding of this article is that, when there are a large number of members in a regional organization and the regional organization does not have a firmly established dispute settlement system for economic disputes, members are more likely to bring economic and trade related grievances with other member states to the WTO. Examples of this finding can be found in the frequency with which members of the OAS, APEC, and LAIA have brought complaints against other member states. In this context, it is interesting to note that the aims of the regional organization per se – either purely economic or inclusive of a variety of regional policy areas and concerns – are not as relevant a predictor of whether members of a regional organization will bring complaints against each other at the WTO level. Rather, it appears to be the communal understandings and traditions of regional organizations and the availability of alternate dispute resolution fora at the regional level that will be a better predictor of member state behavior at the WTO. This is particularly evident in examples such as ASEAN, where members share an articulated commonality of cultural and legal beliefs, which are expressed in legal agreements involving trade and in the creation of dispute settlement bodies.

The impact of shared membership in a regional banking entity is another key finding of this article. Because of the legal structure of the regional banks addressed in this article, it appears that there is no perceived penalty or negative side to bringing
members of regional banking organizations before the WTO. The fact that the regional banking organizations studied provide a uniform membership and decision-making structure means that members do not have to worry about the potential for punitive or retaliatory measures in the event that they do bring complaints to the WTO. The same can be said for the governing structures of these regional banking organizations in that their essentially democratic methods of membership representation and governance make the potential for retaliation or punishment very little. Additionally, the WTO is the logical place for members of regional banking organizations to take their economic or trade-related complaints because the laws of these banking organizations do not provide a forum for settling disputes other than those directly between the banking organization and a member state.

Once at the WTO, complaints against members of regional economic organizations or regional organizations tend to cluster around areas such as anti-dumping and safeguards, which are of vital importance to the trading regime of the complainant and are not provided for in the constitutive legal regimes of many of the organizations studied. The exception to this rule tends to be for the three largest complainants, members of the OAS, APEC and the IADB. This finding supports the above finding regarding the rationale for members of these organizations to bring complaints at the WTO level.

In terms of complaint results, the majority of complaints that have seen a completed panel decision which was accepted by the parties involved in the dispute have been filed by members of the IADB, APEC and the OAS. Members of other organizations tended to settle their disputes through Mutually Agreed Settlement or by abandoning the complaint, as well as through requesting a Panel but not following
through on the formal proceedings beyond that point. The vast majority of currently established panels are for complaints brought by the IADB, OAS and APEC.

In sum, the information and conclusions presented in this article highlight the many facets of legal and political decision-making required for any state to utilize the WTO’s dispute settlement body as a mechanism to redress allegations of wrongdoing in the economic and trade spheres. At a time when regional organizations are increasing in visibility and function, it is vital that the impact of such organizations on WTO disputes be understood in order to understand the value of the WTO dispute settlement system in a regionalized world. This is particularly vital as free trade agreements are becoming a more popular tool among states and the membership in the WTO is expanding to include most members of the regional organizations discussed in this paper.

VI – CONCLUSION

This article presents the legal framework in which the WTO dispute settlement body was formed and currently operates. It also presents the legal and economic structures of regional economic organizations and regional organizations that have members that have brought complaints against each other at the WTO dispute settlement level. Against these background frameworks, this article then analyzes the behavior of members of the regional economic organizations and regional organizations at the WTO dispute settlement level. The key discoveries made in this article are the correlation between the structures and membership communalities found in a regional organization and the likelihood that one of its members will bring a complaint regarding another member to the WTO dispute settlement body. This article has also found that the chance
for retaliatory or punitive measures – or lack thereof – is an important factor in analyzing the behavior of regional organization members at the WTO dispute settlement body. Further, this article finds that, once at the WTO, there is a strong correlation between the structure of a regional or regional economic organization, the types of complaints which its members will bring against each other at the WTO dispute level, and the outcomes of these disputes. Thus, this article finds that legal and political peer pressure – in the form of membership in a regional economic organization or regional organization generally – is only as effective at stopping WTO disputes as the legal framework of the organization is at providing its members with a sense of communality and an alternate forum for the airing of their economic and trade-related grievances.