

Inside the World Trade Organization

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I thought I might, to the extent that I feel that I am free to do so, take you into the WTO and into our chambers to try to tell you what it is that we are asked to do and how we go about doing it. If you haven't figured it out yet, I am one of those "faceless, foreign judges" that Ralph Nader and Pat Buchanan keep warning you about. I wanted, to the extent that I can, consistent with the WTO rules of conduct, to tell you a little bit about what it's like to be a "faceless, foreign judge" for the WTO.

We generally meet at ten o'clock in the morning. We meet at ten every morning around a round table in a corner room of a quiet wing of the Italianate villa that serves as the global headquarters of the World Trade Organization in Geneva. The windows of our chambers look out onto a broad, green lawn that slopes down to the shore of the lake of Geneva, Lach Lemman. Across the lake are the medieval heights of the old town, beyond are the snowy peaks of the Alps. We work in a picture post card. We see the sun stream through the windows of our chambers in the morning, we see it make its way slowly across the southern sky throughout the day. We see it sink slowly into the darkness of the evening. Watched by the sun, we sip endless cups of a French coffee and milk concoction called "Ronberset" (sp?), while we pursue the work we share. We have met around this table, morning after morning, for nearly seven years. We began doing so in late 1995, after more than one hundred countries agreed on the WTO treaty that transformed the General Agreements on Tariffs and Trade into the newly-created WTO. We were appointed then by the members of the new WTO to a supposedly part-time job that most of us do, in reality, full-time.

Since then, the faces around the table have changed, the table has not. The same wooden table in Geneva, which its smoothly polished surfaced and a few scratches here and there, has seen both faces and cases come and go. We are seven around the table. We are from seven different countries, we are from seven different regions around the world. We are from seven different legal traditions. We are, in the words of the WTO treaty, "broadly representative of membership in the WTO." I am the only American and also the only North American among the seven. I am also the only one remaining of the original seven who were first appointed by the members of the WTO in 1995 and who first sat together around our table in Geneva and sipped Ronberset (sp?). Then, I was the youngest by fifteen years of the original seven. Today, I remain the youngest of the current seven. (I confess that at age 52, I find it increasingly difficult to find pursuits in which I am the youngest.) Having been asked by my six colleagues to do so, I now chair our meetings. The seven original and founding members of the Appellate Body who first worked together around our table were:

Julio Lacarte Muro, Uruguay
Claus-Dieter Ehlermann, Germany
Florentino Feliciano, Philippines
Said El-Naggar, Egypt
Mitsuo Matsushita, Japan
Christopher Beeby, New Zealand
James Bacchus, United States of America.

My colleagues Lacarte Muro, Ehlermann and Feliciano all served six years and retired at the end of last year, 2001. My colleagues El-Naggar and Matsushita both retired after four years in 1999 and my dear friend Chris Beeby died in Geneva in 2000 while working on appeal at the WTO. The seven who work around our table today are:

G M Abi-Saab, Egypt
A V Ganesan, India
Yasuhei Taniguchi, Japan
Luiz Olavo Baptista, Brazil
John S. Lockhart, Australia
Giorgio Sacerdoti, Italy
James Bacchus, United States of America

We are aided in our work by the Appellate Body's Secretariat which is a fancy way of describing our very fine staff. For the first five years, the Director of our Secretariat was a superb international lawyer and former trade negotiator from Canada named Deborah Stegger (sp?). She is now teaching at the University of Toronto Law School and she has been succeeded by another gifted Canadian lawyer, Valerie Hughes. Through the years, numerous bright young lawyers have worked on our Secretariat and have joined with us from time to time in the discussions around our table. One of the best parts of a very rewarding experience for me has been working with so many fine, bright young lawyers.

The subject of our discussions around our table is what we call the Covered Agreements, that is the WTO jargon. The Covered Agreements are the more than 27,000 pages of concessions and obligations that comprise the WTO treaty and that bind all WTO members. We seven are according to the WTO Treaty, "Persons of recognized authority with demonstrated expertise in law, international trade and the subject matter of the Covered Agreements, generally." As such, our job is to help the members of the WTO interpret, implement and enforce the terms of the Covered Agreements. We don't wear robes, we don't wear wigs. We do not wear the white bibs that are often worn by jurists on other international tribunals. We do not yet have all the institutional trappings that have accrued to other tribunals with the passage of time and the accretion of tradition. We do not even have titles. The WTO treaty speaks only of a standing Appellate Body. The treaty does not say what the seven persons who are members of the Appellate Body should be called. So, we call ourselves simply, "Members of the Appellate Body."

Other don't seem to know what to call us. Some observers of the WTO describe us as "trade experts." Some trade experts describe us as "generalists." Journalists, in reporting our rulings, often describe us generically and anonymously, as simply "the WTO" and yes, some sometimes call us faceless, foreign judges. We are called faceless, perhaps, because few in the world seem to know who we are. The few in the world who write about the WTO, a few who criticize the WTO and a few, even, who defend the WTO know who we are. We always sign our opinions, but for whatever reason, few ever mention our names. We may be called faceless, as well, because the WTO members have mandated in the Treaty that all our proceedings must be, as the Treaty described it, "confidential." So, we meet behind closed doors. No one who has not participated in one of our appeals has ever seen us work.

We are called “foreign,” perhaps, because we are, by treaty, unaffiliated with any government. I am not the Representative of the United States of America to the WTO. There is a very fine and bright woman from New York who holds that job. That’s not my job. None of us represent our own countries in our work in Geneva. Each of us and all of us have been appointed by *all* the members of the WTO, to speak for *all* the members of the WTO by speaking *solely* for the WTO trading system as a whole. We may be called judges, perhaps because, whatever we call ourselves, that word may best describe what it is we do, for our job is to judge appeals and international trade disputes affecting the lives of 5 billion people in the 95% of all world commerce conducted by the 145 countries and other customs territories that are currently members of the WTO. At this point, every country in the world is either a member of the WTO or seems to want to be. About two dozen are waiting in line.

Technically, the Appellate Body is rightly described as quasi- judicial. This is the halfway house, rhetorically, between the ways of diplomacy and the ways of the juridical world. To have legal effect, our rulings must be adopted by the members of the WTO. However, a ruling by the Appellate Body in an international trade dispute will *not* be adopted, *only* if *all* the members of the WTO decide by consensus that it should *not* be. It won’t be adopted, only if *all* the members decide by consensus that it should not be, including the member or members in whose favor we may have ruled. Thus far this has never happened.

Whether our work is described as judicial or quasi-judicial, and whatever we may be called, we have much to do around our table in Geneva. We have much to do, because among all the international tribunals in the world, and indeed, among all the international tribunals in the history of the world, the Appellate Body of the WTO is unique in two important ways. The first way in which we are unique is that we have what we lawyers call “compulsory jurisdiction”. All WTO members have agreed in the WTO Treaty to resolve all their disputes with other WTO members involving matters that are covered by the treaty in the WTO Dispute Settlement System.

The second way in which the Appellate Body is unique is that we make judgements that are enforced. Our judgements are enforced not by us, but by the members of the WTO themselves through the power of economic suasion. The members of the WTO are sovereign countries and customs territories. If Mr. Nader or Mr. Buchanan ask what I said, be sure to tell them that I said that. The members of the WTO are sovereign countries and customs territories. No member of the WTO can ever be required to comply with any judgement in WTO dispute settlement. Yet, under the WTO Treaty, if a member chooses not to comply, it pays an economic price. That price is what the Treaty describes as compensation and the suspension of concessions, a form of damages to the other member injured in that trade dispute. These damages consist of either additional access to the market of the noncomplying member in other sectors of trade or reduced access for that noncomplying member to the market of the injured member in other sectors of trade. As this can sometimes be a very high price to pay, WTO members have considerable economic incentive to choose to comply with WTO judgements and they almost always do. The concept is akin to that of a contract. As in any contract, there are benefits and there are burdens. If one wishes to have the benefit of the contract, then one must bear the burdens of fulfilling the obligations of the contract and if one does not do so, then one

stands the risk of losing some of the benefits. This is why originally, the initial members of the GATT were called contracting parties. Any treaty, of course, is in the nature of an international contract.

These two ways in which we are unique (compulsory jurisdiction and the ability to see that our judgements are enforced) help keep us busy around our round table in Geneva in an effort to help provide what the WTO treaty calls “security and predictability” to the multilateral trading system. Our jurisprudential uniqueness is, of course, the culmination of more than half a century of building the multilateral trading system. First, under the GATT and now under the Dispute Settlement Understanding (DSU) that is the legal lynchpin of the WTO treaty. We are also kept busy because the WTO members know that when they bring a case in WTO dispute settlement that eventually reaches the Appellate Body, at the end of the DSU’s procedural pipeline, they will receive from us a legal judgement and not a political judgement. The members of the WTO know they will receive a judgement that will, in the words of the Treaty, “address the issues of law that are raised during the appellate proceeding,” nothing more, nothing less. For in addressing issues of law in WTO appeals, we seven have been and we will ever be, as one observer for the New York Times has put it, “impartial and unflinching.”

For all these reasons, in the seven years since we began working together around our table, the WTO has become, by far, the busiest international dispute settlement system in history. As the Treaty says, the aim of the Dispute Settlement System is “to secure a positive solution to a dispute involving WTO members.” As the system has grown, ever increasing numbers of trade disputes have been brought to the WTO by WTO members in search of a positive solution. There are far more disputes that are resolved short of dispute settlement than ever reach dispute settlement. I’m told by some observers that my signal accomplishment in serving on the Appellate Body has been the mere fact that I’ve been there along with my colleagues. The mere existence of a dispute settlement system in which there is compulsory jurisdiction and there can be enforceable judgements has been sufficient in many, many instances for many, many countries that are members of the WTO to resolve international trade disputes. These are the disputes that never make it into the pages of the New York Times.

The parties to the proceedings in WTO dispute settlement that arise from these trade disputes are exclusively the countries and other customs territories that are members of the WTO. There is no “standing,” as we lawyers say, for private parties to bring an action in the WTO. No one, other than the members of the WTO, is entitled under the WTO Treaty to participate in WTO dispute settlement. The implication in the treaty is that the members of the WTO themselves, the countries and the customs territories, are perfectly capable of discerning what their interests are and of asserting those interests in dispute settlement. Of course, the WTO members that are parties to our proceedings are always of the view that they are asserting and defending important domestic interests, so there are many important, private constituencies that are directly and indirectly affected by WTO dispute settlement. I’ll mention a case since it was one that was not appealed and it was some time ago. It is not by accident that what we call under the WTO the Japan photographic film case was called by the media the Kodak Fuji case. They were one and the same, but the parties to the proceedings were Japan and the United States.

As I said, in the first few years of the WTO numerous trade disputes among the members of the WTO have been settled, so to speak, out of court by virtue of the very existence of this system. Many of the other disputes, however, that have been brought to the WTO in its brief history have resulted in rulings by the ad hoc, three-judge panels that are the WTO equivalent of trial courts. At this point, about fifty of these disputes have resulted in rulings by the Appellate Body that have been adopted by members of the WTO. Almost all of these disputes have been resolved with what the parties to the disputes have viewed as a “positive solution” (again, in the words of the Treaty). Not without reason has Director General Mike Moore of the WTO frequently described the Dispute Settlements System as the crown jewel of the multilateral trading system. Peter Sutherland, the former Director General of the WTO’s predecessor, the GATT, has gone so far as to say that the WTO Dispute Settlement System is the greatest achievement of the international community since Bretton Woods.

Given the broad scope and sway of the WTO Treaty, the disputes that are resolved in WTO dispute settlement can involve manufacturing, agriculture, services, intellectual property, investment, taxation, and virtually every other area of world commerce. The appeals we have judged thus far have involved everything from apples to computers, from automobiles to semiconductors, from shrimp to satellites and from bananas to chemicals, to oil, to aerospace and more, much more. More and more varied kinds of disputes are resulting in WTO dispute settlement, as more agreements enter into force, more agreements are concluded and more concessions are made. The boundaries of WTO jurisdiction are the subject of both political and academic debate, but, clearly, the boundaries of the WTO are both extensive and expansive.

By WTO treaty, all WTO members that are parties to a dispute have the automatic right to appeal. Issues of law covered in the Panel Report and legal interpretations developed by the Panel to the Appellate Body. On appeal we shall address each of the issues raised during the Appellate Proceeding. We may uphold, modify or reverse the legal findings and conclusions of the Panel. Those are all the words of the Dispute Settlement Understanding.. Thus, (and I want to emphasize this) we cannot choose the appeals that are brought to us. We cannot choose the disputes in which we rule. Unlike the Supreme Court of the United States, we have no discretionary writ of any kind. Further, we have no power to remand a dispute to a Panel for further consideration, even if we might, hypothetically, think that further consideration might be needed. We have no authority whatsoever to decline to hear an appeal. Moreover, we have no authority whatsoever (this, too, I want to emphasize) to refrain from addressing a legal issue that has been properly raised in an appeal. The WTO Treaty says that we shall address every legal issue raised in an appeal. If a country raises the issue, we must address it. So, we do and we do so within strict deadlines established by the Treaty. Most other international tribunals have no deadlines and they sometimes take decades in which to decide. No matter how complicated the issues may be that are raised on appeal, generally we have no more than 90 days in which to hear and decide an appeal. As our record reflects, we take seriously the need to address the legal issues raised in each appeal both thoroughly and appropriately within the Treaty deadlines. We have met our treaty deadlines consistently. I am persuaded that this, too, has contributed to the success thus far of the WTO Dispute Settlement System.

By treaty we have also importantly been granted the authority to establish our own Working Procedures within our deadlines. Seven years ago, literally, we sat down at our table in

Geneva with only a legal pad and began writing our Working Procedures. It took us three weeks. The sun did not shine during all that January time in Geneva. Since then, we have made only two minor changes in our Working Procedures. In each appeal we review the Panel Record and the Panel Report, we review submissions by the WTO members that are interested parties and third parties, we conduct an oral hearing on the legal issues that have been raised and we deliberate and write a final report containing our judgement. Generally, we do so within than no more than 90 days. My colleagues would no doubt urge me to add that this is actually no more than 75 days, as we must allow two weeks for mandatory translation.

There are three official languages of the WTO, English, Spanish and French. As a matter of practice, the seven of us generally work in our common language, English. I also have what might generously be called “restaurant French.” We conduct our oral hearings in English unless asked by the WTO members participating in the hearing to do otherwise. We deliberate in English, embellished by the occasional Latin legal phrase heard around the table. We write our reports in English, our reports are then translated into Spanish and French before release to the parties to the appeal and to the world.

We have been able to meet our deadlines in part because we have shared our growing work load among the seven. By treaty, three of us sit as what we call a Division to hear and decide each appeal. Those three sign the Report of the Appellate Body in that appeal. Before a decision is reached, the three on the Division in the appeal engage in what we call an exchange of views with the four others who are not on the Division. One of the three serves as presiding member of the Division. By treaty, all seven of us serve in rotation in all of these roles and by rule, we do so on an anonymous and random basis that tends to equalize our individual workloads. When we’re working on several appeals at a time, I might, for example, be presiding in a Division in one appeal, be a member, but not presiding in another and be one of the four who is not on the Division in a couple of others. My colleagues would have a similar mixed up workload. This provides for what might be called intellectual checks and balances in reaching a consensus.

Whatever our individual role may be in any particular appeal, each of us strives always to reach a consensus in every appeal. We are not required to do so. The Treaty does not prohibit dissents. The Treaty provides only that “opinions expressed” by individuals serving on the Appellate Body must be anonymous in any such additional opinion. Thus far, in all our years of working together and in more than fifty appeals, there has not been even one dissent to the conclusions in any report of the Appellate Body. So far, all our decisions have been by consensus. I do not believe that I betray the confidentiality of our table talk in Geneva in any way by saying that the consensus we have achieved in the many appeals that have been made thus far to the Appellate Body has not always been achieved easily. Nor do I think that I betray any confidentiality by saying that our ability to achieve consensus around our table in our first seven years is a validation of the elaborate global selection process that has been employed by the members of the WTO in selecting the members of the Appellate Body through the years.

Some may say that there is no accounting for my own selection, seven years ago, much less for my reappointment by consensus a couple of years ago. As anyone from Florida could tell you, I’ve had some closer elections. As one astute observer once remarked in a letter to the

editor of my hometown newspaper in Florida about seven years ago, after I was first appointed to the Appellate Body, “I don’t know why there is all the fuss about Jim Bacchus. He is just another lawyer from Orlando.” And so I am. Yet, my colleagues on the Appellate Body have been more than just lawyers and for many, many years. From the beginning, I have been joined around our table in Geneva by international jurists of the very highest order. They have each and all been legal thinkers and legal craftsmen of the very highest quality. They have been students of history and philosophy as well as students of economics and jurisprudence. They have been students of the world who have shared a view of the better world that can be, if we succeed in our shared efforts to secure the international rule of law. All these years later, I am still a lawyer from Orlando, yet because of my colleagues and because of all that I have learned while working with them in Geneva, I am perhaps, much more than I was seven years ago.

I have heard some of the many detractors of the WTO denounce the decision makers in WTO dispute settlement as trade bureaucrats who have no appreciation for anything other than trade and worse, have no commitment to democracy. I have every intention of standing up for myself when the time comes and I think I am capable of doing that, having been elected as a Democrat in a Republican district, but I think of my colleagues who are not lapsed politicians and I wish those who say such things knew them as I have known them. In particular, I wish this were so of a lot of my fellow countrymen in the United States. If they did, they would surely be reassured about the virtues and the vision involved in WTO dispute settlement.

Together, the seven of us have learned that the issues that are raised on appeal are rarely clear cut. Even seven years on, there are many important revisions of the Covered Agreements, and in fact, some entire Agreements that are part of the overall WTO Treaty that have yet to be construed even once by the Appellate Body. Moreover, issues are raised in almost every appeal that are in legal parlance, “issues of first impression.” In truth, it might be said of the entirety of the rule-based WTO multilateral trading system that, in many ways, it poses a world of “first impression.” Given this, we seven are very much of the view that we owe it to the members of the WTO to examine every last shade of nuance of every single legal issue that is raised in every single appeal and we always do. That is why our hearings sometimes last for days, our deliberations sometimes last for weeks and our drafting sometimes lasts for draft, after draft, after draft. That is why we meet day after day around our round table. That is why we sit hour after hour, day after day, plumbing the depths and meaning of the words of the WTO Treaty, slicing the layers of logic and the interpretation of those words and turning over and over, up and down, inside and out, every last argument that may have been advanced about those words in an effort to reach a consensus on the right reasoning and the right result on every legal issue raised in every appeal. That is why we work together to forge a consensus up until the very limits of our ever present and ever pressing deadlines.

As our current Chairman, I preside over our general discussions. Our practice also is for the presiding member of a particular Division to preside in the deliberations of that Division and also in the exchange of views with that Division. As a practical matter, this usually consists mostly of keeping a list on a legal pad of the order in which we have each asked to speak. The disputes that are appealed to us and are discussed around the table are about the meaning of the obligations that are contained in the Covered Agreements. These obligations are found in the words of the Treaty. The meaning of the words of the Treaty is, thus, our constant focus in

rendering our judgements. Some commentators have pointed out our proclivity for the dictionary. As we noted in our very first appeal, this approach is in keeping with the rules of treaty interpretation found in the Vienna Convention on the Law of Treaties. Our responsibility in every appeal is to say everything about the meaning of the words of the Treaty that must be said, in order to address the legal issues raised in that appeal and, thus, assist the WTO members in resolving that dispute in a positive solution. Our aim in every appeal is to do that, only that and no more.

Our focus on the words of the WTO Treaty is as it should be. The Appellate Body exists to construe WTO rules and WTO Dispute Settlement. Yet, as we also noted in our very first appeal, WTO rules cannot, in WTO Dispute Settlement, be viewed in clinical isolation from other international law. Some may say that from time to time we may have gone too far by ruling on some of the legal issues that have been raised on appeal. In reply, I would reiterate that under the WTO Treaty, we must rule on every issue that is raised on appeal. We have no choice. The Treaty mandates that we shall address every such issue, we have no discretion not to do so. Unavoidably, inevitably, this means that we are often compelled by the fulfillment of our responsibilities under the WTO Treaty to rule on important legal issues when some who have not raised those issues on appeal, including some members of the WTO, might prefer that we would refrain from ruling. Even so, I would maintain that a careful reading of our rulings would lead most fair-minded observers to conclude that we have consistently shown a great measure of restraint. Our approach always has been one, if you will, of quasi-judicial restraint.

Some may say also, that some cases have been brought in WTO Dispute Settlement that should never have been brought before the WTO. In some instances, I might personally agree, but it is not up to me to decide which cases should be brought before the WTO. That is a decision that by right and by treaty is made only by members of the WTO. The members of the WTO bring the cases, the members alone bring the cases and to quote the WTO Treaty, “before bringing a case, a member shall exercise its judgement as to whether action under these procedures would be fruitful.”

Finally, some may say, as well, that some decisions have been made in appeals in WTO Dispute Settlement that should, ideally, have been made instead by the members of the WTO through multilateral negotiations leading to WTO rulemaking. Here, too, in some instances I might agree. Yet, it is neither my role, nor my place to make suggestions to the members of the WTO about their rulemaking, not while I serve on the Appellate Body. The members of the WTO have established an effective system for settling disputes about existing rules. It is for the members of the WTO to decide how best to establish an effective system for making new rules.

In fulfilling our responsibilities, no effort is spared by the members of the Appellate Body in the energies we devote to reaching the decisions that are reflected in our rulings. In particular, this is true of our deliberations. The deliberations around our table are the closest I am ever likely to come to the conversations that enlightened the taverns of Samuel Johnson’s London and the salons of Voltaire’s Paris. Intellectual sallies sail back and forth across the table, verbal parries go to and fro. The rhetoric around the table assumes gradually from engaging repartee to rarefied considerations worthy of medieval Thomistic angel counting on the head of a pin.

In our deliberations, we take turns speaking, there are no time limits other than those of mutual tolerance. There are no holds barred in our spirited, Socratic fray. There are no occasions when we do not endeavor to take into consideration every conceivable point of view relating to a legal issue raised on appeal. There are no resources from which any one of us might not draw in our efforts to reach a consensus on the appropriate interpretation of the words of the Covered Agreements. Through the years, I have every one from Aristotle to General Ulysses S. Grant cited as authority around our table.

I am, I confess, a reformed politician. In my time in the Congress I was rarely asked a question that I had not already been asked at least a hundred times before and I always had, as I explained, if not an answer, then at least a response. In my time on the Appellate Body I have learned that when I come to our table, I had better have answers. When I first became a candidate for the Congress, my longtime friend and mentor, former Florida governor and former U.S. Trade Representative Reubin Askew told me, “Jim, your time for reading and reflection is over.” To a certain extent, I regret to say, he was right about the Congress. Yet my years on the Appellate Body have been years of much reading and much reflection. This has been true, I imagine, for all who have served on the Appellate Body.

The panel record in each appeal consists of thousands of pages. The parties and the third parties submissions in each appeal are lengthy. At present, our working procedures do not impose page limits on such submissions. Each appeal increasingly involves issues that require an abundance of reading and reflections on other issues, and other appeals and other rulings in other relevant considerations. Each of us brings with us to our table and to our deliberations in every appeal, long hours of reading and reflection. Each of us brings with us preparation for provisional positions in which we try to take into account all the necessary questions about all the pending issues. Then, together, through mutual criticism and through considerable mutual thought, we try to find the answers. Those who have endured our interrogations in our oral hearings know the extent of our devotion on the Appellate Body to the strictures of the Socratic method. They might even rival those of Columbia Law School. Those who have argued before us might be pleased to know that the mutual interrogation in which we engage in our deliberations is no less intensive. Intellectually, there are no holds barred in our search for the right answers to the questions raised on appeal. Finally, we try to reach a decision. As we deliberate, the empty coffee cups accumulate. The water pitcher on the table is filled again and again. The table piles high with legal briefs. The nearby blackboard fills with numbers and with charts. Bright young lawyers scurry in and out of the room, as we tie up loose language and loose ends. The pages of the parties’ submissions on appeal are scrutinized and analyzed. The arguments made by the parties at the oral hearing in the appeal are recalled and recited and revisited. The nuances of past appeals are recalled, to the extent that they may be relevant. The implications for future appeals are considered. The debate back and forth across the table ranges from the meaning of a comma, to the meaning of life. Slowly, the consensus emerges.

By far, the most rewarding experience for me as a member of the Appellate Body has been the intellectual communion in which I’ve shared around our table. For time after time, around our table we have after exhausted mutual effort, made seven minds into one. In between

sips of Ronberset (sp?), we have shaped the consensus that has helped the members of the WTO shape a better world.

In conclusion, let me say again that I apologize that I am not free to say anything specific about the substance of what we say around our table. I am not free to elaborate on what we may have said in the past, or to speculate on what we might say in the future about specific legal issues in Dispute Settlement. The Rules of Conduct do not permit me to do so. Thus, I am likewise not free to say all that I might wish to say in reply to the many critics of the WTO and the WTO Dispute Settlement - not yet, not while I remain on the Appellate Body. For now, I must remain content to speak mainly in the shared voice of all who serve on the Appellate Body through the words of our Appellate Body Reports. I feel I can say this, in conclusion, perhaps it will be provocative enough to inspire a question or two: I do passionately believe our work around our table in Geneva is making an historic contribution to international law and to the establishment of the international rule of law and for this reason, our work at the WTO is an important part of the work for human freedom.