

# **Nongovernmental Organizations and the World Trade Organization**

Adam Neal Van Liere

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Approved by:

Thomas Oatley

Jonathan Hartlyn

Liesbet Hooghe

Gary Marks

Timothy McKeown

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# **Abstract**

ADAM NEAL VAN LIERE: Nongovernmental Organizations and the World Trade  
Organization  
(Under the direction of Thomas Oatley)

Since 1995 over 1,700 different NGOs have found ways to engage the WTO. They have submitted unsolicited amicus briefs and attended ministerial conferences en masse, disrupting the organization and aggravating its membership. They have also submitted over 460 position papers and participated in numerous WTO-sponsored symposia. In spite of these observations, very little is actually known about this overall group of NGOs: what causes do they represent and why do they do what they do? The state-centered emphasis of traditional international relations theory struggles to answer these questions. As an alternative, this dissertation seeks answers by profiling these NGOs and utilizing social movement theory in a multi-level framework to explore their motivations. Are these NGOs responding to the political opportunities at the WTO to defend critical interests, or are they merely using the WTO to help attract additional resources to their cause?

*To my parents, my sister, and my partner.*

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## **Introduction**

Since 1995 over 1,700 different nongovernmental organizations (NGOs) have found ways to engage the World Trade Organization (WTO). These groups have attended the ad hoc symposia held by the WTO and submitted over 490 position papers. NGOs have also attended each of six ministerial conferences. At the first such conference in Singapore, in 1996, 108 NGOs attended. By the third ministerial conference in Seattle, in 1999, that number increased almost sevenfold, to 739 NGOs. The ministerial conference held in Hong Kong, in 2005, was attended by 812 NGOs. These groups have also become active in the dispute settlement mechanism of the WTO by submitting unsolicited amicus briefs.

In spite of these observations, very little is actually known about this overall group of NGOs: who exactly are they and why do they do what they do? Such questions are important because they get directly to the heart of our understanding about how actors behave in a globalized world. The traditional expectation in international relations theory is that NGOs will work through the state to affect international politics because the WTO is an intergovernmental organization. This is a belief that is reflected in opinions expressed at WTO General Council meetings, with the membership arguing that NGOs should not play a direct role in the work of the organization. Instead, the members themselves are encouraged to work with NGOs through domestic political processes.

NGOs, however, have continued with, and in many ways increased, their direct contact with the WTO since 1995. Consequently, it would appear that these groups value this type of involvement, but why? The overall pattern of observed NGO participation calls into question the efficacy of explanations based solely on the international level or on the domestic level to explain trade policy outcomes. International-level explanations typically focus on negotiations between state actors to explain the pattern of outcomes in the trade regime while domestic-level explanations focus on the domestic factors that lead a state to pursue certain trade policies. Even where these two approaches are combined in a two-level game, the state acts as a funnel through which all other actions must pass.

The observation that NGOs become directly involved with the WTO seemingly falls outside this traditional dichotomy within international relations theory. Instead, to answer the why question it may be necessary to rethink the framework that links together different groups of actors within international politics. Rather than conceptualizing a system whereby states necessarily act as gatekeepers between domestic and international politics, it may be important to consider what happens when the rules of the system change and evolve in such a way that NGOs and international organizations like the WTO will interact with one another.

## **Defining Terms**

As with any attempt to examine some facet of global governance and regulation, it is necessary to define the key terms that are used throughout this dissertation. Since the

focus of this dissertation is on the WTO, the larger debate regarding what constitutes “globalization” can be sidestepped. However, it is important to offer simple definitions for the three groups of actors whose interactions form the basis for analysis that follows: the states, the NGOs, and the WTO itself.

In international relations theory, states are commonly defined as sovereign territories where the ruler or government has final authority within the boundaries of that state. For the purposes of this dissertation, the terms state and country will refer to the government of a state or customs territory that has full autonomy in conducting its trade policies. By including customs territories in this manner, it becomes possible to refer to all members of the WTO with a single term. Examples of customs territories that are members of the WTO include Chinese Taipei and Hong Kong. In each case, the customs territory maintains sovereign control over trade policy within its boundaries but the territory itself would not be recognized as a proper state.

The term NGO traditionally refers to value-based organizations that are independent of governments. In slight contrast to these definitions, the use of the terms NGO and non-state actor in this dissertation will refer to any private actor affected by or interested in outcomes at the WTO. Consequently, the types of groups considered include the value-based organizations such as development and assistance-related groups like Oxfam or environment-related groups like the World Wide Fund for Nature. But the usage here also incorporates economic-based organizations such as business associations. Additionally, this definition includes groups whose purposes are both value- and economic-based such as the World Confederation of Labour.

The WTO is an international organization that provides a forum for trade negotiations, a set of rules for managing international trade, and a place for settling disputes between member states. With regards to traditional international relations theory, this is where the definition of an international organization would stop. However, it is important to recognize that the WTO is more than just a table at which member states gather for these reasons. The WTO deals in issues that create both the winners and losers. As such, the organization plays a direct role in shaping the behavior of states and NGOs affected by the agreements and dispute settlements.

### **Dissertation Outline**

This dissertation is divided into two principal sections. The first section, chapter two, examines conventional explanations for the role of NGOs and the WTO in international politics, such as those framed within the international-level and the domestic-level literature. This chapter then develops an alternative framework for conceptualizing how different groups of actors like states, NGOs, and the WTO might interact with one another within international politics. The second chapter further develops two basic hypotheses to help determine the plausibility of this new conceptual framework by evaluating why NGOs are engaging the WTO. The first hypothesis takes a top-down approach positing that NGOs engage the WTO because they are aware of the structure of the system and concerned with the affects it will have on the issues they care about. The second, competing hypothesis involves bottom-up considerations whereby

NGOs may be seen as engaging the WTO but their real concern is with the mobilizing resources and networking with other NGOs.

The second section, chapters three and four, takes a closer look at the NGOs that have engaged the WTO to assess the two hypotheses developed in chapter two. Chapter three examines the overall population of groups that have attended the six WTO ministerial conferences. The development of this population description is important because it has never been done before but it seems a necessary prerequisite for fully explaining why NGOs engage the WTO is understanding who exactly those NGOs are. Using information from the WTO and other sources this chapter describes the overall population and their countries of origin and takes a more detailed look at the types and issues represented by some of these NGOs. This chapter also includes the results of Tobit regression analysis that examines the effect that an NGOs relationships with other international organizations or nongovernmental organizations has on the frequency of attendance at WTO ministerial conferences for which it is available.

Chapter four explores the relationship between NGOs, the WTO, and the environment more generally but also looks at the specific dispute settlement case involving United States' regulations on the importation of shrimp that did not adequately protect endangered sea turtles. As the international trade system has evolved, the environment is an area that has become increasingly important for managing the how states trade with one another that has the potential to significantly affect the outcomes that are desired by a broader set of NGOs. The shrimp-turtle dispute initiated by India, Malaysia, Pakistan, and Thailand against the United States in early 1997 is important

because it represents the first time NGOs were allowed to submit unsolicited amicus briefs, and that was only after the Appellate Body reversed the initial panel decision on the matter.

Before proceeding it is useful to clarify what this dissertation is and is not about. First, it is important to keep in mind that the term NGO is used here to refer to same set of groups that the WTO refers to as NGOs, all organizations that are not governments and do not hold observer status to the various WTO bodies. As a consequence, the list of NGOs examined includes groups like the Center for International Environmental Law and Greenpeace International as well as groups like the American Fiber, Textiles and Apparel Coalition and the Minerals Council of Australia. Although the reasons why such organizations exist might vary from values to economics, they are all organizations that have stepped outside the traditional two-level game to participate directly with the WTO.

It is equally important to note the scope of this dissertation rests with trying to understand why NGOs would step outside the traditional two-level game to directly engage with the WTO. At this time the goal is not necessarily to determine whether these groups were successful in achieving their desired outcomes. Similarly, the goal here is not to evaluate whether globalization or NGO contact with the WTO has somehow weakened the role of the state. Finally, this dissertation is only focused on direct NGO contact with the WTO and not direct NGO contact with all intergovernmental organizations. Although these various claims may represent avenues for further study, this dissertation is most intrigued with the question of why NGOs would ultimately bypass the state in order to directly engage the WTO.

The methods employed in the second section of this dissertation are largely inductive in nature because very little is known about the overall pattern of engagement by NGOs with regards to the WTO. The general observation of NGO involvement with the WTO suggests that both of these hypotheses may be reasonable characterizations. However, it is still necessary to gather information to thoroughly examine how actors have behaved. When done correctly, case studies can provide evidence for or against the plausibility of these core characterizations and, moreover, case studies are particularly useful during the initial stages of theory construction (Eckstein 1975; George and McKeown 1985).

Empirically, case studies are appropriate because they are exceptionally adept at untangling complex relationships (Eckstein 1975; George and McKeown 1985; Van Evera 1997). Although the two hypotheses presented here could be seen as competitors, it is wholly conceivable that the actual reason NGOs engage the WTO is a combination of both top-down and bottom-up considerations. Or, it is possible that some groups are responding to top-down concerns about the structure of the international trade regime while other groups are responding to the bottom-up pressures of needing to mobilize resources. The complexities involved with understanding all of these considerations lend themselves to more case-study-like analysis that can be more adept at determining why NGOs are participating directly with the WTO.

## **The Changing & Evolving Trade System**

Several key changes to the structure of the international trade system have taken place since the end of World War II. These events provide the backdrop against which the theoretical argument presented here rests. It is, after all, the combination of the observed interactions between NGOs and the WTO along with the knowledge of how the system has changed that led to the initial questioning of the efficacy of conventional international relations theory for explanations regarding the contemporary relationship between states, NGOs, and the WTO.

The GATT agreement signed by twenty-three states in October 1947 sought to establish a multilateral framework for the rules used to govern border measures that affected international trade. Among the guiding principles enshrined in the GATT was the importance of “most-favored-nation treatment” and of “national treatment.” Under the former, member state were expected to treat all other members of the agreement equally and under the latter, member states were expected to treat foreign producers the same as they would domestic producers once the foreign good had entered into the domestic market. However, the GATT also allowed for temporary exceptions to these rules if the measures could be supported on grounds that did not constitute arbitrary and unjustifiable discrimination or trade barriers. As important as these basic principles were, the GATT also benefited from its original functioning as a small club of like-minded states committed to these general principles. Consequently, the initial system retained a degree of ambiguity and left significant political autonomy with the member states so

these states had more flexibility dealing with domestic politics (Barton et al. 2006; O'Brien et al. 2000).

Although these core principles have changed little in the sixty years since the GATT was first signed, the institutional management of international trade has evolved. Perhaps the most obvious transformation of the system was the 1995 transition from the more provisional GATT to a formal international institution in the WTO. Within this context it is certainly possible to identify a number of important and ostensibly abrupt changes, such as the revised dispute settlement mechanism and the move towards regularly scheduled meetings, which make the WTO system appear radically different from the earlier GATT system. However, it is also important to couch these changes within the broader evolutionary shifts that have occurred throughout the GATT and the WTO systems, such as addition of new members and the expansion of issues areas considered during negotiations. When taken together, the abrupt and evolutionary changes illustrate how the multilateral system for managing trade has changed in significant ways while remaining remarkably similar.

There are three seemingly abrupt changes created by the transition from the GATT to the WTO that stand out in particular. First, when viewed as an arbiter for international trade disputes, perhaps the most important structural change to accompany the transition included the creation of a dispute settlement system aimed at fixing the perceived problems the old system. Specifically, the biggest threat to the continuing legitimacy of the GATT had been the ability of member states to block either the creation of a dispute panel or the adoption of the panel report (Alter 2003). In the WTO, dispute

panels are now automatically created when a complaint is received and the panel reports are automatically adopted unless there is a consensus that it be rejected. Thus, in principle, the WTO dispute settlement process seemingly allows for a greater chance that agreements will be implemented and that the rules-based nature of the international trade system will be strengthened (O'Brien et al. 2000).

Besides modifying the dispute settlement process, a second structural change made by the transition from the GATT to the WTO involved the establishment of a built-in agenda for negotiations that occur during biannual ministerial meetings. Originally, GATT members were called together to open and close meetings that occurred at various intervals from one another. The Dillon Round from 1960 to 1961 was followed three years later by the Kennedy Round from 1964 to 1967 but six years separated that round from the Tokyo Round from 1973 to 1979. Consequently, a commitment to biannual meetings was intended to create continued momentum for further trade liberalization, but it also keeps the entire trade system squarely in the view of the public and the groups most interested in trade-related policy (O'Brien et al. 2000).

A final important change resulting from the transition to the WTO has been an opening up of the system to the public and interested parties in ways that the GATT never had. Such efforts have included placing the text of all agreements and dispute panel findings on the internet. Similarly, the WTO has actively sought input from NGOs in the form of both general position papers submitted to the organization and amicus briefs submitted in conjunction with the dispute settlement process. Such efforts were not attempted in the earlier GATT system because, in part, the states retained a certain

amount of autonomy and flexibility with regards to satisfying domestic groups interested in trade-related policies. Consequently, the successes and the failures of the GATT never drew as much public attention and the interest groups that did care about trade policy seemed content to lobby state governments.

As significant as the transition from the GATT to the WTO was, these transformations did not happen without warning but were a partial response to evolutionary changes that have occurred since the original agreement was signed in 1947 and have continued even after the transition in 1995. Specifically, there are at least two key evolutionary changes that affected management of the international trading system. The first such change involves the gradual expansion of the membership in the GATT and the WTO. The original 1947 agreement was signed by twenty-three member states. The number grew over the next decades, with the Dillon Round involving 26 states, 62 states in the Kennedy Round, and 123 in the Uruguay Round. The total number of members plays an important role in rounds of negotiation because the GATT strove for consensual agreements. Consequently, the agreements that are reached must appeal to the lowest common denominator, which can be significantly more difficult in reaching when there are 123 members than when there are 23. Another consequence of this growth has been a shift away from dominance of the trade system by the United States and a rise in dominance by other states, notably those of the Europe (Barton et al. 2006).

The second evolutionary change includes the expanding scope of the GATT and the WTO. Tariff reductions were the subject of negotiations during the first rounds, from 1947 to 1961, where the focus was on product-by-product tariff reductions among the

member states. The Kennedy Round, from 1964-1967, brought about tariff reduction across the board as well as the GATT Anti-Dumping Agreement and a section on development. At the Tokyo Round, from 1973 to 1979, tariff reductions continued to play an important role but the focus had further expanded into the reduction of other, non-tariff barriers. And by the Uruguay Round, from 1986 to 1994, the subjects included tariffs, non-tariff barriers, agriculture, textiles and clothing, intellectual property, as well as ten other topics. Just as important as these changes, however, has been the gradual expansion of the GATT and the WTO into areas that are not solely related to trade and that seem to stretch beyond the original competencies of these organizations.

All together these transformations imply that the multilateral system for managing international trade has changed in profound ways from its beginnings in 1947 while remaining committed to basic principles that underlie the original GATT system. The traditional market approach has been replaced with a more hierarchical, political system that resulted from a shifting emphasis on policy autonomy. The original design of the GATT ensured the autonomy of the member states themselves. By contrast, the structure of the WTO diminishes the amount of autonomy individual states have in an effort to act more effectively and legitimately in establishing rules for international trade as well as arbitrating disputes between member states (O'Brien et al. 2000).

## **Theory**

To better understand why nongovernmental organizations directly engaging the World Trade Organization represents an interesting puzzle, it is important to understand the conventional explanations that dominate contemporary international relations theory. Borrowing from Mayer (1998), it is possible to classify these explanations as belonging to the rational choice mode of politics. Here the actors are generally assumed to have stable preferences over the prospective outcomes and to adopt strategies that are expected to yield the highest value after considering their options and the likely outcomes. Who exactly the actor is in these explanations is contingent on the level of analysis employed. As noted previously, international relations theory can be divided into international-level explanations operating at the international level of analysis, with an emphasis placed on negotiations between states. Domestic-level explanations, meanwhile, operate at the domestic levels of analysis and emphasize the importance of domestic politics.

International-level explanations focus on organizations like the WTO as rules and enforcement mechanisms that help states overcome the anarchic system and achieve international cooperation. The prisoner's dilemma is often used to explain the basic predicament that states face. Consequently, the central dilemma is that although all governments could benefit from international cooperation by adopting cooperative strategies, these same governments have strong incentives to not adopt such strategies.

However, states can also create international organizations to provide constraints and rules that structure political, economic, and social interactions within the international system (Keohane 1984; Martin and Simmons 1998; North 1991). International organizations are created to facilitate cooperation by helping states resolve, or at least minimize, this core strategic problem.

Using this international-level approach it is possible to describe the creation of the GATT system in 1947 as being rooted in the interest of like-minded states that wanted to establish a framework for preventing the beggar-thy-neighbor policies that contributed to the Great Depression. When designing such an institution, however, the relative flexibility afforded by emphasizing state autonomy allowed the members of the GATT to deviate from rules when necessary, and this ambiguity was seen as essential for helping states deal with domestic politics (Barton et al. 2006; O'Brien et al. 2000). Additionally, by focusing on more flexible rules, the earlier GATT system was able to avoid explicitly laying out rules that would have made it easier to define the winners and losers, thereby potentially threatening support for efforts to liberalize international trade (Goldstein and Martin 2000).

These international-level explanations can also provide at least a partial account for the various changes experienced throughout the last sixty years of the GATT and the WTO. Changing the unilateral nature of the dispute settlement mechanism in the GATT, for example, was rooted in efforts to combat the importance of state autonomy and the threat it posed to the legitimacy of the system (Alter 2003). States that could take unilateral positions tended to be the economically powerful states, while smaller states

were less likely to challenge the powerful states for fear of the devastating consequences of a trade war (O'Brien et al. 2000). Within this context, the changes made to the international trade system from the GATT to the WTO were intended to enhance the overall international trade system by helping increase benefits to all members (Goldstein and Martin 2000). From the international-level approach, such reasoning helps explain why even the great powers within the international trade system would willingly create an institution that limits autonomy and power (North 1991).

Whereas international-level explanations focus on interactions between states, domestic-level explanations of international relations focus on domestic politics. Here it is common for explanations to rely on positive theories to explain the trade-offs faced by politicians and interest groups. Economic theories of regulation, for example, contend that the state, and its ability to regulate, can be either a potential resource or a hazard to groups within a society and that these groups will seek to affect regulations in a manner most likely to benefit them (Stigler 1971). Therefore, politicians and political parties will supply regulations to groups in the way they feel will most likely maximize their chance of winning an election.

The special interests considered in all of these domestic-level models are tied to the various economic interests of the groups lobbying the government. The nature of the interest groups most likely to lobby the government in these models depends upon beliefs tied to two different frameworks for understanding how economic interests translate into political activity (Fordham and McKeown 2003). In sectoral models, like Ricardo-Viner, the export-oriented sectors are most likely to win whereas the import-competing sectors

will lose from increased international trade. Conversely, Heckscher-Ohlin models predict gains from trade for the abundant factor within a state while the scarce factor loses because of increased competition from the rest of the world.

Within endogenous tariff theory, the locus for interactions between politicians and interest groups generally focuses on efforts to win elections. In some instances the political parties set their policy positions and then different interest groups choose whether to support them or not in order to increase the chances that a given candidate wins the election (Hillman and Ursprung 1988; Magee et al. 1989). Others argue incumbent governments use international trade issues to help maximize political support for reelection by focusing on the desires of interest groups offering support against the deadweight losses that might be felt by society as a whole (Hillman 1982). Or, interest groups might be the ones to offer the government a menu of choices, and the contributions they make are a function of which items the government selects from this menu (Grossman and Helpman 1994).

Domestic-level explanations look to the preferences of interest groups within the states in order to understand why the GATT was adopted while the International Trade Organization was unlikely to ever be ratified by the United States (Aaronson 2001; Barton et al. 2006). Here, for example, the pattern of tariff measures covered by the original GATT agreements included many areas important to American exporters so they could gain greater access to foreign markets. Similarly, important shifts in voter preferences have occurred within the dominant states in the international trade system that have made it difficult to find support for free trade (Barton et al. 2006). From the

perspective of the domestic-level literature, such shifts might explain why governments would support a reduction in their autonomy as a way to bind their hands or why states will defect from cooperative agreements even when a viable enforcement mechanism is in place (Goldstein 1996; Goldstein and Martin 2000; Oatley 1999).

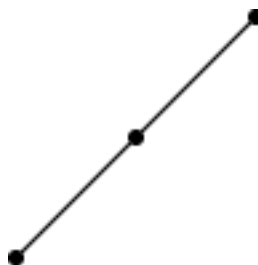
Research that ties together both international-level and domestic-level processes typically takes the form of two-level games (Putnam 1988). But there is a limit to the type of questions such games can answer because they ultimately rely upon the state to act as a gatekeeper between these two levels. In particular, the central question that frames this dissertation is centered on NGO behavior that seems to step outside of this two-level game. What is missing from these state-centered explanations is whether or not changes at either the international level or the domestic level could alter the behavior of NGOs in ways that do not necessarily require the state to act as mediator. Whether, for example, institutional change at the international level or mobilization at the domestic level could drive these NGOs to seek out new methods for influencing policy and marketing their cause.

If direct engagement between NGOs and the WTO falls outside of the standard two-level approach, it fits within the multi-level framework that connects these different actors together. Such multi-level frameworks have been developed principally to explain the evolution of the European Union, and it is possible to detail three key assumptions that may prove useful for considering NGO involvement with the WTO. First, multi-level arguments do not reject the notion that sovereign states may be the single most important set of actors in the system, but they do recognize the existence of other actors;

second, policy-making responsibilities are shared among a variety of actors; and, third, the various political arenas are interconnected, rather than nested, with one another (Hooghe and Marks 2003; Marks et al. 1996).

### **Rethinking the Framework**

In order to move towards an understanding of why NGOs engage the WTO directly and of whether this interaction matters for outcomes, the conceptual framework used to explain the interactions of states, non-state actors, and international organizations must be changed. Doing this requires moving away from the straight-line framework of traditional international relations theory and towards a triangular conceptualization of the system. In either case, the three groups of actors can be thought of as separate points but each framework connects these points together differently. The straight-line framework, see Figure 2.1, connects the non-state actors to the state and the state to the international organizations but a triangular framework connects each point to the other two. As such, utilizing this triangular conception of the trade regime can better illustrate the differences that exist between the GATT and the WTO.



**Figure 2.1: The Straight-Line Framework**

In particular, a triangular view of the relationships within the trade regime makes it possible to incorporate the insights of traditional international relations theory while also viewing the current trade regime more along the lines of a multilevel system of government. As Figure 2.2 demonstrates, the triangular view does not preclude the existence of a “straight-line” system whereby one side of the triangle is blocked and non-state actors, for example, must work through states in order to influence politics at the international organization. The market-like, intergovernmental structure of the GATT system, with both its emphasis on state autonomy and its limited focus on tariffs and other border measures, blocked the side of the triangle connecting non-state actors to the international organization. Within this system, any state could stop a dispute from going forward or prevent the adoption of a panel report concerning a dispute. Similarly, the narrow focus of the GATT meant fewer groups would be aware of the potential implications that international trade regulations may have on them. Ultimately, non-state actors that sought to affect international trade regulations had every incentive to work through the states and little or no incentive to work with the GATT directly.



**Figure 2.2: A Triangular View of the “Straight-Line” Framework**

Whether by design or by accident, the change from the GATT system to the WTO has transformed the trade regime into a more confederal-like, multilevel system. In this context, the side of the triangle that connects non-state actors to the international organization has been opened so that both sides may interact directly with one another. The WTO also makes it impossible for any one state to block the creation of a dispute settlement panel or the adoption of the panel report. Similarly, the WTO has expanded beyond just tariffs and border measures into a whole host of issues, like the environment and intellectual property rights, that are more likely to get the attention of a variety of non-state actors primarily interested in the non-economic consequences of international trade agreements. By using a triangular framework for the international trade system, direct interactions between NGOs and the WTO are not surprising. Moreover, this triangular view can help explain why some NGOs, particularly those cut off from affecting the state directly, would hope to use environmental regulations or labor standards tied to international trade agreements as a boomerang-like method for influencing those states (Keck and Sikkink 1998).



**Figure 2.3: A Triangular Framework**

At the most general level, international organizations like the GATT and the WTO ultimately define the option sets for these three groups of actors which, in turn, influences their behavior (Hall and Taylor 1996; North 1990; Pierson and Skocpol 2002). Under the “straight-line” calculus of the GATT, states need not worry about threats to their interests because they could veto any such attempts to impinge on their interests. If a non-state actor wanted to affect the international trade regime, it had to work through a state because interacting with the GATT was formally blocked. Within this type of framework, non-state actors that were also prevented from influencing states would have no other options for affecting outcomes in the international trade regime. However, the transition to the multilevel calculus of the WTO altered these basic option sets. States can no longer stop actions from being taken against them and must also consider the possibility that they will be expected to alter domestic regulations depending on the findings of a panel report. Within the WTO system, the side of the triangle that connects non-state actors and the international organization has been opened thereby expanding the option set for these actors if they wish to affect states or the trade regime.

The abrupt and evolutionary changes to the international trade regime can be understood in terms of historical and rational choice institutionalism. Within rational choice institutionalism, for example, institutions are generally designed in an effort to reduce transaction costs and production costs that might exist without the institutional cooperation (Hall and Taylor 1996; North 1990). The original design of the GATT largely grew out of efforts to solve the collective action problem posed by trade barriers and a desire to prevent another Great Depression. As new members joined the GATT,

however, the system evolved to accommodate agreements concerning a wider variety of interests as well as the eventual expansion into managing other, non-tariff barriers to trade. The outcome of each round of negotiation was largely the product of strategic interactions between the member-states and the agreements themselves embodied the lowest common denominator among these members.

However, that is not to say that the outcomes witnessed under both the GATT and the WTO necessarily represent the preferences of the member states or other actors involved in negotiating new agreements. Rational choice institutionalism, in particular, utilizes such explanations for describing why an institution survives (Hall and Taylor 1996). Instead, it is possible that the outcomes here are actually the unintended consequences of other, more functional goals. From this perspective the appearance of large groups of protestors in the streets of Cancun, Geneva, or Seattle was likely an unintended consequence of moving to a regular schedule of negotiations rather than the ad hoc system used by the GATT. The rationale for setting up regular rounds of negotiations had more to do with and institutional interest in maintaining momentum in future trade negotiations.

When taken together, the triangular conceptualization of interactions in the trade regime, the importance of institutional structure for shaping the option sets of actors, and the long-term historical processes at work provide the basic framework for understanding why NGOs would interact directly with the WTO today. What all of these cannot do is make specific predictions about how the various groups of actors are going behave within this broader framework. To be able to make those predictions it is necessary to consider

what these actors care about, what these actors can do to get the attention and support of other actors, and what determines how successful these actors will be at getting the attention and support they desire.

### **Explaining NGO Actions**

By rethinking the conceptual framework it is possible to formulate two basic hypotheses about why NGOs become involved with the WTO. These hypotheses can act as a basic test of the plausibility of this overall triangular framework. The first hypothesis focuses on the top-down political opportunity structure associated with the WTO while the second is a bottom-up hypothesis based on the resource mobilization efforts of NGOs. Regardless of whether these groups are responding to top-down or bottom-up pressures, the belief is that they have some goal in mind and some belief about how to achieve that goal. Both hypotheses, therefore, draw upon literature common to comparative politics and social movements to examine why such behavior may not be as irrational as it first appears from a two-level game approach.

Indeed, both of these hypotheses regard NGOs as being procedurally rational even if it is not clear what their substantive preferences are based upon. For all of these NGOs, their involvement with the WTO represents a means toward some end but the nature of the end varies depending on the story. Such engagement may be driven by an interest in influencing policy at the WTO because it affects their cause. Or, it may reflect an opportunity to use the WTO as a springboard to increasing the visibility or importance of a particular NGO and its cause.

The group of NGOs present can be generally subdivided into three broad subgroups: economic-based NGOs, value-based NGOs, and epistemic communities. The differences between these subgroups correspond roughly to their different motivations and different endowments of political resources (Keck and Sikkink 1998). Economic-based NGOs are likely to pursue instrumental goals that are themselves defined by the position of the group with both the domestic and the international economy. Value-based NGOs are likely to have goals defined by whatever common ideological, moral, or value-based belief brought the group together. Epistemic communities are motivated by shared causal beliefs and are likely to pursue goals tied to their technical expertise and convincing others of their importance.

Very little is known about the overall level and pattern of NGO involvement with the WTO. Therefore, the emphasis here is not on creating detailed hypotheses about each type of NGO, but on capturing basic explanations to help guide learning about these groups and their actions vis-à-vis the WTO. Regardless of whether an NGO is economic-based, value-based, or an epistemic community, the group shows up in this analysis because it has stepped outside of the standard two-level game of international relations theory to directly engage the WTO.

Though several studies examine NGOs and the WTO, the focus of these analyses tends to emphasize specific types of NGOs, like social movements, or within the context of a specific issue, like the environment. For example, Williams and Ford (1999) examine both lobbying efforts and more confrontational approaches between environmental social movements and the WTO. Meanwhile O'Brien et al. (2000)

consider similar issues as well as efforts by organized labor to establish standards at the WTO. Although insightful, neither of these arguments are anchored to a broader analysis that describes what proportion of the NGOs involved with the WTO are organized around these causes. Consequently, the analysis offered in these other works will benefit immensely from additional observation of NGO participation with the WTO.

### **A Top-Down Hypothesis: Political Opportunities**

International organizations like the WTO define the opportunity structures, or option sets, for other actors, which influence the behavior of those actors (Guidry et al. 2000; Hall and Taylor 1996; North 1990; Pierson and Skocpol 2002). This observation is all the more important considering that the rules established in an organization like the WTO ultimately shape who wins and who loses from international economic exchange (Viscusi et al. 2005). By privileging state autonomy, the GATT was able to constrain the options available to NGOs such that a two-level approach would make sense and these groups would work through state governments. However, the belief the WTO restricts state autonomy leaves NGOs in a situation where they must make international linkages, including getting involved with the WTO, to compensate (O'Brien et al. 2000).

Within this context, it is conceivable that NGOs involve themselves in the business of the WTO because they wish to influence policy at the organization. This may be important insofar as they believe the WTO is likely to affect their chances of winning or losing at either the international level or the domestic level. At the international level, the rules governing trade are particularly important for economic-based NGOs, but even

value-based NGOs may also hope to influence international trade policy as a way to support their cause. The success of both the GATT and the WTO systems for achieving trade liberalization was partially tied to the successful creation of economic coalitions supporting exports that were bigger than the coalitions resisting imports (Barton et al. 2006). Consequently, both the winning and losing NGOs have offered the WTO concrete proposals for ways to utilize trade policy to their advantage.

To better understand the opportunity structure of the WTO system, it is necessary to understand both the formal and informal political opportunities for NGOs. Most obviously, the WTO has established guidelines indicating a desire to increase contact with NGOs and has invited these groups to become involved with the organization. However, this invitation does not necessarily account for the contact insofar as these groups could still be better served by engaging the states themselves. Therefore, it is necessary to consider a number of key changes to the broader context of the trade regime that could also affect the desire of these groups to get involved with the WTO. This context can be divided into the changes associated with the transition from the GATT to the WTO in 1995 but also the gradual changes that have characterized the evolving trade regime.

Among the changes associated with the transition from the GATT to the WTO, two stand out for altering the opportunity structure available to NGOs. The first important change involves the limits placed on state-autonomy by the WTO. In particular, the binding nature of judgments made by the WTO means that an NGO must be willing to look beyond the domestic-level if it wishes to protect its favored policies or

advocate for changes. This alters the basic dynamic of the standard, micro-oriented explanation of trade policy because it places limits on the types of policies that a government can credibly offer to domestic interest groups as a way to win their support. Consequently, an NGO must be aware of and willing to spend resources on direct engagement with the WTO if it has an interest in affecting international trade policies.

The second important change involves the movement towards a regular schedule for trade negotiations. Utilizing a regular schedule, both for ministerial conferences and for symposia, provides NGOs with a better awareness of when and where meetings will take place. As such this schedule provides NGOs with greater incentive to take to the streets during a conference to both influence members and the WTO at that conference as well as affect the agenda for future conferences. When combined with the first change mentioned, the WTO system also provides an incentive to engage directly with the institution so that a group may help set the agenda on the issues it cares about for fear that the WTO might otherwise rule against such policies.

In addition to these two fundamental changes, several others have already been highlighted here. In particular, the size of the organization itself has grown. The original GATT agreement signed in 1947 brought together 23 like-minded member states, but the WTO today has grown to include 152 members with a diverse interests. Similarly, the scope of the agreements has changed over time. The trade regime has moved beyond simply trying to reduce tariff barriers to include a wide variety of measures that may distort the promise of free trade. Some of these measures include issues tied to development and trade or the environment and trade. Both of these changes, to the size

and to the scope of the organization, ultimately mean that a greater number of NGOs will have an interest in the policies of the WTO and an interest in getting involved with the organization to affect change.

If the general argument about rethinking the framework that links together states, non-state actors, and international organizations is correct, then the expectation here is that the NGOs directly engaging the WTO will reflect this sentiment. For example, attendance and WTO-sponsored events, like the ministerial conferences, will have very little turnover with regards to the groups that actually show up because of their concern with the structure of the system and their desire to affect change. Or the NGOs themselves will be more likely to express concern about the outcomes at the WTO itself because of the affect such outcomes will have on the issues they care more about.

### **A Bottom-Up Hypothesis: Resource Mobilization**

Separate from the opportunity structures, another important aspect for understanding the behavior of NGOs is the mobilizing structures through which they organize (Guidry et al. 2000; McAdam et al. 1996a). Such mobilizing structures are important for ascertaining how a group will gain the resources necessary to accomplish their goals and can include both external and internal resources (Tarrow 1998). Given the rapid increase in the overall number of NGOs—variously defined as interest groups, social movements, transnational advocacy networks, and so on—there is also increased competition amongst these groups for the resources they need to assert their importance

vis-à-vis these other NGOs (Smith 1997). Consequently, two possible bottom-up motivations exist that might lead an NGO to directly engage the WTO.

In the first instance, NGOs may be aware of the political opportunities offered by the structure of the system, but they are motivated to engage the WTO for reasons tied to their ability to mobilize resources for themselves and their cause. Such groups may hope to assert their position within the overall hierarchy of NGOs by taking charge of monitoring policy at the WTO and informing others of actions or decisions that could affect their causes. By contrast, a second bottom-up motivation does not require the NGOs to know anything about the opportunities created by the WTO because they are ultimately responding to calls for mobilization from other NGOs. Although the WTO is responsible for the international trade regime, it also represents a more general trend towards greater global governance and globalization. Therefore, it becomes a viable target for NGOs interested in mobilizing for or against global governance and globalization regardless of whether they are formally interested in the functioning of the international trade regime.

To better understand the mobilization opportunities presented by getting involved with the WTO, it is necessary to consider key external and internal resources that characterize this modern system as well as the potential benefits such involvement could confer to NGOs. External resources for mobilizing include the transition to a regular schedule of meetings with the WTO. Here the emphasis is not on the political opportunities presented by these meetings as much as the potential press coverage that accompanies these meetings. NGOs that attend ministerial conferences, in particular,

may hope the press coverage of the conference will spillover to their causes and involvement. This, in turn, will help them reach a wider audience without having to expend as many of their own resources and without specific regard to the workings of the WTO itself.

From the perspective of internal resources, technological progress has been put to great use by NGOs. A change in how information can be shared within and between groups has drastically altered the resource costs of launching coordinated collective action or engaging an organization based continents away. Additionally, coalitions of individuals and groups can be forged online and made aware of the actions of an organization, like the WTO, more quickly. An NGO with an internet connection can quickly locate the website of the WTO and find out how to submit position papers to the organization. They may sign up for email lists from the WTO itself or create their own distribution list to keep interested parties informed. Additionally, the internet is a helpful resource to overcome the collective action problem that may occur if groups are forced to draw on local members only. As with the external resources, these internal resources do not necessarily require the groups to respond to the WTO itself or simply the opportunity for mobilizing presented by the WTO.

Another way of ensuring that an NGO has access to the resources it needs is to prove that it is respected and accepted by external groups, including through its ties to international organizations like the WTO. Here the groups are better aware of the overall structure of the system but the motivation still lay with asserting their dominance amongst competing NGOs. By getting involved with the WTO, a trade association, labor

union, environmental group, and so on, an NGO may be in a stronger position to assert that it is the authority in dealing with issues regarding labor rights and trade or the environment and trade. As the effects of the other elements influencing mobilizing structures lower the barriers for entry to more NGOs, this element may prove more and more important as organizations jockey for position with one another.

If the general argument about rethinking the framework that links together states, non-state actors, and international organizations is incorrect, then the expectation here is that the NGOs directly engaging the WTO will reflect this sentiment. For example, attendance at WTO ministerial conferences will largely involve groups from the host country and region, or potentially neighboring countries and regions. Or, correspondence among the groups will reflect more of a tone of using the WTO to raise money from their members than a concern for the outcomes at the WTO itself.

## **The Population of NGOs**

Explaining why certain nongovernmental organizations have chosen to engage the World Trade Organization requires knowing more about these groups: where are they from, what are their types, and what are the issues they represent? In 1996 the WTO adopted a set of general guidelines outlining its relationship with NGOs. The WTO did so while acknowledging that its member states “recognize the role NGOs can play to increase the awareness of the public in respect of WTO activities and agree in this regard to improve transparency and develop communication with NGOs” (WTO 1996). Contact between the WTO and these NGOs has generally fallen into four types: attendance at ministerial conferences, submission of position papers, attendance at issue-specific symposia, and submission of amicus curia briefs. Of these four types of contact, complete listings of NGO participation is only available for the first two forms, with NGO participation at the ministerial conferences beginning in 1996 and the submission of position papers beginning in 1998.<sup>1</sup>

This chapter develops a general description of the population of NGOs that have attended each of the WTO’s first six ministerial conferences: Singapore in 1996, Geneva in 1998, Seattle in 1999, Doha in 2001, Cancun in 2003, and Hong Kong in 2005. The

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<sup>1</sup> The WTO does maintain listings of the groups and individuals participating in issue-specific symposia, however, these lists are kept confidential. The WTO does not maintain a centralized listing of the amicus curia briefs submitted as part of the dispute settlement process as those records are deemed confidential to the cases themselves. This was confirmed via personal communications with the WTO during June and July of 2008.

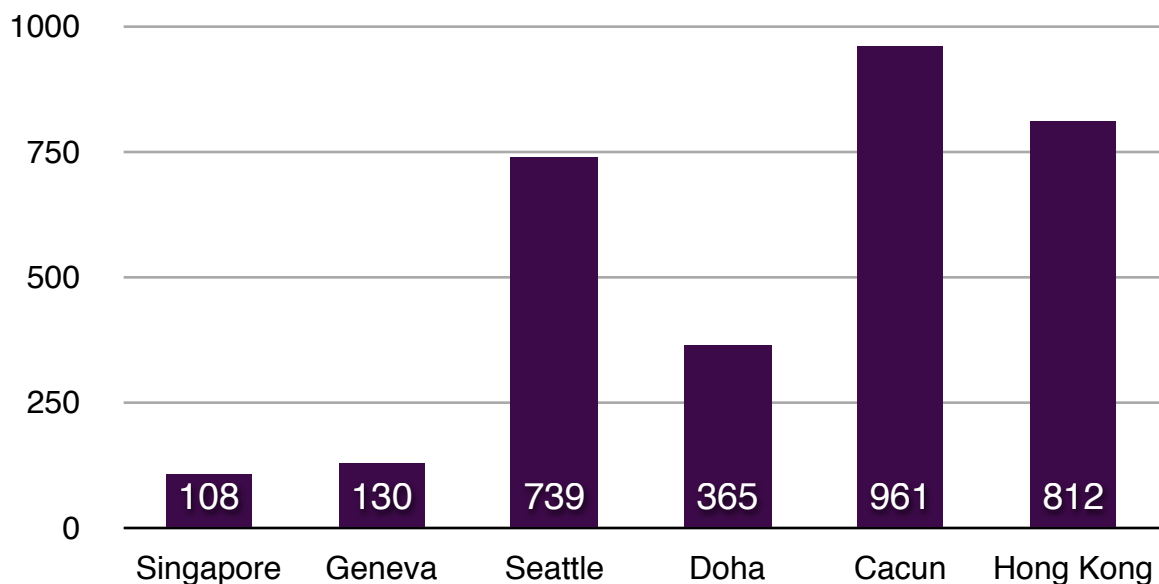
information that is presented here comes from two principle sources: the WTO for the listings of the organizations that attended each conference and their country of origin and the *Yearbook of International Organizations* (UIA 2009) for details on the type of the organizations and the issues they represent. Using this information, it is possible to evaluate the plausibility of the theoretical argument and hypotheses presented in the last chapter. This can be done by looking, first, at the frequency of attendance by this population of NGOs and at how the composition of this population has changed over time. Second, by looking at the attendees at each individual conference and, third, by examining more closely the linkages between these groups.

Although the information presented here is largely descriptive, the simple act of cataloging the NGOs that have attended WTO conferences is an important first step in developing a population ecology of these groups. Such an ecology would examine in greater detail how the population described here is constrained by the environment that has been created at the WTO (Lowery and Gray 1995). Before for such an analysis can be undertaken, the scope of the population must be established. In doing so it also becomes possible to get a better sense of understanding why these groups engage the organization directly. For example, NGOs that attended all of the conferences could be those groups that are interested in the top-down affect the WTO has on their areas of interest. Conversely, NGOs that have attended only one conference or those that attended only conferences in their region could be driven more by the bottom-up forces than a top-down concern with the WTO itself. As such, the description of this population presented

here represents an important first step that has hitherto been missing from the discussion examining NGOs and the WTO.

### **Describing the Population of NGOs: Attendance**

Not long after the World Trade Organization first adopted its general guidelines regarding interaction with nongovernmental organizations it also adopted procedures for registering groups that wished to attend ministerial conferences. Specifically, NGOs could register to attend the plenary sessions so long as the group could demonstrate their activities involve “matters related to those of the WTO” (Article V:2). These rules were in place before the first ministerial conference in Singapore and have been in place ever since. Figure 3.1 shows the overall number of NGOs that not only registered by also attended each of the six ministerial conferences.



**Figure 3.1: Total Number of NGOs**

Summing attendance at all of the ministerial conferences to date, there are a total of 3,115 separate instances of NGOs attending WTO conferences. Specifically, this number represents the total number of times that 1,738 different NGOs have attended the 6 ministerial conferences. For the purposes of this analysis, these groups represent distinct entries on the lists of NGOs attending WTO conferences. This total controls for variation in the name of an organization by language. For example, the World Confederation of Labour appears by that name on the lists for the Singapore, Geneva, Cancun, and Hong Kong conferences; however, it appears as Confédération Mondiale du Travail on the Seattle and Doha conference lists. This total number also controls for name changes over time. For example, the United Nations Environment and Development UK Committee transitioned to a new name, Stakeholder Forum, between 2000 and 2004.

Besides controlling for these differences and changes, this complete listing of 1,738 NGOs also distinguishes between different members of affiliated networks. For example, the Agricultural Technical Advisory Committee for Trade in Animal and Animal Products and in Fruits and Vegetables are treated as two separate groups because they both attended the Seattle conference. Similarly, the German Marshall Fund of the United States as well as its Berlin office are treated as two separate groups because, in part, they both attended the Hong Kong conference. There are approximately 54 readily identifiable networks of affiliated groups, which includes 226 NGOs where the individual groups are treated as distinct organizations in this population ecology.<sup>2</sup>

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<sup>2</sup> It has proven difficult to identify all potential networks of affiliated groups or partner beyond, at this point, those who share similar names. For example, there are thirteen distinct Greenpeace organizations or seventeen distinct Oxfam organizations that show up on the WTO's lists.

Using this information it is possible to determine the number of times that each NGO attended one or more ministerial conference. Table 3.1 breaks down the number of NGOs by those that attended one, two, three, four, five, or six ministerial conferences. Only 19 NGOs, or 1.1 percent, attended all of the WTO's ministerial conferences while 984, or 56.6 percent, attended only one of the conferences. Of the affiliated networks that have been identified thus far, only four have attended all six conferences even if no one, specific organization in the network was present at every conference.<sup>3</sup>

Total # Attended	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total
6	19	19	19	19	19	19	19
5	15	25	32	25	31	32	32
4	27	30	127	99	130	115	132
3	8	20	123	84	176	150	187
2	12	17	132	86	287	234	384
1	27	19	306	52	318	262	984

**Table 3.1: NGO Attendance By Overall Frequency of Attendance**

It is also possible to look at how this overall composition of groups has changed with time as a means for further understanding this population and their overall likelihood of attendance. Perhaps the most interesting is with the overall frequency of

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<sup>3</sup> The four networks are Consumers International, Friends of the Earth, Oxfam, and the Pacific Economic Cooperation Council. In all four of these networks, at least one organization has attended five of the six conferences. Consumers International, the group, and the Pacific Economic Cooperation Council, the group attended every conference except the 2001 meeting in Doha. Friends of the Earth USA attended every conference beginning with Geneva in 1998 while Friends of the Earth Netherlands attended every conference except Geneva. Oxfam UK also attended every conference beginning with Geneva.

attendance itself. Implicit in the original figures was the belief that each of the 1,738 NGOs that did attend a WTO conference was available to attend every conference. Table 3.2 looks at the same frequency numbers but only reports them for the new groups, those that have not attended a previous conference. Unfortunately, however, these numbers still do not control for whether or not the group was in existence prior to its first meeting or if the group ceased to exist subsequently.

Total # Attended	Singapor e	Geneva	Seattle	Doha	Cancun	Hong Kong	Total
6	19	0	0	0	0	0	19
5	15	17	0	0	0	0	32
4	27	25	80	0	0	0	132
3	8	16	106	57	0	0	187
2	12	13	120	48	191	0	384
1	27	19	306	52	318	262	984
New Groups	108	90	612	157	509	262	

**Table 3.2: First-Time Attendees at Each Conference**

This view of attendance highlights two dynamics with regards to the new groups in attendance. First, the total number of new groups at any given frequency rises as time passes and, with the exception of groups attending three total conferences, the single largest number of new NGOs at each level is at the last conference where that overall level is possible. For example, of the 132 NGOs that attended at least four conferences, 60.6 percent of these groups first attended the Seattle conference. At that point it was

only possible for them to attend four total conferences. Consequently, regardless of why these groups did not attend Singapore or Geneva or why they decided to first attend Seattle, these groups went on to attend all subsequent conferences.

Second, the proportion of new groups that only attended that first conference was at or below 50 percent for Singapore, Geneva, Seattle, and Doha, and that number was at or below 25 percent for the first two ministerial conferences held. The spikes in the proportion of groups that only attended one conference correspond to the three conferences with highest overall attendance by NGOs. Although it is not yet possible to tell how many of the 262 that first attended the Hong Kong conference might go on to attend additional conferences when they have the opportunity, it does seem telling that 67.7 percent of the groups at this conference had already attended at least one other WTO meeting.

By looking at the different groups level attendance as such, it seems that 20.9 percent of the 1,738 NGOs took full advantage of attending every meeting after their first encounter. Additionally, the proportion of groups doing this increased with new conference, with the only real exception being the conference in Doha. Indeed, 84 of the 106 groups, or 79.2 percent, that attended three conferences beginning with Seattle skipped Doha but attended both Cancun and Hong Kong. Taken together all of this data suggest that small but growing group of NGOs exhibit some concern for the top-down structure of the system and are willing to travel anywhere to attend WTO conferences. Conversely, this data also suggests that a large number of the groups could be responding

to bottom-up pressures for resource mobilization and are attending conferences that are convenient.

### **Describing the Population of NGOs: Countries and Regions**

It is also possible to use the information provided by the WTO to ascertain the countries of origin for the 1,738 NGOs that have attended these ministerial conferences.<sup>4</sup> The WTO does not provide specific countries of origin for all attendees on the Singapore and Geneva conferences so this information was gathered using the *Yearbook of International Organizations* and other sources.<sup>5</sup> Depending on the organization, the country of origin that was assigned represented the location of its headquarters or secretariat, for international groups, or the country where an office was located if a specific office was given.<sup>6</sup> For example, the German Farmers Association is listed as being from Germany while the Brussels Office of the German Farmers Association is listed as being from Belgium.

Altogether these NGOs come from 111 different countries. However, a majority of these groups, 884, come from five countries and the top 10 countries of origin represent 1,139, or 65.5 percent, of all NGOs. Conversely, 33 of those countries have

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<sup>4</sup> One group that attended the Geneva conference does not have a country of origin as it is only listed as the Department of City and Regional Planning without any further specification as to its affiliation or origin.

<sup>5</sup> Among the other sources used were the *Encyclopedia of Associations: International Organizations* (2009) and online directories of organizations such as the one provided by Consumers International. Where possible the information gathered from these sources was also compared to information provided by the NGOs on their individual websites.

<sup>6</sup> During the Seattle, Doha, Cancun, and Hong Kong conferences a total of 85 NGOs have mismatched countries of origin between the WTO listing and information gathered from these other sources. For the purposes of the analysis, the countries of origin gathered from these other sources are used for all six conferences to ensure that the same set of information is being used.

only one group listed and 68 countries have five or fewer groups. The United States is the country of origin for the single largest number of NGOs overall, 499 or 27.1 percent, as well as the largest number of NGOs at all of the ministerial conferences except Singapore. Included in this list of is one group, the International Confederation of Arab Trade Unions, that comes from a country that is not a member of the WTO, Syria. Nine of thees NGOs also come from eight countries that are presently listed as observers to the WTO.

Table 3.3 lists the top ten countries of origin overall as well as the number of groups from each of these ten countries at the six conferences. The number in parentheses is the rank for that country at that conference. For example, Canada represented the country of origin for the second largest number of NGOs overall as well as for the Seattle, Cancun, and Hong Kong conferences. Canada was the country of origin for the fourth largest number of NGOs at Singapore and Geneva and the fifth largest number at Doha.

It is also possible to group the countries into nine basic regions of the world. Table 3.4 lists these regions, the countries of origin from each region, as well as the total number of NGOs from each country. Although groups representing all nine of these regions have been present for at least one conference, well over half of these groups, 65.2 percent, come from North America and Western Europe. North America represents the single largest region of origin for 36.7 percent of NGOs. However, Western Europe represents the largest region of origin at all of the ministerial conferences except Seattle and it is tied with North America for the most NGOs at Cancun.

Top Ten Countries	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
USA	13 (2)	30 (1)	310 (1)	65 (1)	236 (1)	184 (1)	499
Canada	8 (4)	10 (4)	64 (2)	21 (5)	86 (2)	75 (2)	139
Belgium	7 (6)	8 (5)	40 (4)	40 (2)	58 (3)	50 (3)	88
UK	14 (1)	11 (3)	36 (5)	25 (4)	46 (5)	40 (6)	80
France	7 (6)	5 (7)	42 (3)	36 (3)	57 (4)	50 (3)	78
Japan	4 (8)	3 (10)	24 (7)	18 (7)	41 (6)	44 (5)	65
Switzerland	8 (4)	17 (2)	26 (6)	15 (8)	34 (8)	29 (7)	57
India	3 (9)	4 (8)	13 (11)	20 (6)	35 (7)	26 (8)	53
Germany	3 (9)	4 (8)	14 (10)	11 (9)	30 (10)	25 (10)	43
Australia	1 (19)	N/A	12 (13)	7 (12)	15 (14)	25 (10)	37

**Table 3.3: Top Ten Countries of Origin**

Region	Total NGOs	Countries
Australia & New Zealand	46	Australia (37), New Zealand (9)
East Asia & the Pacific	189	Cambodia (1), China (5), Fiji (3), Hong Kong (20), Indonesia (4), Japan (65), Korea (13), Malaysia (8), Philippines (35), Samoa (1), Singapore (14), Taiwan (5), Thailand (13), Vietnam (2)
Eastern Europe & Central Asia	17	Azerbaijan (1), Croatia (1), Czech Republic (2), Georgia (3), Kazakhstan (1), Macedonia (1), Poland (1), Romania (1), Russia (1), Turkey (4), Ukraine (1)
Latin America & the Caribbean	132	Argentina (6), Barbados (1), Bolivia (6), Brazil (26), Chile (7), Colombia (8), Costa Rica (3), Dominican Republic (1), Ecuador (6), El Salvador (3), Guatemala (4), Haiti (1), Honduras (2), Mexico (26), Nicaragua (2), Paraguay (3), Peru (6), Trinidad & Tobago (1), Uruguay (7), Venezuela (3)
Middle East & North Africa	24	Egypt (7), Iran (1), Israel (3), Jordan (5), Lebanon (1), Morocco (1), Saudi Arabia (1), Syrian AR (1), Tunisia (4)

Region	Total NGOs	Countries
North America	638	Canada (139), United States (499)
South Asia	87	Bangladesh (12), India (53), Nepal (9), Pakistan (10), Sri Lanka (3)
Sub-Saharan Africa	109	Benin (3), Botswana (1), Burkina Faso (2), Cameroon (3), Central African Republic (1), Chad (1), DR Congo (3), Ghana (7), Guinea (1), Ivory Coast (3), Kenya (15), Madagascar (2), Malawi (1), Mali (2), Mauritius (1), Mozambique (1), Namibia (1), Niger (1), Nigeria (2), Rwanda (1), Senegal (4), South Africa (22), Sudan (2), Tanzania (3), Togo (3), Uganda (11), Zambia (6), Zimbabwe (6)
Western Europe	495	Austria (10), Belgium (88), Denmark (10), Finland (4), France (78), Germany (43), Greece (1), Iceland (1), Ireland (5), Italy (16), Luxembourg (3), Netherlands (29), Norway (28), Portugal (2), Spain (30), Sweden (9), Switzerland (57), United Kingdom (80), Vatican (1)

**Table 3.4: Regions of Origin<sup>7</sup>**

### **The Population at Each Ministerial Conferences**

So far the aim has been to describe the general population of NGOs that have attended the six ministerial conferences based on attendance and origins. Of all the numbers describing this group the one that stands out the most is 19, the total number of NGOs that have attended all six of these conferences. If the general argument about the need to rethink our understanding of the system is correct, and by extension the first hypothesis, then this number seems far too low when compared to the total number of NGOs that have attended these conferences, 1,738. Additionally, the notion that 56.6 percent of these NGOs only attended one WTO conference could be confirmation that

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<sup>7</sup> One group that attended the Geneva conference does not have a country of origin as it is only listed as the Department of City and Regional Planning without any further specification as to its affiliation or origin. Consequently this group is not included in either the Total NGOs column or with any of the countries in this table.

many of these groups showed up because of bottom-up efforts to mobilize resources and NGOs. If these groups were truly aware of and concerned with the structure of the international trade system it seems like more would have regularly attended these six conferences.

Conversely, the fact that the United States is the country of origin for more groups at every conference except for the first could be seen as evidence that American groups are willing to travel just about anywhere to attend a WTO conference even if that might affect their reach when it comes to local coverage of the conference. Furthermore, looking at the top five countries of origin for each of the ministerial conferences reveals that this group only includes eight countries. Seven are in the top ten countries of origin overall; indeed, they are the top seven countries of origin. Only Singapore makes an appearance in the top five of a conference, the first one in Singapore, and is 21st overall with regards to the total number of NGOs. But what about the groups that attended each of the ministerial conferences? What can a detailed look at each of the NGO attendees at each of these conference tell about why these groups may or may not have decided to engage the WTO directly?

### **Singapore, 1996**

The general rules providing for NGO interactions with the WTO were clarified in July of 1996, only five months before the first ministerial conference. Altogether 158 NGOs registered to attend the conference and 108 actually showed up in Singapore. Table 3.5 highlights the number of NGOs from the host country, the host region, and

neighboring regions as well as their attendance for the other conferences and total NGOs. Overall this conference included NGOs from twenty-seven different countries and six of the nine regions. There were no NGOs in attendance from Eastern Europe and Central Asia, the Middle East and North Africa, or Sub-Saharan Africa.

	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Singapore	13	2	2	0	2	2	14
East Asia & the Pacific	26	8	48	32	84	133	189
Neighboring Regions	6	6	34	36	75	80	150

**Table 3.5: Singapore NGOs - Host Country, Host Region, Neighboring Regions**

Perhaps the most noticeable piece of information here is the overall lack of participation by NGOs from Singapore at subsequent WTO conferences. This may be evidence that for these groups the bottom-up benefits of attending a local ministerial conference won out and, even after attending this conference, twelve of these groups were not concerned enough with the WTO itself to want to attend any subsequent conferences. However, one of these groups, the Pacific Economic Cooperation Council, went on to attend every conference except Doha and another group based in Singapore, the ICFTU - Asian and Pacific Regional Organizations, attended every conference except this one and the conference in Doha. Both of these organizations can be located in the *Yearbook* and reflect groups whose interests expands beyond that of just Singapore which could explain why they remained interested in the WTO.

NGOs from host and neighboring regions represented only 27.9 percent of the 108 NGOs in attendance. By contrast, groups from North America and Western Europe made up 66.7 percent. The United Kingdom was the country of origin for the largest number of groups, fourteen, and the United States was tied for second with Singapore with thirteen NGOs. Also, the number of NGOs that attended this conference and could be found in the *Yearbook of International Organizations* was 51.9 percent, the highest overall proportion of found to missing out of all six conferences. These factors suggest that a sizable number of the organizations in attendance were willing to travel great distances to participate in the first experience between NGOs and the WTO at a major ministerial event. As such, these groups lend support to conclusions of the top-down hypothesis that there some NGOs, perhaps even a majority here, are aware of the structure of the system and are concerned about the WTO.

### **Geneva, 1998**

The second ministerial conference was held in May of 1998 and although slightly fewer groups registered when compared to the first, 152 versus 159, more groups attended the conference itself, 130. Table 3.6 highlights the number of NGOs from the host country, the host region, and neighboring regions as well as their attendance for the other conferences and total overall NGOs. This conference included NGOs from 31 different countries as well as seven of the nine general regions. The only two regions that did not have any groups in attendance were Australia and New Zealand and Eastern Europe and Central Asia.

	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Switzerland	8	17	26	15	34	29	57
Western Europe	51	63	224	165	322	264	495
Neighboring Regions	0	4	6	15	18	10	41

**Table 3.6: Geneva NGOs - Host Country, Host Region, Neighboring Regions**

Unlike Singapore, this conference does not represent the high-water mark for NGO attendance at WTO conferences from Switzerland-based groups. Of the subsequent conferences only the Doha meeting had fewer total Swiss groups in attendance. Indeed, looking at the frequency of attendance for all 57 NGOs from Switzerland, there were more groups that attended only one conference at Seattle, Cancun, and Hong Kong meetings than those in attendance at this conference. Even all eight of the groups that attended the Singapore conference would attend at least two more meetings, albeit only five of those eight groups attended the meeting in Geneva. This suggests that a sizable number of groups from Switzerland remained concerned about the WTO across all six conferences. Of course, this could also reflect the overall number of international organizations that are based in Switzerland, fully 42 of the 57 NGOs from Switzerland can also be found in the *Yearbook*.

The Geneva conference also differs from Singapore in that the host region is the largest region of origin of NGOs in attendance with 48.8 percent. When combined with its neighboring regions these NGOs account for just over half of all groups in attendance.

However, the overall proportion of groups from the host region is not all that different from the overall proportion of groups that attended the Singapore conference, 48.8 percent in Geneva versus 47.2 percent in Singapore. Consequently it is difficult to say if the number of NGOs at this conference rose because of the proximity of the meeting itself or because concerns related to the business of the WTO. Twenty-nine of the fifty-one Western European NGOs that attended the Singapore conference also attended this conference in Geneva. For 11.1 percent of the NGOs from Western Europe this represented the only time they attended a ministerial conference.

This ministerial conference was similar to Singapore in that the country of origin for the largest number of NGOs comes from outside the host region or neighboring regions. In fact, beginning with this conference, the United States is the country of origin for the largest number of NGOs at the rest of the WTO conferences. Surprisingly, however, only one of the American-based NGOs that attended Singapore also attended this conference, while this represented the first conference attended by the other twenty-nine groups from the United States. Consequently, it is possible to say that American-based NGOs may care enough about the WTO to travel anywhere but it is unclear whether they got enough of what they wanted out of that first experience to continue to care about the top-down structure of the system.

### **Seattle, 1999**

The third ministerial conference was held in Seattle scarcely sixteen months after the Geneva conference. Perhaps the most noticeable difference between the two was the

total number of NGOs in attendance. Whereas Geneva drew 130 groups, Seattle drew 739, a more than fivefold increase. Table 3.7 highlights the number of NGOs from the host country, the host region, and neighboring regions as well as their attendance for the other conferences and total overall NGOs. Altogether these NGOs came from sixty-three different countries and, for the first time, all nine of the regions of the world. At subsequent conferences the overall number of countries of origin never falls below this level again and at least one group from all nine regions is always in attendance.

	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
United States	13	30	310	65	236	184	499
North America	21	40	374	86	322	259	638
Neighboring Regions	4	5	34	11	87	29	132

**Table 3.7: Seattle NGOs - Host Country, Host Region, Neighboring Regions**

Seattle differs from the five of the other conferences in that it is the only time the largest number of NGOs in attendance come from the host country and the host region. Although the United States is the largest country of origin at five of the six conferences, this is the only conference where attendance by American-based groups exceeds the total number of NGOs from Western Europe, 310 to 224. This conference also represents the only meeting where the North American groups in attendance outright exceed those from Western Europe.

Although the population ecology here cannot explain the significant rise in NGO attendance or why slightly more than ten times as many American-based groups attended, it can still offer some insights. For example, half of the 310 NGOs from the United States attended only the Geneva conference and 27 of the 69 groups that attended just two conferences only attended Seattle and Cancun. It is likely that these 183 groups, or 59 percent of the American total, represent groups that were driven by the bottom-up desires for resources given the proximity of these meetings to where they are based. More generally this conference also stands out for having the highest proportion of groups that only attended one WTO conference, 41.4 percent.

Conversely, of the 282 American NGOs whose first ministerial contact with the WTO came in Seattle, 13 would go on to attend the next three conferences while 48 would go on to attend two more conferences, and 66 attended one more conference. Regardless of whether these NGOs first arrived in Seattle because of top-down or bottom-up concerns, their continued attendance at subsequent meetings could reflect an interest in the top-down structure of WTO itself, especially for those groups willing to travel to Doha and Hong Kong. More generally, half all groups who first attended a WTO conference in Seattle would go on to attend at least one more conference.

The publicity that accompanied the so-called Battle of Seattle could have also had a more general affect on the overall awareness of the WTO. Consequently it may be all the more difficult to determine whether groups that attended subsequent conferences were truly motivated by top-down concerns or if those groups were aware of the structure but their attendance was influenced by the bottom-up need to mobilize. This may be

especially true of groups, like Public Citizen, that had not attended either Singapore or Geneva but would attend the rest of the ministerial conferences. Public Citizen, and its Global Trade Watch, invested resources in raising awareness about the Seattle meetings and then continued its involvement with the WTO as a way to reinforce its position among the NGOs involved.

### **Doha, 2001**

The fourth ministerial conference was held in Doha almost two full years after Seattle. If Seattle was noticeable for the rapid rise in NGO attendance, Doha is just as noticeable for the rapid decline in attendance, as the total number of NGOs dropped from 739 to 365. However, the number of groups that attended the Doha conference was still three times more than those that attended the Singapore or Geneva conferences. Table 3.8 highlights the number of NGOs from the host country, the host region, and neighboring regions as well as their attendance for the other conferences and total overall NGOs. Despite the overall drop in attendance from Seattle, the NGOs at Doha came from sixty different countries and, again, all nine regions of the world.

Doha differs from all of the other conferences in that the host country has not had a single NGO attend any of the six conferences, let alone the one held within the country itself. This conference also has the smallest overall proportion of groups from the host region at only 3.8 percent. Albeit, this conference does have the largest number of NGOs from the Middle East and North Africa in attendance. The United States is again the country of origin for the largest number of NGOs, with 17.8 percent of the total, and

Western Europe is again the region of origin for the largest number of NGOs, with 45.2 percent.

	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Qatar	0	0	0	0	0	0	0
Middle East & North Africa	0	4	3	14	12	2	24
Neighboring Regions	56	72	267	213	438	359	708

**Table 3.8: Doha NGOs - Host Country, Host Region, Neighboring Regions**

In many ways the conference in Doha looks like it could be a prime example of NGOs responding to the top-down structure and an interest in the WTO itself. The proportion of NGOs that attended only one conference is at its lowest, 14.2 percent, and it has the proportion of groups that attended at least three or four total conferences, 23 and 27.1 percents respectively. Altogether the neighboring regions account for 58.4 percent of all groups, the highest proportion of all neighboring regions, but only 15.5 percent of those 213 groups have not or will not attend another WTO conference. Even among groups from the United States, only 7.7 percent have not or will not attend another WTO conference, down from 50 percent at Seattle. However, it is difficult to distinguish between the groups at Doha concerned with the top-down structure of the system versus those aware of the structure but motivated by bottom-up concerns because of the publicity that had been generated by Seattle.

### **Cancun, 2003**

Had the conference in Cancun come immediately following the Seattle conference, the overall growth in NGO attendance would have been proportionally consistent with the growth from Singapore to Geneva. However, with the Doha conference between Seattle and Cancun, it seems the dramatic increase in number of NGOs may have reflected pent up desires to continue what had been started in Seattle. Table 3.9 highlights the number of NGOs from the host country, the host region, and neighboring regions as well as their attendance for the other conferences and total overall NGOs. Altogether there were 961 NGOs at Cancun from a total of 82 different countries in all nine regions of the world.

	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Mexico	1	2	2	0	34	5	36
Latin America & Caribbean	4	5	34	11	87	29	132
Neighboring Regions	21	40	374	86	322	259	638

**Table 3.9: Cancun NGOs - Host Country, Host Region, Neighboring Regions**

Although NGOs from the host country and the host region represent only 9.1 percent of the overall number of groups in attendance, the breakdown of the overall population of NGOs looks more like that of Seattle than any of the other three preceding conferences. Cancun does represent the high-water mark for both Mexico and Latin

America and the Caribbean, which could reflect an interest in bottom-up pressures to mobilize given the proximity of the conference. Of the NGOs from Mexico, fully 79.4 percent attended this and only this conference. Perhaps just as interesting, this was the last conference attended by the three groups that had been to previous meetings, and only four of the Mexican groups here went to the next meeting in Hong Kong. This conference represented the only conference attended by 72.4 percent of the total number of NGOs from Latin America and the Caribbean.

The United States was once again the country of origin for the largest number of NGOs, with 236, and this was the only conference attended by 31.4 percent of those groups. Of the 73 American-based groups that attended only two conferences, 27 had been attendees at the Seattle conference. From a regional perspective, both North America and Western Europe tied as the region of origin for the most NGOs, with 322 total each. For North America this number is second only to the number of groups that attended the Seattle conference and might reflect bottom-up pressures tied to resource mobilization. Among the groups from North America this represented the only conference attended by 95 groups and another 65 only attended Seattle and this conference.

However, this also represents the conference with the largest number of groups from Western Europe, surpassing Seattle by 98, Doha by 157, and Hong Kong by 58. Of these 322 Western European groups, this was the first conference attended by 127 and, of that number, 55.9 percent did not attend the next conference. Put differently, 77.9 percent of these groups had already attended or would attend another WTO conference.

As such it seems that a large number of these NGOs were at least aware of the WTO and cared enough to attend multiple meetings but these numbers alone cannot explain whether this was just because of concerns with the system itself or with the need to be seen attending the conference for its own sake. Among other regions of the world, this conference also represented the one with the largest number of groups from South Asia, 51, and from Sub-Saharan Africa, 59.

### **Hong Kong, 2005**

The total number of NGOs that attended the WTO conference in Hong Kong fell from the high reached in Cancun, from 961 to 812, however Hong Kong still had the second highest number of NGOs in attendance of all six conferences. This conference also marks the first time that one region played host to a second conference. Table 3.10 highlights the number of NGOs from the host country, the host region, and neighboring regions as well as their attendance for the other conferences and total overall NGOs. Altogether the 812 groups at Hong Kong came from 69 different countries of origin in all 9 regions of the world.

The overall numbers for the Hong Kong conference most resemble the Cancun meeting. This conference represents the largest overall attendance by groups from both the host country and the host region. Of the 19 groups from Hong Kong, this was the first and only meeting attended by 15 of them and this is the only time that groups from the People's Republic of China appear on the WTO's list of conference attendees. Forty-seven percent of groups from East Asia and the Pacific had never attended a WTO

conference prior to Hong Kong. Consequently there is a sizable contingent of locally-based NGOs that could be at this conference because of the bottom-up concerns with the need to organize and attend the meeting.

	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Hong Kong	2	0	2	1	3	19	20
China	0	0	0	0	0	5	5
East Asia & the Pacific	26	8	48	32	84	133	189
Neighboring Regions	28	8	50	33	87	157	150

**Table 3.10: Hong Kong NGOs - Host Country, Host Region, Neighboring Regions**

This conference also saw the largest number of participants from two neighboring regions, Australia and New Zealand, as well as from Eastern Europe and Central Asia. Interestingly enough, nine fewer groups from South Asia showed up to this conference than had shown up to Cancun, the most widely attended conference for that region. The United States was once again the country of origin for the largest number of NGOs, with 184, and Western Europe was once again the region of origin for the largest number of groups, 264. For the NGOs from the United States, this represented the only conference attended by over 25 percent. This was also the only conference attended by over 20 percent of the groups from Western Europe. Given the distances involved with traveling to Hong Kong from either North America or Western Europe, it would appear these

groups cared about the WTO but it unclear as to whether they were motivated to go by those concerns or, again, by a desire to promote themselves and their role within the overall population of NGOs.

Until the WTO holds another ministerial conference it may be impossible to fully gauge the motives that brought some of these groups to this particular conference for the first time. However, the fact that this conference has the largest number of groups from the host country and the host region fits with the pattern that emerged beginning with Seattle. Using this pattern it seems that there maybe some underlying, bottom-up motive that draws in NGOs from the host country or especially region and even neighboring regions because of the proximity of the conference. However, the overall analysis of each of these conferences also suggests that is still a core group of NGOs, especially from North America and Western Europe, that is willing to travel around to world in order to attend WTO conferences.

### **Further Defining the Population of NGOs**

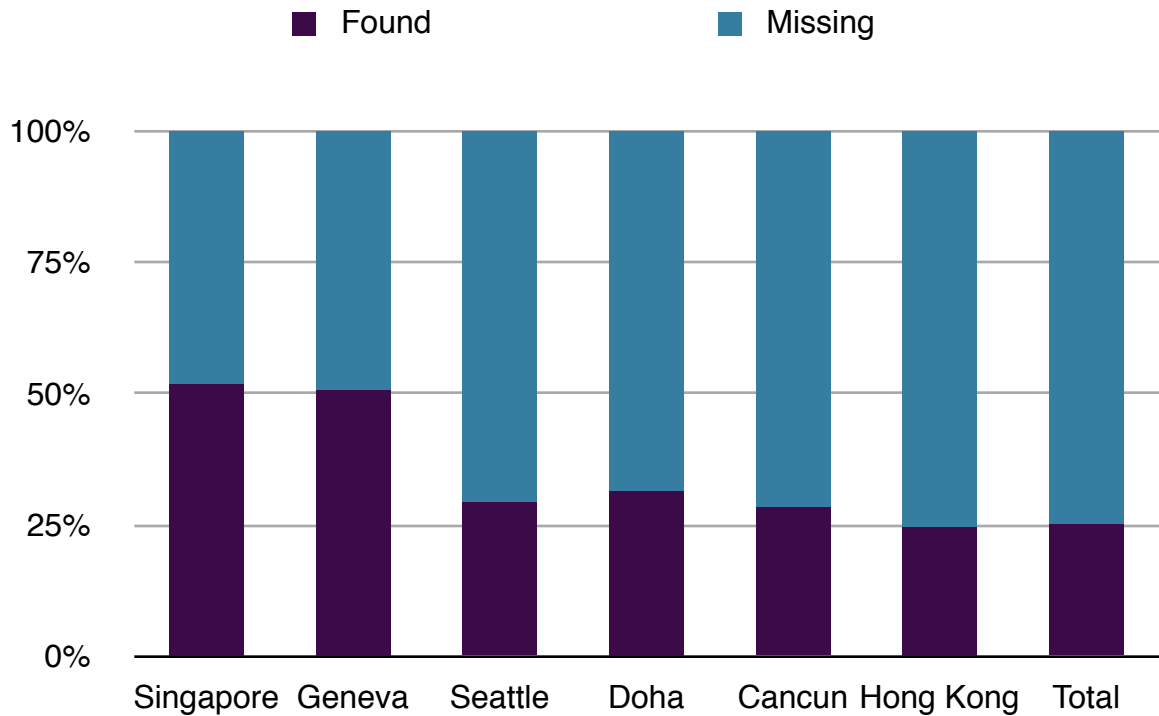
Knowing how frequently an NGO has attended WTO ministerial conferences and where these groups are from are important first steps for understanding who these groups are but so is learning more about the subject areas that these NGOs represent. In particular, it is possible to take the overall list of 1,738 NGOs and find out more about each group by examining the information about them that has been collected in the *Yearbook of International Organizations*. Specifically, 437 of these groups can be

located and therefore it is possible to describe in more detail both the types of these organizations as well as the issue areas these groups represent.<sup>8</sup>

Although the number of NGOs found in the *Yearbook* represents only 25.1 percent of all NGOs, this may serve as a useful proxy for the groups with an international orientation and, therefore, more likely to participate in the system because of their ties to IGOs, the top-down reason, or because of their role within the group of NGOs, a bottom-up reason. The missing groups, on the other hand, may include many of the NGOs that showed up because of calls to mobilize or a desire to attend the conferences since they were local. Figure 3.2 shows the proportion of groups at each ministerial conference and that were found in the *Yearbook* versus those that could not be found. Approximately half of the groups at Singapore, 51.9 percent, and Geneva, 50.8 percent, can be located in the *Yearbook*. However, that number drops to close to one quarter for the succeeding conferences. The Hong Kong meeting had the lowest proportion of groups found in the *Yearbook*, 24.6 percent.

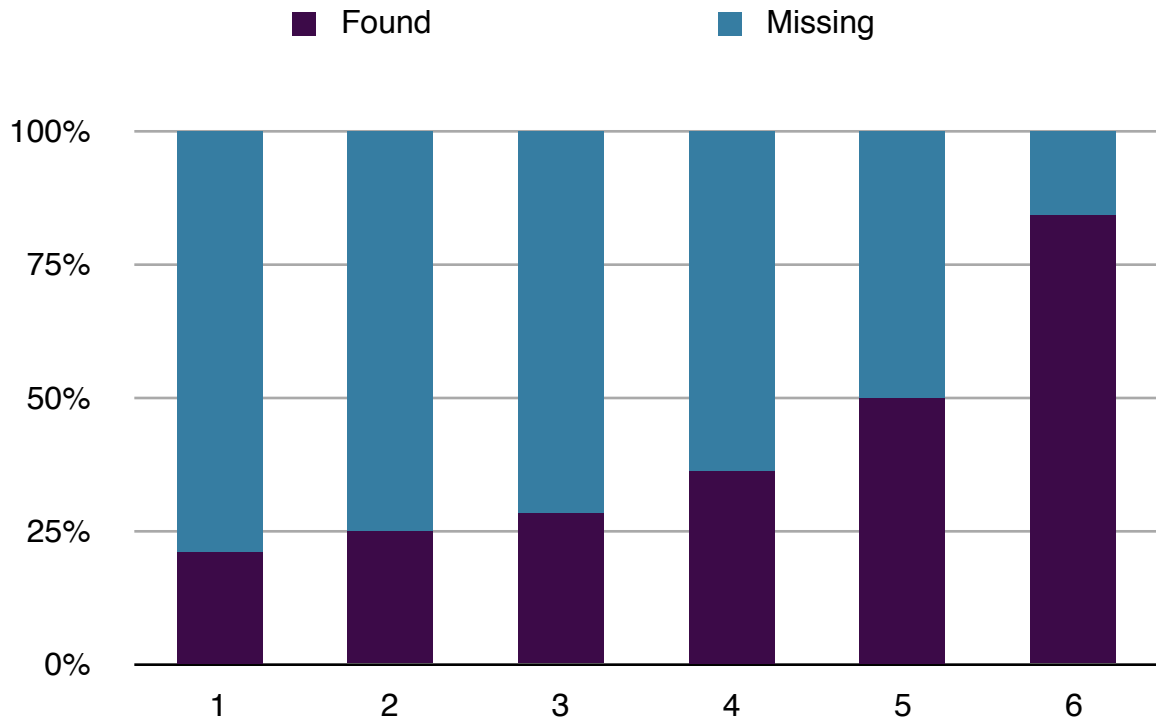
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<sup>8</sup> Originally this project used the book edition of the *Yearbook of International Organizations*, however, with the cooperation of the library at the University of North Carolina at Greensboro, I was able to get access to the online edition of the *Yearbook* at [www.uia.be/yio](http://www.uia.be/yio) from March 1 - 31, 2009 and from January 1 - February 28, 2010. Among the benefits of the online edition were its regular updates and the inclusion of more NGOs to search through, 53,392 online versus 29,912 in the book edition. Particularly useful here was the online versions inclusion of so-called inactive bodies because, as discussed later, these groups make up 9.1 percent of the NGOs that were found in the *Yearbook* but are excluded from the print edition. The online database also provides a more thorough listing of the types and subject areas, connections to other groups, funding, languages, locations, and staff size for each of the NGOs listed.



**Figure 3.2: Proportion of NGOs Found in Yearbook By Conference**

Figure 3.3 examines the proportion of groups by their overall frequency of attendance. Notably, the proportion of groups that could be found in the *Yearbook* goes up as the frequency of their attendance rises. Whereas only 21.1 percent of groups that attended only one ministerial conference can be found, 84.2 percent of the groups that attended all six conferences can be found. Additionally, Western Europe has the largest proportion of groups that can be found in the Yearbook versus those that are missing, 42.8 percent while Eastern Europe and Central Asia had the lowest proportion with 5.9 percent.



**Figure 3.3: Proportion of NGOs Found in Yearbook by Attendance Frequency**

Using information gathered from the *Yearbook of International Organizations*, it is also possible to describe the types of organization that have attended each of the six ministerial conferences. Table 3.11 lists the number of groups from each of seven distinct types that have attended each of the conferences as well as the overall number of each type of groups. The largest groupings of NGOs are National II, with 36.6 percent of found groups, and International II, or 31.4 percent of found groups. The seven categories employed here are based on combinations of the Type 1 classifications used in the *Yearbook of International Organizations*.

Type	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total
International I	12	11	23	9	24	22	37
International II	20	26	70	38	87	69	137
Regional	4	5	21	22	33	21	46
National I	0	0	2	0	7	4	10
National II	16	16	79	40	97	74	160
Other	0	1	1	0	2	1	2
Inactive	3	6	20	5	19	7	40

**Table 3.11: Number of NGOs by Type<sup>9</sup>**

Here International I corresponds to types A, B, and C in the *Yearbook* and represents conventional international bodies such as federations of international organizations, universal membership organizations, and intercontinental membership organizations.<sup>10</sup> Examples of this type include Consumers International, the International Chamber of Commerce, or World Vision International. International II represents types E and F in the *Yearbook*, which are other international bodies that emanate from persons,

<sup>9</sup> Five of the organizations located in the Yearbook of International Organizations did not include information regarding their type and are missing from this table. Of these five groups, one was in attendance at Singapore, Geneva, Seattle and Doha, four were present at Cancun, and two were at Hong Kong.

<sup>10</sup> The *Yearbook of International Organizations* defines conventional international organizations as autonomous intergovernmental and nongovernmental organizations of a non-profit nature and with members in at least three countries as well as activities or decision-making processes designed to not favor a specific country.

places, products or other bodies as well as foundations and funds.<sup>11</sup> Examples of this type include Greenpeace International, Health Action International, and the Third World Network. Regional groups, those listed as type D in the *Yearbook*, are conventional international bodies like International I but membership is regionally defined. Examples of this type include the African Cotton Association, the European Broadcasting Union, and the International Confederation of Arab Trade Unions.

The groups classified as National I are those listed as type N in the *Yearbook of International Organizations*. Examples include the Fair Trade Resource Network, the Information Technology Industry Council, and Water Advocates. National II groups correspond to type G and represent national organizations with an emphasis on international subjects. Examples of this type include Africare based in the United States, Chatham House from the United Kingdom, and the Heinrich Böll Foundation based in Germany. Of the affiliate networks that have been identified, those with groups found in the *Yearbook* will often include groups of this type with one or more overarching groups classified as International I or II. For example, Oxfam Australia is listed as a National II organization because it is Australian national organization with an international orientation and is a member of Oxfam International, an International II organization.

Besides these five primary categories, two additional categories are employed here. First, Other corresponds to types J, K, and R in the *Yearbook*. These groups represent special sections or unconfirmed bodies that could be part of a religious order, fraternities, or secular institutes as well as subsidiary bodies of other international

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<sup>11</sup> The groups categorized as International II and National II here correspond to the other international organizations in the *Yearbook of International Organizations* that do not meet the criteria for the groups in the International I and Regional categories.

organizations. Second, Inactive corresponds to types H and U, which are also special sections or unconfirmed bodies that have been reported as inactive or dissolved. For example, the International Confederation of Free Trade Unions shows up as inactive in this database because that organization merged with the World Confederation of Labour to form the International Trade Union Confederation in 2006.

Table 3.12 lists the total number of NGOs by each type and their regions of origin. The United States represents the country of origin for the largest number of the NGOs found in the *Yearbook*, 27.2 percent, and a slight majority of those groups, 64 of 119, are classified as National II. By contrast, Western Europe represents the largest region of origin of these NGOs, 48.5 percent, including 34 of 46 Regional organizations. Outside of North America and Western Europe, only East Asia and the Pacific have more than 5 percent of the NGOs found in the *Yearbook*. And only one of seventeen groups from Eastern Europe and Central Asia can be found in the *Yearbook*, the Russian-based Centre for Environment and Sustainable Development.

Regions	I I	I II	Reg.	N I	N II	Other	Inactiv e	Total
Australia & New Zealand	0	1	0	0	5	0	0	6
East Asia & the Pacific	0	14	1	0	8	1	1	25
Eastern Europe & Central Asia	0	0	0	0	1	0	0	1
Latin America & the Caribbean	0	7	4	0	2	0	4	17

Regions	I I	I II	Reg.	N I	N II	Other	Inactiv e	Total
Middle East & North Africa	1	2	3	0	0	0	1	7
North America	3	37	2	8	75	0	15	140
South Asia	0	4	0	0	3	0	1	8
Sub-Saharan Africa	0	7	2	1	4	1	3	18
Western Europe	33	65	34	1	62	0	15	210

**Table 3.12: Number of NGOs by Type and Region of Origin<sup>12</sup>**

The *Yearbook of International Organizations* also provides information that can be used to classify the issues represented by these 437 organizations. Specifically, the *Yearbook* provides a matrix of subjects that takes into account variation within broad categories, for example by splitting ideas like “nature” into both the physical sciences and the biosphere. The *Yearbook* does this to help distinguish between subjects tied to innovative change or development and those more closely tied to descriptive sciences and theory. Ultimately, the matrix includes ten rows that correspond to the description and concrete actions within the material world, reflections on those acting in the material world, and, perhaps less tangible, the experiences in their own right. There are also ten columns that provide information for varying degrees of beliefs about the necessary actions or the actions to be taken by these NGOs. For example, distinctions are made for

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<sup>12</sup> Five of the organizations located in the *Yearbook of International Organizations* did not include information regarding their type and are missing from this table. Of these five groups, two are from North America, one is from Sub-Saharan Africa, and two are from Western Europe.

the differences between those seeking to establish something versus those that aim to consolidate something.

Altogether 75 of the 100 possible matrix cells are covered by groups that have attended the six ministerial conferences. In some cases, one group can actually be found in multiple cells because of the issue areas with which it is concerned. For example, Russia's Centre for Environment and Sustainable Development is listed in both the environment cell and the development cell. Table 3.13 presents the fifteen most common subjects as well as the number of NGOs of these types at each ministerial conferences.<sup>13</sup>

Top 15 Subjects	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Development	21	22	57	36	72	58	125
Social Activity (Employment)	11	24	56	34	68	46	114
Commerce (Finance)	16	19	57	30	66	51	112
Society	11	14	39	24	58	44	100
Innovative Change	14	21	41	28	59	43	95
Peace (Justice)	12	15	32	25	51	34	76
Industry (Production)	7	10	38	23	48	38	70

<sup>13</sup> Plotting these fifteen common subject areas into the *Yearbook* matrix shows that nine of these categories involve groups dealing with the actual practice, or social action, associated with their issue areas: Social Activity (Employment), Commerce (Finance), Society, Industry (Production), Amenities (Necessities), Agriculture and Fisheries, Societal Problems, Research and Standards, and Law. Two of these subject areas involve areas dealing with concept formation and theories: Economics and Environment. Three of these subject areas involve the developmental principles associated with change and only one of these groups, Principles, involves the more existential experience: Development, Innovative Change, and Peace (Justice).

Top 15 Subjects	Singapore	Geneva	Seattle	Doha	Cancun	Hong Kong	Total NGOs
Amenities (Necessities)	9	13	26	20	35	33	57
Environment	13	13	30	11	35	22	49
Agriculture, Fisheries	3	7	20	11	24	21	45
Societal Problems	7	8	26	16	23	16	45
Economics	9	11	16	9	29	20	42
Research, Standards	8	9	16	5	23	15	42
Principles	7	6	17	9	22	17	37
Law	5	6	15	11	24	16	36

**Table 3.13: Top Fifteen Subject Areas from the Yearbook of International Organizations**

The largest subject area for this group of NGOs is Development. Examples of groups involved in this issue include ActionAid International, Doctors Without Borders, and the World Development Movement. Social Activity (Employment) groups include many trade unions and professional organizations like the Central Organization of Trade Unions in Kenya, the International Brotherhood of Teamsters, and the Trade Union Advisory Committee to the OECD. Commerce (Finance) groups include NGOs linked to contextual issues involving the redistribution of resources like the Business and Industry Advisory Committee to the OECD, the Arab Society of Certified Accountants, and the Pacific Basin Economic Council. The relatively large presences of groups from all three

of these categories is not surprising given that each subject is likely to have interests tied to their position within the international trade system. Development and assistance groups, for example, have sought to affect trade agreements in ways that would help increase the flow of cheaper, generic medication to the developing world. Members of the other two subject areas have been involved, for example, on all sides of debates regarding the implementation of core labor standards within trade agreements.

Society, the fourth largest issue area for groups, involves those acting with society and not necessarily reflecting on society. Examples of groups in this issue area include Development groups like ActionAid International, again, and other NGOs like Stakeholder Forum of the United Kingdom and Worldwatch Institute. Among these groups one of the common goals has been to raise awareness of the affects that international processes have on groups even within society. Innovative Change groups differ from development groups in that innovative change relies more on structure-centered social action than responding to the specific context of an area. Examples of these groups include Amnesty International, Environmental Development Action in the Third World, and Women and Children International of Saudi Arabia. Although such groups may document conditions in specific contexts, they seek to implement internationally recognized rights or standards, which could include concerns about how the WTO implements trade rules or the use of such rules to reinforce other standards, such as human rights or environmental protection. A number of these groups overlap with the sixth largest issue area, Peace (Justice), and also includes ActionAid

International and Amnesty International as well as other groups like, Earthjustice and Earth Rights Institute.

Industry (Production) groups include many associations of producers like the Association of the Chocolate, Biscuit and Confectionery Industries of the EU, the International Mass Retail Association, and Toy Industries of Europe. Groups involved in the Amenities (Necessities) issue area include those linked to contextual renewal of resource such as the Agriterro Foundation of the Netherlands or the Food First Information and Action Network of Germany. In both of these areas, the groups included have an interest in affects of the WTO on their own economic or material well-being.

The Environment issue area, the ninth largest group of NGOs, includes examples like Greenpeace International, the Sierra Club, and the World Wide Fund for Nature. Agriculture, Fisheries groups represent many agricultural groups as well as some which are also in the Amenities (Necessities) and Environment categories. Examples include the European Dairy Association, Global Crop Protection Federation, and the Rainforest Action Network. The Societal Problems issue area includes groups that are concerned with basic imbalances in the functioning of society, including crimes, crime prevention, disasters, and safety issues. NGOs that have attended WTO conferences from this issue area include Amnesty International, Earthjustice, and the Women's International League for Peace and Freedom. Although the groups in these areas may be motivated by economics, values, or both, all three of these issue areas include groups that harbor concerns about the role of the WTO in the reduction or removal of barriers that protect their interests in the name of freer trade. Conversely, some of the NGOs in these subject

areas believe that influencing the WTO could be the key to spreading or reinforcing their preferred policies through trade-related rules.

Groups that fall into the Economics issue area differ from those in Commerce (Finance) insofar as the emphasis here is on the more theoretical emphasis on issues of resource redistribution. Examples of NGOs that fit into this issue area include the Australian APEC Study Centre at Monash University, the Drug Study Group of Thailand, and the World Federation of United Nations Associations. Research, Standards includes a number of groups in the Economics category as well as other NGOs like, for example, the Asia-Pacific Research Network, the Centre for Applied Studies in International Negotiations in Switzerland, and the Institute for Global Networking, Information and Studies from Norway. Both of these categories fall more closely to the epistemic community form of NGO insofar as these groups study subjects related to, and consequently affected by, the rule of the trade system.

The Principles category represents the largest number of NGOs that fit into a less-tangible, more existential category that could relate to any number of substantive issues. Examples of the NGOs that fit into this category include the American Friends Service Committee, Canadian Feminist Alliance for International Action, and Development Alternatives with Women for a New Era. However, this category also includes groups like Birdlife International and the World Wide Fund for Nature. The Law category rounds out the top fifteen of the overall subject areas covered by these 437 NGOs. Among the examples of groups in this category are those whose substantive areas are tied to other categories like the Center for International Environmental Law and the Drug

Study Group of Thailand. Other examples include the Berne Declaration, the Commonwealth Parliamentary Association, and the Forum for International Commercial Arbitration. The groups in this category are also similar to epistemic communities in that they reflect an expertise in legal matters and have an interest in the legalistic and judicial role the WTO plays within the international system.

Beyond these top fifteen categories, a further nine include between twenty and thirty-five NGOs. Among these issue areas are groups tied to Government and Politics, Solidarity (Cooperation), Transportation and Telecommunication, Health Care, Policy Making (Futurology), Action, International Relations, Communication (Media), and Resources (Energy). The next twelve categories include between ten and nineteen NGOs. The issues covered by these twelve groups include Geography (Ecology), Education, Harmony, Theology, Idealism, Religious Practice, Co-operative, Consciousness, Fundamental Sciences, Information (Documentation), Plant Life, and Technology. An additional thirty-nine categories include nine or fewer NGOs.<sup>14</sup>

### **Evaluating the Hypotheses**

Using the *Yearbook of International Organizations*, it is also possible to learn more about the resources and linkages of each of these NGOs in a manner that allows for the use of multivariate analysis to better understand which factors likely contributed to

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<sup>14</sup> The categories that include nine or fewer NGOs are: Conservation, Defense (Police), Medicine, Metapolitics, Freedom (Liberation), Informatics and Classification, Recreation (Arts, Sports), Climatology Management, Zoology, Biosciences, Culture, Cybernetics (Systems), Earth, Science, Security, Strategy and Logistics, Birds and Mammals, Hydrology, Leadership (Authenticity), Philosophy, Sharing, Sociology, Agrosience, Community, Comprehension, Experiential Activities, Geology, Integration, Life, Love (Compassion), Mankind, Oceanography, Purpose, Vigilance (Courage), Aesthetics, Creative Expression, Equanimity, and Fish and Reptiles.

the overall level of attendance by these groups. Among the entry items for many of the groups listed is a brief history that describes when it was found and whether or not it has subsequently ceased operations or merged with other groups. This information is useful for developing a better picture about which of these groups was actually available to attend any given WTO ministerial conference. Additional information listed in the *Yearbook* describes the scope and resources of the group itself, including the number of official or working languages, the size of the staff, the amount of funding, and the number of countries and territories where the membership of the NGO originates or where it has offices and programs. Beyond the basic scope and resources of these groups, the *Yearbook* also lists the connections that each one has to IGOs and NGOs.

### **The Dependent Variable**

The dependent variable used in the analysis is the ratio of the number of conferences that an NGO attended to the number of conferences that were available for the NGO to attend. Utilizing this ratio better accounts for groups that were created after 1996 or ceased operations prior to 2005.<sup>15</sup> 3D - Trade - Human Rights - Equitable Economy, a Swiss NGO, only attended the last two ministerial conferences, or 33 percent of the WTO ministerial conferences, but this group actually attended every conference it was able to attend since it was founded in 2003. Similarly, INZET - Association for North South Campaigns, a Dutch NGO, attended three conferences, from Geneva to

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<sup>15</sup> In instances where the date founded or ceased coincides with a ministerial conference, every effort was made to establish the actual date the group was founded or ceased to exist. However, if this could not be established, the group was coded as being available for the conference held during that year. It was also impossible to determine the year that 25 of these groups were founded, which prevents the calculation of ratio variable. Of these groups, one attended 5 conferences, one attended 4 conferences, two attended 3 conferences, five attended 2 conferences, and the rest attended only 1 conference.

Doha, or one half of the total. However, it merged into Environment and Development Service for NGOs, another Dutch NGO, in January 2003 so it had actually attended 75 percent of the conferences it was available to attend.

A key reason for using this ratio as the dependent variable rather than attendance at the individual conferences themselves is the nature of the data collected from the *Yearbook*. Since this data was collected in the Spring of 2009 and 2010, it reflects information about these groups today and not necessarily the scope, resources, and connections of these groups at the time of the individual conferences. The online database provided by the *Yearbook* is updated regularly and dates of modification for the records included in this analysis vary from 2000 to 2009.

### **The Independent Variables**

The three main independent variables in the analysis capture the connections that each NGO has with IGOs and other NGOs. These are the three variables that most closely approximate the two general hypotheses presented here and significant results for them would support the general arguments laid out about both the top-down and the bottom-up motivations for attending WTO ministerial conferences.<sup>16</sup> The first variable counts the number of IGOs with which an NGO has consultative status. Here consultative status reflects that the particular IGO believes that the NGO can offer useful

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<sup>16</sup> In instances where no links between the NGO and these organizations were listed in the *Yearbook*, the number of links is set to 0. Similarly, if an NGO's record listed an unspecified number of contacts, then only those connections actually listed in the *Yearbook* were utilized for this analysis. By using the online database to gather information about these linkages, additional groups were listed that do not appear in the printed version of the *Yearbook*. These additional linkages represent ties that are a bit more tenuous than those appearing in the printed version but are included here as a way to capture a more complete picture of an NGOs' connections.

contributions to the work conducted by the IGO. Of the NGOs found in the *Yearbook*, 41.4 percent are listed as having consultative relations with one or more IGOs. The expectation here is that these linkages tie a group more closely to the top-down structure of the international system and would increase the likelihood of attendance for those reasons. Consequently, as the number of consultative relationships rises, so to should the likelihood of attending WTO ministerial conferences.

The second key variable counts the number of IGOs with which a NGO has some type of relationship aside from a consultative relationship. In such instances the group may have contact with an IGO, but they are not necessarily recognized by that IGO as a potential source for input on the matters central to the IGO. Over half, 66.2 percent, of the NGOs analyzed here have some connections to an IGO. The expectation here is that a larger number relationships with IGO, will increase the likelihood that an NGO will attend more WTO ministerial conferences. However, it is not clear if these linkages necessarily reflect a top-down interest in the structure of the system or, perhaps, a bottom-up interest in establishing themselves as an NGO with connections to IGOs.

Finally, the third key variable counts the number of NGOs with which the NGO has some type of relationship. The nature of these relationships varied, often by the nature of the other NGO. UBUNTU - World Forum of Civil Society Networks is itself a network of NGOs so many of its members are listed on their records as having an NGO relationship. However, these same NGOs are not listed as having an NGO relationship with UBUNTU - World Forum of Civil Society Networks since they are that organization's members. Overall, 86.2 percent of the NGOs in the analysis have some

form of relationship with other NGOs. The expectation here is that as the number of these relationships increase, the more likely a group will be to attend a WTO ministerial conference because of bottom-up mobilization of groups and resources.

In addition to these three variables, three control variables have been included based on information from the *Yearbook*. The first control variable is the average distance from the headquarters, or the the secretariat, for that group to the conference locations. These distances were calculated using the latitudinal and longitudinal coordinates for the city listed as the headquarters and the coordinates for the conference city. The average distances among these groups ranged from 3856 to 7526 miles, and the average of this variable was 4583 miles. The expectation here is that an increase in the distance that these groups must travel to attend the conferences will have a negative effect on the likelihood these groups will actually attend conferences.

The second and third control variables help account for the breadth of an individual NGO within the international system. The second variable is the number of official and working languages used by an organization. The third is the number of countries and territories within which the NGO is active. This includes the location of the membership for the NGO or the offices and programs of the NGO. The expectation here is that the more official and working languages used by an NGO or the wider international footprint of an NGO, the more likely the group is to attend WTO ministerial

conferences.<sup>17</sup> Regardless of their connections to IGOs or NGOs, these groups might be more interested in the WTO as a forum that affects all of the locations in which they are active.

Out of this set of NGOs, 76.3 percent have only one language listed while the other 23.6 percent have two or more languages. The most languages listed for one group is 8, for both the International Metalworkers' Federation and Union Network International. The total number of NGOs listing more than three languages is 8.7 percent. Of this group of NGOs, 40 percent are located within one country, 16.4 percent are listed as being in three countries or territories, and 43.6 percent operate in four or more countries and territories. Education International has the largest overall footprint with member unions in 171 countries and territories.

## **The Results**

Examining the bivariate correlation matrix, Table 3.14, between these independent variables and the dependence variable shows that all of eight are significantly correlated with the ratio of the number of WTO ministerial conferences a group attended if it was available to attend. It is also noticeable that the three primary independent variables are significantly correlated with one another and that the Pearson correlation coefficients for each is above .50. It makes sense that these three variables

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<sup>17</sup> Where the number of languages was missing from the *Yearbook*, the value for this analysis was set to 1. The records in the *Yearbook* does not always specify whether or not the languages listed were official or working, hence both are included here as one number. Where the number of locations for the membership or offices and programs was missing, the analysis here entered a 1 for groups of National I and National II and a 3 for groups of International I, International II, and Regional types. Three is the minimum number of countries that an NGO must be active in to qualify as international by the criteria used in the *Yearbook*. The Yearbook does not break out different numbers for countries and for territories.

would be significantly correlated since 89.2 percent of the NGOs listing consultative relationships also have IGO relationships and 94.4 percent have NGO relationships. Similarly, 55.8 percent of the NGOs listed with IGO relationships have consultative relationships and 91.8 percent have NGO relations. Finally, 45.4 percent of the groups listed with NGO relationships also have consultative relationships and 70.7 percent have IGO relationships.

	Consult Status	IGO Relations	NGO Relations	Average Distance	Language	Locations	Attend / Available
Consult Status	1						
IGO Relations	.585** N = 427	1					
NGO Relations	.503** N = 427	.579** N = 425	1				
Average Distance	-.162** N = 426	-.159** N = 426	-.132** N = 424	1			
Language	.335** N = 427	.288** N = 427	.277** N = 425	-.182** N = 426	1		
Locations	.552** N = 426	.377** N = 426	.412** N = 424	-.173** N = 425	.495** N = 426	1	
Attend / Available	.291** N = 401	.196** N = 401	.118* N = 399	-.194** N = 401	.174** N = 401	.175** N = 400	1

\*\*Correlation is significant at the 0.01 level (2-tailed).

\*Correlation is significant at the 0.05 level (2-tailed).

**Table 3.14: Bivariate Correlation Matrix of Independent Variables and Dependent Variable**

Given the results of this bivariate correlation analysis, Tobit regression analysis was used to judge the relative weight of each of these independent variables on the likelihood that an NGO attended a greater proportion of the WTO ministerial conferences

they were available to attend. Tobit analysis was used in this case because the dependent variable, as a ratio, is constrained between 0 and 1. The results of three different models are provided in Table 3.15. The first model includes the three primary variables that measure the number of other groups with which an NGO has relationships. The second model adds the average distance variable, while the third model incorporates both the language and location variables.

	Model 1	Model 2	Model 3
Consult Status	0.04695* (0.09832) <sup>1</sup> [4.77] <sup>2</sup>	0.04474* (0.00973) [4.60]	0.04517* (0.01069) [4.23]
IGO Relations	0.00247 (0.00247) [1.00]	0.00110 (0.00244) [0.82]	0.00171 (0.00244) [0.70]
NGO Relations	-0.00102 (0.00110) [-0.95]	-0.00113 (0.00107) [-1.06]	-0.00113 (0.00107) [-1.05]
Average Distance		-0.00005* (0.00002) [-3.14]	-0.00005* (0.00002) [-2.91]
Language			0.01639 (0.01123) [1.46]
Locations			-0.00029 (0.00049) [-0.59]
Constant	0.35151* (0.01568) [22.41]	0.59578* (0.07945) [7.50]	0.55876* (0.08265) [6.76]
Observations	399	399	398

	Model 1	Model 2	Model 3
Likelihood Ratio Chi Squared	38.89	48.60	50.93
Pseudo R2 <sup>3</sup>	0.3292	0.4114	0.4349

\* =  $p < .01$ . <sup>1</sup> Figures in parentheses are standard errors. <sup>2</sup> Figures in brackets are t-values. <sup>3</sup> This is McFadden's pseudo R-squared as Tobit regression does not have an equivalent to the R-squared values found in OLS regression.

**Table 3.15: NGO Attendance Tobit Regression Results**

Looking at the results of this Tobit regression, the only variable of interest that is statistically significant is the one that captures the number of an NGO's consultative relationships. The greater the number of IGOs that view an NGO as an important source of information, the greater the likelihood that NGO would attend a higher proportion of WTO ministerial conferences that it was available to attend. Insofar as this variable captures the groups that are aware of and concerned with the top-down structure of the international system, this result offers support to that the general hypothesis for why NGOs would attend these conferences and, in particular, why they would attend these conferences repeatedly.

The other two variables of interest, the number of IGO relations and the number of NGO relations, are insignificant. Although this finding may seem a bit surprising at first, it might also reflect an underlying difference within this group of NGOs that needs further exploration. Large numbers of NGOs with consultative relationships also had general relations with IGOs and NGOs but the reverse is not necessarily true. The 125 NGOs with IGO relationships but no consultative relations or the 201 NGOs with NGO

relationships but no consultative relationships might indeed be responding to the bottom-up pressures for mobilization, but only for one or two conferences or for conferences that are easier for them to attend.

It is possible that the insignificant findings on these variables reflect the nature of the sample included in this Tobit analysis. The NGOs in this sample could behave differently from the rest of the population that has attended WTO ministerial conferences precisely because they are part of the group that can be found in the *Yearbook of International Organizations*. The 399 NGOs in the regression are only 23 percent of total number of NGOs having attended at least one conference. Consequently, the number of consultative relationships might be the only significant variable amongst this subset. If, however, the same analysis were run on the entire population of NGOs, then the number of IGO relationships and NGO relationships might also prove significant to explaining which groups are more likely to attend the WTO ministerial conferences that they are available to attend.

Perhaps the most surprising result of this analysis is one that is also, unfortunately, not statistically significant and that is the negative coefficient for the number of NGO relationships variable. Since this result is not meaningfully different from zero, the negative finding could reflect an issue with the data collected. Nevertheless, it would be interesting to explore whether or not a larger number of NGO relationships make a group less likely to attend regularly. If that is the case, it might reflect a decision by the NGO to rely on its connections to ensure its interests are represented at the meeting. Conversely, groups with a smaller number of NGO

relationships may feel compelled to attend more regularly if they hope to ensure their interests are represented. Such results point at the need for additional research on this population.

## NGOs, the WTO, and the Environment

Simply describing the population of nongovernmental organizations that have attended the six ministerial conferences of the World Trade Organization is a necessary first step for understanding who these groups are and why they do what they do. However, it is only a first step. Groups falling into at least seventy-five different subject areas attended these six ministerial conferences.<sup>18</sup> Why? For some NGOs, the answer to that question may seem obvious insofar as their interests are tied to instrumental goals having to do with trade itself. However, other subjects such as the environment or peace and justice may seem less obviously tied to the business of the WTO.

This chapter develops a general look at NGOs, the WTO, and the environment in an effort to explain why NGOs tied to this subject area have engaged the WTO. The information that is presented comes from the NGOs and the WTO themselves, along with news accounts and other research that has examined issues related to trade and the environment. As with the last chapter, the information provided is largely descriptive in nature but it sheds light on events that appear to have had an important affect on shaping the behavior of NGOs, both with regards to more conventional, domestic-level explanations as well as behavior that seems to step outside of the traditional two-level

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<sup>18</sup> Seventy-five is the total number of subject areas from the *Yearbook of International Organizations*. However, only 437 of the 1,738 groups in attendance at the six ministerial conferences could be found in the *Yearbook*, which means it is possible that this list of subject areas could grow as those 1,301 other NGOs are classified by their subject areas.

game. The results of this analysis offer important insights into explaining the role of different types of NGOs within the international trade regime.

Within this general framework the specific dispute examined involves the United States' regulations on the importation of shrimp products. On the surface the American regulations sought to protect endangered sea turtles but the dispute also involved questions surrounding whether or not such policies amounted to discriminatory trade practices and protectionism by another name. Within this context the shrimp-turtle dispute and the behavior of certain NGOs is instructive both with regards to the domestic or the international level. As with the general population of NGOs, this information can shed further light on whether the framework for thinking about how states, non-state actors, and international organizations interact with one another needs to change as well as the validity of the two basic hypotheses presented in the second chapter.

## **The WTO and the Environment**

Since it was first established in 1995, the WTO has sought to administer trade agreements in a manner consistent with the core principles of the international trade system that was setup following World War II. Among the key principles it seeks to protect are nondiscriminatory trade, and it is here that the WTO and the environmental regulations have come into conflict with one another. Article XX of GATT 1947 contains the exception clause for these trade agreements, which allows states to sidestep trade rules if it is necessary to protect human, animal, or plant life as well as for issues of health and the protection of exhaustible natural resources. However, the GATT also

makes it clear that these exceptions cannot be disguised protectionism, for example by discriminating between different sources of an import.

During the formative decades of the GATT, no references were made to the environment at either general proceedings among the member states or during any of the trade disputes (WTO 1999). Indeed, the GATT established a Group of Environmental Measures and International Trade in the early 1970s, but no request was made to convene that group until the beginning of the 1990s. The only environmental issue that came up much during the 1980s involved the transportation of hazardous materials and concerns by the importing countries that they may not be fully aware of the potential health and welfare issues associated with these dangerous materials. The three environmentally-related trade disputes during this time period included two between the United States and Canada about fisheries and one brought by Canada, Mexico, and the European Community against the United States' exercise of superfund legislation (Kelemen 2001). According to the WTO, the absence of environmental issues during this time period reflected a belief that trade was not an environmental issue per se (WTO 1999).

It was during the 1990s that environmental disputes came to the fore within the international trade system as a result of a number of contentious trade disputes. First among these was the tuna-dolphin dispute brought by Mexico against the United States and the extra-territorial application of the Marine Mammal Protection Act (MMPA) under the GATT system. The MMPA required steps be taken to limit the incidental killing of marine mammals by commercial fisherman in both the United States as well as foreign states. The GATT panel that reviewed this case ultimately found the United States had

erred in its use of an import ban because it violated the national treatment provision, in particular the American policy was said to violate protections against discrimination based on process or production methods (WTO 1999).

The final ruling by the GATT Council was never adopted in the tuna-dolphin case but that did not necessarily assuage the fears of environmental groups that this marked a watershed moment for policy-making at the nexus between trade and the environment (WTO 1999). As the transition from the GATT to the WTO in 1995 shifted authority away from state autonomy, the concern for many environmental groups was that their objectives and the trade-related provisions of multilateral environmental agreements would be challenged. In particular, the fear was that states could now use trade agreements to challenge the environmental regulations of another state thereby sacrificing legitimate environmental concerns in the name of free trade (WTO 1999).

It was against this backdrop that the shrimp-turtle dispute came to embody the concerns of various NGOs about the role of the WTO in environmental regulations. With the argument presented in chapter two in mind, the United States - Import Prohibition of Certain Shrimp and Shrimp Products (WT/DS58/R) could be seen as a bellwether of where NGO participation with the WTO was headed because of the structure of the international trade regime and the threat posed by the WTO to the interests of a variety of different groups. However, this case could just as easily represent an opportunity to be exploited by NGOs for the purpose of raising resources or exerting their influence within the overall group of NGOs. To obtain a better sense of how this case fits in with the two

general hypotheses presented here it is necessary to take a closer look at the case, its domestic-level origins, the international-level dispute, and the response of NGOs.

### **Section 609: The Shrimp-Turtle Dispute**

The case of Section 609 of United States Public Law 101-162 seems to demonstrate that there are still important issues and considerations that must be taken into account if international relations theory wants to gain even more leverage on the role of NGOs in international politics. The law that included Section 609 was first passed by the U.S. Congress in 1989 and the regulations included in Section 609 called on the federal government to certify that shrimp imported into the United States be certified as caught using methods that protected sea turtles. These regulations would go on to provide the basis for an important World Trade Organization case in the late 1990s that ultimately saw the United States revise the Section 609 regulations.

### **The Domestic-Level Origins**

If Section 609 were to be examined from the perspective of domestic-level theories, the issue seems to be an open and shut case of domestic interest groups, notably Atlantic and Gulf Coast shrimpers, using trade regulations to protect themselves from international competition. The principle actors involved in this type of assessment would include the economic interest groups, the politicians responsible for passing the regulations, and the voters responsible for electing the politicians. By all accounts, it is clear that the American shrimp industry was on the defensive by the late 1980s.

Shrimpers that trawled the Atlantic Ocean and the Gulf of Mexico faced increasing competition from domestic shrimp farms as well as cheap imports from all around the globe.<sup>19</sup>

It was also during this time that federal regulations were starting to require all American shrimp boats utilize some form of turtle exclusion devise (TED) to help protect threatened and endangered sea turtles. These regulations were based on the Endangered Species Act of 1973 (ESA), and its ensuing amendments by the federal government of the United States, and provides one example of the trade-offs politicians face over regulations. The stated purpose of the ESA was the direct protection of all threatened and endangered species through conservation efforts that would protect the environments in which these species live. That same year the National Environmental Policy Act was passed, mandating that federal agencies consider the environmental impact of any proposed action. And the 1970s, more generally, saw the emergence of almost every environmental regulation agency in the United States (Viscusi et al. 2005).

Within this context, the ESA that passed in 1973 faced little opposition, politically or otherwise, because many felt the legislation was a means for protecting endangered animals, like the bald eagle, without any perceived risks (Brown and Shogen 1998; Mann

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<sup>19</sup> See, for example, Dawson (1986), Staff (1987), Toth (1988), and Cobb and Greene (1989) for contemporary news accounts of the challenges, real and perceived, faced by Gulf Coast shrimpers during the late 1980s.

and Plummer 1995).<sup>20</sup> Ultimately, no members of the Senate voted against the bill and only four members of the House of Representatives voted against the bill that would go on to establish the ESA. Politicians backed passage of the ESA because of the support it brought from both voters and environmental groups. But the act also passed with little controversy because it was written so broadly that potential losers were not readily identifiable.<sup>21</sup>

As time passed, however, tensions emerged between environmental groups, such as those seeking to protect endangered sea turtles, and economic-based interests, such as commercial shrimpers, who had not necessarily been aware of the affect that the ESA would have on their interests. In this case, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries Service) spent much of the decade following passage of the ESA studying endangered sea turtles and, by 1982, had developed a turtle exclusion device that kept sea turtles out of shrimp nets a

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<sup>20</sup> The ESA attempted to expressly forbid economic considerations because “various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation” (16 U.S.C. 1531(a)(1) 1988). In effect, the act claimed the value of an endangered species as being incalculable and the Supreme Court of the United States, in *Tennessee Valley Authority vs. Hill* (437 U.S. 153 1978), interpreted that to mean that it was impossible to offset the loss of something with an infinite value by something with a finite value. It was partially in response to this ruling that politicians decided to pass the first broad set of amendments to the ESA in 1978 (Mann and Plummer 1995). Among the changes made by these amendments was the creation of a special committee that could permit federal agencies to undertake an action that might knowingly harm a species otherwise protected by the act.

<sup>21</sup> Few attempts had been made to create a truly comprehensive listing of the species that might be considered endangered or threatened prior to the passage of the ESA in 1973. In 1964, a tentative list of endangered species included 64 animals but by 1973 the list had expanded to 187 animals (Mann and Plummer 1995). It was only after the ESA passed that further studies were conducted regarding the total numbers of threatened and endangered as well as the actions deemed most threatening to these species. The endangered snail darter that was at the heart of *Tennessee Valley Authority vs. Hill* (437 U.S. 153 1978) was first discovered in 1973 and was declared an endangered species in 1975, but construction on the Tellico Dam, that would destroy the habitat of the snail darter, had originally started in 1967. Consequently, it was not until after the ESA was actually in place that politicians and the interest groups affected by the act understood the full magnitude of the trade-offs created by enforcing this act.

significant majority of the time.<sup>22</sup> Initially, the installation of these devices was voluntary because they anticipated shrimpers would want the device since, in addition to keeping turtles out, the TED also cut down on the amount of other waste brought on board shrimp trawlers by the nets (Yaninek 1995). However, due to the reluctance of shrimpers to install the devices the U.S. Secretary of Commerce made them mandatory in 1987.<sup>23</sup>

Faced with these pressures, the domestic-level literature would suggest that one solution for the domestic shrimps would be to offer financial support, in the form of campaign contributions, to politicians who would be likely to enact laws limiting the importation of shrimp.<sup>24</sup> Politicians representing constituencies all along the Atlantic and Gulf Coasts did indeed introduce legislation that would have provided at least some relief to the shrimping industry.<sup>25</sup> In many domestic-level approaches, the trade-offs that these politicians faced was between regulatory support for a special interest group on the one hand and voter welfare on the other hand. Although any effort to protect the shrimping industry could have negatively affected voters, as consumers, the fact was that this latter

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<sup>22</sup> NOAA Fisheries found that 48,000 sea turtles were caught in the shrimp nets of trawlers off the coasts of the United States, and an estimated 11,000 of these turtles died as a result (Yaninek 1995).

<sup>23</sup> Turtle exclusion devices were initially only mandatory on all shrimp trawlers 25 feet in length or longer, while there was a 90 minute tow-time cap on trawlers shorter than 25 feet (52 Fed. Reg. 24244 1987).

<sup>24</sup> The three most common arguments commercial shrimpers made against using exclusion devices were based on economic costs, the selective enforcement of the regulation, and numbers cited regarding sea turtle mortality (Yaninek 1995).

<sup>25</sup> Politicians from Louisiana and Texas were particularly active in supporting the interests of the shrimpers because those two states combined for a significant majority of American shrimp production. In March 1987, Representatives Brooks and Sweeney of Texas proposed an amendment to a supplemental appropriations bill for 1987 that would have delayed implementation of the TED regulations by one year. Representative DeLay of Texas went on to argue that government studies identifying shrimping as the prime killer of endangered and threatened sea turtles failed to take into account the real world conditions faced by the shrimpers (Staff 1987). And in October of 1987 the State of Louisiana filed suit against the United States Secretary of Commerce to challenge the validity of the TED regulations claiming that such regulations were arbitrary and capricious, constituted an abuse of discretion, and violated the shrimpers' equal protection and due process rights (*Louisiana ex rel. Guste v. Verity* 853 F.d. 322 5th Cir. 1988).

group did not organize in opposition to the measures even though that could have the affect of raising shrimp prices.

On the surface Section 609 seems to offer support for the type of assessment that the domestic-level literature would bring to a case like this but, looking more closely at the processes involved, raises questions that fall outside of even the standard explanations offered by this literature. First, Section 609 itself made some pretense of being geared more toward the protection of sea turtles and not necessarily the protection of shrimpers. One way to explain this would be to expand the group of organizations involved to include the environmental groups advocating for the protection of threatened and endangered sea turtles as well as how the issue was framed by competing groups.<sup>26</sup> Section 609 might therefore be seen as a way to unite otherwise antagonistic interest groups behind a common policy (Grunbaum 2002).<sup>27</sup> Politicians could therefore say they

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<sup>26</sup> Even though these politicians might have hoped to gain support from the shrimpers within their constituency, any changes to the ESA would have also alienated groups that supported the regulation. For example, in 1990, Senator Johnston of Louisiana proposed the Trawlers Relief and Working Livelihood Act of 1990 for the express purpose of providing “relief to shrimp fishermen from economic hardships caused by the mandatory use of turtle excluder devices under the Endangered Species Act” (1990). Among the key provisions of the proposed bill were tax credits for affected shrimpers and exemptions from all criminal penalties for violating the ESA. While this bill was intended to help the interests of commercial shrimpers, it would have alienated environmental groups. A “stop the presses” style announcement showed up in the Marine Turtle Newsletter highlighting Senator Johnson’s bill, and two additional bills in the House of Representatives, and implored its readers to “contact their Congresspersons and make it known that these bills should be rejected immediately.” (Quoted in Marine Turtle Newsletter 51:30-31, 1990)

<sup>27</sup> The methods employed by both the shrimpers and the environmentalists to influence politicians and voters went well beyond simply campaign contributions. Over the weekend of July 22 and 23, 1989, the shrimpers of Louisiana and Texas used their shrimp trawlers to blockade major ports along the Gulf Coast, including the Houston Ship Channel. The action was ultimately a response to the requirements making TEDs mandatory earlier that year. In addition to physically blocking traffic in and out of the ports, the shrimpers fired on vessels that tried to cross their blockade line and attempted to ram a Coast Guard patrol boat (Cobb and Greene 1989). Over the near term, these tactics worked because Commerce Secretary Robert Mosbacher went on to suspend the TED requirements pending further study of the issue by the National Academy of Sciences (Wiessler and Moran 1989). Conversely, environmental groups called on a general boycott of Louisiana and Texas shrimp (Wiessler 1989). Besides getting the attention of shrimpers with the threat of a crippling boycott, the effort sought to portray the shrimpers as greedy businessmen that only cared about their catches to the broader public in the hopes that it would sway them against the shrimpers and in support of the TED regulations (Toth 1989).

supported protecting endangered species but they could also say that American shrimpers should not be the only ones paying the price for this protection.

A second issue raised by the implementation of Section 609 were the guidelines drawn up by both the Bush and Clinton Administrations. If the issue was really only about protecting domestic shrimpers than one would expect Section 609 would be interpreted as expansively as possible to include all states that exported shrimp to the United States. However, the initial guidelines only applied Section 609 to fourteen states of the western Atlantic Ocean and the Caribbean. In this manner, the regulation was initially only applied to a geographical area that included sea turtle populations similar to those found along the Atlantic and Gulf Coasts of the United States. This narrow interpretation also meant that the principal exporters of shrimp to the United States were not subjected to the regulation.<sup>28</sup> By the time a case was brought against the United States at the WTO, the regulation had been expanded to include all importing nations but that expansion only came after environmental interest groups, and not the shrimpers, sued the federal government as a means of forcing Asian states to also do more to protect sea turtles.

### **The International-Level Dispute**

The shrimp-turtle dispute that ultimately made its way to the dispute settlement process of the WTO was the result of an April 1996 decision by the United States Court

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<sup>28</sup> Although the Bush and Clinton administrations officially explained the limited scope as being tied to sea turtle populations similar to those found in the coastal waters of the United States, news accounts highlighted that a broader enforcement of Section 609 could have led to trade disputes with important partners. Additionally, there were concerns that such trade disputes would undermine ongoing negotiations for both the GATT and NAFTA (Kibel 1996).

of International Trade in *Earth Island Institute v. Christopher*. Environmental groups within the United States criticized the initial decision to limit Section 609's geographical application and decided to sue the government to force change. This particular case was brought through the Court of International Trade because previous attempts by Earth Island Institute and its Sea Turtle Restoration Project had been unsuccessful working through the federal district courts to compel the government to enforce the provisions of Section 609 and to apply the certification process to all countries.<sup>29</sup> The Court for International Trade found that Earth Island Institute had demonstrated its longstanding interest in sea turtle conservation. It had also demonstrated that the government's failure to implement Section 609 to a wider geographical region presented an immediate and imminent danger to the group's interest and that the relief sought by the NGO would provide an effective solution. The court also found that Section 609's language requiring that the shrimp certification program be applied to all foreign countries was clear and unambiguous.<sup>30</sup>

The argument presented by the United States, and its opposition to expanding Section 609, anticipated the potential for troubles between this regulation and American

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<sup>29</sup> Even before the shrimp-turtle dispute had been brought up at the WTO, this particular case had an important affect that on determining which court within the United States had jurisdiction over such matters. Given the uncertainties of, and unfamiliarity with, the Court of International Trade, litigation was initiated by taking what was then seen as the path of least resistance. In 1993 Earth Island Institute first attempted to enforce Section 609 in federal district court. However, in response to the government's contention that the Court of International Trade was the proper forum the federal district court rejected Earth Island Institute's initial suit, as did the Ninth Circuit Court of Appeals. In upholding the district court's dismissal, Judge Schroder of the Ninth Circuit observed that "embargoes are imposed for a broad range of purposes, including public health, safety, morality, foreign affairs interests, law enforcement, and ecology." (Quoted in Kibel 1996).

<sup>30</sup> The government-defendants responded to Earth Island Institute's claim with two basic arguments. First, they argued that Earth Island Institute lacked standing to bring the suit, because the group did not have a legally sufficient interest in ensuring Section 609's full implementation. Second, the government argued that the its own regulation limiting the geographic scope of Section 609 was a reasonable interpretation of the underlying legislation (Kibel 1996).

obligations under the GATT, as administered by the newly formed WTO. Specifically, the United States focused on its international trade obligations and the fact that Section 609 could lead to conflicts under Articles III, XI and XX of the GATT (Kibel 1996).<sup>31</sup> In considering this argument, the Court of International Trade admitted that the government could seek to reduce the likelihood of trade conflict. However, the court also indicated that it was too early to speculate on Section 609's potential conflict with international trade rules to warrant limiting the application of Section 609's provisions to all countries (Kibel 1996).

Despite losing *Earth Island Institute v. Christopher*, the United States government was correct in its anticipation of the complaints lodged by India, Malaysia, Pakistan, and Thailand and the creation of a dispute panel in February 1997. However, the challenge presented by these East Asian and South Asian countries cannot be understood simply by looking at regulations within the United States. It is important to also consider the context associated with the more general debate about shrimp aquaculture, particularly as an opportunity to help developing countries as a basis for rural development and a way to generate foreign exchange (Béné 2005).

Among the challenges were increasing concerns within East Asia and South Asia about the overall affect of shrimp farming operations on the natural habitat. Such challenges stood in marked contrast to earlier efforts in the 1970s and 1980s by various groups to study shrimp aquaculture as means for helping developing countries. By the

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<sup>31</sup> Article III involved the national treatment principle while Article XI provides that, subject to certain limited exceptions, a GATT member state will not impose quantitative import restrictions or embargoes on the product of another GATT member state. As noted previously, Article XX lists the exceptions which could justify a deviation from the basic free trade rules articulated in Articles III and XI.

late 1980s and 1990s, a number of international groups and the scientific community began to question such overall efforts because the rapid growth and expansion of unplanned shrimp farming activities appeared to be taking its toll on the local environment (Béné 2005).<sup>32</sup> As a result of these challenges, the shrimp aquaculture industry in countries like India and Thailand found itself on the defensive both domestically and internationally.<sup>33</sup> Even though the debate regarding shrimp aquaculture would ultimately return to one of education and management, the universal application of Section 609 came at the height of this challenge to the Asian shrimping industry (Béné 2005).

It is within this context the dispute that arose between the United States and India, Malaysia, Pakistan, and Thailand came under Articles XI and XX of the GATT. The initial panel report that was circulated in May 1998 found that the United States had indeed violated the terms of both Articles XI and XX of the GATT (WTO 1998). With regards to the Article XI, on quantitative restrictions, the United States appeared willing to concede that it could not justify the quantitative restrictions that were part of Section 609 since it did not ultimately respond to this element of the complaint. The United

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<sup>32</sup> In a 1997 position statement on shrimp aquaculture the World Wide Fund for Nature argued: “[Commercial] shrimp farming has devastated fragile coastal ecosystems, causing mangrove destruction, coastal erosion, pollution of surface and ground-waters including salinization of vital coastal freshwater aquifers, and in some cases introduced exotic species. The few cost-benefit analyses performed to date have indicated that the cost of natural resource depletion and environmental damage far outweighs the direct economic returns from the industry.” (Quoted in Béné 2005, p. 589)

<sup>33</sup> In 1996 in India, for example, the Supreme Court decreed the demolition of all shrimp farms that had been setup along coastlines, estuaries, and rivers as well as the conversion of other farmland, mangroves, and wetlands to new shrimp farms because of concerns about the environmental and social impact (Staff 2002). In 1997 the government of Honduras issued a moratorium on new shrimp farm construction and the government of Costa Rica went so far as to not renew old licenses in addition to its moratorium on new farms. By 1998 the government in Thailand also stopped the construction of new inland farms because of these same concerns, a particularly important decision for environmental groups because Thailand had been the world’s largest producer of farmed shrimp at that time (Béné 2005; Vandergeest et al. 1999).

States did however challenge the argument that Section 609 represented arbitrary and unjustifiable discrimination under Article XX, but both the original panel and the Appellate Body ultimately rejected these arguments.

For many environmental groups and other observers, the WTO's ruling in the shrimp-turtle case further underscored the belief that environmental protection was being sacrificed in the name of free trade. However, the WTO has insisted that its final ruling was misconstrued by these groups and its decision was far less antagonistic towards such issues. In particular, the Appellate Body ruled that the United States, and other countries, had every right to enact regulations in order to protect endangered species. However, it was the discriminatory way in which the United States offered assistance to countries trying to comply with Section 609 that was ultimately found a violation of the GATT. The United States had provided both financial and technical assistance to the countries to which it had initially applied these regulations to, countries of the western Atlantic Ocean and the Caribbean, but the United States did not provide the same level of assistance to the countries of East Asia and South Asia. Consequently, the provisions of Section 609 were accepted by the WTO once the United States had remedied these problems (WTO 2009).

### **The Nongovernmental Organizations**

Over the past four decades the battle between the interests of shrimpers and environmentalists has seen it all -- from blockades of Houston and shots fired on the U.S. Coast Guard to shrimp boycotts and court actions, from plans to help the poor of

developing states to the destruction of shrimp farms along national coasts and letters to prime ministers and presidents. But what can all of these events really say about the motivations that these groups had for behaving in such a manner? How, for example, do these actions fit into the general theoretical argument and two basic hypotheses that were developed in the second chapter? Answering such questions requires taking a closer look at the NGOs that have been involved throughout this process.

As noted previously, the overall group of NGOs can be generally subdivided into three broad subgroups: economic-based NGOs, value-based NGOs, and epistemic groups. The differences between these subgroups correspond roughly to their different motivations and different endowments of political resources (Keck and Sikkink 1998). Economic-based NGOs are likely to pursue instrumental goals that are themselves defined by the position of the group with both the domestic and the international economy. Value-based NGOs are likely to have goals defined by whatever common ideological, moral, or value-based belief brought the group together. Epistemic groups are motivated by shared causal beliefs and are likely to pursue goals tied to their technical expertise and convincing others of their importance.

The shrimp-turtle case has seen NGOs from all three of these groups become involved through the more conventional methods expected by the domestic-level literature in international relations theory but also through alternative means that sidestep the basic two-level game. Figure 4.1 shows the number of NGOs for three subject areas that were found in the *Yearbook of International Organizations* that attended each of the six ministerial conferences. These three subject areas--agriculture and fisheries,

environment, and law--are all areas related to the three basic types of NGOs that have attended the ministerial conferences, though these areas are not necessarily mutually exclusive. Looking at each of these groups in turn and how members of these groups behaved with regards to the overall shrimp-turtle dispute can provide additional detail about why these groups did or did not ultimately engage the WTO directly.

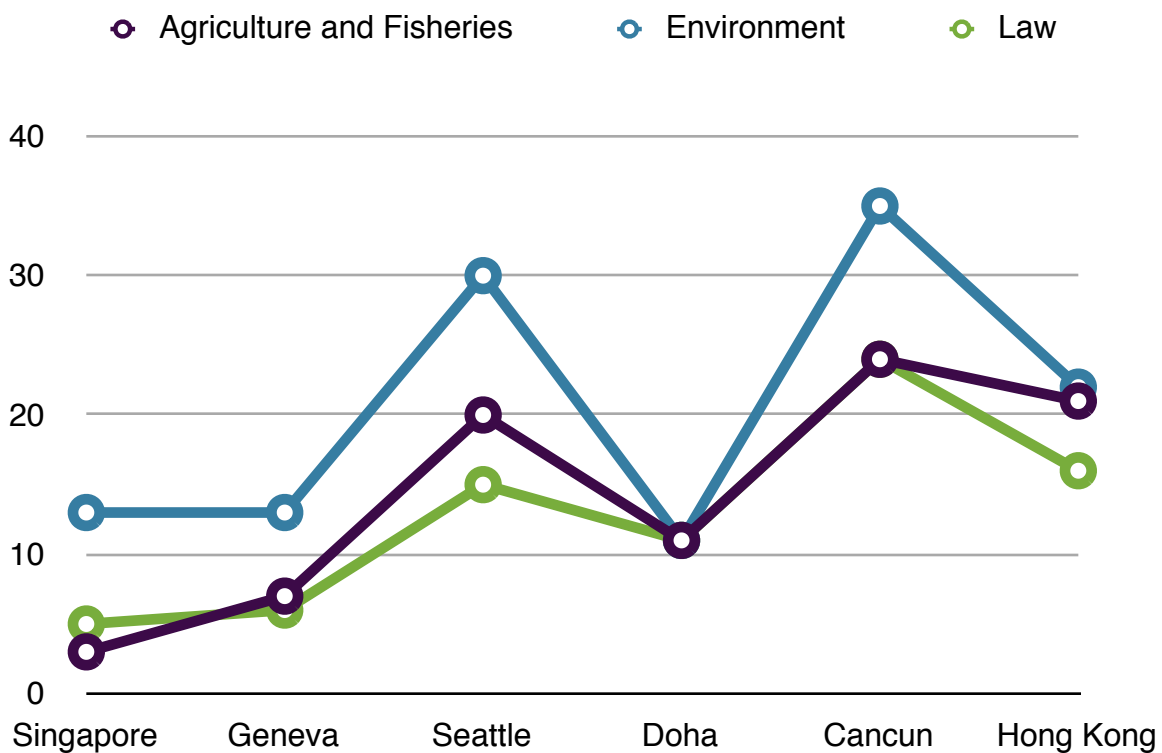


Figure 4.1: Agricultural and Fisheries, Environment, and Law NGOs by Conference

### Economic-Based NGOs

Economic interest groups form the first sub-grouping and are groups that have economic or income-related interests in the regulations enacted by countries. The basis for understanding why these groups form and why they will lobby other actors is tied to

the distributional affects the international economy has on their interests (Stolper and Samuelson 1941). The primary political resources available to these groups are economic resources such as making financial contributions to politicians, which also makes them more likely to get the attention of politicians (Keck and Sikkink 1998). Here it is possible to use the agriculture and fisheries subject area from the Yearbook of International Organizations as a proxy for the groups whose fortunes would be tied to implementation of TED regulations or Section 609. Figure 4.2 shows the number of agriculture and fisheries organizations from the regions involved in the shrimp-turtle dispute at each conference.

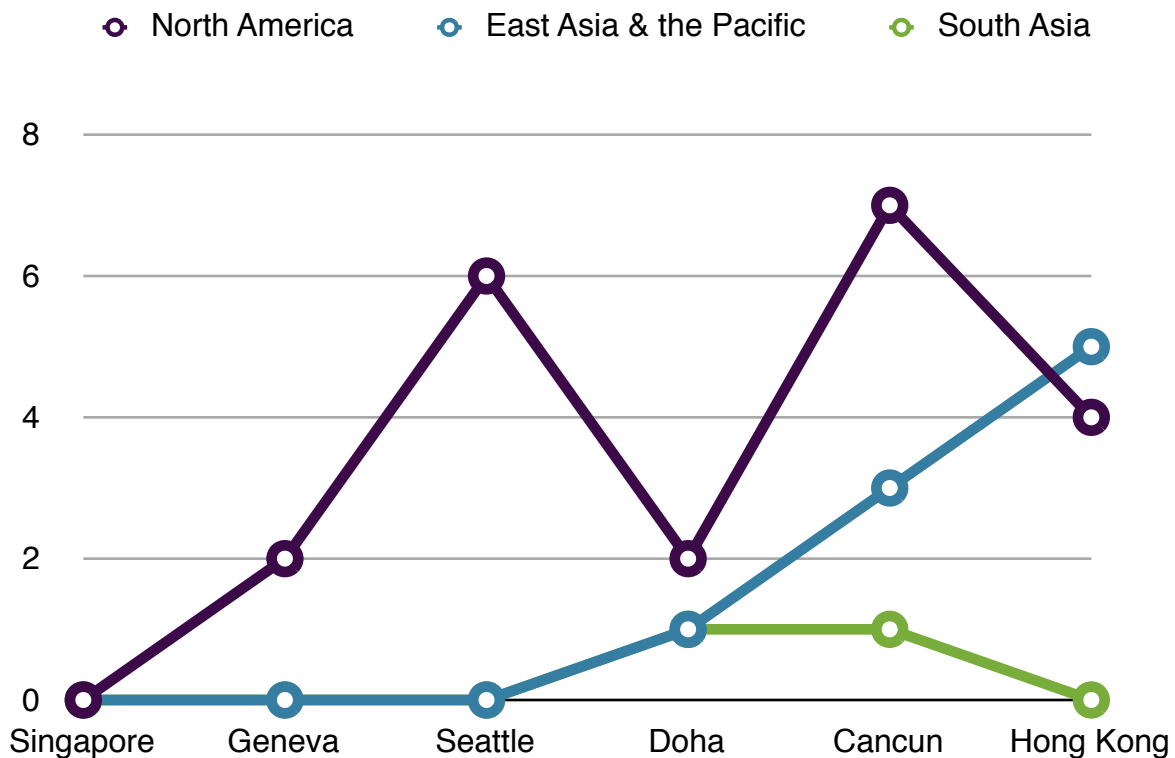


Figure 4.2: Agriculture and Fisheries NGOs By Region

The number of agriculture and fisheries NGOs from North America, East Asia and South Asia that can be found in the Yearbook and that were in attendance at WTO conferences is relatively small when compared to overall numbers from these subject areas. Indeed, looking through the complete list of NGOs in attendance at conferences as well as those that have submitted position papers to the WTO does not reveal any of the agriculture or fisheries-related NGOs that played seemingly prominent roles in the evolution of the overall context that brought about the Section 609 dispute. What role then did these groups play with regards to these dispute during the 1980s and the 1990s?

Among Gulf Coast shrimpers there was a sense of fear regarding their declining fortunes as they faced increasing competition from cheaper shrimp imports as well as an evolution in the nature of shrimp farming (Toth 1989). In the face of such direct challenges to their economic well being, it was easier for this concentrated group of shrimpers to come together and press for change at federal government level. For example, in 1987, the Texas Shrimp Association argued for a proposed amendment to the ESA that was modeled after MMPA as way of establishing some form of sanctions against countries that did not protect endangered sea turtles (Grunbaum 2002). In the meantime, groups such as Concerned Shrimpers of America led protests against the domestic TED regulations while other shrimpers blockaded ports along the American seaboard (Cobb and Greene 1989).

However, once Section 609 went into affect and was subsequently challenged at the WTO, these groups largely disappeared from the overall story of the shrimp-turtle dispute. When the results of the original panel report were being circulated in 1998, the

Southeastern Fisheries Association's Hotlines newsletter simply observed that the United States had lost the case in a 60-word news item that indicated the United States government would likely appeal the ruling (Southeastern Fisheries Association 1998). The overall reaction of shrimpers along the Gulf Coast was one of resignation that the initial outcome would only reinforce the advantages that the foreign shrimpers had in producing and exporting shrimp (Wilson and Fletcher 1998).

The absence of American-based shrimp-related groups from the list of NGOs that have directly engaged the WTO may ultimately reflect the more traditional, domestic-level explanations of international trade policy. Even though members of these groups were concerned with the affects that the WTO's ruling would have on them, they generally seemed content to believe that the United States would not ultimately remove the import restrictions (Wilson and Fletcher 1998). Similarly, these groups may have been encouraged by the governments quick response to both appeal the initial ruling and to begin direct negotiations with the complainant countries. What is more surprising, perhaps, is the absence of shrimp aquaculture-related groups, especially the international associations that have played some role in the general debate about shrimp aquaculture in the developing world.

The World Aquaculture Society and its subsidiary, the Global Aquaculture Alliance, represent the interests of shrimp producers, processors, input suppliers, and wholesale buyers from around the world. The Global Aquaculture Alliance was, itself, founded in 1997 to help study the issues that had been raised by environmental NGOs about the harmful affects of shrimp farming on local environments throughout Asia. It

was through these studies that the Global Aquaculture Alliance developed a series of codes of practice that have reflected an emphasis on the proper techniques for shrimp aquaculture as a means to promote both issues like development and environmental protection. The arguments presented by these groups have largely reframed the overall debate about the consequences of shrimp aquaculture as it is viewed by organizations such as the World Bank and other development assistance programs (Béné 2005).

### **Value-Based NGOs**

Value-based NGOs form the second sub-grouping of NGOs and membership in these groups is not based on economic or income-related interests. Instead, the members of these social movements share some set of ideological, moral, or value-based beliefs. Among the reasons that have been offered to explain why individuals associate with these movements are personal advantage, group solidarity, principled commitment to an issue, and the desire to be a part of a group (Tarrow 1994). However, much of the literature sidesteps explaining why individuals end up with a particular set of shared ideological, moral, or value-based beliefs and simply notes that the members of these groups share some common interest (O'Brien et al. 2000). The primary political resources available to these groups are the interpretation and strategic use of information as a means of mobilizing large numbers of people (Keck and Sikkink 1998).

Here it is possible to look at the environment groups as a proxy for the value-based organizations that were involved throughout the shrimp-turtle dispute. Figure 4.3 shows the number of environmental organizations from the regions involved in the shrimp-turtle dispute at each conference. What is particularly noticeable among this

group is that the majority of North American-based NGOs in this subject area only attended the Seattle and Cancun conferences. Granted, this example also demonstrates one of the shortcomings of just relying on the *Yearbook of International Organizations* for group classifications since Friends of the Earth USA attended every conference except for the first one in Singapore, however, the group itself is not listed in the *Yearbook*. There are also a number of environment-oriented groups based in all three of these regions that are not necessarily reflected in those found in the *Yearbook*, such as additional members of the Friends of the Earth and the Greenpeace networks.

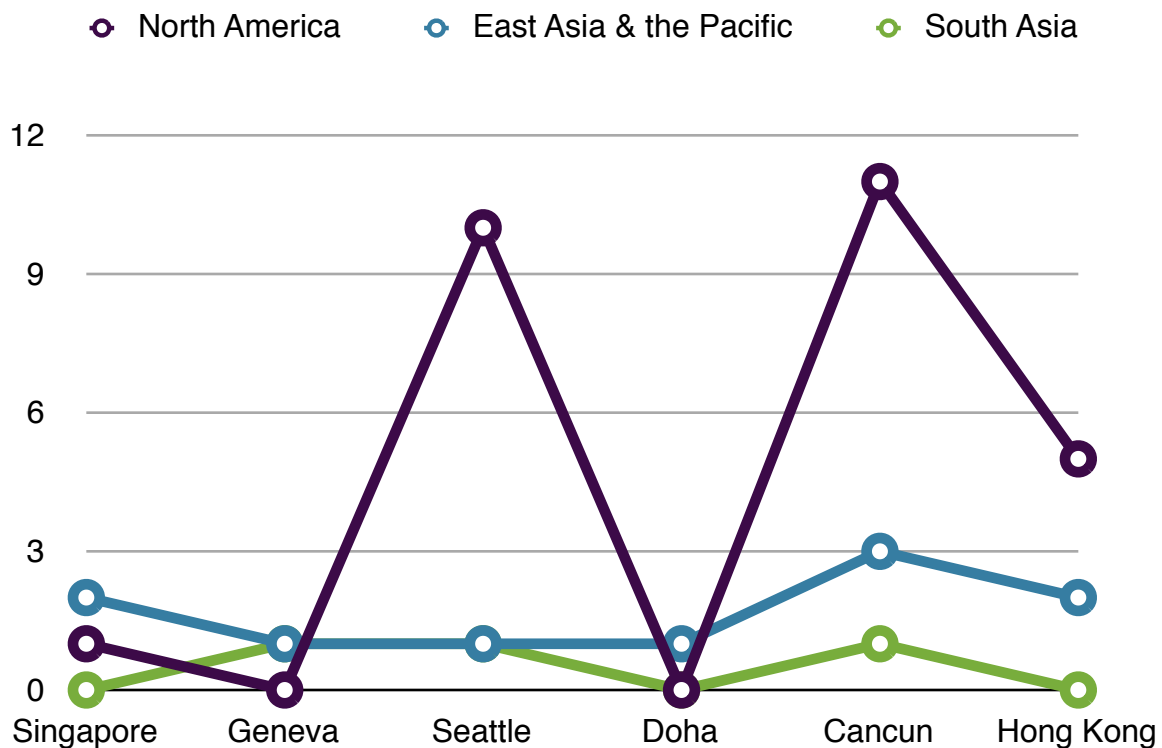


Figure 4.3: Environment NGOs By Region

Regardless of the exact number of environmental groups that attended each conference, the regulatory goals of such value-based groups generally defined by whatever common ideological, moral, or value-based beliefs that brought them together. Here, for example, the members of environmental groups tend to share some belief in the importance of making sure ecological systems are protected whether it is endangered sea turtles or the destruction of coastal environments. Such groups can be at a disadvantage when organizing because of the diffuse nature of the benefits and both the concentrated and diffuse nature of the costs associated with their preferred regulations. Additionally, the benefits of such policies, like environmental protection, are long-term while the costs will be felt over the short-term. As a result, environmental groups may emphasize how the issue is framed to help overcome these difficulties. For example, in specifying the language found in the ESA, environmentalists offered up language that precluded the use of any economic standards that might allow others to avoid complying with the regulation (Mann and Plummer 1995).

Whereas the economic-based NGOs involved in the various aspects that ultimately led to shrimp-turtle dispute were largely absent from contact with the WTO, the value-based organizations involvement is more varied. Some organizations, like the Center for Environmental Education, the Center for Marine Conservation, and the Environmental Defense Fund, all played key roles in making TEDs mandatory as part of domestic regulations. However, these groups are completely absent from later stories on Section 609 and the shrimp-turtle dispute, including even NGO sign-on letters such as the “WTO - Shrink or Sink!” letter that can be found across the internet on websites for the

Council of Canadians, Public Citizen, and the Third World Network. Other organizations, like the Earth Island Institute, Greenpeace, and the World Wide Fund for Nature, have bridged the gap between the domestic battles over TEDs and shrimp aquaculture with the international disputes surrounding the protection of endangered sea turtles.

Earth Island Institute played a particularly important role in setting the shrimp-turtle dispute in motion through its court challenge to the government's implementation of Section 609. More generally the organization played a leading role in educating consumers, national governments, and the fishing industry about the threats to sea turtles and the pressing need for TEDs at the domestic level (Kibel 1996). Additionally, it founded the Sea Turtle Restoration Project to establish partnerships with conservation groups in Southeast Asia and Central America. This subgroup was particularly active in shrimp-turtle dispute once it became an issue at the WTO. It even argued that it should be included on the team appointed to help defend Section 609 at the WTO (Project 2009).

The Sea Turtle Restoration Project also serves as a prime example of the manner with which value-based groups employ the strategic use of information to raise awareness of an issue as well as to frame it in terms favorable to the groups cause. During June 1997 the group placed ads in newspapers, such as the New York Times, in an attempt to alert the public to the threat they perceived for the WTO towards the ESA but also to issues of democracy and sovereignty. At the same time, the Sea Turtle Restoration Project also questioned the selection of panelists adjudicating the dispute because of their ties to countries that were negatively affected by the Section 609 (Project 2009). When

the initial ruling was announced, the Sea Turtle Restoration Project was just one of many environmental NGOs that publicly called on the Clinton Administration to appeal the WTO's ruling.

Among the other value-based groups that made similar calls were some, such as Greenpeace, that had played a role in the earlier domestic battle over TEDs as well as others, such as Friends of the Earth or the World Wide Fund for Nature, that had not played a large role previously. Whereas the Sea Turtle Restoration Project and the Earth Island Institute that created it had demonstrated to the Court of International Trade that their membership cared immensely about sea turtle conservation, these other groups included NGOs that represented a host of different environmental issues. As such it is not always easy to distinguish the degree to which their interests were specifically directed at the protection of sea turtles or involved a broader set of beliefs about the international trade system and its potential affect on environmental regulations. For example, both Greenpeace and the World Wide Fund for Nature played a role in the debates about TEDs and about shrimp aquaculture.

### **Epistemic Groups**

Epistemic groups form the third sub-grouping of NGOs. These groups are defined by their shared normative and principled beliefs, their shared causal beliefs, their shared notion of validity, and their shared set of practices and problems at which their expertise is directed (Haas 1992). The primary political resources available to these groups are their knowledge and expertise (Keck and Sikkink 1998). Members of

epistemic groups can find themselves in an important position for both framing the issues that are up for debate and for setting the agenda in ways that will influence which policy outcomes are more likely to be accepted (Haas 1992). For example, scientific experts both inside and outside the government played an important role in shaping both the debate and the outcome surrounding the regulations that would eventually require TEDs.

Between 1973 and 1984, it was scientists at NOAA Fisheries Service that conducted studies to help determine what the biggest dangers were to endangered and threatened sea turtles. These studies included a variety of methods such as observation aboard shrimp trawlers, volunteer beach patrols looking for stranded sea turtles, information from sea turtle tagging studies, and interviews with shrimpers (Yaninek 1995). Other experts, however, disagreed with the methods that generated these findings, particularly the extrapolations made using the observation data, and argued the government was not using the best possible scientific data when it relied on such information to determine the TED regulations. Even after a federal circuit court ruled in *Louisiana ex rel. Guste v. Verity* (853 F.d 322 5th Cir 1988) that the extrapolation of the data used by the government had not been unreasonable, the battle over the TED regulations would continue on until 1990 when the National Academy of Sciences concluded that shrimp nets were still the largest human-related activity that killed sea turtles.

In addition to such studies conducted by governments themselves, a number of different NGOs that have played a role in the shrimp-turtle dispute also fit into the category of epistemic communities. In many ways, the Sea Turtle Restoration Project

behaved like an epistemic community on the issue of endangered sea turtles because of its singular focus on research and advocacy in this area. Similarly, legal groups like the Center for International Environmental Law and Earthjustice are examples of other groups with a particular expertise, in this case the law, that ultimately helped shape the shrimp-turtle dispute. Figure 4.4 shows the number of law organizations from the regions involved in the shrimp-turtle dispute at each conference that were found in the *Yearbook of International Organizations*.

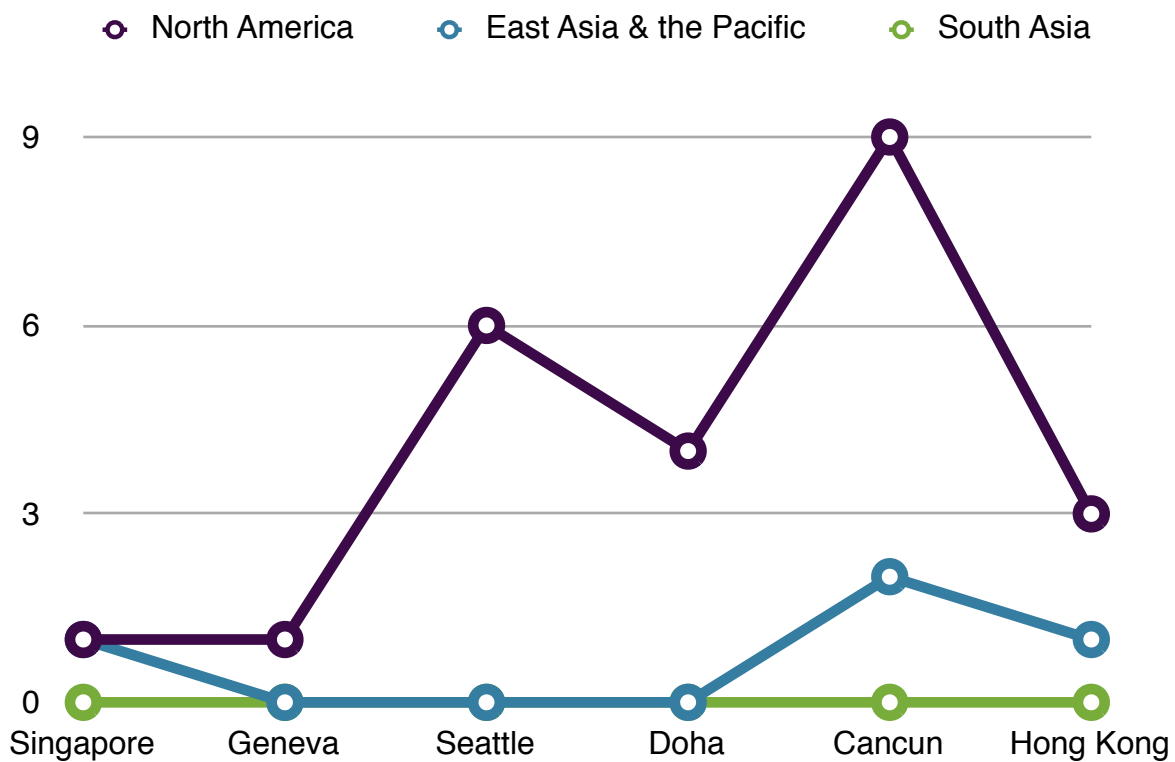


Figure 4.4: Law NGOs By Region

In the case of both the Center for International Environmental Law and Earthjustice, these NGOs did not appear in the overall dispute until after Section 609 had

become the subject of a dispute at the WTO. What ultimately differentiates groups like these from the Sea Turtle Restoration Project is that the Center for International Environmental Law, for example, offered its legal expertise in the form of an amicus curia brief to help explain how Section 609 and the GATT were not necessarily incompatible. In its brief to the Appellate Body, the Center for International Environmental Law explicitly argues the WTO must find a way to reconcile the desire and need for environmental regulations with the language of Article XX if the WTO hopes to develop a coherent set of jurisprudence (CIEL 1999). This basic argument was echoed by those who viewed the Appellate Body's final report as an attempt to placate interests that might have otherwise driven countries, especially the United States, away from the WTO and towards other international bodies (Kelemen 2001).

Regardless of whether this particular case posed a threat to the underlying authority of the WTO, the dispute is important from a legal perspective because groups like the Center for International Environmental Law ultimately won the right to submit unsolicited amicus curia briefs as part of its deliberations in a trade dispute (WTO 2006). Albeit the WTO, itself, is unaware of the exact number of such unsolicited amicus briefs as were submitted in this case or in subsequent cases because that material is considered confidential to the panels themselves. The WTO does say that in no case where such briefs were submitted was the final decision ultimately swayed by this unsolicited material.

## **Evaluating the Hypotheses**

The overall pattern of observed behavior by NGOs that seemed to play key roles at various points offers mixed insights for the argument developed in the second chapter. If the creation of the WTO has truly altered the functioning of the international trade system the single most surprising result of this analysis may be that relative lack of interest in the WTO that was displayed by the economic-based NGOs. These are the groups who, after all, have an economic stake in the regulations that are being ruled on by the WTO. Rather than vociferous calls to action, the newsletters of these groups seem to reflect a quiet resignation that the fortunes of shrimpers are never going to get better. By contrast it is the value-based NGOs that mounted a spirited campaign on behalf of Section 609. The Sea Turtle Restoration Project goes so far as to bombard the public and politicians alerts about the potential threats the WTO poses to democracy and sovereignty while also digging up dirt on the members of the dispute panel.

In spite of these surprises, it is not clear that this pattern of behavior necessarily contradicts the argument presented in the second chapter. If anything, this case only underscores the logic behind moving from a straight-line approach that treats states as gatekeepers to something approximating a triangular conception of the system. The reasoning behind this triangular view is not to say that states are somehow unimportant in an increasingly globalized world but rather to acknowledge that NGOs have options for trying to achieve their desired policy outcomes. From this perspective, the shrimpers of the United States may not have been as concerned with the WTO's initial ruling because they had a choice and ultimately decided that the state would still do something to protect

their interests. Again, this was a sentiment found throughout shrimp industry newsletters published at the time of the initial ruling by the WTO in the shrimp-turtle dispute.

Environmental NGOs, on the other hand, may have been more deeply concerned with the potential implications of a WTO ruling because of the consequences it could have both on their domestic battles and on their increasing efforts to protect sea turtles worldwide. The domestic consequences of the WTO's decision could have split the coalition of shrimpers and environmentalists that supported Section 609 and led to a resumption of the battles that had marked the fight over making TEDs mandatory. However, internationally the consequences could have also hindered the ability of these groups to use Section 609 as an incentive to help move other states towards greater protection endangered sea turtles. In this manner, the WTO could have threatened the ability of environmental groups from around the world to boomerang their desired policies around otherwise recalcitrant governments by using the laws of the United States as an incentive.

When it comes to the two general hypotheses regarding NGO behavior and this case, the results are equally mixed. Perhaps that strongest evidence that some NGOs were concerned with the top-down affects of the structure of the international trade system can be seen in the behavior of groups like the Center for International Environmental Law. Here was a group that was concerned with the manner in which the international trade system reconciled regulations that protected the environment with the need for open and non-discriminatory international trade. The amicus brief filed by this group did not necessarily seek to undermine the WTO system so much as it wanted to

strengthen the overall framework in a manner that combined both. In contrast, the Sea Turtle Restoration Project represents a group that could be an NGO concerned with the top-down structure of the international system, but they could just as easily be a group that recognizes the structure but is ultimately motivated by bottom-up pressures to establish themselves as the foremost authority on the sea turtle protection.

## **Conclusion**

Although the basic principles at the core of the international trade system have changed little since the 1947 General Agreement on Tariffs and Trade, the structure of the system itself has evolved in many important ways during this time. Key among those changes is the overall growth in the number of nongovernmental organizations that have sought to engage the World Trade Organization. From 108 at Singapore, the sight of the first official ministerial conference contact between NGOs and the WTO, to 739 at Seattle just three years later to, finally, 812 at Hong Kong, the last ministerial conference to date. In spite of observations such as these very little is actually known about this overall group of NGOs: who exactly are they and why do they do what they do?

Part of the reason so little is known about this group is that their actions seemingly fall outside the more standard explanations of how groups will interact with one another in international politics. This dissertation has sought address this issue by reconsidering the general efficacy of using a theoretical framework that seems to ignore the possibility of such meaningful contact between groups like NGOs and international organizations. In doing so, the alternative developed here reflects a “triangular” framework for considering the relationship between three broad sets of actors: state actors, non-state actors, and international organizations. This triangular shape does not preclude the existence of the more standard approach found within the literature that can

be best described as a two-level game that traverses the state. Indeed, the alternative framework presented here argues that the “straight-line” framework arises when the overall rules and opportunities of the system block off one side of the triangle, such as the side connecting NGOs directly to international organizations like the WTO.

While developing this alternative framework, this dissertation devised two general hypotheses regarding why NGOs would choose to engage the WTO as plausibility tests for this alternative. The first hypothesis considered a top-down approach positing that NGOs engage the WTO because they are aware of the structure of the system and concerned with the affects it will have on the issues they care about. The second, hypothesis reflected bottom-up considerations whereby NGOs may be seen as engaging the WTO but their real concern is with mobilizing resources and networking with other NGOs. The expectation here being that clear indications these groups were mobilizing because of the opportunities generated by the top-down structure of the system provides greater evidence for the need to rethink the framework used to examine interactions within the overall system itself. In either case, the concern here lay not with whether these NGOs achieved the outcomes they desired but whether these explanations captured the reasoning behind why these groups would step outside the conventional two-level game of international relations theory.

The conclusions to be drawn from both a general look at the population and the examination of the shrimp-turtle dispute offer mixed results with regards to the plausibility of the alternative framework as well as these two general hypotheses. If the transition to the WTO and the current system has truly affected these opportunities, and

consequences, it seems surprising that more groups were not involved with the conferences on a more regular basis. Instead, only nineteen groups have attended all six conferences to date while over half of all NGOs went to just one. The NGOs that have more consultative ties to IGOs is a strong indicator of who has attended a greater proportion of the conferences they were available to attend, however, this is still a rather small number of the overall total population.

Similarly, the fact that economic-based NGOs did not do more once the shrimp-turtle dispute had passed from the United States Court of International Trade to a dispute at the WTO seems startling given that this dispute had a direct economic affect on their interests. The lack of evidence for even bottom-up mobilization efforts among shrimp producer associations stands in marked contrast to their behavior during the earlier domestic dispute over the mandatory use of turtle excluder devices. Rather the response of these organizations seems quite consistent with the expectations of more traditional, domestic-level explanations insofar as American shrimpers seemed to feel the United States government would protect their interests regardless of the WTO's ruling.

Conversely, some of the conclusions that can be drawn from both the description of the population and the shrimp-turtle dispute do seem to indicate that at least a subset of the overall NGO population is aware of the top-down opportunities in the system. Looking at the number of NGOs in attendance at WTO ministerial conferences it is unsurprising that the proportion of groups found in the *Yearbook of International Organizations* to those missing increases as the overall frequency of attendance increases. Groups that are found within the *Yearbook* already have some international orientation

about them and are, therefore, more likely to be aware of the structure of the system and have concerns about how the WTO will affect their interests. These groups may also reflect a population of NGOs that can be identified as having a country of origin but also where that country only really represents the street address for a secretariat. Consequently, these groups may not have a single country they could rely on the way the American shrimpers had the United States government.

Whether this subset primarily includes groups motivated by top-down concerns or bottom-up concerns is not as readably distinguishable given the evidence here. Looking that the Center for International Environmental Law, for example, it is possible to find information about the unsolicited amicus brief submitted as part of the shrimp-turtle dispute as well as the NGOs attendance at conferences and even the submission of two position papers to the WTO. The tone of these submissions generally reflect an interest in seeing the overall system of international law maintained and strengthened but also in a way that is not inherently combative towards environmental protections. Although this information about the group's contact with the WTO is out there, it is generally information that must be actively sought out if one wishes to learn more. As such this groups seems like a candidate for the type of NGO that is responding to the top-down opportunities created by the system itself. These are the groups that missing from more traditional two-level explanations of international politics.

Public Citizen is another organization that has attended four of the six ministerial conferences but its list of other activities strike a tone that is as much about mobilizing individuals and other NGOs as it is about the WTO itself. Prior to the Seattle conference

Public Citizen and its Global Trade Watch traveled throughout the United States trying to raise awareness of the WTO. Public Citizen also publicizes the open letters it and hundreds of other NGOs have signed and sent to the United States Congress, for example. Even the top item on the website for Global Trade Watch is a link to the official movie website for *Battle in Seattle*, a 2007 feature film starring such notable actors as Woody Harrelson and Charlize Theron. Such activities do reflect an awareness of the top-down structure and a concern with the policies of the WTO. However, it seems just as plausible that Public Citizen's continued presence at conference after Seattle is to ensure that it maintains a leading place among NGOs organizing to protest the WTO. Although such motivations do not preclude the need to reevaluate the traditional two-level explanations, they are not necessarily overwhelming support in favor of devising an alternative framework either. Consequently it would still be necessary to learn more about all of the NGOs that attended each ministerial conference to ascertain this information.

### **What Are the Next Steps?**

Given the mixed results obtained by both looking at the population of NGOs at WTO conferences and the actions of select groups in the shrimp-turtle dispute, the next step would be to collect more information and the place to start would be the population ecology. Although largely descriptive, the population ecology and the database that was created for it represent an important first step in understanding more about the groups that have engaged the WTO. However it would also be possible to press this population

ecology further in a number of ways that would further test both of the hypotheses here as well as allow for the development of new hypotheses regarding these NGOs and their behavior.

First, with further research it should be possible to identify networks of organizations that are based on more than name association. Utilizing these networks it would then be possible to identify places where certain NGOs seem to be recruiting others to join them at a conference or, potentially, where one group is sent on behalf of a number of NGOs to any given conference. The *Yearbook of International Organizations* already provides some information on the linkages between different groups, especially those found in the *Yearbook*, and this could be used as a base for expanding to all of the groups present. Knowing which attendees are members of such networks will further help in evaluating the motivations for attending these conferences and whether they are driven by top-down concerns about the WTO or bottom-up concerns about the need to mobilize groups and resources.

Second, expand the use of the *Yearbook of International Organizations* system to classify all NGOs within the database by type and subject to provide an added layer of analysis across the entire population. Given the *Yearbook's* focus on “international” organizations, many national organizations are clearly missing from the analysis of type and subject presented here. Whereas development might be the subject area for the largest number of international NGOs, a different subject may emerge as predominant once all the national farmers unions or national labor unions have been counted. By including such detail for all 1,738 NGOs it would be possible to gauge whether or not the

attendance by any given group also reflected the issues on the agenda for a given conference. Such information would prove beneficial in explaining whether a group's attendance was driven by concerns about the WTO or by mobilization efforts and the need for resources. This information would also allow for further hypotheses regarding the types of NGOs to be developed and tested.

Although it may be possible to obtain a significant amount of this information by researching each NGO, it may also prove useful to actually survey these groups. In designing a questionnaire it would be possible to ask the NGOs to also identify the other groups they are affiliated with and the subject areas they deal with most often. Even without a perfect response rate, it would be possible to use information as a check against the data collected from other sources as well as potentially provide valuable insight into whether or not an NGO's interest in the WTO changed based on their first trip to a conference. This would help get at the degree to which some groups change their motivation across time as, for example, they are recruited by another group to attend that first conference but decide to go back because of their interest in the WTO. Or, perhaps some of the groups that only attended one conference were genuinely concerned with the top-down structure of the WTO but decided not to go back because the experience was not the one they were looking for. In addition to surveying the groups that attended these conferences it would also be important to survey the groups that did not attend but seem like likely candidates to get a sense of why these groups stayed away. Perhaps they were unaware of the role of the WTO or perhaps they had found other ways to represent their interests that they believed were just as good.

In addition to fleshing out the population ecology for groups that attended the ministerial conferences, it would be possible to add to this an analysis of those groups which submitted position papers to the organization. Content analysis on these papers would offer insights into both the reasons these groups had for contacting the WTO but also what their interest in the organization is. However, it would also be necessary to ascertain from the groups the circumstances surrounding these submissions and whether they were submitted as part of the NGO's conference attendance or separately. Ideally, a similar level of analysis could also be brought to bear on the NGOs that attend WTO-sponsored symposia as well as those groups that have submitted unsolicited amicus briefs. Unfortunately, the confidential nature of these interactions will make it more difficult to ascertain the full size of the population involved.

Looking at the shrimp-turtle case from an issue perspective offered up insights into locating various types of groups as well as whether or not they tried to engage the WTO. Additional research could take a similar look into a number of other issues, such as core labor standards or genetically modified organisms, to see how the overall trajectory of these issues played out and what it can say about the decision by different NGOs to engage the WTO. These two areas could prove especially insightful given the large number of agricultural groups and labor unions that show up in the database of NGOs that have attended WTO conferences. But it would also be useful to eventually add more of the responses by the states actors and the WTO itself to get a complete understanding of how all three of these groups of actors are interaction with and reacting

to one another. Such insights will prove important because they get directly to the heart of our understanding about how actors behave in a globalized world.

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