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PEER PRESSURE: CORRELATIONS BETWEEN MEMBERSHIP IN REGIONAL AND REGIONAL ECONOMIC ORGANIZATIONS IN THE CONTEXT OF WTO DISPUTE RESOLUTION CLAIMS

*Alexandra R. Harrington, Esq.**

I. INTRODUCTION

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

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

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VII concludes that peer pressure in the context of regional and regional economic organizations depends more on the structure of the organization and the communal understandings of its members than on the overt appeal of giving into a state's peers.

II. WTO DISPUTE SETTLEMENT BODY

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

Among the inventions of the 1994 GATT agreement was the WTO dispute settlement system.⁵ Under this system, a WTO member has potential recourse for alleged violations of GATT or subsequently enacted WTO trade agreements by bringing a formal complaint before the WTO dispute settlement body.⁶ This body has several levels of juridical competence.⁷ Procedurally, after a complaint is filed with the WTO dispute settlement body, a member state "may request the establishment of a Panel."⁸ The Panel, a non-partisan group of experts, hears the complaint and makes findings of law and fact regarding the

¹ See PAUL A. STEPHAN, JULIE A. ROIN, DON WALLANCE JR., *INTERNATIONAL BUSINESS AND ECONOMICS: LAW AND POLICY* 76 (Lexisnexis 2004) (1993).

² *Id.*

³ See THE GENERAL AGREEMENT ON TRADE AND TARIFFS (GATT 1947), WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm (last visited Apr. 20, 2008).

⁴ See GENERAL AGREEMENT ON TRADE AND TARIFFS 1994, URUGUAY ROUND, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/docs_e/legal_e/06-gatt_e.htm (last visited Apr. 20, 2008).

⁵ See UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES, URUGUAY ROUND, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/docs_e/legal_e/28-dsu_e.htm (last visited Apr. 20, 2008).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

issues raised in the complaint and any counter-complaints raised by the respondent state.⁹ A set timeframe exists in which the Panel must make its findings, although this period may be extended where facts or legal issues require an extension.¹⁰ Once the Panel issues its decision – which can be in favor of either party or favorable to each party on some level – both parties may take an appeal of the Panel’s decision to the Appellate Body.¹¹ Even after the Appellate Body issues a decision, the parties will typically enter into WTO-overseen negotiations regarding the implementation of the measures required in the decision of the Appellate Body; the same procedure typically occurs with regard to a Panel decision.¹²

III. LEGAL FRAMEWORKS OF APPLICABLE REGIONAL AND REGIONAL ECONOMIC ORGANIZATIONS

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

⁹ *Id.*

¹⁰ *Id.*

¹¹ See UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES, URUGUAY ROUND, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/docs_e/legal_e/28-dsu_e.htm (last visited Apr. 20, 2008).

¹² *Id.*

A. ADB

The ADB was founded in 1966 with the goal of functioning as a regional bank that would finance projects for its member states and encourage economic growth and stability throughout the economies of its member states.¹³ The ADB is structured in a similar manner to a corporation. Its ADB members and non-regional members subscribe to a certain amount of bank shares, the cost of which is used as the central method of funding bank operations.¹⁴ Under the terms of the Agreement Establishing the ADB, funding for approved projects may go to the government of a member state directly or to a private entity operating within the member's territory and seeking to perform a certain project.¹⁵ Specific criteria exist for project eligibility and approval, making it difficult for any country or project to suffer a rejection as the result of suits brought before the WTO, were such retaliation contemplated.¹⁶ The terms and conditions of loans and financing arrangements undertaken by the ADB are set forth in this Agreement, again making retaliation for actions taken at the WTO in the form of recalling or otherwise altering a debt virtually impossible.¹⁷

The Agreement Establishing the ADB provides that each member has a representative on the ADB Board of Governors¹⁸ and specifically articulates the powers of the Board of Governors.¹⁹ The possibility for retaliation is limited further due to equality of membership on the governing body of the ADB. Each member has equal voting power on the ADB Board of Directors.²⁰ Suspension of a member state may only occur in a defined set of limited circumstances, which do not involve other activities at the WTO level.²¹ The Board of Directors hears and decides any questions of the Agreement Establishing the ADB's interpretation or application where this issue arises between the Bank and a member state.²² In the event that a withdrawn member state and the Bank disagree on issues related to the

¹³ See ABOUT ADB, ASIAN DEVELOPMENT BANK, available at <http://www.adb.org/About/default.asp> (last visited Apr. 20, 2008).

¹⁴ AGREEMENT ESTABLISHING THE ASIAN DEVELOPMENT BANK ch. II, Dec. 4, 1965, 17 U.S.T. 1418, 571 U.N.T.S. 123 [hereinafter ADB Agreement].

¹⁵ *Id.* ch. III.

¹⁶ *Id.*

¹⁷ *Id.* art. 15.

¹⁸ *Id.* ch. VI.

¹⁹ *Id.*

²⁰ *Id.* ch. VI.

²¹ *Id.*

²² *Id.* ch. IX, art. 60.

withdrawal, the issue will be submitted to a panel of three arbitrators for resolution.²³ The same procedure would be used in the event that the ADB dissolves and there is a conflict with a member state during or after the dissolution.²⁴ There are, however, no provisions regarding settling disagreements between member states themselves.²⁵

The members of the ADB are: Afghanistan, Armenia, Australia, Azerbaijan, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Cook Islands, Fiji, Georgia, Hong Kong, India, Indonesia, Japan, Kazakhstan, Kiribati, the Republic of Korea, the Kyrgyz Republic, Laos, Malaysia, the Maldives, the Marshall Islands, the Federated States of Micronesia, Mongolia, Myanmar (Burma), Nauru, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, the Philippines, Samoa, Singapore, the Solomon Islands, Sri Lanka, Taiwan,²⁶ Tajikistan, Thailand, Timor-Leste,²⁷ Tonga, Turkmenistan, Tuvalu, Uzbekistan, Vanuatu and Vietnam.²⁸ Of these members, Armenia, Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Fiji, Georgia, Hong Kong, India, Indonesia, Japan, the Republic of Korea, the Kyrgyz Republic, Malaysia, the Maldives, Mongolia, Myanmar, Nepal, New Zealand, Pakistan, Papua New Guinea, the Philippines, Singapore, the Solomon Islands, Sri Lanka, Taiwan, Thailand, Tonga and Vietnam are also WTO members.²⁹ Eight ADB members – Azerbaijan, Bhutan, Kazakhstan, Laos, Samoa, Tajikistan, Uzbekistan and Vanuatu are WTO observer governments, meaning that they will either become full-fledged members of the WTO within a set period of time or become disassociated with the WTO entirely.³⁰ Interestingly, Vietnam is one of the WTO's newest members, having become a member in 2007.³¹ There are also sixteen non-regional members of the ADB: Austria, Belgium, Canada, Denmark, Finland,

²³ *Id.* art. 61.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Although frequently referred to as Chinese Taipei, the author will use the designation of Taiwan because of its familiarity to American readers.

²⁷ Timor-Leste is frequently referred to as East Timor.

²⁸ See MEMBERSHIP, ABOUT ADB, ASIAN DEVELOPMENT BANK, available at <http://www.adb.org/About/membership.asp> (last visited Apr. 20, 2008).

²⁹ See MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 20, 2008).

³⁰ *Id.*

³¹ *Id.*

France, Germany, Ireland, Italy, Luxemburg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.³² All of these non-regional members are WTO members.³³

B. APEC

APEC was founded in 1993 with the goal of creating a free trade zone in the Asian-Pacific region by the year 2010.³⁴ The scope of APEC's policy area extends beyond that of the WTO, seeking to incorporate regional businesses and technological advances in its overall economic liberalization scheme.³⁵ APEC is funded entirely through its members, although it has a very limited range of projects for which it will provide funding directly.³⁶ Once a member state makes a donation to APEC for any purpose, the member state is removed from control over the use of that money, thus significantly reducing the ability of an APEC member state to retaliate against a member state that seeks to bring a dispute proceeding against it before the WTO dispute settlement body.³⁷

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

³² See MEMBERSHIP, ABOUT ADB, ASIAN DEVELOPMENT BANK, available at <http://www.adb.org/About/membership.asp> (last visited Apr. 20, 2008).

³³ *Id.*

³⁴ See HISTORY, ABOUT APEC, APEC, available at http://www.apec.org/apec/about_apec/history.html (last visited Apr. 20, 2008).

³⁵ See SCOPE OF WORK, ABOUT APEC, APEC, available at http://www.apec.org/apec/about_apec/scope_of_work.html (last visited Apr. 20, 2008).

³⁶ See HOW APEC WORKS, APEC, available at http://www.apec.org/apec/about_apec/how_apec_operates.html (last visited Apr. 22, 2008).

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See ABOUT APEC, APEC, available at http://www.apec.org/apec/about_apec/how_apec_operates.html (last visited Apr. 22, 2008).

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

C. ASEAN

ASEAN was originally founded in 1967 and accepted new members through 1999.⁴³ ASEAN is an organization which seeks to promote trade and economic development among its members and also seeks to promote a unified regional stance on political structures, the environment and transportation issues, to name a few policy areas in which ASEAN works.⁴⁴ In this sense, it is a regional organization rather than a purely regional economic organization.

In furtherance of its trade promotion goals, ASEAN created a member free trade agreement (AFTA)⁴⁵ and has entered into similar free trade arrangements with neighboring non-member states.⁴⁶ ASEAN has become especially involved in trade and technology transfers with China. It is worth noting that none of the free trade and knowledge sharing agreements in existence between ASEAN and China allow the parties to seek outside intervention in the event of a dispute.⁴⁷ Other than its relationship with China, no other ASEAN partnerships or agreements have such restrictions.⁴⁸ More than any

⁴¹ See MEMBER ECONOMIES, APEC, available at http://www.apec.org/apec/about_apec/scope_of_work.html (last visited Apr. 20, 2008).

⁴² See MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 20, 2008).

⁴³ See ABOUT ASEAN, ASEAN, available at <http://www.aseansec.org/164.htm> (last visited Apr. 20, 2008).

⁴⁴ *Id.*

⁴⁵ See TRADE, ASEAN, available at <http://www.asean.org/12022.htm> (last visited Apr. 22, 2008).

⁴⁶ *See id.*

⁴⁷ See AGREEMENTS AND DECLARATIONS, ASEAN – PEOPLE'S REPUBLIC OF CHINA, EXTERNAL RELATIONS, ASEAN, available at <http://www.aseansec.org/4979.htm> (last visited Apr. 22, 2008).

⁴⁸ *See generally* EXTERNAL RELATIONS, ASEAN, available at <http://www.aseansec.org/4918.htm> (last visited Apr. 22, 2008) (stating that

other regional organization studied in this article, ASEAN's financial agreements and declarations are truly consensus-based and echo a sense that ASEAN's members are in a unique and relatively similar financial position, which is benefitted by its members acting in concert and settling differences between themselves.⁴⁹ ASEAN's trade agreements are virtually silent on the WTO's existence or jurisdiction.⁵⁰ At the same time, many measures agreed to by ASEAN members could easily be viewed as problematic under GATT and the WTO system in that they create regional preferences and reciprocal tariff-lowering requirements solely for ASEAN members.⁵¹ ASEAN has enacted two protocols on dispute settlements, each of which are essentially the same as the WTO's dispute settlement system.⁵² The dispute settlement systems created by ASEAN have broader jurisdiction than most of the dispute settlement mechanisms created by other regional organizations and do not specifically reference the WTO dispute settlement body.⁵³

The members of ASEAN are: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore,

other ASEAN partnerships may seek outside intervention in the event of a dispute).

⁴⁹ See, e.g., DECLARATION OF ASEAN CONCORD II (BALI CONCORD II), ASEAN, available at <http://www.aseansec.org/19096.htm> (last visited Apr. 22, 2008) (depicting a consensus among members in arriving at the agreement); AGREEMENT ON THE COMMON EFFECTIVE PREFERENTIAL TARIFF SCHEME FOR THE ASEAN FREE TRADE AREA, ASEAN, available at <http://www.Aseansec.org/12475.htm> (last visited Apr. 22, 2008) (demonstrating the general consensus among members); FRAMEWORK AGREEMENTS ON ENHANCING ASEAN ECONOMIC COOPERATION (1992), ASEAN, available at <http://www.aseansec.org/12474.htm> (last visited Apr. 22, 2008) (demonstrating the general consensus among members); ASEAN FRAMEWORK AGREEMENT ON THE FACILITATION OF GOODS IN TRANSIT, ASEAN, available at <http://www.aseansec.org/2325.htm> (last visited Apr. 22, 2008) (demonstrating the general consensus among members); PROTOCOL ON THE SPECIAL ARRANGEMENT FOR SENSITIVE AND HIGHLY SENSITIVE PRODUCTS (1999), ASEAN, available at <http://www.aseansec.org/2118.htm> (last visited Apr. 22, 2008) (demonstrating the general consensus among members).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See PROTOCOL ON DISPUTE SETTLEMENT MECHANISM (1996), ASEAN, available at <http://www.aseansec.org/7813.htm> (last visited Apr. 22, 2008); ASEAN PROTOCOL ON ENHANCED DISPUTE SETTLEMENT MECHANISM (2006), ASEAN, available at <http://www.aseansec.org/16755.htm> (last visited Apr. 22, 2008).

⁵³ *Id.*

Thailand and Vietnam.⁵⁴ All ASEAN members are WTO members except for Laos, which is currently a WTO observer government.⁵⁵

D. CACM

Member states founded CACM in 1958 by enacting the Central American Free Trade and Economic Integration Multilateral Treaty.⁵⁶ This treaty enshrined the ideals of creating a free trade area between members and provided for economic interrelation, but did not contain any provisions governing the resolution of disputes between member states.⁵⁷ In addition to these economic principles, CACM exists to further an overall system of regional protection and integration that includes security assistance.⁵⁸ In 1960, CACM enacted the General Treaty on Central American Integration, which provided that questions of treaty interpretation raised by member states would be settled by the executive entity established in the 1958 treaty.⁵⁹

The members of CACM are: Belize, Costa Rica, El Salvador, Honduras, Nicaragua, Panama and the Dominican Republic.⁶⁰ All members of CACM are WTO members.⁶¹

E. BCIE

Founded in 1960, the BCIE seeks to eradicate poverty, increase access to and benefit from globalization, and promote economic

⁵⁴ MEMBER COUNTRIES, ASEAN, *available at* <http://www.aseansec.org/74.htm> (last visited Apr. 22, 2008).

⁵⁵ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

⁵⁶ *See* CENTRAL AMERICAN FREE TRADE AND INTEGRATION MULTILATERAL TREATY (1958), CACM, *available at* http://www.sice.oas.org/SICA/instmt_e.asp (last visited Apr. 22, 2008).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *See* GENERAL TREATY ON CENTRAL AMERICAN INTEGRATION, CACM, *available at* http://www.sice.oas.org/SICA/instmt_e.asp (last visited Apr. 22, 2008).

⁶⁰ *Id.*

⁶¹ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

integration among its members.⁶² It operates largely outside of the WTO framework by encouraging regional and bilateral free trade agreements.⁶³ The BCIE is heavily focused on business development and support but eschews spotlighting member states in favor of concentrating on the needs of particular businesses and sectors of the regional economy.⁶⁴ As with other regionally-focused banks discussed in this article, the BCIE's member states are its shareholders, and the proceeds of share sales are used as a key method of financing BCIE's projects.⁶⁵ Member states have equal power in the governing institutions of the BCIE, mitigating the potential for retaliatory action in the event that a WTO dispute claim is brought against another member state.⁶⁶ The BCIE Board of Governors has jurisdiction to decide any questions of interpretation or application of the basic BCIE agreement provisions.⁶⁷ The BCIE makes funding decisions subject to specific guidelines and requirements, which further militates against any potential for retaliation.⁶⁸ The BCIE does not have a dispute settlement procedure or apparatus.⁶⁹

The members of the BCIE are: Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.⁷⁰ Each of these members is a member of the WTO.⁷¹

⁶² See ABOUT CABEL, CABEL, *available at* http://www.bcie.org/English/bcie/que_hace.php (last visited Apr. 22, 2008).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ See MEMBER COUNTRIES, CABEL, *available at* <http://www.bcie.org/english/paises/index.php> (last visited Apr. 22, 2008).

⁶⁶ See CABEL CONST. ch. IV.

⁶⁷ *Id.* ch. V.

⁶⁸ *Id.* ch. VII.

⁶⁹ See *generally* CABEL CONST. (stating that no dispute settlement procedure is in place).

⁷⁰ See CENTRAL AMERICAN BANK FOR ECONOMIC INTEGRATION, INTERNATIONAL ORGANIZATIONS, CIA WORLD FACTBOOK 2008 APPX. B, *available at* <https://www.cia.gov/library/publications/the-world-factbook/appendix/appendix-b.html> (last visited Apr. 22, 2008).

⁷¹ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

F. EIB

The Treaty of Rome created the European Investment Bank (EIB) in 1958, which has since become the banking arm of the European Union (EU) in terms of funding projects for EU members.⁷² All members of the European Investment Bank (EIB) member states hold shares in the organization and the proceeds from the sales of these shares are used to finance EIB projects.⁷³ The EU subjects the EIB to specific mandates as to the types of projects the EIB must fund and support, removing much of the discretionary element from its funding decisions.⁷⁴ The EIB focuses its funding measures on supporting projects within EU member states and on promoting business creation among its own member states.⁷⁵ Outside the EU, the EIB also funds projects in Asia and Latin America under strict guidance of the EU itself, again removing much of the discretionary element from its funding decisions.⁷⁶

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

⁷² See ABOUT THE EIB, EIB, available at <http://www.eib.org/about/index.htm> (last visited Apr. 22, 2008).

⁷³ See MISSION, ABOUT THE EIB, EIB, available at <http://www.eib.org/about/mission/index.htm> (last visited Apr. 22, 2008).

⁷⁴ See STRATEGY, ABOUT THE EIB, EIB, available at <http://www.eib.org/about/strategy/index.htm> (last visited Apr. 22, 2008).

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ See SHAREHOLDERS, EIB, available at <http://www.eib.org/about/structure/shareholders/index.htm> (last visited Apr. 22, 2008).

⁷⁸ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

G. IADB

The Inter-American Development Bank (IADB) was founded in 1959.⁷⁹ Its stated purpose is to “contribute to the acceleration of the process of economic and social development of the regional developing member countries, individually and collectively.”⁸⁰ To that end, the IADB funds public and private projects within its borrowing members’ territories, provided that these projects are in accordance with the guidelines established for IADB funding decisions.⁸¹ All classes of members have purchased shares in the IADB; the IADB then uses the purchase price of these shares to contribute to the overall capital of the IADB.⁸² At several times throughout its history, the IADB has authorized additional fundraising in order to support certain projects.⁸³

The IADB’s agreement sets out all limitations and requirements for IADB loans and other funding—mitigating against the possibility of retaliatory measures by states brought before the WTO’s dispute settlement body.⁸⁴ Every member has a seat on the Board of Directors, ensuring that no state can dominate the decision-making process within the IADB itself.⁸⁵ Every IADB member has a vote proportionate to the number of shares it holds in the bank plus 135.⁸⁶ Suspension of membership in the IADB may only occur in certain circumstances, which are elaborated in the Agreement Establishing the Inter-American Development Bank.⁸⁷ The Board of Executive Directors has jurisdiction over interpretative questions regarding the Agreement Establishing the Inter-American Development Bank between either member states or a member state and the IADB.⁸⁸ In situations where former members have disputes with the IADB or where the IADB disbands and there is a dispute with a member state relevant parties can resort to arbitration.⁸⁹

⁷⁹ See AGREEMENT ESTABLISHING THE INTER-AMERICAN DEVELOPMENT BANK, Aug. 4, 1959, 10 U.S.T. 3029, 389 U.N.T.S. 69 [hereinafter IADB Agreement].

⁸⁰ *Id.* art. I § 1.

⁸¹ *Id.* § 2.

⁸² *Id.* art. II.

⁸³ See *id.* Prologue.

⁸⁴ *Id.* art. III.

⁸⁵ *Id.* art. VIII § 2.

⁸⁶ *Id.* § 4.

⁸⁷ *Id.* art. IX § 2.

⁸⁸ *Id.* art. XIII § 1.

⁸⁹ *Id.* § 2.

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

H. LAIA

The Latin American Integration Association (LAIA) was created in 1980 through the 1980 Montevideo Treaty.⁹⁶ LAIA's goal is the creation of an integrated economic zone within its member states for

⁹⁰ See CAPITAL STOCK AND VOTING POWER, ABOUT THE IADB, INTER-AMERICAN DEVELOPMENT BANK, *available at* http://www.iadb.org/aboutus/IV/go_voting.cfm?language=English (last visited Apr. 22, 2008).

⁹¹ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

⁹² See CAPITAL STOCK AND VOTING POWER, ABOUT THE IADB, INTER-AMERICAN DEVELOPMENT BANK, *available at* http://www.iadb.org/aboutus/IV/go_voting.cfm?language=English (last visited Apr. 22, 2008).

⁹³ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/English/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

⁹⁴ See CAPITAL STOCK AND VOTING POWER, ABOUT THE IADB, INTER-AMERICAN DEVELOPMENT BANK, *available at* http://www.iadb.org/aboutus/IV/go_voting.cfm?language=English (last visited Apr. 22, 2008).

⁹⁵ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

⁹⁶ See TRATADO DE MONTEVIDEO TREATY, INSTRUMENTO QUE INSTITUYE LA ASOCIACIÓN LATINOAMERICANA DE INTEGRACIÓN, Aug. 12, 1980, *available at* http://www.sice.oas.org/trade/Montev_tr/indice.asp [hereinafter LAIA Agreement].

the promotion and growth of member economies and societies.⁹⁷ LAIA specifically recognizes the differences between the development statuses of its member states and seeks to facilitate an increase in development for its lesser developed members while establishing principles of economic free trade throughout the area.⁹⁸ The 1980 Montevideo Treaty provides a list of products for which tariffs will be reduced or eliminated by member states when they are exported by other member states, with the proviso that these requirements are limited in the case of lesser developed members.⁹⁹ Under the terms of the 1980 Montevideo Treaty, LAIA's governing body is the Council of Ministers of Foreign Affairs, comprised of foreign ministers or their equivalent from each member state, thus giving each member state parity in governmental representation at the LAIA level.¹⁰⁰ In limited circumstances relating to the taxation of products that are not significant parts of a member state's economy, a member state may bring an issue to the Committee of Representatives for a determination.¹⁰¹ Beyond this, however, the 1980 Montevideo Treaty does not address the settlement of disputes between members.¹⁰²

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

I. MERCOSUR

MERCOSUR was created in 1991 in order to create a common market system for member states in the Southern Cone of South America.¹⁰⁵ MERCOSUR's founding documents include provisions

⁹⁷ *Id.* Preamble.

⁹⁸ *Id.* ch. III.

⁹⁹ *Id.* ch. 18 – 19.

¹⁰⁰ *Id.* arts. 28 – 31.

¹⁰¹ *Id.* art. 47.

¹⁰² LAIA Agreement, *supra* note 96.

¹⁰³ See MEMBER COUNTRIES, LAIA, available at <http://www.aladi.org/nsfaladi/perfil.nsf/inicio2004i?OpenFrameSet&Frame=basefrm&Src=%2Fnsf%2Fperfil.nsf%2Fvsiotioweb2004i%2Fpaíses1i%3FOpenDocument%26AutoFramed> (last visited Apr. 22, 2008).

¹⁰⁴ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

¹⁰⁵ See Treaty Establishing a Common Market between the Argentine Republic, the Federal Republic of Brazil, the Republic of Paraguay and the

for the free movement and transportation of goods, establishing a common market and trading policy for MERCOSUR members, and coordinating the trade policies of member states across a range of policy areas related to the economy.¹⁰⁶ MERCOSUR was intended to work as a complement to LAIA.¹⁰⁷ Originally, there was no dispute settlement provision in MERCOSUR's founding document.¹⁰⁸ Later in 1991, MERCOSUR adopted a basic dispute settlement system that was based on the use of arbitration to settle disputes between member states.¹⁰⁹ In 2002, MERCOSUR adopted a new treaty on the handling of disputes between its members.¹¹⁰ The provisions of this treaty are far more thorough than the prior dispute settlement procedures used by MERCOSUR. However, the subject matter is limited to disputes arising out of the implementation of MERCOSUR regulations.¹¹¹

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

J. OAS

Founded in 1948, the OAS is a regional organization which exists for the coordination and encouragement of member interaction in areas such as trade, economic development and cooperation, as well as

Eastern Republic of Uruguay, Mar. 26, 1991, *available at* <http://www.sice.oas.org/trade/mrcsr/mrcsrtoc.asp> (last visited Apr. 22, 2008) (hereinafter MERCOSUR).

¹⁰⁶ *See id.* art. 1.

¹⁰⁷ *See id.* Preamble.

¹⁰⁸ MERCOSUR, *supra* note 105.

¹⁰⁹ *See* PROTOCOL OF BRASILIA FOR THE SOLUTION OF CONTROVERSIES, MERCOSUR, *available at* http://www.sice.oas.org/trade/mrcsr/colonia/pcolonia_s.asp (last visited Apr. 22, 2008).

¹¹⁰ *See* PROTOCOLO DE OLIVOS PARA LA SOLUCION DE CONTROVERSIAS EN EL MERCOSUR, MERCOSUR, *available at* http://www.sice.oas.org/Trade/MRCSR/olivos/polivos_s.asp (last visited Apr. 22, 2008).

¹¹¹ *Id.* ch. 1 art. 1.

¹¹² MERCOSUR, INTERNATIONAL ORGANIZATIONS, CIA WORLD FACTBOOK 2008, *available at* <https://www.cia.gov/library/publications/the-world-factbook/appendix/appendix-b.html>. (last visited Apr. 22, 2008).

¹¹³ Info. & Media Relations Div., World Trade Org., Understanding the WTO 112 (3d ed. 2007), MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm. (last visited Apr. 22, 2008).

military coordination, legal coordination, and societal harmonization.¹¹⁴ Throughout its history, the OAS has enacted trade agreements involving primarily private contract and trading systems.¹¹⁵ The OAS has created several committees that examine and promote economic issues of importance throughout OAS member states.¹¹⁶

The OAS' Charter is silent on settlement of economic disputes between member states.¹¹⁷ The Charter does provide that the OAS was created, in part, for the "specific settlement of disputes" between members. This is generally regarded as applying to situations of state conflict that could otherwise rise to the level of armed conflicts.¹¹⁸ Since its founding, the OAS has established several juridical bodies under its auspices, such as the Inter-American Court of Human Rights; however, none of these bodies addresses economic or trade disputes between member states.¹¹⁹ Thus, there is no juridical body under the OAS system to which OAS member states can bring economic or trade-based disputes.¹²⁰ Additionally, there are no legal provisions regarding the resolution of disputes between OAS member states in either the OAS Charter or subsequently enacted OAS agreements.¹²¹ The greatest means of economic binding in existence between OAS member states is membership in certain committees, such as SEDI, which operate under the OAS's auspices to provide economic assistance to certain

¹¹⁴ OAS HISTORY AT A GLANCE, OAS, *available at* http://www.oas.org/key_issues/eng/KeyIssue_Detail.asp?kis_sec=17 (last visited Apr. 22, 2008).

¹¹⁵ *See* SEDI – DEPARTMENT OF TRADE AND TOURISM, OAS, *available at* <http://www.sedi.oas.org/dttc/trade/> (last visited Apr. 22, 2008).

¹¹⁶ *See id.*; *see also* SOCIAL AND ECONOMIC DEVELOPMENT, KEY ISSUES, OAS, *available at* http://www.oas.org/key_issues/eng/KeyIssue_Detail.asp?kis_sec=19 (last visited Apr. 22, 2008).

¹¹⁷ *See* CHARTER OF THE ORGANIZATION OF AMERICAN STATES, *adopted* April 30, 1948, 2 U.S.T. 2394, 119 U.N.T.S. 3, *available at* <http://www.oas.org/juridico/english/charter.html>. (last visited Apr. 22, 2008).

¹¹⁸ *Id.*

¹¹⁹ *Id.* ch. V.

¹²⁰ *See* INTER-AMERICAN JURIDICAL COMMITTEE, OAS, *available at* http://www.oas.org/cji/eng/inter_american_juridical_committee.htm (last visited Apr. 22, 2008); INFORMATION, INTER-AMERICAN COURT OF HUMAN RIGHTS, *available at* <http://www.corteidh.or.cr/historia.cfm> (follow "version Español" hyperlink) (last visited Apr. 22, 2008).

¹²¹ *See* CHARTER OF THE ORGANIZATION OF AMERICAN STATES, *supra* note 117, *available at* <http://www.oas.org/juridico/english/charter.html> (last visited Apr. 22, 2008).

member states.¹²² Even within these entities, there is no punitive mechanism for states that bring disputes to the WTO.¹²³ Further, the methods of sanctioning or removing an OAS member state, as set forth in the OAS Charter, would generally preclude seeking any such actions against a member state because of its actions at the WTO unless these actions posed a serious and demonstrable threat to the OAS and its member states as a whole.¹²⁴

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

K. SAARC

The South Asian Association for Regional Cooperation was founded in 1985.¹²⁹ There are two major agreements relating to trade between SAARC members: the Agreement on SAARC Preferential

¹²² See SEDI – DEPARTMENT OF TRADE AND TOURISM, OAS, *available at* <http://www.sedi.oas.org/dttc/trade/> (last visited Apr. 22, 2008).

¹²³ *See id.*

¹²⁴ See CHARTER OF THE ORGANIZATION OF AMERICAN STATES, *supra* note 117, *available at* <http://www.oas.org/juridico/english/charter.html> (last visited Apr. 22, 2008).

¹²⁵ OAS MEMBER STATES AND PERMANENT MISSIONS, OAS, *available at* <http://www.oas.org/documents/eng/memberstates.asp> (last visited Apr. 22, 2008).

¹²⁶ *See id.*

¹²⁷ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, INFO. & MEDIA RELATIONS DIV., WORLD TRADE ORG., *supra* note 113, at 112, *available at* http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm. (last visited Apr. 22, 2008).

¹²⁸ *Id.*

¹²⁹ SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION, *available at* <http://www.saarc-sec.org/main.php> (last visited Apr. 22, 2008).

Trading Arrangement (SAPTA)¹³⁰ and the Agreement on South Asian Trade Areas (SAFTA).¹³¹

SAPTA, which was enacted before SAFTA, provides many of the same trade protections that GATT seeks to provide on a global level, specifically most favored nation status, safeguard prohibitions, and easing of the applicable tariff regimes in each member state.¹³² SAPTA provides that member state disputes “regarding the interpretation and application” of SAPTA itself or any subsequent economic agreements would be referred to a governing committee, which would settle the dispute in the event that the members themselves could not.¹³³ Apart from directing such a committee to create rules for the handling of disputes, the provisions addressing dispute settlement provide no further guidance.¹³⁴

SAFTA was enacted several years after SAPTA with the goal of furthering SAPTA’s economic provisions.¹³⁵ Interestingly, SAFTA explicitly endorses the WTO structure and the obligations of SAARC’s members under it.¹³⁶ Such an endorsement necessarily includes the rights of SAARC’s members to seek redress against each other and other WTO members pursuant to the WTO dispute settlement procedure. SAFTA is more explicit than SAPTA in regards to the obligations of SAARC members to liberalize their trading regimes, yet SAFTA still takes into account the uneven development status of its member states by making special, less onerous provisions for lesser developed member states.¹³⁷ SAFTA’s dispute settlement provisions are far more evolved than those contained in SAPTA.¹³⁸ SAFTA provides for a dispute settlement procedure that in many ways mirrors the WTO’s dispute settlement apparatus.¹³⁹ Although SAFTA requires

¹³⁰ AGREEMENT ON SAARC PREFERENTIAL TRADING ARRANGEMENT (SAPTA), SAARC, *available at* <http://www.saarc-sec.org/data/agenda/economic/sapta/sapta.pdf> (last visited Apr. 22, 2008).

¹³¹ AGREEMENT ON SOUTH ASIAN FREE TRADE AREA (SAFTA), SAARC, *available at* <http://www.saarc-sec.org/data/summit12/saftaagreement.pdf> (last visited Apr. 22, 2008) [hereinafter SAFTA].

¹³² *See generally* AGREEMENT ON SAARC PREFERENTIAL TRADING ARRANGEMENT (SAPTA), SAARC, *available at* <http://www.saarc-sec.org/data/agenda/economic/sapta/sapta.pdf> (last visited Apr. 22, 2008).

¹³³ *Id.* art. 20.

¹³⁴ *Id.*

¹³⁵ *See* SAFTA, *supra* note 131.

¹³⁶ *Id.* art. 3.

¹³⁷ *Id.* art. 3.

¹³⁸ *Id.* art. 20.

¹³⁹ *Id.*

that disputes regarding the “interpretation and application” of SAFTA and subsequent SAARC agreements “will be amicably settled among the parties concerned through a process initiated by a request for bilateral consultations,”¹⁴⁰ nothing in its dispute resolution provisions prohibits a member state from taking a dispute to the WTO.¹⁴¹

The members of SAARC include Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka.¹⁴² Bangladesh, India, the Maldives, Nepal, Pakistan and Sri Lanka are members of the WTO.¹⁴³ Afghanistan and Bhutan are currently WTO observer governments.¹⁴⁴

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

Slightly more than half of the disputes brought before the WTO’s dispute settlement body are brought by states that share membership¹⁴⁵ in a regional or regional economic organization with the state against which the complaint is brought.¹⁴⁶ These disputes will be examined

¹⁴⁰ *Id.*

¹⁴¹ See AGREEMENT ON SOUTH ASIAN FREE TRADE AREA, SAARC, available at <http://www.saarc-sec.org/printable.php?id=12> (last visited Apr. 22, 2008).

¹⁴² See SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION, available at <http://www.saarc-sec.org/main.php> (last visited Apr. 22, 2008).

¹⁴³ MEMBERS AND OBSERVERS, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm (last visited Apr. 22, 2008).

¹⁴⁴ *Id.*

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

¹⁴⁶ See generally WTO: DISPUTE SETTLEMENT, CHRONOLOGICAL LIST OF DISPUTES CASES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm (last visited Apr. 27, 2008). Specifically, these disputes are: 371 (Philippines, Thailand); 368 (China, US); 367 (NZ, Australia); 366 (Panama, Colombia); 365 (Brazil, US); 363 (US, China); 362 (US, China); 359 (Mexico, China); 358 (US, China); 357 (Canada, US); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 348 (Panama, Colombia); 346 (Argentina, US); 344 (Mexico, US); 343 (Thailand, US); 342 (Canada, Chile); 340 (US, China); 338

(US, Canada); 336 (Korea, Japan); 335 (Ecuador, US); 333 (Costa Rica, DR); 331 (Guatemala, Mexico); 329 (Mexico, Panama); 325 (Mexico, US); 324 (Thailand, US); 323 (Korea, Japan); 322 (Japan, US); 318 (Taiwan, India); 312 (Indonesia, Korea); 311 (Canada, US); 310 (Canada, US); 309 (US, China); 308 (US, Mexico); 306 (Bangladesh, India); 303 (Chile, Ecuador); 302 (Honduras, DR); 300 (Honduras, DR); 298 (Guatemala, Mexico); 296 (Korea, US); 295 (US, Mexico); 292 (Canada, EC); 289 (Poland, Czech); 285 (Antigua, US); 284 (Nicaragua, Mexico); 282 (Mexico, US); 281 (Mexico, US); 270 (Mexico, US); 278 (Argentina, Chile); 277 (Canada, US); 276 (US, Canada); 275 (US, Venezuela); 274 (Taiwan, US); 272 (Argentina, Peru); 271 (Philippines, Australia); 270 (Philippines, Australia); 268 (Argentina, US); 267 (Brazil, US); 264 (Canada, US); 261 (Chile, Uruguay); 259 (Brazil, US); 258 (NZ, US); 257 (Canada, US); 255 (Chile, Peru); 254 (Norway, US); 253 (Switzerland, US); 252 (China, US); 251 (Korea, US); 250 (Brazil, US); 249 (Japan, US); 247 (Canada, US); 245 (US, Japan); 244 (Japan, US); 241 (Brazil, Argentina); 240 (Hungary, Romania); 239 (Brazil, US); 238 (Chile, Argentina); 236 (Canada, US); 235 (Poland, Slovakia); 234 (Canada & Mexico v. US); 232 (Chile, Mexico); 231 (Peru, EC); 230 (Colombia, Chile); 228 (Colombia, Chile); 227 (Chile, Peru); 226 (Argentina, Chile); 224 (Brazil, US); 222 (Brazil, Canada); 221 (Canada, US); 220 (Guatemala, Chile); 218 (Brazil, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 216 (Brazil, Mexico); 215 (Korea, Philippines); 210 (US, Belgium); 207 (Argentina, Chile); 204 (US, Mexico); 203 (US, Mexico); 202 (Korea, US); 201 (Honduras, Nicaragua); 199 (US, Brazil); 197 (US, Brazil); 196 (US, Argentina); 195 (US, Philippines); 194 (Canada, US); 190 (Brazil, Argentina); 188 (Colombia, Nicaragua); 187 (Costa Rica, Trinidad); 185 (Costa Rica, Trinidad); 184 (Japan, US); 182 (Mexico, Ecuador); 180 (Canada, US); 179 (Korea, US); 178 (Australia, US); 177 (NZ, US); 173 (US, France); 171 (US, Argentina); 170 (US, Canada); 169 (Australia, Korea); 167 (Canada, US); 164 (US, Argentina); 163 (US, Korea); 162 (Japan, US); 161 (US, Korea); 156 (Mexico, Guatemala); 144 (Canada, US); 139 (Japan, Canada); 132 (US, Mexico); 131 (US, France); 128 (US, Netherlands); 127 (US, Belgium); 126 (US, Australia); 112 (Brazil, Peru); 111 (Argentina, US); 110 (EC, Chile); 109 (US, Chile); 106 (US, Australia); 103 (US, Canada); 102 (US, Philippines); 101 (US, Mexico); 99 (Korea, US); 97 (Chile, US); 95 (Japan, US); 93 (NZ, India); 91 (Australia, India); 89 (Korea, US); 86 (US, Sweden); 84 (US, Korea); 83 (US, Denmark); 80 (US, Belgium); 78 (Colombia, US); 76 (US, Japan); 74 (US, Philippines); 71 (Brazil, Canada); 70 (Brazil, Canada); 67 (US, UK); 65 (US, Brazil); 64 (Japan, Indonesia); 61 (Philippines, US); 60 (Mexico, Guatemala); 59 (US, Indonesia); 58 (India, Malaysia, Pakistan, Thailand v. US); 57 (US, Australia); 56 (US, Argentina); 55 (Japan, Indonesia); 52 (US, Brazil); 51 (Japan, Brazil); 49 (Mexico, US); 46 (Canada, Brazil); 45 (US, Japan); 44 (US, Japan); 41 (US, Korea); 37 (US, Portugal); 31 (US, Canada); 28 (US, Japan); 24 (Costa Rica, US); 23 (Mexico, Venezuela); 21 (US, Australia); 20 (Canada, Korea); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US); 5 (US, Korea); 4 (Brazil, US); 3 (US, Korea); 2 (Venezuela, US); 1 (Singapore, Malaysia).

through three different prisms in this Part. First, they will be examined for general trends in the states that have brought disputes before the WTO dispute settlement body and their membership in regional or regional economic groups. Second, they will be examined in terms of the subject matter areas in which complaints have been brought against other members of the same regional or regional economic organization(s) as the complainant state. And third, they will be examined in terms of outcome after appearing before the WTO dispute settlement body.

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

A. GENERAL TRENDS IN COMPLAINTS

Since the inception of the WTO dispute settlement process, there have been three hundred seventy-one complaints filed with the WTO.¹⁴⁷ As discussed below, these complaints have covered a wide range of trade law and policy areas and have resulted in a variety of outcomes, some of which were years in the making.

Of the complaints brought to the WTO dispute settlement body, a majority of involved WTO member states shared at least one common affiliation as primary members of a regional or regional economic organization.¹⁴⁸ The following information should be framed within the understanding that, at times, a WTO member state has brought suit against a state with which it shares multiple regional or regional economic organization affiliations. Members of the OAS¹⁴⁹ and

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* Specifically, these disputes were: DS 366 (Panama, Colombia); DS 365 (Brazil, US); DS 357 (Canada, US); DS 356 (Argentina, Chile); DS 355 (Argentina Brazil); DS 351 (Argentina, Chile); DS 348 (Panama,

APEC¹⁵⁰ have brought complaints against each other most frequently in the WTO setting.¹⁵¹ Rounding out the top three most commonly shared

Colombia); DS 346 (Argentina, US); DS 344 (Mexico, US); DS 338 (US, Canada); DS 335 (Ecuador, US); DS 333 (Costa Rica, DR); DS 331 (Guatemala, Mexico); DS 329 (Mexico, Panama); DS 325 (Mexico, US); DS 311 (Canada, US); DS 310 (Canada, US); DS 308 (US, Mexico); DS 303 (Chile, Ecuador); DS 302 (Honduras, DR); DS 300 (Honduras, DR); DS 298 (Guatemala, Mexico); DS 295 (US, Mexico); DS 285 (Antigua, US); DS 284 (Nicaragua, US); DS 282 (Mexico, US); DS 281 (Mexico, US); DS 280 (Mexico, US); DS 278 (Argentina, US); DS 277 (Canada, US); DS 276 (US, Canada); DS 275 (US, Venezuela); DS 272 (Argentina, Peru); DS 268 (Argentina, US); DS 267 (Brazil, US); DS 264 (Canada, US); DS 261 (Chile, Uruguay); DS 259 (Brazil, US); DS 257 (Canada, Mexico); DS 255 (Chile, Peru); DS 250 (Brazil, US); DS 247 (Canada, US); DS 241 (Brazil, Argentina); DS 239 (Brazil, US); DS 238 (Chile, Argentina); DS 236 (Canada, US); DS 234 (Canada & Mexico v. US); DS 232 (Chile, Mexico); DS 230 (Colombia, Chile); DS 228 (Colombia, Chile); DS 227 (Chile, Peru); DS 226 (Argentina, Chile); DS 224 (Brazil, US); DS 222 (Brazil, Canada); DS 221 (Canada, US); DS 220 (Guatemala, Chile); DS 218 (Brazil, US); DS 216 (Brazil, Mexico); DS 207 (Argentina, Chile); DS 204 (US, Mexico); DS 203 (US, Mexico); DS 201 (Honduras, Nicaragua); DS 199 (US, Brazil); DS 197 (US, Brazil); DS 196 (US, Argentina); DS 194 (Canada, US); DS 190 (Brazil, Argentina); DS 188 (Colombia, Nicaragua); DS 187 (Costa Rica, Trinidad); DS 185 (Costa Rica, Trinidad); DS 182 (Mexico, Ecuador); DS 180 (Canada, US); DS 171 (US, Argentina); DS 170 (US, Canada); DS 167 (Canada, US); DS 164 (US, Argentina); DS 156 (Mexico, Guatemala); DS 144 (Canada, US); DS 132 (US, Mexico); DS 112 (Brazil, Peru); DS 111 (Argentina, US); DS 109 (US, Chile); DS 103 (US, Canada); DS 101 (US, Mexico); DS 97 (Chile, US); DS 78 (Colombia, US); DS 71 (Brazil, Canada); DS 70 (Brazil, Canada); DS 65 (US, Brazil); DS 60 (Mexico, Guatemala); DS 56 (US, Argentina); DS 52 (US, Brazil); DS 49 (Mexico, US); DS 46 (Canada, Brazil); DS 31 (US, Canada); DS 24 (Costa Rica, US); DS 23 (Mexico, Venezuela); DS 4 (Brazil, US); DS 2 (Venezuela, US).

¹⁵⁰ *Id.* Specifically, these disputes were: DS 371 (Philippines, Thailand); DS 368 (China, US); DS 367 (NZ, Australia); DS 363 (US, China); DS 362 (US, China); DS 359 (Mexico, China); DS 358 (US, China); DS 357 (Canada, US); DS 344 (Mexico, US); DS 343 (Thailand, US); DS 342 (Canada, China); DS 340 (US, Canada); DS 338 (US, Canada); DS 336 (Korea, Japan); DS 325 (Mexico, US); DS 324 (Thailand, US); DS 323 (Korea, Japan); DS 322 (Japan, US); DS 312 (Indonesia, Korea); DS 309 (US, China); DS 308 (US, Mexico); DS 296 (Korea, US); DS 295 (US, Mexico); DS 282 (Mexico, US); DS 281 (Mexico, US); DS 280 (Mexico, US); DS 277 (Canada, US); DS 276 (US, Canada); DS 274 (Taiwan, US); DS 271 (Philippines, Australia); DS 270 (Philippines, Australia); DS 264 (Canada, US); DS 258 (NZ, US); DS 257 (Canada, US); DS 255 (Chile, Peru); DS 252 (China, US); DS 251 (Korea, US); DS 249 (Japan, US); DS 247 (Canada, US); DS 245 (US, Mexico); DS 244 (Japan, US); DS 236 (Canada, US); DS 234 (Canada & Mexico, US); DS

regional and regional economic organization membership affiliations in the WTO dispute settlement body setting is the IADB. Although the frequency with which members of the IADB brought complaints against each other to the WTO dispute settlement body is far less than that of OAS and APEC members.¹⁵² LAIA members brought

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

¹⁵¹ *Id.*

¹⁵² *Id.* Specifically, these disputes were: DS 366 (Panama, Colombia); 365 (Brazil, US); DS 357 (Canada, US); DS 356 (Argentina, Chile); DS 355 (Argentina, Brazil); DS 351 (Argentina, Chile); DS 348 (Panama, Colombia); DS 346 (Argentina, US); DS 344 (Mexico, US); DS 338 (US, Canada); DS 335 (Ecuador, US); DS 331 (Guatemala, Mexico); DS 329 (Mexico, Panama); DS 325 (Mexico, US); DS 322 (Japan, US); DS 311 (Canada, US); DS 310 (Canada, US); DS 308 (US, Mexico); DS 303 (Chile, Ecuador); DS 298 (Guatemala, Mexico); DS 295 (US, Mexico); DS 284 (Nicaragua, Mexico); DS 282 (Mexico, US); DS 281 (Mexico, US); DS 280 (Mexico, US); DS 278 (Argentina, Chile); DS 276 (US, Canada); DS 275 (US, Venezuela); DS 272 (Argentina, Peru); DS 268 (Argentina, US); DS 267 (Brazil, US); DS 264 (Canada, US); DS 261 (Chile, Uruguay); DS 259 (Brazil, US); DS 257 (Canada, US); DS 255 (Chile, Peru); DS 254 (Norway, US); DS 253 (Switzerland, US); DS 250 (Brazil, US); DS 249 (Japan, US); DS 247 (Canada, US); DS 245 (US, Japan); DS 244 (Japan, US); DS 241 (Brazil, Argentina); DS 239 (Brazil, US); DS 238 (Chile, Argentina); DS 236 (Canada, US); DS 234 (Canada & Mexico v. US); DS 232 (Chile, Mexico); DS 230 (Colombia, Chile); DS 228 (Colombia, Chile); DS 227 (Chile, Peru); DS 226 (Argentina, Chile); DS 224 (Brazil, US); DS 222 (Brazil, Canada); DS 221 (Canada, US); DS 220 (Guatemala, Chile); DS 218 (Brazil, US); DS 217 (Australia, Brazil,

complaints against each other over twenty times¹⁵³ and members of the ADB brought complaints against each other more than ten times.¹⁵⁴ Members of MERCOSUR have brought two complaints against each other¹⁵⁵ and the EIB have brought complaints against each other three times.¹⁵⁶ Members of ASEAN¹⁵⁷ have brought complaints against each

Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); DS 216 (Brazil, Mexico); DS 210 (US, Belgium); DS 207 (Argentina, Chile); DS 204 (US, Mexico); DS 203 (US, Mexico); DS 201 (Honduras, Nicaragua); DS 199 (US, Brazil); DS 197 (US, Brazil); DS 196 (US, Argentina); DS 194 (Canada, US); DS 190 (Brazil, Argentina); DS 188 (Colombia, Nicaragua); DS 187 (Costa Rica, Trinidad); DS 185 (Costa Rica, Trinidad); DS 184 (Japan, US); DS 180 (Canada, US); DS 173 (US, France); DS 171 (US, Argentina); DS 170 (US, Canada); DS 167 (Canada, US); DS 164 (US, Argentina); DS 162 (Japan, US); DS 156 (Mexico, Guatemala); DS 144 (Canada, US); DS 139 (Japan, Canada); DS 132 (US, Mexico); DS 131 (US, France); DS 128 (US, Netherlands); DS 127 (US, Belgium); DS 112 (Brazil, Peru); DS 111 (Argentina, US); DS 109 (US, Chile); DS 103 (US, Canada); DS 101 (US, Mexico); DS 97 (Chile, US); DS 95 (Japan, US); DS 86 (US, Sweden); DS 83 (US, Denmark); DS 80 (US, Belgium); DS 78 (Colombia, US); DS 76 (US, Japan); DS 71 (Brazil, Canada); DS 70 (Brazil, Canada); DS 67 (US, UK); DS 65 (US, Brazil); DS 60 (Mexico, Guatemala); DS 56 (US, Argentina); DS 52 (US, Brazil); DS 51 (Japan, Brazil); DS 49 (Mexico, US); DS 45 (US, Japan); DS 44 (US, Japan); DS 37 (US, Portugal); DS 31 (US, Canada); DS 28 (US, Japan); DS 24 (Costa Rica, US); DS 23 (Mexico, Venezuela); DS 11 (US, Japan); DS 10 (Canada, Japan); DS 6 (Japan, US); DS 4 (Brazil, US); DS 2 (Venezuela, US).

¹⁵³ *Id.* Specifically, these disputes were: 366 (Panama, Colombia); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 303 (Chile, Ecuador); 284 (Nicaragua, Mexico); 278 (Argentina, Chile); 272 (Argentina, Peru); 261 (Chile, Uruguay); 255 (Chile, Peru); 241 (Brazil, Argentina); 238 (Chile, Argentina); 232 (Chile, Mexico); 230 (Colombia, Chile); 228 (Colombia, Chile); 227 (Chile, Peru); 226 (Argentina, Chile); 216 (Brazil, Uruguay); 207 (Argentina, Chile) 190 (Brazil, Argentina); 188 (Colombia, Nicaragua); 182 (Mexico, Ecuador); 112 (Brazil, Peru).

¹⁵⁴ *Id.* Specifically, these disputes were: 371 (Philippines, Thailand); 367 (NZ, Australia); 336 (Korea, Japan); 323 (Korea, Japan); 318 (Taiwan, India); 312 (Indonesia, Korea); 306 (Bangladesh, India); 271 (Philippines, Australia); 270 (Philippines, Australia); 215 (Korea, Philippines); 169 (Australia, Korea); 93 (NZ, India); 91 (Australia, India); 64 (Japan, Indonesia); 55 (Japan, Indonesia); 1 (Singapore, Malaysia).

¹⁵⁵ *Id.* Specifically, these disputes were: 355 (Argentina, Brazil); 190 (Brazil, Argentina).

¹⁵⁶ *Id.* Specifically, these disputes were: 289 (Poland, Czech); 240 (Hungary, Romania); 235 (Poland, Slovakia).

¹⁵⁷ *Id.* Specifically, these disputes were: 371 (Philippines, Thailand); 1 (Singapore, Malaysia).

other twice, while members of BCIE,¹⁵⁸ SAARC,¹⁵⁹ and CACM¹⁶⁰ have brought suit against each other once.¹⁶¹

Meaningful trends can also be observed in the times when states that are members of multiple regional or regional economic organizations file disputes against states which are members of these same organizations. The most frequent combination of organization membership to appear before the WTO dispute resolution body is the combination of IADB and OAS members. This combination has appeared before the WTO dispute resolution body nearly forty times.¹⁶² The combination of APEC, IADB, and OAS has appeared before the WTO dispute resolution body thirty times.¹⁶³ The combination of members of IADB, LAIA, and the OAS has appeared before the WTO dispute resolution body sixteen times,¹⁶⁴ while the combination of

¹⁵⁸ *Id.* Specifically, this dispute was: 201 (Honduras, Nicaragua).

¹⁵⁹ *Id.* Specifically, this dispute was: 306 (Bangladesh, India).

¹⁶⁰ *Id.* Specifically, this dispute was: 201 (Honduras, Nicaragua).

¹⁶¹ *Id.*

¹⁶² See generally *supra* note 146. Specifically, these disputes were: 365 (Brazil, US); 348 (Panama, Colombia); 346 (Argentina, US); 331 (Guatemala, Mexico); 329 (Mexico, Panama); 311 (Canada, US); 310 (Canada, US); 298 (Guatemala, Mexico); 275 (US, Venezuela); 268 (Argentina, US); 267 (Brazil, US); 259 (Brazil, US); 250 (Brazil, US); 239 (Brazil, US); 224 (Brazil, US); 222 (Brazil, Canada); 218 (Brazil, US); 199 (US, Brazil); 197 (US, Brazil); 196 (US, Argentina); 187 (Costa Rica, Trinidad); 195 (Costa Rica, Trinidad); 171 (US, Argentina); 164 (US, Argentina); 156 (Mexico, Guatemala); 112 (Brazil, Peru); 111 (Argentina, US); 78 (Colombia, US); 71 (Brazil, Canada); 70 (Brazil, Canada); 65 (US, Brazil); 60 (Mexico, Guatemala); 56 (US, Argentina); 52 (US, Brazil); 31 (US, Canada); 24 (Costa Rica, US); 23 (Mexico, Venezuela); 4 (Brazil, US); 2 (Venezuela, US).

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

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

membership in IADB and APEC has appeared before the WTO dispute resolution body fourteen times¹⁶⁵ and the combination of ADB and APEC members have appeared before the WTO dispute resolution body twelve times.¹⁶⁶ The combination of APEC, IADB, LAIA, and OAS¹⁶⁷ members and the combination of IADB, LAIA, MERCUSOR and OAS¹⁶⁸ members have appeared before the WTO dispute resolution body three times.¹⁶⁹ The combination of ADB, APEC, and ASEAN members has appeared before the WTO dispute resolution body twice,¹⁷⁰ while the combinations of ADB and SAARC,¹⁷¹ APEC and OAS,¹⁷² and CACM, IADB, and OAS¹⁷³ have each appeared once before the WTO dispute resolution body.¹⁷⁴

B. TOPIC TRENDS

To better understand the nature of the complaints brought before the WTO dispute settlement body, these complaints have been broken down into the following classifications: anti-dumping measures, classification, countervailing duties, customs, distribution, sale and transportation of goods, export-specific issues, general system of preferences, governmental action disputes, imports, inspections,

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

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

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

¹⁶⁸ *Id.* Specifically, these disputes were: 355 (Argentina, Brazil); 241 (Brazil, Argentina); 190 (Brazil, Argentina).

¹⁶⁹ *Id.*

¹⁷⁰ *See supra* note 146. Specifically, these disputes were: 371 (Philippines, Thailand); 1 (Singapore, Malaysia).

¹⁷¹ *Id.* Specifically, this dispute was: 306 (Bangladesh, India).

¹⁷² *Id.* Specifically, this dispute was: 277 (Canada, US).

¹⁷³ *Id.* Specifically, this dispute was: 201 (Honduras, Nicaragua).

¹⁷⁴ *See supra* note 146.

intellectual property, procurement, safeguards, specific product measures, standards, subsidies, and tariffs.

Members of the OAS¹⁷⁵ and IADB¹⁷⁶ have brought more than thirty complaints relating to anti-dumping measures.¹⁷⁷ APEC members have brought more than twenty such complaints.¹⁷⁸ In descending order, members of LAIA,¹⁷⁹ the ADB,¹⁸⁰ MERCOSUR,¹⁸¹

¹⁷⁵ See INDEX OF DISPUTE ISSUES, WORLD TRADE ORGANIZATION, available at http://www.wto.org/english/tratop_e/dispu_e/dispu_subjects_index_e.htm (last visited Apr. 27, 2008). Specifically, these disputes were: 355 (Argentina, Brazil); 346 (Argentina, US); 344 (Mexico, US); 338 (US, Canada); 335 (Ecuador, US); 331 (Guatemala, Mexico); 325 (Mexico, US); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 277 (Canada, US); 272 (Argentina, Peru); 268 (Argentina, US); 264 (Canada, US); 247 (Canada, US); 241 (Brazil, Argentina); 239 (Brazil, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 216 (Brazil, Mexico); 203 (US, Mexico); 197 (US, Brazil); 187 (Costa Rica, Trinidad); 185 (Costa Rica, Trinidad); 182 (Mexico, Ecuador); 156 (Mexico, Guatemala); 132 (US, Mexico); 102 (US, Philippines); 60 (Mexico, Guatemala); 49 (Mexico, US); 23 (Mexico, Venezuela).

¹⁷⁶ *Id.* Specifically, these disputes were: 355 (Argentina, Brazil); 346 (Argentina, US); 344 (Mexico, US); 338 (US, Canada); 335 (Ecuador, US); 331 (Guatemala, Mexico); 325 (Mexico, US); 322 (Thailand, US); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 272 (Argentina, Peru); 268 (US, Canada, US); 247 (Canada, US); 244 (Japan, US); 241 (Brazil, Argentina); 239 (Brazil, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 216 (Brazil, Mexico); 203 (US, Mexico); 197 (US, Brazil); 187 (Costa Rica, Trinidad); 185 (Costa Rica, Trinidad); 184 (Japan, US); 182 (Mexico, Ecuador); 162 (Japan, US); 156 (Mexico, Venezuela); 132 (US, Mexico); 102 (US, Philippines); 60 (Mexico, Guatemala); 49 (Mexico, US); 23 (Mexico, Venezuela).

¹⁷⁷ *Id.*

¹⁷⁸ See *supra* note 175. Specifically, these disputes were: 368 (China, US); 344 (Mexico, US); 338 (US, Canada); 325 (Mexico, US); 324 (Thailand, US); 322 (Japan, US); 312 (Indonesia, Korea); 295 (US, Mexico); 282 (Mexico, US); 281 (Mexico, US); 277 (Canada, US); 264 (Canada, US); 247 (Canada, US); 244 (Japan, US); 234 (Canada & Mexico v. US); 221 (Canada, US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 215 (Korea, Philippines); 203 (US, Mexico); 184 (Japan, US); 179 (Korea, US); 162 (Japan, US); 132 (US, Mexico); 102 (US, Philippines); 99 (Korea, US); 89 (Korea, US); 49 (Mexico, US).

¹⁷⁹ *Id.* Specifically, these disputes were: 355 (Argentina, Brazil); 272 (Argentina, Peru); 241 (Brazil, Argentina); 216 (Brazil, Mexico); 182 (Mexico, Ecuador).

and SAARC¹⁸² have also brought complaints regarding anti-dumping measures.¹⁸³

Members of APEC,¹⁸⁴ the IADB¹⁸⁵ and OAS¹⁸⁶ have each brought one complaint regarding classifications.¹⁸⁷

In descending order, members of OAS,¹⁸⁸ IADB,¹⁸⁹ APEC,¹⁹⁰ LAIA,¹⁹¹ and the ADB¹⁹² have brought complaints involving countervailing duties.¹⁹³

IADB members have brought complaints against each other for customs issues four times,¹⁹⁴ while members of the ADB,¹⁹⁵ APEC,¹⁹⁶ ASEAN,¹⁹⁷ LAIA,¹⁹⁸ and the OAS¹⁹⁹ have brought one complaint in regards to Customs.²⁰⁰

¹⁸⁰ *Id.* Specifically, these disputes were: 318 (Taiwan, India); 312 (Indonesia, Korea); 306 (Bangladesh, India); 215 (Korea, Philippines).

¹⁸¹ *Id.* Specifically, these disputes were: 355 (Argentina, Brazil); 241 (Brazil, Argentina).

¹⁸² *Id.* Specifically, this dispute was: 306 (Bangladesh, India).

¹⁸³ *Id.*

¹⁸⁴ *See supra* note 175, Specifically, this dispute was: 180 (Canada, US).

¹⁸⁵ *Id.* Specifically, this dispute was: 180 (Canada, US).

¹⁸⁶ *Id.* Specifically, this dispute was: 180 (Canada, US).

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* Specifically, these disputes were: 365 (Brazil, US); 338 (US, Canada); 311 (Canada, US); 280 (Mexico, US); 257 (Canada, US); 222 (Brazil, Canada); 218 (Brazil, US); 167 (Canada, US); 112 (Brazil, Peru); 97 (Chile, US).

¹⁸⁹ *Id.* Specifically, these disputes were: 365 (Brazil, US); 338 (US, Canada); 311 (Canada, US); 280 (Mexico, US); 257 (Canada, US); 222 (Brazil, Canada); 218 (Brazil, US); 167 (Canada, US); 112 (Brazil, Peru); 97 (Chile, US).

¹⁹⁰ *Id.* Specifically, these disputes were: 338 (US, Canada); 336 (Korea, Japan); 311 (Canada, US); 296 (Korea, US); 280 (Mexico, US); 257 (Canada, US); 167 (Canada, US); 97 (Chile, US).

¹⁹¹ *Id.* Specifically, this dispute was: 167 (Canada, US).

¹⁹² *Id.* Specifically, this dispute was: 336 (Korea, Japan).

¹⁹³ *Id.*

¹⁹⁴ *Id.* Specifically, these disputes were: 366 (Panama, Colombia); 298 (Guatemala, Mexico); 210 (US, Belgium); 67 (US, UK).

¹⁹⁵ *Id.* Specifically, this dispute was: 371 (Philippines, Thailand).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* Specifically, this dispute was: 366 (Panama, Colombia).

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

APEC members have brought two complaints involving the distribution, sale, or transportation of products,²⁰¹ while members of the IADB²⁰² and OAS²⁰³ have each brought one such complaint.²⁰⁴ Members of the OAS²⁰⁵ and IADB²⁰⁶ have brought a limited number of complaints regarding export measures.²⁰⁷ Members of the IADB²⁰⁸ and OAS²⁰⁹ have each brought one complaint regarding governmental disputes.²¹⁰ There have been no direct member-on-member complaints in the WTO dispute settlement system regarding general systems of preferences.²¹¹

Members of APEC²¹² and the OAS²¹³ have brought more than ten complaints involving import measures. In decreasing order, members of the ADB²¹⁴ and LAIA²¹⁵ have brought more than one complaint regarding imports.²¹⁶ Members of ASEAN,²¹⁷ CACM,²¹⁸ the EIB,²¹⁹

²⁰¹ See *supra* note 175.

²⁰² *Id.* Specifically, this dispute was: 45 (US, Japan).

²⁰³ *Id.* Specifically, this dispute was: 292 (Canada, EC).

²⁰⁴ *Id.*

²⁰⁵ See *supra* note 175. Specifically, these disputes were: 71 (Brazil, Canada); 46 (Canada, Brazil).

²⁰⁶ *Id.* Specifically, this dispute was: 71 (Brazil, Canada).

²⁰⁷ *Id.*

²⁰⁸ See *supra* note 175. Specifically, this dispute was: 310 (Canada, US).

²⁰⁹ *Id.* Specifically, this dispute was: 310 (Canada, US).

²¹⁰ See *infra* notes 219 – 20.

²¹¹ See *supra* note 175.

²¹² *Id.* Specifically, these disputes were: 367 (NZ, Australia); 342 (Canada, China); 340 (US, China); 323 (Korea, Japan); 276 (US, Canada); 275 (US, Venezuela); 271 (Philippines, Australia); 270 (Philippines, Australia); 245 (US, Japan); 232 (Chile, Mexico); 169 (Australia, Korea); 161 (US, Korea); 144 (Canada, US); 103 (US, Canada); 61 (Philippines, US); 58 (India, Malaysia, Pakistan, Thailand v. China); 57 (US, Australia); 21 (US, Australia); 3 (IS, Korea); 1 (Singapore, Malaysia).

²¹³ *Id.* Specifically, these disputes were: 348 (Panama, Colombia); 333 (Costa Rica, DR); 302 (Honduras, DR); 300 (Honduras, DR); 284 (Nicaragua, Mexico); 276 (US, Canada); 275 (US, Venezuela); 232 (Chile, Mexico); 201 (Honduras, Nicaragua); 188 (Colombia, Nicaragua); 144 (Canada, US); 103 (US, Canada); 24 (Costa Rica, US).

²¹⁴ *Id.* Specifically, these disputes were: 367 (NZ, Australia); 323 (Korea, Japan); 271 (Philippines, Australia); 270 (Philippines, Australia); 169 (Australia, Korea); 91 (Australia, India); 1 (Singapore, Malaysia).

²¹⁵ *Id.* Specifically, these disputes were: 348 (Panama, Colombia); 284 (Nicaragua, Mexico); 232 (Chile, Mexico); 188 (Colombia, Nicaragua).

²¹⁶ *Id.*

BCIE,²²⁰ and the IADB²²¹ have brought one import-related complaint.²²²

In descending order, members of the IADB,²²³ OAS²²⁴ and APEC²²⁵ have brought complaints regarding intellectual property.²²⁶ APEC members have brought one complaint regarding inspection-related issues.²²⁷ APEC members have brought two complaints regarding procurement issues.²²⁸

Members of the IADB,²²⁹ OAS²³⁰ and LAIA²³¹ have brought ten or more complaints in regards to safeguards,²³² followed in descending order by APEC,²³³ the EIB,²³⁴ and MERCOSUR members.²³⁵

²¹⁷ See *supra* note 175. Specifically, this dispute was: 1 (Singapore, Malaysia).

²¹⁸ *Id.* Specifically, this dispute was: 201 (Honduras, Nicaragua).

²¹⁹ *Id.* Specifically, this dispute was: 240 (Hungary, Romania).

²²⁰ *Id.* Specifically, this dispute was: 201 (Honduras, Nicaragua).

²²¹ See *supra* note 175. Specifically, these disputes were: 284 (Nicaragua, Mexico); 276 (US, Canada); 275 (US, Venezuela); 245 (US, Japan); 232 (Chile, Mexico); 201 (Honduras, Nicaragua); 188 (Colombia, Nicaragua); 144 (Canada, US); 103 (US, Canada); 56 (US, Argentina); 24 (Costa Rica, US).

²²² *Id.*

²²³ See *supra* note 175. Specifically, these disputes were: 224 (Brazil, US); 199 (US, Brazil); 196 (US, Argentina); 171 (US, Argentina); 170 (US, Canada); 86 (US, Sweden); 83 (US, Denmark); 37 (US, Portugal).

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

²²⁵ *Id.* Specifically, these disputes were: 362 (US, China); 170 (US, Canada).

²²⁶ *Id.*

²²⁷ See *supra* note 175. Specifically, this dispute was: 41 (US, Korea).

²²⁸ *Id.* Specifically, these disputes were: 163 (US, Korea); 95 (Japan, US).

²²⁹ *Id.* Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 259 (Brazil, US); 254 (Norway, US); 249 (Japan, US); 238 (Chile, Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina); 78 (Colombia, US).

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

²³¹ *Id.* Specifically, these disputes were: 356 (Argentina, Chile); 351 (Argentina, Chile); 303 (Chile, Ecuador); 278 (Argentina, Chile); 238 (Chile,

APEC²³⁶ and IADB²³⁷ members have brought ten or more complaints regarding specific products.²³⁸ OAS members have brought six such complaints²³⁹ and ADB members have brought two such complaints.²⁴⁰

Members of the IADB²⁴¹ and OAS²⁴² have brought two complaints regarding standards.²⁴³ APEC members have brought four complaints against other members of that organization regarding subsidies,²⁴⁴ while members of the IADB²⁴⁵ and OAS have each brought three such complaints.²⁴⁶

Argentina); 230 (Colombia, Chile); 228 (Colombia, Chile); 226 (Argentina, Chile); 207 (Argentina, Chile); 190 (Brazil, Argentina).

²³² *Id.*

²³³ *See supra* note 175. Specifically, these disputes were: 274 (Taiwan, US); 258 (NZ, US); 252 (China, US); 251 (Korea, US); 249 (Japan, US); 202 (Korea, US); 178 (Australia, US); 177 (NZ, US).

²³⁴ *Id.* Specifically, this dispute was: 235 (Poland, Slovakia).

²³⁵ *Id.* Specifically, this dispute was: 190 (Brazil, Argentina).

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

²³⁷ *Id.* Specifically, these disputes were: 236 (Canada, US); 204 (US, Mexico); 173 (US, France); 80 (US, Belgium); 76 (US, Japan); 65 (US, Brazil); 52 (US, Brazil); 51 (Japan, Brazil); 31 (US, Canada); 28 (US, Japan).

²³⁸ *Id.*

²³⁹ *See supra* note 175. Specifically, these disputes were: 285 (Antigua, US); 236 (Canada, US); 204 (US, Mexico); 65 (US, Brazil); 52 (US Brazil); 31 (US, Canada).

²⁴⁰ *Id.* Specifically, these disputes were: 64 (Japan, Indonesia); 55 (Japan, Indonesia).

²⁴¹ *Id.* Specifically, these disputes were: 4 (Brazil, US); 2 (Venezuela, US).

²⁴² *Id.* Specifically, these disputes were: 4 (Brazil, US); 2 (Venezuela, US).

²⁴³ *Id.*

²⁴⁴ *See supra* note 175. Specifically, these disputes were: 357 (Canada, US); 194 (Canada, US); 126 (US, Australia); 106 (US, Australia).

²⁴⁵ *Id.* Specifically, these disputes were: 357 (Canada, US); 267 (Brazil, US); 194 (Canada, US).

²⁴⁶ *Id.* Specifically, these disputes were: 357 (Canada, US); 267 (Brazil, US); 194 (Canada, US).

Members of the IADB²⁴⁷ and APEC²⁴⁸ have brought ten or more complaints against other members within the same organization regarding tariff measures.²⁴⁹ OAS members have brought tariff-based complaints eight times,²⁵⁰ followed, in decreasing order of frequency, by members of LAIA²⁵¹ and the EIB.²⁵²

C. RESULT TRENDS

Many possible outcomes exist once a WTO member files a complaint with the WTO dispute settlement body. For the purposes of this article, these outcomes have been broken down into the following categories: appeal pending, mixed outcomes (meaning that both the complainant state and the respondent state have had positive rulings from the Panel), mutually agreed settlements, Panel decision against complainant state, Panel decision against Respondent state, Panel established but no further action, and settled or inactive.

Both APEC²⁵³ and IADB²⁵⁴ members have ended complaints against other member states through mutually agreed settlements in

²⁴⁷ *Id.* Specifically, these disputes were: 329 (Mexico, Panama); 308 (US, Mexico); 261 (Chile, Uruguay); 255 (Chile, Peru); 251 (Korea, US); 227 (Chile, EC); 131 (US, France); 128 (US, Netherlands); 127 (US, Belgium); 111 (Argentina, US); 109 (US, Chile); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US).

²⁴⁸ *Id.* Specifically, these disputes were: 359 (Mexico, China); 358 (US, China); 308 (US, Mexico); 255 (Chile, Peru); 227 (Chile, EC); 109 (US, Chile); 84 (US, Korea); 11 (US, Japan); 10 (Canada, Japan); 6 (Japan, US).

²⁴⁹ *Id.*

²⁵⁰ *See supra* note 175. Specifically, these disputes were: 329 (Mexico, Panama); 308 (US, Mexico); 261 (Chile, Uruguay); 255 (Chile, Peru); 251 (Korea, US); 227 (Chile, EC); 111 (Argentina, US); 109 (US, Chile).

²⁵¹ *Id.* Specifically, these disputes were: 261 (Chile, Uruguay); 255 (Chile, Peru); 227 (Chile, EC).

²⁵² *Id.* Specifically, this dispute was: 289 (Poland, Czech).

²⁵³ *See generally supra* note 146. Specifically, these disputes were: 323 (Korea, Japan); 311 (Canada, US); 281 (Mexico, US); 277 (Canada, US); 264 (Canada, US); 247 (Canada, US); 245 (US, Japan); 236 (Canada, US); 126 (US, Australia); 103 (US, Canada); 102 (US, Philippines); 74 (US, Philippines); 28 (US, Japan); 21 (US Australia); 20 (Canada, Korea); 6 (Japan, US); 5 (US, Korea).

²⁵⁴ *Id.* Specifically, these disputes were: 348 (Panama, Colombia); 329 (Mexico, Panama); 311 (Canada, US); 309 (US, China); 281 (Mexico, US); 264 (Canada, US); 261 (Chile, Uruguay); 257 (Canada, US); 250 (Brazil, US); 247 (Canada, US); 245 (US, Japan); 236 (Canada, US); 210 (US, Belgium); 199 (US, Brazil); 196 (US, Argentina); 190 (Brazil, Argentina); 171 (US,

excess of fifteen times.²⁵⁵ Members of the OAS,²⁵⁶ LAIA,²⁵⁷ the ADB,²⁵⁸ MERCOSUR²⁵⁹ and EIB²⁶⁰ have also ended complaints against other member states through mutually agreed settlement.

Members of the IADB,²⁶¹ APEC²⁶² and OAS²⁶³ have had complaints end in Panel decisions against the complainant.²⁶⁴ Panel decisions against the respondent have most frequently occurred in complaints involving members of the IADB,²⁶⁵ OAS²⁶⁶ and APEC,²⁶⁷

Argentina); 103 (US, Canada); 86 (US, Sweden); 83 (US, Denmark); 37 (US, Portugal); 28 (US, Japan); 6 (Japan, US).

²⁵⁵ *Id.*

²⁵⁶ *See generally supra* note 146. Specifically, these disputes were: 348 (Panama, Colombia); 329 (Mexico, Panama); 311 (Canada, US); 281 (Mexico, US); 277 (Canada, US); 264 (Canada, US); 261 (Chile, Uruguay); 257 (Canada, US); 250 (Brazil, US); 247 (Canada, US); 236 (Canada, US); 199 (US, Brazil); 196 (US, Argentina); 190 (Brazil, Argentina); 171 (US, Argentina); 103 (US, Canada).

²⁵⁷ *Id.* Specifically, these disputes were: 261 (Chile, Uruguay); 190 (Brazil, Argentina).

²⁵⁸ *Id.* Specifically, these disputes were: 323 (Korea, Japan); 93 (NZ, India); 91 (Australia, India).

²⁵⁹ *Id.* Specifically, this dispute was: 190 (Brazil, Argentina).

²⁶⁰ *Id.* Specifically, this dispute was: 235 (Poland, Slovakia).

²⁶¹ *Id.* Specifically, these disputes were: 296 (Korea, US); 282 (Mexico, US); 244 (Japan, US); 204 (US, Mexico); 194 (Canada, US); 163 (US, Korea); 44 (US, Japan).

²⁶² *See supra* note 146. Specifically, these disputes were: 282 (Mexico, US); 244 (Japan, US); 204 (US, Mexico); 194 (Canada, US); 44 (US, Japan).

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

²⁶⁴ *Id.*

²⁶⁵ *See generally supra* note 146. Specifically, these disputes were: 335 (Ecuador, US); 331 (Guatemala, Mexico); 322 (Japan, US); 308 (US, Mexico); 295 (US, Mexico); 170 (US, Canada); 156 (Mexico, Guatemala); 70 (Brazil, Canada); 56 (US, Argentina); 24 (Costa Rica, US); 11 (US, Japan); 10 (Canada, Japan); 4 (Brazil, US); 2 (Venezuela, US).

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

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

while such decisions have occurred once for members of the ADB.²⁶⁸ Mixed Panel and/or appellate decisions have also most frequently occurred in complaints brought by members of the IADB,²⁶⁹ OAS²⁷⁰ and APEC,²⁷¹ as well as for members of LAIA,²⁷² the ADB,²⁷³ and MERCOSUR.²⁷⁴ There is currently one complaint in which an appeal is pending. This case involves members of the ADB, APEC and the IADB.²⁷⁵

Panels have been requested by the IADB²⁷⁶ and OAS most frequently,²⁷⁷ followed by APEC,²⁷⁸ LAIA,²⁷⁹ ADB,²⁸⁰ ASEAN²⁸¹ and

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

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

²⁷⁰ *Id.* Specifically, these disputes were: 268 (Argentina, US); 267 (Brazil, US); 259 (Brazil, US); 241 (Brazil, Argentina); 238 (Chile, Argentina); 234 (Canada & Mexico v. US); 222 (Brazil, Canada); 207 (Argentina, Chile); 132 (US, Mexico); 46 (Canada, Brazil); 31 (US, Canada).

²⁷¹ *See generally supra* note 146. Specifically, these disputes were: 313 (India, EC); 258 (NZ, US); 252 (China, US); 251 (Korea, US); 249 (Japan, US); 234 (Canada & Mexico v. US); 217 (Australia, Brazil, Chile, EC, India, Indonesia, Japan, Korea, Thailand v. US); 202 (Korea, US); 184 (Japan, US); 179 (Korea, US); 178 (Australia, US); 177 (NZ, US); 161 (US, Korea); 139 (Japan, Canada); 132 (US, Mexico); 64 (Japan, Indonesia); 59 (US, Indonesia); 55 (Japan, Indonesia).

²⁷² *Id.* Specifically, these disputes were: 241 (Brazil, Argentina); 238 (Chile, Argentina); 207 (Argentina, Chile).

²⁷³ *Id.* Specifically, these disputes were: 313 (India, EC); 64 (Japan, Indonesia); 55 (Japan, Indonesia).

²⁷⁴ *Id.* Specifically, this dispute was: 241 (Brazil, Argentina).

²⁷⁵ *Id.* Specifically, this dispute was: 336 (Korea, Japan).

²⁷⁶ *Id.* Specifically, these disputes were: 346 (Argentina, US); 338 (US, Canada); 325 (Mexico, US); 310 (Canada, US); 303 (Chile, Ecuador); 278 (Argentina, Chile); 275 (US, Venezuela); 272 (Argentina, Peru); 239 (Brazil, US); 230 (Colombia, Chile); 226 (Argentina, Chile); 224 (Brazil, US); 220 (Guatemala, Chile); 218 (Brazil, US); 216 (Brazil, Mexico); 203 (US, Mexico); 201 (Honduras, Nicaragua); 197 (US, Brazil); 187 (CR, Trinidad); 182 (Mexico, Ecuador); 180 (Canada, US); 173 (US, France); 167 (Canada, US); 144 (Canada, US); 131 (US, France); 128 (US, Netherlands); 127 (US, Belgium); 112 (Brazil, Peru); 111 (Argentina, US); 109 (US, Chile); 97 (Chile, US); 80 (US, Belgium); 78 (Colombia, US); 71 (Brazil, Canada); 65 (US, Brazil); 52 (US, Brazil); 51 (Japan, Brazil); 45 (US, Japan).

the EIB.²⁸² Panels have been established by APEC,²⁸³ OAS,²⁸⁴ the IADB,²⁸⁵ LAIA,²⁸⁶ ADB,²⁸⁷ and MERCOSUR.²⁸⁸

²⁷⁷ See generally *supra* note 146. Specifically, these disputes were: 346 (Argentina, US); 338 (US, Canada); 325 (Mexico, US); 310 (Canada, US); 303 (Chile, Ecuador); 278 (Argentina, Chile); 275 (US, Venezuela); 272 (Argentina, Peru); 239 (Brazil, US); 230 (Colombia, Chile); 226 (Argentina, Chile); 224 (Brazil, US); 220 (Guatemala, Chile); 218 (Brazil, US); 216 (Brazil, Mexico); 203 (US, Mexico); 201 (Honduras, Nicaragua); 197 (US, Brazil); 187 (CR, Trinidad); 182 (Mexico, Ecuador); 180 (Canada, US); 167 (Canada, US); 144 (Canada, US); 112 (Brazil, Peru); 111 (Argentina, US); 109 (US, Chile); 97 (Chile, US); 78 (Colombia, US); 71 (Brazil, Canada); 65 (US, Brazil); 52 (US, Brazil).

²⁷⁸ *Id.* Specifically, these disputes were: 368 (China, US); 338 (US, Canada); 325 (Mexico, US); 324 (Thailand, US); 274 (Taiwan, US); 271 (Philippines, Australia); 215 (Korea, Philippines); 203 (US, Mexico); 180 (Canada, US); 167 (Canada, US); 144 (Canada, US); 109 (US, Chile); 97 (Chile, US); 61 (Philippines, US); 45 (US, Japan); 41 (US, Korea); 3 (US, Korea).

²⁷⁹ *Id.* Specifically, these disputes were: 303 (Chile, Ecuador); 278 (Argentina, Chile); 272 (Argentina, Peru); 230 (Colombia, Chile); 226 (Argentina, Chile); 216 (Brazil, Mexico); 182 (Mexico, Ecuador); 112 (Brazil, Peru).

²⁸⁰ *Id.* Specifically, these cases were: 371 (Philippines, Thailand); 318 (Taiwan, India); 271 (Philippines, Australia); 215 (Korea, Philippines).

²⁸¹ *Id.* Specifically, this dispute was: 371 (Philippines, Thailand).

²⁸² *Id.* Specifically, this dispute was: 289 (Poland, Czech).

²⁸³ See generally *supra* note 146. Specifically, these disputes were: 367 (NZ, Australia); 363 (US, China); 362 (US, China); 359 (Mexico, China); 357 (Canada, US); 344 (Mexico, US); 343 (Thailand, US); 342 (Canada, China); 340 (US, China); 280 (Mexico, US); 270 (Philippines, Australia); 195 (US, Philippines).

²⁸⁴ *Id.* Specifically, these disputes were: 366 (Panama, Colombia); 365 (Brazil, US); 357 (Canada, US); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 344 (Mexico, US); 280 (Mexico, US); 188 (Colombia, Nicaragua); 164 (US, Argentina).

²⁸⁵ *Id.* Specifically, these disputes were: 366 (Panama, Colombia); 365 (Brazil, US); 357 (Canada, US); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 344 (Mexico, US); 280 (Mexico, US); 188 (Colombia, Nicaragua); 164 (US, Argentina).

²⁸⁶ *Id.* Specifically, these disputes were: 366 (Panama, Colombia); 356 (Argentina, Chile); 355 (Argentina, Brazil); 351 (Argentina, Chile); 188 (Colombia, Nicaragua).

²⁸⁷ *Id.* Specifically, these disputes were: 367 (NZ, Australia); 270 (Philippines, Australia).

²⁸⁸ *Id.* Specifically, this dispute was: 355 (Argentina, Brazil).

In descending order, the members of the following organizations have initiated complaints that are currently listed as Settled or Inactive by the WTO: APEC,²⁸⁹ IADB,²⁹⁰ OAS,²⁹¹ LAIA,²⁹² ASEAN,²⁹³ ADB,²⁹⁴ and the EIB.²⁹⁵

V. ANALYSIS OF CORRELATIONS AND LAW OF REGIONAL ORGANIZATIONS

What can be learned about WTO dispute settlement from the above study concerning the interaction between members of various regional economic organizations and regional organizations at the WTO dispute settlement level? There are several important lessons that can be taken from the information presented in this study. These lessons are important not only in that they shed light on past and current behavior of WTO member states vis-a-vis the WTO dispute settlement process but also because they are predictors of future behavior. This is true because, even though not all members of the regional organizations discussed are current members of the WTO, most of these non-WTO members are in the process of becoming WTO members in the near future.

The quintessential finding of this article is that, when there are a large number of members in a regional organization and the regional organization does not have a firmly established dispute settlement system for economic disputes, members are more likely to bring

²⁸⁹ See generally *supra* note 146. Specifically, these disputes were: 358 (US, China); 255 (Chile, Peru); 232 (Chile, Mexico); 227 (Chile, Peru); 106 (US, Australia); 101 (US, Mexico); 95 (Japan, US); 89 (Korea, US); 57 (US, Australia); 49 (Mexico, US); 1 (Singapore, Malaysia).

²⁹⁰ *Id.* Specifically, these disputes were: 298 (Guatemala, Mexico); 284 (Nicaragua, Mexico); 255 (Chile, Peru); 232 (Chile, Mexico); 228 (Colombia, Chile); 227 (Chile, Peru); 101 (US, Mexico); 95 (Japan, US); 49 (Mexico, US); 23 (Mexico, Venezuela).

²⁹¹ *Id.* Specifically, these disputes were: 298 (Guatemala, Mexico); 284 (Nicaragua, Mexico); 255 (Chile, Peru); 232 (Chile, Mexico); 228 (Colombia, Chile); 227 (Chile, Peru); 101 (US, Mexico); 49 (Mexico, US); 23 (Mexico, Venezuela).

²⁹² *Id.* Specifically, these disputes were: 284 (Nicaragua, Mexico); 255 (Chile, Peru); 232 (Chile, Mexico); 228 (Colombia, Chile); 227 (Chile, Peru).

²⁹³ *Id.* Specifically, this dispute was: 1 (Singapore, Malaysia).

²⁹⁴ *Id.* Specifically, these disputes were: 306 (Bangladesh, India); 1 (Singapore, Malaysia).

²⁹⁵ See generally *supra* note 146. Specifically, this dispute was: 240 (Hungary, Romania).

economic and trade-related grievances with other member states to the WTO. Examples of this finding can be found in the frequency with which members of the OAS, APEC, and LAIA have brought complaints against other member states. It is interesting to note that the aims of the regional organization per se are not a relevant predictor of whether members of a regional organization will bring complaints against each other at the WTO level. Instead, it appears the communal understandings and traditions of regional organizations and the availability of alternate dispute resolution at the regional level is a better predictor of member state behavior at the WTO. This is particularly evident in examples such as ASEAN, where members share an articulated commonality of cultural and legal beliefs, which are expressed in legal agreements involving trade and in the creation of dispute settlement bodies.

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

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

In terms of complaint results, the majority of complaints that have seen a completed panel decision which was accepted by the parties involved in the dispute have been filed by members of the

IADB, APEC, and the OAS. Members of other organizations traditionally settled their disputes through Mutually Agreed Settlement or by abandoning the complaint. In addition, some of those organizations requested a Panel, but would not follow through on the formal proceedings beyond that point. The vast majority of currently established panels are for complaints brought by members of the IADB, OAS, and APEC.

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

VI. CONCLUSION

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

political peer pressure – in the form of membership in a regional economic organization or regional organization generally – is only as effective at stopping WTO disputes as the legal framework of the organization is at providing its members with a sense of communality and an alternate forum for the airing of their economic and trade-related grievances.

