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ORAL HISTORY OF THE WORLD TRADING SYSTEM

**Interview of John M. Weekes
conducted by Rosine Plank-Brumback
On March 7, 2008 and July 7, 2008**

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Introductory Note

I am grateful to the Institute of International Economic Law at the Georgetown University Law Center for giving me the opportunity to contribute to their project, the Oral History of the World Trading System. I would like to thank Rosine Plank-Brumback who interviewed me twice in 2008 and has guided me through the process of editing the original transcripts to make them clearer and to add context with the addition of footnotes. It was Rosine who took the initiative to contact me. Although she wanted to do the first interview the next day, I readily assented. I immediately envisioned that the interview would help me establish a record of some of the key points in my career. Rosine had prepared well and basically set the agenda for our discussions.

The interviews were wide ranging, starting with how I wound up joining the Canadian foreign ministry in 1966 and quite early on gravitated to the trade policy area, and concluding in 2008 at a critical moment in the Doha Round of WTO trade negotiations when I was working in Geneva for the law firm Sidley Austin advising and assisting clients on what was at stake and how they might best try to influence outcomes. In between I had spent some twenty-eight years as a Canadian official. During this time I served as the secretary to the Canadian delegation to the Tokyo Round of GATT negotiations in the 1970s, as a division director and a director general in Ottawa from 1979 to 1987, as Canadian ambassador to the GATT during the Uruguay Round from 1987 to 1991, as chief negotiator for Canada for the North American Free Trade Agreement (NAFTA) from 1991 to 1993, as senior assistant deputy minister for the United States from 1993 to 1995, and finally as ambassador to the WTO from 1995 to 1999. I then moved out of government to join the global consulting firm, APCO, subsequently moved to Sidley Austin in 2003, and then returned to Canada in 2009 where I spent nearly a dozen years at the Canadian firm Bennett Jones. When I retired from Bennett Jones at the end of 2021, it was more than fifty-five years after I had started my journey in 1966.

The interviews draw out recollections and reflections about how my career interacted with a range of significant trade policy events, and perhaps on occasion helped shape how these events unfolded. Although Rosine and I did not begin editing the transcripts until I had retired from Bennett Jones, we decided that the story they tell would end at the time we concluded the second interview in July 2008. Some of the footnotes describe later events particularly regarding information about the careers and lives of individuals mentioned in footnotes. In the process of editing and collecting data for the footnotes I decided that some of the things I referred to in the interviews should be adjusted for accuracy and clarity. That has been done. It is worth noting

that a number of the events I describe took place forty years before the interviews were conducted. Obviously details fade with time, but the broad contours remain clear.

It is important to note that this compendium of recollections and reflections is not an autobiography. The subject matter was determined by the conversation I had with Rosine. The text retains much of the language of a conversation. Not surprisingly it does not cover many things which I would wish to include if I were writing a book about my career. In reading over what we have produced, I find that what is in these words often reminds me of other episodes and events.

The text includes reference to many individuals with whom I worked. It does not include others who would certainly be mentioned in a more comprehensive work. Indeed, throughout my career I have had the good fortune to work with many people of outstanding talent and character. Some of them are mentioned in this compendium, many are not.

Finally, whatever success I have had I would not have been able to achieve without the steadfast support of my wife Arlene who sacrificed much in being by my side throughout a demanding foreign service career. I owe her an enormous debt of gratitude.

*John M. Weekes
Ottawa, Canada
June 20, 2023*

- 1 **Rosine Plank-Brumback:** This is an interview of Ambassador John Weekes for an oral history
- 2 of the world trading system being compiled by the Institute of International Economic Law of
- 3 Georgetown University Law Center. The date is Friday, March 7, 2008. We are conducting this

4 interview in the office of Ambassador Weekes at Sidley Austin in Geneva, Switzerland. I am
5 Rosine Plank-Brumback, who has the pleasure of conducting this interview. Thank you so much,
6 Ambassador Weekes, for participating in this project and giving us your valuable time.

7 **John Weekes:** You're most welcome. Thank you for giving me this opportunity.

8 **Plank-Brumback:** Your firsthand knowledge of the Tokyo Round, particularly the Uruguay
9 Round, your ambassadorship to the GATT [General Agreement on Tariffs and Trade] and then
10 to the WTO [World Trade Organization] representing Canada, your chairmanship of key
11 political bodies, the GATT Council, the GATT Contracting Parties, the Uruguay Round
12 negotiating group on GATT Articles, the WTO Committee on Regional Trade Agreements—the
13 list is long—Working Party on Saudi Accession, the WTO General Council, not to mention your
14 being the chief Canadian negotiator for NAFTA [North American Free Trade Agreement], your
15 involvement in the softwood lumber dispute, your chairmanship of the ad hoc WTO arbitral
16 panel on bananas, the WTO panel on Indian automotive measures—and I may have missed
17 some—are of enormous value to the scholars and researchers tracing the evolution of the
18 international trade regime and also to policymakers and diplomats formulating future policy. To
19 begin the interview, I would like you please to provide some information on your personal
20 background and education and career history and then we will move to your recollections of the
21 trade negotiations and the many trade issues that I mentioned. Where were you born and raised,
22 what were your university studies, what prepared you for a career on GATT and WTO matters?

23 **Weekes:** Let me begin by musing in parenthesis whether if you interviewed me next week my
24 answers would be the same. I think so, certainly on the factual points. I was born in Toronto,
25 Canada. I grew up in Toronto, studied at the University of Toronto, and graduated with an

26 honours bachelor of arts degree in political science and economics. I applied to graduate school,
27 but at the same time I had applied to join the Canadian Department of External Affairs, as it was
28 called then. Although I wasn't in the first round of people the Department offered a job to that
29 year, I did receive a job offer from the Department in early March and decided after four years of
30 university that seemed like a more exciting opportunity than going to graduate school. I reported
31 for work on June 6, 1966. One thing led to another and over forty years later I'm sitting across
32 from you talking about my career.

33 I was always interested in international issues. I was born in 1943. My father was an officer in
34 the Canadian artillery and served in Europe during World War II. Growing up I was aware of the
35 trauma of that period and, of course, I was going to school during the Cold War and concerned
36 about the real threat of nuclear war. I remember in primary school there were five rows of
37 students, and each day one row was asked to report on the news of the day. The students had to
38 agree who would speak to various categories of news, local news, sports news, national news,
39 etc. I always chose the international news. There never seemed to be any competition for that
40 one, so once a week I would come with some story from the international realm. I remember
41 reporting regularly on the shelling by Chinese communist forces of the offshore islands of
42 Quemoy and Matsu. In high school, maybe even before that, I began thinking about a career as a
43 diplomat, not because I found the diplomatic life glamorous, but because I thought international
44 relations were important. So, this provides some of the background as to why I came to the
45 Department of External Affairs. The transition to working in trade policy came a few years later.
46 My first year in the Department was in effect a training year in which the new officers were
47 assigned at random to two different divisions. My first six months were spent in the economic
48 division, of which at that time there was only one. After six months I was transferred to the

49 protocol division where I served in the section dealing with diplomatic privileges and
50 immunities—quite useful training for a new diplomat. After about a year in the Department I
51 received a call from the personnel division proposing I go on full-time Serbo-Croatian language
52 training prior to a posting in Belgrade. My wife and I were delighted and the three years in
53 Belgrade turned out to be a terrific assignment. I was the so-called junior political officer and
54 also vice consul, not really dealing with economic issues in particular. But my boss at the time
55 there was the first secretary, Gerry Shannon,¹ a highly respected Canadian trade official, who
56 subsequently became Deputy Minister of International Trade and indeed was later Ambassador
57 and Permanent Representative here in Geneva at the end of the Uruguay Round. Gerry suggested
58 to me that I would find commercial policy interesting and that when I went back to Ottawa, I
59 should seek to get into that division of the Department. The Department had expanded the
60 number of divisions dealing with economic matters. I expressed a preference for going to that
61 division and after a somewhat circuitous process I wound up there. After I had been there for a
62 little over a year, Roger Bull, the director of the division, told me that he and his boss, Don
63 McPhail,² the director general, had decided that they wanted me to be the secretary to the

¹ Gerald (Gerry) Edward Shannon was Director of Commercial Policy in the Department of External Affairs, Minister in the Canadian Embassy Washington, Senior Assistant Deputy Minister in the Department of Finance, Deputy Minister of International Trade and Associate Undersecretary of External Affairs, Canada's Chief Negotiator for the Uruguay Round of multilateral trade negotiations and Canada's Ambassador and Permanent Representative to the World Trade Organization. He also served as First Secretary in Belgrade, Ambassador to Korea, Ambassador to the United Nations in Geneva and Ambassador to the UN Committee on Disarmament. Shannon was awarded the Meritorious Service Medal in 1998. He died on April 26, 2003.

² Donald Sutherland McPhail served as Secretary of the Canadian delegation to the Kennedy Round of the General Agreement on Tariffs and Trade, 1964–1967, Canada's Ambassador to Venezuela and the Dominican Republic, 1970–1972, Canada's Ambassador and Permanent Representative to the United Nations, 1979–1983, and Canada's Ambassador to the Federal Republic of Germany, 1983–1987. As ambassador in Geneva, McPhail was elected chair of the GATT Council and the following year chair of the GATT Contracting Parties. McPhail chaired the group charged with preparing for the GATT ministerial meeting held in Geneva in 1982 that was chaired by the Canadian Secretary of State for External Affairs, Allan MacEachen. That meeting agreed to a work programme and priorities for the 1980s that contributed to the launch of the Uruguay Round in 1986. In 1974 McPhail returned to his native Maritimes to become Assistant Deputy Minister of the federal Department of Regional Economic Expansion in Moncton, New Brunswick. In 1976, he was named Assistant Under Secretary of State for External Affairs in Ottawa with responsibility for the full range of international economic policy matters. He left the foreign service when he

64 delegation for the new round of trade negotiations. Don McPhail had been the secretary to the
65 Canadian delegation during the Kennedy Round and later returned to Geneva as ambassador. He
66 was the Chair of the GATT Contracting Parties and played a lead role in preparations for the
67 1982 GATT ministerial meeting. Roger spoke to me in early 1973 about this new assignment,
68 shortly before the first meeting of the preparatory committee leading to the Tokyo Round. By
69 this time, I had begun to realize just how important trade was to Canada and also that Canadians
70 could play a significant role in the development of global trade policy. Once again, my wife and
71 I were delighted at what the Department was offering me. I was very fortunate to be offered this
72 assignment. In our system back then the first step in the posting process was filling out a posting
73 preference form in which you were asked to list up to ten different options. Where you actually
74 went often seemed a bit like a lottery. I never did fill out a form seeking a posting to Geneva. For
75 my two subsequent postings to Geneva, I was approached and asked if I would go to Geneva
76 again (these times as ambassador) because of my previous experience. Other countries seem to
77 take a similar approach, so you find a lot of the same individuals coming back to Geneva more
78 than once, often more than twice. For me now, as a private sector consultant, this is fortunate
79 because I find people being assigned here as ambassador whom I already know. Obviously, this
80 is very helpful in my current capacity.

81 **Plank-Brumback:** Why do you think that is—the constancy and permanence of people who
82 come to Geneva and seem to begin their careers here and then go up the ladder and come back?
83 Is it the nature of trade negotiations?

was appointed as the inaugural President of the Atlantic Canada Opportunities Agency (ACOA) in Moncton, in 1987. He died on July 3, 2022.

84 **Weekes:** Well, while the general theory about trade is pretty straightforward, I think once you
85 get into the details of how things are actually done and the special operational personality of the
86 GATT and now the WTO, experience counts for a lot. The people who have this knowledge and
87 insight often wind up being asked to come back and work in the field because they impress their
88 colleagues and their superiors, or their ministers, with the perspective and knowledge that they
89 have. That is why they wind up back in Geneva. Most countries post very good people in
90 Geneva. Not surprisingly, very good people do well, and gain more knowledge and experience.
91 In addition, trade policy and the management of trade relations are very important. It is worth
92 noting that in Canada at the start of the Tokyo Round the deputy ministers of the three key
93 departments dealing with trade in the Canadian government all had considerable experience in
94 GATT matters. Simon Reisman was the Deputy Minister of Finance. He had been in Havana as
95 part of the Canadian delegation. The Under Secretary of State for External Affairs, which now
96 would be the Deputy Foreign Minister, was Ed Ritchie. He was one of the first employees of the
97 GATT Secretariat, an old colleague of Julio Lacarte's.³ Jim Grandy, the Deputy Minister of
98 Industry, Trade and Commerce at the time, had been deeply involved in a number of GATT
99 rounds. I think he had been chairman of the contracting parties at one time. Jake Warren,⁴ who

³ Julio Lacarte Muró, distinguished Uruguayan diplomat, was Deputy Executive Secretary of the GATT at its inception, 1947–1948. He served as Minister of Industry and Commerce under Uruguayan President Óscar Diego Gestido Pose in 1967. Lacarte held several ambassadorial positions, including as Permanent Representative of Uruguay to the GATT in 1961–1966 and 1982–1992, as well as ambassador to the European Communities, India, Japan, the United States, and Thailand. During the Uruguay Round, he chaired the negotiating groups on dispute settlement and institutional issues. Lacarte was the first Chairman of the WTO Appellate Body 1995–2001. He died on March 4, 2016. See the transcript of the interview of Amb. Lacarte of Oct. 8, 2003 for the oral history project of the Institute of International Economic Law of Georgetown Law.

⁴ Jack (Jake) Hamilton Warren joined the Canadian Department of External Affairs in 1945. An active participant in GATT meetings over many years, he was the first chair of the GATT Council in 1960. Warren served as Assistant Deputy Minister of Trade and Commerce (1958–1964), Deputy Minister of Trade and Commerce (1964–1968), High Commissioner (ambassador) to the United Kingdom (1971–1975), and Ambassador to the United States (1975–1977). In 1977 Prime Minister Pierre Trudeau appointed Warren as Ambassador and Canadian Coordinator for the Tokyo Round of Multilateral Trade Negotiations in the GATT, responsible for coordinating Canada's participation in the final phase of the negotiations. Warren left government service in 1979 to become Vice-Chairman of the Bank of Montreal. After leaving the Bank in 1986 he became a trade policy advisor to the

100 became the Canadian Coordinator for Multilateral Trade Negotiations during the critical years of
101 the Tokyo Round, is another example. He had previously served as Deputy Minister of Trade
102 and Commerce, High Commissioner to the United Kingdom, and Ambassador to the United
103 States. He had twice been elected Chairman of the GATT Contracting Parties and was promoted
104 by many as a candidate to become GATT Director-General before Olivier Long⁵ was appointed.
105 This was before I got involved in the game.

106 I would like to mention that all these senior Canadian officials knew Eric Wyndham-White⁶ very
107 well. They asked Eric Wyndham-White if he would be prepared to serve as a consultant to the
108 Canadian delegation during the Tokyo Round. He accepted. For a young officer like me it was a
109 wonderful experience because he would come in and sit down and discuss issues through with
110 us—and talk about “oral history”! Unfortunately, I didn’t keep a record of what he said. But I
111 had that opportunity to actually talk to him about his recollections on various matters. Often this
112 would come up as we were looking at an issue that we were addressing in the negotiations and

Government of Quebec during the free trade negotiations with the United States, the Uruguay Round, and the NAFTA negotiations. From 1986 to 1990, he also served as the Deputy North America Chairman of the Trilateral Commission.

⁵ Olivier Long from Switzerland joined the International Committee of the Red Cross in 1943 and negotiated the exchange of military prisoners. He worked for the Swiss Federal Political Department in Berne and Washington, DC from 1946 to 1949. He then worked at the Swiss Federal Division of Commerce in Berne in 1954 and was promoted to Federal Council Delegate for Trade Agreements in 1955. From 1960 to 1966, Long headed the Swiss delegation to the European Free Trade Association (EFTA). During this period in 1961–1962, he was the Swiss mediator in secret talks between France and Algeria that culminated in the signing of the Evian Accords on March 18, 1962 that ended the Algerian War. He was Ambassador of Switzerland to the United Kingdom and Malta from 1967 to 1968. Long served as GATT Director-General from May 6, 1968 to Oct. 1, 1980. He died on March 19, 2003. See https://www.wto.org/english/thewto_e/dg_e/ol_e.htm and <http://www.la-memoire-de-veyrier.ch/216342138>.

⁶ Sir Eric Wyndham-White KCMG of the United Kingdom was Executive Secretary of the GATT from 1948 to 1965 and the first GATT Director-General from 1965 to 1968. See <https://docs.wto.org/gattdocs/q/GG/SEC/54-11.PDF> and https://www.wto.org/english/thewto_e/dg_e/ww_e.htm. The old GATT Council room in the Centre William Rappard is dedicated to him. A biography of Wyndham-White can also be found in the Biographical Dictionary of Secretaries-General of International Organizations maintained by Radboud University www.ru.nl/fm/iobio.

113 his mind would go back to the way something had been handled when he was Director-General,
114 or Executive Secretary of the GATT.

115 **Plank-Brumback:** Any anecdote about any comment he might have made at that point in the
116 '70s about how it had evolved since the time of the Havana Conference?

117 **Weekes:** My recollection is fading but I do recall that he offered to us at one point some
118 suggestions about how certain aspects of the GATT might be reformed based in part on some of
119 his early experiences. I must rummage in my papers and see if I can uncover something more
120 precise.

121 **Plank-Brumback:** One more little question before we get to the Tokyo Round. You mentioned
122 your posting in Belgrade. Did your experience there in a state economy influence or inform your
123 time in the GATT later on?

124 **Weekes:** Well, I suppose it did in a way. I was in Belgrade from 1968 to '71 when Yugoslavia
125 was the most economically reformed of all East European countries. The country was not under
126 Russian dominance so the dynamic there was very different. The dominant event of those years
127 was the Soviet invasion of Czechoslovakia in the late summer of 1968. The focus at that time
128 became peace and security rather than trade and economics. The Canadian Embassy in Belgrade
129 was also accredited to Romania and Bulgaria. I went to Romania many times, particularly in my
130 final year when I visited Bucharest at least once a month.

131 **Plank-Brumback:** You attended the Tokyo Ministerial meeting?

132 **Weekes:** Yes, I was there, and I attended the preparatory meeting in Geneva in July and the one
133 in May but not the one in March. There were only two preparatory meetings followed by a

134 month-long meeting in July during which the Tokyo Declaration was drafted.⁷ The Tokyo Round
135 was launched in Tokyo in September 1973, but it was over a year before the negotiations really
136 got going. Other events intervened—the 1973 Arab-Israeli War, followed by the oil embargo,
137 and then the Watergate crisis in the United States which led to the resignation of President
138 Nixon.

139 **Weekes:** During much of that period the likelihood of the United States getting negotiating
140 authority from Congress seemed quite remote. Then suddenly in December 1974, this is over a
141 year after I had arrived in Geneva, Congress passed the Trade Act of 1974.⁸ It is worth noting
142 that this was the first time that the Congressional authority included the fast-track provision
143 which strengthened the prospect that the US would be able to faithfully implement the negotiated
144 results. So, there was a period when I had come for the GATT round but there was really very
145 little negotiating activity going on. However, during that time I was assigned to the Canadian
146 delegation to the Conference on Security and Cooperation in Europe [CSCE]⁹ which led to the
147 Helsinki Accords.¹⁰ The CSCE was taking place in Geneva so it was very convenient for me.

148 Fortuitously, I wound up having the lead role for Canada for about eight months in what they
149 called Basket II, which was the economic area of that conference. Almost everybody performing
150 a similar role from the other countries was senior to me, but this was really a good experience for

⁷ GATT doc. MIN (73) 1, BISD 20S/19.

⁸ 19 U.S.C. ch. 12 §2101 et seq.

⁹ The Conference on Security and Cooperation in Europe (CSCE) began in 1973 as a multilateral forum for dialogue and negotiation between East and West. In 1994, the CSCE was renamed the Organization for Security and Cooperation in Europe (OSCE). Headquartered in Vienna, Austria, there are currently fifty-seven participating States in this intergovernmental organization.

¹⁰ The Final Act of the Conference on Security and Cooperation in Europe, Aug. 1, 1975, Helsinki, 14 I.L.M. 1292. The agreement contains commitments on politico-military, economic, environmental, and human rights issues, and establishes ten fundamental principles guiding relations between participating States. <https://www.osce.org/files/f/documents/5/c/39501.pdf>.

151 me. In this forum my background in Belgrade certainly helped. I was given much more senior
152 level experience in the context of that conference than would have been the case in the early days
153 of the Tokyo Round. It gave me an opportunity to interact at a more senior level, to learn
154 conference tactics, gain confidence in making interventions, in public speaking, and working
155 together with other delegates. For me this turned out to be very valuable experience, even though
156 it was not what I had been sent to Geneva to do.

157 **Plank-Brumback:** Any recollections of the Tokyo Ministerial itself? Issues? Difficulties?

158 **Weekes:** A few. Let me start with the preparations. I remember how after the Nixon economic
159 measures of August 1972—

160 **Plank-Brumback:** The export restrictions and price controls?

161 **Weekes:** Well, the devaluation of the dollar, going off the gold standard, the surtax on all
162 imports. In the fall of 1972, the United States and the European Communities and the US and
163 Japan in separate but identical, as I recall it, declarations said it was their intention to enter a new
164 round of multilateral trade negotiations in the GATT in the course of 1973. They invited their
165 other partners in the GATT to join them in the preparatory process. That was it. As far as I can
166 recall, no country questioned this move by the three dominant trading players of the day to
167 launch a new round. Now things have changed dramatically. It is unthinkable that it would
168 happen that way today. And then the whole preparatory process was very short, two one-week
169 preparatory committee meetings in the spring, followed by a month-long session in July of 1973
170 here in Geneva and we had the Tokyo Declaration. (Of course, a lot of work on various issues
171 such as technical barriers to trade had been going on in the GATT for several years and paved
172 the way for negotiations on many issues.) The draft declaration that emerged from the July

173 meetings had only two sets of square brackets when we went to Tokyo. The first set was around
174 the issue of whether or not there should be special treatment accorded to the least developed
175 countries within the context of the special and differential treatment accorded to the developing
176 countries. That was an important issue obviously, but it was resolved without that much
177 difficulty. It was not a cliffhanger of a conference. The other issue that was outstanding was the
178 relationship between trade and monetary policy and that issue, as I recall it, was resolved in
179 Tokyo after the then-French Finance Minister Valéry Giscard d'Estaing¹¹ had lunch with the
180 American Treasury Secretary George Schultz.¹² They managed to come out with a formulation
181 you can see in the Declaration which I haven't looked at for a while but it basically said there
182 was an inter-relationship between the two, that one influenced the other and vice versa.¹³

183 **Plank-Brumback:** The first of several declarations on the matter.

184 **Weekes:** Right.

¹¹ Valéry René Marie Georges Giscard d'Estaing was President of France from May 1974 to May 21, 1981. At the time of the Tokyo Ministerial Sept. 12–14, 1973, he was Minister of Economy of Finance (June 20, 1969 to May 27, 1973) under Prime Minister Pierre Messmer and President Georges Pompidou, and the leader of the National Federation of Independent Republicans (Fédération nationale des républicains indépendants (FNRI)) political party. He died on Dec. 2, 2020.

¹² George Pratt Shultz served as US Secretary of Labor (Jan. 22, 1969 to July 1, 1970), Director of the Office of Management and Budget (July 1, 1970 to June 11, 1972), and US Secretary of Treasury (June 12, 1972 to May 8, 1974) under US President Richard M. Nixon. From 1974 to 1982, Shultz was an executive of the Bechtel Group. He later served as US Secretary of State (July 16, 1982 to Jan. 20, 1989) in the Reagan administration. He died on Feb. 6, 2021.

¹³ “The policy of liberalizing world trade cannot be carried out successfully in the absence of parallel efforts to set up a monetary system which shields the world economy from the shocks and imbalances which have previously occurred. The Ministers will not lose sight of the fact that the efforts which are to be made in the trade field imply continuing efforts to maintain orderly conditions and to establish a durable and equitable monetary system. The Ministers recognize equally that the new phase in the liberalization of trade which it is their intention to undertake should facilitate the orderly functioning of the monetary system. The Ministers recognize that they should bear these considerations in mind both at the opening of and throughout the negotiations. Efforts in these two fields will thus be able to contribute effectively to an improvement of international economic relations, taking into account the special characteristics of the economies of the developing countries and their problems.” Tokyo Declaration (n 7), para. 7.

185 **Plank-Brumback:** On the issue of the particular carve-out for the least developing countries
186 even within special and differential treatment for developing countries overall, who would have
187 been opposed to that?

188 **Weekes:** Well, the concern was, if I recall correctly, Brazil being one of the leading forces in the
189 negotiations, was concerned by the notion of creating different categories of developing
190 countries, and if a category could be created for the least developed then other categories could
191 be established. More particularly, leading developing countries like Brazil saw this as a possible
192 strategy for denying them any real sort of special and differential treatment.

193 **Plank-Brumback:** For your former colonies.

194 **Weekes:** Right, but an effort was being made to press countries into “graduating” out of the
195 developing country category. Such concerns were already present and became the focus of more
196 attention during the subsequent negotiations in the Tokyo Round, in particular on the Enabling
197 Clause¹⁴ and the various framework proposals that resulted from a very important proposal that
198 the Brazilian government made during those negotiations.¹⁵

199 **Plank-Brumback:** What particular aspects were you involved with in the Tokyo negotiations?
200 You were here for the whole round?

201 **Weekes:** Yes, I was in Geneva until the summer of 1979 when the safeguard negotiations, for
202 which I had been made the lead negotiator, effectively broke down. Then I left. I had been in

¹⁴ *Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries*, Decision of Nov. 28, 1979, GATT doc. L/4903, BISD 26S/203. https://www.wto.org/english/docs_e/legal_e/tokyo_enabling_e.pdf

¹⁵ Statement by the Representative of Brazil, H.E. George Maciel, GATT doc. MTN/FR/W/1, Feb. 21, 1977. <https://docs.wto.org/gattdocs/q/TR/MTNFR/W1.PDF>

203 Geneva for six years. The real negotiations were over, but the final acts were not completed until
204 December. By that time, I was on the Ottawa end, and I remember having to get a number of
205 approvals ready between Christmas and New Year's Eve for the Canadian team in Geneva.

206 **Plank-Brumback:** You were involved in the legal scrub?

207 **Weekes:** Well, because I was the director of the division that had responsibility for GATT
208 matters, I wound up not so much in the legal scrub but from a policy point of view having the
209 responsibility for such matters.

210 **Plank-Brumback:** Any special cliffhangers come to mind?

211 **Weekes:** Not at that time. You asked about my responsibilities. In addition to safeguards, I had
212 general responsibilities relating to my role as secretary for the Canadian delegation. This often
213 involved working with the ambassador and the deputy head of the delegation on issues that
214 related to the negotiations as a whole. For instance, I was expected to prepare draft reports to
215 headquarters on the situation in the negotiations overall at important points, such as at the end of
216 July as the summer break began, looking towards where matters would be in the autumn. That
217 was good exposure and meant I had to keep abreast of the range of issues at play in the
218 negotiations. I was also very much engaged in the dispute settlement negotiations and then also
219 in the negotiations on industrial tariffs, in particular in support of the Canadian proposal for
220 liberalizing trade in certain natural resource sectors with an emphasis on reducing barriers to
221 further processing of resources in Canada before they were exported.¹⁶ Canada had made a
222 detailed proposal for the elimination of barriers to trade in certain natural resource sectors. This

¹⁶ Multilateral Trade Negotiations Group 3(c) – Sector Approach: Statement by the Delegation of Canada, GATT doc. MTN/3C/W/3, Oct. 15, 1974. <https://docs.wto.org/gattdocs/q/TR/MTN3C/W3.PDF>.

223 sectoral approach was designed to complement the general tariff cutting approach in the
224 negotiations. From a Canadian perspective the objective was to remove the structural
225 impediments to further processing of resource products in Canada created by tariff escalation in
226 major importing markets whereby the level of protection increased with the level of processing.
227 A particular focus was put on the non-ferrous metal and forest product sectors.

228 **Plank-Brumback:** So, you were in the negotiations leading to the 1979 Understanding on
229 Dispute Settlement which really was more of putting down in writing a certain code of the
230 practices that had evolved.¹⁷

231 **Weekes:** Well, yes, that is where those negotiations began. I recall the delegation of the
232 European Community, then led by Paul Luyten,¹⁸ undertaking the first draft of a description of
233 how the system operated. I remember sitting in the Commission's conference room in Geneva
234 reviewing the draft. As I recall Paul Luyten did not want to create a situation in which it would
235 be easier for other members to invoke the use of an Article XXIII panel procedure against the EC
236 [European Community]. The EC accordingly suggested that the focus be put on codifying the
237 existing procedure as it had evolved. In the end, the Understanding of November 28, 1979 has an
238 operational introductory part that provided additional disciplines and an Annex with an agreed

¹⁷ *Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance*, also known as the 1979 Understanding, GATT document L/4907 adopted on Nov. 28, 1979, BISD 26S/210.

¹⁸ Paul Luyten from Belgium joined the GATT Secretariat in 1956. From 1959 to 1988 he held several positions in the Directorate General for External Relations of the Commission of the European Communities, including from 1968 to 1973 as division chief responsible for the GATT, other international organizations, and the United States, from 1973 to 1979 as Permanent Representative of the EC Commission to the GATT in Geneva, and from 1979 to 1988 as Deputy Director-General. During the latter position in the EC Commission, he dealt with the launch of the Uruguay Round. He then served as a counsellor in the European Service Industries Forum from 1988 to 1994, as well as a consultant to the EC Commission on trade barriers to European services. From 1994, he was involved as a trade policy counsellor in technical assistance programs for Eastern Europe and former Soviet Union countries. See <https://archives.eui.eu/en/isaar/312>.

239 description of customary practice. This was the result of different views as to whether new
240 disciplines were needed or whether the existing practices were sufficient.

241 **Plank-Brumback:** You're right; it had become a bit operational in the description.

242 **Weekes:** One of the issues that was the subject of disagreement was whether or not a contracting
243 party should, as a matter of right, be able to have a panel adjudicate a complaint that it had
244 brought under Article XXIII. The new understanding came quite close to clarifying the matter
245 but left some ambiguity which was subsequently removed in the Uruguay Round.

246 **Plank-Brumback:** I have it underlined here: "It is agreed that if the contracting party invoking
247 Article XXIII:2 requests the establishment of a panel to assist the CONTRACTING PARTIES to
248 deal with a matter, the CONTRACTING PARTIES would decide on its establishment in
249 accordance with standing practice." Paragraph 10.

250 **Weekes:** Right. The Canadian delegation had fought very hard to get a recognition that any
251 contracting party had a right to a panel. This was partly the result of a major fracas we had with
252 the European Communities on issues arising out of the Article XXVIII negotiations that Canada
253 had had with the European Communities on the enlargement of the EC from six to nine. As a
254 result of the accession of the UK to the EC, Canada had lost significant access rights to the UK,
255 particularly for agricultural products. As you might imagine the issue was very charged. The
256 European Communities took the view that it was inappropriate for the contracting parties to
257 decide to give a panel to Canada on this issue, or the GATT Council where such matters were
258 decided. This dispute went on for some time. Canada put a lot of effort into it and managed to
259 rally the support of a large majority of contracting parties, including a number of close partners
260 of the European Communities, who took the floor in the GATT Council to say that they believed

261 that any contracting party had a right to a panel if they asked for it.¹⁹ Finally, if my recollection
262 is correct, the European Communities reluctantly agreed to a settlement of the disputed matter,
263 rendering the panel unnecessary. I don't recall the panel actually being created but the pressure
264 on the EC in the GATT Council was sufficient to result in a settlement.²⁰

265 **Plank-Brumback:** I believe citrus—the EC preferences to the Mediterranean countries—that
266 took four Council meetings.

267 **Weekes:** And then what happened?

268 **Plank-Brumback:** Eventually, grudgingly yes. Then it took a couple of more months to
269 compose the panel, to even have its terms of reference.

270 **Weekes:** Of course, you were in the agriculture division.

¹⁹ “The representatives of Nigeria, Indonesia, New Zealand, Argentina, Australia, Pakistan, Sweden (on behalf of the four Nordic countries), Switzerland, Brazil, the United States, Korea, India, Japan, Yugoslavia, Poland, Hungary, Israel, Czechoslovakia and Cuba, while not wishing to express views on the substance of the dispute, stated that every contracting party had the right to seek conciliation in accordance with the relevant procedures of the General Agreement. They also felt that all possible GATT mechanisms should be utilized to avoid the withdrawal of concessions between such important trading partners. They therefore supported the request of Canada to establish a panel under Article XXIII in order to make the conciliation procedure operative and to extend the time-limit under Article XXVIII:3.” Minutes of Council Meeting Held in the Palais des Nations, Geneva on 8 November 1974, GATT doc. C/M/101 p. 10. <https://docs.wto.org/gattdocs/q/GG/C/M101.PDF>.

²⁰ The GATT Council did establish a panel, but the Council Chair stated that he would wait before activating it to allow for further consultations between the EC and Canada. “The Chairman concluded that it was the wish of the Council, with the exception of the European Communities, to establish such a panel and that he should in due course, discuss the question of membership of the panel in consultation with the parties most concerned. The Chairman also appealed to the parties to agree that the time-limit under Article XXVIII: 3 should be extended for two months. In the event that this was possible he would make no effort to activate the panel until the end of that period and would do so only if the parties had not been able to settle the issue to their mutual satisfaction. It was so decided.” Minutes of Council Meeting Held in the Palais des Nations, Geneva on 29 November 1974, GATT doc. C/M/102 p. 4. <https://docs.wto.org/gattdocs/q/GG/C/M102.PDF>. Further discussions between the EC and Canada resulted in agreement in their article XXIV:6 negotiations except on cereals (items 10.01, 10.03 in Schedule XIX of Britain and item 10.01 in Schedule XXII of Denmark) (GATT doc. C/W/29). The Council Chair therefore “proposed that the Council take note with satisfaction of the fact that agreement had been reached between the parties and the only point for the Council to consider was the joint request by Canada and the European Communities to extend the time-limit in Article XXVIII:3 in so far as the cereal items mentioned in the joint declaration were concerned. The Council agreed to this extension of the time-limit.” Minutes of Council Meeting Held in the International Labour Office Building, Geneva on 24 March 1975, GATT doc. C/M/105 p. 3. <https://docs.wto.org/gattdocs/q/GG/C/M105.PDF>.

271 **Plank-Brumback:** I lived everything in the sentences that ended up in the Dispute Settlement
272 Understanding [DSU]. I was the panel secretary for citrus.

273 **Weekes:** Right. Well to think ahead . . . one of the things that was relatively easily agreed in the
274 Uruguay Round Understanding was the issue of the right to a panel, which had been contested
275 several times, but basically the right had been established even though it was sometimes hard to
276 exercise. So, we wound up with this famous formula then in the Uruguay Round that as I recall
277 wasn't as difficult as some of the other parts of that negotiation whereby you had the two shots at
278 it and then the panel would be created.

279 **Plank-Brumback:** It was quasi-automatic.

280 **Weekes:** Right, but you had to ask twice, unless the party being complained against also agreed
281 to its establishment at the first request.

282 **Plank-Brumback:** Was there an understanding then about the Understanding that it might be as
283 far as you could go to actually putting in writing the practice of panels as it evolved but that
284 probably it would have to be revisited and strengthened?

285 **Weekes:** Well, I think there was certainly a view at the time in the Tokyo Round when we were
286 negotiating that Understanding that the process had been an evolutionary one and yes, I think it
287 was pretty clearly understood that that evolution would continue.

288 **Plank-Brumback:** This was based on a proposal by Luyten, by the EU? What was the role of
289 the Secretariat in this?

290 **Weekes:** I am not sure. Canada was actively involved in making proposals in this area. Clearly
291 the practice had evolved since 1947. The EC took the lead role in putting that description
292 together. I would be surprised if the EC had not worked with members of the secretariat in
293 preparing that document. I do remember sitting in the EU office over on the Rue de Vermont
294 with Paul Luyten managing the meeting and with Bruno Adinolfi—a member of Luyten’s team
295 from the Commission’s legal services—playing a supportive role. The meeting went on for hours
296 and hours over these texts as to whether or not they accurately portrayed the way the practice had
297 evolved. The negotiating meetings on this subject took place in offices of various missions, not
298 in the GATT.

299 **Plank-Brumback:** How did you find Paul Luyten as a negotiator?

300 **Weekes:** He was tough.

301 **Plank-Brumback:** I think I once heard it said about him that when he says, “Good morning,”
302 he’s already negotiating.

303 **Weekes:** Probably. One of the things that took me awhile in trade policy to realize was that it
304 actually makes more sense if you view it as an extension of the economic policy of countries. I
305 think if you look at the process of accession of different countries to the GATT or the WTO that
306 those which have done it most successfully are the ones that have seen it as an extension of a
307 process of domestic economic reform. When an accession has been treated by an acceding party
308 as a political act it has proved harder to negotiate. Think, for instance, of China where the
309 interest in furthering their economic reforms was a very important factor in the policy decisions
310 they took to join the WTO, whereas Russia did not look at it that way. They seemed to think it’s

311 their right to be a member of the organization because they are a major power. So please move
312 over and let us in and forget all this detailed stuff.

313 **Plank-Brumback:** Any comments on the safeguard negotiations then at the Tokyo Round and the
314 outcome of that?

315 **Weekes:** We had an advanced draft agreement. We would have had a result to that negotiation
316 except for the issue of whether or not a contracting party should be allowed to apply selective
317 safeguards; that is, apply safeguards under the GATT on other than an MFN [most favored
318 nation] basis. The negotiations broke down on that issue. Although various formulations were
319 tried to get around it, frankly the exact nature of which I can't remember, even though I was
320 actively engaged in it, none of these formulas commanded consensus. So it failed, and I think
321 maybe it was a good thing it failed, although subsequently there was continued proliferation of
322 gray area measures—so-called voluntary export restraints. A lot of political effort was put into
323 trying to reach an agreement in 1979. In fact, the Director-General, Olivier Long, assumed the
324 chairmanship of the final effort but to no avail. Trying to reach an agreement on safeguards was
325 still a priority at the GATT Ministerial meeting in 1982. As the Uruguay Round began,
326 participants recognized that definitive action to address the safeguards problem was necessary.

327 **Plank-Brumback:** Gray areas were not an issue already in the Tokyo Round? Voluntary
328 restraint agreements?

329 **Weekes:** They were but they had been confined, to a large extent, to the textile and clothing area.
330 As you know, there were a series of arrangements or agreements in the textile and clothing area
331 that permitted grey area measures under certain conditions. My experience in trade policy began
332 with the Tokyo Round. Afterwards, I had some direct involvement in the negotiation of grey area

333 measures. I was part of the Canadian team that negotiated automobile restraints with the
334 government of Japan; that was a very interesting process to be engaged in but not one of the high
335 points of good trade policy.

336 **Plank-Brumback:** Now we're getting to when you leave Geneva in '79 and go back to Canada.

337 **Weekes:** It was in the early '80s when I was doing that, yes.

338 **Plank-Brumback:** What were your responsibilities then?

339 **Weekes:** Well, in 1979 I was made director of the division in the Department of External Affairs
340 that had responsibility for GATT issues, including wrapping up and implementing the Tokyo
341 Round agreements. That division also had responsibility for what we called general economic
342 relations, which included UNCTAD²¹ and other matters related to trade policy but going beyond
343 what was in the GATT.

344 **Plank-Brumback:** Okay, so the bilateral restraint agreements were still in the first basket that
345 you mentioned.

346 **Weekes:** Well, we didn't have any bilateral restraint agreements then. We had the preferential
347 Commonwealth agreements.

348 **Plank-Brumback:** What about the Japanese restraint agreement on automobiles?

²¹ The United Nations Conference on Trade and Development was established as an organ of the UN General Assembly by General Assembly resolution 1995 (XIX) of Dec. 30, 1964, as amended. One of its principal functions is "[t]o promote international trade, especially with a view to accelerating economic development, particularly trade between countries at different stages of development, between developing countries and between countries with different systems of economic and social organization, taking into account the functions performed by existing international organizations."

349 **Weekes:** Well, that came later, and my division had the responsibility for it. Basically, we had
350 responsibility for most trade policy issues, even in terms of playing an important role in
351 contributing to the consideration of any trade policy issue that had a regional dimension to it.
352 The trade policy expertise inside the Department of External Affairs was essentially in my
353 division.

354 **Plank-Brumback:** How did you feel about negotiating restraint agreements?

355 **Weekes:** Mixed emotions. But it was absolutely clear that this was what the government wanted
356 to do. The process of making the decision was a proper one in terms of how governments come
357 to decisions. The matter had been reviewed in the Cabinet by ministers who actively engaged in
358 the discussion.

359 **Plank-Brumback:** Were there any voices of opposition?

360 **Weekes:** Yes, there were issues, certainly there were issues raised.

361 **Plank-Brumback:** Foreign policy considerations?

362 **Weekes:** Well, to some extent. There were also those who thought we wouldn't be successful in
363 negotiating a restraint with Japan. Of course, the Canadian effort followed similar restraints that
364 had been negotiated by the United States. There was really no alternative given the integrated
365 nature of the North American automobile industry under the Canada–United States Auto Pact.²²

²² The Auto Pact, more properly called The Canada–United States Automotive Products Agreement, was signed by Prime Minister Lester Pearson and President Lyndon Johnson in January 1965. The agreement provided for the elimination of most duties on automotive products between Canada and the United States. It led to a major restructuring of the Canadian industry which resulted in a more efficient industry, increased wages, and increased production, with substantial exports to the US.

366 **Plank-Brumback:** That was the genesis for the US–Canada Free Trade Agreement?²³

367 **Weekes:** In many ways, although it came many years before. The Auto Pact was a sectoral free

368 trade agreement. It would have been very difficult for Canada not to have restraints with Japan

369 when the United States did. But it was clearly an unsatisfactory way of organizing international

370 trade relations. My own personal view is that in a way what Canada and the United States

371 inadvertently did, and probably why the Japanese agreed, was to increase the competitiveness of

372 the Japanese automobile producers. Obviously, this was not because of what Canada did alone

373 but rather the cumulative effect of restraints in North America and Europe. Collectively, we

374 effectively allowed the Japanese companies to price at a higher level, increase their profits, and

375 reinvest in making their industry even more competitive for the future.²⁴ These economic policy

376 results were certainly not the objective at the time the restraints were negotiated. Of course, there

377 was a short-term political respite. Governments are elected by constituents. Herb Gray,²⁵ the

²³ Substantive negotiations for a Canada–United States Trade Agreement were concluded on October 4, 1987, and the final text of the agreement was initialed on December 10, 1987. The agreement was signed by President Ronald Reagan and Prime Minister Brian Mulroney on January 2, 1988. It entered into force on January 1, 1989, following ratification by both countries. The agreement was particularly contentious in Canada and only secured parliamentary approval after Prime Minister Mulroney triggered a national election in which whether to proceed with the agreement was the principal issue. The agreement was a high-quality free trade agreement which, in addition to eliminating almost all duties, included specific commitments for the liberalization of trade in services and innovative dispute settlement provisions to ensure the undertakings of the agreement would be respected by both sides. US–Canada Free Trade Agreement, 27 I.L.M. 293 (1988). Subsequently, the agreement was superseded by the North American Free Trade Agreement (NAFTA) between the US, Canada, and Mexico when it entered into force on January 1, 1994.

²⁴ See https://www.toyota-global.com/company/history_of_toyota/75years/text/leaping_forward_as_a_global_corporation/chapter1/section1/item2.html.

²⁵ Herbert Eser Gray was a Canadian Liberal Party politician who represented Windsor West as a member of Parliament from June 18, 1962 to Jan. 15, 2002. He held eleven different ministerial portfolios during his long political career. Gray was first appointed to the cabinet of Prime Minister Pierre Elliot Trudeau in 1969 as a minister without portfolio, then Minister of National Revenue in 1970 and in 1974 was named Minister of Consumer and Corporate Affairs. He became Minister of Industry, Trade and Commerce in 1980 and in 1982 was president of the Treasury Board until 1984. He was Opposition leader in the House of Commons (1984–89; 1990–1991) and deputy leader of the Opposition (1989–90). From 1991 to 1993 he was finance critic for the Official Opposition. Prime Minister Jean Chrétien appointed Gray as Government House Leader and Solicitor General of Canada in 1993 and made him Deputy Prime Minister in 1997. Gray retired from politics in 2002 to take an appointment as the Canadian Chair of the International Joint Commission, a Canada–US advisory board, which deals with transboundary water and air rights issues. He became Chancellor of Carleton University in 2008. Gray died on April 1, 2014.

378 Minister of Industry, Trade and Commerce at the time came from Windsor, Ontario, a region of
379 the country where substantial automobile production was located. My minister, Mark
380 MacGuigan the foreign minister, then called the Secretary of State for External Affairs, was from
381 the same region. I remember once we got an instruction from Mr. MacGuigan to the effect that a
382 senior official from our department was to go to a Cabinet committee meeting and support the
383 proposal being put forward by the Minister of Industry, Trade and Commerce. Globally, the net
384 result was a proliferation of these kinds of pressures with the economic downturn in the early
385 '80s. It became clear this was an issue which really did need to be addressed at the GATT
386 ministerial meeting in '82, and then in the agenda for future work that came out of that meeting
387 which was laying the groundwork for what became the Uruguay Round. Let me note in
388 parenthesis the way I look at these matters now results from having been involved in more than
389 one episode. I have watched these themes run through the life of the multilateral trading system
390 over a considerable period of time. One of the areas of the Uruguay Round negotiations that was
391 essentially finished at the time of the Brussels Ministerial in 1990²⁶ was safeguards. I don't think
392 there were any changes made in the safeguards text after Brussels and before Marrakesh; maybe
393 there were some, but basically that work had been finished.

394 **Plank-Brumback:** It could be regarded either as a late harvest or an early harvest.

395 **Weekes:** Unfortunately, while we had an early harvest in Montreal,²⁷ we didn't have any harvest
396 at Brussels. Although I think that meeting was very important. I remember talking with United

²⁶ The Brussels Meeting of the Trade Negotiations Committee at Ministerial Level, chaired by Uruguayan Foreign Minister Héctor Gros Espiell, was held in Brussels, Belgium starting on Dec. 3, 1990 with the aim of concluding the Uruguay Round. The meeting adjourned in impasse on Dec. 7, 1990 over the failure to reach agreement on reductions on farm subsidies.

²⁷ The Trade Negotiations Committee (Mid-Term) Meeting at Ministerial Level, chaired by TNC Chair Ricardo Zerbino of Uruguay, was held on Dec. 5–9, 1988 in Montreal, Canada. See <https://docs.wto.org/gattdocs/q/GG/GATTFOCUS/59.pdf>.

397 States Trade Representative, Carla Hills,²⁸ during the NAFTA negotiations about a year after
398 Brussels. In the NAFTA negotiations, there were the three ministers: Michael Wilson,²⁹ the
399 Canadian trade minister who was at the same time the Minister of Industry, Carla Hills, and
400 Jaime Serra,³⁰ the Mexican Secretary of Commerce and Industrial Development, and then the
401 three chief negotiators. Often, we would wind up having a dinner or meeting with just the six of
402 us. And we didn't always stay on NAFTA matters. One evening we were talking about the
403 Uruguay Round. Carla Hills was saying what a mistake it was that we even allowed the Brussels
404 meeting to go ahead. There was a lot of debate beforehand about whether it should be aborted. I
405 said that I didn't think so. I noted that in my view it was actually very good that it had taken
406 place because without having had that visible failure you would never have convinced certain
407 European governments and politicians that you had to address agriculture in a fundamental way
408 in order to complete the round. They didn't believe it. I think Brussels proved that you had to
409 address agriculture if you wanted to finish the negotiations. And the second thing I think that the
410 Brussels meeting proved was that there was enough convergence in the other areas that you
411 could probably finish the round as a whole if you could finish agriculture. Now there were other

²⁸ Carla Anderson Hills served as United States Trade Representative from Feb. 16, 1989 to Jan. 20, 1993 under President George H.W. Bush. During that time, she was the nation's chief trade negotiator for the Uruguay Round, the North American Free Trade Agreement, and other trade and investment agreements. Prior she was Secretary of Housing and Urban Development from March 10, 1975 until Jan. 20, 1977 under President Gerald Ford and Assistant Attorney General for the Civil Division of the US Department of Justice in the Nixon administration from 1973 to 1975. She founded Hills & Company in 1993 to help businesses expand trade and investment worldwide. The company has joined Dentons Global Advisors-Albright Stonebridge Group. See the transcript of the interview of Amb. Hills of July 12, 2010 for the oral history project of the Institute of International Economic Law of Georgetown Law.

²⁹ Michael Holcombe Wilson, Canadian Conservative politician, served as Minister of International Trade from April 21, 1991 to June 24, 1993 and as Minister of Finance from to Sept. 17, 1984 to April 20, 1991 under Prime Minister Brian Mulroney. He was a member of the Canadian House of Commons representing Etobicoke Centre, Ontario from May 22, 1979 to Oct. 24, 1993. He later became Canadian Ambassador to the United States from March 13, 2006 to Oct. 19, 2009 under Prime Minister Stephen Harper. Wilson was Chancellor of the University of Toronto from July 1, 2012 to June 30, 2018. He died on Feb. 10, 2019.

³⁰ Jaime Serra Puche, Mexican economist, served as Secretary of Commerce and Industrial Development (Secretario de Comercio y Fomento Industrial) from Dec. 1, 1988 to Nov. 30, 1994 under President Carlos Salinas, and as Secretary of Finance and Public Credit (Secretario de Hacienda and Crédito Público) from Dec. 1, 1994 to Dec. 29, 1994 under President Ernesto Zedillo.

412 big problems, including in services with the MFN exceptions that were taken at the end. I think
413 when people were able to take a few steps back after Brussels and then look at it, they realized
414 there were important lessons to draw and that it had been a valuable experience.

415 **Plank-Brumback:** Let's go back. You're leaving in 1979. At least perhaps some delegations, I
416 don't know about Canada, are realizing that there were some issues that perhaps had not been
417 successfully resolved or had to be revisited for another round: safeguards, agriculture. Were you
418 involved in the lead-up to the contracting parties in 1982 at the ministerial level on the GATT
419 work program?³¹

420 **Weekes:** Yes. I was the director of the division that was principally responsible in Ottawa for
421 coordinating the preparations of a substantive nature. Of course because Don McPhail had been
422 Chairman of the Contracting Parties or was Chairman of the Contracting Parties that year, it was
423 agreed that Canada would be asked to chair the meeting. So actually, the way it worked out in
424 the end is Allan MacEachen,³² who was the Secretary of State for External Affairs at the time,
425 the Canadian foreign minister, chaired the meeting and the Canadian trade minister of the day,
426 Gerald Regan,³³ represented Canada at that meeting. I couldn't help but think later that if the

³¹ The Contracting Parties to the General Agreement on Tariffs and Trade met in Geneva on Nov. 24–29, 1982. They undertook a 2-year work programme based on the priorities fixed by the ministers for the 1980s. Ministerial Declaration, GATT document L/5424 adopted on Nov. 29, 1982, BISD 29S/9. <https://docs.wto.org/gattdocs/q/GG/GATT/1328.PDF>.

³² Allan Joseph MacEachen was a Canadian Liberal Party politician and member of the House of Commons representing Cape Breton Highlands-Canso district from 1953 to 1958 and from 1962 to 1984. He was appointed to the Senate in 1984 serving briefly as Leader of the Government and then leader of the opposition from 1984 to 1991. MacEachen was Minister of Labour from April 22, 1963 to Dec. 18, 1965 under Prime Minister Lester Pearson. Under Prime Minister Pierre Trudeau, MacEachen served as Secretary of State for External Affairs from Aug. 8, 1974 to Sept. 13, 1976, Minister of Finance from March 3, 1980 to Sept. 8 1982, and Foreign Minister again from Sept. 10, 1982 to June 29, 1984. In 1977 MacEachen became the 1st Deputy Prime Minister of Canada, serving from Sept. 16, 1977 to June 4, 1979 and from March 3, 1980 to June 29, 1984, a position he held whenever Trudeau was Prime Minister. When MacEachen retired from the Senate in 1996, he became an adviser to the Department of Foreign Affairs and International Trade. He died on Sept. 12, 2017.

³³ Gerald Augustine Paul Regan was a Canadian Liberal Party politician and served as the 19th Premier of Nova Scotia from Oct. 28, 1970 to Oct. 5, 1978. He was a member of the federal House of Commons representing Halifax

427 Americans had done something like that at the time of Seattle WTO Ministerial Conference,³⁴ it
428 might have made the management of that meeting a bit easier. It's very difficult to both chair a
429 meeting and represent your own country, especially if you are representing a major player.

430 **Plank-Brumback:** There is perhaps an inevitable tension, isn't there?

431 **Weekes:** Well, I think it's almost impossible. You can't do it. I've been chairman a number of
432 times and I couldn't imagine trying to perform that role well if I was also representing Canada.

433 **Plank-Brumback:** Because in your mind a chair is a neutral broker, a leader.

434 **Weekes:** Well, you need to be seen, to be effective as a chair, I think you need to be seen as
435 somebody who is working on behalf of the membership as a whole and not on behalf of one
436 particular government. Now of course everybody knows where you're from, but I think they
437 watch the way you operate. When I was chair of the GATT Council or Chair of the General
438 Council in the WTO, my deputy assumed a much bigger role in terms of being able to represent
439 Canada in those meetings. I didn't represent Canada in those meetings.

440 **Plank-Brumback:** Did you ever feel like correcting what he was saying?

441 **Weekes:** Well, I rather enjoyed those moments when I would know exactly why he or she was
442 saying what they were saying, but I was more amused more than concerned.

443 **Plank-Brumback:** Were you in the Green Room that hammered out that 1982 work program?

from 1963 to 1965, and again from 1980 to 1984 when he was appointed Minister of Labour and Minister of State for International Trade under Prime Minister Trudeau. He died on Nov. 26, 2019.

³⁴ The Third WTO Ministerial Conference was held in Seattle, Washington State, USA on Nov. 30–Dec. 3, 1999. It was chaired by USTR Charlene Barshefsky.

444 **Weekes:** No. There were crazy meetings that went on upstairs in Don McPhail's residence in
445 Vernex. I do remember in the period, in the run-up to the meetings, spending quite a bit of time
446 personally with Allan MacEachen in Ottawa trying to brief him on different issues that were
447 going to be important at the conference. We wrote a lot of memoranda. I remember him even
448 phoning me one night at home—which in the Canadian system was somewhat unusual for a
449 senior minister to phone a division director at home—to ask a question about these issues.

450 **Plank-Brumback:** Canada was basically in favor of a robust work program?

451 **Weekes:** Yes, and you know I've always been surprised by the perceived history of what that
452 meeting was about on two accounts. One, the notion that a lot of people expected that a new
453 round of trade negotiations would be launched at that meeting, and that was not right. I was
454 involved in a lot of the meetings in the run-up and informal meetings, and I was present
455 throughout the ministerial meeting. The idea of launching a round in Geneva in 1982 was never
456 discussed. Certainly participants had the idea of an eventual new negotiation in mind as well as
457 the idea that the GATT had to start addressing new issues but not that a negotiation would be
458 launched at that meeting in Geneva—in the bunker. One of the things—

459 **Plank-Brumback:** Bunker is the?

460 **Weekes:** The Swiss government conference center is where that meeting took place.³⁵ I have a
461 very vivid recollection of some of the elements. The other perception I would like to mention is
462 that the meeting was hyped as the meeting to end protectionism. Somehow GATT ministers

³⁵ Centre International de Conférences Genève (CICG), International Conference Centre Geneva.

463 would come together and through this declaration, they would stop all this erosion of the system
464 that was going on in the early '80s.

465 **Plank-Brumback:** High expectations.

466 **Weekes:** Including the gray areas measures in which I was also involved in negotiating. And I
467 should add that even the Canadian government had had its share of somewhat nationalist
468 economic policies: the national energy program, the Canadian Foreign Investment Review Act
469 [FIRA] which the United States challenged in the GATT.³⁶ I was in those days the director of the
470 division dealing with GATT. None of my colleagues in government wanted to be involved in
471 defending FIRA in the GATT. This was the only issue over which I didn't have a jurisdictional
472 dispute with some other part of the ministry or government. They said, "Oh no, John, you should
473 do this. You should do this." So I wound up being responsible for the preparation of the
474 Canadian defense and actually representing Canada before the panel as a nonlawyer. Now these
475 were in the days when this was normal practice. Things have evolved a lot since then. I and a
476 colleague, Brian Morrissey,³⁷ who was subsequently posted to the Canadian permanent mission in
477 Geneva, had the principal responsibility for putting the Canadian defense together. He personally
478 did a lot of the research in the GATT library, which included looking back at the Havana
479 Charter³⁸ documents. We were supported by people from the legal advisory division in the
480 Department of Foreign Affairs, and very ably supported, but it was interesting that they had a

³⁶ GATT Panel Report, Canada – Administration of the Foreign Investment Review Act, L/5504, adopted on Feb. 7, 1984, BISD 30S/140. https://www.wto.org/english/tratop_e/dispu_e/gatt_e/82fira.pdf.

³⁷ Brian E. Morrissey was an officer in Amb. Weekes's division dealing with GATT matters at the time. He also served as Minister-Counsellor for Economic and Trade policy at the Canadian Embassy, Washington, DC, and became Director General of the Economic Policy Bureau in the Department of Foreign Affairs and International Trades.

³⁸ Havana Charter for an International Trade Organization. United Nations Conference on Trade and Employment, Final Act and Related Documents, E/CONF.2/78, United Nations publication, Sales No. 1948.II.D.4. The treaty never entered into force. https://treaties.un.org/doc/source/docs/E_CONF.2_78-E.pdf.

481 supportive role rather than the lead role, which today is obviously quite different in the way most
482 panels operate.

483 **Plank-Brumback:** How do you feel about the ruling?

484 **Weekes:** Well, let me first finish what I wanted to say about the '82 ministerial meeting. So,
485 there was this feeling that it was going to put an end to all these nationalistic protectionist
486 tendencies and, of course, was perceived as having failed because it did not achieve this
487 objective. I forget the details of the declaration. But ministers did establish a work program,
488 which was really discounted at the time. Nobody saw that as being of any significance, at least in
489 the press commentary, and also in a lot of the other outside learned commentary. There wasn't
490 really any recognition of this being a major achievement. I think the work program was a major
491 achievement. That was when contracting parties to the GATT began to seriously lay the
492 groundwork for the launching of the Uruguay Round. Without that meeting, I doubt that we
493 would have launched the Uruguay Round in Punta del Este in 1986.³⁹ So, it was very significant.

494 Let me come back to the FIRA case, which I have actually written about elsewhere. Initially the
495 Canadian government had to make an important decision about the management of the dispute.
496 This was in the days before disputes were as common as they are now, and for Canada a GATT
497 dispute with the United States was a big thing. The Cabinet actually discussed whether or not we
498 should try to negotiate a bilateral solution with the United States or whether we should let the
499 panel process go ahead and see where the chips fell. It was very clear in the Cabinet—I can't
500 divulge the details—but it was very clear, with one exception, that the Cabinet wanted to go

³⁹ The Ministerial-Level Special Session of the GATT Contracting Parties chaired by Uruguayan Foreign Minister Enrique Iglesias was held in Punta del Este, Uruguay on Sept. 15–20, 1986. It launched the Uruguay Round of Multilateral Trade Negotiations. "Ministerial Declaration on the Uruguay Round, Declaration of 20 September 1986 (Min. Dec)," BISD 33S/19.

501 through the GATT process. The view was that if we lost in this international adjudication process
502 and we then decided to change our policy as a result of that, the political management of that and
503 the perception of it would be quite different than having been seen to knuckle under to American
504 pressure. I use these words because that was the way it was perceived. So, we went through a
505 very careful preparation of our defense. The Minister of Industry Trade and Commerce, Herb
506 Gray, who was the father of FIRA, took a close interest. He had led the task force which had
507 developed the intellectual basis for the agency in the first place. He watched our preparations
508 very, very carefully. We had a number of briefing sessions with him personally as we went
509 through the preparation of the defense.

510 I should make clear that there were three major aspects to the American case, as I recall. The
511 Americans argued that certain undertakings being required of foreign investors in Canada
512 resulted in violations of the GATT.⁴⁰ The undertaking in question involved commitments to
513 purchase domestic goods, to manufacture goods in Canada, and to export certain specified
514 quantities of goods. Interestingly, there was another element of the American concerns that
515 related to tax policy. I forget the exact details of this aspect of the matter. This element of the
516 American complaint was dropped before the complaint was formally referred to the GATT. We
517 concluded at the time that this aspect was dropped because Treasury was concerned at the
518 prospect of GATT encroaching into matters of tax policy. This development further strengthened

⁴⁰ The United States requested the panel to find that the written undertakings obtained by the Government of Canada under the Foreign Investment Review Act which obliged foreign investors subject to the Act (a) to purchase goods of Canadian origin in preference to imported goods or in specified amounts or proportions, or to purchase goods from Canadian sources; (b) to manufacture in Canada goods which would be imported otherwise are inconsistent with Articles III:4, III:5, XI and XVII:1(c) of the General Agreement, and that the undertakings which oblige foreign investors (c) to export specified quantities or proportions of their production are inconsistent with Article XVII:1(c) of the General Agreement, and that any such undertakings therefore constitute a prima facie case of nullification and impairment under Article XXIII of the General Agreement.

519 the case for letting GATT make a ruling rather than trying to negotiate a bilateral solution with
520 the Americans.

521 When the panel finding came out it was not difficult to manage politically in Canada. Basically,
522 what the panel found was that what Canada was doing on the export side was not a problem. So,
523 we could continue with world product mandates or whatever the exact term of art was. We could
524 say we won on that. We lost on the import substitution aspect of the case—it was a classic
525 Article III national treatment case—we lost on that score.

526 **Plank-Brumback:** All of this was later revisited in another panel.

527 **Weekes:** We went back to the government to decide what to do in light of the panel findings. We
528 looked at the findings very carefully with the lawyers and officials in the Foreign Investment
529 Review Agency. By making certain changes to the way the regulations worked and the practices
530 the Agency followed, we were able to devise a solution whereby we would bring our practices
531 into conformity with the GATT obligations as determined by the panel—and the government had
532 no difficulty doing that. There was no real opposition—it was quite easy to get approval of that
533 at Cabinet level. It was a solution which the United States accepted as being a proper reflection
534 of what needed to be done. And it was a rather precedent-setting panel, actually. When I came
535 back and chaired the Indian automotive measures case⁴¹ for instance, one of the panels that was
536 cited the most in that report was the FIRA panel. In a sense the FIRA Panel became the precursor
537 for the Uruguay Round agreement on—

⁴¹ Panel Report, India – Measures Affecting the Automotive Sector, WT/DS146/R and WT/DS175/R, adopted by the WTO Dispute Settlement Body on April 5, 2002. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/DS/175R.pdf&Open=True>.

538 **Plank-Brumback:** Investment measures.

539 **Weekes:** Yes. TRIMS.⁴²

540 **Plank-Brumback:** Some of these measures were revisited in another panel, weren't they, and I
541 don't think Canada was as—

542 **Weekes:** Well, much later there was an automotive panel but that was quite different, because it
543 addressed whether the Canada–US Auto Pact was in conformity with the GATT.⁴³ The FIRA
544 Panel was a very innovative panel in terms of the classic issues. There is one thing that I think is
545 of particular interest and could be found in the original panel submissions for that case if they are
546 available. In preparing our defense, we looked at the context in which these GATT Article III
547 provisions were originally negotiated as part of the Havana Charter. Brian Morrissey and I, two
548 nonlawyers, decided this ought to be looked at in the context of the Vienna Convention on the
549 Law of Treaties.⁴⁴ As a nonlawyer I might not phrase any of this quite properly, but according to
550 the Convention in interpreting a treaty you are required to —

551 **Plank-Brumback:** Look at the object and purpose in its context.

552 **Weekes:** Yes, thank you, and the context in which it was negotiated.

553 **Plank-Brumback:** Especially to clear up any ambiguity.

⁴² TRIMS: Agreement on Trade-Related Investment Measures, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1868 U.N.T.S. 186.

⁴³ Panel Report, Canada – Certain Measures Affecting the Automotive Industry, WT/DS139/R and WT/DS142/R, adopted by the WTO Dispute Settlement Body on June 19, 2000, https://www.wto.org/english/tratop_e/dispu_e/6100d.pdf.

⁴⁴ Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331; 8 I.L.M. 679 (1969), https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

554 **Weekes:** So that drove us back to looking at what was the context. What did people say in the
555 various preparatory conferences leading to the creation of the Havana Charter and then the
556 GATT? Looking at the Havana Charter, there are provisions on investment in it, which we
557 argued in the FIRA case, would explicitly allow governments to do the sort of things that Canada
558 was doing under the Foreign Investment Review Act, and we said it was in that context that
559 Article III of GATT was negotiated. So we said these measures, even if they are in contravention
560 of Article III, should be allowed because they would have been consistent if the Charter had
561 come into effect. Well, in its final report the panel didn't address that interpretive issue at all. Of
562 course, there were no appeals in those days. And in any event most Canadians were quite
563 satisfied with the way this came out. Of course, the matter was subsequently codified in the
564 TRIMs Agreement. You could no longer go back and say that performance requirements are
565 allowed because of the Havana Charter. We've crossed that bridge now; we're in a different
566 world. But I couldn't help but think, having watched the importance that the Appellate Body has
567 attached to the Vienna Convention on the Law of Treaties, whether had the Appellate Body been
568 in existence when this case was heard, the outcome might have been different. I'm not sure it
569 would have been a good thing. I wouldn't ever want to make any suggestions that panels would
570 ever decide a case on anything other than objective criterion, interpretation of the law and so on.

571 **Plank-Brumback:** And current instruments.

572 **Weekes:** Right. The Secretariat legal advisor to the FIRA Panel was Frieder Roessler.⁴⁵ I don't
573 think he liked our argument, but I was amused years later when I wound up chairing the Indian

⁴⁵ Frieder Roessler, of German nationality, was the Director of Legal Affairs Division in the GATT and WTO Secretariats from 1989 to 1995. From 2001 to 2012, he served as the first Executive Director of the Advisory Centre on WTO Law (ACWL) in Geneva. The ACWL gives free legal advice and training to its developing country members and least developed countries.

574 automotive measures panel case and Frieder Roessler appeared as counsel to the government of
575 India on this case. I couldn't help but having the odd flashback. Of course, consistency in trade
576 policy is never perfect. You see a government taking contrary positions on the interpretation of a
577 provision, and I've had my own Canadian experience with this, depending on whether it was an
578 export or an import situation—you can argue that black is white. We had—

579 **Plank-Brumback:** People change their minds.

580 **Weekes:** Let me provide an example regarding consistency or lack thereof. As I mentioned
581 earlier, safeguards was one of the files I worked on during the Tokyo Round. When I came back
582 to Ottawa and became director of a division, I got the officer who was following import
583 measures issues to take on looking at the other side of the coin, in particular how other countries'
584 import measures were affecting Canadian exports. At one point we had two sets of consultations
585 with the United States in one day—one regarding a Canadian safeguard action affecting US
586 imports and the other a US action that caught up Canadian imports. The Canadian team except
587 for my officer was completely different for the two consultations. The officer came back and told
588 me that Canada had argued completely opposite things at the two meetings. I said, "Well, you
589 see there is some value in my having given you responsibility for both."

590 **Plank-Brumback:** You may have even heard this anecdote or maybe have even been present. I
591 believe there was a GATT Council meeting and I forget when, but the EC negotiator and
592 someone else were really going at it, and finally in exasperation one of them shouted, "Can we at
593 least agree that two plus two is four?" There was a moment of silence and then the answer was,
594 "Am I buying or am I selling?"

595 **Weekes:** Yes, well, there you are. This makes me think of something else, which is an
596 impression I formed over the whole period of the Tokyo Round. At the beginning of the
597 negotiations, we were talking about what we wanted to get, what years later Tim Grosser⁴⁶
598 would have called the declaratory phase of the negotiations. In some ways it is the most
599 satisfactory part of the negotiation because you can stake out exactly what you would like to see
600 happen. At the start of the Tokyo Round, Canadian representatives were asserting that we would
601 be prepared to pay in good coin, if we secured the outcomes we wanted. I think that was Simon
602 Reisman's expression: "in good coin." So there was a very strong flavor of reciprocity. This was
603 my first experience with a big negotiation and with a lot of very senior people around. I was the
604 young guy but senior enough to be able to get into some of the important meetings, but very
605 much still on a learning curve. Well, when we got to the end of the negotiations and the final
606 bargaining, we didn't get a significant number of the things that we thought were important and
607 that we had really wanted to get. But we still made a lot of concessions. The overall result was
608 actually pretty good for Canada. But what was interesting is how our rhetoric changed. Suddenly
609 all these things that would be so painful to give away—our "good coin," became benefits in the
610 final press release the government put out on the negotiations: benefits for consumers, benefits
611 for manufacturers who could import intermediate products more cheaply, benefits for food
612 processors who had better access to a more reliable supply of agricultural products and so on. So

⁴⁶ Timothy ("Tim") John Groser is a former New Zealand National Party member of Parliament (Sept. 17, 2005–Dec. 19, 2015), cabinet minister, and diplomat. He served as Minister of Trade (Nov. 19, 2008 to Dec. 14, 2015), Minister of Conservation (Nov. 19, 2008 to Jan. 27, 2010), and Minister for Climate Change Issues and Associate Minister of Foreign Affairs (Jan. 27, 2010 to Dec. 14, 2015) under Prime Minister John Key. He was New Zealand's candidate for WTO Director-General in 2012. Groser resigned from Parliament to be New Zealand's Ambassador to the United States (2016–2018). Prior he held positions in Treasury, New Zealand High Commission in Canberra, Dept. of Prime Minister and Cabinet, Dept. of Trade and Industry. Groser was Minister (Economic) at New Zealand Mission to the GATT and Chief Agricultural Negotiator (1986–1990) then Chief Negotiator for the Uruguay Round (1990–1994). He served as Ambassador to Indonesia (1994–1997) and Ambassador and Permanent Representative to the WTO, chairing the Rules Negotiating Group (2002–2003) and Agriculture in the Doha Round (2004–2005). He founded Groser and Associates in 2018. <https://www.groser.co.nz/>.

613 suddenly it went from being very mercantilist, when we looked at how to explain the results
614 domestically, to being more about the broader economic interests of the country.

615 **Plank-Brumback:** Let's get to the preparation for the Uruguay Round and after the work
616 program of 1982, any comment on Canada's position on services and the opposition, very strong
617 opposition by Brazil and India on services, leading up to Punta del Este?

618 **Weekes:** And intellectual property.

619 **Plank-Brumback:** Counterfeit goods.

620 **Weekes:** Well, yes.

621 **Plank-Brumback:** You were in Ottawa?

622 **Weekes:** I was in Ottawa and by this time at some point—I forget exactly when, maybe it was
623 '83 or '84—I became the director general for trade policy, so I became more senior and had a
624 broader range of responsibilities. Also, about that time the government amalgamated the trade
625 part of the former department of industry, trade, and commerce into the foreign ministry. A lot of
626 the processes which had previously been interdepartmental became instead intradepartmental.
627 We restructured internally to have a much more rational approach to dealing with the trade
628 policy issues. The first place that was restructured was the area that addressed GATT issues.
629 These changes put me in a position where I had an overview of the preparations for the Uruguay
630 Round. In addition, during the same period I became the Canadian representative to the OECD⁴⁷

⁴⁷ The Organization for Economic Cooperation and Development (OECD) is an intergovernmental organization that entered into force on Sept. 30, 1961. Among its aims are “to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.” There are thirty-eight parties to the OECD Convention as of 2022. The OECD is the successor organization to the Organization for European

631 Trade Committee so I would go to Paris for meetings of the OECD Trade Committee, where
632 many discussions occurred about various issues regarding the preparations for the new
633 negotiations. This was useful in a number of ways. Senior representatives of major EC member
634 states came to the Trade Committee meetings and one of the particularly useful events we had at
635 that time was a “bureau” dinner at which there were only about eight or nine senior country
636 representatives. Normally this included the Quad⁴⁸ plus the Brits, the French, the Germans, and
637 usually the Italians, the Swiss, and a couple of senior OECD Secretariat representatives. At that
638 dinner you could have a very frank and informative discussion about the issues because
639 importantly, EC members felt free to give their own national perspective. This meant participants
640 came away with a very good sense of the lay of the land.

641 I also had responsibility during that period for managing the preparation for Canada’s
642 participation in various quadrilateral trade ministers’ meetings, which was part of the landscape
643 back then. I think these meetings were very important in preparing for the launch of the Uruguay
644 Round. I remember in particular getting ready for a quadrilateral trade ministers’ meeting under
645 the new Conservative government of Prime Minister Brian Mulroney.⁴⁹ The meeting was chaired
646 by Jim Kelleher, who was then the Canadian trade minister. This would have been in, I guess, in
647 the spring of 1985, and I spent quite a bit of time—

Economic Cooperation formed in 1948 to administer aid under the Marshall Plan. <https://www.oecd.org/about/document/oecd-convention.htm>.

⁴⁸ The Quad composed at the time of trade ministers from the US, EC, Japan, and Canada met intermittently during the ’80s and ’90s to exchange views and to arrive at a common approach on major negotiating issues.

⁴⁹ Martin Brian Mulroney, Canadian politician, lawyer, and businessman was leader of the Progressive Conservative Party (June 1983 to June 1993) and served as Prime Minister (Sept. 1984 to June 1993). During his administration the Canada–United States Free Trade Agreement, the North American Free Trade Agreement, the Canada–United States Acid Rain Treaty, and the Canada–United States Arctic Cooperation Agreement were concluded. He was a Senior Partner in the Montreal law firm of Norton Rose Fulbright. He died on Feb. 29, 2024.

648 **Plank-Brumback:** This was then the quadrilateral meeting in Kyoto, February 1985?

649 **Weekes:** No, it was in Canada. It was in Sault Ste. Marie.

650 **Plank-Brumback:** Oh, that one. July 1985.

651 **Weekes:** Well, I was close. In contributing to the preparation for that meeting I spent a lot of
652 time talking about how to organize the meeting with my counterparts in the other Quad
653 governments, including on the margins of the OECD Trade Committee. By this time, we had
654 come to the conclusion that rather—

655 **Plank-Brumback:** How to organize Punta del Este?

656 **Weekes:** No, how to organize a Quad meeting to get the most out of it because if they weren't
657 properly organized, they were often counterproductive. The practice had developed at Quad
658 meetings to ask different ministers to take the lead in introducing different issues on the agenda.
659 This led to a much better discussion.

660 **Plank-Brumback:** Why is that?

661 **Weekes:** Well, I think because rather than have the host as chair introduce each subject, you
662 gave each participant a stake in figuring out how to contribute to achieving their objectives.
663 Anyway, the point I wanted to get to is actually answering your question about services. One of
664 the things that we did in preparing for that Quad meeting was to propose, that the European
665 Community minister, Willy De Clercq⁵⁰ introduce the services discussion. Now as you may

⁵⁰ Willy Clarisse Elvire Hector, Viscount De Clercq, Belgian politician, was European Commissioner for External Affairs and Trade from Jan. 7, 1985 to Jan. 6, 1989. From 1989 to 2004, he was a member of the European Parliament for the Liberal Democratic Reformist Party in Belgium. Prior he held various positions in Belgian coalition governments: Secretary of State for the Budget (1960–1961), Deputy Prime Minister and Minister of the

666 recall up until that time, there had been a lot of suspicion in the United States about where the
667 EC was on services. I think it was my idea. I thought, well, maybe we should try this out and see
668 what happens because I had listened to the EU say they wanted a negotiation on services.
669 However, whenever the US introduced a discussion on services, the Community would start
670 raising questions, which invariably frustrated the Americans who concluded the EC was not on
671 board. So I thought, well, why don't we see if we can arrange an occasion where the EC
672 addresses the subject first and then see what happens. Well, it was extremely satisfactory. The
673 EC made a very good presentation. The Americans were delighted. The positive dynamics
674 helped reinforce the willingness of the Quad to carry the preparations forward. If I recall
675 correctly, I think that the Japanese introduced intellectual property.⁵¹ As I recall it, for the first
676 time at the end of that meeting you really had the ministers saying to the press that they thought
677 the time had come to move towards the launch of a new round of negotiations. That was the line
678 in the host's agreed statement to the press.⁵² It was less than a year after that when the OECD
679 ministerial meeting in the spring of 1986 called for new GATT negotiations.⁵³

Budget (1966–1968), Deputy Prime Minister and Minister of Finance (1974–1977), and Deputy Prime Minister (1980). He died on Oct. 28, 2011.

⁵¹ Japan's Minister for International Trade and Industry, Keijiro Murata and USTR Clayton Yeutter participated in the conference. The trade ministers identified eight subjects for inclusion in a new round of trade talks. Each participant was responsible for conducting discussions on two of the topics: the EC, on services and tariffs; the United States, on subsidies and trade-related investment measures; Japan, on intellectual property and trade in high-technology products; and Canada, on dispute settlement and safeguards. "Quadrilateral Trade Ministers' Conference," US ITC pub. International Economic Review, Aug. 1985, p.14 https://www.usitc.gov/publications/ier/ier_1985_08.pdf.

⁵² The tenth Quadrilateral Trade Ministers' Conference ended on July 14, 1985, with conference host James Kelleher, Canada's Minister for International Trade, stating: "We consider that early movement towards new negotiations is a critical aspect of our efforts to control [protectionist] pressures." Ministers endorsed the need to include trade in services in any new round of talks. It "is not an issue that can be ignored or put aside," said USTR Yeutter. The Quad participants agreed to try to schedule a meeting of senior GATT officials in September to establish a formal committee to lay the groundwork for a new trade round to begin in 1986. They also agreed to appeal to the developing countries to participate in the talks. Id.

⁵³ Meeting of the OECD Council at Ministerial Level in April 1986 Communiqué: "Ministers vigorously endorsed the need to launch a comprehensive new round of multilateral trade negotiations. Ministers noted with satisfaction the preparation in GATT for a Ministerial meeting in September for this purpose. Member countries' Governments are determined to do their utmost to support the new round and the process leading to its launching. All countries,

680 **Plank-Brumback:** Well, this quadrilateral meeting in Sault Ste. Marie endorsed the meeting of
681 senior officials in the GATT in September as a key part in the planning process.

682 **Weekes:** Oh, right yes, yes, I had forgotten. Yes, I remember coming for those meetings.

683 **Plank-Brumback:** And then there was a special session of the GATT Contracting Parties.

684 **Weekes:** So you've actually put this together so you're ahead of me. I just agreed yesterday to
685 do this interview and have had no time to prepare, but I do have many recollections.

686 **Plank-Brumback:** We can share this.

687 **Weekes:** But then as I—

688 **Plank-Brumback:** The special session, where you have the controversy over the Jaramillo
689 Senior Officials Group.

690 **Weekes:** I remember this, but again, I was in Ottawa, so I wasn't in the trenches in Geneva as
691 this was argued out, but I definitely remember all the reports on this. And then, of course, how
692 eventually the process of drafting the declaration moved out of the GATT building and into the
693 EFTA headquarters.⁵⁴ Indeed that process was jointly chaired by Colombia and Switzerland. The

developed and developing, have a stake in the early launching and successful completion of a new round. The general purpose of the negotiations should be to improve the provisions and disciplines of the GATT, expand its coverage, extend its coverage, extend its application to new areas, promote a substantial further liberalization of trade and consider trade aspects of other international economic policies. In this context it was recognized that parallel efforts in other areas of international economic co-operation would be conducive to achieving the objective of trade liberalisation. Ministers support a comprehensive agenda for the negotiations, including issues to keep the GATT relevant to changing world trade conditions, which would provide the possibility of achieving balanced results. The new round should, inter alia, address the issues of trade in services and trade related aspects of intellectual property and foreign direct investment. The negotiations should lead to a fuller participation in the open multilateral trading system of developing countries which should contribute to the liberalization process in a manner commensurate with their stage of economic development" para. 26. [emphasis added]
<http://www.g8.utoronto.ca/oecd/oecd86.htm>.

⁵⁴ European Free Trade Association Rue de Varembe 9-11, Geneva. As of 2022, there are four EFTA member states: Iceland, Liechtenstein, Norway, and Switzerland.

694 US and the EU were not directly involved in those meetings but were in close ongoing contact
695 with the participants. I wasn't directly involved in that process in Geneva. I was familiar with all
696 of that from my role in Ottawa and I was in Geneva quite frequently during that time. Let me
697 note that we had at the time an excellent team in Geneva spearheaded by Rob Wright⁵⁵ who had
698 been director of the GATT division in Ottawa. He made an outstanding contribution to the
699 negotiations and was highly respected in Ottawa and by other delegations in Geneva. But it was
700 in the spring of '86 at the OECD ministerial meeting that ministers vigorously endorsed the
701 launch.

702 **Plank-Brumback:** You were at that meeting?

703 **Weekes:** Yes, I was. I was involved in the all-night session drafting the communiqué on the
704 issues related to the new round.

705 **Plank-Brumback:** OECD ministers?

706 **Weekes:** Yes, OECD ministers. In what month in your chart?

707 **Plank-Brumback:** April 1986.

708 **Weekes:** Right.

709 **Plank-Brumback:** "To keep the GATT relevant to changing world trade conditions."

⁵⁵ After serving as Deputy Head of the Canadian delegation to the Uruguay Round negotiations, Robert G. Wright became Director General responsible for Canada-US relations and Deputy Head of the Canadian Embassy in Washington dealing with Canada's trade and economic relations with the United States. He returned to Ottawa to serve as Deputy Minister of International Trade and Associate Deputy Minister of Foreign Affairs (1995–2001). He was appointed subsequently Ambassador to Japan (May 2001–July 2005) and later Ambassador to the People's Republic of China and Mongolia (August 2005–May 2009). Wright retired from public service in May 2009 and is a senior fellow at the China Institute of the University of Alberta.

710 **Weekes:** Right. And that's the first time where a major communiqué came out and talked about
711 the importance of negotiating in GATT on trade-related intellectual property matters.

712 **Plank-Brumback:** That is where they coined the phrase.

713 **Weekes:** Right, the "trade-related." I remember somebody said to me afterwards, "Well, why did
714 the Punta del Este Declaration talk about trade-related intellectual property or trade-related
715 investment measures?"⁵⁶ I said, "Well, I can remember technically how we got to that because
716 we were sitting in a drafting group." I forget where exactly, but it was in one of the delegation
717 offices in Paris on the night we were trying to finalize the communiqué. I said, "Well, why don't
718 we just—we've had this debate about what these words mean, none of us were really happy with
719 it—why don't we just put these words in the draft we're working on right now? We'll put them
720 in square brackets and get to the end of this discussion. We'll come back and decide what to do
721 later." In the end, we agreed on everything else, and we thought, "Oh, what the heck, why don't
722 we use the words in square brackets." So then of course that was part of the declaration. It got
723 more or less transposed from the OECD communiqué into the draft GATT declaration by a lot of
724 the same officials who were by then sitting around the table in Geneva. Here is some language
725 that has been agreed by a number of countries so why don't we try that and so a lot of that same
726 language appeared in the Punta del Este Declaration in September.

727 **Plank-Brumback:** Interesting.

728 **Weekes:** I come back to the point that a lot of the OECD work made an important contribution
729 to the launch and eventual success of the Uruguay Round.

⁵⁶ Ministerial Declaration on the Uruguay Round, GATT doc. MIN.DEC, Sept. 20, 1986. Pp.7-8. BISD 33S/19.
<https://docs.wto.org/gattdocs/q/UR/TNCMIN86/MINDEC.PDF>.

730 **Plank-Brumback:** On this and agricultural producer subsidy equivalents.

731 **Weekes:** Oh, of course all of that. And we did in the trade committee, it was actually Germain
732 Denis's⁵⁷ suggestion, my Canadian colleague, who was very actively involved, as the
733 coordinator for the preparations in Ottawa for the coming GATT negotiations, when Sylvia
734 Ostry⁵⁸ had been made the senior official responsible for these matters at ambassadorial level.
735 Germain suggested to me that one of the things the OECD Trade Committee could usefully do
736 was look at the historical application of the MFN principle and consider its relevance to services.
737 I proposed this to the Trade Committee, and it was agreed. I forget the details of all this, but the
738 Secretariat produced some very interesting papers, which led to some very useful discussions. It
739 made the officials who were engaged in these matters do a fundamental rethink, not with a view
740 to changing but with a view to having a better understanding and being therefore better able to
741 plan for what made sense as we went forward. This was a very good example of the sort of thing
742 the OECD does very well.

743 **Plank-Brumback:** A useful interplay between some sort of intellectual perspective and—

⁵⁷ Germain Denis was a key member of the Canadian negotiating team during the Tokyo Round. He also contributed to the success of the Uruguay Round by developing pathways of convergence with his counterparts from the US, the EU, and Brazil. In the final months of Uruguay Round bargaining, Denis facilitated conclusion of the market access negotiations among participants as overall chair of that process. From 1995 to 2005, he served as the executive director of the International Grains Council and the Food Aid Committee.

⁵⁸ Sylvia Knelman Ostry, Canadian economist, was Deputy Minister for International Trade and Coordinator for International Economic Relations in 1984–1985 as well as Canada's Ambassador for Multilateral Trade Negotiations and Prime Minister Brian Mulroney's Personal Representative (Canada's Sherpa) for G7 Economic Summit meetings in 1985–1988. Prior she was the Director of the Economic Council of Canada from 1969 to 1972 and Chief Statistician at Statistics Canada from 1972 to 1975. Ostry served as Deputy Minister for Consumer and Corporate Affairs from 1975 to 1978 and then chaired the Economic Council of Canada from 1978 to 1979. Ostry headed the Department of Economics and Statistics at the Organization for Economic Cooperation and Development from 1979 to 1983. Ostry died on May 7, 2020.

744 **Weekes:** It affected the intellectual perspective that people then brought to a lot of work in
745 Geneva.

746 **Plank-Brumback:** But, of course, negotiations could only be concluded in the GATT setting on
747 a contractual basis.

748 **Weekes:** Right.

749 **Plank-Brumback:** Recollections of Punta del Este? You were there?

750 **Weekes:** I was there.

751 **Plank-Brumback:** You were in the all-nighter?

752 **Weekes:** No, actually. No, because I was not as wise as I am now. I could have gone to the all-
753 nighter or been on the margins of it, but I decided not to. We had a big team of people. Most of
754 the key people were going off to the night meeting, so I decided maybe one of us should go to
755 bed so that there is at least somebody who can think straight in the morning. We had a lot of
756 interesting personalities on our delegation, like Sylvia Ostry, for instance. So that's why I
757 thought, maybe I'll just go to bed and see because nobody knew whether it would be over or not
758 that night. What might we need to do the next day and what would we say about the outcome, or
759 lack thereof? That could be very important. So I went to bed, I didn't sleep all that well, but I did
760 sleep. The next morning, I woke up and it was done. But I played an active role in the Canadian
761 delegation, including advising the head of delegation, and in meetings with other delegations and
762 in some of the side meetings. Because the Minister of Trade Pat Carney was ill, the Canadian

763 delegation was led by Joe Clark, who was the Secretary of State for External Affairs.⁵⁹ I
764 remember being invited off-site to a meeting on trade and labor standards by Dennis Whitfield
765 who used to be Bill Brock's chief of staff and became Under Secretary of Labor.⁶⁰ He organized
766 a lunch at which some of us talked about these matters. I always like to point out there were a lot
767 of concerns in Canada about the right-to-work states in the United States. We've seen Canadian
768 industry in some instances drift off from Canada to set up in these places. What could they do to
769 rectify this? But, anyway, that wasn't what they wanted to talk about. They wanted to talk about
770 other countries' practices. Later on, and more particularly in my NAFTA experience, including
771 the NAFTA side agreements, I thought repeatedly about how American trade policy positions
772 often begin with a definition of what the other guy is doing wrong and what needs to be fixed.
773 Only much later in the process does the US begin to think, well, if we actually had a regime that
774 corrected all these deficiencies in our partners' practices, what would this mean in the United
775 States? Sometimes that comes fairly late in the day. On trade and labor standards that may not be
776 as applicable.

777 **Plank-Brumback:** We'll get back to that. What were your recollections, we already touched on
778 the midterm review?

779 **Weekes:** We're not going to finish.

⁵⁹ Charles Joseph ("Joe") Clark, Canadian Progressive Conservative Party politician, was Secretary of State for External Affairs under Prime Minister Brian Mulroney from Sept. 17, 1984 to April 20, 1991. Previously he served as Prime Minister from June 4, 1979 to March 3, 1980.

⁶⁰ Dennis E. Whitfield, Republican activist, was US Deputy Secretary of Labor (1986–1989) and Managing Partner of the Brock Group (1990–1996). From 1998 to 2003, he was Senior Vice President of the National Federation of Independent Business. Whitfield then served as Executive Vice President of the American Conservative Union.

780 **Plank-Brumback:** We're going to continue, maybe in Washington. Let's see how far we get to,
781 see if we get to the end of the Uruguay Round.

782 **Weekes:** As we hop around.

783 **Plank-Brumback:** We touched a bit about the midterm review in Montreal. I assume you were
784 involved in the preparations in that, but still in Ottawa.

785 **Weekes:** No, because I became Canadian Ambassador to the GATT in the fall of 1987, so, I was
786 here in Geneva. Then of course I was back in Montreal for the ministerial meeting itself. I
787 participated in what seemed like endless Green Room meetings, here in Geneva getting ready for
788 Montreal. This was when smoking was still allowed.

789 **Plank-Brumback:** Of course, because Arthur Dunkel was there.

790 **Weekes:** I remember the first night of this long series of meetings when I came home and my
791 clothes reeked of smoke from the Green Room. It was a pretty small room in which you often
792 had two or three rows of people sitting around that table, extra chairs brought in, and people
793 smoking cigarettes and pipes and cigars and Arthur Dunkel with that mound of Gitane stubs in
794 front of him. It was pretty bad, and so the next morning when I went to my wardrobe to decide
795 what I was going to wear, I thought: this is ridiculous. I'm going to wear the same clothes for
796 every Green Room meeting and when I get home at night, I hung them up outside on the balcony
797 under the roof off our bedroom. But things have changed. So yeah, that's where I was at that
798 time. And, of course, on some of the issues the midterm review was a bridge too far, but of
799 course it was always viewed as a midterm review, not the end ,so that helped. And we did have
800 many significant accomplishments.

801 **Plank-Brumback:** It was midterm because the negotiation deadline was going to be in four
802 years from Punta del Este.

803 **Weekes:** Yes, as I recall.

804 **Plank-Brumback:** So that was the halfway mark.

805 **Weekes:** Well, and I think this is actually instructive for some of the things that are going on
806 now (i.e., in the Doha Round in 2008). When you look at what happened, you had this
807 breakdown obviously at the midterm review because a number of countries led by Latin
808 American and Cairns Group members⁶¹ were not satisfied that sufficient progress had been made
809 on agriculture. Then there were other outstanding issues on textiles and intellectual property. So
810 for these three sets of issues, the process of deciding on the future orientation of the negotiation
811 after Montreal couldn't be agreed. As I recall, the ministers took the decision to ask Arthur
812 Dunkel⁶² as chairman of the Trade Negotiations Committee [TNC] at the official level to conduct
813 active consultations with a view to seeing whether a way could be found to reach agreement in
814 these areas and move forward with the negotiations. At the same time of course in Montreal the
815 ministers did decide on a provisional basis that they would implement certain elements of the
816 round, but again, that was all caught up in the suspension, or whatever we called it then, of the

⁶¹ The Cairns Group was established in Aug. 25–27, 1986 in Cairns, Australia as a coalition of agricultural exporting countries committed to achieving free and fair trade in agriculture in the GATT/WTO. As of Dec. 2013, the members of the Group are: Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, Uruguay, and Viet Nam.

⁶² Arthur Dunkel, (Portuguese-born) Swiss, was GATT Director-General from Oct. 1, 1980 to July 1, 1993. After holding various positions in the Federal Office for Foreign Economic Affairs of the Department of Public Economy, he was appointed Permanent Representative of Switzerland to the GATT in 1973. He headed the Swiss delegation to the Tokyo Round and chaired the GATT Committee on Balance of Payments from 1972 to 1975. Dunkel was promoted in 1976 as Delegate of the Swiss Federal Council for Trade Agreements with the rank of Ambassador Plenipotentiary. He chaired the United Nations Conference on a new Wheat Agreement in 1978. Dunkel died on June 8, 2005. See https://www.wto.org/english/thewto_e/dg_e/ad_e.htm.

817 negotiations. So what happened? This ministerial meeting failed to reach agreement although it
818 had made considerable progress. The ministers turned the process over to Arthur Dunkel, who
819 then went around to capitals and consulted with a number of governments in different parts of
820 the world and then organized a series of meetings in Geneva that he chaired that were focused
821 successively on each of these three—I think it was three and not four—core areas where
822 agreement needed to be put together. I recall these meetings were on a one plus one basis; i.e.,
823 two negotiators for each country. So, it made sense obviously in each of these cases for Canada,
824 to involve our lead negotiator from Ottawa and then I was the other person to be there so that we
825 would have some continuity as between what was going on in the three areas. This process of
826 getting the round back on track was one of Arthur Dunkel's great moments. He managed this
827 very effectively. The result came at the beginning of April when Dunkel convened a meeting of
828 the Trade Negotiations Committee, at which participants reached agreement on the remaining
829 elements of what hadn't been agreed at Montreal. That process was finished without any further
830 involvement of ministers in a ministerial meeting. So, I don't know whether somebody maybe
831 should tell Pascal Lamy.⁶³

832 **Plank-Brumback:** That ministers may not be the solution in all circumstances?

833 **Weekes:** No, I have my own views on ministers' participation in negotiations. That was one case
834 that was very instructive. Yes, ministers established the process. Going forward the ministers

⁶³ Pascal Lucien Fernand Lamy, French Socialist, was WTO Director-General from Sept. 1, 2005 to Sept. 1, 2013, https://www.wto.org/english/thewto_e/dg_e/pl_e.htm. Prior he served as Commissioner for Trade in the Romano Prodi European Commission from Sept. 13, 1999 to Nov. 22, 2004. He helped restructure Crédit Lyonnais and became its Director-General in 1994. Lamy was Chief of Staff to EC Commissioner President Jacques Delors from 1985 to 1994 and Deputy Chief of Staff to French Prime Minister Pierre Mauroy from 1983 to 1984. He was adviser to then French Economics and Finance Minister Jacques Delors in 1981–1983. He worked at the Treasury Department from 1979 to 1981 and the Finance Ministry's auditing agency from 1975 to 1981. Lamy is President Emeritus of the Jacques Delors Institute, President of the Paris Peace Forum, and is affiliated with several non-profit organizations.

835 obviously had to be involved, but whether being collectively involved in a large meeting is the
836 right way for them to be involved is another question. They had seen what happened in Montreal.
837 They knew they had to find a way forward. Arthur Dunkel went around and talked with a lot of
838 them, but it was the senior officials process in Geneva and with ambassadors that put it back
839 together so that the round could move forward.

840 **Plank-Brumback:** During the Uruguay Round, you chaired the negotiating group on—

841 **Weekes:** The GATT Articles.⁶⁴

842 **Plank-Brumback:** And that included Article—

843 **Weekes:** XXIV.⁶⁵ Yes.

844 **Plank-Brumback:** What were the issues to resolve?

845 **Weekes:** XXVIII,⁶⁶ XVII,⁶⁷ and several others

846 **Plank-Brumback:** Which was the most difficult?

847 **Weekes:** I remember there were several difficult issues. If I was going to talk about that I really
848 would want to look at the text and think about it for a few hours. One of them was, well, all the
849 usual suspects, frankly. One was the issue of whether the dispute settlement system—takes you
850 back to the citrus case you mentioned—could apply in an Article XXIV case and that was
851 agreed. Another was about trying to provide some better description of how you conducted

⁶⁴ The product of the Uruguay Round Negotiating Group on GATT Articles can be found in the six understandings contained in Annex 1A: Multilateral Agreements on Trade in Goods of the Marrakesh Agreement Establishing the World Trade Organization, as well as in Article IX of the Agreement dealing with decision-making and waivers.

⁶⁵ GATT Article XXIV: Territorial Application – Frontier Traffic – Customs Unions and Free-trade Areas.

⁶⁶ GATT Article XXVII: Modification of Schedules.

⁶⁷ GATT Article XXVII: Withholding or Withdrawal of Concessions.

852 negotiations to compensate parties for the adverse effects of a customs union on certain
853 nonmembers of the customs union. How did you conduct an Article XXIV:6 negotiation?⁶⁸ I
854 spent a lot of personal time on that together with David Hartridge,⁶⁹ who was the senior person in
855 the Secretariat at that time working with me on that group, and with the negotiators trying to
856 work out what eventually became the language.⁷⁰ I don't think it's been used as much as perhaps
857 people could have used it subsequently in terms of bolstering arguments they could make in
858 these matters because there have been a number of XXIV:6 negotiations since. But I did take it
859 as a sort of victory when years later I wound up at a meeting with Paul Luyten, and it might have
860 been after I left the government. But anyway, it was a meeting in Brussels, and he showed up
861 and he said he had looked at the language and he thought that whoever had been representing the
862 European Communities at that negotiation hadn't done a very good job. So, I took this as a
863 measure of some success that perhaps we had advanced disciplines in this area in a way that

⁶⁸ "If in fulfilling the requirement of subparagraph 5(a), a contracting party proposes to increase any rate of duty inconsistently with the provisions of Article II, the procedure set forth in Article XXVIII shall apply. In providing for compensatory adjustment, due account shall be taken of the compensation already afforded by the reduction brought about in the corresponding duty of the other constituents of the union."

⁶⁹ David Hartridge of UK nationality was a member of the GATT and WTO secretariats. As a British civil servant on loan to the Foreign Office, he first came to Geneva as first secretary in the UK Mission to the GATT working on textiles (1971–1974) and then worked in the GATT Secretariat on the Textile Surveillance Body (1975–1977). After returning to London and being posted in Brussels, he was invited by GATT Director-General Olivier Long to be his chef de cabinet in 1980, a position that Hartridge continued to hold under GATT Director-General Arthur Dunkel. Hartridge then served as Director of the Office for Multilateral Trade Negotiations in the GATT Secretariat responsible for the launch of the Uruguay Round and subsequently for the negotiation of the WTO Agreements on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Trade-Related Investment Measures (TRIMS), and Government Procurement. Afterwards Hartridge served for eight years as Director of the Trade in Services Division in the WTO Secretariat responsible for the completion and implementation of the General Agreement on Trade in Services (GATS). He played a role in the negotiation of the Reference Paper disciplines on competition and regulation in telecommunications markets. Hartridge was acting WTO Director-General during the impasse as to who would succeed WTO Director-General Renato Ruggiero whose term expired in April 1999. WTO member countries reached agreement in July 1999 that former New Zealand Prime Minister Michael Moore would fill the first three years of the six-year position beginning on Sept. 1, 1999, followed by Supachai Panitchpakdi, Thailand's Deputy Prime Minister, for the last three. Upon his retirement from the WTO, Hartridge became a Senior Trade Policy consultant in the London and Geneva offices of the White & Case law firm. See the transcript of the interview of David Hartridge of March 4 and 6, 2008 for the oral history project of the Institute of International Economic Law of Georgetown Law.

⁷⁰ Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, paras. 4-6.

864 could be useful, but I don't think members have made that much use of it since, but I haven't
865 actually followed developments closely so I shouldn't be too cynical on that.

866 **Plank-Brumback:** Was it controversial to arrive at the ten years for the reasonable length of
867 time to form a customs union or free trade agreement?

868 **Weekes:** No. As I recall, I mean there were a lot of issues that were, but I don't recall that being
869 one of the ones that took long. It's the part on Article XXIV:6 I remember as being one of the
870 most complicated.

871 **Plank-Brumback:** For the compensation.

872 **Weekes:** "Should such reductions not be sufficient to provide the necessary compensatory
873 adjustment, the customs union would offer compensation, which may take the form of reductions
874 of duties on other tariff lines. Such an offer shall be taken into consideration by the Members
875 having negotiating rights in the binding being modified or withdrawn. Should the compensatory
876 adjustment remain unacceptable, negotiations should be continued. Where, despite such efforts,"
877 and it goes on. So that process actually was one that I remember going through as a negotiator.
878 But, of course, I was the chair so I couldn't direct the negotiation, but other people had a similar
879 view, that it would be useful to try to provide some better description of how that kind of
880 negotiation would be conducted. My recollection was from having been a negotiator, there was a
881 lot of confusion about the process of an Article XXIV:6 negotiation.

882 **Plank-Brumback:** Certainly Canada and others would have lived this in the process of the EC
883 enlargements from six to nine to ten to twelve.

884 **Weekes:** Yes. To twenty-seven.

885 **Plank-Brumback:** And carrying over certain tariff negotiations

886 **Weekes:** That's one of the big problems in the GATT, I used to say, and now the WTO, is the
887 fact that we have the participation of a diminishing number of developed countries. And
888 somebody said, what do you mean by that? And I said, "Well, they keep getting swallowed up by
889 the European Union and it changes the dynamic of the discussion in the organization." The EU
890 member states don't speak on their own and the Commission speaks on their behalf. I have been
891 in WTO meetings personally myself as recently as 1999. I've watched how one at a time useful,
892 independent voices that contributed to the discussion before in a multilateral environment or
893 plurilateral environment no longer really participate, starting with the UK and then the Swedes
894 and the Finns who played key roles in the Uruguay Round, and now they've been sidelined. This
895 is not intended to be a criticism of the European Union or its accomplishments. But it has had an
896 ancillary effect in terms of the dynamic of discussions in the GATT or the WTO so that you now
897 have very few developed country voices. At a meeting you have a large number of voices from
898 developing countries and very few developed countries who can participate. Among developed
899 countries you've got two North American countries. You've got three European countries
900 because you've got Switzerland and Norway as well as the EU. Iceland, too, but they don't
901 usually get actively involved; they are pretty small in terms of their mission and their
902 involvement. And Japan and Australia and New Zealand. I think in a way it was easier to have a
903 constructive discussion when you had more developed countries.

904 Now I used to find in my final years as a Canadian representative that WTO meetings were
905 really set piece discussions. A representative of a country has to decide whether to intervene
906 early and try and have some impact perhaps in terms of what other people will say or to wait and
907 intervene late when you can make some observations about what's been said. You only really get

908 in once in a go-around on some important issue, normally in say the General Council; there is a
909 half-day discussion of a matter, or even a day-long discussion, because we've got maybe sixty
910 delegations who want to speak and each one talks for ten minutes. You're there for quite a while.

911 **Plank-Brumback:** One more question on Article XXIV. You said that you had settled whether
912 dispute settlement applied.

913 **Weekes:** I said I remember it being an issue.

914 **Plank-Brumback:** "The provisions of Article XXII and XXIII of GATT 1994 as elaborated and
915 applied by the DSU may be invoked with respect to any matters arising from the application of
916 Article XXIV."⁷¹ Notwithstanding that, isn't there still a question of whether it is proper for a
917 panel to go in and examine and maybe make a judgment or ruling whether the provisions of
918 Article XXIV have been properly followed in terms of whether the duties and other regulations
919 of commerce for non-parties are higher or not or more restrictive than the general incidence of
920 duties and regulations? This was even an issue on citrus. Is it proper for a panel to do this or
921 because there are provisions for political examination, can we only have really conclusions,
922 political conclusions, rather than legal conclusions given the nature of the review?

923 **Weekes:** Well, we haven't done very well on political conclusions on free trade agreements. I
924 would say basically, you can't give a right and then take it away in certain situations. So, what
925 are the areas in which a member should not be allowed to invoke Article XXIII? I think you
926 basically have to give members the right. If it's a right, it's a right. It's going to have to apply to
927 all the other provisions of the agreement, but I think members have to be expected to exercise

⁷¹ Understanding on Article XXIV (n67), para. 12.

928 some responsibility. There are probably some issues which are not well suited to dispute
929 settlement. If those were put to dispute settlement, well then, we'll have to see what would
930 happen. It might well be that part of the outcome would be the panel, which would still have to
931 do its job in terms of looking at its basic mandate, might come out with some observations about
932 whether or not this was the right way to proceed or raise some questions or whatever. I must say
933 there were times in the Indian automotive measures case when I wondered what it was that the
934 complainants actually expected to get out of it. And there are provisions that address those sorts
935 of considerations in the DSU, which I actually reviewed carefully at that time. I think members
936 have to be mindful of the fact, and I even remind my colleagues in the law firm of this on
937 occasion, that the purpose of the dispute settlement system is to facilitate a result. I don't have
938 the exact words—resolve the issue. It is not to provide a legal finding or determination. That in
939 many cases may be the best way of getting a resolution of the matter. I strongly believe that, but
940 not always.

941 **Plank-Brumback:** And finally, because you are Canadian, I have to ask your comments on the
942 Understanding in relation to GATT Article XXIV:12.⁷²

943 **Weekes:** Ah.

944 **Plank-Brumback:** And the negotiation of that, a subject near and dear to the heart of Canada
945 and its provinces.

946 **Weekes:** Right. Well, I honestly forget exactly where we came out in the wording in the
947 agreement,⁷³ but I do remember this being articulately debated in the GATT Articles Negotiating

⁷² "Each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territories."

⁷³ Understanding on Article XXIV (n67), paras. 13–15.

948 Group by the respective parties, including my former colleague Brian Morrissey, who I
949 mentioned earlier had done the FIRA Panel with me. He was often the Canadian representative
950 in the GATT Articles Negotiating Group coming from Ottawa. Obviously, it was a somewhat
951 predictable debate in the context of those countries with federal systems bringing to the table a
952 reflection of the problems they had in dealing with those situations. And there is no easy way
953 you can provide a definitive resolution in a WTO negotiation or GATT negotiation to those
954 domestic constitutional issues. There is obviously the right to retaliation. That does provide a
955 way to try to instill some discipline.

956 **Plank-Brumback:** And it goes as far as it goes.

957 **Weekes:** I do remember at one point when the province of Ontario had put in a discriminatory
958 sales tax on automobiles,⁷⁴ that clearly was a violation of national treatment and maybe MFN as
959 well. The prime minister of the day was Pierre Trudeau.⁷⁵ He wrote to the premier of the
960 province of Ontario and they did change the measure. This was a blatant violation, but there are
961 other cases where you've got to go through the motions and have a finding. People say, why do
962 governments do these silly things? Why did Canada fight so long on asbestos when it was so
963 obvious that they were going to lose? I said, "Well, look, we did a favor to the world. We got this
964 clear finding out of the Appellate Body."⁷⁶ It might have been embarrassing for Canada. Of
965 course, the real reason Canada persisted is the government needed the international finding to be

⁷⁴ Panel Report, Canada – Certain Measures Affecting the Automotive Industry, WT/DS/139/R and WT/DS/142/R, adopted by the WTO Dispute Settlement Body on June 19, 2000, as modified by the Appellate Body Report WT/DS/139/AB/R and WT/DS/142/AB/R.

⁷⁵ Pierre Elliott Trudeau, Canadian Liberal Party politician, was Prime Minister from 1968 to 1979 and again from 1980 to 1984. He was a member of the Canadian House of Commons (1966–1984) and served as Minister of Justice in Prime Minister Lester Pearson's administration. Trudeau died on Sept. 20, 2000.

⁷⁶ Panel Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/R and Add.1, adopted by the WTO Dispute Settlement Body on 5 April 2001, as modified by Appellate Body Report WT/DS135/AB/R.

966 able to do the right thing domestically. It had to be seen in that situation to have left no stone
967 unturned because of the domestic interests involved. You might say, well, where were the other
968 Canadian interests that should have been worried about asbestos? The government of the day
969 found it easier to play it the way it did.

970 **Plank-Brumback:** Any more words on the Brussels final ministerial and impasse of December
971 1990? The Cairns Group walked out.

972 **Weekes:** Well, it certainly broke down first over agriculture. On that final night of the Brussels
973 meeting, I was representing Canada in the services negotiations.

974 **Plank-Brumback:** You weren't in bed.

975 **Weekes:** I was not in bed, no.

976 **Plank-Brumback:** And how was that going on services?

977 **Weekes:** Not very well. I remember Rufus Yerxa⁷⁷ was representing the United States. He told
978 me subsequently how relieved he was to hear partway through that the negotiations had broken
979 down on agriculture.

980 **Plank-Brumback:** Why?

⁷⁷ Rufus Hawkins Yerxa, American lawyer, was at the time US Ambassador to the GATT and Deputy USTR from May 1989 to Feb. 1995 in the President George H.W. Bush administration under USTR Carla Hills. Yerxa would go on to be resident partner in the Brussels office of Akin Gump Strauss Hauer & Feld LLP from Feb 1995 to Feb. 1998 and then European General Counsel for Monsanto. He then served as WTO Deputy Director-General from Oct. 2002 to Oct. 2013 under WTO Directors General Supachai Panitchpakdi and Pascal Lamy. Prior Yerxa was Staff Director to the Subcommittee on Trade of the Committee on Ways and Means of the US House of Representatives from Nov. 1981 to May 1989, and Legal Advisor to the chairman of the US International Trade Commission from Nov. 1977 to Nov. 1981. He was President of the National Foreign Trade Council from May 2016 until Sept 2021, when he joined McLarty Associates as Senior Advisor.

981 **Weekes:** Well, because I don't think he had a set of instructions that was going to be conducive
982 to reaching agreement on services that night. Let me put it that way.

983 **Plank-Brumback:** What were the issues of the night on services?

984 **Weekes:** Well, I think the issue was one that remained during the entire negotiation and
985 continued as an issue after the Uruguay Round when we were doing the financial services
986 negotiations and the telecommunications negotiations. The issue for the United States in
987 particular, but also for some others, was whether what was on offer was big enough to satisfy the
988 critical mass test and also was it balanced enough. I think the US felt they had a pretty open
989 regime in some of these areas and other people really didn't. If they agreed to freeze things to
990 some extent as they were, were they leaving themselves in an extremely bad bargaining situation
991 for subsequent negotiations? Was it inequitable? That is, I think in essence, why they wound up
992 taking so many MFN exceptions. Now I phrase that in a way that is favorable to the United
993 States. I could turn around and give you a different version of it, but I think there was a reality
994 there that it was a new agreement. People hadn't really thought through how it was going to
995 operate. I think that was the core issue. It was about the balance of concessions and whether that
996 represented a satisfactory outcome and if not, were there other things such as MFN exceptions
997 that countries could do to freeze the situation until later. There are MFN exemptions still. In a
998 way it was those big exceptions on telecommunications and financial services that helped the
999 process of negotiation. People came back to that in the period when I was Permanent
1000 Representative here between '95 and '99 and successfully completed the negotiations in those
1001 areas.

1002 **Plank-Brumback:** A balance of concessions, it always comes to that.

1003 **Weekes:** Well, and I did comment on that earlier. Yes, reciprocity is very much part of how
1004 things are done, but it certainly has its imperfections and doesn't make a hell of a lot of sense in
1005 economic terms, but in political terms it does. It's understandable. Governments are managed by
1006 politicians, so I think that is partly why you get the answer you got. Some countries obviously
1007 find it in their interest to do a lot of unilateral liberalization. We've seen a lot of that; that's been
1008 valuable. But there has also been a difference between what countries have done unilaterally and
1009 what they are actually prepared to commit to permanently in the WTO. You hear a lot of talk
1010 about "water" in all three major market access areas: services, agriculture, and industrial tariffs.
1011 We see this clearly now at this point in the Doha Round. I think sooner or later people are going
1012 to have to accept the notion that actually there is value in getting rid of water in a contractual
1013 manner. Of course, you should also certainly be trying to go beyond that. When you look at some
1014 of the disparities now between what is bound and what is applied, including agricultural
1015 subsidies, it's a big gap. Trying to whittle that down will improve the predictability of the system
1016 and increase business confidence.

1017 **Plank-Brumback:** We made it to December 1990. It's 12:30.

1018 **Weekes:** And I've got a lot to say about NAFTA.

1019 **Plank-Brumback:** NAFTA, concluding the Uruguay Round, your views.

1020 **Weekes:** I was less involved in the conclusion of the Uruguay Round although I did wind up in
1021 Marrakesh, but I was still somewhat involved in it, even when I was back in Canada.

1022 **Plank-Brumback:** The impact of the Dunkel Text.

1023 **Weekes:** Yes.

1024 **Plank-Brumback:** We can foresee a part deux of the interview because there is still so much to
1025 talk about in terms of the goals.

1026 **Weekes:** Maybe I haven't been economical in the way I've presented what I had to say.

1027 **Plank-Brumback:** We haven't even referred to softwood lumber or bananas.

1028 **Weekes:** Right. On bananas, as Canadian ambassador I never had very much to do with that, but
1029 I did get my baptism of fire as the arbitrator.

1030 **Plank-Brumback:** We haven't talked about Saudi accession as well—so much food for the next
1031 session.

1032 **Weekes:** I agree in principle, and I do get to Washington occasionally so maybe we could do it
1033 as you mentioned earlier in Washington.

1034 **Plank-Brumback:** Yes, maybe that's a possibility.

1035 **Weekes:** Or I'm here so but anyway, let's work on that.

1036 **Plank-Brumback:** Thank you very much.

1037 **Weekes:** You're most welcome. Thank you.

1038 [END OF INTERVIEW, PART ONE]

1039 PART TWO

1040 **Plank-Brumback:** All right, we are picking up on an interview we started in March in Geneva,
1041 with Ambassador John Weekes. It is July 7, 2008. We are in Washington, in Sidley Austin

1042 offices. In our first session, we certainly went through the panorama of the Tokyo Round, of the
1043 OECD Trade Committee work, preparations for the Uruguay Round, and we made it to the
1044 Brussels Ministerial, I believe, in December 1990. Let's pick up now with your experience,
1045 unless there was something that you wanted to touch upon on the ground we've already covered.
1046 I thought perhaps we could go now into your work as the chief negotiator for NAFTA. When did
1047 you pick up those responsibilities?

1048 **Weekes:** Well, let me start with a couple of anecdotes because, like most of these things, it
1049 began gradually, and there were reasons for why I wound up being the chief negotiator. But first
1050 of all, in the week after Easter, in the year of the Brussels Ministerial meeting—so that was
1051 1990—the Mexicans hosted a special ministerial conference in Puerto Vallarta, at which they
1052 wanted to try to provide some impetus for allowing breakthroughs on some of the issues, that
1053 would facilitate agreement when we did get to Brussels in late autumn. So, Jaime Serra, who was
1054 the Mexican trade minister, hosted this meeting in Puerto Vallarta. And, as Canada's ambassador
1055 to the GATT, I was a member of the Canadian delegation. John Crosbie⁷⁸ was the Canadian trade
1056 minister.

1057 In the spring of 1990, there was a lot of talk about the potential for launching a trade negotiation
1058 between the United States and Mexico. And I remember sitting with John Crosbie at a press
1059 conference in Mexico City, because in addition to going to the meeting in Puerto Vallarta, he did
1060 a bilateral visit to Mexico. And he was asked the question by journalists, "If the United States

⁷⁸ John Carnell Crosbie, Canadian politician, was Minister of International Trade in the cabinet of Prime Minister Brian Mulroney from March 31, 1988 to April 20, 1991. He held other cabinet positions, including Minister of Finance, Minister of Justice and Attorney General of Canada, Minister of Transport, Minister of Fisheries and Oceans, and Minister for the Atlantic Canada Opportunities Agency. Crosbie was elected to the Canadian House of Commons in 1976 and represented Newfoundland's federal district of St. John's West until his retirement from political life in 1993. He was appointed Lieutenant Governor of Newfoundland and Labrador on Feb. 4, 2008 serving until March 19, 2013. He died on Jan. 10, 2020.

1061 and Mexico become engaged in a free trade agreement negotiation, would Canada be interested
1062 in participating?” And John Crosbie said—he’s from Newfoundland—good free trade country, I
1063 believe, lots of smugglers in the past. And he said, “I’ve been a free trader all my life, but I can’t
1064 imagine any circumstances under which Canada would become engaged in those negotiations.”
1065 Within a year, I was the chief negotiator. So, in a sense, that was my first direct involvement
1066 with the politics of NAFTA. I then went back to my job in Geneva, which was trying to assist
1067 with getting ready for Brussels. Then I remember at the Uruguay Round Ministerial Meeting in
1068 Brussels, I went out for dinner one evening with Don Campbell,⁷⁹ the Deputy Minister of
1069 International Trade. He said to me, “I certainly know what I would like to get you to do if you
1070 weren’t in the middle of doing this GATT job.” And what he wanted me to do was to take up the
1071 NAFTA negotiations for Canada. So it didn’t come as that big a surprise when, early in the new
1072 year, I was called upon to become the chief negotiator for Canada. That began with me spending
1073 a certain amount time in Ottawa before I was formally named as the negotiator. When that
1074 occurred, of course, I moved back to Ottawa on a full-time basis. Obviously, some things had
1075 happened since I sat with John Crosbie at that press conference in Mexico. Basically, the
1076 Canadian government had decided that they really should be involved in these negotiations, but
1077 it gives a certain sense of some of the concerns and the dynamic that I faced when I took over the
1078 job of being the chief negotiator.

⁷⁹ Donald W. Campbell, Canadian diplomat, was Ambassador to the Republic of Korea (1985–1985), Assistant Deputy Minister for US affairs (1985–1989) involved in the negotiation of the Canada–US Free Trade Agreement, Deputy Minister of International Trade (1989–1993) supervising the NAFTA negotiation, Ambassador of Canada to Japan (April 1993–Sept. 1997), and Deputy Minister of the Department of Foreign Affairs and International Trade (Sept. 1997–Aug. 2020). Campbell also served as Prime Minister Jean Chrétien’s Sherpa (Personal Representative) at G8 summits during this period. Upon his retirement from the Canadian public service, Campbell became Group President of CAE Inc. (formerly Canadian Aviation Electronics) (2000–2007), then was a Senior Strategy Advisor at the law firm DLA Piper Canada LLP (Sept. 2007–Aug. 2022). Since September 2022, he has been a Senior Strategy Advisor with Norton Rose Fulbright Canada LLP. <https://ambcanada.ca/ambassadors/donald-w-campbell/>.

1079 **Plank-Brumback:** What entered into Canada's decision?

1080 **Weekes:** This is an important question. There are other people who would be better placed to
1081 answer this than me. But in my view, what happened was, the government began to think of what
1082 might happen if they weren't in the negotiations, and decided that it was something they really
1083 had to be involved in. Among other things, of course, was the consideration of what impact
1084 would a free trade agreement between the United States and Mexico have on the free trade
1085 agreement between Canada and the United States. And, also, whether Canada would really want
1086 to play into a sort of hub-and-spoke diplomacy situation. Or, whether it was better to join with
1087 Mexico, and have an agreement that would put all three North American countries on an equal
1088 footing in trade relations, and therefore, also their businesses and investors on that same footing.

1089 Well, by the time I was formally asked to take on the job of chief negotiator, there had already
1090 been a short joint statement on February 5, 1991⁸⁰ by the Prime Minister of Canada, the
1091 President of Mexico, and the President of the United States, establishing the basic political
1092 framework for the negotiation. There had been, of course, a lot of preparatory discussions
1093 between the United States and Mexico. Canadians then became involved in those discussions as
1094 we reached the point where Canada came on board. Subsequently, the actual NAFTA
1095 negotiations were formally launched on June 12, 1991, at a ministerial meeting in Toronto.⁸¹ The
1096 launch was after the United States had obtained extension of its fast-track negotiating authority
1097 from Congress,⁸² which as I recall was both for the Uruguay Round and for the NAFTA. The

⁸⁰ The text of this statement can be found at: <https://www.govinfo.gov/content/pkg/PPP-1991-book1/pdf/PPP-1991-book1-doc-pg111.pdf>.

⁸¹ Reuters, "US, Canada and Mexico Begin Talks on Free Trade," *New York Times*, June 13, 1991, D7.

⁸² Since the Trade Act of 1974, Congress has passed successive legislation delegating limited authority to the executive branch to negotiate international trade agreements and facilitate their review and implementation under fast track procedures. Agreements negotiated under these procedures are reviewed by Congress on an accelerated time frame and subject to a yes or no vote without any amendments. In 1988, Congress passed the Omnibus Trade

1098 three countries had decided that it would not be appropriate to begin the negotiations formally
1099 until after that authority had been secured.

1100 **Plank-Brumback:** That was in May 1991.

1101 **Weekes:** Thank you, you've got a good chronology there. I had started meeting people and being
1102 engaged in the process before then. I remember going to a meeting in New Orleans that was
1103 largely a business meeting, as I recall, in May 1991. In fact, I think that that's where I was when
1104 the legislation went through the Congress.

1105 **Plank-Brumback:** So, you're at this time still in the Uruguay Round negotiations. Strategically
1106 how did the two negotiations play off of one another? How did differing goals play themselves
1107 out? I mean, of course, from the beginning you're supposed to be going to zero. You begin
1108 market access negotiations. I assume that you were negotiating that aspect bilaterally.

1109 **Weekes:** Well, initially, we tried to do as much trilaterally as possible. And we began with a
1110 series of meetings at which we discussed the management of the negotiation, and the conduct of
1111 the negotiation in a general sense, and the broad objectives. And then we began to make that
1112 more precise.

1113 **Plank-Brumback:** Could you discuss then the subject matter, because there were certain issues
1114 that weren't even on the table.

and Competitiveness Act of 1988. The Act extended the fast-track or trade promotion authority for only three years. Pub. L. No. 100-418, 102 Stat. 1107. On March 1, 1991, President George H.W. Bush requested an extension of fast-track authority in order to complete the Uruguay Round negotiations and to pursue the North American Free Trade Agreement (NAFTA). The Congress granted a two-year extension of fast track, subject to a series of additional conditions for the negotiation of the NAFTA. President's Letter to Congressional Leaders on Fast Track Authority Extension and North American Free Trade Agreement, 27 WEEKLY COMP. PRES. Doc. 536 (May 3, 1991).

1115 **Weekes:** Yes, well, we set up the negotiating groups, we established a framework for the
1116 conduct of the negotiation, when the ministers met in Toronto in June. From the point of view of
1117 organizing the officials who were going to be participating in the different aspects of the
1118 negotiation, it was important to have a structure to the negotiating framework, so we set up a
1119 series of negotiating groups.

1120 Now, you asked about the relationship between the ongoing Uruguay Round and these
1121 negotiations; and I've been asked that question at the time, and since. Your question is
1122 challenging because I have not had a detailed discussion about NAFTA for some time now,
1123 because I've been busy working in Geneva, advising clients on the Doha Round. And so,
1124 although I think about NAFTA from time to time, the issues we faced have not been front of
1125 mind. But back in 1991, a number of Canadian insiders said to me, "Well, you know this
1126 negotiation will really be quite simple because Canada and the United States already have a free
1127 trade agreement. And so, it'll just really be a matter of extending that to include Mexico." This
1128 was a typical Canadian view, which as you might imagine, if it had been an American view, they
1129 would have been accused of imperialistic arrogance. But Canada can get away with these sort of
1130 foibles, although we were relatively quickly disabused of it.

1131 I had come back from spending four years in Geneva. So, I hadn't been involved in the
1132 preparatory discussions. And I hadn't been a direct, active participant in the Canada-US free
1133 trade negotiations. A lot of senior people in Ottawa said to me, "You know, this is going to be a
1134 very easy negotiation for Canada, because there is no way that Mexico will be prepared to accept
1135 as many obligations as Canada did in its free trade agreement with the United States." They
1136 expected this to be quite an easy matter. And, of course, there was a lot of concern, at very senior
1137 levels of government, that we not do anything that would damage the free trade agreement

1138 between Canada and the United States, which had been, up to that point, one of the central
1139 accomplishments of the government of Brian Mulroney. This was quite a challenging situation. I
1140 could see that there would be certain risks to any Canadian who was negotiating in that
1141 environment.

1142 **Plank-Brumback:** Were you the only multilateralist there?

1143 **Weekes:** No, there were others. I should probably add at this point, too: when I was selected to
1144 be the chief negotiator, the trade minister was John Crosbie, but by the time we actually launched
1145 the negotiations, the trade minister was Michael Wilson, who had previously been finance
1146 minister, a very senior minister in the government, and one who was very close to the prime
1147 minister.

1148 **Plank-Brumback:** And this may have been a good thing, no?

1149 **Weekes:** It was a good thing. And there was another aspect to this too, which, I think, in
1150 retrospect, turned out to be important. And that was, he was given not only the job in the cabinet
1151 of being trade minister, but also being industry minister. It wasn't a joint portfolio, but he held
1152 both those portfolios. So that created a situation in which it was easier for me to work with the
1153 industry department—which also included Investment Canada—than it otherwise would have
1154 been.

1155 **Plank-Brumback:** Important for certain sectors like automotive, no?

1156 **Weekes:** Yes, very much so. But as you know, the NAFTA includes a very important investment
1157 agreement, modeled on a typical American BIT [bilateral investment treaty] but of a very high
1158 quality. And that was not an easy part of the NAFTA negotiations for either Mexico or Canada.

1159 But while we are on this subject of negotiations—of getting ready for the negotiations—the
1160 beginning of the negotiations, and the sort of the expectation in Canada about whether this would
1161 be difficult or not: there was another part of it, too, and that was Canada’s concerns about
1162 cultural issues, and the so-called cultural exemption in the free trade agreement with the United
1163 States. So again I was told by people who had spent more time thinking about the negotiations
1164 than I had at that point, that clearly the Mexicans would want a cultural exemption as well, and
1165 therefore there certainly wouldn’t be any problem for Canada in dealing with that in the course
1166 of the negotiation. So, we had these various undercurrents.

1167 In addition, there was a real fear that we might damage the Canada–US FTA. And there was also
1168 concern that, in particular, we might damage in some way, the special dispute settlement
1169 provisions set up in the area of countervailing duties and anti-dumping duties, which, in effect,
1170 replaced domestic court reviews of domestic legislation in those areas. Finally, many senior
1171 Canadian officials thought that Mexico would not be prepared to accept obligations as deep as
1172 those that Canada had accepted in the Canada–US FTA.

1173 Well, I listened to this, and I thought, that’s interesting; we’ll find out soon enough at the
1174 negotiating table what’s going on. It certainly became clear in the following months that Mexico
1175 was prepared to accept very deep obligations indeed, and that we had embarked on negotiating
1176 an agreement that went considerably beyond what had been in the original Canada–US
1177 agreement. I also recall the first discussion I had, I think it was just the two of us, with Herminio
1178 Blanco⁸³ about the cultural exception. He said, “What is all this stuff about a cultural exception,

⁸³ Herminio Blanco Mendoza, Mexican economist, was Mexico’s chief negotiator of the North American Free Trade Agreement (1990–1993) and Vice-Minister for International Trade Negotiations, Ministry of Trade and Industry (1993–1994). Prior he was a member of the Council of Economic Advisors to President Miguel de la Madrid (1985–1988), then Vice-Minister for International Trade, Ministry of Trade and Industry (1988–1990) under President Carlos Salinas de Gortari. Subsequently, he became Minister of Trade and Industry under President Ernesto Zedillo

1179 John? We have thirty centuries of history in Mexico!” I subsequently found out that Mexico had
1180 a number of cultural industry objectives in the United States, because the Spanish-speaking
1181 market in the United States probably had more spending power than the Spanish-speaking
1182 market in Mexico. So, the Mexicans would very much have liked to have struck down some
1183 elements of American cultural protectionism, such as the inability for foreigners to own
1184 television stations, during the negotiations.

1185 What Herminio Blanco and I were able to agree on was, we wouldn’t do anything to try and
1186 undermine each other’s sensitivities and interests as the negotiations progressed. And that was
1187 helpful because we were both dealing with a partner that was considerably larger than we were.
1188 And there were very interesting dynamics to a trilateral negotiation that you wouldn’t find in a
1189 bilateral; more akin to what you find in a multilateral negotiation, but not as complex. The fact
1190 that the Uruguay Round was going on while we were negotiating NAFTA, was also very useful
1191 in terms of the development of a number of the chapters of the agreement. For instance, in the
1192 intellectual property area, the NAFTA agreement is modeled basically on what had come out of
1193 the Dunkel Text on intellectual property provisions. Let’s come back to this later because there
1194 are some interesting observations on that which I could go into in more detail.

1195 The services chapter provides another example of synergies. We were negotiating on services in
1196 the Uruguay Round. Now, of course, we wound up with a services agreement in the NAFTA that
1197 is very different from either what was in the Canada–US FTA or what emerged in the Uruguay
1198 Round. And of course, the principal difference is a negative list and a positive list agreement, or

(1994–2000). He entered the private sector in 2001, founding IQOM Inteligencia Comercial in 2005. Blanco was Mexico’s candidate for WTO Director-General in 2012–2013. WTO member countries appointed Brazilian Ambassador Roberto Azevêdo as DG in Sept. 1993. https://www.wto.org/english/news_e/news12_e/biography_herminio blanco_mexico_e.pdf.

1199 whatever other term you want to call it. Basically in the NAFTA negotiations, we made general
1200 provisions that were to apply to all service sectors and all types of investment. And then we
1201 negotiated exceptions to those where it was considered necessary by each NAFTA country to
1202 have exceptions because of existing legislation or other reasons. And also on dispute settlement,
1203 we were looking at innovations for how to develop a dispute settlement system for the trilateral
1204 agreement that would be as good as possible. And there we were able to look at the model
1205 offered by the emerging WTO Agreement to see if it offered any help that we could use, and I
1206 think there were some places where we did borrow from it. You could ask Jon Fried⁸⁴ (Canada's
1207 Executive Director to the IMF [International Monetary Fund]) about this, since he was the chief
1208 legal counsel for Canada on the NAFTA and principally responsible for that aspect of the
1209 agreement.

1210 **Plank-Brumback:** Well, I was interested in some of the different concepts and how they played
1211 out in dispute settlement. To go back to services, when did you adopt conceptually the approach
1212 of a negative list?

⁸⁴ Jonathan T. Fried, Canadian lawyer and former senior public servant, was serving as the Executive Director for Canada, Ireland, and the Caribbean at the International Monetary Fund (IMF) (2006–2008) at the time of this interview. Previously he had been Senior Policy Advisor to Prime Minister Paul Martin and head of the Canada–US Secretariat at the Privy Council Office (2003–2006). Fried joined the foreign ministry in 1980, was posted at the Canadian Embassies in Brasilia (1981–1983) and Washington, DC (1987–1991), and served as principal legal counsel for the NAFTA negotiations (1991–1993), principal counsel for trade law (1993–1996), Director General of the Trade Policy Bureau and NAFTA Coordinator (1995–1997), Assistant Deputy Minister for Trade, Economic, and Environmental Policy (1997–2000), and Associate Deputy Minister (2003). He also served as Senior Assistant Deputy Minister at the Department of Finance Canada and was Canada's deputy to the G7 (2000–2003). After the IMF, Fried was appointed as Canada's Ambassador to Japan (2008–2012) and then as Ambassador and Permanent Representative of Canada to the WTO (2012–2017), where he chaired the WTO Dispute Settlement Body (2013) and the WTO General Council (2014). He was the Personal Representative ("Sherpa") of Prime Minister Justin Trudeau to the G-20 and Coordinator for international Economic Relations at Global Affairs Canada (2017–2020). After his retirement from the Canadian public service in August 2020, Fried became a Senior Advisor with Bennett Jones, LLP in Ottawa and the Albright Stonebridge Group in Washington DC as well as a Senior Associate with the Center for Strategic & International Studies. He started his professional career as Professor of International Law at the University of Toronto and has been an adjunct professor at Georgetown University Law Center, University of Ottawa, and Carleton University.

1213 **Weekes:** I think from the outset. Even if you go back and look—I haven't done any review
1214 before doing this interview—but if you go back and look at the joint declaration by the heads of
1215 government in February 1991 that I mentioned earlier, it declared that “The goal would be to
1216 progressively eliminate obstacles to the flow of goods and services and to investment.”

1217 **Plank-Brumback:** A higher level of ambition, in other words.

1218 **Weekes:** Right. It was there from the outset. And when we began we had some discussion of it
1219 as I recall. I don't think it was ever in doubt that we would negotiate an agreement that was a
1220 negative list agreement. Now, it's interesting in retrospect, it's complicated negotiating a
1221 negative list agreement, because you have to go through all the different aspects of your
1222 legislation and policies, and make sure that you've covered everything that was important.

1223 **Plank-Brumback:** Or will be.

1224 **Weekes:** Yes. If you look at the NAFTA, the chapter on investment certainly is very significant,
1225 but it is actually quite short. And, of course, it covers investment as it applies both for services
1226 and in goods. So when you look at the NAFTA again, unlike say the WTO, the investment
1227 provisions are in one chapter, and the services provisions are in another chapter. The investment
1228 provisions dealing with services (so-called Mode 3 provisions in WTO parlance) are all in the
1229 chapter dealing with investment. And the cross-border provisions are in the chapter dealing with
1230 services.

1231 We had some discussion about whether there should be one or two negotiating groups, and we
1232 came out with two. And I think it was probably good in retrospect that we did, because it allowed
1233 us to put more focus on some of the areas where we could reduce barriers to cross-border trade in

1234 services. I suspect if we put them into one negotiating group, we would have probably focused
1235 too much only on the investment aspects—on Mode 3, as it were. I was one of the people who
1236 argued there should be two groups. I think at that time, I was more influenced by my GATT
1237 experience, where we were looking at services in a separate context. So this may be one of those
1238 cases where people don't necessarily appreciate what the most important aspect of something
1239 might be until they get into it.

1240 But anyway, you asked about the relationship. I thought of something else that was different
1241 between the GATT negotiations in the Uruguay Round and the NAFTA. One of the things that
1242 struck me almost immediately was the fact that there was no Secretariat. So, in terms of drafting
1243 the provisions, recording the agreements, there wasn't anybody who [one] would turn to and say,
1244 "Can we please have that new text back by tomorrow morning?" So not surprisingly, we all used
1245 our lawyers for this purpose. So you have an agreement, which is—

1246 **Plank-Brumback:** Government lawyers?

1247 **Weekes:** Government lawyers, yes. Heavily drafted by government lawyers; and of course, then
1248 subsequently scrubbed by government lawyers. It is a good precise agreement. I think it's stood
1249 the test of time well. But that was a very interesting distinction for me to see how really each
1250 delegation had to contribute its own legal resources to making this work.

1251 **Plank-Brumback:** Of course, when you were negotiating the dispute settlement chapter in
1252 NAFTA, in Geneva you were already having a series of reports that failed to be adopted, lack of
1253 consensus and procedural impasses. Now, the dispute settlement chapter in NAFTA sort of gives
1254 more of a winning hand to the winning party, which has to be satisfied relatively quickly that the
1255 losing party has either withdrawn the measure or offered sufficient compensation; and doesn't

1256 have to worry about getting any multilateral authorization to retaliate; doesn't have to wait a
1257 reasonable period of time. It's pretty quick and dirty.

1258 **Weekes:** Do you know how many times that has been used? I think twice. Having been
1259 somebody who was involved both in GATT and NAFTA matters—well, WTO and NAFTA
1260 matters after the agreement was negotiated and came into force—I have had some experience in
1261 understanding why, in many cases, Canada chose to take issues to the WTO rather than the
1262 NAFTA. There's also an important technical reason why the NAFTA dispute settlement
1263 provisions—of course, there are several dispute settlement provisions in the NAFTA—we're
1264 talking about the ones that apply to interpretation of the agreement itself, not the special subsidy,
1265 countervail ones. Not the financial services ones. Not the Chapter Eleven ones in the investment
1266 chapter. But the general ones for the agreement. Here again, you come back to the problem of
1267 not having a Secretariat or a Director-General. Because the reason it hasn't worked is we've
1268 never been able to reach an agreement on the roster for panelists for the NAFTA dispute
1269 settlement provisions. I still don't think agreement has been reached on that, although mind you
1270 as I said, I'm not following it closely any longer.

1271 **Plank-Brumback:** I think, not on Article Twenty. You're right.

1272 **Weekes:** So that meant when you bring a complaint, it would have been very automatic had you
1273 had the list of panelists agreed. But without having the list agreed, you then need to have
1274 agreement on who the panelists will be. And that's provided an effective barrier in almost all
1275 instances to moving ahead. Another problem has been, and this is again jumping ahead, thinking
1276 of it from the Canadian perspective, there's a provision in the NAFTA that says, if you invoke
1277 the WTO, or the NAFTA, you cannot invoke the other agreement subsequently if you don't like

1278 the outcome. So if you take something like the Byrd Amendment,⁸⁵ and Canada thinking of
1279 whether it should be invoking the NAFTA or the WTO provisions to deal with this, one of the
1280 concerns that Canadians had was, “What if we were to invoke the NAFTA, and other countries,
1281 as obviously had happened in the Byrd Amendment, invoked the WTO provisions and get a
1282 better outcome? What do we do then?” This was a very real concern. In addition, over time
1283 we’ve now seen, we have a much more articulate, highly effective, evolving dispute settlement
1284 system in the WTO that is constantly improving, building up jurisprudence, predictability in a
1285 way that certainly isn’t there in the NAFTA because it’s not really been tested. And even if it had
1286 been tested, it’s not sure that you have that same degree of reliability, managed by a Secretariat,
1287 with an Appellate Body, with all those institutional aspects that are so important in terms of
1288 providing integrity and effectiveness to the system.

1289 **Plank-Brumback:** Certainly, in the calculation you have to figure out: where do I have the
1290 better right? Where do I have the better judge? Where do I have the better remedy?

1291 **Weekes:** Right. Well, then you ask, what about the provisions? What provisions are you
1292 adjudicating? For instance, if you are adjudicating a case involving, say, softwood lumber,⁸⁶ and

⁸⁵ The Byrd Amendment, otherwise known as the Continued Dumping and Subsidy Act of 2000, allowed for anti-dumping and countervailing duties collected by US Customs and Border Patrol to be disbursed to domestic producers injured by foreign dumping and subsidies. Australia, Brazil, Chile, European Communities, India, Indonesia, Japan, Korea, and Thailand filed a joint complaint to the WTO as did Canada and Mexico, alleging inconsistencies with the GATT, the anti-dumping agreement, the Agreement on Subsidies and Countervailing Measures, and the WTO Agreement. The subsequent Panel Report and Appellate Decision found that the Byrd Amendment was inconsistent with some of the specific articles complained of. Panel Report, US – Continued Dumping and Subsidy Offset Act of 2000, WT/DS217/R and WT/DS234/R as modified by the Appellate Body WT/DS217/AB/R and WT/DS234/AB/R, adopted by the WTO Dispute Settlement Body on Jan. 27, 2003. The amendment was ultimately repealed in 2007. See <https://ustr.gov/issue-areas/enforcement/dispute-settlement-proceedings/wto-dispute-settlement/continued-dumping-and>.

⁸⁶ No sector has given rise to more Canada–US trade disputes than softwood lumber. American sensitivities to softwood lumber imports predates Canada’s existence as an independent country. Most American concerns have focused on the price of Canadian imports and the belief that the forest harvesting regimes of Canadian provinces provide Canadian firms with inputs which are lower than would result from free market interactions. American actions against Canadian lumber exports take the form of anti-dumping and countervailing duties. Resulting trade disputes have been adjudicated under the GATT/WTO, the NAFTA, and in the U.S. courts. —Weekes.

1293 here it leads to quite a bit of confusion domestically in Canada, and probably in the United States
1294 because, of course, these matters are being adjudicated both in the WTO and in the NAFTA. But
1295 the difference is, what's being adjudicated under the NAFTA is basically using the special panels
1296 that replace the domestic court review of final determinations. What's being adjudicated in the
1297 WTO is whether or not the actions and the American law, or the Canadian law, if the case is the
1298 other way around, are consistent with WTO provisions, international provisions. And of course,
1299 for subsidy and countervailing duties, and anti-dumping duties, the international provisions are
1300 essentially those that are in the WTO. There is not a separate set of provisions for the North
1301 American countries in the NAFTA, other than the one which says that any amendment to US
1302 trade remedy law will not apply to the other NAFTA countries unless they are specifically
1303 named in the statute. This subsequently became quite important in the litigation before the US
1304 courts of the Byrd amendment, where the law firm I am working for was actually involved.

1305 Still on the relationship between NAFTA/WTO/GATT it is worth mentioning the safeguards part
1306 of the negotiations. The safeguards agreement negotiated in the Uruguay Round was actually
1307 completed by the time of the Brussels meeting—before the NAFTA negotiations had started. So,
1308 we had had that Uruguay Round agreement as a model to look at in terms of thinking about what
1309 provisions we wanted to have in the NAFTA. One of the provisions in the NAFTA on safeguards
1310 gives the parties the right to retaliate, to exercise their Article XIX:3(a)⁸⁷ rights, in GATT terms,
1311 against the other parties, if a safeguard action is taken. Now interestingly, in the Uruguay Round

⁸⁷ GATT Art. XIX:3(a) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1 (b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

1312 agreement, this right to retaliation was foregone for a two-year period, if a safeguard measure
1313 met certain conditions specified in the agreement. As I mentioned in our previous interview, I
1314 had been Canada's safeguards negotiator in the Tokyo Round. I had spent quite a bit of time
1315 thinking about the nature of how Article XIX operated. It occurred to me that if we really wanted
1316 to make the NAFTA effective in this area, we needed to focus on the design of how it would
1317 work. In the NAFTA, we were providing that in most instances, unless the injury was being
1318 directly caused by the other NAFTA country, we would exempt our NAFTA, free trade partners
1319 from the safeguard measure. I thought, in order to make it more likely that we would actually
1320 exempt our NAFTA partners, it would be useful to allow this degree of retaliation in the free
1321 trade agreement that was no longer present in the GATT/WTO scheme as it was emerging. And
1322 so, I suggested that we retain this right in NAFTA to which, I remember both Herminio Blanco
1323 and Jules Katz⁸⁸ initially saying, "What?!" But when I explained it to them, they both decided it
1324 made sense. If you look at the record of what's actually happened, although there haven't been
1325 that many Section 201 safeguard actions⁸⁹ in recent times, there have been some. There's been a
1326 real incentive in NAFTA to exempt our free trade partners, because not only is it what's required
1327 by the agreement, but it saves the NAFTA party taking an action from potential retaliation,
1328 retaliation the NAFTA party would not be subject to from its WTO partners if the action meets
1329 the conditions and criteria of the WTO. Of course, we've seen some dispute litigation on that in

⁸⁸ Julius Louis Katz served as Deputy US Trade Representative from 1989 to 1993 under President George H.W. Bush. Prior he held several positions in the US State Department from 1950 to 1979, the last of which was as US Assistant Secretary of State for Economic, Energy and Business Affairs from Sept. 23, 1976 to Nov. 29, 1979 under President Gerald Ford. He died on Jan. 27, 2000.

⁸⁹ Under Section 201 of the Trade Act of 1974, a US domestic industry suffering serious injury or threatened with serious injury from foreign imports can petition the US International Trade Commission (USITC) for safeguard relief. If the USITC finds that imports that are directly competitive with a domestic industry are imported in such increased quantities as to cause or threaten to cause serious injury to the domestic industry, the USITC will formally recommend safeguard measures to the President, who ultimately decides whether to apply safeguard measures. Trade Act of 1974, 19 U.S.C. §§ 2251. See Understanding Safeguard Investigations | United States International Trade Commission (usitc.gov).

1330 the WTO—that’s another matter. We could get back to that. But the NAFTA provision was
1331 negotiated at a time when the full WTO negotiations had not yet been completed. I cite this as
1332 another example of how the fact that the WTO and NAFTA negotiations were going on at the
1333 same time provided opportunities for thinking about the relationship between the two
1334 negotiations and to consider how the resulting agreements would work in practice. It was often
1335 suggested to me that, “It must be very different negotiating in a bilateral or trilateral negotiation
1336 than it was for you in the WTO, or in the GATT, during the Uruguay Round.” And I would say,
1337 “Well, there were some differences, for instance, there were more countries in the GATT, but
1338 basically a lot of the issues are very similar.” And, of course, the national interests that you are
1339 trying to defend and advance are the same in any negotiation. From a Canadian perspective,
1340 recall that we are talking about a negotiation, with by far our largest trading partner. This
1341 relationship would dominate our thinking whether we were in the WTO/GATT context or
1342 whether we were in the NAFTA.

1343 **Plank-Brumback:** Were the domestic interests and lobbies different? The stakes?

1344 **Weekes:** I guess we’ll have to get to agriculture, so I would say, yes. In considering the question
1345 you have raised it is important to think about the management of the negotiation. One of the
1346 things, when we began these NAFTA negotiations on June 12 in Toronto, of course people
1347 wanted to complete them relatively quickly. That was partly related to the life of the American
1348 trade promotion authority, also the first term of the [George H.W.] Bush administration, the
1349 desire for the Mexicans to do it as quickly as possible, all of that played into the idea of moving
1350 as fast as we could. We refrained from setting a fixed deadline or finishing date. But we did say
1351 we were starting on June 12, let’s work right through the summer and have another ministerial
1352 meeting at the end of August, to take stock on how far we’ve got and what the next steps might

1353 need to be. And that's what we did. I think I lost three summers out of the NAFTA altogether. So
1354 that set up a very intensive dynamic process where we did work very quickly. And I suppose in
1355 terms of the broad management of the negotiation, first you had quite frequent ministerial
1356 meetings with more frequent meetings of chief negotiators at which—

1357 **Plank-Brumback:** Which were really at the vice-ministerial level?

1358 **Weekes:** Yes, except in my case, where I wasn't the deputy minister. But, when necessary, I had
1359 direct access to the minister and worked very closely with the deputy minister. We had a very
1360 good relationship helped by the fact that we were close friends. This is the person who proposed
1361 to the minister that I be the chief negotiator. We had been young directors in the same bureau of
1362 the same department a number of years before, so we knew each other very well. [laughter]

1363 **Plank-Brumback:** There wasn't an ulterior motive?

1364 **Weekes:** So that was very good, but I must say that in terms of the process of the negotiations,
1365 and the political process, being involved in a negotiation like the NAFTA was entirely different
1366 from doing a WTO negotiation. There was much more political scrutiny in Canada. There was
1367 much more press interest. The free trade negotiations between Canada and the United States had
1368 been almost the only subject in the 1988 election in Canada. And so three years later, yes,
1369 NAFTA wasn't quite as dramatic, but it was still very important and there was a lot of interest.
1370 Shortly after my appointment as chief negotiator I was asked to do a crash media relations
1371 course, which I did over a weekend with a consultant that was often used by the government,
1372 Allan Bonner. Starting, I think, Friday evening, or maybe it was Saturday morning. Very
1373 intensive training Saturday and Sunday, with several follow-up sessions. I did it with two of my
1374 other colleagues from the NAFTA negotiating team, because the consultants said it was better to

1375 do it with more than one person. And these media guys were very good. They previously had
1376 been journalists themselves. Allan and his colleagues really got my attention right away by doing
1377 an impromptu interview at the beginning, before any of the training. They then played back the
1378 video. Watching it I could see my career disappearing. After that there was a real incentive to
1379 learn fast. It was a very interesting process, and I think stood me in very good stead. Also,
1380 interestingly enough, it gave me much, much more insight into the kind of problems a minister
1381 faces in dealing with the media environment, which I think made me a more effective official in
1382 terms of being able to advise the minister on how we might approach explaining some of the
1383 issues. Michael Wilson and I, I think, had a very good relationship; I'm going to see him later
1384 this week.⁹⁰ We also had a clear division of labor, which was consistent with the way
1385 government and political life is organized in Canada. So that his job was to politically defend
1386 why Canada was in the NAFTA negotiations. It wasn't up to me to explain why we were doing
1387 it. But it was my job to explain what we were doing within our broad mandate from the
1388 government, and why we were doing certain specific things. I was asked to be as candid as
1389 possible in explaining this to businesses, to the opposition, and to the media on a background
1390 basis. But the other thing we decided to do in the NAFTA, and this I think also was extremely
1391 useful in retrospect, is we had Peter Daniel as Assistant Deputy Minister of Communications and
1392 Culture at the Department of Foreign Affairs and International Trade.⁹¹ He had held a similar

⁹⁰ At the time of the interview, Michael Wilson was the Canadian Ambassador to the United States.

⁹¹ Charles Peter Daniel, Canadian communications executive, served as Assistant Deputy Minister of Communications and Culture at the Department of Foreign Affairs and International Trade at the time. He also served as Senior Vice-President of the Canadian International Development Agency and Assistant Deputy Minister of Communications at the Department of Finance. He began his career as a television journalist for the Canadian Broadcasting Corporation. From 1977 to 1980, he was the media spokesman for the North Atlantic Treaty Organization, returning in 1997 as NATO Director of Information and Press. After retiring as Executive Vice-President, Communications and Corporate Marketing of BCE Inc. and Bell Canada, he became an associate of Burke Cader Media Strategies.

1393 senior position in the Department of Finance when Michael Wilson was Finance Minister. He
1394 had had a lot of experience.

1395 Every time I went to see Michael Wilson to discuss various aspects of the negotiations, which
1396 was about once a week, Peter Daniel would be there with us. It wasn't that he was providing us
1397 with advice on what we should do. But he was listening to what we were talking about in terms
1398 of what we should do at the negotiating table—what our position should be and what the minister
1399 might want to discuss with his cabinet colleagues. Peter would be listening to this discussion
1400 from the point of view of thinking about how to explain it to the public. And it was extremely
1401 useful to have this consideration constantly in mind. I don't think his advice ever changed what
1402 we were going to do, but it certainly influenced how we would explain it.

1403 When we got to the final phase of the NAFTA negotiations—here in the Watergate Hotel where
1404 we were all cooped up for a couple of weeks finishing it off—Peter Daniel assembled all the
1405 Canadian journalists who were closely following the final phase. On a background basis, he
1406 began to take them through the different elements of the agreement in considerable detail. We
1407 had been briefing them all through the negotiations. So, when they began looking at the outcome,
1408 they could see there was nothing different from what we had been telling them all along. So,
1409 there was no story of inconsistency there that would allow journalists to say, “Aha, got you!” So,
1410 when the agreement was publicly released, it had already been explained to journalists; they
1411 knew what it meant; they knew where the differences were between what was in the NAFTA and
1412 what was in the briefing papers. And they were able to write about it in an incisive, intelligent
1413 way. I think on that first morning after, the day we finished the NAFTA negotiations, there were
1414 something like fifteen NAFTA articles in the *Toronto Globe and Mail*; and I would have to say

1415 that none of them were really very critical. They portrayed the outcome accurately and in quite a
1416 favorable light.

1417 And I am not saying that we did not try to get the journalists to be on our side. That wasn't it. We
1418 just played as open a game as possible. We described what was happening and tried to maintain
1419 consistent messaging throughout the whole process of the negotiation. And I think that helped a
1420 lot in terms of the reception it received at the end of the process.

1421 This objective was greatly assisted by a team of excellent communications experts that Daniel
1422 had put together. He charged Geoff White, a former journalist from the *Calgary Herald*, with
1423 developing and implementing the communications plan. This team worked closely with my
1424 negotiating team in producing a plain language description of what had been negotiated. This
1425 was invaluable in helping journalists and the public understand the agreement when the
1426 negotiations were concluded.⁹²

1427 **Plank-Brumback:** Anything you might want to comment on the competition policy chapter?

1428 **Weekes:** The chapter is very short. It is important to point out that when we were negotiating the
1429 NAFTA, unlike the EU we were not trying to create an economic or political union through the
1430 NAFTA; we weren't looking at establishing a common market. But once you put that distinction
1431 to one side, the agreement that we were negotiating was a very high quality, modern agreement.
1432 We decided, yes, it should have a competition policy aspect to it. I think, if I recall correctly,
1433 Mexico had just passed a competition policy law, so this in a certain sense was a recognition of
1434 that move on their part. But we saw this clause as something on which to build later. Jean

⁹² Geoff White, *Working for Canada: A Pilgrimage in Foreign Affairs from the New World Order to the Rise of Populism* (Univ. of Calgary Press, 2022). See Ch. 2, "Explaining NAFTA (1991–1993)."

1435 Chrétien⁹³ became Prime Minister on November 4, 1993, and his government had to make the
1436 final decision to actually bring the NAFTA agreement into force after Mr. Mulroney left office,
1437 and after his successor, Prime Minister Campbell was defeated in the election in late October.⁹⁴
1438 After having brought NAFTA into force, there wasn't a lot of enthusiasm for doing more with
1439 the agreement on the part of the Chrétien government with the exception of seeking improved
1440 protection for Canadians from the adverse effects of American anti-dumping and countervailing
1441 duties. This lack of enthusiasm for more big trade negotiations was even more true in
1442 Washington. After the Clinton administration had expended all that energy in getting NAFTA
1443 through Congress and then the WTO through Congress, there wasn't much appetite for coming
1444 back to look at doing more. Indeed, the environment was one in which I think the Mexicans were
1445 worried that more trade negotiations in the North American context would result in tightening of
1446 provisions on labor and environment rather than dealing with other issues. And of course,
1447 another aspect of the NAFTA that has become lost in history is that there was an accession
1448 clause in the NAFTA. And I remember the idea of an accession clause was an idea that Canada
1449 first suggested. Initially it startled the Mexicans. I remember Jaime Serra saying something like,
1450 "Why would we put that clause in the agreement? Why would we want to share this wonderful
1451 thing with everybody else?"

⁹³ Joseph Jacques Jean Chrétien, lawyer and Liberal Party politician, served as Prime Minister of Canada from 1993 to 2003 and member of the federal House of Commons of Canada from 1990 to 2003 and 1963 to 1986. He served as Deputy Prime Minister (1984), Minister of Justice and Attorney-General (1980–1982), Minister of Finance (1977–1979), Minister of Industry, Trade, and Commerce (1976–1977), President of the Treasury Board, and Minister of National Revenue (1968).

⁹⁴ Avril Phaedra Douglas "Kim" Campbell, Progressive Conservative Party politician and lawyer, served as Prime Minister of Canada from June 25 to November 4, 1993. Previously she was Minister of National Defence (1993), Minister of Veterans Affairs (1993), and Minister of Justice and Attorney-General (1990–1993).

1452 But when the three partners considered the matter further, they realized it was actually a good
1453 idea.

1454 When Mr. Chrétien's Liberals came into office, Roy MacLaren⁹⁵ became the trade minister for
1455 Canada. One of his first foreign trips was to Chile, where he talked about bringing Chile into
1456 NAFTA. And the Chileans, of course, were very interested in this. Shortly after that I was asked
1457 by Mr. MacLaren to go to Chile. I did so on an occasion when the Fraser Institute in Canada and
1458 a counterpart organization in Chile, were sponsoring a conference on free trade. On the margins
1459 of the conference, I had a series of meetings, both with senior Chilean officials and with
1460 ministers. There was a lot of interest in Chile on whether they might be able to join NAFTA. In
1461 particular I remember meeting with the finance minister, Aninat,⁹⁶ and he said, "Well, but there
1462 is no procedure for how all of this would work. There is a provision on accession, but there are
1463 no detailed procedures." And I recall saying to him, "You know, we could negotiate Chilean
1464 accession much faster than we could ever negotiate any general procedures to provide for
1465 accession. Because if we're negotiating general procedures, people are going to say, 'Well, who
1466 are we talking about? Could this be Cuba? Is this Brazil? Is this whoever?'" So, I said, "Just do
1467 it. Just do it." I think the Chilean government would have asked to negotiate accession to

⁹⁵ Roy MacLaren PC is a Canadian politician, diplomat, historian, and author. He served as Canadian High Commissioner to the United Kingdom (1996–2000), Minister for International Trade (1993–96), Minister of National Revenue (1984), Minister of State (Finance) (1983), Member of Parliament, Etobicoke North (1979–84 and 1988–96), and a Canadian diplomat (1957–70). As Minister for International Trade he presided over the coming into force of the NAFTA after the election of Jean Chrétien as Prime Minister in 1993. He was directly engaged in the final push to complete the Uruguay Round of GATT negotiations and create the World Trade Organization. In 1998 he was a candidate to replace Renato Ruggiero as Director-General of the WTO.

⁹⁶ Dr. Eduardo Aninat served as the Finance Minister of Chile from March 1994 to Dec. 1999. He was the Chairman of the Board of Governors of the International Monetary Fund (IMF) and World Bank from 1995 to 1996 and a member of the Development Committee of the World Bank and the IMF representing Chile, Argentina, Bolivia, Peru, Uruguay, and Paraguay. Aninat served as Deputy Managing Director of the IMF from 1999 to 2003. He also was Ambassador of Chile to Mexico from February 2005 to June 2006. Previously he served as the chief senior negotiator for the bilateral Canada–Chile Free Trade Agreement, and the chief debt negotiator and senior advisor of the Central Bank of Chile and the Ministry of Finance. See <http://www.imf.org/external/np/omd/bios/ea.htm>.

1468 NAFTA had the United States had fast track negotiating authority, which they didn't. And you
1469 know, the whole history of the hemispheric efforts at creating a free trade area might have been
1470 quite different had the United States obtained such authority early on in the Clinton
1471 administration. And had Chile acceded to NAFTA within, say, two years of the original
1472 agreement coming into force, that might well have encouraged other countries to do the same
1473 thing as well. I am not saying that today everybody would be on board. But you would have
1474 created a dynamic, I think, that would have been very different from what eventually emerged.
1475 Where do we go from there?

1476 **Plank-Brumback:** Well, you started—

1477 **Weekes:** I was going to say something, because you said something before we began actually,
1478 about an interview you had done with someone else who talked about domestic politics. And I've
1479 talked about that a bit already, including on the media relations management point. But I think it
1480 would be useful to say something about consultation with the private sector and other interested
1481 groups. The Canadian government at that time had provided for the establishment of a
1482 consultative process with private sector groups—very similar to the process in the United States,
1483 although it was set up by administrative action rather than through legislation. After the
1484 conclusion of the FTA and the initial phase of the Uruguay Round the machinery had been
1485 allowed to become somewhat inactive. But I said, I thought that we should reactivate this when I
1486 became chief negotiator, because it would provide a valuable opportunity for us to get good input
1487 from business, and from other interested groups on how we should proceed with the negotiation.

1488 So we reinvigorated the system. And indeed, it was very useful and did give us a lot of good
1489 advice. In addition, this consultative process built support for the agreement. As we discussed

1490 with business and others how to negotiate the agreement and what the objectives should be they
1491 became more engaged as they developed a better appreciation of what was at stake. This resulted
1492 in buy-in and more support for what the government was trying to do. This was important
1493 politically as well as technically in terms of the conduct of the negotiation.

1494 **Plank-Brumback:** You mentioned earlier about when Canada entered into these NAFTA
1495 negotiations, the list of desiderata was first to “do no harm” to the US–Canada FTA. And you
1496 mentioned that there were certain areas, for example investment, which had not been easy for
1497 Canada and Mexico to negotiate and accept. Were there in the course of the negotiations any
1498 particularly tense moments or deal breakers that you would like to relate?

1499 **Weekes:** The exact details have receded in my memory, but I can still recall a few issues that
1500 posed difficulties. Agriculture was one.

1501 Investment was very difficult. I don’t ever remember it getting to the point of being a deal
1502 breaker. Mr. Wilson went to his cabinet colleagues several times to make sure that they had a
1503 good understanding of the nature of the sort of provisions that we would be undertaking in the
1504 NAFTA because they went far beyond what was in the investment provisions in the Canada–US
1505 FTA, and it would involve changes to Canadian investment law and policy. And then, of course
1506 there was a ratchet provision in the NAFTA as well that provides that once one of the NAFTA
1507 members changes its investment policy, moves away from the negative list, that they establish a
1508 new baseline for what they’re obligated to do. Now this is quite interesting because I don’t think
1509 anybody has ever drawn up exactly what this now means with all the changes that have occurred
1510 since the NAFTA came into force in 1994. But that was another significant change. I think it is
1511 probably fair to say that the provisions that caused the greatest difficulty, and on which the most

1512 concerted effort had to be made in bridging differences, were the investor-state dispute
1513 settlement provisions. And of course, for Mexico all of this required a major change from a
1514 traditional Latin American, or Mexican, view of what were the sovereign rights of countries in
1515 the investment area. So, it involved major changes.

1516 One area that was of particular concern to Canada was what would happen in the Chapter 19
1517 dispute settlement provisions for reviewing final determinations regarding subsidies and
1518 countervailing duties, and anti-dumping duties. Would these provisions be extended to include
1519 Mexico? Or would they remain solely Canada–US provisions? I think, initially, Canada hoped
1520 that they’d just remain Canada–US provisions. Then when it became clear that the United States
1521 was prepared to extend the same provisions to Mexico, we had to play catch-up. And probably
1522 we didn’t do this as quickly as we should have. There were a number of discussions bilaterally
1523 between the United States and Mexico and these negotiations began to evolve in a way that
1524 Canada was not prepared to accept. So that led to some very difficult sessions at the end of the
1525 negotiation. And indeed, if there was any issue on which the negotiations might have blown up
1526 in the final stage, this was probably it.

1527 We were in the Watergate Hotel, as I mentioned, and the biggest outstanding issue was how to
1528 resolve differences on Chapter 19. Canada was very concerned that these provisions not be
1529 diminished in any way, in terms of how they would operate. We had a lot of other senior people,
1530 lawyers, senior negotiators, come down to Washington. There was a whole separate exercise
1531 going on Chapter 19. It was very interesting that the press—who was also in the same hotel—
1532 never actually twigged to the seriousness of this issue. I think this would have probably been
1533 quite explosive had they understood what was going on. It was a measure of the investment that
1534 the three countries and their officials had made in wanting NAFTA to succeed. Now not all the

1535 officials were aware of the seriousness of this issue. The press was there saying, “Now what’s
1536 taking all the time? Why has the deal not yet been concluded? Are you still arguing over the
1537 content provisions in the rules of origin for automobiles?”

1538 Regarding agriculture, you only have to read the NAFTA agreement to see there are three
1539 separate agreements on agriculture, rather than one chapter on agriculture. It’s not surprising
1540 how that came about. The Mexicans came to the negotiating table viewing the NAFTA
1541 negotiation as an extension of their domestic modernization and economic reform process, a very
1542 powerful stimulus for wanting to do a negotiation in the right way. It was very clear that they
1543 were prepared to go a long way in agriculture. Perhaps the most sensitive issue for Mexico in
1544 agriculture was the protection on corn.

1545 At a key meeting in the negotiations, we were going around the table in a very small session
1546 exploring what we might be prepared to do in agriculture. I listened to the Mexicans say that they
1547 would be prepared over a very long period of time to eliminate their protection on corn. I
1548 realized immediately that would spell trouble for us at the negotiation table. A bit later I had to
1549 say that Canada would not eliminate the protection for supply-managed products in the dairy,
1550 and poultry and egg sectors. At that point it became clear that we were headed to separate
1551 bilateral deals on agriculture within the trilateral NAFTA.

1552 Some of the chief negotiators’ sessions were quite small where we brought only a few other
1553 officials with us. And then we had several that were major jamboree affairs, where the chief
1554 negotiators would meet in one room and all the other negotiating groups, of which there were a
1555 dozen or so, would meet simultaneously in different rooms. The chief negotiators received
1556 reports from each of the negotiating groups. The reports were very brief if they were making

1557 good progress. It was the problems encountered in these negotiating groups which became the
1558 main focus of the chief negotiators' table. We would invite in the negotiators from these problem
1559 areas and go through the issues one at a time.

1560 **Plank-Brumback:** As we were discussing the differences in dynamics of the multilateral
1561 negotiations, and here they are trilateral, do you not have a Secretariat under the chair—

1562 **Weekes:** Right, right. But in a way though, you look at how, in the negotiations today in Geneva,
1563 Crawford Falconer⁹⁷ and Don Stephenson⁹⁸ are telling the members to negotiate. That all they
1564 can write down is what the members have agreed. But yeah, I was going to say, in a way, I've
1565 been thinking of the similarities too, because there are differences obviously, but that negotiating
1566 room with the chief negotiators was a bit like the Green Room in Geneva, and the negotiating
1567 groups were, well, the negotiating groups. The basic personality of the WTO hasn't changed, but
1568 a lot has changed.

1569 **Plank-Brumback:** Here's a wacky question: Did Canada ever have a position that was different
1570 in the NAFTA negotiations than in the Uruguay Round negotiations that you can recall? Was
1571 there some sort of cognitive dissonance sometimes?

1572 **Weekes:** No, I can't recall such an example.

1573 **Plank-Brumback:** Even though the goals might have been different?

⁹⁷ In 2008 Crawford Falconer, the New Zealand Ambassador to the WTO, was the Chair of the Agriculture Negotiating Group in the Doha Round.

⁹⁸ In 2008 Don Stephenson, the Canadian Ambassador, was the Chair of the Market Access Negotiating Group in the Doha Round.

1574 **Weekes:** We tried to maintain consistency. If such a situation occurred, I can't think of it off-
 1575 hand. We had agreed we were going to eliminate all duties in the NAFTA except on supply-
 1576 managed products. There Canada basically punted the issue back to the Uruguay Round saying
 1577 we would accept the outcome from the Uruguay Round on supply-managed products. A major
 1578 issue in the Uruguay Round was "tariffication": the conversion of agricultural quotas and other
 1579 forms of non-tariff protection into tariffs. Whether that would apply to quotas on Canadian
 1580 supply managed products remained an outstanding issue during the NAFTA negotiations.
 1581 NAFTA provides that priority would be given for such products to "an agreement resulting from
 1582 agricultural multilateral trade negotiations under the GATT." It was subsequently determined by
 1583 a NAFTA panel requested by the United States that Canada was entitled to maintain under
 1584 NAFTA the MFN duties on supply managed products that it had negotiated in the Uruguay
 1585 Round of GATT negotiations. The NAFTA panel⁹⁹ disappointed the United States which had
 1586 maintained that the duties were not allowed under the free trade provisions of the NAFTA.

1587 **Plank-Brumback:** You negotiated that one well.

1588 **Weekes:** Right! It was a team effort but yes, I did my job. The instruction from the Canadian
 1589 government was very clear. Very clear.

⁹⁹ North American Free Trade Agreement, Annex 702.1: Incorporation of Trade Provisions

1. Articles 701, 702, 704, 705, 706, 707, 710 and 711 of the Canada–United States Free Trade Agreement apply, as between Canada and the United States, which Articles are hereby incorporated into and made a part of this Agreement.

....

4. The Parties understand that Article 710 of the Canada–United States Free Trade Agreement incorporates the GATT rights and obligations of Canada and the United States with respect to agricultural, food, beverage and certain related goods, including exemptions by virtue of paragraph (1)(b) of the Protocol of Provisional Application of the GATT and waivers granted under Article XXV of the GATT.

1590 **Plank-Brumback:** Was there anything that you would really like to fix in the agreement, if you
1591 had to go back and do so?

1592 **Weekes:** If I had to go back and fix it, one place I would make a change would be to put more
1593 clarity into what was meant by the phrase, “tantamount to expropriation,” in the investment
1594 chapter with particular reference to Chapter Eleven dispute settlement proceedings. I consider
1595 that has probably been the one piece in the NAFTA that has led to the most concern, has been the
1596 easiest thing for people to target in terms of criticizing it. I’ve thought of this matter a number of
1597 times over the years. I don’t know what Dan Price,¹⁰⁰ my former partner and head of the practice
1598 group here at Sidley would say about this. Dan was the architect of strong investor-state dispute
1599 provisions in the NAFTA.

1600 **Plank-Brumback:** Of course, you did have an interpretation.

1601 **Weekes:** Yes, and that’s happened, but that’s not the same as getting it right in the agreement to
1602 start with and it doesn’t have the same legal force.

1603 In a somewhat similar vein, people often asked me, “What was the biggest and most significant
1604 outcome of the negotiations, or what was the biggest impact the NAFTA had?” I think the
1605 biggest impact was psychological particularly for Canadian business. I think it changed people’s
1606 thinking on a number of counts. First of all it reinforced the original free trade agreement. It was
1607 a better agreement; it was a more solid agreement; it’s a deeper agreement. It opened people’s
1608 eyes in Canada to the fact that the Americas didn’t end with the southern border of the United

¹⁰⁰ Daniel M. Price was a partner at Sidley Austin LLP from 2002 to 2005 and again from 2009 until July 2011 when he co-founded and became Managing Director of Rock Creek Global Advisers LLC. During the administration of President George W. Bush, he served as Deputy National Security Advisor for International Economic Affairs and Sherpa to the G-8 and G-20 Financial Summit. Prior he was Principal Deputy General Counsel at USTR (1989–1992) and US Deputy Agent to the Iran–US Claims Tribunal in The Hague (1984–1986).

1609 States. There was a whole new potential, a new opportunity. That was interesting. It hasn't been
1610 enormous what's happened, but it's been significant. It's changed the way Canada has looked at
1611 the hemisphere.

1612 **Plank-Brumback:** And slowly, you have the NAFTA missionaries negotiating—

1613 **Weekes:** Yeah, right. Well, we were pretty fast off the mark initially with Chile, but with others
1614 since, like Costa Rica. Then we got to a pause, which was really a reflection of a government
1615 that was reluctant to negotiate more free trade agreements, if it involved any political cost at all.
1616 For instance, it took Canada years to be able to complete free trade negotiations with the EFTA
1617 countries because of the shipbuilding interests in Canada. None of the agreements then being
1618 contemplated were of such potential significance that you could get supporters to weigh in
1619 strongly on the other side of the debate. The NAFTA was seen by some at senior levels of the
1620 Canadian business community as being much like the FTA and therefore of limited value. There
1621 were still a lot of attacks on the FTA in Canada. Some of these people who would say, "What are
1622 you doing, why don't we get out of the NAFTA?," my answer was, "The NAFTA is the outer
1623 defense perimeter around the FTA."

1624 And in the end of course, one of the things we had to do. I remember the prime minister asking
1625 me about this at one point—what were we going to do with the FTA after we completed the
1626 NAFTA? Because you certainly couldn't have the two agreements in effect at the same time.
1627 Clearly all the important provisions of the FTA had either been expanded and deepened by the
1628 NAFTA or had been picked up in the NAFTA. So, there wasn't anything of value from the FTA
1629 that had been lost. In this situation, the United States and Canada agreed to put the FTA into
1630 suspension, for as long as the NAFTA remained in force. So, the FTA is there as a kind of

1631 insurance policy should something happen to the NAFTA, which I don't think is going to be the
1632 case.

1633 **Plank-Brumback:** So, going back to the multilateral side. You were then—

1634 **Weekes:** You know what, we haven't talked yet about the side agreements.

1635 **Plank-Brumback:** That's right.

1636 **Weekes:** Oh my, we're running out of time.

1637 **Plank-Brumback:** You have touched a bit on labor in Punta Del Este.

1638 **Weekes:** Oh yes, I did. I liked to say on occasion, that negotiating with the United States is sort
1639 of like "manifest destiny" in trade policy. American negotiators will often approach a negotiation
1640 along the following lines: We don't like a practice by a foreign government. How do we fix what
1641 the foreigners are doing? We don't like their practices, so we'll try to change them in this
1642 negotiation. They may have a few red lines themselves, but they don't really think about that too
1643 much in the first phase of the negotiation.

1644 **Plank-Brumback:** Like Section 301.¹⁰¹

¹⁰¹ Section 301 of the Trade Act of 1974 grants the United States Trade Representative (USTR) the authority to impose trade sanctions on foreign countries that violate US trade agreements or engage in acts that are "unjustifiable" or "unreasonable" and burden US commerce. Trade Act of 1974, 19 U.S.C. §§ 2411–2420. See Section 301 of the Trade Act of 1974 (congress.gov). "Special Intellectual Property 301" is a congressional mandate that USTR must conduct an annual review to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to US persons who rely on IP protection. Based on this review, USTR determines which if any of these countries to identify as "priority foreign countries." 19 U.S.C. § 2242. See <https://ustr.gov/issue-areas/intellectual-property/special-301>. "Super 301" refers to the Omnibus Trade Act of 1988's expansion of Section 301 of the 1974 Act to direct USTR to identify unfair foreign trade practices impeding US exports, and to initiate investigations and possibly take actions against these trade liberalization priority practices, which if eliminated would significantly increase US exports, for each priority country identified. Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, § 2411–2447, 102 Stat. 1107, 1164 (1988).

1645 **Weekes:** Yeah! So their plans for the NAFTA were very ambitious, as subsequently they were
1646 for the side agreement negotiations. One of the things early on that we decided to do in the
1647 NAFTA was take a careful look at whether, if it came to that, the United States could/would
1648 implement some of these provisions they were proposing. So, we hired a number of American
1649 law firms to advise us on different such matters during the conduct of the NAFTA negotiations.
1650 We began by focusing on what legislative or administrative changes would be required in the US
1651 to allow Canada to achieve certain objectives. But we also were looking at it the other way
1652 around, if certain US proposals were agreed, would the United States have the legal or
1653 administrative capacity to implement them in the United States? So we went then to the
1654 negotiating table and said, “Are you planning to repeal the such and such act in order to
1655 implement your proposal?” I recall one day in the investment negotiations, regarding
1656 performance requirements, our American legal advice had said, “You know, if this provision was
1657 adopted in the NAFTA, it would make the agricultural export enhancement program illegal.”¹⁰²
1658 This was when we were arguing that the investment chapter just went too far. We proposed
1659 being less ambitious. So I brought out this example on the table. It was a relatively small
1660 meeting. Jules Katz was there. We had maybe two or three people a side in that meeting, and I
1661 brought out this example. Katz turned to his guy Bill Barreda from Treasury. Dan Price wasn’t
1662 there that day, and Bill was the most senior person on the investment negotiations. So, Jules
1663 turned to him and said, “Is what Ambassador Weekes saying correct?” And Bill started
1664 obfuscating. And Katz said, “I want an answer! Tell me, is what he said correct?” And Bill

¹⁰² The US Export Enhancement Program (EEP) was introduced by the Ronald Reagan administration in May 1985 under the authority of the Agricultural Trade Act of 1978, to subsidize and expand sales of specified US surplus agricultural commodities, owned by the Commodity Credit Corporation, with the aim of displacing subsidized exports by competitors, particularly the European Community, in targeted foreign markets. The last year of operation of the program was 2001. Authority for the EEP was repealed by Section 3103 of the Food, Conservation, and Energy Act of 2008, Public Law 110-246.

1665 finally said, sheepishly, “Yes.” And Katz, angrily threw down his pencil and said, “Let’s go on
1666 to something else!” Subsequently the Americans made some minor changes to their proposal that
1667 meant the export enhancement program would no longer be illegal, so in this case our efforts
1668 didn’t get us very far. Overall, it was a useful tactic and helped keep the Americans honest.

1669 Well, I have another observation if I might be allowed it. I found that Jules Katz, Herminio
1670 Blanco, and I spent a lot of time together—during the two years plus it took to do the basic
1671 NAFTA agreement, and then the side agreements. Well, it was Rufus Yerxa for the side
1672 agreement negotiation. A lot of intense time together. I had enormous respect for both Herminio
1673 Blanco and Jules Katz and their teams. They were very good people and good negotiators. And
1674 our teams worked well together on the three sides. It was a good environment, a very
1675 constructive environment we were operating in. And Jules was a very far-sighted person.
1676 Somebody with a good sense of what you needed to do to get things done. Somebody who was
1677 prepared to take decisions, make tough recommendations. I think certainly that’s one of the
1678 reasons we were able to conclude the agreement, the high quality of the people involved. But I
1679 did notice on occasion that Jules would get angry, and it seemed to me he would get angriest
1680 when he realized his position was weak. I suspect it was sort of a double thing; it was his
1681 frustration with his own position, plus wanting to appear to be tough on something where he
1682 knew he might eventually have to yield, even though he wasn’t supposed to. It was an
1683 interesting, interesting process.

1684 I was going to say one more thing on the domestic aspect. At one point, we were meeting in
1685 Washington as happened more and more frequently in the latter part of the negotiation because it
1686 was simpler logistically and also because the USTR had a small budget and was running out of
1687 money for travel funds and hotel accommodation. The three chief negotiators were in a room,

1688 when we found out that the draft working text¹⁰³ of the agreement had leaked. The three
1689 countries were all using the text, or parts of it, for consulting with various interests. I'm sure that
1690 the leak came in Canada. And we had about two hours to think about how to respond before it
1691 would be all over the media.

1692 **Plank-Brumback:** Because of your de-briefs?

1693 **Weekes:** We were giving it to the provinces, and I think one of them leaked it. So, we had a few
1694 hours to think about how to react to this and we discussed it, and basically decided to take it in
1695 our stride. I suggested to Michael Wilson that we should not spend any time focusing attention
1696 on trying to figure out who did this because that would become the story: the government's
1697 going after these people to punish them. Instead, we would say simply, "it's unfortunate that it
1698 happened," and get on with the negotiations. As a practical matter, I think it was quite fortunate
1699 that it happened, because it de-mystified the whole thing. Suddenly, the whole draft of the
1700 agreement was out there; the critics began to pore over it; some of the sections had been put in
1701 just as place markers and hadn't been subject to a discussion at a senior negotiating level.
1702 Elements of the text had been borrowed from other sources and stuck in temporarily as place
1703 holders. So, there were things that the critics found, you know they'd say, "Oh my God, that
1704 shows that they were preparing to export water!" It was a reference to non-energy pipelines in
1705 the services chapter. So, the scrutiny was helpful in terms of thinking about what kind of public
1706 reception the final agreement was going to get and where it made sense to make changes in light

¹⁰³ We produced a first cut of a draft text of the whole agreement at the Dallas meeting of chief negotiators and gradually refined it as the negotiations proceeded. —Weekes

1707 of that. So, that's when I concluded that keeping things secret is not always the best policy.

1708 Okay, where do we go from here? Side agreements?

1709 **Plank-Brumback:** What was your involvement?

1710 **Weekes:** I was the chief negotiator for the two side agreements. The three governments decided
1711 that because the negotiations were really part of a broader project that we'd use the same
1712 negotiators, except of course in the case of the United States where there had been a change in
1713 administration. So, Rufus Yerxa, who replaced Jules Katz as the principal deputy at USTR,
1714 became the American negotiator. Rufus, of course, had been the ambassador to the GATT during
1715 the Uruguay Round before that. Somewhat unusual that a Democrat would be in that position.
1716 But then, I think it was very useful that somebody with that experience and background came
1717 into the—

1718 **Plank-Brumback:** Another multilateralist!

1719 **Weekes:** Yes, another multilateralist! [laughter] And, a good friend of mine to this day! So, first
1720 of all, we had some early meetings with the new administration. I went down to Washington with
1721 Michael Wilson. And we had a meeting with Mickey Kantor and Rufus Yerxa. Oh, it was very
1722 friendly, very affable—initially. And the three countries basically reached an agreement early on
1723 in the process, that we would keep the same implementation date for the NAFTA: January 1,
1724 1994. We're now into the beginning of 1993. What did I say? 2003?

1725 **Plank-Brumback:** 2004. [laughter]

1726 **Weekes:** We would keep the same implementation date of January 1, 1994. At that point we
1727 were into 1993; there was not a lot of time. I forget when this meeting took place, where this was

1728 agreed. We also agreed that we would not make any changes to the NAFTA itself. But Canada
1729 and Mexico did agree we would try to develop supplementary agreements to address cooperation
1730 in the areas of labor and environment. Those agreements were based on initial proposals made by
1731 the United States, which began by being, frankly, a little off the wall. You had a new
1732 administration, a lot of very enthusiastic people, and a lot of enthusiastic advisors wanting to
1733 make sure that the world was put right in these areas. Initial thinking in both Canada and the
1734 United States was that it was the Mexicans who were going to have to change their practices. It
1735 only subsequently dawned on people that, well, we might have to make some changes in our own
1736 policies as the negotiations progressed. Once again we hired American legal counsel to advise us
1737 on whether the United States could implement its own proposals on environment and labor. We
1738 got down to considerable detail like, what does this mean for particular wetlands legislation? It
1739 was amazing how quickly we were able to progress the negotiation. Those are quite complex
1740 side agreements. We're talking about a negotiation that, because of a new administration coming
1741 in, didn't really get underway until in the spring of 1993 and was completed, believe it or not, on
1742 August 12, the same date that we had completed the NAFTA itself the year before. So the whole
1743 negotiation was compressed down into a few short months, which also meant that we had to
1744 compress down how we went about the domestic consultation process. And we followed, I think,
1745 a very interesting process in Canada. We decided that we would conduct the consultations at the
1746 same time with business, environmental groups, and some academic advisors. So we collected a
1747 group of people together. We would come in, brief them on what was happening and set out
1748 considerations about it, as we looked at it as a government. We would also set out some ideas
1749 about how we might respond to proposals from the US and Mexico in the negotiations and then
1750 invite reaction. Of course, we got quite a spectrum of reaction. Now when we first set this up, I

1751 remember colleagues in government saying to me, “Well, do you mean we’re going to invite all
1752 the environmental groups?” And I said, “Yes.” “Do you mean we’re going to invite Greenpeace,
1753 for instance?” And I forget who else seemed to be worthy of a “special naming.” And I said,
1754 “Yes! The worst thing that could happen is that they’ll come, and it won’t work; they’ll be
1755 disruptive and then we’ll just realize that we’ll have to use a different process. But at least we’ll
1756 have shown that we were open to talking with them.” Well, Greenpeace did come to the first
1757 meeting, but I don’t think that they ever came to another one. They decided this was not how
1758 they wanted to engage. The others came right through the whole process. I think the agreement is
1759 a better agreement because of the contribution that they made to it. So that was a very, very
1760 interesting dynamic.

1761 **Plank-Brumback:** What about on the labor side? You said that there was an interest in the
1762 “right to work” states in the United States?

1763 **Weekes:** On the labor side, Canada is a little bit hampered. You also asked me the last time
1764 about Article XXIV:12. Well, I tell you, if you’re negotiating contractual obligations on labor
1765 and environment for Canada, you’re looking at a very complex situation. The jurisdiction over
1766 responsibilities is shared in the area of the environment. Probably about fifty-fifty was the advice
1767 I was given, but how you calculate that is sort of a bit like throwing a dart against the wall and
1768 seeing where it lands. In labor if you look at which level of government has jurisdiction over
1769 workers in Canada, the federal government at that time had about 7 percent and the provinces
1770 had 9 percent. Basically, it was only federally regulated industries, like railroads and a few others
1771 where the federal government had the labor jurisdiction. So, not surprisingly, our partners asked
1772 us what was it we were bringing to the table here. And this became a challenging issue when we
1773 got into the dispute settlement provisions and whether we should have the right to invoke those

1774 provisions if we weren't going to be accepting obligations on behalf of our provinces. But one of
1775 the things we did do in the course of these negotiations was work very closely with the
1776 provinces, and we actually negotiated an agreement with the provinces, which actually came into
1777 force, I think, with two of the provinces. It provided for how the two levels of government would
1778 work together, in effect to put concessions legally into this agreement—concessions that fell
1779 within provincial jurisdiction. Interesting. Interesting. We might get back to that again at some
1780 point in Canada. But nobody else has dealt with it since, and some people thought we probably
1781 went too far.

1782 The other area where Canada was very sensitive, as was Mexico, was on the issue of trade
1783 sanctions as a penalty for violating the side agreements. This issue almost became a deal breaker.
1784 The three countries eventually reached the understanding that the real disciplines in the
1785 agreement, as distinct from the cooperative provisions, would relate to the labor and
1786 environmental law of each country. Each party would be required under the agreement to
1787 properly implement their own law. There is language about what would constitute a violation—
1788 persistent, systemic violations, these sorts of things. But then what happens if a country was
1789 found to be in violation? Moral suasion was not enough for the Clinton team. After a lot of to-ing
1790 and fro-ing, we considered the possibility of providing for fines on governments. So, there are
1791 provisions for fines in the NAFTA side agreements. “What if the fines don't work?” the
1792 Americans kept asking. We said, “We're not going to agree to trade sanctions.” It was too much.
1793 The Canadian environmental community thought trade sanctions might be a good idea. There
1794 was, however, broad public support in Canada for the notion that we didn't want to arm the
1795 United States, having had all the softwood lumber experience we've had, we didn't want to arm
1796 the United States with another trade remedy measure that they could use to get at various

1797 Canadian practices. So, we said, “No, we won’t do it.” We had had experience with how
1798 imaginative American lawyers could be at finding ways to restrict Canadian trade. The
1799 negotiations broke down. There were mumblings about whether the US and Mexico might do the
1800 NAFTA deal without Canada. The negotiations stayed broken down for, I remember in early
1801 August, for maybe ten days. No interaction with our partners. And finally they came back to us,
1802 and said, “Well, what about this?” And they had a compromise proposal. What we had put on the
1803 table, and what eventually became what was agreed, was a rather innovative approach. We
1804 maintained our refusal to agree to an agreement in which trade sanctions could be used against
1805 Canada to enforce the environment or labor agreements. However, we said we were prepared to
1806 guarantee our partners that we would implement any panel finding that we are in violation of
1807 failing to implement our own law effectively. And we did that by agreeing to amend Canadian
1808 law, to provide for one of the NAFTA partners to be able to bring a finding from a NAFTA side
1809 agreement panel, into a Canadian court and get an order requiring that the government take
1810 certain action to implement that panel determination. This was actually negotiating a form of
1811 direct implementation of a panel process, which was a pretty interesting development. But that’s
1812 a long story and could be the subject of a whole other interview. But I just mention it now
1813 because—

1814 **Plank-Brumback:** And as the NAFTA model has evolved, and you know they have gotten
1815 closer, with more clauses to eventually create sanctions.

1816 **Weekes:** Right. Well, in the end, these side agreement provisions of dispute settlement have
1817 never been used.

1818 **Plank-Brumback:** Why do you think that is?

1819 **Weekes:** Well, I think in part because it's unlikely that people aren't going to be enforcing their
1820 own law. Perhaps the threshold in terms of the way it's described is sufficiently high that
1821 violations just don't occur. Maybe this is why there's pressure to look at renegotiating. I don't
1822 know. But I think the other issue is, if you actually looked at this, probably there would be as
1823 many instances where the United States or Canada would be in violation of the law as Mexico.
1824 This kind of agreement where the NAFTA itself was negotiated in fourteen months, the side
1825 agreement even faster provided actually—the pressure of it, and the intensity of it—made a very
1826 creative dynamic. This dynamic contributed to the quality of those agreements.

1827 You asked me about autos in the NAFTA recently. Let me give you an example of a discussion
1828 that we had in the NAFTA on autos that I started, when we were talking about the problem of
1829 subsidies in the automobile sector. I discussed this with Minister Wilson first and we decided,
1830 why don't we just float this idea among the chief negotiators and see if it gets any traction? If
1831 there is any interest from our negotiating partners, we would go and consult on it inside Canada.
1832 So I suggested to Katz and Blanco, "Why don't we consider how you could discipline subsidy
1833 practices in the automobile sector in the NAFTA area?" I suggested we consider prohibiting
1834 subsidies to automobile production in North America. Now you couldn't enforce that by putting
1835 disciplines on the jurisdictions because there are far too many jurisdictions: municipalities,
1836 provinces, states, etc. But what about putting the onus on the automobile companies? Because
1837 there are not very many of them. We could provide that if an automobile company benefits from
1838 a subsidy, or uses an input benefitting from a subsidy, then either that amount or perhaps even a
1839 greater amount can be taken back from that company, either when the good crosses the border, or
1840 you could provide that it be done domestically by the federal level of government in that country.
1841 And the other negotiators liked this, so we actually started consultations in Canada, but in the

1842 end it was Quebec that said no. They weren't prepared to agree to that. We dropped the proposal.
1843 That's something that I think is still a rather interesting idea. People wonder, how could you have
1844 subsidy disciplines that would be effective? Well, there are ways of thinking about how to do
1845 this. The dynamic of the NAFTA negotiation environment was one that encouraged negotiators
1846 to think creatively and outside the box. It was a very interesting, constructive period.

1847 **Plank-Brumback:** Speaking of the same period, with a different environment. I don't know if
1848 they were thinking outside the box back in Geneva. You have the Dunkel Text released while
1849 you were engaged in the NAFTA negotiations. You have the Dunkel Text, the closing of the
1850 negotiations, the legal scrubbing, which I gather you were not involved in.

1851 **Weekes:** Right. No. No.

1852 **Plank-Brumback:** But you were involved in the Marrakesh signing.

1853 **Weekes:** Yes, because after finishing the NAFTA negotiations, I was made the Senior Assistant
1854 Deputy Minister for relations with the United States, and also put in charge of NAFTA
1855 implementation. This might have been happening before we got to the end of the negotiation, but
1856 anyway, so I was responsible for managing relations with the United States. Because of my
1857 background, I for some time was the chairman of the interdepartmental committee on
1858 commercial policy or trade policy, or whatever it became called. But Canada-US trade relations
1859 issues and NAFTA implementation issues were within the purview of what I dealt with. Now,
1860 when we came to Marrakesh, I had been following from a distance, but with considerable
1861 interest, what was going on in the Uruguay Round. I was hoping very much it would come to a
1862 successful conclusion. But one of the big issues we were having during the Clinton
1863 administration with the United States, were issues of the American government trying to—what

1864 word should I use?—“restrain,” “restrict,” exports of certain grain products to the United States,
1865 including notably, durum wheat. I think this was a situation where Mickey Kantor¹⁰⁴ wanted to
1866 try to help the domestic producing interests in the United States. He knew that there was no
1867 provision in the NAFTA or the GATT, or the WTO that would allow you to do this.

1868 **Plank-Brumback:** You were just asking among friends.

1869 **Weekes:** But anyway, there were certain issues that arose, and there were a lot of tough meetings
1870 on those issues, including in Marrakesh. Some of the scheduling or the final schedule of detailed
1871 tariff concessions was still being completed in that period after December 1993 when the GATT
1872 negotiations, Uruguay Round negotiations, were completed in Geneva and before the Marrakesh
1873 meeting when the documents were signed. So, some of these wheat issues were still hanging out
1874 there, not completely resolved. As a result of that, at the last minute the government decided the
1875 agriculture minister with a few advisors should go to Geneva to join the rest of the Canadian
1876 team that was there for the meeting. And so, I wound up flying over to Marrakesh on a
1877 government plane with the minister of agriculture and his deputy, and the director general for
1878 trade policy in the agriculture department, and—

1879 **Plank-Brumback:** And they weren’t in a good mood.

1880 **Weekes:** It was really because of that one set of issues. Fortunately, we were able to resolve the
1881 wheat issue. I was very pleased to be able to be in Marrakesh at that time, having spent so much
1882 of my life engaged in GATT negotiations, and in the Uruguay Round itself. To be able to be

¹⁰⁴ Michael “Mickey” Kantor served as US Trade Representative from January 21, 1993 to April 12, 1996 and as US Secretary of Commerce from April 12, 1996 to Jan. 21, 1997 under President Bill Clinton. He was the Chairman of the Clinton-Gore Campaign in 1992. Kantor is Counsel at the law firm of Mayer Brown.

1883 there at that final moment was certainly something that I found very satisfying, not to mention all
1884 the old friends that I was able to talk to during my stay.

1885 **Plank-Brumback:** Any anecdotes?

1886 **Weekes:** From Marrakesh? I can't think of any offhand. Geez, I should have thought of
1887 anecdotes. I've given you quite a few anecdotes. And then it wasn't all that long before I came
1888 back to Geneva as ambassador to the WTO.

1889 **Plank-Brumback:** It must be quite different being the ambassador to the WTO than being
1890 ambassador to the GATT.

1891 **Weekes:** I have heard Pascal Lamy say on a number of occasions that things have changed
1892 dramatically. The WTO is no longer the GATT. I don't know. I think the personality of the
1893 organization hasn't really changed all that much. For instance, look at the role played by what
1894 Olivier Long called the "seven plus seven" meetings in the Tokyo Round, what Arthur Dunkel
1895 called the "Green Room" meetings, then during Ruggiero's¹⁰⁵ time, were called meetings in the
1896 "Director-General's boardroom," and are now called the "Green Room" meetings again. The
1897 process hasn't really changed—bilateral meetings on the margins, coming to the Green Room, or

¹⁰⁵ Renato Ruggiero, Italian diplomat and politician, was WTO Director-General from May 1, 1995 to April 30, 1999. Prior from 1955 to 1969 he had postings in the Italian diplomatic service in Sao Paulo, Moscow, Washington, Political Affairs Secretariat, and Belgrade. Ruggiero was posted to the Italian Mission to the EC in Brussels in 1969, then from July 1970 to 1977 he served respectively as Chef de Cabinet to EC Commission President Franco Malfatti, Political Advisor to EC Commission President Sicco Mansholt, and spokesman for EC Commission President Roy Jenkins. Ruggiero returned to Rome in 1978 becoming the Coordinator for Community Affairs in the Ministry of Foreign Affairs, then Chef de Cabinet to two foreign ministers. In 1980 he was appointed Ambassador and Permanent Representative to the EC in Brussels and from 1984 to 1987 he was Director-General for Economic Affairs then Secretary-General in the Ministry of Foreign Affairs in Rome. Ruggiero served as Minister of Foreign Trade under Prime Ministers Giovanni Gorla, Ciriaco De Mita, and Giulio Andreotti from July 28, 1987 to April 12, 1991. He then joined the boards of Fiat and other companies. Following his tenure at the WTO, he became Chairman of Eni and then Salomon Smith Barney. He was Minister of Foreign Affairs under Prime Minister Silvio Berlusconi from June 11, 2001 to Jan. 12, 2002. In February 2003, he became the Chairman of Citigroup in Switzerland. He died on Aug. 4, 2013. See https://www.wto.org/english/thewto_e/dg_e/rr_e.htm.

1898 some other equivalent, then going back to the full negotiating group to broaden out the
1899 discussion—using the regional groups. All these techniques haven't really changed. That's one
1900 of the things that I would observe. Yes, the WTO is an international organization fully ratified
1901 sui generis, not part of the UN system. Not an interim committee of ECOSOC¹⁰⁶ like the GATT
1902 was. By the way, I presided over the last meeting of the Interim Committee for the International
1903 Trade Organization of ECOSOC, which had to take the decision to abolish itself. Immediately
1904 after it moved the authority for managing the WTO Secretariat from that committee to the WTO.
1905 That's when I was chairman of the General Council.

1906 **Plank-Brumback:** It was a significant historical event.

1907 **Weekes:** Well, it was one of those events that recall history, but it was a necessary sideshow that
1908 didn't really have all that much meaning. But it was one of those things that made you reflect
1909 historically on the whole course of events. That would be my first comment. The institution
1910 hasn't changed as much as people thought it would change or would like it to change.

1911 **Plank-Brumback:** Of course, you do have a multiplicity of regional groups now with the
1912 developing countries.

1913 **Weekes:** Yes. There are more members. It's more complicated.

1914 **Plank-Brumback:** How they divide themselves into different issues, as well: twenty, forty,
1915 thirty, sixty, ninety.

¹⁰⁶ The United Nations Economic and Social Council (ECOSOC), one of six main organs of the UN, was established under the UN Charter (1945) to promote and report on international economic and social development and related matters.

1916 **Weekes:** I would note that the decisions to create the WTO as an institution at the end of the
1917 Uruguay Round were taken to a large extent simply to provide a framework for the
1918 implementation of the results of the negotiation. Canada had made its proposal to create an
1919 international trade organization.

1920 **Plank-Brumback:** Did you have something to do with that?

1921 **Weekes:** Yes, I was ambassador to GATT when that proposal was developed so I was involved
1922 both inside the Canadian government and then in Geneva. The Americans were very skeptical of
1923 the idea initially. What really became decisive in this I think was—and this was before I had left
1924 Geneva was when Dunkel said, “We have a practical problem here, we need to think of how to
1925 resolve it.” In the run-up to Punta del Este, some people argued that we couldn’t really have
1926 negotiations on services and intellectual property in the GATT because the GATT didn’t cover
1927 these areas. So, we needed a structure for the negotiations in which GATT contracting parties
1928 would have the scope for negotiating on these issues. It was recognized that at the end of the
1929 negotiation, decisions would be needed on what to do with the results. So that’s why participants
1930 in the Uruguay Round set up the Trade Negotiating Committee; the Negotiating Group on
1931 Goods; the Negotiating Group on Trade in Services; and the Negotiating Group on Trade Related
1932 Intellectual Property to manage the negotiation of these issues including those that went beyond
1933 the scope of the GATT. So Dunkel put it to ambassadors at one of his informal dinners: “What
1934 are we going to do when we complete these agreements?” Could we bring them into the GATT?
1935 Or would it be necessary to create a new organization that could house these different
1936 undertakings? And, of course, we now have the Council for Trade in Goods, the Council for
1937 Trade in Services, and the Council for Trade-Related Aspects of Intellectual Rights. There you
1938 see the structure of the Uruguay Round negotiations reflected now in the WTO.

1939 That was, I think, the compelling reason why we needed to create an organization. People didn't
1940 say, "Well, we want this wonderful new organization." It was created for very practical, almost
1941 mundane reasons. There are several aspects of the WTO as an organization that deserve special
1942 mention.

1943 The dispute settlement system is remarkable in terms of its articulation and development. It's
1944 been written about. I won't bother going into that. It is a system that is more highly developed
1945 than any other international dispute settlement system, in terms of how it actually operates and
1946 functions. Its compulsory jurisdiction is without parallel. And so, that certainly is an aspect of the
1947 organization that's important. The Trade Policy Review Mechanism, which is the policy
1948 discussion function, in my view has not lived up to its expectations. I arrived as ambassador to
1949 the WTO in September 1995. I was there for four years. And one of the things I tried to do
1950 during that period was to get more policy-oriented discussion in the organization. There was a
1951 great reluctance to do that. Many representatives were worried that one day there would be
1952 another negotiation and if they had said something in a policy discussion, it could be used
1953 against them in a dispute settlement proceeding. I found as I led a delegation in Geneva, and
1954 participated in these activities fully, that it was an organization that didn't have many of the
1955 aspects of what a real organization would have. The GATT somewhat reluctantly became an
1956 organization in some ways, I think, if I could put it that way.

1957 **Plank-Brumback:** As opposed to a club?

1958 **Weekes:** I don't know. Well, maybe other organizations like the United Nations, maybe they
1959 have their own shortcomings, too. You certainly have policy discussions in the United Nations.

1960 And I thought in many ways, somebody said to me once—it was Elaine Feldman,¹⁰⁷ who was my
1961 deputy when I was in Geneva as ambassador to the WTO. She said, the only place we have a
1962 good policy discussion in the WTO is around your dinner table, or lunch table, when we actually
1963 invite people out to engage in a policy discussion. And that’s very unfortunate. That’s still the
1964 case. The trade policy review is useful, but it’s not broad enough. Delegations haven’t seized the
1965 opportunity to use that as a vehicle for enhancing the scope for policy discussion in the WTO.
1966 For instance, the Director-General is required to make a report once a year on the state of the
1967 trading system. Then there is a meeting of the Trade Policy Review Body or the General
1968 Council, in which that’s discussed. The two bodies are equivalent in terms of their seniority of
1969 jurisdiction. The report is made, but then there’s a very perfunctory discussion. Nobody ever
1970 uses this for deeper reflection. We tried to suggest on some occasions that we build on the report,
1971 and to make more out of its insights, but we were never successful.

1972 **Plank-Brumback:** You mean deeper peer review?

1973 **Weekes:** I wasn’t thinking of the peer review. But, yes. We wanted that to be deeper too, the
1974 actual review of the individual countries. But this annual review of the system, we thought, well,
1975 maybe this would provide an opportunity for a broader systemic reflection on where the WTO
1976 was going. Should we be making adjustments? Should we be thinking about the future, rather
1977 than just commenting on what’s in the report? “I’d like to thank the Secretariat for this report,
1978 which is of a very high quality. And I’d like to note that our major trading partners once again

¹⁰⁷ Elaine Feldman was Deputy Permanent Representative of Canada to the World Trade Organization from 1995 to 2000, having participated in the Uruguay Round from 1986 to 1990. She worked in the Priorities and Planning Secretariat of the Privy Council Office and served as Vice-Chair of the Canadian International Trade Tribunal in 2005–2007. Feldman served as Assistant Deputy Minister for North America from 2008 to 2010. She then became President of the Canadian Environmental Assessment Agency. Feldman retired from the Canadian public service in 2013. She is a Senior Fellow at the Centre on Public Management and Policy in the Graduate School of Public and International Affairs at the University of Ottawa.

1979 have taken an action against us that we find reprehensible.” That sort of thing doesn’t get you
1980 very far. And then, of course, there was the question of edging towards new negotiations. And I
1981 was there for part of that because I was ambassador until shortly before Seattle. That was a
1982 difficult process. Even back at the time of the Geneva Ministerial meeting in 1998, you could see
1983 the distinction at that meeting that was made on the agenda was between implementation issues
1984 and what we called then “future work” which was a euphemism for new negotiations.

1985 By the way, in the run-up to the Singapore meeting, there was some discussion, which may in
1986 retrospect have been unfortunate, about the role of the Director-General in the system. One of the
1987 places where this issue comes to a head is in the context of ministerial meetings. What is the role
1988 of the Secretariat and the Director-General at a ministerial meeting? When we got to Singapore,
1989 for the very first Ministerial Conference, we had a meeting of senior officials from key countries
1990 with the senior officials from Singapore. And they said that their idea was that Ruggiero should
1991 have no real role in the Ministerial Conference. Everybody else told them they didn’t want it
1992 done that way. It was one of the few occasions I’d seen such unanimity. Ruggiero may have been
1993 partly responsible here because he insisted on seeking clarity on the role of the Director-General,
1994 whereas it might have been more effective just to exercise it.

1995 **Plank-Brumback:** What was their thinking?

1996 **Weekes:** I can’t remember. I honestly don’t know. We really didn’t get into that. I forget what
1997 words they used—this again is how many years ago now? This was over ten years ago. But, also
1998 in the preparation for that meeting, there was a lot of discussion about what role the Director-
1999 General should have. We thought that Ruggiero should play a major role in the preparation for
2000 this conference by, for instance, chairing a preparatory process. And, Swiss Ambassador William

2001 Rossier,¹⁰⁸ who was the Chair of the General Council, felt that the General Council Chair should
 2002 be the one to do this, with Ruggiero assisting him. Later I was chair of the General Council in the
 2003 run-up to the 1998 Ministerial Conference, which took place in Geneva. That time I helped
 2004 secure a more active role for Director-General Ruggiero. The members agreed in the General
 2005 Council to ask him to chair the preparatory process for the Ministerial Conference.

2006 Let me describe some of the more interesting aspects of that preparatory process. I urged
 2007 members not to over-prepare for this meeting because in the WTO that can complicate matters.
 2008 The Ministerial Conference was scheduled for May 1998. This was MC2. If I recall correctly, we
 2009 didn't start active preparations until the beginning of 1998, and that worked quite well. Early on
 2010 members decided on the purpose of the meeting and how it should be structured. There were
 2011 actually two separate meetings which were planned for those dates in May. There would be a
 2012 regular meeting of the Ministerial Conference and there would also be a separate event to
 2013 commemorate the fiftieth anniversary of the multilateral trading system at which about a dozen
 2014 members decided to be represented by their heads of government. Other members were
 2015 represented by ministers or senior officials. It was decided that the Ministerial Conference would
 2016 be treated as a working meeting—as an opportunity for ministers to address WTO issues of
 2017 concern to them while still leaving time for bilateral meetings among ministers. We wanted to
 2018 avoid a meeting on which the focus was on major outcomes and that would almost inevitably
 2019 result in the need for a relatively small group of ministers to meet in camera to try to broker an

¹⁰⁸ William Rossier was Ambassador and Permanent Representative of Switzerland to the GATT and then to the WTO from 1988 to 2000. He was Secretary-General of the European Free Trade Association (EFTA) from Sept. 1, 2000 to Aug. 31, 2006. Previously he served as Swiss diplomatic secretary to the Conference on Security and Cooperation in Europe (1972–1973), deputy head of foreign economic affairs (1973–1976), and Counsellor at the Swiss Mission to the European Communities (1976–1980). Rossier headed the division dealing with relations with Eastern Europe and the People's Republic of China and then the division dealing with Western Europe in the Swiss Federal Department of Economic Affairs (1981–1988).

2020 agreed declaration by focusing on a relatively small set of contentious issues. This would of
2021 course limit what was discussed at the meeting and exclude at least half of the WTO membership
2022 from participating in the key meetings. To encourage real discussion among all ministers it was
2023 decided to structure most of the time of the Ministerial Conference into two working sessions:
2024 one devoted to questions of implementation, and the second to future work (which for some
2025 would include their wish to move towards a new round of negotiations).

2026 And then, towards the end of the preparatory process, we got to the point where inevitably there
2027 were points of disagreement in the declaration. On the final weekend, before the Ministerial
2028 Conference began, we were scheduled to have a meeting that would be chaired by Ruggiero on
2029 the Friday afternoon. I usually sat beside Ruggiero for these meetings when he would be
2030 presiding. This meeting was an opportunity to see whether we might be able to reach agreement
2031 on the declaration before the ministers arrived in town. We hadn't called it a declaration at that
2032 point; we were working on a "document." About fifteen minutes before the meeting, Evan
2033 Rogerson,¹⁰⁹ who was the director of the division that serviced ministerial conferences and the
2034 General Council, phoned me and said, "John, you know that meeting you're coming to in fifteen
2035 minutes? You're going to be chairing it, because the Director-General has had to go to the
2036 hospital." He had been in Egypt and was suffering from rather acute intestinal problems. It
2037 wasn't life threatening, but he was in the hospital. So, I chaired the meeting. Things did not start
2038 well. Everybody seemed to be positioning their delegations for the ministerial meeting rather

¹⁰⁹ Evan Rogerson, of New Zealand nationality, began his career at the New Zealand's Ministry of Foreign Affairs focusing on trade relations with the EU. He joined the Agriculture Division of the GATT Secretariat in 1986, then moved to the office of the GATT Director-General in 1993, becoming Chief of Staff to WTO Director-General Renato Ruggiero from 1995 to 1999. Rogerson subsequently headed the WTO Council and Trade Negotiations Committee (TNC) Division, where he was Secretary of the Ministerial Conference, the General Council, the TNC and the Dispute Settlement Body. He served as Director of the Agriculture and Commodities Division from 2012 until his retirement from the WTO Secretariat in 2017. Rogerson is an Adjunct Senior Fellow at the S. Rajaratnam School of International Studies in Singapore and coordinator of the Singapore Trade Policy Forum.

2039 than trying to reach agreement. I listened to the interventions for an hour, and it was clear to me
2040 that positions were moving apart, not getting closer together. Then, at about five o'clock, as chair
2041 I said, "Well, listening to this discussion, it's pretty clear to me that we're not going to reach
2042 agreement on this document before the ministers arrive in town. But before making a definitive
2043 conclusion on this, I'd like to conduct some consultations to see if that's really the case and,
2044 therefore, I'd like to adjourn this meeting-and come back tomorrow afternoon at three o'clock."
2045 And some people, like Alejandro de la Peña, who was the Mexican ambassador, looked very
2046 disappointed. He had his sleeves rolled up; he was all set to go for an all-nighter. And he came
2047 up to me and said, "What's happening? What's happening?" I said, "Frankly I think we should
2048 give people tonight to think, but I'm going to call a meeting for tomorrow morning in the
2049 Director-General's boardroom at nine o'clock, and we will see where we stand." I sat down with
2050 Evan Rogerson, and we made up a list of whom to invite and the Secretariat was able to get in
2051 touch with everyone on the list, all of whom accepted the invitation and showed up on Saturday
2052 morning. We started to make real progress on these difficult issues.

2053 By the way, numerous anti-globalization demonstrators had converged on Geneva. Many streets
2054 around the WTO were blocked off, and tear gas was in the air, and huge wire mesh nets held
2055 back protestors, and troops patrolled the streets. The official car of the ambassador of Jamaica
2056 was overturned and burned where he had parked it nearby the WTO. It was a foretaste of Seattle.

2057 But, returning to the meeting and to make a long story short, we went back to the full meeting in
2058 the afternoon, and adjourned for a brief supper and then went on until about 1:00 a.m. At that
2059 point we had been discussing for over an hour the still unresolved issue of the relationship
2060 between "development" and "sustainable development." I then said, "We're not going to make
2061 any further progress on this tonight. Let's put this to one side. I propose that we adjourn, and I

2062 am going to hold a meeting tomorrow morning in the Director General's boardroom at eleven
2063 o'clock." And I said, "That meeting will be open to any delegation. But I'll say two things. First,
2064 the only thing that we're going to discuss at that meeting is the issue we've been discussing for
2065 the last two hours about the relationship between development and sustainable development." It
2066 was the only issue still outstanding. "If we get on to anything else, I'll suspend the meeting and
2067 we'll resume the meeting of the General Council." So, the next morning, there were fewer people
2068 at that meeting that was open than there had been the day before at the one to which we had
2069 invited people. And there was at least one major delegation which decided not to attend.
2070 Mauritius did attend. Their ambassador told me, "We've never been to a restricted meeting in the
2071 Director-General's boardroom. We wanted to see what it was like, what goes on."

2072 We did reach agreement, and later that afternoon we went back into a full session of the General
2073 Council. And we had a consensus to recommend a particular document to ministers. I was then
2074 able to propose that our document be called "the Geneva Declaration."¹¹⁰ There were no
2075 objections. That was the only time in my GATT/WTO experience that agreement was reached on
2076 a declaration before the start of a ministerial meeting.

2077 In trying to persuade my colleagues from WTO members to reach an agreement I made a pitch
2078 along the following lines: "Look, this is not a meeting at which we're deciding to launch a new
2079 negotiation. This is a meeting in which we want to have a good discussion among ministers. We
2080 don't want this to be a meeting at which a number of ministers are locked up in a room trying to
2081 work out a declaration while the others are cooling their heels in the hall. Let's try and have a
2082 meeting that's open to the whole membership, and where we can actually have two business-

¹¹⁰ WTO Ministerial Conference Second Session Geneva: Ministerial Declaration adopted on May 20, 1998, WT/MIN(98)/DEC/1, https://www.wto.org/english/thewto_e/minist_e/min98_e/mindec_e.htm.

2083 oriented discussions as we have envisaged in the actual meetings.” Aside from the fiftieth
2084 anniversary celebrations, there was a day and a half of meetings. That worked very well. At the
2085 two working sessions—one on implementation issues and one on future work—everybody was
2086 able to speak, and there were a lot of good bilateral meetings on the side. We showed at MC2
2087 that sometimes holding an ordinary meeting in the WTO might be a good idea — not trying to
2088 get too much out of it.

2089 **Plank-Brumback:** You still had the so-called “Singapore issues”¹¹¹ on the table?

2090 **Weekes:** Yes. Oh, yes. Of course, those were agreed in Singapore—I was there. That was a
2091 difficult meeting. I have a lot of thoughts, as a result of my experiences in the GATT and the
2092 WTO on the role of ministers in reaching agreements.

2093 **Plank-Brumback:** You know, what you’ve been saying in the last couple of minutes makes me
2094 think of the lack of serious business-oriented policy discussions: the role of the DG, and the
2095 ministers, the trade policy review not quite filling the bill. But in the course of its history, from
2096 time to time, you’ve had outside, eminent “wise men” commissioned to take a systemic look at
2097 where things are going. I remember the Leutwiler Report,¹¹² which was heavily criticized
2098 because it came out with some recommendations that some governments didn’t find acceptable,
2099 so it’s hard to find the right—

¹¹¹ The “Singapore issues” refer to the four issues introduced to the Doha Development Agenda at the December 1996 WTO Ministerial Conference in Singapore: trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation.

¹¹² “Trade Policies for a Better Future,” <https://docs.wto.org/gattdocs/q/GG/GATTFOCUS/33.pdf>.

2100 **Weekes:** Although I think it did provide a lot of—it was an important intellectual contribution to
2101 the Uruguay Round. I think that was useful. And then of course we had the Sutherland Report,¹¹³
2102 commissioned by Supachai,¹¹⁴ another very good report. Frankly, I had occasion a couple of
2103 years ago to do a bit of thinking about the Sutherland Report. I went back and looked at it. I was
2104 thinking about the context. On reflection I think it was ill advised to come out with that report at
2105 that time. To give him credit, I suppose Supachai felt that maybe the Doha Round would have
2106 been over when the report came out. So, the recommendations would have given a new sort of
2107 impetus to how the institution could go forward. But to me, looking at the recommendations in
2108 that report, the time to have had that report would have been before a ministerial declaration
2109 launching a round because there are a lot of important things, systemic and others, that could be
2110 followed up from that report. It's a very valuable report with good recommendations. But
2111 unfortunately, it arrived in the middle of a big negotiation when the negotiating mandate had
2112 already been fixed. And the report more or less disappeared. I think they had a couple of

¹¹³ Peter Denis Sutherland KCMG served as the Attorney General of Ireland from 1981 to 1984. He was the European Commissioner responsible for Competition Policy as well as Social Affairs, Education and Relations with the European Parliament from 1985 to 1989. During the period from 1989 to 1993, he was Chairman of Allied Irish Banks. Sutherland served as the last GATT Director-General on July 1, 1993, helping steer the Uruguay Round to conclusion, and became the first Director-General of the World Trade Organization on Jan. 1, 1995. After leaving Geneva, he was non-executive Chairman of Goldman Sachs International and BP in the period 1995–2015. He served as UN Special Representative for International Migration from 2006 to 2017. At the request of then-WTO Director-General Supachai Panitchpakdi, Sutherland chaired a Consultative Board that undertook a report on “The Future of the WTO: Addressing institutional challenges in the new millennium,” the so-called Sutherland Report in 2005. See https://www.wto.org/english/thewto_e/10anniv_e/future_wto_e.pdf. Sutherland also co-authored a report entitled “The Doha Round: Setting a deadline, defining a final deal,” which was commissioned by the heads of government of Britain, Germany, Turkey, and Indonesia in 2011. See <https://voxeu.org/sites/default/files/file/doha-round-setting-deadline-defining-final-deal-interim-report-jan-2011.pdf>. Sutherland died on Jan. 7, 2018. See https://www.wto.org/english/thewto_e/dg_e/ps_e.htm.

¹¹⁴ Supachai Panitchpakdi, Thai Democrat politician, was WTO Director-General from Sept. 1, 2002 to Sept. 1, 2005. Previously he worked at the Bank of Thailand from 1974 to 1986. In 1986, he was elected as a member of the Thai parliament and served as Deputy Finance Minister until 1988. From 1998 to 1992 Supachai was President of the Thai Military Bank. He was appointed Senator in 1992 and Deputy Prime Minister responsible for economic and trade policy, serving until 1995. He served again as Deputy Prime Minister and Minister of Commerce from Nov. 14, 1997 to Nov. 9, 2002. Following his tenure at the WTO, he served as Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) from Sept. 1, 2005 to Aug. 31, 2013. See https://www.wto.org/english/thewto_e/dg_e/sp_e.htm.

2113 meetings to talk about it, but it didn't lead to anything. I've watched this from my vantage point
2114 in Geneva as kibitzer and advisor on various issues to the private sector, and some governments.

2115 Another thing we did in 1998, of course, was to agree on the declaration on electronic
2116 commerce, the declaration that provided that there be no taxes on electronic commerce.¹¹⁵ And
2117 that was, I remember, in the middle of the ministerial meeting. We went back and had a meeting
2118 of the General Council, at which we had a final discussion of the proposal and reached
2119 agreement on that separate declaration, which then went forward and was agreed by ministers at
2120 MC2.

2121 **Plank-Brumback:** Were you involved in the post-Uruguay Round negotiations on financial
2122 services and telecoms?

2123 **Weekes:** Yes, I was the Canadian ambassador at that time.

2124 **Plank-Brumback:** Were they good negotiations?

2125 **Weekes:** Yes, they were. It's interesting. When I first got to Geneva, in the late summer of 1995,
2126 those negotiations were technically going on. And people were coming from capitals to meetings
2127 every few months. But, if you went back to Ottawa, and talked to people at a senior level, they
2128 didn't know these negotiations were going on. And course, the issues involved in the
2129 negotiations, both of them—probably more so for Canada, on the telecommunications issues—
2130 involved decisions that would have to be taken at a very senior level. It would require legislative
2131 changes, cabinet consideration, and so on. So they weren't things that were going to be done by a
2132 delegation led by the director of some division. There were negotiations going on only in a

¹¹⁵ The Geneva Ministerial Declaration on Global Electronic Commerce, WT/MIN(98), adopted on May 20, 1998, https://www.wto.org/english/tratop_e/ecom_e/mindec1_e.htm.

2133 perfunctory sort of way. This was another one of those striking disconnects. What do you need to
2134 make a negotiation work? You need political involvement. I happen to believe, on the basis of
2135 my experience, that political involvement normally means that you've gone to ministers; it's
2136 been discussed thoroughly with ministers; you have a proper mandate to be able to conduct that
2137 negotiation, but normally the negotiation will be done by officials rather than ministers. It's also
2138 important to let ministers interact with each other on these issues on occasion. Whether the
2139 ministers want to spend the time necessary to get into the matter in sufficient detail to really
2140 negotiate something out is a very good question. It's both a question of aptitude (maybe for some
2141 of them, too, they don't have the background) and comparative advantage. It's not something
2142 most ministers want to spend their time on; they don't have the inclination to do it; they could do
2143 it, but they don't really want to spend their time that way.

2144 **Plank-Brumback:** Was that when the ministers at an OECD meeting were trying to figure out
2145 how you convert specific duties into *ad valorem*?

2146 **Weekes:** Exactly. Tim Grosser described that to me. I think that's a very good example.
2147 Somebody from the Alberta government asked me the other day—on a conference call with the
2148 province of Alberta and a group of agriculture producers in Canada, “What's the difference
2149 between this meeting of ministers at the end of July in Geneva, and the Hong Kong ministerial
2150 meeting that happened in 2006?” And I said, “Well, first of all, of course, this isn't a Ministerial
2151 Conference. This is going to be a meeting with a number of ministers so that any decisions will
2152 be taken by the Trade Negotiations Committee or General Council with a certain number of
2153 ministers participating or having participated in the Green Room process beforehand. But the
2154 most important difference is that we've now had a lot more preparation. Senior officials from
2155 capitals have been working in Geneva almost constantly since last September, on an agriculture

2156 text. In addition over the last month, you had a very intensive process from key countries on the
2157 NAMA front.¹¹⁶ The difference is that you’ve actually narrowed down the range of issues, and
2158 the key officials who will advise ministers on the issues have a very good sense of where the
2159 differences are, and where the possible ground for compromise is.”

2160 When ministers came to Hong Kong in 2006, there was none of that. That was when Lamy was
2161 hoping that a process of the G4 dynamic, in which he, as EU Commissioner, had participated,
2162 when he, Bob Zoellick,¹¹⁷ and Celso Amorim¹¹⁸ really could carry that kind of discussion. He
2163 thought that would be the way to do it. Get agreement among those four and then broaden it out
2164 to include other countries. But it didn’t work, at least in part because it’s very hard to get
2165 ministers to engage in that kind of technical discussion. They’ve got other duties and
2166 responsibilities in most governments—not like the US Trade Representative or the
2167 Commissioner for External Trade Relations in the EU. Also, ministers are under intense press
2168 scrutiny all the time they’re there. They’re expected every two minutes to make a statement
2169 about how they’re doing. Well, that’s not conducive to the hard slogging that’s needed to reach

¹¹⁶ The negotiations on market access for goods in the Doha Round were divided into two major components: the negotiations on Agriculture and those on everything else defined as non-agricultural market access or NAMA. Separate negotiating groups were established for each. In 2008 Crawford Falconer, the ambassador of New Zealand, chaired the Negotiating Group on Agriculture, while Don Stephenson, the Canadian ambassador, chaired the Negotiating Group on NAMA. —Weekes

¹¹⁷ Robert Bruce Zoellick was United States Trade Representative from Feb. 7, 2001 to Feb. 22, 2005 and US Deputy Secretary of State from Feb. 23, 2005 to June 19, 2006, under President George W. Bush. Zoellick served as President of the World Bank Group from July 1, 2007 to July 1, 2012. Prior in the administration of President George H.W. Bush, Zoellick was Counsellor at the US Department of State (March 2, 1989–Aug. 23, 1992), Undersecretary of State for Economic and Agricultural Affairs (May 20–Aug. 23, 1992), including serving as Sherpa in the G7 Economic Summits in 1991 and 1992, and White House Deputy Chief of Staff (Aug. 23, 1992–Jan. 20, 1993). He has been a Senior Fellow at the Harvard Kennedy School since 2012 and serves on numerous boards of private and public institutions, including the Peterson Institute of International Economics, the Carnegie Endowment for International Peace, the Inter-American Dialogue, and the Council on Foreign Relations.

¹¹⁸ Celso Luiz Nunes Amorim was Brazil’s Minister of Foreign Affairs from July 20, 1993 to Dec. 31, 1994 under President Itamar Cautiero Franco, and again from Jan. 1, 2003 to Dec. 31, 2010 under President Luiz Inácio Lula da Silva. He served as Minister of Defense from Aug. 4, 2011 to Dec. 31, 2014 under President Dilma Vana Rousseff. Amorim then became the elected Chair of the Executive Board of UNITAID, a global health agency, from June 2016 to 2018. On Jan. 5, 2023, Amorim was appointed as Chief Advisor of the Presidency by President Lula. Previously Amorim served as Brazil’s Ambassador to the United Nations in Geneva and to the United Kingdom.

2170 an agreement. On the other hand, you can't have anybody negotiating on behalf of a government
2171 if you don't have political involvement. So, I strongly believe this is an area where the WTO
2172 could be more effective. WTO members really have to think this through. There needs to be an
2173 understanding of how to make the role of ministerial involvement really effective and how to
2174 ensure that the necessary political direction can be successfully injected into the negotiations.
2175 This is badly needed and critical to the prospects of success. Part of the problem in the Doha
2176 Round has been that there are not very many people in this negotiation at the senior level, who
2177 were actually in the Uruguay Round, so you don't have a lot of people who have really been
2178 through it before. They don't really know or didn't know until they started getting into this
2179 process more recently, what would be necessary to do to bring about a result.

2180 **Plank-Brumback:** Did you want to comment on your chairmanship of the Committee on
2181 Regional Trade Agreements [CRTA]? We touched on the Understanding on Article XXIV last
2182 time.

2183 **Weekes:** When I arrived in Geneva as ambassador in 1995, efforts were underway already to try
2184 and provide greater transparency on regional trade agreements.

2185 **Plank-Brumback:** And true review.

2186 **Weekes:** Ruggiero was extremely frustrated by the inability to move this file forward. Gary
2187 Sampson,¹¹⁹ the director of the Regional Trade Agreements Division, was having difficulty

¹¹⁹ Gary P. Sampson, Australian economist, was recruited from UNCTAD by the GATT Secretariat in August 1987. At UNCTAD he had introduced the concept of "modes of delivery" as a means for negotiating liberalization of services trade. He was appointed Director of the GATT Trade in Services Division, a post he held for much of the Uruguay Round. He later directed the GATT Regional Trade Agreements Division, the Development Division, and the Trade and Environment Division. For some years he held responsibility for WTO relations with the World Bank and IMF. From 2002 to March 2005, he served as Senior Counsellor in the Office of WTO Director-General. Since January 2002, Sampson has been the John Gough Professor in the Practice of International Trade at the Melbourne

2188 finding individuals to chair the working groups needed to review the many new FTAs which had
2189 been concluded among WTO members. Gary was determined and worked hard and creatively
2190 behind the scenes trying to find a way forward. I remember when I went to one of the WTO
2191 meetings where this matter was discussed, I found the situation quite depressing. Then Gary
2192 Sampson, who knew me from the Uruguay Round, approached me and said, “What this issue
2193 needs is a champion at the ambassadorial level! Someone to take it up and get behind it. Are you
2194 interested in trying to make this work?” I rose to the bait because I thought it was important, and
2195 I thought also that I had real experience on both sides of the street on this so to speak—as
2196 NAFTA chief negotiator and as the ambassador to GATT during the Uruguay Round. I got
2197 involved. Canada got involved in trying to broker what would be in an agreement that would
2198 create a committee to look at these issues. We needed to find an approach that would provide for
2199 proper reviews of regional agreements and also allow serious consideration of the systemic
2200 effects of regional agreements on the multilateral trading system as embodied in the WTO. We
2201 tried to establish a committee (I forget exactly the detailed words of the terms of reference).¹²⁰ In
2202 a few weeks, working closely with Gary and other WTO members, we were able to find a way to
2203 create the committee. I remember Gary Sampson told me that he met with Ruggiero afterwards,
2204 who said, “It is a miracle! It is a miracle!” Well, as Gary and I knew, this was the normal way
2205 you tried to make things happen in the GATT or the WTO. You put forward an idea or a
2206 proposal, you talk to people, you take account of their concerns, suggestions, and then come

Business School, Melbourne University. He also held the Chair in International Economic Governance at the Institute of Advanced Studies at the United Nations University in Tokyo.

¹²⁰ Committee on Regional Trade Agreements – Decision of 6 February 1996, WT/L/127 <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/L/127.pdf&Open=True>. The terms of reference of the committee included carrying out the examination of regional trade agreements and developing procedures to facilitate and improve the examination process. The committee could also make recommendations on “how the required reporting on the operation of regional trade agreements should be carried out” as well as on “the systemic implications of such agreements and regional initiatives for the multilateral trading system and the relationship between them.”

2207 back with something that's closer to what might work. It was a process that worked! A bottom-
2208 up process in a member-driven organization.

2209 I was asked to be the first chair, and I was chair for about a year and a half before I went on to be
2210 chair of the General Council. We tried working our way through a whole series of issues. I think
2211 we came pretty close to taking some decisions that might actually have helped. And the
2212 momentum sort of went out of the efforts. And then I went off to the General Council, and we
2213 never really—

2214 **Plank-Brumback:** Strengthening the role of the Secretariat?

2215 **Weekes:** It's a long time since I've thought about the CRTA. I saw it as something that could
2216 have been quite creative, but it really turned out to be a bit of a missed opportunity in terms of
2217 the role of that committee. Now of course Guillermo Valles,¹²¹ the Chairman of the Rules
2218 Negotiating Group, has developed this review process or reporting process (or whatever it is)
2219 that has actually been provisionally implemented, which I guess is the first result of the Doha
2220 negotiations. So that all flows from the same set of efforts, and he should be congratulated for
2221 the achievement.

2222 **Plank-Brumback:** Well, things eventually move; they move like a glacier. Although if it's not
2223 agreed to at a certain point—

¹²¹ Guillermo Valles Galmés was the Ambassador and Permanent Representative of Uruguay to the World Trade Organization from April 2004 to May 2010. He then served as Director for International Trade on Goods, Services and Commodities at UNCTAD from July 2011 to June 2017. He returned to the Uruguayan Ministry of Foreign Affairs as Ambassador-at-Large and Special Advisor in July 2017. He was Ambassador to Brazil from Sept. 2020 to May 2025. Prior to his posting in Geneva, he was Uruguay's first Ambassador to the People's Republic of China (Sept. 1989–April 1992), Ambassador to the European Union and Belgium (April 1996–March 2000), and Deputy Foreign Minister (March 2000–March 2004). In July 2025, he rejoined the Friends of Multilateralism Group of which he was a founding member.

2224 **Weekes:** When I joked earlier about decades, what's a decade? [laughter]

2225 **Plank-Brumback:** Well, if you take the long-term view—

2226 **Weekes:** If you do take the long-term view, go back and look at: where were we in 1947 and
2227 where are we now? Well, I was four in 1947. What's been achieved is enormous. And we're
2228 getting near the end of the time allotted for our interview.

2229 **Plank-Brumback:** Who would have thought that Saudi Arabia would have acceded? Do you
2230 have any thoughts about chairing that working party? It's been a long time.

2231 **Weekes:** Well, Saudi Arabia originally applied for membership in the GATT and then of course,
2232 that sort of passed them by. The original chair of that working party was Gerry Shannon, who
2233 was my predecessor as Canadian ambassador. When the Saudis wanted to kick-start their WTO
2234 accession, I was asked if I'd take on the job, and I said yes. I must say it wasn't immediately
2235 clear to me why Saudi Arabia wanted to join the WTO. I mean, their major export was oil. There
2236 weren't a lot of practical barriers to the export of oil that I was aware of.

2237 **Plank-Brumback:** Was it clearer to you at the end?

2238 **Weekes:** It became clearer to me quite quickly. I went to Saudi Arabia several times during that
2239 process. And I actually remained chair of the working party for a couple of years after I was no
2240 longer the Canadian ambassador; I was asked to stay on. They wanted to join the WTO because
2241 they were looking at the need to diversify the Saudi economy. And this related back to their
2242 national circumstances, which is always very important in trade policy. Something like half of
2243 Saudi Arabia's population was under fifteen. So the question was, what were all these people
2244 going to do when they grew up? There was a feeling that there needed to be more economic

2245 activity—secondary manufacturing, service industry, other things—you don’t need a lot of
2246 people to run a major oil exploration project or production project. That was the key motivating
2247 factor. Saudi Arabia’s always been a trading country, so in some ways they’ve been very open,
2248 and in other ways, they found some difficulty with thinking about how they would accommodate
2249 their system to the WTO provisions, and how they would respond to the requests that their
2250 partners were making of them in the accession negotiations.

2251 Then we arrived at a point at which the negotiations had come to a standstill. I forget which year
2252 this was now. Arif Hussain¹²² was the director (as he still is) of the accessions division. And he
2253 suggested that maybe we should consider talking to the Saudis about how to activate the
2254 negotiations, and then get a group of WTO members together to talk about what were the things
2255 that they thought the Saudis would need to do in order to accede. Perhaps we could develop a
2256 checklist of key points on which progress would be necessary. And the idea was that then I, with
2257 the Secretariat of course, should take this and go to Saudi Arabia and have a discussion with their
2258 negotiators and government ministers about how we saw the situation. And that is what we did.
2259 The Saudis then made some major changes in their approach to the negotiation and came back
2260 with much improved offers in terms of what they would be prepared to do. They changed their
2261 paradigm about how they looked at their accession negotiation. However, that still wasn’t

¹²² Arif Hussain, of Indian nationality, joined the GATT Secretariat in 1984. He was the Chief of Staff to GATT Director-General Arthur Dunkel from 1986 to 1993. From 1993 to 1995 Hussain served as Assistant Director-General, the head of the Textiles and Market Division, and the Coordinator of the Preparatory Committee for the Establishment of the WTO. He was the first Director of the WTO Accessions Division from 1995 until 2008. Prior, he served from 1978 as First Secretary at the Permanent Mission of India to the Office of the United Nations in Geneva during the Tokyo Round negotiations and dealt with textile matters at the GATT. He was then posted to the High Commission of India to Bangladesh in 1982. Upon his retirement from the WTO Secretariat in 2008, Hussain became a director and senior trade advisor at the International Trade Centre.

2262 enough to satisfy their partners, and then the negotiation went into hibernation for a few years.

2263 When negotiations finally resumed, the Saudis were really ready to make it work.

2264 **Plank-Brumback:** Had they changed their negotiation team?

2265 **Weekes:** In all the time I was involved in it, they had the same basic negotiator, Fawaz Al-

2266 Alamy¹²³ with the commerce ministry, and then later I think maybe he'd left because it looked

2267 like the thing had basically gone into the ground, and they brought him back to finish it off. It's a

2268 country in which power is clearly concentrated at the top, and important decisions are taken at a

2269 very high level. In the end you basically needed the approval of the Royal Council so in some

2270 ways that can be a cumbersome type of process. They certainly are WTO members now. I think

2271 the basic reason why they wanted to do it was because they realized that it was important in

2272 terms of their long-term economic interest and domestic reform.

2273 **Plank-Brumback:** Was the Israeli boycott an issue?

2274 **Weekes:** That was always an issue. That was something that was flagged at every working party

2275 meeting. But, you know, I was of the view that we would probably find a way to deal with that if

2276 we were getting close to reaching an agreement on the economic issues. And everybody knew at

2277 some point that that was going to have to be addressed somehow or another. So, it was—

2278 **Plank-Brumback:** We started this conversation talking a bit about the economic reasons why

2279 you would be a member of the GATT, and the more successful ones link it to domestic reform.

¹²³ Fawaz Al-Alamy was Deputy Minister of Commerce and Industry of the Kingdom of Saudi Arabia and the Chief Technical Trade Negotiator for the Kingdom's accession to the WTO. He is a member of the International Trade Experts Team of the WTO and a visiting professor in trade law at London City University. Al-Alamy serves as the chairman of The Northern Trust Company Saudi Arabia and sits on the boards of Saudi Transport & Investment Company (Mubarrad), Al-Bakri Holding Group, and Al-Fatah Water Security Company.

2280 **Weekes:** Right.

2281 **Plank-Brumback:** Even though opening up your markets is good for you, it is practiced
2282 politically through reciprocal negotiations and having to find the right balance.

2283 **Weekes:** Exactly.

2284 **Plank-Brumback:** Any words about how the Doha Round is going, and the view from the
2285 private sector?

2286 **Weekes:** Well, we did talk a little bit about Doha and the role of ministerials. I think in a certain
2287 sense that people are right who say maybe we started the Doha Round prematurely. It was started
2288 on the rebound from 9/11. It hadn't been thought through clearly in the private sector ahead of
2289 time as to what the objectives should be. Although I don't accept that there's no private sector
2290 interest or support. There is. I know there is. We're working for people who are paying us money
2291 to advise them on what they might advocate for and how to promote those objectives in Geneva.
2292 Maybe there's been less interest at the CEO level than there was in the Uruguay Round. The
2293 objective of bringing services into the GATT and providing better protections for intellectual
2294 property captured senior level attention in companies. But there have been senior level people in
2295 the private sector who have been interested in what can be achieved in the Doha Round. It's been
2296 hard explaining to business what this Doha negotiation is about. First of all, agriculture is central.
2297 Well, you know, most people in the United States aren't agriculture producers; that's not where
2298 the American economy is, or the Canadian economy, or the European economy, for that matter.
2299 Politically, it's still significant but it can't carry the round on its back. And then the notion that
2300 it's taking so long, that's a problem. The Doha Round is in its eighth year. The NAFTA took
2301 fourteen months. And now there is the problem of trying to determine the practical value of

2302 binding the current level of application of measures at the border, or domestic subsidies in
2303 agriculture—even if there is no improvement in the current actual levels. The issue is that there
2304 might be no improvement in the conditions faced by a particular business beyond making sure
2305 that countries won't reduce access or increase subsidies where they have not previously
2306 committed not to do so. The term used to describe the difference between the bound rate of a
2307 tariff and the applied rate is "water." The same term is used to describe the difference between
2308 the level of subsidization that countries have agreed not to exceed and the current level which is
2309 often much lower. In a sense, we're looking at the "water round." I happen to believe that getting
2310 that much water out of the system—whether it's in the gap between applied rates and bound rates
2311 in the tariff area or whether it's in the gap between actual subsidies and the bound level at which
2312 subsidies can be maintained—I think that there can be major value in reducing that. And that's
2313 potentially all on the table right now. I think too many people have discounted what value you
2314 would get out of that. But there's more than that on the table, a lot more than that on the table
2315 also.

2316 To me, the choice that people have to make now, this month, is really about whether they want to
2317 go ahead with the kind of emerging deal that can be seen on the table, and conclude the round,
2318 probably sometime next year, or the following year. It's not going to be finished this year. The
2319 shape of the outcome could be clear this year but that would still leave a lot of detail to work
2320 through.

2321 **Plank-Brumback:** Do you think an agreement on modalities is possible?

2322 **Weekes:** Yes. Yes, although it may not happen, but I think it's possible. I think Lamy the other
2323 day was saying that the odds are fifty-fifty, and with more hard work over the next couple of

2324 weeks that they'll go up to 75 percent. Well, I think he may well be right. I wouldn't dispute that,
2325 although I have never liked to cite odds on these things. There's a realistic chance of making it
2326 work; there's also a realistic possibility of it not working, in which case we're looking at a much
2327 longer timeframe for a lot of reasons we don't have time to go into right now. So, people really
2328 need to think whether they are happy staying with the rules and tariff rate bindings, and domestic
2329 support, and export subsidy provisions, as they were negotiated at the end of 1993. Or would
2330 they rather take what's on the table now and then start thinking about, when do you want to
2331 come back and have a further negotiation to go further? Now, if they let this opportunity slip by,
2332 if this goes into the ground when leaders consider later whether to revive it, I suspect they might
2333 well say, maybe the Doha Declaration is no longer the right basis for this negotiation. I've told
2334 people, I think we're looking at either doing it now, or it's going to be 2020. And are people
2335 happy with keeping the 1993 outcome as the current level of trade discipline? You've heard a lot
2336 of dissatisfaction in agriculture negotiations, for instance, about the fact that many countries only
2337 agreed to the deal in the Uruguay Round when they were promised that new agriculture
2338 negotiations to continue the reform process would begin within five years. Would people rather
2339 keep the partial deal until 2020, more than a quarter of a century after the Uruguay Round deal
2340 was struck? Or would they rather take what's there now, which is a pretty big improvement on
2341 the status quo, and then go for more subsequently? It's very hard for people to understand what's
2342 on the table now and what it means for them.

2343 **Plank-Brumback:** Well, yes, it is very complex and dense. Do you get the sense that they're
2344 negotiating on the basis of a template, however, that was really defined in the last round, in the
2345 last war? Events keep changing, too, as you try to make it a comprehensive negotiation.

2346 **Weekes:** Well, there's some element of that. The other question here that people have to ask, in
2347 retrospect, was it a good idea to agree to pursue this interim step of negotiating modalities—
2348 which was really a reaction to what happened mainly in agriculture in the Uruguay Round—
2349 where people consider that things didn't turn out in the schedules the way they thought it had
2350 been agreed they would. The view was, we've got to make it all much more precise and specific.
2351 Was it necessary to pursue this interim step in modalities? Well, you know there's still going to
2352 be some "cheating." There may be less scope; you will be able to see very clearly what the
2353 package should be like in these areas. You still won't know where all the flexibilities are going
2354 to be used. Negotiators have talked about where they're going to be used. You may think you
2355 know where they're going to be used. I doubt if the US administration would be prepared to say
2356 exactly where they're going to use their agricultural flexibilities before the election this
2357 November.

2358 Of course, by waiting until the end of July [2008] to agree on modalities, it is now inconceivable
2359 that you could have the tabling of draft schedules at a date earlier than November 30, which gets
2360 you past the US election, which may be a good thing. That will also be when you start looking at
2361 final draft agreements on rules and draft schedules on services—it's a better environment for
2362 looking at it than pre-election. Of course, it still won't be finished. I think the earliest at which
2363 this negotiation can be finished is the end of next year [2009].

2364 **Plank-Brumback:** And you still don't have Fast Track.

2365 **Weekes:** No, but I don't know how big a problem that will prove to be. It may well depend in
2366 part on what the agreement looks like. Is there more?

2367 **Plank-Brumback:** Is there anything that—as imperfect an interviewer as I am—that I should
2368 have asked you? Reflections from what it’s like being in government? Being in the private
2369 sector? Looking at these issues—

2370 **Weekes:** Ah, that is interesting, because the issues to be dealt with are basically the same—that’s
2371 one of the things I’ve found particularly interesting when I moved from being a government
2372 negotiator to being an adviser to the private sector. I’m enjoying working with private sector
2373 interests and talking to them about advocacy work they might undertake; helping them interpret
2374 what the agreements might mean for them.

2375 **Plank-Brumback:** Do you find them taking the long view?

2376 **Weekes:** I suppose what I would have to say is yes, because the people we’re working with are
2377 probably the ones who are taking the long view. But we’re not working with everybody. So,
2378 there are some people who have probably already discounted the potential value. I’ll say
2379 something else, too. This is an important observation. To a large extent, individual American
2380 businesses—and particularly global companies—are the ones who seem to be the most active in
2381 seeking to get engaged in talking with other delegations in Geneva, and working on what the
2382 outcome should be with their governments. European business is doing this differently; it’s more
2383 through very broad trade associations and the kind of, could I say, cumbersome machinery that
2384 has been set up within the European Communities and the GATT/WTO for consulting with the
2385 private sector. And yet it is interesting because American businesses are starting to look at their
2386 role as going beyond having a relationship with their own government, which is usually the
2387 American government, although some of the companies we’re working with, for instance, in the
2388 NFTC [National Foreign Trade Council] project on the Doha Round are American companies

2389 like Toyota, or Daimler-Chrysler. I think it's partly because of the way the policy process works
2390 in the United States, where there is a lot of direct private sector involvement legally mandated, so
2391 there are lots of opportunities for trying to influence policy. Therefore, part of what they want is
2392 more knowledge about how to do that, about what's going on in Geneva. But they also want to
2393 have their own direct relationships with other governments and have met with a lot of different
2394 ambassadors in Geneva to talk about the issues in the negotiation that they would like to see
2395 pursued. In some instances, they get a more positive reception for the changes they would like to
2396 see in the system from other governments than they do from the United States government.
2397 There are opportunities there, too. Their interests are not synonymous with those of the United
2398 States. Well, you might ask, why do these people hire Sidley Austin? Or why did they hire
2399 APCO when I was there? Why do they hire us to help set up visits for them in Geneva? Why
2400 don't they just go to the US government and say, "Why don't you help with this and pay for it
2401 out of our taxes?" I think it's because they want to show that they are taking an interest in the
2402 negotiation as global citizens, as international businesses going beyond their own individual
2403 home-based government context. That's potentially a development which could have quite far-
2404 reaching implications as we move down the road. It's been fun working with them on this.
2405 They've been interested in engaging with other countries in Geneva, other country delegations. I
2406 wondered what kind of reaction I would get when I asked some of my old friends if they'd agree
2407 to meet with X? They're interested by and large. We're now doing more of this sort of work also
2408 in the World Health Organization area. Delegates are very interested in meeting with people
2409 from the private sector. They represent real interests that lie behind the positions of their
2410 governments. It provides a dose of reality. These are real actors who have a big stake in the
2411 system and how it is being designed. When negotiators meet with the private sector, they may

2412 get new insights into why the US government (or some other government) is taking a particular
2413 position.

2414 **Plank-Brumback:** We'll see some potential for job creation in our country.

2415 **Weekes:** Yes. And they also get something else when some of these business groups come to
2416 town. The businesspeople are prepared to talk about how they see the US political situation, and
2417 what they're doing in Washington to try to influence government policy. And that's interesting
2418 and valuable for representatives of other countries to hear and understand.

2419 **Plank-Brumback:** Some reflections on your old home base. When we started this conversation,
2420 we were discussing your involvement in the Quad meetings. And now the world of Canada, as a
2421 player, has sort of shifted. You're no longer among the G5, G6, G4.

2422 **Weekes:** I would say that the political management of the international economic and trade
2423 system is in a bit of a state of flux. It is true, the old Quad—I don't think there's been a Quad
2424 ministerial meeting since before Seattle. But there's still a lot of old Quad work going on at the
2425 senior official level on issues like services and intellectual property, and certain other matters,
2426 which I think is quite important. The new Quad, if you want to call it that—the G4 of Brazil,
2427 India, the US, EU—I don't see as being sustainable, because China's not in it.

2428 **Plank-Brumback:** You have Australia and Japan.

2429 **Weekes:** Yes, in the G6. But Australia's there largely because of the Cairns Group. You now
2430 have got the G-12. Canada's still in the Cairns Group. I don't represent Canada anymore. I think
2431 you need a larger group now to try to broker outcomes. The G-12, for instance—I forget exactly
2432 who is in it—this group that's been trying to negotiate a solution for NAMA, for instance, China,

2433 India, Brazil, Canada, US, Japan, EU and a few others from ASEAN [Association of Southeast
2434 Asian Nations]. I think it's more realistic to think of doing it that way. Certainly, the power of
2435 China—the economic clout of China—that's been the biggest change in Geneva. They've been
2436 slow to engage in how the negotiations would start, or how they should be engaging. But I think
2437 when the time comes, they'll be prepared to make a significant contribution. I have always
2438 thought—and I have said this even in China in speeches for the last few years—I think that
2439 perhaps these negotiations are more important for China than for any other major country. I think
2440 the reason is, this goes back to what we were talking about earlier in our conversation: economic
2441 reform. The process of China joining the WTO was entwined with their economic reform
2442 process domestically, and with the domestic debate in China about to what extent should they
2443 modernize, liberalize, and to what extent those reforms should be incorporated in WTO
2444 obligations. I think if this round fails, that for China it would be a setback for the reformers
2445 domestically and would strengthen the hand of the conservatives.

2446 **Plank-Brumback:** You mean it would be a bad signal.

2447 **Weekes:** Yes, that could have repercussions that would go beyond some of the other ones.

2448 **Plank-Brumback:** Protectionist.

2449 **Weekes:** I was part of the ABCDoha coalition¹²⁴ delegation that visited Geneva about two
2450 months ago. We had a meeting with the Chinese ambassador, and there were a lot of very
2451 specific questions that people were asking. I don't think anybody was terribly satisfied with what

¹²⁴ The American Business Coalition for Doha (ABCDoha) represented a wide range of leading American businesses in the services, agriculture, and industrial products sectors during the Doha Round of WTO negotiations. It was particularly active in 2008. The National Foreign Trade Council, with which John Weekes worked closely for several years, was a member of the Coalition.

2452 they heard, but then this is a negotiation. So I thought, well, let me ask a more general question. I
2453 asked Ambassador Sun,¹²⁵ “Could you talk a bit about how China sees this round? Is it
2454 important? Is it unimportant? Would you prefer it goes away? Does it matter whether it’s
2455 successful?” The answer was very interesting, very eloquent. And it went on for several minutes
2456 about seeing it in a broader context about peace and security, very important. And I thought, I
2457 wasn’t surprised because that’s the sort of thing I thought he might say. That’s why I asked the
2458 question. I thought it might be interesting for the business representatives there to listen to what
2459 the answer was because I think they would probably find the ambassador’s remarks somewhat
2460 reassuring about where China might be at the end of the day in terms of being prepared to make
2461 a meaningful contribution.

2462 **Plank-Brumback:** That’s a good way to end—putting trade in the context of peace and security.

2463 **Weekes:** That’s where it all began.

2464 **Plank-Brumback:** Thank you so much for interviewing, Ambassador Weekes.

2465 **Weekes:** My pleasure.

2466 **Plank-Brumback:** I really enjoyed this interview. Thank you.

2467

2468 [END OF INTERVIEW]

¹²⁵ Sun Zhenyu was appointed by President Jiang Zemin as the first Ambassador and Permanent Representative of the People’s Republic of China to the World Trade Organization. He served in that position from January 2002 to 2010. Prior he was Deputy General Manager of the China National Cereals, Oils and Foodstuffs Import and Export Corporation and held various positions in the Ministry of Foreign Trade and Economic Cooperation (MOFTEC): Director of the Department of America and Oceanic Affairs, Assistant Minister, and then Vice-Minister. Amb. Sun later served as the Chairman of the China Society for World Trade Organization Studies.