

# Western Nations

Jay Stark



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by Jay Stark

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## Chapter 1

# World Trade Organization

The **World Trade Organization (WTO)** is an intergovernmental organization that regulates and facilitates international trade between nations. Governments use the organization to establish, revise, and enforce the rules that govern international trade. It officially commenced operations on 1 January 1995, pursuant to the 1994 Marrakesh Agreement, thus replacing the General Agreement on Tariffs and Trade (GATT) that had been established in 1948. The WTO is the world's largest international economic organization, with 164 member states representing over 96% of global trade and global GDP.

The WTO facilitates trade in goods, services and intellectual property among participating countries by providing a framework for negotiating trade agreements, which usually aim to reduce or eliminate tariffs, quotas, and other restrictions; these agreements are signed by representatives of member governments and ratified by their legislatures. The WTO also administers independent dispute resolution for enforcing participants' adherence to trade agreements and resolving trade-related disputes. The organization prohibits discrimination between trading partners, but provides exceptions for environmental protection, national security, and other important goals.

The WTO is headquartered in Geneva, Switzerland. Its top decision making body is the Ministerial Conference, which is composed of all member states and usually convenes

biannually; consensus is emphasized in all decisions. Day-to-day functions are handled by the General Council, made up of representatives from all members. A Secretariat of over 600 personnel, led by the Director-General and four deputies, provides administrative, professional, and technical services. The WTO's annual budget is roughly 220 million USD, which is contributed by members based on their proportion of international trade.

Studies show the WTO has boosted trade and reduced trade barriers. It has also influenced trade agreement generally; a 2017 analysis found that the vast majority of preferential trade agreements (PTAs) up to that point explicitly reference the WTO, with substantial portions of text copied from WTO agreements. Goal 10 of the United Nations Sustainable Development Goals also referenced WTO agreements as instruments of reducing inequality. However, critics contend that the benefits of WTO-facilitated free trade are not shared equally, citing the outcomes of negotiations and data showing a continually widening gap between rich and poor nations.

## **History**

The WTO precursor General Agreement on Tariffs and Trade (GATT), was established by a multilateral treaty of 23 countries in 1947 after World War II in the wake of other new multilateral institutions dedicated to international economic cooperation—such as the World Bank (founded 1944) and the International Monetary Fund (founded 1944 or 1945). A comparable international institution for trade, named the International Trade Organization never started as the U.S. and

other signatories did not ratify the establishment treaty, and so GATT slowly became a *de facto* international organization.

## **GATT negotiations before Uruguay**

Seven rounds of negotiations occurred under GATT (1949 to 1979). The first real GATT trade rounds (1947 to 1960) concentrated on further reducing tariffs. Then the Kennedy Round in the mid-sixties brought about a GATT anti-dumping agreement and a section on development. The Tokyo Round during the seventies represented the first major attempt to tackle trade barriers that do not take the form of tariffs, and to improve the system, adopting a series of agreements on non-tariff barriers, which in some cases interpreted existing GATT rules, and in others broke entirely new ground. Because not all GATT members accepted these plurilateral agreements, they were often informally called "codes".

(The Uruguay Round amended several of these codes and turned them into multilateral commitments accepted by all WTO members. Only four remained plurilateral (those on government procurement, bovine meat, civil aircraft, and dairy products), but in 1997 WTO members agreed to terminate the bovine meat and dairy agreements, leaving only two.) Despite attempts in the mid-1950s and 1960s to establish some form of institutional mechanism for international trade, the GATT continued to operate for almost half a century as a semi-institutionalized multilateral treaty régime on a provisional basis.

## Uruguay Round: 1986–1994

Well before GATT's 40th anniversary, its members concluded that the GATT system was straining to adapt to a new globalizing world economy. In response to the problems identified in the 1982 Ministerial Declaration (structural deficiencies, spill-over impacts of certain countries' policies on world trade GATT could not manage, etc.), the eighth GATT round—known as the Uruguay Round—was launched in September 1986, in Punta del Este, Uruguay.

It was the biggest negotiating mandate on trade ever agreed: the talks aimed to extend the trading system into several new areas, notably trade in services and intellectual property, and to reform trade in the sensitive sectors of agriculture and textiles; all the original GATT articles were up for review. The Final Act concluding the Uruguay Round and officially establishing the WTO regime was signed 15 April 1994, during the ministerial meeting at Marrakesh, Morocco, and hence is known as the Marrakesh Agreement.

The GATT still exists as the WTO's umbrella treaty for trade in goods, updated as a result of the Uruguay Round negotiations (a distinction is made between *GATT 1994*, the updated parts of GATT, and *GATT 1947*, the original agreement which is still the heart of GATT 1994). GATT 1994 is not. However, the only legally binding agreement included via the Final Act at Marrakesh; a long list of about 60 agreements, annexes, decisions, and understandings was adopted. The agreements fall into six main parts:

- the Agreement Establishing the WTO

- the Multilateral Agreements on Trade in Goods
- the General Agreement on Trade in Services
- the Agreement on Trade-Related Aspects of Intellectual Property Rights
- dispute settlement
- reviews of governments' trade policies

In terms of the WTO's principle relating to tariff "ceiling-binding" (No. 3), the Uruguay Round has been successful in increasing binding commitments by both developed and developing countries, as may be seen in the percentages of tariffs bound before and after the 1986–1994 talks.

## **Ministerial conferences**

The highest decision-making body of the WTO, the Ministerial Conference, usually meets every two years. It brings together all members of the WTO, all of which are countries or customs unions. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements. Some meetings, such as the inaugural ministerial conference in Singapore and the Cancun conference in 2003 involved arguments between developed and developing economies referred to as the "Singapore issues" such as agricultural subsidies; while others such as the Seattle conference in 1999 provoked large demonstrations. The fourth ministerial conference in Doha in 2001 approved China's entry to the WTO and launched the Doha Development Round which was supplemented by the sixth WTO ministerial conference (in Hong Kong) which agreed to phase out agricultural export subsidies and to adopt the European Union's Everything but Arms initiative to phase out tariffs for goods from the Least

Developed Countries. At the sixth WTO Ministerial Conference of 2005 in December, WTO launched the Aid for Trade initiative and it is specifically to assist developing countries in trade as included in the Sustainable Development Goal 8 which is to increase aid for trade support and economic growth.

The Twelfth Ministerial Conference (MC12) was due to be held in Nur-Sultan, Kazakhstan, in June 2020 but was canceled because of the COVID-19 pandemic.

## **Doha Round (Doha Agenda): 2001–present**

The WTO launched the current round of negotiations, the Doha Development Round, at the fourth ministerial conference in Doha, Qatar in November 2001. This was to be an ambitious effort to make globalization more inclusive and help the world's poor, particularly by slashing barriers and subsidies in farming. The initial agenda comprised both further trade liberalization and new rule-making, underpinned by commitments to strengthen substantial assistance to developing countries.

Progress stalled over differences between developed nations and the major developing countries on issues such as industrial tariffs and non-tariff barriers to trade particularly against and between the EU and the US over their maintenance of agricultural subsidies—seen to operate effectively as trade barriers. Repeated attempts to revive the talks proved unsuccessful, though the adoption of the Bali Ministerial Declaration in 2013 addressed bureaucratic barriers to commerce.

As of June 2012, the future of the Doha Round remained uncertain: the work programme lists 21 subjects in which the original deadline of 1 January 2005 was missed, and the round remains incomplete. The conflict between free trade on industrial goods and services but retention of protectionism on farm subsidies to domestic agricultural sectors (requested by developed countries) and the substantiation of fair trade on agricultural products (requested by developing countries) remain the major obstacles. This impasse has made it impossible to launch new WTO negotiations beyond the Doha Development Round. As a result, there have been an increasing number of bilateral free trade agreements between governments. As of July 2012 there were various negotiation groups in the WTO system for the current stalemated agricultural trade negotiation.

## **Functions**

Among the various functions of the WTO, these are regarded by analysts as the most important:

- It oversees the implementation, administration and operation of the covered agreements (with the exception is that it does not enforce any agreements when China came into the WTO in Dec 2001)
- It provides a forum for negotiations and for settling disputes.

Additionally, it is WTO's duty to review and propagate the national trade policies and to ensure the coherence and transparency of trade policies through surveillance in global

economic policy-making. Another priority of the WTO is the assistance of developing, least-developed and low-income countries in transition to adjust to WTO rules and disciplines through technical cooperation and training.

- The WTO shall facilitate the implementation, administration, and operation and further the objectives of this Agreement and the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration, and operation of the multilateral Trade Agreements.
- The WTO shall provide the forum for negotiations among its members concerning their multilateral trade relations in matters dealt with under the Agreement in the Annexes to this Agreement.
- The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes.
- The WTO shall administer a Trade Policy Review Mechanism.
- to achieve greater coherence in global economic policymaking, the WTO shall cooperate, as appropriate, with the International Monetary Fund (IMF) and with the International Bank for Reconstruction and Development (IBRD) and its affiliated agencies.

The above five listings are the additional functions of the World Trade Organization. As globalization proceeds in today's society, the necessity of an International Organization to manage the trading systems has been of vital importance. As the trade volume increases, issues such as protectionism,

trade barriers, subsidies, violation of intellectual property arise due to the differences in the trading rules of every nation. The World Trade Organization serves as the mediator between the nations when such problems arise. WTO could be referred to as the product of globalization and also as one of the most important organizations in today's globalized society.

The WTO is also a center of economic research and analysis: regular assessments of the global trade picture in its annual publications and research reports on specific topics are produced by the organization. Finally, the WTO cooperates closely with the two other components of the Bretton Woods system, the IMF and the World Bank.

## **Principles of the trading system**

The WTO establishes a framework for trade policies; it does not define or specify outcomes. That is, it is concerned with setting the rules of "trade policy." Five principles are of particular importance in understanding both the pre-1994 GATT and the WTO:

- **Non-discrimination.** It has two major components: the most favored nation (MFN) rule and the national treatment policy. Both are embedded in the main WTO rules on goods, services, and intellectual property, but their precise scope and nature differ across these areas. The MFN rule requires that a WTO member must apply the same conditions on all trade with other WTO members, i.e., a WTO member has to grant the most favorable conditions under

which it allows trade in a certain product type to all other WTO members. "Grant someone a special favor and you have to do the same for all other WTO members." National treatment means that imported goods should be treated no less favorably than domestically produced goods (at least after the foreign goods have entered the market) and was introduced to tackle non-tariff barriers to trade (e.g. technical standards, security standards et al. discriminating against imported goods).

- **Reciprocity.** It reflects both a desire to limit the scope of free-riding that may arise because of the MFN rule and a desire to obtain better access to foreign markets. A related point is that for a nation to negotiate, it is necessary that the gain from doing so be greater than the gain available from unilateral liberalization; reciprocal concessions intend to ensure that such gains will materialize.
- **Binding and enforceable commitments.** The tariff commitments made by WTO members in multilateral trade negotiation and on accession are enumerated in a schedule (list) of concessions. These schedules establish "ceiling bindings": a country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. If satisfaction is not obtained, the complaining country may invoke the WTO dispute settlement procedures.
- **Transparency.** The WTO members are required to publish their trade regulations, to maintain institutions allowing for the review of administrative decisions affecting trade, to respond to requests for

information by other members, and to notify changes in trade policies to the WTO. These internal transparency requirements are supplemented and facilitated by periodic country-specific reports (trade policy reviews) through the Trade Policy Review Mechanism (TPRM). The WTO system tries also to improve predictability and stability, discouraging the use of quotas and other measures used to set limits on quantities of imports.

- **Safety values.** In specific circumstances, governments are able to restrict trade. The WTO's agreements permit members to take measures to protect not only the environment but also public health, animal health and plant health.

There are three types of provision in this direction:

- articles allowing for the use of trade measures to attain non-economic objectives;
- articles aimed at ensuring "fair competition"; members must not use environmental protection measures as a means of disguising protectionist policies.
- provisions permitting intervention in trade for economic reasons.

Exceptions to the MFN principle also allow for preferential treatment of developing countries, regional free trade areas and customs unions.

# **Organizational structure**

The highest authority of the WTO is the Ministerial Conference, which must meet at least every two years.

In between each Ministerial Conference, the daily work is handled by three bodies whose membership is the same; they only differ by the terms of reference under which each body is constituted.

- The General Council
- The Dispute Settlement Body
- The Trade Policy Review Body

The General Council, whose Chair as of 2020 is David Walker of New Zealand, has the following subsidiary bodies which oversee committees in different areas:

- Council for Trade in Goods
- There are 11 committees under the jurisdiction of the Goods Council each with a specific task. All members of the WTO participate in the committees. The Textiles Monitoring Body is separate from the other committees but still under the jurisdiction of the Goods Council. The body has its chairman and only 10 members. The body also has several groups relating to textiles.
- Council for Trade-Related Aspects of Intellectual Property Rights
- Information on intellectual property in the WTO, news and official records of the activities of the

TRIPS Council, and details of the WTO's work with other international organizations in the field.

- Council for Trade in Services
- The Council for Trade in Services operates under the guidance of the General Council and is responsible for overseeing the functioning of the General Agreement on Trade in Services (GATS). It is open to all WTO members and can create subsidiary bodies as required.
- Trade Negotiations Committee
- The Trade Negotiations Committee (TNC) is the committee that deals with the current trade talks round. The chair is WTO's director-general. As of June 2012 the committee was tasked with the Doha Development Round.

The Service Council has three subsidiary bodies: financial services, domestic regulations, GATS rules, and specific commitments. The council has several different committees, working groups, and working parties. There are committees on the following: Trade and Environment; Trade and Development (Subcommittee on Least-Developed Countries); Regional Trade Agreements; Balance of Payments Restrictions; and Budget, Finance and Administration. There are working parties on the following: Accession. There are working groups on the following: Trade, debt and finance; and Trade and technology transfer.

As of 31 December 2019, the number of WTO staff on a regular budget is 338 women and 285 men.

## Decision-making

The WTO describes itself as "a rules-based, member-driven organization—all decisions are made by the member governments, and the rules are the outcome of negotiations among members". The WTO Agreement foresees votes where consensus cannot be reached, but the practice of consensus dominates the process of decision-making.

Richard Harold Steinberg (2002) argues that although the WTO's consensus governance model provides law-based initial bargaining, trading rounds close through power-based bargaining favoring Europe and the U.S., and may not lead to Pareto improvement.

## Dispute settlement

**Dispute settlement** or **dispute settlement system (DSS)** is regarded by the World Trade Organization (WTO) as the central pillar of the multilateral trading system, and as the organization's "unique contribution to the stability of the global economy". A dispute arises when one member country adopts a trade policy *measure* or takes some *action* that one or more fellow members consider to be a breach of WTO agreements or to be a failure to live up to obligations. By joining the WTO, member countries have agreed that if they believe fellow members are in violation of trade rules, they will use the multilateral system of settling disputes instead of taking action unilaterally — this entails abiding by agreed procedures—Dispute Settlement Understanding—and

respecting judgments, primarily of the Dispute Settlement Board (DSB), the WTO organ responsible for adjudication of disputes.

A former WTO Director-General characterized the WTO dispute settlement system as "the most active international adjudicative mechanism in the world today." Chad P. Bown of the Peterson Institute for International Economics and PetrosMavroidis of Columbia Law School remarked on the 20th anniversary of the dispute settlement system that the system is "going strong" and that "there is no sign of weakening".

The dispute settlement mechanism in the WTO is one way in which trade is increased.

## **Dispute Settlement**

### **Understanding**

Prompt compliance with recommendations or rulings of the DSB is essential in order to ensure effective resolution of disputes to the benefit of all Members.

- —*World Trade Organization, Article 21.1 of the DSU*

In 1994, the WTO members agreed on the Understanding on Rules and Procedures Governing the Settlement of Disputes or Dispute Settlement Understanding (DSU) (annexed to the "Final Act" signed in Marrakesh in 1994). Pursuant to the rules detailed in the DSU, member states can engage in consultations to resolve trade disputes pertaining to a "covered

agreement" or, if unsuccessful, have a WTO panel hear the case. The priority, however, is to settle disputes, through consultations if possible. By January 2008, only about 136 of the nearly 369 cases had reached the full panel process.

The operation of the WTO dispute settlement process involves the parties and third parties to a case and may also involve the DSB panels, the Appellate Body, the WTO Secretariat, arbitrators, independent experts, and several specialized institutions. The General Council discharges its responsibilities under the DSU through the Dispute Settlement Body (DSB). Like the General Council, the DSB is composed of representatives of all WTO Members. The DSB is responsible for administering the DSU, i.e. for overseeing the entire dispute settlement process. It also has the authority to establish panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of rulings and recommendations, and authorize the suspension of obligations under the covered agreements. The DSB meets as often as necessary to adhere to the timeframes provided for in the DSU.

## **From complaint to final report**

If a member state considers that a measure adopted by another member state has deprived it of a benefit accruing to it under one of the covered agreements, it may call for consultations with the other member state. If consultations fail to resolve the dispute within 60 days after receipt of the request for consultations, the complainant state may request the establishment of a Panel. It is not possible for the respondent state to prevent or delay the establishment of a Panel, unless

the DSB by consensus decides otherwise. The panel, normally consisting of three members appointed *ad hoc* by the Secretariat, sits to receive written and oral submissions of the parties, on the basis of which it is expected to make findings and conclusions for presentation to the DSB. The proceedings are confidential, and even when private parties are directly concerned, they are not permitted to attend or make submissions separate from those of the state in question. Disputes can also arise under Non-violation nullification of benefits claims.

The final version of the panel's report is distributed first to the parties; two weeks later it is circulated to all the members of the WTO. In sharp contrast with other systems, the report is required to be adopted at a meeting of the DSB within 60 days of its circulation, unless the DSB by consensus decides not to adopt the report or a party to the dispute gives notice of its intention to appeal. A party may appeal a panel report to the standing Appellate Body, but only on issues of law and legal interpretations developed by the panel. Each appeal is heard by three members of the permanent seven-member Appellate Body set up by the Dispute Settlement Body and broadly representing the range of WTO membership. Members of the Appellate Body have four-year terms. They must be individuals with recognized standing in the field of law and international trade, not affiliated with any government. The Appellate Body may uphold, modify or reverse the panel's legal findings and conclusions. Normally appeals should not last more than 60 days, with an absolute maximum of 90 days. The possibility for appeal makes the WTO dispute resolution system unique among the judicial processes of dispute settlement in general public international law.

Members may express their views on the report of the Appellate Body, but they cannot derail it. The DSU states unequivocally that an Appellate Body report shall be adopted by the DSB and unconditionally accepted by the parties, unless the DSB decides by consensus within thirty days of its circulation not to adopt the report. Unless otherwise agreed by the parties to the dispute, the period from establishment of the panel to consideration of the report by the DSB shall as a general rule not exceed nine months if there is no appeal, and twelve months if there is an appeal.

## **WTO Appellate Body**

The WTO Appellate Body of judges was first established in 1995. While a full complement consists of seven judges, the Appellate Body can hear an appeal with a minimum of three. The full term for an Appellate Body judge's appointment lasts four years with the a possibility of a reappointment for a second term.

By July 2018, there were only four judges remaining, as others had completed their 4-year terms and the term for one of these judges ends later in 2018. According to an article by the Waterloo, Ontario-based independent think tank Centre for International Governance Innovation (CIGI)—supported by the Canadian federal government, the Office of the United States Trade Representative, which is seeking WTO reforms, has blocked any re-appointments.

The Appellate Body is designated with a level of authority, pertaining to procedural issues. The Appellate Body has been

met with much criticism, as it is said to have the potential to threaten the balance and exacerbate existing inequalities. The Appellate Body has accomplished several significant reforms; broadened access of third parties in appellate proceedings, opened the door to *amicus curiae* submissions by private individuals, and endorsed private counsels to represent governments.

## Compliance

The DSU addresses the question of compliance and retaliation. Within thirty days of the adoption of the report, the member concerned is to inform the DSB of its intentions in respect of implementation of the recommendations and rulings. If the member explains that it is impracticable to comply immediately with the recommendations and rulings, it is to have a "reasonable period of time" in which to comply. This reasonable amount of time should not exceed 15 months. If no agreement is reached about the reasonable period for compliance, that issue is to be the subject of binding arbitration; the arbitrator is to be appointed by agreement of the parties. If there is a disagreement as to the satisfactory nature of the measures adopted by the respondent state to comply with the report, that disagreement is to be decided by a panel, if possible the same panel that heard the original dispute, but apparently without the possibility of appeal from its decision. The DSU provides that even if the respondent asserts that it has complied with the recommendation in a report, and even if the complainant party or the panel accepts that assertion, the DSB is supposed to keep the implementation of the recommendations under surveillance.

# **Compensation and retaliation**

If all else fails, two more possibilities are set out in the DSU:

- If a member fails within the "reasonable period" to carry out the recommendations and rulings, it may negotiate with the complaining state for a mutually acceptable compensation. Compensation is not defined, but may be expected to consist of the grant of a concession by the respondent state on a product or service of interest to the complainant state.
- If no agreement on compensation is reached within twenty days of the expiry of the "reasonable period", the prevailing state may request authorization from the DSB to suspend application to the member concerned of concessions or other obligations under the covered agreements. The DSU makes clear that retaliation is not favored, and sets the criteria for retaliation. In contrast to prior GATT practice, authorization to suspend concessions in this context is semi-automatic, in that the DSB "shall grant the authorization [...] within thirty days of the expiry of the reasonable period", unless it decides by consensus to reject the request. Any suspension or concession or other obligation is to be temporary. If the respondent state objects to the level of suspension proposed or to the consistency of the proposed suspension with the DSU principles, still another arbitration is provided for, if possible by the original panel members or by an arbitrator or arbitrators appointed by the Director-General, to be

completed within sixty days from expiration of the reasonable period.

While such "retaliatory measures" are a strong mechanism when applied by economically powerful countries like the United States or the United Kingdom or organisations like the European Union, when applied by economically weak countries against stronger ones, they can often be ignored. Whether or not the complainant has taken a measure of retaliation, surveillance by the DSB is to continue, to see whether the recommendations of the panel or the Appellate Body have been implemented.

## **Developing countries**

Like most of the agreements adopted in the Uruguay Round, the DSU contains several provisions directed to developing countries. The Understanding states that members should give "special attention" to the problems and interests of developing country members. Further, if one party to a dispute is a developing country, that party is entitled to have at least one panelist who comes from a developing country. If a complaint is brought against a developing country, the time for consultations (before a panel is convened) may be extended, and if the dispute goes to a panel, the deadlines for the developing country to make its submissions may be relaxed. Also, the Secretariat is authorized to make a qualified legal expert available to any developing country on request. Formal complaints against least developed countries are discouraged, and if consultations fail, the Director-General and the Chairman of the DSB stand ready to offer their good offices

before a formal request for a panel is made. As to substance, the DSU provides that the report of panels shall "explicitly indicate" how account has been taken of the "differential and more favorable treatment" provisions of the agreement under which the complaint is brought. Whether or not a developing country is a party to a particular proceeding, "particular attention" is to be paid to the interests of the developing countries in the course of implementing recommendations and rulings of panels. In order to assist developing countries in overcoming their limited expertise in WTO law and assist them in managing complex trade disputes, an Advisory Centre on WTO Law was established in 2001. The aim is to level the playing field for these countries and customs territories in the WTO system by enabling them to have a full understanding of their rights and obligations under the WTO Agreement.

## **WTO bias**

President Trump raised concerns that the WTO's dispute settlement system was biased against the US. Economists Jeffry Frieden and Joel Trachtman found that the United States wins the vast majority of disputes it brings against other countries, winning "more than the average when it is complainant". Other countries lose most of the cases brought against the US, losing "less than the average when it is [the] respondent". Frieden and Trachtman explain that the US would only bring cases to the DSS when their cases are "relatively clearly justified by the law".

## **Timing of trade disputes**

In their 2017 article published in the *Journal of International Economics*, the authors examined WTO disputes filed by the United States between 1995 and 2014. They developed a theoretic model to explain the regularity with which incumbent presidential candidates filed trade disputes involving industries in swing states in the year prior to presidential elections.

## **Accession and membership**

The process of becoming a WTO member is unique to each applicant country, and the terms of accession are dependent upon the country's stage of economic development and the current trade regime. The process takes about five years, on average, but it can last longer if the country is less than fully committed to the process or if political issues interfere. The shortest accession negotiation was that of the Kyrgyz Republic, while the longest was that of Russia, which, having first applied to join GATT in 1993, was approved for membership in December 2011 and became a WTO member on 22 August 2012. Kazakhstan also had a long accession negotiation process. The Working Party on the Accession of Kazakhstan was established in 1996 and was approved for membership in 2015. The second longest was that of Vanuatu, whose Working Party on the Accession of Vanuatu was established on 11 July 1995. After a final meeting of the Working Party in October 2001, Vanuatu requested more time to consider its accession terms. In 2008, it indicated its interest to resume and

conclude its WTO accession. The Working Party on the Accession of Vanuatu was reconvened informally on 4 April 2011 to discuss Vanuatu's future WTO membership. The reconvened Working Party completed its mandate on 2 May 2011. The General Council formally approved the Accession Package of Vanuatu on 26 October 2011. On 24 August 2012, the WTO welcomed Vanuatu as its 157th member. An offer of accession is only given once consensus is reached among interested parties.

A 2017 study argues that "political ties rather than issue-area functional gains determine who joins" and shows "how geopolitical alignment shapes the demand and supply sides of membership". The "findings challenge the view that states first liberalize trade to join the GATT/WTO. Instead, democracy and foreign policy similarity encourage states to join."

## **Accession process**

A country wishing to accede to the WTO submits an application to the General Council, and has to describe all aspects of its trade and economic policies that have a bearing on WTO agreements. The application is submitted to the WTO in a memorandum which is examined by a working party open to all interested WTO Members.

After all necessary background information has been acquired, the working party focuses on issues of discrepancy between the WTO rules and the applicant's international and domestic trade policies and laws. The working party determines the terms and conditions of entry into the WTO for the applicant

nation and may consider transitional periods to allow countries some leeway in complying with the WTO rules.

The final phase of accession involves bilateral negotiations between the applicant nation and other working party members regarding the concessions and commitments on tariff levels and market access for goods and services. The new member's commitments are to apply equally to all WTO members under normal non-discrimination rules, even though they are negotiated bilaterally. For instance, as a result of joining the WTO, Armenia offered a 15 per cent ceiling bound tariff rate on accessing its market for goods. Together with the tariff bindings being *ad valorem* there are no specific or compound rates. Moreover, there are no tariff-rate quotas on both industrial and agricultural products. Armenia's economic and trade performance growth was noted since its first review in 2010, especially its revival from the 2008 global financial crisis, with an average annual 4% GDP growth rate, despite some fluctuations. Armenia's economy was marked by low inflation, diminishing poverty, and essential progress in enhancing its macroeconomic steadiness in which trade in goods and services, which is the equivalent of 87% of GDP, played a growing role.

When the bilateral talks conclude, the working party sends to the general council or ministerial conference an accession package, which includes a summary of all the working party meetings, the Protocol of Accession (a draft membership treaty), and lists ("schedules") of the member to be commitments. Once the general council or ministerial conference approves of the terms of accession, the applicant's parliament must ratify the Protocol of Accession before it can

become a member. Some countries may have faced tougher and a much longer accession process due to challenges during negotiations with other WTO members, such as Vietnam, whose negotiations took more than 11 years before it became an official member in January 2007.

## **Members and observers**

The WTO has 164 members and 25 observer governments. Liberia became the 163rd member on 14 July 2016, and Afghanistan became the 164th member on 29 July 2016. In addition to states, the European Union, and each EU country in its own right, is a member. WTO members do not have to be fully independent states; they need only be a customs territory with full autonomy in the conduct of their external commercial relations. Thus Hong Kong has been a member since 1995 (as "Hong Kong, China" since 1997) predating the People's Republic of China, which joined in 2001 after 15 years of negotiations. Taiwan acceded to the WTO in 2002 as the "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu." The WTO Secretariat omits the official titles (such as Counsellor, First Secretary, Second Secretary and Third Secretary) of the members of Taiwan's Permanent Mission to the WTO, except for the titles of the Permanent Representative and the Deputy Permanent Representative.

As of 2007, WTO member states represented 96.4% of global trade and 96.7% of global GDP. Iran, followed by Algeria, are the economies with the largest GDP and trade outside the WTO, using 2005 data. With the exception of the Holy See, observers must start accession negotiations within five years of becoming observers. A number of international

intergovernmental organizations have also been granted observer status to WTO bodies. Ten UN members have no affiliation with the WTO.

## **Agreements**

The WTO oversees about 60 different agreements which have the status of international legal texts. Member countries must sign and ratify all WTO agreements on accession. A discussion of some of the most important agreements follows.

The Agreement on Agriculture came into effect with the establishment of the WTO at the beginning of 1995. The AoA has three central concepts, or "pillars": domestic support, market access and export subsidies.

The General Agreement on Trade in Services was created to extend the multilateral trading system to service sector, in the same way as the General Agreement on Tariffs and Trade (GATT) provided such a system for merchandise trade. The agreement entered into force in January 1995.

The Agreement on Trade-Related Aspects of Intellectual Property Rights sets down minimum standards for many forms of intellectual property (IP) regulation. It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994.

The Agreement on the Application of Sanitary and Phytosanitary Measures—also known as the SPS Agreement—was negotiated during the Uruguay Round of GATT, and entered into force with the establishment of the WTO at the

beginning of 1995. Under the SPS agreement, the WTO sets constraints on members' policies relating to food safety (bacterial contaminants, pesticides, inspection, and labeling) as well as animal and plant health (imported pests and diseases).

The Agreement on Technical Barriers to Trade is an international treaty of the World Trade Organization. It was negotiated during the Uruguay Round of the General Agreement on Tariffs and Trade and entered into force with the establishment of the WTO at the end of 1994. The object ensures that technical negotiations and standards, as well as testing and certification procedures, do not create unnecessary obstacles to trade".

The Agreement on Customs Valuation, formally known as the Agreement on Implementation of Article VII of GATT, prescribes methods of customs valuation that Members are to follow. Chiefly, it adopts the "transaction value" approach.

In December 2013, the biggest agreement within the WTO was signed and known as the Bali Package.

## **Office of director-general**

The procedures for the appointment of the WTO director-general were updated in January 2003, and include quadrennial terms. Additionally, there are four deputy directors-general. As of 13 June 2018 under director-general Roberto Azevêdo, the four deputy directors-general are:

- Yi Xiaozhun of China (since 1 October 2017),

- Karl Brauner of Germany (since 1 October 2013),
- Yonov Frederick Agah of Nigeria (since 1 October 2013) and
- Alan W. Wolff of the United States (since 1 October 2017).

## **2020 Director-General selection**

In May 2020, Director-General Roberto Azevedo announced that he would step down on 31 August 2020. As of October 2020, a nomination and selection process is currently under way with eight candidates and the final selection is expected on 7 November 2020 with the consensus of 164 member countries. A strong consensus had formed around the candidacy of NgoziOkonjo-Iweala but on 28 October it emerged that the US representative was opposed to her appointment.

WTO members made history on 15 February 2021 when the General Council agreed by consensus to select NgoziOkonjo-Iweala of Nigeria as the organization's seventh Director-General.

Wage takes office on 1 March 2021. DrOkonjo-Iweala will become the first woman and the first African to be chosen as Director-General. Her term, renewable, will expire on 31 August 2025.

## **Criticism**

Since its creation in 1995, the World Trade Organization (WTO) has worked to maintain and develop international trade. As

one of the largest international economic organizations (alongside the International Monetary Fund (IMF) and the World Bank), it has strong influence over trading rules and agreements, and thus has the ability to affect a country's economy profoundly. WTO's policies aim to balance tariffs and other forms of economic protection with a trade liberalization policy, and to "ensure that trade flows as smoothly, predictably and freely as possible". Indeed, the WTO claims that its actions "cut living costs and raise standards, stimulate economic growth and development, help countries develop, [and] give the weak a stronger voice." Statistically speaking, global trade has consistently grown between one and six percent per annum over the past decade, and US\$38.8 billion were allocated to Aid for Trade in 2016.

Yet several criticisms of the WTO have arisen over time from a range of fields, including economists such as Dani Rodrik and Ha Joon Chang, and anthropologists such as Marc Edelman, who have argued that the institution "only serves the interests of multinational corporations, undermines local development, penalizes poor countries, [and] is increasing inequality", and have argued that some agreements about agriculture and pharmaceutical goods have led to restricted access to food and healthcare, thus causing large numbers of deaths. Several factors are alleged to contribute to these conditions, including but not limited to: the most favored nation rule (MFN), national treatment policies, and failure to regard the infant industry argument. Critics argue that the policies that support these principles fail to protect developing nations, and in some cases take advantage of them. For example, UNCTAD estimates that market distortions cost developing countries \$700 billion annually in lost export revenue.

## **Martin Khor**

Martin Khor argues that the WTO does not manage the global economy impartially, but in its operation has a systematic bias toward rich countries and multinational corporations, harming smaller countries which have less negotiation power. Some suggested examples of this bias are:

- Rich countries are able to maintain high import duties and quotas in certain products, blocking imports from developing countries (e.g., clothing);
- According to statements made at United Nations Conference on Trade and Development (UNCTAD, 2005), the use of NTBs (non-tariff barriers), based on the amount and control of price levels has decreased significantly from 45% in 1994 to 15% in 2004, while use of other NTBs increased from 55% in 1994 to 85% in 2004, such as anti-dumping measures allowed against developing countries;
- The maintenance of high protection of agriculture in developed countries, while developing ones are pressed to open their markets;
- Many developing countries do not have the capacity to follow the negotiations and participate actively in the Doha Round; and
- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) agreement, which limits developing countries from utilizing some technology that originates from abroad in their local systems (including medicines and agricultural products).

Khor argues that developing countries have not benefited from the WTO Agreements of the Uruguay Round and, therefore, the credibility of the WTO trade system could be eroded. According to Khor, "one of the major categories of 'problems of implementation of the Uruguay Round' is the way the Northern countries have not lived up to the spirit of their commitments in implementing (or not implementing) their obligations agreed to in the various Agreements." Khor also believes that the Doha Round negotiations "have veered from their proclaimed direction oriented to a development-friendly outcome, towards a 'market access' direction in which developing countries are pressurised to open up their agricultural, industrial and services sectors." Jagdish Bhagwati asserts, however, that there is greater tariff protection on manufacturers in the poor countries, which are also overtaking the rich nations in the number of anti-dumping filings.

## **Agriculture**

As one of the central issues that the WTO has attempted to tackle over the course of over two decades, agriculture provides a critical window into criticisms surrounding the organization. Implicated in an increasingly globalized and multilateral market sector, it has also become linked with issues of "trade, phytosanitary measures, intellectual property rights, animal and human health, [environmental policy], human rights, biotechnology, gender equity and food sovereignty." Thus, analyzing the effects of the WTO on agriculture inevitably links it to other sectors and illuminates general criticisms against the organization.

## **Historical background**

The WTO's foray into the agricultural sector began with the breakdown of Bretton Woods policies. The WTO's predecessor, the General Agreement on Tariffs and Trade (GATT)—itself a Bretton Woods institution—had explicitly excluded agriculture during its establishment in 1947. As a result, additions to the Agreement regarding the agricultural sector during this time were both limited in scope and had no agreed-upon methods of enforcement. However, the tides turned with the 1980s farm crisis, wherein the US produced a high surplus of grain, leading to plummeting land and commodity prices, soaring interest rates, and an increase in defaulted loans. This put agriculture in the spotlight of international trade diplomacy, and GATT began the Uruguay Round in 1986 with the focus of “developing a powerful institutional framework...to regulate the rules of [multilateral] trade for world agriculture.” At the conclusion of the rounds in 1993, GATT was dissolved in favor of the newly formed World Trade Organization, which was to expand into other sectors such as agriculture and “cover trade in services and intellectual property” as well as the scope of goods previously managed under GATT.

## **Agreement on Agriculture**

In order to join the WTO, there are several requirements, or mandates, that a country must fulfill. The Agreement on Agriculture (AoA) is one of the mandates that was established at the inception of the organization. At its core, the document sets “a series of ceiling and timetables that circumscribe[s] the extent to which signatory governments could provide protective

assistance to agriculture.” First, there is an argument about the weakening of national sovereignty: in dictating the budgets to agriculture within each nation (as opposed to between nations), this began a series of “internationally-binding set of rules that would progressively eliminate nations’ capacities to subsidise their rural economies,” and also created a system in which when national governments join the WTO, they “relinquish their ability to set their own food and agricultural policies.” Critics also argue that in dictating limits on how much countries protect their agricultural sector, the organization leaves farmers—especially peasant farmers, who make up a significant portion of the population in many developing countries—vulnerable to food insecurity, and thus breaking international law about food as a human right.

## **Economic effects**

Since its inception, the WTO has imposed policies that have encouraged the growth of neoliberalism and aggravated the divide between the Global South and North. For example, its protectionist policies consistently seem to favor the Global North, with OECD countries providing its farmers with “support equivalent to 40.43% of the value of farm gate production” in 1986–88. Although this level of support makes sense given the farm crisis of the 1980s, the figure was still at a staggering 40.07% in 1999. In addition, in the US alone, “about 50% of total producer revenue for US milk, sugar and rice is attributable to farm programmes.” Meanwhile, agriculture in the Global South and poverty has been increasingly linked with one another, with national poverty rates correlated with the number of agriculture-specialized households. This is because the neoliberal reforms demanded

by the WTO have destroyed guaranteed prices and state-sponsored extension services, and governments of the Global South have had to dismantle programs for food security and rural assistance in favor of those that would help them meet WTO mandates, often at “significant political costs.” For example, since its joining the WTO, Mexico has been enforcing “repeasantization” programs, which has two parts: first, to promote urbanization, thus breaking down the rural population into smaller and even more rural communities, and second, to encourage “growth and development” in the agricultural sector. These development methods include pressures for farmers to use certain pesticides and fertilizers; graft fruit trees; and grow produce that is too expensive for they themselves to consume. This has led to the “disintegration of peasant household enterprises...[and the destruction of] subsistence security.”

Conversely, research conducted by united efforts from the Centre for Economic Policy Research, Center for Economic Studies, CESifo Group, and the Maison des Sciences de l'Homme shows that the significant impact of potential WTO policies, both protectionist and liberal, would assuage the widening gap between developed and developing countries. In developed countries, agriculture tends to have relatively low impact on the economy; only 8% of the total income of US farm households comes from the farm, with the numbers increasing to 10% in Canada and 12% in Japan. However, most peasant communities of the global South depend primarily on agriculture for the main source of household income; as a result, while trade reforms would lead to “serious losses...to large, wealthy farmers in a few heavily protected sub-sectors” in the US, the aforementioned research groups estimate that

poverty reduction could be in the double digits and “could lift large numbers of developing country farm households out of poverty.”

Given the large structural changes the WTO has wrought with mandates like the AoA, it is clear that it “could certainly reform the privileges of the richest farmers of the North for the sake of the poor farmers in the South.” This could be done by “push[ing] for more poor country farm and food tariff cuts, as these products loom large in the household budgets of the poor [and] giving the latter access to food at world market prices (adjusted for marketing margins).” Indeed, many developing countries, ranging from South America (Argentina, Chile, Ecuador, Peru) to Asia (China, India, Philippines, Thailand) have pushed for these very policies, only for the WTO to reject them, as happened in the disastrous breakdown of trade negotiations in the 2003 Cancun meetings of the Doha Development Round.

## **Peasant protests**

Multilateral organizations such as the WTO necessarily support globalization in their encouragement of trade between nations. This has some undeniable benefits—a majority of countries see more employment opportunities, an increase of real wages, higher rates of technological innovation, and an overall higher quality of life, especially for urban populations. However, because these benefits only apply to certain sectors, many populations suffer from the unintended consequences of globalization policies.

An example of this can be highlighted with peasant populations across the world—between pressures to diversify a nation's sectors and oppressive AoA conditions, governments of developing nations have provided consistently diminishing support to its agricultural community over the years. The liberalization of the agricultural sector has led to lower agricultural and commodity prices, “consolidation of giant agribusinesses, a homogenization of the global food system, and the erosion of supply management mechanisms;” simultaneously, government subsidies have been stripped away and other structural supports, such as state development banks, extension agencies and commodities boards, have become privatized. In addition, peasants’ reliance on modern technology and fertilizers has risen, linking them to markets of commodities, credit, technology, and land; because of a proliferation of factors beyond their control, they have become more vulnerable to issues such as food insecurity. With an increase of destabilizing forces and a decrease in protectionist measures, peasants have been forced to look for alternative means for survival—and patterns show higher rates of dependence on local loan sharks and a growth in participation within the informal economy.

However, the agricultural sector's entrance in the global economy has meant that peasants have had to “learn about...the language of bankers and lawyers, market intelligence and computers, business administration and phytosanitary measures, biotechnology and intellectual property, and at least the rudiments of trade policy and macroeconomics. They have become sophisticated and worldly.” Thus, armed with this new knowledge, it is not surprising that they have time and again formed local, national, and global

communities of protest. Although more local forms of protest have existed for centuries—such as the French peasant protests of the 17th century—the formation of multilateral organizations such as the WTO has led to transnational protests as well.

The beginning of transnational peasant movements began with the success of the Movimento dos Trabalhadores Rurais sem Terra (MST, or Brazilian Landless Movement), wherein the rural population, many of them indigenous, grouped together to demand right to land ownership. Not only did this movement demonstrate the ability for different populations to band together, and thus inspired collective action on a global scale, but also lay the framework of the following campaigns, including the emphasis on grassroots political participation and the use of non-governmental organizations (NGOs) for resources. Together, these groups have raised awareness on the devastating effects of foreign debt in their respective countries and have even organized militant uprisings; but two central demands have circulated time and again: to “remove agriculture from the purview of the WTO,” and the concept of food sovereignty.

“Take agriculture out of WTO” has been a cry heard with “increasing frequency since the 1999 Seattle protests,” including those at the 2000 Doha Round and 2003 Cancun meetings. Global communities such as La Via Campesina (Peasant Road) and over fifty other organizations banded together to claim: “the WTO is undemocratic and unaccountable, has increased global inequality and insecurity, promotes unsustainable production and consumption patterns, erodes diversity, and undermines social and environmental

priorities.” Thus, they demanded the removal of not simply the AoA, but also any other relevant accord, including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the General Agreement on Trade in Services (GATS), Sanitary and Phytosanitary Measures (SPS), Quantitative Restrictions (QRs), and Subsidies and Countervailing Measures (SCM). Food sovereignty highlights that food is a fundamental human right and condemns the WTO's treatment of agricultural purely as a commodity, rather than “as a means of livelihood and nourishment for peasants and small farmers.”

Similar protests have been organized outside those at WTO ministerial meetings; most notably the formation of the International Federation of Agricultural Producers (IFAP), India's protest against TRIPS and foreign corporate patents for the neem tree native to India; French farmers' protest against false Roquefort cheese; and the creation of APM-Afrique to improve coffee and cotton sectors.

## **Indigenous populations**

It is worth noting that peasant and indigenous communities are highly linked to each other, especially in Central and South America. Thus, many of the peasant organizations and movements also campaign for indigenous rights, including the right to land and governance of their own people.

## **Labour and environment**

Other critics claim that the issues of labor and environment are steadfastly ignored. Steve Charnovitz, former Director of the Global Environment and Trade Study (GETS), believes that the WTO "should begin to address the link between trade and labor and environmental concerns." He also argues that "in the absence of proper environmental regulation and resource management, increased trade might cause so much adverse damage that the gains from trade would be less than the environmental costs." Further, labor unions condemn the labor rights record of developing countries, arguing that to the extent the WTO succeeds at promoting globalization, then in equal measure do the environment and labor rights suffer.

On the other side, Khor responds that "if environment and labor were to enter the WTO system [...] it would be conceptually difficult to argue why other social and cultural issues should also not enter." He also argues that "trade measures have become a vehicle for big corporations and social organizations in promoting their interests." Scholars have identified GATT Article XX as a central exception provision that may be invoked by states to deploy policies that conflict with trade liberalization.

Bhagwati is also critical towards "rich-country lobbies seeking on imposing their unrelated agendas on trade agreements." According to Bhagwati, these lobbies and especially the "rich charities have now turned to agitating about trade issues with much energy understanding." Therefore, both Bhagwati and Arvind Panagariya have criticized the introduction of TRIPS

(Trade-Related Aspects of Intellectual Property Rights) into the WTO framework, fearing that such non-trade agendas might overwhelm the organization's function. According to Panagariya, "taken in isolation, TRIPS resulted in reduced welfare for developing countries and the world as a whole." Bhagwati asserts that "intellectual property does not belong in the WTO, since protecting it is simply a matter of royalty collection [...] The matter was forced onto the WTO's agenda during the Uruguay Round by the pharmaceutical and software industries, even though this risked turning the WTO into a glorified collection agency."

## **Decision making**

Another critic has characterized the "green room" discussions in the WTO as unrepresentative and non-inclusive; more active participants, representing more diverse interests and objectives, have complicated WTO decision-making, and the process of "consensus-building" has broken down. Results of green room discussions are presented to the rest of the WTO which may vote on the result. They have thus proposed the establishment of a small, informal steering committee (a "consultative board") that can be delegated responsibility for developing consensus on trade issues among the member countries. The Third World Network has called the WTO "the most non-transparent of international organisations", because "the vast majority of developing countries have very little real say in the WTO system".

Many non-governmental organizations, such as the World Federalist Movement, are calling for the creation of a WTO

parliamentary assembly to allow for more democratic participation in WTO decision making. Dr Caroline Lucas recommended that such an assembly "have a more prominent role to play in the form of parliamentary scrutiny, and also in the wider efforts to reform the WTO processes, and its rules". However, Dr Raoul Marc Jennar argues that a consultative parliamentary assembly would be ineffective for the following reasons:

- It does not resolve the problem of "informal meetings" whereby industrialized countries negotiate the most important decisions;
- It does not reduce the de facto inequality which exists between countries with regards to an effective and efficient participation to all activities within all WTO bodies;
- It does not rectify the multiple violations of the general principles of law which affect the dispute settlement mechanism.

The lack of transparency is often seen as a problem for democracy. Politicians can negotiate for regulations that would not be possible or accepted in a democratic process in their own nations. "Some countries push for certain regulatory standards in international bodies and then bring those regulations home under the requirement of harmonization and the guise of multilateralism." This is often referred to as Policy Laundering.

# National sovereignty

Conservative and nationalist critics of the World Trade Organization argue that it undermines and threatens national sovereignty. This argument became prominent in the lead up to the 2019 election of Appellate Body judges, when the US President Trump chose to gridlock the WTO in order to regain national sovereignty.

## Impact

Studies show that the WTO boosted trade. Research shows that in the absence of the WTO, the average country would face an increase in tariffs on their exports by 32 percentage points. The dispute settlement mechanism in the WTO is one way in which trade is increased.

According to a 2017 study in the *Journal of International Economic Law*, "nearly all recent [preferential trade agreements (PTAs) reference the WTO explicitly, often dozens of times across multiple chapters. Likewise, in many of these same PTAs we find that substantial portions of treaty language—sometimes the majority of a chapter—is copied verbatim from a WTO agreement... the presence of the WTO in PTAs has increased over time."

## Chapter 2

# North American Free Trade Agreement

The **North American Free Trade Agreement (NAFTA)**; Spanish: *Tratado de Libre Comercio de América del Norte*, **TLCAN**; French: *Accord de libre-échange nord-américain*, **ALÉNA**) was an agreement signed by Canada, Mexico, and the United States that created a trilateral trade bloc in North America. The agreement came into force on January 1, 1994, and superseded the 1988 Canada–United States Free Trade Agreement between the United States and Canada. The NAFTA trade bloc formed one of the largest trade blocs in the world by gross domestic product.

The impetus for a North American free trade zone began with U.S. president Ronald Reagan, who made the idea part of his 1980 presidential campaign. After the signing of the Canada–United States Free Trade Agreement in 1988, the administrations of U.S. president George H. W. Bush, Mexican President Carlos Salinas de Gortari, and Canadian prime minister Brian Mulroney agreed to negotiate what became NAFTA. Each submitted the agreement for ratification in their respective capitals in December 1992, but NAFTA faced significant opposition in both the United States and Canada. All three countries ratified NAFTA in 1993 after the addition of two side agreements, the North American Agreement on Labor Cooperation (NAALC) and the North American Agreement on Environmental Cooperation (NAAEC).

Passage of NAFTA resulted in the elimination or reduction of barriers to trade and investment between the U.S., Canada, and Mexico. The effects of the agreement regarding issues such as employment, the environment, and economic growth have been the subject of political disputes. Most economic analyses indicated that NAFTA was beneficial to the North American economies and the average citizen, but harmed a small minority of workers in industries exposed to trade competition. Economists held that withdrawing from NAFTA or renegotiating NAFTA in a way that reestablished trade barriers would have adversely affected the U.S. economy and cost jobs. However, Mexico would have been much more severely affected by job loss and reduction of economic growth in both the short term and long term.

After U.S. President Donald Trump took office in January 2017, he sought to replace NAFTA with a new agreement, beginning negotiations with Canada and Mexico. In September 2018, the United States, Mexico, and Canada reached an agreement to replace NAFTA with the United States–Mexico–Canada Agreement (USMCA), and all three countries had ratified it by March 2020. NAFTA remained in force until USMCA was implemented. In April 2020, Canada and Mexico notified the U.S. that they were ready to implement the agreement.

The USMCA took effect on July 1, 2020, replacing NAFTA. The new law involved only small changes.

# **Negotiation, signing, ratification, and revision (1988–94)**

## **Negotiation**

The impetus for a North American free trade zone began with U.S. president Ronald Reagan, who made the idea part of his campaign when he announced his candidacy for the presidency in November 1979. Canada and the United States signed the Canada–United States Free Trade Agreement (FTA) in 1988, and shortly afterward Mexican President Carlos Salinas de Gortari decided to approach U.S. president George H. W. Bush to propose a similar agreement in an effort to bring in foreign investment following the Latin American debt crisis. As the two leaders began negotiating, the Canadian government under Prime Minister Brian Mulroney feared that the advantages Canada had gained through the Canada–US FTA would be undermined by a US–Mexican bilateral agreement, and asked to become a party to the US–Mexican talks.

## **Signing**

Following diplomatic negotiations dating back to 1990, the leaders of the three nations signed the agreement in their respective capitals on December 17, 1992. The signed agreement then needed to be ratified by each nation's legislative or parliamentary branch.

## **Ratification**

### **Canada**

The earlier Canada–United States Free Trade Agreement had been controversial and divisive in Canada, and featured as an issue in the 1988 Canadian election. In that election, more Canadians voted for anti-free trade parties (the Liberals and the New Democrats), but the split of the votes between the two parties meant that the pro-free trade Progressive Conservatives (PCs) came out of the election with the most seats and so took power. Mulroney and the PCs had a parliamentary majority and easily passed the 1987 Canada–US FTA and NAFTA bills. However, Mulroney was replaced as Conservative leader and prime minister by Kim Campbell. Campbell led the PC party into the 1993 election where they were decimated by the Liberal Party under Jean Chrétien, who campaigned on a promise to renegotiate or abrogate NAFTA. Chrétien subsequently negotiated two supplemental agreements with Bush, who had subverted the LAC advisory process and worked to "fast track" the signing prior to the end of his term, ran out of time and had to pass the required ratification and signing of the implementation law to incoming president Bill Clinton.

### **United States**

Before sending it to the United States Senate, Clinton added two side agreements, the North American Agreement on Labor Cooperation (NAALC) and the North American Agreement on Environmental Cooperation (NAAEC), to protect workers and

the environment, and to also allay the concerns of many House members. The U.S. required its partners to adhere to environmental practices and regulations similar to its own. After much consideration and emotional discussion, the U.S. House of Representatives passed the North American Free Trade Agreement Implementation Act on November 17, 1993, 234–200. The agreement's supporters included 132 Republicans and 102 Democrats. The bill passed the Senate on November 20, 1993, 61–38. Senate supporters were 34 Republicans and 27 Democrats. Republican Representative David Dreier of California, a strong proponent of NAFTA since the Reagan Administration, played a leading role in mobilizing support for the agreement among Republicans in Congress and across the country.

Clinton signed it into law on December 8, 1993; the agreement went into effect on January 1, 1994. At the signing ceremony, Clinton recognized four individuals for their efforts in accomplishing the historic trade deal: Vice President Al Gore, Chairwoman of the Council of Economic Advisers Laura Tyson, Director of the National Economic Council Robert Rubin, and Republican Congressman David Dreier. Clinton also stated that "NAFTA means jobs. American jobs, and good-paying American jobs. If I didn't believe that, I wouldn't support this agreement." NAFTA replaced the previous Canada-US FTA.

## **Mexico**

NAFTA (TLCAN in Spanish) was approved by the Mexican Senate on November 22, 1993, and was published in the Official Gazette of the Federation on December 8, 1993.

The decree implementing NAFTA and the various changes to accommodate NAFTA in Mexican law was promulgated on December 14, 1993, with entry into force on January 1, 1994.

## **Provisions**

The goal of NAFTA was to eliminate barriers to trade and investment between the U.S., Canada and Mexico. The implementation of NAFTA on January 1, 1994, brought the immediate elimination of tariffs on more than one-half of Mexico's exports to the U.S. and more than one-third of U.S. exports to Mexico. Within 10 years of the implementation of the agreement, all U.S.-Mexico tariffs were to be eliminated except for some U.S. agricultural exports to Mexico, to be phased out within 15 years. Most U.S.-Canada trade was already duty-free. NAFTA also sought to eliminate non-tariff trade barriers and to protect the intellectual property rights on traded products.

Chapter 20 provided a procedure for the international resolution of disputes over the application and interpretation of NAFTA. It was modeled after Chapter 69 of the Canada-United States Free Trade Agreement. NAFTA is, in part, implemented by Technical Working Groups composed of government officials from each of the three partner nations.

## **Intellectual property**

The North American Free Trade Agreement Implementation Act made some changes to the copyright law of the United States, foreshadowing the Uruguay Round Agreements Act of 1994 by

restoring copyright (within the NAFTA nations) on certain motion pictures which had entered the public domain.

## **Environment**

The Clinton administration negotiated a side agreement on the environment with Canada and Mexico, the North American Agreement on Environmental Cooperation (NAAEC), which led to the creation of the Commission for Environmental Cooperation (CEC) in 1994. To alleviate concerns that NAFTA, the first regional trade agreement between a developing country and two developed countries, would have negative environmental impacts, the commission was mandated to conduct ongoing *ex post* environmental assessment. It created one of the first *ex post* frameworks for environmental assessment of trade liberalization, designed to produce a body of evidence with respect to the initial hypotheses about NAFTA and the environment, such as the concern that NAFTA would create a "race to the bottom" in environmental regulation among the three countries, or that NAFTA would pressure governments to increase their environmental protections. The CEC has held four symposia to evaluate the environmental impacts of NAFTA and commissioned 47 papers on the subject from leading independent experts.

## **Labor**

Proponents of NAFTA in the United States emphasized that the pact was a free-trade, not an economic-community, agreement. The freedom of movement it establishes for goods, services and capital did not extend to labor. In proposing what no other

comparable agreement had attempted—to open industrialized countries to "a major Third World country"—NAFTA eschewed the creation of common social and employment policies. The regulation of the labor market and or the workplace remained the exclusive preserve of the national governments.

A "side agreement" on enforcement of existing domestic labor law, concluded in August 1993, the North American Agreement on Labour Cooperation (NAALC), was highly circumscribed. Focused on health and safety standards and on child labor law, it excluded issues of collective bargaining, and its "so-called [enforcement] teeth" were accessible only at the end of "a long and tortuous" disputes process". Commitments to enforce existing labor law also raised issues of democratic practice. The Canadian anti-NAFTA coalition, Pro-Canada Network, suggested that guarantees of minimum standards would be "meaningless" without "broad democratic reforms in the [Mexican] courts, the unions, and the government". Later assessment, however, did suggest that NAALC's principles and complaint mechanisms did "create new space for advocates to build coalitions and take concrete action to articulate challenges to the status quo and advance workers' interests".

## **Agriculture**

From the earliest negotiation, agriculture was a controversial topic within NAFTA, as it has been with almost all free trade agreements signed within the WTO framework. Agriculture was the only section that was not negotiated trilaterally; instead, three separate agreements were signed between each pair of parties. The Canada–U.S. agreement contained significant restrictions and tariff quotas on agricultural products (mainly

sugar, dairy, and poultry products), whereas the Mexico–U.S. pact allowed for a wider liberalization within a framework of phase-out periods (it was the first North–South FTA on agriculture to be signed).

## **Transportation infrastructure**

NAFTA established the CANAMEX Corridor for road transport between Canada and Mexico, also proposed for use by rail, pipeline, and fiber optic telecommunications infrastructure. This became a High Priority Corridor under the U.S. Intermodal Surface Transportation Efficiency Act of 1991.

## **Chapter 11 – investor-state dispute settlement procedures**

Another contentious issue was the investor-state dispute settlement obligations contained in Chapter 11 of NAFTA. Chapter 11 allowed corporations or individuals to sue Mexico, Canada or the United States for compensation when actions taken by those governments (or by those for whom they are responsible at international law, such as provincial, state, or municipal governments) violated international law.

This chapter has been criticized by groups in the United States, Mexico, and Canada for a variety of reasons, including not taking into account important social and environmental considerations. In Canada, several groups, including the Council of Canadians, challenged the constitutionality of Chapter 11. They lost at the trial level and the subsequent appeal.

Methanex Corporation, a Canadian corporation, filed a US\$970 million suit against the United States. Methanex claimed that a California ban on methyl *tert*-butyl ether (MTBE), a substance that had found its way into many wells in the state, was hurtful to the corporation's sales of methanol. The claim was rejected, and the company was ordered to pay US\$3 million to the U.S. government in costs, based on the following reasoning: "But as a matter of general international law, a non-discriminatory regulation for a public purpose, which is enacted in accordance with due process and, which affects, *inter alios*, a foreign investor or investment is not deemed expropriatory and compensable unless specific commitments had been given by the regulating government to the then putative foreign investor contemplating investment that the government would refrain from such regulation."

In another case, Metalclad, an American corporation, was awarded US\$15.6 million from Mexico after a Mexican municipality refused a construction permit for the hazardous waste landfill it intended to construct in Guadalcázar, San Luis Potosí. The construction had already been approved by the federal government with various environmental requirements imposed (see paragraph 48 of the tribunal decision). The NAFTA panel found that the municipality did not have the authority to ban construction on the basis of its environmental concerns.

In *Eli Lilly and Company v. Government of Canada* the plaintiff presented a US\$500 million claim for the way Canada requires usefulness in its drug patent legislation. Apotex is sued the U.S. for US\$520 million because of opportunity it says it lost in an FDA generic drug decision.

Lone Pine Resources Inc. v. Government of Canada filed a US\$250 million claim against Canada, accusing it of "arbitrary, capricious and illegal" behaviour, because Quebec intends to prevent fracking exploration under the St. Lawrence Seaway.

Lone Pine Resources is incorporated in Delaware but headquartered in Calgary, and had an initial public offering on the NYSE May 25, 2011, of 15 million shares each for \$13, which raised US\$195 million.

Barutciski acknowledged "that NAFTA and other investor-protection treaties create an anomaly in that Canadian companies that have also seen their permits rescinded by the very same Quebec legislation, which expressly forbids the paying of compensation, do not have the right (to) pursue a NAFTA claim", and that winning "compensation in Canadian courts for domestic companies in this case would be more difficult since the Constitution puts property rights in provincial hands".

A treaty with China would extend similar rights to Chinese investors, including SOEs.

## **Chapter 19 – countervailing duty**

NAFTA's Chapter 19 was a trade dispute mechanism which subjects antidumping and countervailing duty (AD/CVD) determinations to binational panel review instead of, or in addition to, conventional judicial review. For example, in the United States, review of agency decisions imposing antidumping and countervailing duties are normally heard before the U.S. Court of International Trade, an Article III

court. NAFTA parties, however, had the option of appealing the decisions to binational panels composed of five citizens from the two relevant NAFTA countries. The panelists were generally lawyers experienced in international trade law. Since NAFTA did not include substantive provisions concerning AD/CVD, the panel was charged with determining whether final agency determinations involving AD/CVD conformed with the country's domestic law. Chapter 19 was an anomaly in international dispute settlement since it did not apply international law, but required a panel composed of individuals from many countries to re-examine the application of one country's domestic law.

A Chapter 19 panel was expected to examine whether the agency's determination was supported by "substantial evidence". This standard assumed significant deference to the domestic agency. Some of the most controversial trade disputes in recent years, such as the U.S.–Canada softwood lumber dispute, have been litigated before Chapter 19 panels.

Decisions by Chapter 19 panels could be challenged before a NAFTA extraordinary challenge committee. However, an extraordinary challenge committee did not function as an ordinary appeal. Under NAFTA, it only vacated or remanded a decision if the decision involved a significant and material error that threatens the integrity of the NAFTA dispute settlement system. Since January 2006, no NAFTA party had successfully challenged a Chapter 19 panel's decision before an extraordinary challenge committee.

# **Adjudication**

The roster of NAFTA adjudicators included many retired judges, such as Alice Desjardins, John Maxwell Evans, Constance Hunt, John Richard, Arlin Adams, Susan Getzendanner, George C. Pratt, Charles B. Renfrew and Sandra Day O'Connor.

## **Impact**

### **Canada**

## **Historical context**

In 2008, Canadian exports to the United States and Mexico were at \$381.3 billion, with imports at \$245.1 billion. According to a 2004 article by University of Toronto economist Daniel Trefler, NAFTA produced a significant net benefit to Canada in 2003, with long-term productivity increasing by up to 15 percent in industries that experienced the deepest tariff cuts. While the contraction of low-productivity plants reduced employment (up to 12 percent of existing positions), these job losses lasted less than a decade; overall, unemployment in Canada has fallen since the passage of the act. Commenting on this trade-off, Trefler said that the critical question in trade policy is to understand "how freer trade can be implemented in an industrialized economy in a way that recognizes both the

long-run gains and the short-term adjustment costs borne by workers and others".

A study in 2007 found that NAFTA had "a substantial impact on international trade volumes, but a modest effect on prices and welfare".

According to a 2012 study, with reduced NAFTA trade tariffs, trade with the United States and Mexico only increased by a modest 11% in Canada compared to an increase of 41% for the U.S. and 118% for Mexico. Moreover, the U.S. and Mexico benefited more from the tariff reductions component, with welfare increases of 0.08% and 1.31%, respectively, with Canada experiencing a decrease of 0.06%.

## **Current issues**

According to a 2017 report by the New York City based public policy think tank report, Council on Foreign Relations (CFR), bilateral trade in agricultural products tripled in size from 1994 to 2017 and is considered to be one of the largest economic effects of NAFTA on U.S.-Canada trade with Canada becoming the U.S. agricultural sectors' leading importer. Canadian fears of losing manufacturing jobs to the United States did not materialize with manufacturing employment holding "steady". However, with Canada's labour productivity levels at 72% of U.S. levels, the hopes of closing the "productivity gap" between the two countries were also not realized. According to a 2018 Sierra Club report, Canada's commitments under NAFTA and the Paris agreement conflicted.

The Paris commitments were voluntary, and NAFTA's were compulsory.

According to a 2018 report by Gordon Laxter published by the Council of Canadians, NAFTA's Article 605, energy proportionality rule ensures that Americans had "virtually unlimited first access to most of Canada's oil and natural gas" and Canada could not reduce oil, natural gas and electricity exports (74% its oil and 52% its natural gas) to the U.S., even if Canada was experiencing shortages. These provisions that seemed logical when NAFTA was signed in 1993 are no longer appropriate. The Council of Canadians promoted environmental protection and was against NAFTA's role in encouraging development of the tar sands and fracking.

US President Donald Trump, angered by Canada's dairy tax of "almost 300%", threatened to leave Canada out of the NAFTA. Since 1972, Canada has been operating on a "supply management" system, which the United States is attempting to pressure it out of, specifically focusing on the dairy industry. However, this has not yet taken place, as Quebec, which holds approximately half the country's dairy farms, still supports supply management.

## **Mexico**

Maquiladoras (Mexican assembly plants that take in imported components and produce goods for export) became the landmark of trade in Mexico. They moved to Mexico from the United States, hence the debate over the loss of American jobs. Income in the maquiladora sector had increased 15.5% since the implementation of NAFTA in 1994. Other sectors also

benefited from the free trade agreement, and the share of exports to the U.S. from non-border states increased in the last five years while the share of exports from border states decreased. This allowed for rapid growth in non-border metropolitan areas such as Toluca, León, and Puebla, which were all larger in population than Tijuana, Ciudad Juárez, and Reynosa.

The overall effect of the Mexico–U.S. agricultural agreement is disputed. Mexico did not invest in the infrastructure necessary for competition, such as efficient railroads and highways. This resulted in more difficult living conditions for the country's poor. Mexico's agricultural exports increased 9.4 percent annually between 1994 and 2001, while imports increased by only 6.9 percent a year during the same period.

One of the most affected agricultural sectors was the meat industry. Mexico went from a small player in the pre-1994 U.S. export market to the second largest importer of U.S. agricultural products in 2004, and NAFTA may have been a major catalyst for this change. Free trade removed the hurdles that impeded business between the two countries, so Mexico provided a growing market for meat for the U.S., and increased sales and profits for the U.S. meat industry. A coinciding noticeable increase in the Mexican per capita GDP greatly changed meat consumption patterns as per capita meat consumption grew.

Production of corn in Mexico increased since NAFTA. However, internal demand for corn had increased beyond Mexico's supply to the point where imports became necessary, far beyond the quotas Mexico originally negotiated. Zahniser&

Coyle pointed out that corn prices in Mexico, adjusted for international prices, have drastically decreased, but through a program of subsidies expanded by former president Vicente Fox, production remained stable since 2000. Reducing agricultural subsidies, especially corn subsidies, was suggested as a way to reduce harm to Mexican farmers.

A 2001 *Journal of Economic Perspectives* review of the existing literature found that NAFTA was a net benefit to Mexico. By the year 2003, 80% of the commerce in Mexico was executed only with the U.S. The commercial sales surplus, combined with the deficit with the rest of the world, created a dependency in Mexico's exports. These effects were evident in the 2001 recession, which resulted in either a low rate or a negative rate in Mexico's exports.

A 2015 study found that Mexico's welfare increased by 1.31% as a result of the NAFTA tariff reductions and that Mexico's intra-bloc trade increased by 118%. Inequality and poverty fell in the most globalization-affected regions of Mexico. 2013 and 2015 studies showed that Mexican small farmers benefited more from NAFTA than large-scale farmers.

NAFTA had also been credited with the rise of the Mexican middle class. A Tufts University study found that NAFTA lowered the average cost of basic necessities in Mexico by up to 50%. This price reduction increased cash-on-hand for many Mexican families, allowing Mexico to graduate more engineers than Germany each year.

Growth in new sales orders indicated an increase in demand for manufactured products, which resulted in expansion of production and a higher employment rate to satisfy the

increment in the demand. The growth in the maquiladora industry and in the manufacturing industry was of 4.7% in August 2016. Three quarters of the imports and exports are with the U.S.

Tufts University political scientist Daniel W. Drezner argued that NAFTA made it easier for Mexico to transform to a real democracy and become a country that views itself as North American. This has boosted cooperation between the United States and Mexico.

## **United States**

Economists generally agreed that the United States economy benefited overall from NAFTA as it increased trade. In a 2012 survey of the Initiative on Global Markets' Economic Experts Panel, 95% of the participants said that, on average, U.S. citizens benefited from NAFTA while none said that NAFTA hurt US citizens, on average. A 2001 *Journal of Economic Perspectives* review found that NAFTA was a net benefit to the United States. A 2015 study found that US welfare increased by 0.08% as a result of NAFTA tariff reductions, and that US intra-bloc trade increased by 41%.

A 2014 study on the effects of NAFTA on US trade jobs and investment found that between 1993 and 2013, the US trade deficit with Mexico and Canada increased from \$17.0 to \$177.2 billion, displacing 851,700 US jobs.

In 2015, the Congressional Research Service concluded that the "net overall effect of NAFTA on the US economy appears to have been relatively modest, primarily because trade with

Canada and Mexico accounts for a small percentage of US GDP. However, there were worker and firm adjustment costs as the three countries adjusted to more open trade and investment among their economies." The report also estimated that NAFTA added \$80 billion to the US economy since its implementation, equivalent to a 0.5% increase in US GDP.

The US Chamber of Commerce credited NAFTA with increasing U.S. trade in goods and services with Canada and Mexico from \$337 billion in 1993 to \$1.2 trillion in 2011, while the AFL-CIO blamed the agreement for sending 700,000 American manufacturing jobs to Mexico over that time.

University of California, San Diego economics professor Gordon Hanson said that NAFTA helped the US compete against China and therefore saved US jobs. While some jobs were lost to Mexico as a result of NAFTA, considerably more would have been lost to China if not for NAFTA.

## **Trade balances**

The US had a trade surplus with NAFTA countries of \$28.3 billion for services in 2009 and a trade deficit of \$94.6 billion (36.4% annual increase) for goods in 2010. This trade deficit accounted for 26.8% of all US goods trade deficit. A 2018 study of global trade published by the Center for International Relations identified irregularities in the patterns of trade of NAFTA ecosystem using network theory analytical techniques. The study showed that the US trade balance was influenced by tax avoidance opportunities provided in Ireland.

A study published in the August 2008 issue of the *American Journal of Agricultural Economics*, found NAFTA increased US agricultural exports to Mexico and Canada, even though most of the increase occurred a decade after its ratification. The study focused on the effects that gradual "phase-in" periods in regional trade agreements, including NAFTA, have on trade flows. Most of the increases in members' agricultural trade, which was only recently brought under the purview of the World Trade Organization, was due to very high trade barriers before NAFTA or other regional trade agreements.

## **Investment**

The U.S. foreign direct investment (FDI) in NAFTA countries (stock) was \$327.5 billion in 2009 (latest data available), up 8.8% from 2008. The US direct investment in NAFTA countries was in non-bank holding companies and the manufacturing, finance/insurance, and mining sectors. The foreign direct investment of Canada and Mexico in the United States (stock) was \$237.2 billion in 2009 (the latest data available), up 16.5% from 2008.

## **Economy and jobs**

In their May 24, 2017 report, the Congressional Research Service (CRS) wrote that the economic impacts of NAFTA on the U.S. economy were modest. In a 2015 report, the Congressional Research Service summarized multiple studies as follows: "In reality, NAFTA did not cause the huge job losses feared by the critics or the large economic gains predicted by supporters. The net overall effect of NAFTA on the U.S. economy appears to

have been relatively modest, primarily because trade with Canada and Mexico accounts for a small percentage of U.S. GDP. However, there were worker and firm adjustment costs as the three countries adjusted to more open trade and investment among their economies."

Many American small businesses depended on exporting their products to Canada or Mexico under NAFTA. According to the U.S. Trade Representative, this trade supported over 140,000 small- and medium-sized businesses in the US.

According to University of California, Berkeley professor of economics Brad DeLong, NAFTA had an insignificant impact on US manufacturing. The adverse impact on manufacturing was exaggerated in US political discourse according to DeLong and Harvard economist Dani Rodrik.

According to a 2013 article by Jeff Faux published by the Economic Policy Institute, California, Texas, Michigan and other states with high concentrations of manufacturing jobs were most affected by job loss due to NAFTA. According to a 2011 article by EPI economist Robert Scott, about 682,900 U.S. jobs were "lost or displaced" as a result of the trade agreement. More recent studies agreed with reports by the Congressional Research Service that NAFTA only had a modest impact on manufacturing employment and automation explained 87% of the losses in manufacturing jobs.

## **Environment**

According to a study in the *Journal of International Economics*, NAFTA reduced pollution emitted by the US manufacturing

sector: "On average, nearly two-thirds of the reductions in coarse particulate matter (PM<sub>10</sub>) and sulfur dioxide (SO<sub>2</sub>) emissions from the U.S. manufacturing sector between 1994 and 1998 can be attributed to trade liberalization following NAFTA."

According to the Sierra Club, NAFTA contributed to large-scale, export-oriented farming, which led to the increased use of fossil fuels, pesticides and GMO. NAFTA also contributed to environmentally destructive mining practices in Mexico. It prevented Canada from effectively regulating its tar sands industry, and created new legal avenues for transnational corporations to fight environmental legislation. In some cases, environmental policy was neglected in the wake of trade liberalization; in other cases, NAFTA's measures for investment protection, such as Chapter 11, and measures against non-tariff trade barriers threatened to discourage more vigorous environmental policy. The most serious overall increases in pollution due to NAFTA were found in the base metals sector, the Mexican petroleum sector, and the transportation equipment sector in the United States and Mexico, but not in Canada.

## **Mobility of persons**

According to the Department of Homeland Security Yearbook of Immigration Statistics, during fiscal year 2006 (October 2005 – September 2006), 73,880 foreign professionals (64,633 Canadians and 9,247 Mexicans) were admitted into the United States for temporary employment under NAFTA (i.e., in the TN status). Additionally, 17,321 of their family members (13,136 Canadians, 2,904 Mexicans, as well as a number of third-

country nationals married to Canadians and Mexicans) entered the U.S. in the treaty national's dependent (TD) status. Because DHS counts the number of the new I-94 arrival records filled at the border, and the TN-1 admission is valid for three years, the number of non-immigrants in TN status present in the U.S. at the end of the fiscal year is approximately equal to the number of admissions during the year.

(A discrepancy may be caused by some TN entrants leaving the country or changing status before their three-year admission period has expired, while other immigrants admitted earlier may change their status to TN or TD, or extend TN status granted earlier).

According to the International Organization for Migration, deaths of migrants have been on the rise worldwide with 5,604 deaths in 2016. An increased number of undocumented farmworkers in California may be due to the initial passing of NAFTA.

Canadian authorities estimated that on December 1, 2006, 24,830 U.S. citizens and 15,219 Mexican citizens were in Canada as "foreign workers". These numbers include both entrants under NAFTA and those who entered under other provisions of Canadian immigration law. New entries of foreign workers in 2006 totalled 16,841 U.S. citizens and 13,933 Mexicans.

# **Disputes and controversies**

## **1992 U.S. presidential candidate Ross Perot**

In the second 1992 presidential debate, Ross Perot argued:

We have got to stop sending jobs overseas. It's pretty simple: If you're paying \$12, \$13, \$14 an hour for factory workers and you can move your factory south of the border, pay a dollar an hour for labor, ... have no health care—that's the most expensive single element in making a car—have no environmental controls, no pollution controls and no retirement, and you don't care about anything but making money, there will be a giant sucking sound going south. ... when [Mexico's] jobs come up from a dollar an hour to six dollars an hour, and ours go down to six dollars an hour, and then it's leveled again. But in the meantime, you've wrecked the country with these kinds of deals.

Perot ultimately lost the election, and the winner, Bill Clinton, supported NAFTA, which went into effect on January 1, 1994.

## **Legal disputes**

In 1996, the gasoline additive MMT was brought to Canada by Ethyl Corporation, an American company when the Canadian federal government banned imports of the additive. The American company brought a claim under NAFTA Chapter 11

seeking US\$201 million, from the Canadian federal government as well as the Canadian provinces under the Agreement on Internal Trade (AIT). They argued that the additive had not been conclusively linked to any health dangers, and that the prohibition was damaging to their company. Following a finding that the ban was a violation of the AIT, the Canadian federal government repealed the ban and settled with the American company for US\$13 million. Studies by Health and Welfare Canada (now Health Canada) on the health effects of MMT in fuel found no significant health effects associated with exposure to these exhaust emissions. Other Canadian researchers and the U.S. Environmental Protection Agency disagreed citing studies that suggested possible nerve damage.

The United States and Canada argued for years over the United States' 27% duty on Canadian softwood lumber imports. Canada filed many motions to have the duty eliminated and the collected duties returned to Canada. After the United States lost an appeal before a NAFTA panel, spokesperson for U.S. Trade Representative Rob Portman responded by saying: "we are, of course, disappointed with the [NAFTA panel's] decision, but it will have no impact on the anti-dumping and countervailing duty orders."

On July 21, 2006, the United States Court of International Trade found that imposition of the duties was contrary to U.S. law.

## **Change in income trust taxation not expropriation**

On October 30, 2007, American citizens Marvin and Elaine Gottlieb filed a Notice of Intent to Submit a Claim to Arbitration under NAFTA, claiming thousands of U.S. investors lost a total of \$5 billion in the fall-out from the Conservative Government's decision the previous year to change the tax rate on income trusts in the energy sector. On April 29, 2009, a determination was made that this change in tax law was not expropriation.

## **Impact on Mexican farmers**

Several studies rejected NAFTA responsibility for depressing the incomes of poor corn farmers. The trend existed more than a decade before NAFTA existed. Also, maize production increased after 1994, and there wasn't a measurable impact on the price of Mexican corn because of subsidized corn from the United States. The studies agreed that the abolition of U.S. agricultural subsidies would benefit Mexican farmers.

## **Zapatista Uprising in Chiapas, Mexico**

Preparations for NAFTA included cancellation of Article 27 of Mexico's constitution, the cornerstone of Emiliano Zapata's revolution in 1910–1919. Under the historic Article 27, indigenous communal landholdings were protected from sale or privatization. However, this barrier to investment was

incompatible with NAFTA. Indigenous farmers feared the loss of their remaining land and cheap imports (substitutes) from the US. The Zapatistas labelled NAFTA a "death sentence" to indigenous communities all over Mexico and later declared war on the Mexican state on January 1, 1994, the day NAFTA came into force.

## **Criticism from 2016 U.S. presidential candidates**

In a *60 Minutes* interview in September 2015, 2016 presidential candidate Donald Trump called NAFTA "the single worst trade deal ever approved in [the United States]", and said that if elected, he would "either renegotiate it, or we will break it". Juan Pablo Castañón [es], president of the trade group Consejo Coordinador Empresarial, expressed concern about renegotiation and the willingness to focus on the car industry. A range of trade experts said that pulling out of NAFTA would have a range of unintended consequences for the United States, including reduced access to its biggest export markets, a reduction in economic growth, and higher prices for gasoline, cars, fruits, and vegetables. Members of the private initiative in Mexico noted that to eliminate NAFTA, many laws must be adapted by the U.S. Congress. The move would also eventually result in legal complaints by the World Trade Organization. The *Washington Post* noted that a Congressional Research Service review of academic literature concluded that the "net overall effect of NAFTA on the U.S. economy appears to have been relatively modest, primarily because trade with Canada and Mexico accounts for a small percentage of U.S. GDP".

Democratic candidate Bernie Sanders, opposing the Trans-Pacific Partnership trade agreement, called it "a continuation of other disastrous trade agreements, like NAFTA, CAFTA, and permanent normal trade relations with China". He believes that free trade agreements have caused a loss of American jobs and depressed American wages. Sanders said that America needs to rebuild its manufacturing base using American factories for well-paying jobs for American labor rather than outsourcing to China and elsewhere.

## **Policy of the Trump administration**

### **Renegotiation**

Shortly after his election, U.S. President Donald Trump said he would begin renegotiating the terms of NAFTA, to resolve trade issues he had campaigned on. The leaders of Canada and Mexico have indicated their willingness to work with the Trump administration. Although vague on the exact terms he seeks in a renegotiated NAFTA, Trump threatened to withdraw from it if negotiations fail.

In July 2017, the Trump administration provided a detailed list of changes that it would like to see to NAFTA. The top priority was a reduction in the United States' trade deficit. The administration also called for the elimination of provisions that allowed Canada and Mexico to appeal duties imposed by the United States and limited the ability of the United States to

impose import restrictions on Canada and Mexico. The list also alleged subsidized state-owned enterprises and currency manipulation.

According to Chad Bown of the Peterson Institute for International Economics, the Trump administration's list "is very consistent with the president's stance on liking trade barriers, liking protectionism. This makes NAFTA in many respects less of a free-trade agreement." The concerns expressed by the US Trade Representative over subsidized state-owned enterprises and currency manipulation are not thought to apply to Canada and Mexico, but rather to be designed to send a message to countries beyond North America. Jeffrey Schott of the Peterson Institute for International Economics noted that it would not be possible to conclude renegotiations quickly while also addressing all the concerns on the list. He also said that it would be difficult to do anything about trade deficits.

An October 2017 op-ed in Toronto's *The Globe and Mail* questioned whether the United States wanted to re-negotiate the agreement or planned to walk away from it no matter what, noting that newly appointed American ambassador Kelly Knight Craft is married to the owner of Alliance Resource Partners, a big US coal operation. Canada is implementing a carbon plan, and there is also the matter of a sale of Bombardier jets. "The Americans inserted so many poison pills into last week's talks in Washington that they should have been charged with murder", wrote the columnist, John Ibbitson.

"A number of the proposals that the United States has put on the table have little or no support from the U.S. business and

agriculture community. It isn't clear who they're intended to benefit", said John Murphy, vice-president of the U.S. Chamber of Commerce. Pat Roberts, the senior US senator from Kansas, called for an outcry against Trump anti-NAFTA moves, saying the "issues affect real jobs, real lives and real people". Kansas is a major agricultural exporter, and farm groups warn that just threatening to leave NAFTA might cause buyers to minimize uncertainty by seeking out non-US sources.

A fourth round of talks included a U.S. demand for a sunset clause that would end the agreement in five years, unless the three countries agreed to keep it in place, a provision U.S. Commerce Secretary Wilbur Ross has said would allow the countries to kill the deal if it was not working. Canadian Prime Minister Justin Trudeau met with the House Ways and Means Committee, since Congress would have to pass legislation rolling back the treaty's provisions if Trump tries to withdraw from the pact.

From June to late August 2018, Canada was sidelined as the United States and Mexico held bilateral talks. On 27 August 2018 Mexico and the United States announced they had reached a bilateral understanding on a revamped NAFTA trade deal that included provisions that would boost automobile production in the U.S., a 10-year data protection period against generic drug production on an expanded list of products that benefits pharmaceutical companies, particularly US makers producers of high-cost biologic drugs, a sunset clause—a 16-year expiration date with regular 6-year reviews to possibly renew the agreement for additional 16-year terms, and an increased *de minimis* threshold in which Mexico raised the *de minimis* value to \$100 from \$50 regarding online duty-

and tax-free purchases. According to an August 30 article in *The Economist*, Mexico agreed to increase the rules of origin threshold which would mean that 75% as opposed to the previous 62.5% of a vehicle's components must be made in North America to avoid tariffs. Since car makers currently import less expensive components from Asia, under the revised agreement, consumers would pay more for vehicles. As well, approximately 40 to 45 per cent of vehicle components must be made by workers earning a minimum of US\$16 per hour, in contrast to the current US\$2.30 an hour that a worker earns on average in a Mexican car manufacturing plant. *The Economist* described this as placing "Mexican carmaking into a straitjacket".

Trudeau and Canadian Foreign Minister Chrystia Freeland announced that they were willing to join the agreement if it was in Canada's interests. Freeland returned from her European diplomatic tour early, cancelling a planned visit to Ukraine, to participate in NAFTA negotiations in Washington, D.C. in late August. According to an August 31 *Canadian Press* published in the *Ottawa Citizen*, key issues under debate included supply management, Chapter 19, pharmaceuticals, cultural exemption, the sunset clause, and *de minimis* thresholds.

Although President Donald Trump warned Canada on September 1 that he would exclude them from a new trade agreement unless Canada submitted to his demands, it is not clear that the Trump administration has the authority to do so without the approval of Congress. According to Congressional Research Service (CRS) reports, one published in 2017 and another on July 26, 2018, it is likely that congressional

approval to make substantive changes to NAFTA would have to be secured by President Trump before the changes could be implemented.

On September 30, 2018, the day of the deadline for the Canada–U.S. negotiations, a preliminary deal between the two countries was reached, thus preserving the trilateral pact when the Trump administration submits the agreement before Congress. The new name for the agreement was the "United States—Mexico—Canada Agreement" (USMCA) and came into effect on July 1, 2020.

## **Impact of withdrawing from NAFTA**

Following Donald Trump's election to the presidency, a range of trade experts said that pulling out of NAFTA as Trump proposed would have a range of unintended consequences for the U.S., including reduced access to the U.S.'s biggest export markets, a reduction in economic growth, and increased prices for gasoline, cars, fruits, and vegetables. The worst affected sectors would be textiles, agriculture and automobiles.

According to Tufts University political scientist Daniel W. Drezner, the Trump administration's desire to return relations with Mexico to the pre-NAFTA era are misguided. Drezner argued that NAFTA made it easier for Mexico to transform to a real democracy and become a country that views itself as North American. If Trump acts on many of the threats that he has made against Mexico, it is not inconceivable that Mexicans would turn to left-wing populist strongmen, as several South American countries have. At the very least, US-Mexico relations would worsen, with adverse implications for

cooperation on border security, counterterrorism, drug-war operations, deportations and managing Central American migration.

According to Chad P. Bown (senior fellow at the Peterson Institute for International Economics), "a renegotiated NAFTA that would reestablish trade barriers is unlikely to help workers who lost their jobs—regardless of the cause—take advantage of new employment opportunities".

According to Harvard economist Marc Melitz, "recent research estimates that the repeal of NAFTA would not increase car production in the United States". Melitz noted that this would cost manufacturing jobs.

## **Trans-Pacific Partnership**

If the original Trans-Pacific Partnership (TPP) had come into effect, existing agreements such as NAFTA would be reduced to those provisions that do not conflict with the TPP, or that require greater trade liberalization than the TPP. However, only Canada and Mexico would have the prospect of becoming members of the TPP after U.S. President Donald Trump withdrew the United States from the agreement in January 2017. In May 2017, the 11 remaining members of the TPP, including Canada and Mexico, agreed to proceed with a revised version of the trade deal without U.S. participation.

# American public opinion on NAFTA

The American public was largely divided on its view of the North American Free Trade Agreement (NAFTA), with a wide partisan gap in beliefs. In a February 2018 Gallup Poll, 48% of Americans said NAFTA was good for the U.S., while 46% said it was bad.

According to a journal from the *Law and Business Review of the Americas (LBRA)*, U.S. public opinion of NAFTA centers around three issues: NAFTA's impact on the creation or destruction of American jobs, NAFTA's impact on the environment, and NAFTA's impact on immigrants entering the U.S.

After President Trump's election in 2016, support for NAFTA became very polarized between Republicans and Democrats. Donald Trump expressed negative views of NAFTA, calling it "the single worst trade deal ever approved in this country". Republican support for NAFTA decreased from 43% support in 2008 to 34% in 2017. Meanwhile, Democratic support for NAFTA increased from 41% support in 2008 to 71% in 2017.

The political gap was especially large in concern to views on free trade with Mexico. As opposed to a favorable view of free trade with Canada, whom 79% of American described as a fair trade partner, only 47% of Americans believed Mexico practices fair trade. The gap widened between Democrats and Republicans: 60% of Democrats believed Mexico is practicing

fair trade, while only 28% of Republicans did. This was the highest level from Democrats and the lowest level from Republicans ever recorded by the Chicago Council Survey. Republicans had more negative views of Canada as a fair trade partner than Democrats as well.

NAFTA had strong support from young Americans. In a February 2017 Gallup poll, 73% of Americans aged 18–29 said NAFTA was good for the U.S, showing higher support than any other U.S. age group. It also had slightly stronger support from unemployed Americans than from employed Americans.

## Chapter 3

# African National Congress

The **African National Congress (ANC)** is a social-democratic political party in South Africa. It has been in power since the election of lawyer, activist and former political prisoner Nelson Mandela at the first free and fair elections in 1994, and has been re-elected at every election since, though with a reduced majority every time since 2004. Cyril Ramaphosa, the incumbent President of South Africa, has served as President of the ANC since 18 December 2017.

The ANC was founded on 8 January 1912 by John Langalibalele Dube in Bloemfontein as the **South African Native National Congress (SANNK)**, its primary mission was to bring all Africans together as one people, to defend their rights and freedoms. This included giving full voting rights to Black South Africans and mixed-race South Africans and, to end the apartheid system introduced by the National Party government after their election victory in 1948.

The ANC originally attempted to use non-violent protests to end apartheid; however, the Sharpeville massacre in March 1960, where 69 Black South Africans were shot and killed by police and hundreds wounded during a peaceful protest; contributed to deteriorating relations with the White minority government. On 8 April 1960, Governor-General Charles Robberts Swart declared the ANC illegal, and they would remain outlawed for the next thirty years. After being outlawed, the ANC formed the Umkhonto we Sizwe (Spear of

the Nation) to fight against apartheid utilising guerrilla warfare and sabotage.

After thirty years in exile, during which many ANC members had been imprisoned or forced to flee abroad, the country began its move towards full multiracial democracy. On 3 February 1990, State President F. W. de Klerk repealed the ban on the ANC and released Nelson Mandela from Victor Verster Prison on 11 February 1990. On 17 March 1992, a referendum on the continuation of apartheid was held; but only White South Africans could vote.

The majority of the electorate voted to abolish apartheid and the ANC were allowed to stand at the 1994 general election, which for the first time; allowed all South Africans regardless of race the right to vote. Since 1994, the ANC has polled better than 55% at all general elections, including the most recent 2019 general election; where the ANC received their worst electoral result to date. However, the party has been embroiled in a number of controversies since 2011 and has been steadily losing ground to smaller parties.

## **History**

The **African National Congress** (ANC) is the current governing party of the Republic of South Africa. The ANC was founded in 1912 in Bloemfontein and is the oldest liberation movement in Africa.

# Origins

As a resistance movement, the ANC was predated by a number of black resistance movements, among them UmkosiWezintaba, formed in South Africa between 1890 and 1920.

The organization was initially founded as the South African Native National Congress (SANNC) in Bloemfontein on 8 January 1912. Its founders were Saul Msane (Esq.), Josiah Gumede, John Dube, PixleykalsakaSeme, and Sol Plaatje along with chiefs, people's representatives, church organisations, and other prominent individuals. It aimed to bring all Africans together as one people to defend their rights and freedoms. The organisation was renamed the ANC in 1923. The organisation, from its inception represented both traditional and modern elements, from tribal chiefs to church and community bodies and educated black professionals, though women were only admitted as affiliate members from 1931 and as full members in 1943.

The formation of the ANC Youth League in 1944 by Anton Lembede heralded a new generation committed to building non-violent mass action against the legal underpinnings of the white minority's supremacy.

In 1946 the ANC allied with the South African Communist Party in assisting in the formation of the South African Mine Workers' Union. After the miners strike became a general strike, the ANC's President General Alfred BitiniXuma, along with delegates of the South African Indian Congress (of which Mahatma Gandhi was a member) attended the 1946 session of

the United Nations General Assembly where the treatment of Indians in South Africa was raised by the Government of India. Together, they raised the issue of the police brutality against the miners strike and the wider struggle for equality in South Africa. The ANC also worked with the Natal Indian Congress and Transvaal Indian Congress.

## **Opposition to Apartheid**

In 1948, the Afrikaner nationalist National Party unexpectedly came into power defeating the more moderate United Party despite the fact that the party had won significantly more votes. The National Party had campaigned on the policy of apartheid an extreme form of institutionalized racial segregation.

During the 1950s, non-whites were removed from electoral rolls, residence and mobility laws were tightened, and political activities restricted.

The successes achieved by the Indian independence movement under the leadership of Gandhi and resulting in the independence of India in 1947, inspired black South Africans to resist the racism and inequality that they, and all other non-whites, experienced. They began collaborating, even jointly campaigning for their struggle to be managed by the United Nations.

The ANC also found its role model in the initial movement by the Indian political parties. They realised that they would need a fervent leader, like Gandhi was for the Indians, who was, in the words of Nelson Mandela, "willing to violate the law and if

necessary go to prison for their beliefs as Gandhi had". In 1949 the ANC saw a jump in their membership, which previously lingered around five-thousand, and began to establish a firm presence in South African national society.

In June 1952, the ANC joined with other anti-Apartheid organisations in a Defiance Campaign against the restriction of political, labour, and residential rights, during which protesters deliberately violated oppressive laws, following the example of Mahatma Gandhi's passive resistance in KwaZulu-Natal and in India. The campaign was called off in April 1953 after new laws prohibiting protest meetings were passed.

In June 1955 the Congress of the People, organised by the ANC and Indian, Coloured and white organisations at Kliptown near Johannesburg, adopted the Freedom Charter, which became the fundamental document of the anti-Apartheid struggle with its demand for equal rights for all regardless of race. As opposition to the regime's policies continued, 156 leading members of the ANC and allied organisations were arrested in 1956; the resulting Treason Trial ended with their acquittal five years later.

The ANC first called for an academic boycott of South Africa in protest of its Apartheid policies in 1958 in Ghana. The call was repeated the following year in London.

In 1959 a number of members broke away from the ANC because they objected to the ANC's reorientation from African nationalist policies to non-racialism. They formed the rival Pan Africanist Congress (PAC), led by Robert Sobukwe.

## **Protest and banning**

The ANC planned a campaign against the Pass Laws, which required black South Africans to carry an identity card at all times to justify their presence in white areas, to begin on 31 March 1960. The PAC pre-empted the ANC by holding unarmed protests 10 days earlier, during which 69 protesters were killed and 180 injured by police fire in what became known as the Sharpeville massacre.

In the aftermath of the tragedy, both organisations were banned from political activity. International opposition to the regime increased throughout the 1950s and 1960s, fuelled by the growing number of newly independent nations, the Anti-Apartheid Movement in Britain, and the civil rights movement in the United States. In 1960, the president of the ANC, Albert Luthuli, was awarded the Nobel Peace Prize. This feat that would be repeated in 1993 by Nelson Mandela and F.W. de Klerk jointly, for their actions in helping to negotiate peaceful transition to democracy after Mandela's release from prison.

## **Armed resistance**

Following the Sharpeville massacre in 1960, the ANC leadership concluded that the methods of non-violence such as those utilised by Gandhi against the British Empire during their colonisation of India were not suitable against the Apartheid system. A military wing was formed in 1961, called Umkhonto we Sizwe (MK), meaning "Spear of the Nation", with Mandela as its first leader. MK operations during the 1960s primarily involved targeting and sabotaging government

facilities. Mandela was arrested in 1962, convicted of sabotage in 1964 and sentenced to life imprisonment on Robben Island, along with Sisulu and other ANC leaders following the Rivonia Trial.

During the 1970s and 1980s the ANC leadership in exile under Oliver Tambo made the decision to target apartheid government leadership, command and control, secret police, and military-industrial complex assets and personnel in decapitation strikes, targeted killings, and guerrilla actions such as bombings of facilities frequented by military and government personnel. A number of civilians were also killed in these attacks. Examples of these include the Amanzimtoti bombing, the Sterland bomb in Pretoria, the Wimpy bomb in Pretoria, the Juicy Lucy bomb in Pretoria, and the Magoo's bar bombing in Durban. ANC acts of sabotage aimed at government institutions included the bombing of the Johannesburg Magistrates Court, the attack on the Koeberg nuclear power station, the rocket attack on Voortrekkerhoogte in Pretoria, and the 1983 Church Street bombing in Pretoria, which killed 16 and wounded 130.

The ANC was classified as a terrorist organisation by the South African government and by some Western countries including the United States of America and the United Kingdom. Nevertheless, the ANC had a London office from 1978 to 1994 at 28 Penton Street in Islington, north London, now marked with a plaque.

During this period, the South African military engaged in a number of raids and bombings on ANC bases in Botswana, Mozambique, Lesotho and Swaziland. Dulcie September, a

member of the ANC who was investigating the arms trade between France and South Africa was assassinated in Paris in 1988. In the ANC's training camps, the ANC faced allegations that dissident members faced torture, detention without trial and even execution in ANC prison camps. In South Africa, the campaign to make the townships "ungovernable" led to kangaroo courts and mob executions of opponents and collaborators, often by necklacing.

There was violence between the ANC and the Zulu nationalist Inkatha Freedom Party (IFP). For example, between 1985 and 1989, 5,000 civilians were killed in fighting between the two parties. Massacres of each other's supporters include the Shell House massacre and the Boipatong massacre.

By the 1980s, the African National Congress' attacks, coupled with international pressure and internal dissent, increased in South Africa. The ANC received financial and tactical support from the USSR, which orchestrated military involvement with surrogate Cuban forces through Angola. However, the fall of the USSR after 1991 brought an end to its funding of the ANC and also changed the attitude of some Western governments that had previously supported the Apartheid regime as an ally against communism. The South African government found itself under increasing internal and external pressure, and this, together with a more conciliatory tone from the ANC, resulted in a change in the political landscape. State President F.W. de Klerk unbanned the ANC and other banned organisations on 2 February 1990, and began peace talks for a negotiated settlement to end apartheid.

## **Government of South Africa**

- With the end of apartheid, it was a foregone conclusion that the ANC would not only win the April 1994 general election—the country's first multiracial elections—but do so in a landslide. The only question was whether the ANC would win the two-thirds majority necessary to unilaterally amend the Interim Constitution.

In that election, the ANC, as the dominant partner in a tripartite alliance with the South African Communist Party and the Congress of South African Trade Unions, won a comprehensive victory, winning 62 percent of the vote—just short of a two-thirds majority. The new parliament elected Nelson Mandela as President of South Africa, making him the country's first black president.

In Kwa-Zulu Natal, the ANC maintained an uneasy coalition with the Inkatha Freedom Party after neither party won a majority in the 1994 and 1999 provincial elections.

In 2004 the party contested national elections in voluntary coalition with the New National Party (NNP), a successor to the National Party, which it effectively absorbed following the NNP's dissolution in 2005.

After the 1994 and 1999 elections it governed seven of the nine provinces, with Kwa-Zulu Natal under the IFP and the Western Cape Province under the NNP. In the 2004 South African general election, it won both the Western Cape and Kwa-Zulu

Natal provinces due to a combination of the NNP's electoral base being eroded by the Democratic Alliance (DA) and a poor showing by the IFP.

The ANC increased its majority in the 2009 South African general election but lost control of the Western Cape Province to the DA. In the 2014 South African general election and the 2016 South African municipal elections the ANC remained in the majority but experienced a relative decline in its overall share of the votes. This was due to the increased strength of the DA, but also due to the newly established Economic Freedom Fighters (EFF) which became South Africa's third biggest party. The DA was able to take control over several key municipalities including Johannesburg and Pretoria.

## **Signs of strain**

By 2001 the tripartite alliance between the ANC, COSATU and SACP began showing signs of strain as the ANC moved to more liberal economic policies than its alliance partners were comfortable with. The focus of dissent was the GEAR program (an initialism for "Growth, Employment and Redistribution") which formed the foundation of the government's economic policy.

In late 2004 this division was again thrown into sharp relief by ZwelinzimaVavi of COSATU protesting the ANC's policy of "quiet diplomacy" towards the worsening conditions in Zimbabwe, as well as Black Economic Empowerment, which he complained benefits a favoured few in the black elite and not the masses.

The ANC government also faced (sometimes violent) protests in townships over perceived poor service delivery, as well as internal disputes, as local government elections approached in 2006.

## **Leadership struggle**

In 2005 the alliance was faced a crisis as Jacob Zuma, who was fired from his position as Deputy President of South Africa by president Thabo Mbeki, faced corruption charges. Complicating the situation was the fact that Zuma remained Deputy President of the ANC, and maintained a strong following amongst many ANC supporters, and the ANC's alliance partners. In October 2005, top officials in the National Intelligence Agency, who were Zuma supporters, were suspended for illegally spying on an Mbeki supporter, Saki Macozoma, amid allegations that ANC supporters were using their positions within organs of state to spy on, and discredit each other. In December 2005, Zuma was charged with rape and his position as Deputy President of the ANC was suspended.

Jacob Zuma was acquitted of the rape charges, and was reinstated as Deputy President of the organisation. A battle for leadership of the ANC ensued, culminating at the party's national conference in Polokwane (16–20 December 2007), where both Jacob Zuma and Thabo Mbeki were nominated for the position of president. On 18 December 2007, Jacob Zuma was elected President of the ANC at the ANC conference in Polokwane. Jacob Zuma was replaced as ANC president by Cyril Ramaphosa at the 2017 ANC national conference.

# **Leaders of the ANC**

## **Presidents of the ANC**

- 1912 – 1917 John Langalibalele Dube (1871–1946)
- 1917 – 1924 Sefako Mapogo Makgatho (1861–1951)
- 1924 – 1927 Zacharias Richard Mahabane (1881–1971)
- 1927 – 1930 Josiah Tshangana Gumede (1870–1947)
- 1930 – 1936 Pixley ka Isaka Seme (1882–1951)
- 1937 – 1940 Zacharias Richard Mahabane (1881–1971)
- 1940 – 1949 Alfred Bitini Xuma (1890–1962)
- 1949 – 1952 James Sebe Moroka (1891–1985)
- 1952 – 1967 Albert John Luthuli (1898–1967)
- 1967 – 1991 Oliver Reginald Tambo (1917–1993)
- 1991 – 1997 Nelson Rolihlahla Mandela (1918–2013)
- 1997 – 2007 Thabo Mvuyelwa Mbeki (1942–)
- 2007–2017 Jacob Gedleyihlekisa Zuma (1942–)
- 2017– Matamela Cyril Ramaphosa (1952–)

## **Deputy presidents of the ANC**

- 1912 – 1936 Walter Rubusana
- 1952 – 1958 Nelson Rolihlahla Mandela
- 1958 – 1985 Oliver Reginald Tambo
- 1985 – 1991 Nelson Rolihlahla Mandela
- 1991 – 1994 Walter Max Ulyate Sisulu
- 1994 – 1997 Thabo Mvuyelwa Mbeki
- 1997 – 2007 Jacob Gedleyihlekisa Zuma

- 2007 – 2012 Kgalema Petrus Motlanthe
- 2012 – 2017 Matamela Cyril Ramaphosa
- 2017 – David Mabuza

## **Secretaries-General of the ANC**

- (1912–1915) Solomon Tshekisho "Sol" Plaatje
- (1915–1917) Saul Msane
- (1917–1919) R.V. SelopeThema
- (1919–1923) H. L. Bud M'belle
- (1923–1927) TD MweliSkota
- (1927–1930) E. J. Khaile
- (1930–1936) Elijah Mdolomba
- (1936–1949) James Arthur Calata
- (1949–1955) Walter Max UlyateSisulu
- (1955–1958) Oliver Reginald Tambo
- (1958–1969) Philemon Pearce Dumasile "Duma" Nokwe
- (1969–1991) Alfred Baphethuxolo Nzo
- (1991–1997) Matamela Cyril Ramaphosa
- (1997–2007) Kgalema Petrus Motlanthe
- (2007–2017) GwedeMantashe
- (2017–) Ace Magashule

## **Other key figures in ANC history**

- 1948–1994: Joe Slovo, TatamkuluAfrika, Robert Sobukwe, Raymond Mhlaba, Thomas Nkobi, Dulcie September, Chris Hani, Ahmed Kathrada, Govan Mbeki, and PenuellMaduna

- 1994-: Sydney Mufamadi

## Ideology

The ANC deems itself a force of national liberation in the post-apartheid era; it officially defines its agenda as the *National Democratic Revolution*. The ANC is a member of the Socialist International. It also sets forth the redressing of socio-economic differences stemming from colonial- and apartheid-era policies as a central focus of ANC policy.

The National Democratic Revolution (NDR) is described as a process through which the National Democratic Society (NDS) is achieved; a society in which people are intellectually, socially, economically and politically empowered. The drivers of the NDR are also called the motive forces and are defined as the elements within society that gain from the success of the NDR. Using contour plots or concentric circles the centre represents the elements in society that gain the most out of the success of the NDR. Moving away from the centre results in the reduction of the gains that those elements derive. It is generally believed that the force that occupies the centre of those concentric circles in countries with low unemployment is the working class while in countries with higher levels of unemployment it is the unemployed. Some of the many theoreticians that have written about the NDR include Joe Slovo, Joel Netshitenzhe and TshilidziMarwala.

In 2004, the ANC declared itself to be a social democratic party.

The 53rd National Conference of the ANC, held in 2015, stated in its "Discussion Document" that "China economic development trajectory remains a leading example of the triumph of humanity over adversity. The exemplary role of the collective leadership of the Communist Party of China in this regard should be a guiding lodestar of our own struggle." It went on to state that "The collapse of the Berlin Wall and socialism in the Soviet Union and Eastern European States influenced our transition towards the negotiated political settlement in our country. The cause of events in the world changed tremendously in favour of the US led imperialism."

## **Tripartite Alliance**

The ANC holds a historic alliance with the South African Communist Party (SACP) and Congress of South African Trade Unions (COSATU), known as the Tripartite Alliance. The SACP and COSATU have not contested any election in South Africa, but field candidates through the ANC, hold senior positions in the ANC, and influence party policy and dialogue. During Mbeki's presidency, the government took a more pro-capitalist stance, often running counter to the demands of the SACP and COSATU.

## **2008 schism**

Following Zuma's accession to the ANC leadership in 2007 and Mbeki's resignation as president in 2008, a number of former ANC leaders led by Mosiuoa Lekota split away from the ANC to form the Congress of the People.

## **2013 NUMSA split from Cosatu**

On 20 December 2013, a special congress of the National Union of Metalworkers of South Africa (NUMSA), the country's biggest trade union with 338,000 members, voted to withdraw support from the ANC and SACP, and form a socialist party to protect the interests of the working class. NUMSA secretary general Irvin Jim condemned the ANC and SACP's support for big business and stated: "It is clear that the working class cannot any longer see the ANC or the SACP as its class allies in any meaningful sense."

## **ANC flag**

The ANC flag comprises three equal horizontal stripes – black, green and gold. Black symbolises the native people of South Africa, green represents the land and gold represents the mineral and other natural wealth of South Africa.

This flag was also the battle flag of uMkhonto we Sizwe.

The Grand Duchy of Saxe-Weimar-Eisenach used an unrelated but identical flag from 1813 to 1897. The black, green and gold tricolor was also used on the flag of the KwaZulu 'bantustan'.

Although the colours of the new national Flag of South Africa since the transition from apartheid in 1994 have no official meaning, the three colours of the ANC flag were included in it, together with red, white and blue.

## **Party list**

Politicians in the party win a place in parliament by being on the *Party List*, which is drawn up before the elections and enumerates, in order, the party's preferred MPs. The number of seats allocated is proportional to the popular national vote, which determines the cut-off point.

The ANC has also gained members through the controversial floor crossing process.

Although most South African parties announced their candidate list for provincial premierships in the 2009 election, the ANC did not, as it is not required for parties to do so.

## ***ANC Today***

- In 2001, the ANC launched an online weekly web-based newsletter, *ANC Today – Online Voice of the African National Congress* to offset the alleged bias of the press. It consists mainly of updates on current programmes and initiatives of the ANC.

## **Role of the ANC in resolving the conflict**

The ANC represented the main opposition to the government during apartheid and therefore they played a major role in

resolving the conflict through participating in the peacemaking and peace-building processes. Initially intelligence agents of the National Party met in secret with ANC leaders, including Nelson Mandela, to judge whether conflict resolution was possible. Discussions and negotiations took place leading to the eventual unbanning of the ANC and other opposing political parties by then President de Klerk on 2 February 1990.

The next official step towards rebuilding South Africa was the Groote Schuur Minute where the government and the ANC agreed on a common commitment towards resolving the existing climate of violence and intimidation and a commitment to stability and to a peaceful process of negotiations. The ANC negotiated the release of political prisoners and the indemnity from prosecution for returning exiles and moreover channels of communication were established between the Government and the ANC.

Later the Pretoria Minute represented another step towards resolution where agreements at Groote Schuur were reconsolidated and steps towards setting up an interim government and drafting a new constitution were established as well as suspension of the military wing of the ANC – the Umkhonto we Sizwe. This step helped end much of the violence within South Africa. Another agreement that came out of the Pretoria Minute was that both parties would try and raise awareness that a new way of governance was being created for South Africa, and that further violence would only hinder this process. However, violence still continued in Kwazulu-Natal, which violated the trust between Mandela and de Klerk.

Moreover, internal disputes in the ANC prolonged the war as consensus on peace was not reached.

The next significant steps towards resolution were the Repeal of the Population Registration Act, the repeal of the Group Areas and the Native Land Acts and a catch-all Abolition of Racially Based Land Measures Act was passed. These measures ensured no one could claim, or be deprived of, any land rights on the basis of race.

In December 1991 the Convention for a Democratic South Africa (CODESA) was held with the aim of establishing an interim government. However, a few months later in June 1992 the Boipatong massacre occurred and all negotiations crumbled as the ANC pulled out. After this negotiations proceeded between two agents, Cyril Ramaphosa of the ANC, and Roelf Meyer of the National Party. In over 40 sessions the two men discussed and negotiated over many issues including the nature of the future political system, the fate of over 40,000 government employees and if/how the country would be divided. The result of these negotiations was an interim constitution that meant the transition from apartheid to democracy was a constitutional continuation and that the rule of law and state sovereignty remained intact during the transition, which was vital for stability within the country. A date was set for the first democratic elections on 27 April 1994. The ANC won 62.5% of the votes and has been in power ever since.

# **Criticism and controversy**

## **Corruption controversies**

The most prominent corruption case involving the ANC relates to a series of bribes paid to companies involved in the ongoing R55 billion Arms Deal saga, which resulted in a long term jail sentence to then Deputy President Jacob Zuma's legal adviser Schabir Shaik. Zuma, the former South African President, was charged with fraud, bribery and corruption in the Arms Deal, but the charges were subsequently withdrawn by the National Prosecuting Authority of South Africa due to their delay in prosecution. The ANC has also been criticised for its subsequent abolition of the Scorpions, the multidisciplinary agency that investigated and prosecuted organised crime and corruption, and was heavily involved in the investigation into Zuma and Shaik. Tony Yengeni, in his position as chief whip of the ANC and head of the Parliaments defence committee has recently been named as being involved in bribing the German company ThyssenKrupp over the purchase of four corvettes for the SANDF.

Other recent corruption issues include the sexual misconduct and criminal charges of Beaufort West municipal manager Truman Prince, and the Oilgate scandal, in which millions of Rand in funds from a state-owned company were funnelled into ANC coffers.

The ANC has also been accused of using government and civil society to fight its political battles against opposition parties such as the Democratic Alliance. The result has been a number

of complaints and allegations that none of the political parties truly represent the interests of the poor. This has resulted in the "No Land! No House! No Vote!" Campaign which became very prominent during elections. In 2018, the *New York Times* reported on the killings of ANC corruption whistleblowers.

## **Condemnation over Secrecy Bill**

In late 2011 the ANC was heavily criticised over the passage of the Protection of State Information Bill, which opponents claimed would improperly restrict the freedom of the press. Opposition to the bill included otherwise ANC-aligned groups such as COSATU. Notably, Nelson Mandela and other Nobel laureates Nadine Gordimer, Archbishop Desmond Tutu, and F. W. de Klerk have expressed disappointment with the bill for not meeting standards of constitutionality and aspirations for freedom of information and expression.

## **Role in the Marikana killings**

The ANC have been criticised for its role in failing to prevent 16 August 2012 massacre of Lonmin miners at Marikana in the North West. Some allege that Police Commissioner Riah Phiyega and Police Minister Nathi Mthethwa may have given the go ahead for the police action against the miners on that day.

Commissioner Phiyega of the ANC came under further criticism as being insensitive and uncaring when she was caught smiling and laughing during the Farlam Commission's video playback of the 'massacre'. Archbishop Desmond Tutu has announced that he no longer can bring himself to exercise a vote for the

ANC as it is no longer the party that he and Nelson Mandela fought for, and that the party has now lost its way, and is in danger of becoming a corrupt entity in power.

## Chapter 4

# World Trade Center (1973–2001)

The original **World Trade Center** was a large complex of seven buildings in the Financial District of Lower Manhattan, New York City, United States. It opened on April 4, 1973, and was destroyed in 2001 during the September 11 attacks. At the time of their completion, the **Twin Towers**—the original 1 World Trade Center (the North Tower), at 1,368 feet (417 m), and 2 World Trade Center (the South Tower), at 1,362 feet (415.1 m)—were the tallest buildings in the world. Other buildings in the complex included the Marriott World Trade Center (3 WTC), 4 WTC, 5 WTC, 6 WTC, and 7 WTC. The complex contained 13,400,000 square feet (1,240,000 m) of office space.

The core complex was built between 1966 and 1975, at a cost of \$400 million (equivalent to \$2.27 billion in 2021). During its existence, the World Trade Center experienced several major incidents, including a fire on February 13, 1975, a bombing on February 26, 1993, and a bank robbery on January 14, 1998. In 1998, the Port Authority of New York and New Jersey decided to privatize it by leasing the buildings to a private company to manage. It awarded the lease to Silverstein Properties in July 2001.

On the morning of September 11, 2001, Al-Qaeda-affiliated hijackers flew two Boeing 767 jets into the Twin Towers within

minutes of each other; less than two hours later, both towers collapsed. The attacks killed 2,606 people in and within the vicinity of the towers, as well as all 157 on board the two aircraft. Falling debris from the towers, combined with fires that the debris initiated in several surrounding buildings, led to the partial or complete collapse of all the buildings in the complex, and caused catastrophic damage to ten other large structures in the surrounding area. The cleanup and recovery process at the World Trade Center site took eight months, during which the remains of the other buildings were demolished. A new World Trade Center complex is being built with six new skyscrapers and several other buildings, many of which are complete. A memorial and museum to those killed in the attacks, a new rapid transit hub, and an elevated park have been opened. One World Trade Center, the tallest building in the Western Hemisphere at 1,776 feet (541 m) and the lead building for the new complex, was completed in May 2013 and opened in November 2014. During its existence, the World Trade Center was an icon of New York City. It had a major role in popular culture and according to one estimate was depicted in 472 films. Following the World Trade Center's destruction, mentions of the complex in various media were altered or deleted, and several dozen "memorial films" were created.

## **Before the World Trade Center**

### **Site**

The western portion of the World Trade Center site was originally under the Hudson River. The shoreline was in the

vicinity of Greenwich Street, which is closer to the site's eastern border. It was on this shoreline, close to the intersection of Greenwich and the former Dey Street, that Dutch explorer Adriaen Block's ship, *Tyger*, burned to the waterline in November 1613, stranding him and his crew and forcing them to overwinter on the island. They built the first European settlement in Manhattan. The remains of the ship were buried under landfill when the shoreline was extended beginning in 1797 and was discovered during excavation work in 1916. The remains of a second eighteenth-century ship were discovered in 2010 during excavation work at the site. The ship, believed to be a Hudson River sloop, was found just south of where the Twin Towers stood, about 20 feet (6.1 m) below the surface.

Later, the area became New York City's Radio Row, which existed from 1921 to 1966. The neighborhood was a warehouse district in what is now Tribeca and the Financial District. Harry Schneck opened City Radio on Cortlandt Street in 1921, and eventually, the area held several blocks of electronics stores, with Cortlandt Street as its central axis. The used radios, war surplus electronics (e.g., AN/ARC-5 radios), junk, and parts were often piled so high they would spill out onto the street, attracting collectors and scroungers. According to a business writer, it also was the origin of the electronic component distribution business.

## **Establishment of World Trade Center**

The idea of establishing a World Trade Center in New York City was first proposed in 1943. The New York State Legislature passed a bill authorizing New York Governor Thomas E. Dewey

to begin developing plans for the project, but the plans were put on hold in 1949. During the late 1940s and 1950s, economic growth in New York City was concentrated in Midtown Manhattan. To help stimulate urban renewal in Lower Manhattan, David Rockefeller suggested that the Port Authority build a World Trade Center there.

Plans for the use of eminent domain to remove the shops in Radio Row bounded by Vesey, Church, Liberty, and West Streets began in 1961 when the Port Authority of New York and New Jersey was deciding to build the world's first world trade center. They had two choices: the east side of Lower Manhattan, near the South Street Seaport; or the west side, near the Hudson and Manhattan Railroad (H&M) station, Hudson Terminal. Initial plans, made public in 1961, identified a site along the East River for the World Trade Center. As a bi-state agency, the Port Authority required approval for new projects from the governors of both New York and New Jersey. New Jersey Governor Robert B. Meyner objected to New York getting a \$335 million project. Toward the end of 1961, negotiations with outgoing New Jersey Governor Meyner reached a stalemate.

At the time, ridership on New Jersey's H&M Railroad had declined substantially, from a high of 113 million riders in 1927 to 26 million in 1958, after new automobile tunnels and bridges had opened across the Hudson River. In a December 1961 meeting between Port Authority director Austin J. Tobin and newly elected New Jersey Governor Richard J. Hughes, the Port Authority offered to take over the H & M Railroad. They also decided to move the World Trade Center project to the Hudson Terminal building site on the west side of Lower

Manhattan, a more convenient location for New Jersey commuters arriving via PATH. With the new location and the Port Authority's acquisition of the H&M Railroad, New Jersey agreed to support the World Trade Center project. As part of the deal, the Port Authority renamed the H&M "Port Authority Trans-Hudson", or PATH for short. To compensate Radio Row business owners for their displacement, the Port Authority gave each business \$3,000, without regard to how long the business had been there or how prosperous it was. The Port Authority began purchasing properties in the area for the World Trade Center by March 1965, and demolition of Radio Row began in March 1966. It was completely demolished by the end of the year. Approval was also needed from New York City Mayor John Lindsay and the New York City Council. Disagreements with the city centered on tax issues. On August 3, 1966, an agreement was reached whereby the Port Authority would make annual payments to the City in lieu of taxes for the portion of the World Trade Center leased to private tenants. In subsequent years, the payments would rise as the real estate tax rate increased.

## **Design, construction, and criticism**

### **Design**

On September 20, 1962, the Port Authority announced the selection of Minoru Yamasaki as lead architect and Emery Roth & Sons as associate architects. Yamasaki devised the plan to

incorporate twin towers. His original plan called for the towers to be 80 stories tall, but to meet the Port Authority's requirement for 10,000,000 square feet (930,000 m) of office space, the buildings would each have to be 110 stories tall.

Yamasaki's design for the World Trade Center, unveiled to the public on January 18, 1964, called for a square plan approximately 208 feet (63 m) in dimension on each side. The buildings were designed with narrow office windows 18 inches (46 cm) wide, which reflected Yamasaki's fear of heights as well as his desire to make building occupants feel secure. His design included building facades clad in aluminum-alloy. The World Trade Center was one of the most striking American implementations of the architectural ethic of Le Corbusier and was the seminal expression of Yamasaki's gothic modernist tendencies. He was also inspired by Arabic architecture, elements of which he incorporated in the building's design, having previously designed Saudi Arabia's Dhahran International Airport with the Saudi Binladin Group.

A major limiting factor in building height is the issue of elevators; the taller the building, the more elevators are needed to service it, requiring more space-consuming elevator banks. Yamasaki and the engineers decided to use a new system with two "sky lobbies"—floors where people could switch from a large-capacity express elevator to a local elevator that goes to each floor in a section. This system, inspired by the local-express train operation used in New York City's subway system, allowed the design to stack local elevators within the same elevator shaft. Located on the 44th and 78th floors of each tower, the sky lobbies enabled the elevators to be used efficiently. This increased the amount of usable space on each

floor from 62 to 75 percent by reducing the number of elevator shafts. Altogether, the World Trade Center had 95 express and local elevators.

The structural engineering firm Worthington, Skilling, Helle & Jackson worked to implement Yamasaki's design, developing the framed-tube structural system used in the twin towers. The Port Authority's Engineering Department served as foundation engineers, Joseph R. Loring & Associates as electrical engineers, and Jaros, Baum & Bolles (JB&B) as mechanical engineers. Tishman Realty & Construction Company was the general contractor on the World Trade Center project. Guy F. Tozzoli, director of the World Trade Department at the Port Authority, and Rino M. Monti, the Port Authority's Chief Engineer, oversaw the project. As an interstate agency, the Port Authority was not subject to the local laws and regulations of the City of New York, including building codes. Nonetheless, the World Trade Center's structural engineers ended up following draft versions of New York City's new 1968 building codes.

The framed-tube design, introduced in the 1960s by Bangladeshi-American structural engineer Fazlur Rahman Khan, was a new approach that allowed more open floor plans than the traditional design that distributed columns throughout the interior to support building loads. Each of the World Trade Center towers had 236 high-strength, load-bearing perimeter steel columns which acted as Vierendeel trusses. The perimeter columns were spaced closely together to form a strong, rigid wall structure, supporting virtually all lateral loads such as wind loads, and sharing the gravity load with the core columns. The perimeter structure containing 59 columns

per side was constructed with extensive use of prefabricated modular pieces, each consisting of three columns, three stories tall, connected by spandrel plates. The spandrel plates were welded to the columns to create the modular pieces off-site at the fabrication shop. Adjacent modules were bolted together with the splices occurring at mid-span of the columns and spandrels. The spandrel plates were located at each floor, transmitting shear stress between columns, allowing them to work together in resisting lateral loads. The joints between modules were staggered vertically so that the column splices between adjacent modules were not on the same floor. Below the 7th floor to the foundation, there were fewer, wider-spaced perimeter columns to accommodate doorways.

The core of the towers housed the elevator and utility shafts, restrooms, three stairwells, and other support spaces. The core of each tower was a rectangular area 87 by 135 feet (27 by 41 m) and contained 47 steel columns running from the bedrock to the top of the tower. The large, column-free space between the perimeter and core was bridged by prefabricated floor trusses. The floors supported their own weight as well as live loads, providing lateral stability to the exterior walls and distributing wind loads among the exterior walls. The floors consisted of 4-inch (10 cm) thick lightweight concrete slabs laid on a fluted steel deck. A grid of lightweight bridging trusses and main trusses supported the floors. The trusses connected to the perimeter at alternate columns and were on 6 foot 8 inch (2.03 m) centers. The top chords of the trusses were bolted to seats welded to the spandrels on the exterior side and a channel welded to the core columns on the interior side. The floors were connected to the perimeter spandrel

plates with viscoelastic dampers that helped reduce the amount of sway felt by building occupants.

Hat trusses (or "outrigger trusses") located from the 107th floor to the top of the buildings were designed to support a tall communication antenna on top of each building. Only 1 WTC (north tower) actually had an antenna fitted; it was added in 1978. The truss system consisted of six trusses along the long axis of the core and four along the short axis. This truss system allowed some load redistribution between the perimeter and core columns and supported the transmission tower.

The framed-tube design, using steel core and perimeter columns protected with sprayed-on fire-resistant material, created a relatively lightweight structure that would sway more in response to the wind compared to traditional structures, such as the Empire State Building that have thick, heavy masonry for fireproofing of steel structural elements. During the design process, wind tunnel tests were done to establish design wind pressures that the World Trade Center towers could be subjected to and structural response to those forces. Experiments also were done to evaluate how much sway occupants could comfortably tolerate; however, many subjects experienced dizziness and other ill effects. One of the chief engineers Leslie Robertson worked with Canadian engineer Alan G. Davenport to develop viscoelastic dampers to absorb some of the sways. These viscoelastic dampers, used throughout the structures at the joints between floor trusses and perimeter columns along with some other structural modifications, reduced the building sway to an acceptable level.

## **Construction**

In March 1965, the Port Authority began acquiring property at the World Trade Center site. Demolition work began on March 21, 1966, to clear thirteen square blocks of low rise buildings in Radio Row for its construction. Groundbreaking for the construction of the World Trade Center took place on August 5, 1966.

The site of the World Trade Center was located on filled land with the bedrock located 65 feet (20 m) below. To construct the World Trade Center, it was necessary to build a "bathtub" with a slurry wall around the West Street side of the site, to keep water from the Hudson River out. The slurry method selected by the Port Authority's chief engineer, John M. Kyle, Jr., involved digging a trench, and as excavation proceeded, filling the space with a "slurry" mixture composed of bentonite and water, which plugged holes and kept groundwater out. When the trench was dug out, a steel cage was inserted and concrete was poured in, forcing the "slurry" out. It took fourteen months for the slurry wall to be completed. It was necessary before the excavation of material from the interior of the site could begin. The 1,200,000 cubic yards (920,000 m) of excavated material were used (along with other fill and dredge material) to expand the Manhattan shoreline across West Street to form Battery Park City.

In January 1967, the Port Authority awarded \$74 million in contracts to various steel suppliers. Construction work began on the North Tower in August 1968, and construction on the South Tower was under way by January 1969. The original Hudson Tubes, which carried PATH trains into Hudson

Terminal, remained in service during the construction process until 1971, when a new station opened. The topping out ceremony of 1 WTC (North Tower) took place on December 23, 1970, while 2 WTC's ceremony (South Tower) occurred on July 19, 1971. Extensive use of prefabricated components helped to speed up the construction process, and the first tenants moved into the North Tower in December 15, 1970, while it was still under construction, while the South Tower began accepting tenants in January 1972. When the World Trade Center twin towers were completed, the total costs to the Port Authority had reached \$900 million. The ribbon cutting ceremony took place on April 4, 1973.

In addition to the twin towers, the plan for the World Trade Center complex included four other low-rise buildings, which were built in the early 1970s. The 47-story 7 World Trade Center building was added in the 1980s, to the north of the main complex. Altogether, the main World Trade Center complex occupied a 16-acre (65,000 m) superblock.

## **Criticism**

Plans to build the World Trade Center were controversial. Its site was the location of Radio Row, home to hundreds of commercial and industrial tenants, property owners, small businesses, and approximately 100 residents, many of whom fiercely resisted forced relocation. A group of affected small businesses sought an injunction challenging the Port Authority's power of an eminent domain. The case made its way through the court system to the United States Supreme Court; it refused to hear the case.

Private real-estate developers and members of the Real Estate Board of New York, led by Empire State Building owner Lawrence A. Wien, expressed concerns about this much "subsidized" office space going on the open market, competing with the private sector, when there was already a glut of vacancies. The World Trade Center itself was not rented out completely until after 1979 and then only because the complex's subsidy by the Port Authority made rents charged for its office space cheaper than those for comparable space in other buildings. Others questioned whether the Port Authority should have taken on a project described by some as a "mistaken social priority".

The World Trade Center's design aesthetics attracted criticism from the American Institute of Architects and other groups. Lewis Mumford, author of *The City in History* and other works on urban planning, criticized the project, describing it and other new skyscrapers as "just glass-and-metal filing cabinets". The Twin Towers were described as looking similar to "the boxes that the Empire State Building and the Chrysler Building came in". Many disliked the twin towers' narrow office windows, which were only 18 inches (46 cm) wide and framed by pillars that restricted views on each side to narrow slots. Activist and sociologist Jane Jacobs argued the waterfront should be kept open for New Yorkers to enjoy.

Some critics regarded the trade center's "superblock", replacing a more traditional, dense neighborhood, as an inhospitable environment that disrupted the complicated traffic network typical of Manhattan. For example, in his book *The Pentagon of Power*, Lewis Mumford denounced the center as an "example of the purposeless giantism and technological

exhibitionism that are now eviscerating the living tissue of every great city".

## **Complex**

The World Trade Center complex housed more than 430 companies that were engaged in various commercial activities. On a typical weekday, an estimated 50,000 people worked in the complex and another 140,000 passed through as visitors. The complex hosted 13,400,000 square feet (1,240,000 m) of office space, and was so large that it had its own zip code: 10048. The towers offered expansive views from the observation deck atop the South Tower and the Windows on the World restaurant on top of the North Tower. The Twin Towers became known worldwide, appearing in numerous movies and television shows as well as on postcards and other merchandise. It became a New York icon, in the same league as the Empire State Building, the Chrysler Building, and the Statue of Liberty. The World Trade Center was compared to Rockefeller Center, which David Rockefeller's brother Nelson Rockefeller had developed in midtown Manhattan.

## **North and South Towers**

- One World Trade Center and Two World Trade Center, commonly referred to as the Twin Towers, were designed by architect Minoru Yamasaki as framed tube structures, which provided tenants with open floor plans, uninterrupted by columns or walls. They were the main buildings of the World Trade Center. Construction of the North Tower at One

World Trade Center began in 1966 with the South Tower at Two World Trade Center. When completed in 1972, 1 World Trade Center became the tallest building in the world for two years, surpassing the Empire State Building after its 40-year reign. The North Tower stood 1,368 feet (417 m) tall and featured a 362 foot (110 m) telecommunications antenna or mast that was built on the roof in 1978. With this addition, the highest point of the North Tower reached 1,730 feet (530 m). Chicago's Sears Tower, finished in May 1973, reached 1,450 feet (440 m) at the rooftop. When completed in 1973, the South Tower became the second tallest building in the world at 1,362 feet (415 m). Its rooftop observation deck was 1,362 ft (415 m) high and its indoor observation deck was 1,310 ft (400 m) high. Each tower stood over 1,350 feet (410 m) high, and occupied about 1 acre (4,000 m) of the total 16 acres (65,000 m) of the site's land. During a press conference in 1973, Yamasaki was asked, "Why two 110-story buildings? Why not one 220-story building?" His tongue-in-cheek response was: "I didn't want to lose the human scale."

Throughout their existence, the twin towers had more floors (at 110) than any other building. Their floor counts were not matched until the construction of the Sears Tower, and they were not surpassed until the construction of the BurjKhalifa, which opened in 2010. Each tower had a total mass of around 500,000 tons.

## **Austin J. Tobin Plaza**

The original World Trade Center had a massive, five-acre plaza which all of the buildings in the complex, including the Twin Towers, centered around. In 1982, the immense plaza between the twin towers was renamed after the man who authorized the construction of the original World Trade Center. Port Authority's late chairman, Austin J. Tobin. During the summer, the Port Authority installed a portable stage, typically backed up against the North Tower within Tobin Plaza for performers. The odd layout for performances was due to the installation of a sculpture in the center of the plaza, which only allowed for about 6,000 fans. For many years, the Plaza was often beset by brisk winds at ground level owing to the Venturi effect between the two towers. Some gusts were so strong that pedestrians' travel had to be aided by ropes. In 1999, the outdoor plaza reopened after undergoing \$12 million in renovations. This involved replacing marble pavers with gray and pink granite stones, adding new benches, planters, new restaurants, food kiosks and outdoor dining areas.

## **Top of the World observation deck**

Although most of the space in the World Trade Center complex was off-limits to the public, the South Tower featured a public observation deck on the 107th floor called Top of the World. After paying an entrance fee, visitors were required to pass through security checks added after the 1993 World Trade Center bombing. They were then sent to the 107th-floor indoor observatory at a height of 1,310 feet (400 m) by a dedicated express elevator. The exterior columns were narrowed to allow

28 inches of window width between them. The Port Authority renovated the observatory in 1995, then leased it to Ogden Entertainment to operate. Attractions added to the observation deck included a theater showing a film of a helicopter tour around the city. The 107th-floor also featured a subway themed food court that featured Sbarro and Nathan's Famous Hot Dogs. Weather permitting, visitors could ride two short escalators up from the 107th-floor viewing area to an outdoor platform at a height of 1,377 ft (420 m). On a clear day, visitors could see up to 50 miles (80 km). An anti-suicide fence was placed on the roof itself, with the viewing platform set back and elevated above it, requiring only an ordinary railing. This left the view unobstructed, unlike the observation deck of the Empire State Building.

## **Windows on the World restaurant**

Windows on the World, the restaurant on the North Tower's 106th and 107th floors, opened in April 1976. It was developed by restaurateur Joe Baum at a cost of more than \$17 million. As well as the main restaurant, two offshoots were located at the top of the North Tower: Hors d'Oeuvrierie (offered a Danish smorgasbord during the day and sushi in the evening) and Cellar in the Sky (a small wine bar). Windows on the World also had a wine school program run by Kevin Zraly, who published a book on the course.

Windows on the World was closed following the 1993 World Trade Center bombing. When it reopened in 1996, the Greatest Bar on Earth and Wild Blue replaced the original restaurant offshoots. In 2000, its last full year of operation, Windows on the World reported revenues of \$37 million, making it the

highest-grossing restaurant in the United States. The Sky Dive Restaurant, on the 44th floor of the North Tower, was also operated by Windows on the World.

In its last iteration, Windows on the World received mixed reviews. Ruth Reichl, a *New York Times* food critic, said in December 1996 that "nobody will ever go to Windows on the World just to eat, but even the fussiest food person can now be content dining at one of New York's favorite tourist destinations". She gave the restaurant two out of four stars, signifying a "very good" quality. In his 2009 book *Appetite*, William Grimes wrote that, "At Windows, New York was the main course". In 2014, Ryan Sutton of *Eater.com* compared the now-destroyed restaurant's cuisine to that of its replacement, One World Observatory. He said, "Windows helped usher in a new era of captive audience dining in that the restaurant was a destination in itself, rather than a lazy by-product of the vital institution it resided in."

## **Other buildings**

Five smaller buildings stood on the 16-acre (65,000 m) block. One was the 22-floor hotel, which opened at the southwest corner of the site in 1981 as the Vista Hotel; in 1995, it became the Marriott World Trade Center (3 WTC). Three low-rise buildings (4 WTC, 5 WTC, and 6 WTC), which were steel-framed office buildings, also stood around the plaza. 6 World Trade Center, at the northwest corner, housed the United States Customs Service. 5 World Trade Center was located at the northeast corner above the PATH station, and 4 World Trade Center, located at the southeast corner, housed the U.S. Commodities Exchange. In 1987, construction was completed

on a 47-floor office building, 7 World Trade Center, located to the north of the superblock. Beneath the World Trade Center complex was an underground shopping mall. It had connections to various mass transit facilities, including the New York City Subway system and the Port Authority's PATH trains.

One of the world's largest gold depositories was located underneath the World Trade Center, owned by a group of commercial banks. The 1993 bombing detonated close to the vault. Seven weeks after the September 11 attacks, \$230 million in precious metals was removed from basement vaults of 4 WTC. This included 3,800 100-Troy-ounce 24 carat gold bars and 30,000 1,000-ounce silver bars.

## **Major events**

### **February 13, 1975, fire**

On February 13, 1975, a three-alarm fire broke out on the 11th floor of the North Tower. It spread to the 9th and 14th floors after igniting telephone cable insulation in a utility shaft that ran vertically between floors. Areas at the furthest extent of the fire were extinguished almost immediately; the original fire was put out in a few hours. Most of the damage was concentrated on the 11th floor, fueled by cabinets filled with paper, alcohol-based fluid for office machines, and other office equipment. Fireproofing protected the steel and there was no structural damage to the tower. In addition to fire damage on the 9th through the 14th floors, the water used to extinguish

the fire damaged a few of the floors below. At that time, the World Trade Center had no fire sprinkler systems.

## **February 26, 1993, bombing**

The first terrorist attack on the World Trade Center occurred on February 26, 1993, at 12:17 p.m. A Ryder truck filled with 1,500 pounds (680 kg) of explosives, planted by Ramzi Yousef, detonated in the underground garage of the North Tower. The blast opened a 100-foot (30 m) hole through five sublevels with the greatest damage occurring on levels B1 and B2 and significant structural damage on level B3. Six people were killed, and 1,042 others were injured in the attacks, some from smoke inhalation. Sheikh Omar Abdel Rahman and four other individuals were later convicted for their involvement in the bombing, while Yousef and Eyad Ismoil were convicted for carrying out the bombing. According to a presiding judge, the conspirators' chief aim at the time of the attack was to destabilize the north tower and send it crashing into the south tower, toppling both landmarks.

Following the bombing, floors that were blown out needed to be repaired to restore the structural support they provided to columns. The slurry wall was in peril following the bombing and loss of the floor slabs that provided lateral support against pressure from Hudson River water on the other side. The refrigeration plant on sublevel B5, which provided air conditioning to the entire World Trade Center complex, was heavily damaged. After the bombing, the Port Authority installed photoluminescent pathway markings in the stairwells. The fire alarm system for the entire complex needed to be replaced because critical wiring and signaling in the original

system were destroyed. A memorial to the victims of the bombing, a reflecting pool, was installed with the names of those who were killed in the blast. It was destroyed following the September 11 attacks. The names of the victims of the 1993 bombing are included in the National September 11 Memorial & Museum.

## **January 14, 1998, robbery**

In January 1998, Mafia member Ralph Guarino gained maintenance access to the World Trade Center. He arranged a three-man crew for a heist that netted over \$2 million from a Brinks delivery to the 11th floor of the North Tower.

## **Other events**

On the morning of August 7, 1974, Philippe Petit performed a high-wire walk between the North and South Towers of the World Trade Center. For his unauthorized feat 1,312 feet (400 m) above the ground, he rigged a 440-pound (200 kg) cable and used a custom-made 30-foot-long (9.1 m), 55-pound (25 kg) balancing pole. He performed for 45 minutes, making eight passes along the wire. Though Petit was charged with criminal trespass and disorderly conduct, he was later freed in exchange for performing for children in Central Park.

On February 20, 1981, an Aerolíneas Argentinas airliner was guided away by air traffic controllers after radar signals indicated it was on a collision course with the North Tower (1 WTC). The aircraft, which departed from José Joaquín de Olmedo International Airport in Guayaquil, Ecuador, and was

scheduled to land at nearby JFK Airport, was flying at a much lower altitude than regulations recommended.

The 1995 PCA world chess championship was played on the 107th floor of the South Tower.

## **Proposed lease**

Following the Port Authority's approved plans to privatize the World Trade Center in the late 1990s, they sought to lease it to a private entity in 2001. Bids for the lease came from Vornado Realty Trust, a joint bid between Brookfield Properties Corporation and Boston Properties, and a joint bid by Silverstein Properties and The Westfield Group. Privatizing the World Trade Center would add it to the city's tax rolls and provide funds for other Port Authority projects. On February 15, 2001, the Port Authority announced that Vornado Realty Trust had won the lease for the World Trade Center, paying \$3.25 billion for the 99-year lease. Vornado outbid Silverstein by \$600 million though Silverstein upped his offer to \$3.22 billion. However, Vornado insisted on last minute changes to the deal, including a shorter 39-year lease, which the Port Authority considered nonnegotiable. Vornado later withdrew and Silverstein's bid for the lease to the World Trade Center was accepted on April 26, 2001, and closed on July 24, 2001.

## **Destruction**

On September 11, 2001, Islamist terrorists hijacked American Airlines Flight 11 and crashed it into the northern façade of

the North Tower at 8:46:40 a.m.; the aircraft struck between the 93rd and 99th floors. Seventeen minutes later, at 9:03:11 a.m., a second group crashed the similarly hijacked United Airlines Flight 175 into the southern façade of the South Tower, striking it between the 77th and 85th floors. The terrorist organisation Al-Qaeda, led by Osama bin Laden, carried out the attacks in retaliation for certain aspects of American foreign policy, particularly U.S. support of Israel and the presence of U.S. troops in Saudi Arabia. The damage caused to the North Tower by Flight 11 destroyed any means of escape from above the impact zone, trapping 1,344 people. Flight 175 had a much more off-centered impact compared to Flight 11, and a single stairwell was left intact; however, only a few people managed to descend successfully before the tower collapsed. Although the South Tower was struck lower than the North Tower, thus affecting more floors, a smaller number, fewer than 700, were killed instantly or trapped.

At 9:59 a.m., the South Tower collapsed after burning for approximately 56 minutes. The fire caused steel structural elements, already weakened from the plane's impact, to fail. The North Tower collapsed at 10:28 a.m., after burning for approximately 102 minutes. At 5:20 p.m. on September 11, 2001, 7 World Trade Center began to collapse with the crumbling of the east penthouse; it collapsed completely at 5:21 p.m. owing to uncontrolled fires causing structural failure.

The Marriott World Trade Center hotel was destroyed during the collapse of the two towers. The three remaining buildings in the WTC plaza were extensively damaged by debris and were later demolished. The cleanup and recovery process at the

World Trade Center site took eight months. The Deutsche Bank Building across Liberty Street from the World Trade Center complex was later condemned because of the uninhabitable toxic conditions inside; it was deconstructed, with work completed in early 2011. The Borough of Manhattan Community College's Fiterman Hall at 30 West Broadway was also condemned owing to extensive damage, and it was demolished and completely rebuilt.

In the immediate aftermath of the attacks, media reports suggested that tens of thousands might have been killed in the attacks, as over 50,000 people could have been inside the World Trade Center. The National Institute of Standards and Technology (NIST) estimated approximately 17,400 individuals were in the towers at the time of the attacks. Ultimately, 2,753 death certificates (excluding those for hijackers) were filed relating to the 9/11 attacks. 2,192 civilians died in and around the World Trade Center, including employees of Cantor Fitzgerald L.P. (an investment bank on the 101st–105th floors of One World Trade Center), Marsh & McLennan Companies (located immediately below Cantor Fitzgerald on floors 93–101, the location of Flight 11's impact), and Aon Corporation. In addition to the civilian deaths, 414 sworn personnel were also killed: 340 New York City Fire Department (FDNY) firefighters; 71 law enforcement officers, including 37 members of the Port Authority Police Department (PAPD) and 23 members of the New York City Police Department (NYPD); 2 FDNY paramedics; and 1 FDNY chaplain. Eight EMS personnel from private agencies also died in the attacks. Ten years after the attacks, the remains of only 1,629 victims had been identified. Of all the people who were still in the towers when they collapsed, only 20 were pulled out alive.

# **New World Trade Center**

- Over the following years, plans were created for the reconstruction of the World Trade Center. The Lower Manhattan Development Corporation (LMDC), established in November 2001 to oversee the rebuilding process, organized competitions to select a site plan and memorial design. Memory Foundations, designed by Daniel Libeskind, was selected as the master plan; however, substantial changes were made to the design.

The first new building at the site was 7 WTC, which opened on May 23, 2006. The memorial section of the National September 11 Memorial & Museum opened on September 11, 2011, and the museum opened on May 21, 2014. 1 WTC opened on November 3, 2014; 4 WTC opened on November 13, 2013; and 3 WTC opened on June 11, 2018.

In November 2013, according to an agreement made with Silverstein Properties Inc., the new 2 WTC would not be built to its full height until sufficient space was leased to make the building financially viable. Above-ground construction of 5 WTC was also suspended due to a lack of tenants as well as disputes between the Port Authority and the Lower Manhattan Development Corporation. In mid-2015, Silverstein Properties revealed plans for a redesigned 2 WTC, to be designed by Bjarke Ingels and completed by 2020 with News Corp as anchor tenant. Four years later, with no anchor tenant for 2 WTC, Silverstein expressed his intent to resume work on the tower regardless of whether a tenant had signed.

# **Impact**

## **On the surrounding community**

The original World Trade Center created a superblock that cut through the area's street grid, isolating the complex from the rest of the community. The Port Authority had demolished several streets to make way for the towers within the World Trade Center. The project involved combining the twelve-block area bounded by Vesey, Church, Liberty, and West Streets on the north, east, south, and west, respectively. 7 World Trade Center, built on the superblock's north side in the late 1980s, was built over another block of Greenwich Street. The building acted as a physical barrier separating Tribeca to the north and the Financial District to the south. The underground mall at the World Trade Center also drew shoppers away from surrounding streets.

The project was seen as being monolithic and overambitious, with the design having had no public input. By contrast, the rebuilding plans had significant public input. The public supported rebuilding a street grid through the World Trade Center site. One of the rebuilding proposals included building an enclosed shopping street along the path of Cortlandt Street, one of the streets demolished to make room for the original World Trade Center. However, the Port Authority ultimately decided to rebuild Cortlandt, Fulton, and Greenwich Streets, which had been destroyed during the original World Trade Center's construction.

## **As an icon of popular culture**

Before its destruction, the World Trade Center was a New York City icon, and the Twin Towers were the centerpiece that represented the entire complex. They were used in film and TV projects as "establishing shots", standing for New York City as a whole. In 1999, one writer noted: "Nearly every guidebook in New York City lists the Twin Towers among the city's top ten attractions."

There were several high-profile events that occurred at the World Trade Center. The most notable was held at the original WTC in 1974. French high wire acrobatic performer Philippe Petit walked between the two towers on a tightrope, as shown in the documentary film *Man on Wire* (2008) and depicted in the feature film *The Walk* (2015). Petit walked between the towers eight times on a steel cable. In 1975, Owen J. Quinn base-jumped from the roof of the North Tower and safely landed on the plaza between the buildings. Quinn claimed that he was trying to publicize the plight of the poor. In 1977, Brooklyn toymaker George Willig scaled the exterior of the South Tower. He later said, "It looked unscalable; I thought I'd like to try it." Six years later, high-rise firefighting and rescue advocate Dan Goodwin successfully climbed the outside of the North Tower to call attention to the inability to rescue people potentially trapped in the upper floors of skyscrapers.

The complex was featured in numerous works of popular culture; in 2006, it was estimated that the World Trade Center had appeared in some form in 472 films. Several iconic meanings were attributed to the World Trade Center. Film critic David Sterritt, who lived near the complex, said that the

World Trade Center's appearance in the 1978 film *Superman* "summarized a certain kind of American grandeur [...] the grandeur, I would say, of sheer American powerfulness". Remarking on the towers' destruction in the 1996 film *Independence Day*, Sterritt said: "The Twin Towers have been destroyed in various disaster movies that were made before 9/11. That became something that you couldn't do even retroactively after 9/11." Other motifs included romance, depicted in the 1988 film *Working Girl*, and corporate avarice, depicted in *Wall Street* (1987) and *The Bonfire of the Vanities* (1987). Comic books, animated cartoons, television shows, video games, and music videos also used the complex as a setting.

## **After the September 11 attacks**

After the September 11 attacks, some movies and TV shows deleted scenes or episodes set within the World Trade Center. For example, *The Simpsons* episode "The City of New York vs. Homer Simpson", which first aired in 1997, was removed from syndication after the attacks because a scene showed the World Trade Center. Songs that mentioned the World Trade Center were no longer aired on radio, and the release dates of some films, such as the 2001–2002 films *Sidewalks of New York*, *People I Know*, and *Spider-Man*, were delayed so producers could remove scenes that included the World Trade Center. The 2001 film *Kissing Jessica Stein*, which was shown at the Toronto International Film Festival the day before the attacks, had to be modified before its general public release, so the filmmakers could delete the scenes that depicted the World Trade Center.

Other episodes and films mentioned the attacks directly, or depicted the World Trade Center in alternate contexts. The production of some family-oriented films was also sped up due to a large demand for that genre following the attacks. Demand for horror and action films decreased, but within a short time demand returned to normal. By the first anniversary of the attacks, over sixty "memorial films" had been created. Filmmakers were criticized for removing scenes related to the World Trade Center. Rita Kempley of *The Washington Post* said "if we erase the towers from our art, we erase it [sic] from our memories". Author Donald Langmead compared the phenomenon to the 1949 novel *Nineteen Eighty-Four*, where historic mentions of events are retroactively "rectified". Other filmmakers such as Michael Bay, who directed the 1998 film *Armageddon*, opposed retroactively removing references to the World Trade Center based on post-9/11 attitudes.

Oliver Stone's film *World Trade Center*—the first movie that specifically examined the effects of the attacks on the World Trade Center, as contrasted with the effects elsewhere—was released in 2006. Several years after the attacks, works such as "The City of New York vs. Homer Simpson" were placed back in syndication. The National September 11 Museum has preserved many of the works that feature depictions of the original World Trade Center.

## Chapter 5

# Funeral of Pope John Paul II

The **funeral of Pope John Paul II** was held on 8 April 2005, six days after his death on 2 April. The funeral was followed by the *novemdiales* devotional in which the Catholic Church observes nine days of mourning.

On 22 February 1996, Pope John Paul II introduced revisions to the centuries-old ceremonies surrounding papal death, repose and burial. The revisions enacted through the apostolic constitution *UniversiDominicigregis* applied to his own funeral.

Pope John Paul's funeral brought together what was, at the time, the single largest gathering in history of heads of state outside the United Nations, surpassing the 1965 funeral of Winston Churchill, only to be surpassed by the 2012 Summer Olympics opening ceremony and the funeral of former South Africa leader Nelson Mandela in December 2013. Four kings, five queens, at least seventy presidents and prime ministers, and more than fourteen leaders of other religions attended, alongside the faithful. It is likely to have been one of the largest single gatherings of Christianity in history, with numbers estimated in excess of four million mourners gathering in Rome alone.

Coinciding with the funeral in Vatican City, bishops at cathedrals throughout the world celebrated memorial masses. In an historical rarity, Protestant and Eastern Orthodox leaders, as well as representatives and heads from Judaism,

Islam and Buddhism, offered their own memorials and prayers as a way of sympathising with the grief of Catholics.

At the funeral itself, Ecumenical Patriarch Bartholomew I of the Eastern Orthodox Church was in the honorary first seat in the sector reserved for delegations from churches not in full communion with the See of Rome; this was the first time an Ecumenical Patriarch attended a papal funeral since the East-West Schism. The Archbishop of Canterbury (then Rowan Williams) was also present at the papal funeral, the first time since the Church of England broke with the Catholic Church in the 16th century. Also for the first time ever, the head of the Ethiopian Orthodox Tewahedo Church, Patriarch AbunePaulos, attended a papal funeral.

## **Rite of Papal Death**

Centuries of sacred rituals are set in motion upon the death of a Pope, and these are administered by the Cardinal Camerlengo.

When John Paul II died, the Camerlengo Eduardo MartínezSomalo removed the Pope's Ring of the Fisherman from his finger, then ceremonially crushed it with the ceremonial silver hammer in the presence of members of the College of Cardinals. This was originally done to prevent the creation of forged, backdated documents, which would appear to have been approved by the late pope.

After the ring's destruction, Cardinal MartínezSomalo cordoned off and placed wax seals on the entrances to the Pope's private bedroom and study. This tradition originates from ruthless

cardinals looting the papal chambers upon the death of past popes.

The Pope's formal death certificate was signed by the physician Renato Buzzonetti, Director of the Department of Health and Sanitation of Vatican City, on the evening of his death. Cardinal MartínezSomalo then ceremonially ordered the Dean of the College of Cardinals, Cardinal Joseph Ratzinger, to summon the cardinals of the world to Vatican City to elect a new pope.

While his predecessors had been embalmed after death, the Vatican claimed that Pope John Paul II was not embalmed and lay in state without normal treatment for preservation, which is evident by the grey colour taken on by the body. Also, it was customary for popes to have their organs removed after death. Pope Pius X ended this practice during his reign, and the wish of some Poles that John Paul II's heart be buried in Poland was not obliged.

## **Exposition and Lying in State**

John Paul II's body was clothed in the familiar white soutane, over which was placed a plain white alb. A stole, the symbol of ordained ministry, was placed around his neck. Over the inner vestments, John Paul II was clothed in a red chasuble. An ancient Byzantine custom, red is the colour of mourning for Popes. Around his collar, the pallium of white lamb's wool was draped. A white zucchetto and a white bishop's mitre adorned John Paul II's head. In his arm rested Paul VI's pastoral cross-staff, used by popes in place of the crozier. His hands clasped a rosary. At first, he lay in state in his favourite pair of Polish-

made brown leather shoes, size 44-1/2, which he wore on his travels throughout the world. Later, following the example of his immediate predecessors, these were changed to plain red leather papal shoes.

The body of John Paul II was exposed first in the Papal Residence and venerated by the Clergy before a procession, after which it was placed in St. Peter's Basilica; The Swiss Guard remained always beside the body while it was exposed for viewing. After the placement of the body before the Burial Site of St. Peter, the faithful who had gathered in St. Peter's Square were allowed to enter the Basilica to pray before the exposed body. It remained there before a private ceremony of the placement of the body in a cypress casket, and then was brought outside into the Square for the funeral. For the funeral, the Swiss Guard departed the body to guard the Requiem Mass, presided by then-Cardinal Joseph Ratzinger.

## **Mass of Repose**

A first Mass of Repose, such as is offered for anyone baptised in the Catholic Church, commemorating the sending of the soul to God, was led by Cardinal Angelo Sodano, Cardinal Secretary of State, on 3 April 2005, the day after the death of the Pope. That Sunday service coincided with the celebration of the Feast of Divine Mercy, a memorial feast instituted by Pope John Paul II himself. The service was followed by the recitation of the Regina Caeli, at which Archbishop Leonardo Sandri, Substitute of the Secretariat of State read out the words that John Paul II himself wrote for the occasion and was due to recite.

## **Rite of Visitation**

The body of John Paul II was dressed in his vestments and moved to the Clementine Hall on the third level (considered the second floor) of the Apostolic Palace on 3 April. His body was laid on a sloped olive-sheeted catafalque and his head propped on a stack of three gold pillows. Near the catafalque was a wooden crucifix and a paschal candle symbolic of Jesus Christ as the light of the world in the face of darkness and death. His body was guarded by the Swiss Guard, a corps of men which has sworn to protect the pope through several centuries. During a period of private visitation Vatican officials and a contingent of officials from the Italian government viewed the body of John Paul II.

On 4 April, the body of John Paul II was moved onto a red velvet catafalque, with his head propped on three red pillows. The Papal Gentlemen, clothed in black morning coats and white gloves, were chosen as pallbearers and stood along the sides of the pope's bier. Cardinal MartínezSomalo, dressed in red and gold vestments, officiated the asperges rite. He blessed the pope with the holy waters of baptism three times: to the right of the pope, at his head and then to his left. An acolyte then brought to the Camerlengo a thurible and boat. Cardinal MartínezSomalo incensed the pope three times.

A long procession was begun in order to transfer the body of John Paul II from the Clementine Hall, through the colonnades of the Apostolic Palace and into St. Peter's Square among the waiting people. Traditionally, the pope's body is then brought to either St. Peter's Basilica or the papal cathedral, St. John

Lateran Basilica. A procession of monks, priests and bishops paced slowly along a route towards St. Peter's Basilica. The College of Cardinals trailed by Cardinal Joseph Ratzinger and Cardinal MartínezSomalo followed them.

As the ritual dating back to the medieval era proceeded, Gregorian chants were sung by several religious orders with the people responding to each verse with the ancient Greek prayer, "Lord, have mercy" or "Kyrie eleison." The Litany of the Saints was sung. After each name of a martyr or saint was chanted, invoking his or her intercession between God and the people, participants in the procession sang the Latin words, "Ora pro eo," meaning "Pray for him." This is a departure from the traditional, "Pray for us" or "Ora pro nobis."

When the body of the pope was hoisted upon the steps of St. Peter's Basilica, the Papal Gentlemen turned the bier and lifted the pope's head to face the tens of thousands of people that filled St. Peter's Square. Cardinal MartínezSomalo noted it as the pope's symbolic last look at the devoted followers that had filled St. Peter's Square throughout the papacy of John Paul II.

The procession ended with the seating of the College of Cardinals and the placement of the bier carrying the body of John Paul on a catafalque in front of the steps leading to the altar of St. Peter's Basilica. The paschal candle was lit and the body of the Pope was incensed again by Cardinal MartínezSomalo. Prayers were said and a reading from the Gospels was performed by a deacon. After the College of Cardinals paid their respects and left the sanctuary, the basilica was closed and then reopened for the official lying in

state to last until the day of the Mass of Requiem and subsequent interment.

## **Requiem Mass**

Cardinal Joseph Ratzinger celebrated the Mass of Requiem on 8 April at 10:00 am CEST (08:00 UTC), by virtue of his office as Dean of the College of Cardinals. He was also one of Pope John Paul II's closest friends and carried out most of the Pope's duties during his final illness. Concelebrating in the Mass of Requiem were the College of Cardinals (the number of members that were present has been variously given as 157 and 164) and the patriarchs of the Eastern Catholic Churches.

As the pope must be buried between the fourth and sixth day after his death, Friday was chosen as the last possible date. The Mass at St. Peter's Basilica was the first Mass of Requiem for a pope to be televised live in almost every nation in the world.

The event had an estimated viewership of over 2 billion people; the Catholic Church claims only 1.3 billion among its members. The funeral of John Paul II was by far the largest funeral in the history of the world. In lieu of a public viewing at the Basilica of St. John Lateran, as was tradition, immense digital screens instead broadcast the Mass of Requiem and subsequent Rite of Interment to those in the pope's cathedral church outside the confines of Vatican City. The same digital screens were hoisted at several sites in Rome, including the Circus Maximus, and at specially designated campsites outside the city for the millions of pilgrims who descended on the city.

The funeral was perhaps the most-watched live event in the history of television. Because people in North America understood that the service took place during the early morning hours on their side of the Atlantic, many awoke to view the funeral, and others taped it for a historical record. In addition, several television networks in the Americas rebroadcast the funeral later in the day.

## **Proclamation**

As the Mass of Requiem began, the doors of St. Peter's Basilica were locked with dignitaries asked to stand outside the church. Only the College of Cardinals and the patriarchs and presiding metropolitans of the Eastern Catholic Churches were allowed inside for a private ceremony in which John Paul was placed in a cypress coffin, the first of three. Before being laid in the coffin, Archbishop Marini and Stanisław Dziwisz had the honour of placing a white silk veil over the face of the pope (a tradition started by Leo XIII). It was his last official act of service to the pope as his papal secretary. The body was lowered into a cypress coffin, which served as the innermost coffin. Along with the body was a sealed document, the Rogito, a eulogy detailing the life and works of John Paul II, read aloud in Latin by Archbishop Marini and signed by those present during the funeral. Three bags containing gold, silver, and copper euro coins were placed beside the body. Each bag contained one coin for each year in John Paul II's reign, constituting the only monetary compensation he ever received for his service as pope, which totalled to about •100. After the private ceremony, the doors of St. Peter's Basilica were opened while dignitaries were seated. Cardinal Ratzinger and his

concelebrants prepared for their procession from inside the basilica to a marble apron in the middle of St. Peter's Square where the Mass of Requiem was held.

The procession began with the introductory chant, "Requiem Aeternam" ("Eternal Rest Grant Him, O Lord"), which includes verses from Psalm 64 (65), "To You We Owe Our Hymn of Praise, O God of Zion." Carried on the shoulders of the Papal Gentlemen, the coffin bearing the image of John Paul II's coat-of-arms burned onto the lid, the pope was carried into St. Peter's Square onto the marble apron. Archbishop Marini and Konrad Krajewski, Papal Master of Ceremonies led the coffin, carrying a red leather-bound Book of the Gospel. The Papal Gentlemen laid the coffin onto a red carpet directly front in the altar, with the Book of the Gospel placed open on top of it.

## **Liturgy of the Word**

The Liturgy of the Word began with a reading from the Acts of the Apostles, 10:34–43, read by Chilean Alejandra Correa in Spanish. The responsorial was Psalm 22(23). The second reading was read by John McDonald in English, taken from the Letter of Saint Paul to the Philippians, 3:20–4:1. It was entitled, "But our citizenship is in heaven." The reader ended by singing, "Verbum Domini" ("The Word of the Lord.") Congregants replied in chant, "Deo gratias" ("Thanks be to God.")

Congregants stood for the proclamation of the Gospel, heralded by the singing of Alleluia. After being blessed by Cardinal Ratzinger, an English deacon of the Archdiocese of Birmingham, Paul Moss (who has now been ordained priest and

is currently serving as Vocations Director for the Archdiocese of Birmingham), proceeded with the Book of the Gospels to the ambo or lectern. He began by singing, "The Gospel according to John." Congregants replied, "Glory to you, O Lord." Moss then incensed the Book of the Gospel and then sang the reading in Latin. The reading came from John chapter 6, verse 40, stating, "For this is the will of my father that everyone who sees the son and believes in him may have eternal life." Moss then read from John chapter 21, verses 15 through 19, which is an account of a dialogue between Jesus and Saint Peter. Jesus asked three times, "Do you love me?" He then told his disciple, "Follow me." The deacon raised the Book of the Gospel and sang, "Verbum Domini" or "The Gospel of the Lord." Congregants replied in chant, "Praise to you, Lord Jesus Christ."

## **Homily**

After kissing the text of the Book of the Gospels, Cardinal Ratzinger stood before the congregants to offer the homily which included references to the life and service of Pope John Paul. He spoke in Italian, first greeting the many political figures and religious leaders that had gathered, and then told the story of how the young Karol had answered the Lord's call, and became a priest after the persecution of the Nazis, the answer of the command: "Follow me!" Cardinal Ratzinger also told of John Paul's life as a bishop, cardinal, and pope, frequently applying scripture to the pope's life. Finally, he told of the pope's devotion to Mary and the Divine Mercy of Christ. The cardinal's last words were about the end of Pope John Paul II's life:

- We entrust your dear soul to the Mother of God, your Mother, who guided you each day and who will guide you now to the eternal glory of her Son, our Lord Jesus Christ.

Some construed the ending of the homily to mean that the pope had already entered into heaven, and had become a saint.

The homily was interrupted approximately ten times with outbursts of applause by the congregants.

The Nicene Creed sung in the Latin language followed the homily. Prayers were said in Italian, French, Swahili, Tagalog, Polish, German, and Portuguese.

## **Liturgy of the Eucharist**

The part of the Mass of Requiem called the Liturgy of the Eucharist began. Cardinal Ratzinger and the concelebrating cardinals gathered around the altar to consecrate the bread and wine.

After the Eucharistic Prayer (the point in the Mass when it is believed the elements become Christ), the Lord's Prayer was sung followed later by the brief Latin litany, "Agnus Dei". The Eucharist was then taken to the congregation in St. Peter's Square to be distributed among those present. As the congregation received the Blessed Sacrament, Psalm 129 (in some Biblical versions Psalm 130) was sung. Its lyrics proclaimed, "Out of the depths I cry to you, O Lord; Lord, hear my voice."

After the Liturgy of the Eucharist, the crowds in the streets of Vatican City burst into applause, waving flags and banners chanting, "Santo Subito!" which means "Saint now!" and "Giovanni Paolo Santo" or "Saint John Paul!". A few also repeatedly chanted "Magnus" or "Great", spontaneously declaring that he should be John Paul the Great.

## **Commendation**

After the congregants received Communion, Cardinal Ratzinger led the Rite of Final Commendation and Farewell. He asked the College of Cardinals and patriarchs of the Eastern Rite to converge on the casket of Pope John Paul II. The congregants were called to prayer, "Dear brothers and sisters let us entrust to the most gentle mercy of God, the soul of our Pope John Paul II." He continued, "May the Blessed Virgin Mary... intercede with God so that He might show the face of His blessed Son to our Pope, and console the Church with the light of the Resurrection."

The choir sang the Litany of the Saints; the same litany was chanted during the procession that transferred the body of Pope John Paul II from the Clementine Hall of the Apostolic Palace to St. Peter's Basilica. Breaking with tradition for the sacred prayer, the names of the saints canonised by Pope John Paul II, such as Faustina Kowalska and Josemaría Escrivá, were allowed to be included in the litany. Names of saints included in the more traditional litany were also included along with the newer saints.

After the singing of the Litany of the Saints, the patriarchs, archbishops and metropolitans of the Eastern Catholic

Churches approached the coffin of Pope John Paul II for their own rituals of commendation and farewell (*panikhida*). They incensed the casket and chanted the Easter proclamation, "Christ is risen from the dead, trampling down death by His death", three times, and the rest of the Eastern memorial service. The Eastern patriarchs together with the entire College of Cardinals witnessed the sprinkling of the casket with the waters used in the Sacrament of Baptism. Incense was used once again, when Cardinal Ratzinger, assisted by an Italian deacon of the Pontifical Major Seminary in Rome, father NelloLuongo, incensed and prayed for the dead Pope at the very end of the Mass. The Prayer of the Eastern Churches from the *Parastas* (Office of the Dead) of the Byzantine Rite was chanted in Greek and in Arabic by Melkite Greek Catholic Patriarch Gregory III Laham, ending with "Your memory is eternal, our brother, dignified with blessings and unforgettable."

The Mass of Requiem officially ended with the congregation standing to sing the *Inparadisum*: "May Angels lead you into Paradise; upon your arrival, may the Martyrs receive you and lead you to the holy city of Jerusalem."

The Papal Gentlemen carried the Pope's coffin towards the entrance of St. Peter's for interment, and the congregation in attendance broke out into applause and cheered as a final farewell. The coffin was then turned 180 degrees to face the congregation and the cameras, and the crowd applauded and cheered with more fervour before it was taken out of the public view for the last time. Cardinal Ratzinger handed over authority of the Rite of Interment to Cardinal MartínezSomalo, the Camerlengo.

## **Rite of Interment**

The people of Poland had wished for the heart of John Paul II to be removed from his body and transferred to Wawel Cathedral to be buried alongside the greatest of Poland's monarchs and National heroes. Cardinal MartínezSomalo said that the request would not be obliged, as per the dead Pope's wish not to have any parts of his body removed during preparation for the funeral.

An underground grotto beside the former shrine of the now glass-entombed and preserved body of Pope John XXIII was chosen for the interment of John Paul II. He was lowered into a tomb that had been prepared following the transfer of John XXIII's remains from the grotto to the main floor of the basilica after his beatification. The vault that originally held John XXIII's body had been removed so a new tomb could be built. The College of Cardinals decided to keep John Paul II beneath the altar of St. Peter's Basilica, citing the possibility of future beatification and canonisation into sainthood.

Pallbearers took the coffin through the central door of St. Peter's Basilica. At that point a single bell tolled. The pallbearers took the coffin through the Santa Marta Door, under the Monument to Alexander VII, to the outside (South) of the Basilica. They entered the grottoes, a cemetery underneath the Basilica where Saint Peter is believed to be buried, through the door now used as the grottoes' exit. After passing beneath low ceilings and through long corridors, the pallbearers stopped at the crypt of Pope John Paul II.

- Cardinal MartínezSomalo, Camerlengo of the Roman Church, then presided over the Rite of Interment. It was a private service witnessed only by the highest-ranking members of the College of Cardinals. As is custom, Pope John Paul II was entombed in three nested coffins. The cypress coffin was sealed and tied with three red silk ribbons. The cypress casket was lowered into a larger solid zinc (traditionally lead) casket, which was soldered shut. This coffin was adorned with three bronze plaques: a simple cross at the head of the coffin, a middle plaque with the Pope's name and the length of his life and pontificate, and a third with Pope John Paul II's personal coat of arms at the foot. The zinc casket was finally lowered into a larger walnut (traditionally elm) casket, bearing three identical plaques, which was shut with nails of pure gold.

The unified coffin was lowered into the ground, as the Pope requested, and covered with a plain stone slab featuring his name and dates of his pontificate. Pope John Paul II asked that his burial be like that of Pope Paul VI, not in an elaborate sarcophagus and ornate above-ground tomb, but in "bare earth". His remains lay in this tomb for six years before it was exhumed to prepare for his beatification in 2011.

Cardinal MartínezSomalo ended the Rite of Interment with the words, "Lord, grant him eternal rest, and may perpetual light shine upon him." Those present sang "Salve Regina" or "Hail Holy Queen."

## **Dignitaries**

Before the College of Cardinals could offer official customary invitations to the various heads of state and government, over 200 foreign officials had expressed their desire to attend the Mass of Requiem. 18 international organizations and 112 countries attended the event. A total of 10 royalty guests, 70 heads of state and government and 15 former leaders was present. Among the most familiar faces worldwide were the President of the United States and two former presidents of the United States, the Prime Minister of Italy, the current and former Presidents of Brazil, the current and former Presidents of Poland, the President of France, the President of Ireland, the Taoiseach of Ireland, the King and Queen of Spain, the King and Queen of the Belgians, the Prime Minister of the United Kingdom, the Chancellor of Germany and the President of Germany, the Prince of Wales (who postponed his wedding to Camilla Parker-Bowles by 24 hours, to attend), the Prime Minister of Canada, the King and Queen of Jordan, the President of Afghanistan, and the Vice-President of India. International representatives included the Secretary-General of the United Nations. Also attending were Mohammad Khatami of Iran and Israeli President Moshe Katsav. Kings and Queens from Denmark, Sweden and Norway were also present.

The dignitaries were seated alphabetically according to the French spelling of their country's name and arranged according to diplomatic protocol, with Sovereigns taking precedence over elected heads of state and seated in the front row. The largest delegations were the Italian (sitting in the first honorary seats were the President of Italy and other high Italian dignitaries)

and Polish ones. As such, Israeli President Moshe Katsav sat only two seats away from the president of Iran amidst strained relations. Zimbabwean president Robert Mugabe defied a European Union travel ban to attend the funeral. Taiwanese President Chen Shui-bian made an unprecedented appearance and was seated in the front row as the head of state of China, due to the existence of diplomatic relations between the Holy See and the Republic of China. The People's Republic of China was not invited to the funeral and protested to Italy for allowing Chen passage to the Vatican. Altogether, the Mass of Requiem was deemed at the time to be the largest gathering of heads of state in world history, exceeding the gathering at the state funeral of Sir Winston Churchill in London in 1965 and the funeral of Josip Broz Tito in 1980. It was, however, surpassed by the State memorial service of former South African President Nelson Mandela in Johannesburg, South Africa on 10 December 2013 with 20 royal leaders, 95 heads of state and 50 former heads of state attended (See List of dignitaries at the memorial service of Nelson Mandela). Some of the dignitaries, including German Chancellor Gerhard Schroeder, King Juan Carlos and Queen Sofia of Spain who attended the funeral also attended the installation Mass for Pope Benedict XVI on 24 April 2005.

## **Novemdiales**

After the Rite of Interment, nine official days of mourning began. The devotional called novemdiales features a Mass of Requiem on each of the nine days at St. Peter's Basilica. Several cardinals were chosen by Cardinal Ratzinger to have the honour of presiding over each Mass. One of the most

controversial honourees was Bernard Francis Law, Archpriest of the Basilica di Santa Maria Maggiore, scheduled to preside a novemdiales on 11 April. During his tenure as Archbishop of Boston, Cardinal Law was accused of having mishandled cases of sexual abuse at the hands of diocesan priests. The event sparked the nationwide Roman Catholic Church sex abuse scandal in the dioceses of the United States.

Several members of the Survivors Network of those Abused by Priests (SNAP) flew to Rome to protest saying Cardinal Law's place of honour was painful to sexual abuse victims and embarrassing to Catholics. Just as the group's members arrived at St. Peter's Basilica, led by founder Barbara Blaine, police officers escorted them outside the confines of St. Peter's Square. Blaine was unable to pass out fliers to people walking into the Mass offered by Cardinal Law.

Blaine had earlier told reporters in a press conference, "We are the sons and daughters of the Catholic family who were raped, sodomized and sexually molested by priests. At this time, we should be able to focus on the Holy Father's death, instead of Cardinal Law's prominence." The College of Cardinals responded by stating that Cardinal Law was honoured as a matter of his being the ordinary of one of the most important basilicas of the Roman Catholic Church.

14 April novemdiales Mass at St. Peter's Basilica replaced traditional hymns and prayers with those of the Maronite Rite, one of the Eastern Catholic Churches. Cardinal Nasrallah Boutros Sfeir, Patriarch of Antioch of the Maronites, presided over the Mass. It was the first time a cardinal patriarch of an

Eastern Catholic Church offered a novemdiales Mass, in his own rite, for a pope.

## Security

The immensity of the pilgrim presence in Rome and the vast diplomatic contingent from nations around the world raised concerns by the College of Cardinals that the funeral, conclave and installation of a new pope would make Vatican City a target for terrorism. The anti-terrorism task forces responsible for securing the funeral considered international terrorists the primary potential threat because of the attending dignitaries; domestic terrorism from Italian political extremists was considered less likely.

On 6 April—in advent of the arrival of the United States delegation aboard *Air Force One*, protected by a military escort—the Italian government issued a no-fly zone within a five-mile radius of Rome. The Italian government considered the President of the United States, the first sitting American president to attend a papal funeral, as the most tempting target for terrorists. Official diplomatic delegations from other nations began arriving at the same time.

The *Aeronautica Militare Italiana* (Italian air force) prepared their aircraft to be launched at a moment's notice in case of a terrorist strike. The Italian Army deployed anti-aircraft missiles around Vatican City, to the grudging dismay of the College of Cardinals. *Marina Militare* (Italian navy) warships were positioned along the shorelines of Italy armed with torpedoes. Gunboats ran up and down the rivers and

waterways of Rome, including the Tiber River which flows around Vatican City. One thousand sharpshooters were positioned on strategic rooftops throughout the Italian capital as Carabinieri police task forces swept aqueducts and drains for explosives. Helicopters were dispatched to scan the city streets from above. Plans to close Ciampino Airport from commercial flights and divert air traffic to and from Leonardo da Vinci International Airport in Fiumicino were finalised for the day of the Mass of Requiem and Interment of Pope John Paul II. Other smaller civilian commuter and recreational airports were also shut down.

Some of the same security measures that were in effect for the funeral were also in effect for the installation Mass of Pope Benedict XVI on 24 April.

## Chapter 6

# German Reunification

**German reunification** (German: *Deutsche Wiedervereinigung*) was the process in 1990 in which the German Democratic Republic (GDR) became part of the Federal Republic of Germany (FRG) to form the reunited nation of Germany.

The end of the unification process is officially referred to as **German unity** (German: *Deutsche Einheit*), celebrated each year on 3 October as German Unity Day (German: *Tag der deutschen Einheit*). Berlin was reunited into a single city, and again became the capital of united Germany.

The East German government started to falter in May 1989, when the removal of Hungary's border fence with Austria opened a hole in the Iron Curtain. The border was still closely guarded, but the Pan-European Picnic and the indecisive reaction of the rulers of the Eastern Bloc set in motion an irreversible peaceful movement. It allowed an exodus of thousands of East Germans fleeing to West Germany via Hungary. The Peaceful Revolution, a series of protests by East Germans, led to the GDR's first free elections on 18 March 1990, and to the negotiations between the GDR and FRG that culminated in a Unification Treaty. Other negotiations between the GDR and FRG and the four occupying powers produced the so-called "Two Plus Four Treaty" (Treaty on the Final Settlement with Respect to Germany) granting full sovereignty to a unified German state, whose two parts were previously

bound by a number of limitations stemming from their post-World War II status as occupied regions.

The 1945 Potsdam Agreement had specified that a full peace treaty concluding World War II, including the exact delimitation of Germany's postwar boundaries, required to be "accepted by the Government of Germany when a government adequate for the purpose is established." The Federal Republic had always maintained that no such government could be said to have been established until East and West Germany had been united within a free democratic state; but in 1990 a range of opinions continued to be maintained over whether a unified West Germany, East Germany, and Berlin could be said to represent "Germany as a whole" for this purpose. The key question was whether a Germany that remained bounded to the east by the Oder-Neisse line (the international border with Poland) could act as a "united Germany" in signing the peace treaty without qualification. Under the "Two Plus Four Treaty" both the Federal Republic and the Democratic Republic committed themselves and their unified continuation to the principle that their joint pre-1990 boundaries constituted the entire territory that could be claimed by a Government of Germany, and hence that there were no further lands outside those boundaries that were parts of Germany as a whole.

The post-1990 united Germany is not a successor state, but an enlarged continuation of the former West Germany. The enlarged Federal Republic of Germany retained the West German seats in international organizations including the European Economic Community (later the European Union), NATO, and the United Nations. Memberships in the Warsaw Pact and other international organizations to which East

Germany belonged ended because East Germany ceased to exist.

## Naming

For political and diplomatic reasons, West German politicians carefully avoided the term "reunification" during the run-up to what Germans frequently refer to as *die Wende* (roughly: *the turning point*). The 1990 treaty defines the official term as *Deutsche Einheit* ("German unity"); this is commonly used in Germany, and it is this term that then-Vice Chancellor Hans-Dietrich Genscher used in front of international journalists to correct them when they asked him about "reunification" in 1990.

After 1990, the term *die Wende* became more common. The term generally refers to the events (mostly in Eastern Europe) that led up to the actual reunification; in its usual context, this term loosely translates to "the turning point", without any further meaning.

When referring to the events surrounding reunification, however, it carries the cultural connotation of the time and the events in the GDR that brought about this "turnaround" in German history. However, anti-communist activists from Eastern Germany rejected the term *Wende* as it had been introduced by the Socialist Unity Party of Germany's Secretary General Egon Krenz.

## **Precursors to reunification**

- Germany was officially divided into four occupation zones as result of Potsdam Agreement on 1 August 1945, under the four military governments of the United States, the United Kingdom, France and the Soviet Union. The capital city of Berlin was similarly divided into the four sectors. Between 1947 and 1949, the three zones of the western allies were merged, forming the Federal Republic of Germany and West Berlin, aligned with capitalist Europe (which later developed into the European Community). The Soviet zone became the German Democratic Republic with its capital in East Berlin, a part of the communist Soviet Bloc. The FRG was a member of the western military alliance, NATO; the GDR was a member of the Warsaw Pact. Germans lived under such imposed divisions throughout the ensuing Cold War. Into the 1980s, the Soviet Union experienced a period of economic and political stagnation, and correspondingly decreased intervention in Eastern Bloc politics. In 1987, US President Ronald Reagan gave a speech at the Brandenburg Gate, challenging Soviet General Secretary Mikhail Gorbachev to "tear down this wall" which divided Berlin. The wall had stood as an icon for the political and economic division between East and West, a division that Churchill had referred to as the "Iron Curtain". Gorbachev announced in 1988 that the Soviet Union would abandon the Brezhnev Doctrine and allow the Eastern bloc nations to freely

determine their own internal affairs. In early 1989, under a new era of Soviet policies of *glasnost* (openness) and *perestroika* (economic restructuring), and taken further by Gorbachev, the Solidarity movement took hold in Poland. Further inspired by other images of brave defiance, a wave of revolutions swept throughout the Eastern Bloc that year. In May 1989, Hungary removed their border fence. However, the dismantling of the old Hungarian border facilities did not open the borders, nor were the previous strict controls removed, and the isolation by the Iron Curtain was still intact over its entire length. The opening of a border gate between Austria and Hungary at the Pan-European Picnic on 19 August 1989 then set in motion a peaceful chain reaction, at the end of which there was no longer a GDR and the Eastern Bloc had disintegrated. Extensive advertising for the planned picnic was made by posters and flyers among the GDR holidaymakers in Hungary. The Austrian branch of the Paneuropean Union, which was then headed by Karl von Habsburg, distributed thousands of brochures inviting them to a picnic near the border at Sopron. It was the largest escape movement from East Germany since the Berlin Wall was built in 1961. After the picnic, which was based on an idea by Karl's father Otto von Habsburg to test the reaction of the USSR and Mikhail Gorbachev to an opening of the border, tens of thousands of media-informed East Germans set off for Hungary. The media reaction of Erich Honecker in the "Daily Mirror" of 19 August 1989 showed the public in East and West

that there had been a loss of power by the Eastern European communist rulers in their own sphere of power, and that they were no longer the designers of what was happening: "Habsburg distributed leaflets far into Poland, on which the East German holidaymakers were invited to a picnic. When they came to the picnic, they were given gifts, food and Deutsche Mark, and then they were persuaded to come to the West." In particular, it was examined by Habsburg and the Hungarian Minister of State ImrePozsgay, whether Moscow would give the Soviet troops stationed in Hungary the command to intervene. But with the mass exodus at the Pan-European Picnic, the subsequent hesitant behavior of the Socialist Unity Party of East Germany and the non-intervention of the Soviet Union broke the dams. Thus the bracket of the Eastern Bloc was broken.

Tens of thousands of the media-informed East Germans now made their way to Hungary, which was no longer ready to keep its borders completely closed or to oblige its border troops to use force of arms. By the end of September 1989, more than 30,000 East Germans had escaped to the West before the GDR denied travel to Hungary, leaving Czechoslovakia as the only neighboring state to which East Germans could escape.

Even then, many people within and without Germany still believed that real reunification would never happen in the foreseeable future. The turning point in Germany, called "Die Wende", was marked by the "Peaceful Revolution" leading to the removal of the Berlin Wall, with East and West Germany subsequently entering into negotiations toward eliminating the

division that had been imposed upon Germans more than four decades earlier.

## **Process of reunification**

### **Cooperation**

On 28 November 1989—two weeks after the fall of the Berlin Wall—West German Chancellor Helmut Kohl announced a 10-point program calling for the two Germanies to expand their cooperation with a view toward eventual reunification.

Initially, no timetable was proposed. However, events rapidly came to a head in early 1990. First, in March, the Party of Democratic Socialism—the former Socialist Unity Party of Germany—was heavily defeated in East Germany's first free elections. A grand coalition was formed under Lothar de Maizière, leader of the East German wing of Kohl's Christian Democratic Union, on a platform of speedy reunification. Second, East Germany's economy and infrastructure underwent a swift and near-total collapse. Although East Germany was long reckoned as having the most robust economy in the Soviet bloc, the removal of Communist hegemony revealed the ramshackle foundations of that system. The East German mark had been almost worthless outside East Germany for some time before the events of 1989–90, and the collapse of the East German economy further magnified the problem.

## Economic merger

Discussions immediately began on an emergency merger of the German economies. On 18 May 1990, the two German states signed a treaty agreeing on monetary, economic and social union. This treaty is called *Vertrag über die Schaffung einer Währungs-, Wirtschafts- und Sozialunion zwischen der Deutschen Demokratischen Republik und der Bundesrepublik Deutschland* [de] ("Treaty Establishing a Monetary, Economic and Social Union between the German Democratic Republic and the Federal Republic of Germany"); it came into force on 1 July 1990, with the West German Deutsche Mark replacing the East German mark as the official currency of East Germany. The Deutsche Mark had a very high reputation among the East Germans and was considered stable. While the GDR transferred its financial policy sovereignty to West Germany, the West started granting subsidies for the GDR budget and social security system. At the same time, many West German laws came into force in the GDR. This created a suitable framework for a political union by diminishing the huge gap between the two existing political, social, and economic systems.

## German Reunification Treaty

The Volkskammer, the Parliament of East Germany, passed a resolution on 23 August 1990 declaring the accession (*Beitritt*) of the German Democratic Republic to the Federal Republic of Germany, and the extension of the field of application of the Federal Republic's Basic Law to the territory of East Germany as allowed by article 23 of the West German Basic Law,

effective 3 October 1990. The East German Declaration of Accession (*Beitrittserklärung*) to the Federal Republic, as provided by Article 23 of the West German Basic Law, was approved by the Volkskammer on 23 August, and formally presented by its President, Sabine Bergmann-Pohl, to the President of the West German Bundestag, Rita Süssmuth, by means of a letter dated 25 August 1990. Thus, formally, the procedure of reunification by means of the accession of East Germany to West Germany, and of East Germany's acceptance of the Basic Law already in force in West Germany, was initiated as the unilateral, sovereign decision of East Germany, as allowed by the provisions of article 23 of the West German Basic Law as it then existed.

In the wake of that resolution of accession, the "German reunification treaty", commonly known in German as "Einigungsvertrag" (Unification Treaty) or "Wiedervereinigungsvertrag" (Reunification Treaty), that had been negotiated between the two German states since 2 July 1990, was signed by representatives of the two Governments on 31 August 1990. This Treaty, officially titled *Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik über die Herstellung der Einheit Deutschlands* (Treaty between the Federal Republic of Germany and the German Democratic Republic on the Establishment of German Unity), was approved by large majorities in the legislative chambers of both countries on 20 September 1990 (442–47 in the West German Bundestag and 299–80 in the East German Volkskammer). The Treaty passed the West German Bundesrat on the following day, 21 September 1990. The amendments to the Federal Republic's Basic Law that were foreseen in the Unification Treaty or

necessary for its implementation were adopted by the Federal Statute of 23 September 1990, that enacted the incorporation of the Treaty as part of the Law of the Federal Republic of Germany. The said Federal Statute, containing the whole text of the Treaty and its Protocols as an annex, was published in the *Bundesgesetzblatt* (the official journal for the publication of the laws of the Federal Republic) on 28 September 1990. In the German Democratic Republic, the constitutional law (*Verfassungsgesetz*) giving effect to the Treaty was also published on 28 September 1990. With the adoption of the Treaty as part of its Constitution, East Germany legislated its own abolition as a State.

Under article 45 of the Treaty, it entered into force according to international law on 29 September 1990, upon the exchange of notices regarding the completion of the respective internal constitutional requirements for the adoption of the treaty in both East Germany and West Germany. With that last step, and in accordance with article 1 of the Treaty, and in conformity with East Germany's Declaration of Accession presented to the Federal Republic, Germany was officially reunited at 00:00 CEST on 3 October 1990. East Germany joined the Federal Republic as the five *Länder* (states) of Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt and Thuringia. These states were the five original states of East Germany, but were abolished in 1952 in favor of a centralized system. As part of 18 May treaty, the five East German states were reconstituted on 23 August. At the same time, East and West Berlin reunited into one city, which became a city-state along the lines of the existing city-states of Bremen and Hamburg. Berlin was still formally under Allied occupation (that would only be terminated later, as a result of

the provisions of the Two Plus Four Treaty), but the city's administrative merger and inclusion in the Federal Republic of Germany, effective on 3 October 1990, had been greenlighted by the Allies, and were formally approved in the final meeting of the Allied Control Council on 2 October 1990. In an emotional ceremony, at the stroke of midnight on 3 October 1990, the black-red-gold flag of West Germany—now the flag of a reunited Germany—was raised above the Brandenburg Gate marking the moment of German reunification.

## **Constitutional merger**

The process chosen was one of two options implemented in the West German constitution (Basic Law) of 1949 to facilitate eventual reunification. The Basic Law stated that it was only intended for temporary use until a permanent constitution could be adopted by the German people as a whole. Via that document's (then-existing) Article 23, any new prospective *Länder* could adhere to the Basic Law by a simple majority vote. The initial eleven joining states of 1949 constituted the Trizone. West Berlin had been proposed as the 12th state, but was legally inhibited by Allied objections since Berlin as a whole was legally a quadripartite occupied area. Despite this, West Berlin's political affiliation was with West Germany, and in many fields, it functioned *de facto* as if it were a component state of West Germany. In 1957 the Saar Protectorate joined West Germany under the Article 23 procedure as Saarland.

The other option was Article 146, which provided a mechanism for a permanent constitution for a reunified Germany. This route would have entailed a formal union between two German states that then would have had to, amongst other things,

create a new constitution for the newly established country. However, by the spring of 1990, it was apparent that drafting a new constitution would require protracted negotiations that would open up numerous issues in West Germany. Even without this to consider, by the start of 1990 East Germany was in a state of economic and political collapse. In contrast, reunification under Article 23 could be implemented in as little as six months.

Ultimately, when the treaty on monetary, economic and social union was signed, it was decided to use the quicker process of Article 23. By this process, East Germany voted to dissolve itself and to join West Germany, and the area in which the Basic Law was in force simply extended to include them. Thus, while legally East Germany as a whole acceded to the Federal Republic, the constituent parts of East Germany entered into the Federal Republic as five new states, which held their first elections on 14 October 1990.

Nevertheless, although the Volkskammer's declaration of accession to the Federal Republic had initiated the process of reunification, the act of reunification itself (with its many specific terms, conditions, and qualifications, some of which required amendments to the Basic Law itself) was achieved constitutionally by the subsequent Unification Treaty of 31 August 1990; that is through a binding agreement between the former GDR and the Federal Republic now recognising each another as separate sovereign states in international law. This treaty was then voted into effect by both the Volkskammer and the Bundestag by the constitutionally required two-thirds majorities, effecting on the one hand, the extinction of the GDR, and on the other, the agreed amendments to the Basic

Law of the Federal Republic. Hence, although the GDR declared its accession to the Federal Republic under Article 23 of the Basic Law, this did not imply its acceptance of the Basic Law as it then stood, but rather, of the Basic Law as subsequently amended in line with the Unification Treaty.

Legally, the reunification did not create a third state out of the two. Rather, West Germany effectively absorbed East Germany. Accordingly, on Unification Day, 3 October 1990, the German Democratic Republic ceased to exist, and five new Federal States on its former territory joined the Federal Republic of Germany. East and West Berlin were reunited and joined the Federal Republic as a full-fledged Federal City-State. Under this model, the Federal Republic of Germany, now enlarged to include the five states of the former German Democratic Republic plus the reunified Berlin, continued legally to exist under the same legal personality that was founded in May 1949.

While the Basic Law was modified, rather than replaced by a constitution as such, it still permits the adoption of a formal constitution by the German people at some time in the future.

## **International effects**

The practical result of that model is that the now-expanded Federal Republic of Germany inherited the old West Germany's seats at the UN, NATO, the European Communities and other international organizations. It also continued to be a party to all the treaties the old West Germany signed prior to the moment of reunification. The Basic Law and statutory laws that were in force in the Federal Republic, as amended in

accordance with the Unification Treaty, continued automatically in force, but now applied to the expanded territory. Also, the same President, Chancellor (Prime Minister) and Government of the Federal Republic remained in office, but their jurisdiction now included the newly acquired territory of the former East Germany.

To facilitate this process and to reassure other countries, fundamental changes were made to the "Basic Law" (constitution). The Preamble and Article 146 were amended, and Article 23 was replaced, but the deleted former Article 23 was applied as the constitutional model to be used for the 1990 reunification. Hence, prior to the five "New Länder" of East Germany joining, the Basic Law was amended to indicate that all parts of Germany would then be unified such that Germany could now no longer consider itself constitutionally open to further extension to include the former eastern territories of Germany, that were now Polish, Russian or Lithuanian. The changes effectively formalized the Oder–Neisse line as Germany's permanent eastern border. These amendments to the Basic Law were mandated by Article I, section 4 of the Two Plus Four Treaty.

## **Day of German Unity**

To commemorate the day that marks the official unification of the former East and West Germany in 1990, 3 October has since then been the official German national holiday, the Day of German Unity (*Tag der deutschen Einheit*). It replaced the previous national holiday held in West Germany on 17 June commemorating the Uprising of 1953 in East Germany and the

national holiday on 7 October in the GDR, that commemorated the foundation of the East German state.

## Foreign support and opposition

We defeated the Germans twice! And now they're back!

- —*Margaret Thatcher, December 1989*

For decades, West Germany's allies stated their support for reunification. Israeli Prime Minister Yitzhak Shamir, who speculated that a country that "decided to kill millions of Jewish people" in the Holocaust "will try to do it again", was one of the few world leaders to publicly oppose it. As reunification became a realistic possibility, however, significant NATO and European opposition emerged in private.

A poll of four countries in January 1990 found that a majority of surveyed Americans and French supported reunification, while British and Poles were more divided. 69% of Poles and 50% of French and British stated that they worried about a reunified Germany becoming "the dominant power in Europe". Those surveyed stated several concerns, including Germany again attempting to expand its territory, a revival of Nazism, and the German economy becoming too powerful. While British, French, and Americans favored Germany remaining a member of NATO, a majority of Poles supported neutrality for the reunified nation.

The key ally was the United States. Although some top American officials opposed quick unification, Secretary of State

James A. Baker and President George H. W. Bush provided strong and decisive support to Kohl's proposals.

## **Britain and France**

Before the fall of the Berlin Wall, British Prime Minister Margaret Thatcher told Soviet General Secretary Mikhail Gorbachev that neither the United Kingdom nor Western Europe wanted the reunification of Germany. Thatcher also clarified she wanted the Soviet leader to do what he could to stop it, telling Gorbachev "We do not want a united Germany". Although she welcomed East German democracy, Thatcher worried that a rapid reunification might weaken Gorbachev, and favored Soviet troops staying in East Germany as long as possible to act as a counterweight to a united Germany.

Thatcher, who carried in her handbag a map of Germany's 1937 borders to show others the "German problem", feared that its "national character", size and central location in Europe would cause the nation to be a "destabilizing rather than a stabilizing force in Europe". In December 1989, she warned fellow European Community leaders at a Strasbourg summit that Kohl attended, "We defeated the Germans twice! And now they're back!" Although Thatcher had stated her support for German self-determination in 1985, she now argued that Germany's allies only supported reunification because they did not believe it would ever happen. Thatcher favored a transition period of five years for reunification, during which the two Germanies would remain separate states. Although she gradually softened her opposition, as late as March 1990 Thatcher summoned historians and diplomats to a seminar at Chequers to ask "How dangerous are the Germans?" and the

French ambassador in London reported that Thatcher told him, "France and Great Britain should pull together today in the face of the German threat."

The pace of events surprised the French, whose Foreign Ministry had concluded in October 1989 that reunification "does not appear realistic at this moment". A representative of French President François Mitterrand reportedly told an aide to Gorbachev, "France by no means wants German reunification, although it realises that in the end, it is inevitable." At the Strasbourg summit, Mitterrand and Thatcher discussed the fluidity of Germany's historical borders. On 20 January 1990, Mitterrand told Thatcher that a unified Germany could "make more ground than even Adolf had". He predicted that "bad" Germans would reemerge, who might seek to regain former German territory lost after World War II and would likely dominate Hungary, Poland, and Czechoslovakia, leaving "only Romania and Bulgaria for the rest of us". The two leaders saw no way to prevent reunification, however, as "None of us was going to declare war on Germany". Mitterrand recognized before Thatcher that reunification was inevitable and adjusted his views accordingly; unlike her, he was hopeful that participation in a single currency and other European institutions could control a united Germany. Mitterrand still wanted Thatcher to publicly oppose unification, however, to obtain more concessions from Germany.

## **Rest of Europe**

Ireland's Taoiseach, Charles Haughey, supported German reunification and he took advantage of Ireland's presidency of the European Economic Community to call for an extraordinary

European summit in Dublin in April 1990 to calm the fears held of fellow members of the EEC. Haughey saw similarities between Ireland and Germany, and said "I have expressed a personal view that coming as we do from a country which is also divided many of us would have sympathy with any wish of the people of the two German States for unification". *Der Spiegel* later described other European leaders' opinion of reunification at the time as "icy". Italy's Giulio Andreotti warned against a revival of "pan-Germanism" and joked "I love Germany so much that I prefer to see two of them", and the Netherlands' Ruud Lubbers questioned the German right to self-determination. They shared Britain and France's concerns over a return to German militarism and the economic power of a reunified nation. The consensus opinion was that reunification, if it must occur, should not occur until at least 1995 and preferably much later.

## **Four powers**

The victors of World War II — France, the Soviet Union, the United Kingdom, and the United States, comprising the Four-Power Authorities—retained authority over Berlin, such as control over air travel and its political status. From the onset, the Soviet Union sought to use reunification as a way to push Germany out of NATO into neutrality, removing nuclear weapons from its territory. However, West Germany misinterpreted a 21 November 1989 diplomatic message on the topic to mean that the Soviet leadership already anticipated reunification only two weeks after the Wall's collapse. This belief, and the worry that his rival Genscher might act first, encouraged Kohl on 28 November to announce a detailed "Ten Point Program for Overcoming the Division of Germany and

Europe". While his speech was very popular within West Germany, it caused concern among other European governments, with whom he had not discussed the plan.

The Americans did not share the Europeans' and Soviets' historical fears over German expansionism; Condoleezza Rice later recalled,

The United States – and President George H. W. Bush – recognized that Germany went through a long democratic transition. It was a good friend, it was a member of NATO. Any issues that existed in 1945, it seemed perfectly reasonable to lay them to rest. For us, the question wasn't should Germany unify? It was how and under what circumstances? We had no concern about a resurgent Germany...

The United States wished to ensure, however, that Germany would stay within NATO. In December 1989, the administration of President George H. W. Bush made a united Germany's continued NATO membership a requirement for supporting reunification. Kohl agreed, although less than 20% of West Germans supported remaining within NATO. Kohl also wished to avoid a neutral Germany, as he believed that would destroy NATO, cause the United States and Canada to leave Europe, and cause Britain and France to form an anti-German alliance. The United States increased its support of Kohl's policies, as it feared that otherwise Oskar Lafontaine, a critic of NATO, might become Chancellor.

Horst Teltschik, Kohl's foreign policy advisor, later recalled that Germany would have paid "100 billion deutschmarks" if the Soviets demanded it. The USSR did not make such great demands, however, with Gorbachev stating in February 1990

that "The Germans must decide for themselves what path they choose to follow". In May 1990 he repeated his remark in the context of NATO membership while meeting Bush, amazing both the Americans and Germans. This removed the last significant roadblock to Germany being free to choose its international alignments, though Kohl made no secret that he intended for the reunified Germany to inherit West Germany's seats in NATO and the EC.

## **Conclusion**

During a NATO–Warsaw Pact conference in Ottawa, Ontario, Canada, Genscher persuaded the four powers to treat the two Germanies as equals instead of defeated junior partners, and for the six nations to negotiate alone. Although the Dutch, Italians, Spanish, and other NATO powers opposed such a structure, which meant that the alliance's boundaries would change without their participation, the six nations began negotiations in March 1990. After Gorbachev's May agreement on German NATO membership, the Soviets further agreed that Germany would be treated as an ordinary NATO country, with the exception that former East German territory would not have foreign NATO troops or nuclear weapons. In exchange, Kohl agreed to reduce the sizes of the militaries of both West and East Germany, renounce weapons of mass destruction, and accept the postwar Oder–Neisse line as Germany's eastern border. In addition, Germany agreed to pay about 55 billion deutschmarks to the Soviet Union in gifts and loans, the equivalent of eight days of the West German GDP.

The British insisted to the end, against Soviet opposition, that NATO be allowed to hold manoeuvres in the former East

Germany. After the Americans intervened, both the UK and France ratified the Treaty on the Final Settlement with Respect to Germany in September 1990, thus finalizing the reunification for purposes of international law. Thatcher later wrote that her opposition to reunification had been an "unambiguous failure".

## **Aftermath**

### **German sovereignty, confirmation of borders, withdrawal of the Allied Forces**

On 14 November 1990, Germany and Poland signed the German–Polish Border Treaty, finalizing Germany's boundaries as permanent along the Oder–Neisse line, and thus, renouncing any claims to Silesia, East Brandenburg, Farther Pomerania, and the southern area of the former province of East Prussia. The subsequent German–Polish Treaty of Good Neighbourship that supplemented the Border Treaty also granted certain rights for political minorities on either side of the border. The following month, the first all-German free elections since 1932 were held, resulting in an increased majority for the coalition government of Chancellor Helmut Kohl.

On 15 March 1991, the Treaty on the Final Settlement with Respect to Germany—that had been signed in Moscow back on 12 September 1990 by the two German states that then existed (East and West Germany) on one side, and by the four principal Allied powers (the United Kingdom, France, the Soviet

Union and the United States) on the other—entered into force, having been ratified by the Federal Republic of Germany (after the unification, as the united Germany) and by the four Allied nations. The entry into force of that treaty (also known as the "Two Plus Four Treaty", in reference to the two German states and four Allied nations that signed it) put an end to the then-remaining limitations on German sovereignty that resulted from the post-World War II arrangements.

Even prior to the ratification of the Treaty, the operation of all quadripartite Allied institutions in Germany was suspended, with effect from the reunification of Germany on 3 October 1990 and pending the final ratification of the Two Plus Four Treaty, pursuant to a declaration signed in New York on 1 October 1990 by the foreign ministers of the four Allied Powers, that was witnessed by ministers of the two German states then in existence, and that was appended text of the Two Plus Four Treaty.

In accordance with Article 9 of the Two Plus Four Treaty, it entered into force as soon as all ratifications were deposited with the Government of Germany. The last party to ratify the treaty was the Soviet Union, that deposited its instrument of ratification on 15 March 1991. The Supreme Soviet of the USSR only gave its approval to the ratification of the treaty on 4 March 1991, after a hefty debate.

Under that treaty (which should not be confused with the Unification Treaty that was signed only between the two German states), the last Allied forces still present in Germany left in 1994, in accordance with article 4 of the treaty, that set 31 December 1994 as the deadline for the withdrawal of the

remaining Allied forces. The bulk of Russian ground forces left Germany on 25 June 1994 with a military parade of the 6th Guards Motor Rifle Brigade in Berlin. The withdrawal of the last Russian troops (the Russian Army's *Western Group of Forces*) was completed on 31 August 1994, and the event was marked by a military ceremony in the Treptow Park in Berlin, with the presence of Russian President Yeltsin and German Chancellor Kohl. Although the bulk of the British, American, and French Forces had left Germany even before the departure of the Russians, the ceremony marking the withdrawal of the remaining Forces of the Western Allies was the last to take place: on 8 September 1994, a Farewell Ceremony in the courtyard of the Charlottenburg Palace, with the presence of British Prime Minister John Major, American Secretary of State Warren Christopher, French President François Mitterrand, and German Chancellor Helmut Kohl, marked the withdrawal of the British, American and French Occupation Forces from Berlin, and the termination of the Allied occupation in Germany. Thus, the removal of the Allied presence took place a few months before the final deadline.

As for the German–Polish Border Treaty, it was approved by the Polish Sejm on 26 November 1991 and the German Bundestag on 16 December 1991, and entered into force with the exchange of the instruments of ratification on 16 January 1992. The confirmation of the border between Germany and Poland was required of Germany by the Allied Powers in the Two Plus Four Treaty.

## **Cost of reunification**

The subsequent economic restructuring and reconstruction of eastern Germany resulted in significant costs, especially for western Germany, which paid large sums of money in the form of the *Solidaritätszuschlag* (Solidarity Surcharge) in order to rebuild the east German infrastructure. Peer Steinbrück is quoted as saying in a 2011 interview, "Over a period of 20 years, German reunification has cost 2 trillion euros, or an average of 100 billion euros a year. So, we have to ask ourselves 'Aren't we willing to pay a tenth of that over several years for Europe's unity?'"

## **Inner reunification**

- Vast differences between the former East Germany and West Germany in lifestyle, wealth, political beliefs, and other matters remain, and it is therefore still common to speak of eastern and western Germany distinctly. The eastern German economy has struggled since unification, and large subsidies are still transferred from west to east. The former East Germany area has often been compared to the underdeveloped Southern Italy and the Southern United States during Reconstruction after the American Civil War. While the East German economy has recovered recently, the differences between East and West remain present.

Politicians and scholars have frequently called for a process of "inner reunification" of the two countries and asked whether

there is "inner unification or continued separation". "The process of German unity has not ended yet", proclaimed Chancellor Angela Merkel, who grew up in East Germany, in 2009. Nevertheless, the question of this "inner reunification" has been widely discussed in the German public, politically, economically, culturally, and also constitutionally since 1989.

Politically, since the fall of the Wall, the successor party of the former East German socialist state party has become a major force in German politics. It was renamed PDS, and, later, merged with the Western leftist party WASG to form the party The Left (Die Linke).

Constitutionally, the Basic Law (Grundgesetz), the West German constitution, provided two pathways for a unification. The first was the implementation of a new all-German constitution, safeguarded by a popular referendum. Actually, this was the original idea of the "Grundgesetz" in 1949: it was named a "basic law" instead of a "constitution" because it was considered provisional. The second way was more technical: the implementation of the constitution in the East, using a paragraph originally designed for the West German states (Bundesländer) in case of internal re-organization like the merger of two states. While this latter option was chosen as the most feasible one, the first option was partly regarded as a means to foster the "inner reunification".

A public manifestation of coming to terms with the past (*Vergangenheitsbewältigung*) is the existence of the so-called Birthler-Behörde, the Federal Commissioner for the Stasi Records, which collects and maintains the files of the East German security apparatus.

The economic reconstruction of the former East Germany following the reunification required large amounts of public funding which turned some areas into boom regions, although overall unemployment remains higher than in the former West. Unemployment was part of a process of deindustrialization starting rapidly after 1990. Causes for this process are disputed in political conflicts up to the present day. Most times bureaucracy and lack of efficiency of the East German economy are highlighted and the de-industrialization seen as inevitable outcome of the "Wende". But many critics from East Germany point out that it was the shock-therapy style of privatization which did not leave room for East German enterprises to adapt, and that alternatives like a slow transition had been possible.

Reunification did, however, lead to a large rise in the average standard of living in former East Germany and a stagnation in the West as \$2 trillion in public spending was transferred East. Between 1990 and 1995, gross wages in the east rose from 35% to 74% of western levels, while pensions rose from 40% to 79%. Unemployment reached double the western level as well. West German cities close to the former border of East and West Germany experienced a disproportionate loss of market access relative to other West German cities which were not as greatly affected by the reunification of East Germany.

In terms of media usage and reception, the country remains partially divided especially among the older generations. Mentality gaps between East and West persist, but so does sympathy. Additionally, the integration between Easterners and Westerners is not happening on as large a scale as was expected. Young people have on average very little knowledge

of the former East Germany. Some people in Eastern Germany engage in "Ostalgie", which is a certain nostalgia for the time before the wall came down.

Today, there are several prominent people of East German origin, including Michael Ballack, Katarina Witt, Paul van Dyk, and Angela Merkel.

## **Views and life satisfaction**

According to a 2019 survey conducted by Pew Research Center, approximately 90 percent of Germans living in both the West and East believe that reunification was good for Germany, with slightly more in East than West Germany supporting it. Around 83 percent of East Germans approve of and 13 percent disapprove of East Germany's transition to a market economy, with the rest saying they weren't sure. Life satisfaction in both East and West Germany has substantially increased since 1991, with 15 percent of East Germans placing their life satisfaction somewhere between 7 to 10 on a 0 to 10 scale in 1991 changing to 59 percent in 2019. For West Germans, this change over the same time period was from 52 to 64 percent.

## **Reunified Berlin**

While the fall of the Berlin Wall had broad economic, political and social impacts globally, it also had significant consequence for the local urban environment. In fact, the events of 9 November 1989 saw East Berlin and West Berlin, two halves of a single city that had ignored one another for the better part of 40 years, finally "in confrontation with one another". There was

a belief in the city that after 40 years of division, the reunified city would be well placed to become a major metropolis.

In the context of urban planning, in addition to a wealth of new opportunity and the symbolism of two former independent nations being re-joined, the reunification of Berlin presented numerous challenges. The city underwent massive redevelopment, involving the political, economic and cultural environment of both East and West Berlin. However, the "scar" left by the Wall, which ran directly through the very heart of the city had consequences for the urban environment that planning still needs to address.

## **Urban planning issues**

The reunification of Berlin presented legal, political and technical challenges for the urban environment. The political division and physical separation of the city for more than 30 years saw the East and the West develop their own distinct urban forms, with many of these differences still visible to this day.

East and West Berlin were directed by two separate political and urban agendas. East Berlin developed a mono-centric structure around government buildings and open spaces, while West Berlin was poly-centric in nature, with a center that was higher-density but less residential. The two political systems allocated funds to post-war reconstruction differently, based on political priorities, and this had consequences for the reunification of the city. West Berlin had received considerably more financial assistance for reconstruction and refurbishment. There was considerable disparity in the general

condition of many of the buildings: at the time of reunification, East Berlin still contained many leveled areas, which were previous sites of destroyed buildings from World War II, as well as damaged buildings that had not been repaired.

An immediate challenge facing the reunified city was the need for physical connectivity between the East and the West, specifically the organization of infrastructure. In the period following World War II, approximately half of the railway lines were removed in East Berlin. Urban rail required substantial work over more than a decade to fully reconnect the two halves of the city, and the tram network had been removed from the West leaving it entirely in the East.

## **Policy for reunification**

As urban planning in Germany is the responsibility of city government, the integration of East and West Berlin was in part complicated by the fact that the existing planning frameworks became obsolete with the fall of the Wall. Prior to the reunification of the city, the Land Use Plan of 1988 and General Development Plan of 1980 defined the spatial planning criteria for West and East Berlin, respectively. These were replaced by the new, unified Land Use Plan in 1994. Termed "Critical Reconstruction", the new policy aimed to revive Berlin's pre-WWII aesthetic; it was complemented by a strategic planning document for downtown Berlin, entitled "Inner City Planning Framework".

Following the dissolution of the German Democratic Republic on 3 October 1990, all planning projects under the socialist regime were abandoned. Vacant lots, open areas and empty

fields in East Berlin were subject to redevelopment, in addition to space previously occupied by the Wall and associated buffering zone. Many of these sites were positioned in central, strategic locations of the reunified city.

## **After the fall of the wall**

Berlin's urban organization experienced significant upheaval following the physical and metaphorical collapse of the Wall, as the city sought to "re-invent itself as a 'Western' metropolis".

Redevelopment of vacant lots, open areas and empty fields as well as space previously occupied by the Wall and associated buffering zone were based on land use priorities as reflected in "Critical Reconstruction" policies. Green space and recreational areas were allocated 38% of freed land; 6% of freed land was dedicated to mass-transit systems to address transport inadequacies.

Reunification initiatives also included the construction of major office and commercial projects, as well as the renovation of housing estates in East Berlin.

Another key priority was reestablishing Berlin as the capital of Germany, and this required buildings to serve government needs, including the "redevelopment of sites for scores of foreign embassies".

With respect to redefining the city's identity, emphasis was placed on restoring Berlin's traditional landscape. "Critical Reconstruction" policies sought to disassociate the city's identity from its Nazi and socialist legacy, though some

remnants were preserved, with walkways and bicycle paths established along the border strip to preserve the memory of the Wall. In the center of East Berlin much of the modernist heritage of the East German state was gradually removed. Reunification saw the removal of politically motivated street names and monuments in the East in an attempt to reduce the socialist legacy from the face of East Berlin.

Immediately following the fall of the Wall, Berlin experienced a boom in the construction industry. Redevelopment initiatives saw Berlin turn into one of the largest construction sites in the world through the 1990s and early 2000s.

The fall of the Berlin Wall also had economic consequences. Two German systems covering distinctly divergent degrees of economic opportunity suddenly came into intimate contact. Despite development of sites for commercial purposes, Berlin struggled to compete in economic terms with key West German centers such as Stuttgart and Düsseldorf. The intensive building activity directed by planning policy resulted in the over-expansion of office space, "with a high level of vacancies in spite of the move of most administrations and government agencies from Bonn".

Berlin was marred by disjointed economic restructuring, associated with massive deindustrialization. Economist Hartwich asserts that while the East undoubtedly improved economically, it was "at a much slower pace than [then Chancellor Helmut] Kohl had predicted". Wealth and income inequality between former East and West Germany continues today even after reunification. On average adults in the former West Germany have assets worth 94,000 euros as compared to

the adults in the former communist East Germany which have just over 40,000 euros in assets.

Facilitation of economic development through planning measures failed to close the disparity between East and West, not only in terms of the economic opportunity but also housing conditions and transport options. Tölle states that "the initial euphoria about having become one unified people again was increasingly replaced by a growing sense of difference between Easterners ("Ossis") and Westerners ("Wessis")". The fall of the Wall also instigated immediate cultural change. The first consequence was the closure in East Berlin of politically oriented cultural institutions.

Furthermore, the fall of the Berlin wall has resulted in a nation of two unequal parts. The success that the West experienced did not transfer over to East Germany after reunification. Even 30 years after reunification, there is still a division not only economically, but also culturally in Germany.

Economically, East Germany has had a sharp rise of 10% to West Germany's 5%. West Germany also still holds 56% of the GDP. Part of this disparity between the East and the West lies in the Western labor Unions' demand for high-wage pacts in an attempt to prevent "low-wage zones." This caused many East Germans to be outpriced in the market, adding to the slump in businesses in East Germany as well as the rising unemployment.

Culturally, the stereotype of the "Jammer-Ossis" (complaining East) and the "Besserwessis" (know-it-all West) becomes a strong marker of the divide that Germany still feels. These labels aid in highlighting the resentment on both sides. East

Germans indicate a dissatisfaction with the status quo and cultural alienation from the rest of Germany, and a sense that their cultural heritage is not acknowledged enough in the now unified Germany. The West, on the other hand, has become uninterested in what the East has to say, and this has led to more resentment toward the East exasperating the divide. Both the west and the east have failed to sustain an open-minded dialogue and the failure to grasp the effects of the institutional path dependency has increased the frustration each side feels.

The fall of the Berlin Wall and the factors described above led to mass migration from East Berlin and East Germany, producing a large labor supply shock in the West. Emigration from the East, totaling 870,000 people between 1989 and 1992 alone, led to worse employment outcomes for the least-educated workers, for blue-collar workers, for men and for foreign nationals.

At the close of the century, it became evident that despite significant investment and planning, Berlin was yet to retake "its seat between the European Global Cities of London and Paris." Yet ultimately, the disparity between East and West portions of Berlin has led to the city achieving a new urban identity.

A number of locales of East Berlin, characterized by dwellings of in-between use of abandoned space for little to no rent, have become the focal point and foundation of Berlin's burgeoning creative activities. According to Berlin Mayor Klaus Wowereit, "the best that Berlin has to offer, its unique creativity. Creativity is Berlin's future." Overall, the Berlin government's

engagement in creativity is strongly centered on marketing and promotional initiatives instead of creative production.

Creativity has been the catalyst for the city's "thriving music scene, active nightlife, and bustling street scene" all of which have become important attractions for the German capital. The industry is a key component of the city's economic make-up with more than 10% of all Berlin residents employed in cultural sectors.

## **Comparison**

Germany was not the only state that had been separated through the aftermaths of World War II. For example, Korea (1945-present) as well as Vietnam (1954-1976) have been separated through the occupation of "Western-Capitalistic" and "Eastern-Communitistic" forces, after the defeat of the Japanese Empire. Both countries suffered severely from this separation in the Korean War (1950–1953) and the Vietnam War (1955–1975) respectively, which caused heavy economic and civilian damage. However, German separation did not result in another war. Moreover, Germany is the only one of these countries that has managed to achieve a peaceful reunification. For instance, Vietnam achieved reunification after Vietnam War in 1976, while North and South Korea still struggle with high political tensions and huge economic and social disparities, making a possible reunification an enormous challenge.

## Chapter 7

# Maastricht Treaty

The **Maastricht Treaty**, concluded in 1992 between the 12 member states of the European Communities, is the foundation treaty of the European Union (EU). Formally the Treaty on European Union, it announced "a new stage in the process of European integration" chiefly in provisions for a shared European citizenship, for the eventual introduction of a single currency, and (with less precision) for common foreign and security policies. Although these were widely seen to presage a "federal Europe", the focus of constitutional debate shifted to the later 2007 Treaty of Lisbon. In the wake of the Eurozone debt crisis unfolding from 2009, the most enduring reference to the Maastricht Treaty has been to the rules of compliance – the "Maastricht criteria" – for the currency union. Against the background of the end of the Cold War and the re-unification of Germany, and in anticipation of accelerated globalisation, the treaty negotiated tensions between member states seeking deeper integration and those wishing to retain greater national control. The resulting compromise faced what was to be the first in a series of EU treaty ratification crises.

## Overview

Having "resolved to continue the process of creating an ever closer union among the peoples of Europe", the Treaty proposes "further steps to be taken in order to advance European integration" under seven titles.

Title I, Common Provisions, establishes the European Union (EU) on the foundation of the three, already partially merged, European Communities: the European Economic Community (EEC), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (Euratom). It confirms among its objectives are "the introduction of a citizenship of the Union" common to the nationals of the Member States; "economic and monetary union, ultimately including a single currency"; and "a common foreign and security policy including the eventual framing of a common defence".

Title II, Provisions Amending the Treaty Establishing the European Economic Community, reformulates the EEC as the central "pillar" of the Union. It amends the EEC's Treaty of Rome constitution, renaming it the European Community to reflect the Union's broader ambition. Amendments incorporate (as detailed in attached protocols) a staged progression toward monetary union including the price-stability-first criteria for adoption of the single currency and for the operations of the prospective European Central Bank (ECB).

Other amendments create the office of European Ombudsman, expand the Structural Fund assistance to the poorer EU regions; and broaden Community competencies in education, culture, public health, consumer protection, trans-European networks, industry and the environment.

In these and other areas which do not fall within Community's "exclusive competence", in accordance with "the principle of subsidiarity" action is to be taken only if, "by reason of the scale or effects", the objectives cannot be more "efficiently" achieved by the Member States themselves.

In several of these areas, the Treaty seeks to enhance the "democratic functioning" of the institutions by conceding the directly elected European Parliament rights not only of consultation but also of co-decision. It also grants the Parliament the power to confirm (and therefore to veto) Council nominations for the European Commission, the Community's secretariat.

Titles III and IV amend the treaties establishing the ECSC and Euratom to complete their absorption into the structure of European Community.

Title V and VI extend existing intergovernmental consultations on foreign-policy, security and defence matters, and on "cooperation in the fields of justice and home affairs." In both cases, Member States are to "inform and consult one another within the Council [of Ministers]", but otherwise cooperate independently of Community institutions.

Title VII, Final Provisions, covers a number of anomalous issues. Provided that all Member States ratify, it rules that the Treaty should come into force on 1 January 1993.

Annexed to the Treaty is a Protocol, and an Agreement, on Social Policy. With a view to ensuring that the dynamic of the European Single Market respect certain minimum social and employment protections, these allow the Council of Ministers to approve relevant proposals from the European Commission on the basis of a qualified majority rather than unanimous consent.

The United Kingdom was not a party of the Agreement on Social Policy and secured an "opt out" from the protocol. It was

to do the same with respect to the *obligation* to enter the final, single-currency, stage of monetary union (the UK would not have to give up Pound sterling).

## **Procedural history**

### **Signatories**

In consequence of the Dutch Presidency of the Council of the European Communities during the previous six months of negotiation, the Treaty was signed in the Netherlands, in the city of Maastricht. The twelve members of the European Communities signing the Treaty on 7 February 1992 were Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, the Netherlands and the United Kingdom.

### **Ratification**

The Treaty noted that it should be "ratified by the High Contracting Parties in accordance with their respective constitutional requirement". In the cases of Denmark, France and Ireland this required referenda.

In the first Danish referendum, on 2 June 1992, the treaty was rejected by a margin of 50.7% to 49.3%. Concessions secured by the end of year in Edinburgh including, critically, the same exemption secured by Britain from the single currency (Denmark would not have to give up the krone), allowed for a

second referendum. On 18 May 1993, Maastricht Treaty was endorsed by a vote of 56.7%.

In Ireland, the Eleventh Amendment of the Constitution, allowing the state to ratify the Treaty, was approved in a referendum held on 18 June 1992 with the support of 69.1% of votes cast.

In September 1992, a referendum in France narrowly supported the ratification of the treaty, with 50.8% in favour. This narrow vote for ratification in France, known at the time as the 'petite oui', led Jacques Delors to comment that "Europe began as an elitist project in which it was believed that all that was required was to convince the decision-makers. That phase of benign despotism is over."

In the United Kingdom parliament ratification did not command a clear majority. In protest against the social-policy opt out, Labour opposed, while "anti-federalists" split the governing Conservatives. Prime Minister John Major was able to face down his "Maastricht Rebels" only by tying ratification to the survival of the government in a vote of confidence.

## **Citizenship of the European Union**

From the establishment of the European Economic Community in 1957, integrationists argued the free movement of workers was the logical corollary of the free movement of capital, goods and services and integral to the establishment of a common

(and later single) European market. In time, the tension between the transferred worker as "a mobile unit of production" contributing to the success of the single market, and the reality of the Community migrants as individuals, seeking to exercise "a personal right" to live and work in another state for their own, and their families', welfare, asserted itself. The Treaty built on the growing suggestion that there was a Community-wide basis for citizenship rights.

The Treaty rules that "every person holding the nationality of a Member State shall be a citizen of the Union". This common and parallel citizenship accords the Member State migrants not only the civil right to take up residence and employment, but also, and for the first time, political rights. In a new EU country of residence Member-State nationals have the right to vote, and to stand, in both local and European elections. Unresolved in the Treaty is the question of their access to social rights. Political debate continued as to who should have access to public services and welfare systems funded by taxation.

## **Economic and monetary union**

### **The ERM crises**

In Britain the Maastricht rebellion drew on the experience of Black Wednesday. On 16 September 1992 the British government had been forced to withdraw the pound sterling from the European Exchange Rate Mechanism (ERM), after a failed and costly attempt to keep the pound above its mandated exchange rate limit. Sterling's release from the ERM was then

followed in the UK by an economic recovery and a significant fall in unemployment. The ERM was the centrepiece of the European Monetary System (EMS), set up on voluntary basis in 1978 to reduce the "barrier" that exchange-rate volatility presented for intra-Community commerce (and for the management of payments under the Common Agricultural Policy).

Britain had signed up to the ERM in 1990 as a token of the government's commitment to control inflation (then running at three times the rate of Germany). From the beginning of 1990, high German interest rates, set by the Bundesbank to counteract inflationary impact of the expenditure on German reunification, caused significant stress across the whole of the ERM. By the time of their own ratifications debates, France and Denmark also found themselves under pressure in foreign exchange markets, their currencies trading close to the bottom of their ERM bands.

## **Franco-German agreement**

Germany had considered a Deutschmark zone extending only to her more immediate and convergent neighbours: the Benelux countries and possibly Denmark. But when asked in 1990 by German Chancellor Helmut Kohl to agree to German reunification, French President François Mitterrand accepted only in the event Germany would abandon the Deutsche Mark and adopt a common currency. Without consulting with Karl Otto Pöhl, President of the Bundesbank, Kohl accepted the deal.

Since being forced by speculation against the franc to abandon the centrepiece of his Socialist programme in 1983, a job

creating reflation, Mitterrand had been committed to drawing Germany into a currency partnership. However, the price of German cooperation was widely perceived as German dictation of the terms.

## **The Maastricht criteria**

Having "resolved to achieve the strengthening and the convergence and to establish an economic and monetary union including,... a single and stable currency", the Treaty ruled that "Member States shall regard their economic policies as a matter of common concern", and that the obligations assumed should be a matter for "mutual surveillance." Commonly known as the Maastricht criteria, these obligations represented the performance thresholds for member states to progress toward the third stage of European Economic and Monetary Union (EMU), the adoption the common currency (designated at the 1995 Madrid European as the Euro).

The four "convergence criteria", as detailed in attached protocols, impose control over inflation, public debt and the public deficit, exchange rate stability and domestic interest rates. With limited leeway granted in exceptional circumstances, the obligations are to maintain:

1. **Inflation** at a rate no more than 1.5 percentage points higher than the average of the three best performing (lowest inflation) Member States;
2. a "budgetary position" that avoids "excessive" **government deficits** defined in ratios to gross domestic product (GDP) of

greater than 3% for annual deficits and 60% for gross government debt;

3. the **exchange rate** of the national currency within "the normal fluctuation margins by the exchange-rate mechanism of the European Monetary System without severe tensions for at least the last two years"; and

4. nominal long-term **interest rates** no more than 2 percentage points higher than in the three Member States with the lowest inflation.

## **The European Central Bank mandate**

These criteria in turn dictated the mandate of the European System of Central Banks comprising the national central banks, but to include the prospective currency-issuing European Central Bank. As envisaged by the Treaty, the ECB replaced its shadow European Monetary Institute on 1 June 1998, and began exercising its full powers with the introduction of the euro on 1 January 1999.

The Treaty dedicates the EU central banking system to price stability, and gives it "a degree of independence from elected officials" greater even "than that of its putative model, the German Bundesbank". Whereas the Bundesbank, under article 12 of its constitution, is "bound to support the general economic policy of the [German] Federal Government", the obligation of the ECB to "support the general economic policies in the Community" is to be "without prejudice" to price stability, the Bank's "primary objective". It is further conditioned by the express understanding that "neither the

ECB, nor a national central bank, nor any member of their decision-making bodies, shall seek or take instructions from Community institutions or bodies from any Government of a Member State or from any other body."

Seeming to further preclude any possibility of the single-currency banking system being used to regulate European financial markets in support of expansionary – potentially inflationary – policies, the Treaty expressly prohibits the ECB or any Member State central extending "overdraft facilities or any other type of credit facility" to "Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States", or the purchase from them debt instruments.

## **The Maastricht economic-policy model**

In ruling out any role for the future ECB and euro in national, or Union-coordinated, reflationary policies Maastricht affirmed what by the late 1980s was the general economic-policy orthodoxy within the Community. This has been described as a "reversed Keynesianism": macro-economic policy not to secure a full-employment level of demand, but, through the restrictive control of monetary growth and public expenditure, to maintain price and financial market stability; micro economic policy, not to engineer income and price controls in support of fiscal expansion, but to encourage job creation by reducing barriers to lower labour costs. The commitment to monetary union and the convergence criteria denied member states the resort to currency deflation to ease balance-of-payments constraints on domestic spending, and left labour market

"flexibility" as the only means of coping with asymmetric economic shocks. These constraints were to become the focus of political scrutiny and public protest in the new-century European debt crisis. Beginning in 2009 with Greece, the governments of several Euro-zone countries (Portugal, Ireland, Spain and Cyprus) declared themselves unable to repay or refinance their government debt or to bail out over-indebted banks without assistance from third parties. The "austerity" they had subsequently to impose as a condition of assistance from Germany and other of their trade-surplus EU partners, raised calls for new arrangements to better manage payment imbalances between member states, and ease the burden of adjustment upon wage-, and benefit-, dependent households. Greek finance minister Yanis Varoufakis credited the Maastricht criteria with framing of a union of deflation and unemployment. Taking issue in defence of the Maastricht criteria, German finance minister Wolfgang Schäuble argued that "the old way to stimulate growth will not work." There is a real "moral hazard" in allowing Member States to accumulate higher debts within the Eurozone – higher debts which, ultimately, have no relationship to higher growth. The Maastricht criteria, he insisted, were correct in placing the onus for growth on "competitiveness, structural reforms, investment, and sustainable financing".

## **Foreign and security policy, justice and home affairs**

Set alongside the European Community, the cooperation proposed in the Maastricht Treaty on foreign and security

policy, and on justice and home affairs, were characterised in official commentary as the second and third "pillars" of the Union. The Treaty, however, proposed no significant departures in these areas. Coordination in foreign and security policy had taken place since the beginning of the 1970s under the name of European Political Cooperation (EPC), which had been first written into the treaties by the 1987 Single European Act. Cooperation on law enforcement, criminal justice, asylum, and immigration and other judicial matters was being pursued under the 1990 Schengen Agreement and Convention.

The new provisions called on governments to "inform and consult one another within the Council [of Ministers]", but otherwise continued cooperation on the basis of intergovernmental liaison outside of the EC and its institutions. The West European Union, an until recently moribund club within NATO, is described as "an integral part of the development of the Union", and asked it to help "elaborate and implement decisions and actions of the Union which have defence implications. Yet it is clear that nothing is to be construed as systematically constraining the foreign or defence policies of the individual Member States. "Failing a Council decision", which would require unanimity, a Member State is free to take such action as it considers "necessary". This, in part, was a concession to United Kingdom which continued to insist on the sufficiency of the North Atlantic alliance (supported by the neutral, non-aligned, Member States, the Republic of Ireland and Austria, at the 1997 Amsterdam summit the UK prevented a merger of the WEU and the EU),

## **Subsidiarity and co-decision**

As an implicit presumption subsidiarity may have been considered a check upon the supranational development of the EEC. But in making it an explicit constitutional principle the Maastricht Treaty opened up "debates about whether this strengthened the states, regions or local government vis-à-vis the EU or vice versa". Subsidiarity can be read as a federalising principle. For every endeavour it poses the question of whether national or Community policy is the most effective means, and elevates simple utility above any deference to national or local feeling.

Sceptics note that the Treaty offers no legally actionable definition of subsidiarity. Rather there are "a series of tentative indications for Community action in a document full of imprecise concepts: 'sufficiently', 'better achieved', 'what is necessary', 'to achieve the objectives', subjective notions which leave the way wide open for interpretation or practical developments." Jacques Santer, Prime Minister of Luxembourg, conceded that consensus around the principle of subsidiarity had been possible only because "it conceals different interpretations".

The 1992 Treaty may have introduced a more consequential constitutional principle in its promotion "co-decision". It introduced procedures that made the European Parliament "co-legislator with the Council of Ministers" and have since have since been developed and extended to nearly all areas where the Council decides by qualified majority voting. The "foundations of co-decision in the Maastricht Treaty" have led

to the "trialogues" involving the European Parliament, Council and Commission, which have become standard legislative practice.

## Amending Treaties

In establishing the European Union the Maastricht Treaty amended the treaties that had established the European Communities in the 1950s. Following the EU accessions of Austria, Finland, and Sweden, it was in turn amended by the treaties of Amsterdam (1997), and Nice (2001). Following the accession of a further twelve states, ten from the former Eastern Bloc – Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia – plus Cyprus and Malta, and an aborted Treaty on a European Constitution, Maastricht was more comprehensively revisited. The 2007 Lisbon amends and incorporates the Maastricht Treaty as the Treaty on the Functioning of the European Union.

## Timeline

- Since the end of World War II, sovereign European countries have entered into treaties and thereby co-operated and harmonised policies (or *pooled sovereignty*) in an increasing number of areas, in the so-called European integration project or the *construction of Europe* (French: *la construction européenne*). The following timeline outlines the legal inception of the European Union (EU)—the principal

framework for this unification. The EU inherited many of its present responsibilities from the European Communities (EC), which were founded in the 1950s in the spirit of the Schuman Declaration.