

# Subject Access and the Globalization of Government Documents: Intellectual Bundling of Entities Subject to World Trade Organization (WTO) Rulings

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## ABSTRACT

As a result of the growing influence of supranational organizations, there is a need for a new paradigm for subject access to government information. Rulings made by supranational bodies and rulings determined under the auspices of transnational economic agreements often supersede national law, resulting in obligatory changes to national, provincial, state, and municipal legislation. Just as important is the relationship among private sector companies, third party actors such as NGOs, and governments. The interaction among the various entities affected by supranational rulings could potentially form the basis of a new model for subject access to government information.

## RÉSUMÉ

Étant dû à l'influence grandissante des organisations supranationales, il y a un besoin d'un nouveau paradigme pour l'accès thématique à l'information du gouvernement. Les jugements rendus par les masses supranationales et les jugements rendus sous les auspices des accords transnationaux économiques souvent remplacent et annulent la législation nationale. Ce qui en résulte sont des changements obligatoires de la législation nationale, provinciale, d'état, et municipale. Tout aussi importants sont les relations parmi les companies du secteur privé, les acteurs tierces personnes comme les *NGO*, et les gouvernements. L'interaction parmi les entités variées affectées par les jugements supranationaux pourrait potentiellement constituer la base d'un nouveau modèle pour l'accès thématique à l'information du gouvernement.

## INTRODUCTION

We begin with the premise that access to government information needs to be redefined in order to accommodate an increasingly global political context. In his examination of changes in the teaching of government documents, Richardson (1986) analyzes 22 textbooks to uncover what he calls "the paradigm for teaching government publications" in library school curricula (257). Richardson identifies three components that constitute this framework: scope of concern; level of government; and source of issue. This paradigm has undergone a number of shifts in each of these areas over the course of the near-century covered by Richardson's article. These shifts reflect a fundamental change in the perceived definition and latitude of what government information comprises and in the approaches taken to provide access to this information. The context of these changes is in part the increased globalization of government information and the ensuing realization that instruction in this area should not be limited to the documents produced by a single nation. Richardson concludes with the following pronouncement: "If our goal is providing public access to global government information, the [current] scheme must give way to mainstreaming via a subject approach. The curricular and library practice implications are revolutionary...for this will lead to a whole new paradigm" (262).

We suggest that there is a need for a new paradigm for subject access to government information – one whose impetus is the result of the growing influence of supranational organizations. Rulings made by supranational bodies such as the World Trade Organization (WTO) or the dispute settlement tribunals of trade pacts such as the North American Free Trade Agreement (Nafta) can and do supersede national law, resulting in obligatory changes to laws and regulations. In addition to the changing dynamic caused by the increasingly blurred distinction between national sovereignty and supranational law, there is also the interconnection among private sector companies, third party actors, and governments. For example, a corporation may, through its respective member government, lodge a complaint with the WTO. Alternatively, it may be the target of an inquiry initiated by a competing corporation/government. Third party actors – for example, other governments with tangential interests and non-governmental organizations (NGOs) – may become deeply involved in the ongoing issue. Under Nafta, private companies can initiate claims against governments directly, without their own government serving as an intermediary. These complaints are then addressed through dispute resolution bodies such as the International Center for Settlement of Investment Disputes (ICSID), the ICSID Additional Facility – both under the aegis of the World Bank – as well as the United Nations Commission on International Trade Law. Thus, whether under WTO or Nafta rules, corporations may bring about changes in the laws and regulations of distant countries, and may be affected by similar changes in turn.

The interaction among the various entities affected by the rulings of supranational organizations could potentially be the basis of a new tool that takes into account the globalization of government information. The challenges of such a tool are two-fold: (1) to show the effect of such rulings on the laws and regulations of particular governing bodies, and (2) to show the relationships among the various entities involved in order to shed light on the consequences of their interactions. Using the examples of the ongoing Brazil-Canada-WTO regional aircraft dispute and the conflict about import regulations for bananas within the European Community, we suggest that it would be useful to work towards the development of an annual reference book that acts as a guide to the changes in laws and regulations brought about by the rulings of supranational organizations. The goal would be to provide what we call “intellectual bundling.” This intellectual bundling would link what will subsequently be defined as the upstream and downstream versions of laws and regulations affected by the rulings of supranational organizations such as the WTO. It would also identify the players, relationships, and actions that brought about these changes.

## **SUPRANATIONAL ORGANIZATIONS AND A PARADIGM SHIFT**

While the phrase “Chapter 11” perhaps is most frequently associated with United States bankruptcy protection measures, it is also the name of a clause in Nafta. In this particular context, Chapter 11 “allows companies to sue the Governments of the United States, Canada or Mexico if export opportunities are lost for reasons that have nothing to do with normal commerce” (Pritchard 1999, A11). One such instance currently in arbitration is

the suit filed by Methanex, a Canadian company, against the California state government. The reason behind this complaint is California's ban of MBTE, a product whose primary ingredient of methanol also happens to be Methanex's main export. In addition, "Methanex felt this was an 'appropriate' time to react to California's ban because Maine is considering a similar motion, and legislation is also in the works at the U.S. federal level" (Scofield & Chase 1999, B1). Executives of Methanex argue that they are not asking for the ban to be lifted; instead, they want \$970 million in compensation should they be prevented from doing business in California (DePalma 2001c, p. 13). A similar trade dispute involves Metalclad, a California-based waste handler. Metalclad received approval from the federal Mexican authorities to build a hazardous waste plant capable of handling 360,000 tons of hazardous waste in a central Mexican state. After spending \$20 million to construct the facility, the state governor and municipal authorities blocked the opening of the project, claiming that local jurisdiction had been ignored. Filing suit under Nafta, Metalclad was awarded \$16.7 million in damages on the basis that the state government's blocking action was "tantamount to expropriation." In another trade-based case being handled by the WTO, both Japan and the European Union "launched a WTO challenge of Massachusetts law that bans state agencies from purchasing goods or services from companies doing business with Myanmar as a result of that country's dismal human rights record" (McCarthy 1999, B7).

These cases illustrate the breadth of involvement inherent in the workings of supranational agreements and organizations. With regard to Nafta, both the Methanex and Metalclad examples feature private companies challenging sub-national state actions, with national governments hovering in the background as potential defendants or third parties. Similarly, the cited WTO case encompasses four nations/governmental bodies, with a particular focus on Massachusetts. Moreover, because these cases also touch upon wide-ranging environmental or labour issues, NGOs are key participants. In sum, the transnational and transgovernmental nature of these interactions not only directly addresses the three facets upon which Richardson (1986) bases his "essential paradigm" for government information, but also calls for a restructuring of that framework. A closer examination of the evolution of Richardson's "scope of concern," "level of government," and "source of issue," within the context of the structure and functions of the WTO, demonstrates how the operations and influence of this organization require a new paradigm for teaching government publications.

### **A whirlwind tour of the WTO**

The WTO was established as a successor to GATT in 1995 and had 140 member countries as of November 2000. Representatives from each of these countries comprise the main governing body of the WTO, which is called the Ministerial Conference. The General Council, also an assembly of member representatives, falls next in the governing hierarchy and carries out "the day to day business of the WTO" (WTO 1998b, ¶ 2). On a more literal level, the General Council fills the roles of Dispute Settlement Body and Trade Policy Review Body. The WTO concerns itself with "Implementation, administration and operation of the covered agreements; Forum for negotiations; Dispute settlement; Review of national trade policies; Coherence in global economic policy-making" (WTO 1998a, ¶ 1). Quereschi (1996) observes that the WTO "provides a

substantive code of conduct ... for the elimination of discrimination in international trade relations” by defining the institutional framework for the administration and implementation of that code through a series of “surveillance” measures of “national trade policies and practices” (5). In effect, the WTO is the “medium” through which all international trade is conducted (6).

The WTO includes not only the framework for the substantive content of various multilateral trade agreements, but also the framework for ensuring that member nations comply with these agreements. The Dispute Settlement Mechanism and the Trade Policy Review Mechanism (TPRM) are the post and lintels of this latter framework. Quereshi (1996) identifies the “three principal methods of implementation” at the disposal of organizations such as the WTO as “surveillance, supervision, and dispute settlement” (p. 50). To some extent, the TPRM fulfills both of these roles and therefore functions as a tool of compliance. Indeed, the TPRM “is designed to contribute to greater transparency and understanding of the trade policies and practices of WTO Members [and] to their improved *adherence to the rules*, disciplines and commitments of the multilateral trading system...” (emphasis added) (WTO 1998a, ¶ 4). It achieves these goals through the production and dissemination of information about members through Trade Policy Review Reports.

All member nations must be reviewed, with the frequency of this procedure linked to the country’s prominence in international trade. Trade Policy Review Reports are distributed to other members and are also available to the public at large. This gathering and disseminating of information echoes Quereshi’s (1996) discussion of surveillance and its inherent subjectivity: “Its neutrality, however, at a theoretical level may be questionable, in the sense that any form of surveillance involves a certain degree of processing of information or through the proffering of information. This is because the collection of information is focused, and focused on deviant conduct” (54).

There are differing viewpoints as to the degree to which the TPRM is used as a tool for compliance, as opposed to a more neutral means of “greater transparency and understanding of the trade policies and practices of WTO Members” (WTO 1998a). For example, Keesing (1998) sees the role of the TPRM in less authoritative terms: “... the TPRM is intended for enlightenment, not enforcement. It provides an “external audit” of members’ trade and economic situation .... It is thus a means of shedding light on both the policies and practices of member countries – both the direction of trade policy and its implementation – but not for compelling change (6). Keesing does, however, note that WTO Trade Policy Reviews “often do provide countries with ammunition for use in later negotiations” (6). While the WTO itself cannot prosecute a member for non-compliance based on its reports, individual members can request hearings based on the information contained within these published documents.

When all is said and done, TPRM processes are extensive exchanges of information that have the effect of ensuring compliance. These processes are as follows: notification of trade policy practices by the member to the WTO; notification by other members of trade practices to the WTO; exchange of information between international

organisations; collection of information by the WTO; surveillance mechanisms; and supervision (63). The reliance of the WTO on a number of different sources (the country under review, other members, staff economists, and other international organizations) to collect information reflects the way the information itself can be used by numerous entities, both within and outside of the WTO. For example, while NGOs and private sector firms cannot take issue with a member through direct appeal to the WTO, they can do so by first initiating a complaint with their own government, which, because it is a WTO member, can then request further inquiry.

The process by which a member government (under its own volition or on behalf of an outside party) can request an inquiry is administered by the Dispute Settlement Body of the WTO. Member countries are urged to follow a pre-determined order when initiating action: consultation with the WTO; consultation with the member concerned; proceedings by the WTO against a member; sanctions for non-compliance; and authorisation for independent action by the member affected. In sum, the WTO is not only an arena in which members can voice complaints but also a mechanism, in the form of the Dispute Settlement Body, for ruling in favour of, or against, the trade policies of a country, which in essence plays the role of plaintiff or defendant. Furthermore, the WTO can enforce this initial ruling by granting permission for the plaintiff country to take action should the defendant country not comply. While the original ruling may result in obligatory changes to the laws of the member nation "found guilty" of an infraction of WTO rules, the means of enforcing compliance – for example through the allowance of sanctions – can also result in changes in the laws of the country initiating the inquiry.

### **A tale of two frameworks**

How can these intricate processes, with their numerous participants, conform to the "essential paradigm" of government information described by Richardson (1986)? He introduces his approach with the following explanation:

In writing about *The Structure of Scientific Revolutions* more than 20 years ago, Thomas Kuhn provocatively suggested that textbooks not only present the paradigm or accepted tradition in a field, but also establish the fundamental image of the field and set the standard for subsequent work. Despite the fact that his theory has been widely read and discussed since 1962, his conceptual framework has never been applied to the teaching of librarianship or more specifically to the teaching of government publications. (250)

Applying Kuhn's theory to 22 government documents textbooks written between 1895-1985, Richardson identifies three facets of government information access that these texts have in common and analyzes how the approaches to each of these have varied over time. Each of these components, in turn, is relevant to, and needs to be adjusted in terms of, supranational organizations.

The first of Richardson's (1986) three areas is "scope of concern," which sets out the conceptual territory covered by the field of government documents (257). He notes a

shift in terminology from government documents to government publications to government information. Regardless of which name is applied, the underlying assumption is that the material covered is a product of a single national governing body. Within the context of a supranational organization such as the WTO, however, this scope of concern needs to be redefined. As mentioned within the discussion of the TPRM and the Dispute Settlement Body, a member nation can request an inquiry through these mechanisms into the trade practices of another WTO member. Therefore, while the information concerns Government X, it may have originated and may be affiliated with Government Y. While the existing model of government information encompasses a framework which assumes that its initiation and application remains within the confines of Government X, a new framework, which would accommodate both the initiation by Government X and its application toward Government Y, bears consideration. The scope therefore shifts from government to intergovernmental. Cases such as the Nafta-Methanex example further demonstrate the implosion of the term government information in conjunction with supranational organizations. The scope of government information should thus be reconfigured to include non-governmental bodies such as environmental groups and private corporations because these entities play a significant role in the writing and rewriting of laws and regulations dealing with trade issues.

In addition, there is a challenge in providing access to a government publication which, while pertinent to a case at hand, may no longer exist in its original manifestation. An example is the case before the WTO involving Japan, the European Union, and Massachusetts. Should the Dispute Settlement Body rule against Massachusetts, causing it to change its policy concerning Myanmar, Massachusetts state law would need to be amended. There would exist, then, three government-related documents: the original Massachusetts law, the WTO ruling, and the Massachusetts law altered in accordance with the WTO ruling. To distinguish between two or more versions of laws or regulations, we refer to a law, policy, or regulation as it existed before the WTO ruling as *upstream*. We refer to the post-ruling version as *downstream*. The ruling itself acts as the decisive point. In order to preserve cognizance of both upstream and downstream versions, as well as to show the serpentine decision-making processes of supranational organizations and the effects of those decisions on given laws or regulations, the framework of access to government information should move toward a concept that we refer to as "intellectual bundling." This would not only assist with provision of access to current information, but would also be of use from an historical perspective, given the rapid nature of changes in laws and regulations, as well as the ephemeral nature of the online medium in which most government documents are published.

Many of these same issues reverberate in Richardson's discussion of the other two facets of his paradigm. For example, he notes that "the inclusion of various levels from international to municipal must be analyzed to describe subsequent revolutions in the paradigm," referring specifically to Hernon and McClure's recommendation that librarians and other information professionals "learn about the United Nations and foreign governments as well" (p. 260). The incorporation of supranational organizations into the framework makes the inclusion of various levels even more imperative. Whereas the existing paradigm would treat an organization such as the UN as a distinct entity, our

new approach acknowledges not only the relationships among national and sub-national governments and regulatory agencies, but also the links among governments, NGOs, and private sector companies, particularly the influence the latter two entities have in affecting changes in legislation and regulatory activity at both the national and sub-national level.

This interconnection particularly affects the third element in the government information paradigm: source of issue. Richardson notes that every textbook through 1983 uses "the same approach to teaching government publications. In this approach, source of issue serves as the major organizing principle" (p. 261). However, the great number of possible sources from which government information can originate in an era of supranational organizations calls into question the continued validity of the "source of issue" approach. For instance, information that affects one country may be issued from another country, from the WTO itself, or from a NGO or private enterprise. Within the "source of issue" framework, information that, in theory, should be bundled together is, instead, scattered. Our method, on the other hand, would show the relationships among these entities and enable the user to see the connections among various legislative bodies, regulatory agencies, organizations, and for-profit firms.

Richardson quotes from a 1927 library text whose author, Anne Boyd, realized that "the *ideal* approach to the study of government publications for reference use is by *subject-content*, rather than by source of issue" (emphasis added by Richardson) (261). Similarly, according to Richardson, Hernon and McClure suggest a "paradigmatic shift" whereby students and librarians in this field are aware of "the 'issues, trends, and strategies' that [they] need to know to provide access to government information" (261). We posit yet another paradigmatic shift in which the provision of subject-based access to government information is a primary consideration, and in which the application of this principle results in a conceptual model for organizing government information that is ultimately accessible to end users, not just information professionals. The factors arising from the principles, philosophies, and frameworks of supranational organizations, as well as their influence on national, provincial, and state laws and regulations, indicate that the time has come for the implementation of a subject-content model.

## THE PROPOSED SOLUTION

The relationship among various governments, companies, and NGOs in the context of rulings by supranational organizations forms the basis of the proposed tool for a subject-based approach to government information access. Just as the rulings of organizations such as the WTO supersede national law, the utility of access to government documents based solely on source of issue has also been supplanted. In essence, it is no longer enough to go to the government documents of a single country. In addition to the increasingly blurred distinction between national sovereignty and international law, the influential role of third parties – whether other countries or private industries – in bringing about changes in laws and regulations shows the limitation of searching for government information only within a framework constructed according to country of origin. In other words, the whole notion of country of origin has been called into question

by the effects of globalization. Therefore, a preliminary step has been added in the search for government documents. A user searching for information on a particular law or regulation would first need to know whether and how this item has been affected by rulings made outside of the jurisdiction of the country of origin of the law or regulation in question. The user may, in fact, wish to examine the upstream version of the law or regulation, as well as any related laws or regulations that have been revised.

In order to address these limitations and to enable the user to take this preliminary step, a tool is needed which would: (1) link the upstream and downstream versions of laws and regulations affected by rulings of supranational organizations, regardless of country of origin; and (2) link the various entities involved in bringing about these legislative and regulatory changes in order to clarify their roles and relationships. Instead of segregating information, this tool would intellectually bundle for the user all relevant factors on which the upstream and downstream versions of laws and regulations hinge. Moreover, it would highlight the various repercussions resulting from the actions taken by the parties involved in a given trade dispute. In other words, the focus would be divided equally between process and result.

The proposed solution is a reference tool that would act as a guide to the changes in laws and regulations brought about by the rulings of supranational organizations. This guide would function as a narrative, telling an on-going legislative or regulatory story with a rich cast of characters and diverse plot lines. In effect, the globalization of government information has created the need to provide users with not only access to new or altered laws and regulations, but also a sense of how and why these amendments were adopted. This "added value" is vital for a full understanding of the legislative and regulatory process in a world where changes in national or sub-national laws and regulations may be the result of decisions made by entities external to a particular national, state, or provincial government. Because of the focus on the relationships among various entities (governments, companies, NGOs) involved in the changes from the upstream to the downstream versions of laws and administrative regulations, the entries in the guide would not be based on country of origin. This reference tool would therefore both complement and supplement existing means of government document access.

### **Format of the guide**

The guide itself would consist of a series of entries covering a particular year. An entry title would be the name of a given downstream law or regulation, that is to say, a law or regulation that has been revised or enacted after a previous version of said law or regulation has been found to be somehow unacceptable by a supranational entity. Reflecting the globalization of government documents, the laws and regulations included in the guide could be administered by any governing body in any country at the behest of any supranational organization. The entries would be arranged within the guide not by country, but by the industry to which the law or regulation pertains. The names for these industry-based categories would be based on Standard Industrial Classification (SIC) codes, and the categories would be arranged alphabetically within the guide. As noted,



the guide would be produced annually, resulting in coverage of legislative and regulatory changes on a yearly basis. Given the ongoing and retaliatory nature of trade dispute settlements, a case that appears in one volume as the basis for an amendment for Regulation/Law X would also likely appear in a subsequent volume as having affected Law/Regulation Y. Similarly, the downstream version of a law or regulation might appear in more than one volume as the ripple effect of repercussions encompasses more parties and issues.

While the entry title consists of the name of a downstream version of a law or regulation, the entry itself presents the panoply of factors that led to and the events that resulted from the enactment of that new or amended law or regulation. In addition, it identifies and links the upstream and downstream versions of the law or regulation. The information contained in the entries is organized in five categories, the first three of which are divided into sub-categories. The categories are depicted in Figure 1 below.

**Figure 1: Proposed model entry**

<b>A. LAWS &amp; REGULATIONS</b>
i. Upstream
ii. Related regulations
<b>B. DIRECT PARTIES</b>
i. Plaintiff
ii. Defendant
iii. Companies
<b>C. THIRD PARTIES</b>
i. Governments
ii. Companies
iii. NGOs
<b>D. GENERAL ISSUES &amp; CONCEPTS</b>
<b>E. SANCTIONS</b>

These categories would provide users with a structured overview that identifies specific groups of players and the specific effects of their actions. The relationships of these players and activities would be explained through brief annotations to the listings provided within a given entry. Any concept, company, organization, etc. listed within a category would constitute an access point to the entry as a whole through a back-of-the-book index. Furthermore, the entry title (i.e., the downstream law or regulation name) would also be identified in the index so as to provide users with direct access to the entry. The way in which the proposed guide would function is best explained through the use of specific examples. We look first at the ongoing Brazil-Canada-WTO regional aircraft conflict and then focus on the even more convoluted scenario surrounding the change in import regulations for bananas in the European Community.

### **Brazil, Canada, and aerospace industry subsidies**

Described as “one of the largest disputes in the history of the WTO” (Scofield, 2000, p. B1), the Brazil-Canada aerospace industry case provides a prime example of the multiple

repercussions of regulatory changes brought about by WTO rulings. The breadth of this particular dispute is in part the result of the simultaneous complaints made to the WTO by both Brazil and Canada. In 1996, Canada requested an inquiry into export subsidies from the Brazilian government financing program Pro-ex to Embraer, a manufacturer of regional jets. Canada's concern was that the 15 percent rebate foreign customers of Embraer received was an infraction of Article 7, Agreement of Subsidies and Countervailing Measures, of the WTO code. Nine months later, Brazil followed suit by requesting WTO consultations regarding the subsidies given to Bombardier and Pratt & Whitney by two Canadian industrial development programs – Technology Partnerships Canada (TPC) and Canada Account.

What has ensued amounts to a game of trade agreement chess in which the opponents make parallel strategic moves. A WTO Dispute Settlement body ruled that both Brazil and Canada's financing programs were infractions of the WTO subsidies code. As a consequence, both countries appealed the rulings. The case then went before a WTO Appellate body, which in August 1999 confirmed the previous ruling. Both Brazil and Canada were required to make changes to their industry financing regulations. Each side, however, claimed that its opponent did not adequately implement the prescribed changes. While the WTO accepted in April 2000 the alterations made by Canada to the TPC, it ruled that Brazil did not comply in its reformulation of Pro-ex. This lack of compliance resulted in Canada seeking WTO permission to impose prohibitive tariffs on, or to cut off completely, a number of Brazilian imports as compensation for claimed damages. In the late summer of 2000, the WTO agreed that Canada could claim damages up to approximately \$1.2 billion USD over a period of five years.

A proposed transcription of this scenario into the format of an entry for the downstream version of the Technology Partnerships Canada financing program is shown in Figure 2. This entry fulfills the first goal of the guide: to link the upstream and downstream versions of particular laws and regulations affected by rulings from supranational bodies. Here the user is made aware that there was a previous version of TPC, implemented in 1996. The user could then search Canadian government documents to compare the upstream and downstream versions of these particular subsidy programs. While the sample entry is structured according to the TPC, other regulations affected by the WTO ruling are also included in the "Laws & Regulations" category, such as Canada Account, another industry financing program administered by Canada. At the same time, the entry provides the user with a sense of the consequences of the ruling that extend beyond the restructuring of the TPC. For example, Canadian companies such as Alcan Aluminium, Newbridge Networks, and Nortel Networks with operations in Brazil would be directly affected should Canada decide to exercise its prerogative to impose sanctions against Brazil. These damages would take the form of higher tariffs on Brazilian imports ranging from coffee and sugar to shoes and steel. Similarly, the short-lived beef ban enacted by the Canadian government in February 2001 (Rich 2001) has had direct consequences for Palliser, a Canadian furniture manufacturer that imports one-third of the leather for its upholstered pieces from Brazil (Vardy 2001).

Figure 2: Proposed entry for the Brazil-Canada-aircraft subsidy case

MANUFACTURING – TRANSPORTATION EQUIPMENT – AIRCRAFT AND PARTS – AIRCRAFT (SIC 3721)	
<b>TECHNOLOGY PARTNERSHIPS CANADA</b> (Revised November 1999)	
<b>A. LAWS &amp; REGULATIONS</b>	
i. Upstream	Technology Partnerships Canada (1996)
ii. Related regulations	Canada Account Pro-ex
<b>B. DIRECT PARTIES</b>	
i. Plaintiff	Brazil
ii. Defendant	Canada [Export Development Corporation; Industry Canada]
iii. Companies	Embraer; Bombardier; Pratt & Whitney Canada
<b>C. THIRD PARTIES</b>	
i. Governments	Australia; European Community; Germany; South Korea
ii. Companies	Air Wisconsin; Alcan Aluminium; Brascan; Fairchild Dornier; Newbridge Networks; Nortel Networks; Palliser Furniture; Telesat Canada
iii. NGOs	Canada Aerospace Industry Association
<b>D. GENERAL ISSUES &amp; CONCEPTS</b>	
	Commercial International Reference Rate “Country Risk” Interest Rate Subsidies
<b>E. SANCTIONS</b>	
	Beef Ban Higher tariffs on coffee, shoes, sugar, and steel imported from Brazil Procurement Contracts Procurement Contracts

The relationships among the concepts, actions, and parties that form this and other cases would be explained through brief annotations to the topics listed in the entry. For example, the concept of “country risk” has a direct link not only to the issue of interest rate subsidies, but also the involvement of third party companies such as Air Wisconsin. “Country risk” is a factor in determining the interest rate that a country must pay for U.S. Treasury Bonds. As a developed country, Canada pays 0.3 percent per year. In contrast, Brazil, considered a developing country, pays 8 percent annually. This discrepancy forms the basis of Brazil’s argument in support of its Pro-ex financing program. Because of higher interest rates, Brazilian companies such as Embraer are not able to offer

sufficiently enticing financial packages to potential foreign customers. Therefore, Embraer argues that it – and by extension many other industries in developing countries – is dependent upon government subsidies to remain competitive in the global market. As if to illustrate Embraer's point, Canada, relying on the differential in "country risk" interest rates, successfully offered up to \$1.7 billion in low-interest financing to Air Wisconsin in 2001 – representing up to 73 percent of the total purchase price – so that it would choose Bombardier over Embraer for its order of 75 regional aircraft (McArthur 2001, A1).

### **The U.S., Europe, and import regulations on bananas**

The trade dispute between the United States (U.S.) and Europe over the European Union's (E.U.) tariff and quota system for banana imports has had large-scale effects on a long list of governments, corporations, and third parties. At the behest of Carl H. Lindner, head of the U.S. fruit company Chiquita, the U.S. government filed a complaint with the WTO in September 1995. According to many observers, the huge political donations of Lindner and Chiquita to both the Republican and Democratic parties were instrumental in convincing U.S. trade authorities to initiate and zealously pursue the fight against the Lomé IV Convention and Regulation 404, which guaranteed that a certain percentage of the European market would be reserved for producers from mostly small and impoverished countries (e.g., McWhirter & Gallagher 1998). The complaint stated that the E.U.'s banana tariff and import licensing system, originally developed under the 1989 Lomé IV Convention, Protocol 5, is an infraction of WTO rules. In 1993, Regulation 404 established an import licensing system in which 66.5 percent of licenses were allotted for "dollar bananas," 30 percent for ACP bananas, and 3.5 percent for bananas from countries with no established trade record. Companies such as Dole, Del Monte, and Chiquita that produce what are referred to as "dollar bananas" on large plantations in Central America are subject to high import tariffs in order to gain access to the much-prized European market. In contrast, the Lomé IV Convention assured reduced tariffs for bananas grown in African, Caribbean, and Pacific (ACP) countries, many of which are former colonies of Britain and France. The U.S. thus argued that the reduced tariffs, preferential access, and protected market share for ACP bananas, together with a byzantine array of import "licenses" that favoured European importers such as Fyffes and Geest, amounted to discriminatory practices against producers of "dollar bananas."

In 1997, a WTO Dispute Settlement Body ruled that the E.U.'s reduced tariffs for ACP bananas were not an infraction of WTO rules. Nonetheless, the Dispute Settlement Body also found that the import-licensing system established under Lomé IV and Regulation 404 did result in quotas that discriminated against the companies and nations that produce "dollar bananas." In response to this ruling, the E.U. offered to increase tariffs on ACP bananas, but was not willing to adjust the licensing quota system based on country of origin. The WTO subsequently ruled that E.U.'s modifications did not meet the specified criteria and, in April 2000, permitted the U.S. to take retaliatory trade measures totalling \$191 million in damages. As a result, the U.S. imposed 100% duties on a variety of European exports, including bath preparations, cotton bed linens, Italian pecorino cheese, Scottish cashmere sweaters, and sweet biscuits, waffles, and wafers.

In January 2001, the E.U. complied with the WTO by dismantling the quota system based on country of origin and implemented a method of assigning licenses on a first-come, first-served basis. Despite this change, the U.S. continued with its trade sanctions on E.U. exports because it was dissatisfied with the first-come, first-served plan. Finally, in April 2001 trade negotiators reached a settlement based on import levels in existence during the period 1994-1996, when Chiquita dominated the banana trade. Under these terms, the E.U. will adopt a modified trade licensing quota system until 2006, at which point all quotas will be removed (DePalma, 2001b, C1). In exchange, the U.S. will remove the \$191 million in import duties in July 2001. However, there is reason to believe that the dispute is not over. For instance, Dole has objected to using 1994-1996 as the base years, since it did not have much of a presence in Europe during that period. Instead, it wants the first-come, first-served plan (DePalma, 2001a, C2). In addition, Chiquita, which is on the verge of bankruptcy (DePalma, 2001d, C1), has threatened to file suit against the E.U. because the new agreement does not have a provision for past economic damages that it claims it suffered. The proposed entry containing the events leading to the E.U.'s modifications is displayed in Figure 3.

As with the Canada-Brazil aircraft industry example, the breadth of scope of the banana case becomes clear within the framework of the entry. Much of this breadth reflects the range of organizations involved and the regions they represent. For example, the Windward Islands Farmer's Association (WINFA), a research and advisory network, is working in conjunction with Fairtrade Labelling Organizations International (FLO) to develop the "fair trade banana." Bananas account for over 50% of the export income of the Windward Islands. Thus, any reduction of banana exports as a result of E.U. legislative changes will have a major detrimental effect on this nation. The idea, then, is to establish a market niche in Europe for Windward Island bananas that are organic, cultivated in environmentally-friendly ways, and provide local farmers with a decent monetary return for their efforts and investments. Similarly, the NGO Oxfam is helping farmers to increase their banana production and to diversify their crops so that they can weather the new post- Lomé economic climate. At the same time, the need for new sources of income on the part of now-struggling Caribbean banana farmers has fuelled fears that they will turn to marijuana exports as a lucrative alternative.

While the changes to the Lomé IV Convention directly affect the Caribbean banana industry, a ripple effect from these changes is also evident in industries outside of banana production. Many of these repercussions are a result of retaliatory sanctions imposed by the plaintiffs. For example, Ecuador, the site of many "dollar banana" plantations, was permitted by the WTO to withhold copyright protection for sound recordings in retaliation for damages caused by E.U. quotas. Groupe Frémaux, a French exporter of fine linens, has had its U.S. market drastically reduced by the imposition of 100% tariffs on cotton bedding. Clan Douglas Ltd., manufacturers of Scottish cashmere sweaters, would have faced bankruptcy had the U.S. sanctions extended beyond the July 2001 deadline. As reported by Andrews (1999), many people believe that U.S. sanctions are "endangering the jobs of people who have nothing to do with bananas" (C17). It is thus appropriate that one of the roles of our proposed reference guide is to show that seemingly minor changes in laws and regulations do, in fact, have broad consequences.

Figure 3: Proposed entry for the banana dispute

AGRICULTURE, FORESTRY, AND FISHING – AGRICULTURAL PRODUCTION CROPS – FRUIT AND TREE NUTS – BANANA FARMS (SIC 0179)	
<i>The U.S. – E.U. Banana Agreement (April 2001)</i>	
<b>A. LAWS &amp; REGULATIONS</b>	
i. Upstream	EC/404/93 (1993) Lomé IV Convention, Protocol 5 (1989)
ii. Related regulations	EC/216/2001 (January 2001) Lomé IV-B Convention (1995) Generalized System of Preferences (GSP)
<b>B. DIRECT PARTIES</b>	
i. Plaintiff	United States; Ecuador
ii. Defendant	European Union
iii. Companies	Chiquita; Del Monte; Dole
<b>C. THIRD PARTIES</b>	
i. Governments	African, Caribbean, Pacific (ACP) Countries; Association of Caribbean Countries (Caricom); Latin America
ii. Companies	Action Battery; Agrofair; Clan Douglas Ltd.; Fyffes; Geest; Groupe Frémaux; Walkers Shortbread
iii. NGOs	European Banana Action Network (Euroban); Oxfam; Windward Islands Farmer's Association (WINFA); Fairtrade Labelling Organizations International (FLO)
<b>D. GENERAL ISSUES &amp; CONCEPTS</b>	
	Bankruptcy of principals and of third parties Political donations "Dollar bananas" "Fair trade bananas" Marijuana Unionization attempts at "dollar banana" plantations in Guatemala
<b>E. SANCTIONS</b>	
	Higher tariffs on bath preparations, batteries, cotton bedding, pecorino cheese, sweet biscuit, waffles, and wafers, and other products from Europe Withholding of copyright protection

## CONCLUSION

The above examples suggest that Anne Boyd was correct when she remarked that "the ideal approach to the study of government publications for reference use is by subject-content, rather than by source of issue" (Richardson 1986, 261). Subject-based access allows for a more complete and in-depth understanding of the complex issues involved in government documents and information, especially in light of the appearance of

supranational dispute resolution bodies and tribunals whose decisions frequently override national and sub-national laws and regulations. Accordingly, our model intellectually bundles not only the upstream and downstream versions of laws affected by such supranational entities and agreements as the WTO and Nafta, but also identifies the players, relationships, and actions which brought about these changes. Whereas organization of government documents by "source of issue" tends to scatter relevant information among a wide range of originating bodies and does not necessarily provide all-important contextual background, our model provides a coherent organizational framework that allows government information emanating from any jurisdiction to be viewed and approached from an intergovernmental perspective. In addition, cases such as the Brazil-Canada aircraft subsidies conflict and the banana dispute reveal that the concept of government information should be expanded and reconfigured to include NGOs, private corporations, industry lobby groups, and citizen action committees.

Who would benefit from this new approach? One likely beneficiary is the businessperson searching for investment or export/import information about a particular product, service, or program. She or he needs to know not only the national or sub-national laws and regulations affecting the product, service, or program in question, but also the manner in which that law or regulation may have been treated by a supranational entity, as well as the effects of that treatment. Another likely beneficiary of our model is the governmental, legal, and cultural historian studying the evolution of legislative and regulatory initiatives. In sum, access to government information should be redefined and to accommodate an increasingly global political context where end users themselves are more globalized.

## REFERENCES

- Andrews, E.L. 1999, March 5. What bananas?: Tariff fight baffles Europe. *New York Times*, A1, C17.
- DePalma, A. 2001a, April 14. Dole says trade accord on bananas favors rivals. *New York Times*, B2
- DePalma, A. 2001b, April 12. U.S. and Europe agree on deal to end banana trade war. *New York Times*, C1, C16.
- DePalma, A. 2001c, March 11. Nafta's powerful little secret. *New York Times*, Section 3, 1, 13.
- DePalma, A. 2001d, January 17. Citing European banana quotas, Chiquita says bankruptcy looms. *New York Times*, C1.
- Keesing, D.B. 1998. *Improving trade policy reviews in the World Trade Organization*. Washington, DC: Institute for International Economics.
- McArthur, K. 2001, April 17. Bombardier deal will add 1,000 jobs. *The Globe and Mail*, A1, A4.
- McCarthy, S. 1999, November 17. Pettigrew balks at WTO as watchdog. *The Globe and Mail*, B7.
- McWhirter, C., & Gallagher, M. 1998, May 3. Contributions buy influence. *Cincinnati Enquirer*, D5.
- Pritchard, T. 1999, June 18. Lawsuits are prompting calls for changes to clause in Nafta. *New York Times*, A11.
- Quereshi, A.H. 1996. *The World Trade Organization: Implementing international trade norms*. Manchester, England: Manchester University Press.
- Rich, J.L. 2001, February 20. Tempers flare and losses mount after Canada bans Brazil beef. *New York Times*, C1.
- Richardson, J.V., Jr. 1986. Paradigmatic shifts in the teaching of government publications, 1895-1985. *Journal of Education for Library and Information Science*, 26, 249-266.
- Scofield, H. 2000, May 10. Trade attack launched on Brazil. *The Globe and Mail*, B1, B7.
- Scofield, H., & Chase, S. 1999, June 16. Methanex to sue U.S. under free-trade deal. *The Globe and Mail*, B1, B4.
- Vardy, J. 2001, February 10. Beef battle shows 'need for reform.' *National Post*, B5.