ORGANISATIONAL AND INSTITUTIONAL ASPECTS

1 Introduction

Over the past half century the international community has witnessed the rapid ‘rise of international organisations’¹ and with it a move from co-existence among States to more intensive forms of cooperation between them. International organisations have been noted for their proliferation² and their pervasiveness,³ including their propensity to usurp competences that have traditionally been reserved to States.⁴ At the same time our understanding of what constitutes an international organisation has changed with the appearance of a growing number of autonomous organisations,⁵ or more accurately autonomous institutional arrangements.⁶ Essentially, these are bodies created within the framework of a treaty (‘treaty-based organisations’ or ‘treaty organisations’), which are designed to establish substantive and procedural norms and regulate the conduct of States

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¹ The term ‘rise of international organisations’ is borrowed from Jan Klabbers, An Introduction to International Institutional Law (Cambridge: Cambridge University Press, 2002), 16-41.
in specialised areas such as trade, the environment, disarmament and human rights but are not necessarily part of the UN legal system.\(^7\)

It is against this background that the organisational and institutional aspects of the WTO are examined in this chapter. The WTO presents a particularly complex institutional structure that has evolved out of a set of multilateral treaty instruments and is *de iure* an international organisation. At the same time it typifies what Oscar Schachter has described as the merger of ‘a general multilateral law-making treaty into a regime’\(^8\) (the GATT) and the *de facto* continuance of that regime despite its formal status as an international organisation (the WTO).\(^9\)

International institutional law may provide a useful scholarly source of ideas and insights into the organisational and institutional workings of the WTO but work by international relations scholars on regime theory may also be relevant in explaining the processes by which institutional structures develop and suggest ways in which norms are developed, maintained and undergo change – an issue which is taken up in the next chapter.

This chapter proceeds as follows. Section 2 provides a brief, mostly historical account of the WTO’s antecedents, including the institutional failings of the ITO project and the role of the former GATT (1948-1995) in fulfilling the institutional vacuum that eventually led to the formation of the WTO. Section 3 reviews the organisational and institutional bases of the WTO, including its objectives and functions, WTO bodies and their powers and some membership and accession issues. Section 4 contains a set of conclusions, based on the findings in respect of this chapter and describes their relationship to the overall proposition concerning institutional developments that was set out in the introduction to this book.

## 2 Antecedents: from ITO to WTO

The WTO’s organisational and institutional antecedents date back to the development of the post-war international political economy through US and UK govern-