

March 26, 1986.

Mrs. Elizabeth Racicot
Sr. Project Officer
China Desk, Asia Branch
Canadian International Development Agency
Hull, Quebec
K1A 0G4

Dear Mrs. Racicot:

Following on from my brief letter of March 14, 1986, and our telephone conversation on Monday, March 24, 1986, I am writing to try to explain in a little more detail the situation in which we find ourselves in connection with our programme of scholarly cooperation with Peking University.

As I believe you are aware, we have had an extremely successful relationship with Peking University over the last six years, during which time I have undertaken the post graduate training of five students from that well-known institution, two of whom are now full-time members of the faculty there, and we have also had a number of short term exchanges and lectures. I, myself, have had the pleasure of visiting there on three occasions, and we are now in the process of finalizing a publishing arrangement in which Chinese articles of interest to the Canadian commercial and legal communities will be published in English in Canada, and Canadian articles of interest to the Chinese will be published in Chinese in China. Additionally, we are looking forward to the publication in English of the first general survey of modern Chinese law, a work that will be of value to business, government and academic people concerned with the People's Republic. All in all, we feel that very significant progress has been made on a very modest financial outlay.

Our difficulty at the present time stems not only from our disappointment at the non-approval of the fairly large grant for which we had applied, but also from the fact that the very small amount which we understood from conversations and meetings with Mr. Peter Hoffman would assuredly be forthcoming, and on which we had made an undertaking to the students concerned, has also been unavailable up to the present time.

To state the matter a little more briefly, we felt very safe indeed in telling our students that while there was no guarantee whatever of funding to support the larger programmes which we had in mind with Peking University, and of which they are a part, their own tuition and basic living costs would be available in order to permit them to complete their degree programmes. We now find that our major plans are not only in jeopardy, in fact most of them will probably have to be abandoned, but that we are in an extremely embarrassing position as regards the two students concerned.

After our telephone conversation of March 24 last, in which you were good enough to explain the situation at your end, we have reviewed things here at Dalhousie and, in an effort to ease the problem while at the same time salvaging something from a most disappointing series of developments, we wish now to request that you fund for an additional year one rather than two of the students to whom we are committed. In other words, we would be asking you for about \$14,000, which is I understand the figure which you usually use in these cases. We will ourselves look after the second student concerned or we will attempt to find him a scholarship in another institution.

I realize that you are preparing for a lengthy overseas trip, and I also understand that the financial problems you face are constraining indeed. However, in view of all the circumstances, I hope that you will find it possible to meet this compromise suggestion, and in so doing rescue the work and career of an outstanding young scholar who will be returning to China in order to contribute to the development of his own country.

I thank you for your consideration and I hope to hear from you before your departure for China early in April.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

March 14, 1986.

Mrs. Elizabeth Racicot
Sr. Project Officer
China Desk, Asia Branch
Canadian International Development Agency
Hull, Quebec
K1A 0G4

Dear Mrs. Racicot:

I am rushing you these few lines (before leaving on a brief overseas trip) in order to say that we are terribly disappointed at the outcome of our application, and to ask for your help in overcoming an acute embarrassment that arises as a result of the non-acceptance of our application.

Where we certainly did not expect to receive all that we asked for, we assumed, on the basis of many conversations with Peter Hoffman, that some support would indeed be forthcoming. On this assumption, which was certainly responsible and which Peter encouraged, we made a commitment to two students who are now with us at Dalhousie and who expect to continue on in the doctoral programme. They expect this and we are in fact obligated to them in this regard.

Would you, therefore, be kind enough to regard this letter as advance notice of our intention to apply for a continuation of the existing grant in order to cover an emergency situation. I will provide you with details on my return next week.

As I know that you will be leaving Canada on April 8th, I am anxious that you know of our situation - - I attempted to reach you on the telephone yesterday and today - - and that you have time enough to start the rescue process before your departure.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw



Agence canadienne de
développement international

Canadian International
Development Agency

Hull (Québec)
Canada
K1A 0G4

Hull, Quebec
Canada
K1A 0G4

copy for Mr. Sinclair, Mr. Fournier, Jean-Luc Lussier, Prof. MacDonald
RECEIVED
OFFICE OF THE PRESIDENT

NOV 10 1985

DALHOUSIE UNIVERSITY

November 7, 1985

Notre référence Our file

338-97/D1-26-2 Ph. II

Dr. W. Andrew Mackay
President
Dalhousie Law School
Halifax, N.S.
B3H 4H9

Dear Dr. Mackay:

Permit me to introduce myself. I am replacing Peter Hoffman on the China desk and I will be responsible for institutional cooperation projects with China. I have just returned from living in China and hope that with this background I will be able to make a useful contribution to the program.

In reviewing the files of ongoing projects, it has come to my attention that we have never received an official receipt from the Law School for the first payment we made on the International Exchange Phase II. The payment was issued in March, 1985. I am sorry to trouble you with such a small detail but it will help complete and update our files.

I will be visiting Halifax in the middle of November, Maria Micholos from your University will be setting up some appointments for me on the 18th. If you have any questions you wish to raise I would be pleased to answer them at that time.

Yours sincerely,

Elizabeth Racicot
Sr. Project Officer
China Desk, Asia Branch

cc: Pat Wilson, ICDS

BEIJING UNIVERSITY

POSTGRADUATE ACADEMIC RECORDS

NAME: SHI YING-HAN

DEPARTMENT: LAW

SECTION: INTERNATIONAL LAW

FROM SEPTEMBER OF 1982 TO JULY OF 1985

ACADEMIC YEAR 1982-1983 FIRST GRADE

COURSE	CLASSHOUR	1st SEMESTER		2nd SEMESTER	
		EXAM	TEST	EXAM	TEST
China's Foreign Relations	2	A			
Modern International Relations	3	A			
Law of International Institutions	2	A			
International Law	4	A		A	
Jurisprudence	3			A	
International Economic Law	2			88	
English	2			A	
Law of International Transactions	2			A	

ACADEMIC YEAR 1983-1984 SECOND GRADE

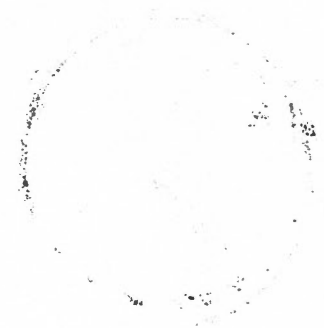
COURSE	CLASSHOUR	1st SEMESTER		2nd SEMESTER	
		EXAM	TEST	EXAM	TEST

ACADEMIC YEAR 1984-1985 3rd GRADE

COURSE	CLASSHOUR	1st SEMESTER		2nd SEMESTER	
		EXAM	TEST	EXAM	TEST

ACADEMIC YEAR 19 -19 th GRADE

COURSE	CLASS HOUR	1st SEMESTR		2nd SEMESTER	
		EXAM	TEST	EXAM	TEST



GRADUATION THESIS

SUBJECT:

COMMENT:

SIGNATURE OF TUTOR DATE

SEAL OF LAW DEPARTMENT



Handwritten signature
SIGNATURE
OF DEAN

Department of External Affairs
EPG-0767



Canada

Ministère des Affaires extérieures

OTTAWA, ONTARIO
K1A 0G2

09 June 1986

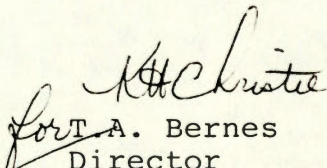
Professor R. St. J. Macdonald, O.C., Q.C.
Dalhousie Law School
Halifax, Nova Scotia
B3H 4H9

Dear Professor Macdonald:

I am writing in response to your May 15 letter about the GATT's dispute settlement system. I apologize for the tardiness of my reply, but I have been out of the country for part of the time on business.

As you know, the question of improvements to the dispute settlement procedures will be a priority for Canada and several other GATT contracting parties in the next round of multilateral trade negotiations. I regret to inform you, however, that there are no general background documents on this subject that I could release to you and Mr. Shi. Nonetheless, I would be most pleased to meet with Mr. Shi in Ottawa at a mutually convenient date in order to review informally with him the kinds of concerns expressed with respect to dispute settlement by trade policy officials in Canada and elsewhere in the general context of preparations for the next MTN. I believe this approach could be useful for Mr. Shi. In this regard, I look forward to hearing from you or from Mr. Shi.

Yours sincerely,


T. A. Bernes
Director
GATT Affairs Division

TAB/jm

May 16, 1986.

The Legal Advisor
~~Office of the Legal Advisor~~
The Foreign Office
~~Government of Australia~~
~~Canberra~~
~~Australia~~

Whitehall
London
England.

Dear Sir:

I am writing in connection with the work of a very fine graduate student, who is doing his LL.M. thesis here in Canada, on the dispute settlement mechanisms under the General Agreement on Tariffs and Trade.

The student concerned is a young Chinese scholar from the Institute of International Law in Peking University, where he will eventually be retained as a full-time researcher and lecturer. The subject on which he is working was suggested by his superiors in Peking where, ~~as~~ I understand, ~~there~~ there is considerable interest in re-activating Chinese participation in the work of GATT. Thus far, Mr. Shi, for that is his name, has been able to accumulate and digest most of the published material in the public domain and also ~~to~~ familiarize himself with a good deal of the background, although, as his supervisor, I have become very aware of Mr. Damm's observation that only a handful of people in the world understand GATT and that they are not telling anybody.

say that

I must

I have been given to understand that the ~~United States,~~ ^{United Kingdom, etc} ~~the United Kingdom,~~ Canada, Australia, and possibly France and Japan are interested in improving the dispute settlement mechanisms under the General Agreement, and that this is indeed a matter of priority, especially with the ^{of fact} ~~United States,~~ which have ~~already~~ contributed most of the fundamental ideas on this topic in the past. I have been in touch with Mr. W. Douglas Newkirk, in Washington, D.C., and Mr. Tom Bernes in Ottawa, and I am hoping to make contact with ~~couple of~~ legal officers in the Foreign Office in London. Meanwhile I am taking the liberty of writing directly to you with a request for whatever ~~is~~ ^{information} ~~is~~ ~~might be~~ appropriate and available in the circumstances.

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United Kingdom and the

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to the subject in general.

What we need in particular is an outline ~~in detail~~ of any new proposals or suggestions that have come either from the agency itself or from its leading members on how the existing procedures could and should be changed in the period just ahead. I am told that some of these things are confidential, but I am hoping that there may be background documents or even general statements on the subject that could be released for purposes of academic research without inconvenience to governments and officials.

If you are able to let me have any information along the lines indicated above, and if you would be good enough to suggest others to whom I might write, I will be very grateful indeed and I will, of course, attend to any xeroxing and postage costs that may be involved. Needless to say, we will be more than happy to send you a copy of Mr. Shi's essay when it is completed in August, ~~even~~ though I cannot imagine that it will contain anything that you have not known for many years. As far as I can see, the subject seems to belong to the western world.

Thanking you for your consideration, and with good wishes from this University, I remain,

Yours faithfully,

R. St. J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw

May 15, 1986.

Mr. T.A. Bernes
The GATT Affairs Division (EPG)
L.B. Pearson Building
125 Sussex Drive
Ottawa, Ontario
K1A 0G2

Dear Mr. Bernes:

Thank you for receiving my telephone call on May 14th last.

As mentioned to you on the telephone, I am writing in connection with the work of a very fine graduate student, who is doing his LL.M. thesis here at Dalhousie Law School, on the dispute settlement mechanisms under the General Agreement on Tariffs and Trade.

The student concerned is a young Chinese scholar from the Institute of International Law in Peking University, where he will eventually be retained as a full-time researcher and lecturer. The subject on which he is working was suggested by his superiors in Peking where, as I understand it, there is considerable interest in re-activating Chinese participation in the work of GATT. Thus far, Mr. Shi, for that is his name, has been able to accumulate and digest most of the published material in the public domain and also to familiarize himself with a good deal of the background, although, as his supervisor I have become very aware of Mr. Damm's observation that only a handful of people in the world understand GATT and that they are not telling anybody.

I have been given to understand that the United States, the United Kingdom, Canada, and possibly France and Japan are interested in improving the dispute settlement mechanisms under the General Agreement, and that this is indeed a matter of priority especially with the United States, which has already contributed most of the fundamental ideas on this topic in the past. I have, as you suggested, been in touch with Mr. W. Douglas Newkirk, and I am hoping to make contact with a couple of legal officers in the Foreign Office in London. Meanwhile I am taking the liberty of writing directly to you with a request for whatever assistance might be appropriate and available in the circumstances.

What we need in particular is an outline in detail of any new proposals or suggestions that have come either from the agency itself or from its leading members on how the existing procedures could and should be changed in the period just ahead. I am told that some of these things are confidential, but I am hoping that there may be background documents or even general statements on the subject that could be released for purposes of academic research without inconvenience to governments and officials.

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Thanking you for your consideration, and with good wishes from this University, I remain,

Yours faithfully,

R. St. J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

May 22, 1986

Mr. Yinghan Shi
Graduate Student
Faculty of Law
Dalhousie University

Dear Mr. Shi:

As you know, the Graduate Studies Committee of the Faculty of Law met on Tuesday, May 20, 1986, to consider, inter alia, your application for admission to the J.S.D. programme.

Following a very lengthy discussion and your oral presentation to the committee, I regret to inform you that the committee is not prepared to recommend to the Faculty of Graduate Studies that your application be accepted.

Yours sincerely,

H. Leslie O'Brien
Professor of Law and Chair,
Graduate Studies Committee
Faculty of Law

HLO'B:msb

bcc: Professor R. St. J. Macdonald

*original mailed to Mr Shi's
Address address 614, Lake Street.*



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

May 22, 1986

Mr. Yinghan Shi
Graduate Student
Faculty of Law
Dalhousie University

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H. Leslie O'Brien
Professor of Law and Chair,
Graduate Studies Committee
Faculty of Law

HLO'B:msb

bcc: Professor R. St. J. Macdonald

*original mailed to Mr Shi's
Halifax address 614, Sable Street.*

T.A. Bernes
Mr. ~~Bernes~~ Bernes :

TRGATT Affairs Division (EPG)

L.B. Parker Building

Blair Herkey

993-4153.

~~Director~~

Tax Bernes

992-1617

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Wash. DC
Director

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D.C.

Wash 20506.

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DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

June 9, 1986.

The Legal Advisor
Foreign and Commonwealth Office
Downing Street
LONDON, SW1A 2AL
England

Dear Sir:

I am writing in connection with the work of a very fine graduate student, who is doing his LL.M. thesis here in Canada, on the dispute settlement mechanisms under the General Agreement on Tariffs and Trade.

The student concerned is a young Chinese scholar from the Institute of International Law in Peking University, where he will eventually be retained as a full-time researcher and lecturer. The subject on which he is working was suggested by his superiors in Peking where, I understand, there is considerable interest in re-activating Chinese participation in the work of GATT. Thus far, Mr. Shi, for that is his name, has been able to accumulate and digest most of the published material in the public domain and also familiarize himself with a good deal of the background to the subject in general; although, as his supervisor, I must say that I have become very aware of Mr. Damm's observation that only a handful of people in the world understand GATT and that they are not telling anybody.

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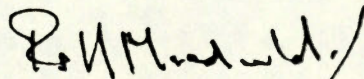
June 9, 1986.

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If you are able to let me have any information along the lines indicated above, and if you would be good enough to suggest others to whom I might write, I will be very grateful indeed and I will, of course, attend to any xeroxing and postage costs that may be involved. Needless to say, we will be more than happy to send you a copy of Mr. Shi's essay when it is completed in August, though I cannot imagine that it will contain anything that you have not known for many years. As far as I can see, the subject seems to belong to the western world.

Thanking you for your consideration, and with good wishes from this University, I remain,

Yours faithfully,



R. St. J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw

June 9, 1986.

Mr. W. Douglas Newkirk
Assistant United States Trade Representative
Office of GATT Affairs
600 17th Street N.W.
Washington, D.C. 20506
U.S.A.

Dear Mr. Newkirk:

Thank you very much for your letter of May 22, 1986, and for the Discussion Paper on Improving the Dispute Settlement System of GATT, both of which are proving to be of great value and interest to me as well as to Mr. Shi, our student. It was good of you to have responded so promptly.

I have informed Mr. Shi of your willingness to receive a telephone call from him, with a view to a possible meeting, whenever he may be visiting Washington and, as you can imagine, he was delighted to learn of the possibility of being able to go around to see you.

Thank you again for your attention and assistance, and with good wishes from this part of the world, I remain,

Yours sincerely,

R. St. J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

May 22, 1986

R. St. J. Macdonald
Professor
Dalhousie Law School
Halifax, Canada B3H 4H9

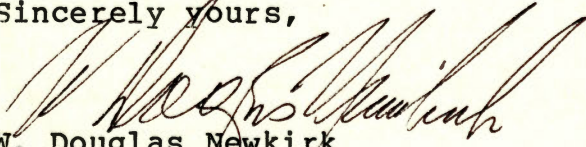
Dear Professor McDonald:

Thank you for your letter of May 15 regarding the U.S. position on GATT dispute settlement mechanisms. Your graduate student, Mr. Shi, may be interested in the document attached, which outlines the stance currently taken by the United States. Other than this paper, little else is now available on the subject of dispute settlement. As negotiations progress, however, many more papers on this subject will be generated.

The fair and expeditious settlement of trade disputes under the GATT is, of course, high priority for all contracting parties. I assure you the United States believes that the improvement of the existing system is one matter that must command great attention in upcoming GATT discussions. While we continue to support the basic principles of trade dispute settlement in GATT Articles XXII and XXIII, we also encourage the improvement of the existing mechanisms. It is our belief that more effective settlement procedures will enhance the overall confidence members have in the GATT institution.

I hope that this information will be useful to Mr. Shi. If he has the opportunity to visit Washington, I would be happy to meet with him to discuss this subject.

Sincerely yours,



W. Douglas Newkirk
Assistant

U.S. Trade Representative
for GATT Affairs

Discussion Paper on Improving
the Dispute Settlement System of
GATT

An effective dispute settlement mechanism, which is seen to be both reliable and expeditious, is an essential element of a healthy, expanding international trading system. The present dispute settlement system of the GATT has performed reasonably well in a number of disputes; however, it has displayed conspicuous shortcomings in some cases, which have diminished its credibility and, with it, confidence in the larger institution--the GATT.

The most obvious problem is that some disputes have not been resolved, partly because of inadequate panel reports in a few cases, but more often because one or more parties have been unwilling to allow a resolution. In addition, the process takes too much time. The failure to resolve disputes expeditiously (or in some cases to act at all) leads to frustration, and diminishes respect not only for dispute settlement but for rights and obligations under the GATT.

Improvement of the GATT dispute mechanism, therefore, deserves high priority. The changes required are more evolutionary than revolutionary. But any attempt to improve the mechanism needs to be supported by a change in attitude of contracting parties. Too often, dispute settlement in the GATT is viewed as a zero-sum contest in which for every winner there must be a loser. Disputing parties focus on the narrow issue at stake rather than their broader interests in an effective trading system. In truth, the failure to resolve disputes satisfactorily can be costly, not only to the disputants, but to innocent third parties as well. Successful dispute settlement, on the other hand, can benefit both the complaining party and the party whose actions gave rise to the complaint.

Improvements in the system and the attitude of governments towards the process of disputes settlement are not independent variables. Any process for settling disputes among sovereign states, however well-designed, can be frustrated by a determined disputant. An effective process, however, can create an atmosphere of confidence leading to greater reliance by governments on that process in preference to situations in which problems fester or in which governments are led to unilateral actions.

In an effort to stimulate consideration of means by which the GATT dispute process might be further improved, the United States offers the following suggestions.

The primary objective of dispute settlement should be to resolve disputes, and to do so expeditiously, fairly and in a manner that is consistent with the trade expansion objectives of the GATT. If

the major contracting parties are prepared genuinely to accept this objective, then emphasis in dispute settlement in the first instance needs to be put on consultations and mediation as the means to settle disputes wherever possible. Settlement by such means would be without prejudice to the parties' legal positions, and such settlements cannot be at the expense of the legitimate rights of third countries. Adjudication, in the sense of judgments rendered by the GATT panels for and against disputants, should be regarded as a last resort.

At the same time, to encourage greater reliance on the use of mediation and arbitration, parties need assurance that, failing settlement by these means, they can have resort to a panel or arbitration process without undue loss of time and with reasonable confidence of obtaining a clear ruling from the panel or other arbitral body. Just as parties must seek a settlement as a first priority, panels must understand that ambiguously framed or inadequately reasoned conclusions are more likely to prolong than help resolve a dispute.

In support of this general approach, we would suggest that the following specific steps to be included in an improved dispute settlement mechanism:

1. A mandated mediation role for the GATT Director-General or his designee.

The Director-General of GATT or his designee could be empowered and directed to try to mediate a bilateral solution to disputes while the dispute is under bilateral discussion, before the dispute reaches the inherently more confrontational stage of a panel proceeding. At the same time, the mediation function would be separated out from the panel process so as to make clear that the role of the panels is a last resort adjudicatory stage. The GATT would promote the idea that such neutral mediation by a neutral party at an early stage could head off a larger confrontation. A mediator can offer a fresh and objective perspective to a dispute, and the intervention of a mediator may also make compromise resolutions more palatable to domestic constituents in some cases than would solutions arrived at in purely bilateral consultations.

While the mediator would be compelled to discuss each dispute with the parties and to offer his mediation services, either disputing party should have the right to reject or terminate mediation if it were perceived that mediation was unnecessary or futile. A mandatory mediation or conciliation phase could result only in prolonging the dispute settlement process, as evidently has happened with respect to the cumbersome conciliation

phase in the Subsidies Code. On the other hand, a voluntary mediation phase, with appropriate safeguards for timing and confidentiality of the process, and under the prodding of a respected neutral mediator, could lead to more timely and less confrontational solutions.

2. A binding arbitration process (entailing no Council approval) as an alternative means of dispute settlement for defined classes of cases, or by prior agreement of disputing parties on an ad hoc basis.

At present, all GATT disputes fall under essentially the same procedures, whatever the issue. One consequence is that issues that should be relatively simple and easily settled are taking too long and becoming too political because of procedures and practices designed for harder cases.

It might be useful to provide for binding arbitration by a neutral body as a formally available technique of GATT dispute settlement. By binding, it is meant that the arbitrators' decision would not require approval by the GATT Council. A disputing party would still not be compelled to implement the arbitrators' decision, but a party failing to implement such a decision would have to pay compensation or accept retaliation.

Arbitration is a widespread and common form of dispute settlement in international trade. Many commodity and transportation contracts between firms normally provide for impartial arbitration by specialists in those fields. Arbitration provisions may also be found in a number of bilateral intergovernmental trade agreements and in air transport agreements.

Binding arbitration should be available whenever both disputing parties agree, as an alternative to the normal dispute settlement process. In addition, there might be classes of disputes be required in lieu of the normal panel process. If arbitration proves workable and useful, use of the device might subsequently be expanded.

3. Binding, enforceable time-tables for the process, including its various stages.

The length of the dispute settlement process, including

the myriad opportunities for delay has at least three negative consequences: it discourages use of dispute settlement procedures for certain short term issues; it means that considerable trade damage may be suffered in other cases while the process is pending; and it contributes to a perjorative public perception of the GATT.

Subject to mutual agreement of the disputing parties to any extension, there should be time limits for each phase of the dispute settlement process, as well as for the process as a whole. Further, recognizing that such time guidelines as now exist often have not been met, the time limits should be made enforceable. For consultation and mediation phases of the process, the complaining party should have the right to proceed to the next phase within a fixed period of time. In the case of unconsented delays caused by the defending party during the work of the panel or thereafter (e.g. delays in providing written submissions), the complaining party should have the right to retaliate for damage caused by the measures at issue during the period of delay, provided that such measures are found to have infringed obligations or otherwise to have caused nullification or impairment.

4. Use of non-governmental experts as panelists

The use of panelists from third-country governments appears to be a weakness of the current system. It is fundamental to any dispute settlement system that the disputing parties must have reasonable confidence that the arbitrators are fair, competent and neutral. Those working most closely with the GATT may be confident that individuals chosen from third-country delegations have generally met these qualifications, often commendably. However, for others, most notably constituents in all countries, the current system will always give rise to the suspicion that governmental representatives are not fully neutral, even if they wish to be. That suspicion in turn makes it easier to block or reject panel findings.

Accordingly, panelists (and arbitrators) should be chosen exclusively from a roster of neutral non-governmental experts. Recognizing that there still is a risk of deficient panelists among non-governmental experts, the roster of available experts should be sufficiently large that bad choices, or at least a repetition of bad choices, can be avoided.

Alternatively, the GATT could use a frequent technique

of arbitration: each party would choose one panelist or arbitrator, with either one or three neutral panelists in addition to form the decisive votes.

5. An affirmation that parties should seek to implement the recommendations resulting from a dispute settlement case, and recognize that failure to do so gives rise to a right to compensation or retaliation.

The changes in the dispute settlement process suggested above should help improve respect for the process, and thus make it easier for disputing parties to accept results. However, we think it is essential that these improvements be accompanied by an explicit new affirmation by all parties that they will use the process to settle disputes, that they will accept the results, and that they recognize that the failure to implement recommendations will give rise to a right to compensation or retaliation for adversely affected parties. These points are inherent in existing dispute settlement rules, but it is evident that, in practice, parties have manifested very different attitudes in many disputes. The more technical or procedural changes suggested above would form the occasion for a new affirmation, as much political as legal, of greatly improved attitudes toward the dispute settlement process.

In short, no system of dispute settlement in GATT will work successfully unless the contracting parties come to view dispute settlement not as a contest of wills but as an essential element in the management of the world trading system.

May 15, 1986.

Mr. W. Douglas Newkirk
Assistant United States Trade Representative
Office of GATT Affairs
600 17th Street N.W.
Washington, D.C. 20506
U.S.A.

Dear Mr. Newkirk:

I am writing in connection with the work of a very fine graduate student, who is doing his LL.M. thesis here in Canada, on the dispute settlement mechanisms under the General Agreement on Tariffs and Trade.

The student concerned is a young Chinese scholar from the Institute of International Law in Peking University, where he will eventually be retained as a full-time researcher and lecturer. The subject on which he is working was suggested by his superiors in Peking where, as I understand it, there is considerable interest in re-activating Chinese participation in the work of GATT. Thus far, Mr. Shi, for that is his name, has been able to accumulate and digest most of the published material in the public domain and also to familiarize himself with a good deal of the background, although, as his supervisor I have become very aware of Mr. Damm's observation that only a handful of people in the world understand GATT and that they are not telling anybody.

I have been given to understand that the United States, the United Kingdom, Canada, and possibly France and Japan are interested in improving the dispute settlement mechanisms under the General Agreement, and that this is indeed a matter of priority especially with the United States, which has already contributed most of the fundamental ideas on this topic in the past. I have been in touch with Mr. Tom Bernes in Ottawa, and I am hoping to make contact with a couple of legal officers in the Foreign Office in London. Meanwhile I am taking the liberty of writing directly to you with a request for whatever assistance might be appropriate and available in the circumstances.

..... 2

What we need in particular is an outline in detail of any new proposals or suggestions that have come either from the agency itself or from its leading members on how the existing procedures could and should be changed in the period just ahead. I am told that some of these things are confidential, but I am hoping that there may be background documents or even general statements on the subject that could be released for purposes of academic research without inconvenience to governments and officials.

If you are able to let me have any information along the lines indicated above, and if you would be good enough to suggest others to whom I might write, I will be very grateful indeed and I will, of course, attend to any xeroxing and postage costs that may be involved. Needless to say, we will be more than happy to send you a copy of Mr. Shi's essay when it is completed in August, even though I cannot imagine that it will contain anything that you have not known for many years. As far as I can see, the subject seems to belong to the United States!!

Thanking you for your consideration, and with good wishes from this University, I remain,

Yours faithfully,

R. St. J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw

June 9, 1986.

Ms. M.C. Smith
Secretary to Professor R.E. Hudec
University of Minnesota Law School
285 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455
U.S.A.

Dear Ms. Smith:

Thank you for your letter of May 29, 1986.

You might be kind enough to tell Professor Hudec that as our Chinese student has now been placed in Geneva, there is no need for him to bother himself over the third paragraph of my letter of May 6th.

Yours sincerely,

R. St. J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw



UNIVERSITY OF MINNESOTA
TWIN CITIES

Law School
285 Law Center
229 19th Avenue South
Minneapolis, Minnesota 55455

~~(612) 373-2717~~

(612) 625-8346

May 29, 1986

Professor R. St.J. Macdonald
Dalhousie Law School
Halifax,
CANADA B3H 4H9

Dear Professor Macdonald:

Professor Hudec has been out of the country since May 15, and will not return until the 15th of June. I thought you should know, as you might be wondering why he has not answered your letter of May 6. I am sure he will write you as soon as possible after returning to the Law School.

Sincerely,

Martha C. Smith

Martha C. Smith
Secretary to Professor Hudec

May 6, 1986.

Professor Robert E. Hudec
University of Minnesota Law School
229 19th Avenue South
Minneapolis, Minnesota 55455
U.S.A.

Dear Professor Hudec:

Thank you for receiving my telephone call on Monday, April 14th last.

As I mentioned to you when we were chatting on the telephone, I have an excellent Chinese student from Peking University writing his LL.M. paper on "Dispute Settlement in the GATT". It is in this connection that I am enquiring about any recent writings of your own on this topic or indeed any recent references that may have come across your desk. If you have anything at hand and can arrange to send it along, I will, of course, attend to all xeroxing and postage costs.

Incidentally, would you by any chance be interested in having this student as a doctoral candidate under your expert supervision? He will be finished here in August and wishes to continue for a doctor's degree. He is a fine student and is already slated for an important position in the commercial field on his return to Beijing.

With good wishes from Canada, I remain,

Yours faithfully,

R. St.J. Macdonald, O.C., Q.C.
Professor

RSJM/jmw



THE UNIVERSITY OF OTTAWA and PAI-PUBLIC AFFAIRS INTERNATIONAL
are pleased to announce a Conference on the

CANADA-UNITED STATES TRADE NEGOTIATIONS

Chateau Laurier, Ottawa, May 8-9, 1986

Speakers include:

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 - Hon. John Crosbie, Minister of Justice
 - Hon. Barbara McDougall, Minister of State (Finance)
- Hon. Donald Macdonald, Chairman of the Macdonald Royal Commission
 - William Kelley, Deputy Director General of GATT, Geneva

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OF INTL. STUDIES 132 RUE DE LAUSANNE

CP36 GENEVA 21 CH 1211

I AM PLEASED TO INFORM YOU THAT DURING THE FIRST YEAR OF THE LL.M
PROGRAM AT DALHOUSIE UNIVERSITY 1984 1985 MR. SHI YING-HAN MADE THE
FOLLOWING RECORD:

JURISPRUDENCE A--: INDEPENDENT RESEARCH A--: GRADUATE SEMINAR B.

I UNDERSTAND THAT HE IS RUSHING YOU BY SPECIAL DELIVERY A COPY OF
HIS BA DEGREE FROM CHINA.

PLEASE DO NOT HESITATE TO LET US KNOW IF YOU REQUIRE MORE
INFORMATION.

GOOD WISHES FROM CANADA.

PROF. R. ST. J. MACDONALD



April 10, 1986

Dr. Joan Claudio
Friedberg
San Carlos, Calif. + Castro, S.C.,

~~At the request of Mr. Silvio...~~
I am pleased to inform you that the ~~the~~ records
requested of the California Department of Justice 1984-1985
were not available; I am providing A-1; ~~the~~
Request under A-1; Castro, Section B,
I am pleased to inform you that the ~~the~~ records ~~are~~
under of Mr. Silvio... M. U.,

I am pleased to inform you that the records for 1984-1985
at L.H.M. were not available; ~~the~~ records: 1984-1985

The Silvio... has made the application records:
I am providing A-1; Castro, Section B,
I am providing A-1; Castro, Section B,
I am providing A-1; Castro, Section B,
I am providing A-1; Castro, Section B,

~~the records...~~
I am providing A-1; Castro, Section B,

Shi, Ying Han 84091388

3000 A	Grad Seminar	B
3500 A	Jump.	A - 74
2069 A	IRP (maximal)	A - 74

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Dr. Lect.

NOO7 00 99 82.

BOOK REVIEWS AND NOTES

EDITED BY DETLEV VAGTS

A NOTE TO OUR READERS

Leo Gross served the *American Journal of International Law* as Book Review Editor from 1963 to 1985. Under his tutelage, the section expanded in both size and comprehensiveness and attracted a wide and faithful readership. The post is one of the *Journal's* most demanding and he has certainly earned the retirement he now chooses; he takes his leave with all readers and staff profoundly in his debt.

The Board of Editors is pleased to announce that, with this issue, Detlev Vagts begins his term as Book Review Editor. Correspondence about reviews should be addressed to Professor Vagts at the Harvard Law School (Langdell 365, Cambridge, Massachusetts 02138).

REVIEW ARTICLE

The League of Nations in Retrospect: Proceedings of the Symposium. Organized by The United Nations Library and The Graduate Institute of International Studies, Geneva 6-9 November 1980. Berlin and New York: Walter de Gruyter, 1983. Pp. xii, 427. Name index. In English and French. DM 164; \$74.60.

It was an excellent idea on the part of Heinz Waldner (Chief Librarian, UN Library at Geneva) and Christian Dominicé (Director of the Graduate Institute of International Relations at Geneva) to mark the 60th anniversary of the first League Assembly in 1920 by arranging a symposium on the experience of the League and publishing the papers in this volume. The object of the symposium and of the papers was to present a sort of "state of the cart" (p. 405; probably no pun intended but only a misprint) in light of new information which has become available to students of the League by the opening of national archives (p. xi). Indeed, the papers cover many aspects of the activities of, and national attitudes towards, the League. However, as noted by the contributors, there are no studies of the French attitude toward the League (pp. 12, 406), the Permanent Court of International Justice (p. 7) and the International Labour Organisation and other technical agencies (pp. 11, 406).¹ The codification of international law was also not considered.

¹ Among other gaps are studies on the role of small powers (p. 13) and of Latin American members in the League (p. 406), its historical roots in 19th-century diplomacy by conference (pp. 13-14), the relation of nonmember states to the League (p. 406), and the role of public opinion, the news media and the leading personalities inside and outside the League (p. 406). Some of these personalities are lovingly recalled in the short "Réminiscences" by Vladimir

Shi's letters to Dolberg

March 27, 1986

17 September 1985

Professor H. L. O'Brien
Chairman
Committee on Graduate Studies
Dalhousie University

Dear Professor O'Brien:

I am writing to apply for admission to the J.S.D. Programme in Dalhousie Law School.

I was born on March 19, 1955 in Shanghai, the People's Republic of China. I am a Chinese citizen, single, male. I attended primary and middle school in Shanghai. After graduation from middle school I went to a rural area in the central part of China and worked there for several years, as all young people of my generation were required to do. Since the beginning of the so-called "Cultural Revolution", students who graduated from middle school were required to work in factories or rural areas and all universities and colleges in China were closed. After 1973, parts of the universities and colleges were restored. However, the enrollment of new students was based on many factors other than personal academic capability and there was no entrance examination. Many young people who did not have certain background or relations were deprived of the opportunity of higher education. The entrance examination to university was resumed in October, 1977, after the end of the "Cultural Revolution". In the summer of 1978 I passed the examination and entered the university.

At Peking University my supervisor was Professor Tieya Wang. The programme at Peking University is a three-year programme. I took courses in general international law, jurisprudence, international transactions law, civil law, commercial law, and many other private law subjects. My major was international economic law and I attended two courses of international economic law, including GATT and the new international economic order (NIEO). I chose GATT as the topic of my LL.M. thesis coming to Dalhousie Law School.

GATT regulates 80 percent of world trade transactions. Its members include all developed countries, most of the developing countries, and several socialist states. The principles and rules of the General Agreement have become customary international law in the field of world trade. No trading country

.../2

Professor H.L. O'Brien
17 September 1985
page 2

can avoid the impact of GATT rules.

Although GATT is one of the major international organizations, no one is specializing in it at the Institute of International Law of Peking University. In fact, in all of China only a very few people are researching on GATT. The Institute which is under the leadership of Professor T.Y. Wang, is the Chinese national centre for international legal research and education. It has received assistance from many countries, including Canada. Professor Wang expects me to specialize in GATT law and to be a research fellow in the Institute after I finish my study and research at Dalhousie Law School. He expects me to continue the study of GATT in the J.S.D. Programme.

In my LL.M. thesis I am looking at the procedures of dispute settlement under GATT. I examine the emergence, development, function and operation of these procedures. The thesis consists of five chapters.

The first chapter reviews international cooperation in world trade during the inter-war period, and the design and establishment of a legal system of international trade. I take the view that the creation of GATT is a continuation of prior multilateral cooperation in the field of trade and that world leaders drew lessons from the failure of that cooperation when they drafted the General Agreement. Chapter I analyzes the reasons for success and failure of cooperation in international trade between the two world wars. It reviews the four drafting conferences and the reasons why the General Agreement evolved from a multilateral agreement on tariffs, designed to be attached to the International Trade Agreement, into an independent international institution. Chapter II focuses on the emergence of the dispute settlement procedures, especially on Articles XXII and XXIII. In studying these two Articles in detail, I attempt to expound their rationale, analyze their advantages and shortcomings, and suggest how the weaknesses can be overcome.

Chapter III describes the experience of Articles XXII and XXIII during the Tokyo Round. This Chapter is divided into three sections: the evolution of the procedure; its operation in the first decade of GATT; and the reasons for the breakdown

Professor H.L. O'Brien
17 September 1985
page three

of the GATT legal system.

Chapter IV is a discussion of the achievements of the Tokyo Round of multilateral trade negotiations. It has three sections: first, a discussion of the codes and arrangements on reduction of tariffs, regulation of non-tariff barriers, and reform of the GATT framework; second, an examination of the achievement of the dispute settlement procedures; and third, an assessment of the action taken after the Tokyo Round to strengthen the dispute settlement procedures.

Chapter V, the conclusion, summarizes the previous four chapters and puts forward recommendations for the improvement of the dispute settlement procedures.

While writing my LL.M. thesis, I have come to realize that the General Agreement is a big and complicated subject. I now desire to enter the J.S.D. Programme at Dalhousie Law School in order to devote my full time to studying comprehensively the entire GATT legal system. I would propose to build my J.S.D. dissertation on my present research for the LL.M. thesis.

GATT is the only existing global trade organization. It was designed to regulate trade behavior of states, strengthen international cooperation in trade, and promote economic development of states. However, the effectiveness of GATT in pursuing these objects depends on the extent to which its rules apply effectively to trade problems. In today's world, protectionism is a main feature of trade policies of many countries and non-tariff barriers are the principle restriction of the liberalisation of trade. These barriers are difficult to remove by international codes and other legal arrangements, because some of them constitute the basic economic policies of countries or groups of countries and are not abandoned easily; moreover, new non-tariff devices, invented quickly after older ones are removed, appear on the scene regularly. GATT rules can hardly keep pace with such trade practices. So long as unregulated or under-regulated trade problems exist, the impact of the GATT system on trade is limited. The problem that I wish to study is how to make the Agreement work.

At the present time I am thinking of a J. S.D. thesis of four parts. The first part will be a general review of the development of GATT, including the seven rounds of multilateral trade

Professor H.L. O'Brien
17 September 1985
page fhur

negotiations, with emphasis on the results of the Tokyo Round. This will be the introduction to the whole thesis.

The second part will analyse the extent to which GATT has contributed to international cooperation in trade, including the resolution of disputes and other trade problems. This part will comprise the following sections.

1. Reduction of tariff rates: negotiations on tariffs and their results.
2. Control of non-tariff barriers: the conditions under which they emerged and developed; which barriers have been regulated, why they were regulated, and what remains to be done.
3. The dispute settlement procedure: the effectiveness of the procedure in resolution of disputes and in maintaining the prestige of GATT; examination of representative cases; improvement in the procedures as a result of the Tokyo Round.
4. Improvement of the status of less-developed countries in the GATT framework: demands for preferential treatment for trade with developed countries; changes made as a result of the Tokyo Round; the process of recognizing the demand; the attitudes of developed countries; disputes concerning preferential treatment; international agreements on the application of preferential treatment.
- 5/ Conclusions: reasons for the success of GATT in promoting cooperation and coping with trade problems.

The third part of the thesis will discuss unregulated problems, including some non-tariff barriers and other trade issues, which reduce the effectiveness of GATT, and the prospects of handling these problems within a legal framework. Particular problems will be discussed in separate sections.

1. Agricultural trade: a problem untouched by the Tokyo Round; the problem posed by the "variable levy"; how to reduce its adverse effect on world trade: the EEC and its relationship to GATT.
2. Voluntary export restrictions: the major non-tariff barrier which evaded discussion at Tokyo; conflicting opinions on this problem; examination of national practices to find out to what extent the voluntary export restrictions can be reduced.

Professor H.L. O'Brien
17 September 1985
page five

3. Quantitative restriction on trade: one of the most widely used protective methods; its use as a discriminatory measure; the extent to which nations can control its use.
4. Codes governing non-tariff barriers: failure of many states to accept these Codes; application of the Codes; their effect on fairness and restrictions in international trade.
5. International trade in services: a major new problem; definition of "services" (any productive activity which is not manufacturing, mining or agriculture); restrictions on trade in services; the interests of developing and developed countries.

In the third part of the dissertation, I will study how and to what extent unregulated issues can best be handled within an international legal framework. It is possible that new problems will arise before the old problems are solved. GATT will have to be constantly improved.

The fourth part of the dissertation will make recommendations in the light of my research and findings.

This is only a rough plan of my work. I expect to improve as I proceed.

Yours truly,

Ying-han Shi



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

October 2, 1985

Mr. Ying-han Shi
Graduate Student
Faculty of Law
Dalhousie University
Halifax, Nova Scotia
B3H 4H9

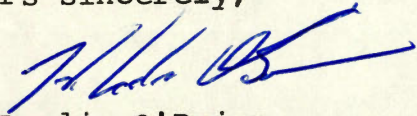
Dear Shi:

The Graduate Studies Committee of the Faculty of Law has decided you should be registered as a continuing student in the LL.M. programme for the 1985-86 academic year.

The members of the Committee want to encourage you to take your time and do a thorough job on the LL.M. thesis. When your thesis is completed the Committee will consider your file again for possible admission to the J.S.D. programme in 1986-87. If accepted into the J.S.D. programme for 1986-87, you could be admitted as early as May, 1986.

If you have any questions on this please contact me. Please attend at Ms. Nan Thomson's office, Faculty of Graduate Studies, as soon as possible to complete registration.

Yours sincerely,


H. Leslie O'Brien
Professor of Law, and
Chair, Graduate Studies
Committee.

/mgw

c.c.: Ms. Nan Thomson
Graduate Studies
✓ Prof. R. St. J. Macdonald

March 12, 1986.

Professor H.L. O'Brien
Chair - Graduate Studies
Dalhousie Law School

Dear Professor O'Brien:

On September 17, 1985, I submitted my application for entry into the doctoral programme as of September 1986. You informed me that, in view of the problems created by the fire in the Law Library and the time that I had devoted to the care of Meng during his illness, you preferred me to take more time over the thesis, in order to do a really good job, and apply at a later stage.

I have been working very hard during the last five months and I believe that my LL.M. thesis is in good shape. I feel that I am now ready to proceed to the doctoral programme.

Since I will be assigned to teaching and research duties in Peking University on the completion of my studies in Canada, it is very important for my future career that I am successful in being admitted to the J.S.D. programme. The leaders of Peking University expect me to gain higher qualifications before returning to the teaching staff, and I will also be in competition with classmates who have doctoral degrees from other universities.

I am having a positive experience at Dalhousie Law School and wish to continue here for more advanced work. I hope that the Committee will accept my application as soon as possible, so that I can finalize my plans for the next academic year.

In my letter of September 17, 1985, I outlined my academic and personal background and I also indicated the main topics that would be covered in my doctor's thesis. I will expand this outline for your consideration. In the meantime, I enclose a copy of the Table of Contents of my LL.M. thesis.

With my best regards, I remain,

Yours truly,

Yingham Shi

/jmw

March 13
1986

GATT IN A CHANGING WORLD:

ITS PROCEDURES OF DISPUTE SETTLEMENT

Chapter One: International Cooperation in Trade during
the Inter-war Years

I International Cooperations in the 1920s

1. International Economic Conferences in the 20s

a. The Brussels Financial Conference, 1920

b. The Genoa Conference, 1922

c. The World Economic Conference, 1927

2. The Reasons for Success and Failure
of International Trade Cooperation

II Collective Actions in International
Trade in the 1930s

1. Multilateral Attempts at Removal of
Trade Barriers

2. Bilateral and Regional Arrangements on Trade

Conclusion

Chapter Two: Design and Establishment of International
Trade System for the Post-war World

I The Initiatives for a Multilateral Approach

1. American Trade Policy in the Inter-war Years

2. Attempts at Reconstruction of
Multilateral Trade during the War

3. Bretton Woods System and Its Relation to
Commercial Policy

- II Drafting of GATT and the I.T.O.
- 1. Anglo-American Joint Statement on World Trade and Employment
- 2. Sponsorship of Preparatory Committee by the Economic and Social Council
- 3. Work of the Preparatory Committee and Failure of the I.T.O.

Conclusio

Chapter Three: Emergence of Dispute Settlement Procedures

- I GATT Clauses concerning Dispute Settlement Procedures
- II Dispute Settlement Procedure under Articles XXII and XXIII

Conclusion

Chapter Four: Experience of the Dispute Settlement Procedure under Articles XXII and XXIII before the Tokyo Round

- I Evolution of the Dispute Settlement Procedure
- 1. Appearance of the Chairman's Ruling
- 2. Establishment of the Working Party Adjudication
- 3. Emergence of the Panel Procedure
- 4. Distinction between the Working Party and the Panel

II Operation of the Dispute Settlement

Procedure in the Period to 1958

1. Cuban Consular Taxes
2. Australian Subsidy for Ammonium Sulfate
3. Brazilian Internal Taxes
4. Western German Duties on Norwegian Sardines
5. The United States Dairy Quotas

III Operation of the Dispute Settlement

Procedure after 1958

1. Breakdown of GATT Legal System and the Reasons
 - 1.1 Formation of the EEC
 - 1.2 Emergence of the Developing Country Bloc
 - 1.3 Trade Competition from Non-western World
 - 1.4 Use of Non-tariff Barriers
 - a. Subsidies and Countervailing Duties
 - b. Dumping and Anti-dumping Duties
 - c. Government Procurement
 - d. Standards
 - 1.5 Weakness of the Dispute Settlement Procedures
2. Operation of the Dispute Settlement
 - Procedures: 1959-1973
 - 2.1 The United States Complaints against Italy, France and Canada
 - 2.2 The Poultry War
 - 2.3 Uruguayan Invocation of Article XXIII

- 2.4 Complaints in the early 1970s
- 2.5 The United States Complaints in 1972
- 2.6 Israel Complaint against the United Kingdom
- 2.7 The United States DISC Case

Conclusion

Chapter Five: The Tokyo Round of Multilateral Trade
Negotiations and Its Results

- I Accomplishment of the Tokyo Round
 - 1. Tariffs
 - 2.1 Technical Barriers to Trade
 - 2.2 Government Procurement
 - 2.3 Subsidies and Countervailing Duties
 - 2.4 International Anti-dumping Duties
 - 2.5 Customs Valuations
 - 2.6 Import Licensing
 - 3. Special Agreement
 - 3.1 Meat
 - 3.2 Dairy Products
 - 3.3 Civil Aircrafts
 - 4. Arrangements for Reform of GATT Framework
 - 4.1 Developing Countries
 - 4.2 Trade Restrictions for Balance of Payment and Safeguard Actions
- II Reform of the Dispute Settlement Procedures
 - 1. Diversification
 - 1.1 Specific Procedures of Consultation

- 1.2 Specific Procedures of Conciliation
2. Codification
- 2.1 Functioning of the Conciliation Procedure
 - a. Prerequisite Condition
 - b. Establishment of the Panel
 - c. Composition of the Panel
 - d. Status of the Panel Members
 - e. Function of the Panel
 - f. Follow-up of the Panel Report
- 2.2 Special Treatment for Developing Countries
3. Improvement of the Panel Procedure
- III GATT Ministerial Meeting in 1982
 1. Trade in Agriculture
 2. Safeguard Measures
 3. Trade in Textile and Clothing
 4. Trade in Services
 5. Dispute Settlement Procedure
 6. Other Subjects

Conclusion

Chapter Six: Conclusion

NB

U.S. conference may lead to world financial reform

Reuter

WASHINGTON

Leading Western finance officials and politicians will gather in Washington next week for talks that many hope will stir up debate on reforming the global financial system.

The two-day conference, starting on Nov. 12, is sponsored by two U.S. politicians who are widely regarded as potential presidential candidates.

The conference is expected to focus on ways to quell turbulent currency movements, which many blame for slowing world economic growth.

The U.S. Treasury, which recently spearheaded new international initiatives to curb the strength of the U.S. dollar and ease the world debt crisis, is reluctant to give its official blessing to the meeting or the view that it may be a sounding board for new reforms.

"There may be some people in

the Administration who look at it as a sounding board, but (Treasury Secretary James) Baker said he thinks it's a little premature," a Treasury official said. But he acknowledged that Mr. Baker was not ruling out future reforms to the floating exchange rate system.

"The issue is not whether, but how and when," said Fred Bergsten, director of the Institute for International Economics and a former Treasury official. Deputy Treasury secretary Richard Darman will speak at the conference, which is sponsored by Representative Jack Kemp (R, N.Y.) and Senator Bill Bradley (D, N.J.).

But Mr. Baker is confining himself to a reception next Monday, the eve of the conference, at the Federal Reserve Board. The board has taken pains to point out that it is not

sponsoring the reception. The central bank is merely renting its building at the usual price, a spokesman said.

The board is being equally cautious about the meeting. Chairman Paul Volcker turned down an invitation to speak, although the vice-chairman, Preston Martin, who has clashed publicly with Mr. Volcker on international issues, will attend.

Mr. Volcker will be attending a private academic discussion on monetary issues in Switzerland, following a regular monthly meeting of Western central bankers there next week, monetary sources said.

Mr. Bergsten said the Treasury is approaching the conference cautiously, in part because it does not want to undermine the September agreement to curb the dollar between the United States, Japan, West Germa-

ny, Britain and France.

Mr. Bergsten expects that the discussions will help make exchange rate reform a political issue and to range from calls for a new gold standard to defence of the present system.

Robert Hormats, a vice-president of the Wall Street firm of Goldman Sachs & Co. and a former economic official at both the State and Treasury departments, believes the meeting will focus attention on the need for better exchange rate management.

The meeting is also bound to include demands for a new Bretton Woods conference, like the one that established the fixed exchange rate regime, which dominated the post-war financial world until 1971, participants said.

Among leading officials attending is Jacques Attali, principal adviser to French President Francois Mitterrand and one of the architects of the French strategy to win interna-

tional agreement for a new Bretton Woods.

Until Mr. Baker replaced Donald Regan, now White House Chief of Staff, the Treasury was adamantly opposed to any kind of monetary reform. But the Treasury's abrupt change of strategy this fall, breaking the link with a free-market, hands-off ideology, has led many monetary officials and bankers to believe the department may build on these reforms in the future.

The wide range of speakers has meant that the Administration could not ignore the meeting. Other attending politicians include Democratic Senators Edward Kennedy and Gary Hart, Valery Giscard D'Estaing of France and possibly Neil Kinnock, leader of the British Labor Party.

In addition, officials from other Western nations, the International Monetary Fund, the World Bank and leading economists are expected to attend.

GATT report decries rise in protectionism

Reuter
GENEVA

A special report by the 90-nation world trade body of the General Agreement on Tariffs and Trade says protectionist pressures have increased in recent months from already high levels, particularly in the area of government-subsidized credits to help exports.

The report says a number of new trade disputes developed and there are no signs of any easing in problems affecting the troubled sectors of agriculture, steel, textiles, clothing, footwear, automobiles or electronics.

The report was prepared by the secretariat of the GATT for a routine council meeting, which opened yesterday. Covering the six-month period from April 1 to Sept. 30, it cites among major developments the "multiple and continuing pressures in the U.S. Congress for trade restrictions."

It says the total volume of world trade in 1985 is likely to be less than 4 per cent higher than last year.

The decision by the Reagan Administration to join efforts to drive down the U.S. dollar, which fell 14 per cent in value between February and August, will have little effect in the near future on the huge deficit that the United States

has incurred in trading with foreign countries, it says.

The report expresses deep concern over the strong pressure in Congress for measures to protect U.S. products and praises President Ronald Reagan's hard anti-protectionist stand.

It calls his rejection of intense pressure to adopt protectionist measures to help the U.S. footwear industry "among the most striking trade policy actions of the past six months."

The principal positive observation in the report is the decision by the GATT members last month to start a preparatory process toward a new world trade negotiation — or round — to fight protectionism.

NOV. 7 1985.

U.S. Senator Seeks Annual Debt Summit

By Carl Gewirtz

International Herald Tribune

ZURICH — President Ronald Reagan was urged on Sunday by a U.S. senator, Bill Bradley, to convene an annual summit meeting on trade and debt relief that would be led by the president of the World Bank.

Speaking at an economic seminar, Mr. Bradley, Democrat of New Jersey, said the aim was to link trade liberalization with debt relief in an effort to revive growth prospects in the debtor countries as well as in the creditor nations, whose export industries have suffered from the loss of foreign markets.

His suggested goal is to offer debtor countries annually over three years:

- Three percentage points of interest-rate relief on all outstanding debt owed to banks and governments.
- Three-percent writedown, or forgiveness of principal, to eligible countries on all outstanding loans.
- \$3 billion of project and structural adjustment loans from the multilateral lending institutions such as the World Bank and regional development banks.

In return, Mr. Bradley said, the debtor countries should liberalize trade, reverse the flight of domestic capital, encourage internal investment, pursue domestic policies that promote growth and have broad internal political support, and keep debt management free from scandal.

"The value of each yearly trade-relief package should depend on the uses that each debtor has made of a previous year's package," Mr. Bradley said.

Such a program, he said, "could relieve up to two-thirds of the yearly debt burden on participating Third World countries."

Mr. Bradley said that if all the Latin American countries included in the 15-nation debt plan put forward last year by the U.S. Treasury secretary, James A. Baker 3d, participated fully in his three-year program, "banks would contribute \$42 billion of debt relief, compared with \$20 billion of new loans proposed under the Baker plan."

Mr. Bradley said that even the largest of the American banks, which are the biggest holders of Third World debt, "would lose no more capital over a three-year period."

See BRADLEY, Page 2

BRADLEY: Debt Summit

(Continued from Page 1)

od than they have made, on average, in any one of the last three years. Most U.S. banks would lose no more than 3 percent of capital."

In addition, he called for a regulatory review of bank regulations and interpretations of accounting rules to ease the burden on the banks.

The \$3 billion yearly to come from the multilateral institutions is equal to what Mr. Baker proposed.

The key difference between the two plans, Mr. Bradley said, is that by increasing bank loans under the Baker plan, the overall debt load of Third World countries increases simply to finance the debt service payments to banks, while under the Bradley approach the debt burden is eased, liberating resources to finance growth.

Anticipating commercial bankers' concerns that debt relief could weaken the creditworthiness of the debtor countries, Mr. Bradley said that the encouragement to reform domestic policies might improve their credit standing.

"Debt relief must be about something more than numbers and protecting the fragile financial systems, although those are critical concerns," he said.

"And it must be about more than achieving political stability in volatile parts of our increasingly interdependent world, although stability is crucial," he continued, "It must be about what we owe one another as human beings and, in this case, what we owe one another as neighbors."

Lord Lever, a former British cabinet minister and a prominent proponent of doing more to help the Third World, said, "I go along completely with the proposal."

He called the Baker proposal "an immoral process for the transfer of resources from the poorest to the richest to the detriment of both."

Rainier Gut, chairman of Crédit Suisse, said he "welcomes any political initiative," particularly since "the Baker plan never got off the ground."

"Something has got to happen," he said, adding that the Bradley proposal needs to be taken seriously.

Mr. Bradley said that the debt relief conference would run concurrently with the scheduled coming round of multilateral trade talks and "would encourage Third World countries to participate in the trade talks since any concession they made in those negotiations would simultaneously increase their prospects for receiving debt relief."

He proposed that the debt summit meeting include representatives of all the major creditor governments and representatives from U.S., Canadian, European and Japanese banks. Banks and governments would have equal representation.

June 30
1986

Chapter 1 : 2½ hrs

June 10, 1986

1. the pagination.
2. all the pages in the first end of the end.
3. identify the main books and include
the linkage. (For me) : the bridging ~~text~~
pages
4. RT
1; 2; 3; 5; 7, 8, 9; 10; 11.
15; 17; 18;
20 - 31 volumes
5. See Gil Weber + Bob Cousins: they must
see it.
6. Put in a second binder: split it up.

⑦ See up. details in Bert's article :
1984 Y.B.W.A 199 : at home. Bob Bert's box

2 I have loaned him A Short History.
get it back; v. good

Chapter 2 : pretty good

But where is
(the rest of it ??)

Main story.

penicillin

1. Page 4: not clear !! Does not read well.

2 Page 13:

3 All lectures: a Big Job

4. Where is page 17? Page 32??

5 Page 19: copying.

6 Page 12.

7. All for

8. Major solution: the introductory para and the links:
where are we going in this chapter?

<u>Murder</u>
1 - 11;
21 - 31 various

Buy Thursday 17

RT.

~~1; 2.~~
~~single 5 + 6.~~

8; 8a;

20; 21;

22; 23; 28;

30; 31.

24, 25, 26, 27, 27A,

Jane

Chapter 3

a strong chapter

1. I must check w the spirit of the body. Do it!

2 All pts: double space them.

3 The ~~workage~~ ^{workage} ~~bet. the~~ main paras (ie, ideas) should be looked at again.

4. There are no sub-headings here

(Key)

5. He touches on the major points here: page 16 + 17.
This is the part to be emphasized: Conclusion + 18
to be included.

These last pages should be rechecked - but, just a bit.

RT:

1;

17

not too much to RT here at the moment



Get the cell book

Make a new sheet of summary.

Chapter 4:

Identify the main points & to get the key ideas.

3 1/2 hrs

1. Page 2: He left car, he saw or he main one? why?

2. Fix up paper 1 and 2; p. 49

3. You must read all the best of Gail & check it vs. the MS

4. Major point: p. 50

VIP

6
7, 8
25.

26. - the car

VIP

49

key

50

You need more than that. Two things why we are doing with 500, etc

5. How you critical Police? AI

6. ~~the~~ ~~same~~ same acquisition or needed = He just 12 paper

50 is major

- it wanders!

7. Do we go from p 42 to p 49? Is this caused? See the chapters

When do you go to Police? page 27? No. why not??

There is something wrong with the figures: 46 to 50?

NS & Canada: calculation: p 35

We have the thread - but



Gil Weber

Go over to p 50 the NB

There's a big argument with p. 35 & chapter 3.

El gets long we have the thread by page 37. It comes back again at p 41

June 19, 1986.

Mr. Ying-han Shi

Professor R. St. J. Macdonald

Thesis

Dear Ying-han:

As there is only about one month available before you are obliged to present me with a complete first draft of your entire thesis, I wish to draw your attention to one or two important matters that you should begin to attend to during my absence.

1. The footnotes are in very poor shape indeed. You will notice that in many cases the numbering of the text does not even correspond to the entries at the end of each chapter. You must put these in order within the next few days. Also, as we discussed, there are many important items that you have not cited, for example, why do you not cite the American Journal article on the Chicken War and why are there no reference to Petersmann?
2. The pagination is also in a mess, especially Chapter 4, which I am having great difficulty following. Please get this cleared up as quickly as possible.
3. There also seem to be pages missing along the way; for example, where are pages 17 and 32 in Chapter 2?
4. As the manuscript is now too large to fit comfortably into one loose-leaf binder, I suggest that you put it in two binders as we had it several months ago.
5. The introduction and conclusion will have to be re-written on my return.
6. Please check with Linda in the Library in order to determine when we can expect to receive the books that she ordered on inter-library loan. You will need these for Chapter 1, with which I am still somewhat dissatisfied: you must link the procedures set forth in the U.S. treaties to which you refer more specifically with the final proposals at Havana.
7. Chapters 2 and 3 are fairly strong chapters and Chapter 4 will become a very important chapter once it is reorganized. I will check Chapter 5 on my return, but, in the meantime, you should make your final revisions on Chapters 1 - 4 inclusive.

8. The most important substantive matter for us to discuss is how best to bring the present position to the forefront of your work, emphasizing its strengths and weaknesses and making suggestions for the future. These are the questions that you should deal with straight away in the introduction, using perhaps some of the material from the U.S. State Department.
9. Do not forget that mine is now the master copy from which you should be working, and that you can pick it up from Mairi at my house on the weekend.

All the best,

Yours sincerely,

RSJM/jmw

10. Check all my red marks

11. Pay Mairi.

Work Programme for Mr. Shi during the
period June 9 - August 30, 1986

1. Monday, June 9 to Wednesday, July 23

6½ weeks.

Continue your research; make substantive improvements and additions; re-organize the materials so as to bring the Dispute Settlement aspect into prominence; concentrate on improving the introduction and the conclusion.

2. Wednesday, July 23

Turn in a complete draft, including footnotes, properly typed and with pagination.

[1 week]

3. Wednesday, July 30

Meet with Professor Macdonald in order to review the first draft.

4. Thursday, July 31 to Saturday, August 9

Make revisions.

For revisions
9 days

5. Monday, August 11

Start your final typing.

3 weeks: ample time !!
[also for copying]

6. Tuesday, September 2

Submit to School of Graduate Studies and to Law School.

Monday June 9, 1986

1. I have everything except the footnotes.
- ✓ 2. ^{Save} Footnotes to come this week, i.e. by June 12th.
3. Bibliography: - to be built up
- check card index.
- check periodicals.
4. Prof. Wickham: to check & find draft.
- ⑤ 5. Prof. Wang.
6. Pages missing from chapters 1, 3 & 4 ~~but the June 1986~~
~~edition of the book~~
6. Footnotes in chapters 1, 3 & 4 are here, now.

June 6, 1986

1. Give him the vs letter from vs + the Pub. note.

2. B-copy: first draft: ready

3. Introduction: working on it. Ready June 9

4. Conclusion: will be ~~the~~ redrafted up to the end, but a rough draft is now available. Must copy

≡
≡
≡

I need:

A complete working copy, which
① Table of Contents, ② Intro. + draft
③ Conclusion; i.e. a B-copy.
By Monday June 9. ④ Five chapters

≡
≡
≡

6. Crisis: no footnotes for chapter 5, i.e. old chapter 4.

≡
≡
≡

7. We must review all footnotes to all chapters.

≡
≡
≡

8. I have not yet seen chapter 5.

May 13, 1986

✓ 1. chapters 1 and 3: (used =

2 - chapter 5 (WJ)
(is it old chapter 4 !!)

- footnotes of old chapter 4?

✓ (3) Needed: 2 good chapters

maybe 3 & 4

May 22 / 86

1. B. U. apply: require this alphabetically by author.
2. Conclusion chapter 5: the first draft is ready now → a Tokyo Round
3. Introduction of Conclusion

May 11, 1986

Chapter 2

(A)

[1; 2; 5; 6; 7; 8] [6 pages long]

[16; 17; 18; 19; 20; 21; 22] [7 pages long]

[24; 25; 26; 27] [4 pages long]

(B)

where are the footnotes to chapter 2?

(C)

I must check the conclusions + last 3 pages.
pp 31-33

(D)

The entire chapter must be re-typed clearly
and neatly; so that we can work with it.
when can this be done?? with paper margins.

(E)

It is shaping up very nicely indeed!!

Chapter 4:

- ✓ 1. I must first check pgs 34-70. When??
- ✓ 2. The entire chapter must be re-lyined. And then she must check it being.
When can this be done??
- ✓ 3.

5a; 6; 7; 8; 9;

 [5 pages here]

11; 12; 13;

20; 23; 24;

27; 28; 29; 30; 31

34;
4. I must check the footnotes to chapter 4.
They are here but I have not checked them.

May 12 1986

1. When can I finish chapter 4?
By May 16.

2. Return to me chapters 2 and 4 WRT
by May 17th. Make sure you check them.

✓ 3. Get Jane at the gate, giving this week
an odd paper.

4. When will we have a complete first draft
on the book?? Tuesday June 3, 1986
Including Introduction + Conclusion.

5. What is your due date now?

This week?
Working on
first draft of
Introduction

✓ 6. Make sure you have a complete
second copy — as insurance.

7. When will I see chapter 5?

chapters 1, 3 and 5

By Wed May 14th



March 10, 1986

March 11, 1986

March 27, 1986

March 31, 1986

1. He has given the Grad. Comm. here the old chapter 3.
✓ But has he given the Comm. the JSD outline?? (yes) ✓

2. Should Prof. Wang take account of book?? He has written

3. Attendance: Hinder is Munsato.

4. See Gil Weber.

5. We are awaiting a reply to Shir's letter of March 12
to Prof. O'Brien.

6. Working to hear from Gavron: March 12

7. Busy trying to get up to date on what is happening.

Work Programme for Mr. Shi during the
period April 7th and May 5th

A. Chapter 1:

1. Re-type the following pages
1; 3; 18; 19; 20; 30; 31; 32.
2. Check all of Chapter 1 yourself.
3. Where are the footnotes for Chapter 1?
4. Where is the reference to Keynes???

✓ B. Chapter 111:

1. Correct the parts I have marked.
2. Re-type all of it.

✓ C. Chapter 1V

Re-type the following pages

21; 25; 28; 29; 32; 39; 43; 47; 48; 69.

- D. Write the Introduction, Chapter ²~~11~~, and the Conclusion while I am away, and get them typed up.

May 6

- ✓ 1. ch. 1: ready & here it
2. ch 2: ready & here it.
Chapter 3: _____ By May 14
3. ch 1: _____
3A. chapter 1 _____
4. See Gil Weber.

By May 14

May ~~April~~ 8, 1986

March 31, 1986

✓ 1. Chapter 1 re-typed given to me today
✓ can to check it now

2. Chapter 2: being worked on.
Material needed: got it for
l.h. h.

3. Left to complete: 1. Chapter 2
2. Introduction.
3. Conclusion.

(W) 4. On Canada, US, UK positions: Basic search.

5. RT add pages l on to do this

6. A complete first draft: By May 4th

1. Chapter 2 2. Intro 3. Conclusion.
--

FEB 12, 1986

1. Chapter 1 (now revised):

I am to read it at once

I read it on March 10
It need be RTed
then made to "flow"
better.

2. Chapter 4: (old chapter 4): has been revised.

I am now to check it at once

Footnotes to new ch. 5 (originally ch. 4)
are in my possession !!! Find them !!!

3. Chapter 2: working on this now.
This is the only chapter left to do!
①
The Conclusion.

4. Strategies:

1. revision proposal for Good, Colter + my letter.
send this to Colter. send Feb. 26/86.
Discuss these before report with Glyn.

2. Go to Geneva by end of March

5. To see Prof. Winkler

→ ⑥. Letters to Ut + Funes + Winkler. do them!!

JAN. 29, 1986

(A)

1. Chapter 1: being R.T. By Feb. 4th

2. Chapter 2: 1. this will be a new chapter dealing with ITO & GATT
2. material needed; literature lists to cover

3. Chapter 3: 1. is old chapter 2
2. I should look at again.
3. pre-are here

4. Chapter 4: is old chapter 3
1. this is the first draft.
2. ~~the~~ I should check again
3. pre-are here

5. Chapter 5: old chapter 4
1. there is a revised part here
I am to revise the ~~first~~ part revised version
By FEB. 4.

6. hrs. of old chapter 4: - ~~to cover~~
- have them - somewhere - ~~hang?~~

7. Conclusions: T.B.R completely,

8. Bibliography: can wait,

9. Table of Contents: TBR

③ Strategies

We will have a good first draft
by end of February.

④ Graduate Committee

- to write ??
- more material ??

July 16, 1985

1. chapter 4 completed but not typed.
2. chapters 1 & 2: are being revised. Revisions will be completed by July 31.
3. chapter 3: I have an abstract.
4. Conclusions: T.B.D. Start August 2, 1985.
Complete August 9, 1985.

5. Start Final Typing on Monday August 19, 1985.
Complete " " by Tuesday September 3, 1985.

6. Re-reading and checking: during week of Sept. 9.

7. Submit to SGS on Monday September 16, 1985.

1. Table of Contents:

5 Meet with Gil Wehler: [N.B].

2. Footnote:

3. R.T.B. info

4. A.C.V.

M Shi

June 20, 1985

✓ 1. Chapter 3 is finished.

2. Now working on chapter 4:
It may be finished by July 15

June 21 1985

we ~~checked~~ checked ch 2,

July 16, 1985

June 20, 1985

SK

1. Review it o.s.p!! Get another draft - fast!! No time to look.
1. Merge an app. with Gal Wicks
2. The table of contents: write it out - now!
3. the writing style → peer: get somebody to help you here
4. grammar mistakes? The bibliography.
5. We must rush. revise the schedule!!
6. when to begin? There is no abstract as yet here;
It is all v. descriptive, v. basic
when are the notes: no drama!
what was the philosophy?
7. Review the time-table - v.v. carefully. Put on a drive.
= We only have 2 months: July + August: as we need it.
I must see now drafts.
8. The footnote are in bad shape
9. Chapter 1 just does not flow nicely: is too sophisticated!
interrupts the author.

Mr. Shi

June 5, 1985

1. I have chapters 1 and 2
2. He is working on Chapter 3:
✓ chapter 3 to be completed by June 14.
3. ✓ Chapter 4 (Tokyo Round):
Start on June 17 - finish July 15 (1 month)
4. Conclusions: Start July 15 - finish August 1st.
5. Revisions: August 1- 12th
6. Start final typing: August 14
7. Bibliography: to be done
8. Final submission date to Committee Graduate
Studies: September 19th. *But we will aim for Monday
September 16, 1985*

Time-table

Chapter II: Complete the first draft by March 2

Chapter III: March 25-April 8 (2 weeks)

Chapter IV: April 8-May 3 (4 weeks)

Chapter V: May 6 - May 27 (3 weeks)

Chapters VI and VII: June 3- June 24 (3 weeks)

Completion of typing of the first draft of the
entire thesis and revision: July 1- August 1 (1 month)

Final typing: August 5- August 20 (2 1/2 weeks)

Thesis submitted to Dept.:

September 13 (the last day)

Thesis submitted by Dept. of Graduate Studies:

September 20.

McMASTER MEIGHEN

BARRISTERS & SOLICITORS

TORONTO

P O BOX 191, 52nd FLOOR
1 FIRST CANADIAN PLACE
TORONTO CANADA M5X 1A6
TELEPHONE (416) 364-1911
TELECOPIER (416) 367-3465
TELEX 06-22218 "STIRLAW TOR"

630 DORCHESTER BLVD. WEST
MONTREAL, CANADA
H3B 4H7

TELEPHONE: (514) 879-1212 TELECOPIER: (514) 878-0605
TELEX: 05-268637 "CAMMERALL MTL"

EUROPEAN OFFICE

1 AND 3 REGENT STREET
LONDON, ENGLAND
SW1Y 4NZ
TELEPHONE 01 441 930-0230
TELEX 51 26-5871 "MONREF G"
(QUOTE 84 DAR001)

OTTAWA

30 METCALFE STREET
OTTAWA, CANADA K1P 5L4
TELEPHONE (613) 233-8004
TELEX 053-4375 "MACORTAN OTT"

May 30, 1986

Canadian Maritime Law Association
Suite 300
363 St. François Xavier
Montreal, Quebec
H2Y 3P9

ATTENTION: Bart Malott, Esq.

RE: ARBITRATION SUB-COMMITTEE
ANNUAL REPORT

Dear Sirs:

Our Committee was struck in 1983 to inquire as to the present state of marine arbitration in Canada and, if appropriate, to suggest improvements.

We conducted an informal survey, analyzed the arbitration statutes of the various provinces, and formed the opinion that marine arbitration would not flourish in Canada unless and until a Federal arbitration act was enacted. Most marine commerce is interprovincial and international and yet while there was a Federal Court whose Writ ran nationwide, there was no corresponding machinery in place to encourage arbitration and to enforce awards.

We noted that there might possibly be constitutional roadblocks to the passage of a Federal Arbitration Act as the Administration of Justice is a matter of Provincial competence but took the position that since navigation and shipping is a Federal legislative subject, and since Parliament had established Federal Courts for the administration of Federal law, Parliament could deal with arbitration on a national basis, as long as the subject matter related to navigation and shipping, interprovincial trade and commerce and other federal matters.

Arbitration was one of the subjects discussed by the CMLA with the Minister of Justice in 1983, and our Committee reports have been circulated within the Department of Justice.

We have continued to lobby for the passage of a Federal Arbitration Act and for the adoption of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958). Canada's failure to accede to that conven-

Page 2

Canadian Maritime Law Association

tion has been disastrous. For instance, we were told during a conference on International Trade Law sponsored by the Federal Department of Justice in 1984 that the International Chamber of Commerce would not select Canada as an arbitration forum because the convention was not in force here.

We are pleased to report that Parliament has just passed a Commercial Arbitration Act, and an act acceding to the New York Convention, both expected to come into force August 10th, 1986. The New York Convention has met the approval of all provinces who are expected to pass enabling legislation to make sure the Convention has the full force of law with respect matters of provincial jurisdiction.

Bill C-107 (United Nations Foreign Arbitral Awards Convention Act) applies only to commercial disputes. No doubt the precise meaning of some of the convention clauses will be litigated, as has proved to be the case in other jurisdictions (van den Berg, "The New York Arbitration Convention of 1958", 1981).

British Columbia, Nova Scotia, Ontario and Saskatchewan have enacted provincial versions of Bill C-107. Quebec is expected to introduce similar legislation next week and it is hoped that the other provinces will follow suit soon.

Bill C-108 (Commercial Arbitration Act), based on the model law adopted by Uncitral in June 1985, will only apply to matters in which at least one of the parties to the arbitration is a Crown department or corporation or in relation to maritime and admiralty matters. The Federal Court and the Provincial Superior, County and District Courts have concurrent jurisdiction to enforce the act.

Now that arbitration machinery is almost in place, we in the CMLA should proclaim the good news, study the implications of the legislation, encourage the formation of arbitration panels and draft arbitration rules. The parties are free to agree their own rules of procedure, and so there is no reason for not having rules familiar to those engaged in international maritime arbitration. For instance, the Society of Maritime Arbitrators, Inc. of New York has published rules covering arbitrations subject to the United States Arbitration Act.

Amongst the provinces, British Columbia and Quebec have been particularly supportive of arbitration recently. A centre for international arbitration is to be established at the World Trade Centre in Vancouver, and Quebec has stated it would adopt legislation similar to the Uncitral model law. The Quebec situation was recently analyzed by Marc Lalonde, John N. Buchanan and James Cantillon Ross in "Domestic and International Commercial Arbitration in Quebec: Current Status and Prospects for the Future" (1985) *Revue de Barreau*, 705.

Here are a few highlights of the Commercial Arbitration Act.

The Act comprises eleven articles, to which the Uncitral model (Commercial Arbitration Code) is annexed.

Section 5 of the Act provides that the Code applies to arbitral awards and arbitration proceedings whether made before or after the coming into force of the Act, but only in relation to matters where at least one of the parties is a Crown corporation or department or "in relation to maritime or admiralty matters." Let us hope that such matters are at least as wide as those covered by the definition of Canadian Maritime Law in the Federal Court Act.

Article 8 of the Code severely restricts the discretion of a Court to hear a case on the merits notwithstanding an arbitration clause. In future, a Court action must be stayed unless the arbitration agreement is null and void, inoperative or incapable of being performed.

Article 9 permits parties to an arbitration agreement to nevertheless take Court action in order to obtain interim security. As maritime property can sometimes prove elusive, the right of prejudgment arrest is of seminal importance. Heretofore, this has been a major problem in Quebec where an arbitration agreement so completely ousts the jurisdiction of the Court that seizures before judgment are not permitted.

The parties are free to determine the number of arbitrators, who may be of any nationality, to establish their rules of procedure and even to determine the language or languages to be used.

Page 4

Canadian Maritime Law Association

Article 16 provides that the arbitration tribunal has jurisdiction to determine its own jurisdiction and for that purpose an arbitration clause shall be treated as an agreement independent of the other terms of the contract. Consequently, any determination that the contract was null and void ab initio shall not render the arbitration invalid. The Code thus restricts the traditional superintending power of Common Law Courts.

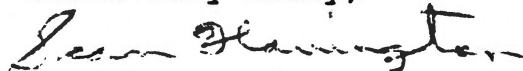
Obviously, the Code provides that the fundamental rules of natural justice are to be respected, such as the right to a full, fair and impartial hearing.

Arbitration awards are final with no right of appeal. An award may only be set aside on restricted grounds, such as one of the parties having been under an incapacity, the agreement to arbitrate not being valid under its proper law, lack of proper notice, or the determination of matters beyond the scope of the submission, provided that such extraneous matters are to be separated from those within the scope of the dispute (Article 34).

In accordance with the usual CMLA practice, in order to facilitate meetings, most of our Committee Members are in one city, in this case Montreal, with two exceptions, William Sharpe of Toronto who has specialized in constitutional matters, and Jon Jessiman of Vancouver. The Montreal members are the Honourable K. C. Mackay, Maneck Kothawala, Gerald Barry, Nancy Cleman, Peter Rozum, Victor DeMarco and Marc DeMan. Considering the developments in British Columbia, a parallel committee should be established in Vancouver.

Although litigation to fix the precise meaning of the Code will be inevitable, the climate for arbitration in Canada has never been better. To paraphrase Lord Denning, "the right to come here is not confined to Canadians. It extends to any friendly foreigner. He can seek the aid of our arbitrators if he desires to do so. You may call this 'forum shopping' if you please, but if the forum in Canada, it is a good place to shop in, both for the quality of the goods and the speed of service." (Atlantic Star (1972) 3 All E.R. 705 at p. 709).

Yours very truly,


Sean J. Harrington,
Chairman

March 27/86

My letters to Conner

THE SOUTH INSTITUTE

1986

TELEPOST

TND337 MAR 26 1220 EST

CNCPMS HHE

HE267 45 CFN TDMX HALIFAX NS 26 1117

LAW DEPT DALHOUSIE UNIVERSITY

HALIFAX NS

B3H 4H9

CONFIRMATION

PROF DOUGLAS M JOHNSTON

RIVER MANSION

23 PHRA/ARTHIT/RD

BANGKOK THAILAND 10200

1) NO THESIS SENT TO YOU BY COURIER MARCH 26

2) VERY IMPORTANT THAT YOU SEND TELEX TO GENEVA ON BEHALF OF SHI.
THEY ARE WAITING.

3) PERSONAL GOOD WISHES

R.ST.J. MACDONALD LAW DALHOUSIE UNIVERSITY

NNNN

CNCP

Canada Post
Corporation



PI

January 30, 1986.

Professor Lucius Caflisch
Institut universitaire de hautes etudes internationales
67, rue Liotard
1203 Geneve
Switzerland

Dear Lucius:

I understand from Professor Wang that you are able to arrange a transfer for Mr. Shi, our Peking student who is working on the Dispute Settlement Procedures of GATT, and this is very good news indeed. Shi is an outstanding student, a joy and delight to work with and fluent in french as well as english. His LL.M. thesis will be completed in draft form within the next eight weeks and I will, if you wish, rush you an advance copy for your consideration. We expect him to complete his degree here by May, which means that he could be available for you by early summer.

Do you need letters of recommendation or other documents from Dalhousie? I have not abandoned hope to see you personally for a good long chat within the next few months. We have lots to talk about. Meanwhile, I hope that you are, as usual, well and thriving and that you are having a good winter in Geneva.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

February 17, 1986.

Professor Lucius Caflisch
Institut universitaire de hautes etudes internationales
67, rue Liotard
1203 Geneve
Switzerland

Dear Lucius:

Just a line from Strasbourg, from where I hope to be talking to you on the telephone, to say that I can send you some samples of Mr. Shi's work, if you say so, within the next four weeks. I believe that you will find him to be an excellent student to supervise and work with.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

March 14, 1986.

Professor Lucius Caflisch
Director
The Graduate Institute of International Studies
132 Rue de Lausanne
Case Postale 36
CH 1211 Geneve 21
Switzerland

Dear Lucius:

I am attaching Shi's application form, together with his letter of application to you and my own preliminary letter of recommendation. I will send you a more complete letter on my return home next week. What you will want to know at the moment is that I am very positive about Shi and feel that you will not be disappointed with him.

Professor Douglas M. Johnston is on sabbatical leave in Thailand, but we have asked him to cable you his recommendation at the earliest possible date. His comments will also be positive.

I understand that you have already heard from Professor Wang in Peking.

If I am correct, Shi's application will be complete and you will have everything you need once you receive a more detailed letter from me at the end of the month. If I am incorrect in this assumption, please do not hesitate to telephone me collect at (902) 424-3521.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

Encs.

INSTITUT UNIVERSITAIRE DE HAUTES ÉTUDES INTERNATIONALES
THE GRADUATE INSTITUTE OF INTERNATIONAL STUDIES

LE DIRECTEUR

Geneva, February 17, 1986

Dear Ronald,

Thank you for your letter of 30 January regarding Mr. Shi. Perhaps our friend Wang was a bit over-positive in his letter to you.

Mr. Shi will have to go through the usual admissions channels. Admission would be for October. The question of a possible scholarship would have to be settled as well.

While a student so well recommended should not have any trouble in getting himself admitted, I cannot yet formally bind our Institute. Mr. Shi's file is still incomplete.

It is snowing outside, so we are having what you call "a good winter". I am greatly looking forward to seeing you as soon as possible. We have much to talk about.

With all my good wishes,

Yours sincerely,



Lucius Caflisch

P.S. We do need Mr. Shi's transcripts, copies of his diplomas and three recommendations on the annexed forms.

Professor Ronald St.J. Macdonald
Dalhousie Law School
Halifax
Canada B3H 4H9

March 24, 1986.

Professor Lucius Caflisch
Director
The Graduate Institute of International Studies
132 Rue de Lausanne
Case Postale 36
CH 1211 Geneve 21
Switzerland

Dear Professor Caflisch:

I am writing in support of the application of Mr. Shi for entry into the doctoral programme at The Graduate Institute of International Studies.

Since enrolling in the LL.M. programme at Dalhousie, Mr. Shi has successfully completed the requirements of the graduate seminar, the seminar on jurisprudence, and an individual research paper. At the same time, he has been hard at work on his thesis on dispute settlement procedures under the General Agreement on Tariffs and Trade. He would have completed his thesis in time for the October 1985 Convocation had it not been for the fire in the Weldon Building, in which he lost footnotes and other materials, including his bibliography, introduction and conclusion. He now expects to submit his thesis in time for the Convocation of May 1986.

I have been seeing Mr. Shi on a very regular basis, usually once a week, since his arrival at Dalhousie in 1984, and as his supervisor, I have been carefully observing his progress and potentialities. The subject on which Mr. Shi has been working, namely, Legal Aspects of the General Agreement on Tariffs and Trade, with special reference to dispute settlement, is a subject of importance to the PRC in general and to Peking University in particular, where Mr. Shi will be employed as a full-time professor on the completion of his graduate work. The subject is one which his Dean and leaders in Peking University wish him to work on and become specialized in. I mention this because, as you know, the topic is an extremely difficult one and is becoming more and more important at the present time.

Shi has made exceptional progress in an enormously complex and bewildering area of international law. He has done a remarkable job in reading comprehensively as well as analytically. He works easily in french as well as in english and, as with all Chinese students, he is a bear for work. His LL.M. thesis should provide at least one good publishable article, perhaps even a monograph in its own right.

On the basis of what I have seen of Mr. Shi's work thus far, his interests and motivation, I have no doubt in my own mind that he is capable of performing most satisfactorily indeed at the doctoral level, and that he should be encouraged and supported in his desire to undertake such work. I expect that in time he will produce a good book on an important and chaotic subject, and that his training in Geneva could represent the start of a long professional career of importance to China in particular and to legal scholarship in general.

Several chapters of Shi's thesis have been completed to date and, if it would be useful to you and to the members of your committee, I would be pleased to forward copies of these chapters for your examination and assessment.

Finally, I may say that Shi has made a fine impression on members of the Faculty as well as the student body at large in this institution, where he has been active in staff-student affairs as well as the work of the graduate committee. He has had a very positive impact on the Law School Community, and we all feel grateful as well as pleased for his contribution.

Please do not hesitate to communicate with me in the event that you require more information.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor



RECOMMANDATION
Renseignements confidentiels

① Nom du candidat :

.....

② Titre visé : licence / diplôme / doctorat

AU CANDIDAT : compléter les rubriques ① et ② en caractères d'imprimerie et envoyer au recommandant.

AU RECOMMANDANT : prière de compléter cette formule (à la machine à écrire, si possible) et l'envoyer à la Direction administrative de l'Institut universitaire de hautes études internationales, rue de Lausanne 132, case postale 36, CH 1211 Genève 21, *avant le 15 avril*. Merci

③ En quelle qualité (professeur, conseiller, etc.) avez-vous connu le candidat ?

J'ai connu le candidat en tant que

.....

.....

pendant mois / années.

④ En comparaison avec d'autres étudiants que vous avez connus à une même étape de leurs études, comment situeriez-vous le candidat ?

Parmi les étudiants de ce niveau que j'ai connus au cours de ces trois dernières années, le candidat se situe parmi les meilleurs

10 % 30 % 50 %

Identité du groupe de comparaison :

.....

⑤ Evaluation des capacités du candidat (mettre une X) :

Excellent *Très bon* *Bon* *Moyen* *Pas pu observer*
(exceptionnel)

<i>a) formation scientifique</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>b) culture générale</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>c) originalité, créativité</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>d) capacité pour la recherche</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>e) capacité pour l'effort, ardeur à l'étude</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>f) sens critique, facilité de jugement</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>g)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

⑥ Prière de développer les points ④ et ⑤ ci-dessus, en commentant les prestations du candidat, ses travaux écrits, les notes obtenues, les recherches accomplies, etc., dans la perspective de sa capacité à mener à bien les études qu'il veut entreprendre, ou de toute autre manière :

⑦ Nom du recommandant (*en caractère d'imprimerie*) :
.....

Signature du recommandant :

Titre :

Institution :

Date :



LETTER OF APPRAISAL

Confidential when completed

① Name of applicant :

.....

② Degree sought : licence / diploma / doctorate

TO APPLICANT : complete items ① and ② in black type and send to appraiser.

TO APPRAISER : please complete this form in black type and send it to the Administrative Director of the Graduate Institute of International Studies, rue de Lausanne 132, case postale 36, CH 1211 Geneva 21, *not later than 15 April*.

③ In what capacity (teacher, adviser, etc.) have you known the applicant ?

As the applicant's

.....

.....

for years / months.

④ In comparison with other students whom you have known at a similar stage of their studies, how would you rank this applicant ?

Out of the students of this level whom I have known in the past 3 years, this applicant ranks among the best

10 % 30 % 50 %

Please describe the comparison group :

.....

⑤ Evaluation of the applicant's performance :
(please put a X)

Oustanding Very good Good Average Inadequate opportunity to observe

<i>a) academic achievement</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>b) background preparation</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>c) originality - creativity</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>d) research ability</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>e) industry</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>f) judgement</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>g)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

⑥ Please amplify your evaluation given in items ④ and ⑤ above by commenting on the applicant's classroom performance, written work, marks, research accomplished, etc., including both merits and shortcomings of the applicant and on the likely contribution of the applicant to future scholarship :

⑦ Type name of appraiser (*in black type*) :

.....

Signature of appraiser :

Title :

Institution :

Date :

北京大學

研究生成績表

姓名：石應瀚

系別：法律系

專業：國際法

研究方向：國際經濟法

導師：王鐵崖

學習期限：自1982年9月至1985年7月

毕
业
论
文

题目:

成绩评语:

导师签字

19 年 月 日

盖
章



系

研究生处

This letter

is Caplesch



DALHOUSIE LAW SCHOOL HALIFAX CANADA B3H 4H9

March 12, 1986.

Professor Lucius Caflisch
The Director
The Graduate Institute of International Studies
Geneva
Switzerland

Dear Professor Caflisch:

I am writing to introduce myself as an applicant for admission to the Doctoral Programme in the Graduate Institute of International Studies.

I was born on March 19, 1955, in Shanghai, the People's Republic of China. I am a Chinese citizen, single, male. I attended primary and middle school in Shanghai. After graduation from the middle school I went to a rural area in the central part of China and worked there for several years, as all young people of my generation were required to do. Since the beginning of the so-called "Cultural Revolution", students who graduated from middle school were required to work in factories or rural areas and all universities and colleges in China were closed. After 1973, parts of the universities and colleges were restored. However, the enrollment of new students was based on many factors other than personal academic capability and there was no entrance examination. Many young people who did not have certain backgrounds or relations were deprived of the opportunity of higher education. The entrance examination to university was resumed in October, 1977, after the end of the "Cultural Revolution". In the summer of 1978 I passed the examination and entered the university.

At Peking University my supervisor was Professor Tieya Wang. The programme at Peking University is a three-year programme. I took courses in general international law, jurisprudence, international transactions law, civil law, commercial law, and many other private law subjects. My major was international economic law and I attended two courses of international economic law, including GATT and the new international economic order (NIEO). I chose GATT as the topic of my LL.M. thesis at Dalhousie Law School.

.....

My study and research is under the supervision of Professor Ronald St. John Macdonald at Dalhousie Law School. In my LL.M. thesis, I am researching on the procedures of dispute settlement under GATT. I examine the emergence, development, function and operation of these procedures in the context of GATT legal system, and, on the background of international trading environment. The thesis contains six chapters, about 220 pages in length (a table of content is enclosed).

The first chapter reviews international collaboration in trade during the inter-war period, analyzes the reasons for success and failure of cooperation in international trade between the two world wars. In writing this chapter I took the view that the creation of GATT is a continuation of prior multilateral cocoperation in the field of trade and that world leaders drew lessons from failure of that cooperation when designing the postwar multilateral trade system.

The second chapter is about design and establishment of GATT. In the chapter I trace its historical origins, review its preparatory work and its establishment. As the creation of GATT was closely related to the ITO, the drafting, and the reasons for the failure, of the ITO is also subject to examination.

The thrid chapter focuses on the emergence of the procedure of dispute settlement under GATT Articles XXII and XXIII. In studying these two Articles in detail, I attempt to expound their rationale, analyze their advantages and shortcomings.

Chapter IV describes the experience of the dispute settlement procedure under Articles XXII and XXIII during the years prior to the Tokyo Round. This chapter consists of three sections: evolution of the procedure; its efective operation in the first decade of GATT; its relatively ineffective operation in the second and third decades as a result of the breakdown of the GATT legal system and the reasons for the breakdown.

Chapter V is a discussion of the achievements of the Tokyo Round of multilateral trade negotiations. It has three sections: first, a discussion of the codes and arrangements on reduction of tariffs, regulation of non-tariff varriers, and reform of the GATT framework; second, an examination of the achievement of the dispute settlement procedures; and third, an assessment of the action taken after the Tokyo Round to strengthen the dispute settlement procedures.

Chapter VI, the conclusion, summarizes the previous five chapters and puts forward recommendations for the improvement of the procedure.

After one year of writing, my thesis is in good shape. I should now apply for admission to the Doctoral Programme in the Graduate Institute. As I will be a research fellow in the Institute of International Law at Peking University, the study in doctoral programme is important in helping me to do my future work better. This is the reason why most of my classmates who will work with me, such as Mlle. Yan Lan, are now in doctoral programme. Since I am proficient at both English and French, it is to my advantage to study in the Graduate Institute. Being an international law student, I am sure that the international character of the Graduate Institute will provide me a favourable environment to conduct international legal study.

While writing my LL.M. thesis, I have come to realize that GATT is a very complicated subject indeed. I desire to enter the Doctoral Programme, because no one is specializing in GATT law in the Institute of International Law in Beijing. I would propose to build my doctoral dissertation on my research for the LL.M. thesis.

At the present time I am thinking of a doctoral thesis of four parts. The first introductory part will be a general review of the development of GATT, including the seven rounds of multilateral trade negotiations, with emphasis on the results of the Tokyo Round.

The second part will analyze the extent to which GATT has contributed to international cooperation in trade, including the resolution of disputes and other trade problems. This part will comprise the following sections.

1. Reduction of tariff rates: negotiations on tariffs and their results.
2. Control of non-tariff barriers: the conditions under which they emerged and developed; which barriers have been regulated, why they were regulated, and what remains to be done.
3. The dispute settlement procedure: the effectiveness of the procedure in resolution of disputes and in maintaining the effectiveness of GATT; examination of representative cases; improvement of the procedures as a result of the Tokyo Round.

4. Improvement of the status of less-developed countries in the GATT framework: demands for preferential treatment for trade with developed countries; changes made as a result of the Tokyo Round; the process of recognizing the demand; the attitudes of developed countries; disputes concerning preferential treatment; international agreements on the application of preferential treatment.
5. Conclusions: reasons for the success of GATT in promoting cooperation and coping with trade problems.

The third part of the thesis will discuss unregulated and under-regulated problems, including non-tariff barriers and other trade issues which reduce the effectiveness of GATT, and the prospects of handling these problems within a legal framework. Particular problems will be discussed in separate sections.

1. Agricultural trade: a serious problem which has endangered the GATT system, and was almost untouched by the Tokyo Round; the "variable levy" and the EEC; agricultural trade policy of other countries; prospect for regulation of agricultural trade.
2. Voluntary export restrictions: the major non-tariff barrier which evaded discussion at Tokyo; conflicting opinions on this problem; examination of national practices to find out to what extent the voluntary export restrictions can be reduced.
3. Quantitative restriction on trade: one of the most widely used protective methods; its use as a discriminatory measure; the extent to which nations can control its use.
4. Codes governing non-tariff barriers: failure of many states to accept these Codes; application of the Codes; their effect on fairness and restrictions in international trade.
5. International trade in services: a major new problem; definition of "services" (any productive activity which is not manufacturing, mining or agriculture); restrictions on trade in services; the interests of developing and developed countries; prospect for increasing discipline on trade in services.

In the third part part of the dissertation, I will examine how and to what extent unregulated issues can best be handled within an international legal framework. It is possible that new problems will arise before the old problems are solved. GATT will have to change and be changed as a matter of course.

The fourth part of the dissertation will make recommendations in the light of the research and findings.

Allow me to emphasize that this is only a rough outline. I expect to improve it as I proceed.

Yours truly,

Ying-han Shi

/jmw

GENEVA

APPLICATION FOR ADMISSION
ACADEMIC YEAR 19⁸⁶ - 19⁸⁷

Only those applications for admission which are fully completed in English (or in French), in type or legible print, will receive consideration. The completed application form and all additional documents (see p. 4) must reach the Office of the Secretary General of the Institute *before April 15*. Those applications which reach the Institute before January 15 will receive early consideration and a first selection of candidates will be made in the weeks immediately following.

I. Personal data

Last name: SHI

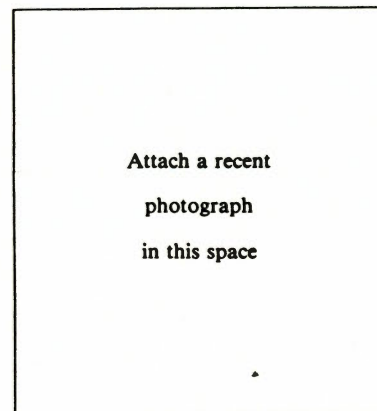
First and other names: YING-HIAN

Sex: MALE Number of children:

Marital status: SINGLE

Place of birth: SHANGHAI, CHINA

Present nationality CHINESE



Date of birth:

19 MARCH 1955
Day Month Year

Address for correspondence

from March 15 19 86 to August 30 19 86

Permanent address

Street DALHOUSIE LAW SCHOOL Number

Place HALIFAX, N.S. CANADA B3H 4H9 Country

Street Institute of International Law Number

Place Peking University, Peking, China Country

Other formal training not covered above

.....
.....
.....
.....

Record of employment and other activities

Nature of employment or activity	Position held (give title if applicable)	Name of employer or organization (if applicable)	Dates
----------------------------------	--	--	-------

.....
.....
.....
.....

Articles, manuscripts (including theses) and publications

Give as much relevant information as possible (i.e. subject, date when written or published, name of editor, number of pages, etc.)

.....
My LL.M. Thesis: GATT in a Changing World: Its Procedure of Dispute Settlement
.....
about 220 pages, will be finished before the ^{end of} August of 1986.
.....
.....
.....
.....

III. References

List here the names, occupations and addresses of three persons, not related to you, who are familiar with your character and qualifications, and whom you have requested to send directly to the Institute a letter of reference or a completed appraisal form. At least two of these appraisers should be familiar with your previous academic work.

1. Prof. T.Y. Wang: Institut of International Law, Peking University,
P. R. China
2. Prof. Ronald St. J. Macdonald: Dalhousie Law School, Halifax, N. S.
Canada, B3H 4H9
3. Prof. Douglas Johnston: Dalhousie Law School, Halifax, N. S.
Canada, B3H 4H9

IV. Nature of studies to be undertaken at the Institute

Degree sought (i.e. licence, diploma, doctorate):

Doctorate

Expected duration of residence in Geneva (number of semesters):

(For diploma and doctorate candidates only):

In which field in international relations do you intend to specialize (i.e. international history and politics, international law, or international economics)?

International Law

What was the main field of your former studies?

International Economic Law

Within that field, which were the most important subjects which you studied?

GATT

Regulation of ~~the~~ Transnational Corporations

(For all candidates):

State the reasons for having selected the particular program of study which you intend to pursue at the Institute, and for having chosen this Institute.

As I will conduct research and teaching as a member of the Institute of International Law, my study in a doctoral programme is important in helping me to do my future work better. I have studied international law through different teaching and research systems respectively in China and Canada, and I desire to have access to more approaches of legal study and research, therefore I apply for the doctoral programme of the Graduate Institute of International Studies. I am sure that its international character will provide me an ideal environment where to conduct international legal study and research.

3. One photograph (in addition to the one attached on the first page).
4. Three letters of reference.
5. For diploma and doctorate candidates, an outline of their proposed research program, if known.

1000

My letter to Dolhouse

March 27, 1986

NB
2

22 March 1985

Professor H. L. O'Brien
R. St. J. Macdonald, Q.C.

Dear Les:

Just a line in frantic haste, to tell you that Mr. Shi, whose expenses will be funded from outside sources, is making application for the doctoral programme and that I am waiting to see a major installment of his thesis (within the next ten days) before writing you a letter of recommendation. Thus far his work has been very good indeed, but I expect that you would want me to wait until I have more to go on before writing you formally.

All the best,

Sincerely,

R. St. J. Macdonald, Q.C.

DALHOUSIE UNIVERSITY
FACULTY OF LAW

HALIFAX, NOVA SCOTIA

DATE

11 June 1985

TO: Prof. H.L. O'Brien
Chairman, Committee on Graduate Studies

FROM: R. St. J. Macdonald, Q.C.

SUBJECT: Mr. Shi

Dear Professor O'Brien:

I understand that the Committee on Graduate Studies will be meeting today and that you expect to consider Mr. Shi's request for admission into our doctoral program on the completion of his LL.M. work in October 1985.

In view of the fact that one or two unexpected occurrences have affected the production and assessment of Mr. Shi's thesis work at the masters level, I am writing to ask if you and the members of the Committee could defer consideration of his application for admission to the doctoral program until your next meeting, at which time I, for my part, will be able to provide you with detailed information about his progress and possibilities.

I should stress at the outset that nothing whatever of a serious nature has occurred -- it is merely that there has been administrative and personal holdups which make it awkward for me to report to you and the Committee at this time.

In a nutshell, Mr. Shi has been delayed by typing problems and also he has been called on to help in the care of Mr. Meng, who was hospitalized and is still recovering from an operation.

Despite these delays, I can report that Mr. Shi has completed three big chapters of his thesis on the General Agreement on Tariffs and Trade and that I am very confident that he will meet the deadline of mid-September for submission of the thesis as a whole. I meet with him at least once a week in order to review the design of his work and the content of his written drafts. I have also put him in touch with

.../2


Professor H.L. O'Brien
11 June 1985
page two

Professor Winham of the Department of Political Science, an authority on GATT and we are hoping to introduce Shi to officials of the Organization from Geneva. I can also say that Shi's bibliographic work is completed and that he is laying a very solid foundation for doctoral work in the future. I am impressed by the agility of his mind and the quality of his work, both of which are strengthened by his ability to work easily with the French language literature.

The reason that I am not able to provide you with details at the present time is that (mainly) because we are behind in the production of typed drafts of the three chapters in question and that, in these circumstances, I think it prudent to hold back a more or less final report to you until I have examined cleaner drafts more fully.

I expect to be in the School throughout the day and will be available in the event that you require more information before or during your meeting. Please do not hesitate to get in touch with me if I can be useful. I am very positive about Shi but I need a little more time to give you the kind of report that I know that you and the Committee expect.

Yours faithfully,


R. St. J. Macdonald, Q.C.

11 June 1985

Prof. H.L. O'Brien
Chairman, Committee on Graduate Studies

R. St. J. Macdonald, Q.C.

Mr. Shi

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.../2

Professor H.L. O'Brien
11 June 1985
page two

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Yours faithfully,

R. St. J. Macdonald, Q.C.

DALHOUSIE UNIVERSITY
FACULTY OF LAW

HALIFAX, NOVA SCOTIA

DATE June 13, 1985

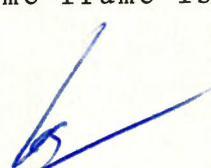
TO: Professor R.St.J. Macdonald

FROM: Professor H.L. O'Brien, Chair, Graduate Studies Committee,
Faculty of Law

SUBJECT: Mr. Shi

I write to acknowledge receipt of your memorandum, dated June 11, 1985, concerning Mr. Shi.

The Committee has agreed to defer consideration of his application for admission into the J.S.D. programme for one month. If this time frame is insufficient please advise me.



H.L. O'Brien

HLO/hd

N13

July 8, 1985

Profes~~or~~ H.L. O'Brien

R. St. J. Macdonald, Q.C.

Dear Les:

Just a line to say that I am doing a letter about Shi's application into the doct~~or~~al program, and that I hope to have it on your de~~sk~~ within the next few days.

All the best,

Yours sincerely,

R. St. J. Macdonald, O.C.Q.C.

September 6, 1985

Professor H. Leslie O'Brien
Chairman, Committee on Graduate Studies
R. St. J. Macdonald, Q.C.

Mr Shi

Dear Professor O'Brien:

I am writing to report on progress being made by Mr. Shi and also to request consideration in extending the time limit for submission of his LL.M. thesis from September 1985 to January 1986.

As you may recall, Mr. Shi has prepared a detailed study on the very timely subject of dispute settlement within the framework of the General Agreement on Tariffs and Trade. I have seen drafts of all but one chapter and I may say that Mr. Shi's work is of extremely high standard. I believe that he will soon be in a position to produce a publishable monograph on the subject.

Mr. Shi had been planning on submitting his completed manuscript to me on Tuesday, September 3rd last so that I could make the necessary suggestions for improvement and allow him enough time to have the thesis typed and submitted both here in the Law School and to the School of Graduate Studies by Friday, September 20th. Unfortunately, Mr. Shi lost footnotes in the fire at the Law School and some of his other materials were damaged by water. He is also having considerable difficulty completing his bibliography, his introductory and concluding chapters, as well as the footnotes. In all the circumstances, having regard especially to the fact certain materials which he simply must have at hand will be unavailable for several weeks, Mr. Shi has informed me that he would like to delay the submission of his thesis and seek to graduate in January 1986. After reviewing the matter carefully, I myself have concluded that Shi is making the right decision and that the Committee should be requested to grant a postponement for receipt of the thesis until a later date. I understand that the School of Graduate Studies will make allowances for situations such as this, and I hope that Mr. Shi will be granted whatever concessions may be available.

Yours sincerely,

R. St. J. Macdonald, Q.C.

September 17, 1985

Professor H. L. O'Brien
Chairman, Committee on Graduate Studies
R. St. J. Macdonald, O.C.Q.C.

Mr. Ying-han Shi

Dear Professor O'Brien:

I am writing in support of the application of Mr. Ying-han Shi for entry into the doctoral program at Dalhousie Law School on completion of his LL.M. work in 1986.

It may be useful to you and the members of the Committee if I start with a little background information on Mr. Shi and then provide you with my assessment of his progress and potentialities here at Dalhousie.

Mr. Shi was born in Shanghai in 1955. From 1968 to 1971 he attended primary school in Shanghai and thereafter was assigned to work in a rural area of central China during the Cultural Revolution, during which time all universities in China closed down. From 1978 to 1988, he attended university in Shanghai and in Peking where he obtained the equivalent of our B.A. and LL.B. degrees.

Since enrolling in the LL.M. program at Dalhousie, Mr. Shi has successfully completed the requirements of the graduate seminar, the seminar on jurisprudence, and an individual research paper. At the same time, he has been hard at work on his thesis on dispute settlement procedures under the General Agreement on Tariffs and Trade. He would have completed his thesis in time for the October 1985 Convocation had it not been for the recent fire in the Weldon Building, in which he lost footnotes and other materials, including his bibliography, introduction and conclusion. He now expects to submit his thesis in time for the Convocation of January 1986.

I have been seeing Mr. Shi on a very regular basis, usually once a week, since his arrival at Dalhousie in 1984, and as his supervisor, I have been carefully observing his

.../2

Professor H. L. O'Brien
17 September 1985
page two

progress and potentialities. The subject on which Mr. Shi has been working, namely, Legal Aspects of the General Agreement on Tariffs and Trade, with special reference to dispute settlement, is a subject of importance to the PRC in general and to Peking University in particular, where Mr. Shi will be employed as a full-time professor on the completion of his work with us. The subject is one which his Dean and leaders in Peking University wish him to work on and become specialized in. I mention this because the topic is an extremely difficult one and is becoming more and more important at the present time.

From my point of view, Shi has made exceptional progress in the complex and bewildering area of international law. Mr. Kenneth Dam, formerly a distinguished academic and now a high government official in the United States, has observed that only five or six people in the world understand the General Agreement and that they are not telling anybody. Despite this I can say that Mr. Shi has done a remarkable job in reading comprehensively as well as analytically and in preparing a really outstanding study on the dispute settlement aspects of the General Agreement. He works easily in French as well as in English and, as with our Chinese students, he is a bear for work. His LL.M. thesis will easily provide several publishable articles, perhaps even a monograph in its own right.

On the basis of what I have seen of Mr. Shi's work thus far, his own interest and motivation, and in light of the expressed wishes of the academic planning authorities in Peking University, I have no doubt whatever in my own mind that Mr. Shi is capable of performing most satisfactorily indeed at the doctoral level and that he should be encouraged and supported in his desire to undertake such work. I fully expect that he will produce a fine book on this timely and chaotic subject and that his training here at Dalhousie will represent the start of a life long professional career devoted to legal problems of the organization of international trade.

.../3

Professor H.L. O'Brien
17 September 1985
page three

I might just add that I have made arrangements for Mr. Shi to meet with and to receive materials from the Legal Counsel of GATT in Geneva and to consult with other GATT officials in Geneva. They are enthusiastic at the prospect of seeing a young Chinese scholar working on the General Agreement in a Canadian university setting.

I am attaching a working copy of the Table of Contents of Mr. Shi's LL.M. thesis, which he expects to complete within the next few months..

I fully support Mr. Shi's application for entry into the doctoral program and I am prepared to supervise his work and also to assist in convening a group of interested and competent colleagues at Dalhousie for purposes of strengthening and broadening the supervision.

Please do not hesitate to communicate with me in the event that you require further particulars. I am at your disposal.

Thanking you for your consideration, I remain,

Yours sincerely,

R. St. J. Macdonald, O.C.Q.C.
Professor

encl.

January 28, 1986.

Professor H.L. O'Brien

Professor R. St.J. Macdonald

Graduate Studies

Dear Les:

As I understand that you are meeting tomorrow, and as you will have received my note about Mo, I thought that I should send you these few lines to say that Shi remains anxious to be admitted to the doctoral programme . I am ready to give you a letter on his behalf as soon as you let me know what it is you may require and when you think the Committee will be ready to make its decision. I know a lot about Shi and his work and I feel that I am in a position to respond to the Committee's inquiries as to the quality of his research.

All the best,

Yours sincerely,

RSJM/jmw

(Dictated by Prof. Macdonald
and signed in his absence.)

DALHOUSIE UNIVERSITY
FACULTY OF LAW

HALIFAX, NOVA SCOTIA

DATE February 21, 1986

TO: Professor R. St. J. Macdonald

FROM: Professor H. L. O'Brien

SUBJECT: Mr. Shi

Ron!

Some weeks ago you indicated to me that you are ready to provide a detailed letter on Shi. I write at this time to ask that you provide that letter. The Committee will be meeting on March 5, 1986, to commence its file review. Accordingly I would appreciate receiving your detailed letter before that time.

Given the number of sabbaticals, leaves, etc., it may not be possible to admit anyone into the doctoral programme for 1986-87 and, accordingly, I suggest you recommend to Shi that he apply at other schools as well, if he has not already done so.

*Paul
L*

H. L. O'Brien.

March 12, 1986.

Professor H.L. O'Brien
Chair - Graduate Studies
Dalhousie Law School

Dear Les:

I am pushing hard to find time to write the letter that you and the Committee need on Shi, and I hope to have something for you within the next few days. I am behind in my classes and that is why you have not heard from me on this matter before now. Meanwhile, please do not forget that your file should contain relevant letters from me dated June 11, September 6, and September 17, 1985.

I am enthusiastic about Shi and his work and it may be helpful to you and the Committee to know that Gil Winham, a great authority on the subject, is also very satisfied with what he has seen of Shi and his LL.M. thesis.

All the best,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

March 25, 1986.

Professor H.L. O'Brien
Chair - Graduate Studies Committee
Dalhousie Law School

Dear Professor O'Brien:

I am writing in support of the application of Mr. Shi for entry into the doctoral programme at Dalhousie Law School.

In order to save time for you and the members of the Committee, I would suggest that you might find it convenient to incorporate into this letter the remarks that I made about Shi in my letters to you dated June 11, 1985, September 6, 1985, and of September 17, 1985. The observations that I will offer at this stage are mainly supplementary to those in the letters just referred to, but they are based on more extensive exposure to Shi and his work. In a nutshell, I can say that my earlier (positive) evaluation has been complimented and re-inforced by what I have been seeing since writing to you and the Committee on September 17, 1985.

Since his arrival at Dalhousie in 1984, I have been seeing Mr. Shi on a regular basis, usually once a week, and I have been carefully observing his progress and potentialities. The subject on which he is working, namely, Legal Aspects of the General Agreement on Tariffs and Trade, with special reference to dispute settlement, is a difficult one but it is becoming more and more important at the present time, as evidenced by the upcoming round of Negotiations that will probably be held in Canada in September of this year.

Shi has done a fine job in reading comprehensively as well as analytically. He works in french and in english, and he is a bear for work. Much of his thesis has already been completed. If it would be useful to you and the members of your Committee, I will be pleased to forward copies of several chapters to you for your examination and assessment. I believe that his thesis will yield at least two publishable articles, perhaps even a monograph in its own right.

.....

2.

As indicated to you in a previous letter, Shi has been in touch with legal officers of GATT in Geneva, and with our own Professor Winham, of the Department of Political Science, all of whom are enthusiastic about his subject and are prepared to assist him actively in pursuing the topic at a higher level. In the event that the next round of Negotiations are held in Canada, as everyone expects they will be, Mr. Shi will not only be in a favourable position in so far as the access to materials is concerned, but he will also be able to benefit directly from the guidance of many world experts who will be in this country for the meetings concerned. The Negotiations will continue for several years, which means expertise of the highest level will be available to us for purposes of assisting Shi in his research and in the preparation of a doctoral thesis.

I have no doubt in my own mind that Shi is capable of performing very satisfactorily indeed at the doctoral level, and that he should be encouraged and supported in his desire to undertake such work. I fully expect that he will produce a good book on an important and chaotic subject, and that his training at Dalhousie will represent the start of a long professional career of importance to China in particular and to legal scholarship in general.

Finally, I should add that Shi has been active in various student undertakings. He is, for example, Chairman of the Chinese Students Association at Dalhousie, and I understand that he has made a favourable impression. In recommending Shi's application to you, I simply reiterate that I am at your disposal in so far as further information may be required, and for purposes of supervision next year.

With personal good wishes, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

March 26, 1986.

Professor Douglas M. Johnston
River Mansion
23 Phra Arthit Road
Bangkok 10200
Thailand

Dear Douglas:

I hope to be in touch with you by telex before this letter arrives. However, the reason for writing is to make doubly sure that you received my cable of two weeks ago, and that you have in fact written a letter of recommendation to Geneva in support of Mr. Shi, who is applying for admission to The Graduate Institute of International Studies.

In view of the fact that it turns on your support, I am taking the liberty of sending you once again the name of the person and the address to which a good letter should be sent if that has not already been done.

Professor Lucius Caflisch
Director
The Graduate Institute of International Studies
132 Rue de Lausanne
Case Postale 36
CH 1211 Geneve 21
Switzerland

I am looking forward with pleasure to seeing you at the end of May in Strasbourg, where, as you know, Bruce Archibald is expecting you and Judy to stay with him.

With all good wishes, and in haste,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

To Douglas J. White,

March 26 / 1986
Wed

1. Mo thesis sent by courier today

2. Important that you see table to
concern a label of Shi. They are
waiting for ~~it~~.

3. Personal good wishes.

Rst J Marshall

Category	31.12.85	31.12.84	Total	31.12.85	31.12.84	Total
(A) Horticulture Agriculture & Fishing	17	18	35	17	18	35
Horticulture	17	18	35	17	18	35
Agriculture	0	0	0	0	0	0
Fishing	0	0	0	0	0	0
Sub-Total (a)	(17)	(18)	(35)	(17)	(18)	(35)
(B) Tourism	114	114	228	114	114	228
Accommodation & Dining (Hotel)	114	114	228	114	114	228
Catering (Rest. & Cafe)	0	0	0	0	0	0
Wine, Spirit, & Manufacture & Sales	0	0	0	0	0	0
Entertainment	0	0	0	0	0	0
Sub-Total (b)	(114)	(114)	(228)	(114)	(114)	(228)
(C) Wholesaling/ Retailing	2	2	4	2	2	4
Foodstuffs (including manufacture)	2	2	4	2	2	4
a) Bakers	2	2	4	2	2	4
b) Butchers	0	0	0	0	0	0
Clothing & Foot Wear	0	0	0	0	0	0
Consumer Durables	0	0	0	0	0	0
Luxury Goods	0	0	0	0	0	0

March 15 / 86

Douglas Johnson (i Thibault)

- 1. ~~Please~~ ^{College of your} ~~call~~ ^{strong} recommendation for Shi
 to Professor Julius Coflesch, Director,
 Graduate Institute of Lit. Studies, 132 Rue
 de Louvain CH. 1211 Geneva 21, Telephone
 31.17.30. Shi has excellent chance of being
 admitted and ~~needs~~ your support ~~secretly~~ ^{well} ~~with~~ ^{occasionally}
~~help~~ ^{secretly} ~~secretly~~ ^{secretly} success.
- 2. His Caro - long ~~to~~ winter you and Judy
 to visit Paris and to lecture there. Paris will
 bear all domestic costs. ~~Wanted to winter~~
~~at winter to appropriate~~ ^{Best} ~~to~~ ^{to} call him for details
- 3. Please would winter you and Judy to
 stay with them in Stockholm.
- 4. His will ~~but~~ ^{Steel} ~~but~~ ^{Swamp} ~~but~~ ^{is} ~~but~~ ^{OK} ~~but~~ ^{and}
 you are greatly ~~amused~~ ^{amused}

Robt Macdell

31 July 1985

Manager
Canadian Immigration Centre
Box 219
5151 Terminal Road
Halifax N.S.

Dear Sir:

Re: Shi Ying-nan

Unfortunately Mr. Shi's visa which was issued by the Canadian Embassy in Peking on July 27, 1984, expired on July 26, 1985. Due to a miscalculation on Mr. Shi's part, he failed to apply for renewal in time to prevent the expiry of the visa, and I am now writing to ask your consideration in rectifying the situation.

Mr. Shi is a graduate student at Dalhousie Law School, where he is mid-way through the doctoral program which will require his presence here for another two years. As Mr. Shi's supervisor and indeed as the person responsible for him being at Dalhousie, I can testify to the fact that he is on a Dalhousie University scholarship until the end of September 1985 and that thereafter all financial obligations pertaining to his stay in Canada will be met from CIDA grant 338-90/01-26-2 of June 1985. The grant in question is a special grant to cover costs of the two Chinese students who are working at Dalhousie Law School. There will be no charges or obligation on the university, the City or the Province in connection with Mr. Shi's program in Canada.

We expect the first phase of his graduate work to be completed early in October. He will then proceed immediately to the second phase which will, as I indicated, probably take another two years to complete. It is possible that he may be able to get through the work in about 18 months from October 1985, but we are estimating 24 months in order to avoid undue pressures.

.../2

Manager
Canadian Immigration Centre
31 July 1985
page two

I very much regret that this unfortunate lapse has occurred -- Mr. Shi made the mistake of thinking that the visa would expire at the end of August rather than July -- I can assure you that we will all be more vigilant in the future. Mr. Shi is an excellent student and I have no hesitation whatever in recommending him highly as a person of integrity and responsibility as well as intellectual capacities. On completion of his studies here, he will be returning to join the staff at Peking University.

Please do not hesitate to let me know if there is further information that you require. My telephone number is 424-3521.

Yours faithfully,

R. St. J. Macdonald, O.C. Q.C.
Professor

Biographical Notes

My name is Ying-han Shi, sex: male, born on March 19, 1955 in Shanghai, the People's Republic of China.

I attended primary school (Sept. 1962-Feb. 1968) and middle school (Feb. 1968-Feb. 1971) in Shanghai. I worked thereafter in a rural area in the central part of China.*
From 1978-1982 I studied Law in Shanghai, where I obtained the BA degree in 1982.
In ~~October~~ 1978, I enrolled myself in Shanghai Foreign Language Institute and spent four years there, and obtained the B.A. degree. In September, 1982, I began my graduate study in the Law Department of Peking University. My major was international law. After two years of study in the Law Department, I came to Dalhousie Law School.

Ying-han Shi

Yinghan Shi
Signature

* Since the beginning of the "Cultural Revolution", students who graduated from middle school were required to work in factories or rural areas, and all universities were closed until 1973. The university enrollment was based on conditions other than entrance examination since 1973, and many young people who did not have certain backgrounds were deprived of the opportunity of higher education. The entrance examination was restored in 1977, when the "Cultural Revolution" ended.

[Signature] u.c.l.l.

1978

Biographical Notes

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Ying-han Shi

Yinghan Shi
Signature

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all ok

June 6 / 86

April 9, 1986.

Professor C.L. Wiktor
Chief Librarian
Sir James Dunn Law Library

Dear Christian:

We are faced with a bit of a challenge in that the material on the attached sheet of paper is required for research on GATT and its reform. As far as I can ascertain, none of this material is available either in our own libraries or in the Halifax area.

Can you as a matter of some urgency, arrange for us to borrow the volumes concerned through the inter-library loan system?

I would appreciate having them by the week of May 19th, about five weeks from now, when I expect to be available to use them.

Thanking you for your assistance, I remain,

Yours sincerely,

R. St.J. Macdonald, O.C.Q.C.
Professor

RSJM/jmw

Att.

The U.N. Documents on the Drafting GATT and the ITO

1. London Report: Report of the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment. London, 1946.
2. New York Report: U.N. Doc. E/PC/T/34 (1947)
3. Geneva Report: U.N. Doc. E/PC/T/186 (1947)
4. Documents on the United Nations Conference on Trade and Employment, Havana, Cuba, November 21, 1947, to March 24, 1948, U.N. Doc. ICITO/1/4 (1948).
5. U.N. Documents E/PC/T/C. II/1-66 (1946)

The U.N. Documents on ^{the} Drafting GATT and the ITO

- ★ 1. London Report: Report of the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment. London, 1946.
- ★ 2. New York Report: U.N. Doc. E/PC/T/34 (1947)
- ★ 3. Geneva Report: U.N. Doc. E/PC/T/186 (1947)
- 4. Documents on The United Nations Conference on Trade and Employment, Havana, Cuba, ~~10~~ November 21, 1947, to March 24, 1948, U.N. Doc. ICITO/1/4 (1948).
- ★ 5. U.N. Documents E/PC/T/C. II/1-66 (1946).