

Thomas Jefferson observed that "it is the trade of lawyers to question everything, yield nothing, and to talk by the hour." Although we Cambridge alumni share some of the same basic training, having been taught to question the status quo and not to yield in debate, you will be relieved to know that I do not intend to talk by the hour. Instead, I would like to discuss briefly the remarkable reform in international trade relations that is unfolding before us.

Permit me to state three propositions. First, international trade rules are more than ever replacing power politics. Rules are providing transparency and predictability so essential to business in a global economy. Second, the way we enforce these rules is changing. Governments are being forced to come to grips with the limits on their sovereign authority to shape domestic policy. Third, the legal community has a special role to play in helping this new rules-based system to respond to the evolving needs of global traders and investors.

To begin, let's go back a little in time. The 1948 General Agreement on Tariffs and Trade, the GATT, was designed to address high tariffs, discriminatory quotas, and other measures employed by Messrs. Smoot, Hawley and their brethren in the U.S. Congress to "beggar-thy-neighbour" at the border. The GATT's rules did not reach, for the most part, beyond national frontiers and measures directly targeting imports and exports. Rather, they called for the reduction of tariffs and national treatment. They allowed countries to adjust prices at the border in various ways, for example, through temporary surcharges to protect domestic industry from import surges, or through antidumping or countervailing duties.

GATT rules served as a transformer, a mechanism for reconciling the trade currents of exporting nations with those of importing nations. This role can be seen in the concept of "nullification and impairment," and the maintenance of a balance of advantages, which is at the root of the GATT dispute settlement procedure. Rather than emphasizing harmonization or addressing domestic policies, they ensured communication and conversion from one national electrical current to another, thereby making economic co-operation that much more efficient, avoiding blow-outs and black-outs due to incompatible power grids. But they most emphatically did not reach into the domestic sphere to change the current in the belief that by regulating what happened at the border alone, trade could be increased.

Through successive rounds of GATT tariff reduction negotiations since 1947, these rules have proven to be remarkably successful. Although some peaks remain, particularly in the agricultural sector, industrial tariffs in most sectors are now low. And as a result, trade has grown at a rate nearly double that of the growth in production.