

# 1. The Future of the Global Trading System: Doha Round, Cancún Ministerial, and Beyond

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*Those who cannot remember the past are condemned to repeat it.*

Santayana (1905)

The fifth ministerial meeting of the World Trade Organization (WTO) was held at Cancún, Mexico in September 2003, to review the status of multilateral negotiations that had been launched at the fourth meeting, in Doha, Qatar, in November 2001. Several of the crucial deadlines set at Doha had been missed. Ministers at Cancún were expected to set the negotiations back on track, and to achieve an explicit consensus on modalities for negotiations in areas including the so-called “Singapore issues” (trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation).<sup>2</sup>

The Cancún meeting ended with no agreement on any of these items.

Some see the failure at Cancún as a threat to the very foundations of the world trading system as embodied in the WTO. As regards the Singapore issues, the meeting revealed deep differences between most developing countries (particularly sub-Saharan African countries), on the one hand, and many of the other members of the WTO, on the other, as to whether to start negotiating at all. As regards agriculture, ranged on one side were the large agricultural exporters—a diverse group including Australia and New Zealand and developing countries such as Argentina, Brazil, Mexico, Thailand, and India, which has recently become an exporter of foodgrains. On the other side were the European Union and the United States. The differences between the two sides narrowed during the meeting, but not enough to achieve an agreement.

Leading developing countries—Brazil, India, China, and South Africa—formed the so-called G-20 (members are listed in the Appendix to this paper) to negotiate on developing countries’ behalf at the meeting. G-20 stuck to its positions until the end.<sup>3</sup> The cohesion and tenacity of the group created some understandable euphoria among developing countries, even though these countries stand to lose if the failures at Cancún are not quickly reversed.<sup>4</sup> At the same time, it raised the fear that developing countries might reassume the unhelpful rhetorical position that

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<sup>2</sup> The “modalities” are targets (including numerical targets) for achieving the objectives of negotiations, as well as issues related to rules. See [www.wto.org/english/tratop\\_e/negoti\\_mod1stdraft\\_3.htm](http://www.wto.org/english/tratop_e/negoti_mod1stdraft_3.htm)

<sup>3</sup> This contrasts with experience nearly 20 years earlier. In the Punta del Este ministerial meeting in 1986, which launched the Uruguay Round, there was also a group of ten developing countries led by Brazil and India, but this group in effect disintegrated at the meeting.

<sup>4</sup> At Cancún, there was one defection (El Salvador) and two additions (Indonesia and Nigeria) to the G-20. Egypt and Kenya, though formally not members of the G-20, endorsed the G-20 position. After Cancún, five Latin American countries that were engaged in negotiations with the US on bilateral free trade agreements dropped out, reducing the size of the group to 15. The group nonetheless decided to call itself the G-20.

they held in the late 1960s and 1970s in the United Nations Conference on Trade and Development (UNCTAD), when they argued that world trading rules were tilted in favor of rich countries and that they should not be required to abide by these rules.

Robert Zoellick, the head of the US delegation at Cancún, reacted petulantly to the failure of the multilateral process at the meeting, asserting that the US will pursue with renewed vigor bilateral and regional preferential trade agreements.<sup>5</sup> Since the US was pursuing this option already with maximum vigor, it is not obvious that Zoellick's threat has made matters worse.

Nonetheless, a proliferation of preferential trade liberalization agreements is much less beneficial than multilateral trade liberalization. If the US concludes further regional agreements, countries outside of such agreements stand to lose significantly.

In this paper I assess the future of the global trading system post-Cancún. I conclude that the collapse at Cancún need not be fatal as long as the right lessons are learned from it and appropriate actions taken. As a prelude to my assessment, in Section 1 I briefly describe the history of the world trading system during the era of the General Agreement on Tariffs and Trade (GATT), until GATT was subsumed under the WTO on January 1, 1995. The history is interesting because it reminds us that the attitudes and positions taken by major participants at Cancún have been present from the very inception of GATT. In Section 2, I discuss the Uruguay Round. Concluded in 1994, this was the last of the eight rounds of multilateral trade negotiations undertaken under GATT auspices. Part of the reason for the failure at Cancún can be traced to the disappointment, particularly among developing countries, that the costs and benefits of implementing the Uruguay Round agreements had not lived up to expectations. In Section 3, I trace the reasons both for the failure to launch a new round at the third ministerial meeting, held in Seattle, USA in December 1999, and for the success in launching a new round at the fourth ministerial meeting at Doha. Section 4 outlines the agenda set by the Doha ministerial declaration and reviews the progress on it prior to Cancún, and Section 5 analyzes the sequence of events leading up to the Cancún meeting and some reasons for the meeting's failure. In Section 6, I draw lessons for moving forward, and in Section 7, I conclude by outlining possible directions for the world trading system.

## ***1. A brief history of the global trading system***

A global trading, financial, and migration system largely free of national, policy-created barriers functioned well for nearly half a century until the outbreak of the First World War. Lord Keynes bemoaned its collapse with the words, "What an extraordinary episode in the economic progress of man, that age was which came to an end in August 1914!" and described it in vivid detail,

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<sup>5</sup> In an important but somewhat neglected study, Coneybeare argued that a rule-based system such as the General Agreement on Tariffs and Trade/World Trade Organization, which precludes discrimination through its Most Favored Nation (MFN) provision, is inherently unstable and would oscillate between multilateral arrangements and a reversion to bilateral and other such contracts. He finds confirmation for his argument in international tariff history. The reason for this oscillation is that "a large-numbers MFN system will break down, in the absence of an enforcement mechanism against free-riders, but the ensuing contracting costs (and possibly predatory behavior) will create pressure for a collective return to MFN norms. What is needed is some efficient combination of multilateralism and bilateralism. Large numbers of bilateral negotiations may be time-consuming, but at least they do not create the same incentive for unconditional defection that is induced by a large-numbers MFN-public good game" (Coneybeare, 1987, pp. 278-9). I thank John Whalley for reminding me of Coneybeare's important study.

albeit from the perspective of an upper-class Englishman.<sup>6</sup> During the Second World War, sensing their impending victory over the Axis powers, the Allied powers thought ahead to the design of a world economic system that would prevent a recurrence of the disastrous economic experiences of the inter-war period: global economic depression, competitive devaluation of national currencies, and raising of tariff walls (the most notorious being the Smoot-Hawley Tariff of the United States).

The famous conference in 1944 at Bretton Woods, New Hampshire, founded the International Bank for Reconstruction and Development (the World Bank) and the International Monetary Fund (IMF). The World Bank was created to provide long-term finance for reconstruction and development. The IMF was designed to enable its members to maintain a system of fixed exchange rates by providing short-term balance of payments support to deal with temporary and reversible shocks to their balances of payments, while allowing flexibility for orderly changes in the exchange rates of its members facing possible long-term shifts in their balances of payments. The Soviet Union had participated in the Bretton Woods conference as an Allied power, but, with the Cold War looming, it chose not to become a member of either the World Bank or the IMF.

The creation of a similar organization for international trade issues did not feature in the Bretton Woods conference, even though one of the chief architects of the conference, Lord Keynes, had envisaged such an organization in a memorandum written two years earlier, and most participants firmly believed in the need for it. The first concrete move towards establishing a framework for the world trading system was taken by the United States, with its Proposals for the Expansion of World Trade and Employment. These were published on December 6, 1945, and forwarded to all other countries in the world. At the same time, the US extended an invitation to 15 countries, including Brazil, China, Cuba, and pre-partition India (which then comprised contemporary Bangladesh, India, and Pakistan), to take part in negotiations for the reduction of tariffs and other barriers to trade. All these countries, with the notable exception of the Soviet Union, accepted the invitation.

The next move, again by the US, was the introduction of a resolution at the first 1946 meeting of the United Nations Economic and Social Council (ECOSOC), calling for an international conference on trade and employment, with the Proposals as its possible agenda. The resolution was unanimously adopted. ECOSOC appointed a preparatory committee for the conference, consisting of Chile, Lebanon, Norway, the US, and the 15 countries that had been invited by the

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<sup>6</sup>“The inhabitant of London could order by telephone, sipping his morning tea in bed, the various products of the whole earth, in such quantity as he might see fit, and reasonably expect their early delivery upon his doorstep; he could at the same moment and by the same means adventure his wealth in the natural resources and new enterprises of any quarter of the world, and share, without exertion or even trouble, in their prospective fruits and advantages; or he could decide to couple the security of his fortunes with the good faith of the townspeople of any substantial municipality in any continent that fancy or information might recommend. He could secure forthwith, if he wished it, cheap and comfortable means of transit to any country or climate without passport or other formality, could dispatch his servant to the neighbouring office of a bank for such supply of the precious metals as might seem convenient, and could then proceed abroad to foreign quarters, without knowledge of their religion, language, or customs, bearing coined wealth upon his person, and would consider himself greatly aggrieved and much surprised at the least interference. But, most important of all, he regarded this state of affairs as normal, certain, and permanent, except in the direction of further improvement, and any deviation from it as aberrant, scandalous, and avoidable (Keynes, 1919, pp. 6-7).

US for tariff-reduction negotiations. The Soviet Union chose not to participate in the committee. The US circulated a Suggested Charter for an International Trade Organization to the committee.

In its first meeting, the preparatory committee added a chapter on economic development but essentially adopted most of the US draft Charter, leaving it to a committee at UN headquarters in New York to complete and edit the text. India and other developing countries on the committee viewed the US's Proposals and Charter as serving the interests of industrial countries, and inimical to development. But, after voicing their opposition, they joined the committee in agreeing on and publishing a draft, known as the New York Draft, in January 1947.

The committee also approved a memorandum on procedures to be followed in US-initiated negotiations for tariff reductions, and at its second meeting, in Geneva, it held discussions on the new draft of the charter simultaneously with tariff negotiations. The tariff bargaining proceeded on a product-by-product basis between pairs of countries, wherein one country was the principal supplier of each commodity for the other. From April to October 1947, the participants completed some 123 negotiations, and established 20 schedules containing tariff reductions and bindings that became an integral part of the General Agreement on Tariffs and Trade (GATT). These schedules resulting from the first round covered some 45,000 tariff concessions and about US\$ 10 billion in trade.

### **General Agreement on Tariffs and Trade (GATT)**

The GATT was signed on October 30, 1947 in Geneva by the 23 original contracting parties, consisting of the participating members of the preparatory committee (colonial India having been partitioned into independent India and Pakistan by then), Burma, Ceylon (now Sri Lanka), Southern Rhodesia (now Zimbabwe), and Syria.

The announcement of the completion of the GATT set the stage for the **United Nations Conference on Trade and Employment, which opened in Havana, Cuba, on November 21, 1947**. Fifty-six nations, again with the notable exception of the Soviet Union, participated. At the conference the most protracted controversies were on development issues.<sup>7</sup> These were resolved, after prolonged deadlock, by a series of compromises. The Final Act of the conference, embodying the Charter for an International Trade Organization (ITO), was signed on March 24, 1948, by 53 countries; Argentina and Poland refused to sign, and the authorization for Turkey's delegation to sign had been delayed in transmission.

The GATT had been envisaged as an interim measure to put into effect the commercial policy provisions of the draft Charter of the ITO, which was expected to be approved by the Havana conference. For fear that tariff reductions in the GATT might unravel if not implemented immediately, negotiators had wished to bring the GATT into force before the ITO came into being. The US executive, mindful that the negotiating authority delegated by the US Congress for tariff reductions was due to expire in mid-1948, wanted to bring the GATT into force without waiting until the ITO charter was ready. However, other countries preferred to put the GATT and the ITO charter simultaneously through their ratification procedures. The Protocol of Provisional

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<sup>7</sup>For a candid and very critical account of the position of developing countries (particularly Latin American countries), see Wilcox (1949, p. 32).

Application of GATT reflected the compromise reached between those who wished to implement GATT before the ratification of the ITO charter and those who preferred to wait.

However, there was no commitment from signatory governments to ratify the ITO Charter. The US failed to ratify it<sup>8</sup>, and in the end, the ITO was stillborn. All subsequent attempts to ensure definitive, rather than provisional, application of the GATT failed. The review session of the contracting parties in 1955 drafted a new protocol for an “Organization for Trade Cooperation”—an organization far less elaborate than the proposed ITO—and this too failed to win the approval of the US Congress.

In Jackson’s words, “The GATT has limped along for nearly forty years with almost no ‘basic constitution’ designed to regulate its organizational activities and procedures.” The only substantial formal amendment to the GATT was the 1965 protocol to add Part IV, dealing with trade and development.<sup>9</sup>

Even so, under GATT’s auspices, eight successful rounds of multilateral negotiations for reducing barriers to trade were concluded. The liberalization of trade barriers under successive rounds resulted in remarkably rapid growth, at nearly 8 percent a year on average, in the volume of world trade between 1950 and the first oil shock in 1973. In the roughly two decades thereafter (1973-90), which included the second oil shock of 1979 and the debt crises of the 1980s, average trade growth slowed to around 4 percent a year.<sup>10</sup> During 1990-2002, it recovered to an average of slightly less than 6 percent a year (WTO, 2003a, Chart II.1). In all these periods, trade grew faster than output, so that the share of trade in output increased substantially.

### **GATT and the developing countries**

Despite the success in reducing trade barriers and accelerating the growth of world export volume, many countries did not participate significantly in either.

First, most developing countries chose to remain outside GATT. Some elected not to become contracting parties of the Agreement (for example, Mexico did not become one until 1986), and others chose not to participate actively as contracting parties in multilateral trade negotiations until the Tokyo Round of 1973-79. Driven by the then-dominant faith in inward-oriented, import-substituting industrialization as the appropriate development strategy, they erected and maintained relatively high barriers to foreign trade. The only exceptions were countries in East Asia that chose to move away from an inward-oriented to an outward-oriented development strategy from the mid-1960s on.

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<sup>8</sup> President Truman submitted the charter to the Senate for approval in 1948. However, the political climate, both domestic and international, changed with the success of the Republican Party in gaining control of the US Congress. At the end of 1950, President Truman announced that he would no longer seek Senate approval for the charter.

<sup>9</sup> Jackson (1989) p. 89. According to Dam (1970), this step was also a reaction to the preparations already in progress for the first UNCTAD. The proposed amendments were approved in 1964 and became Part IV of the GATT, entitled “Trade and Development.” He concludes that apart from its symbolic importance in sensitizing the contracting parties to the new role of the GATT in development, less-developed countries achieved little by way of precise commitments (and even these were highly qualified) but a lot in terms of verbiage.

<sup>10</sup> Although the debt crisis is often referred to as the Latin American crisis initiated by the Mexican default threat in 1982, Poland had earlier run into problems in 1981 with its borrowing from German and other European banks. Other countries having problems in the 1980s with their foreign borrowing included Korea, the Philippines, and Turkey, as well as countries in Sub-Saharan Africa. Nicholas Hope drew my attention to these facts.

The second, and no less important, reason is that partly because developing countries did not participate in GATT, trade barriers in commodities of export interest to these countries were not reduced to the same extent as trade barriers in commodities mostly traded among developed countries. After each round of multilateral trade negotiations, developed countries retained higher barriers against imports from developing countries than against imports from other developed countries. Agriculture, a sector of great interest to developing countries, largely remained outside the GATT framework until the Uruguay Round. Trade in textiles and apparel has been exempted from GATT rules since 1961; the initial Short-term Arrangement covering cotton textiles was quickly converted to a Long-Term Arrangement in 1962, and 12 years later this was expanded into the Multifiber Arrangement (MFA), which covers trade in textiles made from almost all natural and man-made fibers!<sup>11</sup> The MFA has been a particularly egregious exception to GATT rules: apart from being an outright violation of the fundamental non-discriminatory Most Favored Nation treatment (MFN) enshrined in Article I of GATT, it also permits the use of bilaterally negotiated trade quotas on an item-by-item basis between each importer and exporter. One cannot imagine a worse way of segmenting and heavily distorting markets. The MFA is scheduled to expire only on January 1, 2005.

Up to the conclusion of the Tokyo Round in 1979, many developing countries perceived that GATT promoted the interests of developed and industrialized countries and that it had frustrated several attempts by developing countries to get their concerns reflected. “Concessions” granted to developing countries, such as the inclusion of Part IV on trade and development and the Tokyo Round’s enabling clause on special and differential treatment, were mostly rhetorical, and others, such as the Generalized System of Preferences (GSP), were always heavily qualified, and their benefits small.

In sum, the GATT was unfriendly, if not actively hostile, to the interests of developing countries.

It is a matter of debate whether or not developing countries’ frustrating experience in seeking trade concessions [How about “greater access to markets of developed countries”?] was a consequence of their relentless but misguided pursuit of the import-substitution strategy of development, which in effect led them to opt out of the GATT. Had they participated fully, vigorously, and on equal terms with the developed countries in the GATT, and had they adopted an outward-oriented development strategy, they could have achieved far faster and better-distributed growth.<sup>12</sup> The experience of East Asian countries that adopted outward-oriented strategies of development from the mid-1960s onward supports this assessment.

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<sup>11</sup> It is interesting to note that the Short-term Arrangement was introduced mainly to limit cotton textile exports from Japan to North America and Western Europe. When Japan became a leading exporter of automobiles in the late 1970s, “voluntary export restraints,” another discriminatory trade policy measure (which technically was GATT-legal because it was “voluntary” though it violated GATT norms), were negotiated in 1981. Complaints about the undervalued yen, Japan’s huge bilateral trade surplus with the US, and the high Japanese savings rates were also raised. It is no surprise that as China emerged as the fourth largest exporter in the world, similar whining by the US about China’s exchange rate, high savings rate, huge bilateral trade surplus is heard now, loud and clear.

<sup>12</sup> It is sometimes argued that because of GATT’s origins in the US Proposals and because of the stillbirth of ITO—in large part due to non-ratification by the US—the rules of GATT were determined by the US and stacked against the developing countries from the outset, and there was no way in which the rules would have changed to become fairer even with active participation by developing countries. This argument is not plausible: first of all, the US proposals were circulated to all countries of the world. The original 23 contracting parties of GATT, including 11 developing countries, were also among the 53 signatories of the ITO charter. Thus, developing countries had an

Unfortunately, even when developing countries actively participated, and with cohesion, as they did in the Tokyo Round, the outcomes were not in their long-term interest, primarily because their demands continued to be driven by the import-substitution ideology. The formal incorporation at the Tokyo Round of their demands for differential and more favorable treatment—including not being required to reciprocate tariff “concessions” by the developed countries—triple hurt them: once directly, through enabling them to continue their costly import-substitution strategies; a second time by allowing the developed countries to retain their own GATT-inconsistent barriers (in textiles) against imports from developing countries; and a third time by allowing the industrialized countries to keep higher-than-average MFN tariffs on goods of export interest to developing countries.

## ***2. The Uruguay Round***

Within three years of the conclusion of the Tokyo Round, the US wanted to use the 1982 GATT ministerial meeting to initiate another round of multilateral trade negotiations. The meeting had been called to examine the functioning of the multilateral trading system. The US was interested in extending the traditional negotiating agenda to include service issues, including intellectual property protection. A group of developing countries led by Brazil and India strongly opposed this, on the grounds that developing countries were not ready to negotiate on services trade on an equal footing with developed countries, and that, besides, the latter had not lived up to their obligations in the case of trade in textiles and agricultural products. They demanded commitments from developed countries not to introduce any new GATT-inconsistent measures (the “stand-still” demand) and to remove any such measures in existence (the “roll-back” demand).

The US did not succeed in launching a new round but it enunciated a two-year work program for the GATT that involved 17 topics, including services. Even before the work program was completed, the Japanese Prime Minister had initiated a discussion on a new round and persuaded the G-7 industrialized countries to consult their trading partners [OK? Yes] about the objectives and timing of a new round. Eventually, the opposition of Brazil and India was worn down, and a committee was established to prepare recommendations for adoption at the GATT ministers’ September 1986 meeting at Punta del Este, Uruguay.

Just as there was no agreed draft of a ministerial declaration as the Cancún meeting started, there was none at Punta del Este from the preparatory committee. Alternative drafts were in circulation at Punta del Este from individual countries and country groups, such as the G-40, including 20 developing countries as well as major industrialized countries, and the G-10 developing countries, led by Brazil and India.

The G-10’s position eroded as the meeting went on, with the US succeeding in luring away the members until only India held firm. When the consultation committee met for the last time, at 6 p.m. the day before the ministerial meeting was scheduled to end, nothing substantial had been decided. After the US threatened to withdraw from the conference if the issues of its interest were not included in the declaration, a growing consensus emerged around the US position. The

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ample opportunity to express their concerns in the GATT negotiations in Geneva and in the Havana conference, and indeed did so. If they were not satisfied with either the GATT or ITO Charter, they would not have signed them.

chairman on his own initiative decided to treat the G-40 text as the basis for discussion in the consultation committee, over the protests of those developing countries that supported the G-10 text. But he allowed amendments to the G-40 text that in turn drew protests from developed countries. Thirty-one amendments were initially offered, and were reduced to 14 subsequently.

By midnight, once India and the US had agreed that the negotiation on services would be undertaken separately, other disputed issues such as trade-related intellectual property and investment measures were quickly settled. In agriculture, agreement was reached at 2 a.m., and by 4:30 a.m. the 14 amendments to the G-40 text had been discussed and withdrawn.<sup>13</sup> The draft agreed by the consultation committee was approved by the full plenary by midday and the Uruguay Round was launched.

The events on the last day of the Punta del Este ministerial meeting seem to have counterparts in what went on at Cancún in 2003. At Cancún, however, the US and European Union did not succeed in dividing the group of developing countries led by Brazil and India and the group did not disintegrate, except for the defection of El Salvador, primarily under US pressure. Also, the US delegation did not make any ostentatious threatening gestures. However, as I argue below in Section 6, the chairman at Cancún, Foreign Minister Luis Derbez of Mexico, perhaps closed that meeting too soon.

The course of negotiations of the Uruguay Round was tortuous; from the start in September 1986 to the approval of the Final Act in December 1993, the process was as just as full of conflicts and periodic breakdowns as the pre-negotiations that led to its launch. The negotiations were to take place in Geneva, with a mid-term review in Montreal at a ministerial meeting in December 1988, and to be concluded in December 1990. In fact, by the time of the ministerial meeting in Brussels in December 1990, final agreements had been reached on almost none of the topics. Serious negotiations did not begin until 1988, and when the ministers met in December for the interim review, only six of the fifteen negotiating groups had clear texts for approval by the ministers. The US sent a powerful signal that it would aggressively pursue unilateral actions without necessarily first exhausting its options under the GATT or awaiting the outcome of negotiations on others.<sup>14</sup> The interim review meeting ended inconclusively with agreement in a few areas such as tropical products, interim reforms of the GATT dispute-settlement procedures, commitments to reduce tariffs on average by a third, and the provisional introduction of a new trade-policy review mechanism (Schott 1994: 8). But on agriculture, textiles, trade-related aspects of intellectual property rights, and safeguards, the ministers could not agree.

An accord between the United States and the European Community on agriculture was reached in November 1992. The US President's negotiating authority under the Fast Track procedure, approved and renewed by the US Congress, was due to expire on December 15, 1993. Meanwhile, the summit of the Asia Pacific Economic Cooperation (APEC) forum welcomed a report that advised APEC to set a goal of free trade in the Asia Pacific region, break the Uruguay Round deadlock by offering an additional package of liberalization beyond Uruguay Round proposals, and pursue an active program of regional trade liberalization. The success of the

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<sup>13</sup> Except for a statement that was included in the objectives section of the final text and that called on nations to link actions on trade liberalization with efforts to improve the functioning of the international monetary system.

<sup>14</sup> It did so by invoking the provisions of the Super 301 section of the Omnibus Trading Act of 1988 and naming Brazil, India, and Japan for possible retaliation for their alleged barriers to US investment and inadequate protection of intellectual property rights.

APEC summit signaled to the European Community that the US and its APEC partners (accounting for 40 percent of world exports) had other options if the Uruguay Round were to fail.

These factors, along with the appointment of a very active new Director-General of the GATT, namely Peter Sutherland, led to intensive negotiations in the second half of 1993 and culminated in the Final Act of the Uruguay Round, agreed in December 1993.

### ***3. The road to the Doha Round: failure at Seattle and success at Doha***

The Uruguay Round Agreement as a single undertaking includes agreement on traditional GATT issues such as reductions of tariffs and tariff bindings; a not completely successful attempt to bring agricultural trade under multilateral disciplines<sup>15</sup>; a major revamping and strengthening of the Dispute Settlement Mechanism; phasing out of the Multifiber Arrangement; agreements on Trade-related Investment Measures (TRIMs) and Trade-related Aspects of Intellectual Property Rights (TRIPs); and a new General Agreement on Trade in Services (GATS). Since the conclusion of the Round as envisaged, multilateral agreements on Financial Services and Telecommunications have been concluded as part of the GATS.

In accordance with the built-in agenda of the Uruguay Round Agreement, a review of the agreements on agriculture and TRIPs was initiated in 2000. Agenda items left outside of the GATS (including movement of natural persons and maritime services) have been folded into the post-Doha negotiations.

When the third ministerial conference of the WTO opened at Seattle in November 1999, members were deeply divided. In particular, agricultural exporters of the Cairns Group, Japan, the European Union, and the United States were divided over the elimination of export subsidies and import restrictions. As at the earlier meeting in Punta del Este and at subsequent meetings in Doha and Cancún, there was no agreed draft for a ministerial declaration. The absence of an agreed draft had not prevented the launching of a new round at Punta del Este, but this happened in Seattle.

The reasons for failure at Seattle lay elsewhere than the violent street demonstrations that took place outside the meetings. First, developing countries were genuinely concerned that the distinction had become blurred between discussions leading to an agenda and modalities for negotiations, on the one hand, and substantive negotiations on agenda items, on the other. They justifiably feared that any compromise they made on issues to be included in the negotiating agenda would hurt them in subsequent negotiations. (For example, when they had agreed to include intellectual property in the Uruguay Round negotiating agenda, most of them had not

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<sup>15</sup> The process of “tariffication,” namely, converting the impact of various interventions at the border into their tariff “equivalents” and binding them as a base for reductions to be agreed upon during the negotiations, degenerated into a farce. Most countries chose to “tariffy” and bind the tariffs at far higher levels than were being in fact applied at that time. A few egregious examples of the levels of bound tariffs (BTs) relative to applied tariffs (ATs) are illustrative: as against an AT of only 3 percent on beef and veal, the US chose a BT of 31 percent. The EU chose a BT of 361 percent on rice as compared to an AT of 153 percent. Poland, in anticipation of its eventual membership in the EU, chose an even higher BT of 450 percent, even though it hardly grows any rice! Developing countries were no better. Thailand, a rice exporter, chose to set a BT of 58 percent as against an AT of 3 percent on rice imports.

anticipated the outlines of the eventual TRIPs agreement. With the high perceived cost of TRIPs to them very much in their minds, they were less willing to compromise on the agenda of any future round.) Second, developing countries had no voice in the so-called “Green Room” process at the Seattle session, in which a selected group of countries participated in the negotiations and decided on an agenda, which they later presented to the plenary. Third, the fact that the leader of the delegation of the most powerful trading nation of the world, the US, also chaired the ministerial did not help. But the single most important reason for the failure was the statement by then-President Clinton that market access should be conditioned on the observance of core labor standards and that trade sanctions could be used to enforce this condition. That statement ruled out any compromise on the part of developing countries.

The deep divisions between developed and developing countries had not been resolved when the ministers met at Doha in November 2001. There were fears that ministers would again fail to agree on a new round of negotiations. But these fears were belied, and at the conclusion of the Doha meeting the ministers declared that they would “undertake [a] broad and balanced work programme ... that incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system” (WTO, 2001a, paragraph 11).

There were basically two reasons for this more successful outcome. Following the terrorist attack on the World Trade Center in New York on September 11, 2001, the widespread belief that frustration with lack of development contributed to the rise of terrorism led the developed countries to be more receptive to the concerns of developing countries and to visualize the new round as a “development round.” The developing countries were motivated to be more accommodating, given the rise in protectionism in the developed countries that had followed the economic slowdown since 2000. They also saw an opportunity to be more successful than in earlier rounds in getting their concerns addressed in the post-September 11 atmosphere.

#### ***4. The Doha Declaration and decision***

The chairman of the Doha meeting, Qatari Minister of Finance Youssef Hussain Kamal, structured the discussion around six topics: agriculture, implementation, environment, WTO rules, the so-called Singapore issues (trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation), and intellectual property. Informal discussions took place on each topic, with any delegation that wished to participate being invited to do so. A “friend of the chair” led the discussions and reported their progress regularly to the full heads of delegation. This process, of holding informal discussions on each topic simultaneously with formal meetings at which ministers made their conference statements, avoided much of the unhappiness associated with the “Green Room” process of earlier ministerial meetings.

#### **Implementation issues**

Some countries, including India, had taken the position that implementation issues—that is, the difficulties the developing countries had encountered in implementing their Uruguay Round commitments—had to be resolved before they would endorse a new round. In their Doha declaration, ministers attached “the utmost importance to the implementation issues and concerns

raised by members” and indicated their “determination to solve them by making them an integral part of the agreed work program” (WTO, 2001a, paragraph 12).

## **Agriculture**

The Uruguay Round Agreement on agriculture, in its Article 20, had recognized that “the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process”, and mandated that “negotiations for continuing the process will be started one year before the end of the implementation period” (GATT, 1994, p. 55). These negotiations began in 2000, with the first phase ending with a stocktaking meeting in March 2001, and the second phase in progress as the ministers met in Doha.

The Agriculture Committee had considered the issues of concern to developing countries: export credits, guarantees and insurance, the negative effects of agricultural trade reform (particularly relating to food aid and associated issues) on the least developed countries and food-importing developing countries, and the transparent and equitable administration of tariff-rate quotas. It decided mainly to continue to review these issues and to report to the Council in late 2002.

At Doha, as at Punta del Este, the most divisive issue was that of phasing out export subsidies and other support measures. The European Union was reluctant to commit to a phase-out in advance of negotiations. Eventually, a compromise was reached in which the ministers, “without prejudging the outcome of negotiations”, committed themselves to “comprehensive negotiations aimed at: substantial improvements in market access; reduction of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support . . . modalities for further commitments including provisions for special and differential treatment, shall be established *no later than March 31, 2003* (WTO, 2001a, paragraphs 13, 14, emphasis added). Apart from undertaking these new commitments, the ministers reaffirmed an earlier commitment, “to establish a fair and market-oriented trading system through a program of fundamental reform encompassing strengthened rules and specific commitments . . . to correct and prevent restrictions and distortions in world agricultural markets” (WTO, 2001a, paragraph 13).

## **Non-agricultural products**

The ministers also agreed to negotiations (albeit by modalities to be agreed) “to reduce or, as appropriate, eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalations, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions” (WTO, 2001a, paragraph 16, emphasis in original).

## **Textiles and clothing**

Trade in textiles and clothing represents nearly 8 percent of world trade in manufactures. Developing countries regard this as major manufacturing sector as one in which they have a comparative advantage. In the Uruguay Round Agreement, the Agreement on Textiles and Clothing provided for the phase-out of the bilateral import quotas of the Multifiber Arrangement in three stages, over a ten-year period ending on December 31, 1994. The developing countries

came to believe that industrialized countries were exploiting this three-stage process to their advantage: on nearly half the products covered by MFA, the quotas remain in place until the final stage, and are to be eliminated in one fell swoop the day before the Arrangement expires.<sup>16</sup> Hence the benefits accruing to the developing countries from the phase-out are limited up until the final day. Viewing this as an imbalance in the implementation of the Agreement on Textiles and Clothing (ATC), the developing countries called for faster trade liberalization than specified in the ATC. The developed countries maintained that they have been scrupulously observing the stipulations of the ATC. At Doha, the developing countries lost, in that the Doha declaration does not refer at all to trade in textiles and clothing.

### **Trade-related Intellectual Property Rights Agreement (TRIPs)**

At Doha, trade-related intellectual property rights featured both in the main ministerial declaration and in a separate one concerning TRIPs and public health. In the main declaration, ministers agreed to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, by the fifth session in Cancún. More relevant for developing countries is the extension of protection of geographical indications to other products, such as Basmati rice. This issue was left to be addressed by the Council for TRIPs, which has also been instructed to examine the protection of traditional knowledge and folklore.

The main demand of the developing countries at the Doha meeting related to the public health provision of the TRIPs Agreement. The “Declaration on TRIPs Agreement and Public Health” appeared to go a long way to address the concerns of developing countries. First, it recognized the gravity of the public health problems resulting from HIV/AIDS, tuberculosis, malaria, and other epidemics in poor countries. Second, it stressed the need for wider national and international actions to address these problems and for TRIPs to be part of these actions. Third, while recognizing that intellectual property protection was important for the development of new medicines, the ministers explicitly recognized certain flexibilities in the interpretations of TRIPs commitments. Thus they agreed that the TRIPs Agreement “does not and should not prevent members from taking measures to protect public health. Accordingly, while reiterating [their] commitment to the TRIPs Agreement, [they] affirm[ed] that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members’ right to protect public health and, in particular, to promote access to medicines for all” (WTO, 2001b, paragraph 4). In particular, the ministers recognized the right of each member “to grant compulsory licenses and

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<sup>16</sup> There is considerable doubt whether MFA will in fact be phased out on January 1, 2005. If it is, the eliminated quotas may be replaced by other protectionist measures. For example, in the US, Senators from textile manufacturing states such as South Carolina have been vocal in their opposition to removing quotas. Also, the Africa Growth and Opportunity Act (AGOA) passed by the US in 2000 eliminated quotas on textile and apparel exports from Africa. This induced foreign apparel manufacturers, mostly from Asia, to invest in African countries because their exports from Africa, in contrast with those from Asia and elsewhere, were not subject to quota limits. In several African countries, employment in apparel production and exports to the US has grown rapidly (Marc Lacy, *New York Times*, November 14, 2003, pp. A-1 and A-12). Since it is the quota-free access to US markets, rather than competitiveness, that brought foreign investors to Africa, it is very likely that these countries and the Black Caucus in the US Congress, which spearheaded AGOA, would resist the removal of quotas on non-African countries once MFA expires. Other developing countries that are able to export apparel because of quotas, even though these exports are not competitive, might also favor the continuation of MFA. There is also the fear that a competitive China will wipe out all other exporters from the apparel market once MFA is gone (Marc Lacy, *New York Times*, November 14, 2003, pp. A-1 and A-12).

the freedom to determine the grounds upon which such licenses are granted . . . to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria, and other epidemics, can represent a national emergency or other circumstances of extreme urgency” (WTO, 2001b, paragraph 5). The ministers left each member free to determine its own regime of intellectual property exhaustion [protection/exclusion?]. Exhaustion here is a technical term—I am attaching a few words on what it means. Please feel free to convey its sense here in your own words.

Interestingly, while they recognized that WTO members with insufficient or no pharmaceutical manufacturing capacities could face difficulties in making effective use of compulsory licensing, the ministers left it to the Council on TRIPs to find an expeditious solution to this problem. The least developed country members were given until January 2016 to implement or apply Section 5 (on Patents) and Section 7 (on Undisclosed Information) of TRIPs without prejudice to their seeking other extensions.

### **Labor standards, competition policy, environment and investment, government procurement, and trade facilitation**

When the ministers met at Doha they had a draft declaration, put together by Stuart Harbinson, Chairman of the WTO General Council, to discuss. The draft also proposed a negotiating agenda. Since this was by no means a consensus draft, the issue remained open whether the negotiating agenda would be narrow, as advocated by the “minimalists” including the US, or comprehensive, as proposed by the European Union. The “minimalists” had argued, even before the third session took place at Seattle, that there was no need at all for a new round of negotiations until after the built-in agenda of the Uruguay Round Agreement (namely the review of the agreements on agriculture and services) had been concluded. In their view these negotiations would be complex and time-consuming and would call for difficult compromises. The developing countries mostly were still of the minimalist persuasion; they wanted to discuss the implementation problems and failures relating to the Uruguay Round Agreement in addition to its built-in agenda.

At Doha, the minimalists clearly lost, except on the vital issue of labor standards, on which the ministers simply reaffirmed the decision they had taken at the Singapore ministerial to leave the issue to the International Labor Organization.

As regards the Singapore issues, the ministers recognized “the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment”, and agreed that “negotiations will take place after the fifth session of the ministerial conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations”<sup>17</sup> (WTO, 2001a, paragraph 20). Until that session, the Working Group on Relationship Between Trade and Investment was to continue its work. They also recognized the case for a multilateral framework to enhance the contribution of competition policy to trade and development. On this they agreed that negotiations will take

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<sup>17</sup> A literal reader of the declaration would conclude that the phrase “decision to be taken, by explicit consensus” applied only to the modalities of the negotiations, and not for undertaking the negotiations. On India’s insistence, the chairman of the Doha ministerial clarified that it applied to both. The legal standing of this clarification is unclear.

place at the same time and on the same terms as set forth for negotiations on trade and investment (WTO, 2001a, paragraph 23).

On trade and the environment, the ministers agreed to negotiations on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs); on procedures of exchange between MEA secretariats and the relevant WTO committees; and on the reduction or, as appropriate, elimination of tariff and non-tariff barrier on environmental goods. The ministers instructed the Committee on Trade and Environment to pursue work on all items on its agenda and its current terms of reference, while giving particular attention to the effects of environmental measures on market access, particularly that of developing countries and least developed countries; to relevant provisions of TRIPs; and to eco-labeling (WTO, 2001a, paragraph 32).

### **Capacity building, special and differential treatment, and least developed countries**

The Doha ministerial declaration refers in several of its paragraphs to the specific problems of least developed countries, to the need of these countries for technical and other assistance, and to the special and differential treatment accorded to developing countries.<sup>18</sup> The ministers agreed that the provisions for special and differential treatment of developing countries were an integral part of the WTO agreements and that all such provisions “shall be reviewed with a view to strengthening them and making them more precise, effective, and operational (WTO, 2001a, paragraph 44).

### **WTO rules and dispute settlement**

The ministers agreed to negotiations aimed at improving disciplines under Article VI of GATT (on anti-dumping subsidies, and countervailing measures) and on disciplines and procedures under the existing WTO provisions applying to regional trade agreements, taking into account the development aspects of these agreements.

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<sup>18</sup> Developing countries constitute an overwhelming majority of the 148 members of WTO. But many of them are small and poor. Their effective participation in the decision making processes of the WTO and in trade negotiations is possible only if they have an adequate capacity for informing themselves and analyzing the relevant issues. This being the case, the importance of capacity building and raising resources for it cannot be overstated.

### **Box 1.1: The Key Deadlines Set at Doha**

- ***Implementation Issues***  
The ministers established a two-track approach. Those issues for which there was an agreed negotiating mandate in the declaration would be dealt with under the terms of that mandate. Those implementation issues for which there was no mandate to negotiate would be taken up as “a matter of priority” by relevant WTO councils and committees. These bodies were to report on their progress to the Trade Negotiations Committee by the end of 2002 for “appropriate action.”
- ***Agriculture***  
The formulas and modalities for countries’ commitments were to be completed by March 31, 2003 with countries’ comprehensive draft commitments to be made by the fifth session of the ministerial conference at Cancún, Mexico in September 2003. The Cancún session to undertake a stocktaking.
- ***Services***  
Requests for market access to be presented by June 30, 2002; initial offers to be made by 31 March 31, 2003; and stocktaking at Cancún.
- ***Market Access for Agricultural Products***  
Stocktaking at Cancún.
- ***TRIPs***  
(1) Geographical Indications Registration System: to complete negotiations by Cancún meeting.  
(2) Geographical Indications, extending the “higher level of protection” to other production: a two-track approach as in the case of Implementation Issues.  
Review of TRIPs Provisions: Report to the General Council by the end of 2002 with a solution on compulsory licensing and lack of pharmaceutical capacity.
- ***Relationship between Trade and Investment***  
Working Group to continue to work with defined agenda until Cancún meeting.
- ***Interaction between Trade and Competition Policy***  
Same as in Trade and Investment.
- ***Transparency in Government Procurement***  
Same as in Trade and Investment.
- ***Trade Facilitation***  
Continuing work in Good Council with defined agenda until Cancún meeting.
- ***WTO Rules***  
(1) Anti-dumping and Subsidies: stocktaking at Cancún.  
(2) Regional Trade Agreements: stocktaking at Cancún.
- ***Dispute Settlement***  
To conclude agreement by May 2003.
- ***Trade and Environment***  
Committee to report to ministers at Cancún.
- ***Electronic Commerce***  
Report on progress at Cancún.
- ***Small Economies***  
Recommendations by the General Council to the ministers at Cancún.
- ***Trade, Debt, and Finance***  
Working Group to report to the General Council, which was in turn to report to the ministers at Cancún.
- ***Trade and Technology Transfer***  
Same as for Trade, Debt, and Finance.
- ***Technical Cooperation and Capacity Building***  
Global Trust Fund set up by December 2001; Director-General report to General Council by December 2002 and to the ministers at Cancún.
- ***Least-Developed Countries***  
Report to General Council, early 2002.
- ***Special and Differential Treatment***  
Report to General Council, early 2002.

## **5. *Lead-up to the Cancún ministerial and the collapse of negotiations***

*This is like déjà vu all over again.*

Yogi Berra (1998)

The deadlines set at Doha (Box 1.1) make clear that a lot of work was to have been completed before the Cancún meeting. Had all the deadlines been met and the planned work completed, the ministers would have had a long agenda at Cancún for a five-day meeting. As it happened, most deadlines had not been met.

To begin with, the target date of January 1, 2005 set at Doha—for the completion of the round less than four years after its formal launching—was extremely ambitious. The Tokyo Round and the Uruguay Round took nearly six and eight years, respectively, from their launch to the signing of their final agreements.

It is possible that the failure at Cancún is analogous to the earlier one at Montreal in 1998. As noted in Section 2 above, at the time of what was then thought to be a mid-term review of the Uruguay Round in Montreal, negotiations seemed to be at an impasse, yet the deadlock was broken, partly because of the pressure of the impending expiry of the US Fast Track Authority. The Fast Track Authority expired on December 15, 1993, but it has since been renamed the Trade Promotion Authority (TPA) and renewed until June 1, 2005, with a possible two-year extension. Possibly a push towards an agreement will come about as the expiry of TPA draws near.

This possibility by no means reduces the gravity of the unmet deadlines, however. The issues affected include access to essential medicines for poor countries that lack capacity to manufacture such drugs themselves, as well as special and differential treatment for developing countries. The Director-General of the WTO, Dr. Supachai Panitchpakdi, noted that, “failures to meet these deadlines have been quite disappointing. These two issues are of great importance not only to developing countries but to the organization itself and to the broader trade negotiations that are part of the Doha Development Agenda.” Dr. Panitchpakdi put a brave face on the failures by adding, “nonetheless, I have been informed of the Mexico commitment to work to find agreement in these complex, difficult negotiations. I am hopeful a solution can be found in the early part of 2003” (WTO News: Speeches, Director-General Supachai Panitchpakdi, January 8, 2003).

His hopes were dashed at the Tokyo mini-ministerial meeting in February 2003, even before the ink was dry on the text of his speech. He had issued a dire warning that failure to make progress on these issues had deepened suspicions among developing countries that the “Development” part of the Doha agenda might be little more than a slogan. But the ministers from 22 countries, including those of the European Union, made little progress in resolving the issues.

### **Agriculture**

On agriculture, the ministers at the Tokyo meeting had before them a draft of the modalities paper, prepared by Stuart Harbinson, who chaired the negotiations. The Harbinson proposals were widely criticized as either too soft or too tough, and the ministers sent it back to be revised, for consideration before the deadline of March 31, 2003. There was no agreement as the deadline passed.

At Tokyo, the European Union and Japan took hard positions. Japan's Agriculture Minister, Tadamosi Oskima, was reported as having said that proposals to halve Japan's outrageously high 490 percent tariff on rice were "difficult to accept," and rejected calls to raise the amount of rice that can enter Japan. Franz Fischler, the EU representative on agriculture, was reported to have been equally adamant and to have said, "We don't do reforms on the invitation of someone else" (Ken Belson, *New York Times*, February 17, 2003). The French President, Jacques Chirac, at the Francophone African Summit in Paris, called for the suspension of subsidies by rich countries on agricultural exports to poor African countries. This position is cynical, besides being economically illiterate: the prices of agricultural commodities are determined in *world* markets, not by the relatively small markets of African countries, which import less than 4 percent of world exports!

In the US, Congress had approved, and in May 2002 the President signed, a farm bill that raised spending on support to agriculture to US\$ 249 billion. The new law sent a clear signal that the US was not yet ready to reduce distortionary intervention, but it did not breach what was allowed under the Uruguay Round Agreement on agriculture. The proposals that the US put forward at the **WTO in Phase 1 of Agricultural Trade Negotiations during 2000-01** offered to substantially reduce farm export subsidies, tariffs, and domestic supports (**US 2000a, 2000b, 2000c**).

The EU opposed these US proposals as too liberal. However, in August 2003, a month before the opening of the Cancún meeting, the US and the EU agreed to make a joint proposal **on agriculture** that leaned more towards the EU position (**US-EU 2003**). Predictably this proposal was criticized by many countries—both developed and developing—for its timidity, lack of specificity, and failure to address the concerns of the developing countries.

## **TRIPs**

Discussions in Tokyo and, subsequently, in the Council for TRIPs on 18-20 February 2003, failed to narrow the differences on the use of compulsory licensing by a country to authorize itself or third parties to produce patented drugs without authorization by the patent-holder. The Council had failed to adopt the draft prepared by its chair, Perez Motta, on December 16, 2002, suggesting a compromise solution.<sup>19</sup> The US rejected this draft, on the grounds that it did not limit the diseases for which the provision on compulsory licensing is to be invoked to HIV/AIDS, malaria, tuberculosis, and similar infectious diseases.

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<sup>19</sup> At the Geneva **TRIPS Council meeting** the chairman did not make his intended statement on his "understandings", from consultations with members, that the system of compulsory licensing to be established was "essentially designed to address national emergencies or other circumstances of extreme urgency". *Bridges* 7 (6), February 19, 2003.

Just two weeks before the Cancún meeting, the US changed its position from rejection of the draft to acceptance, once a statement had been added to the effect that countries that produce generic drugs would not exploit the agreement to increase exports to nations that are not poor and do not have a medical emergency. It was widely believed that the US Trade Representative, Robert Zoellick, did not want to reject the December 16 draft but was overruled by the White House at the urging of the powerful American pharmaceutical lobby.

### **The negotiation process at Cancún**

The Cancún meeting opened with a draft ministerial declaration prepared by Carlos Pérez del Castillo of the General Council and Director-General Supachai Panitchpakdi of the WTO. In their covering letter to ministers, they stressed that while the draft declaration had not been agreed “in any part” and did not include many of the member governments’ proposals, in their best judgment it constituted a workable framework for action by ministers at Cancún. The draft in particular included a version of the US-EU joint proposal on agriculture.

On the first day, the chairman of the meeting, Mexican Foreign Minister Luis Ernesto Derbez, appointed five ministers as “facilitators” to help him with the negotiations on agriculture, non-agricultural market access, development, the Singapore issues, and other issues. On the fourth day of the conference, the chairman distributed a new draft compiled from texts supplied by various “facilitators” who had had extensive consultations with participant ministers.

A large number of ministers commented on this revised draft. According to a press summary distributed by the WTO:

Although most recognized the effort that had been put into bridging some of the gaps, most ministers criticized the points they disliked. They largely repeated well established positions arguing that their particular concerns had not been included in the text.

For example, they found the agriculture section either too ambitious or not ambitious enough. They differed over whether to launch negotiations on the Singapore issues or whether there is no consensus to do so. They had comments on the non-agricultural market access text, including the description of the tariff cutting formula and whether sectoral deals (zero tariffs for all products within specified sectors) should be compulsory for all members.

Several said the text on the cotton initiative did not reflect the proposal to phase out subsidies and for subsidizing countries to compensate the African producers in the interim. And a number of African and Caribbean countries in particular said the draft does too little on special and differential treatment for developing countries.

A few countries, both developed and developing, expressed concern that the negative sentiments would wipe out what they described as possible significant results in areas such as agriculture, which are particularly important for developing countries. Two large members warned that each delegation would be responsible for what happened that night (WTO, 2003b).

Chairman Derbez, while recognizing that ministers wanted to put their positions on record, stressed that agreement was needed in order to give the world economy a boost, and that only the enemies of the world trading system would be the winners if the ministers failed to agree. He held consultations with various groups representing regional and other interests, starting first with the group concerned with Singapore issues, since “speech after speech” of heads of delegations had been about these issues. Although positions shifted during these consultations, allowing the possibility of dropping negotiations on one or two issues, participants reached no consensus and he decided to close the meeting, ahead of its scheduled time.

## **6. *Picking up the pieces and moving forward: lessons from Cancún***

*It ain't over till it's over.*

Yogi Berra (1998)

The blame-game and finger-pointing started soon after the Cancún meeting ended. There is no need to engage in such a pointless exercise here; the need is to draw lessons with which to go forward with the Doha Round.

### **Tactical and strategic errors**

Clearly the various countries and country groups made tactical, if not strategic, errors. The US—instead of compromising with the EU on agricultural trade policy—could have vigorously sought support for its initial proposals from like-minded developing countries. The US also underestimated the damage that its large subsidies on cotton, to fewer than 20,000 farmers, were perceived to be causing to much larger numbers of very poor farmers in sub-Saharan Africa. Meanwhile Korea insisted that all Singapore issues be negotiated, knowing that the strong opposition of others would preclude the adoption of that proposal and any compromise, given that an explicit consensus was needed for adoption. Many observers saw Korea's insistence as a ploy to avoid reducing its excessive protection of rice—which it would have had to do were agricultural negotiations to progress. The developing countries, including the G-20, overplayed their hand, although the accusation that they were “pontificating and not negotiating” was unfair. The G-20-plus in fact tabled a proposal on agriculture, albeit one that asked more of others than of themselves; the EU and US did not respond to it. The countries of the Africa-Caribbean-Pacific group refused to negotiate on government procurement and trade facilitation.<sup>20</sup>

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<sup>20</sup> Some developing countries apparently had put special and differential treatment at the top of their priorities among the issues for negotiation, followed in order by implementation, TRIPs/Public Health, modalities for agricultural negotiations, and lastly, market access for non-agricultural products. At Cancún, the discussions did not proceed according to this sequence. This perhaps prevented a compromise on Singapore issues of interest to the developed countries and significantly reduced the chances of success at Cancún. I owe this observation to Bernard Hoekman.

Lastly, as suggested above, Chairman Derbez perhaps closed the meeting too early. One may contrast his relative lack of experience with the imaginative and forceful role that the very seasoned Chairman Enrique Iglesias of Uruguay was able to play at Punta del Este. Just before the Cancún meeting closed, there was a narrowing of the gap between contending positions on market access issues on both agricultural and non-agricultural products, as well as on export subsidies and domestic support. There was also considerable movement towards agreeing to drop two of the Singapore issues—competition policy and investment—from further negotiation while retaining the other two, namely, government procurement and trade facilitation. A final agreement might have been hammered out had the meeting not been formally closed ahead of its scheduled time.

Even if a compromise had been reached, and the Doha negotiations had been put back on track, it is doubtful that by the target date the negotiations would have yielded an agreement that would have liberalized all trade considerably, improved the rules of the global trading system, and stalled the defections from multilateral liberalization to bilateral and preferential liberalization. There are several reasons for this assessment.

### **Special and differential treatment (SDT)**

First, developing countries have continued to be ambivalent towards a non-discriminatory and rule-based global trading system. In the negotiations that led to the GATT, in the preparatory committee for the Havana Conference, and at that conference, developing countries sought to exempt themselves from rules, eventually succeeding in persuading the GATT Contracting Parties to adopt the so-called enabling clause entitled, “Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries” in November 1979.<sup>21</sup> This clause, *inter alia*, excuses the developing countries from having to reciprocate commitments undertaken by Developed Contracting Parties. Ever since its adoption, achieving SDT has been the overarching objective of the developing countries. The developed countries, for their part, found the SDT provision convenient since it enabled them, too, to get away with exceptions—such as the Multifiber Arrangement—from GATT rules.

At the heart of the demand for SDT is the notion that differences in countries’ stages of development should be reflected in the multilateral trading system. According to this principle, the least developed countries are exempted from many commitments and from reducing whatever barriers they have on their trade.

Such differentiation makes a mockery of a rule-based system, and creates insidious distinctions among developing countries. Even more importantly, it creates perverse incentives, by allowing countries to delay the domestic actions that would be necessary for them to take full advantage of the opportunities that a liberal trading system offers. This is

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<sup>21</sup> Although it was included in the enabling clause, the principle of non-reciprocity had already been introduced in Part IV of GATT adopted in 1965, and not for the first time either. It had in fact been included in the principles for negotiations set forth by the ministerial meeting that launched the Kennedy Round (1964-67) of the multilateral trade negotiations (Dam 1970). Besides, as early as the Dillon Round of 1960-62, the European Community had announced that it would not expect reciprocity from developing countries.

not to say that heterogeneity among countries' stages of development does not matter—it does. But such heterogeneity should be accommodated without compromising the longer-term development prospects of countries that are at relatively early stages of development. Exempting such countries from rules, commitments, and obligations creates the expectation that exemptions can be extended indefinitely. This, in turn, blunts the incentives for these countries to address the weaknesses in administrative capabilities, human capital attainments, and social and economic infrastructure that account for their “least developed” status. Thus, the very forces of their catch-up with more developed countries are weakened.

A rethinking of SDT is needed. Giving countries at earlier stages of development a somewhat longer time horizon to conform to common rules, commitments, and obligations would avoid the disincentives just outlined, provided that all countries are credibly committed both to the common rules and, most importantly, to the agreed but diverse time horizons. Further, given such commitments, transfers to poorer countries to ease the burden of adjustment costs would be appropriate. By committing to a known and irrevocable future date for complying with common rules, countries would remove uncertainties about their future economic environment, and encourage appropriate investments in institution building as well as in human and physical capital.

### **Reciprocity**

Partly because the developing countries were given special and differential treatment, and partly because of their obsession with import substitution, some of the larger and mid-level developing countries (India is a prime example) have retained high trade barriers, even after the commitments they made under the Uruguay Round Agreement. These barriers have not come down to the levels prevailing in the historically outward-oriented economies of East Asia. It is also the case that barriers in some developing countries adversely affect the trade of other developing countries. Unilateral reduction of such high barriers would be beneficial, both to the reducing developing countries and to other developing countries. Indeed, studies by the World Bank have consistently shown the developing countries have a lot to gain from their own individual and joint liberalization, much of it coming from exploiting the great potential for trade among developing countries.

Greater access to rich country markets would add substantially to these gains. Developing countries' high barriers and their reluctance to reduce these barriers significantly in the reciprocal bargaining process do not provide grounds for the developed countries' unwillingness to reduce their (albeit lower) barriers. There are two reasons why.

First, developing countries have in fact reduced their barriers, particularly import tariffs. For example, looking at the imports of ten developing countries, which accounted for 60 percent of the merchandise imports of all developing countries, customs revenues fell from 13 percent of landed cost in 1985 to 4 percent in 2000 (WTO 2003b, Chart IB.2).

Second, though it may well serve a rhetorical purpose of the rich countries to point out that developing countries' tariff barriers are higher than their own, one must take a deeper look at

how tariffs affect developing countries.<sup>22</sup> The developing countries in 2002 accounted for around 25 percent of world merchandise imports (WTO, 2003b, Table IA.2).<sup>23</sup> A large share of those imports are likely to be necessities and vital intermediate goods (such as oil), demand for which is unlikely to be very price-elastic. Under the circumstances, it is unlikely that developing countries' imports, particularly from rich countries, will grow substantially. Of more importance are the import barriers that developing countries face in the considerably larger markets of rich countries; the rich countries buy a large share of the exports of the developing countries, and these exports are likely to be relatively price-elastic. How a given tariff rate affects exports depends on market characteristics. Thus a given tariff rate applied in a larger, and more price-elastic, rich country market would reduce developing countries' exports by proportionately more than the same tariff rate, applied in a smaller and less price-elastic market in a developing country, would reduce rich countries' exports. The World Bank, UNCTAD and other multilateral agencies are not off the mark in pointing to the deleterious effect on developing countries of the trade barriers in rich countries.

In sum, a rethinking of the demand for special and differential treatment, and a willingness by developing countries to offer deeper cuts in their barriers, are necessary for the Doha Round to go forward from the failure at Cancún.

### **A development round?**

The high hopes created at Doha that the new round would be a "Development Round," and the apparent dashing of those hopes at Cancún, are both unwarranted. There is little doubt that greater integration of the developing countries with the world economy—through reduction in barriers to integration in developing countries and a liberal global environment for trading, finance, and technological progress—will contribute to their faster growth and to development. But it would be a mistake to underestimate the domestic constraints of social and economic structure, as well as governance, in the developing countries. Indeed, reduction in barriers to global integration in a liberal world environment provides countries with *opportunities*; countries' ability to seize these opportunities to achieve growth and development depends on their success in removing domestic barriers. Moreover, some of the conceded demands of developing countries are not in the interests of the developing countries as a group; for example, the duty-free, quota-free market access accorded to least developed countries could reduce export opportunities for other developing countries [OK?].

### **Agricultural trade**

Since the early years of GATT, agricultural trade has been massively distorted by a plethora of interventions in almost all countries. Neither the US-EU proposal on agriculture, nor the counterproposal from G-20 that was tabled at Cancún would have done much to dismantle the system of distortionary interventions.

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<sup>22</sup> Of course, tariffs vary by commodities. It is well known that tariffs in rich countries on commodities exported by developing countries are higher than average, and that tariffs increase by stage of processing, adversely affecting their prospects for doing more processing before exporting.

<sup>23</sup> Developing countries defined as developing Asia, all of Africa, and Latin America. Their share in world service imports is around 20 percent (WTO, 2003b, Table IA.3).

Confounding the protection of agricultural trade with the legitimate, but quite different, goals of ensuring access to food at affordable prices for the poor in developing countries, and ensuring that the rural environment is not degraded, is not conducive to progress either in liberalizing agricultural trade or in protecting the poor or the environment. Unless members realize that they could use non-tariff policy instruments to pursue their legitimate objectives towards agriculture and farmers, at far less cost to themselves and their trading partners, agricultural trade negotiations are unlikely to move forward.

### **Narrowing the agenda for negotiation**

Besides being overly ambitious in setting the target date of January 1, 2005, for completing the round, the Doha declaration loaded the negotiating agenda with items on which there was no widespread agreement, let alone consensus. The most contentious of these were the Singapore issues. Trade and investment, anti-dumping, and regional and preferential trade agreements were the others. At Cancún, the ministers were intended to hear reports on many of these and make decisions to guide subsequent negotiations.

In a body of 148 in which consensus is the norm for decision making, a long agenda containing many items on which there is no widespread agreement is a prescription for failure. This is one of the important lessons from Cancún. Its implication is also clear: an agreement to narrow the agenda to urgent issues is absolutely essential for making progress towards a deal by January 1, 2005. For the next 15 months, therefore, it would be sensible to restrict the negotiating agenda to just the items on which there was a considerable narrowing of differences, while agreeing not to take any possibly WTO-inconsistent prejudicial action on others.

## **7. *Future directions***

GATT, the World Bank, IMF, the UN, and other intergovernmental agencies were created in the 1940s, and it is often suggested that their design reflected the need to address the pressing problems of the period. The problems of the 21<sup>st</sup> century are not the problems of the 1940s, and it is argued that for this reason alone, structural reforms of these institutions are urgent and new institutions must be created as needed. Some commentators go even further to argue that globalization inevitably erodes national sovereignty in many areas of policy making and shifts it to intergovernmental agencies, and that this in turn calls for supra-national agencies for policing competition (global anti-trust) and regulating financial intermediaries and migration. Some argue for global taxation, to address cross-national externalities of various kinds, including environmental externalities and those relating to the volatility of short-term capital flows and redistribution.

Clearly international institutions have responded to the changing mix of problems; indeed, they have been pushed to do so by their members' reluctance to contemplate other alternatives. The responses have not always been efficient and cost-effective<sup>24</sup>, and in effect,

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<sup>24</sup> Part of the result has been the expansion of the activities of the World Bank and the IMF into areas in which they do not have competence.

the jurisdictions of the institutions have been expanded without any significant restructuring. The International Monetary Fund, for example, instead of sticking to its original mandate, has involved itself in medium- to long-term structural adjustment, growth, sovereign debt restructuring and bailouts, and, more recently, in poverty alleviation, in which it has neither mandate nor competence. Several of these areas are also in the jurisdiction of the World Bank. The World Bank itself has become so diffused in its activities (for example promoting interfaith dialogue) that one must wonder whether it has diluted whatever analytical competence it might have had in any core area of development.<sup>25</sup> This blurring of institutional boundaries does not necessarily contribute to the design of more efficient and less costly solutions to problems.

### **A vision for the global trading system and WTO**

The jurisdiction of the WTO has already been enlarged to cover intellectual property, aspects of investment, and trade in services, and depending on how the Singapore issues are resolved, others will be added. Some characterize the emerging WTO as a World Bargaining Organization on everything and argue that there is no reason to restrict it to bargaining only on trade policies, and that too with no side payments. There is the further danger that expecting trade regimes to solve development problems might place undue pressure on the WTO to become yet another development institution. If this happens, it would be unfortunate. It would dilute the WTO mandate on matters of trade and erode its effectiveness.

Tinbergen pointed out long ago that in general there must be at least as many instruments of policy as there are objectives and that in achieving any objective, the policy instrument that has the most direct impact on the objective will most likely, though not always, do so at the least social cost (Tinbergen 1952, 1956).

Following Tinbergen, the vision for the WTO must start from the presumption that its mandate would be the governance of a rule-based global system of world trade in goods and services. This mandate for the WTO, and an overarching goal for it—namely, removing policy-created barriers to trade in goods and services as the organizing principle for its constitution and rules—has several implications.

First, issues that are not explicitly and directly trade-related would be outside the mandate of the WTO, and within the domain of other institutions specifically designed to deal with them. Of course, as is very likely, the membership of the WTO and of these institutions would

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<sup>25</sup> Clearly, religious and ethnic conflicts could affect development prospects, as crude cross-country growth regressions (Easterly and Levine, 1997) suggest. But this does not mean that international financial institutions have the competence and means to address them. Recognizing the relevance and social value of culture or religion again does not mean that economic policy instruments are cost-effective in promoting either. Worse still, capture by groups with other objectives is a possibility, as is evident in the cynical, protectionist capture of the need to preserve rural values and scenic beauty under the rubric of the “multi-functionality” of agriculture. Be that as it may, there is no doubt that the IMF and the World Bank have strayed from their original mandates under pressure from countries who have large weights in their decision making: the US, Japan, Germany, France, and the UK. There has been a manifest tendency on their part and others to regard the World Bank and the IMF as instruments for providing a solution, and that very cheaply, for any real or imagined global problem, despite their proven inability to solve the problems or even contribute positively to the search for a solution.

largely overlap. It should in principle be simple, therefore, to avoid conflict among the rules and decisions of the various institutions and to bring about coordination, as long as the members of each, as national governments, have a coherent view on the issues in the mandate of each, taken together.

Second, since any decisions in the WTO are implemented by means of national and international policies, WTO must remain an inter-governmental organization. Clearly, civil society—national and multi-national—should be heard, but the arena for the debate must be primarily the national political arena. By influencing the positions of national governments through a participatory process, civil society organizations will indirectly influence decisions at the WTO. Giving these organizations direct representation in some form, such as observer status, would be counterproductive. The deeper problem of the undemocratic and non-participatory character of some national polities, and hence their denial of hearing to their civil societies, does indeed arise—but a sustainable solution to the lack of democracy does not lie in giving representation to civil society in an inter-governmental organization. The notion of democracy in its decision-making process has no meaning, but transparency certainly has.

Third, while any rule-based system must have a means for settling disputes<sup>26</sup>, it is arguable whether the ultra-legalistic system for the WTO, devised in the Uruguay Round at the insistence of the US, improves upon the basically political system of the GATT that it replaced. Effective access to the system depends on being able to hire expensive legal expertise, which poor members may be unable to afford without assistance. Also, the quality of the jurisprudence of the system will suffer if it is overloaded with too many disputes, as seems likely to happen. One unfortunate consequence—based on the successful inclusion of TRIPs—has been the clamor to bring within the ambit of WTO other issues such as labor standards and environmental issues, not because of their trade relatedness but only because of the availability of WTO's dispute settlement system to enforce disciplines through trade sanctions.

Fourth, a fundamental premise of the vision for WTO, and its overarching goal, is that the trading system would be global in coverage and governed by multilateral disciplines and rules. To make the system truly global, the process of accession of new members such as Russia needs to be streamlined and accelerated. Multilateralism is incompatible with preferential trading arrangements, including the so-called regional free trade agreements (FTAs). As is well known, such agreements have little to do with free trade, and their complex rules of origin (ROOs) for obtaining access to preferential treatment boggle the mind. For example, the FTA between the US and Singapore apparently includes 203 pages of text on ROOs! ROOs provide great scope for manipulation by trade lawyers to create non-transparent and opaque protectionist measures. This being the case, it is essential to repeal Article XXIV of GATT/WTO on Customs Unions and FTAs, and replace it with one that ensures that trade preferences of any regional or other agreements are extended to all members of the WTO on a Most Favored Nation basis within a specified (say, five-year) period after the conclusion of such agreements. The rationale for this is that the primary

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<sup>26</sup> There is a danger that if the Doha Round collapses, the WTO would largely become a de facto dispute resolution body.

driving force behind most regional agreements (for example the European Union) is political. The political benefits of such agreements ought to be adequate to prevent defection even if the benefits of trade preference are limited to a specified period so as to minimize the damage they inflict on non-members.

Fifth, the WTO articles on Anti-Dumping Measures (ADMs) need to be repealed. As is well known, the only economic rationale for dumping, namely predation, is no longer plausible, if it ever was. ADMs have become de facto preferred instruments of protection—the US and EU are frequent users of ADMs—and developing countries such as India have begun to use them extensively. ADMs are the most distortionary and discriminatory among protectionist instruments. Since WTO Articles allow the use of other less distortionary means, such as safeguard measures, ADMs are neither necessary nor desirable.

### **Transition to a truly global, multilateral, and liberal trading system**

Once it is agreed that an unfettered trading system is the ultimate goal, the modalities for negotiations for the transition become simple. Instead of negotiating on complex formulae for reduction commitments regarding tariffs, non-tariff barriers, subsidies, and so on, the goal would be their complete elimination by an agreed, but fairly near, future date. To accommodate the diversity in countries' stages of development, this date could vary within agreed limits. The same principle would apply for specific commodities and services—each member could choose, again within agreed and narrow boundaries, longer periods for the elimination of barriers in those commodities and services it deems sensitive.

The US must take the lead if this vision is to be achieved, and if the failure at Cancún is not to impede progress towards a successful conclusion of the Doha Round. After all, the GATT was the outcome of a US initiative and every round of multilateral trade negotiations under the auspices of GATT was either started at the insistence of the US or successfully concluded once the US strongly pushed for it. Neither the EU nor the developing countries has ever called for a round of MTN to be initiated, and most often these groups have acted to delay, if not to obstruct, the compromises needed to conclude a round successfully.

Thus, the US has a critical role to play. But unlike in earlier rounds, it should avoid threatening gestures—including the threat to go regional—and not try to overload the WTO with non-trade related mandates in order to appease its domestic lobbies. Instead, as a strong believer in the fundamental role of free markets and competition, it needs to forge a consensus for reaching the ultimate goal of freeing the movement of goods, services, factors, and technology from policy-created barriers anywhere in the world.

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**Appendix: Membership of the G-20, pre-Cancún\***

Argentina	Guatemala
Bolivia	India
Brazil	Mexico
Chile	Pakistan
China	Paraguay
Colombia	Peru
Costa Rica	Philippines
Cuba	South Africa
Ecuador	Thailand
El Salvador	Venezuela

\* Egypt and Kenya are not formally members, but are supportive of the G-20 text.

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