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Introduction

Where does the World Trade Organization stand, one year into the Doha Round of multilateral trade negotiations? The WTO manifestly goes wider and deeper than its predecessor, the General Agreement on Tariffs and Trade; and the Doha Round, launched at the Fourth Ministerial Conference in Qatar in November 2001, is to take the WTO into new territory to cover investment-, competition-, and environment-related trade policies.

On the other hand, the WTO is buffeted by hostile forces without and fractured within by sharp, bitter intergovernmental divisions. The accession of so many new members in quick succession has further slowed decisionmaking. The result is stasis and drift, in striking contrast to the businesslike diplomacy and negotiating effectiveness of the GATT. Furthermore, there has been little progress since negotiations in the new round started in January 2002. No wonder doomsayers prophesy a replay of the Seattle disaster—perhaps at the next ministerial conference in Cancun in September 2003—and a marginalized, increasingly irrelevant WTO further down the line.

These developments should impel all concerned with the health of the world trading system to ask a few basic questions—often overlooked by trade policy experts and practitioners fixated on the detail of trade agreements and negotiations. Where is the WTO heading, if anywhere? What is right or wrong with the organization? What is, or should be, its *raison d'être*? Should it have a GATT-style market access focus? Or should it widen its regulatory circumference to take in environmental, labor, and other “trade-related” issues? Should it have more of a UN-style “development” dimension? Or indeed all of the above? How does the new round fit into the picture? What difference, if any, is it likely to make to the WTO’s middle- and long-distance future?

This paper sets the scene by placing the WTO today in the context of wider trade policy developments in the world economy. It then examines the structural shifts in the transition from the GATT to the WTO. Moving to the

new WTO round, it surveys the political roadblocks impeding progress in the run-up to the Cancun ministerial meeting and beyond and posits medium- to long-term scenarios for the WTO. The sections that follow concentrate on the main items on the negotiating agenda in the new round. The paper closes with an analysis of the intergovernmental politics and highly asymmetrical national trade policy capacities that will determine the eventual outcome—successful or otherwise—of this round.

A Multitrack Approach to Trade Policy Reforms

To the “WTO junkie,” trade policy begins and ends in Geneva. But this is far from the reality. Trade policy proceeds, usually simultaneously, along three main tracks: the national (unilateral) track, the bilateral or regional track, and the multilateral (WTO) track. Arguably, trade policy takes place in the first instance at the national level. It takes place increasingly at bilateral and regional levels in the form of free-trade agreements. The WTO is at best the second instance of trade policy.

The Fast Track of Unilateral Liberalization

Trade policy has become progressively more liberal in the last couple of decades as part of wider packages of economic policy reform, although this trend is patchy and uneven. The more-developed countries in the Organization for Economic Cooperation and Development have gradually opened their markets further, consolidating the liberalization of trade and capital controls since the late 1940s. The real trade policy revolution, however, has occurred in developing countries and countries in transition (plus Australia and New Zealand). This trend began in East Asia in the 1960s and Chile in the 1970s, with other countries and regions following only in the 1980s and 1990s (first in Latin America, then in Eastern Europe, the former Soviet Union, India, and parts of Africa).

The trend has been far from uniform: countries in East Asia, Latin America, and Eastern

Europe have liberalized more and integrated faster and deeper into the world economy, with stronger commitments in the WTO. They are mostly middle- and higher-income developing and transitional countries—China being the significant exception. None except Singapore, however, comes close to the comprehensive, nondiscriminatory free-trade policies of Hong Kong (now a special administrative region of China with separate WTO membership). This group of relatively recent “globalizers” (less recent in the case of Hong Kong, Singapore, South Korea, and Taiwan) numbers about 20 to 25 countries.

The overwhelming majority of developing countries (not far off 100) are in the low or least-developed bracket and are concentrated in South and West Asia, Africa, the Middle East, and parts of the ex-Soviet Union. In these regions trade barriers are higher, and there has been less liberalization in the last few decades and relatively few WTO commitments. These tend to be countries with low or stagnant growth; and many of them, particularly the least developed, are mired in political and economic instability.¹

The bulk of recent trade and investment liberalization in developing and transitional countries has taken place unilaterally: governments have liberalized quotas, tariffs, licensing arrangements, restrictions on foreign investment, and the like independently and not as part of international agreements. There are powerful economic and political arguments in favor of unilateral liberalization. To begin with, national gains from trade result directly from import liberalization, which replaces relatively costly domestic production and spurs more efficient resource allocation. One important effect of import liberalization is to channel resources into profitable export sectors, removing the bias against exports inherent in protectionist regimes.²

Seen in this light, there is every reason to go ahead on the fast track to unilateral liberalization without wasting time on the slow, circuitous track of reciprocal negotiations. However, given enduring protectionist pressures and ingrained mercantilist thinking, this route is the exception, not the rule. In recent

times, governments have overcome these obstacles and embarked upon radical unilateral liberalization only in situations of national economic and political crisis, especially when it has become all too clear that long-standing policies of protectionism have failed.³

Given the practical difficulty of undertaking autonomous liberalization in the context of modern domestic politics, there is some merit to the multilateralized reciprocity that the GATT/WTO embodies. The mercantilist disadvantage of governments haggling over export concessions, for which they “concede” import access to their own markets, is counterbalanced by the following advantages:⁴

- Most obviously, international treaties act as an external prop; they can strengthen the hand of governments and shift the balance of interest group politics within the domestic sphere. Intergovernmental negotiations and binding international obligations help protect governments against powerful protectionist interests at home and mobilize the support of domestic exporters.
- WTO rules provide rights to market access for exports and rights against the arbitrary protection and predation of more powerful players. This is particularly important for developing countries.
- Perhaps most important, but often overlooked, multilateral rules can bolster domestic reform efforts and reinforce the *clarity, coherence, and credibility* of national trade policy reform in the eyes of exporters, importers, local and foreign investors, and, not least, consumers. This is another way of saying that the WTO, at its best, is a helpful auxiliary to good national governance.

A Proliferation of Regional Agreements

Regional trade agreements (RTAs), sandwiched between unilateral measures and the WTO, have proliferated in practically all regions of the world economy since the 1980s. Activity on the regional track has accelerated since the failure of the WTO’s Seattle ministe-

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rial conference in 1999, especially in the Asia-Pacific region, starting with Singapore and involving Japan, South Korea, Australia, New Zealand, Mexico, Chile, the United States, Canada, and now China and Hong Kong. The WTO Secretariat estimates that there are 170 RTAs currently in force and that this number could grow to 250 by 2005.⁵

So far, there is little evidence that RTAs have retarded the overall liberalization of trade and foreign direct investment (FDI).⁶ Indeed, RTAs may well have contributed to political stability and economic policy reform in some countries, for example, in Mexico through the North American Free Trade Agreement and the Central and Eastern European countries en route to EU membership. Nevertheless, the discriminatory, rule-evading, and power-reinforcing potential of RTAs cannot be overlooked, especially as multilateral disciplines on them (in Article XXIV GATT and Article V of the General Agreement on Trade in Services, or GATS) are rather weak. The danger is that RTAs could coalesce into big blocs, competing with each other on the basis of power rather than cooperating on the basis of rules, and particularly putting the squeeze on small and poor countries excluded from preferential access to the markets of the major powers.

The proliferation of RTAs is a fact of life. A weak and demoralized WTO is increasingly overshadowed by events on the bilateral/regional track, and it is in serious danger of becoming marginalized by spider webs of discriminatory trading arrangements. It is therefore vital to accelerate nondiscriminatory liberalization on the multilateral track, as well as strengthen WTO rules and procedures to monitor and discipline RTAs. If that does not occur, RTAs will have increasingly harmful effects, particularly for developing countries.

To sum up, unilateral liberalization should be pursued on its own merits when and where politically feasible. However, most developed and developing countries lack the domestic political requisites to undertake and sustain unilateral trade reforms. The multilateral track can therefore serve as a helpful auxiliary: WTO agreements not only lock in unilateral reforms; they also provide a springboard for further and

deeper unilateral reforms. RTAs “in between” have ambiguous effects but will be systemically damaging in the absence of accelerated multilateral liberalization and strong WTO rules.

Alarming Trends in the WTO

The GATT provided rules for progressively more open trade, at the border, in (some) industrial goods. As a result of the Uruguay Round agreements, the WTO goes much wider and comes closer to universal coverage, providing market access rules for the bulk (if not all) of international trade. As important, the agreements go well beyond the coverage of border barriers (tariffs and quotas) to encompass a much broader range of behind-the-border nontariff barriers, that is, domestic regulations that hinder international trade.

GATT 1994 (replacing GATT 1947) continues the 50-year-old process of reducing tariff and nontariff barriers to trade in manufactures. The Agreement on Agriculture and the Agreement on Textiles and Clothing, although relatively weak and shot through with loopholes, have GATT-style rules and procedures for gradually liberalizing important but hitherto highly protected sectors of trade in goods. The GATS, although architecturally complicated and with modest commitments to date, nevertheless establishes the framework for the liberalization of trade and factor movements in cross-border services transactions. The GATS also has provisions for making the domestic regulation of service sectors more transparent and nondiscriminatory—a vital consideration given that opaque and discriminatory domestic regulations hinder services trade far more than classic border restrictions.

New or revamped trade procedures, notably on subsidies, technical barriers to trade (TBT), sanitary and phytosanitary, or SPS, measures (affecting animal and plant health), customs valuation, and import licensing, furnish some of the regulatory infrastructure for tackling behind-the-border trade restrictions and taking better advantage of trade opportunities. This is especially important for developing countries that lack such regulatory infrastructure. An increasing number of develop-

ing countries (but still a relatively small minority of 20 to 25) are more active and effective participants in the WTO, eschewing old-style “special and differential treatment” that had granted them sweeping exemptions and instead subscribing to basic, common rules for market access.

All the agreements mentioned above form part of the Single Undertaking, another Uruguay Round innovation. All WTO members have to comply with the obligations of all the Uruguay Round agreements (with the relatively minor exceptions of agreements on public procurement and civil aircraft subsidies), rather than choose à la carte (as was the case with the Tokyo Round codes for trade procedures). Finally, the WTO’s quasi-automatic dispute settlement procedures, reliant more on law and due process than on the vagaries of diplomacy (compared with dispute settlement in the old GATT), give rules more teeth and bite. Developed and developing countries make much more use of WTO dispute settlement than was the case pre-1995. Arguably, such a stronger rules-based (or law-based) system, with beefed-up enforcement mechanisms, benefits smaller and weaker players to a greater extent than the more power-based (or diplomacy-based) GATT system.⁷

If this were the sum total of the WTO story, then it could be said that the WTO would be performing its ideal constitutional function. It would be supplying, and helping to enforce, a wider and deeper, transparent and nondiscriminatory rule base for market access in cross-border transactions. This kind of WTO would be a helpful, more effective auxiliary to better national governance, dovetailing with unilateral liberalization and domestic regulatory reforms “down below.” The WTO, however, like political life in general, is more complicated than that; there is another, more vexing side to the WTO story. Alarm bells toll on the following counts: standards harmonization, legalism, and politicization. Let us take each in turn.

“Harmonized” Standards and the Trouble with TRIPS

First, the WTO suffers from creeping *standards harmonization*. The Trojan horse for a

standards harmonization agenda goes by the name of TRIPS (the Agreement on Trade-Related Intellectual Property Rights). TRIPS is perhaps the strongest agreement coming out of the Uruguay Round, with harmonized legal standards on the protection of patents, trademarks, and copyrights to be applied across the WTO membership, regardless of differences in levels of development. It differs fundamentally from classic GATT-type market access rules, for its short-term effect is to close, not open, markets: strong patent protection in particular increases prices and transfers rents from poorer developing countries to multinational enterprises headquartered in the West, especially in the pharmaceuticals sector.⁸ Most controversial, developing countries are concerned that TRIPS could inhibit cheap and plentiful access to essential medicines, such as patented drugs to combat HIV/AIDS.

The main point to bear in mind is that TRIPS takes WTO rules in a new direction—not further in the direction of market access, but elsewhere, toward a complex, regulation-heavy standards harmonization agenda intended to bring developing-country standards up to developed-country norms. It sets the precedent for artificially raising developing-country standards in a range of other areas, such as labor, environmental, food safety, product labeling, and other technical standards, armed with stronger WTO dispute settlement and the Damocletian sword of trade sanctions in case of noncompliance.

Let us be clear: these are not negative, prescriptive, classical liberal-type general rules of conduct to protect property rights in international transactions, that is, rules that tell actors what not to do but otherwise leave them free to do as they wish. The most favored nation and national treatment clauses in GATT Articles I and III, respectively, for example, like the rules of private (commercial) law, are negative in the sense that they enjoin governments not to discriminate in international trade but otherwise leave them free to do anything not specifically forbidden.⁹ In stark contrast, TRIPS contains harmonized regulations, with detailed *prescriptions* on how they should be enforced within

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domestic jurisdictions. The actual and potential effect is to hinder, not promote, market access. To Jagdish Bhagwati, the Columbia University trade economist, this is not traditional frontal protectionism against cheap developing country imports. On the contrary, it is backdoor *intrusionism*, an attempt to iron out the asymmetries in other countries' domestic institutions and raise their costs out of line with comparative advantages. The effect is the same as classic protectionism.¹⁰

Admittedly, the issue is complicated and to some extent these pressures are inevitable. As border barriers come down and technology advances, globalization inexorably runs up against all sorts of new barriers behind borders. If the WTO disregarded these regulatory barriers, lower protection at the border would be nullified by higher protection behind it. This means the WTO has to tackle standards relating to production and processing methods that lie deep in the structure of the domestic economy, in addition to tackling remaining (and substantial) border barriers. Negative (proscriptive) rules continue to be crucially important, but the WTO needs to have some positive (prescriptive) procedural disciplines to make domestic trade-related policies more transparent. Otherwise market access would not be a reality. This is the original intention behind the WTO's agreements on subsidies, services, sanitary standards, technical barriers to trade, customs valuation, and import licensing.

Nevertheless, WTO members should proceed very gingerly on the domestic regulatory front. In some cases, this approach hinders market access (TRIPS), or at least provides a GATT-legal floor for existing and future regulatory protection (antidumping). In other cases, WTO agreements with domestic regulatory content (for example, GATS, SPS, TBT) could hold back a surge of nonborder protection. However, even on the latter front one should be very sensitive to constraints in developing countries—especially the least developed among them—with scarce administrative, technical, and financial resources to implement high-quality international standards. There is a tendency for international standards, such as the Codex Alimentarius on food

safety, to be driven by developed-country benchmarks and political agendas, taking little account of differences in national circumstances and capacities in the developing world. Viewed more cynically, organized interests in rich countries push for legally complex, costly, and rigid standards in the WTO, enforceable through dispute settlement, in order to realize their protectionist aims. This is precisely the backdoor intrusionism feared by Bhagwati.

To cut a long story short, there are limits to a one-size-fits-all approach to regulatory issues in the WTO, which is in serious danger of regulatory overload. The organization risks neglecting its core purpose of furnishing reasonably simple negative rules to secure and extend market access as it moves into “trade-plus” issues involving domestic regulation. At best, trade-plus procedures help improve the transparency of domestic trade-related policies, giving effect to basic, negative WTO rules for market access. At worst, they are tantamount to an OECD standards harmonization agenda.

Standards harmonization poisons the international trading system in four ways. *Politically*, it intrudes too far into national regulatory competence, that is, it tramples on national sovereignty. The WTO does not enjoy anything remotely approaching an intergovernmental consensus for this sort of thing; the result would surely be a destructive political backlash. *Legally*, this approach is Procrustean: it smacks of Cartesian, top-down legal symmetry, wonderful for lawyers and Utopian constructors of “global governance”; but it slams the door on healthy, competitive, decentralized, and bottom-up national experiments with policies and institutions tailored to differing local circumstances. *Economically*, standards harmonization hacks away at the principle of comparative advantage. It ignores the fact that policies and institutions differ according to differences in circumstance, not least comparative costs that vary with levels of development. Imposing regulations that raise costs out of line with national productivity levels would restrict developing-country labor-intensive exports as surely as any antidumping action.¹¹ *Morally*, and of overriding importance, standards harmonization is reprehensible, for it is tantamount to an extraterritori-

al invasion of private property rights. By imposing extra conditions and costs, it restricts the ability of employers and workers to strike mutually beneficial contracts, particularly in impoverished parts of the world. Individual liberties, therefore, are the first to be sacrificed on the altar of standards harmonization.

Furthermore, a bulky domestic standards agenda compromises the traditional GATT bargaining model: the mercantilist exchange of export concessions. This has functioned well enough on old-style market access through reciprocal tariff and quota reductions that are relatively easy to measure and compare. It is a different matter with opaque, complex domestic regulations on all manner of trade-related issues for which data are lacking and comparison more subjective. Reducing Tariff A in Country B in exchange for a reduction of Tariff C in Country D has a proven record of success. Playing the same game with standards—for example, reducing Tariff A in return for a stronger SPS measure or stronger GATS Article VI provisions on transparency in services regulation—does not work nearly as effectively, and might not really work at all.¹²

The WTO's Creeping Legalism

Second, the creeping *legalism* of the WTO is not all good news—except for academic and practicing lawyers, of course. Trade negotiators have a perhaps unavoidable tendency to conclude vaguely worded final texts that give legal expression to political compromise and fudge. In WTO-speak this is known (not so accurately) as “constructive ambiguity.” Many Uruguay Round agreements, such as GATS, SPS, TBT, and TRIPS, contain numerous gaps and ambiguities, especially in the dense thickets of domestic regulation. Inevitably, there are limits to legal certainty on the nitty-gritty of this or that regulatory measure, with ample room for diverging legal interpretations—more so than with simpler, clearer border measures. Given quasi-automatic dispute settlement, there is an increasing, indeed alarming, trend for governments, pressured by strong, organized interests, to fill in these regulatory gaps through litigation in panels and Appellate Body rulings rather than through negotiation and quiet, behind-the-scenes

diplomacy.¹³ This can only accelerate the trend toward standards harmonization and regulatory overload.

This is a dangerous and slippery slope. The WTO, like the GATT before it, is a “contract organization” bringing together a large, diverse group of sovereign nation-states. Its always-brittle political consensus can only tolerate rules interpreted as much as possible according to the “letter of the law,” that is, with judicial restraint. This is indeed a principle enshrined in the Uruguay Round agreements establishing the WTO and the new dispute settlement procedures.¹⁴ The Dispute Settlement Body simply does not enjoy the political consensus to sustain “creative” judicial interpretations of legal texts and policy driven by litigation, as happens from time to time in the U.S. Supreme Court and the European Court of Justice. And this is for the best: unless the views of a wide crosssection of the WTO membership are heard, including those of developing and smaller members, policy may be driven in crucial areas by those large and powerful members able to commit significant legal resources to dispute settlement cases. This could conceivably lead to rulings inimical to developing-country interests, such as an expansive, open-ended interpretation of the precautionary principle on food safety issues and discrimination against imports based on their production and processing methods.

These trends in dispute settlement reinforce the case for the negotiation of reasonably simple, transparent, and negative rules for market access, based on the most favored nation principle and national treatment, which give reasonably clear direction to dispute settlement. One of the dangers of intrusive and complicated TRIPS-type regulation is that it opens new vistas for judicial activism powered by rich WTO members able to afford armies of high-fee lawyers. The bottom line is this: governments and not international judges should determine the boundary between WTO rules and domestic policy space.¹⁵

The Politicization and “UN-ization” of the WTO

Third, the WTO is manifestly more *politicized* than the old GATT. Externally, it faces

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the brunt of the anti-globalization backlash, and it is constantly buffeted by a combination of old-style protectionist interests and new-style nongovernmental organizations (NGOs), the latter mainly comprising well-funded, high-profile groups in the West purporting to represent causes (such as protection of the environment, food safety and other consumer issues, working conditions, human rights, and animal welfare). The arcana of trade policy, previously handled through low-key diplomacy and negotiation, now seem to be the crucible for global controversies, with their fair share of adversarial sloganeering and point scoring.

As important—perhaps even more so—are the deeper internal, intergovernmental divisions within the WTO. These are many and crosscutting, by no means restricted to traditional and new developed-developing country cleavages—though the latter are perhaps the most attention grabbing. The hyperinflation of the GATT/WTO, that is, the accession of so many developing and transitional countries during and especially after the Uruguay Round, has added new sets of interests and preferences to the organization's ongoing business. Decisionmaking has become even more unwieldy and snail-like, more often than not distracted by windy rhetoric and political grandstanding in the WTO General Council, on the one hand, and the Geneva trade officials' obsession with procedural minutiae, on the other. As worrying, it appears that an increasing number of recent appointments to the WTO Secretariat have been made more on the basis of appeasing developing-country pressure for more representation within the Secretariat than on the basis of merit.

All the above—empty windbag speechifying, political point scoring, running around in procedural circles, appointments made according to informal developing-country quotas and not on merit—are vexing signs of the UN-ization (or UNCTAD-ization, after the UN Conference on Trade and Development) of the WTO. The GATT escaped the pitfalls and egregious failures of other international organizations, particularly within the UN system, because it had a reasonably clear purpose, a well-framed negoti-

ating agenda, a small number of key players, and, not least, a high-quality secretariat. If present UN-style trends continue, the WTO will simply be unable to function as an effective multilateral forum for trade negotiations. It will become a marginalized talking shop, and attention will shift elsewhere, particularly to bilateral and regional negotiating settings. If indeed the WTO comes to resemble a UN agency, one should pose the question: will the Geneva circus (the Secretariat and national delegations) be worth the candle?

The combination of these three structural shifts post-Uruguay Round—regulatory overload and standards harmonization, excessive legalism, and politicization—has polluted the atmosphere above the shores of Lac Léman. Taken together, they put the squeeze on the traditional virtue of the GATT: its ability to deliver results, that is, stronger rules for progressively more open international trade, through effective diplomacy and negotiation.

This is not to say that the WTO should return to a golden yesterday. Far from it; the pressure for a wider agenda with domestic regulatory content has to be accommodated, especially if it enhances transparency and facilitates market access; legalism is to some extent welcome as it makes the system more rules based for smaller and weaker players; and politicization is simply a fact of modern trade policy. Put another way, it would be both pie-in-the-sky and wrong to rely unduly on GATT-style diplomacy. However, the latter has been squeezed too tightly. It needs to be revived, for without it the WTO will not get out of its rut and advance.

The WTO, in short, needs to find a new balance—for dealing with domestic regulation so that it becomes more transparent and does not lead to regulatory overload and standards harmonization, for dispute settlement so that legal procedures do not result in judicial policy-making, for accommodating an increasing and overwhelming developing-country majority without a headlong descent into UN-ization.

Reviving the WTO's diplomatic and negotiating mechanism is really in the hands of the developed-country majors (the United States and

the European Union in the first instance), other developed countries, and the key developing-country governments (India, Brazil, China, South Africa, and not more than a score of others) who are in a position to be effective in the WTO. The focus of their efforts must be the Doha Round, whose success or failure will, alongside unilateral, bilateral, and regional initiatives, determine the medium-term future of the world trading system. To the Doha Round and its prospects I now turn.

The New Round: State of Play

After much political brinkmanship and down-to-the-wire haggling, members of the WTO successfully concluded their ministerial conference in Doha, Qatar, in November 2001 with an agreement to launch “broad and balanced” negotiations, which started in January 2002. The Doha Round, the successor to the Uruguay Round, puts the WTO show back on the road after the disastrous failure of the Seattle ministerial conference in 1999.

The post-Seattle period witnessed drift and deadlock in the WTO, with bitter and entrenched disagreements among member governments and an anti-globalization backlash outside. It took careful, painstaking preparation by the WTO Secretariat and member delegations to dig the WTO out of its post-Seattle ditch and bring about success at Doha. Here credit is due above all to Stuart Harbinson, Hong Kong’s outstanding permanent representative to the WTO, chairman of the General Council through 2001, and, since September 2002, *chef de cabinet* to the new WTO director-general, Supachai Panitchpakdi. Harbinson’s role was pivotal in orchestrating reasonably transparent and inclusive consultations in the long lead-up to Doha, thereby gradually building up the trust and confidence that had been lost before and after Seattle.

September 11 Concentrated Minds Wonderfully

Frankly, however, without the events of September 11, 2001, there would be no new round: great tragedy has indeed created a wholly unexpected opportunity for the WTO to get back on track. Anti-globalization forces were

momentarily less noisy, but more important, the immediate post-September 11 environment—international political crisis and a world economy heading toward recession—concentrated minds wonderfully. A rejuvenated WTO, with a fresh round of negotiations to liberalize and regulate international trade, was seen as a much-needed confidence booster for the global economy, with the prospect of delivering substantial gains in terms of economic growth and poverty reduction. Hence the political will to compromise, with attendant negotiating flexibility, from mid-September. These and other factors combined to produce an atmosphere of civility and cooperation in Doha, in stark contrast to the crotchety and sometimes explosive mood in Seattle.

What was agreed in Doha? Not least, China and Taiwan were welcomed into the club. The other key decisions were¹⁶

- *Market access*: Continued but upgraded negotiations to liberalize agriculture and services markets, and new negotiations to reduce tariff and nontariff barriers to industrial goods.
- *Rule making*: Clarifying and improving WTO rules on antidumping procedures, subsidies and countervailing measures, regional trade agreements, and dispute settlement.
- *Developing-country issues*: Longer transition periods, improved technical assistance, and other forms of “capacity building” to help with implementation of Uruguay Round agreements. Special and differential treatment for developing countries is recognized in practically every aspect of the new round. WTO members also commit themselves to the objective of ensuring duty-free and quota-free access to goods originating in least-developed countries. Last, it appears that developing countries will be able to interpret WTO rules on patent protection more flexibly in order to promote access to essential medicines and safeguard public health. In particular, they will have considerable leeway to override patents and issue compulsory licenses for

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- *“Singapore issues” and other new issues.* Preparatory work on investment and competition rules, with a presumption of starting ambitious negotiations after the next WTO ministerial conference, to take place in Cancun, Mexico, in September 2003. New negotiations on trade facilitation and transparency in government procurement, also to start after the next ministerial meeting. (Those four items are called the Singapore issues because they were first placed on the WTO agenda at the 1996 ministerial meeting in Singapore.) New negotiations to start immediately on trade and environment to clarify the relationship between the WTO and multilateral environmental agreements, and to liberalize trade in environmental goods and services. Finally, preparatory work will be done on eco-labeling and other WTO environment-related rules, with the possibility of negotiations after the next ministerial meeting.

Following Uruguay Round practice, the results of all the negotiations (with the exception of that on dispute settlement) will be treated as parts of a Single Undertaking, that is, members will have to sign on to the whole package rather than accept or reject individual elements of it. The round has a three-year time frame, with all negotiations to be completed “not later than” January 1, 2005.

This is a large, complex, and ambitious agenda, with 21 subjects listed, reflecting the post-September 11 mood of all-round compromise. There is a market access core to the new round, that is, negotiations on further trade liberalization, as demanded by the United States, the Cairns Group (of leading developed- and developing-country agricultural exporters), Hong Kong, and Singapore. Developing countries have successfully flexed collective muscle with major concessions on the “implementation agenda” (flexibility and assistance in implementing Uruguay Round agreements) and flexibility in interpreting WTO rules on patent protection. The EU has

forced other WTO members to dilute the commitment to abolish agricultural export subsidies and extracted new commitments to negotiate on environmental and the Singapore issues (competition, investment, trade facilitation, and transparency in public procurement).

A Trade Negotiations Committee, chaired by the director-general, was set up in January 2002. It comprises eight separate negotiating groups (on agriculture, services, nonagricultural market access, rules, trade and environment, TRIPS, dispute settlement, and trade and development), each chaired by a permanent representative (ambassador) to the WTO.

Slow Progress since Doha

The good news is that agreement at Doha provided a short-term psychological boost to a demoralized and weakened post-Seattle WTO, and to the wider process of globalization. Failure at Doha would have crippled the WTO, perhaps fatally, and speeded up regional bloc formation, leaving poor and weak countries exposed to the protectionist whims of their rich and powerful counterparts.

The bad news is that very little progress has been made in Geneva since the round started. There are several reasons for this state of affairs, some short term, others more worryingly long term.

First, the key to moving ahead in WTO negotiations is the close involvement of ministers and senior officials in national capitals. Their attention waned in 2002 as the post-September 11 crisis abated, leaving the business of the new round in the hands of Geneva negotiators. A firm rule of thumb in the WTO is that there is little forward movement without clear direction and strong engagement from national capitals. It is to be hoped that, as the Cancun ministerial conference approaches, minds in key national capitals will be concentrated.

Second, business support for the new round has been conspicuously lacking in fervor. Historically, rounds have succeeded only with strong lobbying by large export and FDI-oriented firms in the major developed countries. They are not as yet lobbying nearly as hard for

further multilateral liberalization as they did in the Uruguay Round.

Third, the political climate has been stormy due to problems within the United States and the EU, sometimes spilling over into bilateral spats.

In the United States, President Bush has finally got the trade promotion authority without which no WTO round would be taken seriously, but only at the cost of protectionist side deals, particularly in agriculture and steel. The 2002 Farm Security and Rural Investment Act reverses the brief liberalizing trend in U.S. agriculture in the 1990s and dramatically increases domestic subsidies, with potentially grave trade-distorting effects. The massive tariffs imposed to “safeguard” (i.e., protect) inefficient U.S. steel producers have been almost as damaging, particularly in souring U.S.-EU relations and distracting the attention of the two major powers from making headway in the new round.

Notwithstanding blemishes in U.S. domestic trade politics, it is important to highlight a not insignificant shift in U.S. trade policy from the Clinton to the Bush administration—with potentially vital and beneficial consequences for the WTO and the wider trading system down the line. The Clinton years were characterized by vacillation and drift in trade policy, as in foreign policy more generally. Often, especially in the twilight of the second Clinton administration, it seemed that U.S. trade policy was held hostage by labor unions and environmental NGOs.

This has changed. The Bush administration, while all too willing to cave in to protectionist interests for short-term political advantage, nevertheless has powerful insiders committed to freer trade and willing to exercise active, robust leadership in the WTO. This is especially the case with U.S. Trade Representative Robert Zoellick, who, from the free trader’s standpoint, is as sound a front man for U.S. trade policy as one can realistically expect. He led the effort to launch the Doha Round and displayed clear, strong leadership with three ambitious market access proposals in the WTO during 2002 (on agriculture, services, and industrial goods). The bold and imaginative U.S. proposal on industrial goods, with its

eye-catching target of abolishing tariffs worldwide by 2015, at last gives a potential focal point for the round as a whole.

In sum, the past year has witnessed tangible U.S. leadership in the trading system for the first time since the Uruguay Round. To Zoellick, this is part of an overall strategy to build coalitions, step by step, for more open markets across the world. Moreover, as he makes clear in his recent essay in *The Economist* magazine, leadership in trade policy, especially post-September 11, folds into more vigorous U.S. leadership in foreign policy more generally.¹⁷

Over in the EU, the core problem remains the Common Agricultural Policy. The commission came out with proposals for CAP reform that, while not proposing big cuts in overall levels of agricultural spending, would nevertheless sever the link between subsidies and production over time, thereby diminishing the trade-distorting effect of government intervention. If implemented, this would help to unblock the agricultural negotiations in Geneva. Unfortunately, the prospects for radical surgery on the CAP were dealt a blow by the recent EU Council of Ministers decision to maintain overall levels of CAP spending from 2006 to 2013. This diplomatic coup for the French government means that EU production-related domestic subsidies and export subsidies will continue to massively distort world agricultural markets for some time to come. EU foot-dragging on agricultural reform was reflected in the commission’s delayed and defensive set of proposals for the negotiations on agriculture in the Doha Round.

In general, the EU’s record on trade policy, particularly in the crucial area of agricultural protection, reinforces the point made above: there is no substitute for U.S. leadership to achieve progressively freer trade.

Fourth, the sense of disgruntlement among most developing countries has increased, with correspondingly decreasing readiness to compromise. They have a litany of complaints: the unwillingness of the EU and the United States to contemplate serious liberalization of agriculture and textiles any time soon, the EU’s over-aggressive stance on the Singapore issues and

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trade and environment, and no real progress on special and differential treatment and the implementation agenda.

The July 2002 deadline for “clear recommendations” on special and differential treatment, for instance, first had to be postponed to the end of December 2002, and even this deadline has passed without agreement. Another deadline—this time to agree to a TRIPS waiver so that developing countries without domestic production capacity can import generic drugs to deal with public health emergencies—has also been missed due to U.S. blockage. It is increasingly likely that other important Doha Round deadlines on agriculture, industrial goods, and services, set for the end of March 2003, will come and go without substantive agreement.

Opportunities and Dangers Ahead

Looking ahead to the negotiations to take place in the run-up to Cancun and beyond, there is much to play for, with vast opportunity and great danger in equal measure. Three factors deserve to be highlighted:

Two-Stage Round

First, this is planned to be a two-stage round. A core of politically hypersensitive issues—competition, investment, and bits and pieces of the environment—have been pushed back to the September ministerial meeting in Mexico, when decisions will have to be taken to launch new negotiations.

On the Singapore issues, the Doha ministerial declaration states 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.”¹⁸ The EU and the United States sometimes seem to regard these negotiations as preprogrammed, but that is not the impression of India and perhaps other developing countries. India, with the help of an “interpretative note” extracted from other WTO members in the twilight hours of the Doha ministerial meeting, takes “explicit con-

sensus” to mean that it or any other member can veto the launch of new negotiations on one, several, or all of the Singapore issues.

On trade and environment, the wording of the ministerial declaration is looser. Members instruct the Committee on Trade and Environment to give attention to relevant WTO rules, report to the Fifth Ministerial Conference, “and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations.”¹⁹

This two-stage procedure, while necessary to prevent failure in Doha, stores up potentially serious problems for the next ministerial meeting. Indeed, there is a grave risk that long-standing policy differences and negotiating stalemate in 2002–03 will be followed by crisis and collapse in Mexico. Several or all of the factors mentioned above could conspire to bring this about. The Latin American members of the coalition of farm-exporting countries known as the Cairns Group, led by Brazil, have walked out of GATT ministerial sessions before due to EU intransigence on agriculture; they could do so again. India, perhaps in coalition with others, could veto the launch of new negotiations on environmental and the Singapore issues. If this happens, the Mexico ministerial meeting will turn into a replay of the failed ministerial meetings of 1982, 1990, and 1999. Above all, it would raise the specter of Seattle all over again, something that could easily derail the new round for many years and thereby cripple the WTO system. No one should be complacent on this score.

Avoid a Rush to Agreement

Second, this is going to be a long haul, lasting perhaps five to six years, or even as long as the Uruguay Round (six to seven years), with plenty of ups and downs, not to mention intermittent crises, en route. The stated objective of concluding the round in three years appears hopelessly optimistic. This is partly because the agenda is big and messy, especially with environmental and the Singapore issues to be negotiated after the Fifth Ministerial Conference (and to be supposedly completed in just over a year afterwards). Furthermore, the WTO’s expanding membership means that an ever-wider array

of divergent interests has to be accommodated. WTO decisionmaking, therefore, is bound to be more difficult and dilatory.

Playing the long game, moreover, may be no bad thing. There is much to be said for what Lord Bryce called “government by discussion,” by which he meant the thorough and deliberative search for solutions to difficult problems, rather than rushed, unreflective action based on scant knowledge and eventuating in botched solutions. The latter, not the former, spirit characterized the endgame of the Uruguay Round: the United States and the EU bounced most developing countries into agreements (especially TRIPS) they did not understand and had little hope of implementing effectively afterwards. This must be avoided at all costs; developing countries must have time to get their domestic acts together, participate actively in multilateral negotiations, and understand the implications of the potential deals on the table. All this argues in favor of a longish round.

Alternative Scenarios for the Negotiations

Third, the Doha Round presents WTO members with a major opportunity to shape the future of the multilateral trading system. There are three scenarios in view:

Scenario One would rediscover the *raison d'être* of the GATT: the progressive reduction and removal of barriers to trade, underpinned by simple, transparent, nondiscriminatory rules, as embodied in the national treatment and most favored nation principles. Admittedly, the GATT had lots of loopholes and a restricted agenda of tackling border barriers on (most) industrial goods. Now a much expanded market access agenda subsumes agriculture, textiles and clothing, and services, as well as dealing with nonborder trade barriers.

This scenario is *traditionalist* in the sense that it restores a GATT-like compass to the WTO. But it is also *reformist* in that it ranges wider (broader sectoral coverage than the GATT) and ventures deeper (procedural disciplines to make trade-related domestic regulations more transparent, as covered by GATT Article X and GATS Articles III and VI).²⁰ It is also a scenario of political and economic bal-

ance, one that furnishes a lowest common denominator of rules and obligations applicable to all WTO members—a level playing field for international trade, but still one that allows plenty of leeway for different countries to have different sets of economic policies with different institutional mixes of state and market, all the way from European-style social democracy to Anglo-Saxon economic liberalism, Hong Kong-style classical liberalism, and Chinese-style economic liberalization combined with political authoritarianism. Above all, this scenario would be sufficiently open-ended to encourage bottom-up unilateral experimentation in economic policy by national governments in response to local circumstances and challenges. This would in turn promote a decentralized, market-like competitive emulation among governments in search of better policy and institutional practice.²¹

This constitutional package for open markets has a proven record of success, for growth and prosperity in developed and developing countries alike. The Bush administration's trade policy team, led by Robert Zoellick, has partial sight of this market access goal, but protectionist interests in U.S. domestic politics, channeled through Congress, make it very difficult to achieve. A small core of other developed and developing countries (such as Australia, New Zealand, Hong Kong, Singapore, Chile, and Mexico) have an even stronger stake in this kind of WTO. They and the U.S. administration must forge effective alliances, in individual negotiating areas and across the board, to ensure that the WTO heads in the right direction. The problem is that this market access constituency in the WTO is far too narrow for comfort. It is also far from coherent and unified, with different dividing lines on different issues.

Scenario Two is an EU-style future for the WTO, which is why the EU, arguably, presents the WTO with its major headache. It has imposed a *cordón sanitaire* around a scandalously protectionist and massively harmful agricultural regime. Moreover, it seems to want to turn the WTO into a lumbering regulatory agency in its own image. It proposes to add complex and intrusive regulation to the WTO

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agenda, some of which would impose burdensome environmental and other standards on developing countries. This implicit standards harmonization agenda, aimed at raising developing-country standards to developed-country levels, is now the most insidious force in the WTO. The door was opened with the TRIPS agreement in the Uruguay Round; the environmental aspects of the Doha Round threaten to open the door much wider. The result could be an extra layer of developed-country regulatory barriers that would shut out cheap developing-country exports.

Other WTO members must make sure the EU does not steer the new round by stealth in the wrong direction. On political, legal, economic, and moral grounds (set out earlier), WTO rules, focused on market access, should provide the necessary minimum for fair play in international commerce while respecting the diversity of policies and institutions among countries at very different stages of development (not to mention different histories and preferences).

Scenario Three is a UN-style future for the WTO, the prospects for which have sadly increased with the accession of so many developing countries to the organization. There is much pressure to reopen Uruguay Round agreements and grant blanket exemptions to developing countries on the grounds of special and differential treatment. There is also a clamor for technical assistance (i.e., aid), and demands to boost developing-country representation in the WTO Secretariat (overriding meritocratic selection criteria). At the same time, the WTO is becoming more a forum for adversarial political grandstanding and procedural nitpicking than one for effective decisionmaking. The danger is that a more politicized WTO would look more like a useless and wasteful UN development agency than the pre-1995 GATT. It would dole out lots of aid to poor countries and return to old-style special and differential treatment, but would be too crippled to do much else.

It is all very well to say that the Doha Round should be used to realize Scenario One while avoiding Scenarios Two and Three, as might be the inclination of the politically ignorant free-trade economist. The political dilem-

ma, however, is that this is going to be very difficult given the narrow and fractured market access constituency within the WTO. Drift and then gridlock might halt movement in any direction. Also possible is a dog's-breakfast compromise that would attempt a synthesis of all three scenarios. The likely result is that market access gains would be gutted by a combination of regulatory protectionism and politically correct giveaways and exemptions for developing countries. How can this be avoided? How to deliver Scenario One politically? That, more than anything, is the fundamental question facing the WTO.

Specific Issues for the Doha Round

Let us move now from the broad picture to the individual elements of the new round.

Market Access

Market access—the reduction and removal of trade barriers in agriculture, services, and industrial goods—is (or should be) the bread and butter of the new round. Direct border barriers to trade remain high in both developed and developing countries. Although the EU and the United States have low average tariffs, they retain high to very high tariffs in agriculture and textiles and clothing—sectors of major export potential for developing countries. Indeed, levels of developed-country protection in these two sectors are more than 10 times the average on other merchandise. Developed-country tariffs on imports from developing countries are four times as high as tariffs on imports from other OECD countries.²² Nontariff barriers are also significant, especially in the form of widespread and unreasonably onerous food safety, technical, and other standards that have a chilling effect on developing-country exports.

Developing countries have noticeably higher average tariffs, tariff peaks, and tariff escalation (higher tariffs on processed goods), as well as higher nontariff barriers than developed countries, not to mention proliferating antidumping actions.

Much of this developing-country protection is aimed at imports from other developing countries.²³ Rich-country protection is damaging precisely because it provides developing countries with a pretext not to reduce their own trade barriers; it seriously undermines political efforts to accelerate pro-market reforms in the developing world.²⁴

The World Bank estimates an annual gain of \$2.8 trillion by 2015 from the elimination of trade barriers and trade-related reforms on all goods and services. Developing countries would gain to the tune of \$1.5 trillion, which would lift 320 million people out of poverty. Two-thirds of the gain from cutting tariffs on industrial goods (about \$300 billion) would go to developing countries, and they would gain a roughly equivalent amount from the abolition of trade-distorting agricultural subsidies in the OECD. However, the biggest gains by far for developing countries (estimated at about \$900 billion, two to three times the gain from liberalizing goods trade) would come from radical services liberalization in both developed and developing countries.²⁵

Agriculture. Agricultural protection in high-income countries remains almost as high as it was at the end of the Uruguay Round, and serious distortions continue to plague agriculture in developing countries. The “built-in” WTO negotiations on agriculture, which started in early 2000, made some progress in clearing up outstanding technical and procedural issues and generated a large number of negotiating proposals. However, in the absence of a larger round of multilateral negotiations, governments did not get to the stage of hard bargaining over market access.

The Doha ministerial declaration states that “without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.”²⁶ Market access negotiations now revolve around tariffs and tariff quotas, and negotiations on domestic subsidies focus on those that are linked to production (and hence

distort trade). The EU, and France in particular, objected strongly to language on “phasing out” export subsidies right to the last minute of negotiations at Doha. The price of EU approval of the text was the prefatory insertion of “without prejudging the outcome of the negotiations.” This arguably dilutes the commitment to abolish export subsidies, but was necessary in order to avert outright failure in Doha.

In addition, developing countries are to have special and differential treatment, which will take account of food security and rural development needs. “Non-trade concerns will be taken into account in the negotiations”—which assuages EU sensibilities on animal welfare, consumer protection, and rural development but without mentioning “multifunctionality,” the buzzword for the alleged social benefits of farming.²⁷ Any mention of the latter in the text would have precipitated a walkout by the Cairns Group.

Finally, negotiations proper started in April 2002, with an evaluation of comprehensive draft schedules to be met by the time of the Mexico ministerial meeting.²⁸ The highlight of negotiations so far has been the radical U.S. proposal to reduce trade-distorting domestic subsidies (by \$100 billion to 5 percent of agricultural production), bring down average tariffs from 62 percent to 15 percent, and abolish export subsidies by 2010. The Cairns Group came up with a similarly radical proposal. The EU, however, shows no signs of significant movement. Its long-delayed proposal, finally put on the table in December 2002, contains much more limited cuts on tariffs (by 36 percent), domestic production-linked subsidies (by 55 percent), and export subsidies (by 45 percent). The EU stance, combining arch-conservatism on market access with a strong accent on nontrade concerns like environmental protection and animal welfare, is supported by its fellow Friends of Multifunctionality, a coalition of WTO members that includes Japan, Korea, Norway, and Switzerland.

Thus there remains a yawning gap between the United States and the Cairns Group, on the one hand, and the EU and its allies, on the other, with plenty of other developing countries (such as India) highly ambivalent about their own agricultural liberalization. Alas, the prospects for

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a political breakthrough in the agricultural negotiations, upon which the future of the whole round hinges, appear depressingly remote. As things stand, it is almost a racing certainty that the March 31, 2003, deadline for establishing “modalities” for the next (more serious) phase of agricultural negotiations will be honored in the breach. This threatens to become the one major round-stopper, either pre-Cancun or in Cancun itself.

Services. The General Agreement on Trade in Services is complicated and messy, and so far has delivered only modest market access commitments. The built-in GATS negotiations, like the parallel mandated agricultural negotiations, generated a large number of negotiating proposals but did not get to the stage of hard bargaining over market access. Nevertheless, they have clarified procedural issues and brought about a better understanding of the legal texts. In addition, the process may have marginally improved the medium-term prospects for net liberalization, in contrast to GATS commitments at the end of the Uruguay Round, which mostly did not go beyond the status quo in national policies. Perhaps most important, developing countries have noticeably stepped up their participation in the services negotiations and have put several negotiating proposals on the table.

The broad outlines of eventual agreement are not difficult to discern. All parties need to make more commitments on national treatment for services and investment and market access (Articles XVI and XVII GATS), with fewer exemptions in their schedules. Developing countries need to make substantially more commitments in “mode three” of supply (“commercial presence,” which effectively concerns inward investment). This would in any case complement autonomous liberalization of inward investment by the host country, particularly in financial and telecom services (both key infrastructural inputs with potentially big economy-wide gains). Developed countries need to reciprocate with meaningful commitments in “mode four” of supply (“movement of natural persons,” that is, cross-border movement of workers on temporary contracts). This

is the one key area in which developing countries have an export advantage in services. However, mode four commitments are very weak and largely restricted to the movement of intracorporate transferees. Finally, both developed and developing countries need to make commitments to improve the transparency of domestic regulations covering services (covered by GATS Article VI:4 in particular). Opaque domestic regulations rather than border barriers are the main hindrance to market access and greater competition in services.

The post-September 11 environment complicates matters somewhat. It is going to be even more difficult to get developed countries to accept more developing-country workers on short-term contracts, especially those who are semi- or unskilled (e.g., in catering and construction services). Developing countries would also gain substantially from the liberalization of hitherto protected developed-country markets in (air, land, and maritime) transport and energy services. Again, the post-September 11 environment may make this more difficult because of concerns about border security.

Other subjects for the GATS negotiations include subsidies and emergency safeguards aimed at preventing import surges, both technically complicated and politically tricky. The Doha ministerial declaration stipulates that “participants shall submit initial requests for specific commitments by June 30th 2002 and initial offers by March 31st 2003”—a very tight time frame.²⁹

So far negotiations have made some low-key progress, helped by the fact that they are not as politicized as other negotiating areas such as agriculture and the implementation agenda. The United States’ ambitious proposal in mid-2002 puts transparency in domestic regulation (not surprisingly drawing on U.S. practice) at the heart of GATS deliberations and future commitments. Nevertheless, real progress in the services negotiations will not occur unless there are breakthroughs in other negotiating areas, agriculture in particular.

Industrial Goods. Developed-country peak tariffs and tariff escalation hinder developing-country exports in textiles and clothing, food-

stuffs, steel, energy products, leather goods, and footwear. In addition, trade among developing countries is severely hampered by their own high and differentiated tariffs, not to mention a plethora of nontariff barriers.

To begin with, developing countries will expect developed countries—the United States in particular—to live up to commitments to phase out bilateral quotas on textiles and clothing by the beginning of 2005, as set out in the Uruguay Round Agreement on Textiles and Clothing. So far not much has been done (least of all in the United States), and the phaseout of quotas is back-loaded to the last year. There is also the worry that high tariffs and a cascade of antidumping actions will follow in 2005 and beyond—even more so with China's entry to the WTO. Hence there is a good chance that the new round will be derailed if developed countries do not live up to their ATC commitments by the 2005 deadline.

The ministerial declaration proclaims new negotiations “to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, 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.” Developing and least-developed countries will have special treatment, “including through less than full reciprocity in reduction commitments.”³⁰

One key to progress in these negotiations will probably be a formula approach to tariff harmonization akin to the “Swiss formula” followed during the Tokyo Round. This would entail higher cuts in tariff peaks and tariffs on processed goods. Request-offer negotiations, uniform tariff cuts, “zero-for-zero” cuts, and the like, on their own, would not tackle the tariff peaks and tariff escalation that hinder developing-country exports.

The really radical proposals to date have come first from New Zealand and then from the United States. Both have the abolition of tariffs worldwide as the ultimate objective. The U.S. proposal, drawing on that of the U.S. National Foreign Trade Council, has 2015 as the target date for scrapping all tariffs, with

2010 as the intermediary target date for eliminating all tariffs under 5 percent and bringing maximum tariffs down to 8 percent. Arguably, this is the most important proposal to date in the Doha Round, and the most visible sign of resurgent U.S. activism in international trade policy. If it could generate sufficient support from other WTO members, and providing movement occurred on other fronts (especially agriculture), it could give real focus to negotiations and set the round on its feet.

Predictably, the U.S. proposal immediately ran into controversy. It is supported by New Zealand, Hong Kong, and Singapore; the EU and Japan are skeptical. The real opposition, however, comes from most developing countries. Given higher average tariffs, greater incidence of peak tariffs and tariff escalation, and, not least, asymmetrical dependence on customs duties for government revenue, they would bear the brunt of adjustment en route to zero tariffs. The other side of the coin is that they stand to benefit most: through efficiency gains from opening their own markets to imports, the opening of other developing-country markets to their exports, and, finally, the opening of developed-country markets to their exports, particularly in textiles and clothing.

There is a tight deadline of end March 2003 to establish modalities and formulas for actual tariff-cutting negotiations. Given the lack of consensus so far, the odds are that this deadline will not be met.

Rule Making: Antidumping, Subsidies, and RTAs

Market access negotiations are not enough: they need to be buttressed by improvements to the WTO rule base. This is the essential machinery that greases the wheels of multilateral market access on a day-to-day basis. It also tends to be neglected whenever the WTO becomes fixated on launching and then negotiating a new round.

The gaping hole in WTO rules is Article VI GATT, which governs antidumping and countervailing duties. It sets out the basic rules under which countries are permitted to impose duties on “dumped” foreign products, that is, pricing exports below comparable price in the

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The fact remains that stronger WTO rules on antidumping actions will face formidable opposition, particularly in the U.S. Congress.

exporting country. These rules, however, are very weak, doing little to arrest selective and open-ended antidumping actions to restrict imports—all too often the protectionist's weapon of choice. Small firms and new entrants from developing countries are especially vulnerable; indeed, the majority of antidumping actions are aimed at developing country exports. Since the 1990s, developing countries have increasingly resorted to their own antidumping actions, especially against other developing countries. They would gain most from strengthened Article VI provisions.

In the ministerial declaration, WTO members agree to negotiations "aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures." This was a major concession by Robert Zoellick, overcoming domestic opposition in the United States and winning him much respect among the WTO membership. Nevertheless, the scope of negotiations is hedged about with the caveat that they should preserve "the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives."³¹ The fact remains that stronger WTO rules on antidumping actions will face formidable opposition, particularly in the U.S. Congress.³²

In addition, WTO members agree to "clarifying and improving" disciplines on fisheries subsidies (another developing-country concern) and regional trade agreements, and to "improvements and clarifications" of the Dispute Settlement Understanding.³³

There is the danger that these negotiations may suffer from neglect. For example, it will be difficult to strengthen disciplines on regional trade agreements (in GATT Article XXIV, GATS Article V, and on preferential rules of origin) when nearly all WTO members are involved in one or several of them. This is alarming. RTAs are spreading like wildfire, splicing up world markets into unequal chunks benefiting some at the expense of others. Most RTAs also have highly complicated, overlapping, and contradictory rules of origin that tie up trade in knots of costly and burdensome red

tape. Without further multilateral (nondiscriminatory) liberalization and stronger WTO disciplines on RTAs, this trend will make trade policy across the world even more unequal, opaque, and discriminatory. If unchecked, it will marginalize the WTO and subject international trade and investment more decisively to the political whims of the major powers (notably the United States and the EU) around which RTA blocs are forming.³⁴

The U.S. proposal to abolish tariffs on nonagricultural goods is of major relevance here. The multilateral abolition of industrial tariffs would remove much of the trade diversion, rules of origin complications, and assorted red tape that are associated with RTAs. However, much discrimination would continue due to remaining nontariff barriers and, not least, the persistence of agricultural tariffs.

Developing-Country Issues

The preamble to the ministerial declaration places the "needs and interests [of developing countries] at the heart of the Work Program. . . . In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes have important roles to play. . . . We are committed to addressing the marginalization of least developed countries in international trade and to improving their effective participation in the multilateral trading system."³⁵

Issues specific to developing countries in the new round relate, inter alia, to the implementation agenda, special and differential treatment, technical cooperation and capacity building, the TRIPS agreement, and least-developed and small economies.

The Implementation Agenda. Most developing countries, particularly the least developed among them, face severe constraints in implementing Uruguay Round agreements, particularly those on intellectual property protection (TRIPS), trade-related investment measures (TRIMS), sanitary and phytosanitary standards (SPS), technical barriers to trade (TBT), customs valuation, and import licensing. As J. Michael Finger of the American Enterprise

Institute points out, there are real and substantial costs involved in implementing these trade procedures domestically—much more so than is the case with the removal of tariffs and quotas at the border.³⁶ This “implementation agenda” has risen to the top of the WTO priority list in the past two years but evinced no real progress until fairly recently.

Considerable progress, however, was made after July–August 2001, and by the time of the Doha ministerial conference about half of the approximately 100 implementation issues were resolved. These are contained in a separate ministerial decision issued at the end of the Doha ministerial conference. Inter alia, they address the Agreement on Agriculture (e.g., exercising restraint in challenging developing-country subsidies for food security and rural development purposes), the SPS and TBT agreements, the ATC (e.g., restraint in initiating antidumping investigations on developing-country textiles and clothing exports), TRIMS (extension of transition periods), GATT Article VI (on antidumping measures), the Agreement on Subsidies and Countervailing Measures (e.g., restraint in challenging certain developing-country subsidies, exempting least-developed countries from the prohibition on export subsidies, and extending transition periods for the phaseout of export subsidies in other developing countries).³⁷

This leaves another 50 or so implementation issues outstanding, which are to be dealt with in the new round and form part of the eventual Single Undertaking. The main ministerial declaration states that these issues “shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee . . . by the end of 2002 for appropriate action.”³⁸ Very little progress has been made so far, and the end 2002 deadline has been missed.

Fresh implementation issues are bound to arise in the course of negotiations on market access, rules, and new issues in the new round. These will be handled in the separate negotiating mandates.³⁹ It is vital that the implementation dimension of each and every negotiating mandate be carefully considered, with transition peri-

ods, technical assistance, and the like built into new commitments on a flexible, case-by-case, needs-oriented basis. This has to be treated in an issue-specific and country-specific manner and is inevitably going to be complicated and drawn out—another argument for a longer rather than shorter round. Above all, the Uruguay Round folly of rushing developing countries into agreements with blithe disregard for implementation effects must not be repeated.

Special and Differential Treatment. “Old-style” special and differential treatment (SDT), as expressed in Part IV of the GATT and the Enabling Clause of the Tokyo Round, largely exempted developing countries from GATT rules and obligations. They were granted sweeping carve-outs from GATT disciplines, and they received developed-country preferences but were not obliged to reciprocate. The whole process caused much self-inflicted damage in developing countries and marginalized them in the GATT. That changed during the Uruguay Round when some (but still a minority of) developing countries, on the back of unilateral liberalization and a sharper appreciation of their trading interests, began to play a more active part in the GATT. They realized the importance of reciprocal obligations in order to be at the bargaining table, and they developed a better appreciation of nondiscriminatory rules—to shield them from the protectionism of other, more powerful players and to provide very necessary economic policy discipline domestically.

References to special and differential treatment are sprinkled liberally throughout the ministerial declaration and reaffirmed as “an integral part of the WTO Agreements.” They appear to encompass a grab bag of non- (or less-) reciprocal, preferential concessions; longer transition periods; technical assistance and related capacity-building exercises; and (extra) special provisions for least-developed countries. The declaration also states that “all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational.”⁴⁰ The separate decision on implementation issues refers to “converting

Above all, the Uruguay Round folly of rushing developing countries into agreements with blithe disregard for implementation effects must not be repeated.

It is in developing countries' interests to subscribe to the reciprocity principle and adhere to basic, common, nondiscriminatory rules in order to extract maximum benefit from the WTO system.

[nonbinding] special and differential treatment measures into mandatory provisions . . . with clear recommendations for a decision by July 2002."⁴¹ This deadline had to be shifted back to the end of December 2002 due to lack of agreement, and even this second deadline has passed without agreement.

It would be a grave mistake if the reviews of SDT resulted in a return to the old-style non-reciprocity that did such damage to developing countries pre-Uruguay Round. Unfortunately, this looks like the position of one bloc of developing countries, particularly the Like-Minded Group led by India, Pakistan, and Egypt, whose focus is the implementation agenda. The hardliners seem to want to reopen existing Uruguay Round agreements in order to grant blanket carve-outs to developing countries—a nonstarter for developed countries and the more advanced, sensible developing countries in the WTO. This would only exacerbate the begging-bowl, dependency mentality of so many developing-country governments. They would become even more dependent on uncertain and insubstantial preferential market access to developed countries, and exposed to the vagaries of the latter's power politics.

On the contrary, it is in developing countries' interests to subscribe to the reciprocity principle and adhere to basic, common, nondiscriminatory rules in order to extract maximum benefit from the WTO system. It is true that some low-income and all least-developed countries have legitimate implementation issues to address, given the complexity of the Uruguay Round agreements and their limited capacity to give effect to them domestically; and they need a helping hand to participate more effectively in the WTO. But it is equally true that the score or so of more-advanced middle-income developing-country members of the WTO have few, relatively minor implementation problems. Even those faced by India are somewhat overblown (by the Indian government) and pale in comparison with the situation in sub-Saharan Africa.

Hence "new-style" SDT, especially on implementation issues, should focus on the least-developed countries where problems are real and pressing, not on the rest of the devel-

oping world. The countries concerned should have flexible (i.e., longer) transition periods; substantially increased, perhaps mandatory, technical assistance; and associated capacity-building measures aimed at helping less-developed countries implement their WTO commitments. As mentioned before, this needs to be done in differentiated, bottom-up fashion congruent with national circumstances and capacities. For this the WTO needs to set up an appropriate mechanism to assess individual countries' implementation problems, appropriate transition periods, and resource needs as well as to monitor and review subsequent progress. To be avoided are open-ended opt-outs and automatic extensions of transition periods for whole classes of countries.⁴²

Technical Cooperation and Capacity Building. References to technical cooperation and capacity building are spattered throughout the ministerial declaration, as well as occupying a four-paragraph separate section in it. The wording is mostly vague and exhortatory, even though there is reference to "firm commitments" in the declaration. The WTO Secretariat is instructed "to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership. . . . Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva." Technical assistance is supposed to be coordinated effectively with bilateral donors and other international organizations.⁴³

The most specific reference is to the need for "secure and predictable funding" for technical assistance and capacity building. Accordingly, the director-general is instructed "to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs."⁴⁴

Very little technical assistance from developed-country coffers has been forthcoming since the Uruguay Round. It remains to be seen whether this will change substantially, even though the sums required are actually very modest and a drop in the ocean compared with overall aid transfers. The demand, however, is huge: up to 120 developing countries (existing WTO members and about 30 accession candidates) are in need of technical assistance for trade-related capacity building. So far governments have pledged \$10 million as part of a Global Trust Fund for technical assistance in the new round.⁴⁵

Least-Developed Countries. Again, there is much exhortatory language in the ministerial declaration. WTO members endorse the Integrated Framework for Trade-Related Technical Assistance to least Developed Countries, and urge all involved to “explore the enhancement of the [Integrated Framework].” The director-general and other heads of agencies are requested to provide an interim report to the General Council at the end of 2002, and a full report at the Mexico ministerial meeting, on all issues affecting the least-developed countries.⁴⁶

More specifically, WTO members commit themselves “to the objective of duty-free, quota-free market access for products originating from LDCs. . . . We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs.”⁴⁷

TRIPS. The TRIPS Agreement has been a lightning rod for developing-country complaints. Its short-term effect is to increase prices and transfer monopoly profits from the poorer developing countries to multinational enterprises headquartered in the West, especially in the pharmaceuticals sector. The proponents of TRIPS argue that longer-term dynamic gains, that is, from foreign investment and associated technology transfer, will outweigh short-term losses; but this is uncertain and probably applies in the main to the more-advanced developing countries. TRIPS is also regulation heavy, requiring much time and resources to put domestic enforcement mechanisms in place.

Most controversial, developing countries are concerned that TRIPS could inhibit cheap and plentiful access to essential medicines, such as drugs to combat HIV/AIDS.

TRIPS was one of the most sensitive issues that had to be resolved by ministers at the Doha ministerial conference itself. The pharmaceutical multinationals and developed-country governments have had to concede greater flexibility in interpreting parts of TRIPS, especially sections related to pharmaceutical patents, after a series of public relations disasters in 2000 and 2001. The question was whether such flexibility was to be narrowly defined, essentially limited to overriding patents and issuing compulsory licenses for generic production in public health emergencies, such as an HIV/AIDS pandemic, or whether it was to be more open-ended. In the end, in an agreement brokered by Brazil, developing countries seem to have won a major victory in procuring a rather flexible interpretation of TRIPS insofar as it concerns public health.

A separate ministerial declaration on TRIPS states that, “while reiterating our commitment to the TRIPS Agreement, we affirm 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. . . . In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.” These flexibilities are explained: “Each Member has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted. . . . Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those related to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.” Each member is also free to establish its own regime for the exhaustion of intellectual property rights without challenge, subject to most favored nation and national treatment provisions in TRIPS.⁴⁸

The same declaration instructs the TRIPS

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Council to “find an expeditious solution” to the problem of WTO members who find it difficult to take advantage of compulsory licensing due to lack of domestic manufacturing capacity, and to report to the General Council before the end of 2002. In addition, the transition period for least-developed countries to implement large sections of TRIPS is extended by 10 years to 2016.⁴⁹

The main ministerial declaration agrees to new negotiations to establish a system of notification and registration of “geographical indications” for wines and spirits by the Mexico ministerial meeting. The extension of geographical indications (place names used to identify products with characteristics associated with specific locations) to products other than wines and spirits will also be addressed by the TRIPS Council. Finally, the TRIPS Council is instructed to examine, inter alia, the relationship between the TRIPS Agreement and the Convention on Biological Diversity and the protection of “traditional knowledge and folklore” in less-developed countries.⁵⁰ All these issues for negotiation and examination are important for developing countries but have not received the publicity and attention devoted to overriding drug patents during public health emergencies.

The main roadblock in the TRIPS negotiations at the moment is compulsory licensing provisions for developing countries without domestic production capacity. This concerns the vast majority of developing countries in the WTO. TRIPS rules restrict their ability to import generic drugs from other developing countries; but this is their preferred course of action in order to provide essential medicines, at affordable cost, to deal with public health emergencies. A compromise deal, involving a waiver to relevant TRIPS provisions, was thrashed out at a mini-ministerial meeting in Australia in November 2002. The EU, other developed countries, and the developing countries en bloc were supportive. However, a final agreement was blocked by the U.S. administration, which came under heavy pressure from U.S. pharmaceutical multinationals. The United States argues that the proposed TRIPS

waiver is open-ended and goes too far in weakening patent protection. Its preferred solution is to restrict the waiver to cover generic imports destined for less-developed countries, and only for certain epidemics such as HIV/AIDS, tuberculosis, and malaria.

The lone U.S. veto means another deadline has been missed and throws the TRIPS negotiations into turmoil. It adds to the general gloom in the run-up to Cancun.

Other Developing-Country Issues. A new work program will examine issues relating to the trade of small, vulnerable economies. Two new working groups are also to be set up: one to examine the relationship between trade, debt, and finance and the other to examine the relationship between trade and technology transfer.⁵¹ It is difficult to imagine anything substantial coming out of these working groups in the near future.

Singapore Issues

Of the four Singapore issues, two—investment and competition—are controversial. That is less the case with trade facilitation and transparency in public procurement. The EU succeeded in getting all four issues onto the negotiating agenda in a two-step procedure: preparatory work commenced at the beginning of the round; actual negotiations will only start after the Mexico ministerial meeting, “on the basis of a decision to be taken, by explicit consensus, at that Session on the modalities of the negotiations.”⁵²

The outcomes of all four sets of negotiations will fold into the Single Undertaking at the end of the round.⁵³ This is unfortunate. There are reasonable arguments pro and contra these issues as negotiating items in the new round. Nevertheless, they are of secondary importance, well below the priority, big-ticket market access items identified earlier. Furthermore, as mentioned before, there is the possibility of India and perhaps other developing countries vetoing negotiations on the Singapore issues at the Mexico ministerial meeting if they feel aggrieved with lack of progress in the new round during the course of 2002–03. This could, in the worst scenario, turn into a replay of Seattle.

It would have been better to keep these issues out of the Single Undertaking. The alternative would have been opt-ins and opt-outs for WTO members—more along the lines of “plurilateral” codes (as exist for public procurement and civil aircraft) that members can decide to accept or reject rather than GATT- and TRIPS-type obligations binding on all. This would have allowed enthusiastic subsets of members to proceed with negotiations, while allowing others, especially skeptical developing-country members, to stand aside. It would have been a useful safety valve for the Mexico ministerial meeting.

The way out of the morass in the run-up to Cancun may be to build consensus around light, evolutionary agreements that would be *de minimis* to begin with, that is, with opt-ins or opt-outs and not necessarily subject to dispute settlement. However, they could be strengthened gradually and incrementally given sufficient consensus in the future. The overriding imperative is to prevent the Singapore issues from becoming a round-stopper.

Trade and Investment. Given stronger linkages between trade and foreign direct investment (FDI), there is a long-term rationale for bringing investment rules into the WTO. A strong investment agreement in the WTO would create multilateral, nondiscriminatory disciplines for a liberal investment climate. Nevertheless, there is continuing momentum behind unilateral liberalization of FDI in developing countries, complemented by bilateral investment treaties and investment provisions in regional trade agreements. Finally, investment rules are already built into the WTO: strongly in GATS through “commercial presence” (mode three of supply), also in TRIPS, and weakly on the goods side in the agreements on TRIMS and Subsidies and Countervailing Measures.

Before negotiations start, the ministerial declaration charges the Working Group on the Relationship between Trade and Investment to focus on issues of “scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; develop-

ment provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members.”⁵⁴

Trade and Competition Policy. The arguments in favor of bringing competition (antitrust) rules into the WTO are not as strong as those in favor of investment rules in the WTO. There are disagreements about the importance of so-called private barriers to trade, such as cartels; and the latter are arguably not as important as the public (government-imposed) tariff and nontariff barriers to trade, whose reduction and removal should be the WTO’s core mission. Furthermore, new WTO competition regulations would impose an implementation burden on developing countries on top of their post-Uruguay Round obligations. The last thing they need right now is a WTO obligation to set up complex competition authorities, for which most of them simply do not have the resources.

Even the EU recognizes that eventual WTO agreement on competition rules in this round will have to be loose and minimalist. In this vein, and before negotiations start, the ministerial declaration charges the Working Group on the Interaction between Trade and Competition Policy to focus on “core principles; including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building.”⁵⁵

Transparency in Public Procurement. A plurilateral code, the Government Procurement Agreement, covers public procurement in goods. A limited number of mainly developed countries belong to it. They extend most favored nation and national treatment to each other but not to nonsignatories, which is why the GPA falls outside GATT disciplines. In addition, as a result of an initiative taken at the Singapore ministerial meeting in 1996, a multilateral working group was set up to improve transparency in government procurement practices. Very little progress has been made to

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date on this front. Finally, while the GATS excludes coverage of public procurement in services, further negotiations are mandated. Again, there is next to no progress to report.

The ministerial declaration states that new negotiations “shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers.”⁵⁶

Trade Facilitation. Arbitrary, corrupt, and time-consuming customs administration, excessive trade documentation, and assorted red tape often do more harm than tariffs to trade in goods and services, particularly in developing countries. Small and medium-sized firms are hit especially hard. Hence the ministerial declaration recognizes “the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area.” Before negotiations start, the Council for Trade in Goods “shall review and as appropriate, clarify and improve relevant aspects of Articles V, VII and X of the GATT 1994.”⁵⁷

Labor, Environmental, and Other Issues

Environmental standards are definitely on the negotiating agenda for the new round; labor standards are definitely excluded from it.

Developing countries clearly recognize that bringing labor standards into the WTO, in whatever form, could be the thin end of the wedge. Developed countries would in due course press for obligations to comply with “minimum” or “core” labor standards, which could easily be abused (much like antidumping actions) in order to shut the door on cheap, labor-intensive developing-country exports. Hence their understandable inflexibility on the issue.

The preamble to the ministerial declaration curtly reconfirms existing policy: “We reaffirm our declaration made at the Singapore ministerial conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimension of globalization.” Labor standards are staying off the WTO agenda—at least until this round is over.

Environmental Hazards. The relationship between trade and the environment is more complicated than that between trade and labor standards. Parts of the former are also already built into the WTO, especially in the SPS and TBT agreements. The EU, the lead *demandeur* on this issue, got what it wanted into the new round, and perhaps more than it dreamed of achieving. If WTO members, and developing countries in particular, are not careful, the environmental bits of the negotiating agenda could turn out to be the Trojan horse in the new round, just as TRIPS was the Trojan horse in the last round. This chunk of the new round will be the EU’s chief vehicle for bringing new, complex, and mostly dubious regulation into the WTO.

The ministerial declaration contains a wordy paragraph in its preamble, in which WTO members “strongly reaffirm [their] commitment to the objective of sustainable development.” It goes on: “We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements.”⁵⁸

The section on trade and environment in the work program is split into two parts. The first part launches immediate negotiations, “without prejudging their outcome,” on (1) “the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). . . . The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question”; (2) “procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status”; and (3) “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.”⁵⁹

Liberalizing trade in environmental goods and services is welcome. Clarifying the relationship between the WTO and individual MEAs is probably necessary, but developing countries should proceed with a very watchful eye. If they do not watch out, WTO general or specific waivers could open the floodgates to an increasing number of badly designed and administratively unwieldy MEAs that take little account of developing-country concerns. Trade sanctions could then be used to enforce compliance with MEAs. This may make sense for some MEAs, but not for others.

The second part of the ministerial declaration on trade and environment instructs the Committee on Trade and Environment to work on the following: (1) “the effect of environmental measures on market access, especially in relation to developing countries, in particular the least developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development”; (2) “the relevant provisions of the Agreement on Trade-Related Intellectual Property Rights”; and (3) “labelling requirements for environmental purposes.”⁶⁰

It goes on: “Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations.”

Developing countries should again be watchful that the EU does not use the upgraded work of the Committee on Trade and Environment, and possible future negotiations, to insert into the round what it was not able to insert explicitly into the ministerial declaration. There are two danger zones.

The first concerns national environmental regulations that differentiate between products on the basis of how they are produced or processed. The conventional interpretation of GATT Article III stipulates national treatment for “like products”; it does not allow governments to discriminate between goods according to production and processing methods (PPMs).

This prevents developed countries from “exporting” (or imposing) their environmental standards on developing countries. The forthcoming work on eco-labeling could be a useful middle way to reconcile developed- and developing-country concerns, but it could equally be abused to impose costly and inappropriate standards on developing-country exports.

The second danger zone concerns the EU’s attempts to get its version of the “precautionary principle” recognized in the WTO. This failed outright before and in Doha. All WTO members agree that precautionary measures, such as temporary import bans, can be applied if there is a danger to human, animal, or plant life or health, but existing GATT rules, and especially the SPS Agreement, insist that these measures should be based on scientific evidence and should not constitute disguised restrictions on trade. The EU, however, takes a much more conservative view of risk assessment than other WTO members, especially where food safety standards are concerned. The EU stance on precaution is much less based on what existing scientific evidence would consider as “acceptable” risk and wishes to take consumer and other views into account. Hence its strong preference to “clarify” relevant SPS provisions (especially the preamble, and Articles 3.3 and 5.7 of the agreement). Other WTO members consider this position to be an open invitation to restrict imports on all sorts of spurious grounds. It is nevertheless a politically sensitive and high-order issue for the EU, so it would not be surprising if the EU tried to introduce it by stealth into the new round.

At first glance, the wording on trade and environment in the work program of the ministerial declaration is sufficiently tight to prevent EU skullduggery. It refers to the “effect of environmental measures *on* market access” (my emphasis), not the other way around. And it adds that the outcome of work and negotiations “shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the

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needs of developing and least developed countries.⁶¹ Nevertheless, the preambular references to the environment, and the nontrade concerns taken into account in the agricultural negotiations,⁶² provide the EU with worrying wiggle room. Hence the need for other WTO members to be alert and cautious in this part of the new round.

Miscellaneous Issues. The work program on electronic commerce, which has achieved very little, will continue, as will the current practice of not imposing customs duties on electronic transmissions. This will be reviewed at the Mexico ministerial meeting.⁶³ The preamble contains references to “work with the Bretton Woods institutions for greater coherence in global economic policy-making”; “concluding accession proceedings as quickly as possible . . . [and] accelerating the accession of least developed countries”; and “making the WTO’s operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public.”⁶⁴

The Politics of the New Round

To date there is little to report regarding the politics of the new round considering that it has made next to no progress. Politics will have to change if the new round is to pick up speed. Three old and three new features deserve to be highlighted.

Old Features

First, as in the Uruguay Round, the necessary but not sufficient condition for success is for the major players, the United States and the EU, to contain domestic political difficulties, defuse bilateral conflicts, and cooperate intensively. In the case of the EU, putting the domestic house in order means doing something serious about the Common Agricultural Policy and containing France, the eternal spoiler of international economic policy. France’s perverse but entirely predictable bloody-mindedness on the issue of agricultural export subsidies nearly caused the Doha ministerial conference to collapse. It

remains the towering obstacle to meaningful CAP reform. In the United States, President Bush has to contain protectionist elements, particularly in the textiles and clothing lobbies, but also in agriculture and steel. Both sides must exercise restraint in taking cases to WTO dispute settlement and relying excessively on adversarial litigation.

The twist to the tale is the more vigorous exertion of U.S. leadership in trade policy during the course of 2002, in contrast to the EU’s continued defensiveness on agricultural reform. This cannot be divorced from the broader strategic picture of an increasingly confident and assertive U.S. superpower on the international stage, compared with an internally sclerotic and externally pusillanimous EU. Since the Tokyo Round, the United States and the EU have shared leadership in the GATT/WTO. To be sure, it will still take two to tango, but is the United States about to lead the dance for the first time since the 1960s? It is too early to tell.

Second, following Uruguay Round precedent, success in the new round will require the effective participation of a core of about 25 developed and developing countries who are already active in the WTO. Canada, Japan, Australia, and New Zealand from the OECD come to mind. In the developing-country camp, Brazil, India, and now China stand out, but this group also includes other Latin American countries (notably Mexico and Chile) and many East Asian countries (notably Thailand, Malaysia, Singapore, Hong Kong, and Korea).

Third, multicountry coalitions will be important to give the round a kick in the right direction. Broad-based, informal, developed-developing country coalitions will be useful to share information and act as sounding boards for ideas (the “chat group” phenomenon), and even to resolve crises or give fresh impetus at strategic junctures, as was the case with the Swiss-Colombian coalition and the De La Paix Group during the Uruguay Round.⁶⁵ The drawback of these groups (such as Friends of the New Round, Friends of GATS, G77, the African Group, and the LDC Group recently)

is that they are too big and heterogeneous to forge common positions.

Perhaps more important will be small, discrete, issue-based developed-developing country coalitions. The Cairns Group and the International Bureau on Textiles and Clothing are the pathfinders in this respect, although one cannot expect such formal and relatively tight-knit coalitions in other negotiating areas. More probable are looser, informal coalitions in areas like services, industrial goods, rules, implementation, and others, with membership fluid and varying across negotiating areas.

Embryonic “friends” groups already exist in services (Really Good Friends of GATS), antidumping, subsidies (Friends of Fish), trade facilitation (Colorado Group), dispute settlement and implementation (G15 and the Like-Minded Group). These need to be more coherent and proactive if the round is to advance. Not least, they are an important counter to the UN-ization of the WTO that threatens to stop all effective decisionmaking in its tracks.

New Features

The first novel element in the potential politics of the new round is that the active, first-division developing countries will be negotiating with each other and other developing countries, especially on the tariff and nontariff barriers that throttle South-South trade in industrial goods. During the Uruguay Round, the active developing countries tended to go head to head with developed countries but not with each other. The present situation is but a reflection of the increasing differentiation within the developing world and the porosity of the North-South divide.

The second novel element will be the more active participation of many more developing countries, including some traditionally weaker developing countries and even some less-developed countries, than was the case in previous rounds. This was certainly in evidence during the consultations in the WTO before Doha, and in Doha itself. Of particular note was the proactive participation of the African Group—for the first time at a GATT/WTO ministerial meeting. The countries concerned are too small and

weak to sustain effective participation on their own in the new round, so they will have to create like-minded coalitions for this purpose.

However, there are distinct limits to the active participation of the second- and third-division developing countries with limited or very limited trade policy capacity, even in coalition formation. During the long haul of complex and multiple negotiations, they are likely to remain passive followers, not initiators and proactive players. This applies particularly to the less-developed countries but, albeit to a lesser extent, also to large low-income countries such as Pakistan, Bangladesh, Egypt, and Nigeria. All may have more “negative” bargaining power than before, that is, the ability and willingness to block agreement, but they will not have significant “positive” bargaining power for the foreseeable future.

The third factor is the entry of China and Taiwan (“Chinese Taipei”) into the WTO and their participation in the forthcoming negotiations. Russia too may join while the round is ongoing, although Russian unwillingness to initiate WTO-compatible reforms may drag out the accession process for some time. Taiwan, with a track record of relative openness to the world economy, and having liberalized further in order to join the WTO, is in a good position to play an active and constructive role in the new round.

What about China? That is the \$64,000 question, as China is now the most important developing country in the WTO and is bound to play a major role in the new round. China faces the monumental task of implementing WTO rules domestically; it is still far from having a rule of law compatible with a market economy. If it flouts WTO rules, others will follow, with potentially devastating consequences for the WTO system.

This may be too melodramatic a scenario, for there are positive signs, too. After a 15-year WTO accession negotiation, China has capable, savvy trade negotiators who will want to extract maximum benefit from the WTO and use it to further bolster domestic reform—not to destroy the WTO system. One year into its WTO membership, the Chinese government

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is roughly on track with the staged implementation of its WTO obligations. There are also welcome indications that China will adopt a Brazilian rather than an Indian strategy in the WTO. If it acts like Brazil, it will shape differentiated interests and adopt a mixture of offensive and defensive positions in the WTO, forming overlapping coalitions with other WTO members along the way. If it acts like India, it will be negative and block on several fronts, as India tried to do (unsuccessfully) in the Uruguay Round and in Doha. Let the United States hope China turns out to be the Asian equivalent of Brazil.

Building Trade Policy Capacity in Developing Countries

Developing countries account for a four-fifths (and increasing) majority in the WTO.⁶⁶ As mentioned above, there are encouraging signs of more developing countries who are willing and able to make their participation count. Nevertheless, it is one thing for a developing country to organize itself for a ministerial conference; it is quite another to sustain effective participation over the long, difficult haul of multi-issue, simultaneous negotiations in a new round. To do that, the focus must shift, in the first instance, from Geneva to the domestic setting of *national* trade policymaking, against the extended background of national economic policy. Here there are wide and glaring divergences between developing countries (and countries in transition, too). This feeds through to divergences in WTO participation.

The score or so of really active, first-division developing countries are in the middle-income bracket (China and India being the significant exceptions), with rising shares of international trade and investment. Most have also undertaken radical and sustained unilateral liberalization. They have well-staffed missions in Geneva with high-profile ambassadors, many of whom chair important WTO committees. They are active in the formal and informal

coalitions where much of the deal making is done. Finally, they have reasonably well resourced trade policy operations back in national capitals.

The last aspect—adequate trade policy resources at home—is now crucial to effective WTO participation. In the past, including the Uruguay Round, national participation in GATT negotiations involved the Geneva mission and the lead ministry on trade policy at home. Now, as trade policy and trade agreements become more complex, especially in their domestic regulatory detail, trade negotiations are more domestic, or national capital-centered, than before and involve ministries and regulatory agencies across government as well as private-sector consultation.

Distrust and Frustration among the Poorest Members

Below the first-division bracket is a motley crew of second-division poorer countries, some quite large (such as Egypt, Pakistan, Morocco, Nigeria, and Bangladesh) with vocal ambassadors. However, their influence in the WTO is hampered by a serious lack of administrative capacity at home. Finally, there is a very large residual group—the third division as it were—amounting to half or more of the WTO membership (80-plus countries) with huge trade policy deficits. Many less-developed countries and small island-states do not even have a Geneva mission. Most of the others have perhaps one or two representatives in Geneva to cover all international organizations in town.

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Thus it can be said that credible and sustainable trade policy outcomes, including effective participation in a WTO round, require an efficient delivery mechanism, that is, good trade policy decisionmaking, at home. The main objectives of trade policy management are threefold: (1) clear, precise definition of national interests in *policy formulation*, with a strong sense of how trade policy fits into the overall national economic strategy; (2) effective *negotiating capacity* at bilateral, regional, and

multilateral levels, with a good appreciation of the dynamic interaction between these levels; and (3) effective domestic *implementation* of unilateral measures and international agreements. Achieving these objectives requires, inter alia, an effective lead ministry on trade policy, good interagency coordination, substantial nongovernmental input, and a strong WTO mission.

Most developing countries, in the second and third divisions previously mentioned, fare badly on all these counts. Quite apart from political and economic instability, corruption, low civil service pay, lack of qualified personnel, policy reliance on the whims of a few powerful (and mostly incompetent and venal) personalities, and a host of other institutional, economy-wide gaping holes, there are specific trade policy weaknesses. They include lack of competent staff to analyze and monitor the costs and benefits of existing and proposed trade policies, at home and abroad; lack of legal expertise; lack of able and experienced officials to participate seriously in multiple international trade negotiations; policy blockage from regulatory agencies that are poorly integrated into the trade policy process and with protectionist interests to defend; and little input from business organizations.

All these problems in trade (and wider economic) policy operations prevent most developing countries from making a systematic assessment of national trade policy priorities, to be implemented unilaterally and pursued through regional and multilateral negotiations. Even capable heads of mission and negotiators in Geneva (not invariably the case with developing-country delegations to the WTO) are not of much use without strong backup from national capitals. The increasing complexity of the WTO in the wake of the Uruguay Round imposes many more demands on trade policy capacity at home, but the latter has not improved in most developing countries, and in some cases has even worsened.

Hence the feeling of distrust and frustration, the sense of being overwhelmed and unable to cope, among developing-country officials. Small national missions in Geneva do not have the staff to attend, let alone keep pace with, the huge number of formal and informal

meetings in the WTO; and officials in national capitals simply do not have the time and resources to analyze issues and formulate negotiating positions. The size and complexity of the new round make a bad situation worse. This time, the weaker developing countries do not wish to fall into the Uruguay Round trap of being rushed into agreements they cannot fathom and find very hard to implement. This accounts in some measure for their present defensive attitude.

Given these seemingly intractable problems with trade policy capacity, it is not surprising that most developing countries' positions in WTO negotiations tend to be conservative, passive, and reactive, only making concessions if under extreme pressure from more powerful players. Their domestic disarray and consequent lack of negotiating preparedness also make them easier targets for the major powers to pick off and bully, as happened in the latter stages of the Uruguay Round.

Good Trade Policy Begins at Home

Nonetheless, there are examples of good trade policy management across the developing world. Trade policy capacity can be improved gradually, but only in bottom-up fashion with domestic political will and in the context of credible domestic policies and institutions. To reiterate, the key is to have clear and sensible trade policies, within a coherent overall national economic policy framework, developed "from below." This is the precondition for successful participation in the WTO as well as in regional trade negotiating forums. Well-targeted external technical assistance and capacity building can then help at the margin. On the other hand, it is misleading and counterproductive to think of trade policy capacity building in top-down terms, as a global Cartesian construct in which international organizations and donors are the central actors. This misses the point: good trade policy, like charity, begins at home, not in the International Monetary Fund and the World Bank, nor indeed in the WTO.

Building trade policy capacity from the ground up, with a central focus on putting the domestic house in order, is inevitably going to be a long,

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drawn out affair. It can by degrees translate into effective WTO participation for an increasing number of developing countries. As far as the new round is concerned, a smallish and manageable negotiating agenda would have suited developing countries with scarce administrative and policy resources much better. Unfortunately, the large and messy agenda at hand, while not an insuperable problem for first-division developing countries, presents a daunting challenge to most of the rest, and an impossible burden for many. If the EU and other developed countries really had developing-country interests at heart, they would have kept the agenda small and focused.

Conclusion

Beginning with David Hume and Adam Smith, the emphasis on free trade has been not just one of the postulates, but the very heart or essence, of economic liberalism.

—Jan Tumlir

In political activity, then, men sail a boundless and bottomless sea; there is neither harbour for shelter nor floor for anchorage, neither starting place nor appointed destination. The enterprise is to keep afloat on an even keel; the sea is both friend and enemy; and the seamanship consists in using resources of a traditional manner of behaviour to make a friend of every hostile occasion.

—Michael Oakeshott

It is perhaps instructive to juxtapose the classical-liberal free-trade ideals of Jan Tumlir with the pragmatic conservatism expressed in one of Michael Oakeshott's most quoted passages. The balance between the two captures, I hope, the tone of this extended policy essay on the state of play and future of the world trading system, and in particular the role of the WTO within it.

On the one hand, there is the enduring classical-liberal message that free trade is a desirable goal

on economic and moral grounds, and progress in that direction, however gradual and piecemeal, should be integral to modern globalization. This is first and foremost a task for national governments, but the WTO, with the right sort of rules to buttress the protection of private property rights and the enforcement of contracts in cross-border transactions, can be a helpful external prop. This, then, would be the WTO's circumscribed but vital contribution to the liberty of individuals and the prosperity of nations.

On the other hand, politics is a messy, practical affair. Sensible political economy has to factor that into the equation. Following Oakeshott, the seas of real-world international trade policy are indeed boundless, bottomless, and turbulent; and the enterprise, for national governments and the WTO, must be to keep afloat on an even keel, "using resources of a traditional manner of behaviour to make a friend of every hostile occasion." A compass is needed to chart the right course ahead, something the WTO clearly lacks today; but the seamanship should match ambitions to prevailing weather conditions and the tools at hand.

It is this liberal-conservative compass, mixing the ideal of progressively freer trade with pragmatic politics, that is sorely needed for the Doha Round in order to take the WTO, and with it the wider trading system, into the right middle-distance future. The task ahead is to set the objective, flesh out the policy detail, and build the requisite political constituency. The latter in particular will be a steep uphill struggle.

Notes

1. On trade policy and wider economic policy trends, see David Henderson, *The Changing Fortunes of Economic Liberalism: Yesterday, Today and Tomorrow* (London: Institute of Economic Affairs, 1998); and Constantine Michalopolous, *Developing Countries and the WTO* (London: Palgrave, 2001), pp. 45–88.

2. There is the theoretical possibility of (usually large) countries being able to exercise long-run market power in international demand for certain goods, thereby placing them in a position to shift the terms of trade in their favor by means of an optimal tariff. The counterargument is that these countries should lower tariffs only if others reciprocate, in order to avoid worsening terms of trade. However, in

- reality very few countries have such market power under long-run conditions. In addition, retaliatory tariffs by other countries would tend to nullify terms-of-trade gains. Thus, a beautiful idea on the Olympian heights of theory (not for the first time!) turns out to have limited practical relevance. This returns policy, as a *practical proposition*, to a presumption in favor of unilateral free trade. On the terms of trade/reciprocity debate, see Lionel Robbins, *Robert Torrens and the Evolution of Classical Economics* (London: Macmillan, 1958), pp. 182–231; and Douglas A. Irwin, *Against the Tide: An Intellectual History of Free Trade* (Princeton, N.J.: Princeton University Press, 1996), pp. 106–15.
3. On the role of crisis in policy reform, see Stephen Haggard and John Williamson, “The Political Preconditions for Economic Reform,” in *The Political Economy of Policy Reform*, ed. John Williamson (Washington: Institute for International Economics, 1995), pp. 527–96.
4. Paul Krugman, “What Should Trade Negotiators Negotiate about?” *Journal of Economic Literature* 35, no. 1 (March 1997): 13–20; and Bernard Hoekman and Michel Kostecky, *The Political Economy of the World Trading System: From GATT to WTO* (Oxford: Oxford University Press, 1995), pp. 20–33.
5. World Trade Organization, *Overview of Developments in the International Trading Environment: Annual Report by the Director-General* (Geneva: WTO, 2001), p. 86.
6. World Trade Organization, *Regionalism and the World Trade System* (Geneva: WTO, 1995).
7. On the Uruguay Round agreements and the implications of the transition from GATT to WTO, see World Trade Organization, *The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations* (Cambridge: WTO/Cambridge University Press, 1999); Hoekman and Kostecky; John Croome, *Reshaping the World Trading System: A History of the Uruguay Round* (Geneva: WTO/Kluwer, 1999); and John Jackson, *The World Trade Organization: Constitution and Jurisprudence* (London: Pinter/Royal Institute of International Affairs, 1998).
8. On TRIPS, see Hoekman and Kostecky, chap. 6.
9. Simple, transparent, negative, and nondiscriminatory rules of conduct have a long classical-liberal pedigree. They are David Hume’s “general and inflexible rules of justice.” In Hayekian terminology, they are *nomos*, not *thesis*. See David Hume, *A Treatise of Human Nature*, Book III, Part II (1740; Oxford: Clarendon, 1978), pp. 520, 526, 567–69; and F. A. Hayek, *The Constitution of Liberty* (London: Routledge, 1960), pp. 19, 162ff., 529.
10. Jagdish Bhagwati, *Free Trade Today* (Princeton, N.J.: Princeton University Press, 2002), pp. 51–52, 67.
11. On the dangers of regulatory overload and standards harmonization, see Bernard Hoekman, “Strengthening the Global Trade Architecture for Development: The Post-Doha Agenda,” *World Trade Review* 1, no. 1 (2002): 32, 40; Thomas Hertel, Bernard Hoekman, and Will Martin, “Developing Countries and a New Round of WTO Negotiations,” *The World Bank Research Observer* 17, no. 1 (Spring 2002): 136; and J. Michael Finger, “Implementing the Uruguay Round Agreements,” *The World Economy* 24, no. 9 (September 2001): 1098.
12. J. Michael Finger and Julio Nogues, “The Unbalanced Uruguay Round Outcome: the New Areas in Future WTO Negotiations,” *The World Economy* 25, no. 3 (March 2002): 321–40.
13. John H. Jackson, “Dispute Settlement and the WTO: Emerging Problems,” *Journal of International Economic Law* 1, no. 3 (1998): 344; Marco C. E. J. Bronckers, “Better Rules for a New Millennium: A Warning against Undemocratic Developments in the WTO,” *Journal of International Economic Law* 2, no. 4 (1999): 551, 554, 562–64; and Arthur Dunkel, Peter Sutherland, and Renato Ruggiero, “Joint Statement on the Multilateral Trading System,” *WTO News*, February 1, 2001, p. 2, www.wto.org/english/news_e/news01_e/jointstatdavos_jan01_e.htm.
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15. Syliva Ostry, “WTO: Institutional Design for Better Governance,” in *Efficiency, Equity and Legitimacy: The Multilateral Trading System at the Millennium*, ed. Roger B. Porter et al. (Washington: Brookings Institution Press, 2001), p. 9.
16. See “Ministerial Declaration,” WT/MIN(01)/DEC/W/1, November 14, 2001; “Declaration on the TRIPS Agreement and Public Health,” WT/MIN(01)/DEC/W/2, November 14, 2001; and “Implementation-Related Issues and Concerns,” WT/MIN(01)/W/10, November 14, 2001, all available at www.wto.org.
17. Robert Zoellick, “Unleashing the Trade Winds,” *The Economist*, December 7, 2002.
18. “Ministerial Declaration,” paras. 20, 23, 26, 27.
19. *Ibid.*, para. 32.

20. I owe this form of words, "traditionalist" and "reformist," to my former student Joakim Reiter, now dealing with trade policy at the Swedish Ministry of Foreign Affairs.
21. It is the classical-liberal tradition, from Hume and Smith to Hayek, which highlights the merits of national (unilateral) freedom of action and intergovernmental institutional competition, all in search of better practice in a complex world of uncertainty and flux. See Razeen Sally, *Classical Liberalism and International Economic Order: Studies in Theory and Intellectual History* (London: Routledge, 1998), pp. 198–203.
22. Kym Anderson, "The future agenda of the WTO", in *From GATT to the WTO: The Multilateral Trading System in the New Millennium* (Geneva: WTO Secretariat, 2000), p. 22.
23. See Michalopolous, pp. 45–128.
24. Jagdish Bhagwati, "Trading for Development," *The Economist*, June 22, 2002, p. 28.
25. *Globalization, Growth and Poverty: An Inclusive Agenda for the World Economy* (Washington and Oxford: World Bank/Oxford University Press, 2002).
26. "Ministerial Declaration," para. 13.
27. *Ibid.*
28. *Ibid.*, para 14.
29. *Ibid.*, para. 15.
30. *Ibid.*, para. 16.
31. *Ibid.*, para. 28.
32. On U.S. antidumping legislation and proposals for antidumping negotiations in the WTO, see Brink Lindsey and Dan Ikenson, "Antidumping 101: The Devilish Details of 'Unfair Trade' Law," *Cato Trade Policy Analysis* no. 20, November 26, 2002; Brink Lindsey and Dan Ikenson, "Reforming the Antidumping Agreement: A Road Map for WTO Negotiations," *Cato Trade Policy Analysis* no. 21, December 11, 2002.
33. "Ministerial Declaration," paras. 28–30.
34. Peter Tulloch, "Regionalism and the WTO," *The World Trade Brief*, Fourth WTO Ministerial Conference, November 9–13, 2001 (London: Agenda Publishing), pp. 43–44.
35. "Ministerial Declaration," paras. 2, 3.
36. Finger.
37. "Implementation-Related Issues and Concerns." Also see "Proposed Procedures for Extensions under Article 27.4 for Certain Developing Country Members," Communication from the chairman of the General Council, Committee on Subsidies and Countervailing Measures, G/SCM/W/471/Rev.1, November 13, 2001.
38. "Ministerial Declaration," para. 12.
39. *Ibid.*
40. *Ibid.*, para. 44. Also see para. 50.
41. "Implementation-Related Issues and Concerns," para. 12.1(f).
42. Finger, pp. 1104–5, 1107; and Hoekman, pp. 34–35.
43. "Ministerial Declaration," paras. 38–41.
44. *Ibid.*, paras. 40, 41.
45. *WTO News*, March 7, 2002, www.wto.org/english/news_e/pres02/_pr277_e.htm, and March 11, 2002, www.wto.org/english/news_e/pres02/_pr279_e.htm.
46. "Ministerial Declaration," paras. 3, 43.
47. *Ibid.*, para. 42.
48. "Declaration on the TRIPS Agreement and Public Health," paras. 4, 5.
49. *Ibid.*, paras. 6, 7.
50. "Ministerial Declaration," paras. 18, 19.
51. *Ibid.*, paras. 35–37.
52. *Ibid.*, paras. 20, 23, 26, 27.
53. *Ibid.*, para. 47.
54. *Ibid.*, para. 22.
55. *Ibid.*, para. 25.
56. *Ibid.*, para. 26.
57. *Ibid.*, para. 27.
58. *Ibid.*, para. 6.
59. *Ibid.*, para. 31.
60. *Ibid.*, para. 32.
61. *Ibid.*
62. *Ibid.*, paras. 6, 13.
63. *Ibid.*, para. 34.
64. *Ibid.*, paras. 5, 9, 10.

65. On formal and informal coalitions in the Uruguay Round, see Croome.

66. This section draws on Razeen Sally, "Effective Participation in the WTO: Building Trade Policy Capacity in Developing Countries," *The World Trade Brief*, pp. 48–50. Also see Sheila Page, "Developing

Countries in GATT/WTO Negotiations," Working paper no. 20, Overseas Development Institute, February 2002; Finger and Nogues, pp. 333, 338; Hoekman, pp. 30, 32; and Richard Blackhurst, Bill Lyakurwa, and A. Oyejide, "Options for Improving Africa's Participation in the WTO," *The World Economy* 23 no. 4 (April 2000): 491–510.

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