

Presented at the conference "The Future of Globalization: Explorations in Light of Recent Turbulence" co-sponsored by The Yale Center for the Study of Globalization and The World Bank, held at Yale on October 10-11, 2003.

The Future of the Global Trading System
Doha Round, Cancún Ministerial and Beyond

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“Those who cannot remember the past are condemned to repeat it.”¹

1. Introduction

The fifth ministerial meeting of the World Trade Organization (WTO) was held at Cancún, Mexico during September 10-14, 2003. It was expected to review the status of multilateral negotiations (MTNs) launched at the fourth meeting in Doha, Qatar in November 2001. In particular, it was to set the negotiations back on track after the setbacks of missing several crucial deadlines set in the Doha ministerial declaration, and deciding on modalities by explicit consensus of members for negotiations in certain areas, such as, for example, the so-called “Singapore issues” of investment, competition policy, government procurement and trade facilitation. The meeting ended with no agreement on any of these.

The failure of the Cancún ministerial is seen by some as threatening the very foundation of the architecture of the world trading system embodied in the WTO. It also revealed, what transpired to be, irreconcilable positions of most DCs (particularly sub-Saharan African countries) and many of the other members of the WTO on whether to initiate negotiations on Singapore issues at all. On agriculture, on one side were large agricultural exporters, a diverse group including several developed (e.g., Australia, New Zealand) and DCs (e.g., Argentina, Brazil, Mexico, Thailand) and India, which has recently become an exporter of foodgrains. On

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¹ Santayana (1905).

the other side were the European Union and the United States. While the differences between the two sides seemed to narrow during the meeting, the movement in their respective positions was not enough to bring about an agreement between them.

Leading developing countries (DCs), namely, Brazil, India, China, and South Africa, formed a group of twenty plus members to articulate and negotiate for the DCs at the meeting. In the ministerial at Punta del Este in 1986, which launched the Uruguay Round, there was also a group of ten DCs led by Brazil and India. But this group in effect disintegrated at the meeting. At Cancún, the group of twenty plus stuck to their positions until the end. This cohesion and success have created some understandable euphoria among DCs, even though they would be the losers were the failures at Cancún not to be reversed in the near future. But at the same time, the success has also raised the fear that DCs might retreat to the unhelpful rhetorical position that they once cohesively held in the late sixties and seventies in the United Nations Conference on Trade and Development (UNCTAD), namely, that the world trading rules were tilted in favor of the rich countries and against them, and that they should not be required to abide by the same rules.

The United States Trade Representative, Robert Zoellick, who headed the US delegation at Cancún, in his somewhat petulant reaction to the failure of the multilateral process at the Cancún ministerial railed against the DCs and asserted that the US will pursue with renewed vigor bilateral and regional preferential trade agreements. Since the US was pursuing this option already with maximum vigor, it is not obvious that Zoellick's threat to go regional and bilateral has become more credible with the collapse of the Cancún meeting. Nonetheless, the fact that a proliferation of preferential trade liberalization is much less beneficial than multilateral trade liberalization suggests that if the US indeed succeeds in concluding regional agreements, those outside of such agreements stand to lose significantly.

In what follows, I assess the future of the global trading system post-Cancún. I conclude that the collapse at Cancún need not be fatal as long as the right lessons are learned from it and appropriate actions taken. As a prelude to my assessment, I briefly describe the history of the world trading system during the era of the General Agreement on Tariffs and Trade (GATT) until GATT was subsumed under the WTO on January 1, 1995 (Section 2). The history is interesting in showing that the attitudes and positions taken by major participants at Cancún are not new and were present from the very inception of GATT. Then I discuss the Uruguay Round, concluded in 1994, the last of the eight rounds of multilateral trade negotiations (MTN) under the auspices of GATT. The disappointment with the actual experience since 1994 in comparison with expectations (justified or not) regarding the costs and benefits from the implementation of the agreement, particularly on the part of DCs, contributed to the failure at Cancún. In Section 4, I trace the reasons both for the failure to launch a new round at the third ministerial meeting at Seattle, USA in December 1999, and for its launching at the fourth ministerial meeting at Doha. The agenda set by the Doha ministerial declaration and progress or lack thereof on it prior to Cancún is the topic of Section 5. Section 6 is devoted to the Cancún meeting. Section 7 concludes with lessons from the failure of Cancún and possible directions for the world trading system.

2. A Brief History of the Global Trading System

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

detail, albeit from the perspective of an upper class Englishman². The disastrous experience during the period between the two World Wars with global economic depression, competitive devaluation of national currencies, and raising of tariff walls (the most notorious being Smoot-Hawley Tariff of the United States), had led allied powers, in the Second World War, who could sense their victory over the Axis powers to think ahead about designing of a post-war world economic system. It led to the famous conference in 1944 at Bretton Woods, New Hampshire, in which Soviet Union as an Allied power participated. The conference founded the International Bank for Reconstruction and Development (i.e., the World Bank) and the International Monetary Fund (IMF). The World Bank was to provide long-term finance for reconstruction and development. The IMF was to enable its members to maintain a system of fixed exchange rates by providing short-term balance of payments support to deal with temporary and reversible shocks to their balance of payments (BOP), while allowing flexibility for an orderly change in the exchange rate of its member facing a possible long-term shifts in BOP. With the Cold War already on the horizon, the Soviet Union chose not to become a member of either the World Bank or the IMF.

The creation of a similar organization for international trade issues did not figure in the Bretton Woods conference, even though one of its chief architects, Lord Keynes, had already envisaged one in a memorandum written in 1942, and most participants firmly believed in the

² “The inhabitant of London could order by telephone, sipping his morning tea in bed, the various products of the whole earth, in such quantity as he might see fit, and reasonably expect their early delivery upon his doorstep; he could at the same moment and by the same means adventure his wealth in the natural resources and new enterprises of any quarter of the world, and share, without exertion or even trouble, in their prospective fruits and advantages; or he could decide to couple the security of his fortunes with the good faith of the townspeople of any substantial municipality in any continent that fancy or information might recommend. He could secure forthwith, if he wished it, cheap and comfortable means of transit to any country or climate without passport or other formality, could dispatch his servant to the neighbouring office of a bank for such supply of the precious metals as might seem convenient, and could then proceed abroad to foreign quarters, without knowledge of their religion, language, or customs, bearing coined wealth upon his person, and would consider himself greatly aggrieved and much surprised at the least interference. But, most important of all, he regarded this state of affairs as normal, certain, and permanent, except in the direction of further improvement, and any deviation from it as aberrant, scandalous, and avoidable (Keynes, 1919, pp. 6-7).

need for it. The first concrete move towards establishing a framework for the world trading system was taken by the United States (US) with its *Proposals for the Expansion of World Trade and Employment* (hereafter, the *Proposals*), published on December 6, 1945, and forwarded to all other countries in the world. At the same time, the United States extended an invitation to fifteen countries (including Brazil, China, Cuba, and prepartition India, which then comprised contemporary Bangladesh, India, and Pakistan) to participate in negotiations for the reduction of tariffs and other barriers to trade. Fourteen countries with the notable exception of the Soviet Union accepted the US invitation.

The next move, again by the US, was its introduction of a resolution at the first meeting of 1946 of the Economic and Social Council (ECOSOC) of the United Nations calling for an international conference on trade and employment (which came to meet in Havana in November 1947) with the *Proposals* as its possible agenda. The resolution was unanimously adopted. ECOSOC appointed a preparatory committee for the conference (held later at Havana, Cuba) consisting of the United States, Norway, Chile, Lebanon, and the fifteen countries invited by the United States for tariff-reduction negotiations. The Soviet Union again chose not to participate in the deliberations of the preparatory committee. The US circulated a *Suggested Charter for an International Trade Organization* to the committee which accepted it as a basis for its deliberation.

The first meeting of the preparatory committee, except for adding a chapter on economic development, essentially adopted most of the US draft, leaving it to a committee at UN headquarters in New York to complete and edit the text of the charter. Although India and other DCs on the committee viewed the US's *Proposals and Charter* as serving the interests of industrial countries and as inimical to development. Their opposition did not prevent the committee from agreeing on and publishing its draft, known as the New York Draft, in January

1947. The committee also approved a memorandum on procedures to be followed in US-initiated negotiations for tariff reductions. These negotiations took place at the second meeting of the committee in Geneva, where simultaneous discussion on the new draft of the charter as well as tariff negotiations went on. The tariff bargaining proceeded on a product-by-product basis between pairs of countries, of which one was the principal supplier of each commodity for the other. From April to October 1947, the participants completed some 123 negotiations and established 20 schedules containing the tariff reductions and bindings which became an integral part of the General Agreement on Tariffs and Trade (GATT). These schedules resulting from the first round covered some 45,000 tariff concessions and about \$10 billion in trade. The agreement was signed on October 30, 1947 in Geneva by the 23 original contracting parties, consisting of the 19 participating members of the preparatory committee (with colonial India having been partitioned to independent India and Pakistan by then), Syria, Burma, Ceylon (now Sri Lanka), and Southern Rhodesia (now Zimbabwe).

The announcement of the completion of the GATT set the stage for the Havana conference, which opened on November 21, 1947. Fifty-six nations, again with the notable exception of the Soviet Union, participated in the conference. The most violent and protracted controversies at the conference were also on development issues.³ These were resolved, after a prolonged deadlock, by a series of compromises. The Final Act, embodying the charter for the International Trade Organization (ITO), was signed on March 24, 1948, by fifty-three countries; Argentina and Poland refused to sign, and the authorization for Turkey's delegation to sign had been delayed in transmission.

³ For a candid and very critical account of the position of DCs (particularly Latin American countries), see Wilcox (1949, p. 32).

The GATT had been envisaged as an interim measure to put into effect the commercial policy provisions of the draft charter of the ITO, which was expected to be approved, by the Havana conference at its conclusion in March 1948. However, it was completed in October 1947 before the conference opened in November, 1947. Due to their fear that tariff reductions in the GATT might unravel if not implemented immediately, negotiators wished to bring the GATT into force before the ITO came into being. As the negotiating authority delegated by the Congress for tariff reductions was to expire in mid-1948, the US executive wanted to bring the GATT into force before that time without waiting until the ITO charter was ready. However, other countries preferred to put the GATT and the ITO charter simultaneously through their ratification procedures. A compromise between those who wished to implement the GATT without waiting for the ITO charter to be ratified and those who preferred to wait was the adoption of the Protocol of Provisional Application of GATT.

However, there was no commitment from signatory governments to ratify the ITO charter. In particular, the US failed to ratify. In the end, the ITO was stillborn. All subsequent attempts to ensure definitive, rather than provisional, application of the GATT never succeeded. The review session of the contracting parties in 1955 drafted a new protocol for an “Organization for Trade Cooperation,” an organization far less elaborate than the ITO, and this too failed to win the approval of the US Congress.

In Jackson’s (1989: 89) words, “The GATT has limped along for nearly forty years with almost no ‘basic constitution’ designed to regulate its organizational activities and procedures.” The only substantial formal amendment to the GATT was the 1965 protocol to add Part IV

dealing with trade and development.⁴ Yet under GATT's auspices, eight successful rounds of MTNs for reducing barriers to trade have been concluded.

The liberalization of trade barriers under successive rounds resulted in an remarkably rapid growth at nearly 8% a year on the average in the volume of world trade between 1950 and the first oil shock in 1973. In the roughly two decades (1973-1990) thereafter, which included the second oil shock of 1979 and the Latin American debt crisis of the 1980s, average growth slowed down to around 4% a year. It recovered to an average of slightly under 6% a year during 1990-2000 (WTO, 2002, Chart II.1). In all these periods, trade grew faster than output so that the share of trade in output increased substantially.

The undoubted GATT-inspired success in reducing trade barriers and accelerating growth of the volume of world exports did not mean that all countries participated to a significant extent in either, for two major reasons. First, most DCs chose either not to become contracting parties of GATT (for example, Mexico did not become one until 1986) or not to participate actively as GATT contracting parties in MTN until the Tokyo Round of 1973-79. Driven as they were by the then dominant faith in inward-oriented import-substituting industrialization as the appropriate development strategy, they erected and maintained relatively high barriers to foreign trade, the only exceptions being East Asian countries that chose to move away from an inward-oriented to an outward-oriented development strategy from the mid-sixties on. The second, and no less important, reason is that in part because of their non-participation, the barriers to trade in commodities of actual or potential export interest of DCs were not reduced to the same extent as those on commodities mostly traded by developed countries among themselves. For example, trade in agricultural commodities in which DCs had a vital interest was largely kept out of the

⁴ According to Dam (1970) this step was also a reaction to the preparations already in progress for the first UNCTAD. The proposed amendments were approved in 1964 and became Part IV of the GATT, entitled "Trade and Development." He concludes that apart from its symbolic importance in sensitizing the contracting parties to the new role of the GATT in development, less-developed countries achieved little by way of precise commitments (and even these were highly qualified) but a lot in terms of verbiage.

disciplines of GATT until the Uruguay Round. Trade in textiles and apparel has been exempted from GATT rules from 1961, initially through a Short-Term Arrangement (STA) covering cotton textiles that was soon converted to a Long-Term Arrangement (LTA) in 1962, until it was expanded into a Multifibre Arrangement (MFA) in 1974 to cover trade in textiles made from almost all natural and man-made fibres!⁵ This exception is particularly egregious—apart from being an outright violation of the fundamental non-discriminatory Most Favoured Nation Treatment (MFN) enshrined in Article I of GATT, it also allowed the use of bilaterally negotiated trade quotas on an item-by-item basis between each importer and exporter. One cannot imagine a worse way of segmenting and heavily distorting markets. The MFA is scheduled to expire only on January 1, 2005.

The perception of many DCs of their experience with GATT up to the conclusion of the Tokyo Round in 1979 was one of frustration in their several attempts to get their concerns reflected in GATT. Tariffs and other barriers in industrialized countries on their exports were reduced to a smaller extent than those on exports of developed countries in each round of the MTNs. Products in which they had a comparative advantage, such as textiles and apparel, were taken out of the GATT disciplines altogether. Agriculture, a sector of great interest to DCs, largely remained outside the GATT framework. “Concessions” granted to DCs, such as the inclusion of Part IV on trade and development and the Tokyo Round enabling clause on special and differential treatment, were mostly rhetorical, and others, such as Generalized System of Preferences (GSP), were always heavily qualified and quantitatively small. In sum, the GATT was unfriendly, if not actively hostile, to the interests of DCs.

⁵ It is interesting to note that STA was primarily addressed to limit cotton textile exports from Japan to North America and Western Europe. When Japan became a leading exporter of automobiles in the late seventies “voluntary export restraints,” another discriminatory trade policy measure (which technically was GATT-legal because it was “voluntary” though it violated GATT norms), was negotiated in 1981. Complaints about undervalued yen, Japan’s huge bilateral trade surplus with the US and high Japanese savings rates were also raised. It is no surprise that as China emerged as the fourth largest exporter in the world, similar whining by the US about China’s exchange rate, high savings rate, huge bilateral trade surplus is heard now, loud and clear.

It is a matter of debate whether or not this perceived experience is a consequence of their relentless but misguided pursuit of the import-substitution strategy of development by the DCs which in effect led them to opt out of the GATT. Instead of demanding and receiving crumbs from the rich man's table, such as the GSP and a permanent status of inferiority under the "special and differential" treatment clause, had they participated fully, vigorously, and on equal terms with the developed countries in the GATT and had they adopted an outward-oriented development strategy, they could have achieved far faster and better distributed growth.

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

3. The Uruguay Round

Within three years of the conclusion of the Tokyo Round, the US wanted to use the GATT ministerial meeting of 1992 that had been called to examine the functioning of the multilateral trading system to initiate another round of MTN. The US was interested in going beyond the traditional GATT issue of reduction of tariffs and include services, including intellectual property protection in the negotiating agenda. A group of DCs led by Brazil and India was strongly opposed on the grounds that the DCs were not ready to negotiate on services on an

equal footing with the developed countries, and besides, the latter had not lived up to their obligations in the case of trade in textiles and agricultural products. They demanded commitments from developed countries not to introduce any new GATT-inconsistent measures (the so-called stand-still demand) and to remove any such measures in existence (the “roll back” demand).

The US did not succeed in launching a new round but only in enunciating a two-year work program for the GATT, which involved seventeen topics, including services. Even before the work program was completed, the Japanese Prime Minister had initiated a discussion on a new round and persuaded the group of seven industrialized countries to consult their trading parties about the objections and timing of a new round. Eventually, the opposition of Brazil and India was worn down and a committee was established to prepare a set of recommendations for adoption at the September 1986 meeting of GATT ministers at Punta del Este, Uruguay. Just as there was no agreed draft of a ministerial declaration as the Cancún meeting started, there was none either at Punta del Este from the preparatory committee. There were alternative drafts in circulation at the meeting from individual countries and country groups, such as a group of forty (GF) including twenty DCs as well as major industrialized countries and the group of ten (GT) DCs led by Brazil and India.

The GT position eroded as the meeting went on, with the US succeeding in weaning away its members until only India held firm. A growing consensus emerged around the US position, once the US in effect gave an ultimatum that it would withdraw from the conference altogether if the issues of its interest were not included in the declaration. The chairman on his own initiative decided to treat the GF text as the basis for discussion in the consultation committee over the protests of those DCs supporting the GT text. But he allowed amendments to the GF text that in

turn drew protests from developed countries. Thirty-one amendments were initially offered and reduced to fourteen subsequently.

When the consultation committee met for the last time, at 6:00 p.m. the day before the ministerial meeting was scheduled to end, nothing substantial had been decided. With the US delegation announcing with great fanfare that it would depart for the United States the next morning with or without a final declaration and threatening to call a vote in the committee rather than achieve a consensus, other members of the committee felt pressured to come to an agreement. By midnight, once India and the United States had come to an agreement that the negotiation on services would be undertaken separately, other disputed issues such as trade-related intellectual property and investment measures were quickly settled. In agriculture, agreement was reached at 2:00 a.m., and by 4:30 a.m. the fourteen amendments to the GF text had been discussed and withdrawn except for a statement that was included in the objectives section of the final text and that called on nations to link actions on trade liberalization with efforts to improve the functioning of the international monetary system. The draft agreed to by the consultation committee was approved by the full plenary by midday and the Uruguay Round (UR) was launched.

The events in the last day of the Punta del Este ministerial seem to have their counterparts in what went on at Cancún, except that the attempts by the US and EU to divide the group of DCs led by Brazil and India did not succeed and the group did not disintegrate. Also, the US delegation did not make any ostentatious and threatening gestures. However, the chairman at Cancún, Foreign Minister Luis Debrez of Mexico, closed the session perhaps too soon as compared to the imaginative and forceful role of the very seasoned Chairman Enrique Iglesias of Uruguay at Punta del Este.

The actual course of negotiations of the UR between its launching in September 1986 and the approval of its Final Act in December 1993 was tortuous; it was as full of conflicts and periodic breakdowns that threatened an end without agreement as the prenegotiation process that led to its launching. The negotiations were to take place in Geneva with a midterm review in Montreal at a ministerial meeting in December 1988 and to be concluded in December 1990. In fact, by the time of the ministerial meeting in Brussels in December 1990, final agreements had been reached on almost none of the topics. Serious negotiations did not begin until 1988, and by December, when the ministers met in Montreal for the interim review, only six of the fifteen negotiating groups had clear texts for approval by the ministers. Also, the US, by invoking the provisions of the Super 301 section of the Omnibus Trading Act of 1988 and naming Brazil, India, and Japan for possible retaliation for their alleged barriers to US investment and inadequate protection to intellectual property rights, sent a powerful signal that it would aggressively pursue unilateral actions without necessarily first exhausting its options under the GATT or awaiting the outcome of negotiations on others. The meeting ended inconclusively with agreement in a few areas such as tropical products, interim reforms of the GATT dispute-settlement procedures, commitments to reduce tariffs on average by a third, and the provisional introduction of a new trade policy review mechanism (Schott 1994: 8). But on agriculture, textiles, Trade-Related Aspects of Intellectual Property Services (TRIPS), and safeguards, the ministers could not agree.

An accord between the United States and the EC on agriculture was reached in November 1992. The US president's negotiating authority under the fast-track procedure, approved and renewed by the US Congress, was to expire on December 15, 1993. At the summit of the nations of the Asia Pacific Economic Cooperation (APEC) forum a report recommending that APEC set a goal of free trade in the Asian Pacific region, break the UR deadlock by offering an additional package of liberalization beyond UR proposals, and pursue an active program of regional trade

liberalization was well received. The success of the Seattle summit signaled to the European Community (EC) that the US and its APEC partners (accounting for 40 percent of world exports) had other options if the UR failed. This, the approaching date of expiration of fast-track negotiating authority, and the appointment of a very active new director-general of the GATT, namely Peter Sutherland, led to intensive negotiations in the second half of 1993 and culminated in the Final Act being agreed to in December 1993.

The negotiating history of the UR illustrates the dynamics of the interests and concerns of individual countries (and groups tied together in regional trade agreements such as the EC) involved as well as the successful pursuit of a power-oriented approach by the major trading powers. As an example of the latter, almost all the eight rounds of the MTNs were the outcomes of US initiatives and insistence, and their results largely reflected the US negotiating agenda and proposals.

4. The Road to the Doha Round: Failure at Seattle and Success at Doha

The Uruguay Round Agreement (URA) as a single undertaking includes agreement on traditional GATT issues such as reductions of tariffs and tariff bindings, a not completely successful attempt to bring agricultural trade under multilateral disciplines,⁶ a major revamping and strengthening of the Dispute Settlement Mechanism (DSM), phasing out of the MFA, an agreement on Trade-Related Investment Measures (TRIMs) and TRIPS, and a new General Agreement on Trade in Services (GATS). Since the conclusion of the UR as envisaged, multilateral agreements on Financial Services and Telecommunications have been concluded as part of the GATS. In accord with the built-in agenda of the URA, a review of the agreements on

⁶ The process of “tariffication,” namely, converting the impact of various interventions at the border into their tariff “equivalents” and binding them as a base for reductions to be agreed upon during the negotiations, degenerated into a farce. Most countries chose to tariffy and bind the tariffs at far higher levels than were being in fact applied at that time. A few egregious examples of the levels of bound tariffs (BTs) relative to applied tariffs (ATs) are illustrative: as against an AT of only 3 percent on beef and veal, the US chose a BT of 31 percent. The EU chose a BT of 361 percent on rice as compared to an AT of 153 percent. Developing countries were no better. Thailand, a rice exporter, chose to set a BT of 58 percent as against an AT of 3 percent on rice imports.

agriculture and TRIPS was initiated in 2000. Negotiations on leftover items of the GATS (e.g., movement of natural persons and maritime services) have been folded into the post-Doha negotiation.

When the third ministerial conference of the WTO opened in Seattle in late November of 1999, as at the earlier meeting in Punta del Este and subsequent meetings in Doha and Cancún, there was no agreed draft for a ministerial declaration. Agricultural protection, in particular, was a divisive issue; agricultural exporters of the Cairns Group, Japan, the European Union, and the United States were deeply divided on the elimination of export subsidies and import restrictions. Although the absence of an agreed draft and deep division among the members did not prevent the launching of a new round at Punta del Este, it did not happen in Seattle.

The violent street demonstrations at Seattle had little to do with the failure to launch a new round. The reasons for failure were elsewhere. First, there was genuine concern among the DCs that the distinction between discussions leading to an agenda and modalities⁷ for negotiations on the one hand, and substantive negotiations on items on the agenda on the other, had become blurred. They justifiably feared that any compromise on their part on issues to be included in the negotiating agenda would hurt them in the subsequent negotiations. For example, most DCs had not anticipated the outlines of the eventual TRIPS agreement when they agreed to include intellectual property in the UR negotiating agenda. With its high perceived cost to them very much in their minds, they were less willing to compromise on items in the agenda of any future round for fear that an eventual agreement on them might prove costly. They had no voice in the so-called “Green Room” process at the Seattle session in which a selected group of countries participated in the negotiations and decided on an agenda which they later presented to the plenary. Third, the fact that the leader of the delegation of the most powerful trading nation of

⁷ The “modalities” are targets (including numerical targets) for achieving the objectives of negotiations, as well as issues related to rules (www.wto.org/english/tratop_e/negoti_mod1stdraft_3.htm).

the world, viz., the US, also chaired the ministerial did not help. But the single most important reason of the failure was the statement by the then President Clinton that trade sanctions could be used to enforce core labour standards. It ruled out any compromise on the part of DCs.

Deep divisions between developed and developing countries had not been resolved either when the ministers met at Doha during November 9-13, 2001. There were fears that they would fail once again, as they did in Seattle, to agree on launching a new round of multilateral trade negotiations. These fears were belied, and the ministers in their declaration at the conclusion of the meeting agreed to “undertake [a] broad and balanced work programme ... that incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system” (WTO, 2001a, paragraph 11).

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

5. The Doha Declaration and Decision

The chairman of the meeting (Qatar’s Minister of Finance) structured the discussion around six topics: agriculture, implementation, environment, rules, the so-called Singapore issues (i.e., trade and investment, trade and competition policy, transparency in government procurement, and trade facilitation) and intellectual property. Informal discussions took place on each topic, with any delegation wishing to participate being invited to do so, and a “friend of the chair” led

the discussions and reported their progress regularly to the full heads of delegation. This process of holding simultaneously informal discussions on each topic and formal meetings at which ministers made their conference statements, avoided much of the unhappiness associated with the “Green Room” process of earlier ministerials.

Implementation Issues

Some countries (for example, India) had taken the position that the implementation issues, (i.e., the difficulties the DCs encountered in implementing their Uruguay Round commitments) had to be resolved before they would endorse a new round. In their Doha declaration, the ministers attached “the utmost importance to the implementation issues and concerns raised by members” and indicated their “determination to solve them by making them an integral part of the agreed work program” (WTO, 2001a, paragraph 12).

Agriculture

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

The Agriculture Committee had considered the issues of concern to DCs, namely, export credits, guarantees and insurance, the negative effects of agriculture trade reform (particularly relating to food aid and associated issues) on LDCs and food importing DCs, and the transparent

and equitable administration of tariff rate quotas. It decided mainly to continue to review these issues and to report to the Council in late 2002.

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

Non-Agricultural Products

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

Textiles and Clothing

Trade in textiles and clothing represents nearly 8% of world trade in manufactures. DCs regard it as one major manufacturing sector in which they have a comparative advantage. The Agreement on Textiles and Clothing (ATC) in the URA provided for the phase-out of bilateral import quotas of the Multi-fibre Arrangement (MFA) in three stages, over a ten-year period ending on December 31, 1994. The DCs came to believe that industrialized countries were exploiting the three-stage process of elimination of quotas to their advantage by postponing to the final stage the elimination of import quotas on product of considerable interest to exporting DCs. This meant that until the final stage, the benefits accruing to the DCs from the phase-out of MFA quotas would be limited. Viewing this as an imbalance in the implementation of ATC, the DCs called for an acceleration of the pace of trade liberalization relative to that specified in the ATC. The developed countries maintained that they have been scrupulously observing the stipulations of the ATC. At Doha, the DCs lost in that the Doha declaration does not refer to trade in textiles and clothing at all.

TRIPS

TRIPS figured both in the main ministerial declaration and a separate one concerning TRIPS and public health. In the main declaration, ministers agreed to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the fifth session in Cancún. More relevant for DCs is the extension of protection of geographical indications to other products (e.g., Basmati rice). This was left to be addressed by the Council for TRIPS, which has also been instructed to examine the protection of traditional knowledge and folklore.

The main demand of the DCs related to the public health provision of TRIPS. The “Declaration on TRIPS Agreement and Public Health” appeared to go a long way in addressing the concerns of DCs. First, it recognized the gravity of the public health problems resulting from

HIV/AIDS, tuberculosis, malaria and other epidemics in poor countries. Second, it stressed the need for wider national and international actions to address these problems and for TRIPS to be part of these actions. Third, while recognizing that Intellectual Property (IP) protection was important for the development of new medicines, the ministers agreed that TRIPS Agreement “does not and should not prevent members from taking measures to protect public health. Accordingly, while reiterating [their] commitment to the TRIPS Agreement, [they] affirm[ed] that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members’ right to protect public health and, in particular, to promote access to medicines for all” (WTO, 2001b, paragraph 4), the ministers explicitly recognized certain flexibilities in the interpretations of TRIPS commitments. In particular, the ministers recognized the right of each member “to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted . . . to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency” (WTO, 2001b, paragraph 5). The ministers left each member free to determine its own regime of IP exhaustion.

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

Labour Standards, Competition Policy, Environment and Investment, Government Procurement and Trade Facilitation

When the ministers met at Doha there was a draft declaration, put together by Stuart Harbinson, Chairman of the WTO General Council, for the ministers to discuss. The draft also proposed a negotiating agenda. Since it was by no means a consensus draft, the issue remained open whether the negotiating agenda would be narrow as advocated by the “minimalists” including the US or comprehensive as proposed by the EU. The “minimalists” had argued, even prior to the third session at Seattle that there was no need at all for a new round of negotiations until the built-in agenda of the URA, namely the review of the agreements on Agriculture and Services, were concluded. In their view these negotiations would be complex, time-consuming, and call for difficult compromises. The DCs mostly were still of the minimalist persuasion--they wanted to discuss the implementation problems and failures relating to the URA in addition to its built-in agenda.

At Doha, the minimalists clearly lost, except on the vital issue of labour standards, on which the ministers simply reaffirmed their decision at the Singapore ministerial to leave the issue to the International Labour Organization. The ministers recognized “the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross border investment, particularly foreign direct investment” and agreed that “negotiations will take place after the fifth session of the ministerial conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations”⁸ (WTO, 2001a, paragraph 20). Until that session, the Working Group on Relationship Between Trade and Investment on a variety of issues was to continue its work.

⁸ A literal reader of the declaration would conclude that the phrase “decisions to be taken, by explicit consensus” applied only to the modalities of the negotiations, and not for undertaking the negotiations. On India’s insistence, the chairman of the Doha ministerial clarified that it applied to both. The legal standing of this clarification is unclear.

On competition policy, transparency in government procurement and trade facilitation, the ministers recognized the case for a multilateral framework to enhance the contribution of competition policy to trade and development. On this and on the ministers agreed that negotiations will take place at the same time and on the same terms as set forth for negotiations on trade and investment (WTO, 2001a, paragraph 23.)

On trade and environment, the ministers agreed to negotiations, without prejudging their outcome, on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs), procedures of exchange between MEA secretariats and the relevant WTO committees and on the reduction or as appropriate, elimination of tariff and non-tariff barrier on environmental goods. The ministers instructed the Committee on Trade and Environment to pursue work on all items on its agenda and its current terms of reference, while giving particular attention to the effect of environmental measures on market access, particularly of DCs and LDCs, relevant provisions of TRIPS and to eco-labeling (WTO, 2001a, paragraph 32).

Capacity Building, Special and Differential Treatment, and Least Developed Countries

The ministerial declaration in several of its paragraphs refers to the specific problems of least developed countries (LDCs), the need for technical and other assistance to them and also to the Special and Differential treatment (SDT) for DCs.

The ministers agreed that the provision for SDT of DCs is an integral part of the WTO agreements and that all such provisions “shall be reviewed with a view to strengthening them and making them more precise, effective and operational (WTO, 2001a, paragraph 44).

It would seem that all these decisions have conceded, in large part, most of the demands of the DCs and LDCs, thereby going a long way towards making the Doha Round of MTN into a

“Development Round.” There is a danger, however, that if the Doha Round of MTN is to be deemed and sold as the “Development Round,” as is being done, expectations would be created about the negotiations solving all major development problems. Not only such expectations are wildly unrealistic and sure to be belied, there is the further danger that they might place undue pressure on the WTO to become yet another development institution. If this happens, it would be unfortunate. It would dilute the WTO mandate on matters of trade and erode its effectiveness. Such dilution and erosion are already evident in the International Monetary Fund, which, instead of sticking to its original mandate has involved itself in long-term structural adjustment, sovereign debt restructuring and bailouts, and more recently in poverty alleviation, in which it has neither a mandate nor competence. The World Bank has become so diffused in its activities (e.g., promoting interfaith dialogue), one has to wonder whether it has competence in any core area of development any longer.

Moreover, some of the conceded demands of DCs are not in the interests of the DCs as a whole. For example, the duty-free, quota-free market access for LDCs could involve diversion of trade from other DCs. Also, greater external market access by itself may not increase the exports of LDCs of their overall economic growth, if the constraints on growth of exports are internal or domestic. Unless domestic constraints of social and economic structure as well as governance are addressed, not only significant integration would be unlikely to come about but also the benefits from whatever integration that does come about would be not only modest but also likely to be skewed in its distribution.

WTO Rules and Dispute Settlement

The ministers agreed to negotiations aimed at improving disciplines under Article VI of GATT (on anti-dumping subsidies, and countervailing measure) and on disciplines and

procedures under the existing WTO provisions applying to RTAs, taking into account the development aspects of RTAs.

The Key Deadlines Set at Doha⁹

- Implementation Issues

The ministers established a two-track approach. Those issues for which there was an agreed negotiating mandate in the declaration would be dealt with under the terms of that mandate.

Those implementation issues where there is no mandate to negotiate, would be then taken up as “a matter of priority” by relevant WTO councils and committees. These bodies are to report on their progress to the Trade Negotiations Committee by the end of 2002 for “appropriate action.”

- Agriculture

The formulas and modalities for countries’ commitments to be completed by March 31, 2003 with countries’ comprehensive draft commitments to be made by the fifth session of the ministerial conference at Cancún, Mexico in September 2003. The Cancún session to undertake a stock-taking.

- Services

Requests for market access to be presented by June 30, 2002, initial offers to be made by 31 March 31, 2003, and stock-taking at Cancún.

- Market Access for Agricultural Products

Stock-taking at Cancún.

- TRIPS

⁹ This section draws from www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm

- (i) Geographical Indications Registration System: to complete negotiations by Cancún meeting.
 - (ii) Geographical Indications, extending the “higher level of protection” to other production: a two-track approach as in the case of Implementation Issues.
 - (iii) Review of TRIPS Provisions: Report to the General Council by the end of 2002 with a solution on compulsory licensing and lack of pharmaceutical capacity.
- Relationship Between Trade and Investment
Working Group to continue to work with defined agenda until Cancún meeting.
 - Interaction Between Trade and Competition Policy
Same as in Trade and Investment.
 - Transparency in Government Procurement
Same as in Trade and Investment.
 - Trade Facilitation
Continuing work in Good Council with defined agenda until Cancún meeting.
 - WTO Rules
 - (i) Anti-Dumping and Subsidies
Stock-taking at Cancún.
 - (ii) Regional Trade Agreements
Stock-taking at Cancún.
 - Dispute Settlement
To conclude agreement by May 2003.
 - Trade and Environment
Committee reports to ministers at Cancún.

- Electronic Commerce
Report on progress at Cancún.
- Small Economies
(Recommendations by the General Council to the ministers at Cancún.)
- Trade, Debt and Finance
Working Group to report to the General Council, which is in turn to report to the ministers at Cancún.
- Trade and Technology Transfer
Same as for Trade, Debt and Finance.
- Technical Cooperation and Capacity Building
Global Trust Fund set up by December 2001; Director-General report to General Council by December 2002 and to the ministers at Cancún.
- Least-Developed Countries
Report to General Council, early 2002.
- Special and Differential Treatment
Report to General Council, early 2002.

6. Collapse of the Cancún Ministerial: Picking Up the Pieces and Moving Forward

“This is like déjà vu all over again.”¹⁰

It is clear from the deadlines set in Doha that a lot of work was to have been completed before Cancún. Had all the deadlines been met and the planned work completed, the ministers

¹⁰ Yogi Berra, 1998.

would have had a long agenda at Cancún for a five-day meeting. As it happened, most deadlines had not been met.

To begin with, the target date of January 1, 2005, set at Doha for the completion of the round, less than four years after its formal launching was extremely ambitious: after all, the Tokyo Round and the UR took nearly six and eight years, from launching to the signing of the final agreements. At the time of what was then thought to be a mid-term review of the UR in Montreal in 1998, the negotiations seemed to be at an impasse. As noted earlier, an implicit threat by the US to go regional, and an agreement on agriculture between the US and the EU, eventually led to an agreement on December 15, 1993. Further, just as a death sentence concentrates the mind (to paraphrase Samuel Johnson), the negotiators' minds probably concentrated, and the pace of negotiations speeded up, and the desire to come to an agreement increased, once they realized that the Fast Track Authority (FTA) granted by the US Congress to the President was to expire in early 1994. Congress denied renewal of the FTA during the Clinton Presidency. It has since been renamed as Trade Promotion Authority (TPA) and renewed until June 1, 2005, with a possible two-year extension.

It is possible that the failure at Cancún is analogous to the earlier one at Montreal, and a push towards an agreement will come about as the expiry of TPA draws near. Even if this happy outcome were to come about, it does not by any means reduce the seriousness of the failures at Cancún and earlier to meet deadlines. The unmet deadlines included those related to access to essential medicines for poor countries lacking capacity to manufacture such drugs themselves, and to special and differential treatment (SDT) to developing countries. The Director-General of the WTO, Dr. Supachai Panichpakdi, noted that, "failures to meet these deadlines have been quite disappointing. These two issues are of great importance not only to developing countries

but to the organization itself and to the broader trade negotiations that are part of the Doha Development Agenda.” But he then put a brave face on the failures by adding “nonetheless, I have been informed of the Mexico commitment to work to find agreement in these complex, difficult negotiations. I am hopeful a solution can be found in the early part of 2003” (WTO News: Speeches, Director-General Supachai Panichpakdi, January 8, 2003). The Director-General’s hopes were dashed at the Tokyo mini-ministerial in February 2003 even before the ink was dry on the text of his speech. Although he had issued a dire warning that failure to make progress on these issues had deepened suspicions among developing countries that the “Development” part of the Doha agenda may be little more than a slogan, the ministers from 22 countries, including the EU, made little progress in resolving the issues.

On agriculture, the ministers had before them at Tokyo a draft of the modalities paper, prepared by Stuart Harbinson, the chairperson of the negotiations. The proposals of Harbinson were widely criticized as either too soft or too tough. In any event, the ministers agreed only that the Harbinson draft was a catalyst for discussions and sent it back for revision for consideration before the deadline of March 31, 2003. There was no agreement as the deadline passed.

At Tokyo, the EU and Japan took hard positions. Japan’s Agriculture Minister, Tadamosi Oskima, was reported as having said that proposals to halve Japan’s outrageously high 490% tariff on rice was “difficult to accept.” The minister rejected out of hand calls to raise the amount of rice that can enter Japan. Franz Fischler, the EU representative on agriculture, was reported to have been equally adamant and to have said, “We don’t do reforms on the invitation of someone else” (Ken Belson, *New York Times*, February 17, 2003). The French President, Jacques Chirac, at the Francophone African Summit in Paris, called for the suspension of subsidies by rich countries on agricultural exports to poor countries. This is cynical besides

being based on economic illiteracy: the prices of agricultural commodities are determined in world markets and not by the relatively small markets of African countries, which import less than 4% of world exports!

The US Congress approved, and the President had signed, a farm bill on May 13, 2002, raising spending on support to agriculture to \$249 billion. Although this did not breach what was allowed under the URS on agriculture, it sent a clear sign that the US was not yet ready to reduce distortionary intervention. Still, the proposals that the US put forward at the WTO and which were opposed by the EU did offer to reduce them substantially. However, a month before the opening of the Cancún meeting, the US and the EU agreed to make a common proposal on August 13, 2003, that turned out to be a compromise between the considerably more liberal US and the hard EU positions, but leaning more towards the latter. Predictably these proposals were criticized by many countries—both developed and developing countries—for their timidity, lack of specificity, and failure to address the concerns of the DCs.

Discussions in Tokyo and, following them, in the Council for TRIPS during 18-20 February 2003 failed to narrow the differences on the use of compulsory licensing by a country to authorize itself or third parties to produce patented drugs (without authorization by the patent-holder) they have insufficient production capacity. The Council failed to adopt the draft prepared by its chair, Perez Motta, on December 16, 2002, suggesting a compromise solution. The chairman, did not make a planned statement at the Geneva meeting on his “understandings” from consultations of members, that the system of compulsory licensing to be established “as being essentially designed to address national emergencies or other circumstances of extreme urgency” (*Bridges*, 7(6), February 19, 2003). The US rejected the December 16, 2002 draft on

the ground that it did not limit the diseases for which the provision on compulsory licensing are to be invoked to HIV/AIDS, malaria, tuberculosis, and similar infectious diseases.

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

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

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

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

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

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

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

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

7. Lessons from Cancún and Future Directions

“It ain’t over till it’s over.”¹¹

The blame-game and finger-pointing started soon after the meeting ended. There is no need to engage in such a pointless exercise here. Clearly there were tactical, if not strategic, errors on the part of the various countries and country groups. The US, which had earlier proposed much deeper cuts in farm export subsidies, tariffs and domestic supports than the EU,

¹¹ Yogi Berra, 1998.

in agreeing to tone them down in order to make a common cause with the EU, perhaps overlooked or underestimated the possibilities of like-minded developing countries and thus isolate the EU. The US also underestimated the depth of the perceptions of damage its large subsidies to fewer than 20,000 cotton farmers was causing to far larger numbers of very poor farmers in some of the sub-Saharan African countries. Korea, for example, insisted on negotiations on all Singapore issues, knowing that the strong opposition of others would preclude the adoption of its proposal and any compromise, given that an explicit consensus was needed for adoption. This led many to believe that such insistence was merely a means to avoid reducing its excessive protection of rice that it would have to do were agricultural negotiations to progress: thus its harping on Singapore issues was mainly for preventing any negotiations. The DCs, including the group of twenty plus, overplayed their hand, although the accusation that they were “pontificating, and not negotiating” was unfair. In fact, the group of twenty plus had a proposal, albeit one which asked more of others than of themselves, on the table on agriculture to which the EU and US did not respond. In the last hours before the chairman closed the meeting, the EU had abandoned its insistence on negotiations on investment and competition policy, and even on agriculture, it had moved away from its earlier position. However, these changes came too late to save the conference: the countries of the Africa-Caribbean-Pacific group refused to negotiate on government procurement and trade facilitation. Lastly, as noted earlier, Chairman Debrez perhaps closed the meeting too early—with some more time, a momentum towards a compromise might have accelerated.

Even if the tactical and strategic mistakes of participants had not occurred, a compromise had been reached, and the Doha negotiations had been put back on track, it is doubtful that the negotiations would have concluded by the target date with an agreement that would have

liberalized all trade considerably, improved the rules of the global trading system and blunted the defections from the multilateral liberalization to bilateral and preferential liberalization. There are several reasons for this assessment.

First of all, as the earlier sections demonstrated, although as many as eleven of the original twenty-three Contracting Parties of the GATT were and an overwhelming majority of 148 members of the WTO at the conclusion of Cancún are DCs, nonetheless they continued to be ambivalent in their commitment to a non-discriminatory and rule-based global trading system. In the negotiations that led to GATT, in the preparatory committee for the Havana Conference and at the conference, DCs sought to exempt themselves from rules, eventually succeeding in persuading the GATT Contracting Parties to adopt the so-called enabling clause entitled, “Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries” on 28 November 1979.¹² This clause, inter alia, excused the DCs from having to reciprocate commitments undertaken by Developed Contracting Parties. Ever since, SDT has been the overarching objective of the DCs. The developed countries also found it convenient—by agreeing to derogation for commitments for the DCs (such as, for example, from MFN treatment for tariffs), they were able to get away with exceptions from GATT clauses, such as MFA.

At the heart of the demand for SDT is the notion that the heterogeneity in the stage of development among countries should be reflected in the multilateral trading system through a differentiation of applicable rules as well as commitments and obligations of members according to the stage of their development. For example, the LDCs are exempted from having to

¹² Although it was included in the enabling clause, non-reciprocity had already been introduced in Part IV of GATT adopted in 1965, and not for the first time either. It had in fact been included in the principles for negotiations set forth by the ministerial meeting that launched the Kennedy Round (1964-67) of the MTNs (Dam 1970). Besides, the European Community (EC) had announced that it would not expect reciprocity from developing countries as early as the Dillon Round of 1960-62..

undertake many commitments or to reduce whatever barriers they have on their trade. Not only does such differentiation make a mockery of a rule-based system, and makes insidious distinctions among DCs, but even more importantly, it creates perverse incentives by allowing countries to delay necessary domestic actions to take advantage fully of the opportunities that a liberal trading system offers. A rethinking of SDT, both by DCs, who are in favor of it, and the rest of the membership of WTO, which is receptive to meeting that demand, is needed. This is not to say that heterogeneity in the stage of development does not matter—but it should only be reflected, not in diversity of rules, commitments and obligations, but perhaps in allowing a longer time frame within which a common set of rules, etc., become applicable to the DCs, for the reason that constraining resources (administrative, capability, human capital, social and economic infrastructure, and adjustment costs) undoubtedly vary with the stage of development. In fact, transfers to ease the burden of adjustment costs, given credit commitments to comply with common rules, would be appropriate.

Partly because the DCs were given SDT, and partly because of their obsession with import substitution, the trade barriers in some of the larger and mid-level DCs (India is a prime example) have been historically high and continue to be high, even after their commitments under the URA. They have not come down to levels that prevail in the historically outward-oriented economies of East Africa. It is also the case that barriers in some DCs adversely affect the trade of other DCs. Thus, unilateral reduction of such high barriers would be beneficial, not only to the reducing DCs but also to the DCs as well. This said, should these high barriers and reluctance to bring them down significantly in the reciprocal bargaining process of MTN be grounds for the developed countries not to offer to reduce their albeit lower barriers more than they have been willing to do? The answer is clearly no for several reasons.

First of all, it is not as if the DCs have not reduced their barriers, particularly import tariffs. For example, WTO (2003b, Chart IB.2) reports that the ratio of customs revenues collected to the landed cost of imports in ten DCs, accounting for 60% of merchandise imports of all DCs, fell from 13% in 1985 to 4% in 2000.

Second, the share of world merchandise imports in 2002 accounted for by the DCs (developing Asia, all of Africa and Latin America) is around 25% (WTO, 2003b, Table IA.2).¹³ A large share of those imports are likely to be necessities and vital intermediate goods such as oil, whose demand is unlikely to be very price elastic. Under the circumstances, it is unlikely their imports, particularly from rich countries, will go substantially. On the other hand, the admittedly lower barriers in the considerably larger markets of rich countries to exports of DCs matter more, both for the reason that the latter account for a large share of the exports of the former and for the reason that these exports are likely to be more price elastic. Thus, the same tariff rate in a larger and more price elastic rich country market would proportionately reduce DCs' exports more than it would for rich country exports to small and less price elastic markets in the DCs. Although it may well serve a rhetorical purpose of the rich countries to point to high tariff barriers in DCs compared to their own low tariffs, one has to take a deeper look at their effect on DCs.¹⁴ The World Bank, UNCTAD and other multilateral agencies are not off the mark in pointing to the deleterious effect on DCs of the albeit low trade barriers in rich countries. However, the fact that DCs would benefit from reduction of tariffs and other barriers in rich countries does not imply that the DCs ought not to offer to reduce their tariffs more than they have done thus far. In other words, a rethinking of the demand for SDT, and a willingness to

¹³ Their share in world service imports is around 20% (WTO, 2003b, Table IA.3).

¹⁴ Of course, tariffs vary by commodities. It is well known that tariffs in rich countries on commodities exported by DCs are higher than average, and tariffs increase by stage of processing, again adversely affecting the exports of DCs, which are mostly unprocessed.

offer deeper cuts in their barriers on the part of DCs are necessary for the Doha Round to go forward from the failure at Cancún.

Second, as noted earlier, the high expectations created at Doha that the new round would be a “Development Round,” and the apparent dashing of those expectations at Cancún, are both unwarranted. There is little doubt that greater integration of the DCs with the world economy through reduction in barriers to integration in DCs and a liberal global trading, finance and technology environment will contribute to their faster growth and to development. But it would be a mistake to underestimate the domestic institutional and economic barriers to development in the DCs. Indeed, reduction in barriers to global integration in a liberal world environment is primarily an enabling policy: whether or not the opportunities opened up by the policy are availed of to general outcomes of more rapid growth and development depend on whether domestic barriers are removed. Under these circumstances, it would be wise to tone down the characterization of the Doha Round as a development round. At the same time, viewing the failure at Cancún as not much more than a setback similar to ones that beset the UR and thus, as not necessarily jeopardizing a successful outcome once the lessons from the failure are acted upon, but as dooming the development objectives of the Doha Round, is neither appropriate nor helpful.

Third, from the early years of GATT until now, agricultural trade has been massively distorted by a plethora of interventions in almost all countries. The Agreement on Agriculture (AOA) in the Uruguay Round did not go far in containing distortionary interventions. Measured in terms of reductions in applied tariffs and aggregate measures of support there would be virtually no liberalization at the end of the implementation period of AOA. Clearly, neither the common US-EU proposal, nor the counterproposal from the group of twenty plus, went far

enough to constitute a significant step towards dismantling the system of distortionary interventions. Confounding legitimate objectives of ensuring access to food at affordable prices for the poor in developing countries, and ensuring that rural environment is not degraded, with protecting agricultural trade is not conducive to making progress either in liberalizing agricultural trade or in protecting the poor or the environment. Unless members realize that the use of trade policy instruments to achieve whatever legitimate objectives they desire regarding their farm sector and farmers is likely to be far more costly for themselves and their trading partners than other available non-tariff policy instruments, agricultural trade negotiations are unlikely to move forward.

Fourth, besides being overly ambitious in setting the target date of January 1, 2005, for completing the round, the Doha declaration loaded the negotiating agenda with items on which there was no widespread agreement, let alone consensus. The most contentious of these were the Singapore issues. Trade and investment, anti-dumping, regional and preferential trade agreements were the others. The ministers were to hear reports on many of these and make decisions at Cancún to guide subsequent negotiations. In a body of 148 in which consensus is the norm for decision making, a long agenda with items on many of which there is no widespread agreement is a prescription for failure. This is one of the important lessons from Cancún. Its implication is also clear: an agreement to narrow the agenda to urgent issues is absolutely essential for making progress towards a deal by January 1, 2005. In fact, just prior to the closing of the Cancún meeting by Minister Debrez, there was a narrowing of the gap between contending positions on market access issues on both agricultural and non-agricultural products, as well as on export subsidies and domestic support. There was also considerable movement towards agreeing to drop two Singapore issues of competition policy and investment from

further negotiation while retaining the other two, namely, government procurement and trade facilitation. Restricting the negotiating agenda for the next fifteen months to just these items on which there was considerably narrowing of differences, while agreeing not to take any possibly WTO-inconsistent prejudicial action on others, would be sensible.

Fifth, and most important, the members of the WTO have to agree on a vision for a rule-based global trading system that would constitute the overarching goal of the negotiations. Clearly, trade among its members in all goods and services, unfettered by policy-created barriers, has to be the overarching goal. This goal, as the organizing principle for the constitution and rules of the WTO, has several implications.

First, issues that are not explicitly and directly trade related would not be in the mandate of the WTO in such a vision. They would be in the domain of other institutions specifically designed for them. Of course, as is very likely, the membership of the WTO and these institutions would largely overlap. It should, in principle be simple, therefore, to avoid conflict among the rules and decisions of the various institutions and to bring about coordination, as long as members of each, as national governments, have a coherent view on the issues in the mandate of each, taken together.

Second, since national and international policies relating to trade would be the means for implementing any decisions in the WTO, it has to remain an inter-governmental organization. Clearly, the so-called “civil society,” national and multi-national, naturally should be heard—but the fora for the hearing have to be primarily the national political arena. Through influencing the positions of national governments through a participatory process they will indirectly influencing the decisions at the WTO. Giving them a direct representation formally in some form, such as observer status, would be counterproductive. The deeper problem of the possible undemocratic

and non-participatory character of some national polities, and hence their denial of hearing to their civil societies does indeed arise—but a sustainable solution to absence of democracy does not lie in giving representation to civil society in an inter-governmental organization. The notion of democracy in its decision-making process has no meaning, but transparency certainly has.

Third, any rule-based system has to have a dispute settlement system. But whether the ultra-legalistic system devised in the Uruguay Round agreement for the WTO, again at the insistence of the US, to replace the basically political system of the GATT is an improvement is arguable. One unfortunate consequence has been the clamour to bring into the ambit of WTO, based on the successful inclusion of TRIPS, other issues such as labour standards, environment, etc., not because of their trade relatedness, but only because of the availability of WTO's dispute settlement system to enforce disciplines through trade sanctions. A rethinking of the dispute settlement system has to be part of developing the vision.

Fourth, once it is agreed that an unfettered trading system is the ultimate goal, the modalities for negotiations for the transition become simple. Instead of negotiating on complex formulae for reduction commitment regarding tariffs, non-tariff barriers, subsidies and so on, the goal would be their complete elimination by an agreed, but fairly narrow, future date. To accommodate the diversity in stages of development, this date could vary within agreed limits according to stage of development. The same principle would apply for specific commodities and services—each member could choose, again within agreed and narrow boundaries, longer periods for elimination of barriers for commodities and services they deem sensitive. Further, there would be no rationale for anti-dumping measures and a strengthened safeguard system should suffice for tackling short-term adjustment problems arising from long-term shifts in

comparative advantage. Also, there would be no need for preferential trade liberalization so that trade preferences in pre-existing regional and other agreements would be phased out.

The US has to take the lead if this vision is to be reached, and the failure at Cancún is not to impede progress towards a successful conclusion of the Doha Round. After all, the GATT was the outcome of a US initiative and every round of MTN under the auspices of GATT was either initiated at the insistence of the US or successfully concluded once the US strongly pushed for it. Neither the EU nor the DCs ever called for a round of MTN to be initiated, and most often played a delaying, if not altogether obstructive, role in achieving the compromises needed to conclude a round successfully. Thus, the US has a critical role to play. But at the same time, in playing it, unlike in earlier rounds, it should avoid threatening gestures, including the threat to go regional, and not try to overload the WTO with non-trade related mandates in order to appease its domestic lobbies. Instead, as a strong believer in the fundamental role of free markets and competition, it has to forge a consensus for reaching the ultimate goal of freeing the movement of goods, services, factors and technology from policy-created barriers anywhere in the world.

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