

THE DOHA ROUND OF WTO NEGOTIATIONS

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PRACTICAL PROPOSALS TOWARDS ENHANCING THE GLOBAL TRADING SYSTEM AND FOSTERING ECONOMIC DEVELOPMENT

REPORT OF A CEPS TASK FORCE

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This report is based on discussions taking place at CEPS in a Task Force on the WTO and the new round of trade negotiations. The members of the Task Force participated in extensive debate in the course of several meetings and submitted comments on earlier drafts of this report. Its contents contain the general tone and direction of the discussion, but its recommendations do not necessarily reflect a full common position reached among all members of the Task Force, nor do they necessarily represent the views of the institutions to which the members belong. A list of participants and invited guests and speakers appears at the end of the report.

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PRINCIPAL CONCLUSIONS & EXECUTIVE SUMMARY

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Principal Conclusions

1. The world trade process has recently come under attack: it is vital that the business voice articulates a positive, growth-oriented agenda on trade as a route to prosperity for nations and trade groupings of all sizes.
2. All WTO members and stakeholders need to demonstrate the commitment and political will to make the trade concessions necessary to promote world growth and lift the world's poorer nations out of poverty.
3. Previous trade rounds have achieved substantial industrial tariff liberalisation, but a large number of tariff peaks still remain within developed countries, often concentrated in products that offer export potential to developing countries.
4. Progress must continue on the reduction of goods tariffs – and this must include those between less developed countries themselves. Targeted assistance will be needed to offset lost tariff revenue in the poorest countries.
5. Insufficient progress has been made to date in the reform of large-country agricultural protection. Farm subsidies and protection for agricultural commodities in developed countries are a major distortion of world agricultural markets and hamper the market-access ambitions of the world's poorest nations.
6. The WTO must increase its efforts to address a range of technical issues and non-tariff barriers in a comprehensive and integrated fashion.
7. Negotiations on investment and trade facilitation need to be opened at Cancún and should be vigorously pursued thereafter.
8. In services trade, firms should be free to choose their preferred form of establishment (branch, subsidiary, joint venture) and not face ownership restrictions on foreign equity holdings.
9. Enhanced services trade can bring real progress to developing countries. Domestic regulation should therefore be transparent and not place undue restrictions on the provision of new products and services.
10. Cross-border restrictions should not place arbitrary requirements on services investment that are not related to the practical provision of the commercial service.
11. Practical support must be given to developing countries to allow their participation in the multilateral system on a more equal footing and rules on trade-defence instruments, public procurement, trade facilitation and competition and investment policy should be improved.

Executive Summary

The future world economic order is currently delicately poised. Global economic momentum has slowed to a crawl, post-Iraq diplomatic conditions remain fractious and global economic leadership cannot be guaranteed from the US, whose economy faces a significant trade deficit, or from the EU struggling with the implications of enlargement. Against this economic and political backdrop, it may be increasingly important to focus on any global positives that may emerge from the World Trade Organisation (WTO) negotiations underway in Geneva. The global trading system has enormous potential to aid both rich and poor countries alike, but in order to sustain the broad-based political support necessary for achieving agreement, the benefits of trade need to be more clearly articulated to all sections of society.

In recent years, the WTO has been subject to intense public scrutiny and criticism, yet few voices have been raised to champion the benefits of growth and competition as unrivalled routes to world prosperity for countries of all sizes. Undoubtedly, globalisation has generated genuine concerns over the impact of trade liberalisation on the environment, on labour rights in developing countries, on wages and job security and on cultural identities. An excessive focus on such concerns, however, can detract from promoting world growth. The benefits to be derived from a more integrated world economy far outweigh the problems often associated with this achievement.

The new round of WTO negotiations launched in Doha, Qatar in 2001, are an important test of whether global trade can realise its promise of helping both developed and developing countries alike. However, it is equally true that it is the responsibility of political leaders – and the business community – to remind stakeholders that collaboration on this project of global consequence is of the utmost importance at a time when the multilateral vision of world order is under considerable stress. However, since Seattle in 1999, the business voice has remained relatively silent, preferring to let its ‘actions speak louder than words’. This has been an understandable if unfortunate reaction. While the vast majority of large corporations operating overseas have long embraced the concept of ‘good corporate citizenship’ as sound business practice, these concepts have been more widely incorporated within corporate goals since Seattle.

Now may be the time for the business voice to be heard once again in favour of free trade. Large sections of the business community have in recent years worked hard to meet the challenge of sharing the benefits and responsibilities of global free trade. Corporate social responsibility has become an important element of the business plan of most large companies, with many positive benefits. These nascent efforts should continue, and the vital role to be played by business participation in international communities can only be facilitated through the promotion of bilateral and multilateral trade agreements.

With this in mind, the CEPS Task Force on the Doha round has taken the remit to articulate the key issues of importance for a progressive, business and growth-oriented agenda on trade. The perspective of the report is to stand back from the inevitable drama surrounding the legal negotiations in Geneva, and attempt to adopt a reasonably objective, economic critique of what sort of agreement might be in the best interests of all countries. No attempt is made to undertake an exhaustive coverage of all world trade topics, or to encompass the interests of all other stakeholders. Equally, it is well understood that the contents of the report may occasionally be at variance with the perceptions of various actors and stakeholders immersed in the difficult and messy business of the negotiations in Geneva.

Doha priorities

The Doha Development Agenda (DDA) negotiations are the first global trade talks to treat development issues as a priority. The 'Quad countries' (US, EU, Japan and Canada) recognised at Doha that progress in global trade could continue only if those in developing countries believe that free trade will benefit them. While progress at Cancún is only a milestone in the eventual agreement of a trade round, a great deal of work remains to be done if momentum is not to be lost and goodwill squandered. A brief summary of the obstacles currently facing negotiators would include: the US stance on TRIPS and health (pharmaceuticals); developing countries' failure to move purposefully towards removal of import barriers (many are going up rather than coming down); and last but not least the absence of serious progress on agriculture.

There are multiple interest groups, perceived grievances and conflicting objectives to reconcile. There has recently been talk of crisis, with some important deadlines missed in areas such as agriculture, market access for industrial goods and access to medicines. However, if parties to the negotiations can keep a sense of the wider economic prize to be achieved by an agreement, a satisfactory outcome for the round can still be achieved. As agreement must be reached across all areas of the negotiations, it is important that participants are urged to make concessions in often-sensitive areas in order to reap offsetting gains in the newer or higher value-added areas in which they may have an advantage.

It may be helpful to keep in mind a number of economic priorities. Firstly, all countries large and small have more to gain from trade reform than from sliding back into protectionism. It is beyond reasonable doubt, however, that the developing countries do have legitimate concerns that large-country subsidies impose serious distortions on world commodity markets. Here the focus falls squarely on the EU, the US and Japan in particular to demonstrate leadership and to show the world their good intentions for the round.¹ But equally, developing countries must not use large-country intransigence as an excuse to disguise their own unwillingness to embrace the strictures of necessary market reforms in their own 'backyard'. Progress must certainly be principled, but the obligations of the large country must be balanced against the duty of the small country to deliver the best growth prospects and economic welfare to its people.

Can Doha succeed?

Firstly, despite the often-fractionious history of EU-US bilateral trade relations between these groups, they remain vital pillars of the multilateral economic system. The potential for special interest groups (be they in agriculture, industry or elsewhere) to impede and block momentum for the greater good must be strenuously resisted by policy-makers and interest groups who correctly understand the mechanisms of wealth generation. Such regressive sectional interests must be seen for what they are, whether they are articulated from within the Quad, from recalcitrant reformers in the developing world or from ad hoc alliances and disparate coalitions of reluctant trade reformers.

While at first glance it may seem regrettable that EU farm reform is running in parallel with the WTO negotiations. The ingredients essential to achieve progress are probably in place. However, it could yet turn out to be the case that the incentive of EU reform of internal farm support provides a critical motivation for the success of the present round. A similar pattern of events occurred in 1992: in that instance a separate reform of the Common Agricultural Policy (CAP) had to occur before the Uruguay round could ultimately be concluded.²

¹ We exclude Canada here, where the level of support to agriculture is significantly less than in the US or the EU.

² See Ritson and Harvey (1997).

The range of issues held up by EU-US internal wrangling – and by EU-US disputes with other key players such as the Cairns Group³ – can only be resolved if key players demonstrate vision, ambition and courage. Tough decisions on agricultural support would enable many larger, system-wide benefits to be achieved from genuine access to world markets in goods and services. Vision will certainly be required to secure much-needed progress in further broadening and deepening industrial tariff reform, addressing the proliferation of technical issues and non-tariff barriers, consolidating progress on services liberalisation and laying the foundations for an eventual extension to foreign direct investment. However, these real future gains can only be secured by resolving the current twin difficulties of obstacles to market access for agricultural products and distortions to world commodity prices from uneconomic farm subsidies.

Most importantly, developing countries now also need to begin to make a serious, unilateral commitment to trade reform in their own ‘backyard’. Initially, progress must be made in agriculture, but looking forward the increasing importance of goods and services trade even for developing countries must mean that it can be in the interests of few countries, outside the ultra-poor, to delay for long a commitment to tariff reform in their own markets.

Agriculture matters...

Given the centrality of US-EU bargaining power, and the WTO principle of the single undertaking,⁴ European Union proposals in agriculture have assumed great significance for this round. The current EU proposals on agriculture go some way towards meeting the disparate interests represented in the WTO: namely cuts in import tariffs by an average of 36%; improving market access for agricultural products coming from third countries; cuts in export subsidies of 45% on average (abolition for certain products); a lowering of farm subsidies by 55%; a similar reduction of support for export credits; consideration of non-trade issues such as food safety and the environment; and preferential, targeted treatment for developing countries.

However, the EU farm trade proposals on the table at Geneva are likely to fall some way short of satisfying the market-access ambitions of the developing world. At the time of going to press, EU farm ministers have reached agreement on a restructuring of the CAP. Whatever the eventual outcome, it is clear that both EU and US farm-support policies are likely to require attention before a multilateral agreement can be reached under the Doha round. The EU stands to gain much more in increased industrial sales and in services trade than it has to lose by any loss in competitiveness from reform of domestic farm subsidies and export support. Equally important, for industry and consumers alike, is the fact that imports of more competitive components and services will make European industry more competitive in world markets. In the improved prospects for growth from enhanced world trade, increased choice and value for domestic consumers are as important ingredients as enhanced overseas outlets for producers.

It is in the area of agricultural subsidies that progress is most problematic. EU and US commodity subsidies remain a significant distortion to world commodity prices. For many small African countries, such as the cotton growers of Benin, Chad and Mali for example, the global economy has not yet brought real benefits. A serious effort needs to be made at the Cancún ministerial to come to an agreement on at least some principles for the modalities in the agricultural negotiations. An understanding between the EU and the US will be crucial, though not sufficient, to make the progress required to conclude the negotiations in 2004.

³ The Cairns Group consists of the following developing and developed countries: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay.

⁴ The single undertaking means in essence that ‘nothing can be agreed until everything is agreed’.

... goods tariffs & NTBs are also important

While the moral high ground in agriculture lies with the least developed countries (LDCs), there can be little doubt that developing countries must themselves take responsible, unilateral action to provide access to their own markets. Trade-distorting subsidies in developed countries are unlikely to disappear entirely as a result of the Doha round. Even so, the case for tariff reductions in developing countries for goods and services from other developing countries remains unassailable. There are two key reasons why. First, South-South trade is of growing importance, as illustrated by the fact that some two-fifths of developing country exports are already destined for other developing countries, and the World Bank expects this share to reach one half by 2005. Secondly, and equally important, most of these exports will in future be either commodities or industrial goods rather than farm trade. The crucial symbolic and political importance of agriculture within world trade discussions tends to disguise the fact that, for rich and poor countries alike, it will be much less important in the future than it has been in the past.

Agricultural trade remains vital for the smaller developing countries and is of crucial symbolic and political importance worldwide. However, an inventory of the product composition of world trade in 2001 suggests that agricultural trade, at just under 8% of total trade, is not the most important element in the emerging world economy, despite its prominence in trade negotiations. The importance of manufactures (61%) and services (20%) in total trade should mean that these areas command increasing attention.⁵ Moreover, any difficulties in reaching agreement in agriculture must not obscure the 'big prize' from reaching agreement on goods and services reform. Deadlock on much-needed reform in agriculture would do great damage to the growth prospects for developing countries.

Undoubtedly, the global economic changes that have lifted many out of poverty have created severe dislocation for others. It is also recognised that the problem of tariff peaks in developed countries remains a chronic constraint on the ability of developing countries to engage fully in world goods markets, which must be urgently and progressively addressed. Nevertheless, goods trade reform is also of vital importance *among* developing countries, and one should not allow the difficulties in reconciling agricultural interests, either within or between rich and poor blocs, to obscure this fact. With sound domestic policies in place, developing countries can greatly benefit from global trade in goods and services. Long-term progress in eliminating industrial tariffs should be compatible with sound economic management and domestic fiscal reform. Moreover, developing countries need to be encouraged to wean themselves from a reliance on tariffs for revenue generation – accompanied by targeted multilateral assistance in this regard where necessary.

Finally, while tariff barriers to goods must come down progressively, the issues of non-tariff barriers (NTBs) and other forms of invisible obstacles to trade will still loom large. Although progress across the conventional trade measures will remain of primary importance for some time to come, increased attention must be given to non-tariff barriers in market-access negotiations in industrial goods. Here, the launch of negotiations on trade facilitation and the scoping of issues around technical barriers to trade is vital for continued progress in goods and services trade, which will eventually be of as much importance to developing countries as agriculture and commodities.

Trade in services

The central importance of services trade in boosting productivity and growth is becoming increasingly recognised. Services trade is an area where good progress has been made in the new round of negotiations. The WTO Secretariat noted in its 2001 study, *Market Access:*

⁵ The balance is made up of around 11% for mining, ores & fuels (WTO, 2002).

Unfinished Business, that services play an increasingly central role in the world economy, representing over 60% of world GDP. For example, new information and communications technologies have recently created entirely new service businesses. Both manufacturing and services industries are increasingly dependent on basic infrastructure services, including communications and finance. Growth in services trade has been particularly strong in some developing countries. In particular, progress in providing an efficient financial services sector both stimulates product markets and unlocks consumption opportunities. World Bank estimates indicate that around a quarter of the potential output gains for developing countries from full liberalisation of world trade in services could come from the financial services sector. Due to the importance of financial services, real progress is needed in services liberalisation in the Doha round. It is increasingly understood that free trade in goods alone will not increase growth potential if the services provided to industry are unsophisticated, inefficient or expensive.⁶

The Doha round offers considerable opportunity for achieving more access to markets around the world for a great variety of services businesses.⁷ The strength of the GATS (General Agreement on Trade in Services) approach rests on the extension of the well understood WTO legal framework of reference principles and rules concerning market access and non-discriminatory treatment ('national treatment') once a market has been entered. However, we would suggest that the real power of the GATS arises from its being tailored to the *differences* between services and goods trade. On the basis of the service supplier and consumer relationship, the four modes of service supply are defined: 'cross-border' consumption where only the service itself crosses the border; 'consumption abroad' where service is supplied to the consumer while abroad; 'commercial presence' and 'natural presence' when individuals reside abroad temporarily for the purposes of supplying expertise.

For the purposes of obtaining international agreement under Doha, it is important to stress the flexibility with which WTO members can elect to make commitments to open their markets under GATS negotiations. However, for *potential* services providers, the key business issues are the degree of clarity and certainty of legal treatment that any target market can provide investors considering setting up service operations. Hence, core policy concerns for services relate to the provision of commercial assurances across four areas of concern, namely market access, transparency, domestic regulatory barriers and capacity-building. Under market access it is important that firms are free to choose their preferred form of establishment (branch, subsidiary, etc.) from which to base operations. Equally important is that countries do not place undue ownership restrictions on foreign equity holdings – for example in telecommunications, distribution, insurance and banking. Finally, it is important that unnecessary 'cross-border' restrictions, in for example re-insurance markets, do not place arbitrary requirements for local investment, which may be unrelated to the practical provision of the commercial service.

In addition, it is of great importance for service providers that domestic regulation does not place undue restrictions (e.g. compulsory filing or approval) on the provision of new products and services – and that the regulatory authority will make transparent and public the policy reasons for any requirements as are mandated.

Finally, in the area of capacity-building (Article XIX of the GATS), the central aim of the Doha agenda should be to achieve progressively higher levels of market access to developing countries, as the development of services is crucial to overall economic development. However, it is also recognised that structured phase-in will be required for certain countries where expertise and regulatory experience may take time to implement. Here, our recommendation is

⁶ See Matto et al. (2001).

⁷ Such services include: banking, insurance, securities, accounting and other professional services, basic and value-added telecommunications, courier services, retail and wholesale distribution, environmental and energy services, tourism and transport.

that the capacity-building agenda in services should be targeted at providing technical assistance and training to domestic regulatory and competition bodies.⁸

TRIPS and public health issues

High among these priorities, is the serious effort now required to broaden access to affordable medicines urgently needed in poor countries. Discussions to define a mechanism that will allow the poorest countries to use a compulsory license to import medicines they are unable to manufacture domestically reached an impasse at the end of 2002. This caused members to miss the deadline for an agreement on the special treatment of developing countries' access to essential drugs. The US fear is that exemptions to allow compulsory licensing for export would be extended beyond the infectious disease epidemics referenced in the Doha Declaration. This would allow countries to override drug patents to treat a wide range of public health concerns, including asthma, cancer, diabetes, schizophrenia or even impotence. The key concern is that the proposed exemptions could be exploited for commercial purposes rather than to genuinely improve access to medicines for the neediest group of countries.

Equally, TRIPS (Trade-Related aspects of Intellectual Property Rights) negotiations need to focus on resolving the wide divergence of views on the geographic indications issue (many feel this should be restricted to areas such as wine and food labelling) and on remedies required to authorise compulsory licenses for patented pharmaceuticals in countries without manufacturing capacity.

Singapore issues

Outside the core trade issues, it is time now to try to give some ground to developing countries on the softer trade issues: such as a clear demonstration of the mutual benefits of improved rules, including those on trade defence instruments, public procurement, trade facilitation, and issues such as competition and investment policies. Such practical support to developing countries' institutional apparatus would go a long way towards allowing them to participate in the multilateral system on a more equal footing.

Other sharp divisions revealed among members in the Trade and Competition negotiations need to be resolved. The push for broad multilateral competition rules by the EU and Japan needs to be reconciled with the interests of the group, including the United States, India, Thailand and Singapore, which remains reluctant to embrace comprehensive rules. For their part, developing countries have emphasised the need for technical assistance to accommodate comprehensive competition rules.

In the Trade and Investment discussions, differences regarding the scope of the investments that should be covered by rules need to be reconciled. Here the United States' desire for a basic definition of investment that would include portfolio investment must be reconciled with that of Canada and the EU to secure a narrower, rules-based coverage. The ambition here must eventually be to try to overcome continuing developing country antipathy towards multilateral rules covering investment.

A similar set of differences needs to be overcome on the issue of transparency where, broadly speaking, larger countries emphasise its importance in attracting and maintaining investments while developing countries remain concerned as to their lack of technical capability and resources to meet transparency demands.

⁸ See Association of British Insurers (2003).

Responsibility and ambition ... keys to a successful round

We would argue that trade reform, while frequently unfashionable, will bring tangible benefits to world welfare. The core conviction of policy-makers should be that the total gains to consumers will always outweigh any losses to individual producer interests. Tariff peaks in developed countries not only hurt the poor in producer countries but, since much of tariff revenue comes from items such as clothing and shoes, they also have a disproportionate impact on poorer consumers in developed countries.

A balanced, realistic assessment of the benefits of free trade is needed as protectionist voices are at their most seductive when world economic conditions turn down. Hence, we reiterate the following points:

- Trade-distorting farm subsidies and protection for agricultural commodities are hurting the world's poorest countries.
- Insufficient progress has been made to date in the reform of large-country agricultural protection and in assisting the market access ambitions of the world's poorest nations.
- Protection in goods and services trade should be progressively dismantled in both rich and poorer countries alike.
- The WTO must continue to address a range of technical issues and non-tariff barriers in a comprehensive and integrated fashion.
- In the medium-term, trade in goods and services will be as important as agriculture trade, even for LDCs.
- Developing countries may soon be trading as much with themselves as with developed countries.
- Many of these intra-LDC exports will eventually be commodities, industrial goods or services.

The CEPS Task Force has been working to build a broad-based, commercially oriented programme in support of a rules-based trading system that can bring benefits for countries both rich and poor. The Task Force has brought together leaders from government, business interests, academics and policy groups to assess how trade reform can be facilitated – in order to create commercial opportunities, generate prosperity, reduce poverty and promote development initiatives.

At the present time, when the world economy badly needs a boost, US, EU and other Quad countries' opinion-formers need to urge their respective leaders to grasp this opportunity to promote world trade. Leaders must be urged to demonstrate the intellectual commitment and the political will to make concessions in often-sensitive areas, in order to make gains in new products and markets and to send a clear signal that helping the world's poorer nations is in the interests of all. They must ensure that the global economy works for rich and poor alike, and also address a parallel agenda of improving education, access to healthcare and social safety nets.

The outcome of the trade talks at Cancún and thereafter will have a critical bearing on the future security and well-being of both industrialised and developing nations alike. The suggestions offered here are intended to provide a few simple guidelines and simplifying principles to policy-makers to facilitate the steps required to move beyond any current diplomatic disagreements and help rebuild confidence in, and the legitimacy of, the multilateral system of trade.

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1. The Doha Agenda

The 142 member countries of the World Trade Organisation (WTO) that met at Doha, Qatar on 14 November 2001 agreed to launch a new round of global trade talks. Many issues placed on the agenda were new to the WTO, such as foreign direct investment and competition. In other cases, such as agriculture and services, ministers called for efforts to deepen market access commitments agreed in previous trade rounds.

As stakeholders in the outcome of the new round, global businesses have a key role to play in promoting these negotiations. Negotiators in this new trade round will follow the same motto adopted by negotiators in earlier rounds: 'Nothing is decided until everything is decided.' Although the Declaration calls for the conclusion of the negotiations by 1 January 2005, this is widely viewed as optimistic. The previous, Uruguay, round for example took more than seven years to complete.

However, the so-called Doha Development Agenda (DDA) has made numerous issues of specific concern to developing countries central to the trade negotiations: access for agricultural goods to developed world markets, access to pharmaceuticals at affordable prices for poor countries, and the costly implementation of trade policies for developing countries, to name just a few.

Finally, whether and how the benefits predicted by trade theory correspond to gains for citizens in the real world remain the subject of intense debate. The extent to which a country's sovereignty is constrained by WTO agreements is also part of this debate. The WTO, therefore, has become an extremely controversial institution, as evidenced by the protests in Seattle in 1999 and others since.

2. Doha to Cancún: Whither the new round?

In the period since Doha, WTO members have put the negotiating framework in place and made substantive progress in the negotiations. The first meeting of the Trade Negotiation Committee (TNC) on 1 February 2002 established the organisational framework for the negotiations. There are seven negotiating bodies including services, agriculture, non-agricultural market access, rules, environment, geographic indications for TRIPS and dispute settlement reform. Discussions regarding trade facilitation, trade and competition, trade and investment, and transparency in government procurement take place within existing working groups and await a formal launch of negotiations in the Fifth Ministerial Conference, which is to take place in Cancún, Mexico in September 2003. The Rules negotiation group covers anti-dumping, subsidies and regional trade agreements. The TNC (Trade Negotiation Committee) supervises the entire negotiation process and is currently chaired by the WTO Director General, Supachai Panitchpakdi.

2.1 Overview of progress

Negotiations in the **Market Access for Non-Agricultural Products** were delayed in 2002, pending the resolution of a dispute involving the timing of completing modalities for tariff cuts. This revealed disagreements among members as to which methodology to apply for tariff cuts, with significant new papers by Japan and Singapore illustrating the differences among members. The United States focused on the need for developing countries to make significant tariff cuts. Developing country members identified tariff escalation and peaks as targets for reduction or elimination. Eventually agreement was reached to tackle non-tariff barriers in parallel with tariff cuts. Unfortunately, however, the recent deadline for the agreement of modalities by the end of March 2003 has been missed.

Negotiations on **Subsidies** have revolved around a number of submissions, many by developing countries, aimed at addressing issues such as enhancing flexibility to apply export-financing support, amending the illustrative list of export subsidies and clarifying prohibited subsidies provisions. **Antidumping** negotiations were held in March and July 2002, with members identifying procedural and substantive antidumping issues to be negotiated in the working group. Members that seek to restrict the use of antidumping measures presented comprehensive proposals, while those members that actively use antidumping mechanisms have not submitted substantive proposals.

TRIPS negotiations have focused on geographic indications and on remedies to authorise compulsory licenses for patented pharmaceuticals in countries without manufacturing capacity. Discussions concerning extension of protection for geographic indications beyond wines and spirits have revealed a wide divergence of views with no possibility of agreement in sight. More intense discussions have taken place concerning the compulsory license issue with some narrowing of differences, making an agreement possible.

In the **Trade Facilitation** discussions, Japan, the EU, Canada and the United States submitted new proposals that would require clarification of customs procedures, including fees, penalties, appeal of decisions, and introduction of an advance ruling system.

The **Trade and Competition** discussions have revealed continued sharp divisions among members. The EU and Japan continue to push for broad multilateral rules regarding competition, while members such as the United States, India, Thailand and Singapore remain reluctant to embrace comprehensive rules. Developing countries have emphasised the need for technical assistance to accommodate comprehensive competition rules.

In the **Trade and Investment** discussions, there have been differences regarding the scope of the investments that would be covered by rules, with the United States pushing for a broad definition of investment that would include portfolio investment, while the EU seeks narrower coverage but more comprehensive rules. Many developing countries continue to raise objections to multilateral rules covering investment. Similar differences exist on the issue of transparency, with Japan and the United States emphasising its importance in attracting and maintaining investments, while developing countries are concerned about their lack of technical capability and resources to meet transparency demands.

In the **Agriculture** negotiations, the Cairns Group has taken the lead in pushing for the elimination or drastic reduction of domestic and export subsidies whereas the EC, Norway, Japan and Korea have generally resisted these efforts. Developing countries such as India, Sri Lanka, Cuba and Pakistan have refused to agree to cuts in domestic support or their tariffs until they receive assurances of significant cuts in support by developed countries. The United States has presented a new proposal that would both eliminate export subsidies and reduce tariffs but would retain some flexibility for domestic support. Canada and other members insist on more comprehensive reductions. The end of the March 2003 deadline to set modalities and numerical targets for reduction of subsidies and tariffs has now been missed.

In the **Dispute Settlement** negotiations, there is general agreement on the need to resolve the long-standing conflict and to enhance third-party rights. Significant differences remain regarding greater transparency in dispute settlement proceedings, and the EC proposal for a permanent standing panel body. The negotiating deadline of the end of May 2003 has now been missed.

The establishment of the **General Agreement on Trade in Services (GATS)** was one of the major successes of the Uruguay round, providing a framework of basic rules governing trade in services and eliciting legally binding commitments by WTO members to open particular services sectors. The Uruguay Round left many issues to be resolved by subsequent negotiation, however. As a result, despite the breakdown at Seattle, the GATS provided for a new round of negotiations on services trade liberalisation to begin in 2000. These negotiations have proceeded under the DDA process and now constitute one of the key pillars of the Doha round.

3. Market Access Issues

Although the average most-favoured-nation (MFN) tariff in the Quad (Canada, the EU, Japan and the United States) has fallen to about 5%, there are still a large number of products that face tariffs of around three times this level, and a smaller number of tariff lines as high as 200 and 300%. Such 'tariff peaks' are often concentrated in products that are of export interest to developing countries. They include major agricultural staple food products, such as sugar, cereals and fish; tobacco and certain alcoholic beverages; fruits and vegetables; food industry products with a high sugar content; clothing and footwear.

Generally speaking, the system of tariff preferences granted to developing countries (e.g. Generalised System of Preferences) tends to exclude tariff peak items from these schemes. Preferential treatment is concentrated on products that already enjoy low tariffs (between 0 and 10%) rather than on tariff peaks. In other words, preferential schemes offer little protection against tariff peaks in the Quad. The exception to this is the EU, which offers relatively generous preferences on tariff peak items ('Everything but Arms'). Recent research has calculated the potential boost to the value and the pattern of developing country trade that would arise if all Quad members extended duty-free access for tariff peak items to the least developed countries (LDCs).⁹ The results indicate that granting preferential, duty-free access to LDCs into the QUAD would result in an increase in LDCs exports of \$2.5 billion or 11% of their total world exports of goods.¹⁰

However, protectionist trade regimes in industrialised countries are not the only factor constraining LDC export growth. Duty-free market access alone will not solve the problems of LDCs in improving their performance in global trade. Trade reform must go hand-in-hand with macroeconomic and structural reform initiatives. Domestic distortions and institutional weaknesses that create high transactions costs, bias investment incentives and raise investment risk premia are also in need of reform.

Our core argument is that it is now incumbent on the developed world to show leadership in order to encourage these countries to reform and dismantle domestic obstacles to free trade. Demonstrating this leadership would help boost pro-reform LDC domestic political lobbies, and assist these countries in the difficult task of advocating and implementing sound economic policies. The hierarchy of responsibility suggests that there is a well understood, virtuous path to follow in the realm of trade policy. Developed countries must put their own affairs in order if they are to advocate that poorer countries do the same.

⁹ We use the United Nations definition of LDCs. This comprises a total of 48 listed countries.

¹⁰ Hoekman et al. (2001).

Once the current major distortions to world agriculture product markets are reformed, the current dominance of agriculture in world-trade talks can be placed in context. An inventory of the product composition of world trade in 2001 suggests that – while undoubtedly of crucial economic, political and symbolic importance – agricultural trade, at just under 8% of total world trade, is unlikely to be the most important aspect of WTO negotiations for the majority of countries in the longer term. The increasing importance of goods (61%) and services (20%) in total trade suggests that, for all but the smallest countries, trade in goods and services will eventually be as important as trade in agricultural products.¹¹

There are two key reasons for making this argument: first, as countries develop and grow richer, inevitable increases in agricultural productivity should allow a shift into the higher value-added areas of manufacturing and services. Secondly, there has been a rapid expansion in intra-developed country trade in the last decade, with an annual average growth rate of 12% in the period 1990-2000 or two times the growth rate of global trade. Developing countries' share of world goods trade (exports) in 2001 reached just under 30%.

3.1 Trade in goods

The term 'market access' is now generally used to refer to non-agricultural market access, as the sensitivity of market access in agricultural sectors means that it is generally treated as a separate, self-contained issue. The most common form of market access restriction is the imposition of a tariff on imported goods. As a result of the tough negotiations on market access during the Uruguay round, most countries have cut tariffs significantly, and have adopted tariff bindings (levels above which tariffs may not rise) for almost all imports. Hence, non-tariff barriers such as technical standards, anti-dumping suits, import quotas, import licensing, customs procedures and variable levies are increasingly recognised impediments to market access for goods.¹²

The developed countries are now particularly interested in reducing tariff barriers to imports of industrial goods in developing nations. The developed countries, however, still differ in their approaches to reducing these and other tariff barriers. In addition, the US tends to push for 'deepening' of market access, while the EU tends to push for 'widening' the WTO's mandate in general and covering more global and governance issues. Many developing countries are reluctant to reduce industrial tariffs, as they are significant sources of revenue for their respective governments. They also worry that opening up domestic industries to aggressive foreign competition will result in the decline of their domestic industries and exacerbate job losses.

However, goods trade reform is also of vital importance to developing countries. This point should not be obscured by the difficulties in reconciling agricultural interests either within, or between, rich or poor blocs. All but the very poorest developing countries should not now be relying on tariffs for revenue generation. Long-term progress in eliminating industrial tariffs goes hand in hand with sound economic management and domestic fiscal reform. With sound domestic policies in place, global trade in goods and services can greatly benefit developing countries.

As things stand, the debate between countries at the WTO needs first to resolve the way in which tariff reductions will be achieved. The agreed approach for further tariff reductions was supposed to have been established by May 2003. Only once this is achieved can the essential

¹¹ The exact shares are: Agriculture, food & raw materials (7½%), Mining, ores & fuels (11%), Manufactures (61½%) and Services (20%). See WTO (2002).

¹² Market access also concerns regulation of imported services; some countries may limit the number of foreign service suppliers in a sector, or limit the number of service transactions a foreign supplier may perform.

negotiations on precisely which tariffs to cut proceed. Unfortunately, the deadline for modalities for the negotiations on tariff and non-tariff barriers on industrial goods was missed.

3.2 Agriculture

The Doha mandate called for much deeper trade liberalisation in agricultural goods via substantial improvements in market access, reductions of all forms of export subsidies with a view to ultimate subsidy elimination and substantial reductions in trade-distorting domestic support. However the methods, or modalities, for achieving these goals of market access and reduced non-tariff trade barriers still need to be agreed. A modalities document was circulated in draft form in late 2002 and was scheduled to be formalised by March 2003. The modalities are categorised into four sections: market access, export competition, domestic support and least developed countries. While members were required to aim for consensus by March 2003, no agreement has yet been reached. Liberalisation of agricultural trade has long been a major issue in multilateral trade negotiations and stalled progress here is currently the central faultline of the DDA round. Trade negotiating committees are required to debate how each member nation should honour its commitment to liberalise trade access, reduce export subsidies and cut domestic support to agriculture.

Progress has been slow and contentious because member nations bring such disparate interests to the negotiating table. Some countries, such as the members of the Cairns Group (a group of agriculture exporting countries), favour extensive liberalisation as quickly as possible. Others, like Japan, Mauritius and the EU, favour exceptions to address non-trade social and environmental concerns. An active coalition of developing countries has lobbied for the inclusion of development concerns at all levels of agriculture negotiations. Finally, the most dissension among the developed nations has been created by the issue of agricultural subsidies, particularly in the US, the EU and Japan.

Agricultural Subsidies

Since the summer of 2002, the tensions between the US, the EU and Japan have escalated because of policies, proposed or implemented, that conflict with the aims of trade liberalisation. In June 2002, the US passed the controversial Farm Bill that will give farmers an additional \$83 billion over the next decade in subsidies and income support. The EU protests that it is hypocritical for the US to demand that the EU dismantle its notoriously large CAP subsidies while increasing subsidies for US farmers. Japan has also lodged complaints against US protectionism even though its agricultural subsidies are so large that the WTO has found them to be greater than agriculture's entire contribution to the Japanese economy.

Nevertheless, Japan continues to restrict market access and vie for greater control over agricultural imports. In November 2002, Japan announced plans to propose that the WTO increase the number of agricultural products eligible for emergency import curbs. If passed, this proposal would merely encourage Japan in the protection of its domestic market from imported agricultural products.

While the deadline for reaching agreement on the modalities for agriculture negotiations has been missed by members, the key issues of a formula for tariff cuts, export subsidies and the degree of reduction of domestic support also remain unresolved. Nevertheless, the Chairman of the Committee on Agriculture (CoA) has expressed confidence that an agreement can be in place by the stipulated timeframe of January 2005. Currently much attention is focused on the on-going EU mid-term review of the Common Agriculture Policy (CAP) which might lead to additional flexibility in terms of the WTO negotiations. However, while the review will focus on domestic support and might spill over into export subsidies, it will not address the question of market access.

The message currently coming out of the WTO is that the success or failure of the agriculture negotiations does not hinge on the September ministerial meeting in Cancún; rather, the final outcome depends on whether the 2005 deadline is met.

3.3 Services

The establishment of the General Agreement on Trade in Services (GATS) was one of the major successes of the Uruguay round, providing a framework of basic rules governing trade in services and eliciting legally binding commitments by WTO members to open particular services sectors. While the Uruguay round put in place the legal framework of the GATS, it nevertheless left many issues to be resolved by subsequent negotiations. The commitments agreed in the Uruguay round were also uneven in quality and for the most part guaranteed only existing market access. As a result, the GATS provided for a new round of negotiations on services trade liberalisation to begin in 2000. These negotiations have proceeded under the DDA process, and now constitute one of the key pillars of the Doha round.

Services trade is a key area of commercial concern in the new round of negotiations. As the WTO Secretariat noted in its study, *Market Access: Unfinished Business* (WTO, 2001), services play an increasingly central role in the world economy, representing over 60% of world GDP. New information and communications technologies have created new services businesses. Manufacturing and services industries are also increasingly dependent on basic infrastructure services, including communications and finance. Growth in services trade has been particularly strong in developing countries. Furthermore, estimates suggest that around one-quarter of the potential output gains for developing countries from liberalisation in trade in services are projected to accrue from the financial services sector.¹³ As a dramatic example, Hong Kong now depends on services industries for 85% of its GDP and almost 80% of its employment. Therefore real progress is needed in financial services liberalisation that goes far beyond binding in current access levels.

The Doha round offers opportunities for achieving more access to markets around the world for services businesses, such as banking, insurance, accounting and other professional services, basic and value-added telecommunications, logistics and distribution services, retail and wholesale distribution, environmental and energy services, and tourism/transport. Manufacturing businesses can also benefit from increased liberalisation and open competition in financing and distribution services in key markets.

In contrast to goods or agriculture, the services negotiations combine individual bargaining between WTO member governments on access to specific national services markets with multilateral debates on the rules for bargaining, on special treatment for developing countries and on the unfinished rules agenda left over from the Uruguay Round. The rules agenda calls for a resolution of how to discipline government subsidies and procurement in the services area and whether and how to allow a 'safeguards' mechanism that would permit members to suspend their services commitments in response to unexpected import surges. Services safeguards could threaten past gains, forcing services investors abroad to divest or withdraw their licenses to do business. For these reasons, business stakeholders will be keen to closely monitor the work of all services negotiating groups.

Since Doha, substantive discussions have focused on the two issues of *assessment of trade in services* and on the treatment of *autonomous liberalisation*. Both of these topics are being used by developing countries to argue that they should be entitled to benefit from market opening in developed countries, and should not be expected to undertake any further services liberalisation themselves. In the first area, developing countries continue to argue that they are less able to export services and to negotiate access commitments; that developed countries have refused to

¹³ World Bank (2002).

liberalise service sectors where developing countries have a comparative advantage; and that any deal will be one-sided in favour of the developed countries. In many instances, members themselves have decided to open competition in services sectors (for instance, eliminating telecommunications monopolies) as a matter of domestic policy or regulatory reform. GATS Art. XIX:3 calls for governments to be granted credit, but there is as yet no agreement on when or how.

Developing countries have argued that credit for autonomous market opening should be given only to developing countries, not to developed countries or ex-socialist countries in transition. Members such as China that provided extensive commitments on services sectors market access in order to gain accession to the WTO have also argued that they should not be expected to make any further commitments in this round of services negotiations. This initiative has met with opposition even from developing countries. Our view is that business stakeholders that remain interested in obtaining increased market access in China and elsewhere should continue to argue forcefully against attempts to stall negotiations in services, noting that their own markets are already open in most sectors.

The Doha round offers opportunities for achieving more access to markets around the world for services businesses such as banking, insurance, securities, accounting and other professional services, basic and value-added telecommunications, courier services and express delivery, retail and wholesale distribution, environmental and energy services, tourism and transportation. Manufacturing businesses can also benefit from liberalisation and open competition in financing and distribution services in key markets. Hence, our core policy concerns for services relate to the provision of commercial assurances across four areas: market access, transparency, domestic regulatory barriers and capacity-building. In the area of market access, it is important that firms are free to choose their preferred form of establishment (branch, subsidiary, etc.) from which to base operations. Equally important is that domestic regulations – for example in telecommunications, distribution, insurance and banking – do not place undue ownership restrictions on foreign equity holdings.

In addition, it is of great importance for services providers that domestic regulation does not place unnecessary restrictions (e.g. via compulsory filing or approval) on the provision of new products and services – and that the regulatory authority will make transparent and public the policy reasons for any requirements at the time when they are mandated. Finally, it is important that unnecessary cross-border restrictions –for example in re-insurance markets – do not place requirements on local investment that are unrelated to the practical provision of the commercial service.

4. Pro-Development Issues

According to trade theory, moving from a closed economy to free trade produces substantial economic gains as trading countries benefit from specialisation and more efficient resource allocation. This notion of the gains from trade is one of the main factors that motivates the commitment to trade liberalisation embodied by membership in the World Trade Organisation.

Yet precisely how this particular theory translates into economic development for poor countries is the subject of intense debate. Some believe that trade not only brings traditional ‘static gains’ from specialisation, but also that the adoption of new technologies and skills brings higher productivity and growth, the so-called ‘dynamic gains’ from trade. Others counter that an over specialisation in low-technology goods, such as agriculture and textiles, by developing countries can actually prevent technological progress and leave producers vulnerable to price fluctuations. These questions on trade, development and the role of the WTO are part of a larger debate about how development occurs, and the effectiveness of Washington Consensus policies over the past

20 years.¹⁴ In addition, questions persist about the WTO's ability or suitability to address the concerns of developing countries. These questions can be roughly categorised into procedural and substantive concerns about the WTO's ability to integrate development into its strategies and objectives.

Developing countries have criticised the WTO for its perceived *procedural* bias in favour of the industrialised nations. At the 1999 Seattle Ministerial Conference, several groups of developing countries released statements criticising their exclusion from key decision-making processes at the WTO. Ministers from African, Latin American and Caribbean nations, for example, complained that they were not allowed to participate in 'green rooms' (informal negotiating groups) where sensitive issues were discussed. At the Fourth Ministerial Conference in Doha, these concerns were less pronounced, but frustration about unequal representation remained. Equally important, many countries have criticised the WTO's *substantive* approach to development. During the Uruguay Round, WTO members shouldered a broad set of new commitments ranging from the enforcement of intellectual property rights to customs policy reform. Some research suggests that the cost of fully implementing Uruguay round commitments could be equivalent to a year's development budget in some developing countries (Finger and Schuller, 1999). These high costs of implementation were a factor in producing resentment on the outcome of the Uruguay round. Resentment has been compounded by the perception that the WTO has failed to deliver promised gains to developing countries in key sectors such as textiles and agriculture, where tariff reductions have been slower to materialise than in industrial sectors. In the eyes of some observers, the Uruguay Round created a perverse situation in which poor countries were asked to shoulder costly commitments but have not been supplied with the political or institutional means to do so.

In Doha, member governments took a series of measures to address development issues. Besides the obvious inclusion of development issues in framing the 'Doha Development Agenda', the Ministerial conference established a working group on Trade, Debt and Finance and issued declarations on the problems of small economies, least developed countries and technical cooperation. The Ministerial Declaration also incorporated special and differential treatment and capacity-building clauses into most of the major issue areas, reflecting developing country concerns as to the technical and administrative burdens associated with preparing for comprehensive and lengthy trade negotiations. Though many observers in these countries remain sceptical as to the credibility of the WTO's development commitments, the Doha Development Agenda means that the mandate and composition of the WTO now reflect increased awareness of the needs of developing countries.

4.1 Implementation

Changes to tariffs are relatively easy to implement from an administrative point of view. In developing countries, however, rules and regulations on trade are relying on institutions that are characteristically weak. In the Uruguay round, for the first time, developing country members were compelled not only to reduce border trade barriers, such as tariffs and quantitative restrictions, but also to implement reforms to trade procedures.¹⁵ Strengthening and reforming the institutional process can require substantial investment of resources.

Hence, a particular criticism that the developing countries have had in the WTO is that the implementation periods given to meet commitments (under Uruguay) were arbitrary and did not take into account their development problems or their capacity to implement them. Setting up

¹⁴ See Williamson (2002).

¹⁵ Including customs valuations, adopting commitments on domestic regulations concerning (for example) technical, sanitary and phytosanitary standards and laws regarding the protection of intellectual property.

new institutions requires appropriate recruitment and training, and the development of systems, procedures and infrastructure. It has been calculated that areas covered by the Uruguay round agreement alone can swallow up the whole of the annual development assistance for a country.¹⁶ Clearly the costs of implementation can be very high, but the view of developing countries also reflects the fact that choices need to be made in the context of economic development. They argue that Uruguay round implementation should be assessed in the context of the overall development process. The challenge then is to agree upon mechanisms that allow for such assessments. Clearly, developing a closer relationship with the World Bank and other development agencies has been important in this respect.

In fact, the Uruguay round agreements typically do provide provisions for technical assistance, but these commitments are not always binding on developed countries, nor do they allow for delayed implementation or extensions beyond agreed deadlines. These provisions have been exploited in certain cases, but overall, the amount of technical assistance has been small relative to the problems developing countries face.

In this context, an important distinction must be made between *implementation* and *re-negotiation*. Whilst recognising the immense problems of implementation that some countries encounter, it is also apparent that other countries are making less effort towards implementation and there is a genuine concern that the value of commitments made in earnest negotiations should not subsequently be undermined. Hence, greater flexibility must not mean that the changes necessary to meet WTO commitments are simply put off. There needs to be some form of monitoring to ensure that adjustments are taking place, and in cases where technical assistance is provided, its contribution needs to be carefully assessed. The current approach under the Integrated Framework is weak in this respect and lacks resources.¹⁷

In the current round, demands for further commitments on rules and regulations should be considered in the context of the development process. The introduction of some measures may be more difficult and costly in developing countries and may have implications for resources that require longer periods for implementation. Developing country support for any new obligations needs to be reciprocated with binding technical assistance, designed to build capacities for implementation.

4.2 Special and differential provisions

The WTO agreements contain special provisions that give developing countries special rights including, for example, longer time periods of implementing agreements and commitments or measures to increase trading opportunities for developing countries. In the Doha Declaration, member governments agreed that all special and differential treatment provisions should be reviewed with a view to strengthening them and making them more precise.

More specifically, the Declaration (together with the Decision on Implementation-Related Issues and Concerns) mandates the Committee on Trade and Development to identify which of those special and differential treatment provisions are mandatory, and to consider the implications of making mandatory those that are currently non-binding.

The WTO Director General has expressed disappointment at the failure by WTO member governments to meet the year-end deadlines for agreement on special and differential treatment for developing countries. It is important for the credibility of the multilateral process that the special treatment regime is not abused by countries anxious to delay trade reform. In particular, it is important that assistance should be targeted only at countries with genuine need. In the

¹⁶ Finger and Schuler (1999) provide examples of customs reform projects that can easily cost \$20 million with much larger sums required for upgrading intellectual property laws and improving sanitation levels.

¹⁷ Wang and Winters (2000).

longer term, it must surely be desirable that institutions such as the World Bank begin to distinguish between developing countries and provide a method and incentives to allow successful LDCs to move out of (or graduate from) developing country status.

4.3 Trade facilitation

Trade facilitation has recently come to the foreground of WTO issues as the international business community increasingly expressed concern for greater transparency, efficiency and procedural uniformity of cross-border transportation of goods. According to a World Bank study, clearing the red tape at country borders could generate approximately twice as much gain to GDP as would tariff liberalisation.¹⁸

Partly in response to such thinking, WTO members added trade facilitation to the agenda at the Singapore ministerial meeting in 1996. The Singapore Ministerial Declaration calls upon the Council for Trade in Goods (CTG) to conduct exploratory research into cross-border barriers, and analyse the effects of those barriers on exporting firms and consumers.

As always, however, there are obstacles to smooth negotiation and commitment in this area that the WTO will have to address. Developing countries, despite their general agreement with the movement to facilitate international trade, may not have the resources necessary to update their customs procedures to more modern technological standards. Trade facilitation measures would particularly benefit developing countries, where the inefficiencies are sometimes more costly to industries than are tariff barriers. They are also often reluctant to take on additional legal obligations that may increase their exposure to dispute settlement.

5. Singapore Issues

5.1 Competition

The 1996 Singapore Ministerial called for the establishment of a working group to formally examine the relationship between trade and competition policies. As a result, a WTO Working Group on the Interaction between Trade and Competition Policy (WGTCP) began meeting in 1997 to explore the link between competition and trade, without venturing into policy proposals aimed at curbing anti-competitive behaviour in order to increase trade.

Although most members have accepted that there is a strong relationship between trade and competition, there is a great deal of controversy on whether or not measures should be taken to create a multilateral set of rules governing competition regulation. This issue is particularly complex because the absence of antitrust or other competition policies can affect markets not just in the home country, but in other countries as well.

The major players as usual have divergent views. The EU would like to see international standards of competition policy developed, but which would allow developing countries to opt out of them in the sectors they desire.¹⁹ Developing countries are divided on the issue, with some Latin American countries favouring such a policy, while several Asian countries are less enthusiastic. Some developing countries fear that large, multinational corporations, which tend to be headquartered in developed nations, will expand into their domestic markets and threaten their young and growing domestic firms. Many developing countries also disagree with multilateral competition measures because they view them as too intrusive; they believe that competition policy is something that a government should create at its own discretion because such policy depends on a country's unique market conditions. Finally, some developing

¹⁸ Woo and Wilson (2000).

¹⁹ Holmes (2002).

countries are reluctant to add more issues to the agenda of the WTO before existing ones can be resolved.

On the other hand, the US and the EU both vigorously support the creation of international competition policy, arguing that unfair competition distorts trade as much as tariffs do, and therefore should be regulated by the WTO rather than left up to individual country governments. The EU and the US disagree, however, over exactly how this should be done.

5.2 Investment

Negotiations on trade-related investment policy will only begin at Cancún in September 2003. Before Doha, multilateral agreements on investments targeted specific cases instead of making overarching rules and regulations. Against a background of growing – but often ill-informed – concern as to the connection between investment and globalisation, the WTO created working groups to analyse investment and trade with regard to scrutinising existing investment measures in regional initiatives, applicable WTO rules and any effects on competition policy, trade, and global investment. While the groups are unable to create new rules or negotiate commitments, the WTO will use their detailed findings to guide the Doha round.

The recent global trade climate has made it even more compelling that WTO members agree on encompassing, multilateral provisions for investment by the 2005 deadline for Doha negotiations. The surge in bilateral and regional initiatives may benefit the WTO negotiations, as many of these include investment measures that can act as a basis for a multilateral agreement. Yet, at the same time, WTO members are concerned that variations in regional agreements will make it difficult to form a consensus. Thus, regional initiatives necessitate a set of global investment rules that will standardise trade agreements in the future.

An agreement on investment is also increasingly necessary as investments play a major role in trade topics currently in the spotlight of WTO negotiations. Intellectual property rights and trade in services both involve foreign investment and are key points of discussion in the Doha round. Because of the need to complete negotiations on those two issues by 2005, WTO members must also resolve the issue of investment measures. The working group's focus on analysing investment and its relationship to competition policies and cross-border investment in services will be particularly pertinent to negotiations on intellectual property rights and trade in services.

5.3 Transparency

At Seattle, some serious issues in regard to internal transparency within the WTO were brought to light. Several countries found that they had not been invited to participate in some meetings (so-called Green Room deals). These countries then voiced their anger with the US, the EU and Japan for closing off some of the negotiations to other smaller countries. Consequently, the General Council decided in early 2000 to devote special attention to the issue of internal transparency in the DDA negotiations. Negotiations on transparency will begin at the Cancún ministerial.

Recent improvements in external and internal WTO transparency have been mostly small concessions in response to the demands made by member nations, NGOs and civil society groups. This reluctance to overhaul WTO procedures is due to a lack of consensus on a number of issues. Members disagree on whether or not it is within the domain of the organisation to increase public awareness and to what extent proceedings should be publicised. While most nations agree to increase transparency within the WTO, some fear that the aims of external transparency will jeopardise the ability of all members to participate equally in negotiations.

The first schism among members is the issue of who should be responsible for increasing public awareness of WTO activities. Some WTO members (namely Egypt, Pakistan and India) argue that the issue of external transparency should be left to individual countries rather than the

WTO. They believe that member countries should be responsible for disseminating information and documents about WTO procedures within their own countries, leaving the WTO as a whole to focus on other, more germane issues.

The increase in external transparency *can* serve to increase internal transparency as well. Small countries (often developing countries) that cannot afford to send large delegations to conferences, or that simply are not represented because they do not have resident delegations in Geneva, have benefited from online access to information about WTO negotiations. They now can have at their fingertips Internet resources, web casting of proceedings and frequent online updates.

External transparency measures can nevertheless also have the opposite effect on internal transparency. In response to the US proposal, some members assert that allowing interest groups and NGOs to submit outlines of their views on an issue will only favour the prerogative of wealthy nations. Again, the concern of developing countries is that the wealthier nations will be able to flood the panel with briefs in favour of a certain position. Also, negotiations on external transparency will have to tread carefully to make sure that non-governmental groups do not acquire greater access and influence in the dispute settlement process than WTO members enjoy.

6. Other Issues

In the Uruguay round, member nations gave the WTO limited authority to enforce intellectual property rights (IPRs). The agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) obliges member nations to enforce private IPRs. Under the TRIPs agreement, nations must establish laws protecting various forms of intellectual property, including copyrights, geographical indications, integrated circuit layouts and patents. They must also establish formal judicial channels to enforce IPRs and provide penalties severe enough to deter potential violations. The WTO dispute settlement committee deals with countries that fail to comply, subjecting them to economic retaliation.

Developed countries met their 1996 deadline to comply with the TRIPs agreement, and almost all the developing nations completed implementation by January 2000. Least developed countries, however, have an extended deadline; they must implement the agreement by 2005, but are exempt from applying patent protection to pharmaceuticals until 2016. Implementation includes the creation of national intellectual property regimes that may involve substantial administrative changes and costs. These costs are part of the reason that implementation of the TRIPs agreement has been so controversial.

Furthermore, many countries complain that the TRIPs agreement unfairly restricts technology transfer and privileges the interests of rich nations over the poor. Some economists would even argue that the TRIPs agreement has the potential to reduce global welfare by hampering competition and economic efficiency. Recent publicity surrounding the AIDS crisis in sub-Saharan Africa has inspired further criticism of the international intellectual property rights regime. It is only fair to point out, however, that the interests of international medicine cannot lie in the erosion of returns on R&D in the pharmaceutical industry. It cannot be in the interests of developing countries to forego a basic deal on a limited set of medicines for the biggest scourges (AIDS, malaria, etc.) in pursuit of a wider, less targeted list.

Finally, heated controversy surrounds Art. 27.3(b) of the TRIPS agreement, which exempts 'plants and animals other than micro-organisms' from patent protection. However, Art. 27.3(b) requires members to 'provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof.' Many non-governmental organisations have sharply criticised the extension of an international IPR regime into the

domain of living organisms, noting that such sensitive political decisions are more properly made at the national level through democratic consensus.

6.1 TRIPS and public health

The Doha negotiations on TRIPS have primarily focused on the issue of IPRs and pharmaceutical patents. While there is a general agreement that access to medicines in developing countries affected by HIV/AIDS, tuberculosis, malaria and other epidemics needs to be improved, the members have yet to agree on a mechanism that will allow the poorest countries to employ a compulsory licence to import pharmaceuticals they are unable to produce domestically due to a lack of pharmaceutical manufacturing capacity.

Discussions on the mechanism reached an impasse at the end of last year, causing members to miss the deadline for an agreement on the special treatment of developing countries concerning their access to essential drugs. The US blocked the agreement because it was concerned that vagueness in the language would allow countries to extend compulsory licensing beyond the infectious disease epidemics referenced in the Doha Declaration, thus enabling countries to override patents on drugs for treating a wide range of public health concerns. These could include asthma, cancer, diabetes, schizophrenia or even impotence. The US is willing to allow countries to import generic forms of patented drugs, but only for the treatment of certain infectious diseases such as AIDS, tuberculosis and malaria. The fear, as argued by the US, is that the proposed exemptions would be exploited for commercial purposes, for example by generic pharmaceutical manufacturers based in large developing countries that do not (yet) adhere to full WTO standards of IPR protection. This could result in locking off the markets of middle-income developing countries for commercialisation by international pharmaceutical companies, which essentially bear the cost for research and development. It would certainly represent progress for those countries with the greatest epidemiological need, if an increasing number of such middle-income LDCs would embrace this concern and consider opting-out of the proposed mechanism.

The main issues the negotiations need to address in this context are: the scope of the importing countries; safeguards against re-importation into rich-country markets; a prevention mechanism against commercial abuses of a system which, if properly applied, would permit manufacturers from large developing countries like India and Brazil to export their generic drugs to countries issuing a compulsory licence; and finally how to boost capabilities for implementation in smaller developing countries. Any solution that creates loopholes and continued uncertainty runs the risk of widening the concerns of some members that cheap drugs will undercut the prices of pharmaceuticals in developed countries – and hence jeopardise the vital R&D budgets on which advanced pharmaceutical product development depends in the first instance.

While the negotiations continue, both the US, the EU, Canada, Switzerland and Hungary have instituted moratoria that would allow countries to export cheap medicines combating AIDS, TB and malaria, and other epidemic diseases of similar gravity, to poor countries without the threat of WTO challenges for violation of patent protections, provided such arrangements were adhering to the criteria referenced in Art. 6 of the Doha Declaration.

6.2 Dispute settlement procedures

The primary goal of dispute settlement is to ensure national compliance with multilateral trade rules. Accordingly, the Dispute Settlement Body (DSB) encourages members to make their best possible efforts to bring legislation into compliance with the panel ruling within a 'reasonable period of time' established by the parties to the dispute. If a member does not comply with rulings, the DSB can authorise the complainant to suspend commitments and concessions to the violating member. In general, complainants are encouraged to suspend concessions with respect to the same sector as the subject of the dispute; however, if complainants find this ineffective or

impracticable, they may suspend concessions in other sectors of the same agreement or even under separate agreements. Ecuador, for example, suspended its TRIPs commitments to the European Union in retaliation against the EU's non-compliance with panel rulings in the goods-based banana dispute.

Some groups have criticised the dispute settlement process for its lack of transparency and democratic accountability, as well as for a perceived insensitivity to environmental and social standards. The increasing use of the system by developing countries, however, is one indicator of its institutional success. Ultimately, the dispute settlement system represents a significant milestone in the development of a rules-based multilateral trading system.

7. Framing Solutions: Key Priorities

7.1 Maintaining multilateral momentum

Trade reform, while frequently unfashionable, will always bring tangible benefits to consumers worldwide. Abstracting from any one interest group alone, the total gains to consumers will always outweigh any losses to producer interests. It is important to remember that tariff peaks in developed countries not only hurt the poor in producer countries, but they also have a disproportionate impact on the poorer consumers in developed countries (where much tariff revenue comes from items such as clothing and shoes).

Yet protectionist voices are at their most seductive when world economic conditions turn down; hence the following key points need to be kept firmly in mind:

- Agricultural trade is now subsidiary to goods trade – even for LDCs.
- Developing countries will soon be trading as much with themselves as with developed countries.
- Most of these exports will be either commodities or industrial goods.
- Protection in goods and services trade must be eliminated in both rich and poorer countries alike.
- Rapid, progressive elimination of tariffs on industrial goods is required within an agreed timeframe – total elimination by 2020.
- Trade-distorting farm subsidies and protection for agricultural commodities are hurting the poorest countries.

At the present time, when the world economy badly needs a boost, US, EU and other Quad countries' opinion formers need to urge their respective leadership to grasp this opportunity to promote world trade. Leaders must be urged to demonstrate the intellectual commitment and the political will to make concessions in often-sensitive areas, in order to make gains in new products and markets and to send a clear signal that helping the world's poorer nations is in the interest of all. They must ensure that the global economy works for rich and poor alike, and also address a parallel agenda of improving education, access to healthcare and social safety nets.

The outcome of the trade talks at Cancún and thereafter will have a critical bearing on the future security and well-being of both industrialised and developing nations alike. The suggestions offered here are intended to provide a few simple guidelines and simplifying principles to policy-makers to facilitate the steps required to move beyond any current diplomatic disagreements and help rebuild confidence in, and the legitimacy of, the multilateral system of trade.

The range of issues that are currently making minimal headway can only be resolved if key players demonstrate the vision, ambition and courage required. Tough, responsible decisions on

agricultural support within the Quad would enable the much larger, system-wide benefits to accrue from genuinely improved access to world markets in goods and services trade.

7.2 Addressing the needs of developing countries

The Doha Development Agenda negotiations are the first global trade talks to treat development issues as a priority. The Quad countries (US, EU, Japan and Canada) recognised at Doha that progress in global trade could continue only if those in developing countries believe that free trade will benefit them.

While progress at Cancún remains only a milestone along the road to the eventual agreement of a trade round, much work remains to be done if momentum is not to be lost and goodwill squandered. Obstacles currently facing negotiators include: the US stance on TRIPS and health (pharmaceuticals); developing countries' failure to move purposefully towards removal of import barriers (many are going up rather than coming down); and last but not least, serious progress on agriculture.

In order to reach consensus across all areas of the negotiations mandate, with multiple interest groups, perceived grievances, and conflicting objectives to reconcile, we suggest that there is a hierarchy of issues that, if correctly appreciated, can assist the diplomatic efforts to achieve consensus.

First, despite the history of often-fractious EU-US bilateral issues, these two groups remain vital twin pillars of the multilateral trade system. It may yet turn out that the 'carrot' of EU internal farm support reform is a fundamental motivator, which was notably absent in the Uruguay round. Second, all large countries have more to gain from trade harmony than from sliding back into protectionism.

Third, it is now beyond reasonable doubt that the developing countries have legitimate concerns that Quad subsidies impose serious distortions on world commodity markets. There can be little doubt that reform of the EU's CAP is now urgently required. The EU now stands to gain more across other sectors than it has to lose by any loss in competitiveness from a reform of domestic farm subsidies. The increasing importance of goods trade for developing countries means that no country should now shirk a serious commitment to tariff reform in its own markets.

Fourth, whereas the moral high ground in agriculture may lie with the LDCs, there can be no doubt that developing countries must now take responsible, unilateral action to provide access to their own markets. Of primary concern, however, is the market for goods. The big prize of agreement on goods and services reform must not become sidelined by any difficulties in reaching agreement in agriculture. Goods trade reform is of vital importance to developing countries. Long-term progress in eliminating industrial tariffs should go hand-in-hand with sound economic management and domestic fiscal reform, while developing countries should no longer rely on tariffs for revenue generation and the most severe cases should be given targeted assistance by way of compensation.

To summarise, the considerable obstacles that remain in the agriculture talks must not be allowed to block the central issue. This is that continued progress in liberalising trade in goods and services will soon be as important to developing countries as progress in agriculture and commodities. It is equally important that any serious efforts on the part of LDCs to open their own goods markets must now be rewarded with improved access to richer countries' markets for poorer countries' goods and services.

Textiles and clothing

Textiles and clothing products together constitute one of the most contentious issues at the WTO. For developing countries, production of such goods through relatively low-cost labour is

a major part of their economic output. If, as is generally the case at present for developing countries, there are significant barriers to exporting these products to developed countries, their economies may suffer as a result.

Prior to the Uruguay round of multilateral trade negotiations, international trade in textiles fell under the auspices of the Multi-Fibre Arrangement (MFA), which allowed nations to place discriminatory quantitative restrictions on the import of textiles and clothing. This was done primarily by Canada, the EU, Norway and the United States. While some nations with strong political ties to developed countries benefited from preferential agreements, many developing countries suffered from severely restricted or unreliable market access. During the Uruguay round, WTO members signed the Agreement on Textiles and Clothing (ATC), which came into effect in 1995. This established multilateral rules and subjected the textiles trade to the basic principles of non-discrimination and national treatment that underpin the WTO. Implementation of the ATC was scheduled to take place over a period of ten years, from 1995 to 2005.

The ATC requires the progressive elimination of all quantitative restrictions in this economically important sector. Under its terms, members must bring no less than 16% of the products in question into conformity with multilateral trade rules, followed by an additional 17% by 1998 and another 18% by 2002. At this point, 51% of products will have had their quantitative restrictions eliminated. By 2005, members must bring the remaining 49% of their textiles trade policy into full conformity with the agreement, at which point the textiles sector will be fully integrated into the multilateral trading system. That almost half of this process must take place over the last three years of the agreement may make it a difficult transition. Developing countries, particularly members of the International Textiles and Clothing Bureau, have criticised the European Union and other developed countries for this ‘backloading’ of the liberalisation of these key sectors until the very end of the implementation period. Developing countries are also concerned that only the minimum requirements of the ATC are being met, and that protection may still take place through other measures.

Yet the liberalisation of world textiles trade may ultimately prove to be a mixed blessing for many developing countries. Countries that benefited from preferential agreements with the European Union or the United States will face stiffer competition from other nations once the MFA disappears. For other developing countries, China's WTO accession has the potential to reduce the expected gains of textiles liberalisation. China is expected to take advantage of the full liberalisation anticipated by the end of the ATC in 2005. The World Bank estimates that China's share of world garment production will increase from 20% to 50% by 2010 as a result.²⁰ Though this may lead to greater economic efficiency, it may also produce a painful period of adjustment for countries that are already poor.

Finally, it should also be noted that such liberalisation could be of great benefit to consumers, especially poor consumers in developed countries, as the prices they pay for these goods will fall.

8. Conclusions

The global trade system has the potential to increase welfare in both rich and poor countries alike. However, the benefits of trade need to be more clearly articulated to all sections of society in order to sustain the broad-based political support necessary for achieving agreement.

The Doha Development Agenda negotiations are the first global trade talks to treat development issues as a priority. The US, Europe and Japan have recognised that progress in global trade can continue only if those in developing countries believe that free trade will benefit them. Progress

²⁰ Cited in *The Economist*, “Is the awakening giant a monster?”, 13 February 2003.

at Cancún is only a milestone to the eventual agreement of a trade round, but a great deal of work remains to be done if momentum is not to be lost and goodwill squandered.

The CEPS Task Force urges participants in the negotiations to remember that the prize of world growth cannot be achieved without taking an ambitious stance. By making concessions in frequently sensitive areas, countries should realise substantial, offsetting gains in the newer areas of industry and services. While there are multiple interest groups, perceived grievances and conflicting objectives to reconcile, we would argue that there is a hierarchy of issues that, if correctly appreciated, can go some way towards assisting the diplomatic efforts to achieve consensus.

All countries, large and small, should have more to gain from trade reform than from sliding back into protectionism. It is beyond reasonable doubt that the developing countries have legitimate concerns that Quad subsidies impose serious distortions on world commodity markets. Here the focus falls on the EU and the US in particular to demonstrate leadership and show that they are prepared to make sacrifices to ensure a successful round. Reforms of the EU CAP and of the US Farm Bill are now urgently required. By resolving these twin difficulties in agriculture and defusing its potential as a blocking issue for the successful conclusion of the negotiations could enable a trade agreement to be reached. As agreement must be reached across all areas of the negotiations, it is equally important that developing countries do not use large-country intransigence as an excuse to disguise their own unwillingness to embrace the strictures of domestic market reform. Progress must be principled certainly, but the obligations of the large country must be balanced against the duty of the small country to manage its economy according to accepted norms. The potential for special interest groups (be they in agriculture, industry, rich country or less rich) to impede and block momentum must be resisted by those who correctly understand the mechanisms of wealth generation. These points should apply to all but the poorest of developing countries – on which the attention of the international institutions must increasingly focus.

Finally, the growing importance of trade in goods and services for developing countries should mean that most countries, outside the world's ultra-poor, can now contemplate a wider commitment to trade reform – in agriculture, commodities, goods and services – with compensating aid packages for the smallest developing countries from the multilateral institutions.

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