

**Developing Countries, the WTO and a  
New Round: A Perspective**

RANSFORD SMITH

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Third World Network

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## **NOTE**

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# 1

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## Introduction

In the overview to its 1998 Annual Report, the World Trade Organization (WTO) makes a point others have made. It states that the phenomenon which is termed “globalization” and which describes the global integration which results from advances in communications, in technology and in the changing nature and structure of economic activity, is neither new nor specific to the present era. What may certainly be new is its scale and scope, which trigger in turn the perennial human reaction to profound change — fear, apprehension and, in some quarters, opposition.

If we accept as a proposition that globalization is not a new phenomenon but rather that its scale and scope have changed dramatically in recent years, then it is appropriate to look at the out-turn of the process over a longer sweep of time instead of simply being preoccupied with what happened in the nineties.

The WTO itself has done this in regard to trade. A background report presented by the Organization to a Seminar on Special and Differential Treatment in March 2000 observed that “in the last fifty years great progress has been made in integrating developing countries into the multilateral trading system .... But the progress has been uneven ....”<sup>1</sup>

The background report goes on to state: “The current US dollar value of developing country merchandise exports increased by a factor of nearly 69 between 1948, at the time of inception of the GATT [General Agreement on Tariffs and Trade], and the establishment of the WTO in 1995. However ... the developing country share of world merchandise exports was at its highest — roughly 33% — in 1948.”<sup>2</sup>



What was the developing countries' share of merchandise exports in 1999? The available data show that share to be 27.5% — five-and-a-half percentage points below the share developing countries enjoyed 50 years ago.

To understand in part why this is so, we need to recognize that in the almost half a century between 1948, when the GATT came into being, and 1995, when the WTO was established, while developing countries' merchandise exports increased by a factor of 69, those of developed countries increased by a factor of almost 100<sup>3</sup>. It is useful to recall too that during this period there were eight multilateral trade negotiating rounds, and that from the very beginning the membership of the GATT/WTO included a significant component of developing countries. In fact, 11 of the 23 founding members of the GATT were developing countries. The obvious conclusion is that membership in the WTO by itself and participation in its most-favoured-nation (MFN) benefits have not been sufficient to ensure a closing of the gap in trade performance between developing countries and other members of the international community.

It is useful to note important structural causes of this tendency to lag in terms of trade growth. In the 50 years between 1948 and 1997, the trade of all countries multiplied by a factor of 17 but trade in manufactures grew by a factor of 30<sup>4</sup>. Shortly after the GATT was established, agricultural trade accounted for 47% of merchandise exports and manufactures for 38%; five decades later at the conclusion of the Uruguay Round, agriculture's share of global merchandise trade had fallen from 47% to 12%, and that of manufactures had risen from 38% to 77%.<sup>5</sup> In those 50 years, the structure of the global economy and the composition of trade had changed dramatically.

An obvious conclusion might be drawn from all this. Those countries which have or had the capacity to shape or to respond to changes in the

global economy were usually the most successful performers. This is borne out by the fact that in the 50 years between the establishment of the GATT and the end of the Uruguay Round, the global trade share of Latin America fell from 11% to 5%, and that of Africa, from 8% to 2%. During the same period, the trade share of Asia in the global economy almost doubled — rising from 15% to 27%.<sup>6</sup> At two extremes we had, by the mid-nineties, 90% of exports from China and the newly industrializing economies (NIEs) being comprised of manufactures, while in Africa, less than a third of exports were manufactures.<sup>7</sup> Those developing countries which have performed best in the past four decades or so are those which were able to board — even if only coach class — the manufacturing locomotive of growth.

While differences in the performance of developing countries must be noted, the overall trend is clear: there has been a pattern of marginalization in trade terms of a significant number of developing countries. Even more worrying must be the fact that the structure of the global economy is now changing even more rapidly and dramatically than was the case at any time in the past 50 years. The historical evidence suggests that those developing countries that are unable to respond effectively to these developments will face a very bleak future.

The question to be posed, then, is this: If the evidence suggests that developing countries have fallen further behind in trade terms, and are likely to continue to do so in the future, and if the WTO is the architect of global trade rules and a key contributor to determining the nature and character of the global economic environment, does the Organization not have a responsibility to recognize and to seek to redress this situation?

Let me emphasize at this point that an absolute fall in the trade shares of developing countries over time is not being suggested. What is being pointed to is a fall in the relative share of developing countries in global trade — a clear indicator that despite the WTO, despite or because of

globalization, most developing countries are falling further behind, not catching up. This is the objective situation that the WTO must recognize and seek to redress.

Let me also add that while to some it may be self-evident that there is a problem and that the WTO should be part of the solution, this is not necessarily universally recognized. Even though some may be willing to agree that the data are incontrovertible and that countries are being marginalized rather than positively integrated, not everyone will necessarily agree that the WTO has a role to play in systemically seeking to redress trade imbalances. Fortunately, Seattle served to heighten sensibilities and to create improved — though not ideal — conditions for change. We must, within the Organization and the wider global community, generate a consensus to seek change, and that change, to be meaningful and effective, must be in four areas:

- (i) the culture and normative behaviour of the WTO;
- (ii) the WTO rules (including Special and Differential Treatment);
- (iii) technical assistance and capacity-building; and
- (iv) negotiating ambitions for the near and medium term.

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# 2

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## Culture and Normative Behaviour of the WTO

The WTO is primarily a forum for negotiating trade rules. Negotiating skills, technical expertise and market size are some of the elements that are brought as chips to the negotiating table. The extent of the disproportion in these “resources” between developed and developing countries in the WTO is perhaps more significant than in the case of comparable indices in any other major multilateral body. To provide some perspective, the Quad group of the European Communities, the United States, Japan and Canada account for approximately 60% of world exports.<sup>8</sup> In 1999, the United States alone accounted for almost 13% of world exports.<sup>9</sup>

By contrast, the 34 WTO members with the lowest trade shares account collectively for 0.14% of world trade.<sup>10</sup> Similarly, the 55 members of the African, Caribbean and Pacific (ACP) group which are members of the WTO account collectively for just over 1% of global exports, and indeed the 48 Least Developed Countries (LDCs) — 29 of which are WTO members — account for less than one half of a percent of global exports.<sup>11</sup>

The conundrum, then, is this: Can decision-making and rule-making in the WTO be made to take account of and alleviate trade marginalization when influence and capacity within the Organization are themselves constrained by the very fact of that marginalization? Twenty-eight WTO members — primarily Island or Least Developed African, Caribbean and Pacific countries — maintain no resident missions in Geneva, while among the WTO’s more than 100 developing-country members, a significant number have very small missions with five or fewer representatives who cover not only the WTO but also other agencies in Geneva, and political and economic activities elsewhere in Europe. Western developed countries routinely maintain missions staffed by 10 or more repre-

sentatives, focussed exclusively on WTO matters. It should not be surprising that the broader and more complex the prospective negotiating agenda, the higher the level of apprehension that is therefore created amongst a significant proportion of the WTO's developing-country membership.

Institutional reform is on the agenda of the Organization as a means of addressing this concern. One salutary consequence of Seattle is that in Geneva serious efforts are now being made to improve internal transparency, to improve the consultative processes, and to seek to ensure inclusiveness in a meaningful way in decision-making. In short, there is an effort to move beyond the "Green Room" (consultations which are restricted to a limited number of invited countries).

The challenge posed and the importance of this particular issue should not be underestimated. The WTO is no longer a small club of developed and middle-level developing countries. By its own count, in 1999, the WTO held over 700 formal and informal multilateral and plurilateral meetings<sup>12</sup>, in a situation where, it must be emphasized, informal meetings are often as important as or more important than formal ones. It is difficult to involve all 139 members<sup>13</sup> at all times in consultations, but failure to do so poses risks that were evident in Seattle and is, in any event, unacceptable given that WTO decisions and agreements affect all members and are legally binding.

It should be noted that no structural change has so far been made in the Organization. Although there is concern at the difficulty of taking decisions at meetings which involve the participation of all members, and although there have been proposals for establishing smaller executive or consultative bodies as part of the organizational structure, there has been little receptivity to these proposed innovations. In fact, most developing countries appear at this time disinclined to accept proposals that seek the establishment within the Organization of a small formal decision-making (or even consultative) body — even were the composition of such a

body to be based on a formula that sought to ensure representativeness. There is reluctance by many members to derogate to others decision-making authority or even the making of inputs into decision-making, given the increasingly complex calculation of costs and benefits that attend WTO decisions and agreements and, importantly, given their binding nature on national legislators and policy-makers. It should be noted that a corollary of this reluctance is the insistence by major developed countries (and by many developing countries) on continuation of the practice of decision-making by consensus, even though the Agreement Establishing the WTO explicitly provides for the taking of decisions by vote.

With structural change being eschewed, at least for the time being, increased internal transparency is therefore being sought primarily through procedural and attitudinal changes. These include measures such as notification to the wider membership of the time, place and subject matter of informal consultations; more frequent briefings by the WTO Director-General and his staff and by the Chairman of the General Council on progress in informal consultations; and, at the attitudinal level, greater acceptance by major players that decisions are to be taken in open-ended forums, not pre-agreed in consultations amongst a limited number of members and then ratified as a formality in open-ended meetings.

While commendable efforts have been made in these areas and some progress has been achieved, there is a constant and quite evident tendency towards regression, and one must therefore regrettably lean towards the view that such tendencies might deepen should the negotiating agenda become more extensive and the pace of negotiations more hectic.

The issue of attitudinal and even possible structural change has thus been placed firmly on the WTO agenda in the post-Seattle period and will continue to engage attention, for it is one of the keys to the future success

or — it is not an exaggeration to suggest — to the very institutional survival of the WTO. The WTO must provide full scope for effective participation and must respond to the concerns and needs of all members.

It should be recognized, in this context, that it is not only in developed countries, but in developing countries as well, that important constituencies are emerging that are deeply concerned about the impact of WTO decisions on their economic and social welfare. In these circumstances, an unambiguous thrust towards inclusiveness and towards the conscious accommodation of the varied interests of its membership will strengthen the WTO, even if this may result in a slower pace of work. It will certainly require increased acknowledgement and acceptance of the need for flexibility in the Organization's rules.

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# 3

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## WTO Rules

The second important area that needs change to facilitate effective and successful integration of developing countries into the global economy is the WTO's rules. It is often stated that the WTO is a rules-based organization. This proposition is sometimes advanced in the nature of emphasizing that the Organization is a value-free forum committed to formulating objective trade rules and to ensuring adherence thereto. An implicit and sometimes stated corollary is that the WTO is a rule-making forum and not a development body.

This, at best, is sophistry. Throughout history, the rules, whether at the level of institutions, nationally or globally, have in large measure reflected interests and the balance of interests. The WTO is no different. Indeed, it is sometimes said with a bit of exaggeration and a bit of black humour that the GATT/WTO processes have historically contained two distinct strands of Special and Differential Treatment: on the one hand, S&D for developed countries, and on the other, S&D for developing countries. The difference between these two strands is that S&D for developed countries is usually binding and implemented, such as was the Multi-Fibre Arrangement and such as is the current Peace Clause, while S&D for developing countries is usually non-binding and unimplemented, such as is the case of Part IV of the GATT.

The Uruguay Round and its outcome served to deepen imbalances both because of the nature of the agreements reached as well as because of the broad scope of that Round. The importance developing countries attach to what are now called "implementation issues" is an effort to redress some of the imbalances and to stimulate collective recognition of and response to a number of their identified priorities and concerns.



What are some of the primary imbalances and asymmetries that are of concern to developing countries and which we consider should be addressed? Without being exhaustive, one could point to the Agriculture Agreement and the Green and Blue Box measures, the first of which covers government-funded programmes for various services not targeted at particular products, as well as so-called decoupled income support (Annex II), and the second of which covers support linked to programmes to limit production (Article 6). Developing-country needs are not met by these exemptions which were obviously crafted to respond to the needs of major developed countries. In the case of input and investment subsidies, for example, which are usually an important source of support to poor farmers in developing countries, their omission from the Green Box — even when they are made generally available — has meant that these support measures that are widely used in developing countries are not covered by the Peace Clause's exemption from countervailing action during the implementation period. Instead, they have been made subject to the lesser protection of "due restraint" and the requirement that injury or the threat thereof be determined.

This imbalance is also evident in regard to the Special Safeguard Mechanism applicable under the Agriculture Agreement, which, unlike normal safeguards, can be triggered when import volumes rise above a certain level or when prices fall below a specified level, without any need to demonstrate injury as in the case of the safeguards regime that is applicable to industry. The asymmetry in this is twofold. Firstly, this Special Safeguard Mechanism is applicable only to so-called "tariffied" products, i.e., products regarding which quotas were transformed into tariffs at the end of the Uruguay Round, a process which was undertaken almost exclusively by developed countries for the simple reason that many developing countries had already removed quantitative restrictions under structural adjustment programmes; and secondly, the Special Safeguard Mechanism provides primarily to developed countries an easy-to-use trade remedy for agriculture, while no such remedy exists for

the non-agricultural sector where developing countries' emerging industries are often fragile and vulnerable to competitive pressures.

The Uruguay Round tightened significantly disciplines on the provision of domestic and export subsidies to the non-agricultural sector. It should be noted that prior to the Uruguay Round, developing countries were not covered by the discipline on export subsidies to the industrial sector. The Uruguay Round Agreement on Subsidies and Countervailing Measures specified criteria for determining injury and prohibited the provision of subsidies linked to export performance.<sup>14</sup> This effectively creates a new situation for developing countries whereby the measures widely used by many developed countries for at least the last half of the 20th century will no longer be permitted to countries that are in the process of development.

Interestingly enough, this prohibition on export subsidies does not extend to agriculture, where the relevant Agreement requires not elimination but reduction in both the value of subsidies provided and the quantities of subsidized exports. Interestingly too, the potential benefit to be gained by developing countries from the provision of subsidies and other incentives linked to export performance appears to have been clearly recognized since, as provided in Annex VII of the Subsidies Agreement, developing countries with per capita incomes below US\$1,000 are permitted to continue providing export subsidies. Any other conclusion would be perverse, for it can hardly be thought that if these subsidies are harmful to development, the very poorest would have been allowed to continue their use.

One of the elements of the Uruguay Round agreements which developing countries are therefore seeking to modify is the list of countries covered by the exemption under Annex VII of the Agreement on Subsidies. The objective is to make the list less restrictive so as to provide freedom to a larger number of developing countries to provide incentives linked to export performance.

In various other areas, developing countries have voiced complaints regarding imbalances or inequities. The large textile and clothing producers of Asia, in particular, have continued to voice their concern at the out-turn of the first two stages of integration under the Agreement on Textiles and Clothing. They maintain that major importing developed countries have “backloaded” the integration of products, the result being that products of relatively little commercial interest to developing-country exporters have been integrated in the first two stages. (As is known, members are required to progressively bring all textile and clothing products under normal WTO rules in four stages, with the first three stages to cover 51% of all products, and the final stage to cover 49% and to be implemented on 1 January 2005.)

Some other areas of concern for developing countries in regard to the rules and implementation thereof include the asymmetrical treatment of capital and labour under the Services Agreement. Under the Agreement, restrictions are not permitted on current and capital transactions necessary to the fulfilment of sectoral commitments, but there is no such mandatory requirement regarding the cross-border movement of labour. This latter must be covered by specific commitments.

Another area pertains to the Agreements on Sanitary and Phytosanitary Measures and on Technical Barriers to Trade. Developing countries contend that there is unwillingness by developed countries to apply the “equivalence” principle to standards developed by them.

In regard to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), a significant number of developing countries (and some developed ones) wish to see the higher level of protection mandated by the Uruguay Round for geographical indications relating to wines and spirits extended to other products.

A number of the Uruguay Round agreements, such as the Anti-dumping Agreement, the Subsidies and Countervailing Measures Agreement and

the Safeguards Agreement, contain *de minimis* provisions which establish value and quantity thresholds below which no trade remedy measures will be taken. The presumption is that at such levels there is little or no potential for trade distortion. Developing countries continue to advocate the raising of these thresholds. As a general comment in this context, it might be noted that countries which regard themselves as “small economies” make the point that because their trade shares are so small, their capacity to distort trade is negligible and this warrants additional flexibility in the rules.

Finally, developing countries maintain that although WTO/GATT agreements and decisions bristle with Special and Differential Treatment provisions — the WTO Secretariat has identified 145 of these — these are for the most part best-endeavour clauses which remain unimplemented. Developing countries are insisting that the time has come to redress this situation.

It is emphasized that the foregoing are indicative of imbalances and asymmetries in the Uruguay Round agreements. It is not an exhaustive accounting of concerns.

I will now turn to a third important area in which change is required — technical assistance and capacity-building.

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## Technical Assistance and Capacity-Building

The WTO is, in institutional terms, an outcome of the Uruguay Round. The GATT was a contractual arrangement, the WTO is a full-blown institution. For reasons regarding which one can only speculate, the Organization fully comprehends its new status in areas such as dispute settlement and the review of trade policies, but has failed to come to grips with that new status in one important area — technical assistance.

This is an area of vital importance to developing countries. The WTO's regular budget for technical assistance in 2000 was Swiss francs 740,000 (approximately US\$500,000). This is intended to meet the needs of more than 100 developing countries, many of which suffer from such severe institutional and administrative weaknesses that one of the primary areas in which they wish technical assistance is in the understanding of the WTO agreements to which they are party. It must also be stated that the WTO receives contributions to its Global Trust Fund for technical assistance. In 1999, total expenditure on technical cooperation was SF6.05 million (approximately US\$4.0 million), of which 90% was provided from extra-budgetary sources.

Although donors must be commended, this is an inadequate and unpredictable source, particularly when it is recognized that technical assistance funds are used for activities for which planning and delivery can require significant lead time. It is yet to be seen whether a current proposal by the WTO Director-General to increase the regular budget for technical assistance by SF10 million will be approved by the membership.<sup>15</sup>

It is helpful to put these figures and the extent to which they are incapable of meeting the needs of developing countries into some perspective. Arising from the Uruguay Round, developing countries — as well as other member states — have been faced with the obligation to modernize legislation, train personnel, and establish administrative machinery and processes in order to ensure conformity with the requirements of a large number of agreements. This is particularly the case in areas such as TRIPS, anti-dumping, safeguards and customs valuation. The meeting of these requirements is subject to timelines agreed to in the Uruguay Round — so-called transition periods — timelines which, it must be stated, were in many instances decided without any input from many of the countries which must now meet these deadlines.

Estimates vary as to the cost of this process in developing countries. A recent estimate by Japan suggests that the cost to APEC (Asia-Pacific Economic Cooperation forum) developing countries of implementing the Uruguay Round agreements may be in the region of \$6 million each, which, if extrapolated to the WTO's developing-country membership, would mean that the price tag of legislative and administrative conformity to the Uruguay Round agreements could be, conservatively, well over half-a-billion US dollars for developing countries.

The WTO invites its own public relations nightmare when it is insensitive to the fiscal and other burdens of conformity in a context of budgetary austerity in many countries and at a time when the United Nations Conference on Trade and Development (UNCTAD), as it did in 1999, reported that the average trade deficit of developing countries in the 1990s was higher than in the 1970s by almost three percentage points of Gross Domestic Product (GDP) and their average growth rate lower by nearly two percentage points per annum.<sup>16</sup> The Marrakesh Agreement Establishing the WTO was signed in mid-decade.

Quite apart from the paucity of resources for technical assistance, the question of the scope of technical assistance is a relevant issue. Should the

WTO confine itself to providing technical assistance that allows countries to bring laws and regulations into conformity with and to otherwise implement WTO agreements, or should the scope of technical assistance be wider — addressing, for example, the supply-side weaknesses that prevent some developing countries from taking advantage of negotiated market access openings? To put the matter in a way that should appeal to our developed-country partners, should trade-related supply-side weaknesses fall within the purview of the WTO's technical assistance?

I consider that they should — although it must be recognized that there are other organizations with perhaps more resources and more funds to tackle supply-side weaknesses. It would seem clear, however, that the WTO must engage vigorously in strengthened cooperation with other relevant institutions and bodies — the regional development banks, for example — so as to provide assistance to developing countries in regard to trade-related capacity-building and supply-side strengthening. It would not be logical for the Organization to fail to engage fully in strengthening the capacity of developing countries to effectively take advantage in trade terms of the opportunities that flow from negotiations under its auspices.

Regrettably, however, both a narrow view of the role of technical assistance as well as the low level of funding may be consequences of the ingrained view amongst some leading developed partners that the WTO is a rule-making and not a development organization. The danger — as always — in taking the narrow view is that we miss the forest for the trees since, as we saw in Seattle, the WTO is unlikely to be able to make rules at all in circumstances where a significant proportion of the Organization's membership view it as uncomprehending of their fundamental needs.

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## **Minimalist Ambitions for the Near to Medium Term — Or Perspective on a New Round**

There have been eight multilateral trade negotiating rounds so far, seven under the auspices of the old GATT, and the eighth being, of course, the Uruguay Round which brought the WTO into being. Even those who do not believe in historical inevitability seem to believe that because there was an eighth, there must of necessity be a ninth round. There is, however, no iron law of rounds. The next round, if it is intended that it be a truly multilateral round, will be exceedingly difficult to launch. Those who believe that the main impediments are the matter of election timetables in major industrial countries are dead wrong. It is likely, in fact, that they may have missed the significance of events in Seattle.

Seattle was a historical juncture in the institutional evolution of the WTO. We see three lessons from Seattle. The first is that the failure of Seattle was predictable. Why this is important is that events which can be foreseen are usually open to intervention and to prevention. This is exceedingly important for the future. The second is that scope, substance and process were at the core of the deadlock in Seattle — not one nor the other, but all three. The third lesson is that Seattle was not an aberration nor a single, unique event. Rather, it was part of a process that has been in train for several years — a process characterized by institutional tardiness in adjusting to an increasing and diverse membership and to the desire of all members to be more meaningfully involved, this growing interest in large measure being driven by the broadened agenda and the demonstrated impact of WTO decisions. In this particular sense, Seattle, interestingly enough, was merely the stillborn child of the Uruguay Round.



As is well known, the Uruguay Round was a decisive break from previous rounds. It introduced new issues — services, TRIPS and trade-related investment measures (TRIMs). Importantly too, it introduced the notion of the “single undertaking”, that is, the applicability of all agreements to all parties — thus eliminating so-called “free ridership” and “cherry picking” by members amongst agreements, practices which in the past had at least the merit of allowing some taking account of individual circumstance. And, finally, the Uruguay Round agreements were made both legally binding and enforceable through strengthened dispute settlement procedures under the umbrella of a new Organization which would oversee agreements in the areas of goods and services.

Many of these innovations were introduced towards the end of the Uruguay Round and were not part of the original terms of reference agreed to in Punta del Este, where the Round was launched, nor were they agreed to in the first preliminary months of the Round during which negotiating guidelines and objectives were set. The fact is that many developing countries were blindsided by these new institutional proposals in the penultimate stages of the Uruguay Round as their limited number of representatives scurried around the corridors in Geneva trying to keep track of developments in 15 negotiating groups.

The impact of the decisions taken in the Uruguay Round — which are binding on all members without exception (except for time-phased and a few differential obligations) — has been coursing heavily through the legislative and policy processes in many developing countries since the signing of the WTO agreements in Marrakesh more than half a decade ago. Domestic constituencies in these countries have become increasingly aware of the adjustment costs, such as, for example, to vulnerable domestic industry and to agriculture, particularly to small farmers.

The productive sectors in many developing countries as well as public opinion in general have become increasingly aware of the imbalances in the agreements — some of which were outlined earlier — and of the

burdensome nature of many of the obligations which developing countries must assume, even though in areas such as subsidies, intellectual property rights and trade-related investment measures, the measures now prohibited or disciplined had been utilized freely by developed countries during the process of their own development. By way of illustration, some developed countries did not introduce product patent protection until relatively recently — 1995 and 1996 in the cases of Finland and Iceland, respectively. And in an area such as agriculture, the Special Safeguard Mechanism, decoupled income support and continued permissibility of export subsidization (though at reduced levels) have protected the interests of major groups of developed countries in the post-Uruguay Round period.

It is against this background that the call for a new round will have struck a large number of developing countries as ill-timed, and the efforts to widen the scope of the proposed round — and thus the potential range of obligations to be assumed — a misjudgement.

We need not deliberate too much on the positions taken regarding a new round and its proposed elements. As is known, there were differences of opinion amongst major players. But there were also important points of convergence. Both the United States and the European Union sought to further empower the WTO through the inclusion of new areas such as core labour standards, environment and trade facilitation. The EU, which has continued to emphasize the importance of a comprehensive round so as to facilitate trade-offs and a balanced outcome, sought to include investment and competition policy, but failed in this to win support from the United States, which was apparently concerned that inclusion of these issues would cause the new round to drag on beyond three years (the desired termination date for the United States). Government procurement was another 'new' issue on which the United States placed high priority — new in the sense of seeking to "multilateralize" the existing agreement which is of limited membership and a carry-over from the old GATT.

As is well known, in addition to some differences on the new issues, there were also substantive differences among the major players on the old issues. The United States allied itself with the Cairns Group (of agricultural exporter countries) to seek the elimination of export subsidies, and the EU, though not a demandeur, joined with Japan and members of the ASEAN (Association of South-East Asian Nations) group to identify anti-dumping rules for inclusion, in contrast to the United States which did not see this issue finding a place on the negotiating agenda. Amongst the developing countries, leading exporters, such as Mexico, Chile and some ASEAN countries, stressed the importance of having ambitious negotiations on market access in the new round — negotiations that should address areas of concern to developing countries, such as the prevalence of tariff peaks and tariff escalation.

It must be noted though that while there is a strong body of common opinion, there is no homogeneous developing-country position in regard to either a new round or what should be its constituent elements. A number of Latin American countries have appeared willing to accept some of the new issues, such as investment, but with labour standards universally excepted. Asia has appeared on the whole to be much less sanguine about the inclusion of any new issues and has emphasized the importance of textiles and other implementation issues as prior concerns to be addressed. Developing-country members of the Cairns Group have appeared to be particularly concerned that a new round and new issues should not be embarked on at the expense of the “built-in agenda” on services and agriculture.

Given the out-turn and consequences of the Uruguay Round, and given both the heightened level of awareness and significantly improved levels of preparation amongst developing countries, it should not be surprising that a large number of countries from Africa and from Latin America and the Caribbean were unwilling to accept non-transparent procedures in Seattle or to be passive decision-takers.

It is important that the strength, vigour and implication of this position be not missed nor underestimated. It is particularly easy to do so because of the fact that there were many contributing elements to the mix that created failure in Seattle. These range from the deficiencies in the preparatory process, through inadequate organizational arrangements and less-than-adroit directing of the Ministerial meeting, to differences on substance among major players and, finally, the street protests by civil society. To address such issues will help the cause of a new round — but will not answer the fundamental question that many developing countries will ask, which is: “In the light of the experience of the old round, what do we have to gain from agreeing to a new one?”

In this context, the important point is that, unlike the situation previously, developing countries will have to agree, and this not through the *ex post facto* ratification of decisions already taken but as a partner in the process.

Since Seattle, the WTO has rightly been engaged in a process which the Director-General and others have described as “confidence-building”. This process includes the efforts (already cited) at improving internal transparency and making the decision-making process more inclusive. It has also included providing improved market access for LDCs, strengthened technical assistance and capacity-building, extension of the transition periods (cited earlier as being burdensome to many developing countries), and addressing a large number of implementation issues, some of which had been proposed by developing countries for immediate action at Seattle, and all of which are considered by developing countries to be representative either of imbalances in the WTO agreements or of areas of inaction by developed countries in favour of developing countries.

At this point, there has been some — though inadequate — progress in almost all of these areas. The situation in regard to internal transparency

and technical assistance was outlined earlier. In respect of the latter, the Director-General's proposal to increase the regular budget for technical assistance by SF10 million was to be considered in the WTO's Budget Committee and by the General Council before the end of 2000. While one would not wish to prejudge the outcome of that consideration, it is fair to say that it is far from certain that the proposal will be approved.<sup>17</sup>

In the area of market access for LDC members, the Quad (EC, Canada, Japan, United States) have agreed to implement tariff-free and quota-free treatment for essentially all goods originating in LDCs, and to do so consistent with their international agreements. These significant qualifications will almost certainly result in the exclusion of exports from sectors such as agriculture and textiles and clothing. It might be noted in this context that the more recent "Everything But Arms" proposal by the European Commission would, if approved and implemented, provide duty-free, quota-free access to all products from LDCs except for arms and munitions. Market access for a number of sensitive products — sugar, rice and bananas — would be phased in over several years.<sup>18</sup>

In regard to transition periods, the membership continues to address these on a case-by-case basis rather than through across-the-board extensions as a significant number of developing-country members would prefer. Even though in the aftermath of Seattle, members were urged by way of a statement from the then Chairman of the General Council to exercise "due restraint" in regard to the expiration of transition periods, both the United States and the European Communities have recently requested the establishment of dispute settlement panels in furtherance of complaints relating to the alleged maintenance of trade-related investment measures in the automotive sector by the Philippines and India, respectively.

Finally, on the question of implementation issues, the General Council, at its meeting in mid-October, invited the Chairman and the Director-General to continue ongoing consultations on those issues that were

identified by developing countries for immediate action at Seattle, and to report to members by mid-December.<sup>19</sup> The consultations will also proceed on implementation issues other than those that were envisaged for immediate action with a view to identifying ways to resolve them.

At this point, a fair assessment is that the confidence-building exercise is a slow and difficult process of uncertain outcome. Also of great relevance will be the nature of the progress achieved in the current negotiations on the built-in agenda — services and agriculture — and in the various mandated reviews. The agreed timetable calls for stocktaking of progress in the agriculture and services negotiations to be carried out by March 2001. A satisfactory level of progress in these as well as in the other areas cited will be critical to “confidence-building” and to the willingness of many developing countries to consider engaging in a new round of multilateral trade negotiations.

The scope of the proposed round will remain of considerable importance. It should be recognized that the use of the prefix “trade-related” as the umbrella under which to usher a plethora of new issues into the WTO will only serve to make agreement on a new round more difficult. It must be said, for it is an evident fact, that in the final analysis, a large number of issues can be held to be trade-related. These range from monetary and fiscal policy, through physical infrastructure, to population policy.

Many developing countries are not persuaded that the issues developed countries seek selectively to bring under the WTO’s purview are not merely those which respond to the agitation of certain domestic constituencies or issues which respond, often narrowly, to their specific policy or trade interests. There is genuine concern that any disciplines agreed in the WTO will be misused for protectionist purposes and genuine fear that the “trade-related” slope will be a slippery one with far-reaching implications for the next round and any that should follow. A dominant concern is that this approach will lead the WTO further away from its core business and down the path of a continuously expanding agenda with all

that that entails in terms of new obligations for developing countries.

It should be recognized that one consequence of an expansive agenda is that the number of potential 'flashpoints' will increase as these new issues bring highly motivated and interested constituencies and increase anxieties amongst some member states regarding the appropriateness of the forum and the costs and benefits that attend engagement on these new areas within the context of the WTO.

Remaining focussed on its core business will be more staid — in the vernacular of the day, less sexy — but this is also less likely to embroil the Organization in constant controversy or entrap it in stalemate, which, as we have seen in recent months, can be counter-productive. There is a strong case to be made for ensuring the continued strength and effectiveness of the WTO through a focus on the narrower but more broadly acceptable core areas regarding which there is general agreement that the institution's binding disciplines should apply.

In sum, the most predictable path to a new round would appear to lie both in raising confidence levels and in reducing negotiating ambitions. On this basis, it might also be reasonably concluded that a new round does not lie in the very near future.

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## Conclusion

Developing countries have an extremely high stake in the health and vibrancy of the multilateral trading system, and in the shaping of the rules that govern that system. It is well known that trade as a proportion of Gross Domestic Product is higher (and rising) in the case of developing countries when compared to developed countries. Many developing countries — and this is particularly true of the smaller ones — that are being pressed to take on new trade-liberalization commitments have trade-to-GDP ratios that are two, three and sometimes even higher multiples of the trade-to-GDP ratios obtaining in North America and Europe.<sup>20</sup> The relative impacts of trade rules, whether adverse or positive, are considerably more far-reaching for these countries. This makes it imperative that their concerns be taken fully into account.

Trade has been the locomotive of the global economy for the half a century since the GATT was established, consistently outpacing output growth (by almost two percentage points annually) over the period. But the fact is that, as we have indicated, a significant number of developing countries — though not all — have lagged behind in trade performance and now appear to be in increasing danger of marginalization, particularly as the structure of the world economy is swiftly changing.

The WTO, the maker and arbiter of multilateral trade rules, has an important role to play in redressing this situation by promoting the beneficial integration of developing countries into the multilateral trading system.

The present situation is one in which a significant number of the rules as well as the institutional culture of the Organization are tilted against the



perceived interests of developing countries. While some progress is being made in addressing this in the aftermath of Seattle, much more is left to be done. In the meantime, it behoves developing countries to view a new global trade round with an abundance of caution until the signals are both clearer and stronger that major trading partners have fully recognized the import and significance of Seattle.

## Endnotes

1. Background Note by WTO Secretariat, "Developing Countries and the Multilateral Trading System: Past and Present", p. 4. Also presented to the High Level Symposium on Trade and Development held in Geneva, 17-18 March 1999.
2. Ibid., p. 5.
3. Ibid., p. 6. The developed-country share of world merchandise exports was US\$36,024 million in 1948. In 1995, the share was US\$3,463,850 million — a 96-fold increase.
4. WTO, *Annual Report 1998*, p. 33.
5. Ibid., p. 34.
6. Ibid.
7. Note by the WTO Secretariat, "Participation of Developing Countries in World Trade: Recent Developments, and Trade of the Least Developed Countries" (WT/COMTD/W/65), p. 7.
8. *UNCTAD Handbook of Statistics 2000*. The Quad group accounted for 62.7% of world exports in 1999.
9. Ibid.
10. Calculated from trade-share data used by the WTO in determining membership contributions for year 2000.
11. *UNCTAD Handbook of Statistics 2000*. The 55 ACP countries that are WTO members (including South Africa, which is an ACP member but not a signatory of the Cotonou Agreement) account for 1.4% of global exports. The 48 LDCs account for approximately 0.4% of global exports.
12. An informal compilation of meetings made available in March 2000 showed 399 formal and 339 informal WTO meetings were held in 1999. This covers multilateral and plurilateral meetings but not bilaterals.
13. Lithuania accepted the Protocol of Accession to the Marrakesh Agreement on 8 December 2000 and, pending ratification, will become the 140th member.

14. With the exception of LDCs and members with per capita income below US\$1,000. Other developing countries were given a transition period of eight years, which expires in 2003.
15. At its final meeting for 2000, the WTO General Council approved a budget which includes a provision of SF1.5 million for technical assistance — somewhat less than US\$1 million.
16. UNCTAD, *Trade and Development Report, 1999*, p. vi.
17. See endnote 15 regarding the outcome of the General Council consideration.
18. The EU Council of Ministers approved the “Everything But Arms” proposal on 26 February 2001. As approved, duty-free, quota-free access for bananas will be phased in over a transition period to terminate at the latest on 1 January 2006, and for sugar and rice, over a transition period to terminate at the latest in July and September 2009, respectively.
19. In mid-December, the overwhelming majority of implementation issues remained unaddressed and/or unresolved. The General Council has agreed to continue work on outstanding issues with a view to completing the process no later than the fourth WTO Ministerial meeting, which is to be held on 9-13 November 2001.
20. In 1970, trade as a share of developing-country GDP was slightly less than 20%. In 1999, it was 38% — compared to less than 15% for the EU and 11% for the United States. See, for example, the address by Renato Ruggiero to the External Relations Committee of the European Parliament in February 1999 (the WTO’s *Focus* newsletter, No. 37, January-February 1999).



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## DEVELOPING COUNTRIES, THE WTO AND A NEW ROUND: A PERSPECTIVE

A significant number of developing countries are lagging behind other members of the international community in trade performance and face increasing marginalization if they remain unable to adapt to the rapidly evolving structure of the global economy. As the maker and arbiter of international trade rules, the World Trade Organization (WTO) can contribute to redressing this situation by promoting the beneficial integration of Third World nations into the multilateral trading system.

Recognizing the important role of the world trade body in this regard, this paper raises the need for change in several substantive and procedural aspects of the WTO regime which presently run counter to developing-country interests. Proposals for a new round of multilateral trade negotiations should also be viewed by developing countries with an abundance of caution, the author suggests, until meaningful progress in remedying these existing imbalances is achieved and suitably focused negotiating parameters are set which will safeguard the interests of the developing world.

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