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## **The Future of the WTO and the International Trading System**

**O**n 26 February 2002, the APEC Study Center and the Program in International Economic Policy, School for International and Public Affairs, sponsored a keynote address given by Dr. Supachai Panitchpakdi, the Spring 2002 Distinguished Speaker in International Economic Policy.

*Moderated and introduced by Professor Merit E. Janow, Director of the Program in International Economic Policy, Professors Jagdish Bhagwati and Joseph Stiglitz of Columbia University joined Dr. Supachai in extensive discussion following the address.*

*Excerpts of their presentations are presented below.*

## Merit E. Janow

Director,  
Program in International Economic Policy,  
School of International and Public Affairs;  
Co-Director, APEC Study Center,  
Columbia University



### MERIT E. JANOW

*Introductory Comments*

The WTO is operating in an environment of growing demands and cross-pressures: Developing countries are urging the WTO to more fully reflect their economic interests and concerns. Issues such as the environment, health, labor and investment remain contentious both within nations and between nations and much work is necessary to advance international treatment of these issues. There is also active discussion on the need for greater cooperation between international institutions like the World Bank and the WTO and expanded efforts are underway (or at least under discussion) on how to expand capacity building and technical assistance programs toward developing countries. Some believe that policy makers need to push global economic integration still further and that the WTO is the place where this can occur. Others believe that the world is still digesting the Uruguay Round and experimentation with broader and deeper formal integration or liberalization should occur more slowly or, perhaps, elsewhere. We are here today to examine these and other questions.

Dr. Supachai Panitchpakdi will take the helm as Director General of the WTO in September 2002. He does this at a time when interest in the WTO has

never been greater. Dr. Supachai comes to this difficult task after a long and successful career as a scholar, diplomat and politician. He served as Deputy Prime Minister and Minister of Commerce in Thailand. He also spent time in the financial sector and in academia.

Professors Joseph Stiglitz and Jagdish Bhagwati are with us to exchange views with Dr. Supachai and help us think together about the challenges facing the international trading system. Professor Stiglitz's unique contribution in the field of economics was recognized by the Nobel Prize last year and his contributions to public policy have also been enormous. His leadership has been bold as Chairman of the Council of Economic Advisors and Chief Economist of the World Bank at a time of economic crisis in Asia.

In the field of international trade, Professor Bhagwati's enormous contribution to economic scholarship and public policy cannot be overstated. He's the author of more than 200 articles and 40 volumes. There's no important aspect of this field that he has not addressed. His famous wit and wise counsel served the previous Director General of the WTO, Arthur Dunkel, whom he served as economic policy advisor. He is a special advisor to the UN on globalization and external advisor to the WTO at present.

## SUPACHAI PANITCHPAKDI

*Director General Designate,  
World Trade Organization*

I entered the race for the position of Director General of the World Trade Organization because I thought that after fifty odd years, the time had come for an institution with the global responsibilities of the GATT, to have a kind of global governance as well. We need global governance at the major international institutions, if we're going to manage the process of globalization so that each and everyone can benefit.

Today, we have 144 members, with 28 countries waiting in the wings to join the WTO. If we can facilitate accession procedures, membership could expand to cover more than 170 countries in a few years time. Imagine this global institution, with the vast responsibility of looking after the rules of the trade game, policing violations of those who try to avoid their past commitments, trying to think of ways to strengthen the rules in order to nurture trade expansion in a way that is as free and frictionless and as fair as possible for each and everyone concerned. We talk always about a level playing field. You will hear a lot of talk about the field not being very level at all. If this is the case, then it is the WTO that will have to see to it that we level the field as much as we can.

The WTO differs from other organizations and is culturally different from the GATT for two major reasons. One is that every agreement under the auspices of the WTO is legally binding. When governments sign onto any agreement with the WTO, they have to enact new laws back home. For example, to follow up on the Trade-Related Intellectual Property Rights Protection Agreement (TRIPs), there would be six or eight laws that would have to be put into practice on patents, trademarks, copyrights, geographical indications, trade secrets, etc.

The second major difference of the WTO is the Dispute Settlement Mechanism (DSM). Under the GATT, countries could have round after round

of difficulties, disputes, and conflicts. The GATT would try to mediate and solve these disputes, but countries were not legally required to comply. Under the DSM, the decisions of the final panel, the appellate body, must be put into practice. The WTO allows those who argue that they have been harmed to retaliate against those countries who violated the agreement. Quotas may be imposed against goods from violating countries, as well as higher tariffs or surcharges. Normally, these violate WTO rules, but if they are imposed to compensate for an injury agreed upon by the appellate body, they become legitimate.

The WTO is becoming a very significant organization with all kinds of old and new responsibilities. Of course, if you look at the body of the WTO, it's a very small office. We have about 540 staff members. If you compare that with 7,000 people at the World Bank, a few thousand at the IMF, this is a very small unit with, again, a very small budget of around \$100 million a year. That amounts to only part of the travel budget of the World Bank

My friend, Mike Moore, who is the present director general, has been going around with his hands open seeking donations for the WTO. Everyone wants technical assistance, capacity building, training courses.

Look at China's entry into the WTO. At least 20 subsidiary committees at the WTO will have to work on all of China's commitments in cultural services, industry, intellectual property, environment, market access, legal infrastructure, etc. This will involve hundreds of people. On the Chinese side it involves thousands of people because they have to explain what things have been executed according to their WTO commitment. China will also need to train thousands of people every year. They will do it on their own and with the collaboration of institutions around the world but, of course, the WTO will have to help.

Another new assignment is to look into the interplay between trade, finance and debt relief programs. We've seen in recent years that despite the fact

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that we have created a lot of room for more trade through hard negotiation, in a couple of months time all those gains would be wiped out because of the failure to meet financial commitments. Some countries have not been adopting rational macroeconomic policies and have become an easy victim of predators—the so-called hedge fund managers. Asia used to be a place where trade expansion was taken for granted, but during the financial meltdown, there was a contraction of around 30% to 35% per year for intra-Asian trade. A lot of traders were destroyed and a lot of trading nations in Asia injured severely, mainly because of the lack of attention paid to financial policies. The WTO has been tasked to look into the nexus of finance, trade and debt.

There have been quite a number of demands placed on the shoulders of the WTO. There may be a trend that the institution is evolving into a world economic organization, not just a world trade organization. This, I think, is not something we want. The WTO cannot aspire to have the competence to handle all kinds of economic issues.

Of course, some of the demands that have been placed on the WTO are not

always easy to reconcile with one another. Industrialized countries, for example, look at trade from different angles compared with developing countries. Tariffs in industrial sectors have already been reduced to a very low level, around 3% on average for industrialized countries. If you talk about market access in the industrial sector for industrialized countries, there's not much to do. You can go down to 2%, to 1%, to zero, but that is a small change. The developing countries, of course, have different sets of tariffs, mostly in the industrial sectors, ranging from 10% to 15%, even 20%. These are still quite substantial and should be reduced in due time.

The interests of the advanced countries lie not only in the areas of negotiations to improve market access for industrial goods, but also in new areas like services, banking, finance, telecommunications, transportation, express delivery, management consultancy, etc. These, of course, are things that can be delivered more efficiently by the industrialized countries. Advanced countries are also very mindful of consequences on the environment. The European Union has even looked into the trade consequences for their culture. Cultural diversity is something to be preserved, but it can also be used as a pretext to block trade in certain areas, motion pictures, for example, and in various services industries.

The demands coming from the less advanced economies, from poor countries, are more down to earth. The main thing they want is market access for their labor-intensive industrial products and agricultural products. They want the advanced countries to avoid using non-tariff barriers (NTBs). If you look at NTBs these days, they are applied to a larger degree on goods coming from the developing countries, rather than on those from the more advanced countries. Developing countries' goods are found mainly in the more sensitive areas of agriculture, and textiles and clothing. Most of the mature economies have outgrown the need to nurture their textile and

clothing industries, but this is still one of the most sensitive areas. So, even simple demands for more market access for these goods have not met the expectations of the developing countries.

Anti-dumping is supposed to be a trade remedy measure, meaning that you apply it only when you find that another country is hurting your economy by selling goods below the cost of production. Then, you retaliate and use anti-dumping. If you look into the hundreds of cases of anti-dumping that have been applied in the last few years, however, they extend from steel to steel pipe, to videotapes, to television sets, microwaves, etc. In the eyes of the developing countries this has become a guise for NTBs. The new rules on sanitary and phyto-sanitary measures (SPS) are also becoming very useful in blocking trade because, of course, you can find some residue of chemicals in nearly any fruit or vegetable, if you look carefully enough.

Without certain controls or international criteria so that we can have a simple standard for all of us, we'll see a proliferation of NTBs to which developing countries will be subject. Simple things are being demanded by developing countries: market access, treatment along the same lines as more advanced countries, and as little application as possible of the so-called non-tariff barriers.

Different entities, the so-called civil society and the Non-Governmental Organizations (NGOs) are also relevant. I used to chair the UNCTAD meeting in Bangkok a few years ago where we had a daily encounter with NGOs. Everyone could come and vent their anger and their complaints. Wherever you go, consumer unions are not satisfied, the environmental lobby is not satisfied, OXFAM is not satisfied, etc. I think we need to listen and discuss how we're going to structure the way the WTO will operate in the future so that we can take care of trade and at the same time take care of those who are part of our society.

The mantra of the WTO is to deal with member countries. This is a

member-driven organization. I agree the WTO is member-driven but, sometimes the members need to be advised what to do and what not to do by someone who is neutral. When I sit in the chair of the Director General, I will see things as they are around the world, more so than any particular country would see things. While the WTO should remain member-driven, I believe that members can be driven by the Secretariat, as well. We will be opening up, having dialogue with civil society, but it will have to be on an informal basis. Gradually, there would be more structured dialogue.

There are demands coming from different parts of the world, from different parts of society, but if you add to these demands the evolving environment surrounding the world trading system you see how difficult and how complex it is to operate this institution.

First, there is demand on the WTO to look into some of our competition. The WTO works on multilateral agreement, but these days you are seeing a proliferation of bilateral and regional agreements, the so-called Regional Trading Agreements (RTAs). Informally, there are about 250. Some are working, some are not. Roughly 150 have been notified officially to the WTO.

The WTO has for many years had a council on RTA's, supposedly to review them, as we have been reviewing individual countries' trade policies and steer them toward being building blocks, not stumbling blocks to multilateral agreements.

The council cannot operate very effectively, mainly, because most RTAs do not want their performance reviewed. If you look at some of the advanced regional groupings like the European union, ASEAN in Asia, NAFTA, MERCOSUR—they don't want their policies reviewed. They don't want others, least of all an international organization like the WTO, to tell them what to do. This proliferation of RTAs and bilateral agreements sometimes takes away interest in the multi-lateral assignments that are supposed to be in the hands of the WTO.

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Personally, I have no objection to regional groupings. If they want to advance the course of free trade by reducing impediments among themselves, why not—if they do not discriminate against the rest who do not participate in this grouping? We may need to devise a system to review the regional and bilateral trade agreements, so that they are consistent with the multi-lateral agreement, but this will be difficult as it may conflict with some of the multi-lateral trade goals of the RTA's.

The second pressure on the WTO comes from the non-member side. You know how long and arduous the Chinese session has been in the last fifteen years. They have gone through trials and tribulations. Premier Zhu Rongji went to the United States with the thought of having wrapped everything up in 1999, but was told to go home empty-handed. If he had known this would happen, I don't know whether he would have decided to come to the United States, because back home he was criticized harshly for his failure. The commitments he showed the United States in 1999 were quite wide-ranging—very, very serious commitments. The Chinese government has been determined to accede to the WTO, mainly, of course, for their own good, to drive their own domestic reforms forward. The pressure to rationalize the accession procedures is something that the WTO may have to work on in the future and I find it delightful that in this Doha meeting we have had some discussion on that. I hope that we translate this into action, because among the 28 aspiring countries, some big countries like Russia and Saudi Arabia are still waiting in the wings.

We need to get Russia and the rest into the WTO as soon as possible and we will be trying to find ways to expedite the process of accession. Of course, we cannot say that Russia can come in and not abide by the international trade rules, as every one of the 144 members have to do. Russia will have to abide by the same rules, although some rules that would involve large scale adjustment of the trade laws may have to be balanced

against how long it will take Russia before they can actually handle those rules. For China, a special concession has been given with respect to their 2,000 trade laws. The Ministry of Foreign Trade and Economic Cooperation in China has about 2,000 trade laws that they have to abrogate, to amend, to throw away and to merge and that will take years. Now, at least, they are out to work in the direction that we can monitor them. Russia will have to take that up with their bilateral trading partners and ultimately with the WTO itself for purposes of the multilateral commitment.

Demand is strong on the WTO to rationalize accession procedures for the poorest countries of the world. The least developed countries (LDCs), 49 all together, have a hold on something like 0.4% of the total volume of world trade. The 10 or 15 LDC's that have not yet joined the WTO would have a very small, almost meaningless trading volume. They should be allowed to join as soon as possible so they can make use of their membership of the WTO to advance their trade regime.

The third pressure on the WTO is the strain on our dispute settlement mechanism. The DSM has been functioning very well but in the last few years there have been close to 100 cases presented to the DSM, more than in the whole 50 years of the GATT system. Unlike when the GATT was around (GATT could not make its final judgments stick—it had no enforcing power) and no one wanted to refer their dispute to the GATT, the WTO's dispute settlement body does require member countries follow up on its verdicts.

So many cases are being sent to the DSM and this is creating problems, not only for the system itself (because you have to find experts in all areas), but because it's not only trade rules that are being disputed. For example, the interpretation of the Multilateral Environment Agreements (MEAs) is not always in harmony with WTO rules. So, when people resort to MEA rules (saying they are allowed to do so as signatories to the MEA), sometimes

they violate the trade rules under the GATT regime. We also have disputes in the area of TRIPS involving public health and the accessibility of drugs. These issues are coming to a head more so than in the past.

When disputes involve developed economies, it is not so bad because they can take care of themselves; they have officials who know their way out of legal entanglements, but when disputes involve developing countries it becomes a very costly affair. Developing countries do not have the kind of legal know how to take a case to the DSM and finish successfully. We need to take a good look at this and ask for more restraint from the advanced countries in taking these disputes to the WTO. Moreover, we should not refer all disputes to the DSM, particularly when developing countries are concerned.

Written into the DSM rules is a role for the Office of Director General. Normally, however, the Office of the Director General will try to stay away from some disputes. When you look into the beef hormone issue, the banana issue, these involve major economies and sometimes you risk a lot by being part of this dispute. I think in the future, the Director General may have to get himself more involved, mediating between countries before the dispute comes to a head in the panels, in order to avoid unnecessary delay, unnecessary injuries, unnecessary compensation and retaliation.

The fourth strain on the WTO is the decision-making process. The WTO with 144 member countries is quite manageable, but if you go to the general council having, let's say, 130-something members convening to decide on all sorts of things: new and old negotiation, procedural matters, membership, etc., imagine how cumbersome it is to have a decision-making process based on consensus. I'm not saying, "let's do away with the consensus process." I think we need to keep consensus a basis for our final decision-making, because it involves legally binding countries that will have to put into play all these agreements within their own legal

systems. We need consensus, but the way we build consensus will have to be different. We cannot always refer to the general council because out of 100-odd countries meeting you there will always be someone who says, "I don't like that. I object." Consensus is a majority agreement with no one having any serious objection to a particular resolution.

Of course, when I talk about having an executive body to look after the consensus building process, no one agrees, because it is seen to take away the rights of the countries themselves to negotiate. In time, however, we need to work with this kind of a system; maybe not an executive board but a representative board that will be able to represent constituencies of countries that can agree among themselves to appoint some representative in rotation. Then, we can have a group that is not too numerous, maybe 20–30 countries, like the current green room process. The green room process is under heavy criticism now, particularly from developing countries, mainly due to the fact that it is an unofficial, informal process. The Director General can invite some countries to attend and choose not to invite others. My suggestion is that we find a way to rationalize the process, not do away with the process of building a consensus, but make it more efficient.

I would end by saying that, of course, we will have a new round. We have all sorts of pressures and demands on the WTO. In the meantime, I would like to see a "New World Trade Order." We need free and fair trade, that is one element. The second element is a trading system that is related to the development process of countries, not isolated from it. A trade order should serve developmental goals.

Lastly, while trying to advance the trade frontier, we should be mindful of other consequences that result, knowingly or unknowingly, from trade. While we cannot use trade as a means to intervene all the time, we should, at a minimum, be well informed of the consequences of trade on society, on our forests, our water, etc.

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In this Doha Development Round there are a lot of references to capacity building, development assistance, technical assistance, to trying to modify TRIPS in a way that doesn't help only the drug firms, but also enhances accessibility to essential drugs. My conclusion, again, is that we need advanced countries to be mindful of these problems. After all, developing countries are more numerous. Of the 144 WTO member countries, more than 100 are developing countries. The core countries, among them, United States, Canada, and Japan, together comprise more than 70% of world trade. They carry the kind of weight that can be fully, finally decisive on almost any issue. They need to be more mindful of that in order to achieve a balanced world trade system. We need to do more for those who have not benefited enough from past trade rounds.

Of course, we should not be mindful only of issues coming from the third world. We have to be mindful, too, of opening up new frontiers. E-commerce should be in the new round, services should be there, too. Still, all this should be beneficial to developing countries, not only to the advanced countries. We need to close the gap as we go along, because if you go quickly into e-commerce activities the gap of the so-called digital world will be enlarging all the time. We need to do technical assistance, to tie in programs of the World Bank, of the UNDP, of UNCTAD with the WTO.

At Doha, they agreed that this is going to be a three-year straight round and you know, trade rounds rarely last three years; they last eight years, if not eighty. Trade rounds can only be useful when they do not go on forever. I suggest, to make this round as useful as possible, that we have a para-round going alongside the Doha development round. One round, a single undertaking, may be completed within three year's time and deal mainly with market access, but another round could go on to discuss the new rules that involve investment competition.

These are rules that are very new to a majority of the countries around the world. Many developing countries do not have competition laws. They have investment laws, but these are targeted for their own use, for their own economic management. They are not targeted to be harmonized on an international basis.

It might be useful to have one rule for all kinds of activities that serve trade. (on investment, on technology transfer, etc.), but the rules will have to be adjusted in a way that countries will know that they are not going to yield all their sovereign rights to these new rules. Remember how hard it was to negotiate the Multilateral Investment Agreement (MIA) process in the OECD a few years ago. It broke down after six or seven years of discussion. Now, similar treatment of MIAs is going to be introduced into the WTO caucus. Things will have to be simplified and rationalized, focused so that the poorer countries of the world can join. Key to all this is for the advanced countries to be mindful that technical assistance for members of the developing world should have highest priority. If we have a good set of technical assistance programs and projects, before we go to the conference next year, we would probably have a good round.



**JOSEPH E. STIGLITZ***Professor, Columbia University*

Let me express my support for the concept that Dr. Supachai has expressed for his new world trading order which emphasizes not only free trade but fair trade related to development and mindful of other issues such as environment. However, I want to express my pessimism about the ability to achieve success, not only over three years, but over longer periods of time. I want to explain why I have that pessimism, although I wish him the best of luck in his endeavor.

There is and has been a bipartisan agreement in the United States about the virtues of trade liberalization and the fact that trade liberalization is a centerpiece of American international policy. If you look at what is really meant by that, however, it is a cause of some concern. What they really are saying is that trade is good, but imports are bad. That is reflected, for instance, in the discussion of our Secretary of Treasury when he gives an eloquent talk about the value of competition, how the world needs more market capitalism, and then shortly thereafter, argues for the creation of a global cartel in steel and speaks with approval of the cartel he helped create when he was chairman of the board of ALCOA (a global cartel in aluminum).

We have come to an impasse unless there is a basic change in the attitudes of American and other developed countries. There is a level of intransigence that will not allow us to go forward. The intransigence corresponds to a high level of hypocrisy which I saw first-hand in the Clinton White House and which I continued to see in the subsequent Bush White House. I got a chance to see it first-hand at the World Bank, too, and I'll give you several examples.

Doha and the launching of a Development Round have been a success, in rhetoric. There is wide recognition throughout the world that the last round of trade negotiations, the Uruguay Round, and the previous rounds have been terribly unbalanced. Studies of the World Bank point out that after the last round of trade negotiations, the poorest region in the world, Sub-Saharan Africa, was actually worse off as a result of the terms of trade effect. It wasn't just that the United States and advanced industrial countries got a disproportionately large share of the gains, the poorest countries were worse off.

Unless the imbalances of the previous rounds are addressed it will be very hard to go forward. What I find striking was how hard the negotiations were to get certain issues on the table. It wasn't a question of getting a balanced agreement. It was that the United

**Joseph E. Stiglitz***Professor, Columbia University*

States and the other developed countries refused to have these questions even discussed. Now, after they said that they would discuss them, it appears in some of the interpretations presented by our U.S. trade representative before Congress, that there is a backing off of at least the common understanding of what the concessions were at Doha.

I want to discuss several issues. One of them is dumping and broader issues of competition policy. Any economist will tell you that there is a concern about unfair trade, but the principles that should guide what is fair or not should be the same principles going across countries that prevail inside countries. Inside countries we have competition laws; the area that dumping is related to is predation policy and the standards that we use in predation policy and antitrust are completely different from those used in dumping.

If you use those standards domestically, somewhere between 50% and 90% of American firms are engaged in predation. If you use those standards, every firm in the world is dumping and right now the United States has moved up just behind China as the number two country dumping. We don't think of ourselves as engaging in these bad practices, but in fact, one of our export industries is teaching other people how to use dumping laws against us.

It is not only the laws, but the way they are implemented that is problematic. I was involved a lot in fighting the design of the regulations and I can tell you, unambiguously, those regulations are designed to be unfair. I can give you a capsule example of how bad this can get. This was under old regulations but, still, it gives you a picture. One of the things you have to do when you have dumping is ask, "Are you selling the goods below cost?" The problem is: how do you get the data on "below cost"? There are procedures that are called "BIA," best information available. This is usually information supplied by the guy making the charge. One case went further. There was a case brought against Polish golf carts. We couldn't get data on what the cost of production

of golf carts was in Poland. The U.S. Department of Commerce administers this. It serves as prosecutor, judge and jury. It said, "Well, what's a comparable country to Poland?" This was prior to its moving to being a market economy. They said, "Let's look at countries with roughly the same standard of living." I hope I'm not going to offend any of you when I say they determined that Poland was comparable to Canada. Then they asked, "How much does it cost to produce golf carts in Canada?" The next problem was that Canada didn't produce golf carts, as it wasn't economical. So, they asked, "How much would it have cost to produce golf carts in Canada, had Canada produced golf carts?" That was the basis for judging whether Poland was engaged in dumping. That is supposedly our fair trade rule.

These are the things that we as zealots are supposed to be addressing in the next trade round and I think that unless we do, other countries are going to ask, "Why should we engage in these trade negotiations? As soon as you eliminate your trade barriers, you're going to use these non-tariff barriers to stop us!"

The agenda of trade liberalization has been directed at liberalizing goods which are in the comparative advantage of the advanced industrial countries, not in areas of comparative advantage to developing countries. You see this over and over. Take agriculture. One of the big stories in freeing trade is not only liberalization, but elimination of subsidies. Subsidies in agriculture in the United States and Europe are estimated to exceed the total income of Sub-Saharan Africa. How can poor developing countries compete in that kind of an environment?

The United States passed a law about seven years ago that was intended to phase out our subsidies. What happened instead was that as we were talking about fairness in Doha, we actually passed a law increasing our agricultural subsidies. Another aspect of the unfair trade agenda occurred when we said in the Uruguay Round that we wanted to go beyond goods and

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into services. What were the services talked about? Financial services, services that represent the comparative advantage of the United States. What services were kept off the agenda? Maritime services, construction services, and services involving unskilled labor, which represent the concerns of the developing world. .

A third issue is the environment. Everybody is worried about green tariffs, but there are limited ways of enforcing global agreements and addressing the problem of global environmental externalities. The notion of using trade sanctions to enforce global environmental goals has been long reflected. The Montreal convention had that embedded. The recent shrimp/turtle decision suggests that it may be possible to reconcile concerns about trade with environmental concerns. That suggests that countries have the right to take environmental concerns beyond their borders. There's a natural and an important example of a global environmental concern that is beyond the borders of any country: our atmosphere. It seems to me that an appropriate extension of the shrimp/turtle decision would be to the degradation of the atmosphere caused by greenhouse gases, even if the United States does not subscribe to the Kyoto convention.

A fourth issue I'd like to address has to do with intellectual property. One has to recognize intellectual property law is not natural law, it is man-made and it should represent a balance between users and producers. At the time the Uruguay Round TRIPS agreement was being negotiated, I was at the Council of Economic Advisors. We got involved in discussions over this issue with the Office of Science and Technology Policy. Both of us argued that the U.S. Trade Representative (USTR) was taking a position that was not in the best interests of the United States and the world. Our view was that the position of the USTR reflected only the producers—the pharmaceuticals, the movie industry—and did not represent a broader set of global interests. The concerns that

have been raised on access to drugs are the kinds of concerns that we worried about, but there were also issues concerning charges of bio-piracy and issues of that kind.

A fifth issue involves the structure and process, not only of decision-making, but also of dispute resolution. Who participates in economic decisions and is there transparency? As Dr. Supachai expressed, it is clear that the WTO does not want to become the world economic organization. On the other hand, it is very clear that trade affects other aspects of society. Yet it is only trade ministers who sit in Doha and in the trade negotiations. One of the real challenges is how other stakeholders can be more adequately represented, so that what comes out of these decisions is a more balanced trade agenda—one that reflects the kinds of concerns for a new world trade order that were so eloquently described.

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## JAGDISH N. BHAGWATI

University Professor, Columbia University



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*University Professor, Columbia University*

The GATT was kind of a loose organization (if you could even call it an organization), but there are two respects in which the WTO has become rather repressive. One is that it is a single undertaking. If you want to introduce any new issue like intellectual property protection, or labor standards, etc., then you have to sign or get out. You don't have the ability to go back to the Tokyo Round approach and say, "I sign on to it. I accept more obligations and receive more benefits." It's all or nothing. That will insure gradually that things get in without having to talk about the fairness game Joe was talking about.

The other thing, of course, is the dispute settlement mechanism. In the previous era it was not binding. It could be completely blocked by the party that lost. Now, it's the other way around. It's become like domestic legislation. You can't go in and argue with the Courts. You have to accept it.

When you get decisions coming down repeatedly like that one on hormone fed beef, where, in my view, the dispute settlement panel was implementing what member countries had agreed to, the effect was that you could authorize massive retaliation, over \$200

million worth from the United States. Think of GMOs—genetically modified products—that could be billions. Think of our tax case, which we've lost and correctly in my judgment that could involve billions. If you're dealing with nuclear winter kinds of retaliation, we have to get back to more sense.

We also raised the issue of getting money for the WTO. The kids in the street and on campus somehow believe that the WTO is a gigantically powerful organization. Actually, it's a very weak organization. Why does the WTO get less than \$100 million? It's not an accident. When did the World Bank, which is controlled by us, to a large extent, last have a developing country president, no matter what pro-poverty slogans he mouthed? There's been none at all. Rated voting does matter and, therefore, the monies don't go to the WTO—even for trade research. When I was advisor to Dunkel in 1991, we had an annual report coming up on regionalism and I wanted a little conference put together on different aspects of it. After about three months, Arthur Dunkel managed to get \$25,000 for it. I had to ask my friends to come on frequent flying and a lot of them did that, pro bono, because they were pro-GATT and partly because they're my friends.

Take the ABCDE conference, which is the Annual Bank Conference and

Development Economics as one example, (I often say that conference is stuck after several years at the first letters of the alphabet). That costs at least \$500,000. It goes to fancy places, lots of economists like it (I've never accepted an invitation), but it takes a weekend to write the kinds of papers they want. Money is crawling out of the Banks' ears and the IMF's ears and there is an undernourished, impoverished organization called the WTO. When we were asked to go to Doha, Mike Moore couldn't get money for us to go, even for economy class airfare. We asked the WTO to interact with NGO's and since the Singapore Declaration we've increased that, but I'm told there's no money to arrange for systematic contacts. We ask the WTO to do things without the big powers putting muscle behind it. I think they have some reason not to do so. Let's think about it, because young people, certainly over here, have understood the notion of hegemonic powers.

Joe gave us the cynical view of what we do from Washington. Let me look at it from a slightly different perspective and ask, "Why is it that some undeveloped countries are unhappy with the way the WTO is going?" Traditionally, GATT was about trade issues by and large, lowering trade barriers of one kind or another. Through successive rounds they managed to bring down trade barriers, not all of them—we still had a lot of developing country peaks on textiles and agriculture and part of the reason is political economy. In trade, you never give something for nothing. With aid, altruism sometimes disguised as enlightened self-interest works, but in trade, reciprocity is the name of the game. Congressmen and politicians find it very difficult to make concessions if the other guy doesn't make at least some in return. The mistake of the developing countries was to opt out. If you insist on a free meal you can't expect to eat at the Lord Mayor's banquet. What we've inherited is precisely a consequence of the fact that developing countries would not pay—but now they are.

Should they pay in terms of intellectual property protection? I'm not saying there should be zero intellectual property, I'm just talking about it being in the WTO system. Do we pay through labor standards? Do we pay through trade-related measures?

As Joe and Dr. Supachai pointed out, we do have the possibility of trade-offs. We do have high peaks and high tariffs. The tariffs and the subsidies we have in agriculture boggle the imagination. Those can be traded for still further opening—often in industrial products and in services of the developing countries. So, within the normal agenda of trade liberalization we have trade-offs where we can really swap things with one another. We don't need to put it to non-trade issues, so where are they coming from?

They're coming because of our lobbies. It's the American way. If something is doing well, we piggy back on it. Our lobbies—and I mean that in a non-pejorative sense—want to use the trade process, which they know is working. This means what from a developing country's point of view? The developing countries don't have lobbies. If they do have them, they're not very important. Compare the kinds of unions there with the AFL-CIO here. The AFL-CIO is very limited in funds compared to the corporate sector, but compared to the unions in India, it's enormous. Developing countries do not have the lobbying approach of the United States.

The developing countries see this and say, "the system is being captured increasingly by lobbies." First, you get intellectual property protection, then labor says, "You get it from capital" and they forget that it's being done for our capital, not for the developing country capital or corporations. Yet they argue, "we must do it for labor." The next day something else will come up—the state of sanitation or maybe the drug trade—any lobby can piggy back because you use the phrase "trade-related" and it goes up like a helium-filled balloon. My view is that, except when it is truly trade-related,

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meaning it is truly integrated (I think one can argue that for competition policy), then I think we need to worry.

The fine print that goes into these agreements, is unbelievable. Laurie Wallach is someone I occasionally debate and she comes, always, with a very big, fat book and says it's a 2,000 page NAFTA document. I've never opened it, but it is perfectly credible that it is a 2,000 page agreement with lots of fine print. What's going on? You go to the shrimp/turtle decision and what do you find? The shrimp/turtle decision reverses the decision ten years ago on dolphin/tuna! I'm not saying that the judges should not do this, but one of the arguments used was that the preamble in Marrakesh mentioned sustainable development. That's a phrase even God can't interpret. You can mean almost anything by it. I love it. When I want to win an argument I use it myself, but this is something which was cited from the preamble.

The preamble, I've always thought, was like the overture in an opera—you're allowed to whisper or read the libretto and be a bit of a nuisance to your neighbors. In serious business, you've got to watch what phrases you put in and now, I'm told by some of my legal friends in other parts of the world, in the Doha preamble, the language of the shrimp/turtle has been put in. Developing countries do not have that capability and never will. Where will you train so many lawyers to will deal with these kinds of issues in poor countries?

The final point I want to make is that I think we need to work with the NGO's. We need to bring them away from confrontation, into helping us. Agricultural protection is harming the poor countries so badly and it's not helping out poor farmers at all. We know that for a fact. There's a lot of evidence on that. In textiles, we have, of course, poor workers who are working, but we are hurting even more, poorer workers abroad through our textile protection. Why can't we get things like church groups, which can think of this world and the next, to think of this

world and the third world and say, "Let us appoint a Jubilee 2010, where we think about the effect of our protection on poor workers and poor countries in the third world, particularly in Africa"? I was talking to a Bishop two days ago in Stockholm and I said, "It is morally unpleasant to see you folks marching against trade liberalization in Seattle and elsewhere." I said, "You've been ill-informed" and I suggested meeting to him and he said, "You know, that sounds like a good idea." I think these are the directions in which we want to go. We haven't exploited the fact that these protectionist measures against the developing countries are actually morally offensive. It doesn't mean we have to eliminate them instantly—that kind of shock therapy doesn't work; we need adjustments. If we really work at it and use our altruism, we might succeed in finally making a further dent in trade liberalization.

## SUPACHAI PANITCHPAKDI

*Director General Designate,  
World Trade Organization*

Let me respond to the trade-off issue. One of the historical facts of the TRIPS equalization in the 1980's was that developing countries were led into believing that they were taking on a simple kind of agreement. That was the way TRIP was raised in the 1980's: as a multilateral code against counterfeiting codes. There was no proposal to include patent rights, copyrights, trademarks, etc. in the TRIPS, but later on, through negotiation, the whole thing got more and more extensive.

Developing countries were led, also, into believing that with their agreement to TRIPS they would be getting two things in return: the liberalization of agriculture and a phasing out of the quota system in the Multi-Fiber Agreement (now the Agreement on Textiles and Clothing). In agriculture, they didn't get much because at the end of the day there was a compromise between Europe and the United States. The developing countries were not involved at all. It was a Blair House

accord that settled the issue. The second issue, textiles and clothing, was backloaded. The first eight or nine years nothing happened; only in 2004 and 2005 would there be some liberalization of textile quotas that would be in the interest of developing countries.

Joseph and Jagdish raise a very pertinent issue as to the trade-off which has always been promised in the past between new things and old things—it has always been a bit misleading. We should take care at this time because developing countries remember this. That’s why it will be harder to take on the so-called “new issues.” More will have to be done to convince developing countries that they should go into this new negotiation with acceptance of inclusion of the new issues on investment and competition.

My task will be quite challenging: how to bring in every party so that they will enter into all the new issues and put them into a new agreement. Before we advance to the new issues we have to make sure that the developing countries understand the consequences they are taking on, unlike with the TRIPS agreement in the 1980s, where nobody ever explained to them that it would be costly. It’s costly in terms of putting up new laws, new courts; governments may have to go through some instability, etc.

I have been told, “All politics is local.” I understand that. I used to be a politician myself. I understand that when you go to the international meetings you say things and then back at home you need to compromise in a way that you get something done, so that ultimately at the international meeting you can also get something done. I understand what the USTR will have to go through. I see this happening in various countries around the world. We go to international meetings, we pay a lot of lip service to trade liberalization. Back home we say, “Don’t believe what is happening at the international conferences. Don’t worry, we won’t give away anything until we get this and that.” This makes things difficult.



Merit E. Janow  
Supachai Panitchpakdi

Left to right

EDITED BY

Patricia Fantulin

ASSOCIATE EDITOR

Joshua Safier

PHOTOGRAPHY

Joseph Pineiro

DESIGN/PRODUCTION

Melanie Conty

APEC STUDY CENTER

Columbia University

321 Uris Hall,

Mail Code 5968

3022 Broadway

New York, NY 10027

Phone: (212) 854-3976

Fax: (212) 678-6958

Email: [htp1@columbia.edu](mailto:htp1@columbia.edu)

[www.columbia.edu/cu/business/apec](http://www.columbia.edu/cu/business/apec)