

A Development Round of Trade Negotiations?

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The development focus of the Doha Round emerged from a renewed spirit of responsibility for the challenges faced by poor countries and the perceived inequities generated by previous rounds of trade negotiations. This study presents an alternative way forward for the Doha Round based on principles of social justice and economic analysis. It looks at the trade negotiation agenda from the perspective of first principles, presenting pro-development priorities that should form the core of the Doha Round agreements if there is to be widespread support for the continuing agenda for trade reform and liberalization

In the aftermath of the failure of Cancun, there is a need to reassess the direction of global trade negotiations. In Doha the nations of the world agreed to a new round of trade negotiations that would redress some of the imbalances of the past. It was widely felt that previous trade rounds had benefited the advanced industrial countries at the expense of developing countries. There was some basis for developing countries' complaints, in terms of both the manner in which trade negotiations had been conducted in the past¹ and the outcomes.² Many of the participants at the Cancun meeting felt that Europe and the United States had reneged on the promises made at Doha, emblemized by the lack of progress in agriculture. In addition to concern about the lack of progress in dealing with the grievances of the past, there was concern that new demands were about to be imposed on the developing countries. And though some progress had been made in addressing concerns about the manner in which the negotiations were conducted, the failure to address these concerns fully generated concerns that the developing countries would somehow be strong-armed in the end into an agreement that was disadvantageous to them.³

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¹ Of particular concern was the lack of transparency (including "green room" negotiations, in which only a few chosen countries from the developing world engaged in negotiations with the United States and Europe) and the disadvantageous position these negotiations put developing countries in simply because of the complexity of the negotiations and these countries' limited staffs. See the open letter, dated November 6, 1999, sent by 11 developing countries to the chair of the World Trade Organization (WTO), Ambassador Ali Mchumo of Tanzania, expressing their concern over the lack of transparency in the WTO "green room" process.

² The United Nations Development Programme (UNDP) estimates that under the WTO regime, between 1995 and 2004 the 48 least developed countries will be worse off by \$600 million a year, with Sub-Saharan Africa worse off by \$1.2 billion (UNDP 1997).

³ Most notable in this regard were the requests by a number of developing countries that the Cancun draft be prepared on the basis of views and inputs at open-ended consultations and that where there

There were mutual recriminations about who was to blame for the failure at Cancun and even disagreement about who would suffer most. The United States and Europe were quick to assert that it was the developing countries who were the ultimate losers (Zoellick 2003). But many developing countries took the view that no agreement was better than a bad agreement and that the Doha round was rushing headlong (if any trade agreement can be described as “rushing”) into one that, rather than redressing the imbalances of the past, would actually leave them worse off. The United States threatened to effectively abandon the multilateral approach, adopting a bilateral approach instead. It differentiated between the “can do” countries and others and suggested that the “can do” countries would benefit from a series of bilateral agreements.

This article takes a step back from these disputes. It asks, what *should* a development round of trade negotiations look like? What would an agreement based on principles of economic analysis and social justice, not economic power and special interests, look like? The analysis concludes that the agenda would look markedly different from that which has been at the center of discussions for the past two years and that the fears of the developing countries that the Doha round of trade negotiations would disadvantage them (were the developed countries’ demands acceded to) were justified.

The next section addresses the need for a development round. It examines some elements of the experience of developing countries in previous trade negotiations and briefly reviews some of the potential gains from further liberalization. The third section briefly reviews the Doha round so far and the extent to which it has lived up to developing countries’ expectations.

The remainder of the article is what is sometimes called “blue sky” analysis: it approaches the issues from a fresh start, relatively unencumbered by concerns of politics and what has happened in the recent past. The fourth section outlines the principles of a development round of trade negotiations. The fifth section examines the priorities of such negotiations in the context of today’s international setting. The last section looks briefly at some institutional reforms that might facilitate a more transparent and democratic negotiating process, one that might more likely result in agreements that were both fair and in the general interests of the world.

The Need for a Development Round

At Doha, in November 2001, the advanced industrial countries responded to the events at Seattle and the broader public mood for a new approach to international issues. The new round of negotiations was dubbed the “development round.” There was recognition in some quarters that the previous round had benefited the advanced industrial countries much more than the developing countries. The new round was seen as an opportunity to redress the imbalance.

Redressing Past Imbalances

was no consensus the differing positions or views be clearly indicated. A coalition of industrial countries rejected the proposal.

In June 1993 the Uruguay Round was finally brought to a close. Part of the impetus for members to conclude the round was the promise of the large welfare gains that many researchers had projected. In 1992–93 the World Bank, the Organisation for Economic Co-operation and Development (OECD), and various other institutions projected global welfare gains on the order of \$200 billion a year.⁴ The gain to developing countries was estimated at up to \$90 billion, or roughly one-third of the total gains (OECD 1993).

These estimates—particularly the estimates for developing countries—were overly optimistic.⁵ One reason why the projections did not materialize was that the modeled scenarios were not fully reflected in actual events. Several reforms that were significant sources of predicted gains did not proceed as hoped early in the negotiations, the Agreement on Textiles and Clothing was structured to significantly backload liberalization, the ability of tariff-rate quotas to liberalize agricultural market access was overestimated, and the costs of implementation were almost completely ignored.

The Uruguay Round agenda reflected, in large part, the priorities of the industrial countries. Market access gains, for example, were concentrated in areas of real interest to developed countries; only marginal progress was made on the priorities of developing countries, particularly in agriculture and textiles. The result of this regressive asymmetry is that after the implementation of Uruguay Round commitments, the average OECD tariff on imports from developing countries is four times higher than the tariff on goods originating in the OECD (Laird 2002). Domestic protection (particularly agricultural subsidies) is also much higher in developed countries, amounting to more than \$300 billion in 2002. The impact of this protection is particularly regressive, since producers in the poorest developing countries are most affected by OECD policies. Only 4 percent of the exports of developed countries are subsidized by other World Trade Organization (WTO) members, but 6.4 percent of the exports of middle-income countries are subsidized. By contrast, a much larger share (29.4 percent) of the exports of the poorest countries (not including China and India) are subsidized by other WTO members.⁶

As well as receiving a small share of the gains from the Uruguay Round, developing countries accepted a remarkable range of obligations and responsibilities. New trade rules and domestic discipline were introduced, but they reflected the priorities and needs of developed countries more than developing countries (subsidies, for example, were permitted for agriculture but not industrial products). Many of the rules constrained developing countries' policy options, in some cases prohibiting the use of

⁴ Indeed, after Marrakech the General Agreement on Tariffs and Trade (GATT) Secretariat put forward a larger estimate of the minimum gain of \$500 billion a year. For a discussion of the projections, see Safadi and Laird (1996). For a survey of the various estimates, see Rodrik (1994). See Martin and Winters (1996) and Srinivasan (1998) for comprehensive surveys and assessment of the effects of the Uruguay Round on developing countries.

⁵ UNDP found that 70 percent of the gains of the Uruguay Round would go to industrial countries, with most of the rest going to a relatively few large export-oriented developing countries. It also found that the round would leave many of the poorest countries in the world worse off (UNDP 1997).

⁶ If developing countries' exports are more concentrated in agricultural products that attract subsidies, these figures may underestimate the effects of subsidies.

instruments that had been used by developed countries at comparable stages of their development. Many of the new obligations imposed significant burdens on developing countries. In return, the least developed countries were promised financial assistance with implementation costs and extensions of preferential market access schemes. But these commitments were nonbinding, leaving developing countries at the mercy of the goodwill of developed countries. As Finger and Schuler (2000, p. 514) aptly note, “The developing countries took bound commitments to implement in exchange for unbound commitments of assistance.” Insufficient attention has been paid to the enormous demands implementing the Uruguay Round placed on developing countries, particularly with regard to intellectual property, customs valuation, technical barriers to trade, and agricultural food safety. Many developing countries have been unable to meet their Uruguay Round obligations because of these high costs.⁷

Unfinished Business

The 1994 Agreement on Agriculture defined a framework in which agricultural protection could be negotiated in the WTO, but it did not deliver significant benefits to developing countries. Martin and Winters (1995) note that though the Agreement on Agriculture achieved a great deal in terms of defining rules for agricultural trade, it achieved little in terms of immediate market opening. Indeed, the level of OECD farm protection was not significantly reduced. In 1986–88 transfers were equivalent to 51 percent of all OECD farm production; 14 years later, after the implementation of Uruguay Round commitments, they accounted for 48 percent of all farm production (roughly \$320 billion) (OECD 2003). Trade-distorting measures of industrial nations displace the agricultural exports of developing countries. By suppressing world prices, these policies have a direct effect on farm incomes.⁸ Moreover, there may be dynamic effects when investment is suppressed in countries whose trade is affected by OECD support.⁹

In nonagricultural goods there is also scope for further liberalization. The significant liberalization of manufacturing tariffs in developed countries over the past two decades might suggest that there is little to gain from further negotiations on industrial products. However, if this is true to some extent for developed countries, it

⁷ By January 2000 up to 90 of the WTO’s 109 developing country members were in violation of sanitary and phytosanitary standards, customs valuation, and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Estimates of the cost of complying with the Uruguay agreements vary widely, depending on the quality of each country’s existing systems and the strength of its institutions. Hungary spent more than \$40 million upgrading sanitary conditions in its slaughterhouses. Mexico spent more than \$30 million upgrading its intellectual property laws. Finger (2000) suggests that for many of the least developed countries in the WTO, compliance with these agreements is a less attractive investment than expenditure on basic development goals, such as education.

⁸ Estimates of the downward impact on world prices caused by OECD domestic support are 3.5–5.0 percent for many agricultural commodities, including wheat and other coarse grains and oilseeds (Dimaranan, Hertel, and Keeney 2003).

⁹ Diao, Diaz-Bonilla, and Robinson (2003) report that protectionism and subsidies by industrial nations cost developing countries about \$24 billion a year in lost agricultural and agro-industrial income. Latin America and the Caribbean lose about \$8.3 billion a year from agriculture, Asia loses some \$6.6 billion, and Sub-Saharan Africa loses close to \$2 billion. These estimates do not include dynamic effects.

is certainly not the case for developing countries. While average tariff rates in developed countries are low, these countries maintain high import barriers on many of the goods exported most intensively by developing countries. When weighted by import volumes, developing countries face average manufacturing tariffs of 3.4 percent on their exports to developed countries—more than four times the 0.8 percent average tariff they impose on goods imported from developed countries (Hertel and Martin 2000). Moreover, aggregate data hide tariff peaks. In the United States post-Uruguay Round tariff rates on more than half of textile and clothing imports are 15–35 percent; in Japan 22 percent of textile imports face tariffs of 10–15 percent (UNCTAD 1996). Tariffs on fully processed food are 65 percent in Japan, 42 percent in Canada, and 24 percent in the European Union. By contrast, tariffs on the least processed products are just 3 percent in Canada, 15 percent in the European Union, and 35 percent in Japan (World Bank 2002). Such tariff peaks are manifestly unfair and have a particularly pernicious effect on development by restricting industrial diversification in the poorest countries.

After the Uruguay Round there was a widely held view that the TRIPS agreement needed to be reviewed, particularly in its application to public health.¹⁰ Many developing countries felt that the agreement as it stood primarily reflected intellectual property rights protection suitable for developed countries, largely disregarding important factors in developing countries.

New Areas of Importance

Services represent an increasingly large share of GDP in both developed and developing countries.¹¹ Liberalizing services could yield much larger welfare gains than liberalizing agricultural or manufactured goods, because protection levels are high in the service sector and services make up a large (and growing) share of world trade.¹² Services are also key inputs into the production of almost all goods.¹³

The Uruguay Round focused on the liberalization of service industries of primary interest to firms in OECD countries, such as financial services. Much less attention was given to low-skilled, labor-intensive services, in which developing countries have a comparative advantage.¹⁴ Developing countries have increased their exports of services by more than 400 percent since 1990, despite the large trade barriers facing many of their most promising industries, such as construction, shipping services, and health services (OECD 2002). In these industries developing countries have a legitimate and substantial interest in the outcome of a new round of liberalization.

¹⁰ Article 71.1 provides for a review of the implementation of the agreement after 2000 and for possible reviews “in the light of any relevant new developments which might warrant modification or amendment.”

¹¹ Developing countries increased their exports of services nearly fourfold between the mid-1980s and mid-1990s (faster than goods exports), increasing their share of the global marketplace from 14 percent in 1985–1989 to 18 percent in 1995–98 (World Bank 2002).

¹² Derived estimates of barriers to services trade are large (Brown, Deardorff, and Stern 2001), but they may overstate the size of the policy variable if many of these barriers are exogenous.

¹³ Some estimates of the global gains from service liberalization are as high as \$400 billion (Brown, Deardorff, and Stern 2001).

¹⁴ More than one-quarter of the world’s top 40 service exporters in 2002 were developing countries.

These labor-intensive services are not the ones that have been given priority in the Doha Round so far.

More work needs to be done to establish the rules and definitions governing intellectual property rights. International rules in this area have potentially huge public health effects and global distributional consequences. They are also a crucial element of innovation policy and efforts to close the North-South “knowledge gap.” Additionally, the WTO has responsibility for protecting indigenous knowledge. While there have been a few dramatic biopiracy cases, the full impact of expanded patentability remains uncertain. Patent laws need to be changed so that the onus of proof is reversed and companies are required to show that the patent they are seeking is not based on traditional wisdom.¹⁵

Doha’s Development Record So Far

Despite the expressions of goodwill at Doha, progress on the development round has been slow and marred by disagreement over whether the evolving agenda reflects the real concerns and interests of developing countries.¹⁶ Throughout 2002 and 2003 it became apparent that many developing countries felt that the Doha Round was moving in the wrong direction on many key issues. They felt that the new round offered them few immediate benefits but carried the risk of additional obligations. As a consequence, developing countries walked away from the Cancun Ministerial in September 2003.

Up to that point Doha had achieved little progress on many critical development issues. One of the key disappointments has been agricultural reform, which many developing countries¹⁷ and nongovernmental organizations¹⁸ view as the primary objective of the round. The March 2003 deadline for agreement on agricultural modalities was missed. When the United States and the European Community (EC) finally presented a joint paper on agriculture modalities in August, many developing countries criticized its framework and substance for ignoring their interests.¹⁹ On the key issues of market access, domestic support, and export subsidies, the text was perceived to fall short of the Doha mandate.²⁰

¹⁵ In May 1995 the U.S. Patent Office Trademark Office granted a patent to the University of Mississippi Medical Center for “use of turmeric in wound healing.” It revoked the patent after dozens of references to the procedure were found in Indian texts.

¹⁶Part of the problem is identifying the interest of developing countries. Developing countries are heterogeneous, have different trade policy interests, and thus do not have a unified position on many issues.

¹⁷Section 7 of the June 6, 2003, communication from Argentina, Bolivia, Botswana, Brazil, Chile, China, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador, Gabon, Guatemala, Honduras, India, Malaysia, Mexico, Morocco, Nicaragua, Pakistan, Paraguay, Peru, Thailand, Uruguay, Venezuela, and Zimbabwe (WTO 2003) makes it clear that “reform of agricultural trade is of central importance for many developing countries” and is “*an essential ingredient of the negotiation and its outcome*” (emphasis in original).

¹⁸Oxfam (2003, p. 1) argues that “agriculture is the key to unlocking the Doha development agenda, and without constructive steps on this issue, the broader negotiations cannot really restart.”

¹⁹ See the statements by the Indian ambassador, K.M. Chandrasekhar; Brazil’s ambassador, Luis Felipe de Seixas Correa; and China’s ambassador, Sun Zhenyu (TWN 2003).

²⁰On domestic support, no specific figures were given for reducing most trade-distorting support. The text potentially widened the scope for the use of “blue box” support—a step backward in terms of liberalization. It did not focus on trade-distorting elements of “green box” measures. See the critical

At the same time, agricultural initiatives within OECD countries seemed to be undermining multilateral efforts. The 2002 U.S. Farm Bill increased the level of support to U.S. farmers and strengthened the link between subsidies and production decisions.²¹

The European Community's 2003 Luxembourg reform of the common agricultural policy was also disappointing. The reform shifts support from the "blue box" (production limiting) to the "green box" (deemed to be less trade distorting). However, the level of producer support remains virtually constant, projected to fall from 57 percent to 56 percent (OECD 2004). Moreover, the reform has little impact on export subsidies or import barriers.

Both of these initiatives fell far short of expectations and signaled the limited commitment of the United States and the European Community to agricultural reform. Both plans had a depressing effect on the mood of multilateral agricultural negotiations.

After the Uruguay Round there was a clear understanding that agriculture would be further liberalized. There is now a strong sense that the United States has reneged on that commitment. Whether or not the huge increase in agricultural subsidies is an explicit violation of earlier agreements, it violates the spirit of the agreement (or at least what developing countries perceived as the spirit of the agreement). A development round agreement has to be viewed in the context of the unbalanced agreements that preceded it.

In addition to their disappointment over agriculture, developing countries are skeptical about the effects of the new items on the agenda. Many developing countries oppose inclusion of the so-called Singapore issues.²² In June 2003, 77 developing countries, including more than half of the members of the WTO, made public statements urging that the Singapore issues not be included in the Doha Round (CAFOD 2003). Since these issues are not priorities for developing countries, their emerging centrality in the agenda is an incongruous feature of the "development" round.

Several developing countries see the Singapore issues as incursions into their national sovereignty that are not justified by the benefits they bring. Multilateral regulatory

response by Kenya's ambassador, Amina Chawahir Mohamed, who said that the EC-US text falls short of our expectations and as such we find it difficult to accept it as a basis of our further work (TWN 2003).

²¹The 2002 U.S. Farm Security and Rural Investment Act (FSRIA) will cost about \$190 billion over 10 years, about \$83 billion more than previous programs. It sets target prices that are lower than the pre-1996 levels, but total effective support is larger, because average world commodity prices have declined and the range of commodities included in FSRIA is larger than in the 1996 Federal Agriculture Improvement and Reform Act (FAIR). FSRIA provides countercyclical payments to U.S. farmers. This type of measure has allowed the United States to dump its farm surplus on world markets, exporting corn at 20 percent below the production cost and wheat at 46 percent below cost (see Cassel 2002).

²² The 1996 Singapore Ministerial Declaration mandated the establishment of working groups to analyze issues related to investment, competition policy, and transparency in government procurement.

discipline raises the specter of repeating the worst elements of Uruguay by restricting the options for individual governments to pursue development policies based on their own national priorities and problems.

In addition, there are concerns that the initiatives based on the Singapore issues may impose a large burden on the administrative capacity of developing countries. Significant costs are associated with both creating and enforcing new regimes in competition policy, investment regulations, and trade and customs procedures.²³ Many developing countries have been unable to meet their Uruguay Round obligations because of these high costs.

Another area in which achievements have lagged behind rhetoric is in the delivery of nonreciprocal trade preferences. Recent initiatives in OECD countries, most notably the European Union's Everything But Arms initiative and the United States' African Growth and Opportunity Act (AGOA), favor least developed countries. The European Union has argued that Everything But Arms will "significantly enhance export opportunities and hence potential income and growth" for these countries (EC 2002). But analysis of preferential schemes on exports by least developed countries shows only limited impact. Brenton (2003) concludes that trade in goods given preference for the first time under Everything But Arms in 2001 amounted to just 0.02 percent of exports by least developed countries to the European Union in 2001.²⁴

Least developed countries are often not able to realize much of the benefits promised by market access preferences—as the low degree of utilization of preference schemes suggests. Up to half of exports by non-ACP (African, Caribbean, Pacific) countries to the European Community did not receive preferential access and paid the most favored nation tariff (Brenton 2003). Overall, with the exception of African apparel exports to the United States under AGOA, the impact of these schemes has not yet been significant (World Bank 2003).

In summary, the agenda for the "development round" has evolved in a disappointing manner for developing countries. It has done little to address their concerns in agriculture and little to address problems posed by nontariff barriers. It has not

²³Finger (2000) estimates the cost of implementing three of the Uruguay Round's six agreements that required regulatory change—customs reform, intellectual property rights, and sanitary and phytosanitary measures. His analysis suggests that the average cost of restructuring domestic regulations in the 12 developing countries considered could be as much as \$150 million. In eight of these countries, this figure is larger than the entire annual development budget.

²⁴ Part of the reason why Everything But Arms has had such a limited effect is that almost all EC imports from least developed countries (more than 99 percent in 2001) were already eligible for preferences under other schemes (Brenton 2003). The Everything But Arms initiative granted least developed countries duty-free access to imports of all products except arms and munitions. Total exports from these countries to the European Union increased by 9.6 percent in 2001. In practice, however, Everything But Arms affected only 919 products (of the European Union's 10,200 tariff lines) that had not previously been granted duty-free status under either the Generalized System of Preferences or the Cononou Agreement. Of these 919 products, least developed countries exported just 80 products to the European Community in 2001. Brenton (2003) notes that total exports of these products actually fell, from €3.5 million in 2000 to €2.9 million in 2001. Thus it appears that the short-term direct impact of Everything But Arms has not been significant; given the low volume of trade in affected products, the effect is not likely to be large in the medium term.

prioritized a developing country service sector agenda, and it has done nothing to reform basic procedures.

In addition, the proposed agenda's new issues may have made life worse for developing countries. The United States wanted capital market liberalization as part of the investment agreement, even though the weight of evidence showed that capital market liberalization did not promote growth but did increase instability. Rather than creating a true competitive environment—hindering use of dumping duties as protectionist devices—there was fear that the new items on the agenda might restrict the opportunity of nations to pursue their own development policies.

In the South there is a tendency to see actions by the North as coordinated, driven by their own economic interests. While developing countries may see more coordination than actually exists, the impacts are often close to what they would have been had actions been coordinated. The high interest rates, tax policies, and trade liberalization policies demanded by the International Monetary Fund (IMF) exacerbate the effects on developing countries of whatever trade liberalization measures they agree to within the WTO. The two sets of policies cannot be viewed in isolation.

Principles for a Development Round

What would a development agenda look like? It seems self-evident that any agreement should be assessed in terms of its impact on development (that is, items with a negative effect on development should not be on the agenda); fair; fairly arrived at; and limited in scope. While these principles may be widely agreed to, there may be important differences about both the meaning of terms and how to respond to conflicts among the principles.

Impact Assessment

Any agreement should be carefully designed to promote, not hinder, development. There is surprisingly little economic analysis of the precise consequences of various potential trade agreements on participant countries. Where analytical studies have been conducted, they have not penetrated into the core of negotiations and do not seem to play a central role in setting the agenda. The absence of this type of analysis begs the question of what is driving the prioritization of trade issues on the WTO agenda, other than a mélange of prevailing orthodoxies and the momentum of special interest groups.

The WTO Secretariat should be responsible for producing a general equilibrium incidence analysis, analogous to that conducted when taxes are imposed, that attempts to assess different proposals affect different countries. Publicly available analysis would benefit developing countries and consumer groups, many of which are at an information disadvantage relative to developed countries and producer lobbies.

The interpretation of general equilibrium analysis must recognize that models are sensitive to their assumptions. Much of the analysis of the impacts relies on a particular model of the economy—the neoclassical model—which assumes full employment of resources, perfect competition, perfect information, and well-functioning markets. These assumptions are of questionable validity for any country, and they are particularly problematic for developing countries. Under full

employment, general equilibrium models often predict significant welfare gains from trade liberalization, because it enables resources to be redirected from low-productivity, protected sectors to more productive sectors as the economy specializes in its areas of comparative advantage. However, if there is unemployment, trade liberalization may simply move workers from low-productivity, protected sectors into unemployment. This reduces the country's national income and increases poverty.

A complete incidence analysis must also include adjustment costs. Most of the tools used to analyze the general equilibrium effects of trade liberalization are static models. They describe the movement from one "steady state" to another but do not incorporate the costs associated with transition or the consequences for economies that are initially out of steady state. Even if trade liberalization has no impact on the equilibrium level of unemployment, it may take the economy considerable time to adjust, and the costs of adjustments—lost income and increased poverty—may be considerable. The fact that implementation and adjustment costs are likely to be greater in developing countries, unemployment rates higher, safety nets weaker, and risk markets poor are all facts that have to be taken into account in conducting a relative incidence analysis.

It is important that any incidence analysis take into account other pre-existing distortions. For instance, tax policies (often advocated by international institutions) that effectively tax the informal sector less than the formal sector distort production in favor of the informal sector. In this context, trade regimes that reduce the international price of agricultural goods, typically produced by the informal sector, have a larger adverse effect than they would if tax policy were more neutral.

A Fair Outcome

Previous rounds of multilateral trade negotiations did not contain a principle of fairness. Arguably one was not necessary, because agreements were produced by a process of negotiation by self-interested governments. Beginning in the Uruguay Round, the consensual voting system combined with the "Single Undertaking" provided a constraint that ensured that any agreement would make every nation better off. But this was true only if all countries had perfect information and if powerful countries did not try to affect the bargain with conditionality on outside issues.

A process of self-interest is patently unable to deliver the kind of progressive outcome envisaged by the launch of a development round. Instead, any agreement should be subject to a commonly agreed on "fairness constraint." In a development round it should be essential that any agreement be progressive, that is, that a larger share of the benefits accrue to the poorer countries. Thus any agreement that differentially hurts developing countries more or benefits the developed countries more, measured by the net gains as a percentage of GDP, should be presumptively viewed as unfair.

There are several difficulties in interpreting this requirement. One is that many of the costs of, say, agricultural subsidies, are borne by the developed countries. Not only are there huge budgetary costs associated with the subsidies, but the subsidies distort production and thus create a deadweight loss. Were developed countries to eliminate

their subsidies, they (as a whole) would be among the main beneficiaries. Thus a refinement of the above criterion would look at the benefits net of domestic efficiency effects. In competitive markets it would be reflected in the general equilibrium terms of trade effects enjoyed by producers or paid by consumers; in noncompetitive markets (or markets with quota restrictions) it would be the value of access granted.

The other side of “fairness” is the initial condition. Currently, tariffs are higher in developing countries than in developed countries.²⁵ The United States might claim that it is only fair that developing countries cut their tariffs proportionately. But this would entail greater tariff reduction by—and therefore higher costs to—developing countries. Balancing these concerns are those dealing with historical inequities. A country’s relative weakness may be partly due to a colonial heritage, or more pertinently, to earlier unfair trade agreements (such as the agreement resulting from the Opium War in the nineteenth century in China). To what extent does fairness and equity demand that current agreements reflect these past injustices? Trade negotiators from the North would like to pretend that such inequities never occurred. Those from the South might argue that one cannot separate events today from the historical context.

The nature of trade agreements is, of course, that not every provision in the agreement is “fair.” Some are intended to give more to one party, others give more to another party. It is the package as a whole that should be viewed as fair. But each trade agreement is forward-looking and backward-looking; there are implicit and explicit understandings about the effects of past agreements and the direction of future agreements.

Tax policies that distort production toward the informal sector increase the adverse effect on developing countries of subsidization of agriculture in the North. In talking about the inequities of the trade regime, should we assess its fairness coming on top of distortions imposed or encouraged by the North, or should we look at what the incidence would have been had a more neutral tax system been imposed? Should we view the two actions together, assessing the incidence of the two policies in conjunction, or should we assess only the fairness of the trading regime itself?

With such disparate views of fairness, it is no wonder that the South may feel that a trade agreement proposal is grossly unfair while the North feels no pangs of conscience. Some might conclude from this that we should simply drop the criterion of equity among the desiderata of a development round agreement. That would be a mistake. In a democracy any trade agreement must be freely entered into, and the citizens of the country must be persuaded that the agreement is essentially fair. Moreover, there are several widely accepted philosophical frameworks—in particular that of Rawls—which provide some guidance for thinking about whether any agreement is fair.²⁶

²⁵ For manufactured goods average tariff rates are 1.5 percent for developed countries and 11.5 percent for developing countries. For agriculture average tariff rates are 15.6 percent for developed countries and 20.1 for developing countries (Hertel and others 2000).

²⁶ Adopting Rawls’ (1971) framework, we should assess whether a particular change in the trade regime would be agreed to from behind a “veil of ignorance,” in which the participants in the

Alternatively, we could think of a different framework involving an egalitarian social welfare function. A minimal condition of a fair agreement is that it improve welfare under such a function and that the distribution of welfare after a reform not be stochastically dominated by the distribution before reform (Dasgupta, Sen, and Starret 1973; Rothschild and Stiglitz 1973).

Procedural Fairness

Procedural fairness becomes an important complement to the kind of fairness discussed in the preceding section when there is some ambiguity about what is meant by “outcome fairness.” Procedural fairness focuses on the openness and transparency of the negotiation process and the manner in which the discussions are conducted. A large literature establishes that setting the agenda may have a large effect on the outcome. Having voice in the setting of the agenda is thus essential. A fair agreement is unlikely to result from an unfair process. Since the bargaining process affects the outcome of the bargain, the WTO needs to ensure that the process includes clear rules that ensure the participation of the weakest players. The agenda in previous trade negotiations has been unbalanced. Issues of benefit to the developed countries have been at the center of the discussion: issues such as liberalization of unskilled labor intensive services have been off the agenda, while liberalization of skilled labor-intensive services has been on the agenda.

Transparency is essential, because it enables more voices to be heard in the negotiating process and limits abuses by the powerful. This is particularly important for developing countries, because of the limited size of their negotiating teams. Of particular concern is the lack of transparency of the “green room” negotiations, in which only a few chosen countries from the developing world engage in negotiations with the United States and Europe. The “green room” process limits outside scrutiny and places the developing countries at a disadvantage because of the complexity of the negotiations and these country’s limited staffs.²⁷ Procedural fairness needs to deal with the asymmetry of power and information among WTO members. While the effect of power disparities is difficult to reduce, the informational disadvantage can be remedied, through increased transparency and the provision of (impact assessment) information.

The WTO’s dispute settlement system lacks procedural fairness in some important ways. In trade disputes the system favors developed countries, both *de jure* and *de facto*. The costs to a developing country of attacking a claim of intellectual property by a Western company in a case involving biopiracy are likely to be very high, for example; even if the two sides of the dispute had equal access to legal resources, in practice the developing country would be at a disadvantage in a process entailing complicated and expensive legal proceedings.

discussion did not know whether they were to be born in a less developed or a more developed country. For alternative frameworks (which in the current context arrive at similar views), see Sen (1999).

²⁷ See, for example, the open letter sent on November 6, 1999, by Ambassador Ali Mchumo of Tanzania on behalf of 11 developing countries to the WTO chairman, expressing their concern over the lack of transparency in the WTO “green room” process.

The WTO dispute system thus favors rich countries with the resources to use it effectively for their own interests. The European Community, Japan, and the United States were complainants in almost half (143 of 305) of all bilateral disputes in the WTO Dispute Settlement system between 1995 and 2002. By contrast, the 49 members classified by the UN as less developed countries did not bring a single challenge in that period (Horn and Mavroidis 2003).

Even if a developing country were to prevail in a WTO tribunal against the United States or Europe, the asymmetric and consequently unfair enforcement system could make it difficult for it to enforce the ruling. The sanction for violating a WTO agreement is the imposition of duties. If Ecuador, say, were to impose duties on goods it imports from the United States, it would have a negligible effect on the U.S. producer. In contrast, if the United States were to impose a duty on goods produced by Ecuador, the economic impact is more likely to be devastating. In practice, the WTO system has no effective way of enforcing an unfair trade action, the main impact of which is on small developing countries.²⁸

Limited Policy Space

Defining the policy space appropriate for attention within the WTO is a difficult task. There has been a tendency to expand the WTO's agenda to include all manner of international problems, from intellectual property rights to protection for foreign investors. The international community has found that bringing formerly intractable international issues within the ambit of trade provides both a convenient negotiating forum and a ready mechanism for enforcement of agreements. If the only test of inclusion in the agenda is that a policy must affect trade flows, then the boundaries of WTO activity are very hard to define, because almost all international problems can be linked to trade flows in some way. In this regard, policymakers have liberally employed the prefix "trade-related aspects of" to expand the WTO's mandate.

The growth of the WTO's policy space comes at a price. First, developing countries have limited capacity to analyze and negotiate over a large range of issues. Second, the experience of the Singapore issues suggests that larger agendas burden the negotiations. Third, the expansion creates room for developed countries to use their superior bargaining power in trade negotiations to exploit developing countries over a larger range of issues. For instance, when the agenda was extended to competition policy, the issues relevant to the foreign business interests of developed countries became the main focus of negotiations, while insufficient attention was given to key areas of concern for developing countries, such as rules against predation and the development of global antitrust enforcement. Similarly, the pharmaceutical industry in the industrial world has determined the focus of intellectual property negotiations. Almost inevitably, the determination of these issues will reflect the consequences of the exercise of power.

²⁸When, of course, a major industrial country takes a global action—such as the United States' imposition of tariffs on steel—there can be a global response, which can induce a response (as we have seen.)

For these reasons a “principle of conservatism” needs to be introduced to guide the growth of the WTO’s mandate beyond market access reform. Other issues should be included in the agenda only if they score high on three criteria that seem sensible to impose on a development round of trade negotiations: the relevance of the issue to trade flows, its development friendliness, and the existence of a rationale for collective action.

This existence of a rationale for collective action reflects a general presumption in favor of national sovereignty. There is no reason to force nations to undertake certain actions unless their actions have effects on the trade of others that require collective action to resolve. In some areas a trade agreement is absolutely essential. These include an international rule of law (procedures) for dealing with trade disputes and agreements to prevent beggar-thy-neighbor trade policies. In other areas international agreements would be beneficial to manage cross-border externalities or global public goods.²⁹ But modern trade agreements have been extended into areas that intrude into national sovereignty with no justification based on the need for collective action and without clearly identified and fairly distributed global benefits.³⁰ The presumption of consumer sovereignty is based on the premise that society should interfere with individual choices only when those choices have consequences for others, when there is a need for collective action. The same is true in trade.

Ten Priorities for a Development Round

Much of the recent discussion has focused on agriculture, but there is much more to a true development round. Primary attention should be given to market access for goods produced by developing countries. There is an urgent need to reduce protection on labor-intensive manufactures (such as textiles and food processing) and unskilled services (such as maritime and construction services). Priority should also be given to the development of schemes to increase labor mobility, particularly the facilitation of temporary migration for unskilled workers. In addition, the new round needs to effectively circumscribe the rise in nontariff barriers that has accompanied reductions in tariffs.

Liberalize Labor Flows and Labor-Intensive Services

The General Agreement on Trade in Services (GATS) recognizes four modes of service delivery. The temporary movement of natural persons (mode 4) has received by far the least attention in terms of the volume of scheduled concessions. Yet differences in factor payments across countries provide evidence that factor movements would increase global productivity. If factor payments equal marginal products, the largest discrepancies are associated with the payments to unskilled labor and the smallest are associated with payments to capital.³¹ Accordingly, agreements that provide for the mobility of unskilled labor would do most to increase global efficiency.

²⁹For a discussion of the concept of global public goods, see Kaul and others (2003) and Stiglitz (1995).

³⁰Trade agreements might also be useful as a mechanism with which governments could overcome domestic political opposition to trade reform.

³¹Factor payments may not equal marginal products, and the disparity may differ across countries, if the degree of market imperfections differs.

Such agreements would also significantly improve living standards in developing countries—through the remittances they would generate, through the accumulation of capital that would be repatriated when migrants returned to their country of origin, and through the general equilibrium effects on relative factor supplies in developing countries.³² The temporary movement of less skilled workers from developing countries (where they are in oversupply) to developed countries (where they are undersupplied) is estimated to increase world welfare by hundreds of billions of dollars, even if the scale of the labor flow is modest.³³ Walmsley and Winters (2002) estimate that a flow of workers to developed countries equivalent to 3 percent of their labor forces would generate a global welfare gain of \$156 billion.³⁴ For these reasons a development round of trade negotiations should focus on what can be done to facilitate migration of unskilled labor and surrogates for unskilled labor, trade in commodities and services that are intensive in unskilled labor.

Despite the tremendous development potential of this reform, the limited progress that has been made has been associated largely with the intracorporate movement of skilled personnel—an issue of interest to developed countries. Mode 4 has not progressed in a way that allows developing countries to use their comparative advantage in low- and medium-skill labor-intensive services. Nor has enough attention been given to proposals to facilitate remittances. Governments have a role to play in maximizing both the value of remittances and their impact on development. For example, governments could ensure migrants access to secure and low-cost financial services and regulate remittance-handling intermediaries to prevent malpractices. The development of new financial instruments, such as remittance-backed bonds and the facilitation of transfers from migrants using employer's payroll deduction schemes, would also increase the ease with which remittances flow to developing countries.

As well as facilitating the movement of natural persons, there is scope for liberalization of other service industries of importance to developing countries. On average services account for 50 percent of developing countries' GDP, but developing countries account for only 25 percent of the world's services exports. While the last decade saw considerable liberalization of high-skill services (which has in general benefited developed and developing countries alike), less progress was made in unskilled labor-intensive services of interest to developing countries.

A large portion of the benefits from the liberalization of services derives not from better market access abroad but from the increased competitiveness and efficiency of the domestic market. However, in addition to these "efficiency gains," developing countries have important export interests in further liberalization of services (OECD 2004). Many developing countries have capitalized on their comparative advantage in low-skill services to develop competent and highly specialized industries. Examples

³²In 2002 the Inter-American Development Bank reported that \$32 billion in remittances was sent to Latin America and the Caribbean. This was far greater than total official development assistance and only slightly less than foreign direct investment (Ellerman 2003).

³³Foreign workers can be an important source of labor in developed countries. London's catering industry depends on migrants for 70 percent of its labor force, and a large proportion of seasonal agricultural workers are foreign (Home Office 2001).

³⁴ Computable general equilibrium analysis based on the GTAP model and database.

are maritime services, including port services and the shipping industry; construction services; and back office services, including data processing, call centers, and financial services.

Carefully Reform Agricultural Market to Limit Adverse Consumption Effects

The levels of agricultural protection in the OECD have been consistently high.³⁵ The effect on developing countries is severe, as agriculture represents almost 40 percent of their GDP, 35 percent of exports, and 70 percent of employment.

Because agriculture is such an important part of both national economic development and daily livelihoods in developing countries, agricultural reform must proceed carefully. Agricultural liberalization presents developing countries with the benefits of increased market access but also the (potential) costs of higher prices for domestic consumers. Agricultural subsidies by the North benefit consumers and hurt producers in developing countries. The net effect of wide-ranging agricultural reform varies across developing countries, depending on the composition of their exports and imports of different commodities and the price sensitivity of those commodities to liberalization. The potential for losses highlights the need for a more fine-grained approach, which would differentiate among crops and countries.

Instead of seeking blanket reform, the WTO should focus on liberalizing those commodities that have the largest positive effect on producers and the smallest adverse consumption effects. One important determinant of the net effect of this kind of reform is the level of protection for each commodity and the consequent impact of liberalization on prices.

Another important determinant of the welfare effects of liberalization is the agricultural trade balance across countries. There is a division between temperate products (program crops and livestock), in which developing countries are largely net importers, and tropical products, in which developing countries are largely net exporters. Most developing countries are net importers of program crops, which are precisely the commodities that have the highest domestic support and stand to experience the largest price increases.³⁶ It is therefore not surprising that most studies predict that most developing countries are worse off as a result of the terms of trade effects following this kind of reform. Indeed, Dimaranan, Hertel, and Keeney (2003) find that gains accrue primarily to developed countries in the Cairns group, as well as the two largest developing country exporters, Argentina and Brazil.³⁷ These countries are the strongest advocates for the existing agricultural reform agenda.

³⁵The OECD spends more than on \$300 billion a year on agricultural subsidies. This is almost six times the total aid from OECD countries to all developing countries (\$50–\$60 billion a year).

³⁶Net importers include China, Indonesia, Mexico, the Republic of Korea, “Rest of South America” (a regional average that excludes Argentina and Brazil), “Rest of South Asia” (a regional average that excludes India), “Rest of Sub-Saharan Africa” (a regional average that excludes Tanzania and Zambia), Tanzania, Zambia, and the average for the Middle East and North Africa. Argentina, Brazil, India, and Vietnam are net exporters (Dimaranan, Hertel, and Keeney 2003).

³⁷ The Cairns Group consists of 17 agricultural exporting countries. It was formed in 1986 to lobby for agricultural liberalization in multilateral trade negotiations.

The existence of net losses for developing countries in some areas of reform should not imply that no reform is required—rather it suggests that a selective approach is needed. The most important subsidies to eliminate would be those for which the consumption benefits are small relative to the production costs. Developing countries should focus their attention on eliminating tariffs and quotas on tropical products, processed foods, and other commodities they export or for which they have high export elasticities with respect to price. Elimination of cotton subsidies would raise producer prices for cotton but have a small effect on standards of living in developing countries as a result of the small increase in the price of cloth. Similarly, subsidies for crops that are disproportionately consumed by the nonpoor will have the least adverse distributional effects. Soy beans, for instance, may largely go into the production of animals (beef and chicken).

The WTO makes a clear distinction between explicit export subsidies and other forms of domestic subsidies, yet both types of payment can increase production and exports and depress world prices.³⁸ Since the WTO treats domestic subsidies more permissively, several OECD countries have reduced their export subsidies and increased their direct domestic support payments to comply with their WTO commitments. In the United States and the European Union, the annual values of export subsidies for cereals and beef declined \$4.1 billion between 1990 and 1998. In the same period, domestic support in the form of exempt direct payments for those commodities rose an estimated \$18.9 billion a year in the European Union alone (ABARE 2001).

The trade effects of various types of domestic subsidies are often understated. While the impact of export support on developing countries per dollar of subsidy is greater than production-based support, the difference is small if the elasticity of demand is small, as it is for many agricultural commodities. Even nonproduction-based support (“decoupled” payments, primarily in the “green box”) has an impact on output and prices. These payments benefit OECD producers by providing them with cheap (or free) credit to potentially use for investment and expansion of production.

Finally, developing countries should reflect on the items that are missing from the Doha Declaration. First, the Declaration does not foreshadow further attempts to reduce export dumping. Second, the “development box,” which would allow poor countries to shape their farming and food policies to maximize development, is absent.

Liberalize Industrial Goods

While developed countries have low average tariff rates, they maintain high barriers to many of the goods exported most intensively by developing countries. When weighted by import volumes, developing countries face average manufacturing tariffs of 3.4 percent on their exports to developed countries, more than four times the average rate faced by goods from developed countries (0.8 percent) (Hertel and Martin 2000).

³⁸The WTO classifies domestic subsidies according to their distortionary effect on trade: amber subsidies are directly trade distorting, blue subsidies are production payments that indirectly distort trade, green subsidies are subsidies that do not distort trade.

Moreover, aggregate data hide tariff peaks. OECD tariffs are particularly high for goods of importance to poor countries, such as low-skill manufactures (especially textiles) and processed foods. Such tariff peaks retard development by restricting industrial diversification in the poorest countries.

A second reason why developing countries should be pushing to have industrial tariffs prioritized in the Doha Agenda is that barriers to South-South trade are quite high. The average import-weighted tariff on the exports of manufactured goods from developing countries to developing countries is 12.8 percent (Hertel and Martin 2000). Anderson and others (2000) estimate the welfare gains to developing countries from liberalizing trade in manufactures by other developing countries at \$31 billion.

Reduce Nontariff Barriers

There are four important categories of nontariff barriers: dumping duties, which are imposed when a country sells products below costs; countervailing duties, which can be imposed when a country subsidizes a commodity; safeguards, which can be imposed temporarily when a county faces a surge in imports; and restrictions to maintain food safety or avoid, say, an infestation of fruit flies. The advanced industrial countries have used all of these nontariff barriers to restrict imports from developing countries when they have achieved a degree of competitiveness that allows them to enter their markets. Many of these measures are described as ensuring “fair trade,” but from the perspective of developing countries they ensure “unfair trade.” They are evidence of the hypocrisy of the North. Increasingly, however, developing countries are using such measures against each other and against the advanced industrial countries. In this sense, they represent a hidden threat to a trade liberalization scheme.

The number of antidumping claims has risen significantly in the past seven years.³⁹ Part of the problem with the schemes is how they have been implemented. With dumping duties, for instance, the accused must respond in a short period of time to a long demand for information (in English); when the accused is unable to do so, the U.S. government acts on the “best information available,” usually the information provided by the American company trying to keep out its rivals. High initial duties are imposed, which regularly get revised downward when better information becomes available. Meanwhile, however, long-term damage has been done, as U.S. buyers will not purchase the commodity given the uncertainty over the level of tariffs they may have to pay.

Explicitly Recognize Developing Countries’ Rights to Use Industrial and Other Development Policies

The economics literature has long recognized that there may be important learning benefits from protection. While economists have typically argued in favor of open subsidies or government loan programs rather than the hidden subsidies protection provides, for a variety of reasons direct subsidies may be difficult or impossible to

³⁹There were 2,063 dumping cases initiated between 1995 and 2002. The three leading initiators were the United States (279), India (273), and the European Community (255) (Finger and Zlate 2003).

implement. In a second-best world, some protection may be efficient.⁴⁰ There is a broader risk that the provisions for special and differential treatment will not be sufficient to ensure that developing countries at different stages of development are able to respond to their idiosyncratic development challenges with appropriately tailored second-best solutions.

The problems are emblemized by demands (included in the recent bilateral trade agreements between the United States and Chile and the United States and Singapore) for capital market liberalization. Capital market liberalization increases economic volatility, and the increased economic volatility increases the risk premium that investors demand, effectively increasing the interest rate charged (see Stiglitz 2000).

Is it fair to impose countervailing duties on a developing country that has “subsidized” interest payments by bringing them down from the usurious levels insisted upon by the IMF to levels still slightly higher than those in international capital markets? Or should the government be viewed as undoing a distortion? It seems unfair to force developing countries to accept provisions that effectively increase the interest rates they have to pay and then slap them with a countervailing duty when the government tries to undo the consequences.

Restrict Tax Competition to Attract Investments

One arena in which an international agreement might be of immense benefit to developing countries concerns their competition for investment through concessionary tax rates and financial subsidies (Charlton 2003). The main beneficiary of this competition is international business. Just as international agreements circumscribe subsidies in general, there should be a strong proscription on firm-specific competition—through the granting of differential tax treatment or special infrastructure, for example. Since the countries harmed by such tax competition are not necessarily trading partners of the country engaging in these practices, new enforcement mechanisms need to be found, so that a suit against the multinational company receiving the benefit may be filed in any country in which that company operates and has assets, with fines proportional to the value of the subsidy levied.

Rebalance Intellectual Property Rights

Whether within the WTO or through an alternative forum (such as, perhaps, the World Intellectual Property Organization), a new intellectual property regime needs to be created that balances more carefully the interests of users (in both developed and less developed countries) and producers of knowledge. There is a clear need to revise the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement to ensure that the objective of fostering the transfer and dissemination of technology (Article 7) is effectively realized.

Closing the North-South knowledge gap will require the revision of several elements of TRIPS.⁴¹ Article 27.1 (which requires universal novelty as a condition for

⁴⁰For a historical argument, see Chang (2002). More recent theoretical analysis includes that of Dasgupta and Stiglitz (1985).

⁴¹Article 31(b) should be extended to allow compulsory licensing beyond national emergencies to broader “refusal to deal” scenarios. Article 40 should extend the right of WTO members to provide in

patentability) should be strengthened to protect traditional knowledge. This could be done by amending TRIPS to comply with the UN Convention on Biodiversity, signed by 170 countries in 1993. The Convention on Biodiversity recognizes the collective rights of village communities over those of individuals or companies and decrees that a rich country's demand for patent rights should not come at the expense of the conservation of plant diversity. This should be reflected in all the provisions, including the tests of novelty, as well as the breadth and scope of the patent.⁴²

Extend Unilateral Disarmament

With the exception of the positive effect of the African Growth and Opportunity Act on African textiles, nonreciprocal agreements have delivered only limited benefits to developing countries. Preferential tariffs for least developed countries have formed an important part of the global trade architecture since the inception of the Generalized System of Preferences in 1968 and should continue to play an expanded role in the development round.

To be meaningful, preferences should be made more widely available to developing countries other than least developed countries. In addition, restrictions that have led to low utilization rates should be eased.⁴³ One reason for underutilization is the stringent rules of origin, which are designed to prevent trade deflection, whereby products from nonbeneficiary countries are routed through least developed countries to exploit the preferences. One reason why take-up has been limited is that it can often be difficult or costly to acquire the required documentation to satisfy rules of origin.

Create Fairer Mechanisms for Enforcement

An enforcement mechanism that relies on the threat of small countries imposing trade sanctions against large countries is only asymmetrically effective. As discussed above, the sanction for violating a WTO agreement is the imposition of duties. But since the imposition of duties by a small country on goods it imports from the United States has only a negligible effect on the U.S. producer, the WTO system has no effective way of enforcing an unfair trade action stemming from the action of a large industrial country against a small or poor country. This seriously weakens the bargaining position of some WTO members.

One solution to this asymmetry would be to require noncompliance with WTO rulings to be punished by all WTO members. There has been considerable resistance to this kind of proposal. A classic problem with enforcement through retaliatory protectionism is that it is not in the interests of the enforcing country. An alternative proposal would be to require that trade losses be compensated for with financial payments, either as reparations from the responsible country or from the proceeds of

their national legislation for the prevention of anticompetitive licensing practices in respect of intellectual property rights. New measures need to be developed in Article 66.2 to ensure the transfer of technology from developed countries to least developed countries (see WTO 1994).

⁴²Patents could not, for instance, be granted for traditional medicines or goods or slight variants of those traditional medicines when the usefulness of those commodities has already been recognized within the developing country.

⁴³Use by least developed countries of Quad Generalized System of Preferences schemes varies enormously across countries and markets, but in a significant number of cases it is low (UNCTAD 2001).

an international auction of the right to retaliate (Bagwell, Mavroidis, and Staiger 2003).

Craft Anticorruption Policies

One particularly insidious interaction between foreign firms and developing countries is rampant corruption: it is often less expensive to bribe government officials to obtain, say, a concession, than to pay the full market price. International nonbribery agreements (such as the United States' Foreign Corrupt Practices Act) should be made part of an international agreement. Full disclosure should be required of all payments made to foreign companies (publish where you pay), and only disclosed payments should be tax deductible. But even stronger enforcement measures should be adopted.

Secret bank accounts facilitate corruption, by providing a safe haven for funds stolen from a country. They gravely hurt developing countries. There should be an international agreement proscribing bank secrecy (the importance of which has recently been recognized in the case of terrorism.) This, too, could easily be enforced. No bank should be allowed to deal with any bank in a country that does not conform to the agreed upon transparency standards. Any country that does not enforce such a sanction could be sued (under provisions similar to those discussed above under fair competition, for example)

Institutional Reforms

Institutional reforms will be required to facilitate a more transparent and democratic negotiating process— and one that might more likely result in agreements that are both fair and in the general interests of the world. A fair agreement is unlikely to be produced through an unfair process.

Procedures

There is widespread dissatisfaction with the way trade agreements are made, stemming partly from the belief that current procedures put developing countries at a disadvantage. This is particularly important given the increasing role trade agreements have. Trade agreements define a wide set of rights and obligations, yet they are arrived at in a manner that is distinctly different from the way that other kinds of legislation are adopted. The terms are often negotiated behind closed doors, with little public debate about specific provisions. The legislative process is often truncated. The result is agreements, such as Chapter 11 of the North American Free Trade Agreement (NAFTA) or the TRIPS agreement, that contain provisions that would never have been accepted by a democratic parliament with open discussion in a deliberative process.⁴⁴

The hallmark of earlier trade agreements is that they were conducted in secret, with many of the terms not fully disclosed until the end of the negotiations. Governments then faced an “all or nothing” choice. Because they could have no effect on the outcome, parliamentarians had little incentive to understand the intricacies. Given the extent to which trade issues overlap with other issues, including those touching on the

⁴⁴ Chapter 11 is NAFTA's investment chapter, which granted expansive new rights and privileges for foreign investors operating in the United States., Canada, and Mexico.

environment, procedural reforms are crucial to make deliberations about trade issues more open and more like other deliberative processes.

Trade has become too important to be left to trade ministers alone. Part of the deliberative process must entail the active involvement of others (meeting together, not just through trade ministers). Thus when intellectual property matters are being discussed (if they are to be discussed at all), science ministers must be involved. There must be some mechanisms for environmental ministers' voices to be heard. They might insist, for instance, that provisions be inserted that prevent a race to the bottom, that low environmental standards (those associated with allowing pollution of the world's atmosphere, for example) be viewed as a form of subsidy to be prohibited.

The fairness of the international regime should be judged not only in terms of outcomes but also in terms of the processes. A large literature documents the deficiencies in procedures, and for reasons already noted these procedural deficiencies disadvantage developing countries. For this reason procedural reforms—particularly relating to transparency and representation—should have a high priority.⁴⁵

The developed countries should continue the kind of support they have provided to help developing countries participate more effectively in these deliberations. Trade negotiations involve complex issues, including economic issues in which even experts are not in agreement. Meaningful participation in these discussions requires understanding these complexities, understanding the full import of each provision, and recognizing how provisions might affect countries in different situations differently.

Structures and Representation

As the number of WTO members has grown, and the demands for a more inclusive bargaining process increased, the current system appears to many as increasingly unwieldy. It is not the intent of this paper to provide a detailed analysis of alternative proposals for institutional reform but rather to highlight its importance and to emphasize why such reforms should be viewed as a priority in current discussions.

The opening up of the WTO to so many members makes negotiations cumbersome and difficult. But the arbitrary and capricious nature of the “green room” procedures needs to be replaced. In other areas of democratic decisionmaking—especially those based on consensual processes, as trade negotiations are supposed to be—the principle of representativeness is well accepted: a small group of countries is chosen to reflect various interests and constituencies—say, the largest trading countries, the United States, the European Union, Japan, and China; a representative or two of the middle-income countries, say Brazil and one other country; a couple if representatives of the least developed countries; a representative of the Cairns Group; and so forth. Each would then consult with those they are representing on a regular basis. An open and transparent process would ensure that the views and voices of all were heard.

⁴⁵ See Blackhurst, Lyakurwa, and Oyejide (2000) on participation; Francois (2001) on transparency; and Winters (2001) on representation.

Another requirement is a new body within the WTO responsible for assessing the impacts of proposed trade provisions on development and developing countries and assessing the “trade diversion” versus “trade creation” effects of bilateral and regional agreements. Its purpose would be to look objectively at the consequences of alternative proposals for all the countries of the world, recognizing that economic science is not at a stage where there is agreement about the “right” model. Thus the body might attempt to assess the impact of agricultural subsidies that allegedly do not distort trade in a world in which there are capital constraints. An expanded WTO secretariat might also include an independent body that would assess countries in crisis, adjudicate and approve the imposition of trade restrictions (“safeguard measures”), and investigate dumping charges, countervailing duties, and phytosanitary conditions.

There is a need to address the scope of technical assistance and the capacity of the WTO to adequately provide it within existing structures. Helping low-income countries strengthen their institutional capacity in order to permit them to meet WTO agreements will require not only technical assistance but also significant financial assistance. The costs of implementing WTO commitments are very substantial (Finger and Schuler 2000).

While a limited assistance program may help developing countries implement reform, technical assistance is not sufficient to deal with the economywide adjustment costs associated with structural change. These costs, which generate domestic opposition to trade liberalization, are no less important barriers to progress than the lack of institutional capacity.

Lack of institutional capacity limits access of developing countries to justice within the dispute system. Developing countries are at a disadvantage in complex and expensive legal proceedings. Expansion of existing legal assistance schemes is an important prerequisite for institutional fairness.

The bulk of technical assistance has fallen on international organizations. Both the World Bank and the WTO have increased their technical cooperation activities. But as much as 90 percent of financing of these activities is provided by trust funds provided by two or three bilateral donors; the WTO itself has typically allocated less than 1 percent of its total annual budget—less than \$500,000— for technical cooperation activities (Michalopoulos 2000).

Conclusion

The international community should resolve to have a true development round based on a spirit of collective responsibility for the challenges faced by poor countries and recognition of the perceived inequities generated by previous rounds of trade negotiations. The round of trade negotiations that began in Doha does not yet deserve the epithet of a “development round.” Indeed, once again the agenda reflected the interests of the advanced industrial countries. The new issues that have been added to the agenda are not priorities for developing countries; indeed some of their provisions would have been harmful to them.

This paper presents an alternative way forward for the Doha Round based on principles of social justice and economic analysis. Toward that end, the WTO needs to establish a source of impartial and publicly available analysis of the effects of different initiatives on different countries. Based on this type of analysis, any agreement that differentially hurts developing countries or provides disproportionate benefits to developed countries should be presumptively viewed as unfair. The agreements must enshrine both de jure and de facto fairness. This means ensuring that developing countries are not prevented from unlocking the benefits of free trade because of a lack of institutional capacity.

This paper presents 10 pro-development priorities that should form the core of the Doha Round agreements. Primary attention should be given to increasing market access for goods produced by developing countries. There is an urgent need to reduce protection of labor-intensive manufactures (textiles and food processing), agricultural goods, and unskilled services. Priority should also be given to developing schemes to increase labor mobility, particularly the facilitation of temporary migration for unskilled workers. Instead of imposing uniformity across countries, there should be general agreement that different circumstances in developing countries warrant special and differential treatment. Significant change in the outcomes of multilateral trade agreements must be supported by institutional reforms. Reform of the procedures of the WTO would facilitate the achievement of fair and pro-development agreements.

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