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## *The Future of the World Trade Organization*

THE POLITICAL COMPACT that created the postwar economic architecture rested on an assurance that international rules would preserve space for domestic policy autonomy. In the debate about the Bretton Woods institutions—the International Monetary Fund (IMF) and the World Bank—sparked by the Asian turmoil, the nature of this implicit contract has revived the concept of the trilemma: that a country cannot pursue monetary policy directed at domestic objectives while maintaining fixed exchange rates and an open capital market.<sup>1</sup> While the Bretton Woods trilemma is now a *terme du jour* in the debate over institutional reform, there has been little comment or analysis about the inconsistent trinity that lies at the heart of the liberal trading system.<sup>2</sup>

What is the trade trilemma? Although the effort to create a trade institution comparable to the Bretton Woods twins failed, the General Agreement on Tariffs and Trade (GATT) survived and thrived. The objectives of the GATT were to liberalize trade through successive multilateral negotiations aimed at reducing border barriers and to create rules by which to govern and sustain the liberalizing momentum. The domestic policy space was safeguarded by rules permitting temporary blockage of imports under clearly specified terms. These rules were intended to provide a buffer, or interface, between the international objective of sustained liberalization and the objectives of domestic policy.<sup>3</sup>

1. Mundell (1957).

2. Obstfeld and Rogoff (1995).

3. Jackson (1989).

By the 1970s, however, the focus of liberalization began to shift inside the border. This blurring of the boundary between domestic and trade policy was completed by the Uruguay Round as the central domain of trade policy became domestic regulation and legal systems. Furthermore, in the 1970s an ongoing process of change in the nature and objectives of domestic policy began, so that the definition of domestic policy space not only differs today from that of the postwar period but also differs significantly among the members of the World Trade Organization (WTO). Finally, during the 1970s the protective buffers—especially those governing so-called unfair trade—became protectionist tools. In any case, by the 1990s, buffers designed to block imports were largely irrelevant as a means of safeguarding the diverse and changing concept of domestic sovereignty among the 130-plus members of the WTO.

The trade trilemma is messy—it offers no simple resolution along the lines of “choose any two of the above.” The “solution” is to be found not in some grand new financial architectural design (even if that were possible) but in reform and reinforcement of the WTO. However, while reinforcement of the WTO is necessary, it will not be sufficient to sustain a liberal trading system without improved coordination with the Bretton Woods institutions—“coherence,” in the WTO lexicon.

### **The Origins of the WTO: The Past as Prologue**

To understand the origins of the WTO, it is necessary to look back at the origins of its predecessor, the GATT. With the benefit of hindsight, President Harry Truman’s decision in 1948 not to send the International Trade Organization (ITO) charter to Congress for approval because domestic opposition was strong can be seen as an early signal of the fragility of the international compact, at least in the United States. There was the usual array of traditional protectionist lobbies, who feared competition from imports. The most effective opposition came from the business lobbies, who feared that the ITO would be too weak to pry open foreign markets protected not simply by border barriers but by a wide range of interventionist government policies, that is, domestic policies. If such policies impeded access by trade or investment, they were viewed by these business groups as unfairly protectionist.

Despite this opposition, U.S. leadership in the trade arena did not fail with the death of the ITO, and the GATT, much narrower in coverage than

the ITO, did not elicit the same powerful opposition. The United States joined twenty-two other contracting parties in signing the agreement without ever putting it to Congress.<sup>4</sup>

Successive rounds of negotiations in the 1950s and 1960s reduced the tariffs erected in the disastrous 1930s. The Tokyo Round of the 1970s, however, proved a disappointment. Although the agenda of the negotiations did include trade-impeding barriers arising from domestic policies such as industrial and agricultural subsidies, government procurement, and regulation of product standards, the hoped-for results were too weak and too weakly enforceable to satisfy the growing number of GATT critics. A more ambitious agenda for another round would be required to restore confidence in the system.

It is also important to note that in addition to initiating the first significant move inside the border, the Tokyo Round triggered another fundamental change: the “legalization” of the trading system. Perhaps increased legalization was inherent in the shift from reciprocal bargaining over tariffs to rule making. Arguably more important, however, was the changing nature of American trade policy. There was growing conviction among business groups and labor unions that other countries were engaged in unfair trade practices and that the “free ride” of the 1950s and 1960s had to stop. For the administration, the best option seemed to be a strengthening of the trade remedy laws. Congress demanded detailed legalistic prescriptions to prevent circumvention by any future administration unwilling to defend “national interests.” One notable result of the Tokyo Round was the enormous increase in the use of antidumping provisions by both the United States and the European Union (and an equally impressive rise in American countervailing actions against “unfair subsidies”) that marked the onset of the 1980s. This rise in the use of trade remedy laws was dubbed “administered protectionism.”

The increasing use of the trade remedy laws in the United States in the 1980s was symptomatic not only of a rise in protectionism but of another, arguably more fundamental trend as well: the growing privatization of trade policy. The trade remedy laws are nondiscretionary in the sense that a private party cannot be overruled by a government agency and thus provide the opportunity for use as a tool in business strategy. Another form of privatization in the 1980s was the use of Section 301 of the 1974 Trade

4. Ostry (1997, chap. 3).

Act, which established a procedure allowing private citizens to petition the government directly to initiate action against foreign trade practices deemed illegal or “unreasonable.” Today privatized trade policy has spread well beyond the business community, as the discussion of the role of international nongovernmental organizations (INGOs) demonstrates.

### **The Uruguay Round**

The negotiation to launch the Uruguay Round of negotiations took almost as long as the entire Tokyo Round negotiations of the 1970s. The Americans had been trying to launch a new round since the early 1980s because of dissatisfaction with the results of the Tokyo Round and rising protectionist fury in Congress (mainly in response to the overvalued dollar). After a number of near failures, the Uruguay Round was launched in Punta del Este in September 1986 and formally concluded in Marrakesh, Morocco, in April 1994, several years later than the target completion date originally announced. The extraordinary difficulty in both initiating and completing the round stemmed essentially from two fundamental factors: the nearly insuperable problem of finishing the unfinished business of past negotiations, most of all those relating to agriculture; and the equally contentious issue of introducing quite new agenda items, notably trade in services and intellectual property and, though in a more limited way, investment. The Europeans blocked the launch to avoid coming to grips with the Common Agricultural Policy, and a number of developing countries were bitterly opposed to including these so-called new issues.

Although the “new issues” are not identical—obviously negotiations on telecommunications or financial services differ from those on intellectual property rights—they do have one common or generic characteristic: they deal with the institutional infrastructure of the economy. The barriers to access for service providers stem from laws, administrative actions, or regulations that impede cross-border trade and investment. Furthermore, since these laws and administrative actions are for the most part invisible, a key element in any negotiation is transparency—that is, the publication of all relevant laws, regulations, and administrative procedures. These principles are now embodied in the General Agreement on Trade in Services (GATS), an integral part of the new world trading system housed in the WTO.

In the case of intellectual property the negotiations covered not only comprehensive standards for domestic laws but, perhaps more important,

detailed provisions for enforcement procedures. Transparency was highlighted by the establishment of a separate council to which notification of all regulations and administrative arrangements must be made, and this council is mandated to monitor compliance. It is important to underline the fact that this deeper integration agenda not only involves a focus on domestic policy but also greatly reinforces the legalization trend.

Finally, the most significant characteristic of the deeper integration agenda is the intrusiveness on domestic policy space. As noted earlier, the GATT compact implied the primacy of trade in combination with the preservation of system diversity—a concept that, of course, was not defined. The deeper integration agenda covers impediments to effective market access for trade, investment, and technology flows and incorporates an intrinsic pressure for convergence. This pressure is reinforced by locational competition for investment, which facilitates regulatory arbitrage by multinational enterprises.

A pressure for convergence is also evident in other areas. The “new issues” were concerned with economic regulation; but the Uruguay Round also included negotiations on social regulation concerning product standards and health and safety measures. A number of highly contentious dispute settlements in the environmental area have rallied the increasingly powerful INGOs in a strident attack on the WTO. Once again, the issue is presented as an invasion of sovereignty—wryly defined by one advocate as *laissez-régler*.

Although the Uruguay Round marked the launch of the deeper integration agenda, it represents only the first step. Indeed, the built-in agenda left over from the negotiations involves the new negotiations for services in 2000, and the remit from the 1996 WTO ministerial meeting in Singapore adds consideration of competition policy, investment, and environment to the WTO mandate. This will entrench and extend the deeper integration policy focus. Thus the mandate for the first post-cold war institution, the WTO, is indeed formidable.

### **The Creation of the WTO**

It is not clear that the negotiators really understood the full implications of the fundamental shift in policy template marked by the Uruguay Round. However, there was recognition that the GATT would not provide an ade-

quate foundation for the much more ambitious and comprehensive trading system embedded in the negotiating agenda. Thus the Punta del Este Ministerial Declaration established the Functioning of the GATT System negotiating group (FOGS). The group was promoted by a coalition of middle powers, both developed and developing, since institutional issues were not a priority for either the United States or the European Union. The middle powers recognized that the alternative to a rules-based system would be a power-based system and that, lacking power, they had the most to lose.

Nonetheless, the goals of FOGS were relatively modest: to improve the adaptability of the GATT to respond to accelerating change in the global economy through improved surveillance of country trade policy and regular ministerial conferences designed to raise the public and political profile of trade policy; to improve the “coherence” of international policies by establishing better linkages between the GATT and the Bretton Woods institutions; and, most important, to strengthen the enforcement of the trading system’s rules of the road by improving dispute settlement arrangements. The creation of a new institution was not included among these objectives, and the proposal by Canada for a new institution, the WTO, was not put forward until April 1990. This proposal was soon endorsed by the European Union, which had opposed stronger dispute settlement in the Tokyo Round and which had taken a position of benign neglect with respect to FOGS. The European Union became an active supporter of a new institution that could house a single, strong dispute settlement mechanism, out of growing concern about U.S. unilateralism.

The Canadian proposal was couched in terms of the substantive aspects of the Uruguay Round negotiations. As the press release announcing the Canadian proposal stated, “Developments in the substantive negotiations are now demonstrating that the Uruguay Round results cannot be effectively housed in a provisional shelter. It is also becoming clear that the post-Uruguay trade policy agenda will be complex and may not be adequately managed within the confines of the GATT system as it now exists.”<sup>5</sup>

The WTO has turned the GATT from a trade agreement into a membership organization. It is a minimalist institution forged solely on legal principles. It establishes a legal framework that brings together all the

5. As quoted in Ostry (1997, p. 194).

various pacts and codes and other arrangements that were negotiated under the GATT. Members of the WTO must abide by the rules of all these agreements, as well as the rules of the GATT, as a “single undertaking.” The most important element of the WTO, the jewel in the crown, is its greatly strengthened dispute settlement mechanism.

A number of legal scholars would argue that the WTO legal framework and dispute settlement mechanism has established a form of constitutional law, “involving the broad concept of ‘constitution’ going considerably beyond a written document, and embracing a variety of interconnected governmental institutions as well as evolving practice of many such institutions.”<sup>6</sup> There is no question that the WTO dispute settlement procedures are “the most ambitious worldwide system for the settlement of disputes among more than 130 states ever adopted in the history of international law.”<sup>7</sup> They provide member countries with a virtually automatic right to lodge a complaint before a quasi-judicial panel; a right to an independent appellate review; a right to a time-certain ruling; and an effective enforcement system. The constitutional rights are even broader. The preamble to the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement states that intellectual property rights are “private rights” and that these rights must be enforced in member countries. It is important to note that the business groups who lobbied so successfully to include intellectual property rights in the Uruguay Round did so because the United Nations agency, the World Intellectual Property Organization (WIPO), had no dispute mechanism to enforce these rights. (The same is true of the International Labour Organization [ILO] and labor rights or the United Nations Environment Program [UNEP]). In another agreement (regarding government procurement), private corporations may invoke the provisions of the treaty before national courts. This is by some seen as a first step in a gradual process, which should eventually cover most of the WTO agreements.

The constitutional character of the WTO raises a number of problems. Most obvious, of course, is the issue of sovereignty. Since the establishment of the WTO, the most high-profile and contentious disputes have

6. Jackson (1998, p. 4). It should be noted that there was concern in some U.S. political and legal circles about the “threat” to U.S. sovereignty at the time of congressional ratification of the Uruguay Round. For a more recent expression of this view with respect to environmental treaties, see Rabkin (1999).

7. Petersmann (1998, p. 183).

concerned environmental or food safety issues; and more are yet to come, if we are to judge by the increasing clamor over genetically modified organisms (GMOs). The WTO does not regulate environmental or social policy, but its rules, negotiated in the original GATT consensus, seek to constrain the trade-restrictive impact of domestic regulation in order to prevent such regulation being used as a disguised barrier to trade by what GATT lawyers call the “sham principle.” In recent cases, dispute panels and especially the Appellate Body (AB) have been forced to interpret the WTO rules that govern domestic environmental or food safety policies.<sup>8</sup> Thus, as is the case with all courts and all legal rules in such complex areas, interpretation has essentially involved the judges’ defining a boundary for domestic policy space. Furthermore, although the AB is not supposed to operate by precedent, it is inevitable that as the legal texts are interpreted and clarified, the judges will be making law.

Finally, it is important to emphasize that the juridification of the system creates a built-in reinforcement process. The tendency to appeal rules already seems part of the system, and one can expect that more and more panel reports will be written for the AB rather than for the parties. In turn, this will shift the composition of selection panels from trade officials to lawyers. The lawyerly debate over the precise meaning of words will be settled by the judges, who may or may not show deference to the intent of the negotiators who drafted the agreement, an intent that itself is unlikely to be crystal clear. As the burden on the WTO secretariat grows and cases become more contentious, private lawyers will argue the need for direct access to panels and the AB as a means of upgrading the lawyerly expertise of the institution.<sup>9</sup> A cry of *laissez-litiger* will soon be heard.

8. These include the dispute concerning efforts on the part of the United States to block tuna imports from Mexico because the fish were caught by a method that endangered dolphins. For discussion of this and a number of similar cases, see Charnovitz (1997) and Howse (1998). A March 3 informal briefing note for the High-Level Symposium on Trade and Environment, Geneva, March 15–16, 1999 (Annex III), summarizes all GATT-WTO environmental disputes.

9. In the widely circulated letter submitted by the legal firm of Dewey Ballantine LLP on June 25, 1998, to the Office of the United States Trade Representative concerning the dispute launched by the United States on behalf of Kodak against Fuji, the authors severely criticize the legal competence of the WTO secretariat and the competence of the panel. They argue, *inter alia*, that the dispute settlement process should be more open and that “Kodak, as the principle party in interest in the Film complaint, was not permitted to submit a brief or appear before the Panel.” They endorse a statement, made by President Bill Clinton at the

For many who worked hard for a successful conclusion of the Uruguay Round, the dispute settlement mechanism was a major achievement, if not the major achievement, of the negotiations. After all, what is the point of having new rules if they cannot be enforced? In choosing to greatly strengthen the dispute settlement system, the negotiators were right: there was no acceptable alternative. Not many understood, however, that they had established a constitutional regime with profound implications for sovereignty and, consequently, the underlying international social compact that sustained the regime.

The creation of a WTO constitution has spawned the criticism, especially but not only by nongovernmental organizations (NGOs), that the institution suffers a democracy deficit. Unlike domestic constitutions, for example, the WTO is dedicated to only one objective—freer trade. Other policy goals cannot be considered on the same footing, yet decisions are made that affect other policy goals. Although the rules are ratified by member-country parliaments, the negotiating process is not governed by democratic representation. Furthermore, most member countries have systems that include a separation of powers and built-in checks and balances. No such arrangements exist in the WTO.

There is a useful comparison of the WTO with the European Union's tension between the polity and economics of deep integration. As one expert has put it, "In Western liberal democracies public authority requires legitimation through one principal source: the citizens of the polity."<sup>10</sup> The danger of the European Union's "democracy deficit" is that, finding themselves unable to throw out the scoundrels, its members will target the institution. There are some who might argue the same case against the WTO: if it cannot be "democratized," tear up the agreement. Trade ministers are now learning that these arguments for democratization carry considerable weight among an increasing number of people in member countries. Thus it would be unwise to ignore them—though it will not be easy to craft a policy response.

However, the need for reinforcement and reform of the WTO cannot be limited to trying to cope with the democracy deficit. The deeper inte-

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conference celebrating the fiftieth anniversary of the GATT, proposing that the WTO provide the opportunity for private citizens to file amicus briefs before a panel (mimeo; letter signed by Alan Wm. Wolff and others [the lawyers]).

10. Weiler (1998, p. 12).

gration agenda covers highly technical and complex policy and institutional ground. The WTO also suffers from what might be termed a technical deficit because of inadequate research staff and technical training capabilities. For the member countries of the Organization for Economic Cooperation and Development (OECD), these gaps may be less of a problem, since they have more than adequate technical expertise and also access to the analysis and expertise of the OECD. However, for many developing, and especially least-developed countries, these features of the WTO create a serious structural asymmetry in the construct of the institution. Although reinforcement and reform of the WTO to reduce these deficits would certainly help to sustain the liberalization momentum, it is also important not to ignore another gaping deficit—the minimal coordination with the two Bretton Woods institutions, what might be called the coherence deficit.

In sum, the future of the WTO depends on how these three deficits are addressed. In the absence of institutional reform, the traditional approach—that is, regular negotiations to keep the bicycle rolling—is unlikely to work. Other issues aside, the WTO bicycle does not hog the road, because there is plenty of speedier traffic: regional limos, bilateral trucks, and occasional unilateral tanks. More fundamentally, the increasingly insistent cries for democratization are strengthened by the backlash against globalization and facilitated by the information technology revolution.

The technical deficit represents a less obvious threat, and, unfortunately, it is easier to ignore. The marginalization of the poorest countries is, of course, the result not of trade liberalization but of domestic policies and weak institutional capabilities. Nonetheless, the complexity of the WTO agenda greatly exacerbates this weakness, and the widening knowledge gap between these countries and other WTO members ensures their growing marginalization. While the trading system would not be seriously affected, at least in the short run, considerations of equity, as well as the heightened risk to overall global stability threatened by these poorest countries, require enhanced WTO training and technical assistance.

Finally, the new thrust of the World Bank in the general domain of capacity building now overlaps with much of the WTO agenda, so that improved coordination among the international institutions, through reduction of the coherence deficit, would help integrate not only the poorest countries but also the transition economies, China and Russia, for example, now in the process of negotiating accession.

## **The Democracy Deficit**

In 1991, after a GATT panel ruling that the United States had violated its GATT obligations by banning Mexican tuna caught by a process that killed dolphins—the famous, or infamous, tuna-dolphin decision—American environmental groups mounted a major attack on GATT-zilla. The campaign in Washington raged against the cabal of faceless bureaucrats in Geneva who were undermining American sovereignty and subverting democracy. Although the GATT survived and the Uruguay Round created the WTO, many of the themes, albeit for the most part in less colorful terms, are at the core of the continuing environmentalist critique of the WTO. While the greens are not the only critics of the WTO, they have been the most effective in mobilizing support among a wide range of other advocacy groups who, although for different reasons, see the WTO as an institution captured by and serving only corporate interests. Prominent among these are the human rights and labor groups.

The green message seems to be the most effective rallying point because it is attractive to a large proportion of the population. In a recent survey of thirty countries, carried out by a Canadian university, more than 75 percent of the population in every country supported international regulation of environmental pollution.<sup>11</sup> Support for environmental policies is especially strong in the younger generation searching for a worthy cause. The green INGOs have proved especially skilled in using the media to get their message out. Finally, the power of transnational advocacy groups has been greatly enhanced by the Internet. Sharing intelligence and strategy by e-mail challenges the information advantage of the corporations and governments and makes the policy process much more contestable. As Internet use accelerated in the 1990s, it became clear that marching in cyberspace is far cheaper and more effective than sticking GATT-zilla posters on buildings in Washington and Geneva. This is best illustrated, in a brief digression, by describing the successful campaign by the INGOs to defeat the OECD negotiations for the Multilateral Agreement on Investment (MAI).

In October 1997, forty-seven NGOs from twenty-three countries and five continents met in Paris at OECD headquarters. The consultation had been arranged at the request of the World Wildlife Fund and some national

11. "Comparing Foreign Relations" (1999, p. 18).

representatives who had been lobbied by domestic advocacy organizations. The INGOs argued that the MAI would undermine sustainable development and national sovereignty. The most powerful case for this argument concerned the MAI's investor protection mechanism. This replicated the investment provisions in the North American Free Trade Agreement (NAFTA), which included procedures for resolving disputes by which private parties as well as governments could take action and adopted a broad definition of investment expropriation, so broad it could lead to investor claims against government regulation in, say, environmental or health areas that negatively affects the value of investment. American corporations had launched several cases against the Canadian government (in Canadian courts) that aroused a storm of opposition led by a coalition of NGOs. These same NGOs were among the most prominent in Paris in October 1997.

After the consultation the groups at the meeting organized an anti-MAI coalition and launched an international campaign to stop the negotiations. A World Wide MAI Website list displayed fifty-five sites, mainly from OECD countries, covering a wide range of interests.<sup>12</sup> Environmental and legal groups together accounted for more than half the total. Groups in Canada and the United States provided a constant flow of information to coordinate the campaign. By October 1998 the negotiations had been suspended, and in December, after the official withdrawal of the French government at the request of the red-green members of the coalition, they were officially terminated.<sup>13</sup> (The action of the French government is not without significance. While North American greens have chosen an advocacy route to contest the market for policy ideas, the European environmentalists formed political parties, and greens are now members of government coalitions in four EU countries—Germany, France, Italy, and Finland—as well as increasingly prominent in the European parliament.)

Of course, there were a number of reasons for the failure of the proposed MAI, but there seems little doubt that the INGOs played a key role.<sup>14</sup> At the press conference announcing the suspension of the negotiations, the

12. World Wide MAI Website List, [news.flora.org/flora.mai-not/3661](http://news.flora.org/flora.mai-not/3661) (September 27, 1999).

13. Speer and Yerkey (1998) and "OECD Nations Announce End of Negotiations for Investment Rules," *Inside U.S. Trade*, December 11, 1998.

14. For a more comprehensive examination of the death of the MAI, see Smythe and Smith (1999).

two key problems were noted: countries' sovereignty with respect to regulation—that is, protection from charges of expropriation and from being sued for compensation—and “the issue of protecting labor and the environment.”<sup>15</sup>

Even if the MAI debacle had not occurred, the underlying issue of defining the boundary between the regulatory state and the rules of the trading system will engage the WTO for a long time to come. The debate illustrates a curious paradox of history: The *economic* regulation of the postwar period has been greatly diminished, both by domestic policy initiatives and the new trading rules of the WTO; while many countries resisted the “new issues” in the Uruguay Round, the economic benefits of regulatory reform provided a compelling case for such policies. In the late 1960s, however, a new wave of *social* regulation was launched, and it has continued for three decades. The debate about social regulation bears little resemblance to the traditional interest-group concerns over the division of the pie, relevant to economic regulation; the current debate is concerned, rather, with the recipe for making the pie. The protagonists are not traditional distributional coalitions but what might be termed transformational coalitions. These INGOs form transnational communities linked less by the rule of reason basic to economic discourse and more by a rule of morality or values. A rule of morality is not so easily reconciled with the central goals of economics, that is, to maximize consumption and balance costs and benefits. Moreover, in the case of both the environment and labor rights, the transformational coalitions argue that the most important issues are not national but global and require a global policy optic, because the optic of the nation-state or the intergovernmental institution founded on the precept of the nation-state is inadequate. The anti-MAI campaign has been presented as a new form of participatory democracy, and, indeed, as it gathered strength, parliamentary committees in many countries initiated public hearings and parliamentary debates.<sup>16</sup>

The greens' experience with the MAI, as well as a strong conviction that the WTO should no longer be the enclave of governments and corporations, has led to a demand for democracy. This call for democratization has

15. “OECD Nations Forgo MAI Decision, Agree to Examine Possible Changes,” *Inside U.S. Trade*, October 23, 1998, p. 5.

16. In Canada the hearings began in the fall of 1997; this was followed by hearings in many other countries in 1998. See “OECD Nations Forgo MAI Decision, Agree to Examine Possible Changes,” *Inside U.S. Trade*, October 23, 1998, p. 1, for details.

thus far centered on dispute settlement procedures—specifically, the need for greater transparency through publication of proceedings and the granting of observer status to NGOs and for the right to participate, through the presentation of amicus curiae briefs to panels and the AB. This position seems to be supported by the American government but is vigorously opposed by others, especially developing countries.

The proponents of participation argue that restoring credibility and legitimacy to the WTO in disputes over trade and the environment is essential and that only the INGOs have the expertise and transnational vision to do so. Participation is also needed, so this argument goes, to counterbalance the far more powerful business lobbies that indirectly and unofficially participate in the WTO.<sup>17</sup> Thus INGO participation is essential to democratization, since, for example, “a citizen who cares very deeply about ending whaling . . . will find his or her views better represented in international fora by the Worldwide Fund for Nature than by his or her own government, which has many goals it must simultaneously pursue.”<sup>18</sup> It is not clear what the term *citizen* means in this context.

Whatever the merits of the case for participation as amicus curiae in dispute settlement procedures by environmental groups, it is clear that if it were granted, other nongovernmental actors would, in the name of fairness, demand equal treatment: corporations, unions, consumer groups, and private legal firms, for example. Furthermore, since amicus briefs often carry little weight in judicial decisions, it seems likely that the next step would be a demand for the right to bring cases directly. The result would be a transformation of the mechanism into a purely litigious and adversarial process. It is difficult to comprehend how this would “democratize” the WTO (unless, of course, one subscribes to the view that in a true democracy private litigation is preferable to government regulation!). While some would argue that the United States is moving toward a system in which “lawsuits make policy,”<sup>19</sup> this is not a model appropriate to an international institution—and, of course, it has many critics in the United States itself. Furthermore, it is also important to underline the fact that the dispute settlement system is already severely stretched because of a rising caseload and limited staff. The entry of countries, like China and Rus-

17. Esty (1998, p. 133).

18. Esty (1998, p. 132).

19. “When Lawsuits Make Policy,” *Economist*, November 21, 1998, pp. 17–18.

sia, with somewhat less than transparent regulatory and legal systems could well threaten the viability of the entire mechanism unless resources were increased.

Yet even if we reject the litigious model, the problem of reconciling the WTO trade rules with the new social regulatory state remains. Amending existing rules is difficult, but it is not impossible. These issues are especially contentious not only because of rather serious transatlantic differences in some areas (food safety, for example) but because developing countries have not embraced the social regulatory state and regard the efforts to include environmental and labor standards in the WTO largely as vivid examples of the “sham principle,” that is, disguised protectionism. Many other complex and contentious issues, such as competition policy, will need to be discussed in future negotiations. The task of achieving consensus in such a large and diverse institution, however, constitutes a formidable barrier to change. Thus a fundamental requirement to enhance the flexibility, adaptability, and legitimacy of the WTO is to establish a smaller body or executive committee.

A Uruguay Round attempt to establish a successor to the 1975 Consultative Group of Eighteen (CG18) unfortunately failed, mainly because of opposition from a number of developing countries who feared exclusion. Given the change in atmospherics since the late 1980s, however—in particular, the much more widespread appreciation of the need for a global rules-based system—the time is now ripe for another effort.

The executive committee would be able to meet on a regular basis and, with the assistance of the director-general and the secretariat, review current and prospective policy issues in order to advise the biennial ministerial conference, which would retain full decisionmaking authority. With such a forum, at both a ministerial and senior-official level, the norms and principles of policy and the fundamental issue of forging a new international contract could be discussed and debated. It is essential to emphasize the notion that forging a consensus in a smaller group aided by expert policy-analytic information is facilitated by peer group pressure. The executive committee can then play a role, at both the official and ministerial level, in promoting the extension of that consensus to the entire membership.

In establishing such a committee, the most difficult problem, of course, is membership, and the various formulas tried out in the Uruguay Round failed to secure agreement. However, in establishing the Trade

Policy Review Mechanism (TPRM), the FOGS committee created a precedent for a possible formula. Thus different member countries were subject to different review schedules on the basis of their respective shares of world trade. This same formula could be used for establishing a committee of reasonable size and rotating membership, which would ensure that all countries and regions would be represented within a given time frame.<sup>20</sup>

Another function of the executive committee supported by a high-quality (although not necessarily large) expert secretariat would be the diffusion of knowledge in national capitals, another essential ingredient of consensus building. This, in turn, would facilitate a “democratization” of the policymaking process in member countries by making the debate more transparent and more inclusive.

To keep up to date and reasonably small in size, the WTO could not possibly generate all its policy analysis in-house. Like most research bodies today, the WTO secretariat would have to establish a research network linked to other institutions such as the OECD, the Bretton Woods institutions, private think tanks, universities, and the like. Knowledge networks are key elements in promoting cooperation and coordination. This networking should also include INGOs such as business groups (the International Chamber of Commerce, for example), transnational environmental groups, international labor associations, and intergovernmental organizations such as the ILO and UNEP. Furthermore, an executive committee would provide a forum, at both the official and ministerial levels, where, for example, trade and environment officials and ministers could discuss basic policy options. In the end it must be demonstrated that economic growth and economic development are not in opposition to environmental goals and that pragmatic policy solutions are available.

Although establishing an executive committee and improving the WTO’s analytic and networking capabilities would help entrench the legitimacy and credibility of the institution, these reforms alone would not do much to prevent further marginalization of many developing countries, especially the least developed. Technical assistance and more effective coordination with other international institutions will also be required.

20. Ostry (1998b, p. 25).

### The Technical Deficit

The gap between rich and poor has been widening over the past three decades, largely because of differences in trend rates of growth of per capita income. China has enjoyed above-average growth, but other low-income economies have fallen further and further behind. The ratio of average income of the richest country in the world to that of the poorest has risen from about nine to one at the end of the nineteenth century to more than sixty to one today.<sup>21</sup> Marginalization is an ugly mark on the face of the global economy. As noted earlier, while it has little to do with trade liberalization, marginalization will prevent these countries from taking part in ongoing liberalization; most important, it represents a threat to the broader goals of global stability.

As a result of an initiative launched by Renato Ruggiero, the WTO director-general, at the G7 summit in June 1996, the WTO Singapore ministerial meeting in December of that year endorsed the Comprehensive and Integrated WTO Plan of Action for Least Developed Countries. This was the first project involving the major international institutions in a coordinated approach to technical assistance for the least-developed countries (LLDCs). The WTO, in cooperation with the Bretton Woods institutions, the United Nations Conference on Trade and Development (UNCTAD), the International Trade Center (ITC), and the United Nations Development Program (UNDP), established the Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries in 1997 to link the trade-related training programs of the agencies in order to upgrade the capabilities of the poorest countries. This important initiative, the first of its kind, was described by Ruggiero as “a new partnership against marginalization.”<sup>22</sup>

Although it is not clear precisely what “trade-related training” means, the phrase carries echoes of the GATT rather than the WTO. This is not meant to diminish the initiative (which will help the LLDCs improve their export capabilities and, therefore, their growth potential) but to argue that it should be regarded as one part of a much broader project. In the world of deeper integration, trade is not trade. No trade minister is responsible for services: indeed there is no minister of services. No trade ministry has

21. Birdsall (1998, p. 76).

22. Quoted in *WTO Focus* (WTO newsletter), no. 24 (November 1997): 4.

the expertise necessary to deal with intellectual property, the environment, product standards, or food safety. “Trade” policy today rests on an advanced and sophisticated governance and legal system, including effective domestic coordinating mechanisms and access to technical expertise.

As the World Bank notes in its *World Development Report 1998–1999*, the knowledge gap between rich and poor countries is far greater than the income gap and, in the absence of change in both domestic and international policies, is likely to widen. The knowledge gap—and the marginalization problem—cannot be tackled without upgrading the institutional infrastructure of the country—governance, education, the legal system, regulatory policies, and so on, and so on. The overlap between the new “post-Washington consensus” World Bank and the new WTO agenda is virtually complete.

Clearly the WTO, with limited training resources (less than 1 percent of its budget), is confined to small projects and training centered on “trade policy” issues. Only the World Bank has the resources and the mandate to provide the requisite technical (and financial) assistance to stanch increasing marginalization. A recent World Bank report on developing country participation notes that the need for strengthened institutional capacity is not confined to the poorest countries but extends to many other developing countries as well.<sup>23</sup> The much more demanding WTO agenda, virtually continuous negotiations on different subjects, and the litigious and evidentiary-intensive dispute settlement process have placed a burden on many non-OECD countries. The richer countries have access to analytical expertise at the OECD and at their home base, and they also have larger Geneva missions.<sup>24</sup> This basic asymmetry cannot be corrected merely by adding more resources at the WTO (although that is important) but would also require more meaningful coordination with the Bretton Woods institutions—that is, coherence.

### **The Coherence Deficit**

A largely rhetorical Ministerial Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Eco-

23. Michalopoulos (1998).

24. Michalopoulos (1998, pp. 9 and 33–36).

conomic Policymaking was the only result of the FOGS group negotiations over seven years. The coherence objective in the agenda of the Uruguay Round stemmed from the serious current-account imbalances, that is, the growing American deficit and the Japanese surplus, which had emerged in the first half of the 1980s and fanned the flames of protectionism in the U.S. Congress. The term *coherence* was essentially a euphemism for the curbing of extreme swings in exchange rates, and the phrase “greater exchange rate stability” is highlighted in the Ministerial Declaration, although other examples of cooperation—for example, structural adjustment of and food aid to developing countries—were also mentioned. The Ministerial Declaration concludes with an “invitation” to the director-general of the WTO “to review with the Managing Director of the International Monetary Fund and the President of the World Bank, the implications of the WTO’s responsibilities for its cooperation with the Bretton Woods institutions, as well as the forms such cooperation might take, with a view to achieving greater coherence in global economic policymaking.”<sup>25</sup>

The results of this review were agreements with the International Monetary Fund (IMF) at the end of 1996 and the World Bank in the spring of 1997 that carefully detail who can attend which meeting and what information can be exchanged and provide for the possibility of consultation between secretariats on trade policy-related issues. There is no mention of external imbalances and exchange rate misalignment. This hardly came as a surprise, since a 1989 meeting of the director-general of GATT and the heads of the Bretton Woods institutions, requested by the 1988 ministerial meeting (the so-called midterm review), concluded that there was not enough evidence to link exchange rate misalignment and protectionism and that, in any case, such problems were the “least amenable to improvement through action by the international agencies themselves.”<sup>26</sup>

While it is fair to say that the original Uruguay Round objective of coherence concerned with exchange rate misalignment is pretty well dead, the overall umbrella of improved coordination among international institutions is more important today than the negotiators could have foreseen in 1986, when the FOGS group was created. Indeed, it has resurfaced in the ongoing debate about an international economic architecture spawned by

25. World Trade Organization (1994, pp. 442–43).

26. Sampson (1998, p. 267).

the Asian and Russian crises but concerns the lack of effective coordination between the Bretton Woods twins. Although the WTO has been scarcely mentioned in the discussion of financial architecture, it is worth a brief digression on the Bretton Woods coherence deficit to point out the important implications for the WTO.

For the first twenty-five years after their creation, the Bretton Woods institutions performed their respective roles effectively and efficiently and were universally judged a success. After the break-up of the fixed rate system in the 1970s, however, their roles, now confined to developing countries and then also to the former centrally planned economies, began to overlap. The neat separation of macroeconomic policy, the domain of the IMF, and the World Bank's microeconomic policy were no longer judged to be appropriate, and as the original specialization eroded, increasing conflict arose from the lack of workable coordination mechanisms. This conflict erupted openly in a dispute over Argentina at the end of the 1980s, which resulted in the 1989 Concordat concerning the respective roles of the IMF and the World Bank. However, the uneasy but workable compromise embodied in the Concordat was swept away by the extraordinary difficulties presented by the 1997 Asian turmoil. Open criticism of the IMF by senior officials of the World Bank (concerning substantive policy issues as well as operational matters involving the use of World Bank funds for emergency financing) made very clear how wide the rift had become.<sup>27</sup> Yet another concordat, signed at the World Bank-IMF meetings in the fall of 1998, is not significantly different from the earlier version.

Although I will not go into the specifics of the conflict, it is important in the context of this discussion to underline the dimensions of the overlap of mandate. While the IMF had included structural or supply-side issues in its policy framework since the 1980s, in the Asian crisis this concept was so broadened that it virtually duplicated the World Bank's new policy framework, which had been adopted in the late 1990s. The World Bank now sees its role in development as encompassing governance, economic regulation, competition policy, the legal system, education, social policies, and the environment, that is, the entire "soft infrastructure" of the coun-

27. See, for example, Stiglitz (1998a) and Stiglitz (1998b). On the financing dispute, see Robert Chote, "Wolfensohn Faces Tests of Strategy," *Financial Times*, October 12, 1998, p. 4.

try. Since there is a plausible argument that macroeconomic and microeconomic policies are complementary, so that the IMF cannot eschew all structural policies, this vast domain of development policy suggests that it will not be easy to devise a workable specialization arrangement.

Leaving aside the Bretton Woods institutional design, what is far more striking about the World Bank's policy span is its virtually complete duplication of the WTO's current and prospective agenda, which covers regulatory reform, legal systems, social regulation, possibly competition policy, and perhaps labor policy. Trade policy and development policy are becoming more and more intertwined. What the WTO calls trade policy the World Bank calls the second generation of reform.

It is perhaps not an exaggeration for a senior U.S. official to assert that "IMF and . . . World Bank programs, not just in East Asia but in India, Latin America, Central Europe and Africa, have led to more systematic trade liberalization than our bilateral or multilateral negotiations have ever achieved."<sup>28</sup> However, there is much less here than this grandiose statement suggests. A recent example of Bretton Woods's liberalization is Korea's liberalization of financial services. The December 1997 agreement with the IMF, which provides for increased foreign ownership of banks and foreign ownership of stock brokerage firms, is different from the commitments in Korea's WTO financial services agreements, but Korea's IMF agreement is not bound in the WTO—as is the case with most if not all such "liberalization conditionality." Just to add to the incoherence, both the WTO and IMF commitments are different from its OECD accession agreement.<sup>29</sup>

The point hardly needs laboring. There has been some progress since the Uruguay Round in improving international cooperation, and the project on marginalization may signal a new start. Perhaps the project on the LLDCs suggests a more practical means of grappling with the problem, through specific, clearly defined projects. Let the project become the process rather than drafting more memorandums of procedural agreements.

As I have described at length elsewhere,<sup>30</sup> the most important project for coordinated action between the World Bank and the WTO should be to facilitate the integration of China into the WTO. Full integration requires

28. Lawrence Summers, "Asia's Reckoning: Why America Needs the IMF," *Wall Street Journal*, March 27, 1998, p. A22.

29. Brewer and Young (1998, p. 6).

30. Ostry (1998a). See also Alexandroff (1998).

not only trade liberalization, à la GATT, but also a major transformation of the regulatory and legal regimes and a restructuring of the domestic economy. The technical assistance should be jointly supplied by the two institutions, although without an increase in WTO training and legal resources the dispute settlement mechanism might not survive. In addition, the transition accession should be coordinated with financial assistance from the World Bank to facilitate the structural change and hence ensure the sustainability of both domestic reform and the liberalization process. Granted, this may not be easy, not only because of institutional sensitivities but also because some countries (read China) might charge that the agreement involves unacceptable “cross-conditionality.” Nevertheless, if there is an economic way, surely a political will can be found!

The access negotiations in Geneva already include the concept of transition periods of varying length for different parts of the liberalization commitments. What is required is to house these specifics in an overall transition framework, which would be time certain, would include specified benchmarks for review by a WTO committee (the existing TPRM) at designated dates, and would result in full WTO membership at the end of the period, at which time the TPRM would certify full adherence to the transition protocol. To ensure the credibility of this mechanism, the TPRM would have the right to remove most favored nation (MFN) status for a given period if China failed to deliver the commitments specified at any of the designated benchmarks. Full membership would require the termination of the MFN sanction.

Because today the main “sanction” that really threatens the Chinese (who, in effect, are granted MFN status by all WTO members) is the U.S. Jackson-Vanik Act, which requires annual review of Chinese MFN status, the WTO mechanism should include a suspension of this bilateral arrangement for the transition period. The substitution of a multilateral sanction in which the United States plays a full role would greatly reduce the bilateral confrontation engendered by the annual congressional debate. The Chinese believe—and so far they have been proved correct—that no matter what noise that debate generates, in the end Congress gives in, and MFN designation goes through. Thus the bilateral sanction has virtually no effect on their WTO offers. A meaningful multilateral sanction could not be dismissed, however, as it would carry severe penalties and seriously threaten Chinese growth prospects and internal stability. It would be, in other words, a credible international anchor for domestic reform.

Finally, as a part of the WTO reform, the generic issue of accession could be a “project-as-process” step along the road to improved coherence, and Russia should be next in line for accession. This approach may sound rather modest compared with the grand objective of the Uruguay Round; but “modest” accomplishments are far better than improbable grand designs.

### **Conclusion**

The proposals for WTO reform offered in this paper are based on my personal judgment of the basic structural weaknesses in the WTO as an institution. These are not intended as an exhaustive list, and there are other issues of considerable importance: the relationship between regionalism and multilateralism, the problem of antidumping and its relationship with competition policy, the serious divisions among countries about global rules for investment—to name but a few. Furthermore, I would argue that in the ongoing discussions about an international economic architecture the need for an international environmental institution should be considered, because the current institutions are too weak and fragmented. Perhaps some existing institutions, such as UNCTAD, should be merged with the WTO. These are all important concerns, but priorities must be established. If the WTO’s structural weaknesses are not tackled, the gap between its mandate and its capabilities will widen and jeopardize the future of the rules-based system and the stability of the entire international economic system.

The call for democratization is not only getting louder and more insistent but is also gaining credibility, and so the most urgent of the structural reforms concerns the proposal for an executive committee. I have argued that a litigious privatization route to democracy would be unacceptable to many member countries and, indeed, undesirable *per se*. Yet the basic trade trilemma must be confronted. The international social compact, which interfaces international rules with domestic policy space, needs renegotiation. This is not a legal question to be determined by a specific set of circumstances at a specific time. It is a systemic issue involving a balancing of diverse interests to be resolved by renegotiation of an outdated international compact. Nor is any renegotiation definitive; it will be tentative, imperfect, and subject to revision. That captures the essence of the role of

Executive Committee ministers. Renegotiation would be impossible in a forum as large and diverse as the WTO. Nor, as is often suggested, would it be wise for the Quad to continue to act as shadow steering group. A transparent process of selection based on a prior agreement, as suggested earlier, would be more credible. If this structural reform were tackled, then dealing with the issues of marginalization and coordination would be far easier.

## *Comments and Discussion*

**Max Corden:** The most important feature of the WTO is indeed its dispute settlement procedure, which is remarkable. The WTO does, of course, suffer from a democratic deficit, in the same way the U.S. Supreme Court does when it makes decisions without benefit of an opinion poll or consultation with Congress. That is the nature of any legal arrangement.

The matter of the GATT, the WTO, and a reciprocal trade agreement might seem a bit of a mystery. If countries really wanted to have free trade, they would engage in unilateral liberalization. The reality is that in many developing countries, there have been remarkable periods of unilateral trade liberalization, which have had more influence on actual outcomes than the GATT and the WTO.

But what is the underlying logic of reciprocity? Country A would like country B to open its market as much as possible, to help country A's exports. Contrary to what is sometimes argued, this does not mean that the underlying philosophy is mercantilist, because countries may not be interested in getting export surpluses, which they could get by cutting imports. Rather, it may be that they want to improve their terms of trade.

The sought-for agreement is really a reciprocal arrangement for improving or maintaining the terms of trade. The more country B opens its markets, the more will country A be able to sell its goods easily and cheaply, and the reverse is also true. But here is the catch. If the philosophy is just a matter of the more A opens its market, the better for B, then there is no reason why international agreements and reciprocal pressures should be limited to tariffs and other border restrictions. For example, suppose Japan has some domestic arrangements (whether private or public) that incidentally adversely affect American exporters—even though there

is not actually any discrimination against American or other foreign exporters. Given this theory, these domestic arrangements would still be within a legitimate area for international negotiations, agreements, or pressures.

There are numerous domestic policies that may have an incidentally adverse effect on some foreign suppliers. If all those policies come in the range of international bargaining, then the line between domestic policy space and international trade arrangements certainly disappears. If one accepts the simple premise that foreign market access is a good thing, and the more there is, the better, then every possible action that country B takes that reduces exports of country A is presumably a matter for international negotiations. For example, if the United States is a major exporter of cigarettes to Thailand, and Thailand imposes a tax on cigarettes, then this tax comes within the range of these discussions, even if the tax does not discriminate against U.S. exports at all.

In the past, the focus was almost wholly on arrangements that discriminate against foreigners, either through tariffs, quantitative restrictions, or failure to provide national treatment. The logic behind that, as I understand it, is another concept or objective that has nothing to do either with the terms of trade or comparative advantage. It is the idea of fairness, the concept that discriminatory arrangements are unfair. International agreements in the past have been focused on getting rid of discriminatory arrangements, but this is a much narrower concept. Of course, it is still a major consideration in international negotiations and WTO rules.

The basic problem of the broader approach is that some lines have to be drawn. International agreements and international pressures cannot be too intrusive on domestic policy. In practice, the most powerful member of the WTO is the United States, and it is likely that any intrusion will be into other countries' domestic policies rather than into the policies of the United States itself since, without the United States, there cannot be a decent multilateral agreement. Other countries are sometimes compelled to give way on these matters, but they are likely to resent the element of intrusion. I have much sympathy with Ostry's view that some lines have to be drawn and that international intrusion into domestic policies should be limited or avoided. That seems to be the underlying issue here.

The second issue Ostry raises in her paper is what she calls the trade policy buffer. She is really referring to loopholes or escape clauses. Given all these limitations on government interventions, especially on discrimi-

natory restrictions in trade, there have to be some loopholes or some buffers to allow for big shocks, sudden increases in imports, and strong domestic political pressures.

In practice, the main loopholes now seem to be based on antidumping measures—that is, trade restrictions imposed because imports are believed to be supplied at less than the cost of production. Michael Finger, the greatest expert on this subject, may confirm this. Antidumping measures have now spread beyond the major developed countries, including Australia, to many developing countries. Here is the biggest loophole in the whole system.

We do need a loophole, but antidumping does not seem to be the right one. The main loophole ought to be an explicit arrangement for safeguards. Safeguards should be used where there is clear evidence that substantial domestic injury has occurred, and such measures should be temporary.

The trouble with antidumping is that it leads to much fretting about the costs and prices of particular goods in other countries, which usually cannot be calculated easily or accurately. The only factors that are really relevant are the degree of injury and the cost of protection. These two effects have to be traded off. So here there is perhaps an area of reasonable reform that is possible.

The third topic I want to refer to briefly is the so-called coherence issue. I am afraid I am a little skeptical on this. There seems to be an idea that somehow the IMF decides the world's exchange rate policies and that the WTO and IMF ought to get together to agree on what the world's exchange rate policies or regimes should be. However, as we all know, the IMF has no influence on the exchange rate policies of the major countries. Of course, it does have influence on the exchange rate policies of the countries to which it lends, all of which are developing countries.

The underlying idea seems to be that a floating exchange rate regime leads to much instability and that severe appreciations of currencies tend to lead to protectionist pressures. If only exchange rate fluctuations could be limited, protectionist pressures would also be reduced. Possibly, that is broadly true. I must point out another consideration, however.

We are moving into a world in which countries will have to choose either floating exchange rates with some management or firmly fixed rates. Firmly fixed rates mean, really, monetary integration, dollarization, or credible currency boards. Countries that choose that road would return to

something close to the Bretton Woods situation in which, for a period, exchange rates were firmly fixed and devaluation was executed only with extreme reluctance, although there was still some possible adjustment. A country experiencing a balance-of-payments crisis would impose or intensify import restrictions and perhaps raise tariffs.

If countries actually moved to regimes of truly fixed exchange rates, there would be a new danger, or the revival of an old one, namely, protection imposed for balance-of-payments reasons. What is a country to do if it has a major adverse terms-of-trade shock and no longer has a currency under its control? The instinct will be to use trade policy instruments.

If all the standard forms of protection—tariffs and quantitative import restrictions—are ruled out, countries will find some indirect methods to achieve these objectives. Some of these pressures can be seen in Argentina, although they have, on the whole, been resisted. From the point of view of the trade policy problem, floating rates are superior to fixed rates.

Finally, let me say I fully agree that there is something quite odd about the way the WTO is run. The tight funding is extraordinary. The WTO obviously needs more resources, and it might be worth discussing why resources have been so tightly limited. Even more important, decisions have to be reached by consensus: with more than a hundred members, it is amazing that the WTO is ever able to decide on anything. The WTO obviously needs an executive board like the one the IMF has, in which voting is weighted and not all countries are represented at any one time.

**C. Fred Bergsten:** Sylvia Ostry's paper focuses primarily on the organizational and institutional questions concerning the WTO. She begins her section on the technical deficit by talking about the growing gap between rich and poor countries and the marginalization of the poorest. One might draw the implication that the trading system itself has marginalized the poorer countries. Although I recognize that this is not Ostry's view, I want to emphasize just how incorrect this view is. To the contrary, many developing countries have marginalized themselves in failing to participate in the global trading system.

World Bank studies show that a substantial portion of the total global benefit from the Uruguay Round accrued to developing countries.<sup>1</sup> These studies suggest a gain of 1 to 2 percent of gross domestic product (GDP)

1. Harrison, Rutherford, and Tarr (1997, p. 1421) and Martin and Winters (1996).

for developing countries in the long run, which is not a bad return for government business. Those countries that came forward, made offers, and actively participated did better. One study by an Indian economist suggests that India gained from 0.5 percent to as much as 4.65 percent of GDP from the liberalization that occurred in the Uruguay Round—even though India opposed it at the start and did not actively participate.<sup>2</sup>

It is a mistake to think that the system has marginalized poorer countries; they can marginalize themselves, however. That is why at the Geneva session in March, the so-called WTO High Level Symposium on Trade and Development, I pushed hard for the developing countries to take a proactive role.<sup>3</sup> More important, Rubens Ricupero and a number of people from developing countries did so, too.

The greatest applause at that conference, however—and it was fairly close to a standing ovation—was for a speech by the Yale economist T. N. Srinivasan. He is our good friend, and he is for free trade. But what drew the applause was not his call for free trade. It was his call for rigorously divorcing all “nontrade issues” from trade negotiations. Not only did he say that the WTO should not even look at labor and the environment, but he also proposed that protection of intellectual property rights be removed from the WTO and transferred to the World Intellectual Property Organization. That brought down the house, suggesting to me that the developing countries, whose representatives made up most of the attendance there, were not yet ready to act to ensure that they were not marginalized.

Like Max Corden, but for slightly different reasons, I have a somewhat different take on what Ostry calls the coherence deficit. Each of the major postwar GATT rounds—the Kennedy Round, but even more so the Uruguay Round and, before it, the Tokyo Round—was born out of a response to a monetary crisis. Each derived from a big crisis in the value of the dollar and was part of the strategy for responding to that crisis. The logic, of course, was that the crisis was caused primarily by dollar overvaluation, which, in addition to leading to financial problems, also led to big outbreaks of trade protectionism. The United States responded in the only way possible—insisting on getting the bicycle of liberalization rolling again—agreement was reached, and those rounds transpired. That is, in fact, the history.

2. Singh (1996, p. 249).

3. For more details, see Bergsten (1999).

The only disagreement I have with Corden is with his remark that we should therefore be in favor of floating exchange rates. As Corden himself notes, the biggest monetary-induced protectionist pressures in the entire postwar period came from the overly strong dollar in the mid-1980s, which occurred under the one instance we have ever experienced of pure floating. The dollar floated purely, the market made bigger errors than the governments ever made in setting rates, and the dollar's overvaluation was so great that members of the House Ways and Means Committee said that the Smoot-Hawley tariff itself would have passed had it come to the floor in 1985. Therefore, I strongly believe that we should opt for target zones or other intermediate exchange rate systems to avoid huge misalignments. I will not belabor that now, but I do not think our desire to see the expansion of free trade should lead us to unfettered free floats.

I agree with both Ostry and Corden that an executive committee is needed at the WTO. We have them in the international financial institutions; and weighted voting is a good thing, too. However, we do have a steering committee in the WTO. It is called the quad and consists of the United States, the European Union, Japan, and Canada. Is it legitimate? Is it politically acceptable? Not perfectly; the steering group will need to be democratized and broadened. But in the broader macroeconomic and monetary environment, we have a G7 that is equally illegitimate and non-democratic. What we should do with the G7, of course, is to take advantage of the creation of the euro, shrink the membership from seven to three, and then look for opportunities to expand it as other countries (probably China first) come into a sufficiently key role in the system to join the steering committee. The same thing should be done on the trade side, although no candidate who could join the quad comes to mind yet. Perhaps China, if it can get into the WTO now, will emerge as an early candidate.

An omission of sorts in Ostry's institutional arrangement was that she did not talk much about the linkage between regional and global institutions. It is true, one cannot talk about everything. But if we fail to begin a new WTO round soon, the regionals, which have heretofore been building blocks, could become stumbling blocks. The Asia Pacific Economic Cooperation (APEC) forum and the other regional organizations have positively galvanized multilateral liberalization throughout the postwar period because the key countries, notably the United States, have steered things that way. If the rest of the world were to resist global negotiations, then regionalism could take a negative course as well.

The key to the future of the WTO, however, is going to be the substance of the trading system and what the WTO is able to accomplish. A key issue here is the protectionist risks that now exist—paradoxically, bizarrely, and notably—here in the United States. I think we have to take that very seriously. It is rather bizarre that, with what has been called the Goldilocks economy in its ninth year of expansion, we see the House of Representatives passing a steel quota bill by an overwhelming majority and the president rejecting an obviously desirable WTO accession deal with China because of the textile lobby—not because inadequate access was granted to the Chinese market but because he wants to block Chinese access to the U.S. market for a couple of key commodities (primarily textiles and apparel). That is evidence, I am afraid, of the continued and indeed renewed weight of trade protection pressures that we are seeing, despite the strength of our economy.

If you cyclically adjust and ask what U.S. policy is going to look like when we begin to have a slowdown with some pickup in unemployment and with the trade deficit exceeding \$300 billion and growing, the outlook is not good. That means that we will have to work very hard to restart the trade liberalization bicycle.

The future of the WTO, at least in the near term, and in the medium term as well, will turn on whether we can get a new set of negotiations going soon. One reason that, despite the good economy, we are seeing a great deal of protectionist pressure in the United States—in addition to modest dollar overvaluation and a big trade deficit—is the lack of any forward momentum.

There is now no active trade negotiation going on anywhere in the world. Trade liberalization is a total vacuum, and into that vacuum can come the kind of pressures we are seeing with steel and textiles and apparel vis-à-vis China, for example. So it behooves us, if we want to see a positive future for the WTO, to get all that going soon, primarily at the Seattle ministerial conference in November 1999, which intends to start up a new WTO round.

As for the substance of the new round, we will want it to cover a wide enough range of issues to generate domestic political support here and elsewhere, which will in turn get a new round under way. We will have to make domestic efforts, too, as Rodrik has emphasized. The new round must include the built-in agenda of agriculture and services. I would stress agriculture as crucial for U.S. domestic politics. As is well known, the

agricultural lobby was strong enough to get the IMF quota bill through last year; without the support of agriculture, it would not have happened. We will have to include agriculture in the round effectively if we are going to have domestic support. Given the European Union's current stance on further reform, or lack thereof, in the Common Agricultural Policy, the outlook is not rosy.

Investment is important. I recommend Theodore Moran's recent book, *Foreign Direct Investment and Development*, which has some exciting ideas about a big new trade-off in the investment area.<sup>4</sup> Moran suggests that in this arena the developing countries have the greatest interest. He argues that developing countries have been cutting their own throats by the kind of performance requirements they have levied—joint-venture requirements, technology-transfer requirements, value-added requirements—which discourages multinational firms from giving them their best. What is required is a series of arrangements that will encourage multinational firms to link the affiliate in a particular country with its global best practices networks, which will bring along with it all sorts of externalities.

What the developing countries should do, according to Moran, is to negotiate away those things that are not in their interest anyway. In return, they should get an agreement to limit investment incentives in areas where the rich countries can always outspend the developing countries. That kind of trade-off would improve the environment for investment worldwide and for the developing countries themselves. I will not dwell on competition policy except to say that it probably should not be linked to antidumping reform, much as that is needed, because such linkage will probably kill both in terms of our politics here.

Corden asks, What is the underlying theory of WTO-type reciprocity? Well, I do not think it is just the terms of trade. It is the political economy of liberalization. It is the need to overcome domestic resistance by linking the export interests that will be as concentrated as the protectionist interests, not just by trying to galvanize the diffused interests of consumers and importers of inputs. That is why, at least in the case of the United States, big deals work better than small ones.

I told the Chileans in 1991 that they were never going to get a free trade agreement with the United States. I told them, "We love you, but you are not big enough. You will never get on the agenda." In fact, it has hap-

4. Moran (1998).

pened just that way. I suggested they link with Mercosur to get more mass so as to get some attention and get on the agenda and get some liberalization. It is the political economy of liberalization that is required and indeed is a logical theoretical underpinning for the WTO process.

In any event, it seems to me that the objective of the game now has to be to reinvigorate trade liberalization. That means a big enough international deal to generate domestic interest, enough at least to neutralize the opposition to any further globalization that we see from the unions and others. There is more here than the green concern emphasized by Ostry, but that needs our attention, too.

Trade liberalization obviously has to be coupled with domestic policy reforms. We have to do better on safety nets. We have to do better on training and education programs to empower our people to take advantage of globalization rather than feel victimized by it. I was delighted when President Bill Clinton said, in his 1999 State of the Union address, that he would seek a renewal of fast-track authorization that year. We have heard nothing about it since then, but my point here is that his address missed a key element. He spoke of domestic policy improvements, including social security reform, health care broadening, and so on, but when he turned to fast track and trade liberalization, he neglected to admit that there are costs and that there will be losers.

He should have acknowledged that some do not agree with trade liberalization and globalization. He should have linked his domestic reforms and his trade liberalization, arguing that the former is the most constructive solution to the shortcomings of the latter. Not even the Clinton administration, which, rhetorically at least, was right on both, has made that linkage. Two things must be done to overcome the current stalemate that for five years has blocked the United States from moving forward on trade liberalization: improve the substance of the trade debate and improve the linkage between liberalization and domestic policy in the public mind.

It seems to me that the case for the United States to move ahead in the WTO is powerful. Ours is basically an open economy, while most others are not. We should aim for global free trade because it would bring the barriers of others down to our level. In a mercantilist and political economy sense, it would be all gravy for the United States. But we obviously must have the domestic components of the program to drive and support it.

I will close simply by saying that this is a very serious problem. In addition to protectionism in steel, textiles, and the rest, the real indicator—also

discussed in relation to I. M. Destler's paper—is that U.S. trade policy as a whole has really ground to a stalemate over the past five years. Fast track has been tried every year, and it has been stymied each time. It is literally an even split in Congress—pretty much the way the IMF issue was and probably will continue to be. It might fail again the next time around, unless some more fundamental response is made to the underlying questions and problems.

Therefore, the future of the WTO depends very much not only on the institutional changes, though those are important, but even more on getting the bicycle of liberalization rolling forward and starting a new negotiation in trade that can fill the vacuum and move the system in a positive direction.

**General discussion:** Much of the discussion about the future of the World Trade Organization focused on what Sylvia Ostry identifies in her paper as the “coherence deficit.” While numerous participants agreed with her about the lack of coordination and consistency among international institutions (such as the WTO, the World Bank, and the IMF), a range of views was expressed as to whether this deficit is a problem and, if so, what are appropriate and effective ways to address it.

Julius Katz argued that it is unrealistic to expect coherence among the international institutions, given the divergence of views among G7 countries. These institutions are creatures of their membership. Indeed, he noted that in some cases there is even a lack of coherence within individual countries. Others expanded on this point, stressing that the lack of coherence is a more fundamental issue than just poor coordination among institutions. Anne Krueger stressed that the real problem is that governments do not agree on what should be done. In her view, inability to resolve this underlying problem typically leads to the same two solution proposals: a call for more timely data and a call for international institutions to do the coordinating.

There was widespread support for the idea of an executive committee within the WTO. However, not everyone agreed that such a committee could help to resolve the coherence problem. In particular, Krueger noted that the ambassadors to the WTO typically come from countries' trade ministries. Fred Bergsten agreed that, to be effective, meetings would have to be at the ministerial level. Colin Bradford argued that it is the world as a whole, not the WTO, that needs an executive committee to address major

issues, such as oil shocks or financial crises that create economic instability. Acknowledging the trade-offs between size and representativeness, he proposed a committee composed of top-level officials (heads of state, finance ministers, and central bank governors) from perhaps twelve countries, such as the G4, India, China, Korea, Indonesia, Mexico, Brazil, and perhaps Saudi Arabia and South Africa. Such a group might meet twice a year to provide guidance to and coordination among the international institutions. Other participants were skeptical of this idea because of the difficulties in getting such a group to agree.

Max Corden pointed out that there is, in fact, a clear division of labor between the WTO, on the one hand, and the IMF and World Bank, on the other. The WTO sets rules for the trading system as a whole, within which all developing countries operate. The other two institutions make recommendations or set conditions for individual countries based on the interests of that country. Krueger noted, furthermore, that this difference is reflected in quite different organizational structures of these institutions.

At least two contributors felt that coherence problems had been overemphasized. Isaiah Frank argued that pushing coherence was undesirable because it would exacerbate the persistent public misunderstanding that confuses trade issues with balance-of-payments issues. In this context, he stressed the need to keep the microeconomic issues distinct from the macroeconomic ones. Robert Lawrence was concerned that a push for coherence among institutions could blur real differences in their philosophies. Following up on the earlier point by Corden, Lawrence described negotiations in the WTO as interactions in which countries are unwilling to yield concessions unless they receive something in return. In contrast, a country consults with the World Bank to seek advice for itself, without considering how other countries may respond. It is far from clear, for instance, that a WTO bargaining approach would be appropriate for discussions in the World Bank.

Participants raised a series of other difficult problems the WTO will face in coming years. Claude Barfield was particularly concerned about difficulties the WTO will face in trying to agree upon procompetitive rules in areas such as services and intellectual property rights; in these areas, he noted, unlike the areas of tariffs and quotas, there is no single way to proceed. For example, within the United States there are divisions about appropriate patent policy, including patent scope and what should be patented. Barfield also expressed concerns about how the WTO would

resolve issues related to antidumping and safeguards. A particularly worrisome development was the recently signed agreement with China. He thought it very likely that China will be unable to carry out all of the provisions of this agreement, leading to a series of potentially bitter disputes for the WTO. Ostry shared his concern, envisioning an acrimonious and counterproductive situation if China were to lose one dispute after another.

Michael Finger stressed an additional set of difficulties in the WTO's future. He noted that the issues it deals with now often require countries to do things such as putting new customs systems in place. For a developing country, such items are major development projects, requiring significant commitments of time and resources. Not only may the typical three-year time frame of WTO deadlines be unrealistic, but in addition, there is no provision to ensure adequate financing. Indeed, Ostry noted, the WTO's budget for training is just 1 percent of its total budget, while its entire budget is roughly equal to the IMF's travel budget.

Krueger raised some additional points. First, she disagreed with Ostry's interpretation of why the proposed ITO was opposed by the United States and others. Referring to the ITO's proposed charter, she summarized one section as enabling countries to impose trade protection at any time they saw trade as inconsistent with domestic objectives. In her recollection, many of those who did not support the ITO did support GATT because it left out this provision. Second, she took issue with the section in Max Corden's commentary that focused on special assistance for those injured by imports, calling instead for more general social policies. Corden agreed with her in principle but noted that the politics of trade liberalization can provide a rationale for specialized programs.

Frank raised the question of how deeply trade negotiations should be allowed to intrude in internal country policies. For example, should concerns such as bribery and corruption be in the WTO's purview? He stressed the need to decide where to draw the line.

Finally, Katz felt that concerns about rising U.S. protectionism have been exaggerated. He argued that steel and textiles, in particular, are special cases, as they have always been, and that what happens in these sectors says little about broad trends.

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