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Can the WTO Rise to the Challange of Economic Development?

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Can the WTO Rise to the Challange of Economic Development?

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Looking back over the first four years of negotiation of the Doha Round this paper identifies and discusses a number of factors that are shaping negotiations among WTO members as they try to fulfil the development mandate for this multilateral trade negotiation. These factors are not just diplomatic in nature, indeed many relate to changes in how many view the potential impact of further multilateral trade rules and the 'legacy' effects of existing rules. Some of the proposed changes to WTO governance processes are assessed in the light of these considerations, and many are found wanting. The paper concludes that the fundamental implications of adopting a development mandate have not yet been comprehensively taken on board by WTO members and their officials.

Keywords: WTO, Doha Round, Washington Consensus, Economic Development
JEL Codes: F02, F13, O19

1 Introduction

Unlike prior trade rounds, the Doha Development Agenda and associated negotiations place front and centre improvements in the wellbeing of people who live in the developing world. Paper improvements in market access and other negotiated promises are no longer enough, we are told, it is the impact on the poor that really counts. The question that immediately arises is whether the governance arrangements of the World Trade Organization (WTO), which were largely inherited from its predecessor, the General Agreement on Tariffs and Trade (GATT), can rise to this new challenge.

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There are compelling reasons for thinking not. The intractable nature of the negotiations in the Doha Round compares starkly with the momentum behind the WTO's dispute settlement mechanism; an outcome which makes the WTO appear excessively legalistic and increasingly detached from both its economic and commercial rationale and newly-acquired pro-development objectives. New thinking about WTO governance must recognise the realities of greater developing country participation in WTO negotiations, the vacuum in development thinking left by the abandonment of the Washington Consensus, the paucity of serious analyses to assess negotiating positions, and other important international economic dynamics, such as the resurgence of regionalism. In this essay, I discuss these factors, highlight the challenges they pose for the WTO, and assess whether some of the proposed reforms to WTO governance processes meet those challenges. As readers will see, I find that most fall short.

This essay is more provocative, less scholarly, and ultimately more pessimistic than some might like. Even so, I hope that some of the matters raised are of interest to the trade policymaking and development communities. As will become clear, the balance in this essay between challenges and solutions is skewed towards the former. I hope in future writings to redress this and encourage readers to send any reactions to this essay to me at the email address above.

2 Mission Creep at the WTO

Although the ambitions for, and the scope of, the multilateral trading system have grown markedly over the last two decades, some processes by which international trade rules get made have endured. The WTO, just like its predecessor, is a member-driven organisation, where consensus has been the guiding principle for making collective decisions. Moreover, in contrast to the World Bank and the International Monetary Fund (IMF), the WTO and GATT secretariats have far less power, fewer resources to operate independently (including undertaking policy-relevant research and technical assistance and capacity building), and no rights to make suggestions or proposals. In addition, the non-discrimination principles have endured as important guidelines for the negotiation and implementation of multilateral obligations on trade and related policies.

These enduring aspects of the WTO governance system have been augmented by a number of important institutional and diplomatic develop-

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ments. The Uruguay Round saw developing countries brought within the ambit of significant binding rules on trade policy.[1] Moreover, the creation of the Dispute Settlement Understanding (DSU) – which substantially constrains the ability of WTO members to evade their multilateral obligations – forces all WTO members, and developing countries in particular, to take a hard look at any proposals for further multilateral rules.[2]

The WTO system of governance, therefore, includes a juridical mechanism as well as a negotiating (or what some call a legislative) mechanism, and the differences and relationships between them are becoming clearer over time. One difference is that many disputes between WTO members are typically resolved in less time than it takes to negotiate new multilateral disciplines.[3] This has reinforced the impression that the WTO has become overwhelmingly dominated by disputes, legalism, and concerns far removed from its newly acquired development objectives. Worse still, there is growing criticism of the economic content of the rulings of the Panels and Appellate Body, which has lead some leading international economists to seriously advocate a return to the GATT system of dispute resolution.[4] WTO members are concerned with any propensity for Panels and the Appellate Body to 'make law' rather than 'interpret law', a distinction that arguably is easier to make in theory than in practice.

Another critical development is that the scope of multilateral trade rules has expanded into new market access-related and regulatory matters. The significance of the Uruguay Round in extending the reach of the WTO into services and further beyond the border into certain important regulatory policies (such as intellectual property laws) cannot be overstated. Pressure to expand the WTO's reach even further in the Doha Round was apparent right from the Singapore meeting of WTO Ministers in

1 This should not be read to imply that there are no special provisions for developing countries, or classes of developing countries such as the least developed countries, in the Uruguay Round multilateral agreements.

2 In the Tokyo Round agreements and before several provisions and conventions in multilateral trade agreements effectively allowed developing countries to avoid the obligations that industrialised countries signed up to. These "carve outs" meant, amongst others, that developing countries did not have to think too defensively about the obligations taken on by GATT members. In the mercantilist logic of many trade negotiators and officials these "something for nothing" arrangements were seen as particularly desirable. Whether developing countries used the associated freedom to advance their development interests is another matter.

3 Of course, some disputes between WTO members appear to go on and on and on.

4 I should add that this is not my position. Having said that, given all of the faults of the current dispute settlement understanding, I am puzzled at the extraordinary lengths that some international trade lawyers and public international lawyers go to defend the status quo. Is the DSU really that strong and effective that it deserves this almost unqualified support? Or am I missing something?

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1996, which arguably began the preparatory work for current multilateral trade round. Although three of the so-called Singapore Issues have been taken off the negotiating table in the Doha Round, proposals for new multilateral obligations in other areas remain.

Last, but certainly not least, the goals of the WTO has substantially evolved since 1995, the year the WTO came into existence. No longer is negotiating legal obligations on market access and impediments to selected aspects of international commerce the central goal of the multilateral trading system. Ever since the Ministerial Declaration of the Doha meeting in 2001, considerable importance has been attached to the effects of new multilateral trade obligations on the plight of citizens in developing and transition economies. Effects, it is said, rather the rule-writing will be the acid test of the Doha Round. That, at least, is what can be discerned from the rhetoric of the Doha Round; whether this comes to pass is another matter. At a minimum, this change in focus of the WTO has brought forward many civil society and other groups who have firm views as to the impact of international trade rules on sustainable development.

3 Three factors that condition perceptions of the WTO governance process

One might be tempted to assess the governance challenges facing the WTO solely in terms of its procedures and stumbling blocks encountered since the Doha round was launched in 2001. This in my view would be a mistake as it ignores three important conditioning factors that shape how many governments, scholars, NGOs, and others view the purpose and decision-making processes of the WTO.[5] I discuss each of these three conditioning factors in turn.

3.1 Discontent with neo-liberal reforms and the Washington Consensus ...

One important conditioning factor in recent years has been the growing scepticism by many in the development community towards the liberalising tenets of what is known as the Washington Consensus. The associated

5 My discussion of these three factors is because I think they are important for understanding the positions – and, I hesitate to say it, even the motives – of various parties that are fully engaged in deliberations on the Doha Round. Readers should not assume that I agree with the arguments made by these parties, many of which are summarised in the three sections that follow.

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package of pro-market reforms, that was the dominant ideology shaping policy advice to developing countries during the last 15 years of the twentieth century, has been widely rejected in East Asia after that region's financial crisis[6] and in Latin America, where poverty has remained stubbornly despite solid economic growth.[7] South Asian and Sub-Saharan African nations, many of whose governments never really wholeheartedly subscribed to the Washington Consensus, have become vocal critics too. Given the barrier-reducing nature of many of the Uruguay Round's agreements, it is not surprising that this shift in development thinking has coloured debates on the implementation of already-agreed trade rules as well as the merits of further multilateral disciplines.[8]

Rejecting one development paradigm might not have been such a problem if a well-thought through, tested, and widely-accepted alternative replaced it. Unfortunately, this has not come to pass. It is true that the World Bank initiated a 'Global Learning Process' that lead to the adoption of the so-called Shanghai Consensus early in 2004. In principle, this 'bottom up' process of distilling the lessons from various policy experiments in developing countries could have provided the foundation for a new way of thinking about sustainable development. Unfortunately, there is little to suggest that this Consensus has attained the profile that its backers undoubtedly wanted. By the end of 2004, references to this Consensus were rarely found in newspaper articles, editorials, academic studies, or NGO pamphlets and press releases on development matters. Of particular relevance to our discussion here, I have yet to hear of a single trade negotiator from a developing country refer to this Consensus in a discussion of his or her government's negotiating priorities.[9] Another nail in the coffin for this World Bank-led initiative was the adoption of a different set of tenets for development at the UNCTAD XI conference in June 2004. It remains to be seen if the so-called Sao Paolo Consensus will

6 In my view the East Asian financial crisis had the same effect on the IMF and World Bank's credibility in that region as the Fall of Singapore in 1942 on British influence in colonial times. In the eyes of many the fallibility of the Bretton Woods Institutions had been exposed for all to see. (Of course, blaming those institutions was far more convenient that blaming domestic interests for the crisis.)

7 The election in recent years of more populist leaders in Argentina, Brazil, and Uruguay are one indication of the degree of "reform fatigue" in that region.

8 It should be noted that some commentators in Western countries believe that the financial crises of the late 1990s undermined the case for the capital account liberalisation advocated in the Washington Consensus, leaving the case for the trade and investment reform recommendations in tact. While it is true to say that the economic analyses underlying capital account reform and trade and investment reforms are often very different, I note that few (if any) prominent policy analysts and officials in developing countries make this distinction. Indeed, as time goes one, I wonder if the latters' repudiation of the Washington Consensus has more to do with the origins of that consensus than with its contents.

9 Indeed, I have had to explain to a few trade negotiators what the Shanghai Consensus was!

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share the same fate as its East Asian predecessor. The vacuum created by the demise of the Washington Consensus has yet to be filled.

In a negotiating round that is supposed to be devoted to promoting development, this state of affairs has placed the proponents of market-opening reforms and the like in a very difficult position. No longer can proponents argue that further multilateral trade agreements help nations implement policies that 'everyone knows are good for you'. Worse still, debates about the merits of further market opening are no longer couched *solely* in terms of legal obligations and alike. Empirical, and often technical economic, evidence has become more important, which is not ground on which every trade negotiator feels very comfortable. Even when evidence is offered by proponents another problem arises: few developing countries have the expertise in Geneva or in national capitals to effectively analyse such evidence. Under these circumstances the temptation to say 'no' to further reforms is surely pretty overwhelming.

Given limited internal capacity to methodically assess the impact of proposed multilateral obligations, to whom could developing countries turn for such analysis? Surely not the Bretton Woods institutions whose very policy recommendations they so recently rejected. (Indeed, many developing countries may have concluded that you can't teach old dogs new tricks!) The United Nations Conference on Trade and Development (UNCTAD) is another possibility but, as evidenced by the research produced by this organisation, only a few of its staff have retained the analytical skills necessary to conduct such research.[10] Worse still, and being utterly frank, some of its officials have used the backlash against the Washington Consensus to little-by-little undermine the WTO, rather than playing a constructive role in helping developing countries devise proposals that are likely to garner a consensus among the WTO's membership. All of this is especially unfortunate as many developing countries see UNCTAD as 'their' think tank.[11]

One possibility is that developing countries turn to development NGOs for advice. By and large, and with a few notable exceptions, this has not happened. Many such NGOs – especially those based in Western countries – advocate controversial and unacceptable initiatives, such as proposals to link trade and labour standards and to include environmental clau-

10 Here I think it is appropriate to acknowledge UNCTAD's analytical work on market access matters, in particular as they relate to preferences. This work has been widely cited and recognised as first rate.

11 This last point is under-appreciated in those western circles where UNCTAD has a poor reputation.

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ses into trade agreements. (In the judgement of most mainstream economists both proposals would have the effect of reducing the competitiveness of many developing countries' exporters, retarding economic growth, and increasing unemployment and poverty.) Alliances of convenience definitely occur from time-to-time – such as over subsidies to cotton exporters by Western nations – but these alliances typically form after developing countries have determined their priorities. Even so, there is little evidence that Western NGOs have filled the analytical vacuum on WTO-related matters in a manner that has decisively shifted the negotiating priorities of developing countries.

Given the paucity of analytical talent on trade and development in developing countries, the vacuum created by the demise of the Washington Consensus, and the dearth of alternative sources of impartial advice, how can we seriously expect most developing countries to play an informed, constructive, and pro-active role in the WTO? As these countries make up over two-thirds of the WTO's membership, the current situation is a recipe for fear and scepticism generating stalemate and recrimination.

3.2 The growing clout of developing countries in international affairs ...

If you had to give a two minute account of 'who ran what' in the fifty years after the Second World War, then I suspect that most explanations would emphasise the following points. The Americans and British set up the World Bank and IMF at the Bretton Woods conference in 1944, and after the war successive American governments plus the leading European governments dominated those institutions. Three of the five permanent members of the UN Security Council have a lot of clout in geopolitical affairs. Twenty-three original members of the GATT helped shape the rules of the world trading system and, since developing countries were not asked to sign binding obligations on a wide scale until the Uruguay Round, the industrialised countries (in particular the United States and the members of European Union as represented by the European Commission) dominated multilateral trade negotiations. Developing countries did play a prominent role in the debates on the New International Economic Order in the 1970s, but this did not disrupt the arrangements described above. In fact, UNCTAD became a vehicle for advancing the ideas of some leading developing countries (most notably India), but the non-binding nature of much of the resulting international accords didn't cause anyone to lose sleep in Western economics and finance ministries.

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Perhaps the only potential for disruption of this status quo was the rise of Japan, and that was managed smoothly with its government taking seats on the World Bank and IMF's Executive Board. Arguably, nuance could be applied to these arguments but the essential elements are there.

What is different now is that certain larger developing countries – in particular I have Brazil, China, India, and South Africa in mind[12] – are beginning to assert themselves in international economic fora at the same time. The sources of these countries' clout differ although all are substantial players in their own regions. For some, their clout is derived from their sizeable populations; for others it is that their exports are having important effects on global industries or that their economies are expected to become ever larger in the coming decade or two. Whatever the reasons, these countries are beginning to flex their muscles, insisting on a greater say in fora that are supposed have global mandates and reach. In the diplomatic arena this has manifested itself in the recent scramble for seats on the UN Security Council. In international trade negotiations it has taken the form of the G20,[13] which rose to prominence before the Cancun Ministerial and which is lead by the very four developing countries listed above.[14]

An interesting question is whether the leaders of the G20 view developments in the multilateral trade arena solely in commercial terms – or whether those developments are interpreted through a broader geopolitical lens. If so, it may well account for the apparent propensity of these larger countries to occasionally oppose proposals – or to deliberately 'go slow' – just to make the point that the traditional leaders of the multilateral trading system (the U.S. and European Union) can no longer dictate

12 Arguably, Egypt, Nigeria, and eventually Indonesia could join this list of pre-eminent developing countries.

13 As the membership of this group has changed over time, it has acquired a number of different labels. I use G20 because there are approximately 20 WTO members that formed an *ad-hoc* coalition on matters relating to the Doha round.

14 In my view the reduction in borrowing from the World Bank by middle income developing countries can also be seen as an attempt by these countries to avoid the strings that are attached to loans from an organisation that they perceive as being run by U.S. and European nations. As HIRSCHMAN pointed out years ago, agents often have three choices when faced with a situation they dislike: exit, voice, or loyalty. As far as the middle income developing countries are concerned, more and more of them are choosing the exit option when it comes to many of their dealings with the World Bank. (This is often dressed up as those countries "graduating" from World Bank tutelage and assistance, but I wouldn't be fooled by this.) In the WTO context, and as will soon be argued in the main text, the loyalty option has been destroyed in the aftermath of the Uruguay Round and the voice option is now being exercised. (The formal exit option has, fortunately, not occurred yet. Although if one views disengagement – such as requests for the Doha Round for free, etc – as a form of exit, then arguably some of the developing countries have involved this option too.)

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terms to the rest of the WTO membership. Surely one must hope that this is a transitory phenomenon but the option to be difficult will always be there. The point here is not to accuse certain leading developing countries of bloody mindedness, rather to question whether broader geopolitical developments have not shaped how those countries have approached the Doha Round, how they will view the eventual outcome of the round, and how they might view any reforms to the WTO's governance.

3.3 The bad taste left by the Uruguay Round ...

The third important conditioning factor, which reinforces the other two, has been the pervasive view that some of the Uruguay Round agreements have harmed developing countries. Relatedly, there is a perception that many governments did not know what they were signing when they agreed to the Uruguay Round, which feeds the impression that the last multilateral trade round is illegitimate. The governance challenge posed by this factor is compounded as many of the WTO's procedures principally look forwards, not backwards. The current negotiating machinery is geared to negotiating new liberalising disciplines – much like a video player that has no rewind button! But rewind – or rather re-negotiate – is what many developing countries would dearly love to do.

Faced with refusals by industrial countries to revisit the principal tenets of certain Uruguay Round agreements, such as TRIPs, many developing countries have taken two steps, both of which undermine the value of a rules-based system. The first response is not to implement a controversial obligation in full or on time, and the second is to block – or at least stall – negotiations on matters that the industrial countries want. For many with a purely legal mindset, re-negotiation of certain Uruguay Round agreements is an anathema. Yet this hard-line position is unlikely to deliver what its' proponents want, namely, preserving the status quo at the lowest possible cost. Forcing developing countries to comply with the TRIPs agreement through invoking the DSU is more likely to discredit the DSU than it is to ensure compliance.[15] Moreover, as the Doha Round drags on and is held hostage to the legacy effects of its predecessor, the cost to industrialised countries in terms of forgone export opportunities grows and

15 Moreover, many developing countries have no doubt learned a trick-or-two about serial non-compliance with Appellate Body rulings from the leading industrialised countries.

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grows; a point that I hope the affected export interests eventually take on board.

The arguments in the last paragraph point to perhaps a more fundamental point. That is, there really are limits to what legal agreements can effectively accomplish in a multilateral trading system where (i) a subset of the membership can *de facto* determine not to comply with a given agreement,[16] (ii) the objectives of the system change markedly so that the legitimacy of prior agreements is evaluated through a new lens, (iii) there is insufficient capacity to assess the implications of legal provisions, always leaving the door open for a subset of the membership to cast doubt on the legitimacy of prior agreements that it can argue that it did not fully understand the implications of. I can imagine how frustrating many trade lawyers and negotiators will feel when reading the above sentences, but don't these realistic considerations cast doubt on how far a narrow legal emphasis on a rules-based system can go? Indeed, in the light of the above, to what extent is it appropriate to uniquely identify the WTO with a rules-based system? And, in so closely identifying the WTO with a rules-based system, are we incorrectly downplaying the roles that diplomacy, trade-related capacity, and legitimacy will play in the future evolution of the multilateral trading system?

Are there any options, short of re-negotiation, that can get us out of the current impasse? One potentially promising option might be to allow developing countries to offer a 'development defence' in DSU proceedings on WTO agreements that are particularly burdensome.[17] This defence could be included in a new agreement on the interpretation of existing multilateral accords. However, many important details would have to be worked out – such as, what evidence would satisfactorily meet the development defence and which parties would have to bear the costs in providing such evidence?

16 Surely using the DSU to remedy such "collective" non-compliance is fraught with danger. If action is taken against one country for non-compliance then it will look like those bringing the case are "picking on" the defendant. Moreover, as certain industrialised countries are so fond to point out, Panel and Appellate Body rulings do not create precedents for other WTO members, implying that the other non-complying nations can carry on as before. Alternatively, if action is taken against a group of countries for non-compliance then the systemic implications for the legitimacy of the DSU must surely be a factor, especially if the defendants believe that the measure they are non-complying with would harm their development. Any victory by the plaintiffs in this situation could well be pyrrhic as it may well come at the cost of the DSU itself.

17 BERNARD M. HOEKMAN has advocated this option.

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4 How well are we facing up to the challenges to WTO governance?

The governance challenges posed by the three factors described above have been reinforced by the mission creep of the WTO. In this section I assess the pros and cons of various options for reforming the governance of the multilateral trading system. The magnitude of the gap between the challenges described in the last section and the tinkering described in this one will become apparent. That is not to say that some of the ideas described below cannot play a useful role.

4.1 Expertise and Variable Geometry ...

The widespread use of the DSU and the need to cover many detailed negotiating briefs has placed human resources in developing countries' trade ministries under considerable strain. There is a real dilemma here. International commerce, and the government policies that affect it, have become more complex and wide-ranging in nature and unsurprisingly the demands for cross-border collective action in those policy spheres has grown over time. Yet, without substantial training of trade-related expertise in developing countries expanding the scope of the WTO means spreading negotiating talent more thinly; hardly a recipe for effective buy-in or well thought through agreements.

Legitimacy and effectiveness are both compromised by the current paucity of trade policy expertise in many developing countries, in particular for those WTO members that do not have a mission in Geneva and for those nations whose Geneva-based trade staff is merely an add-on to their UN-focused missions.

Given the lack of necessary expertise in developing country delegations, one related question is whether there is a case for variable geometry – that is, for some countries forging ahead and signing plurilateral agreements while others take on more obligations as and when it suits their developmental needs. However this suggestion is not without its problems, especially if developing countries fear that plurilateral agreements signed by others inevitably set precedents for themselves.

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4.1.1 Special and Differential Treatment ...

Calls for special and differential treatment (SDT) for developing and least developed countries represent another form of variable geometry that could be given greater prominence in the world trading system. For sure, in places existing WTO agreements already contain specific clauses that differentiate between classes of WTO members; but in recent years demands for SDT have reached fever pitch.

At the time of writing, diplomats in Geneva are still trying to flesh out precisely what SDT could mean in different contexts. Traditionally, SDT referred to longer transition periods to meet specific WTO disciplines for developing countries, a self-declared category. Now, however, some have taken SDT to include asymmetric obligations on a given matter across WTO members (including, in the limit, no obligations on developing countries); binding commitments to finance capacity in developing countries to meet new obligations; escape clauses for developing countries from the DSU if they cannot afford to meet new obligations, etc. What do such proposals mean for WTO governance?

4.1.2 Differentiation and WTO governance ...

The first point, and probably not the most important one to be made in this regard, is to recognise the rhetorical manner in which SDT has been used. Calls for SDT were doubly attractive in recent years because of the evident ease with which SDT can be linked to development considerations and because it avoided the need to define precisely what was wanted. Ambiguity and rhetoric can make for strong weapons, and developing countries have wielded them masterfully. Indeed, the widespread use of the vacuous term 'policy space' is testament to the enduring power of seeking differentiation within the world trading system.

To the extent that calls for SDT are really a smoke screen for some WTO members not wanting to take on new obligations, then this may be a less significant challenge to the world trading system. Most multilateral trade rounds have had their recalcitrants (from both industrialised and developing countries) and there is a battery of instruments available to WTO members to cope with them.

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To the extent that calls for SDT result in different obligations being agreed for different classes of WTO members, then the question arises as to which criteria is used to differentiate among the WTO membership. At the moment, with the exception of least developed country status (which is determined by the United Nations), countries self-select into developing country status and that selection cannot be challenged by other WTO members. This arrangement has led to some anomalous outcomes and a lack of differentiation among developing countries. Yet circumstances do differ markedly among developing countries and arguably multilateral trade obligations should reflect this. Moreover, the circumstances relevant to the subject matter of each agreement may differ too – calling for agreement-specific rules for differentiating among WTO members.

A tension immediately arises between enduring goal of trade diplomats seeking maximum commercial advantage for their nation and a focus on development outcomes that requires the design of objective criteria for differentiating among WTO members on a specific matter. Indeed, perhaps one litmus test as to whether trade diplomats have really grasped the significance of the new development focus of the WTO is whether they will accept that objective criteria, rather than an unreconstructed mercantilist calculus,[18] should drive discussions on SDT.

Relatively little attention has been given to the knowledge base necessary to objectively establish parameters for SDT.[19] Even more problematic is the paucity of data needed to begin making objective assessments of the case for differentiation. Collecting up-to-date data will take resources and time, neither of which developing countries have a surfeit of. In many respects the discussions on special and differential treatment highlight the mismatch between the laudable goals of the Doha Round and the underlying institutional and analytical pre-requisites to meet those goals.

18 Put straightforwardly, this calculus sees exports as good, imports as bad, and exemptions, exclusions, and exceptions from binding rules are good, and commitments as bad. Of course, if this calculus triumphed certain paradoxes emerge: all nations cannot export without someone importing, and multilateral commitments would be almost worthless if everyone was granted complete exemptions, exclusions, and exceptions to those rules!

19 But see the useful research on these matters by CHRIS STEPHENS and PATRICK LOW (and their respective co-authors).

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4.2 Differentiation, coalitions, and WTO governance ...

The question of differentiation among developing countries is, from a governance perspective, much broader than concerns about special and differential treatment. Not every developing country's circumstances are the same and nor are their priorities. Unsurprisingly, then, developing countries have not held to a single position on matters during the Doha Round. Coalitions, some more informal than others, of developing countries have formed. Moreover, in some cases certain developing countries have joined forces with selected industrialised countries to advance a matter on the WTO's negotiating agenda. The small group of African nations who raised, with devastating effect, the cotton issue is an ad hoc example of the former. The CAIRNS group of agriculture exporters is a long-standing example of the latter.

In principle the creation and dissolution of coalitions of WTO members is a flexible and pragmatic way to identify key positions and to better represent interests of developing countries without indulging in nearly 150 sets of bilateral negotiations on each issue. There are no guarantees, however, that inter-coalition dynamics unfold in such a way so as to benefit all developing countries. For example, the G90 group of developing countries played a much less prominent role in the negotiation of the so-called July 2004 package than at the failed Cancun Ministerial meeting in 2003. Indeed, much of talk now centres on how to 'buy off' any G90 opposition to a deal that the G20 group of larger developing countries might come to with the industrialised economies.

Coalitions may provide many developing countries with a 'home' and additional clout in WTO negotiations, but that clout need not convert into substantial and beneficial improvements in market access and the like. Indeed, the Doha Round increasingly looks like it has merely expanded the set of WTO insiders from the major industrialised economies to include the leading members of the G20 (India, China, South Africa, and Brazil.) If so, then many remain effectively 'outsiders'.

4.3 A constituency system?

Another alternative that might be worth exploring is whether a formal constituency system at the WTO would give developing countries – especially the poorest – greater say over the WTO's affairs. A formal body

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could be created that included elected representatives from different groups of developing countries. Constituency membership could be endogenously defined (through voting) or fixed by geographic region or income class. Difficulties would arise in defining the voting structures for electing representatives of a constituency. One member one vote is unlikely to appeal to the largest trading powers; and using shares of world trade to define national voting weight would reinforce the marginalisation of the poorest nations. Such matters are, however, not beyond the wit of man. What matters is that this initiative could be structured in such a way as to give each type of developing country a seat at the table in a body that would meet more often that the WTO's General Council. This new body could provide frequent, if not necessarily day-to-day, strategic counsel to ambassadors, committee chairmen, and the Director-General of the WTO. Fundamentally, however, the robustness of a constituency system will depend on the homogeneity of the economic interests of developing countries. If, as many developing country diplomats claim, each country's circumstances are substantially different then there must be serious doubts about the potential for the formation of a constituency system within the WTO.

4.4 A more pro-active pro-development Director-General?

Some have argued for a stronger role for the WTO's Director-General so as to 'knock heads together' (apparently to facilitate reaching agreement among WTO members) and to ensure that the perspectives of under-represented groups are not overlooked. These options should be treated with care, however, so as not to undermine the neutrality of the Director-General. Good incumbents of that post have played a role in facilitating the conclusion of agreements in the past and in spotting windows of opportunity to advance negotiations. But this invariably depends on the skills of the individual concerned, rather than on an institutional mechanism. As for representing the marginalised nations, a Director-General may be able to accomplish this indirectly by giving poorer developing countries a regular forum to raise matters of importance. Out and out advocacy by a Director-General would quite probably be ignored – after all, what negotiating coin does a Director-General have?

Although much of the discussion here has focused on internal WTO governance matters, the relationship between WTO processes and two other institutions merits a mention too. These institutions are firstly preferential

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trading arrangements and, secondly, the Bretton Woods institutions, the World Bank and the IMF. Each is discussed in turn.

4.5 Throwing sand into the wheels of WTO governance: preferential trading agreements ...

The relationship between preferential trading agreements (PTAs) and the multilateral trading system is multi-faceted and, without a specific focus, cannot be adequately summarised here. Our immediate interest is in drawing out the implications for WTO governance of the renewed interest in signing unilateral and reciprocal agreements to liberalise international commerce on a preferential basis.[20] There are several strands to this which are described below.[21]

First, in certain matters PTAs can establish competing modalities that will be very difficult to reconcile in any subsequent multilateral trade agreements. Service sector negotiations in PTAs are a case in point. Many PTAs adopt a positive list approach for service sector obligations, others a negative list; resulting in two competing models of service sector reform each with strong supporters. It would be difficult now to reconcile these two approaches in a new GATS agreement – and this will undoubtedly get harder as the current wave of regionalism progresses. In this respect it is worth noting that concluding a new or expanded GATS agreement is a key negotiating priority of certain developing countries, such as India.

Preferential liberalisation has another deleterious impact on concluding multilateral accords in the market access area. Concerns about 'preference erosion' (which occurs when multilateral reductions in bound tariff rates result in the gap between applied tariff rates and preferential tariff rates being narrowed) have been a major concern of many small and poor developing countries in the Doha Round. Here there is a case for complementing any multilateral accords on trade in goods with measures to finance and implement improvements in the export sectors of the recipients of preferences. Where diversification of exports is not possible –

20 The former are the ongoing EPA negotiations between the European Union and the ACP nations. The latter includes, for example, the negotiations between the ASEAN nations and China over the potential establishment of a free trade area between their economies.

21 Some economists will be disappointed to see that I do not stress the traditional implications of discrimination in preferential trading agreements. It is not that I think that the loss of tariff revenues and the so-called trade diversion are unimportant, rather that these points are well known (and I would add, comprehensively ignored by policymakers.)

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and experience here has to date proved to be sobering – perhaps direct compensation should be paid.

The third point to be made in this regard is that the growing complexity and controversy associated with multilateral trade negotiations at the WTO – as well as the seemingly interminable length of these negotiations – has made the negotiation of PTAs all the more desirable. While the latter may appeal to certain export interests, it is likely to come at the expense of supporting the successful conclusion of the Doha Round. Regionalism often saps support for multilateral liberalisation, and there are critical developing country interests (such as eliminating export subsidies for agricultural products and imposing disciplines on the use of anti-dumping measures) that can only be effectively tackled at the WTO. Worse still, delays in concluding multilateral trade rounds tend to foster spurts of regionalism, which in turn make it even harder to conclude negotiations in Geneva. While this downward spiral has been broken before, there is no guarantee that can be in the future. Developing countries may want to indicate to industrialised countries seeking preferential trading agreements to focus their attention on negotiating multilaterally in Geneva instead.

4.6 Can the coherence agenda ever work?

Discussions of the relationship between the WTO and the Bretton Woods institutions invariably focus on the 'coherence' between the three agencies' missions and actions. An immediate question arises as to how the WTO's new goal of promoting development sits with the long-standing objectives of the IMF and the World Bank.

First, and foremost, trade and WTO-related reforms are not seen by the World Bank Board and its staff as of paramount importance in strategies to alleviate poverty and to promote sustainable development. This may come as a shock to some in trade circles, but a perusal of copies of the Bank's leading annual publication, the World Development Report, reveals the low priority accorded to WTO-related reform measures. This has a number of implications, not the least of which is that there are surely limits to the extent to which the World Bank will finance the implementation of any new WTO accords on the scale that many trade diplomats may want to see.

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There is a research-related dimension to discussions on coherence. The limited quantity of directly WTO-related trade policy research strongly indicates that seriously and comprehensively informing discussions during the Doha Round is not a priority for the World Bank's in-house research department. (The World Bank does have a 'Trade Department' which is active in giving advice on a wide range of trade policy-related matters, not just WTO-related matters.) Likewise, if its output is anything to go by, the IMF's recent steps to establish a small group of trade researchers suggests that it will not fulfil this role either. Perhaps this reluctance could be put down to a desire not to venture into the WTO's cabbage patch; perhaps it reflects other priorities or a recognition that such work is likely to have an audience after the demise of the Washington Consensus. Given these constraints other sources of WTO-related research should be developed. Ideally, such research capacity should be nurtured within developing countries, and many bilateral aid donors support programmes with this in mind. However, these initiatives inevitably take time to come to fruition, and supplementary measures in the short to medium term are needed too. One option would be to substantially strengthen the research department of the WTO. Another could be to create an economic version of the Advisory Centre for World Trade Law, to which developing countries could commission research at subsidised rates.

It should be acknowledged that the World Bank and IMF participate in the broadly supported Integrated Framework initiative. This initiative enables developing countries to identify their trade policy priorities, encourages these countries to align those priorities with their overall development goals and, using diagnostic tools, identifies bottlenecks to the implementation of trade agreements, so helping better target technical assistance and capacity building measures. Conceivably this initiative could be implemented on a wider scale than hitherto during and after the conclusion of the Doha Round.

The most perplexing aspect of the discussions on coherence is that it is the same industrialised countries which agreed that the WTO's emphasis should now be on promoting development that also sit on the boards of the IMF and World Bank and have yet to align the programmes of the latter to the goals of the former. The impetus must come from these countries as the officials of the WTO, IMF, and World Bank only have so much discretion within which to operate. Resource allocation and priorities are ultimately set by the Executive Directors of the World Bank and the IMF, many of whom are appointed by their nation's treasury departments and

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not their trade or aid ministries. Developing countries should demand greater coherence on the part of the industrialised countries in this respect, and insist that a funding channel be created at the World Bank after the completion of the Doha Round to identify and then finance technical assistance needs arising from the new round's obligations. This approach is not without its risks, not the least of which is that it may have the inadvertent effect of revealing that the treasury and other ministries in developing countries do not want to shift World Bank resources towards trade-related capacity building either! The real coherence agenda, then, is to align the priorities of the relevant ministries within both developing and industrialised countries to give greater prominence to multilateral trade initiatives and to ensure that the wealthy countries channel enough resources through bilateral aid and the Bretton Woods institutions to facilitate the balanced conclusion and implementation of the Doha Round.

5 The Challenges Facing the WTO.

It is now apparent that few realised the significance of entrenching the goal of promoting economic development into the world trading system in general and the current multilateral trading round in particular. At a time when many international governance arrangements are greatly contested, with a multiplicity of state and non-state actors seeking to shape initiatives and outcomes, and when widespread differences of view as the contribution, if any, international economic integration can play in promoting development have emerged, reorienting the purpose of the WTO was always going to be fraught with risk and difficultly. In this respect the responses of national policymakers to date have been, at best, incremental and, at worst, denial and cosmetic tinkering.

The purpose of this short essay has been to identify a number of the critical challenges posed by the Doha Development Agenda. While institutional changes are certainly part of the solution, the legitimacy and credibility of the WTO will depend on other factors, including the depth and breath of expertise available to developing countries, flexibility in the design and enforcement of trade obligations that better take account of national circumstances and development goals, and a more coherent approach to targeting and financing assistance to developing countries through the international and regional development agencies. Moreover, talk of the rules-based system and its associated legal paraphernalia must not crowd out discussions of the economic and social objectives of the

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world trading system. Indeed, the sooner the former are seen as a means to various ends the better.

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