

# Doha and after

BY SYLVIA OSTRY

*Sylvia Ostry is distinguished research fellow at the Centre for International Studies, University of Toronto.*

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### SUCCESSES AND FAILURES

The Uruguay Round transformed the multilateral trading system, a misnomer since the system is less about trade than about domestic policy and institutions. The round had a number of unintended consequences: a serious North–South divide; a rise in the profile of the multinational enterprises due to their key role in ensuring the agenda included services and intellectual property; a similar rise in the profile of NGOs rallying around anti-corporate globalization; and the strongest dispute settlement system in the history of international law enforcing and interpreting WTO rules in domestic domains such as food safety and the environment.

In effect, the Uruguay Round initiated one small step in the creation of a global single market. The WTO is a minimalist, member-driven institution with a serious asymmetry between its extremely weak legislative and executive powers and its extremely strong, judicialized dispute system. Clearly, the system is in dire need of reform. Yet at the Ministerial Conference in Doha, reform was the dog that didn't bark. However, Doha initiated another potential transformation of the system.

### THE "DEVELOPMENT AGENDA"

It's more than symbolic that the outcome of Doha was termed a "development agenda" and not a round. While it's true that the Doha Declaration was a masterpiece of creative ambiguity and the devil remains in the details of negotiation, the major objective of the meeting was to avoid a repeat of the Seattle débâcle, which ended with a walkout of virtually all southern countries. Thus, the great success of Doha was that it didn't fail and this involved convincing developing countries, especially the poorest in Africa, that trade was good for development. Both the United States and the European Community visited Africa to woo ministers and the declaration repeatedly refers to technical assist-

ance and capacity building now called, only half in jest, the new conditionality. Pushed by the successful NGO campaign about aids in Africa, the Americans were willing to antagonize Big Pharma. The Europeans were most skilful in securing a waiver for their preferential arrangement with the ACP (African, Caribbean, and Pacific) countries by wily deal making with the Latin American banana exporters. So Doha was unique in its focus on the South and on development.

But Doha, of course, included many other agenda items. Market access for industrial products; agriculture and services; rules such as countervail against subsidies and anti-dumping; as well as the so-called Singapore issues of competition policy, investment, government procurement and trade facilitation. And for the first time in the history of the trading system, environment was specifically added to the agenda. Most of these items have a North–South dimension and negotiations will be complex and difficult. Indeed the ambiguous drafting—for example in agriculture and the Singapore issues—leave considerable uncertainty about how the negotiations

will proceed and whether the target date of 2005 is feasible or even realistic.

But that uncertainty rests on more than the usual difficulties of complex negotiations. After all, the outcome of the Uruguay Round in 1994 could certainly not have been forecast at the launch in Punta del Este in 1986. By adding another layer, that is development, to the already weak and strained infrastructure of the WTO, there is a significant risk that the system will become marginalized. The alternatives to prolonged and contentious negotiations in Geneva are bilateralism, regionalism, and, if necessary, unilateralism. A crazy quilt of preferential trade agreements in an increasingly globalized economy and polity is not a comforting vision of the future.

So what could be done to begin an incremental process of reform to strengthen the WTO? The incremental aspect is emphasized because there is no possibility of major institutional redesign in the foreseeable future despite the endless stream of literature on global governance. Indeed, even incrementalism may be an overreach.

### SUGGESTIONS FOR REFORM

Although the subject of WTO reform recently evoked some interest in the academic community, the same is not true in national capitals. After Seattle there was some desultory discussion on internal and external transparency of the WTO—internal reform to make the governance of the institution more open and inclusive, and external reform, including more access to information and more opportunity for stakeholder participation. After a few meetings of the General Council, which revealed strong opposition from many member countries, especially southern, to even discussing the issues, the subject was dropped, and silence has prevailed.

Nonetheless, if the Doha negotiations flag or if the US steel safeguard measures provoke a wave of tit-for-tat protectionism, perhaps there could be

some renewed efforts to re-launch a discussion on some modest reforms.

The priority should be the establishment of a *policy forum*, a locus for discussion and debate of basic issues, such as the definition of domestic policy space to be safeguarded in the international system or the relationship between trade, growth, and poverty in developing countries or the linkages between the trading rules and environmental rules to cite a few examples. Then policy options could be proposed and, if a consensus is achieved, the proposal would be sent to the General Council, the governing arm of the institution. There was, indeed, such a forum in the GATT, called the CG18 (Consultative Group of 18), but an attempt to establish a successor at the end of the round failed.

### **A POLICY FORUM FOR THE WTO**

The CG18 was established in July 1975, not by trade ministries, but as a result of a recommendation of the Committee of Twenty Finance Ministers after the breakdown of Bretton Woods. The Committee of Twenty also established the IMF's Interim Committee. Its purpose was to provide a forum for senior officials from national capitals to discuss policy issues and not to, in any way, challenge the authority of the GATT Council. The composition of the membership was based on a combination of economic weight and regional representation, but there was provision for other countries to attend as alternates and observers or by invitation. Each meeting was followed by a comprehensive report to the GATT Council.

Because it was a forum for senior officials from national capitals, it provided an opportunity to improve coordination of policies at the home base. This is now far more important because of the expansion of subjects under the WTO. Indeed, there is no minister of trade today, but there are a number of ministries with concerns covered by the WTO. The CG18 was the only forum for a full, wide-ranging, often contentious debate on the basic issues of the Uruguay Round. There was an opportunity to

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analyze and explain issues without a commitment to specific negotiating positions. Negotiating committees inhibit discussion because rules are at stake. Words matter and might be used, for example, in a dispute settlement ruling as was a report by the Committee on Trade and Environment with a predictable chilling effect on constructive dialogue. Thus, the absence of direct linkage to rules is essential to the diffusion of knowledge, which rests on a degree of informality, flexibility, and adaptability.

### **INCREASING THE WTOS RESEARCH CAPACITIES**

While establishing the policy forum would be a great step forward, it is unlikely to function effectively without an increase in the WTO's research capability. Analytical papers on key issues are needed to launch serious discussions and to improve the diffusion of knowledge in national capitals. To keep up to date and because of its reasonably small size, the WTO could not possibly generate all its policy analysis in-house. The WTO Secretariat would have to establish a research network linked to other institutions. This knowledge networking should include academic, environmental, business, labour and inter-governmental organizations such as the OECD, UNCTAD, Bretton Woods, and environmental institutions. This becomes even more essential since Doha because the capacity building for developing countries will require complex and extensive coordination with the World Bank and other institutions. Moreover, establishing a research or

knowledge network can enhance the ability of the WTO director general to play a more effective role in leading and guiding the policy debate. This will be politically contentious but is essential. Just imagine what would have happened in the 1980s debt crisis if the head of the IMF had had the authority of the head of the GATT! There would have been a series of meetings to discuss meetings and so on while Latin America went down the drain.

A key difficulty in establishing the forum would be to determine the membership. One formula already exists in the former CG18, which was never officially terminated. But it would probably be necessary to include the policy forum as part of a North-South trade-off. And that would require the big powers to agree that institutional reform is essential to the sustainability of the system. *Au fond*, the *raison d'être* of the forum would be to energize and facilitate the rule-making capability of the WTO. Perhaps members should be reminded that there is another route to rule change, that is litigation. The reality of that alternative might clarify some minds.

### **CONSULTATION AND COOPERATION WITH NGOS**

A second priority for reform is to improve external transparency. At the April 1994 Ministerial Conference in Marrakesh, which concluded the Uruguay Round, article V:2 of the agreement stated: "The General Council may make appropriate arrangements for consultation and co-operation with non-govern-

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mental organisations concerned with matters related to those of the WTO.”

In order to clarify the precise legal meaning of this broad directive, the General Council on July 18, 1996 spelled out a set of guidelines covering transparency including release of documents, *ad hoc* informal contracts with NGOs, etc. Guideline 6 is most pertinent in the context of this present discussion:

Members have pointed to the special character of the WTO, which is both a legally binding inter-governmental treaty of rights and obligations among its Members and a forum for negotiation. As a result of extensive discussions, there is currently a broadly held view that it would not be possible for NGOs to be directly involved in the work of the WTO or its meetings. Closer consultation and co-operation with NGOs can also be met constructively through appropriate processes at the national level where lies primary responsibility for taking into account the different elements of public interest which are brought to bear on trade policy-making.

At several meetings after the Seattle débâcle, there was no agreement on either internal or external transparency, even though, interestingly, the United States suggested that it would be useful and informative if members provided information on their national policy-making approaches. The same countries that opposed increasing transparency at the WTO level were also opposed to discussing the policy process at the national level. There has been criticism about the more powerful well-financed northern NGOs demanding two bites of the apple. Fair enough, the charge merits discussion. But how realistic is it, in light of the current state of affairs, to suggest *no* bite of the apple?

## THE VALUE OF A PARTICIPATORY POLICY-MAKING PROCESS

Realism aside, research undertaken at the OECD and the World Bank demonstrates that participatory policy-making

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processes, now called ownership in World Bank/Monetary Fund circles, allow governments to tap new sources of policy-relevant ideas, information, and resources. Equally important, they contribute to building public trust and enhancing credibility of government and hence the legitimacy of the policy. The latter is especially important in international policy because of the anti-globalization movement, which reflects a broader decline of confidence in government and political institutions since the 1970s. Participatory processes are not costless, of course, which is one reason many countries are wary. They make the process more costly, complex, and messy. And most negotiators would prefer operating in secrecy or, at least, with as little interference as possible. But when weighing costs and benefits, it might be wise to factor in the systemic costs from doing nothing, including most importantly the erosion of the multilateral system. This will affect the weaker countries more than the stronger ones because the only alternative to a rules-

based system is one based on power.

What could be done to launch a project on domestic policy making? One of the outcomes of the Uruguay Round was the creation of the Trade Policy Review Mechanism (TPRM). It was designed to enhance the effectiveness of the domestic policy process through informed public understanding—in other words, through transparency. Section B spells it out:

### *Domestic Transparency*

Members recognize the inherent value of domestic transparency of government decision-making on trade policy matters for both Members' economies and the multilateral trading system, and agree to encourage and promote greater transparency within their own systems, acknowledging that the implementation of domestic transparency must be on a voluntary basis and take account of each Members' legal and political systems.

The TPRM's origins and objectives clearly embrace the policy-making process and thus seems the logical venue for launching this project, on a voluntary basis and as a pilot to be assessed after an agreed period. If the pilot took off and a number of developing countries became involved, the TPRM Secretariat would have to be strengthened and civil society capacity building in some countries would be required. But enhancing capacity to improve and sustain a more transparent trade policy process, which will not be a one-size-fits-all model but will vary according to a country's history, culture, institutions, etc., sounds like a good investment. It's hardly a new idea. In the 1970s, during the Tokyo Round, an American official remarked to an academic researcher that the advisory committees established under the 1974 Trade Act were working extremely well because "when you let a dog piss all over a fire hydrant he thinks he owns it." That's a rather less felicitous version of today's concept of ownership. 