

**THE WTO  
...WHY IT MATTERS**

**A GUIDE FOR OFFICIALS, LEGISLATORS, CIVIL SOCIETY  
AND ALL THOSE INTERESTED IN INTERNATIONAL  
TRADE AND GLOBAL GOVERNANCE**

Resource booklet for the 4<sup>th</sup> WTO Ministerial Conference

## WHAT WORLD LEADERS SAY

### **US Secretary of State Colin Powell**

Agence France Press

26 July 2001

"...We can launch a new round of trade negotiations that will help all countries, especially developing countries, to expand their economies...A dynamic, growing global economy is the ultimate poverty reduction strategy...Developing countries can be among the big winners if there is a market-opening round."

### **Nelson Mandela**

Summit to mark the 50th Anniversary of the GATT/WTO

multilateral trading system, Geneva,

May 1998

"We are firmly of the belief that the existence of the GATT, and now the World Trade Organization, as a rules-based system provides the foundation on which our deliberations can build in order to improve ... As we enter the new millennium, let us forge a partnership for development through trade and investment."

### **Alan Greenspan**

Testimony before the Committee on Banking, Housing and Urban

Affairs, US Senate,

20 September 2001

"As a consequence of the spontaneous and almost universal support that we received from around the world, an agreement on a new round of multilateral trade negotiations now seems more feasible. Such an outcome would lead to a stronger global market system. A successful round would not only significantly enhance world economic growth but also answer terrorism with a firm reaffirmation of our commitment to open and free societies."

### **Fidel Castro**

Speech on the 50th anniversary of the multilateral trading system,

19 May 1998

"Those of us who were colonies yesterday and are still today enduring the consequences of backwardness, poverty and underdevelopment, we are the majority in this organization [WTO]. Every one of us has the right to a vote and no one has the right to veto. We should turn this organization into an instrument of the struggle for a more just and better world. We should also count on those responsible statesmen, sensitive to our realities, who can undoubtedly be found in many developed countries."

**EU Commissioner for trade Pascal Lamy and US Trade Representative Robert B. Zoellick**

The Washington Post online  
17 July 2001

"Developing countries cannot expect to fare as well as the United States and the EU in a system of unbridled bilateralism. They would do much better under a multilateral trade round. Indeed, a new round is perhaps one of the most useful contributions we could make to the alleviation of global poverty, providing it is really a round for both growth and development...The case for launching a new round is clear. If we get the other policies right, open trade should lead to better jobs, the spread of ideas and investment and to open, more confident societies. But although we like to stress the upside of globalization, we need to address the worldwide fears and anxieties that accompany it particularly when the economic slowdown means added strain on employers, workers and families everywhere...We recognize that a number of developing countries have real concerns about their ability to implement previous trade agreements. We will continue to work with them and with the WTO leadership to assist this process."

**Mike Moore**

Speech to the Transatlantic Business Dialogue  
29 October 1999

"Too much of this century was marked by force and coercion. Our dream must be a world managed by persuasion, the rule of law, the settlement of differences peacefully within the law and cooperation. It's a good thing that all our living standards are now based on the ability of our neighbours to purchase our products. That's where the WTO can do splendid work and advance the progress of the human species."

**Chinese Vice-Minister Long Yongtu**

Address to the final session of the Working Party on the Accession of China to the WTO,  
17 September 2001

"China will soon become a WTO Member after necessary legal procedures. To achieve this goal, we have made protracted and arduous efforts. Everybody present today has good reason to be proud of our work, as we are part of a historical event, an event which will bring a country with one fourth of the world population into the multilateral trading system which takes the promotion of the world trade and economic development as its major goal."



## FOREWORD BY THE DIRECTOR-GENERAL

The WTO's 4<sup>th</sup> Ministerial Conference promises to be anything but a "routine" Ministerial meeting. Seven years after the entry into force of the World Trade Organization, Ministers will have to decide about the immediate future of the multilateral trading system and the WTO as an institution. A failure to reach consensus on a future work programme would lead many to question the value of the WTO as a forum for negotiations and it could certainly condemn the organization to a period of hibernation.

The questions facing Ministers at the Ministerial Conference will be very much the same as those they confronted in Seattle in 1999. At the core is whether governments are ready to launch a wider process of negotiations—a new round, in fact—and if so, what should its content be. I have made no secret of my conviction that a new round is necessary. It is the best way in which we can effectively address the problems of economic slowdown and prevent the further marginalization of many developing countries through the weakening of the multilateral system. It is the best way to ensure that the legal system embodied in the WTO responds to economic reality. It is the best way to sustain the momentum of the negotiations on agriculture and services. Nowhere in the world, as far as I know, is the need for negotiation on agriculture disputed; but nowhere else in the world, if not here, is that negotiation going to happen.

All of the rules in this system have been negotiated—that is their strength and the source of their legitimacy. But by the same token they can only be changed by negotiation. Any inequities in the system—and they exist—can best be removed by negotiation. Not to negotiate means accepting the status quo, which is yesterday's compromise. A strong, vibrant, predictable and rules-based multilateral trading system is in the interest of all countries, particularly developing countries. I hope we can seize this opportunity to fashion the system in such a way that it would be responsive to development needs. Trade between developing countries is growing faster than trade between industrialized and developing countries. And they are using more often the WTO's dispute settlement mechanism to resolve their differences. As many as 13 of the 14 new disputes reported to the WTO since February 2001 were filed by developing countries.

As I write this, the preparatory process for the 4<sup>th</sup> Ministerial Conference in its final stage. Members are all agreed that the process thus far has been transparent and inclusive. Since February 2001, there have been more than 35 open-ended meetings on various issues of interest to delegations. This excludes meetings which have been held on the implementation review mechanism. Members no longer feel that decisions are being foisted upon them, and there is the collective sense of responsibility that the process should produce results that will strengthen the multilateral trading system to the benefit of all Members. Before and at the Ministerial Conference, we need to inject a sense of urgency into the process. Clinging to well-known positions will not advance the process and might spell disaster for the rules-based multilateral trading system. Members should be prepared to make trade-offs and take into consideration the interests of other Members as well bearing in mind the over-arching objective of strengthening the multilateral trading system to make it more relevant in the 21<sup>st</sup> century.

The WTO is not the GATT, yet we have not modernized our structures, organization and procedures to reflect our new and wider responsibilities. That is why I have prepared a separate document on capacity building and development, which is a proposal that I hope Members will consider so that we can all do a better, more effective and efficient job.

Mike Moore  
Geneva, October 2001

**THE WTO  
...WHY IT MATTERS**

**A guide for officials, legislators, civil society and all  
those interested in international  
trade and global governance**

THE BENEFITS OF OPENNESS

NON-DISCRIMINATION

DISPUTE SETTLEMENT

TRADE AND POVERTY REDUCTION

SOVEREIGN STATES AND INTERNATIONAL COOPERATION

DOMESTIC COHERENCE

CITIZENS AND DEMOCRACY

GOVERNMENTS AND CIVIL SOCIETY

EXCEPTIONS: THE ENVIRONMENT AND FOOD SAFETY

TRADE-RELATED ASPECTS OF INTELLECTUAL  
PROPERTY RIGHTS (TRIPS)

TRADE IN SERVICES (GATS)

TRADE PROBLEMS AND TRADE ROUNDS

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## WHY HAVE A WORLD TRADE ORGANIZATION?

Trade is central to human health, prosperity and social welfare. Many of the goods we buy, the services we use and the foods we eat depend on foreign trade. Examples of trade in daily life are so abundant they sometimes go unnoticed: people drive to work in a car made in Japan which runs on fuel imported from the Middle East. Others ride bicycles made in China with tyres from Malaysia. A computer might have come from Korea and may run on software from the United States and a morning cup of coffee was most likely imported from Kenya, Colombia, Tanzania or Ecuador.

Trade enriches our lives through greater choice and opens our minds to new ideas and cultures. It binds people together in a dynamic and complex network of mutually beneficial commercial relations. It is a key engine of economic growth. The prosperity trade brings gives people the opportunity to buy the things they value most: an education, access to health care, proper housing and food for their families. It is the job of the World Trade Organization to establish the rules and preserve and nurture this web of commercial activity.

But trade is not entirely a natural phenomenon, it depends on political will. Compare, for example, the starkly different policy responses to two of the most major economic and financial disasters of this century. When crisis set in during the 1930s, the knee-jerk reaction was economic nationalism. As one country raised its tariff barriers, so too did others in retaliation. Trade plummeted, unemployment became entrenched, cooperation between nations broke down and guns, soldiers and tanks took over. The human and economic costs were catastrophic. In stark contrast, when the Asian economies experienced a financial crisis in the late 1990s, markets were kept open and sensible but tough economic policy and regulatory decisions were taken. This helped contain the crisis and it allowed the Asian nations to export their way out of difficulty. Within a relatively short period of time, these countries were on the road to recovery and fears of worldwide recession were proven unfounded.

## The WTO... Why it matters

Restoring international economic growth and stability through the promotion of trade was crucial to securing a lasting peace after World War II. It was this vision that led to the creation of the multilateral trading system in 1948. At first this was a provisional agreement between 23 countries called the General Agreement on Tariffs and Trade (the GATT). In 1995, the GATT became the WTO, a fully-fledged international organization with stronger and broader authority. Its membership today includes 142 Members, each at its own level of economic development and with its own set of economic priorities. Since Seattle (November 1999), seven countries joined the WTO - Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman. With China and Chinese Taipei also poised to enter the organization, another 1.3 billion people will benefit from the rules-based trading system. Another 30 or so countries—from the Russian Federation, Saudi Arabia and Ukraine to Vietnam and Yemen—are in the process of negotiating their accession to the WTO. Even though the trading system has changed greatly over the years, the underlying goals of the system embodied in the WTO have remained constant: to promote openness, fairness and predictability in international trade for the benefit of humanity.

*"By initiating the procedure of accession to the WTO, the Federal Republic of Yugoslavia wishes to point out and stress the importance it attaches to membership in the WTO, especially having in mind the role of the WTO in the world economy and its contribution to the promotion of international trade as the main pillar of world development."*

**Dr. Zoran Sami, Federal Minister of Transportation, Federal Republic of Yugoslavia,**  
February 2001

## World trade developments

### World exports of merchandise and commercial services, 1990-2001 (Billion dollars and percentage)

	Value 2000	Annual percentage change			
		1990-00	1999	2000	2001 First half
Merchandise	6186	6.0	4.0	12.5	1.0
Commercial services	1435	6.0	2.0	6.0	...

### Trade and output growth of developing economies, 1990-2000 (Annual percentage change)

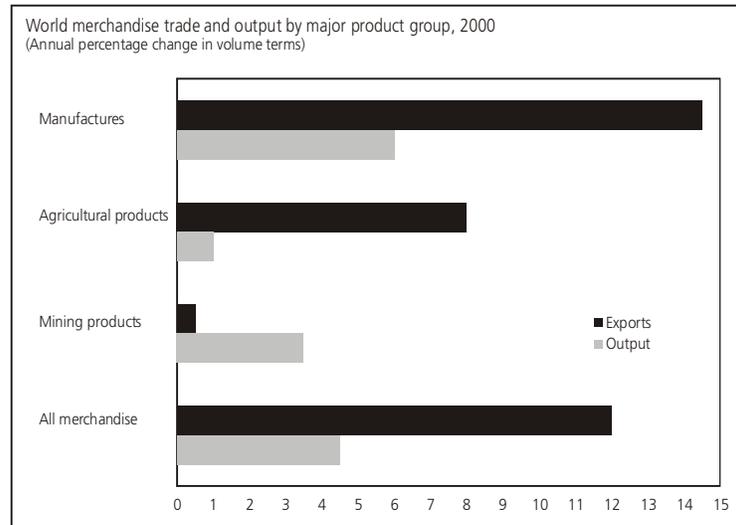
	Developing economies			World
	1999	2000	1990-00	1990-00
GDP	3.0	5.2	4.5	2.8
Merchandise export volume	7.0	15.0	9.0	7.0
Merchandise import volume	4.5	15.5	8.0	7.0
Merchandise export value	9.5	24.0	9.0	6.0
Merchandise import value	4.0	21.0	9.0	6.0

The year 2000 was outstanding for global output and trade growth. The expansion of merchandise output and trade by 4.5% and 12%, respectively, was the strongest in more than a decade. As trade growth continued to exceed output growth, the ratio of world trade in goods and services to world GDP reached 29%. Since 1990 this ratio has increased 10 percentage points, more than in the two preceding decades combined.<sup>1</sup> Manufacturing production rose 6% in 2000, but the increase in agricultural production was limited to 1%. Mining output was up 3.5% boosted by a 4.5% increase in oil and gas output. As in preceding years, exports of manufactures increased in real terms much faster than exports of agricultural or mining products. And

<sup>1</sup> Measured at constant 1987 prices and exchange rate.

## The WTO... Why it matters

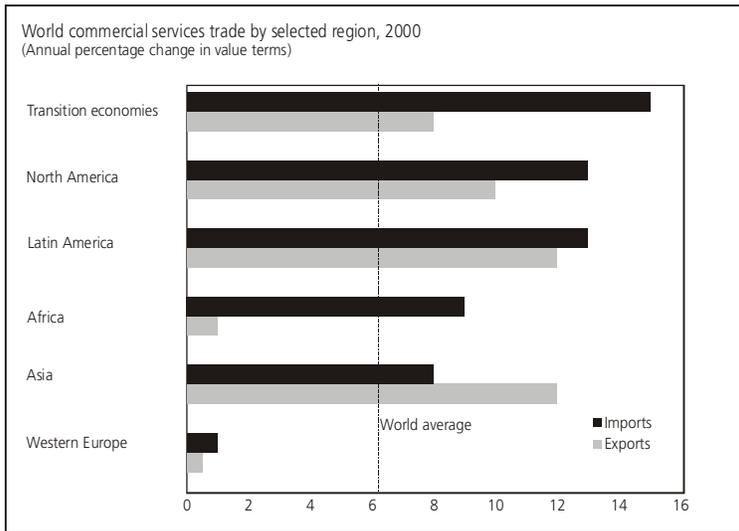
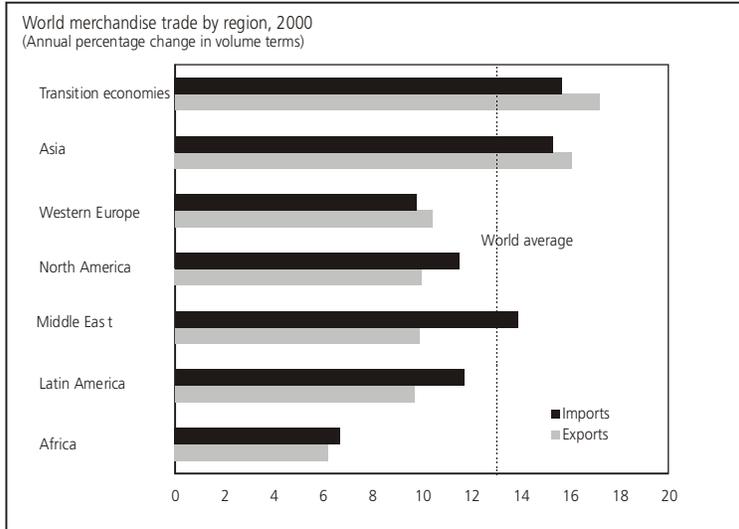
once again, the excess of trade growth (14.5%) over output growth (6%) in manufactures was far higher than in the other two sectors, although preliminary data for agriculture also suggest also a large gap between trade and output growth.<sup>2</sup>



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<sup>2</sup> A further indicator of the strength of global integration last year is the estimated 18% increase in the US dollar value of inflows of foreign direct investment (FDI). Although the most dynamic part of FDI flows was again among the developed countries, both developing and transition economies reported record FDI inflows. However, total private capital flows (net) to the developing countries and the transition economies were close to zero as net FDI inflows were fully offset by other private capital outflows. (International Monetary Fund (IMF), *World Economic Outlook*, October 2001).

# Openness, fairness and predictability



## OPENNESS, FAIRNESS AND PREDICTABILITY ... THE WTO'S CORE FUNCTIONS

*The Tinbergen Institute of Rotterdam, the Netherlands, estimates developing countries would gain \$155 billion a year from further trade liberalization—over three times the \$43 billion in average annual overseas aid.*

Trade, when it is allowed to flow freely, fosters economic growth. It encourages specialization, which can lead to greater gains in productivity and efficiency. It means countries can concentrate their resources on producing the goods they make best and importing goods that are more efficiently produced elsewhere. A more open world trading system means all countries benefit from access to the 6 billion customers in the global marketplace.

Trade can help bring technology and materials needed to create exports and offers consumers a wider range of personal choice in everything from oranges, to cars, to medication and clothes. It encourages competitive pricing and stimulates technological advances. This is why one of the main thrusts of the multilateral trading system is to encourage the removal of barriers to trade. This has taken place through what have become known as "rounds of negotiations" in which participating countries give better access to their markets in return for better access to the markets of other countries. There have been eight trade rounds since the GATT was created in 1948. These initially concentrated on lowering customs tariffs on goods at the border, but have since expanded in scope to address a broader range of measures.

During the Uruguay Round (1986-1994), agriculture and textiles were brought more fully into the multilateral trading system and GATT provisions that discriminated against the interests of agriculture-exporting countries were reformed. Participating countries also agreed to phase out quantitative limits on trade in textiles during a 10-year period. The scope of the WTO's rules was widened to include trade in services, one of the fastest growing and dynamic sectors in the international economy, and trade-

related aspects of intellectual property rights (TRIPS). These sectors are now subject to trade liberalization and dispute settlement in the WTO.

The benefits of the Uruguay Round, as well as previous rounds, have contributed to a substantial reduction of the overall level of protection. Since the creation of the GATT, more than 50 years ago, the simple average bound tariff on imports of industrial products of the most developed countries has been brought down to under 5%. Most non-tariff barriers have been prohibited. Developing countries are now participating more fully in the WTO and in many cases they have also bound most of their industrial tariffs. Non-tariff barriers, affecting agricultural trade have been replaced with tariffs and all agricultural tariffs have been bound. A framework for the liberalization of trade in services is in place and in several sectors the liberalization process is also in progress. Most countries are more open now than they have been at any time since the end of the World War II.

*MFN is a simple but very effective principle; it eliminates differences in economic and political weight between nations and dispenses with favouritism. It provides a self-perpetuating dynamism to the process of trade liberalization. In effect, it means that whenever two trading partners get together to open up trade between themselves, all WTO members benefit.*

*Total annual gains to New Zealand from the Uruguay Round were estimated at \$370 million in 2000.*

**"Towards Free Trade" Ministry of Foreign Affairs and Trade, New Zealand,**  
*June 1999*

### Committed to fair and non-discriminatory trade

The WTO treats all Members alike, be they rich or poor, big or small, strong or weak. The WTO is a system based on rules. The rules apply to everyone, even the most powerful economies in the world. Many WTO rules are specifically designed to ensure that fair trade conditions prevail between trading partners. Central among these are obligations to ensure that trade is non-

## The WTO... Why it matters

discriminatory, the so-called "most-favoured nation" and "national treatment" rules. The most-favoured nation (MFN) obligation prevents WTO Members from discriminating between foreign goods or treating products from one WTO Member better than those from another. For example, if the European Union decides to lower its customs tariff on imports of cocoa from Ghana from 10% to 5%, it must immediately extend this 5% customs tariff on cocoa to all other WTO Members that might wish to export cocoa to the EU.

*It is clear from all the evidence that the biggest risk for the poorest developing countries does not come from the potential losses that globalization or market opening may pose: the biggest risk is that they may be excluded from the opportunities for growth by continuing barriers to their exports or the maintenance of protected domestic markets.*

*In a group of 18 developing countries that became much more open to trade after 1980, as measured by rising shares of exports and imports in GDP, the average growth rate accelerated. This group includes most of the world's poor people—among the 18 countries are Bangladesh, China, India, Ghana, Nepal, Uganda and Vietnam.*

The national treatment obligation prevents Members from treating foreign and domestically produced products differently.<sup>3</sup> This, for example, means that if Venezuela exports the same kind of gasoline into Norway as Norway produces itself, Norway may impose the same high (but not higher) standards on gasoline from Venezuela as it imposes on gasoline of domestic origin.

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<sup>3</sup> The national treatment obligation does not prevent Members from imposing tariffs (on an MFN basis and not higher than maximum levels bound in tariff schedules) and applies only after goods have been cleared in customs. However, it is treated slightly differently under other different WTO agreements. For example, under the General Agreement on Trade in Services (GATS), it is not unconditional and exceptions to the national treatment principle can be written into Members' schedules. Special and differential treatment for developing countries in the form of tariff preferences is also allowed as are preferences between Members that are part of regional trade agreements.

But there are other obligations designed to ensure that Members are not given unfair advantages over their trading partners. These include rules on dumping and subsidies, which can make exports artificially competitive. The issues are complex, and the rules try to establish what is fair or unfair, and how governments can respond, in particular by taking action to compensate for damage caused by unfair trade.

*"The presence of the WTO doesn't eliminate trade friction, but it does provide a public forum where the power of consensus can help resolve disputes. Although the WTO lacks direct enforcement powers, its decisions are taken seriously because its member nations have agreed to play by its rules. A WTO ruling gives the winning side the moral upper hand in a dispute, even if the winner chooses to negotiate a compromise rather than impose hefty penalties that could touch off a trade war."*

**Thomas S. Mulligan and Evelyn Iritani**

*Dow Jones International News Service*

*24 August 2001*

### Making trade rules predictable and enforceable: the dispute settlement system of the world trading system

The WTO brings stability and predictability to international trade because its rules are legally binding. So too are the schedules of market-access commitments in goods and services that each WTO Member negotiates. These set clear ceilings on levels of protection. This encourages trade because it allows exporters to develop and grow their businesses. They have full knowledge of the terms of access and can act and invest with confidence knowing that markets which are opened will remain open.

### Members involved in WTO disputes since 1995

October 2001

Disputes involving	as complainant	as respondent
United States	69	55
EU	56	32
Japan	8	12
Developing countries	79	92

*The Understanding on Dispute Settlement says the purpose of the dispute settlement system is: "...to preserve the rights and obligations of Members under the covered agreements, and to clarify the existing provisions of those agreements in accordance with customary rules of interpretation of public international law."*  
(Article 3.2)

The vast majority of international trade goes on smoothly and without dispute. There are, however, rare occasions when a Member may consider that one or more Members are not in compliance with their WTO commitments and that this has negatively affected its national consumer or producers. It is then that the affected Members have the option of using the WTO's dispute settlement system.

Dispute settlement procedures play a central and invaluable role in ensuring that trade conflicts are settled fairly, in accordance with the rule of law and on a timely basis.

Once a dispute is notified to the WTO an established timetable of 'automatic' steps is set in motion. The immediate priority is for disputes to be settled through consultations. If not, then Members assembled in the WTO Dispute Settlement Body (DSB) refer a dispute to a panel of experts. Panelists are appointed by agreement between the parties, and by default, by the WTO's Director-General. A panel's recommendations are automatically adopted unless there is a 'consensus against' adoption by all WTO Members who together comprise the Dispute Settlement Body. A first instance panel report may be appealed, but the decision by the second instance Appellate Body is final.

The long-term outcome of the dispute settlement process must be complete restoration of full compliance with WTO rules. However, if a Member fails to implement a WTO ruling there are two temporary measures that can be taken. Either the offending Member can offer 'compensation' for the harm done to the trade interests of another Member or the DSB can authorize a level of retaliatory sanctions. But this rarely happens. The vast majority of the more than 239 disputes brought to the WTO so far have been settled without fanfare or public contention. Since a main aim of WTO dispute settlement mechanism is to contain

unilateral imposition of trade sanctions, unilateral retaliation by powerful trading entities is subject to multilateral WTO control.

No one can claim that the WTO's dispute settlement system compensates for an unequal distribution of economic power in the world, but it must be emphasized that this system gives small Members a fair chance they otherwise would not have to defend their rights. By September 2001, developing countries as a group initiated 79 of the 239 disputes. India, Brazil, Mexico and Thailand were the most active. The United States and the European Union have used the system the most, 69 and 56 times respectively, and are also the most frequently challenged by other governments as not being in compliance with the WTO's rules.

**WTO agreements cited in disputes since 1995**

SPS/TBT	Agriculture	Textiles	TRIMS	TRIPS	GATS
32	30	15	16	24	12

*The WTO is not a world government and its Members do not wish it to be one. The WTO cannot force compliance upon unwilling governments. A dispute arises only when a Member claims that another Member has failed to live up to its WTO obligations.*

**Isn't the high level of WTO disputes worrying?**

Not really. The higher rate of notification of disputes can be interpreted in several different ways. For example:

- as an expression of greater confidence of Members in the efficacy of the new dispute settlement system. In fact, the dispute settlement system is more predictable, more certain and faster than the former GATT disputes system;
- as a reflection of the wider range of WTO rules and their greater specificity;
- there is now a much wider range of issues covered by WTO Agreements—including Services and Trade Related Intellectual Property—all of which are governed by the same dispute mechanism;

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- as a result of the larger number of WTO Members, increasing levels of trade and the greater importance of trade in the economies of Members.

Before the creation of the WTO, the dispute system was not binding, thus frequently decisions were ignored. The new system is working well, but any system can be improved with experience and mature study.

It is true that smaller and poorer countries have capacity constraints. They often do not have the resources to take their trade disputes to the WTO. That is why the WTO has actively endorsed the creation of the Geneva-based Advisory Centre on WTO Law, an independent centre that provides developing countries with legal counsel at reduced costs.

## TRADE AND JOBS AND POVERTY REDUCTION

Trade can be a powerful force for fostering job creation and reducing poverty. But liberalization does not always impact favourably on everyone in the labour market. Just as new export opportunities create new jobs in some areas, pressure from foreign competition can sometimes result in jobs being lost in previously protected sectors. One of the most difficult challenges facing legislators, governments and policy-makers is to ensure their citizens cope with readjustments in the labour market and acquire necessary new skills. These pressures, however, do not just come from greater competition but also from factors such as technological change.

*A recent World Bank study of growth in 80 countries over 40 years shows that, on average, growth in the income of the poor—the poorest fifth of the population—rises about one-for-one with the growth rate of overall per capita income in a developing country. This has been demonstrated by the trade-oriented policies that helped transform East Asia, which represents over a third of developing-country population, from one of the world's poorest regions 40 years ago to the prosperous and economically resilient region it is today.*

**David Dollar and Aart Kraay. *Growth is Good for the Poor*, World Bank.**

The temptation to resist change is high—particularly as the voices clamouring for protection tend to shout louder and are more emotionally charged than those supportive of trade liberalization. But change is not only inevitable, it is crucial to economic growth.

The way in which markets are opened, especially the speed and sequence of market-liberalizing steps, can make a big difference to these adjustment pressures.

Economic studies consistently show that market liberalization is associated with higher growth and that growth contributes to the alleviation of poverty.<sup>4</sup>

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<sup>4</sup> IMF Issues Brief: Globalization, Threat or Opportunity. Available at <http://www.imf.org/external/np/exr/ib/2000/041200.htm>

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*Between 1994 and 1998, 1.3 million new jobs supported by exports of goods and services were created in the United States. Over the same period, total US employment increased by 11.7 million jobs, and the unemployment rate declined from 6.1% to 4.5%. Jobs supported by goods exports pay 13 to 16% above the average wage.*

**"America and the WTO", United States Trade Representative.**

*"The fourth WTO ministerial is, therefore, another opportunity for the international community to demonstrate its commitment to long-term welfare of the LDCs."*

**Minister Idi Simba , Minsiter of Trade, Tanzania**

Agence France Press

22 July 2001

*A recent study by Jeffrey Sachs and Andrew Warner of Harvard University found that developing countries with open economies grew by 4.5% a year in the 1970s and 1980s—while those with closed economies grew by 0.7% a year. At that rate, open economies double in size every 16 years, while closed ones must wait a hundred.*

*In East Asia and the Pacific between 1987 and 1998 the number of people living on less than 1US\$ a day fell from 418 million to 278 million. This was paralleled by a four-fold increase in the ratio of exports of goods and services to GDP.*

**Merchandise exports of least-developed countries by selected country groups, 1990-2000**  
(Billion dollars and percentage)

	Value	Annual percentage change			
	2000	1990-00	1998	1999	2000
Total LDC	34	7	-6	12	28
Oil exporters (4) a	15	11	-30	50	63
Exporters of manufactures (7) b	11	14	20	5	23
Commodity exporters (29)	8	1	-1	-6	-3
LDC with civil strife (6) c	1	-7	-12	-8	-3
<i>Memorandum Item:</i>					
World	6186	6.0	-1.5	4.0	12.5

a Angola, Equatorial Guinea, Sudan and Yemen.

b Bangladesh, Cambodia, Lao People's Dem. Rep., Lesotho, Madagascar, Myanmar and Nepal.

c Afghanistan, Burundi, Congo Dem. Rep, Rwanda, Sierra Leone and Somalia.

### Does global trade benefit everyone?

National income growth is the key to a permanent reduction in the level of poverty. But experience confirms that the most likely outcome is that national growth will have a positive effect on the incomes of the poorest parts of a population, possibly because it is generally easier for the government to increase its poverty alleviation efforts if incomes are higher or growing.<sup>5</sup>

*"We have always recognized that International Trade can be a powerful engine of economic growth around the world."*

**A.B. Vajpayee, Prime Minister, India**

Reuters

20 August 2001

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<sup>5</sup> Alan L. Winters, "Trade, Income Disparity and Poverty", WTO 2000.

## GOVERNMENTS ACTING TOGETHER CONSTITUTE THE WTO

*The organization is only as strong as the will of its Members to abide by the rules*

Members agree to be “bound” by WTO Agreements because they see it to be in their own self interest to do so. The success of the WTO depends largely on the willingness of Members to abide by its rules and rulings. A pre-condition for this willingness to be “bound” is the negotiation of agreements that are sufficiently clear in their rules and scope and whose disciplines are workable and mutually accepted.

*When the WTO Members take decisions, it has to be without dissent. Consensus reigns and voting, although provided for, has never been invoked.*

### Do governments lose sovereignty when they join the WTO?

“Sovereignty” is a word that connotes different things to different people. It conjures up a wide spectrum of ideas of national pride and independence. In the WTO, sovereignty is understood in several ways. All WTO Members are “sovereigns” over their “customs territory”. By joining the WTO, governments undertake to make laws that comply with WTO Agreements and to change laws that do not.

Compliance with WTO Agreements does not in any way reduce the right of a government to make laws for its own territories. Most WTO Agreements make no attempt to guide governments on the content of their laws: they concern only the ‘external’ effects of the laws or regulations. There are some WTO accords, however, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights, the Sanitary and Phytosanitary Agreement and the Agreement on Technical Barriers to Trade, that encourage the harmonization of policies in specific technical areas. But even here, there are exceptions available. Ultimately,

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WTO Agreements are the result of the exercise of sovereign trade powers by WTO Members. (See Annex 1: Will the Nation-State Survive Globalization?)

*"I come from a small country. I see interdependence, and treaties and the great global institutions as guarantors of our sovereignty and safety. The realities of a more global world make it harder for governments to act independently of each other. Global challenges call for shared and cooperative solutions."*

**Mike Moore,**

April 2001

The concept of "sovereignty" should be distinguished from that of "interdependence". Sometimes international cooperation on a regime of rules requires governments to make the choice to set limits to their own behavior, with certain exceptions, in the interest of the common good. However, this is not about losing sovereignty but about ensuring that everyone abides by rules that have been mutually agreed. This is not peculiar to the WTO but is the norm for all multilateral rule making organizations. Without such a willingness to set commonly agreed limits on unilateral action, the international system would not be able to function effectively.

### Does the WTO interfere with domestic policy objectives?

The WTO does not make rules about the domestic policy objectives of Members. But it does make rules about the way in which these objectives are achieved. That sometimes limits the sort of things governments can do in domestic policies. But whatever measures a government might choose, one thing is certain: national policies should not discriminate between nationals and foreigners or between foreigners of different origin.

The WTO is only concerned with international trade but some WTO Agreements—like the GATT Agreements that preceded the WTO—have rules about the national regulations of Members. But such rules are agreed first by all Members and then adopted and implemented at the national level.

Why are trade rules required for Members' regulations? Part of the reason lies in the emergence of non-tariff barriers as a form of disguised protectionism. Some examples of such non-tariff barriers could include domestic regulations on the sale of goods, labelling, pricing, storage and value-added taxation, etc. Members negotiate commitments to ensure the transactions which take place at the border are as fair and as open as possible. It would be pointless if the benefits of these commitments were nullified by transactions which re-introduce the protection or discrimination that WTO rules seek to eliminate.

*"Globalization is a process that seems irreversible, and given that fact, we are left with the only choice available to join it, but not passively."*

**Joaquim Chissano, President of Mozambique**

Reuters

20 August 2001

*"We found that the 3 billion people living in the 24 developing countries that have integrated into the world economy most successfully have gained from higher incomes, longer life expectancy and better schooling. These countries enjoyed an average 5% growth rate in the 1990s compared with 2% in rich countries...Putting our heads, ostrich like, into the sand is not the answer. Putting in place safety nets and sound policies, and pulling down rich country trade barriers, just might be."*

**Caroline Anstey, Head of Media, World Bank**

Financial Times

17 August 2001

### What flexibility is there in the WTO Agreements?

Drawing the line between domestic policy objectives and non-tariff barriers can be difficult. That's why the WTO Agreements are flexible enough to permit Members to pursue policy objectives other than trade. Reference is always made to international standards whenever appropriate. Also, regulations are covered in WTO rules only to the extent that they apply to traded goods and services.

WTO Agreements take into account different levels of development and different trade and economic policies:

## The WTO... Why it matters

- by the inclusion of longer time-frames for implementation of the rules by developing countries or by allowing developing countries to make lower liberalization commitments, as provided for in the Agreement on Agriculture;
- by the provision of some lower thresholds of compliance by developing countries—particularly the least-developed countries; and
- by allowing Members time-limited ‘waivers’ of specified obligations for particular purposes. A number of developed countries (Canada, EU, US) have granted trade concessions to developing and least-developed countries on a unilateral basis and have been granted limited ‘waivers’ to enable them to maintain these concessions. Other waivers relate to technical deficiencies in the tariff schedules of some Members.

### Governments, their citizens and the WTO

*If the claim that "governments do not represent the interests of citizens" were true, then it is something that citizens need to correct at home. It is not something that an inter-governmental body like WTO can deal with. The WTO is owned and driven by its Members. Ambassadors act on behalf of Ministers, on instructions from their governments, when Ministers are not meeting. Ministers hold Ministerial Conferences at least once every two years to keep the WTO accountable. Parliaments and Congresses must ratify agreements reached. Parliaments represent the people, that is why we should involve them more in our processes and we have been doing so. Members of parliament should assemble on a regular basis to learn what we do and advise and reflect the concerns of the people they represent. Recently, the WTO approached the International Parliamentary Union (IPU) to hold a special conference to sensitize MPs to our work. This was a success and It is planned to hold further regular meetings of this type. I frequently appear before congressional and parliamentary committees to give evidence and explain the workings of the WTO.*

**Mike Moore**  
October 2001

Some say governments only represent the interests of the leaders, or of the “executive” arm of government, or of the elite members of a society or big business. Governments, so this ar-

gument goes, do not really represent the interests of citizens. But this is more about the relationship between governments and citizens than about the relationship between the WTO and citizens. Some advance arguments that the WTO is “not democratic” because it “overrules” legislation passed by democratically elected governments. But this is a misunderstanding. The WTO does not “overrule” national laws because it has no constitutional powers to do so in any country. The WTO rules, to which every Member has agreed in advance, deal with the trade effects of laws. These rules are made by consensus, approved by each government and ratified by their respective national parliaments. Parliaments, therefore, have a responsibility to ensure that the legislation they pass or have passed is in conformity with the treaties they approve. WTO Members are, after all, duty bound to observe their obligations under the WTO Agreement.

And what about a “democratic deficit” in decision-making amongst WTO Members? The argument that small and poor developing countries are disenfranchised from the decision-making process of the organization is unfounded. All WTO Members have exactly the same rights under the agreements. Decisions in the WTO are taken by consensus (although voting is legally possible under the WTO treaties) and every Member can potentially veto decisions it does not agree with. This means the least powerful Members of the organization can have strong leverage powers. After the Seattle Ministerial Conference, all developing countries, especially the least-developed, unanimously agreed the consensus principle was the best way of safeguarding their interests. Also, if the charge of democratic deficit were true, why are there so many small developing countries, from Bhutan to Vietnam, actively seeking accession to the WTO?

## The WTO... Why it matters

Of course, not all Members participate in the WTO as effectively as they would like. Some Members, especially from least-developed countries, need assistance to increase their capacity to participate in the WTO. For instance, there is a group of least-developed countries that cannot afford to maintain offices in Geneva. The WTO Secretariat makes extensive efforts to keep these governments informed about WTO activities. And twice a year representatives of governments with no offices in Geneva are invited to the WTO for a week of detailed briefings. However, without additional financial resources, the WTO Secretariat's ability to assist is limited. Parliamentarians and legislators have repeatedly said the WTO should be equipped to do more.

*A "democratic deficit" in the WTO? What exactly is understood by "democracy" in the context of the WTO? Some say the WTO is "not democratic" because citizens do not participate directly in the work of the WTO. But does this mean the WTO is "not democratic"? After all, the WTO is a treaty among governments and, like other treaties, does not directly include citizens. Only governments can negotiate trade rules for countries. Citizens are expected to be represented at the WTO through their governments.*

## THE WTO AND NGOS

WTO Members have often discussed the possible role of NGOs in WTO meetings. Several submissions by WTO Members address this issue and WTO Members have explained often that governments are the ones that represent the interests of all their respective citizens. But that does not mean there is no contact between the WTO's Members and representatives of NGOs. The WTO Secretariat, within the mandate given by the Members, has taken several steps to enhance the dialogue and flow of information to NGOs.<sup>6</sup> The WTO Secretariat organizes symposia for NGOs, provides regular briefings and has a special NGO section on its website with specific information for NGOs. Since the WTO was established, NGOs have attended all WTO Ministerial Conferences.

*"The WTO is made up of 142 Members and operates on a basis of consensus. This means all Members are equal under the rules. It means all Members have the right to participate in decision-making. Consensus means all Members have veto power. WTO agreements are negotiated by Ambassadors representing their respective countries. Before the agreements enter into force, they are referred back to Governments. Governments are in turn accountable to parliaments who are responsible for passing legislation because our agreements must be ratified by legislators. Every two years, we are held accountable and given direction at a Ministerial Conference."*

**Mike Moore,**

*WTO Symposium on Issues Confronting the World Trading System*

*7 July 2001*

*(See Annex 2 for the Director-General's address)*

At the Seattle Ministerial Conference in 1999 more than 160 meetings (workshops, seminars, private meetings) took place in the NGO Centre. As in the case of previous Ministerial Conferences, NGOs were briefed on a daily basis by the WTO Secretariat on the progress of the working sessions. Additionally, NGOs had full access to the press centre located in the official Confer-

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<sup>6</sup> Relations with Non-Governmental Organizations (NGOs) are specified in Article V:2 of the Marrakesh Agreement and further clarified in a set of guidelines (WT/L/162) which were adopted by the General Council in July 1996.

ence venue. Regardless of the outcome of the Seattle Ministerial Conference and the tumultuous protests accompanying its proceeding, these features have all been welcomed by NGOs as genuine signs of transparency.

Violent outbreaks by demonstrators at both the WTO's Geneva (May 1998) and Seattle (November 1999) Ministerial Conferences have made it harder for some NGOs to win the support of the WTO's Members to do more. Some WTO Members are concerned that NGOs themselves are not directly accountable to the public. And some critics claim that many NGOs do not publish their accounts or make their internal documents available for public scrutiny. Although NGOs may fairly claim to represent a point of view, even a widely held point of view, it would be difficult to agree that NGOs represent citizens in the same way as elected members of a parliament. Nevertheless, many WTO Members actively seek NGO involvement and encourage them to follow the work of the organization.

*Over 90% of all WTO documents are now available from the WTO website. In addition, a monthly list of NGO position papers received by the Secretariat is compiled and circulated for the information of WTO Members and the public. Since April 2000 a monthly electronic news bulletin—with more than 1,300 subscribers—has been available to NGOs, facilitating access to publicly available WTO information.*

*Many well known international NGOs are global players with more resources than the WTO. The WTO budget for 2001 was 134 million Swiss Francs. That's about \$US 91 million. By that measure, the WTO has fewer resources than many well-known international NGOs such as: World Wildlife Fund: SFr. 470 million, \$US 305 million. Greenpeace International: EUR 126 million, about \$US 123 million.*  
**Source:** <http://www.globalpolicy.org/finance/tables/assess.htm>  
December 2000

Nothing in the WTO's Agreements tells governments how to prepare for negotiations or the consultations they undertake with their citizens. Members have repeatedly re-affirmed that they consider themselves responsible for dialogue with their citizens and for determining how best to represent the interests of their countries. Members can and often do have wide ranging national-level consultations on trade policy. In some countries NGOs exert considerable pressure at the national level and their views are often included in the trade policy positions taken up by many governments.

## TRADE VALUES DO NOT CONFLICT WITH OTHER VALUES

*If the WTO works for trade, then why not use it to achieve other policy objectives?*

*"The open, rule-based trading system has generated an extraordinary surge in prosperity and dramatic reductions in poverty . . . . The trade liberalization process must continue. But views differ widely on how this should be done. Some have suggested using trade rules to achieve goals with respect to labour, the environment and human rights. I believe instead that full use should be made of the United Nations system to pursue such goals. To attempt to use the multilateral trading system to solve problems in these and other areas would place it under great strain, and would be much less effective than adopting policy solutions in the sectors themselves "*

**Kofi Annan, UN Secretary-General**

ECOSOC meeting

July 1998

Many look to the WTO to secure further progress on environmental policy, labour standards, human rights, health, culture and social marginalization. They want the WTO to use its rules to enforce 'core labour standards' or to sustain trade sanctions against environmentally damaging production methods.

People often ask, if we can have a binding dispute mechanism for trade, why not have similar mechanisms to deal with issues of the environment, labour, gender, indigenous and other areas of human differences? Good question. Perhaps other institutions could duplicate the WTO mechanism. However, if the WTO were to take on all these important additional responsibilities, then we would not function, and even worse would be an organization with too much power.

Each global issue has to find its own best policy path. Otherwise, problems are only transferred from one forum to another. It is not optimal to solve all non-trade issues through the WTO.

We do not need to make the WTO the substitute for the international system: the UN family of agencies and programmes already exists to fulfil exactly this role. In some cases, the UN's

agencies might be strengthened with better enforcement mechanisms so they can act according to their area of institutional jurisdiction. This would be far better than using the WTO to enforce policies outside its competence.

Just because the WTO has been very effective in ensuring compliance to trade rules does not mean it should now shift its focus towards achieving other policy goals. Most WTO Members believe that it should not. They agree that the WTO is a forum for negotiating trade rules and nothing more.

### **It's not just about trade ...**

Trade is not an end in itself—and neither is trade liberalization. Several important human welfare goals underpin the WTO Agreements: improving employment opportunities and productivity, improving food supply and food prices, ensuring better access to health education and information services. But it is up to governments to decide how to meet such objectives. Trade can help provide the means. Trade and other non-economic values can be mutually complementary provided that governments abide by the rules. For example, a Member's food and health standards can be the strictest in the world but they should not discriminate against foreign imports by imposing higher standards on foreign products than those applied to domestic suppliers.

The globalization of markets makes the interaction between trade regulations and other health and environmental regulations very common. The WTO Agreements provide governments with the appropriate flexibility they need to meet their objectives.

Governments do not want to be prevented from restricting imports that may pose unacceptable risks to health or to their environment. But that does not mean they are willing to accept protectionism in the name of protecting health. There is a difference between the two stances. All Members agree it is possible to avoid both protectionism and policies that could cause harm to human health.

## The WTO... Why it matters

But the path between the two is very narrow. So agreements are usually very carefully worded to say how, and in what circumstances, an exception may be used. At the same time, we should not forget that the benefits of trade can lead to the attainment of desired non-economic objectives.

Governments may resort to the WTO's Sanitary and Phytosanitary Agreement to protect human, animal or plant life and health but should do so only if:

- there is a sound scientific reason for the restriction (if not, they may take provisional measures while seeking additional information necessary for a more objective assessment of risk);
- the government uses the minimum level of import restriction necessary to achieve its goals; and
- the government does not apply the import restrictions in a way which discriminates between the exports of other WTO Members.

These rules are about ensuring the lowest possible level of trade restrictions and avoiding discriminatory import regulations. Why? Because discrimination disrupts trade, creates conflict between governments and is costly for producers and consumers.

*Trade does not provide a "one size" fits all solution and seeking answers to a wide variety of problems is as unrealistic and inefficient in the international sphere as it is in the national setting where one government Ministry might be doing the work of another.*

## SOME DIFFICULT QUESTIONS

*General exceptions—such as those in Article XX of the GATT 1994—allow governments to do what is necessary to achieve certain policy goals to safeguard health, the environment and public morals.*

### Environmental issues

There is a lot of misunderstanding of recent WTO disputes involving government environmental or health regulations.

In fact, in its decision on the case brought by India and others against the United States' laws prohibiting certain imports of shrimp (the 'shrimp-turtle' case), the Appellate Body of the WTO explicitly ruled that governments have every right to protect human, animal or plant life and health and to take measures to conserve exhaustible resources. The WTO does not have to "allow" them this right. It is a given, ensured by Article XX.

The rulings do not attack environmental policies. The dispute arose because the protection measures concerned treated foreign suppliers less favourably than domestic suppliers, or discriminated among foreign suppliers or were more trade restrictive than necessary to achieve the desired environmental objective. Article XX clearly states that measures taken to protect exhaustible natural resources, for example, should not be applied arbitrarily or cause unjustifiable discrimination between Members where the same conditions prevail. Nor should they serve as a disguised restriction on international trade. This is clearly contrary to the fundamentals of fair and open markets—and the rules of the WTO.

The WTO does have rules about the trade impact of policies that protect animal, human and plant health. It also has rules about the trade impact of product labeling. But these rules do not specify the policies that Members should have; they specify only that regulations and policies should not discriminate and that any trade measures—such as import barriers—should be no more restrictive than necessary to achieve credible policy objectives.

## The WTO... Why it matters

*Of course, most governments that have signed an MEA are also Members of the WTO, so it would be reasonable for Members of civil society to expect governments that are Members of both Agreements to ensure the provisions negotiated in each domain do not conflict.*

*The WTO puts some basic limits on subsidies that interfere with international trade. But the existing rules cannot adequately deal with subsidies that cause overfishing—and even rules that simply require subsidies to be reported to the WTO are widely disregarded. Fortunately, momentum is building for the WTO to take a serious look at agreeing new fishery subsidies rules in the next few years.*

**WWF-World Wide Fund for Nature**  
Brochure issue summary no. 19/99.

An example of an environmental issue that involved fundamental WTO principles concerns a dispute that arose because the United States, in an effort to improve its air quality, applied stricter rules on the chemical characteristics of imported gasoline than it did for domestically-refined gasoline. Venezuela (and later Brazil) said this was unfair because US gasoline did not have to meet the same standards—it violated the “national treatment” principle and could not be justified under exceptions to normal WTO rules for health and environmental conservation measures. The dispute panel agreed with Venezuela and Brazil. The appeal report upheld the panel’s conclusions (making some changes to the panel’s legal interpretation). The United States agreed to amend its regulations.

### Multilateral environmental agreements (MEAs) and the WTO

The WTO does cooperate with multilateral environmental agreements (MEAs) and the relationship between the WTO and the MEAs has been remarkably smooth.<sup>7</sup> The WTO includes MEA

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<sup>7</sup> How could a conflict, if it arises, be dealt with? Since there has been no panel recommendation or Dispute Settlement Body decision on a case involving such a conflict, the WTO has not been asked to decide on this issue. But there is a clue. In the decisions on the ‘Shrimp-turtle’ case, the Appellate Body said the legitimate environmental objectives of the US regulation—protection of an endangered species—would justify an exemption from WTO

representatives as observers in its meetings and the Secretariat has been mandated by Members to develop close cooperation with them. No dispute has so far arisen as the result of a conflict between a Member's obligations under the WTO and under an MEA. But the potential for conflicts should not be underestimated and WTO Members continue to study potential implications. Also, most MEAs do not contain trade provisions, so it would be reasonable to hope that the opportunity for conflict between the trade organization and the environmental organizations would be minimal.

It seems possible, then, that trade measures that are required by MEAs in pursuit of environmental objectives that are—by multilateral consensus—'legitimate' and not merely a disguised restriction on international trade would be found to fall within the exceptions of Article XX. In the shrimps dispute, for example, no party questioned the WTO-consistency of measures taken by Members to honor their obligations under the CITES Treaty (to protect endangered species). The consistency of such MEAs with exceptions allowed under Article XX is therefore not only possible, but very likely.

*This distinction between decisions directed at the trade impact and decisions directed at the policies themselves is important. The WTO has no rules on the impact of environmental regulations on trade—unless you count the requirement that no government regulations or policies should lead to trade discrimination among Members.*

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obligations under Article XX of GATT (the 'General exceptions' clause) . The Appellate Body made it as clear as possible that a Member is free to frame its own environmental laws or to act in accordance with plurilateral or multilateral agreements in pursuit of 'legitimate' environmental objectives. If a member's laws are not unjustifiably discriminatory or a disguised restriction on international trade, then laws that are necessary to achieve these environmental objectives are likely to be covered by the General Exceptions of Article XX.

*Charlene Barshefsky, the former United States Trade Representative, acknowledged in October 1999 that "the United States has not relaxed any environmental law or health or safety law in order to comply with any WTO ruling" (several of the cases were 'lost' by the US). She explained that where changes to US laws were made, this was to remove any discrimination in the treatment of foreign companies and US companies.<sup>8</sup>*

### Risk assessment and food safety

Complex scientific and technical issues frequently need to be taken into account when making decisions in the areas of environment, health and many other areas of public policy. In such cases assessments are needed to identify the potential outcomes of a decision—for example, whether to approve or not approve a class of drugs for public use—but also of the different risks that are associated with alternative outcomes—for example, whether the risk of harm from unintended side effects is greater than the risk of harm from the disease.

*"The WTO puts no restrictions on the power to create or enforce such laws. In fact, its basic charter says member countries can take any trade measures they like to "protect human, animal or plant health". All the WTO says is that members should not use trade as a weapon when other issues, such as the environment, are at stake."*

***The Globe and Mail, Toronto, Canada,  
1 March 2001***

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<sup>8</sup> The US lost the case, not because it sought to protect the environment but because it discriminated between WTO Members and thus failed to meet the full requirements of Article XX. It provided countries in the western hemisphere—mainly in the Caribbean—with technical and financial assistance and longer transition periods for their fishermen to start using turtle-excluder devices. It did not give the same advantages, however, to the four Asian countries (India, Malaysia, Pakistan and Thailand) that filed the complaint with the WTO

*The WTO, like its predecessor the GATT, does not permit its Members to distinguish between products that have the same characteristics ('like' products) based on differences in the way they were produced. Why? Because to do so would bring the rules into conflict with the very basis of the gains from trade: differences in comparative advantage.*

In globalizing economies, it is inevitable that there are trade impacts from some of these policy decisions. The WTO will probably face more and more requests for dispute resolution in matters that involve difficult decisions about scientific evidence, risk and public policy. Already, in cases such as the EU ban on beef treated with hormones, or Australian bans on salmon that could contain fish parasites, WTO panels were asked to rule on whether a policy took account of sound scientific evidence and appropriate assessments of risk. In the two cases cited, the governments were found to have acted without proper scientific justification.

*And there are specific exceptions. The Sanitary and Phytosanitary (SPS) Agreement takes into account the need to protect human, animal or plant life or health.*

*The WTO has not made any rulings that limit the rights of governments to make laws to protect their environment or to safeguard their citizens from safety or health risks.*

### Precautionary principle

This principle of administration can be used by Members when there is no readily available science to guide a decision in matters such as health, safety or the environment and where the risks appear to be great.

The UN Convention on Biodiversity (CBD)—a multilateral environment agreement (MEA) with which WTO cooperates—formally endorsed in 2000 the 'precautionary principle' as an approach to dealing with novel genetic materials. It is not difficult to see that there is a potential for conflict over whether a decision is truly 'precautionary' or is merely disguised protectionism: the difference between 'precaution' and 'protection' may well

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depend on what is an 'acceptable' level of risk associated with the decision.

*But a recent ruling by the Appellate Body in early 2001 concerning asbestos and products which contain asbestos found health risks to be relevant in the determination of the likeness of products under the national treatment clause.*

*But the labeling option is not as straightforward in practice as it seems: developing countries in particular are strongly opposed to measures that allow rich countries to pass national trade rules to impose on them production standards or processes as a condition of accessing export markets.*

*While Members have every right to use the highest standards, developing countries increasingly seek to be consulted before such measures (which can have devastating effects on their exports) are passed by national parliaments.*

### Intellectual Property Rights (TRIPS)

Ideas and knowledge are an increasingly important part of trade. Most of the value of new medicines and other high technology products lies in the amount of invention, innovation, research, design and testing involved. Many products that used to be traded as low-technology goods or commodities now contain a higher proportion of invention and design in their value—for example brand name clothing or new varieties of plants.

*For something to be patentable, it has to be an invention—which includes meeting tests of novelty and inventive step. The scope of the patent right only extends to the invention and not to any underlying genetic material.*

The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an attempt to narrow the gaps in the way these rights are protected around the world, and to bring them under common international rules. The areas covered by the agreement include copyright and related rights, trademarks, including service marks, geographical indications, industrial de-

signs, patents and the layout designs of integrated circuits. The agreement addresses how Members are to give adequate protection to intellectual property rights and how countries should adequately enforce those rights. It also states how disputes over intellectual property rights are to be settled at the WTO and contains special transitional arrangements.

### Striking a Balance ...

The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) attempts to strike a balance between the long term social objective of providing incentives for future inventions and creation, and the short term objective of allowing people to use existing inventions and creations.

The balance works in three ways:

- Invention and creativity in themselves should provide social and technological benefits. Intellectual property protection encourages inventors and creators because they can expect to earn some future benefits from their creativity. This encourages new inventions, such as new drugs, whose development costs can sometimes be extremely high.
- The way intellectual property is protected can also serve social goals. For example, patented inventions have to be disclosed, allowing others to study the invention even while its patent is being protected. This helps technological progress and technology dissemination and transfer. After a period, the protection expires, which means that the invention becomes available for others to use. All of this avoids "re-inventing the wheel".
- The TRIPS Agreement provides flexibility for Members to fine tune the protection granted in order to meet social goals. For patents, it allows governments to make exceptions to patent holders' rights such as in national emergencies, anti-competitive practices, or if the right-holder does not supply the invention, provided certain conditions are fulfilled.

*While the TRIPS Agreement deals with the intellectual property side, it is silent on the issues addressed in the Convention on Biodiversity (CBD) of the rights of countries to regulate access to biological resources in their territories on the basis of the principle of prior informed consent and of arrangements for benefit-sharing. This silence means that the TRIPS Agreement leaves governments free to legislate in accordance with the requirements of the CBD on these matters.*

### Access to medicines

Under the TRIPS Agreement, Members can make limited exceptions to copyright, trademark and patent rights, provided certain conditions are met. For example, the exceptions must not “unreasonably” conflict with the “normal” exploitation of the patent.

In addition, some countries allow manufacturers of generic drugs to use the patented invention to obtain marketing approval—for example from public health authorities—without the patent owner’s permission and before the patent protection expires. The generic producers can then market their versions as soon as the patent expires. This provision is sometimes called the “regulatory exception” or “Bolar” provision.

The TRIPS Agreement says Members can also act, again subject to certain conditions, to prevent patent owners and other holders of intellectual property rights from abusing intellectual property rights, “unreasonably” restraining trade, or hampering the international transfer of technology.

Central to the access to medicines issue is the question of how people in low income countries can have access to patented or trademarked drugs, which are often expensive. Proposed answers cover a wide range of issues involving entire healthcare systems. As far as intellectual property is concerned, the TRIPS Agreement allows Members to take actions to improve access to drugs, provided certain conditions are met. Two that are often discussed in public are compulsory licensing and parallel or grey-market imports.

**WTO Members to press on, following 'rich debate' on medicines**

*WTO Members have agreed to examine in greater detail the issues raised in their first special discussion on Intellectual Property and Access to Medicines in June and September 2001.*

*"This was a rich discussion, with over 40 detailed and thoughtful presentations. These presentations reflected the views of many more than 40 countries because several were made on behalf of groups of countries, including the least-developed countries, the African Group, the European Union, and ASEAN. I think I can safely say that all Members are determined to ensure that the TRIPS Agreement is part of the solution and not part of the problem of meeting the public health crises in poor countries. That includes the HIV-AIDS crisis in my own continent of Africa, but HIV-AIDS is by no means the only problem."*  
*Ambassador Boniface Chidyausiku, Chairman of the TRIPS Council.*

*The TRIPS Council will continue to discuss this in a structured and systematic way. That means looking at the relevant issues, topic by topic.*

The TRIPS Agreement also allows WTO Members to authorize use by third parties (compulsory licenses) or for public non-commercial purposes (government use) without the authorization of the patent owner. The grounds on which this can be done are not limited by the agreement, but the agreement contains a number of conditions that have to be met in order to safeguard the legitimate interests of the patent owner. Briefly, two of the main conditions are:

- an effort must have been made first, as a general rule, to obtain a voluntary license on reasonable commercial terms and conditions;
- adequate remuneration must be paid to the right holder in each case, taking into account the economic value of the license.

### TRIPS and the Convention on Biodiversity (CBD)

A main concern about the preservation of biodiversity is the enormous potential that genetic resources have for enhancing the welfare of mankind through their use in biotechnology.

Intellectual property rights are an important part of providing the incentives for research and development in biotechnology, in both developed and developing countries, and thus for the realization of these benefits. Intellectual property rights can also be the subject of benefit sharing arrangements with countries or communities that have supplied the underlying genetic material.

Some recent proposals by a number of WTO Members seek to use the TRIPS intellectual property regime to make the principles of the CBD more effective, for example by requiring patent applicants to disclose the geographical origin of any genetic material used in the invention in question and also to demonstrate that the necessary prior informed consent, was obtained from the competent authority in the country of origin.

In regard to the relationship of the TRIPS Agreement to the preservation and sustainable use of biodiversity, it should be emphasized that for something to be patentable under the TRIPS Agreement, it must be an invention. This means that the patenting of biological material in its natural state, so-called "biopiracy", is inconsistent with the principles of the TRIPS Agreement.

### Traditional knowledge of indigenous peoples

A related problem that is sometimes raised is that of the patenting of traditional knowledge. Because traditional knowledge is not new, this would be inconsistent with the principles of the TRIPS Agreement. However, it can happen by error because much traditional knowledge is not recorded in databases that can be consulted by patent examiners when they decide whether or not to grant a patent. Efforts are being made, both at national and international levels to remedy this problem by drawing up appropriate databases. One organization undertaking this work is the World Intellectual Property Organization (WIPO) in Geneva.

Another concern is that the intellectual property system does not provide sufficient opportunities for the communities where the knowledge originated to protect it from use by others. This concern relates to other traditional cultural manifestations, such as folklore.

The debate also focuses on whether the existing intellectual property system should be complemented with forms of protection directed to issues relating to traditional knowledge, especially of indigenous and local communities. The study of these matters has begun in WIPO and proposals for WTO action were made in the preparations for the Seattle Ministerial Conference. It is recognized that this issue gives rise to complex and difficult questions. For example, while some intellectual property rights are potentially indefinite in duration, such as trademarks and geographical indications, a key feature of the main intellectual property rights relating to creations and inventions is that, after a temporary period of protection, such creations or inventions fall into the public domain and become freely usable by mankind.

### Geographical indications

Geographical indications are place names (and sometimes words closely associated with a place) that are used to describe the origin and characteristics of a product. Examples include Bordeaux wine, champagne and Roquefort cheese. Terms that are now used generically (such as cheddar cheese) outside their original locality do not have to be protected.

The TRIPS Agreement says that normally Members have to protect geographical indications in order to prevent consumers from being misled. For wines and spirits, the agreement provides a higher level of protections, i.e. even where there is no danger of the public being misled.

Some Members want the higher level of protection extended beyond wines and spirits to include such products as Parma ham, Darjeeling tea, basmati rice, beers, other agricultural products and handicraft. Members who propose extending the higher level of protection to other products say it is illogical to treat

wines and spirits as special. Some of them have said they may be even more willing to negotiate actively in the current agriculture talks (which began in 2000) if they see progress in extending higher-level protection to these products. Some other Members oppose extending this protection to other products. They say the present agreement reflects a delicate balance of interests both within TRIPS and between TRIPS and the previous agriculture negotiations in the 1986-1994 Uruguay Round negotiations.

### Services, the GATS

The General Agreement on Trade in Services (GATS) is the first and only set of multilateral rules governing international trade in services. It was developed by WTO Members in response to the huge growth of the services economy over the past 30 years and the greater potential for trading services brought about by the communications revolution.

*The Agreement that covers trade in services is called the GATS and its origins date back to the Uruguay Round. Services represent the fastest growing sector of the global economy and account for 60% of global output, 30% of global employment and nearly 20% of global trade.*

When the idea of bringing rules on services into the multilateral trading system was floated in the early to mid 1980s a number of countries were sceptical and even opposed. They believed such an agreement could undermine governments' ability to pursue national policy objectives and constrain their regulatory powers. The agreement which was developed, however, allows a high degree of flexibility, both within the framework of rules and also in terms of the scheduling of commitments. This is one of the reasons why, of all the WTO agreements the GATS has been the least controversial among Members. New negotiations to liberalize trade in services began on 1 January 2000 and the working atmosphere has been extremely positive with agreement being reached in late March 2001 on a set of broad guidelines and procedures for the negotiations ahead.

*"Nonetheless, the WTO did spur a massive increase in investment. The Basic Telecommunications Agreement and the more general trend of regulatory liberalization triggered a rush to wire up cities and the globe on a unprecedented scale. From 1997 until 2000, the OECD countries and developing countries alike saw incumbents and new competitors ploughing investment into telecommunication infrastructure. For developing countries investment between 1995 and 1998 tripled the amount of the preceding decade. As a result the global telecommunications system grew from half a billion users in 1989 to two billion last year. Simultaneously the Internet grew from a couple of million users to 200 million and the number of countries connected to the Internet rose from 90 to 200. This narrowed the gap between developed and developing countries, although stark divisions between the information rich and poor persist."*

**Dwayne Winseck, Associate Professor, School of Journalism and Communication at Carleton University,**

*Daily Mail & Guardian*

*South Africa*

*22 August 2001*

However, as concerns among governments have diminished, the GATS has recently come under the spotlight of often hostile public attention. Most of the criticisms and concerns expressed essentially revolve around three key issues; the status of public services, the right to regulate and the developmental dimension of the GATS.

*Exports of commercial services by all countries rose by 1.5% in 1999 to reach \$1,350 billion annually. Even developing countries profited from services trade. In Africa for example, commercial services exports expanded by 8.5% in 1999 (mainly due to improved tourism revenues in Egypt) and represented the strongest increase anywhere in the world.*

*"By the late 1990s the 29 rich countries of the Organisation of Economic Cooperation and Development (OECD) accounted for 60% of all telephone lines worldwide, despite representing only 15% of the world population. During the 1990s analysts at the World bank estimated that more than \$7 billion was needed in Africa alone to achieve just one telephone line for 100 people, while others claimed that \$200 billion was needed to achieve modest levels of access to telecommunication services in developing countries. According to these analysts the massive infusion of investment in telecommunications depends on four strategies: privatization, competition, the World Trade Organization's (WTO) telecommunication's agreements and adequate regulatory regimes at a national level."*

**Dwayne Winseck , Associate Professor , School of Journalism and Communication at Carleton University,**

*Daily Mail & Guardian*

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### **The GATS does not threaten the right of Members to maintain public services**

It has been claimed that the GATS jeopardizes the right of Members to maintain public services such as health and education services. This, however, is simply not the case. Governments remain free to choose those services sectors on which they want to make binding commitments to liberalize. Governmental services are explicitly carved out of the agreement and there is absolutely nothing in the GATS that forces privatization of services industries or outlaws governmental or indeed private monopolies.

The GATS "bottom-up" approach to scheduling of commitments means that Members are not obliged to make commitments on the whole universe of services sectors, but retain the right to specify the sectors on which they will take commitments. This means that governments who do not want to bind levels of foreign competition in a given sector, because they consider it to be a core governmental function or indeed for any other reason, are free not to include it in their schedule. In this event only the minimal obligations such as transparency and the obligation to

not discriminate between foreign suppliers apply<sup>9</sup>. But even when commitments are made on particular services, the GATS allows Members to exercise a great deal of control over the operation of foreign suppliers in the domestic market. These take the form of limitations to market access and national treatment that are written, often in great detail, into Members' schedule of commitments.

The existence of a carve-out for services supplied in the exercise of governmental authority is an explicit commitment by WTO Members to allow publicly funded services in core areas of their responsibility. Governmental services are defined in the agreement as those supplied neither on a commercial basis nor in competition with other suppliers. These services are not subject to any GATS disciplines, they are not covered by the negotiations and commitments on market access and national treatment do not apply to them.

### **Liberalization under the GATS does not mean deregulation**

Equating services liberalization with deregulation is a common misperception. The GATS does not require the deregulation of any service. Commitments to liberalize do not affect the right of Members to set levels of quality, safety, price or introduce regulations to pursue any other policy objective as they see fit. A commitment to national treatment, for example, would only mean that the same regulations would apply to foreign suppliers as to nationals. It is out of the question that 142 governments would have signed up to an agreement that undermined their right to set qualification requirements for doctors or lawyers or their ability to set standards to ensure consumer health and safety—and WTO Members have not done so.

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<sup>9</sup> One-off exemptions to the MFN obligation have been taken by Members on entry into force of the WTO Agreement, and can be taken by acceding Members. These should, in principle, not exceed a period of ten years.

## The WTO... Why it matters

The development of rules on domestic regulation across all services sectors is currently in progress. The intention of these rules once they are agreed, will be to ensure that qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services. The objective of this exercise is to prevent the use of disguised restrictions.

Already disciplines have been developed for the accountancy sector and these provide a good example of a possible outcome of future work.<sup>10</sup> These are essentially about transparency and fair process. They do not say anything about the level of professional qualifications or standards for accountants except that they should not be more trade-restrictive than necessary to achieve the legitimate objective they seek. This means that if two or more measures exist that can achieve the same objective, one should choose the measure with the least trade restrictive impact on trade. It does not mean that Members would have to compromise the level of quality or consumer protection they are seeking to achieve through the regulation in question.

*Douglas and McIntyre's export sales have increased from 23% of total sales two years ago to 31% in 2000. More than 80% of their exports go to the United States, 16% head to Europe; and 3% to Japan and Australia. "There has been a subtle shift in emphasis in the last five years to exports being critical and central to what we do. We have changed our publishing program to focus more on the international market."*  
**Scott McIntyre, President, Douglas and McIntyre Publishing Group, Vancouver, British Columbia**

### The development dimension of the GATS

Concerns about the development implications of the GATS are essentially focused on the investment aspect of the agreement. Many critics, however, confuse the scope of the GATS and the Multilateral Agreement on Investment, which was negotiated but never agreed in the OECD (Organisation for economic develop-

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<sup>10</sup> The accountancy disciplines only apply to accountancy commitments and will come into force at the end of the current round of negotiations.

ment) and which was quite fiercely opposed by some NGO and civil society groups.

These two agreements, however, are completely different. The GATS does not address policies for foreign direct investment *per se*. It simply makes it possible for governments, if they so wish, to make commitments on the supply of services through establishment, subject to whatever conditions they may wish to apply. Any legal obligations that Members undertake in relation to certain aspects of their investment regimes are only incidental to the supply of the service in question.

Some critics have suggested that investment in the supply of services in developing countries may be to their disadvantage in holding back the development of domestic service industries. This view, however, has never been echoed by developing countries in the WTO, who are perhaps in a better position to judge what is in their best interests. Certainly the prevalence of developing-country commitments on the supply of services through foreign establishment suggests that they are keen to attract foreign investment rather than shield themselves from it. Many developing countries have also used the agreement to advance their development agendas by stipulating that foreign establishment must be tied to criteria such as local employment quotas, universal service provision, training requirements and the transfer of technology.

### WTO agreements complement human rights

The multilateral trading system and the human rights conventions have many features in common. Both grew out of a desire to promote peace and better standards of living, ensuring full employment and a growing volume of real income. For instance, the Preamble of the Marrakesh Agreement establishing the WTO clearly expresses these as goals of the multilateral trading system. These aspirations are also expressed in Article 55 of the UN Charter and in the human rights conventions. Both are maintained through the imposition of an international rule of law. Both condemn discrimination on the basis of national origin. They are not and should not be presumed as somehow contradictory.

The report by the Secretary-General on "Globalization and its impact on the full enjoyment of all human rights" (31 August 2000 A/55/342) to the Fifty-fifth session of the General Assembly *noted that*:

"The goals and principles of the WTO agreements and those of human rights law do, therefore, share much in common. Goals of economic growth, increasing living standards, full employment and the optimal use of the world's resources are conducive to the promotion of human rights, in particular the right to development. Parallels can also be drawn between the principles of fair competition and non-discrimination under trade law and equality and non-discrimination under human rights law. Furthermore, the special and differential treatment offered to developing countries under the WTO rules reflects notions of affirmative action under human rights law. These parallels can even be traced to the origins of GATT."

The WTO agreements do not preclude actions by individual Members of the WTO to ensure that international human rights principles are incorporated into its own activities. It is up to each individual Member to decide how it wishes to do this. The WTO agreements do not say anything about the type of policies that a government may wish to implement to bring about the fulfilment of human rights. For instance, with regard to the International Covenant on Economic, Social and Cultural Rights (ICESCR), there is nothing in the WTO agreements to prevent Members from using tax policies to redistribute wealth through more resources for social security systems and unemployment benefits (Art. 22 and 23), from ensuring non-discrimination on grounds of race, colour, sex or religion (Art. 2), providing education and health (Art. 13 and Art.12), providing special measures for protecting and assisting children and young persons (Art. 10), enhancing labour rights (Art. 8) or, for that matter, to use any of the policies that could be said to be at their disposal to help fulfil their human rights obligations.

Moreover, human rights covenants are primarily about rights and obligations between individuals and States. WTO agreements, on the other hand, are best characterized as multilaterally negoti-

ated contracts specifying the legal ground-rules for international trade relations. They represent international legal commitments taken by a state *vis-à-vis* another state.

The multilateral trading system supports the fulfilment of human rights with the establishment of a rules-based multilateral framework for international trade through *inter alia* the substantial reduction of tariffs and other barriers to trade, the elimination of discriminatory treatment in international trade relations and the settlement of trade disputes through the rule of international law. In these terms, the multilateral trading system indirectly contributes to the achievements of ends such as better standards of living and friendly relations between nations. Without "friendly relations among nations", the potential for interstate wars increases. The worst violations of human rights occur during wars. Two world wars have shown that peace is best maintained through international cooperation, the promotion of the rule of international law and the creation of international mechanisms and organizations for social, economic and political stability. The WTO contributes to peace.

## NEGOTIATIONS: THE WTO'S FUTURE

The world is changing fast. Technology, transportation and communication systems allow thoughts, people, goods and services to travel thousands of miles in seconds or hours. This stimulates business flows and development and inventions.

The role of the WTO's agreements is to make sure that trade flows freely and that possible conflicts are resolved by the parties involved or by the WTO's dispute settlement mechanism. But what about new forms of business now being conducted over the internet? And what about new ways of manufacturing or growing food and concerns over consumer health and safety. Such issues need to be addressed at the national and international level and in a rules-based framework, especially since they may have implications and repercussions the world over.

That is why new rules to address these issues must be negotiated by Members. The WTO, with its role as a forum for negotiation, is seen by its Members as the place to conduct such talks. And many have called for these issues and older ones in need of greater clarification to be included in a new trade round. The world moves ahead and governments see it as necessary to address today's critical issues before they become obstacles to international trade.

There is a problem, however, when it comes to which issues should be addressed first. Each Member has its own list of concerns. This is a result of each Member's differing economic interests and level of development. Negotiating new rules for sustainable development might be a valid goal for an industrialized country but poorer countries view such moves differently. They can often not afford to adapt their production methods to higher standards. Nor are they in agreement about negotiating new international rules in this area.

### **Further trade liberalization can help Members meet environment and development objectives**

Citizens the world over worry about their future and the future of their children. What will the world's environment be like in 25

years and how safe will our food be in a quarter of a century down the road? How many people will have risen out of poverty? Many feel these international problems require international solutions. But this is not always the case. As most of us know, achieving good environmental policies often starts at home. But there are actions taken by national governments which have international consequences. For example, subsidies for farmers in many industrialized countries result in over production and an increased use of fertilizers which endanger ground water supplies. The same subsidies and other barriers to food imports in those countries able to afford to subsidize their farmers decreases chances for developing countries to be competitive in their food exports. This is a situation where national policies do little to improve the environment and make it even harder for poorer agriculture export nations to realize the benefits of trade and to use the earnings for improving their social welfare.

What happens in farming is also applicable to fishing, forestry and mining. Correcting these policy positions is central and has been at the forefront of discussions ever since the Uruguay Round of multilateral trade talks was launched in 1986. Policies that harm the environment or do little or nothing to foster economic development are also regularly discussed by Members in the WTO's councils and committees. They are also the subject of campaigns led by such organizations as the World Wide Fund for Nature, Greenpeace and Oxfam which advocate the achievement of win-win situations—with positive benefits for the environment and development objectives.

## ANNEX 1: WILL THE NATION-STATE SURVIVE GLOBALIZATION?

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Author: Martin Wolf

### Defining globalization

A specter is haunting the world's governments—the specter of globalization. Some argue that predatory market forces make it impossible for benevolent governments to shield their populations from the beasts of prey that lurk beyond their borders. Others counter that benign market forces actually prevent predatory governments from fleecing their citizens. Although the two sides see different villains, they draw one common conclusion: omnipotent markets mean impotent politicians. Indeed, this formula has become one of the clichés of our age. But is it true that governments have become weaker and less relevant than ever before? And does globalization, by definition, have to be the nemesis of national government?

Globalization is a journey. But it is a journey toward an unreachable destination—"the globalized world." A "globalized" economy could be defined as one in which neither distance nor national borders impede economic transactions. This would be a world where the costs of transport and communications were zero and the barriers created by differing national jurisdictions had vanished. Needless to say, we do not live in anything even close to such a world. And since many of the things we transport (including ourselves) are physical, we never will.

This globalizing journey is not a new one. Over the past five centuries, technological change has progressively reduced the barriers to international integration. Transatlantic communication, for example, has evolved from sail power to steam, to the telegraph, the telephone, commercial aircraft, and now to the Internet. Yet states have become neither weaker nor less important during this odyssey. On the contrary, in the countries with the most ad-

vanced and internationally integrated economies, governments' ability to tax and redistribute incomes, regulate the economy, and monitor the activity of their citizens has increased beyond all recognition. This has been especially true over the past century.

The question that remains, however, is whether today's form of globalization is likely to have a different impact from that of the past. Indeed, it may well, for numerous factors distinguish today's globalizing journey from past ones and could produce a different outcome. These distinctions include more rapid communications, market liberalization, and global integration of the production of goods and services. Yet contrary to one common assumption, the modern form of globalization will not spell the end of the modern nation-state.

### The past as prologue

Today's growing integration of the world economy is not unprecedented, at least when judged by the flow of goods, capital, and people. Similar trends occurred in the late nineteenth and early twentieth centuries.

First, the proportion of world production that is traded on global markets is not that much higher today than it was in the years leading up to World War I. Commerce was comparably significant in 1910, when ratios of trade (merchandise exports plus imports) to GDP hit record highs in several of the advanced economies. Global commerce then collapsed during the Great Depression and World War II, but since then world trade has grown more rapidly than output. The share of global production traded worldwide grew from about 7% in 1950 to more than 20% by the mid-1990s; in consequence, trade ratios have risen in almost all of the advanced economies. In the United Kingdom, for example, exports and imports added up to 57% of GDP in 1995 compared to 44% in 1910; for France the 1995 proportion was 43% against 35% in 1910; and for Germany it was 46% against 38% in the same years. But Japan's trade ratio was actually lower in 1995 than it had been in 1910. In fact, among today's five biggest economies, the only one in which trade has a remarkably greater weight in output than it had a century ago is

the United States, where the ratio has jumped from 11% in 1910 to 24% in 1995. That fact may help explain why globalization is more controversial for Americans than for people in many other countries.

Second, by the late nineteenth century many countries had already opened their capital markets to international investments, before investments, too, collapsed during the interwar period. As a share of GDP, British capital investments abroad—averaging 4.6% of GDP between 1870 and 1913—hit levels unparalleled in contemporary major economies. More revealing is that the correlation between domestic investment and savings (a measure of the extent to which savings remain within one country) was lower between 1880 and 1910 than in any subsequent period.

Historical differences exist, however. Although current capital mobility has precedents from the pre-World War I era, the composition of capital flows has changed. Short-term capital today is much more mobile than ever before. Moreover, long-term flows now are somewhat differently constituted than in the earlier period. Investment in the early twentieth century took the form of tangible assets rather than intangible ones. Portfolio flows predominated over direct investment in the earlier period (that trend has been reversed since World War II); within portfolios, stocks have increased in relative importance to roughly equal bonds today. And finally, before 1914, direct investment was undertaken largely by companies investing in mining and transportation, whereas today multinational companies predominate, with a large proportion of their investment in services.

Today's high immigration flows are also not unprecedented. According to economists Paul Hirst and Grahame Thompson, the greatest era for recorded voluntary mass migration was the century after 1815. Around 60 million people left Europe for the Americas, Oceania, and South and East Africa. An estimated ten million voluntarily migrated from Russia to Central Asia and Siberia. A million went from Southern Europe to North America. About 12 million Chinese and 6 million Japanese left their homelands and emigrated to eastern and southern Asia. One and a half million left India for Southeast Asia and Southwest Africa.

Population movement peaked during the 1890s. In those years, the United States absorbed enough immigrants to increase the U.S. population from the beginning of the decade by 9%. In Argentina, the increase in the 1890s was 26%; in Australia, it was 17%. Europe provided much of the supply: the United Kingdom gave up 5% of its initial population, Spain 6%, and Sweden 7%. In the 1990s, by contrast, the United States was the only country in the world with a high immigration rate, attracting newcomers primarily from the developing world rather than from Europe. These immigrants increased the population by only 4%.

As all of this suggests, despite the many economic changes that have occurred over the course of a century, neither the markets for goods and services nor those for factors of production appear much more integrated today than they were a century ago. They seem more integrated for trade, at least in the high-income countries; no more integrated for capital—above all for long-term capital—despite important changes in the composition of capital flows; and much less integrated for labor.

So why do so many people believe that something unique is happening today? The answer lies with the two forces driving contemporary economic change: falling costs of transport and communications on the one hand, and liberalizing economic policies on the other.

### The technological revolution

Advances in technology and infrastructure substantially and continuously reduced the costs of transport and communications throughout the nineteenth and early twentieth centuries. The first transatlantic telegraph cable was laid in 1866. By the turn of the century, the entire world was connected by telegraph, and communication times fell from months to minutes. The cost of a three-minute telephone call from New York to London in current prices dropped from about \$250 in 1930 to a few cents today. In more recent years, the number of voice paths across the Atlantic has skyrocketed from 100,000 in 1986 to more than 2 million today. The number of Internet hosts has risen from 5,000 in 1986 to more than 30 million now.

A revolution has thus occurred in collecting and disseminating information, one that has dramatically reduced the cost of moving physical objects. But these massive improvements in communications, however important, simply continue the trends begun with the first submarine cables laid in the last century. Furthermore, distances still impose transport and communications costs that continue to make geography matter in economic terms. Certain important services still cannot be delivered from afar.

Diminishing costs of communications and transport were nevertheless pointing toward greater integration throughout the last century. But if historical experience demonstrates anything, it is that integration is not technologically determined. If it were, integration would have gone smoothly forward over the past two centuries. On the contrary, despite continued falls in the costs of transport and communications in the first half of the twentieth century, integration actually reversed course.

Policy, not technology, has determined the extent and pace of international economic integration. If transport and communications innovations were moving toward global economic integration throughout the last century and a half, policy was not—and that made all the difference. For this reason, the growth in the potential for economic integration has greatly outpaced the growth of integration itself since the late nineteenth century. Globalization has much further to run, if it is allowed to do so.

### Choosing globalization

Globalization is not destined, it is chosen. It is a choice made to enhance a nation's economic well-being—indeed, experience suggests that the opening of trade and of most capital flows enriches most citizens in the short run and virtually all citizens in the long run. (Taxation on short-term capital inflows to emerging market economies is desirable, however, particularly during a transition to full financial integration.) But if integration is a deliberate choice, rather than an ineluctable destiny, it cannot render states impotent. Their potency lies in the choices they make.

Between 1846 and 1870, liberalization spread from the United Kingdom to the rest of Europe. Protectionism, which had never waned in the United States, returned to continental Europe after 1878 and reached its peak in the 1930s.

A new era of global economic integration began only in the postwar era, and then only partially: from the end of World War II through the 1970s, only the advanced countries lowered their trade barriers. The past two decades, by contrast, have seen substantial liberalization take root throughout the world. By the late 1990s, no economically significant country still had a government committed to protectionism.

This historical cycle is also apparent in international capital investments. Capital markets stayed open in the nineteenth and early twentieth centuries, partly because governments did not have the means to control capital flows. They acquired and haltingly solidified this capacity between 1914 and 1945, progressively closing their capital markets. Liberalization of capital flows then began in a few advanced countries during the 1950s and 1960s. But the big wave of liberalization did not start in earnest until the late 1970s, spreading across the high-income countries, much of the developing world, and, by the 1990s, to the former communist countries. Notwithstanding a large number of financial crises over this period, this trend has remained intact.

In monetary policy, the biggest change has been the move from the gold standard of the 1870-1914 era to the floating currencies of today. The long-run exchange-rate stability inherent in the gold standard promoted long-term capital flows, particularly bond financing, more efficiently than does the contemporary currency instability. Today's vast short-term financial flows are not just a consequence of exchange-rate instability, but one of its causes.

Yet governments' control over the movement of people in search of employment tightened virtually everywhere in the early part of the last century. With the exception of the free immigration policy among members of the European Union (EU), immigration controls are generally far tighter now than they were a hundred years ago.

The policy change that has most helped global integration to flourish is the growth of international institutions since World War II. Just as multinational companies now organize private exchange, so global institutions organize and discipline the international face of national policy. Institutions such as the World Trade Organization (WTO), the International Monetary Fund (IMF), the World Bank, the EU, and the North American Free Trade Agreement underpin cooperation among states and consolidate their commitments to liberalize economic policy. The nineteenth century was a world of unilateral and discretionary policy. The late twentieth century, by comparison, was a world of multilateral and institutionalized policy.

### Tradeoffs facing states

Ironically, the technology that is supposed to make globalization inevitable also makes increased surveillance by the state, particularly over people, easier than it would have been a century ago. Indeed, here is the world we now live in: one with fairly free movement of capital, continuing (though declining) restrictions on trade in goods and services, but quite tight control over the movement of people.

Economies are also never entirely open or entirely closed. Opening requires governments to loosen three types of economic controls: on capital flows, goods and services, and people. Liberalizing one of the above neither requires nor always leads to liberalization in the others. Free movement of goods and services makes regulating capital flows more difficult, but not impossible; foreign direct investment can flow across national barriers to trade in goods without knocking them down. It is easier still to trade freely and abolish controls on capital movement, while nevertheless regulating movement of people.

The important questions, then, concern the tradeoffs confronting governments that have chosen a degree of international economic integration. How constrained will governments find themselves once they have chosen openness?

### Three vital areas

Globalization is often perceived as destroying governments' capacities to do what they want or need, particularly in the key areas of taxation, public spending for income redistribution, and macroeconomic policy. But how true is this perception?

In fact, no evidence supports the conclusion that states can no longer raise taxes. On the contrary: in 1999, EU governments spent or redistributed an average of 47% of their GDPs. An important new book by Vito Tanzi of the IMF and Ludger Schuknecht at the European Central Bank underlines this point. Over the course of the twentieth century, the average share of government spending among Organization for Economic Cooperation and Development (OECD) member states jumped from an eighth to almost half of GDP. In some high-income countries such as France and Germany, these ratios were higher than ever before.

Until now, it has been electoral resistance, not globalization, that has most significantly limited the growth in taxation. Tanzi claims that this is about to change. He argues that collecting taxes is becoming harder due to a long list of "fiscal termites" gnawing at the foundations of taxation regimes: more cross-border shopping, the increased mobility of skilled labor, the growth of electronic commerce, the expansion of tax havens, the development of new financial instruments and intermediaries, growing trade within multinational companies, and the possible replacement of bank accounts with electronic money embedded in "smart cards."

The list is impressive. That governments take it seriously is demonstrated by the attention that leaders of the OECD and the EU are devoting to "harmful tax competition," information exchange, and the implications of electronic commerce. Governments, like members of any other industry, are forming a cartel to halt what they see as "ruinous competition" in taxation. This sense of threat has grown out of several fiscal developments produced by globalization: increased mobility of people and money, greater difficulty in collecting information on income and

spending, and the impact of the Internet on information flows and collection.

Yet the competitive threat that governments face must not be exaggerated. The fiscal implications of labor, capital, and spending mobility are already evident in local jurisdictions that have the freedom to set their own tax rates. Even local governments can impose higher taxes than their neighbors, provided they contain specific resources or offer location-specific amenities that residents desire and consume. In other words, differential taxation is possible if there are at least some transport costs—and there always are.

These costs grow with a jurisdiction's geographic size, which thus strongly influences a local government's ability to raise taxes. The income of mobile capital is the hardest to tax; the income of land and immobile labor is easiest. Corporate income can be taxed if it is based on resources specific to that location, be they natural or human. Spending can also be taxed more heavily in one jurisdiction than another, but not if transport costs are very low (either because distances are short or items are valuable in relation to costs). Similarly, it is difficult to tax personal incomes if people can live in low-tax jurisdictions while enjoying the amenities of high-tax ones.

Eliminating legal barriers to mobility therefore constrains, but does not eliminate, the ability of some jurisdictions to levy far higher taxes than others. The ceiling on higher local taxes rises when taxable resources or activities remain relatively immobile or the jurisdiction provides valuable specific amenities just for that area.

The international mobility of people and goods is unlikely ever to come close to the kind of mobility that exists between states in the United States. Legal, linguistic, and cultural barriers will keep levels of cross-border migration far lower than levels of movement within any given country. Since taxes on labor income and spending are the predominant source of national revenue, the modern country's income base seems quite safe. Of course, although the somewhat greater mobility resulting from globalization makes it harder for governments to get information about

what their residents own and spend abroad, disguising physical movement, consumption, or income remains a formidable task.

The third major aspect of globalization, the Internet, may have an appreciable impact on tax collection. Stephane Buydens of the OECD plausibly argues that the Internet will primarily affect four main areas: taxes on spending, tax treaties, internal pricing of multinational companies, and tax administration.

Purely Internet-based transactions—downloading of films, software, or music—are hard to tax. But when the Internet is used to buy tangible goods, governments can impose taxes, provided that the suppliers cooperate with the fiscal authorities of their corresponding jurisdictions. To the extent that these suppliers are large shareholder-owned companies, which they usually are, this cooperation may not be as hard to obtain as is often supposed.

It is also sometimes difficult to locate an Internet server. If one cannot do so, how are taxes to be levied and tax treaties applied? Similar problems arise with multinational companies' ability to charge submarket prices to their subsidiaries abroad (so-called "transfer pricing" within multinationals), which leaves uncertain the question of how and in which country to levy the tax. This scenario suggests that classic concepts in the taxation of corporations may have to be modified or even radically overhauled.

The overall conclusion, then, is that economic liberalization and technology advances will make taxation significantly more challenging. Taxes on spending may have to be partially recast. Taxation of corporate profits may have to be radically redesigned or even abandoned. Finally, the ability of governments to impose taxes that bear no relation to the benefits provided may be more constrained than before.

Nevertheless, the implications of these changes can easily be exaggerated. Taxation of corporate income is rarely more than 10% of revenue, whereas taxes on income and spending are the universal pillars of the fiscal system. Yet even lofty Scandinavian taxes are not forcing skilled people to emigrate in droves. People will still happily pay to enjoy high-quality schools or public trans-

port. Indeed, one of the most intriguing phenomena of modern Europe is that the high-tax, big-spending Scandinavian countries are leading the "new economy."

Governments will also use the exchange of information and other forms of cooperation to sustain revenue and may even consider international agreements on minimum taxes. They will certainly force the publicly quoted companies that continue to dominate transactions, both on-line and off, to cooperate with fiscal authorities. But competition among governments will not be eliminated, because the powerful countries that provide relatively low-tax, low-spending environments will want to maintain them.

The bottom line is that the opening of economies and the blossoming of new technologies are reinforcing constraints that have already developed within domestic politics. National governments are becoming a little more like local governments. The result will not necessarily be minimal government. But governments, like other institutions, will be forced to provide value to those who pay for their services.

Meanwhile, governments can continue the practice of income redistribution to the extent that the most highly taxed citizens and firms cannot—or do not wish to—evade taxation. In fact, if taxes are used to fund what are believed to be location-specific benefits, such as income redistribution or welfare spending, taxpayers will likely be quite willing to pay, perhaps because they either identify with the beneficiaries, fear that they could become indigent themselves, or treasure the security that comes from living among people who are not destitute. Taxpayers may also feel a sense of moral obligation to the poor, a sentiment that seems stronger in small, homogeneous societies. Alternatively, they may merely be unable to evade or avoid those taxes without relocating physically outside the jurisdiction. For all these reasons, sustaining a high measure of redistributive taxation remains perfectly possible. The constraint is not globalization, but the willingness of the electorate to tolerate high taxation.

Last but not least, some observers argue that globalization limits governments' ability to run fiscal deficits and pursue inflationary

monetary policy. But macroeconomic policy is always vulnerable to the reaction of the private sector, regardless of whether the capital market is internationally integrated. If a government pursues a consistently inflationary policy, long-term nominal interest rates will rise, partly to compensate for inflation and partly to insure the bondholders against inflation risk. Similarly, if a government relies on the printing press to finance its activity, a flight from money into goods, services, and assets will ensue—and, in turn, generate inflation.

Within one country, these reactions may be slow. A government can pursue an inflationary policy over a long period and boost the economy; the price may not have to be paid for many years. What difference, then, does it make for the country to be open to international capital flows? The most important change is that the reaction of a government's creditors is likely to be quicker and more brutal because they have more alternatives. This response will often show itself in a collapsing exchange rate, as happened in East Asia in 1997 and 1998.

### The continuing importance of states

A country that chooses international economic integration implicitly accepts constraints on its actions. Nevertheless, the idea that these constraints wither away the state's capacity to tax, regulate, or intervene is wrong. Rather, international economic integration accelerates the market's responses to policy by increasing the range of alternative options available to those affected. There are also powerful reasons for believing that the constraints imposed on (or voluntarily accepted by) governments by globalization are, on balance, desirable.

For example, the assumption that most governments are benevolent welfare-maximizers is naive. International economic integration creates competition among governments—even countries that fiercely resist integration cannot survive with uncompetitive economies, as shown by the fate of the Soviet Union. This competition constrains the ability of governments to act in a predatory manner and increases the incentive to provide services that are valued by those who pay the bulk of the taxes.

Another reason for welcoming the constraints is that self-imposed limits on a government's future actions enhance the credibility of even a benevolent government's commitments to the private sector. An open capital account is one such constraint. Treaties with other governments, as in the WTO, are another, as are agreements with powerful private parties. Even China has come to recognize the economic benefits that it can gain from international commitments of this kind.

The proposition that globalization makes states unnecessary is even less credible than the idea that it makes states impotent. If anything, the exact opposite is true, for at least three reasons. First, the ability of a society to take advantage of the opportunities offered by international economic integration depends on the quality of public goods, such as property rights, an honest civil service, personal security, and basic education. Without an appropriate legal framework, in particular, the web of potentially rewarding contracts is vastly reduced. This point may seem trivial, but many developing economies have failed to achieve these essential preconditions of success.

Second, the state normally defines identity. A sense of belonging is part of the people's sense of security, and one that most people would not want to give up, even in the age of globalization. It is perhaps not surprising that some of the most successfully integrated economies are small, homogeneous countries with a strong sense of collective identity.

Third, international governance rests on the ability of individual states to provide and guarantee stability. The bedrock of international order is the territorial state with its monopoly on coercive power within its jurisdiction. Cyberspace does not change this: economies are ultimately run for and by human beings, who have a physical presence and, therefore, a physical location.

Globalization does not make states unnecessary. On the contrary, for people to be successful in exploiting the opportunities afforded by international integration, they need states at both ends of their transactions. Failed states, disorderly states, weak states, and corrupt states are shunned as the black holes of the global economic system.

What, then, does globalization mean for states? First, policy ultimately determines the pace and depth of international economic integration. For each country, globalization is at least as much a choice as a destiny. Second, in important respects—notably a country's monetary regime, capital account, and above all, labor mobility—the policy underpinnings of integration are less complete than they were a century ago. Third, countries choose integration because they see its benefits. Once chosen, any specific degree of international integration imposes constraints on the ability of governments to tax, redistribute income, and influence macroeconomic conditions. But those constraints must not be exaggerated, and their effects are often beneficial. Fourth, international economic integration magnifies the impact of the difference between good and bad states—between states that provide public goods and those that serve predatory private interests, including those of the rulers.

Finally, as the world economy continues to integrate and cross-border flows become more important, global governance must be improved. Global governance will come not at the expense of the state but rather as an expression of the interests that the state embodies. As the source of order and basis of governance, the state will remain in the future as effective, and will be as essential, as it has ever been.

*Martin Wolf is Associate Editor and Chief Economics Commentator at the Financial Times. This paper is based on "The Nation State in a Global World," presented at the Harry Oppenheimer Colloquium on Globalization, funded by the Ernest Oppenheimer Memorial Trust, in Stellenbosch, South Africa, in February 2000. Excerpts will appear in the winter 2001 issue of the Cato Journal.*

## ANNEX 2: OPEN SOCIETIES, FREEDOM, DEVELOPMENT AND TRADE

Welcome speech by Mike Moore; Director-General of the World Trade Organization

Plenary Opening  
WTO Symposium on Issues Confronting the World Trading System  
Geneva, 6 July 2001

Commissioner  
Ministers  
Ambassadors  
Distinguished Guests  
Ladies and Gentlemen

It is a pleasure to welcome you, it is good you are here and I look forward to the discussions, debate, exchanges and differences over the next two days.

None of us has perfect knowledge; anything can be improved, that is why gatherings such as this are important. I would like to see them as a permanent, regular feature of the WTO's activities—budgeted for, planned for, and useful to Member Governments, our staff and the wider public.

I welcome scrutiny, it makes us stronger and more accountable. Thank you to those who have made this event possible through financial contributions: Canada, European Commission, Japan, Netherlands, Norway, Sweden, Switzerland, United Kingdom, United States.

The debate about globalization means we are now closely scrutinized. I welcome this attention. The WTO does important work and decisions taken by our institution affect the lives of ordinary men and women all over the world. It is right that we should be held accountable.

Governments recognize the need for international and regional responses to problems we have in common. No single nation alone can combat Aids, clean the environment, run a tax system and manage airlines without the cooperation of others. This is why we have established institutions and treaties such as the UN, ILO, WTO, World Bank, and the Law of the Sea. But there has not been a corresponding dedication of political resources, time, finance and focus to hold us more accountable to our own governments and the people.

Through our initiatives such as the recent IPU Meeting of Parliamentarians on Trade Issues and symposia such as this, we are encouraging greater involvement from all sectors of political and civil society to help us do a better job.

Voters and consumers want more information and control, greater accountability and greater ownership. They want to know what their governments are doing not just nationally but also internationally. This is a good thing. Globally, we are now more prosperous and relations between states are more peaceful than ever before in world history. Yet many people feel alienated from power and ownership. Ministers now often find their toughest negotiations are not with each other but at home inside their Parliaments and Congresses, with coalition parties, cabinet colleagues, civil society, Member states. It is tougher than in my day.

Globalization is not new. It is a process, not a policy. Historians argue that there were higher levels of trade, and certainly a greater movement of people, 100 years ago than there are today. What is new is that everyone knows about it, has an opinion and that is good. The questions of how we manage change is what we are here to discuss. Some think if you abolished the WTO then you would abolish globalization. I believe that the civilized answer to differences is rules and law. What brings the WTO into this debate is our dispute settlement system, which binds outcomes legally. Good people are puzzled. Why, they ask, can we have a binding system for trade but not the for environment, labour, children and gender rights, human rights, animal rights, indigenous rights? Why can we not settle differences that drive nations and tribes to war in a similar way? Good point. I am sure that Kofi Annan would relish such a system. Critics, who are not all mad or bad, frequently say we have too much power. Some of them want to give us more powers and responsibilities. It is also about jurisdiction. In which

international institution should these powers and responsibilities reside? We need to recognize the gaps in the international architecture. For example, there is no powerful, funded, global environmental agency. There should be. Heavy, fresh and creative thinking must be done about the roles, functions, jurisdictions, obligations, management and mandates of all international institutions and how we deliver our services. This is where those not captured by process and bureaucracy can help the debate. I would welcome your views. A dear friend called our process and culture "medieval". Hopefully, we are moving into an age of enlightenment, made brighter by the illumination of the information age, which will allow us to communicate in ways never dreamed of by our founders.

The WTO is made up of 142 Members and operates on a basis of consensus. This means all Members are equal under the rules. It means all Members have the right to participate in decision-making. Consensus means all Members have veto power. WTO agreements are negotiated by Ambassadors representing their respective countries. Before the agreements enter into force, they are referred back to Governments. Governments are in turn accountable to parliaments who are responsible for passing legislation because our agreements must be ratified by legislators. Every two years, we are held accountable and given direction at a Ministerial Conference.

We are steadily improving the position and participation of non-resident WTO Members and helping more modest missions in our work in Geneva. Work is underway by Members in important areas of internal and external transparency.

Our owners jealously defend their rights and prerogatives. Even having these symposia is controversial and not universally supported. Let me share why. Many Ministers and Ambassadors say it is not the job of the WTO to embrace NGOs and civil society. They say that should be done at the national level in the formation of national policy positions. They are correct but only 90% correct.

Now, because I have been so polite and have given you a message of welcome, may I ask for your assistance. Nothing upsets our owners more than the mindless, undemocratic enemies of the open society who have as a stated aim the prevention of Ministers and our leaders from even meeting. Imagine the attitude of the Minister from South

Africa who was imprisoned during South Africa's struggle for freedom when faced with this attitude in the streets of Seattle. Or the Swedish Minister who wanted to focus on issues of sustainable development, Aids and how to extend freedoms we take for granted across a wider Europe, yet had his leader's conference attacked.

It would strengthen the hand of those who seek change if NGOs distance themselves from masked stone-throwers who claim to want more transparency, anti-globalization dot.com-types who trot out slogans that are trite, shallow and superficial. This will not do as a substitute for civilized discourse.

Who is to blame? There is enough blame for all of us to share. Perhaps we could consider new principles of engagement. A debate should be held and understandings reached between civil society, the international institutions and governments for a code of conduct that could include:

- The rejection of violence
- Transparency from NGOs as to their membership, their finances, their rules of decision-making
- Governments, business and foundations should insist on rules of transparency and adhere to an agreed "code", before they provide funding.

Governments and their institutions should, in return, give those who follow such rules a stake in the process. And we need to accept that there is a fundamental difference between transparency and participation on the one hand and negotiations on the other—which in the end only governments can do.

If a group wishes to help draft such a set of guidelines, I promise to look at it and talk to other institutions and governments.

Let me turn briefly to the current WTO work programme. Key decisions will be taken in the weeks and months ahead –decisions that will have a far-reaching impact on the future of the world trading system. At the Ministerial Conference to take place in November, we must leave the WTO stronger and more open, ready to play its full part in international trade relations. To achieve this, I believe we must launch a new round

or a wider set of negotiations. There are several reasons why we need this.

The economic argument for a new round is compelling. Cutting by a third barriers to trade in agriculture, manufacturing and services would boost the world economy by \$613 billion, according to one study from Michigan University. That is equivalent to adding an economy the size of Canada to the world economy. Doing away with all trade barriers would boost the world economy by nearly \$1.9 trillion, or the equivalent of 2 Chinas. Of course, these are only estimates. Reasonable people can quibble about the exact size of the gains from a new round. But the basic message from study after study is clear: a new round brings huge benefits.

We are making progress on market access for LDCs because of EU leadership, the US-Africa bill, and other initiatives. Twenty-nine countries have made more access available, we must do more but can best get final progress inside a wider negotiation.

OECD agricultural subsidies in dollar terms are two thirds of Africa's total GDP. Abolition of these subsidies would return three times all the Official Development Assistance put together to developing countries. Kofi Annan wants \$10 billion to fight Aids; that is just 12 days of subsidies in dollar terms.

The development argument is compelling. Notwithstanding the advances over the last 50 years, 1.2 billion people are still living on less than \$1 a day. Another 1.6 billion are living on less than \$2 a day. It is a tragedy that while our planet is blessed with sufficient resources to feed its 6 billion people, many are going hungry and living in misery. Poverty in all its forms is the greatest threat to peace, democracy, the environment and human rights. The poor fear marginalization more than globalization.

Samuel Brittan produced a chart recently in the Financial Times. Over the past fifty years, less-developed areas' life-expectancy has risen by over 20 years, adult literacy from 40% to 70%. For China, literacy is up by 34 percentage points, India 33, Sub-Saharan Africa 39, and North Africa 41. Life expectancy for China is up by over 27 years, India by over 21 years and Northern Africa by over 20 years.

What does this prove? Little, other than in general the past 50 years has seen the condition of our species progress at a pace unparalleled in history.

Can I be politically incorrect? Just because the great economic powers want something, that does not automatically make it wrong. The truth is a stubborn thing. The EU, Japan and the US account for over 60% of the world's imports. Some observers have suggested recession for all three. If that is true, it will be the first time all three have been in recession in 25 years. There is a slow down, how slow we have yet to experience. That cuts jobs and revenue everywhere. I am now reluctant to predict the economic future, because I have accurately predicted five of the last two recessions.

A more open world has its dangers, but a closed world divided into tribal compartments has proved lethal in the past. The tribes of Europe are a good example. Where the tribes appreciate and respect each other's differences—culture, music, religion, food and commerce—we enjoy a united Europe. Human rights and living standards are high. A united Europe is a force for good. Where tribalism flourishes human progress and human dignity are imperiled. Compare the Baltic States and the state of the Balkans. Compare North Korea and the Republic of Korea. Night and day, open or closed. Before the Soviets moved in to the Baltic States, they had a living standard comparable with Denmark and now they are bouncing back; pre-war Czechoslovakia was comparable with France. Is France less French because she is in the EU? No. Does trade prevent development? Ask Korea, which had a lower living standard than many African States 45 years ago. Korea now has a living standard closer to Portugal and look how Portugal has prospered since she opened up and joined the EU.

I know trade alone is not the answer, but it is part of the cocktail necessary for progress. Good governance, debt relief, infrastructure investment, education, sustainable development, health programmes, all have a role to play.

I welcome you all and what you have to offer. I look forward to solid debate and ideas that Ambassadors and Governments and our officials can pick up, so we can improve our performance and all do a better job.

## WTO MEMBERS AND OBSERVERS

Albania 8 September 2000	Djibouti 31 May 1995
Angola 23 November 1996	Dominica 1 January 1995
Antigua and Barbuda 1 January 1995	Dominican Republic 9 March 1995
Argentina 1 January 1995	Ecuador 21 January 1996
Australia 1 January 1995	Egypt 30 June 1995
Austria 1 January 1995	El Salvador 7 May 1995
Bahrain 1 January 1995	Estonia 13 November 1999
Bangladesh 1 January 1995	European Communities 1 January 1995
Barbados 1 January 1995	Fiji 14 January 1996
Belgium 1 January 1995	Finland 1 January 1995
Belize 1 January 1995	France 1 January 1995
Benin 22 February 1996	Gabon 1 January 1995
Bolivia 12 September 1995	The Gambia 23 October 1996
Botswana 31 May 1995	Georgia 14 June 2000
Brazil 1 January 1995	Germany 1 January 1995
Brunei Darussalam 1 January 1995	Ghana 1 January 1995
Bulgaria 1 December 1996	Greece 1 January 1995
Burkina Faso 3 June 1995	Grenada 22 February 1996
Burundi 23 July 1995	Guatemala 21 July 1995
Cameroon 13 December 1995	Guinea Bissau 31 May 1995
Canada 1 January 1995	Guinea 25 October 1995
Central African Republic 31 May 1995	Guyana 1 January 1995
Chad 19 October 1996	Haiti 30 January 1996
Chile 1 January 1995	Honduras 1 January 1995
Colombia 30 April 1995	Hong Kong, China 1 January 1995
Congo 27 March 1997	Hungary 1 January 1995
Congo, Democratic Republic of the 1 January 1997	Iceland 1 January 1995
Costa Rica 1 January 1995	India 1 January 1995
Côte d'Ivoire 1 January 1995	Indonesia 1 January 1995
Croatia 30 November 2000	Ireland 1 January 1995
Cuba 20 April 1995	Israel 21 April 1995
Cyprus 30 July 1995	Italy 1 January 1995
Czech Republic 1 January 1995	Jamaica 9 March 1995
Denmark 1 January 1995	Japan 1 January 1995
	Jordan 11 April 2000

## WTO Members and observers

Kenya 1 January 1995	Philippines 1 January 1995
Korea, Republic of 1 January 1995	Poland 1 July 1995
Kuwait 1 January 1995	Portugal 1 January 1995
The Kyrgyz Republic 20 December 1998	Qatar 13 January 1996
Latvia 10 February 1999	Romania 1 January 1995
Lesotho 31 May 1995	Rwanda 22 May 1996
Liechtenstein 1 September 1995	Saint Kitts and Nevis 21 February 1996
Lithuania 31 May 2001	Saint Lucia 1 January 1995
Luxembourg 1 January 1995	Saint Vincent & the Grenadines 1 January 1995
Macao, China 1 January 1995	Senegal 1 January 1995
Madagascar 17 November 1995	Sierra Leone 23 July 1995
Malawi 31 May 1995	Singapore 1 January 1995
Malaysia 1 January 1995	Slovak Republic 1 January 1995
Maldives 31 May 1995	Slovenia 30 July 1995
Mali 31 May 1995	Solomon Islands 26 July 1996
Malta 1 January 1995	South Africa 1 January 1995
Mauritania 31 May 1995	Spain 1 January 1995
Mauritius 1 January 1995	Sri Lanka 1 January 1995
Mexico 1 January 1995	Suriname 1 January 1995
Moldova 27 July 2001	Swaziland 1 January 1995
Mongolia 29 January 1997	Sweden 1 January 1995
Morocco 1 January 1995	Switzerland 1 July 1995
Mozambique 26 August 1995	Tanzania 1 January 1995
Myanmar 1 January 1995	Thailand 1 January 1995
Namibia 1 January 1995	Togo 31 May 1995
Netherlands 1 January 1995	Trinidad and Tobago 1 March 1995
New Zealand 1 January 1995	Tunisia 29 March 1995
Nicaragua 3 September 1995	Turkey 26 March 1995
Niger 13 December 1996	Uganda 1 January 1995
Nigeria 1 January 1995	United Arab Emirates 10 April 1996
Norway 1 January 1995	United Kingdom 1 January 1995
Oman 9 November 2000	United States 1 January 1995
Pakistan 1 January 1995	Uruguay 1 January 1995
Panama 6 September 1997	Venezuela 1 January 1995
Papua New Guinea 9 June 1996	Zambia 1 January 1995
Paraguay 1 January 1995	Zimbabwe 5 March 1995
Peru 1 January 1995	

### Observer governments

Algeria	Lebanon
Andorra	Nepal
Armenia	Russian Federation
Azerbaijan	Samoa
Bahamas	Sao Tome and Principe
Belarus	Saudi Arabia
Bhutan	Seychelles
Bosnia and Herzegovina	Sudan
Cambodia	Taipei, Chinese,
Cape Verde	Tonga
China, People's Republic of	Ukraine
Ethiopia	Uzbekistan
Former Yugoslav Republic of Ma- cedonia	Vanuatu
Holy See (Vatican)	Vietnam
Kazakstan	Yemen
Lao People's Democratic Republic	Yugoslavia, Fed. Rep. of

*Note:* With the exception of the Holy See, observers must start accession negotiations within five years of becoming observers.

## GLOSSARY OF TERMS

### General

**Built-in agenda** Post-1995 work set out in WTO agreements.

**GATT** General Agreement on Tariffs and Trade, which has been superseded as an international organization by the WTO. An updated General Agreement is now one of the WTO's agreements.

**GATT 1947** The old (pre-1994) version of the GATT.

**GATT 1994** The new version of the General Agreement, incorporated into the WTO, which governs trade in goods.

**General Council** Top WTO decision-making body between ministerial conferences. Usually Geneva-based diplomats. Comprises all WTO members.

**Members** WTO governments (first letter capitalized, in WTO style).

**Ministerial Conference** Supreme WTO decision-making body comprising ministers from all members. Meets at least once every two years.

**MFN** Most-favoured-nation treatment (GATT Article I, GATS Article II and TRIPS Article 4), the principle of not discriminating between one's trading partners.

**national treatment** The principle of giving others the same treatment as one's own nationals. GATT Article III requires that imports be treated no less favourably than the same or similar domestically-produced goods once they have passed customs. GATS Article XVII and TRIPS Article 3 also deal with national treatment for services and intellectual property protection.

**TPRB, TPRM** The **Trade Policy Review Body** is General Council operating under special procedures for meetings to re-

view trade policies and practices of individual WTO members under the **Trade Policy Review Mechanism**.

**transparency** Degree to which trade policies and practices, and the process by which they are established, are open and predictable.

**Uruguay Round** Multilateral trade negotiations launched at Punta del Este, Uruguay in September 1986 and concluded in Geneva in December 1993. Signed by ministers in Marrakesh, Morocco, in April 1994.

## Tariffs

**binding, bound** see “tariff binding”

**electronic commerce** The production, advertising, sale and distribution of products via telecommunications networks.

**free-rider** A casual term used to infer that a country which does not make any trade concessions, profits, nonetheless, from tariff cuts and concessions made by other countries in negotiations under the most-favoured-nation principle.

**Harmonized System** An international nomenclature developed by the World Customs Organization, which is arranged in six digit codes allowing all participating countries to classify traded goods on a common basis. Beyond the six digit level, countries are free to introduce national distinctions for tariffs and many other purposes.

**ITA** Information Technology Agreement, or formally the Ministerial Declaration on Trade in Information Technology Products, under which participants agreed to remove tariffs on IT products by the year 2000.

**ITA II** Negotiations aimed at expanding ITA’s product coverage.

**nuisance tariff** Tariff so low that it costs the government more to collect it than the revenue it generates.

**schedule of concessions** List of bound tariff rates.

**tariff binding** Commitment not to increase a rate of duty beyond an agreed level. Once a rate of duty is bound, it may not be raised without compensating the affected parties.

**tariff escalation** Higher import duties by stages of processing. This practice protects domestic processing industries and discourages the development of processing activity in the countries where raw materials originate.

**tariff peaks** Relatively high tariffs, usually on “sensitive” products, amidst generally low tariff levels. For industrialized countries, tariffs of 15% and above are generally recognized as “tariff peaks”.

**tariffs** Customs duties on merchandise imports. Levied either on an ad valorem basis (percentage of value) or on a specific basis (e.g. \$7 per 100 kgs.). Tariffs give price advantage to similar locally-produced goods and raise revenues for the government.

**WCO** World Customs Organization, a multilateral body located in Brussels through which participating countries seek to simplify and rationalize customs procedures.

#### Non-tariff measures

**anti-dumping duties** Article VI of the GATT 1994 permits the imposition of anti-dumping duties against dumped goods, equal to the difference between their export price and their normal value, if dumping causes injury to producers of competing products in the importing country.

**circumvention** Measures taken by exporters to evade anti-dumping or countervailing duties.

**countervailing measures** Action taken by the importing country, usually in the form of increased duties to offset subsidies given to producers or exporters in the exporting country.

**dumping** Occurs when goods are exported at a price less than their normal value, generally meaning they are exported for less

than they are sold in the domestic market or third-country markets, or at less than production cost.

**NTMs** Non-tariff measures such as quotas, import licensing systems, sanitary regulations, prohibitions, etc.

**price undertaking** Undertaking by an exporter to raise the export price of the product to avoid the possibility of an anti-dumping duty.

**PSI** Preshipment inspection—the practice of employing specialized private companies to check shipment details of goods ordered overseas—i.e. price, quantity, quality, etc.

**QRs** Quantitative restrictions—specific limits on the quantity or value of goods that can be imported (or exported) during a specific time period.

**rules of origin** Laws, regulations and administrative procedures which determine a product's country of origin. A decision by a customs authority on origin can determine whether a shipment falls within a quota limitation, qualifies for a tariff preference or is affected by an anti-dumping duty. These rules can vary from country to country.

**safeguard measures** Action taken to protect a specific industry from an unexpected build-up of imports—governed by Article XIX of the GATT 1994.

**subsidy** There are two general types of subsidies: export and domestic. An export subsidy is a benefit conferred on a firm by the government that is contingent on exports. A domestic subsidy is a benefit not directly linked to exports.

**tariffication** Procedures relating to the agricultural market-access provision in which all non-tariff measures are converted into tariffs.

**trade facilitation** Removing obstacles to the movement of goods across borders (e.g. simplification of customs procedures).

**VRA, VER, OMA** Voluntary restraint arrangement, voluntary export restraint, orderly marketing arrangement. Bilateral ar-

rangements whereby an exporting country (government or industry) agrees to reduce or restrict exports without the importing country having to make use of quotas, tariffs or other import controls.

### Textiles and clothing

**ATC** The WTO Agreement on Textiles and Clothing which integrates trade in this sector back to GATT rules within a ten-year period.

**carry forward** When an exporting country uses part of the following year's quota during the current year.

**carry over** When an exporting country utilizes the previous year's unutilized quota.

**circumvention** Avoiding quotas and other restrictions by altering the country of origin of a product.

**CTG** Council for Trade in Goods—oversees WTO agreements on goods, including the ATC.

**integration programme** The phasing out of MFA restrictions in four stages starting on 1 January 1995 and ending on 1 January 2005.

**ITCB** International Textiles and Clothing Bureau—Geneva-based group of some 20 developing country exporters of textiles and clothing.

**MFA** Multifibre Arrangement (1974–94) under which countries whose markets are disrupted by increased imports of textiles and clothing from another country were able to negotiate quota restrictions.

**swing** When an exporting country transfers part of a quota from one product to another restrained product.

**TMB** The Textiles Monitoring Body, consisting of a chairman plus ten members acting in a personal capacity, oversees the implementation of ATC commitments.

**transitional safeguard mechanism** Allows members to impose restrictions against individual exporting countries if the importing country can show that both overall imports of a product and imports from the individual countries are entering the country in such increased quantities as to cause—or threaten—serious damage to the relevant domestic industry.

### Agriculture/SPS

**Agenda 2000** EC's financial reform plans for 2000–06 aimed at strengthening the union with a view to receiving new members. Includes reform of the CAP (see below).

**border protection** Any measure which acts to restrain imports at point of entry.

**BSE** Bovine spongiform encephalopathy, or “mad cow disease”.

**box** Category of domestic support. **Green box:** supports considered not to distort trade and therefore permitted with no limits. **Blue box:** permitted supports linked to production, but subject to production limits and therefore minimally trade-distorting. **Amber box:** supports considered to distort trade and therefore subject to reduction commitments.

**Cairns Group** Group of agricultural exporting nations lobbying for agricultural trade liberalization. It was formed in 1986 in Cairns, Australia just before the beginning of the Uruguay Round. Current membership: Australia, Argentina, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay.

**CAP** Common Agricultural Policy—The EU's comprehensive system of production targets and marketing mechanisms designed to manage agricultural trade within the EU and with the rest of the world.

**Codex Alimentarius** FAO/WHO commission that deals with international standards on food safety.

**distortion** When prices and production are higher or lower than levels that would usually exist in a competitive market.

**deficiency payment** Paid by governments to producers of certain commodities and based on the difference between a target price and the domestic market price or loan rate, whichever is the less.

**EEP** Export enhancement programme—programme of US export subsidies given generally to compete with subsidized agricultural exports from the EU on certain export markets.

**food security** Concept which discourages opening the domestic market to foreign agricultural products on the principle that a country must be as self-sufficient as possible for its basic dietary needs.

**internal support** Encompasses any measure which acts to maintain producer prices at levels above those prevailing in international trade; direct payments to producers, including deficiency payments, and input and marketing cost reduction measures available only for agricultural production.

**International Office of Epizootics** Deals with international standards concerning animal health.

**multifunctionality** idea that agriculture has many functions in addition to producing food and fibre, e.g. environmental protection, landscape preservation, rural employment, etc.

**peace clause** Provision in Article 13 of the Agriculture Agreement says agricultural subsidies committed under the agreement cannot be challenged under other WTO agreements, in particular the Subsidies Agreement and GATT. Expires at the end of 2003.

**reform programme** Programme for reducing subsidies and protection and other reforms under the Agriculture Agreement.

**SPS regulations** Sanitary and Phytosanitary regulations—government standards to protect human, animal and plant life and health, to help ensure that food is safe for consumption.

**variable levy** Customs duty rate which varies in response to domestic price criterion.

### Intellectual property

**Berne Convention** Treaty, administered by WIPO, for the protection of the rights of authors in their literary and artistic works.

**CBD** Convention on Biological Diversity

**counterfeit** Unauthorized representation of a registered trademark carried on goods identical or similar to goods for which the trademark is registered, with a view to deceiving the purchaser into believing that he/she is buying the original goods.

**geographical indications** Place names (or words associated with a place) used to identify products (for example, "Champagne", "Tequila" or "Roquefort") which have a particular quality, reputation or other characteristic because they come from that place

**intellectual property rights** Ownership of ideas, including literary and artistic works (protected by copyright), inventions (protected by patents), signs for distinguishing goods of an enterprise (protected by trademarks) and other elements of industrial property.

**IPRs** Intellectual property rights.

**Lisbon Agreement** Treaty, administered by WIPO, for the protection of geographical indications and their international registration.

**Madrid Agreement** Treaty, administered by WIPO, for the repression of false or deceptive indications of source on goods.

**mailbox** Refers to the requirement of the TRIPS Agreement applying to WTO Members that do not yet provide product patent protection for pharmaceuticals and for agricultural chemicals. Since 1 January 1995, when the WTO agreements entered into force, these countries have to establish a means by which appli-

cations of patents for these products can be filed. (An additional requirement says they must also put in place a system for granting “exclusive marketing rights” for the products whose patent applications have been filed.)

**Paris Convention** Treaty, administered by WIPO, for the protection of industrial intellectual property, i.e. patents, utility models, industrial designs, etc.

**piracy** Unauthorized copying of copyright materials for commercial purposes and unauthorized commercial dealing in copied materials.

**Rome Convention** Treaty, administered by WIPO, UNESCO and ILO, for the protection of the works of performers, broadcasting organizations and producers of phonograms.

**TRIPS** Trade-Related Aspects of Intellectual Property Rights.

**UPOV** International Union for the Protection of New Varieties of Plants (Union internationale pour la protection des obtentions végétales)

**Washington Treaty** Treaty for the protection of intellectual property in respect of lay-out designs of integrated circuits.

**WIPO** World Intellectual Property Organization.

## Investment

**export-performance measure** Requirement that a certain quantity of production must be exported.

**FDI** Foreign direct investment.

**local-content measure** Requirement that the investor purchase a certain amount of local materials for incorporation in the investor’s product.

**product-mandating** Requirement that the investor export to certain countries or region.

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**trade-balancing measure** Requirement that the investor use earnings from exports to pay for imports.

**TRIMS** Trade-related investment measures.

### Dispute settlement

**Appellate Body** An independent seven-person body that, upon request by one or more parties to the dispute, reviews findings in panel reports.

**automaticity** The “automatic” chronological progression for settling trade disputes in regard to panel establishment, terms of reference, composition and adoption procedures.

**DSB** Dispute Settlement Body—when the WTO General Council meets to settle trade disputes.

**DSU** The Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes.

**nullification and impairment** Damage to a country’s benefits and expectations from its WTO membership through another country’s change in its trade regime or failure to carry out its WTO obligations.

**panel** Consisting of three experts, this independent body is established by the DSB to examine and issue recommendations on a particular dispute in the light of WTO provisions.

### Services

**accounting rate** In telecoms, the charge made by one country’s telephone network operator for calls originating in another country.

**commercial presence** Having an office, branch, or subsidiary in a foreign country.

**GATS** The WTO’s General Agreement on Trade in Services.

**general obligations** Obligations which should be applied to all services sector at the entry into force of the agreement.

**Initial commitments** Trade liberalizing commitments in services which members are prepared to make early on.

**modes of delivery** How international trade in services is supplied and consumed. Mode 1: cross border supply; mode 2: consumption abroad; mode 3: foreign commercial presence; and mode 4: movement of natural persons.

**multi-modal** Transportation using more than one mode. In the GATS negotiations, essentially door-to-door services that include international shipping.

**national schedules** The equivalent of tariff schedules in GATT, laying down the commitments accepted—voluntarily or through negotiation—by WTO members.

**natural persons** People, as distinct from juridical persons such as companies and organizations.

**offer** A country's proposal for further liberalization.

**protocols** Additional agreements attached to the GATS. The Second Protocol deals with the 1995 commitments on financial services. The Third Protocol deals with movement of natural persons.

**prudence, prudential** In financial services, terms used to describe an objective of market regulation by authorities to protect investors and depositors, to avoid instability or crises.

**schedule** "Schedule of Specific Commitments"—A WTO member's list of commitments regarding market access and bindings regarding national treatment.

**specific commitments** See "schedule".

## Regionalism/trade and development

**ACP** African, Caribbean and Pacific countries. Group of 71 countries with preferential trading relation with the EU under the former Lomé Treaty now called the Cotonou Agreement.

**Andean Community** Bolivia, Colombia, Ecuador, Peru and Venezuela.

**APEC** Asia Pacific Economic Cooperation forum.

**ASEAN** Association of Southeast Asian Nations. The seven ASEAN members of the WTO—Brunei, Indonesia, Malaysia, Myanmar, the Philippines, Singapore and Thailand—often speak in the WTO as one group on general issues. The other ASEAN members are Laos and Vietnam.

**Caricom** The Caribbean Community and Common Market comprises 15 countries.

**CTD** The WTO Committee on Trade and Development

**Customs union** Members apply a common external tariff (e.g. the EC).

**EC** European Communities (official name of the European Union in the WTO).

**EFTA** European Free Trade Association.

**free trade area** Trade within the group is duty free but members set own tariffs on imports from non-members (e.g. NAFTA).

**G15** Group of 15 developing countries acting as the main political organ for the Non-Aligned Movement.

**G77** Group of developing countries set up in 1964 at the end of the first UNCTAD (originally 77, but now more than 130 countries).

**G7** Group of seven leading industrial countries: Canada, France, Germany, Italy, Japan, United Kingdom, United States.

**GRULAC** Informal group of Latin-American members of the WTO.

**GSP** Generalized System of Preferences—programmes by developed countries granting preferential tariffs to imports from developing countries.

**HLM** WTO High-Level Meeting for LDCs, held in October 1997 in Geneva.

**ITC** The International Trade Centre, originally established by the old GATT and is now operated jointly by the WTO and the UN, the latter acting through UNCTAD. Focal point for technical co-operation on trade promotion of developing countries.

**LDCs** Least-developed countries.

**MERCOSUR** Argentina, Brazil, Paraguay and Uruguay.

**NAFTA** North American Free Trade Agreement of Canada, Mexico and the US.

**Quad** Canada, EC, Japan and the United States.

**SACU** Southern African Customs Union comprising Botswana, Lesotho, Namibia, South Africa and Swaziland.

**S&D** “Special and differential treatment” provisions for developing countries, contained in several WTO agreements.

**UNCITRAL** United Nations Centre for International Trade Law, drafts model laws such as the one on government procurement.

**UNCTAD** The UN Conference on Trade and Development.

### Trade and environment

**Agenda 21** The Agenda for the 21st Century—a declaration from the 1992 Earth Summit (UN Conference on the Environment and Development) held in Rio de Janeiro.

**Article XX** GATT Article listing allowed “exceptions” to the trade rules.

**Basel Convention** An MEA dealing with hazardous waste.

**BTA** Border tax adjustment

**CITES** Convention on International Trade in Endangered Species. An MEA.

**CTE** The WTO Committee on Trade and Environment.

**EST** Environmentally-sound technology.

**EST&P** EST and products.

**ex ante, ex post** Before and after a measure is applied.

**LCA** Life cycle analysis—a method of assessing whether a good or service is environmentally friendly.

**MEA** Multilateral environmental agreement.

**Montreal Protocol** An MEA dealing with the depletion of the earth’s ozone layer.

**PPM** Process and production method.

**TBT** The WTO Agreement on Technical Barriers to Trade.

**waiver** Permission granted by WTO members allowing a WTO member not to comply with normal commitments. Waivers have time limits and extensions have to be justified.