



**THE FLETCHER SCHOOL
OF LAW AND DIPLOMACY**

***THE DOHA CONFERENCE –
BIRTH OF A NEW TRADE ROUND***

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*For Claire-Lise
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Table of Contents

INTRODUCTION.....	4
METHODOLOGY	8
BACKGROUND AND A NEW CONCEPTUAL FRAMEWORK	13
THE ORIGINS OF A NEW CONCEPTUAL FRAMEWORK	13
LESSONS LEARNED	19
NEW CIRCUMSTANCES	24
A NEW CONCEPTUAL FRAMEWORK	26
THE ISSUES	28
<i>Labor standards</i>	28
<i>Implementation-related issues and concerns (Textiles and other issues)</i>	29
<i>Agriculture</i>	29
<i>Trade-related aspects of Intellectual Property Rights (TRIPS)</i>	30
“Singapore issue” Number 1: Relationship between Trade and Investment	30
“Singapore Issue” Number 2: Interaction between Trade and Competition Policy	31
“Singapore issue” Number 3: Transparency in Government Procurement.....	31
“Singapore Issue” Number 4: Trade facilitation.....	31
WTO Rules (Anti-Dumping and Countervailing Duties)	32
Trade and Environment	32
ANALYSIS OF THE MAJOR PLAYERS’ INTERESTS	33
European Union.....	34
United States of America.....	37
India	40
Japan.....	42
The CAIRNS-Group	44
ACP-Countries.....	45
NEGOTIATION PROCESS	46
FROM THE GREEN ROOM TO THE GREEN MEN	46
COALITIONS AND TRADE-OFFS – THE BIG BAZAAR.....	50
<i>Setting the stage</i>	50
<i>Breakthrough in TRIPS</i>	51
<i>Breakthrough in Anti-Dumping rules – the EU isolated on Agriculture</i>	55
<i>The final showdown among the US, the EU and India</i>	64

FINDINGS AND HYPOTHESIS TESTING.....	71
EVALUATION OF ACHIEVEMENTS	73
<i>The CAIRNS-Group</i>	73
<i>ACP-Countries</i>	73
<i>Latin American countries</i>	74
<i>Thailand and the Philippines</i>	75
<i>“Multifunctionality” Group</i>	75
<i>Least-developed countries (LDC’s)</i>	76
<i>Pakistan</i>	77
<i>Smaller developing countries affected by pandemic diseases</i>	78
<i>“Development Box” Group</i>	79
SUMMARY.....	80
CONCLUSION	82
BIBLIOGRAPHY.....	87
APPENDIX 1: WTO MINISTERIAL DECLARATION, 2001	95
APPENDIX 2: DECLARATION ON THE TRIPS AGREEMENT	109

Introduction

Ministers of 142 countries and customs territories gathered in Doha, Qatar on 9 – 14 November 2001 for the 4th Ministerial Conference of the World Trade Organization (WTO). The objective was to set the agenda for a new trade round further liberalizing international trade and strengthening the multilateral trade-body.

Two years ago in 1999 the delegates failed to agree on the launch of a new round at the 3rd Ministerial Conference of the WTO in Seattle, USA. The failure caused growing fear about the international community's ability to find consensus on multilateral economic policy matters and ultimately creating concern about the stability of the world economy's framework. However two years later WTO members could reach consensus on the agenda for a new trade round.

Starting from this puzzling fact that countries could find agreement about issues they could not even discuss two years earlier, the Thesis intends to come up with reasons explaining the changes leading to such an outcome as well as carefully studying in details the negotiations in Doha.

Before entering the subject, the methodology chosen shall be explained. The author uses the "two-level game" framework to bring light in the paper's topic.

First, the shared conceptual framework among delegates will be analyzed. The shared conceptual framework includes common perceptions about the causes for failure in Seattle and the negotiators' learning process

during the period between the two conferences. Further, it puts forward the very new circumstances the world faced at the end of the year 2001. The author addresses the question if success in Doha should be attributed to circumstances not under member countries control or rather the learning process underway since Seattle.

Second, the major issues at stake will be exposed. However the Thesis does not intend delivering a legal analysis of the issues as well as of the outcome. No representation of issues in all their complexities is intended, but rather a brief abstract in order to facilitate understanding for readers unfamiliar with the WTO-framework.

Third, the interests and positions of major players will be identified and discussed at greater length. The interests and positions of smaller developing countries is discussed during the negotiation process and in a separate chapter at the end of the thesis.

Fourth, the negotiation process is scrutinized under two angles: first, the negotiation's framework and working procedures and the changes undertaken after Seattle; second, the international bargaining with classical issues as the creation and destruction of coalitions and the created trade-offs.

Finally, smaller developing countries strategies shall be evaluated and conclusions drawn.

In summary, the Thesis takes a broad perspective looking at various dimensions in order to analyze comprehensively the negotiations.

Nevertheless, the following hypothesis will test specific propositions using the Doha Conference as a case study:

Hypothesis 1: Smaller developing countries can to a certain extent influence multilateral negotiations.

Hypothesis 2: Smaller developing countries can achieve substantial results in multilateral negotiations disproportional to their economic size (please read footnote for definitions)¹.

The two hypotheses reveal their significance when popular arguments are juxtaposed. Public opinion perceives the world's largest trading powers often as all-mighty players in global policy-making. Public perception in industrialized as well as in developing countries see developing countries and especially smaller developing countries as either losing or playing no substantial role in international negotiations with high economic stakes. The thesis intends to support or dismiss this very popular belief using the public data given for the Doha Conference. Obviously, hypotheses tested with a case study approach cannot be used for generalizations over a different kind

¹ The definition of "developing countries" is based on the World Bank's definition of four categories for countries in terms of per capita income, such as "low income" (\$755 or less), "lower middle income" (\$756 – \$2'995), "upper middle income" (\$2'996 - \$9'265) and lastly "high income" (\$9'266 and more). For the purpose of this paper, the term "developing countries" encompasses the first three categories ("low", "lower middle" and "upper middle" income). Source: World Bank, *Definition of Groups* (accessed April 2, 2002); available from <http://www.worldbank.org/data/databytopic/class.htm>.

The term "smaller" developing country is defined by standard tariff theory as a country unable to affect its own terms of trade (Source: Carsten Kowalczyk, "Welfare and Integration." In *International Economic Review*. May 2000.) For the purpose of this Thesis, the following countries shall be considered as "large developing countries". Although their ability to affect their terms of trade can be questioned, in a relative sense they are more able to do so than other developing countries. As "large developing countries" are considered: Brazil, China, India, Indonesia, Nigeria and South Africa. All other developing countries are categorized as "smaller" developing countries.

of negotiations happening under a different set of circumstances. Nevertheless, in the author's opinion, public perception of multilateral negotiations (being it in this case only the Doha Conference) and of their results are highly important in the longer term because international agreements and institutions without public support can create dangerous illusions of stability.

Academic research about trade-offs in multilateral trade negotiations – the underlying core of the thesis – resembles solving a puzzle with many pieces. The research is based mainly on official WTO documents publicly available, newspaper reports and publications by NGO's. All of the sources mentioned bear their own flaws: the official WTO documents show static outcomes but does not reveal the negotiations' dynamics; newspapers show certain dynamics but never attempt to describe the negotiations comprehensively rather than from a specific national perspective; publications by NGO's usually tend to focus on specific negotiation issues and similar to newspapers are inclined to be blind about the needed overarching balance between extremely diverse interests. For the purpose of this thesis, no direct information from participants was available. The fact of missing primary sources should not be overstated because participants are often not aware of the entire negotiation process as well as having often a national perspective.

The paper does not cover the accession of China and Taiwan, China² completed at the same ministerial meeting.

² The official name of Taiwan in the WTO is "Separate customs territory of Taiwan, Penghu, Kinmen and Matsu"

Methodology

Any kind of political analysis uses theoretical frameworks and models. The author's acknowledgement *how* his or her thoughts are structured and guided matters in terms of his or her own understanding of the constraints and strengths a particular approach contains. Consequently, before entering the Thesis subject, the methodology used shall be explicitly stated.

The general framework used is the "two-level game" proposed by Robert D. Putnam and the subsequent quotes and definitions are drawn from his article "Diplomacy and Domestic Politics – The Logic of Two-Level Games"³:

At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Each national political leader appears at both game boards⁴.

For the purpose of analysis international bargaining among sovereigns shall be defined as Level I. Bargaining among a specific Government and its domestic constituencies or different Government agencies is defined as Level II. Ratification process formally links the two levels. Level II has to ratify Level I outputs. The set of arrangements that can "win" ratification at Level II is defined as "Level II win-set" and the set of arrangements that can create

³ Subsequent discussion of the two-level game is based on: Putnam, Robert D., "Diplomacy and Domestic Politics – The logic of two-level games," *International Organization* 42, (Summer 1988): 427-460.

⁴ *Ibid.*

consensus at Level I is defined as “Level I win-set”. Consequently, international agreements must be in the win-sets of both Level I and II in order to be realized.

The dynamics of the outlined game implies that moves on each of the two game boards are linked and can trigger reactions and realignments on the other game board. Consequently, outputs from domestic politics are not just inputs to international politics because linkages among issues at the international level create prior inexistent opportunities for Governments at the domestic level.

The “two-level game” model lends itself well for multilateral trade negotiations, as influence of domestic politics is significant and because of the negotiations’ non zero-sum nature. The domestic politics’ importance has its origins in its highly fractured nature expressed by various interest groups. Subsequently, the model’s necessary specifications will be discussed and the eclectic nature of the “two-level game” model exposed.

A shared conceptual framework among negotiators is an important *sine qua non* for potential success. As Barry Eichengreen and Marc Uzan have shown in their analysis of the 1933 World Economic Conference, agreements potentially beneficial for all participants cannot be recognized without a shared conceptual framework⁵. Other examples such as the negotiations about the Law of the Sea, where a conceptual framework was

⁵ Barry Eichengreen and Marc Uzan, “The 1933 World Economic Conference as an instance of failed international cooperation,” in *International Bargaining and Domestic Politics – Double-edged diplomacy*, eds. Evans, Peter B., Jacobson, Harold K., and Putnam, Robert D. (Berkeley: University of California Press, 1993), 171.

elaborated during the negotiations, confirm this conclusion⁶. The shared conceptual framework among the negotiators at the Doha Conference will be discussed in the second chapter.

The study of domestic politics, interest groups and institutional arrangements (representing Level II) is at the core of the fourth chapter. Interests and positions of key players are discussed. The interaction between a “statesman” and critical political constituencies within a given constitutional setting are analyzed, as well as the interaction’s influence on international negotiations.

In the fifth chapter, the negotiation process will be analyzed with a chronological approach because the sequencing of the negotiations is important to understand. In multilateral multi-issue negotiations, sequencing is one of the few tools how negotiators can reduce and absorb complexity. The methodology applied draws from two major theories of international relations. First, describing the interaction between negotiators, certain reflections of “classical realism” can be found. Second, the chapter discusses the negotiation procedure and other institutional arrangements used within the WTO with the help of the approach proposed by “international institutionalism”. International institutions can limit options available to Governments or at the least shape the style of negotiations. The WTO’s organizational framework, as well as its specific negotiation procedures and principles are fundamental to explain the actions of Governments. The basic

⁶ L. Antrim and James K. Sebenius, "Multilateral Conference Mediation: Tommy Koh and the Law of the Sea," in *Mediation in International Relations*, eds. J. Bercovitch, and J.Z. Rubin (London: MacMillan, 1992).

negotiation principle within the WTO is decision-making by consensus⁷. The consensus rule's importance and its influence on the negotiation process cannot be overstated and limits Government's actions to a high degree. As theory of international institutionalism⁸ suggests, if "mutuality of interests" exists, international regimes can emerge. In this context, it is not surprising the WTO's overarching principle is *reciprocity*. The principle of reciprocity within international trade relations is in essence based on economic theory suggesting a win-win situation for all countries decreasing trade distortions. Game-theory further underlines the "*shadow of the future*" (i.e. potential positive or negative pay-offs in the future). In the context of the WTO this is of great importance, as agreements have virtually no immediate impact on trade relations. Further, the economic benefits are not only static gains (i.e. one specific benefit a certain moment in time) but usually dynamic (i.e. benefits arising every year and potentially increasing over time). In addition, the reader unfamiliar with the WTO-framework has to keep in mind that the WTO is the only international organization having the power to give countries the right to impose sanctions not by a discretionary decision (as within the UN-Security

⁷ The "Agreement establishing the World Trade Organization", Article IX – Decision-making, Paragraph 1, Footnote 1, defines consensus as follows: "The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision." For historical account of the consensus rule used during the Law of the Sea Conference, see: L. Antrim, and James Sebenius, "Multilateral Conference Mediation: Tommy Koh and the Law of the Sea," in *Mediation in International Relations*, eds. J. Bercovitch, and J.Z. Rubin (London: MacMillan, 1992), 100.

⁸ All the subsequent theoretical points about international institutionalism are drawn from: Axelrod, Robert. "Conflicts of Interest: An Axiomatic Approach." In *Journal of Conflict Resolution*. March 1967.

Council) but through a quasi-judicial ruling⁹. Therefore, including new issues within the WTO-framework differs substantially from including new issues in any other international organization. The number of players also influences the institutional setting. Theory suggests complexity of negotiations increases disproportional to the increase of players. The WTO having 144 members on January 1, 2002 faces this challenge predicted by theory especially because of its heavy reliance on consensus as the chief decision-making procedure. Last but not least, the institutional setting facilitates *cross-linkages* among disparate issues that would have been otherwise practically impossible to negotiate¹⁰. Cross-linkages among issues increases the number of potential agreements and makes consensus more likely, a feature illustrating probably the biggest strength of the Geneva-based multilateral trade body and of crucial importance for any trade round. Very often cross-linkages are “local”, i.e. among related subjects. However, the Doha Conference shows cross-linkages among unrelated issues as well. Cross-linkages among issues are the core of the fifth chapter.

Without giving prejudice to the importance of individual psychology and cognitive experiences, the Thesis does not take into account those concepts, also for the reason of missing data.

⁹ The author distinguishes between international and supranational organizations, such as the European Union having of course far reaching judicial power. Further, the International Court of Justice within the United Nations framework cannot impose sanctions but it can state judgments.

¹⁰ Putnam calls them *synergistic linkages*; Robert D. Putnam, *op. cit.*

Although “turf war” between Governmental bureaucracies can probably influence multilateral negotiations to a certain extent, for the reason of missing data the Thesis does not discuss its possible effects.

Last but not least, the framework presented assumes rational actors and complete information as far as concerns the situation before the negotiations. Both basic assumptions can be challenged. For the purpose of this Thesis, rational actors and complete information is assumed whenever not otherwise mentioned. The example of India’s negotiation strategy discussed below suggests that bound rationality and incomplete information can play a certain role.

Background and a new conceptual framework

Negotiators need in most cases a shared conceptual framework to negotiate an agreement effectively. Successful international negotiations without a shared conceptual framework are rare. Certain shared experiences can exert strong influence on the conceptual framework and shall be discussed under this chapter.

The origins of a new conceptual framework

Since the failure of the Havana-Charter in 1948¹¹, all multilateral trade rounds took place in a divided world between capitalist and socialist countries. Socialist economic policy was seen by developed as well as

¹¹ The United Nations Conference on Trade and Employment opened on November 21, 1947, and ended on March 24, 1948.

developing countries as a viable alternative. In this perspective, the GATT was in competition to economic agreements among socialist countries and numbered only a minority of countries in the world. At the end of the nineties, the situation radically differed. Socialism was no longer an alternative for developed and developing countries. Developing countries turned effectively or at least rhetorically towards market oriented economic policies under the guidance of the International Monetary Fund and the World Bank proclaiming the new “Washington Consensus” – a newly shared conceptual framework promoting sound macroeconomic policies¹². The situation at the trade negotiation table shifted dramatically. Developing countries wanted to adhere to the GATT and later to the WTO in great numbers. They demanded not less but more trade and asked for decreasing trade barriers of developed countries creating or supporting protectionist reflexes in industrialized countries. Economic globalization, i.e. the increase of exchange of goods and ideas among countries, became the ultimate hope of developing countries for growth and development. All this constitutes the very first element of a newly shared conceptual framework.

However, as the subsequent analysis of the failure in Seattle will show, the conceptual framework embodied in the “Washington Consensus” was not sufficient to promote enough support for a new trade round. In order to understand the origins of the new conceptual framework effective for the Doha Conference, the reasons for failure must be discussed.

¹² John Williamson, “What Washington Means by Policy Reform,” in *Latin American Adjustment: How Much Has Happened?*, ed. John Williamson (Washington, D.C.: Institute for International Economics, 1990).

The first two causes are associated with the circumstances the negotiators faced in 1999.

First, the delegates participating in Seattle just finished an extremely hard fight over the appointment of a new Director-General of the World Trade Organization (WTO). Many trade officials declared that personal relationships among delegates suffered through this process creating an unfavorable environment for Seattle. After an unprecedented long battle regarding the succession of Director-General Renato Ruggiero from Italy, member-countries sliced the usual four-year term into two three-year periods. From September 1st 1999, Mike Moore from New Zealand would head the Organization and will be succeeded on September 1st, 2002 by Supachai Panitchpakdi of Thailand. This unusual outcome bearing the characteristics of purely distributive bargaining based on positions and not on interests shows the stalemate deliberations on the succession issue reached. The division among member countries was basically between industrialized and developing countries, although with exceptions.

Second, as a consequence from the unhappy battle described above, the new Director-General was just two months in office when the ministerial meeting started. New Deputy-Directors were appointed November 3, 1999, only a month before the meeting in Seattle. The Director-General and his Deputy-Directors' late entering office was partially responsible for the unfruitful preparatory phase considering the important role the Secretariat plays especially in this stage.

Contrary to the first two causes, the following causes for failure are not attributable to circumstances but rather misguided policy choices.

Third, no previous agreement on a draft ministerial declaration could be reached, also under the influence of the facts stated above. The Chairperson of the WTO General Council, Ali Mchumo, pointed out in his farewell statement, the lack of a draft ministerial declaration bears heavy responsibility for the failure to reach any agreement in Seattle. Certain officials give credit regarding insufficient preparatory talks to the Chairperson of the General Council, Ali Mchumo, representing Tanzania, a country without a strong profile in the WTO and therefore bearing little weight in pushing the trade-elephants together.

Fourth, the last trade round – the Uruguay-Round – created a new International Organization, the WTO, succeeding the former General Agreement on Tariffs and Trade (GATT). The old GATT was under heavy guidance of industrialized country and especially the so-called “Quad” consisting of the USA, EU, Japan and Canada – or in other terms, the “trade elephants”. The Quad usually hammered out new trade rounds within the OECD setting, leaving the outcome for adoption to other members. Most of the important discussions took place only among a few countries in the so-called “Green Room”, effectively excluding ministers of about 100 mainly developing countries. In Seattle, developing countries departed from this established process to follow the decisions made by the Quad. Ministers from the Organization of African Unity issued a statement saying that they would

not sign the final agreement, unless the process was made more transparent. This was followed by a communiqué by ministers of the Caribbean Community and some Latin American nations saying that they too would not support any agreement that they were not involved in negotiating¹³. Industrialized countries were definitely not prepared for such a stand by the developing countries.

Fifth, industrialized countries pressed for a “broad-based” agenda, i.e. to include new issues into the WTO-framework but excluding the issues brought forward by developing countries. The broad-based agenda included environmental as well as labor issues, only to mention two prominent issues among others. Developing countries, still unsatisfied about the outcome of the Uruguay-Round, were not interested considering new issues potentially harming their exports meanwhile leaving their own top priority issues untouched, such as questions regarding the implementation of the Uruguay-Round (especially regarding Textiles), the TRIPS-Agreement (regarding compulsory licensing of patented medicine) and Anti-Dumping rules (used mostly by the US). The most prominent proponent of a “broad-based” agenda, US President Bill Clinton, threatened to plunge the WTO into turmoil by demanding it should incorporate core labor standards in trade agreements and eventually use sanctions to enforce them¹⁴. The timing for the launch of a new trade round coinciding with the American presidential campaign was

¹³ Report on the WTO Ministerial Conference in Seattle, by King D., Secretary General of the International Federation of Agricultural Producers (accessed November 10, 2001); available from <http://www.ifap.org/news/seattlerep.html>.

¹⁴ “CLINTON: Demands threaten turmoil”, *Financial Times*, December 2, 1999.

clearly responsible for Clinton's stand. Heavy reliance of the Democratic Party on the financial as well as electoral support of Trade Unions explains the US Administration's position trying to serve its critical constituency. Other, rather minor negative points were that the US chaired the Conference, being one of the most important players in the negotiations. Further, the negotiating US administration did not have fast-track authority – refused four times by Congress. Finally, Charlene Barshefsky, known as a very tough-minded negotiator, US-Trade Representative and the Conference's chairperson, had probably the wrong personality and negotiation style for a multilateral conference¹⁵.

Sixth, last but not least, on a strategic level, the negotiations missed the *sine qua non* for a successful outcome since the Kennedy-Round: an at least implicit understanding between the United States and the European Union. Without a US-EU understanding no trade agreement could be reached in the last 40 years, and therefore is still an important – but now insufficient – ingredient.

Some observers attributed the failure of Seattle to the presence of loud and often violent manifestations outside the conference room. Considering the points highlighted above, this is grossly overstated. However, classical negotiation theory suggests that the conference location and its environment

¹⁵ Multilateral and bilateral negotiations require different types of style and personality of negotiators. In the context of this paper, it cannot be further discussed but must be left to research specifically oriented towards the analysis of a negotiators' required profile for different types of negotiations.

generally bear a certain symbolic value¹⁶. To a certain degree, the manifestations on the streets in Seattle reflected but did not cause the heated and non-constructive debates in the conference hall.

In summary, several factors combined were responsible for the failure in Seattle including prior to the conference the hard fight over the appointment of a new Director-General leading to an inexperienced new Secretariat, a politically rather “feather weight” chairing the General Council, the new stand of developing countries asking for a bigger say, coming American presidential elections and related with the latter the demand for the introduction of labor standards, and last but not least the inexistence of an US-EU understanding. However the causes for failure might be weighted, they show clearly the absence of a common conceptual framework. The industrialized countries thought to continue with the old GATT-style approach that was rejected by developing countries.

Lessons learned

The creation of a new conceptual framework was partially due to several lessons learned from Seattle. First, a stronger chairmanship of the General Council preparing the negotiations; second, a more thorough pre-negotiation phase; third, a certain mutual understanding between the US and the EU and last but not least, the recognition of developing countries as important stakeholders of the global trade system.

¹⁶ K.L. Aurisch, "The Art of Preparing a Multilateral Conference," in *Negotiation Theory and Practice*, eds. J.W. Breslin, and J.Z. Rubin (Cambridge: PON Books, 1991), 392.

The very first action was to install a stronger chairperson of the General Council. On February 8, 2001 the WTO's central decision-making body, the General Council, elected Stuart Harbinson, Ambassador of Hong Kong, China to chair the Council and play important role preparing the Doha Conference. Unlike Ambassador Ali Mchumo, Ambassador Stuart Harbinson represented a country with a very strong free-trade record. Moreover, Stuart Harbinson had a strong and positive reputation and widely recognized personal qualities.

Second, the failure in Seattle to launch a new trade round led directly to a more serious and prolonged preparatory phase for the Doha Conference. S. Touval¹⁷ analyzes from a theoretical perspective the pre-negotiation phase and underlines its importance. In the context of the WTO, a better pre-negotiation phase was crucial. The participants worked two years preparing the new ministerial conference. The exercise's major importance stems from the mutual learning process regarding the participants' positions and interests, as well as the inter-linkages of issues. The process creating a draft ministerial declaration was considerably changed in order not to repeat the method of preparation followed prior to the Seattle ministerial conference. It is worth to explain the new process leading to a draft ministerial declaration in this paper, based on the letter written by Director-General, Mike Moore, and Chairman of the General Council, Stuart Harbinson, November 5, 2001. Prior to Seattle, the process was driven by formal proposals resulting in an

¹⁷ S. Touval, "Multilateral Negotiation: an Analytic Approach," in *Negotiation Theory and Practice*, eds. J.W. Breslin, and J.Z. Rubin (Cambridge: PON Books, 1991), 352.

unwieldy compendium, which could not be further refined narrowing its scope. Almost the entire draft ministerial declaration was bracketed, expressing the fact that no previous consensus could be reached about basically anything. Before Doha, the Chairman of the General Council, Stuart Harbinson, and the Director-General, Mike Moore, led the “new” process. Its aim was to produce, on the basis of consultations, their best approximation of a compromise solution among the differing positions of the membership. After early consultations, on April 20, 2001 a checklist of possible issues to be included on the agenda of the Conference was circulated. At the end of June, an informal meeting of the General Council at the level of senior officials was convened. A further informal meeting at the end of July provided an opportunity for a collective stocktaking or a so-called “reality check”. After a further series of intensive consultations held during the month of September a first draft text of a Ministerial Declaration was circulated on September 26. In the last weeks prior to the ministerial conference very frequent open-ended informal meetings at the Heads-of-Delegation level were organized. Just in time for the start of the ministerial meeting a draft ministerial declaration was published the October 27¹⁸. This draft did not show any paragraphs bracketed and did not claim to be agreed in whole or in part, but was the fundament for the starting negotiations. In summary, this “new” process has put more power in the hands of the Chairman and the Director-General. Although this process seemed to be efficient, its legitimacy is not yet proven. The discussion of the

¹⁸ World Trade Organization, Document Job(01)/140/Rev. 1, *Draft Ministerial Declaration*, October 27, 2001; available from www.wto.org.

power to submit a Draft Ministerial Declaration reveals a deeper problem within the WTO. Although the organization is called “rules based” it is lacking unambiguous and explicit rules regarding its own internal procedures. In a world where public opinion matters and NGO’s actively push their own agenda, unwritten customary rules are insufficient for such an important international organization.

Third, the two major players on the global trade scene, the United States and the European Union collaborated strongly in view of creating a coalition in favor of the launch of a new trade round. US-Trade Representative, Robert Zoellick, and the European Union’s Trade Commissioner, Pascal Lamy, talked personally with each other by phone almost on a daily basis, prior to the start in Doha. Reportedly, it was not unusual that those talks stretched over more than an hour. This created the necessary US-EU understanding (although the term “understanding” should not be overemphasized because it does not imply consensus on most issues). The personal “chemistry” between the two trade representatives seemed to be especially positive. In summary, the very direct and prolonged exchange between the US and European Union prior to Doha has enhanced perceptions about each other’s domestic constraints. It probably paved the way for new approaches, such as the concessions regarding the TRIPS-Agreement that will be discussed later.

Fourth, and last but not least, the leading trading powers recognized that consensus for a new trade round could not be achieved without the

developing countries. Seattle failed above all because industrialized countries still adhered to the “old” conceptual framework that developing countries would accept without discussion agreements negotiated by developed countries. This conceptual framework was no longer shared among member countries and the Doha ministerial conference had to show if a new conceptual framework could be established.

Perhaps as a first but purely symbolic sign for a new conceptual framework giving greater voice to developing countries was the conference’s location. After the experiences in Seattle, basically no member country offered to host the event and the chances were real that it had to be held at the WTO’ headquarter in Geneva, Switzerland. Finally, Qatar offered to host the meeting. What was the symbolic value of Doha, Qatar’s capital? First, it is a developing country. Second, the country is located in the Middle East and is an Arab country bearing some importance in regard of the ongoing war in Afghanistan. Third, the country is not democratic but ruled by a royal family. Political parties are banned and no open opposition is tolerated¹⁹. Accordingly, the presence of NGO’s was heavily restricted to two persons per organization.

¹⁹ Library of Congress, Country Studies, *Qatar - A country study*, (accessed December 7, 2001); available from [http://memory.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+qa0025\)](http://memory.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+qa0025)).

New circumstances

The Doha Conference was not only influenced by lessons learned from Seattle. Although only two years apart, the conference was held in a different set of circumstances that created a new environment.

First and perhaps the simplest difference was that prior to Doha, the Director-General and his Deputy-Directors were considerably more experienced and had more time for preparation. It reflects the considerable influence a functioning bureaucracy can exert on multilateral negotiations. Moreover, the negative impact of lacking organizational routines and missing time for networking because of the WTO-officials late installment suggests that multilateral trade negotiations need a functioning bureaucracy. Although the latter cannot assure a successful outcome – measured in the participants' ability to reach consensus – it seems to be a condition *sine qua non*.

Second, the United States had a new President. The new republican President, George W. Bush, did not face, as Clinton did in 1999, an ongoing election-campaign. Further, the President's party does not rely on support from Trade Unions and had therefore neither will nor need to support labor standards. Below US political constituencies' critical support for trade affairs will be discussed in greater detail. Consequently, the new US position left the EU as a lonely and internally divided proponent of core labor-standards. Therefore any consensus had got out of reach. Developing countries would never have agreed on such an agenda and hence, the *de facto* exclusion of labor standards during the negotiations was of major importance. Since

Doha's start, labor standards found their place in the Ministerial Declaration's preamble. The important change in the American Presidency influenced not only the issue regarding labor standards, but the same is true to a certain extent concerning the issue of environmental standards. A Democratic President, hypothetically Albert Gore, would have likely supported environmental standards in the WTO-framework. Developing countries would have faced the US and the EU defending this issue. Under this condition, the developing countries would have probably blocked any negotiations. The new American President not keen about multilateral environmental issues (see the US-position regarding the Kyoto-Protocol) left again the EU alone fighting against the developing countries – a task, as it will be shown, difficult but manageable.

Third and last but not least, the world perceived a coming recession and experienced the traumatic events of September 11th. The recession heightened the interest of the business community, creating the fear of a fallback into national protectionism. Further, the launch of a new trade round would create expectations for growth in world trade, although it would show measurable results only within years. September 11th put the ministerial meeting as a symbol for international cooperation in another light being held in times of war. The meeting had in the minds of many delegations as well as in the media a certain symbolic value regarding the political and economic state of the world, independently of any issues specifically discussed.

In sum, the lessons learned of Seattle were only partially responsible for the situation the delegations encountered when meeting in Doha. New circumstances radically different than those prevalent two years ago were not under the control of member-countries and influenced the pre-negotiation phase decisively.

A new conceptual framework

Is there a new shared conceptual framework? What are its ingredients? As argued above, international agreements without a shared conceptual framework are rare and probably unattainable. The negotiations in Seattle showed that the old framework under the GATT was no longer valid. However, during the entire twentieth century, the minds of principal policy-makers were probably never as clear about the broad economic framework to be applied – a world market economy interdependent by trade, investment and other mostly economic links. This very first ingredient of a new conceptual framework is fundamental, but already existent in Seattle²⁰.

Another ingredient is the developing countries decisive turn away from import substitution policies during the eighties after the oil shocks, the debt crises and ultimately after pressure by the World Bank and the IMF. The fundamental turn towards export promotion strategies had an important impact on the global trade agenda. Issues such as Textiles and Clothing gained in significance and Agriculture became even more contentious than it

²⁰ For interesting thoughts about this, see: Renato Ruggiero, *The Next 50 Years: Challenges and Opportunities for the Multilateral Trading System*, Address to the Friedrich-Ebert-Foundation, Hamburg, June 11, 1998. Accessed March 29, 2002. Available from http://www.wto.org/english/news_e/sprr_e/hambur_e.htm

had already been. In sum, the policy shift towards export promotion strategies made many developing countries active participants in Geneva.

Mentioned above, the new conceptual framework was also established by the industrialized countries' acknowledgement for a bigger say of developing countries in multilateral rule making. Negotiations without any meaningful "gains" in favor of developing countries became unthinkable²¹.

Last but not least, the new conceptual framework takes into account the perception of multilateral economic conferences by public opinion beyond interest groups directly concerned. Unfortunately, the mentioned public opinion means often only public opinion in industrialized countries. Nevertheless, trade diplomacy has a long record of behind-the-scenes haggling. A move towards greater transparency is a clear departure from the former conceptual framework. Especially the emergence of NGO's mainly during the nineties of the twentieth century made public relations a firm component of any approach to manage negotiations.

In sum, the new-shared conceptual framework contains four key elements. First, a broad consensus about the global economic framework; second, the emergence of actively participating developing countries in the global economy; third, industrialized countries accepting a bigger say of developing countries in multilateral economic negotiations; fourth,

²¹ These "gains" can be very diverse in their nature. Tariff concessions for exported goods are the typical gains, however, reductions in commitments for developing countries (such as an extension of Special and Differential Treatment) are perceived as "gains" as well.

government's discovery of the importance of public opinion and of the NGO's as independent agents influencing public opinion.

The Issues

Since the creation of the World Trade Organization in 1995, multilateral trade negotiations did not only become far more complex by the increased number of its members and their very heterogeneous economic well-being, but also by the growing number issues at stake. It is strictly impossible in this paper to go into details regarding the various issues than just underlining some of their important features. The Doha-meeting's objective was to establish an agenda for further negotiations. The delegates faced the challenge whether or not to include certain issues to be negotiated. It follows an overview concerning the issues considered most important for the trade-off configuration.

Labor standards

Ever since the first Ministerial meeting (i.e. after the creation of the WTO in 1995), some developed countries have pushed for a working party on trade and labor standards. However, labor standards never entered the WTO framework due to opposition from other, especially developing countries, fearing protectionist motivations behind the proposal. Many trade unions in both North and South, and mainly Northern Non-Governmental Organizations

(NGO), are lobbying hard for the issue. This issue was an extremely hot topic in Seattle²².

Implementation-related issues and concerns (Textiles and other issues)

Since the end of the Uruguay-Round, some developing countries criticized the burden on their shoulders created by the new regulations. Further and most importantly, some developing countries suggested changing existing agreements, especially the Agreement on Textiles and Clothing. According to the existing agreement, developed countries have to phase out their quota-system for Textiles and Clothing before 2005 but chose to do so only at the very end of the determined period; this giving voice to concerns of certain developing countries not having seen the fruits of Uruguay-Round realized. Therefore, some developing countries want to accelerate the current schedule and to increase the developed countries' textiles import quotas. The entire implementation issue includes 13 sub points.

Agriculture

The Agriculture issue focuses mainly on further reductions of all forms of export-subsidies regarding agricultural products, as well as substantial

²² In the ministerial declaration's draft (World Trade Organization. Job(01)/140/Rev. 1, *Draft Ministerial Declaration*, October 27, 2001.) it was stated:

"8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization. The ILO provides the appropriate forum for a substantive dialogue on various aspects of this issue." The final ministerial declaration copied the draft notwithstanding the last sentence that was omitted. The omission was a concession to countries, trade unions and other NGO's in favor of labor standards within the WTO and keeps potentially the way for labor standards in the WTO framework open.

reductions in trade-distorting domestic support and better market access (i.e. tariffs, tariff-peaks and tariff-escalation).

Trade-related aspects of Intellectual Property Rights (TRIPS)

TRIPS presents a very disputed issue concerning the protection of intellectual property rights and the right of developing countries to manufacture, buy and import cheap generics to deal with public health pandemics such as AIDS, tuberculosis and malaria²³. The issue includes also the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits.

“Singapore issue” Number 1: Relationship between Trade and Investment

Especially after the failure of a Multilateral Agreement on Investment (MAI) within the OECD, developed countries pushed in favor of including this issue since the Singapore Ministerial Meeting. The ultimate objective is so-called “National Treatment” for multinational companies when engaging in Foreign Direct Investment. It would guarantee the same conditions and regulations for multinational companies as given to local companies. Developing countries do not want to see this issue on the agenda.

²³ In essence, the discussion turns around the interpretation of Article 7 – Objectives, of the TRIPS-Agreement: “The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.” Developing countries want to have a clear interpretation of the latter article giving them the right to grant compulsory licenses.

“Singapore Issue” Number 2: Interaction between Trade and Competition Policy

Since the Singapore Ministerial Meeting developed countries are lobbying for the creation of core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels, as well as for establishing modalities for voluntary cooperation regarding Competition Policy. For this purpose a WTO working party was established. Developing countries do not want to see this issue on the agenda.

“Singapore issue” Number 3: Transparency in Government Procurement.

Since the Singapore Ministerial Meeting many developed countries would like to introduce certain rules regarding Transparency in Government Procurement. “Transparency” is for many the code name for the fight against corruption. Developing countries do not want to see this issue on the agenda.

“Singapore Issue” Number 4: Trade facilitation

Since the Singapore Ministerial meeting developed countries would like to introduce the case for further expediting the movement, release and clearance of goods, including goods in transit. Developing countries do not want to see this issue on the agenda.

WTO Rules (Anti-Dumping and Countervailing Duties)

The issue includes Anti-Dumping and subsidies, fishing subsidies as well as Regional Trade Agreements. Anti-Dumping is by far the most contentious issue. The GATT (Article VI) allows countries to take action against dumping. The Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures clarifies and expands Article 6, and the three operate together. They allow countries to act in a way that would normally break the GATT principles of binding a tariff and not discriminating between trading partners. The US is using this right frequently, giving rise to the call for further clarification.

Trade and Environment

This issue encompasses several aspects: a) the clarification of the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements, b) labelling requirements for environmental purposes, and other aspects, and c) the ability to use precautionary measures.

The issues “Small Economies”, “Trade, Debt and Finance” and “Trade and Transfer of Technology”, “Services”, “Dispute Settlement Understanding”, “Electronic Commerce”, “Market Access for non-agricultural products”, “Technical Cooperation and Capacity Building”, “Least-Developed Countries” and “Special and Differential Treatment” (S&D) were not presented and will not be discussed in the Thesis although they were a part of the negotiations

in Doha; this because they were not a part of major negotiation trade-offs. However, especially the issues involving capacity building and technical assistance should not be underestimated in their potential positive impact. They are very likely to be highly valuable for developing countries. Further, the issue “Special and Differential Treatment” will be briefly discussed at the end of the paper when analyzing the like-minded group in favor of the introduction of a “Development Box” and its achievement.

The very summary representation of the issues suggests clearly that this type of economic negotiation does not aim to preserve a status quo, as most negotiations about security issues do, but has the objective to create a new economic environment²⁴. “Negotiation in this model is more a matter of puzzle solving than of convergence on a continuum and the trick is for parties to find a solution that will accommodate their overlapping and conflicting interests”²⁵. The number of issues makes information handling and control, involving strong organizational capabilities, as well as creativity and a sense of priority, critical skills for participants.²⁶

Analysis of the major players’ interests

At this point, we can turn our focus towards certain member’s positions and interests. Only some members will be considered and the scope of the issues includes only the six issues mentioned above.

²⁴ G. Winham, "Multilateral Economic Negotiation," *Negotiation Journal*, (April 1987): 175.

²⁵ *Ibid.* 176.

²⁶ *Ibid.* 175-189.

European Union

The EU is the world's largest exporter with a share of 17.3 % of world exports in 2001²⁷. Consequently, further liberalization of market access (i.e. decreasing tariffs and non-tariff barriers) and strengthening of the multilateral framework for trade is of overall strategic importance. The outlined interests lead straightforward to the European Union's principal position favoring further liberalization for non-agricultural products and a broad-based agenda with the aim to strengthen the WTO.

Regarding the strengthening and broadening of the WTO as well as the protection of its considerable foreign direct investment, the EU is the main driver as it concerns the four Singapore issues pushing the WTO in multilateral new land.

With the aim to broaden the scope of the WTO, some EU-members supported actively putting labor-standards on the agenda. However, fading US support and a very hostile position by developing countries regarding labor standards in Seattle led to the issue's early ban into the ministerial declaration's preamble.

Another rather progressive issue is the EU's interest to see "Environment" on the negotiation table, a "new" issue for the multilateral trade body. Domestic political pressure from Green Parties in Government-coalitions of France and Germany, NGO's, together with popular support after

²⁷ World Trade Organization, *International trade statistics 2001*, (accessed December 1, 2001); available from www.wto.org/english/res_e/statis_e/its2001_e/section1/i06.xls.

several nutrition related crisis jointly gave some international credibility for the EU's position. A linkage in substance between "Environment" and agriculture brought in the ultimate credibility needed because influential farm lobbies were suddenly interested in the "Environment" issue. For instance, labelling requirements for environmental purposes could eventually help European farmers to market their products. Further, environmental standards could possibly be used as "green" protectionism substituting certain protectionist measures conceded to food exporting countries.

Having outlined the broad-based agenda, we turn to the EU's defensive positions. The most sensitive issue for the EU is agriculture. The Common Agriculture Policy (CAP) created in 1958 provides European farmers with directly paid subsidies as well as export subsidies, coupled with high tariffs and tariff escalation on certain products. Although agriculture has little weight in the European economy²⁸, the budget of the European Union gives number one priority to this sector. The reason is the political strength of farm lobbies to create political support²⁹. French farmers are major beneficiaries of the CAP (and Germany is the biggest contributor) and their political weight is considerable. Therefore, the French Government wants to

²⁸ Share of GDP from agriculture, 1999: 1.8 %; share of employment, 1999: 4.5 %, (no comment necessary regarding the efficiency). Economic Research Service of the US Department of Agriculture (accessed December 1, 2001); available from <http://www.ers.usda.gov/briefing/EuropeanUnion/basicinfo.htm>.

²⁹ For an illuminating theoretical explanation for this phenomena see: Mancur Olson, *The logic of collective action; public goods and the theory of groups*, (Cambridge, Mass., Harvard University Press, 1965).

preserve the *status quo* avoiding any further liberalization of trade in agricultural products imposed by the WTO³⁰.

In this view, the “Environment” issue can be seen as a tactical as well as strategic instrument to support European farmers³¹. On a tactical level, Pascal Lamy could use concessions regarding agricultural export subsidies in order to gain in terms of “Environment”. On a strategic level, Europe’s farm bureaucracies could eventually use future environmental clauses in the WTO to protect farmers from competing imports. Other critics before the Doha Conference said that the entire broad-based agenda, including the Singapore issues, together with a loud campaign in favor of a new round was to create enough “winners” at home in order to reign in the agriculture industry’s lobbies. The basics of trade negotiation suggest that the voices at home of the winners should at least equalize – if not neutralize – the voices of the losers.

Finally, the EU is a home for many pharmaceutical and biotech companies demanding for the defense of the *status quo* in the TRIPS issue. Nevertheless, the EU did not take a strong position regarding TRIPS prior to Doha, but rather signaled ground for compromise, or in the words of Pascal Lamy: “The European position on this is trying to bridge these two [US and

³⁰ It must be further mentioned that both the actual President of the French Republic, Jacques Chirac and his rival Prime-Minister Lionel Jospin, need critical support from french farmers in order to win presidential elections in 2002.

³¹ “Patent-Streit geloest bei der Handelskonferenz in Qatar”, *Frankfurter Allgemeine Zeitung*, November 12, 2001.

Switzerland vs. Brazil and India] positions for which we have a lot of understanding³².”

In the light of the Doha Conference, the EU's “Everything but arms” initiative in favor least-developed countries in February 2001 can be seen as a measure to appease developing countries prior to Doha.

Summarizing, the EU's priority issues are Agriculture, “Environment”, the four Singapore issues and to a lesser degree TRIPS.

United States of America

The US is the world's second largest exporter, its biggest importer and a top foreign direct investor. Therefore, in a first approach the US and EU's interests bear certain similarity as both want to see further liberalization of market access and strengthening of the WTO. However, the US continuously called for a “market access round” meanwhile the EU suggested a “broad-based agenda”. The difference can be summarized in the US desire to deepen existing agreements and the EU's desire to broaden existing agreements.

In this view, the US' top priority is further liberalization in agricultural products and the end of agricultural export subsidies.

Apart of the agriculture issue, the US finds itself in a defensive position regarding Textiles, Anti-Dumping and TRIPS.

³² European Union, Delegation of the European Union to the United States, *Video Press Conference with EU Trade Commissioner Pascal Lamy*, November 5, 2001 (accessed February 9, 2002); available from <http://www.eurunion.org/news/speeches/2001/011105pl.htm>.

The US protects heavily its *Textiles and Clothing* sector against imports from lower-income developing countries. Under the existing agreement, protectionist measures phase out in 2005. Accordingly, US textile producer want to avoid faster liberalization as demanded by developing countries. The US could change the quota growth rates administratively but would likely face repercussions – possibly an attempt to reverse the decision in Congress³³.

Similarly, the US steel industry is under heavy pressure from higher-income developing countries as well as developed countries, especially Japan, Korea and the European Union. Differently to the case of Textiles and Clothing, official protectionist measures are lacking. Hence, the industry uses Anti-Dumping investigations and actions, allowed in the WTO under certain circumstances, to protect it against cheaper imports. Steel exporting countries want to clarify, i.e. restrict the use of Anti-Dumping measures; hence the US position defends the *status quo*. Interestingly, before the ministerial meeting, US negotiators have underlined their desire for an “offensive agenda” to address the use of Anti-Dumping measures. Observers have said this was an effort to pre-empt criticism that the US would eventually agree to negotiations on trade remedy rules in the WTO³⁴. Further, the steel industry has a powerful lobby in both, the House of Representatives and the Senate. The Steel

³³ “Textiles remain tough issue at WTO, as Pakistan takes hard line”, *Inside US Trade*, (November 13, 2001).

³⁴ “Zoellick stance on trade remedy in WTO provokes criticism”, *Inside US Trade*, (November 13, 2001).

Caucus counts as much as 110 members (out of 435) in the House and 37 members in the Senate (out of 100).³⁵

Finally, the US is probably the most important home for pharmaceutical and biotech research, hence the strong defense of the TRIPS-Agreement.

Going to Doha, US trade officials faced an especially delicate mission, because differently than their colleagues from other countries, a big battle after the Doha meeting will have to be fought and won – the battle regarding “Trade Promotion Authority” that would restrict Congress’ right to accept or reject multilateral trade agreements without the possibility to amend them. Without such authority, a successful ratification of any multilateral agreement by the US-Congress would be highly unlikely. Although the Republican Party controls the House of Representatives (222 Republicans vs. 211 Democrats and 2 Independents), the President could not be sure winning the majority. The President faced a clear uphill task in the Senate controlled by the Democratic Party (50 Democrats together with 1 Independent vs. 49 Republicans). Approaching mid-term elections in November 2002 complicate the picture further. As the Democrats majority in the Senate is slim, the President had to weigh carefully any repercussions of trade issues on elections in November. Regarding the Trade Promotion Authority, Zoellick, the US Trade Representative, had certainly to work through many configurations of negotiation priorities prior to Doha, gauging for each possible negotiation result the number of Congressmen affected in each

³⁵ American Iron and Steel Institute, *Steel Caucus*. Accessed April 10, 2002. Available from <http://www.steel.org/policy/caucus/house.asp> and <http://www.steel.org/policy/caucus/senate.asp>

legislative chamber and the possible resulting majority both in the House of Representatives and the Senate, without losing out of sight the mid-term elections in November 2002.

The US launched the “African Growth and Opportunity Act” in May 2000 and Zoellick approached African nations proactively in order to appease developing countries already before going to Doha. It is notable that both, the US and EU, understood that some serious “advance payments” for least-developed countries have to be made before Doha in order to give them an additional stake and interest in strengthening the global trading system.

Summarizing, US priority issues are Agriculture, Textiles and Clothing, Anti-dumping and TRIPS.

India

India ranks number 17 of the world exporters and has a share of 0.9 % of world exports³⁶. However, the data does not reflect the country’s great importance within the WTO. Historically, the country was a leader in the non-aligned movement and still today it is regarded as one of the leading countries of the so-called Third World. Its political independence and a historically rather closed and tightly regulated economy give developed countries little room for pressure, although the government started opening up the country modestly since the early nineties. Prime Minister Atal Bihari Vajpayee has been battling intense political pressure at home over the WTO, particularly from Left-wing opposition parties (i.e. the Communist Party of

³⁶ World Trade Organization, *International trade statistics 2001*, *op. cit.*

India, a Marxist-Leninist party), which have strong backing from the “Centre for Indian Trade Unions” (CITU). More dangerous for the government is the position of the “Indian National Trade Union Congress” (INTUC), a labor body backed by the oppositional Congress-Party. Similar to the case of France, Vajpayee faces crucial provincial elections in Uttar Pradesh next year. Opposition parties in the state, ruled by the Vajpayee’s Bharatiya Janata Party (BJP), have already started to make the WTO talks and the “plight of farmers” a major election issue³⁷. Provincial elections usually do not matter for international negotiations. Nevertheless, by virtue of India’s constitution the upper house – the Rajya Sabha – represents federal states proportionally to their population. Consequently, the national government’s control over the upper house depends especially on provincial elections held in the bigger provinces such as Uttar Pradesh³⁸. One of Uttar Pradesh’s main industries is Textiles and Clothing³⁹.

India has the aim very general aim to maximize developing countries access to Northern markets while keeping the WTO’s scope as small as possible in order to preserve national policy-making capacity and its tightly regulated economy. Some of India’s business circles understand the WTO as an instrument legitimizing greater economic openness and liberalization. The importance it attributes to the WTO-talks is reflected in the fact that the

³⁷ “BJP welcomes govt’s tough talk at WTO”, *The Times of India*, November 15, 2001.

³⁸ Election Commission of India, *Rajya Sabha - The Council of States* (accessed April 1st 2002); available from http://www.eci.gov.in/infoeci/elec_sys/elecsys_fs.htm.

³⁹ Uttar Pradesh, Official Government Website, *Main Industries* (accessed April 1st 2002); available from http://www.upindia.org/upglance.html#main_industries.

“Confederation of Indian Industry” (CII) sent a seven-member delegation to the ministerial meeting⁴⁰. Consequently, India’s very first goal is to secure better market access to developed countries’ markets.

Secondly, in line with enhanced market access, India would like to see a faster implementation of the Uruguay-Round Agreement regarding Textiles and Clothing (the so-called “implementation issue”).

Thirdly, the country opposes any inclusion of the Singapore issues and “Environment” in the agenda.

Lastly, the country is a major producer of generic pharmaceuticals and hence, is very keen on modifications of the TRIPS-Agreement which would not only allow to produce generic medicine in case of national emergencies for the domestic market but eventually open up a sizable market of countries without own pharmaceutical industry.

Summarizing, India’s top priority issues are Textiles and Clothing, the Singapore issues, “Environment” and TRIPS.

Japan

Japan is the world’s third major exporter, representing a share of 9.6 % of world trade⁴¹. Although being an “elephant” in trade matters, the country’s power and profile within the WTO is somewhat below the potential the above-mentioned facts would suggest.

⁴⁰ “CII opposes second WTO draft”, *The Times of India*, November 05, 2001.

⁴¹ World Trade Organization, *International trade statistics 2001*, *op. cit.*

Japan is a major steel exporter and wants to secure trade of steel. The demand for clarification of the Anti-Dumping Agreement can be explained straightforward because it is the main tool for the US to hinder market access in the steel sector⁴².

Other issues such as “Environment” and the Singapore issues (especially Trade and Investment) are on the Japanese agenda as well. The already mentioned tactical link between “Environment” and Agriculture can be found as well, as it is the case for the European Union, but the country’s position regarding is rather passive showing a low profile. Its passive, or at best reactive stance regarding Agriculture can be understood in the light of Mark E. Manyin findings that Japan usually takes the described role when internally divided and highly parochial sectors are involved⁴³. More surprising is its low profile regarding the Singapore issues considering that the country is a major foreign direct investor.

Summarizing, Japan’s top priorities are *Anti-Dumping*, *“Environment”* and the *Singapore issues*.

⁴² The Ministry of Foreign Affairs of Japan, Japan and WTO, *Statement*, by H.E. Mr. Takeo Hiranuma Minister of Economy, Trade and Industry, November 10 2001 (accessed December 1, 2001); available from www.mofa.go.jp/policy/economy/wto/min01/hiranuma.html.

⁴³ M.E. Manyin, *Breaking the silence: Japan’s behavior in the Tokyo and Uruguay Rounds of the GATT*, PhD Thesis, Fletcher School of Law and Diplomacy (April 1999): 295.

The CAIRNS-Group

The Cairns Group of 18 agricultural exporting countries was formed in 1986⁴⁴. Although the coalition building process will be analyzed later in this paper, the CAIRNS-Group needs to be discussed under this section, as the group acts as a unified actor regarding the issue of agriculture. The group is an excellent example of successful coalition building in the trade area⁴⁵. The group was created to increase the power of its members, as well as a facilitator for negotiations within the WTO.

The group's goals are limited to two specific issues: a) Agriculture and b) Special and Differential Treatment regarding Agriculture. The objective is the full liberalization of trade in agricultural products as well as eliminating trade-distorting subsidies.

Intra-group cohesion between developed and developing countries is guaranteed by the group's commitment to "Special and Differential Treatment" (S&D) for developing countries. "Special and Differential Treatment" for developing countries, allows the coalition's poorer members to agree with richer members, although if the proposals had to be applied by all WTO-members, they would fiercely oppose them. Leadership is exerted by Australia⁴⁶.

⁴⁴ The group members are: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand, Uruguay; Cairns Group, *Members* (accessed February 9, 2002); available from <http://www.cairnsgroup.org>.

⁴⁵ The following discussion of different aspects and key features of coalition building is based on: Christophe Dupont, "Negotiation as Coalition Building," *International Negotiation*, vol. 1 (1996): 47-64.

⁴⁶ The leadership exerted by Australia can be characterized as a *driver*, explained by Christophe Dupont, "Negotiation as Coalition Building," *op. cit.* 56. The role of a *driver*

ACP-Countries

The “African, Caribbean and Pacific Group of States” (ACP) is a pre-established coalition similar to the CAIRNS-Group numbering 77 States⁴⁷.

Since 1975 the EU grants ACP countries (many are former European Colonies) preferential tariff treatment regarding agricultural products, known as the Lome Agreement. The Cotonou Agreement signed in June 2000, replaces the Lome Agreement. Both agreements violate Article 1, paragraph 1 of the General Agreement on Tariffs and Trade stipulating the “most-favored nation treatment” (MFN). Therefore the EU and the ACP countries need a waiver to be given by the WTO member countries at Doha, granting the right not to comply with WTO-law. For the Doha negotiations, the ACP has the top priority to secure the waiver. Interestingly, the waiver issue does not divide as often the “North” and the “South”, but it is mainly a dispute among developing countries being part of the ACP and those who are not.

as described by Dupont differs from the authors use of the term *driver*, as Dupont analyzes intra-coalition roles and behaviors meanwhile this paper analyzes inter-coalition and inter-states roles and behavior in the context of multilateral negotiations.

⁴⁷ General Secretariat of the African, Caribbean and Pacific Group of States (accessed February 9, 2002); available from www.acpsec.org.

Negotiation process

From the Green Room to the Green Men

In multilateral negotiations the design of the negotiation process is of fundamental importance. The importance of the process design is a function of the number of participants and issues to be negotiated as well as other factors. More participants and more issues make negotiations exceedingly complex; hence, structure and rules gain in significance.

The host country provides traditionally the Conference Chairperson in many multilateral negotiations; this was also the case of the WTO ministerial meeting in Doha. Qatar's finance, economy and trade minister, Youssef Hussain Kamal, fulfilled the role of a chairperson. The Chairperson's role is defined in article 17 of the Rules of Procedure for sessions of the Ministerial Conference:

"In addition to exercising the powers conferred elsewhere by these rules, the Chairperson shall declare the opening and closing of each meeting, shall direct the discussion, accord the right to speak, submit questions for decision, announce decisions, rule on points of order and, subject to these rules, have complete control over the proceedings. The Chairperson may also call a speaker to order if the remarks of the speaker are not relevant."⁴⁸

In the GATT and early WTO ministerial meetings the so-called "Green Room" was the main "institution" for sorting out bigger trade-offs. The WTO

⁴⁸ World Trade Organization, WT/L/28, *Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council*, February 7, 1995. Interestingly Rule 12 demands the election of the Chairperson and three Vice-Chairpersons. To the author's best knowledge, the chairman was not elected but by unwritten customary rule the host country chairs the ministerial session. In addition, no Vice-Chairpersons were elected.

Director-General would invite the Quad and about 15 other key members in his conference room (which had in fact green wall paper and a green table cloth) in order to hammer out a consensus proposal. As discussed earlier, this approach effectively excluded the vast majority of members and bears great responsibility for the collapse of the Seattle ministerial meeting. In order to avoid the risk of repeating the failure in Seattle, “Green Men” were introduced substituting the Green Room⁴⁹.

The General Council’s Chairperson nominated six ministers as “friends of the chair” in order to “facilitate” (i.e. conduct) negotiations. The “friends of the chair” were assigned to report back to the full heads of delegations meetings regularly. The six subjects and the respective “friends of the chair” were⁵⁰:

- *Agriculture*; Singapore’s trade and industry minister, Brigadier-General George Yeo
- *Implementation*; Swiss Economic Affairs Minister, Pascal Couchepin
- *“Environment”*; Chile’s external relations vice minister, Heraldo Muñoz Valenzuela
- *Rules issues (i.e. Anti-Dumping)*; Trade and Industry Minister, Alec Erwin of South Africa

⁴⁹ The Third World Network, *Invasion of WTO by “green men”*, by Hormeku Tetteh, November 10 2001 (accessed February 9, 2002); available from <http://www.twinside.org.sg/title/invasion.htm>.

⁵⁰ World Trade Organization, *Summary of 10 November 2001* (accessed November 10, 2001); available from www.wto.org/english/thewto_e/minist_e/min01_e/min01_10nov_e.htm.

- “*Singapore issues*”; Canada’s International Trade Minister, Pierre Pettigrew
- *Intellectual property and access to medicines/public health (TRIPS)*; Mexico’s economics secretary, Luis Ernesto Derbez Bautista.

The list includes ministers of all continents and therefore is geographically balanced. In terms of population, the Americas are over represented (with totally three representatives) and Asia (with one representative) underrepresented.

More important, in terms of representing countries differing in economic development, the selection of the “friends of the chair” is clearly imbalanced. Three of six ministers come from “high income” countries (Canada, Singapore and Switzerland) and all other three ministers are from “upper middle income” countries (Chile, Mexico and South Africa)⁵¹. “Low income” and “lower middle income” countries are not represented.

The “Green men” were free to decide their own procedures. Some opted for working groups open to all, and then bilaterals, and others opted only for bilaterals⁵². Unfortunately, no data was available for the purpose of this paper regarding the Green men’s actual working procedure. Some members and especially NGO’s voiced concern about the selection process of the “friends of the chair”. These working group heads were tapped in a

⁵¹ The categories used are based on the World Bank’s income groupings. See: World Bank, *Definition of Groups* (accessed April 2, 2002); available from <http://www.worldbank.org/data/databytopic/class.htm>.

⁵² The Third World Network, *op. cit.*

closed-door consultation process with key member countries. Director-General Mike Moore, General Council Chairman Stuart Harbinson and the official chairman of the ministerial meeting, Qatari Minister of Finance, Economy and Commerce Youssef Kamal, conducted the selection⁵³. The key players were probably the Quad and perhaps India. However, no transparent selection process was used. Remembering the heavy fight over the job of Director-General, it is at least questionable if members could have reached consensus about the selection of the “friends of the chair”. Further, all “Green men” were from countries supporting the launch of a new trade round and in favor of negotiations on at least some of the controversial new issues. Consequently they cannot be named as truly neutral facilitators. However, there is probably no such thing as a “neutral” country in the WTO as all issues are linked with each other.

Concluding, the design of the negotiation process was updated in terms of the usual GATT/WTO ministerial meeting procedures, it enhanced the participation of developing countries. No strong dissatisfaction was voiced about the actual work done by the Green men. Therefore, it is reasonable to suggest the same negotiation procedure for future ministerial meetings. However, the Green men’s selection process was not transparent and “rules based” and its outcome was imbalanced in terms of representing poorer member countries.

⁵³ “Framework for Doha Negotiations set, six tapped to chair issue groups,” *Inside US Trade* (November 12, 2001).

Coalitions and trade-offs – the big bazaar

Drawing the picture of a multilateral, multi-issue negotiation is a major challenge for participants, let alone for an outsider as the author of this Thesis is. In order to shed some light on the negotiation process, a chronological approach is chosen.

Setting the stage

On Friday, November 9th, the inaugural session was held at the Convention Centre in the Al Dafna Hall on Friday. The host country's head of government, Sheikh Hamad bin Khalifa Al-Thani, Emir of Qatar, and Mr. Youssef Hussain Kamal, Minister of Finance, Economy and Trade of Qatar, Chairman of the Conference took the floor first. Mr. Mike Moore, Director-General of the WTO, as well as Mr. Rubens Ricupero, Secretary-General of UNCTAD on behalf of Mr. Kofi Annan Secretary-General of the United Nations followed. Finally, Mr. Stuart Harbinson, Chairman of the General Council made a statement on the Report of the General Council. Beside the fact that Stuart Harbinson introduced the Draft Ministerial Declaration as the basic working paper, without claiming it expressed consensus, the first day had largely ceremonial significance⁵⁴.

On Saturday, November 10th, after introducing the "friends of the chair", general statements by the heads of delegation started⁵⁵.

⁵⁴ World Trade Organization, WT/MIN(01)/5/Rev.1, *Proposed Order of Business*, November 6, 2001 (accessed February 9, 2001); available from www.wto.org.

⁵⁵ World Trade Organization, *Summary of 10 November 2001*, (accessed November 10, 2001); available from

US negotiator Joe Papovich met with AIDS activists in Doha and discussed a possible compromise regarding the TRIPS issue. The discussion showed that US Trade officials premeditated abandoning their hard stand.

On Sunday, November 11th, the reports by the “friends of the chair” to the Conference Chairman showed first progress made concerning the issues with bigger potential for consensus⁵⁶. Regarding TRIPS, WTO-rules (Anti-Dumping) and Implementation, they could be “narrowed” to a basic understanding leaving open the points where further negotiations could focus on. Concerning Agriculture, “Environment” and the Singapore issues no progress could be reported, signaling that those issues would be the toughest to get a consensus and would be very likely the last issues to be resolved. Notwithstanding the Implementation issues, this early assessment will be confirmed by later evolutions.

Breakthrough in TRIPS

Monday, November 12th, was the day of the TRIPS issue. The fact that Tommy Thompson, US Secretary for Health and Human Services threatened in October 2001 to seize Bayer AG’s patent on Cipro to fight against the threat of Anthrax unless Bayer lowered its price, weakened its position and gave developing countries even stronger arguments⁵⁷.

www.wto.org/english/thewto_e/minist_e/min01_e/min01_10nov_e.htm.

⁵⁶ World Trade Organization, *Summary of 11 November 2001* (accessed November 11, 2001); available from

www.wto.org/english/thewto_e/minist_e/min01_e/min01_11nov_e.htm.

⁵⁷ “US in talks on anthrax patent,” *Financial Times*, October 18, 2001.

The working group regarding TRIPS originally included the US, Brazil, Nigeria, Kenya, the European Union, New Zealand, Zimbabwe, India and Peru. The fact that the EU did not play a very active role regarding TRIPS – neither as a participant, nor as a broker – is somewhat mysterious in light of the strong presence of pharmaceutical companies in Europe and could eventually be explained only with insider knowledge. The EU taking a low profile over the issue, the US was effectively isolated in the working group from its major allies, including Switzerland. Switzerland is the home for several global pharmaceutical companies. Switzerland's delegation wrote a letter of protest to Derbez, the "friend of the chair" responsible for this issue, over its exclusion and because its proposals were not reflected in the draft text. Switzerland was then admitted to the group, as was Singapore, another US ally in this issue⁵⁸. This shifted the balance to a certain degree back in favor of the US position. Just as the negotiations reached a crisis on Monday morning, a fretful Alan Holmer, president of the Pharmaceutical Research and Manufacturers of America, fired off a letter to US Trade Representative Robert Zoellick to warn against any compromises that might weaken drug patents – without success⁵⁹. In a major concession, the US and the European Union agreed to a declaration that, at a minimum, gives developing countries a much stronger hand in bargaining with drug companies for medicines to treat HIV/AIDS and other health crises making the use of compulsory

⁵⁸ "Fight over TRIPS narrowed to whether declaration would be binding," *Inside US Trade* (November 13, 2001).

⁵⁹ "Activists Outmaneuver Drug Makers at WTO," *The Wall Street Journal*, November 14, 2001.

licensing legal under certain circumstances⁶⁰. Although the issue was settled in principle, an understanding whether the settlement would be legally binding or merely a political statement still had to be established.

Nevertheless, this early basic agreement was a highly important signal to developing and least-developed countries that they would get some substantial gains from a new trade round. Or in the terms of Egypt's trade minister, Youssef Boutros-Gali: "Rich countries knew the only way they would get anything was if they gave in on this [TRIPS]⁶¹."

AIDS activists such as Jamie Love, director of Ralph Nader's Consumer Project on Technology, were ecstatic and commented the outcome very positively⁶². In a joint release Oxfam International, Medecins Sans Frontieres, Third World Network, Consumer Project on Technology, Consumers International, Health Action International and The Network hailed the outcome as well, stating: "Doha is a major advance in rebalancing the TRIPS Agreement.⁶³"

Not surprisingly, the developing countries pharmaceutical industries agreed with the NGO's. An official from the Organization of Pharma Producers of India (OPPI) said: "This is a very significant achievement for developing countries and India's drugs industry.⁶⁴"

⁶⁰ "WTO envoys agree to ease access to key drugs," *The Wall Street Journal*, November 13, 2001.

⁶¹ *Ibid.*

⁶² "Activists Outmaneuver Drug Makers at WTO," *The Wall Street Journal*, November 14, 2001.

⁶³ Oxfam. *Doha Gives Green Light to Put Public Health First*, November 15, 2001 (accessed April 12, 2002); available from <http://www.oxfamamerica.org/art2145.html>.

⁶⁴ "Poor nations score big win on WTO health front," *The Daily Star*, November 16, 2001.

Although there is no public evidence the US and the EU prepared the pharmaceutical industry for this major move, their outcry was very modest and certain concessions were widely expected⁶⁵. The industry said the short-term impact wouldn't be significant, but it was worrying about major long-term consequences⁶⁶. The remark by Lori Wallach, head of Public Citizen's Global Trade Watch, concerning the pharmaceutical industry's reaction is significant: "It's what Clinton did to labor. What's the US pharmaceutical industry going to do? Vote Democratic? I don't think so⁶⁷." Still, Congressmen near to the pharmaceutical industry could have turned against granting Trade Promotion Authority to the Bush Administration. US trade officials must have come to the conclusion Congressmen near to the pharmaceutical industry would still not vote against granting Trade Promotion Authority.

Resolving the TRIPS issue almost upfront, the US and the EU achieved to split developing countries who wanted to "save" this early gain from those who wanted to fight hard for other issues, such as India.

Some further progress was made regarding Anti-Dumping; the US being under heavy pressure from Japan and developing countries. Europe looked increasingly likely to give ground regarding agricultural export subsidies. Japan and Korea, traditionally protectionist on agriculture, announced that they supported elimination of the EU's export-subsidy

⁶⁵ Nancy Pekarek, a spokeswoman for GlaxoSmithKline PLC said: "I wouldn't say that we're upset about this." Source: "Activists Outmaneuver Drug Makers at WTO," *The Wall Street Journal*, November 14, 2001.

⁶⁶ "US industry takes mixed views of WTO talks," *The Wall Street Journal*, November 16, 2001.

⁶⁷ "Domestic Demands Limit US, EU Bargaining at Trade Talks," *The Wall Street Journal*, November 12, 2001.

program, destroying European hopes for a European-North East Asian alliance for agricultural protectionism⁶⁸. No progress was done over the Singapore issues and Textiles.

Breakthrough in Anti-Dumping rules – the EU isolated on Agriculture

Prior consensus on TRIPS calmed many developing countries fears to leave Doha without substantial gains. Nonetheless, the top priority issue for Japan – i.e. Anti-Dumping – and for large developing countries (such as Brazil and others) was not addressed yet. Considering in retrospect statements from US trade negotiators before Doha, the US definitely pre-meditated as in the case of TRIPS its flexibility regarding Anti-Dumping. However, US interest groups exerted maximum pressure. “Labor union leader George Becker today [Monday, November 12, 2001] vowed that the Administration will lose political support in key industrial states if it allows US trade remedy laws to be put on the negotiation agenda of a new WTO round⁶⁹”.

However, Zoellick chose to defend the American textile industry, not the steel industry. In a major concession on Tuesday, November 13th, the US showed its readiness to put Anti-Dumping on the agenda open for negotiations.

⁶⁸ “WTO envoys agree to ease access to key drugs,” *The Wall Street Journal*, November 13, 2001.

⁶⁹ “Zoellick stance on trade remedy in WTO provokes criticism,” *Inside US Trade* (November 13, 2001).

Bill Klinefelter, the United Steelworkers of America representative, going to Doha to keep Mr. Zoellick from negotiating on US Anti-Dumping laws, was furious after the US revealed the concession and said: “[Mr. Zoellick can] kiss fast track [Trade Promotion Authority] goodbye. He’s never getting it now⁷⁰.” Despite the strong language used, it can be argued but not proven that either a deal between US trade officials and the steel industry was struck or the USTR already thought about future moves to smoothen the steel industry’s and related constituencies’ outrage. The imposition of the steel tariffs by the US⁷¹ can very well be understood as an instrument to secure Trade Promotion Authority and eventually winning coming mid-term elections⁷² – with or without prior understanding with the steel industry.

On Tuesday evening the US was in a comfortable position. Having made substantial concessions on two major issues (TRIPS and Anti-Dumping), Zoellick held a strong hand for the looming fight over Textiles and he was in a strong broker position regarding the battle over Agriculture between the EU and the CAIRNS, as well as for the likely clash over the Singapore issues between the EU and developing countries (especially India).

On late Tuesday, four issues were left on the table: Agriculture, “Environment”, the Singapore issues and Textiles. As discussed earlier, the CAIRNS-Group put its entire weight on one single issue, i.e. Agriculture. It

⁷⁰ “Zoellick’s concession on trade law may slow his fast-track proposal,” *The Wall Street Journal*, November 16, 2001.

⁷¹ “US imposes heavy tariffs on steel imports,” *Financial Times*, March 6, 2001.

⁷² “Political components making up a complex trade equation,” *Financial Times*, March 21, 2002.

was clear that an agreement not stating “phasing out” of export subsidies would not overcome the CAIRNS-Group’s opposition. Hence, the group’s interests had to be reflected.

Similar to the CAIRNS-Group the ACP-countries made their consent contingent on a waiver for the Cotonou Agreement (“banana waiver”). The EU backed the ACP-countries. The US understood that no consensus could be reached without a waiver. From a US perspective, giving the waiver was economically and politically insignificant (beside the Cincinnati-based Chiquita Bananas) but tactically important in order to effectively isolate the EU and India if necessary. On Tuesday, the waiver for the ACP countries appeared to be making good progress in overcoming objections from several Latin American banana-producing countries⁷³. The US was supporting efforts to place the banana waiver on the agenda, and was actively working with trading partners to resolve the issue at Doha. US official said there had been “lively” discussions between the EU and Latin American countries in the run-up to the ministerial, and these discussions have continued informally in meetings on the margins of the ministerial meeting⁷⁴. In diplomatic language “lively” discussions means strong pressure and clashes of positions. Latin American countries, notably Guatemala, Honduras, Nicaragua, and Panama, tried to limit the scope and term of the seven-year waiver, which covers transitional banana quota arrangements to 2005. They wanted a shorter

⁷³ “Hopes rise of deal on launching new global trade round,” *Financial Times*, November 13, 2001.

⁷⁴ “ACP countries push for approval of EU banana waivers at Doha,” *Inside US Trade* (November 12, 2001).

waiver to ensure that they would have some leverage in negotiations over the tariff-only system to be introduced in 2006⁷⁵. The waiver's reading suggest those demands were met although only with the US playing the role of a powerful broker⁷⁶.

After the Latin American countries withdraw their objection for the waiver, Thailand and the Philippines still threatened to prevent the waiver from being considered by ministers if the EU did not meet their demands on imports of canned tuna. A last minute letter from EU Commissioner Pascal Lamy to Thailand and the Philippines opened the door for the WTO to approve a waiver request. The letter promised the EU would engage in consultations with Thailand and the Philippines over whether those countries unfairly lose market access in the EU because of preferences handed to ACP countries on canned tuna imports⁷⁷.

Graph 1. *Agriculture-stalemate*, early on Tuesday, November 13:

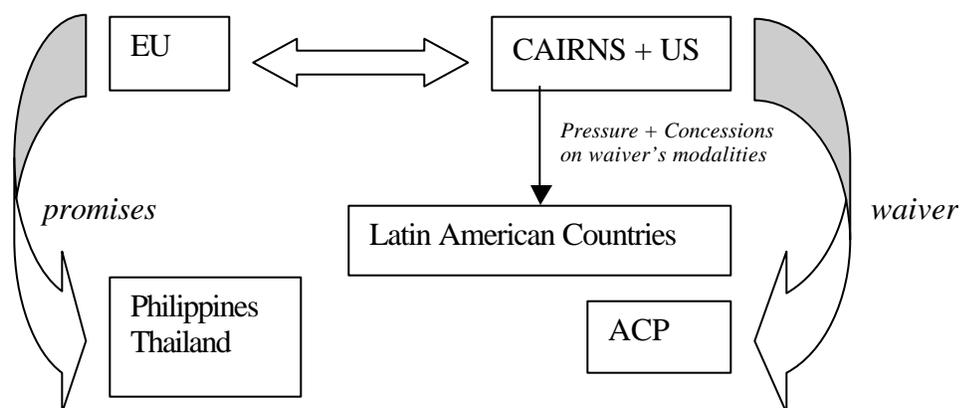


⁷⁵ "US puts support behind ACP banana waiver," *Financial Times*, November 10, 2001.

⁷⁶ World Trade Organization. G/C/W/269/Rev.1, EUROPEAN COMMUNITIES – *Transitional Regime for the EC autonomous tariff rate quotas on imports of bananas*, November 14, 2001.

⁷⁷ "EU promise to Thailand and Philippines clears way for Cotonou waiver," *Inside US Trade* (November 15, 2001).

Graph 2. *Division of the EU/ACP coalition, late on Tuesday/Wednesday early morning, November 13:*



Obviously, no effective agreement was reached yet with the EU regarding Agriculture. The playing field was now cleared of most participants and the final showdown could start.

At 23:30, the Chairman of the Conference distributed a Draft Declaration claiming consensus notwithstanding the Textiles issue⁷⁸. The Draft Declaration did not include “Environment” and the Singapore issues and regarding Agriculture it contained very likely the following phrasing: “reductions of, with a view to phasing out, all forms of export subsidies.”⁷⁹

Earlier on, the EU lost the group of countries advocating for a “multifunctional” role of agriculture, when so-called “non-trade concerns” were introduced in the Ministerial Declaration’s draft⁸⁰. In Seattle, the formal

⁷⁸ Unfortunately the author is not in possession of the mentioned Draft Declaration. See: The “India fumbled in the last lap of Doha talks,” *Times of India*, November 16, 2001.

⁷⁹ World Trade Organization, WT/MIN(01)/DEC/W/1, *Ministerial Declaration*, November 14, 2001 (accessed November 14, 2001); available from www.wto.org.

⁸⁰ World Trade Organization, WT/MIN(01)/DEC/W/1, *Ministerial Declaration*, November 14, 2001 (accessed November 14, 2001); available from www.wto.org.
“We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.”

introduction of “non-trade concerns” into an official document was hotly disputed. The Doha Ministerial Declaration is therefore a significant success for countries supporting the concept; such as the EU, Norway, Iceland, Israel, South Korea, Switzerland, Tunisia, Turkey, Senegal, Ivory Coast, the Czech Republic, Hungary, Mauritius and Madagascar and many other member and observer countries⁸¹. However, it will be a major challenge for the group to achieve significant progress when the negotiations of substance start. The group having achieved its purpose, only Switzerland continued supporting the EU⁸².

The EU's position lost further ground when Japan left the informal coalition with the EU⁸³. Perhaps the pressure exerted by the US before the ministerial meeting, expressed with a letter sent by President George W. Bush to the Japanese Prime Minister Koizumi on November 3 showed its results in Japan's withdrawal over Agriculture. More compelling is the explanation that Japan valued the US giving in on Anti-Dumping as a sufficient trade-off for Agriculture⁸⁴. Coherent to Japanese negotiation history in other trade rounds, the country's delegation could play for domestic reasons a stronger game for Anti-Dumping but not for Agriculture⁸⁵.

⁸¹ “50 WTO members oppose purely commercial approach to agriculture,” *The Daily Star*, November 12, 2001.

⁸² Bundesamt fuer Landwirtschaft, Eidgenoessisches Volkswirtschaftsdepartement, *Bewertung des Resultats aus der Sicht des BLW* (accessed March 10, 2002); available from <http://www.blw.admin.ch/fakten/texte/d/dohabew.pdf>

⁸³ “Hard-playing India poised to win at Doha,” *The Times of India*, November 15, 2001.

⁸⁴ “Bush says weak agriculture mandate endangers new WTO round” (including Bush's letter to Koizumi of November 3 2001), *Inside US Trade* (November 12, 2001).

⁸⁵ Manyin, Mark E.. *op.cit.*, p. 295.

Consequently, the EU was practically isolated after the CAIRNS and the US secured granting the waiver to the ACP countries.

Before the ministerial meeting, the EU was probably *the* major sponsor of a new trade round. Although the EU did not achieve anything at this point regarding its top priorities, it was unlikely the EU would have born the stigma of being responsible for a failure at Doha. After practically all allies changed sides, the EU's isolated position led to the outcry by Pascal Lamy, the European Union's trade commissioner: "We have got nothing. We are the orphans of the WTO (...)"⁸⁶ – a rather astonishing statement by the world's chief exporting power.

At this critical point, India joined the EU blocking the Draft. It did not so because of Agriculture but the Textiles issue⁸⁷. The US delegation probably assumed that India would not block the Draft because "Environment" was excluded and the Singapore issues were put on hold for the next two years – a "dream come true" for the Indian position; this giving India after TRIPS and Anti-Dumping basically everything the country was looking for – except for Textiles. The tough stance of India's commerce and industry minister Murasoli Maran altered the final negotiation round substantially.

Meanwhile Pakistan and Bangladesh had practically left the coalition with India regarding Textiles. Pakistan was very vulnerable to pressure from the US. This fact owing to the compulsions of its difficult economic situation, the country faced probably a trade-off between Textiles and more bilateral aid

⁸⁶ "All-night haggling in Doha ends in agreement," *Financial Times*, November 15, 2001.

⁸⁷ "India fumbled in the last lap of Doha talks," *The Times of India*, November 16, 2001.

as well as from the IMF and World Bank – both under heavy US influence⁸⁸. On Saturday, November 10, during a meeting, President Bush promised Pakistan's General Pervez Musharraf \$600 million in US aid and \$500 million in debt relief providing very compelling arguments to abandon demands regarding Textiles. Munir Akram, Pakistan's WTO ambassador, said: "We don't like it [receiving aid but not trade]. But it's a question of whether we'll have to swallow it."⁸⁹ From a theoretical perspective, this kind of monetary compensation for lost trade with the aim to secure multilateral trade agreements goes in the direction proposed by Kowalczyk and Sjoestroem⁹⁰.

For Bangladesh the situation and its interest differed from India's and Pakistan's substantially. Mr. Kearney, the secretary general of the International Textile, Garment and Leather Workers' Federation explains: "In reality the Multi-Fiber Arrangement introduced with the Kennedy-Round, which started out as a mechanism to protect the industry in the industrialized world, became a powerful stimulus for its introduction to poorer countries like Bangladesh and Sri Lanka and for their building a significant share of world markets for their production. Now [with the acceleration of the phasing out as demanded by some developing countries and with the accession of China], Bangladesh faces the loss of perhaps one million jobs in the next couple of years, Indonesia, a similar number, Sri Lanka, tens of thousands. Lesotho, Peru and many developing countries which have not planned for transition

⁸⁸ "India pressured for new round of negotiations," *The Economic Times*, November 13, 2001.

⁸⁹ "In new climate poor nations win gains in trade deal," *The Wall Street Journal*, November 15, 2001.

⁹⁰ Carsten Kowalczyk, and Thomas Sjoestroem "Bringing GATT into the Core," *Economica* (1994): 301-317.

and diversified into other industries will likely also faces serious job losses with the potential for considerable local unrest.⁹¹ It means that Bangladesh's interests, as well as of other small developing countries, were not congruent with the interests of bigger developing countries such as India. Bangladesh's Minister of Commerce, Mr. Amir Khosru Mahmud Chowdhury, did therefore not demand a general acceleration of the textile agreements phasing out but only for least-developed countries, which excludes major competitors such as China, India and Pakistan⁹². Therefore, Bangladesh's decision to withdraw supporting acceleration of the Textile Agreement's implementation, has to be understood a) in the light of negative answer by developed countries to give

⁹¹ International Textile, Garment and Leather Workers' Federation, *What future for textiles and garments after doha?*, November 12, 2001 (accessed March 12, 2001); available from <http://www.itglwf.org>.

⁹² World Trade Organization. WT/MIN(01)/ST/40, *Statement by H.E. Mr Amir Khosru Mahmud Chowdhury*, 10 November 2001. Accessed March 11, 2002. Available from www.wto.org.

In order to highlight Bangladesh's as well as other least-developed countries position, the following excerpt of the Statement by Bangladesh's Minister of Commerce shall be replicated with the indication that all demands are specifically targeted for least-developed countries and implicitly exclude the same treatment or access for other developing countries:

"(a) Meaningful market access in all developed countries for all products of the LDCs, with duty-free and quota-free access;

(b) the Rules of Origin for LDC products need to be appropriately revised to match our industrial capacity; otherwise, any market access given will remain paper commitments;

(c) interpreting and implementing existing WTO provisions in a manner favourable to the needs of the LDCs;

(d) apply standstill on any contingency protection measure, including anti-dumping, on market access for export products of LDCs into the markets of developed countries;

(e) on exports of apparel provide LDCs immediate duty-free and quota-free entry, as appropriate, into the markets of the developed countries. The implementation of the ATC has placed us in an unfavourable position, and corrective measures are necessary. We are concerned that in the post-MFA situation, existing as well as new apparel-exporting LDCs may lose their market share. ATC did allude to such possibility and allow safeguard measures. We need to design new instruments to halt further marginalization of the LDCs in global trade, e.g. through a capping mechanism on apparel export to avoid market disruptive surges from textile-related resource endowed sources;"

special access for least-developed countries only and b) in the light of the possibility that if any acceleration of implementation is agreed upon, it would apply for all countries and therefore create greater damage for least-developed countries than no acceleration at all.

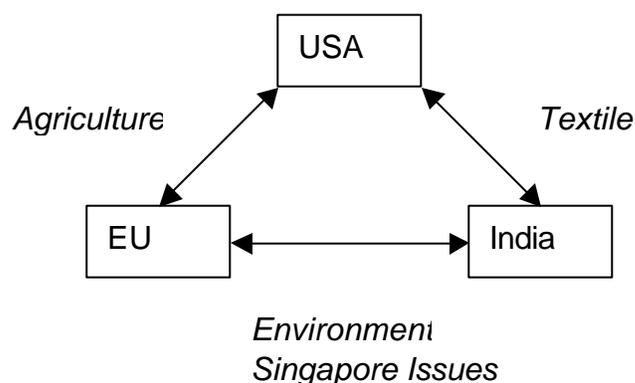
In summary, late Tuesday night the US was absolutely unwilling because domestically unable to compromise on Textiles having to seek Trade Promotion Authority by Congress⁹³. Consequently, from a US perspective, the EU had to be accommodated – without provoking the CAIRNS Group – in order to isolate India. The only possible issues for accommodating the EU were “Environment” and the Singapore issues, as well as a compromise regarding Agriculture.

The final showdown among the US, the EU and India

In the night from Tuesday to Wednesday, November 14th, the EU got fresh wind in its sails after India joined blocking the draft. Wednesday at 2 or 3 am, the hour to grab for some substantial gains for the EU arrived.

⁹³ The defense of the Textile issue in Doha was crucial to receive Trade Promotion Authority given by the House of Representatives on December 6, 2001 by a 215-214 vote. Zoellick’s strategy to use patriotic language and to set timing for the House vote coinciding with the usual rallying behind a President in times of war was effective. “House supports Trade Authority sought by Bush,” *The New York Times*, December 7, 2001.

Graph 3. *The three-player game*, night from Tuesday to Wednesday, November 13:



The EU, facing the rest of the WTO-membership united about Agriculture, stopped blocking but changed its tactics in order to get the best “payment” possible, i.e. “Environment” and stronger wording regarding the Singapore issues⁹⁴. The EU accepted finally a compromise keeping the words “phasing out” in the declaration, but preceded by “without prejudging the outcome of the negotiations,” only after the Singapore issues and “Environment” were further clarified in its favor and after a break allowing the French delegation to consult with Paris⁹⁵. France, the world’s second-biggest agricultural exporter after the United States, had previously called the wording “phasing out” unacceptable. Although reluctantly and under pressure of many EU-member countries pushing hard for a compromise, “Paris” gave green light.

The US, confronted with the two blocking members EU and India had no other option than to save the reached consensus on Agriculture, because

⁹⁴ “Chairman’s statement casts doubt on final WTO declaration,” *Inside US Trade* (November 15, 2001).

⁹⁵ “WTO delegates agree to new trade talks,” *USA Today*, November 14, 2001.

any modification of the phrasing concerning Agriculture in the EU's favor would have brought in the CAIRNS-Group.

A final showdown cannot work with a large number of participants; hence the compromise on Agriculture became "untouchable" in order to exclude the CAIRNS from the next stage. Consequently, the US was in a decisive broker-position either giving India the Textiles issue, or helping the EU getting the "Environment" and stronger wording on the Singapore issue. As explained above, Textiles was a major issue for the US meanwhile "Environment" and the Singapore issues were not.

Therefore, the challenge ahead was including "Environment" and stronger wording on the Singapore issues accommodating the EU without raising objections from other participants than India.

With purpose to accommodate the EU, the "Environment" issue was sliced in two parts. The first part includes the clarification between existing WTO rules and specific trade obligations set out in the multilateral environmental agreements, information exchange between Secretariats of multilateral environmental agreements and the relevant WTO committees as well as the reduction of tariff and non-tariff barriers to environmental goods and services. This part was firmly included into the negotiation agenda, giving some substantial ground for the EU. The second part including labelling requirements for environmental purposes (in order to warn European consumers about genetically modified food) was put on the agenda of the

Committee on Trade and Environment for further study, giving some ground for the opponents of “Environment” in the WTO, including India.

The EU and Japan have been pressing hard for the Singapore issues. The final compromise reached is probably a masterpiece of multilateral diplomacy, stating that the members “agree that negotiations will take place after the Fifth Session of the Ministerial Conference (in 2003) on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations”⁹⁶. The EU and US reading suggests that the Singapore issues are on the agenda after 2003. India’s reading suggests that the Singapore issues are not on the agenda but can be included when members decide to do so in 2003. Further, the wording “by explicit consensus” raises the question about the difference between explicit and implicit consensus. The WTO works for any important decision by consensus, hence repeating this basic principle has probably no real value. However the interpretations differ, one conclusion can be firmly drawn, the Singapore issues are *not excluded* by the Doha Ministerial Declaration from the long-term agenda.

After the hard work finding a compromise formula for “Environment” and the Singapore issues, the EU agreed in all parts.

Still, Textiles were not touched yet between the US and India, but the latter was now effectively isolated. At this moment it was India who faced the other 141 members. Unlike the situation where the EU was in the same position before, no other influential member rallied behind India. The US

⁹⁶ World Trade Organization, WT/MIN(01)/DEC/W/1, *Ministerial Declaration*, November 14, 2001 (accessed November 14, 2001); available from www.wto.org.

conceded on three of India's demands regarding Textiles. But the US held firm against any concessions on changing the way it calculates quota growth that would have increased textile market access unilaterally⁹⁷. After hours of hectic behind-the-scenes bargaining in the early morning of Wednesday, India ended its retreat-battle accepting a statement by the Chairman of the Conference. As Touval states: "The prospect of finding oneself alone on an issue over which agreement exists among a large group of states can sometimes be uncomfortable for governments. To avoid isolation, states may withdraw their objections, enabling a consensus or unanimous decision to be adopted"⁹⁸. Although India is historically not afraid of isolation, the previous gains on TRIPS, Anti-Dumping, and Agriculture, were too important to be lost. Further, the mentioned statement offers an interpretation of the above-mentioned "explicit consensus" clause⁹⁹ for the Singapore issues, which appeared to give members the right to block eventual negotiations¹⁰⁰. Hence, while the Ministerial Declaration yields probably the EU's and US

⁹⁷ "US fends off major Textiles implementation demands," *Inside US Trade* (November 15, 2001).

⁹⁸ S. Touval, *op. cit.*, 362.

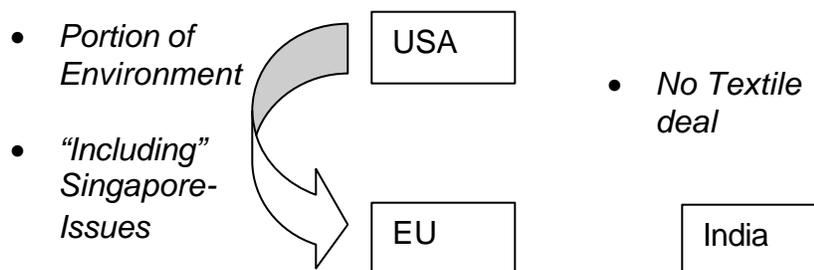
⁹⁹ "WTO agrees to launch new trade round," *Financial Times*, November 14, 2001.

¹⁰⁰ Extract from the Chair's final statement: "I would like to note that some delegations have requested clarification concerning Paragraphs 20, 23, 26 and 27 of the draft declaration. Let me say that with respect to the reference to an 'explicit consensus' being needed, in these paragraphs, for a decision to be taken at the Fifth Session of the Ministerial Conference, my understanding is that, at that session, a decision would indeed need to be taken by explicit consensus, before negotiations on trade and investment and trade and competition policy, transparency in government procurement, and trade facilitation could proceed. In my view, this would also give each member the right to take a position on modalities that would prevent negotiations from proceeding after the Fifth Session of the Ministerial Conference until that member is prepared to join in an explicit consensus." Source: World Trade Organization, Chairman's final statement, by Youssef Hussain Kamal, November 14, 2001 (accessed November 14, 2001); available from http://www-heva.wto-ministerial.org/english/thewto_e/minist_e/min01_e/min01_chair_speaking_e.htm.

interpretation, the statement by the Chairman leans more towards India's interpretation.

Generally spoken, "ambiguity produces the illusion of agreement where little agreement actually exists"¹⁰¹. Consequently, "it increases the risk of a bitter dispute developing over conflicting interpretations of the document"¹⁰²." Hence, the perspective on 2003, when the next ministerial meeting will be organized, is not very promising.

Graph 4. *The final showdown*, early morning on Wednesday, November 13, 2001:



The reconstruction of the events, using only publicly available information, suggests that the Indian minister of commerce and Industry, Maran, did not reveal the true deal when admitting that India yielded some ground on "Environment" to gain substantially in agriculture, on which the EU was adamant¹⁰³. This Thesis' analysis suggests that India engaged in a poker game when joining the EU blocking the Draft and asking for the Textiles issue. In case India had supported the Draft, stating that it could agree with it as long as it would not be changed, the EU would have faced a tremendously

¹⁰¹ S. Touval, *op. cit.* 362.

¹⁰² S. Touval, *op. cit.* 362.

¹⁰³ "Doha declaration positive for India: Maran," *The Times of India*, November 16, 2001.

difficult task regarding including “Environment” and achieving stronger wording on the Singapore issues. In this hypothetical scenario, the US – acknowledging India’s restraint regarding Textiles – would not have supported the EU for enlarging the agenda, but it would have clearly supported India for *not* enlarging the agenda.

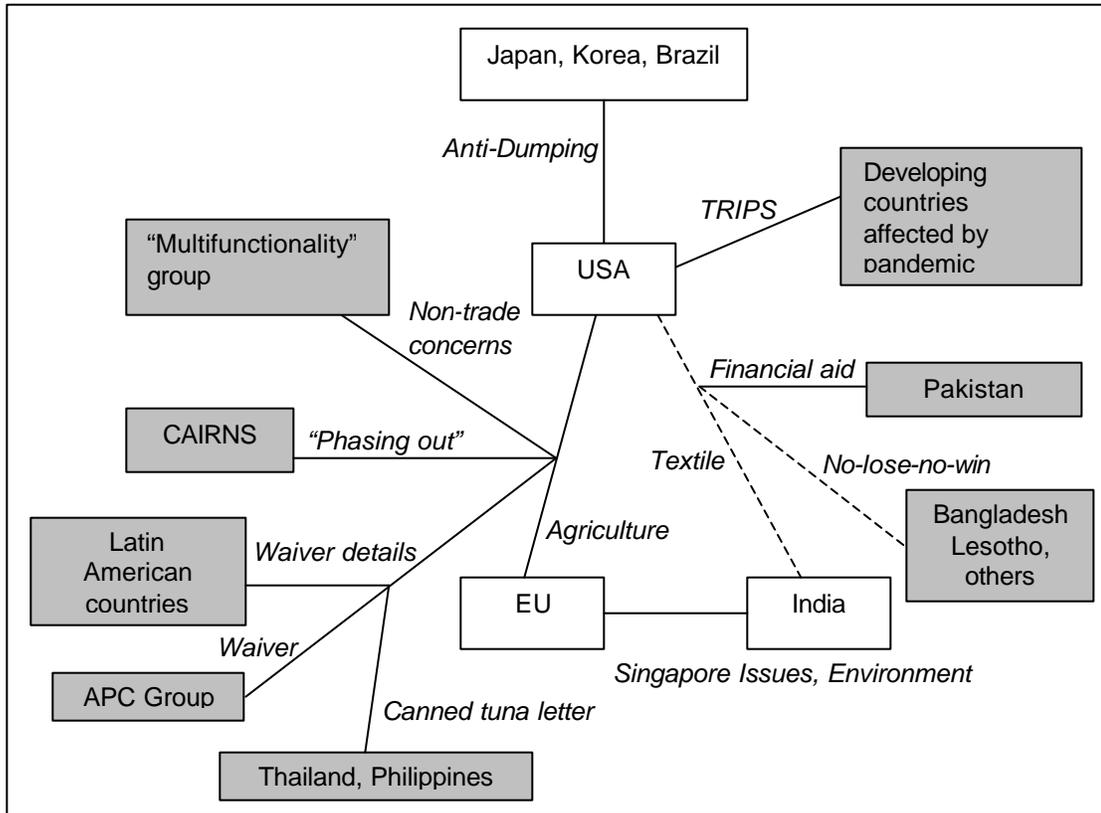
India’s tough stance during the above explained three player game is even more questionable considering official Indian sources saying that higher Textiles quotas during the interim period before all quotas are abolished in 2005 were of some commercial value but did not represent India’s “core concerns” – because India is at present not being able to fully utilize the quotas it has in many overseas markets¹⁰⁴. Concluding, the 18 hours of holdout by the Indian minister of commerce and industry for Textiles was a risky tactic¹⁰⁵. India had to “pay” in terms of “Environment” and the Singapore issues.

¹⁰⁴ “India fumbled in the last lap of Doha talks,” *The Times of India*, November 16, 2001.

¹⁰⁵ An excellent critique of India’s negotiation position and conduct is given by: Panagariya, Arvind, “India at Doha: Retrospect and Prospect.” *Economic and Political Weekly* (January 26, 2002).

The following graph summarizes the negotiation process:

Graph 5. Summary of the negotiation process:



Obviously, smaller developing countries can be part of various groups and potentially accumulate gains achieved by different groupings over a range of issues. Smaller developing countries use of various groupings is an important tool to achieve goals in multilateral negotiations.

Findings and hypothesis testing

Having analyzed above the negotiation process, the stated hypotheses shall be tested and findings presented. The hypotheses stated earlier are recalled:

Hypothesis 1: Smaller developing countries can to a certain extent influence multilateral negotiations.

Hypothesis 2: Smaller developing countries can achieve substantial results in multilateral negotiations disproportional to their economic size.

The term “smaller developing country” is used as defined in the beginning of the Thesis.

Notably, the “gains” and “successes” described below are in terms of the countries’ negotiation objectives. The negotiation objectives stated before the negotiations are the only measure used for determining success or failure. They do not always correspond with gains in economic welfare. Therefore, the Thesis does not intend to determine the winners and losers of Doha in economic terms but purely from a negotiation analysis perspective.

As noted above, countries are often part of several like-minded groups and can collect gains achieved in each group. Therefore, the following evaluation of achievements is by groupings not by individual country, with one exception. This approach is meaningful because no smaller developing country could achieve any objectives without the use of like-minded groupings, as shown below.

Finally, hypothesis two uses the term “disproportional to their [the smaller developing countries] economic size”. It is assumed that in a bilateral negotiation between a smaller developing country and economically speaking a considerably larger country, the former could secure gains only proportional

to its economic size relative to the other negotiation party or even less than that.

Evaluation of achievements

The CAIRNS-Group

The CAIRNS-Group influenced the negotiation process substantially stating before the negotiations its clearly defined objective, the “phasing out” of agricultural export subsidies.

The group achieved its objective, although the language is softened with the introduction of “without prejudging the outcome”. Nevertheless, smaller developing countries being agricultural product exporters such as Argentina, Bolivia, Chile, Colombia, Costa Rica, Fiji, Guatemala, Malaysia, Paraguay, Philippines, Thailand and Uruguay and members of the CAIRNS-Group could achieve substantial gains disproportional to their economic size.

The reason for their success can be found first in the well-organized and clearly focused alliance with large developing countries, such as Brazil, Indonesia and South Africa and developed countries, such as Australia, Canada and New Zealand. Second, the CAIRNS-Group’s objectives were congruent to a certain degree with US objectives.

ACP-Countries

The 77 members of the Group of African, Caribbean and Pacific Countries can all be considered as smaller developing countries with exception of Nigeria and South Africa.

The ACP-Countries influenced the negotiation process making its agreement on the launch of a new trade round, and specifically agreeing on the agenda for further liberalization in agricultural trade, conditional on the waiver for the Cotonou-Agreement.

The Group achieved its objective and the waiver was granted. The ACP-Group's effective realization of the objective was disproportional to its economic size. However, it is a moderate success because in GATT's history this waiver was usually granted. Nevertheless, the APC could influence the timing of granting the waiver and did so successfully.

The reasons for the group's success are first the EU's active support for the waiver, second, the large number of the group making it less vulnerable to pressure.

Latin American countries

Several smaller developing countries from Latin America, notably Guatemala, Honduras and Nicaragua pursued the limited objective to define the scope and term of the waiver for the Cotonou-Agreement. The group influenced the negotiations making its agreement on the waiver conditional on its demands for the waiver's scope and term.

The group achieved its limited objective. The countries' apparent influence was greater than their economic political importance would suggest.

The reasons for the group's success are very likely to be that first, the group pursued only a very limited objective, and second the US acted as a

broker although its interests were not entirely congruent with the Latin American countries involved.

Thailand and the Philippines

Thailand and the Philippines pursued the limited objective using the Doha Conference to push an old dispute with the EU over the imports of canned tuna as discussed above. The two countries made their agreement on the waiver for the Cotonou-Agreement conditional on a promise by the EU to engage in direct negotiations over the subject.

Thailand and the Philippines achieved their objectives receiving a letter from Pascal Lamy promising consultations. Although no substantial progress of the consultations undertaken is done, the limited objectives for Doha could be achieved. However small the EU's concession was, the comparison of the countries involved suggest that Thailand and the Philippines could secure concessions disproportionate to their economic.

The reason for success was probably the EU's ease to give promises and therefore not having to deliver concessions in substance. No large developed or developing country supported Thailand and the Philippines or actively brokered between the EU and the two smaller developing countries.

"Multifunctionality" Group

Smaller developing countries such as the Czech Republic, Hungary, Ivory Coast, Mauritius, Madagascar, Tunisia, Turkey and Senegal are part of

the “Multifunctionality” group. The group’s objective was the recognition and introduction of the notion “non-trade concerns” in the new round’s agenda.

The group achieved its objective entirely. Smaller developing countries involved could secure a result greater than their economic size would suggest. However, success in substance for the coming negotiations will be difficult to secure.

The group’s success stems first from the support given by the EU (similar to the relationship between the CAIRNS-Group and the US). Second, the developing countries joined together with developed countries (such as Norway, Iceland, Israel, South Korea, and Switzerland) giving the group broader recognition and greater weight.

Least-developed countries (LDC’s)

Least-developed countries¹⁰⁶, such as Bangladesh, Lesotho, and others pursued two objectives¹⁰⁷. First, to secure better market access only for least-developed countries; second, to assure that transitional quota arrangements in the Textiles and Clothing Agreement would not be changed in favor of major competitive exporter such as India and foremost China.

¹⁰⁶ The group “least-developed countries” are defined by the United Nations. Countries fulfilling the group’s criteria are: Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Democratic Republic of Congo, Djibouti, Gambia, Guinea, Guinea Bissau, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Niger, Rwanda, Senegal, Sierra Leone, Solomon Islands, Tanzania, Togo, Uganda, Zambia. Source: World Trade Organization. *Least-developed countries in the WTO* (accessed April 24, 2002); available from http://www.wto.org/english/tratop_e/devel_e/d1who_e.htm.

¹⁰⁷ Bangladesh is not part of the ACP and therefore, the country cannot benefit from the waiver granted for the Cotonou-Agreement.

The least-developed countries could not achieve better market access for only least-developed countries, but was assured that transitional quota arrangements would not change in favor of competitive exporters. Therefore, the LDC's achieved their objectives partially not losing anything but being not able to secure gains as well.

The main reason for the success regarding the status quo for the Textiles and Clothing Agreement cannot be related to the least-developed countries efforts but only to US domestic politics. Therefore, the least-developed countries did not exert any influence and could not assure any gains related to their efforts. This outcome is probably proportional to the economic size of the countries concerned. Although the LDC's interests regarding Textiles and Clothing were not congruent with the interests of Pakistan (discussed below) and with India, all were powerless in front of US domestic politics.

Pakistan

Pakistan's objective was to accelerate the implementation of the Agreement of Textiles and Clothing, similar to India.

The country could not achieve its objective but was rewarded with financial aid and debt relief by the US.

The principal reason for Pakistan's failure has to be found in US domestic politics prohibiting any change of the current Textiles and Clothing Agreement. Taking into account the financial aid and debt relief given by the

US for its assistance during the war in Afghanistan, the negotiation results for Pakistan concerning Textiles suggest that the achievements were proportional to the country's economic size. The substantial aid promised by the US as discussed earlier corresponds to the country's political importance regarding the war in Afghanistan. Another reason for failure is that the country's objectives were contrary to the interests of many other developing countries (such as the LDC's discussed above). Finally, although Pakistan formed an implicit coalition with India – a large developing country – it could not achieve its objectives.

Smaller developing countries affected by pandemic diseases

Practically all developing countries, including smaller developing countries, had the objective of an agreement on the interpretation of TRIPS allowing overriding patent protection under certain circumstances.

The objective was achieved to a large extent and the result was to the highest satisfaction of all developing countries.

The reasons for the success regarding TRIPS are not clearly discernable but several factors shall be mentioned. First, the issue was broadly publicized and public opinion was influenced in developed and developing countries, when pharmaceutical companies tried to enforce patent protection in court, especially the cases in South Africa. Developed countries' governments could not ignore the demands presented. Second, the issue united practically all developing countries – a rare fact in the WTO and it was

proactively pushed forward by Brazil, India and South Africa. Third, Non-Governmental Organizations efforts, at home and in Doha, created a counterweight against the lobbying by pharmaceutical companies and enhanced the issue's visibility for public opinion. In summary, larger developing countries, such as Brazil and India, influenced and shaped the negotiations. The substantial achievement suggests that smaller developing countries realized a result bigger than their economic size would suggest.

"Development Box" Group

Although the issue was not discussed earlier in this Thesis, it shall be briefly exposed here. All members of the "Development Box" Group are smaller developing countries: Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador. The group's objective was to introduce a "development box" in the Agreement on Agriculture broadening and deepening "Special and Differential Treatment" for developing countries, i.e. assuring developing countries are not or only symbolically bound by the Agreement on Agriculture¹⁰⁸.

The group did not achieve its goal introducing a "Development Box" in the agenda. However, the wording of the Ministerial Declaration introduces the group's demands in substance, without a formal "Development Box"¹⁰⁹.

¹⁰⁸ World Trade Organization. G/AG/NG/W/13, *Agreement on Agriculture: Special and Differential Treatment and a Development Box*, June 23, 2000.

¹⁰⁹ World Trade Organization, WT/MIN(01)/DEC/W/1, *Ministerial Declaration*, November 14, 2001. The relevant passage shall be replicated: "We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as

The developing countries' reaction suggests success in substance although defeat in the form¹¹⁰. Unfortunately, as Finger pointed out, developing countries would mostly be better off if they themselves observed the disciplines¹¹¹. In this light, the group's success in achieving its negotiation objective can very well result in a loss of economic welfare or slowing down the drive for reforms.

The smaller developing countries' influence and negotiation success disproportional to their economic size can be explained by the following reasons: first, the issue was of minor importance for the major players in the WTO and it was not demanding major players to spend any "negotiation capital" in Doha or "political capital" at home; second, NGO's mobilized certain additional support within industrialized countries in favor of a more flexible position.

Summary

The following table summarizes the evaluation above. The sign (+) indicates the country or group fulfills the indicated criteria. The sign (-) indicates the country or group does not fulfill the criteria.

to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development."

¹¹⁰ The Third World Network, *CAFOD Analysis of WTO Doha Declarations*, by Duncan Green, November 20, 2001 (accessed April 13, 2002); available from <http://www.twinside.org.sg/title/cafod.htm>.

¹¹¹ Finger, Michael J.. *The Doha Agenda and Development: A view from the Uruguay Round*. Washington: American Enterprise Institute (May 10, 2002): 16.

Table 1. *Summary of evaluation:*

<i>Grouping/Country</i>	<i>Interests partially congruent with the EU or US</i>	<i>Coalition with big developing countries</i>	<i>Objective achieved</i>
CAIRNS Group	+	+	+
ACP	+	-	+
"Multifunctionality" group	+	-	+
Smaller dev. countries affected by pandemic diseases	-	+	+
Latin American countries	US a broker	-	+
Thailand and Philippines	-	-	+
LDC's	-	-	Partially
Development Box Group	-	-	Successful in substance
Pakistan	-	+	-

Some conclusions can be drawn at this point. Broadly speaking, a developing country can form two types of "winning coalitions". The first type of a "winning coalition" is explicitly or implicitly supported by either the United States or the European Union. The second type of a "winning coalition" includes large developing countries. Obviously, a combination between the first and the second type of a "winning coalition" is the most strongest coalition possible for a smaller developing country. The CAIRNS Group shows the "winning coalition" with both types combined working in reality.

Without such a "winning coalition" smaller developing countries could achieve their objectives only if the goals were very limited (in the case of the

Latin American countries) or very moderate (in the case of Thailand and the Philippines).

Conclusion

The analysis of the negotiations in Doha suggests that smaller developing countries influence multilateral negotiations only to a limited degree. However, using various discussed strategies they are able to put relevant issues on the negotiation table. More powerful WTO members have to pay attention to their concerns although they will usually not meet all the demands.

The findings suggest that smaller developing countries can achieve substantial gains disproportional to their economic size; or in other terms, smaller developing countries can secure gains in a multilateral negotiation such as the Doha Conference that would have been highly unlikely to realize in a bilateral or plurilateral negotiation setting.

However, the road to success for smaller developing countries is defined and negotiation strategies need to be adjusted accordingly.

The very first and most robust finding is that smaller developing countries cannot attain their objectives individually. They need to create formal or informal coalitions and groups of like-minded countries.

Second, those groups of like-minded countries should seek support first from either the US or the EU. As American and European interests are often not congruent, smaller developing countries can join the more

appropriate of the two WTO-members. Although Japan commands an economy comparable in its size to the US and the EU, no coalition between smaller developing countries and Japan could be found. Further, large developing countries need to be actively invited and informed in order to strengthen the “winning coalition”. The findings of the Doha Conference suggest that a broad coalition between larger and smaller developing countries without the US and the EU can be successful.

Third, smaller developing countries not able to forge “winning coalitions” can still exert influence and achieve their aims if their objectives are limited. The use of the EU or the US as a broker is another strategy under the same condition.

Fourth, the case of the TRIPS Declaration suggests that smaller developing countries can achieve their goals better when competent NGO’s broaden public awareness in developed countries long before the negotiations. Several conclusions drawn here can be found in the relevant literature about GATT’s negotiation history. However, the conclusion reached regarding the role of NGO’s in the TRIPS negotiations – or more accurate their role *before* the negotiations – needs confirmation in the future. Without the latter, the TRIPS negotiations in Doha would be an exception.

Obviously, the extensive coalition building activity required to achieve objectives in a multilateral trade round demands a well-trained and sufficiently staffed trade delegation. In the short term, smaller developing countries need to focus on a small number of highly important issues. Like-minded countries

can divide the workload installing delegates representing the group and reporting and coordinating for the latter. However, in the long term smaller developing countries need to increase the number of delegates. Although Trade Representatives have no budget, financial support from industrialized countries for capacity building is needed. Industrialized countries not granting badly needed financial support on the grounds that potentially adversary negotiators would be funded is blind and short term oriented because the WTO's legitimacy is at stake.

Having drawn the conclusions regarding the hypotheses tested, some more general conclusions shall be presented.

Having exposed the limited strategies available for smaller developing countries to achieve their negotiation objectives, it is notable that the leading industrialized countries such as the EU, US and Japan do not necessarily have effective ways of shaping the agenda. The case of the EU in Doha shows that even "trade-elephants" cannot be assured of achieving their objectives – and sometimes are not able to do so. For the US, it was only Zoellick's very offensive agenda – regarding TRIPS and Anti-Dumping – and his personal qualities as a broker that avoided a fate similar to the EU and probably a failure of Doha.

The analysis of the negotiations' background underlines the importance of the election cycle, demonstrated in the case of the US for the Ministerial Conference in Seattle and in the case of France, India and to a limited degree of the US for the Ministerial Conference in Doha. Careful

timing of a crucial Ministerial Meeting is essential, although events such as September 11th are beyond control.

Further, a rather simple but practical conclusion to be drawn is that Governments should run the numbers before getting to the negotiation table. A purely economic analysis of the impact of various potential negotiation outcomes before setting the negotiation priorities could reduce problems such as bound rationality of actors or incomplete information.

Regarding the negotiation structure, the institution of the “friends of the chair” – the so-called “green men” – was a clear improvement and enhanced participation of developing countries. With a view on the selection of the “friends of the chair”, the author suggests to have at least one facilitator from “low” and “lower middle income” countries, or in short form the poorest WTO member countries. Their function could either contain the job as a Vice-Chairman or as a “friend of the chair” regarding development issues without repeating the experience of the Chairman of the General Council in Seattle.

Further, the selection process of the “friends of the chair” was neither transparent nor “rules based”. The WTO – a rules based and member-driven organization – should give itself the rules how to select facilitators. An explicit understanding giving the power of selecting facilitators to the Chairperson of the Ministerial Meeting, the Chairman of the General Council, and the Director General by a unanimous nomination would eliminate uncertainty and much critique.

The very same critique applies for the procedure regarding the power to submit a draft Ministerial Declaration to the Ministerial Conference explicitly not claiming for consensus. An unambiguous understanding giving the power to submit such a document to the Chairman of the General Council and the Director General by unanimity would eliminate unnecessary critique as well.

Concluding the shadow of Seattle making believe that no consensus between developed and developing country is possible is extinguished. Although a lot of hard work is still ahead and it is at least doubtful whether the ambitious agenda can be timely realized, the global multilateral framework for trade is functioning. WTO-members will perhaps remember Doha as a relatively “easy” launch because of the very special circumstances and because a new member that will alter the game significantly did not yet take part: China.

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APPENDIX 1: WTO Ministerial Declaration, 2001

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/1
20 November 2001

(01-5859)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.
2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.
3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We

recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.

4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO's continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation-Related Issues and Concerns in document WT/MIN(01)/17 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.

AGRICULTURE

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

SERVICES

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV

and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

INTERACTION BETWEEN TRADE AND COMPETITION POLICY

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

TRANSPARENCY IN GOVERNMENT PROCUREMENT

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

TRADE FACILITATION

27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in

particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO RULES

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.

DISPUTE SETTLEMENT UNDERSTANDING

30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.

TRADE AND ENVIRONMENT

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

- (i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;

- (ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;
- (iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

- (i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;
- (ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and
- (iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31(i) and (ii) shall be compatible with the open and non-discriminatory nature of the multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

ELECTRONIC COMMERCE

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date

demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

SMALL ECONOMIES

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

TRADE, DEBT AND FINANCE

36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TRADE AND TRANSFER OF TECHNOLOGY

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TECHNICAL COOPERATION AND CAPACITY BUILDING

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

LEAST-DEVELOPED COUNTRIES

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We reaffirm the commitments we undertook at LDC-III, and agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for Least-Developed Countries to design such a work programme and to report on the agreed work programme to the General Council at its first meeting in 2002.

43. We endorse the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential

treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

- (i) all Members of the WTO; and
- (ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

APPENDIX 2: Declaration on the TRIPS Agreement

WORLD TRADE ORGANIZATION

**WT/MIN(01)/DEC/W/
2**
14 November 2001
(01-5770)

**MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001**

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.
2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.
3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.
4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:

In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.

- (a) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.
- (b) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.
- (c) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.
