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# Collapse at the WTO: a Cancun post-mortem

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ABSTRACT *This article offers an analysis of the collapse of the WTO talks in Cancun in September 2003. It argues that the collapse of the talks should not be regarded as a victory for the developing world, as many have suggested. Rather, the collapse should be seen as the inevitable result of deep-seated tensions within the* WTO*'s institutional framework, both in terms of the processes that underlie its working and the substance of its agreements. The article argues that these imbalances, if not corrected, will heighten the alienation of developing countries and work to the detriment of the legitimacy and survival of the* WTO.

As one analyst has put it, 'Cancun collapsed, but it wasn't Seattle'.[1] Indeed, the immediate causes of the collapse at Cancun were very different from those that prompted the 'debacle at Seattle'. That, however, should bring small comfort to the World Trade Organization (WTO) or its constituent members.

Diverse explanations have been advanced to explain the collapse at Cancun. Familiar targets in the blame game are the developing countries, their industrial counterparts, the decline of US hegemony, the crisis of capitalism, counter-productive negotiating strategies, and the NGOs that incited developing countries to adopt such hard-line strategies. We suggest, however, that these are not explanations of the collapse. Rather they are symptoms which point to a deep-rooted malady within the WTO. We argue that the root causes of the failure at Cancun relate to the design and workings of the WTO as an international institution, and substantive imbalances in its agreements. We posit that the WTO is riddled with some serious flaws of institutional design, and that its regulatory framework has evolved in a highly uneven and deeply problematic manner. In combination, these factors have given rise to some of the aforementioned symptoms. These, in turn, caused the collapse of the meeting. Our argument suggests that, if the multilateral trading system is to move beyond the collapse in Cancun and begin delivering benefits to all its members, these issues need to be addressed directly and urgently. But to do so requires more than just a concerted effort to paper over the political fault lines that crystallised in Cancun. It requires a rationalisation of the WTO's institutional design and a re-balancing of its substantive base.

Our analysis unfolds in four sections. In the first section we identify and

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consider the extent, impact and significance of failing WTO procedures. In the second section we uncover and explore the unevenness in the WTO's legal framework, wherein previous and existing provisions (and problems arising therefrom) are overlaid with new and ever more extensive commitments. In section three we examine the coalition activities of member states in Cancun and tie these together with the preceding sections. In the final section we offer our concluding comments.

## Flaws in institutional design

Much of the tension that was apparent in Cancun resulted from the manner in which the WTO was designed. Unlike many of its intergovernmental counterparts, the institutional features of the WTO were not decided afresh. Instead, they evolved from its predecessor institution, the General Agreement on Tariffs and Trade (GATT). This is perhaps inevitable given that the GATT was the principal means by which international trade was regulated in the postwar years and the basis upon which the WTO was established; and it was the model agreement around which its more recently negotiated siblings were fashioned.[2] But the WTO has also inherited the GATT practice of rule making 'on the hop', including, among other things, the adoption of a system of one-member-one-vote (on paper), consensus-based decision making (in practice), a minimal role for the Secretariat, making the WTO a 'member-driven organization', and the centrality of informal diplomacy in arriving at consensus.[3]

The problem, however, is that what (just about) worked for the GATT does not fare so well in the WTO. Unlike its predecessor, the WTO is no longer the 'rich nations' club' from which developing countries could afford to maintain a studied aloofness.[4] The WTO's mandate extends well beyond the border measures covered by the GATT into the 'new issues' of the Uruguay Round, i.e. services, intellectual property rights and investment measures, and even regulatory areas such as technical barriers to trade, and sanitary and phytosanitary measures. The WTO further regulates these areas through a strengthened Dispute Settlement Mechanism, which can allow cross-sectoral retaliation under the Single Undertaking. Given the far-reaching scope and intrusive nature of its rules, its developing country members (which constitute some four-fifths of its 148-strong membership)[5] are no longer willing to stand on the sidelines waiting for decisions to be made in 'Green Room' meetings.[6] The costs of informal diplomacy, of bilateral deals in corridors, and of selective meetings are very high, especially when the negotiated outcomes affect the entire membership of the WTO and the impoverished populations of the majority of its members. Developing countries can find themselves even more vulnerable to arm-twisting in bilateral meetings, and risk complete marginalisation from the process if they are unable to keep track of the selective meetings to which they are not invited. The importance of having an institutionalised set of rules governing inter-state negotiations in the WTO has become patently visible to all. Unfortunately, this is precisely where the WTO is lacking.

The problems associated with a lack of transparency in WTO decision-making procedures have already received considerable attention elsewhere.[7] We will not

go into these in detail here, except to note that the reaction of developing countries to decision-making processes at Cancun has been mixed. In interviews with delegates from developing countries and with other delegates during the meeting, we found that at least some admitted to an improvement in terms of keeping members informed about Green Room meetings and their content, and allowing delegates time to consult among themselves and with their allies.[8] But this small improvement came with several costs, many of which are a direct result of the lack of a well established set of rules that makes the WTO prone to power-based improvisation and manipulation. The alleged telephone calls placed by US President George W Bush to the leaders of South Africa, Brazil and India in the run-up to Cancun to ease some of the 'inertia' in the latter's position on agriculture and on the Singapore issues[9] offer a powerful reminder. It is also worth emphasising that these problems run deeper than most discussions about the issues of the efficiency, transparency, democracy and accountability of this so-called 'medieval organization' have recognised.[10]

The persistence of Green Room and associated practices are not the only problems. The way in which the Cancun negotiating agenda was set also gives cause for concern. In the run-up to the meeting the Chair of the WTO's General Council, Ambassador Carlos Pérez del Castillo, issued a text 'on his own responsibility, in close co-operation with the Director-General'.[11] The text was to form the basis of the negotiations—rather than a bracketed text or a text actually agreed upon by members as is normally the case—and was accompanied by a covering letter pleading for energy, co-operation and agreement. It is true that the text did 'not purport to be agreed in any part at this stage, and is without prejudice to any delegation's position on any issue'. The covering letter from the Chair and the Director-General further clarified this. Nevertheless, by providing the basis for discussions at Cancun, the Chair's text played an important role in agenda setting, to the detriment of developing countries. For instance, while the text provided an Option 1 (to start negotiations) and an Option 2 (to continue work on clarification of the issues without starting negotiations) on the Singapore issues married to a version of how to move forward with the agricultural negotiations, the annexes attached to the text weighted the draft heavily towards Option 1 (thereby placing it closer to the stated positions of the USA, EU and Group of 9—later 10—than to the majority of developing countries).[12] The problems that the vast majority of developing countries had with Option 1 simply did not receive the same kind of attention, despite much dissatisfaction being expressed in Geneva before the meeting.[13]

This process of agenda setting by the Chair might have been somewhat more acceptable were it specified in WTO agreements and accompanied by a set of checks and balances that dissenting countries could use to ensure that their views received equal representation. Such rules or checks and balances, however, do not exist. In fact, the only excuse that may be given for accepting this form of agenda setting is that it has a precedent in the Harbinson text introduced in the run-up to the Doha Ministerial Meeting (9–14 November 2001). Much like the run-up to Cancun, though purported to be a means of forging consensus, the Harbinson text was vociferously questioned by some developing countries.

Indeed, had the Doha meeting not taken place just two months after the 11 September terrorist attacks in the USA, it is unlikely that the Harbinson text would have formed the basis for the discussions. Nevertheless, it did. To have silenced the voices of some developing countries once suggests bad practice, negligence and poor experimentation; to have done this twice in succession indicates that the WTO suffers not only from a democratic deficit but also from a shortfall in its rules. Despite all the emphasis in the WTO on the benefits of a rules-based system, we have a problem here of missing institutions.

Another example of haphazard improvisation is the new condition of 'explicit consensus' that was introduced at the preceding Doha Meeting. At India's insistence, the Doha Declaration introduced the requirement that negotiations on the contentious Singapore issues could proceed at the Cancun meeting only on the basis of 'explicit consensus'. However, the term lacked any legal foundation or precise definition. As a result it was interpreted according to the convenience of different parties at Cancun. Some countries saw the explicit consensus requirement as referring to the modalities of the negotiations and implying that a commitment to begin negotiations had already been agreed upon; whereas others (including the majority of developing countries) interpreted it as the need for an explicit consensus to be reached on the possibility of the negotiations themselves. Additionally, there was no agreement on how an explicit consensus differed from a normal consensus, or how the former was to be implemented. It is hardly surprising that the EU chose to take advantage of these ambiguities and pushed strongly for movement forward on the Singapore issues, despite the statements issued by many developing countries early on at the Ministerial against including these issues for negotiation. It is also unsurprising that the Singapore issues were responsible for obstructing the process in the endgame. Had these ambiguities not been introduced in Doha a greater clarity of rules might have been possible and prevented the showdown as it came on the final days at Cancun.[14]

The penchant for improvisation in WTO procedures was also much in evidence during the selection process of the 'Friends of the Chair' or so-called 'Facilitators'—persons appointed to organise discussion in identified areas.[15] Even though an attempt was made to keep geographical representation in mind, several developing countries complained about the lack of transparency in the process of making these appointments.[16] This is unsurprising given that the appointments were not made by election or consensus; nor is it clear when, where or by which criteria the candidates were actually chosen. What is seldom fully appreciated is that these key individuals can, and did, exercise a great deal of agency. This was most obviously the case in the process that resulted in the production of a second draft declaration on the penultimate day of the meeting. In this, despite considerable hostility, the Chair of the conference and the respective facilitators had chosen to stick with near original sections of the text on agriculture and the Singapore issues rather than adopting, to varying degrees, aspects of the G-22 proposal submitted before the meeting.[17] This role is especially important in the absence of any formal rules about the proceedings and the reliance on GATT-like *ad hoc* procedures.

During the Ministerial, a delegate gave us the example of a meeting to discuss

development-related matters, scheduled to last four hours, but which was shortened to two hours by the facilitator. The time taken from this original multilateral meeting was used instead in bilateral consultations, in which developing countries felt even more vulnerable.[18] One of the few strengths that the weak have in their dealings with the strong is to operate in coalitions; bilaterals deprive them of the immediate support of their allies and expose them to exactly the kind of arm-twisting that a multilateral forum is supposed to reduce. Of course, bilateral meetings among negotiating parties are an inevitable part of any negotiation. But last-minute bilateral meetings among negotiating parties are quite different from institutionalised 'confessionals' with a Friend of the Chair early on in the negotiating process. Such bilaterals actually change the nature of the Ministerial forum and tip the balance even further away from multilateralism.

Despite the problems with bilaterals, the system of confessionals figured strongly among the new methods introduced to arrive at consensus in Cancun. This involved a facilitator attempting to meet with countries bilaterally to try to shift the discourse from grand rhetoric to actual bottom-lines. However, some delegates complained that if they revealed their bottom-lines up front, they would have nothing left to negotiate with (thereby restricting their ability to engage in close card play).[19] Viewed from this perspective, the so-called confessionals were not a productive use of the limited time available at the Ministerial. Further, some delegates saw these meetings as somewhat more pernicious than just a waste of time. These delegates viewed the bilateral meetings as yet another device to pressure them into submission by depriving them of the already limited power that they can share by standing together as a group in a multilateral or small group meeting.

Even more controversial was the decision of the Chair, Mexican Foreign Minister, Luis Ernesto Derbez, to call the meeting to a close. All precedent had suggested that the meeting would be extended beyond the official 14 September close, and indications were emerging that even the most stalwart of members was willing to concede ground (in the case of the EU, this consisted of a last minute nod towards unbundling the Singapore issues). Reactions to the abrupt ending of the conference have ranged from suggestions that Mexico gave in to US pressure to end the conference; to an under-appreciation on Derbez's part of the shenanigans and brinkmanship that have come to characterise the final days of GATT/WTO meetings; to the closure of proceedings at a time in which at least a six-paragraph Ministerial Declaration was salvageable (thereby avoiding the embarrassment of Seattle where a Declaration was not agreed).[20] A few delegates have supported Derbez's difficult decision as a courageous and appropriate one: this option was preferable to extending the conference, papering over differences, and somehow arriving at a Doha-style deal comprising any of the Singapore issues and leaving agriculture unresolved.[21] Amid this debate, what is forgotten is that the whole point of belonging to an institution such as the WTO is that it provides members with a credible set of rules and guidelines in which to operate. What is the point of setting unrealistic deadlines, which the majority of the members assume will be missed (the result of previous experience) while others take them seriously? Similarly, the Organisation provides its

members with a Chair to run ministerial proceedings, but does little to specify the Chair's mandate and interaction with other members.

The instances cited above suggest that, in the absence of a firm set of guidelines, coupled with the pressure exerted by overly ambitious deadlines, the kind of institutional improvisation that emerged during the course of the meeting was aimed more squarely towards securing an outcome at all costs rather than pursuing a more widely accepted (and inevitably much less ambitious) common agreement. This way of reaching agreement may allow some short-term successes to occur, such as in Doha, but it lacks legitimacy and is responsible for the kind of hard-line negotiating tactics and failures that were much in evidence in Seattle and Cancun. Moreover, the lack of appropriate rules ensures that few safeguards exist to prevent inappropriate uses of power and influence.



### *The human dimension*

These design flaws were compounded by an acute imbalance in human resources, which served to accentuate further the vulnerability felt by many developing countries. The size of the official US and EU delegations was estimated to be in excess of 800 for each. When pressed, Japanese officials were unsure of the size of their delegation but estimated it to be between 'three and four hundred, maybe more'. New Zealand and Australia (with populations of roughly three and 18 million respectively) had delegations of 30 and 70. These stand in sharp contrast to developing country delegations. The Nigerian delegation, for instance, stood at 12; Malawi, having 'learnt' from previous meetings, took a delegation of 30; the Central African Republic contingent numbered three; and Barbados managed eight.

The size differentials between the various delegations point to some serious impediments to active participation in the negotiations. The size of the delegations from the industrial states enabled them to have at their disposal considerable specialist expertise on all potential areas of trade and related law. Moreover, their delegations were generously populated by private-sector representatives as well as by a few super-privileged NGO delegates. In contrast, the size of the delegations from the developing states ensured that their coverage was much less extensive. By necessity each developing country delegate was required to have a broad grasp of all the issues up for discussion (and, as a result, less specialist knowledge). And, whereas the good majority of industrial member delegates were employed in the same or related capacities in their national contexts, the same cannot be said for their developing country counterparts. Many developing country representatives were also central bankers, only loosely related government officials, diplomats with remits greater than just the WTO, heads of local chambers of commerce and the like. By necessity each was able to dedicate less time to trade issues than their developed counterparts.

These imbalances in expertise and human resources inevitably had an effect on the ability of developing countries to participate on an equitable footing in trade negotiations. During the course of our interviews the complexity of the agricultural negotiations was apparent. For example, one developing country delegate mistook 'export subsides' as potential funds to be utilised by develop-

ing states to assist in getting their produce into international markets rather than the payment by (largely industrial) national governments of a subsidy to make domestic produce competitive in the world market place.[22] Misunderstandings like these are common; they are well known; but they are seldom addressed.

## Asymmetries in substance

The fashioning of procedures on the hoof married to vast differentials in human resources do not fully account for the collapse of the Cancun meeting. Problems resulting from imbalances relating to the substance of the negotiations also played a significant part. While the WTO seems to be failing the greater majority of its members in terms of the rules that it provides, the rapid expansion of its commercial remit and the relative economic advantages arising therefrom has also created problems. Moreover, as we show below, the basis upon which this expansion has taken place has been highly uneven. The mechanism of this expansion is poor institutional design that allows the powerful to smuggle in their own agenda with few *quid pro quo*s for developing countries. As a result developing countries find themselves in a still weaker bargaining position, skewing the political balance within the WTO even further. In fact the new issues that now fall within the mandate of the WTO go well beyond the traditional border measures of the GATT. To a degree this expansion has been welcome, eg in the introduction of previously excluded areas such as agriculture, and textiles and clothing. But this expansion has also drawn in other areas including services, trade-related intellectual property rights, and trade-related investment measures, as well as technical barriers to trade, sanitary and phytosanitary measures, and customs valuation agreements, among others. Given the highly technocratic nature of these issues, poorly resourced developing countries find themselves ill-equipped to participate effectively in such negotiations, not to mention perplexed by their value.[23]

Taken in isolation, the Cancun discussions appeared as a mere 'tug of war' between, on the one hand, industrial states seeking to take the trade agenda forward by commencing negotiations on the Singapore issues and, on the other hand, developing members tenaciously pursuing market access into the notoriously protected agricultural markets of the North. The temptation here is to gauge success and failure on the outcome of any deal wherein concessions on agriculture signal a victory for the South and any movement on the Singapore issues is deemed beneficial to the North. Yet this is too simplistic an exercise.

Any deal brokered post-Cancun leading to the successful conclusion of the Doha Development Agenda (DDA) will put another layer of international trade law on top of that already negotiated under GATT/WTO auspices. As such, any assessment of the content of the current negotiations and their potential outcome must be placed in the broader context of the evolution of GATT/WTO law. But doing so is a sobering exercise. Placing the current round of negotiations in their proper context reveals 1) that the foundations upon which the discussions took place in Cancun were highly uneven; and 2) that any conclusion of the DDA is likely to perpetuate, rather than attend to existing asymmetries. To demonstrate these points, a little historical recap is necessary.

The WTO's regulatory system is built upon the legal provisions of what was originally intended to be a temporary agreement (the GATT) designed to kick-start the process of trade liberalisation in the immediate postwar period and, in doing so, to assist in the reconstruction of a war-torn (particularly in Europe) world economy.[24] Once the process of trade liberalisation was finally underway the GATT was to give way to a more extensive and elaborate set of rules administered by the International Trade Organisation (ITO). But the failure of the ITO to secure national ratification (particularly in the USA) elevated the GATT to the position of principal regulator of international trade. In doing so, it institutionalised a set of legal peculiarities which have an effect on the current WTO system.

Reflecting its initial purpose, the GATT's rules sought merely to liberalise trade flows in goods; and the pressing need to facilitate European reconstruction led to a natural concentration on liberalisation of industrial and related goods. The drafting of the GATT in the immediate postwar period ensured that few developing states were represented at its initial negotiation—this was a time before the mass rounds of decolonisation. As a result, the GATT did not contain elaborate provisions designed to deal with the specific challenges of economic development. The GATT's industrial character was reinforced during the 1950s and 1960s when, in response to the growing competitive advantage of newly independent states in the production of textiles/clothing and agricultural produce, the USA and UK led efforts to exclude these areas from the GATT's commercial remit. The result of these formative years was to privilege the liberalisation of semi-manufactured, manufactured and high-technology goods (precisely those in which the industrial states held a competitive advantage) over those produced by many of the soon-to-be-independent developing states.

Some recognition of the problems facing developing countries did occur during the GATT's early years. The 1958 Haberler report was a landmark in that it gave official recognition to some of the problems facing developing countries; however, it resulted in little action. This changed slightly in 1966 when 'Part IV' was annexed to the GATT, bringing with it the beginnings of Special and Differential treatment. The problem, however, was that Part IV was both lacklustre and lacking legal compunction; and areas of principal economic interest to the developing world (agriculture, and textiles and clothing) remained locked out of the GATT's purview. It was not until the start of the final round of trade negotiations held under GATT auspices—the Uruguay Round (1986–94)—that more substantive development-orientated provisions were adopted. Even then Uruguay did not rectify the unevenness in international trade rules.

The outcome of the Uruguay Round and the creation of the WTO rested on a bargain. It was not, however, a bargain of equal opportunity. Uruguay saw the inclusion of agreements on agriculture, and textiles and clothing within a wider umbrella of trade agreements administered by the soon-to-be-created WTO. But it also resulted in the adoption of agreements on services, intellectual property and investment measures. While the inclusion of agriculture, and textiles and clothing rectified an existing imbalance in the GATT framework, the introduction of new rules in services, intellectual property and investment measures simply generated another. Whereas under Uruguay rules developing states could finally hope to benefit from liberalisation in the crucially important areas of agriculture,

and textiles and clothing, their lack of capacity and resources ensured that this was not to be the case in the new areas. The potential fruits of Uruguay were much larger for the industrial states. Not only were they existing beneficiaries of trade liberalisation in areas covered by GATT rules, their economic make-up ensured they would be the principal beneficiaries of the market opportunities presented by the liberalisation of services and investment measures, and the codification of trade-related intellectual property rights in international trade law. What Uruguay clearly did, then, was to divide up the arenas of economic activity in which member states could specialise and, in doing so, to accentuate the problems facing developing countries seeking to diversify their export portfolios.

Matters were made worse soon after the conclusion of the Uruguay Round. Although the WTO enjoyed something of a honeymoon period, by the time it met to convene its third ministerial meeting in Seattle (late November/early December 1999) significant and all-too-familiar tensions had begun to emerge among its members. Little energy had been exerted by the industrial members to unpick their complex and extensive agricultural support systems and open up markets in this area. Significant problems had emerged with the implementation of Uruguay Round commitments. Not only was there much sloth in implementing agreed provisions, many developing countries were struggling with the legal burden with which they had been presented. These tensions were exacerbated by growing pressure from the USA and EU to extend yet again the remit of WTO rules to include the four Singapore issues, as well as to launch a new trade round. Moreover, talk of increasing the involvement of civil society organisations and exploring linkages between WTO rules and worker rights by industrial members was felt by many developing states to be diverting attention from the problems of development. Ill advisedly scheduled during the run-up to a US presidential election, and amid mass demonstrations, these tensions came to a head in Seattle. The result was the collapse of the meeting and the injection of much inertia into the process of trade liberalisation.

Seattle was followed by a public relations offensive designed to get the liberalisation process back on track. One dimension of this saw public statements by key international figures (including the UN Secretary General Kofi Annan) attesting to the necessity for development to be placed at the heart of any new trade round. The key, of course, was that any focus on development would take place only within the context of a new trade round, thereby leaving room for other issues to be smuggled into the frame. These statements of support aside, efforts to rejuvenate the WTO post-Seattle seemed moribund. But, in a macabre twist, the terrorist attacks on the USA just two months before the Doha meeting had a hand in garnering support for the launch of a new round of trade talks.

The bargain struck in Doha was nevertheless a mistake. It consisted of an agreement to revisit issues of implementation relating to the Uruguay Round accords, peppered with promises to explore the relationship between trade, debt and finance, the plight of small economies, the transfer of technology, technical co-operation and capacity building, and with a commitment to review and strengthen special and differential provisions. But this was included only in exchange for an agreement to discuss (subject to clarifications from the respective working groups) the modalities for negotiation in investment, government

procurement, trade facilitation, and competition policy in Cancun with a view (should 'explicit consensus' be forthcoming) to the commencement of talks in these areas shortly thereafter.[25] It was inevitable, then, that the industrial countries would arrive in Cancun expecting negotiation modalities to be hammered out on the Singapore issues, while their developing country counterparts were seeking movement on issues of implementation and the stalled process in agricultural negotiations and an extension of Special and Differential treatment. It was equally as inevitable that the draft text would not be able to bridge these differing expectations, or that the meeting would reach a successful conclusion. What resulted instead was an exercise in alliance and counter-alliance formation.



## The battle of the coalitions

Faced with a crunch, institutionally and substantively, several powerful coalitions of developing countries galvanised in the run-up to Cancun. These coalitions played a key role of resistance at the ministerial. The one that received the most publicity at the time was the G-22 (originally the G-20), led by Brazil, China and India, but there were several others also in operation that proved to be just as important in the endgame. The G-22 was a direct reaction to yet another attempt by the USA and the EU to arrive at a deal between themselves to the exclusion of the interests of developing countries, or, as one delegate put it, to 'pull another Blair House Accord on us'.[26] India and Brazil wrote the first detailed counter-proposal to the EU–US draft, which came to be supported by over 20 countries. The coalition brought together some surprising allies. Perhaps the most striking of these diversities within the G-22 was that it combined Cairns Group countries like Brazil and Argentina with countries like India that had a defensive interest in agriculture. Despite prognostications to the contrary, and several bilateral pressures that were apparently used to divide the coalition, the G-22 held together. Key to the emergence of the group was the disillusionment of many developing countries with the EU–US text on agriculture and a memory of similar collusion in the past by the developed countries. It was this same disillusionment that allowed them to arrive at compromises among themselves and thereby to build a sustainable common platform. Examples of this compromise are the support of the G-22 (including its Cairns Group members) for Special and Differential treatment and the non-trade concerns of the least developed countries (LDCs); and, rather than go for the Swiss formula approach or the Uruguay Round formula to the negotiations, the group proposed a blended formula. The unity of the group and its hard line on the reduction of agricultural subsidies by the developed countries was in good measure a result of years of being hoodwinked into new commitments with poor returns.

Another coalition that emerged with an original idea in response to the inadequate provisions of Special and Differential treatment that the DDA and the Doha process had granted was the Coalition on Strategic Products and Special Safeguard Mechanism. Reports about coalition activity among 16 countries over this proposal can be traced back to at least late July 2003.[27] At the beginning of the conference the coalition comprised 23 members, including Barbados, Dominican Republic, Ecuador, Honduras, Indonesia, Jamaica, Kenya, Mongolia,

Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Tanzania, Trinidad & Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe. Its membership had expanded to 33 countries at Cancun. The coalition proposed that developing countries be allowed to define unilaterally what the particular special product was for each country and be granted special treatment on it. This was an original and proactive position. Some of its members revealed an awareness of the potential attempts they would face to buy them off. But they also indicated a willingness to stand together on the principle of identifying the strategic product, rather than giving in to the carrot of tariff quotas or some similar alternatives. Both coalitions—the G-22 and the Alliance on Strategic Products and Special Safeguard Mechanism—had some overlap of membership and both groups suggested that it would be possible for them to hold together when other developing countries were doing the same. A reverse domino effect of sorts seemed to be working in favour of the coalitions this time.[28]

Yet another new coalition that came into play in the run-up to and during the Cancun Ministerial was the group of four West and Central African countries (Mali, Benin, Chad and Burkina Faso) proposing a complete phase-out of subsidies on cotton and financial compensation for the LDCs until the subsidies were phased out.[29] In addition to the G-22, the Alliance on Strategic Products and Special Safeguard Mechanism, and the group on cotton, were those coalitions that had been active in the WTO since the previous Ministerials. Many of these coalitions were still carrying the burden of the demands that they had raised at Doha, which risked being brushed under the carpet despite the promises of the DDA. Particularly important among these were the groups of LDCs, the African–Caribbean–Pacific (ACP) countries, and the African Group.

In response to the Chair's controversial second text, the coalitions showed remarkable co-ordination. The ACP, LDC, African Group, Strategic Products Group and G-22 held consultations together. Alliances of sympathy emerged. Hence, even though many members of the Africa Group, ACP and LDCs were concerned about the issue of their eroding preferences in the face of liberalisation, they supported the position of the G-22. When the Africa Group refused to give in to the Singapore issues on 14 September, it had the moral backing of developing country coalitions across the board. The combination of these coalitions was the so-called G-90. The fact that they were able to maintain their positions in the endgame suggests that, finally, after years of signing agreements that they did not understand and that were reached through fuzzy processes of negotiation, developing countries had finally put their foot down.

## Conclusion

It is the emergence of the G-90 that many commentators point to as evidence of a victory for the developing world in Cancun. But it was only because of the institutional inadequacies, substantive imbalances and general feelings of embattlement that such a group was able to emerge. Admittedly, Derbez's decision to call the meeting to a close ensured that the solidity of the coalitions was not tested. Had Derbez allowed an extension of the conference, it is of course possible that the African Group might have given in to the EU's offer—made in

the last hour of the conference—of including just one Singapore issue. South Korea might have backed down from its sudden refusal to accept anything less than the four Singapore issues. The G-22 might have given in to the terms of a Chair's revised text. The Strategic Products' Group might have accepted yet another working party-type proposal to clarify its proposal rather than any commitment to their principle. The cotton producers might have accepted the minimal concessions yielded by the USA and arrived at in the negotiating group. And the coalitions might have collapsed had some juicier bilateral carrots been offered. All these counterfactuals are certainly open to investigation. But the fact that there were so many 'ifs' to reaching consensus even on the final day at Cancun suggests that there lay some deeper discontent with the proceedings. It is also worth recalling that at least some members of the coalitions had been cajoled and threatened to prompt defection as the conference had progressed. In the past most coalitions of developing countries had collapsed towards the end of the conference as a result of these pressures and the fear of being left alone as the sole country blocking consensus (eg the Like Minded Group at Doha). But this time, recognising the cumulative costs that they had incurred over the years as a result of their caving in, developing countries did not take the bait.

We have argued here that the *de facto* institutional evolution of the WTO and the haphazard expansion of its agenda have brought its members to this point. Were the institution and its substance to be rationalised, the WTO's credibility as a forum for negotiation would improve. Under such circumstances, it may be reasonable to expect the use of value-creating or integrative strategies by countries,[30] a slower but longer-lasting and sustainable process of rule making, and a smoother ride on the roller-coaster that has become the WTO. Without a process of reform the consequences are more troubling. Although developing countries were able to find some comfort in the formation of large coalitions, they are unlikely to be similarly comforted outside the WTO. The current US administration has stated that, in the face of a lack of progress in the WTO, it will pursue its trade goals bilaterally. In such circumstances developing states will find it harder to resist pressures to agree to open up markets and to lobby for reductions in US subsidy regimes. As such, the WTO represents the best forum in which developing countries can exercise most negotiating power—albeit it one that, at present, does not best serve their interests.



## Notes

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[1] Arvind Panagariya, quoted at http://www/brettonwoods.org/agtrade0903.html.

[2] See the architectural similarities between the gatt and the General Agreement on Trade in Services (GATS), the Agreement on Trade Related Intellectual Property Rights (TRIPS), and the Agreements on Agriculture, and Textiles and Clothing.

[3] Amrita Narlikar, 'WTO decision-making processes and developing countries', trade Working Papers, No 11, Geneva: South Centre, 2001, at www.southcentre.org.

[4] See Amrita Narlikar, *International Trade and Developing Countries: Bargaining Coalitions in the gatt & wto*, London: Routledge, 2003.

[5] One of the 'successes' of the meeting was the approval of membership protocols of Cambodia and Nepal, paving the way for their accession to the WTO.

[6] Green Room meetings are small group meetings, called at the initiative of the Director General. On average, about 20 members are invited, and these almost always include the Quad (Canada, Japan, the EU, the USA). These meetings attracted a great deal of controversy, particularly in the aftermath of Seattle, for their exclusionary character and secrecy, precipitating some efforts at small-scale reform.

[7] See Fatoumata Jawana & Aileen Kwa, *Behind the Scenes at the WTO: The Real World of International Trade Negotiations*, London: Zed Books, 2003.

[8] Telephone interviews with delegates from developing countries, 2–3 October 2003.

[9] The Singapore issues are Investment, Government Procurement, Trade Facilitation and Competition Policy. They are so called because agreement was reached at the WTO's first Ministerial Meeting in Singapore (9–13 December 1996) on exploring the possibility of extending the organisation's remit into these areas at some future point. See WTO, 'Singapore Ministerial Declaration', 13 December 1996, paragraphs 20–23.

[10] In his closing press conference at the Cancun meeting (14 September 2003) Pascal Lamy reiterated his view that the WTO's procedures are mediaeval—a view he first aired in the aftermath of the Seattle Ministerial meeting.

[11] JOB (03)/150, 24 August 2003.

[12] The original Group of 9 (net food importing states) comprised Bulgaria, Israel, Norway, Switzerland, Iceland, Korea, Japan, Liechenstein and Taiwan.

[13] For an analysis of the problems with the draft from a developing country perspective, see http://www.investmentwatch.org/articles/gu27august.html; also interview with delegates from developing countries, Cancun, 9–12 September 2003.

[14] Note that the bugbear of the Cancun conference had been agriculture and several commentators have expressed some surprise at the fact that Derbez attributed the impasse to differences on the Singapore issues rather than to agriculture. The differences on Singapore issues, however, were a direct result of inadequate institutional mechanisms and clarity, and thereby also precipitated the angry walk-outs staged by different countries.

[15] The five facilitators were: George Yeo Yong-Bong (agriculture, Singapore); Henry Tang Ying-yen (non-agricultural market access, Hong Kong); Mukhisa Kituyi (development, Kenya); Pierre Pettigrew (Singapore issues, Canada); and Clement Rohee (miscellaneous issues, Guyana).

[16] Telephone interviews, September–October 2003.

[17] A coalition of 20 countries, led by Brazil, China and India, had put forth a draft on agriculture as a reaction to the EU–US draft that had fallen far short of the expectations of developing countries. See the Joint proposal by Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Venezuela. WTO Document WT/MIN(03)/W/16, 4 September 2003. The G-20 later became the G-22 with the addition of Egypt and Kenya. A second alternative text on the proposed framework on agriculture was submitted to the meeting on 14 September 2003. For an example of reporting on the controversial role of the Facilitators, see http://in.rediff.com/money/2003/sep/15wto3.htm.

[18] Interview with a delegate from a developing country, Cancun, 12 September 2003.

[19] Interviews, September–October 2003.

[20] *The Economist*, 20 September 2003; and telephone interview, 3 October 2003.

[21] Telephone interview, 2 October 2003.

[22] Interview with developing country delegate, 12 September 2003.

[23] TRIPS is indeed one such area: most developing countries agreed to sign it in the Uruguay Round with scarce understanding of what the agreement actually meant.

[24] Rorden Wilkinson, 'The WTO in crisis: exploring the dimensions of institutional inertia', *Journal of World Trade*, 35 (3), 2001, pp 400–406.

[25] See wto, Doha Ministerial Declaration, WT/MIN(01)/DEC/1, 20 November 2001.

[26] Such fears had been voiced to the authors as early as May 2003 in interviews with delegates. The Blair House Accord refers to the compromise agreement that was reached between the EC and the USA in 1992 on agriculture. It fell far short of the expectations of the Cairns Group and continues to be cited as an example of collusion between the EC and the USA and the exclusion of developing countries.

[27] *Bridges Weekly Trade News Digest*, 28 July 2003, at www.ictsd.org/weekly/03-07-28/story4.htm.

[28] Amrita Narlikar & John Odell, 'The strict distributive strategy for a bargaining coalition: the Like Minded

Group and the World Trade Organization', paper presented to the Research Conference on Developing Countries and Trade Negotiations, UNCTAD, Geneva, 6–8 November 2003.

[29] TN/AG/GEN/4, Poverty Reduction: Sectoral Initiative in Favor of Cotton, 16 May 2003.

[30] See John Odell, *Negotiating the World Economy*, Ithaca, NY: Cornell University Press, 2000.