Beyond the Doha Round: Time to Reform the WTO
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ABSTRACT
The failure to reach an agreement at the Doha Round of trade negotiations is not only a bad omen for the efforts to strengthen global trade relations and collaboration, but it also does not bode well for the urgently needed measures that would enable the developing countries to accelerate growth and reduce poverty. The failure of Doha is bound to postpone the entire process of trade negotiations by several years, weaken the WTO by giving incentives to organize world trade in bi-lateral and regional trade agreements, and significantly damage the prospects of the least developed countries to develop their economies. It is paradoxical and indeed rather ironic that this should be the outcome of the round of negotiations that was meant to be “The Development Round.” This paper argues that the failure of Doha is largely due to a fundamental flaw of the current structure of the negotiations, specifically their organization within the framework of a Grand Bargain that includes many loosely related agreements and a multitude of modalities. The basic concept underlying the Grand Bargain is that it should facilitate the achievement of a compromise deal that represents a win-win quid-pro-quo for all participating countries. In practice, rather than facilitating the negotiations, this structure made them more difficult. The paper examines a different organization of the negotiations that is based on the principles of game theory, in which progress is made in a series of small steps with well-targeted agreements that require much less give-and-take and fewer concessions; therefore, fewer objections are likely to be raised, which would facilitate compromise at each step and keep the process moving.
Beyond the Doha Round: Time to Reform the WTO

To paraphrase a famous quip by Abba Eban, Israel’s eloquent Foreign Minister during the 1970s, the multilateral trade negotiations that started in Doha in 2001 and became known as the Doha Round, did not miss an opportunity to miss a deadline. The Doha Round was meant to be the “Development Round” that would help the least developed countries (LDCs) to accelerate their growth and end poverty. After missing the most recent deadline, the specter of failure at Doha puts at risk not only what could and should have been achieved to develop the multilateral trade system, but, more fundamentally, the authority of the WTO itself: The Doha Round is no longer expected to meet the final deadline for an agreement by the end of 2006, which would be necessary in order to conclude this round before President George W. Bush’s “fast-track” trade negotiating authority expires on June 30, 2007. Beyond that deadline, only symbolic agreements on trade and aid seem possible, and any significant progress in multilateral trade negotiations may be delayed to the end of the decade.

The deadlock in the Doha Round exposed not only the great complexity of the issues that were on the negotiation table, but, more fundamentally, the ever growing obstacles to reaching a multinational trade agreement. The problems derive from the fundamental and far-reaching changes in the structure of world trade during the past decade: The rising power of China, India, and Brazil; the expanding role of transnational corporations that shape the structure of world production and trade and gain growing influence on the economic and political decision-making in countries, and the proliferation of bi-lateral and regional trade agreements that change the balance of power in world trade. These developments require changes in the structure of the negotiation process on a new multinational trade agreement, because the negotiations are no longer determined through the bi-polar leadership of the US and the EU that dominated the previous rounds of trade negotiations by exercising a decisive influence on the agreements.

When the stalemate at the Doha Round became evident, Jagdish Bhagwati (2005) predicted that losses would be only temporary, and he argued that the failure to reach an agreement in this round did not necessarily mark the end of the process of trade negotiations or the end of the efforts to expand the multinational trade system, which
enabled all countries to reap large benefits from trade. The achievements of the GATT/WTO agreements in creating a collaborative structure of world trade are indeed outstanding and mark a fundamental change from the tensions and confrontations that characterized world trade a century ago.

For a number of reasons I cannot fully share Bhagwati’s optimism about the prospects of future rounds and continued progress: First, the deadlock at the Doha Round is likely to delay the next round of negotiations by several years. Second, while the failure to reach an agreement in the Doha Round will not halt the process of expanding world trade, it will favor structural changes through the proliferation of regional trade agreements. As a result, the stalemate in the multilateral trade negotiations would weaken not only future agreements, but also the rule of law in world trade that has been established by the GATT/WTO agreements; in addition, this would undo the leveling of the playing field in international trade that was one of the major achievements of these agreements because that enabled the developing countries to be integrated into the global trade system as equals. Third, the LDCs are likely to suffer the greatest losses from the probable changes in the structure and organization of world trade, not only because they may no longer be adequately protected by the rules of the current trade agreements that guarantee equal rights for all countries, but also because they have been excluded from most bi-national and regional trade agreements, and their growth prospects are much lower due to the increasingly dominant influence of transnational corporations (TNCs) on world production and supply.

There are two other reasons for concern about the prospects of much progress in future rounds. First, the structure of the negotiations in the Doha Round underwent a fundamental change with the shift from a bi-polar to a multi-polar balance of power. This shift presents a great challenge not only to the capacity of the WTO to broker new trade agreements, but also to its ability to settle trade disputes and its role as the widely accepted international organization that supervises and enforces the rules of world trade. Secondly, there is reason for concern because the balance of power between member countries in the negotiations has changed: although the larger weight of the developing countries in the world economy and in trade was recognized in the Doha round and a sub-group of these countries formed the G-20 coalition represented
by India and Brazil, the LDCs were not given a proper representation in the negotiations, and their interests were often inadequately addressed when the details of the agreements were decided. In fact, if the Doha Round had ended successfully with a comprehensive trade agreement, there are reasons to suspect that quite a few LDCs would not have really gained from that agreement, and the goal to have a “Development Round” that would help to end poverty would not have been achieved.

The objective of this paper is to examine the impact of the changes in the structure and organization of world trade on the mode of operation of the WTO, and to suggest a number of changes for the negotiation process of future trade agreements in order to make them more manageable. One of the paper’s central arguments is that the main reason for the difficulties that the Doha negotiations encountered – which are likely to affect future rounds even more severely – was the very ambitious effort to achieve a ‘Grand Bargain’ on a wide range of agreements and a variety of different and unrelated issues that were loaded on top of the highly controversial agricultural trade agreement. The Grand Bargain strategy of putting together a large package of different issues had been effective in previous rounds that were initially dominated by the US, and later by the US and the EU that formed the two leading trading blocks and would secure a compromise and impose it on the others. However, pushing through a Grand Bargain has become far more difficult: the negotiation process now requires a “bottom-up” approach that takes into consideration the whims and wishes of all the 149 WTO members; at the same time, the leading trading blocks now number six – the G-6, which greatly complicates the haggling about concessions, trade-offs, and compromises. In the Doha Round negotiations, the G-6 had to reach a consensus on ‘modalities’ that list their commitments to reduce tariffs on thousands of products and cut farm subsidies, even though the negotiating parties not only had different priorities on many of the individual items, but often also conflicting interests. Difficulties like these are bound to be compounded exponentially with the rise in the number of negotiators.

A review of the pros and cons of the Grand Bargain strategy and other aspects of the multi-polar trade negotiations in the Doha Round will therefore be a major focus of this paper. This review will provide the basis to examine an alternative mode of operation that would facilitate more confined and targeted trade agreements. The
process of negotiation on such agreements is deliberately more limited, and this restriction would allow less confrontational and more manageable negotiations. Equally important, a limited agreement offers different principles for the formation of future trade agreements that would have important similarities to regional trade agreements, including many of their advantages, thus providing a solution that could be better suited to today’s global trade system and would, at the same time, uphold GATT/WTO rules and agreements and therefore preserve the main achievements of the multilateral trade system.

I. The obstacles in the Doha Round

Between the very first round of negotiations on a multilateral trade agreement that was launched in Geneva, Switzerland, in 1947, under the auspices of the General Agreement on Tariffs and Trade (GATT), and the 1986 Uruguay round, seven rounds of multilateral trade negotiations (MTN) were successfully concluded. However, few of these MTNs proceeded smoothly. Each successive round became more complex due to the increase in the number of member countries, which, under the rules of the GATT, had to reach unanimous agreement; in addition, the negotiations became increasingly complex with the ever expanding scope of the trade agreements, which came to include non-trade barriers, additional sectors, and additional subjects. Any new round thus required not only more difficult compromises between a larger number of stakeholders over more intricate issues, but also increased the involvement of more powerful lobbies that represented the vested interests of political and economic organizations and exerted increasing pressure on the decision making process. Thus, the Uruguay Round took a record eight years before it was concluded in 1994 in Marrakesh, Morocco; but the round was successful in reaching an agreement on a wide range of issues and it led to the creation of the World Trade Organization as the leading multilateral organization charged with maintaining the laws of international trade, promoting future trade agreements, and settling trade disputes.

The Doha Round was the first round of negotiations to be conducted under the auspices of the WTO. Launched at the ministerial meeting held in Doha, Qatar, in November 2001, the negotiations continued in a series of rounds in Cancún, Mexico,
in September 2003, in Hong Kong in December 2005, and in Geneva in July 2006, before entering the current stalemate.

Although the Doha Round was not the longest round of trade negotiations, it was the most complex round because it tried to deal with several of the most difficult and conflict-ridden issues. Thus, the problem of agricultural trade and a comprehensive agricultural trade agreement had been carefully avoided in all the previous rounds, and only Doha took up this highly divisive and explosive issue. It soon seemed that neither the diminishing importance of the agricultural sector for the economies of the US and the EU nor the increasing subsidy burden on their fiscal budgets provided enough incentive for an agreement, even though both sides know that such an agreement is eventually inevitable. However, the Doha Round did lead to proposals to eliminate export subsidies and reduce domestic subsidies on agricultural products that went much farther than in any previous round, even though there was stiff resistance.

Second, Doha included a large number of diverse and potentially confrontational issues, and it therefore required a very complex give-and-take and much deeper and more painful concessions by all sides. Third, the increase in the number of WTO members to 149, and the greatly enhanced role of China, India, and Brazil in world trade and the world economy made the negotiation process far more difficult than in the past; these factors also amplified the difficulties of reaching unanimous agreement among a much larger and more diverse coalition of countries that inevitably have many incompatible and frequently outright conflicting interests and concerns. As a result, the obstacles of reaching a unanimous agreement that offers a win-win outcome for all, as required by the rules of the WTO, were nearly insurmountable from the very outset.

Although the failure to reach that goal in the Doha Round is undoubtedly a major setback for the global trade system, it should not be taken as an apocalyptic omen signaling the end of future multilateral trade agreements and erasing prospects of further progress for the efforts to remove the remaining obstacles to free world trade. However, the failure clearly indicates that there is a need to examine carefully the negotiation process, draw the lessons from the experience of the Doha Round and fine-tune the organization of the negotiations by making adjustments that reflect the changing structure and balance of power in world trade.
There were several particularly significant obstacles that impeded progress at the Doha Round. From the US, there was pressure to reach a breakthrough by the end of 2006 due to the need to produce an agreement before President George W. Bush’s “fast-track” trade negotiating authority expires on June 30, 2007. Under that authority, the US Congress is required to either accept or reject an international deal as a whole, without being able to pick it apart in the House of Representatives. The political support in the US Congress for the trade bill discussed at Doha, and for trade liberalization in general, has always been weak and ambiguous, and it has been seriously eroded since the bill was approved – by a majority of only one member in December 2001, and by a majority of three in the House of Representatives in July 2002. An extension of the fast-track authority is unlikely to get enough support, particularly given the approaching mid-term elections, the diminishing popularity of President Bush, and the mounting opposition to free trade in the Democratic party that has begun to call for the introduction of “fair trade” rules that would, among others issues, address labor standards which the emerging economies vehemently oppose. Most negotiators therefore see the expiration of the fast-track authority as the final deadline for an agreement in the Doha Round.¹

In the EU, the political and popular support for the trade bill has always been tentative, and it has been further diminished by the mounting problems of migration. In France, Germany, and other EU countries, the agricultural trade agreement would require support not only from local farmers, a tiny minority of the population, but also from a more significant portion of the population that regards the protection of agriculture in Europe not just as an economic issue, but as an essential factor for the protection of the national heritage.

In most EU countries, opposition to trade liberalization is also fed by concerns about local employment that is seen as threatened by foreign migrants and the competition from foreign imports, primarily from the Asian countries, that endanger the production of many local businesses and leave thousands of local workers unemployed. The persisting high unemployment in many European countries and the

¹ The legislation process requires the President to submit the bill early enough in advance and Congress must be notified at least 90 days before the vote. To meet the deadline of June 30, 2007, a final Doha agreement must therefore be reached by the end of 2006. Without that authority, the highly protectionist American Congress, which is far more influenced by local politics and vested interests, can unravel the agreement and thoroughly amend it.
unwillingness to compromise on social benefits have shored up the opposition to trade agreements, even though leading political and economic circles regard cut-backs in social benefits as inevitable in order to make the labor market more flexible and competitive. In France, even a relatively marginal proposal to amend the law on job security in mid-2006 brought thousands of youngsters and Union members to the streets in nation-wide demonstrations that threatened to topple the government and eventually forced it to capitulate. The rising public opposition to globalization leaves President Jacques Chirac with little appetite for reforms in the Common Agricultural Policy (CAP) or changes in the holy cow of farmers’ subsidies before the approaching elections. Against this background, holding out hope that either the US or the EU would be eager to take up the flag of trade liberalization and global collaboration in another round of multilateral trade negotiations was largely futile. The dismal ending of what was meant to be the “The Development Round” that would make “poverty history” is indeed disappointing.
THE MAIN TOPICS AT THE DOHA ROUND

- **AGRICULTURE**
The main goal of these negotiations is to lift barriers to farm trade. The agriculture talks fall into three broad categories.

  - **EXPORT SUBSIDIES**
    Rich countries have been using export subsidies to dump excess food below cost in poor countries, bankrupting many farmers there. Negotiators agreed in July 2004 to phase out all export subsidies, and in Hong Kong it was agreed to phase them out by 2013.

  - **TRADE-DISTORTING SUBSIDIES**
    Trade-distorting domestic subsidies have proved more troublesome, and the EU, led on this issue by the French, blocked deep cuts. The US then offered to make slightly deeper cuts, but that offer was criticized by agricultural exporters and activist groups as too little, too late.

  - **MARKET ACCESS**
    Provide tariff-free and quota-free access to the exports of the LDCs. In Cancún, the EU, especially the French, opposed deep cuts. In Hong Kong it was agreed to provide by 2008 tariff-free, quota-free access of the tariff lines for at least 97 percent of the exports of the least developed countries.

- **COTTON**
The West African nations demanded the United States to comply with a WTO panel ruling that American cotton subsidies are not legal under existing WTO rules. The US made a commitment to eliminate export subsidies on cotton in 2006, but the US Congress is already in the process of repealing these subsidies in response to a WTO panel ruling.

- **INDUSTRIAL GOODS**
  These talks focused on demands to lower tariffs on manufactured products, as most quotas have already been eliminated. Tariffs in the industrial countries are already low, but Brazil and India still protect their markets from imports and resisted deep cuts in tariffs. These two and many other developing countries worry that lower tariffs will mainly benefit China, which has surging exports in many industries. In Cancún the detailed formula for further reductions was hotly debated, but it was agreed in Hong Kong that the guidelines for this formula will reduce the higher tariffs at higher rates.

- **SERVICES**
  These are rules to reduce restrictions on foreign competition in markets for services like banking and insurance.

- **TRADE FACILITATION**
  These are rules aimed at relieving bureaucracy and corruption at border crossings by streamlining customs procedures. (This was one of the contentious issues that derailed the ministerial conference in Cancún).

- **ENVIRONMENT**
  These are rules demanded by environmental NGOs, primarily in the industrial countries, that call for restricting the import of goods that are produced in environmentally destructive ways. Many exporters opposed these rules. At the meeting in Hong Kong, member countries agreed to make adjustments in the international trading system so that it is more compatible with global environmental rules.

- **AID FOR TRADE**
  The World Bank, the International Monetary Fund, and the Group of 7 industrial nations made commitments to provide aid to poor countries and help them to adjust to the new trade rules.

- **SPECIAL PRODUCTS**
  There is an agreement in principle on a category of ‘Special Products’ that are particularly vital for economic growth and development in the LDCs, or are important to vulnerable farmers, that will be exempt from full liberalization.

- **TRIPS**
  Amendments were introduced to the WTO Trade Related Intellectual Property Agreement in order to ensure that poor countries with no capacity to manufacture can have access to generic medicines when a health crisis emerges.
II. The incentives for future multilateral trade agreements

Although the collapse of the Doha Round demonstrates the power of countries and political interests to oppose and prevent progress in trade agreements, it does not represent a failure of the basic philosophy and the fundamental principles that drove all the previous rounds of negotiations; likewise, the mutual gains from extending global cooperation, promoting free trade, and removing the restrictions that still stifle world trade have not been invalidated. Indeed, the bitter memories of the experience during the early 20th century when the driving principle was “beggar thy neighbor,” and the fear of another stalemate that may lead to a retreat from collaboration, are strong incentives to continue the efforts to strengthen multilateral trade agreements.

Despite diverse and often incompatible interests, all the countries that were involved in the Doha negotiations wanted to keep the process moving. The success of previous rounds in gradually removing many of the constraints that stifled world trade and the establishment of an international organization that would monitor the implementation of trade agreements, settle trade disputes, and prevent discrimination against the exports of any country, were great incentives to keep the process going.

The WTO dispute settlement system remains the central and most widely trusted arrangement to secure equal rights, equal obligations, and equal implementation of trade laws and agreements by all countries, small and large, poor and rich, and it guarantees a level playing field in international trade for all. It has also been effective and reliable in settling trade disputes between member countries when there were disagreements about the interpretation of any aspect of the trade rules, any trade practice, or any policy measure. By enforcing the rules in a carefully crafted adjudication process to settle disputes, this system proved to be very effective in preventing costly retaliatory measures or even an open trade war, as had been common a century ago.

The commonly agreed dispute settlement guarantees the right to negotiate, applies equal standards for evaluating the outcomes, gives other countries the option to join the settlement process if they seek similar reductions of trade barriers against their own products, and provides considerably larger bargaining leverage for small developing countries. Indeed, the option to settle trade disputes peacefully is one of
the main incentives to protect the accomplishments that were achieved in the eight rounds of trade negotiations, and to continue the process of multilateral trade negotiations in order to cement these achievements and expand the multinational trade system.

By upholding trade rules and applying them without discrimination, the WTO gives less developed countries, that would otherwise lack a credible retaliatory option, the power to negotiate on equal terms a reduction of trade barriers against their products and gain better outcomes in the negotiations with the powerful trading blocks than they would be able to achieve in bilateral negotiations outside the institution. The failure to reach an agreement at the Doha Round would therefore inflict considerable losses particularly on the poor countries.

Despite the obstacles and the final stalemate, the Doha Round did achieve some progress on a several issues:

- The developed countries made commitments to reduce trade-distorting farm subsidies by larger margins than in the Uruguay Round, end their farm export subsidies by the end of 2013, and provide tariff-free, quota-free access for the exports of the least-developed countries by 2008.
- Member countries came close to agree on a formula that would cut tariffs on industrial products.
- There has been an agreement in principle on a category of ‘Special Products’ for developing countries; these products are especially vital for their development or important to vulnerable farmers that will be exempt from full liberalization.
- Member countries agreed to make adjustments in the international trading system to make it more compatible with global environmental rules.

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2 A “substantial” part of the subsidy cut should come much sooner, but no details were defined. The farm export subsidies are rather small, however, compared with trade-distorting domestic farm supports: under $5 billion outright export subsidies versus $80 billion “amber box” subsidies worldwide. Most export subsidies were already tagged for extinction well before the 2013 date.
3 The US insisted that countries be allowed to exempt up to 3 percent of the tariff lines, which was enough to protect its cotton production. The commitment to eliminate export subsidies on cotton in 2006 was more symbolic than real, because the US Congress is already in the process of repealing these subsidies in response to a WTO panel ruling on cotton.
4 The efforts at the meeting in Hong Kong to make concrete commitments with respect to “aid for trade” effectively failed to reach anything other than creating a task force to study the issue.
Amendments were introduced to the WTO TRIPS (Trade Related Intellectual Property) Agreement in order to make it easier for poor countries to have access to generic medicines when a health crisis erupts. Future negotiations will be able to build on the basis provided by these achievements, even though they fall far short of the initial expectations.

III. The multi-polar structure

The most important change in the Doha Round was the emergence and growing influence of the Group of 20 developing countries (G-20), led by Brazil, India, and South Africa, that had played only a marginal and rather passive role in previous rounds. The main negotiating power used to rest in the hands of the American and European trade representatives, and negotiations therefore focused on their trade interests. The most well-known example was the “Blair House Accord” toward the end of the Uruguay Round in 1992, when the American and European representatives cut a deal on farm trade and then presented it to the other members as fait accompli.

During the meetings in Cancún, Mexico, in September 2003, it became evident that the bipolar character of the negotiations – in which the United States and the European Union agreed first between themselves on the content of the agreement and then presented it to the others as a “possible consensus” – had to change. The main drivers of the negotiations, the so-called QUAD – the United States, the European Union, Canada, and Japan – were forced to share the driving seat with the developing countries that exerted pressure by threatening to leave the meeting. They derived their motto from a speech, given by the Brazilian president Luiz Inácio Lula da Silva just before the meeting, in which he asserted that “Multilateralism corresponds in the international sphere to the democratic system within nations.” In the agricultural negotiations, the QUAD was therefore replaced by the Group of 5 (G-5), also known as FIPs (“five interested parties”), that, in addition to the United States and the European Union, included also Brazil and India that represented the G-20, and Australia that represented the Cairns Group of 17 agriculture exporting countries. This change gave a far more appropriate representation to the broad and multifaceted gamut of interests of agricultural producers in particular, the larger share of the world
total output, and the majority of the world’s population. The G-5 group was expanded later to become the G-6 when Japan joined in.

The meeting in Cancún, despite many disappointments, represented a major triumph for the developing countries that finally gained formal recognition in the negotiations. Indeed, the G-20 had considerable success during these negotiations when they demanded from the EU and the US to come up with better offers on the subsidies and the trade barriers in agriculture. Held together by a nucleus of the large developing countries, the G-20 managed to reconcile the different priorities of their individual members that previously had no reason to act in a coordinated fashion. The G-20 also sought to represent the entire interests of the South and formed the group of the G-90 – a coalition of practically all the developing countries that are members of the WTO, including the African countries, the Asia-Caribbean-Pacific group, and the other least developed countries. With the backing of this large coalition, the all-inclusive coalition of the developing countries acted to ensure that agriculture would remain at the heart of the Doha Round and presented a coordinated position that reflected the common interests of the developing countries and their effort to achieve agricultural trade liberalization, which was considered to be the key for their ability to gain from trade and future growth.

The failure to reach an agreement in Cancún due to the rejection of the offers of the EU and the US by the G-20 was not easy to accept for the two leading powers, and both found the adjustment to a new, multi-polar structure of trade negotiations quite difficult, unavoidable as it may seem in retrospect. Both the US and the EU representatives blamed multilateralism in general and the group of developing countries in particular for the failure. The US representative threatened to shift Washington’s focus away from multilateral pacts toward bilateral agreements with “coalitions of the willing”, and to forgo the multilateral institutions altogether. The EU commissioner, Pascal Lamy, who later became the director-general of the WTO, warned against a “rush to re-launch the talks” and argued that the WTO negotiating process was deeply flawed.

By that time it became evident, however, that the G-20 had changed the dynamics and the balance of power of the trade negotiations. Whereas the previous rounds had been bi-polar and, despite the nominal consent of all members, had represented primarily
the interests of the US and the EU, Cancún changed the decision making process fundamentally. Although the negotiation process became far more complex and required many more and much deeper compromises that eventually brought the negotiations to a complete paralysis, this process is by no means “flawed.” Instead, the new power structure highlights the need to change the mode of operation of the WTO and the decision making process in the trade negotiations. The familiar Alphonse and Gaston routine of inviting the other to enter first inevitably became far more difficult and far less cordial when all the G-6 negotiators were crowding at the door; good manners gave way to elbow fighting, and all of them asserted their own uncompromising demands without listening to the others.

After Cancún, all the key players realized that they have to make substantial concessions in order to keep the process moving: The European Union realized that it had to move on agriculture market access; the United States had to move on agriculture domestic support; emerging-market countries like Brazil, India, and South Africa knew that they had to make concessions on industrial tariffs and services. Nevertheless, the process remained stuck. The three principal trading parties fully agreed on the concessions that the others would make, but could not agree on their own concessions, nor did they fully trust their trading partners, and since they were not able to make their moves ‘in concert,’ they brought the process to a complete paralysis. In other words, the game changed, but the rules remained the same, and this simply could not work.

The EU made an offer on agricultural tariffs and export subsidies conditional on a more generous offer of the US on its domestic agricultural subsidies and on a clear commitment of the advanced developing countries to expand the access to their markets for industrial goods and services for the developed countries. The US made its offer on agricultural subsidies conditional on a more generous offer by the EU on adjusting its CAP and joined the demands of the EU for more significant moves of the G-20 on market access for US or EU industrial goods and services. The developing countries demanded clear commitments from the developed countries to increase market access for their agricultural exports, but they were not able to specify their own offer in exchange. Thus, the negotiations became mired in arguments like “They cannot expect more concessions from us than they themselves are willing to make.”
The diverging interests between the main groups of countries in an agricultural trade agreement that would equalize and sharply reduce all tariffs, is illustrated in the figure below that shows the large differences between their current tariffs. The meeting in Hong Kong at the end of 2005 was the first to be held under this multi-polar structure. Given the short time left, the complexity of the issues involved, and the difficulties to structure new rules of trade negotiations, it should not come as a surprise that this round failed to find not only a ‘modus operandi’, but even a ‘modus vivendi’.

![Average Tariff Rate in Agriculture: 2002-03](image)

Source: WTO.

The failure to reach an agreement at the Doha Round paralyzed the multilateral trade negotiations, but this did not halt the growth of world trade and the developments in the organization of the world trade system. The most striking development is the proliferation of regional trade agreements (RTAs) and bi-national agreements. These agreements pose a potential risk for the global trade system that was formed by the GATT/WTO agreements, because they threaten to weaken the collaboration between countries in international trade and even the WTO itself. The RTAs may also seriously tilt the playing field of world trade that all the past multinational trade agreements worked so laboriously to level. The achievements of six decades to create a global, inclusive and egalitarian trade system that evolved with a great many efforts and hopes may be at risk if the collaborative multilateral trade system is weakened and trade between countries becomes more competitive. Both developed and developing countries are well aware of the potential losses to all if the RTAs weaken the institutions of the global trade system, the commonly agreed trade rules, and the widely accepted dispute settlement system. Moreover, a weakened WTO erodes the ability of the international community to design, jointly agree, and effectively
implement trade rules that can help the LDCs to promote their trade, accelerate their growth, and alleviate their poverty.

At the same time, in many countries there is also a growing perception that the global trade system, in its current shape and form, undermines their own interests. In the developing countries, there are doubts whether the “Grand Bargain” of the Doha Round would actually open the markets of the developed countries to their agricultural goods, or whether it would just open the door to a new set of administrative rules that will keep markets as protected as they had been before. Many developing countries also oppose a liberalization of their trade and the opening of their markets to imports of industrial goods, since this may expose their infant industries to competition that they cannot cope with at this stage of their development. Even in the LDCs there are concerns that the rules of free or preferential entry for their exports are more likely to be bogged down by ‘rules of origin’ and other administrative barriers.

There is also a strong opposition in many countries to several key principles of the multinational trade agreements: It has often been argued that trade agreements in general and the dispute settlement system in particular are eroding the independence and authority of governments to make their own decisions on issues like what products can be imported. The enforcing power of the dispute settlement rulings is, according to this argument, intrinsically undemocratic and takes away the decision making power from elected governments and therefore also from the people in that country. In principle, this is not undemocratic, but an unavoidable outcome of the choice that governments willingly and freely make to give the WTO the authority to settle trade disputes between them. Similar power is given to any international body that is authorized by sovereign governments to conduct arbitration in disputes between them.

The opposition to global trade agreements and to globalization in general has also been driven by the perception in many countries that the capacity of their governments to defend their norms of social justice and their country’s social contract is eroded by the pressures of globalization, trade agreements, and the mounting economic and political power of transnational corporations (TNCs). One highly controversial example is the WTO ruling that forces governments in poor countries to
stop the production of cheap generic medicines that are aimed at providing their populations with medicines that can save many lives, at lower prices; arguably, the WTO ruling would seem “to protect the profits of monopolistic drug companies.” Another highly controversial example is the ruling of the WTO concerning the imports of genetically modified (GM) foods and crops. These two issues will be discussed in some more details later on, but they are mentioned here in order to highlight the controversies that surround the WTO and the difficulties that it is bound to encounter when it seeks to provide interpretations of the rules of international trade on these and other controversial issues.

IV. The Doha Round and the developing countries

One of the major achievements of the Doha Round was the formation of the Group of 5 (the “five interested parties”) that included representatives from the developing countries, and that was later expanded to become the G-6 when Japan joined in. The need to take greater account of the needs and priorities of the developing countries was not limited to the WTO, and it has been recognized by all international organizations. Even the executive board of the International Monetary Fund (IMF) took steps in that direction by deciding to give larger voting rights to several developing countries, including China and Mexico. China, for example, has nearly 15 percent of the world’s GDP, but so far less than 3 percent of the Fund’s voting shares, while Belgium has less than 1 percent of the world’s GDP, but 2.1 of the voting rights.

The representative groups in the G-6 were formed at the Cancún meeting in a rather ad-hoc manner, and the inclusion of Australia in the FIPs (and later also Japan) was primarily intended to keep the decision making power of the US and the EU. The developing countries that led the opposition to the bi-polar domination of the EU and the US and formed the “Group of 20” selected India and Brazil as their representative, primarily due to their strong interest in the agricultural negotiations. In parts of the meetings, these countries represented the G-90 – the group of all the developing countries that were members of the WTO at that time, but their representation in the G-6 has not been expanded to include also representatives of the LDCs, where a very large share of the world’s agricultural producers concentrate.
Indeed, the agricultural trade agreement that was negotiated by the representatives of the G-20 on behalf of the entire group of developing countries did not take adequate account of the huge differences between the needs and interests of the different groups of developing countries, particularly between the LDCs and the more advanced developing countries. The agreement that was negotiated in Cancún and in the subsequent Ministerial meetings did not have equal effect on all countries, and quite a few specific rules that were negotiated at that round could have resulted in more damage than benefit for the LDCs.

The large difference between the LDCs and the more advanced emerging economies is reflected not only in their standard of living and the prevalence of poverty, but also in the rate of growth of their economy and their trade in the past two decades, and in their integration into the global economy. The UNDP defines the LDCs as the group of the world’s poorest countries. In 2006, this group included 50 countries and some 800 million people. The majority of the population in these countries is ‘poor,’ with an annual income of less than $1 per day; their average per capita GDP in 2006 was around $350, and this was also their GDP per capita in 1980. In all other developing countries, the average GDP per capita in 2006 was over $1800, and whereas in 1980, their average GDP per capita was about 3 times larger than that of the LDCs, in 2006 it was almost 5.5 times larger.

Against this background, a trade agreement that determines a single set of rules for all the developing countries cannot represent the diverse interests and needs of these two very different groups, but in the Doha Round the entire group of developing countries was represented by the representatives of the G-20, and the rules that were negotiated on their behalf did not make a distinction between them and did not recognize the potential of conflicts between their interests. In large measure, the interests of the LDCs were secondary because the main interest of the EU and the US in their negotiations with the G-20 was to reduce the restrictions on their imports in the rapidly growing markets of India, Brazil, and China. They had only limited interest in the LDCs, because these countries’ imports of industrial goods are very small and

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5 India is the main country in the G-20 that breaks these simple rules that divide the two groups of countries. See below.
their exports of agricultural products do not challenge farmers in the developed countries.

For the LDCs themselves, particularly in Sub-Saharan Africa (SSA), rules that would open their urban markets to cheap and highly subsidized staple foods from the US and the EU, would be ruinous to local farmers that still use very rudimentary production methods and conduct the local trade through poor local infrastructure. Rules that give free access to imports of textile and leather products from the East Asian countries to the markets of the developed countries would deprive the LDCs of the advantages that their exports currently receive under the Special and Differential Treatment (SDT). In the Sugar Agreement and in the Agreement on Textiles and Clothing, the larger developing economies, primarily China, India, and Brazil, were the main beneficiaries, and their gains were partly at the expense of the LDCs.

The countries that currently benefit from preferential access to the markets of the EU and the US through the SDT therefore opposed the agricultural trade agreement and the agreement on textile and apparel that was negotiated at the Doha Round. Under the MFN principle, it was evident that with the liberalization of agricultural trade and the removal of trade tariffs and restrictions on countries that were not eligible for SDT, donors would divert their imports away from the LDCs to other suppliers in the more advanced and more efficient developing and developed countries. With this experience, African policy makers strongly opposed the agreement that was negotiated at the Doha Round, nominally on behalf of the developing countries, by their representatives from the G-20. At the Ministerial meetings of the Doha Round, their message was loud and clear: While trade can be a medium of development, trade liberalization is not a panacea for development, poverty eradication, and equality; the bias in the Doha negotiations derived from the fact that the agreements served more the interests of the leading trading countries and benefited much less the LDCs.

Recent studies that estimated the potential gains from free trade by using computable general equilibrium (CGE) models confirmed that claim and estimated that the overall gains are likely to be lower than previous estimates; under a more plausible scenario of the Doha Round, their estimates show modest gains at best (Anderson, Martin, and van der Mensbrugghe 2006; World Bank 2002). In part, this is because the agreement at the Doha Round was expected to lead to only a partial reduction in tariffs and trade
restrictions; in part, this is because many of these tariffs and restrictions have already been removed. These estimates also confirmed that the gains from the agreement would not be evenly distributed, and quite a few countries, particularly the LDCs, could even suffer net losses. In particular, the estimate show that gains from trade liberalization in agriculture would benefit mostly a small number of the more competitive exporters (Australia, New Zealand, Brazil, Argentina, Thailand) as well as the consumers in the developed countries.  

Studies that incorporated also the impact of removing the preferential tariff schemes, which currently permit the LDCs to export eligible products to the rich countries at lower-than-normal tariff rates, show that, by eroding these preferences with MFN tariffs, the trade liberalization agreement is likely to cause net losses to these LDCs by damaging their exports of agricultural products and of textiles and apparel. It should be noted, though, that there are also negative effects of the trade preferences that Bhagwati pointed out, since they prevent the LDCs from restructuring their economies according to their long-term comparative advantage and world market prices. However, if the LDCs proceeded to carry out this restructuring, they would have to go through a transition period that is bound to involve significant difficulties, and it is doubtful whether their fragile political and economic regimes would be able to successfully implement this transition without significant external aid.

Estimates of the gains or losses from trade liberalization that are derived with CGE models do not reflect the difficulties that the economy as a whole and the working people in particular are bound to go through during the transition when a country makes the structural adjustments from sectors in which it has a comparative disadvantage to sectors in which it has a comparative advantage. That transition would force many industries to close down and shed their employees. Other industries would gradually replace them, though it takes time until local entrepreneurs can mobilize sufficient resources to acquire the necessary capital and until the government makes the necessary improvements in the infrastructure. Workers would have to gain new skills and many of them may be too old to make the transition. The displaced workers may be unemployed for quite some time, and in countries that do not have

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6 See, for example, Polaski and IFPRI.
adequate social safety nets, many households would deteriorate into outright poverty. Neither developed nor developing countries avoided these difficulties during the transition period, but in the LDCs, these difficulties are particularly hard because these countries lack any social safety nets or training programs, and the transition often ruins the livelihood of entire regions.

In CGE trade models the difficulties during the transition period are not taken into account, and it is also assumed that they would not have lasting effects and countries would be able to restructure their production systems without much pain according to their comparative advantage quite rapidly when trade is liberalized. In practice, however, different countries are at different stages of development – politically, economically, and socially – and their capacity to change the structure of their economies and to develop competitive industries in sectors in which they have a comparative advantage depends not only on their capacity to make the physical adjustment in their production systems, but also on their capacity to retrain the labor force, ease the transition with social safety nets, develop suitable infrastructure, overhaul institutions, and attract foreign investments. Most LDCs are likely to remain dependent on external assistance, including special preferences, for quite some time in order to ease the transition and prevent a complete collapse of certain industries and high unemployment when the adjustments are implemented.

The principles that are underlying the GATT/WTO agreements on the multilateral trading system may aggravate rather than ease this transition: Under the MFN principle and the ‘national treatment’ principle, every member, industrialized or developing, is required to apply the same rules and regulations to domestic and foreign producers. An LDC that joins the WTO must therefore apply the same food safety regulations to imported and to locally produced food products. With these regulations and restrictions, most local food producers would not be able to compete with imported products, and they may lose even their local markets. Under the ‘reciprocity principle’, nations acceding to the WTO must commit to equivalent obligations as those undertaken already by the current members. Obviously, developing countries that lack the adequate institutions and expertise to bind their tariffs, modernize their customs system, and meet the other obligations, would be at a considerable disadvantage during the transition period.
In order to implement trade rules that, under the MFN principle, are aimed at securing a level playing field and, at the same time, offer special and differential treatment to the LDCs, it is necessary also to determine which countries should be included in the category of LDCs. The Ministerial Declaration at the first meeting of the Doha Round expressed the members’ belief that special and differential treatment should continue but be “made more precise.” In the current negotiations, this group of countries was not clearly identified, and most rules were specified for the entire group of “developing countries,” despite the large difference between them. Moreover, the countries in the G-20 repeatedly claimed that they have many things in common with the other developing countries, and it is therefore justified to establish uniformity among all developing countries as they coalesce in the G-90. As this section makes clear, a uniform application of the trade rules to all “developing countries” would only increase the gap between the emerging economies and the LDCs.

V. The dangers of bi-lateral and regional trade agreements

The stalemate in the Doha Round and the resulting doubts about the prospects of achieving more significant progress in a multinational trade agreement in the coming years is bound to increase the incentives to form regional or bi-national trade agreements. Indeed, there are already over 300 such agreements, and more are expected in the near future. The larger regional trade agreements, primarily the EU and NAFTA, already control more than three-quarters of world trade. The 21 members of the Asia-Pacific Economic Cooperation (APEC), including the US, Japan, and China, accounting together for half of the world trade, already signed up 21 free-trade agreements (FTAs) and another 17 are under negotiations.

Many FTAs are not in compliance with WTO rules or lack dispute settlement procedures. Their rules are influenced by the larger trading country, and political considerations often bias the agreement. The EU and the US have a long list of multilateral, bilateral, and unilateral trade preference regimes, including the special and differential preferences that were extended to developing countries, and Bhagwati referred to them as the “spaghetti bowl phenomenon.”

Rules of origin create a confusing mix of tariffs that raise production costs and create high distortions that

7 Jagdish Bhagwati and Anne Krueger, “The Dangerous Drift to Differential Trade Agreements” (1995)
divert trade and reduce competitiveness for members, but even more so for the non-members of the various agreements.

As a result, the FTAs distort the directions of world trade and divert the flows of trade away from the welfare-optimizing and cost-minimizing routes that would determine the composition and directions of trade according to the comparative advantage of all trading countries. These agreements therefore lead to more fragmented and less efficient trade, and they are also likely to divert the competition between countries away from an economically level playing field to a highly distorted and politically biased playing field. In the regional trading blocks, economic considerations are often secondary; in many cases, the MFN principle does not even apply to members of the RTA, since the larger countries wield disproportionate power over the smaller ones in shaping the rules of the agreement, and they can influence the others to accept their demands in exchange for preferential access to their markets and various other benefits.

The web of regional and bi-national trade agreements is further complicating the “spaghetti bowl” of multiple tariffs, with rules of origin, certificates, or standards that increase the trade distortions between countries and often make them dependent on arbitrary administrative criteria. Many of the trade rules that have been laboriously shaped in the GATT/ WTO agreements are violated in these FTAs by administrative orders, customs unions, common markets, regional and bilateral free trade areas, trade preference schemes, and other trade pacts.

This web of rules creates a maze that is increasingly more difficult and more costly to penetrate, and is imposing significant transaction costs on businesses in both the country of origin and the country of destination – costs that are often prohibitive for small and mid-size enterprises in developing countries. The spread of FTAs leaves these enterprises at a considerable disadvantage compared to the larger, better organized and more sophisticated TNCs that frequently control also the entire supply chain, which enables them to increase their market share and power. These structural and organizational changes in world trade divert the flows of trade away from the smaller and less developed countries, regardless of their comparative advantage, and reduce their capacity to compete in the world market.
Moreover, members of an RTA usually have very little incentives to include the LDCs in their agreement, and the large trading blocks prefer to grant the LDCs preferential treatment over which they exercise full control, rather than sharing with them all the benefits of the trade agreement. In agricultural products, for example, the large trading blocks can restrict the access of the LDCs to their markets through quantity constraints. In industrial products, the LDCs cannot reciprocate by offering any meaningful benefits to the FTA members; the only exception being the agreement that some of them offer on their exports of oil and minerals, i.e. raw materials that in recent years became either extremely expensive or increasingly rare, or both.

In a report of the WTO Consultative Board on “The Future of the WTO” that was published on 17 January, 2006, one of the main conclusions was that the WTO is threatened by the proliferation of discriminatory trading arrangements that could render it irrelevant and erode the multilateral trading system’s founding principle of non-discrimination. The report’s biggest concern was that the ever-increasing number of local rules and regulations create a situation in which the “MFN status is no longer the rule; it is almost the exception”.

VI. The limitations of a “Grand Bargain”

In a paper presented in 1998 at a symposium on the world trading system, Fred Bergsten drew five major lessons for successful global trade management from the first fifty years of the GATT/WTO system and argued that they should be applied to the Doha Round. One of the central principles he suggested is \textit{Big is Beautiful}: Large-scale initiatives work better than small ones. He therefore called for launching the largest liberalization effort in the history of the global system in 2010 or 2020 in an effort to achieve global free trade.\footnote{Another central principle was “\textit{Leadership is Essential}: The United States has galvanized each of the previous rounds, but the European Union has been an essential partner in de-facto “G-2” management of the system. With the creation of the euro, G-2 management will extend into the monetary arena and become more apparent – including for the next major WTO negotiation.” Obviously, with the G-6, that arena changed fundamentally.}

In 2005, Peter Mandelson, the EU trade commissioner, took the same basic approach when he argued that: “Rather than negotiating piecemeal—solely on
agriculture, for example—the WTO should have broader discussions focusing on trade-offs between countries and sectors.” William Cline from the Center of Global Development (2005) outlined the principles of an effective and comprehensive Grand Bargain that, *prima facie*, seems to be a winning formula for a fair and mutually beneficial quid-pro-quo:

“The best approach is a “grand bargain” that would include deep cuts in agricultural tariffs and subsidies in industrial countries; major cuts in their tariffs in manufactures including textiles and apparel; a ceiling of 10 percent on all tariffs on manufactures in industrial countries; major cuts in agricultural tariffs of developing countries; major cuts in their tariffs on manufactures albeit using a formula differentiated from that for industrial countries; liberalization of key service sectors in developing countries; and the granting of free or preferential entry to imports from Least Developed Countries (LDCs) into middle-income country markets and complete free entry for these imports into industrial country markets.”

Others argued that more progress could have been made in the Doha Round if the process had been scaled back. Thus, for example, the Clinton administration managed to accomplish much more outside the framework of Grand Bargain in the pacts with China, with NAFTA partners Mexico and Canada, and with leaders of the global telecom accord. The key to a more manageable deal is therefore, in this view, the pursuit of the possible, if each side could agree to take something off the table. That sounds like a win-win formula, except that it leaves the decision which party will take what off the table to a new round of negotiations. Needless to say, each party would find it much easier to agree on what the *other* party should take off the table.

The *a priori* assumption in putting together a large package of different agreements in a “Grand Bargain” was that individual countries would be willing and able to trade-off concessions between the different agreements and make their decision by calculating their overall costs and benefits from the entire package of all agreements. Countries would thus determine their net pay-offs from the Bargain as a whole by adding up all their gains and all their losses from the various agreements and compare their net gains or losses from the entire Bargain.
Under the MFN principle, all countries must have net gains from that Bargain, or else they would vote against it and block it altogether. A large package of several agreements can therefore give more opportunities to each country to balance the net losses that it may have from one of the agreements in the Grand Bargain with the net gains that it expects to have from the other agreements. Thus, for example, the losses that the EU and US may have from deep cuts in their agricultural tariffs and subsidies would be balanced by their gains from the tariff reductions of the G-20 on manufactured goods, from the opening up of key service sectors, and from the tightening of the protection of intellectual property rights. Granting free or preferential entry to the exports of the LDCs was a goal that all countries shared in this “Development Round”, and therefore no reciprocity was expected from these countries. In practice, however, the dynamics of the negotiations were quite different:

- First, each party in the negotiations calculated its net gains from each and every agreement in the “Grand Bargain” separately. In part, this was the case because the different agreements were, in fact, negotiated separately and in separate sub-committees. In part this was also because the different agreements were negotiated in different rounds and time periods. When countries made their cost-benefit analysis, the net gains of each country from a given agreement determined the concessions it was willing to make in that round, taking as given the agreements that had been reached in previous rounds on other components of the Grand Bargain. If a given agreement or any of its parts were not deemed to be to the country’s advantage, it had two options: The country could demand to make changes in the agreement, or it could demand to postpone the negotiations on this agreement or even take it out altogether from the “Grand Bargain”. The veto power that is effectively given to each member country in order to achieve a consensus gives each country the power to make these demands. The decision in 2003 to ease the negotiations by removing two critical issues, investment and competition policies, from the agenda were very obvious examples of a successful use of that tactic by countries that opposed these two agreements.

- Negotiations on an agreement between countries (as in any ‘game’ between individuals) are more complex the larger the number of countries or decision makers in the negotiations. Only when all countries reach an agreement on the final settlement, that settlement determines the final outcome of the negotiations.
That settlement determines both the outcome of the negotiations (the ‘final pay-off) and the share of each coalition and each country in that outcome.

In the Doha Round, the number of leading negotiators rose to five (the G-5) and then to six. That changed the structure of the negotiations and made them far more complex. On the one hand, the number of strategies that countries could use in the negotiations increased exponentially; on the other hand, sub-groups of countries could form coalitions in order to exert larger influence in the negotiations and tilt the balance of power in their favor and thus influence both the outcome of the final agreement and their share in that outcome. Individual countries generally assume that in a coalition they can secure a better outcome and a larger share than they can achieve by themselves. The efforts (or the “pre-negotiations”) on the formation of a coalition are therefore a common strategy in the negotiations.

The overall process of the negotiations therefore has two stages: First, negotiations on the formation of the coalitions and on the share of each country in the total share of the coalition and second, negotiations on the final agreement and on the division of the outcome from that agreement between them. In these negotiations they must take into consideration the following factors:

- What are the strategies that the other coalitions are likely to select?
- What is the influence of their own strategy on the outcome of the negotiations, and how will that affect the strategy of the others?
- What would be the expected outcome if they manage to reach an agreement and what would then be their own share in that outcome?
- What would be the expected outcome if the negotiations fail without reaching an agreement and what would then be their share in that outcome?

In most negotiations, the decision whether or not to reach an agreement is made after comparing the expected outcome of the agreement and the share of each participant in that outcome with the expected outcome and the share of the individual negotiators if no agreement is reached. Obviously, the larger the reward from the outcome of the final agreement the larger the incentive to reach an agreement. Several factors may bias, however, the final agreement by affecting that straightforward rule for making the decision: First, in all too many
negotiations, the decision making is not fully ‘rational’ in the sense that countries or coalitions of countries make their decision by comparing their share in the final outcome with the share they could have achieved in that outcome under a different rule on the division of that outcome (i.e., have they been ‘short-changed’ by the existing agreement). Second, in negotiations between nations, if there is no organization that has the authority to enforce the agreement, the agreement is non-binding and even when the outcome is ultimately beneficial to all (positive-sum game), the agreement is a ‘strategic’ equilibrium (or ‘Nash equilibrium’) that may be destabilized if new considerations enter into the decision making process of at least of the participants. When the agreement is binding and can be enforced, however, countries have much stronger incentives to work together and their payoffs are likely to be larger.

The Uruguay Round was ultimately a ‘two-players game’ with ‘side payments’ that made the agreement possible despite the complexity of the issues that had to be decided. The five key negotiators in the Doha Round and the formation of a coalition between the countries that represented the G-20, complicated the negotiations and it seems that at least one of the two leading countries, the US and the EU, concluded that their gains without an agreement would be larger than their gains with an agreement, in large measure because their losses from the agricultural trade agreement would not be compensated by potential gains from the other agreements.

- Even in negotiations between two parties, one of them may exaggerate its losses from the agreement – even when, in fact, it expects to have net gain – in order to squeeze larger concessions from the other. With two parties, the country that elects this strategy is taking higher risks, however, that the grand agreement will collapse. The larger the number of negotiators, the larger the uncertainty in the negotiations.

- Smaller countries took the approach of ‘wait and see’ and avoided specifying their intended concessions as long as possible, until the large countries reach an agreement on the part or parts of the Bargain that required them to make the largest concessions. The G-20 countries therefore refrained from declaring their plans to cut tariffs on imports of industrial goods in the so-called NAMA (non-
agricultural market access) negotiations as long as the US and the EU were still haggling over the agricultural trade agreement. The reason is obvious: An agreement in the round of negotiations on the NAMA agreements that is made after an agreement on agriculture has been reached is a totally different ball game with different pay-offs that may require them to make much fewer concessions. That delay tactic has its own limits, however, since it may risk the entire Bargain. This was the reasons why one week before the meeting in Hong Kong, when the entire Bargain seemed to be at risk, Brazil and India made a ‘surprise’ offer of trade concessions to the industrial countries and declared their willingness to open further their markets to industrial goods and services; this offer was conditional, however, on a resolution of the discord between the industrial countries over their agricultural subsidies and on deeper cuts in the protection of their agricultural sector. In the EU, that offer was not rejected outright, but it exposed fresh divisions and nearly irreconcilable gaps between the positions of the EU member countries, primarily between the UK and France, that prevented a positive response. So the talks remained stuck on agriculture.

- In the round of negotiations on services, the developing countries also waited to see what would come out of the negotiations on NAMA before committing themselves to any concessions in this agreement. They clearly expected this wait-and-see attitude to raise their bargaining power at later stages of the Grand Bargain. In an interview, one of the delegates from a major developing country put it this way: “unquestionably, unless there is some movement in the agriculture and NAMA discussions, the outcome in services will be meaningless […] There is simply no motivation for Members, especially developing countries, to broaden and deepen their offers of liberalization commitments given the absence of meaningful progress in the more critical areas of negotiations.”

- The industrial countries, on their part, did not agree to reduce their tariffs or subsidies on agricultural products without knowing what would be the concessions that the emerging economies were willing to make in the NAMA agreement to cut tariffs on industrial imports. Before knowing these concessions, they were not able to figure out the impact of the Bargain on their economy and employment, and therefore they were also unable to calculate the balance between the losses, economic and political, that they might incur due to their own
concessions in the agreement on agriculture, and the expected gains from the other parts of the Bargain.

- The smaller developing countries also had the option of joining the Bargain at any stage of the negotiations on account of the MFN principle, and they did not have any incentive therefore to reveal their cards at an early stage. At the Doha Round, the number of member countries reached 149, and the wait-and-see tactic of many of them prolonged the negotiations and required large and rather hasty last minute changes in a number of agreements, but, in the end, this did not save the “Grand Bargain”.

- Trade negotiations in services were particularly difficult, and they consisted of country by country “offers” and “requests”, since it was much more difficult to identify a uniform and transparent mechanism, such as a formula for cutting tariffs, in order to determine the give-and-take in this agreement. Unlike the trade negotiations on commodities, services protection is mainly by regulations that resemble quantitative restrictions, but could not be clearly specified in undisputed quantifiable criteria. The industrial countries’ objective was obvious: Expand substantially the access of their multinational enterprises to the developing countries in such areas as financial services, construction, and infrastructure. The developing countries tended to be cautious in opening up these services that were strongly influenced or directly controlled by the central government. In exchange, and often merely as a bargaining chip, they sought temporary openings of the labor markets in the rich countries. By including all these issues in the negotiations on the Grand Bargain, the entire process became more complicated and slower, and, in the end, also unmanageable.

- Although the principal goal of the trade agreements is to maintain a level playing field in international trade, the give-and-take in individual agreements may, in fact, severely distort and bias the playing field in the trade in that specific agreement. This give-and-take inadvertently involves also concessions in one agreement in the Bargain in exchange for concessions or side payments in another agreement. These concessions or side payments give an advantage to those who made the side payments and those who receive the concessions in these specific deals and bias the playing field in that part of the Grand Bargain in their favor.
The probability that any of the agreements would be postponed, changed or dropped altogether during the negotiations, and the probability that any member country or group of countries would exercise its veto power and thereby block the entire Bargain at any moment, introduced considerable uncertainty into the entire negotiation process, changed the expected net gains from the “Grand Agreement” and fundamentally changed the dynamics of the negotiations. The demand that all agreements would be made ‘in concert’ was partly an attempt to reduce this uncertainty. It has also become clear that the step-by-step approach of reaching first agreements on the easier parts of the Bargain, and only then proceeding to the more complex ones, was no longer possible when countries tried to reach the agreement ‘in concert.’

However, the step-by-step approach may have been unavoidable at the Doha Round, both because the issues that were included in the Grand Bargain were far more difficult and complex than at any of the previous rounds, and because of all the other changes in the world trade system that, as discussed earlier, took place during the past decade and made this round more difficult, reduced the prospects of a ‘win-win’ compromise, and rendered the existing mode of operation much less effective.

Conflicts of interest were apparent at all stages of the negotiations, even in relatively marginal agreements, including the agreements to help the LDCs, on which all countries seemed to agree. The emerging economies and middle-income developing countries were clearly concerned that, by making the exports from the LDCs duty- and quota-free, they might lose some of their competitiveness in labor-intensive sectors, primarily textiles. The LDCs were concerned that an agreement on comprehensive trade liberalization based on the MFN formula would actually erode the advantages they enjoyed so far from the preferential entry to the markets of the EU and US.

These changes in the structure and dynamics of the negotiations, the greater instability of the balance of power due, in large measure, to the eroding political and economic influence of the G-2 leaders, and the complexity of the issues that were included in the Grand Bargain, raise grave doubts whether the next round of trade negotiations and all future ones can have the same basic structure and be guided by the same principles as the Doha Round and all the preceding rounds. At the same time, there is
widespread recognition that the process must keep moving forward. Failure to keep
the multilateral trading system moving toward greater and closer collaboration could
lead to a sharp reversal into protectionism and bilateralism that may reduce the power
of the WTO and erode the multilateral trade system itself. In order to continue the
rounds of negotiations on future agreements, it may therefore be necessary to make
significant changes in the structure and basic rules of the trade negotiations that will,
in turn, require changes in the role of the WTO. The next section examines possible
guidelines for these changes.

VII. Voluntary trade agreements

For almost half a century, the GATT’s basic legal principles remained practically the
same as they were in 1948, and required all rules to meet the standard of the Most-
favored-nation (MFN) that stipulated equal treatment for all. Under the WTO
agreements, countries cannot normally discriminate between their trading partners or
grant special favors to only some of them. Despite the basic strategy of a Grand
Bargain that was designed to establish and maintain this principle by creating a
uniform structure of all the trade rules that applies equally to all countries, there were
additions in the form “preferential” agreements (i.e. they did not obligate all members,
but relied on voluntary membership) that were added in the 1970s. These agreements
granted special favors to developing countries and gave nonreciprocal preferential
access to the developed countries’ markets, allowing developing countries to export
their products to developed countries at lower tariff rates than those applied to other
WTO members and, in some cases, at zero tariff rates. The tariff cuts negotiated at
the Doha Round would have reduced the relative advantage for exports of developing
countries to developed countries by eroding their “preference margins”.

At the Doha Round it became clear that there is a need to change the decision making
process at the WTO trade negotiations, primarily the consensus requirement that gives

10 The main agreements include the GSP which is a set of trade preferences granted on a non-reciprocal
basis by developed countries to developing countries and implemented first by the EEC in July 1971,
and later by Japan in August 1971, and the United States in January 1976. All GSP schemes involve
tariff concessions to a range of developing country exports; the EU preferences for African, Caribbean
and Pacific (ACP) countries, and U.S. preferences for African countries under the African Growth and
Opportunity Act (AGOA).

11 The actual preferences granted were often less generous than they appear, because a large proportion
of products are not eligible for preferences, and there are complex rules surrounding the process
required to apply for the preference.
any country, large or small, veto power over every decision, thus jeopardizing any meaningful progress in the multilateral trade negotiations. This is the background for the EU proposal of “Green Room” meetings with limited access that was included in the report on “The Future of the WTO”. However, this proposal was rejected by the developing countries, which were concerned about losing their power not only to influence WTO policies, but also to make their own decisions on their economic policies by losing their independence to determine their priorities and decide their own trade policies. The LDCs were particularly concerned about the current “retaliation-as-compensation” approach, since they lack the capacity to inflict any significant losses on a potential adversary to induce compliance with a the ruling of Dispute Settlement Understanding (DSU); therefore, they are in an inferior position from the start, whereas if they fail to comply with any of the rulings in a trade conflict with a stronger adversary, they face risks of retaliation that could endanger their trade and their entire economy.

Despite the large and growing gap between different groups of countries, and despite their increasingly diverging economic interests and goals, the WTO is still organized as a single economic and legal organization with a single set of rules that applies to all countries. In other words, it is still a single “Grand Bargain” that combines all the GATT/WTO agreements and rules. The challenge that the WTO is now facing is how to design a system of trade agreements that can replace the Grand Bargain approach and make it possible to make progress in a series of small steps, rather than in one giant step. Progress is necessary to keep the momentum in the coming years, despite the political developments and the series of elections in several key countries that may slow it down. Progress is also necessary to resolve the key issues that remained open when the Doha Round effectively ended and that may now threaten to stifle world trade, weaken the WTO, and severely impair the prospects of growth in the LDCs. Progress is necessary to strengthen the multilateral trade system that is built on principles of equality and is meant to take special care of the needs of the LDCs and prevent the erosion of collaboration in international trade. Progress is also necessary to counter the impact of the proliferating RTAs, and to ensure that the growing political and economic power of the TNCs and the widening economic and political gap between countries will not result in the undermining of social norms and the principles of social justice.
The agreements that will be submitted for approval of the WTO member countries must meet the following conditions that are required in the GATT/WTO rules:

- First, a change in the basic principles of the trade negotiations must have the support of all member countries.
- Second, no trade agreement can be made if it is opposed by any of the member countries.
- Third, an individual trade agreement must be narrowed down and refined so that it concentrates only on a very specific topic, economic sector, or commodity.\(^\text{12}\)
- Fourth, individual agreements must be separated from each other in order to minimize a trade of concessions or the ‘give-and-take’ between agreements and focus the negotiations and the bargaining on that specific agreement.\(^\text{13}\)

Similar principles have been mentioned also in other contexts. However, the specific structure of an agreement that is based on these principles determines a very different structure for multilateral trade agreements under the WTO. Before illustrating these agreements in specific examples, the section lists in some detail the guiding principles and the decision making process in this type of agreement. The details are brought both in order to emphasize the full collaboration of all WTO member countries in the formation and acceptance of this agreement, and to show that, despite the various stages that are required to secure that collaboration, the process itself need not take a long time, because it forms an agreement only between countries that are all willing and interested in taking part in the agreement, and it does not require lengthy negotiations or a compromise with countries that elect not to join the agreement. The following list of guiding principles is primarily illustrative, however, and the exact details would have to be worked out:

- Each group of WTO member countries (their share in world trade or world population is to be determined) can initiate and suggest an agreement on a specific trade issue that is relevant to their interests.
- The professional staff of the WTO, in consultation with the countries that proposed the agreement, will prepare a detailed draft that specifies the rules, rights, and obligations of each country that decides to join and be a member of the agreement.

\(^{12}\) The global telecom accord is perhaps the best example of a topic/sector specific trade agreement.
\(^{13}\) These tit-for-tat arrangements make the agreement more complicated and less egalitarian.
The WTO professional staff will be permitted to initiate and submit its own proposals for a specific trade agreement that is relevant to the functions and operation of the organization.

The countries that proposed the agreement and the WTO professional staff may have differences in the rules that they propose.

A special professional panel of experts would be selected to supervise the work on the proposed agreement and, if necessary, settle any dispute. At the first stage, the panel will make the following decision:

- Is the proposed agreement relevant to the operation of the WTO and to the global trade system?
- Can the rules suggested in the draft of the agreement meet all the necessary criteria according to the GATT/WTO trade agreements?

If the panel of experts approves the proposal, it would be presented as a draft to the full quorum of all the WTO member countries.

Representatives of each member country will be able to suggest changes or additions to these rules, conditioned on the following requirements:

- Each WTO member country can oppose any part of the agreement or object to any of its rules. Representative of that country will be requested to submit a written document to the panel that explains why and how that (part of the) agreement or that specific rule can be damaging to the country’s interests.

The panel of experts will settle that dispute after reviewing the country’s objections and receiving a reply from the WTO professional staff. If the objection is accepted, the rule would have to be changed, or the agreement would have to be withdrawn.

If, after this review process, all objections are rejected or the rules are corrected, each WTO member country has two options:

- If the agreement itself is not considered by the country to be beneficial or relevant to its interests, the country is free to decide not to join the agreement.
- Otherwise, the country is free to join the agreement.

Every WTO member country can join the agreement, and membership is on the basis of the MFN principle.
The agreement is then approved by all the WTO member countries, and the entire set of rules, rights, and obligations are fully specified in the agreement.

At any later stage, countries that joined the agreement would be able to change some of its specific rules and adjust them to changing conditions, but this change would be possible only if no other WTO member country objects to the change (or if the panel for dispute settlement decides, after reviewing the objection, to approve the change).

Each agreement would then include only the countries that elected to join because they have direct and common economic interests in an agreement on that commodity/topic and are therefore willing to assume all its obligations and abide by its rules. Only these countries are entitled to the full benefits of the agreement, and they thus form from the very outset a ‘coalition of the willing’. Countries that decide not to join the agreement are not bound by its rules and obligations, but they are not entitled to its full benefits. Since this type of trade agreement will include only a sub-group of WTO member countries that are interested in joining this specific agreement, it can be termed ‘voluntary trade agreement’ (VTA).

Some countries may elect not to join a certain agreement because they are not willing to assume its obligations, but would still expect to benefit from the agreement as WTO members under the MFN principle. In other words, these countries would want to take a free ride on the benefits from the agreement. To minimize free riding, the agreement would have to be specified so that the gains for countries that join the agreement are much larger than the gains for countries that do not, as illustrated in the examples below. Two types of gains of the VTA member-countries should be noted already at this stage: First, only VTA member-countries can guarantee a level playing field and equality in dealing with the subject or the trade rules for the commodity that are determined by this agreement. Second, only VTA member countries would be able exert influence if any future changes in the rules of the agreement are made.

The examples that are brought here to illustrate plurilateral trade agreements were selected to demonstrate the role and potential contribution of a limited agreement that is confined to a specific subject, commodity, or sub-group of countries in resolving the problems that were created by tailoring specific trade rules. In principle, these
VTAs have a structure that is similar to the dispute settlement process, with the difference that this agreement remains confined to this subject, commodity, or subgroup of countries and does not become part of the rules of the ‘General Agreement’.

One example is an agreement on ocean fishing rights. An agreement to restrict ocean fishing has become essential, and several reports and studies have warned that the seas are in a state of crisis. A study published in *Nature* already in 2003 reported that up to 90 percent of the stocks of the ocean’s major predators have been wiped out. Obviously, many countries have no direct economic interests in that agreement, but for countries that do have direct interests, the significance of the agreement is to guarantee a level playing field and equal rights and obligations not only in trade, but also in restrictions on fishing, in view of the fact that the majority of the ocean fish are now supplied by international conglomerates that use unsustainable fishing practices. Membership in this agreement need not be free (thus excluding free riding), and member countries may be required, for example, to share the costs of public investments to guarantee balanced ocean fishing.

Another example that has been mentioned briefly earlier is an agreement aimed at resolving the controversy over the production of cheap generic medicines for poor countries. The WTO made considerable efforts in the past decade to strengthen the legislation on the protection of technological innovations with a global agreement on Intellectual Property Rights (IPRs) that was expanded and strengthened, both in scope and in geographical coverage. The Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) opened a new chapter in the global efforts to enforce the rules that protect IPRs. On the other hand, the ruling of the WTO that forces governments in poor countries to stop the production of cheap generic drugs, even though they are produced for their poor population and can save many lives, arguably “in order to protect the profits of monopolistic drug companies,” raised vehement controversy and strong opposition to the WTO. The ruling was in response to the drug companies’ claim that otherwise they would lose their incentives to develop vaccinations for poor-people diseases, and the overall damage to the poor would therefore be much larger. The two sides clearly have valid arguments, but with some imagination and good will, it is possible to form a specific trade agreement that could offer an acceptable solution that would enable investors to recover their
investments costs in developing new products and enable countries to offer it at low prices to the sick population in need, even though that solution may not meet the exact criteria of the TRIPS Agreement.

The purpose of this example is to illustrate a possible commodity-specific agreement that might help in alleviating this problem. It is brought here as an example of an agreement that could be initiated by the WTO professional staff, perhaps in collaboration with the World Bank, the WHO, and donor countries, that could help to mobilize the seed money. An outline of the guidelines for this agreement is as follows:

- The countries that will be included in this agreement will be selected according to a specific set of criteria – poverty, prevalence of the illness, etc.
- Producers of the needed generic medications in these countries will be contracted to produce predetermined quantities of the drugs as required for the ill (and poor) people in these countries;
- The governments of the countries that will be included in the agreement will have the authority and the obligation to supervise and control the production of the drug and the quantities produced, as well as to supervise its distribution to the needy.
- Rich countries that join the agreement will donate funds to pay the royalties to the company that has the patent rights for this invention.
- The drug companies that developed the drug will be reimbursed only for their investment costs that will not include any (above minimum) profits.

The rich countries that join the agreement will have the benefits of being included in the selected group of donor countries that donate money to provide life-saving drugs to the poor. Given the amounts of money that private donors now provide for this purpose, this or a similar scheme has a decent chance to take-off.

Another example is the WTO agreement on the SPS and TBT safety rules. During the Uruguay Round of the multilateral trade negotiations, member nations reached an agreement on the Application of Sanitary and Phytosanitary (SPS) Measures and on Technical Barriers to Trade (TBT) that permit member countries to take measures to prevent certain products, primarily agro-food products, from being imported into their country in order to protect their public health. These measures must be based, however, on internationally established guidelines and risk assessment procedures.
Many developing countries argued that these regulations are a form of protectionism to prevent imports of their products on the pretext that do not meet the standards.

These standards are bound to form barriers on exports from most developing countries to the developed countries and disrupt the trade between them. Moreover, the harmonization of these standards by the WTO in order to establish guidelines for food safety, environmental standards, product and process safety, etc. may also disrupt the trade among the developing countries themselves since for many of their producers the necessary adjustments in their production and administration to meet these standards are too costly and difficult.

The constraints facing the LDCs have been recognized by the WTO that gave them more time and financial aid to make the adjustments, but the goal was to achieve a harmonized system of standards. But the goal of harmonizing the standards in world trade may still be disruptive for South-South trade. Moreover, since in most developing countries, particularly the poorer ones, local producers do not maintain these standards in their production for the local market, these standards do not affect the health of the local population or their environment, even though harmonizing the system of standards restricts the sources of imports of the developing countries and raise their price. By forcing a developing country to produce the agro-food products they export in high safety standards, they restrict their exports to other developing countries while their exports to the developed countries is restricted by the higher and more stringent standards that these countries maintain. Some 50% of the agro-food products that the developing countries are now producing, cannot be exported to the developed countries because they do no meet one or several of these standards.

The challenge that the WTO must face is how to design a trade system that, on the one hand, meets the goals of the developed countries to maintain high standards of, say, food safety, and, on the other hand, recognizes the difficulties of the LDCs to implement such high standards and develops the trade system so that it does not exclude the LDCs. Perhaps the only way to meet this challenge is to recognize that the single system of harmonized standards that the WTO seeks to establish is, at this point

14 Or even by providing for special and differential treatment for the products from developing countries under the Equivalence principle that guarantees mutual acceptances of another member’s standards that, while different in process, have the same effect.
of time, more detrimental than helpful for world trade, particularly for the South-South trade. A system of lower but scientifically established standards can give the countries of the South an option and an opportunity to develop their trade with other countries in the South. For many developing countries, South-South trade offer opportunities tap new markets particularly the rapidly growing markets of the large developing countries like China and India and thereby increase their trade and investment.

The lower standards for South-South can apply to specific products and include a sub-group of countries that have common interests and similar constraints. This system has it limitations because it effectively creates a two-tiered trade system within the framework of the WTO trade rules. These voluntary trade agreements would allow countries to join together in order to achieve certain common goals in their trade, such as reducing their tariffs. This will allow these countries to make their agreement under the auspices and supervision of the WTO and although it may force them to make their agreement within the boundaries of the GATT/WTO trade rules, it will also gives the parties to the agreement many advantages, the most important of which is the following: The trade agreement is tailored to the needs and constraints of the countries of the South, but it is ‘voluntary’ in the sense that member countries must abide by the agreement, but whenever they decide to develop their exports to the North, they are free to leave the agreement and upgrade the standards of their exports so that they meet the higher standards of the North.

A related but far more controversial example is the ruling of the WTO Dispute Settlement Panel that was issued on September, 29.06 in favor of the United States, Argentina, and Canada in their WTO case against the European Union (EU) over its moratorium on approving agricultural biotech products and the EU member-state bans of previously approved products. After eight years of legal wrangling, this ruling clears the barriers faced by U.S. agricultural producers and expanding global use of biotech products.

The ruling created enormous controversy and raised very vocal and strong opposition from EU countries and NGOs that refuse to accept the decision. Friends of the Earth Europe called for a “root and branch” reform of the world trade system when it was reported that the WTO ruled against attempts of the EU to “protect its people and its
environment from GM foods and crops.” Friends of the Earth Europe also criticized the WTO for keeping the report secret, charging that this mode of operation “sums up everything that is wrong with the WTO. It is secretive, biased towards business interests and should not be deciding what people eat.” The International Environmental Group claimed when the ruling was announced that the WTO is undemocratic and biased towards industry and that “today’s draft ruling would lead to an increase in opposition to GM foods and crops.” On the other hand, the huge potential of these crops to increase food production and alleviate hunger is undisputed, and establishing a rule that would prevent the LDCs from using these crops is totally unacceptable.

Again, the dilemma is whether and how to create separate trade rules for specific subjects like GM crops and for specific sub-groups of countries that establish specific standards of food safety according to their needs, capabilities, and health and environmental norms. Several RTAs that were established in recent years were aimed at creating a trade system between countries that are willing to use GM crops in their own production system and are willing to trade with other countries that are also using GM crops. The exports of food crops from these countries to countries that refuse to accept these crops because of their potential damage to people’s health and to the environment was therefore impossible, and the agreement therefore blocked the trade in food products between these two groups of countries.

Indeed, the VTA has many parallels with the RTA, but also significant differences. In both agreements, countries are free to decide whether or not to join in; in both agreements, countries make their decision only when they know, or jointly design the basic rules of the agreement, and when they can therefore calculate their costs and benefits. In the RTA, political considerations play an important role, and geographical proximity, rather considerations of comparative advantage, also provide incentives to join an agreement. In principle, however, both types of agreements are ‘coalitions of the willing’, and the trade rules are tailored to meet certain specific goals or are confined to certain commodities in which the participating countries have common interests. Neither the RTA nor the VTA are designed or aimed to be a comprehensive trade agreement that covers all commodities in all situations, and they are usually confined to a certain list of commodities or certain issues. This limited and
predetermined goal of the agreement makes the negotiations much easier. The VTA, like the RTA, brings together countries that have common interests and a similar goal in the agreement. Unlike the RTA, however, all WTO member countries are free to join the VTA, and the agreement must meet the MFN principle that, in this case, gives all countries the option whether or not to join the agreement, and guarantees full equality and a level playing field to all VTA-member countries (see below). In addition, the VTA must abide by all the other GATT/WTO agreements in its trade practices, and is entitled to the same dispute settlement process in the WTO.

Since the VTA is restricted to a specific commodity/topic/sector, and includes only the countries that have direct and common interests, it involves a much simpler decision making process, both to obtain the approval of all the WTO member countries, and to determine the specific trade rules, and the process of reaching an agreement is much simpler and faster. As noted earlier, it has similarities also to a dispute settlement process on a well defined topic, but it should not be as long as some of the dispute settlements, because it does not become part of the GATT/WTO system of rules, since it commits only the countries that are willing to join the agreement and prima facie accepts its rules, and it does not require the agreement of all WTO member countries.

By focusing on a specific topic/sector, the VTA also diminishes the interest of countries to use their support in different agreements as bargaining chips in the negotiations in order to get concessions in other agreements, or any side payments. This ‘give-and-take’ was one of the main reasons for frequent conflicts in the negotiations in the “Grand Bargain” on issues that often were not related to the specific topic of the agreement, which prolonged the negotiations and often biased the playing field against third countries.

To conclude this section, it may be helpful to summarize more formally the criteria that countries use when they calculate their gains and losses from an agreement and decide whether or not to join an agreement. In this formulation, we use the following notations: For a given country \( i \), the net gains/losses from each possible decision are given by:
• $P_{YY}(i)$ -- The country’s net gains/losses from participating in the agreement when the agreement is implemented;

• $P_{NY}(i)$ -- The country’s net gains/losses if it does not participate in the agreement, but the agreement is implemented;

• $P_{NN}(i)$ -- The country’s net gains/losses if there is no agreement.

Consider the country’s decision in a Grand Bargain: Under the current rules, if any member country expects to have net losses from the agreement, $P_{NY}(i) < 0$, it can block that agreement by voting against it (or it can receive some side payments as compensation). If the country expects to lose from that agreement, $P_{NY}(i) < 0$, but still to have net gains from the Grand Bargain, it is likely vote for that agreement in order to secure that the Grand Bargain is approved. The country will have no losses if it voted for the agreement but the Grand Bargain is not approved. The country may also demand concessions in that or another agreement or some side payments, in exchange for its support for that agreement. Indeed, many of the bi-lateral trade agreements as well as the political push and shove were intended to convince countries to support a specific agreement.

Consider the country’s decision in the VTA: The negotiations then focus on that agreement only, and countries cannot use their support as a bargaining chip in other agreements. As a result, $P_{YY}(i)$ and $P_{NY}(i)$ include only the direct gain and losses from the agreement. In the VTA, unanimity in the decision on the agreement is required only among the countries that join the agreement. If country $i$ elects not to join the agreement, it does not normally have the veto power to block the agreement even when: $P_{NY}(i) < P_{NN}(i)$. If the agreement is likely to be approved, however, a country may decide to join the agreement even if it expects to have net losses from its participation, i.e., $P_{NY}(i) < 0$, if its losses from participation are smaller than the losses it may have if it does not participate in the agreement but the agreement is implemented, i.e., $P_{NY}(i) < P_{YY}(i) < 0$.

The WTO member countries are then divided into two groups:

- Countries that participate in the VTA agreement: $j \in K$: $P_{YY}(j) > P_{NY}(j)$
- Countries that do not participate in the VTA agreement: $j \in H$: $P_{NY}(j) > P_{YY}(j)$
None of these groups must have a majority of the WTO member countries, but the coalition that forms a VTA must have a certain minimum number of member countries and represent a certain share of the world population and/or world trade. The LDCs will have the capacity to influence an agreement, but not necessarily to form a VTA – depending on the rules that would specify the minimum number of countries in an agreement and their share in the world population.

Sector/topic-specific trade agreements should be able to take better care of the needs and interests of the LDCs, since most of these countries are currently excluded from the majority of the RTAs, and they do not usually have a capacity to form a coalition in order to resolve a specific trade issue in which they may have prime interest (e.g., GM crops). The VTA should make a decision about the special and differential preferences that the LDCs may have on the commodity that is the subject of this agreement, but does not have to exclude special and differential preferences on commodities that are not included in the agreement.

The VTA should determine clear criteria when and how an LDC can move to a VTA that requires higher food safety standards, in order to be able to trade with the developed countries. The country itself would make its decision according to its cost from upgrading the food safety standards of its own producers, its costs from losing its trade with countries that do not maintain these high standards, and its gains from exporting its products to countries where prices are higher.

VIII. Summary and Concluding Remarks

The trade agreement that was negotiated at the Doha Round, like the agreements in previous rounds, was a Grand Bargain that combined a wide range of different issues. That structure of the agreement made the negotiations long and complicated and, in the Doha Round, paralyzed the entire process. Already in previous rounds, the structure of a Grand Bargain agreement had prolonged the negotiations and required a lot of arm twisting to reach the final agreement, but the dominating power of the US in the early rounds, and of the US and the EU in the Uruguay Round, combined with lots of give-and-take and side-payments on issues that often were not part of the agreement, made it possible to conclude these rounds successfully.
The complexity of the issues in the Doha Round, the much larger number of WTO member countries, and major changes in the balance of power in world trade and in the WTO itself greatly added to the complications in this round and presented almost insurmountable obstacles at every stage. At the same time, the vitally important goals of this round – boosting global economic growth, correcting discrepancies for a wide range of issues in the current agreements, leveling the playing field in world trade, and promoting the development of the LDCs in order to reduce their poverty – makes success in this round essential, and a failure to reach an agreement risks the entire multilateral trade system. Concern is all the more warranted since the increase in the global trade volume at exponential rates, the proliferation of regional trade agreements, and the rising dominance of the TNCs in world trade further suppress collaboration between countries and bias the playing field of world trade against the LDCs.

It is therefore necessary to scrutinize carefully and honestly not only the modalities of the trade negotiations, but also the current structure and organization of the negotiation process itself, and the pros and cons of a Grand Bargain that brings a wide range of issues to the negotiations. In Doha and in the previous rounds, the GATT/WTO fundamental legal principles remained practically the same: The cooperation of all nations can be guaranteed only through reciprocal coordination of trade policies, mutual and nondiscriminatory reductions in trade barriers, and common commitments to refrain from using trade-distorting policies. To secure these principles, the GATT/WTO rules have to be uniform and non-discriminatory under the code of “Most Favored Nation” (MFN). That consistent set of rules must commit all nations to the same standards, should not discriminate between them, and should not normally permit countries to discriminate between their trading partners or grant special favors to only some of them. This set of rules was aimed at establishing a coherent, well structured and uniform legal system for world trade that, like the legal system within nations, treats all nations and all people as equals.

The growing imbalance in the world economy and the widening gap between the developing and the developed countries was partly remedied in the 1970s and 1980s by means of special and differential treatments. The recognition that the WTO member countries must take into account the special conditions and needs of the
LDCs and the constraints that prevent them from implementing all the WTO rules within a short period of time, brought the member countries to tailor the GATT/WTO agreements from the outset so that they gives the LDCs terms that are “better than MFN” rights. In addition, to counter the bias in world trade, special favors were granted to the LDCs by giving them nonreciprocal preferences in their access to the markets of the developed countries.

In the past two decades, this system ceased to function properly, and it increasingly discriminated between countries, for several reasons: First, the special and differential treatments that were granted to the developing countries did not have clear and commonly agreed criteria to determine entitlement, and they became ever more discriminatory; the list of entitled countries and commodities became more arbitrary by involving political and other unrelated considerations, and a maze of administrative rules made the actual preferences much less generous than they appeared. Second, the imbalance in world trade increased very rapidly, not only between the developed and the developing countries, but also between countries within the group of developing countries. The gap between the more advanced and rapidly growing developing countries, mostly in East Asia, and the stagnating LDCs, mostly in SSA, widened the gap between their levels of economic development, their share in world trade, and their role and participation in the system and institutions of the global trade system. Third, the unprecedented expansion in the size and structure of world trade, the mounting complexity of the issues that became integral factors in world trade like food safety standards and intellectual property rights, made the legal system of world trade ever more complicated, but also ever more necessary.

The vast expansion of the world economy and trade, the escalating complexity of the issues that the legal framework of the world trade system has to cover, and the widening gap between impoverished LDCs, fast growing emerging economies, and developed countries, renders a single legal system that does not recognize this gap or tries to bridge it by means of charities unconstructive. This was exposed most conspicuously in the Doha Round’s negotiations on an agricultural trade agreement and the TRIPS agreement, and in the WTO rulings on food safety standards and GM crops, because in these instances it became evident that countries at very different
stages of development are neither capable to maintain the same standards nor do they find them useful for their development or the health of their population.

The gap between the more developed and the least developed countries poses a risk that poor countries will be effectively excluded from a major portion of the global trade system, since they are not able to maintain its rules; moreover, their limited capacity to enforce the rules of intellectual property rights will prevent them from benefiting fully from the huge technological advancements, including innovations in health and agriculture. Private donors, NGOs, donor countries, and the international development organizations are trying to bridge that gap and help the LDCs, but the rapid growth in trade and technology and the increasing dominance of the TNCs in research, production, and trade, are bound to widen this gap and bias the playing field of world trade to a degree that effectively excludes the LDCs.

Against this background, a single and uniform system of trade rules that applies equally to these very different groups of countries does not contribute to promote justice or equality, but is more likely to achieve the opposite outcome by ignoring the huge differences between levels of development, standards of living, needs and capabilities, as well as their capacity to adjust entire production systems and administrations to bring them in line with the global rules and are able to enforce them effectively. By using the power and instruments of the global legal system to enforce laws that cannot be maintained by the majority of the LDCs and stifle growth in many of them, this system actually widens the gap between countries, increases inequality, and violates basic principles of justice.

The problem does not affect the entire system of world trade, but in large economic sectors it is widely prevalent and creates a dichotomy in the world trade system whose impact can be very ominous and should be dealt with head on. It must therefore be recognized that the GATT/WTO’s basic legal principles, which remained practically unchanged since 1948 and require all nations (with the exceptions mentioned earlier) to abide by the same trade rules and standards and be treated equally under the MFN principle, may have to be modified to permit sub-groups of countries and certain sectors to regulate their trade under different systems of rules that would be tailored to best serve their needs, means and constraints. That modification of the legal system in world trade is the most effective way of helping the LDCs to overcome their
difficulties in these segments of their trade, and enable them to eventually be better integrated into the global trade system, take advantage of the unparalleled technological progress, and benefit from their own unique advantages on their way to gradually join the world economy.

To achieve that goal, the GATT/WTO agreements and the current system of trade rules that have evolved in a series of Grand Bargains and apply equally to all countries would have to be replaced by a system of ‘plurilateral trade agreements’ with voluntary membership of countries that have common interests and decide to coalesce in order establish trade rules that are most suitable to help them deal with the problems they now encounter in these segments of their trade. The VTA does not obligate all WTO member countries, and, in that sense, it resembles an RTA that is formed, negotiated and agreed upon by a WTO panel. Moreover, since membership is voluntary, the agreement can be reached quite rapidly, thus overcoming the main disadvantage of the Grand Bargain. At the same time, the VTAs would not be discriminatory, and all WTO member countries that have the same interest in that agreement would be allowed to become members with equal rights and obligations, and the WTO would settle any potential dispute between members of the VTA.

With this system of VTAs that address specific issues or commodities, and can meet the needs and constraints of specific groups of countries by tailoring the rules according to their need, progress in establishing the rule of law in international trade will be made in a series of many small steps rather than in a one giant step that may also end up in an abyss.
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ACRONYMS

AGOA: African Growth and Opportunity Act
APEC: Asia-Pacific Economic Cooperation
CAP: Common Agricultural Policy (of the European Union)
CGE: computable general equilibrium
DSU: Dispute Settlement Understanding
FTAs: free-trade agreements
G-2: United States and European Union
G-20: Group of 20 developing countries, led by Brazil, India, and South Africa
G-5: also known as FIPs (five interested parties): United States, European Union, Brazil and India representing the G-20, and Australia, representing the Cairns Group of 17 agriculture exporting countries.
G-6: G-5 + Japan
G-90: a coalition of practically all the developing countries that are members of the WTO, including the African countries, the Asia-Caribbean-Pacific group, and the other least developed countries.
GATT: General Agreement on Tariffs and Trade
GM: genetically modified
IMF: International Monetary Fund
LDCs: least developed countries
MFN principle: most favored nation
MTN: multilateral trade negotiations
NAFTA: North American Free Trade Agreement
NAMA: non-agricultural market access
NGOs: non-governmental organizations
VTA: voluntary trade agreement
QUAD: United States, European Union, Canada, and Japan
RTAs: regional trade agreements
SDT: Special and Differential Treatment
SPS: Agreement on the Application of Sanitary and Phytosanitary measures
SSA: Sub-Saharan Africa
TBT: Agreement on Technical Barriers to Trade
TNCs: transnational corporations
TRIPS: Trade Related Intellectual Property Standards
UNDP: United Nations Development Programme
WTO: World Trade Organization