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Introduction

"Re-branding" – to borrow a term from Madison Avenue – was the chosen means for WTO rehabilitation, following the Seattle flop in 1999. At the Doha Ministerial in 2001, industrial countries agreed that WTO negotiations could no longer seek trade liberalization for its own sake; rather the new goal was to harness trade policy for development purposes. Two inspirations lay behind the new packaging: first, to garner support from the NGO community; and second, to enlist developing countries as signatories on the Doha Declaration.

The new packaging advertises the fact that trade offers a far more promising path to development than aid. In 2002, the sum total of overseas development assistance (ODA, multilateral and bilateral) was around $50 billion, while non-oil exports from developing

countries totaled about $1,900 billion. Even if aid money was a super-charged development tool – which it is not – the current magnitude and prospective growth of trade dwarfs anything that can be expected on the aid front. Moreover aid nourishes the public sector, while trade nourishes the private sector, and experience teaches that private initiative offers the surest path to national prosperity. Nothing in the Millennium Challenge Account, the Highly Indebted Poor Country (HIPC) initiative, or the latest World Bank program can alter these basic facts.[2] As Kevin Watkins, Head of Research at Oxfam, has eloquently stated,[3]

> While we welcome the fact that Mr Bush has increased aid for Africa, money is not a substitute for trade policies that deny the world's poorest region a stake in global prosperity.

The collected Ministers at Doha succeeded in launching the ninth round of GATT/WTO negotiations with a development theme, thereby softening the tenor of NGO attacks. Yet it remains far from clear that the Development Round will deliver on its promise. The purpose of my essay is to point out obstructions in the road from Doha. To be sure, prior multilateral trade negotiations surmounted the obstacles of their own eras. Of hardy past negotiators, it may fairly be said, "They came, they slogged, they prevailed." Today's generation of negotiators may again prevail. But I believe they face more difficult terrain than their predecessors, partly because their goals are so ambitious.[4]

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[1] Yee Wong, Research Associate at the Institute for International Economics, assembled data for this paper and made valuable contributions to the text.
[2] See the op-ed jointly authored by Rubin, Strauss-Kahn and Toyoda (2003).
[3] *Financial Times*, July 8, 2003, p. 14.
[4] It is commonplace to bemoan the absence of progress on the Doha Agenda. Negotiators have missed every deadline in the agreed schedule (see IMF, 2003; Swiss Institute for International Economics, No. 9, 2003). Leading business organizations as well as trade specialists are rightly alarmed (see, e.g., *Financial Times*, May 8, 2003, p. 7 and May 26, 2003, p. 9; Canadian Council of Chief Executives, May 21, 2003; *The Economist*, July 5, 2003, p. 63). In my view, the difficulties run deeper than the posturing which has been part of every multilateral trade negotiation since the Dillon Round (1961-62).

I first identify conceptual hurdles in the Development Agenda, and then briefly comment on five topics: Agriculture, Manufactures, Services, Pharmaceutical Patents, and Special & Differential Treatment. I conclude by recapitulating benchmarks for a successful Development Round and commenting on the alternative to high WTO performance, namely free trade agreements.

Conceptual Hurdles

The Development agenda, as broadly understood, embodies several conceptual hurdles. Conceptual difficulties need not prove fatal to the Doha Round. Still they must be recognized before they can be surmounted.

Most Poor People Live in China and South Asia. In 1999, approximately 1,170 million people survived on less than $1 per day. Some 220 million of these are Chinese, another 490 million are South Asians (predominantly living in India, Pakistan and Bangladesh), and 320 million live in Sub-Saharan Africa.[5] The reason for citing these statistics is that poverty is too often conflated with Africa, conveniently (for trade negotiating purposes) forgetting that two-thirds of the world's poorest people live in China and South Asia.

If the Development Agenda is going to make a difference to the world's poor, it cannot entirely focus on Africa. But since China and India are industrial powerhouses, trade negotiators will find it hard to enlist sympathies in Japan, Europe or the United States for

[5] These figures are borrowed from the World Bank (2003).

granting the Asian giants any sort of special preference. Indeed, in response to China's huge success as a manufacturing magnet, US sentiment is rapidly taking on a China-bashing flavor, akin to the Japan-bashing mood of the mid-1980s. A decade hence, India could become the target. Recognizing these realities, India and China have apparently agreed to coordinate their positions on a wide range of Doha issues.[6] It would be a good thing (for regional security as well as international trade) if Pakistan and Bangladesh could join the Sino-Indian coalition. Coordination will not deliver special preferences, but it may deter future trade discrimination.

Import Liberalization is Important. The second conceptual hurdle raised by the Doha Declaration is the notion that the interests of development will be served best if industrial countries are required to slash their import barriers while developing countries are allowed to preserve their own protective measures. In the mercantile language of trade negotiators, developing countries left Doha under the impression that they would not be asked to endure commercial "pain" – meaning that they could get through the Round with limited reductions in their own tariff and non-tariff barriers. At the same time, the developing countries would reap considerable commercial "gain" -- meaning almost barrier-free entry to the markets of industrial countries.

Barrier-free access to export markets is certainly an economic plus. Countries that are geographically, culturally and linguistically distant from large markets have not fared well as trading nations.[7] Nor have their average per capita incomes shown much

[6] See *Financial Times*, July 1, 2003, p. 7.
[7] See, for example, Brun *et alia* (2002).

improvement since 1980. That category includes most of Africa, parts of Latin America, and large swaths of Central Asia. Artificial barriers to export markets simply compound the natural disadvantages that these countries face. But it would be a mistake to conclude that export market barriers are the biggest policy limitation on the prospects of developing countries.

Strong arguments point to the likelihood that import market barriers are a more severe handicap. Years ago, Abba Lerner (1936) formulated a proposition that is both subtle and important: import tariffs are the equivalent of export taxes. By extension, when a country imposes high import barriers, it curtails its export sector. Many developing countries still have high import barriers. Just considering tariffs, the average applied rate on manufactured goods exceeds 8 percent, and peak rates often reach 40 percent. By contrast, industrial countries generally have low barriers on manufactured goods. The average applied tariff rate is under 3 percent, and peak rates seldom exceed 20 percent. To the extent that export promotion is their policy goal, many developing countries can make faster progress by slashing their own import barriers than by awaiting the outcome of lengthy trade negotiations.

Export promotion should not, however, be the sole goal, and not even the primary goal, of trade liberalization. Import competition, appropriately phased, can do wonders for making markets more competitive (especially in small countries) and for compelling firms to be more efficient in their use of capital, labor, and natural resources.[8] The potential economic lift to developing countries from import-driven competition and

efficiency are far larger than the gains that might be realized if industrial countries eliminated all the barriers that impede the exports of developing nations.

Reciprocity Still Counts. The third conceptual hurdle, related but distinct from the second, is that the Doha Round can somehow escape the atmosphere of mercantile reciprocity that infused the last eight rounds of GATT/WTO negotiations. Reciprocity has never been precisely defined, but trade negotiators know it when they see it. Broadly, reciprocity is satisfied when – within each major country -- the overall package enlists export-oriented proponents that are at least as powerful as the import-competing opponents.

In the realm of tariffs -- for many years the staple of GATT negotiations -- reciprocity was technically interpreted to require that the average percentage point cut in foreign tariffs that confront a country's merchandise exports should roughly equal the average percentage point cut in the country's own tariffs on merchandise imports.[9] But even for tariff negotiations, reciprocity was usually defined in broader political economy terms rather than the narrow arithmetic of equivalent tariff cuts. As newer subject areas were added to the negotiating agenda -- trade remedy rules, intellectual property protection, and services – the outcome became even less susceptible to quantitative evaluation than tariff cuts, and qualitative judgments became even more crucial. But the qualitative

[8] See Bradford and Lawrence (2003) and Herrendorf and Teixeira (2003).
[9] Prior to the Uruguay Round, there was a certain amount of slack in the application of tariff reciprocity. Developing countries were not asked for equivalent concessions, partly because they were small players in world markets, partly because their economic allegiance was sought in the Cold War. That context has now passed into history.

judgments never strayed far from touchstone of mercantile reciprocity -- "get as much as you give".

What is the outlook for reciprocal bargains between developed and developing countries in the Doha Round? Not good. By 2007, provided that industrial countries honor their commitment to abolish textile and clothing quotas,[10] "easy" liberalization will be a thing of the past. The "water" is long gone from OECD tariff schedules. Remaining quotas and tariff peaks shield "fortress" industrial and agricultural sectors -- sectors like clothing, footwear, sugar, dairy and rice. It would be amazing if these protected fortresses graciously consented to drain their moats and lower their drawbridges. It would be even more amazing if anti-globalization NGOs did not ally themselves in defense of the fortresses.

The bastions of protection can only be overrun with the energetic assistance of export-oriented sectors in the industrial countries. Put bluntly, this means that many developing countries -- especially large nations like Brazil, China, India and South Africa -- will need to make substantial concessions, in order to achieve a political balance *within* the major OECD nations. Otherwise the export-oriented firms in the industrial world will not fight with sufficient enthusiasm to overcome the opposition of import-competing firms and their NGO allies.

[10] Several US textile industry associations are already urging the Bush Administration to slap safeguards on Chinese textile exports. It seems likely that, behind the scenes, countries that benefit from MFA quotas will quietly support whatever measures the United States and the European Union might take to keep China from "swamping" the textile and clothing market. See *Inside US Trade*, June 13, 2003.

Cross-Cutting Bargains are Tough. It is often argued that big multi-issue negotiations can facilitate cross-cutting bargains that in turn enable each country to satisfy its domestic reciprocity requirements. Years ago, I investigated merchandise trade flows and concluded that the GATT negotiations did not, in fact, facilitate inter-industry specialization. The practical outcome of the early GATT rounds, instead, was to dramatically enlarge intra-industry trade.[11] Big cross-sector tradeoffs were not the central business of trade negotiators in the 1950s and 1960s, and they remain just as elusive today.

The better argument, I think, for big negotiations is that they attract top-level political attention. When presidents and prime ministers play a role in trade dramas, cross-sector and cross-issue bargains become possible. Cross-cutting bargains don't make the negotiations easier. Rather, big negotiations make some cross-cutting bargains possible.

These propositions were illustrated in the Uruguay Round. Developing countries agreed to add the General Agreement on Trade in Services (GATS) and Trade-Related Aspects of Intellectual Property Rights (TRIPS) to the WTO. In exchange, industrial countries committed to phase out their textile and apparel quotas (historically authorized under the Multi-Fiber Agreement, MFA) and they agreed to eradicate the use of Voluntary Export Restraints (VERs) as safeguard measures under GATT Article 19. But these bargains were only possible with a series of resolute pushes from G-7 Summit leaders, and top level support from core developing countries.

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[11] Hufbauer and Chilas (1974)

Likewise, the Doha Round can deliver tradeoffs of similar breadth only through the dedication of the highest political leaders. If the leaders are not fully engaged, EU, US and Japanese agricultural supports will not be phased out, nor will peak tariffs on clothing and other developing-country export products be slashed. Nor will Brazil, China, India and South Africa substantially cut their tariffs and liberalize their own agricultural protection.

Agriculture

Turning now to several negotiating topics, the place to start is with agriculture. And the way to understand agriculture is to use the lens developed by David Ricardo two centuries ago – land rents and land values. A very large portion of agricultural protection and subsidies serves to enhance land rent and increase land values. Much of the rest gets spent on the inputs used in intensive agriculture. The political forces blocking agricultural reform in industrial countries are constructed around these two interests – land owners foremost and input suppliers secondarily. Of far less consequence are farm workers. There is little evidence that agricultural support, in the OECD countries, translates into higher wages for farm work. And farm workers are a very small percentage of the labor force, even in France and Spain. But farm owners are immediate and highly influential beneficiaries of support programs.

Suppliers of agricultural inputs are mainly located in urban areas. These firms and their workers oppose agricultural liberalization, but they can shift their assets and skills into other urban activities. Much more problematic are land values. It is said (by the World

Bank) that the industrial countries provide support of about $350 billion annually to agriculture (80 percent protection, 20 percent subsidies). Assuming only a third of this largesse gets capitalized in land values, and assuming that the capitalization rate is as high as 10 percent, the land value increment directly attributable to agricultural support is in the neighborhood of $1 trillion. The highest political offices in OECD countries change parties for a fraction of $1 trillion. Put bluntly, agricultural reform in the OECD will not be possible without compensation to landowners. In practice, compensation means replacing “amber box” and “blue box” producer supports -- the bulk of the $350 billion -- with "green box" assistance. Technically, it may be easy to diagnose the problem in the manner I have described, but politically, it is exceedingly difficult to solve. Provided that the public budget support is maintained (indeed, it may even need to be increased), the switch from amber and blue to green may be barely possible. The industrial countries might even accept an independent WTO watchdog to ensure that the switch is for real. But don’t count on optimistic outcomes.

In developing countries, the political problem of agriculture is somewhat different. Small farmers tilling meager plots are the obstacle to liberalization. Land rents are commingled with self-employment wages, but household earnings are less than half the levels in urban areas. In the very long run, the only answer is farm consolidation and migration to the towns and cities. But over the next twenty years, developing countries will need to manage their agricultural imports to avoid wholesale population displacement that erupts in political crisis. In trade negotiating terms, this means a two-decade transition for agricultural liberalization.

To justify the “Doha Development” moniker in agriculture, WTO members would have to accept a non-reciprocal bargain: rather quickly transform amber and blue box agriculture supports in OECD countries into green box assistance; and very slowly phase out agricultural protection in developing countries. **The odds of success? Less than one in five.**

Manufactures

When it comes to manufactures, industrial and developing countries again collide with the logic of reciprocity, but their positions are reversed. While industrial countries have high tariffs on some manufactured imports, their average applied MFN tariffs are rather low – around 2.8 percent. Most developing countries, however, have much higher average applied MFN tariffs on manufactured imports – around 8.3 percent. Moreover, the average level of MFN tariffs "bound" in WTO schedules is around 14.6 percent (versus 3.0 percent for industrial countries).

In the first round of Doha tariff bargaining, the United States proposed that all countries first compress their non-agricultural tariff schedules to around 8 percent maximum, and then phase down to zero. The European Union proposed a less drastic formula: it would cut developing country average applied MFN tariffs for developing countries to around 4.6 percent and for industrial countries to around 1.5 percent. The WTO Secretariat and China tabled tariff-cutting formulas that generate approximately the same outcome as the EU formula. Korea and India have argued for formulas that would leave average applied

MFN tariffs on non-agricultural goods for developing countries at around 7.0 to 7.5 percent.

Calculations done by Ben Goodrich and myself (2003) show how much commercial "pain" the US proposal would inflict on developing countries. The EU, WTO and Chinese tariff-cutting formulas would also require deep tariff cuts by developing countries.

While general equilibrium models do not all agree, in my opinion a zero tariff world for manufactures would immensely benefit developing countries -- especially emerging industrial powers like China, India and Brazil. In fact, I think the benefits would exceed anything else (including an implausible agricultural bargain) that might be achieved in the Doha Round. There are three reasons. First, the expansion of manufactured goods exports was the passport that enabled the Asian tigers and China to achieve rapid income growth. Synergies between manufactured goods trade and direct investment played a major role in this drama. Second, zero tariffs would extend to all developing countries the preferred access that only a few FTA partners now enjoy to the markets of Europe and the United States. Zero tariffs would enable firms everywhere to draw on the cheapest inputs from all sources and contribute to the value added chain according to their own comparative advantage. Third and finally, zero tariffs would unleash competition into market niches that have long been cozy cartels.

But developing countries would need politicians with the skill of Harry Houdini to convince their manufacturing firms that free trade (even phased in over 15 years) is the recipe for growth. A lesser bargain may be possible. Industrial countries might be obligated to reach a 1 percent average applied MFN tariff on manufactured imports after 5 years (and a maximum rate of 5 percent), and developing countries might commit to a 4 percent average applied MFN tariff after 10 years (and a maximum rate of 15 percent). Industrial and developing countries alike might follow the Chilean example and subscribe to relatively flat tariff profiles, rarely invoking the maximum rate. India has proposed (in one formulation) that the tariff ceiling should not exceed twice the average tariff, a very good idea.[12]

These are ambitious proposals. They would strip protective tariff barriers from fortress manufacturing sectors in industrial and developing countries alike. Compared to agricultural interests, manufacturing firms are a tame lot. Still, a development bargain is at best an outside possibility. **The odds of success? Perhaps as high as one in three.**

Services

An important achievement of the Uruguay Round was the addition of the General Agreement on Trade in Services (GATS) to the WTO. The GATS identified four modes of services trade, and provided a framework for WTO members to make future

[12] Together with these reforms, the rules of the Code on Subsidies and Countervailing Measures might be amended to allow developing countries to pay a flat rate bounty on manufactured exports, to compensate for import tariffs.

liberalization commitments by sector and mode.[13] The GATS thereby set the stage for "positive list" negotiations of the sort practiced in tariff bargaining before the Second World War, where countries exchanged tariff concessions line by line. In the Uruguay Round itself, the majority of commitments amounted to binding existing practice, not fresh liberalization.

The development challenge of the Doha Round is to negotiate fresh liberalization. The daunting obstacle is the difficulty of cross-sector and cross-mode tradeoffs. Financial services, construction contracts, and maritime transport are three different worlds. Moreover, the political stakes in Mode 4 (movement of natural persons seeking work in another country) are entirely different than the political stakes in Mode 2 (establishment of commercial presence abroad). Hence, the tradeoff between an Indian commitment allowing US mutual funds and insurance companies to operate, and a US commitment giving Indian computer scientists and construction engineers temporary work visas, is not politically obvious in either country.

Many developing countries, led by India, have called for an expansion of Mode 4 (movement of natural persons), but the House Judiciary Committee has flatly instructed the US Trade Representative that temporary work visas (so-called H-1B visas) are not to be part of trade negotiations.[14] The Committee still recoils at the intrusion into its

[13] The four modes are: Mode 1, cross-border supply (e.g., Swiss architectural firm designs an office building for Mexico City); Mode 2, consumption abroad (e.g., Brazilian tourist in New York); Mode 3, commercial presence (e.g., Citigroup sets up a branch bank in Bombay); Mode 4, presence of natural persons (e.g., Indian telecom engineer works on temporary assignment in Tokyo). See OECD (2002). Annexes to the GATS specifically call out four services – air transport, financial services, maritime, and telecommunications – but the agreement is not limited to these four sectors.
[14] See *Inside US Trade*, July 11, 2003

jurisdiction by Ambassador Mickey Kantor when he committed an additional 65,000 H-1B visas in the Uruguay Round, and the Committee objected to the very small number of extra H-1B visas pledged in the Chile and Singapore FTAs. Europe and Japan seem equally allergic to the inclusion of visa negotiations in the Doha Round.[15]

While Mode 4 is all but blocked, E-service offers considerable scope for advanced developing nations such as India and China. Three E-service issues need to be thrashed out: credentials, public procurement, and taxes. With respect to credentials, developing countries should negotiate national treatment so that their professionals can take the appropriate tests, gain recognition from licensing bodies, and thus be empowered to practice accounting, engineering, law, medicine and education over the Internet. Moreover, foreign professionals should be eligible for payment by public authorities for services delivered electronically, to the same extent as nationals. The fact that E-service exports are now small has an advantage: it makes the task easier to negotiate non-discriminatory terms, before rapidly rising trade triggers credential and public procurement barriers.

Over the horizon is the question of E-service taxation. Historically, individuals have been taxed on their wage and salary income by the jurisdiction where they reside, not the jurisdiction where they are paid.[16] Bilateral income tax treaties codify this convention by exempting engineers, consultants and entertainers from local income taxation when they

[15] In Europe, work visas are a question of member state competence, not EU competence. Japan, of course, finds it very difficult to integrate foreigners in its workforce.

do short tours abroad.[17] International commerce in E-services will flourish best if the residence country remains the sole taxing jurisdiction. To ensure this outcome, agreements should be concluded before the volume of commerce becomes significant. Already, Europe has begun to tax Internet deliveries of video, music and certain software by large firms such as AOL and Microsoft. Developing countries have an interest in ensuring that the EU tax system is not extended to their potential E-service sales.[18]

Smoothing the path for future E-service exports will greatly benefit developing countries. To satisfy the imperative for reciprocal bargains, what can developing countries offer in return? The most obvious concessions would seem to involve commitments allowing foreign firms entry in their financial service markets and (when they are privatized) their utility markets (water, electricity, gas, etc.). **The odds of a successful bargain? Perhaps one in three.**

Pharmaceutical Patents

Many developing countries believe they were wrongly pressured into signing the TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights). The sophisticated version of their argument goes as follows: industrial countries (including the United States) adopted patent and copyright laws only as and when they thought the benefits of encouraging industrial and artistic originality exceeded the economic costs of creating legal monopolies. Industrial countries did not adopt intellectual property laws in the

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[16] Some cities, such as New York, tax commuting professionals on their wage and salary income. This is an exception.

[17] Under some treaties, very highly paid entertainers are taxed at the place of their performances.

course of international trade negotiations. Moreover, industrial countries extended patent and copyright protection to foreign inventors and artistes only as a by-product (and often a delayed by-product) of their national systems.

By contrast, developing countries were pressured to sign the TRIPS agreement as part of the Uruguay Round package. While the agreement allows longer implementation times for the least developed countries (LDCs), by 2015 every WTO member is committed to implement intellectual property protection in the mold of US and EU systems, with no discrimination against foreign rights holders. Estimates suggest that, at the inception of the WTO in 1995, developing countries started paying $10 billion more annually in copyright and patent royalties to the OECD countries (led by payments to the United States) than they otherwise would have done.[19] Annual patent and copyright payments can only increase in the years ahead.

While the debate over TRIPS encompasses the whole range of intellectual property rights, the biggest confrontation involves pharmaceutical patents. Two features of the pharmaceutical industry made it a favorite target. First, the industry critically depends on price discrimination to generate the revenue needed to design and test new drugs. Pharmaceutical firms claim that the average cost of discovering and testing a totally new compound is around $500 million. Once a new drug has been designed and tested, variable manufacturing costs are typically a very small fraction of average costs. The industry believes that if it charged all users the same price per dose, without regard to

[18] However, developing countries may wish to create reporting systems for E-payments, as adjuncts to their own income tax systems.

ability to pay, firms could never generate enough revenue to recover average costs and make a decent return. That may be correct, but affluent patients who pay higher prices are disgruntled. Meanwhile, NGOs speaking on behalf of very poor patients argue that they should have free access to life-saving drugs. In other words, price discrimination makes some people mad because it exists at all, and other people mad because it doesn't go far enough.

The second feature that makes the industry a target is its reliance on patent protection and prescription rules to enforce price discrimination. Many other industries, such as airlines and cinema producers also practice price discrimination, but they use different, and seemingly more acceptable techniques to segment their customers and discourage arbitrage. In the case of airlines, tickets are not transferable between passengers. In the case of cinema, successive time delays distinguish between first run theatre showings, video rentals, and TV reruns.

Recognizing that prescription rules are widely ignored -- doctors can fill prescriptions with generics rather than the patented product while many pharmaceuticals are available in developing countries without prescription -- the industry lobbied hard in the Uruguay Round for worldwide patent protection. The delayed reaction, fueled by HIV in Africa, is a WTO backlash. The backlash is rightly seen by the pharmaceutical industry as only

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[19] For rough estimates for a sample of countries, see Maskus (2000), tables 4.5 and 6.1.

one front in a much larger war.[20] The prize in the larger war is the industry's continued ability to practice price discrimination, unfettered by government regulation.

On November 11, 2001, the Ministers assembled at Doha adopted the Ministerial Declaration on the TRIPS Agreement and Public Health. The Declaration affirmed the use of compulsory pharmaceutical licenses in the interests of public health, and instructed the Council on Trade-Related Aspects of Intellectual Property Rights to recommend how poor countries with no pharmaceutical industry could gain cheap access to essential drugs.[21] This last instruction lies at the core of the Doha Round debate over TRIPS: which countries should be permitted to import generic drugs that are manufactured in disregard of patent rights? The pharmaceutical industry says only the poorest countries, and only drugs for serious contagious diseases (exemplified by HIV, malaria, tuberculosis), and only when measures are in place to prevent trade diversion.[22] Developing countries claim that they are all eligible importers, that drugs for all serious illnesses should be covered (e.g., chemotherapies for cancer), and that the industry's concern about trade diversion is overblown.

[20] See Wall Street Journal, July 9, 2003, p. A4: "WTO trade ministers agreed in late 2001 in Doha, Qatar, that poor countries should be able to override patent protections and use cheaper generic copies of drugs to attack mass health problems. But the U.S. drug industry expressed concerns that relaxing patents beyond those for a limited list of epidemics would set a precedent leading to much broader erosion of intellectual-property rights."

[21] The essence of the Declaration is captured in paragraph 4: "We agree that the TRIPS Agreement does not and should no prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all."

[22] See *Inside U.S. Trade*, July 11, 2003.

The pharmaceutical industry is under attack not only in the WTO, but also in the United States, where HMOs and some state governments have entered the fray. Indeed, Congress is considering a bill that would allow US citizens free rein to purchase their drugs in countries such as Canada, where purchasing by a government monopoly ensures lower prices than in the United States. If enacted, this bill would prove far more corrosive to the system of price discrimination than anything debated in the WTO.

For all the sound and fury, the WTO battle is likely to be settled on terms acceptable both to the developing countries and the pharmaceutical industry. The trick is to separate the WTO battle from the wider war on pharmaceutical pricing. This can be done if developing countries accept the proposition that only LDCs are eligible to import generic drugs for a long list of illnesses. In turn, pharmaceutical companies should allow all developing countries to import generic drugs for a short list of serious contagious diseases (diseases akin to HIV, malaria and tuberculosis). **The odds of success? Perhaps one in two.**

Special & Differential Treatment

The Generalized System of Preferences was first authorized by a waiver adopted in 1971, with an initial life of ten years. In 1979, as part of the Tokyo Round, the "enabling clause" was adopted that permanently enshrined the concept of special and differential treatment. However, at the time of the 1971 waiver, developing countries supplied 24 percent of world non-oil merchandise exports. By 2000, however, developing countries supplied 31 percent of non-oil merchandise exports. Equally important, by 2000, non-oil

merchandise imports – mostly manufactured goods -- reached 20 percent of world gross national income (measured at market exchange rates) and 64 percent of world industrial production. Not surprisingly, with this level of import penetration (about twice the level in 1970), the promise of special and differential treatment that was first made in 1971 has been increasingly hedged.[23] Nevertheless, research by Rose (2003) suggests that GSP preferences roughly double the volume of trade between GSP recipients and industrial countries.

The question in the Doha Round is whether WTO members will extend – *just to least developed countries (LDCs*) -- a richer menu of special and differential treatment, covering not only tariff and non-tariff barriers, but also trade remedies, subsidy obligations, and TRIPS commitments. In 2000, LDCs supplied less than 1 percent of world merchandise exports (LDC exports totaled $44 billion). If new S&D measures are limited to LDCs, the measures would not benefit Brazil, China, India and other industrially advanced developing countries that are home to more than a billion poor people. Nevertheless, S&D measures negotiated in the Doha Round could mean barrier-free access to world markets for dozens of countries and hundreds of millions of poor people. They would gain privileged access not only to the markets of industrial countries but other developing countries as well. **The odds of success? Perhaps two out of three.**

[23] GSP programs and their cousins (such as the Caribbean Basin Initiative, the African Growth and Opportunity Act, and the old Lome Pact) build in several types of exclusions. Sensitive products are ruled out from the start, restrictive rules of origin are imposed on components, and "competitive need" tests come

Conclusion

It's not impossible for the Doha Development Round to live up to its name. It's just unlikely.[24] My odds on the five agenda topics run from remote to probable. On balance, the odds are adverse, and the most likely negotiating successes will have little meaning for hundreds of millions of poor people living in Brazil, China and India. Let me list six benchmarks -- each politically difficult to implement -- that would signal success in the Development Round.

- Industrial countries should de-couple their agricultural subsidies, but perhaps even increase the level of budget support to compensate for reduced border protection. The money should be entirely used to support land values, mainly by retiring agricultural land from the production of crops and livestock that are internationally traded.
- All countries should phase out market access barriers to agriculture over time horizons up to 20 years. The longest phase-out periods should be reserved for the least developed countries.
- Industrial countries should lower their average tariffs on manufactured goods to 1 percent in 5 years, with a maximum applied rate of 5 percent. Developing countries should reach an average of 4 percent in 10 years, with a maximum applied rate of 15 percent.

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into play when a recipient's exports exceed certain thresholds or the recipient country itself becomes too advanced.

[24] As this paper was written, the press carried various articles on missed WTO deadlines, “downsizing” the Doha agenda, and deep deadlocks between North and South and Europe and the United States. While such articles are customary fare at this stage of negotiations, their tenor should not be dismissed as “WTO

- WTO members should schedule a wide range of services for comprehensive liberalization under Modes 1, 2 and 3. Liberalization under Mode 4 (movement of natural persons) should not be priority for the Doha Round. Instead, WTO members should concentrate on designing commerce-friendly systems for E-services.
- The United States should work out a deal with developing countries to identify a list of pharmaceutical therapies and countries that are eligible for compulsory (patent-free) licensing and generic imports, distinguishing between LDCs and other developing countries. This deal should not get embroiled in the wider assault on pharmaceutical pricing practices.
- Finally, LDCs should be given immediate market access, tariff and quota free -- with liberal rules of origin -- to the markets of all countries (including all developing countries). To encourage investment, the access should be guaranteed for at least a decade, before the terms are reviewed.

What if such benchmarks are not achieved? Trade negotiations will not come to a halt. But the action will shift away from the WTO arena to free trade agreements (FTAs). Apart from the pharmaceutical recommendations, my WTO benchmarks are already incorporated in the FTAs negotiated by the United States and the European Union.

According to a tally by Schott (2003), 155 FTAs were notified to the WTO as of May 2003, another 83 have been concluded but not notified, and 46 are in the process of negotiation. A decade ago, Schott (1989) counted only 70 FTAs notified to the GATT.

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business as usual". See Wall Street Journal Europe, July 25-27, 2003, p. A1; Inside US Trade, July 25, 2003, p. 1.

Clearly the 1990s were a busy decade on the FTA front. As a result, the WTO system faces a major institutional challenge from bilateral and regional agreements designed to further trade and investment liberalization. If the Doha Development Round concludes with tepid results, it seems all but certain that super-regional FTAs, centered on the European Union, the United States, and possibly China or Japan will become the trade tools of the next two decades. If these FTAs do the right thing – extend barrier-free access to non-member LDCs – they will also become the development tools of the 21st century.

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