

INTERNATIONAL TRADE: FROM GATT TO THE WTO

As a source of dynamism and development, international trade was a solvent of feudalism and a catalyst for industrial revolution in Europe. Today, it is the key to understanding economic globalization. While the benefits of trade, in terms of employment, growth, and prosperity, are well recognized in economic theory, alternatives, such as mercantilism, protectionism, and economic nationalism, have always obstructed the flow of goods and services across borders. States have never sanctioned complete free trade and, instead, the best that has been achieved are periods of liberal, or freer, trade.

Mercantilist theories dominated and informed trade practices for several hundred years until the 1800s. For mercantilists, economic growth and welfare were contingent on expanding the domestic supply base of monetary metals, like gold and silver, to fuel a concomitant increase in money supply. Contraction in the availability of monetary metals was, on the other hand, associated with reduced money supply and downward pressure on prices, lower growth, lower incomes, and reduce welfare. Mercantilists viewed international trade as a zero-sum activity and, consequently, emphasized the importance of trade controls to benefit the national economy. According to Kristof Glamann, under mercantilist principles, how to “acquire the largest share of what was commonly seen as a more or less fixed volume of international trade, and how so to manage the national share as to produce a favorable balance of trade and a net import of bullion and precious metals, were the twin tasks to which

governments of the day addressed themselves”.¹ This meant limiting imports and generating exports to accumulate precious metals.

Adam Smith (1723–1790) provided the earliest liberal critique of mercantilism in his book *An Inquiry into the Wealth of Nations*. He defended free trade and criticized mercantilists for confusing national wealth with national treasure. For Smith, wealth and welfare were functions of living standards and consumption possibilities, which could be maximized if a country specialized in the production of some goods and exchanged its surplus production for the surplus production of other countries producing different commodities. Liberal economic theory defends free trade from narrow considerations of national interest but in the conviction that free trade is in the national interest of all countries. At an empirical level, this may be demonstrated by looking at how nations fared in the age of mercantilism, given that different countries pursued it with more or less vigor. According to Fellner, “Even during the era of mercantilism there was much less regulation and control in England than in some of the Continental countries. At the end, the more rigorously ‘mercantilistic’ nations [such as France] fared worse”.² France had a larger population and was better endowed with natural resources, but it was England that emerged as the leading industrial power in the 19th century. Fellner acknowledged that while it may be impossible to assert, with confidence, that French mercantilism caused it to lag behind Britain, the possibility that it did cannot be ruled out either.

However, despite the compelling logic of free trade, policy makers have never embraced anything more than freer trade.^a That was first achieved in the 19th century under British leadership but the early 20th century saw a resurgence of protectionism. Liberal trade was revived under American leadership after the Second World War. There are a number of similarities between these two periods, such as leadership by a single dominant political power, but there are important dissimilarities as well. Nineteenth century liberal trade was a unilateral decision by Britain whereas 20th century and contemporary liberal trade are premised on the

^a The sake of simplicity, however, I will use the term free trade to mean freer or liberal trade.

principle of reciprocity. Moreover, as we shall see below, 19th century liberal trade included trade in agriculture but its later manifestation specifically excluded agriculture, which continued to benefit from high levels of protectionism. This practice of selective liberalization has been particularly damaging to developing countries, which are essentially primary and farm producing countries.

Free Trade in Practice

In Britain, free trade made slow headway following the industrial revolution which began around 1780. The industrial revolution was characterized by a shift away from the dominance of mercantile capital to fixed industrial capital, and away from labor intensive to capital intensive manufacturing.³ It was not a single cataclysmic event that changed the shape of British society and economy but rather a process that, between 1780 and 1860, gradually transformed Britain from an agricultural to an industrial economy. The reasons for the industrial revolution cannot be ascertained with any certainty but population growth and increased availability of productive tools were important factors.⁴ Together they increased the level of domestic demand and the economic capacity to respond to higher demand.

The growth in manufacturing opened up new trade possibilities given that consumption of manufactured goods had high income elasticity.^b However, in the early period of industrialization, Britain actually introduced higher tariffs to protect its declining agricultural sector. This was done through price supports, and restrictions on agricultural imports until domestic prices had exceeded certain threshold levels. These became generally known as the Corn Laws. Fielden writes that the “British tariff of 1815 was harsher than the eighteenth century’s. In that year, too, the final great Corn Law excluded foreign wheat until home prices reached 80 shillings per quarter”.⁵ This meant that farm products could not be imported into Britain unless there was a famine or some other extenuating circumstance.

^b Income elasticity refers to the ratio of the percentage increase in the demand for goods or services (in our case, manufactured goods) to an increase in income.

There were also export controls and the British government restricted the export of machinery and technology to preserve its own manufacturing advantages. Despite the prohibition, however, machinery continued to be smuggled out of the country and there was a constant flow of foreigners entering Britain to learn and master the latest technology, especially after 1815. The French, German and American industrialization started around this time and they made rapid progress as they could implement quickly what had Britain achieved over a longer period of time.

Britain heralded the movement to free trade by ending import restrictions and export controls in the mid-1840s. Industry groups, particularly the textile industry, lobbied for this and played a leading role in the Anti-Corn Law League. It helped that the textile industry was highly organized, which Cheryl Schonhardt-Bailey explained was due to the concentration of the industry in Manchester.⁶ Being geographically concentrated meant that the costs of organizing for lobbying activities were small relative to the benefits of free trade, expected to be substantial, and which would also concentrate in the same geographic area.

As a result of the activities of the League, the prohibition on export of machineries was lifted in 1843; and in 1846 the Corn Laws were repealed. The attraction of free trade policies can be explained in terms of the potential gains from trade and, no doubt, there was also an awareness that Britain's trading partners required export opportunities, in agriculture, if they were to import British manufactured goods. For the export oriented textile industry in Britain, the transition toward free trade was a logical product of their international competitiveness. The lifting of the ban on export of machineries, however, also contributed to the spread of industrialization to more remote parts, such as Russia, where the process of industrialization had not yet begun.⁷

Initially, the foreign reaction to British free trade policy was that it was a conspiratorial and clever move designed to preserve Britain's position as the premier industrialized country. Nineteenth century critics of free trade, in Europe and America, argued that it would establish a system of unequal development, since a country specializing in manufacturing, a dynamic sector, could expect to grow faster than another country specializing in primary production. The American economist Henry Carey (1793–1879) and the German economist Friedrich List (1789–1846),

denounced British free trade as a ploy to “...keeping the rest of the world occupied in subordinate pursuits — mere hewers of wood and drawers of water for an industrial England”.⁸

However, the “inevitable” failed to eventuate. Instead, by the early 20th century, Britain was a country in economic decline. There are numerous explanations for this unexpected turn of events including, for instance, wage differentials between Britain and the new colonies which spurred investments in labor saving technologies in the United States and elsewhere while Britain lagged behind in technological innovation because of the absence of a wages pressure. Britain’s economic decline instigated a general retreat from free trade practices during the First World War and fuelled rampant protectionism during the inter-war period. Disruptions to normal trade during the First World War encouraged many countries to embark on domestic industrial production in order to satisfy unmet import demand. After the war, these new industries, threatened by resumption of imports and loss of market share, lobbied for, and obtained protection from foreign competition.

In 1922, the United States introduced the Fordney–McCumber tariffs which raised average tariff levels on dutiable imports from 27 percent to 39 percent. Despite the increase in tariff levels, the Fordney–McCumber Act introduced a single tariff rate applicable to all countries. The US government, with some justification, could claim that this new system was, at least, non-discriminatory and accorded each trading partner “most favored nation” treatment.^c The United States also used it to extract similar MFN treatment from other countries. For example, France was pressured into granting the United States the same preferential tariff rate that it extended to Germany under the Franco-German treaty of 1927. According to Conybeare, “The Fordney–McCumber tariff from 1922 to 1929 may be regarded as a successful example of hegemonic predation that probably raised the national income of the United States by obtaining tariff concessions from the rest of the world...”⁹

^c Most favored nation (MFN) treatment refers to a practice of nondiscriminatory trade and constitutes a central pillar, also, of the postwar GATT regime. The difference is that whereas the Fordney–McCumber tariffs introduced MFN treatment at higher levels of tariffs, the GATT system is based on MFN treatment at progressively lower levels of trade restrictions.

These gains were more than reversed when the United States introduced the infamous Smoot–Hawley Tariff Act in 1930 and increased tariff levels to 53 percent. This quickly provoked widespread retaliation against American exports. As access to the American market became more restrictive, other countries introduced retaliatory tariffs. The net result was a spiralling of tariff levels and average tariff in major countries increased to around 50 percent. Some examples of post-Smoot–Hawley retaliation are listed below:

- In April 1930 Australia increased tariff levels beyond an earlier increase in June 1929.
- In July 1930 Spain, concerned with Smoot–Hawley tariffs on grapes, oranges, cork and onions, passed new prohibitive legislation.
- In June 1930 Italy increased tariffs on American and French automobiles in retaliation for higher tariffs on olive oils, hats, etc.
- In September 1930 and in 1932 Canada introduced new tariffs in retaliation of American restrictions on timber and agricultural products.
- Switzerland introduced a boycott on American exports in response to American tariff on watches, shoes, etc.

Due, largely, to the tariff war, total world trade, between 1929 and 1933, shrank from about US\$3 billion to US\$1 billion,¹⁰ and the world was plunged into the Great Depression. This, arguably, also contributed to the onset of the Second World War, because trade contraction, declining production and rising unemployment were important factors that led states to switch idle industrial capacity to military production and to draft the army of unemployed into national armed forces. This fuelled an arms race that sent the world down the slippery slope of hostility and war. Another factor in the inexorable drift towards war was the punitive peace that had been imposed on Germany as part of the Versailles Agreement that ended the First World War. The terms of the peace agreement inflamed German discontent, which the nationalist forces exploited to their advantage. German disinterest in preserving international stability was an important factor in the escalating crisis of the period.

Even as the world hurtled towards the precipice of war, the view that free trade was beneficial for national economic welfare and for world

peace was becoming part of the accepted logic. The American Secretary of State, Cordell Hull, was a leading advocate of free trade. He stated that, "...enduring peace and the welfare of nations [were] indissolubly connected with friendliness, fairness, equality and the maximum practicable degree of freedom in international trade".¹¹

Still, national governments found it difficult to extricate themselves, in time, from their folly. Only after the devastation of the Second World War was there a concerted attempt, on the part of British and American leaders, to create a lasting structure for a postwar liberal trading regime. The US commitment to liberal trade was significant in the context of isolationism after the First World War. It was also not surprising in the context of interwar experiences. Moreover, the government and business leaders in the United States recognized that free trade was in their own interest. This was, because American industry had survived war-time destruction and could be expected to dominate world trade. National interest proved a powerful incentive for the United States to assume leadership in creating a liberal trade structure. Other countries, too, had a stake in liberal trade as they hoped to rebuild their economies, and benefit by exporting to a relatively open American market.

Liberal Trade After the Second World War

In planning for the postwar period, supporters of free trade viewed it also as essential to world peace and prosperity.^{12,d,e} The move toward free trade began before the end of the Second World War. In the Atlantic Charter, signed in August 1941, the Allied Powers committed themselves to "...endeavor...to further the enjoyment of all States, great or small,

^d The view that free trade and economic interdependence is a force for peace is a reasonable assumption but it cannot be proved that deep economic interdependence is necessarily able to control the more capricious aspect of human nature, ethnic and national conflict. While founders of the postwar liberal trade regime were driven by this fundamental belief, it should be noted that less than 50 years earlier, growing interdependence had failed to avert the First World War. Barbara Tuchman, in her brilliant account of the onset of the First World War, states that, "...the interlocking of finance, commerce, and other economic factors — which had been expected to make war impossible failed to function when the time came. Nationhood, like a wild gust of wind, arose and swept them aside."

^e The degenerative impact of ethnic conflict remains relevant in the 1990s.

victor or vanquished, of access on equal terms to trade and raw materials of the world which are needed for their economic prosperity”.¹³

Multilateral negotiations on promoting liberal trade began in 1946 and at the final negotiating conference in Havana in 1948, 56 countries were represented and agreed to the Havana Charter. The Charter emphasized ‘balanced growth’ of the world economy and a revival of the world economy based on market forces. The signatories agreed to establish an International Trade Organization (ITO) that would supplement the International Monetary Fund and the International Bank for Reconstruction and Development (the World Bank). The ITO was to be rule-oriented institution to oversee the transition to free trade by 1952. Deviant members could be expelled and subject to sanctions but the consensus view was that the threat of sanctions would be enough to secure compliance with the established trade rules. It was agreed that voting within the ITO would be based on “one state, one vote”, despite American demands for weighted voting that would ensure its dominance over the ITO. This was rejected by a majority of countries (35) present at the Havana Conference.

Almost immediately, the ITO came under intense criticism within the United States. Business groups objected that ITO would regulate private business practices. Others argued that ITO rules would not apply equally to developing countries, which could introduce and maintain protectionist policies in order to promote development. Much weightier was the criticism that the ITO was a supranational organization that would compromise US sovereignty and independence by making American trade policy subject to an international organization not controlled by the United States. The US Congress indicated disapproval of the ITO and this effectively scuttled its establishment, because Congress, not the president, had jurisdiction over international trade policy. The US government did not even bother to submit the Havana Charter for ratification by the Congress. According to Jeffrey Schott, the Havana Charter was subject to criticism “both from the ‘perfectionists’ who thought its provisions flawed, and from the ‘protectionists’ who increasingly clamored for safeguards for national trading interests”.¹⁴ Instead of the ITO, the General Agreement on Tariffs and

Trade (GATT) became the main vehicle for liberalization of international trade after the war.

The General Agreement on Tariffs and Trade

The GATT was signed in October 1947 by eight countries and its primary function was to record ITO agreements. Unlike a formal organization where states might join as members, it was simply a treaty with contracting parties. Over time, however, the GATT acquired a small secretariat and became both a multilateral agreement and an “international organization”.^f The function of the GATT Secretariat was to provide support facilities for the various negotiating rounds to reduce trade barriers. Accession to GATT was open to countries that embraced the dual principles of open markets and decentralized decision making. Since it was only intended as a temporary mechanism until the ITO had become a reality, it inevitably was a less complete document.

The GATT system was based on two main rules. The first rule was that of *most favored nation* (MFN) treatment (Article 1), which prescribed bilateral deals in favor of multilateral agreements that did not discriminate against any contracting party of the GATT. To promote multilateralism and non-discrimination, the MFN clause required that where negotiations between two or more countries lowered tariffs the lower tariff should be available to all exporters of that product. This was to prevent trade benefits from being granted on a preferential basis to only a few countries because that would only lead to trade diversion rather than trade creation — the goal of liberal trade. MFN ensured, what Kenneth Dam called, the “spillover effect”, whereby all contracting parties of GATT benefited when one country lowered its tariffs as a result of negotiations with another country. The same principle, of course, also applied when one country decided to increase existing

^f The GATT secretariat is staffed by a relatively small staff. In the mid-1960s the GATT Secretariat had only 179 full-time employees compared to the 773 staff members of the IMF. In 1984, the IMF Secretariat had 1750 employees, the World Bank had 5700 employees and GATT only 283. In 1986, the GATT Secretariat was staffed by about 400 employees.

tariff levels. Provision for increasing tariff levels was contained in Article 19 of the Agreement, known as the safeguard clause.[§] The MFN clause had the following three exceptions:

- Pre-existing preferential trading arrangements were excluded from MFN clause. Thus Britain was allowed to maintain preferences granted to former colonies under the British imperial preferences. Later, GATT also allowed preferential treatment for developing countries.
- Customs unions and free trade areas were also exempted from MFN conditions. Under this exclusion, free trade agreements within the EU, for example, need not be extended to non-EU countries but the assumption was that free trade areas would gradually expand membership and become increasingly global in scope.
- A new contracting party to GATT could also be denied MFN privileges by existing members. Indeed, when Japan joined GATT in 1955, 14 member countries denied MFN privileges on grounds of undesirable low wage competition.

The second GATT rule was that of *national treatment* (Article 3), which prohibited states from discriminating against imports once these had cleared all border measures and entered the domestic market. Of course, GATT rules applied only to government and there was nothing it could do to prevent private citizens from conducting “buy local” programs. Moreover, even governments failed to adhere to the spirit of GATT rules.

In devising a system for adjusting trade imbalances, Lord Keynes, the British negotiator, argued that the burden of adjustment should fall on

[§] Some countries have devised ingenious ways of circumventing the non-discriminatory principle of the GATT. Japanese imports of plywood used to be classified under the two categories of “hardwood plywood” and “softwood plywood”. The lower tariffs for softwood plywood effectively discriminated against the developing countries because softwood plywood, made from pine, came essentially from the developed countries of the United States and Canada. Under criticism that this was discriminatory, Japan abolished this categorization but instead introduced differential tariffs depending on the thickness of plywood, with lower tariff levels for thick plywood. This is as discriminatory as before because softwood plywood tends to be thicker than hardwood plywood. In general, developing countries criticize the developed countries for discriminating against their exports.

both surplus and deficit countries. Under his proposal a country in deficit would be required to lower consumption, and import demand, while a country enjoying trade surplus would be compelled to use monetary and fiscal policies to increase consumption demand and imports. The United States, expecting to remain a surplus country for a considerable period after the war, rejected this suggestion. Instead, it shifted the burden of adjustment entirely on deficit countries. The United States was thus spared, at least for the time being, the pain of adjustment policies for reasons of international trade. Interestingly, however, when the US trade balance moved into deficit after the 1970s, rather than implement adjustment policies to correct the payments imbalance, the US government attempted to shift the burden back on its trading partners, arguing that US deficits were a result of closed foreign markets rather than uncompetitive American products.

Like the abortive ITO before it, GATT had a 'one state, one vote' principle and decisions required a majority vote. In practice, however, trade negotiations and agreements were based on the principle of consensus. Amendments to the GATT required a two-third majority of the contracting parties except in the case of the MFN clause; the escape clause (Article 19), and the amendments clause (Article 30), all of which required unanimity. Despite the absence of weighted voting, GATT was more palatable to the United States because it contained clear assurances that western interests would dominate. It did not contain provisions favored by developing countries but which had been included in the Havana Charter, such as the provisions on economic development, commodity agreements and business practices considered unfavorable by the developing countries.¹⁵ In 1965, however, an amendment and addition to GATT, Part 4 of the Agreement, did provide for special consideration to be given developing countries in, for example, stabilizing commodity prices and improving access to markets in developed countries for their processed and manufactured exports.

One of the principal objectives of GATT was to replace the more pernicious quota restrictions with tariffs, which were less restrictive of international trade. Thus, as Bhagwati stated, GATT was based on a "fix-rule" rather than "fix-quantity" principle. Two exceptions, however, permitted states to introduce quota restrictions. The first was agriculture and this sector of economic activity was carefully excised from the liberalizing

discipline of GATT. Many countries, like Japan, maintained quota restrictions on some agricultural products into the 1990s. The second was quota restrictions for balance of payments reasons on the reasoning the quotas were more effective in reducing imports and, therefore, in achieving payments balance. The United States had, originally insisted that all quotas be abolished, which, if accepted, would have been advantageous to the United States since it was the largest exporter, also, of primary products. Other countries, however, rejected this for balance of payments reasons. The result was a compromise in which all states agreed to end quota restrictions eventually but such restrictions were permitted as long as these could be justified on grounds of payments imbalance.¹⁶

Apart from the exceptions, an “escape clause” (Article 19) permitted a country to re-introduce higher tariffs, albeit on a non-discriminatory basis, if that country could demonstrate that an earlier tariff concession had resulted in serious injury to domestic industry. It was intended as a temporary relief although most tariff increases under Article 19 were, in fact, never rescinded. Article 19 also provided that if negotiations were unsuccessful, the country seeking to invoke Article 19 could unilaterally suspend tariff concessions. In this case, however, the affected party also had the right to suspend concessions of approximate equal value. To invoke Article 19, a country had to demonstrate causation between a tariff concession and injury to domestic industry. The burden of proof was

Table 2.1: GATT negotiating rounds.

Round	Year	Countries	Trade covered
Geneva (Switzerland)	1947	23	US\$10b
Annecy (France)	1949	33	Na
Torquay	1950–1951	34	Na
Geneva	1955–1956	22	US\$2.5b
Dillon (Geneva)	1961	45	US\$4.9b
Kennedy	1962–1967	48	US\$40.0b
Tokyo	1973–1979	99	US\$155.0b
Uruguay	1986–1993	107	[1]

Note: [1] It was estimated that, over a 10-year period, the Uruguay Round would lead to annual global GNP expansion of US\$230 billion and merchandise trade expansion of US\$745 billion.

difficult to establish and, consequently, led to unilateral or bilateral measures, outside of GATT, to restrict trade, as in the case of the US–Japan auto-dispute of the early 1980s, which resulted in a Japanese decision to exercise voluntary export restraint (VER).

The GATT and its successor institution, the World Trade Organization, have operated much like a club for the rich with only marginal benefits for developing countries. In the early years of GATT, developing countries, consequently, relied on the UN Conference for Trade and Development (UNCTAD) to achieve improved trade opportunities. Their demand was for special and differential treatment (SDT), a form of positive discrimination to promote development and industrialization. But against these arguments for *proportionality* of commitments, developed countries insisted on full and complete *reciprocity* between developed and developing countries. Ultimately, however, GATT members agreed to introduce a Generalized System of Preference (GSP) which allowed developing countries to export some of the commodities to developed countries at below MFN tariff rates. The GSP scheme was introduced largely in the 1970s but by the time of the Doha Round (2001–), its privileges had become insignificant as a result of the progressive decline in MFN tariffs.

Trade Liberalizing Achievements of the GATT

GATT's liberal achievements came from eight multilateral tariff negotiating rounds. As a measure of these negotiations, average tariff on manufactured goods was reduced from 47 percent in 1947 to below 5 percent in 1990s.

The Kennedy Round was the first comprehensive attempt to liberalize world trade. It began with an across the board tariff cut of 50 percent followed by negotiations to adjust tariff levels. The end result was that 30 percent of dutiable imports of the major participants were left untouched by tariff reductions and approximately a third of the reductions on the remaining imports were of less than 50 percent.

The US government pushed for the Kennedy Round in the belief that lower tariffs globally would help domestic exporters and restore confidence in the US Dollar. It also persuaded the Congress to accept a “fast track authority” (renamed trade promotion authority in 2002) to

ensure Congressional vote to accept or reject the resulting trade agreement without amendments. This made Congressional ratification of any agreement more of a formality and reassured other negotiating countries that difficult negotiations, once completed, would not be reopened for negotiations by Congressional insistence on amendments.

The Kennedy Round was followed by the Tokyo Round, which began in 1973 and was scheduled for completion in 1975. The Round took much longer to conclude because of the difficult nature of issues and because of global economic turbulence, such as the two oil crises, currency devaluation and general stagflationary (a combination of stagnation and inflation) conditions. Moreover, because of persistent American trade deficits, the domestic support base that had been instrumental in the success of earlier rounds had weakened and there was little political will to pursue liberalization. Between 1967 and 1975, the American Congress refused to give the president the authority to press ahead with a trade deal and, consequently, trade negotiations made little headway during this period.¹⁷ Only later when fast track was approved did negotiations begin in earnest.

The primary negotiating agenda in the Tokyo Round was non-tariff barriers (NTBs). Although tariff cuts were significant in percentage terms, tariff levels were generally low to begin with. Tariff rates for all industrial products for the United States, European Community and Japan were between 5.5 percent and 6.6 percent, and tariff cuts for industrial goods was about 33 percent to be phased in over an 8-year period.

The Tokyo Round also resulted in a number of agreements and understanding among selected group of countries on issues of specific interest to them. For example, the Agreement on Trade in Civil Aircraft involved only 39 countries. Some of the other Agreements were on technical barriers to trade (66 countries), government procurement (56 countries), and import licensing procedures (66 countries). Seven of the agreements contained precise obligations on countries that had agreed to ratify them and these are referred to as “codes”.

The government procurement code detailed the rules/procedures for competitive bidding for government contracts with a view to give foreign contractors national treatment. However, not all areas of government procurement were covered by these codes, the main exception

being in the areas of national security and defense. The target country for liberalization of government procurement was Japan which had a long history of denying foreign companies equal treatment to domestic suppliers. At one time, the Chairman of Nippon Telephone and Telegraph (NTT), the domestic telecommunications giant had arrogantly brushed aside criticisms, and American pressure, to buy US telecommunication products by saying that all the US had to offer were “mops and buckets”. After the Tokyo Round agreements, NTT foreign procurement was gradually opened up.

The issue of rolling back state subsidy was important in order to create a level field for exporters from all countries. Government subsidies enhanced the competitiveness of a firm or industry by socializing some of the costs and gave exporters of subsidized products the ability to undercut competitors without subsidies. The problem was that most countries provided some form of subsidy to specific domestic producers.

The subsidies code agreed in the Tokyo Round distinguished between export subsidies and subsidies “for the promotion of social and economic policy objectives”.¹⁸ Whereas, the existing GATT subsidy clause stipulated that no new subsidies were to be allowed for non-primary products; the new code prohibited export subsidies for non-agricultural products. This modestly strengthened GATT because it was still difficult to distinguish between the two types; and subsidies, in various forms, continued to be offered. For instance, in the five-year periods to 1982, EU provided US\$30 billion in subsidies to the steel industry; and Japan, in 1982, announced a US\$750 million plan to subsidize development of the next generation computer.

Uruguay Round

The period from the late 1970s through till the end of the 1980s was marked by a resurgence of protectionist sentiment in some western countries, most prominently the United States. Protectionism in the United States stemmed from a persistent trade deficit and a perception that trading partners were exploiting relative open markets in the United States while denying American exporters equal access to their own markets.

Sections of the business community, displaced workers, and legislators chafed at the 'unfairness' of international trade and demanded a level playing field that protected American manufacturers and jobs. These groups insisted that the US government, for instance, abandon its commitment to liberal trade in favor of strict reciprocity and protection for domestic sectors, adversely affected by imports.

While Congress was more easily swayed by these protectionist sentiments, the US administration remained committed to liberal trade principles. In this period, there were some deviations from the established rules of liberal trade but no wholesale questioning of the trade regime. The US government recognized that any reversal of the hard fought gains would be detrimental to long term prospects both in the United States and globally.

To stem the tide of protectionism, trade ministers from 90 countries met at Punta del Este, Uruguay, in September 1986, and issued a declaration launching the Uruguay Round (UR) of trade negotiations. They also agreed to 'standstill and rollback' existing levels of trade protectionism. The objective was to restore confidence in GATT and contains the crisis of protectionism that threatened to erode past achievements. A significant aspect of UR was the decision to incorporate into GATT system those sectors that had previously been excluded from GATT purview, like agriculture and textile, and formulate rules to deal with a more complex and globalized trading world.

To highlight the commitment on standstill and rollback, a Surveillance Body was set up to maintain a moratorium (standstill) on trade restrictions and facilitate the dismantling (rollback) of protectionist measures. The agreement, however, was only partially respected. Between September 1986 and November 1990, 25 possible violations of the standstill commitment were brought to the attention of the Surveillance but only six were successfully resolved. The process of GATT initiated rollback of protectionism, produced even fewer results.¹⁹ Even if less than salutary, standstill and rollback were worthy principles in focusing the attention of the world community and as a moral deterrent to flagrant violations.

To address the broader negotiating agenda, the Punta del Este Declaration set up three specialized committees:

- A Trade Negotiations Committee (TNC) with overall responsibility for the Round.

- A Group of Negotiations on Goods (GNG) to oversee 14 negotiating committees established in January 1987 to lower trade restrictions on goods trade. It reported to the TNC.
- A Group of Negotiations on Services (GNS) to promote liberalization of services trade. This group also reported to the TNC.

The negotiating agenda was an ambitious attempt to broaden the scope of the GATT and to include international trade in services and agricultural commodities. The expansive negotiating agenda, however, complicated the work of trade negotiators and even though the Round was scheduled for completion in 1990, agreement was delayed until 1993. Apart from the negotiating agenda itself, another reason for the delay might be the large membership base of GATT and the attendant difficulty of reaching consensus. At the time of the Kennedy Round, GATT members numbered 53 countries but the Uruguay Round negotiations involved around 100 countries. However, although the expanded membership base complicated the task of negotiators, agreement in the Uruguay Round was held up not by the majority of the members but by a few of the large and influential trade actors.

Once agreement had been reached, GATT estimated that if all the provisions were faithfully implemented by signatory countries, the deal would add US\$230 billion to world GNP and lead to a merchandise trade expansion of US\$745 billion over a 10-year period.²⁰

For developing countries, the UR can be singled out as the first round that promised relief from existing inequities. The GATT had operated like a rich man's club because while it offered some concessions, such as the Generalized System of Preferences (GSP),^h it failed to promote liberalization in areas of greatest interest to developing countries. Agriculture had been excluded from GATT purview and trade in textile was regulated by a highly restrictive Multi Fibre Agreement (MFA) that allocated export quotas to each developing country with a textile exporting capacity. As a result of these exclusions, GATT was very different to 19th century free

^h Under the GSP program, developed countries unilaterally offered to permit duty free imports of selected commodities from developing countries. Over time, as overall tariff structures in developed countries came down to insignificant levels, duty-free status for developing countries lost most of the potential advantages.

trade. In the 19th century Britain introduced free trade by repealing protection on agriculture but 20th century free trade excised agriculture and labor-intensive textiles from the liberalizing disciplines of GATT. It may not have been designed with particular malice towards developing countries but the result of selective liberalization was detrimental to their developmental goals.

The Uruguay Round provided the first opportunity to redress the imbalance. This was important in the context of liberalization that had been encouraged in developing countries following the Latin American debt crisis and IMF structural adjustment programs. Developing countries used the UR to secure a better trade deal and given that both textile and agriculture were included in the negotiating agenda, participated in negotiations more keenly than in earlier trade negotiating rounds. The agreement on textile committed developed countries to phase out MFA over a 10-year period. At the end of the phase-out period, on January 1, 2005, MFA quotas were lifted and replaced with tariffs, albeit at relatively high levels.

Liberalization of Agricultural Trade

At the time of UR negotiations, agricultural products constituted only about 13 percent of world merchandise trade. However, with the incorporation of agriculture into the GATT framework, agriculture trade was expected to grow significantly and it is not surprisingly that much of the anticipated welfare gains of the Uruguay Round liberalization was expected to be the result of liberalization of agriculture trade, especially given high tariffs on agricultural products compared to manufactured goods.

Previous exclusion of agriculture from GATT negotiations was necessitated by domestic political sensitivities in the European Union (EU),¹ the United States, and Japan. The Japanese government, for example, insisted on protecting domestic rice production on grounds of food

¹ In the Uruguay Round, the EC, not the individual European countries, has the negotiating authority. This is in keeping with the decision to establish a Common Market that would maintain a common external policy.

security — a critical component of comprehensive national security. The European Union also was highly protectionist and provided generous subsidies to farmers under the Common Agriculture Policy (CAP). The CAP helped maintain high domestic prices through state purchase of agricultural outputs and through other subsidies, which encouraged farmers to produce in excess of domestic demand. The resulting surplus production was, in turn, disposed in third country markets with the help of export subsidies.

Subsidized European exports were a source of irritation for American farm producers who found their traditional export markets undercut by aggressive European policies. In retaliation, the US government increased subsidy payments to its farmers and with the help of these subsidies, American exporters, in turn, encroached into traditional export markets of Australian, Canadian and other agricultural exporters. Unable to match the European Union or the United States in subsidies, these smaller countries, in 1986, formed the Cairns Group of Fair Traders^j to campaign for subsidy-free liberal trade in agriculture. The Cairns Group was composed of both developed and developing countries and in the UR negotiations played an active role in focusing attention on farm liberalization. It was supported by the United States because the subsidy war with the European Union was becoming increasingly costly for taxpayers. According to OECD calculations, agriculture support policies, in 1989, cost consumers and tax payers in OECD countries roughly US\$251 billion.²¹ However, in negotiations neither the US nor the EU could muster the political will to step back from existing farm support policies. In December 1990, the deadline for completing the UR expired with a wide chasm separating the United States and European Union. Intermittent negotiations continued even after the deadline had expired but produced no real breakthrough. The American government, supported by the Cairns Group, insisted on a 75 percent cut in internal support and border protection and 90 percent cut in export subsidies whereas the European Union was willing to concede

^j The Cairns Group includes Australia, Argentina, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay.

no more than a 30 percent reduction. The two sides were also locked in disagreement on the appropriate base years for these reductions.²²

European resistance was spearheaded by France, the world's second largest exporter of agricultural products. For employment reasons, the French government felt compelled to defend and protect its farming community from more efficient agricultural producers. Agriculture was also an important source of employment for several other EU countries and not easy to liberalize, given existing high levels of unemployment. The importance of agriculture as a source of employment is shown in Table 2.2.

Frustrated by lack of progress, the American Congress imposed a new deadline of December 15, 1993 for fast-track approval of any agreement. Without fast track authority Congress could veto specific aspects of the final agreement and force their re-negotiation. This threat prompted a fresh impetus for further negotiations to resolve differences between the European Union and the United States over agriculture. In the shadow of a Congressional "ultimatum", it was, ironically, an American concession that made agreement possible. Negotiations were concluded by the December deadline and the final agreement was signed by GATT member countries in April 1994, in Morocco.

Table 2.2: Agriculture in the European Union countries.

Country	Percent of population in agriculture in 1986	Share of agriculture in national output in 1986
France	7.3	4.0
West Germany	5.3	2.0
United Kingdom	2.6	2.0
Netherlands	4.8	4.0
Portugal	21.9	10.0
Spain	16.1	6.0
Italy	10.9	5.0
Ireland	15.8	14.0
Greece	28.5	17.0
Denmark	6.2	6.0
Belgium	2.9	2.0
Luxemborg	4.0	—

Source: El-Agraa (1990).

The UR accord stipulated that non-tariff barriers to agriculture trade be replaced by tariffs and that all tariffs, including existing tariffs, be reduced by an average of 36 percent, over six years, in the case of developed countries and 24 percent, over 10 years, in the case of developing countries. The developed countries also agreed to reduce budgetary outlays on export subsidies to a level 36 percent below the 1986–1990 base period over six years and to reduce volume of subsidized exports by 21 percent over six years.²³ Developing countries had to reduce export subsidies by 24 percent and subsidized exports by 14 percent over the same period. However impressive the agreement looked on paper, the reality was that it effectively postponed the task of farm liberalization. It was a major setback for developing countries and for the Cairns Group.

On new issues, the UR extended GATT's reach to include services trade, foreign investments (TRIMs, or Trade Related Investment Measures), and intellectual property rights (TRIPs, or Trade Related Aspects of Intellectual Property Rights). These were issues of particular concern to developed OECD countries, which generated 84 percent of all services exports and 90 percent of all investment flows. Developing countries, on the other hand, opposed the inclusion of these sectors, first, because of a fear that their inefficient domestic services sector, such as banking, insurance and telecommunications, would be swamped by western multinationals, and second, because they considered investment controls and other TRIMs as essential to their developmental objectives. The TRIMs agreement required developed countries to remove all non-conforming TRIMs within two years, the developing countries within five years, and the least developed countries within seven years.²⁴

The importance of services trade had increased progressively through the postwar period and in 1990, global services trade was worth US\$820 billion, or 23 percent of total merchandise trade. Moreover, for individual developed countries, the services component of economic output and exports had increased substantially to alter the structure of their economy. In 1993, for example, services generated 74 percent of American gross domestic product, and produced a balance-of-trade surplus of US\$55.7 billion against a deficit of US\$132.4 billion for goods trade.²⁵ For developed countries, a more liberal regime of services trade was essential to enhance GATT, not only because services were an important trading

category, but also because services and goods trade had become inter-linked, with services accounting for a sizeable component of the value of all goods.

On services, the UR produced a *quid pro quo* agreement giving developing countries more liberal rules on textiles trade in exchange for agreement to include services, and foreign investment, within GATT/WTO. The General Agreement on Trade in Services (GATS) emphasized the dual principles of transparency of trade regulations and most favored nation treatment. At the same time, countries were permitted to exempt certain services from MFN treatment, provided that exemptions were reviewed at the end of five years and limited to no more than 10 years. The agreement on services was modest compared to initial expectations but significant in, progressively, realizing a more complete trade regime. Separate negotiations later produced a Basic Telecoms Agreement and an Information Technology Agreement.

The protection of intellectual property rights had been a running sore in relations between developed and developing countries because of allegation that developing countries failed to respect property rights, such as trade marks and copyright, resulting in loss of incomes for owners of such rights. Treaties guaranteeing such rights have existed since the 1960s^k but enforcement has always been a problem. In the UR Agreement on the TRIPs, countries agreed to make wilful trade mark counterfeiting and infringement of commercial copyright, a criminal offence. The Agreement covered a range of intellectual properties such as copyright, computer programs, trade marks, designs, patents and layout of integrated circuits and also geographical indications (to identify area of origin, especially for wines).

GATT Reform and the WTO

A final significant outcome of the UR was the decision to establish a World Trade Organization (WTO). The necessity of institutional overhaul

^k The specific treaties include the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome, 1961); the Paris Convention for the Protection of Industrial Property (Paris, 1967); and Treaty on Intellectual Property in Respect of Integrated Circuits (Washington, 1989).

can be traced to a number of factors. According to Lutz, reform was an important step toward minimizing the “de-liberalization of international trade”.²⁶ The rise of protectionism and retreat from liberal achievements was a strong incentive to reinvigorate free trade principles by strengthening institutional structures. A new organization and stricter rules may not be the complete solution to protectionism but as *The Economist* observed, “...a purposeful and influential [WTO] can put up more of a fight than one that is badly run and lacking in confidence”.²⁷

Others argued that while GATT had progressively acquired a semi-institutional status, it was still not the ideal mechanism for globalized economic relations. A more formal institutional arrangement was considered appropriate to the new realities. Blackhurst argued that with globalization, “...multilateral organizations which provide the institutional and legal frameworks for these cross-border commercial activities need to evolve in ways that allow them to continue to keep pace with the changing conditions”.²⁸ Bringing GATT into the global age was, therefore, an important reason for changing the structure of liberal trade.

The European Community and Canada proposed the establishment of a WTO. The UR agreement approved its establishment and the WTO began operations in January 1995, replacing the GATT. To facilitate its operations, many of the existing rules were revised to encourage the contracting parties to rely on formally sanctioned dispute resolution procedures rather than on unilateral measures, as had become the norm during the GATT period.

One of the main weaknesses of GATT was its dispute resolution mechanism, which, in keeping with the original distaste for legalism, relied on negotiations and conciliation rather than on legal adjudication. According to Edward McGovern, “In the first decades of its existence, particularly under the tutelage of its Director-General, Eric Wyndham-White, there was a deliberate attempt to avoid anything smacking of legalism, an approach illustrated by the complete absence until recent years of any post of legal advisor in the GATT secretariat”.²⁹ This system may have suited the early GATT, when it was a small institution composed largely of western countries, with similar cultural, social, political and economic backgrounds, but the increase in membership

and compositional diversity enhanced the need for a more rule-based adjudication procedure.

The GATT dispute settlement mechanism was contained in Articles XXII and XXIII of the General Agreement. Until the end of 1986, Article XXII dispute settlement procedures had been used only on about 10 occasions whereas 100 complaints had been filed under Article XXIII.³⁰ Under Article XXIII, a dispute arose when one country alleged another to be guilty of nullification or impairment of a GATT benefit or an impediment to realization of a GATT benefit. In the initial stages of a dispute, Article XXIII provided for bilateral consultations but if the dispute persisted, a special panel could be set up to examine the complaint. The panel report was submitted to the GATT Council for formal adoption if the panel failed to convince the disputants to accept its ruling. The panel report had to be unanimous and the adoption of the report by the GATT Council also required unanimity. This meant that the 'losing' party could easily prevent adoption of the report by the Council. However, in so far as success of the dispute settlement procedures was concerned, of the 100 cases referred to a panel, only two eluded successful resolution.

Nevertheless, dissatisfaction remained that procedures were time consuming and cumbersome and that by the time a report had been prepared, the affected industry could suffer irreparable injury. This explains the growing reliance on dispute settlement outside of GATT, such as bilaterally negotiated voluntary export restraint agreements and other neo-protectionist measures. Another source of problem was the proliferation of dispute settlement procedures, which led to confusion. As part of the Tokyo Round agreements, various countries agreed on Codes governing specific areas and many of these Codes had their dispute settlement procedures that varied from those specified in the GATT.

The WTO streamlined dispute resolution by establishing the Dispute Settlement Body (DSB) to hear disputes between members. To expedite resolution of disputes, it also imposed time limits between the establishment of a panel to hear a dispute and the adoption of the panel report by the DSB. Most importantly, the WTO abandoned the unanimity principle for adoption of panel findings and instead established a new rule of "reverse consensus" to ensure that a panel finding would be automatically adopted unless there was unanimity against its adoption by the General

Council, a reality that was unlikely to eventuate unless even the “winner” agreed to set aside a panel finding and block its adoption by the General Council. The “loser” had access to an appeal mechanism but the entire dispute resolution process was designed to ensure that disputes were resolved in a timely manner, even if there was an appeal. The DSB established the following time lines for dispute resolution:

60 days	Consultations, mediations
45 days	Panel set up and panellists appointed
180 days	Panel report to parties
21 days	Panel report to WTO members
60 days	Panel report adopted by DSB

The entire process, from initiation to resolution, was to take only one year but an appeal could add another three months before a decision became binding on disputants. The WTO, of course, still had no enforcement powers but the agreement provided for retaliation if a member country failed to comply with rulings within a specified time limit.³¹ In 1995, the DSB was asked to rule on 20 trade disputes, a number that was far greater than what GATT ever had to deal with in one year.³² On average, the GATT dealt with six disputes a year but the WTO, in its first two years, dealt with 40 disputes per year. By October 2004, the WTO had adjudicated in about 317 trade disputes, a clear testimony to the effectiveness of the new dispute resolution processes.

The establishment of WTO had been partly instigated by the rise of protectionism in the 1980s but it would be naive to assume that institutional reform alone can contain the appeal of protectionism. The Director General of GATT, Peter Sutherland, hailed the establishment of WTO as a victory for liberal trade but acknowledged that we have not heard the last of “managed trade”, an idea which is the antithesis of an open multi-lateral system.

The appeal of protectionism is inevitable under adverse economic conditions. The founders of GATT recognized that protectionism could not be entirely avoided and allowed for temporary protectionist measures under Article 19. However, they attached strict conditions which

rendered Article 19, the so-called “safeguard clause”, relatively unattractive to member states. The UR attempted to rectify some of the ambiguities in Article 19 and to make it more readily available to members confronting “serious injury” as a consequence of an import surge. The UR agreement clarified that “serious injury” or the “threat of serious injury” meant significant or clearly imminent “overall impairment in the position of a domestic industry”, which had to be based on facts and not on allegations, conjecture or remote possibility. On the process of determining injury, it was decided that the criteria had to be clearly defined and made public, and that all interested parties had to be given the opportunity to give evidence before the relevant national authority charged with determining the applicability of safeguard action. The agreement suspended the automatic right to retaliate for the first three years of a safeguards measure, “...providing an incentive for countries to use established safeguard rules when import-related, serious injury problems occur”.³³

Anti-dumping provisions of GATT were also strengthened. The main users of anti-dumping measures, such as countervailing duties, were the United States, the European Union, Canada, and Australia, which together accounted for more than 90 percent of anti-dumping measures in the 1980s.³⁴ The new anti-dumping codes are more stringent and designed to ensure that anti-dumping proceedings were conducted in an ‘unbiased and objective’ way. It required national authorities to affirmatively ascertain the degree of support for a petition to begin anti-dumping investigation. Anti-dumping investigation could only begin if at least a quarter of the affected industry supported such a move. It also provided for a fairer method for constructing values for anti-dumping purposes.¹ In the past, the United States, for example, assumed an eight percent profit margin in constructing the value of a product, which was high even by domestic standards and disadvantaged foreign manufacturers that

¹ In the absence of available data on the cost structure of a commodity, which firms guard as a trade secret, national governments would resort to “constructed values” based on approximations in order to determine whether a country was guilty of dumping. Given the laxity of regulations, constructed values could easily be manipulated to produce a positive finding of dumping which could then justify the introduction of anti-dumping measures.

operated on lower profit margins. The anti-dumping code also stipulated that anti-dumping measures could be introduced only if the dumping margin was greater than two percent of the export price.^{35,m} The standard American practice had been to determine dumping if the margin exceeded 0.5 percent.

Although the WTO acquired many additional responsibilities and functions, its administrative support structure was deliberately kept small and its funding was not increased commensurate to its additional tasks. Richard Blackhurst noted two main reasons why the larger member countries were unwilling to empower the WTO with a larger secretariat. First, a larger secretariat would require an increase in their financial contribution, based on shares of world trade, and second, the benefit of a larger and more active WTO would accrue mainly to the smaller countries, which, in the absence of an activist WTO to champion all the diverse interest, were more pliant and susceptible to western influence.³⁶

Moreover, the United States, because of budgetary constraints and domestic political reasons, such as Congressional hostility to funding large multilateral institutions, refused to countenance any increase in funding for the WTO. Funding for WTO was frozen in 1995 at 118 million Swiss Francs, which the United States insisted should continue into the next century. In 2004, the total administrative and appellate budget for the WTO had increased to about 162 million Swiss Franc, or about US\$143 million. In terms of absolute and relative funding, WTO is dwarfed by both the International Monetary Fund (IMF) and the World Bank. The WTO, in the late 1990s, had an administrative budget of US\$140,000 per employee compared with US\$280,000 for the World Bank and \$230,000 for the IMF.³⁷

The Doha Round

The WTO launched the Doha Round (DR) trade negotiations in 2001. Developing countries were not keen launching a new round even before all the UR agreements had been fully implemented (the agreement on

^m The dumping margin is defined as the percentage by which export price is below the constructed value calculated by national authorities.

textiles, for example, was not fully implemented until January 2005) but they were won over by a promise that the new round would deliver pro-development outcomes. The DR was, accordingly, headlined as the Development Round that would address issues of importance to developing countries, such as pharmaceuticals, agriculture, and special and differential treatment (SDT). Developing countries welcomed this “window of opportunity” to achieve a more equitable multilateral trading system.

The issue of special and differential treatment for developing countries is a long-standing claim for positive discrimination to facilitate industrialization and growth. It seeks to exempt developing countries from full reciprocity and, in particular developing countries have argued that their special circumstance required easier access to western markets even as they maintained protection at home to nurture infant industries. This was begrudgingly accepted by the West, in the 1960s, and resulted, for instance, in the introduction of Generalized System of Preferences (GSP), whereby developing country exports were granted access to developed country markets at below MFN tariffs. Over time, however, the margin between MFN and GSP tariffs had shrunk as MFN tariffs were negotiated down and this had eroded the principle of SDT. According to Ha Joon Chang, SDT under WTO was a pale shadow of what it used to be under GATT and that while some exceptions were made for developing countries, “...especially the poorest ones, many of these exceptions were in the form of a slightly longer ‘transition period’ before they reach[ed] the same final goal as the rich countries, rather than the offer of permanent asymmetrical arrangements”.³⁸ In the DR, developing countries sought to restore the principle of SDT and argued for less onerous liberalization commitments against western demands for balanced and strict reciprocity.

On pharmaceuticals, developing countries argued for access to cheap pharmaceuticals produced by countries like India and Brazil to combat tropical diseases and health epidemics, like Acquired Immunodeficiency Syndrome (AIDS). In principle, any country had the right to manufacture pharmaceuticals developed by major drug companies under compulsory licensing provisions but few developing countries had a domestic manufacturing capacity to benefit from compulsory licensing. India and Brazil,

on the other hand, have relatively sophisticated manufacturing capabilities and produce generic medications, under license from western pharmaceutical companies, for a range of health problems confronting developing countries, including anti-retroviral medicines to address a growing AIDS problem in Asia and Africa. Compulsory licensing provisions, however, prevented producers of generic medicines from exporting to other countries. This limitation was detrimental to sub-Saharan African countries in particular because of their large AIDS infected population and an incapacity to provide AIDS patients with expensive branded anti-retroviral medicines purchased from the West. The inclusion of pharmaceuticals on the DR agenda was to ensure that developing countries had access to cheap medicines for their health crises. Negotiations, however, became deadlocked when developing countries demanded access to generics for all health crises but the United States was prepared to accept it for only a few specific health epidemics, like TB, malaria and AIDS. An internal WTO deadline of December 2002 for a preliminary pharmaceuticals deal passed without any agreement. In the end, just before a WTO ministerial meeting in Cancun in September 2003, the US relented and accepted the majority position that developing countries should have access to generic medicines for all established health crises.

The other main issue for developing countries in the DR was agriculture but they encountered stiff resistance from developed countries that could not convince domestic interest groups to accept freer trade in agriculture. The main issues, as in the UR, were tariff protection and subsidies. In 2003, the OECD countries provided US\$257 billion in various subsidies to their farmers, grossly distorting global production and trade, particularly of rice, sugar and milk. It is interesting to note that in that same year the total Official Development Assistance (ODA) to developing countries by the Development Assistance Committee (DAC) of the OECD was only about US\$70 billion. In principle, developing countries could forego development assistance if developed countries scaled back farm protection and permitted imports from developing countries.

Tariff levels on agricultural products in developed countries were also high, with tariffs on key products exceeding 100 percent. For Iceland and Norway, such mega-tariffs exceeded 70 percent of all agricultural tariffs,

while for Japan it was 40 percent and for the European Union and the United States, 30 percent and 12 percent, respectively.³⁹ To press for a liberalization of agriculture trade, a number of developing countries formed the Group of Twenty (G20) just before a WTO mid-term review of the DR in September 2003.

Developed countries were constrained, domestically, from making any significant changes to existing levels of protection and subsidy but developing countries, led by the G20 refused to accept anything that did not deliver on the spirit of the Doha Declaration that had launched the DR. Developing countries had a right to feel aggrieved by outcomes on agricultural negotiations in the UR and were determined to prevent a similar result in the DR. The UR agreement on agriculture looked impressive on paper but agreements can be made to look good even when they fail to create a more liberal trade environment. This is because negotiations are generally based on 'bound tariffs' and 'permissible subsidies', rather than applied tariffs and actual subsidies. Bound tariffs are higher than applied tariffs and permissible subsidies are again much higher than actual subsidies. In practice, therefore it is possible for the United States, for example, to cut permissible upper ceiling on subsidies without having to reduce actual subsidy payments to farmers.

The Doha ministerial meeting of the WTO had established deadlines for preliminary agreement on the various agenda items but none of these deadlines had been met when a ministerial meeting of the WTO convened in September 2003, in Cancun, to review progress in the DR. Apart from a last minute agreement on pharmaceuticals, the series of missed deadlines inspired no optimism for the Cancun meeting but negotiations quickly degenerated into a farce when they pushed to have the so-called Singapore Issues, such as trade facilitation and government procurement policies, added to the negotiating agenda. Developing countries, led by the G20, refused to broaden the agenda without prior agreement on agricultural liberalization. Their determined stance at Cancun led to a collapse of the Cancun ministerial meeting.

Negotiations resumed after a one year hiatus but differences between the developed and developing countries, especially on agriculture, could not be reconciled. The DR was to have been concluded in 2005 but that did not happen and negotiations continued until the WTO formally suspended

negotiations in July 2006. In early 2007, there was a series of four party talks on agriculture involving the United States, the European Union, India and Brazil, but these too failed to bridge the divide. In the end, Crawford Falconer, the Chair of the Agriculture Negotiating Committee of the WTO was forced to concede that farm liberalization may have to await a “better generation” than ours.⁴⁰

Conclusion

The WTO marked a new beginning for global liberal trade. There is now a better structure in place but its success will obviously depend on voluntary compliance, by the key trading countries, of the existing rules and regulations. In the absence of enforcement powers for the WTO, the future of liberal trade depends on political commitment and readiness to eschew deviant and arbitrary practices. Still, by making trade liberalization a permanent feature of international political economy, the WTO may help restrain protectionism. In the past, in between trade negotiating rounds, the GATT was inactive, and this, according to GATT Director-General Peter Sutherland, effectively vacated the policy space to protectionists who were able to berate liberal trade principles. The WTO is, consequently, a better check against deviant tendencies.⁴¹

In the UR, global corporations emerged as advocates of global liberalism in order to create a uniform operating environment across national borders. In the process leading to American ratification of the UR agreement, global corporations played an important role, against antagonists who tried to create an impression that the agreement infringed American sovereignty by denying the United States the right to resolve trade disputes according to its trade laws. For global corporations the advantage of the UR agreement and GATT was partly the tariff reductions, but more so the protection it promised against a fragmentation of the trade regime. The failure to successfully conclude the GATT round would have added to their transaction costs as a result of having to cope with segmented international regulatory regimes. Global corporations recognized the advantages of standardized regulatory policies in ensuring easier market access and argued forcefully for successful completion of the UR negotiations.

The GATT successfully completed eight trade negotiating rounds but the WTO, despite success in the dispute resolution area, is finding it extremely difficult to complete its first trade liberalization round. This is largely because of the difficult nature of issues under negotiations, issues that had either been excluded from, or glossed over by the GATT. Failure to complete the DR will no doubt have some detrimental impact on the WTO but even so this failure alone is unlikely to raise questions about its future viability or legitimacy.