

11 The launch: from Singapore to Doha, with a detour in Seattle

It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way – in short, the period was so far like the present period, that some of its noisiest authorities insisted on its being received, for good or for evil, in the superlative degree of comparison only.

Charles Dickens
A Tale of Two Cities (1859)

Introduction

Seattle and Doha are two very different cities in which equally different dramas played out in 1999 and 2001. For free-traders the Seattle Ministerial Conference was the worst of times, fittingly held in a winter of despair. Delegates en route from their hotels to the Washington State Convention and Trade Center had to navigate streets filled with foolishness and tear gas, and the harsh words spoken in and around that venue drowned out the usually polite exchanges between diplomats. They left town before they could launch a new round of multilateral trade negotiations. Doha would seem by contrast like the best of times, if not an age of wisdom then at least one of greater hope and experience. The concerns over security in sun-drenched, post-9/11 Doha were much higher than they had been in Seattle, and some delegates may indeed have wondered whether they might be on their way to Heaven or the other way, as Dickens so delicately put it, but in the end they accomplished what they had set out to do. In place of the Seattle draft, with its seemingly endless square brackets (see Box 11.1) and points of friction, they crafted and approved a ministerial declaration that launched a new round.

The Doha Ministerial Declaration followed in the best GATT traditions of constructive ambiguity. Just as the declaration that launched the Uruguay Round had left unclear the precise place of trade in services in the new round, so too did the Doha Declaration provide an uncertain footing for the Singapore issues of investment, government procurement, competition policy and trade facilitation. It also took constructively ambiguous approaches to such topics as agricultural trade and the anti-dumping laws. But unlike the Uruguay Round, where countries' confidence grew over the negotiations, the Doha Round negotiators showed more caution than ambition.

They would later jettison three of the four new issues that were provisionally adopted at Doha and progress slowly on the more traditional fare of multilateral trade negotiations. In time, some participants and observers would come to see the Doha Ministerial Conference as a great tactical success within a strategic failure, admiring the skill with which the agreement to launch was secured but questioning the advisability of having gone down that way in the first place. Others with a more optimistic outlook see in the Doha Ministerial Conference a model that later negotiators would do well to emulate, showing that it is indeed possible for the members of this organization to devise deals that offer wins for all of them.

Box 11.1. Square brackets and strike-throughs

When negotiators see square brackets in a text, they are looking at their “to-do list” of items yet to be decided. Square brackets sometimes contain only ellipses, as in [...], meaning that there is as yet no proposed language. That is especially common in the earliest stages of a text’s development, when the drafters are concentrating more on the overall structure than the detailed content of the document. Later those brackets might be filled with one set of words or numbers, indicating that the language is proposed but not yet agreed. Brackets might also come in series of two or more that each have their own texts, with paired choices such as [3] [4] and [negotiations] [consultations].

One simple but significant example comes from the penultimate draft of the Doha Ministerial Declaration. A sentence in the agricultural paragraph provided that: “Building on the work carried out to date, we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of [, with a view to phasing out,] all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” The European Community consented to a major increase in the round’s level of ambition when it agreed to erase those brackets and accept the language within them.

As another example, consider these fragments from a draft Doha text on non-agricultural market access. One provision would provide flexibilities to five African countries on their commitments, stating that they “shall have recourse to [6][8] additional percentage points in the flexibility” that “shall be used only in respect of tariff lines falling within the clothing [and footwear] sectors” for which these countries “shall benefit from a grace period of [3][5] years.” There are thus three ways in this one section by which the flexibility being offered might be higher or lower in significance, wider or narrower in coverage, and shorter or longer in duration, depending on which of the bracketed options are chosen.

A text may employ other conventions to indicate that different versions are in play. Sometimes whole paragraphs will be given in different versions without square brackets, but the versions are either separated by the word “or” or identified as “Alt.1” and “Alt.2”.

A draft may also use ~~strike-throughs~~ to indicate language that is deleted and underlines to indicate new language. The 2008 anti-dumping text, for example, provides that: “Sufficient advance notice shall ~~should~~ be given to the firms in question before the visit is made.” That typically indicates not that there had been adjoining brackets with these two words as options, but that “should” had previously been in the text (without brackets) and negotiators agreed to replace it with the stronger “shall”.

The focus of this chapter is on the tactical success, leaving discussion of the strategic doubts for Chapter 12. The Doha Ministerial Conference redeemed an institution that only two years earlier had faced its greatest crisis. It demonstrated the value of careful preparation by the Secretariat and the members, as well as the need to develop a coherent negotiating strategy that is adaptable, pragmatic and balances the interests of the various factions within the membership.

Before either Seattle or Doha came Singapore, site of the First WTO Ministerial Conference, and a city-state that lent its name to the aforementioned quartet of nettlesome issues. This chapter covers the events from that first through the fourth ministerial, but skips past the second. The Geneva Ministerial Conference of 1998 was largely for show, being an occasion to mark the 50th anniversary of the multilateral trading system, although it did also feature some substance. It was the site at which ministers signed the Declaration on Global Electronic Commerce and made advances in the talks over implementation, both of which were discussed in the previous chapter. For the sake of continuity, however, it is not a part of the story in this chapter.

The debate over launching a round

Before reviewing the path from Singapore to Doha it is first useful to consider the larger issue. The members of this new organization faced two related questions in the years following the Uruguay Round. First, should they undertake new negotiations that would go beyond those already provided for in the built-in agenda? Second, if they were to undertake new negotiations, what issues should be on the table? The answers that they eventually developed were that new negotiations were indeed desirable and these should be organized on the same model as the Uruguay Round, with the issues in a new round including the usual fare plus the Singapore issues. The apparent consensus on these points was neither universal nor stable, however, as would become apparent in the subsequent conduct of the round.

The European Community was the principal proponent of a new round, and Sir Leon Brittan was, as EC trade commissioner from 1993 to 1999, the principal advocate within Europe. “My reasons were extremely simple,” he would later recall. “We had achieved in the Uruguay Round the greatest single liberalization ever,” but there was room to go considerably further:

In negotiating and working towards that it was very plain to me that there was a hell of a lot more liberalization which had not been achieved and which was not on the table. Therefore, the conclusion – very plain, very simple – is, “Let’s do some more.” And the mechanism to doing some more in those days was to have a new round.¹

Sir Leon had not gone to the EC member states first to get clearance for the plans to launch a new round. He acted instead *à titre personnel* and without significant interference, being “neither constrained nor conflicted with the member states.”²

The European Community was by no means alone in promoting a new round, as several trade-dependent and emerging economies also advanced the idea. Starting in 1998, an informal group of 15 medium-sized WTO members came together as The Friends of a New Round. In addition to five developed countries (Australia, the Czech Republic, Hungary, New Zealand and Switzerland) its members included representatives of Latin America (Argentina, Chile, Costa Rica, Mexico and Uruguay) and Asia (Hong Kong, China; the Republic of Korea, Singapore and Thailand) as well as Morocco. Brazil and South Africa were not in this group, but their support was crucial. These two emerging economies “played hugely important roles in promoting the launch of [the Doha] round,” Harbinson (2009: 5) would later recall, “both in Geneva and at the ministerial level.”

Most of the other developed countries supported the launch of a new round, although to varying degrees and at varying times. The position of the United States was sometimes ambivalent or even enigmatic, being influenced by changes in government, presidents’ relationships with the US Congress and domestic constituencies, and by the links between trade and other objectives in foreign policy. Those factors affected not just whether the United States wanted new negotiations but whether it wanted these talks to be structured in the traditional form of a round. Japan also took a cautious approach to a new round, in large part out of concerns over what might be demanded on agriculture.

The principal objections to a new round came from those developing countries that feared any changes in the status quo might operate to their disadvantage. They had concerns over implementation of the results of the previous rounds, the likelihood that MFN liberalization in the developed countries would erode the margins of preference that they enjoyed in those markets, and the prospect of losing more of the “policy space” that they enjoy in trade-related fields. India emerged as the leading critic of the proposals for a new round, and was backed by other members of the Like-Minded Group. The group’s membership shifted somewhat, but at its founding included four Latin American countries (Cuba, the Dominican Republic, El Salvador and Honduras), three Asian countries (Indonesia, Malaysia and Sri Lanka), two Middle Eastern countries (Egypt and Pakistan) and two African countries (Nigeria and Uganda).³ The members of this group questioned both the wisdom of launching a new round and the means by which its proponents sought to advance the initiative.

If a new round were to be launched, what issues would be on the table and what would the main objectives be for them? Here the European Community also took the lead, proposing several topics that, after a process of attrition and refinement, became known as the Singapore issues. These were competition policy, investment, government procurement

and trade facilitation. Other issues that the European Community promoted, most notably labour rights, did not make the cut. The EC position had defensive as well as offensive components, most importantly in the area of agriculture. This issue was the *sine qua non* for a great many other members, with the European Community thus providing both lift and drag to the round.

That apparent contradiction in the EC position was replicated throughout the system, with all of the key players and coalitions having both offensive and defensive interests. This greatly complicated the efforts to devise a round, as it is supremely difficult to put together a winning combination of positions and players when any one member's drink is another member's poison. Or as Blustein (2009: 68) succinctly summarized the conflicting line-ups:

The Europeans wanted a pledge to launch a new round that would include the Singapore issues – which was anathema to the developing countries. The United States, Australia, and the big farm exporters of Latin America wanted the agenda for negotiations to include proposals that would significantly open up agriculture markets and eliminated certain farm subsidies – which was anathema to the Europeans, the Japanese, the Koreans, the Norwegians, and the Swiss. Another group of countries, led by Japan, wanted the round to consider rules restricting the rights of countries to impose antidumping duties – which was anathema to the United States. The Americans wanted the WTO to begin dealing with the issue of labor rights, at least by creating a working group to study the trade-labor relationship – which was anathema to the developing countries. The developing countries wanted to change some of the terms of the Uruguay Round – which was anathema to the Americans, the Europeans, and the Japanese.

That particular configuration best described the lay of the land as of 1999. Some of the positions that key players took at that time shifted later, as in the case of labour rights for the United States. Even so, the essential point remains valid: the WTO members were divided in the first instance between those who favoured and those who opposed a new round, and even among the proponents one finds major differences over what the round should seek to accomplish. The general trajectory discussed below is one in which those differences were aired in Singapore, contributed to a disastrous collapse in Seattle, but were then resolved in Doha. One reason why Doha succeeded where Seattle failed is that in that earlier ministerial the ambassadors in Geneva had merely compiled and passed along their disagreements to the ministers, whereas in Doha the text was streamlined and ministers were asked to resolve a manageable number of conflicts. That streamlining came at a cost, however, as it produced some formulations that would eventually prove to be more ambiguous than they were constructive.

The Singapore Ministerial Conference

The First WTO Ministerial Conference met on 9-13 December 1996, almost precisely three years after the climax of the Uruguay Round. Unlike the meetings of 1999 to 2013, neither this ministerial nor the circumscribed one to follow in 1998 were directly associated with the launch or conduct of the Doha Round. The talk of a new round was already in the air, however, with Chile calling for the initiation of discussions to prepare for a new round of negotiations on agriculture. One Chilean negotiator would later characterize this as a “forward position” that was not intended to produce immediate results, but rather to lay the groundwork for later moves towards a new round.⁴

The most memorable aspect of this ministerial is that it lent its name to what would henceforth be known as the Singapore issues, even though these topics were not so bundled or identified at that time. Debate also centred on core labour standards and the implementation of the Uruguay Round agriculture and textile agreements. Other achievements of the conference were the near-completion of the Information Technology Agreement, as discussed in Chapter 10, as well as adoption of the Comprehensive and Integrated Plan of Action to assist least-developed countries (LDCs) and the signing of a cooperation agreement with the International Monetary Fund. The principal theme to emerge from the ministerial was the division between developed and developing countries. While there were differences within each of these groups, and efforts on the part of some countries to bridge the divides, members tended to line up in predictable North–South patterns on nearly all of the subjects under discussion.

Singaporean officials also had to deal with a diplomatic dust-up with the United States (see Box 11.2) and with protests by trade-sceptical non-governmental organizations (NGOs). It was clear in the run-up to the event that NGOs would use the occasion to protest against globalization in general, and the WTO in particular, and host country officials deliberated over how best to manage the problem. One possibility that they considered but rejected was “to put the NGOs in Johor Bahru so as to create logistical problems for them” (Kesavapany, 2011: 160), this being a city in adjoining Malaysia. Officials reasoned instead that “NGOs responded positively if they were treated well and given a fair hearing” (*Ibid.*), so they opted to house the NGOs in a hotel a kilometre away from the venue, to arrange for briefings by WTO officials and to provide access to delegations. That approach proved successful, as the protests accompanying this event were far more manageable than those in the next two ministerials. The government of Singapore also “employed its military to ensure that security for the event was tightly controlled,” including “individually assigned vehicles with military drivers for each attending dignitary” (Seattle Police Department, 2000: 9).

Box 11.2. How two ministerials were almost moved

A diplomatic *contretemps* that erupted between the United States and the host country almost prevented the ministerial from being held in Singapore. This imbroglio was farcical by comparison with the much higher levels of concern over the personal safety of delegates that would be associated with the ministerials in 1999 and especially 2001.

It began when Michael Fay, a young American citizen, was convicted on 3 March 1994 of vandalizing cars and stealing road signs in Singapore. His sentence included caning, a practice that is common in Singapore but contrary to US penal traditions that bar corporal punishment. President Bill Clinton had made a plea for clemency on Fay's behalf, and Singapore President Ong Teng Cheong commuted the caning from six to four strokes. That was not acceptable to US Trade Representative Mickey Kantor, who announced he would oppose Singapore's hosting of the ministerial. The US ambassador to the WTO, Booth Gardner, reportedly informed his Singapore colleagues "that he had personally gone to Mr Kantor's office on three occasions to get him to reverse his decision" but that the US trade representative "would have none of it and threw him out of the office" (Kesavapany, 2011: 158). There then followed a flurry of activity by Singapore, seeking support from all other delegations and culminating in a late 1995 meeting with Mr Gardner in which his Singapore counterpart "informed him that I would be tabling a proposal on the matter at the last meeting of the General Council for that year." The two ambassadors had since become good friends, so Gardner "told me to go ahead and table the proposal and he would look the other way. This is, in fact, what occurred and the motion was passed" (*Ibid.*).

The stakes were much higher for the Doha Ministerial Conference, which was scheduled to begin less than two months after the terrorist attacks of 11 September 2001. That assault raised concerns over the safety of the delegates, as a gathering of global economic leaders would make a tempting target for Al Qaeda. The United States attempted once again to relocate a ministerial. Ironically, this time the leading candidate for a back-up site was none other than Singapore. Like the Singaporeans before them, the Qataris resisted these entreaties and eventually persuaded the United States to cease its efforts to move the ministerial. By one account, the matter was settled in a phone call between the emir of Qatar and Vice President Richard Cheney in which "the emir, in only slightly veiled terms, used as leverage the air base in his country that the Pentagon regarded as a crucial asset in the war against terror" (Blustein, 2009: 100).

The original and the eventual Singapore issues

The Singapore issues as we know them today are investment, government procurement, competition policy and trade facilitation. These four topics, which came to be closely associated with the goals of the European Union in the Doha Round, were not packaged together or by that *demandeur* at the start. Their association with the Singapore Ministerial Conference was instead the product of a more gradual process of advocacy and attrition.

Europe did come to Singapore with four objectives, but in a different configuration. Speaking on behalf of what was still known as the European Community, Sir Leon told his peers that

“there are four key areas of work we need to address” in the ministerial.⁵ The most immediate task was completion of the Information Technology Agreement and the telecommunications negotiations. Second, financial services must be made “a permanent part of the WTO’s disciplines.” Only third on his list was the insistence that the WTO “must also pick up the new subjects like investment and competition,” thus conflating into one a pair of topics that would later form half of the Singapore issues. His fourth point was that “labour standards and environmental protection remain important.” Government procurement and trade facilitation, which were later to round out the list of Singapore issues, were not yet in the European Community’s top-four.

Labour was the most controversial of the proposed new issues. A great deal of ink had already been spilt on the relationship between trade and labour rights, and not a few voices raised above the usually polite levels of diplomacy, prior to Singapore. The issue had been inherited from the endgame of the Uruguay Round, with most ministers who spoke at the Marrakesh Conference in 1994 having expressed a view on it. Not much changed between that valedictory GATT ministerial and this inaugural WTO ministerial, although both the International Labour Organization (ILO) and the Organisation for Economic Co-operation and Development (OECD) had taken up the issue of trade and labour standards in the interim. The former explored the possibility of including a “social clause” in the WTO, and the latter reviewed the relationship between core workers’ rights and international trade.

Norway and the United States were also strong proponents of bringing labour rights to the table. In the run-up to Singapore, these two *demandeurs* had separately proposed that ministers approve a work programme on promoting core labour standards, with the results to be reported back to the 1998 conference. They argued that the right to bargain collectively, freedom of association, forced labour and certain types of child labour are all matters for consideration in the WTO. Both of these proposals said that the objective was to reach a common understanding among WTO members on how to reinforce the mutually supporting nature of increased trade and improving labour standards. Other developed members such as Austria and Denmark supported WTO work in this area. Several European countries acknowledged the primacy of the ILO on core labour standards, but suggested that the two international organizations should cooperate with one another. Some industrialized countries argued that the WTO should study labour standards as a first step toward bringing core labour standards into the organization.

Most developing countries took the position that the WTO is not the appropriate forum to address labour rights, and a few developed countries such as Australia and the United Kingdom shared this view. Singapore’s fellow members of the Association of Southeast Asian Nations even threatened to boycott the conference if labour were to be negotiated. Their principal concern was that both labour standards and environmental concerns would be used as a pretext for protectionism. Many of them agreed with the comments of Minister Luiz Felipe Lampreia of Brazil, who said that he failed “to see how a rules-oriented organization such as the WTO could tackle the issue of ensuring the observance of labour standards.”⁶ He stressed Brazil’s “serious concern with the possibility that the protection of core labour standards, which is in itself an ultimate goal to be pursued by all, be utilized as a ‘scapegoat’ to deal with

the problem of structural unemployment in the developed economies.” Like many others, Mr Lampreia urged that “the International Labour Organization is the appropriate locus to address the issue of observance of core labour standards and that any statement on this issue by this Ministerial Conference should not envisage any follow-up of this issue within the WTO.”⁷

When Sir Leon addressed the ministers, he stated that “we have the makings of an understanding” on trade and labour standards “which I hope will provide the basis for some WTO continuity beyond Singapore in this discussion.”⁸ The latter part of his statement on labour proved to be more correct than the first. The language that emerged from Singapore did indeed outlive the ministerial, but not in the way that the advocates had hoped. In that sense, this experience foreshadowed what was to happen with most of the Singapore issues in the years following the Doha Ministerial Conference, although the removal of three of those issues from the negotiating table would not be nearly as quick. The labour issue was not settled until the last night of negotiations, when the ministers worked out the following formulation:

We renew our commitment to the observance of internationally recognized core labour standards. The International Labour Organization (ILO) is the competent body to set and deal with these standards, and we affirm our support for its work in promoting them. We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of these standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration.

The reference to the collaboration between the two secretariats was somewhat premature, as this came at a time when there was no significant cooperation between the ILO and the WTO. That was to change years later, however, when they began to work together on a series of studies on the trade–labour nexus (see Chapter 5). The chairman’s concluding remarks appeared to be even firmer in rejecting future WTO work in labour than was the language of the ministerial declaration. Minister Yeo Cheow Tong observed that the ILO is the competent body to deal with these issues, rejected the use of labour standards for protectionism and assured delegations that the text would not lead to further work in the WTO on the relationship between trade and core labour standards.

The issue of trade and the environment, which is often paired with the topic of labour as the two highest-profile “trade and ...” issues, was also on the table in Singapore. The environmental issue has nevertheless encountered less severe opposition in the WTO than has labour. In Singapore, developed countries argued that it was necessary to ensure legal compatibility between the multilateral environmental agreements (MEAs) and the WTO system, with Japan, Sweden and Switzerland raising this question, and Iceland urging that the rules be clarified in order to avoid conflicts of laws between the MEAs and the WTO. Several

developing countries responded by raising concerns over “green protectionism”, with Malaysia pointing to the indiscriminate use of labelling schemes as a means of undermining developing countries’ exports. Others argued that the best means of addressing both labour and the environment was indirectly, through greater economic growth, rather than through direct instruments that might be abused for protectionist purposes. Poverty is the most significant cause of environmental degradation, the Nigerian delegate said, while Mexico observed that trade can contribute to environmental protection through economic growth.

Despite these divisions, the ministerial declaration took a more accommodating approach to the environment than it did to labour issues. The ministers agreed to establish the Committee on Trade and Environment as a permanent body of the WTO, recognizing that “[t]he breadth and complexity of the issues covered by the Committee’s Work Programme shows that further work needs to be undertaken on all items of its agenda.” Paragraph 16 further noted that the ministers “intend[ed] to build on the work accomplished thus far, and therefore direct[ed] the Committee to carry out its work, reporting to the General Council, under its existing terms of reference.”

Developed country issues: investment and competition policy

Investment is one of the issues in which the results of the Uruguay Round had not met the expectations of the *demandeurs*. The Agreement on Trade-Related Investment Measures (TRIMs Agreement) consists of little more than a ban on certain performance requirements. The most important Uruguay Round provisions on investment were instead the Mode 3 (commercial presence) commitments that members made under the General Agreement on Trade in Services (GATS). Dissatisfaction over the results of the TRIMs Agreement led developed countries to pursue a Multilateral Agreement on Investment in the OECD, and those talks were still underway at the time of the Singapore Ministerial Conference. They would collapse two years later.

The subject of competition policy was more intellectually complex. Negotiators lacked a single, accepted definition of what the subject meant, even though it was not an entirely new issue for the trading system. The topic had been covered by the ill-fated Havana Charter for an International Trade Organization, when it was known instead as “restrictive business practices”. The issue was also tentatively taken up in the late 1950s in GATT, and later by both the United Nations Conference on Trade and Development (UNCTAD) and the OECD. It made its way into the WTO by way of GATS and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), both of which contain provisions relating to fair conditions of competition and international cooperation to facilitate the control of anti-competitive practices.

The North–South divisions were not quite as firm on competition policy as they were on other topics. Some developed countries expressed cautious views on the subject, such as Japan’s statement that it was appropriate to initiate an educational process as long as it did not prejudice the future course to be taken. This was not far off from Malaysia’s position that a

working group to study competition policies might be welcome, provided that this did not lead to negotiations within the WTO. Lesotho favoured the exchange of information on anti-competitive practices and the negotiation of clear multilateral rules to address them, while Indonesia said that discussions in this area should focus on restrictive business practices and anti-dumping. The Southern African Development Community was more direct in stating that it was premature to address competition policy. Germany favoured multilateral trade and competition rules in order to eliminate further impediments to market access. The United States was reluctant for the WTO to do anything more than study this issue. Much of Washington's concerns stemmed from the expectation that countries would seek to use this issue as a means of restricting use of the anti-dumping laws. The US position might also be attributed to displeasure over the application of EC competition law, as well as concerns that international rules on competition policy could require that the US Federal Trade Commission – an independent agency – give up some of its autonomy.

Ministers agreed to set up new working groups to examine the relationship between trade and these new issues. They stated in paragraph 20 that “on the understanding that the work undertaken shall not prejudice whether negotiations will be initiated in the future,” they would establish working groups “to examine the relationship between trade and investment” and “to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework.” The provision specified that the General Council would “keep the work of each body under review, and will determine after two years how the work of each body should proceed,” but that “future negotiations, if any” would “take place only after an explicit consensus decision is taken among WTO Members regarding such negotiations.” On government procurement they agreed in paragraph 21 to establish a working group “to conduct a study on transparency in government procurement practices” and “to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area.” These decisions were not merely “kicking the can down the road,” but providing a basis on which substantive negotiations might be launched in the future.

There was some disagreement over the meaning of language in the declaration stating that the reviews would be conducted with “regard to the existing WTO provisions on matters related to investment and competition policy and the built-in agenda in these areas, including under the TRIMs Agreement.” This text had been inserted at the request of India, which later said that the language necessarily restricted the analysis to only that work already mandated in TRIMs Article 9. That article provided for a review of the agreement's operation within five years, in the course of which the Council for Trade in Goods was to “consider whether the Agreement should be complemented with provisions on investment policy and competition policy.” Others disagreed with India's interpretation.

Developing country issues: textiles and apparel and the integrated framework

The Singapore Ministerial Conference came at a time when few developing countries perceived that the phase-out of the existing system of apparel quotas would lead to a consolidation of the global industry. In the Uruguay Round, most apparel-exporting countries anticipated that they would be better off without the quotas, and in the early phases of implementation exporters remained concerned over the slow pace of liberalization under the Agreement on Textiles and Clothing (ATC). Developing economies that called for more rapid liberalization included some that were then in the process of exiting this industry (e.g. Hong Kong, China), some that would come to hold greater shares of global exports (e.g. India), and still others that would later find themselves under greater competitive pressure (e.g. Kenya, Nicaragua and the Philippines). Beyond the question of the quota phase-outs, Indonesia stated its concerns over the anti-dumping and safeguard investigations that some members were then conducting against developing countries. Jamaica had been more wary during the negotiations, and was now arguing that the balance of interests that had been carefully built into the ATC must be preserved. Over time, the caution that the Jamaican delegation expressed would be shared by a widening circle of the developing countries, as is discussed in Chapter 13. In paragraph 15 of their declaration, the ministers confirmed their commitment “to full and faithful implementation of the” ATC, and stated that the “use of safeguard measures in accordance with ATC provisions should be as sparing as possible.”

Ministers also took up preferences for the least-developed countries (LDCs), which at this time were still occasionally called the LLDCs.⁹ They adopted the Draft Comprehensive and Integrated WTO Plan of Action for LLDCs, although some criticized this instrument as being much weaker than the proposals that Director-General Renato Ruggiero put forward in June 1996 at the G7 meeting in Lyons. Mr Ruggiero had proposed full and rapid implementation of the Marrakesh Declaration on the Least-Developed Countries, improving their market access by working towards the elimination of all tariff and non-tariff barriers faced by their exports, helping to improve their investment climate, especially by negotiating multilateral rules on investment, and helping build human and institutional capacity by improving the effectiveness and coordination of technical cooperation.

The final proposal was more in the nature of a best-endeavours clause than a binding commitment. Some of the concerns over the instrument's shortcomings were addressed the next October when the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development adopted the Integrated Framework.¹⁰ This Integrated Framework provided for institution-building to handle trade policy issues, as well as strengthening of export supply capabilities, trade support services and trade facilitation capabilities. It also covered training and human resource development and assistance in the creation of a supportive trade-related regulatory and policy framework that will encourage trade and investment.¹¹ The related issue of implementation is covered in Chapter 10.

The 1999 Seattle Ministerial Conference

By the time that delegates arrived in Seattle for the Ministerial Conference, which took place 30 November to 3 December, it was already evident that the planned launch of the new round would be a heavy lift that the ministers might be unable to shoulder. It was also anticipated that the protests would be far more disruptive than those at the Singapore or Geneva ministerials of 1996 and 1998, although few would guess that they would be as large and as poorly managed as they turned out to be.

Several factors conspired to make this a most challenging ministerial. One of them was the consequence of the long and enervating struggle over who would succeed Mr Ruggiero as director-general. This contest, which is recounted in Chapter 14, eventually produced a rather unhappy compromise by which former New Zealand Prime Minister Mike Moore would hold the post for three years and former Thai Deputy Prime Minister Supachai Panitchpakdi would have it for another three. The ill feelings that the selection process had engendered between the members that had backed Mr Moore (primarily in the developed countries) and those that had backed Mr Supachai (primarily in the developing countries) exacerbated the already wide divisions between the richer and poorer members.

Even if those ruffled feathers could be smoothed the extended campaign left the WTO without a leader for several months preceding the ministerial, leading to fundamental problems of logistics, coordination and even basic introductions. Mr Moore took office on 1 September, only three months before Seattle, a schedule that gave him precious little time to organize and prepare. Even his newly chosen deputy directors-general had not yet met each other before they arrived in Seattle. The same could be said for the ministers themselves. Mr Moore “was taken aback that the US Trade Representative, the EU representative, the Canadian, and the Australian ministers had never been to a ministerial, and they didn’t know each other.”¹² The key players had not spent enough time together and were not prepared to cut the deal.

Matters were only made worse by the sometimes half-hearted or even conflicted approach that the host country took to the ministerial. There were divisions within the US government over the advisability of a new round in the first place, with US Trade Representative Charlene Barshefsky having been sceptical from the start. The US State Department and the National Security Council won the internal argument, and in the White House there were hopes that, as President Kennedy had done a generation earlier, President Clinton might lend his name to the round. One difference between the trade politics of Mr Kennedy’s time versus those of Mr Clinton’s was in the role that labour played. When Mr Kennedy proposed a new round of GATT negotiations in 1962 he still had the support of the US labour unions, which had been key members of the pro-trade coalition since the United States first began negotiating market-opening agreements in the 1930s. Those days were long past, as was shown in the bruising fight over approval of the North American Free Trade Agreement in 1993. Mr Clinton hoped that he could still square the circle by appealing to both the labour and the trade

communities. He also hoped to avoid new fights with the US Congress by crafting a round for which the results could be secured without requiring significant new bargaining with Capitol Hill. The competing demands of the administration's domestic and international goals would ultimately prove too difficult to balance, and when Mr Clinton was forced to choose he went with the domestic rather than the international option.

Political diversity and divisions were not unique to the WTO members, as the NGOs and others who came to protest in Seattle were also a heterogeneous bunch, but in their case diversity seemed a strength rather than a weakness. Some joined Cooper (1999) in marvelling over the "phantasmagorical mix of tens of thousands of demonstrators," in which "husky red-jacketed steelworkers march[ed] alongside costumed sea turtle impersonators, environmentalists and miners, human rights activists and family farmers" to stand "against the WTO, delaying its opening sessions and thrusting the once-obscure issue of fair trade onto the political center stage." Others instead saw in Seattle something like the poet's lament over the consequences that ensue when "The best lack all conviction, while the worst // Are full of passionate intensity."¹³

The preparatory work

The work towards a new round began less than half a year after the Singapore Ministerial Conference, when the Friends of a New Round held an informal ministerial meeting in Budapest in May 1999. They invited Brazil, Canada, the European Community, India, Japan and the United States, as well as General Council Chairman Ali Mchumo of Tanzania. Most of these key players agreed in principle that a new round was in order, and the next ministerial would provide an obvious target date for its launch, but there the agreements ceased. The different objectives of the major players and coalitions, including the diametric opposition of their offensive and defensive interests, were all too apparent.

Members had very different notions of what must or must not be on the agenda of a new round. The best way that official Geneva knew how to handle these conflicting demands was to start by cataloguing them and then, to the maximum extent possible, reducing the differences to clear choices for ministers to make in Seattle. That is usually done by developing a draft ministerial declaration in which the ambassadors aim to minimize the number of brackets. This was the chief task of the General Council in the months leading up to Seattle, but the result looked worse with each new iteration of the draft. Instead of shrinking, it grew, to the point where the version sent to ministers ran to 33 pages and contained 402 pairs of square brackets.¹⁴ Far from being a consensus document, it averaged about one pair of brackets for every two centimetres of text. It was as if the Geneva ambassadors had prepared a multiple-choice examination for the ministers, and this is a test that they would collectively fail.

Several members had ideas of their own regarding the proper wording of the declaration. The European Community, Hungary, Japan, the Republic of Korea, Switzerland and Turkey released on 30 November a 17-page draft ministerial declaration. Its provisions on investment

and competition policy reflected earlier European proposals. While the draft was ambitious on the new issues, it was defensive on the oldest issue of all. Article 20 of the Agreement on Agriculture had provided for new agricultural negotiations by the year 2000: “Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process.” Those negotiations were to take into account “non-trade concerns,” which the European Community referred to as the “multifunctional” nature of agriculture,¹⁵ but would also pursue the objective of “establish[ing] a fair and market-oriented agricultural trading system” and “special and differential treatment to developing country Members.” Article 20 thus had a “something for everyone” quality to it, and European negotiators wished to preserve that. Their draft therefore called for agricultural negotiations to be based on Article 20, and not simply *taking that article into account*, in order not to terminate the special treatment of agriculture within the WTO.

The host country had its own objectives, a point that – as discussed in Chapter 14 – was controversial in itself. Ms Barshefsky and other officials repeatedly stressed their interest in producing agreements as soon as possible. Their ideas reflected the same notions that Mr Clinton had expressed the year before in Geneva (see Chapter 10), and for the same reason: the type of disaggregated round that the United States advocated could be achieved using the limited negotiating authorities that the executive then had in hand, and might not require a renewal of the president’s fast-track authority. The US negotiators made a virtue of necessity, arguing that an accelerated round could deliver meaningful results in three years. This duration would split the difference between the first three GATT rounds, each of which were completed in less than a year, and the nearly decade-long Tokyo and Uruguay rounds.

The four priority areas for the United States were the Information Technology Agreement (ITA) II, which was to add new products to the sectors already covered by the first ITA; extension of the declaration not to assess duties on electronic transmissions; an agreement on transparency in procurement; and negotiations to eliminate or harmonize tariffs on chemicals, energy equipment, environmental goods, fish and fishery products, gems and jewellery, medical equipment and scientific instruments, toys and forest products. They hoped that agreements on some of these matters might be finalized in Seattle. By contrast, the United States insisted that acceleration of its textile liberalisation commitments was off the table, that the anti-dumping laws were also sacrosanct, and the TRIPS Agreement already had sufficient flexibility to deal with essential medicines and the patenting of life forms.

The outside battle of Seattle

Once considered plums for the host city, international meetings have come to be seen as white elephants. The Seattle experience played no small role in that transformation. The Washington Council on International Trade had begun campaigning for the ministerial in May 1998, lobbying the Office of the US Trade Representative (USTR), the State Department and the WTO Site Selection Team. “Washington State is known to be the most trade-dependent region in the United States,” a post-mortem report observed, and officials hoped that hosting the ministerial “would not only provide an infusion of visitor dollars into the local economy, but

also a rare political opportunity to perhaps influence future decisions affecting the region" (R.M. McCarthy & Associates, 2000: 5-6). The local leaders did not suspect when the USTR announced Seattle's selection in January 1999 that before the year was out their city would be plunged into chaos. For all of the efforts that they put into preparing for the ministerial itself and showcasing their city, the local planners gave short shrift to conference security. The WTO Secretariat "worked closely with both the Federal Government and [Seattle Host Organization] during their planning for the meetings in Seattle," the Seattle Police Department (2000: 11) noted in its after-action report, "but by the WTO's own request, did not participate in security planning" because this "was the executive responsibility of local law enforcement."

The opponents of globalization devoted at least as much effort in their preparations to disrupt the meeting as the city spent in organizing it. Dozens of groups found fault with the WTO, whether out of traditional concerns over import competition or because of the trading system's foray into such new topics as the environment and pharmaceuticals. They included such diverse organizations as the Alliance for Sustainable Jobs and the Environment, Amazon Watch, the Anarchist Action Collective, Christian Aid, Consumers International, the Earth Justice Legal Defense Fund, the French Peasants Confederation, Friends of the Earth, Greenpeace, the Humane Society, the Institute for Local Self-Reliance, Oxfam International, the Ruckus Society, the Sierra Club, the Third World Network and United Students Against Sweatshops. Some of these same groups might be on opposing sides of other issues, but those differences did not matter: the enemy of their enemy was their friend, and for all of them that enemy was the WTO. They converged on Seattle just as the ministers and their entourages arrived, and soon set about occupying the streets and airing their grievances. The protests took place between 29 November and 3 December, with the most intense activity coming on 30 November. The largest event that day was a march organized by the American Federation of Labor-Congress of Industrial Organizations, in which over 40,000 people participated, but "several thousand of the marchers broke from the route and continued into the downtown core in the vicinity of the Pike Street area where these added numbers exacerbated the problems already occurring there" (Seattle Police Department, 2000: 41).

The protests forced a delay in the WTO opening ceremonies and provoked the mayor of Seattle, Paul Schell, into declaring a state of emergency. He ordered a curfew and, with the governor's assistance, called in the National Guard and the Washington State Patrol to maintain order. The mayor also issued a civil emergency order creating a militarized zone in the core of downtown Seattle, with police patrolling the borders of this no-protest zone and restricting entry. What has since been deemed the Battle of Seattle is seen as a turning point both in the anti-globalization community and in policing, with activists looking back on it as their greatest triumph. These protests inaugurated the "black bloc" tactic of dark-clad protestors who conceal their identities with bandanas or masks and carry on the most kinetic forms of protest, such as smashing windows, overturning cars and directly confronting police. It was also the first major protest event in the age of mobile phones and the Internet, two iconic instruments of the global economy that protestors used effectively to organize the disorganizers. For the law-enforcement community, these events shattered

years of post-1960s complacency about the potential for violent and disruptive street actions, and became a textbook case for police academies and crisis-management specialists.¹⁶

The Seattle chief of police, despite his remarkably Dickensian name of Norm Stamper, had at least as much sympathy for the views of the legitimate protestors as he had contempt for the trouble-makers among them and the wishful thinking and poor planning of the higher-ups in the local, state and Federal governments. He would later write that what began with a “sea of sea turtles and anti-WTO signs, choruses of chanting, and street theater performances, replete with colorfully costumed actors on stilts playing out the various points of opposition to globalization” soon turned to chaotic street scenes in which his officers were “being pelted with an amazing array of missiles: traffic cones, rocks, jars, bottles, ball bearings, sticks, golf balls, teargas canisters, chunks of concrete, [and] human urine shot from high-powered squirt guns” (Stamper, 2005: 340, 344). Police responded with clubs, tear gas, rubber bullets and jail cells. An independent assessment commissioned by Seattle found fault with the city and public safety officials in their planning and execution, noting that the police department leadership “either did not believe ... or chose to ignore” substantial pre-incident indicators that large and violent protests could be expected and criticizing the incremental response once incidents occurred (R.M. McCarthy & Associates, 2000: 19). Mr Stamper summed up the experience by offering advice to his colleagues in law enforcement and to the elected officials to whom they must answer:

We learned many lessons from the Battle, foremost of which are: (1) line up as much help in advance as you possibly can, then find more; (2) plan for “force multipliers” (i.e., volunteers), but don’t become overreliant on them; and (3) keep demonstrators at a much greater distance from official venues. No matter how much they bitch about it.

And finally, my gift to every police executive and mayor in cities the size of Seattle’s: Think twice before saying yes to an organization whose title contains any of the following words: *world, worldwide, global, international, multinational, bilateral, trilateral, multilateral, economic, monetary, fiscal, finance, financial, fund, bank, banking, or trade* (*Ibid.*: 351).

Mr Stamper took full responsibility and resigned immediately after the ministerial. Mr Schell was defeated in a primary election in September 2001, the first incumbent mayor of that city to suffer such a fate in 54 years. The American Civil Liberties Union brought a lawsuit against Seattle officials for violating the free-speech rights of protestors, leading in 2006 to a settlement in which the city paid US\$ 62,500 to one person who had been detained because he was talking about WTO policies on a downtown street and US\$ 12,500 to another from whom a police officer had confiscated a sign because of its content.¹⁷ The next year the city agreed in a settlement to pay US\$ 1 million to about 175 protestors who had been incarcerated and to clear their arrest records (Young, 2007).

The inside battle of Seattle: labour rights

Labour rights had not even been on the agenda before the ministerial met, but that soon changed. Partly in response to the events on the streets and partly in accommodation to the host country, the organizers hastily put together a group to explore the options for negotiations on this subject. Ironically, this is one of the groups that came closest to reaching a consensus before the whole ministerial collapsed.

Before the ministerial, the European Community and the United States had both tabled papers proposing that a group be established to examine the relationship between trade and labour, but neither suggestion was included in the ministerial draft texts. Both parties were careful to express their objectives cautiously. Ms Barshefsky told delegates that sanction-backed labour provisions was only a long-term policy goal, and the European Community proposed that a Joint ILO/WTO Standing Forum on Trade, Globalisation and Labour examine a broad range of issues. That same caution was noticeably lacking at the top. In an interview that he granted during the height of the protests, and that was published in the 1 December *Seattle Post-Intelligencer*, Mr Clinton went considerably farther than his subordinates had:

What we ought to do first of all is to adopt the United States' position on having a working group on labor rights within the WTO, and then that working group should develop these core labor standards, and then they ought to be part of every trade agreement, and ultimately I would favor a system in which sanctions would come for violating any provision of a trade agreement (cited in Blustein, 2009: 76).

That interview surprised and upset most delegates, not least those from the United States. Taken together with the protests, however, it convinced the conference organizers that something had to be done to address the issue.

The conference set up a working group to decide whether the declaration should create a labour standards working group within the WTO, or a body operated jointly by a number of international organizations, to look at the issues. Costa Rica was chosen to chair this group because, as then-Deputy Minister for Trade Anabel González (see Biographical Appendix, p. 578) would later recall, “[t]hey were looking for a country that would be neutral on this.” The initial idea was that the minister would take on this task, but the minister “preferred that I would take the job because he was a business person and he was not really involved in the intricacies of that kind of thing.”¹⁸ Ms González managed to hold two meetings, the first one being a general session at which all countries were free to speak and the second bringing together a smaller group that aimed to reach agreement on language for the ministerial declaration. “I’ve never been in a more acrimonious meeting of the WTO” than that first one, she later said. “Delegates were absolutely furious,” according to Ms González, “because they did not want a group to be created, because they did not want to discuss the issue altogether.”¹⁹ Here is where the breakdown in trust and even civility among the membership, already heated by the lengthy fight over the director-general selection and agitated further by the protests outside, reached a boiling point. Many of the delegates vented their frustration at the process, and some directly at Ms González. Nor was she the only target: the creation of the labour group provoked a bitter reaction from some

developing countries that saw it as a hijacking of the ministerial by the United States and perhaps a plot by Mr Moore, himself a former Labour Party politician, to put something over on them.

A smaller group then moved to another room after taking statements, aiming to produce a paragraph that would define the relationship between the WTO and the ILO and create a working group on this issue in the proposed new round. While the negotiations remained difficult “it actually started to sort of come together, in a way,” and at about 4:00 a.m. this smaller group produced “a text that all delegates but India, which was on the sidelines, thought was a reasonable sort of thing.”²⁰ At this stage the negotiations in the ad hoc group seemed to have succeeded beyond what might reasonably be expected. Ms González then went back to her hotel to sleep, planning to present the agreed language when the ministerial deliberations resumed later that morning. About an hour or so after getting to her room she was called back to the convention centre and, after making it through the chaos in the streets, discovered that her work was for naught. “So I got back and I was very happy coming with my text and everything, because I thought that we had made it very reasonable,” she recalled, “and then they basically tell me, ‘We’re going to pull the plug.’”²¹ The ministerial was coming to an end without a decision, and the language that her small group had produced never saw the light of day.

The other issues

Labour was by no means the only polarizing on the table, and the rancour over the other subjects under negotiation could have been sufficient to sink the conference even without the added weight of this most divisive matter. Chief among these other topics were the related issue of the environment, as well as agriculture and the Singapore issues.

The environmental issue made for some coalitions that were mixed, tacit or even unintentional. “Green” groups outside the conference centre opposed the elimination of tariffs on forestry products, and Japan urged that negotiations should establish a set of rules and disciplines to contribute to the sustainable utilization of forest and fishery resources.²² Other members that favoured the elimination of subsidies to fisheries, forestry, or both included Australia, Iceland, New Zealand, the Philippines and the United States. One of the more contentious issues in the negotiations, as well as in the streets outside, was biotechnology. Canada and United States proposed the establishment of a biotechnology working group. Both were members of the Miami Group of biotechnology exporters, a group that sought to keep any potential trade restrictions out of the Biotechnology Protocol. Similarly, the European Community proposed the establishment of a working party with a fact-finding mandate on the relationship between trade, development, health, consumer and environmental issues in the area of modern biotechnology. This proposal caught EC environmental authorities off-guard, after they had worked hard to finalize the Cartagena Protocol on Biosafety. The environment ministers of Belgium, Denmark, France, Italy and the United Kingdom objected that this approach could potentially subordinate the Biosafety Protocol negotiations to other issues in the round, thereby setting a precedent for the WTO’s relationship with other multilateral environmental agreements.

The environment nevertheless offered one of the few opportunities for a real accomplishment at the ministerial. The executive-director of the United Nations Environment Programme, Klaus Töpfer, and WTO Director-General Mike Moore met on 29 November to discuss the two organizations' working relationship. They signed an agreement providing for "the provision and exchange of relevant non-confidential information, including access to trade-related environmental databases, and reciprocal representation at meetings of a non-confidential nature" and "to work for complementarity in technical cooperation with the aim of improving cooperation across the board and making better use of available resources."²³

The agricultural discussions at the Seattle Ministerial Conference took place five years after the end of the Uruguay Round and four years before Cancún, and the alignments of members on this issue bore a closer resemblance to the previous round than they did to the next one. The Cairns Group was still an active coalition of both developed and developing agricultural exporters, and urged that agriculture not be treated in a new round any differently than other sectors. It argued that there is no justification for maintaining export subsidies, that market access opportunities for agricultural products should be on the same conditions as those applying to other goods and should be commercially viable, and that all trade-distorting domestic subsidies must be eliminated with only non-distorting forms of support permitted.²⁴ Other developing countries expressed concern over issues of food security and unfair competition from the protected and subsidized farmers in developed countries. See for example the proposals made by India²⁵ and by Cuba, the Dominican Republic, Egypt, El Salvador, Honduras, Sri Lanka, Uganda and Zimbabwe.²⁶ The European Community took a more cautious approach on all three pillars, and especially domestic support, arguing for the need to consider the "multifunctional" nature of agriculture and non-trade concern. Progress on trade issues, according to the EC view, must not do damage to public goods such as the environment and the sustained vitality of rural areas.²⁷ The Japanese position was also cautious.²⁸ The US position was something of a compromise, calling for deep reductions in support and protection while also encouraging non trade-distorting approaches for supporting farmers and the rural sector.²⁹ Taking these and other proposals as a whole, the postures that members struck on agriculture in the run-up to Seattle were largely a reiteration of the positions they had held in the previous round.

On the third day of the conference, the chair of the agriculture working group, George Yeo of Singapore, presented a new draft. He sought to strike a compromise between the Cairns Group, the European Community, the United States and other members. This draft dropped all references to multifunctionality but still noted the need to take into account non-trade concerns such as food security and rural development. It proposed that market access negotiations should aim for the broadest possible liberalization, particularly for products of interest to developing countries, as well as reductions in domestic support. The inherent difficulties in reconciling the positions of members can be appreciated from the draft's somewhat tortuously crafted language on export subsidies, providing for "substantial reductions in all forms of export subsidies, and equivalent action in respect of the subsidy component of other forms of export assistance, in the direction of progressive elimination of export subsidies."³⁰ This was the only working group that would actually produce a draft.

The Singapore issues group dealt primarily with investment and competition, devoting less time to trade facilitation, the environment and government procurement. As was the case in Singapore, the European Community was the main *demandeur* on these two issues. It urged that the WTO establish a multilateral framework of rules governing international investment, aiming for a stable and predictable climate for foreign direct investment world-wide. This would focus on foreign direct investment rather than short-term capital movements, and preserve the ability of host countries to regulate the activity of foreign and domestic investors while also taking into account civil society concerns regarding investors' responsibilities.³¹ Other members that supported negotiations in this area included not just developed members such as Japan and Switzerland but also developing members such as: Costa Rica; Hong Kong, China; and the Republic of Korea. Other developing countries opposed taking up this issue, although Kenya was the only one to submit a formal paper in opposition in advance of the ministerial.³² Kenya also submitted a paper on behalf of the African Group in the area of competition policy, where the group favoured only continued study and technical assistance.³³ As in the case of investment, the European Community called for the WTO to begin negotiations on a basic framework of binding principles and rules on competition law and policy.³⁴ Other members supporting this call included Japan, the Republic of Korea, Norway and Turkey. The United States had not submitted proposals on either of these topics. The ministerial reached no decisions on these or other Singapore issues.

Ministers also grappled with the more standard fare of trade negotiations, although without coming to resolution. The working group on market access tackled the modalities, with countries variously calling for zero-for-zero sectorals, across-the-board formulas, and an Accelerated Tariff Liberalisation (ATL) initiative. The ATL initiative aimed for an early harvest in eight sectors of non-agricultural goods. The United States was the principal advocate of this approach; European Commissioner for Trade Pascal Lamy preferred to put all industrial tariffs on the table without prioritizing any particular sector. The European Community was also concerned that the early harvest could take some of the issues out of the round before it was concluded.

If the ministerial had been successful, it may have produced early results in favour of least-developed countries (LDCs). The European Community tried to introduce an Everything But Arms proposal, an idea that it had shopped around to developing countries and Japan, but the US authorities were quite displeased that their EC counterparts had not told the host country that they intended to make this proposal. Both the European Community and Japan pledged to provide duty-free access to essentially all products imported from LDCs by the end of the round, with "essentially all" being understood to mean 98 per cent to 99 per cent of LDC exports.

The collapse

Participants and analysts have differing views of the impact that the battle outside had on the battle inside. The negotiators generally agree that the protests *per se* did not force a shutdown of the talks, but they did affect negotiations in at least three ways. First, the action on the streets – coupled with Mr Clinton's comments – helped to bring about the establishment of the ad hoc

group on labour rights. While the group actually performed better than might be expected, its very creation generated ill will in the ministerial. Second, the general atmosphere of chaos and danger contributed to the frayed nerves and short tempers of delegates. The toll may have been the highest on the conference chairman herself. This is a position that is exhausting even in the best of times, and is not made any easier when a conference crosses the line into a true crisis. The third impact was on time: the protests delayed the start of the conference, left fewer working hours each day, and ultimately prevented the host country from even contemplating an extension. The mayor and the police chief wanted their nightmare to end as soon as possible, and were in no mood to contemplate even one hour more than had been scheduled. They conveyed that message in no uncertain terms to WTO Deputy Director-General Andrew Stoler when, at the request of Mr Moore, he sounded them out on the possibility of extending the time. It is impossible to know whether that additional time might have helped the delegates to overcome their divisions, but it is certain that the authorities were not about to permit a test of that proposition.

Many of the participants in the negotiations believe that the ministerial would have failed, although perhaps not as spectacularly, even if there had not been a single protestor. The WTO members were simply too far apart on the issues that they had planned to take up, not to mention the one that got added on the fly, to hope that they could bridge their differences in four days of debate between ministers. Although negotiators managed to make progress in some areas, by the late afternoon of 3 December it was apparent that there was too much distance to the goalpost and too little time to reach it. Blocs of Latin American, Caribbean and African countries opposed what they saw as an undemocratic process, and were all threatening to withhold consensus from any agreements that might be produced. Ms Barshefsky told ministers at the concluding plenary session that it was the "collective judgment, shared by the director-general, the Working Group chairs and co-chairs, and the membership generally, was that it would be best to take a time out, consult with one another, and find creative means to finish the job."³⁵ This formula contemplated informal discussions over the weeks to come, with the WTO General Council scheduled to meet on 17 December when "after Seattle" issues were on the agenda.

Despite all of the noise of the ministerial, both inside and out, there was nonetheless one incongruously hopeful sign. "In the middle of all this chaos," Deputy Director-General Miguel Rodriguez Mendoza (see Biographical Appendix, p. 590) would later recall –

the minister from Qatar asked for a meeting with Mike Moore ... to offer Doha as the venue for the next conference. And Mike looked at him as if to say, "This man is crazy. How could a country want to host a meeting such as the one we're having here? He may be out of his mind." But he said, "Well, of course we'll take your proposal to the members."³⁶

On 8 February 2001, when most of the members were still engaged in recriminations over who was most at fault for the debacle, the General Council accepted an offer by the government of Qatar to host the next ministerial conference.

Between the ministerials: setting the development agenda

The WTO was still just shy of five years old at the time of the Seattle Ministerial Conference, and by Doha it would be seven. If international organizations went through the same stages of cognitive development that Jean Piaget attributed to children, it is in this interval that we might expect the institution to demonstrate greater reasoning skills, to acquire the ability to understand that others may have different perspectives on the same problem, and to begin learning from one's own mistakes. That is precisely what the institution, its leadership, and its members did between the ministerials. Seattle was, in some respects, a learning experience that the members brought on themselves, and also a public rebuke to the trading system itself. That inspired many of the key players to correct their mistakes in time for the next round.

The first step came in acknowledging that it was not the NGOs that had stopped the members from launching a round. While the chaos in the streets did not make things any easier, it was the lack of preparation inside the WTO itself that caused the greatest damage. "The work hadn't been done," Director-General Mike Moore would later acknowledge, "and when we got to Seattle we were essentially just too far apart."³⁷ Working with the members, and especially with the next two General Council chairmen, Mr Moore set about doing better next time.

Bringing the developing countries on board

One fundamental problem, as Mr Moore recognized even before the ministerial began, was that the planning and pre-negotiations had not been inclusive. When he attended a mini-ministerial shortly before Seattle, Mr Moore "was gob-smacked that there was no least developed country there and the configuration wasn't right."³⁸ He resolved to correct this deficiency by addressing the needs of developing countries in general and the LDCs in particular. It was here that the notion of a development round first emerged. That concept would come to be much maligned by developed and developing countries alike, but was part of a concerted plan on Mr Moore's part to reach out to those members that had been most excluded and to whom the WTO seemed less relevant and helpful.

In 2000 and into 2001, Mr Moore travelled frequently to Africa and the Caribbean, and would later remember that: "I went to the ACP [African, Caribbean and Pacific group] in Brussels more than I went to the European Union to explain what we were doing and why they should trust us."³⁹ He also put more resources into capacity-building, spent time securing funds from the major donors and helped regional groups such as the African and Arab caucuses in organizing. The director-general spent all of his weekends engaged in that hybrid of politicking and socializing that is the hallmark of WTO diplomacy, holding parties and barbecues to help the ambassadors build confidence in each other. He also worked to provide more services to the non-resident members to make sure they were kept informed and did not feel isolated from the system.

One ancillary benefit of dealing directly with capitals was that the director-general developed superior intelligence about countries' actual positions. Because he had direct lines of

communication to the capitals, Mr Moore could determine when ambassadors were being more adamant in their opposition to a round than were their ministers. This was especially important in dealing with members of the Like-Minded Group, several of which were more disposed towards cooperation at the ministerial than at the ambassadorial level. The knowledge also gave him the confidence to expect that, as indeed would happen at Doha, most of these countries – apart from India – would be willing to make accommodations and allow the round to proceed.

Preparatory work in Geneva

If much of 2000 was spent in mending fences with the members, some of that year and all of the rest was devoted to devising a draft ministerial declaration that would avoid the pitfalls that had trapped the last one. The work in Geneva proceeded on both formal and informal tracks. At the formal level, they held a great many General Council meetings, pursuing an approach of “negotiation by exhaustion”.⁴⁰ Informally, the chairmen of the General Council consulted widely with the members, finding out their offensive and defensive needs and looking for the spaces in-between where deals might be made. The WTO planners faced a deadline of July 2001, when a serious assessment was made of the prospects for launching a round. This was seen as the point by which a “go or no go” decision should be made on whether the objective of Doha would indeed be to launch a round and what issues should be incorporated in its scope. They also had to prepare for contingencies, including the possibility that yet another ministerial might fail. When asked in the spring of 2001 whether the Secretariat had a Plan B on hand, Mr Moore observed that “[w]e had best be prepared for plans B through G.”⁴¹ The director-general and his staff worked from the assumption that a new grant of US negotiating authority would not be in hand by Doha, and that the ambitions of the US negotiators would be commensurately narrow. The problem then became how one could reconcile the comparatively modest US ambitions with the EC demand that the negotiations cover a wide range of topics, and the even greater degree of scepticism on the part of many developing countries.

The main work in putting together a package fell to General Council Chairman Stuart Harbinson of Hong Kong, China. Born in the same year as GATT, Mr Harbinson would be instrumental in the development of the WTO. He shared the director-general’s principal objective of getting the round launched, and to that end he continued the consultations that Chairman Kåre Bryn of Norway (see Biographical Appendix, p. 575) had started in 2000. Mr Harbinson held a long series of open-ended meetings among heads of delegation, in an informal, “bottom up” process. It soon came to centre on a checklist of subjects for possible inclusion in the discussions that Mr Harbinson offered to members on 20 April 2001. This was a *demandeur*-driven approach in which member governments held meetings outside the formal General Council process to determine the levels of support on such issues as non-agricultural market access, investment, competition policy, trade and the environment, fisheries subsidies and reform of the Dispute Settlement Understanding. The approach “discouraged formal proposals such as those which had been tabled before Seattle,” Harbinson (2009: 4) later wrote, with a “broad understanding among Geneva-based Representatives ... that at Doha their Ministers should be presented with a manageable text

and that, to this end, the General Council chairman would, at a certain stage in the preparatory process, need to be given some room for manoeuvre.”

The situation as of July was still unsettled. The General Council met on 30-31 July to debate how to move beyond an impasse, and the meeting produced general acknowledgement that progress on the implementation issue was critical. Returning to work after the August break, Mr Harbinson told the General Council on 4 September that delegations could not expect ministers to arrive in Doha with issues still unresolved. That approach, he warned, would work no better at Doha than it had at Seattle, and so he told the ambassadors they could soon expect a draft ministerial text. On 26 September, he circulated a draft⁴² that was just nine pages long with six singular or paired square brackets (or the functional equivalent of “or”), and a draft decision on implementation-related issues and concerns⁴³ that was eleven pages long with seven sets of square brackets. The draft did not yet include solid language on agriculture, however, providing only bullet points on what that might cover. This was a serious *lacuna*, as Mr Moore and Mr Harbinson both considered agriculture the make-or-break topic for the round. “I always saw the deal as this,” the director-general later recalled: “If we could turn agriculture into a development issue that would bring us the Latins and most of the Africans.”⁴⁴ Getting Brazil and South Africa to support the launch of a new round was especially crucial for Mr Harbinson, and “what drove [them] to support the launch of the round was agriculture.”⁴⁵ South African Trade Minister Alec Erwin, for example, was important in rallying African opposition to the dumping of European agricultural products on the continent.

“[T]he test of a first rate intelligence,” F. Scott Fitzgerald (1936) once observed, “is the ability to hold two opposed ideas in the mind at the same time, and still retain the ability to function.” By that standard, there are sections of the Doha Ministerial Declaration that show flashes of genius. While negotiators sought to reduce ministerial decisions to a minimum they could not reconcile or paper over all of the differences in members’ positions. One way around that problem was not to force ministers to make a choice between stark alternatives but instead to craft language that would reflect the diversity of views. The objective here was to get past the immediate problem of launching the round. It would then be the task of the negotiators to find the trade-offs and compromises that would allow them to patch up the apparent contradictions in the marching orders that the ministers gave them. The clearest example of that phenomenon was the agricultural paragraph. The same may be said for the language negotiated in Doha on anti-dumping laws.

After holding a series of confessionals on agriculture, Mr Harbinson set out to devise whatever language on this subject would allow a round to be launched. Working with veteran Secretariat staffer Frank Wolter in late September, he drafted a paragraph “which had everybody’s little key word in it but without over-committing to any particular point of view,” he later recalled. “It was very carefully constructed, and all these code words were in it.”⁴⁶ Assembling some 15 to 18 delegations into Room F – the same one in which the final institutional negotiations of the Uruguay Round had been held (see Chapter 2) – Mr Harbinson dictated the paragraph to them. “I didn’t even dare to put it on a piece of paper,” requiring that they “scribble it down” by hand.⁴⁷ For those seeking fundamental reforms it called for “comprehensive negotiations

aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support.” In response to the European Community’s demands for a “multifunctional” approach to agricultural trade it took note “of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm[ed] that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.” To developing countries it promised that special and differential treatment “shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated,” taking into account “their development needs, including food security and rural development.”

In brief, the text recapitulated without reconciling the differing positions of the members, yet did so in a way that left no one feeling excluded. When Mr Harbinson asked the assembled delegates for comments:

There was total silence, which is extremely unusual for agriculture. And I think they realized that if one of them said something then somebody on the other side of the aisle would have to, and the whole thing would just go down the drain. So they just shut up. So I said, “Thanks very much.” And then later I put it on a piece of paper, and not a word was changed.⁴⁸

The deal survived essentially intact from then through the final approval of the ministerial declaration. The only significant negotiations over the terms of that paragraph concerned the level of ambition over export subsidies, a subject on which the European Community made a large concession in the final hours of the ministerial (see Box 11.1). This new paragraph on agriculture was then distributed to the members as an addendum to the 26 September draft,⁴⁹ and was fully incorporated into the revised version on 27 October. That draft was distributed together with a new draft decision on intellectual property and access to essential medicines.⁵⁰ The chairman and the director-general forwarded the drafts to ministers on their own responsibility, without seeking approval as agreed texts but presenting them as bases for discussion in Doha.

Attack on the World Trade Center

In the midst of these deliberations came an exogenous shock that would reorder positions and priorities on trade and much else. On the morning of 11 September 2001, a team of 19 Al Qaeda terrorists executed an attack on the United States in particular and against Western values in general. They hijacked four passenger jets, directing two of them as missiles against the World Trade Center in New York and one against the Pentagon. The passengers aboard a fourth plane overpowered their captors before crashing into a field in Pennsylvania. Nearly 3,000 people were killed that day, most of them Americans, but the victims also included citizens from 114 other countries. It was anti-globalization taken to its most illogical extreme.

The most immediate impact of 9/11 on the WTO was to inspire an abortive effort to relocate the ministerial conference from Doha (see Box 11.2), but the strategic response to the attacks was far

more significant than the logistics of where it would be held. In the short term, these events gave the United States and its WTO partners an additional rationale for launching a round, and elevated its importance to the United States from desirable to indispensable. This was a time when "... or else the terrorists win" became a predicate appended to all manner of objects in public policy, and "we need to launch a new round in the WTO ..." was one of them. Within days of the terrorist attacks, US Trade Representative Robert Zoellick advanced the argument that multilateral trade liberalization was a weapon in the war on terror. Even in these extraordinary times, however, the two traditional barriers to multilateral trade agreements that were discussed in Chapter 2 – the Washington problem of negotiations with the US Congress and the Geneva problem of negotiations with the trading partners – still had to be addressed. Mr Zoellick went about solving the two problems in sequence. The Washington problem took longer to fix, with nearly a year passing before enactment of the Trade Act of 2002 would give US President George W. Bush a new grant of negotiating authority.⁵¹ The Geneva problem, which soon relocated itself to Doha, was solved in two months of intense bargaining before and at the ministerial.

The first step was to seek that new grant of authority. The previous one had run out on the final day of the Uruguay Round, and the Clinton administration had ultimately given up in 1997 after spending two years trying to convince Congress to give him another. Mr Zoellick had already asked Congress to renew this power, which he insisted be called "trade promotion authority" (TPA) rather than the fast track,⁵² but after 9/11 he ramped up the campaign. He stressed its importance in an opinion piece that the *Washington Post* published just nine days after the attacks, urging that legislators "send an unmistakable signal to the world that the United States is committed to global leadership of openness and understands that the staying power of our new coalition depends on economic growth and hope" (Zoellick, 2001: A35). That required, in addition to approving several other trade initiatives then pending, a new grant of authority "so America can negotiate agreements that advance the causes of openness, development and growth" (*Ibid.*). After many more months of bargaining and cajoling, Congress would indeed produce a TPA grant that covered any bilateral or multilateral trade agreements that might be concluded by mid-2007.⁵³

Getting a new grant of negotiating authority was not just a procedural matter of internal US politics but was instead an integral part of Mr Zoellick's plan for tackling the Geneva problem. His strategy for launching the round was to give every member a stake in its success, and that could be achieved only if the United States were prepared to make serious concessions. That would require putting sacred cows such as the anti-dumping laws on the table, something the United States could not credibly do so without reversing the course that Mr Clinton and Ms Barshefsky had set. Their approach had been to accommodate the US negotiating objectives to the terms of the limited negotiating authority that the president had in hand, and to shape a round that fit within those restricted contours. Mr Zoellick instead proposed to go big, and to do that he needed a mandate from Congress.

Mr Zoellick worked closely with his EC counterpart, Pascal Lamy, in promoting the new round. While some transatlantic pairings of trade ministers are better compared to bad marriages than to good partnerships, the Lamy-Zoellick alliance worked exceptionally well. They had

already begun working on this issue months before, having declared in July their “shared goal ... to remove the stain of the failed Seattle trade talks, and help to launch a new round of global trade negotiations” (Lamy and Zoellick, 2001: A17). Both men were committed to the round and the strategy by which it could be launched, and worked together to help secure the support of other members through a combination of persuasion, inducements and strategic retreats from their established positions. The European Community had yet to secure renewal of the waiver needed to continue its preferential treatment of imports from former colonies, had a banana issue to solve with Latin American countries and might also be prepared to make concessions on agricultural export subsidies. These issues each gave Mr Lamy leverage with specific constituencies, allowing him to connect the resolution of these matters to the launch of a round, just as Mr Zoellick had potential concessions on pharmaceutical patents and anti-dumping laws in his back pocket.

The higher priority that the United States attached to the multilateral negotiations after 9/11 offers part of the answer to the question that is often posed, “What impact did these attacks have on the launch of the Doha Round?” Any speculation on the relationship between 9/11 and the Doha Round necessarily implies consideration of the counter-factual, yet it is impossible to test the proposition that the round would not have been launched but for the attacks. It is, however, reasonable to suppose that if the event had not taken place the United States may have been unlikely to place as high a priority as it did on the launch, that Mr Zoellick in particular may not have pressed as hard as he did for a solution and that securing congressional approval for a new grant of negotiating authority may have been more difficult.⁵⁴

The United States had already been moving closer to acceptance of a new round in the months preceding 9/11, but the attacks heightened US interest and the priority that Mr Zoellick attached to it. In one of the mini-ministerials that took place earlier that year, Mr Zoellick reportedly told his counterparts that the United States wanted a new round, but in the event that the initiative failed they should not seek US support for a number of years because the country would otherwise be occupied with free trade agreement (FTA) negotiations. Within two years, those bilateral and regional options would once again be central to US trade strategy, and many of them were also tied to the war on terror. That was evident in 2003 when Mr Bush proposed that a US–Middle East Free Trade Area be established by 2013, and began negotiations with individual Arab countries as a first step towards that goal. Mr Zoellick insisted that there was no contradiction between these negotiations and the Doha Round, as they were all part of a strategy of competitive liberalization. That is a controversy to which we will return in Chapter 13.

What of the other WTO members? Opinions vary widely on the degree to which, individually and collectively, their approach to Doha was a response to the attacks on 9/11. Some suggest that it had only a marginal impact, offering an additional systemic reason to launch. It thus supplemented the other systemic argument that a new round was needed to undo Seattle and restore the reputation of the WTO. Others suggest that it had a positive impact on the positions taken by specific countries such as Egypt, Malaysia and Pakistan, each of which developed new partnerships with the United States. As a general rule, the positions that

commentators take on the relationship between 9/11 and the launch of the Doha Round seem to be a function of their own perception of whether the round should have been launched at all. Positions can shift over time: several proponents of the round added the foreign-policy argument to their appeals in the days leading up to the ministerial, but once the round was under way pro-trade observers typically argued that the economic rationale had been strong enough on its own to ensure a successful launch. Many critics cried foul, and trade-sceptics sometimes portray the connection in negative or even sinister terms. Minister Murasoli Maran of India complained at Doha that the United States was seeking to exploit 9/11 (Blustein, 2009: 113), and one anonymous developing country negotiator would later lament “the economic benefits that were extracted by the industrialized countries out of this disaster,” declaring that “if September 11 had not happened, the Doha ministerial declaration would not have contained even half of its obligations” (quoted in Kwa, 2003: 13). That characterization might be readily challenged on one point – the inclusion of an item in the ministerial declaration is better termed a commitment to negotiate for possible obligations in the future rather than a new obligation *per se* – but there is anecdotal evidence to suggest that some ministers adopted a more accommodating stance on some issues than they might otherwise have taken as a result of the atmosphere in which the ministerial was held.

The Doha Ministerial Conference

Compared to the Seattle Ministerial Conference two years earlier, the Doha Ministerial Conference, on 9-13 November 2001, had several advantages. The WTO Secretariat and the ministers themselves were better organized and prepared, and would deal with a concise draft that was cluttered with fewer brackets. Divisions remained among the members over the same issues that had dogged them since Singapore, but there was now a greater willingness on the part of key players to make accommodations and trade-offs. The trade ministers of the European Community and the United States worked well with one another, and each was committed to a strategy that would bring others on board. That included the smaller, poorer members whom Director-General Mike Moore had courted for the past two years. The Doha Ministerial Conference also enjoyed a luxury that was lacking in Seattle, and would be missing again in Cancún: an accommodating host government that was willing to grant extra time on the closing day. The one notable disadvantage was that the concerns over the delegates' safety were now much greater. Whereas in Seattle they had to navigate around angry protestors and risked the odd whiff of tear gas, in Doha there was a widespread fear of a terrorist attack. None ever surfaced, but these concerns seemed all too real in a time of suicide bombers and anthrax scares.

The first order of business was to appoint the ministers who would act as “friends of the chair” and facilitators on specific issues. One such friend was Mexican Secretary of Finance Luis Ernesto Derbez, who would have a much higher-profile role in the next ministerial conference. He acted in this meeting as the facilitator for intellectual property issues (see Chapter 10). The other facilitators included the Singaporean Minister for Trade and Industry George Yeo, who took on agriculture; the Swiss Minister of Economic Affairs Pascal Couchepin, facilitator

for implementation; the Chilean Under Secretary for Foreign Affairs Heraldo Muñoz Valenzuela, dealing with environmental issues; the South African Minister of Trade and Industry Alec Erwin, who took charge of rule-making; and the Canadian Minister of International Trade Pierre Pettigrew, facilitating discussion on new issues. LDCs objected that informal consultations over these appointments discriminated against them because none of their representatives had been selected as facilitators. In response to these complaints, the chair appointed Botswana's Minister of Trade, Industry, Wildlife and Tourism Tebelelo Seretse, as a seventh friend of the chair to carry out consultations on such issues as labour standards, TRIPS and biodiversity, and reform of the dispute settlement system.

The highest-profile issue: agriculture

The paragraph that Mr Harbinson developed formed the basis for the agricultural negotiations in Doha. The fact that ministers were willing to accept a draft that was so clearly unclear may offer the best evidence of their collective interest in succeeding at Doha, and their willingness to adopt a declaration that would put off many of the difficult decisions for a later day. For agriculture, that was especially notable in the case of countries that are normally die-hards on the subject. Japan, the Republic of Korea and Norway indicated that they would accept the draft, leaving the European Community alone in its opposition. Brussels still objected to the phase-out of export subsidies, but ultimately – on the last night of the conference – accepted part of Mr Harbinson's original language specifying the objective of achieving “reductions of, with a view to phasing out, all forms of export subsidies.” This was one of several strategic retreats that Mr Lamy and Mr Zoellick were each prepared to make in support of a “go big or go home” approach to the round.

The ministers ultimately approved in paragraph 13 the language that Mr Harbinson developed, with a few adjustments. The substantive part of the paragraph read as follows:

Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

The schedule set for the negotiations in paragraph 14 was ambitious. The draft sent to ministers had not specified any dates, but the language they approved called for modalities to

“be established no later than 31 March 2003.” Participants were to “submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference” – that is, before the Cancún Ministerial Conference of 2003 – and the negotiations were to be “concluded as part and at the date of conclusion of the negotiating agenda as a whole.”

Developed country issues: the Singapore issues, labour and the environment

All of the issues that the European Community had been working on since Singapore were in the draft sent to ministers, but with differing degrees of solidity. The draft had called for negotiations to begin right away on government procurement and trade facilitation but took a more cautious approach to investment and competition policy. For each of those topics it specified that at the next ministerial “a decision will be taken on modalities of negotiations in this area.” The draft made no commitment on labour negotiations, and provided for continued work on four environmental issues. Several developing countries were opposed to negotiations on each of these topics, with the degree of opposition being greatest on labour. The divisions between developed and developing countries on some of these issues were not resolved until the very last minutes of the conference, as is discussed later.

The investment issue is often framed in North–South terms, yet the divisions over the topic can be more complex. As was already seen in the run-up to Seattle, there were several developing countries that promoted negotiations on this issue. The same was true at Doha, where Chile, Costa Rica and the Republic of Korea favoured more ambitious language on investment and other Singapore issues. They remained the exceptions, with India and Malaysia being more typical in their opposition to negotiations on investment altogether. ACP countries took the position that capacity-building needed to take place before developing countries could agree to negotiations on investment and competition.

The environmental issue made for complex relations. The European Community called for negotiations to clarify the WTO–MEA relationship, provide for eco-labelling and adopt the precautionary principle. Japan, Norway and Switzerland backed the EC position but developing countries, Canada and the United States were opposed. Botswana, Egypt, Guatemala, Malaysia and Zambia spoke out against the EC proposal at the heads-of-delegation meetings. Developing countries were especially concerned that negotiations on the environment could undo their gains in market access for agricultural concessions.

Mr Lamy and Mr Zoellick acted collaboratively in dealing with other countries on several issues, but when it came to the environment they had to negotiate with one another. The green movement held more sway in Europe than it did in the new Republican administration, and the two men were also divided by the different interests of their constituents. The United States was (together with Iceland and the Philippines) one of the *demandeurs* for negotiations on fisheries subsidies. The European Community (together with Japan and the Republic of Korea) had resisted the demands for negotiations on this subject, arguing that any further

talks under the Agreement on Subsidies and Countervailing Measures should apply to all sectors and that the fisheries issue was already under discussion in other forums. This is an issue on which the US position prevailed, with paragraph 28 of the ministerial declaration calling for negotiations. For its part, the United States was willing to accommodate European demands on other environmental issues. Members agreed to launch negotiations on the relationship between WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs), albeit without prejudice to “the WTO rights of any Member that is not a party to the MEA in question”; on procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the criteria for the granting of observer status; and on the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

Labour was once again on the table, but not for long. The language that trade unions preferred was, “We support the work begun in the International Labour Organisation on the social dimensions of globalisation, and we commit the WTO to working effectively with the ILO in a permanent working forum.” The European Community proposed this language, with the support of Canada, New Zealand and South Africa, but the change of government in the United States meant that this issue lost one of its chief *demandeurs*. In the end, the ministerial declaration merely reiterated the established position, with paragraph 8 “reaffirm[ing] our declaration made at the Singapore Ministerial Conference” and taking “note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.” That had been the position in the draft sent to ministers. Labour was effectively off the table in the round from that point forward, with the proponents – a group that the United States would rejoin after another change in government – recognizing that any negotiations that might be proposed in the WTO could only be contemplated as part of a post-Doha agenda.

Developing country issues: TRIPS, Cotonou, bananas and implementation

Developing countries came to Doha with offensive interests of their own. One of them, which led to approval of the Declaration on TRIPS and Public Health, has been examined in Chapter 10. The willingness of the United States to approve this text was the most immediate evidence of Mr Zoellick’s seriousness about seeking a balance of concessions that would give all members a stake in the round. That down-payment helped to secure support in Africa and Latin America.

Most developing regions had interests in two other initiatives that put them at odds with the European Community and with one another. One was a WTO waiver for the Cotonou preferential market access arrangement, an agreement by which former colonies in the ACP region enjoyed preferential access to the EC market. The other was resolution of the banana issue, another preferential arrangement for ACP countries. Both the Cotonou and the banana issue divided the ACP beneficiaries from those developing countries in Latin America and Asia that did not benefit from the programmes. Cotonou was highly unpopular in Latin America and South-East Asia, as it gave advantages to imports of products such as bananas and canned tuna from (for example) Dominica and Mauritius that might otherwise come from

(for example) Honduras and Thailand. Similarly, the EC banana policy favoured the “euro bananas” of Africa and the Caribbean over the “dollar bananas” of Colombia, Costa Rica, Ecuador, Honduras and Panama.

The resolution of these issues offer a good example of how disputes need not always produce negative results, but may instead generate currency that can be spent for other purposes. In both instances, Mr Lamy was able to tie the results to the launch of the round and give yet another set of countries a stake in the larger initiative. The requested waiver for the Cotonou initiative had been bogged down in the Council for Trade in Goods for over a year, and while it could have been resolved there, it was instead deferred to the ministerial. The opponents of this waiver threatened to bring the conference to a standstill, but this issue – when coupled with resolution of the banana case – attracted more supporters than opponents to the round. The members granted the waiver on the final day of the ministerial, and by that same instrument they approved an arrangement by which the waiver would be suspended if the European Community failed to maintain the current market access for imports of non-ACP bananas. The commitment to phase out the import quotas on bananas and replace them with tariffs by 2006 won over Latin American banana-exporting countries, although some members (notably Costa Rica, Ecuador, Honduras, Panama and especially Thailand and the Philippines) continued to have concerns. “[I]t was unclear to the very last moment whether the Philippines and Thailand would block the Cotonou waiver request,” according to a contemporary account, “due to objections raised by the countries over the EC’s preferential treatment of canned tuna imports from the ACP within the Cotonou framework” (ICTSD, 2001).

The meeting produced two documents that established the mandate for negotiations on implementation issues and on special and differential treatment for developing countries. The Doha Ministerial Declaration reaffirmed that “provisions for special and differential treatment are an integral part of the WTO agreements” (paragraph 13) and declared the agreement of the ministers that “all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational” (paragraph 44). The declaration also provided for expanded funding for technical assistance, and expressed the non-binding objective of duty-free, quota-free access for products originating from LDCs. This mandate was further elaborated in the Decision on Implementation Issues and Related Concerns. The ministerial set a two-track process of negotiation on these matters. One track consisted of the regular negotiations, which were to be conducted on the basis of a standard round, while the Committee on Trade and Development – Special Session appeared to be on a separate track that could produce an “early harvest” of improvements on the S&D principles.

Anti-dumping

The anti-dumping laws divide not only developed from developing but also some developed members from others. The European Community and especially the United States have the greatest interest in preserving these laws, while their control or elimination is a top priority for Canada, Chile, Japan and others. The fact that Mr Zoellick was willing to place this and other

trade-remedy laws on the table, even if in a very restricted fashion, demonstrates how far he was prepared to go in order to secure more support for the launch. With the possible exception of cabotage (see Chapter 2) and the immigration laws, there is perhaps no cow more sacred in US trade policy. Although seen by many trading partners as a form of administered protectionism, the law enjoys deep and bipartisan support in Congress.

The Friends of Anti-dumping Negotiations had been meeting at the Japanese mission in Geneva for some time, hoping to leverage reforms on this issue in the new round. This had long been a goal of countries such as Canada and Chile, each of which had found it difficult to make headway on the topic in FTAs with their partners – except, that is, for the one that they reached with one another in 1996. They hoped for a broader solution to their problem, with multilateral disciplines that would reduce the frequency with which their exports faced costly litigation and heavy penalty duties. As an interim step in that direction, they won inclusion in the draft declaration calling for negotiations to clarify and improve the disciplines of the agreements on anti-dumping and on subsidies and countervailing measures.

The subsequent development of the text in the Doha Ministerial Declaration illustrates two complementary, yet contradictory, themes in how the round was launched. One of those themes was the Zoellick strategy of placing even sacred cows on the block in order to give everyone a stake in the round and demonstrate the seriousness of the United States. The other was the Harbinson strategy of artfully crafting language that would not prejudge the outcome of negotiations on sensitive subjects, but would instead reflect the views of both the *demandeurs* and their interlocutors. Those two themes were complementary in the sense that they each contributed to the launch of the round, but contradictory insofar as the second theme could ultimately undercut the first. Members were willing at the Doha Ministerial Conference to concentrate on the complementarities; the contradictions would be more prominent when they reconvened in Cancún.

The draft declaration had already taken a partial walk down that road of constructive ambiguity, having provided for negotiations on anti-dumping and countervailing measures “while preserving the basic concepts and principles underlying them.” The new language, as worked out between the *demandeurs* and Grant Aldonas, the under secretary for international trade at the US Department of Commerce, put still more qualifying words into that declaration. What they finally agreed to, and that became part of paragraph 28, provided not just for the preservation of those basic concepts and principles but also of their “effectiveness” and “objectives,” and referred not just to the agreements but also to “their instruments.” Or to read paragraph 28 in its entirety:

In the light of experience and of the increasing application of these instruments by members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 [i.e. the anti-dumping code] and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements

and their instruments and objectives, and taking into account the needs of developing and least-developed participants.

The real difficulty came not in working out this language but in convincing the Japanese delegation to accept this formulation. Other members of the Friends of Anti-dumping Negotiations were at pains to persuade their disappointed colleague to go along with the deal.

The resolution

The net effect of these deals was to move members who had previously been opposed or sceptical into support of the launch, some of them enthusiastically and some of them reluctantly. Several deals and strategic retreats were made in the final hours of the conference, notably the European Community's agreement that the negotiations would aim for the elimination of agricultural export subsidies and the US approval of the TRIPS and public health declaration.

The principal opponents in those last hours were African countries and India. Mr Moore and his staff were closely involved in dealing with these holdouts, and here his travel over the previous two years paid off. When African delegates left the green room at 3:00 am on the final day they were strongly opposed to negotiations on the Singapore issues, and some among them were determined to block consensus over the launch. They then asked for a meeting with Mr Moore, at which they told the director-general that that they opposed talks on the new issues, but then offered, "We believe in you because you know us."⁵⁵ They trusted him sufficiently to start the negotiations on most issues, while putting off to the next ministerial a final decision on how those new issues would be handled.

That same point was key to the negotiations with India, which was now alone in its opposition. Even a single member has a veto in an organization that is run on the basis of consensus, but exercising that right in the face of otherwise unanimous support would have put India in a very uncomfortable position. Here again, Mr Moore's travels and connections put him in a position to play another card. He asked another prime minister to call their Indian peer in order to ask that he instruct Mr Maran to withdraw his objections. That could be done only if India were given a face-saving compromise. This came in the form of language that India proposed, requiring explicit consensus before negotiations could begin on any of the four Singapore issues and not just the two (investment and competition policy) for which the draft had already contemplated a delayed start. "But while that was being hammered out the closing session had already started," Mr Harbinson recalled, "so people like Pierre Pettigrew of Canada did a thirty-minute intervention talking about how wonderful the weather was in Doha and all sorts of things." Other ministers stepped in with time-filling interventions of their own, running out the clock by another 20 minutes here or a quarter hour there in order to allow sufficient time to clear every letter and comma in the new wording. "And then eventually we got the signal that everything was agreed, and the text was adopted."⁵⁶

This deal provided that in each of the four paragraphs calling for negotiations on the Singapore issues “negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations.” A quick reading of that language might lead the uninitiated to believe that all that was at issue were the modalities, but the language made clear that there was as yet no consensus to negotiate on these issues at all. The conference chairman confirmed this point. When Qatari Finance, Economy and Trade Minister Yousef Hussain Kamal (see Biographical Appendix, p. 581) introduced the ministerial declarations at the closing plenary session on 14 November, he took special note of the fact “that some delegations have requested clarification concerning paragraphs 20, 23, 26 and 27 of the draft declaration” (i.e. those laying out a work programme for the Singapore issues). He said that –

with respect to the reference to an ‘explicit consensus’ being needed, in these paragraphs, for a decision to be taken at the Fifth Session of the Ministerial Conference [i.e. in 2003], my understanding is that, at that session, a decision would indeed need to be taken by explicit consensus, before negotiations on trade and investment and trade and competition policy, transparency in government procurement, and trade facilitation could proceed. In my view, this would also give each member the right to take a position on modalities that would prevent negotiations from proceeding after the Fifth Session of the Ministerial Conference until that member is prepared to join in an explicit consensus.⁵⁷

This was yet one more example of an item on which the members opted to postpone the resolution of their differences, and would prove to be another case in which a manoeuvre that worked in the late GATT period would not do as well in the WTO period. The ministerial declaration that launched the Uruguay Round had gaps and constructive ambiguities of its own, including the uncertain standing in which it left the huge new issue of trade in services. Then too India was among the doubters, and the sceptics insisted that the topic be isolated from the rest of the round. Over time their concerns abated and GATS was fully incorporated into the new WTO system. Not so with the Singapore issues. In the two years that separated Doha from Cancún, the gap would widen between the *demandeurs* and their opponents.

The final order of business at Doha was to christen the new round, a prerogative that had always been extended to the director-general. Here, Mr Moore made a choice that underlined the importance he attached to developing countries, but also one that immediately sparked controversy. The round would not go by that traditional designation, but would officially be entitled the Doha Development Agenda (DDA). There were two elements that went into that naming exercise, the most obvious – but also the most criticized – being the decision to include the word “development”. That came under criticism both from developed countries that thought it placed too much emphasis on the developing countries as well as from developing countries that thought it smacked too much of a public relations exercise. As for the “agenda” part, Mr Moore would later observe that there were “ministers who arrived in Doha who had told their parliaments that they would not launch a new round.” By calling it an

agenda he could tell them, “I’ve already said that we’re not going to have a round. That’s why it’s called a development agenda, not a round.”⁵⁸ That title has since continued to be used in formal documents, either in full or with the initials DDA, but in common parlance the negotiations are almost always called the Doha Round.

Endnotes

- 1 Author's interview with Lord Brittan on 17 January 2013.
- 2 *Ibid.*
- 3 Jamaica, Kenya, Tanzania and Zimbabwe later joined the group.
- 4 Author's interview with Alejandro Jara on 23 September 2012.
- 5 See *Commission of the European Communities: Statement by Sir Leon Brittan Q.C. Vice-President of the European Commission*, WTO document WT/MIN(96)/ST/2, 9 December 1996.
- 6 See *Brazil: Statement by H.E. Mr Luiz Felipe Lampreia Minister for External Relations*, WTO document WT/MIN(96)/ST/8, 9 December 1996.
- 7 *Ibid.*
- 8 See *Commission of the European Communities: Statement by Sir Leon Brittan Q.C. Vice-President of the European Commission*, WTO document WT/MIN(96)/ST/2, 9 December 1996. Lord Brittan would later say that he had expected this issue to be taken off the table because it "was just not going to be acceptable to a sufficient number of countries." He had nonetheless decided to put the issue forward "because that was what the Europeans wanted," especially those with labour governments. Author's interview with Lord Brittan on 17 January 2013.
- 9 The acronym LLDC, rather than LDC, was a carry-over from previous decades when this group was sometimes called the lowest-level developing countries. WTO usage changed from LLDC to LDC in 1998. The extra "L" in LLDC was definitively removed from references to *least-developed* countries when this same acronym came to be used to define the *land-locked developing* countries. This more recent category of LLDCs dates from the International Ministerial Conference of Landlocked and Transit Developing Countries and Donor Countries and International Financial and Development Institutions on Transit Transport Cooperation held in Almaty in August 2003.
- 10 The full title of this initiative was the Integrated Framework for Trade-Related Technical Assistance, including for Human and Institutional Capacity-Building, to Support Least-Developed Countries in Their Trade and Trade-Related Activities. It would later be replaced by the Enhanced Integrated Framework, as discussed in Chapter 5.
- 11 See *An Integrated Framework for Trade-Related Technical Assistance, including for Human and Institutional Capacity-Building, to Support Least-Developed Countries in Their Trade and Trade-Related Activities*, WTO document WT/LDC/HL/1/Rev.1, 23 October 1997.
- 12 Author's interview with Mr Moore on 20 February 2013.
- 13 William Butler Yeats, "The Second Coming" (1919).
- 14 See *Preparations for the 1999 Ministerial Conference – Ministerial Text: Revised Draft*, WTO document JOB(99)/5868/Rev.1, 19 October 1999.
- 15 The Friends of Multifunctionality, which dated from the Uruguay Round, included the European Community, Japan, Mauritius, Norway and Switzerland. See Moon (2012) on the multiple meanings of multifunctionality to different groups.
- 16 See, for example, Narr et al. (2006). For an opposing view, see Gillham and Marx (2000).

- 17 The sign said “Is the WTO in Control of Seattle Also?” on one side and “I Have a Right To Non-Violent Protest” on the other. See www.aclu.org/free-speech/seattle-settles-aclu-lawsuit-over-violation-free-speech-rights-during-wto-protests.
- 18 Author's interview with Ms González on 26 September 2012.
- 19 *Ibid.*
- 20 *Ibid.*
- 21 *Ibid.*
- 22 See *Preparations for the 1999 Ministerial Conference – Negotiations on Forestry and Fishery Products: Communication from Japan*, WTO document WT/GC/W/221, 28 June 1999.
- 23 The text of the agreement is posted at www.wto.org/english/news_e/pres99_e/pr154_e.htm.
- 24 See *Preparations for the 1999 Ministerial Conference: Communication from Australia*, WTO document WT/GC/W/156, 24 March 1999.
- 25 See *Preparations for the 1999 Ministerial Conference – Proposals Regarding Food Security in the Context of Paragraph 9(a)(ii) of the Geneva Ministerial Declaration: Communication from India*, WTO document WT/GC/W/342, 29 September 1999.
- 26 See *Preparations for the 1999 Ministerial Conference – Proposals under Paragraphs 9(a)(i) and 9(a)(ii) of the Geneva Ministerial Declaration: Communication from Cuba, Dominican Republic, Egypt, El Salvador, Honduras, Sri Lanka, Uganda and Zimbabwe*, WTO document WT/GC/W/374, 15 October 1999.
- 27 See *Preparations for the 1999 Ministerial Conference – EC Approach on Agriculture: Communication from the European Communities*, WTO document WT/GC/W/273, 27 July 1999.
- 28 See *Preparations for the 1999 Ministerial Conference – Negotiations on Agriculture: Communication from Japan*, WTO document WT/GC/W/220, 28 June 1999.
- 29 See *Preparations for the 1999 Ministerial Conference – Negotiations on Agriculture: Communication from the United States*, WTO document WT/GC/W/186, 20 May 1999.
- 30 Cited in ICTSD, *Bridges Daily Update* #4, 3 December 1999, at <http://ictsd.org/i/wto/wto-mc3-seattle-1999-wto/bridges-daily-updates/19090/>.
- 31 See *Preparations for the 1999 Ministerial Conference – EC Approach to Trade and Investment: Communication from the European Communities*, WTO document WT/GC/W/245, 9 July 1999.
- 32 See *Preparations for the 1999 Ministerial Conference – Contribution to the Preparatory Process: Communication from Kenya*, WTO document WT/GC/W/233, 5 July 1999.
- 33 See *Preparations for the 1999 Ministerial Conference – The Interaction Between Trade and Competition Policy: Communication from Kenya on behalf of the African Group*, WTO document WT/GC/W/300, 6 August 1999.
- 34 See *Preparations for the 1999 Ministerial Conference – EC Approach to Trade and Competition: Communication from the European Communities*, WTO document WT/GC/W/191, 2 June 1999.
- 35 Quoted on www.wto.org/english/thewto_e/minist_e/min99_e/english/about_e/resum03_e.htm.
- 36 Author's interview with Mr Rodriguez Mendoza on 26 September 2012.

- 37 Author's interview with Mr Moore on 20 February 2013.
- 38 *Ibid.*
- 39 *Ibid.*
- 40 Author's interview with Mr Moore on 20 February 2013.
- 41 Author's interview with Mr Moore on 9 April 2001.
- 42 See *Draft Ministerial Declaration*, WTO document JOB(01)/140, 26 September 2001.
- 43 See *Draft Decision on Implementation-Related Issues and Concerns*, WTO document JOB(01)/139, 26 September 2001.
- 44 Author's interview with Mr Moore on 20 February 2013.
- 45 Author's interview with Stuart Harbinson on 24 January 2013.
- 46 *Ibid.*
- 47 *Ibid.*
- 48 *Ibid.* Citations of the text are from paragraph 13 of the Doha Ministerial Declaration.
- 49 See *Draft Ministerial Declaration*, WTO document JOB(01)/140/Add.1, 8 October 2001.
- 50 See *Draft Declaration on Intellectual Property and [Access to Medicines][Public Health]*, WTO document JOB(01)/155, 27 October 2001.
- 51 Mr Bush signed the Trade Act of 2002 into law on 6 August 2002. The round had been under way for nine months before Congress approved this grant of authority, but that was not unusual. The same happened in both the Tokyo and Uruguay rounds, except that in each of those rounds the interval between the launch and the enactment of the negotiating authority was two years.
- 52 One cannot help but see a parallel between Mr Moore's preference for "agenda" over "round" and Mr Zoellick's for "trade promotion authority" over "fast track", with each of them dealing with constituencies that had become dissatisfied with the way business had been done in the past. The concern over the title "fast track" was the implication that it would allow the executive to railroad a bill through Congress without consultation or debate.
- 53 The initial grant was through mid-2005, with a further two-year extension allowed if the president requested it and Congress did not deny the request.
- 54 That part of the argument depends as well on other items that were included in the Trade Act of 2002. Some members of Congress may have been more attracted to the bill for its expanded preferences to Colombia and other trading partners, which was seen as a way of supporting an ally in the fight against narco-terrorism.
- 55 Author's interview with Mr Rodriguez Mendoza on 26 September 2012.
- 56 Author's correspondence with Mr Harbinson on 30 January 2013.
- 57 See www.wto.org/english/thewto_e/minist_e/min01_e/min01_chair_speaking_e.htm#clarification.
- 58 Author's interview with Mr Moore on 20 February 2013.