
CHAPTER 6

THE URUGUAY ROUND NEGOTIATIONS AND THE CREATION OF THE WTO

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6.1 INTRODUCTION

THE Uruguay Round, launched at Punta del Este, Uruguay, in September 1986, and concluded at Marrakesh, Morocco, in March 1994, was the most important and successful of the eight General Agreement on Tariffs and Trade (GATT) rounds of multilateral negotiations. Tariffs on non-agricultural trade were reduced substantially and a trade liberalization framework for agriculture was adopted. Trade in services and intellectual property rights were incorporated within the trading system. Dispute procedures were strengthened greatly and bilateral import quotas for textiles were phased out. Other noteworthy agreements were reached for trade-related investment measures, export subsidies, anti-dumping, government procurement, safeguards, sanitary and phytosanitary measures, and technical barriers to trade. And, although not part of the original negotiating mandate, the World Trade Organization (WTO) was created during the final phase of the negotiations, which incorporated all elements of the Uruguay Round Agreement and the long-standing provisions of the GATT.¹

The presentation here is mostly chronological, with specific issues addressed as they reached a decisive point, for two reasons. First was the progressive course of the negotiations, with significant achievements during each stage, which stands in contrast with the prolonged Doha Round impasse over initial modalities for later specific negotiation. And second, the evolution of participation by

developing countries, and differing positions within the grouping, provide relevant historical context for what subsequently happened in the WTO through a more rigid political dichotomy between developed and developing countries.

6.2 LAUNCHING THE URUGUAY ROUND(1979–86)

The Uruguay Round agenda began to take shape when the previous Tokyo Round was concluded in 1979.² Developing countries were greatly disappointed by the failure to agree on a more disciplined multilateral safeguards system, which permitted developed countries to impose temporary import restrictions to avoid injury to domestic industry, including a broad network of bilateral import quotas for textiles and apparel. The developing countries boycotted the ceremony to initial the final agreement, and negotiations were to continue on safeguards. Another unresolved issue was a strengthening of the GATT dispute settlement mechanism.

The initiative for a new round, as in the past, came from the United States, and in 1981 the new Reagan administration prepared a bold trade agenda, leading to a new GATT round that would concentrate on new issues—trade in services, trade-distorting investment measures, trade in high-technology industries, counterfeit goods, and transition of the more advanced developing countries to fuller compliance with GATT obligations—as well as on long-standing problems of agricultural subsidies and safeguards.

The new assault on agricultural subsidies was not welcomed by the Europeans, while developing countries wanted action on safeguards before opening a new round, which led to the failure of the US attempt to launch a new round at the November 1982 GATT

ministerial meeting in Geneva. Despite the diplomatic disarray, however, ministers did agree on a comprehensive 1983–4 GATT work programme, including safeguards, textiles, dispute settlement, trade in services, and counterfeit goods, which was to set the stage for launching a new round.

A decisive point was the US call in April 1985 for a new round, in large part to counter growing protectionism in the United States. The US trade deficit was growing, and the ‘bicycle theory’ advised that the best way to counter protectionist forces was to roll forward with trade liberalization rather than to stand still. Continued US pressure led to agreement in October to begin formal preparation of the agenda for a new round, for adoption at a ministerial meeting at Punta del Este in September 1986. Negotiations over the new round agenda among the industrialized nations were contentious, especially over agriculture and a European Community (EC)³ proposal for a ‘balance of benefits’ provision directed at Japanese non-tariff barriers, but progress was made during 1986. The participation of developing countries in a new round was more complex, and a split in the grouping emerged. A group of 47 (G47) industrialized and developing countries submitted an ambitious draft ministerial declaration in July, while a hardline group of ten (G10) developing countries, headed by Brazil and India, provided an alternative draft with a far more limited scope of negotiation. Latin American nations were evenly split, with Chile, Colombia, and Mexico in the G47 and Argentina, Brazil, and Peru in the G10. Among the Asians, India alone was in the G10, while ten East and South Asians were among the strongest supporters of the G47 draft. China, of course, was not yet a member of the GATT.

The showdown meeting at Punta del Este was basically a victory for the comprehensive G47 agenda, whose membership had grown to 60, while the G10 became more and more isolated, and Brazil became more amenable to compromise.⁴ For developing countries, the final provisions included liberalized textile and apparel import quotas, a reduction in barriers for tropical products, and a ‘standstill’ on new and a ‘roll-back’ of existing safeguard restrictions, although this immediate commitment was largely ignored in practice. The new issues of trade in services, investment measures, and more recent proposals for protection of intellectual property, were adopted. For agriculture, the United States and the Cairns group of developed and developing country agricultural exporters successfully pressed the EC to accept a three-pronged approach to liberalization, dealing with internal price supports, access for imports, and export subsidies. Other provisions of the declaration included reductions in non-agricultural tariffs, export subsidies and countervailing duties, strengthening of dispute settlement procedures, and improvements in various existing GATT codes and procedures. There was no mention, however, of possibly creating a new WTO.

The Punta del Este meeting was a watershed for the world trading system, for reducing barriers to trade and for broadening and strengthening the rules-based trading system. The prospect for success, however, was greeted with considerable scepticism, as by the *Financial Times*: ‘Setting an agenda is one thing: repairing that worn fabric of the GATT by rewriting the rules and negotiating mutual concessions that would liberalize trade is another.’⁵

Negotiations got off to a quick start. Fifteen negotiating groups were established by January 1987 to address the specific issues in the Punta declaration, and a mid-term ministerial meeting in Montreal in December 1988 was agreed. The United States pressed for an 'early harvest' of results to open export markets as a counter to growing protectionist pressures from the record \$150 billion US trade deficit in 1986. These pressures were to surface in the 1988 Omnibus Trade and Competitiveness Act, which gave President Reagan 'fast-track' authority for a prompt, up or down Congressional vote, without amendments, on the final agreement,⁶ but also greatly expanded Section 301 authority for more aggressive unilateral actions to open foreign markets for US exports and investment, including protection of intellectual property. Section 301 became a factor in the Uruguay Round negotiations, whereby multilateral concessions in the round were viewed by some others as preferable to threatened unilateral US actions.

A broader cloud rising over the multilateral GATT negotiations, adding urgency to the Uruguay Round, was the prospect of competing bilateral and regional free trade agreements (FTAs). The emerging EC arrangement for market unification was viewed, especially among Asian exporters, as a growing 'Fortress Europe' against imports. President Reagan spoke of expanding free trade in the Western Hemisphere from Tierra del Fuego to the Arctic Circle, while the American Ambassador in Tokyo called for a US-Japan FTA. The Japanese Ministry of International Trade and Industry developed a New Asian Industrial Development Plan, which reminded some of the East Asia Co-Prosperity Sphere of the 1930s. Canadian Trade Minister, John Crosbie, opened the Montreal

meeting proclaiming the recently concluded US-Canada FTA a catalyst and building block for multilateral trade liberalization, but many delegates were not convinced of the desirability of this two-track approach.

Another challenge for the negotiators was the status of the more advanced, and increasingly export-competitive, developing countries. GATT Part IV on trade and development elaborates special and differential (S&D) treatment for developing countries, including not to expect 'reciprocity for commitments during GATT negotiations', but the Punta declaration restated the 'Enabling Clause' of the previous Tokyo Round, that 'with the progressive development of their economies and improvements in their trade situation, developing countries would be expected to participate more fully in the framework of rights and obligations'. Greater reciprocity was pressed by the United States and the EC, especially with South Korea, other East Asians, and Brazil. Acting US Secretary of the Treasury, Peter McPherson, who had previously served for six years as the Administrator of the US Agency for International Development, condemned import substitution policies of some developing countries as 'built on false assumptions', and concluded that GATT S&D provisions 'are used as cover for protectionism that has nothing to do with development'.⁷ Progressively greater reciprocity by the more advanced developing countries became a leitmotiv throughout the round, which stands in contrast to the 2001 Doha Development Agenda, which established a categorical dichotomy between developed and developing nations with respect to reciprocity.

The Montreal meeting produced mixed results. In terms of early harvest, import barriers were lowered for tropical products, of benefit to developing countries, although the trade impact was small, and strengthened GATT dispute procedures were implemented, for further development later in the negotiations. A comprehensive framework for trade in services was agreed, although commitments by sector, for actual market access, were left for later. Little reported at the time, bilateral textile and apparel import quotas were to be phased out, but with the schedule still to be agreed. Less progress was made on tariff reductions, beyond a 33 per cent average overall target, and no significant progress was made on anti-dumping and safeguards more broadly. Negotiation of an agreement on intellectual property rights also remained at the preliminary stage, with a number of developing countries, and India in particular, voicing strong reservations or opposition.

The central impasse at Montreal, however, was agriculture, which pitted the United States against the EC, with other agricultural exporters highly critical of both parties. The United States proposed total elimination of protection by 2000, which was clearly unacceptable to the EC, while the EC, in turn, proposed a freeze on current protection and some modest short-term reductions. Australian Trade Minister, Michael Duffy, referred to the United States and the EC as ‘a pair of rippers’, and concluded: ‘I think we’re staring down the barrel of an all-out farm trade war.’⁸

Principally as a result of the agricultural impasse, on 9 December 1988 GATT Director-General, Arthur Dunkel, suspended the Montreal mid-term review until April, and most press reports concluded that the meeting had been a failure. Lester Thurow, Dean

of the Sloan School of Management at MIT, came close to impinging on Nietzschean intellectual property in pronouncing: ‘GATT is dead.’⁹ This obituary, however, was premature. One reason for suspending the talks was that both the US and the EU representatives were lame ducks. After winning re-election in November, President Reagan’s new trade representative would not take over until early in the new year, as would a new EC Commission. Another positive result was that Dunkel was given the task of consulting in capitals to bring the positions closer together, which he did with consummate skill. And thus, by mid-April a mid-term package of agreements was reached. For agriculture, a freeze in support prices for 1989–90 was coupled with commitments for substantial progressive reductions of up to 100 per cent, including for export subsidies, while work was to begin on a multilateral framework for sanitary and phytosanitary regulations. As for intellectual property, India and other earlier resisters to any agreement accepted ‘the importance of the successful conclusion of the multilateral negotiations’ for trade-related aspects of intellectual property rights.

6.4 SHAPING THE FINAL PACKAGE (1989–90)

The second half period of negotiating group meetings, from April 1989 to summer 1990, was definitive in shaping the final Uruguay Agreement, scheduled for conclusion at a ministerial meeting in Brussels in December.¹⁰ Among the issues that moved towards majority if not consensus support:

- a draft comprehensive agreement on safeguards, including time limits for temporary import restrictions

- a six- to ten-year phase-out of textile quotas
- an export subsidy agreement based on three categories of subsidies, one of which was ‘actionable’, meaning subject to countervailing duties
- general provisions for the framework agreement for trade in services
- alternative draft texts for a comprehensive intellectual property agreement.

Agriculture, however, remained at an impasse, and differences remained as to whether the one-third reductions in non-agricultural tariffs should be made on a formula basis or through itemized offer lists. In April 1990, Canada proposed the creation of a new World Trade Organization, although it was received coolly, as explained in Section 6.5 below. In any event, Director-General Dunkel instructed all negotiating groups to submit clearly defined issue ‘profiles’ as a basis for decision-making at senior levels, with only the most difficult issues left for the ministerial meeting in Brussels.

The Uruguay Round prospect leading up to the Brussels meeting was influenced by dramatic developments elsewhere, to both positive and negative effect. Most dramatic was the collapse of the Berlin Wall and communist regimes throughout Eastern Europe, replaced by democratically elected governments committed to market-oriented economic reforms, including free trade. Similar movements to elected governments and economic reform took place in South Korea, Taiwan, and throughout Latin America. GATT membership was growing, including Chinese accession negotiations

and observer status for the Soviet Union. The principles of liberal trade and market-oriented prices, embedded in the GATT, became mainstream thinking for economic reform almost everywhere.

The precise role of the GATT multilateral trading system within a vaguely defined 'new world order', however, was less clear. Momentum continued to build for bilateral and regional free trade. The EC became deeply engaged in adjusting to a unified German economy and developing initiatives for broadening and deepening regional economic integration. The US-Canada FTA moved towards a North American agreement, including Mexico, and in June 1990 President Bush proposed an Enterprise for the Americas, with 'a comprehensive free trade zone for the Americas our long term goal'.¹¹ In November 1989, the Asia-Pacific Economic Cooperation (APEC) grouping had been established, which began discussion of more open, if not free, trade across the Pacific, and in December 1990 Malaysian Prime Minister, Mahathir Mohamad, proposed an East Asian economic grouping excluding the United States.

These far-reaching developments, while broadly supportive of more open trade, also competed with the multilateral approach pursued in the Uruguay Round, and distracted leaders from giving priority to the GATT negotiations. European leaders clearly gave top priority to developments within Europe. US leadership in the Uruguay Round faltered in the face of having to make difficult decisions, such as for the phase-out of textile quotas and reductions in farm subsidies. Projections of an increase in the US trade deficit as a result of the final agreement reduced political support further. The informal 'Quad' framework—the United States, the EC, Japan, and Canada—that had provided active joint leadership during the

earlier phases, was relatively quiescent in 1989–90. Nevertheless, despite inner doubts, official optimism was widely expressed as the Brussels meeting approached, and, at its opening, the ubiquitous official poster blazoned the conference motto: ‘World Trade: The Courage To Go Further.’

The objective of the Brussels meeting was for ministers to resolve the most difficult outstanding issues, leaving the final negotiations and conclusion of the agreement for early 1991, before US fast-track negotiating authority expired on 31 May. It was not an unreasonable goal, given sufficient political will, or ‘courage’. The GATT Secretariat had prepared a heavily bracketed 391-page draft comprehensive agreement, and by the second day of the meeting reports indicated progress in most of the seven consolidated negotiating groups. Agriculture, however, remained at an impasse, with the EC more and more isolated, causing the other groups to begin to hold back. On the final day, the EC negotiators indicated that they could be more flexible on agriculture if other areas of the negotiation moved forward as well, and guarded relief permeated the conference centre as the late night final negotiating session approached.

The next morning, 7 December, the headline, ‘Concessions break trade talks deadlock’ led a *Financial Times* story that opened: ‘The deadlock was broken in the Uruguay Round of talks to reform the world trade system last night after the European Community offered concessions on farm support and the United States shifted its position on services such as banking, telecommunications, and insurance.’ The *Financial Times* prided itself on its full coverage of GATT issues, and all week free copies had been distributed at

breakfast in hotels housing conference guests. Unhappy hubris. The story, signed by three reporters, got it wrong.

The press misreading stemmed from faulty EC decision-making. The Commission negotiators believed they had greater flexibility on agriculture and communicated this to others, but member state approval was still lacking, despite a prominently reported meeting between French President Mitterand and German Chancellor Kohl, and France still objected to any further concessions. During the night meeting, the EC simply restated its existing position, the US delegation became exasperated, and the Argentine and Brazilian delegates refused further negotiations. The following morning, amid gloom and confusion, the conference chairman suspended the negotiations and, once again, Director-General Dunkel was requested to pursue intensive consultations to resolve outstanding differences. Recriminations abounded and press reports were overwhelmingly negative. Much criticism focused on the EC and agriculture, while the United States stepped back as champion of last resort for the GATT multilateral system. US Secretary of Commerce, Robert Mosbacher, when asked about multilateral versus regional agreements, replied: 'We could be okay either way... In all truth, we're doing that now.'¹²

Ministers at Brussels failed to exhibit courage, and it would take another two years to resolve the agricultural impasse. And yet the Brussels negotiators did narrow the gaps on many issues and shaped the framework for the final agreement.

Basic agreement could have been reached in December 1990 at Brussels if the agricultural impasse had been resolved, but the result would have been considerably narrower in scope than the final agreement ultimately signed in Marrakesh in April 1994. The extra three years of negotiation enabled substantial broadening and deepening of commitments on a number of fronts. Most importantly, the creation of the WTO to replace the GATT would not have happened if basic agreement had been reached at Brussels.¹³

Director-General Dunkel consulted in capitals and intensified negotiating group meetings during the spring and summer of 1991. Significant progress was made in most areas. One noteworthy breakthrough, with relevance to the long-standing Doha Round impasse, was for reduction of non-agricultural tariffs. The target of a one-third average reduction had bogged down over various formula proposals and the US preference for specific offer lists. Industrialized country private sector organizations then proposed a sectoral approach of 'zero-for-zero' free trade for some sectors, including farm machinery and toys, and harmonized low rates for other sectors, such as pharmaceuticals. This proved to be a more practical approach to demonstrate reciprocity and was pursued with success.

Agriculture, however, as well as a few other difficult issues, remained at an impasse. To force participants to move towards a package deal consensus, in December 1991 the Director-General circulated his 436-page 'Dunkel draft', which the EC found 'not acceptable' and the United States only supported with reservations. The text did focus the minds, however, and by late 1992 almost all issues had moved towards consensus, with the intent of reaching

agreement by December so that the US Congress could approve it under the two-year extension of fast track authority, which expired in April 1993. But agriculture remained under intense negotiation as the French became more obdurate, and, on 5 November, EC Agricultural Commissioner, Ray MacSharry, resigned, accusing the French of sabotaging the negotiations.

At this point the agricultural impasse was broken through an extraordinary US diplomatic manoeuvre which demonstrated that history is often made, not through the dialectical forces in play, but by individual initiative. George Bush lost the presidential election on 3 November, and the expectation was for a hiatus in the Uruguay Round until the new Clinton administration was in place in early 1993. But Bush, and his Trade Representative, Carla Hills, continued on with a strong and credible ultimatum to the EC. The Uruguay Round agricultural package had always been linked to a bilateral problem over a \$1 billion US loss of oilseed exports through the workings of the EC agricultural policy, on which GATT dispute panels had twice found in favour of the United States. On 6 November, Hills announced a 200 per cent oilseed retaliatory tariff on \$300 million of white wine and other agricultural imports from the EC, effective from 5 December, with another \$700 million of retaliation to follow. This was a make or break showdown for the Uruguay Round, since there was no way the lame duck American president would reverse this decision, and President Clinton, once in office, would be greatly reluctant to do so before consultations with the new, more protectionist Congress. Meanwhile, French wine and other EC farm exports would be paying 200 per cent extra duties. As a result, the French blinked, Mac Sharry was reinstated with a new mandate, and the 'Blair House Accord' of 20 November resolved the

long-standing agricultural impasse, including deeper cuts in EC export subsidies and a compromise on US oilseed exports to the EC.

The Blair House agricultural accord opened the way to the final stage of Uruguay Round negotiations. President Clinton obtained yet another one-year extension of negotiating authority from the Congress, and his Trade Representative, Mickey Kantor, the 'fixer', worked closely with the new EC Trade Commissioner, Leon Brittan, the liberal trade 'ideologue'. A new GATT Director-General, former Irish Prime Minister, Peter Sutherland, added political forcefulness to the negotiating process. Progress was made on all fronts. Compromises were necessary on a number of issues, including some weakening of the Blair House agricultural accord.

In any event, time was short and final agreement had to be reached by 15 December 1993, in order to meet notification requirements of the US trade legislation. The two final substantive issues were not resolved until the night of 14 December. The ten-year phase-out of textile quotas was agreed when the Indian delegate accepted a commitment to 'achieve improved access' for imports by textile exporters, although this reciprocal commitment was never implemented. And for the Anti-Dumping Agreement, the United States obtained agreement for no changes in two key provisions, standards of review and anti-circumvention actions, which weakened enforcement. As for organizational reform, the creation of a new WTO was only approved by the United States on 15 December, when Director-General Sutherland was then able to announce, live on CNN, that a very far-reaching and historic trade accord had been achieved.

There were still many loose ends to resolve before the signing of the final agreement at Marrakesh, but no major problems were encountered. The sectoral lists for inclusion in the Services Agreement were broadened substantially, although they remained limited in scope by developing countries. An agreement on the relationship between trade and environmental policies was adopted —another example of a late-starting initiative that would not have been included at the time of the Brussels meeting. Implementation of this agreement, however, was left for a new WTO Committee, and its operations in practice have been lacklustre.

At the signing ceremony on 14 April, Moroccan King Hassan II welcomed this ‘gigantic step forward towards broader and more intensive international cooperation’. The new challenges for cooperative leadership in world trade, however, under circumstances far different from those that prevailed during the Uruguay Round, would prove to be daunting and not long in coming.

6.6 THE CREATION OF THE WORLD TRADE ORGANIZATION

The creation of the WTO during the course of the Uruguay Round, with its far-reaching implications for the world trading system, deserves a more detailed presentation to conclude this historical account.¹⁴

The failure of governments to ratify the International Trade Organization (ITO) in 1948, while adopting the provisional GATT framework, with limited membership, led to four decades of discussion and proposals for a permanent trade organization. Some called for UN-style global membership. Others, especially after the

failed 1982 GATT ministerial meeting, proposed a more restricted membership of like-minded free traders. As late as 1989, a study by American economist, Gary Hufbauer, in collaboration with a task force of 12 distinguished US trade experts, recommended the creation of an OECD Free Trade and Investment Area.

The 1986 Uruguay Round mandate did not include the creation of a new trade organization, but there were several objectives for institutional reform, including a more effective dispute settlement mechanism, country trade policy reviews by the GATT Secretariat, and ministerial meetings at regular intervals. Discussion of a new, permanent trade organization began in the Quad framework, in October 1989, at Canadian initiative, with support from the EC. The United States, however, was decidedly cool, if not negative, concerned about Congressional opposition over loss of sovereignty and the possibility that negotiations would shift towards institutional reform and away from the substantive objectives for trade liberalization.

In April 1990, Canada formally proposed the creation of the WTO, based largely on a January book by the American legal scholar, John Jackson, who served as a consultant to the Canadian delegation.¹⁵ Little headway was made through the December Brussels meeting, but more serious negotiations got underway during 1991–3, first in the Quad, and then in an expanded Geneva-based negotiating group.

Three issues became central to the outcome:

- *Decision-making.* The United States pressed for continuation of the GATT consensus approach, with qualified majority voting when necessary, on key issues. Others supported UN-style one-nation-one-vote majority voting, although in 1994 50 per cent of GATT members accounted for only 1 per cent of GATT exports. The final result was for decisions to be made by consensus or, failing this, on a one-nation-one-vote basis, with key decisions requiring a two-thirds or three-quarters vote, and with amendments to certain articles of agreement subject to unanimity.
- *Single undertaking membership.* There had been uncertainty as to how new agreements for trade in services and protection of intellectual property would relate to existing obligations for trade in goods. The WTO resolved this issue by bringing all provisions of the final Uruguay Round Agreement, as well as existing GATT commitments, within a single WTO undertaking, subject to the overall WTO management structures. Moreover, membership of the new organization required agreement on almost all provisions of the single undertaking. This was very different from earlier GATT rounds, where some developing countries did not sign the final agreement, and from earlier proposals, including the original Canadian proposal to have WTO global membership, with or without agreement to the final Uruguay Round obligations.
- *Strengthened and integrated dispute settlement procedures.* This had been the most important organizational objective throughout the Round, and dispute procedures were strengthened greatly in the final Agreement. The new WTO

dispute mechanism tightened procedural disciplines, dropped earlier GATT veto power over the establishment of a dispute panel, even by the accused party, and established an appellate review procedure. The Agreement also permitted 'cross-retaliation' among components of the single undertaking, whereby, for example, retaliatory sanctions on traded goods could be applied for violation of intellectual property rights.

The final results from these three issues constituted a political trade-off between the developing countries, who wanted a stronger multilateral organization with enhanced influence within it, and the industrialized countries, who insisted on agreement to the full range of Uruguay Round commitments by developing countries as the price for WTO membership.

The United States continued to resist agreement on the WTO during the final phase of the negotiations, in part over continuing concern about Congressional support, and in part as a tactical ploy to gain concessions on other issues, but, as stated earlier, it finally agreed to WTO creation on the final day of the negotiations. President Clinton did have difficulties with Congress, and had to make some concessions, including the establishment of a panel of retired US judges to monitor WTO dispute panel findings, followed by a Congressional vote on withdrawal from the WTO if the judges disagreed with the WTO panels three times in five years, but this never happened. Congress approved the Uruguay Round Agreement with large majorities, 288–146 in the House and 76–24 in the Senate.

Many questions remained as to how the WTO would operate in practice, and the first important decision, on selection of the first WTO Director-General, resulted in discord. Competing Italian, Mexican, and South Korean candidates eluded consensus, and the EU insisted on a one-nation-one-vote majority vote. The EU had 17 member state votes, ten pending new member votes, and numerous associated African state votes, and this carried the day for the Italian, Renato Ruggiero. It was a disturbing harbinger for WTO decision-making, on a different track from the long-standing GATT consensus approach.

6.7 THE FINAL AGREEMENT: A FORWARD-LOOKING ASSESSMENT

A full assessment of the final Agreement is beyond the scope of this chapter, and is, in fact, the substance of a number of other chapters in this work. The presentation here is limited to a brief listing of the principal elements of the final Agreement, to show the broad scope of accomplishment, and commentary on three overarching issues that have influenced the course of the WTO during its initial 15 years.

The principal elements of the final Agreement were:¹⁶

- *Market access for non-agricultural products.* The industrialized countries reduced tariffs on industrial products by 40 per cent, from 6.3 per cent to 3.8 per cent, and developing countries reduced their tariffs by 20 per cent, from 15.3 per cent to 12.3 per cent.
- *Agriculture.* Non-tariff import barriers were converted to tariffs, and all tariffs were reduced by 36 per cent for industrialized countries and 24 per cent for developing

countries. Industrialized countries reduced export subsidies by 36 per cent in value and 21 per cent in quantity, and internal support prices by about 20 per cent.

- *Textiles and apparel.* Industrialized country import quotas were phased out over ten years.
- *Services.* The General Agreement on Trade in Services (GATS) provided a framework of rules and principles for trade in services, including most-favoured-nation treatment, national treatment, safeguards, transparency, dispute settlement, and the free flow of payments and transfers. The framework agreement was complemented by country sectoral schedules of applicability, with coverage relatively complete for industrialized countries, but far less so for developing countries. The sectoral agreements for financial and telecommunications services were negotiated post-Uruguay Round.
- *Intellectual property rights.* The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) established strengthened standards and the enforcement of these standards, including for patents, copyrights, trademarks, and geographic indicators.
- *Trade-related investment measures.* The Agreement on Trade-Related Investment Measures (TRIMs) reinforced GATT provisions, specifically including local content, trade-balancing, and foreign exchange-balancing requirements.

- *Anti-dumping*. The revised Anti-Dumping Agreement provided greater transparency and specification for anti-dumping procedures, but did little to strengthen the disciplines to restrict dumping and anti-dumping duties.
- *Export subsidies and countervailing duties*. The Agreement established clearer rules and stronger disciplines for subsidies related to trade, while exempting certain subsidies from countervailing duties.
- *Government procurement*. The Agreement strengthened the disciplines applicable to government procurement and expanded coverage to new areas of procurement. It was the only major part of the overall Uruguay Round Agreement that allowed voluntary rather than full participation by WTO members, with participation limited predominantly to industrialized nations.
- *Safeguards*. The safeguard provisions of GATT Article XIX were elaborated to ensure that such temporary import restrictions are transparent, temporary, degressive, and subject to review and termination.
- *Sanitary and phytosanitary measures*. This Agreement established rules and disciplines for measures taken to protect human, animal, and plant life and health in the areas of food safety and agriculture.

Other noteworthy sections of the Agreement dealt with import licensing procedures, customs valuation, pre-shipment inspections,

rules of origin, technical barriers to trade, and revisions of various Articles of the GATT.

Three overarching and interacting issues, as they developed during the course of the Uruguay Round, have had follow-on importance for the course of the WTO trading system:

The WTO as an international institution. The WTO has risen towards becoming a global trade organization as membership has grown to include almost all substantial trading nations. The strengthened dispute settlement procedures have played a central and largely successful role in enforcing trade liberalization obligations and the rules-based system, both greatly extended in the Uruguay Round Agreement. Management and decision-making, however, have moved towards UN-style political groupings, principally on a developed versus developing country basis, which has slowed down and weakened further progress towards multilateral trade liberalization. Decision-making has tended towards a one-nation-one-vote basis rather than the dominant consensus process under the GATT, where major trading nations would not be voted down on significant issues. The informal yet decisive Quad leadership role during the Uruguay Round is no longer viable and needs to be replaced, most sensibly by a sextet leadership grouping consisting of Brazil, China, the EU, India, Japan, and the United States.

Multilateral trade liberalization versus bilateral and regional free trade agreements. This two-track trade policy path was largely competitive during the course of the Uruguay Round, and the competition has intensified post-Uruguay Round, with momentum

clearly on the FTA track as the Doha Round bogged down in a ten-year impasse.¹⁷ Most recently, FTA proliferation has centred on Asia. South Korea has concluded comprehensive free trade and investment agreements with the United States, the EU, and India, and is pursuing others, including with Japan and possibly China. India, in addition to South Korea, has concluded such an agreement with Singapore, is well advanced in negotiations with the EU, Japan, and Malaysia, and is pursuing others with South-east Asian trading partners and Canada. The obvious resolution to this competitive movement towards free trade would be to consolidate all existing FTAs within a multilateral, or plurilateral, FTA for non-agricultural trade, including at least the mature and newly industrialized nations that account for 90 per cent of global trade. This idea received noteworthy post-Uruguay Round attention. Fred Bergsten, director of the Washington-based Peterson Institute for International Economics, proposed such a free trade 'Grand Bargain' in 1996.¹⁸ The opening US position in the Uruguay Round for non-agricultural trade was multilateral free trade, which was supported by some other nations, but rejected by the EU, China, and India. A book-length assessment, *From Here to Free Trade in Manufactures: How and Why*, was presented by the author at the WTO Cancún Ministerial in 2004.¹⁹ Since 2004, however, there has been little official interest in consolidating the ever-growing number of FTAs.

The increasingly irrational dichotomy between developed and developing economies. This has become the most detrimental issue for an effectively functioning WTO, including its impact on the two previous issues. Greater obligations by the more advanced and export-competitive developing countries towards 'graduation' was a

major issue throughout the Uruguay Round, as recounted here, and the more advanced developing countries did take on relatively greater obligations. The North-South dichotomy issue, moreover, in stark and ironic contrast, has largely disappeared on the FTA track, wherein both developed and developing country participants see a mutual interest in going to free trade, usually resulting in the developing country undertaking relatively greater reductions in import and investment barriers because its barriers were much higher to begin with. In the Doha Round, however, the Tokyo and Uruguay Round Enabling Clause provision for more trade-competitive developing countries ‘to participate more fully in the framework of rights and obligations’ was jettisoned and replaced by a categorical dichotomy, most graphically illustrated by the differential formulas proposed for trade liberalization, with much weaker obligations for all developing countries.

The increasing irrationality of this categorical dichotomy is highlighted by China’s dramatic rise during the first decade of the twenty-first century, which coincided with the troubled course of the Doha Round, to displace the United States as the number one exporter of manufactures, the dominant sector of trade. In 2000, US global exports of manufactures were three times larger than Chinese exports, while by 2010 Chinese exports were half as large again as US exports, and on track to double them in two to three years. In parallel, China has maintained an unprecedented trade surplus in manufactures, and the United States an unprecedented deficit.²⁰

‘What’s to be done?’, to borrow from Lenin. In simplest terms, the three issues presented here need to be addressed as the integrated challenge they pose.²¹ Restoration of the WTO as the

dominant centre of a multilateral trading system will require bold and concerted leadership, especially among the big six. The principal objective should be the consolidation of the ever-growing number of FTAs within a multilateral free trade agreement for non-agricultural trade, that includes at least the mature and newly industrialized country groupings. Such an agreement would also facilitate substantial trade liberalization for agriculture and services. And these two steps, by definition, would greatly reduce the divisive North-South dichotomy issue, except for warranted special treatment for the poorest, least developed countries.

The outlook for this actually happening is bleak. The big Six, in particular, would need to display far more courage and foresight than they have yet done. But a starting point, at least, would be serious discussion of the lessons of history, and why, in particular, the Uruguay Round was a sweeping success, while the Doha Round appears to be headed towards a modest, face-saving conclusion, or worse.

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