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Abstract

This Essay is an attempt to go back to some of the principles and factors which lay behind the launching of the Uruguay Round and the package which resulted, to look at some of the current unease about the WTO, and to see where the institution may need to go to reassert its role to command fully public and political confidence once again.

CONCLUDING THE URUGUAY ROUND—CREATING THE NEW ARCHITECTURE OF TRADE FOR THE GLOBAL ECONOMY

*Peter D. Sutherland**

Just a few days before Christmas 1993, I had the privilege to gavel a final decision to conclude seven years of negotiations to create a new world trading system. The Uruguay Round of the General Agreement on Tariffs and Trade[1] ("GATT") had come to an end. There was no doubting the huge satisfaction with this accomplishment. The unprecedented package of new trade rules and market concessions, along with the basic principles on which a new world trade body would be constituted, were welcomed by negotiators, the media, governments, and business leaders everywhere. It was seen as a triumph of multilateralism over the laws of the jungle, a means to help ensure a new economic stimulus in the wealthy industrialized countries and the opportunity for successful growth and development among poorer nations.

It is as well to remember that sense of achievement and hope seven short years ago. It took a little over a further year to finally establish the World Trade Organization[2] ("WTO"), which took over for GATT, as the authority and framework for global trading conditions. It did so at what seemed a propitious moment in twentieth century history. The Cold War had ended; many nations were making the transition from centrally-controlled to free-market economies; China was emerging as a powerful commercial force; many developing countries were undertaking their own much-needed economic reforms; and we were all beginning to understand the central elements of growing

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1. Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, Apr. 15, 1994, LEGAL INSTRUMENTS—RESULTS OF THE URUGUAY ROUND vol. 1 (1994), 33 I.L.M. 1125 (1994) [hereinafter Final Act].

2. Marrakesh Agreement Establishing the World Trade Organization, LEGAL INSTRUMENTS—RESULTS OF THE URUGUAY ROUND vol. 1, 33 I.L.M. 1144 (1994) [hereinafter WTO Agreement].

global interdependence, which we now refer to as "globalization."

The WTO seemed in tune with each of those trends. Indeed, even before its conclusion, the Uruguay Round had been a driving force for autonomous trade and economic liberalization. With the package in place and the institution a concrete reality, there seemed every reason to be optimistic that this was an approach to global economic management which would deliver major benefits across societies of every kind; it would be an inspiration and a great force for good. For, those of us who believe in the multilateral trading system do so not simply because it helps create wealth, but because it provides a reason for nations to find harmony in commerce where they cannot always do so in other aspects of their relations.

I am not one of those who believe the WTO has failed. I intend to describe later why I believe the institution has largely lived up to much of the early promise. Nevertheless, the Ministerial Meeting in Seattle in 1999, and much that has been said before and since, suggests that, rightly or wrongly, there is a crisis of confidence in the system. Some developing countries have said that they have not seen the benefits that they expected and have had difficulties implementing their own commitments to the WTO. Some industrial countries are frustrated that the process of extending the trade rules into new areas has been frustrated by a lack of consensus in Geneva. Non-governmental organizations are concerned that the WTO is acting against their causes, or, in contrast, that they have not been able to harness fully the force of the institution to further their objectives.

Is the apparent dissatisfaction with the WTO well founded? I believe it is not, even if there may be a case for some institutional reform and a need to tackle a number of complaints squarely. Equally, I believe that much of the suspicion, misunderstanding, and misrepresentation of the institution is due to a tendency to forget its essential principles coupled with a failure to accept its limitations.

What follows is an attempt to go back to some of the principles and factors which lay behind the launching of the Uruguay Round and the package which resulted, to look at some of the current unease about the WTO, and to see where the institution

may need to go to reassert its role to command fully public and political confidence once again.

In essence, there are few differences of principle between the WTO and GATT.[3] Both sets of rules have non-discrimination as central pillars. Thus, governments should not discriminate between the countries of origin of like goods and services (Most-Favored Nation treatment),[4] nor within markets between like foreign and domestic goods and services (national treatment).[5] Those simple concepts have been enough to spread the benefits of market access concessions agreed between the major players in global trade far and wide over the past half century. This is the basis on which the small and weak economies gain from the system.

A second fundamental principle, common to both institutions, has been that of transparency.[6] Traders and investors, no less than their governments, have a right to know what the rules of the game are in any market and how those rules are administered. A third principle, which separates GATT and the WTO from other multilateral institutions, is the contractual nature of membership, but membership is entirely voluntary of course.[7] But the terms of accession are carefully negotiated—over no less than fourteen years, so far, in the case of China—and are binding. Commitments made cannot be withdrawn unless a price is paid as compensation. Again, it is a principle that provides guarantees to the weak against arbitrary actions by governments in key export markets.

A fourth principle of the institutions has been decision-making by consensus.[8] Although voting is possible and does take place in particular but limited circumstances, decisions on all points of principle, and certainly with respect to rule making,

3. General Agreement on Tariffs and Trade, Oct. 30, 1947, art. 1, 61 Stat. A-11, T.I.A.S. 1700, 55 U.N.T.S. 194 [hereinafter GATT].

4. *See id.* art. 1; General Agreement on Trade in Services, Apr. 15, 1994, WTO Agreement, Annex 1B, art. 2, LEGAL INSTRUMENTS—RESULTS OF THE URUGUAY ROUND vol. 28, 33 I.L.M. 1180 (1994) [hereinafter GATS]; Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, WTO Agreement, Annex 1C, art. 4, LEGAL INSTRUMENTS—RESULTS OF THE URUGUAY ROUND vol. 31, 33 I.L.M. 1200 (1994) [hereinafter TRIPS].

5. *See* GATT art. 3; GATS art. 17; TRIPS art. 3.

6. *See* TRIPS art. 63, para. 2.

7. WTO Agreement art. XIV.

8. WTO Agreement art. IX.

are taken after a lengthy and often difficult process of consensus building. Any GATT or WTO member had, and has, the opportunity to object and, if necessary, block a decision. And that, again, puts power into the hands of nations with little, if any, weight in world trade but who may believe their national interests are likely to be undermined by proposals being promoted by others. The consensus habit may be frustrating for those who want to see fast and determined movement, but it is a necessary safeguard and the natural concomitant of a contractual system in which failure to live up to commitments and rules can be sanctioned—and comparatively easily so in the WTO.

It is worth recalling, therefore, that every one of the four underlying principles of the old GATT and the new WTO exist to provide balance and equity. In a sense, they empower members of the trading community who otherwise have no influence on how the elephants behave to look after their own interests.

These then were, and are, the principles. Based on such foundations, GATT succeeded in opening up much of the global market for merchandise over some forty years. Through its relatively weak dispute settlement procedure, it was able to contain trade frictions and maintain the coherence of the "contract" its growing membership had entered into.

But despite several rounds of trade negotiations, culminating in the Tokyo Round, between 1973 and 1979, it became clear that the institution of GATT, no matter how well founded and successful, was lacking. Following the oil shocks of the 1970s and the debt and other financial crises of the early 1980s, it became clear to many governments that a more supportive and comprehensive trading system was needed. What were the shortcomings?

First, even in the area of trade in merchandise goods, GATT had too many loopholes. In one key area, agriculture, on which much of the world depends for its export potential, GATT contained almost no disciplines to counter the increased use of subsidies and the tight constraints on market access maintained by large parts of the industrial world. In another sector, textiles and clothing, which is usually the staple export of developing countries seeking to advance towards more sophisticated and higher value-added manufactures, one vast exception permitted the main industrial-country markets to block access at will. The

Multifibre Arrangement[9] ("MFA") had been in place one way or another for some twenty years as a "temporary" cushion for European and American companies to adjust to the competition from low-cost producers elsewhere. Not only had it survived, it had been steadily reinforced.

Second, even where GATT had been most successful, in the field of reducing tariffs on goods, there were large black spots: notably in agriculture, clothing, and textiles, but also in footwear and goods like steel and chemicals where high import tariffs or anti-dumping duties sometimes served less to protect domestic manufacturers than to penalize consumers and other producing industries which needed the inputs. Tariff escalation, where producers were discouraged from diversifying and investing to produce downstream items because of increasingly prohibitive tariff rates for processed or manufactured products in their export markets, was a major problem for developing nations.

Third, in the eyes of many industrial countries, the trading system needed to be brought up to date to reflect the realities of trade in the last quarter of the twentieth century. That meant, for a start, designing some trade rules to support the rapid growth in services trade—financial services, telecommunications, tourism, travel, professional services, and so on. It also meant recognizing that trade went hand-in-hand with the transfer or the protection of intellectual property. Further, it meant accepting that trade rules did not just apply at the frontier, but reached into many domestic policy areas; in particular, those related to foreign investment rules, as well as to subsidies, technical standards, public health and safety interests, and so on.

Fourth, almost all GATT members at the time accepted that the dispute settlement system needed redesigning and toughening. Too many dispute settlement panel findings were being ignored and there were almost no circumstances in which compliance could be enforced if a government chose to ignore them or simply prevaricate for years.

Finally, there was a view that the piecemeal approach to developing new trade commitments was creating a fragmented system with several levels of membership. Since the 1960s, new agreements had often been negotiated among small groups of

9. Multifibre Arrangement, Formerly the Arrangement Regarding International Trade in Textiles, Dec. 20, 1973, 25 U.S.T. 1001, T.I.A.S. No. 7840.

countries, and membership of such accords was entirely voluntary. This approach reached its outer limits in the Tokyo Round when some nine agreements, or "codes," were concluded on the basis of selective memberships. These included rules on government procurement, technical barriers to trade, subsidies, and anti-dumping. This latter issue was key to the manner in which the Uruguay Round was launched and is central to the problems we are now experiencing with respect to the capacity of some countries to implement the many new commitments which were entailed in the Marrakesh Agreement establishing the WTO.

When the new trade round was launched in Punta del Este, Uruguay, in September 1986, it was decided that the negotiation and its conclusion would be a "single undertaking." That meant that nothing could be agreed until everything was agreed. It also meant that there would be no first and second-class passengers in the new global trade system. While special arrangements might be agreed to cushion or delay the pressures on developing nations during implementation, they would essentially have to sign up to precisely the same commitments as the advanced industrial countries.

The "single undertaking" had many effects. It made the conclusion of any final agreement much more difficult, especially since, during the currency of the round, GATT membership moved from eighty-six to around 125. It also meant that the majority of developing countries spent most of the negotiation seeking to constrain the level of possible new commitments rather than pursuing an independent, positive agenda of their own.

Thankfully, most developing and transition-economy countries, over the seven years of the Uruguay Round, came to accept that they had significant interests of their own in most of the new issues being negotiated. Many had very significant influence in the drafting of the new agreements, although their deepest and most effective involvement came after the fundamental, conceptual work had been largely concluded. However, it is often claimed now that the developing countries played no role in the Uruguay Round and that the agreements essentially were foisted upon them by the members of the Organization for Economic Cooperation and Development ("OECD"). This charge bears further examination.

It is a damaging falsity to claim that GATT paid no attention to the interests of the developing countries and, indeed, effectively failed to involve them in decision-making. For a start, more than half of the original twenty-three founding members of GATT in 1948 were developing countries. Development interests were recognized in the rules of GATT, thus providing flexibility, for instance, in the treatment of infant industries. In the 1960s and 1970s, further special conditions were added: first, "special and differential treatment" for poorer countries and, second, the "enabling clause," which permitted non-reciprocal preferential market access to be offered to such nations. In retrospect it might be argued that these special arrangements have done little to help developing countries integrate fully into the global economy—the most successful among them have had little or no recourse to the provisions—but the particular challenges faced by poorer nations have always been recognized.

In reality, many developing countries have played a big role in the construction of the trading system since its inception as GATT. Argentina, Brazil, Egypt, India, Pakistan, Singapore, and, more recently, Mexico and Morocco are among the numerous nations that have sent their best people to Geneva and have been both vocal and effective in GATT and WTO negotiations. But if GATT and WTO are binding contractual agreements, it has been those with most to offer in the contract who have been the most forceful. Developing countries and smaller industrial countries alike have all relied on the U.S. and European markets for their export growth. In turn, the United States and the European Community have taken a mercantilist view of their obligations: their markets have been progressively opened and, for the most part, kept open through binding commitments on the understanding that American and European exporters would see new opportunities in other markets. It has been a bargaining pact reflecting unequal economic power, for sure, but it has been a process founded on rules, checks, and balances. It is not a balance of economic power that is necessarily for all time. On the contrary, it is already changing to reflect the economic success of East Asia and will undoubtedly change radically with China squarely a part of the trading system in the future.

However, whatever the power balance within the system, no trade round has been a zero-sum game; it has never been a matter of a few winners and many losers, all have come away with

new opportunities. The success stories in world trade have known how, and had the capacity, to use those opportunities.

This is a fundamental point. We despair of Africa's hopes of economic development and its integration into the global economy, but let us be clear: access to markets, negotiated or offered through the WTO, is just one small part of the puzzle. Productive capacity, an educated and skilled workforce, credible and efficient customs services, investment-friendly business environments, non-corrupt administration of trade rules, as well as peace and physical security are every bit as crucial in the equation. Trade success is not generated through market access; on the contrary, market access has value only if other elements are in place.

This is not to say the playing field was particularly flat or fair at the beginning of the Uruguay Round. As I have noted already, two of the most important trade sectors for developing and many other nations—agriculture and textiles and clothing—had been major black spots of GATT. These, as well as the new issues like services, intellectual property, dispute settlement, and a multitude of rule-making mandates, were included in the negotiating agenda agreed to September 1996.

It became the greatest negotiating marathon in history. Seven years later, weary negotiators walked away from the table with a package of 560 pages of new trade rules, a new institution—the WTO—and around 23,000 pages of national market access commitments affecting trade in goods and services. Even for advanced industrial countries, it was a daunting achievement whose assimilation through parliamentary or congressional ratification, public information, and legal and practical implementation was a challenge. The question is whether the package achieved what was necessary in providing a credible trading system for the new millennium? It is a question deserving a thoughtful response since it is the basis of much current disillusionment with the WTO.

Let us start with agriculture and the textiles and clothing sectors. The Uruguay Round results for farm trade can best be described as "turning the tide." This was a sector suffering from decades of increasing protection and ever-rising financial support in the EC and the United States. Other countries, including developing countries, had their own protection and support

programs, while a significant group of competitive agricultural producers—notably the countries of the Cairns Group[10]—were pressing for a radical change that would place farmers on the same footing as manufacturers of industrial goods.

The process of negotiation was helped by the first signs that the financial strains on the EC budget were becoming overwhelming and that consumers and taxpayers were less and less willing to foot the bill. Indeed, well before the conclusion of the round, the EC had adopted internal reforms. These reforms eventually were subsumed into, and supplemented by, the final Uruguay Round package. But what did the package amount to?

First, it set aside the vastly complicated, non-transparent and discriminatory assortment of quantitative restrictions on market access for farm products.[11] These were required to be transposed into bound tariffs, which, while they only minimally added to market access at that stage, could be reduced progressively in further negotiating rounds. Second, the deal imposed a reduction commitment—in terms of both volume and expenditure—on export subsidies. This form of financial support had permitted the large scale dumping of agricultural commodities on world markets and had been the biggest dampener of all on the prospects of competitive, unsubsidized farmers everywhere.

The third element of the farm trade agreement was a winding back of domestic support for farmers. More important, governments were pushed to support their farmers through policies that were less trade distorting. The deal left open many routes for countries to ensure that farmers stay on their land, but also cut back the scope to damage the trade interests of others. Fourth, a new agreement was concluded to ensure that policies and standards to safeguard human, animal, and plant health and safety did not operate as unwarranted barriers to trade.[12] The agreement permitted governments to impose standards that

10. The Cairns Group "was set up just before the Uruguay Round began in 1986 to argue for agricultural trade liberalization." *See* Trading into the Future: The Introduction to the WTO *at* www.wto.org/english/thewto_e/whatis_e/tif_e/org3_e.htm. The following countries were members of the Cairns group: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, Paraguay (which joined in 1997), the Philippines, Thailand, and Uruguay. *Id.*

11. *See* Agreement on Agriculture, Apr. 15, 1994, WTO Agreement, Annex 4A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

12. *See* Agreement on Safeguards, Annex 1A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

were higher than those generally applied but required such increased levels of protection to be based on credible science or risk assessment.

The first three elements of the Agreement on Agriculture did not open up farm trade in a big way. Instead, they served essentially to stop the drift and to set in motion a U-turn in policies. It was recognized that this was only a start and the Agreement on Agriculture mandated new negotiations at a later stage. These were, in fact, launched earlier this year and should lead to further, more significant commitments.

Textiles and clothing was no less a politically sensitive and over-protected sector than farming. The institutional framework for normally illegal quota protection was set squarely in GATT. No trade policy instrument was more disliked by developing countries, which have traditionally seen textiles and clothing exports as their best initial non-agricultural entry into world trade, than the MFA. It was a truly Byzantine structure that required literally thousands of civil servants at ports and in capitals to administrate. Almost every major industrial country had used the MFA to negotiate or impose hundreds of quotas covering dozens of products with each low-cost supplying country. It was a jungle in which consumers lost out through higher prices for their clothes, few industrial country firms finally survived, and the only financial winners were the companies holding the quotas.

The answer was a transfer of all quotas into a new agreement, which required their phased dismantling over a period of ten years. It is a matter of regret that the United States and the European Union chose to delay the dismantling of quotas on the products of real interest to developing countries until the last possible point in the transition process. There is probably no element among the implementation problems associated with the Uruguay Round that has caused more resentment among poorer nations than this, some would say, cynical manipulation of the textiles agreement by the major players in world trade.

Indeed, resentment has been all the more acute since other aspects of the Uruguay Round package, of interest principally to the industrial countries, required considerable reform efforts on the part of poorer nations. None more so than the so-called TRIPS agreement. Trade-Related Aspects of Intellectual Property Rights ("TRIPS"), for the first time, made intellectual prop-

erty protection via patents, copyright, trademarks, and other instruments mandatory and enforceable. Even if the agreement granted lengthy transition terms and several let-outs to developing countries, the reality remains that they were required to legislate and to put administrative and enforcement facilities in place where, often, they had, and have, no regulation at all. Most have recognized that intellectual property protection was very much in their interests, especially since it is a pre-requisite for much inward investment. Nevertheless, some have perceived an imbalance in the demands made upon them and have had second thoughts about certain aspects of the agreement—on pharmaceuticals and patents on biotechnology for instance.

The agreement on services, normally referred to as the General Agreement on Trade in Service ("GATS"), was even more groundbreaking and, yet, less of a cause of resentment than TRIPS. That is probably because of the gradualist approach to WTO members making commitments in the sector. The agreement was constructed to allow governments to make and lock in reforms in areas like financial services, telecommunications, tourism, and professional services, but to do so on a negotiated basis in the light of perceived national interests. By the time the specific sector negotiations on telecommunications and financial services had been concluded in 1998, there is no doubt that many countries had been able to use GATS as a crucial instrument in their efforts to integrate into the global economy and to reap the benefits of modern communications and access to capital.

Yet, I do not believe the process is even halfway complete in services, especially in terms of the potential benefits that could flow to developing countries. It is no longer the case that their horizons should rise no further than tourism and construction services. There is a diverse set of services sectors in which poorer countries have, or could easily have, a comparative advantage; among them healthcare, audiovisual, transport, some professional services, and others. It is clear to me that developing countries probably have a bigger future in services than in many traditional manufacturing sectors. And that is one reason why I believe they should take the maximum advantage from the promise of a new round of trade negotiations in the WTO.

The final Uruguay Round package contained much else, of course. Notably in the field of rule-making where new agree-

ments on anti-dumping, subsidies, and countervailing measures,[13] safeguards,[14] technical barriers to trade,[15] customs valuation,[16] and pre-shipment inspection[17] brought the old disciplines up to date. With the exception of the government procurement[18] and civil aircraft agreements,[19] all these new rules became applicable to all WTO members, even if their application was delayed in some respects. Some rules, like customs valuation—which requires properly functioning and efficient customs administrations in order to be implemented effectively—and investment—where practices like local-content requirements are outlawed—along with the TRIPS agreement, have been the subjects of further negotiations to secure, for a few countries, longer phase-in periods than otherwise permitted.

What has been described as the "jewel in the crown" of the Uruguay Round was the new dispute settlement procedure.[20] The earlier GATT system had had its successes. Around 150 disputes were treated over almost fifty years. However, while settlement was secured in a good number—either through bilateral consultations or following final panel rulings—many cases were left on the table through endless blocking tactics. Even where panel rulings were formally adopted, they often were not implemented to the satisfaction of the complainant government. The new WTO system has already shown itself to be of impressive weight and credibility, with member governments bringing well over 200 cases in just five years.

The new process is largely automatic with the scope for

13. *See* Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, WTO Agreement, Annex 1A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

14. *See* Agreement on Safeguards WTO Agreement, Apr. 15, 1994, WTO Agreement, Annex 1A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

15. *See* Agreement on Technical Barriers to Trade, Apr. 15, 1994, WTO Agreement, Annex 1A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

16. *See* Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, WTO Agreement, Annex 1A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

17. *See* Agreement on Preshipment Inspection, Apr. 15, 1994, WTO Agreement, Annex 1A, *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

18. *See* Agreement on Government Procurement, Apr. 15, 1994, WTO Agreement, Annex 4(b), *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

19. *See* Agreement on Trade in Civil Aircraft, Apr. 15, 1994, WTO Agreement, Annex 4(a), *at* http://www.wto.org/english/docs_e/legal_e/final_e.htm.

20. Understanding on Rules and Procedures Governing the Settlement of Disputes, April 15, 1994, WTO Agreement, Annex 2, LEGAL INSTRUMENTS—RESULTS OF THE URUGUAY ROUND vol. 31, 33 I.L.M. 1226 (1994).

blocking tactics reduced to virtually zero. While there is sometimes still criticism over the time taken to reach a final outcome in WTO disputes, the record shows that the system measures up well against other forms of commercial litigation.

However, the most important innovation was concerned with the implementation of the adopted dispute settlement reports. With the WTO, a heavy new weapon was put in the hands of countries securing rulings against other members. Failure to implement can lead relatively quickly to demands for compensation that, if not forthcoming, lead further to almost automatic clearance for trade retaliation. This has not been a frequent occurrence, but there are some celebrated cases in which retaliation has not only been granted but imposed.

Naturally, with such a heavy, self-propelled system in place, there needed to be some extra checks and balances. The most significant of these was the constitution of an appeals mechanism after the panel examination of disputes. The Appellate Body of the WTO has been a ground-breaker in many respects and has helped to provide political acceptability to a system, which, when pushing governments towards making legislative or regulatory changes, can create disquiet among domestic special interest groups.

This last point is perhaps one of the keys to the difficulties that the WTO has faced in the last few years. The uniquely tough system of dispute settlements is, at the same time, both the best and the worst feature of the new institution. At its best, the system has served to reduce trade tensions between governments through objective judgements based on WTO law and to provide relatively speedy and effective remedies for businesses that find themselves tangled in unreasonable government intervention in markets. At this level the system commands great respect. But it commands respect at another, less welcome level also. Outside the narrow confines of commercial disputes, there is a view that the WTO dispute system is a great potential gift—though, for some, a threat—to many causes largely unrelated to trade. Because no other multilateral body, and certainly none within the United Nations family, has such an instrument, those who promote such causes are turning to the WTO for responses that cannot be secured elsewhere. So it is that labor rights, the environment, and wider "human rights" have increasingly become part

of the debate on the future of the WTO and trade agreements generally.

Now, it may well be that there are aspects of these questions—particularly in the case of the environment—which are entirely appropriate for the WTO. There are, for instance, real direct links between certain environmental issues and trade rules. But the view that the WTO is an all-purpose vehicle for achieving any and all objectives no matter how remote is the link with trade is, in my view, a threat to the future efficient functioning of the system. Many improvements to "human rights" may well flow from increasing trade and from the integration of countries into the global economy, but making trade concessions dependent on a range of non-trade related prerequisites is a sure path to the further impoverishment of the very people we all seek to assist.

Ironically, such an approach also feeds the notion that the WTO is already so all-powerful that it is imposing itself in areas where it has no remit. This is the mirror image of the former argument, but it is perhaps of even more concern. Thus, we find critics of the multilateral trading system charging that the WTO prevents governments from enforcing their own environmental standards, from safeguarding public health through the application of the precautionary principles, from taking discriminatory trade measures against countries not living up to human rights or labor standards, or from protecting national cultural identity or the right to public health and education services. Sometimes, such arguments reflect the view that the WTO is a supranational organization taking sovereignty out of the hands of national legislatures and executives.

In almost every instance these charges are entirely false. Far from taking power away from national governments, the multilateral, rules-based trading system actually restores some government oversight in a global economy that is out of the control of most capitals. The real danger is that the dispute settlement system of the WTO is being used increasingly to seek to resolve major policy issues that are more properly the prerogative of member governments acting collectively. In other words, there is a threat of too much litigation and not enough legislation to determine the changing boundaries of the trading system's legal responsibilities.

That brings us, finally, to the question of a new round of trade negotiations, for that is the only practical basis on which WTO members can negotiate and legislate across a broad span of concerns. There is no doubt that another trade round could be a burden for some developing countries: an adequate response to their lack of capacity to negotiate and take on new obligations is needed urgently. At the same time, even just seven years after the conclusion of the Uruguay Round, the global economy has moved on and is presenting a variety of new challenges to the WTO. As I have said, such challenges need to be met not by litigation and decisions by trade experts in dispute settlement panels, but by the governments of WTO members engaging fully in negotiation.

The Uruguay Round created a credible, powerful, and extraordinarily far-sighted structure of trade rules and commercial opportunities for the new millennium. It did not and could not complete the job. Like any institution, it must go on adapting, even if the principles of the system are as valid and valuable now as they were more than half a century ago when GATT was created.