

Challenges Ahead on the Road to Cancún

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Introduction

When the subject of “international trade” comes up for discussion, the media and the general public tend to focus on trade disputes and the political and economic crises provoked by those disputes. Occasionally, the cameras turn toward high-level summits where speeches are made and agreements signed with great fanfare. However, not much thought is given to how the various players come to those high or low points.

The day-to-day negotiation of agreements is generally not colourful or exciting, and thus seldom makes the news, and yet it is precisely those negotiations that shape how the world economy is governed. Canadians therefore need to pay at least some passing attention to these negotiations, as they can have a direct impact on Canadian productivity and jobs, as well as several other aspects of Canadian life.

The World Trade Organization, like many international institutions, has come under fire in recent years for a perceived lack of transparency. As part of its response to these criticisms, the WTO has made its documents more readily available to the general public, and has also organized a series of public symposia in recent years, dealing with the major issues on the international trading agenda.

In June 2003, the World Trade Organization hosted its third annual symposium on trade issues. According to the WTO, approximately 750 representatives of non-governmental organizations (NGOs) registered to attend this year’s seminar.¹ Once again, Canadian non-governmental groups were well represented.

Immediately prior to the seminar, many Canadian participants took part in a briefing session hosted by the Ambassador and Permanent Representative of Canada to the WTO, the Honourable Sergio Marchi. A debrief session after the seminar was also organized by Canadian officials—both of these events were helpful in terms of orientation, and facilitated the participation of Canadian participants.

Participation in the sessions

This year’s symposium took place three months before the Fifth WTO Ministerial at Cancún, Mexico, and most of the discussions were geared toward the decisions to be taken at that Ministerial. Judging from the strong participation, it was quite clear that NGOs are following the round of negotiations actively.

The range of non-governmental participants was impressive—while no participants list was distributed, it was evident that the participants included labour unions, business and trade associations, think-tank and research organizations, academics, lawyers, and lobby/advocacy organizations, to name just a few. There was also a group of parliamentarians from 16 WTO member countries, who were involved in a session organized by the Interparliamentary Union.

What follows is a report on this event prepared by one of the Canadian participants. While several other Canadian participants were consulted in the preparation of this

¹ The term “NGO” is used in different ways in different contexts. It is used here as it is generally understood in the WTO context—to refer broadly to any non-governmental entity, no matter what its structure, membership, or agenda.

report, the views contained herein are those of the author. They do not reflect official Canadian policy, nor the policy of the Canadian Chamber of Commerce. The author retains sole responsibility for this report and any errors or omissions contained herein.

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Organization of the sessions

The symposium consisted of 22 sessions over the course of three days; many of these sessions were conducted simultaneously. The WTO Secretariat organized approximately half of the sessions, with the other half organized directly by participating NGOs. Most sessions had three or four speakers, in addition to a session moderator, although some of the longer sessions had as many as seven sessions. The final symposium program is available at http://www.wto.org/english/tratop_e/dda_e/symp_devagenda_prog_03_e.htm).

Some of the sessions were quite consciously set up as “debates”, with both (or multiple) sides of an issue deliberately represented, but not all were. Some were organized more with of an intent to explore particular views or subjects in depth. Most issues on the WTO negotiating agenda were touched on in at least one of the sessions, and some were debated quite thoroughly. Needless to say, any one of these issues is complex enough that it could easily have been the subject of a three-day seminar on its own.

Highlights of session discussions

Given the comprehensive program and the many overlapping sessions (22 in all), detailed coverage of every session was not possible. What follows are highlights of the major themes and issues in the discussion—this summary is not intended to be a detailed overview of every issue.

Not surprisingly, there were very divergent views on most of the major issues. This was clear right from the opening symposium, where Georgetown University Law Professor John Jackson described the first eight years of the WTO as a “spectacular success”, and several participants from the floor vehemently disagreed.

- WTO Director-General Supachai Panitchpakdi expressed great concern in his opening remarks over missed deadlines in the negotiation process. Constructive discussions continue, he said, but he worries that too many decisions are being deferred, and that the agenda for Cancun could be overloaded. On a related note, Ambassador of Gabon said that some developing countries are beginning to feel trapped in a “virtual process” in which deadlines and commitments are not respected.
- Tensions between developed and developing countries in the negotiations were quite evident and quite palpable at the symposium. On one level, this should not be surprising, given the complexity of the negotiations and the political difficulties inherent in many of them. Multilateral negotiations are never simple, and trade negotiations have a particularly long and torturous history. The endgame of the current negotiations is also still quite far off (2005; nearly 18 months as of this writing). Therefore, there is a good deal of “posturing” on all sides, and most final

positions will not be on the table for some time.

However, there is clearly disappointment in the developing world over what many see as the lack of visible gains from the Uruguay Round. That disappointment is feeding skepticism that the Doha Round will deliver significant benefits. It is also driving a reluctance on the part of several developing countries to agree to new commitments.

- Although the Doha Round has been labeled the “Development Round”, it seemed that no two participants at the symposium could agree on how to make WTO rules work best for developing countries. Several of the NGOs objected to the very concept of liberalized trade, and offered detailed critiques of the benefits that liberalized trade will deliver for developing countries. Others argued that liberalized trade is, in fact, the key to development; as articulated by WTO Director-General Supachai, “poor countries need to grow their way out of poverty.”

The issue of Special and Differential Treatment (S&DT) is particularly difficult—no one seems to have determined how to operationalize longer implementation periods and lower tariff reductions and yet still have something resembling a common set of rules.

Capacity was another recurring issue—not only the capacity of developing countries to negotiate new agreements, but also their capacity to implement the commitments under existing agreements.

- Clearly, one of the major cleavages in the Doha Round negotiations is on agriculture, in particular the massive subsidization of agriculture in some developed countries. The fact that this was a key issue should come as no surprise to anyone who is even remotely familiar with the WTO negotiations. Mark Vaile, Minister of Agriculture for Australia, described the Doha Round as the “last chance” for agricultural reform.

It should be noted, of course, that this symposium took place before the European Union (EU) agreed on a package of the Common Agricultural Policy (CAP) reform on June 26, in which EU governments largely agreed to “decouple” subsidies from production. It remains to be seen whether that internal European agreement will unlock any positive gains for WTO agriculture talks.

At the time of the symposium, the deadlock over export subsidies and other issues was creating tangible frustration. Indeed, it was quite clear that, if agriculture makes no further progress before Cancún, little else would move.

- There was considerable debate over the desirability of launching negotiations on the “Singapore issues” (trade and investment, trade and competition policy, transparency in government procurement, trade facilitation). This turns partly on the issue of negotiating capacity (particularly among developing countries), but also on the dynamics of some of the issues themselves.

Investment came in for particular criticism from NGOs, largely over fears that a WTO investment agreement would undermine the ability of governments to regulate, and could leave them liable to huge claims for “expropriation”. Any agreement, it was argued, should include investor responsibilities, and should take account of conflicts

between economic and environmental goals; also should not be pursued through an organization which has liberalization as its fundamental goal. It was argued that the WTO is the wrong venue for an investment agreement as its competence was in trade issues and the principles governing trade were not suitable for investment. Several panelists and some developing country trade officials recommended dropping the issue altogether.

On the other side of the issue, some panelists and intervenors pointed out that trade and investment are closely linked, as trade tends to follow investment; a coherent set of transparent rules is therefore essential to the world trade regime. They also noted that investment is already in the WTO through the Trade Related Investment Measures (TRIMs) agreement and the General Agreement on Trade in Services (GATS). Since there were over 2000 bilateral investment treaties (BITs), an investment treaty in the WTO would help put developing countries in a better negotiating position. A delegate from the European Commission pointed out that investment negotiations would be an opportunity to inject multilateralism into the “law of the jungle”.

The Ambassador of India to the WTO intervened to make the point that there is no agreement on the issues at this point. Even on scope and definition, it is not clear whether only foreign investment that leads to more trade should be covered or whether portfolio investment should also be included. He therefore saw no prospect of the negotiations beginning.

There seems to be a similar lack of consensus on competition—the European Commission was quite clear that it wanted negotiations toward a framework agreement on the subject, noting that market access is often frustrated by anti-competitive behaviour of companies.

However, both Consumers International (CI) and the International Chamber of Commerce (ICC) stopped short of calling for multilateral negotiations on this subject. ICC supports the use of “best practices” in the implementation of competition laws, and of appropriate voluntary “peer review” mechanisms, but is not prepared to go further at this stage. CI was of the view that the discussion process should continue in the WTO, whether in the existing Working Group on Competition or another body, to work out the details of what might constitute an appropriate multilateral framework for competition. This can be done, it representative said, without undertaking commitments. Both organizations were of the view that work should continue on hard-core cartels.

The representative of the Government of India expressed some skepticism even on this. He noted fears of developing countries that principles such as national treatment could be used to override the decisions of national governments, while he also stated that there was no value-added in working on hard-core cartels if export cartels were not included.

- Services: a considerable debate arose in many sessions over the GATS negotiations. Several of the same issues were brought up in numerous sessions, including the difficulty in reversing commitments, the possibility of legal challenge to government provision of many public services, and the risk of GATS disputes undermining national regulations by ruling them to be “burdensome”. On “Mode IV”

issues (movement of natural persons), trade union representatives emphasized the need “to protect the rights of temporary workers, and to prevent such workers being exploited by employers to undermine existing wages and working conditions”.

Other parties responded that GATS commitments are indeed reversible (even if some trade-off concessions are required), that members-states are not required to liberalize if they do not wish to, that the right to regulate is preserved. In fact, it was noted that by one speaker that sound regulation is essential to the delivery of services, whether they are in the public or private sectors.

- TRIPS and public health was also the focus of considerable debate. Raymond Gilmartin of Merck and Co. supported the “flexibility” of the agreement, while someone from the floor questioned whether patent protection actually encouraged investment where it was needed. Jagdish Baghwati of Columbia University referred to the trade-related aspects of intellectual property rights (TRIPS) agreement as a “rip-off”, and an example of “non-trade” issues that have made their way onto the WTO agenda.
- One presentation that was particularly well-received was that of Diana Melrose of the UK Department for International Development, who provided arguably the best overview of the “state of play” in the Doha Round negotiations. Ms. Melrose noted quite bluntly that the global trading system, despite its potential to bring benefits to developing countries and to poor people, was failing to do so. While noting that there had been some progress on a few issues, many obstacles remained, including: the lack of political will to take on vested interest groups; the breadth of the round and its ambitious timetable; and capacity constraints which leave many developing countries unable to participate in the negotiations in a meaningful way. In order for the Cancún ministerial to be a success, political leadership would be needed (particularly on agriculture and TRIPS), as would adequate preparation prior to Cancún, so that ministers have a manageable set of issues to deal with at Cancún.
- Trade unions pointed out some of their priority issues for the Cancun ministerial, which included protecting public services in the GATS negotiations; meeting the main developing country demands on questions such as TRIPS, and access to developed-country markets; reducing agricultural subsidies; preventing the “Singapore issues” from aggravating the imbalances of globalization; taking steps to protect core labour standards at the WTO; and achieving moves towards greater transparency at the WTO. The session also discussed the respective roles of the International Labour Organization (ILO) and WTO in dealing with labour standards.
- Some of the core issues highlighted by business representatives included: market access and tariffs; finding a balanced solution to the TRIPS impasse; addressing special and differential treatment (S&DT) while maintaining a trading system based on common rules; launching negotiations on investment and trade facilitation; ensuring progress in the GATS negotiations; technical barriers to trade; the need for clear and transparent rules on investment; and the potential for the misuse of environmental and labour rules for protectionist purposes.
- Sergio Marchi, Canada’s Ambassador and Permanent Representative to the WTO, chaired a session on “Ecolabelling: Trade Opportunities and Challenges”. This session dealt with the diverse systems of ecolabelling from around the world, as well

as the environmental, consumer and social issues that surround them. Discussions focused on the extent to which ecolabelling was delivering the results it promised, how non-regulated use of “environmental” claims could undermine the future of ecolabels, the importance of self-regulation and the vulnerability of niche markets for developing world producers, and the need to define which components of ecolabelling can be addressed at the multilateral level and which should remain as national rights and obligations. Panel discussants emphasized the importance of ecolabelling to developing countries and regions, and the need to make good use of ecolabelling’s benefits without creating barriers to trade.

- The session on “Women as Economic Players in Sustainable Development” (which included Heather Gibb of Canada’s North-South Institute as a panelist) was the first time that a discussion on gender and trade issues had taken place at the WTO. In this session, it was noted that women, as producers and consumers, are important contributors to world trade; at the same time, women are profoundly affected by trade liberalization and WTO rules while often not benefiting from concomitant market access and employment opportunities. Seventy per cent of the world’s poor are women, many of whom work in the subsistence agricultural sector or in the household or informal sectors. Some participants called for a ministerial statement in Cancún that would recognize the importance of taking women into consideration in trade policy formulation.

There was a call for further study of the gender-differentiated impact that trade liberalization can have, and consideration of the role that the WTO might play in the future on gender and trade issues. One of the key messages was that women should play a more active role in the formulation of national as well as international trade policy.

- The WTO’s decision-making procedures came in for considerable criticism from a handful of NGOs. Of particular note were the use of Chair’s texts as the basis for negotiations, and the “Green Room” process.

While some participants argued that all ministers need to be more involved in the decision-making process, John Jackson (Georgetown University) noted that working by consensus has become more difficult with the expansion of membership—it allows some countries to “hijack” issues.

- Several speakers also touched on broader, more “systemic” issues regarding the WTO in particular and globalization more broadly. Jagdish Baghwati expressed fears that the WTO was being “overloaded” with a series of “non-trade” issues. Professor Jackson of Georgetown University noted an interesting tension between what the WTO is and what it should become—is it an institution that promotes convergence and consensus, or is it a regulatory body? Claude Martin of the WWF, while highly critical of several aspects of the WTO agenda, also noted that it was dangerous to see the WTO as either a “panacea” or a “scapegoat” for the world’s problems.
- The symposium ended with a “wrap-up” session, in which moderators presented an overview of their sessions and mentioned that summary reports would be posted on the WTO’s website (http://www.wto.org/english/tratop_e/dda_e/symp_devagenda_prog_03_e.htm)

Synthesis of Canadian views on the symposium

- The symposium could be broadly called a success, judging from the number of participants and the very active participation from the floor. The calibre of speakers was exceptionally high across the board, and, for the most part, discourse was civil, despite the divergence of views.

Giving NGOs the option of organizing seminars directly added a participatory dimension that should be preserved.

- As was apparently the case with previous WTO symposia, however, it was still not clear to all what the fundamental purpose of the three-day event was. It was not clear whether this was intended to be a briefing, or an exchange of views. In effect, it was some of both—which is an approach that has its strengths, but occasionally caused the symposium to lose focus.

Of course, given the diversity of interests represented at the symposium, it would have been impossible to make the seminar “all things to all people”. Nevertheless, it might be helpful in the future to articulate a “mission statement” for the symposium from the start.

- Some participants noted some dissatisfaction with the extent of the WTO’s openness, noting that this year’s symposium might not have happened had the government of Norway not stepped in with funding. It was also noted that, while DG Supachai announced the formation of three new consultative groups, no information was given on who or why members were selected.
- US participation seemed quite weak, both from the government and non-government sectors. A member of the US delegation to the WTO intervened from the floor during the session on Trade and Environment, but no US trade officials were on any of the panels. A handful of Americans from outside government were present (Raymond Gilmartin from Merck & Co. participated in the opening session, and the session on services was organized by the American Chamber of Commerce to the EU).

However, when compared to the strong presence of the European Commission, for example (on both the panels and in interventions from the floor), the American presence was quite muted. Given the very large role that the United States plays in the WTO (and, indeed, in all international organizations), this was very noticeable.

- Several official delegations from member-states were present. Only a few appeared on panels (Canada was among them), and spoke from the floor (the European Commission intervened on several occasions, Brazil and India less often). Overall, however, it appeared to Canadian participants that the official delegations were in “listening mode”. This may be understandable, given that negotiations are ongoing and governments will always want to consider their public statements very carefully, particularly just prior to a major Ministerial-level meeting.

For future symposia, it is worth thinking about how to engage member-states more directly. The WTO Secretariat has its “finger on the pulse” of many of these issues, and it is worth having staff members involved in the sessions (some secretariat

members did a good job in acting as resource persons.) However, since the WTO is an organization driven by its member-states, perhaps a more full dialogue with the member-states would be a good addition to the symposium.

- Once again, business representation at the symposium was weak overall. The Canadian delegation seemed to be an exception—it included representatives from three horizontal business organizations, and several others representing business interests from specific economic sectors. There was also a panel organized by UNICE (the Union of Industrial and Employers' Confederations of Europe) which examined business issues and perspectives on the WTO agenda. The European Services Forum was represented on the panel on services, as was the International Chamber of Commerce on the panel on competition. Business representatives from Asia and South America were also present.

As stated, however, the business overall presence at the symposium was not strong, at least judging by interventions from the floor. As previous reports have indicated, this has also been an issue at previous versions of this public symposium. There is clearly interest within the business community, but their representatives have generally not turned up in numbers. This may be because business representatives often avoid events such as this if they fear that they will not be occasions for dialogue, but rather exercises in preaching or venting. Business may see more value in the time and money invested if the agendas for future symposia are more focussed, and deal with specific issues.

- The presence of Parliamentarians was noted as a positive addition to this year's symposium. This was particularly true in the case of Parliamentarians from countries in transition (such as Kenya), which are only just beginning to get a feel for the role of a legislature in international affairs. This, some participants felt, added an extra dimension to the discussions that was welcome.
- The session on Women as Economic Players in Sustainable Development was noted as a useful discussion. It was also good for Canada to have taken the lead on this, to have assisted in the organization of the session, and to have participated actively in it.
- On a more general note, it was noted by participants to previous symposia that they had delivered more tightly focused agendas than did this symposium. This may have been partly due to the fact that these symposia grew out of an event that originally focussed on the Trade and Environment Committee, and have since evolved well beyond that. This one, however, seemed "fuzzy", as one participant put it.

However, there is another side to this issue. These public symposia have a broad agenda precisely because they are the only place (outside of ministerial meetings) where civil society can interact with the WTO in any kind of organized fashion. It is, in the words of a participant, the "only kick at the can", and as such, the symposia provide one of the only means available for a comprehensive review of the issues.

The WTO agenda itself is very broad and complex. Therefore, attempting to deal with the Doha Development Agenda in any kind of comprehensive way will by definition mean a very wide-ranging symposium, and will make focus difficult. The

issue may lie in the nature of the WTO agenda itself, not in the organization or structure of the public seminar.

- Some participants felt that many of the panels were structured like “academic seminars”, where issues were discussed in a fairly abstract or theoretical way. Some participants said that they would have preferred more “ground-level” discussion on the actual state of the negotiations, and the actual prospects ahead. For that reason, the presentation by Diane Melrose of the UK Department for International Development was highly appreciated by many participants.
- Participants commented that many of the panels seemed redundant. For example, there were six seminars related in some way to trade and the environment, and three panels related to agriculture. Some of the same participants even appeared on many of these same panels, and many interventions from the floor were repeated several times in different sessions. Several participants also remarked on the difficulty and overlap inherent in scheduling parallel sessions.

Of course, the other side of this issue is that these are all extraordinarily complex issues, each of which has many dimensions that cannot possibly be all condensed into one panel discussion. Nevertheless, one wonders whether some “streamlining” would not have been possible.

- It was noted that several of the panels were also not rigorously chaired. Almost all panel moderators were very knowledgeable and capable commentators who, in most cases, were experts in their respective fields and understood the content of their sessions very well. However, their control of some discussions let somewhat to be desired, particularly with regard to questions from the floor. Several participants were allowed to make what amounted to lengthy speeches from the floor, which poses a problem in seminars with large numbers of participants and where many people wished to speak.

Of course, not everyone who wishes to speak can be guaranteed an opportunity, but a more disciplined observation of time limits on questions from the floor might have aided the discussion greatly.

- Some participants also commented that many of the sessions were not balanced in terms of representing various points of view. Several participants noted that the seminars organized by the WTO Secretariat tended to be better balanced than those organized by many of the NGOs. This was not the case across the board, of course, but it was striking in some cases. The seminar on investment, for example (organized by a coalition of seven NGOs), included seven speakers who were critical of the WTO investment agenda and not one who defended it.

Admittedly, not all sessions can necessarily be set up as a “debate” representing opposing points of view, and sometimes that is not a productive approach even where it can be done. Take, for example, the business session that was organized by UNICE, or the session on “Sustainable Trade, Social Development, and Decent Work”, organized by Global Unions. In cases such as these, the purpose was to present in-depth points of view from a specific sector, which means that “balance” on particular issues is less important.

However, if the session is an "issues" seminar, rather than a "sector" seminar, balance becomes more important. There are very real divergences of views on almost every issue on the WTO agenda. Therefore, even if panels cannot do justice to all points of view, more of an attempt can probably be made to represent the spectrum of opinion.

- A source of great frustration to many participants was the fact that no list of participants was made available, either in hard copy or electronically. The Canadian delegation prepared and distributed a list of Canadian participants, but beyond that it was difficult to get a sense of who was at the symposium if their representatives did not speak on a panel. This apparently has been an issue in previous symposia, and it was reported that a participants list was not distributed this year because of privacy concerns.

However, such lists are routinely distributed in major international conferences, and, thus, the reason for not doing so at this symposium was not at all clear. The lack of such a list hindered the ability of participants to "network" and exchange information.

- However, these are all points which can be improved upon. The overall structure and format of the symposium seems sound, the ability to tap knowledgeable experts is demonstrated, and there is clearly an audience for these discussions. With some adjustments around the edges, this is an event which holds much promise.