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The SAIIA Trade Policy Briefing Series is intended to elicit debate on critical issues relating to South Africa's overall trade strategy. The broad focus of the series is on the political economy of the international trading system and South Africa's strategic responses to it. This covers the full spectrum of our trade strategy, from the multilateral trading system, to strategic regional and bilateral partnerships, and particular issues within the trade agenda.

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What future for the WTO in a changing international order?

by Razeen Sally

Introduction

What is really missing in trade policy is an eye for the big picture. In and around the WTO, a pea-soup fog of details and techniques obscures a wider view, a strategic sense of how the international trading system is poised and where it is heading. Momentous forces whirl around the WTO. The cross-border integration of markets and technological change will continue to pose great challenges for WTO rules and procedures, as will the evolution of international public and private law. My focus is a third great force: power and politics.

How do shifts in foreign policy post-Cold War and post-September 11th affect trade policy? How does 'high politics' — the provision of international security (military or otherwise) — impinge on the 'low politics' of trade negotiations? Where do US unilateralism and multilateral co-operation meet in the WTO? These weighty questions are stepping-stones to the biggest political question facing the WTO system: how will it accommodate itself to, and to what extent will it be shaped by, overwhelming US power in international relations for the foreseeable future? Trade policy wonks do not address these issues head-on, but they will hugely influence the course

of the Doha Round and the WTO's post-round future.

US leadership and international politics: shifting sands

The WTO is the grandchild of specific post-World War II, Cold War political conditions. American leadership secured the peace for the non-communist world, but successive US administrations chose to achieve goals of global security and prosperity through intergovernmental co-operation and international institutions. The GATT was the most successful expression of such 'liberal internationalism'.

This macro-political environment has changed in key respects. First, with the collapse of the Soviet Imperium, no serious challenge exists to US leadership abroad. Second, Europe is weak and divided; and Japan is consumed by intractable domestic problems. Both are internally sclerotic and externally pusillanimous. Third, the transatlantic alliance, while still important, is no longer the fulcrum of international relations. Europe is in relative decline and other powers are on the rise: notably China, but also Brazil and India. Politics and economics are shifting to Asia-Pacific, from the Indian Ocean to Tierra del Fuego. Fourth, September 11th

has transformed American foreign policy. Its legacy is a more assertive US on the international stage, more willing to act unilaterally if needs must, less willing to indulge carping, fair-weather friends. Welcome back to the nineteenth-century world of 'liberal imperialism'.

Multilateralism, however, remains important. The WTO is its foremost expression, especially through its dispute settlement mechanism which houses a growing corpus of international public law. But multilateralism cannot evade wider geopolitical shifts: its matrix, now as before, is underlying power relationships. The raw reality is that international rules and co-operation cannot work without robust US leadership, which on occasion has to be unilateral when others lack the will and capacity to exercise global responsibilities. In other words: unilateralism and multilateralism are not mutually exclusive; twentieth-century liberal internationalism is empty rhetoric without an element of nineteenth-century liberal imperialism.

The Achilles Heel of the Kant-Cobden-Wilson liberal internationalist tradition is its political naiveté, quite in contrast to the sober, pragmatic realism of Adam Smith and David Hume. Both combine their economic liberalism — the progressive removal of artificial restrictions on economic activity — with political realism. To them, international economic integration takes place in a real world of nation-states in which some are more powerful than others. *National governance* is key; and *imperial governance* cannot be overlooked. True, multilateral co-operation has a bigger role to play than was the case one or two centuries ago, but it should not be exaggerated.

The central lesson for the WTO is that, in the context of established rules and procedures, it requires clear and constructive US political leadership. But the US cannot act alone: it needs pragmatic 'coalitions of the willing',

especially with middle powers in Latin America and Asia.

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Can the WTO hold its ground in these shifting sands of international politics? That will prove difficult. Trends inside the WTO system make it that much harder to adapt effectively to external change. To these trends I now turn.

From GATT to WTO: trends and alarm bells

Much has changed in the transition from GATT to WTO. The Uruguay Round agreements take the WTO wider, with broader sectoral coverage, and deeper into domestic regulations, all underpinned by much stronger dispute settlement. WTO membership has expanded considerably. Four underlying trends need to be highlighted, all of which ring alarm bells.

Only US leadership can push the WTO in a clearer market access direction. However, for leadership to be effective, like-minded coalitions are needed. They are to be found mainly in the Asia-Pacific.

- The WTO is in danger of regulatory overload and has a creeping *standards harmonisation* agenda. Detailed, prescriptive regulations are intended (at least implicitly) to bring developing

country standards up to developed country norms. The TRIPS agreement on intellectual property sets the precedent for pressure to harmonise labour, environmental, food safety and other product standards. This 'intrusionism' in the domestic policies and institutions of the developing world is noxious: economically, it raises developing countries' costs out of line with comparative advantages and has a chilling effect on labour-intensive exports; politically, it goes too far in curtailing national regulatory autonomy.

- The *legalisation* of the WTO is double-edged. Dispute settlement has generally worked well. However, given that countries almost invariably go to dispute settlement, governments have more incentive to fill in regulatory gaps in WTO agreements through litigation. This is a dangerous and slippery slope. A large, diverse gathering of sovereign nations such as the WTO, with at best a brittle political consensus, must make collective policy choices through diplomacy and negotiation, not by default through dispute settlement.

- The WTO is increasingly *politicised*. Externally, it is buffeted by a combination of old-style protectionist interests and new-style NGOs. Even more worrying are its deeper internal fissures. The vast expansion of membership since the late 1980s has made decision-making more unwieldy and snail-like. Day by day, the 'UN-isation' of the WTO gathers pace. Windy rhetoric, adversarial point-scoring, political grandstanding and procedural nit picking seem to have substituted for serious decision-making.

- The *regionalisation* of the world economy, i.e. the accelerating spread of discriminatory bilateral and regional trade agreements (RTAs), seems to be pre-programmed, not least in reaction to stalled multilateral liberalisation. RTAs are by no means uniformly bad, but they do lead to a 'spaghetti-bowl' of discriminatory red tape, and risk diverting political attention and negotiating resources away from the WTO.

Taken together, these pressures have virtually crippled the GATT's traditional strength: its ability to deliver results through effective diplomacy and negotiation. The WTO as a *negotiating* mechanism has not really functioned since the late 1990s. The launch of the Doha Round was a blip on the screen, made possible by the need to respond swiftly to the post-September 11th crisis. Since then, however, next-to-no progress has been made in the round: the WTO appears to have reverted to pre-Doha drift and deadlock. The state of the WTO makes one wonder whether it will ever be capable of passing Joseph Conrad's 'shadow line' — from a world of callow irresponsibility to an adult world of real, solid, fixed things.

What needs to be done to get the WTO, and with it the Doha Round, across that shadow line?

Rediscovering a *raison d'être*

The WTO needs to rediscover a core purpose, something lost in the post-GATT transition. This should be the old GATT's *raison d'être*: the progressive reduction and removal of barriers to trade, underpinned by simple, transparent and non-discriminatory rules. In post-GATT conditions, this market access agenda has to range wider (broader sectoral coverage) and venture deeper (procedural disciplines to make trade-related domestic regulations more transparent).

With such a focus, the WTO would fulfill its limited but not unimportant constitutional function: to be a helpful auxiliary to national trade (and wider) economic policies. Good trade policy, like internationalism and charity, begins at home, not in the WTO, nor indeed in any other international organisation. Unilateral measures — 'from below' — are the first instance of trade policy. At best, WTO rules and procedures can bolster domestic reforms, but never initiate or drive them.

How does the Doha Development

Agenda (DDA) fit into this scheme? The real 'development' gains from the DDA are to be had from the core market access negotiations on agriculture, non-agricultural goods and services.

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Reducing tariff and non-tariff barriers to trade in goods and services — including the barriers that throttle South-South trade — would bring bigger gains by far for developing countries than all the other items in the round put together.

Market access is the bread and butter of the round and should have overriding

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priority. A sign of a round going nowhere is when more attention is devoted to squabbles over implementation issues, Special and Differential Treatment, TRIPS-and-public health, and the Singapore issues than to market access. This is indicative of the WTO's wider *malaise*.

Back to politics: getting the WTO moving again

Mending the WTO's broken negotiating mechanism depends on the key developed and developing member governments. They will have to overcome the increasing messiness of the WTO's intergovernmental politics. My surmise is that, for the WTO to be workable again, its political template will have to adjust in line with broader geopolitical as well as economic policy realities.

The present understanding is that the US and the EU co-lead in the WTO enterprise. The EU, sadly, is one of the biggest headaches in the WTO. Its scandalous agricultural protectionism is the main stumbling block, but it is also trying to insert dubious regulation into the WTO, e.g. on environmental standards and geographical indications of origin.

No doubt the EU will continue to be a WTO heavyweight, and transatlantic co-operation will remain vital. Nevertheless, co-equality is not the right recipe for the WTO's future: the US must gradually move out in front. Only US leadership can push the WTO in a clearer market access direction. However, for leadership to be effective, like-minded coalitions are needed. They are to be found mainly in Asia-Pacific. Here there are countries large and small with a strong market access focus in the WTO: agricultural exporters in the Cairns Group, industrial exporters in East Asia, and the services-oriented global cities of Hong Kong and Singapore. Crucially, these coalitions potentially include China, whose broadly constructive behaviour in the WTO so far resembles that of Brazil more than India.

Conclusion: a turning point for the WTO?

The scenario sketched above is of course hedged about with *if's* and *but's*. Big question marks hang over the US:

Internally, will protectionist politics prevent the Administration from exercising credible leadership abroad? Externally, will it have the sensibility and staying power to construct viable coalitions-of-the-willing?

What if WTO trends of regulatory overload, UN-style decision-making and negotiating stalemate are not arrested? What if the Doha Round remains stuck, or delivers only modest gains?

If a substantial market access package does not come out of the round – probably by 2006/7 at the latest – the US, the Cairns Group and others will lose patience and interest. Real business will switch to bilateral and regional

tracks. As ever, the main impulse for liberalisation will be unilateral, emerging from this-or-that country, but RTAs will replace the WTO as the external reinforcement mechanism. The WTO will continue to have a not insignificant role, especially through dispute settlement. But its days as a vehicle for liberalisation will be numbered.

This is not a catastrophic 1930s-style scenario. However, there are real risks and costs. The sacrificial victim will be the GATT's cardinal principle: non-discrimination. The world will be sliced into overlapping, discriminatory trading arrangements, making trade policies less transparent and ratcheting up trade tensions, some of which will be taken to WTO dispute settlement.

Multilateral rules will count for less; and power relationships will shape the system to an even greater extent. The big losers will be the poor and weak, i.e. low-income and least-developed countries, either shut out of preferential access to the markets of the bigger powers, or forced to accept inappropriate conditions (such as minimum labour and environmental standards).

'Events, dear boy, events,' as Harold Macmillan once said. As ever, these will shape, if not wholly determine, the twists-and-turns of the WTO after Cancun. The odd global crisis may intervene to concentrate otherwise distracted minds. Whether this will be enough to salvage the WTO is open to question.

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SAIIA TRADE POLICY REPORT

Report number 2

Africa after Cancun
Trade Negotiations in
Uncertain Times

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