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The European Trade Agenda after Seattle

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Abstract

With enlargement and the completion of the single European market programme, the European Union has become the world's largest market. It is also the world's largest exporter of goods and services. In terms of imports and as a home to and host of foreign direct investment it is comparable to the United States. Reflecting its economic weight, the EU has emerged as one of the dominant players in multilateral trade negotiations. The EU, however, is not an international actor in the traditional sense; it is also an international organisation in its own right. As a consequence, its negotiating positions reflect the aggregation of the interests of its member governments.

The need to bring together the diverse interests of 15 member governments was one of the prime driving forces behind the EU's strong support for a comprehensive ('millennium') round of trade negotiations. The failure of the third World Trade Organisation (WTO) Ministerial in Seattle in December 2000 to agree on an agenda for a new trade round has meant that negotiations have commenced only with respect to the 'built-in' agenda carried forward from the Uruguay Round: agriculture and services. This narrower agenda poses significant challenges for the EU.

This paper identifies and explores these challenges and addresses how the EU might respond to them.

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0 Introduction

With enlargement and the completion of the single European market programme, the European Union has become the world's largest market. It is also the world's largest exporter of goods and services. In terms of imports, and as a home to and host of foreign direct investment, it is comparable to the United States. Reflecting its economic weight, the EU has emerged as one of the dominant players in multilateral trade negotiations. The EU, however, is not an international actor in the traditional sense; it is also an international organisation in its own right. As a consequence, its negotiating positions reflect the aggregation of the interests of its member governments.

The need to bring together the diverse interests of 15 member governments was one of the prime driving forces behind the EU's strong support for a comprehensive ('millennium') round of trade negotiations. The failure of the third World Trade Organisation (WTO) Ministerial in Seattle in December 1999 to agree on an agenda for a new trade round has meant that negotiations have, at least thus far, commenced only with respect to the 'built-in' agenda carried forward from the Uruguay Round: agriculture and services. This narrower agenda poses significant challenges for the EU.

This paper seeks to identify and explore these challenges and to address how the EU might respond to them.

- 1) We begin by describing briefly how the EU participates in multilateral trade negotiations.
- 2) We then discuss the EU's desired agenda for a comprehensive trade round, before turning our attention in greater detail to the origins and substance of EU's negotiating positions with respect to agriculture and services.
- 3) We then summarise the EU's position with respect to some of the other issues that have achieved greater prominence since Seattle: notably development and the role of civil society.
- 4) We conclude by examining how the EU's negotiating position might develop.

¹ This paper was conceived in the context of the Policy Report of the Working Group WTO 2000, launched in 1998 within the International Economic Laboratory of the IAI (Institute of International Affairs, www.iai.it) in Rome. This specific contribution is part of a new booklet, "Beyond Seattle: A New Strategic Approach to the WTO 2000", edited by Falautano I., Guerrieri P., *IAI Quaderni* No.11, Rome October 2000, which includes an introductory chapter by the editors, a chapter on the GATS 2000 by Carlo Gamberale of the WTO and a specific contribution on e-commerce governance by Catherine Mann, Institute of International Economics, Washington DC. It represents a follow up to the booklet published in October 1999, before the Seattle Conference, edited by Falautano I., Guerrieri P., "The WTO Millennium Round and Italian interests", *IAI Quaderni*, No.8.

1. EU trade policy making

The member governments have not invoked the amendment made to the common commercial policy in the Treaty of Amsterdam, which would have allowed the services negotiations (and most of the issues on the EU's preferred agenda) to fall within the responsibility (competence) of the EU. These issues formally remain ones of either mixed (both EU and Member State) or even Member State competence. Nonetheless, the member governments are, as they did in the Uruguay Round, negotiating *as if* all of the issues fell within the EU's exclusive competence (Commission, 1999; DTI, 1998). Consequently, the Commission negotiates on behalf of the EU as a whole on the basis of negotiating directives issued by the Council of Ministers. The member governments, however, also attend some negotiating sessions, including those dealing with services.

Mixed competence in the services negotiations means that any resulting agreement will have to be ratified by each Member State, as well as by the Council of Ministers. Thus, the unanimous support of the member governments is required for an agreement to be ratified. As a result, negotiating positions will be, even more than usual, based on consensus. This will both make it more difficult for the EU to change its position as the negotiations progress and increase the influence of the most protectionist member government on that position. Although mixed competence and its implications apply only in the services negotiations, formal and informal linkages are likely between the services and agriculture negotiations, where the implications of unanimity are likely to be more significant.

It was in part in an attempt to dilute the impact of the *de facto* requirement for unanimity in the agriculture negotiations that the member governments sought a broad agenda in order to create greater scope for trade-offs — internally and externally. With more issues on the agenda there is greater likelihood that losses (decreased protectionism) in one area could be offset by gains (e.g., enhanced access to others' markets or new disciplines on other governments' behaviour) in another. While the services negotiations are probably broad enough to encompass such trade-offs, the agriculture negotiations are almost certainly not.

2 The EU's pre-Seattle agenda

Because of the significance of the broad agenda to the internal EU position and because the EU is still advocating a 'comprehensive' round, it is worth briefly reviewing the EU's pre-Seattle objectives. The Council of Ministers' Conclusions preparing the EU's position for the Round identified four broad objectives (Council, 1999a):

1. Strengthening the WTO rule-based system;
2. Promoting the further liberalisation of trade;
3. Improving the integration of developing countries into the multilateral trading system;
4. Addressing the interface between trade and related issues and policies.

In addition to the built-in agenda, to which we return below, the Council's Conclusions called for negotiations on:

- a multilateral framework of rule governing international **investment**, which would preserve the ability of host countries to regulate the activities of inward investors

- and taking account of investors' responsibilities;
- a framework of core principles and rules on domestic **competition policy**;
- establishing a framework of commitments on **simplifying trade procedures**;
- improved market access for **non-agricultural products**, including substantial tariff reductions and the elimination of tariff peaks, as well as efforts to combat non-tariff barriers;
- clarifying the relationship between trade and the **environment**, particularly addressing the relationship between the WTO and multilateral environmental agreements (MEAs); clarifying the relationship between WTO rules and non-product-related process standards and production method requirements; examining the role of core environmental principles, notably the precautionary principle, in WTO rules; and encouraging cooperation between the WTO and relevant international bodies;
- following-up on the 'build-in' agenda on trade related **intellectual property rights**;
- increasing transparency and non-discrimination in **government procurement**;
- strengthening the **Technical Barriers to Trade** Agreement to emphasise regulatory cooperation, clarify existing definitions and provisions regarding the promotion of international standards, developing guidelines on labelling and addressing health, consumer safety and environmental issues in order to ensure an 'appropriate balance' between the right to take action to achieve those objectives and the obligation to avoid disproportionate restrictions.

The Council also agreed that the EU should 'strongly support' the protection of **core labour rights**, but confirmed the EU's opposition to any sanctions-based approaches to doing so.

3. The EU and the 'built-in' agenda

3.1 Agriculture

The EU's Common Agricultural Policy (CAP) is the principal focus of the current round of agriculture negotiations, as it was of the Uruguay Round. Although the CAP we see today is different both in means of support and amount of support from the agricultural policy of 20 or 30 years ago, it is not sufficiently different to assuage the bitter resistance to its malign effects in world markets and on low cost exporters. Consequently, the key to a successful negotiation in Geneva is a further reform of the CAP. The EU thinks it has already agreed that reform under the Agenda 2000 deal done at the Berlin Summit in March 1999. The EU is wrong, but to understand the internal dynamic of the reform process a little history is necessary.

The key episode was the reform of 1991 carried through by then EU agricultural Commissioner MacSharry, which shifted the means of support decisively from high prices and supply controls towards lower prices and direct compensation payments. This laid the basis for the agricultural agreement in the Uruguay Round. An extension of the MacSharry approach underlay the European Commission's proposals for the agricultural aspect of the policy reform package known as Agenda 2000, which is intended to prepare the EU for enlargement to the East and South. Reform of the CAP was prompted by concern that if the current regime were extended to the new members the cost to the EU budget would be prohibitive. These plans were agreed at a special heads of government meeting in Berlin in March 1999.

The outcome at Berlin was disappointing by any standard. Unusually, the Heads of

Government were more protectionist than the agriculture ministers, who had diluted the Commission's less-than-radical proposals less than might have been expected. The principal reason Berlin went wrong was internal French politics. Positioning ahead of the next presidential election pushed French President Chirac to disagree with his own government. The fraying of Franco-German solidarity was also a contributing factor. As was the focus on who gains and who loses from the EU budget. All of these factors will have implications for WTO negotiations on agriculture and indeed their effects can already be seen in some of the reported difficulties in agreeing on the agenda for Seattle.

Because it did not go far enough, the reform package does not look stable and may be reopened for purely internal (intra-EU) reasons. To understand why that is so and what it implies for negotiations in the WTO requires analysis of the various pressures on EU policy makers.

3.1.1 Agenda 2000

In addition to the cost implications of enlargement, multilateral pressures also pushed the agricultural reform agenda. First, the 'Peace Clause' agreed in the Uruguay Round is to expire in 2003, which could bring multilateral rules painfully into play in agriculture. Second, the built-in agenda of agriculture negotiations meant that the EU had to have something to offer.

The Commission sought to replicate the MacSharry process, but this time the role of the WTO as a driver for reform is much more explicit. For ministers, however, CAP reform had to look as if it were a take-it-or-leave-it offer; the world should adapt to the CAP and not vice versa.

These multilateral pressures for CAP reform manifested themselves in a number of ways: the efforts to reduce prices, the shift in focus of support from production and trade to farmers' incomes, the rural environment and economy. This new focus, summed up as 'multifunctionalism', can be viewed as shifting towards de-linked subsidies, which are permissible, falling within the so-called 'green box'. More cynically, 'multifunctionalism' can be seen as a means by which the agricultural fundamentalists in some member states can justify continued support for agricultural production and the *de facto* maintenance of the 'blue box', agreed at the time of the Uruguay Round which defined a number of categories of aids to agriculture which were *indirectly* linked to production but which members agreed not to challenge until 2003, after which time they were supposed to be fully subject to the new rules. In the negotiating positions tabled in Geneva in June 2000 both the Cairns Group and the USA have demanded the total abolition of the Blue Box.

The Commission's proposal (see Table 1), however, did not conform with multilateral rules. At least at current world prices the proposed reductions in intervention prices for grains, oilseeds, beef and milk, would not be sufficient to bring EU export subsidies, the main bone of contention, under control. The Commission's proposal also failed to address the lack of compatibility of the compensation payments with the 'green box' criteria and market access. A recent UK House of Lords Report (2000) concluded that the CAP as it stood was still not wholly consistent with commitments agreed to under the Uruguay Round and noted that the outcome at Berlin on Agenda 2000 was disappointing in bringing The EU into compliance especially after enlargement. A recent French report by the Conseil d'Analyse Economique (1999) expresses less pessimism about the compatibility of existing policy but

expresses well justified concern about the future of the ‘blue box’ and the permissibility of any new lump sum compensation for future price cuts.

Table 1 CAP reform: reductions in intervention prices by product

	<i>Commission proposal</i>	<i>Berlin agreement</i>
Grains	20%	15% (delayed)
Oilseeds	20%	15% (delayed)
Beef	30%	20% (delayed)
Milk	10%	Reform shelved until 2005

Consideration of the Commission’s proposals began against the backdrop of finance ministers taking apart the Commission proposals for the 2000-2006 financial perspective – a central element in Agenda 2000. This revolt by finance ministers occurred for two reasons. First, members of the Euro XI are under great pressure to keep budget deficits under 3% of GDP. As deficits, adjusted for the economic cycle, are close to or above that level budget discipline can be maintained only if expenditure, including contributions to the EU budget, are cut. Second, several governments, particularly those of Germany and the Netherlands, feel they are contributing disproportionately too much to the EU budget.

Consequently, a debate began over the funding of the compensation payments to farmers. In particular, the British, Dutch, French and German governments argued for freezing expenditure at 1999 nominal spending levels. This destroyed the Commission’s agricultural budget projections and, above all, the funding of the compensation payments necessary to buy price cuts.

The German government sought to square the circle of increased spending and a reduced budget contribution, by proposing that compensation payments should be, to some degree at least, co-financed by member states. This had strong advantages for Germany since it could continue to fund its own farmers at high prices and with direct subsidies while its overall budget burden fell. France, however, was in the opposite position. It could only maintain support to its farmers by increasing expenditure, which would be difficult against the background of fiscal discipline. Moreover, if France cut direct support payments to meet the budget constraint its farmers would lose competitiveness on the EU market. In response the French government proposed that compensation payments be cut progressively. This would cut budget costs to everyone’s benefit and, since support prices and with them the total quantum of support would fall, the most competitive (i.e. French) farmers in the EU would prosper on EU markets. Germany could have its money back, but France would have the internal EU market back.

These conflicting concerns and objectives contributed to the disappointing out-come at Berlin (see Table 1). Budgetary concerns prevailed over economic considerations; milk reform is delayed and smaller price reductions cut compensation costs in order to fit budgetary limits.

At a wider level, the Financial Perspective, with all of its implications for the CAP, which is designed to last until 2006, looks shaky. It depends on robust growth to fund expenditure needs. In addition, the question of the German net contribution was not resolved and it may return if the German government remains unpopular and under budgetary pressure.

The fight with the French over national financing may only be delayed and is potentially fatal to the Franco-German coalition which has defended the CAP down the years.

3.1.2 Implications for the WTO negotiations

The disappointing outcome on Agenda 2000 makes near term negotiations potentially much more difficult. Commissioner Fischler's truculent response to Cairns Group expressions of disappointment at the Agenda 2000 outcome are just a taster of problems in the EU. But unless world prices recover substantially, multilateral export-price disciplines will begin to bite soon on the EU and continue to do so – putting the EU budget, and hence the Agenda 2000 conclusions, under pressure. Any acceleration of enlargement to the east will add to the pressures. Given other budgetary pressures the EU could be forced to revise Agenda 2000 sooner than it thinks, but perhaps not before the French presidential elections in 2002. And continued pressure on fiscal positions as a result of EMU will keep finance ministers in the debate.

Key issues in the new negotiations are the treatment of export subsidies and the status of the 'blue box.' The Berlin conclusions are unlikely to be sustainable unless the multilateral disciplines in these areas are left unchanged. The US and the Cairns Group, however, are unlikely to stand for a continuation of the status quo. Consequently, the EU will be in the front-line of the negotiations but in strongly defensive mode. Given the EU's internal blockages, an early resolution of the agricultural negotiations is highly unlikely, even with linkages to other topics and looming pressure from the end of the 'Peace Clause' in 2003. In the longer term there are big pressures on the CAP, but do not bet the ranch on its demise.

3.2 Services

The EU's position with respect to services could not be more different from that in agriculture. Not only are its internal divisions not as stark, but as a product of the single European market programme, the EU has a liberal regime in most service sectors regarding cross-border trade and investment. In addition, EU firms are major exporters of services. Consequently, the EU, as it was in the Uruguay Round and post-Uruguay Round negotiations on financial services and 'basic' telecommunications services, is an active proponent of further liberalisation.

In particular, the EU is seeking improved commitments from all WTO members on market access and national treatment (Council, 1999a). The Commission (1999), in its communication to the Council identified that binding unilateral liberalisation since the entry into force of the GATS would be a priority, but that commitments to further liberalisation should be secured. The EU would especially like to see progress with respect to professional services (including legal, engineering, architectural, computing, advertising and marketing services) and to energy-related services (DTI, 1998). The EU also wants further market opening to be coupled to disciplines to ensure more transparent and predictable regulatory environment as well as disciplines to ensure that private arrangements do not replace public rules in constraining competition. In addition, it wants liberalisation of electronic means of delivering services (e-commerce). Lastly, the EU would like to conclude the unfinished business left over from the Uruguay Round — establishing multilateral disciplines on subsidies, extending multilateral rules to government procurement in services, and agreeing conditions for the introduction of safeguard measures if imports of services rise too sharply.

These objectives are broadly in line with those of Europe's services industries, although the industries' objectives are arguably somewhat more ambitious and are more explicit about electronic commerce (ESF, 1999). British Invisibles (BI, 2000), for example, would like to see maritime transport brought under the GATS; extension of the 1997 financial services agreement to all WTO members and further liberalisation beyond what has already been implemented; and easing of restrictions on the movement of personnel.

As a consequence of how the single European market developed, the EU's service markets are already quite liberal (Commission, 1997; WTO, 1995). There are, however, significant exceptions, although these restrictions are quite limited and are often associated with the public provision of services. In services, the EU's rules provide for requiring reciprocal market access only with regard to financial services, aviation-related services and the allocation of landing slots. Not only have these provisions not yet been invoked, but the EU made commitments with regard to market access in financial services in the post-Uruguay-Round negotiations. In air, inland waterway and maritime transport access to the full benefits of the single market are restricted to EU-controlled firms. None of these issues is high up on the GATS 2000 agenda, however (DTI, 1998). Much more problematic for the EU are likely to be its rules on consumer/citizen protection, such as EU rules on data protection (USTR, 2000), which though not explicitly discriminatory can still impede trade in services. Another source of tension, particularly with the US, concerns the liberalisation of services with strong social obligations, such as education, health and even postal services. There is strong opposition to liberalising such services even within the EU, particularly from the French government and the European Parliament (European Parliament 1999). Potentially the most explosive issue for the EU is audio-visual services, which are a perennial source of tension between the EU and US, because EU rules require minimum European content, and so are explicitly discriminatory. Nonetheless, these restrictions are fairly concentrated.

The EU's already agreed common internal rules, as during the Uruguay Round and the post-Uruguay Round GATS negotiations (Young, 2000), provide the foundation for the EU's negotiating positions. Combined with the EU already having a relatively liberal services regime, the services negotiations, in and of themselves, should not pose serious internal coordination problems for the EU. As noted above, the need for all member governments to ratify an agreement in services, however, might be used as a lever by member governments reluctant to accept liberalisation in other areas, notably agriculture, to extract concessions from internal or external negotiating partners.

Another difference between the services and agriculture negotiations is that – with a few exceptions, most notably with respect to audio-visual services – the EU and US are working together to promote liberalisation both multilaterally and bilaterally (DTI, 1998). It is the developing countries, which approached the GATS negotiations during the Uruguay Round with trepidation and made relatively few commitments, that the EU would most like to see accept multilateral disciplines in services trade.

3.3 New trade and implementation issues²

At the 1996 Singapore Ministerial meetings the WTO members established working groups to discuss the issues of trade and competition policy and trade and investment. The two other big “new issues” trade and labour and trade and the environment were sidelined. Both

² The sections on investment and competition draw heavily on Holmes and Young, 1999.

working groups reported in December 1998, as instructed. Both recommended simply that further discussions continue into 1999 and left it up to subsequent ministerial meetings to decide how to proceed. Although the connection between trade and the environment and trade and core labour standards were not the subjects of a working group, both issues have subsequently forced themselves back onto the agenda. In large part this has to do with the mobilisation of new constituencies – environmentalists – and established constituencies in new ways – trade unions – in the developed countries, including the EU Member States (Hocking and Smith, 1997; Woolcock, 2000).

Another change to the politics of multilateral trade negotiations since the conclusion of the Uruguay Round has been the increased assertiveness of the governments of developing countries. As a consequence, an additional issue has been pushed to the fore; that of implementation.

3.3.1 Investment

There was extensive discussion in the Trade and Investment group about whether multilateral rules are desirable. This essentially reflects a split between the capital exporting countries, led by the US, and the capital importing, developing countries. Developing countries are not convinced, based on their previous experience with bilateral investment treaties (BITs), that having investor protection measures significantly encourages investment. In addition, they are not convinced, in any case, that multilateral rules are necessary to provide a stable and transparent framework for FDI (WTO, 1998b).

While the US government (and business) has tended to place a strong emphasis on agreements that discipline governments, developing countries are much more concerned about multilateral rules that discipline firms. The EU and its member governments tend to fall somewhere in between — some EU member governments, such as that of the UK, are closer to the US position, while others, notably that of France, are sympathetic to that of the developing countries.

The EU's position on trade and investment in the context of a 'millennium' round reflects its experience in the negotiations on a multilateral agreement on investment (MAI) in the OECD, which collapsed in October 1998 after the French government unilaterally withdrew. Consequently, the EU stresses the need to ensure that the governments of host countries can regulate the activities of investors on their respective territories, in accordance with WTO principles and notes the need to address investors responsibilities as well (Council, 1999a). In addition, placing investment within the WTO context would eliminate the scope for investor-state dispute settlement, which was an issue of particular concern for the French government. Although there are differences among the member governments, this position is acceptable to all, particularly as it is probably too ambitious for the governments of many developing countries.

3.3.2 Competition

In the WTO's Trade and Competition working group there was a vigorous debate between those governments which wanted the argument confined to the possible distortionary impact of absent or discriminatory competition policy rules, led by the EU, and those, primarily developing countries, seeking to address the anti-competitive affects of EU and US trade policy (WTO, 1998a). The European Commission, prompted by its own experiences using

competition policy to combat residual trade barriers, continues to promote the multilateral agenda alongside the pursuit of bilateral arrangements. It wants every country to have a competition law of some basic kind, and this is the line that the EU has advanced for a comprehensive trade round (Council, 1999a).

The US government, meanwhile, values selective bilateral cooperation against anti-competitive practices, but opposes any WTO regime. A group of newly industrialising countries, notably Hong Kong, have gone further, arguing that government restrictions on imports into OECD markets are the most blatant problems. Their particular target has been anti-dumping laws. Meanwhile the position of developing countries has evolved somewhat. Initially, even though there was a general recognition of the desirability of competition in international markets and indeed within countries, most developing countries were rather sceptical of the desirability of an additional regulatory obligation.

Nevertheless the discussions at the WTO working group appear to have led to a distinct evolution of opinion. In the autumn of 1999, the South Africans put forward a proposal for a new approach to the international competition policy issue which would take the needs of developing countries more into account, and move the debate away from the market access agenda supported by the Commission. Meanwhile the British government, in particular the Department for International Development (DFID), has been enthusiastically supporting this approach and has sponsored a number of international meetings, including one at the OECD in July 1999 attended by Sir Leon Brittan, Joel Klein and representatives of all the leading developing countries including China. The Seattle failure, paradoxically, may have helped the international competition issue move forward in the longer term, by allowing time for a more mature agenda to develop and for the possibility, as requested by the South Africans of technical assistance *before* rather than after any negotiations (Republic of South Africa, 1999).

3.3.3 Trade and the environment

Trade and the environment has been propelled onto the agenda in part because disputes concerning trade discrimination on environmental grounds – most famously the ‘shrimp-turtle’ case brought by Thailand against the US – have been brought under the WTO’s Dispute Settlement Mechanism (DSM). The Appellate Body has thus far interpreted GATT/WTO rules broadly. It ruled in the Shrimp-Turtle case that there are circumstances in which trade-restricting environmental measures may in principle be permitted, while at the same time declaring GATT-illegal the specific measures in that case. This has provoked concern about the implications of WTO disciplines for national environmental rules and for the compatibility of WTO obligations and the provisions of multilateral environmental agreements (MEAs).

The EU’s stated objective for the round is an environmentally sustainable outcome (Council, 1999a), although how it intends to achieve this is unclear. In particular, it advocates establishing greater legal clarity in the relationship between WTO rules and MEAs. The EU would also like to see a greater role of the ‘precautionary principle’ in WTO rules.

3.3.4 Trade and core labour standards

The EU’s member governments take very different views on what role the WTO should play in promoting core labour standards. There are essentially three camps: those that think such

rules are intrusive and impede development (e.g., the UK); those with strong social democratic traditions (e.g., Sweden) that see the WTO as a way of promoting human rights; and those for whom (e.g., France) linking core labour rights to trade provides a means for protectionism. As a result of these differences, the EU's position on trade and core labour rights does not represent much of an advance on the status quo. Although it expresses its strong support for the protection of core labour rights, it rules out the use of trade sanctions to promote them and does not propose much beyond enhancing existing cooperation between the WTO and the International Labour Organisation (Council, 1999a).

3.3.5 Implementation

The issue of implementation has several dimensions. The first is that some developing countries are seeking longer than previously agreed periods for implementing commitments, particularly with respect to trade-related intellectual property rights, undertaken in the Uruguay Round. The second involves requests from developing countries for technical assistance with regard to both implementing their commitments and to preparing their participation in the current round of negotiations. In particular, developing country governments contend that promised technical assistance for implementing the Uruguay Round has not been forthcoming. (See below and Wang and Winters, 2000).

4 The EU agenda after Seattle

The EU's desired comprehensive agenda was attacked in Seattle. The governments of the US and the Cairns Group countries accused the EU of trying to negotiate about everything but agriculture, while developing countries objected to American and European attempts to put labour issues on the agenda. In addition there was very little support for the EU's objectives concerning the environment.

Although the Council (1999b), in the immediate aftermath of Seattle, confirmed that the elements in the Council Conclusions of 26 October should be pursued, the Commission has sought to build support for a more flexible approach (see, for example, Lamy, 2000). Although standing by a broad approach, the Commission has suggested a review of the EU's objectives with respect to the environment and core labour standards and of at least the EU's approach with regard to investment and competition (Lamy, 2000).

At an informal meeting in Oporto in March 2000, however, the EU's General Affairs Council agreed to stick by the October Council Conclusions, at least for now. Although the British, Dutch, Finnish and Swedish governments were willing to consider some adjustments to the EU's negotiating objectives if doing so would encourage other governments to accept a package approach, the Belgian, French and Portuguese governments argued that there was no need to make such adjustments (*European Report*, 22 March 2000). However, although the EU remains committed to launching a comprehensive round as soon as possible, there is growing acceptance that this will not be possible until after the new US administration takes office in early 2001, or even the French elections in 2002. For reasons which we indicate in the conclusions we think this may not be altogether a bad thing.

Although the EU's approach to the substance of negotiations remains unchanged after the Seattle Ministerial, at least for now, some other issues have achieved greater prominence in the wake of Seattle: the interests of developing countries and the engagement of civil society. Both issues have been linked to the issue of institutional reform, which was already

on the table (see, for example, Byers, 1999) before Seattle underlined the some of the WTO's institutional shortcomings.

4.1 Energised participants: developing country governments

There are three related but separate dimensions to the new emphasis of discussions concerning developing countries. First, developing countries can no longer be expected to accept deals hammered out among a small group of developed countries, invariably with the US and EU at the core (DTI, 2000). The extensive and (at-the-time) underestimated implications for developing countries of the agreement on trade related intellectual property rights (TRIPs) are an important reason for this shift. Second, the complexity of many of the issues, such as TRIPs, now being addressed by multilateral negotiations means that the governments of developing countries need extensive technical assistance before, during and after negotiations (Short, 2000). Third, there is a need to ensure that developing countries receive clear and explicit benefits from the next round. Wang and Winters (2000) report World Bank estimates that administrative start-up costs for compliance with the WTO TRIPs, SPS and Customs Valuation obligations may amount to \$130-150 million per country. They argue for some form of binding commitment on technical assistance (see also Finger and Schuler, 2000). The Commission is seen as dragging its feet on the question of the WTO and World Bank joint legal assistance centre. Blackhurst et al (2000) point out how many African countries have virtually no effective representation at the WTO.

The South African government has recently submitted a proposal to the WTO working group on competition policy that the provision of technical assistance on the competition policy issue should occur well before any negotiations opened. The reception this proposal received is seen by most observers as usefully unblocking the competition issue, and not at all as a rhetorical tactic.

The UK House of Lords Report (2000) meanwhile offers a rather sceptical assessment of the new proposal by the Quad group to offer duty free access to "essentially all" products from the least developed countries, arguing that this term is considerably watered down from the original aim of "all" products. But it is not clear yet what this clawback amounts to. Whatever happens the developing countries will demand a very strong influence over the nature of the next round.

4.2 New actors in international trade: civil society

Although little credit is given to the street demonstrators in Seattle for the collapse of the talks (see, for example, DTI, 2000; Short, 2000; WDM, 2000), there is a wider concern that public support for trade liberalisation and faith in the WTO need buttressing. The British government, for example, has called for attention to be paid to increase transparency and improve communication with stakeholders and public opinion (DTI, 2000). More than 100 European interest groups officially participated in the Seattle Ministerial (see Table 2), compared to almost 300 from, the admittedly closer, US. The plurality of these groups represented agricultural interests. Business and labour interests, as usual, were also strongly represented. There were in addition, however, a substantial number of groups that have not traditionally been actively engaged on trade issues. This indicates the shifting nature of international trade politics, which is behind the drive for greater and broader consultation. In response, the European Commission, for example, has established a 'contact group' (see Box 1). On April 19 2000 the Commission invited 49 business and agricultural organisations and 46 labour, consumer, environmental and development groups to a meeting on issues for the new round. They met again in May and June and will meet once a month resuming in

September.

Box 1 Members of the Commission's contact group

UNICE
ETUC
COPA-COGECA
ESF
National Consumer Council (UK)
European Public Health Alliance
WWF
EuroAid Liaison Committee on Food Security
Economic and Social Committee

4.3 New European initiatives for institutional reform

In response to the twin demands for full participation of developing countries and greater engagement of civil society in multilateral negotiations, a number of initiatives for reform of the WTO have been advanced. The British government is among the more active voices and has advocated (Byers, 1999; DTI, 2000):

1. increased transparency in the form of more positive communication to a wider audience by both the WTO and governments;
2. realising wide-ranging economic development through expanding technical assistance and addressing topics of particular concern to developing countries;
3. ensuring that there are no conflicts between desirable and legitimate national regulation and desirable trade rules and no conflict between protection of the environment and the expansion of trade;
4. clarifying the dispute settlement mechanism in order to eliminate loopholes that permit losing parties to delay the day of reckoning.

The French Trade Minister Francois Huwart recently reaffirmed the French commitment to a new round in which new issues would be addressed, and in which liberalisation and “re-regulation” would go hand in hand. He told an audience in Kuala Lumpur on 6 March 2000:

L'esprit dans lequel la France envisage la globalisation, esprit que je viens de rappeler, est aussi celui qui gouverne sa conception du prochain cycle de négociations commerciales : ce cycle doit permettre certes de continuer à libéraliser les échanges internationaux, mais il doit être également cycle de régulation du commerce international....

La vision française et Européenne du prochain cycle de négociations se caractérise principalement par la volonté d'aborder de nouveaux sujets, sur lesquels j'insisterai plus particulièrement aujourd'hui: la concurrence, l'investissement, l'environnement, et les normes sociales.

5. Conclusions: prospects and problems

5.1 *The EU's agenda*

In the short-term the EU's agenda is unlikely to change substantially on any issue. On agriculture it will come under internal and external pressure for change, but not for a few years yet. With respect to services the EU's internal differences have essentially already been settled, either in agreeing common rules or in previous negotiations, and therefore are unlikely to change. If a wider negotiation is launched, the EU may have to tone down its objectives regarding investment and competition policy, in particular, in order to secure concessions from developing countries with respect to services.

5.2 *The state of the negotiations*

The on-going negotiations in agriculture and services are likely to drag on without significant progress unless a wider round is launch. That is unlikely until after the US presidential elections, if not the French elections in 2002.

In any event, this may be no bad thing. A number of issues on the EU's wider agenda are contrary to the perceived interests of developing countries. Although there are some good economic arguments for a transparent and stable investment rules, there is only a weak political case for trying to impose binding rules on those who do not wish to accept them. On competition policy there is also a good case for arguing that despite trade liberalisation transnational restrictive business practices do occur and fragmented national responses may lack effectiveness. The US insistence on the pursuit of unilateral action and bilateral co-operation seems to make these the only viable path for the moment; particularly as developing countries have insisted on linking any discussions of competition rules to reform of anti-dumping, which is anathema to the US and problematic for the EU. If a new round develops slowly, however, there is scope for evolution of the various positions. There is room for clarification of the relationship between trade disciplines and environmental rules (both domestic and multilateral), but such an attempt will be sharply contested by developing countries because of the potential for environmental justifications of protectionism. By contrast, there is no good economic case of requiring common core labour standards.

If the EU is really serious about promoting development, it would make less play of its forward positions on trade liberalisation towards developing countries, and address the major problems with some of its policies. In particular, it should:

- hugely liberalise the CAP;
- not inveigle developing countries into patchy preferential liberalisation deals (e.g., the EU- South Africa Free Trade Area and its preferences for African, Caribbean and Pacific countries), which threaten to distort their economies and ignore their comparative advantage;
- ensure that in its own trade policy towards developing countries it does not allow the use of anti-dumping or other instruments of contingent protection to claw back market opening.

Further generosity, on the principle as well as in cash, may be needed with respect to technical assistance, if wider issues are to be taken into the agenda. There is little in its wider

negotiating agenda, with the enormous exception of agricultural liberalisation, of great interest to developing countries, which are more concerned to soften the impact of the Uruguay Round than to extend the scope of international rules.

5.3 The need for institutional reform

Changes are likely to be needed to achieve greater legitimacy in terms both of the global representativeness of the decision-making process and in terms of the accountability of the key players to their own voters. There is no easy solution. The economically big players will have inevitably a major say (for no other reason than that they are the big markets into which everyone else wants to sell). Some of this is beginning to correct itself, the more so when China eventually joins, as the populous developing countries are increasingly unwilling to be left on the sidelines.

Nonetheless, there is an immediate need for more transparency. This is partly about allowing observers access to plenary meetings and perhaps to working parties. But make no mistake, these are largely declamatory or procedural, the real negotiations do, and will continue to, happen out of the public eye – that is the nature of the process in any political system. And the nature of trade negotiations is such that it is often difficult even for the key players to be clear what is really important. This is a particular problem for poorly resourced delegations, especially among the developing countries, and argues that technical assistance has a useful role to play in improving their effectiveness in Geneva.

The DSM is a particularly controversial aspect of the new institutional framework. It is tackling a much harder job than was originally anticipated, but is performing remarkably well. It is, however, extremely powerful and to a degree unaccountable, since the opinion of the Appellate Body can be overturned only by a consensus in the General Council (all of the members).

If DSM decisions are to obtain wider acceptance and indeed legitimacy, some changes are necessary. These include more resources both in terms of budgets and more professional first level panellists, whose decisions are subject to review by the Appellate Body. The DSM also needs to be more accessible and transparent. Allowing observers to at least some of the meetings; clarifying the rules allowing interested parties to make submissions; and allowing parties access to professional representation - would all help, though developing countries are wary of the potential for northern lobbyists and non-governmental organisations to apply pressure through their access to lawyers able to draw up *amicus curiae* briefs.

There is also a general need for technical adjustments to the DSM. For example, 'compensation' for non-compliance should take the form of obligatory trade liberalisation by the losing party, not of extra trade restrictions by the winning parties. It would also be beneficial to find ways to ensure that the system does not become overburdened. In general, the problems facing the DSM stem from the fact that it is acting on behalf of a divided membership rather than from any basic internal weakness. The DSM remains that crown jewel of the WTO, but the EU must be aware of the dangers both real and in terms of perception of allowing the WTO to be seen as rule by trade lawyers.

Table 2 European interest groups at the Third WTO Ministerial in Seattle, December 1999

<i>Type of interest group</i>	<i>A</i>	<i>B</i>	<i>Dk</i>	<i>Fn</i>	<i>Fr</i>	<i>G</i>	<i>Gr</i>	<i>It</i>	<i>Ir</i>	<i>L</i>	<i>NL</i>	<i>P</i>	<i>Sp</i>	<i>Sw</i>	<i>UK</i>	<i>EU</i>	<i>Total</i>	<i>%</i>
Business																		
Agriculture				1	20	1			1	1	1		4		2	6	37	29
Manufacturing & general		1			4	2		2			1		5		1	11	27	21
Service					1	1							1		3	7	13	10
Trades unions			1		6			3					1		1	1	13	10
Civic interest groups																		
Consumer													1				1	0.8
Environmental						1									6	1	8	6.3
Development			1	1		2					2		2	2	6	4	20	16
Other					1	2									2	3	8	6.3
TOTAL	0	1	2	2	32	9	0	5	1	1	4	0	14	2	21	33	127	

Note: Does not include international organisations based in European countries

Source: US Information Agency

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