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Making and Breaking □
Impasses in International □
Regimes. The WTO, Seattle □
and Doha

John S. Odell

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For further information:

Transatlantic Programme

Robert Schuman Center

European University Institute

Via dei Roccettini, 9

I-50016 San Domenico di Fiesole (FI)

Italy

E-mail: atlantic@iue.it

<http://www.iue.it/RSCAS/research/transatlantic/index.shtml>

ABSTRACT

We cannot fully understand and improve global governance without understanding the process of negotiation in international organizations and other regimes. The strategies and tactics used by governments and official mediators partly determine whether negotiations end in impasse or agreement as well as the terms of agreements reached. A contrast between the World Trade Organization's negotiations in two recent cases, in 1999 and 2001, illustrates how variations in the negotiation process can shape regime rules, their evolution through time, and their legitimacy. This contrast reveals gaps in current regime literature and suggests five hypotheses for investigation in other regimes.

MAKING AND BREAKING IMPASSES IN INTERNATIONAL REGIMES: THE WTO, SEATTLE AND DOHA

We cannot fully understand and improve global governance unless we understand the process of negotiation in international organizations and other regimes. A contrast between two recent negotiations in the World Trade Organization (WTO) strongly suggests how the negotiation process shapes regime rules, their evolution through time, their effectiveness, and their legitimacy. This contrast reveals gaps in current regime literature and suggests five hypotheses that could be investigated in other regimes.

International organizations and other regimes are evolving, living things, as William Zartman has put it.¹ They are not fixed objects with which states simply comply or not. Members have a third option; they can also try to improve the regime. Efforts toward institutional change are frequent and they almost always involve negotiation.

Most regime negotiations involve distributive struggle and impasses, which is not surprising considering the great differences among the world's countries, as well as the disproportionate influence of special interests in all countries and distrust lingering from historical experience. Thus a regime cannot be created or modified unless the parties can break their deadlocks. How negotiators and mediators make and break impasses is one of the most crucial questions for all who care about international institutions.

The process is not the only thing that makes a difference. The surrounding structures and material conditions create incentives and boundaries that shape actors' behavior and may even help constitute identities. And if players operated with complete information and crisp classical rationality, negotiations might not be needed at all. But the fact that governments and nonstate actors spend billions of dollars every year preparing for, influencing, and conducting negotiations is a clue that this theoretical assumption might be misleading. This paper assumes real players operate with bounded rationality, which creates space in which the process makes its difference. The behavior of other negotiators and mediators influences how governments perceive their options and what is feasible. They lack crisp a priori reservation values; their subjective resistance points are fuzzy and partly endogenous to the process, up to

¹ Zartman forthcoming.

some limit given by structures. This paper will provide evidence that even the strongest structures of power and rules leave substantial leeway for negotiators and mediators to shape their collective course of action according to their beliefs and choices among multiple equilibria.

The diverse evolutionary paths we observe remain somewhat mysterious to today's regime theory. The paper's first section briefly identifies some gaps in what regime scholarship has had to say about the negotiation process. The second and third sections present a retrospective contrast of two recent attempts at regime change, showing how parties get into and out of impasse and how the negotiation process can shape regime evolution and legitimacy. The two cases—the WTO's talks in 1999 and 2001 ending in Seattle, USA, and Doha, Qatar, respectively--were selected primarily to provide a contrast on the dependent variable, impasse versus agreement. The paper, then, has three purposes: to explain some significant recent events, to illustrate how existing ideas from negotiation analysis may be applied in regime studies, and to generate new hypotheses for further investigation. The purpose is not to test hypotheses or prove causality in these cases definitively.

What We Know about the Regime Negotiation Process

The international negotiation process means what government negotiators do in their interactions with one another and with markets, constituents, nonstate actors, and mediators. The theoretical study of international institutions and the empirical study of international negotiation long remained largely isolated from one other on separate tracks.² Although this has been changing and we now have solid empirical knowledge about a few regime negotiations, many regime theories and case studies still give only partial glimpses of the negotiation process. Many lack a conception of that process as a whole, which determines the significance of each part.³ International regime cooperation studies have achieved much and continue

²Major exceptions include Winham 1986 on the GATT, Zartman 1987 on UNCTAD, Moravcsik 1998 on the European Union, and Sebenius 1984, Susskind 1994, Young 1989, 1991, 1994, and Friedheim 1993 on United Nations environmental bargaining. The latter also cites the literature on UN parliamentary diplomacy (p. 373). Zartman 1994 introduces six analytical approaches to multilateral negotiation. This section concentrates on scholarship most relevant for international economic organizations. Negotiation analysis in general is also developed in such journals as *Group Decision and Negotiation*, *International Negotiation*, and *Negotiation Journal*.

³Attempting to present a full conception of the process here would make this paper unwieldy. See comprehensive classics such as Walton and McKersie 1965, Raiffa 1982 and Zartman and Berman 1982. Odell 2000 presents a recent synthesis with special features for economic negotiations.

to deepen and expand,⁴ but both rationalist and constructivist approaches leave substantial gaps.

Research during the 1980s concentrated on why regimes are formed and whether they influence state behavior, emphasizing important features other than the negotiation process. Many empirical investigations paid little attention to what negotiators do and did not try to generalize about this process, even though researchers defined cooperation as involving negotiation⁵ and most selected cases where cooperation resulted from explicit bargaining. Many theorists still assume state preferences are fixed prior to negotiation by background conditions such as the international power structure, globalization or domestic politics, and many prefer to use preferences to explain outcomes without observing what negotiators do in the interim. Many regime analysts have assumed that negotiators' and mediators' behaviors follow their theories' expectations, and have provided only thin evidence or none at all about what negotiating strategies the diplomats used and what difference they made.⁶

An exception was Keohane and Nye 1977 and other works that called attention to the tactic of issue linkage, one facet of this process. One hypothesis holds that negotiating under the umbrella of a common international institution should make issue linkages more likely, implying that this will also make cooperation for mutual gain more likely.⁷ Actually issue linkage is ubiquitous in international negotiations. Most instances inside and outside regimes involve more than one issue and the typical agreement links them together in a package deal. But nothing in current regime theory tells us which issues should or will be linked, nor whether linkage attempts will succeed or fail.⁸ Attempting to link a certain issue to a package can also block an agreement that would be reached otherwise, if the issue is a divisive one on which the parties lack a positive zone of agreement. Yet subtracting this issue may disappoint members for whom it is the top priority. Deciding which issues are added and subtracted in

⁴ These achievements and remaining challenges are detailed well by Haggard and Simmons 1987, Milner 1992, Hasenclever, Mayer, and Rittberger 1997, and Martin and Simmons 1998.

⁵ See definitions in Keohane 1984, 51-52, and Milner 1992.

⁶ E.g., Keohane 1984; Webb 1991, Yarbrough and Yarbrough 1992, Simmons 1994, Weber 1994, Suzuki 1994, Iida 1995, Raustiala 1997, Oatley and Nabors 1998, and Remmer 1998. Greater evidence about the external negotiation process can be found in Putnam and Bayne 1987, Jönsson 1987, Iida 1993 and Milner 1997. Sebenius 1992 and Fearon 1998 have made related points.

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⁸ In fact, the most widely-known application of the notion of linkage—US Secretary of State Henry Kissinger's effort to link Soviet restraint in developing countries to US concessions in arms control and trade negotiations in the 1970s—basically failed.

which order is a major feature of the negotiation process,⁹ yet regime theory so far has had little to say about how this is done.

Many analysts have used the lens of game theory to view bargaining, including that in regimes. A prominent class of mathematical models explores another facet of the negotiation process by representing rational players with incomplete information who signal and change beliefs during bargaining.¹⁰ This enterprise has made considerable progress over the past two decades. Yet all tractable models depend on severe simplifying assumptions, such that changing one can upset the conclusions. Virtually all international relations models assume optimizing behavior, despite extensive evidence showing that actual negotiators operate with only bounded rationality in the sense of less taxing decision rules.¹¹ Most models assume an extremely simple set of strategy options and omit most of what negotiators and mediators do. In these models “information” has a restricted meaning that so far omits most of the beliefs and biases that seem to affect actual negotiators. Many game theoretic articles present little or no evidence, leaving us unclear whether the real world follows the theory. Few game theoretic models have concentrated on international economic organizations’ negotiations.¹²

Many of us have put certain ideas from game theory to work informally. Some have used the analogy of the Prisoners’ dilemma to suggest a rational reason for states to cooperate at all through institutions. Schelling 1960 and later Williamson 1985 called attention to the credibility of threats and promises. Commitment credibility is another facet of the process. In the 1990s this insight was applied to the European Union and other international regimes,¹³ though more often to bargaining outside regimes. Most regime theory is silent about how negotiators make commitments more or less credible. There is evidence that the tactics they use make some commitments more credible than others.¹⁴

A focal point is another aspect of some negotiations. Garrett and Weingast 1993 apply Schelling’s notion to suggest that an international court or secretariat can supply an idea for an agreement as a focal point

⁹ Sebenius

¹⁰ As illustrations, Iida 1993, Fearon 1994, Bueno de Mesquita, Morrow and Zorick 1997, and many earlier works cited there. Also see Young 1975.

¹¹ Odell 2002b.

¹² Exceptions include Martin 1992, Milner with Rosendorff 1997.

¹³ Martin 1992; Cowhey 1993; Odell 1993; Moravcsik 1998; Martin 2000.

¹⁴ Odell 2000, chapter 5.

solution that the states might not find otherwise. Other players and mediators in multilateral negotiations also advance proposals designed to attract a consensus. But some efforts fail and some even impede agreement. We know little about which tactics are more and less effective in creating a focal point under what conditions, in regime or other negotiations.

Putnam's (1988) metaphor of the two-level game, representing interactions between negotiators and domestic politics, captures another major slice of the process. Formal modelers have begun to model two-level games¹⁵ and considerable empirical research has illuminated this angle as well.¹⁶ Still, a surprising number of these studies shy away from describing and analyzing what international negotiators do with one another.

Risse (2000) concentrates on one significant part of what they do - communication, argumentation and persuasion. This constructivist perspective too has potential to enrich our understanding, but it too disregards the rest of negotiation theory that situates persuasion in its place. Risse formulates "argumentation" and "bargaining" as alternatives. In practice bargaining never takes place without persuasive attempts.

In the 1990s other scholars advanced our understanding of states' compliance and noncompliance with their international agreements (see the excellent review in Simmons 1998). Yet most of the theoretical ideas brought to bear so far remain static, pointing to attributes visible prior to the behavior, such as transaction costs, administrative incapacity to comply, democratic versus authoritarian domestic institutions, and international norms. Most compliance studies overlook the fact that the degree and form of international compliance often results from a post-agreement negotiation.¹⁷ For example, most states that are charged with violating the rules of the World Trade Organization settle their disputes through negotiation with their complainants before the legal proceedings have run their full course.¹⁸ Even after a party has lost unambiguously in the legal forum, the form of compliance may still be negotiated, as it was with Europe in the celebrated bananas case. And virtually all other international organizations are less judicialized than the WTO, allowing

¹⁵ Mo 1994, Mo 1995, Milner and Rosendorff 1997 and other works in the same issue.

¹⁶ Illustrations relevant for international regimes include Goldstein 1996, Wolf and Zangl 1996, Milner 1997, Raustiala 1997, Goldstein and Martin 2000.

¹⁷ Jönsson and Tallberg 1998, Zartman forthcoming.

¹⁸ Busch and Reinhardt 2000.

greater leeway for compliance negotiations. We know little about what happens in these talks and how they influence the compliance outcomes.

Koremenos, Lipson, and Snidal 2001 offer an original set of hypotheses to explain why different international institutions have different structural features. This offering too is interesting and promising as far as it goes, but these new hypotheses also neglect the negotiation process.

Two contrasting outcomes

To see more of what is added by focusing squarely on the negotiation process, consider a sharp contrast between two recent negotiations within the World Trade Organization. The WTO's highest decision-making body is a conference of trade ministers. In 1999 member states accounting for a large majority of world trade said they wanted to go to Seattle on 30 November for their third ministerial conference to launch a new multilateral round, another that would extend the sequence of eight large-scale negotiations that had liberalized trade and elaborated international rules since World War II.¹⁹ Many proposals for the round's agenda foreshadowed significant regime change including more behind-the-border regulation.

As everyone knows, American critics used Seattle to organize a vocal campaign to protest globalization and the WTO, and the conference ended in a dramatic impasse. On the first day union members, environmentalists, consumer advocates, and students marching in three columns converged on downtown Seattle chanting "No new round, turnaround."²⁰ Seattle police allowed protestors to penetrate the space between the convention center and the hotels and block the negotiators from even entering the hall for a day. Police threw tear gas into the tumult and eventually called out the National Guard to restore order. Four days later the ministers left Seattle without having agreed to launch a new round. They failed even to issue a communiqué pledging to keep working together. This meeting simply collapsed, with several cabinet ministers

¹⁹Among those who wanted to launch a new round covering more than agriculture and services were Argentina, Australia, Brazil, Bulgaria, Chile, Costa Rica, the Czech Republic, the European Communities, Hong Kong-China, Hungary, Japan, Korea, Mexico, Morocco, New Zealand, Poland, Romania, Singapore, the Slovak Republic, Slovenia, Switzerland, Thailand, Turkey, the United States, and Uruguay. WTO *Focus* (Aug.-September 1998); *International Trade Reporter (ITR)* 25 November 1998, 1956; WTO General Council, minutes of special session, 7 July 1999.

²⁰*ITR*, 1 December 1999, 1980.

publicly condemning the organization and the United States for the way they had been treated.

The stunning collapse left protestors jubilant,²¹ hosts embarrassed, and market participants confused. Nor was this the organization's first serious impasse that year. Earlier the members had polarized into a bitter deadlock over the choice of a new Director-General. "The WTO's credibility is lower than it has ever been," said *The Economist* on 11 December. The organization's legitimacy had clearly declined.

In November 2001 the same states sent negotiators to the fourth WTO ministerial conference in Doha, Qatar, with a strikingly different result. The ministers eventually broke their impasse. They agreed on an agenda to launch a new major round covering twelve complex issues, to end in January 2005. The package deal also included some side payments. Major players--the United States, the European Union, Japan, Korea, the Cairns group of agricultural exporters, African-Caribbean-Pacific countries, and other developing countries--each managed to get something they valued into the package. This time no minister denounced the WTO for excluding him or her from real decision-making. The organization's credibility and legitimacy had clearly improved.²²

How can we explain this sharp contrast in outcomes—an impasse and an agreement--especially since several significant conditions were the same? The two cases involved the same organization and the same set of states with essentially the same commercial interests. In both cases the negotiators faced the prospect of significant gains that could be achieved through negotiation. Gains could be collected by exchanging differently-valued concessions on market access--lowering remaining mutual barriers in the form of tariffs on industrial goods, tariffs and subsidies on agricultural goods, and barriers to services trade. Other exchanges regarding aspects of the common rules were also conceivable. In short, the problem at Seattle was not that the parties' trade interests clearly ruled out any agenda that could have made all countries better off. In January 1999 it was not obvious that Seattle was going to be a train wreck. In fact, the

²¹*Los Angeles Times*, 5 December 1999, A18; *New York Times*, 5 Decemeber 1999, 14.

²² The first headline from Doha was that the People's Republic of China and Chinese Taipei became WTO members at this conference. These, however, were results of different multilateral negotiations.

Indian delegation, the leading opponent of a new round, believed at that time that the boosters would succeed.²³

Furthermore, several other conditions that were impediments to agreement in Seattle were equally unfavorable two years later. Political demand for a new round from organized business (beyond agriculture and services issues, on which the parties had already agreed to begin discussions) was relatively weak in both cases--weaker for instance than in 1986 when GATT states agreed in Uruguay to launch the last round.²⁴ Second, the negotiators were operating under the same regime rules and decision-making procedures. Multilateral negotiations in the GATT and WTO, unlike most international organizations, lead to binding legal obligations. And in the WTO, unlike the GATT, an adverse ruling in a formal dispute becomes binding automatically unless overturned by consensus. Negotiators knew that renegeing on a new commitment would have greater cost than before; thus it stands to reason that all would be more cautious about accepting any new commitment. But this was still true in 2001.²⁵ Likewise, the WTO decision rule is consensus, which gives the smallest member the authority to block action by the whole. This had been the convention under GATT as well, but in those days few developing countries were active in these negotiations. After 1998, many more developing countries became far more active, as more adopted pro-trade development policies, their new WTO commitments began to have serious costs at home, and yet for many, export gains were not materializing. For instance, even the least-developed African states engaged in serious joint training and caucusing before Seattle and put forward joint technical proposals on issues of concern to them. Managing the WTO toward a consensus was now much more complicated. Yet neither the consensus requirement nor the complexity was any easier in 2001.

We cannot explain why these two cases turned out differently or the terms of the Doha deal without understanding two key changes—in exogenous political conditions and in the negotiation process. In the first category are the fact that Seattle had been an embarrassment and the 11 September 2001 attacks in the United States. In hindsight it appears that by November 2001 key negotiators had decided that these events had

²³Interview with an Indian negotiator, Geneva, June 2000. All interviewees spoke on condition of anonymity.

²⁴*World Trade Agenda [WTA]*, 26 March 2001, 3.

²⁵As evidence of this caution see Y. Tandon, "LDCs Reject a New Round for Doha," 24 July 2001, via www.wtowatch.org/news/index.cfm?ID=2754, viewed on 1 June 2002.

increased the perceived cost of impasse in Doha. This perceived worsening in the alternative to agreement lowered member states' fuzzy reservation values somewhat and probably widened a zone of agreement between them. As for the rest of the process, two partly independent dimensions should be distinguished: the member states' strategies and the strategies used by WTO mediator-managers. The largest traders, the European Union and the United States, shifted their strategies from what I call the strict distributive strategy to more mixed strategies, especially in the final days. This induced smaller parties to show some flexibility in response. In addition, tactics used in 2001 by WTO manager-mediators during preparations in Geneva and at the ministerial conference in Doha were less exclusionary and inflammatory, and in another respect bolder and less counterproductive for that reason, than those used two years earlier.

Both types of shift—in exogenous political conditions and behavioral strategy--were necessary to produce the particular deal reached. Boundedly rational negotiators in the fog of battle can never know with certainty whether they face a positive zone of agreement. Each government has strong incentives to distort information about its true minimum. Furthermore, each negotiator brings biased perceptions and is uncertain about how much can be gained. At the outset most negotiators have only fuzzy perceptions of their own reservation values on many issues, which makes these values subject to framing by the process. This is especially so when he or she is faced with 140 other parties and ten to fifteen highly technical issues simultaneously, and when many member governments lack the expertise needed to sort out the implications of all this complexity by themselves. How others, including mediators and managers, behave during the process critically shapes their perceptions and tips their tactical decisions toward or away from impasse and particular terms of settlement. This pair of cases illustrates vividly how the negotiation process can push parties apart or pull them together, influencing regime evolution and legitimacy either way.

1999 and Seattle²⁶ *Strategies*²⁷

One reason for the 1999 impasse was that the parties' negotiating strategies leaned heavily toward the distributive—that is, behavior functional for claiming value from others—rather than the integrative—behavior functional for deals that create mutual gains. Integrative tactics include relatively open exploration of common problems; proposing a formula, such as a tariff cutting formula, that would create value for many parties; proposing exchanges of concessions that might benefit more than one party; and reframing the issues themselves in ways that ease impasses and create joint gains.

To simplify, many negotiators in 1999 opened with lists of demands for others to concede while rejecting the others' highest priorities, and then stuck to these one-sided positions right down to the final hours in Seattle. India's strategy, for example, was strictly distributive vis-à-vis the developed countries. India led in framing what came to be called the implementation issue. While gathering support among the Like Minded coalition of ten other developing countries, India generated a number of proposals designed to shift value from the rich to the poor states and delay or obstruct the launching of a new round. The central argument was that the 1994 Uruguay round agreements, as developed countries had implemented them, were profoundly unfair to the developing members. The poor had made substantial commitments to open their markets and take other steps, in the expectation of gaining increased market access for their exports especially in agriculture and textiles and clothing. The rich countries had failed to implement valuable market openings in both areas. Vague provisions promising special, differential treatment in favor of developing countries had not been implemented concretely. Furthermore, India and its colleagues argued, certain developed countries have been using antidumping measures to harass exporters, and have been using dispute settlement to attack legitimate developing country policies. Subsidies normally used by developed countries are considered non-

²⁶ The Seattle section of this paper draws upon Odell 2002a.

²⁷ By "strategy" I mean a set of behaviors that are observable in principle and associated with a plan to achieve some objective through bargaining. Thus this behavioral concept has a different meaning from "strategy" in typical game theory. Tactics are particular actions that make up a strategy. Odell 2000 presents a comprehensive strategy typology. A strategy on the distributive end of the spectrum is a set of actions that promote the attainment of one party's goals when they are in conflict with those of the other parties. A strategy on the purely integrative end is a set of actions that promote the attainment of goals that are not in fundamental conflict, actions that expand rather than split the pie. Tactical elements may also be mixed, simultaneously or sequentially.

actionable under these rules, while subsidies usually used by developing countries are actionable.²⁸ India proposed specific developed country concessions in the rules on subsidies, antidumping, sanitary, and investment measures, and promised virtually no negotiating gain to the developed countries.²⁹

Implementation turned out to have more than one meaning. The second meaning was the point that developing countries were having difficulty setting up institutions and training officials as required to live up to some of their own commitments.

The fifteen-nation Cairns group³⁰ of agricultural exporters also adopted an ambitious distributive strategy, demanding one-way concessions from those who protect and subsidize farming. Cairns insisted on nailing down substantial gains in the agenda itself, before the negotiation proper had even begun. The group wanted the EU and Japan to commit not only to further liberalize agriculture substantially—which the latter accepted—but also to finally bring agriculture under the same rules as other goods trade by the end of this round. They demanded that one negotiating goal must be the elimination of export subsidies. Meanwhile Cairns members showed little enthusiasm for the EU’s priority proposals on investment, competition policy, environment and labor.

Brussels was equally firm in refusing to eliminate agricultural export subsidies and in demanding ambitious new behind-the-border issues. The EU maintained that agreements on investment and competition policy would each create mutual benefit in its own right. If so, the EU strategy could be considered partially integrative. Many others, however, viewed these new schemes as losses. Despite widespread opposition in North as well as South, the EU held firm for these demands through the last day in Seattle and beyond.

Japan also favored an ambitious round dealing with investment, electronic commerce, antidumping, and other issues. A narrow approach would be “too selfish” and therefore not viable, they said.³¹ Issues beyond

²⁸ *Communication from India, Concerns regarding Implementation of Provisions relating to Differential and More Favourable Treatment of Developing and Least-Developed Countries in Various WTO Agreements*, WTO Doc. WT/GC/2/108 (Nov. 13, 1998).

²⁹ *ITR*, 9 June 1999, 967-968.

³⁰ Australia, New Zealand, Indonesia, Malaysia, Philippines, Thailand, Fiji, South Africa, Canada, Argentina, Brazil, Chile, Colombia, Paraguay, and Uruguay.

³¹ Statement by Japan’s Ministry of International Trade and Industry in Seattle, reported in *Inside U.S. Trade [IUST]*, special report II, 3 December 1999, 3.

agriculture and services are needed so that all countries can come away with gains. Japan so firmly rejected Cairns demands on agriculture in October that its Geneva delegate refused to continue talking about it until Seattle.

The United States mixed one major mutual-gains initiative with prominent distributive tactics. The U.S. advocated fresh reciprocal bargaining over market access in eight industrial sectors. Other elements of the U.S. position were clearly distributive. Washington's sectoral approach excluded sectors of great interest to other members. In agriculture the U.S., like Cairns, mostly demanded one-way concessions from the EU, Japan, and Korea. The U.S. opposed including competition policy and showed little enthusiasm for an investment agreement. The Clinton administration parried implementation demands as well, replying that developing countries' problems with meeting agreed deadlines could be handled case-by-case after a round began. Washington flatly rejected renegotiating the textile or antidumping agreements, high priorities for developing countries and Japan. The U.S. said countries should finish implementing the 1994 deals before any renegotiations began.

Other U.S. ideas that might have been intended as mutual-gain possibilities looked to others like losses. Washington and Ottawa continued to advocate making the WTO and its dispute settlement process more transparent to public scrutiny and participation.³² Most controversially, the Clinton administration and the EU repeatedly urged the WTO to devote greater attention to how countries treat their workers. Beginning at the 1996 Singapore ministerial meeting, developing countries had consistently reacted strongly against bringing labor rights into the WTO. Yet belatedly on 1 November 1999, after it was too late to start building a consensus even on an easy problem, Washington formally proposed that ministers agree in Seattle to create a new Working Party on Trade and Labor inside the WTO. Its mandate would be limited to studying the relationship between trade and employment, social protections, and observation of core labor standards; examining the extent of forced child labor in industries engaged in international trade; and reporting their findings to the next ministerial conference. In sum, the U.S. strategy, blocking so many issues favored by the EU, Japan, and developing countries, gave other players little incentive to make concessions to the US wish list.

³²India and Mexico blocked some of these ideas on 16 February 1999. *ITR*, 17 February 1999, 272.

Thus the strategies of the two trade superpowers--the EU to some extent and especially the United States--drove blocking coalitions together and helped them maintain their unity, as well as clashing with each other over the round's broad scope. Meanwhile, many other governments prepared many other submissions too numerous to recount. For example, 22 African members joined forces in submissions regarding the rules on customs valuation and trade-related intellectual property rights (TRIPS).

Mediation and political management

In some multilateral negotiations, parties begin with conflicting positions but the process, often involving mediators, rearranges these positions into acceptable agreements. A second problem in 1999 was that mediation and political management tactics in Geneva and Seattle were also weaker and less inclusive than in Doha, poorly coordinated, and even counterproductive. The Geneva preparations got serious far too late. Even then, two potential mediators were in weak positions to break an impasse. Moreover, the chair of the WTO General Council used a technique that perversely encouraged rigidity by the parties. The WTO's mechanisms for bridging differences prior to the ministerial conference failed to settle a single one of the fifteen issues in play.

Later one WTO Ambassador recalled:

One of the main things that went wrong for Seattle was the preparation. And I was as guilty of this as anyone. We agreed that we were going to have a proposal-driven process. We would all put forward all our ideas and then work it down into some agreements. So then [in October] we had this 30 page document full of multiple options on issues and square brackets. Then we in Geneva seemed incapable of refining it, of seeing our piece go, of making compromises.³³

First, however, preparations for Seattle were delayed by a prolonged fight over the choice of a successor to WTO Director-General Renato Ruggiero, who had announced he planned to retire on 30 April 1999. Four initial candidates were reduced effectively to two: Mr. Mike Moore, former Trade Minister of New Zealand, and Dr. Supachai Panitchpakdi,

³³ Interview, Geneva, 21 November 2002. Many other Geneva participants have echoed these points.

Thailand's Deputy Prime Minister and Commerce Minister. As Ruggiero's departure approached, members lined up behind their first choices. On 30 April, one of the chief mediators, General Council Chair Ali Mchumo of Tanzania, proposed Mike Moore as the candidate around whom consensus could best be built. He reported that 62 delegations favored Moore while 59 favored Supachai. He said Moore had support from a wide geographical range of members and faced less determined resistance from his opponents.³⁴

Malaysia, speaking for Thailand and the other ASEAN states, immediately objected to this proposal, declared that therefore no consensus existed for Moore, and called for a vote. Malaysia had been claiming that its candidate had initially won the support of 65 percent of the delegations that had expressed a preference. Malaysia accused unnamed others, evidently meaning the United States, of taking "subversive and divisive actions" that undermined the system by exercising a secret veto, preventing the chair from nominating Supachai until they could twist more arms behind the scenes. Kenya supported Malaysia and urged Mchumo to try to form a consensus behind Supachai. Also endorsing Malaysia's position were Japan, Korea, Hong Kong, India, Pakistan, Egypt, Uganda, Zimbabwe, Cameroon, Mexico, Haiti, and Cuba. Behind Moore were the United States, Canada, most of Latin America, Nigeria, and Turkey. The EU states were split. Diplomatic courtesies dropped away as ambassadors attacked one another with remarkable charges of intellectual dishonesty, irresponsibility, intimidation, disinformation, and assaults on others' honor.³⁵ This long meeting finally recessed without a settlement and the bitter deadlock continued for weeks. At a 22 July meeting, Bangladesh and Australia finally brokered a grudging compromise. Moore and Supachai would each be appointed to the post for a three-year term, Moore first, with no possibility that either could be extended or reappointed. A coalition of mostly developing countries had taken the WTO hostage and had won something.

As a consequence of this fight, two potential mediators were in unusually weak positions to take the lead. Between April and September there was no permanent Director-General was in town at all. Even when he arrived, Moore spent a substantial share of his initial time visiting developing country delegations and pledging fealty to their interests. He

³⁴*ITR*, 12 May 1999, 810.

³⁵WTO General Council, minutes of meeting, 30 April and 1, 4, and 6 May, WTO Doc. WT/GC/M/40/Add.1.

had no Deputy DGs in place until November. General Council chairman Mchumo apparently lost the confidence of many delegations, for reasons that may have been beyond his control.³⁶

The task in Geneva was to agree on as much as possible of a ministerial declaration setting the agenda for a new round. The drafting phase finally got down to business only 8 weeks before the opening gavel in Seattle. The analogous phase in 1986 had taken more than 18 weeks. The chair was faced with an unprecedented proliferation of proposals indicating many complex differences to be narrowed. On 7 October chair Mchumo circulated a draft declaration on his own responsibility. It had ministers agreeing to launch a new round. It listed most of the agenda items advanced by parties, in relatively simple form except for agriculture and services. The U.S. and others favored working from this draft, but the EU and Japan rejected it as a basis for discussion. The draft's section on implementation also had not listed specific steps for immediate action in Seattle. On 11 October Mchumo circulated a long addendum with many highly specific demands for immediate action. This extensive language implied extensive renegotiation of many Uruguay round agreements—in 8 weeks. U.S. negotiators and others regarded these as over the top—not serious proposals but rather negotiating coin to be given up in return for satisfaction on other issues, or an effort to clog the process in the hope of blocking the launch of any round.³⁷

On 19 October Mchumo replaced this with an even more sprawling 33-page draft declaration, full of square brackets indicating disagreements. It presented three alternative positions each on implementation and services and four alternatives on agriculture.³⁸ The chair even accepted provocative language that criticized members whose ministers would be expected to sign it. In many cases he added language with which governments were attempting to maneuver rivals not only into agreeing to negotiate on an issue, but also into conceding a specific outcome via the Seattle declaration itself. This document became a mere compilation of opposed positions rather than a true single negotiating text designed to express a possible consensus.

³⁶Interviews with participating Geneva ambassadors, Geneva, June 2000.

³⁷Interview with a U.S. official, June 2000, and a former Indian official, July 2000.

³⁸*IUST*, 22 October 1999.

One participant complained that “the October 1999 draft was a backwards way to try to build a consensus.” The previous spring, the Central European countries and the Swiss had recommended starting simple, as in 1986, adding elements to the single text only after parties had worked out compromises. The complaint was that once delegations see their positions in the chair’s document, then the process amounts to convincing parties to lose things, making it more difficult to achieve any consensus.³⁹

Much of the time thereafter in Geneva was absorbed discussing agriculture and implementation.⁴⁰ Parties took one another’s issues hostage, an aggressive distributive tactic. Pakistan, India, Egypt, Malaysia, Mexico, and others said they opposed negotiating new rules until they had been satisfied on implementation of existing ones.⁴¹ The Cairns group refused to talk about any other issues until they had been satisfied on agriculture. The EU insisted it could not show flexibility on agriculture until others had agreed to negotiate over its priority items such as investment. The U.S. refused to talk about negotiating over antidumping or textiles under any circumstances. These same governments had committed to launching a round in Seattle.

As in 1986, the Director-General and delegations made efforts outside the General Council room where, with more than 100 delegations at the table, it is virtually impossible to break impasses. Moore began holding small informal meetings in his “green room,” a small conference room in the executive suite. GATT Directors-General had established a tradition of inviting representatives of no more than 30 members to this room or to their homes. The names of the nations invited are not made public, but typically they include the Quad—the EU, the U.S., Canada and Japan—and other members that account for the most trade, with some variation depending on product or issue to be discussed. Most seats are occupied by larger developing countries, especially as the EU has absorbed more and more developed states.⁴² But dozens of small traders were

³⁹Interviews, Geneva, June 2000. This insight is consistent with psychological prospect theory, the laboratory finding that subjects take greater risks (e.g., of no agreement) to avoid losses than to achieve gains of the same magnitude.

⁴⁰WTA, 22 November 1999, 8.

⁴¹IUST, 5 November 1999, 16.

⁴²A list of likely participants besides the Quad, in descending order of trade value, includes: Hong Kong-China, Korea, Singapore, Switzerland, Mexico, Malaysia, Australia, Thailand, Brazil, Norway, Indonesia, India, Poland, South Africa, Czech Republic, Philippines, Argentina, Chile, New Zealand, Hungary, Egypt, Colombia, and Pakistan. Jeffrey J. Schott & Jayashree Watal, *Decision-*

excluded entirely in 1999 and not informed what was happening inside. Delegates inside the green room generally repeated the same uncompromising positions they had been taking in the larger venue.⁴³ It was becoming clear that Geneva was “full of developing country delegates insisting that they are not going to be ‘rolled’ this time, as they believe they were in the Uruguay round.”⁴⁴ Moore met bilaterally with many delegations and asked former deputy director-general Anwarul Hoda of India to meet privately with delegations to explore for a possible deal on implementation.⁴⁵

The EU attempted to build a coalition without the U.S. They began with a “defensive alliance” of high-cost agricultural producers—Norway, Switzerland, Japan and Korea. This group agreed to insist on agriculture language referring to the “multifunctional” character of farming, a marker they could cite later to justify maintaining support programs despite their trade-distorting effects.⁴⁶ Then they “built outward,” as an EU negotiator put it, talking to other interlocutors willing to work toward compromises.⁴⁷ The EU eventually gave the document to Moore, urging him to put it forward as a chair’s text, but he declined.⁴⁸

The planned deadline for the Geneva phase was 5 November, but not one major issue had been settled by then. Moore called capitals again to seek greater flexibility. Talks continued with some near breakthroughs that then broke down. Moore considered circulating a simpler text on his own responsibility, as Ruggiero had done prior to the 1996 Singapore ministerial, but hesitated when some delegations objected.⁴⁹ Finally on 23 November Moore and Mchumo threw in the towel, pointing to remaining gaps over agriculture and implementation above all. After a year of work, the best they could send to ministers was the 19 October hodgepodge that no one thought was adequate for a ministerial conference.

making in the WTO, International Economic Policy Briefs 00-2, Institute for International Economics, Table 1 (2000). The PRC would rank just below Korea in this list.

⁴³Interviews with three Secretariat leaders and two delegates, Geneva, June 2000.

⁴⁴*WTA*, 8 November 1999, 9.

⁴⁵*IUST*, 5 November 1999, 4, 15.

⁴⁶*WTA*, 8 November 1999, 13; interview with a Geneva ambassador involved in the coalition building.

⁴⁷Interview with an EU official, Geneva, June 2000.

⁴⁸Interview with an EU official, Geneva, June 2000.

⁴⁹*IUST*, 24 November 1999, 1.

The management of Seattle threw up additional colorful obstacles to agreement, strengthened the blocking coalition, and cut short the impasse-breaking process before it could be completed. Three particular management decisions stand out. Most obviously, the police failed to prevent the demonstrators from taking control of the streets around the conference hall. As a result, some international visitors were tear-gassed and they lost one of the four allotted days.

Second, as ministers finally began to negotiate on Wednesday, the head of the host government gave a now-famous interview to a Seattle newspaper. After mentioning his proposal to create a WTO working group to study labor issues, President Clinton volunteered, “Ultimately I would favor a system in which sanctions would come for violating any provision of a trade agreement.”⁵⁰ Clinton infuriated other countries and naturally made it more difficult for any fence sitters to support the U.S. on labor. “The worst thing in the process in Seattle,” observed a Southeast Asian diplomat who was there, “was President Clinton’s statement. It hardened the resolve of a lot of developing countries to resist. This statement was a godsend to those who did not want a round.”⁵¹ The president undermined the future credibility of his own representatives, including the conference chair, who had gone to great pains to deny that sanctioning other countries was the purpose behind their proposal. Virtually everyone concluded that Clinton’s top priority was not reaching agreement but helping the Democratic party in the coming elections.

Third, U.S. minister Charlene Barshefsky decided to chair the conference as well as hosting it. The conference chair is a potential mediator and consensus builder. Past ministerials held in Montreal and Brussels had been chaired by Uruguay, not by the host government. Any U.S. representative would have had difficulty gaining the trust of other delegates as an honest broker. Moreover, rather than offsetting predictable suspicions, Barshefsky amplified them according to numerous participants. She made statements that others found arrogant and insulting, one EU representative said.⁵² In one on Thursday, cited by many, she pressured large working groups to reach agreements, and threatened, “If we are unable to achieve that goal, I fully reserve the right to also use a more exclusive process to achieve a final outcome. There is no question about either my right as the chair to do it or my intention as the chair to do it.

⁵⁰*Seattle Post-Intelligencer*, 1 December 1999, 1.

⁵¹Interview in Geneva, June 2000.

⁵²*WTA*, 8 December 1999, 6.

But it is not the way I want this to be done.”⁵³ She spent more time defending firm U.S. distributive positions in press conferences than privately building consensus—shopping integrative proposals around, seeking ministers’ ideas, keeping them informed, and cajoling them for concessions. She even insisted on performing as the U.S. negotiator in some sessions, further undermining any image of impartiality she might have cultivated.

For comparison, a former negotiator from the Uruguay round recalls an example of how another consensus-builder operated, chairing the group on dispute settlement and the WTO agreement:

Ambassador Lacarte [of Uruguay] was a great chair. He listened very carefully. He went to great lengths to give everyone a sense of being included. Then he also called in each delegation, or spokesman for several delegations, for what he called “confessionals.” He also traveled to some capitals. Essentially he said, “Trust me. Show me your cards.” I’m not sure how many really did. But he tried to test, to feel, to probe for where you had flexibility and where you really had none. And once he found something where you really had no flexibility, he took that on board as something you were going to have to have. On other issues, he expected you to sit silently and cooperate when it was something the other guy had to have.⁵⁴

The plan was to set up five ministerial working groups in Seattle, each group specializing on different outstanding issues, chaired by a different minister, and supported by a Deputy Director-General, as in past GATT conferences. Another problem was that for weeks Washington simply did not respond to efforts by Geneva officials to recruit the group chairs.⁵⁵ They were not all named until the day before the conference. These potential mediators therefore had to do their best without common preparation. The Secretariat prepared some potential compromise texts in case delegations asked for them, but according to one leader, “no one ever

⁵³ *IUST*, 3 December 1999, 4.

⁵⁴ Interview, June 2000. Another illustration is the innovative mediation of Tommy Koh, Singapore’s ambassador to the UN Conference on the Law of the Sea in 1978 and 1979 and chair of one of its negotiating groups. See Antrim & Sebenius 1992.

⁵⁵ Interview with a Secretariat official, Geneva, June 2000. During this period the U.S. Trade Representative was also busy with bilateral negotiations with China over its WTO accession.

asked.’⁵⁶ Moore was not prepared to be bold, at least not in such a poisoned atmosphere.

On Thursday afternoon with 24 hours remaining, Barshefsky decided to commence small green room sessions to work on the remaining gaps. Some excluded ministers, left in the dark about what was happening inside, objected vehemently. The Africans, who had spent so much time preparing and whose leader, Kenya, was not inside, issued a formal statement saying:

There is no transparency in the proceedings and African countries are being marginalized and generally excluded on issues of vital importance for our peoples and their future. We are particularly concerned over the stated intentions to produce a ministerial text at any cost including at the cost of procedures designed to secure participation and consensus.... We will not be able to join the consensus required to meet the objectives of this Ministerial Conference.⁵⁷

Delegates from Jamaica and Guyana tried to force their way into the green room. The Dominican Republic’s ambassador, a U.S.-educated economist, complained: “They still think the WTO is a club. They still think 20 countries can decide for the rest of us.”⁵⁸ Many believed Barshefsky was determined to force an agenda favorable to U.S. preferences in the small group and then present a *fait accompli* to the 135, take it or leave it.⁵⁹

Meanwhile, ministers in the larger groups surprisingly were getting close to agreement on an agenda including at least five issue areas. Their informal accomplishments, despite all these obstacles, reinforce the impression that a better yearlong process would have made a significant difference even given the protestors’ campaign. The services section of the declaration was virtually finished. Canada’s Agriculture Minister, Lyle Vanclief, said, “good progress was made on agriculture ... We got down to millimeters away from a statement on export subsidies that we could all live with.”⁶⁰ Many governments agreed to launch a round including

⁵⁶Interview, Geneva, June 2000.

⁵⁷Statement of Dr. John Abu, Minister of Trade and Industry of the Republic of Ghana, on behalf of African Ministers of Trade, in Seattle, 2 December 1999. Permanent Delegation of the Organization of African Unity in Geneva.

⁵⁸*Los Angeles Times*, 5 December 1999, A20.

⁵⁹*ITR*, 10 December 1999, 11-12.

⁶⁰*ITR*, 9 December 1999, 1997; *IUST*, 3 December 1999, 4-5; *New York Times*, 4 December 1999, A6

industrial tariffs, though India and a few others continued to link this area to implementation.⁶¹ On transparency in government procurement, India was the only country that did not join in the consensus.⁶²

On implementation, Hoda had been hard at work behind the scenes and by Friday morning had a lengthy, specific text that he believed might have been accepted if other elements of a package had fallen into place.⁶³ The collapse meant developing countries lost concrete gains that may have been close to approval. Little headway was made toward a consensus on investment, competition policy, environment, or increasing the transparency of dispute settlement.⁶⁴

By late Friday, green room discussion had been consumed by agriculture and implementation; it had not even reached many other issues. But talks could not continue into Saturday because Seattle had promised the building to a convention of optometrists.⁶⁵ As a WTO ambassador recalled, “we were shattered to discover in Seattle that they had not booked the hall beyond the scheduled deadline for the conference. In GATT these things always run over.”⁶⁶ In 1986 in Punta del Este agreement had required six days. Barshefsky and Moore had allotted only four days, which was simply too little time for the unusually complex agenda at hand. Then they lost one of those four to the demonstrators and had not planned for a time extension. They simply announced the conference was over.

2001 and Doha

This debacle left the organization reeling and looking for ways to rebuild confidence and legitimacy. The members formally launched the mandated talks on agriculture and services as well as a discussion of developing country complaints about implementation of the last round. But 2000 was dominated by intransigence, frustration and drift, while all awaited the results of the United States elections. Through the summer of 2001 it appeared that Doha too could easily end without an agreement to launch a

⁶¹India, Ministry of Commerce and Industry, *India and the WTO* (Newsletter), Nov.-Dec. 1999, available at <http://commin.nic.in/doc/wtonovdec2.htm>.

⁶²WTA, 8 December 1999, 8.

⁶³*Annex: Possible Decisions at Seattle on Implementation*, 0545 hours, 3 December 1999, courtesy Anwarul Hoda and Balkrishan Zutshi. See also *New York Times*, 4 December 1999, A6.

⁶⁴An EU negotiator indicated later that the EU actually could have accepted a package deal with little on investment or competition policy besides agreement to continue studying these issues, if the package had had sufficient value on other issues. Interview, Brussels, 14 July 2000.

⁶⁵Interviews in Washington and Geneva, June 2000.

⁶⁶Interview in Geneva, June 2000.

new round. But eventually the negotiation process changed in each of these two key dimensions, in the presence of changes in political conditions.

Strategies

The EU and the US eventually shifted from strictly distributive to mixed strategies, especially in the final days and hours in Doha, and others reciprocated. In this case the negotiators collectively practiced what one text calls “dovetailing differences.”⁶⁷ Negotiators seeking more integrative outcomes often look for differences, for instance in parties’ preference orders on different issues, that can be exploited for mutual gain. The integrative strategy includes offering to grant a concession or fallback on something one values less if the other will give us a gain on an issue we value more.

Pascal Lamy, chief negotiator for the European Union, made his strategy more integrative particularly regarding developing and least developed countries. Early in 2001 he indicated he could settle for weaker new rules on investment and competition policy. The EU and an informal coalition working on competition policy agreed that individual decisions by competition authorities would not be subject to WTO dispute settlement, and suggested they might settle for a plurilateral agreement, one that would not even require signature by all WTO members.⁶⁸ A “Friends of Investment” coalition led by Japan and including the EU discussed an investment agreement whose principles would not be binding except for sectors that each government chose to put on a positive list.⁶⁹ The EU announced a unilateral concession to try to woo least developed countries away from blocking coalitions. Brussels volunteered to cut its import duties to zero on all exports except arms from least developed countries. Lamy and his team traveled during the year to several regional meetings of developing countries to woo them. The EU remained firm on agriculture and continued to demand major concessions regarding the environment, especially the recognition of the so-called precautionary principle that could permit greater restrictions against agricultural imports. Later in Doha, Lamy made additional compromises.

⁶⁷ Lax and Sebenius 1986.

⁶⁸ *IUST*, 23 February 2001, 5; 13 April 2001, 4.

⁶⁹ *IUST*, 30 March 2001, 13; *WTA*, 9 April 2001, 2; interview in Tokyo, 7 December 2001. The US was cool to this timid approach.

US negotiating strategy also became more mixed. Washington still preferred a new round agenda limited to agriculture, services, and industrial market access.⁷⁰ The new Republican administration dropped Clinton's demand to discuss labor rights in the WTO, which made it easier to split the developing country blocking coalition. In April, USTR Robert Zoellick met African ministers in Washington and tried to charm them by opening with a few words in Swahili.⁷¹ In October, recognizing that they had decided to place heavy weight on the issue of public health and the TRIPS agreement, Zoellick offered two limited concessions on that issue. He used the integrative tactic of putting forward a proposal that would address this concern but in a way less costly to his government and constituents than the demand on the table.⁷² Later in Doha he fell back further on two issues where there were serious gaps, in exchange for gains on other issues.

Lamy and Zoellick and their teams also began intensive negotiations between them after Zoellick had taken up his post and before the EU Gothenburg summit meeting in June. They covered the full range of issues on the WTO agenda and reached some preliminary agreements.⁷³

In response to the greater flexibility shown by the two trade superpowers, most other parties also shifted away from pure value claiming, giving up on major positions in return for these fallbacks by the leaders. Japanese negotiators showed greater flexibility on investment and competition policy. On agriculture Tokyo continued its firm defensive claiming strategy to prevent additional liberalization.⁷⁴ But when this proved to be inconsistent with WTO consensus, Japan's minister gave way in Doha in exchange for gains on other issues, especially antidumping and the new issues.

Some developing countries, especially the largest traders, preferred to launch a new reciprocal liberalizing round and were willing to barter agenda items to that end. Others continued active in coalitions to claim value from the industrial countries. Yet by January 2001, according to an African ambassador to the WTO, "the tone has changed. Developing countries have had their 'mourning period' on implementation. Now people are talking about solutions. No one thinks industrialized countries

⁷⁰ *IUST*, 14 September 2001, 19.

⁷¹ *Global News Wire*, 10 November 2001.

⁷² Discussed in Odell 2000, chapter 7.

⁷³ Interview with a participating EU official, Geneva, 13 November 2002.

⁷⁴ *New York Times*, 31 October 2001, c1.

will give developing countries more to ‘rebalance’ agreements without something in exchange.”⁷⁵ In the end the weakest players fell back the most from their initial positions.

Mediation and political management

Second, management and mediation tactics in 2001 were more inclusive and stronger than in 1999. They kept the spotlight on the common interests and helped maneuver parties into the eventual tactical shifts just noted. This year there was no fight over DG selection and a Director General was in place and more experienced. Mike Moore traveled the world during the two years after Seattle, meeting personally with more than 300 ministers and urging them to give their negotiators flexibility. He advocated a “Development Round” to benefit the poorer members.

In Geneva Moore and Ambassador Stuart Harbinson of Hong Kong-China, chair of the General Council, continued a process of informal consultations that had begun to evolve in 2000, one they called a “bottom up” approach meant to be much more internally transparent and legitimate than in 1999. Harbinson was an experienced and widely respected civil servant. He met with many delegations and groups informally to receive their ideas, test their resistance points, and experiment with ways out of impasses. Diplomats in Geneva were reported to believe that “the prospects for a success in Qatar are pretty much in his hands.”⁷⁶ He and Moore set a deadline of end July for closing at least some gaps.

By then the members were still firmly stalemated. A large group of least developed countries meeting in Zanzibar declared clearly that they were not ready for a round including new issues.⁷⁷ Moore and Harbinson held a formal meeting for what Moore called a “reality check.” Harbinson reported that extensive negotiating effort had not produced proportionate movement. “It is not simply the extent of the outstanding differences in position that is worrying,” he explained, “it is also the apparently entrenched nature of some of these differences.”⁷⁸ Since one common barrier to agreement is overconfidence by advocates, a common mediation technique is providing information to correct overly optimistic beliefs. He reported on which proposals and demands for exceptions were failing to

⁷⁵ Financial Times, 30 January 2001.

⁷⁶ WTA, 26 March 2001, 5.

⁷⁷ Yash Tandon, “LDCs Reject a New Round for Doha,” 24 July 2001, distributed by www.wtowatch.org/news/index.cfm?ID=2754.

⁷⁸ IUST, 27 July 2001.

achieve consensus as well as the issues where differences seemed to be narrowing. Moore warned that "the situation is fragile, and without generosity, good manners and good will, the process could implode and become unmanageable."⁷⁹

On 26 September Harbinson, with help from other ambassadors and the Secretariat, publicly laid on the table an informal single negotiating text--another relatively strong mediation tactic.⁸⁰ Harbinson proposed a relatively short draft ministerial declaration meant to express a consensus. To generate support in the next stage it would naturally need to include gains for many parties, but most of those issues were controversial. Harbinson's text was fairly bold in that it deliberately included very few "square brackets," or items reflecting a division of views. He did subtract the implementation issues, where it seemed there might be no agreement zone, from the main declaration and put them in a separate draft declaration, to increase the chances of agreement on the rest. Doing so had distributive implications, of course; it worked against those attempting to hold the whole hostage in order to leverage gains on implementation. Otherwise he aimed for compromise language and making the whole seem balanced. He stressed that no item had been agreed and that none would be agreed until all had been settled. But Harbinson and Moore said this package represented the greatest chance for achieving a political consensus that year in their judgment.⁸¹

Scholars can recognize this move as an effort to create a focal point. This means a possible settlement that will be effective in coordinating the parties' expectations. Schelling was thinking of possible outcome points given by nature, such as a river as a line for separating warring armies that have decided they prefer to settle but cannot communicate overtly. But there is no reason a focal point serving the same function could not be created, in negotiations that do permit direct communication. If the regime mediator's attempt is to succeed, parties must assess the chair's text strategically as well as from their separate standpoints. Each will ask not only whether our government can work with the text as a basis for final negotiations, but also would a "better" text "fly" politically? Or would a change to the text knock another coalition off the consensus? The mediator's challenge is to estimate the parties' true reservation values and

⁷⁹ WTO, The Doha Ministerial, Culmination of a Two-Year Process (Doha WTO Ministerial 2001: Briefing Notes).

⁸⁰ Buzan 1981.

⁸¹ *ITR*, 4 October 2001, 1547.

the likelihood of further persuasion, and then to assemble a formula or package that parties will judge to be at least a fair basis for further negotiations, and ideally as “balanced” in this political sense of a stable equilibrium. The move fails if parties reject the text as too unfavorable or imbalanced to be acceptable as a framework.

The informal single text may also be designed to help negotiators deal with extreme constituents back home in domestic politics during the next stage. Geneva consultations showed, for instance, that the US was the only country resisting the antidumping item.⁸² The chair’s text signaled to Congress that if their agent rejected all deals that included that item (to satisfy their steel industry), he would block a round that could benefit many other US sectors, and likewise with other countries.

Recall that at this stage in 1999 the key mediator instead issued a long compilation of opposed positions full of square brackets, not a single text. The Harbinson draft offering some gain to many parties, with his statement after extensive consultations that this is the best we can do, created fewer incentives to dig in heels and a much stronger incentive for negotiators to accept.

In public many negotiators criticized these drafts for departures from their stated preferences. The package included reform of antidumping practices despite the clear US rejection, and it excluded all three of the EU’s demands for negotiations on environmental issues despite strong domestic pressure for them. India, Malaysia, Honduras, Tanzania, and many others complained that the implementation concessions were far from sufficient to persuade them to accept a new round. Many complained about the agriculture language. Moore quipped that the drafts were “a balance of unhappiness.”⁸³ But most delegations said they could be a basis for further talks and privately some said the texts were almost ready to go to ministers for the tough decisions.⁸⁴

⁸² *IUST*, 5 October 2001, 18.

⁸³ *New Zealand Herald*, 10 November 2001.

⁸⁴ The secretariat calculated that the pre-Seattle 19 October 1999 draft declaration was 34 pages long and contained 402 pairs of square brackets indicating disagreements. The pre-Doha 26 September 2001 draft declaration and the draft implementation decision together came to 20 pages and only 13 pairs of square brackets. WTO, *The Doha Ministerial, Culmination of a Two-Year Process (Doha WTO Ministerial 2001: Briefing Notes)*.

Moore brought together ministers from 22 countries informally prior to Doha twice—in Mexico City in August and Singapore in October. Besides including all the most influential ministers, he invited Gabon and Tanzania, least developed members of the African coalition that had felt so affronted in Seattle, into the inner circle for the first time.⁸⁵ After the Singapore meeting, ministers reported that a consensus on agriculture was beginning to emerge, and that developing countries acknowledged that the EU negotiator would have to get something on the environment in order to achieve the necessary domestic support. India's minister was still disappointed with the small number of unreciprocated concessions on implementation offered by the developed countries prior to the round. Privately, however, several delegates reported that India's coalition partners were dropping away from its hard line position. One participant reported that at these informal meetings, negotiators who were divided, like Zoellick of the US and Takeo Hiranuma of Japan regarding antidumping, reassured each other that they were sensitive to each other's political needs, which increased confidence that a deal could be reached.⁸⁶ George Yeo, Singapore's minister and chair of this meeting, said the Harbinson draft declarations and this session had brought the WTO 75 percent of the way toward the launch of a new round. "A new Harbinson text should be able to get us 85 to 90 percent of the way there by Doha."⁸⁷

One of the most difficult impasses in 2001 proved to concern the Intellectual Property Rights Agreement and public health. On 4 October a very large coalition of developing countries—including the African Group, Brazil, India, and 17 other Latin American and Asian states, proposed that ministers all declare that "Nothing in the TRIPS agreement shall prevent members from taking measures to protect public health," as well as more detailed language.⁸⁸ The impetus came from the AIDS pandemic, pressures to break patents to get cheaper medicines, and a suit (later dropped) by pharmaceutical companies against a South African law allowing patented medicine sold cheaper abroad to be imported without the right holders' permission. The WTO TRIPS agreement, like many national patent laws, already provided limited authority for overriding drug patents during a national emergency. Yet at the companies' urging, Washington had filed complaints under this agreement against Thai and Brazilian patent legislation. Powerful emotional feelings propelled this campaign, which

⁸⁵ *Bridges*, 16 October 2001, a news digest viewed at www.ictsd.org/weekly/index.htm on 3 June 2002.

⁸⁶ Interview with a Japanese participant, Tokyo, 7 December 2001.

⁸⁷ *ITR*, 18 October 2001, 1632-35.

⁸⁸ WTO document WT/GC/W/450, 4 October 2001.

resonated with public opinion. The US, Switzerland, and other developed countries opposed new language that could permanently enlarge the loophole to cover more than medicine shortages genuinely due to patent protection.⁸⁹ They offered a declaration that would reaffirm the agreement's existing flexibility, and Washington offered least developed countries an extra ten years (until 2016) to implement TRIPS for pharmaceuticals. But the coalition was not satisfied. In October when Harbinson attempted to produce a single negotiating text on this issue, he could find no satisfactory compromise.

On 27 October, he published second drafts of his two primary documents. Antidumping stayed in despite shouts from the US Congress. On agriculture he added that the goal of the talks would include "reductions of, with a view to phasing out, all forms of export subsidies"--despite the EU's firm public rejection. On controversial new areas—environment, investment, and competition policy, his text said "work" would proceed until the next ministerial conference, when decisions would be taken on modalities of negotiation. He issued a new draft declaration on TRIPS/health that presented two competing versions of a key paragraph as alternatives, which at least framed the ensuing debate.

A comparison of the mediator's October drafts with the decisions adopted later in Doha reveals how much of the negotiating work had been completed before the ministers gathered. Nothing had been agreed and crucial trade-offs on several sensitive issues proved elusive until the final hours in Doha. Yet when they settled, they settled on declarations whose language was almost entirely the same as, and whose structures were identical to, those of Harbinson's second drafts. A mediator had succeeded in creating a focal point for the parties, in dramatic contrast with the 1999 process at the same stage.

Conference management

Conference management and mediation tactics in Doha were also much more favorable for breaking impasses than in Seattle. The choice of Doha naturally made it difficult for many NGOs to attend and the government prohibited public demonstrations. The conference chair, Qatar's Minister Hussain Kamal, did not use the post to push private goals of any country nor did he insult other ministers. Unlike Clinton and Barshefsky, Kamal and Moore made no flagrant interventions that strengthened blocking

⁸⁹ *IUST*, 9 September 2001, 11; *ITR*, 10 October 2001, 1687; *WTA*, 10 October 2001, 1.

coalitions. Equally important, they allowed more time for the delegates to do their work. At the scheduled deadline the ministers remained deadlocked on certain issues, as usual, and this time the chair extended the meeting.

At the outset the Secretariat named six ministers as “Friends of the Chair” to take a lead in brokering deals on the most important outstanding impasses. The six held consultations open to any member state to discuss implementation, environment, rules such as antidumping, TRIPS/public health, agriculture, and proposed new issues.

On that first day South Asian and African ministers jointly and bluntly rejected opening negotiations on investment or competition policy.⁹⁰ For the first two days many delegations defended their inconsistent positions in case they could claim some additional value. But on the last three days under steady prodding by the mediators, first the U.S. negotiator and then others blended in some integrative tactics and fell back closer to their true reservation values.

The TRIPS/health issue looked like it might break the entire conference, according to several participants. This was an issue (unlike environment and labor standards) on which developing country governments saw eye to eye with NGO activists. They worked in parallel, with groups in Europe and North America raising public awareness of the African AIDS crisis and drug prices.⁹¹ When the African states rejected the US attempt to split them off with lesser concessions, Zoellick on the third day accepted a modified version of their position, over the objections of his pharmaceutical producers. This compromise was negotiated mainly by the United States with Brazil, Kenya and Nigeria with mediation assistance by Mexico.⁹² The ministers recognized the gravity of public health problems affecting many developing countries and reaffirmed that “the TRIPS agreement does not and should not prevent Members from taking measures to protect public health.” They spelled out three forms of flexibility the agreement permits. This declaration did not change legal

⁹⁰ On the first two days several developing countries complained about the negotiation process. Eastern European delegates said they were being shut out of meetings they wanted to attend, and some small non-anglophone delegations said they were put at a disadvantage by the lack of simultaneous translation. The agriculture facilitator was accused of bias. In response to the complaint that none of the facilitators came from a least developed country, the chair on 13 November appointed Botswana’s minister as a seventh Friend of the Chair to carry out consultations on issues not covered by the other six. *Bridges Daily Update*, 13 November 2001.

⁹¹ *Washington Post*, 16 November 2001.

⁹² *Bridges Daily Update*, 13 November 2001, *New York Times*, 13 November 2001, A3.

rights or duties under TRIPS, except for the additional ten years before least developed countries must provide patents on pharmaceuticals. But it probably encouraged governments to exercise their rights, such as bringing in low-cost generics in emergencies, and probably signaled that Washington would now hesitate to file complaints when they do. It might also improve poor countries' leverage when negotiating with multinational pharmaceutical firms over prices during emergencies. Thus one critical impasse had been broken, with the US giving developing countries and health NGOs much but not all of what they had asked for. "Our expectations were fully met," said Paulo Teixeira, Brazil's top AIDS official. "Even six months ago, this was unthinkable."⁹³

Zoellick then dropped another equally significant concession on the table, agreeing to accept antidumping on the agenda, despite two congressional resolutions warning him not to sacrifice US trade remedy laws. For months the united front of Japan, Korea and many developing countries had made it seem highly likely that there would be no round without this agenda item.

In the end critical impasses were broken in small informal meetings,⁹⁴ but this time the smallest, least developed traders had representatives on the inside. On the fourth and last day, at a "green room" meeting six of the ministers present were from Africa. They refused to accept the emerging deal unless they were satisfied on two issues. They insisted on adequate technical assistance from developed countries to enable them to understand the technicalities and participate realistically in the coming negotiations. And the 56 African, Caribbean and Pacific (ACP) States insisted on approval of a WTO waiver for a new preferential pact between them and the European Union.⁹⁵ This issue was not part of the ministerial declaration, but a group of Latin Americans, the Philippines, and Thailand were blocking this waiver. The ACP got their waiver as a side payment as well as the promise of assistance.⁹⁶

Also on the last day Japan, South Korea and Norway indicated they would reluctantly accept the Harbinson language on agriculture. This left the EU alone in opposition to the pledge to phase out export subsidies.⁹⁷ In

⁹³ *Wall Street Journal*, 14 November 2001.

⁹⁴ Interviews with participating delegates, Tokyo, 7 December 2001.

⁹⁵ Interview with an official who attended these meetings, Geneva, 24 September 2002.

⁹⁶ *South China Morning Post*, 14 November 2001; *Bridges*, 15 November 2001.

⁹⁷ *Bridges* Daily Update, 13 November 2001.

a green room session beginning at the conference deadline, midnight on November 13/14, Lamy said he could not sell this package in Europe unless he received at least something on two issues—environment and investment. Zoellick and Hiranuma of Japan supported adding both to the text.⁹⁸ At 3:00 am Wednesday Lamy and Franz Fischler, the commissioner for agriculture, reluctantly accept the Harbinson language that committed the Community for the first time to the goal of completely phasing out agricultural export subsidies (with no date specified), despite French threats to walk out.⁹⁹

Little of substance had been conceded on implementation, and India's Murasoli Maran and a few other ministers still threatened to block consensus.¹⁰⁰ This time Moore decided to call their bluff, adjourned the green room, and scheduled a plenary session for final decisions on the texts as they stood. In Seattle, Moore and Barshefsky had allowed green room discussions to continue until all the time remaining for a plenary had been exhausted.¹⁰¹ The package included the three documents—the main declaration, a second mostly symbolic declaration taking note of implementation concerns, and the public health/TRIPS declaration.

Maran remained firm, however, even after British Prime Minister Blair had called Indian Prime Minister Vajpayee to plead for flexibility. Secretariat leaders now feared “we were sunk; everything had been tried.”¹⁰² But after the final plenary meeting had already begun, Moore took Maran aside and secured his conditional assent. The conference chair read a statement of his understanding that the agreed text meant that any state could block the launching of talks on the new issues at the next ministerial conference. This interpretive statement was not included in the text put to ministers but added an ambiguity that allowed both sides to report victories to their parliaments. Some ministers had also said they could not agree to anything called a “round” because they had pledged to prevent such an outcome.¹⁰³ For this reason the program was instead labeled the “Doha Development Agenda.” The full conference approved the package with no dissent 20 hours after its deadline.

⁹⁸ Interview with a Japanese delegate, Tokyo, December 2001.

⁹⁹ *Wall Street Journal*, 15 November 2001. One veteran who was present said it appeared that these leaders had scripted this interchange in advance (interview, Geneva, 23 September 2002).

¹⁰⁰ *Wall Street Journal*, 14 November 2001

¹⁰¹ Interview with a Japanese delegate, Tokyo, December 2001.

¹⁰² Interview, Geneva, 19 September 2002.

¹⁰³ Interview with a senior Secretariat leader, Geneva, 9 November 2002.

In doing so, many least developed members had swallowed negotiations they said was premature and that partially opened the door to the new issues--environment, competition policy, and investment—although they limited the degree to which they intruded further on domestic regulation. These members achieved almost no unilateral gains regarding the implementation of the last round. In fact, the US and Canada insisted on deleting a gain on textiles that Harbinson had included in his draft.¹⁰⁴ The poor could achieve new gains only by offering new concessions in future talks. Other members were also frustrated in part. The agenda excluded labor standards, the precautionary principle, WTO governance, and other proposed issues.

Nevertheless, no state decided in the end to block the consensus this time. Developing countries were able to show their parliaments some winnings. For the African ministers, the health declaration, the ACP waiver, and the promises of assistance were valued the most highly, according to the ACP Secretariat.¹⁰⁵ For larger traders in the South, the agenda items on agricultural subsidies, antidumping and industrial market access were important. Developing countries had evidently made credible their threats to block consensus without some concessions. The formation of coalitions made these threats more credible than if they had acted separately. No ministers departed denouncing the WTO or its negotiating process as illegitimate this time. Rather, Nigeria's Trade Minister Mustafa Bello concluded, "Unlike in Seattle, Africa has been satisfied with all the stages in consultations and negotiation processes in Doha."¹⁰⁶

Thus it appeared that either some of the earlier demands had been tactical padding to be traded away for gains, or the process including the mediators had changed early optimism that other players could be forced to yield more. Actual reservation values at the end appear to have been well below what negotiators said they were. The same might have been true in 1999, by the way. Many ministers might have been willing to fall back substantially at the last moment then too in exchange for gains, if the year-long process had settled most of the complex issues before Seattle, and if conference management had not thrown so many obstacles in the way of consensus building.

¹⁰⁴ WTA, 26 November 2001, 9.

¹⁰⁵ Bridges, 15 November 2001.

¹⁰⁶ WTO, *The Road to Doha and Beyond*, 11

The particular mix of agenda items and trade-offs packaged together in Doha would be impossible to explain without tracing the negotiation process that led to this combination rather than another. The process explains, for example, why the agenda included one of two items the Americans swore they could not stomach—the antidumping rules—but not the other—the textiles rules. The coalition pressing for the former was much larger, it included Japan, Korea, and the EU, and its threat to block was therefore more credible. Why did the package include contradictory decisions both to negotiate on four new behind-the-border issues and also not to negotiate on them unless a decision is made by consensus at a later meeting? The EU wanted immediate negotiations, a large group wanted no negotiations, and in classic fashion they settled on an ambiguous way to paper over differences so they did not lose gains achieved elsewhere in the package. Why did the ministers give the EU a limited agenda item on environment, even though most members had opposed it for years and Harbinson had excluded it? At three o'clock in the morning after the deadline, Lamy told the green room that he could not join the consensus without it. The chair added the item at the very last minute and presented the package to the last plenary as take-it-or-leave-it. Why did the package deliver so little immediate value on implementation and allow an opening to the new issues, even though the demandeurs had the authority to block if not satisfied? They decided to trade their support for other concessions. Why did the African-Caribbean coalition insist on a side payment—the waiver for their EU preferential arrangement—that would have no value after 4 years, rather than insisting on completely excluding unwelcome new rules that would affect them indefinitely? Other parties were more likely to concede the former. The process thus explains why the package deal included several items that are not part of the future negotiating agenda: a political declaration concerning the TRIPS agreement, a waiver decision for the African, Caribbean and Pacific states, and much of the declaration on implementation issues.

Difficult as it was to attain, this agreement only created an agenda for future negotiations. The relieved delegates were fully aware that they faced more tough bargaining over each of these issues, buffeted by entrenched special interests just as these talks were.

The Batna Seemed Worse

The more favorable mediation and management tactics probably were not the only reasons for the members' strategy shifts. There is evidence that many government negotiators also perceived that their best alternative to a WTO agreement (the "batna") had worsened, which could have also lowered their true minima somewhat from 1999. A basic principle of negotiation analysis is that an improving alternative outside the talks will shift a negotiator's resistance point upward and harden his or her distributive tactics inside the talks, and vice versa.¹⁰⁷ Probably most potent was a shared fear, expressed privately by numerous participants, that given Seattle, a repeat performance could be devastating for the WTO as an institution. A second impasse could have encouraged legislators and governments to reach for protectionism and discriminatory regional or bilateral deals that would unravel the hard-won accomplishments of the past.¹⁰⁸ Imperfect though the WTO may have been, small powers in particular might suffer even more under the law of the jungle. On the first day in Doha Kenyan Minister and Africa spokesman Nicholas Biwott said publicly, "We don't want to see a repeat of the Seattle failure. . . We're here to negotiate and there's always room for compromise."¹⁰⁹

Some have speculated that the violent September 11 attacks in the United States added a second exogenous change in the political environment that worked in favor of agreement in Doha. The leading advocates of a new round certainly leaped at the opportunity to argue that the fragility of the world economy and the threat of terrorism were additional reasons for governments to demonstrate solidarity through trade liberalization. This was a tactic to convince reluctant ministers that September 11 had further worsened their batna. The argument may have convinced some. On 22 October the *Financial Times* reported:

Enthusiasm for a trade round has grown in many national capitals since September 11 because it is one of the few policy initiatives available to steady nervous markets, restore business confidence, and lay the basis for resumed growth. [A new round] would take several years to conclude and longer still to deliver tangible benefits. Right now, however, launching one is increasingly considered essential for

¹⁰⁷ Odell 2000, 52-53.

¹⁰⁸ *Financial Times*, 22 October 2001, 21; interviews.

¹⁰⁹ *Japan Economic Newswire*, 10 November 2001.

symbolic and psychological reasons as much as for economic ones. Doing so would send a powerful political signal of countries' determination to make common cause in the face of adversity.¹¹⁰

The argument may have been largely bogus; it is difficult to see how agreement on a WTO negotiating agenda could have made much tangible economic difference in the short term. It is not clear that any theory based on material interests would have predicted concessions on these grounds. Yet one WTO ambassador from Africa, who had been working to head off the new issues and who was present in Doha, said some disappointed African ministers had been intimidated by this argument that blocking this ambitious round would jeopardize the entire world economy and the battle against terrorism.¹¹¹

The September attacks also added a tangible obstacle to agreement in Doha. The meeting was almost moved or canceled because the sudden war in southwest Asia made many trade diplomats quite apprehensive about traveling to Qatar. The WTO's entire staff of interpreters refused to go, and reportedly the US delegation itself agreed to attend only at the last possible moment.¹¹² If governments did reduce their subjective reservation values after Seattle, the main reason probably was fears for the credibility of the WTO as a trade institution if they failed a second time.

Conclusions

In sum, two major differences between these two cases seem to have made a decisive difference in producing the contrasting outcomes. Exogenous political changes lowered members' fuzzy reservation values and conceivably widened a zone of agreement, and a different process removed major obstacles to agreement and influenced how those reservation values were perceived as well, tipping the parties the other way. Behaving differently in the second case, the same states with essentially the same commercial interests but different negotiation and mediation tactics managed to dovetail some differences and break their impasse.

¹¹⁰ *Financial Times*, 22 October 2001, 21. According to a survey, business leaders in 77 countries believed that failure to launch a global trade round in Doha "would reduce exports and investment, increase job losses and widen the gap between rich and poor economies." *Financial Times*, 8 November 2001, 14. Also *AFX-Asia*, 31 October 2001; *Jakarta Post*, 1 November 2001; *Washington Post*, 14 November 2001, A29; *New York Times*, 14 November 2001, A13.

¹¹¹ Interview, Geneva, 4 November 2002.

¹¹² Interview, Geneva, 19 September 2002.

Attempting to explain this difference and the terms of the package deal by ignoring the negotiation process would miss much of the answer. The national interests of 1999 alone probably were not sufficient to insure an impasse that year, and the exogenous changes alone probably would not have been enough to produce agreement in 2001. In 1999 had WTO negotiators and mediators employed a process--all year--like the one they followed in 2001 and all else had been the same, they probably would have reached some agreement to launch some new round in Seattle, even with street protests, and they would have done much less damage to their institution's legitimacy. Even as it was, the ministers came remarkably close to agreement on five key issues. If in addition the largest traders had led with more mixed, flexible strategies as they did two years later, and if the Geneva preparations had been more chair-driven, more negotiating gains would have seemed within reach before Seattle, making it more costly for all to sit firmly on uncompromising positions. By the same token, had the players repeated the actual 1999 process two years later—if the 2001 preparations had been proposal-driven and the chair had not offered a true single negotiating text, if leaders had excluded the least developed from the critical small meetings and demanded that they accept an agenda designed by the Quad, and if the 2001 conference had been blocked by thousands of US steelworkers, chaired by the United States, and forced to disband promptly the announced deadline, it too almost certainly would have ended in impasse.

Rival interpretations are always conceivable and no two cases are sufficient to prove any generalization, or to establish causality even for those two cases with airtight certainty. And this regime continues to evolve after the Doha conference. But the WTO is one of the strongest intergovernmental institutions in the world. If the process makes a significant difference here, is it not highly likely to make an even greater difference in institutions whose rules constrain their members less? This sharp contrast suggests several hypotheses that, if developed more precisely, would be worth testing in a larger set of cases.

1. In any negotiation, the better the outside alternative to a negotiated agreement is perceived to be, the higher the negotiator's reservation value and the harder his claiming tactics will be, and vice versa.

2. In any regime negotiation, the more the parties depart from strict value-claiming strategies in favor of mixed or value-creating strategies, the higher the odds of breaking impasses and changing the regime.
3. In any regime negotiation, if a legitimate mediator introduces a single negotiating text that contains gains for many parties and suggests compromise language for controversies—creating an authoritative focal point--the odds of breaking impasses and changing the regime will be higher than otherwise.
4. In any regime negotiation governed by the consensus rule, small players will enhance the credibility of their threat to block agreement if they form coalitions and speak with one voice than if some do so without coordination, and hence will shift the outcome's terms in their favor.
5. In the WTO and probably other regime negotiations, if the conference chair excludes small states from informal small meetings where deals are made, the odds of agreement and the regime's legitimacy will be reduced.

These hypotheses have not been presented and tested against much evidence in regime studies. Additional research on the negotiation process in the WTO and other regimes, framed by a theory comprehending the whole process, would help sharpen these ideas and perhaps identify conditions necessary for them to operate. Comparisons across regimes and across time would help isolate how institutional variation shapes the process. Analogous studies of the negotiation and mediation strategies deployed in other regimes would greatly enrich our understanding of how they too evolve over time or fail to do so. Such a research program would generate additional answers to the unanswered questions outlined in section one. The answers also have obvious practical implications for future negotiators, organization leaders, and indirectly the citizens who are affected by their impasses and agreements.

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John S. Odell
University of Southern California and
Graduate Institute of International Studies, Geneva
odell@usc.edu

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