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EVALUATING THE LESSONS OF SEATTLE**

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THE WTO AND ITS INSTITUTIONAL FUTURE: EVALUATING THE LESSONS OF SEATTLE

by Isabella Falautano

There has been a lot of talk in the last months about the results of the third ministerial meeting of the WTO, held in Seattle from November 30th to December 3rd, 1999. In Seattle, the WTO was expected to adopt a proposal for the launching of a comprehensive new Round – the so-called Millennium Round – encompassing a broad and ambitious range of topics, from the more traditional challenges to the new trade issues. Instead, the meeting finished in a dramatic failure and the risk now is that the trading system of the twenty-first century will drift into a fog of uncertainty. One should point out that, at the end of the Uruguay Round a renegotiation was foreseen in the two key sectors of agriculture and services, the so-called “built-in” or progressive agenda. While the scenario for a global round, as I will try to clarify, is improbable to say the least in the short term, sectoral negotiations in agriculture and services will be starting in the year 2000. Nevertheless, the general context in which such negotiations are being launched, and in which the pro-Round coalition is trying to built consensus, is undoubtedly difficult.

The last months of the second millennium and the early months of the new one have been characterised by strong slogans, such as the “battle in Seattle”, “fix it or nix it”, “sink it or shrink it”, and “the WTO kills the people, kill the WTO”. Before the ministerial, Seattle was exclusively the city of the new economy miracle and a world famous rock group: now, in certain parts of the public opinion, it is synonymous with the debacle of “free traders” and the victory of the opponents of globalisation. What is undeniable is that a wave of neo-protectionism and “globaphobia” is enveloping several countries; a recent poll on the “attitude towards globalisation” held in 17 countries shows emblematic results: in the US an average of 41% of people define themselves in favour of free trade, while 56% are pro-protectionism. Results were similar in the UK, Brazil, France, Australia, Malaysia. There were decidedly more free traders in the Netherlands, Thailand, Singapore, Mexico, Canada, Japan and Hong Kong. The perception of the negative effects of globalisation is equally distributed between developed and developing countries and also within the EU. Fear of the negative effects of globalisation should be carefully taken into account in evaluating the current scenario, but with the premise that the phenomenon (globalisation) should be conceptually distinguished from the institution of governance, in this case the WTO. By contrast, there are signals of new trust in the world trading system (in the mentioned aspect of governance) and of a relaunching of the WTO as an international institution: the EU’s recent *China Deal* and the positive vote of the Congress on *Permanent Normal Trade Relations* (PNTR) with China anticipate the full integration and membership of the giant, a country with one fifth of the world’s population. These two events are a clear sign of a new start-up of transatlantic dialogue and trust in the international trading system.

Undoubtedly, new complexities arise from the fact that the WTO, born as a free trade institution, is moving towards what are called non-trade or new trade issues, which have a direct impact on domestic rules and sensitive policies, such as environmental

protection and social nets. Trade issues are therefore becoming progressively more politicised: we are entering in an era in which they are no longer the private domain of trade technicians, but a general concern of citizens. How to deal with this new reality without blocking the machine?

Therefore it is even more important to attempt to clarify the context in which the WTO is moving, both good and bad aspects, to evaluate correctly the causes of the failure of the first attempt to launch the new round. As I will underline, causes are linked to divergent national or regional interests, to the emergence of new actors in the negotiating arena, to structural weaknesses of the WTO as an international institution. Three different scenarios are foreseeable.

A provocative and crude “black list” of causes of the failure and questions still open could read as follows:

1) *strong domestic constraints on the US trade agenda*. The US government, which historically has played a leading role in all GATT multilateral Rounds, did not seem willing to provide effective international leadership this time. There were many reasons for the cautious American approach. First of all, a preference for a narrow negotiating Agenda with a few strong sectoral priorities; second, the overall weak support for continued liberalisation from public opinion and political groups; third, the absence of fast track authority for the President; fourth, the presidential election campaign. Consider, for example, the “head-on clash” stance of the US delegation towards developing countries on the labour standards issue and the internal “drivers” (trade unions) behind that position. How could the risk of a head-on clash with developing countries on labour and environmental standards have been avoided? How can one proceed on the path of further multilateral liberalisation without fast track authority? How to reinforce a new transatlantic trade concept?

2) *the unwillingness of Europe and Japan to contemplate serious liberalisation in agriculture, unless set in a complex web of intersectoral trade-off within a global Round*, raising the stakes and the difficulties of the negotiations. It is undeniable that during preparations for the launching of the new Round, Europe had a fundamental role among the advanced countries. The EU had proposed that future trade negotiations should include the built-in agenda issues (the issues planned to be re-negotiated by the year 2000) of agriculture and services, as well as investment, trade facilitation, competition, trade and environment, technical barriers to trade, and government procurement. There are strong political economy arguments in favour of a broad and ambitious negotiating agenda, but the basic reason is that it permits trade-offs across topics. Conversely, sector-by-sector negotiations tend to offer fewer opportunities for linkages. In a global Round, the trade-off between sectors could have facilitated the push towards a substantial reform of the Common Agricultural Policy, which is universally recognised as the bottleneck of the EU’s common trade policy and openness policy. What linkage is now foreseeable between CAP reform and multilateral trade liberalisation? Are there still chances of entering into a zero sum game in a sectoral negotiation, or is a negative sum game inevitable for the EU in the absence of intersectoral trade-offs? How can the emerging transatlantic tensions on genetically modified crops be solved? How to solve the divergence with developing countries on the implementation issue?

3) *the new role of developing countries and their willingness to be involved as FULL MEMBERS, not only as side actors, with all the institutional as well as developmental aspects related to international trade*. The position of developing countries was far from

unified and homogeneous. In the more recent period before Seattle, the developing world had shifted from a phase of scepticism – given the long preparatory arrangements, the unexpected costs related to implementation of the Uruguay Round (see TRIPS and IPRs) and the frequent lack of implementation of the UR commitments by industrialised countries (MFA, URAA) – towards a more favourable attitude toward a global Round. In the months preceding the WTO Ministerial, several leading voices proposed that the new Round be called the “Development Round”, aiming at “bringing them in from the cold” (quoting the title of a speech by Stiglitz in Geneva in September 1999). A few important developing countries, however, such as India, Egypt and Malaysia, maintained a tough position by arguing that the WTO should not have undertaken negotiations on any new topics until UR commitments were fully implemented. Reconciling the further promotion of open contestable markets at multilateral level with the goals of the developing world to follow effective independent growth strategies is one of the key challenges of the future multilateral trading system. How to fully involve them, without blocking the mechanisms? How to provide better technical assistance? What about the implementation issue?

4) *the increasing opposition of non-governmental organisations (NGOs)*. The noisy opposition in Seattle and previously to the Multilateral Agreement on Investment (MAI), as well as the disputes between the French and British governments over British beef and between the United States and EU over hormone-treated beef, highlight the rise of tension as a pressing policy concern for states and citizens. Let me say that a new wave of protectionism and globophobic tensions are behind some of these movements which identify the WTO with globalisation and, therefore, the governance institution with the phenomenon to be governed. Nevertheless, some requests, such as for greater transparency, have to be accepted immediately. One could ask if they are really of global concern or whether they represent only an elite or interest group? How to involve and exchange ideas with civil society at the national and/or multilateral levels? How to increase transparency and understanding of the WTO to a broader public?

5) *structural and institutional weaknesses of the WTO which emerged in the last year* with the delay in the appointment of the new director general: inadequate preparation of the background work in some of the negotiating fields and of consensus-building; a rather weak involvement of developing countries in the contested “green rooms”; a lack of transparency and dialogue with civil society.

Thus, many things came together to produce the failure in Seattle. The key question now is how to rescue something from the collapse of the WTO talks, in order to limit the extent of the damage to global liberalisation. The need for a set of measures to reinforce the WTO as an international institution has been emphasised. The development dimension is substantial in this reform. What should immediately be clarified is what could be implemented in the short term and what in a medium-long term reform process. Some initiatives of institutional reform could include:

- *extending the global trading system to the largest possible number of countries*: the China deal is an important step and other giants such as Russia could follow, as well as smaller but no less important countries. A relevant issue here is the length of the accession process, on average about four to five years. This is a very complex procedure, involving various phases in which each country has to specify exceptions and commitments and remove any internal regulations that could constitute an

impediment. In 1999, the EU promoted the WTO Accessions Initiative, which was aimed at admitting the greatest possible number of countries within the year.

- *introducing mechanisms to reinforce participation in the decision-making processes.* As the number of countries increases, mechanisms are needed to reinforce participation in the decision-making processes. It has been demonstrated that over 50 percent of the developing countries belonging to the WTO have serious difficulties in just taking part in the meetings or presenting their negotiating positions. If there is to be full participation of all members countries, alternative solutions are needed. These include a) the activation of technical support mechanisms during both the accession and participation phases; b) cooperation with other international development assistance agencies (UNCTAD, World Bank); c) support for initiatives fostering a kind of common “representation” among like-minded countries or groups.

- *adopting different approaches in examining the linkage between trade, multilateral commitments and level of development.* As a consequence of the new attention for developing countries as full and pro-active members of the organisation, the need has emerged to adopt different approaches in examining the linkage between trade, multilateral commitments and level of development. In fact, the 48 least developed countries (LDCs), the Asian Tigers, the Newly Industrialised Economies and the emerging markets of Latin America cannot be treated in the same way. A recent Italian proposal put forward at the 2000 EU Trade Ministers summit in Portugal, underlined the importance of a differentiated approach depending on the effective level of development, and proposed a linkage between duty-free access to exports of LDCs, technical assistance and debt reduction measures.

- *strengthening the dispute-settlement mechanism, avoiding a “litigation” approach in favour of an arbitration approach and increasing the involvement in it of developing countries.* There are still some problems hindering the participation of developing countries in the dispute-settlement mechanism, such as the provision that delegations of countries presenting cases before the dispute-settlement body must be government employees. This rule could be changed to allow private attorneys to participate in the courtroom.

- *involving “non-state actors”;* there is the need for greater involvement of “non-state actors”, according to the WTO's definition of “civil society”: industrial and sectoral associations, trades unions and lobbies, but also non-governmental organisations. These are all bodies concerned with market access, the issues of environmental sustainability, labour standards and the development of LDCs. Among the many proposals put forward after the Seattle events, is the institution of an assembly of representatives of national parliaments and a “Forum of Civil Society”. Many environmental, human rights, sustainable development and even trade union organisations know that to have a real effect on the WTO they need to enter into serious dialogue with the organisation trade body and talk substance.

- *establishing greater coordination among multilateral economic governance institutions.* An initial objective would be to “institutionalise” cooperation between the WTO and the ILO on the nexus of trade and labour standards, as the latter has no enforcement powers. A recent study has also analysed the possible synergy between the WTO, the International Monetary Fund and the World Bank.

Finally, trying to figure out scenarios for the future, I could foresee three possible options all linked to a parallel proceeding of sectoral/global negotiations and of a WTO institutional reform.

- A “pure” built-in agenda negotiation: as mandated agriculture and services will be under negotiation, without the possibility of broad intersectorial trade off, with substantial risks of a head clash between EU/US, between EU/Cairns group. There could be a “head-clash” between North and South (advanced and developing countries) on the implementation issue (related to the TRIPS, MFA, and URAA). This agenda is likely in the short-medium term, but with risks of negotiating rigidities. The WTO institutional reform could start as a separate negotiating field, with the uncertainties linked to its length and complexity.

- A built-in agenda within narrower agenda, that could envisage a LDCs package and short term institutional reforms, such as an increased transparency, an accession initiative, a binding technical assistance, a Parliamentary Assembly. In this scenario will be postponed the labour and environmental issues, as also probably investment and competition policies. The scenario could concretise after the autumn-winter, anyway by the end of the US electoral campaign. The EU will have to abandon its rigid approach towards a comprehensive agenda.

- A broader agenda within a global Round: one should not forget that also the UR launch was postponed several times. In absence of a huge and complex preparatory work and of a broader consensus on several topics, it will be hard to avoid a triple “head-clash”: in-between developed countries on biotech, agriculture, audiovisuals, competition; between advanced and developing countries on TRIPS, labour and environmental standards; between governments and civil society on the non-trade issues: GMOs, social and environmental standards. Parallely should also be launched structural reforms of the WTO as an international institution, to improve the decision making and consensus building procedures.

New problems are affecting the management of the world economy and the international trade regimes at the start of the second millennium. The rise in the multilateral trading system of new trade issues has brought issues traditionally in the domain of national sovereignty into the global arena. As a result, new complexities are associated not only with matters of governance “at different levels” (national, regional, multilateral), but also with the involvement of state actors at different levels of development and, for the first time, of non-state actors. Economic and world trade issues are becoming increasingly complex and are slowly shifting to the field of non-trade issues, aggravating the risk of tension between jurisdictions and systems of governance. The negative outcome of the Ministerial Conference in Seattle is a symptom of that complexity and expresses the problems in searching for new rules for globalisation. The challenge today is how to move beyond Seattle, both metaphorically and concretely. This could mean a number of things: a temporary but enlightening standstill in the postwar course towards greater openness and international integration, or a dramatic turnaround sending the world economy onto a long and impervious path towards closure and fragmentation. For those who claim that effective solutions to many of the problems afflicting the world economy can be found only in a global context consisting of decisively strengthened rules and institutions, it is evident that the former alternative is the only desirable one. But in order for it to be achieved, it is equally evident that strategies and economic and trade policies will have to be changed to

respond more effectively than before to the requirements of the developing countries and, in the developed countries, to the demands of civil society. There is a major need for consensus in multilateral rules and decision-making processes: the problem is what type of cooperation and/or international agreement, ranging from coordinated application of national policies to the harmonisation of rules and norms, will be necessary for greater access to markets and for a legitimate trading system.