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Will the World Trade Organization Enjoy a Bright Future?

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INTRODUCTION

Our answer is a resounding "yes." This answer does not rest simply on the World Trade Organization's proven competence as a judicial body nor its acknowledged expertise in gathering statistics and analyzing trends. Crowning these strengths, we see the dawn of a new era of trade and investment negotiations within the halls of the WTO.

After ten years of difficult negotiations in the ill-starred Doha Development Round, our optimism may seem like a page from Dr. Pangloss. But the stalemate is now so severe that leaders around the globe will—we predict—reinvent the WTO rather than let it slide into obsolescence. The alternative is for countries to place all their trade bets on regional deals—leading with the Trans-Pacific Partnership—at a time when many pressing issues transcend regional boundaries.[1]

These realities were dimly recognized at the December 2011 WTO ministerial meeting, where 154 countries agreed they need "new ideas" to break the stalemate. Presidential election years in the United States and leadership transitions in China are the wrong time for bold initiatives, but the political calendar makes 2012 a good year to think outside the box, and 2013 a good year to put new ideas into action.

This Policy Brief is divided into four parts. Like Agatha Christie's famous mystery, *Murder on the Orient Express*, the Doha Round suffered from multiple assailants. So we start with what went wrong with Doha. Second, we single out parts of the Doha agenda that can be salvaged in the context of a forward-looking "grand bargain" that paves the way for plurilateral deals on pressing trade and investment issues. Third, we examine common key challenges that must be surmounted to keep plurilateral bargains within the WTO tent. Finally, we identify five topics that should be served up for plurilateral talks, as part of a "grand bargain" commencing in 2013.

WHAT WENT WRONG?

The Doha Round is not the first multilateral negotiation to collapse under the weight of substantive disputes and tactical blunders, but revival this time requires a greater miracle than in the darkest days of the Tokyo or Uruguay Rounds. After

1. Australian Trade Minister Craig Emerson made this comment on October 17, 2011: "A world that allows a round of multilateral trade negotiations to die is a world that invites the formation of discriminatory trade blocs of the sort that contributed to the outbreak of the Second World War" (Emerson 2011).

near-death moments, those talks concluded with a big red bow tied around a comprehensive package. Ministers went home comforted that the next big negotiation would commence well after they left office. This time is different. There will be no red bow unless the Doha package is firmly joined to an immediate follow up round of talks—conducted under entirely different rules—both on old subjects that were badly neglected in the round and urgent new subjects that have surfaced since the round was launched in 2001.[2]

In November 2001, shortly after the terrorist attacks of September 11, the 130-odd members of the World Trade Organization met in Doha, Qatar, and launched the ninth round of multilateral trade negotiations in the postwar era. The new talks were labeled the "Doha Development Agenda," an awkward title that suggested the talks would follow a different playbook than the previous Uruguay Round, focusing on economic development in poorer countries. But old habits are hard to break: In particular, the core concept of reciprocity was not about to be abandoned for rising trade powerhouses on the global scene, later labeled the BRICS: Brazil, Russia, India, China, and South Africa.[3]

In its ten years of fitful negotiation, the Doha Round recorded substantial progress in several areas of its extensive agenda and scant progress in others, notably tariff elimination and service liberalization. One Doha Round agreement is already being implemented, albeit provisionally.[4] Tentative agreements to cut tariffs and some farm subsidies are stalled for lack of agreement on exceptions for import-sensitive products. Director-General Pascal Lamy argues that 80 percent of the round has been completed—implying that a package is within sight. But the remaining 20 percent is the hard part and the prerequisite for tying a red bow on the package and ensuring ratification by major countries. Like its predecessor, the Doha Round is based on the concept of a "single undertaking," meaning that no part is definitively agreed until the overall deal comes together. After five failed WTO ministerial meetings,[5] it is abundantly clear that the overall deal, envisaged at Doha in 2001, will never come together. Business leaders recognized this problem long ago and have lost interest in the WTO and the Doha Round: Why spend time and talent lobbying in an endless maze?

The last great hope for completing the Doha Round roughly according to the original template hinged on the efforts of Group of Twenty (G-20) leaders at their summit meeting held in Seoul in November 2010. At that time, the G-20 leaders noted that "2011 is a critical window of opportunity, albeit narrow," and directed their WTO ambassadors "to engage in across-the-board negotiations to promptly bring the Doha Development Round to a successful, ambitious, comprehensive, and balanced conclusion…" (G-20 Research Group 2011). These fine words never translated into new negotiating positions because the G-20 leaders failed to follow through on their commitments.

Nor were proposals to "top up" offers and achieve a bigger package pursued by major trading nations (Hufbauer, Schott, and Wong 2010; Schott 2011). Likewise, proposals to put together a "mini-package" of preferences and assistance for the least-developed countries (LDCs) foundered because countries in the Organization for Economic Cooperation and Development (OECD) were unwilling to move without reciprocity from the BRICS. Advanced nations**,** mired in debt, are simply not willing to offer unbalanced concessions that will benefit Brazil, India, and China, regardless of what they may offer to nations with far fewer prospects for growth. For their part, the BRICS insisted on likening themselves to Bangladesh, Bolivia, and Burundi, not a plausible argument in Brussels, Tokyo, or Washington.

Beyond the negotiating stalemate, what are the underlying causes of Doha distress? Ask a dozen trade experts and they will give two dozen answers. Some emphasize lack of political support; in this regard, Doha may be a victim of success in the General Agreement for Tariffs and Trade (GATT) era because what is left to liberalize in the industrial countries are barriers to sensitive farm and manufactured products at a time when BRICS and LDCs insist on retaining the "policy space" afforded by their high protective walls. Other experts emphasize the conflict between priorities—liberalization of trade barriers or adoption of new rules (trade remedies, intellectual property, and environment)—cite institutional or procedural rigidities that complicate the negotiating process, in particular the single undertaking and the large number of serious "players."[6]

2. Unlike previous rounds, the Uruguay Round concluded with a built-in agenda for a future service sector accord and committed to new agricultural talks by 2000. Although this approach has not yet delivered success in the Doha talks, the precedent is worth keeping in mind in the context of any WTO recovery package.

3. Russia, of course, has been negotiating its WTO entry for the past 17 years but only recently was approved for membership. The terms of accession require full reciprocity. See Åslund and Hufbauer (2012).

4. In December 2006, the WTO General Council agreed to implement an accord establishing a Transparency Mechanism for Regional Trade Agreements on a provisional basis pending completion of the Doha Round.

5. The most spectacular failure was the Seattle ministerial in 1999, punctuated by riots, held prior to the launch of the Doha Round. After the launch, ministerial failures occurred in Cancún (2003), Hong Kong (2005), and twice in Geneva (2008 and 2011).

6. The WTO membership now numbers 157 countries, but the big difference between the Uruguay Round and the Doha Round is that the number of serious "players" has expanded from around 10 to around 25.

We emphasize two critical developments that effectively undercut progress in Geneva. The first was a self-inflicted wound. Developing countries insisted on giving priority to the completion of negotiations on the modalities for liberalizing agriculture and removing tariffs on nonagricultural goods—virtually to the exclusion of talks on other important issues like services. This was a tactical blunder in two respects: It failed to recognize the input of services in agriculture and manufacturing and their importance in propelling productivity gains across the economy; and it pushed to the sidelines pro-trade constituencies that were needed to furnish political support for the removal of longstanding US and EU trade barriers sought by the developing countries in the agriculture and nonagricultural market access (NAMA) talks. Second, over the past decade, WTO members have developed a strong case of Sinophobia. While the Doha stew has been cooking, China has been rising, and many WTO members now fear that China will dominate global manufacturing trade, leaving little opportunity for their own industrial firms.

Following the 2003 debacle in Cancún, the European Union and the United States turned to bilateral and regional trade agendas. So did South Korea, China, and several other countries. European officials focused on EU enlargement and pacts with the Middle East and North Africa (MENA). The United States finalized the Central American Free Trade Agreement–Dominican Republic (CAFTA-DR) and initiated bilateral free trade agreements (FTAs) with Bahrain, Colombia, Oman, Panama, Peru, and South Korea and, in the last months of the George W. Bush administration, set the table for the Trans-Pacific Partnership.[7] Korea responded after Cancún with the launch of increasingly ambitious FTAs and now is one of the few major markets with comprehensive trade pacts with both the United States and the European Union. For its part, China is building its own neighborhood trade bloc through a series of agreements with countries in the Association of Southeast Asian Nations and is discussing a possible trade deal with Korea and a trilateral accord with Korea and Japan.

Clearly, if the WTO retires from its central role as a negotiating forum, trade liberalization will still move forward, but on a regional not a multilateral track. Badly missed will be deals that address issues of a global character.[8] That's where our grand bargain enters the picture.

GRAND BARGAIN

We propose an ambitious idea to break the logjam: a grand bargain that tightly links a harvest from the Doha agenda to a blessing by the WTO membership as a whole for the future negotiation of enumerated plurilateral agreements. The harvest should start—but not stop—with agreements that create minimal commercial pain for any member but deliver widespread gains. The harvest should then move to harder parts of the Doha Round—agreements that deliver significant benefits to some members but cause noticeable pain in others.

Five Easy Pieces

In our view, five parts of the Doha agenda that will deliver benefits to all members but cause little commercial pain are trade facilitation, duty-free, quota-free treatment of imports from LDCs, the phaseout of farm export subsidies, reforms to the dispute settlement system, and new disciplines on food export controls. These should be agreed immediately, without linkage to the enumerated plurilateral agreements.[9]

Trade Facilitation. Trade facilitation has the goal of moving goods through customs faster and more efficiently and when implemented will deliver gains of at least $130 billion annually, with a disproportionate share going to developing countries (Hufbauer, Schott, and Wong 2010, table F.3). Reforms will slash unnecessary documentation requirements that create delay and abet corruption but do nothing for security or revenue collection. Singapore is the world champion for trade facilitation and a model for everyone else: Singapore requires just four documents, clears imported merchandise in five days on average at a cost of only $400 per container. Sub-Saharan Africa, with double the number of documents, takes up to 44 days to clear imported merchandise at an average cost of $1,986 per container; in India and China it takes 8 documents each and 16 days to clear customs in the case of India and 21 days in the case of China. By contrast the United States requires 4 documents and 6 days to clear customs (World Bank, *Doing Business 2012*). The scope for improvement is obvious and substantial. The text of a fine trade facilitation

7. Other negotiations were started but failed or were suspended—for example, Thailand, Malaysia, the Southern African Customs Union, and the United Arab Emirates. See Schott (2004).

8. The words of Director-General Pascal Lamy are pertinent. Speaking at the opening of the 8th Ministerial Conference in Geneva, he called on members to "stand up for the values of multilateralism" and for major players to "exercise leadership and to muster political courage to act together for greater trade opening and reform" and to "place the interests and needs of developing countries and, in particular, those of the poorest, at its heart." See Pascal Lamy, Stand Up for the Value of Multilateralism, remarks at the 8th WTO Ministerial Meeting, Geneva, Switzerland, December 15–17, www.wto.org/english/news_e/sppl_e/sppl212_e.htm.

9. However, in the United States and some other countries, implementation will depend on legislative ratification. Even if progress is made in 2012 on the conceptual outline of the "grand bargain," the United States will not be able to ratify agreements until 2013, because presidential election politics in 2012 will obstruct all but the most essential legislation.

agreement has already been hammered out in Geneva, with only a few details missing (WTO 2011).

Duty-Free, Quota-Free. A second area with strong potential is the duty-free, quota free (DFQF) offer made by industrial countries at the December 2005 WTO ministerial. DFQF would allow market access to all goods from LDCs, as defined by the United Nations, unfettered by tariffs or quantitative limits.[10] These countries account for less than 1 percent of world trade. Like any other offer in the prolonged talks, DFQF was conditioned on completion of all other items on the Doha agenda. Nonetheless Brazil and Norway have already implemented DFQF without regard to the single undertaking. There is no good reason why other large players, including the United States, cannot subscribe to DFQF and, at the same time, narrow the percentage of excluded tariff lines (primarily textiles, apparel, and footwear) from 3 percent (the current US offer) to 1 percent. Precisely by exporting goods in the excluded categories will the poorest countries, such as Bangladesh and Burundi, have the best chance of lifting themselves out of abject poverty (Elliott et al. 2010).

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Agricultural Export Subsidies. One of the early successes in the Doha decade was securing a tentative agreement on the phaseout of agricultural export subsidies. In recent years, high commodity prices and national budgetary constraints have reduced the need for most of these payments. Before world commodity prices soften and the European Union reviews its Common Agricultural Policy in 2013, WTO members should agree to lock in the reform of agricultural export subsidies for at least three years while the new WTO initiatives discussed below are worked out.

Food Export Controls. WTO members should commit not to impose export controls (or at least agree to exempt food shipments contracted by the World Food Program from export restrictions), make best efforts not to tighten other restrictions on food trade, and remove "buy national" requirements that impede the distribution of food supplies.

Dispute Settlement System. A soft pitch is at hand: reforms to the "crown jewel" of the WTO, namely the dispute settlement system that enables countries to resolve serious trade differences effectively. The changes are not major: faster decisions, more control by countries to settle without going to final judgment, and more transparency of hearings and submissions by parties, just to name three on a pending list of 12 revisions already proposed.

Harder Patches to Harvest

To seal a grand bargain, the United States, the European Union, Japan, and other advanced countries will have to make concessions beyond trade facilitation, DFQF, agricultural export subsidies, food export controls, and dispute settlement. At the very least, they will have to implement Doha formula tariff cuts on manufactured goods and pare domestic agricultural subsidies and border protection. But the political economy of these concessions is troublesome: The advanced countries would incur measurable adjustment costs while the BRICS would enjoy export gains with few import pains.

According to estimates made at the Peterson Institute, acceptance of the agriculture and NAMA packages that were shaping up in July 2008—even though the packages were not then "on the table" in the sense of being marginally acceptable to all serious players—would deliver \$6 billion of export gains to the United States over a horizon of five years, \$9 billion to the European Union, \$7 billion to Japan, and \$14 billion to China (table 1). Estimates by other institutions suggest different outcomes. Using a very different methodology, in a CEPII-CIREM study, Yvan Decreux and Lionel Fontagne (2011), for example, calculate much larger export gains for the year 2025: \$36 billion for the United States, \$63 billion for the European Union, \$41 billion for Japan, and \$69 billion for China (table 1). While projected export gains for the advanced countries are not trivial, most calculations suggest that China is the biggest winner in terms of additional exports. China is also a big winner in terms of GDP gains (tables 1 and 2). More troublesome, China and the other BRICS refuse to cut

10. The key to a meaningful DFQF package is not just wide product coverage, with very few exclusions, but also relaxed eligibility rules so that local content requirements and other behind-the-border barriers don't erode the benefits. This is an issue with the European "Everything but Arms" program.

Table 1 Estimated gains from Doha Round liberalization of agriculture and NAMA (billions of US dollars)

	CEPII-CIREM		Peterson Institute		World Bank
Country/economy	GDP	Exports	GDP	Exports	GDP
United States	5.3	35.6	9.3	6.0	6.4
China	15.9	69.4	9.7	14.3	5.7
European Union	11.8	62.7	16.3	9.2	18.4
Japan	10.1	40.7	5.6	7.2	29.6
World	69.6	334.6	55.5	54.4	93.5

NAMA = nonagricultural market access

Notes and sources: CEPII-CIREM calculations are based on constant 2004 dollars and long-run gains achieved by 2025 (Decreux and Fontagne 2011, tables 8 and 14). Peterson Institute calculations for "world" only cover 22 large countries (Hufbauer, Schott, and Wong 2010, tables 1.1 and 2.6). World Bank estimates are based on "Doha with flexibility," not "Doha formula cuts." This method is more reasonable as it takes into account the potential for line-item exceptions to agreed cuts (World Bank 2011, table 10.1).

Table 2 GDP gains from Doha Round liberalization in agriculture and NAMA (partial equilibrium model, billions of dollars)

Country/group	Agriculture	NAMA	Total
Developed (7)	12.3	21.7	34.0
Developing (15)	3.6	17.9	21.5
European Union	7.8	8.5	16.3
Japan	1.3	4.2	5.6
United States	2.2	7.1	9.3
Brazil	0.9	0.6	1.5
China	0.6	9.2	9.7
India	0.2	0.9	1.1
All 22 countries	15.9	39.5	55.5

NAMA = nonagricultural market access

Source: Hufbauer, Schott, and Wong (2010, table 2.6).

their applied tariffs by significant amounts or liberalize access to their service markets. Consequently, from the vantage point of Washington, Brussels, and Tokyo, the Doha deal looks unbalanced and thus not acceptable to national legislatures. Meanwhile, at least to Washington, the prospective Trans-Pacific Partnership looks more attractive (table 3). With these realities in mind, what can players that feel shortchanged by Doha talks get in return for accepting a deal on agriculture and NAMA?

According to our plan, the assembled body of WTO members will give interested countries, by a three-fourths vote, a green light to negotiate plurilateral agreements on an enumerated list of subjects. Talks would commence within three months of tying the red bow on the grand bargain package, but the green light would expire after three years—thereby putting a deadline on the plurilateral negotiations. To ensure that the plurilaterals actually conclude and become part of the WTO framework, we suggest that dissatisfied countries be permitted to "snap back" their NAMA and agricultural concessions in the event that the concluded plurilateral is not granted a waiver by three-fourths of the WTO members, in accordance with Article IX(3) of the Marrakesh Agreement Establishing the World Trade Organization.

Other Side of the Bargain

As mentioned, the other side of the grand bargain is approval from the WTO membership for like-minded countries to negotiate deals between themselves, akin to the codes adopted in the Tokyo Round multilateral trade negotiations (1974–79). In fact, the process has already begun, though so far without the blessing of the collected WTO membership. After much prodding from diverse groups of trade experts and business associations, on January 17, 2012, trade envoys representing 16 countries (counting the 27 members of the European Union as a single country) held their first meeting to craft a services plurilateral agreement within the General Agreement on Trade in Services (GATS) but outside the Doha Development Agenda.[11] Unlike other potential plurilateral agreements, a plurilateral on services liberalization, with a conditional most favored nation (MFN) feature, is sanctioned by GATS Article V, without the need for a waiver by three-fourths of the WTO members. In this sense, services are a special subject. However,

11. See *Washington Trade Daily* 21, no. 4, January 19, 2012.

Table 3 GDP gains (or losses) on the "TPP track"
(billions of constant 2007 dollars)

Country	2015	2020	2025
TPP track economies	8.6	30.4	40.8
United States	4.9	10.4	13.9
Australia	0.4	1.8	2.4
Canada	–0.1	2.0	2.3
Chile	0.6	1.6	2.3
Mexico	0.2	8.1	11.7
New Zealand	0.3	1.2	1.7
Peru	2.4	5.2	6.6
Asian track economies	–2.8	–11.9	–19.2
China	–2.2	–9.6	–15.7
Hong Kong	0.0	–0.1	–0.1
Indonesia	–0.2	–1.0	–1.5
Philippines	–0.1	–0.3	–0.4
Thailand	–0.2	–1.0	–1.4
Two-track economies	10.9	70.5	90.3
Brunei	0.0	0.1	0.1
Japan	–0.3	26.8	30.7
Korea	–0.2	12.0	15.1
Malaysia	3.7	7.3	9.4
Singapore	0.2	0.9	1.4
Vietnam	7.5	23.5	33.5
Others	–0.9	–4.9	–7.7
Russia	0.0	–0.5	–1.0
Taiwan	–0.1	–1.0	–1.6
European Union	0.1	0.9	1.6
India	0.0	–0.4	–0.6
Other ASEAN	0.0	–0.2	–0.2
Rest of world	–0.9	–3.8	–5.9
World	15.9	84.1	104.3

TPP = Trans-Pacific Partnership; ASEAN = Association of Southeast Asian Nations

Note: Under the "TPP track," the TPP agreement is assumed to be signed in 2012 and implemented by 2015. The next step would add the NAFTA economies (Canada and Mexico), Japan, and Korea in 2015 and be implemented by 2020. The "Asian track" builds on existing free trade agreements within the ASEAN economic community and bilateral agreement with China, Japan, and Korea. The China-Japan-Korea agreement is assumed to be implemented by 2015 and by 2020 would integrate the China-Japan-Korea and ASEAN agreements into an East Asian Free Trade Agreement. The two tracks are assumed to progress simultaneously, eventually leading to a Free Trade Area of the Asia-Pacific, which would integrate all countries.

Source: Petri, Plummer, and Zhai (2011).

to qualify under Article V, the services plurilateral must have "substantial sector coverage" and the agreement "should not provide for the *a priori* exclusion of any mode of supply."

A great many other plurilateral agreements should soon appear on the horizon, now that a potential deal in services is leading the way. In this Policy Brief, we examine five possibilities: services liberalization, WTO-IMF coordination on currency undervaluation, greenhouse gas and energy measures, "zero-for-zero" tariffs on trade in select industrial sectors, and rules of the road for state-owned enterprises. The potential agreements we examine are illustrative; other plurilateral agreements are equally plausible.[12]

COMMON KEY CHALLENGES

Each of the potential deals will have peculiar characteristics that must be worked through, and we identify some of them in the sections that follow. However, three common challenges will confront any plurilateral. These challenges are worth discussing before we examine the five identified plurilaterals. A caveat: The agreements may not reach the same answer to these challenges.

Inside or Outside the WTO?

The first common challenge is whether the agreement should be inside or outside the WTO framework. In this Policy Brief we advocate the "inside" approach, but we recognize that "outside" may prove to be the way forward, at least for some agreements. Indeed, the Anti-Counterfeiting Trade Agreement (ACTA), recently concluded in Kyoto with 31 signatories, points the way to other "outside" agreements. Many WTO members were unwilling to subscribe to tighter enforcement obligations, within their territories and at their borders. Consequently countries that have sustained large losses owing to counterfeit products—led by the European Union, Japan, and the United States—forged an agreement outside the WTO framework.

Despite the ACTA precedent, there are strong reasons for both members and nonmembers to prefer the "inside" approach. For members, an agreement within the WTO framework ensures access to a well-functioning dispute settlement system and a highly competent research staff. For nonmembers, the WTO framework smooths the way to their own future participation, when their circumstances and interests change. For the multilateral system as a whole, agreements within the WTO framework are more likely to become

12. To name three other examples: a deal on energy security, an environmental agreement beyond greenhouse gases, and an agreement giving business firms standing to bring trader-state cases to the dispute settlement system.

universal practice, as happened with several Tokyo Round codes when the Uruguay Round was concluded. Meanwhile, the care and maintenance of agreements within the WTO framework will impart vitality to the organization itself.

In the final analysis, under the terms of Article IX(3) of the Marrakesh Agreement, unless three-fourths of WTO members are willing to accept a plurilateral agreement within the WTO framework, it will remain outside. In order for the grand bargain to come together, this acceptance should be signaled at the same time the Doha Round is harvested. Since the detailed terms of the plurilateral will not be known at harvest time, a formal waiver vote, requiring assent from three-fourths of the WTO members, will need to be taken once the plurilateral agreement is concluded.

Conditional or Unconditional MFN?

The unconditional MFN principle, articulated in Article I, served as a foundation stone of the original GATT (1947). Unconditional MFN thwarts discrimination between alternative foreign suppliers and thereby promotes both economic efficiency and harmonious relations between states. Moreover, the principle ensures that the benefits enjoyed by country A from a trade bargain with country B are not later undercut when B negotiates a still better bargain with country C.[13] Despite these advantages, over the ensuing decades it became increasingly hard to reconcile the unconditional MFN principle with forward progress in dismantling barriers and assuming new obligations. Whenever trade barriers are lowered, or other obligations undertaken, some domestic constituency inevitably protests that its livelihood and values are endangered. In democratic countries, the way to overcome these claims is neither to argue exaggeration nor to sing the benefits of foreign competition, but rather to show that the bargain ensures reciprocal obligations abroad. The simple yet powerful logic of reciprocity goes far to explain the explosion of bilateral and regional FTAs since 1990, now numbering nearly 400.[14]

Whatever its virtues, the unconditional MFN principle creates an open door for free riders and an exit path from reciprocity, especially when concessions agreed among a few countries are extended without cost to all WTO members. If free riders are small developing countries, with little commercial clout, that's not a big problem, and these were long tolerated in the GATT system. But the prospect of free riders the size of Brazil, India, or China is enough to suffocate most plurilateral agreements in the crib.

These realities mean that conditional MFN will likely serve as a cornerstone for plurilateral agreements. In turn, that means (per Article IX(3) of the Marrakesh Agreement) that if a plurilateral agreement is to be established within the WTO framework, three-fourths of WTO members must agree to a waiver—fully realizing that the agreement will discriminate against many of them at the outset. Strange as it may seem, many precedents exist for such acceptance. In 1966, most GATT members adopted Part IV, which paved the way for preferences in favor of developing countries.[15] In both the Tokyo Round and the Uruguay Round, all GATT members permitted the Agreement on Government Procurement (GPA), which opens government procurement only to GPA members. In these and a few other cases, conditional MFN was accepted as the price of fresh liberalization or new obligations. The grand bargain we envisage is predicated on the same logic.

"Critical Mass" or "Substantial Coverage"?

Plurilateral sector-specific agreements negotiated within the WTO during the past two decades have usually, but not always, covered a "critical mass" of trading partners. "Critical mass" has typically been defined to include countries accounting for 90 percent or more of world trade in the particular sector. In four instances, this was the touchstone for including the plurilateral agreement within the WTO framework. Examples are the Agreement on Trade in Civil Aircraft, which covered (among others) the only two producers of large civil aircraft at the time, the United States (Boeing) and the European Union (Airbus);[16] the Agreement on Basic Telecommunications Services of 1997. which covered roughly 91 percent of the world's basic telecom lines when signed; the Information Technology Agreement of 1997, which covered more than 90 percent of trade in computers and telecommunications equipment;[17] and the Financial Services Agreement of 1999, which covered roughly 95 percent of the world's basic banking

13. Unless, of course, countries B and C join together in a free trade area or customs union—exceptions to GATT Article I allowed by GATT Article XXIV.

14. This figure includes many RTAs of limited commercial importance, as well as RTAs notified to the WTO but not yet concluded.

15. Preferences took the form of the Generalized System of Preferences (GSP), specifically authorized in 1971, and the so-called Enabling Clause, calling for "differential and more favorable treatment" of developing countries, adopted in 1979.

16. In 1992, the United States and the European Union also negotiated a bilateral agreement; this was suspended in 2002 when the United States (on behalf of Boeing) and the European Union (on behalf of Airbus) launched WTO cases against each other complaining about excessive subsidies.

17. The ITA now numbers 73 countries and accounts for 97 percent of world trade.

services. In these instances, 90 percent or higher coverage at the outset meant that free riders did not create a serious problem; hence the benefits of the agreement could be extended on an unconditional MFN basis to all WTO members.

Yet, while the "critical mass" test has become part of negotiating lore in Geneva, it is not a requirement articulated in the Marrakesh Agreement for a waiver from the unconditional MFN rule. The important contrary precedent to the 90 percent test and the unconditional MFN rule is the Agreement on Government Procurement.[18] Negotiated as part of the Uruguay Round, the GPA covered 28 countries and perhaps 50 percent of government procurement worldwide.[19] GPA market access benefits are available only to members of the GPA club—in other words, the conditional MFN rule. The GPA is the precedent most relevant to future plurilateral agreements.

"Critical mass," interpreted as 90 percent or more of world trade in the relevant sector, would be a show-stopper for launching plurilateral talks within the WTO framework. In our view, the threshold test for inclusion in the WTO framework should be "substantial coverage" of world trade or production in the affected sector.

FIVE POTENTIAL PLURILATERAL AGREEMENTS

We now briefly examine five potential agreements: services liberalization, currency undervaluation, climate and energy, zero-for-zero tariffs coupled with disciplines on non-tariff barriers, and state-owned enterprises. In the sections that follow, we highlight the WTO antecedents and potential features of each agreement.

Services Liberalization

Perhaps $40 trillion will be spent on infrastructure of all types worldwide over the next 25 years, and China and India alone will have infrastructure needs valued at $10 trillion.[20] As a consequence, demand for services in construction, engineering, and international finance will rise dramatically, accompanied by growing demand for medical care, education, software, entertainment, and much else in the services space. A boom in international services trade seems inevitable, but the size and scope of the boom will critically depend on lowering barriers. Alongside agriculture, barriers to services trade and investment are formidable, often 30 percent or higher in tariff equivalent terms, and little progress has been made in the Doha Round.[21]

Much of the spending for infrastructure is likely to be financed, controlled, or regulated by governments—national, regional, and local. While the WTO GPA opens some public spending to international trade, only a handful of countries have signed the agreement, virtually all of them advanced nations. Only recently have some BRICS—China, India, and Russia—agreed to join the latest revision of the Government Procurement Agreement (GPA2). Still, China's proposed coverage has significant omissions, especially at the provincial level. Services purchased by governments are not extensively covered in the GPA for any country.

Various regulations that limit cross-border market access or direct investment in service industries were barely liberalized when GATS was launched in the Uruguay Round, and little progress has been made in the Doha Round. Regional trade agreements (RTAs) have made far more headway in liberalizing services trade and investment barriers than the WTO. But much remains to be done. Unless the WTO gets back in the game with an International Services Agreement (ISA), services liberalization will become an exclusive domain for RTAs.[22]

Political Launch of the ISA. A group of 42 industrialized and advanced developing countries, self-styled "real good friends of liberalization of trade in services," met in Geneva on January 17, 2012—a meeting that appears to have launched negotiations on a services plurilateral pact, provisionally labeled the International Services Agreement. The meeting was hosted by Australia and included envoys from the United States, the European Union (representing 27 member states), Japan, Canada, New Zealand, Switzerland, Norway, South Korea, Singapore, Hong Kong, Chile, Colombia, Mexico, Pakistan, and Taiwan (Trade Reports International Group 2012).[23] The BRICS were not in attendance.

An agreement inside the WTO has the potential to include more initial members, minimize disparities between

18. The Uruguay Round Agreement on Government Procurement superseded the Tokyo Round Government Procurement Code, which had excluded services. The Uruguay Round GPA achieved a 10-fold expansion in coverage by including both national and local government entities; moreover, it extended coverage to selected services and public utilities.

19. The 27 EU countries are counted here as one member.

20. See Nicholas Timmins, "In the Global Rush for the New, Don't Neglect the Old," *Financial Times,* June 7, 2010; and Leonora Walters, "Build an Income with Infrastructure," *Investor Chronicle,* July 15, 2010.

21. It is hard to estimate tariff equivalents of barriers to services trade and investment, since many of the restrictions derive from regulatory discrimination; see Hufbauer, Schott, and Wong (2010).

22. For an extensive discussion of the International Services Agreement concept, see Hufbauer, Jensen, and Stephenson (2012).

23. Pakistan did not attend the subsequent meetings in February and March, but remains a member. Costa Rica, Peru, and Israel have recently joined the negotiation.

regions, and utilize the established WTO dispute settlement system. These are all advantages. While different legal pathways for an ISA exist within the WTO, negotiations conducted under GATS Article V on Economic Integration, seem the most attractive option. An agreement that meets the tests of Article V could be concluded on a conditional MFN basis (no free riders) and would neither require the approval of three-quarters of WTO members[24] nor be linked with the fate of the entire Doha agenda. The most demanding tests of Article V are that the plurilateral agreement should entail "substantial sector coverage" and not *a priori* exclude "any mode of supply" (a reference to the movement of natural persons, Mode 4). While the 16 WTO members at the initial Geneva meeting do not constitute a "critical mass" (if the test of 90 percent of world services trade is applied), they do account for a substantial share of world trade. In any event, "critical mass" is not an Article V requirement.

Key Provisions of the ISA. For the group of 16-plus countries to make good on their self-appointed label as "friends," they will have to overcome the weakness of GATS as a negotiating framework, evidenced by the limited progress over the past 15 years in the multilateral efforts to liberalize services trade. Negotiators should learn from the service and investment chapters in recent RTAs. With that experience in mind, we recommend that the following provisions should be included in the ISA:

- As a long-term goal, the ISA should seek the complete elimination of barriers to GATS Mode 1 (service consumption abroad), Mode 2 (cross-border service supply), and Mode 3 (foreign investment in service sectors). However, commitments to Mode 4 liberalization (temporary movement of natural persons) should emphasize highly skilled and bonded individuals. The bonding requirement is designed to ensure that movement is temporary, as required by the terms of Mode 4.
- The ISA should shift from the GATS architecture of a positive list of commitments to a negative list of exceptions: Each ISA member should identify its exceptions to complete liberalization. The exceptions should contain a time commitment before they disappear or are renegotiated—perhaps 5 or 10 years.
- Benefits of the ISA should be extended to WTO members on a conditional MFN basis—only WTO members that choose to join the ISA should automatically receive the market access benefits. However, if some ISA members choose to liberalize their service sectors on an unconditional MFN basis—as has often happened in the past—that would be fine.
- In the ISA, the broad government procurement exception that appears in the GATS should be limited to essential functions of government that are closely tied to national sovereignty (for example, military contractors).
- The parties should establish a procedure for declaring emergency safeguards when a domestic service sector is seriously injured by foreign competition and should enumerate remedies that can be authorized by the WTO Dispute Settlement Mechanism.
- National regulations are often designed to protect consumers from unsafe or unfair actions. But sometimes regulations have the effect (intended or not) of discriminating against foreign service providers. The ISA should establish a mechanism, akin to IMF Article IV reviews, to conduct ongoing reviews of regulatory policies that threaten to deviate from agreed obligations and impose an unnecessary burden on potential foreign suppliers.

Conforming Domestic Laws. The litmus test for the ISA will be the ability of its members to revamp their domestic laws to reflect ISA commitments, both at the time of adoption and subsequently in response to adverse decisions. Liberalizing services trade and investment will require changes in behind-the-border policies, at the subfederal as well as the federal level. These policies include standards for entering a regulated industry (insurance, higher education), professional licensing tests (engineers, doctors), immigration restrictions (US H1-B visas), and local zoning ordinances ("big box" retail stores). Many regulations are designed to protect the public, and the distinction between reasonable and arbitrary regulations often requires case-by-case examination. Making these judgments will require a strong dispute settlement system. Ideally, the WTO system of ad hoc panels and a standing Appellate Body is well suited to this difficult task; as a practical matter, however, the US Congress and possibly other legislatures might be disposed to reject such an intrusion on their legislative prerogatives. It could take a while for countries to accept WTO decisions adverse to their regulatory practices.

Payoff from Liberalization. Using a partial equilibrium model—a modeling structure that generates very conservative results—we estimate that a 50 percent reduction in tariff equivalents of regulatory barriers to services trade has the potential to increase bilateral exports between the core 42 countries by approximately $78 billion (table 4). On this

24. This requirement applies to conditional MFN plurilateral agreements that seek inclusion within the WTO framework, in accordance with Article IX(3) of the Marrakesh Agreement.

Table 4 International Services Agreement baseline exports and estimated increases (billions of US dollars)

Exporter	International Services Agreement bilateral service exports	Total service exports	Estimated export gains[a]
Australia	26	45	3
Canada	57	68	6
Chile	3	11	0
Colombia	0	4	0
EU-27	454	764	21
Hong Kong	58	92	1
Japan	116	148	13
Korea	50	91	9
Mexico	18	18	5
New Zealand	5	9	0
Norway	38	45	0
Pakistan	3	4	1
United States	339	532	14
Singapore	35	100	1
Switzerland	90	78	2
Taiwan	20	37	1
Total exports	1,312	2,045	78

a. Estimates assume a 50 percent cut in tariff equivalent barriers. The estimates are calculated using a partial equilibrium model, which probably generates very conservative results.

Note: Tariff equivalent barriers (TEBs) are not available for Chile, Hong Kong, Taiwan, and Singapore. For these calculations, TEBs for Singapore and Hong Kong are set equal to Switzerland and for Chile and Taiwan are set equal to the United States, based on authors' own qualitative judgment.

Sources: UN Service Trade database, 2011; OECD Statistics on International Trade in Services, 2011; and World Trade Organization Statistics database, 2011. The data listed use the Extended Balance of Payments Services (EBOPS) classification and include transportation, travel, communications, construction, insurance, financial services, computer and information services, royalties and license fees, other business services, personal, cultural, and recreational services, and government services.

arithmetic, the European Union would enjoy the largest jump in exports, about $21 billion, Japan would gain $13 billion, and the United States would gain $14 billion. However, an alternative modeling structure, based on *internal* US trade in business services, suggests US export gains could be many times greater, over $300 billion annually (Hufbauer, Jensen, and Stephenson 2012). Probably the main reason for the huge difference in estimates is that many service barriers act as hurdles that preclude international commerce altogether. Partial equilibrium calculations, based on the tariff equivalent estimates in table 5, simply do not capture the "hurdle effect."

Table 5 Tariff equivalents of service barriers (percent)

Country	Current tariff equivalent	Tariff equivalent after 50 percent cut
Argentina	33.1	16.5
Australia	16.1	8.1
Brazil	55.5	27.8
Canada	15.4	7.7
Chile	6.0	3.0
China	67.9	34.0
Colombia	40.9	20.4
European Union	6.7	3.3
Hong Kong	3.4	1.7
India	68.1	34.0
Indonesia	67.9	34.0
Japan	16.8	8.4
Korea	25.0	12.5
Malaysia	28.8	14.4
Mexico	44.3	22.2
New Zealand	4.4	2.2
Norway	0.0	0.0
Pakistan	68.1	34.0
Philippines	55.4	27.7
Russia	51.3	25.6
Singapore	3.4	1.7
South Africa	39.7	19.8
Switzerland	3.4	1.7
Taiwan	6.0	3.0
Thailand	44.1	22.0
Turkey	43.9	21.9
United States	6.0	3.0

Notes: Tariff equivalent barriers (TEBs) are not available for Chile, Hong Kong, Taiwan, and Singapore. For these calculations, TEBs for Singapore and Hong Kong are set equal to Switzerland and for Chile and Taiwan are set equal to the United States, based on authors' own qualitative judgment.

Source: Hufbauer, Schott, and Wong (2010).

Currency Undervaluation

After the Second World War, the International Monetary Fund (IMF) was assigned primary responsibility for exchange rates while the GATT was handed merchandise trade. From the start of the Bretton Woods era, the domains of currency and trade overlapped;[25] when the WTO entered into force in 1995, the two

25. IMF-GATT collaboration was mainly in a GATT committee regarding balance of payments safeguards under Articles 12 and 18.

institutions signed a cooperation agreement, which formalized lines of communication and granted mutual observer status.[26] Today, the two institutions communicate on various issues. For example, the Fund's Article IV surveillance reports are an input to the WTO's periodic trade policy reviews. However, relations between the IMF and WTO are not particularly deep.

In the 1950s, persistent trade surpluses or deficits were regarded as an abnormality, one that would eventually be corrected either by internal price and income movements or—in *extremis*—by adjusting exchange rate par values.[27] After a decade of US trade deficits in the 1960s, and the refusal by Japan and Europe to appreciate their currencies, the "Nixon shock" propelled the widespread adoption of floating exchange rates in 1973. After this reform, and for the next two decades, it was again widely believed that persistent trade imbalances would be corrected—this time by floating rates working alongside price and income movements.

Experience showed otherwise. Vast flows of capital—bank loans, foreign direct investment, portfolio holdings, and central bank reserves—often persisted in one direction for years on end, forcing national trade accounts into persistent surplus or deficit. Between 2000 and 2010, China's accumulated current account surpluses totaled $1.8 trillion, and the United States' accumulated global trade deficits totaled $7.6 trillion.[28] In other words, two of the largest players in the world economy ran huge imbalances for a decade. According to the latest estimates from the Peterson Institute, the Chinese renminbi is undervalued by 11 percent, while the US dollar is overvalued by 9 percent (Cline and Williamson 2011). Others have reached similar conclusions, but with varying calculations.[29] China's huge and persistent trade surpluses, coupled with consensus estimates of undervaluation, have sparked a debate over the renminbi exchange rate and, in the absence of forceful IMF action, a quest for WTO review.

26. On December 9, 1996, the IMF issued a press release announcing and outlining cooperation and collaboration with the WTO. See "WTO and IMF Sign Cooperation Agreement," press release 96/61, December 9, 1996, www.imf.org/external/np/sec/pr/1996/pr9661.htm.

27. In this context, "trade" refers to trade in goods and services, including investment income. In technical terms, trade deficits and surpluses are often called current account surpluses and deficits.

28. International Monetary Fund, *Direction of Trade Statistics*, 2012. China also received large amounts of inward foreign direct investment, which allowed it to accumulate over $3 trillion in foreign exchange reserves by the end of 2011.

29. The IMF (2011) states that "the currency of China still appears substantially weaker than warranted by medium-term fundamentals." Moreover, the *Economist's* Big Mac Index from January 2012 has the Chinese renminbi undervalued against the US dollar by 42 percent (see www.scribd.com/fullscreen/78055840?access_key=key-15f8eo0bvuir2hz6zsja). For a comprehensive review of estimates and methodology on renminbi misalignment, see Evenett (2010).

Advocates of a WTO role emphasize two pegs, GATT Articles XV and XVI. GATT Article XV(3) declares:

> Contracting parties shall not, by exchange action, frustrate* the intent of the provisions of this Agreement, …
>
> *[Ad to Article XV(3)] The word "frustrate" is intended to indicate, for example, that infringements of the letter of any Article of this Agreement by exchange action shall not be regarded as a violation of that Article if, in practice, there is no appreciable departure from the intent of the Article…

However, the controlling language in GATT Article XV requires the GATT to defer to the IMF on currency matters. Article XV(2) calls on GATT members to:

> consult fully with the International Monetary Fund [... and] accept all findings of statistical and other facts presented by the Fund relating to foreign exchange, monetary reserves and balances of payments, and shall accept the determination of the Fund as to whether action by a contracting party in exchange matters is in accordance with the Articles of Agreement of the International Monetary Fund….

According to Article IV(iii) of the IMF's Articles of Agreement, members must "avoid manipulating exchange rates or the international monetary system to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members." While the IMF has a clear role in calling out currency manipulation this has practically never been done (Goldstein 2006). The weight of major countries in the Fund—the United States, Germany, France, United Kingdom, Japan, and China—makes criticism of their currency practices both delicate and difficult.[30]

The other GATT peg is Article XVI on Subsidies. Both because of ambiguities in Article XVI and its hortatory quality, an extensive code was negotiated in the Tokyo Round and extended in the Uruguay Round, under the title Agreement on Subsidies and Countervailing Measures (ASCM). Article 3(a) of the ASCM explicitly prohibits:

> (a) subsidies contingent, in law or fact*, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I**; ….

30. The IMF Executive Board attempts to reach all decisions by consensus. It can, however, make decisions—such as labeling the renminbi as "substantially undervalued"—by a majority vote. Changes to the Articles of Agreement require an 85 percent supermajority.

> * [note 4 in text] This standard is met when the facts indicate that the granting of a subsidy…is in fact tied to the actual or anticipated exportation or export earnings. **[note 5 in text] Measures referred to in Annex I as not constituting export subsidies shall not be prohibited under this or any other provision of this Agreement.

To an economist, it might seem obvious that an undervalued currency accompanied by persistent large trade surpluses demonstrates a prohibited export subsidy. A trade lawyer will warn "Not so fast!" Article 1 of the ASCM defines subsidies as entailing a "financial contribution" by a government, but historically an undervalued exchange rate has not been regarded as a "financial contribution" to exporters, although they clearly benefit. Moreover, Article 2 of the ASCM requires that subsidies be specific to "an enterprise or industry, or group of enterprises or industries," but an undervalued exchange rate permeates the entire economy. Neither the Illustrative List of Annex 1 of the ASCM nor its predecessors dating back to the 1960 GATT Working Party cites an undervalued exchange rate as an export subsidy.[31]

In sum, the argument that an undervalued exchange rate violates GATT Article XV, Article XVI, or the ASCM faces an uphill struggle under current WTO jurisprudence. At the same time, a "manipulated currency," a term that clearly embraces a persistently undervalued exchange rate, clearly offends IMF Article IV. Yet the IMF seems constitutionally unable to act. Something is wrong in this picture: a major problem in the international economy with no remedy in sight. This is arguably the biggest gap in the post–Second World War international economic architecture (Sanford 2010).

To fill this gap, a plurilaterial agreement is needed. Of course, the most conspicuous practitioners of currency undervaluation, starting with China, could not be expected to join. But over time, peer pressure might persuade them to follow the agreed precepts. Support for an agreement on currency undervaluation already cuts across the usual developed-/developing-country lines. Brazil, in particular, has been a leading voice in raising the issue, and the WTO organized a seminar of trade and finance officials to discuss the implications for the trading system in late March 2012.

The WTO plurilateral on currency misalignment should bring clarity by filling the "gaps" between the WTO and IMF. To do so, it should spell out the process for addressing currency misalignment. In our view, these are the proper steps:

31. A discussion of the seminal role of the 1960 GATT Working Party Report along with the relevant text are found in Hufbauer and Shelton-Erb (1984). Also see Hufbauer, Wong, and Sheth (2006).

- A member county in the plurilateral could lodge a complaint against another member country when it perceives that the second country's currency has been seriously undervalued against a relevant basket of currencies for a prolonged period. This would trigger a request from the WTO director-general to the IMF managing director to conduct a staff review of the currency in question.
- If past precedent holds, the IMF Executive Board will dodge consideration of this request; political considerations make many members of that body cautious in breaking new ground in this area. In that event, we would recommend establishing an independent panel of experts composed of former IMF managing directors and finance ministers to do the work that otherwise should be done by the IMF. In either case, the review should follow similar paths, outlined below.
- The IMF staff or independent panel would evaluate the currency in light of four tests:
    - Is the currency "seriously undervalued"?
    - Has the country in question taken measures that contribute to the serious undervaluation?
    - Has the undervaluation persisted for a prolonged period?
    - Has the undervaluation impacted a significant amount of global trade?
- If the review finds that the four tests are met, by the terms of the plurilateral agreement, the WTO member country would promise to take appropriate measures to correct the undervaluation.
- One year after the initial review, the IMF staff or independent panel would issue a second report evaluating both the extent of any continuing undervaluation and the measures taken.
- If the undervaluation persists, and if the measures taken are found inadequate, other member countries in the plurilateral agreement would be permitted (but not required) to impose uniform across-the-board tariffs, not to exceed the amount of undervaluation, on imports from the noncompliant member.
- At this point, the IMF or review panel would commence quarterly reports and all tariffs would be withdrawn after the first quarter when the IMF finds that undervaluation has ceased.

In our view, few episodes would reach the point of tariff retaliation, and those that did would be quickly resolved by appropriate measures. We realize that a plurilateral code along these lines would not be attractive to major trading powers that were contemplating deliberate exchange rate intervention as a tool of export promotion or industrial policy. However, we suggest that the existence of the code would, over a period of time, help to dissuade major powers from aggressively using an undervalued exchange rate as a policy tool.

Climate and Energy

The GATT was not principally created to protect the environment, although GATT Article XX did list an environmental exception to other obligations. Moreover in 1947, no one knew the risk of climate change induced by human activity. Nevertheless, the rules-based trading system provides elements of a framework to address the trade aspects of measures designed to mitigate climate change. Fossil and biomass energy are the main sources of greenhouse gas (GHG) emissions, so it seems natural to cover selected aspects of energy use in a plurilateral agreement.

GATT and WTO Antecedents. GATT Article XX, drafted in 1947, contained two important carve-out paragraphs for environmental measures. Provided they are "not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries," trade restrictions are permitted:

> (b) necessary to protect human, animal or plant life or health; and
>
> (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

Negotiators in the Tokyo and Uruguay Rounds were well aware that economic activity could create environmental damage of various kinds, principally pollution, contamination, and extinction. But they also knew that measures to protect the environment could also create unnecessary trade barriers—protection in disguise. The codes negotiated and updated in the Tokyo and Uruguay Rounds were designed to strike a balance between permitting the adoption of measures to protect the environment and preventing the needless obstruction of trade. Generally the balance was struck by invoking the need for "sound science" in formulating regulations and ensuring that measures are not "applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries."[32]

The trade-environment linkage gained greater prominence in the WTO era. The preamble to the Marrakesh Agreement Establishing the World Trade Organization declares that economic endeavor should be conducted:

> …with a view to […] expanding the production of trade in goods and services, while allowing the optimal use of the world's resources in accordance with the objective of sustainable development….

Trade ministers in Marrakesh also signed a Decision on Trade and Environment, which states:

> There should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other.[33]

The Decision created a Committee on Trade and Environment (CTE) with a mandate to (1) identify the relationship between trade measures and environmental measures to promote sustainable development and (2) to make appropriate recommendations on whether modifications are required to provisions of the multilateral trading system.

At the 2001 Doha ministerial, WTO members agreed to clarify the relationship between multilateral environmental agreements and WTO rules, to reduce barriers to environmental goods and services (EGS), and to discipline subsidies that promote overfishing. The Doha Ministerial Declaration also directs the CTE to consider the effect of environmental measures on market access (especially for least-developed countries); to evaluate relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS); and to assess labeling requirements for environmental purposes.[34] Over the past decade, WTO members have devoted a huge amount of effort to these mandates,

32. This phrase, which appears in the Agreement on Technical Barriers to Trade (WTO, Geneva, 1994, www.wto.org), tracks the chapeau to GATT Article XX. Other Tokyo and Uruguay Round agreements that address environmental concerns are Sanitary and Phytosanitary Measures (SPS), Agriculture, Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the General Agreement on Trade in Services (GATS).

33. Ministerial Decision on Trade and Environment, adopted on April 15, 1994, WTO, Geneva, www.wto.org.

34. Doha Ministerial Declaration, paragraph 31, November 20, 2011, WTO, Geneva, www.wto.org.

but like nearly everything else in Doha, the negotiations are deadlocked.

Likewise, the UN Framework Convention on Climate Change (UNFCCC) has made some progress at meetings held in Copenhagen (2009), Mexico City (2010), and Durban (2011) but fell well short of a "top down" global climate accord. Yet national and subnational GHG control programs are making headway in several jurisdictions—foremost the European Union, but also Australia, Canada, Korea, Japan, and some US states, notably California (Leggett et al. 2009). These programs are likely to spawn "border carbon adjustments" and consequent trade friction, as affected local producers seek to ensure that foreign competitors do not steal a march on them through less stringent controls. In fact, a dispute is already brewing over the EU Aircraft Directive, which compels foreign carriers to submit EU permits for GHGs emitted on flights to and from Europe (Meltzer 2012). Unless WTO rules are better articulated through negotiation, the WTO Appellate Body could end up defining the balance between border carbon adjustments and an open trading system. This would be a heavy load for a competent but overtaxed institution.[35]

The Plurilateral Route. In the face of stalemate in Doha and UNFCCC talks, a plurilateral agreement seems the best path for progress on the trade-environment nexus. Here we sketch what might be achieved in a Climate and Energy Plurilateral Agreement. To tick off the main elements:[36]

- rules on permitted subsidies to encourage green energy and reduced emissions;
- rules on permitted border carbon adjustments when imported goods and services compete directly with domestic production that bears a significant cost for GHG controls;
- limitation of local content requirements on green energy projects funded directly or indirectly by the government;
- elimination of barriers on imports of goods and services that mitigate GHG emissions; and
- obligation to adopt GHG standards that do not arbitrarily discriminate against imported goods and services.

Rules on Permitted Subsidies. Currently the use of subsidies is governed by the WTO Agreement on Subsidies and Countervailing Measures. Unlike its predecessor—the Tokyo Round Subsidies Code—the ASCM defines a "subsidy" and introduces the concept of "specificity" to determine if a subsidy is covered under the agreement and subject to disciplines.[37] Article 1.1 of the ASCM defines a "subsidy" to "exist if there is a financial contribution by a government or any public body" that confers a benefit.[38] Under this definition it is unclear if emissions allowances such as granting emissions permits or forgiving carbon taxes would be considered subsidies.

One way of dealing with this ambiguity follows the proposal by Hufbauer, Charnovitz, and Kim (2009), which recommends a plurilateral agreement to delineate a "green space"—a policy space for climate measures that are imposed in a manner broadly consistent with the core WTO principles, even if a technical violation of WTO rules may occur.[39] Governments subscribing to the plurilateral agreement would not take action against these measures. The agreement would permit subsidies to finance trade-related aspects of climate change such as research and development or infrastructure for the production of alternative energy sources. The agreement would also allow the use of emissions permits and carbon equivalent taxes.[40]

Dismantling Trade Barriers. Better market access for environmental goods and services and green technologies requires reducing tariffs and nontariff barriers on a defined EGS list and improving access to patented technologies. The WTO has yet to agree upon definitions for EGS, and this has triggered proposals from countries with differing interests. International organizations like the OECD, Asia-Pacific Economic Cooperation (APEC) forum, and World Bank have put forward their own lists. The CTE has also tried to define a list of EGS, without success. In the plurilateral agreement, participating countries should define an EGS list (perhaps drawing on the list under construction in the Trans-Pacific Partnership negotiations); these EGS items would then qualify for a reduction or elimination of tariffs and nontariff barriers.

Negotiating Challenges. Despite the many challenges of negotiating a plurilateral agreement, the agreement should be attractive to a number of countries. As a general matter, the agreement would allow countries to impose measures that would not be subject to a WTO challenge by other members of the plurilateral agreement. Rules on permitted

35. For more information, see World Economic Forum (2010).

36. These ideas are discussed at length in Hufbauer, Charnovitz, and Kim (2009).

37. The "specificity" concept was latent in GATT Article XVI but only spelled out in the Uruguay Round ASCM.

38. Agreement on Subsidies and Countervailing Measures, Article 1.1, WTO, Geneva, www.wto.org.

39. Precedent can be found in the Uruguay Round ASCM, which provided a five-year exemption for green subsidies.

40. For a detailed analysis of the WTO legality of carbon taxes and emissions allowance, see McLure (2011).

Table 6 Summary of past zero-for-zero agreements

Agreement	Year of implementation	Number of current signatories	Product coverage (percent of world exports in relevant product)
Agreement on Trade in Civil Aircraft	1980	31	100[a]
Initiative on Trade in Pharmaceutical Products	1994	33	90
Information Technology Agreement	1997	73	97
Chemical Tariff Harmonization Agreement	1995	50	95[a]
Agreement on Basic Telecommunications Services	1997	69	95
Financial Services Agreement	1999	105	90

a. Authors' estimates.

Sources: World Trade Organization and United States International Trade Commission.

subsidies would allow member countries to distribute or sell GHG permits. The agreement would also allow each member country to impose its own carbon equivalent taxes on imported products, thereby discouraging countries from promoting carbon-intensive production in countries that maintain weak GHG controls.

These measures should attract an initial group of like-minded countries—namely the United States, its NAFTA partners, Canada and Mexico, the European Union, Japan, Australia, and New Zealand—that would form the core members of the agreement. Ultimately, to be effective, the agreement must include other major emitters of GHGs (namely Brazil, India, and China). However, getting these countries to agree on binding commitments will be a monumental challenge. Consequently, it makes more sense to start with the core group and expand it to include smaller countries like Chile, Singapore, Hong Kong, and Norway.

Zero-for-Zero Tariffs

Despite an impasse in the Doha Round, the quest for new market access has pushed national governments to pursue alternative liberalization routes. This is visible in the well-documented proliferation of RTAs. In addition, considerable precedent exists for sector-specific plurilateral agreements that liberalize, on a reciprocal basis ("zero-for-zero"), tariffs on selected industrial goods along with nontariff barriers. These agreements, which fall within the WTO framework have accomplished varying degrees of success and provide a useful launching pad for future zero-for-zero agreements.

Liberalization on a sector-by-sector basis was popular during the Uruguay Round, when the United States, the European Union, Canada, and Japan agreed to cut their own tariffs to zero on selected products in agriculture, construction and medical equipment, some alcoholic beverages, toys, paper, and pharmaceuticals. These GATT bindings entered into force in 1995 and eliminated tariffs during a timeframe that ranged from immediate zeroing to 15 years. Prominent accomplishments of these zeroing arrangements were elimination of certain tariff "peaks" (greater than 15 percent) and of tariff escalation in a few sectors (Mann and Liu 2009). Following these zero-for-zero arrangements certain plurilaterals with the same explicit goal were negotiated inside and outside the WTO. Below we review the main ones (table 6).

International Digital Economy Agreement (IDEA). The IDEA, if concluded, would be the successor to the Information Technology Agreement (ITA), a landmark agreement concluded by 29 WTO members at the Singapore Ministerial Conference in December 1996. Coming into effect in 1997, the ITA committed signatories to reduce tariffs to zero, and bind other charges at zero, on scheduled IT products. Market access benefits were extended to all WTO members on an unconditional MFN basis. The covered products include computers, software, telecom equipment, semiconductors and manufacturing equipment, and scientific equipment. Currently 73 countries have implemented the agreement, which has expanded its coverage to roughly 97 percent of the scheduled IT trade. While these are significant accomplishments, the digital world has exploded in the past 15 years, and the ITA is now out of date. Specifically, it does not cover digital services; it does not address nontariff barriers; the product list, while expanded somewhat, has fallen behind the creation of new digital merchandise; and the membership does not include several important players (Argentina, Brazil, Chile, Mexico, and South Africa).[41]

41. For an excellent review, see Lee-Makiyama (2011). With its accession to the WTO, Russia will join the ITA.

Ten years ago, the Doha Ministerial Declaration called for members to meet periodically to:

> Review the product coverage specified in the Attachments, with a view of agreeing, by consensus, whether in the light of technological developments, experience in applying tariff concessions, or changes to the HS nomenclature, the Attachments should be modified to incorporate additional products, and to consult on non-tariff barriers to trade in information technology products.[42]

As early as 1998, before the Doha Round was launched, the ITA members tabled an "ITA II" list of products that might come under the ITA umbrella; however, the growing roster of members (now 73) has failed to agree on a final list of products, and subsequent periodic reviews have not succeeded.

A zero-for-zero plurilateral agreement could supplement the ITA with a new accord, the IDEA, which would expand product coverage in an open-ended fashion to embrace all digital goods and services, on a conditional MFN basis, for willing partners.[43] Of the 16 countries engaged in the services plurilateral talks (counting the European Union as a single country), all but Chile, Colombia, Mexico, and Pakistan are ITA signatories. It is not clear that these countries would agree to the expanded coverage envisaged by IDEA. Certainly Argentina, Brazil, and South Africa are unlikely to participate in the near future.

However, the other countries engaged in the services plurilateral talks seem like a plausible core for an IDEA plurilateral. In terms of IT merchandise, the coverage might expand from $1.3 trillion annually under the ITA to almost $1.9 trillion; in terms of services, IDEA would cover almost $300 billion of trade (Lee-Makiyama 2011).

Initiative on Trade in Pharmaceutical Products. This initiative was one of the agreements reached during the Uruguay Round negotiations. A group of 33 countries (including the 27 EU countries) agreed to zero-for-zero tariffs on pharmaceutical products and chemical intermediates used in the production of pharmaceuticals. While the countries committed to eliminating tariffs on specified pharmaceuticals and intermediates, nontariff barriers were not addressed. Zero tariff rates were applied on an unconditional MFN basis to all WTO members and were incorporated into the GATT schedules of participating countries. Members of the initiative agreed to meet—outside the WTO—at least once every three years to review the product coverage "with a view to including, by consensus, additional pharmaceutical products for tariff elimination."[44] There have been four reviews since the initiative was launched: in 1996, 1998, 2007, and 2009. During each review, tariffs have been zeroed on additional pharmaceutical products. The most recent review, in 2009, added 1,290 products.[45] The pharmaceuticals initiative has been very successful, partly because ongoing negotiations have been conducted outside the contentious Doha Round talks. Further progress can be made by this negotiating group on an unconditional MFN basis.

Chemical Tariff Harmonization Agreement (CTHA). The CTHA was negotiated during the Uruguay Round and was originally signed by Canada, the European Union, Japan, Korea, Norway, Singapore, Switzerland, and the United States. Since then, 18 additional countries have joined the agreement, including China, as part of their WTO accession protocol. The agreement covers section IV of the Harmonized Schedule—Products of the Chemical or Allied Industries—which includes organic and inorganic chemicals, pharmaceuticals, plastics, fertilizers, agro-chemicals, paints and dyes, and cosmetics. The agreement reduces tariffs to 0, 5.5, or 6.5 percent but comes up short on nontariff barriers. Both the United States and European Union have pushed to expand the CTHA during the Doha negotiations to include more countries as well as nontariff barriers, but their efforts have largely failed. This is a "near-zero-for-zero" agreement worth concluding in a plurilateral group on a conditional MFN basis.

Agreement on Trade in Civil Aircraft (ATCA). ATCA entered into force in January 1980. It commits its signatories to zero tariffs on all aircraft (other than military aircraft), civil aircraft engines, including parts, components, and subassemblies, and flight simulators. The agreement also bans government-directed procurement and includes disciplines on government subsidies. The ATCA exemplifies a plurilateral accord that achieved "critical mass." Although the agreement was initially signed by only a small group of countries—the United States, Canada, the European Union, Georgia, and Egypt—it covered the only two producers of large civil aircraft at the time, Boeing in the United States and Airbus in the European Union.

42. Ministerial Declaration on Trade in Information Technology Products, 1996, WTO, Singapore, www.wto.org.

43. The OECD (2003) has proposed the following definition: "[all goods and services] intended to fulfill the function of information processing and communication by electronic means, including transmission and display, OR use electronic processing to detect, measure and/or record physical phenomena, or to control a physical process."

44. Trade in Pharmaceutical Products, General Agreement on Tariffs and Trade, March 25, 1994, www.ustr.gov/trade-topics/industry-manufacturing/industry-initiatives/pharmaceuticals.

45. Office of the United States Trade Representative (USTR), Industry Initiatives: Pharmaceuticals, www.ustr.gov.

While the agreement was successful in liberalizing trade in civil aviation, a number of disputes have erupted between the United States and the European Union related to government subsidies. Article 6.1 of the agreement acknowledges that the "provisions of the Agreement on Subsidies and Countervailing Measures apply to trade in civil aircraft" and that signatories "shall seek to avoid adverse effects on trade in civil aircraft in the sense of Articles 8.3 and 8.4 of the Agreement on Subsidies and Countervailing Measures."[46] The two countries concluded a separate agreement in 1992—the Agreement on Trade in Large Civil Aircraft—which enumerated specific disciplines on the types and volume of government support. However, the 1992 agreement was effectively suspended in 2002, at the beginning of a long-running dispute between Boeing and Airbus over their respective national subsidies. Nonetheless, precedents from the 1992 bilateral agreement should be revived and updated in a new WTO plurilateral, not only to serve as the foundation of an accord between Boeing and Airbus but also to preemptively avert excessive government support by newcomers to the manufacture of large civil aircraft.

Financial Services Agreement (FSA). Negotiations on the FSA began during the Uruguay Round, but the agreement was not concluded until 1997 and did not enter into force until 1999. When the FSA was concluded in 1997, 56 WTO members had made commitments. Currently 105 countries have committed to liberalizing banking, insurance, securities, and financial information.

The success of the FSA is viewed as a mixed picture (Dobson and Jacquet 1998, Sauvé and Steinfatt 2001, Marchetti 2008). One of the difficulties in negotiating a deal is that barriers to financial services are typically embedded in domestic regulatory practices and cannot simply be eliminated or reduced. This also makes it difficult to assess how much was achieved in the FSA. The most significant contribution to liberalization is bringing financial services within the WTO framework and applying and creating the policy space for further liberalization. A plurilateral group of fewer than 105 countries might begin to put some limits on regulatory measures that hinder foreign competitors far more than they protect domestic consumers.

Agreement on Basic Telecommunications Services. At the Marrakesh ministerial meeting in 1994, a group of WTO members agreed to launch negotiations on telecommunications services. When negotiations began, only eight WTO members had open telecom markets.[47] However, by February 1997, when the Basic Telecommunications Agreement was signed, it had accrued a "critical mass" of WTO members. Sixty-nine countries agreed to dismantle barriers to trade in telecommunications networks and services within the framework of the GATS.

The Basic Telecommunications Services Agreement bound signatories to open their telecom markets either immediately or subject to a phased time frame. The agreement covers voice telephone services, data transmission, telex, telegraph, facsimile, and private leased circuit services and covers roughly 95 percent of trade in telecom services. Principles are set out in the Annex on Telecommunications and the Annex on Basic Telecommunications of the GATS. The agreement is viewed as a success due to its broad market coverage and the number of countries that committed to liberalizing their schedules. However, with the continued advance of information and telecommunications technology, this might be an opportunity for a plurilateral group of WTO members to enlarge the scope of coverage well beyond basic telecommunications.

Potential Trade Gains. While NAMA talks made progress in a number of industrial sectors, they did not make headway on new zero-for-zero initiatives. Picking up on sector negotiations in the Doha Round, a substantial number of countries could probably agree, on a conditional MFN basis, to eliminate tariffs on chemicals, electronics and electrical goods, and environmental goods. Table 7 outlines potential gains from these sector initiatives as calculated by Hufbauer, Schott, and Wong (2010).[48] Of course it's not certain that the 22 countries (counting the European Union as one country) covered in this calculation would join a plurilateral agreement, but the potential trade gains are significant, around $50 billion of additional exports for the three sectors combined.

Beyond the enumerated sectors, there are many others where, from a political economy standpoint, a substantial amount of trade is susceptible to zero tariffs. Negotiators could be guided by successful tariff elimination in existing RTAs and seek to generalize those achievements to a wider group of countries through plurilateral agreements within the WTO, subject of course to application on a conditional MFN basis.

State-Owned Enterprises

When 23 Western countries launched the original GATT in 1947, state capitalism was a minor feature in the international economy, compared with exchange controls, quotas, and sky-high tariffs. The main GATT-1947 provision was Article XVII

46. Agreement on Trade in Civil Aircraft, 1979, WTO, Geneva, www.wto.org.

47. Remarks by WTO Director-General Pascal Lamy, February 20, 2008, www.wto.org/english/news_e/sppl_e/sppl86_e.htm.

48. The trade footprint of these 22 countries (counting the European Union as one country) is highly similar to the footprint of the 16 countries (again counting the 27 members of the European Unions as one country) discussed in the services plurilateral section of this Policy Brief.

Table 7 Zero-for-zero trade gains for 22 countries in three sectors (billions of dollars)

	Potential gains from sector initiatives					
	Chemicals[a]		Electronics and electrical goods[b]		Environmental goods[c]	
Country/region	Imports	Exports	Imports	Exports	Imports	Exports
All 22 countries	15.4	12.8	35.4	33.5	6.3	4.5
Developed countries[d]	4.2	8.1	6.6	16.3	1.2	3.1
Developing countries[e]	11.2	4.8	28.8	17.2	5.1	1.4
European Union	1.4	3.3	3.0	5.7	0.3	1.4
Japan	0.2	2.2	*	6.5	*	0.9
United States	2.3	2.1	2.6	3.4	0.6	0.6
Brazil	1.0	0.1	3.9	0.1	0.5	*
China	4.5	1.3	11.3	6.7	1.7	0.7
India	0.8	0.3	1.7	0.2	0.8	0.1

a. Applied tariffs on all chemicals (as defined by WTO 2008) are reduced to 0, 2.5, or 5 percent in this simulation.
b. Applied tariffs on all electronics and electrical goods (as defined by WTO 2008) are reduced to zero in this calculation.
c. Applied tariffs on all environmental goods (as defined by World Bank 2007) are reduced to zero in this calculation.
d. Our sample of 22 countries has 7 developed countries: Australia, Canada, the European Union, Japan, Norway, Switzerland, and the United States.
e. Our sample of 22 countries has 15 developing countries: Argentina, Brazil, China, Colombia, India, Indonesia, Korea, Malaysia, Mexico, Pakistan, the Philippines, South Africa, Taiwan, Thailand, and Turkey.

* indicates that the import or export gains in trade for these countries are positive but less than $0.05 billion.

Note: The trade gains reflect each country's increased imports from the world and increased exports to the other 21 countries in the sample. The asymmetry is due to this methodology.

Source: Hufbauer, Schott, and Wong (2010, table 1.1).

on State Trading Enterprises. Article XVII enjoins members to operate their state enterprises "in a manner consistent with the general principles of nondiscriminatory treatment" with respect to imports and exports and to conduct international transactions "solely in accordance with commercial considerations." Among other things, Article XVII called for future negotiations to "limit or reduce such obstacles" to trade created by state enterprise. The negotiations were long delayed: As a practical matter, state enterprises were not a major concern until the 1990s. While such enterprises were a dominant feature of Latin America and Asia, the advanced countries routinely gave developing countries a "pass" in trade negotiations and dispute proceedings until the Uruguay Round.

After the Soviet Union disintegrated in 1990, however, several communist countries sought admission to the GATT/WTO, and the practices of state enterprises became a greater concern. This led the WTO Goods Council to issue, in October 1999, a comprehensive Illustrative List of Relationships between Governments and State Trading Enterprises and the Kinds of Activities Engaged In by These Enterprises. Yet the only WTO dispute case invoking Article XVII was the US complaint against practices of the Canadian Wheat Board, which the United States lost.[49]

Of course national petroleum companies in the Middle East and emerging-market economies easily rank as the world's foremost state-owned enterprises (SOEs).[50] But oil trade escaped GATT purview right from the start, and that piece of state capitalism has long been accepted. What's new is China. Over the past five years, China has elevated the interface between SOEs and the world trading system to a new prominence. To be sure, the state sector has shrunk as a share of GDP in both China and Russia to around a third, and the same has happened in nearly all other erstwhile communist countries. But Chinese SOEs are concentrated in the most profitable sectors of the economy—petroleum and other natural resources, telecommunications, chemicals, and steel—and the same is true in Russia and Brazil. Moreover, many SOEs, like Vale and Sinopec, are both well run and deeply engaged as global traders and investors.

The financial crisis emanating from New York did a great deal to diminish the luster of "leave-it-to-the-market" enthusiasts and open the way for a higher degree of state involve-

49. WTO, Canada—Measures Relating to Exports of Wheat and Treatment of Imported Grain, Report of the Appellate Body Report, WT/DS276/AB/R, adopted on September 27, 2004.

50. Giant private oil companies, such as Exxon-Mobil and BP, collectively control a very modest portion of world petroleum reserves, probably under10 percent.

ment.[51] Ian Bremmer, in *The End of the Free Market* (2010), foresees a rocky road for liberal capitalism. Bremmer may exaggerate, but faced with this challenge, the United States and other countries are drafting new SOE rules in the Trans-Pacific Partnership agreement. The idea is neither to insist on privatization nor roll back the growth of SOEs. But a *modus vivendi* between the world trading system and state capitalism requires rules of the road. While precise language has not been released, certain principles seem highly likely:

- SOEs will be defined as state-controlled firms that engage in commercial transactions in competition with private firms.
- SOEs should buy and sell for commercial consideration.
- SOEs should be transparent with respect to their shareholders and organization.
- The national regulator should not discriminate between SOEs and private firms.
- The national treatment principle must be respected.

The WTO plurilateral on SOEs should go at least as far as the TPP, and probably further. In particular, it should add four features:

- Countries should notify their SOEs annually to the WTO.
- SOEs should publish annual accounts prepared in accordance with International Accounting Standards. The accounts should declare any subsidies or privileges received by the SOE from the government.
- A country's failure to notify its SOEs or publish annual accounts would create a rebuttable presumption that the SOE received subsidies or engaged in dumping in the event the SOE faced a countervailing duty or antidumping duty case brought by a firm based in a member country of an SOE plurilateral agreement.
- As between members of the agreement, their SOEs should be obligated to follow the open procurement rules established in the GPA.

SOEs are certainly not the only threat to liberal capitalism and the free market economy. Legal expert Shanker Singham, chairman of the International Roundtable on Trade and Competition Policy, has identified a number of practices that amount to anticompetitive market distortions (ACMDs, in Singham's terminology).[52] Most of the practices, but not all, are linked to SOEs. While it would be useful to infuse competition policy quite widely into the WTO, both for SOEs and private firms, this should be attempted in a separate plurilateral agreement.[53] In our view, the SOE plurilateral should extend only to firms defined as state-controlled—recognizing that control does not require more than 50 percent equity ownership. That's still an ambitious task, but more manageable than an encompassing agreement on competition policy. As a further limitation, we are inclined to exclude sovereign wealth funds (SWFs) from the SOE plurilateral, so long as they do not acquire controlling interests in operating companies. SWFs have already attracted the attention of the G-20, and the 35 Santiago Principles, adopted in October 2008, aim among other goals to ensure that SWFs are well governed, transparent, and invest on the basis of economic and financial risk and return-related considerations (Truman 2011).

It seems unlikely that the BRICS would soon join a plurilateral agreement on SOEs. These countries are enamored with China's success, and they find the expansion of their own SOEs highly appealing, both for reasons of political patronage and economic nationalism. But while governments in the BRICS might be reluctant to join the plurilateral, individual SOEs might take a different view. The terms of the plurilateral should be sufficiently flexible that an individual company could consent to its provisions. Once the WTO plurilateral is agreed, members might elect to condition approval of inward foreign direct investment by individual SOEs on their accession, as individual firms, to the plurilateral. SOEs based in the BRICS that are keen to expand through mergers and acquisitions or greenfield investments abroad might well sign up to the obligations, rather than forego expansion abroad.

51. See, for example, the op-ed by David Rothkopf, "Free-Market Evangelists Face a Sad and Lonely Fate," *Financial Times*, February 1, 2012, 9.

52. See Singham (2011). The practices Singham identifies are government privileges in licensing, preferential sale and purchase of goods and services, abuse of regulatory process, price controls, restraints on market entry and exit, distorting tax laws, regulatory exemptions, government procurement, perverse actions by competition agencies, government toleration of private behavior, and anticompetitive state aid.

53. Picking up an initiative at the Singapore ministerial conference (1996), the Doha agenda included the following paragraph:

> "25. In the period until the Fifth Session [of the Ministerial Conference, to be held in Mexico in 2003], further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them."

However, there was no consensus on competition policy and, after the tumultuous Cancún ministerial in 2003, the subject was dropped from the Doha agenda in August 2004; see www.wto.org/english/tratop_e/comp_e/comp_e.htm.

CONCLUSION

After a decade of deadlock at the negotiating table the time has come to think outside the box. Little political support for endless talk, severe disagreement on appropriate concessions, and the "single undertaking" straitjacket all contributed to the collapse of negotiations. Despite the progress made in several areas, it is clear that the Doha agenda envisaged in 2001 will not be completed according to the original mandate. But to abandon the Doha agenda altogether would consign future trade liberalization entirely to the regional track and would likely inflict Lou Gehrig's disease on the WTO. Important global issues might well be put on the back burner.

We propose a grand bargain that couples a significant harvest from the Doha agenda with the future negotiation of plurilateral agreements among WTO members willing to take rewarding, yet challenging, steps forward. Five parts of the Doha agenda should be agreed immediately: trade facilitation, duty-free, quota-free treatment of imports from least developed countries, phaseout of agricultural export subsidies, discipline of farm export controls, and reforms to dispute settlement. These measures cause little economic pain to any WTO member while delivering benefits to all. One plurilateral agreement is already in motion. In early January 2012, a group of 16 countries—including the EU-27, the United States, Australia, Taiwan, and Singapore—met to discuss plans for a services plurilateral agreement, under Article V of the GATS but outside the Doha agenda. These talks should set the stage for plurilateral negotiations on a range of other pressing issues, several identified in this Policy Brief.

Our analysis indicates that plurilateral agreements on services liberalization, WTO-IMF coordination on currency undervaluation, greenhouse gas and energy measures, zero-for-zero tariffs and limits on behind-the-border barriers for trade in select industrial sectors, and rules of the road for SOEs are promising next steps. While each of these topics presents unique negotiating challenges, we recommend three common features for future plurilaterals, both to promote negotiations and to give the agreements more bite. First, the plurilateral agreements should be "inside" the WTO. This increases the likelihood they will eventually become universal and meanwhile ensures access to legally binding dispute settlement procedures. Second, the plurilaterals should extend their benefits on conditional MFN basis to nonmembers. This both eliminates the "free rider" problem and provides a strong incentive for wider membership. Finally, we recommend that the trade or subject coverage of each plurilateral should extend to "substantial" portion of world commerce (a minimum of around 40 percent), not necessarily a "critical mass" (often interpreted as 90 percent coverage). The "critical mass" threshold was not articulated in the Marrakesh Agreement as a requirement for a waiver from the unconditional MFN rule; moreover, the GPA demonstrates that significant liberalization does not depend on covering a "critical mass" of countries.

We conclude where we started. The WTO can have a bright future, but it cannot rely solely on its proven competence as a judicial body nor its acknowledged expertise in gathering statistics and analyzing trends. Crowning these strengths, the WTO must launch a new era of trade and investment negotiations. Other promising approaches may exist, but we think that plurilateral agreements on pressing global issues offer an excellent path forward.

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