

THE WTO SERVICES AGREEMENT: POSSIBLE IMPACTS ON AGRICULTURE

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*The WTO
Services Agreement:
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on Agriculture*

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Overview

This white paper analyzes the World Trade Organization (WTO) General Agreement on Trade in Services (GATS) and the current GATS negotiations, begun in 2000 and scheduled for completion on January 1, 2005 (known as GATS 2000), with respect to service industry sectors related to agriculture. Particular attention is given to GATS provisions that enable WTO members in bilateral negotiations to request clarification, modification or elimination of national and sub-national¹ regulatory requirements and laws (“discipline domestic regulations” in WTO parlance) governing service sectors.²

Given that the United States has been severely criticized for regressing on agricultural trade liberalization commitments,³ U.S. negotiators will likely avoid making explicit requests to liberalize agricultural services. Nonetheless, there are rules, laws, policies and subsidies pertaining to potential agricultural service markets that transnational agribusiness might wish to target as “distorting” the ideal market of trade. Here is a short indicative list that could be targeted under the GATS and proposed GATS 2000 rules: land ownership, use and rural zoning laws; government agricultural extension services; rural finance and development policies; public veterinary services; agro-environmental genomics and genetic testing services; agricultural cooperatives; consumer food cooperatives; bio-energy cooperatives; subsidized public school lunch and daycare lunch programs.

Government supplied services include advice and technical assistance on farm management, agro-environmental practices and crop marketing. States can take unilateral action to reduce government provision of agricultural services, as indicated in the quote above concerning Minnesota, the U.S. state in which IATP is located. But even this unilateral action is strongly influenced by trade policy and trade objectives. U.S. policy to lower prices received by farmers in order to maximize trade has been an important factor in the decision to cut services. Lower prices have led to a decrease in the number of farmers still on the land and using extension services.

Two relations of the GATS to agricultural services are considered here. First is a composite of service sectors that are used, mostly by private sector firms, in large-scale commercial farming, food processing and food retailing. This composite relation is analyzed by using the example of the European Commissions bilateral GATS 2000 request to Mexico to clarify, change or eliminate its laws and regulations, in order to increase EU service industry market access to Mexico. We characterize this relation of the GATS rules to the agriculture and food system as “agricultural trade related services.” The second relation pertains to the agricultural extension services largely provided by governments, especially in developing countries. While there is more trade and profit to be made in “agricultural trade related services,” we focus more on possible effects of the GATS on agriculture extension in developing countries,



since the farmers it serves produce the food security and rural development initiatives for the great majority of the world's people.

Most change in agricultural services delivery in developing countries has resulted from the lending requirements of international financial institutions, rather than from conformity to trade rules. Indeed, a recent World Bank study claimed that the international financial institutional reform of about 70 developing country extension services in “the past four decades may well be the largest institutional development effort the world has ever known.”⁴ Private sector agricultural service delivery in developing countries is still mostly confined to aiding large-scale commercial farmers and agricultural exporters. Most agricultural services in developing countries are delivered through decentralized government units and non-governmental organizations. The trend towards decentralization of agriculture extension services could, however, be hindered by application of the GATS provisions that can discipline sub-national government units and non-governmental organization service provision in order to guarantee the “rights” of foreign private sector service providers. Whether there is in the GATS private sector opportunity to challenge governmental and non-governmental extension service provision will depend in part on whether developing countries make GATS 2000 bilateral commitments in service sectors related to agriculture, and if so, what kind of commitments.

A Very Brief Introduction to the GATS Negotiations

The GATS expanded the notion of “trade” in services from cross-border delivery to include investment (the “right” to establish commercial presence), cross-border movement of business persons involved in service establishment or delivery, and “services that are consumed or provided abroad.”⁵ The GATS 2000 negotiations seeks a further expansion by proposing that even national laws and rules that are applied equally to domestic and foreign service suppliers be eligible for challenge as being “unduly burdensome” to foreign suppliers.⁶ According to GATS negotiating meeting minutes, proposed rules would increase horizontal limitations, i.e. limitations pertaining to all service sectors, on government’s ability to regulate services, whether or not a member has taken trade liberalization commitments in a specific sector.⁷

As part of the GATS 2000 negotiations, the Working Party on Domestic Regulations of the WTO Council on Trade in Service has discussed “Examples of [Regulatory] Measures To Be Disciplined.”⁸ This list of “Examples” has been compiled and synthesized by the WTO Secretariat from contributions by WTO member countries’ consultations with service industry lobbyists. While presently only a discussion document of the Working Party, the List indicates the kinds of national laws and regulations that could be targeted for GATS disciplines, including trade sanctions resulting from GATS related dispute settlements.



Examples of the kind of regulations to be GATS disciplined include “too many licenses required in order to operate a business”; “overly burdensome licensing requirements (e.g. minimum age required for a physiotherapist is 25 years old)”; “subsidies for higher and adult education, and training are not made known in a clear and transparent manner” and a very long etc. In the endgame of GATS 2000 negotiations, some of the Examples could be dropped off the list, and others added, so the List will be indicative, not definitive, of what national and sub-national laws and regulations can be targeted for disciplines. The purpose of such proposed disciplines is to irreversibly open up markets to transnational corporate service industries, as well as to limit the ability of governments to regulate the service industries.

While the GATS preamble recognizes the “right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives,” this preamble, like all preambles in WTO agreements, is non-binding. The binding exceptions, and qualifications of this “right to regulate” put the burden on every unit of government to justify that rules and laws governing the service industries “do not constitute unnecessary barriers to trade in services” (Article VI.4). At an April 2003 conference co-sponsored by the Office of the U.S. Trade Representative, Dick Self, a former U.S. GATS negotiator, stated, “WTO members have made no progress in any effort to develop general disciplines that would

apply to all services sectors under Article VI.4. This effort has gone nowhere and it will go nowhere.”⁹ Self’s view notwithstanding, given the increasingly autocratic and non-consensual structure of WTO negotiations,¹⁰ informed speculation on possible impacts of proposed GATS 2000 rules seems preferable to sanguine disregard until after the rules have been locked in.

The Right To Regulate and Its Dissenters

In a recent defense of the European Union position on GATS 2000, EU Commission Pascal Lamy stated, “Any incentives for trade in services must respect the regulatory framework established by competent government authorities.”¹¹ If a rhetorical defense of “respect” for governmental regulatory regimes, such as that of Commissioner Lamy’s, were to become a binding government ‘right to regulate’ article¹² in a revised GATS, perhaps there would be less opposition to the GATS.

A “right to regulate” provision would ensure the ability of governments to regulate the provision of services in their countries without fear that measures taken to fulfill their regulatory objectives would be subject to WTO dispute resolution challenges and trade sanctions. One source of support for a GATS “right to regulate” provision is recent research into the effect of GATS on the ability of United Nations Covenant on Economic, Social and Cultural Rights members to carry out universal service obligations



required by the Covenant.¹³ However, the United States and European Union have judged that a binding “right to regulate” article is unnecessary. The United States has not ratified the Covenant.

Under the GATS Article I.3, laws, rules and related measures of WTO members’ national, and sub-national governmental units and jurisdictions governing service sectors are subject to challenge, if government supplied services are provided on a “commercial basis” or are “in competition with one or more service suppliers.” Since there is hardly a government supplied extension service that could not also be supplied by the private sector, all laws, rules and related measures, such as implementation and enforcement, governing a sector could be challenged by WTO members representing their transnational corporate service industries. The subordination of public services to GATS disciplines raises the question of whether there is any government rule or related measure that could withstand a GATS dispute resolution challenge.

The literature on the legal foundation of public services is extensive and no summary here can do it justice.¹⁴ Suffice it to say that extension services generally share the legal grounding of a public service in the public interest. Access to extension services, such as farm management and crop marketing advice, has traditionally been guaranteed as a qualified entitlement, e.g. the extension services provided for U.S. farmers by public uni-

versities under section 3 of the Morrill Act (1862) and subsequent legislation to grant farmers access to land, water, credit and technical assistance.

Under the GATS, agricultural extension services would no longer be governed by a legal foundation of entitlement in the pursuit of a public interest, such as rural development. Instead the government provision of extension services would be judged in terms of whether it conflicted with and guaranteed the contractual rights of foreign service providers and investors.

The GATS, reinforced by enormous pressure from international financial institutions demanding that developing countries privatize their public services, provides the legal framework for foreign service providers to challenge the laws and rules by which governments provide services. Under Article XXIII.3, foreign service providers may mount such a challenge or the threat of one through their government representatives whenever they believe that government actions have denied them anticipated benefits under trade liberalization.¹⁵ The U.S. government representation of the Chiquita Corporations’ challenge to the EU banana import license regime is perhaps the most famous WTO agricultural trade related service dispute so far, but more such disputes will likely follow. In that notorious case, thousands of small-scale African, Caribbean and Pacific island banana producers benefiting from preferential access to EU markets were ruined to satisfy the market access



ambitions of a badly run company that went bankrupt, notwithstanding its WTO victory.¹⁶ According to a document once available at the WTO Web site, “the [GATS] commitments are virtually guaranteed conditions for foreign exports and importers of services and investors in the sector.”¹⁷ However, there are no such guarantees that private sector provision of agricultural services will improve service delivery or make it more affordable or available.

Agricultural Services: “Trade Related” and Government Supplied

Within the WTO services industries classification, there is a sub-sector called “Services incidental to agriculture, hunting and forestry.”¹⁸ However, as far as can be determined, the GATS 2000 negotiations have not referred to agricultural services as such. For example, the European Union GATS request to Mexico, to change or eliminate its national laws and regulations to further open Mexican markets to EU headquartered service industries, does not mention “agricultural services.”¹⁹ In the European Commission request to the United States to commit to liberalize services, “agricultural services” does not rate a category of its own.²⁰ Measures pertaining to the acquisition of land are categorized under “accounting, auditing and bookkeeping services.” Requests pertaining to remediation of soil and water clean up, “water for human use and wastewater management,” protection of biodiversity and landscape are among agricultural related services that are categorized under “environmental services.” Perhaps, by distributing agri-

culture service functions through different service sector categories not wholly associated with agriculture, the GATS negotiators seek to keep agricultural and food services a low profile issue. (See Box 1 for a short analysis of how the EU requests could pertain to services “incidental” to agriculture in Mexico.)

One way to think about possible impacts of bilateral GATS 2000 requests and offers is to analyze the requests in the context of a country’s agriculture and food system. Here are two possible impacts, based on European Commission sectoral requests to Mexico. (The U.S. requests are not public documents. The EC requests have been leaked and posted by a Canadian non-governmental organization, the Polaris Institute. Mexico has made offers to GATS 2000 requests but its offers remain confidential.²¹)

The explosion of supermarkets’ food distribution market share in Latin America is such that “in one globalizing decade, Latin American retail made the change that the U.S. retail sector made in 50 years!”²² Perhaps half of Mexican retail food distribution now occurs through supermarkets, in part due to deregulation of Foreign Direct Investment under structural adjustment program requirements.²³ Further expansion of supermarket market share for EU based supermarket chains might be facilitated, if, as the EU requests, Mexico “take full commitments” concerning the owning or leasing of property in real estate services that would allow EU firms to own or lease land, e.g. for supermarket or allied facilities construction, without a Mexican partner.²⁴



Under “Distribution services” the EU requests that Mexico “take full commitments” to remove putatively trade restrictive regulations concerning the “distribution of agricultural raw materials and live animals.” This request suggests that EU headquartered supermarket chains and/or EU food processing firms might wish to manufacture foods, including meat, for distribution through supermarkets, rather than retailing foods produced by Mexican food processors and meat packing plants. The EU also requests that Mexico “clarify” the rules that forbid foreign investment in Mexican “trade union and cooperative stores,” presumably to determine whether those rules are “necessary” to fulfill a regulatory objective and to do so in a way that is least trade restrictive.²⁵ If the EU finds that the clarification is unsatisfactory, it may make a subsequent request to eliminate the rules so that EU headquartered supermarket chains could compete with Mexican trade union and cooperative stores while also holding a financial interest in those stores.

A second impact resulting from the EC requests is in “other environmental and ancillary services” used in agriculture. Mexican agriculture, particularly grain producers in such border states as Sinaloa, has to compete with highly subsidized and high input U.S. agricultural products that are dumped at below cost of production.²⁶ Large scale farmers in the state of Sinaloa produce yields similar to those of their competitors in the United States through intensive use of agricultural chemicals and irrigation on monocultures.

However, due to structurally depressed “global prices” for these commodities, even large scale farmers receiving Mexican government subsidies cannot afford to maintain their irrigation equipment, resulting in a wasteful and unsustainable use of this essential agricultural resource.²⁷ Although there is no WTO service sector classification for irrigation services, the full commitments that the EU requests in “other environmental and ancillary services” could include irrigation. Mexican government subsidies for inputs and water to large scale commercial farmers would either have to increase so that farmers could pay for improved irrigation services, or the Mexican government would have to contract directly with EU service firms to improve agriculture irrigation and water management.

Despite the lack of explicit mention of “agricultural services” in the GATS 2000, there are several service sectors whose business activity contributes to the production of agricultural goods. A recent U.S. Department of Agriculture article sketches an intersection of agriculture and services needed for the global food system promoted by the USDA: “An efficient financial sector helps deploy resources where they bring the highest return within the food production sector and along the distribution chain. Shippers need access to short-term credit to facilitate the flow of food products from one market to another. Farmers need credit to modernize their equipment and to apply new technologies . . . Business services such as legal advice and



market analysis can reduce costs of penetrating new food markets. Improvement in education and health services can contribute to the accumulation of human capital in rural areas, making them more attractive for investment.”²⁸

This composite description of services that may intersect with agriculture might be called “agricultural trade related services” after the way in which WTO rules now govern certain traditionally non-trade related concerns, such as intellectual property and investment protections, while denying such relation to food security and rural development related trade. An example of trade-related agricultural services would be those legal, business, financial, construction, transportation and environmental services that are used to build and manage a corporate livestock feedlot or a meat packing plant.

Somewhat distinct from this unorthodox “trade related” notion of agricultural services is the more traditional notion of agricultural services, namely those provided largely by governments to farmers and farmer based organizations as “agricultural extension services.” Such services would include the provisions of technology and farm management advice, input and equipment supply, finance, crop marketing, water resource management and veterinary services, and a long etc. A recent World Bank study estimates that “about 80 percent of the world’s extension services are publicly funded and delivered by civil servants. Universities, parastatals [i.e. public-NGO or public sector joint institutions] and non-government organi-

zations deliver about 12 percent and the private sector another five percent.”²⁹

According to a 1990 Food and Agricultural Organization study, commercial farmers received about 58 percent of extension services, while the vast majority of the world’s (commercially marginal) farmers received about a third of extension resources.³⁰ Given that globally “the absolute value of aid to agriculture fell by two thirds in 1987–98,”³¹ it is reasonable to assume that there has been an increase globally in the portion of extension services provided by the private sector. A 1997 Food and Agriculture Organization study estimates that government supplied extension services are provided to only about 10 percent of farmers, so there is a very large potential market for these services.³²

Private agricultural services providers, as described in a recent Wall Street Journal (WSJ) article, may compete with governments to provide some agricultural services to farmers. The WSJ reporter paraphrases an Indian soybean farmer as saying that purchasing access to an electronic commerce firm’s computer “allows farmers greater control over their own goods. . . . [W]ith a computer . . . they can make a considered decision at home, holding crops until prices improve.” The same firm also hopes to sell farmers cooking oil, salt, sugar, flour and lamps and gather information about their consumption habits that can then be sold to other firms.³³ Advice on crop marketing is a traditional extension services function, although the selling of information about



rural consumers' buying habits is not. If such a firm were foreign and in competition with government supplied services, then under GATS Article VI.4, WTO members could request changes to federal and sub-federal rules and laws pertaining to that service, and go to dispute resolution if necessary to levy sanctions if those changes were not made.

Decentralizing Agricultural Extension Services

The decentralization of agricultural extension services in developing countries has been presented as part of a broader institutional reform process of "failing states" that began in the 1980s. "The extent of government intervention in, and poor performance of, the agriculture sector in many countries was often cited as evidence of this state failure. The corrective mechanisms advocated were privatization and extensive deregulation."³⁴ Donors to the international financial institutions required reducing the role of central governments in the provision of extension services. One view of the decentralization of government supplied extension services, as recommended by a 1994 World Bank study, is that such decentralization is "the first step in the long road to privatization."³⁵ By withholding agreed upon loan packages from developing countries, the Bank and the International Monetary Fund (IMF) have pressured, usually successfully, to force governments to privatize government companies providing such services as electricity and water.³⁶

The Bank and IMF enforced policies

"changed development strategies in agricultural research, input supply, crop marketing, extension, veterinary services, rural financial services and water resource management. Indeed, the entire range of rural development activities was affected."³⁷

GATS and proposed GATS 2000 disciplines on "domestic regulations" also are coherent with changes in laws required of developing countries by international financial institution structural adjustment programs. According to a Bank analyst, "Multilateral rules on domestic regulations can help to promote and consolidate domestic regulatory reform, even when they are designed primarily to prevent the erosion of market access for foreign providers."³⁸

Yet not all programs to decentralize central government provision of extension services result in privatization. Indeed the inability of commercially marginal farmers, the majority of farmers in most of these countries, to pay for agricultural services as contractual transactions will limit the extent of private sector supplied extension services in developing countries. An FAO survey of decentralization suggests that other forms of decentralization include deconcentration, delegation, devolution and partnerships with civil society organizations (CSOs).³⁹

Deconcentration moves administrative duties, resources and authority from the central government to regional and local government units. Delegation moves administrative tasks, resources and



authority for service delivery from any unit of government to a company, a state enterprise, research institute or non-governmental organization. Devolution requires that “local governments are assigned the responsibility of deciding which services should be provided on a priority basis and to whom” and that the beneficiaries of the services be involved in the planning and evaluation of service delivery. Partnerships with CSOs tend to occur when central governments assign responsibility for planning and delivery of services to CSOs because local governments are unable or unwilling to do so.⁴⁰

What these modes of decentralized service delivery have in common is that they give a considerable degree of legal authority and regulatory discretion for extension service delivery to local officials or to their delegated representatives. Is it possible that transnational corporate service providers, e.g. genetic engineering technology services, might find a potential market impeded by sub-national laws or rules in the provision of extension services, and seek a remedy via a GATS dispute, rather via another WTO agreement dispute? Case study evidence would offer the best answers to this question. While the GATS 2000 rules still remain in negotiation, the best we can do is to give a schematic answer based on GATS provisions and what we know of proposed GATS 2000 rules.

Extension Services Decentralization, Local Policy Innovation, and Realization of Development Objectives Under the GATS

Analysts of extension service delivery note that “[t]he effectiveness of extension work is crucially dependent on complementary policy and institutional actions on which it has very limited influence. Thus limiting factors such as credit, input and seed supplies, price incentives, marketing channels and human resource constraints determine the impact of the information that extension agents convey to farmers.”⁴¹ Other limiting factors include the impact of trade policy on domestic agriculture, particularly on price competition between foreign and domestic “like products,” e.g. the white corn that is eaten in Sub-Saharan Africa and the yellow corn that is exported there.

At the Doha ministerial, proponents of multilateral disciplines to enhance food security and rural development, known as the Agreement on Agriculture Development Box, tried in vain to get their proposals incorporated into the Doha negotiating mandate. The Friends of the Development Box, a group of developing country delegates, noted in a press statement that “large scale imports for many of our countries are synonymous with importing unemployment and food insecurity.”⁴² However, just as Special and Differential Treatment (S&D) proposals have been stymied generally in the preparations for Cancún,⁴³ despite the Doha mandate to make S&D “operationally effective,” so too has the Development



Box been stymied.⁴⁴ If the Agreement on Agriculture (AoA) negotiations do nothing to protect developing country producers from dumped product, then the most effective agricultural services will be hard pressed to assist producers unable to compete with dumped exports.

Apart from the indirect impact of the AoA itself on revenues to finance extension services, there are two main GATS impediments to effective delivery of agricultural services for development objectives. First is the ability under GATS to challenge the legitimacy of service provision by any and all levels of government. Second is the effective inability of most governments to afford to withdraw from GATS bilateral service sector commitments when transnational corporate service provision fails to meet government objectives.

The GATS disciplines must be enforced on the regulation and related activities of “central, regional, or local governments of authorities” and of “non-governmental bodies in the exercise of powers delegated” by any and all government jurisdictions.⁴⁵ This requirement removes the local policy flexibility that has fostered successful decentralization of agricultural services, particularly those supplied by governments in developing countries.⁴⁶ The incentive to innovate in the sub-federal or non-governmental provision of services is greatly reduced if regulations and other measures to deliver that service can become subject to trade sanctions under GATS. The International Fund for Agricultural Development (IFAD) states

that its 25 year experience of building government and non-governmental capacity for rural development teaches that effective service delivery requires policy flexibility at the local level.⁴⁷

Another impediment to flexibility is that GATS commitments are effectively irreversible, making members pay “compensatory adjustments” (GATS Article XXI) to all affected WTO members before withdrawing from or modifying its bilateral commitments. If a country decides that the elimination or modification of a regulation at the request of another member was a mistake, the mistake cannot be corrected, except at very great cost. If, for example, a government discovers that a bilateral commitment to deregulate its energy services has resulted in deteriorating service quality or prices its citizens can afford, it cannot correct the error of its commitment without making comparable concessions in another sector or even in another WTO agreement.⁴⁸

This effective irreversibility of GATS commitments invites impunity in services provision in cases where a service sector market is dominated by a handful of companies. Bush Administration regulators recently ruled that allegedly fraudulent provision of energy services by Enron and other energy service providers to the U.S. state of California was insufficient cause to break a multi-billion dollar, long-term energy contract.⁴⁹ In the light of such a ruling, WTO members may well wonder whether there are any WTO legitimate grounds for withdrawing from GATS commitments, even when subse-



quent services provision proves to be deficient or even criminal. (Broad market access commitments in energy services are among the principle U.S. GATS negotiating objectives.⁵⁰) One GATS scholar has noted, “Vital consumer protections – ‘the prevention of fraudulent and deceptive practices’ and the ‘protection of the privacy of individuals’ [Article XIV (c)] – have a weak status as exceptions in the agreement because even if a [government] policy is explicitly designed to prevent fraud or protect privacy, it can still be challenged successfully if it is inconsistent with the provisions of the GATS.”⁵¹

The constant threat of trade sanctions on national and sub-national laws resulting from government commitments in such services as agricultural water management, provision of inputs, marketing assistance, etc. puts the burden of proof on governments to show that the laws, rules and other government measures taken to fulfill development objectives are “not more burdensome than necessary to ensure the quality of the service” (GATS Article VI.4b). The hovering threat of GATS related trade sanctions may inhibit innovation on the supply side development of government extension service delivery. More difficult to measure is how a GATS facilitated privatization of extension services would affect the organization of demand for access to water, land and technology that the International Fund for Agricultural Development (IFAD) identifies as essential for rural development.⁵² If the GATS framework provides a “virtual guarantee” for foreign service providers and their investors, what rights

of access are there under it to agricultural resources except those provided for in contractual relations?

After Cancún

Dani Rodrik, a United Nations consultant on trade and development, wrote just before the Doha Ministerial that “The WTO is devoted largely to bargaining over market access. ‘Free trade’ is not the typical outcome of this process; nor is consumer welfare what negotiators prioritize. Instead the negotiating agenda has been shaped in response to a tug-of-war between exporters and multi-national corporations in the advanced industrial countries on one side, and import-competing interests (typically, but not solely, labour) on the other side. . . . There is little in the structure of the negotiations to ensure that their outcomes are consistent with development goals, let alone that they seek to further development.”⁵³ According to Rodrik, instead of prioritizing market access, developing country GATS negotiators should seek to conserve and expand “the policy autonomy needed to exercise institutional innovations.”⁵⁴

Institutional innovations in the delivery of agricultural services is certainly a matter in which such policy autonomy is necessary, particularly given the centrality of agriculture to food security and employment in developing countries. Rodrik further notes that advanced industrialized countries are characterized by the diversity and quality of their public institutions, and not by institutional conformity

brought about by harmonization with trade rules and enforced by threats of trade sanctions and loss access to international credit markets.⁵⁵ Since the Doha Ministerial, a wide array of analysis of the Uruguay Round agreements and alternative policy proposals have been available to negotiators.⁵⁶

Unfortunately, the GATS negotiators have avoided assessing the impact of trade liberalization on development in their deliberations, as required by Article XIX. Hence they are immune to the kind of economic evidence marshaled by Rodrik and others, and to proposals for making trade rules coherent with development objectives. Instead negotiators have reduced the development dimension of the so-called Doha Development Round to largely unimplemented “best endeavor” Special and Differential Treatment (S&D) measures. In April 2003, 13 African trade ministers called for a “moratorium on Services negotiations until independent and reliable impact assessment studies have been carried out.”⁵⁷

As negotiators turn their backs on economic history and analysis, in order to press for further market access and remove the regulations that their corporations regard as barriers to trade, it appears that little will be accomplished for development objectives within the negotiating structure of the Cancún ministerial. In the overall structure of WTO negotiations, there is little comparable reciprocity between what concessions are asked of developing countries, and what developed countries are willing to give.

For example, the United States and European Commission have made it clear that any implementation of S&D requirements in Uruguay Round agreements, much less of new S&D proposals such as a Development Box in the Agreement on Agriculture, will be granted only after sufficient concessions on negotiating issues of interest to the United States and the European Union.⁵⁸ Therefore, it appears that in order to fulfill the Doha Ministerial Declaration mandate (paras. 13, 44 et passim) to make “operationally effective” S&D provisions, developing countries, *inter alia*, will have to open market access to whole services sectors to allow heavily subsidized transnational corporations to compete directly with national firms and government service providers.

The extent of criminal convictions, alleged crime and government rule violations by service industry companies has prompted even stalwarts of trade liberalization, such as the Brookings Institution to recognize a “crisis in corporate governance.”⁵⁹ Since institutional measures to resolve this crisis are far from completion, it is unclear why government negotiators seem eager to lock in the negotiating demands of such GATS advisors as Arthur Anderson, Enron, Crédit Suisse, Halliburton, CitiGroup, WorldCom, Vivendi etc.⁶⁰ In view of the current state of play in the GATS negotiations, any hope that multilateral trade policy might contribute to sustainable development will likely depend on what is done after the Cancún ministerial.

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Much of today's agricultural focus in the WTO is on reducing distortions in commodity markets, including import barriers, export subsidies, and government support to producers. As the contribution of primary agriculture to GDP [Gross Domestic Product] has shrunk to less than three percent in developed economies, it may be time to shift focus from production agriculture to the broader food system, where the services sector plays an increasingly significant role and may have a larger distortionary impact on the food system than commodity and farm-level policies.

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