

Cancun: Can can't? Can do?

By
Sylvia Ostry

Distinguished Research Fellow
Munk Centre for International Studies
University of Toronto

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Introduction

At first the news from Cancun invoked in me a strong sense of déjà vu all over again. Cancun was a mid-term Ministerial meeting as was Montreal in 1988. On the last morning of the Montreal meeting around six a.m. the bleary-eyed negotiators were waiting for the arrival of the EC and US warriors who had been up all night dealing with agriculture. When they arrived they announced that it was too bad but they hadn't reached an agreement so we should tidy up the other agenda items and finish the communiqué. A group of Latin American countries headed by Brazil said "no": no agriculture, no agreement on anything. It was a moment of shock (and maybe awe for some others) but we handled it with great finesse by announcing that the meeting was adjourned and would be reconvened shortly in Geneva. No big headlines ensued.

My déjà vu feeling soon dissipated. Among the many unintended consequences of the Uruguay Round was a sharp cleavage between the North and the South over the Grand Bargain which sealed the negotiations: the inclusion of the "new issues" of services and intellectual property by the South; the reform of agriculture and improved access for labour intensive goods especially textiles and clothing by the North. The Grand Bargain turned out to be a Bum Deal and Southern hostility was evident at every subsequent Ministerial meeting. Cancun was very different from Montreal. At Cancun, there appeared to be an axial shift in the political economy of policy-making that would require a fundamental reorientation of the players and the game. Granted it may be too early to tell but it's worth reviewing Cancun in that light.

The Political Economy of Policy-Making

Before the Uruguay Round the GATT “club” was run by the US and the EC. Developing countries were largely ignored as players. In the Uruguay Round, however, Southern countries were active in the agricultural negotiations and in trying to block the inclusion of the “new issues”. The negotiations dragged on and on. But by the onset of the 1990s a major change in economic policy was underway fed by the debt crisis and the fall of the Berlin Wall – a confluence of two unrelated events. The neo-liberal model (or Washington consensus) was accepted as the dominant paradigm in most countries by the first half of the 90’s. Alas, the nirvana promised by trade liberalization proved ephemeral and the financial crises in the second half of the 90’s provided a great target for the new actors in policy-making, the NGOs.

The much higher profile and the proliferation of the NGOs stemmed in large part from another unintended consequence of the Uruguay Round: the rise in profile of the MNEs (multinational enterprises) due to their crucial role in the Round. For the more paranoid, the Round was simply a conspiratorial collusion between corporations and the US government. The corporations became a target for what came to be called anti-corporate globalization.

This is not the time or place for a review of the history and role of the NGOs in the trading system. Nor am I asserting that there is a homogenous set of institutions called NGOs. Nor, heaven forbid, am I going to get into definitions. My major concern has been the role of advocacy NGOs, whose main objective is to shape policy.(1) The

most visible of those NGOs have been the Mobilization Networks whose major objective is to rally support for dissent at a specific event. These NGOs have effectively utilized the internet to create a new service industry: the business of dissent. But there seems to be a shift in strategy due to escalating violence (as at Genoa) and especially due to 9/11. However, it is clearly premature to declare that the movement died after September 11th, as exemplified by a Wall Street Journal editorial headline “Adieu Seattle”. What about “Bonjour Cancun”?

Cancun and NGOs

It's not possible to assess the role played by the NGOs in Cancun. What is evident, however, is that there's been a marked increase in the numbers and activities of NGOs in the South. Often in cooperation with Northern NGOs there is a “virtual secretariat” that has assisted developing countries in the political and technical aspects of trade policy. Instead of demonstrating outside the tent many NGOs are quietly at work inside a growing number of tents. The internet revolution has provided them with economies of scale and scope by linking widely disparate and dispersed groups. The market for policy ideas is now contestable and the dynamics of policy-making are being transformed.

The precise role of NGOs at Cancun is a subject of continuing debate. It is claimed that African civil society played a crucial role in the Ministerial rejection of compromise on the Singapore issues, which in effect, shut down the meeting. Of course there were many other factors (including the rather odd decision of the Mexican Chair not

to resume the agriculture discussions) but that's not really the point. The role of NGOs at Cancun was important on substantive as well as process grounds. And that implies a significant change in the dynamics of the policy process of the WTO. The loud cheers of joy from many NGOs at the collapse of talks are not exactly a hopeful sign. But more of that later.

Although it was the so-called Singapore issues (investment, competition policy, government procurement and trade facilitation) that triggered the Cancun collapse, in fact there was a much more serious conflict related to agriculture. The draft proposal of the US and EU polarized the debate into a North-South struggle with a new Southern Coalition led by Brazil. This coalition, the G-21, included Brazil, India and China (the "Big Three") and a group of Southern countries with varying views on economic policies. It seemed an unlikely grouping but it didn't collapse under pressure at Cancun and if it persists it will represent a very significant challenge to the "Big Two". But that's a very large "if". We'll have to wait and see. In closing remarks Brazilian Ambassador Celso Amorin thanked civil society for their support for the G-21. Was that significant? We don't know. Since Cancun the US has been active in putting pressure on a number of countries and been successful (so far) in "persuading" Colombia, Peru, Ecuador, Guatemala, Thailand and Costa Rica to drop out. But even if the G21 dwindles, it's interesting that Brazil, India, China and South Africa are in talks about a new trade agreement—a southern region agreement. The US is well aware that a shift of power to the South buttressed by a growing NGO infrastructure would have major consequences

for the multilateral system and for the FTAA. Let me now turn to some observations on that subject. Speculative observations, of course.

Implications for the Multilateral System

There is no doubt that the collapse at Cancun will damage the smaller, poorer countries the most. They have no other options and the expected delay in completing the Doha Round will mean that there will be no agriculture reform for some time. Nor will there be any movement on other issues of concern, including special treatment for the least developed or, more importantly, any reform of special treatment to strengthen the coordination between trade technical assistance and development aid financial assistance. That is crucially important if the poor developing countries are to increase their capability to export and thus benefit from liberalization.

But the story doesn't end there. The prolongation of the Round will create other problems. The 2004 US election, for example, which is unlikely to provide a propitious environment for trade liberalization. As noted by one sceptic, "Starving peasants are not a pressing constituency".(2) And protectionism seems to be on the rise among both Republican and Democratic congressional members. Indeed, American trade policy seems to be moving back in time. We are reminded of H.L. Mencken's remark: "If a Congressman had cannibals in his district he would promise them missionaries for breakfast." Maybe not missionaries, but subsidies? In any case, with the end of the Cold War a change was inevitable. The post-war hegemon built the system, not because of the virtues of free trade, but for fundamental foreign policy issues of war and peace. The

Cold War was the glue that held the democratic world together. Today, the hegemonic policy goals are very different and one could argue that the new milieu may prove to be the acid that erodes.

Signs of a new foreign policy were evident at Cancun and in Washington. The anger of the US Trade Representative was hardly surprising.(3) Nor were the threats to countries who were “pontificating” and engaging in “inflammatory rhetoric” that the US would actively pursue bilateralism and regionalism, but not with countries he christened the “won’t do” (e.g. the G-21, but especially Brazil) but with the “can do”. Trade bilaterals are like birthday gifts for the well-behaved. The views of Senator Charles Grassley, chairman of the Senate Finance Committee were very clear: “We will continue to pursue broad market liberalization on all fronts... The United States evaluates potential partners on an ongoing basis (and) I’ll take note of those nations that played a constructive role in Cancun, and those nations that didn’t.”(4) This view was echoed by some business executives at Cancun. The Vice-president for International Economic Affairs at the National Association of Manufacturers was very explicit: “If we can’t get a level playing field in the WTO, we are going to take our poker chips out of the game and start dealing in free trade agreements where we know we can get a fair deal”.(5) And, as one US official stated, the G-21 is just a “third-world chest thumping festival led by Brazil and India”.(6) And, it should be added, a danger to the most important of the American regional negotiations – the Free Trade Agreement of the Americas. The impact of Cancun on the FTAA is already apparent. Brazil has succeeded in narrowing the agenda to an FTAA-lite requiring only that countries commit to a minimum set of

common obligations which excluded American priorities. And, indeed, criticism of Brazil's position is mounting in a number of Latin American Countries who are desperately keen on securing access to the US market. But it would be unwise to ignore the growing importance of the Chinese market for Brazilian natural resource products as a counterweight to the US. So maybe the game is chess not poker.

Unlike the US, the EU at present is not interested in favouring bilateralism as a policy option because they are already overloaded in that domain. The only new bilateral on their agenda at the present time is with the ACP (African, Caribbean and Pacific countries) – the Cotonou Agreement. That could change, of course, since this form of “competitive liberalization” by the US - or domino game – can evoke response by others (as is evident from the activity of China, Japan and India in Asia). But the EU is facing a changing of the guard next year and the loss of its current trade commissioner as well as the challenge of integration of new members. This will make it much more difficult for the EU to play a positive role in global trade policy. Moreover, the transatlantic “alliance” was fragile even with the unusual rapport between their negotiators. Therefore, the growing European – US hostility over trade and non-trade issues is unlikely to abate in the near future.

So one major consequence of Cancun could be the marginalization of the WTO as a talking shop and forum for disputes. The fragmentation of the global system into bilateral and regional blocs and the political fallout from this messy spaghetti bowl could be very serious. The increasing emphasis on reducing inequality and poverty has been an

important achievement of the NGOs and a seriously weakened WTO is unlikely to be able to play an effective role. As said earlier, the poorer countries will suffer the most. The plea to the US to cease cotton subsidies from the small African Countries dependent on cotton exports was highly symbolic. It was summarily dismissed in rather complex technical language.

Of course the withering away of the WTO may be too gloomy an assessment. Perhaps the negotiations, albeit delayed, can produce a reasonable agreement. Estimates by various economists (especially if agriculture is reformed and Southern countries reduce barriers to increase South - South trade) suggest a significant improvement in growth and reduction in poverty. But that would require significant political change in most countries, especially the most powerful; and some reform of the WTO as an institution. Pascal Lamy is wrong in calling it medieval – that’s a compliment in my view. So let me conclude with a brief resumé of some of the issues of reform.

WTO Reform?

Permit me to begin with a quote from my favourite policy wonk, Niccolo Machiavelli:

“There is nothing more difficult to plan, more doubtful of success, nor more dangerous to manage than the creation of a new system. For the initiation has the enmity of all who would profit by the preservation of the old institutions and merely lukewarm defenders in those who would gain by the new ones.”

There is no doubt that the Uruguay Round in effect created a “new system” – largely by accident and not intent. Among its many features was the establishment of a new institution, the WTO. This was a last minute development and the Canadian proposal was supported by the EC in large part to constrain American unilateralism. The WTO is a peculiar institution: with virtually no executive or legislative powers (aside from negotiations of Rounds) but with the strongest dispute settlement system in the history of international law. The absence of institutional infrastructure worked when the membership was small and the GATT a club of a few powerful traders with a common set of norms and standards and a shared view of their objectives. By the end of the Uruguay Round there were 111 members; today there are 148 and there will likely be 170 plus in the not too distant future. They do not share a common vision, au contraire.

The consistent and insistent demand for greater transparency – WTO-ese for “democracy” – has been a feature of the NGO movement since Seattle. The concept of internal transparency broadly concerns the management of the institution. External transparency concerns more access to WTO documents, more participation in WTO activities and the right to observe and to present amicus curiae briefs in the dispute settlement process. While the WTO has made considerable progress in providing information and has engaged civil society groups in symposia and informal briefings, this has hardly satisfied the *démandeurs*. And no progress has been made in even discussing the question of improving the management of the institution. After the *débaclé* at Seattle there was some desultory discussion on internal and external transparency. After strong opposition from many countries – especially Southern – to discussing the issues, the

subject was dropped. After Doha, the General Council (after four years of deliberation) agreed on a set of procedures for de-restriction of documents and discussed some proposals for Ministerial preparatory processes. Nothing was agreed. A group of NGOs just before Doha sent an “Open Letter on Institutional Reforms in the WTO”. There was no response in Doha. Just before Cancun a group of NGOs launched a “Campaign for Democracy at the WTO” dealing with the decision-making process for Ministerial meetings, which essentially proposes that 146 (now 148) countries fully participate in all meetings and discussions. It was not discussed in Cancun. But perhaps it helped provoke Pascal Lamy’s outburst.

As a member of an Advisory Committee for the last Secretary-General (Michael Moore) I wrote a Chapter for a yet-to-be published book on the need for reform.(7) It included proposals for a Management Committee to take care of day-to-day business (which was also proposed by three former heads of GATT/WTO in 2001).; a policy forum to provide the locus for discussion of basic policy issues (like the CG18 or the Consultative Group of Eighteen established in 1975 and disbanded at the end of the Uruguay Round); and a proposal for External Transparency, housed in the Trade Policy Review Mechanism, to encourage a participatory policy process in member countries. There has been no response to these proposals.

Now there is a new Advisory Committee for the current Secretary-General, chaired by Peter Sutherland, former Secretary-General. After Cancun there were articles in several papers that the Committee would propose how to reform the WTO perhaps by

early 2004. Ideas circulating include opting-out (as in the Tokyo Round) which would create a variable geography institution or going back to basics, i.e. a WTO centred on eliminating trade barriers on manufactured goods and agricultural products and so on. The drive for reform is primarily an EU objective. The Americans are rather cool to any change. As one recently remarked: “pounding our heads against the wall trying to reform the WTO” is not a “good way to spend our time”.(8) Given the sharp North-South disputes over reform and the continuing NGO attack on the need for “democracy” and the worsening paralysis by consensus of the decision-making process, optimism is hard to rally.

Yet some reform is essential and grand visions proposed by experts, committees, eminent persons, etc. etc. are wonderful but might take some time to come to fruition (pace Machiavelli). The Management Committee and Policy Forum and the voluntary use of the TPRM, would be of considerable assistance in the mean time. Finally, it’s essential to be frank and straight-forward. The concept of “democracy” is really not relevant to an international institution as the eminent legal scholar Robert Hudec has so brilliantly explained.

“The World Trade Organisation is a member-driven organisation and the focus of its orders is the product of a process in which the governments agree to participate and ultimately control.”(9)

The demand for democracy and legitimacy should begin at home. The NGOs can help by exerting pressure on their home governments to establish “ownership” of the trade policy-process at home. It may just be a first step but at least the journey would begin.

Footnotes

- (1) Sylvia Ostry, “Global Integration: Currents and Counter-Currents”, Walter Gordon Series in Public Policy: 9th Lecture, Massey College, University of Toronto, 2003.
- (2) Economist, September 20, 2003.
- (3) See, for example, Robert B. Zoellick, “America will not wait for the won’t do countries”, Financial Times, September 22, 2003.
- (4) International Trade Daily, September 16, 2003, p.1.
- (5) Ibid, p.2.
- (6) Inside US Trade, Vol 21, No.40, October 3, 2003, p.7.
- (7) Sylvia Ostry, “External Transparency: The Policy Process at the National Level of the Two Level Game”, WTO Advisory Group, April 2002, available at <http://www.utoronto.ca/cis/ostry.html>
- (8) Inside US Trade, op.cit., p.3.
- (9) Robert E. Hudec, Comment, Roger B. Porter, et al., eds., Efficiency, Equity, Legitimacy The Multilateral Trading System at the Millennium, Brookings Institution Press, Washington, DC, 2001, pp. 295 – 300.