

+



## SEATINI BULLETIN

Southern and Eastern African Trade,  
Information and Negotiations Institute

*Strengthening Africa in World Trade*

**Volume 6, No. 08**

**Issue theme:**  
Trade & Development

**15 May 2003**

### IN THIS ISSUE!

**Single Undertaking: A Straightjacket or Variable Geometry?**

Pages 1-5

Chandrakant Patel

**The way to check American power is to support the Euro**

Pages 5-7

George Monbiot

**Editorial: Building a democratic and just world**

Pages 7-9

Yash Tandon

**WTO Members not bound to reach a final agreement at any cost**

Chandrakant Patel

The introduction of the concept of single undertaking in the 1986 Punta del Este Declaration was the result of considerable debate and discussion about its meaning and scope, both during the preparatory process and during the Uruguay Round negotiations. Consequently, it commanded a measure of political support and its scope was generally understood for most of the Uruguay Round negotiations. From a broadly consensus-based notion intended to cover only trade in goods, a new and radical interpretation of single undertaking was imposed by the Dunkel draft text of December 1991 to cover results of all

negotiations as part of the single package. Thus, it was only during the final period of the Uruguay Round – in the Dunkel draft text – that the single undertaking approach was interpreted, with virtually no discussion, to mean that **all** results of **all** negotiations be applied as a single package to **all** parties, despite previous debates and discussions among the participants in the course of the negotiations suggesting other interpretations.

In the Doha context, on the other hand, its re-emergence appears to have escaped any debate or scrutiny. This may in part reflect the manner in which the draft text of the Doha Ministerial Declaration was transmitted by the Chairperson of the General Council “under his own

responsibility” to the Doha Ministerial Conference without obtaining any prior consensus as to its contents from the General Council meeting in Geneva. It may reflect, as well, the controversial circumstances under which the draft text was negotiated and subsequently adopted by Ministers in Doha.

It is important, therefore, that the meaning, scope and likely application of single undertaking at the end of the current process be fully examined and analysed, both by WTO members and by the civil society. Central to this examination must be the recognition that nowhere in the Doha Ministerial Declaration is there any expectation that each and every WTO member is legally obliged to accept, in whole or in part, the results of the negotiations in their entirety. This surely remains a matter of sovereign choice and this in the final analysis should guide the decision-making process at Cancun and at the conclusion of the negotiations in 2004. The only areas where a consensus can be said to exist relate to the *launch* of the Doha negotiations (upon the establishment of the TNC in January 2002), their *conclusion* (1 January 2005) and their *conduct* (parallel negotiations, transparent and participatory processes, and balanced beneficial outcomes). Finally, the examination must be informed by the fact that the scope and applicability of the concept of single undertaking remains to be defined and decided upon by WTO Members, rather than by the Chairman of the TNC or the WTO.

The examination should ideally take place in the framework of the TNC. Such an examination would undoubtedly help avoid a repetition of the experience during the Uruguay Round when a particular interpretation of the single undertaking approach effectively became a tool that forced developing countries to assume legal and trade obligations greater than they would otherwise have.

**Single undertaking is neither a binding norm nor a new regime principle**

Since its introduction in the 1986 Punta del Este Declaration, the scope of the single undertaking conceptual approach has been defined and interpreted in a variety of ways. As a political construct, it should come as no surprise that it is subjected to varying interpretations. Hence, it is neither “a new regime principle” nor a binding legal norm in the WTO context.

It is context-specific -- in the absence of an all-embracing agenda covering a multiplicity of issues, areas and sectors, it has little or no relevance. Inasmuch as much of the Doha work programme is in the nature of a re-negotiation and/or review of existing agreements, the notion of a single undertaking in the present context would appear to be severely circumscribed. WTO Members are, after all, already parties to these legal instruments. Consequently their acceptance of any revisions, changes, or amendments to these existing agreements must necessarily be based on consensus and on the merits of each new or amended agreement and understanding.

As the WTO as an institution evolves -- it is after all less than a decade old -- there are grounds for thinking that it can negotiate and carry out its mandated functions without using the single undertaking approach. The alternative of perpetual multilateral trade negotiating rounds, “grand bargains”, and pressures to open markets at all costs risk bringing about a collapse of the multilateral trade negotiations process under the weight of its own ambitions.

The resurrection of the single undertaking conceptual approach in the Doha-mandated work programme, however, is circumscribed in a number of ways in the Doha Ministerial Declaration.

First, it excludes a number of issues – such as negotiations on dispute settlement rules -- outside the scope of the single undertaking. Second, it provides for early agreements to be “implemented on a provisional or definitive basis.” Third, it limits the single undertaking to the

“conduct, conclusion and entry into force of the outcome of the negotiations.”

Finally, in providing for the conduct of the negotiations to be transparent in order to facilitate “effective participation of all”, Paragraph 49 of the Doha Ministerial Declaration suggests that the application of single undertaking will require, at the very least, the determination of “an overall balance in the outcome of the negotiations.” Exactly how such an assessment of balance is made will remain a major task and one that will have to be undertaken at the national level before decisions concerning a final negotiated package are taken. Decisions concerning adoption and implementation will also have to be taken at a political level – i.e. through the Special Session of the Ministerial Conference provided for in Paragraph 45 of the Doha Ministerial Declaration. This also provides a further opportunity to determine how the single undertaking approach is applied regarding the adoption and implementation of agreed results.

The notion justifying the Uruguay Round as a “grand bargain” in which developing countries made concessions in some areas in exchange for gains in market access and the creation of a more stable and predictable regime of rules and dispute resolution has been popularised in much of the official and academic writing on the “success” of the Uruguay Round. In reality, the imbalances in the various Uruguay Round agreements, the hidden direct and indirect costs of their asymmetric implementation, and an ambitious work programme imposed by the Doha Ministerial Declaration now raise the question of whether the procedures and processes during the Uruguay Round be replicated in the context of the Doha Round? The answer to this question would depend on whether developing countries have been able to draw appropriate lessons and avoid any mistakes made in the previous rounds of trade negotiations.

### **Improper conduct of negotiations negates single undertaking**

The commitment in the Doha Ministerial Declaration concerning single undertaking must be viewed in its broader meaning and context. The successful application of single undertaking, i.e. achievement of an outcome that provides an equitable balance of benefits for all the participants and supports the development aspirations of the less-developed participants, is conditional upon the satisfactory conduct of the negotiations. This means that there must be full involvement and participation by developing countries in the shaping of the negotiating agenda, in the design of the negotiated package, and in the determination of its overall balance.

As discussed earlier, the manner of the conduct of the negotiations is an integral component of the single undertaking approach taken in the Doha Ministerial Declaration. Paragraph 49 thereof requires that the negotiations “be conducted in a transparent manner among participants, in order to facilitate the effective participation of all ... with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.” Paragraph 50 of the Doha Ministerial Declaration furthermore lays down one more important parameter to rule the conduct of the negotiations, i.e. that such negotiations “take fully into account the principle of special and differential treatment for developing and least-developed countries.” Finally, Paragraph 46 of the Doha Ministerial Declaration sets up a Trade Negotiations Committee under the authority of the General Council to supervise the overall conduct of the negotiations and establish appropriate negotiating mechanisms.

The conditions of both Paragraphs 49 and 50 of the Doha Ministerial Declaration with respect to the conduct of the negotiations are important especially with respect to ensuring that the negotiated outcomes contain benefits to developing countries as well as redress existing imbalances in the global trading system.

However, developments in the Doha-mandated negotiations so far suggest that these conditions have not been satisfactorily met, neither at the TNC level nor at the level of the different negotiating groups established by the TNC. The conduct of the negotiations thus far has not been transparent, participatory, balanced, nor fully reflected the principle of special and differential treatment.

Transparency and participatory decision-making have been rendered effectively inutile due to the use of institutional mechanisms – such as the frequent holding of “mini-ministerials” among selected Members, the holding of informal “green room” meetings and consultations among Members and the TNC Chair, and the great flexibility given to the chairs of the various negotiating groups to draft text on their own responsibility -- that effectively sideline the active participation of most developing countries in actual decision-making and the drafting of negotiating texts. The imbalance in the negotiations is reflected in the generally uneven progress of the various negotiating areas – with generally faster progress or at least increased focus in areas of interest to the North and slower or no progress in areas of interest to the South.

Changes must be effected in the current process to ensure that the processes leading to the design of a final package have been transparent and permitted full participation by each country’s negotiating authorities. The more active involvement of developing countries and their civil society in the current process may help ensure that the experience of the UR is not repeated.

### **Evaluating the balance of negotiations**

An evaluation of balance must be undertaken at the level of each country prior to any decisions being taken regarding the treatment of the package and any possible application of the single undertaking approach. Such an evaluation must address the substance of the outcome, including its overall balance of benefits and costs, and must fully involve

all the national stakeholders. Unlike the perfunctory nature of the evaluation process carried out by the TNC during the concluding phase of the Uruguay Round, any evaluation of a possible package emerging out of the Doha-mandated negotiations must explicitly address the costs of implementation and its financing. The substantial direct and indirect costs entailed in assuming new obligations provides sufficient justification for national legislatures, in particular, to closely examine the implications of such costs. In conditions of extreme fiscal constraints in most developing countries, a full audit of the financial implications, including an assessment of the development implications of new obligations, must inform Ministerial Conference decisions.

It has been argued that in establishing common rules and obligations for all WTO members through the instrumentality of a single undertaking, the Uruguay Round has undermined, if not dispensed with, the special and differential measures in favor of developing countries. Far from undermining the special and differential provisions, the Doha Ministerial Declaration states, “... all special and differential Treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational.” (Paragraph 44). This provision acknowledges the fact that developing needs, and case for, special and differential treatment in the aftermath of the Uruguay Round has increased manifold. Success in achieving the objective outlined in Paragraph 44 will therefore provide, for many developing countries, a litmus test of the balance in the outcome and success of the current negotiations.

Evaluation at the national level should involve all the organs of the Government, the concerned public sector agencies, and the broadest range of civil society organisations. In practice, this means that each country’s parliament or similar forum must play a pro-active role in evaluating the balance before Ministers make treaty

commitments that will impact on national policy-making. An open and transparent assessment process will enhance the credibility of whatever commitments are then entered into by the national policy makers during the negotiations.

### **Ensuring that negotiating texts fully reflect developing country interests**

Again drawing upon the experience of the Uruguay Round, developing countries will need to examine more carefully the implications of a text purporting to be the outcome of the negotiations. In particular, they should not be required to accept a package prepared by the Chairman of the TNC and the WTO Secretariat -- invariably cleared by the Quad countries -- on a "take it or leave it basis". Any draft text presented by the Chairman of the TNC as representing the final negotiated package may well require the application of the reverse consensus principle, i.e. any changes and amendments to the final draft will require consensus, as what had happened during the Uruguay Round when the Dunkel draft text came out. Indeed, safeguarding national positions and interests deriving from country-based assessment of overall balance may well warrant changes and amendments in the draft text even at a late stage. These will have to be accommodated before any final decisions are made by the Ministerial Conference about the final scope and applicability of the single undertaking under the Doha Ministerial Declaration.

This will necessarily require the participants in the negotiations to review the contents of any draft negotiated package, and then tailor the set of draft agreements and decisions to the needs and priorities established by their respective national authorities. In practice this will most likely result in an outcome that will be considerably more modest in content and scope than that originally envisaged by the Doha Ministerial Declaration.

Furthermore, any negotiating areas in which no draft agreements have been arrived at by the 1 January 2005 timeframe established in the Doha

Ministerial Declaration need not be included in the package of outcomes of the Doha-mandated negotiations that will be subject to the decisions of the Special Session of the Ministerial Conference with respect to their adoption and implementation. Instead, such negotiating areas could be referred back to and dealt with by the regular negotiating machinery of the WTO -- i.e. the General Council and the regular bodies of the WTO. Separate negotiating mechanisms can be established by the General Council to deal with such unfinished issues which would allow developing countries to join such negotiations as and when their interests and resources permit.

Finally, just as trade is a means to enhance development and growth of the members of the trading system, trade negotiations are a means to improve the balance and the functioning of the system. The undertakings assumed in Doha are important but their importance should not be exaggerated. WTO Members may have agreed to negotiate, but they are not bound to reach a final agreement at any cost. Indeed, final agreement is not an end in itself. It would be meaningful only if the outcome is balanced and consistent with development priorities. Consequently, developing countries need to assert the primacy of their own development strategies and the policies that flow from these. Trade negotiations must remain simply a tool, a corollary, of wider economic and social goals and objectives, especially of developing countries.

*\* Patel represents the Southern and Eastern African Trade Information and Negotiations Institute (SEATINI) in Geneva, Switzerland. This is a shorter version of an extended study prepared under the WTO Institutional Reform Project of the South Centre Work Programme on Trade and Development. The full study will be published soon by the South Centre. The views expressed in this paper are those of the author and do not necessarily reflect the views of the South Centre.*

## **The way to check American power is to support the euro**

George Monbiot

The problem with American power is not that it's American. Most states with the resources and opportunities the US possesses would have done far worse. The problem is that one nation, effectively unchecked by any other, can, if it chooses, now determine how the rest of the world shall live. Eventually, unless we stop it, it will use this power. So far, it has merely tested its new muscles.

The presidential elections next year might prevent an immediate entanglement with another nation, but there is little doubt about the scope of the US government's ambitions. Already, it has begun to execute a slow but comprehensive coup against the international order, destroying or undermining the institutions which might have sought to restrain it. James Woolsey, an influential hawk and formerly the director of the CIA, argued (*The Guardian*, 8 April 2003) for a war lasting for decades, "to extend democracy" to the entire Arab and Muslim world.

Men who think like him - and there are plenty in Washington - are not monsters. They are simply responding to the opportunities which power presents, just as British politicians once responded to the vulnerability of non-European states and the weakness of their colonial competitors. America's threat to the peace and stability of the rest of the world is likely to persist, whether George Bush wins the next election or not. The critical question is how we stop it.

Military means, of course, are useless. An economic boycott, of the kind suggested by many of the opponents of the war with Iraq, can never be more than symbolic: US trade has penetrated the economies of almost all other nations to such an extent that to boycott its goods and services would be to boycott our own. Until recently, as Bush's government sought international approval for its illegal war, there appeared to be some opportunities

for restraint by diplomatic means. But now it has discovered that the United Nations is unnecessary: most of its electors will approve its acts of aggression with or without a prior diplomatic mandate. Only one means of containing the US remains. It is deadly and, if correctly deployed, insuperable. It rests within the hands of the people of the United Kingdom.

Were it not for a monumental economic distortion, the US economy would, by now, have all but collapsed. It is not quite a West African basket case, but the size of the deficits and debts incurred by its profligacy would, by any conventional measure, suggest that it was in serious trouble. It survives only because conventional measures do not apply: the rest of the world has granted it an unnatural lease of life.

Almost 70% of the world's currency reserves - the money which nations use to finance international trade and protect themselves against financial speculators - takes the form of US dollars. The dollar is used for this purpose because it is relatively stable, it is produced by a nation with a major share of world trade, and certain commodities, in particular oil, are denominated in it, which means that dollars are required to buy them.

The United States does very well from this arrangement. In order to earn dollars, other nations must provide goods and services to the US. When commodities are valued in dollars, the US needs do no more than print pieces of green paper to obtain them: it acquires them, in effect, for free. Once earned, other nations' dollar reserves must be invested back into the American economy. This inflow of money helps the US to finance its massive deficit.

The only serious threat to the dollar's international dominance at the moment is the euro. Next year, when the European Union acquires ten new members, its gross domestic product will be roughly the same as that of the US, and its population 60% bigger. If the euro is adopted by all the members of the union, which suffers from none of the major underlying crises afflicting the US economy, it will begin to

look like a more stable and more attractive investment than the dollar. Only one further development would then be required to unseat the dollar as the pre-eminent global currency: nations would need to start trading oil in euros.

In November 2000, Saddam Hussein insisted that Iraq's oil be bought in euros. When the value of the euro rose, the country's revenues increased accordingly. As the analyst William Clark (*The Real But Unspoken Reasons For The Iraq War: A Macroeconomic and Geostrategic Analysis of the Unspoken Truth*) has suggested, the economic threat this represented might have been one of the reasons why the US government was so anxious to evict Saddam. But it may be unable to resist the greater danger.

Last year, Javad Yarjani, a senior official at OPEC, the oil producers' cartel, put forward several compelling reasons why his members might one day start selling their produce in euros. Europe is the Middle East's biggest trading partner; it imports more oil and petrol products than the US; it has a bigger share of global trade; and its external accounts are better balanced. One key tipping point, he suggested, could be the adoption of the euro by Europe's two principal oil producers: Norway and the United Kingdom, whose Brent crude is one of the "markers" for international oil prices. "This might", Yarjani said, "create a momentum to shift the oil pricing system to euros."

If this happens, then oil importing nations will no longer need dollar reserves in order to buy oil. The demand for the dollar will fall, and its value is likely to decline. As the dollar slips, central banks will start to move their reserves into safer currencies, such as the euro and possibly the yen and the yuan, precipitating further slippage. The US economy, followed rapidly by US power, could then be expected to falter or collapse.

The global justice movement, of which I consider myself a member, has, by and large, opposed accession to the euro, arguing, correctly, that it accelerates the

concentration of economic and political power, reduces people's ability to influence monetary policy and threatens employment in the poorest nations and regions. Much of the movement will have drawn comfort from the new opinion polls suggesting that almost 70% of British voters now oppose the single currency, and from the hints dropped by the Treasury that British accession may now be delayed until 2010.

But it seems to me that the costs of integration are merely a new representation of the paradox of sovereignty. Small states or unaffiliated tribes have, throughout history, found that the only way to prevent themselves from being overrun by foreign powers was to surrender their autonomy and unite to fight their common enemy. To defend our sovereignty - and that of the rest of the world - from the US, we must yield some of our sovereignty to Europe.

That we have a moral duty to contest the developing power of the United States is surely evident. That we can contest it by no other means is equally obvious. Those of us who are concerned about American power must abandon our opposition to the euro.

*Monbiot is Honorary Professor at the Department of Politics in Keele and visiting Professor at the Department of Environmental Science at the University of East London. He is the author of 'Captive State: the corporate takeover of Britain'.*

---

### **Editorial: Building a democratic and just world order**

Yash Tandon

One of the biggest challenges of our epoch is how to build a democratic and just world order. The challenge is daunting, perhaps even overwhelming, given the fact that the country that presents itself as the democratic bastion of our times is the one that is the biggest obstacle to it at the global level.

Over the last nearly a decade, but ever since George Bush came to power in a controversial Presidential elections, the USA has flouted, even tore apart, practically all rules of civilized global discourse built painfully over three centuries. It has done this in respect of the laws of environment, the laws of international criminality, the laws of international trade, and now, most brazenly, in respect of the laws of war and the respect for the human dignity of war combatants. This process that began since the Treaty of Westphalia in 1648, and spread to the rest of the world, had reached a point where the decision to engage in war was finally entrusted to a collective body, the United Nations. The US and the UK systematically violated every norm of the UN Charter to go to war in Iraq claiming to get rid of the “weapons of mass destruction” even when there was no such evidence. They also completely and disdainfully disregarded global public opinion - an unprecedented mobilisation of global movements from governments to peoples organisations – against the war, and in favour of a peaceful resolution of a conflict that was already under way in the United Nations.

Now that the US and the UK have defeated Saddam Hussein in military action, which is no big surprise, many governments and peoples’ organisations are adjusting to the “new reality”. This is extremely dangerous. What was illegal and immoral before the act does not suddenly become legal and moral after the act. It remains illegal and immoral. Because the law-breakers have got away with their act on the basis of their military might does not make it right. If might becomes right every time the powerful impose their will on the weak, then this is the end of the civilized world order. If the USA can use “pre-emptive” war, a kind of war that is not accepted in the United Nations Charter, then so can every country when faced with a real or imagined threat from its neighbour. All it has to ensure is that it is militarily superior.

**What do we, the peoples of the world, need to do?**

We need to do at least the following:

1. We need to restore the authority and dignity of the United Nations.
2. The US-UK aggression (for that is what it is) must not be legitimised. Every person in the world, even if he or she is the only one left to say that the War against Iraq was illegal, he/she should continue to say so.
3. Accordingly, those individuals who were responsible for the War of aggression against Iraq must be arraigned before a Peoples War Tribunal, since, for now, the United Nations bodies have been rendered ineffectual by the US/UK alliance.
4. Dictatorial regimes in the Third World provide excuses to the US/UK/European Empire to intervene in the affairs of the South to bring “democracy” to them, but in reality to advance their own economic, military and strategic interests. Therefore peoples’ movements must take the responsibility, including mass action, and non-cooperation with dictatorial regimes, in order to bring democracy and justice in their countries.
5. Every war prepares the ground for future wars. The war in Iraq will fuel peoples’ underground resistance against the forces of occupation, as is happening in Afghanistan, former Yugoslavia, and Iraq. Therefore, peoples’ action, and not action by the occupying forces, is needed to stabilise these countries. Global forces for peace and democratic and just world order must find ways of bringing peace and justice in countries under US/UK/European occupation.
6. The US economic might, which is the basis of its military power, must be contained. For example, there should be a worldwide movement to “dump the dollar” in favour of other currencies (See also earlier article by Professor

Monbiot). This means creating alternative currency systems, including barter and regional exchange systems. This also means countries in the South must find alternative strategies for sustainable and human development, and not follow those forced on them by the rich countries through the IMF, the World Bank and the WTO.

7. The people of the world need to restart a major global campaign to disarm all nuclear powers, including the United States and Europe. The US and Europe

cannot accuse North Korea or Iran to possess “weapons of mass destruction” when they are the biggest producers and users of WMDs.

*\*Tandon is the Director of SEATINI*

---

---

**Produced by SEATINI Director and Editor: Y. Tandon; Advisor on SEATINI: B. L. Das  
Editorial Assistance: Helene Bank, Rosalina Muroyi, Percy F. Makombe and Raj Patel  
For more information and subscriptions, contact SEATINI, Takura House, 67-69 Union Avenue,  
Harare, Zimbabwe, Tel: +263 4 792681, Ext. 255 & 341, Tel/Fax: +263 4 251648, Fax: +263 4  
788078, email: [seatini.zw@undp.org](mailto:seatini.zw@undp.org), Website: [www.seatini.org](http://www.seatini.org)  
Material from this bulletin may be freely cited, subject to proper attribution.**