THE ANTI-DEVELOPMENT STATE:

The Political Economy of Permanent Crisis in the Philippines

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CHAPTER 4

Multilateral Punishment: The Philippines in the WTO, 1995-2003

Storm Signals

At the October 2002 Asia-Pacific Economic Cooperation (APEC) summit, President Gloria Macapagal Arroyo proclaimed the "need to reengineer the WTO to ensure there is a level playing field" in global trade.[1] The challenge in world trade policy, she said, was to ensure that "the rules of trading are not stopped in favor of developed countries, on the one hand, but practise protectionism against developing countries, on the other."[2]

Like her recognition of the destructive consequences of "unbridled globalization," Arroyo's calling attention to the inequities fostered by what came to be known as the GATT-WTO (General Agreement on Tariffs and Trade-World Trade Organization) regime was long overdue. Back in 1994, during the great national debate on ratification of the Uruguay Round agreement establishing the WTO, she served as the point person in the Senate leading the charge of the Ramos administration to ratify the global treaty. Then, she argued the orthodox view that the agreement and the WTO made up a multilateral set of rules or institutions that would eliminate unequal power relations from global trade and provide smaller countries equal standing with the big trading powers.

But by the time she recognized that the WTO was riddled with double standards, the Philippines had been exposed to the ravages of both free trade and monopolistic competition, two contradictory principles that were nevertheless fused in the WTO. As a 2001 Department of Agriculture study admitted, despite its entry into the WTO six years earlier, the Philippines remained a "center of poverty and stagnant productivity."[3]

Yet the government could not complain that it did not have advance warning of the consequences of joining the WTO. During the debate on ratification, civil-society representatives had argued that the

nineteen separate agreements that comprised the Uruguay Round were skewed against the interests of countries like the Philippines.[4]

Among other things, critics of the Uruguay Round asserted the following:

– In signing on to the GATT-WTO, the Philippines essentially gave up the ability to use trade policy as a mechanism for industrialization. This was because the Agreement banned quantitative restrictions or quotas on imports, bound or reduced existing industrial tariffs and made raising tariffs practically impossible except under import surges, and outlawed trade-related investment restrictions. Among the trade policy instruments used by earlier industrializers that were banned by the Agreement on Trade-Related Investment Measures (TRIMs) were trade-balancing mechanisms, which tied the value of a foreign investor's imports of raw materials and components to the value of his/her exports of the finished commodity, and "local content" regulations, which mandated that a certain percentage of the components that went into the making of a product be sourced locally.

– The Trade-Related Aspects of Intellectual Property Rights (TRIPS), with its rigid provisions penalizing the unauthorized use of technology, would make "industrialization by imitation" very difficult, if not impossible. A key factor in the economic takeoff of industrial latecomers like the US, Germany, Japan, and South Korea, was their relatively easy access to cutting-edge technology. But what was technological diffusion from the point of view of late industrializers was "piracy" from that of the industrial leaders. Critics claimed that not only was TRIPS anti-development but, contrary to the spirit of free trade that was supposed to animate the WTO, it actually reinforced monopoly with such draconian provisions as the generalized minimum patent protection of twenty years, the increase in the duration of protection for semiconductors or computer chips, draconian border regulations against products judged to be violating intellectual property rights, and the placing of the burden of proof on the presumed violator of process patents.

The TRIPS agreement, critics added, also opened up the way for corporations to patent life or living organisms as well as privatize knowledge developed over centuries by communities via the modification of genetic material. The gene-rich Philippines would be a big loser in this game, as would most of the rest of the South. Already, they warned, patents had been filed in the North on processes for transforming *nata de coco*, a versatile coconut byproduct, for industrial use, and extracting the medicinal elements of *lagundi*, a ubiquitous Philippine plant.

The most controversial agreement, however, was the Agreement on Agriculture (AOA). Critics charged that the AOA was the antithesis of free trade, that it simply functioned to legitimize the high levels of protection and subsidization of the agricultural markets of the European Union and the United States while opening up the markets of developing countries to monopolistic competition between the two agricultural superpowers. Death by dumping would be the fate of the Philippines under the AOA, they said, and faulted pro-AOA, pro-WTO advocates who seemed oblivious to the monopolistic structure of world agricultural trade in their quest to make Philippine agriculture more efficient via free trade.

In the wake of ratifying the WTO, the Philippines, opponents of ratification said, would have to change at least forty of its laws and regulations and promise to enact new ones. What also became clear was that at some point, it would have to amend its constitution since, in signing on to the WTO agreement, it would also have to initial the General Agreement on Trade in Services (GATS), which committed it to providing "national treatment" or nondiscriminatory treatment to foreign service providers. Section 11, Article 12 of the 1986 Constitution limits foreign ownership of key utilities (water and sewage, electricity transmission and distribution, telecommunications, and public transport) to no more than 40 percent of equity. Also, Section 11 of Article 16 limits foreign ownership of advertising agencies to 30 percent while Section 14 of Article 12 reserves the practice of licensed professions—for instance, law, medicine, nursing, accounting, engineering, customs brokerage, and architecture—to Filipino citizens. Not surprisingly, those seeking full alignment of Philippine law with the WTO have had as a key objective the elimination of the ownership provisions of the current constitution.

Hardly had the ink dried on the Philippines' signature on the WTO accord when the drive to make Philippine legislation WTO-consistent

began. Pressure came from the developed countries that stood to benefit from the WTO, particularly from the United States. The dynamics of this process were illustrated in two agreements: TRIPS and TRIMs.

Making the Philippines WTO-Consistent

Restricting Technological Diffusion

By the time of its ratification of the WTO, the Philippines' intellectual property regime, based as it was on that of the United States, was relatively comprehensive, protecting as it did patents (since 1947), trademarks (since 1947), and copyrights (since 1972).[5] In addition, the government was signatory to a number of key international agreements including the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Budapest Treaty on International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, the Rome Convention for the Protection of Performers, the Producers of Phonograms and Broadcasting Organizations, the ASEAN (Association of Southeast Asian Nations) Framework Agreement on Intellectual Property Cooperation, and the Convention Establishing the World Intellectual Property Organization.[6] Nevertheless, the Philippines was quick to promise that it would amend existing laws "to align with the WTO TRIPS agreement." Specifically, the government promised to "align existing laws on patents, trademarks, and copyrights with TRIPS," "enact new laws on the protection of plant varieties, geographical indications, layout designs of integrated circuits, and undisclosed information," and "strengthen enforcement of intellectual property rights (IPRs)."[7]

Under strong prodding from the US, the government delivered. Indeed, a US Agency for International Development (USAID) Program called AGILE (Accelerating Growth, Investment, and Liberalization with Equity) practically wrote the key TRIPS-related legislation and shepherded it through Congress. Among AGILE's accomplishments were the Intellectual Property Code (Republic Act 8293) and the Electronic Commerce Act (Republic Act 8792).[8] The Intellectual Property Code passed in 1997 made Philippine legislation WTO-consistent while the Electronic Commerce Act (Republic Act 8792) extended IPR protection to the Internet in 2000.[9] In 2001 President Gloria Macapagal Arroyo signed into law Republic Act 9150, "An Act Providing for the Protection of Layout Designs (Topographies) of Integrated Circuits," specifying the provisions of the Intellectual Property Code to the information industry.

The US was not, however, satisfied with the WTO alignment process, with the United States Trade Representative (USTR) complaining that "legislation implementing fully the WTO TRIPS agreement commitments has been slow to develop," pointing out that the Philippines still had to enact laws "to provide IPR protection to plant varieties as required by the WTO TRIPS obligations that became mandatory for the Philippines on January 1, 2000."[10]

The USAID-funded AGILE again stepped into the breach. AGILE consultants drafted the plant-variety protection bill in 1999 for the Department of Agriculture. The bill followed the contours of the UPOV (French acronym for the Union for the Protection of New Plant Varieties) Convention, which was founded primarily to protect the intellectual property rights of Northern breeders over new plant varieties, particularly industrial crops and ornamental plants.[11] This bill eventually became the Philippine Plant Variety Protection (PVP) Act (Republic Act 9168), which was signed into law on June 7, 2002.

USAID funding for the drafting of an UPOV-type bill was not surprising since promoting adaptations of the UPOV convention was universally a way of averting the potentially dangerous implications for corporate rights of countries taking seriously Article 27.3 (b) of the TRIPS agreement, which allowed them to protect plant varieties through an "effective *sui generis* system." As one analysis notes, universalizing UPOV-type intellectual property rights systems creates "uniform market conditions for transnational corporations in developing countries," establishing "an environment that assures a return on investments through an intellectual property rights regime that privileges industrial breeders, does not recognize farmers' contributions in plant variety development, and provides equal treatment to foreign nationals—all of which are among the key features of the PVP Law."[12]

The US kept up the pressure on all fronts, including the judicial. In 2001, in what a USTR report called "a notable achievement," the Supreme Court speeded up the prosecution of intellectual piracy by establishing *ex parte* authority in civil cases involving IPR infringement, with forty-eight courts designated to handle IPR-related cases.[13]

Still unsatisfied with the pace of government movement on TRIPS, the US, citing reports from US distributors of "high levels of pirated optical discs" placed the Philippines on the dreaded Priority Watch List under Section 301 of the US Trade Law.[14] This was a move that preceded bilateral retaliatory sanctions—which were themselves illegal under the WTO.

Yet the difficulties of enforcement, even under threat of massive sanctions, stemmed from contradictions inherent in TRIPS itself. Contrary to the WTO's free trade rhetoric, TRIPS is an effort to control the market and reinforce monopoly under conditions of high market demand. As one account put it, intellectual property violators "are basically harmless... And in a developing country like the Philippines, they are welcomed by the majority of cash-strapped consumers. The most important sign of their acceptability to society: their products sell, and sell better than the original. They are in fact considered as allies of the poor—an economic leveler—because they make things affordable to all."[15]

Eliminating Trade Policy as a Mechanism for Industrialization

Prior to the WTO, developing countries routinely used trade policy, notably the use of quotas and high tariffs, as a key mechanism for industrialization. The use of trade policy for industrialization purposes in the Philippines was sketchy and incoherent, and implementation was very spotty. And yet, this already weak legislation and enforcement framework was still seen as threatening by foreign transnationals. TRIMs provided the mechanism to get rid of it, and, as in the case with TRIPS, it was the United States Trade Representative that acted as the WTO's enforcer for TRIMs.

Two industries were immediately affected by the Philippines' ratifying the WTO agreement: the auto industry and the soap and detergent industry.

Local content and trade balancing requirements had been used to build up an indigenous auto industry. Under the Motor Vehicle Development Program, participants were required to generate, through exports, a certain percentage of foreign exchange needed for import requirements as well as to source a progressively larger portion of the content of a vehicle in the Philippines. As in Malaysia, though not as successfully, TRIMs were designed to discourage transnational corporations from simply making the country an assembly point for imported components and force them to build up or stimulate the development of components and parts suppliers that would eventually become the core of an integrated industry. Naturally, as in Malaysia, too, the automobile transnational corporations (TNCs) hated local content policies as they interfered in the regional and international trade among their subsidiaries. Among other things, practices such as transfer pricing to get around taxes and other government levies were disrupted.

The Philippines notified the WTO of its TRIMs in the automobile industry in 1995, enabling it to avail of the five-year transitional period to phase out these measures, which would end on January 1, 2000. In October 1999, however, the government asked for a five-year extension for phasing out the TRIMs from the WTO. "After extensive consultations on the issue," noted a USTR report, "the United States and the Philippines agreed in November 2001 that the Philippines will discontinue all local content and exchange balancing requirements... by July 1, 2003."[16]

The US also pushed the Philippines to get rid of TRIMs in the soap and detergent industry. US transnational corporations like Procter & Gamble and Colgate Palmolive complained about Executive Order 259 (1987), which required manufacturers to use a minimum of 60 percent of raw materials that do not endanger the environment and prohibited the import of laundry soap and detergents containing less than 60 percent of such raw materials. As the USTR noted, the law had been passed to support the creation of the coconut-processing industry by promoting the use of coconut-based surface active agents of local origin. It noted approvingly that "the Philippine Department of Justice, in Opinion 88 (1999), stated that Executive Order 259 conflicts

with the country's obligations under the WTO TRIMs agreement. Since then, the EO [Executive Order] has not been enforced."[17]

The USTR enumerated other TRIMs that had to be removed in order to make Philippine legislation WTO-consistent: investment incentives legislation requiring a higher export performance for foreign-owned enterprises (70 percent of production to be exported) than for Philippine-owned companies (50 percent); an executive order requiring pharmaceutical firms to purchase semi-synthetic antibiotics from a specified local company unless they could demonstrate that the landed cost of imports is at least 20 percent less than that produced by the local firm; Letter of Instruction 1387, which required mining firms to prioritize sale of copper concentrates to the Philippine Associated Smelting and Refining Company; trade-balancing requirements for firms applying for approval of projects under the ASEAN Industrial Cooperation program; and retail trade legislation passed in 2000 requiring foreign retailers, for the first ten years after the bill's enactment, to source a fixed percentage of their inventory in the Philippines.[18]

By the beginning of 2003, most of Philippine legislation had been made WTO-consistent. The process has been painful and the price high. Owing to the alignment of Philippine laws with WTO rules, which benefit mainly big northern transnationals, the broad-based diffusion of technology necessary for self-sustaining industrialization has been restricted. The TRIPS regime represents what United Nations Conference on Trade and Development (UNCTAD) describes as a "premature strengthening of the intellectual property system... that favors monopolistically controlled innovation over broad-based diffusion."[19] And its likely consequence would be to limit the possibility of an "imitative path of technological development" based on methods such as reverse engineering, the adaptation of foreign technology to local conditions, and the improvement of existing innovations."[20] This anti-industrial bias of the TRIPS regime has been supplemented by the realignment of legislation to accord with the TRIMs regime, which practically eliminates the use of trade policy for national industrial development.

Even as national industrialization is closed off by TRIPS and TRIMs, this tropical country's rich trove of genetic resources has been rendered

vulnerable to biopiracy by the realignment of our patent laws as they apply to agriculture and nature. These consequences were pointed out during the ratification debate, but were ignored by legislators eager not to offend the United States.

The AOA and the Demise of Philippine Agriculture

For the Philippines, the Agreement on Agriculture was the most important agreement in the WTO. The reason was that the country's agricultural sector continued to employ nearly half of the labor force and contributed more than 20 percent of gross domestic product. However, as one paper asserts, when "all economic activities related to agro-processing and supply of non-farm agricultural inputs are included, the agricultural sector broadly defined accounts for about two-thirds of the labor force and 40 percent of GDP [gross domestic product]."[21] Agriculture thus plays "a strategic role in the country's overall economic development through its strong growth linkage effects as a source of food and raw material supply for the rest of the economy, and as a source of demand for non-agricultural inputs and consumer goods and services."[22]

During the national debate on WTO ratification, the government based its pro-WTO stance on the argument that free trade would increase the efficiency of Philippine agriculture. This was not a case of agricultural liberalization forced on reluctant technocrats as in other developing countries. The neoliberal technocrats that began to dominate state economic agencies during the Aquino and Ramos administrations wanted to liberalize agriculture. Indeed, the two administrations pushed a comprehensive liberalization program (Executive Order 470) that embraced both industry and agriculture.

Agricultural liberalization, however, lagged behind owing to resistance from farmers—big, medium, and small. Indeed, the Magna Carta for Small Farmers passed in 1991 was seen as a far-reaching attempt to consolidate protection by providing for the banning of imports of commodities that were deemed to be produced locally in sufficient quantity. In this context, subjecting the country's agricultural sector to the discipline of the WTO's AOA was seen as a key instrument to destroy agricultural protectionism.

Moreover, entry into world of the Agreement on Agriculture would make Philippine agriculture more productive by promoting the cultivation of high-value-added (HVA) agricultural commodities like broccoli and cut flowers. With HVAs regarded as the "export winners" that would increase Philippine share of world markets,[23] agricultural technocrats saw the trade liberalization that came with WTO membership as leading to the gradual phasing out of much rice and corn production which involved most of the rural workforce. The Medium-Term Agricultural Development Plan of the Ramos administration—prepared with possible entry into the WTO in mind—envisaged limiting rice and corn production to 1.9 million hectares and freeing up some 3.1 million hectares currently planted to rice and corn for raising cattle and cultivating commercial crops.[24]

To secure popular support for the ratification of GATT, the government projected that the AOA regime would, among other things:[25]

- create 500,000 new agricultural jobs annually
- increase annual agricultural export earnings by Php 3.4 billion annually, thus improving the balance of trade in agricultural products
- increase the annual gross value added of agriculture by Php 60 billion

To ease transition pains, Congress appropriated Php 128 billion, to be released at some Php 32 billion annually, to improve agricultural infrastructure and create "safety nets."

With ratification, the government moved to make Philippine legislation consistent with the WTO. The Magna Carta for Small Farmers was repealed. Comprehensive legislation, Republic Act 8178, was enacted ending quotas and transforming them to tariff rate quotas (TRQs). The TRQ system covered fifteen tariff lines of "sensitive" agricultural imports, including live animals, fresh and chilled beef, pork, poultry meat, goat meat, potatoes, coffee, corn, and sugar. For these commodities, the Philippines was required to provide "minimum access" at low tariffs to a volume equivalent to 3 percent of domestic consumption in the first year of WTO implementation rising to 5 percent on the tenth year. Beyond the quota, imports would be taxed at a much higher rate. For corn, for instance, using the agreed-upon period of 1986-88 as the basis for calculating domestic consumption, the minimum access volume (MAV) allowed to come in at a low tariff of 35 percent would be 65,000 MT in 1995, rising to 227,000 in 2004.[26] Beyond the MAV, the tariff rate rose to 65 percent.

Under Annex 5 of the AOA, countries were allowed to retain a quota on "a primary agricultural product that is the predominant staple in the traditional diet."[27] In the case of the Philippines, this was rice. The country was nevertheless required to increase the quota from one percent of domestic consumption on the first year to 4 percent on the tenth year, or from 30,000 MT in 1995 to 227,000 MT in 2004.[28]

As in the case with the other agreements comprising the WTO, the US served as the Geneva-based body's local enforcer, watching Philippine legislative and implementation processes with an eagle eye. This process could be quite intrusive and went beyond the scope of the letter of the AOA. For instance, the US intervened in the issuing of licenses to importers for pork and poultry meat, accusing the Philippine government of allocating "a vast majority of import licenses to domestic producers who had no interest in importing."[29] When the Philippines balked, the US threatened to suspend the preferential tariffs for Philippine exports covered by the Generalized System of Preferences. The Philippines gave in, and after a memorandum of understanding detailing its concessions was issued in 1998, according to a USTR report, "the review of the Philippines' eligibility to receive preferential access under the General System of Preferences... was terminated."[30]

By the end of the decade, not only had the promised benefits of AOA membership failed to materialize, but Philippine agriculture was in the throes of crisis.[31]

Contrary to the output projected by Ramon Clarete and pro-ratification technocrats that joining the AOA would spur agricultural output to grow to Php 50 billion by 2002, in fact the country's agricultural production only reached Php 12 billion.[32]

Far from increasing by 500,000 a year, employment in agriculture actually dropped from 11.29 million in 1994 to 10.85 million in 2001.[33]

Agricultural exports like coconut products were supposed to rise with WTO membership, but the value of exports registered no significant movement, rising from $1.9 billion in 1993 to $2.3 billion in 1997,

then declining to $1.9 billion in 2000. On the other hand, massive importation, the big fear of GATT critics, became a reality, with the value of imports almost doubling from $1.6 billion in 1993 to $3.1 billion in 1997 and registering $2.7 billion in 2000. The status of the Philippines as a net food-importing country was consolidated, with the agricultural trade balance moving from a surplus of $292 million in 1993 to a deficit of $764 million in 1997 and 794 million in 2002.[34]

Key sectors of Philippine agriculture were in a bad state by the end of the decade.

The Crisis of Rice Production

Rice production in the country was in crisis owing to a number of factors, including failure of effective government support programs. However, the government's policy of resolving short-term "supply crises" by massive imports could not but have the effect of further discouraging increased rice production. The rice exception under Annex 5 limited the Philippines to import a volume that was only one percent of domestic consumption in 1995 rising to 4 percent by 2005. In fact, the government, citing necessity, imported amounts far beyond the quota, with imports shooting up from 263,000 MT in 1995 to 2.1 million MT in 1998, 836,999 MT in 1999, and 639,000 MT in 2000.[35]

Such massive volumes kept the price of rice low, making it unattractive for farmers to increase production. Average farm-gate prices of rice from 1997 to 2001 grew at a "measly 0.89 annually."[36] Not surprisingly, total rice production increased marginally in the late 1990s and came to an average of 1.9 per annum for the whole decade—far below the rates registered in the Philippines' two key rice suppliers: 3.0 percent per annum in the case of Thailand and 4.5 percent in the case of Vietnam.[37] In other words, massive above-quota imports were contributing to the continuing erosion of the rice sector, in turn making rice importation more and more of a permanent fixture of the agrarian economy.

Neoliberal technocrats, the Asian Development Bank, and the WTO took advantage of this situation to press for the elimination of the rice quota, which the Philippines could still take advantage of after 2005 under Annex 5 of the AOA. At a tariff rate of 100 percent, which was being considered by House Bill 3339—the so-called Rice Safety Nets

Act—the price of imported rice would be the same as that of locally produced rice. However, it would provide little protection to local rice producers since, as one study pointed out, the rate would be "insufficient to negate the potential convenience and advantage of sourcing products from one single source abroad than incurring costs attendant to consolidating and building stocks from many [local] suppliers and farmers."[38] In other words, many costs and uncertainties would be eliminated by relying on one or a few foreign suppliers than on many local suppliers.

At a tariff rate of 50 percent, which some quarters at the Department of Agriculture were considering, the tariff rate would allow imported rice, at 2002 relative prices, to be priced at Php 11 to Php 12 a kilo, which would be lower than the Php 14 per kilo that was the lowest price of domestic rice.[39]

Yet these considerations to eliminate the rice quota and move to tariffs were made with the current AOA in mind. The controversial "Harbinson Draft" (named after its author WTO Agricultural Negotiations Chairman Stuart Harbinson) that served as the negotiating paper for further agricultural liberalization under the AOA prior to the Cancun ministerial proposed to slash developing-country tariffs above 120 percent by 40 percent, and those between 20 percent and 120 percent by 33 percent. Tariffication of rice in conjunction with the WTO's adoption of the Harbinson proposal or variations of it coming from the European Union and the US would definitely lead to an even graver crisis of the country's rice sector.

With very little sympathy for their plight from a neoliberal technocracy and with tremendous pressures coming from different quarters for liberalization, the fate of the two million farmers involved in rice production—some 20 percent of the agricultural workforce—was highly uncertain.

Corn: In Terminal Condition?

The plight of the corn sector was equally grim. The main corn production area in the Philippines is Mindanao, and the cost of corn from Mindanao in Manila is less than the landed cost of foreign corn by Php 2 per kilo.[40] As with rice, the corn sector, which had long been

neglected by government, has been opened up to international competition that it was ill-prepared to meet. Unlike rice, however, corn imports were not subject to quota restrictions. A minimum access volume starting from 3 percent of domestic consumption in 1995 to 5 percent in 2004 would be taxed at a low tariff of 35 percent. Beyond that, the AOA still allowed corn to come in with no volume limitation, though the tariff rate would be increased to 100 percent.

How much protection these arrangements gave was open to question. An Oxfam Great Britain study in 1996 claimed that imports from the US, the world's largest corn exporter, could be available at a price 20 percent below the current domestic price by the end of the '90s. It went on to note that by "the year 2004, the price gap may have widened to 39 percent, as tariffs are scaled down under the Uruguay Round agreement."[41]

From practically zero imports in 1993 and 1994, corn coming into the Philippines shot up to 208,000 MT in 1995 to 558,000 MT in 1996, 462,120 MT in 1998, and 446,430 MT in 2000. The government appeared to be quite liberal in managing the MAV for corn. According to one report, a significant portion of the volume of corn that came in above the MAV of 135,000 MT in 1996 appeared to have come in at the 35 percent tariff rate rather than the 100 percent rate, thanks to an administrative order allowing expansion of the MAV limit during "shortages."[42] This stemmed from the growing strength of an alliance between foreign corn exporters and local end-users, such as feedmillers and livestock raisers, that had a great deal of interest in lower-priced corn imports.

Among the factors depressing the price of corn was cheap American corn coming in under the Public Law (PL) 480 program of the United States, which sought external markets for its corn by giving foreign governments long-term low-interest export credits to import US agricultural commodities, including soybean, rice, and corn. Public Law 480 was one of several dumping devices that were legitimate under the AOA. An average of $20 million of US agricultural commodities has arrived under the program since 1997, with the figure rising to $40 million in 2001.[43] In 2002, $2 million worth of corn was brought in under the program,[44] causing local growers to protest that PL-480 yellow corn imports were particularly harmful, in terms of depressing local prices, if they arrived during the corn harvest.[45]

Not surprisingly, Mindanao was being ravaged by the new import-biased agro-trade regime. Already, the limited trade liberalization of the late '80s was plunging corn production into crisis prior to the AOA. As Kevin Watkins of Oxfam noted after a field trip to Mindanao, "increasing imports of corn have been associated with a marked decrease in domestic corn production, and in the area planted. In South Cotabato, where most of Mindanao's corn is produced, there was a 15 percent decrease in production last year."[46]

The trend appears to have accelerated after the country's adherence to the AOA. After a trip to Bukidnon in 1996, Charmaine Ramos, an analyst with the Management and Organizational Development for Empowerment (MODE), reported: "I found out that the southern part of the province is steadily being converted from corn to sugar."[47] Several years later, Aileen Kwa, an analyst for Focus on the Global South claimed that corn farmers in "Mindanao... have been wiped out. It is not an uncommon sight to see farmers there leaving their corn to rot in the fields as the domestic corn prices have dropped to levels [at which] they have not been able to compete."[48] This observation was supported by macro data. While production remained stagnant, land devoted to corn across the country contracted sharply from 3,149,300 hectares in 1993 to 2,510,300 hectares in 2000.[49]

The government admitted during the GATT-WTO ratification debate, that traditional corn and rice farmers would be among the losers under the AOA regime, with some 45,000 among them displaced annually. This would be among the 350,000 agricultural producers that were estimated to be displaced annually, according to Department of Agriculture estimates.[50] However, the growth of employment in selected export and high-value-added crops that was supposed to be a fallout of the WTO would translate into a net gain of 500,000 a year. But these estimates were highly questionable. According to the secretary of agriculture at the time of the WTO ratification debate, the 45,000 corn farmers slated for displacement would be absorbed by the silage growing industry that would service the cattle-growing industry stimulated by the WTO regime.[51] Yet, cattle raising turned out to be a very disap-

pointing industry in the next few years, stunted by a very liberal beef and "carabeef" import regime put in place to comply with the AOA itself. Cattle production barely moved, registering 213,000 MT in 1995 and 261,000 in 2001.[52]

Charmaine Ramos underlines the depressing reality for corn farmers:"[O]nly farmers with relatively bigger farm lots are able to shift easily. Small farmers are forced to lease their lands simply because they have no means to finance the capital requirements of shifting to high value crops."[53] Kevin Watkins offered an explanation for this trend:

> [T]he argument that displaced food staple producers will simply shift to the production of commercial crops has a somewhat surreal quality. The high capital costs of entry into commercial food markets and the importance of infrastructure, which is non-existent in the more marginal areas from which people will be displaced, means most of the benefits from commercial agriculture will accrue to more prosperous producers.[54]

The "more realistic scenario" for corn producers under the AOA regime was "more intensive poverty, displacement, and migration to urban center."[55] Indeed, during the hearing on the WTO conducted by the House of Representatives' Special Committee on Globalization, the one sector that the Department of Agriculture was willing to recognize as having suffered from entry into the AOA was corn.[56]

The Assault on the Meat, Poultry, and Vegetable Industries

The negative impact of trade liberalization under the WTO regime went beyond traditional crops like rice, corn, and sugar to encompass higher value-added products like pork, poultry, and vegetables.

Massive importation of chicken parts, especially from the United States, nearly killed the industry after pressure from Washington resulted in liberal issuance of import licenses, with chicken parts imports rising by 101 percent in 1998 and 2021 percent in 1999. The import price of chicken in early 2000 came to Php 25.83 per kilo, which was 50 percent lower than the average farm-gate price of Php 53.17 per kilo price of local chicken.[57] The passage of a Safeguards Law gave chicken farmers some breathing space, but not much: chicken-leg quarters in 2003 were still being imported with a landed cost of Php 57 per kilo, below the farm-gate price of Php 64 per kilo.[58]

Compounding the woes of local industry was liberalization of the importation of frozen beef, which consumers saw as a substitute for both chicken and pork. Imports of cheap beef and "carabeef" were reported to have grown fivefold between 1993 and 1998, a trend that threatened to accelerate when an executive order withdrew beef imports from coverage under MAV.[59]

Cheap imports as well as other factors stemming from the Asian financial crisis led to the shutting down of two of the country's big poultry integrators, some 30 commercial farms, each producing 100,000 head of cattle, and five cooperatives in 1997.[60]

Poultry growers were joined in 2003 by hog producers in their threat to "mount a food blockade through their refusal to sell their poultry and livestock."[61] The hog raisers claimed that looser food imports under the AOA regime brought a yearly reduction of Php 5 to Php 10 per kilo in the farmgate price for pork, a figure which shot up to Php 14 to Php 17 in 2002. This translated to a 50 percent decline in price in just one year.[62] Data supported the claims of local producers of a sudden and massive surge in imports owing to trade liberalization. Pork imports rose from less than 1,000 MT in 1993 to 7000 MT in 1997 to 15,790 MT in 2000.[63] In 2002, imports were expected to hit almost 47 million kilos, up by 43 percent from the 2001 figure of 33 million KG.[64]

Vegetable producers were supposed to be among the gainers from AOA-led trade liberalization. Indeed, the AOA was expected to shift producers from cultivating rice and corn to producing high-value-added crops such as broccoli, lettuce, carrots, and cauliflower. Trade liberalization, in fact, hit a growing industry and hit it hard. From only 10,000 KG in 1999, the volume of imported fresh vegetables rose to 1.1 million KG in 2000 and 2 million KG in 2002.[65] Combined with smuggled fresh vegetables, the influx resulted in imported lettuce, for instance, selling at only Php 90 per kilo compared to local lettuce, which was retailing at Php 200 per kilo.[66]

Contributing to this massive differential was the application of 7 percent tariff on imported vegetables in accordance with Executive Or-

der 470, a much lower rate than the 40 percent tariff that the Philippines committed under the WTO. Even with a 40 percent rate, however, imported produce would still enjoy a price advantage over local produce.

If Mindanao, the country's corn bowl, was threatened by maize imports, the country's salad bowl, Benguet, was endangered by the foreign vegetable invasion. According to one report,

> vegetable producers in Benguet have lost Php 2 billion in failed transactions between July and August 2002 because of the dumping of at least a million KGS of vegetables from China, Australia, New Zealand, and the Netherlands. The deluge of KGS of imported vegetables (whether smuggled or not) in the markets of Benguet, Mt. Province, the Cordilleras, Pangasinan, Central and Northern Luzon, and Metro Manila pose considerable risk and bring gross disadvantage to the nation's small vegetable growers.[67]

The report went on to warn that Php 6 billion would be lost yearly and "ten of thousands of growers will be displaced if the unabated influx of foreign vegetables continues."[68]

Keeping Out Philippine Tuna and Bananas

In becoming a member of the WTO, the Philippines entered the worst of all possible worlds: even as it opened up its agricultural markets to foreign products, key foreign markets continued to remain closed to Philippine exports.

The US, for instance, brazenly kept playing up its double-standards game. Administrative Order 25, which required meat importers to obtain additional safety certification, was put on hold in 2002, a year after it was issued, following a US threat to file a complaint with the WTO.[69] Meantime, the US itself issued a new directive requiring certification by a Philippine government agency that beef and pork exports meet some processing standards.[70]

Particularly disturbing were new market access restrictions imposed by the agricultural superpowers in defiance of WTO rules. The tuna industry was threatened with severe dislocation when the US and Europe slapped high tariffs on tuna imports. While allowing duty-

free imports of tuna from the Andean countries, the US slapped tariffs ranging from 6.5 percent to 30 percent on Philippine tuna imports. The EU allowed preferential tariffs for its former colonies (the so-called ACP [African, Caribbean, and Pacific] countries) while slapping a 24 percent duty on Philippine tuna. Export earnings from canned tuna fell precipitously from $130 million in 1998 to $64 million in 2001.[71]

With the US accounting for 38 percent of its tuna exports and the EU for 15 percent, these brazen protectionist moves posed a serious threat to the viability of the Philippine tuna industry. The Department of Trade and Industry estimated possible losses from the discriminatory treatment in the US market alone could amount to $50 million a year.[72]

The government hailed an EU decision to lower the tariff on Philippine canned tuna exports, but it was hardly significant once one read the fine print. As *Business World* reported, "the 12 percent levy applies only to a specific amount of tuna imports called the tariff rate quota. This TRQ will be shared by the Philippines, Thailand, and Indonesia. Of the quota, the Philippines will get 9,000 MT while Thailand will account for 13,000 MT, and Indonesia will get 2,750 MT."[73]

Even Australia, an ally of the Philippines in the so-called Cairns Group, a grouping of developed and developing agro-exporting countries, beat up on the Philippines by invoking sanitary and phytosanitary standards, a standard Washington tactic. In mid-2002, after years of being petitioned to admit Philippine cavendish bananas, the Australian government decided against the import. The reason given was the risk of the Philippine banana carrying pests and diseases that could ruin the Australian banana industry. And yet, the Philippine bananas had been shipped since the '60s to countries with high quarantine standards, including Japan and New Zealand.

The real reason was a strong lobby from the Australian banana industry. The Australian industry produced 20 tons of bananas per hectare, compared to the Philippines, which turned out 50 tons per hectare, a difference that led to a marked disparity in price: $0.60 for each kilo of Australian bananas compared to $0.20 per kilo for Philippine bananas.[74]

The Abdication of the State

Eight years after the Philippines entered the WTO, there is now widespread acknowledgment that its agricultural sector was unprepared for adherence to the AOA. Indeed, few would now dispute the contention of critics that trade liberalization combined with government neglect of agricultural development has proved to be a deadly formula.

Neoclassical specialists in Philippine agriculture have been caught between an ideological propensity for liberalization and a recognition—though grudging—that protectionism is not the main problem of Philippine agriculture. In fact, economist Ramon Clarete, one of the prime intellectual managers of the Philippines' entry into the AOA, admitted, prior to entry into the WTO, that the agricultural sector had "the lowest effective tariff protection in the economy," with food items having an even lower effective protection than the rest of agriculture.[75] Effective protection in the 1970s and much of the '80s for agricultural products ranged from 5 to 9 percent, while effective rates of protection for the manufacturing sector ranged from 44 to 79 percent.[76] Effective rates of protection for manufacturing and agriculture tended to even out by the mid-1990s owing to tariff reforms, but this was largely due to manufacturing tariffs being brought down.

Not agricultural protectionism but problems relating to "a weak technology base, price distortions, weak property rights structure, constraints on land market operations, insufficient public support services, and poor governance," were identified by a team of neoclassical economists as the main bottlenecks to greater agricultural productivity.[77] Though they could not spell out the problem owing to the anti-state bias of their ideology, what these economists were, in effect, saying was that it was lack of effective, comprehensive, and coordinated government intervention in agriculture that lay at the root of the anemic state of Philippine agriculture.

The virtual abdication of government from agriculture is indicated by the fact that while most of the workforce was employed in agriculture and the sector contributed about 21.5 percent of gross value added, the budget allocation for agriculture in 2001 was only Php 12.8 billion or 3.4 percent of government spending.[78] Of the annual budget-

ary appropriations, less than 40 percent "have been historically allocated for productivity-enhancing expenditures such as irrigation, research and development, fishery extension, and other support services."[79] Research and development expenditures, at 0.27 percent of gross valued added by agriculture, was far below the one percent benchmark.[80]

Not surprisingly, only 1.34 million hectares out of 4.66 million hectares of irrigable land was actually irrigated. Only 17 percent of the Philippine road network was paved, compared to the 82 percent in Thailand and 75 percent in Malaysia. Crop yield across the board was anemic, with the average yield in rice of 2.87 MT per hectare way below average yields in China, Vietnam, and Thailand.[81]

Confronted with governments that played an aggressive, activist role in protecting and promoting their agriculture not only in the US and the EU but in the neighboring Asian countries as well, the Philippines was ill-equipped to enter the AOA.

To prevent the agricultural sector from becoming a roadblock to the ratification of the WTO agreement, the Ramos administration promised to appropriate and release funds for agricultural modernization and safety nets. The fund promised—called the Department of Agriculture Action Plan—totalled Php 128 billion, to be released at the rate of Php 32 billion annually.[82] The figure included "Php 27 billion for the improvement of irrigation facilities, Php 8 billion for the construction of farm-to-market roads, Php 762 million for the improvement of post-harvest facilities, and Php 64 million for the installation of grain centers."[83]

However, according to one agricultural expert, only 44 percent of the Php 32 billion promised for 1995 was appropriated. Of this amount, funding for new projects—i.e., projects begun after ratification of the WTO agreement—amounted to the exceedingly small sum of Php 2.8 billion. In 1996, the proposed Php 32 billion was reduced to Php 14.6 billion, of which the funding for new projects was, at Php 2.2 billion, even lower than the 1995 figure.[84] Seven years later, the Department of Agriculture admitted that only 50 percent of the proposed Department of Agriculture Action Plan had been released.[85]

The failure of the safety net program was supposed to be addressed by the Agriculture and Fisheries Modernization Act (AFMA)

passed in 1998 which provided for comprehensive government assistance covering such areas as irrigation, post-harvest facilities, credit and financing, and research and development. But, as one report noted, "despite having a legislated annual budgetary allocation, AFMA was not able to take off the ground as government could not even meet the annual budgetary needs of the Department of Agriculture."[86] What limited amounts were appropriated of the original proposed Php 35 billion safety net program, some charged, were largely diverted to urban projects such as flyovers during the Ramos period.[87]

During the ratification debate, pro-WTO advocates promoted the vision that the AOA would create a situation where the Philippines would fill production niches in which it would have the "comparative advantage," such as the cultivation of high-value-added export crops such as cutflowers, asparagus, broccoli, and snow peas. These advocates, such as then-Secretary of Agriculture Roberto Sebastian, did not do their homework.

The shift to high value "non-traditional agricultural exports" (NTAEs) requires investment that is simply not within the reach of small producers. For instance, in the case of cutflowers, data from Ecuador reveals an average initial capital investment of $200,000 per hectare. Annual input costs are also high, with the costs of agrochemicals alone coming to over $18,900 per hectare.[88] In the case of snowpeas, broccoli, and cauliflower, annual production costs, according to data from Guatemala, comes to $3,145, $1,096, and $971 per hectare respectively, compared to $219 per hectare for corn.[89]

Moreover, competitive advantage in these crops can only be achieved through significant outlays in technological support and research and development. As many analysts have pointed out, NTAE cultivation is biased against small-scale producers because "many traditional crops require considerable technological sophistication, relative to traditional production, as they are either new to the region, require special care at harvest because of their perishability, or are being produced to meet the more demanding cosmetic quality standards of foreign consumers."[90]

Without massive government financial support, there was simply no way that the Philippines could manage significant increases in the production of high-value crops, much less attain comparative advantage in producing them.

Not surprisingly, Philippine agriculture entered the worst of all worlds in the mid-1990s: massive trade liberalization amidst a continuing lack of effective support from government. Despite their grudging recognition of the fact that comprehensive state support was the sine qua non of agriculture's survival, the neoclassical economists and technocrats who had gained control of the strategic heights of the economic bureaucracy in the '80s and '90s supported the WTO liberalization drive. In many cases, in fact, as in case of vegetable and meat imports, they supported deeper cuts in tariffs than was required under AOA rules. Unilateral liberalization, in their view, was still the best route to optimum welfare.

This was, however, an increasingly isolated position. Even a bastion of neoclassical economics, the International Food Policy Research Institute, admitted that "[w]ithout reform of agricultural trade barriers in industrialized countries, import liberalization in the developing world will perpetuate unfair competition."[91]

The AOA: Institutionalizing Monopolistic Competition

The prosperity for all that was promised by the GATT-WTO Accord was premised on the idea that liberalization would be universally undertaken. In the case of agriculture, however, for all intents and purposes, liberalization was unilateral—developing countries were opening up their markets while the developed countries retained their heavy structures of protection amidst superficial and cosmetic liberalization. This was the main problem with the AOA: that, contrary to its claim that it opened up global markets to free trade, in fact, it was a regime that regulated the competition among two heavily subsidized monopolistic agricultural superpowers—the European Union and the United States—for third-country markets. Perhaps convinced by neoclassical doctrine that unilateral liberalization would still result in greater welfare gains than a pragmatic trade policy based on reciprocal liberalization, the technocrats refused to acknowledge how truly dangerous for Philippine agriculture the global trading system was.

A close study of the genesis of the AOA and its provisions would probably have helped them to gain an appreciation of the hard economic realpolitik that informed the agreement.

Briefly, prior to the Uruguay Round, agriculture was de facto outside GATT discipline, mainly because the US had sought in the 1950s a waiver from Article 11 of GATT, which prohibited quantitative restrictions on imports. With the US threatening to leave the GATT unless it was allowed to maintain protective mechanisms for sugar, dairy products, and other agricultural commodities, Washington was given a "non-time-bound waiver" on other agricultural products.[92] This led to the GATT's lax enforcement on other agricultural producers for fear of being accused of having double standards.

The US and other agricultural powers not only ignored Article 11 but they also exploited Article 16, which exempted agricultural products from GATT's ban on subsidies. One effect of these moves was the transformation of the EU from being a net food importer into a net food exporter in the 1970s. By the beginning of the Uruguay Round in the mid-'80s, the EU's Common Agricultural Policy (CAP) had evolved into what was described as "a complex web of prices and sales guarantees, subsidies, and other support measures that largely insulated farmers' incomes from market forces."[93]

With domestic prices set considerably above world prices and no controls on production, European farmers expanded production. The mounting surpluses could only be disposed of through exports, sparking competition with the previously dominant subsidized US farmers for third-country markets. The competition between the agricultural superpowers turned fierce, but it was not so much their subsidized farmers that suffered. The victims were largely farmers in the South, such as the small-scale cattle growers of West Africa and South Africa, who were driven to ruin by low-priced EU exports of subsidized beef.

With state subsidies mounting to support the bitter competition for third-country markets, the EU and US gradually came to realize that continuing along the same path could only lead to a no-win situation for both. By the late '80s, for instance, close to 80 percent of the EU's budget was going to support agricultural programs, and the US had inaugurated a whole new set of expensive programs such as the

Export Enhancement Program, to win back markets, such as the North African wheat market, from the EU.[94]

This mutual realization of the need for rules in the struggle for third-country markets is what led the EU and the US to press for inclusion of agriculture in the Uruguay Round. In fact, it was just the EU and the US that negotiated the so-called Blair House Accord in 1992 and 1993. The accord then was promptly tossed to other GATT members by the two superpowers in 1994 as the proposed AOA on a take-it-or-leave-it basis. Rather than seriously promoting a mechanism to advance free trade, the two agro-superpowers resorted to the rhetoric of free trade and offered minor concessions to liberalization in order to institutionalize a system of monopolistic competition, with each seeking advantage at the margins.

How did the AOA achieve this?

First, it institutionalized the heavy subsidization of Northern agriculture, though it provided for "domestic support"—quantified into a comprehensive measure called the "aggregate measure of support"—to be reduced by 20 percent over a six-year period.

Second, it institutionalized export subsidies while making the slight concession that they would be reduced over a six-year period by 21 percent in volume terms and 36 percent in total cash value, with no commitments for further reduction at the end of the six-year period.

Third, it institutionalized and exempted from cuts direct income subsidies for farmers on the specious grounds that these had "no, or at the most minimal, trade-distorting effects on production."[95] These included so-called Green Box or Blue Box measures such as "land set-aside" programs in the EU which entitled farmers to subsidies if they withdrew 15 percent of their land from cultivation. They also included so-called deficiency payments in the US, which was a direct income subsidy that was stable because it was the same in good or bad crop years. Deficiency payments in the US were projected to average $5.1 billion a year between 1996 and 2002.[96]

The truth of the matter is that direct income payments to European and American farmers are anything but decoupled from production, since without them agriculture would scarcely remain profitable. Deficiency payments, for instance, make up between one-fifth and one-

third of US farm incomes.[97] In other words, in enshrining the notion of decoupled payments as untouchable subsidies in the Green Box, the US and the EU were, as one analyst put it, "taking away direct support of markets and replacing it with direct subsidization of [Northern] farmers."[98]

Fourth, it exempted from cuts export credit and low-interest concessional aid programs such as the US' PL-480 Title One Program and the Export Credit Guarantee Program that were mainly aimed at carving out markets abroad. The PL-480 Title One Program gives a developing country thirty years to repay a loan to buy a US commodity like rice at a one percent interest rate and a five-year grace period.[99] The Export Guarantee Program guarantees payments to US banks on loans contracted by foreign banks for the purchase of US agricultural commodities.[100]

In contrast to this massive subsidization in the OECD (Organization for Economic Cooperation and Development) countries, farmers in many developing countries have had little financial support. In the words of Philippine negotiators in Geneva, the essence of the complex section on subsidies was that "the heavily subsidizing developed countries can retain up to 80 percent of their trade-distorting subsidies while developing countries which had not applied trade-distorting support measures can subsidize no more than 10 percent of the total value of their agricultural production."[101] Certainly, in the case of the Philippines, overall subsidization was, at 4 percent, way below the 10 percent maximum, with government market price support for rice and corn coming to only 5 percent and one percent, respectively, of the total value of production in the two commodities.[102]

In fact, developing countries like the Philippines have been penalized by policies that have brought about the "negative subsidization" of their agricultural sector.[103] One study estimated that for eighteen developing countries, "taxation," or the transfer of value from agricultural production as subsidies to other sectors of the economy, amounted to an average of 30 percent of the value of production from 1960 to 1984.[104]

The institutionalization of various mechanisms of subsidization was one reason for the lack of any progress to curb the tremendous negative impact of Northern agriculture on global markets in the seven

years since the AOA came into force in 1995. Another key reason was what came to be known as "dirty tariffication"—that is, converting tariffs and non-tariff barriers or quotas into high initial tariff rates.

Tariff rates were bound at their equivalents in the 1986-88 base period, which were quite high relative to levels in 1995 when the AOA took effect. In the case of the US, for instance, between 1992 and 1996, simple average tariffs rose from 5.7 percent to 8.5 percent for agriculture and livestock production, 6.6 to 10.0 percent for food products, and 14.6 to 104.4 percent for tobacco products.[105] The manipulation of tariffication to achieve the same impact as quotas was especially evident in the case of tobacco products, where the US levied an ad valorem duty of 350 percent for above minimum access imports of food products.[106] Indeed, a study conducted by the UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific) of the tariffication process showed that the EU's final bindings for the year 2000 were almost two-thirds above the actual tariff equivalent for 1989-1993, while those for the US were three-quarters higher.[107]

Another mechanism used to limit actual market access to developing-country imports was selective tariff reductions, or keeping tariffs high on sensitive products and reducing tariffs on less sensitive products. This practice was possible since the 36 percent tariff reduction required by AOA was an average, unweighted reduction, with the only constraint being a 15 percent cut on each tariff line. So countries tended to reduce existing low tariffs on non-sensitive products by significant amounts while reducing only slightly the existing high tariffs if the product was of trade importance. Thus, the US reduced the existing low 6 percent tariff on common wheat by 55 percent while limiting the cut on the existing tariff of 134.7 percent on white sugar, a sensitive commodity, to 15 percent.[108]

With such a skewed agreement, it hardly came as a surprise that overall protection and subsidization of agriculture in the OECD countries increased in the first decade of the AOA. The total amount of agricultural subsidies provided by the OECD's thirty member-governments rose from $182 billion in 1995 to $280 billion in 1997, about $315 billion in 2001, and an estimated $318 billion in 2002.[109] According to Oxfam International, the EU and the US were spending $9-10 billion more on

subsidies than they did a decade earlier.[110] Subsidies accounted for 40 percent of the value of agricultural production in the EU and 25 percent in the US.[111] While smallholders in the developing world had to survive on less than $400 a year, American and European farmers were receiving respectively an average of $21,000 and $16,000 a year in subsidies.[112] There was no way to describe this except as socialist agriculture!

It was, however, socialism for rich farmers. According to the OECD, two-thirds of US crop supports went to only 10 percent of cotton, grain and oilseed growers.[113] Oxfam calculated that in the US, the largest 7 percent of farms received 50 percent of government subsidies, while 60 percent of US farmers received no subsidies at all.[114]

Not surprisingly, the pressures to overproduce and thus to look for new markets likewise increased. A 1997 report to the EU farm ministers projected the surplus of wheat to rise from 2.7 million MT to 45 million MT by 2005, and total cereal surplus to shoot up to 58 million MT.[115] The solution to this condition of subsidized overproduction, said EU Agriculture Minister Franz Fischler, was intensified efforts to export grain.[116]

Continuing subsidization has also deepened US agriculture's dependence on massive exporting. Admitting that "one out of every three farm acres in America is dedicated to exports," then-US Trade Representative Charlene Barshefsky contended in 1997 that "given the limitations inherent in US demand-led growth, we must find new markets for American agriculture. We must open new markets to support the increasingly productive US agricultural sector."[117]

The Philippines' structural consolidation as a food-importing country was thus paralleled globally during the latter half of the '90s. A Food and Agricultural Organization (FAO) study of fourteen countries in Asia, Africa, and Latin America found that the levels of their food imports in 1995-98 exceeded those in 1990-94. Import surges in various sectors led to reports of "import competing industries facing consequential difficulties." Producers expressed the fear that "without adequate market protection, accompanied by development programs, many more domestic products would be displaced, or undermined sharply, leading to a transformation of domestic diets and to increased dependence on imported foods."[118] The FAO study acknowledged that while

developing countries' share in world food exports increased from 30 percent in 1970 to 37 percent in 1997, their food imports increased much more, from 28 percent to 37 percent over the same period.[119] As Aileen Kwa has noted, these figures indicated that many countries "are turning from being net food exporters to net food importers."[120]

By 2003, it would be fair to say, the Philippine government, while putting a brave face and publicly hoping for fundamental change in the WTO, had become completely disillusioned with the system and especially the agricultural powers that ran the AOA. As noted above, a "rebalancing/countervailing mechanism" advanced by the Philippines that would allow developing countries to raise tariffs on crops subsidized by the rich countries by amounts calibrated to the levels of subsidization was not even mentioned in the Harbinson draft. This was not surprising given the fact that, as an exasperated Philippine negotiator noted, in earlier meetings of the WTO Committee on Agriculture, "the major blocs (US, EU, Japan, etc.) have refrained from engaging US and our developing-country allies in floor debate on the proposal."[121]

The WTO: Blind to Development and Non-transparent

The bitter reality that the whole WTO agreement and not just the AOA was an instrument that benefited the few gainers of globalization at the expense of the majority was experienced and resented all throughout the developing world. Also leading to the developing countries' disillusionment with the GATT-WTO was the fate of the measures approved during the Uruguay Round that were supposed to respond to the special conditions of developing countries. Besides the AOA, there were two key agreements which promoters of the WTO claimed were specifically designed to meet the needs of the South: the special ministerial agreement approved in Marrakech in April 1994, which decreed that special compensatory measures would be taken to counteract the negative effects of trade liberalization on the net food-importing developing countries; and the Agreement on Textiles and Clothing, which mandated that the system of quotas on developing-country exports of textiles and garments to the North would be dismantled over ten years.

The special ministerial decision taken at Marrakech to provide assistance to "net food-importing countries" to offset the reduction of

subsidies that would make food imports more expensive for the "net food-importing countries" has never been implemented. Though world crude oil prices more than doubled in 1995-1996, the World Bank and the International Monetary Fund (IMF) scotched any idea of offsetting aid by arguing that "the price increase was not due to the agreement on agriculture, and besides there was never any agreement anyway on who would be responsible for providing the assistance."[122]

The Agreement on Textiles and Clothing committed the developed countries to bring under WTO discipline all textile and garment imports over four stages, ending on January 1, 2005. A key feature was supposed to be the lifting of quotas on imports restricted under the multifiber agreement (MFA) and similar schemes which had been used to contain penetration of developed-country markets by cheap clothing and textile imports from the Third World. However, developed countries retained the right to choose which product lines to liberalize and when, so that they first brought mainly unrestricted products into the WTO discipline and postponed dealing with restricted products until much later. Thus, in the first phase, all restricted products continued to be under quota, as only items where imports were not considered threatening—like felt hats or yarn of carded fine animal hair—were included in the developed countries' notifications. Indeed, the notifications for the coverage of products for liberalization on January 1, 1998, showed that "even at the second stage of implementation only a very small proportion" of restricted products would see their quotas lifted.[123] An Oxfam 2002 report claimed that the EU and the US had eliminated only a quarter of the textiles and garments quotas they were required to remove under the agreement.[124]

Given this trend, John Whalley notes that "the belief is now widely held in the developing world that in 2004, while the MFA may disappear, it may well be replaced by a series of other trade instruments, possibly substantial increases in anti-dumping duties."[125]

Non-transparency and the Seattle Collapse

The growing resentment of the developing countries extended to the processes of decision making itself, which were non-transparent, informal, and dominated by the big trading powers. Indeed, one of the

key reasons for the collapse of the WTO ministerial in Seattle in December 1999 was the absence of transparent decision making. Stories abound of ministers from developing countries complaining of being lost at the Seattle Convention Center, looking for a "Green Room" where key decisions would be made, not knowing that the Green Room did not refer to a real room at the convention center but to an exclusive process of decision making.

During the WTO ratification process in 1994, partisans of the new trade organization portrayed it as a one country-one vote organization where the United States would actually have the same vote as Rwanda. In truth, the WTO is not governed democratically via a one country-one vote system like the UN General Assembly or through a grossly unequal system of weighted voting like the World Bank or the IMF. While according to its constitution it is a one country-one vote system, the process that reigns in the World Trade Organization is "consensus," one that it took over from the old GATT, where the last time a vote was taken was in 1959.

Consensus, in practice, is a process whereby the big trading countries impose their consensus on the less powerful countries. As C. Fred Bergsten, a prominent partisan of globalization who heads the Institute of International Economics, put it during US Senate hearings on the ratification of the GATT-WTO agreement in 1994, the WTO "does not work by voting. It works by a consensus arrangement which, to tell the truth, is managed by four—the Quads: the United States, Japan, European Union, and Canada...Those countries have to agree if any major steps are going to be made. But no votes."[126]

Though the Ministerial and the General Council are theoretically the highest decision-making bodies of the WTO, decisions are arrived at not in formal plenaries but in non-transparent backroom sessions known as the "Green Room," after the color of the Director General's room at the WTO headquarters in Geneva.

Non-transparency and lack of real democratic decision making was one of the reasons behind the now famous revolt of the developing countries at the Seattle Convention Center that played a central role in the collapse of the Third Ministerial in Seattle in December 2001. With surprising frankness, at a press conference in Seattle, shortly after the min-

isterial collapse, then-US Trade Representative Charlene Barshefsky described the dynamics and consequences of the Green Room: "The process... was a rather exclusionary one. All the meetings were held between 20 and 30 key countries... And this meant 100 countries, 100, were never in the room...[T]his led to extraordinarily bad feeling that they were left out of the process and that the results even at Singapore had been dictated to them by the 25 to 30 countries who were in the room."[127]

Barshefsky admitted that "the WTO has outgrown the processes appropriate to an earlier time. An increasing and necessary view, generally shared among the members, was that we needed a process which had a greater degree of internal transparency and inclusion to accommodate a larger and more diverse membership." This was backed up by UK Secretary of State Stephen Byers who stated that the "WTO will not be able to continue in its present form. There has to be fundamental and radical change in order for it to meet the needs and aspirations of all 134 of its members."[128]

These expressions of concern by two key officials of the trade superpowers did not, however, result in any reforms after Seattle. The Green Room process was, for instance, defended thus by a key adviser to Director General Mike Moore: "One of the myths about Seattle is that there were no Africans and hardly any developing countries in the Green Room. In fact, there were six Africans and a majority from developing countries. Moreover, any deal reached in the Green Room must still be approved by all WTO members."[129] Moore himself told developing-country delegates at the UNCTAD X meeting in Bangkok in February 2000, eight weeks after Seattle, that the Consensus/Green Room system was "non-negotiable."[130]

Doha: The Low Point

Moving into the Fourth Ministerial slated for Doha, Qatar, in late 2001, the big trade superpowers were determined to avoid a repetition of the Seattle collapse. Not surprisingly, lack of transparency marked the run-up to and the proceedings of the Fourth Ministerial in Doha, Qatar, in November 2001.

The proposed draft declaration for the ministerial meeting was a product of the sort of non-transparent tactics that the big trading powers

resorted to. In the run-up to Doha, most of the developing countries were pretty much united around the position that the Ministerial would have to focus on implementation issues and on reviews of key WTO agreements, not on launching a new round of trade liberalization.

But when the draft declaration came out a few weeks before Doha, the emphasis was not on dealing with implementation issues, but on an alleged consensus on opening up negotiations on the issues of competition, investment policy, government procurement, and trade facilitation that were the priorities of the minority of rich and powerful trading countries. "Despite clearly stated positions that the developing countries are unwilling to go into a new round until past implementation and decision making are addressed," noted Kwa, who followed the process closely, "the draft declaration favorably positioned the launching of a comprehensive new round with an open agenda."[131]

The draft, which was authored by the chair of the General Council, was a product of consultations with all WTO members. In actual fact, the key consultations were conducted among an inner circle of about 20-25 participants—the so-called Green Room process that effectively excludes most of the members of the WTO. In the run-up to Qatar, this exclusive process held two "mini-ministerials," one in Mexico at the end of August and another in Singapore on October 13-14. How one got invited to these meetings was very murky. Kwa cites the case of one ambassador from a transition economy who was promised an invitation to a Green Room meeting by the WTO secretariat but never got one. Then there was the case of an African ambassador who wanted to attend the Singapore mini-ministerial: When he approached the WTO secretariat for an invitation, he was told that they were not hosting the meeting. When he tried the Singapore mission in Geneva, the response was that they were simply coordinating the meeting and were not in a position to send out invitations.[132]

The Doha ministerial from November 9-14, 2001, took place amidst conditions that were already unfavorable from the point of view of developing-country interests. The September 11 events provided a heaven-sent opportunity for US Trade Representative Robert Zoellick and European Union Trade Commissioner Pascal Lamy to step up the pressure on the developing countries to agree to the launching of a new trade round,

invoking the rationale that it was necessary to counter a global downturn that had been worsened by the terrorist actions. The location was also unfavorable, Qatar being a monarchy where dissent could be easily controlled. The WTO secretariat's authority over who would be granted visas to enter Qatar for the ministerial allowed it to radically limit the number of legitimate nongovernment organizations (NGOs) that could be present to about sixty, thus preventing that explosive interaction of developing-country resentment and massive street protest that took place in Seattle.

Still, these factors would not have been sufficient to bring about an unfavorable outcome for developing countries. Tactics mattered, and here the developing countries were clearly outmaneuvered in Doha. Among these tactics the following must be highlighted:[133]

- Pushing the highly unbalanced draft declaration and presenting it to the ministerial as a "clean text" on which there allegedly was consensus, thus restricting the arena of substantive discussion and making it difficult for developing countries to register fundamental objections without seeming "obstructionist."
- Pitting officials from the capitals against their negotiators based in Geneva, with the latter being characterized as "recalcitrant" or "narrow."
- Employing direct threats, as the United States did when it warned Haiti and the Dominican Republic to cease opposition to its position on government procurement or risk cancellation of their preferential trade arrangements.
- Buying off countries with goodies, as the European Union did when, in return for their agreeing to the final declaration, it assured countries in the ACP group that the WTO would respect the so-called ACP Waiver that would allow them to export their agricultural commodities to Europe at preferential terms relative to other developing countries. Pakistan, a stalwart among developing countries in Geneva, was notably quiet at Doha. Apparently, this had something to do with the US' granting Pakistan a massive aid package of grants, loans, and debt reduction owing to its special status in the US war against terrorism. Nigeria had taken the step of issuing an official communique denouncing the draft declaration before Doha, but came out loudly supporting it on November 14—a flip-flop that is difficult to separate from the US' coming up with the promise of a big economic and military aid package in the interim.
- Reinstituting the infamous "Green Room" on November 13 and 14, when some twenty handpicked countries were isolated from the rest and "delegated" by the WTO secretariat and the big powers to come up with the final declaration. These countries were not picked by a democratic process, and efforts by some developing-country representatives to insert themselves into this select group were rebuffed, some gently, others quite explicitly, as was the case with a delegate from Uganda.
- Finally, pressuring the developing countries by telling them that they would bear the onus for causing the collapse of another ministerial, the collapse of the WTO, and the deepening of the global recession that would allegedly be the consequence of these two events.

Some accounts of the Doha process claimed that Doha represented a victory of sorts for the developing countries in that they managed to get a declaration that recognized the urgency of addressing their concerns in implementation issues and special and differential treatment as well as placed public health concerns over intellectual property rights. In fact, from the point of view of process, Doha was a low point in the GATT-WTO's history of backroom intimidation, threats, bribery, and non-transparency. There are no records of the actual decision-making process in Doha because the formal sessions of the ministerial—which is where decision making is made in a democratic system—were, as in Seattle, reserved for speeches, and the real decisions took place in informal groupings whose meeting places kept shifting and were not known to all. There being no records, there is little accountability, and the principals in any deals can deny that they engaged in questionable behavior.

This non-transparent process resulted in practically sidelining the developing countries' demand that the WTO focus on implementation issues and placing on centerstage the top agenda of the big trading powers: the eventual launching of a new set of trade negotiations that would bring into WTO jurisdiction the non-trade areas of investment, competition policy, government procurement, and trade facilitation. Bergsten,

the free-trade partisan who heads the Institute of International Economics in Washington D.C., once compared the WTO and trade liberalization to a bicycle: it only stays up by moving forward. Doha set the WTO upright once more, but it was still wobbly, and this was because a great deal of resentment lingered among developing countries from the whole non-transparent process of bamboozling them into accepting a declaration running counter to their interests.

From Doha to Cancun

The centerpiece of the Doha Declaration was the decision, subject to "explicit consensus" of all WTO members, to begin negotiations on the "New Issues" of investment, government procurement, competition policy, and trade facilitation. The first three being non-trade issues, the declaration was seen by many developing countries as providing momentum for a massive expansion of the authority of the WTO.

The propaganda of Northern governments, especially of the British government, was that the Doha Round would be one that would incorporate development concerns into the trade agenda. Much of the established press—and many Northern NGOs—pointed to Article 6 of the declaration, which upheld public health concerns over intellectual property rights, as indicating that the WTO could become a development-friendly institution.

In eighteen months leading up to the Fifth Ministerial Meeting in Mexico in mid-September 2003, the agenda of the trade superpowers included concluding a new AOA initiating preliminary negotiations on the so-called new issues, launching of negotiations on industrial tariffs, and substantial progress in negotiations on services.

The hope was that at Cancun, the negotiations in the different trade and trade-related areas would come together in a new WTO agreement that would be as far-reaching as the Uruguay Round. It would be a round that would give the faltering globalization process a surge forward.

Between Doha and Cancun, however, there was barely any movement in any of the negotiating areas.

Not surprisingly, agriculture was the Gordian knot.

Even before Doha, negotiations had already begun for a new AOA. By the beginning of 2002, however, the talks were getting nowhere,

with both the United States and the European Union competing to stymie the talks. Saying that "[W]e want to be selling our beef and our corn and our beans to people around the world who need to eat," President Bush signed into law on May 13, 2002, a legislation giving US farming interests $190 billion in subsidies over the next ten years. The report increased certain subsidies by 80 percent; raised price supports for wheat, cotton, soybeans, rice, and cotton; and created new subsidies for items like lentils, peanuts, and milk.[134]

Equally defiant was the European Union. In October 2002, French President Jacques Chirac and German Prime Minister Gerhard Schroeder agreed that there would be no cut in EU agricultural subsidies during their talk on EU enlargement. Indeed, the overall amount of subsidies will increase until 2006, and from 2007 to 2013, spending will be frozen at 2006 levels.[135] "The deal spells out clearly that EU dumping is going to continue till at least 2013," noted one analyst.[136]

Disagreements on agriculture between the US and the EU had been central to unraveling the Third Ministerial of the WTO in Seattle in December 1999. Some fancy rewording on the question of subsidies demanded by the EU saved the Fourth Ministerial in Doha, Qatar, from the same fate.[137] But by the beginning of 2003, so little progress had been registered that many negotiators raised the specter that the impasse would unravel concurrent negotiations in other areas like industrial tariffs, services, and the so-called new issues of investment, competition, and government procurement, leading to a Seattle-like outcome for the fifth ministerial, which was due to be held in Cancun, Mexico, in mid-September 2003.

The draft negotiating document prepared by WTO farm negotiations chairman Stuart Harbinson produced a stalemate at the so-called Tokyo Mini-ministerial on February 14-16, which was one of several restricted sessions designed to gain a rough consensus in key trade areas before Cancun.[138] Japanese Minister of Agriculture Tadamori Oshima rejected the paper's proposals for minimum cuts of between 25 and 45 percent and average reductions of 40 to 60 percent on all farm tariffs over five years.[139] The EU also attacked the Harbinson proposal as "unbalanced" for proposing that "trade-distorting" subsidies be cut by 60 percent over five years and that export subsidies be phased out entirely over

nine years.[140] Both Japan and the EU denounced the paper as ensuring that the US would be the only victor in the negotiations.

In the fight between the agro-export giants, the concerns of developing countries were conveniently lost. As Kwa points out, the Harbinson text does not address their fear that EU and US subsidies will now mostly be shifted to the so-called Green Box, a listing of exempted subsidies that include the massive direct payments to farming interests that directly or indirectly distort trade. [141]

The Harbinson text also completely ignored proposals put forward by Argentina and the Philippines (both of which were not invited to the Tokyo meeting) for "rebalancing/countervailing mechanisms" that would allow developing countries to raise tariffs on crops subsidized by the developed countries by amounts proportionate to the subsidies.[142] Instead, for developing countries, tariffs greater than 120 percent were to be slashed by 40 percent, while those between 20 and 120 percent would be decreased by 33 percent, with no linkage to the subsidies maintained by the wealthy agro-exporters.

The draft also contained no meaningful recommendations that would apply the principle of "special and differential treatment" to the developing countries, giving their agricultural sectors significant protection for structural reasons—owing to their different level and conditions of agricultural development.[143] True, the Harbinson draft proposed that developing countries might classify some staple products as "strategic" and have them subjected to lower tariff cuts than other commodities. However, the proposal was vague, the number of products that could qualify as strategic was unclear, and positive impact would be limited as products would still be subject to an average tariff cut of 10 percent.[144] As Kwa noted, the strategic products proposal was "no more than wool being pulled over the eyes of trade negotiators and Ministers. It is a fictitious fig leaf offered to entice the less WTO-savvy decision makers in the developing world."[145]

In essence, the Harbinson draft proposed to change some of the terms of monopolistic competition among the EU, US, Australia, and Canada while accelerating the removal of the protective barriers of the developing country markets they are fighting over.

Agricultural negotiations remained effectively stalemated all the way up to the Cancun negotiations. The situation was much the same in other areas. One of the few positive items in the Doha Ministerial Declaration was the clear statement that "the TRIPS agreement does not and should not prevent members from taking measures to protect public health."[146] The US, however, squandered a lot of goodwill in the next few months by maintaining its position that only in the case of drugs for three epidemics—HIV-AIDS, tuberculosis, and malaria—should patent rights be loosened and that the import of cheap generic drugs by countries with no drug-manufacturing capacity should be limited to the least developed countries. With the Doha declaration on their side, the developing countries rejected the US position, leading to a stalemate until the very eve of Cancun, when a compromise agreement was forged. However, the compromise agreement was denounced by many as loaded with such restrictions as to make the import of cheap drugs a very cumbersome process and thus defeat the objective of the Doha provision. US trade policy came to be seen by developing countries as being hostage to the big pharmaceutical lobby.

On the New Issues—investment, competition policy, government procurement, and trade facilitation—the EU continued to make the commencement of negotiations a central point of its Cancun agenda. But, if anything, the developing countries were even more adamant that the Singapore issues be dropped from the negotiations. The new-issues question threatened, in fact, to derail the ministerial because there was widespread disagreement that the Doha ministerial, in fact, launched negotiations in these areas. According to the chairman's statement that accompanied the Doha Declaration, whether or not negotiations will begin in these areas would depend on the "explicit consensus" of all WTO member states at the Cancun summit.[147]

In two negotiating areas of great interest to developing countries, there was absolutely no movement. These were the issues of Special and Differential Treatment and Implementation. On the latter, it might be of interest that when Lamy, EU trade commissioner, met with NGO representatives in Bangkok in mid-March 2003, he tried to shift the blame to the developing countries, whom he accused of not being able to agree on what were the two or three top priorities regarding implementation that needed to be tackled.[148]

If Cancun was going to be salvaged, observers warned, this would have to be done by resorting to non-transparency Doha style. And indeed,

there were indications that as Cancun neared, negotiations were shifting to informal mode and going "underground." In fact, in a statement that was extraordinary for its candor, New Zealand Ambassador Timothy Groser warned developing countries "not to push for greater transparency in the decision-making process." With a membership of 146, Groser warned that "if every decision-making process were to involve the entire membership, the process would go nowhere. Efforts to attain internal transparency... would be counterproductive and would push the negotiating process underground."[149] An astute observer of the Geneva process, in fact, warned, "the process already seems to have gone underground, since it is entirely in the control of the DG/Harbinson team, and the chair of the General Council, in alliance with the major players."[150] Not surprisingly, resentment mounted among the developing countries.

While the US and the EU wrangled over the issue of how much export subsidies should be reduced and over the formulas for reducing agricultural tariffs, several developing countries, led by Brazil, India, South Africa, and China, got together on August 20, 2003, to form the Group of 20 (G-20), which demanded "substantial cuts on trade-distorting domestic support, substantial increase in market access, and elimination of export subsidies."[151]

Another, larger grouping of thirty-two developing countries formed around the demand for "special products" that would be exempted from tariff reductions and "special safeguard mechanisms" against the highly subsidized agricultural exports from the developed countries.

Still another, and even larger, group of countries, which eventually came to be known as the G-90, was forming around opposition to the start of negotiations on the new issues without the explicit consensus of all WTO member countries.

Collapse in Cancun

The proposed ministerial declaration in the last week of August offered little in the way of meeting the developing countries' demands for substantial cuts in levels of government support for farming interests. Instead, it presented a detailed framework for discussion on the Singapore issues. Thus, as the Cancun Ministerial opened on September 10, a showdown was in the offing between the US-EU group that had

dominated WTO discussions and the new developing country formations. The flashpoint was an unexpected one, and that was the question of cotton subsidies being given to European and US producers which had contributed to a collapse of international prices. US producers were offloading cotton on world markets at between 20 percent and 55 percent of the cost of production, leading to a severe crisis of West African and Central African cotton farmers.[152] Four African countries—Benin, Burkina Faso, Chad, and Mali—demanded compensation of between $250 million and $1 billion annually and the unilateral elimination of cotton subsidies.[153]

Roundly rejected by the developing countries, the draft declaration was revised and issued on the afternoon of September 13. Known as the "Derbez Text"—after the Ministerial Chairman, Mexican Foreign Affairs Minister Luis Derbez—the revised declaration proposed nothing substantive on cotton subsidies, some slight revisions in market access, and kept two of the original new issues—government procurement and trade facilitation.

The new-market access sweeteners could have split the G-20 coalition, designed as they were to win over large agro-exporters like Brazil but were detrimental to India and others seeking protection of their agriculture. "However," notes one account, "Brazil showed leadership and instead of settling for short-term benefits in market access joined forces with India to keep the alliance together...."[154] But the final Green Room meeting of some thirty countries on September 14 was not even able to get to agriculture. The discussion started on the New Issues. Japan and South Korea declared themselves unwilling to drop investment and competition polity from the negotiations. G-90 members from Asia and Africa fiercely rejected the inclusion of any issue, many of them angered by the declaration's US-inspired suggestion that African cotton exporters should diversify away from cotton. At that point, Derbez brought down the gavel to end the ministerial, declaring that the necessary consensus for the ministerial to proceed was absent. Despite efforts by US Trade Negotiator Robert Zoellick to pin the blame on developing countries and EU Trade Minister Lamy to assign it to the "medieval" decision-making rules, most of the press, including the western press, saw the EU-US inflexibility on agriculture

and the EU's unrelenting push on the New Issues as shouldering most of the blame.[155]

The Philippines on the Road to Cancun

As the Cancun ministerial approached, there was a widespread sense in Philippine government circles that the Philippines had lost badly with its entry into the WTO.

Not only had nothing been gained, not only were key sectors of the economy dislocated, but revenues had been lost—revenues which could have gone to plug the government's worsening budget deficit. According to the Tariff Commission, WTO-related tariff cuts lowered tariff collections from Php 83 billion in 1997 to Php 81.2 billion in 1999 to Php 72.96 billion in 2001 and Php 59.5 billion in 2002.[156] The difference between the collection rates in 1997 and 2002 came to Php 23.6 billion, which came to over 10 percent of the Php 210 billion deficit for 2002.

But despite the disillusionment with the WTO, the government was, at the beginning of 2003, ill prepared for the approaching Cancun ministerial. Arroyo's statement at the October summit of APEC in Mexico decrying the unfair trade rules of the WTO and her more recent rhetoric against "unbridled globalization" were long overdue. Yet, despite the acknowledgment of the WTO's anti-development thrust, the administration appeared bereft of a strategy on how to protect the country from its consequences.

The country badly needed a multipronged, coordinated strategy for the negotiations in agriculture, services, and industrial tariffs, and to meet the threat of a new round of liberalization that the trading powers threatened to launch in Cancun.

This was not for lack of activity among Philippine negotiators in Geneva. In agriculture, Philippine negotiators worked to reject the Harbinson draft. In a paper submitted to a special session of the WTO's Committee on Agriculture on March 31, 2003, the Philippine delegation faulted the draft for its "fixation on market access alone," neglecting substantive reform in the areas of domestic support and export competition. "Flexibilities" or special provisions demanded by the South, the paper said, were hardly addressed by the draft but they were more than ever necessary. "[C]an developing countries, even with these flexibilities, ever exceed even an iota of the billions that the major contributors continue to pour into [the] cesspool of market and production distortions? What South-South trade can we talk about in the future when the North would have eaten up all of the South under these conditions?"[157]

Dissatisfaction did not, however, translate into a clear negotiating stance. On the critical question of trade in rice, rice farmers were in the dark on whether the Philippines was asking for an extension of its right to subject rice to quantitative restrictions under Annex 5 of the Agreement. With the government unable to deliver on its promise to "prepare the rice sector for global competition," and with rice farmers left with nothing else to hold on to, the extension of the country's right to subject rice to quotas was a clear demand of the sector.

Privately and sometimes publicly, officials of the Department of Agriculture said that the Philippines was pushing hard for a recognition of the principle of "special and differential treatment," the formal adoption of which would allow the government much more leeway in limiting agricultural imports than is allowed by current AOA rules under the principle that the Philippines' underdeveloped agricultural sector should not be subject to the same rules as agriculture in the developed economies. But would the Philippines be resolute in pushing for its innovative proposal of a rebalancing/countervailing mechanism—a "special safeguard mechanism," in WTO parlance—that would allow developing countries to raise tariffs proportionate to the level of subsidies maintained by the rich countries? This was unclear even to high-level officials in the bureaucracy, who worried that the secretary of agriculture, Luis Lorenzo Jr., had an inadequate grasp of the issues. The joke making the rounds among Geneva negotiators was that Lorenzo, hearing of the "Singapore issues," asked what problems Singapore had with the WTO.

More seriously, observers were worried that the Philippines might be restricted by the negotiating position of the Cairns Group, a grouping of developed and developing agro-exporting countries dominated by Australia and New Zealand. Australia and New Zealand were mainly interested in dismantling the agricultural subsidy system of the European Union while tolerating that of the United States. Pushing for protection

of the developing-country agricultural systems under the principle of special and differential treatment was not a priority for Australia and New Zealand. In fact, Australia chose to interpret special and differential treatment mainly in terms of developing countries being able to provide their agriculture with a minimum amount of subsidies, which they cannot afford, and not in terms of restrictions placed on access to their markets, which Philippine farmers were demanding.

In fact, farmers groups were asking: why do we continue to voluntarily tie our hands by remaining in the rich-country-dominated Cairns Group?

Another critical area were negotiations on services under the GATS. In early 2003, governments had already begun the process of asking other governments for the service sectors they want opened up, and those requested would have to respond soon. A leaked report revealed the breathtaking range of services that the EU wanted the Philippines to open up completely or substantially—a long list that included legal services, accounting and bookkeeping, telecommunications, construction and engineering services, maritime transport, and environmental services.[158]

What was the government's response to the requests of the EU, US, and other governments? What areas was it offering to liberalize? As the Stop the New Round! Coalition (SNR!C) put it:

> Citizens should not be kept in the dark about these negotiations. They must at least be informed of what other countries are demanding, what with all the service-sector employees that could be displaced by foreign competition in an economy already suffering from persistent high unemployment and underemployment."[159]

An even greater concern was that GATS was really an investment agreement masquerading as a trade agreement, one that would override not only existing laws governing foreign investment but the Constitution itself. In fact, current moves to amend the Constitution coincided with this dangerous enterprise of denationalizing through GATS control of land, natural resources, and public services such as water, energy, health, education, and other public services.

The New Issues was another source of worry. Geneva negotiators were against incorporating them into the WTO agenda, but the Manila

leadership's position was unclear in early 2003. Next to agriculture, the EU-US push to incorporate investment, government procurement, competition policy, and trade facilitation in the WTO mandate was the galvanizing issue for Philippine civil society. Such negotiations would result in a vast expansion of the WTO's powers to non-trade areas. By extending "national treatment" to foreign investors, a new agreement, critics feared, would lead to the near-total loss of national control over investment and deprive government of its ability to conduct industrial policy and undertake strategic planning.

As the SNR! asked:

> Will the Philippine government take a stand, draw a line on the sand, and work with other developing countries to stop this grant of vast new powers to the WTO? Will it stand by India and other developing countries that hold that, in accordance with the statement of the Chairman of the Doha Ministerial, there is as yet no agreement to launch negotiations in the "new issues"? Or will the Philippines side with the EU, the US, and other developed countries that claim that there is already consensus on launching negotiations?[160]

Trade liberalization, to use Bergsten's image, is like a bicycle: it collapses if it does not move forward. Which is why the New Issues question was seen as so critical by Philippine civil society: its resolution would mean either that the WTO, with all its institutionalized inequalities, became even more powerful by extending its jurisdiction to new areas of human endeavor, or that the WTO retreated, thus creating the space for countries to follow strategies of economic development that are congenial to their needs.

In the absence of government leadership, civil society stepped into the breach prior to Cancun. Two groupings played particularly salient roles: the Fair Trade Alliance (FTA) and the Stop the New Round! (SNR!). The latter proposed a government-civil society strategy for the Cancun meeting, the three key points of which were:

- Opposition to a new round of WTO trade negotiations
- Opposition to further WTO trade and trade-related liberalization

- Opposition to the incorporation of the New Issues" of investment, competition policy, government procurement, and trade facilitation into the WTO agenda

In addition, it advanced the following demands:

- In agriculture, unilateral extension of the quantitative restrictions on rice imports and formulation of an independent stand in the agricultural negotiations from the Cairns Group, the centerpiece of which would be the withholding of Philippine approval from any revised agreement that did not give it the right to restrict market access in key crops, the right to make food security and food self-sufficiency central principles of its agricultural trade policy, and the sovereign right to determine its agricultural and food policy.
- Opposition to the extension of WTO jurisdiction to fisheries as part of a strategy of conserving and developing fisheries primarily to meet domestic needs, and working for a fisheries policy that restricts trade and foreign investment damaging to fisherfolk livelihoods and destructive of marine ecosystems.
- Freezing negotiations in services on grounds that GATS subverts the Constitution and foreign investment laws.
- Freezing of negotiations on industrial tariffs on the grounds that this is a mechanism for dumping cheap industrial goods imports, leading to job loss and greater poverty in developing countries. This step must be taken within the broader context of an industrial and development framework to be developed after a comprehensive study carried out in collaboration with the concerned sectors. Only within a framework that provided for the necessary supporting mechanisms would trade instruments bring about comprehensive, solid, and lasting economic transformation.
- Opposition to the drive of the US and other developed countries to undermine the Doha Declaration provision allowing developing-country governments to override the TRIPS agreement in the interests of public health, stop all efforts to extend patents to life and traditional knowledge, and prevent monopoly of technological diffusion by transnational corporations.

- Working with other developing countries to prevent the launching of a new round of trade liberalization in Cancun by standing firm on the chairman's statement that there is as yet no authority to begin negotiations on the New Issues and refusing to provide the explicit consensus required to begin negotiations on investment, competition policy, and government procurement.
- Coordinating work in defending Philippine national interests in the WTO negotiations with negotiations in other multilateral areas, particularly in the AFTA (ASEAN Free Trade Area).[161]

Grassroots pressure exerted by SNR!C, FTA, and other such formations was instrumental in solidifying Philippine resistance to a ministerial dominated by a developed-country agenda. After being tight-lipped about its negotiating stance, the government announced in late August that it would "push for the scrapping of subsidies given by foreign governments to their farmers. It will also seek better Philippine access to cheap medicines from abroad, as well as exemptions to tariff cuts for essential products like rice."[162] The government also announced that it opposed the opening of its services and further liberalization of its investment policies. On the New Issues, then-Trade Secretary Manuel Roxas III said that the Philippines would resist its inclusion into the WTO agenda. "We shall continue to uphold each country's right to determine what is of interest to US and not to surrender its determination to external bodies such as the WTO."[163]

On the external front, Geneva negotiators enlisted the Philippines as a founding member of the G-20, a grouping formed to demand radical cuts in the subsidization of Northern farming interests. Philippine negotiators, along with their Indonesian counterparts, took the lead role in an alliance of fifteen—eventually thirty-two—countries to press for the exemption of "special agricultural products" (SPs) essential to food security from liberalization and for the establishment of "special safeguard mechanisms" (SSMs) such as tariff increases that would match the levels of subsidization in developed countries. Labeling the SPs and SSMs as a "defensive shield," Assistant Agriculture Secretary Segfredo Serrano, a key mover, said that they would give "developing countries more flexibility than ordinary tariff lines."[164]

While Department of Trade and Industry negotiators were confident in Roxas taking a strong stand, Department of Agriculture negotiators were not that confident in Secretary Lorenzo's holding the line. Calling on NGO representatives present in Cancun to help them, they held a special meeting with Lorenzo at his Cancun hotel late in the evening of September 11 to impress on him the necessity of supporting the Philippine position on SSMs and SPs.

The Philippines was included in the "expanded" Green Room meetings that decided the fate of the ministerial on September 13-14. By all accounts, Roxas and Lorenzo, who regarded themselves as rivals, stood by the developing-country positions. Shortly after the collapse of the ministerial, Roxas claimed that he was "elated" at the result.[165] Lorenzo, a neophyte in WTO matters just a few days before, agreed. Upon his return to the Philippines, Lorenzo said, "It was a resounding success for developing countries, especially the Philippine delegation, which was a consistent voice in all deliberations, battling for agricultural reform in WTO."[166]

Cancun was a milestone in the Philippine government's retreat from neoliberal policies, one dictated by the evident consequences they had wrought on the country and propelled by strong pressure from the grassroots. Cancun was the central event in a general reversal of policy. Executive Order 264, issued shortly after Cancun, reversed the twelve-year-old unilateral liberalization program. On the agricultural front, Executive Order 197, issued in April 2003, increased the tariffs on vegetable from 7 percent to 25 percent; Executive Order 264 froze the tariff reduction program for a number of agricultural and fishery products, and the bound tariff for sugar was raised from 65 percent to 80 percent.

But was it a retreat from neoliberal philosophy? This was much less evident, at least from Roxas's summation of the government's strategy. "My view is that a liberalized economy is a desirable end-state," he told the press. "And it is important how we get there. It is important we get there alive, robust, and healthy."[167]

Notes

1. "GMA Calls for WTO Changes, Overhaul," *Business World*, October 28, 2002.
2. Ibid.
3. "DA Notes RP Productivity Stagnant, Poverty High Despite WTO Entry," *Business World*, December 10, 2001.
4. This debate was carried widely in the Philippine media. Among the key documents from this debate are MODE (Management and Organizational Development for Empowerment Inc.), "Putting Food Security and Environmental Sustainability on the Line: The Impact of the Dunkel Act and Blair House Accord on the Philippines" (Manila: MODE, 1993), *IPR Sourcebook Philippines* (Manila: University of the Philippines Los Baños College of Agriculture and MODE, 1994); and Department of Agriculture, *Questions and Answers about GATT: The GATT and Its Implications for Philippine Agriculture* (Manila: Department of Agriculture, 1994).
5. Republic of the Philippines, "Individual Action Plan for APEC" (draft), October 31, 1996.
6. Ibid.
7. Ibid.
8. "Democracy as an Illusion? How AGILE/DAI Promotes US Interests at the Expense of Farmers' Rights," *SEARICE Notes* (June 2002).
9. A whole range of bills and laws, including the Omnibus Power Law, Anti-Dumping Act, and the Anti-Money Laundering Law, were drafted and pushed through the Philippines Congress by the AGILE group, which was supported over five years (June 1998-June 2003) by a $31.2 million appropriation from the US Congress. Ibid., 1.
10. Ibid.
11. Ibid., 4.
12. Ibid., 3.
13. United States Trade Representative, *2001 National Trade Estimates* (Washington, D.C.: USTR, 2001), 346.
14. Ibid., 345-46.
15. "Earning from Others' Intellectual Creations," *Philippine Daily Inquirer*, February 17, 2003, C7.
16. *2001 National Trade Estimates*, 350.
17. Ibid.
18. Ibid., 350-51.
19. United Nations Conference on Trade and Development (UNCTAD), *Trade and Development Report 1991* (New York: United Nations, 1991), 191.