MALAYSIA IN A MILLENNIUM ROUND?: THE FUTURE EXPANSE OF WORLD TRADE

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INTRODUCTION

On January 20th 1999, United States President Bill Clinton called for the launching at the end of the year, of a new round of trade negotiations in the World Trade Organization (WTO). Supported by Sir Leon Brittan, then the European Union Trade Commissioner, this “Millennium Round” which aimed at expanding the WTO agenda also received encouragement from the WTO ambassadors of Australia, Canada, Hong Kong and Singapore, all of whom had also been pushing for this new round.¹ This enthusiasm for a new round, however, has not been echoed throughout the entire membership of the organisation, as is evident from Malaysia’s lukewarm reaction.²

Malaysia, as a small industrialising country, finds herself in a particularly unique position in the world economy. As an economy highly reliant on external trade and investment, she is unable by herself to effect salient changes on the scale of the international economy. The regional economic downturn has demonstrated Malaysia’s challenge to incorporate her own need for continued industrialisation and technological advancement along with confronting the imperatives of the external economy.

Such imperatives arise from various sources, from its ASEAN neighbours to larger economic powers to international institutions. As the proposed
launch of a Millennium Round approaches, the World Trade Organization poses old and new challenges to its sovereign members, of which Malaysia is one. Among them is the past resolution of the Uruguay Round issues including agriculture, textiles and services. Adding to the burden of the past are propositions to expand the trade agenda of the WTO to include electronic commerce, investment, competition policy and government procurement. The movement of these 'new' areas of trade into the core of WTO agreements promises to be unsettling to developing countries including Malaysia. It is in the author’s interest to discuss this future expansion of the world trade agenda and how such expansion may affect Malaysia as well as how Malaysia can practically effect her position in the WTO in the millennium.

ELECTRONIC COMMERCE

With the rapid expansion of international communications technology, the international trade agenda has followed this development with the inclusion of electronic commerce. Bringing e-commerce into the World Trade Organization, however, is not as lucid as it would be with the legal incorporation of new sectors or trade classifications. First, the dividing line between goods and services is blurred by transactions that occur in electronic commerce. How the WTO and its member countries decide to embark upon settling an agreement according to the “goods versus services” nature of e-commerce portends the intricate task of balancing the General Agreement on Tariffs and Trade (GATT) with the General Agreement on Trade in Services (GATS). The ambiguous nature of e-commerce is evident from the organisation’s involvement of the Councils for Trade in Services, Trade in Goods and Trade-Related Intellectual Property (TRIPs) in the Work Programme on Electronic Commerce.

Following this is a second obstacle in determining the regulation of e-commerce: with whom the responsibility of regulating lies. As a relatively recent area of commercial transaction where many developing members have recently or have not yet even been incorporated into government regulation, e-commerce brings into question the issues of from where regulation should arise and how much commercial regulation is required. Governments have the options to allow the sector and its suppliers to self-regulate or to step in for purposes of national security, public morality, technical and national standards, or consumer protection. These options allow for a wide range of regulatory preferences and definitions among the various members of the WTO, and with the continuous innovation of electronic transactions, regulations will have to follow suit and keep up with the pace of this rapidly developing commercial area. The inclusion of e-commerce into the WTO agenda implies that, (a) not only will consensus building be significant in ironing out the various governmental regulatory
preferences, but also that, (b) any consensus reached will have to be flexible enough to account for the changing nature of e-commerce. As the negotiating history of the GATT and the WTO has demonstrated, consensus building can be a long and arduous process, and the question remains as to whether timely decision-making in the WTO with regards to e-commerce is in the interest of all of its members.

A further complication of including e-commerce into the agenda of the Millennium Round, especially for the sovereign states concerned, is the issue of jurisdiction. Regulation of the provision of goods and services across borders via electronic means can arise either from the source, i.e. the country of the supplier, or from the end, i.e. the country of the consumer. This raises “a fundamental question as to the willingness of governments to allow each other to regulate cross-border transactions affecting their own consumers”. This again brings in the notion of flexibility. The WTO will need to find a manageable solution to incorporate the various national stances on cross-border regulation. More importantly, the members will also have to consider their own preferences on the acceptance of other national e-commerce regulation. It will be necessary to weigh the long-term gains of a liberal e-commerce regime against any regulation that will eventually hamper the development of the national e-commerce sector.

Malaysia, through promoting the Multimedia Super Corridor (MSC) and other national investment policies, has demonstrated her national priorities to be at the fore of high technology. Such priorities also demand that Malaysia move to consolidate her position on electronic commerce, whether it relates to national regulation or to international oversight by the WTO. Whether or not a Millennium Round occurs in the near future, all members will have to be prepared for the inclusion of e-commerce on the WTO agenda. With the declaration on Global Electronic Commerce, the institution has signalled an involvement in this area, heeding the needs of particular members for the maintenance of duty-free electronic transmissions. As one of the more recent steps taken, the Communications and Multimedia Act 1998 (enacted 31 March 1999) demonstrates Malaysia’s commitment to “establish Malaysia as a major global centre and hub for communications and multimedia information and content services”. The 1998 Act also provides insight into Malaysia’s stance over national preferences and standards as well as to the jurisdiction issue. In applying extra-territorial jurisdiction over e-commerce transactions, the Act binds non-national suppliers to the local legal system in order for consumer protection and other national purposes. A possible ramification of this could be the inhibition of “the geographical spread of electronic commerce, as it would imply the establishment of some kind of ‘commercial presence’ in any jurisdiction with which business was transacted”. Any inclusions of e-commerce into the WTO agenda would eventually lead to this issue
of jurisdiction, and Malaysia will have to be prepared to justify her stance on jurisdiction and other national policies against members who do not share the same perceptions on the regulation of electronic commerce.

INVESTMENT

At the end of 1998, many developing countries together with a number of developed countries applauded the official demise of the Multilateral Agreement on Investment (MAI) in the Organization for Economic Cooperation and Development (OECD). What was to be a plurilateral agreement among the developed countries stalled in the process of negotiations, facing increased amounts of public pressure over the agreement's extension of rights to investing firms over sovereign states. Although the end of the MAI had been predicted throughout 1998, the idea of continuing multilateral negotiations in the area of investment perpetuated towards the domain of the World Trade Organization.

Reasons which could explain the termination of the MAI negotiations include the accusation that the OECD was inefficient as a negotiating forum, the exclusion of many developed countries for which foreign investment held a significant economic influence, and the lack of openness under which the agreement was negotiated. An apparent solution to the institutional problems of negotiating a multilateral framework for investment (MFI) could be solved by moving negotiations to the World Trade Organization, with its greater breadth of membership, with its consensus building negotiating process, and with its push for greater institutional openness and transparency. The WTO also had the experience under the Uruguay Round of the Trade-Related Investment Measures (TRIMs) agreement.

The organisation and its members have signalled an interest in the issue of investment and have taken steps to investigate the possibility of housing a comprehensive investment agreement. Since the first Ministerial Conference in Singapore in December 1996, the WTO included investment in its working programme intended to examine the relationship between trade and investment.10 As part of the programme, a working group on the relationship between trade and investment produced a report for the WTO General Council on its progress and future areas for investigation, based on contributions produced by members and relevant institutions in a series of meetings since June 1997.11 The significance of this Working Group along with its meetings is that they demonstrate the directions in which the organisation is moving in the area of investment.

One of the trends is the discussion of the multilateralisation of investment within the organisation. This area is significant to many developing countries and to Malaysia, which has reacted against an MFI within the WTO.12
The idea for the WTO to take on the negotiations for a multilateral investment agreement comes from various sources, including one of Malaysia's main foreign investors, Japan:

...a multilateral agreement could resolve the problem of the inconsistencies between bilateral investment agreements, and that, by negotiating a multilateral agreement on investment in the WTO, consistency of multilateral investment rules with the GATS, the TRIMs Agreement and other WTO provisions could be ensured. A multilateral agreement would also provide more scope for harmonization of rules and, since changes to the rules would need to be agreed on by all parties, would result in greater predictability of rules...compared with the many different rules contained in bilateral investment agreements, the existence of a single set of rules in a multilateral framework would enhance the predictability for investors, and...dispute settlement procedures were likely to be more fair and effective in a multilateral context than in a bilateral context. The establishment of investment rules in a multilateral organization could also enlarge the geographical scope of application of such rules as countries acceding to that organization would accept all its rules as a package.13

Similar views on the benefits of negotiating an MFI in the WTO were echoed by the European Communities (EC).14 The United States also suggested that any multilateral investment agreement treat investment on the same principles as the WTO applied to trade, namely that investors should be accorded non-discriminatory treatment in all "three time periods in the life of an investment: entry, operation after establishment and liquidation of investment."15 The willingness for the investment negotiations to move into the WTO is evident among the developed countries just as it is evident that developing countries are opposed to the idea. Categorically, developing members have disputed the ability of the WTO to include development to any such agreement, and more specifically, Malaysia and its ASEAN neighbours questioned whether "multilateral rules could take into account the development dimension in a more meaningful manner than through references in preambular considerations and through transition periods".16 Given the above suggestion that accession to the WTO could include the acceptance of investment rules as part of the entire trade package, there is obvious apprehension on the part of developing countries about negotiating a multilateral investment agreement within the organisation.

Another highlight of the Working Group is the considerable attention paid to investment incentives as part of the development process. The retention of such incentives, as argued by various developing countries along with extensive contributions to the topic from ASEAN,17 is in the interest of developing countries in order to continue to attract much needed
investment and to fulfil national and sectoral developmental objectives. It was thus clear that developing countries including those from ASEAN were unwilling to relinquish the capacity of investment incentives, despite arguments on the inefficiency of such measures. The interests of developing countries, however, could be under threat with the multilateralisation of investment within the WTO. As suggested by the EC, “existing WTO rules on subsidies were applicable to investment incentives.” 18 Since most subsidies are currently granted by governments to factors of production as opposed to being tied to products, they take on the form of investment incentives. The WTO Agreement on Subsidies and Countervailing Measures, though, only corrects for these subsidy-incentives on the side of trade distortion and fails “to prevent the creation of an uneconomical production site”. 19 It follows that “subsidy disciplines were only partially remedial of a problem that could have been avoided had there been disciplines on the subsidization of investment in the first place”. 20 This suggests that the viability of an MFI in the WTO in the phasing out of certain subsidies from their source, investment incentives.

Broadening the WTO agenda to include a multilateral investment agreement in the near future, as argued by developing Members including Malaysia, is premature and requires greater insight into investment’s development dimension. There are, however, interests within the organisation and its Members envisioning a multilateral framework on investment in the WTO in the next millennium. As the Working Group on the Relationship on Trade and Investment continues to study the feasibility of negotiating such an agreement in the WTO, the idea of a broad investment agreement in the organisation should not be dismissed. As seen in past GATT negotiations, the intractability of developing countries on particular agreements have not always been successful in stalling the ever-increasing trade agenda, exemplified by the extension of trade to include TRIMs, TRIPs, and services in the previous round. Issues such as investment incentives and the right of establishment are areas with which Malaysia may have to contend as a participant in the WTO’s future agenda. As it balances its needs for greater investment in high technology sectors whilst moving away from the developing country baseline as envisaged in Malaysia 2020 and ASEAN 2020, Malaysia along with its liberalising negotiating partners in ASEAN cannot afford to be isolated from their largest sources of frontier technology investment. Unfortunately, it is exactly those capital exporters who are the proponents of the multilateralisation of investment in the World Trade Organization.

COMPETITION POLICY

Along with investment, the Working Programme from the Singapore Ministerial Conference also included the study of issues on the interaction
of trade and competition policy. Like investment, the issue of competition policy has been pushed for inclusion into the new agenda of the WTO. This can be seen from statements of last year’s Ministerial Conference where Hong Kong, China pressed for the development of “a coherent framework to ensure the free play of competitive forces in markets without distortion by governmental measures.” It is also obvious from this year’s High Level Symposium on Trade and Development where Sir Leon Brittan pronounced:

In others areas such as competition and investment, I believe that we need to look for an approach which is of widespread benefit to the whole WTO membership and not simply to any particular category. The key, it seems to me, is to seek WTO rules which establish a more open and predictable regulatory framework for business, which in turn will have benefits for growth and employment—particularly for developing countries which can only attract the investment that their citizens so clearly need by providing just such a framework.

Although several members from developed and developing countries in the Working Group agreed that the overall goals of competition policy and trade liberalisation were essentially the same, developing countries including ASEAN WTO members believed that “elements of existing trade instruments could (at least in their application) be inconsistent with the goals of competition policy”. Furthermore, there was disagreement among the members over the value of a competition policy against the presence of a national competition law. Where the small liberalised economies such as Hong Kong and Singapore argue that competition law is unnecessary in the face of a general pro-competitive national economic policy, the United States came to the conclusion that “all countries should have, and enforce, a competition law”. The US added, “With regard to practices that [fall] outside the traditional domain of competition law enforcement, remediying these would generally require policy changes. In many cases, there might be a natural convergence of interests between trade and competition policy officials in advocating for the removal of barriers affecting trade and competition.”

Despite the differences among the members of the WTO, some came to the conclusion that there was an element of agreement over the necessity of international co-operation on competition policy. As purported by Brazil, “the degree of consensus that already existed [in the Working Group] regarding the core principles of competition policy should not be underestimated.” The stimulation of trade and investment as a result of the implementation of a competition policy based on the principles of transparency and national treatment implied the importance of spreading the culture of competition at the WTO. Additionally, the European Communities, Turkey, Morocco, Tunisia and several other members
"expressed interest in or support for an enhanced framework for international co-operation in competition law enforcement, to facilitate the effective use of competition policy as a tool of economic development." Brazil went on to suggest that "an appropriate focus at the multilateral level would be on facilitating the exchange of national experiences and jurisprudence relating to competition law and policy, and on the development of basic international standards to be reflected in countries' competition legislation".

With reference to the statement above, the suggestion of creating international standards within the WTO on competition combined with proposals to include competition into the next negotiating agenda of the organisation has future consequences for its members. Malaysia, for instance, does not have a specific competition law, nor does it have an administrative authority that solely determines appropriate business ethics and trade practices. It does, however, have a range of over "thirty laws which regulate certain activities of enterprises and which protect consumer interests". Whether these laws along with relatively liberal trade and investment policies and sectoral deregulation can be construed as an effective general pro-competitive national economic policy such as that of Singapore and Hong Kong is another matter. The question is whether the existing measures are adequate for Malaysia and for addressing competition concerns that may arise within the WTO. Where there is an absence of anti-trust laws or government oversight in Malaysia, there remain "competition areas...with regard to Restrictive Business Practices such as collusive tendering, market allocation or quota refusal to supply, cartel price fixing, predatory pricing etc., which are strongly suspected, but which the existing laws cannot completely prohibit or control." The absence of competition law also introduces concerns over "issues of market power arising from corporate mergers, take-overs and restructuring activities of enterprises".

Malaysia and its ASEAN WTO counterparts have addressed the question of the adequacy of national competition policy in the following:

...the absence of legal instruments or laws on competition does not necessarily mean that a country does not adhere to the principles and objectives of stimulating and guaranteeing competition. A confluence of various factors may dictate that the principles and objectives of competition policy can be achieved without making imperative the enactment of competition law, or of additional competition law. On the other hand, certain countries may find it convenient, if not beneficial, to enact competition law to ensure the full implementation of competition policy. The decision whether or not to enact law, in the final analysis, rests on the judgement of the responsible authorities."
Nonetheless, as a member of an organisation in which particular members have the objective of the “securing of a basic commitment by members to adopt and enforce a competition law, as the appropriate means of addressing anti-competitive practices of enterprises that affected international trade”, Malaysia’s decisions whether or not to enact competition laws may be encumbered by any future “basic international standards” on competition. In addressing what the WTO can contribute to developing countries, former Director General Renato Ruggiero asserted:

The case for considering competition rules in the trading system is...compelling. The idea that developing and least-developed countries have no interest in this subject must be dispelled. In reality, if we want to encourage the development of the private sector in these countries we have to help them to create the regulatory environment that will allow markets to operate - the commercial, competition, and financial laws that must underpin business confidence and investor security. Competition rules have a great role to play in this context for developing and developed countries alike.

Even without the existence of competition standards in the WTO, governments can still be held accountable for anti-competitive practices via the non-violation route of the organisation’s Dispute Settlement Mechanism, as suggested by some members including Singapore.49 As the geographic area in which competition expands to include international markets49 and as members within the World Trade Organization believe that a consensus can be achieved on the core principles of competition policy,41 it will be difficult for any member to extricate itself from multilateral commitments on international competition. This is especially so if it is heavily reliant on its external sector for trade and investment.

GOVERNMENT PROCUREMENT

As the final area of the Working Programme determined in Singapore in December 1996, government procurement, like investment, had already been included in a WTO agreement. The existing 1994 Agreement on Government Procurement (GPA), a plurilateral agreement to which is currently acceded by twenty-six members, has been under review by the Committee on Government Procurement for further negotiations for greater “simplification and improvement... including, where appropriate, adaptation to advances in the area of information technology; expansion of the coverage of the Agreement; and elimination of discriminatory measures and practices which distort open procurement.”42 By achieving these changes in the GPA, these Article XXIV:7 negotiations also intend to expand the membership of the Agreement by making it more accessible to non-parties. The Working Group on Transparency in Government Procurement,
in a seemingly supportive effort, was established to “conduct a study on transparency in government procurement practices, taking into account national policies, and, based on this study, to develop elements for inclusion in an appropriate agreement”\textsuperscript{43} The intentions of the Committee to complete their negotiations by the Third Ministerial Conference at the end of 1999\textsuperscript{44} complement those that certain parties to the GPA have in mind for the developments of the Working Group, in particular, the United States. At last year’s Ministerial Conference, the United States Trade Representative Charlene Barshefsky asserted:

We must also examine ways in which the multilateral system can encourage both liberalized trade and good governance...Conclusion of an agreement on transparency in government procurement would contribute to the establishment of predictable and competitive bidding environments for government procurement throughout the world, enabling governments and citizens they serve to receive the greatest benefit for government expenditures. Government procurements are estimated to be worth well over US$3.1 trillion annually, but only 26 WTO members presently belong to the plurilateral WTO Government Procurement Agreement. An agreement on government procurement transparency would encourage fiscal responsibility and greater government accountability, and complement the international efforts to combat corruption relating to government procurement world wide. To maximize this opportunity, we should seek to conclude an agreement on transparency in government procurement by the next Ministerial Conference.\textsuperscript{45}

An example of transparency as suggested in studies from the Working Group is “transparency in regard to the existence of preferences or other discriminatory requirements would enable potential foreign tenderers to determine whether they had an interest in entering a specific procurement process in spite of discriminatory national policies”. Malaysia has already taken steps toward such transparency in participating in the Asia-Pacific Economic Co-operation (APEC) Government Procurement survey with the electronic publication of its procurement policies and preferences\textsuperscript{46} and with the establishment of the Anti-Corruption Agency. However, the question remains whether this is sufficient enough for other members of the WTO and Malaysia’s APEC counterparts.

The United States’ intentions on securing a WTO agreement on government procurement are apparent with the above quote and as President Clinton remarked last year, “With its insistence on rules that are fair and open, the WTO plays a powerful role toward open and accountable government—but the WTO has not done enough. By next year, all members of the WTO should agree that government purchases should be made through open and fair bidding.”\textsuperscript{47} The relation of these statements to Malaysian government procurement policies can be extrapolated from
the U.S. State Department’s Country Report on Economic Policy and Trade Practices on Malaysia stating, “...foreign companies do not face a level playing field in competing for [government] contracts and in most cases are required to take on a local partner before their bid will be considered. Some U.S. companies have voiced concerns about the transparency of decisions and decision-making processes. Malaysia is not a party to the plurilateral WTO Government Procurement Agreement.”

Although Malaysia is currently not party to any government procurement agreement in the WTO, there should be awareness of the possible consequences of acceding to such an agreement. An example of an area of concern is the dispute settlement procedures. Where foreign suppliers have recourse to domestic review procedures as the initial avenue for resolving complaints, there could be further recourse to the level of government-to-government dispute under the WTO Dispute Settlement Understanding (DSU). Hence, if a supplying member is dissatisfied with the adjudication of a procuring member regarding the complaints of its suppliers and believes that the procuring member does not provide a “level playing field” for its suppliers, the supplying member could resort to WTO dispute settlement procedures. As it stands, the current Agreement on Government Procurement is subject to the WTO DSU.

As the pressure mounts for all members of the WTO to adopt greater transparency and accountability, governmental purchasing decisions will increasingly be subject to the scrutiny of other members of the organisation. When discrimination is more apparent given the defined conditions of transparency, an agreement on transparency in government procurement will undoubtedly open procurement decisions up for critical review. As discrimination becomes more obvious and as this discrimination appears to contradict the precepts of the WTO, not only will procurement decisions be subject to multilateral constraints, but the policies which produce such decisions will also be duly influenced.

MALAYSIA IN A NEW ROUND?

As argued by this author, the future trade agenda in the World Trade Organization will go beyond trade as traditionally defined. Where the Uruguay Round introduced non-trade areas into the trade programme, any future negotiations or trade round in the millennium could follow suit, with not only electronic commerce, investment, competition policy and government procurement, but with the more controversial areas of the environment and labour.

Malaysia is in a peculiar place as a member of the evolving WTO. Where it pushes for developed country status within the next two decades, it maintains the derogation demanded by developing countries in the
organisation's agreements. Malaysia, arguably, is in transition, and the question that begs to be answered is when this transitional period ends. This question is not limited to Malaysia's political-economic policies; it extends to Malaysia's participation in multilateral institutions. In the World Trade Organization, Malaysia can be pigeonholed into various categories. Generally, she is a developing country; a vocal representative of the developing countries; a constituent of a regional free trade area, as in the ASEAN Free Trade Area; a member of the agriculture exporting Cairns Group; a rapidly industrialising economy; part of the negotiating group of ASEAN WTO members. Although Malaysia is not alone in fulfilling several functions in the membership, it remains one of the more competitive and more developed developing countries within the WTO. In its industrialisation and high technology drive, Malaysia will be compelled, either by itself or by other members, to participate in agreements or to make commitments that reflect the advanced state of its economy.

It is agreed that the consensus building nature of the WTO along with its multilateral negotiating process allows for coalitions to build across the developed-developing country spectrum, such as the Cairns Group. However, in areas such as government procurement, there remains a clear divide between the industrialised and developing countries. Malaysia has several means in determining her role in the organisation given coalition forming possibilities as well as membership divisions. She can continue to demand exclusion from particular agreements in the mould of a developing country, while at the same time moving to distance herself from the economic baseline of developing countries. She can choose to involve herself in issues which it regards as essential for further industrialisation and for remaining on the higher tier of the technological advancement, such as e-commerce, and exclude herself from agreements that she finds politically or economically unfeasible. She can push for differential treatment or delayed implementation of agreements, with eventual full implementation in a determined extended time period. She can participate fully in all agreements with timely implementation and take advantage of first mover benefits of any further liberalisation in trade or other areas.

All of these alternatives considered, Malaysia appears to have an array of options as a member of the World Trade Organization. Nonetheless, the future of negotiations in the World Trade Organization, as the major trade powers would have it, will not be as gradual or concessionary to developing countries as in the past. As proposed by the United States:

In an era in which product life-cycles are measured in months, and information and money move around the globe in seconds, we can no longer afford to take seven years to finish a trade round...or let decades pass between identifying and acting on a trade barrier. We should explore whether there is a way to tear down barriers without waiting for every issue in every sector to be resolved before any issue in any sector is resolved. We should do this in a way that is
fair and balanced, that takes into account the needs of nations large and small, rich and poor. But...we can go about the task of negotiating trade agreements in a way that is faster and better than today.\textsuperscript{51}

This faster negotiation response was demonstrated in the completion of the Information Technology, Telecommunications and Financial Services Agreements in 1997. Whether negotiations on electronic commerce, investment, competition policy and government procurement will be achieved in the same manner remains to be seen. The increased speed for negotiations has not only been suggested for application between trade rounds, but it has also been pushed for "a new, accelerated negotiating Round to include three different dimensions: global negotiations to open markets in goods, services and agriculture; a dynamic agenda that delivers results on an on-going basis; and institutional reform to make the WTO more transparent, accessible and responsive to citizens". \textsuperscript{52}

The European Communities elaborates further in calling for a comprehensive Millennium Round\textsuperscript{53}. In the sense that the outcome of a comprehensive round must be determined by consensus, such a round "guarantees that developing country concerns can be put on the agenda, and that nothing can be imposed against the will of individual WTO members, including developing ones."\textsuperscript{54} Yet, Sir Leon Brittan added:

...it would be a pity...if a feeling developed that there are certain items, such as agriculture, textiles and trade defence instruments, which in some way constitute the priority demands of developing countries, and that on the other hand there are issues such as trade and competition, trade and investment and, indeed, trade and the environment which constitute a developed country agenda...The reality is...more complex than that. In...areas such as competition and investment,...we need to look for an approach which is of widespread benefit to the whole WTO membership and not simply to any particular category.\textsuperscript{55}

Any denial of the future of electronic commerce, investment, competition policy, and government procurement in the World Trade Organization on the part of Malaysia would be to her detriment. Continuing her role as an active member in the organisation, Malaysia can ensure that the interests of its citizens will be represented on the new agenda. With the WTO's consensus-building negotiating process, all members will ultimately have to make concessions, but by respecting and using the mechanisms of the organisation, Malaysia upholds the rule-based multilateral trade system as opposed to leaving the world trade system at the behest of irregular and unaccountable trade practices. As the major traders continue to battle within the World Trade Organisation, such intra-organisational disputes should not be seen as a weakness but rather as a strength. With staunch support and participation in the WTO, Malaysia and the rest of the membership provide a bulwark against tendencies of iniquitous unilaterality.
NOTES


3 The WTO Declaration on Global Electronic Commerce adopted on 20 May 1998 (WT/ MIN(98)/DEC/2) established a comprehensive work programme on e-commerce in the organisation as well as affirmed that its Members would 'continue their current practice of not imposing customs duties on electronic transmissions.'


6 Ibid., p. 67.


9 Bacchetta, et. al. (1998), pp. 40, 68.

10 WTO. Singapore Ministerial Declaration. (WT/MIN(96)/DH(C), 13 December 1996.


14 WT/WGTI/M/7 (1999). pp. 11-2, Paragraph 40.

15 WT/WGTI/M/7 (1999). p. 12, Paragraph 41.


*WG/WGTI/M/7* (1999), pp. 4-5, Paragraph 15.

18 *WT/WGTI/M/6* (1998), p. 12, Paragraph 37.

19 Ibid.

20 Ibid.


26 Ibid., p. 10, Paragraph 42; p. 12, Paragraph 48.

27 Ibid., pp. 12-3, Paragraph 40.

28 Ibid., pp. 2-3, Paragraph 6.

29 Ibid., p. 5, Paragraph 14.

30 Ibid.

31 Ibid., pp. 8-9, Paragraph 35.

32 Ibid.


34 Ibid.


36 Ibid.


53 WTO. European Communities; Commission of the European Communities: Statement Circulated by Sir Leon Brittan Q.C., Vice-President of the European Communities. (WT/MIN(98)/ST/76), Ministerial Conference, Second Session, Geneva, 18 May 1998, p. 3.


55 Ibid.