The multilateral trading system at the beginning of the twenty-first century is the most remarkable achievement in institutionalized global economic cooperation that there has ever been. The emergence of the gold standard in the four decades leading up to the First World War was unplanned. The système des traités that governed trade within Europe from 1860 was inherently fragile and limited in geographical scope, above all because the United States remained outside it. The Bretton Woods system of fixed exchange rates lasted for a quarter of a century, before its collapse in the early 1970s. But the General Agreement on Tariffs and Trade (GATT) of 1948—throughout its history no more than the provisionally applied commercial policy remnants of the still-born International Trade Organization—has done more than survive huge challenges. It has thrived. Reborn as the World Trade Organization (WTO) in January 1995, this institution, long of interest only to a narrow group of specialists, has become the most prominent symbol of globalization. Once threatened by ignorant indifference, it now confronts often equally ignorant malevolence. The central question to be addressed below is what wise policy makers ought to do in response to the pressures now falling on the system.
Achievements of the trading system

How has it been possible for a tiny institution—with a staff of 530 and a paltry annual budget of SFr127 million (US$75m), no more than the US contribution to the United Nation's Food and Agriculture Organization—to become so important? The answer is that it is not the institution that matters; it is rather the agreements among its currently 138 member states (up from only 23 in 1947) that the institution oversees. Those agreements are the results of eight rounds of international trade negotiations among an ever-widening circle of participants. The commitments that have been built up over more than half a century largely determine the conditions under which international trade is conducted. To the extent that this is not true today, it soon will be, with the forthcoming membership of the People's Republic of China. There can be little doubt that the institution will soon become global in membership.

The WTO itself argues that it brings as many as 10 benefits. But these can be reduced to two: agreed liberalization and the rule of law.

Agreed liberalization

Trade has been liberalized progressively, at first almost exclusively among today's high-income economies but increasingly in the rest of the world. This has generated an unprecedented expansion in world trade and output. Over the post-war period as a whole, world population rose almost two and a half times and so did world average incomes per head. Nothing like this has ever happened before—even in the half-century before 1914.

While the volume of world production rose more than 6 times between 1950 and 1998, world merchandise exports grew 19 times. Over the same period, the volume of world output of manufactures increased 9 times, while exports of manufactures, the area where trade liberalization concentrated, grew 36 times. Between 1950 and the mid-1990s, the share of trade in global output increased from about 7 per cent to over 20 per cent. This expansion in trade, on which all other forms of international economic integration ultimately depend, has not just been huge. It has also been consistent:
the volume of world trade grew faster than output in virtually every year since the Second World War.

The consequent growth in specialization and international competition has, together with technological advance, been the principal driving force behind a half-century of unprecedented prosperity. It explains the triumph of the Western market economies over their socialist rivals. A wave of liberalization has, in consequence, broken over almost all the world over the past two decades. It has struck China, India, the rest of southern and eastern Asia, the remnants of the former Soviet empire, and, not least, Latin American countries, long seduced by dreams of import substitution and self-sufficiency. This worldwide move towards liberalization is the fruit not of theoretical fancies, but of practical experience. International economic integration through market-driven trade has worked. For this reason, one can say with confidence that those who argue against liberalization are condemning hundreds of millions of people to needlessly prolonged poverty.

The rule of law

If liberalization is the first great achievement of the trading system, the second is the entrenchment of a working system of international law that, by governing the behaviour of the most powerful states, protects the world economy from arbitrary political interference and governments from narrow sectional interests. The resulting security for trade is not only a spur to economic integration but also a basis for peaceful relations among—and within—states. Although rule-governed trade may not guarantee peace, it does remove a potent cause of conflict. It offers an alternative to reliance on unbridled force in the trading relations among states.

These rules are what makes the institutions of the trading system uniquely potent. The International Monetary Fund has, for two decades, had effective leverage only over developing counties and countries in transition. The World Bank has never enjoyed more than this, except in the brief era of post-war reconstruction. The Organisation for Economic Co-operation and Economic Development is a purely advisory body. But the WTO is an effective system of inter-
national economic law. As such, the trading system is, arguably, more than just the greatest achievement in institutionalized global economic cooperation; it is the greatest achievement in institutionalized global cooperation, tout court.

Dangers created by success

Success creates new dangers. The WTO is a very different institution from the GATT of two or three decades ago and, as such, is exposed to new hazards.

First, the WTO now has an increasingly active membership of almost all the countries in the world. Its members vary hugely, however, in their economic size, level of development, and capacity to engage actively in the institution, with such giants as the United States and the European Union at one end, and such small developing countries as St. Kitts and Nevis and St. Lucia at the other. Yet the organization still works on the basis of consensus.

Secondly, with the addition of agriculture, services, trade-related investment (TRIMs), and trade-related intellectual property (TRIPs) in the course of the Uruguay Round, the system covers almost all trade, an astonishing total of US$6,800 billion in 1999 (US$5,460 billion in merchandise trade, with the remainder in commercial services).

Thirdly, as liberalization has advanced, the WTO has increasingly come to affect what were thought of as purely domestic regulatory decisions. Examples of such “deep integration” are the Uruguay Round’s agreements on sanitary and phytosanitary standards, which accompanied liberalization of agriculture, and on technical barriers to trade.4

Fourthly, the WTO has also become a single undertaking with universal participation in all its disciplines. All members, including developing countries, have found themselves forced to make commitments, including onerous ones, salient examples being customs valuation procedures and protection of intellectual property.5

Fifthly, the dispute settlement system has become more potent and legalistic than ever before. No longer can a party to a dispute block the adoption of a panel finding. On the contrary, it is unable to halt the inexorable progress of cases. The result has been far more active use of the dispute settlement process since the establishment
of the WTO in January 1995 than in the old GATT, with consultation requests running at a rate of 40–50 a year.6

This extension and strengthening of the trading system happened for the best of motives: to spread liberalization into areas previously immune to it, notably agriculture; to reduce the capacity of governments to employ domestic regulations for protectionist ends; to bring in new economic interests in favour of trade liberalization, notably those of the service sector and of companies seeking protection of intellectual property; to include more countries in the circle of mutual obligations and reciprocal liberalization; to eliminate the grey areas that had grown up in the system, including voluntary export restraints and the Multifibre Arrangement (MFA), which governs restrictions on trade in textiles; and, above all, to put the structure on more secure foundations.

Behind this was at least partly the view that history had confirmed the success of the internationally open market economy, restored after the calamities that befell the world between 1914 and 1945. Now, at last, there was a chance for the world as a whole, not just part of it, to move forward on this basis. It is to the credit of the world’s principal policy makers that they saw both the need and the opportunity, particularly after the fall of the Berlin Wall in 1989 and the subsequent collapse of the Soviet Union in 1991. The much-postponed completion of the Uruguay Round in 1994 may be seen as a fitting coda to that drama.

Although the leaders were right to take the step of creating the WTO, they did not anticipate the resistance that this would create. What is evident is that their new creation is indeed far more visible, intrusive, and potent than the system it replaced. As important, trade itself has also become more visible, intrusive, and potent as it has grown. These new realities have created a corresponding increase in the pressures upon the trading system.

Pressures from outside the WTO

Who are the sources of this pressure? The answer is that they vary from fanatical opponents of globalization to those who accept the basic logic of the system but want it to change in often mutually inconsistent directions.
The more extreme of those forces became visible at the disastrous Ministerial Meeting of the WTO in Seattle at the end of 1999. Many of those who demonstrated in Seattle were cranks: “anarchists” who believe that the power of the states they supposedly despise should be used to halt trade; “friends of the poor” who argue that the world’s destitute would benefit from being driven back into self-sufficiency; and “consumer advocates” who want to deprive their fellow citizens of access to cheap goods.

Attitudes that had foundered in the shipwreck of twentieth-century nationalism and totalitarianism were bubbling up again, like flotsam, to the surface of political life. Old desires for the comforts of community over individual striving, for traditional ways over rapid change, for the beneficence of the state over the cold logic of the market, for collectivism over freedom, and for the nation over the global economy were re-born. However, if the first time had been tragedy, now—with the clowns prancing around in their turtle suits—it was farce. Marxist, nationalist, and fascist opponents of liberal capitalism had aspired to tribalism in a post-enlightenment guise. Today’s demands are more atavistic. The guiding spirits are not Karl Marx, but Jean-Jacques Rousseau and William Blake—the former for his myth of the noble savage, the latter for his contempt for science and industry.

It is because of the WTO’s successes that those who hate the modern world view it as the totemic symbol of globalization. “Stop the world, we want to push you all off” is their motto. It is one of the nicer ironies that the Internet—the foremost contemporary example of an integrating technology—is bringing these anti-globalizers together. The WTO should consider their attacks an honour. They show that it is presiding over something important and vital. But such opponents will never be assuaged. People who believe that “production should be for people, not for profit,” who regard the multinational corporation as intrinsically evil, or who see the historic high points of human culture as the Palaeolithic hunter-gatherer band or the self-sufficient manorial economy of the European dark ages will never be persuaded of the merits of a dynamic, market-based international economy.

Yet, behind such nonsense, it is possible to identify more rational forces. One is traditional protectionist interests. The labour move-
ment of the United States has, for example, become strongly opposed to liberal trade. In this, it reflects the interests of its members, many of whom work in import-threatened industries, such as steel and textiles and clothing. The fact that unions represent only 9 per cent of US private sector workers, almost entirely in the “old economy,” means that they are bound to be a voice against liberal trade. As the late Mancur Olson pointed out, only an “encompassing organization,” namely, one that represents most of the economic interests in society, is likely to campaign for policies that raise overall incomes rather than increase the incomes of their members at the expense of others. It is not surprising therefore that Scandinavian trades unions are more sensible in their views on trade than their US counterparts are, since they represent a far wider spectrum of the workforce. But labour is, of course, not the only interest often opposed to liberal trade. Farmers in high-income countries are still more effective.

Meanwhile, environmentalists and trades unions in high-income countries make the fundamental complaint that the WTO is subservient to the demands of multinational business (as voiced by such bodies as the International Chamber of Commerce) and places a higher priority on trade than on other objectives, above all protection of the environment and social welfare. They argue that the combination of liberalization with the absence of effectively enforced global minimum standards is generating a regulatory race to the bottom, at the expense of painfully acquired standards in their countries.

This race to the regulatory bottom is, it is argued, exacerbated by three specific defects of the trading system. First, it does not permit countries to restrict what may turn out to be harmful imports, particularly in the areas of food and farming, if scientific support for such restrictions cannot be found. In particular, the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) gives insufficient weight to the “precautionary principle.”

Secondly, the WTO does not permit importing countries to distinguish between products on the basis of how they are made, so-called “process and production methods” (PPMs), unless those differences affect the nature of the product. If a PPM cannot be identified in the product it becomes a “non-product-related PPM”
(NPR-PPM), against which countries are not allowed to act. This
prohibition makes it difficult for countries to use trade policy as a
way to influence how goods and services they import are produced.
This issue has been central to several important disputes within the
WTO, notably Tuna-Dolphin and Shrimp-Turtle, both of which
pitched the extra-territorial impact of US environmental law against
the interests of developing country exporters. It is also central to the
question of whether environmental labelling schemes are consistent
with the WTO.10

The same issue of NPR-PPMs arises in the context of labour stan-
dards. It is the aim of protagonists of such standards to use trade
measures to enforce what they consider to be minimum standards on
exporting developing countries.11 Here, too, then there would be a
distinction among products on the basis of how they are produced,
this time not on the basis of their environmental impact but rather
on the basis of how workers are treated. However, labour standards
are even further from incorporation in the WTO than are those for
the environment. There already is a Committee on Trade and the
Environment. But developing countries have resisted any compara-
ble committee on trade and labour standards, insisting, instead, that
all such matters should be dealt with inside the International Labour
Organization.

Thirdly, the WTO does not adequately accommodate the grow-
ing number of multilateral environmental agreements (MEAs),
many of which directly control trade in harmful products or use
trade sanctions as an enforcement device. Although no MEA has
been challenged within the WTO, there is potential for conflict
where a trade measure is authorized for use against a non-member
by the MEA but is over-ruled by the WTO.12

Finally, these groups argue that decision-making in the WTO is
undemocratic: it removes sovereignty from legislatures, putting in
its place the rule of unaccountable bureaucrats in Geneva. To this is
added the objection that this decision-making is not transparent.
The combination of lack of democracy with lack of transparency
does, it is argued, exclude the voices of “civil society,” above all those
of non-governmental campaigning organizations, from proper par-
ticipation in decision-making.13
Meanwhile, business in aggregate has remained the strongest outside supporter of liberalization and of the global trading system, though this does not preclude strong protectionist lobbying by particular businesses or sectors. The International Chamber of Commerce (ICC), for example, which has more than 7,000 member companies and business associations in 132 countries, has consistently called for an ambitious new round of trade negotiations. It is also concerned by “the large number of high-profile trade disputes among members of the group of seven leading high-income countries that are currently being allowed to sour international trade relations and that are weakening the authority and effectiveness of the WTO and its disputes settlement system.” The ICC recommends an ambitious agenda for a new trade round. At the same time, it “believes that governments should be vigilant not to undermine the rules of the multilateral trading system when designing policies intended to achieve environmental objectives, and in particular to ensure that such policies are not misused for protectionist purposes.” Furthermore, “we believe that trade sanctions are neither an appropriate nor an effective means to improve labor standards. Indeed, ultimately, labor standards will be most rapidly and securely advanced by sound economic development based on all countries’ full participation in the multilateral trading system.” Business then strongly resists the efforts to bring the environment and labour standards within the trading system.

Response of member governments

The governments of the high-income countries are, in different ways, trying to balance the opposing ideas of business, on the one hand, and the various breeds of policy activist, on the other. They are also, for the most part, trying to achieve further liberalization in the interests of their economies. Where precisely they come out tends to depend on the political complexions of their countries and of themselves.

President Clinton, for example, has made much of the need to give globalization a “human face.” His comment, at the time of the Seattle Ministerial Meeting, that the United States would seek to
enforce minimum labour standards with the use of sanctions destroyed any lingering chances of launching a new round of multilateral trade negotiations at that time. He remains an unrepentant supporter of this idea. The European Union also wants to incorporate labour standards within the WTO, but does not propose trade sanctions. However, the European Union is even more determined than the United States to modify the WTO, to give greater room for policies allegedly aimed at the environment and health. This is partly because of opposition within the European Union both to the import of beef that has been given growth-promoting hormones and to the use of genetically modified organisms.

Current pressures from the high-income countries in the area of the environment centre on three aims:

1. A review or reinterpretation of GATT Article XX, to provide further accommodation of trade measures (including discriminatory trade measures against non-parties) pursuant to multilateral environmental agreements (MEAs). This may have implications for the use of unilateral measures.
2. Accommodation of trade measures based on non-product-related PPMs on environmental grounds, particularly in the context of eco-labelling.
3. Greater scope for the use of the precautionary principle.

In all these respects, the governments of the high-income countries, particularly the European Union, are responding to pressures arising from “civil society.”

Differences between the United States and the European Union show up, however, over how far the agenda of any new round should go beyond the negotiations on agriculture and services that have already begun, in accordance with the “built-in agenda” created by the Uruguay Round. The European Union, with its proposal for a “Millennium Round,” wishes to include competition and investment and to pursue the social clause, environmental policy, cultural diversity, and animal welfare. The United States, too, is interested in labour standards and the environment, but not in competition, investment, and culture (which is code for a desire for protection from US popular culture). Many in the United States (and else-
where) believe that the European Union is interested in this wide and intractable agenda in order to reduce the pressure to liberalize its extremely protectionist agricultural policies.20

Meanwhile, governments of the developing countries find themselves in opposition to the policy activists and governments of the North over the links between the environment and labour standards and trade. They are understandably concerned over the implied assault on their always fragile sovereignty—a sensitivity that even casual acquaintance with history adequately explains.

Yet developing countries have wider concerns. Their most important worry remains lack of market access: the MFA is supposed to be liberalized by 2005, but little progress has been made so far; barriers to exports of agricultural products remain an important obstacle to some developing countries, while others are worried by the possible impact of agricultural liberalization on the price of food imports; tariff peaks and tariff escalation remain impediments to exports of labour-intensive and processed agricultural commodities; and so-called “contingent protection,” notably anti-dumping duties, remains a costly obstacle to developing country exports to the markets of high-income countries, not just because of the duties but because of the uncertainty they create and the costs of fighting legal cases.

Also significant for developing countries are the standards they have had imposed upon them in the course of the Uruguay Round. J. Michael Finger of the World Bank notes, convincingly, that obligations in such areas as intellectual property, industrial standards, customs valuation, and sanitary and phytosanitary standards are costly for many developing countries. He states that “implementing these obligations would require the least developed countries to invest in buildings, equipment, training, and so forth that would cost each of them $150m—for many of the least developed countries this represents a full year’s development budget.”21

Demands for change assessed

The pressures on the WTO have therefore become truly formidable in their diversity. It has become too important an institution for
anyone to ignore, but there is also no consensus on where it should go. Its fiercest critics want it closed down. Others want a host of mutually inconsistent things. The risk then is that the failure of governments to agree will first deprive the institution of hope of progress and then generate an increasingly universal and corrosive dissatisfaction, leading ultimately to collapse.

What is to be done? The approach taken below is not to deal with the detailed issues now under discussion, but to go back to first principles instead. If progress is to be made, indeed if what has been achieved is to be preserved, it is essential to understand what the trading system can be and also what it cannot be. In the rest of this chapter, six issues are analysed: (1) how the system works; (2) why it does not subvert national sovereignty; (3) why it should be more open, but does not subvert democracy; (4) why agreements to liberalize trade do not require enforceable rules on minimum standards; (5) why the scope of the trading system should be circumscribed; and (6) how its remit can be reconciled with the pursuit of other legitimate objectives.

How the global trading system works

The global trading system provides an international public good.\textsuperscript{22} In practice, this good has largely been provided by economies that offer the biggest markets, foremost among them the United States and the European Union, which provide roughly 40 per cent of the world’s total markets for imports (excluding intra-EU trade). Such large players have entered into reciprocal commitments to liberalize trade whose benefits have been spread worldwide through the principle of non-discrimination. As Douglas Irwin of Dartmouth College argues, “the WTO is useful because it changes the political economy of trade policy in a way that tends to facilitate trade liberalization as an outcome.”\textsuperscript{23} The combination of reciprocity with non-discrimination has created a liberal, law-governed trading system on the basis of cooperation among sovereign states, each acting in its own perceived self-interest. Economists are right to argue that the calculus underlying the WTO is mercantilist. But they also must agree that this disarmament treaty for mercantilists has worked.
Within these agreements, the sanction against violations is withdrawal of a concession. The aim is to restore the situation before the agreement was disturbed by one of the parties. Thus it is wrong, strictly speaking, to view a trade measure taken in response to a violation as a “sanction.” It is better to think of such action as rebalancing the agreement, subsequent to a violation. This system evidently needs a body to determine whether or not a country’s rights have been violated. This is the logic of the dispute settlement system. It is a way for sovereign nations to secure protection from the arbitrary actions of others, by accepting that their freedom to retaliate should be governed by an impartial procedure.

The inequality in the power of nations is not removed by the WTO. It remains the case that countries with big markets have greater ability to secure market access and deter actions against their exporters than countries with small markets have. This reflects the fact that the WTO is not a system of global government, but rather a way of organizing and disciplining the intrinsically unequal capacity for self-help of member states. However, to the extent that countries abide by non-discrimination, this capacity for action is in effect at the disposal of all.

For all its great merits, the WTO has limits as a tool for liberalizing trade. The first such limit is that the WTO is not the only way to liberalize. On the contrary, both high-income and developing countries have liberalized extensively, both unilaterally and in the context of preferential trading arrangements. The second limit is that international rule-making is not always and necessarily liberalizing. Anti-dumping is an egregious example of bad trade policy that is enshrined in the WTO. The balance of payments exemption for import restrictions is another. The third limit is that the WTO’s clout has become attractive to those who have no interest in liberalization. The extension of the trading system beyond the explicit goal of trade liberalization began, in the Uruguay Round, with TRIPs. Nowadays, however, commercial interests are no longer alone in recognizing what they can gain by employing WTO-authorized sanctions against imports. A rich assortment of activists have realized the potential value of the WTO’s enforcement mechanisms for their own varied purposes. Yet a WTO that raises regulatory barriers
why international agreements do not subvert sovereignty

The WTO system has provided a brilliant answer to the question of how to provide the benefits of a global trading system to a world of close to 200 sovereign states. But many argue that the result has been a huge infringement of national sovereignty. This charge is false. It is true that member countries have voluntarily chosen to limit the exercise of their untrammelled discretion in the interests of securing agreement with other states. Yet, in so doing they secure more opportunities for their citizens than would be possible if each state did whatever it pleased.

In making such deals, sovereignty is not lost. The WTO “wields no power of enforcement. It has no authority or power to levy fines, impose sanctions, change tariff rates, or modify domestic laws . . . If a member refuses to comply with rules it previously agreed to follow, all the WTO can do is approve a request by the complaining member to impose sanctions—a power that member governments have always been able to wield.”24 Indeed, any country can even withdraw from the WTO and renounce the agreements it has reached within it. But it will then lose the benefits of membership. It may have the advantage of unlimited sovereignty, but it will have to accept the equally unlimited sovereignty of other countries. An extremely powerful country, such as the United States, might be able to obtain everything it now has, even in those circumstances. Yet experience suggests that it would be unwise for even so powerful an actor to take that for granted.

Why the trading system does not undermine democracy

The bedrock of the trading system is enforceable agreements among states, most of them embodied in domestic law. Only governments,
with their monopoly of legislation and law enforcement, can make
law. For this reason, the system is unavoidably intergovernmental.
The WTO is merely a secretariat servicing a structure of inter-
governmental agreements. It is not a government.

It follows that the place for democratic accountability is the legis-
latures of each of its members. This is where the governments engaged in the trading system need to explain what they are doing and why. It also follows that each individual legislature can no longer determine its own country’s trade policy, on a day-to-day basis, even though they continue to set the negotiating authority of their governments and retain the ultimate (and decisive) power of ratification of any results. This limitation on the discretion of legis-
latures was accepted partly because trade policy cannot be sensibly made, at least by those who refuse to accept unilateral liberalization, without consideration of the trade policies of others. It also happened because legislatures have, historically, tended to make dreadful trade policy.

This self-imposed constraint on the freedom of legislatures does not subvert democracy. All modern democracies are constitutional. That is, they recognize that limits can properly be imposed on the discretion of a temporary majority (or plurality) within a legislature. This is for two reasons. The first is that the interests of citizens should not be at the mercy of the legislative majority. Such a state would be a form of tyranny. The second is that no legislature represents the interests of the people as a whole.25 In general, two kinds of interests tend to be overrepresented, at the expense of the public at large: concentrated producer interests (producer lobbies); and groups with strong emotional commitments to particular policy goals (notably non-governmental organizations). As Professor Robert Hudec of Minnesota University has noted, reliance on inter-
national negotiations to “circumvent” a legislative process dominated by such groups may be a rational and desirable way to secure a bet-
ter outcome for the public at large than is likely to emerge from the domestic legislative process.26

Those who find their ability to determine domestic legislation reduced resent the international process that has this result. The question, however, is how far the WTO should accommodate their
desire to influence the processes of negotiation and dispute settlement more directly, under the general rubric of democracy—or, as Professor Daniel Esty of Yale University puts it, in the interests of the system’s “legitimacy, authoritativeness, and a commitment to fairness.” \(^{27}\) He argues that “public support cannot be founded on government authority. Individual acceptance is what matters. The organization must therefore demonstrate that it has genuine connections to the citizens of the world and that its decisions reflect the will of the people across the planet. Non-governmental organizations represent an important mechanism by which the WTO can reach out to citizens and build the requisite bridge to global civil society.” \(^{28}\)

Yet how is the “will of the people across the planet” to be defined and assessed, other than as expressed by elected governments? There is surely no reason to accept that a ragbag collection of NGOs, dominated by the relatively well-resourced institutions of the North, represents the “will of the people across the planet.” The governments of developing countries may reasonably respond that the North’s sudden concern for labour standards and environmental protection reflects a hypocritical form of protectionism or, in the case of the environment, a desire to preserve the comforts of its resource-intensive way of life at the expense of the South’s chance of development. It is little wonder that they view the demands for opening the WTO to the NGOs as leaving themselves, grossly under-resourced, to face both powerful Northern governments and their NGOs.

If there is to be more democracy at the global level, it needs to be far better thought out than this. In truth, the principles on which a global democracy should be established are not obvious. At present, the WTO works on the basis of a consensus among states, with the biggest and most economically significant having, informally, the greatest influence. This seems a reasonable accommodation to the realities of a world in which public goods are provided by a collection of governments. What, after all, is the alternative? One-person-one-vote would give India and China close to 40 per cent of the votes. It is difficult to imagine that this is what activists in the North have in mind.

The conclusion, then, is that demands for popular democracy within the WTO are misplaced and misguided. Almost as problem-
atic is the desire to open up the dispute settlement system to the voices of non-governmental actors. There can be no objection to any wish of panels to obtain the views of qualified experts, including those working for, or funded by, NGOs and private business. But if such voices are to be heard, as of right, a number of important theoretical and practical concerns must be addressed. The first is that the non-governmental voices that have a right to be heard must not be limited in some arbitrary way. The second is that members of the WTO and private corporations, neither of which have this right at present, must also be heard. The third is that some way must then be found to fund the involvement of governments and private organizations based in developing countries. The fourth is that a way must also be found to increase funding of the dispute settlement process, to ensure that it is not utterly overwhelmed.29

This leaves only the wider issue of transparency to the public at large. Here the way ahead should be relatively uncontroversial. The WTO needs to take forward its programme of symposia and seminars with non-governmental actors. It also needs to improve further the dissemination of documents. The website is an extremely important step in this direction. More of the WTO’s activities could also be opened to the press. But, for these things to happen, and particularly for voices from developing countries to be heard, the WTO must be better funded.

Why further liberalization does not require enforceable labour and environmental standards

There is now strong pressure to attach a range of minimum standards, particularly on the environment and labour, to trade. These demands emanate from the high-income countries and are viewed by developing countries with grave suspicion. They are right to do so.30

The first objection is that the high-income countries are pursuing an internally inconsistent set of objectives. After the Seattle débâcle, Lori Wallach of Public Citizen, a US consumer organization dedicated to curbing trade, argued that “we have succeeded in turning back the invasion of the WTO into domestic policy decisions.”31
Yet, both governments of high-income countries and their pressure groups want to use their trade clout to alter the way developing countries run their economies. Their motto is that “we shall do what we want and you will also do what we want.”

The second objection is that this approach is possible only for countries with clout. In practice, this means the United States and the European Union. But the trading system then becomes a vehicle by which two particular players extend their preferences to the rest of the world. It ceases to be just another way to impose conditionality on developing countries. In the long run, as a number of very large developing countries—notably India and China—achieve more influence in world trade, such a one-way approach will be unsustainable. It will almost certainly fail to achieve its aims even now.

The third objection is that the high-income countries are not in a good moral position to make such demands. The poor treatment of labour, including child labour, reflects poverty. The challenge concerns development (or rather the lack of it), not trade. Yet, some of the countries most insistent on turning labour standards into a trade issue have been among the most niggardly in providing assistance for development. Similarly, it ill behoves countries that have cut down most of their own forests and, most important, have been—and still are—the world’s biggest producers of greenhouse gases, both absolutely and per head, to lecture developing countries on the environment. Since global warming is, arguably, the most important worldwide environmental problem, it is hypocritical for the countries that have created this danger to approach the question of the environment in trade as if they held the moral high ground.

The fourth objection is to the assumption that it would be easy to agree on and enforce minimum standards in a non-protectionist way. Finding out how the labour employed in producing an export that has gone through many stages of production has been treated would be immensely hard (and costly for exporters). The same is true, to a still greater extent, for the environmental impact of production methods that cannot be identified in the final product.

The fifth objection is that there is no compelling reason for common minimum standards on labour and the environment. Countries with different resources, levels of development, administrative capa-
city, and preferences should employ different methods of production. To allow importers to set such policies for exporters, unilaterally, not only would be an intolerable intrusion, but would prove a serious obstacle to the efficient use of resources. The fact that the desired standards would diverge among the importing countries could only make a bad situation worse. Some argue that low standards represent a form of dumping or subsidization. But there is no evidence that lower labour or environmental standards provide a large competitive advantage to exporters. It is also certain that quantifying any such advantage would be practically impossible.

The sixth objection is that acceptance of the right of importing countries to use trade sanctions as a means of changing the practices of exporting countries would transform the trading system. It can be argued that the incorporation of intellectual property rights is already a step towards using trade policy instruments for non-trade ends. But to take this process further would turn the WTO from an international agreement on trade to a system that uses trade measures to transform the policies of members across a growing array of policies and practices. This would risk overloading the system to the point of fracture.

The seventh objection is that regulatory competition among states is desirable, except where global public bads are concerned. But there have to be global agreements to deal with such bads. The genuinely worldwide problems of global warming, species extinction, or mass poverty cannot be resolved within the WTO.

For these reasons, incorporation within the WTO of minimum standards that do not have much to do with trade is a perilous undertaking. It could too easily destroy the fundamental attributes of the trading system—its restricted focus on trade itself and its reliance on consensus. It would take the WTO another step towards becoming an enforcer of universal norms by the powerful on the weak—and on the cheap.

**Why the scope of the trading system should remain limited**

The WTO is not a system of world government. Maybe a century or so from now such a system will emerge. But at present the world does best by constructing regimes designed to achieve specific and
limited ends. This raises the question of how far any arrangement should stretch. Since the Uruguay Round, the WTO covers virtually all trade and a vast range of domestic regulations. Now, it is suggested, it should stretch further, to cover foreign direct investment and competition policy. This aim is shared by a number of high-income countries and business organizations. Yet stretching the agreement in this way is risky and probably unnecessary.

It is risky because, the wider the WTO stretches and the more it seems subservient to the goals of business, the greater the danger that other activists will want to load it with their own goals. For this reason alone, the decision to add intellectual property to the agreement was almost certainly an error. It is unnecessary because, in many of the new areas of activity, international agreement is needed to achieve liberalization. Thus, in the case of foreign direct investment, it is quite unclear why there needs to be global agreement. Similarly, competition policy hardly creates a serious obstacle to economic integration. Thus, by asking whether a particular extension of the trading system is necessary, some of its apparently irresistible tendency to spread can be curtailed.

The case for being cautious about extending the scope of the trading system has been underlined by experience with the agreements on Technical Barriers to Trade, SPS, and TRIPs and other regulatory agreements within the Uruguay Round. The desire to minimize the extent to which regulations are used as a protectionist trade barrier is understandable. But, however irrational they may appear, regulations often reflect the democratic will of a particular country. It is dangerous for countries to use the WTO to try to force others to change such policies. It would help if countries had sounder and better-based systems for establishing risk. But it must be accepted that the risks societies are prepared to run may differ. There is no one right scientific answer. It may be that the best solution is to try to establish an international norm, but to accept that financial compensation will frequently be the best way of handling the situation that arises when a particular country is not prepared, for whatever reason, to abide by it.

Difficulties have also occurred where agreements on regulatory standards impose heavy costs on developing countries. It should
become an accepted part of the negotiating process that exporting developing countries should be directly recompensed for such costs. If this had been part of the Uruguay Round, some of the demands might never have been made. This would have been entirely desirable.

**How to relate trade to other objectives**

Finally, as the WTO has spread, it has created the potential for overlap with other legitimate areas of interest, such as the environment. There is no doubt both that there are genuine international environmental spillovers and that a system of international agreements is needed to manage the consequences. There can be no doubt, too, that, in the absence of international agreements, such risks as global warming, ozone depletion, and species extinction may not be successfully managed. It follows that the overlaps between the WTO and MEAs need to be handled. There is, however, no neat way of doing so. Where an MEA contains a trade provision—and particularly a trade sanction—that may be imposed on non-parties that are parties to the WTO, conflict is possible, even though this has as yet not happened. There have already been disputes when countries have unilaterally adopted measures in violation of the WTO. Conflict between the WTO and MEAs should not happen, however, when the parties are members of both.32

A part of the answer is to minimize reliance on trade measures within MEAs. Although they are sometimes necessary and even desirable, there will often be more effective and equitable alternatives, including direct assistance or positive inducements to adopt the desired change in policy. Where a trade measure is necessary and needs to be imposed on non-members of the MEA in order to eliminate the incentive for free-riding, two solutions suggest themselves. One would be to offer compensation in some other area of trade to a non-member of the MEA whose WTO rights are being violated. However, this approach would have the disadvantage of encouraging free-riding. The second alternative would be to exempt from WTO disciplines measures taken in accordance with an MEA that has a membership of a sufficiently large size—say, half the membership of the WTO.
Conclusion

The trading system has been an extraordinary success. But its very success has made it more visible, more intrusive, and more powerful than ever before. It has, accordingly, more enemies, as was shown on the streets of Seattle. Nor are these activists the only source of pressure upon the system. Business wants more liberalization, while other important pressure groups want the WTO to recognize their own specific concerns, particularly over the environment and labour standards. As a result, quite big gaps have emerged between the demands of the high-income countries, on the one hand, and those of the developing countries, on the other.

If these pressures are to be managed, more is needed than the usual horse-trading. It is necessary to consider what the WTO can and cannot do. The trading system provides an increasingly integrated world economy with the underlying predictability and liberalism that it needs. In this role it protects the economy from the arbitrary interventions of governments and protects governments from political pressures arising in the economy. This system has brought the world economy back to the liberal and mutually advantageous trade that was so brutally and foolishly cut short in the era of economic nationalism that dominated the first half of the twentieth century.

This system is no threat to national sovereignty, properly understood. Equally, calls to make it more democratic are mistaken. It is, unavoidably, intergovernmental, but the WTO does need to be more transparent. Much pressure is being put on developing countries to accept minimum standards for the environment and labour, backed by trade sanctions. But they are right to resist. Much pressure is also being placed on members to accept further increases in the scope and intrusiveness of the system. This idea, too, is dangerous. Finally, messy overlaps between the WTO and environmental agreements are unavoidable. Solutions will never be neat. But, with common sense, they can be found.

The only way forward is to protect the fundamental principles of the system, while being as cautious as possible about its extension into new areas of activity and the domestic regulatory regimes of its
members. High-income countries, in particular, should forgo the pleasures of using trade weapons to force others to behave in ways they desire, while insisting on their freedom to do as they please. However, a way must be found to reconcile the legitimate aims and functions of the trading system with the achievement of other objectives, particularly environmental protection. With good sense and circumspection, this can be done. There is no sane alternative.

Notes


11. The core standards under discussion are: freedom of association, the right to form organizations, the right to collective bargaining, suppression of forced labour, non-discrimination, equal pay for men and women, and rules restricting child labour. See Birdsall and Lawrence, “Deep Integration and Trade Agreements,” p. 143. See also http://www.ilo.org.

12. There are almost 200 MEAs today, with membership ranging from a small group to about 170 countries. The main global MEAs are, however, the 1973 Convention on International Trade in Endangered Species (CITES), the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the 1992 Rio agreements (the Framework Convention on Climate Change, the Convention on Biological Diversity, and the Convention to Combat Desertification), the 1997 Kyoto Protocol on climate change, the 1998 Rotterdam Convention on hazardous chemicals in international trade, and draft MEAs, under negotiation, including a Convention on the control of persistent organic pollutants and the Biosafety Protocol to the Biodiversity Convention. See Duncan Brack, “Environmental Treaties and Trade: Multilateral Environmental Agreements and the Multilateral Trading System,” in Sampson and Chambers, eds., *Trade, Environment, and the Millennium*, pp. 271–296.

15. ICC, “Business Wants G7 leaders.”
17. Ibid.
18. The Democratic Party in the United States is committed to the labour standards agenda largely because of its heavy dependence on the trades unions for supplies of both money and manpower.
20. These are the relatively controversial areas for negotiation. There is greater consensus on such areas as e-commerce, transparency in public procurement, trade facilitation, and market access, particularly tariffs.
22. A pure public good has two characteristics: first, nobody can be prevented from consuming it; second, it can be consumed without being depleted. The first quality makes the good “non-excludable”; the second makes it “non-rival.” Such goods cannot normally be provided adequately by the market. A global compact to liberalize trade has strong public good elements. Many of these take the form of network effects. Thus, every member country (and often non-members as well) gains from a trade agreement between the United States and the European Union on the basis of non-discrimination.
30. Magda Shahin presents a compelling statement of the suspicions of the developing countries over efforts to incorporate environmental issues within
