

**The World Trade Organization, Multinational Enterprises,  
and the Civil Society**

**by**

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### **Abstract**

Despite the launch of a new Round of the World Trade Organization (WTO) in November 2001, the power of this institution is ebbing away. Ever since the 1999 failure in Seattle to launch this new WTO Round, the tide of multilateralism has been falling and that of regionalism increasing. An alleged key reason is that a variety of stakeholders, including a number of anti-global, non-governmental organizations (NGOs) in civil society, the ‘mobilizers’, have succeeded in creating a false image of the WTO as an instrument of narrow business and economic interests.

This NGO perspective, unfortunately, has replaced the more correct characterization of the WTO as the principal enforcement mechanism of multilateral trade and investment agreements, guided by technical, efficiency driven considerations, rather than political and equity related motives. It has even been suggested that, as a result, the trade and investment liberalization agenda of the last 54 years has been reversed. A multilateral agreement on investment (MAI) to provide national treatment for multinational enterprises (MNEs) was indeed defeated in 1998, perhaps partly because of these anti-global stakeholders, but primarily because of a reduced U.S. commitment to further global trade and investment liberalization. In its place, we have observed a resurfacing of political and business efforts to further strengthen the regional trading blocks of North America, Europe and Japan. Even in this new era of blocked trade liberalization, the linkages among these “triad” economies have become stronger, as a result of foreign direct investment (FDI) undertaken by MNEs.

In this context, it is important to convey a new message to civil society. This is that the demise of global trade and investment liberalization leads to second best arrangements in the form of regional, triad-based government policies and corporate strategies. It is also critical for the stakeholder groups involved, especially the moderate, ‘technical’ NGOs, to understand that anti-global rhetoric is leading to regional integration and bilateral agreements, as a politically more feasible, but ultimately less efficient, alternative to global integration. This does not benefit the objectives of civil society; rather, from a comparative institutional perspective, it harms the perception of civil society.

**Key Words:** World Trade Organization; Anti-global Stakeholders; Multilateral Agreement on Investment

## **1. Introduction**

The World Trade Organization (WTO) is in a crisis. Portrayed by many of the critics of globalization as the driver of free trade, in reality it is primarily an understaffed and overworked technical bureaucracy with little political impact. The WTO is the secretariat to the General Agreement on Tariffs and Trade (GATT), which has succeeded in its 54 years of existence in serving as a facilitator for national governments to cut tariffs, mainly on manufactured goods (but not much on agricultural products and textiles). The history of the GATT/WTO is that of a well intentioned but small technocratic group acting, often with a relatively short term oriented agenda, to broker concessions by national governments. These are viewed as a stepping stone toward achieving the broader, and more long-term objectives of free trade and global wealth creation.

But the WTO is not politically powerful. All of its successful eight ‘rounds’ of tariff cuts had to be negotiated, and then implemented by sovereign governments. The WTO has no military support structure or a large cadre of administrators to enforce its will. It only has a staff of 200 professionals, mostly trade lawyers and economists. It is little more than a conference organizer for governments, with an appellate body attached to it, in order to monitor the implementation of the negotiated rules. The rules themselves are not much more than government-level agreements, based on reciprocity and trust. The WTO performs the role of an impartial signalling device to guide nation states in the direction of trade liberalization (in accordance with agreements signed), and it also acts as an arbitrator when rules have been broken. Unfortunately, these rules are sometimes unclear, reflecting ‘constructive ambiguity’ introduced by sovereign governments’ trade negotiators to avoid a breakdown in talks.

The most common way to infringe the WTO’s rules is by failing to adhere to the principle of granting most-favored nation (MFN), non-discriminatory treatment. If the

United States allows one of its exporters to ‘dump’ a product in Europe, then the European Commission can launch an ‘anti-dumping’ action, and if successful, impose a tariff duty on the dumped imports. If the United Kingdom subsidises an export to the United States, and a U.S. firm complains to the U.S. International Trade Commission, then it may recommend that a ‘countervailing’ duty be imposed to offset the margin of subsidy. Both the anti-dumping and countervailing duty actions are consistent with the WTO and the GATT’s Uruguay Round Agreement of 1994.

The WTO-consistent ‘retaliation’ that a country can engage in, always in response to an infringement of its negotiated rights, is to re-impose tariffs or duties against the offending party’s home country. Thus, all the interactions occur between governments. The WTO acts as an arbitrator, monitoring what are really domestic legal actions involving international players. Its only direct role is to hear appeals about failures to observe due process in the application of these trade laws.

Yet, many anti-global ‘mobilizers’ have been successful in demonizing the WTO as the architect of globalization. What they mean by globalization is not always clear. It seems to involve the activities of multinational enterprises (MNEs) and the alleged spread of U.S.-led economic capitalism. There are the alleged foundations of an unequal distribution of economic power and wealth, at the expense of poorer nations and weaker stakeholder groups in developed economies, such as organized labour and the green movement. However, correct institutional knowledge of the WTO leads to the conclusion that the main rationale for the WTO, and also its key outcome, is improved market access to previously protected markets, thereby increasing overall economic efficiency. In addition, its actual role is really that of an implementation mechanism of rules of fairness, agreed upon by sovereign states.

The above analysis is represented in Figure 1. This contrasts the various perceived roles of the WTO and the perceived outcomes of its activities. The

institutional reality is positioned largely in quadrant 1, but the anti-global movement has been successful in creating an image of the WTO placed in quadrant 4. An important question is how informed policy makers can now convince civil society and NGOs at large that it is quadrant 1 and not quadrant 4 which provides an accurate picture of this institution.

Figure 1 Here

Here, it should be emphasized that all seriously grounded, empirical and analytical evidence actually demonstrates a positioning of the WTO in quadrant 1 of Figure 1, Bhagwati (2002), Sampson (2001), Gunter Deutsch and Speyer (2001). This is also the institutional reality experienced every day, both by the governments involved in negotiating and implementing agreements, and by the MNEs engaged in international trade and investment.

The technical NGOs' perspective is usually positioned in quadrant 2. Here, a correct assessment of the efficiency outcome of improved market access is often combined with a somewhat naïve perspective on the power of the WTO to actually dictate fundamental policy choices that could favor the further redistribution of wealth.

In contrast, the dominant picture suggested by the stakeholders hurt by free trade and investment is positioned in quadrant 3. These stakeholders typically include labour, management and owners of non-competitive, incumbent firms in import-competing sectors, which lack exports or outward FDI. Their view is that the WTO may indeed be an implementation mechanism of sovereign governments' choices, but its outcome is more rather than less inequality in the international distribution of economic power and wealth. It is also alleged that foreign nations exert excessive influence on the negotiation of international agreements, driven by their exporters and companies engaged in outward FDI. Examples include textiles, steel, resources, agricultural and other mature sectors where there are few competitive advantages left.

However, while the impact on the WTO of the staunchest defenders of free trade (especially the United States and the United Kingdom) is undoubtedly enormous and their agendas sometimes driven by short term opportunistic considerations to gain foreign market access, the key building block for their participation in the WTO is the fundamental belief, grounded in past experiences of actual GATT tariff cut impacts, that in the long run all participants will benefit, not only a few.

Finally, public perceptions in many countries have been influenced by 'mobilizer'-NGOs and they now reflect a positioning in quadrant 4. Mobilizers compare the outcomes of WTO-negotiations with the characteristics of a hypothetical 'better world', without adopting a reasonable analytical 'counterfactual position'.

From a comparative institutional perspective, a feasible WTO-negotiated result is evaluated in terms of a non-feasible, and often internally inconsistent set of performance standards that may include parameters as diverse as: respect for local customs and traditions (irrespective of their impact on economic efficiency); contribution to sustainable development; redistribution of wealth to developing countries; protection of domestic industries and domestic employment in historically sheltered markets; free availability of MNE proprietary knowledge to all potential users/generic product manufacturers; etc.

All of the above goals assume that globalization implies a new form of economic imperialism, grounded in the increased 'commonality' (homogenisation) of products, manufacturing processes, consumption and regulation, with control over the commonality process concentrated in the hands of (too) few actors, more specifically a limited number of wealthy countries and large MNEs. For an articulation of this viewpoint see Giddens (1999). In contrast, Rugman (2000) has explained the fallacy of this type of perceived globalization process, which allegedly would lead to the development of a homogeneous world market.

The economic reality is that even the largest MNEs in the world are faced with equally powerful foreign rivals and usually have weak positions in at least one leg of the triad of North America, the E.U. and Japan, Rugman (2000) (2000b), Govindarajan and Gupta (2001). In addition, while the actual economic impact of the United States, the E.U. and Japan in multilateral negotiations and organizations is undoubtedly enormous, it is always more contestable by other countries, than in the case of regional agreements. In NAFTA, the U.S. agenda dominates that of Canada and Mexico. In the E.U., the old coalition between Germany and France is still dominant across the Brussels-based administrative structure. In Asia, Japan is still the country with the most MNEs. Unfortunately, in spite of the launch of a new WTO round, agreed to in Doha in November 2001, the tide of criticism by anti-global mobilizers is continuing.

In this paper, the actual institutional structure and basic principles of the WTO are reviewed, followed by an analysis of the issues in the new Millennium Round, the politics of the WTO and the views of the so-called civil society on these matters. The paper focuses on the activities of MNEs and the criticism by NGOs focused on the concept of a multilateral agreement on investment.

## **2. Institutional Structure of the WTO**

The WTO, established on 1<sup>st</sup> January 1995, is the umbrella organization that governs the international trading system. It oversees international trade arrangements and provides the secretariat for the GATT, based in Geneva since its inception in 1948. The GATT has undertaken eight 'rounds' of multilateral trade negotiations, which have been successful in achieving major cuts in tariffs and, since the 1970s, some reductions in related non-tariff barriers to trade. The latest GATT round, the Uruguay Round, took seven years as its agenda had broadened to include trade in services and intellectual property, and a revised system of dispute settlement mechanisms.



Contrary to popular belief, the WTO did not replace the GATT. An amended GATT remains as one of the legal pillars of the world's trade and, to a lesser extent, investment systems. The other pillars, set up in the Uruguay Round's Marrakesh agreement of 1994, include the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The members of the WTO now account for well over 90 per cent of the world's trade and virtually all of its investment; by 1998 the organization's membership had increased to 132, from the 76 founding members of 1995. Nearly all the developed, and most of the developing countries, have joined; a notable exception was the People's Republic of China, the entry of which was blocked in the 1990s by the United States on the grounds that its economy was not open enough and that intellectual property rights were not sufficiently protected. China finally joined the WTO in November 2001.

The WTO's origins can be traced back to the Atlantic Charter of 1941, developed by then U.S. President Franklin Roosevelt and British Prime Minister Winston Churchill. In order to counter U.S. isolation, the principle of the Atlantic Charter was for an international trading system with equal access to trade for all nations. This was seen as a complement to an effective world political forum, the United Nations, established in 1946 with its permanent headquarters in New York City. The United States organized an international conference on trade and employment, which resulted in the Havana Charter of 1948. That charter proposed to establish the International Trade Organization (ITO). Twenty-three countries agreed to a set of tariff cuts and these were ratified by the GATT, which was set up as a transitory arrangement to be subsumed under the ITO. However, the ITO was never ratified and the GATT continued for 47 years, until the WTO finally emerged in the last stages of the Uruguay Round to take on the role originally designed for the ITO. The WTO now stands with

the World Bank and the International Monetary Fund as the third leg of the global economic system.

A successful institution such as the WTO has many parents. The first public call for a world trade organization to be established was a proposal by the Canadian Government in early 1990, which was itself strongly influenced by Dr. Sylvia Ostry, Chair of the Centre for International Studies at the University of Toronto. The Canadian proposal built on the work of Professor John Jackson of the University of Michigan Law School and others at an informal meeting in Geneva in 1989. It was then incorporated into the 'Dunkel Text' of 1991, which eventually became the final text of the Uruguay Round adopted at Marrakesh in April 1994. In approving the Uruguay Round on its 'fast track' system, the United States insisted on the name World Trade Organization, rather than the European Community's preference for Multinational Trade Organization. Therefore, the Canadian proposal literally gave the WTO its name.

a) Basic Principles of the WTO

The WTO builds upon the key GATT principle of non-discrimination; i.e. any barrier to trade should be applied equally to all member countries. It has also adopted the MFN-principle, i.e., any liberalization measure, with some exceptions, should be granted to all members. To understand these principles, it helps to think of the WTO as a club with membership rules which require that all members receive the same treatment. If one member rescinds a trade concession, then other affected members can retaliate by withdrawing their reciprocal concessions, or receive compensation to equivalent commercial effect. If trade disputes arise, they can be settled by the WTO's unified dispute settlement mechanism, which can ensure timely compliance, in contrast to the basically voluntary procedures of the GATT. Decisions made by a WTO dispute panel cannot be blocked by the disputant party, as was possible under the GATT. Panel findings can be subject to review by an Appellate Body of the WTO. In addition, the

publication of trade policy reviews and the activities of the Trade Policy Review Body (which regularly monitors the trade policies of member countries) complement the WTO's dispute settlement activities by significantly enhancing transparency.

There are, however, four important exceptions to the key GATT principle of non-discrimination.

- Developed countries can give tariff preference to developing countries.
- Countries entering into regional free trade agreements do not need to extend the preferences negotiated in this context on an MFN basis.
- A country can invoke temporary 'safeguard' protection to one of its industries suffering serious injury due to a surge of imports.
- Temporary quantitative restrictions can be invoked by a country with serious balance of payment problems.

In the latter two cases, these measures are temporary exceptions to the member's commitment to the GATT, and a public investigation has to be undertaken to allow for limited relief from GATT obligations.

Another important principle adopted by the WTO, which significantly improves on the GATT, is the 'single undertaking'. WTO members must accept all of the obligations of the GATT, GATS, TRIPS and any other corollary agreements. This ends the 'free ride' of some developing countries, which under the old GATT regime could receive the benefits of some trade concessions without having to fulfil their entire set of obligations. Most developed countries in North America and Western Europe had already adopted the single undertaking; for them, the WTO meant few new obligations.

#### b) Unresolved issues at the WTO

The major tensions in the WTO relate to the issues of agriculture, trade in services and trade-related investment measures. None of these issues was included in the GATT's original mandate, which dealt with trade in goods. There are committees

looking at these issues and their reports were the basis for the proposed Seattle Round of the WTO.

Agriculture is a sector subsidized by governments of most developed countries, especially France, and it was largely neglected in the GATT. One technical advance (undertaken largely at the OECD-level) that helps to increase the transparency of subsidies is the calculation of producers' subsidy equivalents. As a result, in the Uruguay Round some progress was made towards the future reduction of the most egregious forms of agricultural subsidies through a process of 'tariffication', i.e. the translation of existing subsidies and other barriers to trade into tariff equivalents. Thus, regulations and codes to keep agriculture prices artificially high, such as marketing boards in Canada, had to be replaced by tariffs. Some of the milk sector protection in Canada was shown to represent a tariff of over 200 per cent. It is particularly troubling that more progress has not been made in liberalizing trade in agriculture as exports of developing countries are frequently denied access to the rich markets of advanced economies, despite previous efforts at giving 'preferences'. Much work remains to be done in future rounds to liberalize agricultural trade.

Today, services account for 70 per cent of employment and value added in advanced industrialized countries, and also for at least half the world's trade and investment. The GATT Uruguay Round started to address issues of trade in services with the establishment of GATS. Trade-Related Investment Measures (TRIMS) were also considered, and a substantive agreement prohibiting a number of investment requirements affecting cross-border trade in goods was reached. For example, the TRIMS agreement restricted the imposition of export requirements on foreign investors. Future negotiations in the new GATT Round will need to develop a deeper and more comprehensive set of rules for multinational investment than the TRIMS agreement. These may well be based upon the model of NAFTA, using the national treatment

concept as its basic principle. National treatment implies that foreign investors are not discriminated against, but receive the same treatment as domestic firms in the application of domestic laws.

The WTO Seattle Round, if it had been initiated successfully, could have built upon a multilateral agreement on investment, which was partially negotiated by the Paris-based OECD over the 1995-1998 period. Investment issues are still being discussed at the WTO, in the context of the Working Group on the Relationship between Trade and Investment, which was established and given a two-year mandate at the 1996 ministerial meeting in Singapore. This mandate has been since extended, so investment is still being discussed at the WTO. Another important working group established during the same meeting is still examining the interaction between trade and competition policy.

The GATT has moved forward over the last 54 years to the extent that today's new constitution for international trade, as embodied in the WTO, includes an even fuller agenda of policy objectives than was envisaged by its pioneering founders. These objectives include:

- further reduction of tariffs;
- design of a set of rules for multinational investment and competition policy;
- development of increased linkages between trade and social policy issues, including environment and labour policy problems.

The hurdles in the way of goal achievement are lowest for tariff cuts, higher for investment and highest of all for environmental and other social issues.

### **3. Politics of the WTO**

The reality of the WTO is that it is used as a bargaining forum by the 'triad' economies (North-American countries, European Union countries and Japan) and,

further, that the United States and the European Union play the most active role in its activities. Japan, China, and other Asian nations, have been less important in shaping the agenda of the WTO. Developing countries, while members of the WTO, have never been important leaders in shaping its policies, but they have undoubtedly benefited from free trade and enhanced access to the richer triad markets. For most of the 54 years of the GATT, the United States has provided leadership in setting an agenda of trade liberalization, first by reducing tariffs on goods and, in the Uruguay Round, by starting to address non-tariff barriers to trade and services, Hoekman and Kostecki (1996). The major post-war supporters of the U.S. led drive for world trade liberalization have been the United Kingdom, and rich, smaller, trading nations such as Canada, Australia and New Zealand. A broader coalition of countries will be needed for future success.

It is, however, difficult to see the WTO as a relevant forum that can directly redress perceived global income inequalities across the North-South dimension, or properly address the multitude of other distributional goals prescribed by the anti-global mobilizers. The GATT/WTO's success has been in liberalizing trade in goods among the major triad nations of North America, the European Union and Japan, but some of its components, such as the Multi-Fibre Agreement, may have impeded the economic development of poorer southern countries, due to the protectionist nature of the rules of origin for textiles and apparel produced in Asia.

To this extent, the WTO embodies several asymmetric elements: on the one hand it is consistently moving towards trade liberalization, but on the other, it is unable to eliminate the quasi-protectionist policies in some sectors put in place by many of its members. As the United States has provided leadership in the tariff-cutting measures of the GATT, so too it has yielded too much power to its domestic protectionist lobbies in establishing its negotiating positions. The result is a mixed bag of policies at the WTO, where country negotiators make 'concessions', in terms of reducing the shelter

benefiting specific sectoral markets in return for market access in their partners, but where producers and consumers usually benefit (on efficiency grounds) from such concessions.

#### **4. A Millennium Round Agenda for the WTO**

A variety of anti-global mobilizers successfully undermined the Seattle meeting in December 1999 through violent street protests and enormous attention given to them by the media. They thereby seriously hindered the formal launch of a new Round of the WTO, which only took place in late November 2001. This new round now includes China as a full member participating in the negotiations. Despite the delay, the new Round's agenda is largely fixed and has been so for several years. For example, former leading U.S. trade policy bureaucrat, Gaza Feketekuty, organized a conference in October 1996 at his Monterey Institute of International Studies to help develop the new agenda for U.S. trade policy. This led to a set of 18 essays which covered all the topics for the Seattle round of the WTO in December 1999. The Council on Foreign Relations sponsored and published Feketekuty and Stokes (1998), and it deserves credit for pushing the agenda beyond parochial American concerns towards the broader, longer-term objectives to be pursued by the WTO.

The general theme of virtually all the papers is support for a multilateral, rules-based system at the WTO rather than a triad/regional power-based system. The current 'multitrack' strategy of the United States seeks to use bilateral, regional and multilateral trade negotiations simultaneously. Within this, much more attention is given to Japan and China, and even to NAFTA, than to U.S.-Europe trade relations. To redress this balance, Preeg and Stokes, among others, advocate a Transatlantic Free Trade Agreement (TFTA).

Robert Lawrence is representative in arguing in favor of strong U.S. support during the new GATT Round, for a multilateral, rules-based system, extending into the

areas of competition policy, investment and perhaps environment and labour standards. Yet, during the second Clinton administration Congress persisted in denying 'fast track' negotiating authority to the President for any trade deals, including a new WTO round. Aggressive U.S. bilateral policy with respect to trade deficits with Japan, China and other countries now appears to be the norm. It is necessary to turn the tide in Congress back towards support for the United States as a leader in multilateral trade and investment liberalization.

Most less developed countries are also in favor of the new WTO Round. The trade ministers of four Caribbean economies endorsed the Seattle Round. Yet some academics still criticize the GATT/WTO. For example, Khan (1999) has published a set of technical economic papers dealing with aspects of structural adjustment in Pakistan, linked together by two rather thin introductory and concluding sections, which talk critically about World Bank and IMF policies from the perspective of economic development in Pakistan. The author, a macroeconomist, attempts to criticize the 'neo-liberalism' of these institutions with little appreciation of political science considerations such as complex institutional responsiveness to changing environmental parameters, and its links to the business decisions driving inbound foreign direct investment. Development economists might benefit from conducting field research that would permit the identification of the real barriers to FDI in countries like Pakistan: these barriers are related to domestic, political and bureaucratic problems, and certainly do not reflect a failure of neo-liberalism. Understanding the conditions to be fulfilled for various types of inward FDI (market seeking, resource seeking, efficiency seeking and strategic asset seeking) to occur is required before a serious debate can be held on the distributional aspects of structural adjustment, including impacts on the poor and on policy issues related to, inter alia, gender equality, health improvement, environmental quality and food security. Pakistan continues to experience huge development



problems, not due to World Bank failures, but due to poor internal government policies which have increased political risk and reduced the incentive for inward FDI.

The major structural change at the new WTO, as compared to GATT, is the increased use of trade law and litigation for dispute settlement. The overworked, small, WTO secretariat now has to deal with over a dozen dispute settlement cases a year, together with all of the lengthy appeal processes. Previously, the old GATT secretariat only dealt with 2-3 cases a year. Due to this complex judicial process, trade lawyers from North America and Western Europe are now more important than politicians and business people in determining trade policy outcomes at the WTO.

As an emerging stream of dispute settlement decisions develops, the WTO is taking on a different shape. Instead of devoting most of its resources to promoting multinational trade liberalization and non-discrimination, the WTO is forced to focus much energy and expertise on resolving bilateral trade disputes. Three major U.S. – E.U. disputes concern bananas, beef hormones and export subsidies. These are discussed in Rugman (2000). In early 2002, a new U.S.-E.U. steel dispute captured most of the policy and media attention.

## **5. The Civil Society and the WTO**

It is important to understand that globalization, as understood by the anti-global mobilizers, has never existed: there is no single integrated world market dominated by a few firms with a monopolistic position and a few rich country governments that conspire to keep wealth accumulation concentrated inside their borders. Instead, there are strong triad blocks in which nation states still make the rules, imposing regulations such as environmental and health codes. As noted above, the different triad blocks regularly engage in trade wars with each other and then turn to the WTO for dispute resolution. Unfortunately, the views of the anti-global mobilizers often prevail in shaping public opinion in many countries.

a) Internet Anarchy

Even before the Seattle WTO street violence of December 1999, a widely reported example of the organizational capabilities of the anti-global mobilizers occurred on Friday 18 June 1999, when a mass demonstration disrupted the City of London. It was organized via an Internet site, J18, which co-ordinated the separate activities of various anti-global mobilizers. The more radical of these received most of the media attention as the peaceful demonstration planned to coincide with the G7 Summit in Cologne turned into a full scale riot. The major targets were two McDonald's restaurants, which were trashed, and the London International Financial Futures (and Options) Exchange (LIFFE), which was invaded.

According to press reports, analysed by Rugman (2000), a handful of young radical extremists organized much of the demonstration, which attracted more than 2,000 people. A group called Reclaim the Streets (RTS) and a Cambridge chapter of People's Global Action (PGA) were prominent. These groups were able to promote the demonstration by using Internet sites to publish maps and details of London's financial institutions. On the day of the planned protest, they provided leaders to incite groups to attack property and they led attacks on the police.

Radical groups such as these do not appear to differ in any marked manner from the student activist groups of the late 1960s, who organized sit-ins and demonstrations at leading universities from Berkeley (California) to Columbia (New York) to the London School of Economics (UK). If anything, the number of core activists appears to be far fewer. But today they can use Internet sites to gain worldwide attention. Previous generations of individuals condemning mainstream institutions, spread their ideas via the underground press and small circulation magazines and broadsheets; the current generation can tap into a potentially broader stream of support by using new technology.

One of the disadvantages of fast global communications via the Internet is that small activist groups can disseminate propaganda quickly and easily. The Internet has no quality control mechanism; junk sites and politically networked ones count equally with commercial and academic sites. There is no screening mechanism similar to the one provided by the mainstream media, where extremist views would find little space or airtime.

This street theatre was repeated, on a massive scale, in Seattle in early December 1999. The protectionist U.S. labour unions were also present, wrongly seeing the WTO as an agent of free trade, leading to a coalition of labour, moderate and extreme anti-global stakeholders. Unfortunately, the potentially legitimate concerns of labour and the moderate NGOs, such as OXFAM and WWF were largely dominated by the extreme views of some anti-global mobilizers, who thrive on anarchy and civil disobedience. This promotes a backlash against the NGOs with valid concerns that should receive proper policy attention, and it serves to discredit their agendas.

Fortunately, the Seattle anti-global coalition has not been able to repeat its 'success' in subsequent events, for example in demonstrations in London in May 2000 and in Washington D.C. against the role of the IMF and World Bank. On both occasions, the more extreme mobilizer groups received primarily critical media coverage, which concentrated on the confrontations with police and the damage caused to public monuments, such as Churchill's statue in Westminster. As a result, there was less coverage of their simplistic message on the alleged costs of globalization.

The distinction made between 'mobilizers' and 'technical' NGOs was clarified by Ostry (2001). The former group criticizes the global trade and investment regime, and believes that the major international institutions promoting free trade, such as the WTO, IMF and World Bank should be eliminated or fundamentally overhauled. A number of mobilizers are relatively pacifist and, in general, pursue global equity goals,

but they face serious difficulties in dissociating themselves from various anarchist groups attracted by this anti-mainstream philosophy. As a coalition, these groups mobilize for specific events, such as the Seattle WTO meetings, the annual meetings of the IMF and World Bank and the G7/G8 summits. They include the People for Global Action (PGA), the International Civil Society (ICS), N30 and the J18 group mentioned earlier, who organized the June 1999 London protests.

The latter group, the technical NGOs, consists of relative insiders, willing to work with the mainstream international institutions in an attempt to reduce perceived ineffectiveness or inequity in policy making processes and to achieve essentially redistributive goals. Technical NGOs include OXFAM, WWF, the Third World Network and various environmental groups. Unfortunately, the WTO has not distinguished between these two groups. At Seattle, some 600 NGOs were accredited, including the first group that used anarchy. The technical NGOs, which participated in major protest actions organized by the mobilizers, are now unfortunately perceived by many national governments and business lobbies as having a common agenda with the mobilizers. This widespread perception has seriously affected the technical NGOs' capacity to achieve important objectives on their usually benevolent agendas. As an alternative, lessons can be learned from the successful NAFTA generated co-operation of environmental NGOs with business and government in raising environmental standards and practices in Mexico, see Rugman, Kirton and Soloway (1999).

b) The power of anti-global mobilizers

The anti-global mobilizers constitute a new and potentially powerful set of actors on the stage of international business. From 1997 to 1998, they assumed a more effective role than before, which led to the defeat of the OECD's multilateral agreement on investment. Canada's Council of Canadians, chaired by economic nationalist Maude Barlow, was prominent in orchestrating a common action agenda. In a clever campaign

of misinformation and half-truths, exhibited in the Clarke and Barlow propaganda booklet on the MAI, see Clarke and Barlow (1997), the Council filled the web sites of NGOs with anti-MAI hysteria, which then influenced the media.

With the U.S. and Canadian governments treating the MAI on a technical rather than political level, and ministers receiving little in-depth briefing from senior trade policy civil servants, there was little political will to counter the substantive distortions of facts on the likely societal impact of the MAI, offered by unelected and unaccountable anti-global mobilizers. Business leaders were unwilling to speak out on the MAI's advantages, leaving its defence to a handful of industry association spokespeople, who are mostly perceived as the public relations mouthpiece of narrow business agendas. Finally, the academic world - with a few exceptions - had not researched the issue. This was especially true of trade economists, who build mainly on modern trade theory, useful to study trade liberalization, but fully inappropriate to analyze the impact of investment liberalization. Consequently, almost none were available or willing to debate the substantive issues of the MAI in public, while engaged in their full-time professional duties.

The absence of informed government, business and academic commentary left the media open to the views of the anti-global mobilizers. As noted above, technical NGOs have sometimes played a major positive role in shaping the outcome of international agreements, as exemplified by the notable success of environmental NGOs (entirely U.S. and Canadian) in the North American Free Trade Agreement when the first Clinton administration in 1993 inserted two side agreements, after NAFTA had been successfully negotiated over the 1990-1992 period by the first Bush administration. These side agreements set up an environmental body, the Commission on Environmental Cooperation (CEC) (in Montreal) and a labour standards body (in Dallas), see Liebler in Rugman (1994).

In contrast, The UNCED Rio Earth Summit of 1993 was dominated by environmental NGOs, including many mobilizers. Business was largely absent. This led to an unbalanced agreement, with sets of commitments that would be almost impossible to meet by the governments concerned. Despite these lessons, the Kyoto Summit in December 1997 resulted in standards for reduction of greenhouse gas emissions that, again, most countries will not meet. Ratification of the Kyoto protocol is unlikely, since the United States, Canada, Japan and many other countries are unlikely to sign it – only the E.U. had the political will to do so. In Canada's case, this is due to the federal nature of its institutions: the provinces have the power to control natural resources. As a result, the province of Alberta, the largest energy-producing province in the country, will need to agree to implement Kyoto in order for the government of Canada to recognise the treaty.

c) Analysis of the Role of the Civil Society

The brief description above of recent events in the area of global trade and investment liberalization reflects a wide gap in understanding of the significance of globalization and the role of international institutions therein, between on the one hand national governments, business lobbies and technical NGOs, and on the other hand the anti-global mobilizers. The divergence in perspectives is such, that a constructive dialogue has become almost impossible.

There are two explanations for this situation. First, the political system in most Western countries, especially the United States, Canada, and European Union democracies, has traditionally taken on board the concerns of potential 'losers' of trade and investment liberalization during international negotiations. This has often resulted in exempted sectors, long phase-in periods, transition measures to permit structural adjustment etc. The failure of the political establishment in many developed economies

to restrict the impact of mobilizers on public opinion largely results, not from a so-called 'democratic deficit', but from insufficient or ineffective communication on the substance, process and likely impacts of further trade and investment liberalization agreements.

Second, the intellectual failure of mainstream academic theory should be noted. The twin basic paradigms of economics and politics are found wanting as explanations of today's global economy, the behavior of MNEs and the nature of foreign direct investment. In economics, the traditional efficiency-based neoclassical paradigm (with its associated theory of comparative advantages and the overall country gains from free trade) is unsuitable to properly describe the goals and strategies of MNEs, and the related FDI motivations and patterns. Despite the efforts of international business writers over the last 30 years to develop a modern theory of the MNE, most economists to date have apparently been unable to take on board this perspective, including a grounded analysis of MNE behavior and the associated FDI, see Rugman (1996). Consequently, the advice of many top level economists to their national governments has been to use the GATT and WTO to achieve 'shallow' economic integration through tariff cuts, but in doing so, they have failed to address the 'deep' integration that could be achieved through FDI.

Similarly, the mainstream political science focus on the nation state is equally inappropriate to deal with the new reality of MNEs and FDI. Despite minor modifications to nation state paradigms, such as incorporating subnational units in decision making, there is only a limited buy-in to the alternative, non-mainstream International Political Economy (IPE) viewpoint first popularized by Susan Strange (1988), which recognizes the important role of MNEs in today's global economic and political system. As is the case with the economics profession, mainstream political science shows an important 'academic deficit' in the sense of being ill-equipped to

properly inform policy makers, the media and the public at large on the significance of globalization.

Based on prejudice rather than evidence, the thinking of anti-global mobilizers has therefore become more influential with governments in North America and Europe than the grounded work of academic scholars working on MNEs, see Ostry (1997).

The issue here is one of process. There is an 'administrative heritage' of ideas. Today's journalists and other professional communicators are poorly trained in economics, politics and international business. Those few who have any training are usually victims of the paradigms of traditional economics and political science, which cannot accurately explain MNE behavior and FDI. Business school MBAs, who are now exposed to the new thinking on MNEs, usually have their professional occupation in business rather than the media. Professional intermediaries, such as management consultants, focus on their business or government clients rather than the media and the requirement of confidentiality of their work usually makes them poor advocates, as compared with the ill-informed, but ideology driven mobilizers. Finally, the civil service in most cases cannot engage in a public debate with mobilizers, since the role of public servants is to support and inform ministers, not to enter the public forum. This joint institutional failure of politicians, academics, consultants and civil servants to prepare a credible case in favor of globalization and an MAI and to debate it publicly, leaves the field open to mobilizers to shape public opinion.

However, although the mobilizers can be credited partly with the delay of the Seattle Round of the WTO, the main substantive reason for its delay lies in the functioning of the United States institutions. More specifically, it is the U.S. Congress authority to pass trade laws which explains the corresponding lack of presidential power to negotiate international trade and investment treaties. Former President Clinton's failure to obtain 'fast track' negotiating authority from Congress in his second term (for



a free trade area of the Americas, but also for a future round of the WTO, and for an MAI) was likely the single most important reason for the WTO's delay. The mobilizers were then given the opportunity to step into the vacuum and captured the agenda.

Multilateral trade and investment agreements are unlikely to succeed, without the full commitment of the United States to champion them. This is demonstrated by the WTO process. All participating national governments face pressures from a variety of stakeholder groups, lobbying in favor of narrow interests. The full participation of the United States is vital to broker an international agreement, as it is still the only country powerful enough to pull along other countries rife with internal dissent and sectioned interests. Yet although former President Clinton pushed through NAFTA in 1993, he was subsequently unable to assemble a coalition to support any new free trade and investment liberalization initiatives. The future of the WTO is undoubtedly linked to the success of President Bush in November 2001 to obtain (fast track) trade negotiating authority for a new round, and for him to provide leadership in moving the trade liberalization agenda forward once again.

## **6. The Multilateral Agreement on Investment**

Graham (2000) has demonstrated the fallacy of the myth that antiglobal mobilizers defeated the MAI. Using careful analysis and insider information as a closely involved and well informed expert on U.S. foreign direct investment policy making, Graham concludes that the draft MAI was a very weak document. In fact, the investment liberalization negotiated in the MAI was so weak that the U.S. business community stopped supporting it long before anti-global stakeholders started to protest against it in Paris. There was also a lack of leadership by the U.S. government, as well as tepid support in the E.U. and eventually hostility to the MAI by the French government of Prime Minister Lionel Jospin, as he was dependent upon left wing "green" support in his political coalition. For a similar analysis see Rugman, (1999),

2000).

Graham provides an objective discussion of environmental issues in trade and investment agreements. He has useful insights on the environmental provisions of NAFTA, especially the important initial chapter 11 investor-state case on MMT (a gasoline additive). It is important to note that the Canadian Minister of the Environment, Sheila Copps, banned trade and interprovincial trade in MMT, citing it as an environmental and health hazard. The producer of MMT, a U.S. company called Ethyl, used the chapter 11 provisions to win a settlement from the Canadian government for denial of its business. The Canadian anti-global mobilizers claimed that this case demonstrated the power of MNEs to overturn the environmental decisions of host country governments. The draft text of the MAI had a similar provision to NAFTA chapter 11, so the anti-global mobilizers claimed that the MAI was a charter of rights for MNEs to overturn the sovereign domain of governments. They claimed that the MAI was a “NAFTA on steroids”.

In fact, far too much attention was given to the above case, which represented a purely technical application of chapter 11, without any long-term policy relevance. The Canadian Minister apparently ignored the advice of her senior civil servants in banning the trade in MMT. As soon as trade-related measures are introduced in Canada, NAFTA applies. Instead, the Minister should have banned the production of MMT, as an environmental hazard, an internal matter subject to Canadian laws. Several subsequent NAFTA chapter 11 cases have been resolved on technical grounds with no loss of sovereignty to host nations in their environmental policies, see Soloway (2002).

Perhaps what the MMT case really illustrates is the absence of dialogue between genuine trade experts and anti-global mobilizers. The latter used the MMT case as a lever to launch a broader attack on the MAI, and subsequent international trade and investment liberalization initiatives at the WTO and G7 summits. Graham (2000)

argues that, as a consequence, the technical NGOs specialised in environmental issues, are now in an uncomfortable position. Graham's view is that trade negotiators were open and willing to incorporate environmental concerns into the MAI, but the ideologically based opposition to it, orchestrated by mobilizers has now closed the window for co-operation between technical NGOs and governments.

It is therefore critical for technical NGOs to formally disassociate themselves from the mobilizers, in order to push forward a more sensible co-operative reformist agenda for the civil society.

## **7. The Future of the WTO**

The present, major triad-based trade disputes illustrate that the WTO is facing substantial problems. There are two underlying reasons for these problems:

First, the GATT/WTO is a technical body, lacking in political power and even political understanding. It has been successful for 54 years in dealing with the technical issues of a series of tariff cuts, but it is not equipped to deal with the new agenda of international trade and investment liberalization. Tariff cuts have allowed 'shallow' integration across many manufacturing sectors (but not in agriculture and textiles). Today's agenda, with major implications for MNEs engaged in FDI, is one of 'deep' integration. Here, the issue is how to make domestic markets internationally contestable. This involves negotiating the role of government in society, a virtually impossible task to achieve for the WTO secretariat with its small staff of professionals in Geneva. The WTO is not designed to deal with non-trade and investment issues such as environmental regulations, labour standards and human rights. These now only come onto its agenda as indirect, technical matters in trade disputes. These 'big issues' are better handled in different international fora, e.g., human rights at the United Nations, labour standards at the International Labour Organization and environmental regulations

at a new world environmental agency. These issues are well beyond the capacity of the WTO to address, let alone resolve.

Second, the WTO faces problems resulting from its important mistake of giving standing to non-governmental organizations at the failed Seattle Millennium Round of December 1999. For the WTO to succeed it must only work with governments, as it was designed to do. This is what the GATT did. The members of the GATT/WTO are nations, not firms, nor NGOs. Each country government negotiates on behalf of its businesses and NGOs. Throughout its existence the GATT has refused even to hear representatives from business groups, MNEs or individuals.

By giving a platform not only to technical NGOs, but also to anti-global mobilizers, two problems are created. First, NGOs gain an unfair advantage of access to policy makers, as compared to other stakeholders (such as MNEs), who are not given equivalent treatment. Second, given the presence of many anti-global mobilizers among these NGOs, the legitimacy of the technical NGOs is undermined, and therefore also their capacity to actually influence negotiations and their outcomes. As the agent of multilateralism, the WTO has always been a small, technocratic body devoid of any real political power. It can obviously not address the agendas put forward by a wide variety of NGOs, especially the anti-global agendas of mobilizers. Neither business groups, nor NGOs should be present at future meetings of the WTO. They should lobby their home governments and accept the results of government-to-government bargaining at the WTO.

In the inward-looking U.S. presidential campaign of 2000, with major congressional elections also taking place, the United States was poised to turn its back on multilateralism and embrace economic isolation again, as it did in the 1930s with the Smoot-Hawley tariff. A trade war with the E.U., over DISC sanctions, coupled with the ongoing U.S. current account deficit with Japan (the other triad power) could have

opened the doors for U.S. protectionism to emerge. The U.S. advocacy of free trade, and its advancement of national treatment for foreign investment, has always been fragile, with the executive branch office often at odds with the more protectionist Congress. The approval of NAFTA in October 1993 by the first Clinton administration was the last case of 'fast-track' authority and, in retrospect, the end of U.S. leadership in trade liberalization. The MAI failed at the OECD in Paris partly because of a lack of U.S. commitment. The Bush administration moved slowly in 2001 to obtain trade negotiating authority and, following the September 11<sup>th</sup> terrorist attacks, asked Congress in November 2001 for such fast track authority. This was granted by a one-vote majority in the House, a narrow margin, which may lead to future problems in the Congress for free trade measures.

As the United States re-examines its place on the global stage, many anti-global stakeholder groups, especially mobilizers, are attempting to take its place. Many of these stakeholder groups, especially the environmental ones, are U.S. based and funded. Most of the others are from Canada and Western Europe. They usually represent narrow interests in the rich countries. The anti-global stakeholder groups' goals are fundamentally opposed to the economic interests of developing countries like China. The mobilizers' attempt to slow down and even reverse achievements in multilateralism and free trade, are hindering the economic development of emerging Asian, African and Eastern European countries. Their anti-global activities, usually guided by simplistic equity considerations, ultimately do not serve the interests they purport to defend, i.e., the interests of poor or disadvantaged groups in society. Mobilizer activities, the latent lack of U.S. commitment to free trade, and the dissolution of the post war consensus on the virtues of free trade may mean the end of globalization. But globalization, as portrayed by the mobilizers, was a myth anyway. The relative lack of 'deep integration' at the multilateral level contributed substantially to the formation of regional trade and

investment blocks, as is demonstrated empirically in Rugman (2000, Chapters 6, 7 and 8).

The relevance of the above for small, open economies and developing countries is that market access to the large triad markets of the United States, E.U. and Japan is of paramount importance. But while the WTO can help with a new Round, such access may need to be bargained for on a regional/ bilateral basis, rather than multilaterally.

This analysis suggests that two parameters critically determine the future options for further trade and investment liberalization. The first is the choice between bilateral/regional and multilateral negotiations. The second is the choice between the pursuit of shallow or deeper integration. The choices to be made are represented in Figure 2 on the institutional alternatives for trade and investment liberalization.

Figure 2 Here

Here, the vertical axis on the geographic scope of agreements distinguishes between multilateral (top) and regional (bottom) integration efforts. The horizontal axis on the depth of the integration makes a distinction between shallow (left) and deep (right) integration. Quadrant 1 represents the old, highly successful, GATT process of tariffs cuts and shallow integration. Quadrant 3 represents the new agenda of the WTO in terms of deep integration, including investment liberalization. Quadrant 2 represents the old regional trade agreements with tariff cuts (the Andean pact, the Caribbean initiative, Asean, etc.). Quadrant 4 represents the new type of regional trade agreements, such as NAFTA. These include national treatment for foreign direct investment and also enhanced market access for services and intellectual property.

The main point of Figure 2 is that quadrant 3, with deep multilateral integration undoubtedly constitutes an optimal situation for all nations concerned in terms of long term wealth creation, but is at present not feasible because of various constraints mentioned above (structure of WTO, U.S. policy preferences, etc.). Quadrant 2

represents the worst case scenario of shallow, regional integration. Fortunately, the history of the E.U. demonstrates that this may be just a stepping stone toward fuller integration. The E.U. started in 1958 and has been characterized by a continuous shift from quadrant 2 toward quadrant 4 in terms of depth (e.g., the 1992 Single Market Program and the more recent European Monetary Union, although not including all Member States) and towards quadrant 3 in terms of geographic coverage. The recent thinking about expanding NAFTA into a free trade area of the Americas by 2005 would similarly constitute an important shift toward quadrant 4. The FTAA would be seen as an intermediary situation between conventional regionalism with a limited geographic scope and the full and deep multilateralism of quadrant 3. These two examples suggest that both shallow regionalism and regionalism with a narrow geographic scope may be a stepping stone toward a quadrant 3 situation.

However, these examples also demonstrate the perverse effects of mobilizers on the evolution of trade and investment liberalization. Poor countries and groups always benefit more from multilateral than from regional agreements. They cannot be shut out from the former while individual nations such as the U.S. always have less power in multilateral than in regional cases, because of the number of countries involved. The strengthening, not the weakening, of mainstream global institutions such as the WTO, so despised by the mobilizers, may well represent the fastest route for poorer countries toward achieving fundamentally higher living standards for their population. In contrast if NGOs are successful in derailing multilateralism, then poor countries will remain poor.

## **8. Managing external stakeholders in the areas of trade and investment policy**

How should MNE managers respond to the presence of external stakeholders in international trade and investment negotiations? Three suggestions can be offered:

- 1) The activities of external stakeholders should be discussed at the Board and top management level, and an overall strategy should be developed to deal with them. Here, it is important to make a distinction between technical NGOs and anti-global mobilizers. Initiatives should be developed to work with the former. Clear arguments should be developed to appropriately counter the ‘discourse’ of the mobilizers, and this should be combined with an effective communication strategy to reach relevant audiences.
- 2) Sustainable development and ethical stakeholder perspectives should be embedded within the organization. More importance should be attached to social values and these should influence the inner workings of the organization.
- 3) The firm should not engage in a debate with mobilizers (nor even with technical NGOs) through a small set of public relations people; instead all senior managers should be trained to articulate the concept of stakeholder capitalism, rather than shareholder capitalism and the contribution of the organization to the resulting wealth creation. In other words, all senior managers in the firm should engage with NGOs; then the debate will be more even handed.

As a result of the above initiatives some firms will experience a dramatic improvement of their political strategy results and their economic performance. The firms that will do best in near future will likely be those that take leadership positions with respect to stakeholder management, capture the concept of “values driven” rather than profit driven capitalism, and respect their most important resource, namely their employees. These are likely to be the most effective tools that can be deployed at the micro-economic level to defend against the actions ideology driven mobilizers.

The above prescriptions are represented in Figure 3 on MNE responses to civil society concerns. On the vertical axis a distinction is made between two types of MNE stakeholder strategy. On the top, a strategy is pursued that differentiates among the



various stakeholder groups between those with which a dialogue is possible, and those with which it is not (differentiated response) and on the bottom, a strategy that dictates a uniform response to all outside stakeholders. The horizontal axis on the MNE corporate philosophy, makes a distinction between a broad stakeholder perspective on the right, whereby other goals than shareholder wealth maximization are considered relevant, and a narrower shareholder profit maximizing perspective on the left.

Figure 3 Here

Quadrant 2 reflects an outdated perspective on MNEs, paradoxically adopted by most mobilizers. They view MNEs as profit maximizers, who will systematically refuse a constructive dialogue with any stakeholder representing the civil society. The quadrant 1 situation represents an equally outdated response that is now being rejected by most large MNEs: here, management has a shareholder perspective and its differential response is usually a ‘public relations’ exercise whereby an MNE provides lip service to the goals of ‘friendly’ stakeholders but in fact is not serious about stakeholder management. This behavior is typical for Enron-type companies.

In fact, many MNEs are now positioned in quadrant 3: they pursue a stakeholder management model, perhaps driven by environmental considerations, but they try to identify those salient stakeholders that can contribute to a win-win situation for the firm and society at large. This has been analyzed in Rugman and Verbeke (1998). These firms face the challenge of distinguishing between destructive mobilizers and benevolent, technical NGOs.

The main danger for these firms is to fall in the quadrant 4 trap, whereby their stakeholder management approach can be abused by mobilizers, because the firm has not set up proper screening mechanisms to establish which stakeholder demands are legitimate and which are not, as experienced by many companies operating in developing countries that are unfairly accused of unethical behavior, e.g., Shell in

Nigeria. Here, the civil society should itself strongly react to the dishonest and unfair treatment given to MNEs by the most radical, ideology driven mobilizers, and give a clear message that such groups reduce the credibility of the civil society, as perceived by MNEs and mainstream government institutions.

## **9. Conclusions**

The viewpoints of MNEs and NGOs towards globalization and the WTO have been analyzed in this paper. There is no single viewpoint for business, neither is there one for the civil society; there are different types of MNEs and NGOs.

Our analysis can be summarized in Figure 1. While the basic ‘business’ viewpoint is in quadrant 1 and the civil society has components with a viewpoint in quadrant 4, there are subtle differences in approach, as discussed in the second half of the paper. Most large, triad-based MNEs are positioned in quadrant 1 of Figure 1. They know that trade and investment liberalization will improve their micro-economic efficiency. However, the losers of free trade and investment, i.e., a variety of stakeholders related to inefficient incumbents facing increased foreign competition, are usually well informed about process, but view its outcomes as unfair; they are positioned mainly in quadrant 3 of Figure 1. The civil society can largely be segmented into the NGO mobilizers in quadrant 4 in contrast to the technical NGOs in quadrant 2.

We hope that this type of analysis, which aims to identify the value judgements about process and outcomes underlying the different perspectives on the WTO, will move the debate on globalization forward. It is necessary to deepen our understanding of the triad-based process of international business, the technical role of the WTO and the divisions in civil society. Free trade and investment liberalization have not yet been achieved due to the vested interests and misperceptions of some components of civil society and affected stakeholders. We need to recognize and correct these

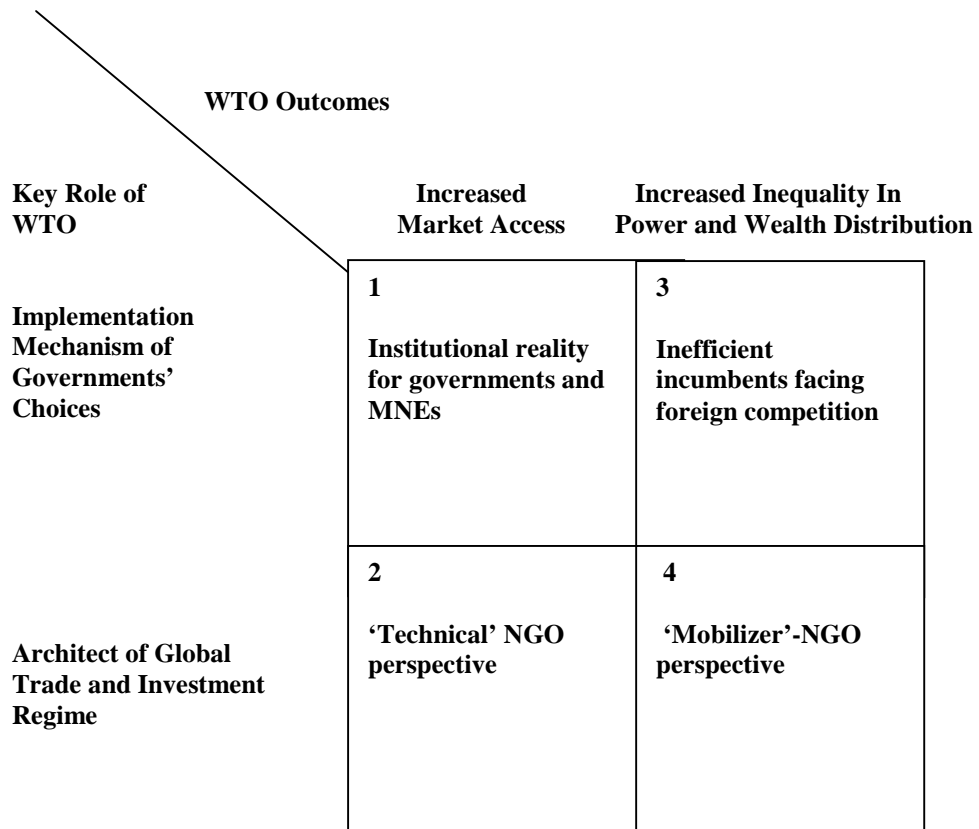
misperceptions as a precondition to achieving an overarching increase in world welfare and incomes.

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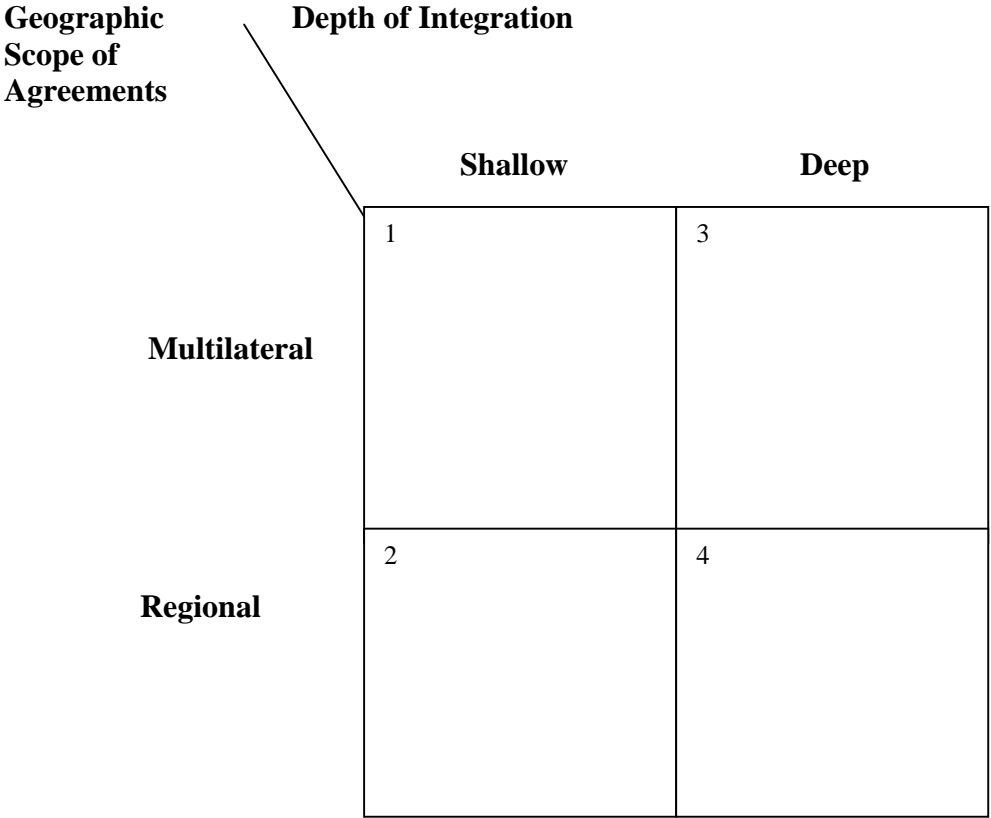
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**FIGURE 1**  
**THE DIFFERENT PERCEPTIONS OF THE WTO**



**FIGURE 2**  
**THE INSTITUTIONAL ALTERNATIVES FOR TRADE**  
**AND INVESTMENT**



**FIGURE 3**  
**MULTINATIONAL ENTERPRISE STRATEGIES AND**  
**CIVIL SOCIETY**

