

NOVUS ORBIS

Siyaset Bilimi ve Uluslararası İlişkiler Dergisi
Journal of Politics and International Relations

**21. Yüzyıl Paradoksu Olarak Siber Uzay
ve Uluslararası Hukuk**

*Cyber Space and International Law
as a 21st Century Paradox*

Vahit Güntay

The Collapse of Multilateral Trade Negotiations in Cancún

Cancún'da Çok Taraflı Ticaret Müzakerelerinin Çöküşü

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**İran'ın Nükleer Enerji Programı'nın
Sınırlandırılmasına İlişkin Kapsamlı Ortak Eylem Planı (2015)
ve İran-Rusya İlişkileri**

*Joint Comprehensive Plan of Action (2015)
on Restricting Iran's Nuclear Program
and Russia-Iran Relations Century*

Nurhan Hacıoğlu



Department of
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Cilt 1 | Sayı 2 | 2019
Volume 1 | Number 2 | 2019

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Cilt 1 | Sayı 2 | 2019
Volume 1 | Number 2 | 2019

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Uluslararası
İlişkiler Bölümü

10 - 11 Eylül - September 2020

Trabzon - Türkiye - Turkey

ARAŞTIRMA MAKALESİ / RESEARCH ARTICLE

The Collapse of Multilateral Trade Negotiations in Cancún

Ayçe SEPLİ*

Received 21 November 2019
Revised 20 December 2019
Accepted 26 December 2019

Abstract

The Doha Round or the Doha Development Agenda (DDA), which was officially launched in 2001, is the very first trade round of the World Trade Organisation (WTO). Since developed and developing countries have different priorities and interests, the Doha Round has witnessed a series of deadlocks over ten years until the Bali Ministerial Conference in 2013. The first deadlock occurred at the Cancún Ministerial Conference in 2003. The primary points of dispute between developed and developing countries were agriculture and the so-called Singapore issues. This study investigates the Cancún Ministerial Conference as it is a remarkable example of how participant countries strive to secure their interests even at the expense of the collapse of the multilateral trade negotiations. In that regard, this study aims to examine the opposing negotiation behaviour has witnessed and determine how their insistence on different proposals lead to the failure of trade negotiations in Cancún. The primary argument of this study is that developing countries' common stance and the creation of so-called G-20 under the leadership of Brazil, along with India and China, prove the triumph of

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these countries as they succeeded to block any agreement that disrupts their interests at the Cancún Ministerial Conference. Although the Cancún failure damages the Doha Round of multilateral trade negotiations, developing countries appreciate their coherent coalition strategies, which trigger the shift in the balance of power within the WTO in their favour.

Keywords: Trade Negotiations, the WTO, the Doha Round, Developing Countries, G-20

Cancún'da Çok Taraflı Ticaret Müzakerelerinin Çöküşü

Öz

2003 yılında resmi olarak başlatılan Doha Turu ya da Doha Kalkınma Gündemi Müzakereleri, Dünya Ticaret Örgütü (DTÖ) bünyesinde düzenlenen ilk çok taraflı ticaret müzakereleri turudur. Gelişmiş ve gelişmekte olan ülkelerin farklı öncelik ve çıkarlara sahip olması dolayısıyla Doha Turu, 2013 Bali Bakanlar Konferansı'na kadar, on yılı aşkın bir süre boyunca devam eden tıkanmalara sahne olmuştur. Doha Turu ticaret müzakerelerinde ilk tıkanıklık 2003 yılında gerçekleştirilen Cancún Bakanlar Konferansı'nda yaşanmıştır. Bu konferansın başarısızlıkla sonuçlanmasının nedeni, tarım ve Singapur konularının gelişmiş ve gelişmekte olan ülkeler arasında temel anlaşmazlık noktaları olarak ortaya çıkmasıdır. Bu çalışmada Cancún Bakanlar Konferansı'nın incelenme nedeni, bu konferansın, katılımcı ülkelerin ticaret müzakerelerinin başarısız olması pahasına da olsa kendi çıkarlarını koruma konusundaki tutumlarını sürdürmeleri bakımından önemli bir örnek sunmasıdır. Bu bağlamda, bu çalışmada amaçlanan, söz konusu ülkelerin çatışan müzakere tutumlarını incelemek ve bu ülkelerin farklı öneriler üzerinde sürdürdükleri ısrar ve kararlılığın Cancún'da gerçekleştirilen ticaret müzakerelerinin başarısız olmasına nasıl etki ettiğini tespit etmektir. Bu çalışmanın ana argümanı, gelişmekte olan ülkelerin karşılaştıkları zorluklar karşısında ortak bir duruş benimsemelerinin ve G-20 koalisyonunu oluşturmalarının onların Cancún Bakanlar Konferansı'ndaki zaferlerini gösterir nitelikte olduğudur. Brezilya liderliğinde, Çin ve Hindistan'ın da desteğiyle, kurulan G-20 gelişmekte olan ülkelere kendi çıkarlarına ters düşen herhangi bir anlaşmayı engelleyebilme olanağı tanımıştır. Cancún'da gerçekleşen tıkanıklık her ne kadar Doha Turu çok taraflı ticaret müzakerelerine zarar verse de, gelişmekte olan ülkelerin başarılı koalisyon stratejileri DTÖ içerisindeki güç dengesini kendileri lehine çevirmeyi başardıklarının bir göstergesi niteliğindedir.

Anahtar Kelimeler: Ticaret Müzakereleri, DTÖ, Doha Turu, Gelişmekte Olan Ülkeler, G-20

Introduction

The very first trade round under the auspices of the World Trade Organisation (WTO)¹, the Doha Round or Doha Development Agenda (DDA) was officially initiated in 2001. The primary objectives of the Doha Round were the achievement of the well-functioning international trade system, the decrease in subsidies and domestic supports in the agriculture sector, and the reduction of trade barriers for agricultural and non-agricultural products. As the Doha Round embraced wide-ranging objectives, there have been highly controversial discussions during ministerial meetings of the Doha Round. The first major breakdown of the Doha Round happened at the Cancún Ministerial Conference in 2003 and a series of deadlocks have followed until the breakthrough ultimately achieved in 2013 Bali Ministerial Conference².

In this regard, this study investigates the collapse in the multilateral trade negotiations at the Cancún Ministerial Conference of the Doha Round. The Cancún Ministerial Conference is a notable example of how countries strive to affect the negotiation process to maintain and enhance their vested interests, even at the expense of the deadlock of trade talks. During the Cancún Ministerial Conference, developing countries promote the reduction in domestic supports and subsidies for agricultural products in developed countries, privileged access to developed country markets and the Special and Differential (S&D) treatment for themselves. However, for developed countries, especially for the European Union (EU) and the United States of America (US), the situation seems quite different. Although both the EU and the US devote themselves to liberalist role, they also embrace protectionist measures in their domestic markets, particularly in the agriculture sector. As Economic and Political Weekly ([EPW], 2003: 3528) indicates, some developed countries, including the US and the EU, spend nearly a billion dollars on subsidies per day and implement several protectionist precautions to secure their farmers against price fluctuations. Since domestic liberalisation does not have sufficient supporters due to the

implemented protectionist policies both in the EU and the US, they push the Singapore issues³ to the negotiation table. It is evident that, though the development discourse is positioned at the centre of the Doha Round, the EU and the US destroy the trade negotiations by only paying attention to their interest.

The primary aims of this study are, therefore, to critically analyse the opposing behaviour of developing and developed countries, in particular, the EU and the US, and show how their insistence on different proposals to conduct the markets led to the breakdown of trade talks at the Cancún Ministerial Conference. The main argument of this study is that Cancún Ministerial of the Doha Round displays that coherent coalition strategies of developing countries to express their concerns as a response to the difficulties that they encounter enhances their negotiation strength despite the pressures from developed countries, especially the EU and the US. The coalition strategies and the determination of developing countries also lead to the change in the balance of power in the WTO as they succeed to prevent the ratification of any agreement against their vested interests. This study is divided into four sections, including this introductory section. The second section gives a brief overview of the Doha Round. In the third section, it is strived to assess the negotiation behaviour of participant countries and the reasons for the collapse of the Cancún Ministerial by examining its preliminary process, so-called Singapore issues, developing country coalitions, agricultural stalemate, and the closure of Cancún Ministerial Conference. Finally, the conclusion briefly summarises the main arguments and findings of the study.

1. The Background of the Doha Round

During the first five rounds of the General Agreement on Tariffs and Trade (GATT), the fundamental aim was to decrease tariffs to market access. Then, the 'non-tariff barriers' to market access and 'trade-related aspects' of the domestic economic policies were also included in the agenda of the 6th and 7th GATT Rounds. The last round of the GATT, the Uruguay Round, dealt with the 'resource-intensive' and 'intrusive' trade policy arrangements (Koopmann, 2005: 235). Indeed, the Uruguay Round pushed a wide number of trade agreements, including not only on agriculture, textiles and clothing but also on services, trade-related aspects of intellectual property rights and

investment measures (Narlikar and Wilkinson, 2004: 454). In terms of minimising existing imbalances in the GATT, the inclusion of agreements on agriculture, textile and clothing can be regarded as an improvement. However, the containment of agreements on services, intellectual property rights and investment measures generates new instabilities.

As the WTO, which was established in 1995, is the successor to the GATT, it has embraced the unresolved matters of the Uruguay Round. Therefore, the reactions of developing states and anti-globalisation movements exacerbated during the conference and resulted in the collapse of the WTO Ministerial in Seattle in 1999 (Hay, 2007: 27; Narlikar and Wilkinson, 2004: 455). Following the breakdown of the Seattle Ministerial Conference, the WTO launched the Doha Round in Doha, Qatar, 2001. The Doha Round is the first round of trade negotiations under the umbrella of the WTO, and the adjusted target date for the conclusion of the Round was 2005 (Narlikar and Priyadarshi, 2014: 1052).

Placing the discourse of ‘development’ at the core of the Doha Round was promoted by the developing powers, particularly Brazil and India since they believed the requirement of voicing ‘anti-development’ problems and market access for developing country products (Ahnliid and Elgström, 2014: 81). It is worth to mention here that compared to Brazil and India, which have displayed their involvement in both the GATT and the WTO, China pursued relatively less active strategies as it became a member of the WTO in 2001 (Narlikar, 2010: 719). Furthermore, the EU demonstrated its attempts to promote the discourse of ‘development round’ to create a good partnership with developing countries (Van den Hoven cited in Ahnliid and Elgström, 2014: 79). However, the US stated that the usage of the development discourse was uncertain.

The main subjects that have been discussed during the Doha Round are the diminution of agricultural support and export subsidies and the enhancement of market access for agricultural and non-agricultural products such as industrial goods and services (Gomes Pereira, Teixeira and Raszap-Skorbiansky, 2010: 256). As countries have encountered the highest levels of barriers mostly in the agriculture sector (EPW, 2003: 3528), agriculture predominantly framed the substance and the route of the Doha Round negotiations (Hay, 2007: 28). However, embracement of far-reaching objectives gave a space

to extend the negotiations to the so-called Singapore issues, which are competition, investment, government procurement and trade facilitation (Narlikar and Priyadarshi, 2014: 1052).

The Doha Round, therefore, has witnessed the clashing interests of participant countries. Although the breakthrough eventually reached at the Bali Ministerial of the Doha Round in 2013, the different preferences of member states have engendered the deadlock of the Doha Round over a decade. As Andersson (2012: 191) indicates, different interests of countries in the Doha Round stems from the interaction between their domestic and international policies, norms and beliefs. In this respect, this study examines the very first deadlock of the Doha Round at Cancún. It argues that at the Cancún Ministerial, the emergence of developing country coalitions, particularly the formation of the G-20⁴, including Argentina, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, India, Mexico, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand Venezuela (Catholic Agency for Overseas Development [CAFOD]), 2003), narrowed the capability of the US and the EU to rotate international trade arrangements with respect to their domestic interests. Hence, the Cancún Ministerial is an excellent illustration of how countries endeavour to manage international trade negotiations in terms of their national policy priorities and how the determination of those countries to maintain their firm stance leads to the collapse of negotiations.

2. The Collapse of the Ministerial Conference in Cancún

The Cancún Ministerial Conference of the Doha Round was held in Cancún, Mexico, during 10-14 September 2003. Throughout the Conference, five negotiation groups were established for agriculture, non-agricultural market access (NAMA), development, the Singapore Issues and other issues, and five ministers were allocated as facilitators of these groups to pave the way for trade talks (Biores, 2003). Following the unrecorded and opaque discussions of negotiation groups and bilateral sessions, Conference Chair, Mexican Foreign Minister, Luis Ernesto Derbez published a revised draft of Ministerial text on 13 September. With the publication of the revised draft, the agriculture and the Singapore issues emerged as the most

controversial domains between developing and developed countries. As a result of protracted disputes, primarily over these domains, trade negotiations at Cancún were ended with the collapse.

There is no doubt that there are several factors that caused the failure of the Cancun Ministerial Conference. However, this section primarily analyses how the varying interests of the WTO member states lead to the breakdown of trade talks in Cancún. In that regard, this section primarily examines the process leading up to the Cancún Ministerial, discussions about Singapore Issues, the formation of developing country coalitions throughout the Conference, the stalemate on agriculture and the closing session of the Conference in terms of the different priorities of participating countries.

a) The Process Leading up to the Cancún Ministerial Conference

In the run-up to the Cancún Ministerial, there were several problems such as the existence of informal small group meetings, which also called as ‘Green Room’ meetings, and the methods of specifying the negotiating agenda (Narlikar, 2004, pp.420-425). Indeed, the preliminary process of the Cancún Ministerial was less clear compared to those of the Seattle and the Doha (Jawara and Kwa, 2004). The draft text of the Cancún Ministerial (see WTO, 2013), which was released shortly before the Ministerial, on 24th August, predominantly promoted the positions of the EU and the US. Although there was substantial opposition of developing countries against the draft text, it was indicated that any adjustment of it would not be possible (Jawara and Kwa, 2004).

Moreover, the Doha Ministerial Declaration included the agreement to revisit the implementation of Uruguay Round subjects. These subjects cover the technology transfer, investigation of the relationship between trade, debt and finance, the technical collaboration and assistance, and the pledges to consolidate the S&D treatments in return for the agreement to discuss the modalities of Singapore Issues (Narlikar and Wilkinson, 2004: 455). The Cancún Ministerial, therefore, has witnessed the antagonism between the industrial countries that strived to negotiate the Singapore issues and developing countries that targeted to access the agriculture

markets of developed countries and the extension of S&D treatment.

b) Singapore Issues

The draft Cancún Ministerial text indicated that the ‘explicit consensus’ is required for the negotiations of modalities on Singapore issues, which are investment, competition and transparency in government procurement and trade facilitation (WTO, 2003). As the explicit consensus could not be reached to launch negotiations on Singapore issues before the Cancún Ministerial Conference, the draft text was revised. The revised text contained two options: the first was to begin negotiations directly, and the second was to analyse and illuminate the issues before starting negotiations. However, the appendixes of the text heavily favoured to start negotiations in compliance with the interests of the developed countries (Narlikar and Wilkinson, 2004: 449).

Furthermore, as there was not any standard definition of the explicit consensus, it was interpreted in terms of each country’s perception (Narlikar and Wilkinson, 2004: 450). Developing countries strived to clarify Singapore issues rather than commence negotiations. Indeed, the opposition of developing countries to negotiate Singapore issues was due to their desire to maintain control of their primary industrial sectors (BBC, 2003). Nevertheless, the US wanted to start negotiations on government procurement and trade facilitation immediately and offered a sustained study process on investment and competition while the EU opted to negotiate the four issues simultaneously (Jawara and Kwa, 2004). During the Doha Round, the EU mostly suggested negotiating Singapore Issues and NAMA to get privileges from trading partners in other areas. Thus, the EU desired to balance the antagonism towards the compromises in the agriculture sector (Young, 2010: 136). For this reason, it was not surprising that the negotiations during the Cancún Ministerial were highly contentious. Developed countries sought to benefit from the complication of the ‘explicit consensus’ and thrust the Singapore issues into the negotiation table whereas developing countries resisted to the involvement of these issues in the negotiation agenda by emphasising that the consensus was not achieved yet.

c) Developing Country Coalitions

In the run-up of the Cancún Ministerial Conference, developing countries were in doubt about US's and the EU's manoeuvres and feared that their interests would be jeopardized. These concerns of the developing countries caused the formation of several coalitions such as the Core Group opposed to the Singapore Issues, the alliance on Strategic Products (SP) and Special Safeguard Mechanism (SSM) to promote a particular treatment for specific products, and the G-20 on agriculture (Narlikar and Tussie, 2004: 950). Moreover, there were other groupings of developing countries that were the Group of Four West and Central African countries on cotton, the Least Developing Countries (LCDs), African-Caribbean-Pacific (ACP) and the African Union (AU). Indeed, the aggregation of LCDs, ACP and the AU was called as the G-90 (Jawara and Kwa, 2004).

In this conjuncture, this study contends that the launch of the G-20, under the leadership of Brazil, along with India and China (BIC), is the most remarkable hallmark of the Cancún Ministerial Conference as it demonstrates the strength and unification of the developing countries despite the bilateral pressures from the EU and the US. Indeed, the formation of the G-20 is a response to the bilateral US-EU deal on the framework of modalities in agricultural talks, in August 2003, which ignored the interests of developing countries (Narlikar and Wilkinson, 2004: 456). Therefore, the emergence of the G-20 as a relatively coherent bloc in negotiations, which combines the developing world's largest and smallest economies in the same platform, has transformed the power politics within the WTO.

d) The Stalemate on Agriculture

In both the EU and the US there has been a defensive attitude about their agricultural policies and inadequate leverage for the domestic liberalisation since both countries provide sizeable assistance to their agricultural sector (Young, 2010: 131). Therefore, the joint US-EU Proposal on the agricultural modalities was a 'blended formula' that contained a varied level of tariff reduction for different tariff groups. The proposal indicated that the export subsidies for particular products for developing countries would be eliminated while

those for remained products would be reduced (Mori, 2004: 402). However, there was not any mention to an end date for export subsidies (Jawara and Kwa, 2004). The Proposal also stated that trade-distorting domestic support should be decreased. According to developed countries, the implementation of S&D treatment to competitive developing countries was unfair as they differentiate from the least developing countries (Mori, 2004: 402). Therefore, these developing countries were asked to accept an 'ambitious formula' for tariff reduction without informed in detail about the subsidy cuts in the developed countries (Jawara and Kwa, 2004).

By contrast, the agenda of the G-20 included the phasing out of subsidies for significant products for developing countries in a given period and the improvement of the S&D treatment and protection of 'non-trade' interests of the least developed states (Narlikar and Wilkinson, 2004: 456). Indeed, the G-20 countries claimed that market access should be extended immediately without asking reciprocal compromises to them. They also asked for a cut of internal supports in developed countries and a less sharp decrease in tariffs for themselves (Jawara and Kwa, 2004). As developing countries have an enormous potential for agriculture, they would achieve more significant gains by reducing barriers in agriculture (Gomes Pereira, Teixeira and Raszap-Skorbiansky, 2010: 257). It is clear that the proposals of the G-20 targeted to achieve reform in agriculture to enhance just and 'market-oriented' trade regime (Efstathopoulos, 2012: 273) and compelled developed countries to carry out greater liberalisation than they compromised.

e) The Closure of the Cancún Ministerial Conference

On the penultimate day of the Cancún, September 13th, Chairman Derbez declared the revised draft of the Cancún Ministerial Declaration, which was disregardful of the developing country interests in many areas. Despite the vigorous opposition from developing countries, the revised draft proposed to begin negotiations on three of the Singapore issues and a study process on the fourth issue, which is competition. Likewise, concerning agriculture, the text overwhelmingly

favoured the stance of the EU-US joint proposal. Indeed, the text recommended lethargic cuts in subsidies of the EU and US whereas immensely ambitious cuts in developing country tariffs (Jawara and Kwa, 2004). Therefore, the developing countries were disappointed as their interests were not taken into account.

As a result, during the last night of the Ministerial Conference, two informal green room meetings were held on Singapore issues, in which BIC participated along with the US, the EU, and some other developed and developing countries. As the consensus could not be achieved over Singapore Issues, Pascal Lamy, the EU Trade Commissioner, proposed to discharge two or three of them, which are investment, competition and government procurement in return for negotiations on trade facilitation (Jawara and Kwa, 2004). It is worth indicating here that some sources state that the EU offered to extract merely two of the Singapore issues, which are investment and competition (Biores, 2003; Bridges Daily Updates (BDU), 2003; CAFOD, 2003). Moreover, the G-90 countries articulated their opposition to negotiating any of the Singapore issues while the countries like Korea and Japan indicated their constancy on negotiating all these issues (BDU, 2003).

As the focal point of the talks moved from agriculture to the so-called Singapore Issues at the very last hours of the Ministerial (Mori, 2004: 394), Chairman Derbez suddenly decided to end meetings earlier. The unexpected decision of the Derbez led to the closure of the Cancún Ministerial Conference without a consensus on any of the items on its agenda. In that regard, a considerable number of observers perceived the Singapore issues as a hindrance to the Cancún deal. However, it is also worth recalling that even if the Singapore issues were sorted out, the consensus on agricultural pledges would still be compelling to agree (Muralidharan, 2005: 5451; Mori, 2004: 410).

According to CAFOD (2003: 3), the breakdown of the Cancún Ministerial was a drawback for the negotiations, however, “no deal was better than a bad deal, and a bad deal was what on offer in the 13 September draft text”. As the revised draft declaration does not represent the stance of all WTO members as indicated during the Ministerial Conference, it can be argued that the positions of developed countries, particularly

the US and the EU, were backed while those of developing countries were overlooked. For this reason, trade talks in Cancún failed amidst severe divergences between developed and developing nations (BBC, 2003), particularly in the area of agriculture and the Singapore issues. In this regard, the developing country coalitions, particularly the G20, and their resistance to the pressures as unity proved that they no longer surrender to the proposals of the US and the EU especially on subjects that are essential to them.

Conclusion

As many countries admitted that there is a growing need to mention the 'development deficit' and the 'capacity constraints' of the WTO, which restrict the advantages of the market access and the WTO agreements (Hoekman and Kostecki cited in Hoekman, 2014: 242), the very first trade round of the WTO was labelled as 'Doha Development Agenda'. Nevertheless, developed countries were mainly neglectful of the developing country interests during the Doha Round, and thereby, the Doha Round was in a stalemate over ten years. In that regard, this study sets out to determine how member states have acted at the Cancún Ministerial Conference to retain and improve their vested interests in the domestic and international markets.

Since the very beginning of the Cancún Ministerial Conference, the developed states, particularly the US and the EU, tried to push their concerns, mainly in the area of agriculture and the Singapore issues, to the agenda of the negotiations due to the desire to protect their domestic farmers. Therefore, developing countries formed the G-20 and voiced their collective stance on agriculture against the practices of developed countries. Moreover, the group of G-90 also expressed the opposition to the commencement of negotiations on Singapore issues on behalf of developing countries. Nevertheless, despite all efforts of developing countries, the revised draft text of the Cancún Ministerial, which was released on the penultimate day of the Conference, mostly reflected the preferences of the US and the EU. As the divergence over Singapore issues exacerbated following the publication of the revised draft, Chairman Derbez decided to end the conference earlier than planned.

During the last hours of the Ministerial Conference, although the EU exhibited a moderate attitude to achieve a deal with developing countries, the demands of the US from developing countries were more than what these countries were able to commit. In that regard, this study reveals that although the collapse of negotiations in Cancún damaged the Doha Round, developing countries' robust unification empowered them to resist the several pressures of the developed countries. Moreover, coherent coalition strategies of the developing powers shifted the balance of power within the WTO by obstructing any inappropriate agreement in terms of their interests.

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¹The WTO was established in 1995 and replaced the General Agreement on Tariffs and Trade (GATT), which was the main instrument for managing international trade in the post-war years.

²The Bali Ministerial is the 9th Ministerial Conference of the WTO that was held in 2013, Bali, Indonesia. Bali Ministerial Conference witnessed the participating countries willingness to compromise as the "small packages of measures" was accepted (see, Wilkinson, 2014).

³The so-called four Singapore Issues are relationship between trade and investment, interaction between trade and competition policy, transparency in government procurement and trade facilitation (see, WTO, 2003).

⁴Throughout the Ministerial, El Salvador left the group whereas Egypt, Nigeria and Indonesia participated, and formed the coalition of G-22. As different sources have mentioned the group differently such as G-20, G-21 or G-22, in this study, the term 'G-20' will refer to this group to provide cohesion.

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