



Reforming the World Trade Organisation: *Developing Countries in the Doha Round*

Introduction

One of the greatest achievements of developing countries during the ongoing WTO Doha Round of trade negotiations has been the creation of groups that have played an unprecedented role in these negotiations: the G20 group, G33, Non-agricultural Market Access (NAMA) 11, Africa Group, African, Caribbean and Pacific (ACP), Least Developed Country (LDC) Group, the Small and Vulnerable Economies (SVEs) and the grand coalition of all the mentioned groups, the G110.

However, the formation and development of these coalitions has not been smooth sailing. To illustrate, the G20 withstood the test of attempts to divide and dismember it in Cancun and thereafter. It has had to forge difficult compromises amongst its more competitive agricultural exporters and those with agricultural economies still characterised by the prominent presence of vulnerable small farmers. Here, the G20 has succeeded in maintaining an uneasy balance between those that seek more flexibilities in the Special Safeguard Mechanism (SSM) and Special Product (SP) and others that seek to restrain these to advance their export interests.

The NAMA 11 too has had to build a convergence of positions amongst developing countries with different tariff structures, levels of industrial development and needs for policy space. India has worked closely with South Africa, the co-ordinator of the NAMA 11, to build common strategies. However, there were moments when this unity was tested. At the July 2008 Ministerial Meetings, the WTO Director General, Pascal Lamy, decided to invite a select group of developing countries, the G7, that included India, China and Brazil. Indian Minister, Kamal Nath, resisted all efforts by the developed countries to cut a deal that divided India from its developing country allies in the G20, NAMA 11, G33 and other groups, including the Cotton 4. Such efforts contributed to the collapse of the Ministerial Meetings in July and December 2008.

However, the mentioned developing country groups were to emerge stronger from these collapses and unite in the informal Ministerial Meeting of the Group of Developing Countries, in Geneva, during the Seventh Ministerial Conference held from November 30-December 03, 2009.

The ability and willingness of developing countries to play an increasing role in the WTO also led to several members tabling proposals in 2009 for its reform:

- India led the way by tabling five proposals on systemic reforms of the WTO: establishing a web-based trade information system, strengthening of WTO committees, an enhanced work programme on regional trade agreements, a comprehensive instrument for LDC preferences and clarification of technical barriers to trade.
- The LDCs and the Informal Group of Developing countries have called for a review of the current guidelines and practices of the WTO accessions process, with a view to creating greater transparency.
- Argentina and Ecuador have tabled a proposal that calls for the WTO Secretariat to undertake analytical studies on the impact of implemented bailout packages on the trade of developing countries.
- China and several countries have called for the staff composition of the WTO secretariat to be more representative of the WTO membership.

The importance of WTO reform (one of the two main issues for discussion at the Seventh WTO Ministerial Conference held in December 2009) was highlighted when India, supported by a large number of members (including South Africa), tabled another proposal at the October 2009 General Council meeting of the WTO that called for the launch of a process of deliberation to review “the functioning, efficiency and transparency” of the WTO and “consider possible

improvements". This proposal was subsequently endorsed by a number of developing country groups, including the Africa Group, the LDC group and the ACP. Unfortunately, a small group of developing countries, led by Cuba, Venezuela, Bolivia, Nicaragua and Ecuador, were not able to join this consensus. Consequently, though WTO reform was debated at the Seventh Ministerial Conference of the WTO (MC7), the Ministers missed an opportunity to take a decision on the launching of a formal process of WTO reform.

Development needs to be firmly established as the overall high level goal of the WTO and the basis of coherence between the WTO and its sister organisations in the UN and Bretton Woods and ways and means for the implementation of this proposal should be recommended. Subsequently, debates should be explored on the formal and informal decision-making processes of the WTO, as reform of these processes needs to complement the above mentioned re-prioritisation and redefining of goals. Some recommendations are then made.

Development as the Overall High Level Goal of the WTO

The Doha Declaration that launched the current Doha Round stated: "The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration". The Doha declaration recalled the preamble of the Marrakesh Agreement (1994) which had initiated the launch of the WTO and had set out the objective of "sustainable development", with an emphasis on the need for "positive efforts to ensure that developing countries secure a share in the growth of international trade commensurate with the needs of their economic development". The Declaration went on to state that "in this context, enhanced market access, balanced rules, and well-targeted, sustainably-financed technical assistance and capacity-building programmes have important roles to play". In addition, various parts of the mandate promised to address some of the existing imbalances in the GATT/WTO and the Uruguay Round Agreements.

The Doha mandate also made promises to address the "implementation issues" and to strengthen special and differential treatment (S&DT) provisions. Of course, the main issue related to the agreed mandate on agriculture that promised to make substantial reductions in trade-distorting support, eliminate export subsidies and make substantial improvements in market access. Even in NAMA, the products of interest to developing countries were to be prioritised. Eight years on, the Doha Round is still to find agreement on the modalities (formulas) of the agriculture and NAMA negotiations that will make the cuts in subsidies and tariffs.

Since the launch of the Doha Round, there have been several collapses (Cancun, July 2006, July 2008). At the heart of this has been the failure of the developed countries to honour the promises made in the Doha mandate to ensure that this round makes a decisive break with the past by addressing the imbalances in the existing agreements and tilting the balance in favour of developing countries. Again, developing countries were prepared to contribute as long as the principles of S&DT and 'less than full reciprocity' agreed in the Doha mandate were adhered to. However, the overriding reason for failure has been the reversion of developed countries to old mercantilist habits of seeking increased market access, at the expense of developing countries.

Thus, the issue at stake for the WTO is to clarify the higher level or overall objectives of the WTO. Given its historical failure to address the concerns of developing countries and the fact that developing countries now constitute the overwhelming majority of its membership, the WTO needs to declare its mission to be that of advancing the development interests and concerns of the majority of its members.

This will not turn the WTO into a "development agency or institution", as some critics of this argument suggest. Rather, it will clarify the overall high level principles and objectives that should guide the WTO in executing its functions. The objectives and the mission of the WTO have to be distinguished from its main purpose and function.

Furthering the Developmental Goal through Coherence with Global Institutions

Adopting the mentioned clear mission would promote coherence of the WTO with a wider set of global institutions in the United Nations [United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), International Labour Office (ILO)], etc. and the Bretton Woods Institutions [International Monetary Fund (IMF), World Bank (WB)] and their goals, especially with regard to international trade. A prominent example pertains to one of the Millennium Development Goals (MDGs)¹ adopted by world leaders at the UN Millennium Summit in September 2000, which calls for the establishment of "an open, rules-based, predictable, non-discriminatory trading and financial system".

At the 2002 Monterrey Conference on Financing for Development, world leaders agreed to forge a partnership between developed and developing countries to advance the MDGs – the Millennium Development Compact. The Doha Development Agenda, agreed on by WTO members in November 2001, should be seen in this context, as the WTO is an essential part of the global effort needed to achieve these objectives.

The WTO already has a formal working relationship with several of these institutions. The WTO should participate in the UN Development Group and jointly contribute to the high level objective of development set by the UN in its UN Millennium Declaration and affirmed through several subsequent global summits. However, the principle institution that the WTO should strengthen its relationship with, given the many common and complementary work programmes involving the two, is the UNCTAD. Strengthening this relationship will help the WTO to develop its analytical capacity and contribute to the overall goal of development. Indeed, UNCTAD was created to serve this very purpose.

Advancing the Developmental Objective through Reforms in Formal and Informal Decision-making

At the end of the Uruguay Round, a number of prominent writers (for instance, Michael Finger, the ex-World Bank Chief Economist) declared the Round to be imbalanced and prejudicial to the interests of developing countries. Other writers argued that this reflected the pattern of asymmetrical power relations that characterised the GATT (Rorden Wilkinson) or criticised the GATT for its (“club-like”) undemocratic decision-making practices (Sylvia Ostry). The GATT, it was argued, was shaped by its main architects (the US, and then the EU, and later Canada and Japan) to maintain a style of decision-making that brought the main players to the centre of negotiations while marginalising developing countries.

Even as late as the end of the Uruguay Round, the real breakthrough in the flagging Uruguay Round came when the US and EU agreed on a final package in Blair House. The package was largely imposed on the rest of the membership that were allowed to make only minor adjustments. It is for these reasons that there was great reluctance by developing countries to consider another round of negotiations after the Uruguay Round unless such a round sought to take remedial action and provide assistance in negotiating the high cost and administrative burdens placed on them by the Uruguay Round agreements (the so-called “implementation issues”). They thus insisted on a “Development Round”.

Clearly, the adoption of the Developmental Objective as the overall high level goal of the WTO is not enough. Debate and consequent reforms of formal and informal decision-making procedures and practices, if found necessary, are called for.

The WTO has been relatively more successful than its Bretton Woods counterparts in building a more democratic decision-making system. Propelled by some major setbacks (Seattle and Cancún²), the WTO has continued to learn and improve its decision-making processes.

A recent evaluation of the state of the WTO undertaken by the Warwick Commission³ called for greater flexibility in the voting system. The Commission called for the concept of “variable geometry⁴” to replace the more rigid “single undertaking⁵” concept that was deployed in the Uruguay Round and has since become the conventional approach in the Doha Round. The Commission urges WTO members to seriously consider “critical mass as part of the decision-making procedures for delineating the WTO agenda”.

However, an earlier report supported the consensus approach to decision-making that is generally followed by the WTO and suggested ways in which this could be improved. This report, also known as the Sutherland Report⁶, recommended, in an attempt to reduce the resort to blocking measures (such as a veto by a single country to prevent consensus) by some countries, that any country seeking to block a decision should declare in writing that the matter is one of vital national interest to it. This recommendation, if implemented, could help the WTO to strengthen the consensus approach to decision-making and neutralise the efforts of large members, motivated by reasons extraneous to trade issues, to block consensus.

The Sutherland Report entertained the possibility of implementing the concept of ‘variable geometry’ in the operations of the WTO, but advocated a cautious approach based on further deliberation, as WTO members were currently divided in this regard and many were suspicious that this would create a two-speed and two-track system, compromising the principle of inclusiveness.

The issue of voting method is another possible reform area. The debate on this in the GATT and later the WTO has its origins in the early negotiations on the proposed International Trade Organisation (ITO) that was to be part of the Bretton Woods institutions after the Second World War. This was one of the few issues on which the developing countries were successful in these negotiations. For decision-making in the ITO, the US delegation proposed the same method of weighted voting that was used in the IMF. A similar proposal was made by the UK to take into account the economic size of the country in determining its share of the vote. Developing countries voiced their opposition, as they feared that this would institutionalise their secondary status and a number of them⁷ came out in favour of consensus. As a consequence, the ITO, and later the GATT, did not adopt a system of weighted voting, with the latter opting for a consensus approach. Developing countries should thus resist any attempts to dilute the consensus principle or change this in favour of some weighted voting or “critical mass” approach.

The issue of small groups (green rooms or mini-ministerials) has been a subject of intense debate and criticism by NGOs and other civil society critics of the WTO during the past decade. With the rise of a more assertive and organised set of developing country alliances in the WTO marking the

onset of the Doha Round, there have been some piece-meal reforms to appease some of the critics. However, the small group approach to negotiations and “pressure cooker” method of negotiations has been perpetuated in new forms in the WTO negotiations: the G4, G5, G6 and recently the G7 Ministerial Meeting held in Geneva in July 2008. Almost all these efforts for reform have resulted in failure.

The WTO would need to think carefully about how it constitutes small groups to advance the negotiations. China, India, the US and the EU would automatically be part of any small group created to broker a deal because of their size, but the interests of the rest of the membership also have to be represented. The model of small groups, which includes members simply on the basis of their economic and political weight or “principal supplier approach”, is not suited to the diversity of economic interests and the political expectations of diverse WTO members.

Another issue that has caused great concern to developing countries in the NAMA negotiations is the role of the chairs of WTO negotiations. During the course of the negotiations in June and July 2007, the G20 and the NAMA 11 united in protest against the attempt of the NAMA chair to establish a high level of ambition in NAMA in favour of developed countries, whilst ignoring the views of the developing countries. Developing countries also presented a united front in the G90 in response to the first drafts of the NAMA chair⁸ who was criticised for his failure to listen carefully to the views of different members and act in an objective

manner and thus build a text through an inclusive bottom-up process.

The WTO does not have clear rules regarding the role of the chairs. The only set of guidelines that have been formulated states that: “chairpersons should continue the tradition of being impartial and objective, ensuring transparency and inclusiveness in decision-making and consultative processes; and aiming to facilitate consensus”. Thus, there is a need for WTO members to consider developing a code of conduct for prospective chairs which pays attention to the attributes of a prospective chair and his/her willingness to work for the common good of the organisation, with due regard for the broader goals of the WTO and the agreed mandates of the negotiations.

Conclusion

These are some of the issues, by no means exhaustive, that will need to be debated and discussed amongst governments, civil society and the global governance institutions. In embarking on this venture, one is not naïve to believe that they can be resolved overnight or that there will not be attempts to roll back existing gains that have already been made by developing countries. However, we have little choice but to continue the struggle for a fair, more balanced, development-oriented, inclusive and transparent WTO.

Endnotes

- 1 These are focused on the overall objective of reducing world poverty by half by 2015.
- 2 This failure propelled the then Commissioner of Trade of the EU, Pascal Lamy, to argue that the WTO decision-making system was “medieval” and needed major reforms.
- 3 *The Multilateral Trading Regime: Which Way Forward*, The Warwick Commission: (The University of Warwick, December 2007).
- 4 This implies that the WTO would serve as an umbrella framework for agreements on trade issues whose signatories would not necessarily include all its members, and thus facilitate deeper liberalisation, based on agreement among a subset of members regarding selected subjects, without being hindered by unwillingness of other members to go along (“Variable Geometry for the WTO: Concepts and Precedents”, UNCTAD Discussion Paper by Andrew Cornford).
- 5 Virtually every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. “Nothing is agreed until everything is agreed”. (http://www.wto.org/english/tratop_e/dda_e/work_organ_e.htm).
- 6 Named after Peter Sutherland, who chaired the consultative board set up by Supachai Panitchpakdi, then Director General of the WTO, for drafting the report (*The Future of the WTO: Addressing Institutional Challenges in the New Millennium*, 2004).
- 7 Such as Czechoslovakia, Turkey, Lebanon, Iraq, El Salvador, Venezuela and Mexico.
- 8 See “Joint Statement of the G90 and the NAMA 11”, July 26, 2007 in “Twenty Months of the NAMA 11”, South African Mission to the UN and WTO, Geneva, August 2007.

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