



Mainstreaming Development in the WTO

Developing Countries in the Doha Round



Faizel Ismail

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Foreword

During the years of international trade negotiations covered in this volume, development concerns have increasingly become ‘mainstreamed’ into the trade agenda. Paradoxically, this has emerged during a time not of economic crisis, but when the world economy has been delivering growth to a large number of developing countries.

Ever since the mild recession of the early 2000s, the world economic environment has been very positive. This has been particularly marked for developing countries, which achieved on average 5-6 percent growth and significant decreases in poverty - including among least developed countries (LDCs) and other African countries. However, this is not to say that the promise of globalisation and trade has been fully delivered. Not all countries or segments of the population have benefited and in some instances, conditions have even worsened. This disparity of experiences partly explains why there has been protest amid prosperity, and why development concerns have moved to the foreground in the global trade order.

The process through which development concerns have come to the forefront reflects a series of intellectual, political and economic milestones that changed the global trade order in the years between Uruguay and Doha, as documented in this volume. The challenge now is to use the opportunities present in the current promising economic conditions, and to guide global trade governance to ensure that gains from trade can be delivered more equitably over the years to come.

As is widely accepted, achieving this will require continued progress in the liberalisation of trade through the World Trade Organisation (WTO), particularly in sectors of crucial interest to developing countries. Genuine liberalisation of tariff and non-tariff barriers (NTBs) is critical, as is the removal of trade-distorting practices including many so-called ‘green box’ allowances.

However, ensuring that trade becomes a true force for development means going far beyond simply improving developing countries’ access to the markets of developed countries. UNCTAD’s vision and mission is to promote trade as an effective instrument for the effective and beneficial integration of developing countries into the international trading system. Enabling a more fair and free trade for developing countries also includes a coherent policy approach to promote the creation of productive resources, skills and capacities within developing countries, as a crucial complement to trade liberalisation. The Aid for Trade initiative is a welcome recognition of this, and – if implemented as promised – can make an important contribution to increasing the benefits of trade liberalisation for development.

More broadly, there is now a growing realisation that trade for trade's sake is not and should not be the goal; trade is rather a path to improving economic and human wellbeing. This approach implies, for example, that we focus on development-led trade rather than simply trade-led development. What this can mean in practice is that different countries will have different needs, resources and aspirations, and that national, regional and international policy frameworks need to be flexible enough so as to respond appropriately to each country's individual or regional context. For example, the needs of LDCs are different from the needs of the rapidly industrialising developing countries, although both groups of countries still face challenges in participating in and benefiting from the opportunities of globalisation.

This changing perception about the dynamics of trade and development is underpinned by a highly significant shift in the role of developing countries in global trade, including their heightened weight and 'voice' in the global economy, and in global governance issues. Today no negotiation of any international economic agreement is conceivable without the presence of China, India, Brazil and South Africa; and the smaller developing countries including LDCs are also increasingly to be heard. The growing economic strength of developing countries as both consumers and producers in global markets is changing the investment and trade landscape irrevocably. This is further reinforced by an intensifying awareness in many developed countries of the need for a more open and equitable world trade environment.

In my former role as Director-General of the WTO and my current role as Secretary-General of UNCTAD, I have been privileged to witness and participate in this process, contributing in meetings and negotiations alongside the author, and in the various milestones and events that he has documented in this important volume. It has been increasingly clear to me and others over the last decade that the focus of trade liberalisation must be on more than achieving an open, non-discriminatory, predictable and rules-based multilateral trading system - it must also be able to deliver on the promise of development if it is to be sustainable.

September, 2007
Geneva

Dr. Supachai Panitchpakdi
Secretary-General of UNCTAD

Preface and Acknowledgements

At the time of writing this book the WTO was facing its most decisive moments. The ministerial meeting of the four largest players in the WTO – the EU, the US, Brazil and India – held in Potsdam, Germany, on June 21, 2007 had collapsed. The protracted negotiations of the Doha Round needed to take a giant leap forward towards its conclusion by the end of the 2007, or soon thereafter. Failure to do so would mean the near certain postponement of the round and the possible unravelling of more than six years of negotiations. The resumption would have to be in the period after the 2008 presidential elections in the US. The promise made at Doha to ensure that this round would focus on the interests and concerns of developing countries would again be postponed.

This book is partly a record of a personal intellectual journey; partly an attempt to provide institutional memory for the next generation of trade negotiators; and partly an effort to provide a platform for others to continue to build on, in pursuit of the goal of building a fair, balanced and development-friendly multilateral trading system.

The idea of mainstreaming development that I have tried to conceptualise here, which I first described in an article I wrote for the *Journal of World Trade*,¹ is an attempt to make a break with the previous undue emphasis by developing countries on special and differential treatment (S&DT). It argues that the concept of S&DT, while recognising the need to take into account the special needs of developing countries, is by itself ineffective and serves as a palliative for unfair and imbalanced trade rules. Simply deepening existing trade preferences and providing greater flexibilities for the existing rules of the WTO, as most provisions of S&DT call for, will not result in a more development-oriented WTO.

Addressing the development dimension of the multilateral trading system will in effect require making the WTO fairer, creating more balanced rules, providing capacity for the countries in need, and making the WTO more transparent and inclusive. I have thus argued for the development dimension to be mainstreamed in the WTO. This means that the agreements reached on market access and the rules must address the interests and concerns of developing countries.

The past eight rounds of the General Agreement on Tariffs and Trade (GATT) have failed to do so. The products of export interest to developing countries, particularly in agriculture and textiles, continue to come up against high barriers in developed country markets. In addition, trade-distorting subsidies have skewed world agricultural commodity markets in favour of rich countries, denying many developing countries the

¹ See Ismail, F., 'Mainstreaming Development in the World Trade Organisation', *Journal of World Trade*, Vol. 39, No.1, February 2005.

opportunity to develop their comparative advantage and export their way out of poverty. Several of the rules agreed in the Uruguay Round, for example on Intellectual Property Rights (IPRs) and Trade Related Investment Measures (TRIMs), have shrunk the policy space for developing countries to advance their development. The development dimension in the WTO, I have argued, should also address the capacity constraints of many of the poorer countries. Market access alone has not been sufficient to enable these countries to produce and compete. Whilst the WTO is not envisaged as a development agency, it can use its leverage to urge donor countries to provide more Aid for Trade.

The development dimension requires active steps to be taken by the stronger members of the WTO to ensure the fuller participation of smaller developing countries in the negotiating process and institutions of the WTO. A more legitimate and development-friendly WTO will require mechanisms to be strengthened in order to achieve greater transparency and inclusiveness. This concept of the development dimension is intended to provide a positive agenda for developing countries in the WTO. It is also intended to create the basis to build a legitimate rules-based trading system that moves away from the tendency towards purely mercantilist and interest-driven outcomes. In the concluding chapter I have reviewed the recommendations of the Sutherland Report. The report has also suggested the need for the WTO to move away from this tendency that comes with the history of the GATT. Instead, the report calls for the WTO to build the organisation on a minimum set of trade policy guidelines and vision. The conception above on the need for the development dimension to be mainstreamed could be a useful basis for the WTO to build on and to thus regain its legitimacy amongst the majority of its members and civil society.

Over the past three to four years, I have had the opportunity to present this concept of the development dimension in the WTO to many conferences and workshops in Geneva and other parts of the world. Ministers from smaller developing countries were often asked what it was that they were seeking from the WTO and what they meant by 'development'. Many found it difficult to respond, because development is hard to define, especially in the context of the multilateral trading system. In addition, development often means different things to the different categories of developing countries. My attempt to conceptualise the development dimension in the WTO, and to identify the different categories of developing countries and their different interests is a response to this challenge.

There are several chapters in the book that analyse the unfolding Doha Round negotiations from this perspective, including: the July Framework Agreement of 2004; the Hong Kong Ministerial Meeting of 2005; and the post-Hong Kong phase of the Doha negotiations until the collapse of the G-4 ministerial meeting held in Potsdam, Germany, on June 21, 2007. These chapters could serve as the institutional memory of the negotiations. As a negotiator in the WTO since the Doha Round began in early 2002, I (an insider) have been privileged to obtain a unique insight into the unfolding negotiations. I hope that this insight will be valuable for the next generation of trade negotiators from developing countries. This was my main motivation in writing this book, which includes some of my earlier articles in an updated form.

This book is also about the complexity of the issues and concerns of the smaller developing countries in the Doha Round. As Chair of the Committee on Trade and Development Special Sessions (CTDSS) for two years and Chair of the CTD for a year, I have used the insights gained from this experience to evaluate these issues and offer some tentative ways forward. Some of these ideas can be built upon in the ongoing negotiations. It is for these reasons that I think that writing such a book could make a small contribution to the next generation of negotiators and policy makers, especially those from developing countries.

The ideas developed in chapter two were partly generated in small brainstorming sessions organised by Ricardo Melendez, Director of the International Centre for Trade and Sustainable Development (ICTSD). I thank Ricardo Melendez, Bernard Hoekman (World Bank), Susan Prowse (DFID), Rashid Kaukab (South Centre), Sheila Page (ODI) and Mina Miyasheki (UNCTAD) for their time and for the many stimulating ideas that I drew upon in writing this book. I am also indebted to the large number of delegates from developing and developed countries who participated actively in the debates and negotiations that I chaired at the CTDSS for making me appreciate the different interests and concerns of developing countries.

Chapter Three, on the evaluation of the WTO July 2004 General Council Decision, is an attempt to capture what is thus far the largest single step forward taken by WTO members in the Doha Round. I was chair of the CTDSS when a call by Pascal Lamy, then Commissioner of the EU, to grant a 'round for free' to all LDCs and small, weak and vulnerable countries created a rift amongst developing countries in the WTO. I was asked to chair a difficult negotiation over the approach that WTO members should take with regard to the interests and concerns of small and vulnerable economies (SVEs). The WTO does not officially recognise SVEs as a special category, and the larger developing countries stood by the Doha Mandate (Article 35) which called for the interests and concerns of these countries to be addressed without creating a new category of developing countries. In the weeks before the July 2004 decision, I spent many hours in small negotiating groups, mainly with developing countries, to negotiate a compromise.

This experience helped me to formulate my thoughts on Chapter Five. The discussions in the CTDSS gradually became more and more focused – not so much on strengthening the existing provisions on S&DT, but on how to ensure that the LDCs, and those developing countries that considered themselves to be small, weak and vulnerable, also made some significant gains from the Doha Round. I applied my mind to this issue – as chair of the CTDSS, but also as a South African. South Africa had played a significant role in the development of the New Partnership for Africa's Development (NEPAD). Before coming to Geneva, I had participated in some of those discussions in Pretoria. South Africa is a member of the African Group in Geneva. It also played an active role in the pre-Cancun period, together with Brazil, India and China, in creating the G-20 coalition of developing countries. This experience was to guide me in attempts to build a bridge between these different groups of developing countries. Some of the ideas that are contained in Chapter Three were also contributed to the Commission for Africa, established by the British Prime Minister in 2005.

Chapter Four was written first as a draft paper for a conference on the Doha Round called by Joseph Stiglitz and his Institute for Policy Dialogue, together with the Brooks World Poverty Institute, at Manchester University in February 2006. I am thankful to the participants for their comments on an earlier draft. I have decided not to make major changes to this text, notwithstanding the fact that the political dynamics of the negotiations have changed significantly since then. I think it will be useful to students of the Doha Round to be mindful of these changes, particularly in the policy positions of the EU and the US. The EU, during the periods before, at, and after Hong Kong, was the most defensive of the large players. However, since then the US has taken over this role.

Chapter Seven discusses the changing political dynamics in the Doha Round, particularly between the major players. As the process of negotiations in the post-Hong Kong period was largely confined to small groups – the Group of Four (G-4), Group of Five (G-5) and Group of Six (G-6) – my attempt to capture this process is based mainly on press reports and the briefings that I received regularly in the G-20 from the Brazilian and Indian delegations. My original attempt was aimed partly at helping my colleagues in South Africa gain some insights into the negotiating process. However, I hope that the insights provided in Chapter seven will be of wider interest.

Chapter Six is an examination of the pledges made by the major donors in Hong Kong to provide additional Aid for Trade. Aid for Trade cannot be understood outside the general debate and concerns about aid, or overall ODA. I have thus located the discussion about Aid for Trade within the broader debate on increased aid to fund the Millennium Development Goals (MDGs). WTO delegates – myself included – are generally not experts on aid. However, Aid for Trade is a crucial issue that could be further advanced in the WTO. I am indebted to Sheila Page, Susan Prowse and Martina Garcia for reading the first drafts and giving me valuable advice. I also benefited from discussions with Valentine Rugwabiza, Mia Horn and Bernard Hoekman. Dominique Njenku, who has worked tirelessly to promote this issue amongst WTO members, inspired me to write Chapter six when he requested that I write a paper for International Lawyers and Economists against poverty (ILEAP).

The suggestions that I make in Chapter Eight are based on my presentation to the WTO trade policy review of the East African Community (EAC) – Kenya, Tanzania and Uganda, held in October 2006. My presentation was unusual in that I did not simply critique the trade policy performance of the countries under review but also challenged the developed country partners of these countries to address their responsibilities. I thus made some proposals to revise the WTO trade policy process and adopt the above approach where relevant.

I joined the government of South Africa in May 1994, and was the chief negotiator for South Africa under the supervision and authority of Trevor Manuel, who served as the first Minister of Trade and Industry of the new democratic South Africa. I continued to work in this position under the second Minister of Trade and Industry, Alec Erwin, who sent me to Geneva in April 2002 to lead South Africa's negotiations in the WTO. In May 2004, Mandisi Mpahlwa became the third Minister of Trade and Industry, and Deputy Minister Rob Davies was appointed with responsibility to supervise the trade

portfolio. I thanked the government of South Africa for entrusting me with the privileged responsibility of leading South Africa's negotiations in the WTO. Xavier Carim, the current Deputy Director General at the Department of Trade and Industry (DTI), has been a close collaborator on many of the ideas I have developed in these chapters. I thank him and the Director General, Tshidiso Matona, for their trust and support. In particular, I am grateful for the tremendous intellectual freedom and independence that I have enjoyed during the past few years that allowed me to speak at public events, and to publish in various journals and books.

Finally, and most importantly, this book would only be a dream without the dedicated support provided to me by Bipul Chatterjee of CUTS International, Jaipur. Bipul is mainly responsible for the germination of the idea of this book. His enthusiasm persuaded me agree to a punishing schedule of completing the publication within what must be a record timeframe. Dipankar De Sarkar and M Shamsur Rabb Khan have provided invaluable editing support. I also thank the Frederick Ebert Stiftung (FES) for their readiness to support this project at short notice.

I cannot forget to mention the emotional support and encouragement provided to me by wife, Åse, and my children, Gregory, Thomas and Leah, who have had to endure their dad's extended working hours.

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Chapter 6: 'Aid for Trade. An essential component of the multilateral trading system and WTO Doha development agenda', *World Economics*, Vol. 8, No.1, January-March 2007.

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Negotiations. Developing Countries reclaim the development content of the WTO Doha Round', in *World Economics*, Vol. 7, No.3 July- September 2006. It is also to be published as 'One year since the WTO Hong Kong Ministerial Conference. Developing Countries reclaim the development content of the WTO Doha Round' in YS Lee (ed.) *Economic Development Through World Trade: A Developing World Perspective* (Kluwer Law International, forthcoming).

September, 2007
Geneva

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Abbreviations and Acronyms

ACP:	African Caribbean and Pacific
AGOA:	African Growth and Opportunity Act
AoA:	Agreement on Agriculture
CAP:	Common Agricultural Policy
CTD:	Committee on Trade and Development
CTDSS:	Centre for Trade and Development Special Session
DAC:	Development Assistant Committee
DDA:	Doha Development Agenda
DFID:	Department for International Development
DFQF:	Duty-free Quota-free
DG:	Director General
DSU:	Dispute Settlement Understanding
DTI:	Department for Trade and Industry
EBA:	Everything But Arms
ECOSOC:	Economic and Social Council
EIF:	Enhanced Integrated Framework
FES:	Friedrich Ebert Stiftung
FIPs:	Five Interested Parties
GATS:	General Agreement on Trade in Services
GATT:	General Agreement on Tariffs and Trade
GIs:	Geographical Indications
GNI:	Gross National Income
GSTP:	Generalised System of Trade Preferences
ICSTD:	International Centre for Trade and Sustainable Development
IF:	Integrated Framework
IFF:	International Finance Facility
ILEAP:	International Lawyers and Economists Against Poverty
ILO:	International Labour Organisation
IMF:	International Monetary Fund
IPRs:	Intellectual Property Rights
ITC:	International Trade Centre
JITAP:	Joint Integrated Technical Assistance Programme

MDGs:	Millennium Development Goals
MFA:	Multi Fibre Agreement
NAMA:	Non Agricultural Market Access
NEPAD:	New Partnership for Africa's Development
NGOs:	Non Governmental Organisations
NTBs:	Non-Tariff Barriers
ODA:	Official Development Assistance
OTDS:	Overall Trade Distorting Support
PRSPs:	Poverty Reduction Strategy Papers
RoO:	Rules of Origin
RTAs:	Regional Trade Agreement
SPS:	Sanitary and Phyto-Sanitary
SPs:	Special Products
SSA:	Sub-Saharan Africa
SSM:	Special Safeguard Mechanism
SVEs:	Small, Vulnerable Economics
T&C:	Textiles & Clothing
TBT:	Technical Barriers to Trade
TIM:	Trade Integration Mechanism
TNC:	Trade Negotiation Committee
TPA:	Trade Promotion Authority
TRIMs:	Trade Related Investment Measures
TRIPs:	Trade Related Aspects of Intellectual Property Rights
TRQ:	Tariff Reduction Quotas
TRTA:	Trade Related Technical Assistance
UNCTAD:	United Nations Conference on Trade and Development
UNDP:	United Nations Development Programme
USTR:	United States Trade Representative
WSSD:	World Summit on Sustainable Development
WTO:	World Trade Organisation

The Promise of Development in the Doha Round

1.1 Introduction

At the time of the Doha launch there was much criticism by developing countries of the impact of the last trade round i.e., the Uruguay Round. Developing countries felt that the Uruguay Round Agreements were unfair as not only did they fail to provide equitable access for the products of developing countries in developed country markets, but they also created greater burdens upon developing countries and eroded their policy space. These issues were called ‘Implementation Issues’. One such ‘Implementation Issue’ they raised was that the special and differential treatment (S&DT) provisions that were supposed to provide for their particular developmental concerns in the GATT were in fact ineffective.

This book is about the role of developing countries in the WTO Doha Round. And it is about the promise to rebalance the GATT/WTO towards greater equity and somewhat in favour of developing countries during this round. The previous eight GATT trade negotiating rounds were perceived to have skewed the multilateral trading system in favour of developed countries. Developing countries and indeed civil society groups from all over the world have perceived the WTO, and its predecessor GATT, to be unfair, its rules to be in favour of developed countries, and its decision-making system to be opaque and undemocratic.

Thus in the first few years of the Doha Round developing countries placed a great deal of emphasis on the need to reach agreement on a large number of S&DT proposals that they put on the negotiating agenda at the Doha Ministerial Conference. These proposals called for the existing S&DT provisions to be made more precise, mandatory and operational.¹

The Doha Declaration called for the creation of a Trade Negotiations Committee (TNC) to set up negotiating mechanisms and bodies under its supervision. The TNC in turn created a number of special negotiating bodies to thrash out the issues that the mandate required negotiations on. The negotiations on the review of the S&DT proposals were to take place in the Committee on Trade and Development, Special Session (CTDSS). This committee was required to report both to the TNC and to the General Council of the WTO. In March 2004, I was nominated by the members of the WTO to serve as Chair of the CTDSS. I held this position for two years, i.e. until March 2006.

It was both in this capacity, and as the South African Head of Delegation to the WTO, that I began to interrogate the importance that most developing countries in the WTO were placing on the concept of S&DT. It occurred to me that the issues raised through the concept of S&DT did not constitute the central development dimensions of the GATT/WTO. However, they remained important in the system and are still valid. Their basic purpose is to recognise that vast inequalities remain in the economic and trade capacities of developed and developing countries.

So what then does constitute development in the WTO? Unable to find a satisfactory explanation of the concept of development in the literature on trade and development, I explored the work of the Nobel Prize economist, Amartya Sen for inspiration. Drawing on his work one can develop four essential dimensions of development in the WTO.

Sen defines development as “the removal of unfreedom...”² Development, in his view, is the process of expanding human freedoms. Thus, for Sen, development is understood as the process of removing unfreedoms. Four types of unfreedoms or deprivations are identified in Sen’s work that are relevant to the discussion on development and the multilateral trading system. First of all, Sen argues that deprivations can result when people are denied economic opportunities. Second, poverty should be understood not so much as low incomes but as deprivation of basic capabilities. Third, whilst Sen argues for government regulation to enable markets to work more effectively, he states that a system of ethics based on social justice is required to build vision and trust for the successful use of the market mechanism. Fourth, Sen holds that the deprivation of the opportunity to participate in crucial decisions regarding public affairs is to deny people the right to develop.

In the context of the ongoing Doha Round how should we translate this perspective? First, it means that to provide developing countries with opportunities to export in global markets, we have to tilt the balance towards a level playing field and, in line with the promise of the Doha Mandate for a development round, somewhat in favour of developing countries this time. This is because the previous eight rounds of GATT did not provide real market access to the products of developing countries, viz. in agriculture and textiles. In agriculture, we have to also remove the distortions caused by subsidies in developed countries that prevent and undermine developing countries from pursuing their comparative advantage. Second, we all have the responsibility to ensure that the poorest countries are provided with the capacity to produce and export, thus allowing them to benefit from the opportunities in the global economy. Third, the rules of the trading system need to be balanced: whilst strengthening a rules-based system for all to benefit, it should provide sufficient flexibilities to prevent developing countries from bearing the cost of these rules, without accruing the benefits. Fourth, the participation of developing countries in the process is crucial to ensure that they are engaged in negotiating the new rules in a fair and democratic manner.

Thus, as the negotiations in the current WTO Doha Round have advanced, developing countries have focused on how to ensure that they lead to: a fairer trading system that would allow products from developing countries greater access to developed country markets;³ a review of the rules of the WTO that have shrunk the policy space of developing

countries when developed countries have used these same policy tools for their own development in previous decades;⁴ providing capacity to developing countries to implement new rules⁵ and build their supply-side capacity and to participate meaningfully in the WTO rule-making system.⁶

1.2 Evolution of Multilateral Rules-Based System and S&DT

The Bretton Woods Conference of 1944 created the World Bank and the International Monetary Fund (IMF) and envisaged the creation of an international trade organisation. In line with this thinking, the Economic and Social Council (ECOSOC) of the United Nations began work in 1946 to draft a charter for an International Trade Organisation (ITO), which was concluded in Havana in 1948. Meanwhile multilateral tariff reduction negotiations began in 1945 and concluded in 1947 with a treaty called the GATT. It was envisaged that the GATT would be part of the new ITO. However, the US Congress failed to ratify the ITO charter and abandoned the effort in 1951. The need to jealously protect the sovereign powers of the US Congress undoubtedly weighed heavily in this decision. Thus the GATT survived but the ITO never came into being. It took another 50 years for an international organisation on trade to come into being with the establishment of the WTO in 1995.

Civil society activists at the Seattle WTO Ministerial Conference in 1999 and subsequent ministerial meetings of the WTO have criticised the body saying its rules favour the rich nations. Some theorists have argued that the multilateral trading system should be regarded as a global public good, at least in form.⁷ They argue that in order to make the system work for the benefit of all, i.e. a global public good in substance, it will need to ensure a fair distribution of the benefits of trade – both between and within countries. There is wide acceptance amongst the 150 WTO members that the rule of law or a rules-based system is essential for all to benefit from international trade, particularly the economically weaker members. However, developing countries who now constitute the vast majority of WTO membership have challenged the existing rules and practices of the GATT/WTO as being unfair, imbalanced and inimical to their development needs. The reasons for this imbalance lie in the evolution of the GATT/WTO, discussed briefly below.

1.3 Sovereign Equality, MFN and S&DT

The GATT adopted the principle of Most Favoured Nation (MFN) – the principle of non-discrimination or equal treatment for all contracting parties – based on the concept of sovereign equality of states. However, the concept that all states were economically equal and should undertake the same level of trade commitments and obligations was challenged by developing countries in the GATT as during the process of de-colonisation. Thus the principle of differentiation of obligations evolved to take into account these different levels of development. At the 1955 review session of the GATT, Article XVIII of GATT was revised to provide developing countries additional flexibility with regard to their obligations. In 1965, Part IV of the GATT – a chapter on trade and development – was added but it was regarded as a ‘best endeavour’ provision with no legal force. In 1979, an Enabling Clause established an exception from Article 1 of the GATT, which made possible the extension of differential and more favourable treatment for developing countries, including preferences and special treatment of LDCs. Thus, the principle of S&DT for developing countries evolved in the GATT.

The Uruguay Agreement, however, marked a significant departure in the concept of S&DT from a tool for development to an instrument for the provision of some adjustment tools, i.e. such as more time for implementation of new GATT commitments, best endeavour commitments to provide technical assistance aimed at ensuring compliance with the decisions of the Uruguay Round, and a focus on LDCs. Moreover, developing countries were compelled to be a party to the wide range of new agreements under the single undertaking principle. These new agreements included behind the border or ‘within the borders’ policies, including trade in services, TRIMs, intellectual property regimes, trade remedies such as anti-dumping and countervailing duties and customs valuation. The result was an erosion of the national development policy space of developing countries.⁸ Thus, for many observers, the Uruguay Round brought about a significant weakening in the concept of S&DT.

1.4 S&DT and the Development Dimension of the Multilateral Trading System

S&DT issues are related to three main concerns of developing countries. First, there is the issue of market access (mainly concerned with preferences and longer implementation periods). Second is the concern with the need for flexibility in rules. The third concern is over the need for aid for technical assistance and capacity building. These concerns have been reflected in over 150 provisions in the GATT since 1947. **Chapter Two** of this book will however argue that S&DT, in itself, does not constitute the core development content of the GATT/WTO.⁹ The reasons for this are discussed below.

S&DT in market access was mainly about preferences, which served to ameliorate and compensate – only somewhat – for the increasingly high barriers erected in the US, Japan and the EU against agricultural imports and textiles. Preferences were based on the colonialist system that preferred some developing countries over others and were thus fundamentally discriminatory.

As the GATT developed, its rules reflected the competitive capacities of developed countries. In manufacturing where developed countries were very competitive the Uruguay Round TRIMs Agreement abolished subsidies. At the same time, in agriculture, the boxes created in the Uruguay Round Agriculture Agreement (Amber, Blue and Green), aimed at providing some discipline on trade-distorting subsidies, contained enough loopholes to allow the EU and US to actually increase their expenditure on subsidies. Again, on IPRs, the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement provided increased protection for largely developed country research and development. Thus the call for S&DT flexibilities by developing countries in the TRIMs and TRIPs Agreements were largely aimed at ameliorating this inequity.

Capacity building was largely a best endeavour effort in the GATT and was directed mainly at the capacity of countries to participate in negotiations and implement GATT rules rather than to address supply-side issues.

1.5 The Doha Round

The Doha Round was launched in November 2001, in the shadow of the September 11 terrorist attack on the US, as the threat to global security focused the minds of the major

players to unite in a common effort to build a more secure and peaceful world. The Doha Round thus promised to focus on the needs and interests of developing countries. It was to build on and contribute to the decision of world leaders in New York at the UN Millennium Summit held in 2000 to launch the MDGs that aimed to halve world poverty by 2015.¹⁰

The Doha Ministerial Conference had launched a broad-based round of multilateral trade negotiations that included agriculture, services, IPRs, industrial tariffs, rules (anti-dumping, subsidies), and the environment. In addition, four other areas were to be included in the negotiations, if WTO members agreed at Cancun: investment; competition; transparency in government procurement; and trade facilitation. All negotiations were to be concluded by December 2004.

Three key issues of particular interest to developing countries – public health and TRIPs, S&DT, and other problems with existing agreements (Implementation Issues) – had interim deadlines in December 2002. These, however, were missed. Consensus was finally reached on TRIPs and public health in August 2003 – on establishing a mechanism that would allow countries with no or insufficient manufacturing capacity to import medicines for public health reasons under compulsory licences. But the deadlines over the two other issues were missed. There was agreement in Doha Round that a range of provisions on S&DT in favour of developing countries would need to be made operational and effective by December 2002. This deadline passed. Lastly, a range of problems with existing WTO agreements facing developing countries were also to have been resolved by December 2002. Again, no progress was made on these issues. In failing to meet these deadlines, the balance in the process was disrupted.

1.6 The Cancun Ministerial Meeting

The Cancun Ministerial Meeting was intended to be a review of progress made in the Doha Development Agenda (DDA). However, as we got closer to Cancun the WTO made little progress on meeting its deadlines. Other than an agreement on TRIPs and public health which was outside the single undertaking, little progress had been made on Implementation and S&DT or modalities on agriculture and Non-Agricultural Market Access (NAMA). In addition, a joint text agreed by the EU and the US on agriculture took the negotiating process further back by agreeing to a mere ‘framework’ for the agriculture negotiations just a few weeks (August 13, 2003) from the Cancun Ministerial. The Doha Mandate envisaged agreement on ‘modalities’ for the agriculture negotiations by March 2003.

The WTO then moved the process back in the NAMA negotiations, which had made greater progress on developing modalities,¹¹ by drawing up a ‘framework’ for negotiations at Cancun.

1.7 Why Cancun Failed?

The seeds of the unsuccessful outcome at the 5th WTO Ministerial Conference in Cancun, Mexico – the first since the launch of the Round in Doha – were sown many months before the event. Agriculture was recognised to be at the heart of the DDA. It was generally understood that progress in the agricultural negotiations would catalyse movement in – and set the pace for – all other areas of the Doha Agenda.

The EU is the world's largest subsidiser of agriculture and thus causes the greatest harm to the livelihoods of the world's poorest people in developing countries. Through a combination of high subsidies and high tariffs, the EU's policies stimulate agricultural overproduction in Europe, depress world prices, and severely constrain or prevent access in products of developmental importance to poor countries. At the 2001 Doha Ministerial Meeting, along with all WTO members, the EU made a commitment to substantially reduce its trade-distorting subsidies and high tariffs.

In the lead up to Cancun, however, the EU failed to table any proposal that would meaningfully meet its Doha commitment. The March 2003 deadline for the establishment of a methodology for agricultural negotiations was thus missed. In June 2002, then EU Agriculture Commissioner, Frans Fischler, and Trade Commissioner Pascal Lamy had, to their credit, called on EU member-states to accelerate the reform of Europe's Common Agricultural Policy (CAP). By June 2003 at an EU ministers' meeting in Luxembourg, the Commission's proposal was significantly watered down by the EU member-states. While appearing to move in the right direction (de-coupling farm payments from production), the Luxembourg decisions sank any possibility of achieving meaningful reductions in the EU's wasteful agricultural surpluses and were insufficient to enable the EU to table proposals to liberalise its agricultural sector.

The US – the world's second largest agricultural subsidiser – had developed an aggressive liberalisation posture long before Cancun. Despite having moved in the opposite direction by increasing its own trade-distorting support to its farmers in the US Farm Bill early in 2002, the US continued to urge the EU to meet its Doha commitments and worked closely with a large group of powerful agriculture-exporting countries led by Australia, Brazil and the Cairns Group. As Cancun drew closer, the US realised that the EU was unlikely to meet its commitments and shifted to a strategy of bilateral engagement with the EU. The product of the intense bilateral discussions between the EU and the US was an accommodation of each other's trade-distorting farm support policies. In return for protecting payments under the Farm Bill, the US reduced its ambition to open EU markets and fully eliminate the EU's destructive export subsidies. The EU-US alliance, articulated in a joint text, threatened to delay progress towards fair and freer global agricultural markets for another 10 to 20 years and would continue to undermine rural and economic development efforts of developing countries.

The EU-US joint text on agriculture was strongly challenged by a range of countries, including Australia, Brazil, Argentina, South Africa and many other former US allies who had coalesced around the common objective of securing freer global agriculture markets. Developing countries, led by Brazil, China, India, South Africa and some others, established a broad-based alliance that grew into the G-20. The alliance was forged around their common objective to create a level playing field in agricultural trade that would ensure a developmental outcome of these negotiations. Many other countries, including Australia, Canada and New Zealand share much of the perspectives and objectives of the G-20 – a grouping which subsequently captured the world's attention.

The events at Cancun diverted attention from the opportunities for a meaningful negotiation of these different interests. At mid-afternoon on the penultimate day of the 5-day meeting, the chair sealed its fate with the release of his Second Draft Ministerial

Text. In the formal meeting that followed, developing countries criticised, sometimes passionately, the chair's text as an unacceptable basis for negotiations. The developing countries organised in the G-20 formation, the numerically large Africa, the African, Caribbean and Pacific (ACP) group and the LDCs group believed that the text was unbalanced and did not adequately reflect their interests and concerns.

On agricultural issues, the text poorly reflected the progress that had been made in the discussions up to that point, and ignored additional areas of possible agreement that had been signalled by the different players. In other areas, the text was even worse. On the issue of cotton subsidies – sensitive to the US and, to a lesser extent the EU, which together are decimating the livelihoods of West African and other cotton farmers – the chair's draft text called on African farmers to consider other economic options, without any commitment by the US or the EU to remove their destructive subsidies. African countries were appalled.

The chair's revised draft also totally misrepresented the debate on the Singapore Issues (Implementation Issues) – competition, investment, transparency in government procurement and trade facilitation. It called for the immediate launch of negotiations on two of the four issues and the launch of negotiations on the most controversial of them – investment – in a few months' time. Only 'competition' was postponed for further study. The vast majority of developing countries were unwilling to launch negotiations on these new issues, and provided several reasons for their stance. Some argued that the Singapore Issues had been wrongfully imposed on them in Doha – and were overburdening an already complex negotiating agenda. Many others felt that insufficient progress had been made in Geneva on the discussions to establish a balanced and consensual basis for negotiations. Launching negotiations on any of these issues was also seen as premature by some because the EU and Japan – the principal *demandeurs* – had failed to make meaningful offers to reform their own agricultural policies.

Alarmed at the reaction to his text and the attendant possibility of failure of the Ministerial, the chair decided to call the entire conference to a halt – to the surprise of all involved. The unexpected closure of the meeting was a particular disappointment to the G-20.

With more time an acceptable compromise could have been found on the Singapore Issues. However, on the more fundamental disputes in agriculture (including cotton subsidies), the political conditions were not in place to overcome the divide. This was the real cause of the breakdown in the negotiations. Fortunately, there has been a more positive response to this impasse from within the developing world. The silver lining was that developing country negotiators had come of age – they had galvanised a formidable group and skilfully forged a common negotiating position that had captured the attention and sympathy of the world. This was indeed a sound platform for the G-20 and other developing countries from which to continue to negotiate for a fair and freer global market for agriculture.

1.8 The July 2004 WTO General Council Framework Agreement

In the post-Cancun period, the chair of the General Council maintained the focus of the July General Council meeting in five key areas: agriculture; cotton; NAMA; trade

facilitation; and development issues. Chapter Three evaluates the WTO July 2004 General Council decisions using the conceptual framework and definition of the development dimension of the multilateral trading system, developed in Chapter Two. The chapter argues that on each of the critical issues negotiated in the July package – agriculture, cotton, NAMA, trade facilitation and the development issues – the development dimension and its four elements (fair trade, capacity building for the poorest countries, balanced rules and good governance) have been generally advanced. Whilst the wording in the text was vague in many cases, and the negotiations on some more detailed and controversial issues were postponed for the modalities stage, developing countries had succeeded in ensuring that the July 2004 General Council decision was broadly in line with the hopes and ambitions of the DDA and still capable of delivering on the DDA's promise of increasing growth and ensuring development for all.

1.9 The Hong Kong Ministerial Conference in December 2005

In the period leading up to the Hong Kong Ministerial Meeting, the WTO Director General, Pascal Lamy, called for the expectations for the conference to be lowered as one of the main players, the EU, was unable to make a proposal that could be a basis to negotiate a successful outcome on agriculture modalities. The July 2004 WTO General Council decision had reduced the target of reaching full modalities to a Framework Agreement. The aim of the Hong Kong meeting was to make some additional incremental advances on the July 2004 Framework Agreement. Once again, this would fall short of the objective of concluding the negotiations on modalities in agriculture and NAMA.

After six days of intense negotiations in Hong Kong (December 13-18), ministers managed to cobble together an agreement late on Sunday night, i.e. December 18, several hours past the agreed deadline. For major developing countries in the G-20, the agreement was no major breakthrough,¹² but a small and significant step forward in the Doha Round. For LDCs and other small, weak and vulnerable developing countries, there were some incremental gains made in the Hong Kong Declaration, but no breakthrough emerged on their major demands. Chapter Four evaluates the outcome of the Hong Kong Ministerial Conference from the perspective of developing countries – both the major developing countries and the LDCs and so-called small, weak and vulnerable countries.

On agriculture, the EU had reluctantly agreed to table an offer to eliminate its export subsidies by 2013, and there was some improvement in the final text's language on Special Products (SP) and the Special Safeguard Mechanism (SSM) demanded by the less competitive developing countries (G-33).

On NAMA, developing countries made a concession by agreeing to adopt a Swiss Formula that would have the effect of reducing the higher tariffs of developing countries more substantially. However, developing countries did succeed in linking the ambition in the market access negotiations in agriculture with NAMA. Paragraph 24 of the Hong Kong Declaration called for the formula in the market access negotiations on agriculture to be “balanced and proportionate” to that in the NAMA negotiations, and to be “comparably high”.¹³ Whilst there was some fragmentation in developing country positions on the formula to be adopted by the WTO on NAMA in the period before

Hong Kong, the aggressive approach taken by the EU in its October 28 submission led these countries forging a united front to defend the flexibilities that developing countries had wrested in the July 2004 Framework Agreement.¹⁴

This front was further consolidated in Hong Kong where ministers of the NAMA 11 group presented joint proposals in the negotiations on NAMA.¹⁵ This group was able to also establish a strong link between the level of ambition in NAMA and that in agriculture in the final text of the Hong Kong Declaration.¹⁶

On services, whilst there was much debate spurred by the EU and US attempts to increase the ambition of the negotiations and change the existing GATS modalities, the compromise struck in the final text underlined the fact that the existing flexibilities provided for in the GATS and the negotiating guidelines would still remain the basis for the negotiations on services.

In addition, a group of developing countries¹⁷ argued that the real danger of a joint push by the EU and other developed countries (notably the US)¹⁸ to seek additional extensive concessions from developing countries in the NAMA and services negotiations was that the development content of the Round would be turned on its head, with the developed countries making more inroads into developing country markets and with developing countries still facing high levels of protection and distortions in global markets for products of export interest to them. In a paper¹⁹ submitted to the Committee on Trade and Development and the TNC of the WTO, developing countries argued that the strategic objective of this round of negotiations should be for industrial countries to reduce the protection they grant to inefficient sectors that frustrate the growth-potential of developing countries. Reflecting on the recent proposals²⁰ of developed countries they said that these demands in NAMA and services would create enormous and disproportionate burdens of adjustment that developing countries would have to bear in their industrial and service sectors. In sharp contrast, the EU had made insignificant offers to open its markets in the agriculture negotiations, and both the EU and US proposed a co-efficient for developed countries in the NAMA negotiations that would require them to make no real adjustments in their industrial sectors. Thus the EU and the US were seeking a round for free!

There were five key development-specific issues identified by the EU²¹ and other members in the run up to Hong Kong: a development package for LDCs; cotton; preference erosion; the concerns of small, weak and vulnerable countries; and an Aid for Trade envelope to support the needs of developing countries. Despite intense negotiations on both the LDC duty free and quota free (DFQF) issue and the need for an early harvest on cotton, the so-called 'development package' proposed by the EU failed to materialise in Hong Kong.

The issues identified by the EU development package were related to the concerns of the LDCs, and other small, vulnerable economies (SVEs). These issues were of great concern to these countries and closely related to the S&DT concerns of developing countries. However, as has been argued above, these issues do not constitute the core development dimension of the WTO or the Doha Round. In the period leading up to the

Hong Kong Ministerial Conference I tried to answer the question: how can LDCs and SVEs gain from the Doha Round? As the chair of the CTDSS and South African head of delegation to the WTO, I was acutely aware of the differences in interest between developing countries, as well as the areas of potential convergence. However, it was also important to distinguish between the short-term interests of developing countries and their more long-term strategic interests in the Round. These issues are explored in Chapter Five.

1.10 Aid for Trade

The concept of Aid for Trade began (also known as A4T) to gain support²² in 2005. In Hong Kong, the Ministerial Declaration²³ recognised its importance and called on the Director General of the WTO to: a) create a Task Force that “shall provide recommendations on how to operationalise Aid for Trade” to the General Council by July 2005; and b) consult with members as well as the IMF and World Bank and other relevant international organisations “with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade”. This Task Force²⁴ was constituted by the WTO General Council in February 2006 and submitted its recommendations to the General Council at the end of July 2006.²⁵ The recommendations were adopted by the General Council in October 2006. Chapter Six evaluates the concept of A4T and its development in the WTO. It also evaluates the potential of A4T to increase the quantum of aid available to developing countries in order to enable them to build their capacities to trade. The chapter argues that A4T is an essential component of the development dimension of the multilateral trading system and the Doha Round.

1.11 The Suspension of the WTO Negotiations

The G-6²⁶ Ministerial Meeting, chaired by Pascal Lamy and held on July 23-24 (Sunday and Monday), 2006 in Geneva, met for 14 hours but failed to make progress on the substance of the negotiations. The meeting was held after leaders attending the G-8 Summit in St Petersburg shared their sense of urgency about the crisis faced by the WTO and urged their trade negotiators to show more flexibility in their negotiating positions. Ministers from India (Kamal Nath), Brazil (Celso Amorim), Australia (Mark Vaile), the US (Susan Schwab and Mike Johanns), the EU (Peter Mandelson and Marianne Fisher Boel) and Japan (Toshihiro Nikai and Shoichi Nakagawa) participated in the G-6 Ministerial Meeting.

Lamy convened an urgent meeting of the TNC on July 24, 2006 to report back to the members. At this informal meeting, Pascal said the only course now available was to suspend the negotiations across the Round and give everybody time to review their positions. He was not setting a new deadline for the resumption of the negotiations as he believed that they could only advance once new negotiating positions had emerged.

1.12 From the Resumption of the Doha Negotiations to the Delhi Ministerial Meetings

Chapter Seven discusses the crisis in the WTO with the suspension of the Doha Round in the post-Hong Kong period until the collapse of the G-4 ministerial meeting in Potsdam, Germany, June 21, 2007. The call by an informal trade ministers’ meeting, held in

Davos in January 2007, for the full resumption of the negotiations in Geneva failed to provide any real traction in the Geneva negotiating process as the two main players – but especially the US – were still trying to develop the political will to contribute meaningfully to the Doha Round. The first ministerial meeting of the G-4 since the suspension of the negotiations in July 2006 was held in Delhi on April 20, 2007, but it too failed to make any progress on the substantive issues. The Delhi meeting was described as a “course correction” by Peter Mandelson. It set a series of further ministerial meetings of the G-4 in May and June. Meanwhile, the rest of the WTO membership was increasingly frustrated at the lack of progress and meaningful negotiations in the multilateral trading system. Thus, at a TNC meeting on April 20, (after Delhi), Lamy stated that the chairs were going to go ahead with their consultations in the WTO, and that the multilateral trading system could no longer wait for the contribution of a smaller group. The chairs were to begin drafting texts, on the basis of which members would negotiate. However the collapse of the G-4 ministerial meeting in Potsdam has deepened the challenge now faced by the WTO, and will make progress by the chairs considerably more difficult. The Chapter Seven evaluates the prospects of real progress in the coming months.

In Chapter Eight, the changing role of developing countries in the Round is described. The chapter argues that developing countries have reclaimed the development content of the Doha Round by insisting that it addresses the development dimension in trade. It is argued that of the four elements of the development dimension of multilateral trade, discussed in Chapter Two, the elements of fair trade and balanced rules cannot be meaningfully advanced outside the context of a successful Doha Round. Failure to conclude the Doha Round will thus postpone the promise of development, especially in these two critical elements of the development dimension. However, the latter two elements – capacity building and good governance – can be meaningfully advanced notwithstanding the outcome of the Round. In this context, the chapter makes some proposals to strengthen the concept of A4T in the WTO. During the process of the Doha negotiations, there has been some progress in making the WTO more inclusive and transparent. The recommendations of the previous Director-General’s consultative board are discussed, and some proposals are made to deepen the element of good governance in the WTO. The book concludes by urging all members of the WTO not to allow the Doha Round to die, and to make the final push for its successful conclusion.

Notes

- 1 See Ismail, F., (2006). ‘How can Least Developed Countries and Other Small, Weak and Vulnerable Economies Also Gain from the Doha Development Agenda on the Road to Hong Kong?’, *Journal of World Trade* 40 (1) pp37-68, 2006.
- 2 See Sen, A., ‘Development as Freedom’, Anchor Books, New York, 1999, pp.3
- 3 The formation of the G-20 group of developing countries before the WTO Ministerial Conference in Cancun, in September 2003, was a decisive event in building a strong alliance of developing countries for fairer trade in agriculture.
- 4 The NAMA 11 group of developing countries has made a number of proposals in the negotiations on industrial tariffs in the Doha Round to resist efforts at drastic and disproportionate tariff cuts demanded by developed countries that would reduce developing country policy space to use tariffs as a tool of industrial development.

- 5 In the negotiation on Trade Facilitation in the Doha Round developing countries succeeded in the July 2004 Framework Agreement to build a strong linkage between their implementation obligations and the provision of capacity building.
- 6 Developing countries succeeded in bringing the concept of Aid for Trade – to address their effective participation, implementation and supply-side capacity – into the WTO at the Hong Kong Ministerial Meeting in 2005.
- 7 Mendoza, R U, ‘The Multilateral Trade Regime: A Global Public Good for All?’ in Kaul, I., et al. *Providing Global Public Goods. Managing Globalization*, UNDP, Oxford University Press.
- 8 See Tortora, M., (2003). ‘Special and Differential Treatment and Development Issues in the Multilateral Trade Negotiations: The Skeleton in the Closet’, UNCTAD, January. See also Whalley, J., ‘Special and Differential Treatment in the Millennium Round’, CSGR Working Paper No 30/99, May 1999.
- 9 See Ismail, F., ‘Mainstreaming Development in the World Trade Organisation’, *Journal of World Trade*, Vol. 39. No.1. February 2005.
- 10 E. Zedillo et al, (2005). ‘Trade for Development’, UN Millennium Project, Task Force on Trade. See also J. Sachs, ‘The End of Poverty: How We Can Make It Happen In Our Lifetime’, Penguin Books, 2005.
- 11 In the NAMA negotiations the chair had proposed a formula for market access reductions – the Girard Formula – with the majority of members willing to engage on this formula.
- 12 Celso Amorim, the Brazilian Minister of Foreign Affairs and Trade and co-ordinator of the G-20 was quoted in the *Financial Times* (19/12/2005) as saying that the decisions reached in Hong Kong were “modest but not insignificant”.
- 13 See WT/MIN (05)/DEC Para 24 of the Ministerial Declaration, Doha Work Programme. December 22, 2005.
- 14 See TN/MA/W/65 ‘Market Access for Non-Agricultural Products. Flexibilities for Developing Countries’, Communication from Argentina, Bolivarian Republic of Venezuela, Brazil, China, Egypt, India, Indonesia, Namibia, Pakistan, Philippines and South Africa. November 08, 2005.
- 15 See letter by the above countries and Tunisia, sent to the Chairman of the Conference and the Director General at the Hong Kong Ministerial Meeting.
- 16 See WT/MIN (05)/DEC, Para 24 of Ministerial Declaration, Doha Work Programme. December 22, 2005.
- 17 See Statement by South Africa to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, the Philippines and Venezuela. November 28, 2005.
- 18 The US has stated on several occasions that it will work shoulder to shoulder with the EU to seek significant access to the markets of advanced developing countries in the NAMA and services negotiations.
- 19 See ‘Reclaiming Development in the WTO Doha Development Round’, submission made to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, Pakistan, the Philippines, South Africa and Venezuela. November 28, 2005.
- 20 See ‘Making Hong Kong a Success: Europe’s contribution’, European Commission. Brussels. October 28, 2005.
- 21 See letter by Peter Mandelson sent to WTO Trade Ministers dated October 09, 2005. In it Mandelson identifies five deliverables for Hong Kong, including the so-called Implementation Issues. In their subsequent position paper, dated October 28 (*ibid*), the EC supported the need for “specific actions to overcome the distortions to trade on cotton” and “early implementation” of such actions.
- 22 The argument for increased aid for trade has been made most cogently in Prowse, S. ‘Aid for Trade: A Proposal for Increasing Support For Trade, Adjustment and Integration,’ in Evenett,

- S. and Hoekman, B., *Economic Development And Multilateral Trade Cooperation*, the World Bank and Palgrave Macmillan. 2006.
- 23 See WT/MIN (05)/DEC Para 57 of the Ministerial Declaration. Doha Work Programme. December 22, 2005.
- 24 The task force is composed of 13 members – Barbados, Brazil, Canada, China, Colombia, the EU, Japan, India, Thailand, the US and the coordinators of the ACP Group, the African Group and the LDC Group.
- 25 See WTO doc. WT/AFT/1, 'Recommendations of the Task Force on Aid For Trade'. July 27, 2006.
- 26 This included the EU, US, India, Brazil, Japan and Australia.

Mainstreaming Development in the WTO

2.1 Introduction

It has been widely recognised, both by academics and by civil society groups¹, that there is an important development dimension to international trade. Indeed, the arguments for the interests of developing countries to be given special consideration in trade negotiations can be traced back to the earliest days of the formation of the GATT². These arguments relate to the significant differences in the economic power of the major developed countries and the relatively minor share of developing countries, in particular those that are least developed in global markets. The major distortions in global markets caused by the protectionist policies of developed countries that continue to disadvantage developing countries have been another reason for developed countries to agree to provide S&DT to developing countries in the GATT and WTO.

These S&DT measures include: preferential market access; longer tariff phase-down periods and flexibility in the implementation of GATT/WTO disciplines and rules for developing countries; and offers by developed countries to provide technical assistance and capacity-building to developing countries to facilitate the implementation of GATT/WTO agreements.

However, several writers argue that these measures ignore the fundamental issues in the trading system, including: inequities in the trading system, where developed countries have continued to distort global trade, protect their markets and stifle the development prospects of developing countries; unbalanced rules, where the costs to developing countries of implementing these rules have been far higher than the benefits; and the lack of capacity of many developing countries to participate in the trading system that is compounded by the lack of responsibility of developed countries for the negative development impact of unfair trade rules (e.g. cotton subsidies) and the relatively high cost of adjustment experienced by many developing countries (e.g. through preference erosion). In addition, it has been argued that since the WTO, like the GATT before it, is a critical component of the system of global governance, it has to become more transparent and inclusive in its decision-making processes. The perceived imbalances in the power structures of the WTO have also raised questions about the legitimacy of WTO agreements and decisions.

The debate on development and the WTO is often assumed to be about increasing the effectiveness of S&DT for developing countries in the WTO. This perception relegates the debate on development to the margins of the WTO. Development is thus regarded as an afterthought, as a ‘nice to-do’ or at worst an optional extra. This perception of the

development dimension is misconceived. It is argued in this chapter that developing countries have fundamental interests in the WTO that are at the core of the trading system and its functioning. These fundamental interests are unpacked and described below in the four elements of the development dimension of the multilateral trading system: fair trade; capacity building; balanced rules; and good governance.

In developing the above conceptual framework, this chapter draws on the work of Amartya Sen who defines development as “the removal of unfreedom”³. Development in the view of Sen is the process of expanding human freedoms. These substantive freedoms include elementary capabilities such as being able to avoid such deprivations as starvation, and enjoy political participation. Human freedom is seen as the pre-eminent objective of development. It is also seen as the means of achieving development. The focus on rights, opportunities and entitlements, he argues, contribute to the expansion of human freedom and promotion of development.

Four types of unfreedoms or deprivations in Sen’s work are relevant to our discussion of development and the multilateral trading system. First, Sen argues that deprivations can result when people are denied the economic opportunities and favourable consequences that markets offer and support. Second, poverty should be understood not so much as low incomes but as a deprivation of basic capabilities. Third, whilst government regulation is needed to enable markets to work more effectively, a system of ethics is too required to build vision and trust for the successful use of the market mechanism. Sen urges policy makers to base these values on social justice as the basis and objective of public policy. Sen recognises that individuals would assert their “prudent and material concerns” but argues that policy makers can balance these concerns with the values of social justice through public discussion. Fourth, Sen argues against the view that is tolerant of, or even favours, the denial of political liberty and basic civil rights for rapid economic development and states that deprivation of the opportunity to participate in crucial decisions on public affairs is to deny people the right to develop and strengthen a democratic system. The latter is seen as an essential part of the process of development.

In applying the above criteria of development to the trading system, it could be argued that fair trade would remove the obstacles that developing countries experience in exporting their products to developed country markets and create opportunities for them to advance their development. Second, increasing the capacity of developing countries, especially the poorest and the most marginalised, to develop their comparative advantage to produce and export would provide the necessary human, institutional, productive and export capabilities needed by these countries to level the playing field in the trading system. Third, establishing rules that lead to: i) a fair balance between the costs and the benefits of new agreements, and the values and interests of developed and developing countries; ii) appropriate flexibility for developing countries to implement development policies; and iii) the need to strengthen the rules-based system would ensure both the legitimacy and sustainability of these rules. Fourth, by developing a transparent and inclusive system of decision-making in the WTO, members will be contributing to the capacity of developing countries to participate effectively in the making of decisions that are both democratic and consistent with the above three dimensions of development.

In this context, S&DT for developing countries could be a tool to ensure the proportionality of trade agreements, commensurate with the levels of development of developing countries and their capacity to manage the burdens of the adjustment process. There remain significant differences in the economic power and benefits gained by developed and developing countries from international trade. A World Bank study⁴, for example, points out that the top 30 countries export about 80 percent of world products. However, it is argued in this chapter that, S&DT on its own is an inadequate concept for the promotion of development objectives in trade. It will need to be part of a broader approach that recognises that the fundamental interests of developing countries in the trading system is to seek fair trade, capacity building, balanced rules and good governance in the WTO. This broader approach mainstreams the development dimension of trade and recognises S&DT as an important – but not the all-important – aspect of this development dimension. In addition, this paper argues that advancing the development dimension in the WTO is of systemic interest to all, including developed and developing countries, who seek to build and advance a legitimate and strengthened multilateral rule-based system.

In applying the above approach to development and the multilateral trading system, it is recognised that the WTO is essentially a trade negotiating body and not a development institution. However, it is argued that the WTO cannot be understood in simple mercantilist terms. Most members of the WTO –developing and developed – locate these narrow mercantilist interests within the broader context of their strategic objectives in the WTO⁵. These broader objectives within the multilateral system include the need to build greater equity in the trading regime, greater capacity for developing countries to benefit from trade, more balanced trade rules, and more inclusive and transparent decision-making in the WTO. If the trading system is unfair and is insensitive to the lack of capacity of developing countries to benefit from trade; if the rules are imbalanced and the decision-making system opaque and exclusive, then S&DT will not be effective and will be seen as no more than a palliative for an unfair and unjust system. S&DT, it is argued, is thus of secondary importance for developing countries – their primary purpose is to ensure that the broader development dimension of the trading system is advanced.

This chapter begins by locating the discussion below in the current debate about the relationship between trade and development (section 2.2). In section three, each of the four proposed elements of the development dimension in the WTO are discussed. The chapter concludes by placing this debate within the broader context of the commitments made by world leaders to increase development and reduce poverty.

2.2 The Global Context and the Debate on Trade and Development

The 1990s witnessed a continuation of the processes of globalisation, characterised by increased flows of trade, investment and technology in the global economy. However, these flows continued to be uneven and inequitable, with a concentration in developed countries. Whilst globalisation has provided increased opportunities for the development prospects of some developing countries, the vast majority (mainly from Africa) have been unable to take advantage of these opportunities, resulting in their increased marginalisation in the world economy.

The response to these processes has been unprecedented mass action by civil society groups, as witnessed by the demonstrations seen in Seattle, Genoa and other World Bank/IMF, G-8 and WTO meetings. The civil society's critique of free markets and unbridled capitalism is a continuation of the debate about the balance between markets and the state. In the 1980s, the influence of Reaganomics and Thatcherism permeated the policies of the multilateral institutions, especially the World Bank and IMF, and saw the promotion of 'one-size-fits-all' remedies for the problems of developing countries. This so-called 'Washington consensus' was critiqued by many who argued that this 'consensus' was in stark contrast to the successful development experiences of East Asian economies, including Japan, and the first and second generation newly industrialised countries (NICs). In these experiences the state played a leading role in guiding the market⁶.

In his book⁷ entitled, *The Roaring Nineties*, Joseph Stiglitz critiques the policies of the US during the last decade of the 20th Century and argues that in its domestic policy, the US got the balance between the state and markets wrong. More importantly, it continued to advance the free-market 'Washington consensus' internationally, calling for free trade, de-regulated financial markets and the privatisation of state enterprises. These policies were advanced both bilaterally and through its influence in the Bretton Woods institutions and the WTO. Stiglitz, who was the economic adviser to President Bill Clinton, and later Chief Economist of the World Bank in the 1990s, points to the lack of coherence in US policy when he states that while "we pushed the ideology of free market... we did not think about the impact of our policies on the poor in developing countries, but on job creation in America". In the area of trade, more specifically, he argues that "the completion of the Uruguay Round turned out to be one of our greatest failures". "...the US pushed other countries to open up their markets to areas of our strength...but resisted efforts to reciprocate".

While the Ricardian concept of comparative advantage and free trade has been espoused as a principle of the free market system that provides opportunities for all to benefit from globalisation, developed countries have not complied with this assertion in their own trade policies. This incoherence could be seen reflected in a number of Uruguay Round agreements. The Agriculture Agreement reflected the double standards of developed countries, who called upon developing countries to open their markets while maintaining their own huge subsidies and high tariffs that depressed global prices and undermined the development potential of developing countries (e.g. in cotton). In industrial products, developed countries retained high tariffs, tariff escalation and tariff peaks for labour-intensive products – precisely where most developing countries had a comparative advantage.

In the TRIMs Agreement, developing countries were pushed to reduce their right to policy intervention to support their economic development, whereas developed countries had employed similar instruments in their own economic development strategies in the past – thus they were "kicking the ladder behind them"⁸. Similarly, The TRIPs agreement reflected a lack of attention to balance the potential benefits of increased research with the high costs of reduced competition and monopolistic power granted to pharmaceutical countries by patent rights⁹. Whilst there has been a growing recognition that the increased

flow of goods across borders does require regulation to protect human health, physical safety and the environment, there has been wide criticism of the unilateral imposition of these standards on the global trading system – standards that often reflect the norms and interests of the larger developed countries who initiate them. Mutual Recognition Agreements on Standards have been negotiated between a few developed countries, facilitating trade between them and thus raising the barriers for developing country exports¹⁰.

In addition, the increasing proliferation of Free Trade Agreements (FTAs), initiated by the major developed countries as they seek to gain advantage in global markets, has led to concerns that the diversion of trade towards developed country markets would only increase the marginalisation of those already excluded from these arrangements. Many critics have also interpreted these arrangements as a weakening of the multilateral trading system and have called for strengthened multilateral rules.

Since the creation of the GATT in 1947 and with the launch of the WTO in 1994, the multilateral trading system has always been seen as a vital part of the system of global governance in the economic arena, together with the Bretton Woods institutions (IMF and World Bank). However, the legitimacy and political credence given to the GATT and WTO by some major developed countries have been contested both in domestic debates about the issue of sovereignty and the use of unilateral trade measures (such as sections 301 and 201 of the US Trade Act of 1974)¹¹. Developing countries too have contested the challenge to their sovereignty by new rules that impinge on domestic policy and regulation (sometimes referred to as ‘behind the border’ issues), specifically the TRIPs Agreement and proposed Singapore Issues in the Doha Development Agenda (DDA), by arguing that the latter could erode the instruments to enhance their development (erosion of policy space). However, there has also been wide and increasing convergence amongst WTO members on the need to strengthen the multilateral trading system and its rules, especially as some of the more powerful members have continued to use unilateral measures¹². While it is widely recognised that the WTO dispute settlement system is an essential component of a multilateral rules-based system and needs to be strengthened, there has been significant criticism from developing countries, especially those with less capacity that the system is neither transparent nor inclusive.

Although the WTO has been relatively successful in developing a consensus-based decision-making system, it has largely been unsuccessful at being transparent and inclusive, resulting in major setbacks for the institution (e.g., in Seattle and Cancún) and causing Pascal Lamy (when he was EU Commissioner) to criticise its decision-making as “medieval”. Moreover, it is most severely criticised for reflecting the powerful interests of the major developed countries (EU countries and US). The formation of the G-20 and other developing country alliances (G-33, G-90, etc.) in recent years is thus seen as an emerging positive counterbalance to this perceived bias.

In response to this critique of the processes of globalisation and the functioning of the multilateral trading system, a systemic response is called for. It is argued in this book that, notwithstanding the wide divergences in the policies and interests of developed and developing countries, there exist significant areas of potential convergence. A

multilateral trading system needs to be built around these systemic concerns, values and interests – the *development dimension* of the multilateral trading system. It is argued further that the development dimension is also the point of convergence between the needs and interests of developing countries and the broader systemic interests of developed countries. In the following section we unpack this development dimension into its four elements: fair trade; capacity building; balanced rules; and good governance¹³.

2.3 The Four Elements of the Development Dimension

Fair Trade

There have been a number of studies that have demonstrated that the gains from globalisation and international trade are not equal and that the lion's share of benefits is enjoyed by developed countries¹⁴. While this is due partly to the vast differences in economic power and levels of development of WTO members, another reason is the unfair trade and economic policies of developed countries. By removing the distortions in global markets, caused by their domestic trade policies, and creating greater coherence in global economic policy, developed countries will contribute significantly to allowing the theory of comparative advantage to work, and in turn stimulating increased growth and global economic welfare for both developed and developing countries. These changes to their domestic and international policies could contribute significantly to the effective and sustainable integration of developing countries into the world economy. Moreover, there is a vast body of literature that suggests that the protectionist policies of developed countries in agriculture are inefficient and ineffective in providing support to their own farmers and correcting market failure¹⁵.

The devastating negative development impact of these agricultural policies of the developed countries has been widely documented¹⁶ and has prompted James Wolfenson, the former President of the World Bank to remark that protectionist policies are “crippling Africa's chance to export its way out of poverty”¹⁷. Thus the WTO needs to ensure that the policies of the developed countries, who are the major beneficiaries of globalisation and dominate global trade, are consistent with the WTO objective of liberalising global markets and allowing the exports of developing countries fair access to these markets, thereby creating opportunities for developing countries to grow and develop.

Capacity Building

It has long been established that for many developing countries, especially the most marginalised, increased market access by itself will not contribute significantly to export-driven growth. Their capacity to export is constrained by a range of supply-side factors, including lack of infrastructure, low research and innovation capacity, lack of access to finance and poor investment environment. Poor institutional capacity and human resources also contribute to this lack of supply capacity. The poor fiscal base of these countries and health, education and welfare priorities reduce the capacity of the state to intervene and build these capabilities. In addition, the high adjustment costs and fiscal impact of trade liberalisation make these governments reluctant to reduce their tariffs. In several cases unilateral liberalisation as part of IMF structural adjustment criteria may have already given rise to severe adjustment and social costs. For a significant number of countries the loss of existing dependence on trade preferences into developed country markets make them reluctant to support multilateral liberalisation.

The multilateral trading system thus cannot ignore these development challenges¹⁸ – the building of institutional, productive and export capabilities – which are vital for the effective integration of developing countries into the global economy. The need for a global trade adjustment fund to contribute to the building of trade capacity is thus essential. Increased financial support for trade policy capacity-building has to come from additional sources of funding, including additional aid. Gordon Brown, as Britain’s Chancellor of the Exchequer, called for the creation of an International Finance Facility (IFF) – for long-term donor aid to be securitised to frontload available funding – that could generate an additional US\$50bn a year in aid to fund the Millennium Development Goals (MDGs), including trade-related capacity-building. In the spirit of the Marshall Plan – the US programme to finance the development of a ravaged post-war Europe – Gordon Brown urged that other forms of funding also be considered, including the proposed Tobin Tax to fulfill the promises made by world leaders to meet the MDGs¹⁹. In this context, more sustainable funding, including a tax on international trade and financial flows – distributing the gains from the Doha Round – could also be considered.

In addition, a more equitable distribution of the gains from trade within developing countries is possible with greater integration of trade policies and broader development and poverty reduction strategies. An effective WTO would need to build greater coherence – without compromising its trade focus – with the Bretton Woods institutions and other multilateral and bilateral development agencies.

Balanced Rules

The argument put forward by the EU that globalisation – which has created increased and rapid flows of trade and finance – requires increased regulation to protect the environment, consumers, animal and human health and food safety, is a cogent one and worthy of serious consideration. Indeed, a report of the World Commission on the Social Dimensions of Globalisation, established by the International Labour Organisation (ILO), responded to this concern by calling for “fair global rules applied fairly”²⁰. However, these new rules would need to take the following into account: a) they should ensure that the relative costs and benefits of these rules for developed and developing countries are considered and appropriate levels of flexibility built into the agreement; b) the interests and norms of developed and developing countries may not converge entirely and thus the creation of new standards would need to be negotiated, with their development impact made transparent and linked to the implementation-capacity of developing countries; and c) whilst developed countries had recourse to a range of development instruments that allowed their judicious intervention in the market to enhance their economic development, this opportunity should not be unfairly denied to developing countries any more.

However, the calls for increased flexibility (policy space) by developing countries need to be balanced against the equally important need to ensure that the multilateral rule-based trading system is strengthened to enable all countries, particularly the weak to be treated fairly in trade disputes. A weakened rule-based trading system will allow the stronger and more powerful countries to resort to unilateral measures, discriminating against the interests of weaker developing countries²¹. Multilateral rules that are not

balanced will not be perceived to be in the interests of developing countries and will lack legitimacy²². Thus it is in the interests of all that WTO rules are balanced, taking account of the need for flexibility for the LDCs without weakening the effectiveness of the rule-based system.

Good Governance

Since the creation of GATT in 1947 and WTO in 1995, the multilateral trading system has been recognised as a vital part of the architecture of global governance – together with the other Bretton Woods institutions. The WTO has been relatively more successful than its Bretton Woods counterparts in attempts to build a democratic decision-making system. However, this has been a slow and painful process. Propelled by some major setbacks (Seattle and Cancún), the WTO has continued to learn and improve its decision-making system.

For many developing countries and NGO observers, the WTO has long needed major reforms in its decision-making procedures, as the institution is alleged to lack transparency and is said to be dominated by the big and the powerful. Several of the proposals on S&DT and reform of the Dispute Settlement Understanding (DSU) by developing countries reflect their perception of a lack of inclusiveness, ownership and transparency of the decision-making system. The former Director General (DG) of the WTO, Dr Supachai Panitchpakdi was very conscious of this criticism and requested his Consultative Board, chaired by Peter Sutherland, to make proposals for more effective and democratic decision-making in the WTO²³.

The emergence of stronger developing country alliances and negotiating groups has begun to provide a more effective counterbalance to the power of the EU and the US, and the opportunity for shared leadership²⁴. The legitimacy of the WTO and the sustainability of its decisions requires it to build on its experience and develop a more inclusive and democratic decision-making system that would contribute to better global governance.

2.4 Conclusion

Having made the argument above for the development dimensions of the multilateral trading system to be addressed as a systemic issue – both by developed and developing countries – this chapter concludes by echoing the caution that the WTO alone is “no panacea, and in particular, no guarantee for development”²⁵. As many others have argued, whilst flexibility in trade policies may be a necessary condition for the development of countries, they are not a sufficient condition, and a successful development strategy at a domestic level will require a range of other policies that are implemented in an integrated manner, especially to ensure that the gains from trade are distributed more evenly and contribute to poverty reduction²⁶. However, it is also recognised by many policy makers that long-term initiatives to halve hunger and poverty will fail without a fundamental restructuring of the global trading system – particularly in agriculture – that would include rich countries dismantling subsidies, lowering tariffs and levelling the playing field.²⁷ Others have argued that the Doha Round could provide a Framework that could contribute to reducing poverty.²⁸

World leaders at the UN Millennium Summit in September 2000, in committing the world to halve poverty by 2015, included as one of the goals the establishment of “an open, rules-based, predictable, non-discriminatory trading and financial system”. At the 2002 Monterrey Conference on Financing for Development the same leaders agreed to forge a partnership between developed and developing countries to advance the MDGs – the so-called Millennium Development Compact. The DDA should be seen in this context, as the WTO is an essential part of the global effort needed to achieve these aims.

Although the Doha Mandate had required WTO members to conclude the negotiations on modalities for agriculture by March 31, 2003, this deadline, like others, was to be missed. And the collapse of the Cancun Ministerial Meeting in September 2003 postponed these deadlines once again. Thus the first opportunity to negotiate a substantive agreement on agriculture, NAMA, and other issues on the DDA, was only to arise in July 2004. Although the WTO July 2004 Framework Agreement fell short of the target of full modalities (in Agriculture and NAMA) it was to become a substantial advance in the Doha Round. In the next chapter we will evaluate the July 2004 Framework Agreement utilising the conceptual framework and definition of the development dimension of the multilateral trading system that we have developed in this chapter.

Notes

- 1 CUTS, (2004). ‘From Cancun to Sao Paulo: The Role of Civil Society in the International Trading System’. Jaipur Printers.
- 2 See Low P. and Keck A., (2004). ‘Special and Differential Treatment in the WTO: Why, When and How?’ WTO Staff Working Paper. ERSD.
- 3 See Amartya Sen., ‘Development as Freedom’ Anchor Books, New York. 1999.
- 4 ‘Global Economic Prospects 2002.’ World Bank. 2001.
- 5 See for example Swedish Government Bill 2002/3: 122 ‘Shared Responsibility. Swedish Policy for Global Development.’
- 6 See Wade R., ‘Governing the Market: Economic Theory and the Role of Government in East Asian Industrialisation’. Princeton. Princeton University Press, 1990.
- 7 Stiglitz J., (2003). ‘The Roaring Nineties.’ WW Norton and Co. Inc. New York.
- 8 Ha-Joon Chang, (2002). ‘Kicking Away the Ladder. Development Strategy in Historical Perspective’. Anthem Press. London.
- 9 See Ismail, F., (2003). ‘The Doha Declaration on Trips and Public Health and the Negotiations in the WTO on Paragraph 6’. *The Journal of World Intellectual Property*. May, 2003.
- 10 See Ismail, F., (2003). ‘On the Road to Cancun. A Development Perspective on EU Trade Policies and Implications for Central and East European Countries.’ *The Journal of World Investment*. August, 2003.
- 11 See An Chen., ‘The Three Big Rounds of US Unilateralism Versus WTO Multilateralism during the Last Decade’. South Centre. Working Paper No.22. 2004
- 12 See EU response to panel report on Section 201 safeguard cases reported in An Chen, 2004 above.
- 13 These four guiding principles have emerged from an analytical categorisation developed by the writer of the 88 Special and Differential Treatment developing country proposals, (market access, flexible rules, capacity building and governance). Powerpoint presentation available from writer.

- 14 See 'Global Economic Prospects', World Bank, 2002 and 2004.
- 15 See Tangerman S., (2004). 'How to forge a Compromise in the Agriculture Negotiations? Presentation to European University Institute', Florence, July 02-03, 2004. See also Messerlin P. (2006). 'Measuring the Costs of Protection in Europe, European Commercial Policy in the 2000s'. Institute for International Economics. Washington DC.
- 16 See OXFAM, 'Rigged Rules and Double Standards'. Oxfam International. 2002.
- 17 International Herald Tribune. July 06, 2003.
- 18 There are several good reasons for the international community to take responsibility to address these challenges. Amongst them is the impact of developed country (OECD) agricultural protection which is responsible for a loss estimated at US\$100 billion a year by developing countries (OXFAM, 2002). This is equivalent to twice the total amount of development aid (US\$50 billion a year) that developing countries receive per year.
- 19 See Speeches by Gordon Brown to the conference on ' Making Globalisation Work for All – The Challenge of Delivering the Monterrey Consensus', February 16, 2004, and at the 'Poverty and Globalisation: Financing for Development' seminar at the Vatican City, July 09, 2004.
- 20 See ILO, 'A Fair Globalisation. Creating Opportunities for all', World Commission on the Social Dimension of Globalisation. 2004.
- 21 The US reluctantly accepted the strengthening of the GATT/WTO dispute settlement system that was negotiated in the Uruguay Round, with many US legislators and academics arguing that the US should not cede its right to act in the best interests of the country within a multilateral institution. See 'The Great 1994 Sovereignty Debate: United States Acceptance and Implementation of the Uruguay Round Results', quoted in An Chen, *ibid*.
- 22 See the Implementation Issues and the review of Special and Differential Treatment in the Doha Development Agenda. Developing Countries have called for a review and re-negotiation of several of the Uruguay Agreements on Trade Related Intellectual Property Rights, Anti-Dumping and Countervailing Duties, Trade Related Investment Measures etc. In addition, they have made 88 proposals to review the application of Special and Differential Treatment provisions of the WTO, arguing that these have not been effective.
- 23 See Speech by Peter Sutherland, the European University Institute, Florence, July 02-03, 2004.
- 24 The emergence of the G20 since Cancún and the inclusion of India and Brazil in the Non-Group of five countries that negotiated the agriculture deal in the July Package were largely successful in providing developing countries with leadership and negotiating leverage. These small group negotiations, however, were criticised by most WTO members as being non-transparent and exclusive.
- 25 See Engammare V. and Lehmann JP. (2004). 'Does the Multilateral Trading System Promote the Interests of the Poor?'. CUTS, *From Cancún to São Paolo: The Role of Civil Society in the International Trading System*. 2004.
- 26 See PRSP studies of IF and JITAP.
- 27 See Mark Malloch Brown in UN Development Report. 2003. p. vi
- 28 See Engammare V. and Lehmann J.P. Above.

The WTO July 2004 Framework Agreement

3.1 Introduction

In chapter two I drew on the work of Amartya Sen to develop a conceptual framework to evaluate the development dimension of the WTO. In this chapter I will use this framework more specifically to evaluate the development dimension of the WTO July 2004 General Council Decision, or the Framework Agreement that it created.

Sen defines development as “the removal of unfreedom...”¹ Development in the view of Sen is the process of expanding human freedoms. Thus, for Sen, development is to be understood as the process of removing unfreedoms.

We identified four types of unfreedoms or deprivations, in Sen's work, that are relevant to our discussion of development and the multilateral trading system. First, Sen argues that deprivations can result when people are denied economic opportunities. Second, Sen states that poverty should be understood not so much as low incomes but as a deprivation of basic capabilities. Third, whilst Sen argues for government regulation to enable markets to work more effectively, he states that a system of ethics based on social justice is required to build vision and trust for the successful use of the market mechanism. Fourth, Sen holds that the deprivation of the opportunity to participate in crucial decisions regarding public affairs is to deny people the right to develop.

How should we translate this perspective in considering the ongoing Doha Round?² First, it means that to provide developing countries with opportunities to export in global markets, we have to tilt the balance towards a level playing field and, in line with the promise of the Doha Mandate for a development Round, somewhat in favour of developing countries this time. In agriculture, we have to remove the distortions caused by subsidies in developed countries that prevent and undermine developing countries from pursuing their comparative advantage. Second, we all have the responsibility to ensure that the poorest countries are provided with the capacity to produce and export, thus allowing them too to benefit from the opportunities in the global economy. Third, the rules of the trading system need to be balanced. A strengthened rules-based system should provide sufficient flexibilities to developing countries so that they do not end up bearing the cost of these rules without accruing the benefits. Fourth, the participation of developing countries in the process is crucial to ensure that they are engaged in negotiating the new rules in a fair and democratic manner. Chapter two thus identified these aspects of the development dimension of the WTO as fair trade, capacity building, balanced rules and good governance.

The concept of S&DT, I have argued, remains essential to ensure that there is proportionality in the commitments undertaken between developed and developing countries, reflecting their different levels of development and gains from the trading system.² However, S&DT should not be confused with the broader development dimension of the trading system nor become a substitute for it. S&DT is only an aspect of the broader development dimension. In order to effectively address the development dimension of the multilateral trading system one needs to focus on the core issues of the WTO and its functioning, viz. fair trade, capacity building for the poorest countries, balanced rules and good governance.

This chapter evaluates the WTO July 2004 General Council decisions, or the Framework Agreement that it created, using the above description of the development dimension of the multilateral trading system. The chapter is structured as follows: section two provides a brief background to the July General Council meeting. Each of the five critical issues negotiated in the WTO July General Council meeting – Agriculture (section 3.3), Cotton (section 3.4), NAMA (section 3.5), Singapore Issues (section 3.6) and Development Issues (section 3.7) – are then discussed. Some background information is provided on each of the issues. The outcome of the July General Council Decision is then evaluated drawing on the perspective developed above. The conclusion is cautiously optimistic and calls on all WTO members to build on the advances of the WTO July General Council decision.

3.2 Background to the July Package

The July General Council meeting was scheduled by the WTO in an attempt to complete the work and make decisions that ministers failed to complete at the collapsed Cancún Ministerial of September, 2003. The chair of the meeting, Mexican Foreign Minister Luis Ernesto Derbez, announced before closing it that the negotiations would move back to Geneva.

The Doha Ministerial Conference of November, 2001, had launched a broad-based round of multilateral trade negotiations that included agriculture, services, TRIPs, industrial tariffs, rules (anti-dumping, subsidies), and environment. Four other areas were to be included in the negotiations if WTO members agreed at Cancun: investment; competition; transparency in government procurement; and trade facilitation. All negotiations were to be concluded by December 2004.

A significant part of the overall balance that ministers agreed to in Doha involved the balance in the negotiating process, as expressed in the deliberate staging of a series of interim deadlines. These milestones contained a logic that aimed, in the first phase, to build confidence amongst developing countries by resolving, upfront, outstanding issues of critical concern to them: Implementation Issues, S&DT, and TRIPs and Public Health. The date set to agree to modalities in agriculture – end-March, 2003 – was also deliberate as it was intended to generate political will and create the basis for all members to engage meaningfully in preparations for a decision in Cancún on launching negotiations on the Singapore Issues.

Three key issues of particular interest to developing countries, i.e. TRIPs and public health, S&DT and Implementation Issues had interim deadlines in December, 2002. These were missed. Consensus was finally reached on TRIPs and public health – on establishing a mechanism that would allow countries with no or insufficient manufacturing capacity to import medicines for public health reasons under compulsory licences – in August, 2003. Second, there was agreement in Doha that a range of provisions on S&DT in favour of developing countries would need to be made operational and effective by December, 2002. This deadline also passed. Third, developing countries confront a range of problems with existing WTO agreements (Implementation Issues), and these were to be resolved by December 2002. Again, no progress was made on these issues. In failing to meet these deadlines, the balance in the process was disrupted.

The Cancún Ministerial Meeting was intended to be a review of progress made in the DDA. However, as we got closer to Cancún the WTO made little progress on meeting its deadlines. Other than the agreement on TRIPs and public health, which was outside the single undertaking, little progress was made on the development issues (Implementation and S&DT) or modalities on agriculture and NAMA. In addition, the joint text agreed by the EU and the US on agriculture took the negotiating process further back by agreeing to a mere ‘framework’ for the agriculture negotiations just a few weeks (August 13, 2003) from the Cancún Ministerial meeting that was held in September. A framework agreement created a broad architecture of the agreement without agreement on the actual levels of tariff cuts and reductions in the level of subsidies. The Doha Mandate envisaged agreement on “modalities” for the agriculture negotiations by March, 2003. Modalities required an agreement that included the formulas for tariff cuts and the level of trade-distorting subsidies. The WTO then moved the process back also in the NAMA negotiations, which had made greater progress on developing modalities³, by drawing up a ‘framework’ for negotiations at Cancún.

The Cancún package included a list of 28 issues to be agreed on, including ‘framework agreements’ on agriculture and NAMA and ‘modalities’ for the launching of negotiations on transparency in government procurement and trade facilitation.⁴ This was clearly an awesome task for the ministers. The breakdown of the negotiations and the shifting of these issues back to the Geneva process meant that this package had to be reviewed. In the period after Cancún, the Chairman of the General Council, Carlos Castillo decided to focus on the issues that were critical to put the Doha negotiations back on track. These included agriculture, cotton, NAMA, the Singapore Issues and the ‘development issues’.⁵ He had hoped to conclude this process by Mid-December, 2003. However, there was little substantive movement by the major countries in this period – the EU participated in a protracted internal process of reflection on Cancún and the US waited for the EU to revive the process. As we got to the end of the year, the EU, under pressure from its member-states to revive the talks, agreed to meet with G-20 Ministers in Brasília in the second week of December. This provided a much-needed shot in the arm for the WTO to revive the talks. The US, not to be outdone, sent a letter to all WTO ministers in the first week of January 2004, changing its tone from one of rebuke and criticism to constructive dialogue.

Thus began the ‘Pascal and Bob roadshow’,⁶ with both EU commissioner Pascal Lamy and US Trade Representative (USTR) Bob Zoellick travelling to several capitals to discuss the re-launch of the negotiations. With the election of the new chair of the General Council and that of the various negotiating groups (on February 11, 2004), the negotiations began in earnest again. The chair of the General Council focused on the five core issues: agriculture; cotton; NAMA; Singapore Issues; and development. The EU and the US began meetings with the G-20, and it became clear early in the process that agriculture was the fulcrum of the negotiations and movement on all other issues was linked to it. Thus in the 3rd week of March, 2004, the US initiated an agriculture negotiating group of five countries – the US, EU, Australia, India and Brazil – which met regularly (almost seven or eight such meetings were held) over the next few months until the end of July 2004. The group also began to meet at the ministerial level to stimulate the process. Mini-ministerial meetings (mainly between these five countries) were held in London, Paris (on the margins of the OECD ministerial meetings), in São Paulo on the margins of the UNCTAD XI Ministerial Conference, in Paris again before the Mauritius G-90 Ministerial Meeting, and then finally in Geneva in the week before the July General Council meeting.

The chair of the General Council succeeded in maintaining the focus of the July General Council meeting to the five key issues in his initial draft (July 16) although there were some other issues, such as services, that were highlighted in the first revision (July 30), the second revision (July 31) and final decision (August 02). We will thus focus our analyses on these five issues: agriculture; cotton; NAMA; trade facilitation; and development issues.

3.3 Background to Agriculture

Two-thirds of all poor people in developing countries live and work in the agricultural sector, depending on agriculture for their livelihoods. In contrast, agriculture accounts for less than five percent of output and employment in the EU and the US. In 2003, the 30 members of the OECD together provided US\$257bn to their agricultural sector. This represents a substantial amount in the share of total farm revenues – in 2003 it accounted for up to 32 percent.⁷ The Uruguay Round brought these agricultural policies and trade in agriculture under GATT/WTO disciplines for the first time. However, the Uruguay agreement on agriculture failed to ensure that developed countries – the EU, the US and other OECD countries – reduced their extremely high levels of subsidies. Farm subsidies among them did not decrease substantially even after the Agreement on Agriculture (AoA) came into force in 1995. Ironically, in some countries farm support actually increased.

Almost two-thirds of OECD farm support is still in the form of the most trade distorting – market price support and output payments. Policy changes in the main subsidisers have reduced this support somewhat in the EU (by decoupling of support in its CAP reforms) whilst for the US the move has been backward with its 2002 Farm Bill locking in the high levels of support provided in preceding years through *ad hoc* payments.⁸ Similarly, in market access, agricultural tariffs of OECD countries remain extremely high. A substantial percentage of tariffs of several OECD countries contain mega tariffs, viz. tariffs above 100 percent – almost 70 percent in Norway and Iceland, 40 percent in

Japan, over 30 percent in the EU, and about 12 percent in the US. These tariffs are in many cases simply prohibitive, and minimal reduction commitments have simply “squeezed the economic water out of the tariffs” without affecting price levels and trade flows.⁹ Export subsidies, which are the most notorious form of farm supports, have declined significantly, according to the OECD, although current levels still remain at over US\$10bn.

Some observers have argued that part of the reason for the Uruguay Round disciplines not being effective is that the new Uruguay Round trade rules on agriculture have been deficient and left too many loopholes. They also argue that the reduction commitments have been too generous, thus allowing too much scope for the continuation of high levels of protection and support. Thus in the current Doha Round, negotiators have been keen to refine the rules and ensure real and deeper cuts in support levels.¹⁰ There is indeed a link between all three types of support – tariff protection, domestic subsidies and export subsidies. All act in concert to increase levels of protection. Some writers have argued that the distinction between domestic support and export support becomes blurred as export support is essentially the tip of the iceberg of domestic support. A domestically-administered higher price – created through the use of domestic price support – that is significantly above world market levels can only be sustained behind high tariff protection. In turn, the increased supply created by higher domestic prices can only be exported through the use of export subsidies.

These policies of developed countries in agriculture have been criticised for: preventing market access for the exports of developing countries, which in many cases is their main comparative advantage; distorting world markets and thus stifling the exports of agriculturally competitive countries; and destroying the livelihoods of poor farmers in the South by dumping subsidised products in their local markets. These inequities in agricultural trade thus became the critical issue for the launch of the Doha Round of negotiations.

The Doha Ministerial Conference was largely regarded as being successful for the ambitious mandate it succeeded in obtaining from developed countries to liberalise agricultural trade. The Doha Mandate¹¹ called for “substantial reductions in trade distorting domestic support”; “substantial improvements in market access”; and reductions “with a view to eliminating all forms of export subsidies” in export competition. In the negotiating process after Doha, the WTO failed to reach agreement on modalities by the agreed date of end March 2003. There are several reasons for this, including the failure of the EU to produce a proposal that was in line with its Doha commitments.¹² The CAP reforms announced by EU agriculture ministers at Luxembourg in June 2003 were criticised widely for being “too little, too late”.¹³ These reforms did not make an offer to reduce the EU’s prohibitively high tariffs or phase out its export subsidies as the Doha mandate had agreed.

There followed a series of intense bilateral meetings between the EU and the US before Cancún, leading to an EU-US Joint Text on Agriculture¹⁴. Again, this Framework Agreement of the EU and US was criticised as falling far short of the Doha Mandate and accommodating the protectionist interests of both the EU and the US¹⁵. In response,

developing countries led by Brazil and India launched a formidable alliance to ensure that this deviation from the Doha Mandate did not prevail at the Cancún meeting. Although several meaningful negotiating engagements did take place between the EU/US and the G-20 at Cancún, this process had not succeeded in reaching any consensus. The collapse of the Cancún conference meant that this issue had to be referred back to Geneva.

The process of negotiations began in earnest again with the G-20-EU ministerial meeting in Brasília on December 12, 2003. After January 2004, the agricultural negotiations began to take place in various forums, including meetings between the EU/US and the G-20 and other negotiating groups such as the G-33, G-10 and Africa Group/ACP/LDCs known as the G-90. In addition, the new chair of the agricultural negotiations, Ambassador Tim Groser of New Zealand, appointed in February, began to hold intense 'agriculture weeks' every month which brought capital-based negotiators to Geneva. However, the most intense negotiations began to take place in the (non-group of NG5) process, comprising the US, EU, Brazil, India and Australia. The group began to meet regularly from April, 2004, at senior capital-based negotiators level and held several negotiating meetings at the ministerial level (see above).

3.4 The July Package on Agriculture: The Groser Text

This assessment of the July General Council decision on agriculture is preliminary and does not seek to be comprehensive. We focus on the key issues for the purpose of the analyses. At a general level the G-20 was of the view that the initial Groser Text on agriculture of July 16, 2004 was skewed in favour of the subsidising and protectionist countries. The Groser Text integrated the G-20 principles of 'progressivity' (deeper cuts in higher tariffs), and 'proportionality' (fewer reduction commitments from developing countries) in the market access section of the text and that of an overall reduction, strengthened disciplines and transparency and monitoring in the Domestic Support pillar. In the section on export competition, the principle of 'equivalence' was applied to all forms of export subsidies in parallel with the phasing out of subsidies in export credits, food aid, and the activities of exporting state trading enterprises.¹⁶

The Groser Text was criticised for allowing the EU wide discretion in excluding its sensitive products from any significant tariff reductions and in allowing the US the use of a new¹⁷ blue box, without any additional disciplines, thus enabling the US to commit to almost no real reductions in domestic support in the Doha Round. In addition, there was inadequate specificity for S&DT for developing countries in contrast to the more detailed specification of the treatment and protection of sensitive products for developed countries.

There was a period of intense negotiations in the NG5 and with other groups in the WTO before the tabling of the text by the chairman of the General Council (the Oshima Text of July 30, 2004). In response to some significant concerns by the G-20, Cairns Group and other groups, the second revision that was decided on July 31 made further changes to the original Groser Text.¹⁸ Thus, the G20 and Cairns Group, supported by a large number of developing countries, succeeded in ensuring that the July Agriculture Framework Agreement was broadly in line with the Doha mandate.

3.5 The Oshima Text

On Market Access

The ‘blended formula’ as initially proposed by the EU-US Joint Text was abandoned in favour of a ‘banded formula’ (tiered with different bands). This approach took into account the fact that developed and developing country tariff structures were mostly different which meant that the tariff cutting formula would need to keep this in consideration. Whilst EU and other developed countries were allowed to designate an appropriate number of products as sensitive, it was agreed that there would be substantial improvement in market access for each product. In addition, the principle of ‘progressivity’, requiring the highest tariffs to have the highest cuts was accepted, thus laying the basis for significant market access.

S&DT was recognised and would be applied through a range of measures, including the number of sensitive products and longer implementation periods. This treatment thus recognised the application of the concept of ‘proportionality’ that the G-20 had proposed.

The framework agreement allowed developing country members to designate an appropriate number of products as Special Products (SPs), based on the criteria of food security, livelihood security and rural development needs. The criteria and treatment of these were to be decided later in the negotiations. The issue of preference erosion was recognised and sought to be addressed in the negotiations.

On Domestic Support

The G-20 principle of higher levels of support receiving higher cuts was agreed in the agriculture framework. It was agreed that the overall level of support would be reduced and to ensure goodwill there would be an upfront 20 percent cut in bound levels in the first year of the implementation process. There would also be product specific cuts and capping at levels to be agreed. In addition, whilst there was recognition that a new blue box could be created to allow for reform in agricultural support, there was agreement that this would be subject to additional criteria to be negotiated.

It was agreed that S&DT would be an integral component of domestic support, and thus could include lower reductions and longer implementation periods. In addition, whilst the above would ordinarily apply to reductions in *de minimis* support levels, some countries argued strongly for and succeeded in obtaining agreement that “developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt”.

Export Competition

Here it was agreed that export subsidies would be eliminated by an end date to be agreed. The principle of equivalence was applied to the phasing out of the subsidy element in export credits, state trading enterprises and food aid. The principle of S&DT was applied to developing countries for the phasing out of all forms of export subsidies.

In addition, export subsidies for developing countries could be maintained for a longer period to be negotiated and state trading enterprises in developing countries that

preserved “domestic price stability and food security” would receive “special consideration”.

Transparency and Monitoring

The framework agreement also provided for the transparency and monitoring of the commitments on all three pillars of the agriculture agreement to be enhanced.

3.6 An Evaluation of the Agriculture Text

Whilst the July Agriculture Text raises the level of generality to avoid an impasse at this stage of the negotiations, it is vague in many cases and postpones the debate on many issues. It has, however, succeeded in giving hope that the Doha Mandate can still be implemented fully and fulfils its promise of fair trade and development in agriculture.

An evaluation of the outcome of the agreement may be too early. However, for the purposes of analysis we can apply each of the elements of the development dimension proposed above: fair trade; capacity building; balanced rules; and good governance *vis-à-vis* July Agriculture Text.

Fair Trade

The commitment to the elimination of export subsidies and substantial reductions in domestic support, together with the promise of substantial market opening, even for sensitive products, built the foundations for an ambitious result for the removal of protection and distortions in agricultural markets. Developing countries could, at last, be assured of the opportunity to develop their comparative advantage and expand their exports into developed countries markets. Developing countries were successful in ensuring that the principles of ‘proportionality’ and of ‘lesser reductions’ were applied to their commitments. The recognition that developed and developing country tariff structures were different and would need to be taken into account was important for adherence to the principle proportionality and S&DT. This took into account the fact that most developing countries which are largely agricultural economies would end up bearing the largest adjustment costs (in terms of economic and social impact) in liberalising their markets.

The Text had a number of provisions which went beyond the traditional S&DT provisions. The market access section agreed to allow developing country members to designate an appropriate number of products as SP, based on the criteria of food security, livelihood security and rural development needs.

In applying the above criteria for SP(which is over and above the number of Sensitive Products of developing countries) the levels of development of these countries and vulnerability would need to be taken into account.

Capacity Building

The issue of preference erosion, which was recognised in the Text and will need to be addressed in later negotiations, poses complex development challenges for several developing countries. A range of measure may need to be applied to assist these countries to manage their adjustment and diversification strategies. These could include funding

from the Bretton Woods Institutions, but without immersing these countries into more unsustainable debt. Thus, additional finance to fund supply-side and diversification strategies may be required. New and creative ways of raising these additional funds is called for. The initiative by Gordon Brown, when he was UK's Chancellor of the Exchequer, to create an International Finance Facility (IFF) to raise an additional US\$50bn to fund the MDGs, including trade policy capacity-building, is worth pursuing¹⁹.

In applying these strategies, the WTO would need to fully implement the concept of coherence in multilateral decision-making. Decisions made in the WTO would need to be coordinated with the Bretton Woods institutions and vice versa. In addition, the WTO will need to build formal relationships with the institutions that have expertise to assist with building supply-side capacities for the countries most in need. An appropriate mechanism in the WTO to advance these new approaches should be developed.

Balanced Rules

In the section on domestic support, it was agreed that “developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt”. In the section on export competition, it was agreed that export subsidies for developing countries could be maintained for a longer period to be negotiated and state trading enterprises in developing countries that preserved “domestic price stability and food security will receive special consideration”.

In applying the above criteria for these additional S&DT measures, the WTO will need to take account of the levels of development and vulnerability of these developing countries. Interestingly, it was India and China who argued most strongly for the above provisions. These are large agrarian economies with at least 1.5 billion people whose livelihoods depend on agriculture (650 million and 850 million respectively) and whose populations have the largest number of people living below the poverty threshold, on incomes below US\$1 a day (approximately 300 million and 350 million respectively).

In applying these rules in a flexible manner to facilitate the development of the neediest countries, the WTO will have to ensure that damage to other countries, especially the poor developing countries is minimised and that the rules-based system is not weakened. The application of such flexibilities will need to be monitored by a mechanism to be established in the WTO²⁰, which would assist in extending such flexibilities to those countries who need it, and review the application of such measures and their continuation, based on criteria to be agreed.

Good Governance

The issue of transparency and monitoring of the implementation of WTO agreements was agreed and can go a long way in building confidence in the WTO. Developed country notifications in agriculture were criticised for being too late and lacking in transparency. This will improve the governance of the WTO.

The agriculture negotiations, despite being largely successful in the final week of the July General Council meeting in building a compromise, was criticised for not being conducted in a transparent manner. The most intense part of the negotiations was

conducted amongst a small group of five countries. Although Brazil and India represented the G-20, the detail and complexity of the negotiations and the differences in interest amongst the members of the G-20 required greater transparency and inclusiveness. In addition, other major groups were largely left out of these negotiations. These included the Africa Group, ACP and LDCs, and the G-10 (including countries such as Japan and Switzerland) which had more protectionist interests in agriculture. The latter expressed their dissatisfaction with the process. A more inclusive process would need to be found for the continuation of the negotiations.

3.7 Background to Cotton

The issue of cotton subsidies and their devastating impact on cotton farmers and over 10 million people in West Africa was tabled in the WTO as a formal submission.²¹ They argued that cotton plays an essential role in the economic development of West and Central African countries (WCA) – in Benin, Burkina Faso, Chad, Mali and Togo, it accounts for 5 to 10 percent of the GDP around 30 percent of total export earnings and over 60 percent of earnings from agricultural exports.

A WTO meeting in Cotonou, Benin, focused attention on the issue and was attended by WTO members and several multilateral institutions (World Bank, IMF, FAO, UNCTAD). Technical presentations concluded that West African cotton producers are the most competitive in the world (least cost producers with highest quality).²² The cause of the decline in their cotton sector is a direct result of high levels of subsidies in the US and EU that have depressed world cotton prices, amongst other factors.

The development challenges that impact on the cotton sector include efficiency of production, distribution and marketing; improved infrastructure, cotton production methods and increasing yield with new varieties; commodity risk management; quality control and standards; and diversification and value addition in textiles and clothing (T&C).

The West African countries called for phasing out trade-distorting cotton subsidies, with a view to their elimination as a separate issue in the negotiations, and financial and technical support to address a range of supply-side and infrastructure challenges that faced these poverty stricken countries. In Cancún, the second revision²³ of the Text had called for these countries “to direct existing programmes and resources toward diversification of the economies where cotton accounts for the major share of their GDP”, and was criticised for seeking to divert attention from the high levels of trade-distorting subsidies of developed countries – mainly the US – in the cotton sector.

The July Package

The July General Council decision recognised the “complementarity between the trade and development” aspects of cotton. The WTO secretariat was urged to work with the “development community”, viz. multilateral and bilateral agencies. With a promise to ensure that cotton would be dealt with “ambitiously, expeditiously and specifically”²⁴, the July General Council decided to negotiate the issue within the context of the agriculture negotiations and not as a stand-alone issue that would be fast-tracked as the West African countries had initially demanded.

Evaluation

The cotton issue illustrated for many observers of the WTO that trade distorting subsidies can and do impact negatively on the livelihoods and development prospects of the poorest developing countries. By refusing to deal with this issue separately, the US inadvertently underlined the inextricable link between fair trade and development. The trade-distorting subsidies were depressing world prices and undermining cotton producing countries' opportunities to increase their exports of the "highest quality cotton produced at lowest cost" without fighting for a fair deal in the agriculture negotiations for all developing countries.²⁵ Thus the fate of the West African cotton producers is now inextricably linked to an ambitious and successful outcome of the Doha agriculture negotiations. Success in achieving the high ambition of increased market access, domestic support and export competition is thus critical.

Subsidised export credits also assist US exporters to compete unfairly in global markets. Indian government officials explain that their importers of cotton are attracted by the US exporters who are able to supply them with concessional credit facilities. Governments of West African countries are too poor to support farmers' exports with the equivalent export credit facilities. This issue is part of the agriculture negotiations on export competition.

The WTO, however did make an important advance in boldly recognising the complementarity between the trade and development aspects of the cotton issue²⁶. Furthermore, it recognised that it would need to work closely with the development community, including multilateral and bilateral agencies. Thus the WTO acknowledged that it has a role in building institutional, productive and export capabilities. In addition, the WTO has recognised some responsibility for these development impacts of trade and that it needs to play a role in building coherence between the various levels and bodies responsible.

Cotton is a good illustration of the unfairness of WTO rules: developing countries are not allowed to use subsidies in their nascent industrial sectors whilst developed countries such as the US are allowed to use trade-distorting subsidies which destroy the livelihoods of poor West African farmers.

On the issue of transparency and inclusiveness of the decision-making process, it was apparent that the West African cause to seek relief for the plight of their farmers did not yield any significant short-term gains. The negotiating process in the run-up to the July General Council saw a somewhat fragmented and non-transparent negotiating process with the NG-5 leading the agriculture negotiations and the West African countries negotiating bilaterally with the US on cotton. The bargaining power and negotiating capacity of the West African cotton countries could be more effectively enhanced by the more powerful G-20 group of countries, whose members also have an interest in the elimination of trade-distorting cotton subsidies. A more inclusive and transparent negotiating process in the WTO would thus benefit the development prospects of poor West African farmers.

3.8 Background to NAMA

In the area of industrial products or NAMA the Doha Mandate agreed to “reduce or as appropriate eliminate tariffs...in particular of export interest to developing countries”. This mandate thus recognised the many criticisms of the results of the Uruguay Round by developing countries.

Developing countries have argued that whilst developed countries achieved significant gains from the Uruguay Round, including increased access to the services sector of developing countries and new rules on anti-dumping and TRIPs, most developing countries did not secure benefits through access to developed country markets in products of particular interest to them, and they have continued to labour under implementation problems. In addition, global trends in trade over the past decade have seen more rapid growth in the exports of some countries, particularly in high value-added and high-skilled products. However, the bulk of developing country exports, made up of agricultural products and labour intensive manufacturing, has remained static, and their share of global markets has declined²⁷.

The WTO Doha Mandate agreed that the deadline for modalities for agriculture should be at the end of March 2003. For NAMA, the mandate set the deadline at the end of May 2003. Thus the chair of the NAMA negotiating group prior to Cancún, Ambassador Girard, began work on developing these modalities. A number of countries put forward proposals for tariff cutting formulae. The chair modified these and proposed his own compromise formula and proposal – ‘Elements of Modalities for Negotiations on Non-Agricultural Products’,²⁸ or the Girard Proposal. The Girard Proposal contained a number of elements including: a formula for tariff reductions; a sectoral approach; S&DT provisions; recognition of the particular situation of newly-acceded countries, a supplementary approach that included zero for zero, sectoral harmonisation and request and offer approaches; negotiations to reduce non-tariff barriers (NTBs); and the provision of technical assistance to developing countries during the negotiations.

This approach was broad enough to include an ambitious outcome to the negotiations and to allow for flexibilities for developing countries’ needs and interests. The Girard Proposal, whilst being roundly criticised by both developed and developing countries, succeeded in providing a basis for the negotiations on modalities for NAMA. However, as the process of developing modalities was diverted both by the failure to reach agreement on agricultural modalities at the end of May 2003 and the EU-US Joint Text of the August 13, 2003, the WTO decided to also produce a Framework Agreement for Cancún, in line with the agriculture negotiations.

Annex B of the Cancún Text, the ‘Framework for Establishing Modalities in Market Access for Non-Agricultural Products’,²⁹ was criticised by developing countries before and at Cancún for being biased in favour of developed countries and not paying sufficient attention to the principle of ‘less than full reciprocity’ called for by the Doha Mandate. In particular the Cancún Text was criticised by developing countries for calling for a “non-linear formula”³⁰ and mandatory sectoral tariff reductions.³¹ The Text was not adopted due to these criticisms and the subsequent collapse of the meeting.

In the period up to the July 2004 ministerial meeting some of the major delegations began to display some flexibility in their approach to the NAMA framework. Bob Zoellick, the US trade representative, in a conciliatory letter to WTO ministers in January 2004 called for both ambition and flexibility³². Indeed the letter appeared creative in the manner it dealt with developing countries. Instead of the non-linear formula, he was prepared to explore a “blended” concept for these countries. Thus he stated that “for less competitive developing economies, a blended methodology could give flexibility for sensitive items while enabling the WTO to proceed with an ambitious formula that significantly narrows the larger gaps”. On the issue of mandatory or voluntary sectoral negotiations the letter argued the need to find a balance and provide “flexibility for developing countries, especially the poorer and less developed”. However, in the negotiations in the months before the July General Council meeting developing countries³³ began to insist that the Cancún Text or the Derbez Text (named after the chairman of the Cancun Conference, Luiz Derbez, the Foreign Trade Minister of Mexico), should not be amended but accepted ‘as is’, in spite of the criticisms and objections of developing countries.

The July Package

The chair of the NAMA negotiation Ambassador Stephan Johannesson was thus constrained to make changes to this text to accommodate developing country concerns. In addition, the strong linkage many developing countries made between the NAMA negotiations and the outcome of the agriculture negotiations slowed down the process of negotiations on NAMA. In the event the NAMA negotiations continued until the very last moments of the July General Council negotiations. At this stage, the only possibility that remained for developing countries was to ensure that the Derbez Text remained open to negotiation so that the views and perspectives of developing countries could be included in the post-July negotiations on modalities. Thus Annex B of the July Package on NAMA called for additional negotiations on the elements of the Derbez Text. These issues would relate to the treatment of unbound tariffs, flexibilities for developing countries, participation in sectoral negotiations and preferences.³⁴

An Evaluation

Developing countries thus succeeded in ensuring that the Derbez Text, which was perceived to be biased in favour of developed countries, was not imposed on them. The July Framework Agreement on NAMA has made it possible for the elements of the text to be further negotiated and ensure that the outcome of the negotiations on modalities is more balanced and takes into account the interests of developing countries. The debate on the substance of the framework had thus been postponed.

The negotiations on modalities will now need to focus on the Girard Proposals. The debate on the approach to the different elements of the Girard Proposal would need to be negotiated. A developmental outcome would need to take into account the four elements of the development dimension proposed in this paper.

In addressing the issue of fair trade, the WTO negotiator will need to ensure that due recognition is given to the enormous imbalances in the global trading system reflected in the iniquitous distribution of the gains from globalisation and the continued protection

given by developed countries against the products of poor people from developing countries. Thus the modalities for liberalisation in NAMA must accomplish two things simultaneously: i) address the issues of tariff peaks, tariff escalation and the remaining high tariffs that prevent developing country exports into developed country markets; and ii) ensure sufficient flexibility in order to accommodate the diversity in the levels of development of developing countries.

Whilst the sectoral approach provides members with the opportunity to enhance market access, this should be used as a supplementary approach and entered into on a voluntary basis. In addition, where developing countries choose to use this approach, it should include the principle of asymmetry by allowing for limited exclusions, longer phase-in periods and the possibility of a tariff end-rate above zero for developing countries. In addition, developing countries need more time to adjust given the significantly larger impact of tariff adjustments on output, employment and revenue loss. The principle of 'less than full reciprocity' would need to be applied in a manner that recognised the need for proportionality in the adjustment process between developed and developing countries. However, developing countries are at different levels of industrial and economic development and thus those least developed countries who are new entrants to the global economy would need a different co-efficient in the formula to allow for a relatively slower adjustment process.³⁵

Some developing countries will suffer additional burdens of adjustment due to their particular development situations, including through the loss of preferences. Appropriate adjustment support will need to be explored for these countries in the modalities. The burden of these adjustments should not be borne by poor developing countries. For many of these countries, including the new entrants, the larger challenge to market access remains that of addressing their capacity constraints that would include measures to build their institutional, productive and export capabilities.

The NAMA framework proposal has recognised that "Non-Tariff Barriers (NTBs) are an integral and important part of the negotiations".³⁶ Reducing tariff barriers alone will not succeed in providing genuine market access for developing countries. NTBs such as anti-dumping, technical barriers and import licensing in developed countries often pose significant barriers to exports. Some issues, such as anti-dumping are currently under discussion in other negotiating groups. Real progress in these areas must be achieved as part of a single undertaking. Other issues, such as technical barriers to trade and import licensing are being addressed by WTO subsidiary bodies. However, these negotiations must be supervised strongly by the NAMA negotiating group to ensure that the outcome of the NAMA negotiations also include more balanced rules that support the efforts made in the market access negotiations and do not continue to impede the exports of developing countries in an unfair manner.

The outcome of the NAMA negotiations in the WTO reflects the increasing assertiveness of developing countries to ensure that an unfair agreement is not imposed on them. The US had earlier called for a "blended approach" to the tariff formula to take into account developing country concerns and the creation of "a middle ground" in the debate on mandatory or voluntary sectoral negotiations that would take into account that need for

a “critical mass”.³⁷ However, the attempts by developed countries, including the US, not to change the Derbez Text later on in the negotiations, whilst recognising that it does not adequately reflect the needs of developing countries, underlines the need for a more inclusive and transparent negotiating process that is essential to ensure a balanced and fair outcome.

3.9 Background to the Singapore Issues: Trade Facilitation

The first ministerial conference of the WTO, held in Singapore in 1996, had decided to establish a work process to study and clarify the issues that could be included in possible agreements on the four so-called Singapore Issues. Whilst the study continued, no agreement could be reached on the launching of negotiations on these issues at subsequent WTO conferences. The Singapore Issues were included by the ministers in Doha as part of the comprehensive DDA.

The Doha Declaration provides identical mandates for investment, competition, trade facilitation and transparency in government procurement.³⁸ It instructs the various bodies to clarify core issues that may form subjects for inclusion in the various agreements should there be “explicit consensus” to launch negotiations on them. The mandates also stress the need for enhanced technical assistance and capacity building in these areas and specifically add that assistance provided to developing and LDCs should include policy analysis to enable them to better evaluate the implications of closer multilateral cooperation for their development policies and objectives, including human and institutional development.

At Cancún, the chair’s Draft Ministerial Text³⁹ was criticised for misrepresenting the debate on the Singapore Issues – competition, investment, transparency in government procurement and trade facilitation. The text called for the immediate launch of negotiations on two of the four issues and for negotiations on the most controversial issue, i.e. investment in a few months. One issue – competition – was postponed for further study. The vast majority of developing countries were unwilling to launch negotiations on these new issues and provided several reasons for their stance. Most countries argued that the Singapore Issues had been wrongfully imposed on them in Doha and were overburdening an already complex negotiating agenda. Some countries felt that insufficient progress had been made in Geneva on the discussions to establish a balanced and consensual basis for negotiations. Moreover, other countries believed that it was premature to discuss the Singapore Issues when the EU and Japan as principal *demandeurs* had failed to indicate adequate willingness to reform their own agricultural policies.

Since Cancún, there has been much debate on the Singapore Issues in Geneva. Bob Zoellick in his January 2004 letter to WTO Ministers clearly stated the preference of the US to include only one issue: trade facilitation in the DDA negotiations. He was indifferent about how the other three issues were to be treated – “either drop them or develop a plan of study”. The EU returned in January 2004, after its prolonged internal discussions amongst the member-states, with an ambivalent mandate but finally agreed to include only one of the Singapore Issues in the Doha Round⁴⁰. There were some intense discussions prior to the July General Council on the possible modalities for

negotiations on trade facilitation – co-ordinated by the Deputy Director-General (DGG) of the WTO, Rufus Yerxa, on behalf of the chair of the General Council.

The July Package

The July package decided to commence negotiations “by explicit consensus” on trade facilitation on the basis of the modalities set out in Annex D of the July General Council Decision.⁴¹ On the other three issues, i.e. investment, competition and transparency in government procurement – the text stated that “no work towards negotiations” will take place “within the WTO during the Doha Round”.

Evaluation

The modalities agreed in Annex D made a strong effort to build more balanced rules in the WTO by stating that “the extent and timing of entering into commitments shall be related to the implementation capacities of developing and LDCs”⁴². This made an explicit linkage between the implementation commitments of developing countries and their capacities.

The modalities in Annex D went to great lengths to assure developing countries that the cost implications of their needs and priorities, technical assistance and support for capacity-building, including infrastructure development would be addressed by developed country members, failing which implementation obligations would be waived⁴³. In addition, the modalities provided that, “LDCs will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.”⁴⁴ The commitment of the WTO to build coherence with other multilateral agencies, especially the World Customs Organisation, was made in paragraphs 8 and 9 of the Annex. These provisions have laid the basis for the possibility of new rules that would be balanced and provide for the building of capabilities in developing countries, particularly the LDCs in order to benefit from international trade and the multilateral trading system.

Developing countries, particularly the less developed and LDCs, were very concerned about the development impact of these new rules and negotiated for more balanced rules. In the period after Cancún and especially in the months before the July General Council meeting a large number of developing countries formed a strong alliance and negotiated collectively on these issues⁴⁵, with three groups – the LDCs, Africa and ACP – being instructed by strong ministerial mandates in preparation for the July General Council meeting. The negotiations on trade facilitation were relatively more transparent and inclusive in the period before July. Learning the lessons of Cancún, the developed countries did not underestimate the strong views of developing countries again, and were more willing to take into account their concerns in the drafting of modalities.

The Doha Mandate had sequenced the negotiations in a manner that called for modalities to be agreed and negotiations to be launched on the basis of explicit consensus *after* agreement on modalities on agriculture and the WTO decided to set a deadline for modalities on NAMA by end-May 2003.⁴⁶ The modalities for the Singapore Issues were only to be decided “by explicit consensus” at the Cancún ministerial meeting – set for September, 2003. The fact that the modalities for one of the Singapore Issues were

being decided *before* that of agriculture and NAMA could also have been a consideration by developed countries for a more balanced and development-friendly outcome on trade facilitation.

3.10 Background to the Development Issues

The ‘Development Issues’ in the July Text had their genesis in the discussions post-Cancún, and they were critical issues that needed to be addressed to revive the DDA after the failure of Cancún.⁴⁷ The then-chair of the General Council, Carlos Castillo, suggested the inclusion of the development issues, together with agriculture, cotton, NAMA and the Singapore Issues. In the months before July, the new Chair of the General Council, Ambassador Oshima of Japan, included the development issues as part of the package for July. However, he did not clarify which particular development issues would be included – other than that of S&DT, which was the focus of the work of the CTDSS. It was also clear that the Implementation Issues – managed by the WTO Director General as chair of the TNC – would need to be added to the development package.⁴⁸

As the July General Council preparations proceeded some developing countries argued for the inclusion of a range of other development issues in the July package, including LDCs, small economies, preferences, commodities, capacity building, trade debt and finance, and trade and technology transfer.⁴⁹ However, as work on these issues had not advanced substantially in the period since Cancún, the chair of the General Council was reluctant to include substantial language on these issues except to refer to them in the ongoing WTO work programme.⁵⁰

An Evaluation of the July GC outcomes

The July package thus focussed on five issues in the development section of the decision: S&DT; technical assistance; implementation; other development issues; and LDCs. The outcome of the WTO July General Council Decision on each of these issues are discussed and evaluated below.

Special and Differential Treatment

The work on S&DT advanced slowly in the negotiations after Doha. In the period before Cancún, the chair of the General Council, Carlos Castillo, categorised into three groups the 88 proposals that were submitted by developing countries to review the S&DT provisions with a view to “strengthening them and making them more precise, effective and operational”.⁵¹ The first group had 38 proposals that he thought had a good chance of succeeding; the second had another 38 that were referred to the relevant negotiating groups and WTO bodies for their consideration and recommendations for decisions by the General Council, and the third group had the remaining 12 issues on which he thought there were wide divergences of opinion. In the period before Cancún – and at Cancún – WTO members were able to reach agreement on 28 of these proposals. These were not adopted at Cancún because of the unexpected closure of the meeting.

In the period before the July General Council meeting, the new chair of the CTDSS⁵² called for a review of the approach to the negotiations so as to enable greater convergence on the underlying issues raised through the 88 proposals. Developing countries insisted on prioritising the negotiation of specific proposals before discussing the so-called ‘cross-

cutting issues'. Developed countries, on the other hand, expressed the view that they had made great efforts to reach agreement on the 28 S&DT proposals and that they were unlikely to make further progress on the rest of the proposals unless there was a change of approach to the issues. Developing countries also were of the view that they should not adopt or harvest the 28 proposals in the July package as they felt that these agreements were of little "economic value" and that adopting them now may prejudice the negotiations on the rest of the proposals.

The July package thus simply recognised that some progress had been made in the negotiations on S&DT without adopting the 28 proposals. The CTD was instructed to complete the review of the outstanding proposals and work on the cross-cutting issues, monitoring mechanism and incorporation of S&DT into the architecture of WTO rules,⁵³ and report to the General Council by July 2005. In addition, the negotiating groups and the bodies to which the Category Two proposals above were referred were instructed to report back with clear recommendations to the General Council by July 2005.

Thus, the July General Council meeting did not advance the negotiations on S&DT much further than the period before Cancún.

Implementation Issues

The Implementation Issues were scheduled by the Doha-mandated work programme to be decided as a matter of priority by December 2002.⁵⁴ The persistence of wide gaps in the views and interests of a significant number of countries, such as on the issue of extension of Geographical Indications (GIs),⁵⁵ created a stalemate in the negotiating process. The mandate agreed that negotiations on all outstanding Implementation Issues shall be an integral part of the work programme.

Paragraph 12 of the Doha Ministerial Declaration calls for those issues for which a negotiating mandate exists (12a) to be referred to such working groups and for the other issues (12b) to be addressed by WTO bodies as a matter of priority. Some members feel that the issue of extension of GIs should not be regarded as a negotiating issue unless agreement is reached on it in the Council for TRIPs. Other members have argued that all the Implementation Issues should be regarded as negotiating issues and treated in the same manner. Thus the process of the negotiations on the Implementation Issues has been held hostage by the debate on the extension of GIs. The Cancún text on Implementation Issues recognised the impasse in the negotiations and renewed the determination of members to find a solution, requesting the DG to continue his efforts in this regard.

The July Decision could not take this process much further as no significant progress was made between the Cancún meeting and the July General Council. The July Decision once again requested the DG to continue with his consultation process and to report to the TNC by May 2005 and the Council to review progress on these issues and make appropriate decisions by July 2005.

Technical Assistance

The Doha Declaration confirmed that "technical co-operation and capacity building are core elements of the development dimension of the multilateral trading system", and

recognised that “sustainably financed technical assistance and capacity building programmes have important roles to play”.⁵⁶ The WTO has made considerable advances in providing technical assistance, particularly in support of information and training for the Doha Round. The Cancún Text acknowledged the role of the DDA Global Trust Fund in providing funding for these efforts. The Text also recognised the significant co-operation begun by the WTO with some agencies (e.g. the World Bank, IMF, UNCTAD and ITC) in joint projects such as the Integrated Framework (IF) and the Joint Integrated Technical Assistance Programme (JITAP) in implementing these programmes.⁵⁷

The July Text, whilst recognising these efforts, calls for “developing countries and in particular LDCs to be provided with enhanced trade related technical assistance and capacity building to increase their effective participation in the negotiations to facilitate their implementation of WTO rules and to enable them to adjust and diversify their economies”. Its section on “other development issues” commits the WTO to ensure that “special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints”.

Thus the July Text, by recognising the need for the WTO to address the implementation and supply-side needs of developing countries, in addition to its capacity building role to strengthen developing country negotiation skills, has advanced the development dimension of the WTO.

Other Development Issues

In a letter to the ministers of the G-90 and then to all WTO ministers, Pascal Lamy called on WTO members to take into account the special needs of small, weak, and vulnerable countries. He argued that these economies should be treated in a similar manner as LDCs in the negotiations to determine their reduction commitments and their obligations to implement trade rules. He argued that they should enjoy the “round for free”. Lamy’s letter was partly a response to the views of many smaller developing countries that they should be allowed similar status to that of LDCs in the negotiations as they were relatively weak economies and surrounded by LDCs who enjoyed better preferences in developed country markets. Some developing countries who enjoyed significant preferences in developed country markets argued that the erosion of their preferences would entail significant adjustment costs for which they wanted to be compensated.

The issue of preferences has been a contentious one in the WTO and has led to several disputes initiated by those developing countries that have argued that they have been prejudiced by the discriminatory application of these preferences.⁵⁸ In addition, the attempt by some countries to create a category that would enjoy similar status to that of the LDCs (e.g., small and vulnerable economies or SVEs) has been resisted by other developing countries that have feared that this could lead to further discrimination between developing countries and prejudice their interests.⁵⁹ More recently, some of the larger developing countries have criticised developed countries for attempting to ‘graduate’ them out of the normal provisions of S&DT and thus Lamy’s proposal was also perceived as another attempt to achieve this objective.

In the weeks before the July General Council meeting, the Ambassador of the EU, Carlo Trojan, decided to table a proposal in the WTO that called for these small, weak and vulnerable countries (including landlocked and commodity-dependant countries) to be given special consideration in the negotiations – in order to address their particular concerns, especially those arising from the impact of the erosion of non-reciprocal trade preferences. This proposal led to a vigorous debate amongst developing countries. Countries from the ACP group and a few Latin American countries (including Bolivia and Paraguay) supported the EU approach whilst almost all other developing countries, particularly those from Latin America and Asia, were cautious and critical. The chair of the CTDSS was requested by the chairman of the General Council to find a solution and build an acceptable compromise between these countries.

The July General Council decision finally did agree to a text in the section on ‘Other Development Issues’.⁶⁰ The compromise text contains three sentences which: first, refer to both the fundamental principles of the WTO (including the concept of the MFN) and the flexibilities contained in the various agreements and provisions of GATT, 1994, which address the specific trade and development related needs and concerns of developing countries; second, recognise that the particular concerns of developing countries, including those relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as unilateral liberalisation should be taken into consideration in the negotiations; and third, agree that the concerns of small, vulnerable economies should be addressed without creating a sub-category of members.

This formulation was a compromise negotiated by developing countries which attempted to balance their different interests. It created a debate which, whilst being vigorous, built a greater appreciation and understanding amongst the different groups about the concerns, interests and fears of each group. There was greater appreciation amongst the groups that particular concerns, e.g. of rural development, livelihood and food security, were not restricted to the smaller countries, as some of the larger developing countries, such as India and China, had large rural populations, the many of whom lived on less than one dollar a day. The debate and compromise amongst these developing countries may have contributed to the strengthening of the common alliance built amongst them for a fairer trade deal on agriculture and NAMA at the July General Council meeting.

LDCs

In the weeks before the July General Council, the LDC Group re-called the language from the Cancún text and argued for this language to be included in the July Package. The Cancún text which was not adopted at Cancún called for DFQF market access for products originating from LDCs; for rules of origin (RoO) that facilitate exports from LDCs; and for the prioritisation of LDCs service suppliers by importing countries, particularly on the movement of natural persons or Mode 4.⁶¹

The July Package on LDCs merely reaffirmed the commitments made in Doha to address the concerns of LDCs. In addition, in view of the concerns expressed by some LDC members that the possible extension of LDC-type treatment to some non-LDC developing countries may erode their preferential access in global markets, the July decision provided

some re-assurance that “nothing in this decision shall detract in any way from the special provisions agreed by members in respect of these countries”. The July decision, however, did not make any significant advances for the special interests of LDCs on DFQF market access, relaxation of the rules of origin and increased market access for their Mode 4 service providers.

3.11 Conclusion

This paper has thus argued that on each of the critical issues negotiated in the July Package – agriculture, cotton, NAMA, trade facilitation and development issues – the development dimension and its four elements of fair trade, capacity building for the poorest countries, balanced rules and good governance have been generally advanced. Whilst the wording in the text is vague in many cases, and the negotiations on some more detailed and controversial issues have been postponed for the modalities stage, developing countries have succeeded in ensuring that the July General Council decision is broadly in line with the hopes and ambitions of the DDA and still capable of delivering on its promise of increasing growth and development for all. The July General Council Decision is thus an advance for all of humanity. In addition, by saving the WTO from another collapse and ensuring that the body is still on track, albeit much delayed to achieve the objectives of the DDA, WTO members have made a significant contribution to the development dimensions of the multilateral rules-based system.

The July decision of the WTO extended the DDA to the 6th ministerial meeting that was to be held in Hong Kong, China in December 2005. Whilst Lamy expressed an optimistic view that the DDA could be concluded by this date, WTO members at that point still needed to develop a work programme and set new deadlines to advance the DDA. These included the deadlines for modalities in agriculture and NAMA. In addition, a new work programme would need to be developed to ensure that some of the other areas of the DDA that were not negotiated as part of the July Package – viz. rules, environment and TRIPs – also gained some momentum. The progress and successful conclusion of the Doha Round would also depend on the elections in the US and the ability of the new administration to obtain fast-track authority for the WTO negotiations in the second quarter of 2005. In addition, the EU, with the election of a new president and new commissioners, and with an enlarged number of member-states (from 15 to 25), would need to develop the political will and mandate to negotiate an ambitious agreement in agriculture in line with its commitments in the Doha Mandate.

Developing countries too would need to maintain the momentum of their negotiating efforts, and strengthen their delicately knit alliances on different issues. The success of the G-20 in the agriculture negotiations would need to be built on, strengthening its alliance with the Cairns group, the G-33 and G-90 group of countries and thus creating greater and more equal bargaining power between developed and developing countries in the WTO. Vigorous debate within these groups, it was felt, would result in balancing both the interests of developing countries for a more open trading system, including between themselves, and accommodating the need for greater flexibility for less developed members.

The July 2004 framework agreement was going to be a platform for Hong Kong. However, the Hong Kong Ministerial was to once again fall short of the target of

completing the negotiations on full modalities in the agriculture and NAMA negotiations. Instead it was to merely make incremental advances on the framework agreement of July 2004. In chapter five the outcomes of the WTO Hong Kong Ministerial Conference will be discussed and evaluated.

The LDCs were identified by the Doha Mandate as a special category that needed to be provided with special attention and support to meaningfully integrate these countries into the world economy, and the July Framework Agreement merely re-affirmed this. The July Framework Agreement also promised to address the concerns of small and vulnerable countries, without creating a sub-category of developing country members. However, there was much debate amongst WTO members and academic observers about how best to achieve these objectives and indeed about what was in the development interests of these countries. In the chapter four below we utilize the conceptual framework developed in chapter two on the development dimension of the multilateral trading system to provide a perspective on how LDCs and other small and vulnerable economies can gain from the Doha Round.

Notes

- 1 See Sen, A., *Development as Freedom* Anchor Books. New York. 1999.
- 2 See Hoekman, B. 'Special and Differential Treatment in the WTO: Moving Forward'. Presentation at European University Institute, July 02-03, 2004.
- 3 In the NAMA negotiations the chair had proposed a formula for market access reductions – the Girard Formula – with the majority of members willing to engage on it.
- 4 See Draft Ministerial Text, Second Revision. Job (03)/150/Rev.2. September 13, 2003.
- 5 At this stage Carlos Castillo included special and differential treatment and implementation as the main subjects to be discussed under the heading of 'development issues'.
- 6 Zoellick travelled to nine countries in ten days, including India, China, Indonesia (ASEAN), Pakistan, South Africa and Kenya. He also attended the Cairns Group meeting in Costa Rica (February 23).
- 7 See Tangerman, S., (2004). 'How to forge a compromise in the agriculture negotiations' in Ernest-Ulrich, P., *Reforming the World Trading System. Legitimacy, Efficiency, and Democratic Governance*, Oxford University Press, 2005.
- 8 Ibid.
- 9 Ibid.
- 10 Ibid.
- 11 See WTO Doha Ministerial Declaration, November 14, 2001. para 13.
- 12 See Ismail, F., 'On the Road to Cancun. A development Perspective on EU Trade Policies and Implications for Central and East European Countries', *Journal of World Investment*, Vol. 4 No. 4. August 2003.
- 13 See Statement by Australian Minister Mark Vaile of the Cairns Group [September 08, 2003.]
- 14 See Joint EC-US Paper, WTO, JOB (03)/157, August 13, 2003.
- 15 See Ismail, F., 'On the Road to Cancun. A Development Perspective on EU Trade Policies and Implications for Central and East European Countries.' *Journal Of World Investment*. August 2003.
- 16 See G-20 Proposals on Market Access, Domestic Support and Export Competition, published in 'G-20: Three Years of Activities Moving The Doha Round Forward'. [publisher?]. Geneva. September 2006.

- 17 The new blue box agreed in the July 2004 Framework Agreement was made more flexible at the insistence of the US to allow them to move some US agricultural programmes from the amber box to the less restrictive blue box. In the Uruguay Round agriculture agreement the amber box referred to the permitted levels of trade-distorting domestic support and the blue box referred to the permitted levels of less trad- distorting domestic support.
- 18 See WTO doc. WT/L/579. August 02, 2004.
- 19 See Speeches by Gordon Brown to the Conference on ‘Making Globalisation Work for All – The Challenge of Delivering the Monterrey Consensus’ February 16, 2004, and at the ‘Poverty and Globalisation: Financing for Development’, Seminar at Vatican City, July 09, 2004. http://www.hm-treasury.gov.uk/documents/international_issues/internation
- 20 See Prowse, S.. ‘The Role of International and National Agencies in Trade-Related Capacity Building.’ *World Economy* 25 (9): 1235-1261. 2002
- 21 See WTO TN/AG/GEN/4, May 16, 2003
- 22 See Presentation by the International Cotton Advisory Council to the WTO Cotonou Workshop on Cotton, March 23-25, 2004.
- 23 See WTO JOB(03)/150/Rev.2 September 13, [YEAR?]
- 24 See WTO WT/L/579 August 02, 2004
- 25 A number of other countries also produce cotton and are negatively affected by developed country cotton producers. These include another 26 African countries, in addition to the four West African countries, and Brazil (Brazil initiated a dispute against US cotton subsidies), India, Pakistan and China.
- 26 See 1b. and Annex A 4 and 5 of WTO WT/L/579 August 02, 2004
- 27 See *Global Economic Prospects and the Developing Countries*, World Bank, Washington, D.C., 2002 and UNCTAD *Trade and Development Report 2002*, UNCTAD, Geneva.
- 28 See WTO TN/MA/W/35 May 16, 2003
- 29 See WTO JOB (03)/150/Rev.2
- 30 See paragraph 3 of Annex B. Some developing countries argued that when this is applied to their own relative tariff reductions, it will create relatively significant adjustment burdens compared to that of developed countries whose tariffs were low already.
- 31 Some developing countries were willing to entertain the possibility of sectoral negotiations but only if this were decided on a voluntary basis. They feared that the burden of adjustment for them would be relatively large, especially if the most sensitive of their sectors were targeted for sectoral tariff reductions.
- 32 See letter by Bob Zoellick to WTO Ministers. January 11, 2004.
- 33 Developed countries created an informal negotiating group to support the Derbez Text called the ‘Friends of Ambition’.
- 34 See paragraph 1 of Annex B. WT/L/579. August 02, 2004.
- 35 South Africa made a proposal to differentiate between the small group of industrial economies and more advanced developing countries (the “leaders”) that have been able to make the necessary adjustments in their economies to compete effectively in the global economy and gain from increased global trade, others (the “adjusters”) that have begun to make significant but painful adjustments in their domestic economies and are beginning to compete more effectively in the global economy and those economies that are “new entrants” to the trading system, accounting for a small share of global trade and are still making the necessary adjustments to participate effectively in the world trading system. See WTO TN/MA/W/42. August 13, 2003.
- 36 Paragraph 14 of Annex B.
- 37 See letter by Bob Zoellick to WTO Ministers. January 11, 2004.
- 38 See WTO doc. WT/Min (01)/Dec/1. November 20, 2001
- 39 See JOB (03)/150/Rev.2. September 13, 2003.
- 40 Pascal Lamy agreed to this in the Paris OECD meetings of May 12-14, 2004.
- 41 See 1g and Annex D of Text. WTO WT/L/579. August 02, 2004.
- 42 See paragraph 2 of Annex D. WTO WT/L/579. August 02, 2004.

- 43 See paragraph 4, 5 and 6 of Annex D.
- 44 See paragraph 3 of Annex D.
- 45 See Ministerial Mandates of LDCs, African Union and ACP groups.
- 46 Modalities for agriculture were to be agreed at the end of March, 2003, and the WTO decided to a deadline of end of May, 2003, for agreement on modalities for NAMA.
- 47 Carlos Castillo focused mainly on Special and Differential Treatment and Implementation Issues in the period after Cancun.
- 48 A 'development package' that was called for by some WTO members however had to include a range of other issues of concern to developing countries including preference erosion, technical assistance and trade- related capacity building and the specific concerns of LDCs.
- 49 See statement by Ambassador of Mauritius on behalf of the Africa Group to the July 2004 Informal General Council.
- 50 See I (h) of July GC Decision. Other Elements of the Work Programme
- 51 See Paragraph 44 of Doha Declaration.
- 52 The author of this paper was appointed as Chair of the Committee on Trade and Development Special Session on the February 11, 2004.
- 53 This work programme of the CTD was agreed at a previous General Council meeting as reported in TN/CTD/7.
- 54 See Paragraph 12 of the Doha Mandate.
- 55 Geographical indications (GIs), as defined in the TRIPs agreement, are identifications of the national, local, or regional origin of a product for which "a given quality, reputation or other characteristic... is essentially attributable to its geographical origin."
- 56 See Paragraph 38 and 2 of the Doha Mandate.
- 57 The Integrated Framework (a collaboration of 6 multilateral agencies focused on LDCs) and the Joint Integrated Technical Assistance Programme (a collaboration of three multilateral agencies focussed on Africa) are discussed later in the book in the chapter on Aid for Trade.
- 58 See WTO WT/DS246/R. Report of the Panel, 'European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries'. December 01, 2003.
- 59 See Speech by Celso Amorim at a meeting of some G-90 ministers held in Guyana, April 2004.
- 60 See WT/L/579. 2 August 2004.
- 61 See WTO JOB (03)/150/Rev.2. September 13, 2003.

How LDCs and SVEs can gain from the Doha Development Agenda

4.1 Introduction

The DDA has been criticised for maintaining the rhetoric of development whilst failing to provide confidence that it will meet the objective of ensuring that this round is a development round. Indeed, sceptics have argued that it should not be called a development round at all until it has achieved this objective.¹ However, there is much confusion about what is meant by ‘development’, as the issues that have emerged in the negotiations suggest that there are different perspectives amongst WTO members on what constitutes development and what is in the development interest of developing countries. Indeed developing countries themselves have different development interests and have thus emphasised different elements of the development dimension of the multilateral trading system.

In Chapter Two we have argued that the development dimension of the multilateral trading system needed to be mainstreamed. We set out four core elements that could constitute the development dimension in the context of the multilateral trading system. These four elements are: fair trade; capacity building; balanced rules; and good governance. It was argued that a fair trading system would remove the obstacles that developing countries experience in exporting their products to developed country markets and create opportunities for them to advance their development. Second, increasing the capacity of developing countries to develop their comparative advantage to produce and export would provide them with the necessary institutional, productive and export capabilities to level the playing field in the trading system. Third, establishing rules that ensure that there is a fair balance between the costs and the benefits of new agreements; the values and interests of developed and developing countries; appropriate flexibility for developing countries to implement development policies; and the need for a strengthened rules-based system would contribute to the legitimacy and sustainability of these rules. Fourth, by building a transparent and inclusive system of decision-making in the WTO, members will be contributing to the capacity of developing countries to participate effectively in a process that is democratic and consistent with the dimensions of development cited above.

The concept of S&DT, which has emerged since the earliest days of the GATT, has called for the interests of developing countries to be given special consideration. This concept remains essential to ensure that there is proportionality in the commitments undertaken between developed and developing countries, reflecting their different levels

of development and gains from the trading system. We have also argued that S&DT should not be confused with the broader development dimension of the trading system, nor become a substitute for it. S&DT is only one aspect of the broader development dimension.

The WTO members have different perspectives of these four elements, including the aspect of S&DT, with different groups emphasising different elements. In the debate since the onset of the DDA negotiations, WTO members have reflected at least five discernable perspectives on development.² The first perspective, with its main proponent being the US, argues that the main content of development lies in the market access part of the negotiations and that an ambitious outcome here would ensure a development dividend for developing countries. The second, with the EU being its main advocate, argues that market access together with appropriate rules and capacity building for the poorest countries will constitute the main content of the development dimension. The third, backed strongly by some developing countries in the Cairns group such as Brazil holds that an ambitious outcome in the agriculture negotiations constitutes the main development content for developing countries.

There is also a fourth perspective, associated mostly with India and Indonesia and some other members of the G-33, which stresses the need to protect developing country food security, rural development and livelihoods in the process of multilateral liberalisation of agriculture. India and several other countries have also argued that the liberalisation of industrial tariffs should not disproportionately burden developing countries and should allow for the retention of policy space for industrial development. Some of these countries, led by India, have also stressed the need for an ambitious outcome in the services negotiations, particularly for the movement of natural persons (Mode 4) and strengthening of disciplines in Mode 1 & 3 to allow for increased outsourcing of services to developing countries. India has stressed that development should be integrated in all areas of the negotiations. Developing countries supporting the third and fourth perspectives have also emphasised the need for balanced rules.³

The fifth perspective has been held by the least developed and other small, weak and vulnerable economies. There is no formal definition of small, weak and vulnerable economies in the WTO. But the term gained currency after Pascal Lamy called for the G90 group – ACP Group, Africa Group and LDCs – to be regarded as “small, weak and vulnerable”.⁴ In addition to the ACP some non-LDC developing countries such as Paraguay, Sri Lanka and Bolivia consider themselves to be in this group. Together, these countries have argued that they will not be significant beneficiaries of the round and are likely to be the losers.⁵ They have also argued that whilst an ambitious outcome in the round could provide better access for their products in global markets and reduce the distortions that obstruct their exports, the major concerns they have in the trading system relate to the more fundamental development challenges of their economies. The July 2004 General Council characterised these development challenges as preference erosion, commodity dependence, rural development, food security and supply-side issues.⁶ For many of these countries, the issue of S&DT remains an important aspect of the development dimension, which has led them play an active role in the negotiations on S&DT in the CTDSS.

The position of this fifth group on further liberalisation of their economies has been largely defensive and they have argued either that there should be no further market opening (in the case of LDCs), or that they need to be treated differently (required to make less onerous commitments) from other developing countries. In the context of the DDA, many of these countries also have voiced their concern about further liberalisation and reform in the major northern markets, fearing significant short-term losses.⁷ Several of these countries have however recognised that significant reductions in trade-distorting agricultural subsidies in developed countries will benefit their mostly-rural economies in the long term. West African countries, who are largely dependent on cotton production and exports for their livelihoods are the most vociferous exponents of this view. In addition, many of these members have rallied behind the call for an ambitious outcome in the services negotiations, particularly on Mode 4.

In the July 2004 WTO General Council Decision, some progress was made in advancing these complex issues, both in the market access negotiations and in the general conceptual debate on the need for the outcome of the DDA to consider the special situation of these members.⁸ The 2005 July General Council meeting, however, failed to make any significant further advances on these issues. Nevertheless, substantial debate and discussion were held in the various market access negotiations, the CTDSS and other regular bodies of the WTO on these issues between July 2004 and July 2005. At the conclusion of the July, 2005 General Council meeting, there was an emerging recognition that the development dimension of the DDA had to be given special attention as WTO members prepared for the Hong Kong Ministerial Conference in December, 2005. There was an increasing recognition that the issues that related to the latter group of countries would need to be of special interest and an area of focus for all WTO members if there were to be a successful and balanced outcome in the DDA negotiations at Hong Kong.⁹

Whilst all the above perspectives on the concept of development in the multilateral trading system have some validity, the perspective of the last group is least understood and the most complex. This chapter will therefore focus on the issues and perspectives of this group and provide some insights into the ongoing debate amongst WTO members. This chapter will attempt to identify the key issues of concern to this latter group of countries and discuss them within the framework of the four elements of the development dimension, fair trade (section 4.2), capacity building (section 4.3), balanced rules (section 4.4) and good governance (section 4.5). Some policy recommendations will be made to advance the negotiations in the interests of these members and the development dimension of the DDA (section 4.6). In the conclusion (section 4.7), it will be argued that for the DDA to succeed it will need to be ambitious in *all* areas of the negotiations, especially in those that seek to address the development challenges faced by LDCs and other small, weak and vulnerable economies.

4.2 Fair Trade

The gains from globalisation and international trade have been argued to be unequal with the developed countries enjoying the major benefits.¹⁰ While this is partly due to the vast differences in economic power and levels of development, it is also the result of the unfair trade and economic policies of developed countries as discussed below. Thus one of the objectives of this round ought to further the liberalisation of the global

markets and remove the existing distortions in international trade caused by such unfair policies. The measures proposed in the Doha Round should strive to provide fair access to global markets for the products of developing countries, especially the poorest, thereby enabling these countries to grow and develop.

Least Developed Countries

In the agricultural negotiations, LDCs have called for the removal of distortions in international agricultural trade caused by high subsidies in developed countries, particularly in cotton.¹¹ LDCs have emphasised the need for increased market access to enhance their development. They have called for the provision of bound DFQF treatment for their exports into developed country markets and in the markets of those developing countries that are in a position to give such access.¹² In the services negotiations LDCs have also called for the implementation of the modalities for the special treatment of LDC members.¹³ LDCs have stressed the need to realise LDC export opportunities in Mode 4, i.e. the movement of natural persons with a specific focus on non-professional service providers (including the semi- and low-skilled). The LDC modalities also call for the development of appropriate mechanisms for effective access for LDC exports, and better measures aimed at increasing LDC participation in trade in services.

In both the agriculture and NAMA negotiations, the LDCs have called for no further liberalisation and reduction commitments to be required of them in the DDA. In the July 2004 Framework Agreement adopted by the General Council,¹⁴ WTO members agreed to this negotiating position of LDCs members. However, the Framework Agreement requires LDCs to significantly increase their tariff binding commitments for industrial products.

Other Small, Weak and Vulnerable Economies

Doha WTO members have been discussing how to address a plethora of complex trade and development issues raised by those developing countries which are not classified as LDCs or which have not declared themselves as such in the WTO. The issues have been made more complex by the changing patterns of global integration of developing countries since the conclusion of the Uruguay Round. Whilst some developing countries have begun to successfully integrate into the world economy and significantly improve their share of world markets, others have been increasingly marginalised with their share of world markets declining. This changing global context has resulted in some developing countries calling for their development situation to be given special consideration with a focus on the following issues:

- Defining Small Economies;
- Preference Erosion; and
- Particular Concerns of Small, Weak and Vulnerable Economies.

Defining Small Economies

The Doha Declaration has agreed to create a work programme to examine issues related to the trade of small economies (Article 35). However, there remains the complex task of defining 'small economies', given that some small economies have a per capita income that is significantly higher than many 'large' economies. The larger developing countries have argued that whilst their economies have been more successful in some sectors,

they remain uncompetitive in many other sectors of their economy and have large numbers of people who live below the poverty line. The July 2004 WTO General Council Decision recognised the need to address the “particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation” in the course of the ongoing negotiations, and reiterated the call not to “create a sub-category of members.”¹⁵ Thus, WTO members have recognised that a large number of developing countries have particular needs that will need specific treatment. However, developing country WTO members have emphasised that they did not want to create any new category of developing country members.

Preference Erosion

The small, weak and vulnerable developing countries have generally taken a cautious approach to further liberalisation.¹⁶ In the agriculture negotiations, those countries that are more dependants on preferential access to the EU market have taken a cautious view on any further liberalisation and reform in the EU which would reduce these preferences. Other countries in this group have emphasised the need for the removal of distortions in agriculture as these distortions reduce their potential to produce and export agricultural products. Thus the main concern that these countries have expressed with further liberalisation in both the agriculture and NAMA negotiations has been over the erosion of preferences. These countries have thus called for the erosion of preferences to be ameliorated by some corrective measures (corrective co-efficient).¹⁷ They have also called for the maintenance of their current levels of preferences through accelerated market opening for products currently enjoying preferential access.

These countries, together with LDCs have also urged other measures to ensure that a margin of preference remains for a period of time after the implementation of further multilateral liberalisation. These measures include further relaxation of existing preferential rules of origin (RoO). These countries have called for reductions in other NTBs such as sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT), which are either too high or too complex for countries to comply with, and also for assistance to enhance capacity building in order to meet these compliance requirements.

Particular Concerns of Small, Weak and Vulnerable Economies

These countries have argued that their particular situations need to be taken into account when considering further market access reduction commitments by developing countries in the DDA. They say their prior unilateral liberalisation commitments – made under pressure as part of IMF conditionalities – should be taken into account. Furthermore they argue that they should be required to make lower reduction commitments in the agriculture and NAMA negotiations than other developing countries.¹⁸

Policy Issues and Challenges

The position of LDCs and other small, weak and vulnerable economies in world trade has continued to deteriorate in the past few decades. As of 2004, the 50 LDCs’ share of world trade stood at 0.68 percent. Over the past four decades their share in world exports decreased from 3.06 percent in 1954 to 0.42 percent in 1998. Their export growth has

been severely affected by declining prices of their major export commodities. For instance, in the first half of 2003, the price of coffee was just 17 percent of its 1980 value, cotton 33 percent and copper 42 percent.¹⁹

Several writers have pointed to the considerable welfare gains for developing countries to be made by ambitious liberalisation of tariffs and reduction of agricultural subsidies in the Doha Round.²⁰ In addition, they argue, the removal of distortions in global markets caused by agricultural subsidies in developed countries would allow many developing countries to develop their comparative advantage in a number of agricultural products (e.g. West African cotton) and export their way out of poverty.²¹ Many studies have pointed to the considerable negative impacts of these distortions on developing countries. The United Nations Development Programme (UNDP) estimates this to amount to about US\$100bn a year. Thus, developing countries have an interest in an ambitious outcome in market access in the Doha Round.

Preference Erosion

A number of recent studies²² have pointed out that whilst an ambitious outcome of the DDA promises significant gains for both developed and developing countries, the poorest countries, including the LDCs and other small, weak and vulnerable economies will make fewer gains and could even end up with significant losses. There are a number of reasons for this, including significant preference erosion for some countries and the lack of supply capacity to take advantage of new opportunities in global markets.

Several recent studies have also revealed that there will be some additional preference erosion under different scenarios of the possible outcomes of the DDA²³, causing a negative impact on LDCs and other small and vulnerable economies. One study that focused on the impact of trade liberalisation by the so-called QUAD (Canada, EU, US and Japan) on LDCs concludes that the potential losses for LDCs amount to 1.7 percent of their total exports.²⁴ Some individual LDCs, however, may suffer greater losses due to the concentration of their exports in products that enjoy stronger preferences. The study finds that the losses predicted for Malawi was 11.5 percent of exports, with Mauritania, Haiti, Cape Verde, Sao Tome and Principe following with losses of between 5 and 10 percent of exports. Another study²⁵ that focussed on the impact of trade liberalisation on middle-income developing countries found six small island economies as most exposed to preference erosion. For Mauritius, St Lucia, Belize, St Kitts and Nevis, Guyana and Fiji, preferences add around one-quarter or more to the value of their exports. Sugar and banana preferences account for three-quarters of the preferences, with textiles coming third.

How should WTO members respond to the challenges posed by preference erosion for the WTO's poorest members and other small, weak and vulnerable economies? These challenges of preference erosion are compounded by the existing challenges of commodity dependence and volatility, poor trade facilitation infrastructure and supply capacity and increased marginalisation, reflected by their declining share in the global markets and increasing levels of poverty.

We argue under the recommendations section that what is required is a comprehensive response to the challenge posed by the impact of preference erosion on LDCs and small,

weak and vulnerable economies. Part of the policy response would require additional finance for capacity building, more flexibility in WTO rules and renewed efforts to enable greater participation of these countries in WTO negotiations – through improved governance of the WTO itself. These issues are considered in sections 4.3, 4.4 and 4.5 below. Also required is a comprehensive approach to improved market access for LDCs and other small, weak and vulnerable economies. We set out some of the possible market access responses and policy challenges for WTO members.

Duty Free, Quota Free Market Access

The idea of granting DFQFT to LDCs was endorsed at the first WTO ministerial conference in Singapore, in December 1996. The call for DFQFT for all LDCs and for all products has been made at the UN Millennium Summit in 2000 as part of the MDG. It has been reiterated since then at various UN Conferences, including the UN LDC III Ministerial Conference in Brussels and the Monterrey Conference on Financing for Development in 2002, and UNCTAD XI in June, 2004. The WTO July 2004 General Council decision reaffirmed the commitment made in Doha to provide DFQF market access to LDCs on an autonomous basis.

LDCs (in the CTDSS) have called for *binding* commitments for DFQF market access for LDCs, from developed as well as developing countries in a position to do so. This position has been resisted by OECD countries, who have argued that as their preferential schemes are unilateral measures, they will need the necessary flexibility to determine the number of countries, products, the covering period and conditions of these measures. On the other hand, LDCs are looking for more certainty, predictability and stability in these preferential measures so that they can attract the necessary investment to build the supply capacity required to take advantage of these preferential schemes. In addition, some developed countries whilst willing to provide DFQFT for some LDCs, and for some products, are unwilling to provide this to all LDCs and for all products.

In addition, LDCs have called upon those developing countries²⁶ in a position to help to provide similar preferential access to LDCs in their markets. Thus far, some smaller developing countries have responded cautiously, fearing that improved market access for LDCs could have a prejudicial effect on their own access to global markets. Other larger developing countries which have the means to provide increased market access have argued that they will be willing to do so in the context of the 3rd round of the Generalised System of Trade Preferences (GSTP) negotiations, launched at the UNCTAD IX Ministerial Conference held in Sao Paolo in June 2004.

Several recent studies have suggested that LDC exports could rise by 5-10 percent – or US\$3.1-\$6.4bn – if the QUAD, OECD and some developing countries increase market access for LDCs. In addition, the estimated annual welfare gains for LDCs from DFQFT in all developed countries are in the range of US\$4-8bn, amounting to additional annual growth of around 2-4 percent for LDCs.²⁷ UNCTAD in its latest report on LDCs calls for DFQFT for LDCs to be *bound* to increased predictability for exporters and a more predictable and secure environment for investments.²⁸ The Commission for Africa also supports the need for the binding of such treatment in the WTO²⁹ and calls for DFQFT to be provided to other small, weak and vulnerable economies in sub-Saharan Africa (SSA).

Less Onerous Reduction Commitments

Whilst WTO members have agreed to exempt LDCs from making any reduction commitments in the agriculture and NAMA negotiations,³⁰ the situation of other small weak and vulnerable economies is still under discussion. There is a growing recognition that there will have to be some differentiation in the commitments of these countries. In the agriculture negotiations, the concept of Special Products (SPs) and Special Safeguard Mechanism (SSM) has been developed to protect rural livelihoods in those economies which are not internationally competitive. Furthermore the July 2004 General Council Decision has allowed for these economies to be exempt from reduction commitments of subsidies under their *de minimis* levels.

In the NAMA negotiations, a Jamaican proposal calls for the special situation of small, weak and vulnerable economies to be taken into account in the reduction formula. In an earlier proposal on NAMA, South Africa had called for these countries to be allowed a different and less onerous co-efficient for tariff reduction under the Girard Formula,³¹ Whilst avoiding any attempt to develop a permanent categorisation of countries into further sub-groups, a case can be made to differentiate those countries that will be unable to manage the levels of adjustment required from increased liberalisation due to their particular difficulties.

The case for differentiated treatment for small, weak and vulnerable economies, for the purposes of reduction commitments has been made by both academic writers and trade negotiators.³² Such an approach, however, should be adopted pragmatically without attempting to define a specific sub-group because this sub-grouping is likely to prove both politically contentious and technically complex. In any event the Doha Declaration and the July 2004 General Council Decision have provided clear guidance on this issue, calling for the particular concerns of these countries to be taken into account without the creation of any sub-groups.³³

Non-Tariff Barriers – Rules of Origin

Preferential schemes usually have a set of ‘rules of origin (RoO)’ that determine where the products come from and whether they are thereby eligible for preferences. These rules also specify the minimum amount of processing required on the imports of raw materials to confer eligibility. A number of studies have found that these rules that govern the preference schemes can form a barrier to trade if the conditions are too onerous for the preference-receiving country to comply with and if the administrative burden is too great.

One study³⁴ has found that the EU’s Everything But Arms (EBA) scheme³⁵ and the US’ African Growth and Opportunities Act (AGOA) can impose administrative costs for the preference-receiving country that are up to 10 percent of the benefits from the preference. Although the EU’s EBA scheme is marginally more preferential than the Cotonou Scheme which is granted to all ACP countries, most exporters from these countries choose to use the Cotonou scheme³⁶, partly due to the onerous and complex administrative burdens imposed by the RoO of the EBA scheme. On the other hand reduced constraints on the rules in the case of AGOA RoO for lesser developed countries has enabled exporters from these countries to take full advantage of this scheme. Lesotho’s

exports of textiles to the US under AGOA has contributed to the creation of 40,000 new jobs.³⁷

The argument for more stringent RoO imposed by the developed countries is that these rules would foster industrial development in these countries by encouraging foreign companies that wish to take advantage of such schemes to invest in the countries and to enable the additional processing to take place. However, this invokes a counter argument that if the rule is too stringent then it could have the opposite effect: if the work of substantial transformation that has to be undertaken by the country is beyond its capacity then it will never meet the required RoO and not be in a position take advantage of the preference. In such cases, the objective of enhancing the country's industrial development and export capacity will not be met. Existing preferential RoO will thus need to be reviewed to ensure that the development interests of poorer countries are prioritised over the protectionist interests of developed countries who fear increased competition from exports from poorer countries and lobby for stringent RoO for exports from poorer countries.

Non-Tariff Barriers – Standards

Another NTB to trade that has posed a serious challenge to the exports of poor countries concerns SPS or health standards. These standards are necessary to protect health and safety of consumers in developed countries but have been criticised by many developing countries as being too stringent.

These standards are often imposed without consultation and due regard of their development impact on many poor countries. The EU regulation (EC Feed and Food Controls 882/04) requires that the national authorities of exporting countries guarantee that their food safety control systems will in practice deliver a level of food safety for exported produce that is equivalent to that in the EU itself. For some countries the cost of compliance with the EU hygiene standards, for instance in the fish processing sector, was reported at over US\$500,000.³⁸ The Commission for Africa thus recommends that a development test be put in place when the EU sets new standards for exporters from poor countries. It also urges a process of consultation between importing and exporting countries to assess the impact of such standards. The Commission argues that increased technical assistance and capacity building will be needed to help poorer countries meet these standards.

Mode 4 – Movement of Natural Persons

In the area of services, LDCs have called for technical assistance and capacity building to help them identify critical areas of potential competitiveness and build regulatory institutions and legislation do that they can effectively participate in services trade.³⁹

Some studies⁴⁰ have argued that Mode 4 is the principal way in which developing countries might expect to reap market access benefits in the services negotiations with a significant magnitude of gains for both developed and developing countries. Most OECD governments are very sensitive to immigration issues and, more recently, to security concerns. However, it should be pointed out that Mode 4 concerns only the temporary movement of workers and not permanent migration. But there have been

concerns that Mode 4 could lead to permanent migration. Germany's 'gasterbeiter' ('Guest Workers, mostly from Turkey) system, and the US H1-B visas have been cited as examples. In addition, there is concern in the developed countries that these flows could have a negative impact on the labour pool in their own countries. However, the job movement towards higher skilled labour and an aging population in developed countries combine to point towards massive labour shortages, particularly for unskilled labour in developed countries. The US Bureau of Labour Statistics predicts that by 2010 there will be 10 million unfilled jobs in the US, particularly in low wage service industries.⁴¹ This trend provides the opportunity for increased flows of labour from poor countries to meet this demand. Mode 4 under GATS provides a means to manage these flows.

In his seminal work on Mode 4, Winters⁴² argues that serious efforts to liberalise the temporary movement of natural persons from developing to developed countries could generate significant mutual benefits. He argues that potentially large returns would be feasible if medium and less skilled workers – relatively abundant in developing countries – were allowed to move and provide their services in developed countries. The study reveals that an increase in developed countries' quotas on the inward movement of both skilled and unskilled temporary workers equivalent to three percent of their work forces would generate an estimated increase in world welfare of over US\$150bn per annum. UNCTAD estimates that liberalisation of Mode 4 could generate US\$10-20 bn per year for LDCs.⁴³ Gains to Africa alone would be around US\$14bn. To date, however, Mode 4 relaxation of restrictions on temporary entry has been generally used for skilled, rather than unskilled, workers.

4.3 Capacity Building

There is increasing recognition that for many developing countries, especially the most marginalised, increased market access by itself will not contribute significantly to export-driven growth. Their capacity to export is constrained by a range of supply-side factors, including infrastructure, low research and innovation capacity, lack of access to finance and poor investment environment. Insufficient institutional capacity and human resources contribute to this lack of capacity. The poor fiscal base of these countries and the compelling health, education and welfare priorities further reduce the capacity of the state to intervene to build these capabilities. In addition, the high adjustment costs and fiscal impact of trade liberalisation make these governments reluctant to reduce their tariffs. In several cases unilateral liberalisation, as part of IMF structural adjustment criteria, may have already incurred severe adjustment and social costs. For a significant number of countries the loss of existing dependence on trade preferences markets makes them reluctant to support multilateral liberalisation. The multilateral trading system thus cannot ignore these development challenges – the building of institutional, productive and export capabilities – which are vital for the effective integration of developing countries into the global economy.

Least Developed Countries

In the July 2004 General Council Decision, developing countries and LDCs were able to obtain agreement that the costs of compliance with the new trade facilitation agreement will be met through additional technical assistance and capacity building to be provided

by the developed countries. The decision went further to state that compliance will not be obligatory if such capacity was not provided.⁴⁴ In the negotiations in the CTDSS one of the LDC proposals (discussed further below) sought to extend the link between the LDCs implementation obligations with their capacity to comply with all other agreements of the WTO. In this context, the LDCs have called for increased funding to be made available by donors for trade-related capacity building. The LDCs have identified their needs to include, implementation of existing agreements such as the SPS and TBT, the building of infrastructure to address their supply-side challenges, and diversification and adjustment needs. The LDC proposals have called for measures that seek to address these needs to be taken in the context of increased coherence and co-ordination between the WTO and the relevant development agencies, including the other Bretton Woods institutions such as the IMF and the World Bank. This issue is discussed further in Section 4.4 below.

Policy Issues and Challenges

There are many arguments for developed countries to provide significant additional financial assistance to developing countries to facilitate their integration into the world economy. The history of European economic development provides some valuable insights. One of the reasons cited for advancing the post-War Marshall Plan was to “neutralise the forces moving Western Europe permanently away from multilateral trade”.⁴⁵ In addition, European integration itself was facilitated by economic assistance provided to weaker countries and regions (through structural and cohesion funds).⁴⁶ Several studies indicate that whilst a successful Doha trade round could lift at least 140 million people out of poverty, these reforms would need to be accompanied by complementary actions being taken in low income countries to support much-needed supply response and adjustment. Several diagnostic studies undertaken in the past few years in low-income developing countries by the Integrated Framework (IF)⁴⁷ and the Joint Integrated Trade Programme (JITAP), have identified actions that need to be taken by these countries to improve their trade and investment environments. These countries require additional financial resources to implement these recommendations.

Aid for Trade

Studies by the World Bank and others suggest that significant multilateral liberalisation as a consequence of the Doha Round will result in enormous gains for both developed and developing countries, with developed countries being the major beneficiaries.⁴⁸ These gains will accrue both to consumers and producers, and create higher tax revenues for many governments. Some writers have argued that these sizeable gains would allow developed country governments and developing countries gainers to consider setting aside a small proportion to help meet the adjustment costs and capacity building needs of low-income countries.

Many reasons have been advanced for developed countries to increase aid for trade to promote related technical assistance and capacity building. Additional aid for trade should not be provided at the expense of aid for development as the success of the Doha Round will fuel increased growth and flows of trade for both developed and developing countries with the developed countries being the major beneficiaries. Donor countries should consider the legitimate claim of developing countries to a fair share of gains to

be realised from trade, which, in turn, will enable the poorest developing countries to adjust and build their supply capacity as they undertake greater liberalisation and reform commitments in the Doha Round. Developing countries have the necessary capacity to absorb enhanced aid⁴⁹ and the cited non-paper V Rugwabiza and M H Rantzien, Aid for Trade Initiative? Options to enhance support, non-paper presented at the 2005 annual meetings of the IMF and World Bank, Washington DC, July 20, 2005 has suggested some concrete ways in which this additional aid could be utilised with increased coordination and coherence between the WTO, IMF, World Bank, and the UN development agencies.

4.4 Balanced Rules

Some WTO members, especially the EU have argued strongly that increased and rapid flows of trade and finance require increased regulation to protect the environment, consumers, animal and human health and food safety.⁵⁰ Indeed the Report of the World Commission on the Social Dimensions of Globalisation goes further and calls for “fair global rules applied fairly”. In Chapter two I have argued that these multilateral rules will need to be balanced if they are to be perceived to be in the interests of developing countries.⁵¹ These new rules will need to ensure that: a) the relative costs and benefits of these rules for developed and developing countries are taken into account and appropriate levels of flexibility are built into the agreement; b) because the interests and norms of developed countries and developing countries may not converge entirely, the creation of new standards are negotiated with their development impact made transparent and linked to the implementation capacity of developing countries; c) while developed countries have recourse to a range of policy instruments that allow for their judicious intervention in the market to enhance their economic interest, this kind of opportunity is not unfairly denied to developing countries through regulatory restrictions; d) the call for increased flexibility (‘policy space’) is balanced against the equally important need to ensure that the multilateral rules-based trading system is strengthened to enable all countries, particularly the weak, to be treated fairly in trade disputes.

At the outset of the DDA negotiations developing countries raised concerns about several agreements (e.g. TRIPs Agreement, TRIMs Agreement and Anti-Dumping Agreement) negotiated in the Uruguay Round arguing that many of them were against the interests of developing countries and that the S&DT provided by Uruguay Round agreements and GATT were ineffective and needed to be reviewed. These issues have generally been titled Implementation Issues. A subset of these issues are those proposals that call for S&DT provisions to be reviewed with a view to making them more precise, mandatory and operational.

Developing countries have called for a review of these issues and a re-negotiation of the Uruguay Round agreements to provide greater flexibility in the rules so as to create more balanced rules that are consistent with the development dimension of multilateral trade.

The Implementation Issues have not gained any real traction in the negotiation since the onset of the Doha Round. However discussions on these issues have taken place in some detail in the negotiations on S&DT in the CTDS. The following section focuses

on this debate, setting out the background of the negotiations and providing some insights into the issues and state-of-play of the debate.

Negotiations in the CTDS on S&DT and Flexibility

A group of developing countries (mainly the Africa Group and India) tabled 88 proposals before the Doha Ministerial Conference in 2001, to review the existing S&DT provisions of the GATT/WTO and seek to make them more “precise, mandatory and operational”. The December 2002 deadline to conclude this review was missed. To facilitate progress, Carlos Castillo, the ex-Chair of the General Council, divided these provisions into three groups in April 2003. The first group he considered was to have “a greater likelihood of reaching agreement” and began negotiating before the Cancun Ministerial Conference. Of this group, 28 provisions were resolved before Cancun but without being harvested, as the Cancun meeting collapsed. 12 proposals in this group remained outstanding. The second group of 38 proposals were sent to various negotiating groups and WTO bodies for further consideration and recommendation to the General Council. The third group of 12 proposals Carlos Castillo termed “very difficult to resolve”. The 88 proposals tabled by developing countries have sought to add to existing provisions and have called for additional market access, capacity building and flexibility.

The July 2004 Framework Agreement called for the remaining proposals (Category I and III) to be negotiated in the CTDS with recommendations to be made to the General Council by July 2005. Similarly, it called for the Category II proposals to be considered by the various negotiating committees and WTO bodies with a report to be made to the General Council by July 2005. In the period after July 2004 the CTDS agreed to focus on the remaining agreement-specific proposals with a prioritisation on LDCs.

Situational Flexibility

As the debate proceeded on the 88 agreement-specific proposals in the CTDS, members identified several cross-cutting issues for discussion, including additional flexibility, graduation, differentiation, monitoring mechanism, capacity building and policy space. The chair decided, in the post-July 2004 period, to remove the cross-cutting issues of ‘graduation’ and ‘differentiation’ from the agenda of the CTDS, as these were considered to be too contentious.⁵² However, the issues of capacity building and the need for additional flexibility were retained, as the chair considered them to be of importance to a large number of developing countries.

Developed countries were reluctant to provide additional flexibility to *all* developing countries in the WTO on the bases of the 88 proposals. The CTDS was thus challenged to find a way of providing additional flexibility to those who need it *without* discrimination and *without* differentiation! The concept of ‘situational flexibility’ then emerged in the informal discussions in the CTDS, with a view to pragmatically providing additional flexibility to any developing country to support its development. This concept explicitly stated that no developing country will be excluded from requesting additional flexibility. However, the WTO would need to develop some criteria to ensure that these additional flexibilities were granted on the basis of need, viz. a challenging development situation requiring such flexibility.⁵³

A mechanism to provide this flexibility would need to be developed by members of the WTO. Some members envisaged that the mechanism would be a fast-track process that builds on the lessons and experience of developing countries' use of the current slow waiver process. The mechanism would need to be development-friendly, contributing to the development architecture of the WTO and responding to the real development needs of developing countries. The Africa Group, Switzerland and the US had earlier made proposals on the implementation of a monitoring mechanism, and these proposals would need to be debated.

However, some of the larger developing countries expressed their suspicion that this concept would be used to create a basis for more permanent differentiation among developing countries. These countries called for cross-cutting issues to be discussed only after all the agreement-specific negotiations had been exhausted. The CTDS thus decided to focus on agreements-specific proposals and to prioritise those that related to LDCs.⁵⁴

Least Developed Countries

In the CTDS, LDCs prioritised five proposals for the members to consider. At least four of these proposals called for more balanced rules and for existing rules to be amended with this objective in mind. These proposals relate to the decision-making process on waivers; exemption from the application of the TRIMs Agreement or increased flexibility; the linkage of compliance of rules with the availability of adequate implementation capacity; and the need for greater coherence between existing WTO commitments and the trade conditionality required by the IMF.

On the issue of waivers, LDCs are seeking a more efficient and expeditious process. A number of developing countries want to ensure that the process is not tilted in favour of a waiver-decision that may be prejudicial to their interests. Some developed countries, however, have been cautious about any deviation from the existing decision-making system.

The debate on the TRIMs Agreement has been complex and difficult. LDCs initially sought a complete exemption from the agreement and were supported in this argument by a large number of developing countries. The debate then shifted to proposals on an extended period of exemption from the existing TRIMs Agreement, either for existing TRIMs or new TRIMs applied by LDCs, with the period of such extension to be negotiated. Some major developed country delegations were initially opposed to any new flexibility being created for the implementation of the agreement, even for LDCs. However, several other developed country delegations were willing to consider some flexibility from the existing terms of the agreement for LDCs, provided that there are well-defined transition periods with clear reporting and monitoring of such flexibility.

An understanding in the 2004 July General Council Decision provides that the cost implications of their needs and priorities, technical assistance and support for capacity building, including infrastructure development will be addressed by developed country members, but fails to specify which implementation obligations will be waived.⁵⁵ LDCs have called for this type of flexibility to be extended to all their implementation

obligations. Some developed countries are reluctant to extend this flexibility to all agreements and many developing country members are cautious about supporting flexibilities for LDCs that could prejudice their interests.

There was much sympathy and support for the LDCs' proposal that there should be greater coherence between their implementation obligations in the WTO and the trade conditionalities that are often imposed by the IMF, and sometimes by the World Bank.

Policy Issues and Challenges

There is increasing recognition that WTO rules may have gone too far in reducing the discretionary powers available to many developing countries to use some trade policy instruments to enhance their economic development.⁵⁶ Some writers have argued that developed countries used the TRIMs Agreement negotiated in the Uruguay Round to coerce developing countries to reduce their right to policy intervention to support their economic development, whereas developed countries utilised similar instruments in their own economic development strategies in the past and were thus "kicking the ladder behind them".⁵⁷ Others have pointed to the inconsistency of developed country trade policies.⁵⁸ Joseph Stiglitz points to the double standards in the policies of the US in the 1990s when the "US pushed other countries to open their markets to areas of our strength but resisted efforts to reciprocate."⁵⁹

The Debate on TRIMs

The debate on the TRIMs Agreement suggests that developed countries will need a major review of their policy approach to flexibility in WTO rules. LDCs, in their initial proposal, have asked for total exemption from the TRIMs Agreement. They argue that they are being deprived of the use of policy instruments to advance their industrial development. LDCs have argued that developed countries themselves have in the past used these instruments successfully to industrialise, and that it is unfair that LDCs should not be allowed to do so now. Some developed countries have argued that their objection to any flexibility – even for LDCs – from the TRIMs Agreement is based on their view that TRIMs are not a good instrument for development, and that providing flexibility for LDCs might create a precedent that is used by other developing countries that also wish to benefit from similar flexibilities.

Additional Flexibilities

A large number of developing countries have felt that the traditional approach to "S&DT" has not effectively addressed the development challenges that they face in the multilateral trading system and they have thus submitted a number of proposals to rectify the 'inadequacies' of existing provisions. Significant progress has not been made in the WTO negotiations on these proposals.

The July 2004 Framework Agreement promised to address the particular development challenges of small and vulnerable economies without creating a sub-category of members. In the discussions in the CTD therefore members have been grappling with how to address the challenges faced by these small economies without creating a sub-category of members. The July 2004 Framework Agreement created precedents with regard to situational flexibility by providing that "developing countries that allocate

almost *de minimis* support for subsistence and resource-poor farmers will be exempt".⁶⁰ Situational flexibility appears to be a viable and pragmatic way for small and vulnerable economies without differentiating among developing countries. However, it is worth noting that this mechanism is available to *all* countries who may find themselves in such a situation of need (recent history abounds with examples of countries who may unexpectedly be in need of assistance, for example, the financial crises in Argentina and Thailand and the Tsunami in Indonesia).

Additional flexibilities in WTO rules for those countries that are in need of these flexibilities in particular situations could be provided with appropriate transition arrangements. A multilateral monitoring mechanism could provide for accountability and review, ensuring consistency with the multilateral system. The implementation of an innovative and pragmatic approach to address the development challenges faced by developing countries, including small economies could help make the WTO more development-friendly for these developing countries.

Graduation and Differentiation

On the issues of graduation from S&DT, it is clear that developed country efforts to graduate larger developing countries from the existing provisions of S&DT will not be politically feasible or desirable from a policy perspective. These so-called larger developing countries have argued that whilst their economies are indeed large in size with growing shares of global markets, large parts of their economies continue to suffer high levels of poverty and unemployment. India and China have the largest number of poor living under US\$2 a day.

However, some writers have made a convincing case for small, weak and vulnerable economies to be differentiated for the purposes of the application of flexibility in WTO rules.⁶¹ Some developed countries have tended to be more sympathetic to the plight of these countries.⁶² However, the challenge has rather been about how to give effect to this sympathy without transgressing the WTO mandate which calls for the particular situations of small economies to be considered without creating any sub-group. In the July 2004 General Council Decision, WTO members decided to consider the particular concerns of small, weak and vulnerable economies without creating any sub-category of countries.⁶³

The DDA's promise of development will succeed in delivering to those with the capacity to export, if ambitious results are to be achieved in agriculture. However, countries who stand to lose from such an ambitious round (at least in the short term) will have every reason to block the round from succeeding if there is no concrete economic interest for them too! Addressing the development concerns of the majority of LDCs and of small, weak, and vulnerable economies is a systemic challenge that should be of concern and interest to all. A viable solution will also strengthen the multilateral trading system, making it more equitable, balanced and supportive of development.

4.5 Good Governance

The WTO is widely recognised as a vital part of the architecture of global governance and has been more successful than its Bretton Woods counterparts in building more

democratic structures of good governance. However, the WTO has been criticised for its lack of transparency and for the inordinate power wielded by the major economic powers such as the EU and the US in its decision-making. Moreover, the complexity of its decision-making, combined with the setbacks at the Seattle and Cancun ministerial conferences, have led some to refer to its decision-making system as “medieval”. The emergence of stronger developing country alliances and negotiating groups has begun to provide a more effective counterbalance to the power of the EU and the US, as also the opportunity for shared leadership.

LDC and others on Good Governance

LDCs and other developing countries have been critical of the lack of transparency and inclusiveness in the WTO processes and procedures. Although there has been much debate and discussion amongst WTO members about this, there has not yet been an opportunity for WTO members to consider proposals to address these issues. Thus the recommendations of the Director General’s Consultative Board will provide WTO members with the opportunity to take this issue forward.

In their proposal to the CTDSS, LDCs have argued that there should be greater coherence between their implementation obligations in the WTO and the trade conditionality that is often imposed by the IMF, and sometimes by the World Bank, on WTO developing country members. Interestingly, there has been much sympathy and support by both developed and developing countries for the WTO to call upon the Bretton Woods Institutions not to impose greater trade policy obligations on LDCs than they are committed to in the WTO.

Policy Issues and Challenges

Despite the progress that has been made, in part as the result of the formation of negotiating groupings of developing countries, it is clear that the WTO will have to develop a more inclusive and democratic decision-making system to maintain the legitimacy of the WTO and sustain its decisions. This would contribute to better global governance. The former Director-General of the WTO, Dr Supachai Panitchpakdi, responding to civil society criticism as well as the failure of several ministerial meetings, requested his Consultative Board, chaired by Peter Sutherland, to make proposals for more effective and democratic decision-making in the WTO. The report of this body was released in late 2004. Some of the recommendations made in this report are discussed in detail in Chapter eight.

4.6 Recommendations

In a recent edition of Finance and Development (UNCTAD), Rubens Ricupero called for small weak and vulnerable economies to overcome their “fear” of trade liberalisation.⁶⁴ These economies, largely located in the ACP regions are beset by a range of development challenges, including reliance on a small number of commodities in their export basket, dependence on preferences, net food imports, vulnerability to external shocks in exchange rates and declining terms of trade. How should these countries approach the Doha Round and the multilateral trading system? How can we help these countries to overcome their fears and contribute to the integration of these economies in the global economy? How do we deal with the challenges of preference erosion and the resultant loss of income

for these countries and the burdens of economic and social adjustment? And how can WTO members ensure that LDCs and small, weak and vulnerable countries also gain from the Doha Round?

An early conclusion of the Doha Round negotiations, consistent with the ambition and mandate agreed in Doha, would deliver the best overall environment for the development prospects of small, weak and vulnerable economies. More open and undistorted international trade would make a positive contribution to global economic growth, creating an environment in which these economies may diversify their exports in terms of both destination and product, including higher value-added products. According to various estimates, an ambitious Doha Round, with its results consistent with development interests, could provide global welfare gains in the order of about US\$80-250bn, potentially lifting 100 million people out of poverty.⁶⁵ For those economies that may face adjustment costs, assistance should be provided to advance processes of diversification and enhance competitiveness, while cushioning the short-run costs from the reforms process. In the main these economies are those who have become dependent on preference-specific crop or industry.

Specific actions that WTO members, and in particular developed countries can take to benefit all ACP countries and other small, weak and vulnerable economies in Latin America and Asia, are discussed below:

Market Access

First, the Doha negotiations should fast-track the elimination of tariff peaks and tariff escalation in products of particular export interest to these countries. Similarly, fast tracking the elimination of export subsidies and trade-distorting domestic support on products of export interest to these countries would deliver early benefits.⁶⁶ However, developed countries should not attempt to exempt 'sensitive' products from liberalisation. While it is recognised that governments have a responsibility to assist specific groups in society, this should not be done through instruments that distort trade and the ability of farmers in poor countries to export or sell into the markets of developed countries.

Second, it will be vital to facilitate imports of small, weak and vulnerable economies' services into developed country markets. This should include providing better access for the temporary movement of workers (Mode 4) from these economies. Serious consideration should be given to providing this market access, considering the fact that the potential benefits it offers to both developed and developing countries could dwarf benefits from openings in the traditional sectors.

Third, all OECD countries should provide effective DFQF access to all goods from LDCs and other weak and vulnerable economies.

Non-Tariff Barriers

Fourth, action is needed in the area of product standards, both technical product regulations and sanitary and phytosanitary measures. Standards should be based on safety and health and not designed as disguised protective measures.

Fifth, greater efforts will also be required to assist these countries to benefit fully from existing preferential schemes offered by industrial countries. The preferential RoO should be adjusted and aligned to facilitate exports from these economies.

Flexibility in Rules

Sixth, with regard to international trade rules and disciplines, a mechanism should be established in the WTO in the course of the Doha negotiations that provide small, weak and vulnerable economies with the flexibility not to implement a specific discipline, if such non-implementation is justified as being in a country's development interests.

Capacity Building

Seventh, additional finance to fund aid for trade programmes will be provided as part of an ambitious development round. These programme should include: building institutional trade policy; promoting competitiveness; developing trade facilitation; and other infrastructure; and enhancing product and export diversification. Policy coherence among various multilateral and bilateral institutions that provide financial assistance should be achieved with greater coordination at the implementation level.

Eighth, more effective financial and technical cooperation will need to address any erosion of preferences that may occur as a result of the Doha Round and regional arrangements. Any compensation of lost preference should be designed to encourage sustainable diversification and cushion any negative socio-economic effects of the reform process. These measures will need to include grant aid and not simply provide more debt-enhancing loans. The decision taken by the World Bank/IMF in September 2005 Annual Meetings against the creation of a separate adjustment fund for preference erosion, in favour of the use of existing facilities, will need to be reviewed in the light of the concerns of preference-dependent countries that these facilities will increase their current unsustainable debt levels.

4.7 Conclusion

The Doha Round will need to be ambitious in all areas of the negotiations in order for all major groups in the WTO to make gains. As this article set out in its introduction, there are different perspectives among WTO members on what constitutes the development dimension of the multilateral trading system. To a large extent, the perspectives of members on the development dimension coincide with their interests in the round. While these perspectives and interests are sometimes contradictory, they provide the basis for trade-offs between developed and developing countries and among developing countries themselves. A successful conclusion of the round will require engagement and dialogue between these different groups and the willingness to bargain and compromise.

In the agriculture negotiations the G-20 has made major strides in building greater convergence of perspective among developing countries. The G-20 has invited the coordinators of other developing country groupings, such as the G-33, the ACP Group, the Africa Group, the LDC Group and Caricom to participate in several of its recent ministerial conferences. The G-20 Delhi Declaration and the G-20 Bhurban Declaration have attempted to address several of the issues of concern to these groups, such as SPs,

SSM and preference erosion. The larger players with greater capacity, among both developed and developing countries, will thus need to display a greater degree of generosity and leadership.

Across the broad front of issues in the Doha negotiations, the interests of members have continued to shape their negotiating positions. For instance, the US has argued that it needs increased market access in all countries – both the developed and developing – to enable it to reduce its high levels of trade-distorting subsidies. The European Community will need enhanced rules to regulate trade, strengthen anti-dumping regulations, increase intellectual property protection for its GIs to protect its farmers, and increase regulations in trade-distorting agricultural subsidies, to enable them to open their markets for industrial products and services. India and other G-33 countries will need to be assured that their vulnerable rural economies will not be destroyed by a flood of imports from other competitive agricultural economies. India and other developing countries will also need an assurance that global markets will be significantly opened at the end of the Doha Round for their more competitive services providers.

The LDCs and other “small, weak, and vulnerable economies”, will need ambitious results in all areas of the development dimension of the multilateral trading system – fair trade, capacity building, balanced rules and good governance – to address the development challenges that result from multilateral liberalisation, and to enable them to secure some of the gains that would arise from the new opportunities in the multilateral trading system. Fulfilling this need of LDCs and other small, weak and vulnerable economies will be a necessary condition to achieve the success of the round and the legitimacy of the multilateral trading system.

Leaders of the developed world have recognised at various global summits and conferences the critical role of increased trade liberalisation to promote growth, global welfare and sustainable development. In addition, these leaders have promised, at various forums including the UN Millennium Summit held in 2000 (which held its five-year review in September 2005), the Monterrey Finance and Development Conference and the World Summit for Social Development, to ensure that the WTO will deliver an ambitious agenda for trade liberalisation and reform that will prioritise development. At Doha, ministers from all WTO member-countries recognised this challenge, and hence the Doha Round was named a development round, and an extensive DDA was approved.

For many countries, trade is a necessary though not sufficient condition for the stimulation of increased growth and development. For a large number of developing countries, increased capacity is required to take advantage of increased market access abroad. This capacity is needed to create a necessary environment to attract investment and to build the institutional capabilities to develop their trade policies and infrastructure necessary to facilitate trade and increase competitiveness. Thus, in addition to increased access to markets, these economies will need additional bilateral and multilateral aid. The call for a ‘Marshall Plan’ to assist these economies needs to be supported.

European experience in the post World War-II period suggests that a concerted effort to stimulate investment in infrastructure and productive capabilities assisted the

reconstruction and growth of many devastated economies. The Marshall Plan was partly initiated to “neutralise the forces moving Western Europe permanently away from multilateral trade”. Indeed, EU development programmes, supported by the EU structural fund, made a major contribution to the economic development of several economies within the EU. These funds, supported by an open internal market, provided the impetus for economic growth and economic development for several EU economies, including Ireland, Portugal, Spain and Greece in the 1980s and the 1990s.

Thus the recent calls for OECD countries to increase current aid contributions need to be supported by developed countries. The aid spending of most OECD countries currently is far less than the 0.7 percent they have committed themselves to at the UN. The World Bank and the IMF at their April 2005 Spring Meetings have supported the call for increased aid for trade. What is indeed needed is increased trade and aid. More open and less distorted global markets are an essential condition for the sustained growth of many developing countries. Additional aid for trade should not be at the cost of development aid for the social sectors such as health and education, but part of increased aid budgets of donor countries. In Chapter six we will discuss the concept of aid for trade more comprehensively and assess whether developed countries are fulfilling their obligations in this regard.

Developing countries that have the means to do so should also contribute to both increased aid and market access for LDCs. All WTO members will also need to support the creation of more appropriate flexibilities in the multilateral system to address the specific concerns of LDCs and other small, weak and vulnerable economies. Negotiations on increased flexibility in the WTO rules for LDCs and other small, weak and vulnerable economies have been resisted by both developed and other developing countries. Negotiating a mechanism in the WTO that allows for the creation of a fair and balanced multilateral system will require the fullest cooperation of developed and developing countries.

The successful conclusion of the DDA on this basis should be a systemic objective of the WTO. If WTO members mainstream the development dimension and strengthen the elements of fair trade, capacity building, balanced rules and good governance, the WTO could regain the confidence of all and become a global public good. This objective can be achieved with strong leadership being displayed in the current DDA negotiations by both developed and developing countries. The EU and the US, as the major players in the WTO, have the greatest responsibility in this regard. However, developing countries too, now being led by the G-20 and other groups, can and should contribute to the leadership that is required to successfully conclude the Doha Round. Indeed, the successful conclusion of the Doha Development Round on the basis discussed in this chapter will be a major building block towards the goal of a new partnership for development, peace and security, between developed and developing countries in the 21st century.

The next opportunity to address the issues of concern to LDCs and other small, vulnerable economies was to arise at the 6th WTO Ministerial Conference, held in Hong Kong, China, in December 2005. In the months before the meeting there was much posturing by some WTO members about the importance of these issues, particularly the EU.

While there was suspicion amongst WTO members that the EU focus on these issues was an attempt to divert attention away from the central issue of agricultural liberalisation, the US was under pressure to deliver on some of the main concerns of these countries. In the next chapter, we evaluate the outcomes of the Hong Kong Ministerial Conference, including on the issues of special interest to the LDCs and the small, vulnerable developing countries, from a development perspective.

Notes

- 1 Ricupero's statement to the UNCTAD Trade and Development Board. 50th Session Geneva, October 08, 2004.
- 2 This is a very general description and does not reflect the many nuances of these positions.
- 3 India and Brazil have emphasised the Implementation Issues, for example on TRIMs, that call for more flexibility and policy space for developing countries to enable their industrial development.
- 4 Pascal Lamy, who was then Trade Commissioner of the European Commission, sent a letter to WTO members in June 2004 calling for all "small, weak and vulnerable economies" to be granted the "round for free".
- 5 'Livingston Declaration', Fourth LDC Trade Ministers' Meeting, Livingston, Zambia, June 25-26, 2005
- 6 WTO doc. WT/L/579. August 02, 2004.
- 7 See IMF, *Finance and Development* (2005) for a fuller discussion on these issues.
- 8 See Ismail, F. (2005). 'A Development Perspectives on the WTO General Council Decision' (2005) VIII (2) *Journal of International Economic Law* 377-404.
- 9 Lutchi, P. (2005). 'Towards a New Trade Marshall Plan for LDCs', UNCTAD Trade, Poverty and Cross-cutting Development Issues Study Series No. 1 (UNCTAD, Geneva).
- 10 World Bank, *Global Economic Prospects*. 2002. See also Stiglitz, J. (2003). *The Roaring Nineties*. WW Norton, New York.
- 11 WTO doc. TN/AG/GEN/4. May 16, 2003.
- 12 The Livingstone Declaration, Fourth LDC Trade Ministers' Meeting, Livingstone, Zambia. June 25-26, 2005.
- 13 WTO Job (05) /114.
- 14 WTO doc. WT/L/579, August 02, 2004.
- 15 WTO doc. WT/L/579, August 02, 2004.
- 16 There is no recognised category of small, weak and vulnerable countries in the WTO. However, almost all of the countries from the African Caribbean and Pacific Group, and some from Latin America (e.g. Paraguay and Bolivia) and Asia (Sri Lanka) regard themselves as members of this group. Countries such as Chile and Costa Rica, but also Brazil and India, have tended to oppose the creation of such a category – Brazil because they also sought market access in these countries, and India because they feared being isolated in the negotiations and bringing on greater pressure on themselves from the developed countries to open their markets.
- 17 A corrective co-efficient would seek to maintain the current level of preferences enjoyed by these countries. See WTO Doc. Treatment of Non-Reciprocal Preferences for Africa, TN/MA/49
- 18 See WTO Doc. Communication from Antigua and Barbuda, Barbados, Jamaica and St Kitts and Nevis, and Trinidad and Tobago, Job (05)/150. July 13, 2005..
- 19 Lutchi, P. (2005). 'Towards a New Trade Marshall Plan for LDCs', UNCTAD Trade, Poverty and Cross-cutting Development Issues Study Series No. 1, UNCTAD, Geneva.

- 20 Anderson, K. (2004). 'Agriculture, Trade Reform and Poverty Reduction: Implications for Sub-Saharan Africa', UNCTAD, Geneva.
- 21 Ibid.
- 22 Anderson, K., Martin, W., van Mensbrugge, D. (2005) 'Would Multilateral Trade Reform Benefit Sub-Saharan Africans?' World Bank, Washington, D.C.
- 23 Report of the WTO/World Bank, 'International Symposium on Preference Erosion: Impacts and Policy Responses', Geneva, June 13-14, 2005.
- 24 Submanian, A., 'Financing of Losses from Preference Erosion', paper prepared for the World Trade Organisation, Geneva, 2005, WTO doc. WT/TF/COH/14.
- 25 Alexandraki, K. (2005). 'Preference Erosion: Cause for Alarm?' *Finance and Development*. IMF, Washington D.C.
- 26 This refers to the perception that some developing countries have greater capacity to extend non-reciprocal preferential treatment to LDCs. There is no recognised category of either 'small, weak and vulnerable' developing countries or 'advanced developing countries'.
- 27 Lutchi, P. (2005). 'Towards a New Trade Marshall Plan for LDCs', UNCTAD Trade, Poverty and Cross-cutting Development Issues Study Series No. 1. UNCTAD, Geneva.
- 28 Lutchi, P. (2005). 'Towards a New Trade Marshall Plan for LDCs', UNCTAD Trade, Poverty and Cross-cutting Development Issues Study Series No. 1. UNCTAD, Geneva.
- 29 Report of the Commission for Africa, 'Our Common Interest'. London, 2005.
- 30 See WTO Doc. WT/L/579, August 02, 2004.
- 31 WTO doc., TN/MA/W/42., August 13, 2003.
- 32 Bernal, R.L. (2005). 'Special and Differential Treatment for Small Developing Economies', paper presented to the First Meeting of the Steering Committee of 'Global Trade and Financial Architecture', Oxford. See also Pascal Lamy's letter to the G90 and all WTO members calling for a "Round for Free" for small, weak and vulnerable economies, May 2004. Lamy called for these developing countries to be treated in a similar manner as LDCs in the negotiations to determine their reduction commitments and their obligations to implement trade rules.
- 33 Section on the WTO report, 'Other Development Issues', WTO doc. WT/L/579. August 02, 2004.
- 34 Stevens, C. and Kennan, J. (2004). 'The Utilisation of EU Preferences to the ACP', paper presented to the Technical Seminar on Tariff Preferences and their Utilisation, WTO, Geneva. March 31, 2004.
- 35 The EU's EBA scheme provides for duty-free, quota-free market access for all LDC exports, except arms, into the EU market.
- 36 The Cotonou Agreement is a preferential arrangement between the European Union and the African, Caribbean and Pacific countries.
- 37 Report of the Commission for Africa 'Our Common Interest' London, 2005
- 38 Report of the Commission for Africa 'Our Common Interest', London, 2005
- 39 WTO Job 05/114. LDCs have called for the implementation of modalities for the special treatment of LDC members in trade in services negotiations.
- 40 Winter, A. L. (2004). 'Developing Country Proposals for the Liberalisation of Movements of Natural Service Suppliers', paper presented to the European University Institute, Florence.
- 41 Financial Times. August 28, 2005.
- 42 Winter, A. L. (2004). 'Developing Country Proposals for the Liberalisation of Movements of Natural Service Suppliers', paper presented to the European University Institute, Florence, June 2004.
- 43 Winters, A.L. (2002). 'The Economic Implications of Liberalising Mode 4 Trade', paper prepared for a Joint WTO-World Bank symposium on 'The Movement of Natural Persons (Mode 4) under GATS', WTO, Geneva, April 11-12, 2002.
- 44 See WTO Doc. WT/L/579, Annex D, Para 2. August 02, 2004.
- 45 Foreman-Peck, (1983). 'A History of the World Economy'. Wheatsheaf Books.
- 46 Tsoukalis, L., (2003). 'What Kind of Europe'. Oxford University Press.

- 47 The Integrated Framework is a consortium of development partners, including the WTO, World Bank, IMF, ITC, UNCTAD and the UNDP, with a programme to assist LDCs to develop a trade development agenda within a macro-economic framework. [move to glossary]
- 48 Anderson, K. (2004). 'Agriculture, Trade Reform and Poverty Reduction: Implications for Sub-Saharan Africa' UNCTAD, Geneva.
- 49 World Bank 'Aid Effectiveness and Financing Modalities', (draft report for the World Bank Development Committee (September 03, 2004).
- 50 See Ismail, F. (2003). 'On the Road to Cancun – a Development Perspective on EU Trade Policies and Implications for Central and East European Countries', *Journal of World Investment*, Vol. 4, no. 4.
- 51 Ismail, F. 'A Development Perspectives on the WTO General Council Decision' Vol VIII (2) *Journal of International Economic Law* pp 377-404, 2005.
- 52 Developed countries called for some larger emerging economies such as India, Brazil and China to be 'graduated' out of the category of developing country. These countries were opposed to this and argued that they remained at a relatively low level of development.
- 53 Report to Trade Negotiating Council by Chair of CTDSS. [document symbol? dates?]
- 54 This was decided at the May 2005 formal session of the WTO CTDSS.
- 55 WTO Doc. WT/L/579, Annex D. August 02, 2004.
- 56 Rodrik, D., (2005). 'Industrial Policy for the Twenty-First Century', Centre for Economic Policy Research. Discussion Paper Series. No 4767.
- 57 Ha- Joon Chang, (2002). 'Kicking Away the Ladder. A Development Strategy in Historical Perspective'. Anthem Press, London.
- 58 Ibid.
- 59 Stiglitz, J. (2003). *The Roaring Nineties*. Norton, New York.
- 60 WTO Doc. WT/L/579, Annex A, para 11. August 02, 2004.
- 61 See Bernal, R.L. (2005). 'Special and Differential Treatment for Small Developing Economies' paper presented to the First Meeting of the Steering Committee of Global Trade and Financial Architecture, Oxford.
- 62 See Pascal Lamy's letter to the G90 and all WTO members calling for a "Round for Free" for small, weak and vulnerable economies. May. 2004.
- 63 WTO Doc. WT/L/579, Section on Other Development Issues. August 02, 2004.
- 64 Ricupero, R., (2005). 'Overcoming Fear First', *Finance and Development*, March.
- 65 Prowse, S., (2006). 'Aid for Trade, A Proposal for Increasing Support for Trade Adjustment and Integration?' in Evenett, S. J. and Hoekman, B. M., editors, 'Economic Development & Multilateral Trade Cooperation', Palgrave Macmillan and the World Bank, 2006
- 66 Such products would include: sugar, cotton, groundnuts, dairy products, fish, tobacco as well as mineral-intensive manufactured goods.

*Hong Kong Ministerial Conference***5.1 Introduction**

In the early hours of Sunday morning on December 18, 2005, as negotiations amongst about 30 ministers neared their end the “grand bargain” that was needed for the WTO Hong Kong Ministerial Meeting to succeed was clearly in sight. However, there were significant differences in the perspectives of these ministers – on the composition of the key elements of the bargain and the timing of the Doha deal. In this assessment we provide a perspective on the Hong Kong Ministerial and outline the central fault lines of this “grand bargain”. Some suggestions will be made to advance the negotiations towards a successful achievement of a “grand bargain”.

The central fault line or principle in the current Doha talks was clearly articulated by the EU Trade Commissioner, Peter Mandelson, in his statement after the Hong Kong meeting.¹ In this statement Mandelson argued that the EU was unlikely to make further concessions in the current Doha negotiations given the paucity of concessions, in his view, that were on offer from the EU’s trading partners. He went on to state that there was no possibility of him using the WTO to push through further, or early, reforms of the EU Common Agricultural Policy (CAP). Although the EU at its recent summit² has decided to review the EU CAP budget in 2008/2009, Mandelson warned that there would be no links between this and the efforts to conclude the Doha negotiations early in 2007.

He argued further that given real incentives in the Doha industrial goods and services negotiations, the EU could provide “more predictability and transparency for agricultural exporters” (referring to the demands of the Cairns Group, G-20 and the US) and show more flexibility in the range of products that the EU had demanded should be deemed “sensitive”.³ Mandelson also questioned Pascal Lamy’s view that further progress, i.e. the achievement of full modalities in the agriculture and industrial products (NAMA) negotiations, could be made by April 2006.⁴ In this regard, Mandelson warned rather ominously that “the EU cannot be pushed into an agreement that simply is not there”.

Mandelson’s assessment set the stage for the complex post-Hong Kong Doha negotiations. There are three key issues that he raised, which need to be challenged.

First, the argument that the EU has done enough in making concessions in the agriculture negotiations is simply not true, as the current EU offer on market access made by

Mandelson on October 28, 2005 will result in no further real market opening or acceleration of CAP reforms.⁵ He has argued that the only possible concessions the EU could make, notwithstanding any possible changes in the EU budget, is some additional flexibility in its demand to continue to maintain the current high levels of protection for its sensitive sectors.

Second, his view that other WTO members (especially the so-called “advanced developing countries”) need to make real concessions in industrial goods and services for the EU to make the above additional concessions is an attempt to raise the bar above the heads of most of these major developing countries, and thus shift the burden of adjustment in this round from the major agricultural subsidisers to the major developing countries. Mandelson’s argument that the EU needs the major developing countries to make these concessions before the EU can make even some incremental concessions is spurious. There is no discernible drive by the EU’s industrial producers or service providers for additional market access into developing country markets. On the contrary, these interests have voiced their concern with regard to the disproportionate political influence of the EU’s agricultural lobbies. There is a legitimate suspicion that Mandelson’s argument is an attempt to shift the blame for lack of movement in the Doha Round to the major developing countries.

In addition, a group of developing countries⁶ have argued that the real danger of a joint push by the EU and other developed countries (notably the US)⁷ to seek additional extensive concessions from developing countries in the NAMA and services negotiations is that the development content of the round will be turned on its head, with developed countries making more inroads into developing country markets and developing countries still facing high levels of protection and distortions in global markets for their products. In a paper⁸ submitted to the Committee on Trade and Development and the Trade Negotiating Committee of the WTO, developing countries have argued that the strategic objective of this round of negotiations should be for industrial countries to reduce the protection they grant to their inefficient sectors that frustrate the growth potential of developing countries. Reflecting on the recent proposals⁹ of developed countries they have stated that these demands in NAMA and services will create enormous and disproportionate burdens of adjustment that developing countries would have to bear in their industrial and service sectors. In sharp contrast, the EU has made insignificant offers to open its markets in the agriculture negotiations, and both EU and US have proposed a co-efficient for developed countries in the NAMA negotiations that will require them to make no real adjustment in their industrial sectors. They have thus argued, in effect, that the EU and the US are seeking a round for free!

Third, Mandelson’s assertion that the EU would not be prepared to make any significant move in offering even the minimal additional concessions was to prolong the negotiations.¹⁰ In addition, developing countries were reluctant to make significant concessions in the post-Hong Kong period, unless the EU reflected the political will to make real concessions in the agriculture negotiations in line with the Doha Mandate.

There is a second fault line or a secondary set of issues which is of great importance to the majority of the poorer and smaller members of the WTO and that is a crucial

component of the Doha grand bargain. Without a successful resolution of these issues, a Doha deal or grand bargain will simply not be struck. The issues relate to addressing the trade-related development challenges faced by LDCs, and the so-called small, weak and vulnerable developing countries. The specific development issues raised by these countries include the need to provide DFQF market access to LDCs, cotton, preference erosion, special flexibilities for small, weak and vulnerable economies and development aid for both.

There was a great deal of posturing on these issues before the Hong Kong Ministerial Meeting. Peter Mandelson, in a letter to WTO members written in October 2005, challenged ministers to provide a development package on these issues in Hong Kong.¹¹ There was great suspicion amongst developing countries that the EU was again trying to divert attention from the core issues of development, which is related to developing country's demands for developed countries to remove their trade distorting subsidies and protection of agricultural products. In addition, the US delegation was suspicious that in focusing on these development-specific issues, the EU was attempting to divert attention to the US inability to deliver concrete results on the cotton issue and on the issue of DFQF market access for LDCs.

5.2 What happened in Hong Kong?

After six days of intense negotiations in Hong Kong (13th to the 18th of December 13-18) ministers managed to cobble together an agreement late on Sunday night, i.e. on December 18, several hours past the agreed deadline. For the major developing countries in the G-20 the agreement was no major breakthrough¹² – rather, it was a small and significant step forward in the Doha Round. For LDCs and other small, weak and vulnerable developing countries, there were some incremental gains in the Hong Kong Declaration, but no breakthrough emerged on their major demands. We briefly evaluate the results of the negotiations in Hong Kong below.

Agriculture

In agriculture, the EU had reluctantly agreed to table an offer to eliminate its export subsidies by 2013. After much difficult bargaining in the chairman's consultative group in the final hours of the negotiations, the G-20 members agreed to this offer provided that "the substantial part is realised by the end of the first half of the implementation period". Before the ministerial meeting there was great pressure on the EU to decide on this issue in Hong Kong, as the G-20, Cairns Group, the Africa Group, the ACP, LDC Group and the US – all called for export subsidies to be eliminated by 2010.

There was no substantial advance in the agriculture negotiations in Hong Kong from the July 2004 Framework Agreement. In addition to restating the decisions already reached in the Framework agreement, the final draft of the Hong Kong Declaration reflected some significant movement by WTO members in the technical work undertaken in Geneva since July. These issues related to the conversion of specific tariffs to their *ad valorem* tariff equivalents and some convergences reached to use three bands for cuts in domestic support subsidies and four bands for the tariff cuts envisaged in the market access negotiations.

There was some improvement in the final text in the language on (SPs) and the SSM, demanded by G-33 developing countries. The final text said that developing countries can self-designate a still-to-be-determined percentage of tariff lines as SPs to be “guided by indicators based on the criteria of food security, livelihood security and rural development”. There was also agreement that developing countries will “have recourse to a SSM based on import quantity and price triggers”.¹³ The addition of a price trigger was fought for vigorously and was a victory for the G-33.

NAMA

Several of the major developing countries, including South Africa, India and Brazil, are of the view that the decisions reached on NAMA at Hong Kong did not represent a reversal of gains made in Doha or in the July 2004 Framework agreement. Indeed some of these gains made in the NAMA negotiations, for example, on flexibilities (that had been agreed the July 2004 Framework) had been under threat in the past few months in Geneva. Whilst the final draft of the Hong Kong Declaration reflected members’ agreement to adopt a Swiss Formula, the option to use different types of Swiss Formulae still remains to be decided and is not foreclosed.¹⁴ The major advance for developing countries in this text was the decision to link the ambition in the market access negotiations in agriculture with that in NAMA. This allows developing countries to argue that WTO members would need to produce a formula in the market access negotiations in agriculture that is “balanced and proportionate” to that in the NAMA negotiations. In addition, WTO members agreed that the level of ambition in market access for agriculture and NAMA should be “comparably high”.¹⁵

Whilst there was some fragmentation in developing country positions on the formula to be adopted by the WTO on NAMA in the period before Hong Kong, the approach taken by the EU in its October 28 submission caused these countries to create a united front on the need to defend the flexibilities that developing countries had succeeded in obtaining in the July 2004 Framework Agreement.¹⁶ This united front was further consolidated in Hong Kong where ministers of the so-called NAMA 11 presented joint proposals in the negotiations on NAMA.¹⁷ This group was also able to establish a strong link between the level of ambition in NAMA with that in agriculture in the final text of the Hong Kong Ministerial Declaration.¹⁸

Services

The existing GATS¹⁹ development-friendly methodology in the services negotiations was under threat of being fundamentally altered by proposals made in the first draft of the Hong Kong Ministerial Text.²⁰ Developed countries, and a few developing countries were attempting to substantially change the methodology of the services negotiations in an attempt to raise the ambition of the negotiations, in a manner that would increase the pressure on less competitive developing countries. There was widespread opposition to these attempts by the African Group, the ACP and several ASEAN countries.

In the draft Ministerial Text²¹ that was forwarded to the ministers, the quantitative targets insisted on by the EU was deleted. There were a number of remaining concerns that these countries, including South Africa had with this text. Their initial concern was that the chapeau of the text did not state that the new methodology proposed in the annex

(Annex C) had not been agreed. Thus, at the insistence of those countries that had substantive objections to some elements of Annex C, the chapeau that referred to Annex C was bracketed.

Negotiations in Hong Kong focussed on the changes needed by these countries before they agreed to remove the brackets. In the course of the negotiations in Hong Kong, these members succeeded in making two significant changes to Annex C. First, in the section on objectives the words “strive to achieve the following objectives” was replaced with “should be guided, to the maximum extent possible, by the following objectives”. Most developing countries viewed these objectives as being too ambitious and prescriptive. Second, developing countries also objected to the prescriptive language of the proposed methodology for plurilateral negotiations in services. The compromise struck in the final text underlined the fact that the existing flexibilities provided for in the GATS and the Negotiating Guidelines would still remain the bases for the negotiations in services.

The Development Package

There were five key development-specific issues identified by the EU²² and other members in the period before Hong Kong: a development package for LDCs; cotton; preference erosion; the specific concerns of small, weak and vulnerable countries; and the question of an aid for trade envelope to support the needs of developing countries. Despite intense negotiations on both the LDCs DFQF issue and the need for an early harvest on cotton, the so-called ‘Development Package’ proposed by the EU failed to materialise in Hong Kong.

LDCs

The compromise offered by the US after six days of intense negotiations, to provide DFQF market access for up to 97 percent of tariff lines and to progressively increase this, with no obligation to reach 100 percent, was not acceptable to LDCs. The US argued that it could not offer to extend full product coverage to countries such as Bangladesh and Cambodia which were competitive in some products, such as textiles, as this would displace African countries’ existing preferential market access provided under the US AGOA preferential scheme. Pakistan surprised most members by arguing that it would not accept a deal for LDCs which did not provide some comfort for its fear that preferential textile exports from Bangladesh, in terms of the proposed deal, could displace a significant part of its exports to the US.

LDCs were reluctant to accept the US offer as they argued that the three percent exemption would allow the US to exclude almost all the products of export interest to them. In the statement made to WTO members at the final plenary on Sunday evening (December 18) the co-ordinator of the LDCs, Minister Dipak Patel of Zambia, thus called for the Annex on LDCs to be part of the ongoing negotiations in Geneva and to be used as a basis to develop modalities to conclude the negotiations on LDCs. In a letter sent to the DG and several WTO ministers subsequent to the Hong Kong Ministerial Meeting, Patel, as co-ordinator of the LDCs adopted a reconciliatory tone and called for the offer of the US and other developed members on DFQF market access (in Annex F) to be built upon in the post-Hong Kong process in Geneva.²³ In the statement made by the

chair of the conference, Secretary Tsang of Hong Kong, China referred to the section on DFQF treatment in Annex F as a “framework” and urged developed and developing country members in a position to do so, “to set out by the end of 2006, the means by which they will implement this decision”.²⁴

There were four other S&DT, LDC-specific proposals that were agreed to in Annex F. These included: an agreement to give “positive consideration” to requests for waivers by LDCs, and when requested to provide waivers exclusively in favour of LDCs by other members; and to decide on such a matter expeditiously and “without prejudice to the rights of other members”. Costa Rica and Paraguay had finally agreed to this compromise. A second agreement called for donors, multilateral agencies and international financial institutions to ensure greater policy coherence with WTO agreements in the conditionalities that they often impose on developing country members. A third agreement re-affirmed that LDCs will only be required to undertake commitments and concessions to the extent consistent with their development needs and capabilities and directed the WTO to co-ordinate its efforts with donors to “significantly increase aid for trade related technical assistance (TRTA) and capacity building”. Finally, the most significant agreement for LDCs was the decision to provide new flexibilities for LDCs not to comply with the TRIMs Agreement until 2020. These flexibilities include a transition period of seven years for existing measures and an agreement to give positive consideration to allow any new TRIMs for a period of five years.

Cotton

The four West African cotton producing countries pleaded passionately for an early harvest in the cotton negotiations. In response, the US delegation insisted that they did not foresee any negotiations outside the context of the agriculture negotiations. However, there was some movement by the United States Trade Representative (USTR) Robert Portman, when he agreed to eliminate US cotton export subsidies in 2006. Brazil had argued that this was required in any case by the recent WTO Appellate Division decision in the case brought to the WTO by Brazil on the US trade-distorting cotton subsidies. In addition, the US agreed to support a decision to provide DFQF market access for cotton exports from LDCs from the date of implementation of the Doha deal. These were two incremental advances made on the cotton issue in Hong Kong.

However, on the most significant demand of the C4 countries and other members, i.e. the need to reduce-trade distorting cotton subsidies, the US did not agree to an early harvest. As part of the final agreement, both the USTR and the four West African cotton producers agreed to continue the negotiations in Geneva in the post-Hong Kong period, with the C4 countries still maintaining their demand for an early harvest not be linked to the Doha agriculture negotiations.²⁵

Erosion of Preferences

On the issue of erosion of preferences and the special needs of small, weak and vulnerable economies, the ACP group succeeded in gaining some further recognition of these concerns in the NAMA negotiations and a commitment to address these issues in the ongoing Doha negotiations.²⁶

Aid for Trade

Finally, on the issue of aid for trade, the final text²⁷ called on the Director General of the WTO to create a task force and to provide the General Council with recommendations by July, 2006. The recommendations of the task force and its adoption by the General Council is discussed in Chapter seven.

There was no major breakthrough or early harvest on the five identified development-specific issues in Hong Kong. For LDCs, there were some significant advances made on the five agreement-specific proposals that LDCs had prioritised in the negotiations on S&DT. The agreements reached on DFQF market access, and increased flexibilities in WTO rules and capacity-building, are significant gains to build on in the ongoing Doha negotiations. Thus, whilst some incremental advances were made on the so-called development package, greater political will is required to advance these issues in the post-Hong Kong period.

On most issues it has become clear that there can be no major breakthrough or early harvest as the political will and capacity of the major countries to deliver will depend on the ambition to be agreed on the core issues in the Doha negotiations, viz. agriculture, NAMA, services and related disciplines. Thus for these countries to make some gains from the Doha Round and advance their issues, there will need to be an early conclusion to the round as a whole, with a high level of ambition on the core issues.²⁸

5.3 The Way Forward

The post-Hong Kong work programme and the timing for the conclusion of the Doha Round did not obtain much consideration by ministers in Hong Kong. Ministers simply assumed that the round should be concluded by the end of 2006. Thus the timetable for the achievement of full modalities in agriculture and NAMA was fixed for April 30, 2006 and the completion of schedules based on these modalities was set for July 31, 2006.

There was no discussion of how the political will to complete the task of achieving full modalities on agriculture and NAMA by the end of April, 2006, could be developed within the next four months. Already the EU Commissioner, Peter Mandelson, had signalled that the EU did not have the will to finalise full modalities in a manner that would require them to make significant new concessions in the agriculture negotiations (discussed above). Notwithstanding this, the EU continued to pressure others, particularly the major developing countries to make additional onerous concessions in the NAMA and services negotiations after Hong Kong.²⁹ Failure to achieve any real movement on these core issues of the negotiations and resolve the fundamental fault line in the Doha Round was to also have a detrimental effect on any possible resolution of the specific development issues of interest to the majority of least developed and small, weak and vulnerable countries.

Advancing the Doha negotiations after Hong Kong would require renewed political commitment and political will by the major developed and developing countries. The US would need to play its part in making more significant offers to reduce its trade distorting subsidies and discipline its farm support in line with new WTO rules. The US

would also need to display greater political will to address the needs of the LDCs and small, weak and vulnerable members of the WTO. Without an ambitious effort by all WTO members to address these specific issues of interest to these members of the WTO, a grand bargain is unlikely to emerge.

The major developing countries represented in the G-20 and the NAMA 11 displayed a firm resolve to maintain the high level of ambition of the Doha Round and defend its development content. They called for more open and undistorted trade and signalled their willingness to make a contribution in this regard provided this was proportionate to their level of development and the contribution of the developed countries. In a November 2005 paper, they committed themselves to also making a contribution towards addressing the development challenges of the LDCs and small, weak and vulnerable countries.³⁰ Their leadership in advancing these objectives and engaging effectively with developed and other developing countries to build the consensus needed for the round to succeed will be crucial in the year ahead.

There was renewed optimism that developing countries would be able to manage and resolve their differences whilst keeping the pressure on developed countries to deliver on the development content of the round in Hong Kong when the major developing country groupings including the G-20, the G-33, the ACP, the LDCs, the African Group and the Small Economies met at a ministerial level. This meeting was called “historic” by Minister Celso Amorim of Brazil as it was the first such meeting of ministers in the WTO and was referred to as the G-110 (G-90+G-20). These groups agreed that agriculture was central to the round and to development, and were united in calling for export subsidies to be eliminated by 2010. They all agreed to address the specific development challenges facing developing countries in the Doha Round³¹. The Doha Round “grand bargain” would also require that in exchange for the strong support of the G-20 countries for their concerns in the round, including that of preference erosion, the LDCs and the small, weak and vulnerable countries should not obstruct or delay the market access needs of the G-20 and other more competitive developing countries.

After Hong Kong, the EU was the main obstacle to progress in the Doha Round. However, by April 2006, the US was to assume the role of the most recalcitrant member among the major developed countries. Mandelson became far more astute in positioning the EU as being willing to be more flexible on issues related to market access. In sharp contrast, the upcoming congressional elections in the US and the appointment of a new USTR made the US more cautious. This process, which led to the suspension of the Doha Round in July 2006 before its subsequent revival and ended with the collapse of the G-4, is discussed and assessed in Chapter Seven. In the next chapter, the implementation of the decisions taken in Hong Kong on aid for trade and related issues are assessed.

Notes

- 1 See ‘Trade chief says EU united on farm stance’, *Financial Times*, December 21, 2005, pp.2.
- 2 The EU Summit was held on December 16-17. See ‘EU horse-trading was humiliating – but failure would have been worse’, *FT* 19/12/2005 pp.3

- 3 The EU demanded a so-called ‘pivot’ in the tariff cutting formula i.e. the flexibility to deviate from the agreed percentage-cut by a maximum of two-thirds, with a 20 percent minimum cut, for about 70 percent of their tariff lines. In addition, the EU insisted on designating up to 8 percent of its tariff lines as being “sensitive”. The EU intended to make only minimal cuts in these so-called ‘sensitive products’.
- 4 The Hong Kong Declaration set the deadline for the conclusion of the negotiations for full modalities at the end of April 2006.
- 5 ‘Making Hong Kong a Success: Europe’s contribution’ European Commission. Brussels. October 28, 2005. European Commission website.
- 6 See Statement made by South Africa to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, the Philippines and Venezuela. November 28, 2005.
- 7 The US has stated on several occasions that it will work shoulder to shoulder with the EU to seek significant market access in the markets of advanced developing countries in the NAMA and Services negotiations. See FT...[incomplete ref]
- 8 ‘Reclaiming Development in the WTO Doha Development Round’, submission made to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, Pakistan, the Philippines, South Africa and Venezuela. November 28, 2005.
- 9 ‘Making Hong Kong a Success: Europe’s Contribution’. European Commission, Brussels. October 28, 2005.
- 10 The Hong Kong Ministerial Declaration calls for full modalities in agriculture and NAMA to be agreed by the end of April, 2006.
- 11 Letter dated October 09, 2005.
- 12 Celso Amorim, the Brazilian Minister of Foreign Affairs and Trade and the co-ordinator of the G-20 was quoted in the Financial Times (19/12/2005) as saying that the decisions reached in the Hong Kong Declaration were “modest but not insignificant”.
- 13 See WT/MIN (05)/DEC Para 7 of the Ministerial Declaration. Doha Work Programme. 22 December, 2005. The July 2004 Framework Agreement already provided for developing countries to self-designate SPs and utilise a SSM without specifying the criteria to determine SPs or the details of the SSM.
- 14 The Swiss Formula is a harmonising formula that reduces the higher tariffs more significantly than those tariffs that are at lower levels. One variant of the Swiss Formula was that proposed by the first chair of the NAMA negotiations, Ambassador Girard (see Chapter three). A second variant of this formula was that proposed by Argentina, Brazil and India which became known as the ABI formula. A simple Swiss formula with two co-efficient was eventually agreed by the developing countries in the post-Hong Kong period.
- 15 See WT/MIN (05)/DEC Para 24 of the Ministerial Declaration. Doha Work Programme. December 22, 2005.
- 16 See TN/MA/W/65 ‘Market Access for Non-Agricultural Products. Flexibilities for Developing Countries’. Communication from Argentina, Brazil, China, Egypt, India, Indonesia, Namibia, Pakistan, Philippines, South Africa and Venezuela. November 08, 2005.
- 17 See letter by the above countries, and Tunisia, sent to the Chairman of the Conference and the Director General at the Hong Kong Ministerial Conference.
- 18 See WT/MIN (05)/DEC. Para 24 of the Ministerial Declaration. Doha Work Programme. December 08, 2005.
- 19 The current methodology for the negotiations in services is based on the General Agreement on Trade in Services (2000) and the GATS negotiating guidelines agreed by the WTO in 2001. These agreements call for a positive list approach where countries choose the sectors they wish to make concessions in and the extent to which they wish to open their markets. The current negotiating methodology that is utilised largely by members is a bilateral request-and-offer method, although a plurilateral approach is also provided for by the above guiding documents.

- 20 See WT/MIN (05) W/3 Draft Ministerial Text. Doha Work Programme. December 07, 2005.
- 21 WT/MIN(05) W/3. Draft Ministerial Text. Doha Work Programme. December 07, 2005
- 22 See Letter by Peter Mandelson sent to WTO Trade Ministers, October 09, 2005. Mandelson identifies five deliverables for Hong Kong in this letter, including the so-called implementation issues. In their subsequent position paper, dated October 28, the EC supported the need for “specific actions to overcome the distortions to trade on cotton” and “early implementation” of such actions.
- 23 In this letter Dipak Patel states, “I believe that the LDCs managed to get an outcome which, although was not all that we wanted, is a platform upon which we can build in the future”.
- 24 Statement made by Secretary Tsang, the Chair of the Conference at the closing plenary meeting of the WTO Hong Kong Ministerial Conference. December 18, 2006.
- 25 These positions were articulated by both the USTR and ministers from the C4 countries in their statements made to the final plenary of the Hong Kong Ministerial meeting.
- 26 See WT/MIN (05)/DEC Para 20 and 21 of the Ministerial Declaration. Doha Work Programme. December 22, 2005.
- 27 See WT/MIN (05)/DEC Para 57 of the Ministerial Declaration. Doha Work Programme. December 22, 2005
- 28 See also Ismail, F. (2006). ‘How can Least Developed Countries and other small, weak and vulnerable developing countries also gain from the Doha Development Round?’ *Journal of World Trade*, February, 2006.
- 29 See Statement by Peter Mandelson in the *Financial Times*, ‘Trade chief says EU united on farm stance’ 21/12/2005.
- 30 ‘Reclaiming Development in the WTO Doha Development Round’ submission made to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, Pakistan, the Philippines, South Africa and Venezuela. November 28, 2005.
- 31 See Joint Press Statement issued by the G-20, the G-33, the ACP, the LDC Group, the African Group and the Small Economies. Hong Kong. December 14, 2005.

Aid for Trade – An Essential Component of the Multilateral Trading System

6.1 Introduction

The concept of Aid for Trade has gained momentum since early 2005, culminating in an agreement in the WTO Hong Kong Ministerial Conference for the Director General to establish a task force on it. This concept has evolved significantly during the past decade. As official development assistance (ODA) began to fall in the mid 1990s,¹ the slogan “Trade *not* Aid” began to gain currency. Developed countries argued that developing countries needed to reduce their dependence on aid as donor fatigue grew amongst rich countries. In the WTO, developing countries were cautious about placing an emphasis on aid in the Doha Round as they felt that increased aid would be used as a substitute by developed countries that were reluctant to reduce their high levels of protection for products of interest to developing countries, especially in agriculture and textiles. However, the development needs of the poorest developing countries gave rise to increased demands for increased aid. Thus at the United Nations Millennium Summit in New York in September 2000, world leaders pledged to increase development aid for the realisation of the Millennium Development Goals (MDGs) which had as its main target the halving of poverty by 2015.²

Goal 8 of the MDGs had as one of its targets the development of an “open, rule based, predictable, non-discriminatory trading and financial system”. World leaders met again in Monterrey, Mexico, in March 2002 at the International Conference on Financing for Development and agreed to increase development assistance, establishing a framework for a global development partnership in which developed and developing countries would take joint action to reduce poverty in line with objectives set by the MDGs. The Monterrey Compact recognised that aid and trade are both important for the development efforts of the poorest developing countries and agreed to focus on both improved market access and supply-side competitiveness through increased investments in infrastructure and trade facilitation. A commitment to the realisation of the MDGs was again reaffirmed by the World Summit on Sustainable Development (WSSD) held in Johannesburg.³ The Doha Declaration too confirms that “technical co-operation and capacity building are core elements of the development dimension of the multilateral trading system”, and recognises that “sustainably financed technical assistance and capacity building programmes have important roles to play”.⁴ Whilst the issue of aid *per se* or aid for trade is not a specific negotiating issue in the WTO Doha agenda that is linked to the

single undertaking, the commitment by members to address the need for increased aid for trade-related capacity building is part of the overall Doha Development Agenda. Indeed, there are several areas of the Doha Work Programme where this commitment is linked to specific areas of the Doha negotiations, including trade facilitation, cotton, S&DT and LDCs. Thus the Doha Development Agenda (DDA) has been challenged to address both trade and aid.

Developing countries have placed the issue of aid, or Trade-Related Technical Assistance and Capacity Building (TRTA/CB), on the agenda of the multilateral trading system since the earliest days of the GATT. The need for technical assistance has been recognised by the Contracting Parties of the GATT in early GATT agreements as part of the S&DT offers made by developed countries to facilitate the integration of developing countries into the multilateral trading system. The concept of S&DT, which has emerged since the earliest days of the formation of the GATT, has called for the interests of developing countries to be given special consideration. This concept remains essential to ensuring that there is proportionality in the commitments undertaken between developed and developing countries, reflecting their different levels of development and gains from the trading system. I have argued in Chapter two that S&DT should not be confused with the broader development dimension of the trading system nor become a substitute for it. S&DT is only one aspect of the broader development dimension. However, I have also argued that TRTA/CB is not only an aspect of S&DT, with which it has been associated historically, but also a core element of the development dimension of the multilateral trading system.

In Chapter two, I have argued that the development dimension of the multilateral trading system needs to be mainstreamed. I set out four core elements that could constitute the development dimension in the context of the multilateral trading system. These four elements are: fair trade; capacity building; balanced rules; and good governance. Thus I have included capacity building – or aid for trade – as an essential element of the development dimension of the multilateral trading system.

There is a vast range of issues that arise in the discussion on aid for trade, including those of predictability, effectiveness, coherence of policy and coordination at global levels, mainstreaming of trade in national development strategies, country ownership, delivery mechanisms and the role of the private sector.⁵ The scope of this chapter does not allow a detailed discussion on these issues. Instead, it will focus on the relationship between aid and trade in the WTO.

Section 6.2 will provide a brief historical perspective of the main trends in the recognition of the needs of developing countries by the multilateral trading system and the response of developed countries, including through S&DT provisions and TRTA/ CB more specifically. Section 6.3 will review the progress made in the Doha Round on the issues related to “technical assistance and trade-related capacity building”. Section 6.4 will assess the evolution of the concept of aid for trade since 2005 until the end of July 2006. Section 6.5 describes the trends and trajectory of ODA flows and the potential for additionality of ODA. The need for higher levels of overall ODA and aid for trade are inextricably linked as the definition and scope of aid for trade has become broadened to

include supply-side issues and infrastructure investment. The scope of aid for trade and the share of aid for trade in overall ODA flows are thus also discussed in this section. In the conclusion (section 6.6), we will revisit the case for increased aid for development and aid for trade in the WTO, arguing that increased aid for trade is an essential component of a successful DDA.

6.2 The GATT/WTO, S&DT and Capacity Building

This section begins by providing a schematic account of the historical origins of development provisions in the GATT/WTO.⁶ As the GATT developed, the need for increased aid to assist developing countries to help boost their production and exports was recognised by the Contracting Parties. Whilst there is a more general reference to this need in the revised Article XVIII of GATT in 1955, the 1961 Declaration of the Contracting Parties makes specific reference to the need for technical assistance programmes to assist developing countries with production and marketing. The creation of the UNCTAD and International Trade Centre (ITC) in 1964 by the United Nations (UN) was a significant step in support of the trade-related technical assistance and capacity building needs of developing countries to enable their fuller participation in international trade, whilst in the GATT the relationship between trade and aid was developed more fully in Part IV of the GATT in 1965.

The 1982 GATT Ministerial Conference again recognised the need to strengthen developed country technical assistance programmes. It was thus only in the Uruguay Round, when developing countries were required to become part of all the multilateral agreements of the GATT through the concept of the single undertaking, that more specific provisions on TRTA were added to individual Uruguay Round agreements to assist developing countries to implement these new obligations.

Assessment

There are six main trends that can be identified in the process of the unfolding development provisions of the GATT, including the specific references in these provisions to the TRTA/CB needs of developing countries.

First, whilst a number of positive provisions in favour of developing countries were included in the GATT Framework during the period 1955 to 1979, there was a steady increase in the protection and support for temperate zone agricultural products in industrialised countries. To a large extent this was also due to the existing rules of the GATT, which either permitted these protective and trade-distorting measures or contained disciplines which were not clearly defined. In the area of textiles and clothing (T&C), a multilateral framework was adopted, in derogation of GATT rules for imposition of discriminatory restrictions on low-wage or low-cost imports causing market disruption. What began in 1961 as the Short-Term Arrangement Regarding International Trade in Cotton Textiles became a year later the Long-Term Arrangement Regarding International Trade in Cotton Textile, which in turn was replaced in 1974 by the Multi-Fibre Arrangement (MFA) and extended to man-made fibres and wool.

This trend of continued protection by developed countries of the products of interest to developing countries was to continue during and after the Uruguay Round. In the area

of agriculture, protection levels in developed countries remained extremely high, imposing a barrier to developing country exports. And high levels of export and domestic support subsidies in developed countries continued to distort global agricultural prices and trade. Even in the area of T&C, the agreement reached in the Uruguay Round to eliminate quotas was back loaded to the end of the phase-out period in 2005, reducing its commercial significance for developing countries.

Second, these measures were largely of a best endeavour nature in that they did not impose mandatory obligations on industrialised countries, but instead encouraged them to implement these provisions.

Third, the trade-related technical assistance needs of developing countries were explicitly recognised by the GATT Contracting Parties as early as in 1961, encouraging developed countries to address the production and marketing needs of developing countries in their technical assistance programmes.

Fourth, the formation of (UNCTAD) and the establishment of the ITC (which was to later become a joint agency of the UNCTAD and GATT) were significant steps towards addressing the trade-related development concerns of developing countries, including technical assistance and capacity building.

Fifth, Part IV of the GATT specifically provided for greater coherence in trade and aid policies by calling for an examination of the trade and development policies and plans of developing countries in collaboration with international financial institutions “so that trade and aid relationships might be examined and the need for further action in the fields of trade and aid brought into focus” and “to collaborate with the UN and its organs and agencies in matters of trade and development policy”.

Sixth, developing countries complained of the difficulties they experienced in their attempts to implement the Uruguay Round agreements. The costs of implementation were estimated to be very onerous for many developing countries. The World Bank estimated that in only three areas of implementation – intellectual property rights (IPRs), Sanitary and Phytosanitary (SPS) measures and Customs Valuation – the cost to a developing country could amount to about US\$150mn, which was more than a full year’s development budget in many least-developed countries.⁷

6.3 The Doha Round, S&DT and Capacity Building

This section sets out the various mandates provided in the Doha Declaration to address the issues related to TRTA/CB, including the more general mandate in the Doha Declaration and the more specific mandates on the issues related to trade facilitation, cotton, S&DT and LDCs. The discussion on each of the issues will assess the progress made in the negotiations up to the 2005 Hong Kong Ministerial Conference.

The Doha Development Agenda

The Doha Declaration made promises in the mandate to address the development interests of developing countries. Paragraph 2 set the tone for the rest of the Declaration by stating that “...*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.... In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.” The Doha Declaration was thus termed the ‘Doha Development Agenda’ (DDA).

Technical Assistance and Capacity Building

The Doha Declaration confirmed that “technical co-operation and capacity building are core elements of the development dimension of the multilateral trading system”, and recognised that “sustainably financed technical assistance and capacity building programmes have important roles to play”.⁸ The WTO has made considerable advance in providing technical assistance, particularly in support of information and training for the Doha Round. The Cancún Text acknowledged the role of the DDA Global Trust Fund in providing funding for these efforts. It also recognised the significant co-operation began by the WTO with some agencies (namely, World Bank, IMF, UNCTAD and ITC) in joint projects such as the Integrated Framework (IF) and the Joint Integrated Technical Assistance Programme (JITAP) in implementing these programmes.

The July 2004 WTO General Council Decision, whilst recognising these efforts, calls for “developing countries and in particular LDCs to be provided with enhanced TRTA and capacity building to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules and to enable them to adjust and diversify their economies”. In addition, the section on ‘other development issues’ commits the WTO to ensure that “special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints”.

Trade Facilitation

The July 2004 WTO General Council Decision has recognised the need to address the capacity constraints of developing countries and committed WTO members to providing “enhanced trade-related technical assistance and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies”.⁹ The July 2004 WTO General Council Decision on modalities for trade facilitation also commits members to providing “support and assistance for developing countries” to “implement the commitments resulting from the negotiations” and links this to their implementation obligations.¹⁰ These are bold and positive commitments and would require additional donor support.

Cotton

The July General Council Decision recognised the “complementarity between the trade and development” aspects of the cotton issue. The secretariat was urged to work with the “development community”, namely, multilateral and bilateral agencies. With a promise to deal with the issue of cotton “ambitiously, expeditiously and specifically”,¹¹ the July General Council decided to negotiate cotton within the context of the agriculture negotiations and not as a stand-alone issue to be fast-tracked as the West African countries had initially demanded.

The WTO did make an important advance in boldly recognising the complementarity between the trade and development aspects of cotton.¹² Furthermore, it recognised that it would need to work closely with the development community, including multilateral and bilateral agencies. Thus the WTO recognises that it has a role in the building of institutional, productive and export capabilities. In addition, it recognises that it has some responsibility for these development impacts of trade and that it needs to play a role in building coherence between the various levels and bodies responsible.

Negotiations on S&DT

At the outset of the DDA negotiations developing countries raised concerns with several existing WTO agreements (e.g., TRIPs, TRIMs and Anti-Dumping) negotiated in the Uruguay Round, arguing that many of these were against the interests of developing countries and that the S&DT provided by Uruguay Round agreements and GATT were ineffective and needed to be reviewed.¹³ These issues have been referred to as ‘implementation issues’. A subset of these issues are those proposals calling for S&DT provisions to be reviewed with a view to making them more precise, mandatory and operational.

Developing countries have called for a review of these issues and a re-negotiation of the Uruguay Round agreements to provide greater flexibility in the rules so as to create more balanced rules that are consistent with the development dimension referred to above. The implementation issues have not yet gained any real traction in the negotiations since the onset of the DDA. However, discussions on these issues have taken place in some detail in the negotiations on S&DT in the Committee of Trade and Development on Special Session (CTDSS). As discussed in some detail in Chapter four, there has not been much further progress in the negotiations on the agreement-specific proposals or the cross-cutting issues. However, with regard to LDCs, at least three of the agreement-specific proposals agreed at Hong Kong are relevant to trade-related capacity building issues. The latter are discussed below.

LDCs

In the CTDSS, LDCs had prioritised five proposals for the members to consider. By the time of the Hong Kong Ministerial Conference WTO members made significant progress on these proposals. The most important of these five proposals was the commitment to provide duty free, quota free market access (DFQF) for the LDCs.¹⁴ There were three S&DT, LDCs Agreement-Specific proposals that were agreed to in Annex F, which are of relevance to the aid for trade agenda. The first of these urged “all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements and to assist them in managing their adjustment process, including those necessary to face the results of MFN multilateral liberalisation”.¹⁵

The second proposal¹⁶ called on donors, multilateral agencies and international financial institutions to “coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants, and official development assistance that are inconsistent

with their rights and obligations under the WTO Agreements”. The third¹⁷ re-affirmed that LDCs will only be required to undertake commitments and concessions to the extent consistent with their development needs and capabilities and directed the WTO to co-ordinate its efforts with donors to “significantly increase aid for trade-related technical assistance and capacity building”. Whilst the language of these proposals is not binding or obligatory, the agreements do provide LDCs with some leverage in their efforts to secure greater aid for trade and to negotiate greater coherence of their obligations and commitments in the WTO and the conditionalities imposed by the Bretton Woods institutions.

6.4 The Concept of Increased Aid for Trade Gains Momentum

This section sets out the background on the development of the concept of aid for trade since 2005. The discussion traces the debate on the concept, its scope and the modalities for delivery in the period before the Hong Kong Ministerial Conference. The decisions taken at Hong Kong then discussed and the report of the Task Force on Aid for Trade that was presented to the General Council of the WTO in July 2006 is briefly summarised.

The year 2005 was an eventful year for the debate on increased aid or ODA to developing countries. The Commission for Africa issued a report in March that focused on the development needs of the African continent and called for substantial increase of aid by donors to sub-Saharan Africa (SSA). Tony Blair, the then UK Prime Minister, took the initiative forward into the G-8, where, as the Chair in 2005, he made Africa’s development one of the main issues for discussion. Thus the G-8 Summit, held at Gleneagles in July, 2005 made pledges for substantial increases in ODA. In addition, the UN World Summit held in September, in New York, to review the MDG, also re-affirmed the commitments by donors to scale up aid commitments to ensure that the MDG are met. The concerns about the delivery and management of aid also gained prominence at a High Level Forum on Aid Effectiveness that brought together donors, agencies and beneficiaries in Paris in March, 2005. The resultant Paris Declaration on Aid Effectiveness agreed on the key principles of country ownership, mutual accountability, aligning aid to national development strategies, effective donor coordination, harmonisation of donor procedures, use of programme-based aid modalities, managing for result, transparency, and predictable and multi-year commitments.¹⁸ It is in this context that the debate on increasing aid for trade and its effectiveness should be seen.

The concept of aid for trade began to gain support in the year 2005.¹⁹ The Millennium Project Task Force on Trade²⁰ called for “a temporary aid for trade fund”, the report of the Director Generals Consultative Board²¹ stressed the need for adjustment assistance for developing countries to help them cope with trade liberalisation and the then new Trade Commissioner of the EC, Peter Mandelson,²² called for the richest countries to establish a special Trade Adjustment Fund. The most passionate advocate of the proposal for additional aid for development have been Tony Blair and his then Chancellor of the Exchequer, Gordon Brown,²³ who led the formation of the Commission for Africa and presented the case for Africa at the Gleneagles G-8 Summit. In the period before the Hong Kong Ministerial Conference, UNCTAD called for a “Trade Marshall Plan” for LDCs.²⁴ The plan calls for a US\$1bn fund for LDCs, to be utilised to support adjustments arising from trade reform, trade-related infrastructure and competitiveness capabilities.

There has been a persistent call by a large number of developing countries that the WTO should address the development challenges arising from the negative impact of liberalisation. These include the need to address the loss of revenue, the increased cost of food imports and the adjustment and diversification costs associated with preference erosion. In addition, many developing countries have argued that their access to developed country markets is further denied by the high costs associated with meeting health and technical standards (SPS and TBT, discussed above).

In response to this call a number of discussions were held in Geneva by an informal group of donor country and developing country experts resulting in a discussion paper on aid for trade. The group discussed this paper with World Bank staff and submitted a non-paper to the annual September meetings of the IMF and World Bank.²⁵ The authors of this non-paper argue that the poorest countries need support to realise the benefits of their membership of the WTO. The trade-related issues for these members include: the need for enhanced negotiating capacity; increased investment in productivity; competitiveness and infrastructure; in-country institutional capacity; and facilitation of adjustment that could arise from preference erosion, as well as addressing increased costs of food for Net Food Importing countries; loss of fiscal revenue; and social adjustment costs. The authors of the non-paper argue that measures that provide extra aid for trade should complement, rather than substitute, an ambitious outcome of the Doha Round.

Strengthening the Integrated Framework

The non-paper calls for the strengthening the Integrated Framework (IF)²⁶ at three levels of ambition. The first envisages enhancing its current work programme (the IF's main purpose and approach has been to assist LDCs to develop a broad trade development agenda with prioritised needs that donors could respond to). The second level to strengthen the IF, the non-paper proposes, is to provide enhanced financing to respond to the prioritised trade-related needs of LDCs. The third is for the IF to create a fund to manage adjustments arising from multilateral trade liberalisation, especially the costs of preference erosion. The authors expect enhanced aid for trade to take the form of grants rather than loans. They also consider extending the benefits of the IF to non-LDC developing countries that experience difficulties that are very similar to those experienced by LDCs.

Many reasons²⁷ have been advanced for developed countries to increase aid for trade-related technical assistance and capacity building (TRTA/CB). Developing countries have argued that this additional aid for trade should not be provided at the expense of aid for development. Developing countries have the necessary capacity to absorb enhanced aid²⁸ and the non-paper has suggested some concrete ways in which this additional aid could be utilised, with increased co-ordination and coherence between the WTO, the IMF, World Bank and the UN development agencies.

The 2005 World Bank/IMF Annual Meetings

The IMF and World Bank at their Spring Meetings (April 2005) supported the call for additional aid²⁹ and agreed to work with other institutions to prepare proposals for "additional assistance to countries to develop their trade and ease adjustment in their

economies”. The September 2005 World Bank/IMF Annual Meetings recognised the importance of the Doha Round for development. The World Bank’s Development Committee stated that without a timely and ambitious outcome of the Doha Development Agenda (DDA), developing countries will not achieve the economic growth needed to meet the Millennium Development Goals.³⁰ In addition, it emphasised the importance of “major reform of agricultural trade policies to expand market access and eliminate trade-distorting subsidies” and the need for “increased aid for trade to address supply-side constraints and enhance the capacity of developing countries to take advantage of expanded trade opportunities”.

However, in response to the proposals put forward by the non-paper discussed above, the World Bank and IMF paper that was prepared for the meeting focused exclusively on the first level of ambition, and “endorsed the proposal for an enhanced IF for Trade-related Technical Assistance (TRTA), including expanding its resources and scope and making it more effective”. On the second level of ambition, the World Bank/IMF simply proposed to “examine further the adequacy of existing mechanisms to address regional or cross-country aid for trade needs and explore new mechanisms as appropriate”. In short, these institutions failed to rise to the challenge proposed by the non-paper. In addition, the World Bank and IMF rejected the proposal for the creation of a trade adjustment fund envisaged by the third level of ambition of the non-paper. In this regard, the World Bank communiqué simply “supported a strengthened framework for assessing adjustment needs so that IF and donor assistance mechanisms can be better utilized”.

The stance taken by the international institutions elicited strong criticism from some observers. Distinguished economists, professors Jagdish Bhagwati³¹ and Bimal Ghosh,³² argued that “an aid fund for trade provides the financial flexibility needed to ease the transitional difficulties of the countries that are genuine losers and have them on board, while equipping them to benefit from market openness over time”. World Bank and IMF officials, responding to these criticisms, argued that such a fund is unnecessary as “any sensible governance structure of a dedicated fund would end up replicating already existing facilities available through the IMF, World Bank and other institutions that have not so far been hampered by funding constraints”.³³ Developing countries have been critical of existing IMF facilities to fund adjustment, including the new trade integration mechanism (TIM) facility as this is usually part of a Structural Adjustment Facility with conditionalities, is debt-creating and not grant-funded.

The debate on aid for trade and the trade-related needs of WTO members is timely and needs to be extended to the broader membership of the WTO. The increasing support and recognition for additional aid for trade could provide a valuable contribution to create the necessary balance in the Doha Round to assist many developing countries to support the ambitious liberalising goals of the Doha Round. However, this concept needs to be developed further and owned by the developing countries which are most in need of these resources. Attention also needs to be given to the relationships between any aid for trade initiative and the financing needs that will be defined by a Doha Round agreement. For example, the need for additional finance for the trade facilitation needs of developing countries envisaged by the July 2004 General Council Decision must be addressed. These needs will have to be further debated and discussed with a view to

building appropriate mechanisms and mobilising additional finance to support the implementation of the envisaged Doha trade facilitation agreement, as well as already existing WTO agreements.

The Hong Kong Ministerial Conference

Thus in Hong Kong, the Ministerial Declaration³⁴ recognised the importance of aid for trade and called on the Director General of the WTO to: a) create a Task Force that “shall provide recommendations on how to operationalise Aid for Trade” to the General Council by July 2005; and b) to consult with members as well as the IMF and World Bank and other relevant international organisations “with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade”. This task force³⁵ was constituted by the WTO General Council in February 2006 and submitted its recommendations to the General Council at the end of July 2006,³⁶ drawing on a large number of proposals that were submitted to the Task Force by WTO members.³⁷

The African Group submitted two proposals³⁸ to the Task Force, addressing the issue of the scope of the aid for trade initiative and the need for additional resources. On the scope, the African Group proposes that the initiative should include: “supply side capacity and infrastructure; assistance to improve productivity of African economies; and bolster their competitiveness; and assistance to deal with adjustment costs associated with trade liberalisation”. In a second proposal, the group emphasised that funds provided under this initiative should be additional, predictable and sustainable, after the current levels of aid for trade have first been identified. However, measuring the amount of new aid will need to be based upon information on the level of total ODA currently provided and how much of this is trade related. More complex is the definition of what constitutes aid for trade and how this is measured. These issues are considered further below.

The Aid for trade Task Force Report of July 2006

The WTO Task Force on Aid for Trade tabled its final recommendations at a meeting of the General Council on July 27-28, 2006.³⁹ The report was approved by the WTO General Council at its October 10, 2006 session.

The report takes a broad view on the objectives of aid for trade, saying they are about “assisting developing countries to increase exports of goods and services, to integrate into the multilateral trading system, and to benefit from liberalised trade and increased market access.” The objectives of aid for trade are also stated to include enhancing the growth prospects, reducing poverty, and distributing the benefits of globalisation more equitably across and within developing countries. The recommendations stress the need for additional, predictable and effective financing. On the issue of the scope of aid for trade the task force has taken the view that aid for trade must be defined in a way “that is both broad enough to reflect the diverse trade needs identified by countries, and clear enough to establish a border between aid for trade and other development assistance of which it is a part”. The report states that building productive capacity and trade-related infrastructure in developing countries should be a major part of aid for trade efforts, in addition to assistance aimed at helping countries negotiate and comply with trade agreements.

The report emphasises the need to mainstream trade-related issues into national development strategies. It identifies a number of challenges involved in this task, such as the lack of private-sector involvement in identifying trade needs, the limited absorptive capacities of recipient countries, ineffective monitoring, and slow, duplicative and bureaucratic processes in the assessment and delivery of trade-related assistance.

The recommendations also address the implementation of aid for trade at the national, regional and global levels. They emphasise the need for national coordination, suggesting that a 'national aid for trade committee' could be created to coordinate development assistance, data collection and analysis, and cooperation between agencies, donors, regional banks and governments. At the regional level, the Task Force recommends strengthening processes to identify cross-border and regional needs, as well as the ability of donors and agencies to respond to them. It asks countries to explore the merits of establishing a "regional aid for trade committee", since cross-border infrastructure and regional policy cooperation are necessary to trade effectively. Since the submission of the recommendations the September 2006 meeting in Singapore of the World Bank and IMF's joint Development Committee has taken a view in favour of addressing support for regional, sub-regional and cross-border needs.

The task force recommends convening a monitoring body in the WTO to conduct a global review of aid for trade based on reports from stakeholders, including those from recipients, the donor community, regional and multilateral agencies, and the private sector. It also recommends that mechanisms to facilitate reporting should be enhanced, including notification processes for WTO members.

The Task Force calls upon the WTO Director-General Pascal Lamy to make reference to the report during his consultations aimed at securing "additional financial resources for Aid for Trade". It also requests the Director General to set up an 'ad hoc consultative group' to follow up on its recommendations.

6.5 Additional Aid or Additional Aid for Trade?

The issues related to the additionality of aid for trade are complicated by the lack of a commonly-agreed definition of the scope of aid for trade (i.e., should it cover supply-side issues and infrastructure in addition to support for trade policy capacity and implementation of WTO agreements?). It is also often unclear whether the issue of additionality means that aid for trade should constitute a greater share of overall ODA or whether there should be an increase in the overall quantum of ODA, including support for aid for trade. This section provides the background information that could assist this assessment.

ODA Levels are Increasing but not Fast Enough to Meet the MDGs

Total ODA levels had been falling since the early 1990s when it had reached a high of 0.34 percent of GNI. This trend continued up to 2001 when total ODA levels had fallen to a low of 0.22 percent of GNI. However, there has been a reversal of this trend since 2001 with the ODA level reaching 0.33 percent of GNI in 2005.⁴⁰ According to the World Bank this trend is likely to continue with ODA levels reaching 0.36 percent of GNI in 2010. The UN Millennium Project estimated that financing the MDGs requires

an increase in ODA (excluding debts relief) to 0.46 percent of GNI by 2010. At the current rate of increase of ODA (about 0.017 percentage point per year on average over the period 2005-2010), the World Bank estimates that the UN target of 0.7 percent will only be achievable in 2030, 50 years after the deadline for the attainment of the MDGs has passed.

At least five of the 22 OECD Development Assistance Committee (DAC) member-countries have already exceeded the UN target of 0.7 (Norway, Denmark, Luxembourg, Sweden and the Netherlands) and the EU as a whole has pledged to increase its contribution from 0.35 percent of GNI in 2004 to 0.56 in 2010, and 0.7 percent by 2015. Japan has pledged, at the 2005 Gleneagles Summit to increase its ODA spending by US\$10bn over the next five years. In contrast ODA spending by the US was projected to decline from US\$27bn (US\$23.4bn excluding debt relief) in 2005 to US\$24bn in 2006 and remain at this level till 2010.

Reasons for Increases in ODA

The OECD Development Assistance Committee has estimated that net ODA disbursements by DAC member-countries increased by a record US\$27bn in 2005 to reach a total of US\$106bn.⁴¹ However, a significant amount of this total was due to the increase in debt relief which totalled US\$23bn (up from US\$4bn in 2004). The major part (US\$14bn) of debt relief went to just two countries – Iraq and Nigeria. The increase in overall ODA levels can also be attributed to an increased share of other (in addition to debt relief) special purpose grants, which includes technical cooperation, emergency and distress relief and administrative costs in bilateral ODA. Thus total ODA in 2005 net of special purpose grants totalled US\$45bn. This figure was the same as in 2004, but did improve significantly from a low of US\$30bn in 2001. However, ODA net of special purpose grants remained the same over 1996-2005, averaging 0.14 percent, and declined from the 0.23 percent figure of the early 1990s.

Sub-Saharan Africa's Share of ODA Has Increased Substantially

Sub-Saharan countries, however, have increased their share of ODA from 25 percent in 1999 to 40 percent in 2004. At the G-8 Summit in Gleneagles donors pledged to increase ODA by US\$50bn dollars by 2010 (in real terms from 2004 levels), and at least half of this was pledged for Africa. This would double the amount of aid to the region by 2010 and raise its share of total ODA from 40 percent in 2004 to almost 50 percent in 2010.

Although aid to sub-Saharan Africa (SSA) is rising, much more will be needed to support the effort to achieve the MDGs. Whilst about a sixth of SSA countries have ODA/GDP levels which are over 10 percent, an almost equal number have bilateral ODA/GDP levels which are under one percent. In addition most of the US\$8.5bn dollar- increase in net ODA to the region during 2002 and 2003 was in the form of debt relief (US\$5.6bn) and emergency and disaster relief and food aid (US\$1.5bn).⁴² Aid flows still represent the largest source of foreign finance to SSA, constituting about 60 percent of external flows in 2003, with Foreign Direct Investment (FDI) and remittances constituting a small but significant source of finance. SSA countries have seen a decline in ODA flows to rural/agricultural development and infrastructure.⁴³ Thus, a much more substantial increase will be needed in programme and project assistance to fulfil the needs of the MDGs in the oncoming years.

Additionality of ODA is Unlikely Before 2010

The OECD takes a sombre view of whether there will be “additional new money over and beyond the level that has already been projected to 2010”. In a submission made to the WTO, the OECD states that this type of “additionality is unlikely... as most DAC members have already made commitments for their total aid levels to at least the year 2010”.⁴⁴ However, the OECD submission does envisage that the share of aid for trade will rise faster than that of overall aid. Thus in Hong Kong, the EU and its member-states pledged to provide Euros 2 billion a year by 2010, the US announced grants of US\$2.7bn a year by 2010 and Japan committed US\$10bn over the next three years until 2008 for trade-related infrastructure, production and distribution. Again at the G-8 St Petersburg Summit in July 2006, the G-8 stated that it expected “spending on aid for trade to increase to US\$4bn, including through enhancing the Integrated Framework”.⁴⁵ In the light of the above it can be assumed that the pledges made by the donors at both the Hong Kong Ministerial and the 2006 G-8 meetings are not new or additional pledges, but are in line with their commitments already made in 2005 to increase overall aid spending to 2010.

The Scope of Aid for trade...and Share of Total ODA

The OECD⁴⁶ recognises that it is difficult, and in practice unfeasible, to draw a line between the assistance provided to trade-capacity in particular and support for economic growth in general. However, for the purposes of estimating the spending on aid for trade, the OECD establishes three categories. Category one includes trade-related technical assistance and capacity building; category two includes trade-related infrastructure; and category three includes building productive capacity. The latter two categories refer to supply-side constraints. The OECD does not address adjustment support separately as it believes that this is included in the above categories of support. The OECD recognises that what falls outside these categories could include social safety nets, balance of payment support, and compensations for preferential erosion and reduction in government revenue due to multilateral liberalisation.

The World Bank estimates that as far as aid for trade is concerned, the share of trade-related assistance has risen over the years from 3.6 percent of total aid commitments in 2002 to 4.4 percent in 2003. If infrastructure (transport, energy, telecommunications) is included then this amount should increase by a further 25 percent.⁴⁷ However, in the OECD estimates, the current share of category one is 2.8 percent (US\$2.6bn), and if category two is added, this would raise its share to 14.5 percent of total ODA (or US\$15.5bn). Whilst the share of both categories one and two is expected to remain the same by 2010, there is projected to be an increase in volume to US\$4.3bn in 2010 of category one, and US\$21.9bn in category two. If category three is added to the above two, this will increase the share of total ODA to 22.4 percent (US\$22.8bn). The OECD projects the share of this broader aid for trade to remain constant up to 2010 (but increasing in volume to US\$33.7bn) and to rise to 30.2 percent (US\$45bn) by 2010 if commitments made by OECD countries to double spending are maintained. The OECD thus projects total aid flows to reach US\$150bn by 2010.

Assessment

From the discussion four broad trends in the trajectory of ODA and aid for trade can be observed.

First, whilst ODA levels have reflected an increasing trend since 2001, and pledges have been made to increase the contributions of individual developed country (OECD) contributions by 2010, these pledges still fall far short of the target required to meet the MDG. Furthermore, when debt relief and special purpose grants are subtracted, the observation is that ODA levels have remained the same from 1996 to 2005 – an amount of US\$45bn recorded in 2005 – averaging 0.14 percent and have declined from the 0.23 percent figure of the early 1990s.

Second, in the case of SSA, both the quantum and the overall share of total ODA, including the amount available for aid for trade are scheduled to increase significantly. However, this additional funding will still fall far short of the needs of SSA countries to meet the MDGs. In addition, this increase in ODA levels needs to recognise that most of the US\$8.5bn increase in net ODA to the region during 2002 and 2003 was in the form of debt relief (US\$5.6bn), and emergency and disaster relief and food aid (US\$1.5bn).⁴⁸ The World Bank⁴⁹ thus estimates that substantial increases in aid, particularly in programme and project assistance, will still be needed to fund the shortfalls in agricultural/rural development, infrastructure investment and support to improve the environment for investment in SSA.

Third, there is increasing support for the need to broaden the concept of aid for trade to include trade-related infrastructure and productive capacity. However, differences over the precise definition of this concept will make an evaluation of increased share of aid for trade in overall ODA levels more difficult for policy makers and trade negotiators. As the definition and scope of aid for trade has been broadened to include supply-side issues and infrastructure investment, increases in aid for trade are thus inextricably linked with the need for increases in overall aid flows.

Fourth, according to the OECD additionality of overall ODA levels is unlikely before 2010, as major donor pledges have already been made and are unlikely to change, though the share of aid for trade in total ODA levels could increase. Developed countries will, however, need to respond to the demands made by developing countries for additionality in their aid for trade offers. In addition, there are a number of specific Doha Mandates where the need for additional aid will need to be addressed in future negotiations. The reasons for additionality of aid for trade over and above existing ODA pledges, rather than a mere increase in the share of aid for trade from existing ODA pledges is further discussed in the conclusion below.

6.6 Conclusion

This chapter has argued, in the introduction, that increased aid and trade are both essential to enhance the development of many developing countries. Several global summits since the UN Millennium Summit have reinforced the commitment of world leaders to increase overall ODA levels to meet the MDG. The DDA and the call for increased aid for trade that has gained momentum in 2005-06 must be seen in this context. S&DT for developing countries in the WTO, of which TRTA/CB is an essential component, has often been relegated to the margins of the development debate in the WTO by developed countries or sometimes incorrectly regarded as the main issue for development by developing countries. We have seen that TRTA/CB is not only an essential element of

the concept of S&DT but is also a core element of the development dimension of the multilateral trading system.

The chapter proceeded to provide a brief overview of the history of the GATT/WTO with a specific focus on the provisions that provide for the interests of developing countries to be addressed. This section concludes that while many provisions have been added to the GATT/WTO that seek to address the needs of developing countries, including trade-related capacity building, these have generally been ‘best endeavour’ provisions and have not been effective. It is for these reasons that the Doha Mandate sought to specifically address the need to make S&DT provisions more effective, mandatory and operational. In addition, the ongoing Doha negotiations have specifically called for increased aid and greater coherence of WTO rules with donor agencies, including in the negotiations on trade facilitation, cotton, S&DT and LDCs.

The chapter has also provided an overview of developments in 2005 and 2006 that have contributed to the momentum for increased aid for trade. The Commission for Africa, initiated by the UK prior to the Gleneagles G-8 Summit, and the decisions of the Gleneagles Summit provided the momentum for commitments by developed countries to increase overall levels of ODA and increased aid for trade. The WTO Aid for Trade Task Force which was established in February 2006 as a consequence of the Hong Kong Ministerial Conference, reported to the WTO General Council in July 2006. The report has taken a broad approach to the scope of aid for trade incorporating support for supply-side issues and infrastructure. The report does take on board the proposals of developing countries for aid for trade to be additional, predictable and effective.

Why Additional Aid for Trade is Essential to the Success of Doha Round

There are many arguments⁵⁰ for developed countries to provide significant additional financial assistance to developing countries to facilitate their integration into the world economy.⁵¹ There are at least three reasons why developing countries, particularly the poorest, have a claim to increased aid for trade, that is additional to existing pledges on ODA, and is part of the commitment made by developed countries in a successful Doha Round.

First, TRTA/CB is an essential complement to increased market access to help integrate developing countries into the world economy. We have also argued that TRTA/CB is not only a part of the concept of S&DT but a core element of the development dimension of the multilateral trading system. The history of European economic development provides some valuable insights. The post-World War-II Marshall Plan was partly instigated to “neutralise the forces moving Western Europe permanently away from multilateral trade”.⁵² In addition, European integration itself was facilitated by economic assistance provided to weaker countries and regions (through structural and cohesion funds).⁵³ Some studies indicate that whilst a successful Doha trade round could lift at least 140 million people out of poverty, these reforms would need to be accompanied by complementary actions being taken in low-income countries to support much-needed supply response and adjustment.⁵⁴ Several diagnostic studies undertaken in the past few years in low income developing countries, by the IF⁵⁵ and JITAP, have identified actions that need to be taken by these countries to improve their trade and

investment environments. These countries require additional financial resources to implement these recommendations.

Second, a number of studies⁵⁶ undertaken recently have pointed out that whilst an ambitious outcome of the DDA promises significant gains for both developed and developing countries, the poorest countries, including the LDCs and other small, weak and vulnerable economies will make fewer gains and could even incur significant losses from the round. There are a number of reasons for this prognosis, including significant preference erosion for some countries and the lack of supply capacity to take advantage of new opportunities in global markets.

A number of recent studies have also revealed that there will be some additional preference erosion under different scenarios of the possible outcomes of the DDA, causing a negative impact on LDCs and other small and vulnerable economies.⁵⁷ One study that focused on the impact of trade liberalisation by the Quad (US, EU, Japan and Canada) on LDCs concludes that the potential losses amount to 1.7 percent of total LDC exports.⁵⁸ Some individual LDCs may suffer a more significant loss due to the concentration of their exports in products that enjoy stronger preferences. The study predicts losses for Malawi at 11.5 percent of exports, and those for Mauritania, Haiti, Cape Verde, and Sao Tome and Principe at between 5 and 10 percent of exports. Another study⁵⁹ that focused on the impact of trade liberalisation on middle-income developing countries found at least six small island economies to be the most exposed to preference erosion. In Mauritius, St Lucia, Belize, St Kitts and Nevis, Guyana and Fiji, preferences add around one-quarter or more to the value of exports. Sugar and banana preferences account for three-quarters of the preferences with textiles featuring as a distant third.

For the WTO's poorest members and other small, weak and vulnerable economies, these challenges of preference erosion are compounded by the existing challenges of commodity dependence and volatility, poor trade facilitation infrastructure and supply capacity and increased marginalisation, reflected in their declining share in global markets and increasing levels of poverty. A range of measures may be needed to assist these countries to manage their adjustment and diversification strategies. These could include funding from the Bretton Woods Institutions, but without plunging these countries into more unsustainable debt. Thus, additional finance to fund supply-side and diversification strategies will be required to compensate these countries for the losses that they will sustain from the round.

Third, aid for trade is an element of a "grand bargain" package needed for a successful Doha Round. At the TNC meeting held on March 28, 2006, Pascal Lamy stated that in his view there is a triangle of issues which needed to be unlocked to advance the Doha Round. This triangle required the EU to move on agricultural market access, the US on domestic support and the G-20 on NAMA and services. He argued that the level of ambition established in these three legs of the triangle would establish the level of ambition for all other issues in the DDA and provide a momentum for progress in the Round. Amongst the rest of the issues WTO members need to recognise that there are a set of issues which are of great importance to the majority of the poorer and smaller members of the WTO, and are a crucial component of the Doha "grand bargain". Without

their successful resolution, a Doha deal – or even a ‘Grand Bargain’ – will simply not be struck. These issues relate to the trade-related development challenges faced by LDCs, and the so-called small, weak and vulnerable developing countries. The specific development issues raised by these countries include: the need to provide DFQF market access to LDCs; cotton; preference erosion; special flexibilities for small, weak and vulnerable economies; and development aid. There is thus a need to ensure that the LDCs and other small, weak and vulnerable countries are provided with the necessary support through aid for trade as part of the ‘Grand Bargain.’

Annex

Report of the Task

Force on an Enhanced Integrated Framework

The Integrated Framework for Trade-Related Technical Assistance (TRTA) to LDCs, or IF, was created at a high level meeting of the WTO in response to a Plan of Action for LDCs agreed by the first ministerial conference held in 1996. The main objective of the IF was to improve the capacity of the LDCs to formulate, negotiate and implement trade policy so as to be able to fully integrate into the multilateral trading system. The IF steering committee included six major multilateral agencies – the WTO, UNCTAD, UNDP, ITC, IMF and World Bank. Since 2000 the IF had taken on as its main task the mainstreaming of trade into the LDC Poverty Reduction Strategy Papers (PRSPs) or similar national development plans and to assist in the coordinated delivery of TRTA. The IF was restructured around two funding windows: one for funding diagnostic trade integration studies and strengthening in-country structures, and the other to finance priority capacity building projects in the LDCs as identified in the DTIS Action Matrices. About 40 DTISs have been undertaken or were in the pipeline at the end of July 2006.⁶⁰

The World Bank IMF annual meetings held in September 2005 had supported the proposal for “an enhanced IF for TRTA to LDC, including its resources and scope and making it more effective” and proposed that a Task Force be created to make recommendations in this regard. At the Hong Kong Ministerial Conference WTO ministers reaffirmed their commitment “to effectively and meaningfully integrate LDCs into the multilateral trading system” and recognised the urgent need to make the IF more effective. Ministers called for the task force to report back to the IF steering committee by April 30, 2006 so that an enhanced IF could be launched by December 31, 2006.

The report of the Chair of the Task Force, Ambassador Don Stephenson of Canada, was presented to the General Council of the WTO on July 27, 2006.⁶¹ The report recognised that whilst the IF had provided a good framework for helping LDCs enhance their trade development capacity and facilitate adjustment and integration into the multilateral trading system, it suffered from a number of shortcomings. At least three major shortcomings were identified: first, the IF has generally failed to mainstream trade into the PRSP process and has not provided adequate financial and human resources to the LDCs to deliver the intended outcomes; second, country ownership of the IF processes were weak; and third, the donor community has generally not responded adequately to the needs identified in the DTISs.

The Task Force decided to retain the IF for LDCs only and made four main recommendations to build on the strengths of the IF and to improve its effectiveness and efficiency: First, it called on donors to pay more attention to and provide greater resources to strengthen the ownership of the IF by the LDCs and the donors. Second, the gap between the diagnostic of the submission of “bankable projects” needed to be filled with the action matrices being updated on regularly.⁶² Third, a much clearer management structure for the effective implementation of the IF was proposed with a

new governing board, secretariat and a full time CEO, still located in the WTO but independent of it. Fourth, the Task Force stated that the current level of funding of approximately US\$35mn was inadequate and proposed that the IF should mobilise around US\$400mn over five years through a multilateral trust fund and bilateral cooperation.

At the General Council meeting of the WTO on July 27, 2006, the recommendations of the task force were accepted. The Ambassador of Bangladesh, Toufiq Ali, speaking on behalf of LDCs stressed that the work was not yet over as the recommendations of the Task Force had to be implemented by the end of 2006. He stated that the IF had remained a diagnostic tool thus far and needed to be more active in implementing the action plans of the DTISs. There is no doubt that the 10-fold increase in funding that the Task Force had recommended could give a major boost to the IF, providing it with the capacity to address many of the weaknesses identified by the Task Force and its critics.⁶³ The fact that several LDCs⁶⁴ were represented in the Task Force ensured that the real concerns of LDCs were addressed in the report and gives credibility to the recommendations. The challenge now will be for the donors to implement the recommendations, including the proposal for a ten-fold increase in its funding.

The deadline for the implementation of the enhanced IF to be operational – December 31, 2006 was missed. However, much progress has been made in the first quarter of 2007. Donors, LDCs and implementing agencies established a Transition Team to develop the detailed operationalisation plans for the Enhanced Integrated Framework (EIF). Three working groups or clusters were established, including the in-country cluster, the legal/administrative cluster and the financial cluster.⁶⁵ The clusters have recommended the creation of a focal point and national steering committees at the local level; and the creation of an IF secretariat and Trust Fund manager at a global level. In addition, they have recommended an IF board and steering committee to be established at the global level. At a conference held in May 2007 by the Overseas Development Institute in London, Don Stephenson, the Ambassador of Canada who chaired the EIF, stated that the mandate of the EIF has been approved and the money for its operationalisation has been raised for a two-year period.⁶⁶ The next steps in the process included the convening of the new board and the recruitment of an Executive Director.

Notes

- 1 World Bank, Global Development Finance, 2006. ODA levels had begun to fall in the mid-1990s from a low 0.34 percent of GNI of OECD countries to an even lower 0.22 in 2001.
- 2 Sachs, J., (2005). 'The End of Poverty', Penguin Books, New York.
- 3 United Nations Millennium Project, 'Investing in Development. A Practical Plan to Achieve the Millennium Development Goals', New York, 2005
- 4 See Paragraphs 38 and 2 of the Doha Mandate
- 5 For a detailed discussion of these issues See Prowse, S. (2006). 'Aid for Trade: A Proposal for Increasing Support for Trade, Adjustment and Integration', in Evenett, S. And Hoekman, B., 'Economic Development And Multilateral Trade Cooperation', (The World Bank and Palgrave Macmillan 2006). See Philips, L., Page, S. (2006). Willem te Welde, D., 'Aid for Trade: What does it mean? Why should aid be part of WTO negotiations? And how much

- might it cost?' ODI, December 2006. See also Stiglitz, J., and Charlton, A., (2006). 'A Report for the Commonwealth Secretariat, Aid for Trade', Commonwealth Secretariat, London, March 2006.
- 6 This section draws largely on the detailed account of this process in WTO document, 'Background Document, High Level Symposium on Trade and Development,' Geneva, March 17-18, 1999.
 - 7 Finger M., (2002). 'The Doha Agenda and Development. A View From the Uruguay Round.' Asian Development Bank, 2002.
 - 8 See Paragraphs 38 and 2 of the Doha Mandate
 - 9 Section on 'Other Development Issues' in WTO doc WT/L/579. August 02, 2004.
 - 10 See Paragraph 2 of Annex D. WTO WT/L/579. August 02, 2004.
 - 11 See WTO WT/L/579. August 02, 2004.
 - 12 See 1b. and Annex A 4 and 5 of WTO WT/L/579. August 02, 2004.
 - 13 See Paragraph 44 of the Doha Ministerial Declaration and paragraph 12 of the Decision on Implementation-Related Issues and Concerns.
 - 14 See WT/MIN (05)/DEC. Annex F. December 22, 2005.
 - 15 See WT/MIN (05)/DEC. Annex F. Proposal number 36, December 22, 2005.
 - 16 See WT/MIN (05)/DEC. Annex F. Proposal number 38. December 22, 2005.
 - 17 See WT/MIN (05)/DEC. Annex F. Proposal number 88. December 22, 2005.
 - 18 See WTO Doc. Recommendations of the Task Force on Aid for Trade, WT/AFT/1 July 27, 2006.
 - 19 The argument for increased aid for trade has been made most cogently in Prowse, S. Aid for trade: A Proposal for Increasing Support For Trade, Adjustment and Integration; in Evenett, S. And Hoekman, B., 'Economic Development And Multilateral Trade Cooperation,' The World Bank and Palgrave Macmillan, 2006.
 - 20 WTO doc. 'The Future of the WTO' Report by the Consultative Board to the Director-General Supachai Panitchpakdi. WTO, Geneva. 2004.
 - 21 UN Millenium Project Task Force on Trade, 'Trade for Development', Earthscan, London, 2005.
 - 22 Speech to London School of Economics, 'An Action Plan for Trade and Development in 2005'. February 04, 2005
 - 23 Gordon Brown, in a speech to UN General Assembly December 2004, called for the creation of an International Financing Facility (IFF) to provide additional financial aid for development.
 - 24 Puri, L. (2005) *supra*
 - 25 Rugwabiza, V. and Rantzien, M.H. (2005). 'Aid for Trade Initiative – Options to Enhance Support.' Non-paper presented at the 2005 annual meetings of the IMF and World Bank, Washington, DC. July 20, 2005.
 - 26 The IF was developed at the first WTO Conference held in Singapore in 1996 to improve the capacity of the LDCs to formulate, negotiate and implement trade policy so as to be able to fully integrate into the multilateral trading system. The IF steering Committee included six major multilateral agencies, namely the WTO, UNCTAD, UNDP, ITC, IMF, and the WB. See Annex for fuller report on its recent developments.
 - 27 See Prowse, S. (2006). 'Aid for Trade: A Proposal for Increasing Support For Trade, Adjustment and Integration,' in Evenett, S. And Hoekman, B., 'Economic Development And Multilateral Trade Cooperation,' World Bank and Palgrave Macmillan, 2006.
 - 28 World Bank 'Aid Effectiveness and Financing Modalities'. Draft report for the World Bank Development Committee, September 3, 2004.
 - 29 IMF/ WB 'Development Committee Communique', Washington D.C., April 17, 2005.
 - 30 World Bank 'Development Committee Communique', Washington, D.C., September 25, 2005.
 - 31 Jagdish Bhagwati 'World Bank funds should be used to lubricate trade liberalisation by developing countries' *Financial Times*, September 26, 2005.

- 32 Bimal Ghosh 'Difficult to see why aid fund proposal was opposed' *Financial Times*, October 03, 2005.
- 33 Uri Dadush and Peter Lankes, 'Dedicated multilateral fund may not always be desirable' *Financial Times*, October 03, 2005.
- 34 See WT/MIN (05)/DEC Para 57 of the Ministerial Declaration. Doha Work Programme. December 22, 2005
- 35 The task force is composed of 13 members – Barbados, Brazil, Canada, China, Colombia, the EU, Japan, India, Thailand, the US and the coordinators of the ACP (African, Caribbean and Pacific) Group of States, the African Group and the LDCs Group.
- 36 See WTO document, WT/AFT/1, 'Recommendations of the Task Force on Aid for Trade', July 27, 2006.
- 37 ICTSD, 'Comparative Table of Recommendations, Proposals and Views on Aid for Trade', July 06, 2006.
- 38 See WTO doc. WT/AFT/W/21, June 21 and WTO document, 'Aid for Trade Initiative: Additionality of Resources in Support of the Initiative', July 2006.
- 39 See WTO doc. WT/AFT/1, 'Recommendations of the Task Force on Aid for Trade,' July 27, 2006.
- 40 World Bank, *Global Development Finance*, 2006.
- 41 World Bank, *Global Development Finance*, 2006.
- 42 World Bank, *Global Monitoring Report 2005*.
- 43 World Bank, *Global Monitoring Report 2005*.
- 44 OECD, 'The Development Dimension. Aid for Trade. Making it Effective'. Preliminary version. Paris, 2006...
- 45 G8 Statement on trade, St. Petersburg, July 16, 2006, www.en.g8russia.ru/docs/16-print.html
- 46 OECD, 'The Development Dimension. Aid for Trade. Making it Effective.' Preliminary version. Paris 2006.
- 47 World Bank, *Global Development Finance*, 2006.
- 48 World Bank, *Global Monitoring Report*, 2005.
- 49 World Bank, *Global Development Finance*, 2006
- 50 For a discussion of the rationale for aid for trade see also Stiglitz, J., and Charlton, A. (2006). 'A Report for the Commonwealth Secretariat, Aid for Trade', March, 2006.
- 51 See Ismail, F (2005). 'Mainstreaming Development in the World Trade Organization' (2005) 39 (1) *Journal of World Trade*. A similar argument is also made by Stiglitz, J., and Charlton, A. Ibid
- 52 Foreman-Peck (first name?), 'A History of the World Economy', Wheatsheaf Books, 1983.
- 53 Tsoukalis, L., 'What Kind of Europe', OUP, 2003.
- 54 See Prowse, S. (2006). 'Aid for trade: A Proposal for Increasing Support for Trade, Adjustment and Integration', in Evenett, S. and Hoekman, B., 'Economic Development and Multilateral Trade Cooperation', World Bank and Palgrave Macmillan, 2006.
- 55 The Integrated Framework is a consortium of development partners including the WTO, WB, IMF, ITC, UNCTAD and the UNDP, with a programme to assist LDCs to develop a trade development agenda within a macro-economic framework. [move to glossary]
- 56 Anderson, K., Martin W. and van Mensbrugge, D. 'Would Multilateral Trade Reform Benefit Sub-Saharan Africans?' April 2005, World Bank. Washington, D.C.
- 57 Report of World Bank/OECD/WTO 'International Symposium on Preference Erosion: Impacts and Policy Responses' Geneva, June 13-14, 2005.
- 58 Submanian, A [pl.check name], 'Financing of Losses from Preference Erosion'. Paper prepared for the World Trade Organisation, Geneva, WT/TF/COH/14. 2005
- 59 Alexandraki, K. 'Preference Erosion: Cause for Alarm?' *Finance and Development*, IMF, Washington, D.C., 2005.
- 60 Action Matrices are action plans or projects that are identified by the report for urgent implementation [move to glossary]. See WTO doc. 'Report of the Chairman of the Task Force on an Enhanced Integrated Framework'. WT/IFSC/W/15. June 29, 2006.

- 61 WTO doc. WT/GC/W/568. July 25, 2006. General Council July 27-28, 2006.
- 62 A criticism of the Integrated Framework was that these action plans were not implemented in time. Thus there is a need for consistent monitoring and review to ensure adequate implementation of the action plans.
- 63 There were a number of studies that were critical of the weaknesses of the current IF, including its poor funding. See ILEAP, 'Aid for Trade after the Hong Kong Ministerial: An Introductory Guide'. Background Brief No. 8. April 2006.
- 64 Members of the Enhanced IF Task Force include Benin, Lesotho, Nepal, Rwanda, Senegal, Tanzania and Zambia from LDCs. Other members are Canada (Chair), EC, Finland, Italy, Japan, Norway, Sweden, Switzerland, UK, and the US.
- 65 Agency for International Trade Information and Cooperation, Information Note. Enhanced Integrated Framework. Geneva. February 2007.
- 66 Report on the Conference on 'Aid for Trade: One Year on. How much, for whom, and the institutional challenges.' London. Overseas Development Institute, May, 2007.

From Hong Kong to the Potsdam G-4 Collapse

7.1 Introduction

In the debate since the onset of the Doha Development Agenda (DDA) negotiations, developing countries in the WTO have reflected at least two discernable perspectives on development.¹ The first perspective, argued most strongly by some developing countries in the G-20 group of developing countries such as Brazil, states that an ambitious outcome in the agriculture negotiations is the main development content of the Doha Round for developing countries. A variant of this perspective, associated most strongly with India and Indonesia and some other members of the G-33, stresses the need to protect developing country food security, and rural development and livelihoods, in the process of multilateral liberalisation of agriculture. Similarly, India, Brazil and South Africa and several other countries² have argued that liberalisation of industrial tariffs should not be disproportionately burdensome for developing countries and should allow for the retention of policy space for industrial development. Some of these countries, led by India, have also stressed the need for an ambitious outcome in the services negotiations, particularly for the movement of natural persons (Mode 4) and the strengthening of disciplines in mode 1 and 2 to allow for increased outsourcing of services to developing countries, as important aspects of the DDA negotiations. Moreover, India has stressed that the development dimension should be integrated in all areas of the negotiations. Many of these developing countries have also emphasised the need for balanced rules.³

A second perspective has been associated with a group of the least developed of developing countries and other small, weak and vulnerable economies. There is no formal or informal definition of small, weak and vulnerable economies in the WTO. However, the term has gained currency with Pascal Lamy, the then Commissioner of the European Union (in the period before the WTO July 2004 General Council Meeting), calling for the G-90 group - the African, Caribbean and Pacific (ACP) Group, Africa Group, and LDCs Group - to be deemed as “small, weak and vulnerable”.⁴ In addition to most members of the ACP Group, and other non-LDCs, such as Paraguay, Sri Lanka and Bolivia, also consider themselves to be “small economies”. These countries have argued that they will not be significant beneficiaries of the Doha Round and are, in fact, likely to be the losers.⁵ Conceding an ambitious outcome in the Round could provide better access for their products in global markets and reduce the distortions that obstruct their exports, these countries view major concerns in the trading system as being related to the more fundamental development challenges of their economies. In the July 2004 General Council Decision, these development challenges were characterised as

preference erosion, commodity dependence, net food importing countries dependence on food imports, rural development and food security and supply side issues.⁶ For many of these countries the issue of S&DT has remained an important aspect of the development dimension and these countries have played an active role in the negotiations on S&DT in the Committee on Trade and Development Special Session (CTDSS).⁷ In the period before and after the Hong Kong Ministerial meeting the specific development issues raised by these countries included: the need to provide duty-free, quota-free (DFQF) market access for LDCs; cotton; preference erosion; special flexibilities for small, weak and vulnerable economies; and development aid.

This focus on the triangle of issues by Lamy, whilst correctly identified as being at the centre of the negotiations, tends to marginalise the issues of interest to a large group of developing countries in the WTO. Thus this paper will evaluate the progress made in the ongoing Doha negotiations on the issues that are within Lamy's triangle and those issues that are outside Lamy's triangle.

As the Doha negotiations progressed after the 6th WTO Ministerial Conference, held in Hong Kong in December 2005, the central fault line in the negotiations revolved around the issues related to agricultural market access, agricultural domestic support and market access for industrial tariffs (NAMA). This set of issues which is central to the Doha Round was described in the period after Hong Kong by Pascal Lamy as a "triangle" that could open up the gridlock in the negotiations on agricultural and NAMA modalities. As Lamy put it, the EU needs to improve its offer on agricultural market access, the US its offer on agricultural domestic support and the G-20⁸ its offer on NAMA. In the WTO Trade Negotiating Council (TNC) meeting held on March 27, 2006, he argued that the level of ambition established in these three legs of the triangle would establish the level of ambition for the rest of the issues in the DDA.

As the negotiations proceeded in the period after April 2006 the US began to harden its position on effective cuts in its domestic support and became increasingly unwilling to improve on its October 10, 2005 offer.⁹ Conversely, the EU began to indicate greater signs of flexibility to improve on its October 28, 2005 offer¹⁰ on market access in the post-April 2006 period. Thus, the US by the June 2006 TNC was perceived to be the main obstacle to progress in the Doha Round. The EU and US, however, continued to act jointly in applying pressure on developing countries to open up their markets in NAMA and services. In addition the US led the pressure on the G-33 group of developing countries¹¹ to reduce its demand for greater flexibilities in defending its subsistence agriculture. In turn, LDCs continued to bemoan the lack of implementation of the decisions taken in Hong Kong on DFQF market access. Indeed, the concerns of the Cotton 4,¹² the preference-dependant countries, and the SVEs have yet to be fully addressed in the modalities.

Developing countries have argued¹³ that the EU has made insignificant offers to open its markets in the agriculture negotiations, and that the US offer on domestic support will not result in an effective cut in their trade-distorting domestic support, whilst the demands being made on developing countries to open their markets in agriculture and NAMA will require enormous adjustments in their industrial sectors and could threaten the livelihoods of their subsistence farmers. Developing countries have pointed to the

contradiction in the EU and US positions as they have both, together with other developed countries proposed a co-efficient for developed countries in the NAMA negotiations that will require them to make no real adjustment in their industrial sectors. Developing countries have stated that they are prepared to contribute to market opening in the round in proportion to their capabilities and in line with the Doha Mandate.¹⁴ However, they have argued that the main objective of the round remains that of reducing market access barriers in developed countries in order to create export opportunities for the products of developing countries. Developing countries¹⁵, whilst holding different views and interests on specific issues, maintained a united front in Hong Kong and at the April 2006; June 2006 TNC, G-8 summit in July 2006; area discussed up to (separate up to); suspension of the Doha Round at the July 2006 TNC insisting that the DDA addresses the development needs and concerns of developing countries and calling for the development content of the round to be thus reclaimed.

By July 2006, there was yet another attempt to provide momentum to the negotiations at the G-8 Summit held in St. Petersburg. At the urging of the G-8 leaders and a Group of 6¹⁶ (G-6) developing country leaders who were invited to a discussion with the G-8 leaders, the G-6¹⁷ ministers held meetings in Geneva. However, by the end of July, the G-6 ministers had failed to make any real progress on the core issue of agriculture. Pascal Lamy called for a suspension of the Doha negotiations until such time as there was renewed political will to break the impasse with new negotiating positions by the major players.

By the time of the WTO General Council Meeting on December 15, 2006, the Doha Round had remained politically suspended, notwithstanding the decision for a “soft resumption” of the negotiations at a technical level to be led by the chairs of the negotiating groups. However, notwithstanding the efforts of the G-4 to intensify the negotiations and make a breakthrough in the Doha Round at Ministerial Meetings held in Delhi, Brussels and Potsdam, these negotiations resulted in the collapse of the G-4 process, in Potsdam on June 21, 2007.

This chapter provides an overview of the negotiating process and outcomes in the period since the Hong Kong Ministerial Meeting until the suspension of the Doha Round at the end of July 2006, the ‘soft resumption’ of the negotiations at the end of 2006 and the full resumption of the negotiations until the Ministerial Meetings of the G-4 in Delhi, Brussels and Potsdam, Germany. The collapse of the G-4 process in Potsdam is then discussed. The chapter will also assess the development outcomes of the negotiations at each stage of the process, from the development perspectives of developing countries within Lamy’s ‘triangle’ and outside it.

This chapter begins by setting set out the process from the Hong Kong Ministerial Conference to the missed April deadline for modalities in agriculture and NAMA (section 7.2). The chapter then discusses the events leading up to the June TNC (section 7.3). The G-8 Summit in July and the G-6 Ministerial Meetings are discussed upto the suspension of the Doha Round at the July TNC Meeting (section 7.4). In Section 7.5 we set out the process of the ‘soft resumption’ of the negotiations in the last quarter of 2006. Section 7.6 discusses the onset of the full resumption of the round in January

2007 until the G-4 ministerial meetings of April 2007. In section 7.7 the collapse of the G-4 Potsdam Ministerial Meeting is discussed and assessed. The conclusion (section 7.8) looks at the way forward for the Doha Round.

7.2 From Hong Kong to the Missed April 2006 Deadline

This section discusses the progress of the negotiations on the main substantive issues at stake in this period identified in Lamy's 'triangle' and proceeds to provide an assessment of the reasons for the April 2006 missed deadline from a development perspective.

The Davos Ministerial Meeting in January 2006

In the period after the Hong Kong Ministerial Conference the EU was in a belligerent mood. In a speech made to business leaders in Berlin on January 23, Peter Mandelson declared that the EU had offered real cuts in agriculture whilst others (referring to the US offer on domestic support) only offered "paper cuts". His threat to the emerging developing countries was that if they came to the round "empty handed" they would go back the "same way". Mandelson called for "intense, concentrated bilateral contacts" between key trading partners to explore how to raise "the level of confidence" to bring about a final agreement.

A month after the Hong Kong meeting, on January 28, 2006, ministers of trade who met on the margins of the Davos World Economic Forum decided to call a truce. Bob Portman pointed to the need to move together, or "in concert", as the Malaysian trade minister put it. Brazil's Celso Amorim stressed that there was no deadlock in the negotiations and that he agreed that all "need to move together". The need for a better atmosphere in the negotiations thus led all the main players to agree that they will not insist that the EU should move first – rather, they agreed, all parties should move together.¹⁸ The ministers also agreed on a work plan for the year.¹⁹ The first crucial deadline that the ministers in Hong Kong had agreed on was that modalities on agriculture and NAMA should be concluded by April 30, 2006. On services, the ministers agreed that plurilateral requests should be submitted by February 28, and the second round of revised offers were to be submitted by July 31. Ministers agreed that the deadline for the conclusion of the round would be the end of 2006. This work plan was agreed by the WTO General Council that met on February 7-8, 2006.

The main players in the WTO Doha negotiations – the EU, the US, Brazil and India (the G-4) – had earlier extended this forum to include Australia (the Five Interested Parties. (FIPs), and now added Japan to the Group to become the G-6. The G6²⁰ decided that the process of negotiations on modalities would be facilitated by simulations on market access²¹ in agriculture and NAMA. For the purpose of the simulations exercise this group was broadened to include Norway, Canada, Malaysia and Egypt and, subsequently, Kenya and China (the S-12).²² They thus tasked the US to undertake this exercise on their behalf for agriculture and the Canadians to do the same for NAMA. The results of these simulations beginning with the S-12 countries fuelled the discussions and debate within the G-6 countries and then within the broader membership of the WTO. The chairs of the agriculture and NAMA negotiating groups decided to hold their meetings in the form of intense 'agriculture and NAMA weeks' that ran in parallel.

The March 2006 G-6 Ministerial Meeting in London

The period before April 2006 was dominated by the meetings of the G-6. Senior official-level meetings of the group took place in Paris (February 25-26) and in London March 07-09. This process culminated in a ministerial meeting in London on March 10-11. This was attended by ministers of the EU, US, India, Brazil, Australia and Japan, and they focused on all the main issues of the DDA, including agriculture, NAMA, services, rules and development issues. Reports of the meetings indicate that both the EU and the US hardened their positions and showed very little flexibility. We summarise the positions here that they took.

European Union

The EU, represented by both Commissioners Peter Mandelson and Marianne Fisher Boel, argued that it had already made substantial movement in reforming and opening the EU market through the recent CAP reforms. On market access, in particular, the EU re-stated, in line with its October 28 2005 proposal, that it could not improve on its stated offer of 39 percent average linear cut with the need for eight percent of its tariffs to be designated as sensitive in addition to further flexibilities needed for about 70 percent of its tariff lines. The US²³, Canada²⁴ and the Cairns Group²⁵ had separately analysed this proposal, in the weeks after October 28, and found that it would not provide any significant new market access and that the eight percent sensitive tariff lines called for by the EU could block all the current products of export interest to developing countries in the EU market. The EU continued to call on the US to increase its commitments on domestic support beyond the US offer made on October 10 (of a 60 percent cut of its Amber Box trade-distorting support).

United States

The US argued that it had made a significant offer on its trade-distorting domestic support (on October 10) and that there was still nothing on the table to warrant it keeping that offer on the table. The USTR, Bob Portman, and the Secretary of Agriculture Mike Johanns, stated that they had consulted all the major commodity groups and all the chairs of the relevant committees in the US Congress before coming to the London meeting. These groups stated that the US should take its October 10 offer off the table if the EU and the major developing countries did not make significant offers on market access. The US pushed up its market access ambitions on agriculture beyond the G-20 position. The groups stated that the US also wanted the EU to harmonise its domestic support spending with the US from the current 3.4 (EU) to 1 (US)²⁶ to a more harmonised 2 to 1. On the Blue Box, the US displayed some flexibility to reduce its spending to 2.5 percent of the value of production, but was not willing to accept product specific caps.

EU and US Unite against Developing Countries

At the same ministerial meeting the US was reported to have criticised the G-33 positions on SPs and the SSM in the agriculture negotiations, and joined the EU in criticising the paragraph eight flexibilities²⁷ called for by the NAMA 11²⁸ in the NAMA negotiations. The EU and US made no concessions on these issues, questioning the need for these flexibilities. In the discussion on NAMA, the EU, US, Japan and Australia argued that they were looking for real and effective market access in NAMA and this would mean that they would evaluate the cuts from any formula on the *applied rates* of developing countries such as India and Brazil.²⁹

In the negotiations on modalities in agriculture and NAMA the chairs were grappling with about 33 and 16 major unresolved negotiating issues respectively. By the time the TNC meeting began on March 28 both the chairs had reported that they had made some progress at a technical level but had made no progress on the crucial question of numbers in the formulas for cuts in agricultural domestic support and market access for agriculture and NAMA. Thus, the DG, Pascal Lamy, called for the deadline of end-April for modalities in agriculture and NAMA not to be missed and stated that he would be calling on ministers to participate in the negotiations at the end of April to face their “moment of truth”! He stated that the triangle of issues (discussed below) would need to be unlocked so as to provide the momentum for progress on the rest of the issues in the round.

The April 2006 Deadline

At the beginning of April, Pascal Lamy was determined to ensure that members did not miss the April deadline again, at least not without considerable effort. He suggested that negotiating the deal on modalities would require movement on all three angles of the ‘triangle’, viz. agricultural market access, agricultural domestic support and industrial market access. However, by the third week of April there had been insufficient progress and movement on each of these sides of the triangle.

In the WTO, Lamy called an informal TNC meeting on April 21, and stated that he did not think it wise to hold the proposed ministerial meeting at the end of April.³⁰ He called for the process to move to Geneva as the Ministerial Meetings of the G-4 and G-6 had not proved useful. He called for the negotiations to be text-based and, with an intensive bottom-up process, to continue in Geneva. This would be co-ordinated by the chairs of the agriculture and NAMA negotiating groups. He appealed to members to desist from the blame game and to ensure that negotiations on modalities were concluded well before the end of July. Thus, the April deadline was missed and the “moment of truth” that Lamy had hoped for at the end of April had been allowed to be postponed once again.

Assessment

Lamy had no choice but to postpone a Ministerial Meeting which had no chance of succeeding and to allow the end of April deadline for modalities in agriculture and NAMA to be missed once again. What were the reasons for the missed deadline? There are four main reasons that are offered here to explain this failure to advance the Doha Round once again.

The main reason for the missed deadline was the lack of sufficient movement on the table to allow for the wide gaps that had persisted since Hong Kong to now be closed in Geneva. Both the EU and the US had not moved in substance from their October 28 (on market access) and October 10 (domestic support) proposals. The US began to indicate that it was willing to move a bit further on its domestic support offer, provided the EU first improved its offer on market access. The EU insisted that it had moved enough in its October 28 offer and that it was now the turn of the US and the “advanced developing countries” to move on industrial market access. Thus it is clear that the main reason for another missed deadline was the lack of movement and brinkmanship on the part of the EU and US to advance the negotiations.

Second, the US made a major change in the leadership of the USTR, indicating the reduced priority of the Doha Round for the Bush Administration. On April 18, the White House announced that the USTR, Bob Portman, was to be replaced by his deputy Susan Schwab. There was wide disappointment over this move even from the Chair of the Republican Finance Committee in the Senate, Chuck Grassley, who stated that this was bad news for the Doha Round.³¹

Third, the EC Commissioner Peter Mandelson, who was recovering from the isolation of the EU in the Hong Kong Ministerial Conference, and still under pressure to produce a new proposal on agricultural market access, adopted a defensive posture and hit out at his critics rather than reaching out towards them. In a speech made in Finland on April 21, Mandelson argued that “the US has yet to cut a single dollar or dime from its escalating farm spending”.³²

He called on the US to be more realistic in its demands for more market access in agriculture and accused it of “pushing the EU to lower its tariffs to force the poor countries to follow suit to create more market access for American products”.³³ Interestingly, the EU was accusing the US of actually using the EU as a benchmark to target the developing country markets. The EU itself seemed at that point to have entrenched its position in its October 28, 2005 offer on agriculture. Peter Balas, making a speech to the European Parliament, stated that “as things stand, the member states will not brook any further flexibility without movement from our partners”.³⁴

Fourth, the political climate in the EU and the US³⁵ had begun to move against economic liberalism and market opening in the period after Hong Kong. In Europe there seemed to be a re-emergence of what Peter Mandelson called “economic nationalism”. After the so-called ‘bra wars’ with China³⁶, the EU began to discuss the filing of an anti-dumping action against China on leather footwear.³⁷ There was an intense internal debate against further opening of the internal EU market to greater services trade. This climate led France to launch another attempt (the first came before Hong Kong) to build a coalition of 13 EU member states to oppose any new offer by Mandelson in the Doha Round.

The US too had been fighting a rearguard action against Chinese imports, and created a new office to monitor and take action against “unfair trade practices” by China. The increasingly assertive Congressional Democrats on Trade³⁸ called for a new Super 301 law that would be used against unfair trade practices by US trading partners. The Dubai Ports saga³⁹ illustrated both the increasing protectionism and insularity of the US Congress, and the weakness of the US administration and President Bush. Republican Congressional Representatives voted against the Dubai deal in spite of Bush’s threat to veto any such action.⁴⁰ The US Congressional elections, scheduled for November 2006, had already begun to influence US politics in a protectionist direction.

The missed deadline was a major setback for the developing countries and the development content of the round. Pascal Lamy was partly right that progress on the main issues in the triangle was needed in order to address the issues of concern to the smaller developing countries. However, for many of these countries – such as the West

African cotton producers – that were concerned with issues which were central to the resolution of the triangle, frustration at the lack of progress was compounded by the fact that they were not even participants in the main arena of the negotiations (the G-6). Other countries, such as the LDCs, felt that the opportunity to press their case with the main players was missed due to their lack of participation in this arena. The missed deadline of April further delayed the opportunity for them to engage with the main players.

7.3 June 2006: Another Failed Attempt to Conclude Modalities

This section sets out the main trends in the movements of the main players on the substantive issues of the agriculture and NAMA negotiations from the period of the missed deadline for the conclusion of negotiations on modalities at the end of April until the end-of-June 2006 TNC meeting. The chapter then proceeds to provide an assessment of the main trends that emerged from the negotiations during this period.

A gathering of trade ministers, on the margins of an OECD Ministerial Meeting in Paris on May 23-24, 2006, was not the occasion for a significant WTO negotiation to take place. At the TNC meeting of May 30, Pascal Lamy said that several ministers at the OECD meeting had called for clarity about the process and a firm deadline for the conclusion of the negotiations on modalities. He stated that in his view ministers should be invited to Geneva at the end of June to help conclude the negotiation.⁴¹ This would be a July 2004- or Hong Kong-type (green room) meeting. He envisaged a three-phased process: first, the drafting of texts by the chairs of agriculture and NAMA to be completed by June 19; second, consultation on these texts (with possible green rooms); and third, ministerial engagement at the end of June. He suggested that the meeting be held over four days, from June 29 to July 02.

The chairs presented the first drafts of their reports/texts on modalities on June 22⁴² with the NAMA chair revising his text on June 26.⁴³ Lamy, began a process of consultation on these texts on June 26 with informal meetings of ambassadors and of the TNC. The text on agriculture produced by the chair, Crawford Falconer, followed the same structure as his earlier reference papers⁴⁴: market access, domestic support and export competition and other issues. The chair simply reflected members' views, setting out the divergences in about 740 brackets! The G-20 produced detailed commentary on the text and was of the view that the chair's text was a fair representation of the position of members.

The chair of the NAMA negotiations had a more difficult task as he did not set out to draft a text on modalities. Instead, he retained the basic structure of his earlier framework, with three columns setting out the mandate, the degree of convergence, and his own commentary. The NAMA 11 criticised the structure as the second column suggested convergence in many instances where there had been no agreement. In addition, the commentary of the chair in the third column did not take into account the views of all the members on several issues. The chair then revised his text and placed in italics the contested text in the second column.⁴⁵ The chair's text was criticised for these structural and substantive weaknesses by some developing country groups.⁴⁶

The G-6 and the Informal Ministerial Meeting of the TNC

The ministerial meetings of the G6 set the pace and tone of the proceedings at the June-end TNC meetings. Ministerial meetings of this group were held on June 29-July 01, 2007. These were preceded by an unsuccessful meeting of G6 senior officials on June 14, 2007.

The G-6 met on several occasions at the ministerial level at the end of June in Geneva. The discussions were both on the process and substance. Lamy too was present at these meetings. During the first of these meetings on June 29, the discussion focused on the triangle. This sub-section will discuss the deliberations of the G-6 on the triangle that relate to agricultural market access, agricultural domestic support and NAMA.

Market Access: Peter Mandelson stated that he was willing to move towards the G-20 proposal of a 54 percent cut in the agricultural market access negotiations. He did not specify what his new proposals on sensitive products and their treatment were. The issues of SPs and SSM are flexibilities that the G-33 group of developing countries had called for to enable less competitive developing countries, who have predominantly subsistence-based agriculture, to protect their vulnerable sectors from cheap, subsidised imports. The G-33 had called for 20 percent of tariff lines to be designated by developing countries as SPs. The US had argued for these products to be limited to five tariff lines per country.

In addition, the G-33 had called for a SSM that would enable these countries to act against rapid surges in imports. The Indonesian and Indian trade ministers, who were chairs of the G-33, argued that they were not prepared to negotiate “livelihoods and subsistence”.⁴⁷ They argued that these flexibilities required by the G-33 had already been agreed in principle at Hong Kong. The US criticised the EU and Japan (including the G-10 group of developed countries that are more protectionist in agriculture) for calling for too large a percentage of tariff lines (the EU had called for 8 percent and the G-10 for 15 percent) to be designated as Sensitive Products. The US argued that, if accepted, these flexibilities – the so-called sensitive products, special products and special safeguard mechanism (SSS) – would mean that 94 percent of its exports to these countries (the countries represented in the EU, the G-10 and the G-33) could be blocked.

Domestic Support: Peter Mandelson tested the willingness of the US to move on domestic support cuts at the G-6 meeting. The US had made an offer of a 53 percent cut in overall trade distorting domestic support in its October 10 offer (a 60 percent cut in its Amber Box support). The G-20 proposal had called for a 75 percent cut in the bound rates of overall trade-distorting support of the US. Brazil’s Celso Amorim indicated that current US spending on trade-distorting support was around US\$19bn annually. The G-20 proposal would bring US spending down to US\$12.5bn. Amorim reported that in an earlier offer, made by Bob Portman to a ministerial meeting with Peter Mandelson in Brazil, the US had offered to move its overall trade distorting support down to US\$13 to US\$14bn. The US offer, made in October 2005, would allow the US to increase its spending by US\$2 to US\$3bn, to almost US\$23bn, and well above its current level of spending.⁴⁸

NAMA: Brazil's Amorim and Kamal Nath of India reported to the NAMA 11 ministerial meeting on June 29 that in the G-6 Ministerial Meeting the EU, US, Japan and Australia had insisted that the NAMA 11 countries undertake tariff cuts adopting a Simple Swiss Formula with a coefficient of 15 and that the NAMA 11 had rejected this proposal.⁴⁹ Amorim and Nath stated that the proposal was unreasonable, too onerous and against the Doha Mandate.⁵⁰ The NAMA 11 Ministerial Meeting adopted a communiqué⁵¹ that called for a 25 point difference in the coefficients adopted between developed and developing countries.⁵² The NAMA 11 emphasised that its approach was based on the two main principles⁵³ of Less Than Full Reciprocity, and the need for a comparable level of ambition in agriculture and NAMA negotiations, as agreed in paragraph 24 of the Hong Kong Declaration.

About 55 ministers had gathered in Geneva at the end of June to participate in the WTO TNC meeting to conclude the negotiations on modalities. Pascal Lamy first invited some 33 of them to an informal meeting on June 30 and then began a plenary informal TNC meeting with ministerial participation. This group met again on July 01 and the TNC was called that afternoon to announce the end of the process as the ministers had failed to make any significant progress. The gaps in their positions were too far apart to be bridged over a few days.

Assessment

There were three broad trends that could be identified in the positions of the EU and the US at the end of the June 2006 TNC Ministerial Meeting. First, the EU having learnt from the Hong Kong experience, where it was isolated, had now shifted its stance indicating more flexibility in its defensive positions on agricultural market access. Peter Mandelson had indicated that he could move from their current offer of a 39 percent average cut to a 47 or 48 percent cut.⁵⁴ He did not specify any willingness to move on sensitive products (the current EU demand was for eight percent of tariff lines) or the extent to which it would deviate from the formula on these sensitive products.⁵⁵ Nor did the EU indicate any movement on the *treatment* of these sensitive products (i.e. the formula for quota expansion and the extent to which the tariff cuts will deviate from the average cut). The EU Commissioner had to be careful as the ministers of agriculture of France and Finland had warned him, a few days before the meeting, that “the reform of the Common Agricultural Policy marks the limits” of the concessions he could make.⁵⁶ Mandelson stated that the EU intended to be as close as possible to the G-20 proposals in agriculture in all three pillars of the agriculture negotiations, namely, domestic support, export competition and market access.⁵⁷ He stated that a move to the G-20 proposal on agricultural market access required an equivalent move to the G-20 proposal on domestic support (this according to him was a move by the US to US\$12bn in their overall trade distorting support). He stated that if there were a ‘G-20 minus’ in domestic support (less than the G-20’s proposed reductions and disciplines on trade-distorting domestic support) this would necessitate the EU reducing its offer proportionately in market access.

Second, the US was increasingly isolated in its negotiating posture at the June TNC meeting. The USTR was constrained by an increasingly protectionist US Congress, facing an election in November 2006. In the weeks before the TNC meeting US farm groups⁵⁸ and 57 US Senators wrote a letter to President Bush urging him to direct his

team of negotiators to reject demands for cuts in US domestic support payments.⁵⁹ Susan Schwab, the new USTR, made a reference to this political attitude of the US Congress – it sent her to Geneva with the instruction, “Don’t bother bringing back plan B”.⁶⁰ In her speech to the OECD in Paris, she stated that the US had moved in its October 10, 2005 proposal, and was now looking to the EU and developing countries to move in agriculture and industrial market access. Thus, there was a shift in the focus of the WTO members from the EU’s recalcitrance and inability to make further improvements in market access to the US reluctance and lack of political will to make cuts in its trade-distorting domestic support.

The US insisted that it wanted a market access offer from the EU and other developed countries on agriculture that went beyond (north of, or above) the G-20 proposal of 54 percent. In the first session of the TNC, the new USTR presented the US position and stated that the US believed that the core contribution of the round to development would be in new trade flows.⁶¹ She stated that the US was looking for substantial results in all three areas of the triangle, and that the level of ambition in this round should be far in excess of the Uruguay Round. She described the US offer made on October 10 as a bold and unambiguous move, requiring major reforms in US agriculture. In sharp contrast, she argued, “the situation in Agriculture Market Access is ambiguous, and one can’t tell what will be the result due to the flexibilities required by the three SSSs.

Third, the EU and the US remained united in their common front against the so-called ‘advanced developing countries’ to open their markets in NAMA. Mandelson called for the outcome of the negotiations to produce “effective cuts and real trade flows”. In NAMA he said that the EU required “real cuts that cut through the water and cut flesh”. This, he said, could be done with a Swiss Formula with a coefficient of 15 (Swiss 15) for developing countries. On NAMA, the USTR stated that developing countries needed to cut their current (applied tariff) rates to provide increased market access for inputs from their trading partners.

For the second group of the poorest developing countries, which had interests and concerns that were not considered to be part of the triangle, this was a frustrating period. They were not participants of the G-6 and had little influence in the negotiations on the central issues of the triangle. In addition, they felt marginalised from the process as the ministers of the G-6 and Lamy agreed that the discussions at the June Ministerial Meeting would focus on the main issues in the triangle. Approximately 55 ministers attended the June WTO TNC in Geneva. Those ministers from the LDC, Africa Group and ACP countries that wanted to advance the particular interests and concerns of their constituencies were frustrated. Whilst there is some truth to the argument that WTO members first needed to establish the level of ambition on the so-called core issues in the triangle before being able to address issues such as preference erosion and how to proportionately reduce the burden of commitment of small and vulnerable economies, this argument did not apply to the plight of the West African cotton producers, whose concerns were central to the modalities on agricultural domestic support cuts and disciplines. The LDCs, too, wanted to advance their interests and engage with the major players, particularly the US, on how to effectively advance the implementation of the Hong Kong decision on DFQF market access for LDCs.

7.4 July 2006: G-8 Summit in St Petersburg and the Suspension of the Doha Negotiations

There was a high expectation that the G-8 would deliver on the political leadership required to unlock the current impasse in the negotiations and address what Lamy declared to be a crisis in the Doha Round at the June meeting. This section will briefly discuss the outcome of the G-8 St Petersburg Summit and the subsequent G-6 Ministerial Meeting held in Geneva at the end of July. Finally, the decision to suspend the Doha negotiations at the TNC meeting held at the end of July is discussed briefly. An assessment of these events is then provided from the perspective of the major developing countries and the small, weak and vulnerable countries referred to above.

The St. Petersburg G-8 Discussions

The leaders of the G-8 discussed the WTO negotiations on Saturday, July 15. The leaders endorsed a prepared Communiqué which was circulated to the meeting held between the G-8 and the outreach group of leaders from developing countries, including Brazil, China, India, Mexico, the Democratic Republic of Congo and South Africa.

The G-8 meeting agreed on the Communiqué, with the leaders present agreeing that there was a crisis looming that needed to be averted and they pledged to conclude the round successfully by the end of 2006. To emphasise their sense of urgency they called on Lamy to continue with his consultations, “with the aim of facilitating agreement on negotiating modalities on agriculture and industrial tariffs within a month”. The statement did contain a controversial point though, when it stated that “the round should deliver real cuts in tariffs, effective cuts in subsidies and real new trade flows”.⁶² In the next session between the G-8 and the leaders of the outreach group, all the leaders present expressed a sense of urgency and all (except President Jacques Chirac of France) agreed to indicate greater flexibility in their positions and to instruct their negotiators to ensure that this was reflected in their negotiating positions.⁶³ The leaders did not discuss any of the substantive issues in the negotiations but urged the G-6 ministers to meet urgently.

As a result of the G-8 discussions, the ministers of the G-6 (except Australia, which was not present) met in Geneva on the evening of July 17. They agreed to attempt to translate the indications of flexibility of their leaders into negotiating positions after consulting with their constituencies. They also agreed to a programme of further meetings, on July 23-24 and again on the July 28-29.

The G-6 Ministerial Meeting in July 2006

The G-6 ministerial, chaired by Pascal Lamy and held on July 23-24 (Sunday and Monday) in Geneva, met for 14 hours but failed to make progress on the substance of the negotiations. The meeting was held after leaders at the G-8 Summit, held in St Petersburg, Russia, shared their sense of urgency about the crises faced by the WTO and urged their trade negotiators to show more flexibility in their positions. Ministers from India (Kamal Nath), Brazil (Celso Amorim), Australia (Mark Vaile), the US (Susan Schwab and Mike Johanns), the EU (Peter Mandelson and Marianne Fisher Boel) and Japan (Toshihiro Nikai and Shoichi Nakagawa) participated in the G-6 and all attended the informal TNC meeting on Monday afternoon.

Lamy convened an urgent TNC meeting on Monday afternoon to report back to the membership. At the informal TNC meeting, Pascal stated his view that the only course now was to suspend the negotiations across the round, providing everyone time to review positions. The deadlines for the other issues in the round would now need to be revised. He stated that he was not setting any new deadline for the resumption of the negotiations. He believed that countries could only advance once new negotiating positions had emerged. He re-stated his commitment to continue to help to obtain political movement in the negotiations. However, members had the major responsibility on how to achieve further movement, he said.

Kamal Nath said that the G-33 and the G-20 represented 90 percent of the world's farmers, and yet the EU and the US had captured 50 percent of world trade in agriculture with only 2 to 5 percent of their population employed in the agriculture sector. This had only been possible due to the huge subsidies paid out to the agricultural sector in the developed world. Peter Mandelson said the US was not willing to accept and acknowledge the flexibility being shown by others. The process was supposed to be about building up a series of combined moves, he said, adding that the US had shown no flexibility in its position and was thus responsible for the suspension of the meeting.

Celso Amorim called this one of the saddest moments of the round. In a speech charged with emotion he said that much progress had been made and that the differences now were not about concepts but about numbers. The main issues blocking the round, according to him, were in agriculture. Susan Schwab said the US had consulted on its offer on domestic support with domestic stakeholders, including commodity lobbies and farm groups, before coming to the G-6 meeting. She said that it was not possible for the US to move without an ambitious market access offer.

A number of statements were made by delegations lamenting the possible loss of five years of hard work. Some developing country delegations from the Africa Group, ACP and LDC Group urged the developed countries to fulfil their commitments made in Doha on the development dimension of the round.

Assessment

There was every indication in the political posture of the US negotiators that the US would not be able to improve its domestic support offer made on October 10. Susan Schwab did consult with US Congressional leaders and farm commodity groups again, after President Bush assured other G-8 and developing country leaders in St. Petersburg that he would urge his negotiators to display greater flexibility. However, the US lobbies still required too high a price ("exchange rate" as WTO negotiators call it) from their trading partners for an improvement in their domestic support offer made on the 10th of October, 2005. This offer was widely criticised for having no effect on current US domestic spending. In fact, some observers estimated that it would allow the US to raise its current levels of trade-distorting support by at least US\$2 to US\$3bn a year.

The US Farm Act, which was extended in 2002 and increased US expenditure after the US had just made a commitment to cut its trade-distorting subsidies in the Doha Round in November 2001, was to have been extended or amended by September 2007. The

US farm lobbies feared that any commitments made now in the Doha Round would have the effect of amending the Farm Act to include these new commitments. US farm lobbies thus have a great interest to ensure that the Doha Round does not make progress at this stage, at least until the Farm Act is safely extended, with its current levels of support being retained.

The US mid-term Congressional elections in November were clearly of major significance for the Doha Round. A large number of these seats were in agricultural states and nobody wanted to risk losing the election and funding for their campaigns by upsetting the major commodity groups and lobbies. President Bush may have been personally committed to the Doha Round (Republicans are stated to be generally in favour of free trade), but his capacity to intervene was limited by his lack of popular support (his ratings were at an all time low). It is clear that he chose not to use his influence to change the US negotiators positions after the commitment he made at the G-8.

In the period before and after Hong Kong, the EU had developed a defensive posture, hitting out at its critics and raising the bar for the advanced developing countries in NAMA and services to justify its own lack of movement. In response to the US critics who felt that the EU market access offer was unsatisfactory, the EU responded by saying that the US had not cut a “dime or dollar” from its domestic support spending since the Doha Round began. In addition the EU stated that it “will not brook any further flexibility without movement from our partners”⁶⁴ and insisted that the so-called advanced developing countries such as Brazil, Egypt, India, Indonesia and South Africa, should indicate their willingness to accept severe tariff cuts in NAMA and significant new commitments in the services negotiations before it was able to make any improvement in its market access offer.

Mandelson, however, did begin to make some movements in bilateral meetings with Brazil and in the G-6 meetings with an offer to move closer to the G-20 proposal on average tariff cuts in agriculture. But the EU did not provide any real clarity on the issue of their flexibilities on the number and the treatment of the sensitive products. Here the US is clearly correct in criticising the EU offer for this ‘loophole’ that would reduce the value of a marginal increase in its average tariff cut.⁶⁵ Peter Mandelson was clearly working within some real political constraints in the EU. The EU member-states were finely balanced with the French having organised all the protectionist states in a group of 14, who had warned Mandelson on numerous occasions that any offers he made had to remain within the limits of the CAP reform.⁶⁶

The June 2003 CAP reforms agreed in Luxembourg, did not specify the market access cuts that the EU could make as part of the reforms, so the actual level of cuts was open to dispute.⁶⁷ Here Mandelson had the support of the rest of the EU states who were not part of the French-led protectionists on the margin of manoeuvre he had to move further than the October 2005 EU proposal. But as Chirac again reminded the Europea Commission at the G-8 Summit, the protectionist members of the EU believed that the EU October 28 offer was already at the limit of the EU CAP reforms. The ability of the EU to improve its offer significantly would thus depend on the political dynamics within Europe.

The suspension of the negotiations was probably a welcome relief for most members from the endless rounds of ministerial meetings that had been going round in circles on the substantive issues, repeating positions without any prospects of movement from the major players. WTO members needed to reflect on the alternatives to the impasse and dangers of losing the enormous amount of work already done for almost five years. There was a great deal of technical work that had been done, and the architecture of agreements on issues across the negotiations had been built.

Developing countries needed to reflect on what they had to lose. At the launch of Doha, developing countries succeeded in negotiating a mandate that had the promise of delivering a development outcome. They did this through a high level of participation in the negotiations. Since Doha, developing countries have formed powerful coalitions in the G-20, G-33, NAMA 11, LDC Group, Small Economies, Africa and ACP groups. Their ability to stick together notwithstanding their divergent interests was observed in Hong Kong and now again at the June Ministerial Meeting (in the G-110).

The effect of this organisation and solidarity was seen in the texts negotiated. Developing countries stopped an unfair text being thrust upon them in Cancun. In July 2004 the Framework Agreement maintained the development aspects in all the agreements and whilst much progress was not made in Hong Kong, the agreements did advance developing country positions (on export subsidies and special products) and in other areas, such as services, developing countries were able to resist unfair deals.

The impasse was also a reflection of the balance of forces in the WTO. Today, developing countries are a force to reckon with. They can negotiate, they are technically competent and they are organised. Whilst there have been many threats of an unfair deal being imposed on developing countries, this should not cause them to abandon their legitimate claims to a fair and balanced outcome of the Doha Round. They should insist that the promise that the Doha Round will be a development round (the first after 8 GATT rounds where the dominant interests were those of developed countries and developing countries played a subordinate role) must be fulfilled. Thus developing countries should continue to demand the renewal of political will by developed countries to resuscitate the Doha negotiations and conclude them on the basis of the promise made in the Doha Mandate.

In essence, the main reason for the current impasse in the Doha negotiations is the lack of sufficient political support and leadership in the US and EU to make the significant reforms in agriculture. Whilst agriculture occupies a relatively insignificant part of output and employment in the EU and US (about 2 to 4 percent),⁶⁸ the political power of the lobbies representing this sector is disproportionate to their economic significance. In the US, the lobbies that seek greater market access (representing the major agribusiness groups) are finely balanced with those that are resistant to any real cuts in trade-distorting subsidies (the major commodity groups, such as the sugar and cotton lobbies). Thus US negotiators appear to only be able to offer increased cuts in domestic support in exchange of increased market access in agriculture.

The US thus required a high ambition in market access from the round to enable it to balance its rent-seeking lobbies. The level of ambition that the US sought from the EU,

however, was well beyond the capacity of the EU to deliver (a 67 percent average cut). Developing countries on the other hand were able to negotiate their market access differences (between the more competitive and the more subsistence-based agriculture economies) within the G-20 and emerge with a compromise proposal which the EU was able to move towards (the G-20 proposal calls for a 54 percent cut). The US demand was way beyond this 'middle ground' proposal of the G-20. The EU was able to make a significant offer to reduce its trade-distorting subsidies in its October 28 offer (a 70 percent cut in overall trade-distorting support) due to the CAP reforms. Although this offer still fell short of the G-20 proposal (80 percent cut in overall trade distorting support) it was widely recognised that this offer would require the EU to make a significant cut in its applied levels of trade-distorting support.

Thus the EU and the US seem to have a total misfit in their agricultural structures and reform processes. The US has not initiated any new reforms since the Doha Round. In fact the 2002 Farm Bill increased US support. The US is unable to currently initiate reform due to the resistance of the US commodity lobbies who are demanding increased market access as a trade-off for any domestic support cuts. In the period before Cancun, the US and EU held intensive bilateral negotiations to try and find a balanced outcome between them that dealt with this reality.⁶⁹ The EU could not meet the US demands for market access and the US could not make real cuts in its trade-distorting domestic support without significant new market access. So the outcome of the bilateral engagement between the EU and the US was an accommodation of each other's concerns, resulting in the EU-US Joint Text that was rejected by the G-20 group of developing countries for largely retaining the *status quo* and not fulfilling the Doha Mandates requirement to make substantial cuts in trade-distorting domestic support and provide substantial market access in agriculture.

The US also demanded that members of the G-33 group of developing countries, such as India and Indonesia, make more significant offers in agricultural market access that would reduce the flexibilities that they had requested for SPs and the SSM. The US, EU and other developed countries had also demanded more significant cuts of their industrial tariffs in the NAMA negotiations. Making such demands was seen as unfair, especially given the fact that the US had yet to make acceptable offers to cut its subsidies that cause significant damage to the rural and subsistence agricultural economies of developing countries. In addition, the demands for ambitious tariff cuts by developing countries in NAMA before developed countries themselves set a proportionate level of ambition in agriculture was not acceptable to developing countries that have highly politicised constituencies demanding a fair and proportionate deal that would not undermine their industrial development.

Developing countries too have an interest in agricultural market access and the G-20 have offered to negotiate an internal compromise at the appropriate time to find a balance between the interests of the competitive exporters and the subsistence economies amongst its members. In NAMA too developing countries in the NAMA 11 are committed to making a contribution to market opening for all WTO members, and could build a compromise that is more acceptable to all developing countries, including the small, vulnerable economies, once the level of ambition in agriculture has been established.

7.5 From Suspension to ‘Soft Resumption’

This section provides an overview of the negotiating process in the WTO since the suspension of the Doha negotiations in July 2006 until the December 2006 General Council Meeting of the WTO. In the assessment that follows, the impact of the US mid-term Congressional elections on the Doha Round is briefly discussed.

Developing countries took the initiative to re-group and strategise on how best to resume the Doha negotiations immediately after the summer break. The G20 held a ministerial meeting in Rio de Janeiro on September 9-10 and invited the co-ordinators of the G-33, ACP, LDCs, African Group, SVEs, Cotton 4 (C4) and NAMA 11.⁷⁰ The G-20 and developing country co-ordinators then met with Peter Mandelson, the EU Commissioner, Shoichi Nakagawa, the Japanese Minister of Agriculture, Forestry and Fisheries and Susan Schwab, the new US Trade Representative, and called on them to help resume the negotiations as soon as possible.

Mandelson recognised that the EU moves made in July 2006 (at the suspension) could have been more ambitious. However, he believed that moves needed to be made by others too – especially the US, which had not moved at all in July. He stated that since July, EU member-states had been trying to withdraw the offer he had made, but that he was determined to keep these on the table and show leadership. Mandelson argued that the EU had moved its offer of market access from a 39 percent cut in tariffs to 51 percent. On domestic support it could improve its October 2005 offer and on export subsidies, it could try harder for an improvement. Since this would stretch the EU position to its limits, he urged all others to improve their offers, particularly on NAMA and services.

Susan Schwab explained that whilst the US was willing to do more on domestic support, the US believed that there was not enough market access forthcoming from several groups in the WTO. She called on all countries, developed and developing, to stretch and provide more market access. She explained that the US was prepared to stretch in the right circumstances, saying the US had tried the “go first strategy – but it got pocketed.” Thus the September Meeting of the G-20 Ministers in Rio offered the key players an opportunity to reflect on the crisis of the Doha Round that was brought about by their failure to reach agreement in July 2006 and to commit to continuing the process of negotiations in Geneva.

Subsequent to the Rio Ministerial Meeting of the G-20, WTO members in Geneva began to prepare for the resumption of negotiations.⁷¹ At a General Council meeting on October 10, Pascal Lamy stated that he can only resume the negotiations once he has sufficient signals of flexibility from the members.

There were various attempts in Geneva to try and create some momentum towards the resumption of the round. The chair of the agriculture negotiations began informal meetings with a small group of members to discuss the resumption. The DG summoned an informal TNC meeting on November 16 at which he called on the chairs of all the negotiating groups to begin to consult with members in an informal manner. Pascal Lamy reported that he had met with various ministers in Brussels, Washington and at

the Asia-Pacific Economic Cooperation (APEC) Summit prior to the TNC meeting. He reported that there was general support for the resumption of the round and that all the players were willing to be flexible. However, he pointed out that none of the players had put any numbers on the table. Thus, as far as the substance was concerned the position remained very much as it was before the suspension in July 2006. He said negotiators were now somewhere between the stage of “quiet diplomacy” and “fully fledged negotiations” and that this latter phase would only come when members were prepared to put numbers to the flexibilities they had expressed in general terms so far.⁷²

The chair of the agriculture negotiations, Ambassador Crawford Falconer, took the lead in the period after the TNC meeting and called several “fireside meetings” with a small group of ambassadors and informal meetings in the WTO. The chair of NAMA, Ambassador Don Stephenson called a series of bilateral “confessionals” with WTO members. And so the ‘soft resumption’ of the DDA negotiations began to proceed slowly across all negotiating areas with the various chairs holding informal meetings with small groups. However, the main issues that WTO members were clearly concerned with were the political developments in the US Congress, and the USTR’s capacity to table a new offer.

The final General Council meeting of the year was held on December 14-15, 2006. Pascal Lamy reported on the status of the Doha negotiations. He stated that whilst there was a desire and general political will (expressions of flexibility in general terms) by all to return to the negotiating table, this was not matched by new detailed negotiating positions. He stated that there was a window of opportunity to advance the negotiations in the first quarter of 2007.⁷³

Assessment

In the US mid-term Congressional elections held on November 07, the Democrats gained 28 seats in the House of Representatives, giving them a working majority of seats, and took control of the Senate.⁷⁴ This meant that the Democrats would take over all the chairs of the Congressional Committees that drive the US trade agenda: the House Ways and Means Committee; House Agriculture Committee; and the Senate Finance Committee and Trade sub-Committees. As the US Congress has enormous power to shape and pass legislation on trade and decide on the USTR’s mandate to negotiate, the Democrats were now firmly in control of trade policy in the US and any movement by the USTR on the Doha Round would largely be influenced by them.

In their analyses of the voting patterns of the old Republicans and the new incoming Democrats Simon Evenett and Michael Meier argue⁷⁵ that the new Democrats are likely to take a more sceptical view of the Doha Round and trade liberalisation in general, including bilateral trade agreements, based on their relatively protectionist political positions. However, an analysis by a Geneva-based NGO, Aitic,⁷⁶ suggests that the Democrats, whilst generally more sceptical of liberalisation and free trade, are likely to make a pragmatic decision in favour of freer trade when pushed to make a decision. This analysis argues further that the Democrats are expected to insist on labour and environmental standards to be included in bilateral trade agreements although they have not yet pressed the issue in the WTO.

The main reason for the suspension of the Doha Round at the end of July 2006 was clearly the inability of the US to improve on its offer to cut its trade-distorting domestic support as the mid-term elections approached. With the elections over, WTO members needed to begin work and start engaging with the new Congressional chairs and their staff to persuade the US to put a new offer on the table to move the round forward.

However, for the negotiations to advance, the USTR would need to move from its position that sought to place the onus on all other WTO members to move first. In an article in the *Wall Street Journal*,⁷⁷ Susan Schwab, said that the results of the US elections would not change the negotiating position of the US, and that to break the deadlock the US required other WTO members to move beyond their positions in four key areas. She called for: substantial movements by the EU, Japan and other G-10 countries in agricultural tariff cuts; deeper cuts in agricultural tariff cuts by major developing countries; deeper reduction in trade-distorting support by the EU and US; and cuts in industrial tariffs by developed and major developing countries.

7.6 January 2007 to the Delhi G-4 Ministerial Meetings

There was a flurry of activity in early January, 2007, with high-level visits to the US by senior EU representatives. The EU and the US were reported to have been engaged in intense bilateral engagements on the Doha Round, including a meeting at the White House between President Bush and the head of the EU Commission, Manuel Barroso, on January 08. Bush and Barroso were reported to have instructed Susan Schwab and Mandelson to produce a deal “as soon as possible”.⁷⁸ However, by the time of the Davos meeting of trade ministers later in January, the EU and US had not made much progress. At Davos, some of their differences, not only on the substance but also on the process of the negotiations, became apparent.

What happened in Davos?

The Davos Ministerial Meeting, held on January 27, 2007 and hosted by the Swiss Minister of Economy, Doris Leuthard, was attended by about 26 trade minister. As the host, Leuthard proposed two issues for discussion: i) the state of play in the DDA; and ii) how to use the “window of opportunity” in the next few months. Pascal Lamy reported that although there was a great deal of bilateral activity amongst some members, there was no clear landing zone for the DDA. He urged that the multilateral process be restarted immediately and that members move to full negotiating mode. However, he did call for clarity from ministers on their intentions with regard to the timing and process of the negotiations.

Schwab explained the situation in the US with regard to the Trade Promotion Authority (TPA) process and the Farm Bill. She explained that the US TPA expired at the end of June and needed to be renewed to allow the USTR to negotiate. She stated that Bush was to formally announce his intention to seek TPA from the Congress that week. She was to continue meeting with Congressional leaders in the next few weeks on these issues. She asked ministers for their help to secure TPA. She also said that the Farm Bill was to be put before the Congress in the coming weeks. However, she said ministers should not be worried if the Bill were passed with minor modifications as it could be amended later when the US implemented its DDA commitments. On domestic support,

the US was willing to make effective cuts, but this was only possible if the US were able to obtain real market access – reflected in “new trade flows” – in agriculture, NAMA and services. She urged members to start talking specifics so that people knew what they would get in tonnes, percentage cuts and reduction of regulations in services trade. She also recommended continued bilateral meetings before multilateralising the process. She stated that an agreement on modalities was essential for the US to obtain TPA.

Peter Mandelson agreed that members needed to make a breakthrough for the TPA process to succeed. He said members needed to re-collectivise the process and focus on obtaining agreement on formulas that were fair and not revert to a request-and-offer process. On agriculture, he said the EU was moving towards the G-20 position which was a balanced one and that the EU could add 10 percent from its 39 percent on market access. The concerns of developing countries on preferences also needed to be addressed. He stressed that the EU also needed to see effective cuts in domestic support. However, on NAMA, he argued that the EU needed new market access as it could not take home less and that the flexibilities provided should not undermine the formula. He also stressed the need for progress in services and Geographic Indicators (GIs). He argued that an imperfect deal was better than no deal.

In his report to the G-20 meeting following Davos, Mandelson stated that the negotiations would not have reached this stage without the unity of the G20. In his view the US was committed to concluding the round in 2007 – President Bush was personally committed to this. He stressed that the US needed to renew TPA to conclude the round and that members needed to help the US obtain TPA without being made to pay an extra price. For the EU, the German presidency was crucial to secure the deal as Germany was not part of the protectionist group led by France but could use its political weight in the EU and close relationship with France to secure the support of the EU member-states for a successful Doha outcome. The EU recognised that the G-20 proposals were the landing zones and was willing to go as far as possible to meet this. However, the EU required the US to cap its support at approximately US\$15bn with product-specific disciplines. For the EU the disciplines would make or break the headline numbers. In NAMA, the EU needed to see real reductions and real market access without the flexibilities being turned into loopholes (i.e. not exclude whole chapters in paragraph 8). He stated that the EU required Swiss 15 to secure a deal. This should also apply to services. He stated that the movement in SPs would need to carry the US. The EU also required progress in the negotiations on NAMA, services, anti-dumping, trade and environment, trade facilitation and GIs.

The Japanese were represented by two new ministers; Akira Amari (economy, trade and industry) and Toshikatsu Matsuoka (agriculture, fisheries and forests). They stated that the Japan was ready to move and called for a balance between ambition and reality.

India’s Kamal Nath said that members needed to put the conceptual issues on the table before numbers. He said India did not want to be driven by the TPA process in the US. He called for a process to be mapped out for the negotiations in Geneva, so as to put the negotiations back on track.

Pascal Lamy called an informal TNC on January 31, 2007 to report back to members on developments in the round since December. He stated that he had received many political signals to get back to business. In parallel, he stated, the main parties were working to build convergence. The main message he received was to re-start the multilateral process fully. There was renewed commitment by ministers in Davos for a quick resumption of the round across all areas. He had, therefore, requested the chairs to go back to full negotiating mode in Geneva. The deal, in his view, was doable.

G4 and G6 Meetings in London and Paris

A process of bilaterals between the G-4 countries first and then the G-6 began with meetings between senior officials in London. On March 03-04, 2007, the G-4 held ministerial-level meetings which failed to make any progress. On March 05 ministers Kamal Nath, Celso Amorim and Commissioner Mandelson and USTR Susan Schwab came to Geneva to report to Pascal Lamy on their bilaterals.

The G-4 met again in Paris at the level of senior officials on April 03-05, 2007. Whilst they met bilaterally as before, they also met for the first time together. Pascal Lamy invited the representatives of the G-4 to report to the Green Room in response to many delegations' concerns about the lack of transparency in the process. He stated that the multilateral process should not be held hostage to the G-4, although he recognised that the group could help to stimulate progress in the WTO. However, he stated that for a conclusion of the round at the end of the year or thereabouts, the chairs needed to start producing texts in the next few weeks. In this regard he supported the chair of the agriculture negotiation, Ambassador Crawford Falconer's intention to produce a first "hardtalk" text⁷⁹ by the end of April. He stated that modalities needed to be concluded by the end of July so that the process of scheduling could begin by the end of the summer.

The Geneva Process

On January 31, 2007 the informal TNC provided a mandate to the chairs of the negotiating groups to begin the process of consulting the members and facilitating negotiations across all areas of the DDA. The chairs began to call meetings in various formats, including formal meetings, open-ended informals and informal small group meetings with heads of delegations. The chair of the agriculture negotiations, Crawford Falconer, called small "fireside chats" with a cross-section of members; the chair of the NAMA negotiations, Don Stephenson, called his meetings "caucuses" and the Mexican chair of the services negotiations called his meetings "*enchiladas*". The latter were informal.

The chair of the agriculture negotiations decided to begin a process of drafting texts, similar to the reference papers he had drafted in the period before the June/July ministerial meetings in 2006. He decided that the first set of papers would take the form of a series of questions on the tough decisions (a 'hardtalk' paper) that needed to be made in each of the main issues where major differences remained between the members in the agriculture negotiation. The chair of the NAMA negotiations also stated that he intended to follow the chair of the agriculture negotiation with the drafting of texts. He began to consult key members in different formats, and also held several "caucuses" with 25 to 30 members on some of the major themes, including the level of ambition of the formula,

the flexibilities allowed in the formula and the issue of sectorals. The services chair also held small informal meetings at least once a month between January and April, and consulted members on how to ensure a parallel advance in the services negotiations and the setting of a date for the second revised offers which were postponed due to the suspension of the negotiations in July 2006.

The G-4 Ministerial Meetings in New Delhi

The ministerial meetings of the G-4 and the G-6 (including Japan and Australia) that were held in Delhi on April 11-12, 2007, were the first such since the failed July 2006 meetings in Geneva. The ministers re-committed themselves to advancing the WTO multilateral negotiations in Geneva. They all agreed to try and conclude the Doha Round by the end of 2007. There were some disagreements amongst them on the need for a clear timetable for the work process in Geneva, with some favouring a more clear timeframe and process (Brazil and the EU) and others stressing the need to focus on the content rather than set 'artificial deadlines' (US and India). The meetings did not reach any agreement on the substance but did make some progress on the process. In the words of Peter Mandelson, there was a "course correction". They agreed to meet again as the G-4 (and G-6) by the middle of May at the ministerial level.

Assessment

Although President Bush had provided a clear signal at the Bush-Barroso meeting early in January of his intention to contribute to the advancement of the Doha Round, Susan Schwab, his USTR did not display any urgency to make a breakthrough. After her meeting with Pascal Lamy, since the Bush-Barroso meeting she was reported to have stated that she was opposed to any "artificial deadlines" and was keen to focus on the substance instead. Here she recalled that the main issues were not just domestic support but also market access in developing countries, including SPs and flexibilities of developing countries that the US wished to reduce.

The EU was much keener to set a deadline to make a breakthrough in the negotiations by the end of March/early April, at least on the "contours of modalities" in agriculture and NAMA and to reach agreement on the headline numbers. The EU was eager for the round to advance and succeed as it hoped to be paid for the CAP reforms that it had already made in June 2003. A major delay in the round would require the EU to pay for this round with a new phase of agriculture reforms.

Pascal Lamy visited India on January 19, 2007 after the Addis Ababa African Union Ministerial Meeting and met with Minister Kamal Nath and Prime Minister Dr. Manmohan Singh. He was told by the Indian Prime Minister that India would play a role in the negotiations in line with its capability but was not going to jeopardise the livelihoods of millions of its poor subsistence farmers. Prime Minister Singh stated that India could not be expected to show flexibility before the majors – the US and the EU – indicated clearly what they could do to cut their trade-distorting domestic support and provide increased market access in agriculture respectively.⁸⁰

Brazil had played a leading role in attempting to bring the round back on track since January 2007. Celso Amorim had met Susan Schwab on January 03, 2007 in Washington

and held bilaterals with both the US and the EU. The US was not willing to discuss the actual numbers of the domestic support cuts that they needed to make and the discussions with Brazilian senior officials focused mainly on the technical issues related to the disciplines of domestic support.⁸¹

There was a great deal of anxiety and concern expressed by those members that were not part of the G-4 and G-6 process about the lack of transparency of this process – the fact that it was outside the multilateral system and that the major players were not engaging in the Geneva multilateral process.

The smaller players in the negotiations were relatively marginal to the above process of negotiations, and they followed it with a great deal of concern. African Union ministers of trade, meeting in Addis Ababa on January 16, 2007 called for the resumption of full negotiations on the basis of the development mandate of the Doha Declaration. They stressed the need to fully integrate issues of concern to African countries – preference erosion, cotton, S&DT, DFQF access for LDCs, and aid for trade – into the Doha deal. They also supported the strengthening of the unity of developing country groupings, including the G-20, NAMA 11, G-33, LDCs, Small and Vulnerable Economies, the C-4 the ACP and the Africa Group.

Pascal Lamy, while mindful of the fact that without the major players making some progress on the core issues amongst themselves the multilateral process would not gain momentum, was concerned about the multilateral system being taken hostage by the above process. There was no guarantee that they would succeed this time on their own. Indeed, a similar process in 2006 had resulted in the suspension of the round. Thus Pascal Lamy began to stress the importance of the chairs playing the role of brokers of the deal and multilateralising any bilateral and small group processes. He encouraged the chairs to begin to consult on the drafting of texts.

7.7 From Delhi to the Potsdam Collapse

The G-4 ministerial meeting held in Potsdam, Germany, from June 19-23, 2007 collapsed on the third day of the four- or five-day scheduled meeting. All four ministers (Susan Schwab, Peter Mandelson, Kamal Nath and Celso Amorim) went to Geneva the next day to meet with Lamy and report to him individually. Each of them explained to him their version of the breakdown of the talks. Celso Amorim, the Foreign Minister of Brazil, reported back to the G-20 ambassadors on June 22 and Lamy called a TNC meeting that afternoon to report to the full membership of the WTO.

Brazil's Views on the Collapse

Celso Amorim reported that the Potsdam meeting had collapsed but dispelled the rumour that Brazil and India had walked out of the meeting. He explained that after the first day of discussions, it became clear that the US and EU could not move significantly from their October 2005 proposals. During the second day, the US and the EU would not move significantly from their existing positions – the US on the level of Overall Trade-Distorting Support (OTDS), product specific caps and disciplines on domestic support; and the EU on the tariff cuts for the top bands, the percentage of sensitive products, the deviation for sensitive products from the formula, and the calculation of Tariff Reduction

Quotas (TRQ). This became clear during a ministers-only lunch held on the third day. After the lunch, Mandelson announced that he was closing the meeting due to India's and Brazil's decision to leave the meeting. India and Brazil then held a press conference in Potsdam before leaving for Geneva.

Brazil and India, Amorim stated, were very aware that they also represented the views of the G-20 and the majority of the developing world. They believed that the deal being offered to them by the US and the EU was not in the interest of the developing world.

Amorim compared the situation in Potsdam to that before Cancun (discussed in chapter one), where both the EU and the US (in the EU-US Joint Text), forged an agreement between themselves based on an accommodation of their own concerns and comfort levels. This became obvious as the meeting proceeded on the first day, according to Amorim. The EU and the US did not confront each other on either the reductions needed in domestic support or tariff cuts on market access in agriculture, but instead were eager to shift the discussion to NAMA and jointly confront Brazil and India.

US Domestic Support

On the issue of OTDS, Mike Johanns, the US Secretary of Agriculture, offered a reduction in US spending to slightly below US\$17bn. Mandelson suggested that the US had some further flexibility. This figure, according to Amorim, was still 60 percent more than what the US spent last year (about US\$11bn). Amorim stated that this fell far short of an effective reduction. The G-20 required a reduction in the US OTDS that was significantly below the 10-year average of US\$19bn and close to the G-20 proposal of US\$12bn. Even this would allow the US sufficient "headroom", according to Amorim. The EU would then need to make a cut that was 10 percent more than the US percentage reduction. The reform of the CAP allowed the EU to do more than this. On the need for product-specific caps in the Amber and Blue boxes, Amorim stated that the G-20 only agreed to the new Blue Box in July 2004 on the condition that there would be disciplines that prevented product and box shifting by the US.

EU Market Access

When the discussion moved to the need for the EU to move on market access, Amorim stated that he was very surprised that the US sat back and left Brazil to argue the case alone. There was a need to clarify the final percentage cut of the EU sensitive products and their treatment. In the case of Brazil about 47 percent of its exports would be affected by the products the EU deemed to be sensitive. The EU did not want to discuss the cuts and treatment of sensitive products. Amorim was left with a distinct impression that the EU and US may have reached a bilateral agreement on the level of TRQs that the US would obtain. On the issue of the special safeguard for developed countries, the SSG, that the G-20 wanted to be eliminated, the US did not put any pressure on the EU. In addition, both the EU and US argued for the extension of the Peace Clause.⁸² There was some discussion on SPs, but this was left to the US and India to negotiate bilaterally.

There was some progress in the G-4 Potsdam meeting on the issue of export competition.⁸³ Here there was convergence between the EU and the US on food aid and export credits. However, there was no progress on the need for the EU to make substantial cuts in all export subsidies, by 2010, in volume terms.

Pressure on NAMA!

Amorim reported that the pressure then moved to India and Brazil on NAMA. Both the EU and the US demanded a Swiss 18 formula⁸⁴ cut for developing countries. Brazil and India argued that with the numbers that the US and EU were offering on agriculture they were not willing to accept a formula cut greater than Swiss 30. In any event, Amorim pointed out that research undertaken by Brazil had revealed that a cut of Swiss 30 in developing country tariffs would yield more market access for developed countries than a cut of Swiss 8 provided to developing countries in developed country markets. Amorim stated that Brazil was willing to be flexible if the US and EU moved from their current offers in agriculture.

US and EU Views on the Potsdam Collapse

At the TNC meeting held on Friday, June 22, 2007, the ambassadors of the EU and US reported on their versions of the Potsdam collapse.

The EU's Eckard Guth stated that good progress was made on agriculture in the Potsdam meeting, and that the EU had reached the limits of its flexibility. However, in the EU's view, the trade-off (or exchange rate) between agricultural market access and NAMA was not proportionate. The EU stated that they needed new trade flows in NAMA and that they were concerned about South-South trade. He stated that the EU's view was that the round was still alive and the setback in Potsdam was a reality-check. In his view the G-4 had run its course in its current format.

The US Ambassador, Peter Algeier, also stated that the meeting had made "important" progress in agriculture, which was conditional on progress in other areas, including NAMA and services. He stated that the fastest growth in the past few years had been in the large emerging markets, and this was due to the markets that had been opened up as a result of the Uruguay Round. He stated that members needed "to abandon rhetoric in favour of real-world requirements". The US was prepared to work with the chairs process.

Assessment

The collapse of the G-4 meeting at Potsdam was not surprising given the events of the weeks and months before. This includes the pressure being put on the negotiators of the US and the EU by their constituencies to make only limited offers and extract maximum concessions from their trading partners, especially the large emerging countries.

Potsdam was the third ministerial meeting of the G-4 after New Delhi. The G-4 New Delhi meeting was the first such meeting since the collapse of the Doha negotiations in July 2006. There had been several discussions held among G-4 members since January this year. However, these took the form of bilateral meetings between G-4 members as the US was reluctant to re-engage in the G-4 until it was able to obtain greater clarity on the sensitivities (Susan Schwab called these "black boxes") of the other members. In the post-July 2006 period, Schwab wanted greater clarity on the sensitive products of the EU, the SPs of the G-33, and the paragraph 8 flexibilities in NAMA, as also to establish some benchmarks to assess the deliverables in services. This was referred to as a re-engineering process.

The G-4 Delhi Ministerial Meeting did not discuss the substance of the negotiations in any detail but focused on the process. Mandelson called this meeting a “course correction”. The G-4 Brussels Ministerial Meeting, however, did discuss the substantive issues in the round in great detail, including agriculture, NAMA and services. The G-4 made an upbeat statement after their meeting in Brussels and hailed the meeting as being constructive and positive with some real progress being made.⁸⁵ This optimism led Pascal Lamy to state at the OECD Ministerial Meeting in Paris that the negotiations were not deadlocked anymore.⁸⁶

However, in the period between the Brussels ministerial meeting and the Potsdam ministerial, the positions of the major players began to harden. Reports from the G-4 senior officials meetings held in Paris indicated that the US was not willing to make commitments to cut its OTDS below US\$17bn. It was also unwilling to agree to strengthened disciplines that would prevent box shifting and product shifting. The EU too was unwilling to clarify its stance on sensitive products and to agree to a cut greater than 60 percent in the top band. The EU and the US began to increase the pressure on India and Brazil to accept a cut of Swiss 15 (a 65-70 percent average tariff cut) in NAMA.⁸⁷

The election of Sarkozy in the French presidential elections did not reduce protectionist sentiments in France. French farmers called on Sarkozy to reject the emerging Doha trade deal soon after his election.⁸⁸ This prompted Sarkozy to warn the EU Commission on his first presidential visit to Brussels that France would not allow its farmers to be “sold at the lowest possible price”⁸⁹ and to threaten to veto the talks.⁹⁰ Christine Lagarde, the then newly-appointed French Minister of Agriculture, reinforced this position at a meeting she held with 13 other EU agriculture ministers in May 2007. In response to this pressure Peter Mandelson threatened to withdraw the current EU offers “if others cannot make commensurate offers to match Europe’s offers”.⁹¹

Although the Democrat-controlled US Congress had reached a bipartisan agreement on bilateral trade deals, this did not include the Doha Round.⁹² The US Congress was reluctant to even discuss the extension of TPA (which expired at the end of June) until there was a deal in the Doha Round. However, the US Congress demanded that others (developed and developing countries) should open their markets first before they exercised any flexibility.⁹³ US commodity groups, too, kept up the pressure on Schwab and President Bush not to make any significant concessions.⁹⁴ In a letter sent to Schwab and President Bush on May 31, 2007 they demanded greater market access concessions before the USTR made any offers to reduce subsidies.⁹⁵ Bush was thus not as upbeat as he was in 2006, before the G-8 summit, when he had said that although it would be “really hard” to conclude the deal he was committed to trying.⁹⁶

The G-8 meeting held in Heiligendamm, Germany, in June 2007 discussed the WTO talks at a dinner on June 07 and the leaders all committed themselves to making a serious effort to conclude the round by the end of the year.⁹⁷ However, the leaders of the US and the EU did not provide any convincing leadership to their negotiators to exercise the flexibility that was required to conclude the deal successfully.

India and Brazil too began to take a tougher position in the negotiations in the period after the Brussels meetings. India has always argued that the development content of the deal was more important than its expeditious conclusion.⁹⁸ Kamal Nath argued that for India a breakthrough in the talks would need to include “significant movement from important markets in the areas of our export interest”. He was referring to the need for the US to increase the number of H-1B visas to allow Indian IT companies to increase their access in the US market.⁹⁹ Brazil increased its tariffs earlier in 2007 on textiles, clothing and leather from 20 percent up to its bound rate of 35 percent. As part of the NAMA 11 group of developing countries, Brazil and India presented a submission to the WTO that called for a coefficient of Swiss 35 for developing countries – a 25 point difference with the developed country coefficient of 10.¹⁰⁰ The G-20, the NAMA 11 and the G-33 held Ministerial Meetings on June 11, 2007, in Geneva in preparation for the Potsdam G4 ministerial. Brazil is a member of the G-20 and NAMA 11, and India is a member of all three groups. Ministers at these meetings emphasised the need for the outcome of the Doha Round to be fair, balanced and based on its development mandate.¹⁰¹

The closing of ranks by the EU and US in Potsdam, both to accommodate each other’s concerns and to jointly apply pressure on Brazil and India, surprised Celso Amorim. He said that this reminded him of the EU-US Joint Text in the pre-Cancun period. He thus referred to the current situation as Cancun II.¹⁰²

At the TNC meeting called to report on the Potsdam collapse, Pascal Lamy stated that the multilateral process will continue, with the chairs drafting their texts. However, the manner in which the Potsdam meeting collapsed had exposed the EU and US attempts to reduce the ambition in the areas they needed to deliver on and to increase the pressure on developing countries, especially the larger emerging countries. Much trust has been lost and will need to be rebuilt. However, the capacity of the US and EU to deliver on their promises to make effective cuts in trade-distorting domestic support and provide substantial increases in market access is clearly limited. This is reflected in their collusion to lower the ambition of the round once again, just as they had attempted in the period before Cancun through the EU-US Joint Text. The demands they continue to make on developing countries for market access in agriculture, NAMA and services, remain totally disproportionate to their own contributions.

7.8 Conclusion and the Way Forward

The Ministerial Meetings of the G-4 held in Delhi in April 2007 and Brussels in May 2007 did provide some hope that there will be a shift towards real engagement and new momentum in the Doha negotiations. However, the collapse of the G-4 Ministerial Meeting in Potsdam on June 21, 2007, which was regarded as a decisive moment in the Doha negotiations, has effectively put the Doha Round back in crisis mode. Pascal Lamy played down the seriousness of this crisis by stating that convergence amongst the G-4 was not necessary for the multilateral process.¹⁰³ At the TNC¹⁰⁴ meeting immediately after the Potsdam collapse Lamy called on the chairs of the negotiating groups to continue with the drafting process. He stressed the importance of the multilateral process. However, he refused to set any deadlines for the conclusion of the negotiations on modalities.

The EU, US, India and Brazil agreed in the TNC meeting to cooperate with the chairs of the negotiating groups and the TNC in order to build the convergence that they had failed to arrive at after three G-4 Ministerial Meetings and at least twice the number of intensive negotiations amongst their senior officials since April 2007. For the multilateral system to succeed the positions of the G-4 and, indeed, many other groups in the WTO must converge. India has stressed that a substantive outcome that is consistent with the development objectives of the round is more important than an early conclusion that fails to achieve this objective. This aspiration also reflects the concerns of the majority of developing countries in the WTO.

In response to their belief that the G-4 process had marginalised them in the WTO negotiations, the majority of developing countries in the ACP, the Africa Group and the LDC Group issued a joint declaration, (as the G-90 group), together with Bolivia and Venezuela, on June 21, 2007. This group urged that the development dimension of the round should not be ignored and pointed out that the issues of specific interest to them, including S&DT, implementation issues, commodities, preference erosion, cotton, tariff escalation, net food importing countries and Green Box subsidies, “which have been given less attention”.¹⁰⁵

There is likely to be a very intense process of textual discussions across all areas in the DDA this year including on agriculture, NAMA, services, rules, TRIPs, trade facilitation, environment and S&DT. The chairs of the negotiating groups will begin the drafting process. The EU/US will no doubt attempt to secure the deal that they urged India and Brazil to accept in Potsdam – but now in the multilateral system. Developing countries will need to unite against such pressure and an imbalanced outcome, warding off attempts to divide them, and insist on the development mandate of the round to be adhered to.

Pascal Lamy, now in charge of the negotiating process, will have to determine the right moment to invite ministers to Geneva, either to make the breakthrough on the basis of a ‘Pascal compromise text’, and thus give a new momentum to the Doha Round, or make the difficult decision to suspend the round once again. In the event of the latter, the negotiations will only advance when there is renewed political will amongst the developed countries to complete the Doha Round on the basis of its development mandate.

The Doha Round cannot be abandoned. The aspirations of the developing world for the multilateral system to be re-balanced and to address the development deficit have to be addressed. The round is an expression of global solidarity as it was launched in the wake of the US 9/11 tragedy. It brought the world together in a common cause, just as the founding of the GATT, at the birth of the UN, and the Bretton Woods system did – to build a more secure world. The US and EU, the leading economic powers in the world must provide leadership – as they did in Doha, to conclude the round. They must do so on the basis of the promise they made in Doha: to ensure that the Doha Round will focus on re-balancing the multilateral system towards the interests of developing countries and thus fulfill the mandate of the DDA.

In the concluding chapter below we will evaluate the role that developing countries have played thus far in the Doha Round. Whilst the scenario of a possible collapse or

suspension of the Round, until after the US Presidential elections in 2008, has become increasingly plausible, it will be argued that the WTO could still advance on at least two of the four elements of the development dimension of the multilateral trading system discussed in chapter two, that is, capacity building and global governance. Some proposals will thus be made in this regard.

Notes

- 1 This is a very stylised description and does not reflect the many nuances to these positions.
- 2 This group has formed itself into the NAMA 11 group that is a coalition of 10 developing countries which includes several G-20 countries plus Tunisia and Namibia.
- 3 India and Brazil have emphasised the implementation issues, for example on TRIMs, that call for more flexibility and policy space for developing countries to enable their industrial development.
- 4 Pascal Lamy was then the Trade Commissioner of the European Commission. In this capacity he sent a letter to WTO members in June 2004 calling for all "small, weak and vulnerable economies" to be granted the "Round for free".
- 5 "Livingstone Declaration", Fourth LDC Trade Ministers' Meeting (Livingstone, Zambia, June 25-26, 2005).
- 6 WTO Doc. WT/L/579 (dated August 02, 2004).
- 7 The CTDSS is one of the negotiating groups in the WTO. These negotiations are part of the DDA.
- 8 The G-20 is an alliance of developing countries based on agricultural trade. It was formed in the period before the WTO Cancun Ministerial Conference held in September 2003. The members of the G-20 include; Argentina, Brazil, Bolivia, Chile, China, Cuba, Egypt, Guatemala, India, Indonesia, Ecuador, Mexico, Nigeria, Pakistan, Paraguay, Peru, The Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela, Zimbabwe. [move to glossary]
- 9 See 'US Proposal on Agriculture', October 10, 2005, in USTR, 'Facts on Global Reform', www.ustr.gov
- 10 See European Commission, 'Making Hong Kong a Success: Europe's contribution', Brussels, October 28, 2005.
- 11 The G-33 is an alliance of 47 developing countries in the WTO focussed on defending their interests in subsistence agriculture, food security and rural livelihoods. They are: Antigua and Barbuda, Barbados, Bolivia, Belize, Benin, Botswana, China, Cote d'Ivoire, Congo, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Madagascar, Mauritius, Mongolia, Montserrat, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, The Philippines, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia, and Zimbabwe. [put in glossary]
- 12 The Cotton 4 Group of countries that have led the campaign against the high US trade-distorting subsidies in cotton are: Benin, Burkina Faso, Chad, and Mali. [Put in glossary]
- 13 See WTO Statement by South Africa to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, the Philippines and Venezuela. November 28, 2005.
- 14 See WTO document. TN/MA/W/68 'Market Access For Non-Agricultural Products. Striving to Achieve Fair, Balanced And Development Friendly Modalities in NAMA,' Submission by the NAMA 11 Group of Developing Countries. March 30, 2006.

- 15 WTO document. Joint Statement by the G-20, the G-33, the ACP Group, the LDCs, the African Group, the Small, Vulnerable Economies (SVEs), the NAMA 11, the Cotton 4 and CARICOM, 1 July, 2006.
- 16 The G-8 outreach Group of Developing country leaders included Brazil, India, China, South Africa, Mexico and the Republic of Congo.
- 17 During the first quarter of 2006, the main players in the WTO Doha negotiations – the EU, the US, Brazil and India (the G-4), who had earlier extended this forum to include Australia (the Five Interested Parties FIPs) – now added Japan to the Group to become the G6 (US, EU, Japan, Australia, Brazil and India).
- 18 ‘Ministers promise to accelerate pace of Doha talks’, *Financial Times*, January 30, 2006.
- 19 Ibid
- 20 At a meeting held in Paris on February 25-26, 2006.
- 21 These simulations were to compute and assess the impact of different formulas on the tariffs of a select group of countries.
- 22 Twelve countries were thus included in the first set of simulations – S12.
- 23 USTR ‘Implications of EU Agriculture market Access Position,’ USTR website, www.ustr.gov
- 24 Canadian Department of Foreign Affairs and International Trade, ‘EC Proposal of October 28, 2005. Sensitive products: Preliminary Analyses of an Obscure Proposal.’ DFAIT website, www.ustr.gov
- 25 Cairns Group, ‘Comments on EC Proposal,’ Australian Mission, Geneva.
- 26 The EU spent 3.4 times more money on its subsidies than the US.
- 27 The WTO July 2004 Framework Agreement agreed to provide developing countries with a small percentage of flexibility to protect some tariff lines from increased cuts or to reduce these lines by a small percentage than the average cut specified in the agreed formula.
- 28 The NAMA 11 Group of developing countries that was formed in the period shortly before the Hong Kong Ministerial Conference in December 2006 comprises Argentina, Brazil, Egypt, India, Indonesia, South Africa, Philippines, Namibia, Tunisia and Venezuela.
- 29 Applied rates refer to the actual or current levels of tariffs. However, the practice in the WTO is to reduce the tariffs from the bound rates. Bound rates refer to those rates that a country has committed to applying in the WTO during the last negotiating round or subsequently as part of its legally binding obligations.
- 30 International Herald Tribune, ‘Trade talks to miss key April 30 deadline,’ April 25, 2006.
- 31 See ‘Another Missed Deadline for the WTO, but will it matter?’ Agriculture Online, 20 April, 2006
- 32 See ‘EU Blames US for Doha Deadlock’, *Financial Times*, April 21, 2006
- 33 See ‘Mandelson accuses US of making empty promises on trade’, International Herald Tribune, April 21, 2006.
- 34 See ‘Trade: Commission no longer expecting Doha deal by the end of April’, *Europolitics*, April 20, 2006.
- 35 See ‘The rising tide of US protectionism,’ *Financial Times*, March 13, 2006.
- 36 This refers to the EU-China negotiations against the increased flow of Chinese exports of clothing, including women’s underwear.
- 37 See ‘EU can’t rely on trade barriers, Mandelson says’, *International Herald Tribune*, March 15, 2006.
- 38 Democrats who were critical of the Bush administration’s relatively liberal policies on trade became more assertive in the US Congress in the period before the Congressional elections in November 2006.
- 39 The US Congress voted against allowing a Dubai Company to invest in US ports on the grounds that this would compromise US security.
- 40 See ‘DP World gives up control of US ports,’ *Financial Times*, March 10, 2006.
- 41 See WTO document. JOB (06)/163 May 30, 2006.
- 42 See WTO Job (06)/199 ‘Draft Possible Modalities on Agriculture’ June 22, 2006 and WTO Job (06)/199/Corr.1 ‘Draft Possible Modalities on Agriculture’ June 29, 2006.

- 43 See WTO, Job (06)/200/Rev.1 'Towards NAMA Modalities', Revision. June 26, 2006.
- 44 The chair of the agriculture negotiations produced a status report on the negotiations on various topics, which he called 'reference papers'.
- 45 See WTO, Job (06)/200/Rev.1 'Towards NAMA Modalities', Revision. June 26, 2006.
- 46 See WTO Document. Statement by the NAMA 11 Group of Developing Countries to the Negotiating Group on Market Access in the Chair's paper 'Towards NAMA Modalities', June 23, 2006.
- 47 See 'Doha trade talks are near collapse as positions harden', *The Wall Street Journal*, and July 03, 2006.
- 48 Peter Mandelson reportedly asked Susan Schwab in the G-6 Ministerial Meeting whether, if the EU moved to above the G-20 proposal of a 60 percent average cut in market access, the US too would be prepared to move towards the G-20 position on its domestic support offer. Susan Schwab indicated that the US was unable to move. She was reported in the press as saying that she would not respond to a hypothetical question.
- 49 A Simple Swiss Formula, has the effect of bringing down the higher tariffs much more quickly i.e., it has a harmonising effect. A Simple Swiss Formula with a coefficient of 15 would imply a 65 to 70 average tariff cut for India and Brazil.
- 50 See 'Hopes for Modalities Deal Diminish As G-6 Meeting Ends Without Progress,' WTO Reporter, June 30, 2006.
- 51 See WTO document, NAMA 11 Ministerial Communiqué. Geneva, June 29, 2006.
- 52 A 25 point difference in the coefficients would mean that if the EU and US adopted a Swiss 10 then India and Brazil would apply a Swiss 35.
- 53 The WTO Hong Kong Declaration agreed that developing countries shall reduce their tariffs by a smaller margin than developed countries (Less Than Full Reciprocity) and that the depth of the tariff cuts in NAMA shall be comparable to that in agriculture (paragraph 24).
- 54 See 'EU hints at farm-tariff flexibility,' *The Wall Street Journal*, May 24, 2006. See also *International Herald Tribune*, May 31, 2006.
- 55 'Sensitive products' refers to the decision agreed in the WTO July 2004 Framework that developed countries will be allowed to reduce the tariffs that they deem sensitive and that wish to protect by smaller percentages of tariff cut than the average tariff cuts agreed in the formula. Deviation from the formula refers to the need expressed by the EU to have reduced tariff cuts for these sensitive products from the formula cut that is agreed.
- 56 See 'France, Finland say no more European trade concessions,' EFE, June 26, 2006.
- 57 This refers to the proposals made by the G-20 with regard to each of the issues on the three pillars of the agriculture negotiations.
- 58 See 'US farm groups urge Bush hold firm in WTO talks,' Reuters, June 01, 2006.
- 59 See 'US, EU Trade Chiefs Square Off Ahead Of Key WTO Meeting, Saying Other Must Move,' WTO Reporter, June 26, 2006.
- 60 See Statement made by Susan Schwab to the OECD Ministerial Meeting in May 2006.
- 61 The US argued that the US was looking for cuts in the agricultural and industrial tariffs of developed and developing countries that would increase its current level of exports in those markets and reduce the actual level of their current tariff rates, notwithstanding the unilateral tariff reductions and reforms that these countries had made beyond their commitments in the Uruguay Round.
- 62 Developing countries in the NAMA 11 objected to the attempt by the developed countries to increase the pressure on them to open their markets even further than their current applied rates, without recognising the significant unilateral tariff reductions and reforms many of these countries had made – sometimes beyond the requirements of the Doha Mandate.
- 63 This was reported to the G-20 meeting held subsequently in Geneva by Celso Amorim, the Foreign Minister of Brazil.
- 64 See 'Trade: Commission no longer expecting Doha deal by the end of April,' *Europolitics*, April 20, 2006.

- 65 The Cairns Group, the US and Canada have criticised the EC proposals for making very limited new market access available. The EC has been seeking cuts in it so-called sensitive products of as little as one third of the formula cuts (deviation from the formula). In the cases where the tariffs remain high, the EC is required to provide increased quotas. However these groups have criticised the EC proposal on TRQs for minimising new market access. See USTR, 'Implications of EU Agriculture Market Access Position', www.ustr.gov
- 66 EFE, *France, Finland say no more European trade concessions*, June 26, 2006.
- 67 Ismail, F. 'On the Road to Cancun. A Development Perspective on EU Trade Policies and Implications for Central and East European Countries', (2003) 4 (4) *Journal of World Investment*, pp563-584.
- 68 Ismail, F. 'On the Road to Cancun. A Development Perspective on EU Trade Policies and Implications for Central and East European Countries', (2003) 4 (4) *Journal of World Investment*, 563-584.
- 69 Ibid, pp 563-568.
- 70 See WTO document, Job (06)243 'G-20 High Level Meeting with Co-ordinators of Developing Country Groups', September 09, 2006. Press Statement, Rio de Janeiro, October 10, 2006.
- 71 Outside the Geneva process a small group of countries also were preparing for the resumption of the negotiations. A group of 5 countries – Canada, Kenya, Indonesia, New Zealand and Norway met in Oslo in October and subsequently in Geneva to brainstorm ways of moving the round forward. However, they were not able to produce any apparent results. There was speculation that the Oslo group would provide Lamy with a basis for his text if and when negotiations ran out of time and members decided that this was the only option left.
- 72 WTO doc Job (06)/255 Chairman's Remarks, Informal TNC Meeting at the Level of Head of Delegation, November 16, 2006.
- 73 WTO doc General Council Meeting: December 14-15, 2006. Daily Bulletin, December 18, 2006.
- 74 See *Washington Trade Daily*, November 09, 2006.
- 75 Evenett, S. J. and Meier M. (2006). 'The U.S. Congressional Elections in 2006: What Implications for U.S. Trade Policy?' Swiss Institute for Economics and Applied Economic Research, University of St Gallen Switzerland.
- 76 Aitic, 'The US Congress and the Doha Negotiations: Marriage, Separation or Divorce?' Information Brief No. 9. November 07, 2006.
- 77 Schwab, S. 'Still Ready to Talk', *Wall Street Journal*, November 09, 2006.
- 78 *Financial Times*, January 09, 2007.
- 79 The chair of the agriculture negotiations, Crawford Falconer decided to facilitate a discussion and negotiations amongst members by writing a paper that identified all the key issues on which members were divided and presenting members with some options to consider. This paper he termed "hardtalk".
- 80 *Washington Trade Daily*, January 22, 2007
- 81 Brazil explored the idea of joint caps on the Amber and Blue boxes as the US was resisting product specific caps on the Blue Box.
- 82 Article 13 of the Uruguay Round, termed the Peace Clause was a temporary measure that expired at the end of 2003. It was intended to restrain members from taking action against others with respect to their commitments on market access, domestic support and export subsidies. See Ingco, M. and Nash, J. (2004). 'Agriculture and the WTO. Creating a Trading System for Development', World Bank, Washington, 2004
- 83 This includes the issues of export subsidies, food aid, export credits and state trading enterprises.
- 84 The EU and US changed their demands from the original Swiss 15 (approximately 70 percent average tariff cut) that they demanded from developing countries to Swiss 18 (approximately 65 percent average tariff cut).
- 85 Mercopress, 'G-4 expects Doha round success by the end of the year', May 18, 2007.
- 86 *WTO Reporter*, May 16, 2007

- 87 *WTO Reporter*, 'EU Sounds Warning Over Reticence of Developing Countries in NAMA talks', May 25, 2007.
- 88 Reuters, 'French Farmers ask Sarkozy to be firm in WTO Talks', May 17.
- 89 *Financial Times*, 'Sarkozy to get tough in world trade talks', May 24, 2007.
- 90 Jarry, E., 'France's Sarkozy threatens veto in trade talks', Reuters, May 29, 2007.
- 91 Agence-France Press, 'EUs Mandelson seeks WTO deal, but not on any terms', May 29, 2007.
- 92 Weisman, R., 'Bush and Democrats in Accord on Trade Deals', *New York Times*, May 11, 2007
- 93 Palmer, D., 'WTO deal needed before fast track – US Democrats', Reuters, May 10, 2007.
- 94 Ryan, M., 'Agriculture grows anxious as US makes Doha drive', Reuters, June 15, 2007.
- 95 *Inside US Trade*, June 08, 2007.
- 96 'Bush says Doha trade deal will be really hard', Reuters, June 07, 2007.
- 97 'G-8 Leaders Urge Completion of the Doha Round Of Trade Negotiations by the end of this year', *WTO Reporter*, June 11, 2007.
- 98 Kamal Nath, Statement to the OECD Ministerial Meeting, May 16, 2007.
- 99 BusinessWeek Online, 21 May 2007.
- 100 WTO Doc, NAMA 11 Ministerial Communique, June 29, 2006, Geneva, TN/MA/W/79 (July 06, 2006)
- 101 WTO docs, NAMA 11 Ministerial Communique TN/MA/W/ 87 June 19, 2007, G-33 Press Statement, June 11, 2007.
- 102 *Washington Trade Daily*, June 22, 2007.
- 103 See WTO document Job (07)/105. June 22, 2007.
- 104 See WTO document Job (07)/105. June 22, 2007.
- 105 See WTO document, 'Declaration on Development Concerns and Issues in the Current WTO Negotiations', Issued by the ACP Group, the Africa Group, the LDC Group, Bolivia and Venezuela, June 21, 2007, Geneva.

Advancing Development in the WTO

8.1 Introduction

At the launch of the WTO's Doha Development Round in 2001, developing countries succeeded in negotiating a mandate that held out the promise of delivering a development-oriented outcome. They did this through a high level of participation in the negotiations. Since then, developing countries have formed powerful coalitions in G-20, G-33, NAMA11, the LDCs Group, Small Economies Group, Africa Group and ACP Group. They have stuck together notwithstanding their divergent interests, as we observed at the WTO Ministerial Meeting in Hong Kong in December 2005, the G-110 Ministerial Meeting in Geneva in June 2006 and the G-20 Ministerial Meeting in Rio de Janeiro in September 2006.

The current impasse in the WTO is a reflection of the strength of developing countries, not their indifference. Today, developing countries are a force to reckon with. They can negotiate, they are technically competent, and they are organised. Whilst there have been – and are – many threats of an unfair deal being imposed on developing countries, these should not cause them to renounce their legitimate claims to a fair and balanced outcome of the Doha Round. They have insisted on the fulfillment of the promise that the Doha Round will be a development round.

Developing countries are taking responsibility and providing leadership in the Doha Round. The G-20 – itself a complex set of countries, including, for instance, Brazil, Egypt, India, Paraguay and Tanzania¹ – has negotiated and put forward a set of proposals on almost every issue in the agriculture negotiations. The G-20 has thus become the centre of gravity in the Doha negotiations. Both the EU and the US now acknowledge (the latter rather more reluctantly) that they have to move towards the G-20 to achieve a final deal in the DDA.

The larger developing countries have taken on board their responsibility towards the smaller members, especially the LDCs. In Hong Kong, these “developing countries in a position to do so”² pledged to provide DFQF Market Access to all LDCs. This was a historic breakthrough. What was less visible was the growing understanding among developing countries on the plight of ‘small, weak and vulnerable countries’. These countries, which remain an undefined category, have been urging WTO members to recognise their special situation and have demanded that WTO rules and market access ambitions be mindful of their different development needs and capabilities. The G-20 has recognised the concerns of these developing countries, and the NAMA 11 has agreed that they should be treated differently and provided with greater flexibilities.

South-South trade is an important part of global trade today and an important aspiration of developing countries, especially in the area of agriculture, where developing country markets now constitute more than 50 percent of world trade. Thus the twin issues of SPs and SSM are of greater interest and concern to the members of the G-33 and half the membership of the G-20 than to the US. They will most certainly be resolved within the G-20 and in much the same way as the G-20 agreed on a formula for market access for developed and developing countries within the G-20 – i.e. with a great deal of internal negotiation by moderating the mercantilist market access interests of the more competitive countries and in solidarity with the poor and vulnerable agricultural producers.

There are still some difficult issues among developing countries that will need more work as the negotiation advances. However, even on the most intractable issue of preference erosion that has divided developing countries in the WTO, they have made much progress. The NAMA11 has agreed to address this by moderating its own market access interests in developed country markets and providing developed countries longer phase-down periods for a limited number of tariff lines.

LDCs, too, will be contributing to the Doha Round by increasing their tariff bindings significantly. They will also have to adjust to a further erosion of their existing preferences in an ambitious Doha outcome. A large number have already made significant unilateral tariff cuts (thanks to the IMF!) and others have bound 100 percent of their tariffs. So developing countries are not calling for a Round for Free!

8.2 Developing Countries Re-claim the Development Content of the Doha Round

Developing countries have argued³ that the EU has made insignificant offers to open up its markets in the agriculture negotiations, and that the US offer on domestic support will not result in an effective cut in their trade-distorting domestic support, whilst the demands being made on developing countries to open up their markets in agriculture and NAMA will require enormous adjustments in their industrial sectors and could threaten the livelihoods of subsistence farmers. Developing countries have pointed to the contradiction in the EU and US positions as they have both, together with other developed countries, proposed a co-efficient for developed countries in the NAMA negotiations that will require them to make no real adjustment in their industrial sectors. Developing countries have stated that they are prepared to contribute to market opening in the round in proportion to their capabilities and in line with the mandate.⁴ However, they have argued that the main objective of the round remains that of reducing market access barriers in developed countries in order to create export opportunities for the products of developing countries. Developing countries⁵ whilst holding different views and interests on specific issues maintained their unity in Hong Kong and at the June 2006 TNC and insisted that the DDA address the development needs and concerns of developing countries and called for the development content of the round to be thus reclaimed.

Advancing Development in the WTO

At the time of writing this book, the Doha Round was still in a crisis. The Ministerial Meeting of the G-4 (the EU, US, Brazil and India) held in Potsdam, Germany, had collapsed – deepening the existing crisis that the round was experiencing.

The conception of development in the WTO that this book has developed in chapter two identifies four elements of the development dimension in the WTO: fair trade; balanced rules; capacity building; and good governance. The first two elements cannot be adequately addressed outside of a successful Doha Round. Thus a failure to conclude the round will postpone the promise of development, especially in these two critical elements of the development dimension of the WTO. However, the latter two elements can be meaningfully advanced notwithstanding the outcome of the Doha Round, and are discussed further below.

Some suggestions for the strengthening of capacity building, in the context of aid for trade, are made in the section below. The subsequent section will discuss the element of good governance and make some proposals for its strengthening.

8.3 The WTO and Aid for Trade: A Global Partnership for Development

Chapter Six argued that capacity building was an essential element of the multilateral trading system and the Doha Round. Some writers have argued that the concept of sovereign equality of nations can result in unequal outcomes, where some members have different capacities to benefit from a given regime. Thus the concept of capacity or aid for developing countries has been an important element of the evolution of differential treatment in international law. This differential treatment seeks to adapt the legal system to social and economic realities – it is not charity.⁶ The concept differential treatment has been complemented by the concept of partnership and solidarity. Some writers have argued that the principle of partnership or solidarity has become an unenforceable, yet compulsory basic moral standard of peaceful relations among states. Thus the evolution of aid for trade and partnership between developed and developing countries in the WTO should be viewed as a further evolution of the concepts of differentiation and solidarity.

In chapter six, we argued that increased trade and aid are both essential to enhance the development of many developing countries. Several global summits since the Millennium Summit have reinforced the commitment of world leaders to increase overall ODA levels to meet the MDG. The DDA and the call for increased aid for trade that has gained momentum in 2005-06 must be seen in this context. S&DT, of which TRTA/CB is an essential component, has often been relegated to the margins of the development debate in the WTO by developed countries. Equally wrongly, it is sometimes regarded by developing countries as the main issue for development. The chapter has argued that TRTA/CB is not only an essential element of the concept of S&DT but is also a core element of the development dimension of the multilateral trading system.

The chapter proceeded to provide a brief overview of the history of the GATT/WTO with a specific focus on the provisions that provide for the interests of developing countries to be addressed. This section concludes that while many provisions have been added to the GATT/WTO that seek to address the needs of developing countries, including on trade-related capacity building, since the formation of the GATT these provisions have generally been “best endeavour” provisions and therefore have remained ineffective. It is for this reason that the Doha Mandate sought to specifically address the

need to make S&DT provisions more effective, mandatory and operational. In addition the ongoing Doha negotiations have specifically called for increased aid and greater coherence of WTO rules with donor agencies, including in the negotiations on trade facilitation, cotton, S&DT and LDCs.

Chapter six also provided an overview of developments in 2005 and 2006 that have contributed to the momentum for increased aid for trade. The Commission for Africa, initiated by the UK prior to the Gleneagles G-8 Summit in 2005, and the decisions of the Gleneagles Summit provided the momentum for commitments by developed countries to increase overall levels of ODA and aid for trade. The WTO aid for trade task force which was established in February 2006, as a consequence of the Hong Kong Ministerial Conference, reported to the WTO General Council in July 2006. The report has taken a broad approach to the scope of aid for trade, incorporating support for supply-side issues and infrastructure. The report also takes on board the proposals of developing countries for aid for trade to be additional, predictable and effective.

It has sometimes been misconstrued that developing countries that have called for the WTO to be re-balanced from its current perceived bias against developing countries are attempting to turn the WTO into a development institution, which would take it away from its essential function of laying down and enforcing an effective rules-based trading system. However, in the various debates in the WTO, developing countries have not made any proposals to make the WTO a delivery mechanism for aid, but have attempted to utilise the WTO as a point of leverage to increase aid for trade; to build coherence between the WTO and the aid agencies; and to build transparency and mutual accountability.

The call by developing countries for increased coherence between the WTO and other aid agencies (as the second LDC proposal referred to above states) is in line with developments elsewhere in the multilateral system. Goal 8 of the MDG, agreed by the UN Millennium Summit in 2000, called for a global partnership between developed and developing countries to address the reduction of poverty, increased development, and the integration of developing countries in the world economy. At the same time, African leaders were building their own vision to address the challenges of poverty eradication, peace and security and their effective integration into the world economy. The NEPAD, agreed by heads of state in October 2001, called for a new partnership between Africa and the international community, and committed itself to building democracy and good economic governance as preconditions for development and poverty eradication.⁷ The Paris Declaration on aid effectiveness, agreed in March 2005 by ministers from developed and developing countries and heads of multilateral and bilateral development institutions, made a commitment to ownership, harmonisation, alignment, results and mutual accountability – another important milestone in strengthening the concept of partnership between donor countries and developing country partners.

Faced with the development situation of the poorest countries in the world, it would be interesting to see how the membership of the WTO applies the above-stated concepts to the multilateral trading system in general and to the Trade Policy Review Mechanism in particular. The approach should be to define and delineate the responsibilities of both

developing countries and their developed country partners on how to address these development challenges. In the recent trade policy review of the East African Community (Kenya, Uganda, and Tanzania) I proposed the responsibilities for developing and developed countries discussed below.

Developing Countries

Developing countries can be said to have responsibilities in at least three levels. First, they must provide leadership in developing their own national economic development vision and implementation plans as well as transparent systems of economic governance and accountability. Second, developing countries must make every effort within their means to implement their obligations to the multilateral trading system, thereby contributing to an effective rules-based system. Third, developing countries must make every effort within their means to participate in the multilateral trading system.

Developed Countries

Their responsibilities can be described in a four-fold manner to:⁸

- provide a fair opportunity for developing country exports to gain access into developed country markets (and not stifle the development of developing countries through the use of trade-distorting policies);
- build sufficient capacity in developing countries that are in need to enable their effective participation in the global trading system (the aid for trade initiative is a step in the right direction);
- ensure that the rules of the trading system are balanced and do not impose more burdens than benefits upon developing countries; and
- facilitate the effective participation of developing countries in the WTO by ensuring that the WTO is inclusive and transparent.

In a review of this nature it is not only the policies of the countries in question that should come under the spotlight but also the policies and actions of the partner countries in achieving the objectives of poverty reduction, development and more effective global integration. A related question that could be asked is: what is the responsibility of the more advanced developing country neighbours and trading partners of these developing countries? Here the concept of sovereignty has to be complemented by the principle of differential treatment to provide for the capacity building of developing countries to also benefit from the rules-based trading system. Thus the concept of partnership or solidarity in international law has been developed further with the concept of aid for trade and its attendant concept of partnership in the Doha Round.

Good Governance

Despite the progress that was made, partly as a result of the formation of negotiating groupings of developing countries, it is clear that the legitimacy of the WTO and the sustainability of its decisions require it to develop a more inclusive and democratic decision-making system. This would contribute to better global governance. The former director-general of the WTO, Dr Supachai Panitchpakdi, responding to civil society criticism as well as the failure of several ministerial meetings, requested his consultative board, chaired by Peter Sutherland, to make proposals for more effective and democratic decision-making in the WTO.

The report of this body, released in late 2004, begins by making the case for liberalisation and strengthening the MFN (or non-discrimination) principle of the WTO. It goes on to consider a number of issues that are currently being debated amongst WTO observers, including the issue of sovereignty, the WTO's relationship with civil society, and the strengthening of the dispute settlement system. More relevant to the question of good governance of the WTO, the board reviews the issues of: i) decision-making in the WTO; ii) variable geometry and plurilaterals; iii) the role of ministers and ministerial conferences; iv) the relationship between senior capital-based officials and Geneva-based diplomats; v) the role of the secretariat and the director-general of the WTO; and vi) strengthening the co-ordination and coherence between the WTO and other relevant multilateral agencies and bodies. Each of these recommendations is considered briefly below.

Decision making: The board supports the consensus approach generally followed by the WTO, and suggests ways in which this could be improved. It argued that more procedural decisions should be separated from substantive ones. In the case of procedural decision-making, the WTO should resort to other forms such as voting (provided for in Article IX of the WTO Treaty). The board also supports the efforts to reduce the resort to blocking measures (such as a veto by a single country to prevent consensus) by some countries. It recommends fixing a responsibility upon the country seeking to block a decision to 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 help the critics who have felt frustrated by the efforts of large members to block consensus, particularly where the underlying reasons are extraneous to trade issues.

Variable geometry: The board addressed the call by some members to develop a differentiated (plurilateral) approach to those issues on which only a subset of members is able and willing to deepen liberalisation and rule-making. The board took a cautious approach to this possibility, suggesting further deliberation. It was judicious in taking this approach, as WTO members are currently divided on this issue and many are suspicious that this would create a two-speed and two-track system, compromising the principle of inclusiveness.

Ministerial involvement: The board recommended the move towards an annual meeting of trade ministers and regular and incremental decision-making by ministers rather than large and complex trade rounds. It also called for a summit of WTO members to be held every five years, but this is probably still premature. Before that can happen, the trade agenda will need to be more manageable and less politically divisive.

Increasing participation of senior capital-based policy makers: The board recommended the creation of a consultative body made up of about 30 countries, with the majority of seats being filled on a rotating basis. This recommendation is likely to be controversial amongst WTO members as it will raise even more sharply the criticism that the WTO lacks transparency and inclusiveness in its decision making.

Role of the director-general and the secretariat: The board proposed the strengthening of the role of the Director-General, without eroding the character of the WTO as a

member-driven organisation. It recommends that the Director-General continue to chair the TNC and that this role be extended to the General Council. The board also proposes that the director-general and the secretariat act as the guardians of the trading system. The secretariat is called upon to play a more active role in formulating trade policy and engaging with other institutions on behalf of members.

These recommendations should be supported and taken forward by WTO members. However, the WTO must converge internally on a minimum set of trade policy guidelines and a broad vision in order to build an *acqui* that the Director-General and secretariat can advance on behalf of the membership.

Greater coherence between the WTO and other multilateral agencies: The board made two bold proposals. First, it recommended that a stronger WTO secretariat and more active Director-General should engage with other multilateral institutions and take the lead on trade policy issues. Second, the board recognised that the challenges of trade liberalisation cannot be met by the trade field itself. It therefore proposed greater horizontal co-ordination with the UN agencies and the Bretton Woods Institutions. The board calls for these multilateral bodies, especially the World Bank, to put in place programmes to fund adjustment assistance for developing countries. Both these recommendations of the board are bold and timely, and must be welcomed as a positive contribution to strengthening global governance and mainstreaming development in the multilateral trading system.

8.4 Conclusion

The Doha Round cannot be left to die. It has to be resuscitated as it holds out the only hope of a viable and legitimate multilateral trading system. Resolution of the fundamental issues of agricultural reform in the major developed countries, and disciplines in the WTO that lock these reforms and make developed countries accountable for any violation of these rules, can only be obtained through a successful Doha Round. More balanced and fair global trade rules in anti-dumping, countervailing actions and intellectual property rights (IPRs) can also only be negotiated in the WTO. The alternative to a successful Doha Round is an intensification of bilateral and regional trade agreements (RTAs) by the developed countries with their major trading partners. This will create greater trade and investment diversion towards the dominant players and a complex trading regime.

There is no doubt that if the Doha Round is unsuccessful there will be a spurt in disputes filed on a range of issues, especially on agricultural commodities such as rice, fruit and vegetable, butter, and corn, after the successful actions already taken against the US and the EU in cotton and sugar respectively. The acrimony between the EU and US could unleash the forces of protectionism in the major developed countries and some developing countries. In turn such trends could have a dampening effect on global growth and development.

The failure to conclude the Doha Round by the end of 2007 or early 2008 will mean the almost certain extension of the round beyond the 2008 US presidential elections. The prospect for the development outcomes of the round to be realised will be postponed

once again. For the major developing countries that could take advantage of new market openings and undistorted world markets – in agriculture, non-agricultural products and services – this opportunity to further their development and growth will be missed. For the LDCs and other small, weak and vulnerable developing countries too this opportunity to build on their comparative advantage and export their way out of poverty will be further delayed. The demand of the LDCs for DFQF market access would be unlikely to be fully met outside the context of a successful round. In West Africa, the lives of over 10 million small cotton farmers will, therefore, continue to be made more vulnerable by the trade-distorting subsidies of developed countries.

Developing countries have every reason to continue their campaign for the successful conclusion of the Doha Round on the basis of the mandate agreed in Doha, and for the fulfilment of the promises made by world leaders at several global summits to ensure that the Doha Round does not only fulfil the mercantilist aspirations of developed countries but also places, for the first time, the interests and concerns of the developing world – the majority of members of the WTO – at the centre of the negotiations. Thus, developing countries must continue to insist that the Doha promise of development is fulfilled.

Notes

- 1 Brazil is a highly competitive agricultural economy. Egypt is a net-food importing country that is concerned about the increased price of food that could result from the reductions of subsidies. India is an uncompetitive agricultural producer that has over 650 million small farmers. Paraguay calls itself a small and vulnerable economy and Tanzania is a least developed country.
- 2 See WTO Document. WT/MIN (05)/DEC. Annex F. December 22, 2005.
- 3 See WTO documents, 'Statement by South Africa to the 55th session of the Committee on Trade and Development on behalf of Argentina, Brazil, India, Indonesia, Namibia, the Philippines and Venezuela, November 28, 2005.
- 4 See WTO document. TN/MA/W/68. 'Market Access For Non-Agricultural Products. Striving to Achieve Fair, Balanced And Development Friendly Modalities in NAMA, Submission by the NAMA 11 Group of Developing Countries,' March 30, 2006.
- 5 See WTO document. Joint Statement by the G20, the G33, the ACP Group, the LDCs, the African Group, the Small, Vulnerable Economies (SVEs), the NAMA 11, the C-4 and CARICOM, July 01, 2006.
- 6 See Cullet, P., 'Differential Treatment in International Law: Towards a New Paradigm of Inter-state Relations', *EJIL*, Vol. 10 No.3, 549-582, 1999.
- 7 NEPAD, October 2001
- 8 See Ismail, F., 'Mainstreaming Development in the World Trade Organisation', *Journal of World Trade*, Vol. 39 No. 1, February 2005



Faizel Ismail is currently the Head of the South African Delegation to the World Trade Organization. He was the Chairman of the regular WTO Committee on Trade and Development (CTD) in 2006/7 and the Chair of the Special Session of the WTO Committee on Trade and Development (CTDSS) from 2004 to 2006. He joined the new democratic government of South Africa in 1994 as it began to re-integrate with the world economy and led South Africa's trade negotiations with the European Union (EU), the Southern African Development Community (SADC), the Southern African Customs Union (SACU), with a number of bilateral trading partners and the WTO. He is married to Åse Ellingsen and has three children: Gregory, Thomas and Leah. This book is written in his personal capacity.

This book addresses several myths about "development in the WTO". The fact that it is written by Faizel who has seen the vicissitudes of the Doha Round makes it more practical. It is a must-read for those having a stake in international trade. This discourse will be a valuable reference material for not only research on the developmental aspects of international trade but also in putting research into the metric of trade negotiations and implementation of trade agreements.

Pradeep S Mehta
Secretary General, CUTS International

This book is an essential reading for anyone interested in the global trading system. Too often the position of developing countries is neglected. Faizel Ismail's analysis is thorough and intelligent. He combines his direct experience of the negotiations with a scholarly attention to the wider context and proposals for reform. The result is a highly persuasive case for reform.

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