

CUTS-FES Panel Discussion Reforming and Strengthening the WTO

**Room C, Conference Centre Varembé,
Geneva, 2 December 2009, 1000-1200 hours**

Event Report

1. Recognising the relevance and importance of proposals on WTO reforms put forward by India and endorsed by most of the member nations, CUTS International and FES organised a panel discussion titled 'Reforming and Strengthening the WTO' with the objective of facilitating refinement of these proposals. A book entitled 'Reforming the World Trade Organisation: Developing Countries in the Doha Round' jointly published by CUTS and FES and authored by Faizel Ismail, which throws light on certain important reform areas, also provided a basis for this discussion. The event was organised along the sidelines of the seventh Ministerial Conference in Geneva on 2 December 2009.
2. The panel consisted of the following subject experts.

Moderator:
Pradeep S Mehta, Secretary General of CUTS International

Panelists:
Faizel Ismail, Head of the South African Delegation to the WTO
Isabel Mazzei, Senior Policy Advisor, OXFAM International (Representing Celine Charveriat, Deputy Advocacy and Campaigns Director, OXFAM International)
Steffen Grammling, Program Officer for Trade and Development, FES Geneva
3. Pradeep S Mehta presented the background to the discussion and introduced the panellists. He said that in view of the pause in the progress of DDR, it would be a worthwhile exercise to reflect upon the structure and systems of the WTO in order to see how improvements can be brought forth. The Indian proposals provide several important suggestions for this, one of which seeks improvement in notification and recording of Non-Tariff Measures. This is an extremely important area as dealing with NTMs would be one of the foremost challenges facing WTO in the immediate future.
4. Before inviting the panellists to share their arguments, Pradeep S Mehta introduced the five proposals put forward by India, which are on; (A) Trade Information System, (B) Revitalising WTO Committees, (C) WTO's Engagement with RTAs, (D) Legal Instrument for Preferential Market Access to LDCs and (E) Primacy of International Standards and Standard Setting for WTO Obligations.
5. Faizel Ismail, the first of the panellists to speak, thanked CUTS and FES for supporting the publication of his book on WTO reforms. He said that the main objective of the book was to analyse the history and evolution of developing country participation in the GATT/WTO system and draw lessons for improving the balance of power in the multilateral trading system. Though the perspectives underlying his suggestions and the Indian proposals differ, there are some commonalities, the overarching goal of both being an increase in the conclusiveness of the WTO, he added.

6. The reform ideas reflected in the book have touched more fundamental issues than the Indian proposals, according to Ismail. These fundamental issues relate to the basic objective of the WTO, as evident from its history, since the formation of the GATT. The Havana Charter of 1948, which later became the foundation for the GATT, had originally envisaged that the development objective would guide the working of the proposed international organisation for governing global trade. But the subsequent GATT rounds subverted these development objectives by focusing only on the mercantilist approach to trade. The WTO needs to reinvent those development objectives for claiming its legitimate status as an international organisation focussed on balanced growth. In the recent times, especially since the Cancun Ministerial conference, the strong voices of developing country coalitions like G 20 and NAMA 11 have helped to bring the development objective back to the table. This is a healthy trend and all reform proposals should supplement and fortify this trend.
7. Isabel Mazzei opined that there are two sides to the proposals on reforms. On the one hand, crucial issues of development such as removal of cotton subsidies remain unresolved after years of hard negotiations under a development round. Such a deadlock implies that certain corrective structural reforms are imperative. On the other hand, bringing proposals for reforms to the discussion table may result in additional burden and complicate the negotiations further. But in the short term, there are certain modest reforms that can be included in the agenda and India's submission is an important contribution in this direction.
8. According to Mazzei, reform proposals should be prioritised on the basis of whether they have the potential to influence the outcome of current negotiations. She used the example of cotton subsidies, which have massive trade distorting effects and inflict severe harm on LDCs in Africa, for judging the relative importance of some of the major reform proposals. Improving the system for notification of NTMs and empowering committees are two ideas which deserve immediate attention along with enhancing trade facilitation measures and stepping up technical assistance to LDCs for capacity building, she added.
9. Steffen Grammling agreed with Ismail's views and said that the prime objective of WTO reforms at this stage should be to bring back the development objectives. However, it is incorrect to say that development dimensions are missing in the constitution of WTO or their importance has been diluted from that envisaged originally in the Havana Charter. As stated in the preamble of the WTO, the purpose is to increase the volume of world trade for improving living standards by providing employment opportunities. The objective of sustainable development forms the very basis of the organisation and lowering of trade barriers is a means to achieve this objective.
10. Free trade, capacity building, balanced rules and good governance are four important aspects to which the reform process should be anchored, Grammling added. In order to safeguard the accountability and credibility of the multilateral trading system external reforms should compliment internal reforms. Parliamentarians and NGOs can play a crucial role in bringing forth such reforms aimed at inclusive trade policy formulation and monitoring at the national level.
11. Another important aspect to be kept in mind while talking of comprehensive reforms, according to Grammling, is legitimacy. This, according to the Sutherland Report on WTO reforms, necessarily requires that negotiation positions be formulated through the

- parliamentary process in each of the member countries. The next vital aspect of reforms is transparency. From the NGO perspective, transparency has improved over time. Though most of the documents are disseminated through the website, there are certain areas such as the procedures underlying the Dispute Settlement Mechanism as well as Trade Policy Review which can be made more accessible to CSOs. Active involvement of CSOs in TPRs in turn will enhance the quality of national debates on trade policies.
12. Before inviting comments from the audience, Pradeep S Mehta added to Grammling's statement on the sustainable development objective mentioned in the preamble. He reminded the audience that the negotiators often tend to forget this feature of the preamble. The one instance of its use for legal back up was in the shrimp-turtle case. Sustainable development was looked at as an environmental protection issue in that case but its scope extends far beyond and cuts across issues such as human development, equity and justice.
 13. In the open floor discussions which followed, concerns were raised regarding the importance of the WTO establishing coherence between its approach towards sustainable development and the corresponding approaches of other international agencies including those in the UN system,. It was asked whether there is a possibility of achieving such coherence without undermining the special needs of developing countries. The question regarding the possibility of accommodating important issues such as climate change in the WTO was also raised.
 14. On the issue of coherence with other organisations, Grammling opined that it should not be a major problem because all these international bodies share certain common philosophies and only an adequate institutional mechanism to facilitate constant and effective communication among these organisations might be sufficient in this regard. But more importantly, efforts towards such coherence should start at the national level. Often it is observed that branches of government contradict each other in pronouncements at the international level. Thus, it is important, Grammling added, that there is effective communication among government bodies at the national level.
 15. Clarifying the question on the connection between reforms and development objectives of the WTO, Faizel Ismail pointed to the need for reaffirming the development objectives of the WTO. Special treatment for developing countries is a rational intervention endorsed by all constituents of the organisation. When this is not guaranteed by the existing instruments provided by the WTO, the relevance of reforms comes to the forefront. The mercantilist approach to trade cannot be the overriding principle behind the working of the WTO. If this approach prevails, the Doha Round will never be concluded and the organisation will never proceed towards other pertinent issues such as food security and climate change.
 16. Atul Kaushik, Director of CUTS Geneva Resource Centre reminded the audience that the reform process in the WTO is progressing incrementally, though at a slow pace. The current Director General of the WTO and his predecessors have gradually and incrementally added to the coherence and legitimacy of the organisation by improving certain parts of the organisation. For example, in regard to transparency, Kaushik said that the situation has improved from the earlier days when the secretariat was constrained in publishing articles without the consent of members. Several such shortcomings have been addressed through informal methods – for example, the move towards coherence

with other international organisations through joint publications such as the joint report on trade climate change with UNEP.

17. Kaushik sought the opinion of the panellists regarding the proposal for constituting a special committee or forum within the WTO for dealing with reforms, the appropriateness of such a forum, and the ideal approach towards reform proposals if such a forum is indeed appropriate. Certain other comments on the possible downscaling of the mandate of the WTO, the ideal approach towards RTAs and PTAs, the possibility of replacing the 'rounds' based approach with area wise negotiations, appropriate timing for pursuing the reform agenda etc. were also made from the floor.
 18. The panellists supported the incremental approach to reforms and on the question of a separate reforms committee, it was suggested that existing committees can prioritise reform areas and decide on the agenda internally. Regarding inclusion/exclusion of new issues in the WTO, Grammling said that downscaling of issues is not a solution for resolving deadlocks in the WTO and in the globalised world, issues such as climate change, labour standards etc cut across the mandates of all international bodies; in this respect the reach of the WTO is only likely to expand in the future. Faizel Ismail mentioned in his final remarks that the current impasse in the negotiations should not be viewed entirely as a structural or organisational problem of the WTO and reforms must not be motivated from this point of view. The resolution of issues and consensus will only be facilitated through negotiations and public debate, and, therefore, reforms should be pursued with the long term development of the organisation as the goal, he added..
 19. Pradeep S Mehta concluded the session by thanking FES for partnering CUTS. He said that the important issues emerging from the session should feed into reform initiatives at the official level. Similarly, he opined that the highly useful contents of Faizel Ismail's book rightly deserve the attention of a wider audience and therefore he urged Ismail to write short policy briefs highlighting salient suggestions for the benefit of policy makers. On a general note, he also reminded the audience that the food, fuel and financial crises have played a role in upsetting the world's progress towards the millennium development goals and suggested that the WTO must work with renewed vigour towards resolving the challenges it faces today and facilitating trade liberalisation as a means to achieve the commonly shared goal of eradication of poverty.
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