



Some thoughts regarding the Doha Round: What next?

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The failure of the July Mini-Ministerial Conference in Geneva

There was significant progress on some important issues during the July negotiations in Geneva. However, many divergences remained, both with regards to the issues included in the Lamy package as well as others which were not included and were never seriously tackled. As a result, my feeling is that it is an over-simplification to consider that the Special Safeguard Mechanism (SSM) was the only factor responsible for derailing the negotiations. If that issue had been solved, I can think of a number of other issues in both the agriculture and NAMA context that would have subsequently cropped up to prevent a closure of the modalities.

In the agricultural front, issues such as: the extension of geographical indication protection to products other than wines and spirits; the level of reductions in cotton subsidies; the ACP reservations with the UE-Latin America banana deal and the number of special products tariff lines which would be eligible for zero cuts ("no cut" lines), are only four examples of controversial issues which were far from being solved.

On the NAMA side: persistent disagreements by a number of countries with the suggested Swiss formula coefficients and flexibilities put forward by Stephenson and subsequently Lamy, (Argentina and the G 11 among others) and the link between formula cuts and sectoral negotiations, were also probable candidates for a break down

A number of country's internal political considerations played a major role in preventing convergence:

- a) India, in a fragile political situation, with weak support from its rural sector and with elections coming up later this year, never showed any signs of compromising from its maximalist positions. Their outright defence of food security and the rural poor through the SSM, will certainly strengthen the government's political base.
- b) The United States entered the week's negotiations with little credibility due to the absence of trade promotion authority on the one hand, and the indecent (from a WTO perspective) approval of the Farm Bill on the other. They wanted to close the modalities, but at a price they could sell to Congress. As the days went by, they realized the little likelihood of being able to harvest any significant deal (in particular with regards to market access both in agriculture and NAMA). The SSM dispute with India and China gave them a good excuse to bow out without losing credibility.
- c) Argentina's concerns were devoted exclusively to NAMA during the whole week, and, surprisingly, they practically abandoned the defence of their interests with

regards to agriculture. They did not back Uruguay and Paraguay in their stance regarding the SSM, although they were original co- sponsor with these two countries of a proposal on the subject. Their position must have been influenced by the tense relations prevailing in the country between the government and the agricultural sector, and their desire to avoid at any cost the extension of the conflict to the industrial sector. Moreover, Argentina considered there were serious imbalances between the results proposed for agriculture and NAMA. Considering the current situation of high commodity prices and the fragile situation of the domestic process of industrialization, they saw no need to rush into an agreement.,

- d) China, which is still suffering the impact of the trade liberalization measures linked to their accession to the WTO, was probably relieved with the failure of the negotiations, which would have imposed additional liberalization efforts.
- e) Brazil wanted to close the deal at all costs. In order to preserve the leadership of the G.20, Celso Amorín has, from way back, sacrificed the country's level of ambition in agriculture (in particular access to markets) in order to support the defensive interests of net importing G20 members, such as India, China, Egypt, Venezuela and others. At the recent negotiations, he fully endorsed the Lamy package proposal, including 1) the modest levels of reduction in overall trade distorting domestic support (OTDS) from the major trading partners, 2) the terms suggested for the triggering of the SSM and 3) the coefficients and flexibilities suggested for NAMA. As a result, they lost the support of India and China and also Argentina and probably others in the G.20. The final outcome certainly weakens the position of Brazil as self assigned spokesman for the Third World
- f) The EU seemed to be relatively comfortable with Lamy' s package, including OTDS cuts which were in line with what they were prepared to offer, and with tariff-rate quota expansion of the order of 4%. However they insisted that their approval of the package was subject to getting results in intellectual property issues. At a very minimum, they were seeking agreement that the issue of the extension of protection to geographical indications for other products would become part of the single undertaking of the Doha Round and negotiated in the second half of the year, once the modalities had been agreed. That controversial question never got to the negotiating table.
- g) The non invitation of an African country or the Coordinator of that Group to participate in the G.7 proceedings did certainly not help to gain their support.

With regards to the SSM, it was not only the USA that had serious reservations. As presented by Falconer this mechanism could be activated at very low trigger points (110% of imports), causing serious disruptions to what can be considered normal trade flows. The possibility of raising tariffs above Uruguay Round bound duties did not make any sense from a WTO perspective. The proposal of Lamy regarding this subject, raising the trigger to 140% of imports was an improvement, but still had some problems. The latter was rejected not only by India and China, but by the whole G33. The problem is more political or of principle (exceeding bound duties) than technical. We see little point in continuing to look for common ground at a technical level.

The Process

Regarding the process of the Doha Round negotiations, my feeling is that the breakdown in July should have happened two years earlier. The way the process was conducted from 2005 till the middle of 2007 (i.e. taking the negotiations practically out of Geneva) is to blame. Excessive reliance was placed on the capacity of mini- Ministerial meetings and only a very small group of Ministers (G 4) to solve the problems. Once that approach failed, Falconer and Stephenson took the helm of the process in Geneva, started to produce texts for discussions among Ambassadors and high level officials and things started to move forward.

Multilateralism

At this juncture, I would like to voice my concern with regards to the dramatic erosion of the concept of multilateralism. Reading closely the texts produced by the Presidents of both Agriculture and NAMA negotiations, we will have to agree that there is very little of Multilateralism left in them. Efforts were constantly made to accommodate individual countries or groups of countries - both developed and developing - interests, concerns, sensitivities or special conditions. Other than the usual special and differential treatment for developing countries and in particular LDC, the texts introduce different treatments for a large number of other cases: the USA on domestic support; Switzerland and Norway on sensitive products; Mercosur , Venezuela and SADEC countries regarding flexibilities in NAMA; the Small and vulnerable economies and the recently acceded countries (RAM's) in both texts, etc.

Equally worrisome, are the multiple flexibilities that have been introduced in the market access pillar of the Agriculture negotiations. The acceptance of sensitive products; special products; special agricultural safeguard; special safeguard mechanism for developing countries as well as the number of provisions for exemptions, will allow substantial deviations from the full application of the tariff reduction formula (up to two thirds). This will seriously reduce and in many cases prevent the possibilities of real market access. A matter of greater concern are the long term implications for agricultural market access embodied

in these multiple flexibilities that have been introduced in the Agreement. They are not temporal in nature and will most likely become permanent features of the Agreement on Agriculture. They are definitely not in line with the long term interests of trade liberalization and fundamental agricultural reform..

Some people will defend this strategy as a pragmatic approach to help the attainment of convergence among Members and finally a successful outcome. It may well be so, but, in my mind, the costs are too high.

The Single Undertaking

The July approach to agree on modalities on Agriculture and NAMA first, and then to continue negotiations on other issues, seriously challenges the concept of the "single undertaking" as previously practised, as well as the very notion and justification for a Round of trade negotiations.

The justification for a Round encompassing a wide range of trade aspects of interest to an heterogeneous group of Members is the possibility of trade-offs among them so that every Member will find satisfaction in the final result. The name of the game is to look for an overall balance in the wide context of the negotiations and not for a balance in each sector or issue that is being negotiated.

While the concept of single undertaking remains "theoretically" alive in these negotiations, the reality is that Members have been looking for balances in each individual sector. Agriculture and NAMA are two typical examples.

The way forward

History tells us that the Rounds never die and Doha is no exception. The negotiations will now enter a period of hibernation, and things will pick up again in due time, when conditions are ripe to engage in a meaningful negotiation. (probably second semester of 2009 at the earliest). We will have to wait for the US election, the nomination of a new USTR and probably trade promotion authority from Congress. We will also have to wait for the changes in the EU Commission and the Indian elections.

We should continue to support a successful conclusion of the Round. There are a number of good reasons for it. Firstly, we are in favour of a strong multilateral trading system which is essential for world economic growth, for a stable international trade, for continuing agricultural reform and above all for defending the interest of developing countries. Second, there are issues that can only be solved in a multilateral context (subsidies, domestic support, rules in general).

Plurilateral and sectoral negotiations

When the WTO was created, the idea was for the organization to become a permanent negotiating forum that would successively tackle issues of interest to the Membership. It was recognized that it would start with the mandated negotiations agreed in the Uruguay Round on

Agriculture and Services. The recourse to new Rounds of trade negotiations was, at least temporarily, shelved.

At the insistence of the EU, it soon became clear that if we wanted a high level of ambition in the mandated negotiations, in particular agriculture, we would have to agree to launch a new Round that would incorporate their interests as well. These included: industrial products, intellectual property, rules, environmental goods and the so called Singapore issues, namely, investment, competition, government procurement and trade facilitation. This finally occurred in Doha in September 2001.

In the light of the difficulties experienced since the launching of the Round, including the recent break down, it would be desirable, at least once the Doha Round is completed, to return to the original idea of sectoral negotiations..

I am not convinced that plurilateral approaches are a convenient way out, although I acknowledge that they would be easier to implement. Plurilateral approaches create different categories of Members, undermine even further the multilateral nature of the WTO and are likely to discriminate against the interests of developing countries. They could also further marginalize them from discussions on major new issues of the international trade agenda. Furthermore they may also confront, for systemic reasons, a lot of resistance from a large number of WTO Members and not only from the developing world.

In order to be successful sectoral approaches should ensure the participation of all Members, whether they have offensive or defensive concerns on the subjects under negotiation. This is particularly so with regards to agriculture in view of the protectionist and defensive attitudes of so many Members in the WTO (both developed and developing). I am afraid that unless one can have all members on board, one will not be able to properly address important issues such as subsidies and particularly domestic support. Access to markets can be obtained through other means such as bilateral, regional or preferential trade agreements. As already mentioned, the above mentioned issues can only be handled multilaterally.

The principle of "establishing a fair and market oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets" is embedded in the Agreement of Agriculture. This fundamental reform requires that the process of negotiations in agriculture continues after Doha. In the absence of a new trade Round, the only way to proceed would be through the launching, within the WTO, of sectoral negotiations after the implementation phase of the obligations agreed in the Doha Round.

Consensus among members on how to achieve the long term reform envisaged in the Agreement is a prerequisite. For example, priority could be given to the elimination of all distorting forms of domestic support (amber box, blue box and de-minimis). A possible approach could be to eliminate first the amber box in a reasonable period of time, let's say 8 to 10 years. Then proceed with the

elimination of the blue box and so on. Similarly, we could agree on the level of reductions and eventual elimination of tariffs (and expansion until then, of TRQ's)

In order to monitor progress in the implementation of what was agreed, we could have special sessions of the Agriculture Committee or eventually the General Council every two years. Alternatively, progress and compliance with the agreed objectives could be looked at during sessions of the Trade Policy Review, which should be strengthened for that purpose. If countries are not complying or violating their obligations, a role could be envisaged for the Dispute Settlement Body. We could think of a variety of ways of handling the process, and these are just first thoughts on this matter.

Enlarging the WTO Agenda

I have strong hesitations regarding widening much further the current agenda of the WTO to other issues such as climate change, in order to provide a larger scope for trade-offs. Experience in the GATT/WTO negotiations shows that Members insist in looking for trade offs within a single sector, and this is likely to be the case for new topics. Moreover time has come to decide that the WTO cannot deal with everything. It is not in its long term interest. Intellectual Property was brought to the WTO during the Uruguay Round because of the binding nature of its commitments and the link with Dispute Settlement and also because WIPO had no teeth and power to enforce any decision. Unsuccessful intents were made to introduce labour standards and environmental issues. Now we have proposals to incorporate climate change and it is likely that in the future some will suggest human rights.

We should be flexible to incorporate in future agendas trade related matters which are important to trade such as : private standards, traceability, biotechnology etc It is imperative to incorporate in the WTO better rules and disciplines regarding preferential agreements. For the rest, in my opinion, it would be better to beef up relevant international organizations with competences on the subjects, such as FAO; WIPO; ILO and the Multilateral Environmental Agreements (MEA) and to establish better coherence and coordination among them and the WTO.

Preferential Trade Agreements

Regional and bilateral trade agreements may well be for the foreseeable future the main vehicle for trade liberalization. For agriculture these agreements may yield improvements in market access opportunities for those participating in them. It may improve the situation with

regards to some NTB (sanitary or technical barriers). As already mentioned, these agreements will not address issues such as subsidies or domestic support.

My feeling is that , in the last analysis, the proliferation of preferential agreements, with different product coverage, rules of origin, private standards, exceptions , and measures which are not necessarily in line with multilateral agreed rules and disciplines (WTO +) will become administratively too complicated and costly for private enterprises involved in international trade. Moreover, trade agreements between major trading partners are likely to involve considerable trade diversion, enhancing tensions, disputes, retaliation and a return to protectionist practices. It may also marginalize even further the developing countries from the international trading system. Hopefully, a time will come in which wisdom will prevail and all parties involved will realize that it is better to return to multilateral rules. In other words, my bet is that multilateralism will prevail in the end, but it seems as if it will have to suffer a lot more setbacks and erosion before we get there.

Credibility of the WTO

With the recent breakdown of negotiations, the multilateral trading system has suffered a serious setback and the credibility of the WTO is in danger. A bigger menace is that the larger developed trading partners, no longer able to get what they want in the WTO and frustrated by the slow pace of multilateral trade negotiations among 153 Members, decide eventually to shift the negotiating process to the OECD or other organizations where they have full control. (there are some precedents in the fields of export credits and investment, which fortunately failed to produce results). The countries wanting to participate in those negotiations would have no option but to join the OECD, if they let them. This would seriously undermine the WTO.

Dispute Settlement

I see no reason why the Dispute Settlement process and its credibility will suffer from this recent failure in negotiations. On the contrary, its role may well be enhanced by a larger number of cases being brought to their attention now that the path to solving problems through negotiations seems to be blocked. The risk is that the WTO will become more and more a judicial instead of a legislative body. Something to be regretted.

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