

The WTO and the post-Doha agenda

The World Trade Organisation (WTO) held its ministerial meeting in Doha in November 2001.

Garth le Pere looks at the post-Doha process, which will see the negotiations of a number of critical trade issues by 2005.



The Doha ministerial meeting took place against the spectre of the catastrophic events of 11 September, looming global recession and its own 'existential' confusion after the failure of the Seattle ministerial meeting to launch a new trade round. Doha was thus seen as seminal in restoring the WTO's *raison d'être* as the primary custodian of the global rules-based trade regime. The Doha meeting managed to successfully launch a new round of trade negotiations, the first since the Uruguay Round in 1986

While the final declaration leaves itself open to varying interpretations, Doha has launched a 'broad based' round of multilateral negotiations on nine topics – eight of which are to be concluded in a 'single undertaking' by

2005. The topics are implementation, agriculture, services, industrial tariffs, subsidies, anti dumping, regional trade agreements, the environment and so-called new issues (or otherwise known as the Singapore issues). There are, however, ambiguities in virtually all areas including when negotiations will start on the Singapore issues, namely, investment, competition policy, trade facilitation and transparency in government procurement.

Many of the ambiguities are a result of negotiating mandates that seem *a priori* to preclude meaningful outcomes, notably through clauses indicating that the negotiations will not change members' rights and obligations or diminish the effectiveness of the agreement under negotiation

A development round?

The post-Doha agenda has been called the Doha Development Agenda, as the WTO argues that it places development issues and the interests of its poorer members at the 'very heart of our work'. The Doha declaration certainly contains more development friendly language than any of its predecessors, but whether this is adequate to qualify Doha as a 'development round' remains to be seen. Many developing and in particular African countries still see the post-Doha agenda as weighed against their interests and being heavily skewed in favour of developed

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The declaration is liberally spiced with and has unusually substantial sections on themes such as technical assistance, capacity-building and least-developed countries. This is particularly the case with the Singapore issues, where many developing countries draw a direct link between effective technical assistance and an eventual agreement to start negotiations. A non-negotiating work programme has also been launched on some priority issues for developing countries, including trade and debt, finance and technology transfer, the special problems of small economies as well as special and differential treatment which 'shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and

commitment'. Whether all these provisions will prove substantive and substantial will be a key factor in developing countries accepting a single undertaking outcome.

Main issues to be negotiated

Agriculture

The key concern was what to do with export subsidies, which practically pitted the European Union (EU) against the entire WTO membership. The EU would not accept any draft language which contemplated 'phasing out' of export subsidies.

While Doha managed to retain the phrase, it was included with the qualification that talks must be conducted 'without prejudging the outcome of the negotiations'. The coalition of developed and developing country agricultural producers, the Cairns Group, might take some comfort in finally getting a 'commitment' to the elimination of export subsidies but as far as the EU is concerned, their commitment only extends as far as movement towards such elimination without any agreement yet to timelines for reaching that goal. The level and pace of reduction remains a subject for difficult and contentious negotiations.

Services

The interesting features on services trade relate to members' right to regulate its supply and its link to environmental and health concerns and future conduct of the ongoing negotiations to progressively liberalise trade in services. More commitments are needed from both developed and

developing countries. Developed countries need to reciprocate with more meaningful commitments in mode four of supply on 'movement of natural persons' (cross-border movement of workers on temporary contracts). This is one key area where developing countries have the export advantage although the post-11 September environment might complicate the matter. Developing countries need to make substantially more commitments in mode three of supply on

'commercial presence' (inward investment). This would complement autonomous liberalisation of inward investment, particularly in financial and telecom services, which have potentially rewarding economy-wide gains.

Market access for non-agricultural products

Industrial tariffs are included in the single undertaking despite deep reservations and outright opposition from African and least developed countries (LDC) members. Before and at Doha they made it clear that they were not prepared to take on further liberalisation in goods before impact studies had been conducted. These concerns are not adequately reflected in the Doha declaration. Among gains to developing countries is the promise that negotiations would aim to reduce or eliminate 'as appropriate' not only tariffs but also tariff peaks and escalation as well as non-tariff barriers on product lines of export interest to developing countries.

The Uruguay Round made significant

Many developing and in particular African countries still see the post-Doha agenda as

progress in increasing the spread of binding and reducing tariffs on industrial products. Almost all the tariffs of developed countries have been bound against further increases. As a result of the reductions made, average tariff levels of developed countries declined from 6.3% at the beginning of the Uruguay Round to 3.8% by 2000, the year in which the staged reduction agreed to in the round was completed.

This average level of tariffs does not, however, reveal the high level of tariffs that are applicable in these countries to imports of

Intellectual property rights

While controversy and ambiguity rages around geographical indications for wines and spirits and patentability of life forms, a separate declaration makes provision to protect public health and promote access to medicines. This flexibility includes members' right to grant compulsory licences especially where these concern national emergencies or public health crises, particularly with regard to HIV/AIDS, tuberculosis, malaria and other epidemics.

explicitly recognise developing countries' need for technical assistance and capacity building

Implementation concerns

This is another area where much confusion reigns in the aftermath of Doha. There is little consensus on the relationship or hierarchy between the different levels of implementation-related negotiations and relevant items in the mandates and timelines laid out in the

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labour intensive products, such as textiles and clothing, leather and leather products, and footwear. The US, Canada, Japan and the EU apply duties over three times the average rate for a number of tariff lines in these product groups. Such tariffs – exceeding 12% – are known as tariff peaks. In most cases, products subject to such peaks by most favoured nation tariffs are also either excluded from the generalised system of preferences or are subject to high preferential rates. Most of the products affected by peak tariffs also reflect tariff escalation according to the degree of processing. Although, as a result of the reductions made in the Uruguay Round, such escalation has declined significantly in most developed countries, rising tariffs from raw materials to intermediate products and sometimes peaking for finished industrial products continue to restrict export opportunities and thus hamper the development of resource-based processing and manufacturing in developing countries.

Singapore issues

The provisions on investment, competition policy, government procurement and trade facilitation contain the most confusing provisions of the declaration. Members 'agree that negotiations will take place after the fifth session of the ministerial conference (to be held in Mexico in September 2003) on the basis of a decision to be taken, *by explicit consensus*, at that session on *modalities of negotiations*' (emphasis added). Many developed countries consider this to be a mandate to launch negotiations at the fifth ministerial or shortly thereafter. Developing countries maintain that the negotiations may be years off, since the decision to launch them must be taken by *explicit consensus*. Much of this divergence of opinion arises from the (deliberately?) undefined word *modalities*, which members choose to interpret in different ways. While this must still be clarified in the work programme leading up to the fifth ministerial, the Singapore issues negotiating mandates

Doha texts.

Implementation issues involve concerns raised by developing countries since the coming into force of the Uruguay Round Agreements. On the whole, they address imbalances in the multilateral trading system that conspires against developing countries deriving benefits. After Doha (as before it) the most contentious issues are market access for agricultural goods and textiles, exemptions from subsidy prohibitions and reduction commitments, application of trade remedy measures and technical requirements and impediments. Another bone of contention is special and differential treatment of developing countries.

Trade and environment

For the first time in WTO history, environmental issues were included at Doha, bringing the WTO closer to supporting sustainable development. The negotiations will take place as part of a single undertaking. In firm language the declaration stresses that the multilateral trading system and efforts towards environmental



protection and sustainable development can and must be mutually supportive. Developing countries, however, have so far strongly resisted negotiations on environment at the WTO and justifiably fear that resulting provisions might be used as protectionist measures. They thus remain weary of references to environment in ministerial texts and that situation has not changed since Doha. While they see a need for clarifying the relationship between multilateral environmental agreements (MEAs) and WTO rules, their view is that MEAs should be the business of the responsible secretariats and not of the WTO.

However, the agreement to initiate negotiations on the environment in the new round opens the door in the WTO for better integration of trade and environmental objectives. The approved areas for negotiation are limited but perhaps could be expanded as the new trade talks proceed. Members agreed to negotiate the reduction of trade barriers to the sale of environmental goods and services, and to clarify and improve WTO disciplines as they pertain to fishing subsidies. They also agreed to negotiate the relationship between WTO rules and the trade obligations in environmental treaties.

Conclusion

What benefits are there for developing countries, which flow from the Doha ministerial? Given the diversity of interests, levels of development and composition of developing countries, there is no easy or self-evident answer. The most significant gain perhaps is political. While the Doha declaration delivers few tangible benefits, the inclusion and focus on implementation concerns and more broadly development issues moves the WTO towards a new and important threshold of negotiations and signifies a distinct shift in the WTO's political dynamics. This could potentially form the basis for progress on multilateral trade negotiations.

Another relative gain is that 'development' has moved from a rhetorical objective to a negotiating concern that developed countries will have to face and make significant compromises in meeting developing country concerns. In the pre-Doha process, many developing countries sought a specific 'road map and timeline' on how development issues would be addressed. While much ambiguity remains on the redress requested, the collective Doha texts provide basis for an interpretation that

favours developing countries but the challenge remains on how to fulfill these objectives.

Longer timeframes for dealing with the implementation issues might in effect be to the advantage of developing countries. With the WTO agenda being so large and messy, many resource- and capacity-strapped developing countries, especially those of Africa, could use longer timeframes to adequately prepare positions on a dizzying array of new issues while not losing sight of their implementation concerns. More specifically, the Doha texts provide the basis for more operational and enforceable provisions on special and differential treatment. This could possibly result in a framework agreement on special and differential treatment, thus moving away from the voluntarism of 'best endeavour' to a legally binding status.

Despite all these caveats and ambiguities, both developed and developing countries have adopted the Doha texts. Developing countries realise, however, that if their implementation and other concerns are to be fast-tracked, they will have to make the necessary trade-offs. For developing countries to take advantage of opportunities and avoid potential pitfalls associated with the post-Doha context, they will have to improve their analytical capacity and technical understanding of the issues and devise clear strategies supported by concrete proposals. ■

Suggested reading

Doha Development Agenda
www.wto.org/english/tratop_e/dda_e/dda_e.htm

Gumisal Mutume (2001). 'What Doha means for Africa', *Africa Recovery* 15 (4)

Razeen Sally, (2002). 'Charging the barriers: prospects for the WTO's Doha Round', *Global Dialogue* 7 (1)

Le Pere is executive director of the Institute for Global Dialogue.