The changing contours of multilateral trade

The European Union and developing countries

*The current mood in multilateral trade is decidedly ambivalent. **Garth le Pere** reflects on the attempts by both the EU and the US to increase their focus on bilateral trade agreements in order to pursue their trading objectives.*

A mood of ambivalence follows the collapse of the 5th World Trade Organisation (WTO) ministerial meeting held in Cancun, Mexico during September, which cast doubt and uncertainty on the future of the multilateral trading system and the WTO as its institutional custodian. Recrimination and finger-pointing followed fast on the heels of the collapse: the United States and European Union (EU) expressed disquiet with the increasingly noisy pluralism of the WTO and the perceived defensive posturing of developing countries. Developing countries, in turn, and with justification, accused the developed countries – but mainly the US and EU – of agricultural protectionism which distorts prices, undermines development and impedes market access.

So it is not surprising that both the US and the EU have since more robustly pursued their trading objectives through bilateral agreements. Confirming this, US trade representative, Robert Zoellick stated: 'We will always be there to engage in the multilateral system, but we are not waiting forever. We are going to move elsewhere.' EU trade commissioner, Pascal Lamy was equally forthright: 'We will have to have a good hard think amongst ourselves. Should we maintain multilateralism as our priority…?'

It would seem that expediency and realpolitik guide this 'twin track approach': the EU and US will attempt to

maximise their gains in trade through whichever avenue – bilateral or multilateral – best serves their purpose and interest. What is particularly interesting is the almost aggressive nature of the EU and US bilateral and regional approaches to developing countries. EU trade negotiations are already underway with the African, Caribbean and Pacific (ACP) group and the South American Mercosur bloc, while a trade negotiating framework is currently being defined with the ten countries of the Association of South East Nations (ASEAN). Since last September, the US has been involved in a flurry of bilateral and regional negotiating activity in the Americas, Southern Africa, the Middle East and Asia.

The risk in bilateral and regional negotiations with highly developed partners such as the US and EU is obviously greater for developing countries. What developed countries cannot get through multilateral negotiations, they will seek through bilateral or regional channels where developing countries might have to make additional commitments that they would otherwise not make. Furthermore, the asymmetries in political and economic power are much more pronounced in bilateral and regional negotiations. Typically, the stronger partner demands more concessions of the weaker partner.

This is why it is worth examining the nature of the bilateral/regional trade architecture that the ACP countries are negotiating with the EU on the basis of Economic Partnership Agreements (EPAs).

EPAs

EPAs embody the trade dimension of the Cotonou Agreement (CA) signed in 2000 in Benin between the 15 members of the EU and 78 countries of the ACP. The key objective of the CA is the reduction and eventual eradication of poverty while contributing to the sustainable development of ACP societies and their gradual integration into the global economy. (The CA replaces and supersedes the Lomé Convention which shaped EU-ACP trade and development relations for 25 years until its expiry in 2000.)

Under Lomé, the EU granted non-reciprocal trade preferences to ACP countries. The rules of the WTO on regional trade agreements threatened the continuation of preferences on the grounds that they discriminated between developing countries by according preferential treatment to the ACP, thereby excluding other, and sometimes even poorer, developing countries in Asia and South America. The EU had already obtained a waiver from the terms of Article 1 of the GATT to continue the preferential regime, allowing the current non-reciprocal tariff preferences (including the commodity protocols) to be maintained until the end of December 2007. However, starting in 2008, EPAs will come into force. These bilateral free trade agreements will be reciprocal and WTO compatible, that is, they will cover ‘substantially all trade’ and will be implemented within 10-12 years. Formal negotiations on the implementation of EPAs began in September 2002 and should be concluded by the end of 2007 when the non-reciprocal regime expires.

The logic of EPAs is that liberalising trade between ACP regional groupings and the EU, combined with wider and closer economic co-operation and support for ACP social development policies, will lead to economic growth and poverty reduction. The ACP is to decide on the geographical configurations as part of the EPA negotiations, which are unfolding in two phases. Phase I provides a broad template of common principles at the pan-ACP level as well as identifying points of convergence and divergence among ACP members and between ACP members and the EU. Phase II concerns regional negotiations, with mechanisms for implementing the letter and spirit of Cotonou.

In Africa various geographic configurations have taken shape for purposes of developing ‘road maps’ for Phase II. The Central African Economic and Monetary Community (CEMAC, with seven members) and the Economic Community of West Africa (ECOWAS, with 16 members) launched formal EPA negotiations in October 2003. An Eastern and Southern Africa Group (ESA, with 16 members) has been formed to launch negotiations this month. The ESA Group incorporates members of COMESA and/or SADC. The three SADC members who have not joined the ESA framework will launch separate negotiations with the EU in March. (Interestingly, South Africa’s reciprocal free trade agreement with the EU de facto applies to its four partners in the Southern African Customs Union (SACU) – Botswana, Lesotho, Namibia, and Swaziland – which otherwise might have been part of SADC’s non-ESA Group.) Countries of North Africa are already tied to free trade agreements with the EU on the basis of the ‘Euro-Med’ framework.

Elsewhere, the Caribbean Community (CARICOM, with 15 members) agreed to launch negotiations in March or April 2004 and in the Pacific, its 13 island states have committed themselves to September 2004.

These developments are indicative of the bilateral pressure from the EU that ACP countries have experienced in the aftermath of the collapse at Cancun. It remains to be seen, however, whether EPAs will accommodate the specific needs of the 40 least developed members of the ACP, 34 of which are in Africa. In principle, not all ACP countries have to open their markets to EU products after 2008. The LDCs are entitled to keep their Lomé preferences (or even an improved quota-free version, the 'everything but arms' offer) without having to reciprocate. As part of this principle, any of the 38 ACP countries which are not in the LDC category and who decide they are not in a position to enter an EPA, could be transferred into the EU's Generalised System of Preferences whose terms are less generous than Lomé and inferior to current levels of market access.

The main features of EPAs

Besides its reciprocal trade arrangements, the Cotonou Agreement differs quite dramatically from its Lomé predecessor in the following ways:

- It expands political dialogue, making it deeper and wider. The CA covers a broad range of issues that fall outside the preview of conventional development co-operation, including areas such as peace-keeping, arms trade and military expenditures, conflict prevention and resolution, drugs and organised crime as well as delicate matters such as the repatriation and readmission of illegal migrants. These new areas are linked to three foundational elements of the dialogue, namely, the consolidation of democratic processes, respect for human rights and abiding by the rule of law.
- Addressing one of the main areas of concern under Lomé, a novel feature of the agreement includes participation by non-state actors and local authorities. The involvement of all social sectors – trade unions, civic bodies, social partners, the private sector and local authorities – in the development process is encouraged and their participation is actively solicited. These 'decentralised actors' are now expected to collaborate closely with their central governments and institutions in confronting the challenges of globalisation, poverty alleviation and social service delivery.
- The CA recognises an important catalytic role for the private sector in development. It outlines a far-reaching and integrated programme of action to support the business sector at both the macro- and micro-levels. Significantly, for the first time the private sector will have access to funds from the European Investment Bank without needing state guarantees. A new Investment Facility aims to stimulate regional and international investment in ACP countries and strengthen the capacity of local financial sectors. Provision is also made for project financing and support for commercially viable enterprises.
- The various aid instruments under Lomé have been folded into a single long-term development envelope, which now includes resources available to non-state actors. Future aid will be allocated according to an assessment of each country's needs and performance, combined with regular adjustments through a system of 'rolling programming'. Assessments which determine allocations will not necessarily take into account conventional criteria such as per capita GNP, population size, landlocked or island status, but will introduce performance measures which are subject to interpretation. These include progress in implementing institutional improvements, optimal use of resources, good governance practices, and macroeconomic and sectoral policy reforms. Spending programmes will contain jointly agreed parameters and will stipulate criteria for performance review in terms of a Country Support Strategy.

The burden of implementation

EPAs remain a contentious part of the CA and have both state and non-state supporters and critics. Those who see them as positive stress their salutary impact in attracting foreign direct investment into the ACP and that they will 'lock in' and complement the process of trade liberalisation underpinning WTO frameworks, and help to restructure ACP economies, through a combination of trade incentives and financial and technical support measures.

Critics raise serious questions such as whether: EPAs will generate extra profit margins for EU exporters instead of lower prices for ACP importers, cause sharp drops in tariff revenues which could be difficult to offset; push ACP countries to liberalise their trade at a pace less optimal than could be achieved unilaterally or through multilateral negotiations, cause regional integration among ACP countries to become more complex because of the EU's differentiation between LDCs and non-LDCs and keep ACP attention focused on bilateral, power-driven trade relations rather than the rule-based multilateral system of the WTO.

The challenges that go with implementing EPAs are formidable. To begin with, ACP states will need a vast improvement in their institutional, analytical and technical capacity if they are to successfully negotiate and implement complex EPAs, while simultaneously managing negotiations in other regional and multilateral forums. While the CA might be an improved framework for co-operation, aid, trade and development, the litmus test will be in its practical implementation, with the following being some of the chief concerns:

- Trade preferences are not an unmitigated blessing. Under Lomé, ACP countries have shown themselves chronically unable to produce more and better (and a greater variety of) products which privileged market access would allow. Other elements such as production costs, product quality, and exporters' capacity to adapt to global demand might be more important than preferential access. Because of their low savings rates, poor quality of infrastructure, inappropriate macroeconomic policies and weak technological capacity, most ACP countries will need targeted assistance under the CA to become more competitive in regional and global terms. In this regard, developing ACP supply capacity is critically important, especially with regard to finance, investment, infrastructure and human capital.

- The EU approach to economic and trade co-operation still needs to fully address the need to transform the basis of ACP integration into the global economy in ways that facilitate poverty eradication and sustainable development. On the basis of export-to-GDP ratios, many ACP countries, more especially those from Africa, are already closely integrated into the global economy, yet this has hardly ameliorated the twin problems of poverty and underdevelopment.
- The difficulty of bringing non-state actors into the CA process should not be underestimated. EU assistance programmes to the ACP have a history of being highly bureaucratic and subject to lengthy implementation delays.
- The significance of 'rolling programming' is that it introduces a regular annual performance review mechanism which allows aid allocations to individual countries to be modified. This new paradigm has a 'use it or lose it' imperative to development aid. 'Rolling programming' will impose a considerable administrative burden on ACP countries. If too rigorous performance criteria are applied to ACP countries, the 'use it or lose it' yardstick could translate into proportionately less aid than received under Lomé.
- Before the benefits of new investment are realised, ACP members are bound to experience adverse adjustment costs as relatively inefficient sectors contract. In addition, there could be dramatic reductions in tariff revenue and ACP members will be forced to diversify their revenue base away from tariffs

Conclusion

The bilateral and regional trade negotiations are bound to strain the alliances and solidarity among developing countries that emerged during the Cancun ministerial, as well as put a spotlight on the perennial debate on multilateralism versus regionalism.

At Cancun, a strategic alliance of developing countries (called the G-20, which included Brazil, India, China and South Africa) led the cause against the pernicious domestic and export agricultural subsidies of developed countries and their restrictive market access conditions. Another important axis was the ACP-African Union-LDC tripartite alliance whose concerns centred around declining commodity prices, the Singapore issues (investment, competition, government procurement and trade facilitation), ongoing problems with implementing their Uruguay Round commitments and special and differential treatment.

The combative reaction of developed countries notwithstanding, these coalitions proved that the collective weight of developing countries has the potential to shift the balance of power in multilateral trade negotiations that have been historically dominated by the major powers. These developing country alliances in the WTO, however, have yet to prove their durability and capacity to translate defensive gains into positive trade agendas and concrete proposals. Indeed, indicative of its fragility, five Latin American members withdrew from the G-20 under pressure from the US to negotiate bilateral free trade agreements.

The hope and ambition of the Doha development round has been diluted and compromised by the lack of political will on the part of developed countries at Cancun to make good on their pledges and commitments to promote a more equitable and development-oriented multilateral trading system. The proliferation of bilateral and regional trade agreements threatens to undermine the integrity of the multilateral trading regime and will make it difficult to restore the original raison d'etre of the WTO's rules-based system.

This has serious implications for developing countries which, since the establishment of the WTO in 1994, have invested great faith in it as a catalyst for reform and equity in global trade. The world's poorest countries are members of the ACP group. They are most vulnerable and exposed to the turbulences that accompany economic globalisation and trade liberalisation. Lest they slide into deeper marginalisation, their accommodation, protection and stabilisation in a fast-changing global context is important. It remains to be seen whether the Cotonou Agreement is the appropriate vehicle for doing so.

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