

One Minute to Midnight

Will WTO negotiations in July deliver a meaningful agreement?

One week away from a crucial meeting of the General Council of the World Trade Organisation, time is running out for the Doha round. Almost a year after the ministerial conference in Cancun and three years after the Doha round, negotiations have gone in circles because of the continuing deadlock on key issues such as agricultural reform. The July framework negotiations represent a crucial juncture for rich and poor countries alike. Any dilution of the Doha development objectives to accommodate developed countries' self-interested mercantilism would damage the prospects of poor countries of the South. On the other hand, a failure would further weaken the multilateral trading system. Oxfam calls on WTO members to agree to a meaningful, pro-development framework by the end of July 2004.

Introduction

Almost three years after the mandate of Doha was signed, members of the World Trade Organisation are at a crossroads. The completion of a meaningful development round is an essential condition for the survival of a rules-based multilateral trading system. In the past, the major trading nations, such as the United States, the European Union, Japan, Canada, and Australia controlled the WTO to their own advantage. Today, they are facing an increasing challenge from the majority of the member states: developing countries, whose interests have been ignored or damaged by previous agreements.

For the past three years, despite promises made at Doha, developed countries have not provided the political vision and leadership that would create the conditions for a transition to a fairer and more sustainable trading system, and a set of rules that would favour equitable development. Old-style mercantilism still prevails, in complete contradiction to the international community's commitment to use trade as a lever to reduce poverty and achieve the UN Millennium Development Goals.

After the failure of the Ministerial Conference in Cancun in September 2003, developing countries were accused of making 'unreasonable' demands on developed countries to fulfil the commitments that they had made as part of the Doha mandate. Now, in advance of the July meeting of the General Council, the blame game has begun again. Developing countries are being put in the unfair position of having to accept a modified framework or take the blame for the collapse of the round. Such an interpretation completely ignores the main factors that have been blocking progress in the round so far:

- an overloaded, complex negotiation agenda, including new topics such as 'the Singapore issues' (investment, government procurement, competition, and trade facilitation);
- the intransigence of the United States, delaying reform of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) until August 2003, and insisting on the freedom to continue subsidising its domestic cotton production;
- the lengthy CAP reform process, which resulted in a modest reform package by June 2003, and the U-turn represented by the US Farm Act, which was enacted a few months after the Doha ministerial conference – both domestic developments

contradicted commitments made at the WTO to substantial agricultural reform;

- non-transparent, chaotic processes, which contributed to the failure of the Cancun conference.

The Doha round has now reached a critical point. The WTO negotiations on a framework must remain true to the letter and spirit of the Doha mandate. Fairer trade rules would not only allow developing countries to use trade to achieve sustainable development, but would also strengthen the rules-based multilateral trading system, which benefits all countries.

A negotiation ‘framework’

The concept of a framework, a set of guiding principles that would lay the basis for full negotiation of modalities, was invented prior to the conference at Cancun, as members realised that they would not have time to negotiate full modalities by the time of the meeting. After the failure to reach agreement at Cancun, members decided to continue negotiating a framework, rather than modalities.¹ They also decided to focus on key areas of contention, such as agriculture, cotton, industrial products, and Singapore issues, to facilitate progress for the whole round.

Unfortunately, the draft framework text that was issued on 16 July 2004 is full of holes, because developed countries are still unable to negotiate a framework, even at this late stage. The text is extremely unbalanced, taking great pains to accommodate the concerns of developed countries, while leaving aside many issues of great importance to developing countries. **Without major improvements before the end of July, this text will fail to unlock negotiations, let alone deliver a development round.** For developing countries, the matter is given greater urgency by the fact that the forthcoming elections in the USA, and the handover to a new EU Trade Commissioner, both create a less propitious climate for hard political decision making.

Agriculture

Agriculture is literally a matter of life and death in the developing world. Ninety-six per cent of the world’s farmers – approximately 1.3 billion people – live in developing countries. In the rural areas of the developing world, close to 900 million people live on less than \$1 a

day.² The Doha mandate encouraged the hope that dumping of subsidised exports from rich countries would finally be brought to an end, that market access for developing countries would be improved, and that developing countries would continue to be permitted to use tariffs and other border measures as part of their rural development strategies.

However, the United States and the European Union have so far blocked progress in negotiations over agriculture. Although this sector plays only a marginal role in their economies (representing, for instance, approximately 2 per cent of the GDP of the EU and the USA, and less than 5 per cent of their total employment³), the governments of these countries have been unwilling to antagonise powerful pro-farming lobbies at home, even at the expense of the large economic benefits that a round would bring to other much larger sectors of their economies, such as industrial products and services. In fact, the World Bank estimates that benefits linked with a round could amount to \$3 trillion worldwide with clear economic benefits for large trading nations.⁴

Ending export dumping

The Uruguay round failed to reduce the occurrence and scope of export dumping. This is due to the fact that subsidy-reduction targets, the 'box system',⁵ and the peace clause⁶ allowed the EU and the USA to keep in place the vast majority of their subsidies and credits, and export at artificially reduced prices. In fact, the USA and the EU were allowed to keep trade-distorting domestic support worth around \$130 billion.⁷ The challenge of the current round of negotiations is to strengthen the rules so that dumping can be eliminated.

Unfortunately, the current draft text does not put negotiations on the right track. This is due to the unwillingness of the EU and the United States to accept WTO disciplines that would actually force them to reduce their current levels of payments, as agreed in the US 2002 Farm Act and the EU 2003 CAP reform.

Export competition: While clearer language on the elimination of export subsidies is a welcome sign of progress, showing the willingness of the European Union to make commitments in this area, there is still no indication of the time frame in which it will happen. Moreover, there is a continuing imbalance between the treatment of export subsidies and export credits. The framework on export credits does not provide a guarantee that all on-going subsidisation of export credits by the United States will be eliminated, because disciplines on export credits with repayment terms shorter than 18 months still have to be defined. Specific provisions regarding export credits to

developing countries might provide an additional loophole. Similarly, negotiations regarding food aid are postponed to a further stage.

Domestic support: Despite the principle of harmonisation, which will ensure that those who subsidise the most must make the greatest effort, it is unclear whether this framework can lead to substantial reduction in domestic support. Too loose a framework would put all the onus on developing countries to negotiate high enough percentages to make the whole exercise meaningful. This is why disciplines on all boxes and all forms of trade-distorting support are crucial.

Among many problems in this part of the text, the case of the 'blue box' stands out. At the beginning of the negotiations after Doha, discussions focused on the possibility of eliminating this box altogether. This is no longer the case. In fact, according to this text, the blue box would be enlarged to allow the United States to reclassify countercyclical payments and possibly introduce new decoupled payments. While the USA argues that shifting from amber to blue is positive, because these payments would be less closely linked to production, evidence shows that the cumulative effect of subsidies and the incomplete nature of decoupling means that blue-box payments still promote dumping.⁸ In the case of cotton, an enlarged blue box could help to maintain huge levels of US subsidies, contradicting the verdict of the recent WTO panel, which called for the elimination of most US domestic support for cotton because of its damaging effects on other WTO members.

An enlargement of the blue box could also be used by the European Union to accumulate old blue-box payments and new decoupled payments arising from CAP reform. This would constitute a major loophole, defeating attempts to eliminate dumping during this round.

Improving market access for developing-country products

At this stage, it is very difficult to see to what extent this round will contribute to higher levels of agricultural exports from developing countries to the North. Even if tariff peaks and escalation are supposed to be tackled during this round, the draft framework does not make any specific proposals in this area. Nor does it propose a formula for tariff reductions, which remain the most important and contentious issue in this framework. The continuing stalemate is due to the fact that the European Union wants to continue protecting its

own products, while the United States insists on larger access to markets in developing countries.

Instead, the text allows developed countries to exclude 'sensitive products' from tariff-reduction commitments, something which was never envisioned in the Doha mandate. This was, not surprisingly, a key demand of the European Union and the G10,⁹ the most protectionist members of the WTO in terms of agricultural market access. Any product currently covered by Tariff Rate Quotas would be eligible. The United States and the European Union alone currently have 141 tariff quotas in place, covering hundreds of products. It is no secret that this provision will be used to continue protecting domestic production from developing-country imports.

Last but not least, despite commitments by all developed countries made in 2001 at the UN conference for least developed countries, there is still no commitment in the text for such duty-free and quota-free market access.

Special and differential treatment

In stark contrast with the specific attention given to sensitive products of the European Union and the G10, special and differential treatment provisions, which constitute a make-or-break issue for developing countries, are still largely undefined. In the absence of information about the details of the proposed formula, developing countries still do not know to what degree they will have to open up their markets. During the non G-5 negotiations¹⁰, the United States proposed a banded Swiss formula, which would be disastrous for developing countries. A further problem for developing countries is that, despite their long-standing demands for protection for special products and a special safeguard to protect rural livelihoods and food security, the current text provides no indication on the selection, treatment, and conditions of use of these instruments. Equally unclear is their relationship with the 'sensitive products' promoted by developed countries.

Cotton

Current rich country subsidies on cotton undermine the viability of cotton farming for millions of West Africa producers and destabilise some of the world's poorest economies.

Contrary to what happened in Cancun, the issue of cotton subsidies must be seriously addressed in the July framework agreement. This

constitutes a litmus test for the Doha Development Agenda. Can a country like Benin, highly dependent on cotton exports for its development (cotton represents 75 per cent of its total exports¹¹) rely on the WTO to ensure that the United States stops dumping subsidised cotton on the world markets?

Unfortunately, the answer so far is 'No'. Despite a recent WTO panel which has ruled that most US cotton subsidies are illegal and damaging to other WTO members, the United States still refuses to give any ground, in response to effective lobbying by 25,000 US cotton farmers. The US government appears ready to endanger the round – as it did in Cancun – for a sector whose exports represent a negligible contribution to the national economy (less than 3 per cent of US total exports).¹²

In Mauritius, the G-90¹³ demanded that the July Package should 'include a clear commitment to speedily and substantially address both the trade-related aspects of the initiative and their development-related counterparts in a "fast-track" basis'. While the current draft framework refers to cotton several times and reaffirms its importance, it does little to address the following substantial or procedural issues:

- **Folding into agriculture without any guarantee of specific treatment or procedures within these negotiations.** This is exactly what the proponents of the Sectoral Cotton Initiative feared. There is a great risk that the issue of cotton dumping would be circumvented in these conditions.
- **Failure to make a specific commitment to eliminate trade-distorting support for cotton.** The draft framework on agriculture refers only to substantial reductions in product-specific support. Cotton might therefore be treated like any other product, without any guarantee of meaningful results. This is especially worrying in view of the possible redefinition of the blue box, which may allow the US to shift part of its existing trade distorting cotton subsidies into this new category.
- **Failure to make a commitment to fast-track cotton, one of the key demands of West African governments.** Agricultural negotiations might last for years, so cotton needs to be addressed on an early-harvest basis. This would be in line with the fact that the United States will have to implement the recent WTO cotton panel ruling, which calls for the elimination of many US cotton subsidies by 2005, before the end of the Doha round.

Non-Agricultural Market Access (NAMA)

From a development point of view, it is crucial that the new agreement does not lead to further de-industrialisation in developing countries, and especially in Africa. Developing countries need to be able to nurture new industries which will provide new sources of employment in the future. Equally important is the reduction of Northern trade barriers against developing-country exports of labour-intensive products.

In Cancun, developing countries rejected the NAMA draft text (the so-called Derbez text) because it failed to address concerns of developing countries, by proposing a non-linear formula for tariff reductions, sectoral negotiations, and weak special and differential treatment. Despite the clear opposition of developing countries, it is this very same text that the Chairman of the NAMA group has forwarded to the Chairman of the General Council for inclusion in the draft framework package, to be used as 'a platform for the further negotiations'. As a result, there is a significant risk of an impasse in the negotiations, because the Derbez text is unacceptable to many developing countries but is the only basis on which developed countries, especially the USA, the EU, and Japan, are willing to negotiate.

Singapore issues

The treatment of Singapore issues in the draft framework represents a vast improvement, compared with the Derbez text. This is because the European Union and Japan have finally agreed that investment, competition, and transparency in government procurement cannot be discussed within this round. However, the framework should clarify that the working groups on these issues will not be re-established, because they will only encroach on the time and capacity available to developing countries during the negotiations.

While it is widely recognised that trade facilitation can be beneficial, there is no clear evidence that WTO rules on trade facilitation will have any added value. Concerns raised by developing countries relate to the costs, the binding nature of obligations, and the role of the Dispute Settlement System. These issues must be clarified before negotiations are launched.

According to World Bank estimates, costs linked to trade facilitation could be substantial for each developing country, running into hundreds of millions of dollars.¹⁴ Aid to developing countries has

steadily been declining for several decades. In the face of major development challenges, such as the threat of HIV/AIDS and the need to improve primary education, scarce development funding should not be redirected to fund trade facilitation. Instead new funding should be made available before countries have to commit themselves to any new obligation.

Finally, the Doha mandate clearly says that for these negotiations to begin, explicit consensus is needed. This means that countries should be able to approve the start of the negotiations, separately from approval of the July framework.

Other issues

Development: The debate on special and differential treatment has achieved nothing over the past three years, because developed countries refuse to make Special and Differential Treatment (SDT) operational and effective until more advanced developing countries which constitute meaningful markets are graduated out of SDT. This premise is fundamentally flawed, as all developing countries need special and differential treatment, given widespread poverty and the need to protect infant industries in the developing world. Denying them SDT would amount to kicking away the ladder. Moreover, any debate about differentiation is premature at this stage, since this complex issue has not been discussed by members. No members have even tabled specific proposals on this topic. It should therefore be left out of the framework.

Implementation: This issue was at the forefront of developing-country concerns when they signed the Doha mandate. This unfinished business from the round, which includes vital issues such as anti-dumping, investment (TRIMS), sanitary measures (SPS) and technical barriers to trade, has been given a low priority because of the reluctance of developed countries to deal with such issues, except for geographical indications promoted by the European Union. The current text reinforces this imbalanced treatment of implementation issues by mentioning only geographical indications.

Primary commodities: a specific paragraph similar to the Derbez text should be included, to ensure that this crucial issue is addressed in negotiations after July.

Oxfam's policy recommendations for a meaningful July framework agreement

We call on WTO members to include the following elements in the July framework agreement:

Agriculture

- Confirmation of an end date for all forms of export subsidies and a ban on subsidisation of export credits.
- A decision not to redefine the blue box, which should instead be drastically reduced within this round by (for instance) excluding the use of blue-box subsidies for exported products.
- Strengthened criteria relating to the 'green box'.
- Agreement not to renew the peace clause.
- A balanced market-access formula which will (a) ensure the reduction of the tariff peaks and escalation that are still protecting many sectors in developed countries, and (b) provide for less than reciprocal market-access commitments to benefit developing countries.
- Operationalising special products and the special safeguard so that they can be used by developing countries in need.
- addressing the problem of the erosion of preferences effectively

Cotton

A specific paragraph on cotton should be included in the agricultural negotiation text, recognising specificity of the treatment of the cotton issue, making a commitment to eliminate all trade-distorting support on cotton on a fast-track basis, and requiring regular reporting to the TNC and the General Council. In the absence of such guarantees, African countries should continue to oppose folding cotton into agriculture.

NAMA

The text should include the following provisions:

- An improved market-access offer by developed countries. The formula for industrialised-country tariff reductions should

address the problem of tariff peaks and tariff escalation, a promise made in the Doha mandate.

- Less than reciprocal tariff-reduction commitments for developing countries. The formula for developing countries should be based on a Uruguay formula (a linear formula), and the proposed sectoral agreement should be made voluntary.
- No tariff binding for developing countries at levels close to applied levels.
- Duty-free access for LDCs and low-income countries, which could be implemented immediately under the Generalised System of Preferences.

Singapore issues

The text should specifically exclude the re-establishment of working groups on investment, competition, and government procurement.

The launch of negotiations on trade facilitation should be dependent on reaching explicit consensus after issues of concern to developing countries are clarified; these include costs, the binding nature of obligations, and recourse to the Dispute Settlement Understanding.

Other issues

Development: the text should reaffirm the need for precise, effective, and operational Special and Differential Treatment for all developing countries, and the postponement of the complex debate on graduation and differentiation.

Implementation: the framework should reaffirm the importance of all implementation issues, which represent a core item of the Doha Development Round, and include a clear decision on the process for making progress on these issues after July.

Primary commodities: a paragraph on commodity issues should be included.

Finally, Oxfam calls for a transparent and inclusive process of negotiations, designed to build trust and confidence among members and to respect the right of every WTO member, poor or rich, to defend its key interests. These are necessary conditions for a meaningful framework agreement which could pave the way for a successful conclusion of the round.

Notes

¹ Modalities, which should be negotiated in time for the Hong Kong Ministerial Meeting in 2005, would include much more specific and detailed rules, in order to bring the negotiations to a successful conclusion by 2006 or 2007.

² FAO, World Bank.

³ CIA Handbook of Statistics, USDA, European Commission.

⁴ WTO statistics.

⁵ Subsidies are categorised in different 'boxes', according to the level of trade distortions that they cause.

⁶ A provision in the Agreement on Agriculture which says that agricultural subsidies specified under the agreement cannot be challenged. The peace clause expired on 31 December 2003.

⁷ ICONE, 2003.

⁸ Kevin Watkins. 2003. Northern agricultural policies and world poverty: will the Doha "development round" make a difference? Paper presented at the Annual Bank Conference of Development economics.

⁹ G-10: not the Paris Club, but a grouping of the WTO members that take the most protectionist position on agriculture, including Bulgaria, Chinese Taipei, Republic of Korea, Iceland, Israel, Japan, Liechtenstein, Mauritius, Norway, and Switzerland.

¹⁰ The non G-5 is an ad hoc group which recently was formed and includes the EU, the US, India, Brazil and Australia.

¹¹ 2001. IMF country study.

¹² 2002. WTO statistics for total exports, FAO statistics for cotton lint exports.

¹³ This group was formed prior to Cancun because the members opposed Singapore issues. It includes least developed countries, the ACP countries, and the African Union.

¹⁴ Michael Finger and Philip Schuler. 1999. Implementation of Uruguay round commitments: the development challenge. World Bank Policy Research Working paper.

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