

THE TWISTS AND TURNS OF TRADE NEGOTIATIONS: HONG KONG APPROACHES

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THE TWISTS AND TURNS OF TRADE NEGOTIATIONS: Hong Kong approaches

WTO negotiations are rapidly gaining speed. Members meet left, right and centre, scrambling to lay out the blueprint for the Ministerial Conference in Hong Kong. Still, the level of ambition for further trade liberalization and the outline of a text for the Ministerial remain unclear. Geneva based delegates say the General Council meeting in October will be the moment to define the level of ambition and that progress in the next few weeks is crucial for a concrete result in Hong Kong. Increasingly, those WTO members who are actively participating in the negotiations indicate that they want to end the round soon. Indeed, the longer the negotiations go on, the farther governments get from proposals that would support development and the more a pure market access agenda dominates.

Agriculture remains the key to the Doha Round. In this political dynamic, the U.S. talks to everyone, pushing to see how much it can get while careful not to put its cards on the table. Other members expect the U.S. will not indicate how they want to deal with their most sensitive issues (the new blue box and food aid) until the very end. And they know they don't have to. The U.S. are most likely to play a "take it or leave it" game, by tabling a very modest proposal for agriculture shortly before or perhaps even in Hong Kong. Other WTO members will have to decide whether to play the game by accepting or choose to leave it, and risk being blamed for blocking the round. Countries will be under enormous pressure to accept such a fait accompli. WTO members are rightly worried that the increasing domestic political tensions within the U.S. may result in very limited offers, in particular in agriculture.

The domestic debate on trade in the U.S. is focused on its growing trade deficit with China, the recent WTO ruling against U.S. cotton payments and the close vote that saw Congress only just pass the U.S.-Central American Free Trade Agreement (CAFTA) this summer. Furthermore, strong opposition within Congress to any U.S. offer on Mode 4 in Services (related to visas for the movement of labour across borders) limits the possibilities for U.S. offers in the services negotiations. These debates have made the U.S. Congress much warier of trade deals. There is broad speculation, arising from this mood, that the President will find it hard to renew Trade Promotion Authority (TPA) when it expires in mid-2007. Without TPA, the U.S. Trade Representative will have a much harder job convincing trade partners that Congress will ratify the deals it negotiates without changes. If a final conclusion to the Doha Round is not reached by December 2006, the immanent expiry of TPA will distract the U.S. to domestic concerns for some months, and the window of opportunity for closure on Doha negotiations will close.

The EC is also facing a series of internal crises that could affect their position at the WTO. Farmers groups are increasingly unsatisfied with both the internal reform of the Common Agricultural Policy and the position of the E.C. Trade Commissioner, Peter Mandelson, who is offering to be flexible in the agriculture negotiations to get market access for European transnational companies in services and industrial products. Mandelson has made it quite clear to the services and manufacturing industries that his priority in this round is to fight for substantial market access for both sectors. The aggressive proposals by the EC in both areas, services and non-agricultural market access (NAMA), reflect this priority. To some extent the aggressive demands of the EC in these sectors might also be linked to the fact that, in contrast to the U.S., the EC has played many of its cards in agriculture, where it has mostly defensive interests. First, the EC has agreed to end agricultural export subsidies (although there is no firm date as yet). Second, they have said they can accept substantial reductions in domestic support (65 percent for the programmes included in the Aggregate Measure of Support, or amber box). This is possible because most of the EU's spending on domestic support to agriculture has been moved to the green box of the Agreement on Agriculture, where no cuts have been proposed. On market access, the EC is slowly exposing what it can and cannot do in terms of tariff reductions and expanding market access quotas. Tabling aggressive demands for services and NAMA allows the EC to be explicit about what it wants from other countries before it modifies its agriculture proposals. Developing countries are thus faced with a relatively clear choice from the EC - ambition in agriculture will demand developing countries make significant concessions to foreign service providers and manufacturers.

The Group of 20 (G20), headed by Brazil and India, has become a major player alongside the U.S. and the EC in agriculture talks. In fact it is Brazil, India, the EC and the U.S. - the so-called new Quad - who are leading the push for a deal on agriculture (the group had included Australia, but has now only four members). The G20 has played its card on agriculture with a proposed compromise position on market access, which is the most contentious and divisive issue within the group. The U.S. and the EC are now both trying to use Brazil and India to help advance their respective agenda against each other. The EC is looking for common ground with Brazil and India to push the U.S. on the issue of domestic support. The U.S. is looking to Brazil and India to attack the EC's modest proposal on the market access side. The big question now is how the G20, and in particular Brazil and India, react to the U.S. proposal on domestic support and food aid when it comes. Of course, the EC response to such a proposal will also be critical. The Group of 33 developing countries seems content with progress on the negotiations on Special Products (SPs) and a new Special Safeguard Mechanism (SSM). They are developing criteria for the selection of SPs and elaborating the technical details of the SSM. These mechanisms alone will not guarantee food and livelihood security and rural development, but they do offer the possibility of some protection against imports that could undermine national productive capacity.

For the rest of the membership, essentially the Group of 90 countries, including the Africa Group, Least Developed Countries (LDC) and African, Caribbean and Pacific (ACP) countries, they have nothing to gain from this round. The round is being sold to them in other ways. The EC continues to say publicly that the G90 countries are getting a round for free, despite the fact that those

countries never asked for that. Rather they want meaningful reforms of trade agreements that would make trade rules more just and conducive to development. Over the last few months, the "aid for trade" agenda has come to the fore, together with a proposed mechanism at the IMF to deal with preference erosion and promises from the Group of 8 rich nations to provide debt relief and increased aid. These proposals are not without some merit, but sidestep the real issue: the need for meaningful reforms to trade rules to address the profound inequities in the existing global trade system.

PROCESS: the WTO underground movement

WTO members have also broken their promise to fix the negotiating process to ensure the smallest delegations can participate. While bilateral and plurilateral negotiations are inevitable at this stage of the talks, trade negotiators from smaller countries continue to complain that they have no way to follow all the developments. This problem is still more serious given the established power dynamic that allows the largest trading economies to dominate the agenda in their own interests. ACP countries and LDCs are glaringly absent from the negotiating groups. It is unacceptable. Not only does it confirm the exclusive and untransparent nature of WTO negotiations, but it exposes the reality: the poorest countries have nothing to gain from this round and in fact have a lot to lose by further opening their markets and losing preference margins. Both the WTO Secretariat and the chairs of the negotiating bodies, who have some control over the process, should do more to ensure effective participation and transparency.

AGRICULTURE: back to the bad old days

The new chairman of the agriculture negotiations, Ambassador Falconer, has abandoned the negotiating process set up by his predecessor, Tim Groser, which, although not perfect, went some way to establish a more inclusive process. Ambassador Falconer prefers to let the major players battle out the details behind closed doors and out of sight of most members. The excluded majority is then invited to a weekly clinic to hear an update on progress. Ambassador Falconer held his first clinic 30th September. The clinics are designed for information sharing rather than negotiation. This means the majority of the WTO membership is excluded from participating in the actual negotiations of an agreement they will ultimately have to consent to. Good agreements from bad process are nearly impossible. If WTO members are expected to consent to proposals on the table, the process must improve. The key discussions in agriculture among the major players are the structure of the tariff reduction formula, how and by how much to cut domestic support, possible limits on the new blue box, and new disciplines on food aid. The G20 proposal remains the basis for ongoing market access negotiations (see Geneva Update, 19th August 2005). The EC built on the G20 proposal adding a "pivot" which would allow limited flexibility to make smaller tariff reductions within each tier. In exchange, the EC would agree to lower the number of sensitive products they are asking for. The U.S. proposes four tiers for tariff reductions, with a progressive formula, similar to the Canadian income tax formula, to be applied within each tier (see Geneva Update, 19th August and 27th June 2005 for further information about the formulae).

The U.S. continues to stall discussions on creating additional disciplines for the blue box now they have in principle secured the right to include their counter-cyclical payments in an expanded box. Countercyclical payments compensate producers of some major commodities when their market price is lower than a target price set by government. The U.S. remains resistant to proposals on reforming the food aid system. Congress, U.S. NGOs involved in food aid delivery and the USTR continue to resist any move to increase the percentage of food aid delivered as cash rather than as in-kind commodities, despite the many advantages of a cash rather than commodity-based system. The EU had championed a proposal to insist all food aid be given in cash form. Ultimately, however, the EU looks unlikely to insist on this proposal, perhaps conscious that its cash can take longer to deliver food to emergency sites than the notoriously slow in-kind aid. Nonetheless, the worst forms of food aid from a humanitarian and food security perspective are also the most trade-distorting, and the U.S. should continue to face significant

pressure to end the use of food aid programs that distort markets in developing countries and waste resources desperately needed in food emergencies.

NAMA: number crunching time

NAMA negotiations are moving fast. Informal negotiations are regularly taking place. It is often harder for developing countries to follow the NAMA negotiations than it is to follow agriculture. In agriculture, at least some developing countries are members of groups where they can rely on the head of the group to provide regular briefings. In NAMA, there are no developing country groupings and therefore no briefings. The stalemate continues on the structure of the tariff reduction formula: whether to accept the simple Swiss formula as proposed by several developed and developing countries, or a variation of the Swiss formula as proposed by Argentina, Brazil and India and the Caribbean countries. Despite the lack of convergence, however, WTO members are moving forward with the negotiations. Members are discussing actual figures for the coefficients (see Formula Glossary, Geneva Update 19th August, 2005). Pakistan submitted a proposal for coefficients of 6 for developing countries and 30 for developed countries. The U.S. and EC have proposed to cap their industrial tariffs at 10% at a Senior Officials Meeting in Geneva. The U.S. has offered developing countries a 15% cap in the past. Some developing countries have proposed a 50% cap. Capping industrial tariffs at very low levels removes the flexibility to structure and set tariffs as the domestic situation warrants.

Negotiations on sectors have also intensified as a way to bypass the stalemate on the formula. Some WTO Members including the U.S., Australia, New Zealand, Korea, Hong Kong, Singapore and Thailand, are hedging their bets. If they don't get an ambitious overall formula then they want to be sure the sectors that interest them most will be included in a sectoral initiative, to guarantee market access. Nine sectors including electronics, bicycles and sporting goods, chemicals, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical devices, and raw materials are currently under negotiation. It is up to members to select the sectors and to organize informal negotiations on the areas that interest them. The private sector is heavily involved in both the sectoral and non-tariff barriers (NTBs) negotiations. On NTBs, it is almost exclusively industry-as opposed to public interest-groups that are sorting through the various notifications tabled by WTO members. Finally, there is ongoing discussion about how to deal with unbound tariffs (tariffs that don't have a ceiling on the level of the tariff). There are two groups of countries in consideration: (1) countries that have bound less than 35% of their tariffs. The proposal is that they bind all their tariffs at a specified level (still to be determined); and (2) countries that have bound more than 35% of their tariffs. It is proposed that these countries bind their tariffs at a specified level to be determined and then apply the tariff reduction formula from that level.

When countries bind tariffs at a specified level they lose flexibility to shape economic policy. Binding tariffs can be useful because it provides a degree of transparency and reliability for exporters. However, export interests are thereby given priority over others who are affected by trade policy. In the case of NAMA, it is workers' interests that are often compromised by the pressure to lower tariffs. It would be a major concession by developing countries to bind ALL tariffs in one round of negotiations, giving up important policy space needed to implement industrial policies to create employment. Requesting tariffs to be bound at a specified level is a further concession. Asking some countries to apply a tariff reduction formula on top of this is going too far. These are major reforms with potentially disastrous consequences and a severe loss of national policy space. Such a radical reform is unprecedented in GATT/WTO history and ignores the empirical evidence that a one-size-fits-all approach to development does not work. If developed countries are successful in getting most of the proposed tariff bindings and reductions in the area of NAMA, developing countries will be deprived of an important tool to implement industrial policies and a source of revenue they badly need for public investment. It will be workers in the South and in the North who will be the losers if deep liberalization of manufacturing goes through: job losses and worsening working conditions are the likely outcomes. Trade unions

in the South and the North should be concerned about what their respective countries are pursuing or ready to accept in the NAMA talks.

SERVICES: getting to the core

Ideas and proposals to change the method of negotiation in services (GATS) first emerged a year ago, when a number of developed countries, together with some developing countries such as India, Chile and Mexico, determined that the offers put forward thus far were too few and too limited. Right after the General Council meeting held this July, EC Commissioner for Trade, Peter Mandelson made it clear, that services would be a core issue of the EC's agenda preparing for Hong Kong. With three Singapore Issues now off the Doha Agenda (Investment, Government Procurement and Competition), GATS represents an alternative way for the EC and many other developed countries to get some new rules on investment within the services framework. The core interest of developed countries in the services negotiations are substantial commitments in Mode 3, which deals with the right to establish a commercial presence in another country (either by setting up a new business or buying an existing one).

Services negotiations started again after the summer recess at the end of September with a bang on the "Benchmark" debate and a new chair Mexico's Ambassador, Fernando de Matteo. Many developed countries (including the EC, Japan, Switzerland, Canada, Australia, New Zealand, and Korea) made first proposals as regards the establishment of quantitative and qualitative benchmarks in informal meetings. These benchmarks are a departure from the original intention of GATS, to keep services on a request-offer approach, and effectively would establish a minimum degree of services liberalization on all signatories to the final Doha agreements. The proposals were initially "non-papers" but were converted into formal proposals during the recent services negotiations. Many developing countries, including Brazil, Argentina, Indonesia and South Africa, and groups of developing countries, such as the LDCs, Caribbean Countries, African group have contested the idea of introducing benchmarks, rejecting the imposition of a minimum level of services deregulation for all members and the consequent loss of flexibility.

During the Mini-Ministerial Conference held in Paris in September, a so-called "core group" in GATS was established on the initiative of the U.S. and India. Besides the key demandeurs in services negotiations (the EC, Canada, Japan, the U.S., India, Chile and Mexico), key opponents to the benchmark approach have joined this group, including Brazil, Egypt, Malaysia and the Philippines. The scope of work of this group is not yet defined. Civil society needs to monitor the group's work closely. Knowing that for most developing countries, their "flexibility" to make offers in services liberalization is linked to what offers are made in other areas of the negotiations, in particular agriculture, the existing opposition could easily be persuaded to accept some sort of the benchmark proposal for a gain in other negotiations. Besides the benchmark issue, the demandeurs in services liberalization want to push for rules on domestic regulation in Hong Kong. Effectively, there is a push to limit countries' right to introduce new rules and regulations that a foreign company views as likely to hurt its trade interests. This kind of provision is a central and alarming feature of the North American Free Trade Agreement (NAFTA). The question of how far countries can use government procurement for investment in the domestic economy as opposed to having to establish open international bidding systems will also be discussed for Hong Kong.

Some developing countries see services liberalization as a negotiating chip and may well agree to open up their services sectors in return for concessions from developed countries in agriculture. Yet most of the services sectors in which developed countries wish to see serious liberalization proposals are infrastructural services such as the provision of energy, water, transport, and telecommunications, together with retailing and tourism. All these sectors are intrinsically linked to and vital for agriculture and industrial production. Although many developing countries have already undertaken a liberalization process, often pushed on them by the World Bank and IMF in return for debt rescheduling and aid, binding these commitments and offering even deeper deregulation under the proposals for GATS will mean a tremendous loss of policy space.

COMPLETING THE ROUND: at what cost?

The negotiating dynamics and perspectives for the Hong Kong Ministerial Conference can only be understood by a consideration of the inter-relationship of agriculture, services and NAMA. As Hong Kong approaches, it has become clear that the negotiations are first and foremost about market access in all three areas of negotiations. The development dimension is severely lacking in all three areas. Yet, developing countries continue to engage, despite the abundant analysis available showing that aggressive market opening in NAMA will lead to de-industrialisation in the South, that services liberalization in many cases has failed to deliver better services for people and that low tariffs in agriculture are anything but helpful to get small-scale farmers out of poverty. The agenda continues to be about the export interests of developed countries. The failure to fundamentally challenge the direction of this round raises the question of whether developing countries themselves are convinced by what is on offer, despite some speeches to the contrary. It is also a reflection of the logic of a global economic model that puts competition and comparative advantage to the fore, at the expense of distributive justice, and a multilateral organization that focuses on trade without reference to the wider net of international obligations that encompass human rights, development, peace-building, environmental cooperation and more.

How hard developing countries are willing to push for a development round will be apparent in Hong Kong, when in all likelihood WTO members will be deciding to accept or reject a deal. In contrast to the Uruguay Round, this time, not all developing countries have been excluded and therefore cannot claim they do not know what the fine print says. Nor are developing countries alone: civil society in large part, both in the South and the North, has been highly critically of the proposals on the table and have supported developing countries with alternative ideas and analysis on which to base the rejection of a bad deal. Developed countries promised the Doha Round would address the need for trade rules that address existing imbalances and establish a fair and equitable multilateral trading system. These promises have all but vanished. The widely shared expectation today is for a modest round of tariff cuts and increased market opening in several sectors, together with some changes to domestic support and an eventual elimination of export subsidies for agriculture. There is very little on offer for over half the WTO membership. The world is desperately in need of fairer and more equitable trade rules. It is time to reject the status quo, to craft policies that redress the imbalances and to measure success against the imperative of meeting agreed international development benchmarks.

THE OCTOBER GENERAL COUNCIL

The next few weeks are crucial. Informal agriculture and NAMA negotiations are taking place during the first week of October. The U.S. is hosting a mini-Ministerial in Zurich, 10th October. Ministers will then go to Geneva. The new Quad and the FIPS are expected to meet. The Trade Negotiations Committee is scheduled for the 13th October and this is followed a week later by the General Council. Civil society is also gearing up. People are mobilizing around the world. Thousands of farmers protested in Mumbai, India on October 2. A mobilization is planned in Geneva on October 15 as WTO Members gather for the General Council. This will be followed by a week of actions and activities protesting the existing WTO negotiations and calling for change.

IMPORTANT DATES TO REMEMBER

U.S. Mini-Ministerial, Zurich	10 October
G20 Meeting, Geneva	11 October
FIPS Meeting, Geneva	11 October
Trade Negotiations Committee	13 October
General Council	19-20 October

The next negotiating sessions will take place:

Agriculture	18-20 October
NAMA	10-14 October
Services	28 and 31 October

DOCUMENTS

E.C. Benchmark Paper
<http://www.tradeobservatory.org/library.cfm?refid=76781>

E.C. Model Schedule, September
<http://www.tradeobservatory.org/library.cfm?refid=76782>

E.C. Model Schedule, August
<http://www.tradeobservatory.org/library.cfm?refid=76783>

Switzerland Benchmark Paper
<http://www.tradeobservatory.org/library.cfm?refid=76787>

New Zealand Benchmark Paper
<http://www.tradeobservatory.org/library.cfm?refid=76788>

Korea Benchmark Paper
<http://www.tradeobservatory.org/library.cfm?refid=76785>

Japan Benchmark Paper
<http://www.tradeobservatory.org/library.cfm?refid=76786>

Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu Benchmark Paper
<http://www.tradeobservatory.org/library.cfm?refid=76784>