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## Introduction

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### **Delivering a Development Round**

The Doha Ministerial Declaration envisages negotiations lasting three years (November 2001–January 2005). This is a very ambitious target which many observers doubt can be achieved. The agenda is very large and the negotiations in the first two years have not been very productive. There are other reasons for this pessimism. A key one is the less than auspicious political and economic environment under which negotiations are being held. Another is the limited progress made on issues of particular interest to developing countries, notably agriculture, special and differential treatment (SDT) and the failure to achieve agreement on Trade-Related Intellectual Property Rights (TRIPs) and access to medicines. A number of key deadlines have also been missed. The situation is complicated by the dearth of expertise and limited financial resources in developing countries, which means that advocacy for developing country interests is relatively weak.

This book is a contribution to the debate on how the Doha Development Round might deliver on one of its central objectives: the ‘promotion of economic development and alleviation of poverty’.<sup>1</sup> In general, each chapter assesses progress made in the negotiations and makes recommendations on the likely outcomes, concerns and interests of developing countries. This introduction covers the following: (a) the trading environment under which negotiations are being held; (b) a summary of the concerns of developing countries as seen by the authors of the articles in this book; and (c) a discussion of what might constitute a good Cancún deal from the standpoint of developing countries.

### **International Trading Environment**

Several aspects of the current international political and trading environment have contributed to the slow progress made in the first two years of negotiations. Of particular concern is the relationship between the European Union (EU) and the USA. The issues that have caused dissent and controversy range from the war in Iraq to disputes on trade, international environmental agreements and the International Criminal Court. Past experience suggests that progress in multilateral trade negotiations is more likely

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when governments, particularly those of leading industrialised countries, are seriously engaged and focused on the issues under negotiation. When other issues intrude, as in the case of the war on Iraq, there is often a ripple effect that tends to undermine commitment to multilateral trading negotiations.

On the economic front, a succession of bitter transatlantic trade disputes remain unresolved. These include disputes on taxation of foreign services corporations (FSC) by the USA, import protection for steel products entering the US market and the EU's authorisation system for genetically modified organisms (GMOs). At the general level, these disagreements have contributed to the loss of momentum in the Doha Development Round negotiations. More specifically, each one of these disputes raises concerns about particular aspects of the World Trade Organisation (WTO). Thus the steel dispute is a classic example of an industrialised country protecting a sensitive sector of its economy.

The GMO dispute brings into sharp relief the problem posed by standards harmonisation in the WTO. By insisting on the use of the precautionary principle in meeting environmental or human health objectives, the EU opens itself to the charge that it is effectively imposing its own standards on others. On the other hand, the way in which the USA has pursued this matter has only served to confirm the fears of those who argue that the ability of developing countries to regulate certain aspects of their trade in the public interest is being continuously eroded. The GMO controversy appears intractable, in part, because this is not a traditional 'at-the-border' trade dispute; rather, it reaches beyond borders, and affects such fundamental issues as the way in which American and European societies are governed and their economies regulated.<sup>2</sup>

The growth in bilateral and regional trading arrangements are another source of concern. Aside from the hemispherical Free Trade Area for the Americas (FTAA), which has been under negotiation for a number of years, the USA has already concluded free trade agreements (FTAs) with Jordan and Singapore and is looking into negotiations, or has already launched them, with several other countries and regions, including the South African Customs Union (SACU), Morocco, Bahrain and Australia. The debates in Washington highlight the importance of issues beyond the trade agenda. For example, the choice of trading partners reflects not only economic opportunities, but also judgements about geopolitical returns and support for the USA in the WTO and FTAA. This is the nub of the problem.<sup>3</sup> Unlike the open, rule-based multilateral trading system represented by the WTO, bilateral and regional trade arrangements are likely to mean less transparency and more discrimination in trade rules. And as the WTO gets marginalised, the weakest and poorest countries get squeezed.

Europe is also involved in negotiating regional trade arrangements with different regions of the Africa, Pacific and Caribbean (ACP) group of countries. There are two problems with the EU approach to future relations with the ACP. First, the policy is causing confusion in those regions of the ACP where there is overlapping membership

of regional organisations – for example Southern Africa – or where regional integration is not very advanced. Second, these negotiations compound the capacity problems of these countries; few of them have the organisation and capacity to pursue negotiations in multiple forums.

## **Concerns of Developing Countries**

The major concerns of developing countries are many and varied, and sometimes there are conflicting interests, partly because there is so much diversity among them. For instance, there is no consensus among developing countries in the negotiations on market access. Sam Laird's rigorous assessment of various modality papers on tariff liberalisation points to some of the difficulties. Clearly, those countries that trade largely on a most favoured nation (MFN) basis will have interests in a liberalisation formula that removes tariff peaks in their main markets. Other developing countries, particularly least developed countries and beneficiaries of arrangements such as the Cotonou Agreement, whose exports are largely duty free and who benefit from high margins of trade preference, may see the lowering of these tariff peaks as damaging to their trade interests. Clearly, if developing countries seek any common objective, it is a flexible and differentiated approach. Some of the formulas proposed by countries such as India and Korea provide precisely that sort of flexibility. However, it is specifically this flexibility that may make these kinds of tariff liberalisation formula unacceptable to those WTO Members who are seeking elimination of tariffs by all countries in this current round.

Striking a deal on agriculture remains the biggest challenge faced by ministers at Cancún, despite the June 2003 agreement by the EU Council of Ministers to decouple subsidies from production. The reasons for this are clear from Professor Alan Swinbank's contribution to this book (although it was written before the EU agreement). Agreeing the modalities for negotiation before Cancún seems highly unlikely. Swinbank argues that the Peace Clause (Article 20 of the Agreement on Agriculture) might be the lever for change. This is because in the absence of a renewal of the clause, disputes on farm policies are likely to increase. Clearly one cannot prejudge the kind of trade-off that might emerge or whether developing countries will accept a roll-over of the clause. How developing countries will approach renewal of the Peace Clause will depend on the way they see their interests. Developing countries are, of course, a diverse group of countries with different interests reflecting their comparative advantage in agricultural production, their net trade position and existing trade preferences, and their focus on temperate or tropical products. For the majority of them, however, the biggest gains are likely to flow from tariff cuts and reduction of tariff peaks and tariff escalation in both OECD and other developing countries.

Ivan Mbirimi and Bridget Chilala also tackle the services negotiations from a

policy-maker's perspective. In particular, they explore ways in which developing country governments might use the policy flexibility of the General Agreement on Trade in Services (GATS). In their view, this should be the main focus of developing country efforts, particularly the poorest among them. Any services liberalisation ought to be placed in the overall context of the development of a viable domestic service sector that responds to the needs of the economy. Of course, some would argue that GATS flexibility is a myth, as developing countries are likely to come under pressure to commit sectors before they are ready to do so. However, the authors see this as an argument about the degree of flexibility. In their view, what matters is that the GATS is sufficiently permissive to allow countries to devise and implement domestic services policies that benefit their economies.

The Dispute Settlement System (DSS) is generally seen as one of the major achievements of the Uruguay Round. Its use over the last few years has, however, highlighted a number of difficulties that require attention. Dr Dan Sarooshi's paper identifies the key ones for developing countries. They include the initiation of cases; issues relating to the establishment, membership, composition and procedure of panels; issues relating to the membership and procedure of the Appellate Body; issues relating to the effect of panel and Appellate Body Decisions on developing country members and their lack of a development focus; improving the ability of developing countries to use the system; transparency of proceedings; and third party issues that concern developing countries. The paper recommends possible changes on each of these issues.

Chris Stevens explores ways in which the impasse on special and differential treatment could be broken. In his view all proposals on SDT face the twin hurdles of: (a) some Members refusing to agree to flexibilities that would apply to all developing countries; and (b) devising appropriate forms of differentiation, linking the differentiation to a specific development problem. Furthermore, the introduction of tighter dispute settlement procedures under the Uruguay Round means that vague formulations on SDT might not be accepted by developing countries, mainly because such vague formulations could be challenged under the dispute settlement mechanism. One way to break the deadlock at Cancún would be for industrialised countries to agree general principles that would be legally enforceable to the extent of providing guarantees against challenge in dispute settlement. It is also suggested that developing countries should identify areas of highest priority action in relation to SDT. Stevens sees agriculture as a prime candidate for priority action

In the paper on transparency in government procurement, Peter Williams evaluates the arguments for and against a WTO Agreement. In his judgement, developing countries might still be able to forestall a decision on negotiations at Cancún, particularly if there is no agreement on modalities for negotiations. But he argues that if the pressure for negotiations is irresistible, developing countries should insist that the Singapore issues are unbundled.

Dr Nagesh Kumar reviews the options available to developing countries on investment at Cancún. The paper is sceptical about the relevance of a multilateral investment framework to developing countries. This scepticism is based on evidence on the main determinants of Foreign Direct Investment (FDI), which tends to show that a host of other factors are perhaps more significant than investment rules and regulations. This leads Kumar to suggest that the most prudent option for developing countries at Cancún would be to resist a negotiating mandate. The success of this strategy, however, will depend on the ability of developing countries to put together an effective coalition against such a mandate. If a mandate is agreed, developing countries are urged to ensure that their key concerns are incorporated into each element of the proposed framework. Key concerns include limiting the scope of the multilateral framework on investment to trade-related FDI, resisting commitments on pre-establishment commitments, providing for flexibility to pursue selective policies and impose performance requirements by developing countries, incorporating investors' and home country obligations, and providing for transfer of technology, control of restrictive business practices and competition policy.

In the paper on competition policy, Dr Michael Davenport identifies the following developing countries' concerns: the inevitable reduction of 'policy space'; the likelihood that national firms will be at a competitive disadvantage vis-à-vis the larger firms from industrialised countries; and the financial and human resource costs of implementing the resulting agreement. Developing countries are also still opposed to the idea of the WTO taking responsibility for competition policy, and many of them are fearful of the possible application of the dispute settlement mechanism. Davenport's paper recommends a minimum body of domestic competition law to be agreed in a Multilateral Competition Agreement (MCA) and to be implemented by all members. The emphasis of the agreement will be on information-sharing and co-operation through both positive and negative comity, and on outlawing hard-core cartels; in the examination of mergers and acquisition, account would be taken of the interests of other members, in particular in regard to the potential dominance in their individual markets.

Beatrice Chaytor's paper notes a shift in focus in the approach of developing countries, with the link between trade and sustainable development receiving more attention compared to the narrow linkages between trade and the environment. This shift includes an emphasis on the liberalisation of trade in goods of special interest to developing countries. Chaytor urges developing countries to further refine their approaches across a whole range of trade issues that have a bearing on the environment, for instance by fighting for better market access for their agricultural goods, labelling of organic food products and improving trade in such goods in the Committee on Technical Barriers.

According to Dr Roman Grynberg, fisheries subsidies negotiations remain one of

the issues that straddles both unfinished business from the end of the Uruguay Round, and the so-called 'new issues'. At the end of the Uruguay Round, WTO Members left subsidies to the fisheries sector outside the disciplines and reduction commitments of the Agreement on Agriculture. Subsequently, concern that unsustainable fisheries subsidies were undermining the viability of global fisheries, as well as distorting trade, has created a synergy between trade and environment issues. Initial proposals on the architecture for such an agreement have been proposed by the USA and there has been support from the EU. However, other important fishing nations such as Japan and South Korea remain unconvinced by the need for new disciplines. As far as developing countries are concerned, considerations pertaining to SDT provisions in any future fisheries subsidies agreement that will cover their concerns have not yet been proposed.

The Doha ministerial mandate called for the creation of a work programme on small economies. Grynberg's and Jan Yves Remy's assessment of the work undertaken so far indicates that most of it has revolved around the questions of why and how provisions of the WTO should reflect their particular concerns. The paper on small economies addresses the development of positions during the dedicated sessions where progress has been very slow and, indeed, mirrors the progress on implementation and special and differential treatment. In general, developed countries have only shown flexibility on issues of minor economic significance such as allowing delegation of the implementation of WTO Agreements by small vulnerable economies (SVEs) through their regional bodies rather than national governments. Despite the narrow ministerial mandate from Doha, the paper addresses the issue of a definition of small vulnerable economies because without such a definition it is not possible to devise appropriate interventions that are focused on and limited to this group. The paper finds that an appropriate definition is possible and, in part, already exists in the UN system.

The paper by Pradeep Mehta of CUTS (Consumer Unity and Trust Society) assesses the scope and opportunities for reform of international economic policies on the basis of an integrated developmental approach to trade, debt and finance. This is a vast subject on which there is a divergence of views between developed and developing countries. The main concern of developing countries is that the current international trade and financial system does not provide sufficient long-term financial resources to enable them to achieve rapid and sustained economic growth through trade. It is clearly too early to see the direction in which the discussions on this subject will go, but the recommendations provide a valuable input to the debate.

## **A Cancún Compact for Developing Countries**

Having been showcased as a development round, the negotiations must begin to show results in areas of major interest to developing countries. Certainly, the Cancún meeting

cannot be judged to be a success if tangible progress is not made in areas that matter most to developing countries. The best way to secure the interests of developing countries is by delivering improved market access across a broad range of products of interest to these countries. For the majority of developing countries, this requires positive outcomes at Cancún on a core group of issues that must include: (a) special and differential treatment; and (b) agricultural trade liberalisation. There must also be an agreement on TRIPs and access to medicines before or at Cancún to avoid a repeat of the Seattle debacle. It seems clear that a successful WTO fifth ministerial conference at Cancún should at least show enough progress on these issues for ambassadors to be able to make progress in subsequent negotiations in Geneva.

## Notes

1 Doha Ministerial Declaration, November 2001 (WT/MIN(01)/Dec/W/1.

2 Joseph Quinlan, 'Drifting Apart or Growing Together? The Primacy of the Transatlantic Economy', Paul Nitze School of Advanced International Relations, Johns Hopkins University.

3 'Zoellick Says FTA Candidates Must Support US Foreign Policy', *Inside US Trade*, 16 May 2003.