

# The WTO Must Bounce Back

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THESE ARE DANGEROUS times for the multilateral trading system. Never since its establishment in 1995 has the World Trade Organization been in such a perilous state. The shambolic 1999 Seattle Ministerial Conference previously represented the nadir in the fortunes of the organization but it rallied quickly afterwards and launched the Doha Round just two years later. Now no such recovery is in prospect. Dispute settlement apart, the WTO scene is characterised largely by drift and neglect, with no apparent light at the end of the tunnel. How did this state of affairs come about, and what are the potential consequences for the global trading system?

### THE BEGINNING - A NEW INSTITUTION TO MAKE A DIFFERENCE

WHEN THE WTO was inaugurated in 1995 there was a palpable sense that this was to be an international organization of a different kind: pragmatic, cooperative and results-oriented, not simply another political football to be kicked around the international stage. Trade officials had a feeling that they were embarked on a creative enterprise, building a new institution which would set new standards of international economic cooperation. The early results were positive, in the form of agreements on financial services, basic telecommunications and trade in information technology products. This is not to say of course that national economic interest was not the first priority for each and every Member but, in addition, there was a sense of common purpose. Sadly this feeling that the whole of the WTO, bolstered by a common mission to develop the trading system in addition to pursuing national interest, was greater than the sum of its constituent parts has now almost completely dissipated.

### SUMMARY

This policy brief surveys the state of the multilateral trading system, tracing the gradual decline of the Doha Round negotiations and the emergence of new regional and plurilateral initiatives. It concludes that the model of the negotiations followed in the Round in recent years has been overtaken by events. It is however at this stage not clear whether

the new initiatives now being pursued outside the WTO will have a catalytic effect on the multilateral trading system or will fragment it. There is a danger of squandering the legacy so painstakingly built up in the GATT and the early years of the WTO, which have contributed to decades of orderly and peaceful economic growth. For this reason it

is vital that governments urgently take steps to rebuild confidence in the WTO. This confidence can be restored through governments committing themselves to a strategic dialogue leading to a new consensus on the objectives and general principles underpinning their activities in the WTO.

## DOHA – CULPRIT OR VICTIM?

ATTENTION HAS FOCUSED on inability to conclude Doha as the chief reason for the WTO's decline. Various theories have been advanced. Many do not stand scrutiny. A popular target is the "single undertaking" approach under which all of the numerous components of the Round have to be agreed at the same time. There is no rule which dictates that this approach must be followed in the WTO but it is telling that the only practical way in which the negotiations could be launched in 2001 was by bundling all issues together. Standalone negotiations on agriculture and services, which began in 2000, made absolutely no progress. If the Members of the WTO thought that unbundling would now work, they could drop the single undertaking. To date, they have not done so.

Another theory for Doha's demise is that it was a simply a political knee-jerk reaction to 9-11 and never had solid political and commercial backing. This overlooks all the efforts that were made from 1998 onwards to launch a Round. The subsequent failure of the standalone negotiations on agriculture launched in 2000 to make any progress finally convinced the great majority of WTO Members that the only way ahead was to launch a broader Round. Ministers from key developing countries such as Brazil and South Africa played a key role in shaping opinion along these lines. By July 2001 it was clear that the working hypothesis for the Doha Ministerial Conference scheduled for November of that year was the launch of a broad and balanced set of negotiations.

The sheer complexity of negotiations among some 150 WTO Member governments is also blamed for the failure to conclude the Round. While it is true that many diverse points of view have had to be taken into account, the Doha negotiations ultimately foundered on the inability of the big players – the United States, European Union, China, India and Brazil – to reach agreement. It is not the broad mass of small and medium-sized developing countries which is holding up progress. On the contrary, these are among the strongest supporters of the Round.

The reasons for the demise of Doha and the current parlous state of the WTO lie elsewhere. If Doha was to succeed, it needed to succeed quickly. But what was conceived as a three year negotiation took the wrong turning – possibly fatal in retrospect – in 2004 when it was decided that the critical objective of establishing the "modalities" (or template for future commitments in agriculture and industrial products) was too ambitious and that a more gradual approach was needed. Thus began the long, fruitless march to ever more detailed refinements of draft modalities. This was not the original blueprint for the negotiations, which was predicated on a quick agreement on broad modalities followed by a bargaining phase – a phase which, as it turned out, never arrived.

The "long march" approach could only have worked in a static world in which political and economic relationships were stable. This was certainly unrealistic when the trading environment was altering radically due to advances in technology and communications. Fragmentation of manufacturing and the creation of global value chains provided big overall gains for the global economy but accentuated the feeling that there were losers as well as winners.

The global financial and economic crisis and the rise of protectionism further destabilised the environment in which the negotiations were taking place. Where once growth in international trade was seen as an important contributor to expanding global prosperity, now populist politicians in many developed regions of the world, under pressure from narrow sectional interests, prioritised negative effects on local employment.

From this parochial perspective, globalisation was now seen in developed countries as benefitting primarily the major emerging market economies. Nor had anyone fully foreseen the electric effect which the new-found predictability of trade between China and the rest of the world, based on China's accession to the WTO in 2001, would have. Looking back, China's WTO accession appears an even more historic event than it did at the time. One can only imagine how a

world in which China had not joined the WTO would appear in 2012: certainly in overall terms much poorer, and with a much more uncertain future.

Against the background of these shifting sands, Doha negotiators, hard as they tried, were simply overtaken by events. The situation recalls Harold Macmillan's response to a journalist's question as to what can most easily steer a government off course. "Events, dear boy. Events", he replied.

## EPILOGUE

EVEN SO, THE dénouement of the Doha Round has had some surprising aspects. Amongst these has been the role of the G20. At the Toronto Summit in June 2010 G20 Leaders directed negotiators to bring the Round to a balanced and ambitious conclusion. A few months later, in Seoul in November 2010, they went further, identifying 2011 as a critical window of opportunity and recognizing the need to "complete the end game". Yet by April 2011 negotiations were dead in the water. The subsequent Cannes Declaration in November 2011 simply gave Doha a passing mention, referring to the need for "fresh, credible approaches" in order to "contribute to confidence" (sic). The embrace of the G20 turned out to be a death kiss. The forum was not sufficiently well developed to provide any coordinated follow up. And, when things went wrong, there was no higher authority to which to appeal.

This left Doha in the court of public opinion (or its equivalent in trade policy terms). However the watchdogs in the western liberal media did not bark. Possibly due in part to fatigue with Doha and general cynicism regarding the G20, there was no criticism of this casual abandonment of the Round or comment on the deleterious effects this would have on the global trading system. Even traditional supporters of the GATT and the WTO such as the Financial Times barely murmured. Thus Doha was set on its almost clandestine path to oblivion.

Amidst all this, a telling final report of a high-level experts group (sometimes referred to as the Sutherland-Bhagwati report) was published in May 2011. To give credit where it is due, this report was commissioned by the leaders of Germany, Indonesia, Turkey and the United Kingdom. It sounded an "urgent warning". Doha was seen as a benchmark for the WTO's credibility and the institution would be substantially weakened by its failure. It identified a deficit of political leadership as the chief cause of the crisis. Again, silence ensued. Politicians had merely talked up the value of multilateral trade while in practice focusing their political energy on preferential agreements which could be touted as easy "wins".

## ALTERING COURSE AWAY FROM THE WTO

A NUMBER OF governments have indeed now turned further away from the WTO and are pursuing initiatives of a regional and/or plurilateral character. They would doubtless claim that these initiatives are born out of frustration with Doha and are in the longer term bridges back to a healthier multilateral trading system. Is this likely to be the case? The jury is still out.

Two of the main such initiatives are the Trans Pacific Partnership (TPP) and the attempt to negotiate an "International Services Agreement" (ISA) outside the WTO. The TPP is aimed at being a "high quality 21st century" agreement. It is too early to say whether reality will match this rhetoric. Despite the enormous resources being deployed - often at the expense of attention to multilateral negotiations - progress is much slower than hoped. The goal of finalising an agreement by the end of 2012 certainly looks unrealistic. Participants are also discovering that some of the problems encountered in Doha are resurfacing in the regional context.

While a truly high standard, expeditious TPP agreement would be a considerable accomplishment that might indeed prove to be a catalyst for the WTO, the outcome cannot be predicted at this stage. Alternative scenarios might encompass a relatively modest agreement which does little to advance the status quo; or a negotiation which, with the enlarged participation currently being envisaged and the substantial political capital invested, drags on for an extended period of time. In the latter case, the opportunity costs for the multilateral trading system could be extremely high.

Given the enormous importance of trade in services and its contribution to economic growth, and the understandable frustration that this has not been given anything like due recognition in the Doha negotiations, the ISA concept is welcome. But, again, participants are discovering that the devil is in the detail.

Arguments over whether to follow negative or positive listing seem reminiscent of Doha negotiators' failure on occasion to distinguish between form and substance. In addressing the issue of "free riders", how practical is it to discriminate in terms of domestic regulation as opposed to market access? The WTO's early pre-Doha successes in negotiations on financial services and basic telecommunications were driven by regulators rather than trade officials. Is this also the case in the putative ISA?

Several months of negotiations amongst the "Really Good Friends" of services negotiations have produced limited progress. There are still differing perceptions as to the relationship between the ISA concept and the Doha negotiations. It has recently been announced however that the negotiations are entering a new phase and that work is set to intensify: a formulation which has a familiar ring to it. Are we in for another long haul?

It would in fairness be inaccurate to single out the TPP and the ISA as dangers to the multilateral trading system. They may yet prove to be catalysts. Moreover they take place against a background of ever-increasing activity in terms of preferential agreements. For example, the European Union is pushing ahead with its own ambitious programme. A major new initiative in north-east Asia has also been recently announced.

Regional and plurilateral initiatives often entail greater asymmetries in bargaining power than multilateral negotiations. Will the smaller players ultimately baulk at this greater inequality? The WTO itself has also drawn attention to the dangers of regulatory divergence emerging from a plethora of preferential agreements based on differing and competitive templates.

## **WHERE DOES THIS LEAVE THE WTO?**

HOWEVER THESE INITIATIVES ultimately work out, the effect on the WTO in the short to medium term is seriously debilitating. In the long term, there is no guarantee that this will all somehow re-converge in a strengthened multilateral trading system. Indeed there must be a danger that we are witnessing a gradual balkanization of the trading system - which would be highly inimical to international business and highly undesirable in a geopolitical sense.

It may be argued that this view is alarmist. There is after all much more to the WTO than trade negotiations. The dispute settlement system continues to function well and the WTO's network of committees overseeing the existing set of trade rules does much good, albeit largely unheralded, work. These points are valid, but they do nothing to alter the perception in the international trade community that the Organization is in a state of paralysis. Whether we like it or not, whether we agree with it or not, the benchmark of the WTO's credibility is success in the Doha Round and trade negotiations more generally.

There are now some signs that the international business community is cognisant of the need to revitalise the WTO.

Notably, the International Chamber of Commerce's World Trade Agenda initiative is seeking to mobilise international business in favour of a Doha outcome and a forward-looking multilateral trade agenda. There is recognition of the danger that the multilateral trading system might be eroded, giving way to a more fragmented and less favourable environment for cross-border trade and investment.

## THE NEED FOR A RECOVERY PHASE

THERE IS NOW a real danger that the WTO will continue to drift away from the centre of international trade policy and that its relevance will be further eroded. International organisations seldom die, but they do have tipping points beyond which recovery is an extremely arduous and difficult process. That point may be imminent in the WTO and it is now the urgent responsibility of policy makers to ensure that it is never reached. What can be done?

Recognising the political reality that an immediate Doha deal is off the political agenda for the time being, WTO Members must lay the groundwork for an agreement when the time is ripe. Such an agreement may be across the board based on the current Doha mandate or, perhaps more likely, consist in a partial agreement with other elements being rolled into a forward-looking work programme. The WTO cannot afford to bury its head in the sand when many new issues are clamouring for attention.

Other avenues such as the ISA can be tested to see whether they can indeed be catalysts for the regeneration of the multilateral system, and Doha negotiations can continue where progress seems possible. In the meantime, and in parallel, there needs to be more investment in laying down principles and ground rules to guide the multilateral system back to health. That should include a programme of confidence-building for the WTO as an institution.

A good starting point for confidence-building would be for governments to undertake a period of fundamental reflection on the state of the WTO. They urgently need to work towards achieving a common view on the objectives of their involvement in its deliberations. It will be difficult to reach any agreement in detailed negotiations while there are radically different views as to the purpose of the organization and its role in governing the trading system. At present some Members seem to regard the WTO as an instrument for equitable distribution of the benefits of international trade, while others regard it simply as a crow bar to open markets. Neither of these extremes is valid. Observers have also remarked on the increasingly bad-tempered nature of some exchanges in the WTO and the too-quick and easy resort to blocking of consensus. Self-restraint is no longer a virtue.

The time has come for a serious conversation among governments with a view to agreeing some broad common principles which would underpin their operations in the WTO. The aim would be to strengthen the institution gradually and reinforce its role at the centre of international governance of trade. Hopefully that is an overall objective to which all Members, even now, would subscribe. A beginning could be made through thoughtful and cooperative consideration of the series of reports by various eminent expert groups and panels which have been issued over the last eight years, all of which have been studiously ignored by WTO Member governments, as well as the forthcoming report of the panel which has recently been established by current Director-General Pascal Lamy.

A strategic dialogue of this nature on the future of the WTO should probably avoid discussion of current negotiations. Consensus on whether the WTO should return to Doha, or retain parts of the Doha agenda and add some new subjects, or scrap Doha and start again, could hopefully emerge in due course from the more strategic discussion.

It is not the purpose here to say what might be the outcome of such a discussion in terms of the common principles to which all WTO Members would commit themselves. That should emerge organically but, for illustrative purposes, a

few very broad (and non-exhaustive) ideas on general principles are proffered here. For example Members might commit themselves to:

- make concrete efforts strengthen the WTO as an institution;
- recognize the primacy of the multilateral trading system and ensure that extraneous trade policy initiatives are complementary;
- exert all possible efforts to maintain the openness of markets;
- gradual and progressive trade liberalisation, having regard to differing levels of development;
- support efforts to update the WTO's (now ageing in some respects) rule book and to discuss in good faith proposals for new rules, having regard to differing levels of development;
- inclusiveness in WTO activities and to improving the ability of less developed Members to participate;
- implement all obligations in good faith and revitalise the work of WTO bodies;
- exercise self-restraint in terms of blocking consensus and tolerating the views of other Members;
- a much more pragmatic and results-oriented approach to WTO activities and negotiations.

Hopefully the Members themselves would be able to do better than this. The concept is to renew the WTO, reaffirm its centrality in the global trading system and provide a common foundation on which the organization and its membership can move forward positively. This should not be a Geneva-only exercise. The work can be done by Geneva Representatives but involvement and backing should come from the highest levels within governments.

### **A LEGACY NOT TO BE SQUANDERED – THE WTO MUST BOUNCE BACK**

THE WTO, AND the GATT before it, has accumulated a precious legacy. It has provided a framework within which an open, rules-based international trading system can be agreed, managed and enforced. While there are always special situations, the fundamental relationship between an open trading system and economic growth has been pragmatically demonstrated over many decades and has resulted in recent times in hundreds of millions of people being lifted out of poverty. This is not the time to squander such a legacy. Instead, we need to build on it and make sure that, in these troubled times, the WTO bounces back.

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