
PARLIAMENTARY CONFERENCE ON THE WTO

Geneva, 17-18 February 2003

Organised jointly by the Inter-Parliamentary Union and the European Parliament

Item 2(b) of the provisional agenda

DEVELOPMENT DIMENSION OF THE MULTILATERAL TRADING SYSTEM

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The Doha Development Agenda

1. The Doha Development Agenda emanates from the recognition that all peoples, especially those in developing countries, need to benefit from the opportunities and welfare gains generated by the multilateral trading system. The Doha Development Agenda was launched in Doha, Qatar with fanfare and optimism that the interests and concerns of the developing countries would be at the centre stage of the multilateral trading system, thereby ultimately ensuring that the integration of developing countries into the multilateral trading would enjoy primacy and become a reality in the negotiations and their outcome.

2. Additionally, the perceived contribution by the WTO was to strengthen the development perspective in the construction of trade rules and the improvement of market access conditions for trade in goods and services for the benefit of the developing countries.

3. Numerous provisions of the Doha Ministerial Declaration deal with developing countries' concerns, as does the Decision on the Implementation Related Issues and Concerns and the Declaration on the Trips and Public Health as contained in paragraph 6. The Declaration itself refers to development repeatedly and mentions commitment to technical assistance and capacity building in over a dozen instances.

4. This optimism has somewhat waned or dissipated because not all issues of critical interest to the developing countries have been directly addressed in conjunction with the WTO negotiations. Thus, attaining a pro-development outcome remains a challenge.

5. The reasons for this situation are numerous and relate inter alia to (a) a lack of support by the OECD manufacturing industries to further tariff reduction because the MNF tariff rates in their view are already below 5%; (b) specific sectoral protectionist tendencies in areas such as agriculture and textiles; (c) the fact that developing countries have reluctantly embraced negotiations in new areas (investment, government procurement, trade facilitation) which are mainly of interest to the developed countries.

6. In turn, developed countries do not see the rationale for actively supporting a “development round” if new rules and disciplines in the above-mentioned areas do not form part of the WTO corpus of rules. Developed countries by and large expect “tradable concessions” from developing countries.

7. In addition to the areas of interest to developing countries that are alluded to above, developing countries expect the implementation-related concerns to be addressed in this new round because the burden introduced by the Uruguay Round of Agreements has been difficult to bear in terms of both domestic capacities to implement the agreements and the supply side constraints that do not allow developing countries to take full advantage of these agreements.

8. An agreement such as the Customs Valuation offers a good example in that the ancillary investments that would be required to implement the rules are enormous for developing countries. The legal consequences as a result of a lack of implementation of agreements and commitments are real, since any country may have recourse to the Dispute Settlement Body.

9. It is because of this reality that developing countries have insistently sought to make the Special and Differential Treatment more effective, predictable and binding in all WTO agreements, all the more so in the post-Doha Development Round outcome of the negotiations.

10. The above-mentioned situation does not necessarily imply that the WTO rules are bad in themselves from a development perspective – most rules may reflect good policy, while making them work in developing countries may require wholesale reform and strengthening of institutions. Linked to this is the need for technical assistance that is tailored to meet the needs of developing countries, the so-called “aid-for trade”.

11. In order to address the above-mentioned issues, the WTO Director General has proposed a “mini-package” procedure to address the concerns and issues of interests for the developing countries. The overriding rationale is to secure results in areas on which members can agree. What this indicates is that the process question is also fundamental to the delivery of an acceptable and balanced outcome during the negotiations process. Indeed, twenty-five Ministers and representatives from some WTO member countries met on 25 November in Sydney, Australia, basically adopting the “mini” approach to the negotiations. Thus, the Doha Development Agenda will be assessed in the light of the variety of issues that need to be addressed and the approaches that need to be adopted in order to guarantee a development-oriented outcome for developing countries.

A number of issues are critical for a development-oriented outcome of the negotiations.

Trips and Public Health

13. This issue has resulted in enormous difficulties for the negotiators, to such an extent that the General Council was unable to convene in December 2002 because of the wide gaps in positions among the members. The key areas of negotiation and difference have involved the spectrum of diseases that should be covered by the scheme and which countries should be able to benefit from the scheme as importers or potential suppliers of drugs produced under compulsory license.

14. Linked to this was the notion of “manufacturing capacity” test, an idea which is imprecise and in a sense self-judging. The legal language on the waiver is ambiguous and loose. This may invite challenges in the Dispute Settlement Body, if adopted.

15. Discussions on technology transfer have formed part of the deliberations in the Trips Council. Because some members feel that this is beyond the pharmaceutical products area, there is a suggestion that it be dealt with in the Working Group on the transfer of technology

16. As far as the developing countries are concerned, the implications of a lack of progress in the negotiations are profound in that the affliction by Aids/HIV, TB and malaria cannot be meaningfully arrested, given the snail's pace at which the negotiations are being undertaken. Associated with this slow progress is the developed countries' fear that the so-called "advanced" developing countries will be the ones which will significantly benefit from any outcome in this area in view of their production capacities in pharmaceuticals. At the same time, developed countries' representatives are concerned that discussions on technology transfer in this context could seriously damage the Trips agreement.

Services

17. Negotiations in this area are at the level of initial bilateral requests and offers. Over 30 countries have now circulated requests to other countries. This process allows countries to assess and gain a better understanding of the existing state of liberalization and future intentions. Initial offers need to be circulated by March 2003 in accordance with the Doha Declaration.

18. The US and the EU have made requests to over 90 countries. In this context, developing countries have demanded that there be a commitment on the part of developed countries to making "parallel progress" in the negotiations on agriculture. This has to be done in terms of both pace and details, particularly with regard to the proposals on agricultural modalities submitted by some developed countries. A clear and precise definition of safeguard mechanisms is proving difficult to conceptualize for the services negotiations. This might not be settled by the March 2003 deadline.

19. Another issue requiring resolution is the "treatment of autonomous liberalization" and the extension of "credit" to recently admitted countries for the commitments they took on during their accession. The question of "Special and Differential Treatment" for developing countries in the Services Agreement is handled under the broader S&D review in the Committee on Trade and Development (CTD). This seems to be the appropriate forum for negotiations according to the view entertained by some developed countries. They generally point to the already flexible nature of GATS whereby Members choose whether or not to make commitments according to their own interests and regard technical assistance as a more meaningful way to build services trade capacity.

Rules Negotiations

20. In the realm of the negotiations on rules, anti-dumping, subsidies and countervailing measures featured prominently. Despite the absence of notable progress, discussions on procedural fairness have commenced. These discussions have not taken account of other issues such as substantive fairness. Negotiation in this area is slow. The technical nature of the negotiations have not inspired developing countries to take an active part in the process; moreover, they lack capacity in this area.

Technical Cooperation and Capacity Building

21. Technical cooperation and capacity building are elements of the multilateral trading system. To this end, the WTO has developed a "New Strategy for Technical Cooperation for Capacity Building, Growth and Integration". Capacity building should involve assistance to efforts by developing countries to mainstream trade into national plans for economic development and strategies for poverty reduction. Developing and least developed countries are also to be assisted in adjusting to WTO rules and disciplines and participating effectively in the multilateral trading system, yet very little progress has been made in this area.

Special and Differential Treatment

22. The Fourth Ministerial Conference agreed that all special and differential treatment provisions should be reviewed with a view to strengthening them and making them more precise, effective and operational. It affirms that special and differential treatment is an integral part of the WTO Agreements aimed at enabling developing countries to effectively take account of their development needs, including food security and rural development.

Agriculture

23. Agriculture is the mainstay of developing countries and underpins the social and economic fabric of society. In agriculture, developing countries stand to gain substantial commercial benefits under the negotiating mandate. Currently, according to the Organization for Economic Cooperation and Development (OECD), rich countries pay out nearly USD \$1 billion a day to their farmers in agriculture subsidies - almost four times as much as all development assistance to poor nations. Negotiations will open up markets and reduce "with a view to phasing out, all forms of export subsidies" and trade-distorting domestic farm support, while taking into account non-trade and development concerns, including through appropriate special and differential treatment in favour of developing countries.

24. There have not been any major developments in the negotiations. The EU, Norway, Switzerland and Japan have not shown a willingness to move in the negotiations. The 27 proposals submitted have by and large been broad and general. The African Group presented proposals on Special and Differential Treatment, the Cairns Group on Market Access and Export Competition and the so-called like-Minded Group on S&D and the Special Safeguard Mechanism. Some countries have considered lowering their sights, provided they knew the maximalist positions of Europe and Japan. A delegate from Latin America aptly captured the lack of movement in the agriculture negotiations when he stated that: "we want to buy a car, the owner says that he wants to sell it, but will not give us any indication of the price he wants to sell it for. There is no bargaining process without reference prices". Such is the state of the negotiations in agriculture.

Trade and Investment

25. The Doha Agenda makes provision for integrating the special development, trade and financial needs of developing and least developed countries into the negotiations. Trade is an effect of production. Developing countries can only increase their share of international trade if they increase production, which in turn requires investments. Not much progress has been made in this area.

Transfer of Technology

26. Technology is the key to industrialization and development in general. Developing countries have limited budgets for research and development. As such, transfer of technology is critical. The Ministers mandated the WTO to increase the flow of technology to developing countries. The General Council is expected to report on progress on the examination of the relationship between trade and transfer of technology.

Conclusion

27. A development-oriented outcome will require effective participation by developing and least developed countries. Non-trade concerns should be taken seriously throughout the negotiations. There is a need for a strategy that will harness resources from different agencies in order to render technical assistance and capacity building and facilitate investments and financing.